

5535

2013-2014 Regular Sessions

I N   S E N A T E

May 16, 2013

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Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the legislative law, the executive law and the state administrative procedure act, in relation to unfunded mandate review

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

1     Section 1. Short title. This act shall be known and may be cited as  
2     the "unfunded mandate review act".

3     S 2. Section 51 of the legislative law, as added by chapter 985 of the  
4     laws of 1983, is amended to read as follows:

5     S 51. Fiscal impact notes on bills affecting political subdivisions.  
6     1. For the purpose of this section, the term "political subdivision"  
7     means THE STATE, OR ANY DIVISION, AGENCY OR BODY OF THE STATE; OR any  
8     county, city, town, village, special district or school district.

9     2. [The legislature shall by concurrent resolution of the senate and  
10    assembly prescribe rules requiring fiscal notes to accompany, on a sepa-  
11    rate form, bills and amendments to bills, except as otherwise prescribed  
12    by such rules, which would substantially affect the revenues or  
13    expenses, or both, of any political subdivision] WHENEVER A COMMITTEE OF  
14    EITHER HOUSE REPORTS A BILL THAT INCLUDES AN UNFUNDED MANDATE AFFECTING  
15    A POLITICAL SUBDIVISION, THE BILL SHALL BE ACCOMPANIED BY:

16    (A) AN IDENTIFICATION AND DESCRIPTION OF ANY MANDATE IN THE BILL  
17    ANTICIPATED TO HAVE A DIRECT OR INDIRECT COST, A QUALITATIVE, AND IF  
18    PRACTICABLE, A QUANTITATIVE ASSESSMENT OF THE COSTS AND BENEFITS OF THE  
19    MANDATE; AND

20    (B) A FISCAL IMPACT NOTE PROVIDED BY THE COMPTROLLER. FISCAL NOTE  
21    ESTIMATES SHALL INCLUDE TOTAL COST OF COMPLYING WITH THE BILL AND FUTURE  
22    PROJECTED COSTS. IF THE COMPTROLLER DETERMINES THAT AN ESTIMATE IS NOT  
23    FEASIBLE TO MAKE, THE COMPTROLLER SHALL REPORT REASONS FOR DETERMINING  
24    AN ESTIMATE CANNOT BE MADE.

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

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1 3. Fiscal notes shall not, however, be required for bills: (a) subject  
2 to the provisions of section fifty of this chapter, or (b) accompanied  
3 by special home rule requests submitted by political subdivisions, or  
4 (c) which provide discretionary authority to political subdivisions, or  
5 (d) submitted pursuant to section twenty-four of the state finance law.

6 4. If the estimate or estimates contained in a fiscal note are inaccu-  
7 rate, such inaccuracies shall not affect, impair or invalidate such  
8 bill.

9 5. EXCEPT AS PROVIDED IN SUBDIVISIONS THREE AND FOUR OF THIS SECTION,  
10 THE LEGISLATURE SHALL NOT CONSIDER A BILL INCLUDING AN UNFUNDED MANDATE  
11 AFFECTING A POLITICAL SUBDIVISION IF IT IS NOT ACCOMPANIED BY A  
12 DESCRIPTION AND FISCAL IMPACT NOTE AS PROVIDED IN SUBDIVISION TWO OF  
13 THIS SECTION.

14 S 3. The executive law is amended by adding a new section 50-a to read  
15 as follows:

16 S 50-A. REVIEW OF LEGISLATION AFFECTING POLITICAL SUBDIVISIONS. 1.  
17 FISCAL IMPACT NOTES ON BILLS AFFECTING POLITICAL SUBDIVISIONS. UPON THE  
18 REQUEST OF A LEGISLATIVE COMMITTEE CHAIRMAN OR THE MINORITY RANKING  
19 MEMBER, THE COMPTROLLER SHALL PROVIDE A FISCAL IMPACT NOTE FOR ANY BILL  
20 THAT INCLUDES AN UNFUNDED MANDATE AFFECTING A POLITICAL SUBDIVISION.  
21 FISCAL NOTE ESTIMATES SHALL INCLUDE TOTAL COST OF COMPLYING WITH THE  
22 BILL AND FUTURE PROJECTED COSTS. IF THE COMPTROLLER DETERMINES THAT AN  
23 ESTIMATE IS NOT FEASIBLE TO MAKE, THE COMPTROLLER SHALL REPORT THE  
24 REASONS FOR DETERMINING AN ESTIMATE CANNOT BE MADE.

