S T A T E O F N E W Y O R K

5789

2009-2010 Regular Sessions

I N A S S E M B L Y

February 20, 2009

Introduced by M. of A. GALEF, SEMINERIO, PEOPLES, MAGEE, FIELDS, KOON, ALFANO, CALHOUN, CORWIN, GIGLIO, WALKER -- Multi-Sponsored by -- M. of A. BARCLAY, BARRA, BENJAMIN, BURLING, BUTLER, CHRISTENSEN, CONTE, CROUCH, DelMONTE, DUPREY, ENGLEBRIGHT, ERRIGO, HAWLEY, KOLB, MILLER, MOLINARO, QUINN, RABBITT, RAIA, REILICH, SAYWARD, SCOZZAFAVA, SWEENEY, TEDISCO, THIELE, TOWNSEND -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the legislative law, in relation to restricting the imposition of unfunded mandates on political subdivisions of the state

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative findings and intent. The legislature finds that state government imposes numerous program and service requirements on its local governments without fully considering the fiscal impacts of these requirements. Such unfunded mandates require local governments already experiencing considerable economic hardship to provide new or significantly expanded programs and services without the funding necessary to carry out those mandates. Because unfunded mandates aggravate the fiscal difficulty that some local governments are now experiencing, the state must consider the burdens of unfunded mandates before imposing additional such requirements on local governments. The legislature therefore declares that it is appropriate that state government provide funding for mandates it imposes on local governments.

The legislature also finds that some mandates are critical to preserving the health, safety and welfare of the people of the state. Because it is impractical to shift immediately to full state funding of all state mandates, and recognizing the need to curtail the transfer of program and service expenses from the state to local governments, the legislature declares its intent to restrict the imposition of additional unfunded mandates on local governments until such time as these mandates are fully funded by the state.

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

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S 2. The legislative law is amended by adding a new section 51-a to read as follows:

S 51-A. STATE MANDATES ON POLITICAL SUBDIVISIONS OF THE STATE. 1. DEFINITIONS. AS USED IN THIS SECTION:

(A) THE TERM "POLITICAL SUBDIVISION" MEANS ANY COUNTY, CITY, TOWN, VILLAGE, SCHOOL DISTRICT OR SPECIAL DISTRICT, OR ANY AGENCY, AUTHORITY, COMMISSION, DEPARTMENT OR INSTRUMENTALITY THEREOF.

(B) THE TERM "QUALIFYING BILL" MEANS ANY BILL OR AMENDMENT TO A BILL FILED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION WHICH ESTABLISHES A STATE PROGRAM, SIGNIFICANTLY CHANGES SERVICES REQUIRED TO BE PROVIDED BY SUCH PROGRAM, OR RESULTS IN A CHANGE IN REVENUES OR EXPENSES OF ANY POLITICAL SUBDIVISION.

2. NO QUALIFYING BILL HAVING A DIRECT IMPACT ON ANY POLITICAL SUBDIVISION IN EXCESS OF TEN THOUSAND DOLLARS PER YEAR, OR ON TWO OR MORE POLITICAL SUBDIVISIONS COLLECTIVELY OR ON A CITY WITH A POPULATION OF ONE MILLION OR MORE IN EXCESS OF ONE HUNDRED THOUSAND DOLLARS PER YEAR, SHALL BE OPERATIVE ON SUCH POLITICAL SUBDIVISION OR CITY UNLESS THE LEGISLATION HAVING SUCH IMPACT REQUIRES THE STATE TO PROVIDE A FULL SUBVENTION OF FUNDS FROM THE STATE TO REIMBURSE ANY AFFECTED POLITICAL SUBDIVISION OR CITY FOR THE REASONABLE AND NECESSARY COST THEREOF.

3. A LAW SUBJECT TO THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION SHALL MAKE AN INITIAL APPROPRIATION THEREIN IN THE AMOUNT SUFFICIENT TO PAY IN FULL ANY NET ADDITIONAL COST OF COMPLIANCE NECESSARILY INCURRED BY THE AFFECTED POLITICAL SUBDIVISION IN THAT FISCAL YEAR. THEREAFTER, THE STATE SHALL PROVIDE FUNDING FOR CONTINUING PROGRAMS OR SERVICES SUBJECT TO THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION IN THE ANNUAL APPROPRIATIONS ACT OR SUPPLEMENTAL ACTS THERETO OR IN APPROPRIATIONS OF BOND MONEYS OR OTHER DESIGNATED SOURCES OF FUNDING.

4. NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION TO THE CONTRARY, THE FOLLOWING CATEGORIES OF BILLS SHALL NOT BE CONSIDERED UNFUNDED MANDATES:

(A) THOSE WHICH ARE REQUIRED TO COMPLY WITH FEDERAL LAWS OR RULES OR TO MEET ELIGIBILITY STANDARDS FOR FEDERAL ENTITLEMENTS;

(B) THOSE WHICH ARE IMPOSED ON BOTH GOVERNMENT AND NON-GOVERNMENT ENTITIES IN THE SAME OR SUBSTANTIALLY SIMILAR CIRCUMSTANCES;

(C) THOSE WHICH PERMIT, ESTABLISH OR ENABLE ONLY OPTIONAL PROGRAMS OR SERVICES;

(D) THOSE WHICH ARE BUDGET BILLS SUBMITTED BY THE GOVERNOR PURSUANT TO ARTICLE SEVEN OF THE CONSTITUTION, BUT ONLY IF SUCH BILLS IMPLEMENT, REVISE, AMEND OR CONTINUE PROGRAMS OR MANDATES WHICH CURRENTLY EXIST AND SUCH BILLS DO NOT IMPOSE ANY NEW MANDATES WHICH, IF TAKEN BY THEMSELVES, WOULD OTHERWISE BE SUBJECT TO THE RESTRICTIONS OF THIS SECTION;

(E) THOSE WHICH REPEAL, REVISE, OR EASE AN EXISTING MANDATE OR REQUIREMENT, OR WHICH REAPPORTION THE COSTS OF ACTIVITIES BETWEEN BOARDS OF EDUCATION, COUNTIES AND MUNICIPALITIES;

(F) THOSE WHICH STEM FROM FAILURE TO COMPLY WITH PREVIOUSLY ENACTED LAWS, OR RULES OR REGULATIONS ISSUED PURSUANT TO A LAW;

(G) THOSE WHICH ARISE FROM A RULING BY A COURT OF COMPETENT JURISDICTION;

(H) THOSE WHICH ARISE FROM AN EXECUTIVE ORDER OF THE GOVERNOR EXERCISING HIS EMERGENCY POWERS;

(I) THOSE WHICH IMPLEMENT PROVISIONS OF THE CONSTITUTION OF THE STATE OF NEW YORK;

(J) THOSE WHICH ARE ENACTED AFTER A PUBLIC HEARING, HELD AFTER PUBLIC NOTICE THAT UNFUNDED MANDATES WILL BE CONSIDERED, FOR WHICH A FISCAL ANALYSIS IS AVAILABLE AT THE TIME OF THE PUBLIC HEARING AND WHICH, IN

ADDITION TO COMPLYING WITH ALL OTHER REQUIREMENTS WITH REGARD TO THE ENACTMENT OF A LAW, ARE PASSED BY A THREE-FIFTHS VOTE OF BOTH THE SENATE AND ASSEMBLY; AND

(K) THOSE WHICH ARE THE RESULT OF 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.

S 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.