

4861

2013-2014 Regular Sessions

I N A S S E M B L Y

February 11, 2013

Introduced by M. of A. BRINDISI -- read once and referred to the Committee on Local Governments

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:

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

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

6 (A) "MANDATE" MEANS:

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

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

13 (B) "UNFUNDED MANDATE" SHALL MEAN:

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

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

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

LBD05844-01-3

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

6 (C) "NET ADDITIONAL COST" MEANS THE INCREASED COST OR COSTS INCURRED  
7 OR ANTICIPATED TO BE INCURRED WITHIN A ONE YEAR PERIOD BY A MUNICIPAL  
8 CORPORATION IN PERFORMING OR ADMINISTERING A MANDATE AFTER SUBTRACTING  
9 THEREFROM ANY REVENUES RECEIVED OR RECEIVABLE BY SUCH MUNICIPAL CORPO-  
10 RATION ON ACCOUNT OF THE MANDATED PROGRAM OR SERVICE, INCLUDING BUT NOT  
11 LIMITED TO:

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

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

15 (III) AN OFFSETTING SAVINGS RESULTING FROM THE DIMINUTION OR ELIMI-  
16 NATION OF ANY OTHER PROGRAM OR SERVICE DIRECTLY ATTRIBUTABLE TO THE  
17 PERFORMANCE OR ADMINISTRATION OF THE MANDATED PROGRAM.

18 2. FUNDING OF MUNICIPAL CORPORATION MANDATES. NOTWITHSTANDING ANY  
19 OTHER PROVISION OF LAW TO THE CONTRARY, NO UNFUNDED MANDATE SHALL BE  
20 ENACTED WHICH CREATES AN INCREASED ANNUAL NET ADDITIONAL COST TO ANY  
21 MUNICIPAL CORPORATION. EACH MANDATE WHICH IMPOSES A NET ADDITIONAL COST  
22 UPON A MUNICIPAL CORPORATION SHALL PROVIDE FOR COMPENSATION OR FUNDING  
23 BY THE STATE OF THE FULL AMOUNT OF THE NET ADDITIONAL COST THEREOF. IN  
24 THE EVENT SUCH COMPENSATION OR FUNDING IS NOT PROVIDED, THE MANDATE  
25 SHALL BE VOID.

26 3. EXEMPTIONS TO THE FUNDING OF MUNICIPAL CORPORATION MANDATES  
27 REQUIREMENT. (A) THE STATE SHALL NOT BE REQUIRED TO FUND ANY MANDATE IF:

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

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

32 (III) THE MANDATE RESULTS FROM THE ENACTMENT OF LEGISLATION REQUESTED  
33 BY THE MUNICIPAL CORPORATION IN A HOME RULE MESSAGE REQUESTING AUTHORITY  
34 TO IMPLEMENT THE PROGRAM OR SERVICE SPECIFIED IN THE STATUTE, AND THE  
35 STATUTE IMPOSES COSTS ONLY UPON THAT MUNICIPAL CORPORATION WHICH  
36 REQUESTS THE AUTHORITY TO IMPLEMENT THE PROGRAM OR SERVICE;

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

39 (V) THE MANDATE IS REQUIRED BY STATUTE OR EXECUTIVE ORDER THAT IMPLE-  
40 MENTS A FEDERAL LAW OR REGULATION AND RESULTS FROM COSTS MANDATED BY THE  
41 FEDERAL GOVERNMENT TO BE BORNE AT THE LOCAL LEVEL, UNLESS THE STATUTE OR  
42 EXECUTIVE ORDER RESULTS IN COSTS WHICH EXCEED THE COSTS MANDATED BY THE  
43 FEDERAL GOVERNMENT.

44 (B) EVERY STATUTE, RULE OR REGULATION ESTABLISHING A MANDATE SHALL  
45 PROVIDE THAT THE EFFECTIVE DATE OF ANY SUCH MANDATE IMPOSED ON MUNICIPAL  
46 CORPORATIONS SHALL BE CONSISTENT WITH THE NEEDS OF THE STATE AND MUNICI-  
47 PAL CORPORATIONS TO PLAN IMPLEMENTATION THEREOF AND BE CONSISTENT WITH  
48 THE AVAILABILITY OF REQUIRED FUNDS.

