

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1305

H.P. 908

House of Representatives, March 27, 1991

Reference to the Committee on Education suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

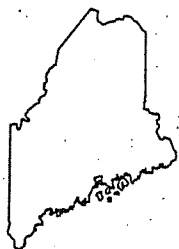
Presented by Representative CROWLEY of Stockton Springs.

Cosponsored by Representative NORTON of Winthrop, Senator ESTES of York and Representative O'GARA of Westbrook.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act Concerning State Education Mandate Waivers.



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

20-A MRSA §2-A is enacted to read:

§2-A. Exemption from state mandates

Notwithstanding any other law or rule, a school administrative unit may seek an exemption allowing the unit to eliminate or delay compliance with a state mandate, as defined in section 2, subsection 3, as follows.

1. Applicability. This section applies to any state mandate imposed on or after January 1, 1984 for which the State fails to provide the funding required by this Title as it existed on January 1, 1990.

2. Notice of exemption. The school administrative unit shall notify the commissioner by registered mail, return receipt requested, of its intent to eliminate or delay compliance with a mandate. That notice must specify the mandate or mandates from which the unit seeks an exemption and the reason or reasons for that exemption. If the exemption is sought by action of the budget-setting authority, the superintendent shall provide notice to the commissioner. Otherwise, the superintending school committee or the superintendent may notify the commissioner on its own initiative.

3. Hearing. If the reason or reasons stated for the exemption are not financial in nature, the commissioner may hold a hearing to evaluate the reason or reasons. If the commissioner determines that the reason or reasons stated are not financial in nature and do not otherwise justify an exemption from compliance with the mandate, the commissioner may deny the exemption. This subsection does not apply to exemptions initiated by action of a unit's budget-setting authority.

STATEMENT OF FACT

This bill allows school administrative units acting through either their superintendents, their superintending school committee or their budget-setting authority to obtain an exemption from any state mandate that has been enacted since January 1, 1984 by mailing notice of their intent to eliminate or delay compliance with a specific mandate to the Commissioner of Education. The bill allows the commissioner to deny an exemption if the delay or elimination was not based on financial reasons. This power is granted to the commissioner so that the legislative or administrative decision regarding the necessity

2 for a particular mandate is not the subject of contradictory
3 action at the local level that is based primarily on a
4 disagreement about the policy that led to the creation of a
5 mandate rather than the financial impact of the mandate. The
6 commissioner's power to deny an exemption is limited to actions
taken by a superintendent or a superintending school committee.