Effective: June 4, 2014

West's Annotated California Codes Currentness
Constitution of the State of California 1879 (Refs & Annos)
Article XIIIB. Government Spending Limitation (Refs & Annos)

➞➞ § 6. New programs or services mandated by Legislature or state agencies; subvention; appropriation of funds or suspension of operation

SEC. 6. (a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates:

(1) Legislative mandates requested by the local agency affected.

(2) Legislation defining a new crime or changing an existing definition of a crime.

(3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

(4) Legislative mandates contained in statutes within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I.

(b)(1) Except as provided in paragraph (2), for the 2005-06 fiscal year and every subsequent fiscal year, for a mandate for which the costs of a local government claimant have been determined in a preceding fiscal year to be payable by the State pursuant to law, the Legislature shall either appropriate, in the annual Budget Act, the full payable amount that has not been previously paid, or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable in a manner prescribed by law.

(2) Payable claims for costs incurred prior to the 2004-05 fiscal year that have not been paid prior to the 2005-06 fiscal year may be paid over a term of years, as prescribed by law.

(3) Ad valorem property tax revenues shall not be used to reimburse a local government for the costs of a new program or higher level of service.

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

(4) This subdivision applies to a mandate only as it affects a city, county, city and county, or special district.

(5) This subdivision shall not apply to a requirement to provide or recognize any procedural or substantive protection, right, benefit, or employment status of any local government employee or retiree, or of any local government employee organization, that arises from, affects, or directly relates to future, current, or past local government employment and that constitutes a mandate subject to this section.

(c) A mandated new program or higher level of service includes a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.

CREDIT(S)

(Adopted Nov. 6, 1979. Amended by Stats.2004, Res. c. 133 (S.C.A.4)(Prop.1A, approved Nov. 2, 2004, eff. Nov. 3, 2004); Stats.2013, Res. c. 123 (S.C.A.3), § 2(Prop. 42, approved June 3, 2014, eff. June 4, 2014).)

HISTORICAL NOTE

2013 Main Volume

Stats.2004, Res. c. 133 (S.C.A.4) (Prop. 1A) designated subd. (a); added subds. (b) and (c); and made nonsubstantive changes.

Stats.2004, Res. c. 133 (S.C.A.4) (Prop. 1A) also provides, in part:

“Fourth--That the people find and declare that this measure and the Taxpayers and Public Safety Protection Act, which appears as Proposition 65 on the November 2, 2004, general election ballot (hereafter Proposition 65) both relate to local government, including matters concerning tax revenues and reimbursement for the cost of state mandates, in a comprehensive and substantively conflicting manner. Because this measure is intended to be a comprehensive and competing alternative to Proposition 65, it is the intent of the people that this measure supersede in its entirety Proposition 65, if this measure and Proposition 65 both are approved and this measure receives a higher number of affirmative votes than Proposition 65. Therefore, in the event that this measure and Proposition 65 both are approved and this measure receives a higher number of affirmative votes, none of the provisions of Proposition 65 shall take effect.”

The Legislative Counsel's Digest for Stats.2004, Res. c. 133 (S.C.A.4) (Prop. 1A) provides, in part:

“Under the California Constitution, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, the state is required to provide a subvention of funds to reimburse the local government, with specified exceptions. Existing statutory law establishes a procedure for local government agencies

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

to file claims for reimbursement of these costs with the Commission on State Mandates and the Controller."

"This measure would provide that for the 2005-06 fiscal year and every subsequent fiscal year, with respect to a mandate for which the costs of a city, county, city and county, or special district claim previously have been determined to be payable by the state pursuant to law, the Legislature shall either appropriate, in the annual Budget Act, the full payable amount that has not been previously paid, or suspend the operation of the mandate in the current fiscal year. The measure would also provide that payable claims for costs incurred prior to the 2004-05 fiscal year that have not been paid prior to the 2005-06 fiscal year may be paid over a term of years, as prescribed by law."

"The measure would also specify that a new program or higher level of service includes a transfer by the Legislature of complete or partial financial responsibility for a required program from the state to cities, counties, cities and counties, or special districts. This measure would also state that ad valorem property tax revenues may not be used to reimburse a local government for the costs of a new program or higher level of service."

An amendment of this section by Initiative Measure (Prop. 65) was rejected at the Nov. 2, 2004 election. For all provisions relating to Initiative Measure (Prop. 65), see Historical Notes under Const. Art. 13E, § 1.

An amendment of this section by Initiative Measure (Prop. 76) was rejected at the Nov. 8, 2005 election.

Section 46 of Stats.2010, c. 724 (A.B.1610), provides:

"SEC. 46. (a) On or before December 1, 2010, the Controller shall confirm that school districts are no longer filing mandate claims pursuant to Section 6 of Article XIII B of the California Constitution for activities deleted from Section 33126 of the Education Code related to the School Accountability Report Cards mandate (97-TC-21), including the following:

"(1) Reporting the average verbal and math Scholastic Aptitude Test scores of high school seniors, to the extent that those scores are provided, and the average percentage of seniors taking that exam for the most recent three-year period.

"(2) The degree to which pupils are prepared to enter the workforce.

"(b) If the Controller finds that school districts are still filing claims for either of these activities, then the Controller shall file a request with the Commission on State Mandates to amend the parameters and guidelines accordingly for the School Accountability Report Cards mandate (97-TC-21)."

2015 Electronic Pocket Part Update

2013 Legislation

Stats.2013, Res. c. 123 (S.C.A.3), added subd. (a)(4).

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

For letter of intent regarding Stats.2013, Res. c. 123 (S.C.A.3), see Historical Notes under Const. Art. 1, § 3.

CONSTITUTIONAL PROVISIONS

2015 Electronic Pocket Part Update

Constitution Art. 2, § 10, and Art. 18, § 4, provide in part that an initiative statute or referendum (Art. 2, § 10), or an amendment or revision of the Constitution (Art. 18, § 4), "approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise," and that "if provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail."

CROSS REFERENCES

Adoption of new test claim decision, procedures, see Government Code § 17570.
Local education agencies, Los Angeles Unified School District, report on illegal activity and enforcement power, see Education Code § 35401.

LAW REVIEW AND JOURNAL COMMENTARIES

Carmel Valley Fire Prot. Dist. v. California. Farris Elias Ain, 31 Sw. U. L. Rev. 337 (2002).

State environmental permit fees charged to federal facilities: distinguishing legal user fees from illegal taxes. Samuel D. McVey, 29 Santa Clara L. Rev. 879 (1989).

LIBRARY REFERENCES

2013 Main Volume

States ⚷111.
Westlaw Topic No. 360.
C.J.S. States §§ 311 to 312.

RESEARCH REFERENCES

ALR Library

76 ALR 6th 543, Construction and Application Of State Prohibitions Of Unfunded Mandates.

106 ALR 5th 523, Private Attorney General Doctrine--State Cases.

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

Encyclopedias

Cal. Jur. 3d Administrative Law § 63, Constitutional Requirements.

Cal. Jur. 3d Administrative Law § 112, Open-Meeting Requirements for Local Agencies.

Cal. Jur. 3d Criminal Law: Crimes Against Person § 461, Battery Against Spouse or Cohabitant, Parent Of the Defendant's Child, or Other Person in Current or Former Intimate Relationship.

Cal. Jur. 3d Evidence § 44, Court Records.

Cal. Jur. 3d Municipalities § 313, Open Sessions.

Cal. Jur. 3d Municipalities § 330, Regular Meetings.

Cal. Jur. 3d Municipalities § 557, Spending Limitations.

Cal. Jur. 3d State of California § 101, What Constitutes Reimbursable Mandate.

Cal. Jur. 3d State of California § 102, What Constitutes Reimbursable Mandate--Costs Involved in Carrying Out Functions Peculiar to Government.

Cal. Jur. 3d State of California § 103, What Constitutes Reimbursable Mandate--Statutory Exclusions.

Cal. Jur. 3d State of California § 104, What Constitutes Reimbursable Mandate--Federally Mandated Costs.

Cal. Jur. 3d State of California § 105, Resolution Of Claims for Reimbursement.

CJS States § 312, Reimbursable State Mandated Programs.

Treatises and Practice Aids

Lindey on Entertainment, Publ. & the Arts § 3:65, California “Revenge Porn” Bill Text.

Miller and Starr California Real Estate § 30B:6, Tax Increment Financing.

