

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 254 Session of 2015

INTRODUCED BY TRUITT, PICKETT, MACKENZIE, GREINER, KAUFFMAN, MAJOR, SAYLOR, MCGINNIS, JAMES, HICKERNELL, BAKER, DIAMOND, DUSH, MENTZER, KNOWLES, GRELL, LAWRENCE, MASSER, A. HARRIS, TALLMAN, GROVE, COX AND WATSON, FEBRUARY 2, 2015

REFERRED TO COMMITTEE ON EDUCATION, FEBRUARY 2, 2015

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 124. Mandate Waiver Program.--(a) (1) Except as  
 13 otherwise provided in this section, a board of school directors  
 14 may adopt a resolution to apply to the Department of Education  
 15 for a waiver of any provision of this act, the regulations of  
 16 the State Board of Education or the standards of the Secretary  
 17 of Education if the waiver will enable the school district to  
 18 improve its instructional program or operate in a more  
 19 effective, efficient or economical manner.

1       (2) Notwithstanding the provisions of paragraph (1), and  
2 except as otherwise provided in this section, a board of school  
3 directors may contact the intermediate unit of which it is a  
4 member to propose that the intermediate unit apply to the  
5 Department of Education for a waiver of any provision of this  
6 act, the regulations of the State Board of Education or the  
7 standards of the Secretary of Education on behalf of all of the  
8 intermediate unit's member school districts if the waiver will  
9 enable the member school districts to improve their  
10 instructional programs or operate in a more effective, efficient  
11 or economical manner. Upon the receipt of such a proposal the  
12 intermediate unit shall circulate a notice to its member school  
13 districts outlining a proposed waiver application and requesting  
14 a response. The intermediate unit shall submit a waiver  
15 application to the Department of Education on behalf of its  
16 member school districts upon receiving a copy of a resolution  
17 from each of its member school districts signifying approval of  
18 the proposed waiver application. An application may not be  
19 submitted by an intermediate unit under this subsection unless  
20 the boards of school directors of each of its member school  
21 districts have adopted a resolution signifying approval of the  
22 proposed waiver application and transmitted copies of their  
23 resolutions to the intermediate unit.

24       (b) (1) The application for a waiver shall be in a manner  
25 and on a form developed by the Department of Education and  
26 shall:

27       (i) Specify the need for the waiver.

28       (ii) Provide supporting data and information to explain the  
29 benefits to be obtained by the waiver and, when applicable, to  
30 explain the instructional program that will operate under the

1 waiver.

2 (iii) Include an evaluation procedure to determine the  
3 effectiveness of an innovative program or programs; the  
4 effectiveness of a revised instructional program, which shall  
5 include measures of student performance; and the effectiveness  
6 of changes in the operations of the school district.

7 (2) In developing the application process and form provided  
8 for in paragraph (1) the Department of Education shall:

9 (i) Create a uniform application form which provides  
10 applicants with the ability to apply for waivers to single or  
11 multiple provisions of this act, the regulations of the State  
12 Board of Education or the standards of the Secretary of  
13 Education through a single application.

14 (ii) Create a uniform application form which intermediate  
15 units must use when applying for waivers on behalf of their  
16 member school districts.

17 (3) The Department of Education may not impose any  
18 additional requirements on waiver applicants beyond those  
19 provided for in this section and any additional requirements  
20 relating to the submission or resubmission of a waiver  
21 application.

22 (c) The application for a waiver shall be adopted by a  
23 resolution of the board of school directors at a regularly  
24 scheduled meeting of the board or, in the case of an application  
25 submitted by an intermediate unit on behalf of its member school  
26 districts, by the submission of resolutions to the intermediate  
27 unit from the board of each intermediate unit member school  
28 district signifying approval of the proposed waiver application.  
29 Resolutions submitted by school districts to an intermediate  
30 unit under this section must be adopted at a regularly scheduled

1 meeting of the board. Prior to implementing the policies or  
2 procedures contained in the application, approval by the  
3 Department of Education shall be required.

4 (d) The Department of Education shall have sixty (60) days  
5 from receipt of the application to approve, disapprove or  
6 request modifications to the application. If the Department of  
7 Education fails to act within that time period, the waiver shall  
8 be deemed to be approved.

