

# STATE OF NEW YORK

4903

2023-2024 Regular Sessions

## IN SENATE

February 16, 2023

Introduced by Sen. MURRAY -- 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:

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

3 § 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.

20 (c) "Unfunded mandate" means:

21 (i) any state law that requires a local government to provide or  
22 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.

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1 net additional cost to any local government in excess of ten thousand  
2 dollars or an aggregate annual net additional cost to all local govern-  
3 ments within the state in excess of one million dollars; or

4 (ii) any state law that requires a local government to provide a high-  
5 er level of service or funding for an existing program, project or  
6 activity that results in an annual net additional cost to any local  
7 government in excess of ten thousand dollars or an aggregate annual net  
8 additional cost to all local governments within the state in excess of  
9 one million dollars; or

10 (iii) any state law that requires a local government to grant any new  
11 property tax exemption or that broadens the eligibility or increases the  
12 dollar amount of any existing property tax exemption, on property that  
13 otherwise would have generated revenue under the current property tax  
14 rate of such local government in excess of ten thousand dollars in any  
15 local government or in excess of one million dollars statewide; or

16 (iv) any state law with a legal requirement that would otherwise like-  
17 ly have the effect of raising property taxes in excess of ten thousand  
18 dollars in any local government or in excess of one million dollars  
19 statewide.

20 2. Moratorium on unfunded mandates. For a three year period beginning  
21 with the enactment of this section, notwithstanding any other provision  
22 of law, no unfunded mandates shall be enacted.

23 3. Exemptions. (a) A state law shall not be considered an unfunded  
24 mandate where such law:

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

26 (ii) is provided at the option of the local government under a law  
27 that is permissive rather than mandatory; or

28 (iii) results from the passage of a home rule message whereby a local  
29 government requests authority to implement the program or service speci-  
30 fied in the statute, and the statute imposes costs only upon that local  
31 government which requests the authority to impose the program or  
32 service; or

33 (iv) is required by statute or executive order that implements a  
34 federal law or regulation and results from costs mandated by the federal  
35 government to be borne at the local level, unless the statute or execu-  
36 tive order results in costs which exceed the costs mandated by the  
37 federal government; or

38 (v) is imposed on both government and non-government entities in the  
39 same or substantially similar circumstances; or

40 (vi) repeals or revises a state law to ease an existing requirement  
41 that a local government provide or undertake a program, project, or  
42 activity, or reapportions the costs of activities between local govern-  
43 ments; or

44 (vii) is necessary to protect against an immediate threat to public  
45 health or safety.

46 (b) The effective date of any act establishing a mandate shall provide  
47 a reasonable time for the state and any local government to plan imple-  
48 mentation thereof and shall be consistent with the availability of  
49 required funds.

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

52 ARTICLE 43

53 REGIONAL MANDATE

54 RELIEF COUNCILS

55 Section 930. Definitions.

56 931. Regional mandate relief councils.

1 932. Regional council actions.

2 933. Local government request.

3 934. Reports.

4 935. Assistance of other agencies.

5 § 930. Definitions. 1. "Local government" means a county, city, town,  
6 village, school district, or special district.

7 2. "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 (a) fees charged to the recipients of such program, project, or activ-  
14 ity;

15 (b) state or federal funds received for such program, project, or  
16 activity; and

17 (c) an offsetting savings resulting from the diminution or elimination  
18 of any other program, project, or activity that state law requires such  
19 local government to provide or undertake.

