

2003 Senate Bill 15

Date of enactment:
Date of publication*:

2003 WISCONSIN ACT

AN ACT *to amend* 13.093 (2) (b); and *to create* 13.59, 13.591, 16.59, 20.505 (1) (bm) and 227.112 of the statutes; relating to: creation of a Joint Committee on State Mandates and required funding of state mandates.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 13.093 (2) (b) of the statutes is amended to read:

13.093 (2) (b) Executive budget bills introduced under s. 16.47 (1) are exempt from the fiscal estimate requirement under par. (a) but shall, if they contain a provision affecting a public retirement fund or providing a tax exemption, or imposing a mandate, as defined in s. 13.59 (1) (b), be analyzed as to those provisions by the respective joint survey committee or the joint committee on state mandates. If such a bill imposes a mandate, as defined in s. 13.59 (1) (b), the bill shall be simultaneously referred to the joint committee on state mandates and the joint committee on finance. If such a bill contains a provision providing a tax exemption, the bill shall be simultaneously referred to the joint survey committee on tax exemptions and the joint committee on finance. The report of the joint survey committee on tax exemptions shall be prepared within 60 days of introduction for bills introduced under s. 16.47 (1).

SECTION 2. 13.59 of the statutes is created to read:

13.59 Joint committee on state mandates. (1) DEFINITIONS. In this section:

(a) "Local governmental unit" has the meaning given in s. 19.42 (7u).

(b) "Mandate," except in sub. (6), means a statutory provision placing a requirement on a local governmental unit and, in sub. (6), has the meaning given in s. 227.112 (1) (b). The term does not include any statutory provision that relates to employment discrimination or the compensation, benefits, leave, collective bargaining rights, or conditions of employment of employees or retirees of a local governmental unit or prevailing wages under s. 66.0903.

(2) CREATION. There is created a joint committee on state mandates, consisting of 3 majority party and 2 minority party senators and 3 majority party and 2 minority party representatives to the assembly appointed as are the members of standing committees in their respective houses.

(3) COMMITTEE PROCEDURES. (a) The committee shall meet at the call of its cochairpersons.

(b) All actions of the committee require the approval of a majority of all of the members.

(4) POWERS AND DUTIES. (a) The committee shall:

1. Provide the legislature with a report under sub. (5) concerning each bill that would impose a mandate.

2. On a regular basis, review existing mandates and evaluate their desirability as a matter of public policy, cost-effectiveness, and financial responsibility.

(b) The committee may make investigations and hold hearings.

* Section 991.11, WISCONSIN STATUTES 2001-02 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

(5) REPORT. (a) Upon the introduction in either house of the legislature of a bill that would impose a mandate, the bill shall at once be referred to the joint committee on state mandates by the presiding officer, unless the presiding officer determines that the mandate has a minimal fiscal effect on local governmental units. The bill may not be considered further by either house or any other committee until the earlier of 30 days after referral or the time at which the joint committee on state mandates submits a written report, to the chief clerk of the house in which the bill is introduced, doing all of the following:

1. Describing the fiscal effect on state government and on local governmental units of the mandate contained in the bill.
2. Identifying the objective of the mandate contained in the bill.
3. Determining whether it is possible to achieve the objective without imposing a mandate.
4. Determining whether the mandate contained in the bill is state-imposed or is addressing a requirement imposed by the federal government.
5. Explaining the effect of the mandate contained in the bill on the revenues and expenditures of state government and local governmental units, including an explanation as to whether unrestricted or restricted state aid, grants, or tax benefits are currently being provided or potentially available under existing law to meet the costs of the mandate.
6. Identifying whether the mandate contained in the bill has a recurring or nonrecurring impact.
7. Identifying any method of reimbursement for any costs of the mandate contained in the bill or any method of waiver or appeal of the requirements contained in the mandate.
8. Addressing whether it is appropriate to consider an expiration date for the mandate contained in the bill.
9. Addressing the desirability of the mandate contained in the bill as a matter of public policy.
10. Providing any other information that the committee considers to be appropriate.

(b) If the committee's report concludes that the bill has a negative uncompensated fiscal effect on local governmental units, and that the mandate contained in the bill is wholly state-imposed, the committee shall prepare and introduce an amendment to the bill that increases the amount of the appropriation under s. 20.505 (1) (bm) or such other appropriation designated in the amendment and creates any other provisions required by s. 13.591 (2).

