CONNECTICUT CONFERENCE OF MUNICIPALITIES

THE VOICE OF LOCAL GOVERNMENT™

November 2013

Towns and cities need help – help that only the General Assembly and Governor can provide: relief from state mandates. No additional allocations needed, no special funding, no new taxes raised.

No longer will anyone be allowed to say "Sure, I support providing relief from state mandates, but which ones?" Below is "*The List*" – (in no particular order) which itemizes some of **the most cumbersome state mandates, and what the General Assembly and the Governor can do** to provide immediate relief to Hometown, Connecticut. **11 pages. 11 solutions.**

"The List"

A Definitive Guide to Mandates Relief

1. *Allow Towns the Option* to Post Their Business Online:

In 2013, Connecticut's hometowns can only post legal notices in the back pages of printed newspapers – putting them online doesn't count. This is an antiquated state law that has outlived its purpose. **The General Assembly should amend this archaic mandate to reflect the realities of today's world and to allow towns and their boards and commissions the option of an alternate means of publishing** such notices as:

- Advertising: Sale of Perishable Goods (*Amend section 50-11 CGS*);
- Establishment of Boundaries by Regulation, Adoption of Regulations. Permits. Filing Fees (*Amend sections 22a-42a*);
- Coastal Site Plans. Review (*Amend sections 22a-109*);
- Adoption of Regulations. Permits (*Amend sections 22a-354p*); and
- Regular and Special Municipal Elections (*Amend section 9-164*).

WHY?

This mandate protects the status quo and uses property tax dollars as a life-preserver for financially troubled newspaper companies. It is estimated that this 20th century law costs small towns several thousands of dollars annually in advertisement fees, while the costs to larger cities can be as much as hundreds of thousands of dollars per year. Statewide – this mandates costs municipalities almost $3 million dollars.

In the 21st century, the quickest, most transparent and cost-effective way to get information to the largest amount of residents is via the internet. It is no secret that the internet is where people shop, communicate, bank, and share general information. Town and city halls are clearinghouses of information for all things local -- from recreation schedules, to town meetings, to lost and found items. Residents of all ages rely on their most accountable level of government, their hometown, to keep them informed. As a result, municipal websites have become the lifeline that links our living rooms with our local governments' goings-on.

Modifying this mandate would not only save municipalities money -- it would be common sense and a logical improvement to the operation of local government. Antiquated state law should not stand in the way of local governing progress.

This is not an attack on print newspapers – they are a valuable and hallowed aspect of our political culture. But allowing little-read legal notices to *only* be posted there is needlessly costly to our hometowns and is no longer the best way to make these notices available.

2. Make *Incremental Adjustments* to MERS Contributions Rate:

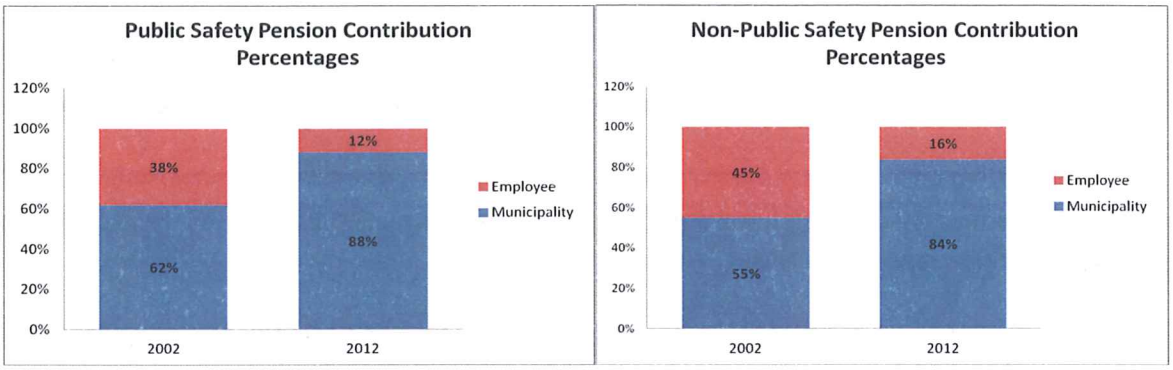
Favorably reported by the Labor Committee two years in a row (with bipartisan support) – this proposal addresses local officials' concerns about the disparity between the contributions rates within the Municipal Employee Retirement System (MERS) by increasing the employee contribution rate for non-social security participants from 5% to 8% over time, and adjust the contribution rate for Social Security participating employees from 2.25% to 5%, also over time.