3 Witkin, California Procedure 5th Actions § 672, (S 672) Action for Reimbursement for Costs Of State-Mandated Programs.

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

3 Witkin, California Procedure 5th Actions § 678, Illustrations.

7 Witkin, California Procedure 5th Judgment § 364, (S 364) Judgments Subject to Appeal or Modification.

4 Witkin, California Procedure 5th Pleading § 183, Illustrations.

9 Witkin, California Summary 10th Taxation § 118, (S 118) Scope Of Limitation.

9 Witkin, California Summary 10th Taxation § 119, Requirement.

9 Witkin, California Summary 10th Taxation § 120, Reimbursement Required.

9 Witkin, California Summary 10th Taxation § 121, Reimbursement Not Required.

9 Witkin, California Summary 10th Taxation § 122, Local Government's Action to Avoid Expenditure.

7 Witkin, California Summary 10th Constitutional Law § 148, Court Cannot Compel Legislative Action.

NOTES OF DECISIONS

Accrual of cause of action 45
Additional costs 11
Administrative remedies 42
Arbitration 32
Attorney fees 52
Authority of agency 9
Cause of action, accrual of 45
Construction and application 1
Construction with other laws 2
Correctional facilities 25
Costs 38-40
    Costs - In general 38
    Costs - Incidental costs 40
    Costs - Shifting of costs 39
Courts 31
Crimes 36
Damages 50
Determination by test claim 10
Determination of mandate 10
Education 22

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

Eminent domain 21
Exclusions 5
Executive orders 13
Federal mandate 15
Federal programs 14
Fire departments 24
Funds, source of 37
Higher level of service 17
Incidental costs 40
Intent of voters 6
Interest 51
Jurisdiction 47
Justiciable controversy 49
Law questions 48
Legislative disclaimers 34
Legislature 8
Limitation of actions 44
Line-item veto 20
Mandamus, remedies 43
Mandates, generally 7
Medical care 29
New costs 18
New program or higher level of service 17
Pension benefits 28
Pleadings 46
Police and fire departments 24
Program, generally 16
Property tax revenues, reallocation of 30
Purpose 4
Questions of law 48
Reallocation of property tax revenues 30
Reimbursement 19
Remedies 41-43
    Remedies - In general 41
    Remedies - Administrative remedies 42
    Remedies - Mandamus 43
Retirement benefits 28
Retroactive application 3
Review 53
Safety regulations 23
Self-financing programs 35
Shifting of costs 39
Single-subject rule 12

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

Source of funds 37
Statute of limitations 44
Subvention, generally 33
Test claim, determination by 10
Unemployment insurance 26
Voters, intent of 6
Workers' compensation benefits 27

1. Construction and application

Under constitutional provision requiring the Legislature either to fund or suspend local agency mandates, relief from compliance with a mandate is only automatic when the mandate is specifically identified in the Budget Act as being unfunded. California School Boards Ass'n v. Brown (App. 2 Dist. 2011) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507, review denied. States 111

In the constitutional provision requiring the Legislature either to fund or suspend local agency mandates, the term "the Legislature" means the Legislature enacting laws as otherwise provided in the Constitution, including being subject to the Governor's veto. California School Boards Ass'n v. Brown (App. 2 Dist. 2011) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507, review denied. States 111

Under constitutional provision requiring Legislature to make an appropriation of the full required amount for a local agency mandate or suspend the operation of the mandate, the Legislature was constitutionally required to make a choice, with respect to each mandate, between an appropriation of the full reimbursement payment due or nothing at all. California School Boards Ass'n v. Brown (App. 2 Dist. 2011) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507, review denied. States 111

State's practice of appropriating only a nominal amount to fund mandates imposed on school districts and deferring the remaining payment did not satisfy the constitutional provision requiring the state to fund state mandates imposed upon local agencies, even though the state made payments on the outstanding debt, where the state did not fix a date for full payment. California School Boards Assn. v. State (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770, rehearing denied , review denied. Education 219

Under the constitutional provision requiring the state to fund state mandates imposed upon local agencies, if the State wants to require local school districts to provide new programs or services, it is free to do so, but not by requiring local entities to use their own revenues to pay for the programs. California School Boards Assn. v. State (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770, rehearing denied , review denied. States 111

The state is required to pay for any new governmental programs, or for higher levels of service under existing programs, that it imposes upon local governmental agencies. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176. States 111

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

In order for a state mandate to be found under constitution section requiring state to pay for increased costs associated with state mandates, there must be compulsion to expend revenue. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176. States 111

There is no basis for applying, as an equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities, the state constitutional provision generally requiring the state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency. County of Sonoma v. Commission on State Mandates (App. 1 Dist. 2000) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264, modified on denial of rehearing , review denied. States 111

A reimbursable mandate is created, for purposes of constitutional provision requiring state to provide subvention of funds to reimburse local governments for costs of new programs or additional services mandated by state law, only when the state imposes on a local government a new program or an increased level of service under an existing program. City of El Monte v. Commission on State Mandates (App. 3 Dist. 2000) 99 Cal.Rptr.2d 333, 83 Cal.App.4th 266, rehearing denied , review denied. States 111

Although a law is addressed only to local governments and imposes new costs on them, it may still not be a reimbursable state-mandate within meaning of state constitution. City of Richmond v. Commission on State Mandates (App. 3 Dist. 1998) 75 Cal.Rptr.2d 754, 64 Cal.App.4th 1190, review denied. States 123

Constitutional limitations and restrictions on legislative powers are not to be extended to include matters not covered by language used. Redevelopment Agency v. Commission on State Mandates (App. 4 Dist. 1997) 64 Cal.Rptr.2d 270, 55 Cal.App.4th 976, review denied. Constitutional Law 2340

In construing this section, crucial issue was not intent of those who drafted provisions in question but, rather, intent of those who voted for measure. County of Fresno v. State of California (1991) 280 Cal.Rptr. 92, 53 Cal.3d 482, 808 P.2d 235. Constitutional Law 584

2. Construction with other laws

The statute providing that no local agency shall be required to implement a mandate if the mandate has been "specifically 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" does not exempt acts taken by the Legislature pursuant to the statute from the Governor's veto, since the budget bill does not become the Budget Act without the Governor's approval or a veto override. California School Boards Ass'n v. Brown (App. 2 Dist. 2011) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507, review denied. Statutes 1045

Under the statute providing that no local agency shall be required to implement a mandate if the mandate has been "specifically 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," a local agency is not exempted from implementing a mandate if the mandate is simply omitted from the Budget Act; instead, the mandate must be specifically identified in the schedule of reim-

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

bursable mandates and have an appropriation of zero. California School Boards Ass'n v. Brown (App. 2 Dist. 2011) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507, review denied. States 111

Constitutional provision requiring the state to reimburse local governments for cost of state mandated programs, and statutory scheme for reimbursement of state mandated costs, do not create an implied contract between the state and local agencies entitled to reimbursement as required for a breach of contract claim, as provision and statutes involve an exchange of performance compelled by law on both sides rather than an unambiguous exchange of contractual consideration, and do not involve a legislative offer to pay in exchange for the performance of certain acts but rather involve a constitutional requirement to reimburse the costs local agencies incur in providing services and programs mandated by the state. County of San Diego v. State (App. 4 Dist. 2008) 79 Cal.Rptr.3d 489, 164 Cal.App.4th 580, review denied. States 111

In order for a state mandate to be found under constitution section requiring state to pay for increased costs associated with state mandates, the local governmental entity must be required to expend the proceeds of its tax revenues. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176. States 111

Revenue and Taxation Code § 2207, which defines costs for which state must reimburse local agency as those costs which local agency is required to incur as result of any laws enacted after January 1, 1973, was not rendered inoperative, as it related to pre-1975 laws, by provision of this section stating, inter alia, that legislature need not provide reimbursement for laws enacted prior to January 1, 1975, as adoption of amendment which added subdivisions expanding definition of reimbursable costs and referred to laws enacted after January 1, 1973 was a legislative reaffirmance of reimbursement obligation, and constituted an exercise of legislative discretion referred to in Constitution. Los Angeles County v. State of Cal. (App. 2 Dist. 1984) 200 Cal.Rptr. 394, 153 Cal.App.3d 568. States 123

3. Retroactive application

Legislature was not constitutionally or statutorily required to reimburse school district for expenditures incurred in complying with state safety statutes enacted prior to 1975. Los Angeles Unified School Dist. v. State of California (App. 2 Dist. 1991) 280 Cal.Rptr. 237, 229 Cal.App.3d 552. Education 219

