



State of New Jersey

COUNCIL ON LOCAL MANDATES

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Hon. John A. Sweeney, AJSC (ret.)
Chair

Mailing Address:
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December 30, 2011

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 Alex DeCroce,
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 black ink, appearing to read "John A. Sweeney".

Hon. John A. Sweeney, A.J.S.C. (ret.)
Council Chair

E-mail/Interoffice Mail

Enclosure – 2011 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

December 30, 2011

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 30, 2011):

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.), who is to be paid on an hourly basis for legal research and writing related to three Complaint cases filed in 2010 that were resolved in 2011.¹

Attachment – Council Summary of 2011 Case activity.

¹ It is expected that fees incurred in 2011 will not exceed \$18,000.

COUNCIL SUMMARY OF 2011 CASES

In 2011, the Council resolved complaints filed by the Township of Roxbury; Township of Blairstown; and the County of Atlantic that were filed in 2010.

The Township of Roxbury filed a complaint alleging that the Refuse Container and Private Catch Basin Retrofitting Ordinances required under N.J.A.C. 7:14A-15.15-Tier A Municipal Stormwater General Permit is an unfunded mandate.

In the Roxbury Township matter, the Council determined that enforcement of the dumpster-cover ordinance will entail additional municipal expenditures, but that enforcement of the retrofitting ordinance will not result in any additional expenditures. Accordingly, the N.J.A.C. 7:14A-15.15 directive concerning the adoption and enforcement of the dumpster-cover ordinance is declared to be an unfunded mandate and the concerning the adoption and enforcement of the retrofitting ordinance is declared not to be an unfunded mandate.

The Township of Blairstown filed a complaint alleging that a provision of the New Jersey State Appropriation Act P.L. 2010, C.35 prohibiting the expansion or extension of State Police Rural Patrol services above levels provided in the prior fiscal year to municipalities is an unfunded mandate.

In the Blairstown Township matter, the facts of this case clearly support the assertion by the State the challenged language imposes no obligations or costs on Blairstown. The language of the Act simply cannot be construed to be an unfunded State mandate because no direct expenditures are required to be incurred by Blairstown in order to implement the language. Our Constitution defines an unfunded mandate as a law, rule or regulation that does not authorize resources, other than property tax, to offset the additional direct expenditures required for [its] implementation. N.J. Const., Art. 3, Sec. p.5. the language simply preserves the status quo. Had Blairstown not increased the hours of operation of its part-time municipal police department in 2006, the level of State Police rural patrol services would have remained the same, and would have been preserved by the very language Blairstown is challenging. The election to increase hours of local police services in 2006 was the sole cause of the increased financial obligation on Blairstown, not the language of the Fiscal Year 2010 Appropriations Act.

For the foregoing reasons, the State's Motion to Dismiss was granted and Blairstown's demand for judgment was denied.

The County of Atlantic filed a complaint alleging that the Seal-Use Protocol Training and Anticipated-Sequoia AVC Advantage Firmware Upgrade order issued by the Department of State, Division of Elections is an unfunded mandate.

In the Atlantic County matter, the Council determined that the November 16, 2010 memorandum of Director Robert F. Giles of the Division of Elections in the New Jersey Department of State constitutes an unfunded mandate and shall cease to be mandatory in its effect and expire. N.J. Const. Art. VIII, sec.5(a); N.J.S.A. 52:13H-2.

The following matters are currently pending before the Council:

The Township of Allamuchy Board of Education has filed a complaint in which it is alleged that NJ Laws 2010, chapter 122, portions of which are known as the "Anti-Bullying Bill of Rights is an unfunded mandate.

The Springfield Board of Education has filed a complaint in which it is alleged that N.J.S.A. 18A:39-1, paragraphs II(1), II(2), and II(3), which governs a school district's obligation to provide transportation to students regarding Aid In Lieu of Transportation is an unfunded mandate.