
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1916 Session of 1997

INTRODUCED BY LYNCH, FARGO, EGOLF, BAKER, FICHTER, ARMSTRONG,
BROWN, GODSHALL, HENNESSEY, LAUGHLIN, LEH, NICKOL, OLASZ,
SEYFERT, PISTELLA, D. W. SNYDER, E. Z. TAYLOR, ROHRER,
SATHER, WILT, WOGAN AND YEWCIC, OCTOBER 14, 1997

REFERRED TO COMMITTEE ON INTERGOVERNMENTAL AFFAIRS,
OCTOBER 14, 1997

AN ACT

1 Relating to Federal mandates; requiring a study and report to
2 determine the necessity and impact of Federal mandates; and
3 requiring the development of programs and budget requests and
4 information.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Federal
9 Mandates Act.

10 Section 2. Legislative declaration.

11 (a) General policy.--The General Assembly employs its
12 legislative authority to establish that the people of this
13 Commonwealth, acting through their elected officials, have the
14 responsibility and authority to establish policy in and for the
15 Commonwealth pertaining to Federal programs mandated in Federal
16 statutes. The intent of the General Assembly is to assure the
17 primacy of the Commonwealth's legal and political authority to

1 implement in and for the Commonwealth the policy mandated by
2 Federal statutes and to vigorously challenge and scrutinize the
3 extent and scope of authority asserted by Federal executive
4 branch agencies when Federal agency actions and interpretations
5 are inconsistent with State policy and exceed the lawful
6 authority of the Federal Government or are not required by
7 Federal law.

8 (b) Findings.--The General Assembly finds and declares as
9 follows:

10 (1) The power to implement Federal policies in and for
11 this Commonwealth is central to the ability of the people of
12 this Commonwealth to govern themselves under a Federal system
13 of government.

14 (2) Any implementation of Federal policies in and for
15 this Commonwealth by Federal executive branch agencies that
16 is contrary to fundamental notions of federalism and self-
17 determination must be identified and countered.

18 (c) Additional findings.--The General Assembly further finds
19 and declares as follows:

20 (1) There is an urgent need to modify Federal mandates
21 because the implementation of these mandates by the
22 Commonwealth wastes the financial resources of the
23 Commonwealth, local governments and the citizens of this
24 Commonwealth and does not properly respect the rights of the
25 Commonwealth, local governments and the citizens of this
26 Commonwealth.

27 (2) The State government has an obligation to the public
28 to do what is necessary to protect the rights of Commonwealth
29 citizens under Federal law while minimizing or eliminating
30 any additional cost or regulatory burden on any citizen of

1 this Commonwealth.

2 (3) The tenth amendment to the Constitution of the
3 United States directs that powers that are not delegated to
4 the United States are reserved to the states or to the
5 people. The Commonwealth, as one of the sovereign states
6 within the Union, has constitutional authority to enact laws
7 protecting the environment of this Commonwealth and
8 safeguarding the public health, safety and welfare of the
9 citizens of this Commonwealth. However, this authority has
10 too often been ignored by the Federal Government, as the
11 Federal Government has intruded more and more into areas that
12 must be left to the states. It is essential that the dilution
13 of the authority of state and local governments be halted and
14 that the provisions of the tenth amendment be accorded proper
15 respect.

16 (4) Current Federal regulatory mandates, as reflected in
17 Federal administrative regulations, guidelines and policies,
18 often do not reflect the realities of this Commonwealth, and
19 Federal regulators frequently do not understand the needs and
20 priorities of the citizens of this Commonwealth.

21 (5) The citizens of this Commonwealth can create and
22 wish to create innovative solutions to this Commonwealth's
23 problems, but the current manner in which legal challenges to
24 State policies and Federal programmatic substitutions of
25 State programs are handled does not allow the Commonwealth
26 the flexibility it needs. It is not possible for the
27 Commonwealth to effectively and efficiently implement the
28 provisions of Federal statutes unless the burden to prove the
29 insufficiency of the Commonwealth's efforts to implement
30 Federal requirements is shifted to the person or agency that

1 asserts such insufficiency.

2 (6) The provisions of this act will better balance the
3 exercise of powers of the Federal Government and the powers
4 reserved to the states. In addition, the application of this
5 act ultimately will bring about greater protection for the
6 nation and the Commonwealth because it will direct the
7 Commonwealth to implement Federal statutes at the least
8 possible cost, thereby freeing more moneys for other needs.

9 (7) The purpose of this act is to ensure that Federal
10 mandates implemented in this Commonwealth comply with State
11 policy as established by the General Assembly.

12 Section 3. Definitions.

13 The following words and phrases when used in this act shall
14 have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 "Federal statute." A Federal statute that is in accord with
17 the Constitution of the United States, imposing mandates on
18 state or local governments, which may include, but is not
19 limited to, the following:

20 (1) Section 1901 of the Social Security Act (49 Stat.
21 620, 42 U.S.C. § 1396).

