

CHAPTER 148

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 00-1040

BY REPRESENTATIVES Spence, Allen, Clapp, Dean, Decker, Fairbank, Hefley, Hoppe, King, Larson, Lee, McElhany, McKay, Mitchell, Paschall, Stengel, and Young;
also SENATORS Hillman, Andrews, Arnold, Blickensderfer, Chlouber, Congrove, Epps, Evans, Lamborn, Musgrave, Powers, Tebedo, and Wattenberg.

AN ACT

CONCERNING WAIVERS OF REQUIREMENTS IMPOSED ON SCHOOL DISTRICTS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 22-2-117, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

22-2-117. Additional power - state board - waiver of requirements - rules.

(1) (a) UPON APPLICATION OF THE BOARD OF EDUCATION OF ANY SCHOOL DISTRICT, THE STATE BOARD, EXCEPT AS PROHIBITED IN PARAGRAPH (b) OF THIS SUBSECTION (1), MAY WAIVE ANY OF THE REQUIREMENTS IMPOSED BY THIS TITLE OR BY RULE PROMULGATED BY THE STATE BOARD. THE STATE BOARD SHALL GRANT THE WAIVER IF IT DETERMINES THAT IT WOULD ENHANCE EDUCATIONAL OPPORTUNITY AND QUALITY WITHIN THE SCHOOL DISTRICT AND THAT THE COSTS TO THE SCHOOL DISTRICT OF COMPLYING WITH THE REQUIREMENTS FOR WHICH THE WAIVER IS REQUESTED SIGNIFICANTLY LIMIT EDUCATIONAL OPPORTUNITY WITHIN THE SCHOOL DISTRICT. ANY SCHOOL DISTRICT BOARD OF EDUCATION THAT APPLIES FOR A WAIVER PURSUANT TO THIS SECTION SHALL SPECIFY IN SUCH APPLICATION THE MANNER IN WHICH IT SHALL COMPLY WITH THE INTENT OF THE WAIVED RULES OR STATUTES AND SHALL BE ACCOUNTABLE TO THE STATE BOARD FOR SUCH COMPLIANCE.

(b) THE STATE BOARD SHALL NOT WAIVE ANY OF THE REQUIREMENTS SPECIFIED IN ANY OF THE FOLLOWING STATUTORY PROVISIONS:

- (I) THE "PUBLIC SCHOOL FINANCE ACT OF 1994", ARTICLE 54 OF THIS TITLE; OR
- (II) THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT", ARTICLE 20 OF THIS

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

TITLE.

(c) A PRINCIPAL OF A PUBLIC SCHOOL MAY INITIATE A REQUEST FOR A WAIVER PURSUANT TO THIS SECTION AND SHALL SUBMIT SUCH REQUEST TO THE SUPERINTENDENT AND THE BOARD OF EDUCATION OF THE SCHOOL DISTRICT IN WHICH THE PUBLIC SCHOOL IS LOCATED. SUCH WAIVER, IF GRANTED, SHALL BE LIMITED IN APPLICATION TO THE PUBLIC SCHOOL, UNLESS OTHERWISE DESIGNATED BY THE SCHOOL DISTRICT. THE SCHOOL DISTRICT MAY CHOOSE EITHER TO ADOPT SUCH REQUEST AND APPLY TO THE STATE BOARD FOR A WAIVER PURSUANT TO THIS SECTION OR NOT ADOPT SUCH REQUEST.

(d) IN ADDITION TO ANY REQUIREMENTS FOR A WAIVER APPLICATION THAT ARE SPECIFIED IN THIS SUBSECTION (1), ANY APPLICATION SUBMITTED BY A SCHOOL DISTRICT THAT HAS A FUNDED PUPIL COUNT, AS DEFINED IN SECTION 22-54-103 (7), OF THREE THOUSAND OR MORE PUPILS SHALL DEMONSTRATE THAT SUCH APPLICATION HAS THE CONSENT OF A MAJORITY OF THE APPROPRIATE ACCOUNTABILITY COMMITTEE, A MAJORITY OF THE AFFECTED LICENSED ADMINISTRATORS, AND A MAJORITY OF THE TEACHERS OF THE AFFECTED SCHOOL OR DISTRICT.

(2) PRIOR TO SUBMITTING AN APPLICATION FOR A WAIVER AS PROVIDED IN SUBSECTION (1) OF THIS SECTION, A SCHOOL DISTRICT BOARD OF EDUCATION, IN A PUBLIC MEETING INCLUDING A PUBLIC HEARING, SHALL ADOPT A RESOLUTION STATING THE BOARD'S INTENT TO APPLY FOR A WAIVER AND SPECIFYING THE STATUTES AND RULES FOR WHICH THE BOARD WILL REQUEST WAIVERS. THE SCHOOL DISTRICT BOARD OF EDUCATION SHALL POST NOTICE OF SUCH PUBLIC MEETING IN THREE PUBLIC PLACES WITHIN THE DISTRICT FOR A PERIOD OF NOT LESS THAN THIRTY CALENDAR DAYS PRIOR TO SUCH MEETING, GIVING THE TIME AND LOCATION OF SUCH MEETING AND A DESCRIPTION OF THE WAIVER REQUEST, AND, IF A NEWSPAPER IS PUBLISHED WITHIN THE COUNTY, SHALL PUBLISH SUCH NOTICE ONCE EACH WEEK FOR AT LEAST FOUR WEEKS PRIOR TO THE MEETING IN SUCH NEWSPAPER. AT LEAST SIXTY DAYS PRIOR TO SUCH PUBLIC MEETING AND HEARING, THE SCHOOL DISTRICT BOARD OF EDUCATION SHALL MEET WITH THE SCHOOL DISTRICT ACCOUNTABILITY COMMITTEE TO CONSULT WITH THE COMMITTEE CONCERNING THE INTENT TO SEEK THE WAIVER.

(3) (a) ANY WAIVER MADE PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL CONTINUE UNTIL SUCH TIME AS:

(I) THE SCHOOL DISTRICT BOARD OF EDUCATION THAT HOLDS THE WAIVER BY RESOLUTION REQUESTS REVOCATION OF THE WAIVER; OR

(II) THE STATE BOARD RECEIVES EVIDENCE THAT CONSTITUTES GOOD AND JUST CAUSE FOR REVOCATION OF THE WAIVER, AS DETERMINED BY THE STATE BOARD.

(b) THE STATE BOARD MAY REVOKE A WAIVER GRANTED PURSUANT TO THIS SECTION ONLY BY ACTION TAKEN IN A PUBLIC MEETING AND HEARING.

(4) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY WAIVER REQUESTED BY A CHARTER SCHOOL PURSUANT TO SECTIONS 22-30.5-104 (6) AND 22-30.5-105 (3). WAIVER REQUESTS BY A CHARTER SCHOOL SHALL BE GOVERNED BY THE PROVISIONS OF SAID SECTIONS.

(5) THE STATE BOARD SHALL PROMULGATE SUCH RULES AS ARE NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION REGARDING THE WAIVER APPLICATION PROCESS.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 15, 2000