

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Sections
5 2-3.25g and 5-2.1 and by adding Section 5-1b as follows:

6 (105 ILCS 5/2-3.25g) (from Ch. 122, par. 2-3.25g)

7 Sec. 2-3.25g. Waiver or modification of mandates within the
8 School Code and administrative rules and regulations.

9 (a) In this Section:

10 "Board" means a school board or the governing board or
11 administrative district, as the case may be, for a joint
12 agreement.

13 "Eligible applicant" means a school district, joint
14 agreement made up of school districts, or regional
15 superintendent of schools on behalf of schools and programs
16 operated by the regional office of education.

17 "State Board" means the State Board of Education.

18 (b) Notwithstanding any other provisions of this School
19 Code or any other law of this State to the contrary, eligible
20 applicants may petition the State Board of Education for the
21 waiver or modification of the mandates of this School Code or
22 of the administrative rules and regulations promulgated by the
23 State Board of Education. Waivers or modifications of
24 administrative rules and regulations and modifications of
25 mandates of this School Code may be requested when an eligible
26 applicant demonstrates that it can address the intent of the
27 rule or mandate in a more effective, efficient, or economical
28 manner or when necessary to stimulate innovation or improve
29 student performance. Waivers of mandates of the School Code may
30 be requested when the waivers are necessary to stimulate
31 innovation or improve student performance. Waivers may not be
32 requested from laws, rules, and regulations pertaining to

1 special education, teacher certification, ~~or~~ teacher tenure
2 and seniority, or Section 5-2.1 of this Code or from compliance
3 with the No Child Left Behind Act of 2001 (Public Law 107-110).

4 (c) Eligible applicants, as a matter of inherent managerial
5 policy, and any Independent Authority established under
6 Section 2-3.25f may submit an application for a waiver or
7 modification authorized under this Section. Each application
8 must include a written request by the eligible applicant or
9 Independent Authority and must demonstrate that the intent of
10 the mandate can be addressed in a more effective, efficient, or
11 economical manner or be based upon a specific plan for improved
12 student performance and school improvement. Any eligible
13 applicant requesting a waiver or modification for the reason
14 that intent of the mandate can be addressed in a more
15 economical manner shall include in the application a fiscal
16 analysis showing current expenditures on the mandate and
17 projected savings resulting from the waiver or modification.
18 Applications and plans developed by eligible applicants must be
19 approved by the board or regional superintendent of schools
20 applying on behalf of schools or programs operated by the
21 regional office of education following a public hearing on the
22 application and plan and the opportunity for the board or
23 regional superintendent to hear testimony from educators
24 directly involved in its implementation, parents, and
25 students. If the applicant is a school district or joint
26 agreement, the public hearing shall be held on a day other than
27 the day on which a regular meeting of the board is held. If the
28 applicant is a school district, the public hearing must be
29 preceded by at least one published notice occurring at least 7
30 days prior to the hearing in a newspaper of general circulation
31 within the school district that sets forth the time, date,
32 place, and general subject matter of the hearing. If the
33 applicant is a joint agreement or regional superintendent, the
34 public hearing must be preceded by at least one published
35 notice (setting forth the time, date, place, and general
36 subject matter of the hearing) occurring at least 7 days prior

1 to the hearing in a newspaper of general circulation in each
2 school district that is a member of the joint agreement or that
3 is served by the educational service region, provided that a
4 notice appearing in a newspaper generally circulated in more
5 than one school district shall be deemed to fulfill this
6 requirement with respect to all of the affected districts. The
7 eligible applicant must notify in writing the affected
8 exclusive collective bargaining agent and those State
9 legislators representing the eligible applicant's territory of
10 its intent to seek approval of a waiver or modification and of
11 the hearing to be held to take testimony from educators. The
12 affected exclusive collective bargaining agents shall be
13 notified of such public hearing at least 7 days prior to the
14 date of the hearing and shall be allowed to attend such public
15 hearing. The eligible applicant shall attest to compliance with
16 all of the notification and procedural requirements set forth
17 in this Section.

18 (d) A request for a waiver or modification of
19 administrative rules and regulations or for a modification of
20 mandates contained in this School Code shall be submitted to
21 the State Board of Education within 15 days after approval by
22 the board or regional superintendent of schools. The
23 application as submitted to the State Board of Education shall
24 include a description of the public hearing. Following receipt
25 of the request, the State Board shall have 45 days to review
26 the application and request. If the State Board fails to
27 disapprove the application within that 45 day period, the
28 waiver or modification shall be deemed granted. The State Board
29 may disapprove any request if it is not based upon sound
30 educational practices, endangers the health or safety of
31 students or staff, compromises equal opportunities for
32 learning, or fails to demonstrate that the intent of the rule
33 or mandate can be addressed in a more effective, efficient, or
34 economical manner or have improved student performance as a
35 primary goal. Any request disapproved by the State Board may be
36 appealed to the General Assembly by the eligible applicant as

1 outlined in this Section.

