

4811

2011-2012 Regular Sessions

I N A S S E M B L Y

February 8, 2011

Introduced by M. of A. KOLB, CASTELLI, CONTE, RAIA, REILICH, SAYWARD --  
Multi-Sponsored by -- M. of A. AMEDORE, BARCLAY, BOYLE, BURLING,  
BUTLER, CALHOUN, CORWIN, CROUCH, DUPREY, FINCH, FITZPATRICK, GIGLIO,  
HAWLEY, HAYES, JORDAN, McDONOUGH, McKEVITT, J. MILLER, MOLINARO,  
MONTESANO, OAKS, RABBITT, SALADINO, TEDISCO, TOBACCO -- read once and  
referred to the Committee on Governmental Operations

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 ASSEM-  
BLY, 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 ANTIC-  
8 IPATED 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 ACTIV-  
14 ITY;  
15 (II) STATE OR FEDERAL FUNDS RECEIVED FOR SUCH PROGRAM, PROJECT, OR  
16 ACTIVITY; AND  
17 (III) AN OFFSETTING SAVINGS RESULTING FROM THE DIMINUTION OR ELIMI-  
18 NATION OF ANY OTHER PROGRAM, PROJECT, OR ACTIVITY THAT STATE LAW  
19 REQUIRES SUCH LOCAL GOVERNMENT TO PROVIDE OR UNDERTAKE.  
20 (C) "UNFUNDED MANDATE" MEANS:

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

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1 (I) ANY STATE LAW THAT REQUIRES A LOCAL GOVERNMENT TO PROVIDE OR  
2 UNDERTAKE ANY NEW PROGRAM, PROJECT OR ACTIVITY THAT RESULTS IN AN ANNUAL  
3 NET ADDITIONAL COST TO ANY LOCAL GOVERNMENT IN EXCESS OF TEN THOUSAND  
4 DOLLARS OR AN AGGREGATE ANNUAL NET ADDITIONAL COST TO ALL LOCAL GOVERN-  
5 MENTS WITHIN THE STATE IN EXCESS OF ONE MILLION DOLLARS; OR

6 (II) ANY STATE LAW THAT REQUIRES A LOCAL GOVERNMENT TO PROVIDE A HIGH-  
7 ER LEVEL OF SERVICE OR FUNDING FOR AN EXISTING PROGRAM, PROJECT OR  
8 ACTIVITY THAT RESULTS IN AN ANNUAL NET ADDITIONAL COST TO ANY LOCAL  
9 GOVERNMENT IN EXCESS OF TEN THOUSAND DOLLARS OR AN AGGREGATE ANNUAL NET  
10 ADDITIONAL COST TO ALL LOCAL GOVERNMENTS WITHIN THE STATE IN EXCESS OF  
11 ONE MILLION DOLLARS; OR

12 (III) ANY STATE LAW THAT REQUIRES A LOCAL GOVERNMENT TO GRANT ANY NEW  
13 PROPERTY TAX EXEMPTION OR THAT BROADENS THE ELIGIBILITY OR INCREASES THE  
14 DOLLAR AMOUNT OF ANY EXISTING PROPERTY TAX EXEMPTION, ON PROPERTY THAT  
15 OTHERWISE WOULD HAVE GENERATED REVENUE UNDER THE CURRENT PROPERTY TAX  
16 RATE OF SUCH LOCAL GOVERNMENT IN EXCESS OF TEN THOUSAND DOLLARS IN ANY  
17 LOCAL GOVERNMENT OR IN EXCESS OF ONE MILLION DOLLARS STATEWIDE; OR

18 (IV) ANY STATE LAW WITH A LEGAL REQUIREMENT THAT WOULD OTHERWISE LIKE-  
19 LY HAVE THE EFFECT OF RAISING PROPERTY TAXES IN EXCESS OF TEN THOUSAND  
20 DOLLARS IN ANY LOCAL GOVERNMENT OR IN EXCESS OF ONE MILLION DOLLARS  
21 STATEWIDE.

