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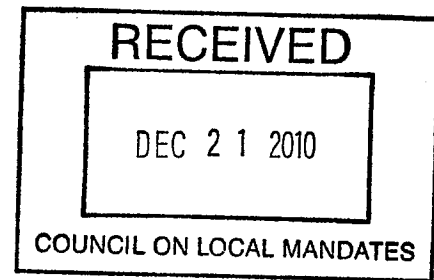
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Robert J. Benbrook, Esq.

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December 16, 2010

Council on Local Mandates
PO Box 627
Trenton, NJ 08625-0627



RE: Township of Blairstown, Warren County

Dear Sir/Madam:

Enclosed please find original and three copies of Complaint with supporting documentation to be filed on behalf of the Township of Blairstown. Kindly return a filed copy to this office in the envelope provided.

Should you require any further information and/or documentation, please do not hesitate to contact me directly.

Very truly yours,

BENBROOK & BENBROOK, LLC

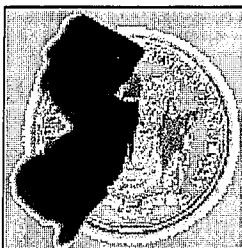
Robert J. Benbrook

RJB:sf

Enc.

s.a.s.e.

cc: Phyllis Pizzaia, Clerk (w/enc)



State of New Jersey
Council on Local Mandates
Complaint

RECEIVED

DEC 21 2010

COUNCIL ON LOCAL MANDATES

The form is to be completed and signed by the Claimant's attorney or other authorized representative, identified under Part I (B).

I (A). Information regarding the Claimant (include title if a County Executive or Mayor):

Name of Claimant (and title if applicable):

Township of Blairstown

Claimant contact information:

Mailing Address:

106 Route 94

City:

Blairstown

State: New Jersey

Zip Code:

07825

Phone:

908-362-6663

Fax:

908-362-9635

E-mail address:

clerk@blairstowntwp-nj.com

I (B). Name of person preparing this document, and title or relationship to Claimant (e.g., legal counsel, business administrator, superintendent):

Name:

Robert J. Benbrook, Esq.

Title/Relationship:

Legal Counsel

Contact information for person identified in Part I (B):

Mailing Address:

1734 Route 31 North, Suite 1

City:

Clinton

State: New Jersey

Zip Code:

08809

Phone:

908-735-8100

Fax:

907-735-0384

E-mail Address:

rbenbrook@benbrooklaw.com

II. The Complaint:

1. Claimant alleges that the following statute, rule, or regulation is an unfunded mandate in violation of the New Jersey Constitution, article VIII, § 2, ¶ 5 and N.J.S.A. 52:13H-2, because it does not authorize resources, other than the property tax, to offset the additional direct expenditures required for its implementation:

New Jersey State Appropriation Act P.L. 2010, C. 35

2. The above-cited statute, rule, or regulation became effective on:

July 1, 2010

3. The following is the basis for the claim made herein that the statute, rule, or regulation identified in paragraph II (1) is an unfunded mandate:

Blairstown Township is a rural municipality located in Northwest New Jersey. The State of New Jersey has been furnishing adequate police protection to Blairstown's inhabitants since the enactment of N.J.S.A. 53:2-1 in 1921. During the last several years, the State Police statutory protection afforded Blairstown has been confined to providing necessary police protection during those hours when the part-time municipal police department maintained by Blairstown was inoperative. The hours of protection provided by the State Police have varied over time. By way of example, for some period prior to September 2006, the State Police provided coverage to Blairstown inhabitants from the hours of 6:00 p.m. to 7:00 a.m. daily. In September of 2006, Blairstown Township voluntarily increased the hours of operation for its part time municipal police department. As a result the coverage provided by the State Police on and after that date was changed to 10:00 p.m. to 7:00 a.m. daily, a reduction of three (3) hours per day.