20 3. "Regional mandate relief council" means a council for each of the  
21 following regions:

22 (a) Capital Region means the counties of Albany, Columbia, Greene,  
23 Rensselaer, Saratoga, Schenectady, Warren and Washington;

24 (b) Central New York means the counties of Cayuga, Cortland, Madison,  
25 Onondaga and Oswego;

26 (c) Finger Lakes means the counties of Genesee, Livingston, Monroe,  
27 Ontario, Orleans, Seneca, Wayne, Wyoming and Yates;

28 (d) Long Island means the counties of Nassau and Suffolk;

29 (e) Mid-Hudson means the counties of Dutchess, Orange, Putnam, Rock-  
30 land, Sullivan, Ulster and Westchester;

31 (f) Mohawk Valley means the counties of Fulton, Herkimer, Montgomery,  
32 Oneida, Otsego and Schoharie;

33 (g) New York City means the counties of Bronx, Kings, New York, Rich-  
34 mond and Queens;

35 (h) North Country means the counties of Clinton, Essex, Franklin,  
36 Hamilton, Jefferson, Lewis and St. Lawrence;

37 (i) Southern Tier means the counties of Broome, Chemung, Chenango,  
38 Delaware, Schuyler, Steuben, Tioga and Tompkins; and

39 (j) Western New York means the counties of Allegany, Cattaraugus,  
40 Chautauqua, Erie and Niagara.

41 4. "State agency" or "agency" means any state agency, department,  
42 office, board, bureau, division, committee, council or office under the  
43 direction or control of the executive.

44 5. "Unfunded mandate" means:

45 (a) any state law that requires a local government to provide or  
46 undertake any new program, project or activity that results in an annual  
47 net additional cost to any local government in excess of ten thousand  
48 dollars or an aggregate annual net additional cost to all local govern-  
49 ments within the state in excess of one million dollars; or

50 (b) any state law that requires a local government to provide a higher  
51 level of service or funding for an existing program, project or activity  
52 that results in an annual net additional cost to any local government in  
53 excess of ten thousand dollars or an aggregate annual net additional  
54 cost to all local governments within the state in excess of one million  
55 dollars; or

1 (c) any state law that requires a local government to grant any new  
2 property tax exemption or that broadens the eligibility or increases the  
3 dollar amount of any existing property tax exemption, on property that  
4 otherwise would have generated revenue under the current property tax  
5 rate of such local government in excess of ten thousand dollars in any  
6 local government or in excess of one million dollars statewide; or

7 (d) any state law with a legal requirement that would otherwise likely  
8 have the effect of raising property taxes in excess of ten thousand  
9 dollars in any local government or in excess of one million dollars  
10 statewide.

11 § 931. Regional mandate relief councils. 1. There is hereby created  
12 within the executive department ten regional mandate relief councils,  
13 which each shall be comprised of members appointed as follows:

14 (a) One member to be appointed by the governor;

15 (b) One member to be appointed by the temporary president of the  
16 senate;

17 (c) One member to be appointed by the minority leader of the senate;

18 (d) One member to be appointed by the speaker of the assembly;

19 (e) One member to be appointed by the minority leader of the assembly;

20 (f) One member to be appointed by the chief executive (county execu-  
21 tive or chair of the county legislative body or borough president) of  
22 every county in the region;

23 (g) One member to be appointed by the New York conference of mayors;

24 (h) One member to be appointed by the association of towns of the  
25 state of New York for every region except for the New York city region;

26 (i) One member to be appointed by the mayor of the city of New York  
27 for the New York city region;

28 (j) One member to be appointed by the New York state school boards  
29 association except for the New York city region; and

30 (k) One member to be appointed by the chancellor of the New York city  
31 department of education for the New York city region.

32 2. The members of each regional council shall be a resident of the  
33 region they were appointed to represent.

34 3. The members of each regional council shall serve without compen-  
35 sation but shall receive reimbursement for their reasonable and neces-  
36 sary expenses.

37 4. Each regional council shall elect a chair.

38 5. A majority of each regional council shall constitute a quorum.

39 6. Each regional council shall meet regularly upon the call of its  
40 chair and as frequently as its business may require.

41 7. Each regional council shall hold a minimum of three public hearings  
42 at different locations throughout the region.

