
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2173 Session of
2000

INTRODUCED BY ORIE, RUBLEY, FLICK, MASLAND, STEIL, MAITLAND,
HUTCHINSON, BUXTON, B. SMITH, FAIRCHILD, WILT, NAILOR, STERN,
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HALUSKA, McILHINNEY, GRUCELA, BUNT, DAILEY, PHILLIPS,
BENNINGHOFF, EGOLF, RAMOS, HARHAI, SAYLOR AND SATHER,
JANUARY 4, 2000

REFERRED TO COMMITTEE ON EDUCATION, JANUARY 4, 2000

AN ACT

1 Providing for waiver of statutory and regulatory education
2 provisions by boards of school directors.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Public School
7 Mandate Waiver Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Department." The Department of Education of the
13 Commonwealth.

14 "Public School Code." The act of March 10, 1949 (P.L.30,
15 No.14), known as the Public School Code of 1949.

1 "Secretary." The Secretary of Education of the Commonwealth.

2 Section 3. Mandate waivers.

3 (a) General rule.--Except as otherwise provided in this act,
4 the board of school directors of any school district may adopt a
5 resolution to waive any provision of the Public School Code, the
6 regulations of the State Board of Education or the standards of
7 the secretary if the waiver will enable the school district to
8 improve its instructional program or operate in a more
9 effective, efficient or economical manner.

10 (b) Application.--The application for a waiver shall be in a
11 manner and a form developed by the department and shall:

12 (1) Specify the need for the waiver.

13 (2) Provide supporting data and information to explain
14 the benefits to be obtained by the waiver and, when
15 applicable, to explain the instructional program that will
16 operate under the waiver.

17 (3) Include an evaluation procedure to determine the
18 effectiveness of an innovative program or programs; the
19 effectiveness of a revised instructional program, which shall
20 include measures of student performance; and the
21 effectiveness of changes in the operations of the school
22 district.

23 (c) Board resolution and approval by department.--The
24 request for a waiver shall be adopted by a resolution of the
25 board of school directors at a regularly scheduled meeting of
26 the board. Prior to implementing the policies or procedures
27 contained in the waiver, approval by the department shall be
28 required.

29 (d) Time frame.--The department shall have 60 days from
30 receipt of the application to approve, disapprove or request

1 modifications to the application. If the department fails to act
2 within that time period, the waiver shall be deemed to be
3 approved.

4 (e) Disapproval and revision of application.--If the
5 department disapproves the application for waiver, the basis for
6 the department's disapproval shall be transmitted to the board
7 of school directors. The board of school directors may submit a
8 revised application for a waiver.

9 (f) Renewal of waiver.--Three years from the implementation
10 of the waiver, the board of school directors shall submit to the
11 department the evaluation set forth in subsection (b)(3). When
12 the waiver evaluation indicates an improvement in student
13 performance, instructional program or school operations, the
14 waiver shall be renewed by the department and shall remain in
15 effect unless rescinded by the board of school directors.

16 Section 4. Waiver not applicable to certain Public School Code
17 provisions.

18 The following provisions of the Public School Code shall not
19 be subject to waiver pursuant to this act:

20 (1) Sections 108, 110, 111, 321, 322, 323, 324, 325,
21 326, 327, 431, 436, 437, 440.1, 443, 510, 518, 527, 701.1,
22 708, 736, 737, 738, 739, 740, 741, 752, 753, 771, 776, 777,
23 808, 809, 810, 1303(a), 1310, 1317, 1317.1, 1317.2, 1318,
24 1327, 1327.1, 1330, 1332, 1361, 1366, 1501, 1502, 1513, 1517,
25 1518, 1521, 1523, 1546 and 1547.

26 (2) Provisions prohibiting discrimination and violence.

27 (3) Articles XI, XI-A, XII, XIII-A, XIV, XVII-A and
28 XVII-B.

29 Section 5. Waiver not applicable to certain regulations.

30 The following provisions of 22 Pa.Code (relating to

education) shall not be subject to waiver pursuant to this act:

(1) Chapters 4 (relating to academic standards and assessments), 11 (relating to pupil attendance), 12 (relating to students) and 14 (relating to special education services and programs).

(2) Sections 32.3 (relating to assurances), 121.3 (relating to discrimination prohibited), 235.4 (relating to practices) and 235.8 (relating to civil rights).

Section 6. Other laws not affected.

No Federal or State law applicable to a public school that is not within the provisions of this act shall be waived by a board of school directors.

Section 7. Report.

A report shall be issued annually by the secretary to the General Assembly listing all waiver requests and department approvals or disapprovals under this act.

Section 8. Collective bargaining agreement.

Nothing in this act shall be construed to supersede or preempt any provision of a collective bargaining agreement in effect on the effective date of this act.

Section 9. Construction.

Nothing in this act shall be construed to supersede or abrogate the following:

(1) Sections 751, 751.1, 756 and 757 of the Public School Code to the extent that these sections are not inconsistent with the act of December 20, 1967 (P.L.869, No.385), known as the Public Works Contractors' Bond Law of 1967.

(2) Section 1 of the act of May 1, 1913 (P.L.155, No.104), entitled "An act regulating the letting of certain

1 contracts for the erection, construction, and alteration of
2 public buildings," the act of August 15, 1961 (P.L.987,
3 No.442), known as the Pennsylvania Prevailing Wage Act, and
4 the act of March 3, 1978 (P.L.6, No.3), known as the Steel
5 Products Procurement Act.

6 (3) Nonpublic transportation as provided in section 1361
7 of the Public School Code.

8 (4) A requirement of Federal law.

9 Section 10. Effective date.

10 This act shall take effect in 180 days.