Agenda Topic: 2002 Cumulative Waiver Report

Materials: 2002 Cumulative Waiver Report (summary chart and recommendations)

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Purpose(s) of Agenda Item

Review the report, along with recommended legislative changes that respond to certain approved waivers or modifications, and authorize its submission to the General Assembly by February 1.

Expected Outcome of Agenda Item

Authorization to staff to submit the 2002 Cumulative Waiver Report to the General Assembly by February 1.

Background Information

The State Board of Education, pursuant to 105 ILCS 5/2-3.25g, must submit to the Illinois General Assembly on or before February 1 of each year a report listing "all types of waiver mandates and modifications of mandates granted by the State Board or the General Assembly ... (identifying) the topic of the waiver along with the number and percentage of school districts for which the waiver has been granted." In addition, the report must include any recommendations for amendments to or repeal of School Code mandates involved in the waivers or modifications. The 2002 report is the fifth to be submitted under that law.

The report is submitted to the General Assembly in two parts: a narrative portion that summarizes the requirements for the report and any recommendations for legislative action, and a chart that lists the approved waivers and modifications by topic area and the number and percentage of districts to date that have received approval for each waiver or modification type.

Last month, the Board considered several recommendations for legislative action that could be included in the report for the General Assembly’s consideration. In addition, it directed staff to discuss in the report actions taken since the submission of the last report in February 2001 relative to waivers and modifications addressing the daily physical education mandate.
Analysis and Implications for Policy, Budget, Legislative Action and Communications

As of the October 2001 waiver report, 744 school districts out of 891 operating as of fall 2001 have received approval to waive or modify requirements contained in either the School Code or the agency’s administrative rules. This represents 83.5 percent of districts statewide, an increase in this reporting period of about 7 percent in the number (50) of districts seeking waivers or modifications for the first time. The chart summarizing these approvals follows this executive summary.

School Holidays. The largest increase in both number of petitions and of first-time applicants was in modifications to use mandated legal school holidays for purposes other than a holiday (e.g., school attendance, inservice training or teacher institutes, parent-teacher conferences, emergency days). Since the inception of the current waiver process in 1995, 584, or 65.5 percent, of Illinois school districts have requested relief from some of the mandated legal school holidays. Therefore, the report recommends that the General Assembly consider amending Section 24-2 of the School Code to allow school districts to determine locally whether certain legal holidays should be celebrated as commemorative holidays.

Prairie State Achievement Examination and the Instructional Day. The report also addresses the need of school districts administering the Prairie State Achievement Examination (PSAE) to adjust the length of the school day for all or some of their students in order to implement standard testing procedures. Forty-five districts sought, and received approval to, shorten the instructional day while still counting that day among the 176 days of pupil attendance required by law, provided that sufficient time over the five-clock hour day was accumulated previous to the test administration days.

It is anticipated that the State Board will again receive dozens of requests to adjust the school day during the PSAE administration. For this reason, the difficulty districts are experiencing due to the test requirements can be brought to the attention of the General Assembly through the cumulative report.

The agency’s Legal staff have indicated that the legislative change to accomplish this could involve several sections of the School Code and would take some time to prepare. For this reason and given the failure of the General Assembly to act on recommendations contained in the cumulative waiver report, the report will outline the difficulties districts now face without preparing the specific amendments that would be necessary to allow districts to adjust their instructional days during the PSAE administration.

Waiver Report Due Dates. As it did last year, the report also proposes that the due dates for two waiver reports – the cumulative report and the spring report transmitting waiver requests for General Assembly action – be moved earlier in the legislative session. It is anticipated that an earlier submission date – to November 1 – for the cumulative report will enable it to become a more effective tool in influencing the legislative agenda. A March 1 deadline for the spring waiver report (rather than May 1) recognizes that the potential early adjournment dates create hardships for school districts trying to receive approvals for implementation in the following school year.
Daily Physical Education. The final section of the report discusses the steps that have been taken since the last cumulative waiver report relative to physical education waivers and modifications. During this reporting cycle, 43 physical education requests were granted; 32 of those requests were renewals of previously approved petitions. Only a quarter of the applicants (11) were seeking relief for the first time. To date, 195 school districts, or 21.5 percent, have received approval to waive or modify the daily physical education mandate.

