

# ***Mandate Reform Initiatives***

## **Preventing Unfunded Mandates**

1. **Impose a Statutory Moratorium:** Place a four-year moratorium on all unfunded legislative mandates.
2. **Require Local Fiscal Notes on Legislation:** Include a fiscal note on every bill that clearly estimates the budgetary impact on any legislation affecting local governments.
3. **Establish State Education Department (SED) Regulatory Review Process:** Require SED to implement a regulatory review process similar to Executive Order 17 that is intended to prevent the imposition of unfunded mandates on school districts.
4. **Establish Office of Court Administration (OCA) Regulatory Review Process:** Require OCA to implement a regulatory review process similar to Executive Order 17 that is intended to prevent the imposition of unfunded mandates on local governments.

## **Providing Local Procurement Flexibility**

5. **Repeal Procurement Fee:** Repeal the procurement fee charged to local governments for their use of Office of General Services (OGS) centralized contracts.
6. **Increase Competitive Bidding Thresholds:** Provide local governments with more contracting flexibility by increasing local competitive bidding thresholds - the competitive bidding contracts for public works contracts from \$35K to \$50K and purchase contracts from \$10K to \$20K.
7. **Require Electronic Bidding:** Provide local governments with the option of requiring that vendors submit bids electronically
8. **Allow Reverse Auctions:** Enable local government to hold reverse auctions, in which vendors bid against one another for lower prices.
9. **Permit Piggybacking on Other State and Local Government Contracts:** Allow for local governments to piggyback on other state and local government contracts.
10. **Permit Piggybacking on Other Certain Federal General Services Administration (GSA) Contracts:** Allow for piggybacking on Federal GSA Schedule 70 IT, Federal e-government, and national defense authorization act contracts.
11. **Award on Best Value:** Allow for service and technology contracts to be awarded by "best value" - a power the State already has.
12. **Provide Alternative Publication Options:** Provide local governments with the option of publishing procurement notices in the Contract Reporter instead of publishing in newspapers.

13. **Improve OGS Statewide Contract Options:** Provide more contracts desired by local governments on OGS centralized contracts.

### **Relieving the Mandated Cost Burden on School Districts**

14. **Repeal Wicks for School Districts:** Provide all school districts with a full exemption from costly Wicks Law capital construction requirements.
15. **Streamline School District Planning and Reporting:** Eliminate duplicative or unnecessary planning and reporting requirements.
16. **Authorize Electronic Filing of Reports:** Allow school districts to file reports with SED electronically.
17. **Allow Piggybacking in Certain Transportation Contracts:** Authorize school districts to piggyback an existing private transportation contract of another school district to provide student transportation outside of a pupil's home district.
18. **Promote Regional Transportation Strategies and Bus Maintenance:** Enable school districts to reduce expenses by contracting with other entities, including school districts, counties and municipalities to provide more efficient student transportation. School districts would also be authorized to partner on school bus maintenance.
19. **Eliminate State-Mandated Aging Out Notifications:** End duplicative notices to parents of students that are aging-out of special education services.
20. **Reform Special Education Space Planning Requirements:** Replace current five-year plan with a general provision placing responsibility for determining the adequacy and appropriateness of facilities.
21. **Allow Withdrawal from Employee Benefit Accrued Liability Reserve Funds:** Authorize a withdrawal of excess employee benefits reserves during the 2010-11 school year.

### **Reducing the Cost of Local Employee Benefits**

22. **Allow Pension Amortization/ Reform Pension Benefits:** Address the substantial pension contribution increases that local governments and the State will face over the next five years due to investment losses experienced by the Common Retirement Fund. Building on the Tier V pension reform law enacted in the December 2009 special session, this proposal would give local governments and the State the option to amortize a portion of their pension costs from 2010-11 through 2015-16. Local governments and the State, if they choose to participate, would be permitted to amortize the portion of their respective pension costs exceeding a contribution rate of 9.5 percent for the New York State and Local Employees' Retirement System and 17.5 percent for the New York State and Local Police and Fire Retirement System in 2010-11. The contribution rate above which future amortizations are allowed would be increased by one percentage point each year through 2015-16. Repayment of the amortized amounts will be made over a ten-year period at an interest rate to be determined by the State Comptroller.

