



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0005

Introduced 1/14/2021, by Rep. Anthony DeLuca

SYNOPSIS AS INTRODUCED:

30 ILCS 805/6	from Ch. 85, par. 2206
30 ILCS 805/8	from Ch. 85, par. 2208
30 ILCS 805/9.2 new	

Amends the State Mandates Act. Provides that any State mandate regarding any subject matter enacted on or after the effective date of this amendatory Act that necessitates additional expenditures from local government revenues shall be void and unenforceable unless the General Assembly makes necessary appropriations to implement that mandate. Provides that the failure of the General Assembly to make necessary appropriations shall relieve the local government of the obligation to implement any State mandate. Makes conforming changes. Effective immediately.

LRB102 02579 RJF 12581 b

1 AN ACT concerning finance.

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 6 and 8 and by adding Section 9.2 as follows:

6 (30 ILCS 805/6) (from Ch. 85, par. 2206)

7 Sec. 6. State Reimbursement to Local Government For
8 Increased Costs Arising From Certain Mandates. (a) Any
9 increased costs accruing to local governments as a direct
10 result of mandates dealing with the organization and structure
11 of local government or due process mandates, as defined in
12 subsections (c) and (d), respectively, of Section 3 above, are
13 not reimbursable by the State.

14 (b) At least 50%, but not more than 100% of the increase in
15 costs of a local government directly attributable to a service
16 mandate as defined in subsection (f) of Section 3 enacted by
17 the General Assembly or established administratively after the
18 effective date of this Act shall be reimbursed by the State
19 unless there is in existence at the time of such enactment a
20 program of State aid for the service affected by the mandate
21 whereunder the non-local share for any participating local
22 government is 50% or greater and where the increased costs
23 arising under the mandate constitute allowable expenditures

1 under the aid program. Where all or part of the increased costs
2 are met through federal or other external aid, only the net
3 increase to the local government shall be included in the base
4 against which the amount of State reimbursement is to be
5 computed.

6 (c) 100% of the loss in revenue of a local government
7 directly attributable to a mandated classification or
8 exemption of property for purposes of ad valorem real property
9 taxation enacted after the effective date of this Act shall be
10 reimbursed by the State. The loss of revenue does not include
11 potential revenue from property of a type which was not being
12 assessed and taxed on January 1, 1980.

13 (d) Except for a State mandate that affects personnel
14 qualifications for local employees, the salaries and wages of
15 which are financed under a State program, and except as
16 provided in subsection (e) below, any personnel mandate as
17 defined in subsection (h) of Section 3 above enacted by the
18 General Assembly or established administratively after the
19 effective date of this Act shall be reimbursed by the State to
20 the extent of increased costs incurred by local governments
21 directly attributable to such mandate.

22 (e) All of the increased costs of a local government
23 directly attributable to a mandated increase in public
24 employee retirement benefits which is enacted after the
25 effective date of this Act and which has the effect of
26 elevating retirement benefits of local government employees

1 shall be reimbursed by the State; except that any increased
2 costs of a local government attributable to Public Act 83-152,
3 83-374, 83-375, 83-528, 83-558, 83-661, 83-664, 83-737,
4 83-772, 83-773, 83-780, 83-792, 83-793, 83-802, 83-810,
5 83-812, 83-823, 83-827 or 83-869 are not reimbursable by the
6 State.

7 (f) After the effective date of this Act, any bill filed
8 and any amended bill that creates or enlarges a State mandate
9 of the type specified in subsections (f), (g) and (h) of
10 Section 3, shall have provided and identified for it an
11 appropriation of an amount necessary to provide the
12 reimbursement specified above unless a statement, stating the
13 specific reasons for such exclusion is set out in the bill or
14 amendment as provided in subsection (a) of Section 8.

15 (g) If a local government or combination of local
16 governments has been providing a service at its option which
17 is subsequently mandated by the State, the State shall pay
18 them for the subsequent costs of such program and the local
19 government or governments shall proportionately reduce its or
20 their property tax extensions by the amount that the State
21 payment replaces property tax revenues which were being
22 expended on such service. However, for purposes of calculating
23 a school district's State aid, no district's operating tax
24 rate shall be decreased as a result of reimbursement under
25 this Act.

26 (h) Any increased costs accruing to a local government as

1 a direct result of the requirements of the Steel Products
2 Procurement Act are not reimbursable by the State.

3 (i) The provisions of subsections (a) through (h) shall
4 apply to State mandates enacted prior to the effective date of
5 this amendatory Act of the 102nd General Assembly. On and
6 after the effective date of this amendatory Act of the 102nd
7 General Assembly, any State mandate enacted regarding any
8 subject matter that necessitates additional expenditures from
9 local government revenues shall be appropriated for and
10 reimbursed as provided under Section 9.2.

