

SUBJECT: Unfunded mandates on political subdivisions

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 14 ayes — Seidlits, S. Turner, Alvarado, Black, Bosse, Carter, Craddick,
Danburg, Hilbert, B. Hunter, D. Jones, McCall, Ramsay, Wolens

0 nays

1 absent — Hochberg

WITNESSES: For — Sam D. Seale, Texas Association of Counties; Amalia Rodriguez
Mendoza, County and District Clerks Association of Texas

Against — Lonnie Hollingsworth, Texas Classroom Teachers Association

DIGEST: CSHB 142 would create an interagency workgroup to compile and review
unfunded state mandates and to report to the governor and the Legislature.

State mandates would be defined as requirements made by statute on or
after January 1, 1995, that require political subdivisions to establish, expand
or modify an activity in a way that requires political subdivision
expenditures that would not have been otherwise required.

State mandates would be considered funded if the Legislature appropriates,
pays or reimburses the costs incurred in the calendar year by the political
subdivision from a source other than the revenue of the political
subdivision.

A statute enacted by a record vote of two-thirds of the members of each
house that expressly provides that the mandate is not subject to
reimbursement would also be considered a mandate for which the
Legislature has provided reimbursement.

The interagency workgroup to review state mandates would consist of the
state auditor, the comptroller and directors of the Legislative Budget Board
and the Sunset Advisory Commission. It would be required to compile a
list of unfunded mandates enacted by each legislature on or before

September 1 following each regular session and within 90 days of each special session. It would also be required to remove from the list unfunded mandates that were funded by the legislature, no longer in effect or no longer subject to reimbursement.

The workgroup list would not apply to mandates removed from the list or reimbursed, mandates enacted to comply with constitutional, federal or court-ordered requirements, mandates creating or changing a criminal offense or mandates approved by the voters.

The workgroup also would be required to conduct a sunset review of listed unfunded mandates. Each mandate would be reviewed before September 1 of the even-numbered year before its fifth anniversary of enactment. The workgroup would be required to review the mandate's legislative history, to conduct a cost-benefit evaluation and report its findings to the legislature and the governor at the time of each regular session.

The Legislature in the regular session immediately following the issuance of the report could repeal the mandate, take no action or continue the mandate for a period not to exceed five years.

The bill would take immediate effect if approved the two thirds of the membership of each house.

**SUPPORTERS
SAY:**

CASHB 142 would take an important step in containing the imposition of unfunded state mandates on political subdivisions. Unfunded mandates have been a particular problem with local governments in the past five years as federal and state policymakers look for alternative funding sources for government priorities. State government has few incentives or restrictions to curb the enactment of unfunded mandates.

CASHB 142 would help contain unfunded mandates and associated expenses by establishing a tracking and review process that would keep the financial ramifications of legislative and state agency actions in the public eye. It would also impose a five-year stipulation on each unfunded mandate that would trigger a formal state review that could lead to the mandate's repeal.

It would be unreasonable to eliminate entirely the option of unfunded state mandates or to grant entitlement to reimbursement to political subdivisions. Some government activities are more effectively and fairly funded at the local level — especially those activities that are related to use or population characteristics. In many cases it is reasonable to ask local governments to assist the state in funding Texas priorities.

OPPONENTS
SAY:

CSHB 142 needs stronger provisions to ensure its effectiveness — it would not provide any guaranteed financial relief for political subdivisions. The state conducts countless studies and reviews that are not paid attention to during the legislative session. The Legislature should be required to take formal action upon the sunset review of an unfunded mandate, such as to continue, modify or repeal the mandate.

Granting entitlement to political subdivisions for whole or partial reimbursement of certain unfunded mandates would be more fair to local governments and a more effective means of containing the state's use of unfunded mandates. Another measure to curb the growth of unfunded mandates would be to establish an administrative process by which political subdivisions could petition the comptroller for reimbursement under certain conditions.

NOTES:

The original version would have created an entitlement for political subdivisions to reimbursement from the state for state mandates. It would have required the comptroller to publish a list of mandates enacted by the legislature, required political subdivisions to petition the comptroller to include additional mandates on the list, within 60 days of the list publication, and to apply to the comptroller for reimbursement not later than March 1 following the year in which the expense occurred. Reimbursements to school districts would have been provided through equalized allotments; provisions to challenge or appeal a comptroller's decision were also provided.