

Senate Resolution 323 of 2010 Report

Study of Statutory Mandates Placed on Counties and Municipalities

Appendix C

Review of Other States' Mandate Provisions and Recommendations for Senate Resolution 323 Mandate Study

Local Government Commission
General Assembly of the Commonwealth of Pennsylvania
Harrisburg, Pennsylvania

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Appendix C

Review of Other States' Mandate Provisions and Recommendations for Senate Resolution 323 Mandate Study

► SR 323 Objective: Whether Mandate is Federal or State in Origin

Recommendation for Discerning Between Mandates of Federal or State Origin

- Include only mandates of federal origin if they are implemented through state legislation (see, e.g., ME, MO). (Most states that have reimbursement provisions exclude mandates of federal origin.)

Maine

Federal laws and regulations are exempt unless the state imposes requirements that exceed the requirements of federal law or regulation:

Required state mandate funds do not include the costs incurred by local units of government to comply with a federal law or regulation or to become eligible for the receipt of federal funds, except to the extent that the State imposes requirements or conditions that exceed the federal requirements.

Me. Rev. Stat. tit. 30-A, ch. 223, § 5685.3.D.

Maine Revised Statutes, Title 30-A, Chapter 223, November 6, 2009, <<http://www.mainelegislature.org/legis/statutes/30-A/title30-Asec5685.html>> (August 4, 2010).

Missouri

The Missouri Constitution only appears to address mandates that are state in origin. However, the fiscal note requirements in the Missouri Revised Statutes appear to also contemplate mandates that are federal in origin, but are implemented through state legislation (i.e., “Whether or not there is a federal mandate for the program or agency” [Mo. Rev. Stat. tit. III § 23.140.2(3) (2009)]).

See Missouri Revised Statutes, Title III, Section 23.140, August 28, 2009, <<http://www.moga.mo.gov/statutes/C000-099/0230000140.HTM>> (September 6, 2010).

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► SR 323 Objective: Whether Mandate is Required or Discretionary

Recommendations for Discerning Between Required and Discretionary Mandates

- Define a “required mandate” as imposing any direct service or cost obligation, or providing for exemptions from local taxation (*see, e.g., MA*).
- Define a “discretionary mandate” as a requirement imposed on a municipality as a result of initiative and referendum, voter referendum, or the municipality opting to perform an authorized activity or service regardless of whether the municipality must comply with associated minimum standards, requirements, or guidelines (*see, e.g., MI*).

Massachusetts

Constitutional and General Law provisions pertain only to required mandates. Specifically the General Law delineates required statutory mandates as “imposing any direct service obligation or cost” or “granting or increasing exemptions from local taxation.”

No law imposing additional costs upon two or more cities or towns by the regulation of the compensation, hours, status, conditions or benefits of municipal employment shall be effective in any city or town

Mass. Const. art. of amend. CXV.

Constitution of the Commonwealth of Massachusetts, n.d., <<http://www.mass.gov/legis/const.htm>> (September 6, 2010).

Notwithstanding any provision of any special or general law to the contrary:

- (a) Any law taking effect [post 1980] imposing any direct service or cost obligation upon any city or town
- (b) Any law taking effect [post 1980] granting or increasing exemptions from local taxation

Mass. Gen. Law ch. 29 § 27C.

Massachusetts General Laws, Chapter 29, Section 27C, April 30, 2009, <<http://www.mass.gov/legis/laws/mgl/29-27c.htm>> (September 6, 2010).

Michigan

In Michigan, Act 101 of 1979, Section 4(5), in essence delineates the following discretionary mandates as *exceptions* for the purposes of the act:

- (a) A requirement imposed on a local unit of government . . . adopted pursuant to an initiative petition

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(b) A requirement imposed on a local unit of government . . . enacted or adopted pursuant to a proposal placed on the ballot by the legislature, and approved by the voters

(h) A requirement of a state law which does not require a local unit of government to perform an activity or service but allows a local unit of government to do so as an option, and by opting to perform such an activity or service, the local unit of government shall comply with certain minimum standards, requirements, or guidelines.

(i) A requirement of a state law which changes the level of requirements, standards, or guidelines of an activity or service that is not required of a local unit of government by existing law or state law, but that is provided at the option of the local unit of government.

Mich. Comp. Laws § 21.234(5).

Michigan Compiled Laws, Section 21.234, Legislative Council, State of Michigan, 2009, <[http://www.legislature.mi.gov/\(S\(mimbvqfqxxynqiq45pnrx3v5\)\)/mileg.aspx?page=getObject&objectName=mcl-21-234](http://www.legislature.mi.gov/(S(mimbvqfqxxynqiq45pnrx3v5))/mileg.aspx?page=getObject&objectName=mcl-21-234)> (September 6, 2010).

► SR 323 Objective: Average Annual Cost to Municipalities, If Determinable

Recommendations for Determining Cost

- Focus on most egregious unfunded mandates imposed on municipalities as identified by each of the municipal associations (*see, e.g., MI*).
- Limit costing to an annual cost for a given fiscal year (*see, e.g., HI, IL, MA, RI*).
- Allow for costing a high-low range (*see, e.g., MI*).
- Allow for an explanatory note if costing is not determinable (*see, e.g., MI*).
- Develop collaboration or a network among state agencies and municipal associations to determine costs (*see, e.g., CA, MA, NV*).
- Sort the Local Government Commission database to narrow down mandates to reflect the definition and criteria for the SR 323 study.

California

In California, there are *many state and local agencies that participate in the process of assigning costs to mandates*, some of which include the legislature, the Commission on State Mandates, the State Controller's Office, the Legislative Analyst, the Department of Finance, the courts, other

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state agencies responsible for the mandate, local agencies, school districts, and statewide associations.

Commission on State Mandates, "Guide to State Mandate Process," December 2003, Section 2-4, (PDF pages 9-12), <http://www.sco.ca.gov/Files-ARD-Local/mancost_csmguidebook.pdf> (July 27, 2010). *Also see* Commission on State Mandates, <http://www.csm.ca.gov/alt_processes.shtml> (July 29, 2010).

Hawaii

Constitutional language provides for the *state and the affected political subdivision sharing in the cost*, but it does not specify the basis for determining the cost.

TRANSFER OF MANDATED PROGRAMS

Section 5. If any new program or increase in the level of service under an existing pro-gram shall be mandated to any of the political subdivisions by the legislature, it shall provide that the State share in the cost. [Add Const. Con. 1978 and election Nov 7, 1978]

Hawaii Const. art. VIII (Local Government).

Separately, Hawaii's Legislative Reference Bureau (LRB) conducted four surveys of state agencies since 1993, as required by legislative resolutions, to estimate the extent to which the state budget is governed by federal mandates (Sugano 1).

