

THE GENERAL ASSEMBLY OF PENNSYLVANIA

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

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

REFERRED TO EDUCATION, MARCH 28, 2011

AN ACT

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

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

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

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

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

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

(1) Specify the need for the waiver.

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

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

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

(ii) Measures of student performance.

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

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

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

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

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

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

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

Chapter 4 (relating to academic standards and assessment).

Chapter 11 (relating to student attendance).

Chapter 12 (relating to students and student services).

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

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

Section 32.3 (relating to assurances).

Section 121.3 (relating to discrimination prohibited).

Section 235.4 (relating to practices).

Section 235.8 (relating to civil rights).

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

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

in effect on the effective date of this section.

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

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

(1) The following shall apply to construction contracts:

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

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

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

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

constitute approval of a waiver of section 751.

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

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

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

(2) Sections 751, 751.1, 756 and 757 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."

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

(4) Nonpublic transportation as provided in section 1361.

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

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

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

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

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

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

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