

ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda-underwritten by global corporations--includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

ALEC's Corporate Board
--in recent past or present

- AT&T Services, Inc.
- centerpoint360
- UPS
- Bayer Corporation
- GlaxoSmithKline
- Energy Future Holdings
- Johnson & Johnson
- Coca-Cola Company
- PhRMA
- Kraft Foods, Inc.
- Coca-Cola Co.
- Pfizer Inc.
- Reed Elsevier, Inc.
- DIAGEO
- Peabody Energy
- Intuit, Inc.
- Koch Industries, Inc.
- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at www.SourceWatch.org.

DID YOU KNOW? Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

Home → Model Legislation → Tax and Fiscal Policy ←

State Payment for State Mandates Act

Summary

State governments often disregard the fiscal consequences on local governments of actions taken in requiring the state's counties and municipalities to provide certain public services. This Act requires the state government to provide full funding for any net additional costs to counties or municipalities that are incurred by those jurisdictions in complying with the required performance of a new or expanded program or service under the provisions of any state law, rule, regulation, or order.

Model Legislation

{Title, enacting clause, etc.}

Section 1. {Legislative Findings.}

The legislature finds and declares that:

- (A) Actions of the state government that directly or indirectly prescribe the manner, standards, level, and conditions of public service to be provided by the state's counties and municipalities are often taken with little regard for the fiscal consequences of such actions upon the affected local jurisdictions.
- (B) Many of the state's counties and municipalities are experiencing varying degrees of fiscal stress resulting from the need to provide adequate public services to their citizens but without the local tax resources to do so.
- (C) The state government, prior to imposing new or expanded service requirements upon its political subdivisions, should be aware of and confront the issue of where the burden of paying for those requirements will fall.
- (D) It is appropriate, therefore, that the state government provide full funding for any net additional costs to counties or municipalities that are incurred by those jurisdictions in complying with the required performance of a new or expanded program or service under the provisions of any state law, rule, regulation, or order.

Section 2. {Definitions.}

As used in this Act:

- (A) "Board" means the Local Government Mandates Board established pursuant to Section 8 of this Act.
- (B) "County" means the governing body and the officers and employees of a county.
- (C) "Expanded program or service" means a program or service the scope or level of which would be increased, extended or enhanced by a county's or municipality's compliance with the provisions of a state law, regulation, rule, or order.
- (D) "Municipality" means the governing body and the officers and employees of a municipality.
- (E) "Net additional cost" means the cost or costs incurred or anticipated to be incurred within a one-year period by a county or municipality in performing or administering a new or expanded program or service required by a state law, regulation, rule, or order, after subtracting therefrom any revenues received or receivable by the county or municipality on account of the program or service, including but not limited to:
 - (1) Fees charged to the recipients of the program or service;
 - (2) State or federal aid paid specifically or categorically in connection with the program or service; and
 - (3) Any offsetting savings resulting from the reduction or elimination of any other program or service directly attributable to the performance or administration of the required program or service.
- (F) "New program or service" means a program or service different in kind or purpose from those in existence at the time of the enactment of a law or promulgation of a rule, regulation, or order requiring the performance or administration of the program by one or more counties or municipalities.

Did you know that the Evergreen Freedom Foundation --which is connected to the Kochs-- was the corporate co-chair in 2011?"

(G) "Office" means the Office of Local Mandates established pursuant to Section 4 of this Act.

(H) "Program or service" means a specific and identifiable activity of a county or municipality which is available to the general public or which is conducted, administered, or provided for or on behalf of the citizens of a county or municipality.

Section 3. {Requirement for Funding of State Mandates.}

(A) Notwithstanding any law, regulation, rule, or order to the contrary, and except as provided in Subsections C and D of this Section, any provision of a law or of a rule, regulation, or order issued pursuant to law, which becomes effective on or after the effective date of this Act, and which has the effect of requiring a county or municipality to perform or administer a new or expanded program or service having a net additional cost in excess of \$1,000 for any county or municipality or \$100,000 for all affected counties or municipalities, shall be inoperative in the county or municipality until a state appropriation is made and sufficient funds are provided to each affected county or municipality as may be necessary to pay in full any net additional cost of compliance with the requirement.

(B) A law subject to the provisions of Subsection A of this Section shall make an initial appropriation therein in an amount sufficient to pay in full any net additional cost of compliance by the affected counties or municipalities, or both as the case may be. Thereafter, the state shall provide funding for continuing programs or services, subject to the provisions of Subsection A of this Section, in the annual appropriations act or supplements thereto or in appropriations of bond monies or other designated sources of funding. A rule, regulation or order subject to Subsection A of this Section shall be funded in the annual appropriations act or supplements thereto, or in appropriations of bond monies or other designated sources of funding.

