

STATE & LOCAL GOVERNMENT COMMISSION COMMENTS ON THE LEGISLATIVE BUDGET OFFICE LOCAL IMPACT STATEMENT REVIEW

In 1999 the Legislative Budget Office (LBO) has issued the fourth Annual Review of local impact statements. The review was conceived in S.B. 33 in the 120th General Assembly and eventually signed into law by Governor George V. Voinovich in 1994. The purpose of the review was to reduce the number of unfunded mandates passed on to local governments and school boards. The State and Local Government Commission (SLGC) by law participates in the annual review by gathering input from the associations representing counties, municipalities, townships, and school districts. The commission also includes brief comments on the review as well.

The key component of S.B. 33 requires LBO to add to their fiscal impact statements the "net additional cost" to local governments of certain bills. The law stated that beginning in 1996, LBO would prepare a report containing all bills with a local fiscal impact enacted in the preceding year. The two previous reviews of legislation enacted in 1995 and 1996 showed how much the legislative process could be impacted.

Our role in this process is consistent with our efforts to find solutions to the burdensome problem of unfunded state mandates on local governments. The Local Government Mandate Task Force was created by Gov. Voinovich's Executive Order 94-62V and serves as a sub-committee of the SLGC. Since its creation in 1994, the task force has made substantial progress in helping local governments deal with state unfunded mandates. Most notably, the task force helped SLGC publish the first ever Quadrennial Report on Unfunded Mandates. The report made several recommendations to either fund, modify or eliminate unfunded mandates.

One of those recommendations became a welcome reality in the fiscal year 1998-99 biennial budget. This recommendation was a proposal to create a new line item for unfunded mandate assistance. This line item, entitled "Mandate Assistance," was included in the executive budget, passed Ohio's General Assembly, and was signed by Gov. Voinovich in June 1997. Since then, the commission has transferred over \$2 million for mandate assistance to local governments, fire departments, and school boards. The commission will continue this assistance in fiscal year 2000.

This increased attention on unfunded mandates has prompted further action in the reduction of state mandates on local governments by Ohio's General Assembly. Many of our state representatives and senators have introduced and enacted legislation in the 121st, 122nd and the 124rd General Assemblies that provide additional assistance in reducing state mandates. LBO's local impact statements and annual review remain a positive influence on curbing the frequency of future state mandates in the legislative process.

In the previous report 1997, LBO found that bills with an impact on local governments were less likely to survive the committee process and eventually be enacted (18% of all enacted bills had a local impact). In 1998, the percentages were down slightly, as a bill with a local impact had a 15% chance of enactment. As LBO correctly points out, it is difficult to make a decisive judgement based solely on these numbers. There are many factors that influence the probability of a bill becoming law. However, with the information gathered over the past three years, it appears that a bill with a fiscal impact on local government is less likely to become law.

The local impact statement process was designed to provide legislators with more information on the potential cost to local governments before a bill passes through the General Assembly. As a result, there are fewer bills with a significant fiscal impact surviving the committee process. A bill without a significant impact upon local governments appears to be more likely to be enacted than one with a greater impact. The result is fewer unfunded mandates reaching local governments.

SUGGESTIONS FOR FUTURE LBO REVIEWS

LBO's local impact statements provide better insight into how proposed legislation impacts local governments. However, because LBO is only required to review bills enacted in the previous calendar year, many of the laws affecting local governments and school districts have only been in effect for several months. As a result, a true study of a law's direct fiscal impact over time cannot be determined in the report's current format.

While it is difficult to get an accurate reading of the real fiscal impact legislation has on local governments, LBO has attempted to study how their process affects the General Assembly. With each passing year, it becomes clearer as to how this process affects the legislature. The commission still feels that future reports should be expanded to include a section that reviews the fiscal impact of legislation that is several years old. This will give legislators even more information to gauge how past legislation effects local governments.

Another concern with LBO's local impact statement process is rooted within the original S.B. 33 language. LBO is only required to produce a local impact statement if a bill has fiscal impact as it is introduced. A bill, as introduced with no local impact, could evolve into having a fiscal impact to local governments through the legislative process. If this would occur, a local impact statement would never be introduced, because it retains its original fiscal determination (Revised Code section 103.143).

The review of 1998 legislation pointed out bills that had this problem. The review of 1992 bills showed occurrences. Despite the best efforts of LBO, the loophole could allow some potential unfunded mandates to slip through the cracks and negatively impact local governments. As the commission has pointed out in past reviews, the General Assembly needs to make this correction in S.B. 33.

