

CHAPTER 342

AN ACT revising certain mandates, requirements and procedures for local governments and amending, supplementing and repealing various parts of the statutory law.

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

C.52:13H-22 Findings, declarations relative to certain mandate requirements, procedures for local governments.

1. The Legislature finds and declares:

Over the past four decades, prior to adoption of the constitutional amendment prohibiting unfunded State mandates on local government, the State routinely and systematically imposed greater and greater numbers of mandates, orders, directives and burdens on local government. This web of mandates and burdens came about as the result of the enactment and adoption of a plethora of unrelated laws and regulations addressing many and diverse issues. While these actions by State government occurred in order to address a variety of public concerns, they all shared a common philosophical underpinning: the mandatory implementation of State policy directives by local government officials.

While the overwhelming majority of these statutes and regulations was established by sincere-minded and well-intentioned public officials in order to address legitimate public concerns, the collective regulatory weight of these mandates on local officials continues to be a matter of deep concern and a subject that cries for legislative relief.

In response to this decades long pattern of seemingly inexorable increases in burdensome mandates from Trenton, local officials repeatedly petition the Legislature for relief. In response to entreaties of local officials, various committees of several Legislatures have determined to continue to address the problem of burdensome mandates on an expedited basis through the enactment of omnibus acts that repeal or modify many of those mandates, resolve administrative ambiguities and encourage more businesslike practices. This is the fourth such omnibus mandate relief act.

2. R.S.39:4-8 is amended to read as follows:

Commissioner of Transportation's approval required; exceptions.

39:4-8. a. Except as otherwise provided in this section, no ordinance or resolution concerning, regulating or governing traffic or traffic conditions, adopted or enacted by any board or body having jurisdiction over highways, shall be of any force or effect unless the same is approved by the Commissioner of Transportation, according to law. The commissioner shall not be required to approve any such ordinance, resolution or regulation, unless, after investigation by him, the same shall appear to be in the interest of safety and the expedition of traffic on the public highways.

b. In the case of totally self-contained streets under municipal jurisdiction which have no direct connection with any street in any other municipality, or in the case of totally self-contained streets under county jurisdiction which have no direct connection with any street in any other county, the municipality or county may, by ordinance or resolution, as appropriate, without the approval of the Commissioner of Transportation, designate parking restrictions, no passing zones, mid-block crosswalks and crosswalks at intersections, except that in the case of any streets under municipal jurisdiction, the municipality may, by ordinance, designate reasonable and safe speed limits and in the case of totally self-contained streets under county jurisdiction which have no direct connection with any street in any other county, the county may, by ordinance or resolution, as appropriate, designate reasonable and safe speed limits, and erect appropriate signs, designate any intersection as a stop or yield intersection and erect appropriate signs and place longitudinal pavement markings delineating the separation of traffic flows and the edge of the pavement, provided that the municipal or county engineer shall, under his seal as a licensed professional engineer, certify to the municipal or county governing body, as appropriate, that any designation or erection of signs or placement of markings: (1) has been approved by him after investigation by him of the circumstances, (2) appears to him to be in the interest of safety and the expedition of traffic on the public highways and (3) conforms to the current standards prescribed by the Manual of Uniform Traffic Control Devices for Streets and Highways, as adopted by the Commissioner of Transportation.

A certified copy of the adopted ordinance or resolution, as appropriate, shall be transmitted by the clerk of the municipality or county, as appropriate, to the commissioner within 30 days of adoption, together with a copy of the engineer's certification; a statement of the reasons for the engineer's decision; detailed information as to the location of streets, intersections and signs affected by any designation or erection of signs or placement of markings; and traffic count, accident and speed sampling data, when appropriate. The commissioner, at his discretion, may invalidate the provisions of the ordinance or resolution within 90 days of receipt of the certified copy if he reviews it and finds that the provisions of the ordinance or resolution are inconsistent with the Manual of Uniform Traffic Control Devices for Streets or Highways; are inconsistent with accepted engineering standards; are not based on the results of an accurate traffic and engineering survey; or place an undue traffic burden or impact on streets in an adjoining municipality or negatively affect the flow of traffic on the State highway system.

