

City of Sacramento
State Legislature

3

B I L L R E F E R R A L

DATE: DEC 20 1990 COMMITTEE ACTION: _____

TO: B. Masuska, Finance DATE: _____

FROM: KENNETH EMANUELS, LEGISLATIVE ADVOCATE

REPLY NO LATER THAN: JAN 10 1991

A.B. ACA 3, As Amended - * Author McClintock

S.B. _____, As Amended _____ * Author _____

*Date of introduction or latest amendment

Please review the attached measure to determine its effect upon the City of Sacramento and complete the following questions as appropriate. During your analysis of this measure, if questions arise, please feel free to contact Ken Emanuels at 444-6789, FAX 444-0303, (1400 K Street, Suite 306, Sacramento, CA 95814.) This questionnaire should be returned to the City Attorney's Office for presentation to the Council Committee on Law and Legislation. PLEASE LEAVE THE BILL ATTACHED TO THIS FORM.

NO RECOMMENDATION. If you think no Committee action on this bill should be taken, either because the bill is not of sufficient importance to the City or for any other reason, please mark here, do not fill out the rest of the form, and return this form to the City Attorney's Office. _____.

PLEASE TYPE YOUR RESPONSE

1. Briefly describe the provisions of the bill (attach additional sheets if necessary). ACA 3 would modify the current procedures for local government to be reimbursed for state mandated programs or changes in the level of service. Current legislation require local entities to claim reimbursement for the costs of state mandated programs. ACA 3 would require the State Commission on mandates to determine if a state requirement is a mandate. If so, funding will be made available before the mandate becomes effective. If funding is not available, the mandate will not become effective until 90 days after funding is provided.

2. This measure should be: (Please circle desired position)

- Supported
- Opposed
- Supported if Amended
- Placed on Watch List
- Other (explain)

3. Please explain your reasons for the above determination, including how this measure effects your Department and the fiscal impact of this measure on the City. Please make your comments in a format that can be used in a letter to state officials. (Continue on next page or attach additional sheets if necessary.) Currently local government is required to apply to the State for reimbursement of costs expended on state mandated programs/services. Also local entities are required to submit a test claim to the commission on State Mandates for state mandates that have not been funded.

Continue answer to Question No. 3 here).

ACA 3 would provide funding for the costs of mandates before they become effective. Thus local government funds ~~are~~ not used to pay for state mandates and reimbursed by filing claims.
USCLD BE

4. Specify the City's legislative policy guideline(s) applicable to this measure (if any).

None

5. If this measure could be amended to either improve its favorable aspects or to minimize its adverse aspects, which amendments would you propose?

None

6. List known support or opposition to this measure by groups with which you are familiar and include addresses and phone numbers, if known. League of California Cities position:

None known

7. Does this bill involve a State-mandated local program? If so, does the bill contain a State-mandated waiver, or an appropriation for allocation and disbursement to local agencies pursuant to Revenue and Taxation Code Section 2231?

ACA 3 restructures the state mandate reimbursement process.

8. Using a rating scale of 1 to 10 (with 10 as the most important), how important do you think this bill is to the City of Sacramento? 10

FORM COMPLETED BY: Louis Myles, Assistant Revenue Manager DATE: January 4, 1991

Assembly Constitutional Amendment**No. 3**

Introduced by Assembly Member McClintock

December 3, 1990

Assembly Constitutional Amendment No. 3—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 6 of, and by adding Section 6.5 to, Article XIII B thereof, relating to state-mandated local costs.

LEGISLATIVE COUNSEL'S DIGEST

ACA 3, as introduced, McClintock. State-mandated local programs.

Existing provisions of the California Constitution require that, whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall reimburse the local government for the cost of the program or increased level of service, except for specified exemptions.

This measure would, instead, provide that whenever the Legislature or any state agency mandates any new program or higher level of service on any local government, the state would be required to provide a subvention of funds to pay the local government for the increased cost. It would modify and add to the existing constitutional exemptions.

This measure would further provide that no statute, other than certain specified statutes, and no executive order or regulation, which mandates a new program or higher level of service on local government would become operative sooner than 90 days after the Commission on State Mandates determines either that the state is not required pursuant to the measure to provide a subvention of funds for the increased cost or that sufficient funds have been appropriated

to pay local government for the increased cost.

This measure would provide that whenever the Legislature or any state agency mandates a limitation on, or exemption from, a charge, fee, assessment, or tax levied by local government or a decrease or redistribution of state subventions or other state funds to local government which is not offset by an equivalent reduction in the mandated costs of the local government, the state would be required to reimburse the local government for the amount of the revenue loss to the local government arising from the mandate.

