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July 21, 2021

Via Email

Hon. John A. Sweeney, A.J.S.C. (Ret.)
Council on Local Mandates
140 East Front Street, 8th Floor
Trenton, New Jersey 08625

Re: In the Matter of the Complaints filed by the Franklin Township Board of Education, Lower Township Elementary Board of Education and Gloucester City Board of Education
Dkt. Nos. COLM-0001-21, COLM-0001-21-A, COLM-0001-21-B

Dear Judge Sweeney:

My office represents Respondent, the Executive Branch of the State of New Jersey. As you are aware, on July 7, 2021 Governor Murphy signed A5825, which significantly alters P.L.2020, c.44 ("Chapter 44), the law that is the subject of this litigation. Specifically, A5825 amends Section 8 of Chapter 44, to elaborate on a school district's obligation to engage in collective negotiations. Importantly, the amendment allows for the parties to modify plan level offerings or contributions for the New Jersey Educators Health Plan through negotiations.

Although claimants agree that the new legislation directly impacts this case and that the new law allows for the alteration of healthcare plans, they have opted to proceed under the originally filed complaints. By letter dated July 19, 2021 counsel for the claimants advised the Council that its position has not changed because "there is no mechanism for School Boards to recoup the prior financial impacts of Chapter 44, or current and continuing financial impacts while lengthy negotiations occur." Based on this assertion, it appears that the claimants' position as to the unfunded nature of Chapter 44 has in fact changed.



Initially, the Complaints in this action allege that P.L. 2020, Chapter 44 (S2273/A20) is an unfunded mandate.¹ Franklin Twp., Lower Twp. and Gloucester City Complaints, §II at ¶1. Claimants allege that Chapter 44 "does not allow for any practical means to offset the additional expenditures required for the school district employer to implement the NJEHP, and is therefore an unfunded mandate." Franklin Twp., Lower Twp. and Gloucester City Complaint Addendums, §3 at ¶4. Complainants go on to say that even though collective negotiations are required, "the school district employer remains bound by the contribution percentages, contribution caps, and the coverage or co-payment amounts set forth in P.L. 2020, Chapter 44. Accordingly, such collective negotiations 'over the financial impact of the difference' in implementing the NJEHP are not truly possible, as there are no health care related financial aspects remaining to negotiate." Franklin Twp., Lower Twp. and Gloucester City Complaint Addendums, §3 at ¶5.

With the passage of A5825 it is clear that complainants are required to collectively negotiate, and are specifically permitted to negotiate the health care financial aspects of the NJEHP. Because the complaints are now moot, Respondent requests an opportunity to file a motion on that issue before this case continues on its current track.

Respondent is willing to participate in a case management conference at the Council's request. Thank you for your attention to this matter.

Respectfully submitted,

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¹ That law has since been amended by the passage of A5825.