School district could be reimbursed for expenditures incurred in complying with an executive order for fiscal years prior to effective date of amendment which allowed for reimbursement of a local government for state-mandated expenses. Long Beach Unified Sch. Dist. v. State of California (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155, modified , review denied. States 111

State must reimburse costs incurred by local governments pursuant to state mandates enacted after January 1, 1975, even though actual payments for reimbursement were not required to be made prior to July 1, 1980, the effective date of this section. Long Beach Unified Sch. Dist. v. State of California (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155, modified , review denied. States 111

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

Claims of county for reimbursement of expenses for state-mandated protective clothing and equipment for fire fighters were reimbursable even to extent that expenses were incurred prior to effective date of this section. Carmel Valley Fire Protection Dist. v. State (App. 2 Dist. 1987) 234 Cal.Rptr. 795, 190 Cal.App.3d 521, review denied. States 123

4. Purpose

Purpose of the constitutional provision requiring that state mandates be funded is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ill equipped to assume increased financial responsibilities because of the taxing and spending limitations imposed by the state constitution. State Department of Finance v. Commission on State Mandates (App. 2 Dist. 2013) 163 Cal.Rptr.3d 439, 220 Cal.App.4th 740, as modified , review granted and opinion superseded 167 Cal.Rptr.3d 108, 316 P.3d 1218. States 111

Purpose of constitutional provision requiring the state to reimburse local governments for cost of state-mandated programs is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ill equipped to assume increased financial responsibilities because of the taxing and spending limitations imposed by the state constitution. California School Boards Ass'n v. Brown (App. 2 Dist. 2011) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507, review denied. States 111

Purpose of constitutional provision requiring the state to fund state mandates imposed upon local agencies is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ill equipped to assume increased financial responsibilities because of the taxing and spending limitations that the state constitution imposes. California School Boards Assn. v. State (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770, rehearing denied , review denied. States 111

Purpose of constitutional provision requiring the state to fund mandates imposed upon local agencies is to require each branch of government to live within its means, and to prohibit the state from circumventing this restriction by forcing local agencies such as school districts to bear the state's costs, even for a limited time period. California School Boards Assn. v. State (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770, rehearing denied , review denied. States 111

Purpose of constitutional provision requiring the state to reimburse local governments for cost of state-mandated programs is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ill equipped to assume increased financial responsibilities because of the taxing and spending limitation. County of San Diego v. State (App. 4 Dist. 2008) 79 Cal.Rptr.3d 489, 164 Cal.App.4th 580, review denied. States 111

Purpose of constitution section requiring state to pay for increased costs associated with state mandates is to avoid governmental programs from being forced on localities by the state. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176. States 111

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

The principle of reimbursement, under the state constitutional provision generally requiring the state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency, was enshrined in the Constitution to provide local entities with the assurance that state mandates would not place additional burdens on their increasingly limited revenue resources. County of Sonoma v. Commission on State Mandates (App. 1 Dist. 2000) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264, modified on denial of rehearing , review denied. States 111

State constitutional provision requiring reimbursement to local governments for state mandated local costs was designed to prevent state from forcing programs on local government. City of Richmond v. Commission on State Mandates (App. 3 Dist. 1998) 75 Cal.Rptr.2d 754, 64 Cal.App.4th 1190, review denied. States 123

Purpose of section of Constitution requiring state to reimburse local government for costs of state-mandated new program or higher level of service is to preclude state from shifting financial responsibility for governmental functions to local agencies, which are ill equipped to undertake increased financial responsibilities because they are subject to constitutional taxing and spending limitations. Redevelopment Agency v. Commission on State Mandates (App. 4 Dist. 1997) 64 Cal.Rptr.2d 270, 55 Cal.App.4th 976, review denied. States 111

Goals of constitutional provisions pertaining to tax and government spending limitations are to protect California residents from excessive taxation and government spending. Redevelopment Agency v. Commission on State Mandates (App. 4 Dist. 1997) 64 Cal.Rptr.2d 270, 55 Cal.App.4th 976, review denied. States 119; Taxation 2005

Central purpose of section of Constitution requiring state to reimburse local government for costs of state-mandated new program or higher level of service is to prevent state's transfer of cost of government from itself to local level. Redevelopment Agency v. Commission on State Mandates (App. 4 Dist. 1997) 64 Cal.Rptr.2d 270, 55 Cal.App.4th 976, review denied. States 111

Constitutional prohibition on state creation of unfunded mandates for local governments prohibits state from shifting to counties the costs of state programs for which the state assumed complete financial responsibility before adoption of the amendment. County of San Diego v. State of California (1997) 61 Cal.Rptr.2d 134, 15 Cal.4th 68, 931 P.2d 312. States 111

Constitutional rule of state subvention which requires state to reimburse local government for implementing required governmental programs is intended to prevent state from transferring costs of government from self to local agencies. Hayes v. Commission on State Mandates (App. 3 Dist. 1992) 15 Cal.Rptr.2d 547, 11 Cal.App.4th 1564, review denied. States 111

5. Exclusions

In proceedings initiated by county and cities against California Commission on State Mandates for reimbursement,

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

pursuant to constitutional requirement for subvention arising from a state mandate, for carrying out obligations under National Pollutant Discharge Elimination System (NPDES) Permit issued by Regional Water Quality Control Board, the question of whether the obligations constituted federal or state mandates presented factual issues that had to be addressed in the first instance by the Commission; although provision of Government Code would have excluded from subvention any order that included a permit issued by Regional Water Boards, that section was unconstitutional under article imposing subvention requirement whenever the Legislature "or any state agency" mandated a new program or higher level of service, making it necessary to determine whether state mandates existed. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2007) 58 Cal.Rptr.3d 762, 150 Cal.App.4th 898. States 111

6. Intent of voters

Legislative history written and circulated after passage of this section placing limitations on ability of state and local governments to appropriate funds for expenditures was not relevant to determination of intent of those who voted for measure. County of Fresno v. State of California (1991) 280 Cal.Rptr. 92, 53 Cal.3d 482, 808 P.2d 235. Constitutional Law 604

7. Mandates, generally

The Commission on State Mandates has the sole and exclusive authority to adjudicate whether a state mandate exists under the constitutional provision requiring that state mandates be funded, and the Commission's authority is limited only by judicial review. State Department of Finance v. Commission on State Mandates (App. 2 Dist. 2013) 163 Cal.Rptr.3d 439, 220 Cal.App.4th 740, as modified , review granted and opinion superseded 167 Cal.Rptr.3d 108, 316 P.3d 1218. States 111

Commission on State Mandates, as a quasi-judicial body established to carry out a comprehensive administrative procedure for resolving claims for reimbursement of state-mandated local costs, has the sole and exclusive authority to adjudicate whether a state mandate exists. California School Boards Ass'n v. State (App. 3 Dist. 2009) 90 Cal.Rptr.3d 501, 171 Cal.App.4th 1183. States 111

A state requirement that an entity redirect resources is not a reimbursable mandate under provision of State Constitution requiring state to reimburse a local government for state-mandated costs. Grossmont Union High School Dist. v. California Dept. of Educ. (App. 3 Dist. 2008) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869, review denied. States 111

"State mandates" are requirements imposed on local governments by legislation or executive orders. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176. States 111

In order for a state mandate to be found under constitution section requiring state to pay for increased costs associated with state mandates, the local governmental entity must be required to expend the proceeds of its tax revenues. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176.

