

STATE OF NEW YORK

3814

2021-2022 Regular Sessions

IN SENATE

January 31, 2021

Introduced by Sens. GRIFFO, AKSHAR, BROOKS, GALLIVAN, HELMING, JORDAN, O'MARA, ORTT, RITCHIE, SERINO, TEDISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law and the education law, in relation to prohibiting the establishment of certain programs mandated for municipal corporations and school districts unless such programs are fully funded by the state; and to establish the New York state mandate review council

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general municipal law is amended by adding a new
2 section 26 to read as follows:

3 § 26. Funding of mandates. 1. Definitions. As used in this section,
4 the following terms shall have the following meanings unless the context
5 shall otherwise require:

6 (a) "Mandate" means:

7 (i) any state law, rule or regulation which establishes a new program
8 or requires a higher level of service for an existing program which a
9 municipal corporation is required to provide; or

10 (ii) any provision of general law which grants a new property tax
11 exemption or abatement or increases an existing property tax exemption
12 or abatement which a municipal corporation is required to provide.

13 (b) "Unfunded mandate" shall mean:

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

18 (ii) any alteration in funding provided to a municipal corporation for
19 the purpose of defraying the costs of a program which it is required to

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

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1 provide, thereby resulting in a net additional cost to such municipal
2 corporation; or

3 (iii) any provision of general law which grants a new property tax
4 exemption or abatement or increases an existing property tax exemption
5 or abatement which any municipal corporation is required to provide,
6 thereby resulting in a net additional cost to such municipal corpo-
7 ration.

8 (c) "Net additional cost" means the increased cost or costs incurred
9 or anticipated to be incurred within a one year period by a municipal
10 corporation in performing or administering a mandate after subtracting
11 therefrom any revenues received or receivable by such municipal corpo-
12 ration on account of the mandated program or service, including but not
13 limited to:

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

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

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

20 2. Funding of municipal corporation mandates. Notwithstanding any
21 other provision of law to the contrary, no unfunded mandate shall be
22 enacted which creates an increased annual net additional cost to any
23 municipal corporation. Each mandate which imposes a net additional cost
24 upon a municipal corporation shall provide for compensation or funding
25 by the state of the full amount of the net additional cost thereof. In
26 the event such compensation or funding is not provided, the mandate
27 shall be void.

28 3. Exemptions to the funding of municipal corporation mandates
29 requirement. (a) The state shall not be required to fund any mandate if:

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

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

34 (iii) The mandate results from the enactment of legislation requested
35 by the municipal corporation in a home rule message requesting authority
36 to implement the program or service specified in the statute, and the
37 statute imposes costs only upon that municipal corporation which
38 requests the authority to implement the program or service;

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

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

46 (b) Every statute, rule or regulation establishing a mandate shall
47 provide that the effective date of any such mandate imposed on municipal
48 corporations shall be consistent with the needs of the state and muni-
49 cipal corporations to plan implementation thereof and be consistent with
50 the availability of required funds.

51 § 2. The education law is amended by adding a new section 1527-a to
52 read as follows:

53 § 1527-a. Funding of mandates imposed on school districts. 1. Defi-
54 nitions. As used in this section, the following terms shall have the
55 following meanings unless the context shall otherwise require:

56 (a) "Mandate" means:

1 (i) any state law, rule or regulation which establishes a new program
2 or requires a higher level of service for an existing program which a
3 school district is required to provide; or

4 (ii) any provision of general law which grants a new property tax
5 exemption or abatement or increases an existing property tax exemption
6 or abatement which a school district is required to provide.

7 (b) "Unfunded mandate" shall mean:

8 (i) any state law, rule or regulation which establishes a new program
9 or requires a higher level of service for an existing program which a
10 school district is required to provide and which results in a net addi-
11 tional cost to such school district;

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

16 (iii) any provision of general law which grants a new property tax
17 exemption or abatement or increases an existing property tax exemption
18 or abatement which a school district is required to provide, thereby
19 resulting in a net additional cost to such school district.

20 (c) "Net additional cost" means the increased cost or costs incurred
21 or anticipated to be incurred within a one year period by a school
22 district in performing or administering a mandate after subtracting
23 therefrom any revenues received or receivable by such school district on
24 account of the mandated program or service, including but not limited
25 to:

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

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

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

32 2. Funding of school district mandates. Notwithstanding any other
33 provision of law to the contrary, no unfunded mandate shall be enacted
34 which creates a net additional cost to any school district. Each
35 mandate which imposes a net additional cost upon a school district shall
36 provide for compensation or funding by the state of the full amount of
37 the net additional costs thereof. In the event such compensation or
38 funding is not provided, the mandate shall be void.

39 3. Exemptions to the funding of school district mandates requirement.

40 (a) The state shall not be required to fund any mandate for school
41 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 enactment of legislation requested
47 by the school district in a home rule message requesting authority to
48 implement the program or service specified in the statute, and the stat-
49 ute imposes costs only upon that school district which requests the
50 authority to implement the 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) Every statute, rule or regulation establishing a mandate shall
4 provide that the effective date of any such mandate imposed on school
5 districts shall be consistent with the needs of the state and school
6 districts to plan implementation thereof, and be consistent with the
7 availability of required funds.

8 § 3. New York state mandate review council. 1. There shall be estab-
9 lished a New York state mandate review council. Such council shall
10 consist of fifteen members as follows: eight members appointed by the
11 governor; three members appointed by the state comptroller; one member
12 appointed by the temporary president of the senate; one member appointed
13 by the speaker of the assembly; one member appointed by the minority
14 leader of the senate; and one member appointed by the minority leader of
15 the assembly. Such members shall be appointed and the council shall
16 first convene no later than ninety days after this act shall have become
17 law.

18 2. The members of the council shall include: at least one current or
19 former county executive; at least one current or former county comp-
20 troller; at least one current or former county legislator; at least one
21 current or former mayor; at least one current or former city comp-
22 troller; at least one current or former city councilman; at least one
23 current or former town supervisor; at least one current or former school
24 superintendent; and at least one current or former member of a school
25 board.

26 3. The council shall hold at least two hearings in each of New York's
27 regional economic development council regions. No single county, city,
28 town or village may host both hearings. Additionally, the council shall
29 meet in the state capitol as often as necessary to draft the report
30 required pursuant to subdivision 5 of this section.

31 4. The council shall review all mandates in the state and compile a
32 report outlining all mandates which have no cost on either the state or
33 localities, all mandates whose costs are covered by the state, and all
34 mandates which counties, cities, towns and villages are required to pay
35 for. The council shall have the authority to eliminate or suspend any
36 mandate; provided, however that the council shall not be allowed to add
37 any new mandates or refine any existing mandates other than to eliminate
38 or suspend such mandates.

39 5. The council shall draft a report which provides information on all
40 mandates in the state, indicating those mandates imposed by the state on
41 localities, the cost of each mandate, the percentage of each county's
42 budget which accounts for state-imposed mandates, legislative recommen-
43 dations, and any other information that the council deems relevant.

44 6. The report required pursuant to subdivision 5 of this section shall
45 be provided to the governor, the state comptroller, the speaker of the
46 assembly, the temporary president of the senate, the assembly minority
47 leader, and the senate minority leader and shall be published on the
48 website of the state comptroller on the same day that such report is
49 provided to such state officials.

50 § 4. No new mandates may be imposed on localities until the report of
51 the New York state mandate review council required pursuant to section
52 three of this act has been published.

53 § 5. This act shall take effect immediately and sections one and two
54 of this act shall apply to mandates enacted on or after such effective
55 date.