



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5840

by Rep. Kelly Burke

SYNOPSIS AS INTRODUCED:

30 ILCS 805/4.5 new

30 ILCS 805/7

30 ILCS 805/8

from Ch. 85, par. 2207

from Ch. 85, par. 2208

Amends the State Mandates Act. Requires the State Board of Education to collect and maintain information concerning State mandates for schools, determine the statewide implementation of State mandates for schools, review school district applications for reimbursement submitted under the Act where the General Assembly has appropriated funds to reimburse school districts for costs associated with the implementation of a State mandate, and annually report to the Governor and the General Assembly regarding the administration of the Act and changes proposed to the Act that concern schools. Requires the Legislative Research Unit to conduct public hearings as needed to review the information collected and the recommendations made by the Board. Provides that within 2 years following the effective date of the amendatory Act, the Board shall collect and tabulate relevant information as to the nature and scope of each existing State mandate for schools. Further provides that failure of the General Assembly to appropriate adequate funds for reimbursement to schools as required by this Act shall not relieve the Board from these obligations. Requires that fiscal notes on bills creating State mandates shall include actual implementation cost data and analysis generated by school districts. Makes changes concerning appeals under the Act.

LRB098 20302 OMW 55739 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 7 and 8 and by adding Section 4.5 as follows:

6 (30 ILCS 805/4.5 new)

7 Sec. 4.5. Collection and maintenance of information
8 concerning State mandates for schools.

9 (a) The State Board of Education shall be responsible for
10 the following:

11 (1) Collecting and maintaining information on State
12 mandates for schools, including information required for
13 effective implementation of the provisions of this Act.

14 (2) Reviewing school district applications for
15 reimbursement submitted under this Act where the General
16 Assembly has appropriated funds to reimburse school
17 districts for costs associated with the implementation of a
18 State mandate. Where there is no appropriation for
19 reimbursement, upon a request for determination of a State
20 mandate by a school district or more than one school
21 district filing a single request, other than a community
22 college district, the Board shall, in conjunction with an
23 association established under Article 23 of the School

1 Code, determine whether a Public Act constitutes a State
2 mandate and, if so, the statewide cost of implementation.

3 (3) Hearing complaints or suggestions from school
4 districts and other affected organizations as to existing
5 or proposed State mandates for schools.

6 (4) Annually reporting to the Governor and the General
7 Assembly about the administration of provisions of this Act
8 and changes proposed to this Act that concern schools.

9 The Legislative Research Unit shall conduct public
10 hearings as needed to review the information collected and the
11 recommendations made by the Board under this subsection (a).
12 The Board shall cooperate fully with the Legislative Research
13 Unit, providing any information, supporting documentation, and
14 other assistance required by the Legislative Research Unit to
15 conduct the hearing.

16 (b) Within 2 years following the effective date of this
17 amendatory Act of the 98th General Assembly, the Board shall
18 collect and tabulate relevant information as to the nature and
19 scope of each existing State mandate for schools, including,
20 but not limited to: (i) the identity of the type of school
21 district and local government agency or official to whom the
22 State mandate is directed, (ii) whether an identifiable local
23 direct cost is necessitated by the State mandate and the
24 estimated annual amount, (iii) the extent of State financial
25 participation, if any, in meeting identifiable costs, (iv) the
26 State agency, if any, charged with supervising the

1 implementation of the mandate, and (v) a brief description of
2 the State mandate and a citation to its origin in statute or
3 rule.

4 (c) The resulting information from subsection (b) of this
5 Section shall be published in a catalog that shall be made
6 available to members of the General Assembly, State and local
7 officials, and interested citizens. As new State mandates are
8 enacted, they shall be added to the catalog, and on January 31
9 of every year, the Department shall list each new State mandate
10 that was enacted during the preceding session of the General
11 Assembly, as well as the estimated additional identifiable
12 direct costs, if any, imposed upon school districts. A revised
13 version of the catalog shall be published every 2 years,
14 beginning with the publication date of the first catalog.

15 (d) Failure of the General Assembly to appropriate adequate
16 funds for reimbursement to schools as required by this Act
17 shall not relieve the Board from its obligations under this
18 Section.

19 (30 ILCS 805/7) (from Ch. 85, par. 2207)

20 Sec. 7. Review of Existing Mandates.

21 (a) Concurrently with, or within 3 months subsequent to the
22 publication of a catalog of State mandates as prescribed in
23 subsection (b) of Sections ~~Section~~ 4 and 4.5 the Department
24 shall submit to the Governor and the General Assembly a review
25 and report on mandates enacted prior to the effective date of

1 this Act and remaining in effect at the time of submittal of
2 the report. The State Board of Education shall submit a review
3 of existing State mandates for schools concurrently with the
4 publication required under subsection (c) of Section 4.5 of
5 this Act.