Each of the four surveys was for a distinct fiscal year. The objective of a survey, in part, was to determine the proportion of federal and state operating funds appropriated under the General Appropriations Act for the upcoming fiscal year for each specific program administered by a given agency (Sugano 1). *Exception:* It was not necessary to report a mandated program if the program's total state and federal funding was zero, unavailable, unknown, or unquantifiable (108).

Relevant Methods: (1) Restriction of determining funding or costing to a given fiscal year; (2) the exception stated above; and (3) the survey form used by the LRB (*see* Sugano 106-109).

Sugano, Dean, *Federally Mandated State Programs during Fiscal Year 2001-2002*, Report No. 4, October 2001, <<http://hawaii.gov/lrb/rpts01/fedman01.pdf>> (September 7, 2010).

Illinois

For developing the Illinois state mandate database, the State Mandate Act directs the Department of Commerce and Economic Opportunity, in part, to "collect and tabulate relevant information as to the nature and scope of each existing State mandate, including but not necessarily limited to . . . (ii) *whether or not an identifiable local direct cost is necessitated by the mandate and the estimated annual amount . . .*"

30 Ill. Comp. Stat. § 805/4(b) (emphasis added).

Similarly, in prospectively requiring fiscal notes, the State Mandate Act stipulates that the note reflect the amount estimated for the *first fiscal year* of the bill's operation. "In the event that the

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effective date of such a bill is not the first day of the fiscal year the estimate shall also include the amount estimated . . . for the next following full fiscal year.”

30 Ill. Comp. Stat. § 805/8(b)(2), (3) (emphasis added).

Massachusetts

Cost of a mandate to municipalities pertains to a given year or years, versus an average annual cost. For example:

(f) Any of the parties permitted to submit written notice to the division of local mandates under subsection (d) of this section may submit written notice to the division requesting that the division determine the total *annual* financial effect for a period of not less than three years of any proposed law or rule or regulation of any administrative agency of the commonwealth. . . .”

Mass. Gen. Law ch. 11 § 6B (emphasis added).

Michigan

In October 2007, the Michigan Legislature, through Acts 98 and 99 (as amended by Act 356 of 2008), created the Legislative Commission on Statutory Mandates and charged it, *in part*, with compiling: (1) “the *most significant* funded and unfunded mandates imposed on local units of government in state laws as identified by those local units of government”; and (2) “the *range of costs* to local units of government with each funded and unfunded mandate identified” (29, emphasis added). “The nonprofit associations, representing the local units of government constituency groups, were requested and . . . willingly participated in assisting in the Commission’s study because they want[ed] to have their voices heard through the Commission” (29).

“Early on in the Commission’s meetings, *it became apparent that the sheer cost of complying with the original scope of work contemplated by the earlier legislation would not be possible*. Given the length of time since Headlee [constitutional amendment] was passed, likely condition and accessibility of accounting records over a thirty (30) year period, lack of research resources, and complexity of the Commission’s legal tasks (including periodic changes in programs over that same period), *the scope of work had to be limited to assembling the ten most egregious unfunded mandates imposed on local units of government as identified by the representing associations.*” (30, emphasis added)

“Whether the Commissioners like it or not, the Commission has become a vehicle to voice the frustrations that had built up within local units of government over this subject over the past several decades. By *assembling the ‘top ten’ mandates* (by group – school districts, counties, etc.) meaningfully affecting operations of the local units of government and subsequently *costing to some imprecise degree* these mandates out, the Commission [attempted] to assemble some sense of the scale and complexity of its task and the magnitude of the appropriations necessary to deal with the original scope of work involving *all* mandates and costing relating thereto.” (30, emphasis added)

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“The original legislation no longer [set] forth the Commission’s scope of work (e.g. a comprehensive listing of all mandates, including reporting requirements and related costing). That legislation was amended to reflect the current scope of work through 356 of 2008, as reflected above.” (30)

Even though the charge to the Commission provided for costing mandates imposed on “local units of government” over a 30-year period, from 1978 to 2008, some of the barriers encountered by the Commission may be relevant to the Pennsylvania SR 323 Mandate Study:

- Michigan’s Department of Management and Budget, in 1980, had developed a catalogue of state mandates, categorized by local units of government. However, somewhat similar to Pennsylvania’s mandate database, although reportedly more simplistic, it was catalogue of statutes with no underlying analysis. (30-31)
- The Commission generally realized that the adequacy and consistency of local units’ of government accounting records was questionable, which may well be true for Pennsylvania in ascertaining the cost of mandates. (31)

Part of the resultant product of the Commission’s study was a table, entitled “Costing Mandates Submitted by Associations,” which includes:

- Mandate information from:
 - Michigan Association of Counties
 - Michigan Community Colleges Association
 - Michigan Municipal League
 - Michigan Township Association
 - County Road Association of Michigan
 - Michigan School Business Officials (Exhibit B)
- Information for as many as top 10 mandates per association, including:
 - Type of mandate, along with a brief description
 - “Low” and “High” annual unfunded costs
 - Explanatory note if costing information was not determinable
 - Recommendation as deemed appropriate by the association (Exhibit B)

Legislative Commission on Statutory Mandates, *Final Report of the Legislative Commission on Statutory Mandates*, Lansing, MI, December 31, 2009, pp. 29-31, Exhibit B.

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Nevada

The Fiscal Analysis Division is responsible for the preparation of a fiscal note for legislation. The Fiscal Analysis Division *seeks input from state agencies and local governments* as prescribed by statute. Nev. Rev. Stat. 218D.400 et seq.

Chapter 218D - Legislative Measures and Procedures, n.d., <<http://www.leg.state.nv.us/NRS/NRS-218D.html#NRS218DSec270>> (July 27, 2010).

Rhode Island

Rhode Island's reimbursement program focuses on municipal requests for a *given fiscal year*. For example, for fiscal year 2007, a total of 13 municipal requests for reimbursement were made, which totaled \$6,358,677.21. A total of \$5,257,334.25 of that amount was disqualified leaving a balance of \$1,101,342.96 for reimbursement in FY 2010. Actual reimbursement ranged from a low of \$6,351.75 for Scituate to a high of \$305,367.58 for Burrilville. The median value of reimbursements was \$76,404.88.

State of Rhode Island, Department of Revenue, Division of Municipal Finance, *State Mandates: Report required pursuant to Section 45-13-8(b) of the Rhode Island General Laws*, December 31, 2008, pp. 6-8.

