

2707

2011-2012 Regular Sessions

I N S E N A T E

January 28, 2011

Introduced by Sens. SALAND, FLANAGAN, HANNON, LITTLE, MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the general municipal law and the education law, in relation to requiring the state to fund certain programs mandated for municipal corporations and school districts; and to amend the education law, in relation to the effect of mandates on school districts

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

1 Section 1. Legislative intent. State mandated programs, unlike local
2 service decisions, place local taxpayers and local officials in the
3 position of paying for services that they do not control. Increasingly,
4 however, the state has set local priorities and forced municipal taxing
5 decisions by mandating services, programs, and standards. As a result,
6 many local governments and school districts are today in an acutely
7 difficult fiscal situation.
8 Thus, in order to prevent irresponsible state actions which prevent
9 localities from making their own decisions, and which force unwanted
10 local property tax increases, it is necessary to ensure that state
11 mandates will not be forced on localities and school districts unless
12 they are adequately funded.
13 S 2. The general municipal law is amended by adding a new section 25
14 to read as follows:
15 S 25. FUNDING OF MANDATES. 1. DEFINITIONS. AS USED IN THIS SECTION,
16 THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT
17 SHALL OTHERWISE REQUIRE:
18 (A) "MANDATE" MEANS:
19 (I) ANY STATE LAW, RULE, OR REGULATION WHICH CREATES A NEW PROGRAM OR
20 REQUIRES A HIGHER LEVEL OF SERVICE FOR AN EXISTING PROGRAM WHICH A
21 MUNICIPAL CORPORATION IS REQUIRED TO PROVIDE; OR

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

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(II) ANY GENERAL LAW WHICH GRANTS A NEW PROPERTY TAX EXEMPTION OR INCREASES AN EXISTING PROPERTY TAX EXEMPTION WHICH THE MUNICIPAL CORPORATION IS REQUIRED TO PROVIDE.

(B) "UNFUNDED MANDATE" SHALL MEAN:

(I) ANY STATE LAW, RULE, OR REGULATION WHICH CREATES A NEW PROGRAM OR REQUIRES A HIGHER LEVEL OF SERVICE FOR AN EXISTING PROGRAM WHICH A MUNICIPAL CORPORATION IS REQUIRED TO PROVIDE AND WHICH RESULTS IN A NET ADDITIONAL COST TO THE MUNICIPAL CORPORATION;

(II) ANY ALTERATION IN FUNDING PROVIDED TO A MUNICIPAL CORPORATION FOR THE PURPOSE OF DEFRAYING THE COSTS OF A PROGRAM WHICH IT IS REQUIRED TO PROVIDE, THEREBY RESULTING IN A NET ADDITIONAL COST TO THE MUNICIPAL CORPORATION; OR

(III) ANY GENERAL LAW WHICH GRANTS A NEW PROPERTY TAX EXEMPTION OR INCREASES AN EXISTING PROPERTY TAX EXEMPTION WHICH THE MUNICIPAL CORPORATION IS REQUIRED TO PROVIDE, THEREBY RESULTING IN A NET ADDITIONAL COST TO THE MUNICIPAL CORPORATION.

(C) "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 A MANDATE AFTER SUBTRACTING THEREFROM ANY REVENUES RECEIVED OR RECEIVABLE BY THE LOCAL GOVERNMENT ON ACCOUNT OF THE MANDATED PROGRAM OR SERVICE, INCLUDING BUT NOT LIMITED TO:

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

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

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

2. FUNDING OF MUNICIPAL CORPORATION MANDATES. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO UNFUNDED MANDATE SHALL BE ENACTED WHICH CREATES AN ANNUAL NET ADDITIONAL COST TO ANY MUNICIPAL CORPORATION.

3. EXEMPTIONS TO THE FUNDING OF MUNICIPAL CORPORATION MANDATES REQUIREMENT. (A) THE STATE SHALL NOT BE REQUIRED TO FUND ANY NEW OR EXPANDED PROGRAMS IF:

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

(II) THE MANDATE IS PROVIDED AT THE OPTION OF THE LOCAL GOVERNMENT UNDER A LAW, REGULATION, RULE, OR ORDER THAT IS PERMISSIVE RATHER THAN MANDATORY;

(III) THE MANDATE 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;

(IV) THE MANDATE IS REQUIRED BY, OR ARISES FROM, AN EXECUTIVE ORDER OF THE GOVERNOR EXERCISING HIS OR HER EMERGENCY POWERS; OR

(V) THE MANDATE 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.