(C) The provisions of Subsection A shall not apply to any new or expanded program or service that:

- (1) Is required or arises from a court order or judgment;
- (2) Is provided at the option of the county or municipality under a law, regulation, rule or order that is permissive rather than mandatory;
- (3) Is required by private, special or local laws; or
- (4) Is required by or arises from an executive order of the Governor exercising his emergency powers.

(D) The provisions of Subsection A shall not apply when a law requiring a county or municipality to perform or administer a new or expanded program or service is enacted without making an appropriation pursuant to Subsection B, provided that the bill resulting in the enactment of the law shall pass the Legislature by a two-thirds vote of all the members of each House.

Section 4. {Office of Local Mandates.}

(A) There is established within [insert appropriate executive department] an Office of Local Mandates, which shall have as its primary function the review of proposed and adopted laws, regulations, rules, and orders for the purpose of completing a local impact statement. A local impact statement shall contain a fiscal analysis of the net additional costs to a county or municipality that will result from any new or expanded program or service that the county or municipality would be required to perform or administer as a result of the proposed or adopted law, regulation, rule, or order.

(B) The [insert appropriate executive department] shall appoint and employ all persons, including accountants, attorneys, auditors, financial analysts, management, purchasing and personnel analysts, and any other individuals with experience in local government operations, and such clerical and technical assistants whom the Office may require within the limits of available appropriations.

Section 5. {Mandate Review Requirements.}

(A) Whenever any bill, which could possibly incur an increase in costs, is introduced into either house of the legislature, and that bill receives first reading pursuant to the rules of the house into which it is introduced, the bill shall be immediately reviewed by the [insert appropriate legislative budget official]. If upon review [insert appropriate legislative budget official] determines that the bill will not result in net additional costs if the bill is enacted, he/she shall certify that determination, on a statement signed by him/her and filed in his office. If he/she determines that the bill may result in net additional costs if enacted, he/she shall immediately forward notice to the bill's sponsor(s) and the chairman of the committee, if any, to which the bill has been referred or to the presiding officer of the house in which the bill originated if no such reference was made, that, in his/her judgment, a local impact statement is required. The [insert appropriate legislative budget official] shall also forward a notice to the Office of Local Mandates that such a bill has been introduced and that a local impact statement is required.

(B) Upon receipt of a notice from the [insert appropriate legislative budget official] that a bill has been introduced in the legislature that may result in net additional costs to a county or municipality, the Office shall complete as soon as possible, but within 30 days of notification, a local impact statement containing the most accurate estimate possible, in actual dollars, of the net additional costs, if any, that will be required of a county or municipality to perform or administer a new or expanded program or service. Local impact statements completed pursuant to this Subsection shall be forthwith delivered to the Governor, the presiding officer of both houses of the legislature, and the chairman of the [insert appropriate committees].

(C) Whenever any state administrative or executive rule, regulation, or order is proposed

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or adopted, the state department head or state officer issuing the rule, regulation, or order, and the Secretary of State, or the Governor, as may be custodian of the rule, regulation, or order, shall forthwith forward a copy of the proposed or adopted rule, regulation, or order to the Office of Local Mandates with a notice to complete a local impact statement within 30 days of the proposal or adoption.

(D) Upon receipt of a notice from the Secretary of State, a state department head, a state officer, or the Governor of the proposal or adoption of an executive or administrative rule, regulation, or order by that official, the Office shall complete as soon as possible, but within 30 days of notification, a local impact statement containing the most accurate estimate possible, in actual dollars, of the net additional costs, if any, that will be required of a county or municipality to perform or administer a new or expanded program or service. Local impact statements completed pursuant to this Subsection shall be forthwith delivered to the Governor, the presiding officer of both houses of the legislature, and the chairman of the [insert appropriate committees] together with a copy of the rule, regulation, or order.

(E) The Office shall conduct an annual review of all pending legislative bills, and laws, regulations, rules, and orders enacted or adopted after the effective date of this Act, for which the Office has previously completed a local impact statement. Any annual change in the dollar estimate of the net additional costs from that provided in the original local impact statement shall be updated as a result of the review to disclose that change, and the updated local impact statement shall be delivered to the recipients of the original local impact statement.

Section 6. {Notification of local impact statement.}

A bill for which a local impact statement is required shall not proceed from second to third reading in the house of origin until the completed local impact statement is received by the presiding officer of that house. The presiding officer shall cause notice of the receipt of each local impact statement to be entered on the journal of that house.

