

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

5305--A

2011-2012 Regular Sessions

I N A S S E M B L Y

February 15, 2011

Introduced by M. of A. MURRAY, BARCLAY, CASTELLI, CONTE, CORWIN, GIGLIO, McLAUGHLIN, MONTESANO, RABBITT, SAYWARD, THIELE, CERETTO, CALHOUN, P. LOPEZ, CROUCH, FITZPATRICK, BOYLE, DUPREY, GRAF, BURLING, KOLB, PALMESANO, BLANKENBUSH, KATZ, McDONOUGH -- Multi-Sponsored by -- M. of A. LOSQUADRO -- read once and referred to the Committee on Local Governments -- recommitted to the Committee on Local Governments in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the legislative law, in relation to unfunded mandates on local governments and school districts

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

1 Section 1. The legislative law is amended by adding a new section 51-a
2 to read as follows:
3 S 51-A. MORATORIUM ON UNFUNDED MANDATES. 1. DEFINITIONS. AS USED IN
4 THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:
5 (A) "LOCAL GOVERNMENT" MEANS A COUNTY, CITY, TOWN, VILLAGE, SCHOOL
6 DISTRICT, OR SPECIAL DISTRICT.
7 (B) "NET ADDITIONAL COST" MEANS THE COST OR COSTS INCURRED OR ANTICIPATED
8 TO BE INCURRED WITHIN A ONE YEAR PERIOD BY A LOCAL GOVERNMENT IN
9 PERFORMING OR ADMINISTERING ANY PROGRAM, PROJECT, OR ACTIVITY AFTER
10 SUBTRACTING THEREFROM ANY REVENUES RECEIVED OR RECEIVABLE BY SUCH LOCAL
11 GOVERNMENT IN RELATION TO SUCH PROGRAM, PROJECT, OR ACTIVITY, INCLUDING
12 BUT NOT LIMITED TO:
13 (I) FEES CHARGED TO THE RECIPIENTS OF SUCH PROGRAM, PROJECT, OR ACTIVITY;
14 (II) STATE OR FEDERAL FUNDS RECEIVED FOR SUCH PROGRAM, PROJECT, OR
15 ACTIVITY; AND
16

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

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(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:

(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.

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

3 S 51. Fiscal impact notes on bills affecting political subdivisions.
4 1. For the purpose of this section, the term "political subdivision"
5 means any county, city, town, village, special district or school
6 district.

7 2. [The legislature shall by concurrent resolution of the senate and
8 assembly prescribe rules requiring fiscal notes to accompany, on a sepa-
9 rate form, bills and amendments to bills, except as otherwise prescribed
10 by such rules, which] A BILL THAT would [substantially] affect the
11 revenues or expenses, or both, of any political subdivision SHALL
12 CONTAIN A DETAILED FISCAL IMPACT NOTE STATING THE ESTIMATED ANNUAL COST
13 TO THE POLITICAL SUBDIVISION AFFECTED AND THE SOURCE OF SUCH ESTIMATE.
14 THE FISCAL IMPACT NOTE MUST CLEARLY IDENTIFY THE FUNDING SOURCE OF SUCH
15 ANNUAL COST TO THE POLITICAL SUBDIVISION. AN OMISSION OF SUCH FUNDING
16 SOURCE IN THE FISCAL IMPACT NOTE, SHALL INVALIDATE SUCH BILL.

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

22 4. If the estimate or estimates contained in a fiscal IMPACT note are
23 inaccurate AND RESULT IN AN ANNUAL NET ADDITIONAL COST TO ANY POLITICAL
24 SUBDIVISION IN EXCESS OF TEN THOUSAND DOLLARS OR AN AGGREGATE ANNUAL NET
25 ADDITIONAL COST TO ALL POLITICAL SUBDIVISIONS WITHIN THE STATE IN EXCESS
26 OF ONE MILLION DOLLARS, such inaccuracies shall [not affect, impair or]
27 invalidate such bill.

28 S 3. The Mandate Relief Council, pursuant to section 666 of the exec-
29 utive law, as added by chapter 97 of the laws of 2011, shall review
30 existing mandates on local governments to determine which shall be elim-
31 inated.

32 S 4. This act shall take effect immediately, provided, however, that
33 section one of this act shall only apply to laws enacted after such
34 effective date.