WHY?

MERS is financed through employer contributions, employee contributions, and fund earnings. It receives no state funding and is administered through the State Comptroller's Office. Over the past eleven years, the State Employees Retirement Commission (SERC), which is authorized by the Legislature to do so, has increased contribution rates for municipalities participating in MERS nine times. From 2002-2012, municipal contribution rates have risen 444% (3.75% of payroll to 16.65%) for public safety employees; and 392% (3% to 11.76%) for all others.

However, **employee contribution rates, which are established in state statute, have never changed** -- and remain 2.25% of payroll for those participating in the Social Security system, and 5% for those employed in non-Social Security communities. **Only legislative action can**

authorize an adjustment in the employee contribution rate. In 2002, the employer-employee contribution rate was 55% municipality/45% employee, while currently, the rate is 84% municipality/16% employee for all non public safety employees. For police and fire, the contribution ratios were 62%/38% in 2002, while now, they are 88/12%.[1]



By any reasonable measure, towns participating in MERS have absorbed a considerable burden over the past decade as the numbers above indicate. This has directly contributed to a reduction in municipal services and actual layoffs in order to meet obligations. The ratio of retirement cost burden has skewed tremendously onto municipalities and again, is an imbalance that can only be corrected by the General Assembly.

An immediate form of relief would be to adjust the participating employee contribution rate. As indicated, **legislators on the Labor Committee already approved this proposal last year (HB 5533).** They should favorably report it again, and have the Legislature pass the bill. Simply put – implement a reasonable adjustment in the employee contribution rate for non-Social Security participants from 5% to 8% over time, and for Social Security participating employees from 2.25% to 5%, also over time.

3. Make *Adjustments* to Thresholds that Trigger Costly Prevailing Wages:

Local officials are pleading for state lawmakers to remove politics from this debate. **They are not demanding repeal of Connecticut's prevailing wage rate law, nor demanding radical changes to this mandate. They simply ask their state partners in government to make reasonable adjustments** to the thresholds and require the Department of Labor to administer §31-53g as the legislative history would indicate. Appropriate thresholds for remodeling, refinishing, refurbishing, rehabilitation, alteration -- as well as new construction -- are essential to allowing municipalities the ability to manage their limited resources. Specifically:

[1] Town of Weston, Testimony. Labor & Public Employees Committee public hearing. March 13, 2012.

Amend CGS 31-53(g) to:

(a) Adjust the thresholds for (i) renovation construction projects, from $100,000 to $400,000; and (ii) new construction projects, from $400,000 to $1 million;
(b) Exempt municipal school construction projects from the State's mandated prevailing wage rate law. This modest adjustment could offset reductions in state aid for school construction projects and therefore, enable such projects to continue; and
(c) Improve the process for determining whether a project is new construction or repair/renovation which often serves as a deterrent to break ground on a project.

WHY?

The prevailing wage thresholds have not been adjusted since 1991. Prior to 1991, legislators adjusted prevailing wage thresholds on a six-year schedule:

- 1979 – P.A. 79-325: set project thresholds at $10,000 for renovations and $50,000 for new construction.
- 1985 – P.A. 85-355: adjusted thresholds to $50,000 for renovations and $200,000 for new construction.
- 1991 – P.A. 91-74: adjusted thresholds to $100,000 for renovations and $400,000 for new construction.

Amending (or recommendations to amend) laws that mandate hometowns pay inflated prevailing wages is not a radical idea. In fact, some states have adjusted their laws to reflect economic realities and the concerns of local officials. "Five states have changed their prevailing wage thresholds since 2010. **Alaska, Indiana, and Wisconsin significantly raised their thresholds applying to all public works projects. Ohio increased thresholds for projects that did not involve road or bridge construction** and Vermont lowered its threshold,"[2] which is now equal to Connecticut's threshold for remodeling at $100,000.

