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

6976

2011-2012 Regular Sessions

I N A S S E M B L Y

April 7, 2011

Introduced by M. of A. McLAUGHLIN, MONTESANO, BURLING, MOLINARO, HAWLEY, McDONOUGH -- Multi-Sponsored by -- M. of A. AMEDORE, CERETTO, CONTE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the real property tax law, in relation to enacting a real property tax cap; to amend the legislative law, in relation to unfunded mandates on local governments and school districts; and to amend the social services law, in relation to requiring the state to allow counties to opt out of certain Medicaid services

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

Section 1. Legislative Intent. It is the intent of the legislature to provide real property tax relief for homeowners and provide mandate relief for local governments and school districts. This act caps property tax increases by preventing local governments and school districts from increasing tax levies by more than two percent each year or at the rate of inflation, whichever is less. This legislation provides mandate relief to local governments and school districts by prohibiting new unfunded mandates, sunsetting existing unfunded mandates within two years, and allowing counties to opt out of providing certain optional Medicaid benefits to prospective beneficiaries.

S 2. This act shall be known and may be cited as the "New York state property tax cap and mandate relief act".

S 3. The real property tax law is amended by adding a new section 1307 to read as follows:

S 1307. LIMITATIONS UPON LOCAL GOVERNMENT TAX LEVIES. 1. GENERALLY. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, BEGINNING WITH THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE FISCAL YEAR, THE AMOUNT OF TAXES LEVIED FOR LOCAL GOVERNMENT PURPOSES FOR ANY FISCAL YEAR MAY NOT EXCEED THE AMOUNT OF TAXES LEVIED FOR THE PRIOR FISCAL YEAR BY TWO PERCENT, OR BY THE INFLATION FACTOR, WHICHEVER IS LOWER. FOR THE PURPOSES OF THIS SECTION, THE INFLATION FACTOR SHALL BE A PERCENTAGE

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

LBD09818-02-1

THAT REPRESENTS THE AVERAGE OF THE NATIONAL CONSUMER PRICE INDEXES DETERMINED BY THE UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE MONTHS OF THE PRIOR CALENDAR YEAR. BY THE ONE HUNDRED TWENTIETH DAY PRECEDING THE COMMENCEMENT OF EACH LOCAL GOVERNMENT'S FISCAL YEAR, THE COMMISSIONER SHALL DETERMINE THE APPLICABLE LIMITATION UPON LOCAL GOVERNMENT TAX LEVIES FOR THE ENSUING FISCAL YEAR, AND SHALL NOTIFY EACH LOCAL GOVERNMENT ACCORDINGLY.

2. DEFINITION. WHEN USED IN THIS SECTION: "LOCAL GOVERNMENT" MEANS A COUNTY, CITY, TOWN, VILLAGE, FIRE DISTRICT, OR SPECIAL DISTRICT INCLUDING BUT NOT LIMITED TO A DISTRICT CREATED PURSUANT TO ARTICLES TWELVE, TWELVE-A, TWELVE-C OR THIRTEEN OF THE TOWN LAW, ARTICLES FIVE-A, FIVE-B OR FIVE-D OF THE COUNTY LAW, CHAPTER FIVE HUNDRED SIXTEEN OF THE LAWS OF NINETEEN HUNDRED TWENTY-EIGHT, OR CHAPTER TWO HUNDRED SEVENTY-THREE OF THE LAWS OF NINETEEN HUNDRED THIRTY-NINE.

3. EXCEPTIONS. (A) VOTER APPROVAL.

(I) IN ORDER TO IMPOSE A TAX LEVY EXCEEDING THE LIMITATION PURSUANT TO THIS SECTION, A LOCAL GOVERNING BODY MUST FIRST AFFIRM A THREE-FOURTHS MAJORITY VOTE OF THE TOTAL VOTING POWER OF SUCH BODY, A LOCAL RESOLUTION TO OVERRIDE SUCH LIMITATION FOR SUCH COMING FISCAL YEAR ONLY, TO BE SUBJECT TO A MANDATORY REFERENDUM.

(II) SUCH RESOLUTION MUST BE SUBMITTED TO A VOTE OF THE ELIGIBLE VOTERS OF THE LOCAL GOVERNMENT FOR THEIR APPROVAL OR DISAPPROVAL AT A GENERAL OR SPECIAL ELECTION TO BE HELD WITHIN THIRTY DAYS OF SUCH RESOLUTION'S AFFIRMATION BY THE LOCAL GOVERNING BODY.