(B) EACH ACT ESTABLISHING A MANDATE SHALL PROVIDE THAT THE EFFECTIVE DATE OF ANY SUCH MANDATE IMPOSED ON MUNICIPAL CORPORATIONS SHALL BE CONSISTENT WITH THE NEEDS OF THE STATE AND MUNICIPAL CORPORATIONS TO PLAN IMPLEMENTATION THEREOF AND CONSISTENT WITH THE AVAILABILITY OF REQUIRED FUNDS.

S 3. The education law is amended by adding a new section 1527-a to read as follows:

1 S 1527-A. FUNDING OF MANDATES IMPOSED ON SCHOOL DISTRICTS. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE
2 FOLLOWING MEANINGS UNLESS THE CONTEXT SHALL OTHERWISE REQUIRE:

3 (A) "MANDATE" MEANS:

4 (I) ANY STATE LAW, RULE, OR REGULATION WHICH CREATES A NEW PROGRAM OR
5 REQUIRES A HIGHER LEVEL OF SERVICE FOR AN EXISTING PROGRAM WHICH A
6 SCHOOL DISTRICT ORGANIZED EITHER BY SPECIAL LAWS OR PURSUANT TO THE
7 PROVISIONS OF A GENERAL LAW, IS REQUIRED TO PROVIDE; OR

8 (II) ANY GENERAL LAW WHICH GRANTS A NEW PROPERTY TAX EXEMPTION OR
9 INCREASES AN EXISTING PROPERTY TAX EXEMPTION WHICH ANY SUCH SCHOOL
10 DISTRICT IS REQUIRED TO PROVIDE.

11 (B) "UNFUNDED MANDATE" SHALL MEAN:

12 (I) ANY STATE LAW, RULE, OR REGULATION WHICH CREATES A NEW PROGRAM OR
13 REQUIRES A HIGHER LEVEL OF SERVICE FOR AN EXISTING PROGRAM WHICH ANY
14 SUCH SCHOOL DISTRICT IS REQUIRED TO PROVIDE AND WHICH RESULTS IN A NET
15 ADDITIONAL COST TO SUCH SCHOOL DISTRICT;

16 (II) ANY ALTERATION IN FUNDING PROVIDED TO ANY SUCH SCHOOL DISTRICT
17 FOR THE PURPOSE OF DEFRAYING THE COSTS OF A PROGRAM WHICH IT IS REQUIRED
18 TO PROVIDE, THEREBY RESULTING IN A NET ADDITIONAL COST TO SUCH SCHOOL
19 DISTRICT; OR

20 (III) ANY GENERAL LAW WHICH GRANTS A NEW PROPERTY TAX EXEMPTION OR
21 INCREASES AN EXISTING PROPERTY TAX EXEMPTION WHICH ANY SUCH SCHOOL
22 DISTRICT IS REQUIRED TO PROVIDE, THEREBY RESULTING IN A NET ADDITIONAL
23 COST TO SUCH SCHOOL DISTRICT.

24 (C) "NET ADDITIONAL COST" MEANS THE COST OR COSTS INCURRED OR ANTICIPATED TO BE INCURRED WITHIN A ONE YEAR PERIOD BY A SCHOOL DISTRICT IN
25 PERFORMING OR ADMINISTERING A MANDATE AFTER SUBTRACTING THEREFROM ANY
26 REVENUES RECEIVED OR RECEIVABLE BY THE SCHOOL DISTRICT ON ACCOUNT OF THE
27 MANDATED PROGRAM OR SERVICE, INCLUDING BUT NOT LIMITED TO:

28 (I) FEES CHARGED TO THE RECIPIENTS OF THE MANDATED PROGRAM OR SERVICE;

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

31 (III) AN OFFSETTING SAVINGS RESULTING FROM THE DIMINUTION OR ELIMINATION OF ANY OTHER PROGRAM OR SERVICE DIRECTLY ATTRIBUTABLE TO THE
32 PERFORMANCE OR ADMINISTRATION OF THE MANDATED PROGRAM.

33 2. FUNDING OF SCHOOL DISTRICT MANDATES. NOTWITHSTANDING ANY OTHER
34 PROVISION OF LAW, NO UNFUNDED MANDATE SHALL BE ENACTED WHICH CREATES AN
35 ANNUAL NET ADDITIONAL COST TO ANY SCHOOL DISTRICT.

