

6160

2015-2016 Regular Sessions

I N   A S S E M B L Y

March 16, 2015

---

Introduced by M. of A. MURRAY, OAKS, BARCLAY, CORWIN, GIGLIO, MONTESANO, THIELE, CERETTO, LOPEZ, CROUCH, GRAF, DUPREY, KOLB, PALMESANO, BLANK-ENBUSH, KATZ, McDONOUGH, McLAUGHLIN -- read once and referred to the Committee on Local Governments

AN ACT to amend the legislative law, in relation to unfunded mandates on local governments and school districts; and to amend section 3 of subpart H of part C of chapter 97 of the laws of 2011 amending the state administrative procedure act and other laws relating to alternate methods for implementing regulatory mandates, in relation to the effectiveness thereof

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

1     Section 1. The legislative law is amended by adding a new section 51-a  
2     to read as follows:  
3     S 51-A. MORATORIUM ON UNFUNDED MANDATES. 1. DEFINITIONS. AS USED IN  
4     THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:  
5     (A) "LOCAL GOVERNMENT" MEANS A COUNTY, CITY, TOWN, VILLAGE, SCHOOL  
6     DISTRICT, OR SPECIAL DISTRICT.  
7     (B) "NET ADDITIONAL COST" MEANS THE COST OR COSTS INCURRED OR ANTIC-  
8     IPATED TO BE INCURRED WITHIN A ONE YEAR PERIOD BY A LOCAL GOVERNMENT IN  
9     PERFORMING OR ADMINISTERING ANY PROGRAM, PROJECT, OR ACTIVITY AFTER  
10    SUBTRACTING THEREFROM ANY REVENUES RECEIVED OR RECEIVABLE BY SUCH LOCAL  
11    GOVERNMENT IN RELATION TO SUCH PROGRAM, PROJECT, OR ACTIVITY, INCLUDING  
12    BUT NOT LIMITED TO:  
13    (I) FEES CHARGED TO THE RECIPIENTS OF SUCH PROGRAM, PROJECT, OR ACTIV-  
14    ITY;  
15    (II) STATE OR FEDERAL FUNDS RECEIVED FOR SUCH PROGRAM, PROJECT, OR  
16    ACTIVITY; AND  
17    (III) AN OFFSETTING SAVINGS RESULTING FROM THE DIMINUTION OR ELIMI-  
18    NATION OF ANY OTHER PROGRAM, PROJECT, OR ACTIVITY THAT STATE LAW  
19    REQUIRES SUCH LOCAL GOVERNMENT TO PROVIDE OR UNDERTAKE.

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

LBD06358-02-5

(C) "UNFUNDED MANDATE" MEANS:

(I) ANY STATE LAW THAT REQUIRES A LOCAL GOVERNMENT TO PROVIDE OR UNDERTAKE ANY NEW PROGRAM, PROJECT OR ACTIVITY THAT RESULTS IN AN ANNUAL NET ADDITIONAL COST TO ANY LOCAL GOVERNMENT IN EXCESS OF TEN THOUSAND DOLLARS OR AN AGGREGATE ANNUAL NET ADDITIONAL COST TO ALL LOCAL GOVERNMENTS WITHIN THE STATE IN EXCESS OF ONE MILLION DOLLARS; OR

(II) ANY STATE LAW THAT REQUIRES A LOCAL GOVERNMENT TO PROVIDE A HIGHER LEVEL OF SERVICE OR FUNDING FOR AN EXISTING PROGRAM, PROJECT OR ACTIVITY THAT RESULTS IN AN ANNUAL NET ADDITIONAL COST TO ANY LOCAL GOVERNMENT IN EXCESS OF TEN THOUSAND DOLLARS OR AN AGGREGATE ANNUAL NET ADDITIONAL COST TO ALL LOCAL GOVERNMENTS WITHIN THE STATE IN EXCESS OF ONE MILLION DOLLARS; OR

(III) ANY STATE LAW THAT REQUIRES A LOCAL GOVERNMENT TO GRANT ANY NEW PROPERTY TAX EXEMPTION OR THAT BROADENS THE ELIGIBILITY OR INCREASES THE DOLLAR AMOUNT OF ANY EXISTING PROPERTY TAX EXEMPTION, ON PROPERTY THAT OTHERWISE WOULD HAVE GENERATED REVENUE UNDER THE CURRENT PROPERTY TAX RATE OF SUCH LOCAL GOVERNMENT IN EXCESS OF TEN THOUSAND DOLLARS IN ANY LOCAL GOVERNMENT OR IN EXCESS OF ONE MILLION DOLLARS STATEWIDE; OR

(IV) ANY STATE LAW WITH A LEGAL REQUIREMENT THAT WOULD OTHERWISE LIKELY HAVE THE EFFECT OF RAISING PROPERTY TAXES IN EXCESS OF TEN THOUSAND DOLLARS IN ANY LOCAL GOVERNMENT OR IN EXCESS OF ONE MILLION DOLLARS STATEWIDE.

