

State of Rhode Island – Department of Revenue
Division of Municipal Finance

STATE MANDATES

Report required pursuant to Section 45-13-8 (b) of the Rhode Island General Laws

December 31, 2008

Introduction

Section 45-13-8 of the Rhode Island General Laws relating to state mandates on municipalities reads as follows:

(b) The department of revenue shall annually by January 1 issue a report identifying the state's mandates established during the preceding July 1 – June 30 period and stating the cost by city and town of all state mandates established after January 1, 1979, for the next preceding July 1 – June 30 period. The department of revenue shall annually issue to cities and towns a comprehensive listing of all state mandates established after January 1, 1979.

This report is responsive to the above statutory requirement.

- Part 1 identifies those new mandates enacted during the July 1, 2007 to June 30, 2008 period which meet the qualifying test for being designated as “application eligible” state mandates.
- Part 2 reports on the cost by city and town of all state mandates during the period July 1, 2007 to June 30, 2008.
- Part 3 provides a cumulative updated list of all “application eligible” state mandates enacted since January 1, 1979. This third part will be posted as a separate document of the Division’s website www.muni-info.state.ri.us and will replace the previous report covering the period January 1, 1979 to June 30, 2007.

Part 1 – New Mandates – July 1, 2007 to June 30, 2008

The Office of Local Government Assistance in the Division of Planning of the Department of Administration conducted an exhaustive search of municipal related legislation enacted during the 2008 General Assembly to identify legislation which might qualify as a “state mandate”. The Division of Property Valuation and Municipal Finance (formerly Municipal Affairs) in the Department of Revenue surveyed regulatory Boards and Agencies to determine whether there were any recently enacted rules or regulations by these Boards which would or could have resulted in a state mandate.

It should be noted that there were several acts that while action by the General Assembly occurred on or prior to June 30, 2008, the actual effective date resulting from normal transmission and response time by the Governor’s Office was shortly after June 30. We included those Acts in our review.

To qualify as an “application eligible” mandate certain criteria need to be met to determine qualification. The following lists the exclusions for mandate eligibility. The numbered codes on the left are then used in the table on page 4 to explain the reason that a new act did not qualify as a mandate.

1. **Not material (\$500 Application).** 45-13-7 (4) provides that mandates costing less than \$500 shall not be reimbursable. We have concluded that a mandate is not reimbursable if the costs associated with it are clearly not material.

2. **Affect on Revenue – Not Cost.** Mandate reimbursements are for costs mandated by the state. A state measure which limits the ability of a municipality to raise revenue is not an eligible mandate.
3. **Specifically excluded by law.** Some state statutes which might otherwise have been mandate eligible were specifically excluded from eligibility in the applicable act.
4. **Excluded by 45-13-10.** 45-13-10 specifically excludes certain kinds of state mandated costs from reimbursement. We have attached 45-13-10 in its entirety to the end of this section.
5. **Cost Savings to municipality.** Some of the statutes initially identified as mandates may in fact offer opportunity for cities and towns to save money.
6. **Not applicable.** After careful review, it was clear that certain statutes initially identified as potential mandates do not in any way result in additional municipal costs.
7. **Partially reimbursed (all education mandates).** 45-13-7 provides for eligible reimbursement "...where the expenditures are not otherwise reimbursed in whole or in part." Education mandates were formerly construed as partially reimbursed and therefore not eligible as mandates. The amendments effective January 1, 2007 removed the "partially reimbursed" language and are now open for future reconsideration for costs incurred after that date.
8. **One time cost mandate.** There have been occasions when the state has mandated a one time cost to cities and towns. If that mandate applied to a period other than July 1, 2006 to June 30, 2007, it would not be an eligible mandate for determination at this hearing.

§ 45-13-10 Exemptions from reimbursement. – (a) State mandates not subject to reimbursement includes:

- (1) The holding of elections;
 - (2) The assurance of due process;
 - (3) The notification and conduct of public meetings;
 - (4) The procedures for administrative and judicial review of actions taken by cities and towns;
 - (5) The protection of the public from malfeasance, misfeasance, or nonfeasance by local government officials;
 - (6) Financial administration, including the levy, assessment, and collection of taxes; and
 - (7) The preparation and submission of reports necessary for the efficient administration of state laws.
- (b) All statutes having a fiscal impact on cities and towns shall include a provision stating whether these statutes conform to the definition and exemptions prescribed by §§ 45-13-7 – 45-13-10.
- (c) Provided further that none of the provisions of §§ 45-13-7 – 45-13-10 are applied in a manner inconsistent with state law.

