

SUMMARY:

GRIFFO

Add S25, Gen Muni L; add S1527-a, Ed L; amd S666, Exec L

Requires that the state fund any program which imposes a mandate upon municipal corporations or school districts; establishes criteria for any exemption from such law if such mandate is ordered by the judiciary, pursuant to an executive order or requested by the locality; expands the reporting requirements of the mandate relief council.

SPONSORS MEMO:

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S1294

SPONSOR: GRIFFO

TITLE OF BILL: 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 amend the executive law, in relation to the mandate relief council

PURPOSE: Requires any state mandated program imposed on municipalities and school districts to be funded by the state.

SUMMARY OF PROVISIONS:

Section 1. The general municipal law is amended by adding a new section 25 which specifically defines "mandate", "unfunded mandate", and "net additional cost" in relation to state funding of school programs.

Section 2. The education law is amended by adding a new section 1527-a which states that no unfunded mandate shall be enacted which creates a net additional cost to any school district. In addition, this section explains the circumstances under which the state would not be required to fund any mandate for a school district, such as a mandate required by a court order or legislation requested by the school district.

Section 3. Paragraph b of subdivision 2 and subdivision 7 of section 666 of the executive law, as added by section 2 of subpart H of part C of chapter 97 of the laws of 2011 are amended to provide that the chair shall call a meeting of the councils at least once each calendar year and submit an annual report describing the actions the council has taken.

Section 4. Sets forth the effective date.

JUSTIFICATION: State mandated programs place local taxpayers and local officials in the position of paying for services that they do not control. State mandated programs allow the state rather than local officials to set priorities for the locality. In turn, this forces municipalities to levy more taxes on its residents in order to pay for these state mandated programs.

This bill requires programs that originate from the state to be paid for by the state and not have the burden to find funding fall upon local municipalities. This bill seeks to protect local municipalities and school districts from unfunded mandates and allow local officials to set priorities for their own area.

LEGISLATIVE HISTORY: This is a new bill.

FISCAL IMPLICATIONS: To be determined.

EFFECTIVE DATE: This act shall take effect immediately. Sections one and two of this act shall apply to mandates enacted on or after such effective date; and provided, further, that the amendments to section 666 of the executive law, made by section three of this act, shall not affect the expiration and repeal of such section, and shall expire and be deemed repealed therewith.

BILL TEXT:

STATE OF NEW YORK

1294

2013-2014 Regular Sessions

IN SENATE

(Prefiled)

January 9, 2013

Introduced by Sen. GRIFFO -- 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 amend the executive law, in relation to the mandate relief 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 25 to read as follows:

3 § 25. 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
20 provide, thereby resulting in a net additional cost to such municipal
21 corporation; or

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

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

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

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

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

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

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

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

- 28 (i) The mandate is required by a court order or judgment;
29 (ii) The mandate is provided at the option of the local government
30 under a law, regulation, rule or order that is permissive rather than
31 mandatory;
32 (iii) The mandate results from the enactment of legislation requested
33 by the municipal corporation in a home rule message requesting authority
34 to implement the program or service specified in the statute, and the
35 statute imposes costs only upon that municipal corporation which
36 requests the authority to implement the program or service;
37 (iv) The mandate is required by, or arises from, an executive order of
38 the governor exercising his or her emergency powers; or
39 (v) The mandate is required by statute or executive order that imple-
40 ments a federal law or regulation and results from costs mandated by the
41 federal government to be borne at the local level, unless the statute or
42 executive order results in costs which exceed the costs mandated by the
43 federal government.

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

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

51 § 1527-a. Funding of mandates imposed on school districts. 1. Defi-
52 nitions. As used in this section, the following terms shall have the
53 following meanings unless the context shall otherwise require:

54 (a) "Mandate" means:

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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

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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. Paragraph b of subdivision 2 and subdivision 7 of section 666 of
9 the executive law, as added by section 2 of subpart H of part C of chap-
10 ter 97 of the laws of 2011, are amended to read as follows:

11 b. The council shall meet regularly upon the call of its chair and as
12 frequently as its business may require; provided that the chair shall
13 call a meeting of the councils at least once each calendar year. The
14 members of the council shall serve without compensation but shall
15 receive reimbursement for their reasonable and necessary expenses.

16 7. Reports. The council shall ~~[by]~~ annually, on or before December
17 fifteenth ~~[of each year]~~, submit a report, to the governor ~~[and legisla-~~
18 ~~ture regarding]~~, temporary president of the senate, speaker of the
19 assembly, minority leader of the senate, minority leader of the assem-
20 bly, chair of the senate finance committee, and chair of the assembly
21 ways and means committee, on its activities, and ~~[regarding]~~ the issues,
22 statutes, regulations, rules and orders which it has reviewed, examined,
23 proposed, referred~~[7]~~ and/or considered, and specify the actions the
24 council has taken thereon. Such reports, which shall be adopted upon a
25 majority vote of the members of the council, or their designees in the
26 case of the director of the division of the budget or the secretary of
27 state. All reports of the council shall be posted on a publicly accessi-
28 ble website.

29 § 4. This act shall take effect immediately and sections one and two
30 of this act shall apply to mandates enacted on or after such effective
31 date; and provided, further, that the amendments to section 666 of the
32 executive law, made by section three of this act, shall not affect the
33 expiration and repeal of such section, and shall expire and be deemed
34 repealed therewith.