

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 908, L.D. 1305, Bill, "An Act Concerning State Education Mandate Waivers"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, reductions in the state level of school funding increase the property tax burden on local taxpayers; and

Whereas, state mandates can not be implemented without adequate funding; and

Whereas, a hardship is created for local taxpayers when the State imposes mandates for which the State does not provide funding; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §2, sub-§3, as amended by PL 1991, c. 9, Pt. II, §1, is further amended to read:

3. Mandated programs. Any legislation containing a state mandate enacted by the Legislature after January 1, 1989, which requires additional funding, must contain provisions for full

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2 funding by the State. The funding requirements to implement the
mandate must be identified. Any such legislation for which full
state funding is not provided may not be enacted.

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6 State mandates are defined as any state-initiated or statutory
action that requires a local school administrative unit to
establish, expand or modify its activities in such a way as to
8 necessitate additional expenditures from local revenues,
excluding any order issued by a state court or any legislation
10 necessary to comply with a federal mandate.

12 ~~Any legislation or rule containing a state mandate enacted after~~
~~January 1, 1984 may be deferred by action of a local school board~~
14 ~~until such time as the State restores state aid to education to~~
~~the levels required by the laws in effect on January 1, 1990.~~
16 ~~These mandates include, but are not limited to, minimum~~
18 ~~pupil-teacher ratios, guidance programs, gifted and talented~~
~~programs, music programs and art programs.~~

20 This subsection is repealed on June 30, 1994, unless reviewed and
extended by specific Act of the Legislature.

22 Sec. 2. 20-A MRS §2-A is enacted to read:

24 §2-A. Waiver of state mandates

26 A school administrative unit may seek a waiver allowing the
28 unit to delay compliance with a state mandate, as defined in
section 2, subsection 3, as follows.

30 1. Waiver request. A school administrative unit may
32 request in writing authorization from the commissioner to delay
compliance with a mandate. That request must include:

34 A. Designation of the mandate or mandates for which the
36 unit seeks a waiver;

38 B. A description of the unforeseen circumstances or undue
hardship that led to application for a waiver;

40 C. Documentation of the steps taken prior to the waiver
42 request to comply with the mandate;

44 D. A statement of the length of time for which the waiver
is anticipated to be in effect;

46 E. A description of the impact of granting the waiver,
48 including changes in class size, staff layoffs, program
offerings and possible loss of funds; and

50 F. A plan by which the unit will come into compliance with
52 the mandate.

2 2. Standards. The commissioner may issue a waiver upon
4 finding that:

6 A. Due to unforeseen circumstances or undue hardship, the
8 school administrative unit is unable to comply with this
10 chapter; and

12 B. The compliance plan that the school administrative unit
14 has submitted is reasonable.

16 3. Decision. The commissioner shall issue a decision on a
18 waiver request within 30 days of receipt of the request. The
20 commissioner may hold an informal hearing to evaluate the reasons
22 for the waiver or to gather more information. If the
24 commissioner determines that the reasons given in the waiver
26 request do not justify a delay in compliance with the mandate,
28 the commissioner shall deny the request. The decision of the
30 commissioner must be in writing and, if the decision is to deny
32 the request, must specify the reasons for denial.

34 4. Assistance. Annually, on or about February 1st, the
36 commissioner shall send written notice to the superintendent of
38 each school administrative unit of the availability of waivers
40 from education mandates and the criteria and procedures for the
42 granting of waivers. Upon request from a superintendent or
44 school board, the commissioner shall provide technical assistance
46 to aid the unit in determining the feasibility of applying for a
48 waiver, in considering alternatives to a waiver, in applying for
50 a waiver and in planning the action necessary to come into
compliance with the mandate.

5. Rules. The commissioner may adopt rules necessary to
implement this section.

6. Repeal. This section is repealed on July 1, 1992.

 Sec. 3. 20-A MRS §1308, as enacted by PL 1981, c. 693, §§5
and 8, is amended to read:

§1308. Failure to pass budget

 If a budget for the operating of the district is not
approved prior to July 1st, the budget as submitted by the board
of directors shall ~~be~~ is automatically considered the budget
approved for operational expenses for the ensuing year, except
that, when the school board delays the school budget meeting in
accordance with section 15617, subsection 2, paragraph C, the
operating budget must be approved within 30 days of the date the
commissioner notifies the school board of the amount allocated to

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2 the school unit under section 15613 or the budget submitted by
3 the directors becomes the operating budget for the next school
4 year.