Another area that the General Assembly needs to consider, is its decision to exempt the various biennial operating and capital appropriations bills from local impact statements. These bills have a clear and definite impact upon the ability of local governments to operate. New unfunded mandates or reduced funding of mandated state programs are frequently included in these bills. Legislators should have the benefit of the impact statements in order to judge the net worth of the legislation. By taking information away from legislators, this new modification is not consistent with the original intent of S.B. 33. The commission recommends that the General Assembly reconsider this modification.

CONCLUSION

In conclusion, SLGC would once again like to compliment LBO for their work on the local impact statement process. Local impact statements play a significant role in the Ohio General Assembly by decreasing the amount of unfunded mandates at the state level. By increasing the awareness of potential costs to local governments, legislators have more information to prevent the passage of new unfunded state mandates.

SLGC would like to stress the importance of the local government and school districts' input in this process. They represent the constituencies that are actually being impacted by mandates. The information they provide about the reality of the impact and the actual cost of each new unfunded mandate is extremely important in further strengthening LBO's estimates on future local impact statements. Their participation in the annual review process is **critical**.

Under the leadership of Lieutenant Governor Maureen O'Connor, SLGC will continue our involvement in the LBO review process and is committed to furthering progress toward lessening the burden of unfunded mandates on local governments and school districts.

COMMENTS FROM THE COUNTY COMMISSIONERS ASSOCIATION OF OHIO

The 1998 Local Impact Statement (LIS) Summary prepared by the Legislative Budget Office (LBO) shows the impact of unfunded mandates on county government. It again shows that counties are impacted more than other local units of government in the State Of Ohio. Any member of the General Assembly that wonders why County Commissioners and the CCAO staff are often found "rambling" through the corridors of the Statehouse complaining about unfunded mandates need only review and think about this report.

The data in the report speaks for itself. During 1998 a total of eighteen bills became law that had a fiscal impact on local governments. Of this total, seventeen (94%) impacted counties. Compare this with other political subdivisions. Of the 18 bills, 10 (59%) had an impact on municipalities, seven (39%) affected townships, and six (33%) related to local school districts. The data itself shows why counties continue to lobby the General Assembly to reduce the inclination to pass on mandates without funding.

A further analysis of the seventeen bills that impact counties give further insight on the nature of legislation that requires counties to increase expenditures with no state help. Of the seventeen bills that passed costs on to counties, over half addressed court and criminal justice issues and nearly one quarter of the bills addressed employee staffing and benefit issues. This is especially significant given the fact the Ohio Criminal Sentencing Commission is again proposing major changes in misdemeanor and juvenile law that has the potential of again imposing massive increased costs on county government.

It is also interesting to note that the report discusses a recent change in the local impact statement law that will have severe consequences on county government. The last biennial budget bill changed the law to exempt future budget bills from the requirement that a local impact statement be prepared. This change in the law may help expedite the budget process, but it certainly does not bode well to meet the goal of giving members of the General Assembly the information they need to make sound public policy decisions. Many significant mandates are passed on to counties as a part of the biennial budget process. This change will have the effect of hiding many significant mandates from public view and they will not be included in this report next year.

The Leadership of the General Assembly should reconsider changing the law and return to full disclosure of the fiscal impact of all actions of the General Assembly on local units of government. Such a change should have only a minimal impact on an expeditious enactment of the state budget.

Finally, the Voinovich Administration was a leader in voicing concern about federal and state mandates. We encourage the Taft Administration to take an equally aggressive position on this issue of prime importance to counties. We encourage the Taft Administration to fully fund and expand the Mandates Assistance Fund and to work with local government associations through the Mandates Task Force of the State and Local Government Commission to comprehensively address the issue of unfunded state mandates.

COMMENTS FROM THE OHIO MUNICIPAL LEAGUE

The Ohio Municipal League believes it is extremely important that the Local Impact Statements Report be an ongoing publication.

The report's format enhances its usefulness. Presented in a combination of charts, graphs, and written explanations, the details are easily understood. The ways in which the different types of bills are arranged lend insight into the overall legislative process.

Each year the local impact statements themselves become more detailed, thus more useful to those relying on them. As always we would like to see more detailed and precise dollar implications presented, but we recognize just how difficult that information is to obtain even under the best of circumstances.

