

April 20, 2016

Re: Council on Local Mandates Invalidates Police Camera Mandate

Dear Mayor:

Today, the Council on Local Mandates (the Council) determined that P.L. 2014, c. 54 (chapter 54), which would have mandated body or dash cameras in most "newly acquired" police vehicles, violated the New Jersey constitution's state-mandate state-pay amendment. Please click [here](#) for the Council's decision.

The Council's ruling invalidates the law, which was stayed in fall. The effect is that the decision to outfit "police cruisers" that are "primarily used for traffic stops" with either dash cams or body cams will be a matter to be decided locally, and not mandated by the state.

Our thanks go to Deptford Township and Mayor Paul Medany for bringing this matter before the Council. We also want to note the outstanding work of Brian D. Shotts, Esq, who argued the case on behalf of the Township, and Ed Purcell, Esq., the League's staff attorney, who argued on behalf of the League.

Specifically, chapter 54 would have required any newly acquired municipal police vehicle "...primarily used for traffic stops" to be equipped with either a body or dash camera. The legislation also would have provided a \$25 surcharge on DUI convictions as a funding mechanism. Deptford Township's complaint argued that chapter 54 was an unfunded mandate because the \$25 was woefully inadequate to offset the mandate's ongoing expenses. In November the Council had issued an order staying chapter 54's application.

The Council agreed that chapter 54's funding source was "illusory." Deptford Township's own analysis of the law demonstrated that it would have taken 7.58 years to recover the cost of the first dash cam through the DUI surcharge. Also, it would have taken 28.21 years to recover the cost of body cams and 20.94 years to recover their annual maintenance costs.

In its decision, the Council also clarified its authority, as a constitutional body empowered by the voters, to determine whether or not rules, regulations or laws are unfunded mandates.

The Attorney General's office had argued, in defense of the camera mandate, that the Council did not have the right to determine the adequacy of a statute's funding. Acceptance of that argument would

have allowed the imposition of any future mandate on our property taxpayers, so long as the State provided any de minimus amount of support. In rejecting that theory, the Council held:

The proofs show that the \$25 surcharge would fall short of funding the installation of either a vehicle-mounted or body-worn mobile video recording system. The Council cannot give blind deference to the Legislature's decision to authorize only that funding of its mandate: to do so would leave the Legislature as the sole judge of its constitutional performance and thus render the "State mandate/State pay" principle meaningless. Legislation containing local mandates should be accompanied by a statement or, where appropriate, a fiscal note setting forth the manner in which sufficient funding is, or before the effective date of the mandate will be, provided to cover the anticipated costs of municipal compliance without resort to other sources such as increased property taxes, grants, loans and the like.

This decision builds on a previous Council decision that turned on the inadequacy of a mandate's funding. In IMO Complaints Filed by the Mayors of Shiloh Borough et. al, the Council held that partial funding provided in an appropriations act could not "fund" a mandate related to rural police coverage. Thus, this decision not only falls well within the state-mandate state-pay amendment but also the Council's own precedent.

If you have any questions regarding this issue, please contact Ed Purcell Esq. at (609) 695-3481 x. 137 or epurcell@njslom.org.

Sincerely,

Michael Darcy, CAE

Executive Director