

LOCAL OFFICIALS SPEAK OUT ON UNFUNDED MANDATES

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1995

Mr. WELDON of Pennsylvania. Mr. Speaker, one of the high priority items for the 104th Congress is resolution of the problem of unfunded mandates. Last month, I had the opportunity to meet with local elected officials in Pennsylvania to discuss this issue. I found their comments and insights revealing.

Testimony was given by every member of the Delaware County Council, including Chairwoman Mary Ann Arty, Paul Mattus, Ward Williams, Wally Nunn, and Tom Killion. I also heard from Joseph Blair, president of Upland Borough Council; Bruce Dorian, manager of Marcus Hook Borough; Kenneth Hemphill, Upper Darby School District; Thomas Kennedy, mayor of Ridley Park; James F. Shields, executive director, Delaware County Intermediate Unit; and Thomas J. Bannar, manager of Haverford Township.

I found their insights and experience very valuable. As we prepare to debate this issue on the floor of the House, my colleagues would do well to look beyond the statements of inside-the-beltway lobbyists and listen to the experience of local elected officials. I have included the testimony of several of the participants which I found particularly insightful. I urge my colleagues to review their statements to better understand how unfunded mandates affect local governments.

STATEMENT OF WALLACE H. NUNN, DELAWARE COUNTY COUNCIL

Earlier we identified that Unfunded Mandates occur as the result of passage of legislation, by promulgation of regulations in response to legislative initiatives, through policy decisions by government bureaucrats and as a result of court orders. Each of these has played a part in helping to construct a welfare system that is one of worst bureaucratic nightmares in terms of its size and expense, its red-tape, its lack of coordination through the various state and federal agencies that mandate its operation and its effectiveness. If we view the social welfare system as a chronological continuum of services beginning with Children and Youth Services and running through the various adult services, we note redundant programs due to more than one state and/or federal agency mandating not only the services but the way in which they are provided, with no coordination or even apparent knowledge of the other agency's mandate. This concern is exemplified in the area of Drug and Alcohol (D/A) where the County receives funding through the Department of Health, the Court system and, in some instances, the Department of Public Welfare. While we are able to cooperate internally and to coordinate the provision of some of the services, we nevertheless must maintain complex administrative structures to deal with the plethora of regulations and policies imposed on us. There may be as many as fifteen (15) different programs to deal with specialized aspects of D/A problems. Each of these is governed by its own set of regulations for operation and reporting.

Many of these regulations that govern our operation are circuitous and address not just the broad policy guidelines but actually stipulate the provision of individual services.

For example, in the County Juvenile Detention Home, we are mandated not just to feed and cloth the juveniles but also to supply an evening snack. (Is eating just before bedtime a healthy practice?)

I have touched on the justice system. Approximately \$48.3 million of the County Budget is projected to be expended on Administration of Justice. This accounts for over 57% of the approximately \$84 million raised in taxes. It also points out the failure of social welfare programs since these programs obviously have not resulted in shaping all of our citizens who are clients of our systems into productive members of our society. While I am not naive enough to think that we can be 100% successful in moving people toward productivity, I would like to have the opportunity to design our own programs without interference from the federal and state bureaucracies. Block grants without the punitive strings attached would be a mechanism that could be used to funnel dollars to Counties. We suggest this approach to you.

STATEMENT OF BRUCE A. DORBIAN, MANAGER, BOROUGH OF MARCUS HOOK

On behalf of the Crum and Ridley Creeks Council of Governments I graciously recognize the Honorable U.S. Congressman from the 7th congressional district, W. Curtis Weldon, and the Honorable State Senator from the 26th senator district, Joseph Loeper and members of the county council. Thank you for organizing this public hearing on the subject of unfunded mandates and extending to us the opportunity to provide oral and written testimony.

The Crum and Ridley Creeks Council of Governments is an organization with 11 member municipalities formed to facilitate and develop mutual cooperation and coordination among the participating municipalities. The membership includes the boroughs of Media, Marcus Hook, Rose Valley, Rutledge and Swarthmore and the townships of Edgmont, Middletown, Nether Providence, Newtown, Upper Providence and Concord.

Whether Federal or State imposed, a mandate is a mandate. The word is feared in the local government community. Mandates can be fatal to the budget process and they occur far too frequently. They are feared because there is usually little notice or preparation, they carry new responsibilities, and seldom little authority or fiscal resources to carry them out.

WHAT ARE MANDATES?

They are requirements placed on local government by the Federal and State government to perform specified tasks. They are "mandates" because they must be done. The mandate message delivered from Federal and State government is similar to that national advertising campaign theme—"just do it."

WHO PAYS FOR MANDATES?

Local citizens and businesses pay for most Federal and State mandates through increased local taxes and fees. Most mandates are unfunded or underfunded. This means the Federal and/or the State government adopts the legislation and establishes regulatory requirements without appropriating any funds to implement the legislation or regulations. The costs for implementation are left to local and county governments.

WHY ARE MANDATES A PROBLEM?

