

**CS FOR SENATE BILL NO. 96(CRA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 3/30/95  
Referred: Finance

Sponsor(s): SENATOR KELLY

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to municipal activities, services, or programs mandated by the  
2 state."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1.** LEGISLATIVE FINDINGS AND INTENT. (a) In this state, the legislature  
5 has the power during each session to dramatically change the laws of the state. Statutes can  
6 be, and are, enacted, repealed, and amended each year. The law as it applies to citizens in  
7 this state is always changing. Additional changes in the law from year to year based upon  
8 the legislature's funding choices are not different in nature from legislative statutory  
9 amendments because both the statutory changes and the funding decisions are within the  
10 control of the legislature.

11 (b) The legislature finds that

12 (1) an "unfunded mandate" is any statute, administrative regulation, or order  
13 that demands action from a subordinate government without adequate provision for funding  
14 the cost to the subordinate government of implementing the demanded action;

1 (2) unfunded mandates are a nationwide problem because federal or state  
2 governments have tended to balance their budgets on the backs of subordinate governments,  
3 thereby shielding themselves from taking the fiscal responsibility for their own policy and  
4 program decisions; from a purely political standpoint, an unfunded mandate can ensure that  
5 the blame for higher taxes or service cuts falls to local elected officials rather than the  
6 government that made the decision;

7 (3) the legislature has proposed strong measures against the imposition of  
8 unfunded mandates by the federal government on the state;

9 (4) in the United States, 16 states currently have legislation to limit or prohibit  
10 state governments from imposing unfunded mandates on municipalities; in addition, anti-  
11 mandates legislation was introduced in 22 state legislatures in the 1993 - 1994 legislative  
12 session to protect municipalities;

13 (5) according to a September 1994 research report by the National League of  
14 Cities titled "Anti-Mandates Strategies - Reimbursement Requirements in the States," it is  
15 difficult to quantify the overall effect of mandates because most municipalities are faced with  
16 hundreds of unfunded mandates, many of which have relatively low costs, but that together  
17 are very expensive and annually increasing in cost; the cost of unfunded mandates is partially  
18 covered by state revenue sharing or other state aid to municipalities; however, the problem is  
19 intensified because state governments often tend to cut funding programs as they shift services  
20 and new mandates to municipalities;

21 (6) state government has cut state aid to municipalities in this state far more  
22 deeply than any other major program (over 55 percent in the past 10 years) while it has  
23 significantly increased the number of unfunded mandates on municipal governments through  
24 statutes, appropriation bills, regulations, and administrative actions;

25 (7) the effects of unfunded mandates and decreased state aid on municipalities  
26 has substantially decreased the quality of life in most municipalities through decreases in  
27 municipal basic services such as public safety, road maintenance, culture and recreation  
28 services, social services, public education, and waste management;

29 (8) the imposition of new unfunded mandates on municipalities while  
30 incrementally decreasing state aid to municipalities to implement existing mandates has been  
31 a major cause of increased property taxes and other local taxes, as well as a major cause of

1 the destabilization of some communities that has lead, and will lead, to dissolution of  
2 municipalities.

3 \* **Sec. 2.** AS 24.08 is amended by adding a new section to read:

4           Sec. 24.08.120. MANDATED MUNICIPAL SERVICES. (a) Except as  
5 provided in (d) of this section, a bill enacted after January 1, 1996, that imposes or  
6 increases costs mandated by the state as a result of a new activity, service, or program  
7 or an increase in the level of municipal funding for an activity, service, or program  
8 required of municipalities by the bill is not effective unless sufficient funds are  
9 appropriated at the time of enactment to fully fund the mandated activity, service, or  
10 program. Unless sufficient levels of funding continue to be appropriated in each  
11 successive legislative session that the mandate is in effect, or new funding is otherwise  
12 provided annually, the mandate shall be inoperative in its effect upon a municipality  
13 until sufficient state funds are provided to pay the additional costs directly required for  
14 the actual performance of the activity, service, or program.

15           (b) Each bill enacted after January 1, 1996, that applies to municipalities must  
16 include findings regarding its effect on municipalities prepared by the legislative  
17 finance division. Each regulation or administrative order adopted under the authority  
18 of a bill enacted after January 1, 1996, that applies to municipalities must include  
19 findings regarding its effect on municipalities prepared by the Department of  
20 Community and Regional Affairs. A bill, regulation, or order without findings  
21 required under this subsection is void. The findings must address whether

22                   (1) the bill, regulation, or order mandates a new activity, service, or  
23 program, significantly increases a current activity, service, or program, or causes a  
24 significant increase in the level of municipal funding for an activity, service, or  
25 program; and

26                   (2) a mandate contained in the bill, regulation, or order will have a  
27 significant financial effect on municipalities.

28           (c) If a municipality disputes findings made under (b) of this section, it may,  
29 within 30 days after the effective date of the bill, regulation, or order, file a petition,  
30 in writing, with the legislative audit division for a determination of the accuracy of the  
31 findings. The legislative audit division shall make its determination public within 60

1 days after receipt of the petition.

2 (d) This section does not apply to a

3 (1) bill passed in response to a disaster emergency declared by the  
4 governor under AS 26.23.020;

5 (2) bill passed by two-thirds of the members of each house;

6 (3) mandate requested by resolution from the Alaska Municipal League;

7 (4) bill that affirms existing law as it has been construed by the courts  
8 or enacts federal law or regulation in the form in which it was enacted or promulgated;  
9 or

10 (5) bill that creates, eliminates, or changes an offense; in this  
11 paragraph, "offense" has the meaning given in AS 11.81.900.

12 (e) For purposes of this section,

13 (1) "costs mandated by the state" means any increased cost creating a  
14 significant financial effect that a municipality is required to incur as a result of any bill  
15 that, when enacted, mandates a new activity, service, or program, significantly  
16 increases a current activity, service, or program, or causes a significant increase in the  
17 level of municipal funding for an activity, service, or program; costs mandated by the  
18 state do not include costs of the type experienced equally by private and public entities  
19 that are incurred by a municipality in its proprietary capacity; costs mandated by a bill  
20 include any costs associated with regulations adopted under the authority of the bill  
21 if it is enacted;

22 (2) "increase in the level of municipal funding for an activity, service,  
23 or program" means any change in a municipality's delivery of a current service,  
24 activity, or program, or a reduction in the level of state funding for an activity, service,  
25 or program that is required by either a new or amended statute or that would be  
26 required by a bill if it is enacted;

27 (3) "new activity, service, or program" means an activity, service, or  
28 program that is required as a result of a statute or bill that was not required before  
29 enactment of the statute or that is not required unless the bill is enacted and that  
30 results in costs mandated by the state;

31 (4) "new funding" means a new appropriation;

1                                   (5) "significant financial effect" means the employment of additional  
2 personnel in one or more municipalities or an increase in expenditures for contracted  
3 services or equipment of more than \$20,000 in each of one or more municipalities.