



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB2167

Introduced 1/4/2006, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

30 ILCS 805/8

from Ch. 85, par. 2208

Amends the State Mandates Act. With respect to State mandates on school districts that are otherwise reimbursable under the Act, provides that if a bill of the General Assembly includes an express exclusion of the applicability of the Act or contains any other provision that would make inoperative the reimbursement requirements of the Act, then the bill must be passed by the vote of three-fifths of the members elected to each house of the General Assembly. Effective immediately.

LRB094 15384 NHT 50575 b

1 AN ACT concerning education.

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 Section 8 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 6,
27 subsections (b), (c), (d) and (e), unless the exclusion
28 provided for in this Section are explicitly stated in the Act
29 establishing the mandate. In the event that funding is not
30 provided for a State-mandated program by the General Assembly,
31 the local government may implement or continue the program upon
32 approval of its governing body. If the local government

1 approves the program and funding is subsequently provided, the
2 State shall reimburse the local governments only for costs
3 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 (5) With respect to State mandates on school districts
27 that are otherwise reimbursable under this Act, beginning
28 on the effective date of this amendatory Act of the 94th
29 General Assembly, if a bill includes an express exclusion
30 of the applicability of this Act or contains any other
31 provision that would make inoperative the reimbursement
32 requirements of this Act, then the bill must be passed by
33 the vote of three-fifths of the members elected to each
34 house of the General Assembly.

35 (c) Reimbursement Application and Disbursement Procedure.

36 (1) For the initial fiscal year during which

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

21 (2) For the subsequent fiscal years, local governments
22 shall submit claims as specified above on or before October
23 1 of each year. The Department, State Superintendent of
24 Education or Illinois Community College Board shall
25 apportion the claims into 3 equal installments and shall
26 direct the Comptroller to pay the first installment upon
27 approval of the claims, with subsequent installments to
28 follow on January 1 and March 1, such claims to be paid
29 from funds appropriated therefor, provided that the
30 Department, State Superintendent of Education or Illinois
31 Community College Board (i) may audit the records of any
32 local governments to verify the actual amount of the
33 mandated cost, (ii) may reduce any claim, determined to be
34 excessive or unreasonable, and (iii) shall adjust the
35 payment to correct for any underpayments or overpayments
36 which occurred in the previous fiscal year.

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

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

8 (d) Appeals and Adjudication.

9 (1) Local governments may appeal determinations made
10 by State agencies acting pursuant to subsection (c) above.
11 The appeal must be submitted to the State Mandates Board of
12 Review created by Section 9.1 of this Act within 60 days
13 following the date of receipt of the determination being
14 appealed. The appeal must include evidence as to the extent
15 to which the mandate has been carried out in an effective
16 manner and executed without recourse to standards of
17 staffing or expenditure higher than specified in the
18 mandatory statute, if such standards are specified in the
19 statute. The State Mandates Board of Review, after
20 reviewing the evidence submitted to it, may increase or
21 reduce the amount of a reimbursement claim. The decision of
22 the State Mandates Board of Review shall be final subject
23 to judicial review. However, if sufficient funds have not
24 been appropriated, the Department shall notify the General
25 Assembly of such cost, and appropriations for such costs
26 shall be included in a supplemental appropriation bill.

27 (2) A local government may also appeal directly to the
28 State Mandates Board of Review in those situations in which
29 the Department of Commerce and Economic Opportunity
30 ~~Community Affairs~~ does not act upon the local government's
31 application for reimbursement or request for mandate
32 determination submitted under this Act. The appeal must
33 include evidence that the application for reimbursement or
34 request for mandate determination was properly filed and
35 should have been reviewed by the Department.

36 An appeal may be made to the Board if the Department

1 does not respond to a local government's application for
2 reimbursement or request for mandate determination within
3 120 days after filing the application or request. In no
4 case, however, may an appeal be brought more than one year
5 after the application or request is filed with the
6 Department.

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

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