

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, STEVENSON, TOBASH, LAWRENCE, ROSS, GABLER, GRELL, QUINN, CLYMER, DENLINGER, F. KELLER, CHRISTIANA, GROVE AND EVERETT, JANUARY 16, 2013

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 17, 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) (1) Except as <--
13 otherwise provided in this section, the A 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

1 district to improve its instructional program or operate in a  
2 more effective, efficient or economical manner.

3 (2) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (1), AND <--  
4 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A BOARD OF SCHOOL  
5 DIRECTORS MAY CONTACT THE INTERMEDIATE UNIT OF WHICH IT IS A  
6 MEMBER TO PROPOSE THAT THE INTERMEDIATE UNIT APPLY TO THE  
7 DEPARTMENT OF EDUCATION FOR A WAIVER OF ANY PROVISION OF THIS  
8 ACT, THE REGULATIONS OF THE STATE BOARD OF EDUCATION OR THE  
9 STANDARDS OF THE SECRETARY OF EDUCATION ON BEHALF OF ALL OF THE  
10 INTERMEDIATE UNIT'S MEMBER SCHOOL DISTRICTS IF THE WAIVER WILL  
11 ENABLE THE MEMBER SCHOOL DISTRICTS TO IMPROVE THEIR  
12 INSTRUCTIONAL PROGRAMS OR OPERATE IN A MORE EFFECTIVE, EFFICIENT  
13 OR ECONOMICAL MANNER. UPON THE RECEIPT OF SUCH A PROPOSAL THE  
14 INTERMEDIATE UNIT SHALL CIRCULATE A NOTICE TO ITS MEMBER SCHOOL  
15 DISTRICTS OUTLINING A PROPOSED WAIVER APPLICATION AND REQUESTING  
16 A RESPONSE. THE INTERMEDIATE UNIT SHALL SUBMIT A WAIVER  
17 APPLICATION TO THE DEPARTMENT OF EDUCATION ON BEHALF OF ITS  
18 MEMBER SCHOOL DISTRICTS UPON RECEIVING A COPY OF A RESOLUTION  
19 FROM EACH OF ITS MEMBER SCHOOL DISTRICTS SIGNIFYING APPROVAL OF  
20 THE PROPOSED WAIVER APPLICATION. AN APPLICATION MAY NOT BE  
21 SUBMITTED BY AN INTERMEDIATE UNIT UNDER THIS SUBSECTION UNLESS  
22 THE BOARDS OF SCHOOL DIRECTORS OF EACH OF ITS MEMBER SCHOOL  
23 DISTRICTS HAVE ADOPTED A RESOLUTION SIGNIFYING APPROVAL OF THE  
24 PROPOSED WAIVER APPLICATION AND TRANSMITTED COPIES OF THEIR  
25 RESOLUTIONS TO THE INTERMEDIATE UNIT.

26 (b) (1) The application for a waiver shall be in a manner <--  
27 and ~~in~~ ON a form developed by the Department of Education and <--  
28 shall:

29 ~~(1)~~ (I) Specify the need for the waiver. <--

30 ~~(2)~~ (II) Provide supporting data and information to explain <--

1 the benefits to be obtained by the waiver and, when applicable,  
2 to explain the instructional program that will operate under the  
3 waiver.

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

9 (2) IN DEVELOPING THE APPLICATION PROCESS AND FORM PROVIDED <--  
10 FOR IN PARAGRAPH (1) THE DEPARTMENT OF EDUCATION SHALL:

11 (I) CREATE A UNIFORM APPLICATION FORM WHICH PROVIDES  
12 APPLICANTS WITH THE ABILITY TO APPLY FOR WAIVERS TO SINGLE OR  
13 MULTIPLE PROVISIONS OF THIS ACT, THE REGULATIONS OF THE STATE  
14 BOARD OF EDUCATION OR THE STANDARDS OF THE SECRETARY OF  
15 EDUCATION THROUGH A SINGLE APPLICATION.

16 (II) CREATE A UNIFORM APPLICATION FORM WHICH INTERMEDIATE  
17 UNITS MUST USE WHEN APPLYING FOR WAIVERS ON BEHALF OF THEIR  
18 MEMBER SCHOOL DISTRICTS.

19 (3) THE DEPARTMENT OF EDUCATION MAY NOT IMPOSE ANY  
20 ADDITIONAL REQUIREMENTS ON WAIVER APPLICANTS BEYOND THOSE  
21 PROVIDED FOR IN THIS SECTION AND ANY ADDITIONAL REQUIREMENTS  
22 RELATING TO THE SUBMISSION OR RESUBMISSION OF A WAIVER  
23 APPLICATION.

24 (c) The application for a waiver shall be adopted by a  
25 resolution of the board of school directors at a regularly  
26 scheduled meeting of the board. ~~Prior to the board of school~~ <--  
27 ~~directors~~ OR, IN THE CASE OF AN APPLICATION SUBMITTED BY AN <--  
28 INTERMEDIATE UNIT ON BEHALF OF ITS MEMBER SCHOOL DISTRICTS, BY  
29 THE SUBMISSION OF RESOLUTIONS TO THE INTERMEDIATE UNIT FROM THE  
30 BOARD OF EACH INTERMEDIATE UNIT MEMBER SCHOOL DISTRICT

1 SIGNIFYING APPROVAL OF THE PROPOSED WAIVER APPLICATION.  
2 RESOLUTIONS SUBMITTED BY SCHOOL DISTRICTS TO AN INTERMEDIATE  
3 UNIT UNDER THIS SECTION MUST BE ADOPTED AT A REGULARLY SCHEDULED  
4 MEETING OF THE BOARD. PRIOR TO implementing the policies or  
5 procedures contained in the application, approval by the  
6 Department of Education shall be required.