Nothing in this subsection shall allow municipalities to designate any intersection with any highway under State or county jurisdiction as a stop or yield intersection or counties to designate any intersection with any highway under State or municipal jurisdiction as a stop or yield intersection.

c. Subject to the provisions of R.S.39:4-138, in the case of any street under municipal or county jurisdiction, a municipality or county may, without the approval of the Commissioner of Transportation, do the following:

By ordinance or resolution:

- (1) prohibit or restrict general parking;
- (2) designate restricted parking under section 1 of P.L.1977, c.309 (C.39:4-197.6);
- (3) designate time limit parking;
- (4) install parking meters.

By ordinance, resolution or regulation:

- (1) designate loading and unloading zones and taxi stands;
- (2) approve street closings for periods up to 48 continuous hours; and
- (3) designate restricted parking under section 1 of P.L.1977, c.202 (C.39:4-197.5);

Nothing in this subsection shall allow municipalities or counties to establish angle parking or to reinstate or add parking on any street, or approve the closure of streets for more than 48 continuous hours, without the approval of the Commissioner of Transportation.

d. A municipality or county may, by ordinance or resolution, as appropriate, in any street under its jurisdiction, install or place an in-street pedestrian crossing right-of-way sign at a marked crosswalk or unmarked crosswalk at an intersection. The installation shall be subject to guidelines that shall be issued by the Commissioner of Transportation after consultation with the Director of the Office of Highway Traffic Safety in the Department of Law and Public Safety. The guidelines shall be aimed at ensuring safety to both pedestrians and motorists including, but not limited to, the proper method of sign installation, dimensions, composition of material, proper placement points and maintenance. A certified copy of the adopted ordinance or resolution shall be transmitted to the commissioner within 30 days of adoption. The commissioner, at his discretion, may invalidate the provisions of the ordinance or resolution within 90 days of receipt of the certified copy if he reviews it and finds that the provisions of the ordinance or resolution are inconsistent with the guidelines issued pursuant to this subsection. A claim against the State or a municipality or county for damage or injury under this subsection for a wrongful act or omission shall be dismissed if the municipality or county is deemed to have conformed to the guidelines required hereunder.

e. A municipality or county may, by resolution, in any street under its jurisdiction, designate stops, stations or stands for omnibuses. The designation shall be subject to guidelines that shall be issued by the Commissioner of Transportation. The guidelines shall be aimed at ensuring safety to both pedestrians and motorists including, but not limited to, the proper method of sign installation, dimensions, composition of material, proper placement points and maintenance. A certified copy of the adopted resolution shall be transmitted to the commissioner within 30 days of adoption. The commissioner, at his discretion, may invalidate the provisions of the ordinance or resolution within 90 days of receipt of the certified copy if he reviews it and finds that the provisions of the ordinance or resolution are inconsistent with the guidelines issued pursuant to

this subsection. A claim against the State or a municipality or county for damage or injury under this subsection for a wrongful act or omission shall be dismissed if the municipality or county is deemed to have conformed to the guidelines required hereunder.

3. Section 1 of P.L.1984, c.219 (C.39:4-183.1a) is amended to read as follows:

C.39:4-183.1a Installation of traffic control device, sign by municipality at request of school.

1. Notwithstanding any law to the contrary, a municipality may, upon the request of the appropriate board of education or, in the case of a private school, by the school's governing body, provide by resolution for the installation of a traffic control device or sign consistent with the current standards prescribed by the Manual of Uniform Traffic Control Devices for Streets and Highways as adopted by the Commissioner of Transportation, to regulate motor vehicle traffic at an intersection located within 300 feet of any public or private school; provided that the municipal or county engineer shall, under the engineer's seal as a licensed professional engineer, certify to the municipal or county governing body, as appropriate, that the traffic control or device has been approved by the engineer after the engineer's investigation of the circumstances. Before a resolution shall take effect, however, the governing body shall submit a copy of the resolution to the Commissioner of Transportation for his review and approval together with detailed information as to the location of streets, intersections and signs affected by any installation, traffic count, accident and speed sampling data when appropriate, the municipal or county engineer's certification, under the engineer's seal as a licensed professional engineer, to the municipal or county governing body, and any other information as the commissioner may require. If the commissioner disapproves the resolution, he shall file his disapproval, in writing, with a statement of the reasons for his disapproval, with the governing body within 90 days following the receipt of the resolution. If the commissioner approves the resolution or fails to file his disapproval within the 90-day review period, the resolution shall take effect immediately.

