

Accompanying the second recommendation of the Department of the State Auditor (House, No. 2). Taxation.

The Commonwealth of Massachusetts

In the Year Two Thousand and One.

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 27C of chapter 29 of the General Laws, as
2 most recently amended by section 24 of chapter 71 of the acts of
3 1993, is hereby amended by deleting in paragraph (a) the words
4 “or by the appropriation of money for such purposes”.

1 SECTION 2. Said section 27C of chapter 29 is hereby further
2 amended by inserting after paragraph (c) the following:—

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

11 (1) requires any city or town to undertake any service or cost
12 obligation, or to establish, expand or modify any existing activity
13 in such a way that results in the expenditure of funds or resources
14 or results in the diversion of funds or resources from any existing
15 activity; provided that a new law containing a specific provision
16 for local acceptance shall not be deemed a local mandate beyond
17 any cost associated with conducting a special election explicitly
18 required by the law. For the purposes of this section, the term
19 “existing activity” shall include any program or service lawfully
20 undertaken by any city or town under the authority of any law,

21 special law, administrative rule or regulation or city or town
22 charter;

23 (2) relieves the state or a county from providing a service or
24 program so that any city or town instead incurs the cost of such
25 service or program;

26 (3) amends an existing law that is effective only in cities and
27 towns that vote to accept it, provided that any amendment enacted
28 after initial local acceptance results in additional costs beyond
29 those associated with compliance with the law initially accepted.
30 Except for any cost associated with conducting a special election
31 explicitly required by the law, such a subsequent amendment to a
32 local option shall not be deemed a local mandate if the subsequent
33 amendment contains a specific provision for a separate vote for
34 local acceptance.

1 SECTION 3. Said section 27C of chapter 29 is hereby further
2 amended in paragraph (d) by inserting after the words "any com-
3 mittee" the following:— or member.

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

4 The Superior Court shall determine the amount of the defi-
5 ciency, if any, and shall order that the said city or town be exempt
6 from 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 ten
12 taxable inhabitants thereof may file with its petition for relief a
13 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 affected by a local
19 mandate or any activity newly undertaken because of a local man-
20 date shall be entitled to relief under this section to the same extent
21 as a city or town which directly undertakes the activity.

22 The distribution of state financial assistance to any city or town
23 for any purpose shall not be deemed to satisfy a state funding
24 obligation under this section, unless the general court provides by
25 general law and by a specific appropriation state assistance to
26 assume the cost of the local mandate in question. The common-
27 wealth may impose a direct service or cost obligation upon any
28 city or town as a condition on the receipt of state funds if such
29 state funds are provided by general law and by a specific appro-
30 priation identified as state assistance to those cities and towns
31 which agree to abide by specifically stated conditions.