(III) THE ELIGIBLE VOTERS OF A LOCAL GOVERNMENT MAY, BY A THREE-FOURTHS MAJORITY VOTE, SUSPEND THE LIMITATIONS IMPOSED BY THIS SECTION. NO SUCH VOTE SHALL APPLY TO MORE THAN ONE FISCAL YEAR. THE QUESTION OF WHETHER TO SUSPEND THE LIMITATIONS FOR A PARTICULAR FISCAL YEAR MAY BE SUBMITTED TO THE VOTERS NO MORE THAN ONCE. WHEN SUCH A QUESTION IS SUBMITTED TO THE VOTERS, IT SHALL BE PRESENTED AS A SEPARATE PROPOSITION IN SUBSTANTIALLY THE FOLLOWING FORM: "SHALL THE BE ALLOWED TO INCREASE ITS TAX LEVY BY PERCENT, DESPITE THE FACT THAT THE MAXIMUM INCREASE OTHERWISE ALLOWED BY LAW AT THE TIME IS PERCENT?"

(B) VOTER-APPROVED CAPITAL PROJECTS. THE TAX LEVY LIMITATION MAY BE INCREASED IN PROPORTION TO THE NET PERCENTAGE INCREASE IN CAPITAL EXPENDITURES IN ASSOCIATION WITH CAPITAL PROJECTS THAT HAVE BEEN APPROVED BY THE ELIGIBLE VOTERS OF THE LOCAL GOVERNMENT, WHERE REQUIRED BY LAW.

(C) LARGE LEGAL SETTLEMENTS OR TORT ACTIONS. THE TAX LEVY LIMITATION MAY BE INCREASED IN PROPORTION TO THE NET PERCENTAGE INCREASE IN EXPENDITURES RESULTING FROM LEGAL SETTLEMENT OR TORT ACTIONS AGAINST THE LOCAL GOVERNMENT.

4. ERRONEOUS LEVIES. IN THE EVENT A LOCAL GOVERNMENT'S ACTUAL TAX LEVY FOR A GIVEN FISCAL YEAR EXCEEDS THE MAXIMUM ALLOWABLE LEVY UNDER THIS SECTION DUE TO CLERICAL OR TECHNICAL ERRORS, THE LOCAL GOVERNMENT SHALL PLACE THE EXCESS AMOUNT OF THE LEVY IN RESERVE IN ACCORDANCE WITH SUCH REQUIREMENTS AS THE STATE COMPTROLLER MAY PRESCRIBE, AND SHALL USE SUCH FUNDS AND ANY INTEREST EARNED THEREON TO OFFSET THE TAX LEVY FOR THE FOLLOWING FISCAL YEAR.

S 4. The real property tax law is amended by adding a new section 1309 to read as follows:

S 1309. LIMITATIONS UPON SCHOOL DISTRICT TAX LEVIES. 1. GENERALLY. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, BEGINNING WITH THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR, THE AMOUNT OF TAXES LEVIED FOR SCHOOL DISTRICT PURPOSES FOR ANY SCHOOL YEAR MAY NOT

EXCEED THE AMOUNT OF TAXES LEVIED FOR THE PRIOR SCHOOL YEAR BY TWO PERCENT, OR BY THE INFLATION FACTOR, WHICHEVER IS LOWER. FOR THE PURPOSES OF THIS SECTION, THE INFLATION FACTOR SHALL BE A PERCENTAGE THAT REPRESENTS THE AVERAGE OF THE NATIONAL CONSUMER PRICE INDEXES DETERMINED BY THE UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE MONTHS OF THE PRIOR CALENDAR YEAR. ON OR BEFORE APRIL FIRST OF EACH YEAR, THE COMMISSIONER OF EDUCATION SHALL DETERMINE THE APPLICABLE LIMITATION UPON SCHOOL DISTRICT TAX LEVIES FOR THE ENSUING SCHOOL YEAR, AND SHALL NOTIFY EACH SCHOOL DISTRICT ACCORDINGLY.

2. DEFINITION. WHEN USED IN THIS SECTION: "SCHOOL DISTRICT" MEANS A COMMON SCHOOL DISTRICT, UNION FREE SCHOOL DISTRICT, CENTRAL SCHOOL DISTRICT, CENTRAL HIGH SCHOOL DISTRICT OR A CITY SCHOOL DISTRICT IN A CITY WITH LESS THAN ONE HUNDRED TWENTY-FIVE THOUSAND INHABITANTS.

