S T A T E  O F  N E W  Y O R K

4497

2015-2016 Regular Sessions

I N  S E N A T E

March 25, 2015

Introduced by Sen. CROCI -- 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 and the executive law, in relation to establishing a moratorium on unfunded mandates and establishing mandate relief councils; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. The legislative law is amended by adding a new section 51-a to read as follows:

S 51-A. MORATORIUM ON UNFUNDED MANDATES. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "LOCAL GOVERNMENT" MEANS A COUNTY, CITY, TOWN, VILLAGE, SCHOOL DISTRICT, OR SPECIAL DISTRICT.

(B) "NET ADDITIONAL COST" MEANS THE COST OR COSTS INCURRED OR ANTICIPATED TO BE INCURRED WITHIN A ONE YEAR PERIOD BY A LOCAL GOVERNMENT IN PERFORMING OR ADMINISTERING ANY PROGRAM, PROJECT, OR ACTIVITY AFTER SUBTRACTING THEREFROM ANY REVENUES RECEIVED OR RECEIVABLE BY SUCH LOCAL GOVERNMENT IN RELATION TO SUCH PROGRAM, PROJECT, OR ACTIVITY, INCLUDING BUT NOT LIMITED TO:

(I) FEES CHARGED TO THE RECIPIENTS OF SUCH PROGRAM, PROJECT, OR ACTIVITY;

(II) STATE OR FEDERAL FUNDS RECEIVED FOR SUCH PROGRAM, PROJECT, OR ACTIVITY; AND

(III) AN OFFSETTING SAVINGS RESULTING FROM THE DIMINUTION OR ELIMINATION OF ANY OTHER PROGRAM, PROJECT, OR ACTIVITY THAT STATE LAW REQUIRES SUCH LOCAL GOVERNMENT TO PROVIDE OR UNDERTAKE.

(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

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

LBD09278-03-5

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. The executive law is amended by adding a new article 43 to read as follows:

ARTICLE 43
REGIONAL MANDATE
RELIEF COUNCILS

SECTION 930. DEFINITIONS.
931. REGIONAL MANDATE RELIEF COUNCILS.

932. REGIONAL COUNCIL ACTIONS.
933. LOCAL GOVERNMENT REQUEST.
934. REPORTS.
935. ASSISTANCE OF OTHER AGENCIES.

S 930. DEFINITIONS. 1. "LOCAL GOVERNMENT" MEANS A COUNTY, CITY, TOWN, VILLAGE, SCHOOL DISTRICT, OR SPECIAL DISTRICT.

2. "NET ADDITIONAL COST" MEANS THE COST OR COSTS INCURRED OR ANTICIPATED TO BE INCURRED WITHIN A ONE YEAR PERIOD BY A LOCAL GOVERNMENT IN PERFORMING OR ADMINISTERING ANY PROGRAM, PROJECT, OR ACTIVITY AFTER SUBTRACTING THEREFROM ANY REVENUES RECEIVED OR RECEIVABLE BY SUCH LOCAL GOVERNMENT IN RELATION TO SUCH PROGRAM, PROJECT, OR ACTIVITY, INCLUDING BUT NOT LIMITED TO:

(A) FEES CHARGED TO THE RECIPIENTS OF SUCH PROGRAM, PROJECT, OR ACTIVITY;

(B) STATE OR FEDERAL FUNDS RECEIVED FOR SUCH PROGRAM, PROJECT, OR ACTIVITY; AND

(C) AN OFFSETTING SAVINGS RESULTING FROM THE DIMINUTION OR ELIMINATION OF ANY OTHER PROGRAM, PROJECT, OR ACTIVITY THAT STATE LAW REQUIRES SUCH LOCAL GOVERNMENT TO PROVIDE OR UNDERTAKE.