Section 7. {Appropriations requirement.}

Except as otherwise provided in Subsection D of Section 4 of this Act, a bill for which a local impact statement as been received pursuant to Section 6 of this Act shall not receive passage in either house until it contains therein an appropriation at least equal in amount to the amount estimated in the local impact statement as necessary to pay in full any net additional costs of compliance therewith.

Section 8. {Local government mandates appeal board.}

There is established the Local Government Mandates Appeals Board. The membership of the Board shall consist of 11 voting members as follows: two to be appointed from the membership of each house of the legislature to be appointed by the presiding officer of each house; two elected county officials to be appointed by the Governor; two elected municipal officials to be appointed by the Governor; the State Treasurer, ex officio, or the designee thereof, and two members at large, appointed by the Federal Grant Review Act Governor. Within each category of appointed members, the appointees shall be of different political parties. The legislator members shall serve during the two-year legislative session during which the appointment is made. The elected county and municipal officials shall serve as members during the terms of their elected office during which their appointments are made. Other members shall serve during the duration of the term of the Governor who appointed them. The Governor and presiding officers of both houses of the legislature shall, in making their appointments, consult together to the extent necessary to ensure that among the appointed membership, there is not more than one member appointed as a local elected official or legislator representing the same local units of government within their election districts. A vacancy occurring in the membership of the Board for any cause, other than the expiration of a term of office, shall be filled in the same manner as the original appointment.

Section 9. {Board organization.}

The Board shall organize as soon as practicable following the appointment of its members and shall elect from among its members a chairman and vice chairman and shall appoint a secretary who need not be a member of the Board. The Board shall employ such assistants as it may deem necessary to carry out its duties and shall determine their qualifications, terms of office, and compensation. All expenditures deemed necessary to implement and effectuate the duties of the Board under this Act shall be made within the limits of appropriations according to law.

Section 10. {Compensation.}

Members of the Board shall not receive compensation for the services except that they shall be reimbursed for expenses such as travel, communication, and clerical expenses, as determined by the secretary of the Board and in accordance with state law regarding reimbursable expenses of state employees.

Section 11. {Subpoena power.}

The Board, through its chairman or secretary, may issue subpoenas and compel the attendance of witnesses to testify before the Board and produce relevant books, records, and papers before it, and may administer oaths in taking testimony in any matter pertaining to its duties under this Act, including, without limitation, any appeals proceeding authorized or required to be held under this Act. Subpoenas shall be issued under the seal of the Board and shall be served in the same manner as subpoenas issued out of Superior Court.

Section 12. {Quorum, board powers.}

The powers of the Board are vested in the members thereof in office from time to time, and a majority of its members shall constitute a quorum for any act thereof. Actions may be taken and orders adopted by the Board by a vote of a majority of its authorized

members unless the rules of the Board shall require a larger number. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

Section 13. {Board duties.}

It shall be the duty of the Board to hear and rule upon appeals brought by one or more counties or municipalities, alleging that a state law, regulation, rule, or order, which has the effect of requiring the performance or administration of a new or expanded program or service:

(A) Has been enacted or promulgated, as the case may be, in a manner contrary to the provisions of this Act; or

(B) Has been lawfully enacted or promulgated, but has been based on a demonstrably inaccurate cost estimate contained in a local impact statement prepared by the Office of Local Mandates; resulting, therefore, in the failure by the state to provide sufficient funding to pay the net additional cost of compliance with the law, regulation, rule, or order.

(C) A party appearing before the Board or otherwise joined in an action before the Board shall submit such evidence and documentation as the Board may require in order to make a determination under this Section.

(D) Should the Board, based on the evidence before it, rule in favor of the appellant county or municipality, or counties or municipalities, it shall submit its findings and rulings to the Governor and the presiding officers of both houses of the legislature, along with its determination that legislation is required to be enacted containing an appropriation of monies sufficient to pay for any net additional cost it has determined as remaining unfunded. Pending the appropriation of such monies, the Board shall declare the contested law, regulation, rule, or order inoperative upon all counties or municipalities determined by the Board to be similarly affected by the application of the law, regulation, rule, or order.

Section 14. {Board determination.}

A determination by the Board pursuant to Section 13 that an appropriation of monies is required or that a state law, regulation, rule, or order is inoperative, or both, shall be appealable by the legislature, or the presiding officer of either house thereof, to the Appellate Division of the Superior Court. A determination by the Board denying an appeal by a county or municipality shall be final and not reviewable by any court.

Section 15. {Board rules.}

The Board shall adopt such rules as may be required to carry out its functions and responsibilities under this act.

Section 16. {Severability clause.}

Section 17. {Repealer clause.}

← **Were your laws repealed?**

Section 18. {Effective date.}

ALEC's Sourcebook of American State Legislation 1995

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