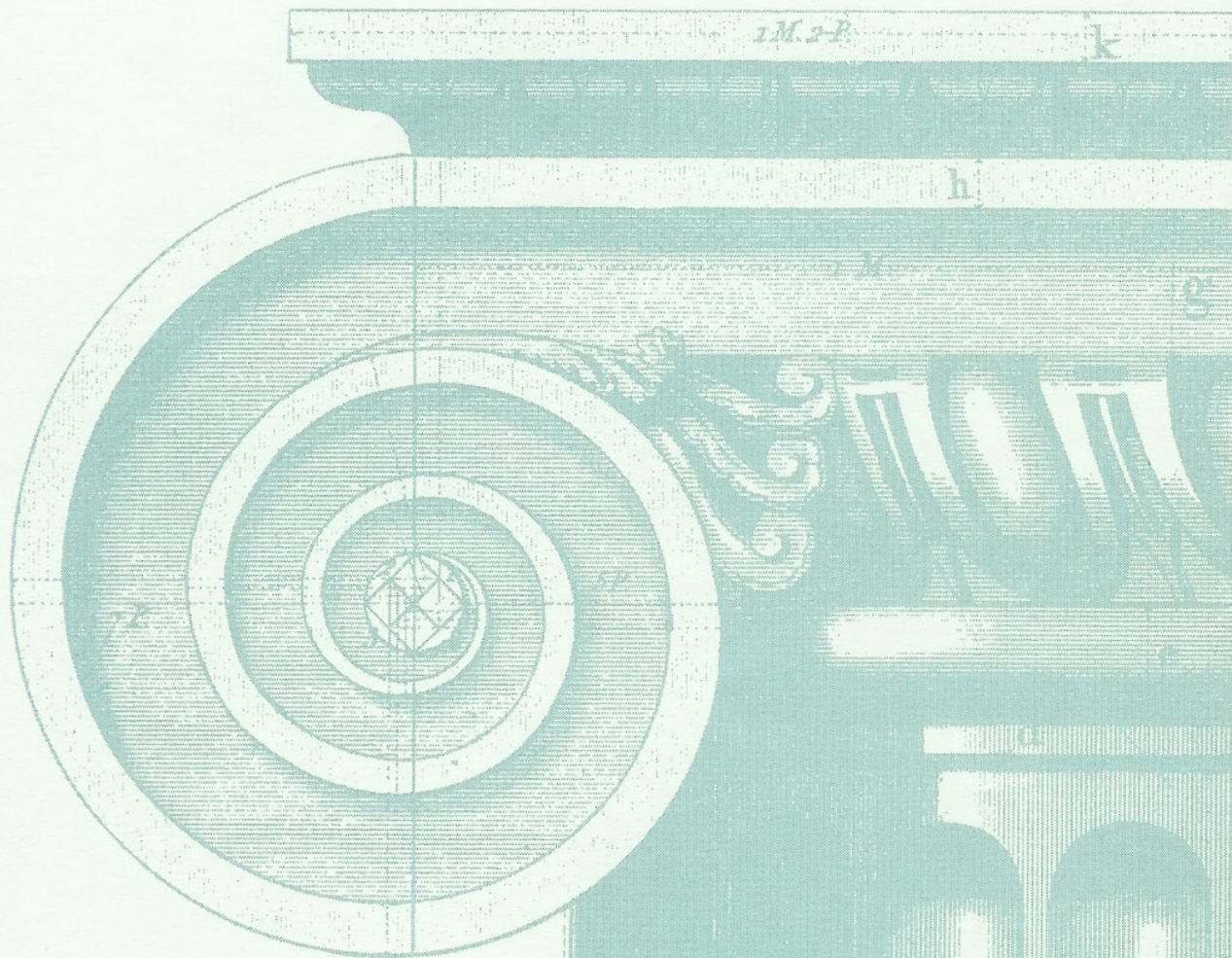


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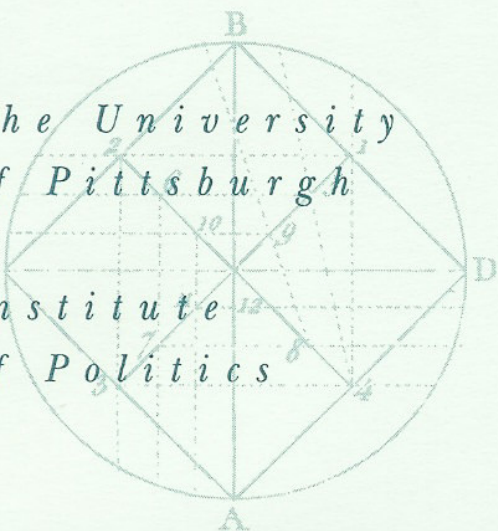
STATE MANDATED SERVICES

