



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB6094

Introduced 2/11/2016, by Rep. Tom Demmer

SYNOPSIS AS INTRODUCED:

New Act

30 ILCS 805/7

from Ch. 85, par. 2207

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 Mandate Act. Provides that the Department of Commerce and Economic Opportunity shall submit yearly to the Governor and the General Assembly a review and report on mandates remaining in effect at the time of submittal of the report.

LRB099 20571 AWJ 45125 b

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 exemption

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

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

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

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

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

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

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

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

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

15 Section 30. The State Mandates Act is amended by changing
16 Section 7 and by adding Section 9.5 as follows:

17 (30 ILCS 805/7) (from Ch. 85, par. 2207)

18 Sec. 7. Review of Existing Mandates.

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

1 ~~Act and~~ remaining in effect at the time of submittal of the
2 report.

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

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

21 The requirement for reporting to the General Assembly shall
22 be satisfied by filing copies of the report with the Speaker,
23 the Minority Leader and the Clerk of the House of
24 Representatives and the President, the Minority Leader, the
25 Secretary of the Senate, the members of the committees required
26 to review the report under subsection (c) and the Legislative

1 Research Unit, as required by Section 3.1 of "An Act to revise
2 the law in relation to the General Assembly", approved February
3 25, 1874, as amended, and filing such additional copies with
4 the State Government Report Distribution Center for the General
5 Assembly as is required under paragraph (t) of Section 7 of the
6 State Library Act.

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

8 (30 ILCS 805/9.5 new)

9 Sec. 9.5. Conflicts with the Local Unfunded Mandate
10 Exemption Act. In any instances in which this Act conflicts
11 with the Local Unfunded Mandate Exemption Act, the Local
12 Unfunded Mandate Exemption Act shall control, including but not
13 limited to, exemptions set forth in Sections 8.1 and following
14 of this Act.