



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB0788

by Rep. Tom Demmer

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 805/9.5 new

Creates the Local Unfunded Mandate Exemption Act. Provides that all units of local government, school districts, and public colleges and universities may, by a majority vote of the governing body, exempt themselves from specified mandates that are unfunded if it is determined that it is not economically feasible to comply with the unfunded mandate. Provides for notice, public hearing, and other requirements in order for a governing body to exempt itself from any mandate. Prohibits exemption from federally required mandates, mandates pertaining to health and public safety, mandates pertaining to civil rights, and instructional mandates for school districts. Provides for appeal procedures by State agencies affected by exempted mandates. Amends the State Mandates Act. Provides that, if the Act conflicts with the Local Unfunded Mandate Exemption Act, the Local Unfunded Mandate Exemption Act controls.

LRB100 05398 AWJ 15409 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning local government.

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

4 Section 1. Short title. This Act may be cited as the Local
5 Unfunded Mandate Exemption Act.

6 Section 5. Definitions. As used in this Act:

7 "Director" means the Director, Secretary, Executive
8 Director, or other chief executive officer of a State Agency.

9 "Mandate" means, except as otherwise provided in this Act,
10 the following mandates defined in Section 3 of the State
11 Mandates Act: (a) local government organization and structure
12 mandates; (b) due process mandates; (c) service mandates; and
13 (d) personnel mandates.

14 "Public colleges and universities" means public community
15 colleges subject to the Public Community College Act, the
16 University of Illinois, Southern Illinois University, Chicago
17 State University, Eastern Illinois University, Governors State
18 University, Illinois State University, Northeastern Illinois
19 University, Northern Illinois University, and Western Illinois
20 University.

21 "State Agency" has the meaning provided in Section 1-7 of
22 the Illinois State Auditing Act.

1 Section 10. Exemption from unfunded mandates.
2 Notwithstanding any other law to the contrary:

3 (a) Units of local government, school districts, and public
4 colleges and universities, by resolution or ordinance with a
5 three-fifths vote of the governing board, may exempt themselves
6 from any unfunded mandate under any law or administrative rule
7 if the governing board determines that it is not economically
8 feasible to comply with the unfunded mandate. The resolution or
9 ordinance shall:

10 (1) state an estimate of the cost of compliance with
11 the unfunded mandate;

12 (2) state how the cost of compliance with an unfunded
13 mandate is not economically feasible and significantly
14 hinders their ability to deliver on the statutory mission
15 of the unit of government, school district, or public
16 college or university;

17 (3) attach documentation in support of paragraphs (1)
18 and (2) of this subsection (a); and

19 (4) certify that the exemption is not prohibited by
20 subsection (b) of this Section.

21 (b) No unit of local government, school district, or public
22 college or university may be exempted from an unfunded mandate
23 if the mandate is:

24 (1) a federally required mandate;

25 (2) a mandate pertaining to health and public safety to
26 a degree which should not be waived;

1 (3) a mandate pertaining to local, State, or federal
2 civil rights; or

3 (4) an instructional mandate for a school district.

4 (c) Before a unit of local government, school district, or
5 public college or university may lawfully be exempted from an
6 unfunded mandate under subsection (a) of this Section, it must
7 hold a public hearing on the matter. The unit of local
8 government, school district, or public college or university
9 must publish a notice of the public hearing's time, date,
10 place, and general subject matter at least 7 days prior to the
11 hearing in a newspaper of general circulation within the unit
12 of local government's, school district's, or public college's
13 or university's area and on its website if it has a website.

14 Section 15. Notification to Governor and General Assembly.
15 Upon passage of a resolution or ordinance under Section 10 of
16 this Act, a copy of the resolution or ordinance, including all
17 attached documentation, shall be provided to the Office of the
18 Governor, Office of the Senate President, Office of the Senate
19 Minority Leader, Office of the Speaker, Office of the Minority
20 Leader, and any Director of an affected State Agency within 10
21 business days of passage.

22 Section 20. Appeal by a State Agency Director.

23 (a) The Director of any State Agency affected by a mandate
24 exemption under Section 10 of this Act can appeal the

1 exemption, within 45 days from the date of receipt of a
2 notification under Section 15 of this Act, to the Joint
3 Committee on Administrative Rules requesting compliance with
4 the unfunded mandate if the Director determines compliance by
5 the unit of local government, school district, or public
6 college or university is economically feasible and the
7 exemption should be voided based upon any of the following:

8 (1) The Director shows that the State does or will
9 provide adequate and direct funding to meet the full cost
10 of compliance with the mandate;

11 (2) The Director shows compliance with the mandate is
12 inherent in the statutory mission of the unit of local
13 government, school district, or public college or
14 university; or

15 (3) The Director shows the mandate cannot be exempted
16 under subsection (b) of Section 10 of this Act.

17 (b) If the Joint Committee on Administrative Rules finds,
18 by a majority vote, that the Director has not shown that an
19 exemption to a mandate should be voided, the Joint Committee
20 shall prepare a written opinion upholding the exemption within
21 45 days after receipt of the appeal from the Director.

22 (c) If the Joint Committee on Administrative Rules finds,
23 by a majority vote, that the Director has shown that an
24 exemption to a mandate should be voided, the Joint Committee
25 shall prepare a written opinion within 45 days after receipt of
26 the appeal from the Director detailing its findings and provide

1 a copy of its written findings to the Governor for final
2 review. If the Governor agrees in writing with the findings of
3 the Joint Committee, the exemption is void. If the Governor
4 disagrees and objects in writing to the findings of the Joint
5 Committee, then the Joint Committee may, by a two-thirds vote,
6 override the Governor's objection thereby making the exemption
7 void. If the Governor's objection is not overridden by the
8 Joint Committee, then the exemption shall continue in force.

9 (d) If the Joint Committee on Administrative Rules fails to
10 issue a written opinion under subsections (b) and (c) within 45
11 days after receipt of the appeal from the Director, the
12 exemption is upheld.

13 Section 25. Conflicts with State Mandates Act. In any
14 instances in which this Act conflicts with the State Mandates
15 Act, this Act shall control.

16 Section 75. The State Mandates Act is amended by adding
17 Section 9.5 as follows:

18 (30 ILCS 805/9.5 new)

19 Sec. 9.5. Conflicts with the Local Unfunded Mandate
20 Exemption Act. In any instances in which this Act conflicts
21 with the Local Unfunded Mandate Exemption Act, the Local
22 Unfunded Mandate Exemption Act shall control, including, but
23 not limited to, exemptions set forth in Sections 8.1 and

1 following of this Act.