



NEW YORK STATE SENATOR

Thomas F. O'Mara

O'Mara co-sponsoring mandate relief legislation to relieve counties of indigent defense costs ~ Read and watch more [UPDATED, February 23RD]

THOMAS F. O'MARA February 5, 2016

| ISSUE: **UNFUNDED STATE MANDATES**



**Elmira, N.Y., January 28**—State Senator Tom O'Mara (R,C,I-Big Flats) is co-sponsoring mandate relief legislation that would require the state to stop passing the cost of legal defense services for the poor, commonly known as “indigent defense,” to counties.

The legislation (**S6341/A6202**), which is also co-sponsored by Assemblyman Phil Palmesano (R,C,I-Corning) in the State Assembly, would require the state to take over the full cost of indigent defense over the next four years. O'Mara said that the move to relieve counties locally and statewide of this unfunded state mandate, which earlier this year was identified by the **New York State Association of Counties (NYSAC)** as one of its top mandate relief priorities, would save counties statewide more than \$370 million a year.

"This legislation to get county governments and local property taxpayers out from under this unfunded state mandate would mark a significant mandate relief action," said O'Mara. "We need to take actions like this one if we're ever going to truly transform the state-local partnership and lead the way to a future of property tax cuts for our local taxpayers."

The legislation has bipartisan support in the Legislature. In addition to Republican sponsorship by Senate Deputy Majority Leader John DeFrancisco (R-Syracuse), O'Mara and others in the Senate and Assembly, it's sponsored in the Assembly by Assemblywoman Patricia Fahy (D-Albany) and other Democratic lawmakers. It's currently in the Local Government Committee in the Senate, and the Codes Committee in the Assembly.

A 1963 Supreme Court ruling in *Gideon v. Wainwright* required states to provide legal defense for criminals who cannot afford to hire their own lawyers. New York State began passing along most of the costs associated with that 1963 ruling to counties in 1965, a mandate which has caused an increasingly severe strain on local budgets and property taxpayers over the past half century.

According to NYSAC in "**Real and Permanent Mandate Relief**," report released earlier this month, "The decision to place responsibility at the county level in the State of New York has resulted in a system that burdens property taxpayers with the majority of the costs for indigent defense, despite the fact that the constitutional right to counsel under Gideon is a

state, not county, obligation. The state can improve the public defense system by incrementally increasing state funding, designing a cost-effective way to finance the system over time, and relieving counties of a responsibility delegated to them since 1965.”

Since the state’s enactment of the two-percent local property tax cap in 2011, O’Mara has been outspoken in his criticism that the state, as promised, has not followed through on its commitment to meaningful relief for counties from unfunded state mandates.

“When the tax cap was first enacted five years ago, Governor Cuomo promised that it would go hand in hand with rolling back the heavy burden of unfunded state mandates on local governments and school districts,” O’Mara said. “While there have been some important mandate relief actions since then, including long-term pension reform and the takeover of the growth in local Medicaid costs, not nearly enough has been done to ensure a future of long-term property tax reductions for local property taxpayers.”

Watch more on Time Warner Cable News, "**Senator O'Mara Pushing for Mandate Relief in County Budgets**"

[UPDATE, February 24TH: from Time Warner Cable News, "**Proposal Could Take Burden of Public Defense Costs Off Counties**"