22 (2) The National School Lunch Act (60 Stat. 230, 42
23 U.S.C. § 1751 et seq.).

24 (3) The Federal Water Pollution Control Act (62 Stat.
25 1155, 33 U.S.C. § 1251 et seq.).

26 (4) The Solid Waste Disposal Act (Public Law 89-272, 42
27 U.S.C. § 6901 et seq.).

28 (5) Section 4 of the Child Nutrition Act of 1966 (Public
29 Law 89-642, 42 U.S.C. § 1773).

30 (6) The Endangered Species Act of 1973 (Public Law 93-

205, 16 U.S.C. § 1531 et seq.).

(7) Part B of the Equal Education and Opportunity Act of 1974 (Public Law 93-380, 20 U.S.C. § 1751 et seq.).

(8) The Safe Drinking Water Act (Public Law 93-523, 21 U.S.C. § 349 and 42 U.S.C. §§ 201 and 300f et seq.).

(9) The Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 42 U.S.C. § 6901 et seq.).

(10) The Clean Air Act (Public Law 95-95, 42 U.S.C. § 7401 et seq.).

(11) The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96-510, 94 Stat. 2767).

(12) The Asbestos School Hazard Abatement Act of 1984 (Public Law 98-377, 20 U.S.C. § 4011 et seq.).

(13) The Emergency Planning and Community Right-To-Know Act of 1986 (Title III of Public Law 99-499, 42 U.S.C. § 11001 et seq.).

(14) The Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499, 100 Stat. 1613).

(15) The Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570, 49 U.S.C. App. § 2701 et seq.).

(16) The Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 1914).

(17) The Family and Medical Leave Act of 1993 (Public Law 103-3, 29 U.S.C. § 2601 et seq.).

(18) The National Voter Registration Act (Public Law 103-31, 42 U.S.C. § 1973gg et seq.).

(19) The Brady Handgun Violence Prevention Act (Public Law 103-159, 107 Stat. 1536).

Section 4. State programs to implement Federal statutes.

1 (a) Identification of inconsistent Federal requirements.--

2 Any State officer, official or employee charged with the duty of
3 implementing any Federal statute shall implement the law as
4 required by the Federal statute in good faith and exercising a
5 critical view toward the provisions of any Federal regulation,
6 guideline or policy in order to identify those provisions of any
7 Federal regulation, guideline or policy that are inconsistent
8 with State policy or do not advance State policy in a cost-
9 effective manner.

10 (b) Promulgation of regulations.--Any agency of the
11 executive branch of State government that is authorized to
12 develop a State program to respond to any mandates contained in
13 a Federal statute shall develop the State program and promulgate
14 any necessary regulations using the following criteria:

15 (1) State programs shall be developed by the State
16 agency to meet the requirements of Federal statutes in good
17 faith with a critical view toward any Federal regulations,
18 guidelines or policies.

19 (2) State programs shall be developed with due
20 consideration of the financial restraints of the
21 Commonwealth, local governments and the citizens of this
22 Commonwealth.

23 (3) Any State program that implements the goals of the
24 Federal statute shall use the most efficient method possible,
25 with careful consideration given to cost and impact of the
26 program on local governments and the citizens of this
27 Commonwealth and to the long-range public health, safety and
28 welfare of the citizens of this Commonwealth.

29 Section 5. Appropriations Committees' reports to General
30 Assembly and budgetary savings.

1 (a) Reports of committees.--The Appropriations Committee of
2 the Senate and the Appropriations Committee of the House of
3 Representatives shall report to the General Assembly regarding
4 the proposed implementation of this section.

5 (b) State appropriations.--If any State program is
6 authorized or mandated by a Federal statute, no State
7 appropriation for the program shall be enacted unless:

8 (1) the State program is necessary to protect the public
9 health, safety and welfare;

10 (2) the State program is necessary to implement the
11 Federal statute;

12 (3) the operation of the State program benefits the
13 Commonwealth by providing a cost-effective implementation of
14 the Federal statute by the Commonwealth, local governments
15 and business; or

16 (4) the State program benefits the Commonwealth, local
17 governments and business by providing a cost-effective means
18 to meet a higher public health, safety and welfare standard
19 established under State law.

20 (c) State agency.--Each State agency making a budget request
21 for State appropriations for a State program authorized or
22 mandated by Federal statute shall include in its budget request
23 citations to the Federal constitutional provisions and the State
24 constitutional or statutory provisions that authorize the State
25 program. Each Appropriations Committee shall review the budget
26 requests, shall determine whether additional State statutory
27 authority is required in order to implement the State program
28 and shall make recommendations to the General Assembly.

