

3-9

A RESOLUTION TO BE SUBMITTED BY LEGISLATORS
SWANICK, PEOPLES, KUWIK, FITZPATRICK, HOLT, FISHER, OLMA
DeBENEDETTI, DUSZA & MARINELLI

RECEIVED
ERIE COUNTY LEGISLATURE
FEB - 7 P 1:31

**RE: SUPPORT FOR STATE CONSTITUTIONAL CHANGE MAKING
COMPLIANCE WITH UNFUNDED MANDATES VOLUNTARY**

WHEREAS, Counties and municipalities that act responsibly by reducing the cost of government for the good of the taxpayers can see their efforts negated by unfunded mandates handed down from the state, and

WHEREAS, These unfunded mandates are essentially provisions of law from the state that require affected local jurisdictions to spend more money to provide services, without the state providing compensation to do so, and

WHEREAS, In order to comply with these mandates, jurisdictions are forced to either cut existing services or raise property taxes to cover the unfunded burden, and

WHEREAS, New York State bills A. 360 and S. 1290 propose a change in the state constitution to make compliance with unfunded mandates voluntary for local governments, school districts, special districts, or any agency, authority, commission, department or instrumentality thereof, and

WHEREAS, Said bills would also establish a Council on Local Mandates to mitigate disputes brought by local governments as to whether or not a law constitutes an unfunded mandate, and would consist partially of members recommended by local governments, and

WHEREAS, The aforementioned bills also provide balance by making exceptions for — among others — emergency situations, cases where home rule messages have been issued requesting such action, and cases of laws that reapportion responsibilities between levels of government,

NOW, THEREFORE, BE IT

RESOLVED, That the Erie County Legislature does hereby reaffirm its steadfast opposition to unfunded state mandates as being detrimental to the taxpayers of our county, and be it further

RESOLVED, That this Honorable Body does hereby strongly memorialize the New York State Legislature to pass and New York State Governor George Pataki to sign into law A. 360 and S. 1290 in order to protect local governments from unfunded state mandates, and be it further

RESOLVED, That certified copies of this resolution be sent to New York State Governor George Pataki, and the Western New York delegation of the New York State Legislature.

CHARLES M. SWANICK

CRYSTAL D. PEOPLES

EDWARD J. KUWIK

MICHAEL A. FITZPATRICK

GEORGE A. HOLT, JR.

JUDITH P. FISHER

GREGORY B. OLMA

ALBERT DeBENEDETTI

RAYMOND K. DUSZA

LYNN M. MARINELLI

Fiscal Impact: Passage of constitutional amendment would have a positive fiscal impact for the taxpayers of Erie County.

Text of New York State Bill A00360

S T A T E O F N E W Y O R K

360

1999-2000 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 6, 1999

Introduced by M. of A. SMITH -- Multi-Sponsored by -- M. of A. SCHIM-MINGER, SWEENEY, TOCCI -- read once and referred to the Committee on Ways and Means

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing amendments to article 9 of the constitution, in relation to prohibiting unfunded mandates

