STATE OF NEW YORK

1376

2025-2026 Regular Sessions

IN ASSEMBLY

January 9, 2025

Introduced by M. of A. RA, BRABENEC, BLUMENCRANZ, ANGELINO, LEMONDES, TAGUE, SLATER -- read once and referred to the Committee on Local Governments

AN ACT to amend the legislative law and the executive law, in relation to unfunded mandates on local governments and school districts and the restoration of the mandate relief council; and providing for the repeal of certain provisions of the executive law upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The legislative law is amended by adding a new section 51-a to read as follows:

§ 51-a. Moratorium on unfunded mandates. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Local government" means a county, city, town, village, school district, or special district.

(b) "Net additional cost" means the cost or costs incurred or anticipated to be incurred within a one-year period by a local government in performing or administering any program, project, or activity after subtracting therefrom any revenues received or receivable by such local government in relation to such program, project, or activity, including but not limited to:

(i) fees charged to the recipients of such program, project, or activity;

(ii) state or federal funds received for such program, project, or activity; and

(iii) an offsetting savings resulting from the diminution or elimination of any other program, project, or activity that state law requires such local government to provide or undertake.

(c) "Unfunded mandate" means:

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(i) any state law that requires a local government to provide or undertake any new program, project or activity that results in an annual net additional cost to any local government in excess of ten thousand dollars or an aggregate annual net additional cost to all local governments within the state in excess of one million dollars; or

(ii) any state law that requires a local government to provide a higher level of service or funding for an existing program, project or activity that results in an annual net additional cost to any local government in excess of ten thousand dollars or an aggregate annual net additional cost to all local governments within the state in excess of one million dollars; or

(iii) any state law that requires a local government to grant any new property tax exemption or that broadens the eligibility or increases the dollar amount of any existing property tax exemption, on property that otherwise would have generated revenue under the current property tax rate of such local government in excess of ten thousand dollars in any local government or in excess of one million dollars statewide; or

(iv) any state law with a legal requirement that would otherwise likely have the effect of raising property taxes in excess of ten thousand dollars in any local government or in excess of one million dollars statewide.

2. Moratorium on unfunded mandates. For a three-year period beginning with the enactment of this section, notwithstanding any other provision of law, no unfunded mandates shall be enacted.

3. Exemptions. (a) A state law shall not be considered an unfunded mandate where such law:

(i) is required by a court order or judgment; or

(ii) is provided at the option of the local government under a law that is permissive rather than mandatory; or

(iii) results from the passage of a home rule message whereby a local government requests authority to implement the program or service specified in the statute, and the statute imposes costs only upon that local government which requests the authority to impose the program or service; or

(iv) is required by statute or executive order that implements a federal law or regulation and results from costs mandated by the federal government to be borne at the local level, unless the statute or executive order results in costs which exceed the costs mandated by the federal government; or

(v) is imposed on both government and non-government entities in the same or substantially similar circumstances; or

(vi) repeals or revises a state law to ease an existing requirement that a local government provide or undertake a program, project, or activity, or reapportions the costs of activities between local governments; or

(vii) is necessary to protect against an immediate threat to public health or safety.

(b) The effective date of any act establishing a mandate shall provide a reasonable time for the state and any local government to plan implementation thereof and shall be consistent with the availability of required funds.

§ 2. Section 51 of the legislative law, as added by chapter 985 of the laws of 1983, is amended to read as follows:

§ 51. Fiscal impact notes on bills affecting political subdivisions. 1. For the purpose of this section, the term "political subdivision"

means any county, city, town, village, special district or school district.

2. [~~The legislature shall by concurrent resolution of the senate and assembly prescribe rules requiring fiscal notes to accompany, on a separate form, bills and amendments to bills, except as otherwise prescribed by such rules, which~~] A bill that would [~~substantially~~] affect the revenues or expenses, or both, of any political subdivision shall contain a detailed fiscal impact note stating the estimated annual cost to the political subdivision affected and the source of such estimate. The fiscal impact note must clearly identify the funding source of such annual cost to the political subdivision. An omission of such funding source in the fiscal impact note, shall invalidate such bill.

3. Fiscal notes shall not, however, be required for bills: (a) subject to the provisions of section fifty of this chapter, or (b) accompanied by special home rule requests submitted by political subdivisions, or (c) which provide discretionary authority to political subdivisions, or (d) submitted pursuant to section twenty-four of the state finance law.

4. If the estimate or estimates contained in a fiscal impact note are inaccurate and result in an annual net additional cost to any political subdivision in excess of ten thousand dollars or an aggregate annual net additional cost to all political subdivisions within the state in excess of one million dollars, such inaccuracies shall [~~not affect, impair or~~] invalidate such bill.

§ 3. The executive law is amended by adding a new article 24-A to read as follows:

ARTICLE 24-A
MANDATE RELIEF COUNCIL

Section 666. Mandate relief council.

§ 666. Mandate relief council. 1. Definitions. a. "Mandate" means any requirement that a local government perform or administer any program, project or activity, required or imposed by a state law or state agency that requires a higher level of service for an existing local government program, project or activity.

b. "Local government" means a county, city, town, village, school district, or special district.

c. "State agency" or "agency" means any state agency, department, office, board, bureau, division, committee, council or office under the direction or control of the executive.

