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:

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

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

(a) "Mandate" means:

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

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

(b) "Unfunded mandate" shall mean:

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

(ii) any alteration in funding provided to a municipal corporation for 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.

LBD03988-01-1

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

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

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

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

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

(iii) an offsetting savings resulting from the diminution or elimination of any other program or service directly attributable to the performance or administration of the mandated program.

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

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

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

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

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

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

(v) The mandate 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.

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

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

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

(a) "Mandate" means:

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

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

(b) "Unfunded mandate" shall mean:

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

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

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

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

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

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

(iii) an offsetting savings resulting from the diminution or elimination of any other program or service directly attributable to the performance or administration of the mandated program.

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

3. Exemptions to the funding of school district mandates requirement. (a) The state shall not be required to fund any mandate for school districts if:

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

(ii) The mandate is provided at the option of the school district under a law, regulation, rule or order that is permissive rather than mandatory;

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

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

(v) The mandate 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.

(b) Every statute, rule or regulation establishing a mandate shall provide that the effective date of any such mandate imposed on school districts shall be consistent with the needs of the state and school districts to plan implementation thereof, and be consistent with the availability of required funds.

§ 3. New York state mandate review council. 1. There shall be established a New York state mandate review council. Such council shall consist of fifteen members as follows: eight members appointed by the governor; three members appointed by the state comptroller; one member appointed by the temporary president of the senate; one member appointed by the speaker of the assembly; one member appointed by the minority leader of the senate; and one member appointed by the minority leader of the assembly. Such members shall be appointed and the council shall first convene no later than ninety days after this act shall have become law.

2. The members of the council shall include: at least one current or former county executive; at least one current or former county comptroller; at least one current or former county legislator; at least one current or former mayor; at least one current or former city comptroller; at least one current or former city councilman; at least one current or former town supervisor; at least one current or former school superintendent; and at least one current or former member of a school board.

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

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

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

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

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

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