The State Board of Education has adopted a two-part strategy for fulfilling its responsibilities under the law and ensuring that students have access to high-quality learning opportunities that will allow them to meet the standards for Physical Development and Health.

In March 2001, the Board adopted a policy that requires applicants seeking to waive or modify the physical education requirement to submit evidence that their students are meeting the learning standards and that equal opportunities for learning will not be compromised should physical education be offered on less than a daily basis. The policy is in effect starting with all requests submitted for consideration in the Spring 2002 waiver report. A one-page addendum to the waiver application was prepared for use by applicants in addressing the policy.

At the same time, the Board has worked with the Illinois Association for Health, Physical Development, Education, Recreation and Dance (IAHPERD) to support school districts in aligning their physical education programs with the standards.

Given the Board's policy, the efforts of IAHPERD to acquaint districts with exemplary physical education programs, and the General Assembly’s failure to act to restrict the number and type of physical education waivers (either through legislation or through disapproval of certain requests), the report recommends that a decision about the need for any legislative remedies concerning daily physical education should be deferred for up to two years. The report indicates that the State Board will re-examine the physical education requirement after it has had an opportunity to evaluate the effectiveness of the physical education waiver policy. At that time, the Board’s policy would have been in effect for at least two waiver cycles. During the next two waiver cycles, 96 physical education approvals will expire; many of these districts will choose to seek approval to renew their original waivers or modifications. This should provide sufficient data to determine the effectiveness of the policy.

Budget Implications: None.

Legislative Implications: Submission of the report fulfills the statutory mandate contained in the waiver law. While the report is not a legislative proposal, it may very well provide suggestions of several issues that legislators may choose to consider relative to statutory changes that would be appropriate in light of approvals of waiver and modification requests.

Communications: The report will be submitted to the General Assembly by February 1, 2002, as per agency procedures.
**Pros and Cons of Various Actions**

While the recommendations included in the cumulative waiver report are not a legislative proposal per se, they would represent the consensus of the State Board as to the advisability of supporting certain changes to the School Code. With this in mind, the State Board would need to consider whether it would support the proposed amendments, should the General Assembly decide to act on the recommendations contained in the report.

In the case of legal school holidays, the recommendation put forth represents what has been routinely approved by the State Board of Education rather than addressing those areas usually dealt with by the General Assembly. The State Board’s support of the recommendation acknowledges the routine nature of these requests and the likelihood that applicants meeting the requirements of the waiver law and requirements for approval will continue to have their modification requests granted.

It would be remiss, however, not to acknowledge that a proposal to amend the school holiday statute has the potential to generate a fair amount of controversy, should it be put forth as legislative proposal. In the past, members of both the Senate and House education committees, as well as members of the public, have expressed concerns about holding school on certain legal holidays, particularly Veterans' Day and the birthday of Dr. Martin Luther King, Jr.

There continues to be a vocal minority in the House and Senate who are against physical education waivers of any kind. These legislators might welcome strong legislative recommendations from the State Board about ways in which these waivers can be restricted. On the other hand, the General Assembly has only denied four physical education requests from among the 251 it has been asked to consider. Providing to the General Assembly information received as a result of the Board’s physical education waiver policy may prove more useful in influencing action on those requests the Board deems lacking than placing further restrictions on all districts that wish to modify daily physical education.

**Superintendent’s Recommendation**

Authorize submission of the 2002 Cumulative Waiver Report, which will address the following:

- A recommendation to allow the use of certain legal school holidays as commemorative holidays, provided appropriate instruction is presented;
- A discussion of the difficulty districts face in administering the PSAE and providing a full school day for all of their students and a summary of the type of amendments that could be proposed to address these difficulties;
- A recommendation to change the due dates for the cumulative waiver report and spring waiver report to November 1 and March 1, respectively; and
- A discussion of the Board’s physical education waiver policy.

**Next Steps**
Prepare the final report for submission to the General Assembly before February 1, 2002.