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

4861--A

2013-2014 Regular Sessions

I N A S S E M B L Y

February 11, 2013

Introduced by M. of A. BRINDISI, GUNTHER, FRIEND, PALMESANO, ROBERTS, SANTABARBARA, DIPIETRO, LUPARDO, SCHIMMINGER, GRAF, LUPINACCI -- Multi-Sponsored by -- M. of A. BARCLAY, DUPREY, KATZ, LALOR, MAGEE, McDONALD, McKEVITT, McLAUGHLIN, MONTESANO, NOJAY, RAIA, STEC -- read once and referred to the Committee on Local Governments -- recommitted to the Committee on Local Governments in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law and the education law, in relation to prohibiting the establishment of certain programs mandated for municipal corporations and school districts unless such programs are fully funded by the state; and to amend the executive law, in relation to the mandate relief council

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

Section 1. The general municipal law is amended by adding a new section 25 to read as follows:

S 25. FUNDING OF MANDATES. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT SHALL OTHERWISE REQUIRE:

(A) "MANDATE" MEANS:

(I) ANY STATE LAW, RULE OR REGULATION WHICH ESTABLISHES A NEW PROGRAM OR REQUIRES A HIGHER LEVEL OF SERVICE FOR AN EXISTING PROGRAM WHICH A MUNICIPAL CORPORATION IS REQUIRED TO PROVIDE; OR

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

(B) "UNFUNDED MANDATE" SHALL MEAN:

(I) ANY STATE LAW, RULE OR REGULATION WHICH ESTABLISHES A NEW PROGRAM OR REQUIRES A HIGHER LEVEL OF SERVICE FOR AN EXISTING PROGRAM WHICH A

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

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MUNICIPAL CORPORATION IS REQUIRED TO PROVIDE, AND WHICH RESULTS IN A NET ADDITIONAL COST TO SUCH 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 SUCH MUNICIPAL CORPORATION; OR

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

(C) "NET ADDITIONAL COST" MEANS THE INCREASED COST OR COSTS INCURRED OR ANTICIPATED TO BE INCURRED WITHIN A ONE YEAR PERIOD BY A MUNICIPAL CORPORATION IN PERFORMING OR ADMINISTERING A MANDATE AFTER SUBTRACTING THEREFROM ANY REVENUES RECEIVED OR RECEIVABLE BY SUCH MUNICIPAL CORPORATION 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 TO THE CONTRARY, NO UNFUNDED MANDATE SHALL BE ENACTED WHICH CREATES AN INCREASED ANNUAL NET ADDITIONAL COST TO ANY MUNICIPAL CORPORATION. EACH MANDATE WHICH IMPOSES A NET ADDITIONAL COST UPON A MUNICIPAL CORPORATION SHALL PROVIDE FOR COMPENSATION OR FUNDING BY THE STATE OF THE FULL AMOUNT OF THE NET ADDITIONAL COST THEREOF. IN THE EVENT SUCH COMPENSATION OR FUNDING IS NOT PROVIDED, THE MANDATE SHALL BE VOID.

3. EXEMPTIONS TO THE FUNDING OF MUNICIPAL CORPORATION MANDATES REQUIREMENT. (A) THE STATE SHALL NOT BE REQUIRED TO FUND ANY MANDATE 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 ENACTMENT OF LEGISLATION REQUESTED BY THE MUNICIPAL CORPORATION IN A HOME RULE MESSAGE REQUESTING AUTHORITY TO IMPLEMENT THE PROGRAM OR SERVICE SPECIFIED IN THE STATUTE, AND THE STATUTE IMPOSES COSTS ONLY UPON THAT MUNICIPAL CORPORATION WHICH REQUESTS THE AUTHORITY TO IMPLEMENT 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) EVERY STATUTE, RULE OR REGULATION 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 BE CONSISTENT WITH THE AVAILABILITY OF REQUIRED FUNDS.

