

By: Cain

H.B. No. 3300

A BILL TO BE ENTITLED

AN ACT

relating to mechanisms to address the adverse impact of unfunded state mandates on local governments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Chapter 320, Government Code, is amended to read as follows:

CHAPTER 320. REVIEW OF UNFUNDED LEGISLATIVE MANDATES
ON POLITICAL SUBDIVISIONS

SECTION 2. Section 320.001, Government Code, is amended to read as follows:

Sec. 320.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

(1) "Interagency work group" means the unfunded mandates interagency work group.

(2) "Mandate" [,"mandate"] means a requirement made by a statute enacted by the legislature on or after January 1, 2011 [~~1997~~], that requires a political subdivision to establish, expand, or modify a duty or [~~an~~] activity in a way that requires the expenditure of revenue by the political subdivision that would not have been required in the absence of the statutory provision.

SECTION 3. Chapter 320, Government Code, is amended by adding Section 320.002 to read as follows:

Sec. 320.002. UNFUNDED MANDATES INTERAGENCY WORK GROUP.

(a) The unfunded mandates interagency work group consists of:

(1) the state auditor;

1 (2) the director of the Legislative Budget Board;

2 (3) the comptroller;

3 (4) a senator appointed by the lieutenant governor;

4 and

5 (5) a member of the house of representatives appointed
6 by the speaker of the house of representatives.

7 (b) A member of the interagency work group is not entitled
8 to additional compensation for service on the work group.

9 (c) A member of the interagency work group may use any
10 person employed by the member's agency to complete the member's work
11 on the work group.

12 (d) The members of the interagency work group may enter into
13 an interagency memorandum of understanding regarding the
14 completion of the work required by this chapter.

15 SECTION 4. The heading to Section 320.003, Government Code,
16 is amended to read as follows:

17 Sec. 320.003. ADVISORY LIST OF UNFUNDED MANDATES.

18 SECTION 5. Section 320.003(a), Government Code, is amended
19 to read as follows:

20 (a) On or before the September 1 following a regular session
21 of the legislature and on or before the 90th day after the last day
22 of a special session of the legislature, the interagency work group
23 shall publish an advisory [a] list of mandates for which the
24 legislature has not provided reimbursement under Subsection (b) and
25 that were enacted by the legislature during that legislative
26 session. By that same date the interagency work group shall:

27 (1) remove from the advisory list of mandates for a

1 previous legislative session those mandates for which the
2 legislature has provided reimbursement under Subsection (b), those
3 that are no longer subject to reimbursement, and those that are no
4 longer in effect; and

5 (2) add to the advisory list a mandate from a previous
6 legislative session for which reimbursement was provided under
7 Subsection (b) in the previous session but for which reimbursement
8 was not provided in the most recent regular session or in any
9 subsequent special sessions.

10 SECTION 6. Chapter 320, Government Code, is amended by
11 adding Section 320.005 to read as follows:

12 Sec. 320.005. APPLICABILITY OF MANDATES. (a) A political
13 subdivision is only required to comply with a mandate for which the
14 legislature has provided reimbursement under Section 320.003(b).

15 (b) For purposes of determining compliance with a mandate, a
16 political subdivision may act in reliance on the advisory list of
17 unfunded mandates published under Section 320.003(a).

18 SECTION 7. Subtitle B, Title 3, Government Code, is amended
19 by adding Chapter 320A to read as follows:

20 CHAPTER 320A. STATE-LOCAL COOPERATION

21 REGARDING STATE MANDATES

22 Sec. 320A.001. PURPOSE. The purpose of this chapter is to
23 strengthen the partnership between the state and local governments
24 in order to prevent the imposition of state regulatory and
25 statutory mandates on local governments without adequate funding in
26 a manner that may displace other essential local governmental
27 priorities by promoting informed and deliberate decisions by the

1 legislature and state agencies on the appropriateness of state
2 mandates through:

3 (1) consultation with affected units of local
4 government; and

5 (2) full consideration of the costs of those mandates
6 on local governments.

7 Sec. 320A.002. DEFINITIONS. In this chapter:

8 (1) "Board" means the Legislative Budget Board.

9 (2) "Rule" has the meaning assigned by Section
10 2001.003.

11 (3) "State agency" means any entity in the executive
12 or judicial branch of state government.

13 (4) "State mandate" means a requirement made by a
14 statute enacted by the legislature or by a rule or policy adopted by
15 a state agency that requires a political subdivision to establish,
16 expand, or modify an activity in a way that requires the expenditure
17 of revenue by the political subdivision that would not have been
18 required in the absence of the statutory provision, rule, or
19 policy.

