

8150

2011-2012 Regular Sessions

I N A S S E M B L Y

June 2, 2011

Introduced by M. of A. MORELLE, HOYT, CUSICK, GUNTHER, LUPARDO, REILLY, SCHIMMINGER, SPANO -- Multi-Sponsored by -- M. of A. LATIMER, MAGEE, P. RIVERA, THIELE -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law and the legislative law, in relation to enacting the "unfunded mandate reform act"

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

1 Section 1. The executive law is amended by adding a new article 5-A to
2 read as follows:

3 ARTICLE 5-A
4 UNFUNDED MANDATE REFORM ACT

5 SECTION 75. SHORT TITLE.

6 76. DUTY OF GOVERNOR TO EXAMINE UNFUNDED MANDATES; LEGISLATIVE
7 PURPOSE.

8 77. DEFINITIONS.

9 78. FINDINGS BY GOVERNOR; ISSUANCE OF UNFUNDED MANDATE REFORM
10 PLAN.

11 79. CONTENTS OF UNFUNDED MANDATE REFORM PLAN.

12 80. EFFECTIVE DATE OF UNFUNDED MANDATE REFORM PLAN.

13 81. PROGRAMS AND SERVICES THAT SHALL NOT BE THE SUBJECT OF AN
14 UNFUNDED MANDATE REFORM PLAN.

15 82. SEVERABILITY.

16 S 75. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE
17 "UNFUNDED MANDATE REFORM ACT".

18 S 76. DUTY OF GOVERNOR TO EXAMINE UNFUNDED MANDATES; LEGISLATIVE
19 PURPOSE. THE GOVERNOR, FROM TIME TO TIME, SHALL EXAMINE THOSE MANDATES
20 IMPOSED BY THE STATE ON LOCAL GOVERNMENTS AND SCHOOL DISTRICTS THAT THE
21 STATE DOES NOT PROVIDE ADEQUATE FUNDING TO SUPPORT, AND SHALL DETERMINE

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

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1 WHICH CHANGES ARE NECESSARY TO REDUCE THE BURDEN OF THESE UNFUNDED
2 MANDATES ON POLITICAL SUBDIVISIONS.

3 S 77. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL
4 HAVE THE FOLLOWING MEANINGS:

5 1. "POLITICAL SUBDIVISION" MEANS ANY COUNTY, CITY, TOWN, VILLAGE,
6 SCHOOL DISTRICT OR SPECIAL DISTRICT.

7 2. "ASSEMBLY" MEANS THE NEW YORK STATE ASSEMBLY.

8 3. "GOVERNOR" MEANS THE GOVERNOR OF THE STATE OF NEW YORK.

9 4. "LEGISLATURE" MEANS THE LEGISLATURE OF THE STATE OF NEW YORK.

10 5. "SENATE" MEANS THE NEW YORK STATE SENATE.

11 6. "UNFUNDED MANDATE" MEANS ANY PROGRAM OR SERVICE REQUIREMENT IMPOSED
12 BY THE STATE THROUGH STATUTE, REGULATION OR OTHER DIRECTIVE THAT HAS A
13 DIRECT FINANCIAL IMPACT ON ANY POLITICAL SUBDIVISION IN EXCESS OF TEN
14 THOUSAND DOLLARS PER YEAR, OR ON TWO OR MORE POLITICAL SUBDIVISIONS
15 COLLECTIVELY OR ON A CITY WITH A POPULATION OF ONE MILLION OR MORE IN
16 EXCESS OF ONE HUNDRED THOUSAND DOLLARS PER YEAR.

17 7. "UNFUNDED MANDATE REFORM PLAN" OR "PLAN" SHALL MEAN THE BILL
18 PREPARED BY THE GOVERNOR, AND SUBMITTED TO THE LEGISLATURE AS A PROGRAM
19 BILL, THAT CONTAINS THE TERMS AND INFORMATION REGARDING THE REPEAL OR
20 REVISION OF UNFUNDED MANDATES UPON POLITICAL SUBDIVISIONS.