Clarke M. Thomas



*The University
of Pittsburgh*

*Institute
of Politics*



State Mandated Services

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"Local governments are the orphans of Pennsylvania." That complaint by Diane Bosak typifies the beleaguered feeling that local-government officials have about the way that the state mandates services—but without sending down sufficient money to finance the requirements. Bosak is a lobbyist for the Pennsylvania League of Cities and the Pennsylvania State Association of Township Commissioners.

Here's what seems to be happening:

1. The federal government, in keeping with the "new federalism" initiated by the Reagan administration, often mandates services to be supplied by lower levels of government, but without sufficient matching federal funds. The abolition of general revenue-sharing in 1987 has heightened this squeeze on state and local governments.

2. The state has done the same thing. The result is that the buck—without the bucks—stops at the local level, with local officials having to take the onus for increasing taxes to pay for the mandated services. That's why they feel like orphans.

3. Hanging in the air is a Pennsylvania Supreme Court decision ordering the state to finance the county court systems. The state legislature has shown no disposition to obey a ruling that obviously would shift a major burden from the

counties to the state. The separation-of-powers doctrine therefore has made it hard for the high court to press the matter. So a favorable decision won by Allegheny County in this particular case has netted nothing for the counties.

4. There is some evidence that the outcries of local-government officials are having a measure of impact on the state legislature. Despite a titanic budget battle that resulted in nearly \$3 billion in state tax increases, few new mandates to local governments of any appreciable significance were imposed by the 1991 legislature. Indeed, there is a move afoot to put on the ballot a constitutional amendment limiting the state from imposing new mandates on localities without adequate funding or a new revenue source.

But any full discussion about mandates edges into such areas as the total Pennsylvania tax system and its fairness, the quality of local government services, and the question of mergers and consolidation.

No one is sure just how many mandates there are. Virgil Puskarich, executive director of the state's Local Government Commission, estimates there are at least 8,000. His office has a completely computerized catalogue of mandates available to governmental offi-

cials at all levels. A helpful key is the "User's Manual to the Pennsylvania State Mandate Project," available from the office (State Capitol, Harrisburg PA 17120-0030).

The Pennsylvania League of Cities in its *1991 State of the Cities Report* says that all the mandates "ranging from administration to pensions to binding arbitration to heart/lung benefits" account for 50 percent of all municipal expenditures. The report notes that that leaves "local officials in control of only half of the local budget." (The League's address: 414 North Second St., Harrisburg, PA 17101.)

The mandates come in three major categories:

- Those required by the state constitution.
- Statutes passed by the state legislature.
- Administrative rules and regulations carrying out those mandates.

In some instances, the last of the three can catch local governments particularly unaware. Elam Herr, lobbyist for the Pennsylvania State Association of Township Supervisors, said, "In the past few years there were some bills passed that didn't seem like a mandate. But when the departments got done writing regulations, they ARE mandates."

One cogent example is the legisla-

tion mandating counties to set up 911 emergency telephone systems. While the money for the programs themselves was furnished in the form of a surcharge on telephone users, many local municipalities found themselves with an unexpected burden.

As Herr explained, a number of rural municipalities discovered they had to install street and road signs to aid emergency vehicles, and, in some cases, change the names and set up new signs to avoid confusion. If there is a 31 Broad Street in two adjacent townships, a life may be lost because 911 operators dispatched an emergency vehicle to the wrong place.

"It isn't a big expense," Herr said, "but it is quite a hassle for local officials. My point is that, while it is a good thing to do, nobody thought of the ramifications."

At this juncture, a caution is in order. As State Representative Ron Cowell of Wilkins Township points out, were it not for state mandates more than a century ago, we would not have public school systems (supported in part by local taxes). Cowell, chair of the House education committee, said it also shouldn't be forgotten that most improvements in the education systems of Pennsylvania have come because of standards imposed from the state level.

