

SENATE, No. 4248

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED DECEMBER 6, 2021

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Provides local public employee health care plans or programs are not unfunded mandates; gives Legislature's Presiding Officers right to intervene as parties or appear as amicus curiae without Council on Local Mandates approval.

CURRENT VERSION OF TEXT

As introduced.



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1 AN ACT concerning unfunded mandates and the right of certain
2 persons to intervene or appear before the Council on Local
3 Mandates as parties or as amicus curiae in regard to a complaint
4 and amending P.L.1996, c.24.

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6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

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9 1. Section 3 of P.L.1996, c.24 (C.52:13H-3) is amended to read
10 as follows:

11 3. Notwithstanding the provisions of any other law to the
12 contrary, the following categories of laws and rules or regulations
13 shall not be unfunded mandates:

14 a. those which are required to comply with federal laws or rules
15 or to meet eligibility standards for federal entitlements;

16 b. those which are imposed on both government and non-
17 government entities in the same or substantially similar
18 circumstances;

19 c. those which repeal, revise or ease an existing requirement or
20 mandate or which reapportion the costs of activities between boards
21 of education, counties, and municipalities, which revision shall
22 include any new law, rule, or regulation concerning any health care
23 benefits plan or program and coverage under such plan or program
24 provided by public employers to their public employees and
25 beneficiaries;

26 d. those which stem from failure to comply with previously
27 enacted laws or rules or regulations issued pursuant to a law;

28 e. those which implement the provisions of the New Jersey
29 Constitution; and

30 f. laws which are enacted after a public hearing, held after
31 public notice that unfunded mandates will be considered, for which
32 a fiscal analysis is available at the time of the public hearing and
33 which, in addition to complying with all other constitutional
34 requirements with regard to the enactment of laws, are passed by
35 3/4 affirmative vote of the members of each House of the
36 Legislature.

37 (cf: P.L.1996, c.24, s.3)

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39 2. Section 12 of P.L.1996, c.24 (C.52:13H-12) is amended to
40 read as follows:

41 12. a. It shall be the duty of the council to review, and issue
42 rulings upon, complaints filed with the council by or on behalf of a
43 county, municipality, fire district designated by ordinance of a
44 municipality or more than one municipality, or school district that
45 any provision of a statute enacted on or after January 17, 1996 and

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 any part of a rule or regulation originally adopted after July 1, 1996
2 pursuant to a law regardless of when that law was enacted
3 constitutes an unfunded mandate upon the county, municipality, fire
4 district designated by ordinance of a municipality or more than one
5 municipality, or school district because it does not authorize
6 resources to offset the additional direct expenditures required for
7 the implementation of the statute or the rule or regulation. A
8 complaint filed with the council shall be in the form of or
9 accompanied by a resolution passed by the governing body of a
10 county or municipality or fire district designated by ordinance of a
11 municipality or more than one municipality, or by a local board of
12 education. A complaint filed with the council by the New Jersey
13 Conference of Mayors, the New Jersey State League of
14 Municipalities, the New Jersey School Boards Association, the New
15 Jersey Association of Counties, the New Jersey Council of County
16 Colleges, the New Jersey Association of Fire Districts, the New
17 Jersey Career Fire Chiefs Association, the New Jersey State
18 Association of Chiefs of Police, or the New Jersey First Aid
19 Council shall be on behalf of at least two constituent members of
20 the organization, which constituent members shall be identified in
21 the complaint. A county executive or a mayor who has been
22 directly elected by the voters of the municipality may also file a
23 written complaint with the council, after the mayor or county
24 executive has provided the governing body with written notice of
25 intention to file a complaint with the council. A complaint may be
26 accompanied by supportive evidence. The council shall review each
27 complaint and, when necessary, interview witnesses and examine
28 documents. The council, by majority vote of its membership, shall
29 issue a written ruling, accompanied by any concurring or dissenting
30 opinions, as to whether or not a statute or a rule or regulation
31 constitutes an unfunded State mandate and an explanation of the
32 reasons for its determination. If the council determines that any
33 provision of a statute or any part of a rule or regulation constitutes
34 an unfunded State mandate which is prohibited by Article VIII,
35 Section II, paragraph 5 of the New Jersey Constitution and this act,
36 that provision of the law or that part of the rule or regulation shall
37 cease to be mandatory in its effect and shall expire. A ruling of the
38 council shall be restricted to the specific provision of a law or the
39 specific part of a rule or regulation which constitutes an unfunded
40 mandate and shall, as far as possible, leave intact the remainder of a
41 statute or a rule or regulation. The council shall not have the
42 authority to determine whether the funding of any statute or any
43 rule or regulation is adequate.

44 b. The council shall have the authority to consolidate
45 complaints filed by or on behalf of more than one governing body,
46 mayor, county executive, local board of education, county,
47 municipality, or fire district designated by ordinance of a

1 municipality or more than one municipality, in regard to the same
2 provision of a statute or the same part of a rule or regulation.

3 c. Any group or individual may file a written request with the
4 council to appear in the capacity of an *amicus curiae* in regard to a
5 complaint. The request shall state the identity of the group or
6 individual, the issue it wishes to address, the nature of the public
7 interest therein and the nature of the requestor's interest,
8 involvement or expertise with respect thereto. The council shall
9 grant the request if it is determined by a majority vote of the
10 council's members that the request is timely, that participation by
11 the group or individual will assist in the resolution of the matter and
12 that no interested party will be prejudiced thereby. In granting
13 permission, the council shall specifically define the extent of the
14 requestor's participation in the matter.

15 d. Notwithstanding the provisions of subsection c. of this
16 section, or any other law, rule, or regulation to the contrary, the
17 President of the Senate and the Speaker of the General Assembly,
18 either jointly or independently, shall have the right to intervene as
19 parties or appear in the capacity of an *amicus curiae*, at their own
20 discretion in regard to any complaint, without the need for approval
21 by the council.

22 (cf: P.L.2010, c.106, s.1)

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24 3. This act shall take effect immediately.

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STATEMENT

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29 Under Article VIII, Section II, paragraph 5 of the State
30 Constitution, any law, rule, or regulation that is determined to be an
31 unfunded mandate upon boards of education, counties, or
32 municipalities because it does not authorize resources other than the
33 property tax to offset the additional direct expenditures required for
34 its implementation ceases to be mandatory and expires. The Council
35 on Local Mandates, composed of nine public members, is charged
36 with resolving any disputes regarding whether a law, rule, or
37 regulation constitutes an unfunded mandate. Under the State
38 Constitution, specific categories of laws, rules, and regulations are
39 not considered unfunded mandates. Current law also allows any
40 group or individual to file a written request for approval with the
41 council to appear as *amicus curiae* in regard to a complaint.

42 This bill provides that any new law, rule, or regulation
43 concerning any health care benefits plan or program and coverage
44 under such plan or program provided by local public employers to
45 their public employees and beneficiaries is not an unfunded
46 mandate. As the legislature has been adopting statutes dealing with
47 health care coverage since 1961, such new laws, rules, or
48 regulations are revisions of an existing requirement and not

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1 unfunded mandates. This bill also gives the Legislature's Presiding
2 Officers, namely the President of the Senate and the Speaker of the
3 General Assembly, the right intervene as parties or to appear before
4 the council as *amicus curiae* in regard to any complaint without the
5 need for council approval. They may do so either jointly or
6 independently.

7 The bill would take effect immediately.