



Mandate Relief Council Statute

Executive Law

* § 666. Mandate and regulatory relief council. 1. Definitions. a. "Mandate" means (i) any requirement that a local government perform or administer any program, project or activity, required or imposed by a state law or state agency that requires a higher level of service for an existing local government program, project or activity; or (ii) any requirement a business must perform in order to do business in New York state.

b. "Local government" means a county, city, town, village, school district, or special district.

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

d. "Business" means any entity doing business in or authorized to operate in the state of New York, including, but not limited to, for-profit and not-for-profit corporations, sole proprietorships, partnerships, and limited liability companies.

2. Mandate relief council. There is hereby created within the executive department the mandate relief council, which shall be comprised of eleven members as follows: the secretary to the governor, who shall chair the council, the counsel to the governor, the director of the division of the budget, the secretary of state, and three additional members to be appointed by the governor from among his or her executive chamber staff, two members to be appointed by the temporary president of the senate, and two members to be appointed by the speaker of the assembly.

a. Six members of the council, or their designees in the case of the director of the division of the budget and the secretary of state, shall constitute a quorum.

b. The council shall meet regularly upon the call of its chair and as frequently as its business may require. The members of the council shall serve without compensation but shall receive reimbursement for their reasonable and necessary expenses.

c. The council shall, upon request of a local government or business or one of the members of the council, identify and review mandates that can be eliminated or reformed, and make such other and further inquiries, reports and recommendations as the council may deem necessary and prudent to effectuate its mission of mandate relief. In identifying and determining whether such mandates are unsound, unduly burdensome or costly, the council shall receive and consider public comment about them and shall review them in light of cost-benefit principles and such other and further factors as the council shall deem necessary and prudent. The council shall not make a referral to the governor that a mandate be eliminated or reformed regarding any of the following mandates:

(i) those which are required to comply with federal laws or rules or to meet eligibility standards for federal entitlements;

(ii) those which reapportion the costs of activities between boards of education, counties, and municipalities;

(iii) those which implement provisions of the state constitution; and
(iv) those which the council determines are necessary for the maintenance of the public health or safety of the people of New York state.

d. All votes of the council, and all deliberations and reports of its proceedings shall be open to the public pursuant to article seven of the public officers law.

3. Council actions on regulatory mandates. Upon a determination that a mandate in any regulation, rule or order of any state agency has been imposed upon any local government or business in an unsound, unduly burdensome or costly manner so as to necessitate that it be eliminated or reformed, the council shall have the power to:

a. refer a request by a local government for a review of such regulatory mandate, for petition by such local government for a waiver, modification or repeal of such regulatory mandate pursuant to section two hundred four-a of the state administrative procedure act. In the event the council votes to make such referral on behalf of a local government, the state agency that is charged with reviewing the petition shall provide the technical assistance and support for such local government to properly prepare and submit such petition. In the event that such state agency reviewing the petition of the local government pursuant to section two hundred four-a of the state administrative procedure act does not provide the remedy sought by such local government, the council may hear and consider an appeal of such decision and grant such relief as it deems appropriate, including the making of a referral to the governor for the waiving, modifying or repealing of such regulatory mandate. The council shall adopt procedures by which it shall consider, decide and effectuate the remedies of such appeals consistent with this section.

b. upon a two-thirds vote, refer a regulation to the governor for repeal or modification, where the council has previously determined that such regulation imposes upon any local government a mandate in an unsound, unduly burdensome or costly manner, so as to necessitate that it be eliminated or reformed. Upon receipt of such referral by the council, the governor shall within sixty days, direct the state agency responsible for the promulgation, repeal or modification of such regulation to effectuate such repeal or modification of the regulation pursuant to the procedures that such agency would otherwise be required to follow under the law, had such agency on its own accord sought to repeal or modify the regulation.

4. Council actions on statutory mandates. The council may, upon a vote of seven members, refer a statute to the governor for repeal or modification, where the council has previously determined that such statute imposes upon any local government or business a mandate in an unsound, unduly burdensome or costly manner, so as to necessitate that it be eliminated or reformed. Upon receipt of the referral by the council, the governor, within sixty days, shall have prepared a governor's program bill, for introduction in both houses of the legislature, to effectuate such repeal or modification of the statute.

5. Local government request. A local government may, by resolution of its governing body, ask the council to review a specific statute, regulation, rule or order of state government to determine whether such statute, regulation, rule or order of state government is an unfunded mandate or is otherwise unsound, unduly burdensome or costly so as to require that it be eliminated or reformed. No local government may make more than three such requests in each calendar year. Upon such review, the council shall, by majority vote, determine whether such mandate has

been imposed upon such local government in an unsound, unduly burdensome or costly manner, so as to necessitate that it be eliminated or reformed. A determination of the council shall resolve any dispute regarding whether such a statute, regulation, rule or order constitutes such an unfunded mandate, but shall not be deemed a judicial determination under the law.

6. Appeals. Upon an appeal of a petition previously decided by a state agency pursuant to section two hundred four-a of the state administrative procedure act, the council, upon request of the local government, shall review the state agency's determination and may affirm, modify or reject such determination. Such appeal shall not preclude or limit a local government or any other party with standing from pursuing any right it may have pursuant to a proceeding instituted in accordance with the provisions of article seventy-eight of the civil practice law and rules or any other statute.

7. Reports. The council shall by December fifteenth of each year report to the governor and legislature regarding its activities, and regarding the issues, statutes, regulations, rules and orders which it reviewed, examined, proposed, referred, and/or considered. Such reports, which shall be adopted upon a majority vote of the members of the council, or their designees in the case of the director of the division of the budget or the secretary of state. All reports of the council shall be posted on a publicly accessible website.

8. Assistance of other agencies. To effectuate the purposes of this section, any state agency shall, at the request of the council, provide to the council such facilities, assistance and data as will enable the council to properly carry out its responsibilities and duties.

* NB Effective until January 1, 2015 or upon departure from office of the 56th Governor, whichever comes first