

**ASSEMBLY CONCURRENT
RESOLUTION No. 16**

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman HAROLD "HAL" J. WIRTHS

District 24 (Morris, Sussex and Warren)

Assemblyman PARKER SPACE

District 24 (Morris, Sussex and Warren)

SYNOPSIS

Proposes constitutional amendment to broaden powers of the Council on Local Mandates.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **A CONCURRENT RESOLUTION** proposing to amend Article VIII,
2 Section II, paragraph 5 of the Constitution of the State of New
3 Jersey.

4
5 **BE IT RESOLVED** *by the General Assembly of the State of New*
6 *Jersey (the Senate concurring):*

7
8 1. The following proposed amendment to the Constitution of
9 the State of New Jersey is agreed to:

10
11 PROPOSED AMENDMENT

12
13 Amend Article VIII, Section II, paragraph 5 as follows:

14 5. (a) With respect to any provision of a law enacted on and
15 after January 17, 1996, and with respect to any rule or regulation
16 issued pursuant to a law originally adopted after July 1, 1996, and
17 except as otherwise provided herein, any provision of such law, or
18 of such rule or regulation issued pursuant to a law, which is
19 determined in accordance with this paragraph to be an unfunded
20 mandate upon boards of education, counties, or municipalities
21 because it does not authorize resources, other than the property tax,
22 to offset the additional direct expenditures required for the
23 implementation of the law or rule or regulation, shall, upon such
24 determination cease to be mandatory in its effect and expire. A law
25 or rule or regulation issued pursuant to a law that is determined to
26 be an unfunded mandate shall not be considered to establish a
27 standard of care for the purpose of civil liability.

28 (b) The Legislature shall create by law a Council on Local
29 Mandates. The Council shall resolve any dispute regarding whether
30 a law or rule or regulation issued pursuant to a law constitutes an
31 unfunded mandate and may, without regard to any dispute,
32 undertake a review of existing laws, rules and regulations for the
33 purpose of making recommendations to the Legislature concerning
34 which unfunded mandates can be eliminated or modified. The
35 Council may also review bills pending before the Legislature to
36 identify for the Legislature bills that would constitute unfunded
37 mandates if enacted. The Council shall consist of nine public
38 members appointed as follows: four members to be appointed by
39 the Governor; one member to be appointed by the President of the
40 Senate; one member to be appointed by the Speaker of the General
41 Assembly; one member to be appointed by the minority leader of
42 the Senate; one member to be appointed by the minority leader of
43 the General Assembly; and one member to be appointed by the
44 Chief Justice of the New Jersey Supreme Court. Of the members
45 appointed by the Governor, at least two shall be appointed from a

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 list of six willing nominees submitted by the chairman of the
2 political party whose candidate for Governor received the second
3 largest number of votes at the most recent gubernatorial general
4 election. The decisions of the Council shall be political and not
5 judicial determinations.

6 (c) Notwithstanding anything in this paragraph to the contrary,
7 the following categories of laws or rules or regulations issued
8 pursuant to a law, shall not be considered unfunded mandates:

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

11 (2) those which are imposed on both government and non-
12 government entities in the same or substantially similar
13 circumstances;

14 (3) those which repeal, revise or ease an existing requirement or
15 mandate or which reapportion the costs of activities between boards
16 of education, counties, and municipalities;

17 (4) those which stem from failure to comply with previously
18 enacted laws or rules or regulations issued pursuant to a law;

19 (5) those which implement the provisions of this Constitution;
20 and

21 (6) laws which are enacted after a public hearing, held after
22 public notice that unfunded mandates will be considered, for which
23 a fiscal analysis is available at the time of the public hearing and
24 which, in addition to complying with all other constitutional
25 requirements with regard to the enactment of laws, are passed by
26 3/4 affirmative vote of the members of each House of the
27 Legislature.

28 (cf: Article VIII, Section II, paragraph 5 added effective December
29 7, 1995)

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31 2. When this proposed amendment to the Constitution is finally
32 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
33 shall be submitted to the people at the next general election
34 occurring more than three months after the final agreement and
35 shall be published at least once in at least one newspaper of each
36 county designated by the President of the Senate, the Speaker of the
37 General Assembly and the Secretary of State, not less than three
38 months prior to the general election.

39

40 3. This proposed amendment to the Constitution shall be
41 submitted to the people at that election in the following manner and
42 form:

43 There shall be printed on each official ballot to be used at the
44 general election, the following:

45 a. In every municipality in which voting machines are not used,
46 a legend which shall immediately precede the question, as follows:

47 If you favor the proposition printed below make a cross (X), plus
48 (+), or check (T) in the square opposite the word "Yes." If you are

1 opposed thereto make a cross (X), plus (+) or check (T) in the
2 square opposite the word "No."
3 b. In every municipality the following question:
4

		EXPAND POWERS OF COUNCIL ON LOCAL MANDATES
	YES	<p>Do you approve amending the Constitution to increase the power of the Council on Local Mandates?</p> <p>The amendment would allow the Council to look at existing State laws, rules and regulations. The Council would advise the Legislature as to which existing unfunded mandates on school districts, counties and municipalities should be changed or eliminated.</p> <p>The Council would also look at bills before the Legislature to find those that would be unfunded mandates if they were enacted.</p>
		INTERPRETIVE STATEMENT
	NO	<p>This amendment would increase the powers of the Council on Local Mandates.</p> <p>Now, the Council can hear complaints about laws, rules and regulations adopted after 1996 that impose State mandates on school districts and local governments. The amendment would allow the Council to look at all existing statutes, rules and regulations for unfunded mandates, no matter when adopted. It would allow the Council to recommend to the Legislature that some mandates should be eliminated or changed.</p> <p>The amendment would also allow the Council to look at bills before the Legislature to identify which ones would be unfunded mandates if they became law.</p>

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6
7 STATEMENT
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9 The Council on Local Mandates was established in 1996 to rule
10 on questions of whether State laws, rules and regulations enacted or
11 adopted after January 17, 1996 were unfunded mandates on local

1 governments and unenforceable. With the constant annual increases
2 to the burden of local property taxes, it is prudent for the
3 Legislature to take advantage of the expertise developed by the
4 members and staff of the Council on Local Mandates to review
5 statutes and regulations, whenever enacted or adopted, in order to
6 recommend the repeal or modification of those laws and regulations
7 that place an excessive burden on local units of government, and
8 also to review bills pending before the Legislature to identify for
9 the Legislature bills that would constitute unfunded, unenforceable
10 mandates on school districts, counties and municipalities if enacted.
11 This constitutional amendment would expand the authority of the
12 Council of Local Mandates to allow it to effectively function as a
13 study commission with respect to existing statutory laws and
14 regulations, and bills pending before the Legislature.