6 (b) The report shall include for each mandate the
7 following: (1) The factual information specified in subsection
8 (b) of Section 4 for the catalog; (2) extent to which the
9 enactment of the mandate was requested, supported, encouraged
10 or opposed by local governments or their respective
11 organization; (3) whether the mandate continues to meet a
12 Statewide policy objective or has achieved the initial policy
13 intent in whole or in part; (4) amendments if any are required
14 to make the mandate more effective; (5) whether the mandate
15 should be retained or rescinded; (6) whether State financial
16 participation in helping meet the identifiable increased local
17 costs arising from the mandate should be initiated, and if so,
18 recommended ratios and phasing-in schedules; and (7) any other
19 information or recommendations which the Department considers
20 pertinent.

21 (c) The appropriate committee of each house of the General
22 Assembly shall review the report and shall initiate such
23 legislation or other action as it deems necessary.

24 The requirement for reporting to the General Assembly shall
25 be satisfied by filing copies of the report with the Speaker,
26 the Minority Leader and the Clerk of the House of

1 Representatives and the President, the Minority Leader, the
2 Secretary of the Senate, the members of the committees required
3 to review the report under subsection (c) and the Legislative
4 Research Unit, as required by Section 3.1 of "An Act to revise
5 the law in relation to the General Assembly", approved February
6 25, 1874, as amended, and filing such additional copies with
7 the State Government Report Distribution Center for the General
8 Assembly as is required under paragraph (t) of Section 7 of the
9 State Library Act.

10 (Source: P.A. 84-1438.)

11 (30 ILCS 805/8) (from Ch. 85, par. 2208)

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

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

1 governments affected or less than \$50,000, in the aggregate,
2 for all local governments affected.

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

16 (b) Reimbursement Estimation and Appropriation Procedure.

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

23 In making the determination required by this
24 subsection (b) the Bureau shall disregard any provision in
25 a bill which would make inoperative the reimbursement
26 requirements of Section 6 above, including an express

1 exclusion of the applicability of this Act, and shall make
2 the determination irrespective of any such provision.

3 (2) Any bill or amended bill which creates or expands a
4 State mandate shall be subject to the provisions of "An Act
5 requiring fiscal notes in relation to certain bills",
6 approved June 4, 1965, as amended. The fiscal notes for
7 such bills or amended bills shall include estimates of the
8 costs to local government and the costs of any
9 reimbursement required under this Act. In the case of bills
10 having a potential fiscal impact on units of local
11 government, the fiscal note shall be prepared by the
12 Department and include actual implementation cost data and
13 analysis generated by school districts. In the case of
14 bills having a potential fiscal impact on school districts,
15 the fiscal note shall be prepared by the State
16 Superintendent of Education. In the case of bills having a
17 potential fiscal impact on community college districts,
18 the fiscal note shall be prepared by the Illinois Community
19 College Board. Such fiscal note shall accompany the bill
20 that requires State reimbursement and shall be prepared
21 prior to any final action on such a bill by the assigned
22 committee. However, if a fiscal note is not filed by the
23 appropriate agency within 30 days of introduction of a
24 bill, the bill can be heard in committee and advanced to
25 the order of second reading. The bill shall then remain on
26 second reading until a fiscal note is filed. A bill

1 discharged from committee shall also remain on second
2 reading until a fiscal note is provided by the appropriate
3 agency.

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

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

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

24 (c) Reimbursement Application and Disbursement Procedure.

25 (1) For the initial fiscal year during which
26 reimbursement is authorized, each local government, or

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

20 (2) For the subsequent fiscal years, local governments
21 shall submit claims as specified above on or before October
22 1 of each year. The Department, State Superintendent of
23 Education or Illinois Community College Board shall
24 apportion the claims into 3 equal installments and shall
25 direct the Comptroller to pay the first installment upon
26 approval of the claims, with subsequent installments to

1 follow on January 1 and March 1, such claims to be paid
2 from funds appropriated therefor, provided that the
3 Department, State Superintendent of Education or Illinois
4 Community College Board (i) may audit the records of any
5 local governments to verify the actual amount of the
6 mandated cost, (ii) may reduce any claim, determined to be
7 excessive or unreasonable, and (iii) shall adjust the
8 payment to correct for any underpayments or overpayments
9 which occurred in the previous fiscal year.

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

12 If the funds appropriated for reimbursement of the
13 costs of local government resulting from the creation or
14 expansion of a State mandate are less than the total of the
15 approved claims, the amount appropriated shall be prorated
16 among the local governments having approved claims.

17 (d) Appeals and Adjudication.

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

10 (2) A local government may also appeal directly to the
11 State Mandates Board of Review in those situations in which
12 the Department of Commerce and Economic Opportunity or
13 State Board of Education does not act upon the local
14 government's application for reimbursement or request for
15 mandate determination submitted under this Act. The appeal
16 must include evidence that the application for
17 reimbursement or request for mandate determination was
18 properly filed and should have been reviewed by the
19 Department or State Board of Education.

20 An appeal may be made to the Board if the Department
21 does not respond to a local government's application for
22 reimbursement or request for mandate determination within
23 120 days after filing the application or request. In no
24 case, however, may an appeal be brought more than one year
25 after the application or request is filed with the
26 Department.

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