23. **Provide New York State Health Insurance Program (NYSHIP) Rate Relief:** Limit 2010 NYSHIP premiums, paid by local governments for employee health insurance, to a 3.3 percent rate increase. This administrative action taken in Fall 2009 is consistent with the Governor's pledge that 2010 Empire Plan premiums charged to local participants would not increase by more than 3.5 percent.
24. **Ease Creation of Municipal Health Insurance Cooperatives:** Require insurers to provide up to three years of claims experience to a municipal corporation when it requests such information for the purposes of forming or joining such a cooperative. Reduce the minimum number of municipal corporations needed to establish such a cooperative from five to three. Enacted in the November 2009 special session.

### **Relieving the Mandated Cost Burden on Counties**

#### **Preschool Special Education**

25. **Limit County Expenses for Preschool Special Education:** Cap the county share of preschool special education services at a two percent annual growth level with school districts assuming responsibility for spending above this threshold.
26. **Encourage Use of Nearby Providers:** Reduce transportation costs by encouraging the use of nearby providers.
27. **Require SED Response to County Audits:** Require SED to respond to county audits of preschool special education providers in a timely fashion.

#### **Early Intervention (EI) Program**

28. - **Advance EI Program Reforms:** Propose a series of EI program reforms with the Executive Budget that will reduce local program costs while ensuring quality of services.
35. **Limit Travel Requirements:** Allow municipal staff participation in Individualized Family Service Plan meetings via phone or other means, saving localities travel costs.

#### **Medicaid/Nursing Homes/Health Programs**

37. **Authorize a Long-Term Care Demonstration Program:** Revise statute and regulations to facilitate county closure or downsizing of public nursing homes by allowing savings to be redirected to enhance community-based long-term care services and enable placement of "hard to place" individuals in private nursing homes.
38. **Streamline Review of Certificate of Need (CON) Construction Applications:** Raise project cost thresholds that establish the level of review (i.e., full, administrative, and limited) for CON construction applications submitted by Article 28 facilities (whether public, proprietary or voluntary). Given that fees for these applications vary by level of review, the shift from more intensive levels of review to less intensive ones will result in cost reductions.

39. **Reduce Uniform Financial Reporting System Requirements:** Ease local reporting requirements under Article 6 public health programs.
40. **Eliminate Unnecessary Consent for Medical Education:** Relieve county medical examiners from a regulatory provision that could have required these officials to obtain consent for HIV testing of cadavers donated for medical education.
41. **Modify Third Party Health Insurance Determination and Recovery Process:** Modify the determination of cost-effective Third Party Health Insurance and the pursuit of primary payment for medical costs, which currently lies with a county department of social services, and transfer this function to the Office of the Medicaid Inspector General (OMIG), relieving counties of performing it.

### **Criminal Justice: Jails**

42. **Reduce Unnecessary Personal Appearances in Court:** Allow a judge to dispense with the need for a personal appearance by a defendant when a video teleconference is deemed appropriate (e.g., not for hearings or trials). This will reduce the cost and difficulty associated with securely transporting the defendant to court.
43. **Remove Unnecessary Inmate Classifications:** Eliminate the requirement that jails separately house inmates ages 19-21, thereby providing jail administrators with additional flexibility in allocating space.
44. **Provide Flexibility in Medical Facilities:** Allow jails to house men and women receiving care or treatment in a facility operated infirmary, provided that proper separation is maintained. This will eliminate the requirement for duplicative facilities
45. **Reduce Burden of Inmate Grievances:** Improve the process for addressing inmate grievances by further encouraging the use of informal resolution to the issues, while ensuring that inmates would still have access to formal procedures.
46. **Reduce Overtime Costs:** Remove the requirement that the count of inmates at each shift change be conducted jointly with the outgoing and oncoming corrections officer, which increases overtime costs. Instead allow the oncoming corrections officer to verify the outgoing corrections officer's count at the beginning of their shift.
47. **Reduce Jail Construction Costs:** Adopt the less restrictive American Correctional Association standards for jail construction, thereby reducing the high cost of county jail construction.
48. **Reduce Frequency of Chemical Agent Inspections:** Reduce the frequency of required inspections of teargas, pepper spray and other chemical agents from once every three months to once every six months.
49. **Reduce Frequency of Securing Device Inspections:** Reduce the frequency of required inspections of locks, bars, fences and other securing devices from once a week to once a month.

