

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2439 Session of  
1990

INTRODUCED BY S. H. SMITH, TRELLO, FARGO, PESCI, GAMBLE,  
JOSEPHS, DeLUCA, STABACK, PETRARCA, J. H. CLARK,  
J. L. WRIGHT, GEIST, SAURMAN, DEMPSEY, ARGALL, FAIRCHILD,  
CHADWICK, CARLSON, SCHULER, DISTLER, McVERRY, NOYE, JACKSON,  
PHILLIPS, NAHILL, LANGTRY, JADLOWIEC, GODSHALL, HECKLER, FOX,  
WOGAN, MOEHLMANN, HESS, MARSICO, D. W. SNYDER, CORNELL, WASS,  
HASAY, LEH, JOHNSON, BURD AND E. Z. TAYLOR, APRIL 4, 1990

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, APRIL 4, 1990

AN ACT

1 Requiring State funding for programs and services which  
2 political subdivisions are mandated to provide; establishing  
3 the Office of Local Mandates and the Political Subdivision  
4 Mandates Appeal Board; conferring powers and duties upon the  
5 office, the board, and the Department of Community Affairs;  
6 providing for remedies; and making an appropriation.

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

9 Section 1. Short title.

10 This act shall be known and may be cited as the Local  
11 Mandates Funding Act.

12 Section 2. Declaration of policy.

13 The General Assembly finds and declares as follows:

14 (1) Actions of State government that directly or  
15 indirectly prescribe the manner, standards, level and  
16 conditions of public service to be provided by the political  
17 subdivisions are often taken with little regard for the

1       fiscal consequences of the actions upon the affected local  
2       jurisdictions.

3           (2) Many political subdivisions are experiencing varying  
4       degrees of fiscal stress resulting from the need to provide  
5       adequate public services to their citizens without the local  
6       tax resources to do so.

7           (3) State government, prior to imposing new or expanded  
8       service requirements upon political subdivisions, should be  
9       aware of and confront the issue of where the burden of paying  
10      for those requirements will fall.

11          (4) It is appropriate, therefore, that State government  
12      provide full funding for net additional cost.

### 13 Section 3. Definitions.

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

17      "Board." The Local Government Mandates Board established in  
18      section 8.

19      "Department." The Department of Community Affairs of the  
20      Commonwealth.

21      "Expanded program or service." A program or service the  
22      scope or level of which would be increased, extended or enhanced  
23      by a political subdivision's compliance with the provisions of a  
24      statute, regulation or order.

25      "Net additional cost." The cost incurred or anticipated to  
26      be incurred within a one-year period by a political subdivision  
27      in performing or administering a new or expanded program or  
28      service minus revenue received or receivable by the political  
29      subdivision on account of the program or service, including fees  
30      charged to the recipients of the program or service, State or

1 Federal aid paid specifically or categorically in connection  
2 with the program or service and offsetting savings resulting  
3 from the diminution or elimination of any other program or  
4 service directly attributable to the performance or  
5 administration of the required program or service.

6 "New program or service." A program or service different in  
7 kind or purpose from those in existence at the time of the  
8 enactment of a statute, promulgation of a regulation or issuance  
9 of an order requiring the performance or administration of the  
10 program.

11 "Office." The Office of Local Mandates established in  
12 section 5.

13 "Program or service." A specific and identifiable activity  
14 of a political subdivision which is available to the general  
15 public or which is conducted, administered or provided for the  
16 citizens of a political subdivision.

17 "Proposed legislation." A bill or an amendment.

18 Section 4. Funding of State mandates.

19 (a) Appropriation required.--Except as provided in  
20 subsection (c), any provision of a statute, regulation or  
21 executive order which is enacted or promulgated on or after the  
22 effective date of this act and which has the effect of requiring  
23 a political subdivision to perform or administer a new or  
24 expanded program or service having a net additional cost in  
25 excess of \$1,000 for a political subdivision, or in excess of  
26 \$100,000 for all affected political subdivisions, shall not take  
27 effect until an appropriation is made to provide sufficient  
28 funds for each affected political subdivision to pay in full the  
29 net additional cost.

30 (b) Operation.--

1           (1) After the initial appropriation for a statute  
2     subject to subsection (a), additional funding for the net  
3     additional cost shall be provided by:

4           (i) annual general appropriation acts or  
5     supplements;

6           (ii) State bonds; or

7           (iii) other legislatively designated sources of  
8     funding.

9           (2) Funding for a regulation or executive order subject  
10    to subsection (a) shall be provided by:

11          (i) annual general appropriation acts or  
12     supplements;

13          (ii) State bonds; or

14          (iii) other legislatively designated sources of  
15     funding.

16    (c) Exception.--Subsection (a) does not apply to a new or  
17    expanded program or service if any of the following apply:

18          (1) The service is required by a court order.

19          (2) The service is provided at the option of the  
20     political subdivision under a statute or regulation that is  
21     permissive rather than mandatory.

22          (3) The service is required by an emergency executive  
23     order.

#### 24   Section 5. Office.

25    (a) Establishment.--There is established within the  
26    department an Office of Local Mandates. The primary function of  
27    the office is to review proposed legislation, legislation,  
28    proposed and adopted regulations and proposed and issued orders  
29    for the purpose of completing a local impact statement, which  
30    shall contain a fiscal analysis of net additional cost.

1 (b) Operation.--The department shall employ, or contract for  
2 the service of, as required by the office, accountants;  
3 attorneys; financial, management, purchasing, and personnel  
4 analysts; persons with experience in local government  
5 operations; and clerical and technical assistants.

