



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3480

by Rep. Kelly Burke

SYNOPSIS AS INTRODUCED:

30 ILCS 805/4	from Ch. 85, par. 2204
30 ILCS 805/4.5 new	
30 ILCS 805/7	from Ch. 85, par. 2207
30 ILCS 805/8	from Ch. 85, par. 2208
105 ILCS 5/2-3.104	from Ch. 122, par. 2-3.104

Amends the State Mandate Act. Specifies that failure of the General Assembly to appropriate adequate funds for reimbursement shall not relieve the State Board of Education from its obligations. Requires that fiscal notes on education bills creating State mandates include actual implementation cost data and analysis generated by school districts. Amends the School Code. Specifies additional factors that the State Board's annual report listing State mandates shall identify. Authorizes the State Board to make available a copy for publication. Provides that the State Board shall review school district applications for reimbursement. Permits the State Board, in cases in which there is no appropriation for reimbursement, to determine whether a Public Act constitutes a mandate. Authorizes the Legislative Research Unit to conduct public hearings. Makes other changes. Effective immediately.

LRB099 08018 SXM 28160 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Sections 4, 7, and 8 and by adding Section 4.5 as follows:

6 (30 ILCS 805/4) (from Ch. 85, par. 2204)

7 Sec. 4. Collection and maintenance of information
8 concerning state mandates.

9 (a) The Department of Commerce and Economic Opportunity,
10 hereafter referred to as the Department, shall be responsible
11 for:

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

15 (2) Reviewing local government applications for
16 reimbursement submitted under this Act in cases in which
17 the General Assembly has appropriated funds to reimburse
18 local governments for costs associated with the
19 implementation of a State mandate. In cases in which there
20 is no appropriation for reimbursement, upon a request for
21 determination of a mandate by a unit of local government,
22 or more than one unit of local government filing a single
23 request, other than a school district or a community

1 college district, the Department shall determine whether a
2 Public Act constitutes a mandate and, if so, the Statewide
3 cost of implementation.

4 (3) Hearing complaints or suggestions from local
5 governments and other affected organizations as to
6 existing or proposed State mandates.

7 (4) Reporting each year to the Governor and the General
8 Assembly regarding the administration of provisions of
9 this Act and changes proposed to this Act.

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

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

1 implementation of the mandate; and (v) a brief description of
2 the mandate and a citation of its origin in statute or
3 regulation.

4 (c) The resulting information from subsection (b) shall be
5 published in a catalog available to members of the General
6 Assembly, State and local officials, and interested citizens.
7 As new mandates are enacted they shall be added to the catalog,
8 and each January 31 the Department shall list each new mandate
9 enacted at the preceding session of the General Assembly, and
10 the estimated additional identifiable direct costs, if any
11 imposed upon local governments. A revised version of the
12 catalog shall be published every 2 years beginning with the
13 publication date of the first catalog. The resulting
14 information from Section 2-3.104 of the School Code shall be
15 added to the catalog published every 2 years by the Department,
16 beginning with the publication of the 2016 State Mandates
17 Catalog.

18 (d) Failure of the General Assembly to appropriate adequate
19 funds for reimbursement as required by this Act shall not
20 relieve the Department of Commerce and Economic Opportunity
21 from its obligations under this Section.

22 (Source: P.A. 93-632, eff. 2-1-04.)

23 (30 ILCS 805/4.5 new)

24 Sec. 4.5. Collection and maintenance of information
25 concerning State mandates for schools.

1 (a) The State Board of Education, shall be responsible for
2 providing an annual report, as provided for in Section 2-3.104
3 of the School Code.

4 (b) Failure of the General Assembly to appropriate adequate
5 funds for reimbursement as required by this Act shall not
6 relieve the State Board of Education from its obligations under
7 this Section.

8 (30 ILCS 805/7) (from Ch. 85, par. 2207)

9 Sec. 7. Review of Existing Mandates. (a) Concurrently with,
10 or within 3 months subsequent to the publication of a catalog
11 of State mandates as prescribed in subsection (b) of Section 4
12 and in Section 4.5, the Department and the State Board of
13 Education shall submit to the Governor and the General Assembly
14 a review and report on mandates enacted prior to the effective
15 date of this Act and remaining in effect at the time of
16 submittal of the report. The State Board of Education shall
17 submit the review of existing mandates concurrently with the
18 publication referred to in Section 2-3.104 of the School Code.

