AN ACT

1 Providing for mandatory funding of local mandates by State
government; providing for definitions; establishing the
Office of Local Mandates; providing review requirements;
requiring appropriations; establishing the Local Government
Mandate Appeals Board; and providing compensation.

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

Section 1. Short title.

This act shall be known and may be cited as the State Payment for State Mandates Act.

Section 2. Legislative findings.

The General Assembly finds and declares that:

(1) Actions of the State government that directly or indirectly prescribe the manner, standards, level and conditions of public service to be provided by this Commonwealth's counties, municipalities and school districts are often taken with little regard for the fiscal consequences of such actions upon the affected local jurisdictions.

(2) Many of this Commonwealth's counties, municipalities and school districts are experiencing varying degrees of fiscal stress resulting from the need to provide adequate public services to their citizens but without the local tax resources to do so.

(3) The State government, prior to imposing new or expanded service requirements upon its political subdivisions, should be aware of and confront the issue of where the burden of paying for those requirements will fall.
(4) It is appropriate, therefore, that the State government provide full funding for any net additional costs to counties, municipalities and school districts that are incurred by those jurisdictions in complying with the required performance of a new or expanded program or service under the provisions of any State law or regulation.

Section 3. Definitions.

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

"Agency." A department, departmental administrative board or commission, independent board or commission, agency or other authority of this Commonwealth now existing or hereafter created. The term does not include any county, court, municipality, school district or municipal authority.

"Board." The Local Government Mandate Appeals Board established in section 7.

"County." The governing body and the officers and employees of a county.

"Department." The Department of Community and Economic Development of the Commonwealth.

"Expanded program or service." A program or service the scope or level of which would be increased, extended or enhanced by a county's, municipality's or school district's compliance with the provisions of a State law or regulation.

"Municipality." The governing body and the officers and employees of a city, borough, incorporated town or township.

"Net additional cost." The cost or costs incurred or anticipated to be incurred within a one-year period by a county, municipality or school district in performing or administering a...
new or expanded program or service required by a State law or
regulation after subtracting therefrom any revenues received or
receivable by the county, municipality or school district on
account of the program or service, including, but not limited
to:

(1) Fees charged to the recipients of the program or
    service.

(2) Federal or State aid paid specifically or
categorically in connection with the program or service.

(3) Any offsetting savings resulting from the reduction
    or elimination of any other program or service directly
    attributable to the performance or administration of the
    required program or service.

"New program or service." A program or service different in
kind or purpose from those in existence at the time of the
enactment of a law or promulgation of a regulation, requiring
the performance or administration of the program by one or more
counties, municipalities or school districts.

"Office." The Office of Local Mandates established in
section 4.

"Program or service." A specific and identifiable activity
of a county or municipality which is available to the general
public or which is conducted, administered or provided for or on
behalf of the citizens of a county, municipality or school
district.

"Regulation." A rule or regulation, or order in the nature
of a rule or regulation, promulgated by an agency under
statutory authority in the administration of any statute
administered by or relating to the agency or prescribing the
practice of procedure before such agency. The term does not
include a proclamation, executive order, directive or similar
document promulgated by the Governor exercising his emergency
powers, but does include a regulation which may be promulgated
by an agency, only with the approval of the Governor.

Section 4. Office of Local Mandates.

(a) Establishment.--There is hereby established within the
department the Office of Local Mandates, which shall have as its
primary function the review of legislation and proposed or
adopted regulations, for the purpose of completing a local
impact statement. A local impact statement shall contain a
fiscal analysis of the net additional costs to a county,
municipality or school district that will result from any new or
expanded program or service that the county, municipality or
school district would be required to perform or administer as a
result of the legislation or proposed regulation.

(b) Personnel.--The department shall employ all persons,
including accountants, attorneys, auditors and any other
individuals with experience in local government operations, and
such clerical and technical assistants whom the office may
require within the limits of available appropriations.

Section 5. Mandate review requirements.

(a) Legislative review by office.--No bill that could
possibly incur an increase in costs to counties, municipalities
or school districts shall be reported from a committee in either
house of the General Assembly until it has been reviewed by the
office. If upon its review the office determines that the bill
will not result in net additional costs if the bill is enacted,
it shall certify that determination on a statement submitted to
the chairman and minority chairman of the committee to which the
bill was referred. If the office determines that the bill may
result in net additional costs to counties, municipalities or
school districts, if enacted, it shall immediately forward a
local impact statement to the bill's sponsors and the chairman
and minority chairman of the committee to which the bill was
referred.

(b) Issuing authority to forward copy.--Whenever any State
regulation is initially published or adopted, the department
head or State officer issuing the regulation shall forthwith
forward a copy of the proposed or adopted regulation to the
office with a notice to complete a local impact statement within
30 days of the proposal or adoption.

(c) Impact statement.--Upon receipt of a notice from a State
department head or a State officer of the proposal or adoption
of a regulation, the office shall complete as soon as possible,
but within 30 days of notification, a local impact statement
containing the most accurate estimate possible, in actual
dollars, of the net additional costs, if any, that will be
required of counties, municipalities or school districts.
Statements completed pursuant to this subsection shall be
delivered to the Governor, the presiding officer of both houses
of the General Assembly, the chairman of the Independent
Regulatory Review Commission and the department head or official
submitting the notice, together with a copy of the regulation.

(d) Annual review.--The office shall conduct an annual
review of all laws and regulations enacted or adopted after the
effective date of this act for which the office has previously
completed a local impact statement. Any annual change in the
dollar estimate of the net additional costs from that provided
in the original local impact statement shall be updated as a
result of the review to disclose that change, and the updated
local impact statement shall be delivered to the recipients of
the original local impact statement.

