

FEB 27 1996
EDUCATION

HOUSE FILE 2371
BY RANTS

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to affirmative action and education mandates
2 required under the Code by administrative rule or policy.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2371

1 Section 1. Section 19B.4, subsection 1, Code 1995, is
2 amended to read as follows:

3 1. ~~Each~~ Every four years each state agency, including the
4 state board of regents and its institutions, shall ~~annually~~
5 prepare an affirmative action plan. State agencies other than
6 the state board of regents and its institutions shall submit
7 their plans to the department of personnel by July 31, 1996,
8 and each fourth year thereafter. Institutions under the
9 jurisdiction of the state board of regents shall submit their
10 plans to that board between December 15 and December 31 of
11 1996 and each fourth year thereafter. Each plan shall contain
12 a clear and unambiguous written program containing goals and
13 time specifications related to personnel administration.

14 Sec. 2. Section 19B.11, subsections 3 and 4, Code 1995,
15 are amended to read as follows:

16 3. ~~Each~~ Every four years, each school district, area
17 education agency, and community college in the state shall
18 submit to the director of the department of education an
19 ~~annual~~ a report of the accomplishments and programs of the
20 district, agency, or community college in carrying out its
21 duties under this section by November 30, 1996, and each
22 fourth year thereafter. ~~The report shall be submitted between~~
23 ~~December 15 and December 31 each year.~~ The director shall
24 prescribe the form and content of the report.

25 4. The director of the department of education shall
26 prepare a compilation of the reports required by subsection 3
27 and shall submit this compilation, together with a report of
28 the director's accomplishments and programs pursuant to this
29 section, to the department of management by ~~January~~ December
30 31 of, 1996, and each fourth year thereafter.

31 Sec. 3. Section 256.9, Code 1995, is amended by adding the
32 following new subsection:

33 NEW SUBSECTION. 49. Develop and implement a mandate
34 waiver and modification process in accordance with section
35 256.17, and prepare forms and procedures as necessary to be

1 used by the board of directors of a school district and the
2 authorities in charge of a nonpublic school to ensure
3 uniformity, accuracy, and efficiency in the waiver process.

4 Sec. 4. Section 256.11, subsection 5, paragraph g, Code
5 1995, is amended by striking the paragraph.

6 Sec. 5. Section 256.11, subsection 6, Code 1995, is
7 amended to read as follows:

8 6. A ~~pupit~~ student is not required to enroll in either
9 ~~physical-education-or~~ health courses if the ~~pupit's~~ student's
10 parent or guardian files a written statement with the school
11 principal that the course conflicts with the ~~pupit's~~ student's
12 religious belief.

13 Sec. 6. NEW SECTION. 256.17 MANDATE WAIVER AND
14 MODIFICATION PROCESS.

15 1. Notwithstanding any other provision of the Code, the
16 board of directors of a school district and the authorities in
17 charge of an accredited nonpublic school may file a written
18 request and application to the department for a waiver or
19 modification of mandates contained in any provision of Title
20 VII, subtitles 1 and 6, or of any administrative rule or
21 policies adopted by the state board.

22 2. Modifications of mandates in state law and waivers and
23 modifications of administrative rules and policies of the
24 state board may be requested pursuant to subsection 1 when a
25 school district or accredited nonpublic school can demonstrate
26 that it can address the intent of the mandate or rule or
27 policy in a more effective, efficient, or economical manner or
28 when necessary to stimulate innovation in the school district
29 or school or improve student performance. Waivers of mandates
30 in state law may be requested when a waiver of state law is
31 necessary to stimulate innovation in the school district or
32 school or improve student performance.

33 3. Waivers and modifications shall not not be requested or
34 granted if the laws, rules, or policies pertain to special
35 education, teacher certification, or the issuance or

1 termination of teacher contracts.

2 4. An application submitted under this section shall
3 describe the manner in which the intent of the mandate, rule,
4 or policy can be addressed more effectively, efficiently, or
5 economically, or shall be based upon a specific plan for
6 improved student performance and school improvement.