22 2. MORATORIUM ON UNFUNDED MANDATES. NOTWITHSTANDING ANY OTHER  
23 PROVISION OF LAW, NO UNFUNDED MANDATES SHALL BE ENACTED.

24 3. EXEMPTIONS. (A) A STATE LAW SHALL NOT BE CONSIDERED AN UNFUNDED  
25 MANDATE WHERE SUCH LAW:

26 (I) IS REQUIRED BY A COURT ORDER OR JUDGMENT; OR

27 (II) IS PROVIDED AT THE OPTION OF THE LOCAL GOVERNMENT UNDER A LAW  
28 THAT IS PERMISSIVE RATHER THAN MANDATORY; OR

29 (III) RESULTS FROM THE PASSAGE OF A HOME RULE MESSAGE WHEREBY A LOCAL  
30 GOVERNMENT REQUESTS AUTHORITY TO IMPLEMENT THE PROGRAM OR SERVICE SPECI-  
31 FIED IN THE STATUTE, AND THE STATUTE IMPOSES COSTS ONLY UPON THAT LOCAL  
32 GOVERNMENT WHICH REQUESTS THE AUTHORITY TO IMPOSE THE PROGRAM OR  
33 SERVICE; OR

34 (IV) IS REQUIRED BY STATUTE OR EXECUTIVE ORDER THAT IMPLEMENTS A  
35 FEDERAL LAW OR REGULATION AND RESULTS FROM COSTS MANDATED BY THE FEDERAL  
36 GOVERNMENT TO BE BORNE AT THE LOCAL LEVEL, UNLESS THE STATUTE OR EXECU-  
37 TIVE ORDER RESULTS IN COSTS WHICH EXCEED THE COSTS MANDATED BY THE  
38 FEDERAL GOVERNMENT; OR

39 (V) IS IMPOSED ON BOTH GOVERNMENT AND NON-GOVERNMENT ENTITIES IN THE  
40 SAME OR SUBSTANTIALLY SIMILAR CIRCUMSTANCES; OR

41 (VI) REPEALS OR REVISES A STATE LAW TO EASE AN EXISTING REQUIREMENT  
42 THAT A LOCAL GOVERNMENT PROVIDE OR UNDERTAKE A PROGRAM, PROJECT, OR  
43 ACTIVITY, OR REAPPORTIONS THE COSTS OF ACTIVITIES BETWEEN LOCAL GOVERN-  
44 MENTS; OR

45 (VII) IS NECESSARY TO PROTECT AGAINST AN IMMEDIATE THREAT TO PUBLIC  
46 HEALTH OR SAFETY.

47 (B) THE EFFECTIVE DATE OF ANY ACT ESTABLISHING A MANDATE SHALL PROVIDE  
48 A REASONABLE TIME FOR THE STATE AND ANY LOCAL GOVERNMENT TO PLAN IMPL-  
49 MENTATION THEREOF AND SHALL BE CONSISTENT WITH THE AVAILABILITY OF  
50 REQUIRED FUNDS.

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

53 S 51. Fiscal [impact] notes on bills affecting political subdivisions.

54 1. For the purpose of this section, the term "political subdivision"  
55 means any county, city, town, village, special district or school  
56 district.

1 2. [The legislature shall by concurrent resolution of the senate and  
2 assembly prescribe rules requiring fiscal notes to accompany, on a sepa-  
3 rate form, bills and amendments to bills, except as otherwise prescribed  
4 by such rules, which] A BILL THAT would substantially affect the reven-  
5 ues or expenses, or both, of any political subdivision SHALL CONTAIN A  
6 FISCAL NOTE STATING THE ESTIMATED ANNUAL COST TO THE POLITICAL SUBDIVI-  
7 SION AFFECTED AND THE SOURCE OF SUCH ESTIMATE.

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

13 4. If the estimate or estimates contained in a fiscal note are inaccu-  
14 rate, such inaccuracies shall not affect, impair or invalidate such  
15 bill.

16 S 3. This act shall take effect immediately, provided, however, that  
17 section one of this act shall only apply to laws enacted after such  
18 effective date.