

2003 SENATE BILL 15

January 28, 2003 – Introduced by Senators WELCH, KANAVAS, LEIBHAM, REYNOLDS, ROESSLER, COWLES and A. LASEE, cosponsored by Representatives OWENS, OLSEN, ALBERS, SUDER, J. WOOD, GROTHMAN, SERATTI, MUSSER, KRAWCZYK, MCCORMICK, HAHN, BIES, KREIBICH, GRONEMUS and LASSA. Referred to Committee on Homeland Security, Veterans and Military Affairs and Government Reform.

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

Analysis by the Legislative Reference Bureau

This bill creates a legislative Joint Survey Committee on State Mandates (committee). The committee consists of two majority party and one minority party members from each house, the secretary of administration or his or her designee, and two appointees of the governor.

The bill states that any bill or joint resolution placing a constitutional or statutory requirement on a local governmental unit must be referred to the committee and the committee must submit a report prior to further legislative consideration. If the committee's report concludes that the proposal has a negative uncompensated fiscal effect on local governmental units, and the mandate is a wholly state-imposed mandate upon local governmental units, the bill states that the committee must introduce an amendment to the proposal appropriating funds to offset the cost of the mandate.

The bill states that the legislature may not enact a bill that imposes future state-imposed mandates unless they are funded. If an enacted mandate is not funded, either upon passage or in the future, the mandate may not be enforced until it is funded. The bill also states that a state agency may not promulgate a rule or take an action that imposes a mandate and that a state agency shall not take an action required by law if the action would impose a mandate, unless there is a sufficient

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amount to fund the mandate. Under this bill, affected local governments are reimbursed annually for the approximate costs attributable to state-imposed mandates.

The bill directs the Legislative Fiscal Bureau, by May 1, 2005, to identify all mandates for the committee. The committee is directed to submit by August 1, 2005, legislation repealing all mandates to each house of the legislature. Any mandate existing on July 1, 2006, may not be enforced until the mandate is no longer unfunded.

The bill also requires the committee to review and evaluate existing requirements and limitations imposed on local governmental units by constitutional or statutory provisions. To carry out its duties, the committee may make investigations and hold hearings.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

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

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

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

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

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

4 (b) “Mandate,” except in sub. (6), means a constitutional or statutory provision
5 placing a requirement on a local governmental unit and, in sub. (6), has the meaning
6 given in s. 227.112 (1) (b).

7 (c) “Proposal” means a bill or joint resolution.

8 **(2) CREATION.** There is created a joint survey committee on state mandates,
9 consisting of 2 majority party and one minority party senators and 2 majority party
10 and one minority party representatives to the assembly appointed as are the
11 members of standing committees in their respective houses; the secretary of
12 administration or his or her designee; and 2 nonlegislative members, one having
13 experience in local government and the other having experience in private business,
14 appointed by the governor. Each member appointed by the governor shall hold office
15 for a term of 4 years expiring on May 1 and shall serve until a successor is appointed
16 and qualified.

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

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

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

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

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

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

2 (5) REPORT. (a) Upon the introduction in either house of the legislature of a
3 proposal that would impose a mandate, the proposal shall at once be referred to the
4 joint survey committee on state mandates by the presiding officer. The proposal may
5 not be considered further by either house or any other committee until the joint
6 survey committee on state mandates has submitted a written report, to the chief
7 clerk of the house in which the proposal is introduced, doing all of the following:

8 1. Describing the fiscal effect on state government and on local governmental
9 units of the mandate contained in the proposal.

10 2. Identifying the objective of the the mandate contained in the proposal.

11 3. Determining whether it is possible to achieve the objective without imposing
12 a mandate.

13 4. Determining whether the mandate contained in the proposal is
14 state-imposed or is addressing a requirement imposed by the federal government.

