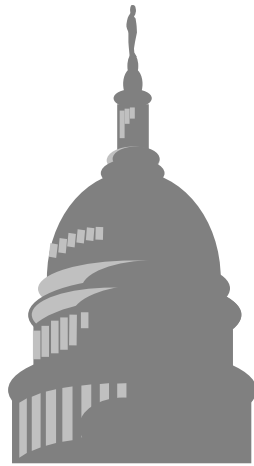


Compendium of Statutory and Regulatory Mandates on Municipalities in Connecticut

-2021 Supplement-



a report by the

Connecticut Advisory Commission on Intergovernmental Relations

<https://portal.ct.gov/acir>

Brendan Sharkey, Chair
Lyle Wray, Vice-Chair

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This report is also available at:

https://portal.ct.gov/-/media/ACIR/Mandates/Compendium/2021_Compendium_Supplement.pdf

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January 8, 2021

To the Connecticut General Assembly:

The Connecticut Advisory Commission on Intergovernmental Relations (ACIR) is pleased to submit this supplement to the [2020 Compendium](#) of statutes and regulations that have been identified as including state mandates. ACIR compendiums and supplements are prepared and submitted in accordance with [Sec. 2-79a](#) of the Connecticut General Statutes (CGS).

This supplement identifies new or modified mandates resulting from 2020's regular and special legislative sessions. There is no need to remind anyone of how 2020 differed from previous years. The General Assembly passed only a small fraction of the usual number of bills and none of the fourteen bills passed in 2020 were reviewed by a legislative committee: all were considered via emergency certification. The pace of state agency regulation adoption also slowed, but each new or revised regulation that went into effect in 2020 went through the state's usual review process.

As noted in the ACIR's earlier report on mandates arising in the legislative sessions of 2020, the year was so different from previous years that it seemed almost pointless to compare the number of mandates to previous years. Far fewer bills were passed and far fewer contained a mandate and there were far fewer mandates overall. There were no mandate reductions. This compendium supplement, accordingly, is also much smaller than usual.

Mandates are legislative or regulatory actions that require a local government to expand or modify its activities in a manner requiring expenditure of local revenue. The definition, it should be noted, does not include state requirements enacted to comply with federal mandates or those required by court order. The ACIR wants to emphasize that its listings of mandates should not be considered a "hit list" of statutes or regulations to be eliminated. Local governments have an interest in administering a number of functions for which the people of the state expect a minimum standard of performance or statewide uniformity. People can disagree about the wisdom of any specific state requirement, but state and local officials agree that, from a legal, social, and practical standpoint, some level of state direction is appropriate.

Individually, many mandates identified by the ACIR will not seem to require additional local spending and it is routine for such mandates to be identified as having no fiscal impact when reviewed by the General Assembly's [Office of Fiscal Analysis](#). In combination with other state requirements, however, even mandates requiring only minimal attention can add up and have the effect of defining the essence of a municipal employee's job. There are numerous minor education mandates that, taken together, require additional staff to monitor mandated requirements.

Mandates vary widely in their scope and impact. Sec. 85 of [Public Act \(PA\) 20-1](#), for instance, requires assessors to annually certify the amount of machinery & equipment exemptions that have been approved. It is a narrow requirement and is predicted to have minimal impact on its own, but adding new tasks to an employee's work load has a significant cumulative impact.

Some mandates will have or potentially can have much more substantial impact. One such mandate is included in Sec. 41 of [July Special Session PA 20-1](#), otherwise known as the Act Concerning Police Accountability. It will limit municipalities' immunity for claims filed against police officers for acts of the officers and requires a municipality to protect and save harmless the officer from financial loss and expense, although a municipality can seek reimbursement

from an officer judged to have committed a malicious, wanton or wilful act. Given the financial terms of such claims as reported elsewhere, this mandate could have a major impact on a municipality.

That new mandate, furthermore, also highlights a potential shortcoming in how the ACIR categorizes mandates. As will be explained later in this report, the ACIR distinguishes between three categories of statutory mandates, two of which are “A” mandates, which apply to all municipalities, and “B” mandates which apply only to municipalities that choose to provide a particular service subject to the requirement. The state does not require municipalities to maintain a police force, so a mandate applying specifically to police will typically be classified as a “B” mandate. When the ACIR was originally directed to compile a listing of mandates, a decision apparently was made to only mention the financial impact of “A” mandates, perhaps because those allow no discretion. “B” and “C” mandates, such as the one created by Sec. 41 of the Act Concerning Police Accountability, can have a financial impact beyond that of most “A” mandates. The ACIR is reassessing its approach in classifying and reporting on mandates.