- 1 Section 1. Resolved (if the Senate concur), That article 9 of the
- 2 constitution be amended by adding a new section 4 to read as follows:
- 3 S 4. PROHIBITION ON UNFUNDED MANDATES; COUNCIL ON LOCAL MANDATES. 1.
- 4 A. ANY PROVISION OF LAW DETERMINED IN ACCORDANCE WITH THIS SECTION TO
- 5 BE AN UNFUNDED MANDATE SHALL CEASE TO BE MANDATORY IN EFFECT AND SHALL
- 6 BECOME VOLUNTARY IN OPERATION.
- 7 B. A PROVISION OF LAW THAT REQUIRES ONE OR MORE POLITICAL SUBDIVI-
- 8 SIONS TO EXPEND FUNDS OR TO TAKE ACTIONS REQUIRING THE EXPENDITURE OF
- 9 FUNDS SHALL BE DEEMED AN UNFUNDED MANDATE IF SUCH PROVISION OF LAW
- 10 RESULTS IN AN AGGREGATE NET INCREASE IN NECESSARY DIRECT EXPENDITURES BY
- 11 THE POLITICAL SUBDIVISIONS OF THE STATE. ANY SUCH AGGREGATE NET
- 12 INCREASE IN EXPENDITURES SHALL BE OFFSET BY: (I) MONIES PROVIDED TO
- 13 POLITICAL SUBDIVISIONS FOR THE SPECIFIC PURPOSE OF FUNDING SUCH
- 14 PROVISION OF LAW; AND (II) DECREASES IN EXPENDITURES EXPECTED TO RESULT
- 15 FROM OTHER PROVISIONS OF LAW ENACTED CONCURRENTLY THEREWITH THAT REPEAL,
- 16 REDUCE OR MODIFY EXISTING MANDATES ON POLITICAL SUBDIVISIONS. FOR
- 17 PURPOSES OF THIS SECTION, ALL BUDGET BILLS AND LEGISLATION NECESSARY TO
- 18 IMPLEMENT THE BUDGET ENACTED PURSUANT TO ARTICLE SEVEN OF THE CONSTITU-
- 19 TION SHALL BE DEEMED TO HAVE BEEN CONCURRENTLY ENACTED INTO LAW.
- 20 C. FOR PURPOSES OF THIS SECTION, THE TERM "POLITICAL SUBDIVISION"
- 21 SHALL MEAN A COUNTY, CITY, TOWN, VILLAGE, SCHOOL DISTRICT OR SPECIAL
- 22 DISTRICT, AND SHALL INCLUDE ANY AGENCY, AUTHORITY, COMMISSION, DEPART-
- 23 MENT OR INSTRUMENTALITY THEREOF.
- 24 D. FOR PURPOSES OF THIS SECTION, THE TERM "LAW" SHALL MEAN A STATUTE
- 25 ENACTED BY THE LEGISLATURE, AN EXECUTIVE ORDER ISSUED BY THE GOVERNOR,

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets { } is old law to be omitted.

LBD89021-01-9

A. 360

2

- 1 AND A RULE OR REGULATION PROMULGATED BY A STATE AGENCY, DEPARTMENT,
- 2 BOARD, BUREAU, OFFICER, AUTHORITY OR COMMISSION.
- 3 2. NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE CONTRARY, THE

4 FOLLOWING TYPES OF LAWS SHALL NOT BE CONSIDERED UNFUNDED MANDATES:

5 A. THOSE NECESSARY TO COMPLY WITH FEDERAL LAW;

6 B. THOSE FOR WHICH THE AGGREGATE NET INCREASE IN REQUIRED DIRECT
7 EXPENDITURES BY POLITICAL SUBDIVISIONS IS LESS THAN TWENTY THOUSAND
8 DOLLARS;

9 C. THOSE THAT HAVE BEEN REQUESTED THROUGH A HOME RULE MESSAGE OR
10 OTHER RESOLUTION OF THE AFFECTED POLITICAL SUBDIVISION, OR WHICH HAVE
11 BEEN ACCEPTED BY THE AFFECTED POLITICAL SUBDIVISION;

12 D. THOSE REAPPORTIONING RESPONSIBILITIES BETWEEN OR AMONG POLITICAL
13 SUBDIVISIONS;

14 E. THOSE ARISING FROM AN EXECUTIVE ORDER OF THE GOVERNOR EXERCISING
15 HIS OR HER EMERGENCY POWERS;

16 F. THOSE APPLICABLE TO BOTH GOVERNMENT AND NON-GOVERNMENT ENTITIES IN
17 THE SAME OR A SUBSTANTIALLY SIMILAR MANNER;

18 G. THOSE IN FULL FORCE AND EFFECT PRIOR TO THE EFFECTIVE DATE OF THIS
19 SECTION, INCLUDING ANY PROVISION OF LAW THAT EXTENDS OR REAUTHORIZES
20 SUCH A LAW.

