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

5379

2011-2012 Regular Sessions

I N S E N A T E

May 13, 2011

Introduced by Sen. MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

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:

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

ARTICLE 5-A
UNFUNDED MANDATE REFORM ACT

SECTION 75. SHORT TITLE.
76. DUTY OF GOVERNOR TO EXAMINE UNFUNDED MANDATES; LEGISLATIVE PURPOSE.
77. DEFINITIONS.
78. FINDINGS BY GOVERNOR; ISSUANCE OF UNFUNDED MANDATE REFORM PLAN.
79. CONTENTS OF UNFUNDED MANDATE REFORM PLAN.
80. EFFECTIVE DATE OF UNFUNDED MANDATE REFORM PLAN.
81. PROGRAMS AND SERVICES THAT SHALL NOT BE THE SUBJECT OF AN UNFUNDED MANDATE REFORM PLAN.
82. SEVERABILITY.

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

S 76. DUTY OF GOVERNOR TO EXAMINE UNFUNDED MANDATES; LEGISLATIVE PURPOSE. THE GOVERNOR, FROM TIME TO TIME, SHALL EXAMINE THOSE MANDATES IMPOSED BY THE STATE ON LOCAL GOVERNMENTS AND SCHOOL DISTRICTS THAT THE STATE DOES NOT PROVIDE ADEQUATE FUNDING TO SUPPORT, AND SHALL DETERMINE WHICH CHANGES ARE NECESSARY TO REDUCE THE BURDEN OF THESE UNFUNDED MANDATES ON POLITICAL SUBDIVISIONS.

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

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

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

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

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

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

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

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

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

S 78. FINDINGS BY GOVERNOR; ISSUANCE OF UNFUNDED MANDATE REFORM PLAN. 1. WHENEVER THE GOVERNOR FINDS IT TO BE IN THE PUBLIC INTEREST, HE OR SHE MAY SUBMIT TO THE LEGISLATURE AN UNFUNDED MANDATE REFORM PLAN.

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

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

1. SET FORTH AS FINDINGS IN SUCH PLAN, A DESCRIPTION OF THE NATURE AND PURPOSES OF THE UNFUNDED MANDATE REFORM PLAN, TOGETHER WITH AN EXPLANATION OF THE ADVANTAGES THAT WILL RESULT FROM ITS IMPLEMENTATION, INCLUDING THE ANTICIPATED SAVINGS AND COSTS ASSOCIATED WITH EACH REPEAL OR REVISION OF AN UNFUNDED MANDATE;

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

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

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

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

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

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

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

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

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

4. THOSE WHICH REPEAL, REVISE, OR EASE AN EXISTING MANDATE OR REQUIREMENT, OR WHICH REAPPORTION THE COSTS OF ACTIVITIES BETWEEN BOARDS OF EDUCATION, COUNTIES AND MUNICIPALITIES;

5. THOSE WHICH ARISE FROM A RULING BY A COURT OF COMPETENT JURISDICTION;

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

7. THOSE WHICH ARE THE RESULT OF 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.

S 82. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SUBDIVISION, SECTION OR PART OF THIS ARTICLE SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR, OR INVALIDATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE, PARAGRAPH, SUBDIVISION, SECTION OR PART THEREOF DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH SUCH JUDGMENT SHALL HAVE BEEN RENDERED. IT IS HEREBY DECLARED TO BE THE INTENT OF THE LEGISLATURE THAT THIS ARTICLE WOULD HAVE BEEN ENACTED EVEN IF SUCH INVALID PROVISIONS HAD NOT BEEN INCLUDED IN THIS SECTION.

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

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

S 3. This act shall take effect immediately.