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

States 111

In order for a state mandate to be found under constitution section requiring state to pay for increased costs associated with state mandates, there must be compulsion to expend revenue. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176. States 111

Legislative disclaimers, findings, and budget control language are not determinative to a finding of a state mandated reimbursable program. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176. States 111

Commission on State Mandates has sole and exclusive authority to adjudicate whether state mandate exists; findings of legislature are irrelevant. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 1995) 38 Cal.Rptr.2d 304, 32 Cal.App.4th 805, review denied. States 123

8. Legislature

In the constitutional provision requiring the Legislature either to fund or suspend local agency mandates, the term "the Legislature" means the Legislature enacting laws as otherwise provided in the Constitution, including being subject to the Governor's veto. California School Boards Ass'n v. Brown (App. 2 Dist. 2011) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507, review denied. States 111

Legislature's directing the Commission on State Mandates, a quasi-judicial body, to set aside or reconsider certain final test claims decisions violated separation of powers doctrine. California School Boards Ass'n v. State (App. 3 Dist. 2009) 90 Cal.Rptr.3d 501, 171 Cal.App.4th 1183. Constitutional Law 2383; States 111

The term "Legislature" in state constitutional provision requiring the state to reimburse local government "[w]henever the Legislature or any state agency mandates a new program or higher level of service," does not include the people acting pursuant to the power of initiative. California School Boards Ass'n v. State (App. 3 Dist. 2009) 90 Cal.Rptr.3d 501, 171 Cal.App.4th 1183. States 111

Understanding or belief of state legislature as to whether statute entitling local safety members of Public Employees' Retirement System (PERS) to double death benefit was a state-mandated local program within meaning of State Constitution was irrelevant, where statute placed authority to decide that issue with Commission on State Mandates, subject to judicial review. City of Richmond v. Commission on State Mandates (App. 3 Dist. 1998) 75 Cal.Rptr.2d 754, 64 Cal.App.4th 1190, review denied. States 123

9. Authority of agency

Authority of Commission on State Mandates to issue a final decision that solely and exclusively adjudicates a test claim is limited only by judicial review. California School Boards Ass'n v. State (App. 3 Dist. 2009) 90 Cal.Rptr.3d 501, 171 Cal.App.4th 1183. States 111

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

10. Determination of mandate

There is no precise formula or rule for determining whether the costs incurred by local government in implementing new programs or increased levels of service are the product of a federal mandate or are reimbursable state-mandated costs. Grossmont Union High School Dist. v. California Dept. of Educ. (App. 3 Dist. 2008) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869, review denied. States 111

Submitting a test claim to the Commission on State Mandates is the exclusive method for resolving whether a cost is or is not a reimbursable state mandate. Grossmont Union High School Dist. v. California Dept. of Educ. (App. 3 Dist. 2008) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869, review denied. States 111

Under legislatively enacted procedures to determine if reimbursable state-mandated costs have been imposed, the local agency files a test claim; if the Commission on State Mandates (CSM) approves the claim, it determines the amount to be reimbursed; if CSM denies claim, the agency can seek review by means of a petition for writ of administrative mandate. Grossmont Union High School Dist. v. California Dept. of Educ. (App. 3 Dist. 2008) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869, review denied. States 111

11. Additional costs

A reimbursable state mandate under constitutional provision requiring state to provide subvention of funds to reimburse local governments for costs of new programs or additional services mandated by state law is not commensurate with any “additional costs” that a local government may be required to bear; additional expense to a local agency arising as an incidental impact of a law that applies generally to all entities is not the type of expense that the voters had in mind when they adopted provision. City of El Monte v. Commission on State Mandates (App. 3 Dist. 2000) 99 Cal.Rptr.2d 333, 83 Cal.App.4th 266, rehearing denied , review denied. States 111

12. Single-subject rule

The constitutional provision requiring the Legislature either to fund or suspend local agency mandates does not authorize the Legislature to enact substantive law in the budget bill. California School Boards Ass'n v. Brown (App. 2 Dist. 2011) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507, review denied. States 121

13. Executive orders

Executive order and guidelines requiring that school districts develop and adopt a reasonably feasible plan for alleviation and prevention of racial and ethnic segregation was a “state mandate,” for purposes of this section; there was no basis on which to exclude executive orders which implement case law or constitutional law while permitting reimbursement for executive orders implementing statutes. Long Beach Unified Sch. Dist. v. State of California (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155, modified , review denied. States 111

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

14. Federal programs

No state mandate exists under state constitution if requirements or provisions of state statute are also required by federal law. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 1995) 38 Cal.Rptr.2d 304, 32 Cal.App.4th 805, review denied. States 123

Under constitutional rule of state subvention which requires state to pay for new governmental programs imposed on local government, costs of programs implemented under federal Education of the Handicapped Act are state mandated and subject to subvention to the extent that the state implemented the Act by freely choosing to impose the new programs or higher levels of service upon local school districts. Hayes v. Commission on State Mandates (App. 3 Dist. 1992) 15 Cal.Rptr.2d 547, 11 Cal.App.4th 1564, review denied. Education 216

If state freely chooses to impose costs of federal program upon local agency as means of implementing federal program, then costs are result of a reimbursable state mandate for purposes of constitutional state subvention requirement, regardless whether costs were imposed upon state by federal government. Hayes v. Commission on State Mandates (App. 3 Dist. 1992) 15 Cal.Rptr.2d 547, 11 Cal.App.4th 1564, review denied. States 111

When federal government imposes costs on local agency for federally mandated program, those costs are not mandated by state and, thus, do not generally require state subvention so long as state had no true choice in manner of implementation of federal mandate. Hayes v. Commission on State Mandates (App. 3 Dist. 1992) 15 Cal.Rptr.2d 547, 11 Cal.App.4th 1564, review denied. States 111

Under constitutional state subvention provision which requires state to pay for governmental programs imposed on local governments, for purposes of determining which level of government would be responsible for paying for compliance with Education of the Handicapped Act, Act constituted federal mandate because alternative to compliance with Act was barrage of litigation by handicapped students and their parents with no real defense and ultimately state would have been compelled to accommodate educational needs of handicapped children in any event. Hayes v. Commission on State Mandates (App. 3 Dist. 1992) 15 Cal.Rptr.2d 547, 11 Cal.App.4th 1564, review denied. Education 216

15. Federal mandate

Regional water quality control board's municipal stormwater sewer permit's requirements for trash receptacles and inspection of commercial, industrial, and construction sites were within the “federal mandate” exception to the subvention requirement of the constitutional provision requiring that state mandates be funded, since those provisions furthered the state Clean Water Act goal of reducing pollution to the maximum extent practicable and thus constituted federal mandates, and the states functioned, for practical purposes, as arms of the Environmental Protection Agency (EPA) in implementing the Clean Water Act. State Department of Finance v. Commission on State Mandates (App. 2 Dist. 2013) 163 Cal.Rptr.3d 439, 220 Cal.App.4th 740, as modified , review granted and opinion superseded 167 Cal.Rptr.3d 108, 316 P.3d 1218. Environmental Law 180; Environmental Law 197; States 111

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

Definition of "federal mandate" is not different with respect to constitutional requirement of state subvention which provides that state is to pay for governmental programs imposed on local governments than with respect to taxing and spending limitations; test in either instance is the same--whether participation in federal program was truly voluntary choice. Hayes v. Commission on State Mandates (App. 3 Dist. 1992) 15 Cal.Rptr.2d 547, 11 Cal.App.4th 1564, review denied. States 111

16. Program, generally

Under constitutional rule of state subvention which requires state to reimburse local government for governmentally imposed programs, reimbursement is required when state freely chooses to impose on local agencies any peculiarly governmental cost which they were not previously required to absorb. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2007) 58 Cal.Rptr.3d 762, 150 Cal.App.4th 898. States 111

A "program" falling within constitution section requiring state to pay for increased costs associated with state mandates is defined as a program which carries out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176. States 111

Programs which are not unique to the government do not qualify as programs for which the state is required to pay increased costs pursuant to constitutional provision governing funding of state mandates; the programs must involve the provision of governmental services. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176. States 111

17. New program or higher level of service

To determine if a program is new or imposes a higher level of service, as would require subvention under the constitutional provision requiring that state mandates be funded, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim legislation, and a "higher level of service" occurs when new requirements are intended to provide an enhanced service to the public. State Department of Finance v. Commission on State Mandates (App. 2 Dist. 2013) 163 Cal.Rptr.3d 439, 220 Cal.App.4th 740, as modified , review granted and opinion superseded 167 Cal.Rptr.3d 108, 316 P.3d 1218. States 111

Hearing costs incurred by school district as result of actions related to discretionary expulsions did not constitute "new program or higher level of service," triggering right to reimbursement under state constitutional provision mandating reimbursement of local government for costs of "new program or higher level of service" imposed on local government by statute or state regulation, and, in any event, procedures related to discretionary expulsions were adopted to implement federal due process mandate, and thus were nonreimbursable, and costs exceeding federal requirements were de minimis, and so also nonreimbursable. San Diego Unified School Dist. v. Commission On State Mandates (2004) 16 Cal.Rptr.3d 466, 33 Cal.4th 859, 94 P.3d 589. Education 219

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

All hearing costs incurred by school district as result of mandatory actions related to expulsions of students for possession of firearm, at time relevant to mandamus proceeding initiated by district, constituted state-mandated "higher level of service" within meaning of state constitutional provision providing for reimbursement of local government for costs of "new program or higher level of service" imposed on local government by statute or state regulation, and thus were fully reimbursable; providing public schooling clearly constituted governmental function, enhancing safety of those who attended such schools constituted service to public, and mandatory expulsion provision did not implement federal law or regulation then extant. San Diego Unified School Dist. v. Commission On State Mandates (2004) 16 Cal.Rptr.3d 466, 33 Cal.4th 859, 94 P.3d 589. Education 219

The state is required to pay for any new governmental programs, or for higher levels of service under existing programs, that it imposes upon local governmental agencies. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176. States 111

A program falling under constitution section requiring state to pay for increased costs associated with state mandates is a "new program" if the local governmental entity had not previously been required to institute it. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176. States 111

A mere increase in the cost of providing a service which is the result of a requirement mandated by the State is not tantamount to a higher level of service, for purposes this section. Long Beach Unified Sch. Dist. v. State of California (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155, modified , review denied.

