

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2040

Session of
2001

INTRODUCED BY CALTAGIRONE, LaGROTTA, CAPPELLI, FRANKEL,
R. STEVENSON, WILT, DeLUCA, GEORGE, GODSHALL, HORSEY, LEH,
BARRAR, HARHAI, SCHRODER, SCHULER, SOLOBAY, STABACK, THOMAS,
YOUNGBLOOD, DALEY, BENNINGHOFF, FLICK, SHANER, TRICH,
PALLONE, PISTELLA AND CIVERA, OCTOBER 17, 2001

REFERRED TO COMMITTEE ON STATE GOVERNMENT, OCTOBER 17, 2001

A JOINT RESOLUTION

1 Proposing an amendment to the Constitution of the Commonwealth
2 of Pennsylvania, prohibiting certain unfunded mandates; and
3 establishing the Council on Local Mandates.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby resolves as follows:

6 Section 1. The following amendment to the Constitution of
7 Pennsylvania is proposed in accordance with Article XI:

8 That Article VIII be amended by adding a section to read:

9 § 18. Unfunded mandates prohibited; council on local mandates
10 established; unfunded mandates to expire; exceptions.

11 (a) With respect to any provision of a law enacted on and
12 after six months after the adoption of this section and with
13 respect to any rule or regulation issued pursuant to a law
14 originally adopted after six months after the adoption of this
15 section and except as otherwise provided herein, any provision
16 of such law, or of such rule or regulation issued pursuant to a

1 law, which is determined in accordance with this subsection to
2 be an unfunded mandate upon boards of education, counties, or
3 municipalities because it does not authorize resources, other
4 than the property tax, to offset the additional direct
5 expenditures required for the implementation of the law or rule
6 or regulation, shall, upon such determination cease to be
7 mandatory in its effect and expire. A law or rule or regulation
8 issued pursuant to a law that is determined to be an unfunded
9 mandate shall not be considered to establish a standard of care
10 for the purpose of civil liability.

11 (b) The General Assembly shall establish by law a Council on
12 Local Mandates. The council shall resolve any dispute regarding
13 whether a law or rule or regulation issued pursuant to a law
14 constitutes an unfunded mandate. The council shall consist of
15 nine public members appointed as follows:

16 (1) four members to be appointed by the Governor;

17 (2) one member to be appointed by the President pro
18 tempore of the Senate;

19 (3) one member to be appointed by the Speaker of the
20 House of Representatives;

21 (4) one member to be appointed by the Minority Leader of
22 the Senate;

23 (5) one member to be appointed by the Minority Leader of
24 the House of Representatives; and

25 (6) one member to be appointed by the Chief Justice of
26 the Pennsylvania Supreme Court.

27 Of the members appointed by the Governor, at least two shall be
28 appointed from a list of six willing nominees submitted by the
29 chairperson of the political party whose candidate for Governor
30 received the second largest number of votes at the most recent

1 gubernatorial general election. The decisions of the council
2 shall not be subject to judicial review.

3 (c) Notwithstanding anything in this subsection to the
4 contrary, the following categories of laws or rules or
5 regulations issued pursuant to a law shall not be construed as
6 unfunded mandates:

7 (i) those which are required to comply with Federal laws or
8 rules or to meet eligibility standards for Federal entitlements;

9 (ii) those which are imposed on both government and
10 nongovernment entities in the same or substantially similar
11 circumstances;

12 (iii) those which repeal, revise or ease an existing
13 requirement or mandate or which reapportion the costs of
14 activities between school districts and municipalities;

15 (iv) those which stem from failure to comply with previously
16 enacted laws or rules or regulations issued pursuant to a law;

17 (v) those which implement the provisions of this
18 Constitution; and

19 (vi) laws which are enacted after a public hearing, held
20 after public notice that unfunded mandates will be considered,
21 for which a fiscal analysis is available at the time of the
22 public hearing and which, in addition to complying with all
23 other constitutional requirements with regard to the enactment
24 of laws, are passed by three-quarters affirmative vote of the
25 members of the Senate and three-quarters affirmative vote of the
26 House of Representatives.

27 Section 2. (a) Upon the first passage by the General
28 Assembly of this proposed constitutional amendment, the
29 Secretary of the Commonwealth shall proceed immediately to
30 comply with the advertising requirements of section 1 of Article

1 XI of the Constitution of Pennsylvania and shall transmit the
2 required advertisements to two newspapers in every county in
3 which such newspapers are published in sufficient time after
4 passage of this proposed constitutional amendment.

5 (b) Upon the second passage by the General Assembly of this
6 proposed constitutional amendment, the Secretary of the
7 Commonwealth shall proceed immediately to comply with the
8 advertising requirements of section 1 of Article XI of the
9 Constitution of Pennsylvania and shall transmit the required
10 advertisements to two newspapers in every county in which such
11 newspapers are published in sufficient time after passage of
12 this proposed constitutional amendment. The Secretary of the
13 Commonwealth shall submit this proposed constitutional amendment
14 to the qualified electors of this Commonwealth at the first
15 primary, general or municipal election occurring at least three
16 months after the proposed constitutional amendment is passed by
17 the General Assembly.