Unfunded Mandates

Unfunded mandates continue to drive up local costs beyond the control of our small towns and cities. During these difficult fiscal times, local budgets are stretched thin, revenues are declining and costs continue to escalate. Connecticut must provide towns and cities with relief from unfunded mandates and refrain from adopting any new unfunded mandates, however well-intentioned. Failure to provide municipalities with meaningful mandate relief will force increases in property taxes and/or cuts to local services and programs.

Mandate Relief – Priorities

1. Strengthen mechanisms to ensure that the legislature carefully considers the fiscal impact of legislation on municipalities;
2. Review recommendations for implementing the Uniform Chart of Accounts to determine whether implementation should be delayed or repealed based on costs to municipalities;
3. Address inequities in the Municipal Employees Retirement System by adjusting mandated employee contribution rates;
4. Fully fund Payment in Lieu of Taxes (PILOTs) reimbursements and refrain from adopting state mandated property tax exemptions;
5. Allow towns to post on the Internet meeting and other legal notices currently required to be published in newspapers;
6. Increase the Prevailing Wage Threshold on municipal public works projects to $1 million for new construction and $400,000 for renovations and index the threshold to the annual inflation rate;
7. Assist municipalities in funding special education costs;
8. Give towns more flexibility under the Minimum Budget Requirement to reduce education budgets to reflect cost-efficiencies;
9. Adjust existing binding arbitration laws to reduce burdens on municipalities;
10. Address escalating health insurance costs by exempting municipal health insurance policies from the insurance premium tax;
11. Eliminate the property storage mandate which requires towns to store the possessions of evicted tenants;
12. Assist municipalities in meeting mandated wastewater phosphorus limits by ensuring that all projects receive a greater percentage of Clean Water funds; and
13. Eliminate unnecessary and duplicative regulations and reporting requirements.

Shine a Spotlight on Unfunded Mandates

Too often, the actual fiscal impact of a mandate is unclear until legislation is adopted and towns begin struggling to implement. COST has long supported efforts to shine a spotlight on the costs associated with unfunded mandates by requiring any unfunded mandate to be adopted by a 2/3 majority of the General Assembly. This would help ensure that lawmakers carefully considered the fiscal impact of legislation before imposing another unfunded mandate on property taxpayers.

Although Connecticut requires fiscal notes to identify any municipal impact, this is done after a bill has been approved by the committee and is moving forward in the process. In addition, due to the short timeframe (5 days) for scheduling a public hearing following the publication of legislation, it is difficult for municipalities to fully assess the costs associated with a proposal to include on the record in testimony. Also, many bills are amended in committee or on the floor in ways that may increase municipal costs. Although fiscal notes are prepared on such amendments, there is little opportunity for municipalities to provide input on actual implementation costs at this point in the process.

Unfortunately, legislation requiring unfunded mandates to be approved by a 2/3 majority has not won widespread support in the legislature. Given continued concerns regarding the burden of unfunded mandates, **COST recommends that the M.O.R.E. Commission Mandate Subcommittee convene a working group to develop recommendations to:**

- **Improve the process of determining and highlighting the municipal impact of proposed legislation and amendments;**
- **Require the legislature to hold public hearings on recently adopted mandates that have been identified by the Advisory Council on Intergovernmental Relations (ACIR) as having a major municipal cost; and**
- **Explore other mechanisms to ensure that the fiscal impact of a proposed mandate is carefully considered by lawmakers prior to adoption.**

COST is an advocacy organization committed to giving small towns a strong voice in the legislative process. Its members are Connecticut towns with populations of less than 30,000. COST champions the major policy needs and concerns of Connecticut's suburban and rural towns. More information is available at www.ctcost.org

Uniform Chart of Accounts

Public Act 13-247 mandates the implementation of a Uniform Chart of Accounts (UCOA) – a "uniform system of numbers used to categorize municipal revenues, expenditures, assets, liabilities, and fund equity" - by each municipality not later than June 30, 2015. The UCOA is intended to increase transparency regarding municipal expenditures to meet the state's benchmarking goals.

Depending on which implementation option is used, there could be significant costs to municipalities. It is our understanding that the state plans to recommend an approach which maps a municipality's underlying ledger system to the UCOA to minimize the municipal impact. In addition, state funding may be available to fund the cost of the consultants who will assist municipalities with the mapping. However, there are a lot of questions regarding the upfront and ongoing municipal costs associated with implementation of the UCOA and whether implementation will truly benefit municipalities and taxpayers. **COST recommends that the M.O.R.E. Commission Mandates Subcommittee closely monitor this issue to ensure that municipal concerns are addressed.**

Allow Towns to Post Legal Notices Online

The cost of publishing legal notices in the newspapers has increased significantly. Moreover, many newspapers serving small towns and cities are no longer in business, forcing towns to publish notices in the more expensive metropolitan newspapers.

