



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB6311

by Rep. Linda Chapa LaVia

SYNOPSIS AS INTRODUCED:

105 ILCS 5/2-3.25g	from Ch. 122, par. 2-3.25g
105 ILCS 5/27-6	from Ch. 122, par. 27-6
105 ILCS 5/27-22.05	

Amends the School Code. In provisions allowing for the waiver or modification of mandates within the Code and administrative rules, provides that waivers may not be requested from laws and rules pertaining to physical education. Removes provisions allowing pupils to be excused from engaging in physical education courses for various reasons.

LRB098 22988 NHT 61948 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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, 27-6, and 27-22.05 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 "Implementation date" has the meaning set forth in
18 Section 24A-2.5 of this Code.

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

20 (b) Notwithstanding any other provisions of this School
21 Code or any other law of this State to the contrary, eligible
22 applicants may petition the State Board of Education for the
23 waiver or modification of the mandates of this School Code or

1 of the administrative rules and regulations promulgated by the
2 State Board of Education. Waivers or modifications of
3 administrative rules and regulations and modifications of
4 mandates of this School Code may be requested when an eligible
5 applicant demonstrates that it can address the intent of the
6 rule or mandate in a more effective, efficient, or economical
7 manner or when necessary to stimulate innovation or improve
8 student performance. Waivers of mandates of the School Code may
9 be requested when the waivers are necessary to stimulate
10 innovation or improve student performance. Waivers may not be
11 requested from laws, rules, and regulations pertaining to
12 special education, physical education, teacher educator
13 licensure, teacher tenure and seniority, or Section 5-2.1 of
14 this Code or from compliance with the No Child Left Behind Act
15 of 2001 (Public Law 107-110). Eligible applicants may not seek
16 a waiver or seek a modification of a mandate regarding the
17 requirements for (i) student performance data to be a
18 significant factor in teacher or principal evaluations or (ii)
19 for teachers and principals to be rated using the 4 categories
20 of "excellent", "proficient", "needs improvement", or
21 "unsatisfactory". On September 1, 2014, any previously
22 authorized waiver or modification from such requirements shall
23 terminate.

24 (c) Eligible applicants, as a matter of inherent managerial
25 policy, and any Independent Authority established under
26 Section 2-3.25f may submit an application for a waiver or

1 modification authorized under this Section. Each application
2 must include a written request by the eligible applicant or
3 Independent Authority and must demonstrate that the intent of
4 the mandate can be addressed in a more effective, efficient, or
5 economical manner or be based upon a specific plan for improved
6 student performance and school improvement. Any eligible
7 applicant requesting a waiver or modification for the reason
8 that intent of the mandate can be addressed in a more
9 economical manner shall include in the application a fiscal
10 analysis showing current expenditures on the mandate and
11 projected savings resulting from the waiver or modification.
12 Applications and plans developed by eligible applicants must be
13 approved by the board or regional superintendent of schools
14 applying on behalf of schools or programs operated by the
15 regional office of education following a public hearing on the
16 application and plan and the opportunity for the board or
17 regional superintendent to hear testimony from staff directly
18 involved in its implementation, parents, and students. The time
19 period for such testimony shall be separate from the time
20 period established by the eligible applicant for public comment
21 on other matters. ~~If the applicant is a school district or~~
22 ~~joint agreement requesting a waiver or modification of Section~~
23 ~~27-6 of this Code, the public hearing shall be held on a day~~
24 ~~other than the day on which a regular meeting of the board is~~
25 ~~held.~~

