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

3150

2011-2012 Regular Sessions

I N A S S E M B L Y

January 24, 2011

Introduced by M. of A. CALHOUN, THIELE, KOLB -- Multi-Sponsored by -- M. of A. BUTLER, CROUCH, FINCH, TEDISCO -- read once and referred to the Committee on Ways and Means

AN ACT to amend the state finance law, in relation to state payment for state mandates

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

Section 1. Legislative findings and declaration. The legislature finds and declares that:

(A) Actions of the state government that directly or indirectly prescribe the manner, standards, level and conditions of public service to be provided by the state's counties, municipalities and school districts are often taken with little regard for the fiscal consequences of such actions upon the affected local jurisdictions.

(B) Many of the state's counties and municipalities are experiencing varying degrees of fiscal stress resulting from the need to provide adequate public services to their citizens but without the local tax resources to do so.

(C) The state government, prior to imposing new or expanded service requirements upon its political subdivisions, should be aware of and confront the issue of where the burden of paying for those requirements will fall.

(D) It is appropriate, therefore, that the state government provide full funding for any net additional costs to counties, municipalities or school districts that are incurred by those jurisdictions in complying with the required performance of a new or expanded program or service under the provisions of any state law, rule, regulation or order.

S 2. Short title. This act shall be known and may be cited as the "state payment for mandates act".

S 3. The state finance law is amended by adding a new article 4-B to read as follows:

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

LBD02748-01-1

ARTICLE 4-B
STATE PAYMENT FOR MANDATES

SECTION 54-P. DEFINITIONS.
54-Q. FUNDING OF STATE MANDATES.
54-R. MANDATE REVIEW REQUIREMENTS.
54-S. NOTIFICATION OF LOCAL IMPACT STATEMENT.
54-T. APPROPRIATIONS REQUIREMENT.

S 54-P. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "DIVISION" MEANS THE STATE DIVISION OF THE BUDGET.

2. "COUNTY" MEANS THE GOVERNING BODY AND THE OFFICERS AND EMPLOYEES OF A COUNTY.

3. "EXPANDED PROGRAM OR SERVICE" MEANS A PROGRAM OR SERVICE THE SCOPE OR LEVEL OF WHICH WOULD BE INCREASED, EXTENDED OR ENHANCED BY A COUNTY'S, MUNICIPALITY'S OR SCHOOL DISTRICT'S COMPLIANCE WITH THE PROVISIONS OF A STATE LAW, REGULATION, RULE OR ORDER.

4. "MUNICIPALITY" MEANS THE GOVERNING BODY AND THE OFFICERS AND EMPLOYEES OF A MUNICIPALITY.

5. "NET ADDITIONAL COST" MEANS THE COST OR COSTS INCURRED OR ANTICIPATED TO BE INCURRED WITHIN A ONE-YEAR PERIOD BY A COUNTY, MUNICIPALITY OR SCHOOL DISTRICT IN PERFORMING OR ADMINISTERING A NEW OR EXPANDED PROGRAM OR SERVICE REQUIRED BY A STATE LAW, REGULATION, RULE OR ORDER, AFTER SUBTRACTING THEREFROM ANY REVENUES RECEIVED OR RECEIVABLE BY THE COUNTY, MUNICIPALITY OR SCHOOL DISTRICT ON ACCOUNT OF THE PROGRAM OR SERVICE, INCLUDING BUT NOT LIMITED TO:

(A) FEES CHARGED TO THE RECIPIENTS OF THE PROGRAM OR SERVICE;

(B) STATE OR FEDERAL AID PAID SPECIFICALLY OR CATEGORICALLY IN CONNECTION WITH THE PROGRAM OR SERVICE; AND

(C) ANY OFFSETTING SAVINGS RESULTING FROM THE DIMINUTION OR ELIMINATION OF ANY OTHER PROGRAM OR SERVICE DIRECTLY ATTRIBUTABLE TO THE PERFORMANCE OR ADMINISTRATION OF THE REQUIRED PROGRAM OR SERVICE.