By enactment of the New Jersey Appropriation Act 2009 C.35, the State imposed the requirement that Blairstown and all other New Jersey rural municipalities whose inhabitants were being provided with State Police protection pursuant to N.J.S.A. 53:2-1 reimburse the State for part of the cost attendant thereto. The State of New Jersey Council of Local Mandates in an opinion dated on December 12, 2009 ruled that N.J.S.A. 53:2-1 explicitly directs that State Police Officers, "Shall be primarily employed in furnishing adequate police protection to inhabitants of rural sections." It further ruled that this was a mandatory, rather than a discretionary activity and that rural municipalities, such as Blairstown, have absolutely no obligation to maintain a police department and that the decision to do so by a municipality is purely discretionary and subject to the availability of resources. Based on the foregoing analysis, the New Jersey Council on Local Mandates held that the 2009 Appropriations Act was unconstitutional to the extent that it attempted to transfer a portion of the cost of providing the aforementioned police protection from the state to rural municipalities on the grounds that said reimbursement constituted an unfunded mandate in violation of NJ Const. Art. VIII, Sec. 2 p 5 (a).

See attached sheet.

Note: The text provided in paragraph II (3) is to be used for the Pleading Summary published on the Council's web site. If more space is needed, please attach additional sheet(s).

4. State Claimant's estimate of the additional direct expenditures required to implement the statute, rule or regulation identified in paragraph II (1), together with:
- (a) a description of the frequency of the estimated expenses (i.e. annual, monthly), and
 - (b) a specification of the basis for the estimate.

(a) \$645,352.71 annually

(b) estimated costs July 1, 2010--June 30, 2011.

\$13,000.00 - Gasoline
 \$1,200.00 PenTeleData
 \$2,500.00 - Cell Phone
 \$3,300.00 - Local telephone
 \$950.00 - Long distance telephone
 \$62,662.71 - Health benefits
 \$3,000.00 - Dental benefits
 \$487,450.00 Police salaries
 \$37,290.00 - Social security payments
 \$34,000.00 - Miscellaneous expenses including, but not limited to, clothing, office supplies, officer training, organizational dues, travel, computer and equipment maintenance, officer tuition reimbursement, printing costs

Note: If more space is needed, please attach additional sheet(s).

Township of Blairstown
Council on Local Mandates
Complaint
Basis of Claim, Page 2

Blairstown Township, in the Spring of 2010, confronted with fiscal restraints largely attributable to a reduction in state aid, notified the State Police that it would be reducing its part time municipal police coverage by four (4) hours per day, effective July 1, 2010, and requested the State Police to increase its coverage by four (4) hours per day pursuant to its statutory mandate.

The State Police by letter dated June 21, 2010, informed Blairstown Township that it would not provide the requested four (4) hours additional daily coverage. Subsequently, the State has asserted that the State Police refusal was predicated upon the New Jersey Appropriations Act P.L. 2010, Ch. 35, which states in pertinent part:

"Notwithstanding the provisions of any other law or regulation to the contrary, none of the monies appropriated to the Division of State Police shall be used to provide police protection to the inhabitants of rural sections pursuant to R.S.53:2-1 in a municipality in which such services were not provided in the previous fiscal year or to expand such services in a municipality beyond the level at which such services were provided in the previous fiscal year."

The State's refusal is not only a departure from its statutory obligation, but is also contrary to the State's custom and practice in implementing N.J.S.A. 53:2-1 since its enactment in 1921. As previously stated, the State has, until enactment of the challenged Appropriations Act, without exception provided Blairstown Township with all necessary police protection during the hours that the Township part-time department was inoperative. The extent of this "custom and practice" is further evidenced by the fact that the New Jersey State Police in calendar year 2010 assumed responsibility for providing all necessary police protection to Stillwater Township, a rural municipality which officially disbanded its municipal Police Department in December 2009. This, after initially posturing that it had no responsibility to provide even emergent part-time coverage to Stillwater Township.