2 A request for a waiver from mandates contained in this
3 School Code shall be submitted to the State Board within 15
4 days after approval by the board or regional superintendent of
5 schools. The application as submitted to the State Board of
6 Education shall include a description of the public hearing.
7 The description shall include, but need not be limited to, the
8 means of notice, the number of people in attendance, the number
9 of people who spoke as proponents or opponents of the waiver, a
10 brief description of their comments, and whether there were any
11 written statements submitted. The State Board shall review the
12 applications and requests for completeness and shall compile
13 the requests in reports to be filed with the General Assembly.
14 The State Board shall file reports outlining the waivers
15 requested by eligible applicants and appeals by eligible
16 applicants of requests disapproved by the State Board with the
17 Senate and the House of Representatives before each May 1 and
18 October 1. The General Assembly may disapprove the report of
19 the State Board in whole or in part within 30 calendar days
20 after each house of the General Assembly next convenes after
21 the report is filed by adoption of a resolution by a record
22 vote of the majority of members elected in each house. If the
23 General Assembly fails to disapprove any waiver request or
24 appealed request within such 30 day period, the waiver or
25 modification shall be deemed granted. Any resolution adopted by
26 the General Assembly disapproving a report of the State Board
27 in whole or in part shall be binding on the State Board.

28 (e) An approved waiver or modification may remain in effect
29 for a period not to exceed 5 school years and may be renewed
30 upon application by the eligible applicant. However, such
31 waiver or modification may be changed within that 5-year period
32 by a board or regional superintendent of schools applying on
33 behalf of schools or programs operated by the regional office
34 of education following the procedure as set forth in this
35 Section for the initial waiver or modification request. If
36 neither the State Board of Education nor the General Assembly

1 disapproves, the change is deemed granted.

2 (f) On or before February 1, 1998, and each year
3 thereafter, the State Board of Education shall submit a
4 cumulative report summarizing all types of waivers of mandates
5 and modifications of mandates granted by the State Board or the
6 General Assembly. The report shall identify the topic of the
7 waiver along with the number and percentage of eligible
8 applicants for which the waiver has been granted. The report
9 shall also include any recommendations from the State Board
10 regarding the repeal or modification of waived mandates.

11 (Source: P.A. 93-470, eff. 8-8-03; 93-557, eff. 8-20-03;
12 93-707, eff. 7-9-04.)

13 (105 ILCS 5/5-1b new)

14 Sec. 5-1b. Elementary school district withdrawal and
15 transfer.

16 (a) Notwithstanding any other provision of this Code, the
17 school board of an elementary school district that is located
18 in a Class II county school unit and that, with another
19 elementary school district, has a combined fall 2004 aggregate
20 enrollment of at least 5,000 but less than 7,000 pupils and a
21 combined boundary that is coterminous with the boundary of a
22 high school district that crosses township boundaries and is
23 subject to the jurisdiction and served by a different township
24 treasurer and trustees of schools may withdraw from the
25 jurisdiction and authority of the township treasurer and the
26 trustees of schools that currently serve the elementary school
27 district and transfer and otherwise submit to the jurisdiction
28 and authority of the township treasurer and the trustees of
29 schools of another township that then serves the high school
30 district if all of the following conditions are met:

31 (1) During the same 30-day period, the school board of
32 the elementary school district that is seeking withdrawal
33 and transfer gives written notice by certified mail, return
34 receipt requested, to all of the following: (i) the
35 township treasurer and trustees of schools of the township

1 from which the district seeks to withdraw; (ii) the
2 township treasurer and trustees of schools of the township
3 to which the district seeks to transfer; (iii) each school
4 district currently subject to the jurisdiction and
5 authority of the township treasurer and trustees of schools
6 of the township from which the elementary school district
7 is seeking to withdraw; and (iv) each school district
8 currently subject to the jurisdiction and authority of the
9 township treasurer and trustees of schools of the township
10 in which the elementary school district is seeking to
11 transfer. This notice must set forth the date, time, and
12 place of a meeting of the school board of the elementary
13 school district that is seeking withdrawal and transfer, to
14 be held not more than 90 days before and not less than 60
15 days after the date on which the notice is given, at which
16 meeting the school board shall consider and vote upon a
17 resolution to withdraw from the jurisdiction and authority
18 of the township treasurer and the trustees of schools that
19 currently serve the elementary school district and
20 transfer and otherwise submit to the jurisdiction and
21 authority of the township treasurer and the trustees of
22 schools of another township that then serves the high
23 school district. No notice given under this subdivision (1)
24 to the township treasurer and trustees of schools of a
25 township shall be deemed sufficient or in compliance with
26 the requirements of this subdivision (1) unless each
27 required notice is given within the same 30-day period.

28 (2) The school board of the elementary school district
29 that is seeking withdrawal and transfer, by the affirmative
30 vote of at least 5 members of the school board at a school
31 board meeting for which notice has been given as required
32 by subdivision (1) of this subsection (a), adopts the
33 resolution.

