

ITEM 21
LEGISLATIVE UPDATE
2009-2010 Legislation

AB 349 (Silva), as amended on December 15, 2009.¹ Under existing law, no local agency or school district is required to implement or give effect to any statute or executive order that has been determined to be a mandate, and identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year. This is otherwise known as suspending mandates.

Under this bill:

- If the Governor's budget proposes to suspend state mandates, the Department of Finance would be required, on or after January 1, 2012, to provide to the Legislature all proposed statutory changes necessary to repeal the mandates proposed for suspension.
- The Budget Act that identifies suspended mandates, shall also, to the extent practicable, identify each affected section of law. However, failure to provide this identification would not halt or otherwise affect suspension of a mandate.

This bill attempts to repeal mandates that are suspended, and to further clarify what laws are being suspended. The author is concerned with the significant number of mandates on the books that have not been funded for several years. The author states there are currently over two dozen mandates that have been suspended for at least three years, ten of which have been suspended for at least 18 years.

The bill is supported by the California State Association of Counties, California Peace Officer's Association, California Police Chiefs Association, League of California Cities, and California Special Districts Association.

There is no known opposition to the bill. However, last year, the Legislature rejected a budget trailer bill that would have repealed numerous suspended mandates, because they believe that the repeal of mandates should be decided in policy committee. This bill could face the same opposition from the Legislature.

We also point out that this bill only applies to local agency mandates. It does not address school district mandates.

AB 349 passed the Assembly (77-0) and is pending in Senate Budget and Fiscal Review Committee.

¹ Exhibit A.

AB 548 (Chesbro), as amended on January 10, 2010.² This bill would change the State Controller's audit period for mandate reimbursement claims, as follows:

- Lengthens the period in which a reimbursement claim for actual costs would be subject to an initiation of an audit by the State Controller; from no later than three years after the date that the actual reimbursement claim is filed or last amended to no later than four years.
- Eliminates the exception that allows the State Controller to extend the audit period for a reimbursement claim when funds are not appropriated or no payment is made to a claimant for the program. This exception allows the audit period to run from the date of initial payment of a claim.

Due to ongoing budget deficits, state reimbursement of mandate claims is being significantly delayed, thus increasing the number of programs and reimbursement claims that are subject to the exception for defining the audit period. This bill would provide claimants and the Commission on State Mandates with certainty as to the period in which a reimbursement claim is subject to audit and when an incorrect reduction claim may be filed.

The bill is sponsored by the California Association of School Business Officials, (CASBO), the Five Star Education Coalition, and the Riverside County Schools Advocacy Association. The bill is supported by State Controller John Chiang, American Federation of State County and Municipal Employees, AFL-CIO, California Federation of Teachers, California State Association of Counties, City of Los Angeles, Elk Grove Unified School District, and the Los Angeles Unified School District.

The bill is opposed by the Department of Finance for the following reasons:

- The bill would increase General Fund obligations to pay the higher cost of unaudited claims.
- Based upon prior audits completed by the Controller, disallowed claims range from approximately 10 percent to nearly 95 percent. Reducing the time the Controller has to audit claims would result in higher payments to local governments for undocumented or unallowable costs.
- This bill could create General Fund cost pressures to increase staff at the Controller.

AB 548 passed the Assembly (78-0) and is pending on the Senate Floor.

AB 917 (Nestande), as amended January 5, 2010.³ Under existing law, no school district is required to implement or give effect to any statute or executive order that has been determined to be a mandate, and identified by the Legislature in the Budget

² Exhibit B.

³ Exhibit C.

Act and statute for the fiscal year as being one for which reimbursement is not provided for that fiscal year. This is otherwise known as suspending mandates. Currently, there are six mandates imposed on school districts that are identified in statute for suspension.

This bill would:

- Require the Legislature, commencing with the 2009-10 fiscal year and each fiscal year thereafter, to appropriate in the Budget Act the full payable amount that has not been previously paid for each mandate for which the costs of a school district claimant have been determined in a preceding year to be payable by the state.
- Require that for any year in which the Legislature fails to appropriate the full payable amount for any school district mandate, that mandate shall be suspended for that fiscal year. This would not apply to the following mandates:
 1. *Criminal Background Checks I*
 2. *Pupil Expulsions*
 3. *Pupil Suspensions*
 4. *High School Exit Exams*
 5. *Charter Schools*
 6. *Open Meetings Act/Brown Act Reform*
- Authorizes payment over a term of five years for school district claims for costs incurred prior to the 2007-08 fiscal year that have not been reimbursed prior to the 2009-10 fiscal year.

Unlike local agency mandates which only need to be named in the budget with a zero appropriation, school district mandates must be also be named in Government Code section 17581.5 to be suspended. Currently, there are only six school mandates that are named in statute for suspension. Therefore, in order to address recent budget deficits, the Administration and Legislature *deferred* payment for other school district mandates by funding each mandate with only \$1,000. School officials challenged this practice in court, and in 2008, the court found that the California Constitution requires the state to budget full reimbursement of local governments for the cost of state mandates, and ordered the state to fully fund mandates in the future. The state has appealed this decision, and the appeal is pending in the 4th District Court of Appeal.

This bill would require the state, commencing with the 2009-10 fiscal year, to either fully fund school district mandates or suspend them; and would authorize the state to reimburse mandates for years prior to 2009-10 over a five-year period.

While the bill may attempt to address the recent court decision, portions of it may be unnecessary. The Governor's proposed Budget for 2010-2011 already suspends school district mandates.

There is no known support or opposition to this bill.

AB 917 is pending in Assembly Education Committee.