► SR 323 Objective: Level to Which Mitigated by Federal/State Funding

Examples of Mitigation Provisions

- Most states that address mandates have a reimbursement program, which typically involves a bureaucratic process and numerous qualifiers and exceptions (*see, e.g., CA, MN, MT, NJ, OR*).
- Some states mitigate mandate costs through revenue or cost sharing or providing for local funding (*see, e.g., ME, TN, WI*).

Recommendations for Determining Level to Which Mitigated

- Conduct survey of state agencies and a sampling of municipalities (*see HI, MO, respectively*).

California

If a statute, regulation, or executive order is enacted that imposes a mandate on local agencies and does not contain sufficient funding, affected local agencies can seek reimbursement by filing a "test claim" with the Commission on State Mandates. Government Code, Section 17521 defines "test claim" as ". . . the first claim filed with the commission alleging that a particular statute or executive order imposes costs mandated by the state." The test claimant must provide a

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detailed description of the mandate and the increased costs associated therewith. Government Code, Section 17553.

Government Code. Title 2. Government of the State of California. Division 4. Fiscal Affairs. Part 7. State-Mandated Local Costs, January 1, 2007, <<http://www.csm.ca.gov/docs/GovCode2007.pdf>> (July 26, 2010).

Commission on State Mandates, "Guide to State Mandate Process," Section 3-1, December 2003, <http://www.sco.ca.gov/Files-ARD-Local/mancost_csmguidebook.pdf> (July 26, 2010).

If the Commission on State Mandates approves a test claim, it must determine the amount of reimbursement. The California State Constitution and Government Code provide for reimbursement methodology. California Constitution, Article XIII B, Section 6 (b); Government Code, Chapter 4 (Identification and Payment of Costs Mandate by the State), Section 17550 et seq.

California Constitution, Article XIII B, Section 6, 2007, <<http://www.csm.ca.gov/constitution.shtml>> (July 26, 2010).

Government Code. Title 2. Government of the State of California. Division 4. Fiscal Affairs. Part 7. State-Mandated Local Costs, January 1, 2007, <<http://www.csm.ca.gov/docs/GovCode2007.pdf>> (July 26, 2010).

An alternative "legislative determined mandate" (LDM) process allows local agencies to seek reimbursement for mandate costs without going through the test claim process.

LDM allows a local agency, or statewide associations representing local governments, to enter into discussions with the [Department of Finance] on statutes and executive orders to negotiate and jointly develop a proposed amount of reimbursement, and submit it to the legislature for its approval. If the Legislature determines that local governments are entitled to reimbursement, it adopts the proposed methodology, and appropriates funds or suspends the operation of the program. Most significantly, notification of the State Mandates Commission of an agreement pursuing an LDM also suspends the statute of limitations for the filing of a test claim. By statute, the test claims must be filed within one-year after the mandate becomes effective, or costs are first incurred. If a test claim succeeds, it qualifies all local agencies with costs in the same area to seek reimbursement.

League of California Cities, "The New Law Could Mean Faster State Mandate Reimbursement," *City Advocate Weekly*, February 20, 2009, <http://newsletter.cacities.org/e_article001353543.cfm?x=b11,0,w> (July 29, 2010).

"Local agencies are no longer required to maintain and submit detailed actual time records to support their mandated cost claims. Instead, a formula or simplified method consisting of unit

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time or costs called a reasonable reimbursement methodology (RRM) is available” (League of California Cities).

The State Controller’s Office develops claiming instructions for local agencies to follow in order to obtain reimbursement. The State Controller’s Office also must report when there are deficiencies in funding to meet all of the claims. In the event there is a deficiency of funding, the Controller is required to prorate the reimbursement. Government Code, Section 17567.

Commission on State Mandates, “Guide to State Mandate Process,” Section 4-2 (PDF page 31), December 2003, <http://www.sco.ca.gov/Files-ARD-Local/mancost_csmguidebook.pdf> (July 26, 2010).

“The Legislative Analyst shall review each unfunded statutory or regulatory mandate for which claims have been approved by the Legislature pursuant to a claims bill during the preceding fiscal year. Any recommendations by the Legislative Analyst to eliminate or modify the mandates shall be contained in the annual analysis of the Budget Bill prepared by the Legislative Analyst.” Government Code, Section 17570.

Government Code. Title 2. Government of the State of California. Division 4. Fiscal Affairs. Part 7. State-Mandated Local Costs, January 1, 2007, <<http://www.csm.ca.gov/docs/GovCode2007.pdf>> (July 27, 2010).

Hawaii

Hawaii’s Legislative Reference Bureau (LRB) conducted four surveys of state agencies since 1993, as required by legislative resolutions, to estimate the extent to which the state budget is governed by federal mandates (Sugano 2001, 1).

Each of the four surveys was for a distinct fiscal year. The objective of the survey, in part, was to determine the proportion of federal and state operating funds appropriated under the General Appropriations Act for the upcoming fiscal year for each specific program administered by a given agency (p. 1). *Exception:* It was not necessary to report a mandated program if the program’s total state and federal funding was zero, unavailable, unknown, or unquantifiable (108).

Relevant Methods: (1) Restriction of determining funding or costing to a given fiscal year; (2) the exception stated above; and (3) the survey form used by the LRB (*see* 106-109).

Sugano, Dean. 2001. *Federally Mandated State Programs during Fiscal Year 2001-2002*, Report No. 4. Honolulu: Legislative Reference Bureau.

Maine

The Maine Constitution requires *the state to provide 90% of the funding*.

Me. Const., art IX, § 21.

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Minnesota

Minnesota law sets forth a very limited reimbursement program for certain types of mandates referred to as 'class B' mandates. Class B mandates are laws adopted after July 1, 1998 that specifically reference [Minnesota Statute,] Section 3.989. They allow local governments to stop administering mandated programs that the state previously funded when (a) state funding falls below 85 percent of total costs and (b) the Legislature does not appropriate additional funds to cover the shortfall in the next fiscal year. [As of 2000], the Legislature has not adopted any class B mandates.

Letter from Charles W. Meyer, Chair, Best Practices Local Government Advisory Council, to James Nobles, Legislative Auditor, and Roger Brooks, Deputy legislative Auditor, Office of the Legislative Auditor, State of Minnesota (Jan. 7, 2000).

Missouri

Neither the Missouri Constitution nor the Missouri Revised Statutes addresses this objective. However, the Joint Committee on Legislative Research's Oversight Division published an "*Unfunded Federal Mandate Annual Report*" in February 2000, which looks at the costs of unfunded federal mandates at both the state and local levels. The Oversight Division:

- Surveyed all state departments, all 114 counties, and cities with a population over 5,000.
- Obtained the federal mandates provided to governments from the "Mandate Watch List," published by NCSL.
- Provided the governmental entities with a listing of those mandates it determined were likely to have financially affected the various levels of government (e.g., provided 10 most likely to have a major effect on local governments).
- Also asked state departments to include mandates that agency personnel identified as having a financial impact on the agency.
- Requested historical cost estimates for each year over a four-year period in order that a trend analysis could be presented as required by law. (Oversight Division 2000, 2)

All state departments, 92 counties, and 62 cities responded. Because county and city responses could not be projected for all counties and cities in the state, the Division used actual amounts for those entities in its report (2).