11 (Source: P.A. 83-1362.)

12 (30 ILCS 805/8) (from Ch. 85, par. 2208)

13 Sec. 8. Exclusions, reimbursement application, review,
14 appeals, and adjudication.

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

1 net costs of less than \$1,000 for each of the several local
2 governments affected or less than \$50,000, in the aggregate,
3 for all local governments affected.

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

17 (a-5) The provisions of subsection (a) excluding the State
18 from reimbursement liability under this Act shall not apply to
19 any State mandate enacted on or after the effective date of
20 this amendatory Act of the 102nd General Assembly, and all
21 subsequent State mandates enacted shall be appropriated for as
22 provided under Section 9.2.

23 (b) Reimbursement Estimation and Appropriation Procedure.

24 (1) When a bill is introduced in the General Assembly,
25 the Legislative Reference Bureau, hereafter referred to as
26 the Bureau, shall determine whether such bill may require

1 reimbursement to local governments pursuant to this Act.
2 The Bureau shall make such determination known in the
3 Legislative Synopsis and Digest.

4 In making the determination required by this
5 subsection (b) the Bureau shall disregard any provision in
6 a bill which would make inoperative the reimbursement
7 requirements of Section 6 above, including an express
8 exclusion of the applicability of this Act, and shall make
9 the determination irrespective of any such provision.

10 (2) Any bill or amended bill which creates or expands
11 a State mandate shall be subject to the provisions of "An
12 Act requiring fiscal notes in relation to certain bills",
13 approved June 4, 1965, as amended. The fiscal notes for
14 such bills or amended bills shall include estimates of the
15 costs to local government and the costs of any
16 reimbursement required under this Act. In the case of
17 bills having a potential fiscal impact on units of local
18 government, the fiscal note shall be prepared by the
19 Department. In the case of bills having a potential fiscal
20 impact on school districts, the fiscal note shall be
21 prepared by the State Superintendent of Education. In the
22 case of bills having a potential fiscal impact on
23 community college districts, the fiscal note shall be
24 prepared by the Illinois Community College Board. Such
25 fiscal note shall accompany the bill that requires State
26 reimbursement and shall be prepared prior to any final

1 action on such a bill by the assigned committee. However,
2 if a fiscal note is not filed by the appropriate agency
3 within 30 days of introduction of a bill, the bill can be
4 heard in committee and advanced to the order of second
5 reading. The bill shall then remain on second reading
6 until a fiscal note is filed. A bill discharged from
7 committee shall also remain on second reading until a
8 fiscal note is provided by the appropriate agency.

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

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

26 In subsequent fiscal years appropriations for such

1 costs shall be included in the Governor's budget or
2 supplemental appropriation bills.

3 (c) Reimbursement Application and Disbursement Procedure.

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

26 (2) For the subsequent fiscal years, local governments

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

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

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

24 (d) Appeals and Adjudication.

25 (1) Local governments may appeal determinations made
26 by State agencies acting pursuant to subsection (c) above.

1 The appeal must be submitted to the State Mandates Board
2 of Review created by Section 9.1 of this Act within 60 days
3 following the date of receipt of the determination being
4 appealed. The appeal must include evidence as to the
5 extent to which the mandate has been carried out in an
6 effective manner and executed without recourse to
7 standards of staffing or expenditure higher than specified
8 in the mandatory statute, if such standards are specified
9 in the statute. The State Mandates Board of Review, after
10 reviewing the evidence submitted to it, may increase or
11 reduce the amount of a reimbursement claim. The decision
12 of the State Mandates Board of Review shall be final
13 subject to judicial review. However, if sufficient funds
14 have not been appropriated, the Department shall notify
15 the General Assembly of such cost, and appropriations for
16 such costs shall be included in a supplemental
17 appropriation bill.

18 (2) A local government may also appeal directly to the
19 State Mandates Board of Review in those situations in
20 which the Department of Commerce and Economic Opportunity
21 does not act upon the local government's application for
22 reimbursement or request for mandate determination
23 submitted under this Act. The appeal must include evidence
24 that the application for reimbursement or request for
25 mandate determination was properly filed and should have
26 been reviewed by the Department.

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

8 (Source: P.A. 94-793, eff. 5-19-06.)

9 (30 ILCS 805/9.2 new)

10 Sec. 9.2. Unfunded State mandates prohibited.
11 Notwithstanding any provision of law to the contrary, any
12 State mandate regarding any subject matter enacted on or after
13 the effective date of this amendatory Act of the 102nd General
14 Assembly that necessitates additional expenditures from local
15 government revenues shall be void and unenforceable unless the
16 General Assembly makes necessary appropriations to implement
17 that mandate. The failure of the General Assembly to make
18 necessary appropriations shall relieve the local government of
19 the obligation to implement any State mandate.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.