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

12 (e) (1) If the Department of Education disapproves the <--  
13 application for waiver, the basis for the Department of  
14 Education's disapproval shall be transmitted to the board of <--  
15 school directors. The board of school directors WAIVER <--  
16 APPLICANT. THE WAIVER APPLICANT may submit a revised application  
17 for a waiver.

18 (2) A WAIVER APPLICANT MAY APPEAL ANY DISAPPROVAL OF A <--  
19 WAIVER APPLICATION TO THE SECRETARY OF EDUCATION PURSUANT TO 2  
20 PA.C.S. CHS. 5 (RELATING TO PRACTICE AND PROCEDURE) AND 7  
21 (RELATING TO JUDICIAL REVIEW).

22 (f) ~~Three (3)~~ FIVE (5) years from the implementation of the <--  
23 waiver, the board of school directors WAIVER APPLICANT shall <--  
24 submit to the Department of Education the evaluation set forth  
25 in subsection ~~(b) (3)~~ (B) (1) (III). When the evaluation of a <--  
26 waiver indicates an improvement in student performance,  
27 instructional program or school operations, the waiver shall be  
28 renewed by the Department of Education and shall remain in  
29 effect, unless rescinded by the board of school directors. A <--  
30 BOARD OF SCHOOL DIRECTORS OPTS OUT OF THE WAIVER. IN THE CASE OF <--

1 A WAIVER RENEWED BY THE DEPARTMENT OF EDUCATION FOR ALL THE  
2 MEMBER SCHOOL DISTRICTS OF AN INTERMEDIATE UNIT, THE WAIVER  
3 SHALL REMAIN IN EFFECT FOR ANY SCHOOL DISTRICT WHICH HAS NOT  
4 OPTED OUT OF THE WAIVER.

5 (g) The following provisions of this act shall not be  
6 subject to waiver pursuant to this section: sections 108, 110,  
7 111, 321, 322, 323, 324, 325, 326, 327, 431, 436, 437, 440.1,  
8 443, 510, 513, 518, 527, 688, 691, 696, 701.1, 708, 736, 737,  
9 738, 739, 740, 741, 752, 753, 771, 776, 777, 778, 785, 808, 809,  
10 810, 1073, 1073.1, 1076, 1077, 1080, 1302, 1303, 1310, 1317,  
11 1317.1, 1317.2, 1318, 1327, 1327.1, 1330, 1332, 1361, 1366,  
12 1501, 1502, 1513, 1517, 1518, 1521, 1523, 1546, 1547 and 2104;  
13 provisions prohibiting discrimination; Articles VI, VI-A, XI,  
14 XI-A, XII, XIII-A, XIV and XVII-A; and this article SECTION. <--

15 (h) The following provisions of 22 Pa. Code (relating to  
16 education) shall not be subject to waiver pursuant to this  
17 section:

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

19 Chapter 11 (relating to student attendance).

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

21 Chapter 14 (relating to special education services and  
22 programs).

23 CHAPTER 15 (RELATING TO PROTECTED HANDICAPPED STUDENTS). <--

24 Chapter 16 (relating to special education for gifted  
25 students).

26 Section 32.3 (relating to assurances).

27 Section 121.3 (relating to discrimination prohibited).

28 Section 235.4 (relating to practices).

29 Section 235.8 (relating to civil rights).

30 (i) The board of school directors may not waive SEEK A <--

1 WAIVER OF any Federal law or State law applicable to a public  
2 school that is not within the provisions of this act.

3 (j) The Department of Education shall ~~issue an annual report~~ <--  
4 ~~to the chairman and minority chairman of the Education Committee~~  
5 ~~of the Senate and the chairman and minority chairman of the~~  
6 ~~Education Committee of the House of Representatives, listing all~~  
7 ~~waiver requests and Department of Education approvals or~~  
8 ~~disapprovals under this section.~~ POST ALL WAIVER REQUESTS AND <--  
9 DEPARTMENT OF EDUCATION APPROVALS AND DISAPPROVALS UNDER THIS  
10 SECTION ON ITS PUBLICLY ACCESSIBLE INTERNET WEBSITE.

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~~ UNITS 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 OUTSIDE THE DISTRICT <--  
2 BOUNDARIES by the nearest public highway, provided that the  
3 provision of transportation is more cost effective for the  
4 district or the Commonwealth or addresses student safety  
5 concerns. Transportation provided under this subsection shall be  
6 considered an allowable district expense for purposes of  
7 calculating transportation reimbursement.

8 (P) THE PROVISIONS OF SECTION 751 SHALL BE SUBJECT TO <--  
9 WAIVER, PROVIDED THAT THE WAIVER APPLICANT SHALL BID ALL  
10 CONSTRUCTION RELATED PROJECTS UNDER SEPARATE CONTRACTS PURSUANT  
11 TO THE PROVISIONS OF SECTION 751(A.2). ALL OTHER PROVISIONS OF  
12 SECTION 751, INCLUDING BASE AMOUNTS, SHALL BE SUBJECT TO WAIVER.

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