Oversight Division. February 2000. *Unfunded Federal Mandate Annual Report*. Jefferson City, MO: Joint Committee on Legislative Research.

Montana

According to the Montana Code:

. . . a law enacted by the legislature that requires a local government unit to perform an activity or provide a service or facility that requires the direct expenditure of additional funds and that is not expected of local governments in

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the scope of their usual operations must provide a specific means to finance the activity, service, or facility[,] other than a mill levy. Any law that fails to provide a specific means to finance any activity, service, or facility[,] is not effective until specific means of financing are provided by the legislature from state or federal funds.

Mont. Code Ann. § 1-2-112 (2009).

New Jersey

Pursuant to the New Jersey Constitution,

. . . any provision of such law, or of such rule or regulation issued pursuant to a law, which is determined in accordance with this paragraph to be an unfunded mandate upon boards of education, counties, or municipalities because it does not authorize resources, other than the property tax, to offset the additional direct expenditures required for the implementation of the law or rule or regulation, shall, upon such determination cease to be mandatory in its effect and expire.

N.J. Const. art. VIII, § 2, ¶ 5.

Oregon

According to the Wisconsin Legislative Reference Bureau's Informational Bulletin, *Funding State and Federal Mandates*, "Because programs adopted by the legislature and various state and federal agencies have fiscal and revenue impact on school districts, the Oregon statutes require the state to pay, to the greatest extent possible, an appropriate share of expenses imposed on school districts by mandates" (18).

Radatz, Clark G. April 1996. *Funding State and Federal Mandates*, Informational Bulletin 96-3. Madison: State of Wisconsin Legislative Reference Bureau.

With exceptions, "...when the Legislative Assembly or any state agency requires any local government to establish a new program or provide an increased level of service for an existing program, the State of Oregon shall appropriate and allocate to the local government moneys sufficient to pay the ongoing, usual and reasonable costs of performing the mandated service or activity."

Or. Const. art. XI, § 15(1).

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Tennessee

“Funds apportioned as state-shared taxes to county and municipal governments for any fiscal year under authority of . . . [delineated] statutes shall provide the base apportionment for the purpose of determining the availability of additional state revenues to meet the requirement of the Constitution of Tennessee, art. II, § 2”

Tennessee Code, Section 9-4-5301, 2010, <<http://www.michie.com/tennessee/lpext.dll?f=templates&fn=main-h.htm&cp=tncode>> (July 28, 2010).

Each year, the budget must identify the increase in the apportionment of funds from the previous year. “An amount of one million dollars (\$1,000,000) of such increase shall be available for allocation to incorporated municipalities and to county governments as needed, to provide the state's share of any contribution required to fund any law of general application which requires, without local discretion, that incorporated municipalities or county governments increase expenditures as a direct consequence of the passage of any general law; provided, that when the cost of any such law is estimated to exceed fifty thousand dollars (\$50,000), the source and amount of funding from state funds shall be set forth in such law.” If the amount and source is not identified in a particular statute, the source and amount must be provided for in the General Appropriations Act passed in the same session as the statute.

Tennessee Code, Section 9-4-5302, 2010, <<http://www.michie.com/tennessee/lpext.dll?f=templates&fn=main-h.htm&cp=tncode>> (July 28, 2010).

Wisconsin

Prior to 2004, the state of Wisconsin provided county mandate relief payments via a delineated formula. Wis. Stat. § 79.058 (2010).

Wisconsin Statutes, Chapter 66, General Municipality Law, June 30, 2010, <<http://www.legis.state.wi.us/statutes/Stat0066.pdf>> (August 3, 2010).

In 2001 and 2003, the Wisconsin legislature revised the method by which shared revenue and other payments were calculated for counties and municipalities. “The shared revenue program (except for the public utility component of the shared revenue program), the county mandate relief program, and the small municipalities shared revenue program were replaced with a program called “county and municipal aid” beginning with payments made in 2004.”

Wisconsin Legislative Council, *Wisconsin Legislator Briefing Book 2009-10*, p. P-6, <http://www.legis.state.wi.us/lc/publications/briefingbook/08chP_revenue.pdf> (August 3, 2010).

Under this program, each county and municipality received aid payments based on the sum of its payments in 2003 under the shared revenue program (excluding utility aid), county mandate relief, and small municipalities shared revenue program. The amount in 2004, as compared to 2003, was reduced by \$70 million, of which the share for each municipality and county was calculated on a per

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capita basis. Payments under the county and municipal aid program in 2005 and 2006 for each county, city, village, and town will be the same as the payments received in 2004.

Wisconsin Legislative Council, *Wisconsin Legislator Briefing Book 2009-10*, p. P-6, <http://www.legis.state.wi.us/lc/publications/briefingbook/08chP_revenue.pdf> (August 3, 2010).

► SR 323 Objective: Potential Cost Savings Through Waiver or Limitation

Examples of Potential Cost Savings or Relief Provisions

- Many states with mandate relief provisions have a stipulation that if the state does not fund the mandate, the municipality need not comply (*see, e.g.*, AL, CA, IA, LA, MA, ME, MI, NH, NJ, SD).
- Many states with mandate relief provisions have some sort of appeals process (*see, e.g.*, CA, IL, MA, NJ, VA, WI).
- Some states, with certain qualifications and exceptions, have municipal voter referendum or governing body vote to accept or reject an unfunded mandate (*see, e.g.*, AK, MA).
- Some states authorize the governor to suspend a mandate (*see, e.g.*, NJ, VA).
- At least one state has a provision whereby a mandate may be declared null and void (*see* TN).

Alabama

Pursuant to the Alabama Constitution:

No law . . . whose purpose or effect is to provide for a new or increased expenditure of county funds . . . shall become effective . . . [on] the first day of the fiscal year next following the passage of such law . . . [unless] . . . (1) such law is approved by a resolution adopted by . . . the . . . governing body of the county affected thereby; or (2) such law . . . provides . . . the count[ies] with new revenues . . . sufficient to fund . . . new or increased expenditures.

Ala. Const. amend. 474.

