

4094

2013-2014 Regular Sessions

I N   S E N A T E

March 8, 2013

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Introduced by Sen. O'BRIEN -- 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:

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

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

LBD06622-01-3

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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