19 (b) The report shall include for each mandate the
20 following: (1) The factual information specified in subsection
21 (b) of Section 4 for the catalog; (2) extent to which the
22 enactment of the mandate was requested, supported, encouraged
23 or opposed by local governments or their respective
24 organization; (3) whether the mandate continues to meet a
25 Statewide policy objective or has achieved the initial policy

1 intent in whole or in part; (4) amendments if any are required
2 to make the mandate more effective; (5) whether the mandate
3 should be retained or rescinded; (6) whether State financial
4 participation in helping meet the identifiable increased local
5 costs arising from the mandate should be initiated, and if so,
6 recommended ratios and phasing-in schedules; and (7) any other
7 information or recommendations which the Department considers
8 pertinent.

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

12 The requirement for reporting to the General Assembly shall
13 be satisfied by filing copies of the report with the Speaker,
14 the Minority Leader and the Clerk of the House of
15 Representatives and the President, the Minority Leader, the
16 Secretary of the Senate, the members of the committees required
17 to review the report under subsection (c) and the Legislative
18 Research Unit, as required by Section 3.1 of "An Act to revise
19 the law in relation to the General Assembly", approved February
20 25, 1874, as amended, and filing such additional copies with
21 the State Government Report Distribution Center for the General
22 Assembly as is required under paragraph (t) of Section 7 of the
23 State Library Act.

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

25 (30 ILCS 805/8) (from Ch. 85, par. 2208)

1 Sec. 8. Exclusions, reimbursement application, review,
2 appeals, and adjudication.

3 (a) Exclusions: Any of the following circumstances
4 inherent to, or associated with, a mandate shall exclude the
5 State from reimbursement liability under this Act. If the
6 mandate (1) accommodates a request from local governments or
7 organizations thereof; (2) imposes additional duties of a
8 nature which can be carried out by existing staff and
9 procedures at no appreciable net cost increase; (3) creates
10 additional costs but also provides offsetting savings
11 resulting in no aggregate increase in net costs; (4) imposes a
12 cost that is wholly or largely recovered from Federal, State or
13 other external financial aid; (5) imposes additional annual net
14 costs of less than \$1,000 for each of the several local
15 governments affected or less than \$50,000, in the aggregate,
16 for all local governments affected.

17 The failure of the General Assembly to make necessary
18 appropriations shall relieve the local government of the
19 obligation to implement any service mandates, tax exemption
20 mandates, and personnel mandates, as specified in Section 6,
21 subsections (b), (c), (d) and (e), unless the exclusion
22 provided for in this Section are explicitly stated in the Act
23 establishing the mandate. In the event that funding is not
24 provided for a State-mandated program by the General Assembly,
25 the local government may implement or continue the program upon
26 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

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

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

1 (4) For the initial fiscal year, reimbursement funds
2 shall be provided as follows: (i) any statute mandating
3 such costs shall have a companion appropriation bill, and
4 (ii) any executive order mandating such costs shall be
5 accompanied by a bill to appropriate the funds therefor,
6 or, alternatively an appropriation for such funds shall be
7 included in the executive budget for the next following
8 fiscal year.

9 In subsequent fiscal years appropriations for such
10 costs shall be included in the Governor's budget or
11 supplemental appropriation bills.

12 (c) Reimbursement Application and Disbursement Procedure.

13 (1) For the initial fiscal year during which
14 reimbursement is authorized, each local government, or
15 more than one local government wishing to join in filing a
16 single claim, believing itself to be entitled to
17 reimbursement under this Act shall submit to the
18 Department, State Superintendent of Education or Illinois
19 Community College Board within 60 days of the effective
20 date of the mandate a claim for reimbursement accompanied
21 by its estimate of the increased costs required by the
22 mandate for the balance of the fiscal year. The Department,
23 State Superintendent of Education or Illinois Community
24 College Board shall review such claim and estimate, shall
25 apportion the claim into 3 equal installments and shall
26 direct the Comptroller to pay the installments at equal

1 intervals throughout the remainder of the fiscal year from
2 the funds appropriated for such purposes, provided that the
3 Department, State Superintendent of Education or Illinois
4 Community College Board may (i) audit the records of any
5 local government to verify the actual amount of the
6 mandated cost, and (ii) reduce any claim determined to be
7 excessive or unreasonable.