6. "NEW PROGRAM OR SERVICE" MEANS A PROGRAM OR SERVICE DIFFERENT IN KIND OR PURPOSE FROM THOSE IN EXISTENCE AT THE TIME OF THE ENACTMENT OF A LAW OR PROMULGATION OF A RULE, REGULATION OR ORDER REQUIRING THE PERFORMANCE OR ADMINISTRATION OF THE PROGRAM BY ONE OR MORE COUNTIES, MUNICIPALITIES OR SCHOOL DISTRICTS.

7. "PROGRAM OR SERVICE" MEANS A SPECIFIC AND IDENTIFIABLE ACTIVITY OF A COUNTY, MUNICIPALITY OR SCHOOL DISTRICT WHICH IS AVAILABLE TO THE GENERAL PUBLIC OR WHICH IS CONDUCTED, ADMINISTERED OR PROVIDED FOR OR ON BEHALF OF THE CITIZENS OF A COUNTY, MUNICIPALITY OR SCHOOL DISTRICT.

8. "SCHOOL DISTRICT" MEANS THE GOVERNING BODY AND OFFICERS AND EMPLOYEES OF A SCHOOL DISTRICT.

S 54-Q. FUNDING OF STATE MANDATES. 1. NOTWITHSTANDING ANY LAW, REGULATION, RULE OR ORDER TO THE CONTRARY, AND EXCEPT AS PROVIDED IN SUBDIVISIONS THREE AND FOUR OF THIS SECTION, ANY PROVISION OF A LAW OR OF A RULE, REGULATION OR ORDER ISSUED PURSUANT TO LAW, WHICH BECOMES EFFECTIVE ON OR AFTER THE EFFECTIVE DATE OF THIS ARTICLE, AND WHICH HAS THE EFFECT OF REQUIRING A COUNTY, MUNICIPALITY OR SCHOOL DISTRICT TO PERFORM OR ADMINISTER A NEW OR EXPANDED PROGRAM OR SERVICE HAVING A NET ADDITIONAL COST IN EXCESS OF ONE THOUSAND DOLLARS FOR ANY COUNTY, MUNICIPALITY OR SCHOOL DISTRICT OR ONE HUNDRED THOUSAND DOLLARS FOR ALL AFFECTED COUNTIES, MUNICIPALITIES OR SCHOOL DISTRICTS, SHALL BE INOPERATIVE ON THE COUNTY, MUNICIPALITY OR SCHOOL DISTRICTS UNTIL A STATE APPROPRIATION IS MADE AND SUFFICIENT FUNDS PROVIDED TO EACH AFFECTED COUNTY, MUNICIPALITY OR SCHOOL DISTRICT AS MAY BE NECESSARY TO PAY IN FULL ANY NET ADDITIONAL COST OF COMPLIANCE WITH THE REQUIREMENT.

2. A LAW SUBJECT TO THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION SHALL MAKE AN INITIAL APPROPRIATION THEREIN IN AN AMOUNT SUFFICIENT TO PAY IN FULL ANY NET ADDITIONAL COST OF COMPLIANCE BY THE AFFECTED COUNTIES OR MUNICIPALITIES, OR BOTH AS THE CASE MAY BE. THEREAFTER, THE STATE SHALL PROVIDE FUNDING FOR CONTINUING PROGRAMS OR SERVICES, SUBJECT TO THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION, IN THE ANNUAL APPROPRIATIONS ACT OR SUPPLEMENTS THERETO OR IN APPROPRIATIONS OF BOND MONEYS OR OTHER DESIGNATED SOURCES OF FUNDING. A RULE, REGULATION OR ORDER SUBJECT TO SUBDIVISION ONE OF THIS SECTION SHALL BE FUNDED IN THE ANNUAL APPROPRIATIONS ACT OR SUPPLEMENTS THERETO, OR IN APPROPRIATIONS OF BOND MONEYS OR OTHER DESIGNATED SOURCES OF FUNDING.

3. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY NEW OR EXPANDED PROGRAM OR SERVICE THAT:

(A) IS REQUIRED OR ARISES FROM A COURT ORDER OR JUDGMENT;

(B) IS PROVIDED AT THE OPTION OF THE COUNTY, MUNICIPALITY OR SCHOOL DISTRICT UNDER A LAW, REGULATION, RULE OR ORDER THAT IS PERMISSIVE RATHER THAN MANDATORY;

(C) IS REQUIRED BY PRIVATE, SPECIAL OR LOCAL LAWS; OR

(D) IS REQUIRED BY OR ARISES FROM AN EXECUTIVE ORDER OF THE GOVERNOR EXERCISING HIS EMERGENCY POWERS.

4. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY WHEN A LAW REQUIRING A COUNTY, MUNICIPALITY OR SCHOOL DISTRICT TO PERFORM OR ADMINISTER A NEW OR EXPANDED PROGRAM OR SERVICE IS ENACTED WITHOUT MAKING AN APPROPRIATION PURSUANT TO SUBDIVISION TWO OF THIS SECTION, PROVIDED THAT THE BILL RESULTING IN THE ENACTMENT OF THE LAW SHALL PASS THE LEGISLATURE BY A TWO-THIRDS VOTE OF ALL THE MEMBERS OF THE SENATE AND ASSEMBLY.

S 54-R. MANDATE REVIEW REQUIREMENTS. 1. WHENEVER ANY BILL IS INTRODUCED INTO EITHER HOUSE OF THE LEGISLATURE, AND THAT BILL RECEIVES FIRST READING PURSUANT TO THE RULES OF THE HOUSE INTO WHICH IT IS INTRODUCED, THE BILL SHALL BE IMMEDIATELY REVIEWED BY THE CHAIR OF THE SENATE FINANCE COMMITTEE OR THE ASSEMBLY WAYS AND MEANS COMMITTEE AS APPROPRIATE. IF, UPON HIS OR HER REVIEW, HE OR SHE DETERMINES THAT THE BILL WILL NOT RESULT IN NET ADDITIONAL COSTS IF THE BILL IS ENACTED, HE OR SHE SHALL CERTIFY THAT DETERMINATION, ON A STATEMENT SIGNED BY HIM OR HER AND FILED IN HIS OR HER OFFICE. IF HE OR SHE DETERMINES THAT THE BILL MAY RESULT IN NET ADDITIONAL COSTS IF ENACTED, HE OR SHE SHALL IMMEDIATELY FORWARD NOTICE TO THE BILL'S SPONSOR AND THE CHAIR OF THE COMMITTEE, IF ANY, TO WHICH THE BILL HAS BEEN REFERRED OR TO THE PRESIDING OFFICER OF THE HOUSE IN WHICH THE BILL ORIGINATED IF NO SUCH REFERENCE WAS MADE, THAT, IN HIS OR HER JUDGMENT, A LOCAL IMPACT STATEMENT IS REQUIRED. HE OR SHE SHALL ALSO FORWARD A NOTICE TO THE DIVISION THAT SUCH A BILL HAS BEEN INTRODUCED AND THAT A LOCAL IMPACT STATEMENT IS REQUIRED.

2. UPON RECEIPT OF SUCH NOTICE THAT A BILL HAS BEEN INTRODUCED IN THE LEGISLATURE THAT MAY RESULT IN NET ADDITIONAL COSTS TO A COUNTY, MUNICIPALITY OR SCHOOL DISTRICT, THE DIVISION SHALL COMPLETE AS SOON AS POSSIBLE, BUT WITHIN THIRTY DAYS OF NOTIFICATION, A LOCAL IMPACT STATEMENT CONTAINING THE MOST ACCURATE ESTIMATE POSSIBLE, IN DOLLARS, OF THE NET ADDITIONAL COSTS, IF ANY, THAT WILL BE REQUIRED OF A COUNTY, MUNICIPALITY OR SCHOOL DISTRICT TO PERFORM OR ADMINISTER A NEW OR EXPANDED PROGRAM OR SERVICE. LOCAL IMPACT STATEMENTS COMPLETED PURSUANT TO THIS SUBDIVISION SHALL BE FORTHWITH DELIVERED TO THE GOVERNOR AND THE PRESIDING OFFICERS OF THE SENATE AND ASSEMBLY.