These relief measures would free-up state and local dollars, jumpstart and expand projects, and protect and create jobs. The alternative – looming layoffs and shelved projects should not be an option. **The reward for the State as a whole greatly outweighs any possible impact on special interests.** It is a sensible compromise and the right thing to do.

4. Make *Simple Adjustments* to Binding Arbitration:

Connecticut is not Wisconsin, nor should it be. Connecticut's local officials merely seek adjustments to compulsory binding arbitration, not repeal. Such adjustments would establish timetables under the Municipal Employees Relations Act (MERA), similar to the rules already established under the Teacher Negotiation Act (TNA).

[2] The Prevailing Wage," OLR Research Report 2013-R-0393, 10/21/13.

Timeline Proposal:

(a) Amend Section 7-473c within the Municipal Employee Relations Act (MERA) – to impose deadlines for interest arbitration which would require that the negotiation process and binding arbitration be completed **no later than one year** from the date binding arbitration is imposed by the State.

WHY?

Requiring that the process of negotiations and arbitration be concluded within a determined timeframe means greater certainty about working conditions, enhanced ability to plan and budget, less time that employees wait for any wage or benefit improvements the union has achieved, and less time for management to realize savings or operational benefits it has achieved in the process.

It is no secret that there is a disconnect between the practice of binding arbitration and the intent of the law. In 2006, the General Assembly's Program Review & Investigations (PRI) Committee published a report analyzing various aspects of the binding arbitration process. This report discovered "**an upward trend in the board not imposing binding arbitration upon the 30-day time period required by statute.**" Consequently, the state board did not enforce such timelines in approximately 56% of these contracts from FY 02 to FY05 – while in FY 05 alone, timelines were not enforced in 68% of the contracts.[3]

The PRI report noted that in 1980, 80% of contracts were extended beyond their expiration dates – that figure rose to 87% between FYs 02-05. Thus, the report concluded that "**the notion that the advent of binding arbitration under MERA would lessen the length of the time settlements occur after contracts expire has not held true.**"[4] [Emphasis added]

Among the report's recommendations, was a proposal that would have required both parties of an expired collective bargaining agreement to "follow the mandatory timetable for arbitration outlined in C.G.S. Sec. 7-473c" (*this proposal also called for just a 1-year grace period*).[5] Local officials concur with the findings of the non-partisan PRI staff that "settlements delayed for extended periods of time are not positive for the collective bargaining system as a whole if a goal of binding arbitration is to bring timeliness to the process notwithstanding each party's current ability to unilaterally force binding arbitration."[6]

Timeline Proposal:

(b) Amend Conn. Gen. Stat. § 31-98(a) to require that a grievance arbitration award be issued not more than 60 days following the date post-hearing briefs are filed therefore, establish mandatory time limits to issue grievance arbitration awards in cases before the State Board of Mediation and Arbitration.

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[3] Binding Arbitration: Municipal and School Employee," Legislative Program Review and Investigations Committee, January 2006.
[4] Ibid.
[5] Ibid.
[6] Ibid.

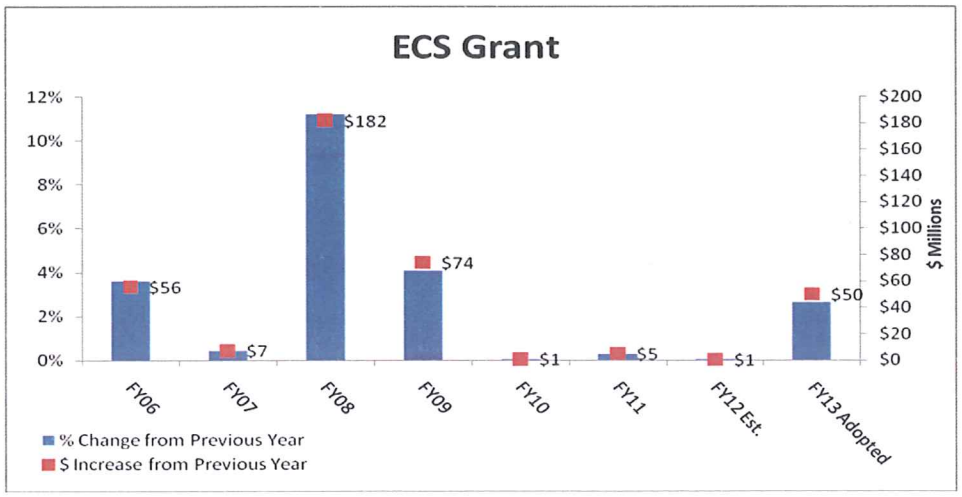
WHY?

