		State of New Jersey Council on Local Mandates Complaint	
<i>The form is to be completed and signed by the Claimant's attorney or other authorized representative, identified under Part I (B).</i>			
I (A). Information regarding the Claimant (include title if a County Executive or Mayor):			
Name of Claimant (and title if applicable):		Atlantic County Superintendent of Elections, Commissioner of Registration	
Claimant contact information:			
Mailing Address:		1333 Atlantic Ave Suite 400	
City:	Atlantic City	State:	New Jersey
		Zip Code:	08401
Phone:	609-343-2245	Fax:	609-343-2240
E-mail address:		mooney_johnw@aclink.org	
I (B). Name of person preparing this document, and title or relationship to Claimant (e.g., legal counsel, business administrator, superintendent):			
Name:		John W Mooney	
Title/Relationship:		Self	
Contact information for person identified in Part I (B):			
Mailing Address:		same	
City:		State:	New Jersey
		Zip Code:	
Phone:		Fax:	
E-mail Address:			
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:			
Seal-Use Protocol Training and Anticipated Sequoia AVC Advantage Firmware Upgrade			
2. The above-cited statute, rule, or regulation became effective on:			
November 16, 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:

The State of New Jersey, Department of State, Division of Elections by order of Robert F. Giles, Director, has mandated to all counties in New Jersey that all voting machine technicians, whether full time or part time, attend a training class on seal-use protocols. (see attached memorandum)

Atlantic County utilizes 13 part-time technicians on Election days. These employees are not regular County employees and must be compensated for their time and travel to attend these state-mandated training sessions.

Atlantic County has made a suggestion of \$125.00 per part-time technician for the day's training.

13 technicians x \$125.00 = \$1625.00

Atlantic County has asked the NJ Division of Elections Director Robert F Giles for reimbursement to these part-time techs since the State is mandating the training. Mr. Giles has advised us that the State will not be reimbursing the Counties any monies that they must expend. (see attached e-mail)

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).

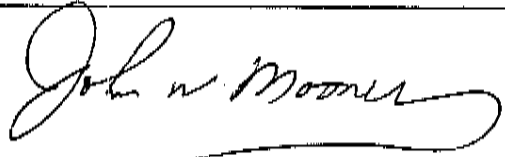
4. State Claimant's estimate of the additional direct expenditures required to implement the statute, rule or regulation identified in paragraph II (1), together with:
- (a) a description of the frequency of the estimated expenses (i.e. annual, monthly), and
 - (b) a specification of the basis for the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

Atlantic County has made a suggestion of \$125.00 per part-time technician for the day's training.

13 technicians x \$125.00 = \$1625.00

The cost for these technicians is a one-time only cost. However, any future technicians hired in this capacity would also have to attend the training session. During the course of time, Atlantic County foresees a turnover of this part-time workforce.

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

5. Does Claimant seek injunctive relief? No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> 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: <input type="checkbox"/> Resolution (of county/municipal governing body or of board of education), which is incorporated herein by reference, or <input type="checkbox"/> 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: <u>12-3-2010</u>	<u>John W. MOONEY</u> Name (typed or printed) of person signing _____ Title (typed or printed) of person signing
Total number of attached pages: <u>3</u>	

[Print Form](#)



STATE OF NEW JERSEY
DEPARTMENT OF STATE
TRENTON, NJ 08625
(609) 984-1900

CHRIS CHRISTIE
Governor

LT. GOVERNOR KIM GUADAGNO
Secretary of State

MEMORANDUM

TO: County Boards of Election
County Superintendents of Elections

FROM: Robert F. Giles, Director *R.F.*

DATE: November 16, 2010

SUBJECT: Seal-Use Protocol Training and Anticipated Sequoia AVC Advantage
Firmware Upgrade

As you have been advised, by way of the March 8, 2010 Order in the matter of Gusciora, et al. v. Corzine, et al., the State is required to implement a seal-use protocol for the security enhancements used on all voting machines in the 21 counties. This protocol must include training, which will be conducted as follows. First, any individual whose job duties encompass access to the internal components of a voting machine is mandated to attend training. This requirement applies to any individual employed by a county, whether on a full-time or part-time basis, and it also applies to any individual employed by a vendor who is contracted for voting machine purposes. To be clear, even if an individual is hired only for the day of an election to perform voting machine duties, that person is subject to training. There will be no exceptions to this requirement. Any person who is not so trained cannot perform any voting machine duties that require or may entail access to the internal components of the voting machines. This requirement does not apply to district board workers.

The classes will be held at the Ocean County Voting Technology Center, 110 Lehigh Avenue, Lakewood, New Jersey. The class dates are as follows: January 11, 12, 13, 18, 19 and 20. Each class will be limited to 20 attendees and choice of class will be honored on a first-come/first-serve basis. Please notify the affected individuals in your office to send an email or fax to Madeline Rodriguez of the Division of Elections to provide the following information: name, home address, telephone number, email address and class preferences. The fax number is (609)777-1280 and the email address is Madeline.Rodriguez@sos.state.nj.us. You are further reminded that all attendees will be subject to criminal background checks.

The training will encompass the security enhancements that are currently on the voting machines throughout the State: Avante, ES&S, Sequoia AVC Advantage and Edge. For the counties with the Sequoia AVC Advantage the training will also include future enhancements that will be used after the anticipated installment of new firmware. On that point, you are advised that Dominion Voting Systems, which recently purchased the rights to the Sequoia AVC Advantage voting machine, has recently proposed the development of new firmware, 9.0K to address the following concerns: the primary election "option switch issue"; the ability to overwrite the audio firmware with no warning or evidence which was the basis for the claim that "viruses can propagate the audio firmware"; "between voter switch module test mode" issue which was claimed to possibly cause voters to think they voted on a machine that was not activated; the buffer overrun error in the communication to the audio subsystem; the return-oriented programming attack; and improve how the random number generator works. In addition, Dominion is also working towards making WinEDS 4.0 available as part of this upgrade. Assuming these upgrades are implemented, it is anticipated that installation will commence after the June 2011 primary election, and to be completed by September 2011. Each affected county will be responsible for installation of the new firmware, including all associated labor and budget requirements. Upon installation of the new firmware, the new security enhancements and computerized asset tracking system will be put in place in the affected counties.

Thank you for your anticipated cooperation and please do not hesitate to contact this office if you have any questions.

c: Assistant Attorney General Donna Kelly
County Clerks

Re: Protocol Training

Page 1 of 1

From: John Mooney
To: John Mooney
Date: Friday, December 03, 2010 11:19:07 AM
Subject: Re: Protocol Training

-----Original Message-----

From: "Giles, Robert" <Robert.Giles@sos.state.nj.us>
Sent: 11/30/2010 3:27:08 PM
To: "John Mooney" <mooney_johnw@mail.aclink.org>
Subject: RE: Protocol Training

John,

The State will not be compensating any counties or their employees for attendance at the seal-use protocol training.

Robert Giles
Director
Division of Elections
NJ Department of State
PO Box 304
Trenton, NJ 08625

(609) 292-3760 (office)
(609) 777-1280 (fax)

From: John Mooney [mailto:mooney_johnw@mail.aclink.org]
Sent: Thursday, November 18, 2010 12:44 PM
To: Giles, Robert
Subject: Protocol Training

Bob,

Please advise if the state will be compensating for my part-time election day technicians for the mandatory training in Toms River. We would be looking to compensate these techs at \$125 for the day. Currently we have 13 techs that fall into this category.

John W. Mooney

Atlantic County
Superintendent of Elections