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

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

54 (A) "MANDATE" MEANS:

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

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

7 (B) "UNFUNDED MANDATE" SHALL MEAN:

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

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

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

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

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

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

29 (III) AN OFFSETTING SAVINGS RESULTING FROM THE DIMINUTION OR ELIMI-  
30 NATION OF ANY OTHER PROGRAM OR SERVICE DIRECTLY ATTRIBUTABLE TO THE  
31 PERFORMANCE OR ADMINISTRATION OF THE MANDATED PROGRAM.

32 2. FUNDING OF SCHOOL DISTRICT MANDATES. NOTWITHSTANDING ANY OTHER  
33 PROVISION OF LAW TO THE CONTRARY, NO UNFUNDED MANDATE SHALL BE ENACTED  
34 WHICH CREATES A NET ADDITIONAL COST TO ANY SCHOOL DISTRICT. EACH  
35 MANDATE WHICH IMPOSES A NET ADDITIONAL COST UPON A SCHOOL DISTRICT SHALL  
36 PROVIDE FOR COMPENSATION OR FUNDING BY THE STATE OF THE FULL AMOUNT OF  
37 THE NET ADDITIONAL COSTS THEREOF. IN THE EVENT SUCH COMPENSATION OR  
38 FUNDING IS NOT PROVIDED, THE MANDATE SHALL BE VOID.

39 3. EXEMPTIONS TO THE FUNDING OF SCHOOL DISTRICT MANDATES REQUIREMENT.

40 (A) THE STATE SHALL NOT BE REQUIRED TO FUND ANY MANDATE FOR SCHOOL  
41 DISTRICTS IF:

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

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

46 (III) THE MANDATE RESULTS FROM THE ENACTMENT OF LEGISLATION REQUESTED  
47 BY THE SCHOOL DISTRICT IN A HOME RULE MESSAGE REQUESTING AUTHORITY TO  
48 IMPLEMENT THE PROGRAM OR SERVICE SPECIFIED IN THE STATUTE, AND THE STAT-  
49 UTE IMPOSES COSTS ONLY UPON THAT SCHOOL DISTRICT WHICH REQUESTS THE  
50 AUTHORITY TO IMPLEMENT THE PROGRAM OR SERVICE;

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

53 (V) THE MANDATE IS REQUIRED BY STATUTE OR EXECUTIVE ORDER THAT IMPLE-  
54 MENTS A FEDERAL LAW OR REGULATION AND RESULTS FROM COSTS MANDATED BY THE  
55 FEDERAL GOVERNMENT TO BE BORNE AT THE LOCAL LEVEL, UNLESS THE STATUTE OR

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

3 (B) EVERY STATUTE, RULE OR REGULATION ESTABLISHING A MANDATE SHALL  
4 PROVIDE THAT THE EFFECTIVE DATE OF ANY SUCH MANDATE IMPOSED ON SCHOOL  
5 DISTRICTS SHALL BE CONSISTENT WITH THE NEEDS OF THE STATE AND SCHOOL  
6 DISTRICTS TO PLAN IMPLEMENTATION THEREOF, AND BE CONSISTENT WITH THE  
7 AVAILABILITY OF REQUIRED FUNDS.

8 S 3. Paragraph b of subdivision 2 and subdivision 7 of section 666 of  
9 the executive law, as added by section 2 of subpart H of part C of chap-  
10 ter 97 of the laws of 2011, are amended to read as follows:

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

16 7. Reports. The council shall [by] ANNUALLY, ON OR BEFORE December  
17 fifteenth [of each year], SUBMIT A report, to the governor [and legisla-  
18 ture regarding], TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE  
19 ASSEMBLY, MINORITY LEADER OF THE SENATE, MINORITY LEADER OF THE ASSEM-  
20 BLY, CHAIR OF THE SENATE FINANCE COMMITTEE, AND CHAIR OF THE ASSEMBLY  
21 WAYS AND MEANS COMMITTEE, ON its activities, and [regarding] the issues,  
22 statutes, regulations, rules and orders which it HAS reviewed, examined,  
23 proposed, referred[,] and/or considered, AND SPECIFY THE ACTIONS THE  
24 COUNCIL HAS TAKEN THEREON. Such reports, which shall be adopted upon a  
25 majority vote of the members of the council, or their designees in the  
26 case of the director of the division of the budget or the secretary of  
27 state. All reports of the council shall be posted on a publicly accessi-  
28 ble website.

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