In addition to reassessing that aspect of its work with mandates, the ACIR also is considering a detailed look-back at a few mandates each year to evaluate how the impacts experienced by municipalities compare with expectations at the time of adoption. Doing so could improve the weighing of the desired benefits of legislation imposing mandates against the costs to be borne by municipalities.

Another factor warranting further work is that a mandate can have a significantly different impact on different municipalities. A simplistic, but real example is that a municipality with an engineer on staff might, at no additional cost to the town, handle a mandate requiring a limited engineering review. A town that contracts for engineering services, on the other hand, will experience a noticeable cost. Variations in the potential impact of many mandates probably are not so clear. The ACIR believes that a more tightly focused review of mandates might provide actionable information.

The ACIR believes this compendium supplement captures all new or changed mandates arising from legislative or agency actions during 2020, but welcomes input regarding anything that should be reinterpreted. The next full compendium of state mandates is due in 2024. The ACIR will publish an annual supplement like this each year until then to identify any changes to the contents of the supplement. If you have any questions or comments regarding this report, please feel free to contact us, care of:

Bruce Wittchen, Office of Policy & Management, (860) 418-6323, bruce.wittchen@ct.gov

Further information about this and other work of the ACIR is available at the ACIR website:

<https://portal.ct.gov/acir>

Sincerely:



Brendan Sharkey, Chair



Lyle Wray, Vice-Chair

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Mandates and Their Classification

The delegation of certain state responsibilities to municipalities by statute has its origin in the State Constitution. Specifically, the constitution's *Article Tenth* establishes that the General Assembly "*shall by law delegate such legislative authority as from time to time it deems appropriate to towns, cities and boroughs relative to the powers, organization and form of government of such political subdivisions.*"

Over time, state statutes have been used to build a mosaic of authorizations, organizational frameworks, and requirements regarding the structure and operation of local government. The specificity of such requirements generally determines the policy relationship between the state and local governments. The more prescriptive a state requirement, the less flexibility it provides municipalities in responding to their different and evolving needs.

The state's aid to municipalities is a significant portion of state and municipal budgets, but each additional mandate can further constrain municipalities' ability to perform services residents expect for their local tax dollars. CT's heavy reliance on property taxes, in tandem with the uneven division of property wealth and tax-exempt property among municipalities, increases the challenge many face in taking on new state requirements. The balancing of the various interests and the resulting costs has been and will continue to be the subject of much debate.

State Mandate Definition

The term "state mandate" is defined in [CGS Sec. 2-32b](#) of the statutes as being:

...any constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues, excluding any order issued by a state court and any legislation necessary to comply with a federal mandate

Types of Mandates

An ACIR mandate compendium is organized as follows:

Part I - includes the list of statutory mandates adopted by the General Assembly and is divided into three sections to reflect three different types of mandates:

Section A - includes the statutes that impose mandates specifically on municipalities;

Section B - includes statutes that mandate actions only if a municipality chooses to perform a service (although that service might be essentially unavoidable);

Section C - includes statutes that impose mandates on all entities performing certain functions including, but not limited to, municipalities.

Part II - includes the list of regulatory mandates adopted by state agencies and is divided into two sections;

Section A - includes the regulations that mandate actions on the part of municipalities;

Section B - includes regulations that mandate actions if a municipality chooses to perform a service which is not mandated (although the service might be essentially unavoidable);

The ACIR uses the following criteria for characterizing the fiscal impact assessment of mandates:

Minor:	estimated to be less than 0.1% of town operating budgets
Moderate:	estimated to be 0.1 - 1% of town operating budgets
Major:	estimated to be more than 1% of town operating budgets

If a municipality's budget is \$4 million, a requirement imposing a cost of more than \$40,000 would be a major mandate, with a moderate mandate costing between \$4,000 and \$40,000 and a minor mandate costing less than \$4,000. For a municipality having a budget of \$400 million, a mandate must cost more than \$4,000,000 to be considered major, with a moderate mandate costing between \$400,000 and \$4,000,000 and a minor mandate costing less than \$400,000. With municipal budgets ranging from less than \$4 million to more than \$400,000,000, a minor mandate for one municipality can be a major mandate for another.

It would not be feasible to determine the precise impact of any specific mandate on each of the state's 169 different municipalities. It also would not be feasible to determine the cumulative impact of every mandate on any single municipality. In fact, the ACIR's classification of fiscal impacts is an estimate and not based on a rigorous financial analysis. The ACIR has used the above framework and approach for a number of years, but is increasingly concerned about variations in the financial impacts of mandates. As previously noted, the ACIR is reassessing its approach.