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Unfunded mandates are not permitted unless

. . . approved by an ordinance enacted . . . by the governing authority . . . and only as long as, the Legislature appropriates funds for the purpose . . . and only to the extent and amount that the funds are provided, or until a law provides for a local source of revenue within the . . . [affected] municipality, county, or instrumentality

Ala. Const. amend. 621(a).

See Constitution of Alabama – 1901, State of Alabama, 2001, <<http://alisondb.legislature.state.al.us/acas/ACASLogin.asp>> (September 5, 2010).

Alaska

Under the Alaska Constitution, no law may be enacted which requires funding by a political subdivision unless the law is approved by a majority of the electorate in that political subdivision.

Alaska Const. art. 2, § 19.

California

According to the Article XIII B, Section 6 of the California Constitution:

“(b) (1) Except as provided in paragraph (2), for the 2005-06 fiscal year and every subsequent fiscal year, for a mandate for which the costs of a local government claimant have been determined in a preceding fiscal year to be payable by the State pursuant to law, the Legislature shall either appropriate, in the annual Budget Act, the full payable amount that has not been previously paid, or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable in a manner prescribed by law.

(2) Payable claims for costs incurred prior to the 2004-05 fiscal year that have not been paid prior to the 2005-06 fiscal year may be paid over a term of years, as prescribed by law.

(3) Ad valorem property tax revenues shall not be used to reimburse a local government for the costs of a new program or higher level of service.

(4) This subdivision applies to a mandate only as it affects a city, county, city and county, or special district.

(5) This subdivision shall not apply to a requirement to provide or recognize any procedural or substantive protection, right, benefit, or employment status of any local government employee or retiree, or of any local government employee

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organization, that arises from, affects, or directly relates to future, current, or past local government employment and that constitutes a mandate subject to this section.”

California Constitution, Article XIII B, Section 6, 2007, <<http://www.csm.ca.gov/constitution.shtml>> (July 27, 2010).

The Legislative Analyst shall review each unfunded statutory or regulatory mandate for which claims have been approved by the Legislature pursuant to a claims bill during the preceding fiscal year. Any recommendations by the Legislative Analyst to eliminate or modify the mandates shall be contained in the annual analysis of the Budget Bill prepared by the Legislative Analyst.

Government Code, Section 17570.

Government Code. Title 2. Government of the State of California. Division 4. Fiscal Affairs. Part 7. State-Mandated Local Costs, January 1, 2007, <<http://www.csm.ca.gov/docs/GovCode2007.pdf>> (July 27, 2010).

If a statute, regulation, or executive order is enacted which imposes a mandate on local agencies and does not contain sufficient funding, affected local agencies can seek reimbursement by filing a “test claim” with the Commission on State Mandates. Government Code, Section 17521 defines “test claim” as “. . . the first claim filed with the commission alleging that a particular statute or executive order imposes costs mandated by the state.” The test claimant must provide a detailed description of the mandate and the increased costs associated therewith.

Government Code, Section 17553.

Government Code. Title 2. Government of the State of California. Division 4. Fiscal Affairs. Part 7. State-Mandated Local Costs, January 1, 2007, <<http://www.csm.ca.gov/docs/GovCode2007.pdf>> (July 26, 2010).

Commission on State Mandates, “Guide to State Mandate Process,” December 2003, Section 3-1, <http://www.sco.ca.gov/Files-ARD-Local/mancost_csmguidebook.pdf> (July 26, 2010)

If the Commission on State Mandates approves a test claim, it must determine the amount of reimbursement. The California State Constitution and Government Code provide for reimbursement methodology.

California Constitution, Article XIII B, Section 6 (b); Government Code, Chapter 4 (Identification and Payment of Costs Mandate by the State), Sections 17550 et seq.

California Constitution, Article XIII B, Section 6, 2007, <<http://www.csm.ca.gov/constitution.shtml>> (July 26, 2010).

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Illinois

The State Mandate Act provides that, given a determination by the appropriate state agency not to reimburse the local government, or given the failure of the Department of Commerce and Economic Opportunity to act on a local government's mandate reimbursement application or mandate determination request, the local government may appeal to the State Mandates Board of Review for which its decision shall be final.

30 Ill. Comp. Stat. § 805/8(d).

Iowa

Property tax credits or property tax exemptions enacted by the General Assembly on or after January 1, 1997, must be fully funded by the state. If the credits or exemptions are not fully funded, then the political subdivision is only required to extend that portion of the credit or exemption estimated by the Department of Revenue to be funded by the state appropriation. This provision also extends to the homestead tax credit, low-income, elderly and disabled property tax credit, and the military service property tax credit and exemption (with limitations). "State Mandates Act," Iowa Code, Section 25B.7.

Chapter 25B State Mandates – Funding Requirements, n.d., <<http://coolice.legis.state.ia.us/coolice/default.asp?category=billinfo&service=iowacode&ga=83&input=25B>> (July 27, 2010).

Louisiana

The Louisiana Constitution provides that no law or regulation that requires increased expenditures can take effect until the governing body of the political subdivision enacts an ordinance and the legislature provides sufficient funds.

La. Const. Art. VI, § 14(A).

Massachusetts

Constitutional and General Law language, in part, contains limited waiver-like provisions with acceptance of the mandate by municipal vote being a factor:

No law imposing additional costs upon two or more cities or towns by the regulation of the compensation, hours, status, conditions or benefits of municipal employment shall be effective in any city or town until such law is accepted by vote or by the appropriation of money for such purposes, . . . unless such law has been enacted by a two-thirds vote of each house of the general court present and voting thereon, or unless the general court, at the same session in which such law is enacted, has provided for the assumption by the commonwealth of such additional cost.

Mass. Const. Art. CXV.

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Any law taking effect [post 1980] imposing any direct service or cost obligation upon any city or town shall be effective in any city or town only if such law is accepted by vote or by the appropriation of money for such purposes, . . . unless the general court, at the same session in which such law is enacted, provides, by general law and by appropriation, for the assumption by the commonwealth of such cost, exclusive of incidental local administration expenses and unless the general court provides by appropriation in each successive year for such assumption.

Mass. Gen. Law ch. 29 § 27C(a).

However such waiver-like provisions do not pertain to “granting or increasing exemptions from local taxation” (Mass. Gen. Law ch. 29 § 27C(b)) or “administrative rule[s] or regulation[s] . . . which shall result in the imposition of additional cost” Mass. Gen. Law ch. 29 § 27C(c).

Separately, the General Law

. . . also allows any community aggrieved by an unfunded state mandate to petition superior court for an exemption from compliance. In such a proceeding, the determination by the Division of Local Mandates (DLM) of the amount of compliance cost is considered prima facie evidence of the amount of state funding necessary to sustain the mandate. [Mass. Gen. Law ch. 29 § 27C(e)].