The following is a list of 2007 enactments (including those referenced above with a final disposition after July 1). In the right hand column, DMF has recorded the determination as to whether the Act qualified as an eligible state mandate. We did not identify any regulatory actions to review for

qualification. Gray shaded enactments have been determined to be not eligible for mandate reimbursement.

Public Law Chapter	Description	Title	Chapter	General Law Reference	DMF Analysis
9	Local communities or municipal building authorities, under certain circumstances, could be required to refund certain bonds.	16	7	16-7-41	5
141	Requires local school districts in the city or town where the child resides , under certain circumstances, to provide programs for special needs children in private schools.	16	24	16-24-1	6
244	Requires cities and towns and regional schools districts, under certain circumstances, to have a performance audit conducted in compliance with the generally acceptable governmental auditing standards.	16	2	16-2-21.4	
254	Requires local school districts to accept a particular health and physical education curricula commencing September 1, 2012.	16	22	16-22-4	
132	Requires local boards of canvassers of each city or town to review their voter registration files on a quarterly basis in accordance with the regulations adopted by the Secretary of State for the purpose of removing duplicate voter registrations in the central voter registration system.	17	9.1	17-9.1-19	4
448	Local canvassing authorities are required to post local questions in at least 3 public places and advertised at least once in a newspaper of local circulation the full text or a description of the text for each local question to be voted upon.	17	8	17-8-10	4
93	Requires any city or town which enters into a contract with the Resource Recovery Corporation to recycle at least 35% of its solid waste and to divert a minimum of 50% of its solid waste by July 1, 2012. These cities and towns must also prepare a plan by fiscal year 2010 which describes how they plan to accomplish these goals.	23	18.9 19	23-18.9-1 23 -19-13	

Public Law Chapter	Description	Title	Chapter	General Law Reference	DMF Analysis
206 219	Requires cities and towns to include a tax increment in the calculation of the maximum tax a city or town may levy pursuant to the provisions of GL 44-5-2.	45	33.2	45-33.2-21	2
61 65	Requires cities and towns to provide certain benefits under the Rhode Island Military Family Relief Act	30	33	30-33-1 to 30-33-6	2,4
100 Article 34	Prohibits a Collective bargaining Agreement, ratified after August 1, 2008, covering public schools teachers or employees of any city or town, from specifying that an employer must procure a health care benefit plan from a specific provider.	28	7	28-7-49	5
100 Article 36	Requires school committees and city-town councils, prior to executing any collective bargaining agreement, to prepare or cause to be prepared a collective bargaining fiscal impact statement.	16 45	2 5	16-2-21.6 45-5-22	1,4
224 & 464	Requires all written decisions of city and town planning boards to be recorded in the land evidence records within 35 days after the planning board vote. Also requires a copy of the recorded vote to be mailed within one business day of recording to the applicant and to any objector who has filed a written request for notice.	45	23	45-23-63	1,4
158 & 174	Requires cities and towns, as employers , to continue to provide family medical benefits to any of their employees who leave their jobs by reason of entering the armed forces of the United States. The coverage shall continue during the duration of the employee's deployment.	30	6	30-6-6	
169	Requires that no local government entity shall implement any eminent domain proceeding for economic development purposes unless the acquisition of the property by eminent domain has been approved by the city or town council. Also requires that the entity have a plan for the proposed development, which must be approved by the governing body of the entity prior to the initiation of any eminent domain proceeding.	42	64.12	42-64.12-1 to 42-64.12-11	6

In conclusion, the review team determined that four of the 14 acts reviewed met all of the tests to be “eligible for application” as state mandates for the next cycle of reimbursement applications. Included within those four were two enactments (PL 93 and 254) which should not have any cost implications until future years.

Part 2 –Qualifying Mandated Costs – July 1, 2006 to June 30, 2007

Pursuant to Section 45-13-9 of the RI General Laws it is required that “The Department of Revenue shall submit to the budget office by October 1 of each year, a report by each city and town, of the cost of state mandates established after January 1, 1979, to be reimbursed for the next preceding July 1 -- June 30 period.”

