

Final Minutes

Legislative Commission on Statutory Mandates Meeting

9:00 a.m. • Monday, October 26, 2009
Executive Office Building • Waterford Room • 1st Floor
2100 Pontiac Lake Road • Waterford, Michigan

Members Present:

Amanda Van Dusen, Chair
Robert Daddow, Co-Chair
Dennis Pollard
Louis H. Schimmel
J. Dallas Winegarden, Jr.

Members Absent:

None

I. Call to Order

The Chair called the meeting to order at 9:00 a.m. and the clerk took the roll. A quorum was present.

II. Approval of the Agenda

The Chair asked for a motion to approve today's meeting agenda. **Mr. Schimmel moved, supported by Mr. Winegarden, that the meeting agenda as proposed be approved. There was no objection and the motion was unanimously adopted.**

III. Approval of Minutes – September 17, 2009 Meeting

The Chair asked for a motion to approve the minutes of the last Legislative Commission on Statutory Mandates meeting. **Mr. Winegarden moved, seconded by Mr. Daddow, to approve the minutes of the September 17, 2009 meeting. There was no further discussion. The minutes were unanimously approved.**

IV. Report from Co-Chairs on Meetings with Legislative Leadership

The Co-Chairs reported that they had met with Senator Bishop and his staff and with Speaker Dillon's legislative aide to give them an idea as to the direction the Commission was heading. During the meeting, the issue of drafting legislation was raised. Senator Bishop expressed his desire to have the opportunity to read the report first, digest it, and then think about the legislative process for the Commission's work product. Although the same issue was raised at the Speaker's meeting, his aide did not have a specific opinion on this point since Speaker Dillon was not present at the meeting. Preparing something that the Legislative Service Bureau can use to prepare legislation was then discussed. Commissioner Winegarden urged that the Commission's report be promoted as much as possible.

V. Status of Costing Analysis by MSU

The Co-Chairs shared that they received an email right before today's meeting from Dr. Scorsone that included a raw version of the mandate survey analysis. Although the Co-Chairs have not had an opportunity to fully review the information sent by Dr. Scorsone, Co-Chair Daddow provided some background on why some of the raw data may not be accurate. Presenting a cost range as an alternative to reporting specific amounts for the costing analysis of the identified unfunded mandates was discussed. After further discussion, the plan is to estimate the cost of the mandates as accurately as possible and include a final draft of the Scorsone information as an exhibit at the end of the report.

VI. Discussion of the Draft Report on Commission Recommendations

The Chair opened a discussion of the draft report. Commissioner Pollard inquired about where the historical background extensively worked on when drafting the interim report would be placed in the final report and suggested it needs to be included in the body of the final report. The issue was then discussed. There was consensus to provide a summary of the historical perspective in the body of the report with a reference that a more detailed history of the legislature's non-compliance is included in the appendix or as an exhibit. Commissioner Pollard noted that he strongly believes it is important to include the information in the body of the report, but accepts the consensus to include it in the appendix. The Chair added that, from her perspective, the main focus of the report should be on how to avoid problems prospectively and having the history included in its own section may in fact garner more attention and emphasize its importance rather than being lost in the report. Commissioner Schimmel suggested the preface be rewritten to include stronger language to highlight the historical non-compliance of the legislature.

The Chair had circulated a draft of the report on Friday that incorporated Co-Chair Daddow's latest comments. The proposed changes were identified and discussed. Commissioners Pollard and Van Dusen will begin work on drafting

the bills/language needed to change to the court rules and statutes to implement the Commission's recommendations. The Commission discussed the appropriateness of making any recommendations focused on the reporting requirements being argued in the Adair case. The clerk was asked to obtain a copy of the transcript of the latest Supreme Court arguments on the Adair case.

VII. Discussion of Inclusion of Recommendations with Respect to Particular Mandates in Final Report

Because the Commission's statutory charge to identify all mandates is too big address, the Commission considered a recommendation that the legislature create a series of targeted task forces to review particular mandates within their areas of expertise. Commissioner Pollard stressed that it should be made clear that this recommendation should not be in lieu of the Commission's other recommendations. After further consideration, the Commission decided not to include this recommendation.

VIII. Other Business

A discussion of the approach to use for the dissemination of the final report followed. Commissioner Winegarden felt it is important to have the report publicized through the news media with possible follow-up phone calls by a Commissioner. The Co-Chairs will work with the Senate Majority Leader and the Speaker of the House to determine a plan and the scheduling of a possible press conference.

Co-Chair Daddow also shared two letters Oakland County has sent in regards to conflicts with the Headlee Amendment and an article from the Huron Daily Tribune. The documents are attached to these minutes.

IX. Public Comment

The Chair asked if there was any public comment. There was none.