(e) Public access.--The office shall make local impact
statements available to the public upon request.

Section 6. Appropriations requirement.

Except by a vote of two-thirds THREE-FOURTHS of all members elected to each house, the General Assembly shall not pass a
bill for which a local impact statement has been received
pursuant to section 5 until or unless it contains an
appropriation at least equal in amount to the amount estimated
in the local impact statement as necessary to pay in full any
net additional costs of compliance therewith.

Section 7. Local Government Mandate Appeals Board.

There is hereby established the Local Government Mandate
Appeals Board. The membership of the board shall consist of 13 voting members as follows:

(1) one each to be appointed by the President pro
tempore of the Senate and the Speaker of the House of
Representatives;

(2) one each to be appointed by the Minority Leader of
the Senate and the Minority Leader of the House of
Representatives;

(3) two elected county officials to be appointed by the
Governor;

(4) two elected municipal officials to be appointed by
the Governor;

(5) TWO ELECTED OR APPOINTED SCHOOL DIRECTORS TO BE
APPOINTED BY THE GOVERNOR;

(6) two members at large, appointed by the Governor;
Within the categories of members designated in paragraphs (3), (4) and (5), no more than two appointees shall be of the same political party. The legislator members shall serve during the two-year legislative session during which the appointment is made. The elected county and municipal officials shall serve as members during the terms of their elected office during which their appointments are made. The elected or appointed school directors shall serve during the terms of their elected or appointed office during which their elections or appointments are made. The State Treasurer or his designee shall serve during the State Treasurer's term of elected office. Other members shall serve during the duration of the term of the Governor who appointed them. The Governor and presiding officers of both houses of the General Assembly shall, in making their appointments, consult together to the extent necessary to ensure that among the appointed membership there is not more than one member appointed as a local elected official, elected or appointed school director or legislator representing the same local units of government within their election districts. A vacancy occurring in the membership of the board for any cause other than the expiration of a term of office shall be filled in the same manner as the original appointment.

Section 8. Board organization.

The board shall organize as soon as practicable following the appointment of its members and shall elect from among its members a chairman and vice chairman and shall appoint a secretary, who need not be a member of the board. The board shall employ such assistants as it may deem necessary to carry...
out its duties and shall determine their qualifications, terms
of office and compensation. All expenditures deemed necessary to
implement and effectuate the duties of the board under this act
shall be made within the limits of appropriations according to
law.

Section 9. Compensation of board.

Members of the board shall receive $125 per day as
compensation for their services and shall also be entitled to
reimbursement for travel and other necessary expenses incurred
as a result of their duties as members of the board. The
expenses incurred by board members or by any employees of the
board shall be allowed and paid upon the presentation of
itemized vouchers therefor, which vouchers shall be subject to
the approval of the board.

Section 10. Subpoena power.

The board, through its chairman or secretary, may issue
subpoenas and compel the attendance of witnesses to testify
before the board and produce relevant books, records and papers
before it and may administer oaths in taking testimony in any
matter pertaining to its duties under this act, including,
without limitation, any appeals proceeding authorized or
required to be held under this act.

Section 11. Quorum and board powers.

The powers of the board are vested in the members thereof in
office from time to time, and a majority of its members shall
constitute a quorum for any act thereof. Actions may be taken
and orders adopted by the board by a vote of a majority of its
authorized members unless the rules of the board shall require a
larger number. No vacancy in the membership of the board shall
impair the right of a quorum to exercise all the rights and
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perform all the duties of the board.

Section 12. Board duties.

It shall be the duty of the board to hear and rule upon appeals brought by one or more counties, municipalities or school districts alleging that a State law or regulation that has the effect of requiring the performance or administration of a new or expanded program or service has been enacted or promulgated, as the case may be, in a manner contrary to the provisions of this act or has been lawfully enacted or promulgated, but has been based on a demonstrably inaccurate cost estimate contained in a local impact statement prepared by the office resulting, therefore, in the failure by the State to provide sufficient funding to pay the additional cost of compliance with the law or regulation. A party appearing before the board or otherwise joined in an action before the board shall submit such evidence and documentation as the board may require in order to make a determination under this section. Should the board, based on the evidence before it, rule in favor of the appellant county, municipality or school district or counties, municipalities or school districts, it shall submit its finding and rulings to the Governor and the presiding officers of both houses of the General Assembly, along with its determination that legislation is required to be enacted containing an appropriation of moneys sufficient to pay for any net additional cost it has determined as remaining unfunded.

Section 13. Board determination.

A determination by the board that an appropriation of moneys is required shall be appealable by the General Assembly or the presiding officer of either house thereof to the Commonwealth Court. A determination by the board denying an appeal by a
county, municipality or school district shall not constitute an adjudication as defined in 2 Pa.C.S. § 101 (relating to definitions) or be subject to appeal as provided by 2 Pa.C.S. § 702 (relating to appeals), or otherwise.

Section 14. Board rules.

The board shall adopt such rules as may be required to carry out its functions and responsibilities under this act.

Section 15. Effect on other laws.

The requirements of this act shall not alter in any manner the substantive standards otherwise applicable to the implementation by an agency of statutory requirements or to the exercise by any agency of authority delegated by law.

Section 16. Severability.

The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 17. Applicability.

This act shall apply to any rule proposed, any final rule promulgated and any other major State action affecting the economy implemented by any agency after the effective date of this act.

Section 18. Effective date.

This act shall take effect in 60 days.