29 (d) General Assembly.--The General Assembly shall, after
30 receiving a recommendation from each Appropriations Committee,

1 determine whether a State program is necessary and whether
2 Federal constitutional authority and State constitutional or
3 statutory authority exist. The General Assembly shall exercise a
4 critical view toward the interpretation of the Federal statute
5 found in Federal regulations, guidelines or policies. Enactment
6 of State appropriations for a State program shall constitute the
7 General Assembly's determination that the State program is
8 necessary and that Federal constitutional authority and State
9 constitutional or statutory authority exist. State
10 appropriations may not be based solely on requirements found in
11 regulations, guidelines or policies of a Federal agency.

12 (e) Requirements for recommendations.--Prior to recommending
13 to the General Assembly any budget for a State agency that is
14 charged with implementing Federal mandates, the Governor and
15 each Appropriations Committee shall require that the State
16 agency provide information regarding any monetary savings for
17 the Commonwealth and any reduction in regulatory burdens on
18 local governments and on the public that could be or have been
19 achieved through the development of State policies that meet the
20 intent of the Federal statute but do not necessarily follow all
21 applicable Federal regulations, guidelines or policies. The
22 State agency shall also provide advice to the Governor and each
23 Appropriations Committee regarding any changes in State statutes
24 that are necessary to provide the State agency the authority to
25 implement State policies in such a way as to create additional
26 savings or greater reductions in regulatory burdens. The
27 Governor shall review and compile the information received from
28 State agencies pursuant to this section and shall include
29 recommendations in his annual budget request to each
30 Appropriations Committee based upon such information.

(f) Definition.--As used in this section, the term "State program" does not include any portion of a program that is funded with nontax or nonfee revenues, or both, which State authorities are required to administer in a trusteeship or custodial capacity and which are not subject to appropriation by the General Assembly.

Section 6. Requests for information regarding Federal mandates.

(a) Requests.--The Governor shall prepare one or more requests for information regarding Federal mandates on or before August 30, 1998. The requests for information shall be directed to persons involved with or affected by Federal mandates, including, but not limited to, the following:

(1) Public and private institutions of higher education, both in and outside of this Commonwealth, and individuals in such institutions who have developed a high degree of expertise in the subjects of federalism and Federal mandates.

(2) Attorneys in private practice who have dealt with Federal mandate litigation or research.

(3) Organizations and foundations that have an interest in the issues of federalism and the imposition of Federal mandates on state and local governments.

(b) Issues addressed.--The issues addressed in the requests for information issued pursuant to this section shall include the following:

(1) Identification of Federal mandates expressing broad Federal policies that would best be implemented on a state-by-state basis or that could be resisted because of the unique circumstances that are present in each state and because of the unnecessary burdens that are created by Federal regulations and policies.

1 (2) Legal theories that support the right of each state
2 to implement or oppose Federal mandates pursuant to the
3 state's own policies.

4 (3) Practical methods, including the enactment of any
5 state legislation, by which the state may fully exercise its
6 authority in the implementation of Federal mandates.

7 (4) Recommendations regarding Federal legislation that
8 would ensure that the states have the necessary authority to
9 implement Federal directives in a manner that is consistent
10 with state policy and is suited to the needs of each state.

11 (5) Possible funding sources for Federal mandate efforts
12 and opportunities for the Commonwealth to match other funding
13 sources or to cooperate with other entities in working toward
14 Federal mandate solutions.

15 (c) Required responses.--The requests for information
16 prepared pursuant to this section shall require that the initial
17 responses be received by the Governor no later than October 15,
18 1998. The Governor may prepare additional requests for
19 information to follow up and obtain further details regarding
20 the initial responses that were received.

21 Section 7. Report by Governor regarding Federal mandates and
22 recommendations.

23 The Governor shall examine the information received through
24 the requests for information prepared pursuant to this act and
25 shall, based upon such information, present a report to the
26 General Assembly on or before December 1, 1998, that includes
27 the following:

28 (1) Recommendations regarding:

29 (i) contracts that the General Assembly may enter
30 into with specified persons or entities to conduct

1 research, to analyze certain subjects or to provide other
2 services regarding Federal mandates; or

3 (ii) a request-for-proposals process to obtain bids
4 for contracts to provide services regarding Federal
5 mandates with the intent that the contracts be entered
6 into on or before February 1, 1999, and that the results
7 of any research or analysis performed under such
8 contracts be received by the General Assembly on or
9 before July 1, 1999.

10 (2) Estimates of the cost of the Federal mandate efforts
11 recommended by the Governor under the provisions of this
12 section and recommendations regarding any possible public and
13 private sources of moneys to fund such efforts, including any
14 appropriations by the General Assembly that may be required.

15 Section 8. Effective date.

16 This act shall take effect in 60 days.