3. "REGIONAL MANDATE RELIEF COUNCIL" MEANS A COUNCIL FOR EACH OF THE FOLLOWING REGIONS:

(A) CAPITAL REGION MEANS THE COUNTIES OF ALBANY, COLUMBIA, GREENE, RENSSELAER, SARATOGA, SCHENECTADY, WARREN AND WASHINGTON;

(B) CENTRAL NEW YORK MEANS THE COUNTIES OF CAYUGA, CORTLAND, MADISON, ONONDAGA AND OSWEGO;

(C) FINGER LAKES MEANS THE COUNTIES OF GENESEE, LIVINGSTON, MONROE, ONTARIO, ORLEANS, SENECA, WAYNE, WYOMING AND YATES;

(D) LONG ISLAND MEANS THE COUNTIES OF NASSAU AND SUFFOLK;

(E) MID-HUDSON MEANS THE COUNTIES OF DUTCHESS, ORANGE, PUTNAM, ROCKLAND, SULLIVAN, ULSTER AND WESTCHESTER;

(F) MOHAWK VALLEY MEANS THE COUNTIES OF FULTON, HERKIMER, MONTGOMERY, ONEIDA, OTSEGO AND SCHOHARIE;

(G) NEW YORK CITY MEANS THE COUNTIES OF BRONX, KINGS, NEW YORK, RICHMOND AND QUEENS;

(H) NORTH COUNTRY MEANS THE COUNTIES OF CLINTON, ESSEX, FRANKLIN, HAMILTON, JEFFERSON, LEWIS AND ST. LAWRENCE;

(I) SOUTHERN TIER MEANS THE COUNTIES OF BROOME, CHEMUNG, CHENANGO, DELAWARE, SCHUYLER, STEUBEN, TIOGA AND TOMPKINS; AND

(J) WESTERN NEW YORK MEANS THE COUNTIES OF ALLEGANY, CATTARAUGUS, CHAUTAUQUA, ERIE AND NIAGARA.

4. "STATE AGENCY" OR "AGENCY" MEANS ANY STATE AGENCY, DEPARTMENT, OFFICE, BOARD, BUREAU, DIVISION, COMMITTEE, COUNCIL OR OFFICE UNDER THE DIRECTION OR CONTROL OF THE EXECUTIVE.

5. "UNFUNDED MANDATE" MEANS:

(A) 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

(B) 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

(C) 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

(D) 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.

S 931. REGIONAL MANDATE RELIEF COUNCILS. 1. THERE IS HEREBY CREATED WITHIN THE EXECUTIVE DEPARTMENT TEN REGIONAL MANDATE RELIEF COUNCILS, WHICH EACH SHALL BE COMPRISED OF MEMBERS APPOINTED AS FOLLOWS:

(A) ONE MEMBER TO BE APPOINTED BY THE GOVERNOR;

(B) ONE MEMBER TO BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE;

(C) ONE MEMBER TO BE APPOINTED BY THE MINORITY LEADER OF THE SENATE;

(D) ONE MEMBER TO BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY;

(E) ONE MEMBER TO BE APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY;

(F) ONE MEMBER TO BE APPOINTED BY THE CHIEF EXECUTIVE (COUNTY EXECUTIVE OR CHAIR OF THE COUNTY LEGISLATIVE BODY OR BOROUGH PRESIDENT) OF EVERY COUNTY IN THE REGION;

(G) ONE MEMBER TO BE APPOINTED BY THE NEW YORK CONFERENCE OF MAYORS;

(H) ONE MEMBER TO BE APPOINTED BY THE ASSOCIATION OF TOWNS OF THE STATE OF NEW YORK FOR EVERY REGION EXCEPT FOR THE NEW YORK CITY REGION;

(I) ONE MEMBER TO BE APPOINTED BY THE MAYOR OF THE CITY OF NEW YORK FOR THE NEW YORK CITY REGION;

(J) ONE MEMBER TO BE APPOINTED BY THE NEW YORK STATE SCHOOL BOARDS ASSOCIATION EXCEPT FOR THE NEW YORK CITY REGION; AND

(K) ONE MEMBER TO BE APPOINTED BY THE CHANCELLOR OF THE NEW YORK CITY DEPARTMENT OF EDUCATION FOR THE NEW YORK CITY REGION.