Section 45-13-8 of the General Laws entitled “Reports” requires under subsection (C) (2) the following:

Cities and towns shall submit to the department of revenue in any form that may be established by the department, a report of the cost of each state mandate established after January 1, 1979, to the city or town. The reports shall be submitted by April 1 each year and shall state costs incurred by the city or town during the preceding July 1 – June 30 period.

The Division of Municipal Finance in the Department of Revenue received 14 reports from municipalities documenting the costs of state mandates for the preceding fiscal period. We would note that Charlestown, Richmond, and Hopkinton made a request on behalf of the Chariho School District for their shares of the Chariho request. Thus, there were really only 11 unique requests.

The amount requested for reimbursement from those 11 units totaled \$6,358,677.21. The DMF reviewed each application and disqualified \$5,257,334.25 in applications leaving a balance eligible for reimbursement of \$1,101,342.96.

A significant deniable of eligibility related to mandate 74 relating to on job injury pay (OJI). OJI payment requirements predate the mandate program and are not eligible for reimbursement. The 2007 amendment changed the definition of “on job” to include circumstances where an off duty police or firefighter participated in a public safety incident (see Chapter 243 of the 2007 Public Laws). DMF believes that OJI attributable to these specific circumstances would be eligible; however, the documentation provided by applying municipalities related to all OJI costs. These requests which were denied totaled over \$3.1 million. Other denials typically related to insufficient documentation or misinterpretation of the qualifying components of the identified mandate.

The amounts approved as eligible for reimbursement by municipality are as follows:

State Mandate
Request
FY 2007 Expenses Approved Denied

BARRINGTON			
BRISTOL			
BURRILLVILLE	\$ 320,345.38	\$ 305,367.58	\$ 14,977.80
CENTRAL FALLS			
CHARLESTOWN	\$ 59,256.00	\$ 59,256.00	\$ -
COVENTRY			
CRANSTON	\$ 204,405.00	\$ 76,404.88	\$ 128,000.12
CUMBERLAND			
EAST GREENWICH			
EAST PROVIDENCE			
EXETER			
FOSTER			
GLOCESTER			
HOPKINTON	\$ 75,179.00	\$ 75,179.00	\$ -
JAMESTOWN			
JOHNSTON			
LINCOLN			
LITTLE COMPTON			
MIDDLETOWN	\$ 15,291.00	\$ 15,291.00	\$ -
NARRAGANSETT	\$ 11,494.31	\$ 11,494.31	\$ -
NEWPORT			
NEW SHOREHAM			
NORTH KINGSTOWN			
NORTH PROVIDENCE			
NORTH SMITHFIELD			
PAWTUCKET	\$ 45,765.32	\$ 45,765.32	\$ -
PORTSMOUTH			
PROVIDENCE	\$ 4,427,773.81	\$ 155,804.30	\$ 4,271,969.51
RICHMOND	\$ 87,127.00	\$ 87,127.00	\$ -
SCITUATE	\$ 46,107.24	\$ 6,351.75	\$ 39,755.49
SMITHFIELD			
SOUTH KINGSTOWN	\$ 165,759.45	\$ 16,937.63	\$ 148,821.82
TIVERTON			
WARREN			
WARWICK	\$ 733,444.70	\$ 157,635.19	\$ 575,809.51

	State Mandate		
	Request		
	FY 2007 Expenses	Approved	Denied
WESTERLY	\$ 166,729.00	\$ 88,729.00	\$ 78,000.00
WEST GREENWICH			
WEST WARWICK			
WOONSOCKET			
	\$ 6,358,677.21	\$ 1,101,342.96	\$ 5,257,334.25

The reason for disallowing certain parts of an application are as follows:

State Mandates - FY 2007 Expense - FY 2010 Reimbursement Denials

	Code	Type	Amount Disallowed	Reason
BURRILLVILLE	21	Health - WC	\$963.00	Request was for 1st year of coverage.
	74	OJI	\$14,014.80	Eligibility only applies to off duty injury.
			\$14,977.80	
CRANSTON	12	Cancer - fire	\$3,000.00	Insufficient documentation.
	62	Fire Code	\$125,000.00	Insufficient documentation.
			\$128,000.00	
PROVIDENCE	21	Health - WC	\$1,546,631.44	Request was for 1st year of coverage.
	74	OJI	\$2,725,338.07	Eligibility only applies to off duty injury.
			\$4,271,969.51	
SCITUATE	21	Health - WC	\$21,961.92	Request was for 1st year of coverage.
	74	OJI	\$17,793.57	Eligibility only applies to off duty injury.