15 5. Explaining the effect of the mandate contained in the proposal on the
16 revenues and expenditures of state government and local governmental units,
17 including an explanation as to whether unrestricted or restricted state aid, grants,
18 or tax benefits are currently being provided or potentially available under existing
19 law to meet costs of the mandate.

20 6. Identifying whether the mandate contained in the proposal has a recurring
21 or nonrecurring impact.

22 7. Identifying any method of reimbursement for any costs of the mandate
23 contained in the proposal or any method of waiver or appeal of the requirements
24 contained in the mandate.

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1 8. Addressing whether it is appropriate to consider an expiration date for the
2 mandate contained in the proposal.

3 9. Addressing the desirability of the mandate contained in the proposal as a
4 matter of public policy.

5 10. Providing any other information that the committee considers to be
6 appropriate.

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

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

16 **(6) IDENTIFICATION OF MANDATES.** (a) The legislative fiscal bureau shall identify
17 all mandates existing on the effective date of this paragraph [revisor inserts date],
18 and submit that information to the joint survey committee on state mandates by May
19 1, 2005.

20 (b) By August 1, 2005, the committee shall introduce one or more bills
21 amending the statutes and one or more joint resolutions amending the constitution
22 in each house of the legislature repealing all mandates.

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

24 **13.591 Funding of state-imposed mandates. (1) DEFINITION.** In this
25 section, "mandate" has the meaning set forth in s. 13.59 (1) (b).

SENATE BILL 15**SECTION 3**

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

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

12 **(4) ENFORCEMENT OF EXISTING UNFUNDED MANDATES.** If a law enacted or rule
13 promulgated on or before the effective date of this subsection [revisor inserts
14 date], or a constitutional provision effective on the effective date of the subsection
15 [revisor inserts date], is in effect on July 1, 2006, and contains a mandate that is
16 wholly state-imposed and that has a negative uncompensated fiscal effect on local
17 governmental units, the mandate may not be enforced until the mandate no longer
18 has a negative uncompensated fiscal effect on local governmental units.

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

20 **16.59 State funding of mandates. (1)** In this section:

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

22 (b) “Mandate” has the meaning given in s. 227.112 (1) (b).

23 **(2)** From the appropriation under s. 20.505 (1) (bm) or such other
24 appropriations designated by law for such purpose, on the basis of reports prepared
25 under s. 13.59 (5) or (6) and other relevant information available to the department,

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1 the department shall reimburse local governmental units for their approximate costs
2 not otherwise funded by the state that are attributable to mandates that are subject
3 to the funding requirements under s. 13.591 or 227.112. Reimbursements under this
4 subsection shall be made on an annual basis and shall be accompanied by a
5 statement identifying each mandate for which reimbursement is made and the
6 amount of reimbursement for each mandate.

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

9 **2003-04** **2004-05**

10 **20.505 Administration, department of**

11 (1) SUPERVISION AND MANAGEMENT; LAND INFORMATION

12 BOARD

13 (bm) State funding of mandates GPR C -0- -0-

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

15 20.505 (1) (bm) *State funding of mandates.* As a continuing appropriation, the
16 amounts in the schedule to reimburse local governmental units as provided under
17 s. 16.59.

18 **SECTION 7.** 227.112 of the statutes is created to read:

19 **227.112 State funding of mandates. (1)** In this section:

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

21 (b) “Mandate” has the meaning given in s. 13.59 (1) (b), and includes a provision
22 in a rule placing a requirement on a local governmental unit.

23 (2) An agency may not promulgate a rule or take an action on or after the
24 effective date of this subsection [revisor inserts date], that imposes a mandate,

SENATE BILL 15**SECTION 7**

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

9 **SECTION 8. Nonstatutory provisions.**

10 (1) Notwithstanding section 13.59 (2) of the statutes, as created by this act, of
11 the initial terms of the members appointed by the governor to the joint survey
12 committee on state mandates under section 13.59 (2) of the statutes, as created by
13 this act, one shall expire on May 1, 2005, and one shall expire on May 1, 2007.

14 (END)