For the purposes of this section, the term "public or private school" has the meaning that term is given in N.J.S.18A:1-1.

4. Section 1 of P.L.1952, c.195 (C.40:5-2.11) is amended to read as follows:

C.40:5-2.11 Use of parking meter revenues for off-street parking facilities.

1. The board of chosen freeholders of any county and the governing body of any municipality may by resolution appropriate and dedicate all or any portion of the revenues which it derives from parking meters in excess of the cost of purchase, installation, maintenance and operation of said parking meters, to the purposes of creation, purchase, construction and maintenance of off-street parking facilities.

5. Section 5 of P.L.1977, c.435 (C.40:43-66.39) is amended to read as follows:

C.40:43-66.39 Proposal for formation of joint municipal consolidation study commission.

5. The governing body of any municipality proposing to consolidate with one or more other municipalities may, by ordinance or resolution, propose the formation of a joint municipal consolidation study commission as provided for in section 7 of this act. The ordinance or resolution shall state that the governing body is seeking the formation of a joint municipal consolidation study commission pursuant to the provisions of this act, and shall name the municipalities for which a consolidation study is proposed. Upon adoption of such ordinance or resolution, the clerk of the municipality adopting the ordinance or resolution shall forthwith transmit a certified copy thereof to the municipal clerk of each of the other municipalities named in the ordinance or resolution and to the clerk of the county in which such municipalities are located.

6. Section 7 of P.L.1977, c.435 (C.40:43-66.41) is amended to read as follows:

C.40:43-66.41 Question of forming consolidation commission submitted to voters; alternative methods.

7. a. If, within one year after the date on which the first ordinance or resolution, pursuant to section 5 of P.L.1977, c.435 (C.40:43-66.39), or the first petition, pursuant to section 6 of P.L.1977, c.435 (C.40:43-66.40), is filed with the clerk of the county, either an ordinance or a resolution or a certified petition is transmitted to the county clerk by each of the other municipalities named in the first such ordinance or a resolution or petition, then one of the following shall occur:

(1) The question of forming a consolidation commission shall be submitted to the voters of each of the municipalities named in such ordinances or resolutions or petitions in the following form:

"Shall a joint municipal consolidation study commission be formed to study the feasibility of consolidating (insert the names of each of the municipalities named in such ordinances or resolutions or petitions) into a single new municipality, to study the question of the form of government under which such new municipality should be governed, to study the feasibility of consolidating the local school districts of the aforesaid municipalities, and to make recommendations thereon; or, in the alternative, to make recommendations on the consolidation of certain municipal services?"

The question shall be submitted to the voters of each municipality so named in the ordinances or resolutions or petitions on the date for the next general election or on the date for the next regular municipal election, whichever shall first occur at least 60 days after the date of the filing with the county clerk of the final ordinance or resolution or petition necessary to require the submission of the question to the voters.

The public question submitted to the voters shall be deemed adopted, and a consolidation commission formed, if a majority of the votes cast on the question in each of the municipalities in which the question is submitted shall be in the affirmative; or

(2) An ordinance or resolution expressly creating a consolidation commission shall be adopted by each of the municipalities named in such ordinances or resolutions or petitions. The ordinance or resolution shall state that the governing body will not be submitting the question of forming a consolidation commission to the voters of that municipality by referendum. The ordinance or resolution shall state that the governing body is seeking the formation of a consolidation commission pursuant to P.L.1977, c.435 (C.40:43-66.35 et seq.), and shall name the participating municipalities for which a consolidation commission is proposed. Upon adoption of the ordinance or resolution, the clerk of each participating municipality adopting the ordinance or resolution shall forthwith transmit a certified copy thereof to the municipal clerk of each of the other participating municipalities named in the ordinance or resolution, to the clerk of the county in which each participating municipality is located, and to the Commissioner of Community Affairs.

