

2010 -- S 2463

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

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SENATE RESOLUTION

SUPPORTING RELIEF FROM UNFUNDED MANDATES FOR THE TOWN OF SOUTH  
KINGSTOWN

Introduced By: Senator V. Susan Sosnowski

Date Introduced: February 11, 2010

Referred To: Senate Constitutional & Regulatory Issues

1           WHEREAS, Rhode Island General Law (RIGL) 45-13-7 defines “State mandate” as  
2 “any state initiated statutory or executive action or rule, regulation or policy adopted by a state  
3 department or agency or a quasi-public department or agency that requires a local government to  
4 establish, expand, or modify its activities in a way as to necessitate additional expenditures from  
5 local government revenue sources where the expenditures are not otherwise reimbursed in whole.  
6 For the purpose of this chapter, a ‘state mandate’ shall also mean any requirement, rule or dictate  
7 by a regulator of a state agency”; and

8           WHEREAS, RIGL 45-13-10 (a) specifies that state mandates not subject to  
9 reimbursement include:

- 10           (1) The holding of elections;
- 11           (2) The assurance of due process;
- 12           (3) The notification and conduct of public meetings;
- 13           (4) The procedures for administrative and judicial review of actions taken by cities and  
14 towns;
- 15           (5) The protection of the public from malfeasance, misfeasance, or nonfeasance by local  
16 government officials;
- 17           (6) Financial administration, including the levy, assessment, and collection of taxes; and
- 18           (7) The preparation and submission of reports necessary for the efficient administration  
19 of state laws; and

1           WHEREAS, The Town of South Kingstown has been required over the course of years to  
2 provide services and expend sums on programs not of its design for numerous state mandates;  
3 and

4           WHEREAS, At this time the State of Rhode Island is requiring South Kingstown to  
5 supply taxpayer money to continue subsidizing unfunded State mandates while the State  
6 withholds previously budgeted reimbursements to the town; and

7           WHEREAS, The Town of South Kingstown has budgeted in the current fiscal year with  
8 reliance upon funds the state may now withhold; and

9           WHEREAS, The Town of South Kingstown is currently budgeting for the next fiscal  
10 year with a lack of certainty as to ongoing reimbursement from the State; and

11          WHEREAS, The Town Manager and the Town Council have a fiscal responsibility to the  
12 taxpayers of the Town of South Kingstown to provide core services; and

13          WHEREAS, This responsibility is now in jeopardy due to declining state revenues and  
14 the ongoing state mandates; now, therefore be it

15          RESOLVED, That this Senate of the State of Rhode Island and Providence Plantations  
16 hereby supports legislation that provides the Town of South Kingstown immediate relief from the  
17 following unfunded state mandates:

18           (1) RIGL 16-2-21.4. Known as the “Caruolo Act” and pertaining to “whenever a ...  
19 school committee determines that its budget is insufficient, ” this law provides a mechanism for  
20 School Departments to petition the Commissioner of Education for level funding and to  
21 subsequently bring a court action against a municipality over funding issues. This law is contrary  
22 to the notion of a community collectively deciding its level of funding for education;

23           (2) RIGL 16-7-23. Known as “Maintenance of Effort,” and entitled “Foundation Level  
24 School Support,” this law requires “each community [to] contribute local funds to its school  
25 committee in an amount not less than its local contribution for schools in the previous fiscal  
26 year.” In so doing, this law requires a town to fund a school district at the same level as the  
27 previous year regardless of economic factors or other factors. This law is also contrary to the  
28 community controlling its own fate with respect to local funding;

29           (3) RIGL 44-34.1. Requires a town to exempt the first \$6,000 of every automobile from  
30 excise tax. In exchange, the state has reimbursed cities and towns for this lost revenue source.  
31 Now that the state is proposing to terminate reimbursement, a city or town should be relieved of  
32 this credit and given the taxing authority unto itself;

33           (4) RIGL 44-5-2. Entitled “Levy and Assessment of Local Taxes.” This law was  
34 amended in 2006 to introduce a cap on the amount of taxes a town could levy, with increasing

1 reductions from year to year. Specifically, the amount levied by a city or town was 5.5 per cent  
2 in fiscal year 2007, decreasing by .25 percent each fiscal year until reaching 4 percent in fiscal  
3 year 2013, and continuing at that rate into the future. These decreases were arbitrary and not tied  
4 to factors such as local growth or significant changes in economic factors. The annual municipal  
5 tax cap should be tied to the individual tax rate so as to protect individuals from large tax  
6 increases and it should not be tied to the tax levy, which does not allow the town to realize greater  
7 tax revenue even if a town's grand list grows;

