



State of New Jersey
COUNCIL ON LOCAL MANDATES
Summary Guide

What is the Council on Local Mandates?

The Council on Local Mandates is a unique constitutional entity that is independent of the Executive, Legislative and Judicial branches of State government. It was created pursuant to the "State Mandate, State Pay" amendment to the New Jersey Constitution, approved by voters in November 1995, and an enabling statute that became effective in May 1996. See N.J. Const. art. VIII, § 2, ¶ 5 ("[Amendment](#)") and N.J.S.A. 52:13H-1 et seq. ("[Council statute](#)").

What are the Council's powers?

The Council has the exclusive constitutional authority to rule whether a State law, rule, or regulation imposes an unconstitutional "unfunded mandate" on boards of education, counties, or municipalities. Under the Constitution, if the Council so rules, the "unfunded mandate" in the law, rule or regulation ceases to be mandatory in effect and "expires." Rulings of the Council are final and not subject to judicial review.

Who appoints the members of the Council?

Under the Amendment and Council statute, the Governor appoints four Council Members, two of whom are to be from a list supplied by the Chair of the opposing political party. The terms of the Governor's appointees are four years. The Senate President, Senate Minority Leader, Speaker of the Assembly and Assembly Minority Leader each appoint one Member. The terms of legislative appointees are two years. The Chief Justice of the Supreme Court appoints one Member, whose term is five years.

What is the definition of an "unfunded mandate"?

Generally, under the Amendment, an "unfunded mandate" is

- any State law, rule, or regulation,
- effective after specified dates in 1996, which . . .
 - imposes a "mandate" on a county, municipality, or school board,
 - requires "additional direct expenditures" for its implementation,
 - does not authorize resources, other than the property tax, to offset those additional direct expenditures, and
 - does not fall within any of six "exemptions," listed in the [Amendment](#) and summarized below, to what may be considered an "unfunded mandate:"
 - those which are required to comply with federal laws or rules or to meet eligibility standards for federal entitlements;
 - those which are imposed on both government and non-government entities in the same or substantially similar circumstances;
 - 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;
 - those which stem from failure to comply with previously enacted laws or rules or regulations;
 - those which implement the provisions of the NJ Constitution; and
 - laws enacted after a public hearing with public notice and a fiscal analysis, and which are passed by $\frac{3}{4}$ affirmative vote of each House of the Legislature.

How does the Council determine whether an unfunded mandate has been imposed?

The Council's hears cases initiated by the filing of complaints. The Council considers evidence, and hears legal argument or testimony. Council rulings are by majority vote of its Members. At or after the conclusion of a case, the Council issues a written opinion that explains the reasons for its ruling, together with any concurring or dissenting opinions.

Who can file a Complaint with the Council or participate in a pending case?

Complaints may be filed by municipalities, school districts and counties. 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 providing the governing body with written notice of intention to file. Interested groups or individuals may apply to the Council to appear in a case as amici curiae or "friends of the court."

How long does it take for the Council to rule, once a Complaint is filed?

That length of time varies, based on such factors as the nature of the underlying claim and complexity of issues involved. However, under Council Rules of Procedure, proceedings are designed to be as streamlined and efficient as possible, while still affording all parties a fair opportunity to be heard. For example, the Council recently amended its Rules to permit filing of Complaints by e-mail, and has also permitted or required subsequent pleadings or briefs to be filed by e-mail.

How can members of the public stay informed about cases as they are filed and while they are pending?

The Council maintains on its website, at <http://www.state.nj.us/localmandates/pending>, a Procedural History that is specific to each pending case, which includes summaries of filed pleadings (written by the parties themselves) and descriptions of Council actions, such as the setting of filing deadlines and hearing dates.

Has the Council ever nullified a statute or regulation?

Yes. The Council has found the following to be unfunded mandates:

- N.J.A.C. 6A:11-1.2, a regulation which changed the formula for local school district funding of charter schools. See [I/M/O Complaints filed by the Board of Education and Borough of Highland Park](#), decision issued May 11, 2000;
- N.J.S.A. 18A:20-40, a statute that required public schools to conduct periodic tests for the presence of radon gas. See [I/M/O Complaints filed by the Monmouth-Ocean Educational Services Commission et al.](#), decision issued August 20, 2004;
- a directive by the Department of Transportation to counties and municipalities, that they "should be prepared to begin performing" the function of deer carcass removal from county and municipal roads. See [I/M/O Complaints filed by the Counties of Morris, Warren, Monmouth and Middlesex](#), written opinion issued October 31, 2006;
- N.J.A.C. 6A:14-4.7(a)(2) a regulation that required an age-span reduction in elementary school special education classes. See [I/M/O Complaints filed by the Special Services School Districts of Burlington, Atlantic, Cape May and Bergen Counties](#), decision issued July 26, 2007; and
- Provisions of the FY 2009 Appropriations Act regarding State Police patrol services to rural municipalities. See [I/M/O Complaints filed by the Mayors of Shiloh Borough and the Borough of Rocky Hill et al.](#), written opinion issued December 12, 2008.

For more information about the Council and its decisions, please visit the Council's website, <http://www.state.nj.us/localmandates>, or contact the Council office by . . .

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