

7776--A

2013-2014 Regular Sessions

I N A S S E M B L Y

June 4, 2013

Introduced by M. of A. WALTER, CORWIN, DUPREY, GRAF, STEC, RAIA, FINCH, NOJAY, LUPINACCI, GUNTHER -- Multi-Sponsored by -- M. of A. BARCLAY, HAWLEY, McDONALD -- 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 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:

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

LBD03729-04-3

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

4 (II) ANY GENERAL LAW WHICH GRANTS A NEW PROPERTY TAX EXEMPTION OR
5 INCREASES AN EXISTING PROPERTY TAX EXEMPTION WHICH THE MUNICIPAL CORPO-
6 RATION IS REQUIRED TO PROVIDE.

7 (B) "UNFUNDED MANDATE" SHALL MEAN:

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

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

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

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

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

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

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

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

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

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

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

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

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

48 (V) THE MANDATE IS REQUIRED BY STATUTE OR EXECUTIVE ORDER THAT IMPLE-
49 MENTS A FEDERAL LAW OR REGULATION AND RESULTS FROM COSTS MANDATED BY THE
50 FEDERAL GOVERNMENT TO BE BORNE AT THE LOCAL LEVEL, UNLESS THE STATUTE OR
51 EXECUTIVE ORDER RESULTS IN COSTS WHICH EXCEED THE COSTS MANDATED BY THE
52 FEDERAL GOVERNMENT.

53 (B) EACH ACT ESTABLISHING A MANDATE SHALL PROVIDE THAT THE EFFECTIVE
54 DATE OF ANY SUCH MANDATE IMPOSED ON MUNICIPAL CORPORATIONS SHALL BE
55 CONSISTENT WITH THE NEEDS OF THE STATE AND MUNICIPAL CORPORATIONS TO

1 PLAN IMPLEMENTATION THEREOF AND CONSISTENT WITH THE AVAILABILITY OF
2 REQUIRED FUNDS.

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

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

8 (A) "MANDATE" MEANS:

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

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

16 (B) "UNFUNDED MANDATE" SHALL MEAN:

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

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

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

29 (C) "NET ADDITIONAL COST" MEANS THE COST OR COSTS INCURRED OR ANTIC-
30 IPATED TO BE INCURRED WITHIN A ONE YEAR PERIOD BY A SCHOOL DISTRICT IN
31 PERFORMING OR ADMINISTERING A MANDATE AFTER SUBTRACTING THEREFROM ANY
32 REVENUES RECEIVED OR RECEIVABLE BY THE SCHOOL DISTRICT ON ACCOUNT OF THE
33 MANDATED PROGRAM OR SERVICE, INCLUDING BUT NOT LIMITED TO:

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

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

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

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

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

44 (A) THE STATE SHALL NOT BE REQUIRED TO FUND ANY NEW OR EXPANDED PROGRAMS
45 FOR SCHOOL DISTRICTS IF:

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

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

50 (III) THE MANDATE RESULTS FROM THE PASSAGE OF A HOME RULE MESSAGE
51 WHEREBY A SCHOOL DISTRICT REQUESTS AUTHORITY TO IMPLEMENT THE PROGRAM OR
52 SERVICE SPECIFIED IN THE STATUTE, AND THE STATUTE IMPOSES COSTS ONLY
53 UPON THAT SCHOOL DISTRICT WHICH REQUESTS THE AUTHORITY TO IMPOSE THE
54 PROGRAM OR SERVICE;

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

1 (V) THE MANDATE IS REQUIRED BY STATUTE OR EXECUTIVE ORDER THAT IMPL-
2 MENTS A FEDERAL LAW OR REGULATION AND RESULTS FROM COSTS MANDATED BY THE
3 FEDERAL GOVERNMENT TO BE BORNE AT THE LOCAL LEVEL, UNLESS THE STATUTE OR
4 EXECUTIVE ORDER RESULTS IN COSTS WHICH EXCEED THE COSTS MANDATED BY THE
5 FEDERAL GOVERNMENT.

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

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

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

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

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

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

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

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

31 (C) THE MANDATE IS REQUIRED BY STATUTE OR EXECUTIVE ORDER THAT IMPL-
32 MENTS A FEDERAL LAW OR REGULATION AND RESULTS FROM COSTS MANDATED BY THE
33 FEDERAL GOVERNMENT TO BE BORNE AT THE LOCAL LEVEL, UNLESS THE STATUTE OR
34 EXECUTIVE ORDER IMPOSES COSTS WHICH EXCEED THE COSTS MANDATED BY THE
35 FEDERAL GOVERNMENT.

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

37 1. sections one through three of this act shall be deemed to have been
38 in full force and effect on and after April 1, 2014 and shall apply to
39 any general or special law imposing mandates on municipal corporations
40 or school districts enacted on or after such effective date; and

41 2. the commissioner of education shall adopt any regulations needed to
42 implement the provisions of this act on or before July 1, 2015.