And State Budget Secretary Michael



STATE IMPOSED MANDATES

The following statistical summary identifies and classifies the state mandates imposed upon Pennsylvania local government units as of February 26, 1982. Additional mandates have been enacted since the original data was developed but have not been added to this list.

Total Mandates in File-6, 979

FUNCTIONAL CLASSIFICATIONS (one or more per mandate)	AFFECTED LOCAL GOVERNMENTS	PROCEDURAL REQUIREMENTS
Agriculture182	County1,796	Reporting Requirement805
Business & Commerce561	1st Class174	Fiscal Requirement2,046
Community Development748	2nd Class721	Personnel Requirement1,203
Courts & Corrections724	2A Class726	Planning/Evaluation Requirement353
Education1,269	3rd Class786	Record Keeping Requirement523
Elections709	4th Class746	Performance2,349
Environmental Resources537	5th Class739	Organizational493
Finance2,347	6th Class744	Operational2,966
Govt. Operations/ Admin.5,949	7th Class741	MANDATE CONSTRAINTS
Human Resources ...262	8th Class741	Revenue Base266
Insurance231	Institutional Districts ..118	Revenue Rate195
Law Enforcement & Public Protect.542	Cities1,161	Expenditure Limit ...222
Public Health & Safety1,079	1st Class613	Debt Limit20
Public Improvement & Facilities2,798	2nd Class522	
Real & Personal Property855	2A Class304	IMPOSITION OF MANDATE
Social Services & Welfare474	3rd Class592	Direct Order4,289
Taxation1,666	Townships1,148	Condition of Aid171
Transportation550	1st Class232	Authorization2,076
Officials2,551	2nd Class199	Conditional443
Board of Commissioners759	Boroughs1,566	
	Incorporated Towns ..720	
	All Local Government Units592	

SOURCE: Pennsylvania Local Government Commission, 1982



Hershock made the point this way: "It is my experience that the legislature is often unwilling to relinquish the idea it shouldn't do so just because those expenditures for health and safety come at the local level."

New environmental philosophies, such as recycling, are important recent examples. Also, as John Gardner of the Pennsylvania State Association of Boroughs points out, the state on occasion has mandated standards more strict than federal requirements, such as some safety rules more stringent than those of the federal Occupational Safety and Health Administration (OSHA).

Local officials feel particularly squeezed when the state shaves grants to the local government while at the same time upping standards. David Donahoe, budget director for the Pittsburgh Board of Public Education, notes that the state is specifying smaller classes for gifted children and the learning disabled—i.e. requiring more teachers and more expense—at the same time it cuts subsidies.

State mandates for transportation, including busing children to parochial and private schools, account for approximately one-third of the funds the Pittsburgh district spends for services, Donahoe said. A prime example was the necessity to transport one Pittsburgh child to a Protestant fundamentalist

school in Finleyville, Washington County, at an annual taxicab cost of \$14,000.

State Senator Vincent Fumo of Philadelphia points out that if his metropolis didn't have to carry out state mandates for its court system and its children and youth services, it would have a balanced budget.

However, the climate has changed to the extent that both houses of the legislature now have rules requiring a consideration of the potential costs to both the state and local governments. Virgil Puskarich emphasizes that the requirement doesn't call for "an exhaustive study" on any particular bill. But he said it is proof that the legislators are responding "because local government has been beating on them."

"The legislature is much more aware of the impact of funding mandates than a decade ago. Now on the floor, members will say, 'We need to look at this. Can they handle it?' They are much more reluctant to pass a mandate without a lot more discussion," Puskarich explained.

Bob Bittenbender, executive director of the Senate appropriations committee, noted that the 1991 legislature moved to give the counties greater aid for their Departments of Children and Youth Services. The state this year will pay 82 percent of the needed costs as determined by a county, escalating that figure to 90 percent through 1993 and



95 percent after that.

Another sign of changed legislative attention is the introduction of a constitutional amendment proposal by the Philadelphia's Senator Fumo from the Democratic side and Senator Frank Pecora of Penn Hills from the Republican ranks. The proposal would require the state to provide a way of financing anything it mandates—unless the bill is passed by a two-thirds vote. Without the latter, under the Fumo-Pecora proposal, a local-government body could ignore the mandate. Although the bill's fate is uncertain, at least it is in play.