“Municipal Mandates, A guide to the mandate provisions of Proposition 2 ½, Frequently Asked Questions,” Auditor General of the Commonwealth of Massachusetts, n.d., <<http://www.mass.gov/sao/faq.htm#Petition>> (August 27, 2010).

Maine

Local governments are not bound to comply with a mandate unless funded or specifically exempted from state funding. Me. Rev. Stat. tit. 30-A, § 5685.

Maine Revised Statutes, Title 30-A, Section 5685, November 6, 2009, <<http://www.mainelegislature.org/legis/statutes/30-A/title30-Asec5685.html>> (August 4, 2010).

Michigan

Michigan’s constitutional amendment and statute are *prospective*, effective 1979. They basically stipulate that the state may not impose any new mandates on units of local government, unless it also provides an appropriation to compensate for the additional cost. *See* Massachusetts Constitution Article IX, Section 29; Massachusetts Compiled Laws Chapter 21, Sections 21.233-21.234.

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New Hampshire

According to the New Hampshire Constitution:

The state shall not mandate or assign any new, expanded or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision unless such programs or responsibilities are fully funded by the state or unless such programs or responsibilities are approved for funding by a vote of the local legislative body of the political subdivision.

N.H. Const. art. 28-a.

New Jersey

According to Article VIII, Section 2 of the New Jersey Constitution:

With respect to any provision of a law enacted on and after January 17, 1996, and with respect to any rule or regulation issued pursuant to a law originally adopted after July 1, 1996, and except as otherwise provided herein, any provision of such law, or of such rule or regulation issued pursuant to a law, which is determined in accordance with this paragraph to be an unfunded mandate upon boards of education, counties, or municipalities because it does not authorize resources, other than the property tax, to offset the additional direct expenditures required for the implementation of the law or rule or regulation, shall, upon such determination cease to be mandatory in its effect and expire. A law or rule or regulation issued pursuant to a law that is determined to be an unfunded mandate shall not be considered to establish a standard of care for the purpose of civil liability.

N.J. Const. art. VIII, § 2, ¶ 5(a).

Separately, the Council on Local Mandates is charged with resolving disputes about whether a law, or rule or regulation constitutes an unfunded mandate.

N.J. Const. art. VIII, § 2, ¶ 5(b).

According to Executive Order #4 issued by Governor Chris Christie On January 20, 2010, New Jersey is imposing an “. . . ever-increasing number of legal requirements [mandates] on local governments, without regard to the costs such requirements impose on already-strained local budgets, and without providing additional funding [for compliance].” This strain directly results in ever-increasing use of the local property tax. Therefore, Executive Order #4 imposed a freeze, with exceptions, on State agencies in regards to proposing or implementing any regulations that contain an unfunded mandate.

New Jersey, Executive Order #4, January 20, 2010, <<http://www.nj.gov/infobank/circular/eocc4.pdf>> (September 1, 2010).

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South Dakota

Any state law, rule, or regulation that mandates a county, municipality, or school district to provide a service, as defined (*see* mandate definition), which does not provide funding or a source of new funding, is not enforceable.

S.D. Codified Laws §§ 6-15-1, 6-15-2.

South Dakota Codified Laws. Title 6. Local Government Generally. Section 6-15-1, n.d., <<http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&Statute=6-15-1>> (August 2, 2010).

South Dakota Codified Laws. Title 6. Local Government Generally. Section 6-15-2. n.d., <<http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&Statute=6-15-2>> (August 2, 2010).

Tennessee

The Fiscal Review Committee is charged with the responsibility of *identifying and listing each law that was enacted during the fiscal year that is "null and void" for lack of providing an appropriation in an amount estimated for the first year of funding.* This review and list must be completed within 45 days following the conclusion of the fiscal year.

Tennessee Code, Section 3-7-114, 2010, <<http://www.michie.com/tennessee/lpext.dll?f=templates&fn=main-h.htm&cp=tncode>> (July 28, 2010).

Virginia

The Code of Virginia, upon petition, authorizes the governor to temporarily suspend mandates on a unit of local government to help alleviate fiscal hardship:

Except for educational programs, the governor of Virginia is allowed . . . to temporarily suspend specifically identified state mandates. The governor is required to submit an annual report to the legislature that identifies each locality and petitioning body, the mandate or portion of the mandate for which suspension has been sought, and the response provided to the locality.

State of Wisconsin Legislative Reference Bureau, *Funding State and Federal Mandates*, Informational Bulletin 96-3, April 1996, <<http://www.legis.wisconsin.gov/lrb/pubs/ib/96ib3.pdf>> (August 2, 2010).

See also, Code of Virginia, Title 2.2. Administration of Government. Chapter 1. Governor. Section 2.2-113, July 1, 2010, <<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-113>> (August 2, 2010).

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Wisconsin

Counties and municipalities may file an appeal for exemption from a state mandate with the Wisconsin Department of Revenue. If approved, the waiver is effective for 4 years.

Wis. Stat. §§ 66.0143(2), (3).

► SR 323 Objective: Findings or Recommendations on Possible Alternative Procedures for Mandate Relief

Examples of Findings or Recommendations

- Establish a credible fiscal note process (most states).

For example, the Missouri Revised Statutes requires the Joint Committee on Legislative Research Oversight Division to prepare a fiscal note on each bill before action may be taken on it. (See Missouri General Assembly Joint Committee on Legislative Research Oversight Division, n.d., <<http://www.moga.mo.gov/oversight/overhome.htm>> (September 7, 2010); Missouri Revised Statutes, Title III, Chapter 23, Section 23.140, August 28, 2009, <<http://www.moga.mo.gov/statutes/C000-099/0230000140.HTM>> (September 7, 2010).

- Recommendations in Hawaii Legislative Reference Bureau Report No. 4, pertaining to federal mandates, included:
 - “[A]mending the executive budget law to require the Governor to submit federal mandate information as part of the budget proposals to the Legislature.”
 - “[Examining] those federal programs that were not reported as federally mandated programs.”
 - “[Examining] those programs that were reported as federally mandated, but whose sanctions or penalties for noncompliance are not intolerable.”

Sugano, Dean. 2001. “Fact Sheet,” *Federally Mandated State Programs during Fiscal Year 2001-2002*, Report No. 4. Honolulu: Hawaii Legislative Reference Bureau. p. 2.

See Sugano, Dean, *Federally Mandated State Programs during Fiscal Year 2001-2002*, Report No. 4, October 2001, <<http://hawaii.gov/lrb/rpts01/fedman01.pdf>> (September 7, 2010).

