

# Legal Assistance Resource Center of Connecticut, Inc.

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## S.B. 198 and H.B. 5257 -- Restrictions on municipal mandates

Planning and Development Committee public hearing -- March 10, 2010

Testimony of Raphael L. Podolsky

Recommended legislative action: REJECTION OF THE PROPOSALS

S.B. 198 requires a two-thirds vote of both houses of the General Assembly to adopt any "state mandate to local governments." H.B. 5257 requires that all "municipal mandates" adopted after January 1, 2011, sunset after three years unless reenacted. Both use substantially the same broad definition now used for municipal fiscal notes, which encompasses any state action that requires a local government to "establish, expand or modify" its activities in a way that requires greater expenditure of local revenues. The definition is highly expandible and could be applied to almost any legislation that impacts municipalities even indirectly, from changes in the Zoning Enabling Act to adjustments to the State Building Code to amendments to the Fair Housing Act. Taken together, the two bills would sunset "municipal mandates" and require a two-thirds vote to prevent such sunsets.

- \* Restrictive requirements such as these are fundamentally undemocratic: The filibuster rule of the United States Senate, when invoked routinely, effectively prevents the majority party from governing and gives a legislative veto to the minority party. This can cut either way, since either party can be in the majority, but it has the capacity to prevent the adoption of legislation supported by most of the public and to result in the automatic repeal of legislation by minority action.
- \* The concept of municipal mandates has no true natural limit. A large percentage of bills passed by the General Assembly have some fiscal impact on municipalities. To which bills the concept is applied will be inconsistent and subject to manipulation.
- \* It is the job of the state legislature to set state policy. It should not require a two-thirds majority, for example, to decide that no one can discriminate against persons with mental retardation, even if that policy impacts municipal hiring practices. Nor should such an act discriminatorily sunset after three years while other acts do not. S.B. 198 and H.B. 5257 are likely to be used to make it difficult for the state legislature to do its job.