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

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

26 If the funds appropriated for reimbursement of the

1 costs of local government resulting from the creation or
2 expansion of a State mandate are less than the total of the
3 approved claims, the amount appropriated shall be prorated
4 among the local governments having approved claims.

5 (d) Appeals and Adjudication.

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

24 (2) A local government may also appeal directly to the
25 State Mandates Board of Review in those situations in which
26 the Department of Commerce and Economic Opportunity or

1 State Board of Education does not act upon the local
2 government's application for reimbursement or request for
3 mandate determination submitted under this Act. The appeal
4 must include evidence that the application for
5 reimbursement or request for mandate determination was
6 properly filed and should have been reviewed by the
7 Department or State Board of Education.

8 An appeal may be made to the Board if the Department
9 does not respond to a local government's application for
10 reimbursement or request for mandate determination within
11 120 days after filing the application or request. In no
12 case, however, may an appeal be brought more than one year
13 after the application or request is filed with the
14 Department.

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

16 Section 10. The School Code is amended by changing Section
17 2-3.104 as follows:

18 (105 ILCS 5/2-3.104) (from Ch. 122, par. 2-3.104)

19 Sec. 2-3.104. State mandate reports. The State Board of
20 Education shall prepare an annual report listing all State
21 mandates applicable to the common schools during the school
22 year covered by the report, excluding only those mandates that
23 relate to school elections. The annual report shall set forth
24 for each listed mandate:

1 (1) the date or approximate date that the mandate
2 became effective;

3 (2) and the cost of implementing the ~~that~~ mandate
4 during the school year covered by the report; provided that
5 if the mandate has not been in effect for the entire school
6 year covered by the report, the estimated annual cost of
7 implementing that mandate shall be set forth in that
8 report;

9 (3) whether or not an identifiable local direct cost is
10 necessitated by the mandate and the estimated annual
11 amount;

12 (4) a brief description of the mandate and a citation
13 of its origin in statute or rule;

14 (5) the extent of State or federal financial
15 participation, if any, in meeting identifiable costs; and

16 (6) the State agency, if any, charged with supervising
17 the implementation of the mandate.

18 ~~If and provided that if~~ the mandate exists because of a
19 federal law, rule or regulation, the report shall note that
20 fact.

21 The State Board of Education shall highlight on each annual
22 report each mandate listed thereon that first became effective
23 and applicable to the common schools during the school year
24 covered by the current annual report. If applicable, the report
25 shall identify the type of school district or cooperative or
26 other type of school as defined under this Code affected by or

1 to which the mandate is directed.

2 Each annual report prepared by the State Board of
3 Education shall be presented at a public meeting of the State
4 Board, allowing for public comment, posted on the State Board's
5 Internet website, and filed by the State Board of Education
6 with the General Assembly on or before March 1 of the calendar
7 year, ~~beginning with calendar year 1992,~~ and shall cover the
8 school year ending during the calendar year immediately
9 preceding the calendar year in which the annual report is
10 required to be filed, reporting, as well, each year to the
11 Governor and the General Assembly regarding the administration
12 of provisions of this Section and changes proposed to this
13 Section. The State Board shall make available, upon request of
14 the Department of Commerce and Economic Opportunity, a copy of
15 the annual State Mandates Report for publication in the
16 Department's State Mandates Catalog.

17 The State Board of Education shall review school district
18 applications for reimbursement submitted pursuant to Section 8
19 of the State Mandates Act in cases in which the General
20 Assembly has appropriated funds to reimburse school districts
21 for costs associated with the implementation of a State
22 mandate. In cases in which there is no appropriation for
23 reimbursement, upon a request for determination of a mandate by
24 a school district, or more than one school district filing a
25 single request, the State Board shall, in conjunction with an
26 organization established under Article 23 of this Code,

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

3 The Legislative Research Unit shall conduct public
4 hearings as needed to review the information collected and the
5 recommendations made by the State Board under this Section. The
6 Board shall cooperate fully with the Legislative Research Unit,
7 providing any information, supporting documentation, and other
8 assistance required by the Legislative Research Unit to
9 facilitate the conduct of the hearings.

10 (Source: P.A. 87-632; 87-895.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.