- Concurrent or subsequent to the development of the mandate database, the Illinois State Mandate Act directs the Department of Commerce and Economic Opportunity to review and report to the Governor and General Assembly:

“ . . . (2) extent to which the enactment of the mandate was requested, supported, encouraged or opposed by local governments or their

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respective organization; (3) whether the mandate continues to meet a Statewide policy objective or has achieved the initial policy intent in whole or in part; (4) amendments if any are required to make the mandate more effective; (5) whether the mandate should be retained or rescinded; (6) whether State financial participation in helping meet the identifiable increased local costs arising from the mandate should be initiated, and if so, recommended ratios and phasing-in schedules; and (7) any other information or recommendations which the Department considers pertinent.” 30 Ill. Comp. Stat. § 805/7(b).

Illinois Compiled Statutes, Title 30, Section 805, n.d., <<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=575&ChapterID=7>> (September 7, 2010).

- Establish mandate reform proposals website for municipalities as in Minnesota (see “Mandate Reform Proposals,” Minnesota Office of the State Auditor, 2010, <<http://www.auditor.state.mn.us/default.aspx?page=MandateReformProposals>> (August 31, 2010).
- Recommendations from the Michigan Legislative Commission on Statutory Mandates include:
 - “Require that no statute which requires new activities and services or an increase in the level of activities or services . . . may become binding on those local units until funds are appropriated to pay . . . for the increased necessary costs of compliance.” (14)
 - “Establish and require that a fiscal note process in connection with all bills before enactment or the effective date
 - Require the House and Senate Fiscal Agencies *working in consultation with representative of local units of government* affected by the bill, (i) to determine whether any new or increased costs are likely to occur as a result of the same being adopted, (ii) develop an estimate of the necessary new or increased costs that are likely to be incurred by local units statewide, and (iii) inform the Legislature of the estimated costs found in (ii) above while debate is occurring over the subject bill.
 - Tie . . . mandate legislation to an *appropriation bill*.
 - Create a *disbursement process* that provides for payments to local units from the appropriation on a current basis or as the subject expenses are being incurred by the local units.
 - Require that in the event legislation is enacted which imposes requirements on local units to provide activities and services without compliance by the legislature with the fiscal note process, such legislation shall be of no force and effect and shall not require compliance by the affected local units until such time as the fiscal note, appropriation and disbursement process has occurred.” (14)
 - Establish an exclusive adjudicatory framework for suits brought against the state, including:

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- A special master as a permanent/sitting position within the Court of Appeals.
- The burden of proof placed initially on the state.
- Waiver of local government compliance with a mandate beyond six (6) months following the filing of a taxpayer suit, unless the Court of Appeals issues a declaratory judgment. (15)
- Establish an ongoing process for *monitoring compliance and providing assistance* with the mandate mitigation requirements, working *in consultation with the local government associations*. (16)
- Identify *past underfunded mandates* to the extent possible:
 - Determine whether the requirements continue to be *necessary in the public interest*.
 - “[D]etermine how the required *activities and services can be more cost effectively* provided and to initiate any changes or amendments to the law necessary to implement changes for that purpose.”
 - “[D]etermine that [if] the required activities and services cannot be changed in the public interest, that the necessary increased costs for providing same be funded through *adoption of an appropriation . . .*”
 - “Place responsibility in the Department of Management and Budget to *create and implement accounting systems* that accurately capture the necessary costs being incurred, going forward . . .”
 - “[D]etermine if it is *cost effective* for local units to continue . . . to provide the required activities and services and to adopt whatever changes that may serve to *reduce or eliminate the costs* to local units for same.”
 - “Consider (i) relief from archaic mandates and (ii) funding for “voluntary” mandates.” (16-17)

Legislative Commission on Statutory Mandates, *Final Report of the Legislative Commission on Statutory Mandates*, pp. 13-17, December 31, 2009, <http://council.legislature.mi.gov/files/lcsm/lcsm_final_report.pdf> (September 9, 2010).

- The Missouri Committee on Legislative Research may conduct program evaluations to determine efficiency, effectiveness and quality of a program, and make recommendations.

To meet the demands for more responsive and cost effective state government, [Missouri] legislators often desire to obtain information regarding the status of state programs they have created and the expenditure of funds they have authorized. The Committee on Legislative Research, through the Oversight Division, *can investigate and assess state agency performance in the implementation of laws and report the findings to the Legislature*. The Oversight Division conducts its work in an independent manner utilizing trained professional staff. An evaluation generally includes examination of state agency records, interviews of agency staff, surveys of affected citizens, on-site observation of program

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operations and review of similar programs in other states. *The objectives of the evaluation usually include determining efficiency, effectiveness and quality of the program.* Questions regarding sufficient funding levels, appropriate spending practices and the need for extension of sunset dates can often be answered in the course of the evaluation. In addition, recommendations are made to the legislature for changes that could be made to enhance the program or facilitate more efficient management of the program. The Division is *assigned evaluations pursuant to a concurrent resolution of the General Assembly or a resolution adopted by the Committee on Legislative Research.* Staff devotes time to completing the work during the interim, between June and December. Reports are typically presented to the Committee on Legislative Research for review and release to the public upon completion.

Missouri General Assembly Joint Committee on Legislative Oversight, Oversight Division, n.d., <<http://www.moga.mo.gov/oversight/overhome.htm>> (August 9, 2010) (emphasis added).

- Recommendations from the Minnesota Office of the Legislative Auditor on tools to address mandate concerns include:
 - *Local fiscal impact notes* “to measure the monetary impact of proposed legislation or administrative rules on counties and cities.”
 - *Fiscal impact summary report* to “documents the costs to local governments of certain types of mandates passed after June 30, 1997.
 - *Funding or reimbursement provisions* that “sets forth a very limited reimbursement program for certain types of mandates
 - *Mandate explanations* “to inform policymakers of the rationale behind proposed mandates on local governments.”
 - *State agency variances* that give “state agencies the authority to grant variances to their rules.”
 - *Rule petitions* that “allows the governing body of a county or city to petition a state agency to amend or repeal a rule or portion of a rule under certain circumstances.”
 - *Board of Government Innovation and Cooperation*, with authority to grant waivers for school districts, counties, cities, and towns from procedural laws and administrative rules affecting local governments’ provision of services.
 - *Mandate studies* for the purpose of “giving responsibility to independent boards or agencies to review state mandates on local governments.”
 - *Pilot projects* “to test new mandates or changes in existing ones in selected local governments before applying them statewide.”
 - *Delayed effective dates* to “give local governments more time to accommodate additional responsibilities within their personnel, financial, and other resource limitations.
 - *Local government approval* of unfunded mandates “to help ensure that unfunded mandates address local concerns.”
 - *Two-thirds vote of the Legislature* “to pass unfunded mandates [which reportedly] is the most effective method of protecting local government from unfunded mandates.”