Executive order and guidelines requiring that school districts develop and adopt a reasonably feasible plan for alleviation and prevention of racial and ethnic segregation mandated a "higher level of service," for purposes of this section; the order and guidelines went beyond constitutional and case law requirements, in that where courts had suggested that certain steps and approaches could be helpful, order and guidelines required specific actions. Long Beach Unified Sch. Dist. v. State of California (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155, modified , review denied. States 111

18. New costs

Under constitutional rule of state subvention which requires state to reimburse local government for governmentally imposed programs, reimbursement is required when state freely chooses to impose on local agencies any peculiarly governmental cost which they were not previously required to absorb. Hayes v. Commission on State Mandates (App. 3 Dist. 1992) 15 Cal.Rptr.2d 547, 11 Cal.App.4th 1564, review denied. States 111

19. Reimbursement

The statute requiring that "all" costs of state mandates imposed upon local agencies must be reimbursed by the state requires full payment once a mandate is determined by the Commission on State Mandates and any appeals process has been completed. California School Boards Assn. v. State (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

Cal.App.4th 770, rehearing denied , review denied. States 111

Statute allowing State Controller to adjust payments to fund state mandates imposed upon local agencies to correct for any prior underpayments does not authorize the state to make only nominal payments for a mandate. California School Boards Assn. v. State (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770, rehearing denied , review denied. States 111

The statute providing that an initial reimbursement claim for state mandates imposed upon local agencies "shall include accrued interest if the payment is being made more than 365 days after adoption of the statewide cost estimate for an initial claim" does not provide the Legislature with the authority to implement a policy under which it pays only a nominal amount of a mandated claim. California School Boards Assn. v. State (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770, rehearing denied , review denied. States 111

State's constitutional duty to reimburse local governments for mandated costs does not include ballot measure mandates. California School Boards Ass'n v. State (App. 3 Dist. 2009) 90 Cal.Rptr.3d 501, 171 Cal.App.4th 1183. States 111

Statutory provision declaring that no reimbursement of local government is necessary for costs resulting from "duties that are necessary to implement a ballot measure," does not violate state constitutional provision requiring the state to reimburse local government whenever the Legislature or any state agency mandates a new program or higher level of service. California School Boards Ass'n v. State (App. 3 Dist. 2009) 90 Cal.Rptr.3d 501, 171 Cal.App.4th 1183. States 111

Statutory provision declaring that no reimbursement of local governments is necessary for "duties that are reasonably within the scope of a ballot measure" is impermissibly broad, as it allows for denial of reimbursement when reimbursement is constitutionally required. California School Boards Ass'n v. State (App. 3 Dist. 2009) 90 Cal.Rptr.3d 501, 171 Cal.App.4th 1183. States 111

Statutes imposing duties on local governments do not give rise to reimbursable costs if the duties are incidental to the ballot measure mandate and produce at most de minimis added costs. California School Boards Ass'n v. State (App. 3 Dist. 2009) 90 Cal.Rptr.3d 501, 171 Cal.App.4th 1183. States 111

Where, as a practical matter, it is inevitable that certain actions will occur in the administration of a mandatory program, costs attendant to those actions cannot fairly and reasonably be characterized as voluntary for purposes of determining if state reimbursement under state constitutional provision requiring state to bear the costs of new mandates on local government. Department of Finance v. Commission on State Mandates (App. 3 Dist. 2009) 89 Cal.Rptr.3d 93, 170 Cal.App.4th 1355. States 111

If a local government participates voluntarily, i.e., without legal compulsion or compulsion as a practical matter, in a program with a rule requiring increased costs, there is no requirement of state reimbursement under state constitution. Department of Finance v. Commission on State Mandates (App. 3 Dist. 2009) 89 Cal.Rptr.3d 93, 170 Cal.App.4th

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

1355. States 111

Constitutional rule of state subvention which requires state to reimburse local government for implementing required governmental programs is intended to prevent state from transferring costs of government from itself to local agencies. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2007) 58 Cal.Rptr.3d 762, 150 Cal.App.4th 898. States 111

Constitutional rule of state subvention that requires state to pay for new governmental programs imposed on local governments does not require state to reimburse local agencies for any incidental cost that may result from enactment of state law; rather, subvention requirement is restricted to governmental services which local agency is required by state law to provide to its residents. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2007) 58 Cal.Rptr.3d 762, 150 Cal.App.4th 898. States 111

In the case of an existing program, an increase in existing costs does not result in a reimbursement requirement under constitutional section requiring state to pay for increased costs associated with state mandate. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176. States 111

Legislative disclaimers, findings, and budget control language are not determinative to a finding of a state mandated reimbursable program. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176. States 111

Reimbursement to a county for costs incurred under a state mandate is not required unless there is a showing of actual increased costs mandated by the state. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176. States 111

20. Line-item veto

Governor did not improperly use a line-item veto to enact substantive law, in applying a line-item veto to reduce an appropriation funding a local agency mandate to zero, even though the veto had the substantive effect of suspending the mandate, since the veto only had that effect due to the operation of a previously-enacted statute. California School Boards Ass'n v. Brown (App. 2 Dist. 2011) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507, review denied. Statutes 1045

The statute providing that no local agency shall be required to implement a mandate if the mandate has been "specifically 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" does not exempt acts taken by the Legislature pursuant to the statute from the Governor's veto, since the budget bill does not become the Budget Act without the Governor's approval or a veto override. California School Boards Ass'n v. Brown (App. 2 Dist. 2011) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507, review denied. Statutes 1045

The 2010-2011 state budget bill included an appropriation for a local agency mandate to provide child health care

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

services, and thus such appropriation was subject to line-item veto, even though the bill listed the amount allocated to child health care services in a schedule set forth after the appropriation for local agency mandates, and the bill stated that such a schedule "is not itself an item of appropriation," where the Legislature was constitutionally required to make an appropriation of the full required amount or suspend the operation of the mandate; it was clear that the Legislature intended to make the appropriation. California School Boards Ass'n v. Brown (App. 2 Dist. 2011) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507, review denied. Statutes 1045

21. Eminent domain

Requirement of St.1975, c. 1275, § 1 et seq., relating to eminent domain, that condemnor pay for business goodwill when condemning property, was not state mandated cost, and therefore was not reimbursable mandate, in that city or county was not required to exercise eminent domain. Contra Costa County v. State (App. 3 Dist. 1986) 222 Cal.Rptr. 750, 177 Cal.App.3d 62, review denied. States 111

22. Education

The constitutional provision requiring the Legislature to either fund or suspend local agency mandates does not apply to mandates on local education agencies. California School Boards Ass'n v. Brown (App. 2 Dist. 2011) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507, review denied. States 111

Public Safety Officers Procedural Bill of Rights Act (POBRA) did not constitute a state-mandated program for school districts and special districts that was reimbursable under state constitutional provision requiring state to bear the costs of new mandates on local government; the districts were permitted by statute, but not required, to employ peace officers who supplemented the general law enforcement units of cities and counties. Department of Finance v. Commission on State Mandates (App. 3 Dist. 2009) 89 Cal.Rptr.3d 93, 170 Cal.App.4th 1355. States 111

Educational Revenue Augmentation Fund (ERAF) legislation, shifting a portion of redevelopment agency funds to local schools, did not create a reimbursable state mandate for purposes of constitutional provision requiring state to provide subvention of funds to reimburse local governments for costs of new programs or additional services mandated by state law. City of El Monte v. Commission on State Mandates (App. 3 Dist. 2000) 99 Cal.Rptr.2d 333, 83 Cal.App.4th 266, rehearing denied , review denied. States 111

Public education constitutes a "program" within this section. Long Beach Unified Sch. Dist. v. State of California (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155, modified , review denied.

