

## CHAPTER 106

AN ACT concerning the Council on Local Mandates and amending P.L.1996, c.24.

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

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

C.52:13H-12 Duties of council.

12. a. It shall be the duty of the council to review, and issue rulings upon, complaints filed with the council by or on behalf of a county, municipality, fire district designated by ordinance of a municipality or more than one municipality, or school district that any provision of a statute enacted on or after January 17, 1996 and any part of a rule or regulation originally adopted after July 1, 1996 pursuant to a law regardless of when that law was enacted constitutes an unfunded mandate upon the county, municipality, fire district designated by ordinance of a municipality or more than one municipality, or school district because it does not authorize resources to offset the additional direct expenditures required for the implementation of the statute or the rule or regulation. A complaint filed with the council shall be in the form of or accompanied by a resolution passed by the governing body of a county or municipality or fire district designated by ordinance of a municipality or more than one municipality, or by a local board of education. A complaint filed with the council by the New Jersey Conference of Mayors, the New Jersey State League of Municipalities, the New Jersey School Boards Association, the New Jersey Association of Counties, the New Jersey Council of County Colleges, the New Jersey Association of Fire Districts, the New Jersey Career Fire Chiefs Association, the New Jersey State Association of Chiefs of Police, or the New Jersey First Aid Council shall be on behalf of at least two constituent members of the organization, which constituent members shall be identified in the complaint. A county executive or a mayor who has been directly elected by the voters of the municipality may also file a written complaint with the council, after the mayor or county executive has provided the governing body with written notice of intention to file a complaint with the council. A complaint may be accompanied by supportive evidence. The council shall review each complaint and, when necessary, interview witnesses and examine documents. The council, by majority vote of its membership, shall issue a written ruling, accompanied by any concurring or dissenting opinions, as to whether or not a statute or a rule or regulation constitutes an unfunded State mandate and an explanation of the reasons for its determination. If the council determines that any provision of a statute or any part of a rule or regulation constitutes an unfunded State mandate which is prohibited by Article VIII, Section II, paragraph 5 of the New Jersey Constitution and this act, that provision of the law or that part of the rule or regulation shall cease to be mandatory in its effect and shall expire. A ruling of the council shall be restricted to the specific provision of a law or the specific part of a rule or regulation which constitutes an unfunded mandate and shall, as far as possible, leave intact the remainder of a statute or a rule or regulation. The council shall not have the authority to determine whether the funding of any statute or any rule or regulation is adequate.

b. The council shall have the authority to consolidate complaints filed by or on behalf of more than one governing body, mayor, county executive, local board of education, county, municipality, or fire district designated by ordinance of a municipality or more than one municipality, in regard to the same provision of a statute or the same part of a rule or regulation.

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

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

C.52:13H-2 Unfunded mandate; mandatory status ceased, expiration.

2. Except as provided in section 3 of this act, any provision of a law enacted on or after January 17, 1996, or any part of a rule or regulation originally adopted after July 1, 1996 pursuant to a law regardless of when that law was enacted, which is determined in accordance with the provisions of this act to be an unfunded mandate upon boards of education, counties, municipalities, or fire districts designated by municipal ordinance, because it does not authorize resources to offset the additional direct expenditures required for the implementation of the law or the rule or regulation, shall cease to be mandatory in its effect and shall expire. A law or a rule or regulation which is determined to be an unfunded mandate shall not be considered to establish a standard of care for the purpose of civil liability.

3. This act shall take effect immediately.

Approved December 23, 2010.