21 3. THE LEGISLATURE SHALL ESTABLISH BY LAW A COUNCIL ON LOCAL
22 MANDATES. THE COUNCIL SHALL CONSIST OF ELEVEN MEMBERS OF WHOM SIX SHALL
23 BE APPOINTED BY THE GOVERNOR, ONE BY THE TEMPORARY PRESIDENT OF THE
24 SENATE, ONE BY THE SPEAKER OF THE ASSEMBLY, ONE BY THE COMPTROLLER, ONE
25 BY THE ATTORNEY GENERAL, AND ONE BY THE CHIEF JUDGE OF THE COURT OF
26 APPEALS. THE GOVERNOR SHALL DESIGNATE A CHAIR FROM AMONG THE MEMBERS.
27 THE LEGISLATURE SHALL ESTABLISH BY LAW QUALIFICATIONS FOR SUCH APPOINT-
28 MENTS, WHICH SHALL INCLUDE THE REQUIREMENT THAT THREE OF THE MEMBERS
29 APPOINTED BY THE GOVERNOR, THE MEMBER APPOINTED BY THE COMPTROLLER AND
30 THE MEMBER APPOINTED BY THE ATTORNEY GENERAL SHALL BE MADE ON THE RECOM-
31 MENDATION OF POLITICAL SUBDIVISIONS OR DULY APPOINTED REPRESENTATIVES
32 THEREOF. ALL LEGISLATION REQUIRED BY THIS SUBDIVISION SHALL BE ENACTED
33 INTO LAW WITHIN SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, AND
34 INITIAL APPOINTMENTS TO THE COUNCIL SHALL BE MADE WITHIN SIXTY DAYS
35 THEREAFTER.

36 4. A. THE COUNCIL SHALL TIMELY RESOLVE ANY COMPLAINT BY AN AGGRIEVED
37 POLITICAL SUBDIVISION THAT A PROVISION OF LAW CONSTITUTES AN UNFUNDED
38 MANDATE. A RULING OF THE COUNCIL SHALL BE RESTRICTED TO THE SPECIFIC
39 PROVISION OF LAW THAT CONSTITUTES AN UNFUNDED MANDATE AND SHALL, TO THE
40 EXTENT PRACTICABLE, LEAVE INTACT THE REMAINDER OF THE LAW.

41 B. DETERMINATIONS OF THE COUNCIL SHALL BE SUBJECT TO REVIEW BY THE
42 SUPREME COURT IN THE SAME MANNER AND UNDER THE SAME STANDARDS OF REVIEW
43 AS ADMINISTRATIVE DETERMINATIONS OF STATE AGENCIES AND DEPARTMENTS;
44 PROVIDED, HOWEVER, THAT THE STATE MAY SEEK JUDICIAL REVIEW OF A DETERMI-
45 NATION BY THE COUNCIL THAT A PROVISION OF LAW CONSTITUTES AN UNFUNDED
46 MANDATE. PROCEEDINGS TO REVIEW COUNCIL DETERMINATIONS SHALL BE GIVEN
47 PRECEDENCE OVER ALL OTHER CAUSES AND PROCEEDINGS BEFORE THE COURT.

48 S 2. RESOLVED (if the Senate concur), That the foregoing amendment be
49 referred to the first regular legislative session convening after the
50 next succeeding general election of members of the assembly, and, in
51 conformity with section 1 of article 19 of the constitution, be
52 published for 3 months previous to the time of such election.

.SO DOC A 360

END

BTXT

1999

Bill A00360

[[Summary](#)] [[Actions](#)] [[Votes](#)] [[Memo](#)] [[Text](#)]

New York State Assembly

[[Welcome Page](#)] [[Legislative Information](#)] [[Bill Searches](#)]