Education Code § 59300 requiring local school districts to pay 10% of excess annual cost of educating any pupil who attends state-operated school for pupils not educable at local schools and whose parent or guardian lives within district creates "new program," for purposes of this section, although impact of Educ.Code § 59300 was to require districts to contribute funds to operate state schools for handicapped rather than to themselves administer program; Educ.Code § 59300 shifted partial financial responsibility for support of students in state operated schools from state to local districts. Lucia Mar Unified School Dist. v. Honig (1988) 244 Cal.Rptr. 677, 44 Cal.3d 830, 750 P.2d 318, rehearing

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

denied. Education 228

23. Safety regulations

Elevator fire and earthquake safety regulations were not a "program" subject to this section; regulations did not impose a unique requirement on local governments in that they applied to all elevators and not just to those which were publicly owned and providing elevators equipped with fire and earthquake safety features was not a governmental function. County of Los Angeles v. Department of Industrial Relations (App. 3 Dist. 1989) 263 Cal.Rptr. 351, 214 Cal.App.3d 1538, review denied. States 111

24. Police and fire departments

As to cities, counties, and such districts that have as an ordinary, principal, and mandatory duty the provision of policing and firefighting services within their territorial jurisdiction, new statutory duties that increase the costs of police and firefighter services are prima facie reimbursable under state constitutional provision requiring state to bear the costs of new mandates on local government; this is true, notwithstanding a potential argument that such a local government's decision is voluntary in part, as to the number of personnel it hires. Department of Finance v. Commission on State Mandates (App. 3 Dist. 2009) 89 Cal.Rptr.3d 93, 170 Cal.App.4th 1355. States 111

Statute requiring local law enforcement officers to participate in two hours of domestic violence training did not mandate any increased costs and thus Commission on State Mandates was not required to reimburse county for its costs associated with the mandate even though county had added two hours to its Peace Officer Standards and Training (POST); statute directed local law enforcement agencies to reallocate training resources rather than to add training, and state did not shift cost of a program previously administered and funded by the state. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176. States 111

Executive orders mandating purchase of protective clothing for fire fighters were type of "program" subject to this section. Carmel Valley Fire Protection Dist. v. State (App. 2 Dist. 1987) 234 Cal.Rptr. 795, 190 Cal.App.3d 521, review denied. States 123

25. Correctional facilities

When a local agency brings a particular juvenile facility into compliance with the minimum standards established by the Board of Corrections, the state is not required to reimburse the local agency for the costs incurred in meeting the standards since no new program is involved. Op.Atty.Gen. No. 99-1214 (May 2, 2000), 2000 WL 529577.

26. Unemployment insurance

Statute extending mandatory unemployment insurance coverage to local government employees imposed no "unique" obligation on local governments, nor required them to provide new or increased governmental services to public, and

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

thus State was not required to subvent costs incurred by local governments in providing such coverage. City of Sacramento v. State of California (1990) 266 Cal.Rptr. 139, 50 Cal.3d 51, 785 P.2d 522. States 111

Costs incurred by local governments in complying with statutory provisions which required public employees to be covered by state unemployment insurance law were "costs mandated by the state" for which reimbursement was required by Constitution and Rev. & T.C. § 2231. City of Sacramento v. State (App. 3 Dist. 1984) 203 Cal.Rptr. 258, 156 Cal.App.3d 182. States 123

27. Workers' compensation benefits

This section was not applicable to costs incurred by local governments in complying with legislatively mandated increases in workers' compensation benefits where increases were applicable to both public and private employers; disapproving *City of Sacramento v. State of California*, 156 Cal.App.3d 182, 203 Cal.Rptr. 258 (3 Dist.). Los Angeles County v. State (1987) 233 Cal.Rptr. 38, 43 Cal.3d 46, 729 P.2d 202, rehearing denied.

28. Retirement benefits

Statute entitling local members of Public Employees' Retirement System (PERS) to death benefit under both PERS and workers' compensation was not a "state mandate" requiring reimbursement to local government under State Constitution; statute did not create a new program or higher level of service, and it did not impose a unique requirement on local governments, but merely eliminated a previous exemption from providing workers' compensation death benefits to local safety members. City of Richmond v. Commission on State Mandates (App. 3 Dist. 1998) 75 Cal.Rptr.2d 754, 64 Cal.App.4th 1190, review denied. States 123

Pension payments to retired city employees do not constitute a "program" or "service" as those terms are used in this section; calling into doubt *City of Sacramento v. State of California*, 156 Cal.App.3d 182, 203 Cal.Rptr. 258 (3 Dist.). City of Anaheim v. State (Board of Admin. of Public Employees' Retirement System) (App. 2 Dist. 1987) 235 Cal.Rptr. 101, 189 Cal.App.3d 1478. States 123

29. Medical care

When Medi-Cal covered adult medically indigent persons (MIP), county facilities were not sole providers of their medical care, so that counties' obligations did not predate 1975 for purposes of determining whether counties were entitle to reimbursement for unfunded state mandate when adult MIP's were excluded from Medi-Cal and became obligation of the counties. County of San Diego v. State of California (1997) 61 Cal.Rptr.2d 134, 15 Cal.4th 68, 931 P.2d 312. States 111

Legislature excluded adult medically indigent persons (MIP) from Medi-Cal knowing and intending that 1982 legislation would trigger counties' responsibility to provide medical care as providers of last resort and thus attempted to do precisely that which the voters amended constitution to prevent, so that 1982 legislation mandated new program on counties by compelling them to accept financial responsibility in whole or in part for medical care for adult MIP's

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

which was funded entirely by state before the advent of the constitutional amendment. County of San Diego v. State of California (1997) 61 Cal.Rptr.2d 134, 15 Cal.4th 68, 931 P.2d 312. States 111

Although county had some statutory discretion to set eligibility and service standards for assistance to adult medically indigent persons (MIP), its obligation as provider of last resort imposed clear-cut limits and county could not have eliminated all services and still complied with statutory requirements, so that its obligation following elimination of MIP's from Medi-Cal coverage created reimbursable unfunded mandate. County of San Diego v. State of California (1997) 61 Cal.Rptr.2d 134, 15 Cal.4th 68, 931 P.2d 312. States 111

In determining amount to which county was entitled to reimbursement for expenditures for adult medically indigent persons (MIP) which became unfunded mandate after their elimination from Medi-Cal coverage, it was error to use county's California Healthcare for Indigent Program (CHIP) expenditures, as participation in CHIP was voluntary, unlike participation in Medically Indigent Services Account (MISA) program, which was mandatory. County of San Diego v. State of California (1997) 61 Cal.Rptr.2d 134, 15 Cal.4th 68, 931 P.2d 312. States 111

30. Reallocation of property tax revenues

State's reallocation of property tax revenues, under Educational Revenue Augmentation Funds (ERAF) legislation, did not impose a “new program or higher level of service” on county with respect to costs of education, within meaning of state constitutional provision generally requiring state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency, where education had been jointly funded by state and local governments at time of, and after, adoption of the constitutional provision, and local governments had always been responsible for a substantial share of the cost of supporting education. County of Sonoma v. Commission on State Mandates (App. 1 Dist. 2000) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264, modified on denial of rehearing , review denied. Education 219; States 111

State constitutional provision establishing minimum level of funding for public schools and community colleges did not require state to reimburse county, under state constitutional provision generally requiring the state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency, for county's loss of revenues because of state's reallocation of property tax revenues under Educational Revenue Augmentation Funds (ERAF) legislation. County of Sonoma v. Commission on State Mandates (App. 1 Dist. 2000) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264, modified on denial of rehearing , review denied. Education 219; States 111

31. Courts

Where the legislature increases the number of judges in a municipal court district, the state is not required to reimburse the costs incurred by local agencies for such additional judges. 63 Op.Atty.Gen. 700, 8-28-80.

32. Arbitration

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

Judicial arbitration is mandated by the Legislature for municipal courts within the meaning of this section as to arbitration based upon stipulation or plaintiff election and as to "court ordered" arbitration resulting from a local court rule adopted after July 1, 1980, the effective date of this article. 64 Op.Atty.Gen. 261, 4-9-81.

33. Subvention, generally

"Subvention" under constitutional provision concerning reimbursement to local government for state-mandated programs generally means grant of financial aid or assistance, or subsidy. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2007) 58 Cal.Rptr.3d 762, 150 Cal.App.4th 898; Hayes v. Commission on State Mandates (App. 3 Dist. 1992) 15 Cal.Rptr.2d 547, 11 Cal.App.4th 1564, review denied.