Many municipal collective bargaining agreements call for arbitrating grievances before a panel of the State Board of Mediation and Arbitration (SBMA). The current statute states that an arbitration decision shall be issued within 15 days. However, as a result of attorney general opinions and court rulings, this deadline was found to be only "directory" and not mandatory. As a result, management and unions can sometimes wait six months, and in a few egregious situations up to a year, to get a grievance arbitration award. **Such delays are unfair to an employee or group of employees whose grievance is in arbitration, and equally unfair to the union and management.** The delays are particularly harmful in cases where there may be back pay liability, such as a case involving termination or suspension.

Local officials have implored for years, and the State's leading experts agree, that the local binding "arbitration process [is] in need of reform."[7] These are not radical ideas, instead they are reasonable proposals that could make the process more manageable for all parties involved.

5. Let Local Education Breath – Allow MBR Relief:

While an equal partnership between state and local revenue sources has been a longstanding goal – that goal has never been achieved. Modest adjustments to the MBR made in recent years were steps in the right direction however, Connecticut taxpayers need bolder moves. **The General Assembly and Governor should relieve our hometowns, who meet certain criteria of fiscal distress, from the "minimum budget requirements"** which mandates that they give all or a certain percentage of state education aid to their boards of education. At a time when many municipal general governments are struggling to provide basic public services and raising property taxes – local property taxpayers cannot afford to have the State dictate increased funding for one sector of local government. **Additionally, state lawmakers should consider suspending, for two years, the myriad of costly unfunded state mandates, unless necessary to comply with court orders or federal law.**



[7] Connecticut Law Tribune, August 9, 2010. Volume 36, No. 32. Murray & Roy.

The Bristol Public Schools did an analysis of the cost of mandates on their district. **It estimated that complying with state education mandates costs the district almost $15 million.** Surely state lawmakers can muster the political will to at least suspend, repeal or fund *some* of these education mandates, in order to free up desperately needed local resources.

6. *Phase-out* Burdensome Tax on Local Health Insurance Premiums:

The health insurance premium tax on municipalities is 1.75% tax on fully insured municipal premiums. Municipalities that are self-insured do not pay the premium tax. Long advocated by CCM, and part of Governor Malloy's 2012 legislative package (HB 5035, 2012) – a reasonable means of relief would be to (a) cut the tax rate by 50% beginning 2014, (b) by another 25% for 2015, and (c) eliminate the premium tax on municipalities altogether for 2016. This phase-out would be a tangible step that the State can take to help cut costs for property taxpayers.

WHY?
Many municipalities, particularly small towns, cannot reasonably consider self-insurance as an option, because just one catastrophic illness could have a severe negative impact on a local budget. The premium tax costs municipalities up to $9 million each year.

7. Hometowns *Should Not Be Forced* to Store Evicted Tenants' Possessions:

Although some relief was provided in 2010 by eliminating the mandate that requires towns and cities transport the possessions of evicted tenants – **the existing mandate to store items continues to drain local finances and resources.** While municipalities are allowed to try to recoup some of the costs by auctioning off the items, municipalities must incur costs associated with conducting an auction (including publicizing the auction, etc.). And, usually the possessions are not sellable – ultimately, the municipality receives little or no reimbursement.