SCITUATE			\$39,755.49	
SOUTH KINGSTOWN	74	OJI	\$148,821.82	Eligibility only applies to off duty injury.
WARWICK	32	NFPA	\$143,930.69	Mandate only applies to initial planning.
	62	Fire Safety	\$179,407.66	Eligibility only applies to structural improvements.
	65	Comp Plan	\$9,860.00	Amendments to plan not eligible.
	74	OJI	\$242,611.76	Eligibility only applies to off duty injury.
			\$575,810.11	
WESTERLY	40	Comp Plan	\$78,000.00	Amendments to plan not eligible.
TOTAL			\$5,257,334.73	

In summary, the dollar value of state mandated costs eligible for reimbursement by the state in FY 2010 as reported to the state budget officer is \$1,101,342. This amount would be subject to appropriation by the state and there can be no assurance that such appropriation will be made. We would note that 45-13-9 of the General Laws relating to “Reimbursement to cities and towns and school districts for the costs of state mandates” was amended in the 2008 session of the General Assembly such that inclusion of eligible costs in the new proposed state budget is now discretionary rather than mandatory.

Part 3 – Application Eligible State Mandates – 1979 – 2008

The following table merges the updates resulting from enactments and regulations occurring in FY 2008 with previous recorded application eligible mandates.

State Mandates Eligible for Reimbursement 1979 to 2008

Man date #	YEAR	PUBLIC LAW CHAPTER	DESCRIPTION	GENERAL LAW REFERENCE
1	1979	79-93 90-298	Damage done by dogs – city or town must pay	4-13-20
2	1979	79-296 90-338	Educational incentive pay – law enforcement tuition reimbursement for masters or juris doctorate	42-28.1
3	1979	79-299	Domestic steel – municipality must use domestic steel if domestic product is within 15% of imported.	37-2.1
4	1979	79-317	Publication of Ordinances – Requires distribution of printed municipal ordinances to the state library.	45-6-7
5	1979	79-86 91-252&326	List of Tax Exemptions – Requires distribution of available tax exemptions to residents.	44-3-19
6	1979	79-383	Historic cemeteries – signage for historical cemeteries	23-18-10.1
7	1979	79-68	Minimum wage – municipal cost increases associated with state mandated changes in minimum wage.	28-12-3 28-12-5
8	1982	82-359	Wetlands Act – costs associated with training eligible for reimbursement.	23-27.3-12
9	1983	83-18	Hazardous substances – costs associated with maintaining lists of hazardous substances.	28-21
10	1984		Point source discharges – potential user fees charged to municipal sewer treatment plants.	46-12-4
11	1984	84-327	Occupational health and safety for firefighters.	23-28.4
12	1986	86-68	Cancer benefits for firefighters – net costs of salary and benefits paid for firefighters and retired firefighters with cancer.	45-19.1
13	1986	86-69	Firefighters arbitration – costs of the arbitration associated with rescue personnel and dispatchers.	28-9.1
14	1986	86-178	Reporting sexual misconduct – costs associated with collecting and transmitting information.	11-37-3.5
15	1986	86-252	Missing children – municipal costs associated with developing and maintaining a flagging system.	42-28.8
16	1986	86-277	Tax sales elderly – municipal costs associated with advising DEA on pending tax sales.	44-9-10
18	1986	86-315	Minimum wage – Municipal cost differential between state and Federal minimum wage	28-12-3

