



State of New Jersey
COUNCIL ON LOCAL MANDATES
135 WEST HANOVER STREET
TRENTON NJ
(609) 984-9738
(609) 984-9737 FAX

Sharon L. Weiner, Esq.
Chair

Mailing Address:
PO Box 627
Trenton, NJ 08625-0627

December 31, 2012

The Honorable Christopher Christie,
Governor
The Honorable Stephen M. Sweeney,
Senate President
The Honorable Thomas H. Kean, Jr.,
Senate Minority Leader
The Honorable Shiela Y. Oliver,
Speaker of the General Assembly
The Honorable Jon Bramnick,
Assembly Minority Leader

Pursuant to N.J.S.A. 52:13H-19, the Council on Local Mandates submits its Report to the Governor and the Legislature, enclosed with this letter.

Copies of this letter and the enclosure are being provided to the Secretary of the Senate, the Clerk of the General Assembly, the Office of Public Information, and the Office of State Librarian. Please do not hesitate to contact me if you have any questions regarding the Report.

Respectfully,

A handwritten signature in cursive script that reads "Sharon L. Weiner, Esq.".

Sharon L. Weiner, Esq.,
Council Chairwoman

E-mail/Interoffice Mail
Enclosure – 2012 Report of the Council on Local Mandates
cc w/enc.: Kent M. Hicks, Secretary of the Senate
Dana M. Burley, Clerk of the General Assembly
Office of Public Information
Office of State Librarian

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December 31, 2012

REPORT OF THE COUNCIL ON LOCAL MANDATES
TO HON. CHRISTOPHER CHRISTIE, GOVERNOR,
AND TO THE LEGISLATURE OF THE STATE OF NEW JERSEY

The Council statute provides, in pertinent part:

The council shall submit a report to the Governor and the Legislature prior to December 31 of each year setting forth the names and salaries of: the professional employees of council members, individuals employed by the council on a temporary or permanent basis, and personnel and consultants for whose service the council has contracted.

[N.J.S.A. 52:13H-19]

Accordingly, the Council reports the following information (as of December 31, 2012):

1. Professional employees of Council members: none.
2. Individual(s) employed by the Council on a temporary or permanent basis:

Shawn D. Slaughter
Executive Administrator & Coordinator (full time position)
Salary: \$50,000.00 per annum

3. Personnel and consultants for whose service the Council has contracted:

Hon. Geoffrey Gaulkin (P.J.A.D. ret.), was paid on an hourly basis for legal research and writing related to two Complaint cases filed in 2011 that were resolved in 2011 and 2012.

Attachment – Council Summary of 2012 Case activity.

COUNCIL SUMMARY OF 2012 CASES

In 2012, the Council resolved complaints filed by the Township of Springfield Board of Education; and the Township of Allamuchy Board of Education that were filed in 2011 and 2012.

The Township of Springfield Board of Education filed a complaint alleging that N.J.S.A. 18A:39A and 1a impose unfunded mandates insofar as they “increased the amount local boards of education are required to pay for the transportation of nonpublic school students ... without a corresponding increase in state aid specifically earmarked for this transportation.”

In the Springfield Township matter, the Council rejected the Board’s argument, based on the fact that the district is not presently receiving State transportation aid, that the alleged “unfunding” arises from a 2011 Department of Education memorandum, directed to all district and county school administrators, advising that “State transportation aid ... is not a prerequisite for the payment of aid in lieu of transportation.” That memorandum did not impose any new mandate on local districts, but simply explained the State’s view of governing law. The Board’s dispute is with the State’s interpretation and application of the pre-1996 statutes, but those statutes are beyond the Council’s jurisdiction, and was dismissed for lack of jurisdiction.

The Township of Allamuchy Board of Education filed a complaint seeking a declaration that five portions of P.L. 2010, c.122, the “Anti-Bullying Bill of Rights”, constitute unfunded mandates. The challenged sections required every school district to adopt a policy for responding to incidents of harassment, intimidation or bullying. The legislation created a “Bullying Prevention Fund” to provide grants to local districts to provide training on bullying prevention and the effective creation of positive school climates. Testimony was presented during the hearing that the challenged provisions of P.L. 2010, c. 122 did not authorize resources other than the property tax, to offset the additional direct expenditures for implementation of the law.

In its deliberation, the Council found no merit in the Assistant Commissioner’s contention that existing security aid received from the State would suffice to pay the additional costs occurred in implementing the Statute. The Council also rejected the Assistant Commissioner’s arguments that the challenged sections P.L. 2010, c. 122 fell beyond the Council’s jurisdiction as there was no sufficient evidence showing that the statutory provisions implemented the New Jersey Constitutional requirement of “thorough and efficient system of public schools.” N.J. Const. Art. VIII, §4, ¶1. Nor can the challenged sections be said to “repeal, revise or ease” the provisions of P.L. 2002, c. 83 id. Thus, they are not exempt from Council action as laws “which implement provisions of the New Jersey Constitution.”

In summary, judgment was accordingly granted to the claimant, Allamuchy Township Board of Education, and denied to the Assistant Commissioner of Education with a finding that neither the facts nor Council precedent support those arguments. The challenged sections of P.L. 2010, c.122 impose unfunded mandates in violation of N.J. Const. Art. VIII, §2, ¶5 (a) and N.J.S.A. 53:13H-2.1.