WHY?
According to the Office of Legislative Research report #2006-R-0164 *"State Laws on Landlord's Treatment of Abandoned Property"*, of the **37 states researched, Connecticut is the only state that mandates that municipalities remove and store the possessions of evicted tenants.** In other states, landlords or sheriffs have the responsibility. The tenant evictions mandate is still costly to municipalities. It is estimated that there are about 2,500 residential evictions per year - this is a conservative estimate. And, storage costs average $10 per day, per eviction, for an average of 15 days. The costs – *excluding staff, vehicles and other administrative costs* – can range from approximately $9,000 to $147,900.

The mandate takes up considerable time on the municipal level. When a person has been evicted, municipalities must store the possessions for at least 15 days. Municipalities are

allowed to try to recoup some of the costs by auctioning off the items. However, municipalities must incur costs associated with conducting an auction (including publicizing the auction, etc.). And, usually the possessions are not sellable. According to one municipal official involved in this process, the belongings are reclaimed in only about 10% of the cases.

- Last year, New Haven paid more than $250,000 for the labor, storage, transportation, and disposal of property from evicted tenants. An auction doesn't usually take place because the items have no monetary value.
- Bridgeport estimates that the mandate costs this struggling city upwards to $129,000 per year.
- Waterbury spends $70,000 a year to store evictees' possessions.
- East Hartford estimates that it will pay $40,000 regarding the tenant evictions mandate: $20,000 in labor, $3,000 in storage, $2,000 in building maintenance, and $15,000 in disposal costs.
- The mandate is projected to cost Norwich $17,000 in FY 13.

Town and city halls should not be in the storage business for others' undesirable property which municipalities do not own.

8. Allow Your Hometown to *Consolidate* Polling Places for Primaries:

Public Act 12-73, approved by the General Assembly, but vetoed by the Governor, would have among other things, "authorized registrars of voters to reduce the number of polling places for a primary, the location of which may be the same or different than the polling places for the election."[8] **Allowing municipalities this option could have provided local registrars of voters to achieve a level of savings by consolidating polling places, when appropriate**.

WHY?
It is estimated that a savings in excess of $10,000 could have been achieved for smaller towns. **Legislators should continue to support this particular relief for their hometowns, and work even closer with the Governor's administration** to ensure a proposal becomes law in 2014.

9. Champion Municipal Pension Reform:

The most significant drivers of municipal costs are employee salaries and benefits. These are also some of the toughest costs to contain. Once, generous health and retirement benefits were needed to attract people to state and local employment**. Now, public sector salaries are as good, if not better than, the private sector.** In fact, according to the U.S. Bureau of Labor Statistics recent study, "public employees earn salaries that are about one-third higher on average than what is provided to private workers per hour."[9]

[8] Office of Legislative Research, Summary for Public Act 12-73, 2012.
[9] The Wall Street Journal. "The Government Pay Boom", March 26, 2010.

WHY?

Pension and other post-retirement benefits are a significant and growing challenge for towns and cities. The private sector long ago moved from costly and unsustainable defined-benefit pension programs to defined-contribution plans. Defined-budget plans are still prevalent in the public sector. **"The real windfall for government workers is in benefits. Those are 70% higher than what standard private employers offer..."**.[10] New accounting and reporting requirements mean that municipalities must record liabilities for retiree health coverage on an accrued basis, as they are earned, rather than as they are paid. This means that these liabilities will be more visible and will affect the credit rating for municipalities. Towns and cities that fail to control these escalating expenditures will pay the price in terms of lower credit ratings and higher costs for borrowing.

The **State Legislature and Governor can help**:

- ✓ Create a new retirement plan within the state Municipal Employee Retirement System (MERS) – a "MERS C" option – that offers a more limited, defined-contribution plan. Then, **allow municipalities, at administrative option, to enroll new employees in the new plan, regardless of retirement or pension provisions affecting current employees.** Exclude such employees from collectively bargaining pension benefits beyond those provided by MERS C, and allow existing employees to be enrolled in the MERS C system by mutual agreement through collective bargaining.

Clearly, the current way of conducting business is unsustainable and in need of reform. A "MERS C" plan could be an appealing alternative to many municipalities in search of relief.