→ Existing provisions of statutory law prescribe the membership of the Commission on State Mandates and prescribe the powers and duties of the Commission on State Mandates with regard to the administration and implementation of the statutory procedure for the disposition of claims by local governmental entities for the reimbursement of state-mandated local costs.

This measure would add to the Constitution the provisions which prescribe the membership of the commission. It would require the commission to investigate and monitor all programs or higher levels of service enacted or adopted after July 1, 1975, to determine if they are sufficiently funded, as specified, and if not, would provide that the duty of the local entities to carry out the program or service would be suspended and further compliance would be voluntary if funding is not provided by the next succeeding fiscal year. This provision would not apply to school districts, county offices of education, or community college districts.

This measure would provide that any determination by the commission pursuant to the measure may be set aside or superseded by a resolution introduced in the Assembly and approved by $\frac{2}{3}$ of the membership of each house of the Legislature.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

1 Resolved by the Assembly, the Senate concurring, That
2 the Legislature of the State of California at its 1991-92
3 Regular Session commencing on the third day of
4 December 1990, two-thirds of the members elected to
5 each of the two houses voting therefor, hereby proposes
6 to the people of the State of California that the
7 Constitution of the State be amended as follows:

8 First—That Section 6 of Article XIII B thereof is
9 amended to read:

10 SEC. 6. (a) Whenever the Legislature or any state
11 agency mandates a new program or higher level of
12 service on any local government, the state shall provide
13 a subvention of funds to reimburse such pay the local
14 government for the costs of such increased cost of that
15 program or increased higher level of service, except that
16 the Legislature may, but need not, provide such
17 subvention of funds for the following mandates:

18 (a) Legislative mandates requested by the local
19 agency affected;

20 (b) Legislation defining a new crime or changing an
21 existing definition of a crime; or

22 (c) Legislative mandates enacted prior to January 1,
23 1975, or executive orders or regulations initially
24 implementing legislation enacted prior to January 1,
25 1975, regardless of whether the mandate applies to public
26 or private entities other than local government.
27 However, the Legislature may, but need not, provide a
28 subvention of funds for any increased cost arising from a
29 new program or higher level of service imposed by any
30 of the following:

31 (1) A statute requested by the local agency affected.

32 (2) A statute defining a new crime or changing an
33 existing definition of a crime, to the extent that the
34 increased cost relates directly to law enforcement.

35 (3) A statute enacted prior to January 1, 1975, or an
36 executive order or regulation initially implementing a
37 statute enacted prior to January 1, 1975, including any
38 adjustments for changes in cost of living or population.

39 (4) A statute, executive order, or regulation
40 implementing a federal law or regulation, to the extent

1 that the federal law or regulation specifically requires the
2 state without discretion to mandate a new program or
3 higher level of service on any local government.

4 (5) A statute, executive order, or regulation
5 implementing an initiative measure approved by the
6 voters in a statewide election.

7 (6) A statute, executive order, or regulation which
8 specifically authorizes and requires the levy of a charge,
9 fee, assessment, or tax sufficient to fully reimburse local
10 government for any increased cost arising from the
11 mandate.

12 (b) There is hereby created the Commission on State
13 Mandates, which shall consist of five members as follows:

14 (1) The Controller.

15 (2) The Treasurer.

16 (3) The Director of Finance.

17 (4) The Director of the Office of Planning and
18 Research.

19 (5) A public member with experience in public
20 finance, appointed by the Governor and confirmed by
21 the Senate.

22 The public member shall serve for a term of four years
23 and may be reappointed, may receive per diem as
24 provided by the Legislature by statute for each day
25 actually spent in the discharge of official duties, and shall
26 be reimbursed for any actual and necessary expenses
27 incurred in connection with the performance of duties as
28 a member of the commission.

29 (c) The commission shall hear and decide upon a
30 claim by any local agency or school district that the local
31 agency or school district is entitled to be reimbursed by
32 the state for costs mandated by the state as required by
33 subdivision (a). In carrying out its responsibilities under
34 this section, the commission may exercise those powers,
35 shall perform those duties, and shall operate under those
36 procedures, provided by law.

