

**SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 15**

February 18, 2003 – Offered by Senator BROWN.

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 Committee on
3 State Mandates and required funding of state mandates.

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

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

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

1 committee on finance. If such a bill contains a provision providing a tax exemption,
2 the bill shall be simultaneously referred to the joint survey committee on tax
3 exemptions and the joint committee on finance. The report of the joint survey
4 committee on tax exemptions shall be prepared within 60 days of introduction for
5 bills introduced under s. 16.47 (1).

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

7 **13.59 Joint committee on state mandates. (1) DEFINITIONS.** In this section:

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

9 (b) “Mandate,” except in sub. (6), means a statutory provision placing a
10 requirement on a local governmental unit and, in sub. (6), has the meaning given in
11 s. 227.112 (1) (b). The term does not include any statutory provision that relates to
12 employment discrimination or the compensation, benefits, leave, collective
13 bargaining rights, or conditions of employment of employees or retirees of a local
14 governmental unit.

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

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

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

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

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

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

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

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

12 1. Describing the fiscal effect on state government and on local governmental
13 units of the mandate contained in the bill.

14 2. Identifying the objective of the mandate contained in the bill.

15 3. Determining whether it is possible to achieve the objective without imposing
16 a mandate.

17 4. Determining whether the mandate contained in the bill is state–imposed or
18 is addressing a requirement imposed by the federal government.

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

24 6. Identifying whether the mandate contained in the bill has a recurring or
25 nonrecurring impact.

1 7. Identifying any method of reimbursement for any costs of the mandate
2 contained in the bill or any method of waiver or appeal of the requirements contained
3 in the mandate.

4 8. Addressing whether it is appropriate to consider an expiration date for the
5 mandate contained in the bill.

6 9. Addressing the desirability of the mandate contained in the bill as a matter
7 of public policy.

8 10. Providing any other information that the committee considers to be
9 appropriate.

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

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

19 **(6) IDENTIFICATION OF MANDATES.** (a) The legislative fiscal bureau shall identify
20 all mandates, other than mandates that have a minimal fiscal effect, existing on the
21 effective date of this paragraph [revisor inserts date], and submit that
22 information to the joint committee on state mandates by May 1, 2005.

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

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

2 **13.591 Funding of state-imposed mandates. (1) DEFINITION.** In this
3 section, “mandate” has the meaning set forth in s. 13.59 (1) (b).

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

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

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

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

24 **16.59 State funding of mandates. (1)** In this section:

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

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

2 (2) From the appropriation under s. 20.505 (1) (bm) or such other
3 appropriations designated by law for such purpose, on the basis of reports prepared
4 under s. 13.59 (5) or (6) and other relevant information available to the department,
5 the department shall reimburse local governmental units for their approximate costs
6 not otherwise funded by the state that are attributable to mandates that are subject
7 to the funding requirements under s. 13.591 or 227.112. Reimbursements under this
8 subsection shall be made on an annual basis and shall be accompanied by a
9 statement identifying each mandate for which reimbursement is made and the
10 amount of reimbursement for each mandate.

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

13 **2003–04** **2004–05**

14 **20.505 Administration, department of**

15 (1) SUPERVISION AND MANAGEMENT; LAND INFORMATION
16 BOARD

17 (bm) State funding of mandates GPR C –0– –0–

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

19 20.505 (1) (bm) *State funding of mandates.* As a continuing appropriation, the
20 amounts in the schedule to reimburse local governmental units as provided under
21 s. 16.59.

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

23 **227.112 State funding of mandates. (1)** In this section:

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

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

6 (2) An agency may not promulgate a rule or take an action on or after the
7 effective date of this subsection [revisor inserts date], that imposes a mandate,
8 other than a mandate that has a minimal fiscal effect, and shall not, on or after the
9 effective date of this subsection [revisor inserts date], take an action required by
10 a law enacted on or after the effective date of this subsection [revisor inserts date],
11 if the action would impose a mandate, other than a mandate that has a minimal fiscal
12 effect, unless there is a sufficient amount in the appropriation account under s.
13 20.505 (1) (bm) or such other appropriations designated by law for such purpose for
14 providing reimbursement under s. 16.59 to local governmental units for their
15 approximate costs that are attributable to the mandate without jeopardizing
16 reimbursement under s. 16.59 for other mandates.

17 (END)