

2007 SENATE BILL 189

May 21, 2007 – Introduced by Senators DARLING, KAPANKE, HARSDORF, A. LASEE, LAZICH, LEIBHAM, ROESSLER and SCHULTZ, cosponsored by Representatives ROTH, WIECKERT, OWENS, BALLWEG, BIES, FRISKE, GRONEMUS, GUNDERSON, HINTZ, JESKEWITZ, KAUFERT, KERKMAN, KRAMER, F. LASEE, LEMAHIEU, LOTHIAN, MUSSER, NASS, NYGREN, A. OTT, J. OTT, STRACHOTA, SUDER, VOS, VUKMIR, WOOD and ZIPPERER. Referred to Committee on Ethics Reform and Government Operations.

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.

Analysis by the Legislative Reference Bureau

This bill creates a legislative Joint Committee on State Mandates (committee). The committee consists of three majority party and two minority party members from each house. At least one member of the majority party of each house who is appointed to the committee must also be a member of the Joint Committee on Finance.

The bill states that any bill placing a statutory requirement on a local governmental unit must be referred at once to the committee and the bill may not be considered further until the committee submits a report or 30 days have lapsed. If the committee's report concludes that the bill has a negative uncompensated fiscal effect on local governmental units, and the mandate is a wholly state-imposed mandate upon local governmental units, this bill states that the committee must offer an amendment to the bill appropriating funds to offset the cost of the mandate. The bill defines "mandate" to exclude certain provisions and those that have minimal fiscal effect.

Additionally, the bill states that the legislature may not enact a bill that imposes future state-imposed mandates unless they receive a hearing before the committee or 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

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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 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 January 1, 2009, to identify all mandates for the committee, other than ones having a minimal fiscal effect. The committee is directed to submit legislation repealing all mandates to each house of the legislature.

The bill also requires the committee to review and evaluate existing mandates. 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 or the joint committee on state mandates.
7 If such a bill imposes a mandate, as defined in s. 13.59 (1) (b), the bill shall be
8 simultaneously referred to the joint committee on state mandates and the joint
9 committee on finance. If such a bill contains a provision providing a tax exemption,
10 the bill shall be simultaneously referred to the joint survey committee on tax
11 exemptions and the joint committee on finance. The report of the joint survey
12 committee on tax exemptions shall be prepared within 60 days of introduction for
13 bills introduced under s. 16.47 (1).

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

15 **13.59 Joint committee on state mandates. (1) DEFINITIONS.** In this section:

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

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

8 **(2) CREATION.** There is created a joint committee on state mandates, consisting
9 of 3 majority party and 2 minority party senators and 3 majority party and 2 minority
10 party representatives to the assembly appointed as are the members of standing
11 committees in their respective houses. At least one member of the majority party of
12 each house who is appointed to the joint committee on state mandates must also be
13 a member of the joint committee on finance.

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

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

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

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

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

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

24 **(5) REPORT.** (a) Upon the introduction in either house of the legislature of a bill
25 that would impose a mandate, the bill shall at once be referred to the joint committee

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1 on state mandates by the presiding officer, unless the presiding officer determines
2 that the mandate has a minimal fiscal effect on local governmental units. The bill
3 may not be considered further by either house or any other committee until the
4 earlier of 30 days after referral or the time at which the joint committee on state
5 mandates submits a written report, to the chief clerk of the house in which the bill
6 is introduced, doing all of the following:

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

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

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

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

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

19 6. Identifying whether the mandate contained in the bill has a recurring or
20 nonrecurring impact.

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

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

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1 9. Addressing the desirability of the mandate contained in the bill as a matter
2 of public policy.

3 10. Providing any other information that the committee considers to be
4 appropriate.

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

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

14 **(6) IDENTIFICATION OF MANDATES.** (a) The legislative fiscal bureau shall identify
15 all mandates, other than mandates that have a minimal fiscal effect, existing on the
16 effective date of this paragraph [revisor inserts date], and submit that
17 information to the joint committee on state mandates by January 1, 2009.

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

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

22 **13.591 Funding of state-imposed mandates. (1) DEFINITION.** In this
23 section, "mandate" has the meaning set forth in s. 13.59 (1) (b).

24 **(2) APPROPRIATION INCREASE.** The legislature may not enact a bill on or after the
25 effective date of this subsection [revisor inserts date], that contains a mandate

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1 unless the bill has had a public hearing before the joint committee on state mandates
2 or contains an appropriation to provide for reimbursement under s. 16.59 for the
3 current fiscal biennium, and requires that an appropriation be provided in all
4 subsequent fiscal years in which the mandate is imposed, by the applicable amount
5 specified in the report prepared under s. 13.59 (5), to provide for reimbursement
6 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) EXISTING UNFUNDED MANDATES.** If the joint committee on state mandates
13 determines that a law enacted or rule promulgated on or before the effective date of
14 this subsection [revisor inserts date], contains a mandate that is wholly
15 state-imposed and that has a negative uncompensated fiscal effect on local
16 governmental units, the committee shall introduce a bill in each house of the
17 legislature repealing the law or making the rule ineffective unless the committee
18 determines that the uncompensated fiscal effect is minimal.

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 the report
25 prepared under s. 13.59 (5) and other relevant information available to the

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

	2007-08	2008-09
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10 **20.505 Administration, department of**

11 (1) SUPERVISION AND MANAGEMENT

(bm) State funding of mandates	GPR	C	-0-	-0-
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13 **SECTION 6.** 20.505 (1) (bm) of the statutes is created to read:

14 20.505 (1) (bm) *State funding of mandates.* As a continuing appropriation, the
 15 amounts in the schedule to reimburse local governmental units as provided under
 16 s. 16.59.

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

18 **227.112 State funding of mandates. (1)** In this section:

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

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

