

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 433

Short Title: Unfunded Mandates Prohibited.

(Public)

Sponsors: Representatives Joye; Alphin, Brawley, Edwards, Gardner, Hall, Howard, Ives, Jenkins, Lemmond, McCombs, McCrary, McLawhorn, Mercer, Mitchell, Nichols, C. Preston, Smith, Stewart, R. Thompson, and Wilkins.

Referred to: Constitutional Amendments and Referenda.

March 17, 1993

A BILL TO BE ENTITLED

1
2 AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO
3 PROHIBIT CERTAIN UNFUNDED MANDATES TO COUNTIES AND CITIES
4 BY THE STATE OF NORTH CAROLINA AND TO AMEND THE GENERAL
5 STATUTES TO MAKE MANDATORY THE PREPARATION OF FISCAL
6 NOTES FOR PROPOSED LEGISLATION THAT COULD REQUIRE COUNTIES
7 AND CITIES TO SPEND FUNDS.

8 The General Assembly of North Carolina enacts:

9 Section 1. Article VII of the North Carolina Constitution is amended by
10 adding a new section to read:

11 "Sec. 4. Unfunded State mandates prohibited.

12 No county or municipality shall be bound by any general law requiring the county or
13 municipality to spend funds unless funds have been appropriated by the General
14 Assembly that have been estimated at the time of enactment to be sufficient to fund
15 such expenditure or the expenditure is required to comply with a federal law
16 requirement or required for eligibility for a federal entitlement, which federal
17 requirement specifically contemplates actions by counties or municipalities for
18 compliance. No county or municipality shall be bound by any local act requiring the
19 expenditure of funds unless the local act has been approved by the local government
20 affected by the act."

21 Sec. 2. The amendment set out in Section 1 of this act shall be submitted to
22 the qualified voters of the State at the general election in November 1994, which

1 election shall be conducted under the laws then governing elections in the State. At that
2 election, each qualified voter desiring to vote shall be provided a ballot on which shall
3 be printed the following:

4 " FOR Constitutional amendment to prohibit mandates from the State to
5 counties and municipalities requiring the expenditure of funds unless
6 sufficient funds have been appropriated by the State to fund the
7 expenditure or a local government has approved a local act requiring
8 the expenditure or the expenditure is required by federal law or for
9 eligibility to receive a federal entitlement.

10 AGAINST Constitutional amendment to prohibit mandates from the
11 State to counties and municipalities requiring the expenditure of funds
12 unless sufficient funds have been appropriated by the State to fund the
13 expenditure or a local government has approved a local act requiring
14 the expenditure or the expenditure is required by federal law or for
15 eligibility to receive a federal entitlement."

16 Those qualified voters favoring the amendment set out in Section 1 of this
17 act shall vote by making an X or a check mark in the square beside the statement
18 beginning "FOR", and those qualified voters opposed to that amendment shall vote by
19 making an X or check mark in the square beside the statement beginning "AGAINST".

20 Notwithstanding the foregoing provisions of this section, voting machines
21 may be used in accordance with rules and regulations prescribed by the State Board of
22 Elections.

23 Sec. 3. If a majority of votes cast thereon are in favor of the amendment set
24 out in Section 1 of this act, the State Board of Elections shall certify the amendment to
25 the Secretary of State, who shall enroll the amendment so certified among the
26 permanent records of his office, and the amendment becomes effective upon such
27 certification.

28 Sec. 4. G.S. 120-36.7 is amended by adding a new subsection to read:

29 "(e) Mandates to Local Governments. – Every bill and resolution introduced in the
30 General Assembly proposing any change in the law that could require a county or
31 municipality to spend funds shall have attached to it at the time of its consideration by
32 the General Assembly a fiscal note prepared by the Fiscal Research Division. The fiscal
33 note shall identify and estimate, for the first five fiscal years the proposed change would
34 be in effect, all costs of the proposed legislation. If, after careful investigation, the
35 Fiscal Research Division determines that no dollar estimate is possible, the note shall
36 contain a statement to that effect, setting forth the reasons why no dollar amount can be
37 given. No comment or opinion shall be included in the fiscal note with regard to the
38 merits of the measure for which the note is prepared. However, technical and
39 mechanical defects may be noted.

40 The sponsor of each bill or resolution to which this subsection applies shall present a
41 copy of the bill or resolution with the request for a fiscal note to the Fiscal Research
42 Division. Upon receipt of the request and the copy of the bill or resolution, the Fiscal
43 Research Division shall prepare the fiscal note as promptly as possible. The Fiscal

1 Research Division shall prepare the fiscal note and transmit it to the sponsor within two
2 weeks after the request is made, unless the sponsor agrees to an extension of time.

3 This fiscal note shall be attached to the original of each proposed bill or resolution
4 that is reported favorably by any committee of the General Assembly, but shall be
5 separate from the bill or resolution and shall be clearly designated as a fiscal note. A
6 fiscal note attached to a bill or resolution pursuant to this subsection is not a part of the
7 bill or resolution and is not an expression of legislative intent proposed by the bill or
8 resolution.

9 If a committee of the General Assembly reports favorably a proposed bill or
10 resolution with an amendment that proposes a change in the law that could require a
11 county or municipality to spend funds, the chair of the committee shall obtain from the
12 Fiscal Research Division and attach to the amended bill or resolution a fiscal note as
13 provided in this section."

14 Sec. 5. G.S. 120-30.45 reads as rewritten:

15 **"§ 120-30.45. Fiscal note on legislation.**

16 At the request of the sponsor of any bill or resolution affecting the ~~expenditures or~~
17 revenues of units of local government of this State, or of the chairman of the committee
18 to which such a measure is referred, or of any of the chairmen of the Local Government
19 Committees, or of any of the chairmen of the Appropriations, Finance, Rules, or Senate
20 Ways and Means Committees, the Fiscal Research Division shall prepare a fiscal note
21 containing an estimate of the impact of the measure on the finances of the units of local
22 government affected during the ensuing two fiscal years. Every bill and resolution
23 introduced in the General Assembly proposing any change in the law that could require
24 a county or municipality to spend funds shall have attached to it at the time of
25 consideration by the General Assembly a fiscal note prepared in accordance with G.S.
26 120-36.7(e). The Office of State Budget and Management, the Department of Revenue,
27 the Department of the State Treasurer, the Department of the State Auditor, the State
28 department most directly concerned, and, where appropriate, officials of units of local
29 government, upon the request of Fiscal Research Division, shall assist the Fiscal
30 Research Division in the preparation of the fiscal note.

31 Copies of fiscal notes prepared by the Fiscal Research Division shall be furnished to
32 the sponsor of the bill or resolution, the chairmen of the Local Government Committees,
33 and the chairmen of the Appropriations, Finance, Rules, or the Senate Ways and Means
34 Committees as appropriate."

35 Sec. 6. This act is effective upon ratification.