(c) The report under par. (a) shall be reproduced as an appendix to the bill and attached to it as are amendments. The reproduction shall be in lieu of inclusion in the daily journal of the house in which the bill is introduced.

(6) IDENTIFICATION OF MANDATES. (a) The legislative fiscal bureau shall identify all mandates, other than man-

dates that have a minimal fiscal effect, existing on the effective date of this paragraph [revisor inserts date], and submit that information to the joint committee on state mandates by May 1, 2005.

(b) The committee shall introduce one or more bills amending the statutes in each house of the legislature repealing all mandates that are wholly state-imposed and that have a negative uncompensated effect on local governmental units.

SECTION 3. 13.591 of the statutes is created to read:

13.591 Funding of state-imposed mandates. (1)

DEFINITION. In this section, "mandate" has the meaning set forth in s. 13.59 (1) (b).

(2) APPROPRIATION INCREASE. The legislature may not enact a bill on or after the effective date of this subsection [revisor inserts date], that contains a mandate unless the bill has had a public hearing before the joint committee on state mandates or contains an appropriation to provide for reimbursement under s. 16.59 for the current fiscal biennium, and requires that an appropriation be provided in all subsequent fiscal years in which the mandate is imposed, by the applicable amount specified in the report under s. 13.59, to provide for reimbursement under s. 16.59.

(3) ENFORCEMENT PROHIBITED IF UNFUNDED. If a bill that contains a mandate is enacted after the effective date of this subsection [revisor inserts date], is not in compliance with sub. (2), or if the legislature does not provide an appropriation as required by sub. (2) for the mandate, the mandate contained in the enacted bill may not be enforced until the required appropriation is provided.

(4) EXISTING UNFUNDED MANDATES. If the joint committee on state mandates determines that a law enacted or rule promulgated on or before the effective date of this subsection [revisor inserts date], contains a mandate that is wholly state-imposed and that has a negative uncompensated fiscal effect on local governmental units, the committee shall introduce a bill in each house of the legislature repealing the law or making the rule ineffective unless the committee determines that the uncompensated fiscal effect is minimal.

SECTION 4. 16.59 of the statutes is created to read:

16.59 State funding of mandates. (1) In this section:

(a) "Local governmental unit" has the meaning given in s. 19.42 (7u).

(b) "Mandate" has the meaning given in s. 227.112 (1) (b).

(2) From the appropriation under s. 20.505 (1) (bm) or such other appropriations designated by law for such purpose, on the basis of reports prepared under s. 13.59 (5) or (6) and other relevant information available to the department, the department shall reimburse local governmental units for their approximate costs not otherwise funded by the state that are attributable to mandates that are subject to the funding requirements under s. 13.591

or 227.112. Reimbursements under this subsection shall be made on an annual basis and shall be accompanied by a statement identifying each mandate for which reim-

bursement is made and the amount of reimbursement for each mandate.

SECTION 5. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

		2003-04	2004-05
20.505	Administration, department of		
(1)	SUPERVISION AND MANAGEMENT; LAND INFORMATION BOARD		
(bm)	State funding of mandates	GPR C -0-	-0-

SECTION 6. 20.505 (1) (bm) of the statutes is created to read:

20.505 (1) (bm) *State funding of mandates.* As a continuing appropriation, the amounts in the schedule to reimburse local governmental units as provided under s. 16.59.

SECTION 7. 227.112 of the statutes is created to read:
227.112 State funding of mandates. (1) In this section:

(a) "Local governmental unit" has the meaning given in s. 19.42 (7u).

(b) "Mandate" has the meaning given in s. 13.59 (1) (b), and includes a provision in a rule placing a requirement on a local governmental unit. The term does not include any rule provision that relates to employment discrimination or the compensation, benefits, leave, collective bargaining rights, or conditions of employment of

employees or retirees of a local governmental unit or prevailing wages under s. 66.0903.

(2) An agency may not promulgate a rule or take an action on or after the effective date of this subsection ... [revisor inserts date], that imposes a mandate, other than a mandate that has a minimal fiscal effect, and shall not, on or after the effective date of this subsection ... [revisor inserts date], take an action required by a law enacted on or after the effective date of this subsection ... [revisor inserts date], if the action would impose a mandate, other than a mandate that has a minimal fiscal effect, unless there is a sufficient amount in the appropriation account under s. 20.505 (1) (bm) or such other appropriations designated by law for such purpose for providing reimbursement under s. 16.59 to local governmental units for their approximate costs that are attributable to the mandate without jeopardizing reimbursement under s. 16.59 for other mandates.