

STATE OF NEW YORK

5059

2017-2018 Regular Sessions

IN ASSEMBLY

February 6, 2017

Introduced by M. of A. WALTER, FINCH, RAIA, GRAF, LUPINACCI, GUNTHER,
STEC, LAWRENCE -- Multi-Sponsored by -- M. of A. BARCLAY, HAWLEY --
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 requiring the state to fund certain programs mandated for
municipal corporations and school districts; and to amend the educa-
tion law, in relation to the effect of mandates on school districts

The People of the State of New York, represented in Senate and Assem-
bly, 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 § 2. The general municipal law is amended by adding a new section 25
14 to read as follows:

15 § 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:

19 (i) any state law, rule, or regulation which creates a new program or
20 requires a higher level of service for an existing program which a
21 municipal corporation is required to provide; or

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

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1 (ii) any general law which grants a new property tax exemption or
2 increases an existing property tax exemption which the municipal corpo-
3 ration is required to provide.

4 (b) "Unfunded mandate" shall mean:

5 (i) any state law, rule, or regulation which creates a new program or
6 requires a higher level of service for an existing program which a
7 municipal corporation is required to provide and which results in a net
8 additional cost to the municipal corporation;

9 (ii) any alteration in funding provided to a municipal corporation for
10 the purpose of defraying the costs of a program which it is required to
11 provide, thereby resulting in a net additional cost to the municipal
12 corporation; or

13 (iii) any general law which grants a new property tax exemption or
14 increases an existing property tax exemption which the municipal corpo-
15 ration is required to provide, thereby resulting in a net additional
16 cost to the municipal corporation.

17 (c) "Net additional cost" means the cost or costs incurred or antic-
18 ipated to be incurred within a one year period by a local government in
19 performing or administering a mandate after subtracting therefrom any
20 revenues received or receivable by the local government on account of
21 the mandated program or service, including but not limited to:

22 (i) fees charged to the recipients of the mandated program or service;

23 (ii) state or federal aid paid specifically or categorically in
24 connection with the program or service; and

25 (iii) an offsetting savings resulting from the diminution or elimi-
26 nation of any other program or service directly attributable to the
27 performance or administration of the mandated program.

28 2. Funding of municipal corporation mandates. Notwithstanding any
29 other provision of law, no unfunded mandate shall be enacted which
30 creates an annual net additional cost to any municipal corporation.

31 3. Exemptions to the funding of municipal corporation mandates
32 requirement. (a) The state shall not be required to fund any new or
33 expanded programs if:

34 (i) The mandate is required by a court order or judgment;

35 (ii) The mandate is provided at the option of the local government
36 under a law, regulation, rule, or order that is permissive rather than
37 mandatory;

38 (iii) The mandate results from the passage of a home rule message
39 whereby a local government requests authority to implement the program
40 or service specified in the statute, and the statute imposes costs only
41 upon that local government which requests the authority to impose the
42 program or service;

43 (iv) The mandate is required by, or arises from, an executive order of
44 the governor exercising his or her emergency powers; or

45 (v) The mandate is required by statute or executive order that imple-
46 ments a federal law or regulation and results from costs mandated by the
47 federal government to be borne at the local level, unless the statute or
48 executive order results in costs which exceed the costs mandated by the
49 federal government.

50 (b) Each act establishing a mandate shall provide that the effective
51 date of any such mandate imposed on municipal corporations shall be
52 consistent with the needs of the state and municipal corporations to
53 plan implementation thereof and consistent with the availability of
54 required funds.

55 § 3. The education law is amended by adding a new section 1527-a to
56 read as follows:

1 § 1527-a. Funding of mandates imposed on school districts. 1. Defi-
2 nitions. As used in this section, the following terms shall have the
3 following meanings unless the context shall otherwise require:

4 (a) "Mandate" means:

5 (i) any state law, rule, or regulation which creates a new program or
6 requires a higher level of service for an existing program which a
7 school district organized either by special laws or pursuant to the
8 provisions of a general law, is required to provide; or

9 (ii) any general law which grants a new property tax exemption or
10 increases an existing property tax exemption which any such school
11 district is required to provide.

12 (b) "Unfunded mandate" shall mean:

13 (i) any state law, rule, or regulation which creates a new program or
14 requires a higher level of service for an existing program which any
15 such school district is required to provide and which results in a net
16 additional cost to such school district;

17 (ii) any alteration in funding provided to any such school district
18 for the purpose of defraying the costs of a program which it is required
19 to provide, thereby resulting in a net additional cost to such school
20 district; or

21 (iii) any general law which grants a new property tax exemption or
22 increases an existing property tax exemption which any such school
23 district is required to provide, thereby resulting in a net additional
24 cost to such school district.

25 (c) "Net additional cost" means the cost or costs incurred or antic-
26 ipated to be incurred within a one year period by a school district in
27 performing or administering a mandate after subtracting therefrom any
28 revenues received or receivable by the school district on account of the
29 mandated program or service, including but not limited to:

30 (i) fees charged to the recipients of the mandated program or service;

31 (ii) state or federal aid paid specifically or categorically in
32 connection with the program or service; and

33 (iii) an offsetting savings resulting from the diminution or elimi-
34 nation of any other program or service directly attributable to the
35 performance or administration of the mandated program.

36 2. Funding of school district mandates. Notwithstanding any other
37 provision of law, no unfunded mandate shall be enacted which creates an
38 annual net additional cost to any school district.

39 3. Exemptions to the funding of school district mandates requirement.
40 (a) The state shall not be required to fund any new or expanded programs
41 for school 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 passage of a home rule message
47 whereby a school district requests authority to implement the program or
48 service specified in the statute, and the statute imposes costs only
49 upon that school district which requests the authority to impose the
50 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) Each act establishing a mandate shall provide that the effective
4 date of any such mandate imposed on school districts shall be consistent
5 with the needs of the state and school districts to plan implementation
6 thereof, and also consistent with the availability of required funds.

7 § 4. The education law is amended by adding a new section 308-a to
8 read as follows:

9 § 308-a. Special provisions; mandates. 1. As used in this section,
10 "mandate" means (a) any state law, rule or regulation which creates a
11 new program or requires a higher level of service for an existing
12 program which a school district, organized either by special laws or
13 pursuant to the provisions of a general law, is required to provide, or

14 (b) any general law which grants a new property tax exemption or
15 increases an existing property tax exemption which any such school
16 district is required to provide.

17 2. In the event that a mandate which imposes a cost upon a school
18 district is created after the adoption of a school budget, such mandate
19 shall not be implemented until the following year for which such school
20 budget was adopted.

21 3. Notwithstanding subdivision two of this section, such a mandate can
22 be imposed if:

23 (a) The mandate is provided at the option of the school district under
24 a law, regulation, rule or order that is permissive rather than mandato-
25 ry;

26 (b) The mandate is required by, or arises from, an executive order of
27 the governor exercising his or her emergency powers; or

28 (c) The mandate is required by statute or executive order that imple-
29 ments a federal law or regulation and results from costs mandated by the
30 federal government to be borne at the local level, unless the statute or
31 executive order imposes costs which exceed the costs mandated by the
32 federal government.

33 § 5. This act shall take effect immediately, provided that:

34 1. sections one through three of this act shall be deemed to have been
35 in full force and effect on and after April 1, 2018 and shall apply to
36 any general or special law imposing mandates on municipal corporations
37 or school districts enacted on or after such effective date; and

38 2. the commissioner of education shall adopt any regulations needed to
39 implement the provisions of this act on or before July 1, 2019.