The ordinance or resolution forming a consolidation commission shall be deemed adopted, and a consolidation commission formed, if each participating municipality adopts an ordinance or resolution agreeing to participate in a consolidation commission pursuant to this subsection; or

(3) One or more of the municipalities named in such ordinances or resolutions or petitions shall submit the question of forming a consolidation commission to the voters pursuant to paragraph (1) of this subsection, and one or more of those municipalities shall adopt an ordinance or resolution expressly creating a consolidation commission pursuant to paragraph (2) of this subsection, in any combination, provided that each of the participating municipalities adopts the formation of a consolidation commission.

b. Nothing herein contained shall be construed to prevent the submission of the question of forming a consolidation commission to the voters of the municipalities pursuant to paragraph (1) of subsection a. of this section, or the forming of a consolidation commission by ordinance or resolution pursuant to paragraph (2) of subsection a. of this section, named in any combination of such ordinances or resolutions pursuant to section 5 of P.L.1977, c. 435 (C.40:43-66.39) and petitions pursuant to section 6 of P.L.1977, c.435 (C.40:43-66.40), provided that such ordinances or resolutions and petitions are substantively similar.

7. Section 27 of P.L.1977, c.435 (C.40:43-66.61) is amended to read as follows:

C.40:43-66.61 Prohibition on creation of joint municipal consolidation study commission while proceedings pending.

27. No ordinance or resolution may be adopted and no petition may be filed for the creation of a joint municipal consolidation study commission pursuant to sections 5 and 6 of this act while proceedings are pending under any other petition filed or ordinance adopted pursuant to the provisions of the "Optional Municipal Charter Law" or any other general law relating to a change in the form of government in any of the participating municipalities. No ordinance or resolution may be adopted and no petition may be filed for the creation of such a commission pursuant to the provisions of this act within four years after the date on which the question of consolidation has been submitted to the voters pursuant to section 25 of this act; provided, however, that the adoption of an ordinance or resolution or the filing of a petition and the holding of any referendum thereafter under the provisions of the "Optional Municipal Charter Law" or other general law relating to a change in the form of government in any of the participating municipalities, if such proceedings have been completed, shall not preclude the participating municipalities from proceeding under the provisions of this act notwithstanding the fact that four years may not have expired since the completion of said proceedings.

8. Section 1 of P.L.1947, c.335 (C.40:48-2.16) is amended to read as follows:

C.40:48-2.16 Monument, memorial to commemorate service of armed forces.

1. The governing body of any municipality may, by resolution, provide for the construction and erection of a monument or memorial of a permanent character commemorative of the services provided by the men and women in the armed forces of the United States, or to provide for a contribution to part of the cost of any similar monument or memorial; provided, that any such resolution shall set forth the price in respect to the monument or memorial, including the type of the monument or memorial and the amount of money proposed to be expended or contributed.

9. Section 76 of P.L.1975, c.291 (C.40:55D-89) is amended to read as follows:

C.40:55D-89 Periodic examination.

76. Periodic examination. The governing body shall, at least every six years, provide for a general reexamination of its master plan and development regulations by the planning board, which shall prepare and adopt by resolution a report on the findings of such reexamination, a copy of which report and resolution shall be sent to the county planning board. A notice that the report and resolution have been prepared shall be sent to the municipal clerk of each adjoining municipality, who may, on behalf of the governing body of the municipality, request a copy of the report and resolution. A reexamination shall be completed at least once every six years from the previous reexamination.

The reexamination report shall state:

a. The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.

b. The extent to which such problems and objectives have been reduced or have increased subsequent to such date.

c. The extent to which there have been significant changes in the assumptions, policies, and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition, and recycling of designated recyclable materials, and changes in State, county and municipal policies and objectives.

d. The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.

e. The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.) into the land use plan element of the municipal master plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality.

10. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to read as follows:

C.40A:4-45.3 Municipalities; budget limitation exceptions.