50. **Reduce Duplicative Reviews:** Eliminate the requirement that corrections officers who are relieving another officer perform the same review that the officer being relieved has already completed.
51. **Allow Electronic Deposit in Inmate Accounts:** Provide the option of depositing funds into an inmate's commissary account by electronic means.

#### **Criminal Justice: Probation**

52. **Streamline the Presentencing Investigation Report Process:** Reduce the number of misdemeanor pre-sentencing investigations and reports that counties have to undertake by eliminating the requirement for a presentence report when a defendant is likely to be sentenced to time served.
53. **Allow Electronic Submission of Presentence Investigation Reports:** Provide probation departments with the ability to submit electronic presentence investigation reports to the Department of Health (DOH) for certain medical titles and to SED for all other professional titles. This will streamline and expedite an existing unnecessarily cumbersome process for the distribution of critical public safety related information.
54. **Consolidate Probation Aid:** Consolidate all direct sources of funding provided to counties for a variety of probation functions into one grant which will provide counties with flexibility in applying for and reporting on the execution of their grant awards. A review will be undertaken of existing mandates associated with receipt of these funds and new regulations will issued.
55. **Eliminate Unnecessary Presentencing Investigation Reports for Youth:** Reduce the number of presentencing investigations for youth. While state law requires that there be a pre-sentence investigation and report involving any potential youthful offender, frequently, a plea arrangement occurs where the youth will receive a non-incarcerative, and/or non-probation sentence and the sole determining factor is confirmation of the youth's age and criminal history. In such cases, there is no need for probation to conduct a pre-sentence investigation and prepare a report as the prosecutor and the court can obtain a criminal history report and the youth can provide appropriate documentation of his/her age.
56. **Expand Offenses Covered Under the Probation Detainer Warrant Program:** Expand the Probation Detainer Warrant Program to include certain high-risk individuals as the original underlying behavior is related to a sex offense or family offense.
57. **Ease Transfer of Probation Supervision:** Advance technical amendments to the rules governing interstate and intrastate transfer of probation supervision for adults and juveniles, and a statutory amendment that would require probationers to enter into a waiver of extradition as part of their sentence and further that the court consider requiring the posting of a bond in the event that retaking is required.
58. **Increase Local Probation Staffing Flexibility:** Provide local probation management additional flexibility regarding the recruitment, selection, and promotion of probation professional personnel.

59. **Increase Local Probation Management Flexibility:** Provide local probation management additional flexibility regarding the day-to-day operational flexibility by allowing them to engage in activities in accordance with local practice and available staff resources.
60. **Increase Case Record Management:** Afford additional flexibility with respect to supervision recordkeeping and frequency of supervision reports and provide probation departments with the necessary means and flexibility to communicate more effectively and better manage those under supervision.

#### **Criminal Justice: Parole**

61. **Eliminate Barriers to Reentry:** Advance an omnibus re-entry proposal that will improve an ex-offenders chances to successfully reentry society that will reduce recidivism. Included as part of this proposal will be: changes that will allow ex-offenders to work in establishments with liquor licenses; amend laws that relate to both certificates of relief from disabilities and certificates of good conduct to improve consistency in the right to receive these certificates; improve the manner in which criminal records are sealed.
62. **Expedite the Process for Technical Parole Violation Hearings:** Permit parolees to plead to a reduced sentence for a technical parole violation at a special arraignment hearing, when consistent with public safety. This process will replicate a procedure that is already in place in New York City in upstate New York counties.
63. **Continue Administrative Reforms to Reduce the Length of Time Parole Violators are in Local Facilities:** Continue a number of administrative reforms recently implemented that has reduced the number of technical parole violators in local jails by 20 percent over the last year, including greater supervisor involvement before issuing a violation warrant.

#### **Criminal Justice: Other**

64. **Allow Counties to Create an Office of Conflict Defender:** Enable counties to create the position of conflict defender in the event that the public defender has a conflict of interest and is not able to defend those who have been assigned counsel.