S 2. The education law is amended by adding a new section 1527-a to read as follows:

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

(A) "MANDATE" MEANS:

(I) ANY STATE LAW, RULE OR REGULATION WHICH ESTABLISHES A NEW PROGRAM OR REQUIRES A HIGHER LEVEL OF SERVICE FOR AN EXISTING PROGRAM WHICH A SCHOOL DISTRICT IS REQUIRED TO PROVIDE; OR

(II) ANY PROVISION OF GENERAL LAW WHICH GRANTS A NEW PROPERTY TAX EXEMPTION OR ABATEMENT OR INCREASES AN EXISTING PROPERTY TAX EXEMPTION OR ABATEMENT WHICH A SCHOOL DISTRICT IS REQUIRED TO PROVIDE.

(B) "UNFUNDED MANDATE" SHALL MEAN:

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

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

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

(C) "NET ADDITIONAL COST" MEANS THE INCREASED COST OR COSTS INCURRED OR ANTICIPATED TO BE INCURRED WITHIN A ONE YEAR PERIOD BY A SCHOOL DISTRICT IN PERFORMING OR ADMINISTERING A MANDATE AFTER SUBTRACTING THEREFROM ANY REVENUES RECEIVED OR RECEIVABLE BY SUCH SCHOOL DISTRICT 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 SCHOOL DISTRICT MANDATES. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NO UNFUNDED MANDATE SHALL BE ENACTED WHICH CREATES A NET ADDITIONAL COST TO ANY SCHOOL DISTRICT. EACH MANDATE WHICH IMPOSES A NET ADDITIONAL COST UPON A SCHOOL DISTRICT SHALL PROVIDE FOR COMPENSATION OR FUNDING BY THE STATE OF THE FULL AMOUNT OF THE NET ADDITIONAL COSTS THEREOF. IN THE EVENT SUCH COMPENSATION OR FUNDING IS NOT PROVIDED, THE MANDATE SHALL BE VOID.

3. EXEMPTIONS TO THE FUNDING OF SCHOOL DISTRICT MANDATES REQUIREMENT. (A) THE STATE SHALL NOT BE REQUIRED TO FUND ANY MANDATE FOR SCHOOL DISTRICTS IF:

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

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

(III) THE MANDATE RESULTS FROM THE ENACTMENT OF LEGISLATION REQUESTED BY THE SCHOOL DISTRICT IN A HOME RULE MESSAGE REQUESTING AUTHORITY TO IMPLEMENT THE PROGRAM OR SERVICE SPECIFIED IN THE STATUTE, AND THE STATUTE IMPOSES COSTS ONLY UPON THAT SCHOOL DISTRICT WHICH REQUESTS THE AUTHORITY TO IMPLEMENT 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) EVERY STATUTE, RULE OR REGULATION 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 BE CONSISTENT WITH THE AVAILABILITY OF REQUIRED FUNDS.

S 3. Paragraph b of subdivision 2 and subdivision 7 of section 666 of the executive law, as amended by section 1 of part B of chapter 68 of the laws of 2013, are amended to read as follows:

b. The council shall meet regularly upon the call of its chair and as frequently as its business may require; PROVIDED THAT THE CHAIR SHALL CALL A MEETING OF THE COUNCILS AT LEAST ONCE EACH CALENDAR YEAR. The members of the council shall serve without compensation but shall receive reimbursement for their reasonable and necessary expenses.

7. Reports. The council shall [by] ANNUALLY, ON OR BEFORE December fifteenth [of each year], SUBMIT A report, to the governor [and legislature regarding], TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEMBLY, MINORITY LEADER OF THE SENATE, MINORITY LEADER OF THE ASSEMBLY, CHAIR OF THE SENATE FINANCE COMMITTEE, AND CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE, ON its activities, and [regarding] the issues, statutes, regulations, rules and orders which it HAS reviewed, examined, proposed, referred[,] and/or considered, AND SPECIFY THE ACTIONS THE COUNCIL HAS TAKEN THEREON. Such reports, which shall be adopted upon a majority vote of the members of the council, or their designees in the case of the director of the division of the budget or the secretary of state. All reports of the council shall be posted on a publicly accessible website.

S 4. This act shall take effect immediately and sections one and two of this act shall apply to mandates enacted on or after such effective date; and provided, further, that the amendments to section 666 of the executive law, made by section three of this act, shall not affect the expiration and repeal of such section, and shall expire and be deemed repealed therewith.