37 (d) No statute, other than an urgency statute, a statute
38 calling an election, a statute providing for a tax levy, or
39 a statute containing an appropriation for the usual
40 current expenses of the state, and no executive order or

1 regulation, which mandates a new program or higher
2 level of service on local government shall become
3 operative sooner than 90 days after the Commission on
4 State Mandates determines either that the state is not
5 required pursuant to subdivision (a) to provide a
6 subvention of funds for the increased cost arising from
7 the new program or higher level of service or that
8 sufficient funds have been appropriated to pay local
9 government for the increased cost.

10 (e) Within 90 days of the effective date of any statute,
11 executive order, or regulation which is subject to
12 subdivision (d), the Commission on State Mandates shall
13 determine whether the state is required pursuant to
14 subdivision (a) to provide a subvention of funds for the
15 increased cost arising from the new program or higher
16 level of service mandated by the statute, executive order,
17 or regulation and, if so, whether sufficient funds have
18 been appropriated to pay local government for the
19 estimated increased cost.

20 (1) If the commission determines that the state is not
21 required to provide a subvention of funds pursuant to
22 subdivision (a) or that sufficient funds have been
23 provided, it shall so declare and the statute, executive
24 order, or regulation shall become operative 90 days
25 thereafter, unless a later time is otherwise provided by
26 law.

27 (2) If the commission determines that the state is
28 required to provide a subvention of funds but sufficient
29 funds have not been provided, it shall so declare and the
30 statute, executive order, or regulation shall not become
31 operative until 90 days after the commission
32 subsequently determines that sufficient funds have been
33 provided.

34 Any determination made by the commission pursuant
35 to this subdivision shall be filed with the Secretary of
36 State.

37 (f) The Commission on State Mandates shall
38 investigate and monitor all statutes, executive orders, or
39 regulations imposing a new program or higher level of
40 service on local government enacted or adopted after

1 July 1, 1975, for which the state is required by subdivision
2 (a) to provide a subvention of funds, to determine
3 whether the increased costs of the new program or
4 higher level of service imposed has been funded and, if
5 so, whether the funding has been and continues to be
6 sufficient to pay for the increased costs. If the commission
7 determines that funding has become insufficient to pay
8 for the increased cost, the commission shall so declare
9 and shall calculate the current amount of the increased
10 cost, and shall report that amount to the Legislature. If,
11 by the commencement of the next succeeding fiscal year,
12 the Legislature has not appropriated an amount
13 sufficient to pay the current amount of the identified
14 increased cost imposed on local government, the duty of
15 local government to incur the increased cost shall be
16 suspended and any increased cost incurred shall be
17 voluntary until the commission determines that sufficient
18 funds have been appropriated.

19 For purposes of this subdivision, "local government"
20 does not include school districts, county offices of
21 education, or community college districts.

22 (g) Any determination by the Commission on State
23 Mandates pursuant to this section may be set aside or
24 superseded by a resolution introduced in the Assembly
25 and approved by two-thirds of the membership of each
26 house of the Legislature. The state or any local
27 government may bring an action in the courts by petition
28 for administrative mandamus to appeal any
29 determination by the commission.

30 (h) The Legislature may not enact any statute which
31 disclaims or waives any obligation imposed on the state
32 by this section. The Legislature may not enact any statute
33 which requires any local government to waive its right to
34 reimbursement under this section or its right to decline
35 performance of any mandate because of insufficient
36 funding as provided by this section.

37 Second—That Section 6.5 is added to Article XIII B
38 thereof, to read:

39 SEC. 6.5. Whenever the Legislature or any state agency
40 mandates a limitation on, or exemption from, a charge,

1 fee, assessment, or tax levied by local government or a
2 decrease or redistribution of state subventions or other
3 state funds to local government which is not offset by an
4 equivalent reduction in the mandated costs of the local
5 government, the state shall reimburse the local
6 government for the amount of the revenue loss to the
7 local government arising from the mandate.

8 Third—That the amendments to Section 6 of Article
9 XIII B proposed by this measure, except as otherwise
10 expressly provided in subdivision (f), shall apply only to
11 increased costs arising from a new program or a higher
12 level of service imposed on or after the operative date of
13 this measure.

14 Fourth—That this measure shall be interpreted
15 liberally to carry out the intent to preserve the limited
16 financial resources of local government by requiring the
17 state to pay for every new program, higher level of
18 service, or revenue loss mandated by the Legislature or
19 a state agency.

20 Fifth—That if any provision of this measure or the
21 application thereof to any person or circumstances is held
22 invalid, that invalidity shall not affect other provisions or
23 applications of the measure which can be given effect
24 without the invalid provision or application, and to this
25 end the provisions of this measure are severable.

O