The Township of Blairstown contends that by freezing the level of State Police coverage as it existed in the previous fiscal year, the 2010 Appropriations Act is attempting to achieve in a slightly different manner what the Council has already determined to be an unfunded mandate with respect to the 2009 Appropriations Act; that being the transfer of a portion of the cost of providing rural policing that the State is mandated to fund exclusively pursuant to N.J.S.A. 53:2-1. In the 2010 version, the State is mandating, without providing any funding mechanism whatsoever, that the Township of Blairstown maintain its existing level of municipal policing in order that the Township can have the "adequate police protection" mandated by statute while the State provides funding that is sufficient for only part-time State Police coverage. In so doing, the State is effectively co-opting the Township's municipal police force and mandating its continued existence at the sole cost and expense of the Township, in the absence of any statutory authority, and for the purpose of transferring a portion of the cost of providing the adequate rural police protection that the State alone is required to provide at its sole cost and expense. In short, the State through enactment of the aforementioned 2010 Appropriations Act, is attempting to convert a voluntary municipal act to an unfunded mandated obligation, contrary to NJ Const. Art. VIII, Sec. 2 p 5 (a).

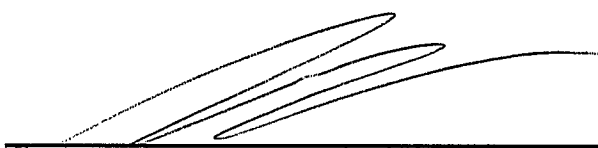
5. Does Claimant seek injunctive relief? No ☒ Yes ☐

If yes, on attached sheet(s), provide a description of the nature and extent of imminent irreparable injury that will result to Claimant in the absence of injunctive relief.

6. Claimant attaches:

- ☒ Resolution (of county/municipal governing body or of board of education), which is incorporated herein by reference, *or*
- ☐ Copy of notice of intention to file a complaint provided to governing body.

WHEREFORE, Claimant demands judgment by the Council that the statute, rule, or regulation identified in paragraph II (1) above is an unfunded mandate pursuant to the New Jersey Constitution, Art. VIII, § 2, ¶ 5 and N.J.S.A. 52:13 H-2, and that it shall cease to be mandatory in effect and expire.


[Signature of person preparing this document].

Date: December 16, 2010

Robert J. Benbrook

Name (typed or printed) of person signing

Attorney for Claimant

Title (typed or printed) of person signing

Total number of attached pages:

2

Print Form

**TOWNSHIP OF BLAIRSTOWN
WARREN COUNTY, NEW JERSEY**

RESOLUTION 2010-131

**Authorizing the Township Attorney to File a Complaint with the
Council on Local Mandates Challenging the Appropriations Act
of the State of New Jersey for the Fiscal Year Ending June 30, 2011**

WHEREAS, the Appropriations Act adopted by the New Jersey Legislature for the fiscal year commencing on July 1, 2010 and ending June 30, 2011; and

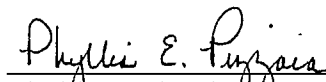
WHEREAS, the aforementioned Appropriations Act prohibited the expenditure of State funds appropriated to the Division of State Police for the purpose of providing State Police protection to inhabitants of rural sections, including but not limited to the Township of Blairstown, beyond the level at which such services were provided for the previous fiscal year; and

WHEREAS, the restrictions on State expenditures as set forth hereinabove prohibit the State Police from providing requested services to Blairstown Township pursuant to R.S. 53:2-1:

NOW THEREFORE, BE IT RESOLVED that the Township of Blairstown herein authorizes Township attorney, Robert J. Benbrook, to file a Complaint with the Council on Local Mandates for the purpose of challenging the Appropriations Act of the State of New Jersey for the fiscal year ending June 30, 2011 to the extent that said Appropriations Act prohibits the New Jersey State Police protection to the inhabitants of Blairstown Township as required by State statute for time periods in excess of those provided prior to the effective date of said Act.

Date: October 13, 2010
Motion: Lance
Second: Seal
VOTE: AYE – Anderson, Lance, Lascari, Seal, Mach

I hereby certify the foregoing to be a true copy of a Resolution adopted by the Blairstown Township Committee at a publicly advertised meeting held on October 13, 2010.



Phyllis E. Pizzaia, RMC
Municipal Clerk