19	1986	86-401	Special bus stops – municipal police costs associated bus stop review.	31-20-10.3
20	1986	86-492	Life insurance benefits – now exempt.	45-21-57
21	1987	87-242	Continuation of health insurance for employees on workers comp	28-33-44
22	1987	87-327	No birth registration fee for children born out of wedlock	23-3-10
23	1987	87-333	City or town must replace trees cut down.	2-15-6
24	1987	87-366	Requires municipalities to provide health benefits during parental leave.	28-48
25	1987	87-388	Maintain dog registry	4-13-4.1
26	1988	88-247	Police departments to conduct national criminal records check of child care personnel	16-48.1 & 40-13.2
27	1989	89-68	Increases types of municipal personnel eligible for collective bargaining.	28-9.4
28	1989	89-179	Municipal costs associated with appointment of special building officials.	23-27.3
29	1989	89-248	Municipal costs for those municipalities which had not previously observed Martin Luther King day as a holiday.	25-1-1
30	1989	89-417	Municipal costs associated with supplying legislators with copies of Ordinances.	45-6-1
31	1989	89-478	Health insurance coverage for infertility testing.	27-18-30
32	1990	90-388	Fire Department costs associated with NFPA 1500 planning and implementation.	23-28.4
33	1990	90-67	Notification costs that a resident has been transported by emergency vehicles.	23-4.1-14
34	1990	90-89,200,273	Notification costs associated with advising widowers of annuity eligibility.	45-19-4-12
35	1990	90-90	Additional weights and measure testing requirements.	47-2-3
36	1990	90-168	Health insurance coverage for mid-wife services.	27-18-31
37	1990	90-173	Costs of high speed pursuit plans.	31-12-6
38	1991	91-368	Police departments to conduct national criminal records check of employees hired by health department certified facilities.	23-17.4-27-30
39	1992	239	Requires those local public libraries, which receive state library aid, to prepare both a preservation plan and a disaster preparedness plan.	29-6-3

40	1992	385	This RI Land Development and Subdivision Review Enabling Act of 1992 requires every city and town to adopt land development and subdivision review regulations which comply with the provisions of this act.	45-23-25 to 45-23-74
41	1992	495	Requires any facility which employs a lifeguard, including those owned or maintained by a city or town, to maintain and provide an area which is not exposed to sunlight and must provide sunscreen or other physical protection to insure against overexposure to the sun.	23-22.5-13
42	1993	24	Any fines collected by the animal releasing agency must be transmitted to the city/town clerk, and how these monies may be spent is set forth.	4-19-19
43	1993	420	Cities/towns must use standard signs developed by the Coastal Resources Management Council to mark designated rights-of-way.	46-23-6
44	1994	81	Requires cities and towns to pass ordinances or administrative orders directing their appropriate departments and employees to exercise due care and caution while performing tasks of brush removal and cleaning in the area of stone walls and boundaries; and to repair any damage that they may have caused.	45-2-39
45	1995	188	Duties of public water suppliers include development of management plans and programs for billing and collection of charges.	46-15.4
46	1995	271	Policemen's arbitration – contractual provisions shall be continued in subsequent bargaining agreements unless party to the agreement proposes a change in writing during a designated time frame.	28-9.2-17
47	1996	378	Requires cities and towns to directly pay police officers who are working traffic details and to bill and be reimbursed by the withholding authority.	37-12-10
48	1997	193	Requires local police officers, who are involved in high speed pursuits, to submit written reports to be kept on file. Also requires the officer in charge to file a written report of the pursuit. Also requires local police departments to enact policies and procedures regarding high speed pursuits and to provide copies of these policies and procedures to the Attorney General's office.	31-27-4.2
49	1997	259	Requires cities and towns to supply and maintain 150 feet of rope and a lifesaving buoy at ponds and lakes located within their respective boundaries during designated times.	23-22.5-14
50	1998	276	This act requires local purchasing agents, when they determine that the city or town needs the services of a professional architect or engineer, to follow the qualification-based selection process for the procurement of architectural and engineering consulting services.	45-55-8.1
51	1999	236	Municipal buildings open to the public must provide baby changing tables in both the ladies' room and men's room.	23-27.3-701