3. In the preparation of its budget a municipality shall limit any increase in said budget to 5% or the index rate, whichever is less, over the previous year's final appropriations subject to the following exceptions:

a. (Deleted by amendment, P.L.1990, c.89.)

b. Capital expenditures, including appropriations for current capital expenditures, whether in the capital improvement fund or as a component of a line item elsewhere in the budget, provided that any such current capital expenditure would be otherwise bondable under the requirements of N.J.S.40A:2-21 and 40A:2-22;

c. (1) An increase based upon emergency temporary appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event which immediately endangers the health, safety or property of the residents of the municipality, and over which the governing body had no control and for which it could not plan and emergency appropriations made pursuant to N.J.S.40A:4-46. Emergency temporary appropriations and emergency appropriations shall be approved by at least two-thirds of the governing body and by the Director of the Division of Local Government Services, and shall not exceed in the aggregate 3% of the previous year's final current operating appropriations.

(2) (Deleted by amendment, P.L.1990, c.89.)

The approval procedure in this subsection shall not apply to appropriations adopted for a purpose referred to in subsection d. or j. below;

d. All debt service, including that of a Type I school district;

e. Upon the approval of the Local Finance Board in the Division of Local Government Services, amounts required for funding a preceding year's deficit;

f. Amounts reserved for uncollected taxes;

g. (Deleted by amendment, P.L.1990, c.89.)

h. Expenditure of amounts derived from new or increased construction, housing, health or fire safety inspection or other service fees imposed by State law, rule or regulation or by local ordinance;

i. Any amount approved by any referendum;

j. Amounts required to be paid pursuant to (1) any contract with respect to use, service or provision of any project, facility or public improvement for water, sewerage, parking, senior citizen housing or any similar purpose, or payments on account of debt service therefor, between a municipality and any other municipality, county, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent municipality to the intermunicipal account; (3) any lease of a facility owned by a county improvement authority when the lease payment represents the proportionate amount necessary to amortize the debt incurred by the authority in providing the facility which is leased, in whole or in part; and (4) any repayments under a loan agreement entered into in accordance with the provisions of section 5 of P.L.1992, c.89;

k. (Deleted by amendment, P.L.1987, c.74.)

l. Appropriations of federal, county, independent authority or State funds, or by grants from private parties or nonprofit organizations for a specific purpose, and amounts received or to be received from such sources in reimbursement for local expenditures. If a municipality provides matching funds in order to receive the federal, county, independent authority or State funds, or the grants from private parties or nonprofit organizations for a specific purpose, the amount of the match which is required by law or agreement to be provided by the municipality shall be

excepted;

- m. (Deleted by amendment, P.L.1987, c.74.)
- n. (Deleted by amendment, P.L.1987, c.74.)
- o. (Deleted by amendment, P.L.1990, c.89.)
- p. (Deleted by amendment, P.L.1987, c.74.)
- q. (Deleted by amendment, P.L.1990, c.89.)
- r. Amounts expended to fund a free public library established pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;
- s. (Deleted by amendment, P.L.1990, c.89.)
- t. Amounts expended in preparing and implementing a housing element and fair share plan pursuant to the provisions of P.L.1985, c.222 (C.52:27D-301 et al.) and any amounts received by a municipality under a regional contribution agreement pursuant to section 12 of that act;
- u. Amounts expended to meet the standards established pursuant to the "New Jersey Public Employees' Occupational Safety and Health Act," P.L.1983, c.516 (C.34:6A-25 et seq.);
- v. (Deleted by amendment, P.L.1990, c.89.)
- w. Amounts appropriated for expenditures resulting from the impact of a hazardous waste facility as described in subsection c. of section 32 of P.L.1981, c.279 (C.13:1E-80);
- x. Amounts expended to aid privately owned libraries and reading rooms, pursuant to R.S.40:54-35;
- y. (Deleted by amendment, P.L.1990, c.89.)
- z. (Deleted by amendment, P.L.1990, c.89.)
- aa. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;
- bb. Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or by the Governor;
- cc. Expenditures for the cost of services mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency;
- dd. Expenditures of amounts actually realized in the local budget year from the sale of municipal assets if appropriated for non-recurring purposes or otherwise approved by the director;
- ee. Any local unit which is determined to be experiencing fiscal distress pursuant to the provisions of P.L.1987, c.75 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible municipality" as defined in section 3 of P.L.1987, c.75 (C.52:27D-118.26), and which has available surplus pursuant to the spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et seq.), may appropriate and expend an amount of that surplus approved by the director and the Local Finance Board as an exception to the spending limitation. Any determination approving the appropriation and expenditure of surplus as an exception to the spending limitations shall be based upon:
 - 1) the local unit's revenue needs for the current local budget year and its revenue raising capacity;
 - 2) the intended actions of the governing body of the local unit to meet the local unit's revenue needs;
 - 3) the intended actions of the governing body of the local unit to expand its revenue generating capacity for subsequent local budget years;
 - 4) the local unit's ability to demonstrate the source and existence of sufficient surplus as would be prudent to appropriate as an exception to the spending limitations to meet the operating expenses for the local unit's current budget year; and
 - 5) the impact of utilization of surplus upon succeeding budgets of the local unit;
- ff. Amounts expended for the staffing and operation of the municipal court;
- gg. Amounts appropriated for the cost of administering a joint insurance fund established pursuant to subsection b. of section 1 of P.L.1983, c.372 (C.40A:10-36), but not including appropriations for claims payments by local member units;