20 Sec. 320A.003. CONSULTATION WITH LOCAL GOVERNMENTS
21 REGARDING REGULATORY MANDATES. (a) Each state agency that
22 proposes to adopt or amend a rule that directly affects one or more
23 classes of political subdivisions shall solicit comments and advice
24 regarding the probable costs and other adverse impact on affected
25 political subdivisions from:

26 (1) representatives or advisory panels with
27 appropriate expertise and experience from each affected class of

1 political subdivision; and

2 (2) statewide organizations representing a
3 substantial number of members of each affected class of political
4 subdivision.

5 (b) Not later than the 10th day before the date a state
6 agency adopts or amends a rule that directly affects one or more
7 classes of political subdivisions, the agency shall:

8 (1) prepare a local government impact statement that
9 takes into account the comments and advice received under
10 Subsection (a) and includes an analysis of the probable costs to
11 affected political subdivisions of compliance with the rule; and

12 (2) deliver a copy of the impact statement and the
13 proposed rule to the board, to the lieutenant governor and the
14 speaker of the house of representatives, and to the standing
15 committees of each house with primary jurisdiction over the agency
16 or the subject matter to which the proposed rule applies.

17 (c) The board shall prescribe recommended procedures for
18 compliance by state agencies with this section.

19 (d) For purposes of Subsection (a)(1), the Texas Juvenile
20 Probation Commission shall establish a panel of professionals
21 representing county juvenile probation departments to review
22 proposed rules of the commission. In consultation with the panel,
23 the commissions shall develop a feasibility and cost analysis
24 profile for each proposed rule to be included in the impact
25 statement prepared under Subsection (b).

26 Sec. 320A.004. IMPACT STATEMENTS FOR STATE LEGISLATIVE
27 MANDATES. (a) The board shall establish procedures by which the

1 board examines each bill or proposed constitutional amendment filed
2 in either house of the legislature to:

3 (1) identify any state mandates included in the
4 measure;

5 (2) estimate the probable costs to affected political
6 subdivisions of compliance with any state mandate identified by the
7 board; and

8 (3) determine whether the measure provides a specific,
9 sufficient source of funding of any identified state mandate.

10 (b) To the extent practicable, the board shall consult with
11 appropriate representatives of the various classes of political
12 subdivisions to give those political subdivisions an opportunity to
13 provide assistance to the board in identifying state mandates in
14 proposed legislation and estimating the probable costs of those
15 mandates on affected political subdivisions.

16 (c) The board shall prepare a state mandate impact analysis
17 based on the board's examination under Subsection (a) and shall
18 deliver a copy of the impact analysis to:

19 (1) each author or sponsor of the measure; and

20 (2) each legislative committee considering the
21 measure.

22 Sec. 320A.005. REVIEW OF EXISTING STATE REGULATORY
23 MANDATES. (a) Each state agency, not later than January 1, 2012,
24 shall submit to the interagency work group established under
25 Chapter 320 in the form prescribed by the work group a list of all
26 rules adopted by the agency on or after January 1, 2003. For each
27 rule on the list, the agency shall:

1 (1) state the statutory or other legal authority for
2 the rule;

3 (2) provide a brief statement of the background and
4 purpose of the rule; and

5 (3) include an analysis of the direct impact,
6 including compliance costs, of the rule on political subdivisions.

7 (b) Not later than January 1, 2013, the interagency work
8 group shall:

9 (1) review each rule submitted under Subsection (a) to
10 determine whether the rule includes one or more state mandates;

11 (2) estimate the probable costs to affected political
12 subdivisions of compliance with any state mandate included in the
13 rule;

14 (3) determine whether, for a rule that includes a
15 state mandate, the state has provided a source of funding other than
16 general revenue of the affected political subdivisions to cover the
17 costs to those political subdivisions to comply with the mandate;
18 and

19 (4) for any state mandate identified by the work
20 group, recommend to the legislature and the state agency that
21 adopted the rule:

22 (A) whether the rule should be repealed or
23 modified to reduce the unfunded impact of the rule on political
24 subdivisions; and

25 (B) whether the state should provide a source of
26 funding to cover the costs to political subdivisions to comply with
27 the mandate.

1 (c) This section expires January 1, 2014.

2 SECTION 8. Section 320.004, Government Code, is repealed.

3 SECTION 9. This Act takes effect September 1, 2011.