8 (5) RIGL 37-13-8. Entitled "Investigation and determination of prevailing wages."  
9 While the Davis-Bacon Act, 40 U.S.C. 267a, is a Federal statute, the state has not modified its  
10 excessive provisions and passes unreasonably large wage payments onto cities and towns. RIGL  
11 37-13-8 mandates the Director of Labor and Training to "investigate and determine the prevailing  
12 wages and payments made to or on behalf of employees...paid in the trade or occupation in the  
13 city, town, village...and keep a schedule on file." The provision puts burdens onto the contractor  
14 as well, by requiring that "each contractor awarded a public works contract after July 1, 2007,  
15 shall contact the Department of Labor and Training on or before July 1st of each year, for the  
16 duration of such contract to ascertain the prevailing wage rate of wages on a hourly basis and the  
17 amount of payment or contributions paid or payable on behalf of each mechanic, laborer or  
18 worker employed upon the work contracted to be done each year and shall make any necessary  
19 adjustments to such prevailing rate of wages and such payment or contributions paid or payable  
20 on behalf of each such employee every July first." The Town of South Kingstown would like all  
21 jobs under \$50,000 to be exempt;

22 (6) RIGL 45-6-1(b). This law creates additional municipal costs associated with  
23 supplying legislators with copies of local ordinances. State law should allow the information to be  
24 electronically transmitted, thereby eliminating the cost of postage and paper;

25 (7) RIGL 33-15-4.1. Entitled "Good Samaritan guidance." This law specifies that when  
26 guardianships are sought, local probate courts must prepare all the forms necessary as part of the  
27 application process. Most probate clerks are advised by their judges not to try to "practice law"  
28 and strongly suggest that petitioners seek the advice of legal counsel. State law should require  
29 attorneys whose services are sought for "Good Samaritan" guardianships to provide such services  
30 pro bono;

31 (8) RIGL 45-6-7 Requires the distribution of printed municipal ordinances to the state  
32 library rather than allowing the information to be electronically disseminated;

33 (9) RIGL 33-3-14. Requires local probate courts to issue a certificate of descent to  
34 devisees or heirs at law when the court grants the administration of the estate of any decedent

1 owning real estate, *despite* the fact that the law does not provide that the court issue the  
2 certificate, but that the fiduciary provide the certificate or an affidavit of no real estate to the  
3 court;

4 (10) RIGL 17-19-23.1. Requires that all persons who attend and complete a program of  
5 instruction for election officials shall receive a certificate issued by the Board of Elections and  
6 shall receive the sum of \$25.00 for said attendance. The cities and towns are required to pay  
7 these sums;

8 (11) RIGL 1-3-14. Requires cities or towns with an airport within their jurisdiction to  
9 facilitate where “advisable” the enforcement of zoning regulations adopted pursuant to this  
10 chapter. Any political subdivision in which an airport or airport hazard area is located must  
11 establish a system for the granting of permits to establish or construct new structures and other  
12 uses, and to replace existing structures and other uses, or to make substantial changes or  
13 substantial repairs;

14 (12) RIGL 46-31-10. Entitled “Compliance with plans by local municipalities.” This is a  
15 statewide planning program established pursuant to the provisions of RIGL title 42 that advises  
16 the Watersheds Coordination Team on issues of planning in general and also on local  
17 comprehensive plans, and considers recommendations for revisions to the state guide plan from  
18 the coordination team as necessary to achieve consistency with the systems-level plan for Rhode  
19 Island's bays, rivers, and watersheds;

20 (13) RIGL 45-53-4 (4) (c). Entitled “Procedure for approval of construction of low or  
21 moderate income housing.” This law states that cities and towns that were not in conformity with  
22 the provisions of paragraph 45-53-3(2)(i) and were not exempted by the state, had to prepare by  
23 December 31, 2004, a comprehensive plan housing element for low and moderate income  
24 housing as specified by paragraph 45-53-3(2)(ii), consistent with applicable law and regulation.  
25 There are ongoing costs attendant with legal representation before SHAB, enactment of new  
26 zoning provisions, etc.;

27 (14) RIGL 17-11-1. Entitled “Division of towns and representative district into voting  
28 districts.” This law states that the local board of any city or town may, on or before the sixtieth  
29 (60th) day preceding any election, divide or re-divide the town, or any representative district in  
30 the city or town, into voting districts. The local board of each city shall determine voting districts  
31 by geographical boundaries and by no other means. No voting district shall at any time comprise  
32 parts of two (2) or more wards. It shall be the duty of the board to divide the town, representative  
33 district, or ward, so that substantially not more than nineteen hundred (1900) voters shall be  
34 served by the same polling place; provided, that subject to the approval of the state board, a local

1 board may provide for serving more than nineteen hundred (1900) voters in the same polling  
2 place where the effect to the contrary would be of creating a polling place serving less than one  
3 hundred fifty (150) voters. A polling place may be located either within or without the voting  
4 district for which it is established; provided, that a polling place may be located outside the  
5 district only upon unanimous determination of the local board and subject to the approval of the  
6 state board that a suitable place is not available within the voting district. In making the  
7 calculation required by this section, voters whose names are on the inactive list of voters shall not  
8 be included;