6 Section 6. Mandate review requirements.

7 (a) Proposed legislation.--

8 (1) For proposed legislation which, under the rules of  
9 the chamber, requires a fiscal note, the fiscal note shall  
10 indicate whether there is net additional net cost.

11 (2) If a fiscal note under paragraph (1) indicates net  
12 additional cost, the fiscal note shall be transmitted to the  
13 office.

14 (3) For each fiscal note transmitted under paragraph  
15 (2), the office shall prepare a local impact statement,  
16 estimating, as accurately as possible, net additional cost.  
17 Within the lesser of 30 calendar days or 10 legislative days  
18 from receipt of the fiscal note under paragraph (2), the  
19 office shall transmit the local impact statement to the  
20 Governor and to the presiding officer of the chamber from  
21 which the fiscal note was transmitted.

22 (b) Regulations.--

23 (1) Each fiscal note prepared under section 612 of the  
24 act of April 9, 1929 (P.L.177, No.175), known as The  
25 Administrative Code of 1929, shall state whether or not there  
26 is net additional cost.

27 (2) If a fiscal note under paragraph (1) indicates net  
28 additional cost, the fiscal note shall be transmitted to the  
29 office.

30 (3) For each fiscal note transmitted under paragraph

(2), the office shall prepare a local impact statement, estimating, as accurately as possible, net additional cost. Within 30 days of receipt of the fiscal note under paragraph (2), the office shall transmit the local impact statement to the administrative agency promulgating the regulation.

(c) Orders.--

(1) If it determines that an order by an administrative agency imposes net additional cost, a political subdivision may submit the order to the office.

(2) For each order submitted under paragraph (1), the office shall prepare a local impact statement, estimating, as accurately as possible, net additional cost. Within 30 days of submission under paragraph (1), the office shall transmit the local impact statement to the political subdivision which made the submission.

(d) Monitoring.--The office shall prepare annual updates of local impact statements issued under this section. The updates shall be transmitted in the same manner as the original statement, on the anniversary date of the original statement.

Section 7. Board.

(a) Establishment.--The Political Subdivision Mandates Appeal Board is established within the department.

(b) Membership.--The board shall consist of 11 members as follows:

(1) Two members of the House of Representatives, one appointed by the Majority Leader and one appointed by the Minority Leader.

(2) Two members of the Senate, one appointed by the Majority Leader and one appointed by the Minority Leader.

(3) Two elected county officials appointed by the

1 Governor. Members appointed under this paragraph must be  
2 members of different political parties.

3 (4) Two elected officials of political subdivisions  
4 other than counties appointed by the Governor. Members  
5 appointed under this paragraph must be members of different  
6 political parties.

7 (5) Two private citizens appointed by the Governor.  
8 Members appointed under this paragraph must be members of  
9 different political parties.

10 (6) The State Treasurer, or a designee.

11 (c) Terms.--

12 (1) A member appointed under subsection (b)(1) or (2)  
13 shall serve a term of two years.

14 (2) A member appointed under subsection (b)(3), (4) or  
15 (5) shall serve a term of four years.

16 (3) The State Treasurer shall serve ex officio.

17 (d) Vacancies.--A vacancy shall be filled in the same manner  
18 as the original appointment.

19 (e) Quorum.--Six members of the board constitutes a quorum.

20 (f) Organization.--The board shall organize as soon as  
21 practicable following the appointment of its members and shall  
22 elect from among its members a chairperson and vice-chairperson.  
23 The board shall appoint a secretary, who need not be a member of  
24 the board. The board shall employ assistants as necessary to  
25 discharge its functions and shall determine their  
26 qualifications, terms of office and compensation.

27 (g) Compensation.--Members of the board shall serve without  
28 compensation, but they shall be reimbursed for expenses  
29 reasonably incurred in the discharge of board functions.

30 (h) Powers and duties.--The board has the following powers

1 and duties:

2 (1) Conduct hearings under section 8. In the conduct of  
3 hearings, the board may issue subpoenas to compel the  
4 testimony of witnesses and the production of documents.  
5 Subpoenas under this paragraph are enforceable in  
6 Commonwealth Court.

7 (2) Promulgate regulations to administer this act.

8 Section 8. Hearings.

9 (a) Jurisdiction.--Upon complaint by a political subdivision  
10 alleging that it is being required to perform or administer a  
11 new or expanded program or service without proper funding under  
12 section 4, the board shall conduct a hearing.

13 (b) Order.--If the board determines that the political  
14 subdivision is being required to perform or administer a new or  
15 expanded program or service without proper funding under section  
16 4, the board shall invalidate the statute or regulation which  
17 requires the performance or administration of the new or  
18 expanded program or service until the enactment of legislation  
19 providing the required funding.

20 (c) Procedure.--The provisions of 2 Pa.C.S. Ch. 5, Subch. A  
21 (relating to practice and procedure of Commonwealth agencies)  
22 and 2 Pa.C.S. Ch. 7, Subch. A (relating to judicial review of  
23 Commonwealth agency action) apply to hearings under this  
24 section.

25 (d) Standing.--The President pro tempore of the Senate and  
26 the Speaker of the House of Representatives have standing to  
27 intervene in an action before the board. The right to  
28 intervention under this subsection applies throughout judicial  
29 review.

30 Section 9. Appropriation.



1       The sum of \$650,000, or as much thereof as may be necessary,  
2   is hereby appropriated to the Department of Community Affairs  
3   for the fiscal year July 1, 1990, to June 30, 1991, to carry out  
4   the provisions of this act.

5   Section 10.   Effective date.

6       This act shall take effect in 180 days.