



State of New Jersey
COUNCIL ON LOCAL MANDATES
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Hon. John A. Sweeney, AJSC (ret.)
 Chair

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State of New Jersey
 Council on Local Mandates
Trenton, New Jersey

In re Complaint Filed By The
 Franklin Twp. Board of Education

State of New Jersey
 Council on Local Mandates
 COLM-0001-21
 Consolidated Actions

In re Complaint Filed By The
 Lower Twp. Elementary Board
 Of Education

MEMORANDUM OPINION
 AND ORDER

THIS MATTER coming before the Council on Local Mandates on the 13th day of December, 2021 on Complainants' Motion for Summary Judgment and the State's Motion to Dismiss the Complaints; William Morlok, Esq., appearing for Complainants; Jaclyn Frey, Esq., appearing for the State of New Jersey; Craig Long, Esq. and Richard A. Friedman, Esq., appearing for amicus, New Jersey Education Association; Carl Tanksley, Esq., appearing for amicus, New Jersey School Boards Association; and Leon Sokol, Esq., appearing for the Presiding Officers; and the Council

having read all papers and exhibits filed by counsel; and having heard and considered the arguments of counsel; and having deliberated on the matter;

It IS on this 13th day of December, 2021 that the Council FINDS AND DETERMINES that Complainants have failed to produce clear and convincing evidence to sustain the Complaints. We further find that the legislative mandates promulgated in Chapters 44 and 163 of L.2020, while requiring the Complainants and all other Boards of Education in this State to expend public funds in order to accomplish the goals set forth in such laws, cannot be found, at this time, to constitute unfunded mandates. These determinations are based upon the findings that the Legislature has provided for a mechanism in the Acts for the recovery of most if not all of the funds expended and that the alleged losses sought by Complainants are not presently ascertainable and are, therefore, speculative in nature. We are not convinced that the “negotiations” required by the law are insufficient to result in the recovery or reimbursement of the funds expended. It is clear from the evidence before the Council that negotiations are in their very early stages and that Complainants are, therefore, incapable of predicting the results with any degree of certainty or reliability. We cannot find that such negotiations will be ineffective or nonproductive. Thus, the Complaints are premature.

We also reject the notion that the mandates contained in the challenged law are protected by the “revision” exemption set forth in the Constitution and statute. A revision which also contain an additional and substantial financial burden on a board of education is not automatically protected by the exemption.

We also reject the argument that the laws in question implement the “thorough and efficient” clause of our Constitution. That argument is frequently made but rarely applicable. We have held before, and we hold here, that unless the law in question specifically states that it implements a constitutional provision, and can be found to actually do so, that contention cannot prevail.

IT IS THEREFORE ORDERED that Complainants’ Motion for Summary Judgment is DENIED; and

FURTHER ORDERED that the State’s Motion to Dismiss the complaints is GRANTED on the condition that it is WITHOUT PREJUDICE.

The decision of the Council is UNANIMOUS. Mr. Tarditi is recused and did not participate.

For the Council on Local Mandates

A handwritten signature in black ink, appearing to read "John A. Sweeney". The signature is written in a cursive style with large, overlapping loops.

John A. Sweeney, Chair