7 5. A school district or accredited nonpublic school
8 requesting a waiver or modification of a mandate, rule, or
9 policy for the reason that the intent of the mandate can be
10 addressed in a more economical manner shall include in the
11 application a fiscal analysis showing current expenditures on
12 the mandate, rule, or policy and projected savings resulting
13 from the waiver or modification.

14 6. The board of directors of a school district shall
15 conduct a public hearing on a proposed application or plan
16 prior to voting on the submission of the proposed application
17 or plan to the state board. The public hearing shall provide
18 an opportunity for testimony before the board from
19 representatives of the community, including educators,
20 parents, and students. Notice of the date, time, place, and
21 general subject matter of the public hearing shall be
22 published in one or more newspapers not less than ten nor more
23 than twenty days before the public hearing. For the purpose
24 of establishing and giving assured circulation to the
25 proceedings, only a newspaper of general circulation issued at
26 a regular frequency, distributed in the school district's
27 area, and regularly delivered or mailed through the post
28 office during the preceding two years may be used for the
29 publication. In addition, the newspaper must have a list of
30 subscribers who have paid, or promised to pay, at more than a
31 nominal rate, for copies to be received during a stated
32 period. The board shall notify in writing the representative
33 for each employee organization under chapter 20 that has
34 members who could be affected under a proposed waiver or
35 modification. If, following the public hearing, the board of

1 directors approves the request for a waiver or modification,
2 the board shall transmit its application to the state board of
3 education.

4 7. The state board shall have not more than forty-five
5 days in which to review the request and application for waiver
6 or modification of a rule or policy of the state board. If
7 the state board fails to disapprove the application within the
8 forty-five-day period, the waiver or modification of the rule
9 or policy shall be deemed granted. The state board may
10 disapprove any request if the request is not based upon sound
11 education practices, endangers the health or safety of
12 students or staff, compromises equal opportunities for
13 learning, or fails to demonstrate that the intent of the rule
14 or policy can be addressed in a more effective, efficient, or
15 economical manner or have improved student performance as a
16 primary goal. Any request disapproved by the state board may
17 be appealed by the board of directors to the general assembly
18 pursuant to subsection 8.

19 8. The state board shall compile requests and applications
20 for waivers and modifications of mandates and any appeals to
21 its decisions regarding the requests for waivers and
22 modifications of rules or policies of the state board under
23 subsection 7 in a report to be filed annually by December 15
24 with the general assembly. The general assembly may
25 disapprove in whole or in part, by resolution by a record vote
26 of the majority of the members elected in each house, the
27 report of the state board within thirty calendar days after
28 the general assembly convenes in January. If the general
29 assembly fails to disapprove any waiver or modification of a
30 mandate request or appealed request of a rule or policy of the
31 state board within the thirty-day period, the waiver or
32 modification shall be deemed granted. Any resolution adopted
33 by the general assembly disapproving a report of the state
34 board in whole or in part shall be binding on the state board.
35 9. An approved waiver or modification remains in effect

1 for a period not to exceed five school years and may be
2 renewed in the manner used for the initial waiver or
3 modification.

4 Sec. 7. STATE BOARD OF EDUCATION. The state board of
5 education is directed to rescind any rule requiring each
6 school or school district operating a kindergarten through
7 grade twelve program to provide an articulated sequential
8 elementary-secondary guidance program, and any rule requiring
9 school districts and accredited nonpublic schools to establish
10 and operate a media services program to support the total
11 curriculum for each district or school.

12 Sec. 8. REPEAL. Section 256.11A, Code 1995, is repealed.

13

EXPLANATION

14 This bill addresses certain mandates related to affirmative
15 action and education required under the Code or by
16 administrative rule or policy of the state board of education.
17 The following provisions are created, amended, stricken, or
18 repealed from the Code:

19 19B.4(1): Provides that each state agency, including the
20 state board of regents and its institutions, currently
21 required annually to prepare an affirmative action plan, shall
22 only be required to provide a plan every four years beginning
23 in 1996.