26 (c-5) If the applicant is a school district, then the

1 district shall post information that sets forth the time, date,
2 place, and general subject matter of the public hearing on its
3 Internet website at least 14 days prior to the hearing. If the
4 district is requesting to increase the fee charged for driver
5 education authorized pursuant to Section 27-24.2 of this Code,
6 the website information shall include the proposed amount of
7 the fee the district will request. All school districts must
8 publish a notice of the public hearing at least 7 days prior to
9 the hearing in a newspaper of general circulation within the
10 school district that sets forth the time, date, place, and
11 general subject matter of the hearing. Districts requesting to
12 increase the fee charged for driver education shall include in
13 the published notice the proposed amount of the fee the
14 district will request. If the applicant is a joint agreement or
15 regional superintendent, then the joint agreement or regional
16 superintendent shall post information that sets forth the time,
17 date, place, and general subject matter of the public hearing
18 on its Internet website at least 14 days prior to the hearing.
19 If the joint agreement or regional superintendent is requesting
20 to increase the fee charged for driver education authorized
21 pursuant to Section 27-24.2 of this Code, the website
22 information shall include the proposed amount of the fee the
23 applicant will request. All joint agreements and regional
24 superintendents must publish a notice of the public hearing at
25 least 7 days prior to the hearing in a newspaper of general
26 circulation in each school district that is a member of the

1 joint agreement or that is served by the educational service
2 region that sets forth the time, date, place, and general
3 subject matter of the hearing, provided that a notice appearing
4 in a newspaper generally circulated in more than one school
5 district shall be deemed to fulfill this requirement with
6 respect to all of the affected districts. Joint agreements or
7 regional superintendents requesting to increase the fee
8 charged for driver education shall include in the published
9 notice the proposed amount of the fee the applicant will
10 request. The eligible applicant must notify in writing the
11 affected exclusive collective bargaining agent and those State
12 legislators representing the eligible applicant's territory of
13 its intent to seek approval of a waiver or modification and of
14 the hearing to be held to take testimony from staff. The
15 affected exclusive collective bargaining agents shall be
16 notified of such public hearing at least 7 days prior to the
17 date of the hearing and shall be allowed to attend such public
18 hearing. The eligible applicant shall attest to compliance with
19 all of the notification and procedural requirements set forth
20 in this Section.

21 (d) A request for a waiver or modification of
22 administrative rules and regulations or for a modification of
23 mandates contained in this School Code shall be submitted to
24 the State Board of Education within 15 days after approval by
25 the board or regional superintendent of schools. The
26 application as submitted to the State Board of Education shall

1 include a description of the public hearing. Except with
2 respect to contracting for adaptive driver education, an
3 eligible applicant wishing to request a modification or waiver
4 of administrative rules of the State Board of Education
5 regarding contracting with a commercial driver training school
6 to provide the course of study authorized under Section 27-24.2
7 of this Code must provide evidence with its application that
8 the commercial driver training school with which it will
9 contract holds a license issued by the Secretary of State under
10 Article IV of Chapter 6 of the Illinois Vehicle Code and that
11 each instructor employed by the commercial driver training
12 school to provide instruction to students served by the school
13 district holds a valid teaching certificate or teaching
14 license, as applicable, issued under the requirements of this
15 Code and rules of the State Board of Education. Such evidence
16 must include, but need not be limited to, a list of each
17 instructor assigned to teach students served by the school
18 district, which list shall include the instructor's name,
19 personal identification number as required by the State Board
20 of Education, birth date, and driver's license number. If the
21 modification or waiver is granted, then the eligible applicant
22 shall notify the State Board of Education of any changes in the
23 personnel providing instruction within 15 calendar days after
24 an instructor leaves the program or a new instructor is hired.
25 Such notification shall include the instructor's name,
26 personal identification number as required by the State Board

1 of Education, birth date, and driver's license number. If a
2 school district maintains an Internet website, then the
3 district shall post a copy of the final contract between the
4 district and the commercial driver training school on the
5 district's Internet website. If no Internet website exists,
6 then the district shall make available the contract upon
7 request. A record of all materials in relation to the
8 application for contracting must be maintained by the school
9 district and made available to parents and guardians upon
10 request. The instructor's date of birth and driver's license
11 number and any other personally identifying information as
12 deemed by the federal Driver's Privacy Protection Act of 1994
13 must be redacted from any public materials. Following receipt
14 of the waiver or modification request, the State Board shall
15 have 45 days to review the application and request. If the
16 State Board fails to disapprove the application within that 45
17 day period, the waiver or modification shall be deemed granted.
18 The State Board may disapprove any request if it is not based
19 upon sound educational practices, endangers the health or
20 safety of students or staff, compromises equal opportunities
21 for learning, or fails to demonstrate that the intent of the
22 rule or mandate can be addressed in a more effective,
23 efficient, or economical manner or have improved student
24 performance as a primary goal. Any request disapproved by the
25 State Board may be appealed to the General Assembly by the
26 eligible applicant as outlined in this Section.