36 3. EXEMPTIONS TO THE FUNDING OF SCHOOL DISTRICT MANDATES REQUIREMENT.
37 (A) THE STATE SHALL NOT BE REQUIRED TO FUND ANY NEW OR EXPANDED PROGRAMS
38 FOR SCHOOL DISTRICTS IF:

39 (I) THE MANDATE IS REQUIRED BY A COURT ORDER OR JUDGMENT;

40 (II) THE MANDATE IS PROVIDED AT THE OPTION OF THE SCHOOL DISTRICT
41 UNDER A LAW, REGULATION, RULE, OR ORDER THAT IS PERMISSIVE RATHER THAN
42 MANDATORY;

43 (III) THE MANDATE RESULTS FROM THE PASSAGE OF A HOME RULE MESSAGE
44 WHEREBY A SCHOOL DISTRICT REQUESTS AUTHORITY TO IMPLEMENT THE PROGRAM OR
45 SERVICE SPECIFIED IN THE STATUTE, AND THE STATUTE IMPOSES COSTS ONLY
46 UPON THAT SCHOOL DISTRICT WHICH REQUESTS THE AUTHORITY TO IMPOSE THE
47 PROGRAM OR SERVICE;

48 (IV) THE MANDATE IS REQUIRED BY, OR ARISES FROM, AN EXECUTIVE ORDER OF
49 THE GOVERNOR EXERCISING HIS OR HER EMERGENCY POWERS; OR

50 (V) THE MANDATE IS REQUIRED BY STATUTE OR EXECUTIVE ORDER THAT IMPLEMENTS A FEDERAL LAW OR REGULATION AND RESULTS FROM COSTS MANDATED BY THE
51 FEDERAL GOVERNMENT TO BE BORNE AT THE LOCAL LEVEL, UNLESS THE STATUTE OR
52

EXECUTIVE ORDER RESULTS IN COSTS WHICH EXCEED THE COSTS MANDATED BY THE
FEDERAL GOVERNMENT.

(B) EACH ACT ESTABLISHING A MANDATE SHALL PROVIDE THAT THE EFFECTIVE
DATE OF ANY SUCH MANDATE IMPOSED ON SCHOOL DISTRICTS SHALL BE CONSISTENT
WITH THE NEEDS OF THE STATE AND SCHOOL DISTRICTS TO PLAN IMPLEMENTATION
THEREOF, AND ALSO CONSISTENT WITH THE AVAILABILITY OF REQUIRED FUNDS.

S 4. The education law is amended by adding a new section 308-a to
read as follows:

S 308-A. SPECIAL PROVISIONS; MANDATES. 1. AS USED IN THIS SECTION,
"MANDATE" MEANS (A) ANY STATE LAW, RULE OR REGULATION WHICH CREATES A
NEW PROGRAM OR REQUIRES A HIGHER LEVEL OF SERVICE FOR AN EXISTING
PROGRAM WHICH A SCHOOL DISTRICT, ORGANIZED EITHER BY SPECIAL LAWS OR
PURSUANT TO THE PROVISIONS OF A GENERAL LAW, IS REQUIRED TO PROVIDE, OR

(B) ANY GENERAL LAW WHICH GRANTS A NEW PROPERTY TAX EXEMPTION OR
INCREASES AN EXISTING PROPERTY TAX EXEMPTION WHICH ANY SUCH SCHOOL
DISTRICT IS REQUIRED TO PROVIDE.

2. IN THE EVENT THAT A MANDATE WHICH IMPOSES A COST UPON A SCHOOL
DISTRICT IS CREATED AFTER THE ADOPTION OF A SCHOOL BUDGET, SUCH MANDATE
SHALL NOT BE IMPLEMENTED UNTIL THE FOLLOWING YEAR FOR WHICH SUCH SCHOOL
BUDGET WAS ADOPTED.

3. NOTWITHSTANDING SUBDIVISION TWO OF THIS SECTION, SUCH A MANDATE CAN
BE IMPOSED IF:

(A) THE MANDATE IS PROVIDED AT THE OPTION OF THE SCHOOL DISTRICT UNDER
A LAW, REGULATION, RULE OR ORDER THAT IS PERMISSIVE RATHER THAN MANDATO-
RY;

(B) THE MANDATE IS REQUIRED BY, OR ARISES FROM, AN EXECUTIVE ORDER OF
THE GOVERNOR EXERCISING HIS OR HER EMERGENCY POWERS; OR

(C) THE MANDATE IS REQUIRED BY STATUTE OR EXECUTIVE ORDER THAT IMPLE-
MENTS 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 IMPOSES COSTS WHICH EXCEED THE COSTS MANDATED BY THE
FEDERAL GOVERNMENT.

S 5. This act shall take effect immediately, provided that:

1. sections one through three of this act shall be deemed to have been
in full force and effect on and after April 1, 2011 and shall apply to
any general or special law imposing mandates on municipal corporations
or school districts enacted on or after such effective date; and

2. the commissioner of education shall adopt any regulations needed to
implement the provisions of this act on or before July 1, 2012.