

5797

2009-2010 Regular Sessions

I N   S E N A T E

June 5, 2009

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Introduced by Sen. VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the general municipal law and the education law, in relation to limiting unfunded mandates

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

- 1     Section 1. The general municipal law is amended by adding a new  
2     section 25 to read as follows:  
3     S 25. FUNDING OF MANDATES. 1. DEFINITIONS. AS USED IN THIS SECTION,  
4     THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:  
5     (A) "MANDATE" MEANS A STATE LAW, RULE, REGULATION OR ORDER THAT  
6     REQUIRES A LOCAL GOVERNMENT TO (I) PROVIDE OR OPERATE (1) A NEW PROGRAM,  
7     PROJECT OR ACTIVITY OR (2) GREATER OR CHANGED SERVICE OR FUNDING FOR AN  
8     EXISTING PROGRAM, PROJECT OR ACTIVITY, OR (II) GRANT A NEW CLASS OF REAL  
9     PROPERTY TAX EXEMPTION, OR BROADEN THE ELIGIBILITY FOR OR INCREASE THE  
10    DOLLAR AMOUNT OF ANY EXISTING REAL PROPERTY TAX EXEMPTION.  
11    (B) "UNFUNDED MANDATE" SHALL MEAN A MANDATE THAT RESULTS IN A NET  
12    ADDITIONAL COST TO A LOCAL GOVERNMENT. A MANDATE SHALL NOT BE CONSIDERED  
13    UNFUNDED WHERE IT:  
14    (I) IS REQUIRED BY A FINAL, NONAPPEALABLE COURT ORDER OR JUDGMENT;  
15    (II) IS PROVIDED BY THE LOCAL GOVERNMENT AT ITS OPTION PURSUANT TO A  
16    LAW, REGULATION, RULE OR ORDER THAT IS PERMISSIVE RATHER THAN MANDATORY;  
17    (III) IS PURSUANT TO STATUTE, OR A RULE OR REGULATION PURSUANT TO SUCH  
18    STATUTE, ENACTED BY THE LEGISLATURE ON RECEIPT OF A HOME RULE MESSAGE  
19    WHEREBY A LOCAL GOVERNMENT REQUESTS AUTHORITY TO IMPLEMENT THE PROGRAM  
20    OR SERVICE SPECIFIED IN THE STATUTE, AND THE STATUTE IMPOSES COSTS ONLY  
21    UPON THAT LOCAL GOVERNMENT;  
22    (IV) IS REQUIRED BY OR IMPLEMENTS AN EXECUTIVE ORDER OF THE GOVERNOR  
23    IN THE EXERCISE OF EMERGENCY POWERS;  
24    (V) IS REQUIRED PURSUANT TO SECTION THIRTY-NINE OF THE JUDICIARY LAW;

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

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(VI) IS REQUIRED BY STATE STATUTE, REGULATION OR EXECUTIVE ORDER THAT IMPLEMENTS A FEDERAL LAW OR REGULATION AND IMPOSES COSTS THAT THE FEDERAL GOVERNMENT MANDATES TO BE BORNE AT THE LOCAL LEVEL, UNLESS AND TO THE EXTENT THAT SUCH STATE STATUTE, REGULATION OR EXECUTIVE ORDER RESULTS IN COSTS THAT EXCEED THOSE MANDATED BY THE FEDERAL GOVERNMENT;

(VII) IS REQUIRED BY A DECISION, ORDER OR OTHER RULING OF AN ADMINISTRATIVE LAW JUDGE, ARBITRATION PANEL OR OTHER HEARING OFFICER PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW; OR

(VIII) IS RELATED TO OR REQUIRED IN THE INTEREST OF PUBLIC SAFETY, LAW ENFORCEMENT, DISASTER PREPAREDNESS, HOMELAND SECURITY OR RELATED MATTERS, AS DEFINED BY STATE RULE OR REGULATION.