Further Notes on the Use of this Report

When reviewing this report, please be mindful that it is a guide to mandates, not a detailed explanation of all requirements imposed by a particular section of statute, public act, or regulation. Statutes are available at <https://www.cga.ct.gov/current/pub/titles.htm>. Be aware that there can be a significant lag between a statute revision going into effect and the revision appearing at the linked site, which is only updated early in an odd-numbered year. Regulations are available through the CT eRegulations System at <https://eregulations.ct.gov/eRegsPortal/>.

Regulatory mandates differ from statutory mandates in that they are contained in formal state regulations that have been adopted in accordance with the Uniform Administrative Procedures Act. Regulations implement specific sections of the Connecticut General Statutes and tend to be more detailed. Regulations cannot be enacted without prior statutory authority, but the ACIR has at times found regulations for which the underlying statute had been repealed. In the normal course of events, state agencies will repeal such a regulation in accordance with state law, but there can be a substantial period of time between the two events.

The General Assembly website's [Browse Statutes](#) feature organizes the statutes by title. [Title 9](#), for example, is identified as including statutes regarding elections. Each title is further divided into chapters, with [Chapter 145](#), one of the chapters in Title 9, including sections of statutes regarding absentee voting. This report identifies mandates by section and provides a link to each chapter including a section that imposes a mandate. The text of each section of the statutes is in black font. That is the language establishing statutory requirements.

The General Assembly website also provides historic information about the statutes. The black text of the statute is followed by a list in brown font of the bills that were passed to create and then modify that section of statutes. If the section has been modified since its original adoption, the brown text will be followed by a more detailed description of those changes, shown in purple font.

In addition to the information regarding legislative history, some sections include text in red font identifying court cases that interpreted or cited the statute. Compendiums have never provided information regarding court decisions, but such information can be significant for municipal activities that are especially likely to be litigated, such as many sections of statute in the Zoning chapter of Title 8 (https://www.cga.ct.gov/current/pub/chap_124.htm).

Part I - Statutory Mandates, Section A
Includes the statutes that mandate actions specifically by municipalities

Statute
Section

Description and History

Title 9: Elections

[ABSENTEE VOTING](#)

9-140b Return of absentee ballots. Possession of ballots and envelopes restricted. - Requires municipal clerks to designate a secure drop box in accordance with instructions by the Secretary of State and to handle absentee ballots received there or by mail as specified.
Enactment: Prior to 1949, Mandate created 2020, P.A. 20-3 JSS, Sec. 5
Estimated Cost Characterization: Minor

Uncodified Public Acts (Section A Mandates)

P.A. 20-1 An Act Authorizing And Adjusting Bonds Of The State For Capital Improvements, Transportation And Other Purposes, And Concerning Municipal Reports On Certain Property Tax Exemptions, Validation Of A Referendum And Highway Projects. - Requires assessors to annually certify, on a form provided by OPM, the amount of machinery & equipment exemptions approved under specified provisions of CGS 12-81 for the most recent assessment year, with supporting information as required.
Enactment: 2020, P.A. 20-1, Sec. 85
Estimated Cost Characterization: Minor

Part I - Statutory Mandates, Section B

Includes statutes that mandate actions if a municipality chooses to perform a service that is not mandated, although performing that service may be essentially unavoidable

Statute Section

Description and Enactment

Title 7: Municipalities

MUNICIPAL POLICE AND FIRE PROTECTION

- 7-282e Recording of incidents of use of physical force or discharge of a firearm. - Requires law enforcement units to create and maintain a record detailing specified categories of incidents involving the use of physical force or discharge of a firearm and to submit reports as specified.
Enactment: 2015, P.A. 15-4 (JSS), Sec. 5
- 7-291a Efforts re recruitment, retention and promotion of minority police officers. - Requires law enforcement units serving communities with relatively high concentrations of minority residents to make efforts to recruit, retain and promote minority police officers as specified and report annually on those efforts.
Enactment: 2015, P.A. 15-4 (JSS), Sec. 3
- 7-294ee Adoption and maintenance of minimum standards and practices for the administration and management of law enforcement units. - Requires law enforcement units to adopt and maintain the minimum police officer standards and practices specified in this section, including accreditation by the Commission on Accreditation for Law Enforcement Agencies, Inc., but protects law enforcement units from civil actions brought for damages due to a failure to do so.
Enactment: P.A. 18-161, Sec. 2

