

Attachment 2

Executive Order 145: Consultation by State Agencies with Local Governments re Administrative Mandates of Such Agencies Imposing Financial Burdens on Such Local Governments. November 20, 1978

<http://www.mass.gov/courts/docs/lawlib/eo100-199/eo145.txt>

COMMONWEALTH OF MASSACHUSETTS

Michael S. Dukakis

Governor

EXECUTIVE ORDER NO. 145

CONSULTATION WITH CITIES & TOWNS
ON ADMINISTRATIVE MANDATES

WHEREAS, municipal officials must be able to consider statewide agency policy and regulatory actions which have significant financial, procedural, or organizational impact on local governments in order to effectively provide services to their citizens; and

WHEREAS, state agencies ought to consider the impact on local governments of policy and regulatory mandates which include significant financial, procedural, or organizational obligations in order to make informed, credible decisions regarding the application of such policies and regulations; and

WHEREAS, the Governor recognizes that state-local cooperation in the formulation of the Commonwealth's administrative policies and regulations affecting local governments is essential to the successful implementation of viable policies and regulations; and

WHEREAS, affirmative steps are necessary to ensure that municipal officials are fully informed of proposed agency policies and regulations which affect local governments, prior to their promulgation; and

WHEREAS, state administrative mandates may place significant additional financial burdens on municipalities;

NOW, THEREFORE, I, Michael S. Dukakis, Governor of the Commonwealth by virtue of the authority vested in me as supreme executive magistrate, do hereby order as follows.

SECTION I: DECLARATION OF POLICY

Agencies shall take no action (as defined in Section II) without having followed the consultation procedures as set forth in Section III to inform and thereafter receive advice from local governments of the potential impact on local governments of the proposed action.

SECTION II: DEFINITION

Agency is defined as any agency, department, board, commission, authority or other instrumentality of the Commonwealth.

Action is defined as (a) the adoption, repeal or amendment of any rule or regulation subject to the Mass. Administrative Procedure Act (hereinafter called A.P.A.), M.G.L. Chapter 30A; (b) any administrative action that either places additional expenditure, procedural, or organizational requirements on local governments or limits the discretionary powers of local officials or agencies on a statewide basis. Enforcement of duly enacted laws and regulations is not within the scope of this executive order.

The Local Government Advisory Committee established pursuant to Executive Order No. 123 (1976) is hereinafter called L.G.A.C. The Department of Community Affairs is hereinafter called D.C.A.

SECTION III: PROCEDURES

1. In the case of action subject to the A.P.A., at least 14 calendar days prior to the initiation of compliance with the A.P.A., agencies shall initiate the procedures set forth below. In the case of actions not subject to the A.P.A., agencies shall initiate said procedures at least 45 calendar days prior to the proposed implementation of said action.

2. Agencies shall provide L.G.A.C. and D.C.A. with a brief statement describing the proposed action which emphasizes the responsible agency officials' best judgement of those elements which might impact on local governments including, when feasible, preliminary cost estimates.

3. Within 21 calendar days of receipt of said notice, either L.G.A.C. or D.C.A. shall notify the originating agency as to whether or not it

believes the proposed action presents potential for significant impact. Failure to so notify within 21 calendar days shall be deemed to constitute a judgement of no significant impact.

4. Any such notice shall set forth the aspects of the proposed action which the L.G.A.C. or the D.C.A., as the case may be, believes present potential for significant impact.

5. Within 14 calendar days of the receipt of a notice under Section III 3,4, the originating agency shall convene a meeting of representatives of the agency, L.G.A.C., and D.C.A. to review and discuss the potentially significant impact of the proposed action.

SECTION IV: EMERGENCY ACTION

Agencies may initiate emergency actions under relevant sections of the Administrative Procedure Act without prior compliance with this order, provided that compliance shall be initiated as soon as practicable following the emergency action and in any event to making any emergency action permanent.

SECTION V: DETERMINATION OF SIGNIFICANT IMPACT

In determining whether the proposed action may present potential for significant impact, agencies, L.G.A.C., and the D.C.A. shall consider the extent to which the proposed action might require municipalities:

- a) to significantly expand existing services;
- b) to employ additional personnel;
- c) to significantly alter administrative and work procedures;
- d) to realign organizational structures;
- e) to increase disbursements which are not reimbursed by the federal or state government; or
- f) to limit the discretion exercised by local officials.

Each agency head, or a designee of the agency head, shall have responsibility within that agency for reviewing proposed administrative policies and regulations to ensure compliance with this order.

SECTION VI: EFFECTIVE DATE

This order shall take effect on November 20, 1978, provided, however, that it shall not apply to any action subject to the A.P.A. for which compliance with the A.P.A. is initiated prior to November 20, 1978.

SECTION VII

This order shall continue in effect until amended, superseded or terminated by subsequent Executive Order.

Given at the Executive Chamber
in Boston this twenty-first
day of October, in the year of
Our Lord one thousand nine hundred
and seventy eight and of the indepen-
dence of the United States of
America, two hundred and second.

MICHAEL S. DUKAKIS
GOVERNOR
Commonwealth of Massachusetts

Paul Guzzi
Secretary of the Commonwealth