2. Mandate relief council. There is hereby created within the department the mandate relief council, which shall be comprised of eleven members as follows: the secretary to the governor, who shall chair the council, the counsel to the governor, the director of the division of the budget, the secretary of state, and three additional members to be appointed by the governor from among the governor's executive chamber staff, one member to be appointed by the temporary president of the senate, one member to be appointed by the speaker of the assembly, one member to be appointed by the minority leader of the senate and one member to be appointed by the minority leader of the assembly.

a. Six members of the council, or their designees in the case of the director of the division of the budget and the secretary of state, shall constitute a quorum.

b. The council shall meet regularly upon the call of its chair and as frequently as its business may require. The members of the council shall serve without compensation but shall receive reimbursement for their reasonable and necessary expenses.

c. The council shall, upon request of a local government or one of the members of the council, identify and review mandates that can be eliminated or reformed, and make such other and further inquiries, reports and recommendations as the council may deem necessary and prudent to effectuate its mission of mandate relief. In identifying and determining whether such mandates are unsound, unduly burdensome or costly, the council shall receive and consider public comment about them and shall review them in light of cost-benefit principles and such other and further factors as the council shall deem necessary and prudent. The council shall not make a referral to the governor that a mandate be eliminated or reformed regarding any of the following mandates:

(i) those which are required to comply with federal laws or rules or to meet eligibility standards for federal entitlements;

(ii) those which reapportion the costs of activities between boards of education, counties, and municipalities;

(iii) those which implement provisions of the state constitution; and

(iv) those which the council determines are necessary for the maintenance of the public health or safety of the people of New York state.

d. All votes of the council, and all deliberations and reports of its proceedings shall be open to the public pursuant to article seven of the public officers law.

3. Council actions on regulatory mandates. Upon a determination that a mandate in any regulation, rule or order of any state agency has been imposed upon any local government in an unsound, unduly burdensome or costly manner so as to necessitate that it be eliminated or reformed, the council shall have the power to:

a. refer a request by a local government for a review of such regulatory mandate, for petition by such local government for a waiver, modification or repeal of such regulatory mandate pursuant to section two hundred four-a of the state administrative procedure act. In the event the council votes to make such referral on behalf of a local government, the state agency that is charged with reviewing the petition shall provide the technical assistance and support for such local government to properly prepare and submit such petition. In the event that such state agency reviewing the petition of the local government pursuant to section two hundred four-a of the state administrative procedure act does not provide the remedy sought by such local government, the council may hear and consider an appeal of such decision and grant such relief as it deems appropriate, including the making of a referral to the governor for the waiving, modifying or repealing of such regulatory mandate. The council shall adopt procedures by which it shall consider, decide and effectuate the remedies of such appeals consistent with this section.

b. upon a two-thirds vote, refer a regulation to the governor for repeal or modification, where the council has previously determined that such regulation imposes upon any local government a mandate in an unsound, unduly burdensome or costly manner, so as to necessitate that it be eliminated or reformed. Upon receipt of such referral by the council, the governor shall within sixty days, direct the state agency responsible for the promulgation, repeal or modification of such regulation to effectuate such repeal or modification of the regulation pursuant to the procedures that such agency would otherwise be required to follow under the law, had such agency on its own accord sought to repeal or modify the regulation.

4. Council actions on statutory mandates. The council may, upon a vote of seven members, refer a statute to the governor for repeal or modifi-

cation, where the council has previously determined that such statute imposes upon any local government a mandate in an unsound, unduly burdensome or costly manner, so as to necessitate that it be eliminated or reformed. Upon receipt of the referral by the council, the governor, within sixty days, shall have prepared a governor's program bill, for introduction in both houses of the legislature, to effectuate such repeal or modification of the statute.

5. Local government request. A local government may, by resolution of its governing body, ask the council to review a specific statute, regulation, rule or order of state government to determine whether such statute, regulation, rule or order of state government is an unfunded mandate or is otherwise unsound, unduly burdensome or costly so as to require that it be eliminated or reformed. No local government may make more than three such requests in each calendar year. Upon such review, the council shall, by majority vote, determine whether such mandate has been imposed upon such local government in an unsound, unduly burdensome or costly manner, so as to necessitate that it be eliminated or reformed. A determination of the council shall resolve any dispute regarding whether such a statute, regulation, rule or order constitutes such an unfunded mandate, but shall not be deemed a judicial determination under the law.

6. Appeals. Upon an appeal of a petition previously decided by a state agency pursuant to section two hundred four-a of the state administrative procedure act, the council, upon request of the local government, shall review the state agency's determination and may affirm, modify or reject such determination. Such appeal shall not preclude or limit a local government or any other party with standing from pursuing any right it may have pursuant to a proceeding instituted in accordance with the provisions of article seventy-eight of the civil practice law and rules or any other statute.

7. Reports. The council shall by December fifteenth of each year report to the governor and legislature regarding its activities, and regarding the issues, statutes, regulations, rules and orders which it reviewed, examined, proposed, referred, and/or considered. Such reports, which shall be adopted upon a majority vote of the members of the council, or their designees in the case of the director of the division of the budget or the secretary of state. All reports of the council shall be posted on a publicly accessible website.

8. Assistance of other agencies. To effectuate the purposes of this section, any state agency shall, at the request of the council, provide to the council such facilities, assistance and data as will enable the council to properly carry out its responsibilities and duties.

§ 4. The mandate relief council, pursuant to section 666 of the executive law, shall review existing mandates on local governments to determine which shall be eliminated.

§ 5. This act shall take effect immediately; provided, however, that section one of this act shall only apply to laws enacted after such effective date; and provided, however, that section three of this act shall expire and be deemed repealed January 1, 2029.