

**SUBJECT:** Compiling state unfunded mandates on local government

**COMMITTEE:** State Affairs — committee substitute recommended

**VOTE:** 9 ayes — Wolens, S. Turner, Carter, Counts, Craddick, Hunter, Longoria, McCall, Ramsay

0 nays

1 present, not voting — Danburg

5 absent — Alvarado, Brimer, Hilbert, D. Jones, Stiles

**WITNESSES:** For — Jane Backus, Texas Association of School Boards; Sheryl N. Cole, Texas Municipal League

Against — Walter Hinojosa, Texas AFL-CIO

On — Lonnie Hollingsworth, Classroom Teachers Association

**DIGEST:** CSHB 66 would appoint an interagency work group to review and compile a list of unfunded mandates placed by the state on local governments. By September 1 following a regular legislative session, or by the 90th day after the last day of a special session, the work group would publish a list of unfunded mandates enacted during the session. The group would remove from the list any mandates for which the Legislature had provided reimbursement, those no longer subject to reimbursement, and those no longer in effect.

A mandate would be considered funded if the Legislature expressly stipulated, in a statute enacted by a two-thirds record vote of the membership of each house, that the mandate was not subject to reimbursement or if it provided payment or reimbursement for the costs incurred by the political subdivision in complying with the mandate. The bill's provisions would not apply to mandates imposed by the Legislature or a state agency to comply with a requirement of the Texas Constitution, federal law, or a court or to maximize the receipt of federal funds or to mandates approved by the voters in a general election.

Before the third anniversary of a mandate's enactment, the work group would review the mandate's legislative history, conduct a cost-benefit analysis on its effect on political subdivisions, and present a written report to the Legislature and the governor on these findings. During the regular session following the report's issuance, the Legislature could continue the mandate for a period not to exceed three years, repeal the mandate, or take no action.

The interagency work group would consist of the state auditor; the director of the Legislative Budget Board; the director of the Sunset Advisory Commission; the comptroller; a senator appointed by the lieutenant governor; and a member appointed by the speaker of the House. Members of the work group could not receive additional compensation for their service, and members could use employees of their agencies to complete the group's work.

CSHB 66 would take immediate effect if finally approved by a record two-thirds vote of the membership in each house.

**SUPPORTERS  
SAY:**

CSHB 66 would foster successful cooperation among state and local governments in Texas. In this critical time of redefining the role of government at various levels, it is essential to understand the practical effects state policy has on the localities that must carry out, and sometimes pay for, new laws and regulations. CSHB 66 would provide legislators with a body of useful, reliable information on these issues, enabling them to make decisions for the good of all Texas.

Unfunded mandates can severely strain the resources of local governments and taxpayers. Imposing such mandates willy-nilly without regard to their implications is fundamentally unfair and undemocratic. Localities have little say in their imposition and have no means by which to hold lawmakers accountable for their actions. State lawmakers who impose the mandates do not have to vote for the taxes that fund them nor make the spending cuts necessary to offset new expenditures. When new expenditures of money, staff time, or other resources are required, local priorities must be pushed aside in order to accommodate them. CSHB 66 would provide a clear picture of the effects unfunded mandates are having on local governments, and allow the Legislature to respond as it sees fit.

The bill would not limit the power of the Legislature in dealing with local governments. It would not alter state policy toward unfunded mandates in any way. Instead, it would enhance the Legislature's effectiveness by providing the best information possible regarding state and local fiscal relationships. The list of unfunded mandates provided by the working group could be a useful tool in the appropriations process, allowing legislators to examine the details of various mandates and prioritize spending decisions accordingly.

Localities are troubled about the increasing pressures of unfunded mandates on their resources and would welcome an indication that state leaders share their concern. The bill would be a modest beginning to dealing with unfunded mandates, an approach other states have used in getting a handle on the problem.

OPPONENTS  
SAY:

CSHB 66 would unnecessarily aggravate the relationship between state and local governments. The bill's focus on unfunded mandates gives the false impression of an adversarial relationship between state and local governmental entities, when in fact they share a symbiotic relationship. This has never been more true than it is today, when trends toward devolution and local control have encouraged cooperation between the state and localities.

The nature of the multi-level structure of our government dictates that the policies of one level may affect the fiscal affairs of another. Many actions of state government result in increased expense to localities, but are not legislative mandates as such. For example, a reduction in or elimination of a state program could increase the burden on localities to serve the population affected by the cutback. Interpreting such changes as unfunded mandates could inhibit the state's flexibility to respond to changing policy and financial needs. The bill does not indicate how it would classify such policy changes, and the information it calls for could be misinterpreted.

CSHB 66 would undermine the policy-setting and appropriations functions of the Legislature. In most cases, groups protesting unfunded mandates have in fact received funding, though it was not required to be spent on the specific purposes of the mandate. For example, some educators complain that a 22-1 student-teacher ratio in public schools is an unfunded mandate,

because state appropriations contain no specific mention of funds for this purpose. However, public schools receive millions of dollars in state funds each year that can be used to meet this requirement. Localities have abdicated their planning function when they spend state dollars on non-mandated activities and then insist that the state has not funded its requirements on local resources. The incremental nature of Texas' budget process dictates that it make new requirements affecting localities; each new decision would not necessarily constitute an unfunded mandate.

CSHB 66 would simply provide ammunition for localities to use against the state, complicating the already difficult decisions the state must make in allocating state resources.

OTHER  
OPPONENTS  
SAY :

CSHB 66 would not provide effective information on the status of unfunded mandates in Texas. The bill provides several escape clauses; for example, the Legislature could elect to take no action on the work group findings. Furthermore, the Legislature could, if it chose, rule by statute that a given mandate would not be included as an unfunded mandate, effectively defeating the purpose for which the bill was proposed.

NOTES:

The committee substitute changed provisions dealing with the composition of of the work group, the mandates for consideration, and the time periods for reviewing and continuing mandates.