X. Next Meeting

After discussion, the Chair announced that the next meeting will be held at **9:00 a.m. on Monday, November 16, 2009 at 9:00 a.m.** in Waterford. The room location for the meeting will be determined and announced when a room at the Oakland County Executive Building is secured. A date for the December meeting was set tentatively for December 10, 2009 at 10:00 a.m. with the location to be determined at the November meeting.

XI. Adjournment

Having no further business, the meeting was adjourned at 11:35 a.m.

(Approved at the November 16, 2009 Legislative Commission on Statutory Mandates meeting.)



C O U N T Y M I C H I G A N

L. BROOKS PATTERSON, OAKLAND COUNTY EXECUTIVE

Robert J. Daddow
Special Projects Deputy County Executive

September 23, 2009

Ms. Karen G. Norcross
Sr. Numbering Resources Specialist
Operations and Tariffs Section
Telecommunications Division
Michigan Public Services Commission
Lansing, Michigan

Re: 9-1-1 Training Standards – Conflicts with the Headlee Amendment

Dear Ms. Norcross:

Oakland County is in receipt of the most recent draft of the 9-1-1 Training Standards and have a significant concern with regards to the State funding of this new mandate. Oakland County is in support of improvements in minimum personnel standards and training for dispatch professionals. Specifically, stated in the draft rules is the assertion that "Compliance with the provisions of this **rule** shall be **mandatory** no later than December 31, 2010" (emphasis added).

The County's support does not negate the State's funding responsibilities under the Headlee Amendment, (Section 29 of the Michigan Constitution), which reads:

"The state is hereby prohibited from reducing the state financed proportion of the necessary costs of any existing activity or service required of units of Local Government by state law. A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the legislature or any state agency of units of Local Government, unless a state appropriation is made and disbursed to pay the unit of Local Government for any necessary increased costs. The provision of this section shall not apply to costs incurred pursuant to Article VI, Section 18."

In lay terms, any new rule or mandate created after the Headlee Amendment's effective date of December 23, 1978 imposing costs on local units of government requires full funding by the State. As you are likely aware, a recently settled lawsuit between school districts and the State concerning levels of funding sets forth new standards of funding requirements relating to the compliance with the Headlee Amendment. The State's position in that lawsuit was that because the State provided funding prior to the adoption of the new mandate, the costs associated with the *new* mandate is now considered to be incorporated within that original funding level. The State's Supreme Court ruled otherwise. Funding for past rules and mandates remain unchanged while new State-mandated costs are to be covered by new State revenue sources.

The costs burdened on local dispatch operations to comply with the proposed new rule could include, but not be limited to, the training sessions, backfilling of dispatch time while at training, elimination of temporary duty personnel in dispatch functions (requiring additional personnel to be hired) and administrative costs. If the State intends on imposing new costs on local dispatch operations, new State funding would be required under the State's Constitution, specifically the Headlee Amendment.

Similarly, any prior actions by the State in promulgating rules and mandates involving local 9-1-1 operations would also require full State funding should those rules and mandates have become effective after the Headlee Amendment become effective on December 23, 1978. In a letter dated August 31, 2009, there is a reference to '...the rulemaking process mandated by the Emergency 9-1-1 Services Enabling Act, PA 32 of 1986.' No review of the components of this past legislation has been made but should there be new costs that were burdened on local units of government that remain fully unreimbursed, the State would be obligated to fund these costs under the Headlee Amendment as well.

While providing higher standards in dispatch services is helpful to public safety, the adoption of favorable new rules does not negate the State's requirement to comply with the Constitution.

Very Truly Yours,



Robert J. Daddow,
Deputy County Executive

Copy to: Legislative Commission on Statutory Mandates



L. BROOKS PATTERSON, OAKLAND COUNTY EXECUTIVE

C O U N T Y M I C H I G A N

Robert J. Daddow
Special Projects Deputy County Executive

September 23, 2009

Dr. Corinne Miller
State Epidemiologist and Director Bureau of
Epidemiology - Department of Community Health
Capitol View Building
201 Townsend Street
State of Michigan
Lansing, Michigan 48913

Re: Public Act 149 (PA 149) Proposal – Conflicts with the Headlee Amendment

Dear Dr. Miller:

Oakland County is in receipt of your letter to health officers dated August 25, 2009 concerning PA 149 enacted in December 2007. This letter indicates that owners or operators of body art facilities are required to apply for a Body Art Facility License through the Michigan Department of Community Health (MDCH).

The 'authorizing' of Oakland County to perform these services does not require the County to do so absent funding of the service. Although Oakland County currently licenses and conducts inspections of body art facilities, as required by the Oakland County Sanitary Code, Article VII, this letter will service notice that enforcement activities authorized by Public Act 149 (PA 149) will not be forthcoming from the County's Public Health Division, absent State funding to do so.

