

MAINE STATE LEGISLATURE

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25
A. of S.

L.D. 66

(Filing No. S- 292)

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STATE OF MAINE
SENATE
115TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " A" to S.P. 42, L.D. 66, "RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide State Funding of any Mandate Imposed on Municipalities"

Amend the resolution by striking out the title and substituting the following:

'RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide State Funding of Any Mandate Imposed on Local Units of Government'

Further amend the resolution by striking out all of Section 21 and inserting in its place the following:

Section 21. State mandates. After January 1, 1992, a mandate may not be enacted that requires a local unit of government to establish, expand or modify its activities in such a way as to necessitate the expenditure of additional local revenues unless the Legislature has provided full funding to implement the required action except as provided in this section. State actions that enforce federal laws, rules or policies are not state mandates and are not subject to this section.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Full funding" means funding that the Legislature provides through direct appropriation of state revenues equal to the entire amount necessary to pay for the implementation of any state mandate.

B. "Local revenues" means revenues generated by local units of government, including property taxes, other locally levied taxes and user fees, and revenues such as excise taxes collected and retained by local government pursuant to statutory authority.

2 C. "Local units of government" means municipalities, school
3 districts, counties and special districts.

4 D. "State mandate" means any state-initiated statutory or
5 agency action that requires a local unit of government to
6 establish, expand or modify its activities in such a way as
7 to necessitate additional expenditures from local revenues
8 except as provided in subsection 2.

10 State mandates include but are not limited to:

12 (1) Statutes or rules that reduce a local unit of
13 government's ability to generate taxes or revenues,
14 except that this section does not require the State to
15 pay more than the amount provided in Article 4, Part
16 Third, Section 23 for property tax exemptions;

18 (2) Statutes or rules enacted or adopted to comply
19 with a federal requirement that exceed the requirements
20 of the federal law; and

22 (3) Mandates that result from judicial interpretation
23 of a state statute or rule, except judgments in eminent
24 domain condemnation and tort liability proceedings or
25 proceedings relating to a local unit of government's
26 performance or nonperformance under any contract or
27 agreement.

30 2. Exclusions. The State does not have the responsibility
31 to fund any mandate that:

32 A. Imposes additional duties of a routine nature that may
33 be carried out by existing staff and procedures at no
34 appreciable increased net costs. For the purpose of this
35 paragraph, "no appreciable increased net costs" means that
36 the cost of complying with the mandate would necessitate an
37 expenditure by all affected local units of government of
38 less than \$100,000 per mandate and that, when all mandate
39 legislation within the meaning of this subsection is
40 considered in the aggregate during the calendar year, the
41 total cost of all such mandates would necessitate an
42 expenditure by all affected local units of government of
43 less than .001 times the total amount of property taxes
44 collected in the State during the previous year;

46 B. Expands or amends existing criminal laws;

48 C. Provides clarifying or conforming, nonsubstantive
49 changes in an earlier statute or rule;

52 D. Accommodates a request from municipalities; or

2 E. Enacts laws or adopts rules to implement a federal
3 requirement that do not exceed the requirements of federal
4 law.

6 3. Funding. The requirements regarding funding are as
7 follows.

8
9 A. The Legislature shall appropriate funds sufficient to
10 fully implement mandates and dispense those funds to local
11 units of government prior to the implementation dates.
12 Funds to implement mandates may not come from programs
13 established by the State prior to January 1, 1992 to provide
14 funds to local units of government. The obligation of the
15 State to fully fund mandates may not be met through state
16 authorization to local units of government to levy fees or
17 new types of taxes not previously levied by local government.

18
19 B. Any local unit of government may elect not to comply
20 with a state mandate if the Legislature fails to fully fund
21 the mandate prior to the implementation date.

22
23 C. The applicability of a mandate to the private sector as
24 well as a local unit of government may not be construed to
25 mean that the mandate falls outside the scope of this
26 section.

27
28 D. If a local unit of government receives any funds from
29 the sale or disposition of any real or personal property
30 purchased with state funds provided to implement a mandate,
31 it must forward to the State any funds left after deducting
32 the cost necessary to effect the sale or disposal.'

34 Further amend the resolution by striking out all of the
35 question (page 1, lines 26 to 28 in L.D.) and inserting in its
36 place the following:

38 ' "Shall the Constitution of Maine be amended to require the
39 State to fund state mandates imposed upon local units of
40 government after January 1, 1992, by statute, rule or court
41 interpretation that require the expenditure of additional
42 local revenues?" '

44 Further amend the resolution by inserting before the
45 statement of fact the following:

48 **FISCAL NOTE**

50 The estimated cost of sending this resolution out to
51 referendum will vary according to the total number of referenda.
52 The estimated cost to the Secretary of State if one to 6

2 referenda are enacted is \$95,000. Each additional referendum costs an additional \$6,500.

4 If approved by the voters, this constitutional requirement
6 to fund the municipal cost of state mandates would increase the
8 cost to the State of implementing many laws and rules. The
10 Office of Fiscal and Program Review also will require additional
12 staff and resources to assess the municipal fiscal impact of each
14 proposed law. No funding for this purpose has been budgeted nor
16 is any request pending before the Legislature for the 1992-93
18 biennium.'

STATEMENT OF FACT

14 This constitutional amendment would require the State to
16 fully fund state mandates passed after January 1, 1992 that
18 impose additional costs on local units of government. Local
20 units of government are defined as municipalities, school
22 districts, counties and special districts.

22 The term "state mandates," as defined by this amendment,
24 includes statutes, rules or court interpretations that establish,
26 expand or modify activities of local units of government in such
a way as to necessitate additional expenditure of local revenues
or that reduce the local government's ability to generate taxes
through existing means.

28 Laws that are excluded from the provisions of this amendment
30 are those that: impose duties of a routine nature that can be
32 carried out with existing staff and at no appreciable net cost;
expand or amend existing criminal laws; are amendments intended
to clarify earlier statutes or rules; or are sought at the
request of municipalities.

34 In any year, mandates of a routine nature that do not impose
36 appreciable net costs can be enacted without being funded. Any
38 single mandate that would not impose more than \$100,000 in
40 additional local costs on local units of government statewide is
42 not required to be funded provided that when the costs of all
mandates with statewide costs less than \$100,000 are added
together in any one calendar year, their total cost is less than
.001 times the total amount of property taxes collected in the
State by municipalities during the previous year.

44 Local units of government are not required to implement a
46 mandate if the Legislature fails to appropriate sufficient funds
to fully implement the mandate prior to the implementation date.

48 This constitutional amendment applies only to state actions
50 taken after the effective date of January 1, 1992.