24 19B.11(3) and (4): Provide that each school district, area
25 education agency, and community college currently required
26 under the Code to submit to the director of the department of
27 education an annual report of its accomplishments and programs
28 relating to affirmative action are, under the bill, only
29 required to provide the report every four years beginning in
30 1996. The director of the department of education's
31 compilation of the reports, currently required to be submitted
32 annually to the department of management, is, under the bill,
33 required only every fourth year beginning in 1996.

34 256.9(49): Requires the director of the department of
35 education to develop and implement a waiver and modification

1 process of state laws and rules and policies of the state
2 board of education in accordance with section 256.17, and
3 prepare forms and procedures as necessary.

4 256.11(5)(g) and 256.11(6): Strike the physical education
5 requirements from the education standards for grades nine
6 through 12.

7 256.17(1) through (9): Create a waiver and modification
8 process for mandates established by law and for rules and
9 policies of the state board. Notwithstanding any other
10 provision of the Code, the board of directors of a school
11 district and the authorities in charge of an accredited
12 nonpublic school may file a written request and application to
13 the department of education for a waiver or modification of
14 the mandates of Title VII, subtitles 1 and 6, or of the
15 administrative rules and policies adopted by the state board
16 of education.

17 Modifications of mandates and waivers and modifications of
18 administrative rules and policies may be requested when a
19 school district or accredited nonpublic school can demonstrate
20 that it can address the intent of the mandate, rule, or policy
21 in a more effective, efficient, or economical manner or when
22 necessary to stimulate innovation or improve student
23 performance. Waivers of mandates may be requested when the
24 waivers are necessary to stimulate innovation or improve
25 student performance.

26 Waivers cannot be requested or granted from laws, rules,
27 and policies pertaining to special education, teacher
28 certification, or the issuance or termination of teacher
29 contracts.

30 The board of directors of a school district shall conduct a
31 public hearing on a proposed application or plan prior to
32 approving the proposed application or plan. The public
33 hearing shall provide an opportunity for testimony before the
34 board from the community, including educators, parents and
35 students. Notice of the date, time, place, and general

1 subject matter of the public hearing shall be published in one
2 or more newspapers not less than 10 nor more than 20 days
3 before the public hearing. The board shall notify in writing
4 the representative for each employee organization under
5 chapter 20 that has members who could be affected under a
6 proposed waiver or modification.

7 If the state board of education does not disapprove an
8 application within 45 days of receiving the application, the
9 waiver or modification of a rule or policy of the state board
10 shall be deemed granted. The state board may disapprove any
11 request if the request is not based upon sound education
12 practices, endangers the health or safety of students or
13 staff, compromises equal opportunities for learning, or fails
14 to demonstrate that the intent of the mandate, rule, or policy
15 can be addressed in a more effective, efficient, or economical
16 manner or have improved student performance as a primary goal.

17 The state board shall compile requests and applications for
18 waivers and modifications to mandates and any appeals to its
19 decisions regarding the requests and modifications of a rule
20 or policy of the state board in a report to be filed annually
21 with the general assembly. The general assembly may
22 disapprove in whole or in part, by resolution by a record vote
23 of the majority of the members elected in each house, the
24 report of the state board within 30 calendar days after the
25 general assembly convenes in January. If the general assembly
26 fails to disapprove any waiver or modification request or
27 appealed request within the 30-day period, the waiver or
28 modification shall be deemed granted.

29 An approved waiver or modification may remain in effect for
30 a period not to exceed five school years and may be renewed
31 upon application by the school board or accredited nonpublic
32 school.

33 256.11A: The bill repeals the section of the Code which
34 provides that school districts and nonpublic schools may apply
35 for waivers from guidance program and media services program

1 requirements from the department of education.

2 The bill also contains a provision directing the state
3 board of education to nullify any rule requiring each school
4 or school district operating a kindergarten through grade 12
5 program to provide an articulated sequential elementary-
6 secondary guidance program, and any rule requiring school
7 districts and accredited nonpublic schools to establish and
8 operate a media services program to support the total
9 curriculum for each district or school.

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