

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 723 Session of
2001

INTRODUCED BY REINARD, PIPPY, MICOZZIE, GODSHALL, ARMSTRONG,
BARRAR, BUXTON, L. I. COHEN, CORRIGAN, COSTA, FAIRCHILD,
HARHAI, HENNESSEY, MARSICO, RAYMOND, STABACK, R. STEVENSON
AND E. Z. TAYLOR, FEBRUARY 14, 2001

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 14, 2001

AN ACT

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

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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 State Payment
11 for State Mandates Act.

12 Section 2. Legislative findings.

13 The General Assembly finds and declares that:

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

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

26 (3) The State government, prior to imposing new or
27 expanded service requirements upon its political
28 subdivisions, should be aware of and confront the issue of
29 where the burden of paying for those requirements will fall.

30 (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 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

1 subtracting therefrom any revenues received or receivable by the
2 county, municipality or school district on account of the
3 program or service, including, but not limited to:

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

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

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

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

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

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

24 "Regulation." A rule or regulation, or order in the nature
25 of a rule or regulation, promulgated by an agency under
26 statutory authority in the administration of any statute
27 administered by or relating to the agency or prescribing the
28 practice of procedure before such agency. The term does not
29 include a proclamation, executive order, directive or similar
30 document promulgated by the Governor exercising his emergency

1 powers, but does include a regulation which may be promulgated
2 by an agency, only with the approval of the Governor.

3 Section 4. Office of Local Mandates.

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

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

19 Section 5. Mandate review requirements.

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

1 local impact statement to the bill's sponsors and the chairman
2 and minority chairman of the committee to which the bill was
3 referred.

4 (b) Issuing authority to forward copy.--Whenever any State
5 regulation is initially published or adopted, the department
6 head or State officer issuing the regulation shall forthwith
7 forward a copy of the proposed or adopted regulation to the
8 office with a notice to complete a local impact statement within
9 30 days of the proposal or adoption.

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

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

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

3 Section 6. Appropriations requirement.

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

11 Section 7. Local Government Mandate Appeals Board.

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

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

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

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

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

25 (5) two elected or appointed school directors to be
26 appointed by the Governor;

27 (6) two members at large, appointed by the Governor; and

28 (7) the State Treasurer, ex officio, or the designee
29 thereof.

30 Within the categories of members designated in paragraphs (3),

1 (4), (5) and (6), no more than two appointees shall be of the
2 same political party. The legislator members shall serve during
3 the two-year legislative session during which the appointment is
4 made. The elected county and municipal officials shall serve as
5 members during the terms of their elected office during which
6 their appointments are made. The elected or appointed school
7 directors shall serve during the terms of their elected or
8 appointed office during which their elections or appointments
9 are made. The State Treasurer or his designee shall serve during
10 the State Treasurer's term of elected office. Other members
11 shall serve during the duration of the term of the Governor who
12 appointed them. The Governor and presiding officers of both
13 houses of the General Assembly shall, in making their
14 appointments, consult together to the extent necessary to ensure
15 that among the appointed membership there is not more than one
16 member appointed as a local elected official, elected or
17 appointed school director or legislator representing the same
18 local units of government within their election districts. A
19 vacancy occurring in the membership of the board for any cause
20 other than the expiration of a term of office shall be filled in
21 the same manner as the original appointment.

22 Section 8. Board organization.

23 The board shall organize as soon as practicable following the
24 appointment of its members and shall elect from among its
25 members a chairman and vice chairman and shall appoint a
26 secretary, who need not be a member of the board. The board
27 shall employ such assistants as it may deem necessary to carry
28 out its duties and shall determine their qualifications, terms
29 of office and compensation. All expenditures deemed necessary to
30 implement and effectuate the duties of the board under this act

1 shall be made within the limits of appropriations according to
2 law.

3 Section 9. Compensation of board.

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

12 Section 10. Subpoena power.

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

20 Section 11. Quorum and board powers.

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

29 Section 12. Board duties.

30 It shall be the duty of the board to hear and rule upon

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

23 Section 13. Board determination.

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

1 702 (relating to appeals), or otherwise.

2 Section 14. Board rules.

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

5 Section 15. Effect on other laws.

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

10 Section 16. Severability.

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

16 Section 17. Applicability.

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

21 Section 18. Effective date.

22 This act shall take effect in 60 days.