



# The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

STATE HOUSE, BOSTON 02133

A. JOSEPH DeNUCCI  
AUDITOR

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March 8, 2010

The Honorable James B. Eldridge, Chair  
The Honorable Paul J. Donato, Chair  
Joint Committee on Municipalities and Regional Government  
State House – Room 540  
Boston, Massachusetts 02133

Dear Chairmen Eldridge and Donato:

I am writing to record my support for HOUSE NO. 4, AN ACT RELATIVE TO LOCAL MANDATES and General Laws Chapter 29, section 27C. This bill seeks to clarify the scope of municipal protection from unfunded state mandates by further defining the term "local mandate." Under House 4, local mandates would include new state laws and regulations that increase the cost of local government activities undertaken pursuant to the lawful authority of state law, regulation, or local charter, whether or not the activity is strictly required by state law. The bill would also provide that the Local Mandate Law would apply to a costly amendment to a local option law, when the amendment is enacted after the initial local vote to accept the original law.

As you know, many traditional local governmental functions are authorized, but not required by state law. Municipalities may undertake these types of activities under a general grant of authority that need not be ratified by local acceptance of a specific state law. Examples of such voluntary functions include maintenance of the public water supply, recreational beaches, and solid waste management. Court interpretations have indicated that the current text might limit application of the Local Mandate Law to state actions that increase the cost of activities that are explicitly required by state law, like, for example, operating public schools and conducting state elections. Consistent with the purposes and original intent of Proposition 2 ½, this bill would clarify that the Local Mandate Law applies to all fields of local activity, not just those strictly required by state law.

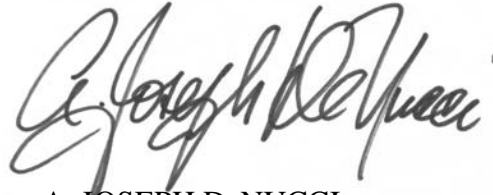
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The authority to conduct a number of other municipal activities is realized only by vote of the local legislative authority to accept specific provisions of state law, as in providing certain property tax breaks for senior citizens and participating in the Emergency 911 network. Under the Local Mandate Law, the Commonwealth is clearly not obligated to fund this type of voluntary activity, because it is undertaken by affirmative vote of the community, with full knowledge of the additional financial obligations. Again, consistent with the purposes of Proposition 2 ½, House 4 would clarify that any state amendment to such a local option law enacted subsequent to the initial local acceptance would require an additional local acceptance vote to take on any increased financial obligation.

I believe that House 4 would clarify the scope of municipal protection from unfunded state mandates in a way that promotes the fiscal stability of the communities of our state. I am grateful for the past support this Committee has shown for similar proposals I have filed, and respectfully request that you recommend that House 4 ought to pass.

Sincerely,

A handwritten signature in dark ink, appearing to read "A. Joseph DeNucci". The signature is fluid and cursive, with a large initial "A" and a prominent "D".

A. JOSEPH DeNUCCI  
Auditor of the Commonwealth