In order to qualify for subvention under the constitutional provision requiring that state mandates be funded, the required activity or task must constitute a new program or higher level of service. State Department of Finance v. Commission on State Mandates (App. 2 Dist. 2013) 163 Cal.Rptr.3d 439, 220 Cal.App.4th 740, as modified , review granted and opinion superseded 167 Cal.Rptr.3d 108, 316 P.3d 1218. States 111

For a program to require subvention under the constitutional provision requiring that state mandates be funded, the newly required activity or increased level of service must impose costs mandated by the state. State Department of Finance v. Commission on State Mandates (App. 2 Dist. 2013) 163 Cal.Rptr.3d 439, 220 Cal.App.4th 740, as modified , review granted and opinion superseded 167 Cal.Rptr.3d 108, 316 P.3d 1218. States 111

Not every increase in cost that results from a new state directive automatically results in a valid subvention claim, especially if the directive can be complied with by a minimal reallocation of resources within the entity seeking reimbursement. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176. States 111

State constitutional provision, generally requiring the state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency, does not provide subvention for every increased cost mandated by state law. County of Sonoma v. Commission on State Mandates (App. 1 Dist. 2000) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264, modified on denial of rehearing , review denied. States 111

State constitutional provision generally requiring the state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency was aimed at controlling and capping government spending, not curbing changes in revenue allocations. County of Sonoma v. Commission on State Mandates (App. 1 Dist. 2000) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264, modified on denial of rehearing , review denied. States 111

No state duty of subvention is triggered, under state constitutional provision generally requiring the state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency, where the local agency is not required to expend its proceeds of taxes.

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

County of Sonoma v. Commission on State Mandates (App. 1 Dist. 2000) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264, modified on denial of rehearing , review denied. States 111

Under section of Constitution requiring state to provide subvention of funds to reimburse local government for costs of state-mandated new program or higher level of services, subvention is required only when costs in question can be recovered solely from tax revenues; thus, no state duty of subvention is triggered where local agency is not required to expend its proceeds of taxes. Redevelopment Agency v. Commission on State Mandates (App. 4 Dist. 1997) 64 Cal.Rptr.2d 270, 55 Cal.App.4th 976, review denied. States 111

Finding either that state agency has mandated program to carry out governmental functions of providing services to public, or that law has been passed which, to implement state policy, imposes unique requirement on local government and does not apply generally to all residents and entities of State, is required to trigger imperative of subvention under this section. Carmel Valley Fire Protection Dist. v. State (App. 2 Dist. 1987) 234 Cal.Rptr. 795, 190 Cal.App.3d 521, review denied. States 123

34. Legislative disclaimers

Unsupported legislative disclaimers are insufficient to defeat reimbursement of a school district for costs of complying with a state mandate. Long Beach Unified Sch. Dist. v. State of California (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155, modified , review denied. States 111

Legislature cannot limit a constitutional right, and thus legislature's finding that executive order which required school districts to develop and adopt a plan for alleviation and prevention of racial and ethnic segregation did not impose a "state-mandated local program" did not prevent reimbursement of a school district for costs in providing increased service mandated by State. Long Beach Unified Sch. Dist. v. State of California (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155, modified , review denied. States 111

35. Self-financing programs

There was no substantial evidence that those who voted for state constitutional measure requiring State to provide subvention of funds to reimburse local government for costs of state-mandated new program or higher level of service sought to treat as immaterial presence or absence of any "self-financing" provision, so as to render unconstitutional statute prohibiting commission on state mandates from finding costs mandated by State if it finds that local government has authority to levy service charges, fees, or assessments sufficient to pay for program or increased level of service. County of Fresno v. State of California (1991) 280 Cal.Rptr. 92, 53 Cal.3d 482, 808 P.2d 235. Taxation 2100

Statute prohibiting commission on state mandates from finding costs mandated by State if it finds that local government has authority to levy service charges, fees, or assessments sufficient to pay for mandated program or increased level of service is facially constitutional under this section requiring State to provide subvention of funds to reimburse local government for costs of state-mandated new program or higher level of service; considered in its

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

context, statute effectively and properly construes term “costs” in constitutional provision as excluding expenses that are recoverable from sources other than taxes. County of Fresno v. State of California (1991) 280 Cal.Rptr. 92, 53 Cal.3d 482, 808 P.2d 235. Taxation 3237

36. Crimes

Statute prohibiting use of high-altitude decompression chamber for destruction of dogs and cats was legislation finding new crime or changing definition of existing crime, and as such was expressly excluded from operation of requirement that state provide subvention for reimbursement of costs imposed on local governments. Contra Costa County v. State (App. 3 Dist. 1986) 222 Cal.Rptr. 750, 177 Cal.App.3d 62, review denied. States 111

37. Source of funds

Trial court acted within its discretion in denying school districts' request to compel state to reimburse funds spent on mandates imposed by state and only nominally funded, where districts sought more than $900 million in funds from state, the state was experiencing an extreme budget crisis, districts cited only the Proposition 98 reversion fund as an account that could possibly contain funds reasonably related to the nature of costs incurred, appropriations for the budget year at issue were placed in a chartered bill following the Governor's signature on the Budget Act, and districts did not come forward with any predicate facts showing a reasonable basis to believe sufficient funds existed and that the funds would meet the criteria of the exception. California School Boards Assn. v. State (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770, rehearing denied , review denied. States 111

Provision of this section declaring that “state shall provide a subvention of funds to reimburse * * * local government for the costs [of a state-mandated new] program or higher level of service,” read in its textual and historical context, requires subvention only when costs in question can be recovered solely from tax revenues. County of Fresno v. State of California (1991) 280 Cal.Rptr. 92, 53 Cal.3d 482, 808 P.2d 235. Taxation 2100

Monies in the fines and forfeiture funds in the custody and possession of auditor-controller of county for transfer to state treasury were not “reasonably available” for reimbursement of state-mandated expenditures, and thus could not be used to reimburse a school district for costs of complying with executive order. Long Beach Unified Sch. Dist. v. State of California (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155, modified , review denied. States 127

Monies in fines and forfeiture funds in custody and possession of auditor-controller of county could not be made available to the school district for reimbursement of costs incurred in complying with executive order while the monies were in the possession of the auditor-controller; there was no set-off relationship between county and school district. Long Beach Unified Sch. Dist. v. State of California (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155, modified , review denied. States 127

Appropriations in certain Department of Education (DOE) line item account number were generally related to nature of costs incurred by school district to comply with executive order requiring school districts to develop and adopt a

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

plan for alleviation and prevention of segregation, when comparing requirements of order and guidelines with broad range of activities supported by the DOE budget, and thus could be used to reimburse district for cost of compliance with order. Long Beach Unified Sch. Dist. v. State of California (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155, modified , review denied. States 132

Special fund for economic uncertainties, which was established for a disaster relief fund, could not be used for reimbursement of school district's expenses incurred in complying with executive order; there was no evidence indicating a general relationship between the purpose of the special fund and costs incurred by the school district. Long Beach Unified Sch. Dist. v. State of California (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155, modified , review denied. States 133

Descriptions of sources of funding to reimburse a school district for costs of complying with executive order which required school districts to develop and adopt a plan to alleviate and prevent racial and ethnic segregation as “similarly designated accounts” failed to sufficiently identify the sources, and thus would be struck from judgment which designated funds to be used to reimburse the district. Long Beach Unified Sch. Dist. v. State of California (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155, modified , review denied. States 184.40(5)

Remand was required to enable trial court to determine whether funds in line item account numbers which could be used to reimburse school district for costs of complying with executive order were sufficient to satisfy the award to school district at the time of the order, and if trial court determined that unexhausted funds remaining in the specified appropriations were insufficient, trial court order could be further amended to reach subsequent appropriated funds. Long Beach Unified Sch. Dist. v. State of California (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155, modified , review denied. States 184.40(5)

38. Costs--In general

Under constitution section requiring state to pay for increased costs associated with state mandates, “costs” does not necessarily equal every increase in a locality's budget resulting from compliance with a new state directive; rather, the state must be attempting to divest itself of its responsibility to provide fiscal support for a program, or forcing a new program on a locality for which it is ill-equipped to allocate funding. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176. States 111

County's mere loss of revenues to fund education, caused by state's reallocation of property tax revenues under Educational Revenue Augmentation Funds (ERAF) legislation, did not result in reimbursable “costs,” within meaning of state constitutional provision generally requiring state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency. County of Sonoma v. Commission on State Mandates (App. 1 Dist. 2000) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264, modified on denial of rehearing , review denied. States 111

It is the expenditure of tax revenues of local governments that is the appropriate focus, under state constitutional provision generally requiring the state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency. County of Sonoma v.