5 Sec. 4. 20-A MRSA §1701, sub-§3, as enacted by PL 1981, c.
6 693, §§5 and 8, is amended to read:

7 3. Time and place. The district school committee shall
8 call an annual budget meeting on or before June 30th at an hour
9 and in a location within the community school district it
10 designates, except that the school committee may delay the annual
11 budget meeting to a date after July 1st in accordance with
12 section 15617, subsection 2, paragraph C.

13 Sec. 5. 20-A MRSA §15617, sub-§2, ¶C is enacted to read:

14 C. Notwithstanding any municipal charter provision,
15 ordinance or other law to the contrary, if the level of
16 state subsidy for the next school year is not finalized in
17 accordance with this chapter before June 1st, the school
18 board may delay a school budget meeting otherwise required
19 to be held before July 1st to a date after July 1st. If a
20 school board elects to delay a school budget meeting under
21 this paragraph, the meeting must be held and the budget
22 approved within 30 days of the date the commissioner
23 notifies the school board of the amount allocated to the
24 school administrative unit under section 15613. When a
25 school budget meeting is delayed under this section, the
26 school administrative unit may continue operation of the
27 unit at the same budget levels as were approved for the
28 previous year. Continued operation under the budget for the
29 previous year is limited to the time between July 1st and
30 the date the new budget goes into effect.

31 Sec. 6. Notice. Within 15 days of enactment of this Act, the
32 Commissioner of Education shall send written notice to the
33 superintendent of each school administrative unit of the
34 availability of waivers from education mandates and the criteria
35 and procedures for the granting of waivers. Upon request from a
36 superintendent or school board, the commissioner shall provide
37 technical assistance to assist the unit in determining the
38 feasibility of applying for a waiver, in considering alternatives
39 to a waiver, in applying for a waiver and in planning the action
40 necessary to come into compliance with the mandate.

41 Sec. 7. Report. By January 1, 1992, the Commissioner of
42 Education shall report to the Joint Standing Committee on
43 Education on the status of educational mandate waivers. The
44 report must include the number of waivers requested and granted,
45 the mandates or requirements from which waivers were sought, the
46 reasons for the waiver requests, the impact of waivers on school
47 administrative units, an evaluation of the waiver program and
48

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2 recommendations on the continued need for educational mandate
3 waivers and the ability of units to come into compliance with
4 mandates following waivers. Following review of the
5 commissioner's report, the Joint Standing Committee on Education
6 may submit legislation to the Second Regular Session of the 115th
7 Legislature.

8 **Emergency clause.** In view of the emergency cited in the
9 preamble, this Act takes effect when approved.
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12 **FISCAL NOTE**

13 This bill puts into law a process for school administrative
14 units to obtain waivers from state education mandates. The
15 Department of Education must provide technical assistance to
16 school units regarding the waiver process and report to the
17 Legislature on the status of educational mandate waivers. The
18 costs associated with these activities can be absorbed within
19 existing resources of the Department of Education.
20

21 The waiving of mandates could additionally result in future
22 savings to General Purpose Aid to Local Schools in fiscal year
23 1993-94 because of potentially lower costs for school
24 administrative units in fiscal year 1991-92. The amount of these
25 savings can not be determined at this time.
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29 **STATEMENT OF FACT**

30 The original bill permitted local officials to waive
31 application of education mandates in most circumstances by
32 notifying the Commissioner of Education. This amendment replaces
33 the original bill and establishes a statutory waiver request and
34 approval process to be administered by the commissioner. The
35 commissioner is directed to report to the Joint Standing
36 Committee on Education on the waiver program by January 1, 1992.
37 The amendment also adds an emergency preamble, an emergency
38 clause and a sunset date of July 1, 1992.
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Reported by the Committee on Education
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