3. EXCEPTIONS. (A) VOTER APPROVAL. THE ELIGIBLE VOTERS OF A SCHOOL DISTRICT MAY, BY A THREE-FOURTHS MAJORITY VOTE, SUSPEND THE LIMITATIONS IMPOSED BY THIS SECTION IN THE SAME MANNER AS IS PROVIDED BY LAW FOR THE APPROVAL OF SCHOOL DISTRICT EXPENDITURES. NO SUCH VOTE SHALL APPLY TO MORE THAN ONE SCHOOL YEAR. THE QUESTION OF WHETHER TO SUSPEND THE LIMITATIONS FOR A PARTICULAR SCHOOL YEAR MAY BE SUBMITTED TO THE VOTERS NO MORE THAN ONCE. WHEN SUCH A QUESTION IS SUBMITTED TO THE VOTERS, IT SHALL BE PRESENTED AS A SEPARATE PROPOSITION IN SUBSTANTIALLY THE FOLLOWING FORM: "SHALL THE _____ SCHOOL DISTRICT BE ALLOWED TO INCREASE ITS TAX LEVY BY _____ PERCENT, DESPITE THE FACT THAT THE MAXIMUM INCREASE OTHERWISE ALLOWED BY LAW AT THIS TIME IS _____ PERCENT?"

(B) VOTER-APPROVED CAPITAL PROJECTS. THE TAX LEVY LIMITATION MAY BE INCREASED IN PROPORTION TO THE NET PERCENTAGE INCREASE IN CAPITAL EXPENDITURES IN ASSOCIATION WITH CAPITAL PROJECTS THAT HAVE BEEN APPROVED BY THE ELIGIBLE VOTERS OF THE SCHOOL DISTRICT, WHERE REQUIRED BY LAW.

(C) LARGE LEGAL SETTLEMENTS OR TORT ACTIONS. THE TAX LEVY LIMITATION MAY BE INCREASED IN PROPORTION TO THE NET PERCENTAGE INCREASE IN EXPENDITURES RESULTING FROM LEGAL SETTLEMENT OR TORT ACTIONS AGAINST THE SCHOOL DISTRICT.

4. ERRONEOUS LEVIES. IN THE EVENT A SCHOOL DISTRICT'S ACTUAL TAX LEVY FOR A GIVEN SCHOOL YEAR EXCEEDS THE MAXIMUM ALLOWABLE LEVY UNDER THIS SECTION DUE TO CLERICAL OR TECHNICAL ERRORS, THE SCHOOL DISTRICT SHALL PLACE THE EXCESS AMOUNT OF THE LEVY IN RESERVE IN ACCORDANCE WITH SUCH REQUIREMENTS AS THE STATE COMPTROLLER MAY PRESCRIBE, AND SHALL USE SUCH FUNDS AND ANY INTEREST EARNED THEREON TO OFFSET THE TAX LEVY FOR THE FOLLOWING SCHOOL YEAR.

S 5. The legislative law is amended by adding a new section 51-a to read as follows:

S 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, FIRE DISTRICT, SPECIAL DISTRICT OR SCHOOL 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:

(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. 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.

S 6. The legislative law is amended by adding a new section 51-b to read as follows:

S 51-B. SUNSET ON ENACTED UNFUNDED MANDATES. 1. EVERY PROVISION OF LAW THAT IMPOSES AN UNFUNDED MANDATE RESULTING 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, BEYOND REVENUES RECEIVED BY SUCH LOCAL GOVERNMENT IN RELATION TO SUCH MANDATE, SHALL EXPIRE AND BE DEEMED REPEALED WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS SECTION.

2. ANY UNFUNDED MANDATE REPEALED BY THIS SECTION SHALL NOT BE SUBJECT TO SECTION FIFTY-ONE-A OF THIS ARTICLE, IN ANY ATTEMPT TO RENEW THE EXPIRED LAW, WITHIN ONE YEAR OF ITS EXPIRATION.

S 7. Section 365-a of the social services law is amended by adding a new subdivision 10 to read as follows:

10. (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION OR ANY OTHER PROVISION OF LAW, ON AND AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION, THE STATE IS REQUIRED TO ALLOW COUNTIES TO OPT OUT OF PROVIDING OPTIONAL MEDICAL ASSISTANCE SERVICES TO ANY NEW ENROLLEES WHO HAVE EITHER NEVER RECEIVED SUCH BENEFITS OR WHO HAVE REENROLLED AFTER A PERIOD OF ABSENCE.

(B) THE COMMISSIONER OF HEALTH IS AUTHORIZED TO APPLY FOR ANY AND ALL FEDERAL WAIVERS REQUIRED TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION.

S 8. This act shall take effect immediately, provided, however, that section five of this act shall only apply to laws enacted after such effective date.