Note: The proposed change in the state constitution would not cover the requirements of regulatory bodies. "That could lead to endless litigation," Fumo explains.

However, Budget Director Hershock offers a significant warning against the cry for full funding of state-mandated services. "As a fiscal manager, I am cognizant of the relationship between how much you ask someone to pay and how much they must produce. When there is 100 percent state funding, little attention is paid at the local level to hold down the other cost. After all, the state is paying for it, so why bother?"

The classic case, Hershock said, has been special education, where what he called runaway costs because of 100

percent state funding had to be remedied in the 1991 legislative session.

But there are other examples, such as the capital and debt-service costs for county nursing homes. "We are finding examples of counties that issued debt paper back in the early 1980s when interest rates were high. We believe they should be refinancing now to get a lower interest rate, but as long as the state is paying with reimbursements, they have no interest in refinancing."

Hershock said he believes there always should be some sort of matching requirement in order to hold down the costs.

From the Republican side, Bittenbender speaks from his experience as state budget secretary in the Thornburgh administration to warn against formula-driven entitlements. "Because they are open-ended, that cuts your flexibility," explained Bittenbender.

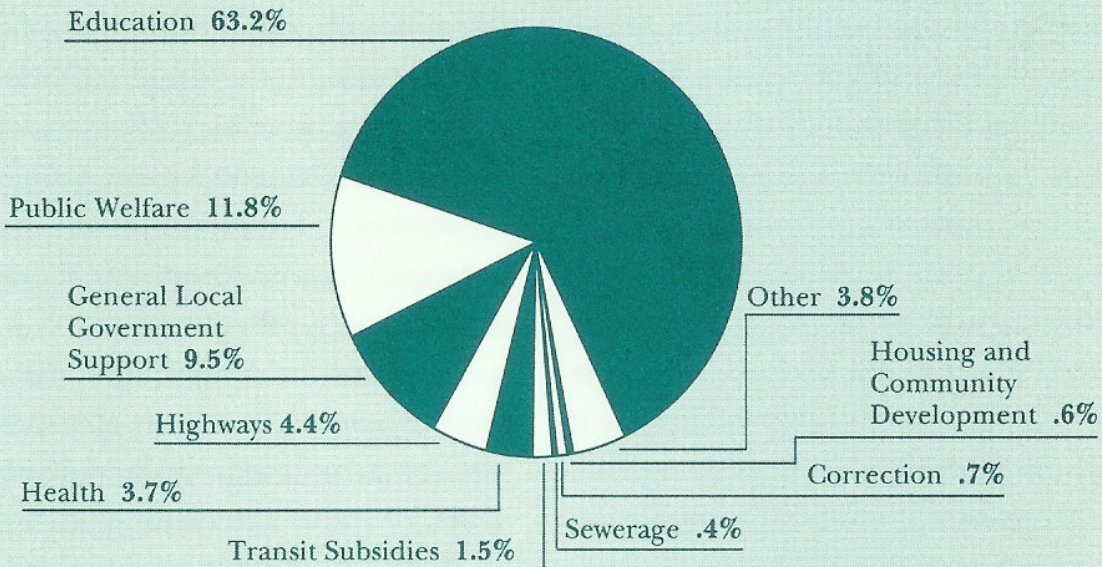
While a great deal of talk centers on state-mandated services, many of the current problems are caused by federal activity.

As Budget Director Hershock phrases it, "At the state level, we are in the middle of a sandwich. Sure, we have complaints from the local government about state-mandated expenditures that we don't reimburse. But we also are covered by the other part of the sand-

