

From: Daddow, Robert [mailto:daddowr@oakgov.com]
Sent: Wednesday, September 23, 2009 4:10 PM
To: Norcross, Karen (DELEG)
Cc: 'Coates, Pat'; 'Sullivan, Joe'
Subject: 9-1-1 Training Standards Rulemaking

Ms. Norcross – attached is my letter of comment involving the 9-1-1 Training Standards. While we support the improvements anticipated in the changes to improve standards, you should know that any new rules or mandates imposed by the State are unfunded mandates and require funding by the State. I have taken the liberty to advance this particular item to the Legislative Commission on Statutory Mandates and intend on using this as an example within the report that is anticipated to be issued in the later part of the calendar year as it is spot on target with the cultural beliefs that rules / mandates can be issued from the State without even any consideration of funding.. I am co-chair of this Commission.

And, even before you may go there, any prior funding that might have been provided to the PSAPs would apply to prior services. New services require new funding sources. I would suggest you reference Adair going through the legal process on this matter should you desire.
RJD



September 23, 2009

Ms. Karen G. Norcross
Sr. Numbering Resources Specialist
Operations and Tariffs Section
Telecommunications Division
Michigan Public Services Commission
Lansing, Michigan

Re: 9-1-1 Training Standards – Conflicts with the Headlee Amendment

Dear Ms. Norcross:

Oakland County is in receipt of the most recent draft of the 9-1-1 Training Standards and have a significant concern with regards to the State funding of this new mandate. Oakland County is in support of improvements in minimum personnel standards and training for dispatch professionals. Specifically, stated in the draft rules is the assertion that “Compliance with the provisions of this **rule** shall be **mandatory** no later than December 31, 2010” (emphasis added).

The County’s support does not negate the State’s funding responsibilities under the Headlee Amendment, (Section 29 of the Michigan Constitution), which reads:

“The state is hereby prohibited from reducing the state financed proportion of the necessary costs of any existing activity or service required of units of Local Government by state law. A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the legislature or any state agency of units of Local Government, unless a state appropriation is made and disbursed to pay the unit of Local Government for any necessary increased costs. The provision of this section shall not apply to costs incurred pursuant to Article VI, Section 18.”

In lay terms, any new rule or mandate created after the Headlee Amendment’s effective date of December 23, 1978 imposing costs on local units of government requires full funding by the State. As you are likely aware, a recently settled lawsuit between school districts and the State concerning levels of funding sets forth new standards of funding requirements relating to the compliance with the Headlee Amendment. The State’s position in that lawsuit was that because the State provided funding prior to the adoption of the new mandate, the costs associated with the *new* mandate is now considered to be incorporated within that original funding level. The State’s Supreme Court ruled otherwise. Funding for past rules and mandates remain unchanged while new State-mandated costs are to be covered by new State revenue sources.

The costs burdened on local dispatch operations to comply with the proposed new rule could include, but not be limited to, the training sessions, backfilling of dispatch time while at training, elimination of temporary duty personnel in dispatch functions (requiring additional personnel to be hired) and administrative costs. If the State intends on imposing new costs on local dispatch operations, new State funding would be required under the State's Constitution, specifically the Headlee Amendment.

Similarly, any prior actions by the State in promulgating rules and mandates involving local 9-1-1 operations would also require full State funding should those rules and mandates have become effective after the Headlee Amendment become effective on December 23, 1978. In a letter dated August 31, 2009, there is a reference to '...the rulemaking process mandated by the Emergency 9-1-1 Services Enabling Act, PA 32 of 1986.' No review of the components of this past legislation has been made but should there be new costs that were burdened on local units of government that remain fully unreimbursed, the State would be obligated to fund these costs under the Headlee Amendment as well.

While providing higher standards in dispatch services is helpful to public safety, the adoption of favorable new rules does not negate the State's requirement to comply with the Constitution.

Very Truly Yours,



Robert J. Daddow,
Deputy County Executive

Copy to: Legislative Commission on Statutory Mandates