52	1999	462	Political subdivisions must adopt regulations and zoning ordinances concerning any airport hazard areas within their jurisdiction.	1-3-5 1-3-8
53	1999	462	Establishes procedures that must be followed by political subdivisions when granting a permit to construct or change structures in an airport hazard area.	1-3-14
54	1999	195	Foreign domestic violence protection orders are to be given full faith and credit and enforced as if issued in this state, and the provision that limits enforcement in this state to no more than 20 days is repealed.	12-29-1.1 15-15-8
55	1999	494	Probate courts must, when ‘Good Samaritan’ guardianships are being sought, prepare all the forms necessary as part of the application process.	33-15-4.1
56	1999	346	All harbor masters are required to have training and education in first aid and cardiopulmonary resuscitation.	46-4-2
57	2000	247	Community water systems serving populations of 10,000 or more shall deliver a full copy of the Consumer Confidence Report to each household within water systems’ service area.	46-13-18
58	2000	170	Each city/town must establish by local ordinance an emergency management agency.	30-15-12
59	2002	324/414	Under the annual post audit requirement the selection of auditors by the city/town is subject to the approval of the state auditor general.	45-10-4
60	2002	324/414	If the city/town fails to file the audit report the audit work-papers must be transmitted to the state auditor general.	45-10-5.2
61	2002	324/414	If the auditor issues a qualified opinion the chief financial officer of the city/town must prepare and submit a detailed corrective action plan and timetable.	45-10-6.1
62	2003	106/107	Comprehensive fire safety code act – which contains various amendments to the fire safety code, which provisions must be adhered to by local fire inspectors.	23-28.1 23-28.01
63	2003	309/327	All vehicles with fire apparatus plates must be annually inspected according to NFPA standards.	31-22-29
64	2004	220 & 225	Requires extensive amendments to the State Fire Code.	23-28.1
65	2004	203 & 208	Requires cities and towns to amend their comprehensive plans to conform with the state guide plan elements adopted or amended to effectuate G.L. 46-31 within one (1) year.	46-31-10
66	2004	3 & 4	Requires certain cities and towns to prepare a comprehensive plan housing element for low and moderate income housing	45-53-4
67	2004	286 & 324	Requires cities and towns to follow certain procedural requirements regarding affordable housing plans.	45-53-4

68	2005	314	Requires cities and towns to provide by ordinance for the notification to farmers (agricultural operations) regarding zoning and/or permitted uses of land used for farming, development rights, etc.	2-23.1-1 to 2-23.1-4
69	2005	293	Requires cities and towns to bring any pension benefits of employees on military leave into conformance with the Uniformed Services Employment and Reemployment Rights Act.	36-5-3
70	2005	325 & 350	Requires all harbormasters to attend the Rhode Island Harbormasters Training Academy.	46-4-2
71	2006	58/62	Local communities required to prepare emergency action plans for high hazard dams.	46-19-9
72	2006	246 – Art.4	Exemption for cities and towns from the 911 emergency telephone surcharge has been eliminated.	39-21.1-14
73	2006	364/446	A storm drainage system that is part of a small municipal separate storm sewer system must be inspected annually.	45-61.1-2
74	2007	243/284	Allows a police officer or firefighter to collect a salary when Incapacitated due to rendering emergency assistance whether on duty or off duty.	45-19-1
75	2007	382/406	Requires local school districts which send special education students to a charter public school on the basis of the average our student public special education cost of the sending district.	16-77-6
76	2007	510	Requires cities and towns to provide domestic partners of teachers, firefighters, police officers, and municipal employees with certain pension, death, and other retirement benefits currently available to spouses of such employees.	See 16-16-1 & 45-19 various
77	2007	Regents Regulation	Established standards, procedures and limitations on school districts applying for new school construction including limitations on the scope of the proposed project and reimbursement by the state for completed projects.	See 16-7 And 16-20
78	2008	244	Requires cities and towns and regional schools districts, under certain circumstances, to have a performance audit conducted in compliance with the generally acceptable governmental auditing standards.	16-2-21
79	2008	254	Requires local school districts to accept a particular health and physical education curricula commencing September 1, 2012.	16-22-4
80	2008	93	Requires any city or town which enters into a contract with the Resource Recovery Corporation to recycle at least 35% of its solid waste and to divert a minimum of 50% of its solid waste by July 1, 2012. These cities and towns must also prepare a plan by fiscal year 2010 which describes how they plan to accomplish these goals.	23-18.9-1 23-19-13
81	2008	158 174	Requires cities and towns, as employers , to continue to provide family medical benefits to any of their employees who leave their jobs by reason of entering the armed forces of the United States. The coverage shall continue during the duration of the employee's deployment.	30-6-6