2011 ASSEMBLY BILL 326


1 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.

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
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, 2013, 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:

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. At least one member of the majority party of each house who is appointed to the joint committee on state mandates must also be a member of the joint committee on finance.

(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.

(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 offer 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 mandates that have a minimal fiscal effect, existing on the effective date of this paragraph .... [LRB inserts date], and submit that information to the joint committee on state mandates by January 1, 2013.

(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 fiscal 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 .... [LRB inserts date], that contains a mandate
unlessthebillhashadapublichearingbeforethejointcommitteeonstatemandates
orcontainsanappropriationtoprovideforreimbursementsunder s. 16.59 for the
currentfiscalbiennium, and requiresthatanappropriationbeprovidedinall
subsequentfiscalyearsinwhichthemandateisimposed, bytheapplicableamount
specified in the report prepared under s. 13.59 (5), 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 .... [LRB 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 .... [LRB 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 the report
prepared under s. 13.59 (5) and other relevant information available to the
section 4

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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 reimbursement 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:

<table>
<thead>
<tr>
<th>2011−12</th>
<th>2012−13</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.505 Administration, department of</td>
<td></td>
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</tbody>
</table>

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 .... [LRB 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 .... [LRB inserts date], take an action required by a law enacted on or after the effective date of this subsection .... [LRB 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.