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

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

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

3. Notwithstanding the provisions of any other law to the contrary, the following categories of laws and rules or regulations shall not be unfunded mandates:
   a. those which are required to comply with federal laws or rules or to meet eligibility standards for federal entitlements;
   b. those which are imposed on both government and non-government entities in the same or substantially similar circumstances;
   c. those which repeal, revise or ease an existing requirement or mandate or which reapportion the costs of activities between boards of education, counties, and municipalities. _Which revision shall include any new law, rule, or regulation concerning any health care benefits plan or program and coverage under such plan or program provided by public employers to their public employees and beneficiaries:_
   d. those which stem from failure to comply with previously enacted laws or rules or regulations issued pursuant to a law;
   e. those which implement the provisions of the New Jersey Constitution; and
   f. laws which are enacted after a public hearing, held after public notice that unfunded mandates will be considered, for which a fiscal analysis is available at the time of the public hearing and which, in addition to complying with all other constitutional requirements with regard to the enactment of laws, are passed by 3/4 affirmative vote of the members of each House of the Legislature.
   (cf: P.L.1996, c.24, s.3)

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

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

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.
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.

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

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

3. This act shall take effect immediately.

STATEMENT

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

This bill provides that any new law, rule, or regulation concerning any health care benefits plan or program and coverage under such plan or program provided by local public employers to their public employees and beneficiaries is not an unfunded mandate. As the legislature has been adopting statutes dealing with health care coverage since 1961, such new laws, rules, or regulations are revisions of an existing requirement and not
unfunded mandates. This bill also gives the Legislature’s Presiding Officers, namely the President of the Senate and the Speaker of the General Assembly, the right intervene as parties or to appear before the council as amicus curiae in regard to any complaint without the need for council approval. They may do so either jointly or independently.

The bill would take effect immediately.