



Rep. Kathleen A. Ryg

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1 AMENDMENT TO HOUSE BILL 567

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 567 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The State Mandates Act is amended by changing  
5 Sections 3 and 8 as follows:

6 (30 ILCS 805/3) (from Ch. 85, par. 2203)

7 Sec. 3. Definition. As used in this Act: (a) "Local  
8 government" means a municipality, county, township, other unit  
9 of local government, school district, or community college  
10 district.

11 (b) "State mandate" means any State-initiated statutory or  
12 executive action that requires a local government to establish,  
13 expand or modify its activities in such a way as to necessitate  
14 additional expenditures from local revenues, excluding any  
15 order issued by a court other than any order enforcing such  
16 statutory or executive action. State mandates may be  
17 reimbursable or nonreimbursable as provided in this Act.  
18 However, where the General Assembly enacts legislation to  
19 comply with a federal mandate, the State shall be exempt from  
20 the requirement of reimbursing for the cost of the mandated  
21 program.

22 (c) "Local government organization and structure mandate"  
23 means a State mandate concerning such matters as (1) the form  
24 of local government and the adoption and revision of statutes

1 on the organization of local government; (2) the establishment  
2 of multi-county districts, councils of governments, or other  
3 forms and structures for interlocal cooperation and  
4 coordination; (3) the holding of local elections; (4) the  
5 designation of public officers, and their duties, powers and  
6 responsibilities; and (5) the prescription of administrative  
7 practices and procedures for local governing bodies.

8 (d) "Due process mandate" means a State mandate concerning  
9 such matters as the (1) administration of justice; (2)  
10 notification and conduct of public hearings; (3) procedures for  
11 administrative and judicial review of actions taken by local  
12 governing bodies and (4) protection of the public from  
13 malfeasance, misfeasance, or nonfeasance by local government  
14 officials.

15 (e) "Benefit spillover" means the process of accrual of  
16 social or other benefits from a governmental service to  
17 jurisdictions adjacent to or beyond the jurisdiction providing  
18 the service.

19 (f) "Service mandate" means a State mandate as to creation  
20 or expansion of governmental services or delivery standards  
21 therefor and those applicable to services having substantial  
22 benefit spillover and consequently being wider than local  
23 concern. For purposes of this Act, applicable services include  
24 but are not limited to (1) elementary and secondary education,  
25 (2) community colleges, (3) public health, (4) hospitals, (5)  
26 public assistance, (6) air pollution control, (7) water  
27 pollution control, (8) solid waste treatment and disposal. A  
28 State mandate that expands the duties of a public official by  
29 requiring the provision of additional services is a "service  
30 mandate" rather than a "local government organization and  
31 structure mandate".

32 (g) "Tax exemption mandate" means a State mandate that  
33 exempts privately owned property or other specified items from  
34 the local tax base, such as (1) exemption of business

1 inventories from the local property tax base, and (2) exemption  
2 of food or medicine from the local "sales" tax.

3 (h) "Personnel mandate" means a State mandate concerning or  
4 affecting local government (1) salaries and wages; (2) employee  
5 qualifications and training (except when any civil service  
6 commission, professional licensing board, or personnel board  
7 or agency established by State law sets and administers  
8 standards relative to merit-based recruitment or candidates  
9 for employment or conducts and grades examinations and rates  
10 candidates in order of their relative excellence for purposes  
11 of making appointments or promotions to positions in the  
12 competitive division of the classified service of the public  
13 employer served by such commission, board, or agency); (3)  
14 hours, location of employment, and other working conditions;  
15 and (4) fringe benefits including insurance, health, medical  
16 care, retirement and other benefits.

17 (i) "Applicant" means a local government, other than a  
18 school district, that petitions the Department of Commerce and  
19 Economic Opportunity for a waiver or modification of a State  
20 mandate.

21 (Source: P.A. 81-1562.)

22 (30 ILCS 805/8) (from Ch. 85, par. 2208)

23 Sec. 8. Exclusions, reimbursement application, review,  
24 appeals, and adjudication.

25 (a) Exclusions: Any of the following circumstances  
26 inherent to, or associated with, a mandate shall exclude the  
27 State from reimbursement liability under this Act. If the  
28 mandate (1) accommodates a request from local governments or  
29 organizations thereof; (2) imposes additional duties of a  
30 nature which can be carried out by existing staff and  
31 procedures at no appreciable net cost increase; (3) creates  
32 additional costs but also provides offsetting savings  
33 resulting in no aggregate increase in net costs; (4) imposes a

1 cost that is wholly or largely recovered from Federal, State or  
2 other external financial aid; (5) imposes additional annual net  
3 costs of less than \$1,000 for each of the several local  
4 governments affected or less than \$50,000, in the aggregate,  
5 for all local governments affected.

6 The failure of the General Assembly to make necessary  
7 appropriations shall relieve the local government of the  
8 obligation to implement any service mandates, tax exemption  
9 mandates, and personnel mandates, as specified in Section 6,  
10 subsections (b), (c), (d) and (e), unless the exclusion  
11 provided for in this Section are explicitly stated in the Act  
12 establishing the mandate. In the event that funding is not  
13 provided for a State-mandated program by the General Assembly,  
14 the local government may implement or continue the program upon  
15 approval of its governing body. If the local government  
16 approves the program and funding is subsequently provided, the  
17 State shall reimburse the local governments only for costs  
18 incurred subsequent to the funding.

