

Minutes of a regular meeting of the Chippewa County Board of Commissioners, held at the Chippewa County Courthouse, 319 Court St., Sault Ste. Marie, Michigan on the 21st day of December, 2015 at 5:30 p.m.

PRESENT: Scott Shackleton, Don McLean, Jim Martin, Conor Egan and Rudy Johnson

ABSENT: None

The following preamble and resolution was offered by Commissioner McLean and seconded by Commissioner Johnson.

**RESOLUTION NO. 15-35
RESOLUTION IN SUPPORT OF
MICHIGAN UNFUNDED MANDATE BILLS - SBs 388-390**

Whereas, the Michigan Legislature is considering Senate Bill No. 388 – Transparency Act (Casperson); Senate Bill 389 – Administrative Procedures Act (Kowall) and Senate Bill No. 390 – Revised Judicature Act (Robertson) with regards to Unfunded Mandates’ which fiscally upset the Michigan Counties ability to accurately manage their budgets.

Whereas, Senate Bill 388 Transparency Act reinforces the provisions of Headlee in the Constitution by specifying that the Legislature shall appropriate sufficient money to pay local units of government for each state requirement imposed upon them pursuant to Section 29 of Article 9 of the Constitution (Headlee).

Whereas, Senate Bill 388 Transparency Act states that no local unit of government shall be required to provide a new activity or service or an increase in an existing activity or service unless: (1) there is a fiscal note prepared and published; and (2) the State appropriates sufficient funding based on the fiscal note.

Whereas, HB 388 Transparency Act creates a fiscal note process; requires Treasury to develop a searchable database for use by local units of government and indicates how the fiscal note process should be established.

Whereas, Senate Bill 388 Transparency Act specifies that the State shall not impose a penalty on or withhold funds to a local unit of government that does not comply with a mandate if: (1) the fiscal note process has not been followed; (2) that State has prepared a fiscal not but a taxpayer (including a local unit of government has filed a lawsuit asserting that the law creates a mandate and the court has not issued an order within 6 months or has decided in favor of the taxpayer.

Whereas, Senate Bill 389 Administrative Procedures Act parallels the changes made in the Paul Harvey Transparency Act but applies the process to rules so that departments can’t get around the unfunded mandate provisions.

Whereas, Senate Bill 389 Administrative Procedures Act specifies that is an appropriation is not provided for new activities or services required of locals required under a rule that a local unit of government does not have to comply.

Whereas, Senate Bill 389 Administrative Procedures Act adds a reason under the Joint Committee on Administrative Rule process by which the Legislature can introduce bills to intercede on a rule after filling a notice of objection. The new reason would be that the rules do not comply with Headlee provisions of the Constitution or the new act under SB 495.

Whereas, Senate Bill 390 Revised Judicature Act allows a local unit of government to bring an action against the Stew in the Court of Appeals to enforce the Transparency Act.

Whereas, Senate Bill 390 Revised Judicature Act provides the local unit of government with all costs and expenses if they prevail in the lawsuit and creates a special master provision in the County of Appeals so that the Special master may conduct an investigation to determine what the law was intended to do and how it affects local unit of government.

Whereas, Senate Bill 390 Revised Judicature Act requires the case to be decided as rapidly as possible and gives its priority over all other cases other than special emergency cases or those given priority in rules adopted by the Supreme Court.

Whereas, Senate Bill 390 Revised Judicature Act requires the State to maintain the burden of proof and prove that the State is in compliance with not creating an unfunded mandate UNLESS a local unit of government has twice brought and lost actions regarding Headlee provisions.

Whereas, Senate Bill 390 Revised Judicature Act provides that id the tax payer prevails in a lawsuit showing that the State has not met its funding requirements, the Transparency Act applies unless and until the legislature: (1) provides for sufficient funding; (2) eliminates or rescinds the requirement; or (3) changes or modifies the requirements so that it is now compliant and appropriately funded.

Whereas, Senate Bill 390 Revised Judicature Act provides for priority of the case in the Supreme Court if an appeal is made to the Supreme Court by a party and if the Supreme Court takes the case that the obligation on the local unit of government shall be “stayed” (i.e. shall not be enforced).

Whereas, Michigan voters approved a tax limitation to the 1963 Constitution which is generally referred to as Headlee, unfortunately the Headlee amendment has been largely disregarded by the Legislature with new laws passed requiring more of local units of government without corresponding funding being provided.

Whereas, 28 state have requirements that state mandates be specifically identified, and in many states there are requirements that the mandates must be funded. The states use a

fiscal note process for new laws or retrospectively identify mandates and their costs in existing law.

Whereas, the 2009 Legislative Commission Report on Statutory Mandates recommended a blended approach of what other state have done be used in Michigan.


Be it resolved, that the Chippewa County Board of Commissioners urges the Michigan Legislature to pass Senate Bill No. 388, 389 and 390 to prevent more unfunded mandates from being imposed on local units of government in the future through the inclusion of a fiscal note process; and to specify that an unfunded mandate in any new legislation is not binding on a local unit of government and they can't be penalized for not following the mandate if funding is not provided.

A VOTE WAS TAKEN AS FOLLOWS

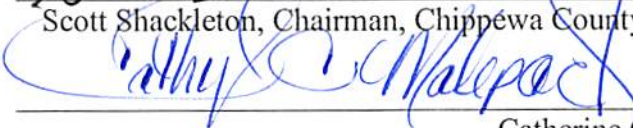
AYES: Scott Shackleton, Don McLean, Jim Martin, Conor Egan and Rudy Johnson

NAYS: None

RESOLUTION DECLARED ADOPTED



Scott Shackleton, Chairman, Chippewa County Board of Commissioners



Catherine C. Maleport, County Clerk

STATE OF MICHIGAN)
) ss.
COUNTY OF CHIPPEWA)

I hereby certify that the foregoing is a true and complete copy of the resolution adopted by the County Board of Commissioners of Chippewa County at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.



Catherine C. Maleport, County Clerk