

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 885

S.P. 299

In Senate, March 15, 1993

**An Act to Implement Constitutional Provisions Requiring the Funding of
Mandates Imposed on Local Units of Government.**

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CLEVELAND of Androscoggin.
Cosponsored by Senator: BUTLAND of Cumberland, Representatives: KILKELLY of
Wiscasset, STROUT of Corinth.

2 Constitutionally required vote; preamble. This measure
3 implements the Constitution of Maine, Article IX, Section 21,
4 governing state funding of mandates imposed on municipalities.
5 Pursuant to the Constitution of Maine, Article IX, Section 21,
6 two thirds of all of the members elected to each House have voted
7 to enact this measure.

8 **Be it enacted by the People of the State of Maine as follows:**

10 **Sec. 1. 30-A MRSA §5684**, as amended by PL 1991, c. 847, §4,
11 is repealed.

12 **Sec. 2. 30-A MRSA §5685** is enacted to read:

13 **§5685. Funding for required activities**

14 **1. Definitions.** As used in this section and in the
15 Constitution of Maine, Article IX, Section 21, unless the context
16 otherwise indicates, the following terms have the following
17 meanings.

18 **A. "Additional expenditures"** means an increase in
19 expenditures of local revenues by a local unit of government
20 for a required expansion or modification of that unit's
21 activities.

22 **B. "Local revenues"** means revenues generated by local units
23 of government, including property taxes, other locally
24 levied taxes and user fees; payments made to municipalities
25 by the State, such as state-municipal revenue sharing and
26 general purpose aid to education; and other revenues, such
27 as excise taxes collected and retained by local units of
28 government pursuant to statutory authority.

29 **C. "Local unit of government"** means any city, town, school
30 district, special district, county, plantation,
31 quasi-municipal corporation or municipal village corporation
32 provided for by statute.

33 **D. "Mandate"** means any state law, rule, regulation or
34 executive order or judicial decision or order interpreting a
35 state statute, rule, regulation or executive order enacted
36 after the effective date of the Constitution of Maine,
37 Article IX, Section 21, which requires a local unit of
38 government to expand or modify that unit's activity so as to
39 necessitate additional expenditures from local revenues.

40 **2. Scope of mandates.** Mandates imposed on local units of
41 government include, but are not limited to, state statutes and
42 rules that:

2 A. Reduce a local unit of government's ability to generate
3 taxes or revenues;

4 B. Are enacted or adopted to comply with a federal
5 requirement or are required as a condition for eligibility
6 for a federal entitlement, when the federal requirement or
7 condition of entitlement contemplates specific actions by
8 local units of government to ensure compliance, to the
9 extent that the statute or rule exceeds the requirements of
10 federal law; or

11 C. Reduce any state aid program and necessitate the
12 expenditure of additional local revenues by local units of
13 government to preserve the level of service provided at the
14 time of enactment of the reduction unless the Legislature
15 suspends or modifies other specific mandates at the same
16 time and the suspension or modification results in a savings
17 at least equal to the additional local expenditures
18 required, except that this paragraph does not require the
19 State to pay more or allow the State to pay less than the
20 amount provided in the Constitution of Maine, Article IV,
21 Part Third, Section 23 for property tax exemptions.

22 3. Exclusions. State funding is not required if the
23 mandate accommodates a request from a local unit of government
24 and applies only to the specific unit or units making the request
25 or if the mandate results from a state court judgment in eminent
26 domain condemnations and tort liability proceedings and
27 proceedings relating to the performance or nonperformance of
28 local governments under any contract or agreement.

29 4. Local units of government not bound. A local unit of
30 government is not bound by any mandate requiring the expenditure
31 of additional local revenues unless 90% of the full cost
32 associated with that activity is paid annually to that local unit
33 of government from state funds or the Legislature requires local
34 units of government to make specific, additional expenditures
35 from local revenues as an exception to the provisions of the
36 Constitution of Maine, Article IX, Section 21.

37 5. Requirement for state funding. The State may not
38 require a local unit of government to expend or modify that
39 unit's activities so as to necessitate additional expenditures
40 from local revenues unless the State provides annually 90% of the
41 funding for these expenditures from state funds not previously
42 appropriated to that local unit of government. The Legislature
43 may require local units of government to make specific additional
44 expenditures from local revenues as an exception to the
45 provisions of the Constitution of Maine, Article IX, Section 21
46 if enacted upon the votes of two thirds of all members elected to
47 the Senate and the House of Representatives.

2 6. State funding. Funds paid to a local unit of government
3 for additional expenditures necessitated by the imposition of a
4 mandate must be paid from revenues provided by the State and not
5 from funds previously appropriated to those local units of
6 government.

7 The State's obligation to provide funds may not be met through
8 state authorization to local units of government to levy fees or
9 taxes not previously levied by a local unit of government or
10 through a reduction in the amount previously provided for any
11 program of state aid paid to that local unit of government as an
12 aggregate on January 1, 1993.

13 7. Payment of state funds. The commissioner or director of
14 an executive branch department or agency who administers a
15 mandate funded by the State shall pay to each local unit of
16 government in each state fiscal year the amount that local unit
17 of government expends for 90% of all costs of complying with the
18 mandate during that fiscal year.

19 8. Application and disbursement procedure. Each local unit
20 of government required to expend or modify its activities so as
21 to necessitate additional expenditures must submit to the
22 Department of Administrative and Financial Services within 60
23 days of the effective date of the mandate a claim for payment
24 accompanied by the local unit of government's estimate of the
25 increased costs required by the mandate for the balance of the
26 state fiscal year. The department shall pay the claim within 30
27 days of its receipt of the claim.

28 In subsequent fiscal years, local units of government must submit
29 claims annually, quarterly or monthly but not later than June
30 30th of each year. The department may audit the records of any
31 local unit of government to verify the actual amount of
32 additional expenditures and reduce any claim determined to be
33 excessive or unreasonable and adjust the payment to correct for
34 any underpayments or overpayments of cost actually incurred in
35 the previous fiscal year.

36 Local units of government may appeal determinations made by the
37 department acting pursuant to this section. The appeal must be
38 submitted to the department within 30 days following the date of
39 receipt of the determination being appealed. The department
40 after notice and hearing must notify the local unit in writing
41 stating the reasons for the decision within 30 days of the
42 department's decision to increase or reduce the amount of a
43 payment. The decision of the department constitutes final agency
44 action.

45 9. Amendments. This section implements the Constitution of
46 Maine, Article IX, Section 21 and pursuant to that section

2 may not be amended except by a proper enactment upon two-thirds
4 vote of the elected members of both the Senate and the House of
6 Representatives.

8 10. Collection and maintenance of information concerning
10 state mandates. The Department of Administrative and Financial
12 Services shall collect and maintain information on state
14 mandates, review local government applications for payment
16 submitted pursuant to this section and report periodically to the
18 Governor and Legislature regarding the administration of
20 provisions of this section.

14 STATEMENT OF FACT

16 This bill provides a framework for implementing the
18 provisions of the Constitution of Maine, Article IX, Section 21
20 which requires the State to fund new mandates it imposes on local
22 units of government. It defines the terms used in that section,
provides the Legislature with guidance in applying the section
and establishes a means to provide state funds to local units of
government under the 90% provision.