



Sen. Susan Garrett

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1 AMENDMENT TO HOUSE BILL 976

2 AMENDMENT NO. _____. Amend House Bill 976 by replacing
3 everything after the enacting clause with the following:

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

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

12 (b) Reimbursement Estimation and Appropriation Procedure.

13 (1) When a bill is introduced in the General Assembly,
14 the Legislative Reference Bureau, hereafter referred to as
15 the Bureau, shall determine whether such bill may require
16 reimbursement to local governments pursuant to this Act.
17 The Bureau shall make such determination known in the
18 Legislative Synopsis and Digest.

19 In making the determination required by this
20 subsection (b) the Bureau shall disregard any provision in
21 a bill which would make inoperative the reimbursement
22 requirements of Section 6 above, including an express
23 exclusion of the applicability of this Act, and shall make
24 the determination irrespective of any such provision.

25 (2) Any bill or amended bill which creates or expands a
26 State mandate shall be subject to the provisions of "An Act
27 requiring fiscal notes in relation to certain bills",
28 approved June 4, 1965, as amended. The fiscal notes for
29 such bills or amended bills shall include estimates of the
30 costs to local government and the costs of any
31 reimbursement required under this Act. In the case of bills
32 having a potential fiscal impact on units of local
33 government, the fiscal note shall be prepared by the
34 Department. In the case of bills having a potential fiscal

1 impact on school districts, the fiscal note shall be
2 prepared by the State Superintendent of Education. In the
3 case of bills having a potential fiscal impact on community
4 college districts, the fiscal note shall be prepared by the
5 Illinois Community College Board. Such fiscal note shall
6 accompany the bill that requires State reimbursement and
7 shall be prepared prior to any final action on such a bill
8 by the assigned committee. However, if a fiscal note is not
9 filed by the appropriate agency within 30 days of
10 introduction of a bill, the bill can be heard in committee
11 and advanced to the order of second reading. The bill shall
12 then remain on second reading until a fiscal note is filed.
13 A bill discharged from committee shall also remain on
14 second reading until a fiscal note is provided by the
15 appropriate agency.

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

25 (4) For the initial fiscal year, reimbursement funds
26 shall be provided as follows: (i) any statute mandating
27 such costs shall have a companion appropriation bill, and
28 (ii) any executive order mandating such costs shall be
29 accompanied by a bill to appropriate the funds therefor,
30 or, alternatively an appropriation for such funds shall be
31 included in the executive budget for the next following
32 fiscal year.

33 In subsequent fiscal years appropriations for such
34 costs shall be included in the Governor's budget or

1 supplemental appropriation bills.

2 (c) Reimbursement Application and Disbursement Procedure.

3 (1) For the initial fiscal year during which
4 reimbursement is authorized, each local government, or
5 more than one local government wishing to join in filing a
6 single claim, believing itself to be entitled to
7 reimbursement under this Act shall submit to the
8 Department, State Superintendent of Education or Illinois
9 Community College Board within 60 days of the effective
10 date of the mandate a claim for reimbursement accompanied
11 by its estimate of the increased costs required by the
12 mandate for the balance of the fiscal year. The Department,
13 State Superintendent of Education or Illinois Community
14 College Board shall review such claim and estimate and
15 shall determine within 90 days after receiving a claim
16 whether the claim is reimbursable or nonreimbursable as
17 provided for in this Act and shall notify each local
18 government that files a claim of its determination. Each
19 local government that files a claim shall assume its claim
20 is reimbursable if the Department, State Superintendent of
21 Education, or Illinois Community College Board fails to
22 notify each local government of its determination within 90
23 days after receiving a claim. The failure to notify each
24 local government shall relieve the local government of the
25 obligation to implement the mandate. The Department, State
26 Superintendent of Education, or Illinois Community College
27 Board 7 shall apportion the reimbursable claim into 3 equal
28 installments and shall direct the Comptroller to pay the
29 installments at equal intervals throughout the remainder
30 of the fiscal year from the funds appropriated for such
31 purposes, provided that the Department, State
32 Superintendent of Education or Illinois Community College
33 Board may (i) audit the records of any local government to
34 verify the actual amount of the mandated cost, and (ii)

1 reduce any claim determined to be excessive or
2 unreasonable.

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

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

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

26 (d) Appeals and Adjudication. ~~(1)~~ Local governments may
27 appeal determinations made by State agencies acting pursuant to
28 subsection (c) above. The appeal must be submitted to the State
29 Mandates Board of Review created by Section 9.1 of this Act
30 within 60 days following the date of receipt of the
31 determination being appealed. The appeal must include evidence
32 as to the extent to which the mandate has been carried out in
33 an effective manner and executed without recourse to standards
34 of staffing or expenditure higher than specified in the

1 mandatory statute, if such standards are specified in the
2 statute. The State Mandates Board of Review, after reviewing
3 the evidence submitted to it, may increase or reduce the amount
4 of a reimbursement claim. The decision of the State Mandates
5 Board of Review shall be made within 90 days after receiving an
6 appeal and shall be final subject to judicial review. The State
7 Mandates Board of Review shall notify each local government
8 that files an appeal of its decision. The failure to notify
9 each local government of the decision within 90 days after
10 receiving an appeal shall relieve the local government of the
11 obligation to implement the mandate. However, if sufficient
12 funds have not been appropriated, the Department shall notify
13 the General Assembly of such cost, and appropriations for such
14 costs shall be included in a supplemental appropriation bill.
15 ~~(2) A local government may also appeal directly to the State~~
16 ~~Mandates Board of Review in those situations in which the~~
17 ~~Department of Commerce and Community Affairs does not act upon~~
18 ~~the local government's application for reimbursement or~~
19 ~~request for mandate determination submitted under this Act. The~~
20 ~~appeal must include evidence that the application for~~
21 ~~reimbursement or request for mandate determination was~~
22 ~~properly filed and should have been reviewed by the Department.~~
23 ~~An appeal may be made to the Board if the Department does not~~
24 ~~respond to a local government's application for reimbursement~~
25 ~~or request for mandate determination within 120 days after~~
26 ~~filing the application or request. In no case, however, may an~~
27 ~~appeal be brought more than one year after the application or~~
28 ~~request is filed with the Department.~~

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

31 (30 ILCS 805/9.1) (from Ch. 85, par. 2209.1)

32 Sec. 9.1. State Mandates Board of Review. Beginning January
33 1, 1992 there shall be created the State Mandates Board of

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

10 The Board shall hear appeals from local governments
11 pursuant to this Act. The Board shall, by rule, prescribe the
12 procedures for bringing appeals before it. The Board may apply
13 to the Legislative Audit Commission to direct the Auditor
14 General to audit the records of the local government to verify
15 the actual costs of the state-mandated programs. If, after
16 hearing the evidence, the Board approves any additional
17 reimbursement for such local government, the chairman of the
18 State Mandates Board of Review shall notify the agency
19 responsible for distributing those funds and that agency shall
20 direct the Comptroller to disburse such funds, subject to
21 available appropriation.

22 The Board shall issue an annual report to the General
23 Assembly which shall include a description of all appeals heard
24 by the Board and any recommendations made by the Board during
25 the preceding year.

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

27 Section 99. Effective date. This Act takes effect upon
28 becoming law."