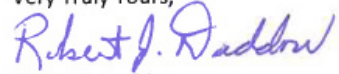
The State's mandate is clearly in violation of the Headlee Amendment (Section 29 of the Michigan Constitution), which reads:

"The state is hereby prohibited from reducing the state financed proportion of the necessary costs of any existing activity or service required of units of Local Government by state law. A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the legislature or any state agency of units of Local Government, unless a state appropriation is made and disbursed to pay the unit of Local Government for any necessary increased costs. The provision of this section shall not apply to costs incurred pursuant to Article VI, Section 18."

If there is State funding to provide this service, Oakland County will be perfectly willing to comply with the mandates within PA 149. Otherwise, this letter will serve notice that no actions beyond the County's ordinance will be forthcoming from the County's Public Health Division. Of course, the County will authorize the State, on the County's behalf, to conduct the inspections should you so desire.

Regrettably, without the underlying State funding of this new mandate, Oakland County cannot accept the State's responsibility for these new service level requirements.

Very Truly Yours,



Robert J. Daddow,
Deputy County Executive

Copy to: Mr. George Miller, Director
Department of Health and Human Services



NEWS > LOCAL NEWS

County to state: Follow the law

[Print Page](#)

Commissioners pass resolution to withhold payments to the State of Michigan

By Kate Hessling, Tribune Staff Writer

Published: Thursday, September 24, 2009 10:57 AM EDT

BAD AXE — In an act of protest against unfunded mandates on county governments, Huron County commissioners on Tuesday unanimously approved a resolution to explore withholding any payment due to the state government.

"This Board of Commissioners of Huron County intends to explore every legal means of withholding, dollar for dollar, any payment due to the State of Michigan where the state has withheld payments to the County of Huron that are mandated," Tuesday's resolution states.

Because counties, like the state, are required to have a balanced budget, the board's resolution states it will balance its budget by decreasing its payments to the state in the amount the state has decreased the money it's mandated to give the county.

"This Board of Commissioners of Huron County does so begrudgingly, as we and all citizens expect better from our government that serves us," the resolution states. "We hope that we will not have to resort to such a measure, but rather that the state will find a way to balance its revenues and expenditures the same way counties do — through appropriate cuts that do not include withholding payments that have been legally agreed to be made for services directed (by the state) and provided (by counties)."

The resolution explains that state legislators pass into law various provisions requiring counties perform certain services. The provisions then include how the mandated services are to be performed by counties, and an amount of funding counties are supposed to receive from the state to perform these services.

"(But) over time, many state elected officials have apparently lost an understanding of this interconnected relationship between the two levels of Michigan government, and of the laws in place that REQUIRE certain levels of funding to counties and prohibit unfunded

mandates," Tuesday's resolution states. " ... State officials must follow their own laws if they expect the citizens to do so, must pass appropriate legislation that properly funds mandates and not disingenuous laws that provide loopholes for the state government to shift their burden when desired, and must not balance their budget by withholding required payments to counties while expecting to receive revenues back from the counties in full."

The resolution notes despite the Headlee Amendment, which amended the state's constitution in 1978 to protect counties from unfunded mandates from the state legislature, lawmakers in Lansing have continued to add more mandates for counties, while cutting funding year after year to county governments.

Also, the state has not followed the Glenn Steil State Revenue Sharing Act of 1971, which requires 21.3 percent of the 4 percent sales tax be given to local governments and 25 percent of that local government sharing go to counties.

The legislature also has not made good on a public act passed in 2004 that created the County Revenue Sharing Reserve Fund. That act temporarily suspended the Glenn Steil State Revenue Sharing Act of 1971, and taxed all Michigan residents earlier than previously scheduled for property taxes so lawmakers could utilize the revenues as a temporary replacement to the statutory revenue sharing for counties. The stipulation was that the state would return to counties the full amount of their previous revenue sharing when this alternate source of revenue has become depleted. Yet, state proposals now calling for a \$163 million cut in revenue sharing are ignoring that statutory mandate, Tuesday's resolution states.

Also, the state has decided to not pay jail reimbursements to counties for the fourth quarter of the fiscal year, which ends Sept. 30, according to Tuesday's resolution. The state also has not made payments to counties — payments that are supposed to be made in lieu of paying local property taxes — for certain real property owned by the state and controlled by the Department of Natural Resources.

The resolution commissioners passed Tuesday is one that originally was crafted and approved by the Lapeer County Board of Commissioners in August. Lapeer County sent other counties around the state copies of the resolution, in hopes their counterparts from around the state would vote to withhold payments to the state government in protest of unfunded mandates on county governments. Huron County is at least the second to pass the resolution, and other counties are considering to do the same.

Huron County commissioners noted the county currently is studying how much mandated costs are paid in Huron County.

Commissioner Dave Peruski, who heads the Finance Committee, said that information is crucial in determining how much the county will withhold in its payments to the state.

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