9 (15) RIGL 45-61.1-2. Requires storm drainage systems that are part of a small municipal  
10 separate storm sewer system must be inspected annually;

11 (16) RIGL 42-28.1 Requires law enforcement tuition reimbursement for master's degree  
12 or juris doctorate as part of an incentive pay plan for police officers;

13 (17) RIGL 31-20-10.3 (d) Requires all school bus routes to be reviewed by the local  
14 police chief of each city and town for safety hazards within ninety (90) days before the start of the  
15 school year;

16 (18) RIGL 16-48.1 and RIGL 40-13.2. Requires police departments to conduct a national  
17 criminal records check of child care personnel, both for the care of the very young children and  
18 those working in a "youth serving agency" (i.e. any program operated for more than 2 hours a  
19 day, at least one day a week and which provides programs/activities for children and employs  
20 persons who have supervisory authority over a child or children);

21 (19) RIGL 31-12-6. Requires submission of high speed pursuit plans to the Attorney  
22 General;

23 (20) RIGL 23-17-4 - 27-30. Requires police departments to conduct a national criminal  
24 records check of employees hired by health department certified facilities (i.e. assisted living  
25 residences, nursing homes, mobile intensive care units and nursing service agencies);

26 (21) RIGL 37-12-10. Requires a deduction and retainer from the contract price and an  
27 additional sum sufficient to pay the estimated cost of municipal police traffic control on any  
28 public works project, but municipalities shall directly pay the officers working traffic details and  
29 shall bill and be reimbursed by the withholding authority for which the contract is being  
30 performed every thirty (30) days until the project is complete. Requires cities and towns to  
31 directly pay police officers who are working traffic details and to bill and be reimbursed by the  
32 withholding authority;

33 (22) RIGL 31-27-4.2. Requires local police officers who are involved in high speed  
34 pursuits to submit written reports to be kept on file; also requires the officer in charge to file a

1 written report of the pursuit;

2 (23) RIGL 30-15-12. Requires each city and town to establish by local ordinance an  
3 emergency management agency;

4 (24) RIGL 45-19-1. Allows a police officer to collect a salary when incapacitated due to  
5 rendering emergency assistance whether on duty or off duty;

6 (25) RIGL 46-12-4. Entitled 'Pollution monitoring system.' This law relates to sewer  
7 treatment plant fees. As part of the State's pollution monitoring system this law carries forward  
8 Federal Clean Water Act user fees relative to the operation and ownership of the Regional  
9 Wastewater Treatment Facility (WWTF), which maintains a point source discharge into Rhode  
10 Island Sound. South Kingstown's annual RIDEM RI Pollutant Discharge Elimination System  
11 (RIPDES) fee was \$3,000 in 2009. Also, RIDEM levies an annual WWTF user fee charge. South  
12 Kingstown's annual RIDEM user fee in 2009 was \$2,680;

13 (26) RIGL 45-23-25 to 45-23-74. This law requires every city and town to adopt land  
14 development and subdivision review regulations which comply with the act and to update the  
15 plan elements every five years;

16 (27) RIGL 46-13-18. Requires community water systems serving populations of 10,000  
17 or more to deliver a full copy of the Consumer Confidence Report to each household within the  
18 water system's service area;

19 (28) RIGL 46-13. Entitled "Public Drinking Water Supply." This law pertains to recent  
20 rules and regulations pertaining to public drinking water and specifically with the proposed  
21 "backflow" for public water systems. The State Building Code was revised on April 1, 1998,  
22 whereby any new building construction requires a backflow prevention valve. The code was  
23 revised again in 2006, which requires a thermal expansion tank at the time of new building  
24 construction. This mandate would require the town to force all residential services to have  
25 backflow protectors retrofitted in the plumbing within five years of the start of the program. This  
26 cost would have to be borne by the property owners (which would be onerous to them) and not  
27 the town directly. However, the water system is required to have a licensed backflow surveyor  
28 check all residents prior to the plumbing change to determine what type of backflow would be  
29 needed. After the installation, the backflow inspector would be required to make an additional  
30 inspection to check the installation. This would require creating a temporary position for five  
31 years or outsourcing the work;

32 (29) RIGL 46-15.3 Requires all large water suppliers prepare a Written Supply Systems  
33 Management Plan (WSSMP) every five (5) years and a Written Supply Systems Management  
34 Plan (WSSMP) update every 30 months;

1           (30) RIGL 46-15.6 Requires all large water suppliers prepare a Clean Water  
2 Infrastructure Plan (CWIP) every five years;

3           (31) RIGL 46-19 Requires each municipality to prepare Emergency Action Plan (EAPs)  
4 for every significant and high hazard dam within each community; and be it further

5           RESOLVED, That the Secretary of State be and he hereby is authorized and directed to  
6 transmit a duly certified copy of this resolution to the Town Council of the Town of South  
7 Kingstown.

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