Increasingly, taxpayers go to their municipal websites to find up-to-date information on issues affecting towns, including legal notices. Input from our small towns indicates that towns spend from $5,000 - $25,000 each year to publish legal notices in newspapers.

Recognizing that consumers are more likely to receive information online than in newspapers, lawmakers have approved legislation allowing state agencies to post certain legal notices online rather than in newspapers. For example, Public Act 13-205 allows the state Department of Energy & Environmental Protection (DEEP) commissioner, under certain circumstances, to publicly notice a tentative determination for a permit that requires newspaper publication on the department's website.

COST recommends support for legislation to allow towns to post full legal notices on their websites and limit publication in the newspapers to a summary of the notices.

Address Escalating Municipal Pension Costs

Pension and benefit costs are increasingly driving up municipal budgets. For municipalities participating in the Municipal Employees Retirement System (MERS), this is due to inequities in how the system is funded.

According to the Office of Legislative Research, the statutorily set employee contribution rate has not changed since MERS was established in 1947.

State law caps the municipal employee contribution rate at 2 ¼% of earnings subject to Social Security taxes or 5% of earnings not subject to Social Security taxes. *In the past 12 years, however, the employer contribution rate has been increased 12 times.*

As a result, from FY 02 – FY 12, for employees covered by social security, the employer share for regular employees has increased from 37% to 70% and from 35% to 75% for hazardous duty employees. For employees not covered by social security, the employer share for regular employees has increased from 55% to 84% and from 63% to 88% for hazardous duty employees for the same time period.

This imbalance in funding the Municipal Employees Retirement System is straining the budgets of municipalities, forcing reductions in critical services or increases in property taxes.

COST supports legislation to increase the employee contribution by 1% annually over the next three years for a total increase of 5.25%. This is a modest proposal which will more equitably fund the system and ensure its continued financial viability.

COST recommends support for legislation to adjust the mandated employee contribution rate under the Municipal Employee Retirement System to more equitably fund the system.

Fully Fund PILOTs and Enact Moratorium on Property Tax Exemptions

The legislature has enacted numerous mandated or municipal option property tax exemptions that reduce municipal revenues and/or shift tax burdens to homeowners and businesses. In addition, the state fails to fully fund Payment in Lieu of Taxes (PILOTS) reimbursements, imposing a tremendous burden on municipalities.

Adjust Prevailing Wage Thresholds

The prevailing wage mandate is often cited as one of the most costly and burdensome unfunded mandates, particularly for some of our smaller communities.

Under current law, workers employed on new state and local building projects costing more than $400,000 or on state and local renovation projects costing more than $100,000, must be paid a prevailing wage rate, which is generally substantially higher than the market rate, resulting in significantly higher costs for state and local projects.

A 1995 study by the Connecticut Advisory Commission on Intergovernmental Relations (ACIR) concluded that prevailing-wage rates increase construction costs for towns and cities as much as 21% annually. Some studies, including a study recently released by Columbia University, estimate these costs to be much higher. Clearly, these additional costs make it harder to fund necessary repairs and improvements to municipal offices, schools and other buildings.

Recognizing that the thresholds needed to be adjusted for inflation, prior to 1991, legislators adjusted prevailing wage thresholds on a six-year schedule. It has now been more than two decades since the prevailing wage thresholds have been adjusted even though construction costs have increased significantly since 1991.

There have also been instances where towns have been advised by legal counsel that they cannot accept donated labor because it would violate the state's prevailing wage requirements. Small towns and cities often rely on volunteers to provide services that benefit the community.

COST therefore urges lawmakers to take the following steps:

- **Introduce and hold a public hearing on legislation to increase the Prevailing Wage Threshold on municipal public works projects to $1 million for new construction and $400,000 for renovations and index the threshold to the annual inflation rate;**
- **Clarify that municipalities are permitted to use qualified (duly licensed) volunteers who are willing to donate labor on projects subject to prevailing wage laws;**
- **Exempt certain projects, such as renovations to historic buildings, from prevailing wage requirements to ensure that towns have the resources to adequately maintain these structures which are so important to preserving our heritage; and**
- **Explore mechanisms for more accurately collecting wage data. For example, the Bureau of Labor Statistics compiles data that generally reflects local market rates more accurately than wage rates compiled by wage and hour divisions.**

Eliminate Property Storage Mandate

A 2006 report prepared by the Office of Legislative Research (OLR) indicates that, "In the overwhelming majority of the 37 states that we researched, a landlord may dispose of personal property that a tenant leaves in dwelling units by selling it after first notifying the tenant of his intent and storing the property for a period prior to the sale."