Title 29: Public Safety And State Police

DIVISION OF STATE POLICE

- 29-6d Use of body-worn recording equipment. When recording prohibited. Retention of data. - Requires police officers to use body cameras as specified, vehicles to have dashboard cameras as specified, and data to be saved as specified, with the state reimbursing only a portion of the cost.
Enactment: 2015, P.A. 15-4 (JSS), Sec. 7

Uncodified Public Acts (Section B Mandates)

- PA 20-1 (June Sp. Sess) An Act Concerning Police Accountability. – Requires police chiefs to inform police officers of the crowd management policy adopted in regulations pursuant to this section and that it be included in training.
Enactment: 2020, P.A. 20-1 JSS, Sec. 5
- PA 20-1 (June Sp. Sess) An Act Concerning Police Accountability. – requires police officers to receive behavioral health assessments as specified.
Enactment: 2020, P.A. 20-1 JSS, Sec. 16

- PA 20-1 (June Sp. Sess) An Act Concerning Police Accountability. – Requires municipal police department to complete an evaluation of the feasibility and potential impact of the use of social workers by the department for calls where the experience and training of a social worker could provide assistance.
Enactment: 2020, P.A. 20-1 JSS, Sec. 18
- PA 20-1 (June Sp. Sess) An Act Concerning Police Accountability. – Requires a municipality applying for a grant for costs associated with CGS 29-6d requirements to apply in the manner specified by OPM, which can prescribe additional technical or procurement requirements as a condition of receiving the grant.
Enactment: 2020, P.A. 20-1 JSS, Sec. 20
- PA 20-1 (June Sp. Sess) An Act Concerning Police Accountability. – Requires law enforcement agencies to submit a report on their inventory of controlled equipment possessed on the effective date of this section.
Enactment: 2020, P.A. 20-1 JSS, Sec. 40
- PA 20-1 (June Sp. Sess) An Act Concerning Police Accountability. – Limits a municipality's immunity for a claim, demand, or suit instituted against a police officer for an act of the officer and requires a municipality to protect and save harmless the officer from financial loss and expense, including legal fees, except that the municipality can be reimbursed by an officer who has a judgment entered against him or her for a malicious, wanton or wilful act.
Enactment: 2020, P.A. 20-1 JSS, Sec. 41

Part I - Statutory Mandates, Section C

Includes statutes that are mandates on all entities performing certain functions including, but not limited to, municipalities.

Statute Section

Description and Enactment

Title 38a: Insurance

Note: In a addition to providing its own analysis of health insurance mandates impacting municipalities and others, the ACIR wishes to highlight that PA 09-179 had established a Health Benefit Review Program within the Insurance Department requiring the department to evaluate statutorily mandated health benefits. Annual reports were published for a period of time, but the most recent was completed in 2015. It is ACIR's understanding that no further reviews are underway, but the level of analysis goes beyond the ACIR's and links to those reports are available at: <http://www.ct.gov/cid/cwp/view.asp?a=1254&q=447304>

HEALTH INSURANCE

- 38a-518d Mandatory coverage for diabetes testing and treatment. – Requires group health insurance policies to provide coverage for diabetes with patient costs restricted as specified.
Enactment: 1997, P.A. 97-268, Sec. 5

Uncodified Public Acts (Section C Mandates)

- P.A. 20-1 An Act Authorizing And Adjusting Bonds Of The State For Capital Improvements, Transportation And Other Purposes, And Concerning Municipal Reports On Certain Property Tax Exemptions, Validation Of A Referendum And Highway Projects. - requires contracts for specified road projects financed in whole or in part with state funds to specify that sewer grates and utility service grates will be reasonably flush with the surface.
Enactment: 2020, P.A. 20-1, Sec. 88
- P.A. 20-2 An Act Concerning Telehealth. - Requires that group health insurance policies provide (June Sp. Sess.) coverage for medical services provided through telehealth as specified.
Enactment: 2020, P.A. 20-2 (June Special Session), Sec. 4

Part II - Regulatory Mandates

Section A Regulatory Mandates

Includes regulations that mandate actions specifically by municipalities

Title 12: Taxation

12-130a (1-8) Certification of Tax Collectors. – Requires a person to complete specified training and exams to be certified as a tax collector and for recertification. (Office of Policy & Management)

Section B Regulatory Mandates

Regulations that mandate actions if a municipality chooses to perform a service that is not mandated, although performing that service maybe essentially unavoidable

No Section B regulatory mandates were created or expanded this year.