



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0567

Introduced 1/27/2005, by Rep. Kathleen A. Ryg

SYNOPSIS AS INTRODUCED:

30 ILCS 805/8
30 ILCS 805/9.1

from Ch. 85, par. 2208
from Ch. 85, par. 2209.1

Amends the State Mandates Act. Changes references concerning the implementation of service mandates, tax exemption mandates, and personnel mandates. Provides that the appropriate State entity shall determine within 90 days after receiving a claim for reimbursement whether the claim is reimbursable under the Act and shall notify each local government filing a claim of its determination. If the appropriate State entity fails to notify the local government concerning its claim within 90 days, the local government shall assume the claim is reimbursable. Failure to timely notify the local government relieves the local government of the obligation to implement the mandate. Places identical decision and notification requirements on the State Mandates Board of Review with respect to appeals it handles. Removes provisions authorizing direct appeal to the State Mandates Board of Review if the Department of Commerce and Economic Opportunity does not respond to a claim for reimbursement within 120 days. Provides that members of the State Mandates Board of Review shall have experience in local government finance. Effective immediately.

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FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning State mandates.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Mandates Act is amended by changing
5 Sections 8 and 9.1 as follows:

6 (30 ILCS 805/8) (from Ch. 85, par. 2208)

7 Sec. 8. Exclusions, reimbursement application, review,
8 appeals, and adjudication.

9 (a) Exclusions: Any of the following circumstances
10 inherent to, or associated with, a mandate shall exclude the
11 State from reimbursement liability under this Act. If the
12 mandate (1) accommodates a request from local governments or
13 organizations thereof; (2) imposes additional duties of a
14 nature which can be carried out by existing staff and
15 procedures at no appreciable net cost increase; (3) creates
16 additional costs but also provides offsetting savings
17 resulting in no aggregate increase in net costs; (4) imposes a
18 cost that is wholly or largely recovered from Federal, State or
19 other external financial aid; (5) imposes additional annual net
20 costs of less than \$1,000 for each of the several local
21 governments affected or less than \$50,000, in the aggregate,
22 for all local governments affected.

23 The failure of the General Assembly to make necessary
24 appropriations shall relieve the local government of the
25 obligation to implement any service mandates, tax exemption
26 mandates, and personnel mandates, as specified in Section 3 6,
27 subsections (f), (g), and (h) ~~(b), (c), (d) and (e)~~, unless the
28 exclusion provided for in this Section are explicitly stated in
29 the Act establishing the mandate. In the event that funding is
30 not provided for a State-mandated program by the General
31 Assembly, the local government may implement or continue the
32 program upon approval of its governing body. If the local

1 government approves the program and funding is subsequently
2 provided, the State shall reimburse the local governments only
3 for costs incurred subsequent to the funding.

4 (b) Reimbursement Estimation and Appropriation Procedure.

5 (1) When a bill is introduced in the General Assembly,
6 the Legislative Reference Bureau, hereafter referred to as
7 the Bureau, shall determine whether such bill may require
8 reimbursement to local governments pursuant to this Act.
9 The Bureau shall make such determination known in the
10 Legislative Synopsis and Digest.

11 In making the determination required by this
12 subsection (b) the Bureau shall disregard any provision in
13 a bill which would make inoperative the reimbursement
14 requirements of Section 6 above, including an express
15 exclusion of the applicability of this Act, and shall make
16 the determination irrespective of any such provision.

17 (2) Any bill or amended bill which creates or expands a
18 State mandate shall be subject to the provisions of "An Act
19 requiring fiscal notes in relation to certain bills",
20 approved June 4, 1965, as amended. The fiscal notes for
21 such bills or amended bills shall include estimates of the
22 costs to local government and the costs of any
23 reimbursement required under this Act. In the case of bills
24 having a potential fiscal impact on units of local
25 government, the fiscal note shall be prepared by the
26 Department. In the case of bills having a potential fiscal
27 impact on school districts, the fiscal note shall be
28 prepared by the State Superintendent of Education. In the
29 case of bills having a potential fiscal impact on community
30 college districts, the fiscal note shall be prepared by the
31 Illinois Community College Board. Such fiscal note shall
32 accompany the bill that requires State reimbursement and
33 shall be prepared prior to any final action on such a bill
34 by the assigned committee. However, if a fiscal note is not
35 filed by the appropriate agency within 30 days of
36 introduction of a bill, the bill can be heard in committee

1 and advanced to the order of second reading. The bill shall
2 then remain on second reading until a fiscal note is filed.
3 A bill discharged from committee shall also remain on
4 second reading until a fiscal note is provided by the
5 appropriate agency.

6 (3) The estimate required by paragraph (2) above, shall
7 include the amount estimated to be required during the
8 first fiscal year of a bill's operation in order to
9 reimburse local governments pursuant to Section 6, for
10 costs mandated by such bill. In the event that the
11 effective date of such a bill is not the first day of the
12 fiscal year the estimate shall also include the amount
13 estimated to be required for reimbursement for the next
14 following full fiscal year.

15 (4) For the initial fiscal year, reimbursement funds
16 shall be provided as follows: (i) any statute mandating
17 such costs shall have a companion appropriation bill, and
18 (ii) any executive order mandating such costs shall be
19 accompanied by a bill to appropriate the funds therefor,
20 or, alternatively an appropriation for such funds shall be
21 included in the executive budget for the next following
22 fiscal year.

23 In subsequent fiscal years appropriations for such
24 costs shall be included in the Governor's budget or
25 supplemental appropriation bills.

26 (c) Reimbursement Application and Disbursement Procedure.