Federal and State mandates are a problem for three reasons: (1) they are imposed without consideration of local circumstances or capacity to implement the Federal/State requirements; (2) they strain already tight budgets forcing increases in local tax rates and fees to pay for mandates while we continue to provide local services and keep local

budgets in balance; and (3) they set priorities for local government without local input. Because most mandates require compliance regardless of other pressing local needs, Federal and State mandates often "squeeze out" projects and activities that are local priorities and which would contribute more to local health, welfare and safety than the specific action or activity dictated by Federal/State laws and regulations. Local dollars spent on Federal and State mandates is money that cannot be spent on local priorities.

ARE LOCAL GOVERNMENTS OPPOSED TO MANDATES THAT PROTECT THE PUBLIC HEALTH, SAFETY AND CIVIL RIGHTS OF CITIZENS?

No local elected officials are committed to providing public services that enhance the health, safety and welfare of their citizens.

But local officials are opposed to unfunded, inflexible, "one-size-fits-all" laws and regulations. These laws and regulations impose unrealistic time schedules for compliance, specify the use of procedures or facilities when less costly alternatives might serve as well, and require far more than underlying laws appear to require. Local officials want to concentrate on performance, not procedures.

WHY SHOULD CITIZENS CARE ABOUT FEDERAL AND STATE MANDATES?

They allow the Federal and State government to write checks on the local government checkbook. They interfere with local decision-making and give authority to remote Federal and State lawmakers and bureaucrats rather than easily accessible local mayors, council members, commissioners and supervisors. And, perhaps most importantly, they force local governments to raise local taxes and fees in order to comply with mandates and maintain local services.

As municipal managers, we have day to day, hands-on experience with mandates. They impact virtually every aspect of local government operations. Recent mandates include mandatory recycling, expanded training requirements for municipal police officers, additional pension benefits for police and fire officials, workers compensation enforcement through the local building permit system, agency shop, and public access requirements of the Americans With Disabilities Act. Then there are those that simply become institutionalized in the operations of the municipality and continue to impose costs ten to twenty years after enactment. Public advertising requirements, State and Federal mandatory wage requirements for public works project, minimum wage, to name a few. Whatever the case may be, we know one thing for certain—once a mandate is imposed it is never repealed. One recent national research study ranked Pennsylvania second in the number of new mandates imposed on municipal government.

The current system allows Federal and State lawmakers and bureaucrats to impose their priorities without considering local budget and service impacts. Local budgets are statutorily required to be balanced, taxing authority is limited, and mandates cannot be passed on to another level of government. We must bring fiscal responsibility to the mandate process in this country and in Pennsylvania.

The buck has been passed to local government for too long; it is time for the "bucks" to be passed on as well.

STATEMENT OF JAMES F. SHIELDS, EXECUTIVE DIRECTOR, DELAWARE COUNTY INTERMEDIATE UNIT

It is a pleasure for me to be here today representing the Intermediate Unit, the fifteen

public school districts in the county and the Delaware County School Boards' Legislative Council.

The issue of unfunded mandates has received much attention lately. I want to commend County Council for the leadership you have shown in bringing this issue to the attention of the general public. We can also look at Governor-elect Tom Ridge's campaign pledge in which he states: "I will fight to give our communities greater control over their schools and tax dollars, free from state micromanagement. I want to provide districts with relief from existing state mandates and stop the flow of new ones to encourage greater local control and help ease the pressure on local property taxes." Likewise, the new leadership in Congress has also expressed their intent to focus on this issue. It appears that the issue of unfunded mandates is approaching front-burner status on the political agenda.

Focusing public attention on unfunded mandates and the impact they have on local school district budgets has also been a priority of Delaware County school districts for the past five years. In the 1991-92 school year, a committee of superintendents and school board members started a process to identify some of the high cost mandates affecting schools. A survey was developed and completed by all school districts that identified and placed a dollar cost on some critical areas. A presentation of the results was made to the Delaware County legislative delegation at the School Boards' Annual Legislative Breakfast held on May 15, 1992. The following is a partial list of the information shared at that time. Although the cost data will have changed since that time, what hasn't changed is the economic impact these mandates have on local school budgets.

Certification restrictions and staff ratios as applied to Nurses, Dental Hygienists, Librarians (\$3,014,750)

Sabbatical leaves for purposes of study and travel (\$4,508,317 over previous five years)

State requirement to transport nonpublic school students up to ten miles outside local school district boundaries (\$6,072,374)

Use of prevailing wage rate on school construction projects in excess of \$25 thousand (\$12,329,800 over previous five years and projected for immediate future)

Asbestos abatement (\$17,650,107)

Underground storage tank inspection and removal (\$5,901,000)

Transportation of Early Intervention students (\$302,600)

The development of Act 178 Professional Development Plans (\$668,000)

Implementation of a Teacher Induction Program (\$173,730)

Special education costs have consistently exceeded the funds available from both state and federal sources. Because of the many due process requirements and the strict limitations on class size along with additional supportive services needed, this is an expensive mandate. In addition, while not required to do so under federal law, Pennsylvania has chosen to include the education of the gifted under state special education rules and regulations. The federal government originally promised to fund 40% of the cost of this law but in actuality the federal share has never exceeded 12%. It must be said that in and of themselves each of the mandates may be considered to serve a noble purpose. However, the cumulative effects of these and all the other mandates imposed on local districts impose a fiscal and human resource cost on schools. Meeting the demands of some of these mandates may take away resources from other areas of the school program deemed important by the local community.

