

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 135 Session of 2013

INTRODUCED BY TRUITT, BROOKS, PICKETT, KORTZ, CUTLER, BAKER, MICOZZIE, SAYLOR, TOEPEL, MACKENZIE, SIMMONS, AUMENT, BOBACK, CAUSER, KAUFFMAN, COX, KNOWLES, HICKERNELL, ROCK, HESS, C. HARRIS, WATSON, MILLER, SWANGER, MILNE AND STEVENSON, JANUARY 16, 2013

REFERRED TO COMMITTEE ON EDUCATION, JANUARY 16, 2013

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," in preliminary provisions, providing
6 for mandate waiver program.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
10 as the Public School Code of 1949, is amended by adding a
11 section to read:

12 Section 122. Mandate Waiver Program.--(a) Except as
13 otherwise provided in this section, the board of school
14 directors may adopt a resolution to apply to the Department of
15 Education for a waiver of any provision of this act, the
16 regulations of the State Board of Education or the standards of
17 the Secretary of Education if the waiver will enable the school
18 district to improve its instructional program or operate in a

1 more effective, efficient or economical manner.

2 (b) The application for a waiver shall be in a manner and in
3 a form developed by the Department of Education and shall:

4 (1) Specify the need for the waiver.

5 (2) Provide supporting data and information to explain the
6 benefits to be obtained by the waiver and, when applicable, to
7 explain the instructional program that will operate under the
8 waiver.

9 (3) Include an evaluation procedure to determine the
10 effectiveness of an innovative program or programs; the
11 effectiveness of a revised instructional program, which shall
12 include measures of student performance; and the effectiveness
13 of changes in the operations of the school district.

14 (c) The application for a waiver shall be adopted by a
15 resolution of the board of school directors at a regularly
16 scheduled meeting of the board. Prior to the board of school
17 directors implementing the policies or procedures contained in
18 the application, approval by the Department of Education shall
19 be required.

20 (d) The Department of Education shall have sixty (60) days
21 from receipt of the application to approve, disapprove or
22 request modifications to the application. If the Department of
23 Education fails to act within that time period, the waiver shall
24 be deemed to be approved.

25 (e) If the Department of Education disapproves the
26 application for waiver, the basis for the Department of
27 Education's disapproval shall be transmitted to the board of
28 school directors. The board of school directors may submit a
29 revised application for a waiver.

30 (f) Three (3) years from the implementation of the waiver,

1 the board of school directors shall submit to the Department of
2 Education the evaluation set forth in subsection (b) (3). When
3 the evaluation of a waiver indicates an improvement in student
4 performance, instructional program or school operations, the
5 waiver shall be renewed by the Department of Education and shall
6 remain in effect, unless rescinded by the board of school
7 directors.

8 (g) The following provisions of this act shall not be
9 subject to waiver pursuant to this section: sections 108, 110,
10 111, 321, 322, 323, 324, 325, 326, 327, 431, 436, 437, 440.1,
11 443, 510, 513, 518, 527, 688, 691, 696, 701.1, 708, 736, 737,
12 738, 739, 740, 741, 752, 753, 771, 776, 777, 778, 785, 808, 809,
13 810, 1073, 1073.1, 1076, 1077, 1080, 1302, 1303, 1310, 1317,
14 1317.1, 1317.2, 1318, 1327, 1327.1, 1330, 1332, 1361, 1366,
15 1501, 1502, 1513, 1517, 1518, 1521, 1523, 1546, 1547 and 2104;
16 provisions prohibiting discrimination; Articles VI, VI-A, XI,
17 XI-A, XII, XIII-A, XIV and XVII-A; and this article.

18 (h) The following provisions of 22 Pa. Code (relating to
19 education) shall not be subject to waiver pursuant to this
20 section:

21 Chapter 4 (relating to academic standards and assessment).

22 Chapter 11 (relating to student attendance).

23 Chapter 12 (relating to students and student services).

24 Chapter 14 (relating to special education services and
25 programs).

26 Chapter 16 (relating to special education for gifted
27 students).

28 Section 32.3 (relating to assurances).

29 Section 121.3 (relating to discrimination prohibited).

30 Section 235.4 (relating to practices).

1 Section 235.8 (relating to civil rights).

2 (i) The board of school directors may not waive any Federal
3 law or State law applicable to a public school that is not
4 within the provisions of this act.

5 (j) The Department of Education shall issue an annual report
6 to the chairman and minority chairman of the Education Committee
7 of the Senate and the chairman and minority chairman of the
8 Education Committee of the House of Representatives, listing all
9 waiver requests and Department of Education approvals or
10 disapprovals under this section.

11 (k) Nothing in this section shall be construed to supersede
12 or preempt any provisions of a collective bargaining agreement
13 in effect on the effective date of this section.

14 (l) Intermediate unit boards of school directors and area
15 vocational-technical boards shall be eligible to apply for
16 mandate waivers under this section except for those in
17 subsections (g), (h) and (n).

18 (m) Charter school and cyber charter school boards of
19 trustees shall be eligible to apply for mandate waivers under
20 this section except those in subsections (g) and (h).

21 (n) The following provisions shall not be subject to waiver
22 for intermediate unit boards of school directors and area
23 vocational-technical schools pursuant to this section: Articles
24 IX-A and XVIII.

25 (o) Notwithstanding the provisions of subsection (g), the
26 Department of Education may approve an application submitted by
27 a board of school directors for a waiver of section 1361 to
28 allow the provision of transportation to a public kindergarten,
29 elementary school or secondary school or a nonpublic
30 kindergarten, elementary school or secondary school operated not

1 for profit located more than ten miles by the nearest public
2 highway, provided that the provision of transportation is more
3 cost effective for the district or the Commonwealth or addresses
4 student safety concerns. Transportation provided under this
5 subsection shall be considered an allowable district expense for
6 purposes of calculating transportation reimbursement.

7 Section 2. This act shall take effect in 60 days.