(C) "NET ADDITIONAL COST" MEANS THE COSTS INCURRED OR REASONABLY PROJECTED BY THE ISSUER OF THE MANDATE, BASED ON SOUND EMPIRICAL ANALYSIS, AS LIKELY TO BE INCURRED WITHIN A ONE-YEAR PERIOD BY A LOCAL GOVERNMENT IN PERFORMING OR ADMINISTERING THE MANDATE, AFTER SUBTRACTING REVENUES RECEIVED OR LIKELY TO BE RECEIVED BY SUCH LOCAL GOVERNMENT IN RELATION TO THE MANDATE, INCLUDING BUT NOT LIMITED TO:

(I) FEES CHARGED TO THE RECIPIENTS OF ANY MANDATED PROGRAM OR SERVICE;

(II) STATE OR FEDERAL FUNDS RECEIVED FOR ANY PROGRAM OR SERVICE; AND

(III) SAVINGS RESULTING FROM THE REDUCTION OR ELIMINATION OF ANY OTHER PROGRAM OR SERVICE DIRECTLY ATTRIBUTABLE TO THE PERFORMANCE OR ADMINISTRATION OF A MANDATED PROGRAM.

(D) "LOCAL GOVERNMENT" MEANS ANY COUNTY, CITY, TOWN, OR VILLAGE.

2. FUNDING OF LOCAL GOVERNMENT MANDATES. (A) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION, NO UNFUNDED MANDATE SHALL CREATE (I) AN ANNUAL NET COST TO ANY LOCAL GOVERNMENT IN EXCESS OF .01% OF ITS ANNUAL OPERATING BUDGET OR (II) AN AGGREGATE ANNUAL NET ADDITIONAL COST TO ALL LOCAL GOVERNMENTS WITHIN THE STATE IN EXCESS OF TEN MILLION DOLLARS.

(B) AT THE BEGINNING OF EACH FOURTH CALENDAR YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION, THE STATE COMPTROLLER SHALL DETERMINE THE PERCENTAGE OF THE DIFFERENCE BETWEEN THE MOST RECENT AVAILABLE MONTHLY CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS AND SUCH CONSUMER PRICE INDEX PUBLISHED FOR THE SAME MONTH FOUR YEARS PREVIOUSLY. THE AGGREGATE ANNUAL NET ADDITIONAL COST FIXED IN THE PRECEDING PARAGRAPH SHALL BE ADJUSTED BY THE AMOUNT OF SUCH PERCENTAGE DIFFERENCE TO THE CLOSEST ONE HUNDRED DOLLARS BY THE STATE COMPTROLLER WHICH, NOT LATER THAN THE FIRST DAY OF FEBRUARY IN EACH SUCH YEAR, SHALL ISSUE A REGULATION PUBLISHING THE AMOUNT OF EACH SUCH AGGREGATE ANNUAL NET ADDITIONAL COST. EACH AGGREGATE ANNUAL NET ADDITIONAL COST AS SO ADJUSTED SHALL BE THE AGGREGATE ANNUAL NET ADDITIONAL COST IN EFFECT FOR ANY STATE LAW, RULE, REGULATION OR ORDER ON AND AFTER SUCH DATE.

3. THE EFFECTIVE DATE OF ANY MANDATE SHALL PROVIDE FOR A REASONABLE TIME FOR THE STATE AND ANY LOCAL GOVERNMENT AFFECTED THEREBY TO PLAN FOR ITS IMPLEMENTATION AND SHALL TAKE INTO ACCOUNT THE AVAILABILITY OF REQUIRED FUNDS TO BRING ABOUT COMPLIANCE THEREWITH.

S 2. The education law is amended by adding a new section 308-a to read as follows:

S 308-A. FUNDING OF MANDATES. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "MANDATE" MEANS A STATE LAW, RULE, REGULATION OR ORDER THAT REQUIRES A SCHOOL DISTRICT, ORGANIZED EITHER BY SPECIAL LAWS OR PURSUANT TO A GENERAL LAW, TO PROVIDE OR OPERATE A (I) NEW PROGRAM, PROJECT OR ACTIVITY OR (II) GREATER OR CHANGED SERVICE OR FUNDING FOR AN EXISTING PROGRAM, PROJECT OR ACTIVITY.