#### **Social Services**

65. **Authorize Direct Deposit/Debit Cards for Adoption Subsidies and Direct Foster Care Subsidies:** Create an automated debit card system to replace the current system of mailing 46,000 checks per month for adoption subsidy payments and 4,000 per month for direct foster care subsidies.
66. **Limit Court-Ordered Child Protective Services Investigations:** Require a finding of reasonable cause by Family Court judges in order to justify child protective services investigations. This will avoid unnecessary investigations that are sometimes used for custody determinations when there is no risk to health and safety.
67. **Increase Juvenile Detention Personnel Flexibility:** Eliminate extraneous regulatory requirements for hiring that in some instances may be overly prescriptive and/or outdated, but require detention staff members who are licensed professionals to maintain their

appropriate license.

68. **Ease Required Caseworker Contact Requirements:** Amend the requirement that casework contacts for a child in foster care be face-to-face between the case planner or assigned caseworker and the child, child's parents or relatives, or the child's caretakers, by allowing contacts with the child's parents or relatives made by parent advocates to count toward the required casework contacts.
69. **Permit Multi-year Contracts:** Amend regulations to allow local social services districts to enter into multi-year contracts for the purchase of services, which they are currently prohibited from doing for longer than 12 months.
70. **Update Authorized Public Official Requirement:** Amend regulation to require only one public official be designated as an emergency contact and be reachable on a 24-hour basis whenever a youth is placed in juvenile detention from a county other than the county operating the detention facility. The current regulation requiring that two public officials be designated as emergency contacts predates the use of cell phones and other electronic devices that make it easier to reach an emergency contact.
71. **Reduce Duplicative Child Day Care Regulations:** Review and amend School Aged Child Care regulatory requirements to modify or waive requirements that may be unnecessary where the program is operated at a location which is also a public school.
72. **Permit Youth Bureau Reorganization:** Amend regulations to allow youth bureaus to reorganize and operate from within another governmental subdivision and, under certain conditions, allow the executive director of the youth bureau to report to a department head other than the chief executive officer of the municipality.
73. **Increase Flexibility in Local Consolidated Service Plans:** Extend the cycle from three to five years, eliminate the requirement for annual implementation reports, provide more flexibility for public participation in the planning process, eliminate unnecessary information from plans and allow districts to report on updates to their plans as necessary.
74. **Improve State Central Register for Child Abuse (SCCR) Practices:** Allow a county to send an erroneously assigned SCCR report back to the State for reassignment, providing relief from a current requirement that forces counties to resolve erroneous assignments at the local level.
75. **Streamline and Improve Local Training Requirements:** Reduce by four days the time it takes new local social services employees to complete basic training without negatively affecting the quality of caseworker training.
76. **Provide Youth Recreation Services Flexibility:** Amend regulations to allow municipalities to charge a participant fee for recreational service programs, while ensuring that any child who is unable to pay the fee is offered a scholarship or fee waiver.
77. **Clarify Legal Representation for Local District Child Support Enforcement:** Clarify that attorneys for local district child support enforcement units are required

only to represent the interests of the local support collection unit in carrying out its duties under the child support program.

### **Other County Programs**

78. **Eliminate Freshwater Wetland Maps Filing:** Eliminate the requirement that county clerks file freshwater wetlands maps that are now available on DEC's website, making it no longer essential that county clerks perform this service and incur modest fiscal impacts by it.
79. **Share Business Filings Electronically:** Create an electronic process for the required sharing of business filings with county clerks.

### **Improving Local Government Management**

#### **Shared Services**

80. **Allow Shared Justice Court Facilities:** Allow adjacent municipalities to share court facilities as part of an intermunicipal agreement.
81. **Improve Justice Court Consolidation Process:** Provide additional clarification to the town justice court consolidation process.
82. **Promote Shared Highway Services:** Allow additional items to be the subject of shared highway service agreements. Allow the State to receive services from local governments (instead of just provide). Allow contracts to be created for terms of up to five years instead of a fixed three-year term. Enacted in the November 2009 special session.
83. **Allow Shared Multi-County Health Directors and Boards:** Allow certain county and part-county health districts to share the same commissioner or director and, under such circumstances, to also have common health district board members, subject to the DOH approval. Enacted in the November 2009 special session.
84. **Allow Shared Directors of Weights and Measures:** Allow multiple counties to share one Director of Weights and Measures pursuant to an intermunicipal agreement. The Agriculture and Markets Law currently requires each county to have its own Director of Weights and Measures, who must reside in the county.
85. **Allow Fire Districts/Companies to Have Additional Members from Outside of the Districts:** Allow volunteer fire companies to have additional members that do not reside in the fire district in which they serve upon approval by the Office of Fire Prevention and Control (there is currently a prohibition on allowing more than 45 percent of members to be from outside the district).
86. **Establish a Default Mutual Aid Agreement Across the State:** Create a default intrastate emergency services mutual aid compact, which municipalities can opt-out of.