34 (3) The question of whether to withdraw from the
35 jurisdiction and authority of the township treasurer and
36 the trustees of schools that currently serve the elementary

1 school district and transfer and otherwise submit to the
2 jurisdiction and authority of the township treasurer and
3 the trustees of schools of another township that then
4 serves the high school district is submitted to the
5 electors of the elementary school district at a regular
6 election and approved by a majority of the electors voting
7 on the question. After the resolution has been adopted, the
8 school board shall certify the question to the proper
9 election authority, which must submit the question at an
10 election in accordance with the Election Code. The election
11 authority must submit the question in substantially the
12 following form:

13 Shall the school board of School District Number
14 be authorized to withdraw from the jurisdiction
15 and authority of the township treasurer and the
16 trustees of schools of Township and transfer and
17 otherwise submit to the jurisdiction and authority of
18 the township treasurer and the trustees of schools of
19 Township?

20 The election authority shall record the votes as "Yes" or
21 "No". If a majority of the electors voting on the question
22 vote in the affirmative, then the school board of the
23 elementary school district may withdraw from the
24 jurisdiction and authority of the township treasurer and
25 the trustees of schools that currently serve the elementary
26 school district and transfer and otherwise submit to the
27 jurisdiction and authority of the township treasurer and
28 the trustees of schools of another township that then
29 serves the high school district.

30 (b) If all of the conditions under subsection (a) of this
31 Section have been met, then the withdrawal and transfer shall
32 be effective by operation of law on July 1 of the calendar year
33 in which the election under subdivision (3) of subsection (a)
34 of this Section was held.

35 (c) Upon the effective date of the transfer of jurisdiction
36 of the township treasurer and trustees of schools to the

1 receiving township under this Section, all of the following
2 shall occur: (i) the receiving trustees of schools, in its
3 corporate capacity, shall be deemed the successor in interest
4 to the trustees of schools of the transferring township with
5 respect to the interest attributable to the school district's
6 common school lands and township loanable funds of the
7 township; (ii) all right, title, and interest attributable to
8 the school district existing or vested in the transferring
9 trustees of schools in the common school lands and township
10 loanable funds of the township and all records, moneys,
11 securities, other assets, rights of property, and causes of
12 action attributable to the school district pertaining to or
13 constituting a part of those common school lands or township
14 loanable funds attributable to the school district shall be
15 transferred to and deemed vested by operation of law in the
16 receiving trustees of schools, which shall hold legal title to,
17 manage, and operate all common school lands and township
18 loanable funds of the township, receive the rents, issues, and
19 profits therefrom, and have and exercise with respect thereto
20 the same powers and duties set forth under this Code to be
21 exercised by trustees of schools; and (iii) whenever there is
22 vested in the transferring trustees of schools, at the time
23 that a transfer is effected under this Section, the legal title
24 to any school buildings or school sites used or occupied for
25 school purposes by an elementary school, subject to the
26 jurisdiction and authority of those trustees of schools at the
27 time that such transfer is effective, the legal title to those
28 school buildings and school sites shall be transferred by
29 operation of law to and invested in the receiving trustees of
30 schools, the same to be held, sold, exchanged, leased, or
31 otherwise transferred in accordance with applicable provisions
32 of this Code.

33 (d) In the event that it is necessary to sell or otherwise
34 dispose of any asset, investment, or security that is in the
35 name of the school district and other districts not
36 transferring from the jurisdiction of a township treasurer and

1 trustees of schools, any fees or costs incurred in such
2 disposition and any loss in value caused by the early sale or
3 disposition shall be entirely borne by the school district
4 transferring from the jurisdiction of a township treasurer and
5 trustees of schools.

6 (e) As provided under Section 2-3.25g of this Code, a
7 waiver of a mandate established under this Section may not be
8 requested.

9 (f) This Section is repealed on January 1, 2010.

10 (105 ILCS 5/5-2.1) (from Ch. 122, par. 5-2.1)

11 Sec. 5-2.1. Eligible Voters: For the purposes of this
12 Article persons who are qualified to vote in school elections
13 shall be eligible to vote for the trustees of schools who have
14 jurisdiction over the elementary school district or unit school
15 district in which the person resides.

16 If ~~However, if~~ the application of this Section results in
17 an elector voting for trustees of a school township in which he
18 does not reside because the elementary or unit school district
19 crosses township boundaries and has been assigned to the
20 jurisdiction of the trustees of an adjoining township, that
21 elector shall also be eligible to vote for the trustees of the
22 township within which he resides. Moreover, an elector who
23 resides in a high school district that crosses township
24 boundaries and has been assigned to the jurisdiction of the
25 trustees of an adjoining township shall be eligible to vote for
26 both the trustees of the township in which he or she resides
27 and the trustees of the township having jurisdiction over the
28 high school district in which he or she resides.

29 (Source: P.A. 85-1435.)

30 Section 99. Effective date. This Act takes effect upon
31 becoming law.