27 (1) For the initial fiscal year during which
28 reimbursement is authorized, each local government, or
29 more than one local government wishing to join in filing a
30 single claim, believing itself to be entitled to
31 reimbursement under this Act shall submit to the
32 Department, State Superintendent of Education or Illinois
33 Community College Board within 60 days of the effective
34 date of the mandate a claim for reimbursement accompanied
35 by its estimate of the increased costs required by the
36 mandate for the balance of the fiscal year. The Department,

1 State Superintendent of Education or Illinois Community
2 College Board shall review such claim and estimate and
3 shall determine within 90 days after receiving a claim
4 whether the claim is reimbursable or nonreimbursable as
5 provided for in this Act and shall notify each local
6 government that files a claim of its determination. Each
7 local government that files a claim shall assume its claim
8 is reimbursable if the Department, State Superintendent of
9 Education, or Illinois Community College Board fails to
10 notify each local government of its determination within 90
11 days after receiving a claim. The failure to notify each
12 local government shall relieve the local government of the
13 obligation to implement the mandate. The Department, State
14 Superintendent of Education, or Illinois Community College
15 Board 7 shall apportion the reimbursable claim into 3 equal
16 installments and shall direct the Comptroller to pay the
17 installments at equal intervals throughout the remainder
18 of the fiscal year from the funds appropriated for such
19 purposes, provided that the Department, State
20 Superintendent of Education or Illinois Community College
21 Board may (i) audit the records of any local government to
22 verify the actual amount of the mandated cost, and (ii)
23 reduce any claim determined to be excessive or
24 unreasonable.

25 (2) For the subsequent fiscal years, local governments
26 shall submit claims as specified above on or before October
27 1 of each year. The Department, State Superintendent of
28 Education or Illinois Community College Board shall
29 apportion the claims into 3 equal installments and shall
30 direct the Comptroller to pay the first installment upon
31 approval of the claims, with subsequent installments to
32 follow on January 1 and March 1, such claims to be paid
33 from funds appropriated therefor, provided that the
34 Department, State Superintendent of Education or Illinois
35 Community College Board (i) may audit the records of any
36 local governments to verify the actual amount of the

1 mandated cost, (ii) may reduce any claim, determined to be
2 excessive or unreasonable, and (iii) shall adjust the
3 payment to correct for any underpayments or overpayments
4 which occurred in the previous fiscal year.

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

7 If the funds appropriated for reimbursement of the
8 costs of local government resulting from the creation or
9 expansion of a State mandate are less than the total of the
10 approved claims, the amount appropriated shall be prorated
11 among the local governments having approved claims.

12 (d) Appeals and Adjudication. ~~(1)~~ Local governments may
13 appeal determinations made by State agencies acting pursuant to
14 subsection (c) above. The appeal must be submitted to the State
15 Mandates Board of Review created by Section 9.1 of this Act
16 within 60 days following the date of receipt of the
17 determination being appealed. The appeal must include evidence
18 as to the extent to which the mandate has been carried out in
19 an effective manner and executed without recourse to standards
20 of staffing or expenditure higher than specified in the
21 mandatory statute, if such standards are specified in the
22 statute. The State Mandates Board of Review, after reviewing
23 the evidence submitted to it, may increase or reduce the amount
24 of a reimbursement claim. The decision of the State Mandates
25 Board of Review shall be made within 90 days after receiving an
26 appeal and shall be final subject to judicial review. The State
27 Mandates Board of Review shall notify each local government
28 that files an appeal of its decision. The failure to notify
29 each local government of the decision within 90 days after
30 receiving an appeal shall relieve the local government of the
31 obligation to implement the mandate. However, if sufficient
32 funds have not been appropriated, the Department shall notify
33 the General Assembly of such cost, and appropriations for such
34 costs shall be included in a supplemental appropriation bill.
35 ~~(2) A local government may also appeal directly to the State~~
36 ~~Mandates Board of Review in those situations in which the~~

~~Department of Commerce and Community Affairs does not act upon the local government's application for reimbursement or request for mandate determination submitted under this Act. The appeal must include evidence that the application for reimbursement or request for mandate determination was properly filed and should have been reviewed by the Department. An appeal may be made to the Board if the Department does not respond to a local government's application for reimbursement or request for mandate determination within 120 days after filing the application or request. In no case, however, may an appeal be brought more than one year after the application or request is filed with the Department.~~

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

(30 ILCS 805/9.1) (from Ch. 85, par. 2209.1)

Sec. 9.1. State Mandates Board of Review. Beginning January 1, 1992 there shall be created the State Mandates Board of Review which shall consist of 5 members. The members of the Board shall be appointed as follows: 2 members shall be appointed by the State Comptroller and 3 members shall be appointed by the Governor, all by and with the advice and consent of the Senate. Members shall have experience in local government finance and shall serve for terms of 2 years ending on June 30 of odd numbered years. The members shall choose a chairman at their first meeting. The members shall receive reimbursement for expenses.

The Board shall hear appeals from local governments pursuant to this Act. The Board shall, by rule, prescribe the procedures for bringing appeals before it. The Board may apply to the Legislative Audit Commission to direct the Auditor General to audit the records of the local government to verify the actual costs of the state-mandated programs. If, after hearing the evidence, the Board approves any additional reimbursement for such local government, the chairman of the State Mandates Board of Review shall notify the agency

1 responsible for distributing those funds and that agency shall
2 direct the Comptroller to disburse such funds, subject to
3 available appropriation.

4 The Board shall issue an annual report to the General
5 Assembly which shall include a description of all appeals heard
6 by the Board and any recommendations made by the Board during
7 the preceding year.

8 (Source: P.A. 87-748.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.