21 S 78. FINDINGS BY GOVERNOR; ISSUANCE OF UNFUNDED MANDATE REFORM PLAN.

22 1. WHENEVER THE GOVERNOR FINDS IT TO BE IN THE PUBLIC INTEREST, HE OR
23 SHE MAY SUBMIT TO THE LEGISLATURE AN UNFUNDED MANDATE REFORM PLAN.

24 2. NOTHING IN THIS ARTICLE SHALL PROHIBIT OR LIMIT THE AUTHORITY OF
25 THE GOVERNOR OR LEGISLATURE TO REPEAL, REVISE OR PROVIDE FUNDING FOR
26 UNFUNDED MANDATES PURSUANT TO ANY OTHER LAWFUL PROCESS.

27 S 79. CONTENTS OF UNFUNDED MANDATE REFORM PLAN. AN UNFUNDED MANDATE
28 REFORM PLAN SHALL:

29 1. SET FORTH AS FINDINGS IN SUCH PLAN, A DESCRIPTION OF THE NATURE AND
30 PURPOSES OF THE UNFUNDED MANDATE REFORM PLAN, TOGETHER WITH AN EXPLANA-
31 TION OF THE ADVANTAGES THAT WILL RESULT FROM ITS IMPLEMENTATION, INCLUD-
32 ING THE ANTICIPATED SAVINGS AND COSTS ASSOCIATED WITH EACH REPEAL OR
33 REVISION OF AN UNFUNDED MANDATE;

34 2. DESCRIBE IN DETAIL OTHER ACTIONS, IF ANY, NECESSARY TO IMPLEMENT
35 THAT PLAN;

36 3. ANY PRELIMINARY ACTIONS WHICH HAVE BEEN TAKEN IN IMPLEMENTING THE
37 PLAN; AND

38 4. PROVIDE A PROJECTED TIMETABLE FOR COMPLETION OF THE IMPLEMENTATION
39 PROCESS.

40 S 80. EFFECTIVE DATE OF UNFUNDED MANDATE REFORM PLAN. 1. AN UNFUNDED
41 MANDATE REFORM PLAN SHALL BE VOTED ON BY EACH HOUSE OF THE LEGISLATURE,
42 WITHOUT AMENDMENT AS SUBMITTED BY THE GOVERNOR, WITHIN THIRTY DAYS AFTER
43 SUCH SUBMISSION. THE GOVERNOR MAY SUBMIT ONLY ONE SUCH PLAN ANNUALLY AND
44 MAY AMEND THAT PLAN ONE TIME WITHIN SUCH THIRTY DAY PERIOD. BOTH HOUSES
45 OF THE LEGISLATURE SHALL HAVE THIRTY DAYS FROM THE SUBMISSION OF SUCH
46 AMENDMENT TO VOTE ON THE AMENDED UNFUNDED MANDATE REFORM PLAN. WITHOUT
47 THE CONSENT OF BOTH HOUSES OF THE LEGISLATURE, NEITHER A PLAN NOR AN
48 AMENDMENT MAY BE SUBMITTED BY THE GOVERNOR AFTER THE THIRTIETH DAY OF
49 MAY IN ANY YEAR.

50 2. UNDER PROVISIONS CONTAINED IN AN UNFUNDED MANDATE REFORM PLAN, A
51 PROVISION OF THE PLAN MAY BE EFFECTIVE AT A TIME LATER THAN THE DATE ON
52 WHICH THE PLAN OTHERWISE IS EFFECTIVE.