The publication is useful to organizations representing local government because it provides a "one stop" location to get a snap shot of what causes the cost of government to continually increase.

COMMENTS FROM THE OHIO SCHOOL BOARDS ASSOCIATION

The Ohio School Boards Association (OSBA) continues to believe that the Legislative Budget Office's (LBO) local impact statements are valuable tools in the legislative process. We appreciate the opportunity to comment on LBO's 1998 Local Impact Statement Report and recognize LBO's staff for their hard work preparing the report and throughout the year.

We agree that local impact statements do impact the legislative process and find that legislators are sensitive to funding impacts on local governments. In the current 124rd General Assembly, lawmakers worked diligently to incorporate a property tax replacement mechanism into SB 3, the electric industry deregulation bill. This mechanism will protect local governments and, in particular, public schools from lost revenue due to the reduced assessment rate on electric utility generating property for a 15-year period.

Unfortunately, local impact statements are not required on biennial operating appropriations bills. HB 283 (124rd General Assembly) contained an elimination of the personal property inventory tax with no replacement mechanism for local governments. OSBA recommends that the General Assembly extend the requirement for local impact statements to all appropriations measures.

The problem of legislation with unintended fiscal consequences still remains. HB 650 is such an example. HB 650 (122nd General Assembly), the legislature's new school funding formula in response to the DeRolph vs. Ohio Supreme Court decision, did not meet the criteria to be excluded as an appropriations bill and a local impact statement was prepared by LBO. HB 650 changed the way special education is funded going from unit funding to per pupil weighted funding. Consequently, over 100 school districts received less funding for special education in 1999 than in 1998. Other districts lost funding for vocational education. Legislators reviewing LBO's local impact statement on HB 650 were not aware of these consequences during their deliberations.

We realize that it is extremely difficult for LBO to determine the real fiscal impact of legislation, and therefore, we continue to advocate that legislation already enacted should be periodically reviewed for costs to local governments. All legislation, whether or not it was introduced with a local impact, should be on a review schedule. We would like to see the local impact statement process strengthened to remove or fund unfunded mandates already in law.

Consequently, we support Rep. Buchy's HB 303 which creates the Local Government Mandates Commission to determine whether unfunded mandates have been imposed on political subdivisions and sets in place a procedure to appeal those mandates considered to be funded.

We agree that legislation with a local impact is less likely to survive the committee process and be enacted and we support LBO as they continue to scrutinize the fiscal effects of proposed legislation. We look forward to working with the State and Local Government Commission and thank Commission members for their continued attention on unfunded mandates.

COMMENTS FROM THE OHIO TOWNSHIP ASSOCIATION

The Ohio Township Association (OTA) would like to thank the State and Local Government Commission (SLGC) for the opportunity to comment on the proposed 1998 Local Impact Statements.

The OTA appreciates the ongoing effort of the Legislative Budget Office (LBO) to provide information on the fiscal impact new laws in Ohio will have on townships. The LBO Local Impact Report helps educate our membership and the members of the General Assembly on the affects certain legislation will have on township budgets and keeps legislators and local officials aware of any unfunded mandates created in legislation.

As we have stated in the past, the fiscal impact legislation may have on townships often is under-appreciated. Requirements established in legislation such as filing, notification and public hearing requirements can create significant costs for townships. The OTA is pleased that the LBO takes such costs into consideration when determining local impact. Further, the standards used by LBO to determine what constitutes a "local impact" for townships ensure that townships with smaller populations and smaller budgets are not overlooked. (A bill is determined to have a local impact if its estimated annual cost is more than \$1,000 for townships with a population of less than 5,000 or if its estimated annual cost is more than \$5,000 for townships with a population of more than 5,000.) Although \$1,000 or \$5,000 may not seem like a great deal of money, when compared with the total budget of the township, the loss of such may create a significant impact.

According to the 1998 report, there are several bills with a local impact for townships, fortunately, none of these bills resulted in an unfunded mandate. Although the actual impact these new laws will have on a townships will not be known until the laws are put into practice, the fiscal analyses calculated by LBO provide a base for our townships to use to determine how a new law may affect their budgets. For example, the fiscal impacts of House Bill 434, the joint economic development district (JEDD) bill, are contingent on what communities enter into a JEDD or Cooperative Economic Development Agreement (CEDA) and what specific conditions are included in such agreements.

The OTA appreciates the opportunity to provide our input and looks forward to working further with the State and Local Government Commission and LBO.