

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL****No. 814**      Session of  
2011

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INTRODUCED BY CORMAN, PICCOLA, PILEGGI, SCARNATI, ALLOWAY,  
BAKER, BOSCOLA, BROWNE, BRUBAKER, EARLL, FOLMER, GORDNER,  
GREENLEAF, HUGHES, KASUNIC, MENSCH, ORIE, PIPPY, ROBBINS,  
SMUCKER, WAUGH, D. WHITE, M. WHITE, YAW AND YUDICHAK,  
MARCH 28, 2011

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SENATOR PICCOLA, EDUCATION, AS AMENDED, APRIL 5, 2011

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## 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 118. Mandate Waiver Program.--(a) The department  
13 may, upon application by a governing body of a school entity,  
14 waive any provision of this act, the regulations of the State  
15 Board of Education or the standards of the secretary if the  
16 waiver will enable the school entity to improve its  
17 instructional program or operate in a more effective, efficient  
18 or economical manner.

1 (b) In order to be eligible for a waiver under subsection  
2 (a), the school entity must submit an application adopted by the  
3 governing body of the school entity at a regularly scheduled  
4 meeting of the governing body.

5 (c) The application shall be submitted in a form and manner  
6 prescribed by the department and shall:

7 (1) Specify the need for the waiver.

8 (2) Provide supporting data and information to show the  
9 benefits to be obtained by the waiver or explain the  
10 instructional program that will operate under the waiver.

11 (3) Include an evaluation procedure to determine the  
12 effectiveness of the following:

13 (i) An innovative program or revised instructional program  
14 to be conducted under the waiver.

15 (ii) Measures of student performance.

16 (iii) Changes in the operations of the school entity.

17 (d) The department shall have sixty (60) days from the  
18 receipt of the application to approve, disapprove or request  
19 modifications to the application. Except as provided in  
20 subsection (1), if the department fails to act within sixty (60)  
21 days, the waiver shall be deemed approved.

22 (e) Upon disapproval of an application, the department shall  
23 provide a written determination setting forth the reason for the  
24 disapproval. The governing body may submit a revised application  
25 for a waiver.

26 (f) Three (3) years following the implementation of the  
27 waiver, the governing body shall submit an evaluation of the  
28 effectiveness of the program or operational change in accordance  
29 with subsection (c)(3). If the evaluation indicates improvement  
30 in student performance, an instructional program or school

1 operations, the waiver shall be renewed by the department and  
2 shall remain in effect unless rescinded by the governing body.

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

12 (h) The following provisions of 22 Pa. Code (relating to  
13 education) shall not be subject to waiver pursuant to this  
14 section:

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

16 Chapter 11 (relating to student attendance).

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

18 Chapter 14 (relating to special education services and  
19 programs).

20 Chapter 16 (relating to special education for gifted  
21 students).

22 Section 32.3 (relating to assurances).

23 Section 121.3 (relating to discrimination prohibited).

24 Section 235.4 (relating to practices).

25 Section 235.8 (relating to civil rights).

26 (i) The governing body may not waive any Federal law or  
27 State law applicable to a school entity that is not included in  
28 this act or 22 Pa. Code.

29 (j) Nothing in this section shall be construed to supersede  
30 or preempt any provisions of a collective bargaining agreement

1 in effect on the effective date of this section.

2 (k) (1) Notwithstanding subsections (g) and (n), the  
3 department may approve an application submitted by a board of  
4 school directors for a waiver of section 1361 to allow the  
5 provision of transportation to a public kindergarten,  
6 elementary school or secondary school or a nonpublic  
7 kindergarten, elementary school or secondary school operated  
8 not for profit located more than ten (10) miles by the  
9 nearest public highway provided that the provision of  
10 transportation is more cost effective for the school district  
11 or the Commonwealth or addresses student safety concerns.

12 (2) Transportation under this subsection shall be considered  
13 an allowable school district expense for the purpose of  
14 calculating transportation reimbursement.

15 (1) The following shall apply to construction contracts:

16 (1) The department may grant a waiver of section 751(a) if  
17 the school entity solicits both multiple prime and single prime  
18 construction bids and awards the contract to the lowest  
19 responsible multiple prime or single prime bidder.

20 (2) Failure to solicit both multiple prime and single prime  
21 construction bids and award the contract to the lowest  
22 responsible multiple prime or single prime bidder shall result  
23 in the revocation of the waiver.

24 (3) The governing body shall indicate the manner in which it  
25 will solicit both multiple prime and single prime construction  
26 bids in its application for a waiver and shall provide proof of  
27 solicitation to the department prior to the award of a  
28 construction contract.

29 (4) Notwithstanding subsection (d), failure by the  
30 department to act within the prescribed time period shall not



1 constitute approval of a waiver of section ~~751~~ 751(A).

2 (m) The department shall issue an annual report to the  
3 chairman and minority chairman of the Education Committee of the  
4 Senate and the chairman and minority chairman of the Education  
5 Committee of the House of Representatives listing all waiver  
6 requests, approvals and disapprovals issued under this section.

7 (n) Except as provided in subsections (k) and (l), nothing  
8 in this section shall be construed to waive the following:

9 (1) The provisions of sections 507, 691, 696 and 1125.1 as  
10 they pertain to a city of the first class that is coterminous  
11 with a school district of the first class or a school district  
12 of the first class A.

13 (2) Sections 751, 751.1, 756 and 757 to the extent that  
14 these sections are not inconsistent with the act of December 20,  
15 1967 (P.L.869, No.385), known as the "Public Works Contractors'  
16 Bond Law of 1967."

17 (3) Section 1 of the act of May 1, 1913 (P.L.155, No.104),  
18 entitled "An act regulating the letting of certain contracts for  
19 the erection, construction, and alteration of public buildings,"  
20 the act of August 15, 1961 (P.L.987, No.442), known as the  
21 "Pennsylvania Prevailing Wage Act," and the act of March 3, 1978  
22 (P.L.6, No.3), known as the "Steel Products Procurement Act."

23 (4) Nonpublic transportation as provided in section 1361.

24 (o) The following words and phrases when used in this  
25 section shall have the meanings given to them in this subsection  
26 unless the context clearly indicates otherwise:

27 "Department." The Department of Education of the  
28 Commonwealth.

29 "Governing body." The board of school directors of a school  
30 district or the governing board of an area vocational-technical

1 school, an intermediate unit, a charter school or a cyber  
2 charter school.

3 "School entity." A school district, an area vocational-  
4 technical school, an intermediate unit, a charter school or a  
5 cyber charter school.

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

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