As a next step in this process, the fifteen Delaware County school districts and the In-

termediate Unit have contracted with the Pennsylvania Economy League to identify existing mandates that impact upon the operation of the schools and to assess their economic impact. In addition, the other three suburban intermediate units in Bucks, Chester and Montgomery Counties have likewise expressed an interest in participating and supporting this study.

In 1982 the Pennsylvania Local Government Commission, after an exhaustive study, identified 6,979 state imposed mandates upon local government units in Pennsylvania. Moreover, the Pennsylvania School Boards Association, representing all 501 school districts in the Commonwealth has identified burdensome mandates the Association has targeted for legislative remedy including the following:

Prohibiting the furlough of staff for economic reasons;

The requirement to transport nonpublic students up to 10 miles outside the district;

The awarding of tenure after two years of successful teaching;

The requirement to hire certificated school nurses, dental hygienists and home and school visitors according to a state-established pupil ratio;

Providing full year and split year sabbaticals for travel;

Permanent certification for teachers and administrators.

It is clear that now is the time for concerted action by all agencies of local government to ease the financial burden caused by unfunded or partially funded state and federal mandates. On behalf of Mr. Walter Senkow, President of the Intermediate Unit Board of Directors, Mr. James Fahey, Chairman of the School Boards' Legislative Council, and Dr. Roger Place, Chairman of the Superintendents' Advisory Council, I commend County Council and our legislative delegation for sponsoring today's hearing. We stand ready to work cooperatively with you to address these important concerns.

TRIBUTE TO JESS SOLTESS

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1995

Mr. LEVIN. Mr. Speaker, I rise today to recognize Jess Soltes as he retires from the position of Ferndale city manager after 24 years of distinguished service to Ferndale, MI, and the surrounding community. In 1971, Jess began his distinguished career serving Ferndale as community development services director. In 1978, he was elevated to his current position of city manager.

Mr. Speaker, I have had the pleasure to represent the city of Ferndale for 13 years. It is a dynamic community growing and changing to better serve its citizens. Jess has truly played a key role in Ferndale's development and success.

On the occasion of his retirement, I would like to congratulate and thank Jess Soltes for his commitment and dedication to the city of Ferndale. I would like to extend my best wishes to Jess and his wife Sue for many years of health and happiness.

TRIBUTE IN MEMORY OF SLAIN
SAN ANTONIO POLICE OFFICER
FABIAN DOMINGUEZ

HON. FRANK TEJEDA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1995

Mr. TEJEDA. Mr. Speaker, I rise today with a grim duty, to report to you and the House the senseless murder of Fabian Dominguez, a patrolman who served valiantly on the San Antonio Police Force. In an act of selfless duty, he lost his life at the hands of young thugs.

The details are poignant: On his way home from his shift, Patrolman Dominguez stopped to investigate a suspicious situation at his neighbor's home. He surprised some would-be burglars and was shot to death. Three teenagers have been charged with his murder.

At his funeral, the pastor of Trinity Baptist Church, the Reverend Buckner Fanning, is reported to have said: "Fabian was off-duty. Duty didn't require he stop. But love did. Commitment did. Love for God. Love for his neighbor. Love always stops where there's trouble. Love never takes a vacation. Love is never off-duty." These words ring true.

We in this Congress must continue to strive to convince our youth, our children, that life is precious, not something to be thrown away casually. We hear about a lack of values in our society, and it stems from the failure to recognize the special unique spirit of each human. It stems from a lack of self-respect. Our challenge is to create incentives to put that ultimate value, the value of human life, into the hearts of all of us.

Each day, in San Antonio and in other cities, towns, and counties across this country, law enforcement officers put their lives on the line to protect us from those who would do us harm. Some walk the beat, some patrol in cars, on horseback or bicycles, and yet others serve from behind the desk. Brave men and women, dedicated to public safety, give us their all, and it is appropriate for us in this House of Representatives to pay tribute to each of them.

Patrolman Dominguez was laid to rest with full honors yesterday. In recognition of his service, Police Chief William Gibson retired badge No. 0399, worn proudly by Mr. Dominguez. Our hearts go out to his family, and particularly to his wife and twin 8-month-old daughters, who will look at the American flag given to them, first draped over their husband's and father's coffin, with pride and sadness.

INTRODUCTION OF A BILL TO PROHIBIT PAY AND ALLOWANCES TO INCARCERATED MILITARY PERSONNEL

HON. BLANCHE LAMBERT LINCOLN

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1995

Mrs. LINCOLN. Mr. Speaker, today I rise to introduce legislation that would prohibit pay and allowances to military personnel who are under a sentence that includes dismissal or a dishonorable or bad-conduct discharge. In this