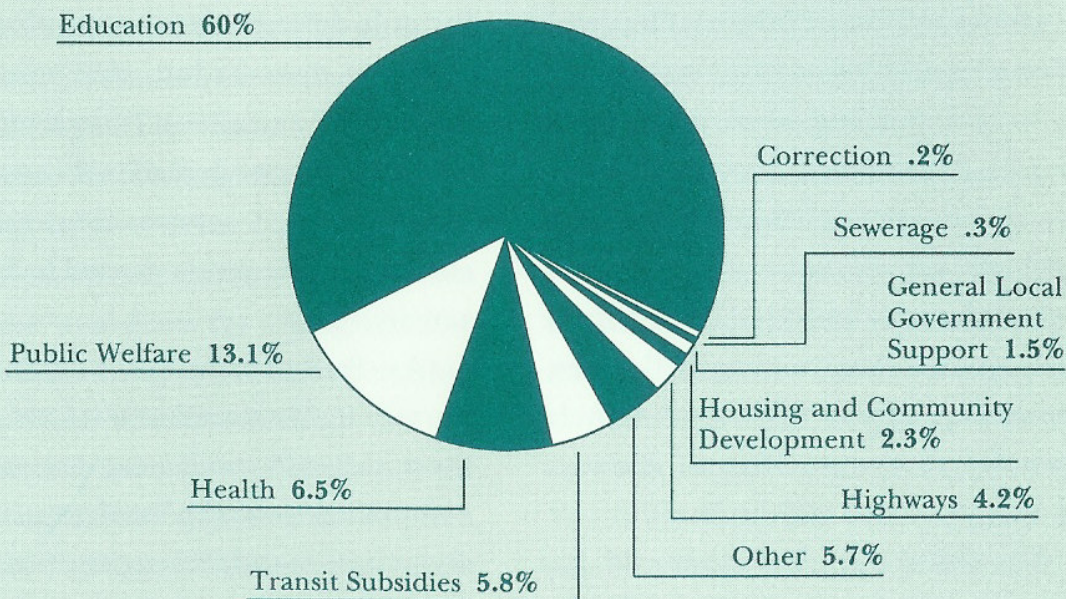


STATE GOVERNMENT ALLOCATIONS TO LOCAL GOVERNMENT

National Average



Pennsylvania



SOURCE: State Government Finances, 1989, US Census Bureau



wich—federal mandates.”

Hershock said that, indeed, federal mandates are at the heart of the difficulties so many states have faced this year. Examples are mandates for medical services, Medicare and the like.

The 1987 abolition of the federal government’s general revenue-sharing program has only exacerbated the problem.

Philadelphia’s Sen. Fumo agrees. The minority chairman of the Senate appropriations committee explains it this way: “Somebody in Washington has a great idea to save humanity, maybe something he’s seen on ‘60 Minutes.’ He holds a press conference, he’s going to save the world—and, by the way, we’re going to mandate the states to do this. There’s some money attached. But the reality is that down the road a year or two, the money gets cut or is capped or doesn’t come at all.

“The ‘subservient government’—and I use this phrase carefully—is forced to carry out the mandate with no money. So the federal guy is a hero... and the local guy is a creep because he has to raise taxes,” Fumo said.

The problem has been exacerbated in the past decade, Fumo maintains, because President Reagan “convinced people you could have a free lunch—you could cut taxes and still have services and more services.”

Not surprisingly, similar complaints come from the officials of the local governments about the way that the state handles matters. Guy Tumolo, budget officer for Allegheny County, said that the state often offers a financing “carrot” to the local governments to get a program started, only to withdraw the funding a year or two down the way. By that time, the citizens served are used to the service and demand its continuance—thereby leaving the local governments holding the bag.

On the other hand, local governments often feel impelled to indulge in what is called “overmatching,” that is, paying more than the state provides in order to provide a proper level of service—or one that their constituents demand. Senator Fumo said that in Philadelphia alone, the overmatch amounts to \$30 million a year.

Tumolo offers a goodly number of instances in Allegheny County. “On health, we overmatch state funds, such as for dental care, well-baby clinics, and the like. Allegheny County maintains more roads and bridges than is required because the county commissioners in the time of Doc McClelland [the late Dr. William McClelland] decided that to get quality, we would have to maintain more roads ourselves.”

For the sake of convenience, Tumolo



added, Allegheny County often takes over what are state responsibilities. “For instance, we do work in our own crime laboratory because it expedites the court system. If we always had to go to the state lab in Greensburg, the material wouldn’t get back in time to be of use to the prosecutors.”

The question of overmatching cuts two ways. It blurs the concept of uniformity fairness of state funding among municipalities and school districts. But, as Budget Director Hershock asks: Does the state have a right to stop wealthier municipalities and school districts from forking up more of their own money to provide better services?

Obviously, the question of whether a municipality HAS to overmatch depends upon who is asking it.

Susan Hansen, professor of political science at the University of Pittsburgh, finds deeper problems with the system beyond just passing the buck downward. From her research into intergovernmental relations, she is particularly concerned that the wealthy pay less and less as responsibilities are mandated downward.