2. MORATORIUM ON UNFUNDED MANDATES. FOR A THREE YEAR PERIOD BEGINNING WITH THE ENACTMENT OF THIS SECTION, NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO UNFUNDED MANDATES SHALL BE ENACTED.

3. EXEMPTIONS. (A) A STATE LAW SHALL NOT BE CONSIDERED AN UNFUNDED MANDATE WHERE SUCH LAW:

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

(II) IS PROVIDED AT THE OPTION OF THE LOCAL GOVERNMENT UNDER A LAW THAT IS PERMISSIVE RATHER THAN MANDATORY; OR

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

(IV) 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; OR

(V) IS IMPOSED ON BOTH GOVERNMENT AND NON-GOVERNMENT ENTITIES IN THE SAME OR SUBSTANTIALLY SIMILAR CIRCUMSTANCES; OR

(VI) REPEALS OR REVISES A STATE LAW TO EASE AN EXISTING REQUIREMENT THAT A LOCAL GOVERNMENT PROVIDE OR UNDERTAKE A PROGRAM, PROJECT, OR ACTIVITY, OR REAPPORTIONS THE COSTS OF ACTIVITIES BETWEEN LOCAL GOVERNMENTS; OR

(VII) IS NECESSARY TO PROTECT AGAINST AN IMMEDIATE THREAT TO PUBLIC HEALTH OR SAFETY.

(B) THE EFFECTIVE DATE OF ANY ACT ESTABLISHING A MANDATE SHALL PROVIDE A REASONABLE TIME FOR THE STATE AND ANY LOCAL GOVERNMENT TO PLAN IMPLEMENTATION THEREOF AND SHALL BE CONSISTENT WITH THE AVAILABILITY OF REQUIRED FUNDS.

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

S 51. Fiscal impact notes on bills affecting political subdivisions.

1. For the purpose of this section, the term "political subdivision"

1 means any county, city, town, village, special district or school  
2 district.

3 2. [The legislature shall by concurrent resolution of the senate and  
4 assembly prescribe rules requiring fiscal notes to accompany, on a sepa-  
5 rate form, bills and amendments to bills, except as otherwise prescribed  
6 by such rules, which] A BILL THAT would [substantially] affect the  
7 revenues or expenses, or both, of any political subdivision SHALL  
8 CONTAIN A DETAILED FISCAL IMPACT NOTE STATING THE ESTIMATED ANNUAL COST  
9 TO THE POLITICAL SUBDIVISION AFFECTED AND THE SOURCE OF SUCH ESTIMATE.  
10 THE FISCAL IMPACT NOTE MUST CLEARLY IDENTIFY THE FUNDING SOURCE OF SUCH  
11 ANNUAL COST TO THE POLITICAL SUBDIVISION. AN OMISSION OF SUCH FUNDING  
12 SOURCE IN THE FISCAL IMPACT NOTE, SHALL INVALIDATE SUCH BILL.

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

18 4. If the estimate or estimates contained in a fiscal IMPACT note are  
19 inaccurate AND RESULT IN AN ANNUAL NET ADDITIONAL COST TO ANY POLITICAL  
20 SUBDIVISION IN EXCESS OF TEN THOUSAND DOLLARS OR AN AGGREGATE ANNUAL NET  
21 ADDITIONAL COST TO ALL POLITICAL SUBDIVISIONS WITHIN THE STATE IN EXCESS  
22 OF ONE MILLION DOLLARS, such inaccuracies shall [not affect, impair or]  
23 invalidate such bill.

24 S 3. Section 3 of subpart H of part C of chapter 97 of the laws of  
25 2011, amending the state administrative procedure act and other laws  
26 relating to alternate methods for implementing regulatory mandates, is  
27 amended to read as follows:

28 S 3. This act shall take effect immediately; provided, however, that  
29 section one of this act shall take effect on the thirtieth day after it  
30 shall have become a law and shall expire January 1, 2015 or upon the  
31 departure from office of the fifty-sixth governor whichever comes first,  
32 provided however that section two of this act shall take effect January  
33 15, 2012 and shall expire January 1, [2015 or upon the departure from  
34 office of the fifty-sixth governor whichever comes first] 2019.

35 S 4. The Mandate Relief Council, pursuant to section 666 of the execu-  
36 tive law, as added by chapter 97 of the laws of 2011, shall review  
37 existing mandates on local governments to determine which shall be elim-  
38 inated.

39 S 5. This act shall take effect immediately, provided, however, that  
40 section one of this act shall only apply to laws enacted after such  
41 effective date.