## **Special District Reform**

87. **Eliminate Special District Commissioner Compensation:** Prohibit special district commissioners from receiving compensation for their services. However, such commissioners may still receive reimbursement for any actual and necessary expenses they incur in the performance of their official duties. This change brings special district commissioners into conformity with school board members and fire district commissioners, who are also barred from receiving compensation.
88. **Transfer Management of Sanitary Districts:** Transfer to town boards most of management responsibilities for commissioner-run town special districts providing sanitary, refuse, or garbage services, but allow elected special district commissioners to continue to hold referenda on whether the level of services provided to district residents should be changed. Towns already manage nearly all of these districts statewide. These amendments have the potential to improve management and reduce the costs of these special districts.
89. **Restore Process to Eliminate Town Improvement District Commissioners:** Restore and improve a process by which town boards and citizens can remove the independently elected board of town improvement district commissioners.

## **Other Mandate Reform**

### **Local Tax Administration**

90. **Expand Tax Collection Options:** Provide local governments with the option of entering into an agreement with the county for tax collection.
91. **Limit Reporting Requirements:** Modify level of assessment reporting requirements so that only large changes between the prior roll and the current roll would require a report.
92. **Allow Electronic Filing of Real Property Transfer Forms:** Remove any legal and regulatory obstacles to electronic filing of real property transfer reports providing greater efficiencies through the automation of this data.
93. **Improve Assessment Disclosure Notices:** Authorize more meaningful, well-timed assessment notices with electronic distribution to achieve cost savings for local governments.
94. **Capture Delinquent Property Taxes from Income Tax Pilot:** Develop a pilot program to capture delinquent property taxes from income tax refunds.

### **Litigation Expenses**

95. **Reduce Interest Rate on Judgments:** Set the interest rate paid on judgments against local governments and the State at market rates with a nine percent cap, rather than the existing nine percent interest rate maximum.

96. **Eliminate Collateral Source Double Dipping:** Allow local governments to reduce their obligations in judgments against them by future benefits to the plaintiffs from collateral sources, such as a disability pension. Enacted in the November 2009 special session.

### **Local Finance**

97. **Authorize Pooled ARRA Financing:** Authorize the State's Municipal Bond Bank Agency (MBBA) to issue bonds, notes or other obligations to purchase bonds issued by municipalities to provide for public improvements afforded by ARRA, thus enabling municipalities to lower their borrowing costs which will generate fiscal relief and contribute to economic growth. Enacted in the November 2009 special session.
98. **Authorize Pooled Financing for Interoperable Communications Systems:** Authorize MBBA to offer pooled financing enabling local governments to develop interoperable communications systems.
99. **Provide Deposit Flexibility:** Provide local governments with more options to achieve interest revenue by allowing the deposits of municipal funds in local savings banks and credit unions. Current law limits municipal deposits to commercial banks and trust companies.
100. **Increase New York City Financing Flexibility:** Provide New York City with the option of using a sinking fund to take full advantage of qualified school construction bonding authorized under ARRA.

### **All Other**

101. **Allow Electronic Delivery of Local Laws:** Allow local governments to submit all passed local laws to the Department of State electronically for filing. Currently, local governments are required to submit laws by mail or delivery to the Department of State, and this is generally done through mail with varying costs to a local government based on the number of laws filed per year.
102. **Allow Shared Business Analyses/Risk Assessments:** Allow local governments to adopt existing business analyses/risk assessments when the application they wish to use is the same as an existing application in another locality, or to share resources in a collaborative effort to develop an online application. This regulatory change reduces a barrier to entry for local governments desiring to deliver more information and provide services online. With this change, local governments may find it easier to deploy online, e-government applications to better serve their constituents.