

HOUSE No. 5608

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 11, 1992.

The committee on State Administration, to whom were referred so much of the recommendations of the Department of State Auditor (House, No. 3) as relates to clarifying the scope of the local mandate (accompanied by bill, House, No. 8), the petition (accompanied by bill, House, No. 4360) of Frank M. Hynes for legislation to regulate mandates imposed on cities and towns by agencies of the Commonwealth, and the petition (accompanied by bill, House, No. 5249) of Bruce E. Tarr for legislation to further regulate mandates imposed on cities and towns, reports recommending that the accompanying bill (House, No. 5608) ought to pass.

For the committee,

CHRISTOPHER J. HODGKINS.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT CLARIFYING THE SCOPE OF THE LOCAL MANDATE LAW.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 6B of chapter 11 of the General Laws,
2 as appearing in the 1990 Official Edition, is hereby amended by
3 inserting at the end thereof the following paragraph: —

4 For the purposes of this section, the words “city(ies)”, “town(s)”
5 and “municipalities” shall include school committees, regional
6 school districts established under chapter seventy-one of the
7 General Laws or comparable provision of special law and
8 educational collaboratives organized pursuant to section four E
9 of chapter forty of the General Laws.

1 SECTION 2. Section 27C of chapter 29 of the General Laws,
2 as appearing in the 1990 Official Edition, is hereby amended by
3 inserting after paragraph (c) of the following: —

4 (c½) For the purposes of this section, state laws imposing any
5 direct service or cost obligation, state laws granting or increasing
6 exemptions from local taxation, and administrative rules or
7 regulations resulting in the imposition of additional cost shall be
8 termed “local mandates” provided that said laws, rules and
9 regulations take effect on or after January first, nineteen hundred
10 and eighty-one. Local mandates shall include but not be limited
11 to any state initiated statutory or regulatory action that:

12 (1) requires any city or town to undertake any service or cost
13 obligation, or to establish, expand or modify any existing activity
14 in such a way as to necessitate additional expenditures, whether
15 or not the affected activity is required or authorized by new or
16 existing law, administrative rule or regulation; provided, that a
17 law containing a specific provision for local acceptance shall not
18 be deemed a local mandate beyond any costs associated with
19 conducting a special election explicitly required by the law;

20 (2) relieves the state or a county from providing a service or
21 program so that any city or town instead incurs the cost of such
22 service or program.

23 Also for the purposes of this section, except for paragraph (c),
24 the words "any city or town" shall include school committees,
25 regional school districts established under chapter seventy-one of
26 the General Laws or comparable provision of special law and
27 educational collaboratives organized pursuant to section four E
28 of chapter forty of the General Laws. In a regional school district,
29 a vote to accept the provisions of any law, rule or administrative
30 regulation pursuant to this section shall be by the regional district
31 school committee.

1 SECTION 3. Said section 27C of chapter 29 is hereby further
2 amended in line 29 by inserting after the word "any" the
3 following: — member or.

1 SECTION 4. Said section 27C of chapter 29 is hereby further
2 amended in paragraph (e) by striking the final sentence and
3 inserting the following: —

4 The superior court shall determine the amount of the deficiency,
5 if any, and shall order that the said city or town be exempt from
6 such general or special law, or rule or regulation of any
7 administrative agency until the commonwealth shall reimburse
8 such city or town the amount of said deficiency or additional costs
9 and court costs and reasonable legal fees incurred in bringing
10 action under this subsection, or shall repeal such exemption from
11 local taxation; provided, that an aggrieved city or town, or any
12 ten taxable inhabitants thereof may file with its petition for relief
13 a motion requesting the court to grant an interim exemption from
14 compliance pending a determination of the controversy on the
15 merits. The superior court shall grant said interim exemption
16 where the moving party shows a reasonable likelihood of success
17 on the merits. A city or town which contracts or otherwise
18 arranges for performance of an existing activity effected by a local
19 mandate or an activity newly undertaken because of a local
20 mandate shall be entitled to relief under this section to the same
21 extent as a city or town which directly undertakes the activity.

1 SECTION 5. The provisions of Sections 2 and 4 of this act
2 shall apply to any state law and any administrative rule or
3 regulation taking effect on or after the day following the effective
4 date of this act.