53 S 81. PROGRAMS AND SERVICES THAT SHALL NOT BE THE SUBJECT OF AN
54 UNFUNDED MANDATE REFORM PLAN. NOTWITHSTANDING ANY OTHER PROVISION OF
55 THIS ARTICLE TO THE CONTRARY, THE FOLLOWING CATEGORIES OF PROGRAMS AND
56 SERVICES SHALL NOT BE CONSIDERED UNFUNDED MANDATES:

1 1. THOSE WHICH ARE REQUIRED TO COMPLY WITH FEDERAL LAWS OR RULES OR TO
2 MEET ELIGIBILITY STANDARDS FOR FEDERAL ENTITLEMENTS, SO LONG AS SUCH
3 MANDATES ARE NOT BROADER THAN FEDERAL ELIGIBILITY STANDARDS;

4 2. THOSE WHICH ARE IMPOSED ON BOTH GOVERNMENT AND NON-GOVERNMENT ENTI-
5 TIES IN THE SAME OR SUBSTANTIALLY SIMILAR CIRCUMSTANCES;

6 3. THOSE WHICH PERMIT, ESTABLISH OR ENABLE ONLY OPTIONAL PROGRAMS OR
7 SERVICES;

8 4. THOSE WHICH REPEAL, REVISE, OR EASE AN EXISTING MANDATE OR REQUIRE-
9 MENT, OR WHICH REAPPORTION THE COSTS OF ACTIVITIES BETWEEN BOARDS OF
10 EDUCATION, COUNTIES AND MUNICIPALITIES;

11 5. THOSE WHICH ARISE FROM A RULING BY A COURT OF COMPETENT JURISDIC-
12 TION;

13 6. THOSE WHICH ARE ENACTED AFTER A PUBLIC HEARING, HELD AFTER PUBLIC
14 NOTICE THAT UNFUNDED MANDATES WILL BE CONSIDERED, FOR WHICH A FISCAL
15 IMPACT NOTE AS DEFINED IN SECTION FIFTY-ONE OF THE LEGISLATIVE LAW IS
16 AVAILABLE AT THE TIME OF THE PUBLIC HEARING AND WHICH, IN ADDITION TO
17 COMPLYING WITH ALL OTHER REQUIREMENTS WITH REGARD TO THE ENACTMENT OF A
18 LAW, ARE PASSED BY A TWO-THIRDS VOTE OF BOTH THE SENATE AND ASSEMBLY;
19 AND

20 7. THOSE WHICH ARE THE RESULT OF THE PASSAGE OF A HOME RULE MESSAGE
21 WHEREBY A LOCAL GOVERNMENT REQUESTS AUTHORITY TO IMPLEMENT THE PROGRAM
22 OR SERVICE SPECIFIED IN THE STATUTE, AND THE STATUTE IMPOSES COSTS ONLY
23 UPON THAT LOCAL GOVERNMENT WHICH REQUESTS THE AUTHORITY TO IMPOSE THE
24 PROGRAM OR SERVICE.

25 S 82. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SUBDIVISION,
26 SECTION OR PART OF THIS ARTICLE SHALL BE ADJUDGED BY ANY COURT OF COMPE-
27 TENT JURISDICTION TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR,
28 OR INVALIDATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERA-
29 TION TO THE CLAUSE, SENTENCE, PARAGRAPH, SUBDIVISION, SECTION OR PART
30 THEREOF DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH SUCH JUDGMENT
31 SHALL HAVE BEEN RENDERED. IT IS HEREBY DECLARED TO BE THE INTENT OF THE
32 LEGISLATURE THAT THIS ARTICLE WOULD HAVE BEEN ENACTED EVEN IF SUCH
33 INVALID PROVISIONS HAD NOT BEEN INCLUDED IN THIS SECTION.

34 S 2. The legislative law is amended by adding a new section 54-c to
35 read as follows:

36 S 54-C. UNFUNDED MANDATE REFORM PLAN. THE LEGISLATURE MAY BY CONCUR-
37 RENT RESOLUTION PRESCRIBE RULES FOR THE CONSIDERATION AND DISPOSITION OF
38 AN UNFUNDED MANDATE REFORM PLAN, AS DEFINED IN ARTICLE FIVE-A OF THE
39 EXECUTIVE LAW.

40 S 3. This act shall take effect immediately.