19 (b) Reimbursement Estimation and Appropriation Procedure.

20 (1) When a bill is introduced in the General Assembly,  
21 the Legislative Reference Bureau, hereafter referred to as  
22 the Bureau, shall determine whether such bill may require  
23 reimbursement to local governments pursuant to this Act.  
24 The Bureau shall make such determination known in the  
25 Legislative Synopsis and Digest.

26 In making the determination required by this  
27 subsection (b) the Bureau shall disregard any provision in  
28 a bill which would make inoperative the reimbursement  
29 requirements of Section 6 above, including an express  
30 exclusion of the applicability of this Act, and shall make  
31 the determination irrespective of any such provision.

32 (2) Any bill or amended bill which creates or expands a  
33 State mandate shall be subject to the provisions of "An Act  
34 requiring fiscal notes in relation to certain bills",

1 approved June 4, 1965, as amended. The fiscal notes for  
2 such bills or amended bills shall include estimates of the  
3 costs to local government and the costs of any  
4 reimbursement required under this Act. In the case of bills  
5 having a potential fiscal impact on units of local  
6 government, the fiscal note shall be prepared by the  
7 Department. In the case of bills having a potential fiscal  
8 impact on school districts, the fiscal note shall be  
9 prepared by the State Superintendent of Education. In the  
10 case of bills having a potential fiscal impact on community  
11 college districts, the fiscal note shall be prepared by the  
12 Illinois Community College Board. Such fiscal note shall  
13 accompany the bill that requires State reimbursement and  
14 shall be prepared prior to any final action on such a bill  
15 by the assigned committee. However, if a fiscal note is not  
16 filed by the appropriate agency within 30 days of  
17 introduction of a bill, the bill can be heard in committee  
18 and advanced to the order of second reading. The bill shall  
19 then remain on second reading until a fiscal note is filed.  
20 A bill discharged from committee shall also remain on  
21 second reading until a fiscal note is provided by the  
22 appropriate agency.

23 (3) The estimate required by paragraph (2) above, shall  
24 include the amount estimated to be required during the  
25 first fiscal year of a bill's operation in order to  
26 reimburse local governments pursuant to Section 6, for  
27 costs mandated by such bill. In the event that the  
28 effective date of such a bill is not the first day of the  
29 fiscal year the estimate shall also include the amount  
30 estimated to be required for reimbursement for the next  
31 following full fiscal year.

32 (4) For the initial fiscal year, reimbursement funds  
33 shall be provided as follows: (i) any statute mandating  
34 such costs shall have a companion appropriation bill, and

1 (ii) any executive order mandating such costs shall be  
2 accompanied by a bill to appropriate the funds therefor,  
3 or, alternatively an appropriation for such funds shall be  
4 included in the executive budget for the next following  
5 fiscal year.

6 In subsequent fiscal years appropriations for such  
7 costs shall be included in the Governor's budget or  
8 supplemental appropriation bills.

9 (c) Reimbursement Application and Disbursement Procedure.

10 (1) For the initial fiscal year during which  
11 reimbursement is authorized, each local government, or  
12 more than one local government wishing to join in filing a  
13 single claim, believing itself to be entitled to  
14 reimbursement under this Act shall submit to the  
15 Department, State Superintendent of Education or Illinois  
16 Community College Board within 60 days of the effective  
17 date of the mandate a claim for reimbursement accompanied  
18 by its estimate of the increased costs required by the  
19 mandate for the balance of the fiscal year. The Department,  
20 State Superintendent of Education or Illinois Community  
21 College Board shall review such claim and estimate, shall  
22 apportion the claim into 3 equal installments and shall  
23 direct the Comptroller to pay the installments at equal  
24 intervals throughout the remainder of the fiscal year from  
25 the funds appropriated for such purposes, provided that the  
26 Department, State Superintendent of Education or Illinois  
27 Community College Board may (i) audit the records of any  
28 local government to verify the actual amount of the  
29 mandated cost, and (ii) reduce any claim determined to be  
30 excessive or unreasonable.

31 (2) For the subsequent fiscal years, local governments  
32 shall submit claims as specified above on or before October  
33 1 of each year. The Department, State Superintendent of  
34 Education or Illinois Community College Board shall

1       apportion the claims into 3 equal installments and shall  
2       direct the Comptroller to pay the first installment upon  
3       approval of the claims, with subsequent installments to  
4       follow on January 1 and March 1, such claims to be paid  
5       from funds appropriated therefor, provided that the  
6       Department, State Superintendent of Education or Illinois  
7       Community College Board (i) may audit the records of any  
8       local governments to verify the actual amount of the  
9       mandated cost, (ii) may reduce any claim, determined to be  
10      excessive or unreasonable, and (iii) shall adjust the  
11      payment to correct for any underpayments or overpayments  
12      which occurred in the previous fiscal year.