25 2. CONTINUING MANDATE STUDY. THE COMPTROLLER SHALL CONDUCT A STUDY OF  
26 LEGISLATIVE PROPOSALS CONTAINING AN UNFUNDED MANDATE UPON A POLITICAL  
27 SUBDIVISION. IN CONDUCTING THIS CONTINUING STUDY, THE COMPTROLLER SHALL  
28 SOLICIT AND CONSIDER INFORMATION OR COMMENTS FROM ELECTED OFFICIALS,  
29 ADVISORY PANELS AND STAKEHOLDERS. TO THE EXTENT ACCURATE ESTIMATES ARE  
30 REASONABLY FEASIBLE, THE ESTIMATES SHALL INCLUDE FUTURE COSTS TO THE  
31 EXTENT THAT SUCH DIFFER SIGNIFICANTLY FROM OR EXTEND BEYOND FIVE YEARS.

32 3. COST OF REGULATIONS. THE COMPTROLLER SHALL PREPARE A COMPARISON  
33 BETWEEN THE ESTIMATED COSTS OF IMPLEMENTING A REGULATION PROVIDED BY THE  
34 RELEVANT AGENCY AND THE ADMINISTRATIVE REGULATION REVIEW COMMISSION, AND  
35 PROVIDE THE COMPARISON TO THE LEGISLATIVE COMMITTEE CHAIRMAN AND THE  
36 RANKING MINORITY MEMBER OF THE COMMITTEE FROM WHICH THE REQUEST PURSUANT  
37 TO SECTION TWO HUNDRED EIGHT OF THE STATE ADMINISTRATIVE PROCEDURE ACT  
38 ORIGINATED.

39 S 4. The state administrative procedure act is amended by adding a new  
40 section 208 to read as follows:

41 S 208. UNFUNDED MANDATE REVIEW. 1. THERE IS HEREBY ESTABLISHED AN  
42 ADMINISTRATIVE REGULATION REVIEW COMMISSION. IT SHALL BE THE DUTY OF THE  
43 COMMISSION, UPON THE REQUEST OF A LEGISLATIVE COMMITTEE CHAIRMAN OR THE  
44 RANKING MINORITY MEMBER, TO PROVIDE AN ESTIMATED COST OF ANY PROPOSED  
45 REGULATION, AND TO PROVIDE SUCH ESTIMATE TO THE COMPTROLLER FOR HIS OR  
46 HER REVIEW PURSUANT TO SUBDIVISION TWO OF SECTION FIFTY-A OF THE EXECU-  
47 TIVE LAW.

48 2. IT SHALL BE THE DUTY OF THE ADMINISTRATIVE REGULATION REVIEW  
49 COMMISSION TO EXAMINE ALL UNFUNDED MANDATES IMPOSED UPON ANY POLITICAL  
50 SUBDIVISION AND REPORT RECOMMENDATIONS BIENNIALY TO THE LEGISLATURE  
51 REGARDING:

52 (A) WAYS TO ALLOW FLEXIBILITY IN COMPLYING WITH SPECIFIC MANDATES  
53 WHICH MAY BE UNNECESSARILY RIGID OR COMPLEX;

54 (B) RECONCILING ANY TWO OR MORE MANDATES WHICH IMPOSE CONTRADICTORY OR  
55 INCONSISTENT REQUIREMENTS;

1 (C) TERMINATING ANY DUPLICATIVE, OBSOLETE, IMPRACTICAL OR UNNECESSARY  
2 MANDATES;

3 (D) SUSPENDING ON A TEMPORARY BASIS THE MANDATES WHICH ARE NOT VITAL  
4 TO PUBLIC HEALTH AND SAFETY;

5 (E) CONSOLIDATING OR SIMPLIFYING MANDATES; AND

6 (F) MITIGATING NEGATIVE IMPACTS THAT MAY RESULT FROM RELIEVING A POLI-  
7 TICAL SUBDIVISION.

8 IN ISSUING THIS REPORT, THE COMMISSION SHALL CONSULT WITH THE GOVER-  
9 NOR, STATE AGENCIES, LEGISLATURE, ANY RELEVANT ADVISORY GROUPS AND  
10 STAKEHOLDER GROUPS.

11 S 5. This act shall take effect on the ninetieth day after it shall  
12 have become a law.