1 A request for a waiver from mandates contained in this
2 School Code shall be submitted to the State Board within 15
3 days after approval by the board or regional superintendent of
4 schools. The application as submitted to the State Board of
5 Education shall include a description of the public hearing.
6 The description shall include, but need not be limited to, the
7 means of notice, the number of people in attendance, the number
8 of people who spoke as proponents or opponents of the waiver, a
9 brief description of their comments, and whether there were any
10 written statements submitted. The State Board shall review the
11 applications and requests for completeness and shall compile
12 the requests in reports to be filed with the General Assembly.
13 The State Board shall file reports outlining the waivers
14 requested by eligible applicants and appeals by eligible
15 applicants of requests disapproved by the State Board with the
16 Senate and the House of Representatives before each March 1 and
17 October 1. The General Assembly may disapprove the report of
18 the State Board in whole or in part within 60 calendar days
19 after each house of the General Assembly next convenes after
20 the report is filed by adoption of a resolution by a record
21 vote of the majority of members elected in each house. If the
22 General Assembly fails to disapprove any waiver request or
23 appealed request within such 60 day period, the waiver or
24 modification shall be deemed granted. Any resolution adopted by
25 the General Assembly disapproving a report of the State Board
26 in whole or in part shall be binding on the State Board.

1 (e) An approved waiver or modification ~~(except a waiver~~
2 ~~from or modification to a physical education mandate)~~ may
3 remain in effect for a period not to exceed 5 school years and
4 may be renewed upon application by the eligible applicant.
5 However, such waiver or modification may be changed within that
6 5-year period by a board or regional superintendent of schools
7 applying on behalf of schools or programs operated by the
8 regional office of education following the procedure as set
9 forth in this Section for the initial waiver or modification
10 request. If neither the State Board of Education nor the
11 General Assembly disapproves, the change is deemed granted.

12 ~~An approved waiver from or modification to a physical~~
13 ~~education mandate may remain in effect for a period not to~~
14 ~~exceed 2 school years and may be renewed no more than 2 times~~
15 ~~upon application by the eligible applicant. An approved waiver~~
16 ~~from or modification to a physical education mandate may be~~
17 ~~changed within the 2 year period by the board or regional~~
18 ~~superintendent of schools, whichever is applicable, following~~
19 ~~the procedure set forth in this Section for the initial waiver~~
20 ~~or modification request. If neither the State Board of~~
21 ~~Education nor the General Assembly disapproves, the change is~~
22 ~~deemed granted.~~

23 (f) (Blank).

24 (Source: P.A. 97-1025, eff. 1-1-13; 98-513, eff. 1-1-14;
25 98-739, eff. 7-16-14.)

1 (105 ILCS 5/27-6) (from Ch. 122, par. 27-6)

2 Sec. 27-6. Courses in physical education required; special
3 activities. ~~(a)~~ Pupils enrolled in the public schools and State
4 universities engaged in preparing teachers shall be required to
5 engage daily during the school day, except on block scheduled
6 days for those public schools engaged in block scheduling, in
7 courses of physical education for such periods as are
8 compatible with the optimum growth and developmental needs of
9 individuals at the various age levels except when appropriate
10 excuses are submitted to the school by a pupil's parent or
11 guardian or by a person licensed under the Medical Practice Act
12 of 1987 and ~~except as provided in subsection (b) of this~~
13 ~~Section.~~

14 Special activities in physical education shall be provided
15 for pupils whose physical or emotional condition, as determined
16 by a person licensed under the Medical Practice Act of 1987,
17 prevents their participation in the courses provided for normal
18 children.