hh. Amounts appropriated for the cost of implementing an estimated tax billing system and the issuance of tax bills thereunder pursuant to section 3 of P.L.1994, c.72 (C.54:4-66.2);

ii. Expenditures related to the cost of conducting and implementing a total property tax levy sale pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5);

jj. Amounts expended for a length of service award program pursuant to P.L.1997, c.388 (C.40A:14-183 et al.);

kk. Amounts expended to provide municipal services or reimbursement amounts to multifamily dwellings for the collection and disposal of solid waste generated by the residents of the multifamily dwellings. This subsection shall cease to be operative at the end of the first local budget year in which the municipality has fully phased in its reimbursement amount expenses;

ll. Amounts expended by a municipality under an interlocal services agreement entered into pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The governing body of the municipality that will receive the service may choose to allow the amount of projected annual savings to be added to the amount of final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2);

mm. Amounts expended under a joint contract pursuant to the "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The governing body of each participating municipality may choose to allow the amount of projected annual savings to be added to the amount of final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2);

nn. Amounts expended to pay the salaries of police officers hired under the federal "Community Oriented Policing Services" program, which was enacted as part of the "Violent Crime Control and Law Enforcement Act of 1994," Pub.L.No. 103, 108 Stat. 1796 (1994).

11. Section 37 of P.L.1995, c.259 (C.40A:10-17.1) is amended to read as follows:

C.40A:10-17.1 County, municipal, contracting unit employee permitted to waive benefits coverage under N.J.S.40A:10-16 et seq.

37. Notwithstanding the provisions of any other law to the contrary, a county, municipality or any contracting unit as defined in section 2 of P.L.1971, c.198 (C.40A:11-2) which enters into a contract providing group health care benefits to its employees pursuant to N.J.S.40A:10-16 et seq., may allow any employee who is eligible for coverage as a dependent of the employee's spouse under that plan or another plan, including the State Health Benefits Program established pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.), offered by the spouse's employer, whether a public or private employer, to waive coverage under the county's, municipality's or contracting unit's plan to which the employee is entitled by virtue of employment with the county, municipality or contracting unit. The waiver shall be in such form as the county, municipality or contracting unit shall prescribe and shall be filed with the county, municipality or contracting unit. In consideration of filing such a waiver, a county, municipality or contracting unit may pay to the employee annually an amount, to be established in the sole discretion of the county, municipality or contracting unit, which shall not exceed 50% of the amount saved by the county, municipality or contracting unit because of the employee's waiver of coverage. An employee who waives coverage shall be permitted to resume coverage under the same terms and conditions as apply to initial coverage if the employee ceases to be covered through the employee's spouse for any reason, including, but not limited to, the retirement or death of the spouse or divorce. An employee who resumes coverage shall repay, on a pro rata basis, any amount received which represents an advance payment for a period of time during which coverage is resumed. An employee who wishes to resume coverage shall file a declaration with the county, municipality or contracting unit, in such form as the county, municipality or contracting unit shall prescribe, that the waiver is revoked. The decision of a county, municipality or contracting unit to allow its employees to waive coverage and the amount of consideration to be paid therefor shall not be subject to the collective bargaining process.

C.52:27D-118.43 "Adopt a Municipality Program."