That is, federal mandates move taxation from a progressive tax base to the more regressive Pennsylvania system of a sales tax and a flat income tax (with none of the federal-type exemptions). The result is that the poor in Pennsylv-

nia pay a higher proportion of state taxes than in most other states, Hansen said.

The inequities for the poor continue—but not as much—when mandates are thrust to the local level, where the base is real estate and wage taxes. That’s because the state and local systems are about equally regressive, Hansen maintains. “All this hasn’t received as much attention as it should,” Hansen contends.

She refers to a passage in a recent report by the Pennsylvania Institute on Public Policy, “Turning Problems into Opportunities: A Revenue Plan for Pennsylvania” (available, 128 Locust St., Harrisburg PA 17101). The quote: “Pennsylvania’s failed tax policy, which has evolved over time, is not only placing an unfair tax burden on those least able to afford it, but also overlooks revenue that could be easily accessed by the state from those with the ability to pay—without the high cost of collections and dunning people for money.”

Senator Fumo underlines another factor that affects the mandate situation. That is the attitude of organized labor.

On the one hand, one would expect labor officials to want to hold down the taxes their constituents have to pay. But, according to Fumo, they also realize that any new service mandated may provide added jobs for members of



municipal employee unions.

"So even if they don't back a mandate bill, they usually keep quiet," Fumo related.

Harrisburg lobbyists for local governments point to another factor that has affected the mandate situation. That is the influence on the legislature of single-shot lobbying groups.

Herr explained, "A group may come in wanting some specific piece of legislation about how a township should handle a dog problem. That's the only thing they are interested in, and they bring maximum pressure. But we may have 400 or 500 such issues a session coming at us from all directions. Do you realize that about one-fifth of the bills introduced in the legislature affect local government, each one threatening to add to our costs?"

The question of mandates inevitably brings up two other subjects:

- Are new or expanded taxing powers at the local level the answer?
- Wouldn't some mergers or consolidations among Pennsylvania's 5,812 local governments make sense in meeting the increasing demands for services, whether mandated or otherwise? (That's 67 counties; 501 school districts; 2,572 municipalities; and 2,672 municipal authorities.)

As to the first question, lobbyists for local government associations plea for more leeway from the legislature concerning taxing powers. Not surprisingly, however, they split all over the lot on whether there should be a lifting of limits on real estate tax levies and wage tax rates; or a change to a local income tax; or a county sales tax with revenue sharing with municipalities.

However, these officials make it clear that in their opinion changing the local tax structure is no solution for the mandate problem. Elam Herr said, "A county sales tax or anything else is not the answer."

John A. Garner, Jr., executive director of the Pennsylvania League of Cities, affirmed, "Something has to be done to slow down the mandate trend. If they're thinking of passing a tax to finance future mandates—no way!"

The merger/consolidation question is even touchier. Garner contends that consolidation is no guarantee of saving money. He points to the Councils of Governments (COGs) as a better answer in that direction. Linda Blake of the State Association of Township Supervisors adds that joint agreements among municipalities have worked well, too.

And Elam Herr maintains, "The size of a municipality doesn't mean viabil-



ity. Bigger is not always better.”

An academic with personal experience in local government agrees, but believes that that point of view begs the question. Christine Altenburger, a retired University of Pittsburgh professor of urban management, has served as a member of the Penn Hills Township Council and was a member of the Home Rule Commission that framed a charter that was adopted by that township’s voters.

She believes that the legislature has the responsibility to see that local governments are healthier, even if it means setting standards that require some kind of regional approach.

The Southwestern Pennsylvania Regional Planning Commission has published a guide on the subject, called “Standards for Effective Local Government: A Workbook for Performance Assessment” (available 200 First Avenue, Pittsburgh, PA 15222-1573). Note: Because no one has written a guide in such detail, the workbook, prepared by a group of Southwestern Pennsylvania municipal managers, has been reprinted by the International City Management/County Association for national circulation.

The SPRPC guide lists such standards as the following:

- Budget preparation is the responsibility of an individual, whether elected

or appointed, who has been trained in the area of budgeting, and financial management in general.