13           (3) Any funds received by a local government pursuant  
14      to this Act may be used for any public purpose.

15           If the funds appropriated for reimbursement of the  
16      costs of local government resulting from the creation or  
17      expansion of a State mandate are less than the total of the  
18      approved claims, the amount appropriated shall be prorated  
19      among the local governments having approved claims.

20      (d) Appeals and Adjudication.

21           (1) Applicants ~~Local governments~~ may appeal  
22      determinations made by State agencies acting pursuant to  
23      subsection (c) above. The appeal must be submitted to the  
24      Department of Commerce and Economic Opportunity for a  
25      waiver or modification of a State Mandate if the applicant  
26      demonstrates that it can address the intent of the rule or  
27      mandate in a more effective, efficient, or economical  
28      manner. An applicant seeking a waiver or modification of a  
29      State Mandate must submit an application that includes a  
30      written request and must demonstrate that the intent of the  
31      mandate can be addressed in a more effective, efficient, or  
32      economical manner. Any applicant requesting a waiver or  
33      modification for the reason that the intent of the mandate  
34      can be addressed in a more economical manner shall include

1 in the application a fiscal analysis showing current or  
2 expected expenditures on the mandate and projected savings  
3 resulting from the waiver or modification. Applicants and  
4 plans developed by the applicant must be approved by the  
5 corporate authority of the applicant seeking the waiver or  
6 modification following a public hearing on the application  
7 and plan. The public hearing may be held during a regularly  
8 scheduled meeting of the corporate authority. The public  
9 hearing must be preceded by at least one published notice  
10 occurring at least 7 days prior to the hearing in a  
11 newspaper of general circulation within the affected area  
12 that sets forth the time, date, place and general subject  
13 matter of the hearing.

14 A request for a waiver or modification of a State  
15 Mandate shall be submitted to the Department of Commerce  
16 and Economic Opportunity within 15 days after the approval  
17 by the corporate authority. The application as submitted to  
18 the Department shall include a description of the public  
19 hearing. The description shall included, but need not be  
20 limited to, the means of notice, the number of people in  
21 attendance, the number of people who spoke as proponents or  
22 opponents of the waiver, a brief description of their  
23 comments and whether there were any written statements  
24 submitted. The Department shall review the applications  
25 and requests for completeness, with the assistance of the  
26 Illinois Community College Board, and shall compile the  
27 requests in reports to be filed with the General Assembly.

28 The Department shall file reports outlining the  
29 waivers requested with the Senate and the House of  
30 Representatives before each May 1 and October 1. The  
31 General Assembly may disapprove the report of the  
32 Department in whole or in part within 30 calendar days  
33 after each house of the General Assembly next convenes  
34 after the report is filed by adoption of a resolution by a



1 record vote of the majority of members elected in each  
2 house. If the General Assembly fails to disapprove any  
3 waiver request within that 30 day period, the waiver or  
4 modification shall be deemed granted. Any resolution  
5 adopted by the General Assembly disapproving a report of  
6 the Department in whole or in part shall be binding on the  
7 Department.

8 (2) On or before February 1 of each year, the  
9 Department shall submit a cumulative report summarizing  
10 all types of waivers or modifications of State Mandates  
11 granted by the General Assembly. The report shall identify  
12 the topic of the waiver along with the number and  
13 percentage of applicants for which the waiver has been  
14 granted. State Mandates Board of Review created by Section  
15 9.1 of this Act within 60 days following the date of  
16 receipt of the determination being appealed. The appeal  
17 must include evidence as to the extent to which the mandate  
18 has been carried out in an effective manner and executed  
19 without recourse to standards of staffing or expenditure  
20 higher than specified in the mandatory statute, if such  
21 standards are specified in the statute. The State Mandates  
22 Board of Review, after reviewing the evidence submitted to  
23 it, may increase or reduce the amount of a reimbursement  
24 claim. The decision of the State Mandates Board of Review  
25 shall be final subject to judicial review. However, if  
26 sufficient funds have not been appropriated, the  
27 Department shall notify the General Assembly of such cost,  
28 and appropriations for such costs shall be included in a  
29 supplemental appropriation bill.

30 ~~(2) A local government may also appeal directly to the~~  
31 ~~State Mandates Board of Review in those situations in which~~  
32 ~~the Department of Commerce and Community Affairs does not~~  
33 ~~act upon the local government's application for~~  
34 ~~reimbursement or request for mandate determination~~

1 ~~submitted under this Act. The appeal must include evidence~~  
2 ~~that the application for reimbursement or request for~~  
3 ~~mandate determination was properly filed and should have~~  
4 ~~been reviewed by the Department.~~

5 ~~An appeal may be made to the Board if the Department~~  
6 ~~does not respond to a local government's application for~~  
7 ~~reimbursement or request for mandate determination within~~  
8 ~~120 days after filing the application or request. In no~~  
9 ~~case, however, may an appeal be brought more than one year~~  
10 ~~after the application or request is filed with the~~  
11 ~~Department.~~

12 (Source: P.A. 89-304, eff. 8-11-95; 89-626, eff. 8-9-96;  
13 revised 12-6-03.)".