12. a. This section shall be known and may be cited as the "Adopt a Municipality Program."

b. The Commissioner of Community Affairs shall establish a business advisory board. The commissioner shall chair the board and shall appoint to the board members who represent private businesses and nonprofit entities that are interested and willing to contribute services and resources to municipalities. Members of the board shall serve three-year terms without compensation. The commissioner shall appoint a program coordinator who shall administer the "Adopt a Municipality Program."

c. The board shall encourage and coordinate municipal-business partnership. The board shall solicit municipalities and business and nonprofit entities to participate in the program. The board shall compile a list of municipal needs and circulate the list among businesses and nonprofit entities. Support of "adopted" municipalities by businesses and nonprofit entities that participate in the program may include, but shall not be limited to, the supplying of services, personnel, materials and funding. Businesses entering into the "Adopt a Municipality Program" shall not seek reimbursement for any donation of time, money, materials or personnel from the State or any subdivision thereof.

d. Contributions provided under this section by local businesses shall in no way affect the amount of State aid to which a municipality is entitled.

e. Acceptance of services, personnel, material or funding by a municipality pursuant to the "Adopt a Municipality Program" shall be subject to the applicable provisions, if any, of the "Local Government Ethics Law," P.L.1991, c.29 (C.40A:9-22.1 et seq.) and the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

C.52:14B-25 Definitions relative to certain mandate requirements, procedures for small municipalities.

13. a. For the purposes of this section:

"State mandate" means a program, service or activity that is to be performed or implemented by a local unit for or on behalf of its residents, which results in an added net cost to the local unit, and which is mandated in any statute enacted by the Legislature either prior to or after the effective date of this act. A "state mandated program" shall not include the following: any activity pertaining to a statute carrying criminal penalties; any mandate required by or arising from a court order or judgment; any program or service which is provided at local option under permissive State laws, rules, regulations or orders; any program which is required by private, special or local laws pursuant to Article IV, Section VII, paragraphs 8 and 10 of the State Constitution; any program required by or arising from an executive order of the Governor in exercising emergency powers granted by law; or any program mandated by federal law, rule, regulation or order.

"Small municipality" shall mean a municipality that has a limited population or geographic area according to criteria promulgated by the Director of the Division of Local Government Services in the Department of Community Affairs.

b. In developing and proposing a rule for adoption, the agency involved shall utilize approaches which will accomplish the objectives of applicable statutes while minimizing any adverse economic impact of the proposed rule on small municipalities. Consistent with the objectives of applicable statutes, the agency shall utilize such approaches as:

- (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small municipalities;
- (2) The use of performance rather than design standards; and
- (3) An exemption from coverage by the rule, or by any part thereof, for small municipalities so long as the public health, safety, or general welfare is not endangered, or if an exemption is not a possibility, the use of alternative methods of implementing the requirements of the rule.

c. In proposing a rule for adoption, the agency involved shall issue a State mandate flexibility analysis regarding the rule, which shall be included in the notice of a proposed rule as required by subsection (a) of section 4 of P.L.1968, c.410 (C.52:14B-4). Each State mandate flexibility analysis shall contain:

- (1) An estimate of the number of small municipalities to which the proposed rule will apply;

(2) A description of the reporting, record-keeping and other compliance requirements being proposed for adoption, and the kinds of professional services that a small municipality is likely to need in order to comply with the requirements;

(3) An estimate of the annual cost to a small municipality of complying with the rule; and

(4) An indication of how the rule, as proposed for adoption, is designed to minimize any adverse economic impact of the proposed rule on small municipalities.

d. This section shall not apply to any proposed rule which the agency finds would not impose reporting, record-keeping, or other compliance requirements on small municipalities. The agency's finding and an indication of the basis for its finding shall be included in the notice of a proposed rule as required by subsection (a) of section 4 of P.L.1968, c.410 (C.52:14B-4).

e. In order to avoid duplicative action, an agency may consider a series of closely related rules as one rule for the purposes of complying with the requirements of this section.

f. In complying with the provisions of this section, an agency may provide either a quantifiable or numerical description of the effects of a proposed rule or more general descriptive statements, if quantification is not practicable or reliable.

Repealer.

14. N.J.S.40A:9-59 is repealed.

15. This act shall take effect immediately.

Approved January 5, 2002.