2. THE MEMBERS OF EACH REGIONAL COUNCIL SHALL BE A RESIDENT OF THE REGION THEY WERE APPOINTED TO REPRESENT.

3. THE MEMBERS OF EACH REGIONAL COUNCIL SHALL SERVE WITHOUT COMPENSATION BUT SHALL RECEIVE REIMBURSEMENT FOR THEIR REASONABLE AND NECESSARY EXPENSES.

4. EACH REGIONAL COUNCIL SHALL ELECT A CHAIR.

5. A MAJORITY OF EACH REGIONAL COUNCIL SHALL CONSTITUTE A QUORUM.

6. EACH REGIONAL COUNCIL SHALL MEET REGULARLY UPON THE CALL OF ITS CHAIR AND AS FREQUENTLY AS ITS BUSINESS MAY REQUIRE.

7. EACH REGIONAL COUNCIL SHALL HOLD A MINIMUM OF THREE PUBLIC HEARINGS AT DIFFERENT LOCATIONS THROUGHOUT THE REGION.

8. EACH REGIONAL COUNCIL SHALL WITHIN NINETY DAYS OF APPOINTMENT, MAKE RECOMMENDATIONS TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, AND THE MINORITY LEADER OF THE ASSEMBLY, FOR REPEAL OR MODIFICATION OF ANY STATEWIDE UNFUNDED MANDATES THAT DO NOT APPLY TO THE REGION.

9. EACH REGIONAL COUNCIL SHALL WITHIN TWO HUNDRED SEVENTY DAYS OF APPOINTMENT, AND ANNUALLY THEREAFTER, ISSUE A FINAL REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, AND THE MINORITY LEADER OF THE ASSEMBLY, WITH RECOMMENDATIONS FOR REPEAL OR MODIFICATION OF ANY REGULATORY OR STATUTORY UNFUNDED MANDATES THAT THE COUNCIL DETERMINES WERE IMPOSED ON A LOCAL GOVERNMENT IN AN UNSOUND, UNDULY BURDENSOME OR COSTLY MANNER, DETAILS REGARDING ITS ACTIVITIES, AND REGARDING THE ISSUES,

STATUTES, REGULATIONS, RULES AND ORDERS WHICH IT REVIEWED, EXAMINED, PROPOSED, REFERRED AND/OR CONSIDERED.

10. EACH REGIONAL COUNCIL SHALL, UPON REQUEST OF A LOCAL GOVERNMENT OR ONE OF THE MEMBERS OF THE COUNCIL, IDENTIFY AND REVIEW MANDATES THAT CAN BE ELIMINATED OR REFORMED, AND MAKE SUCH OTHER AND FURTHER INQUIRIES, REPORTS AND RECOMMENDATIONS AS THE COUNCIL MAY DEEM NECESSARY AND PRUDENT TO EFFECTUATE ITS MISSION OF MANDATE RELIEF. IN IDENTIFYING AND DETERMINING WHETHER SUCH MANDATES ARE UNSOUND, UNDULY BURDENSOME OR COSTLY, THE COUNCIL SHALL RECEIVE AND CONSIDER PUBLIC COMMENT ABOUT THEM AND SHALL REVIEW THEM IN LIGHT OF COST-BENEFIT PRINCIPLES AND SUCH OTHER AND FURTHER FACTORS AS THE COUNCIL SHALL DEEM NECESSARY AND PRUDENT.

11. ALL VOTES OF A REGIONAL COUNCIL, AND ALL DELIBERATIONS AND REPORTS OF ITS PROCEEDINGS SHALL BE OPEN TO THE PUBLIC PURSUANT TO ARTICLE SEVEN OF THE PUBLIC OFFICERS LAW.