Under Connecticut law, however, the responsibility for storing the property is shifted to the municipality, which places a heavy financial burden on our towns and cities. The requirement that towns store an evicted tenant's possessions is extremely costly and burdensome, particularly at a time when towns are struggling to provide residents with services without raising property taxes.

There are an estimated 2,500 residential evictions per year. Storage costs average between $10 and $15 per day, per eviction, for an average of 15 days. This can range from approximately $12,000 to $165,000 per municipality.

COST recommends support for legislation to relieve towns from the cost and burden associated with storing the personal possessions of evicted tenants.

Exempt Municipal Health Insurance from State Mandated Premium Tax

The skyrocketing costs of local employee and retiree health insurance represent one of the most serious fiscal challenges facing small towns. Double digit increases in health insurance costs have begun to dominate budget growth in many communities resulting in fewer resources available for other critical services, including education. The insurance premium tax, which is a 1.75% tax on fully insured municipal premiums, is particularly onerous for Connecticut's small towns because they cannot afford to self-insure to avoid the tax and other mandated health insurance costs.

COST recommends support for legislation exempting municipal health insurance policies from the insurance premium tax.

Alleviate Burden of Education Mandates

The big driver of local budgets is education – an area over which local government and citizens have little control. It is widely acknowledged that the Education Cost Sharing grant is underfunded by an estimated $763 million – and growing – per year.

Special Education
Based on the existing reimbursement rate and funding caps, municipalities must shoulder more than 60% of special education costs, which are increasing by an estimated 5 – 6% each year.

COST recommends support for legislation to assist towns in managing special education costs by (1) reducing the threshold for reimbursing special education costs from 4.5 times the average per pupil expenditures; (2) requiring the state to pay 100% of the costs of special education for severe-needs students; and (3) shifting the burden of proof in special education hearings from the school district to the claimant.

Minimum Budget Requirement
To ensure that towns appropriate the statutorily set foundation level for each student, the state enacted the Minimum Budget Requirement (MBR) and, formerly, the Minimum Expenditure Requirement (MER). As currently constructed, however, the MBR requires municipalities to budget at least the same amount for education as they did in the previous year, with certain limited exceptions. Towns that violate the MBR are faced with hundreds of thousands of dollars in forfeiture penalties.

The current MBR mandate does not provide towns with the flexibility to achieve meaningful cost savings. Even where efficiencies can be found in school budgets to help reduce costs, the state mandates that local education budgets cannot be reduced below current spending levels.

COST recommends support for legislation to authorize towns to reduce the Minimum Budget Requirement (MBR) to reflect cost savings.

Adjust Binding Arbitration Laws
Under the current binding arbitration mandate, towns have very few options with which to negotiate any savings. To address this, **COST recommends (1) giving towns the right to reject arbitration awards by a 2/3 vote of a town's legislative body; (2) ensuring that a town's fund balance is not considered in making binding arbitration awards and (3) requiring the process to be concluded within a specified timeframe.**

Assist Towns in Meeting Mandated Environmental Standards

A number of communities in Connecticut are faced with staggering costs associated with compliance with mandated phosphorus limits for wastewater plants that are intended to meet statewide environmental goals.

Recognizing this, the General Assembly adopted Public Act 13-239, which increases, from 30% to 50%, the share of the cost of phosphorus removal that is covered by clean water fund grants.

However, under the Act, the increased reimbursement is only available to the first three construction projects. This unfairly penalizes municipalities who may still be awaiting permits or facing other issues in moving forward with phosphorus reduction plant upgrades.

COST supports legislation to assist towns in meeting mandated phosphorus reduction limits by increasing the reimbursement percentage under the Clean Water Fund.

Eliminate Burdensome Regulations & Mandates

Eliminate burdensome municipal reporting requirements

Governor Malloy recently signed Executive Order 37 aimed at streamlining state regulations and identifying burdensome state requirements. In addition, the M.O.R.E. Commission is exploring recommendations to relieve municipalities from burdensome unfunded state mandates. COST appreciates the opportunity to assist in these efforts and is soliciting input from member towns regarding specific state regulations and mandates.

One member has suggested that Section 7-163b, CGS, which requires annual municipal reports to be filed with the Connecticut Siting Council, be repealed. The report requires municipalities to report on the location, type and height of each existing telecommunications tower and each existing and proposed antenna subject to local jurisdiction. Municipalities generally don’t have this information readily available and the Council refers towns to its database for the information. Inasmuch as the Council already has this information and is the permitting authority of record, the annual reporting requirement is unnecessary.