10. Allow Hometowns *the Option* to Decide EMS Provider

Current law does not allow towns and cities the option to choose their local emergency medical service (EMS) provider. Such prohibitive law has resulted in another state mandate on local resources. Municipalities have always put the needs of their residents first, and have done so through the services they provide. It is therefore, counterproductive to not permit local officials the option to decide their EMS provider -- and the terms of contracts, particularly with any company that fails to adequately provide such essential services.

The State Legislature and Governor can help: **make sure proposals, such as last year's House Bill 6518 becomes law in 2014**.

WHY?

This proposal would have amended current practice by which the Department of Public Health (DPH) designates the ambulance service provider for each primary service area (PSA). Current law limits municipal input regarding who is chosen to provide such local services, at what cost, and restricts local ability to determine if contracts should continue or be amended. **HB 6518**

[10] Ibid.

was therefore, a logical measure to provide local officials the authority to select their PSA responder for ambulance transportation – and would have allowed municipalities flexibility for deciding whether such services are adequately delivered.

Municipalities are continually being asked to do more with less. Allowing for a competitive bidding process will give towns and cities the ability to select a provider that best fits their needs, and would encourage EMS providers to offer the most efficient means of service.

The town of South Windsor is an example of how such a proposal could relieve municipalities from this state mandate. When the town sought an EMS provider for Advanced Life Saving (ALS) services -- they were still required to maintain their contract with their current provider – whom only offered Basic Medical Services. Handcuffed without any options, the town requested that their provider adjust the contract by expanding its scope of services to meet the changing needs of South Windsor. This request to tailor services for ALS was denied -- and as a result, the town of South Windsor was forced to pay an additional $700,000 for a stand-alone ALS service contract. **In 2013, hometown officials should be permitted a greater degree of flexibility, particularly when it comes to the responsibility of providing the most vital medical services our residents rely upon.**

11. Statutory Prohibition on State Mandates

There are over 1,200 state mandates imposed on Hometown, Connecticut and their residential and business property taxpayers. Relief from some of these mandates is important to the recovery of municipalities during the biggest fiscal crisis in recent memory.

State lawmakers should support a statutory prohibition on unfunded state mandates which would (a) place the burden of proof on the State to demonstrate why a mandate is needed, and (b) present the General Assembly with the issue of municipal reimbursement up-front, as the issue of enactment is debated. The Legislature, through use of a "notwithstanding clause", may avoid full or even partial reimbursement for a new or expanded mandate if there are compelling public policy reasons to do so. Still, **this needed reform would require the General Assembly to inject cost-benefit analyses into debates on state mandates yet provide the State with the needed flexibility to enact truly necessary mandates.**

Connecticut towns and cities empathize with the State's fiscal problems. Municipalities across our state have enacted painful budget cuts and are making preparations for additional cuts. Deep cuts in services and massive layoffs have occurred in Connecticut's central cities – with the prospect of additional cuts and layoffs on the horizon. Municipalities must still provide the services residents depend on such as education, public safety and infrastructure maintenance, regardless of the economy.

At a time when towns and cities are struggling mightily to continue to provide needed services to residents and businesses, meaningful mandates relief is needed this year.

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The Connecticut Conference of Municipalities (CCM) is Connecticut's statewide association of towns and cities. CCM is an inclusionary organization that celebrates the commonalities between, and champions the interests of, urban, suburban and rural communities. CCM represents municipalities at the General Assembly, before the state executive branch and regulatory agencies, and in the courts. CCM provides member towns and cities with a wide array of other services, including management assistance, individualized inquiry service, assistance in municipal labor relations, technical assistance and training, policy development, research and analysis, publications, information programs, and service programs such as workers' compensation, liability-automobile-property insurance, risk management, and energy cost-containment. Federal representation is provided by CCM in conjunction with the National League of Cities. CCM was founded in 1966.

CCM is governed by a Board of Directors, elected by the member municipalities, with due consideration given to geographical representation, municipalities of different sizes, and a balance of political parties. Numerous committees of municipal officials participate in the development of CCM policy and programs. CCM has offices in New Haven (the headquarters) and in Hartford.

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