43 8. Each regional council shall within ninety days of appointment, make  
44 recommendations to the governor, the temporary president of the senate,  
45 the minority leader of the senate, the speaker of the assembly, and the  
46 minority leader of the assembly, for repeal or modification of any  
47 statewide unfunded mandates that do not apply to the region.

48 9. Each regional council shall within two hundred seventy days of  
49 appointment, and annually thereafter, issue a final report to the gover-  
50 nor, the temporary president of the senate, the minority leader of the  
51 senate, the speaker of the assembly, and the minority leader of the  
52 assembly, with recommendations for repeal or modification of any regula-  
53 tory or statutory unfunded mandates that the council determines were  
54 imposed on a local government in an unsound, unduly burdensome or costly  
55 manner, details regarding its activities, and regarding the issues,

1 statutes, regulations, rules and orders which it reviewed, examined,  
2 proposed, referred and/or considered.

3 10. Each regional council shall, upon request of a local government or  
4 one of the members of the council, identify and review mandates that can  
5 be eliminated or reformed, and make such other and further inquiries,  
6 reports and recommendations as the council may deem necessary and  
7 prudent to effectuate its mission of mandate relief. In identifying and  
8 determining whether such mandates are unsound, unduly burdensome or  
9 costly, the council shall receive and consider public comment about them  
10 and shall review them in light of cost-benefit principles and such other  
11 and further factors as the council shall deem necessary and prudent.

12 11. All votes of a regional council, and all deliberations and reports  
13 of its proceedings shall be open to the public pursuant to article seven  
14 of the public officers law.

15 § 932. Regional council actions. 1. The council may, upon a two-thirds  
16 vote, refer any regulation or statute to the governor, the temporary  
17 president of the senate, the minority leader of the senate, the speaker  
18 of the assembly, and the minority leader of the assembly, for repeal or  
19 modification, where the council has previously determined that such  
20 regulation, rule or order of any state agency or statute imposes upon  
21 any local government an unfunded mandate in an unsound, unduly burden-  
22 some or costly manner, so as to necessitate that it be eliminated or  
23 reformed.

24 2. Upon receipt of recommendations by all ten regional councils, the  
25 governor, within sixty days, shall direct the state agency responsible  
26 for the promulgation, repeal or modification of any regulation deter-  
27 mined by a majority of the councils to impose upon any local government  
28 an unfunded mandate in an unsound, unduly burdensome or costly manner to  
29 effectuate such repeal or modification of the regulation pursuant to the  
30 procedures that such agency would otherwise be required to follow under  
31 the law, had such agency on its own accord sought to repeal or modify  
32 the regulation.

33 3. Upon receipt of recommendations by all ten regional councils, the  
34 governor, within sixty days, shall have prepared a governor's program  
35 bill, for introduction in both houses of the legislature, to effectuate  
36 such repeal or modification of any statutes determined by a majority of  
37 the councils to impose upon any local government an unfunded mandate in  
38 an unsound, unduly burdensome or costly manner.

39 § 933. Local government request. A local government may, by resolution  
40 of its governing body, ask its regional council to review a specific  
41 statute, regulation, rule or order of state government to determine  
42 whether such statute, regulation, rule or order of state government is  
43 an unfunded mandate or is otherwise unsound, unduly burdensome or costly  
44 so as to require that it be eliminated or reformed.

45 § 934. Reports. Reports of each regional council shall be adopted upon  
46 a majority vote of the members of the council. All reports of each  
47 regional council shall be posted on a publicly accessible website.

48 § 935. Assistance of other agencies. To effectuate the purposes of  
49 this article, any state agency shall, at the request of a regional coun-  
50 cil, provide to the council such facilities, assistance and data as will  
51 enable the council to properly carry out its responsibilities and  
52 duties.

53 § 3. Severability clause. If any clause, sentence, paragraph, subdivi-  
54 sion, section or subpart of this act shall be adjudged by any court of  
55 competent jurisdiction to be invalid, such judgment shall not affect,  
56 impair, or invalidate the remainder thereof, but shall be confined in

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

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