19 ~~(b) A school board is authorized to excuse pupils enrolled~~
20 ~~in grades 11 and 12 from engaging in physical education courses~~
21 ~~if those pupils request to be excused for any of the following~~
22 ~~reasons: (1) for ongoing participation in an interscholastic~~
23 ~~athletic program; (2) to enroll in academic classes which are~~
24 ~~required for admission to an institution of higher learning,~~
25 ~~provided that failure to take such classes will result in the~~
26 ~~pupil being denied admission to the institution of his or her~~

1 ~~choice; or (3) to enroll in academic classes which are required~~
2 ~~for graduation from high school, provided that failure to take~~
3 ~~such classes will result in the pupil being unable to graduate.~~
4 ~~A school board may also excuse pupils in grades 9 through 12~~
5 ~~enrolled in a marching band program for credit from engaging in~~
6 ~~physical education courses if those pupils request to be~~
7 ~~excused for ongoing participation in such marching band~~
8 ~~program. In addition, a pupil in any of grades 3 through 12 who~~
9 ~~is eligible for special education may be excused if the pupil's~~
10 ~~parent or guardian agrees that the pupil must utilize the time~~
11 ~~set aside for physical education to receive special education~~
12 ~~support and services or, if there is no agreement, the~~
13 ~~individualized education program team for the pupil determines~~
14 ~~that the pupil must utilize the time set aside for physical~~
15 ~~education to receive special education support and services,~~
16 ~~which agreement or determination must be made a part of the~~
17 ~~individualized education program. However, a pupil requiring~~
18 ~~adapted physical education must receive that service in~~
19 ~~accordance with the individualized education program developed~~
20 ~~for the pupil. If requested, a school board is authorized to~~
21 ~~excuse a pupil from engaging in a physical education course if~~
22 ~~the pupil has an individualized educational program under~~
23 ~~Article 14 of this Code, is participating in an adaptive~~
24 ~~athletic program outside of the school setting, and documents~~
25 ~~such participation as determined by the school board. A school~~
26 ~~board may also excuse pupils in grades 9 through 12 enrolled in~~

1 ~~a Reserve Officer's Training Corps (ROTC) program sponsored by~~
2 ~~the school district from engaging in physical education~~
3 ~~courses. School boards which choose to exercise this authority~~
4 ~~shall establish a policy to excuse pupils on an individual~~
5 ~~basis.~~

6 ~~(c) The provisions of this Section are subject to the~~
7 ~~provisions of Section 27-22.05.~~

8 (Source: P.A. 98-116, eff. 7-29-13.)

9 (105 ILCS 5/27-22.05)

10 Sec. 27-22.05. Required course substitute. Notwithstanding
11 any other provision of this Article or this Code, a school
12 board that maintains any of grades 9 through 12 is authorized
13 to adopt a policy under which a student who is enrolled in any
14 of those grades may satisfy one or more high school course or
15 graduation requirements, including, but not limited to, any
16 requirements under Section Sections 27-6 and 27-22 of this
17 Code, but excluding any requirements under Section 27-6 of this
18 Code, by substituting for and successfully completing in place
19 of the high school course or graduation requirement a related
20 vocational or technical education course. A vocational or
21 technical education course shall not qualify as a related
22 vocational or technical education course within the meaning of
23 this Section unless it contains at least 50% of the content of
24 the required course or graduation requirement for which it is
25 substituted, as determined by the State Board of Education in

1 accordance with standards that it shall adopt and uniformly
2 apply for purposes of this Section. No vocational or technical
3 education course may be substituted for a required course or
4 graduation requirement under any policy adopted by a school
5 board as authorized in this Section unless the pupil's parent
6 or guardian first requests the substitution and approves it in
7 writing on forms that the school district makes available for
8 purposes of this Section.

9 (Source: P.A. 88-269.)