(B) "UNFUNDED MANDATE" SHALL MEAN ANY MANDATE THAT RESULTS IN A NET ADDITIONAL COST TO THE SCHOOL DISTRICT. A MANDATE SHALL NOT BE CONSIDERED UNFUNDED WHERE IT:

(I) IS REQUIRED BY A FINAL, NONAPPEALABLE COURT ORDER OR JUDGMENT;

(II) IS PROVIDED BY THE SCHOOL DISTRICT AT ITS OPTION PURSUANT TO A LAW, REGULATION, RULE OR ORDER THAT IS PERMISSIVE RATHER THAN MANDATORY;

(III) IS REQUIRED BY STATE STATUTE, REGULATION OR EXECUTIVE ORDER THAT IMPLEMENTS A FEDERAL LAW OR REGULATION AND IMPOSES COSTS THAT THE FEDERAL GOVERNMENT MANDATES BE BORNE AT THE LOCAL LEVEL, UNLESS AND TO THE EXTENT THAT THE STATE STATUTE OR EXECUTIVE ORDER RESULTS IN COSTS THAT EXCEED THOSE MANDATED BY THE FEDERAL GOVERNMENT; OR

(IV) IS REQUIRED BY A DECISION, ORDER OR OTHER RULING OF AN ADMINISTRATIVE LAW JUDGE, ARBITRATION PANEL OR OTHER HEARING OFFICER PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW.

(C) "NET ADDITIONAL COST" MEANS THE COSTS INCURRED OR REASONABLY ANTICIPATED BY THE ISSUER OF THE MANDATE, BASED ON SOUND EMPIRICAL ANALYSIS, AS LIKELY TO BE INCURRED WITHIN A SCHOOL DISTRICT'S BUDGET CYCLE IN PERFORMING OR ADMINISTERING THE MANDATE, AFTER SUBTRACTING ANY REVENUES RECEIVED OR LIKELY TO BE RECEIVED BY THE SCHOOL DISTRICT IN RELATION TO THE MANDATE, INCLUDING BUT NOT LIMITED TO:

(I) FEES CHARGED TO THE RECIPIENTS OF ANY MANDATED PROGRAM OR SERVICE;

(II) STATE OR FEDERAL FUNDS RECEIVED FOR ANY PROGRAM OR SERVICE; AND

(III) SAVINGS RESULTING FROM THE REDUCTION OR ELIMINATION OF ANY OTHER PROGRAM OR SERVICE DIRECTLY ATTRIBUTABLE TO THE PERFORMANCE OR ADMINISTRATION OF A MANDATED PROGRAM.

2. FUNDING OF SCHOOL DISTRICT MANDATES. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO UNFUNDED MANDATE SHALL CREATE (A) AN ANNUAL NET COST TO ANY SCHOOL DISTRICT IN EXCESS OF .01% OF ITS ANNUAL OPERATING BUDGET OR (B) AN AGGREGATE ANNUAL NET ADDITIONAL COST TO ALL SCHOOL DISTRICTS WITHIN THE STATE IN EXCESS OF TEN MILLION DOLLARS.

3. THE EFFECTIVE DATE OF ANY MANDATE SHALL PROVIDE A REASONABLE TIME FOR THE STATE AND ANY SCHOOL DISTRICT TO PLAN FOR ITS IMPLEMENTATION AND SHALL TAKE INTO ACCOUNT THE AVAILABILITY OF REQUIRED FUNDS TO BRING ABOUT COMPLIANCE THEREWITH.

S 3. This act shall take effect immediately and shall apply to any state law, rule, regulation or order enacted or promulgated on or after such date.