3. WHENEVER ANY STATE ADMINISTRATIVE OR EXECUTIVE RULE, REGULATION OR ORDER IS PROPOSED OR ADOPTED, THE STATE DEPARTMENT HEAD OR STATE OFFICE ISSUING THE RULE, REGULATION OR ORDER, AND THE SECRETARY OF STATE, OR

THE GOVERNOR, AS MAY BE CUSTODIAN OF THE RULE, REGULATION OR ORDER, SHALL FORTHWITH FORWARD A COPY OF THE PROPOSED OR ADOPTED RULE, REGULATION OR ORDER TO THE DIVISION WITH A NOTICE TO COMPLETE A LOCAL IMPACT STATEMENT WITHIN THIRTY DAYS OF THE PROPOSAL OR ADOPTION.

4. UPON RECEIPT OF A NOTICE FROM THE SECRETARY OF STATE, A STATE DEPARTMENT HEAD, A STATE OFFICER OR THE GOVERNOR OF THE PROPOSAL OR ADOPTION OF AN EXECUTIVE OR ADMINISTRATIVE RULE, REGULATION OR ORDER BY THAT OFFICIAL, THE DIVISION SHALL COMPLETE AS SOON AS POSSIBLE, BUT WITHIN THIRTY DAYS OF NOTIFICATION, A LOCAL IMPACT STATEMENT CONTAINING THE MOST ACCURATE ESTIMATE POSSIBLE, IN DOLLARS, OF THE NET ADDITIONAL COSTS, IF ANY, THAT WILL BE REQUIRED OF A COUNTY, MUNICIPALITY OR SCHOOL DISTRICT TO PERFORM OR ADMINISTER A NEW OR EXPANDED PROGRAM OR SERVICE. LOCAL IMPACT STATEMENTS COMPLETED PURSUANT TO THIS SUBDIVISION SHALL BE FORTHWITH DELIVERED TO THE GOVERNOR AND THE PRESIDING OFFICERS OF THE SENATE AND ASSEMBLY TOGETHER WITH A COPY OF THE RULE, REGULATION OR ORDER.

5. THE DIVISION SHALL CONDUCT AN ANNUAL REVIEW OF ALL PENDING LEGISLATIVE BILLS, AND LAWS, REGULATIONS, RULES AND ORDERS ENACTED OR ADOPTED AFTER THE EFFECTIVE DATE OF THIS ARTICLE, FOR WHICH THE DIVISION HAS PREVIOUSLY COMPLETED A LOCAL IMPACT STATEMENT. ANY ANNUAL CHANGE IN THE DOLLAR ESTIMATE OF THE NET ADDITIONAL COSTS FROM THAT PROVIDED IN THE ORIGINAL LOCAL IMPACT STATEMENT SHALL BE UPDATED AS A RESULT OF THE REVIEW TO DISCLOSE THAT CHANGE, AND THE UPDATED LOCAL IMPACT STATEMENT SHALL BE DELIVERED TO THE RECIPIENTS OF THE ORIGINAL LOCAL IMPACT STATEMENT.

S 54-S. NOTIFICATION OF LOCAL IMPACT STATEMENT. A BILL FOR WHICH A LOCAL IMPACT STATEMENT IS REQUIRED SHALL NOT PROCEED FROM SECOND TO THIRD READING IN THE HOUSE OF ORIGIN UNTIL THE COMPLETED LOCAL IMPACT STATEMENT IS RECEIVED BY THE PRESIDING OFFICER OF THAT HOUSE. THE PRESIDING OFFICER SHALL CAUSE NOTICE OF THE RECEIPT OF EACH LOCAL IMPACT STATEMENT TO BE ENTERED ON THE JOURNAL OF THAT HOUSE.

S 54-T. APPROPRIATIONS REQUIREMENT. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, A BILL FOR WHICH A LOCAL IMPACT STATEMENT HAS BEEN RECEIVED SHALL NOT RECEIVE PASSAGE IN EITHER HOUSE UNTIL IT CONTAINS THEREIN AN APPROPRIATION AT LEAST EQUAL IN AMOUNT TO THE AMOUNT ESTIMATED IN THE LOCAL IMPACT STATEMENT AS NECESSARY TO PAY IN FULL ANY NET ADDITIONAL COSTS OF COMPLIANCE THEREWITH.

S 4. This act shall take effect on the first of April next succeeding the date on which it shall have become a law.