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- *Mandate inventories*—“a frequent starting point for addressing mandate concerns, states have developed complete inventories of existing mandates on local governments. Although the rationale for such an approach is largely informational, it is also hoped that outdated mandates will be identified and eliminated.”
- *Sunset language* “To address the concern that some mandates represent permanent solutions to temporary problems.”

Office of the Legislative Auditor, State of Minnesota, *Program Evaluation Report, State Mandates on Local Governments*, pp. 41-59, January 2000, <<http://www.auditor.leg.state.mn.us/ped/pedrep/0001all.pdf>> (September 7, 2010).

- Massachusetts and Virginia a conduct periodic review or assessment of mandates:

Massachusetts General Laws direct the Division of Mandates to determine the costs and benefits of each relevant law and regulation to serve as a basis for recommending continuation, modification, or elimination of such law or regulation:

The [Division of Local Mandates] shall review every five years those laws and administrative regulations which have a significant financial impact upon cities or towns. For the purposes of this section ‘Significant financial impact’ is defined as *requiring municipalities to expand existing services, employ additional personnel, or increase local expenditures*. Said division shall *determine the costs and benefits* of each such law and regulation, and submit a report to the general court of each session together with its recommendation, if any, for the *continuation, modification or elimination* of such law or regulation.

Mass. Gen. Law ch. 11 § 6B (emphasis added).

The General Laws of Massachusetts, Chapter 11, Section 6B, April 30, 2009, <<http://www.mass.gov/legis/laws/mgl/11/11-6b.htm>> (September 7, 2010).

The Virginia Code *empowers the Commission on Local Government to direct state agencies to conduct assessments of mandates imposed by them on localities*. The Commission sets the schedule of assessments, but agencies are not required to perform an assessment of mandates more often than once every 4 years. The object of the periodic assessment is to determine if any mandates exist, which can be modified or eliminated.

If an assessment reveals that such mandates may be altered or eliminated without interruption of local service delivery and without undue threat to the health, safety and welfare of the residents of the Commonwealth, the Commission shall so advise the Governor and the General Assembly.

Virginia Code, Section 15.2-2903 (6).

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Code of Virginia, Title 15.2, Counties, Cities and Towns, Chapter 29 (Commission on Local Government), Section 15.2-2903(6), July 1, 2010, <<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+15.2-2903>> (August 2, 2010).

- Members of the Pennsylvania General Assembly have introduced a number of bills over the past two decades, which have not become law, to mitigate the financial impact of mandates on the Commonwealth's municipalities. Examples of legislation include:

House Bill 2081 of 2009
Printer's Number 2905
The Emergency Mandate Suspension Act

House Bill 2081 would establish a Council on Mandates within the Governor's Center for Local Government Services. Generally, this bill establishes procedures by which local governments may temporarily opt out of unfunded mandates for a period of up to five *years*.

Senate Bill 7 of 2009
Printer's Number 198
The Taxpayer Protection Act

Senate Bill 7 would reduce the Commonwealth's spending appropriation limit, as set forth in the bill, "by the amount of the reduction in State appropriations to a political subdivision for administration of a mandated service, without an equal or greater reduction in State-mandated expenses for said local government or a repeal of the mandate to provide a program or service."

House Bill 710 of 2003
Printer's Number 837
Mandate Review Advisory Board

House Bill 710 would have established within the Local Government Commission (LGC) the Mandate review Advisory Board (MRAB). The LGC, in consultation with the MRAB, would have been charged with the responsibility of making recommendations to the General Assembly with regard to the termination, continuation, or revision of existing or future mandates.

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Senate Bill 539 of 2003

Printer's Number 568

A Joint Resolution proposing an amendment to the Pennsylvania Constitution regarding State mandates on local governments

Senate Bill 539 proposed an amendment to Article IX of the Pennsylvania Constitution to specify that no municipality would be bound by any statute enacted after the passage of this legislation, which required the municipality to spend funds, or to take an action requiring the expenditure of funds, unless specified conditions were satisfied.

House Bill 2040 of 2001

Printer's Number 2690

Establishing a Council on Local Mandates; A Joint Resolution proposing an amendment to the Pennsylvania Constitution regarding State mandates on local governments

House Bill 2040 proposed to amendment to Article VIII of the Pennsylvania Constitution to specify that any statute or regulation deemed to be an unfunded mandate would cease to be mandatory in its effect and expire. The bill would have established a Council on Local Mandates to resolved disputes about whether a law or regulation constituted an unfunded mandate. (Note: House Bill 2815 of 2002 would have created a freestanding act to create the Council on Local Mandates for the purpose of prohibiting mandates relating to water or sewer systems. This bill did not propose a Constitutional amendment.)

House Bill 917 of 1999

Printer's Number 1017

The Federal Mandates Act

House Bill 917 would have established procedures by which to ensure that Federal mandates implemented by Pennsylvania comply with state policy as established by the General Assembly.

Senate Bill 697 of 1995

Printer's Number 731

Constitutional Defense Council Act

Senate Bill 697 would have established the Constitutional Defense Council to examine and challenge by “legal action, proposed legislation, or any other legal means:

- (1) Federal mandates.
- (2) Court rulings.
- (3) The authority granted to or assumed by the Federal Government.
- (4) Laws, regulations and practices of the Federal Government.
- (5) Any other activity that is deemed appropriate by the council.”

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Senate Bill 696 of 1995 Printer's Number 730 Joint Legislative Committee on Federal Mandates Act

Senate Bill 696 would have established the Joint Legislative Committee on Federal Mandates, the duties of which would include:

- (1) Annually review the activities of Congress and the Federal Government, including court rulings with regard to any laws, regulations or other actions that may require the Commonwealth to comply with any Federal mandate.
- (2) Take any action necessary to protect the constitutional rights and sovereignty of the Commonwealth against Federal mandates.
- (3) Arrange for and conduct an annual joint session of the General Assembly or a meeting of the committee and request the attendance of all members of Congress from Pennsylvania to discuss issues relating to Federal mandates and the appropriate use of Federal power to influence State policy.

Senate Bill 1841 of 1994 Printer's Number 2363 Mandate Review Commission

Senate Bill 1841 would have created the Mandate Review Commission. The Commission would have been authorized to investigate legislative enactments and regulations that required counties, municipalities, and school districts to take action which required the expenditure of new or additional funds. The Commission would be charged with making recommendations to terminate, continue, or revise the programs that it investigated.

To view the referenced House and Senate bills, *see* Pennsylvania General Assembly Session Information, n.d., <<http://www.legis.state.pa.us/cfdocs/legis/home/session.cfm>> (September 10, 2010).