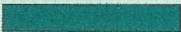









- The municipality has a formalized accounting system, and the responsibility for the accounting function rests with an individual who has had training in accounting procedures and processes, and who understands Generally Accepted Accounting Principles. (GAAP refers to a system used by reputable accounting firms and professional managers in and out of government, devised for the governmental category by the Governmental Accounting Standards Board, appointed by the National Accounting Foundation.)
- The municipality operates on a modified accrual basis of accounting—not on a cash basis—for governmental funds, e.g., general fund, special revenue funds, capital projects funds, and debt service funds.

Operating on a cash basis does not permit the municipality, at any one time, to have an accurate assessment of its financial status. Revenues are not recorded until cash is received, and expenditures are listed only when cash is disbursed. Under the modified accrual system, revenue are listed when measurable and available, while expendi-



FEDERAL GRANTS TO PENNSYLVANIA

Thousands of Dollars

Environmental Protection Agency	1983		\$140,252
Construction of Wastewater Treatment Works	1989		\$117,071
Department of Commerce	1983	\$2,369	
Local Public Works Program	1989	Program Funding Discontinued	
Department of Commerce	1983		\$6,132
Economic Development Assistance Programs	1989		\$6,666
US Department of Housing and Urban Development	1983		\$264,314
Community Development	1989		\$197,145
US Department of Housing and Urban Development	1983		\$34,978
Urban Development Action Grants	1989		\$25,271
		Program Funding Discontinued	
US Department of Treasury	1983		\$226,908
General Revenue Sharing	1989	Program Funding Discontinued	
US Department of Transportation	1983		
Urban Mass Transportation Administration	1989		\$201,905

SOURCE: *Federal Expenditures by State, US Department of Commerce, Bureau of the Census, Fiscal Years 1983-1989.*

tures are recorded when obligations are initially incurred.

- All personnel positions to be filled are openly and publicly advertised, in a manner that will reach a maximum number of potential applicants.
- A bidding procedure is established, which includes standardized forms and formats for specifications, bidders instructions, advertisements, bid awards, and the lack of bids.
- The number of police officers is suffi-

cient to provide police coverage and service seven days a week, 24 hours a day, whether through municipal resources or by formal agreement or contract with another local government or agency.

- There is capability to provide police response to emergencies in approximately six minutes and emergency medical service response within approximately eight minutes—on 90 percent of the calls.



- All fire personnel, whether paid or volunteer, have received basic, certified training in firefighting and have regular and mandatory in-service training and drills. This training meets the requirements of the National Fire Protection Association (NFPA).
- The municipality has adopted a comprehensive land-use plan, which, in addition to an overall statement of objectives concerning the future development of the municipality, addresses such elements as transportation, housing, recreation, and other facilities and utilities.
- The municipality has adopted a local Code of Ethics for its officials.

Of course, some will argue that setting professional standards really constitutes just another form of mandating.

In defense of standards, Altenburger notes that many a small municipality has the tax base to meet those standards. "But if a municipality can't, something should be done about it."

But the retired professor is convinced that improvements won't come until the legislature tackles the problem. "If you wait for the individual Clairtons to act, nothing will happen. No one wants to take a destitute community, even if that community were willing in the first place."

In sum, the mandated-services buck ultimately rests with the legislature.

Unquestionably, in a constantly changing world, the General Assembly will continue from time to time to need to mandate that local governments provide certain added services. But it would appear that legislators need to assess more carefully the financial impact of their mandates.

However, that approach need not imply full state funding of mandates in all cases. There is merit in requiring some local match to inspire thrift in spending, even if different experts disagree about just what match ratio will achieve the best results.

To allow local government room for fulfilling mandates, the legislature may need to relax its throttlehold on how local governments finance themselves.

But, in the long run, to make sure citizens are getting the most for their money—from mandated services or otherwise—I believe the legislature should consider setting minimum standards of professionalism. That would push local governments and their constituents to decide whether to move to cooperative and/or regional approaches or to outright consolidations.

Clarke Thomas is the retired senior editor, Pittsburgh Post-Gazette.

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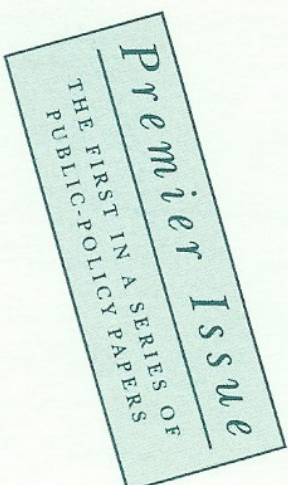


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