S 932. REGIONAL COUNCIL ACTIONS. 1. THE COUNCIL MAY, UPON A TWO-THIRDS VOTE, REFER ANY REGULATION OR STATUTE TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, AND THE MINORITY LEADER OF THE ASSEMBLY, FOR REPEAL OR MODIFICATION, WHERE THE COUNCIL HAS PREVIOUSLY DETERMINED THAT SUCH REGULATION, RULE OR ORDER OF ANY STATE AGENCY OR STATUTE IMPOSES UPON ANY LOCAL GOVERNMENT AN UNFUNDED MANDATE IN AN UNSOUND, UNDULY BURDENSOME OR COSTLY MANNER, SO AS TO NECESSITATE THAT IT BE ELIMINATED OR REFORMED.

2. UPON RECEIPT OF RECOMMENDATIONS BY ALL TEN REGIONAL COUNCILS, THE GOVERNOR, WITHIN SIXTY DAYS, SHALL DIRECT THE STATE AGENCY RESPONSIBLE FOR THE PROMULGATION, REPEAL OR MODIFICATION OF ANY REGULATION DETERMINED BY A MAJORITY OF THE COUNCILS TO IMPOSE UPON ANY LOCAL GOVERNMENT AN UNFUNDED MANDATE IN AN UNSOUND, UNDULY BURDENSOME OR COSTLY MANNER TO EFFECTUATE SUCH REPEAL OR MODIFICATION OF THE REGULATION PURSUANT TO THE PROCEDURES THAT SUCH AGENCY WOULD OTHERWISE BE REQUIRED TO FOLLOW UNDER THE LAW, HAD SUCH AGENCY ON ITS OWN ACCORD SOUGHT TO REPEAL OR MODIFY THE REGULATION.

3. UPON RECEIPT OF RECOMMENDATIONS BY ALL TEN REGIONAL COUNCILS, THE GOVERNOR, WITHIN SIXTY DAYS, SHALL HAVE PREPARED A GOVERNOR'S PROGRAM BILL, FOR INTRODUCTION IN BOTH HOUSES OF THE LEGISLATURE, TO EFFECTUATE SUCH REPEAL OR MODIFICATION OF ANY STATUTES DETERMINED BY A MAJORITY OF THE COUNCILS TO IMPOSE UPON ANY LOCAL GOVERNMENT AN UNFUNDED MANDATE IN AN UNSOUND, UNDULY BURDENSOME OR COSTLY MANNER.

S 933. LOCAL GOVERNMENT REQUEST. A LOCAL GOVERNMENT MAY, BY RESOLUTION OF ITS GOVERNING BODY, ASK ITS REGIONAL COUNCIL TO REVIEW A SPECIFIC STATUTE, REGULATION, RULE OR ORDER OF STATE GOVERNMENT TO DETERMINE WHETHER SUCH STATUTE, REGULATION, RULE OR ORDER OF STATE GOVERNMENT IS AN UNFUNDED MANDATE OR IS OTHERWISE UNSOUND, UNDULY BURDENSOME OR COSTLY SO AS TO REQUIRE THAT IT BE ELIMINATED OR REFORMED.

S 934. REPORTS. REPORTS OF EACH REGIONAL COUNCIL SHALL BE ADOPTED UPON A MAJORITY VOTE OF THE MEMBERS OF THE COUNCIL. ALL REPORTS OF EACH REGIONAL COUNCIL SHALL BE POSTED ON A PUBLICLY ACCESSIBLE WEBSITE.

S 935. ASSISTANCE OF OTHER AGENCIES. TO EFFECTUATE THE PURPOSES OF THIS ARTICLE, ANY STATE AGENCY SHALL, AT THE REQUEST OF A REGIONAL COUNCIL, PROVIDE TO THE COUNCIL SUCH FACILITIES, ASSISTANCE AND DATA AS WILL ENABLE THE COUNCIL TO PROPERLY CARRY OUT ITS RESPONSIBILITIES AND DUTIES.

S 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or subpart of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in

its operation to the clause, sentence, paragraph, subdivision, section or subpart thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 4. This act shall take effect immediately and shall expire and be deemed repealed 3 years after such date, provided, however, that section one of this act shall only apply to laws enacted after such date.