

ASSEMBLY, No. 1275

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen COLLINS and STUHLTRAGER

1 AN ACT permitting counties and municipalities to submit an
2 alternative proposal to or request an exemption from State
3 mandated programs and supplementing Title 52 of the Revised
4 Statutes.

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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. The Legislature finds and declares that:

10 The Legislature has enacted and continues to enact laws which
11 require counties and municipalities to perform specific activities that
12 require the expenditure of local tax dollars which must be addressed
13 in the budgets adopted by those counties and municipalities;

14 These legislative requirements have placed an onerous burden on
15 local governing bodies, which have been faced with the task of
16 providing necessary services to their residents in addition to providing
17 programs, services and activities required under these State mandates
18 while trying to cope with the budgetary constraints of county and
19 municipal budget "cap" laws;

20 Many counties and small municipalities are hard-pressed to continue
21 to provide the financial resources required to fulfill increasingly
22 burdensome statutory mandates, given the worsening State and
23 national economies;

24 Counties and municipalities should be encouraged to formulate
25 more effective ways of meeting the goals of State mandated programs
26 and administrative officers of State departments and agencies should
27 be encouraged to approve and support these plans when the alternative
28 means will accomplish the same goals as the State mandated programs
29 or when the mandated program or service proves unnecessary or
30 impractical for the local unit.

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32 2. For the purposes of this act:

33 "Administrative officer" means a commissioner or director of any
34 State department or agency responsible for administering a State
35 mandated program.

1 "State mandated program" means a program, service or activity that
2 is to be performed, implemented or expanded by a local unit for or on
3 behalf of its residents, which results in an added net cost to the local
4 unit, and which is mandated in any statute enacted by the Legislature
5 either prior to or after the effective date of this act. A "state mandated
6 program" shall not include any of the following: any activity
7 pertaining to a statute carrying criminal penalties; any program
8 mandated in a statute requiring expenditures for environmental
9 purposes; any mandates required by or arising from a court order or
10 judgment; any programs or services which are provided at local
11 option under permissive State laws, rules, regulations or orders; any
12 programs which are required by private, special or local laws pursuant
13 to Article IV, Section VII, paragraphs 8 and 10 of the State
14 Constitution; any program required by or arising from an executive
15 order of the Governor in exercising emergency powers granted by law;
16 or those programs mandated by federal law, rule, regulation or order.
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18 3. a. Upon the adoption of a resolution passed by the governing
19 body, a local unit may submit to an administrative officer:

20 (1) a plan that specifically details an alternative method of
21 implementing a State mandated program under that officer's
22 jurisdiction; or

23 (2) a written request, with supporting documentation, for an
24 exemption from having to comply with the requirements of that State
25 mandated program which shall satisfactorily demonstrate that
26 circumstances are present which make compliance with the mandate
27 unnecessary or impractical.

28 The administrative officer shall review the alternative plan or
29 request for exemption and within 45 days of submission by the local
30 unit of the plan or written request to the administrative officer, issue
31 a determination approving or disapproving the alternative plan or
32 exemption request. If no determination is made by the administrative
33 officer within the 45 day period, the plan or exemption request shall
34 be considered approved.

35 b. Any alternative plan or exemption request that is approved shall
36 be reviewed by the administrative officer six months after the date of
37 its implementation or exemption for a redetermination of whether it is
38 fairly accomplishing the goals of the State mandated program.
39 Thereafter, the local unit shall submit, on an annual basis, the
40 appropriate documentation to demonstrate that the alternative plan or
41 exemption is still warranted.
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43 4. Any action taken by an administrative officer pursuant to section
44 3 of this act shall be considered to be a final agency action for the
45 purposes of the "Administrative Procedure Act," P.L.1968, c.410
46 (C.52:14B-1 et seq.).

1 5. This act shall take effect immediately.

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STATEMENT

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6 This bill permits counties and municipalities to submit an alternative
7 proposal to or request an exemption from statutory mandates. The bill
8 provides that upon the adoption of a resolution passed by the
9 governing body, a local unit may submit to an administrative officer of
10 a State department or agency a plan that specifically details an
11 alternative method of implementing a State mandated program which
12 is under the jurisdiction of that administrative officer. In addition, the
13 bill permits the local unit, upon adoption of a resolution by the
14 governing body, to submit a written request, with supporting
15 documentation, to an administrative officer for an exemption from
16 having to comply with the requirements of that State mandated
17 program which shall satisfactorily demonstrate that circumstances are
18 present which make compliance with the mandate unnecessary or
19 impractical.

20 The bill defines a "state mandated program" as a program, service
21 or activity that is to be performed, implemented or expanded by a local
22 unit for or on behalf of its residents, which results in an added net cost
23 to the local unit, and which has been mandated in a statute enacted
24 prior to or after the effective date of this bill. This bill does not affect
25 any statutes carrying criminal penalties; any program which requires
26 expenditures for environmental purposes; any mandates arising out of
27 a court order; any programs which are permissive; any private,
28 special or local law; any mandates issued by executive order for
29 emergency purposes; or any federal mandates.

30 Under the provisions of this bill, the administrative officer of a
31 State department or agency has 45 days to review the alternative plan
32 or exemption request. If no decision is made within this 45-day
33 period, the plan or exemption request shall be deemed approved. The
34 alternative plan or exemption request will be reviewed initially after a
35 six-month period to determine if it is still appropriate. Thereafter, the
36 local unit shall submit, on an annual basis, the appropriate
37 documentation to demonstrate that the alternative plan or exemption
38 is still warranted.

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43 Permits counties and municipalities to submit alternative proposal to
44 or request exemption from State mandated programs.