9 (e) (1) If the Department of Education disapproves the  
10 application for waiver, the basis for the Department of  
11 Education's disapproval shall be transmitted to the waiver  
12 applicant. The waiver applicant may submit a revised application  
13 for a waiver.

14 (2) A waiver applicant may appeal any disapproval of a  
15 waiver application to the Secretary of Education pursuant to 2  
16 Pa.C.S. Chs. 5 (relating to practice and procedure) and 7  
17 (relating to judicial review).

18 (f) Five (5) years from the implementation of the waiver,  
19 the waiver applicant shall submit to the Department of Education  
20 the evaluation set forth in subsection (b)(1)(iii). When the  
21 evaluation of a waiver indicates an improvement in student  
22 performance, instructional program or school operations, the  
23 waiver shall be renewed by the Department of Education and shall  
24 remain in effect, unless a board of school directors opts out of  
25 the waiver. In the case of a waiver renewed by the Department of  
26 Education for all the member school districts of an intermediate  
27 unit, the waiver shall remain in effect for any school district  
28 which has not opted out of the waiver.

29 (g) The following provisions of this act shall not be  
30 subject to waiver pursuant to this section: sections 108, 110,

1 111, 321, 322, 323, 324, 325, 326, 327, 431, 436, 437, 440.1,  
2 443, 510, 513, 518, 527, 688, 691, 696, 701.1, 708, 736, 737,  
3 738, 739, 740, 741, 752, 753, 771, 776, 777, 778, 785, 808, 809,  
4 810, 1073, 1073.1, 1076, 1077, 1080, 1302, 1303, 1310, 1317,  
5 1317.1, 1317.2, 1318, 1327, 1327.1, 1330, 1332, 1361, 1366,  
6 1501, 1502, 1513, 1517, 1518, 1521, 1523, 1546, 1547 and 2104;  
7 provisions prohibiting discrimination; Articles VI, VI-A, XI,  
8 XI-A, XII, XIII-A, XIV and XVII-A; and this section.

9 (h) The following provisions of 22 Pa. Code (relating to  
10 education) shall not be subject to waiver pursuant to this  
11 section:

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

13 Chapter 11 (relating to student attendance).

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

15 Chapter 14 (relating to special education services and  
16 programs).

17 Chapter 15 (relating to protected handicapped students).

18 Chapter 16 (relating to special education for gifted  
19 students).

20 Section 32.3 (relating to assurances).

21 Section 121.3 (relating to discrimination prohibited).

22 Section 235.4 (relating to practices).

23 Section 235.8 (relating to civil rights).

24 (i) The board of school directors may not seek a waiver of  
25 any Federal law or State law applicable to a public school that  
26 is not within the provisions of this act.

27 (j) The Department of Education shall post all waiver  
28 requests and Department of Education approvals and disapprovals  
29 under this section on its publicly accessible Internet website.

30 (k) Nothing in this section shall be construed to supersede

1 or preempt any provisions of a collective bargaining agreement  
2 in effect on the effective date of this section.

3 (l) Intermediate unit boards of directors and area  
4 vocational-technical boards shall be eligible to apply for  
5 mandate waivers under this section except for those in  
6 subsections (g), (h) and (n).

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

10 (n) The following provisions shall not be subject to waiver  
11 for intermediate units and area vocational-technical schools  
12 pursuant to this section: Articles IX-A and XVIII.

13 (o) Notwithstanding the provisions of subsection (g), the  
14 Department of Education may approve an application submitted by  
15 a board of school directors for a waiver of section 1361 to  
16 allow the provision of transportation to a public kindergarten,  
17 elementary school or secondary school or a nonpublic  
18 kindergarten, elementary school or secondary school operated not  
19 for profit located more than ten miles outside the district  
20 boundaries by the nearest public highway, provided that the  
21 provision of transportation is more cost effective for the  
22 district or the Commonwealth or addresses student safety  
23 concerns. Transportation provided under this subsection shall be  
24 considered an allowable district expense for purposes of  
25 calculating transportation reimbursement.

26 (p) The provisions of section 751 shall be subject to  
27 waiver, provided that the waiver applicant shall bid all  
28 construction related projects under separate contracts pursuant  
29 to the provisions of section 751(a.2). All other provisions of  
30 section 751, including base amounts, shall be subject to waiver.

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