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

Commission on State Mandates (App. 1 Dist. 2000) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264, modified on denial of rehearing , review denied. States 111

"Costs," within meaning of state constitutional provision generally requiring the state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency, means an actual and demonstrated expenditure, and does not include mere losses of revenues. County of Sonoma v. Commission on State Mandates (App. 1 Dist. 2000) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264, modified on denial of rehearing , review denied. States 111

For purposes of determining whether a statute creates a constitutionally reimbursable state-mandated program or higher level of service, a higher cost to the local government for compensating its employees is not the same as a higher cost of providing services to the public. City of Richmond v. Commission on State Mandates (App. 3 Dist. 1998) 75 Cal.Rptr.2d 754, 64 Cal.App.4th 1190, review denied. States 123

Constitution did not require state to reimburse city redevelopment agency for 20% deposits agency had made, as required by statute, of its tax increment financing proceeds into housing fund for purposes of improving supply of affordable housing; such use of tax increment financing was not "cost" within meaning of section of Constitution requiring state to reimburse local government for costs of state-mandated new program or higher level of services. Redevelopment Agency v. Commission on State Mandates (App. 4 Dist. 1997) 64 Cal.Rptr.2d 270, 55 Cal.App.4th 976, review denied. States 111

This section is not intended to be limited to only those costs incurred pursuant to statutes or executive orders implementing statutes except as set forth in a subdivision of this section. Long Beach Unified Sch. Dist. v. State of California (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155, modified , review denied.

39. ---- Shifting of costs

Shifting costs from one local entity to another is not a reimbursable mandate under provision of State Constitution requiring state to reimburse a local government for state-mandated costs. Grossmont Union High School Dist. v. California Dept. of Educ. (App. 3 Dist. 2008) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869, review denied. States 111

40. ---- Incidental costs

Constitutional rule of state subvention which requires state to pay for new governmental programs imposed on local governments does not require state to reimburse local agencies for any incidental cost that may result from enactment of state law; rather, subvention requirement is restricted to governmental services which local agency is required by state law to provide to its residents. Hayes v. Commission on State Mandates (App. 3 Dist. 1992) 15 Cal.Rptr.2d 547, 11 Cal.App.4th 1564, review denied. States 111

Section which required Public Employees' Retirement System, a state agency, to increase pension payments to retired

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

public employees did not compel city to do anything and any increase in cost to city through additional contributions needed because of reduction in interest being credited to it was only incidental to the system's compliance with the section, so that city was not entitled to reimbursement from State for the additional amounts contributed. City of Anaheim v. State (Board of Admin. of Public Employees' Retirement System) (App. 2 Dist. 1987) 235 Cal.Rptr. 101, 189 Cal.App.3d 1478. States 123

41. Remedies--In general

Under the statute authorizing a local agency to file a declaratory relief action to declare an unfunded mandate unenforceable and enjoin its enforcement for that fiscal year, a party is permitted to seek relief for nominal funding as well as a complete lack of funding for a determined state mandate. California School Boards Assn. v. State (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770, rehearing denied , review denied. States 111

Declaratory relief was a proper remedy for school districts' dispute with state over whether state's practice of paying only a nominal amount for mandated programs while deferring the balance of the cost constituted a failure to provide a subvention of funds for the mandates as required by the state constitution, as there was an actual controversy between the parties regarding the interpretation of the state constitution and a statute, pertaining to the use of deferred mandate payments. California School Boards Assn. v. State (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770, rehearing denied , review denied. Declaratory Judgment 210

When the Legislature provides only nominal funding for a mandate, the remedy for the local agency seeking constitutionally-mandated funding is to file an action to declare the mandate unenforceable and to enjoin its enforcement for that fiscal year. County of San Diego v. State (App. 4 Dist. 2008) 79 Cal.Rptr.3d 489, 164 Cal.App.4th 580, review denied. States 111

Action by special education local plan area seeking to force county to continue providing mental health services did not assert duties under unenforceable unfunded state mandate where, although legislature reduced to nominal level funding to counties for Individuals with Disabilities Education Act (IDEA) programs, legislature did not specifically identify mental health services mandate as unfunded. Tri-County Special Educ. Local Plan Area v. County of Tuolumne (App. 5 Dist. 2004) 19 Cal.Rptr.3d 884, 123 Cal.App.4th 563. States 111

A county is excused from duties imposed under a state mandate if the Legislature specifically states that the mandated program is not funded or if the superior court in Sacramento declares the program an unfunded mandate; however, these avenues for relief from duties imposed by state mandate are exclusive. Tri-County Special Educ. Local Plan Area v. County of Tuolumne (App. 5 Dist. 2004) 19 Cal.Rptr.3d 884, 123 Cal.App.4th 563. States 111

If a county believes state funding for a mandated program is inadequate, the local government may file a claim with the Commission on State Mandates and, if the claim is denied, seek review by writ of administrative mandate in superior court. Tri-County Special Educ. Local Plan Area v. County of Tuolumne (App. 5 Dist. 2004) 19 Cal.Rptr.3d 884, 123 Cal.App.4th 563. States 111

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

42. ---- Administrative remedies

High school district that sought declaratory and injunctive relief against Department of Education, challenging an alleged unfunded state mandate to pay costs of providing mental health services to special education students, was not excused on asserted futility grounds from exhausting administrative remedies by submitting a claim to Commission on State Mandates (CSM); it was not certain that CSM would find the costs were a federal as opposed to a state mandate, as district's complaint alleged facts suggesting the mandate might be a "mixed" mandate for which partial reimbursement would be available. Grossmont Union High School Dist. v. California Dept. of Educ. (App. 3 Dist. 2008) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869, review denied. Declaratory Judgment 44; States 111

Failure of a local agency to exhaust administrative remedies of filing a test claim to determine if reimbursable state-mandated costs have been imposed bars agency from seeking court relief. Grossmont Union High School Dist. v. California Dept. of Educ. (App. 3 Dist. 2008) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869, review denied. States 111

Without first exhausting administrative remedies, a local agency cannot claim a state mandate is unfunded, in violation of state Constitution, in defense of its failure to perform its duty. Tri-County Special Educ. Local Plan Area v. County of Tuolumne (App. 5 Dist. 2004) 19 Cal.Rptr.3d 884, 123 Cal.App.4th 563. States 111

Ordinarily, counties seeking to pursue unfunded mandate claim under constitution must exhaust their administrative remedies, but counties may pursue those claims in superior court without first resorting to administrative remedies if they can establish an exception to exhaustion requirement. County of San Diego v. State of California (1997) 61 Cal.Rptr.2d 134, 15 Cal.4th 68, 931 P.2d 312. States 111

"Futility exception" to the exhaustion requirement for pursuing unfunded mandate claim under Constitution applies if county can state with assurance that Commission on State Mandates would rule adversely in its own particular case. County of San Diego v. State of California (1997) 61 Cal.Rptr.2d 134, 15 Cal.4th 68, 931 P.2d 312. States 111

Presenting questions concerning state-mandated costs to Commission on State Mandates is exclusive means of pursuing claim that state is required to provide subvention of funds for new program or higher level of service which local government is required to provide. Central Delta Water Agency v. State Water Resources Control Bd. (App. 3 Dist. 1993) 21 Cal.Rptr.2d 453, 17 Cal.App.4th 621, rehearing denied , review denied. States 111

School district's failure to make its claim for reimbursement of expenditures required by executive order requiring school districts to develop and adopt a reasonably feasible plan for the alleviation and prevention of racial and ethnic segregation before the Commission on state mandates did not amount to a failure on the school board's part to exhaust its administrative remedies precluding district from receiving reimbursement; Board of Control decisions favorable to school district became administratively final in 1984, Commission was not in place until January 1, 1985, and school district pursued remedy of seeking declaratory judgment to declare executive order void and to enjoin its enforcement. Long Beach Unified Sch. Dist. v. State of California (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155, modified , review denied. Administrative Law And Procedure 229; States 111

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

Administrative remedy available to counties challenging cost mandating statutes as violating requirement that state provide subvention for reimbursement of costs imposed on local governments was not inadequate, in that applicable procedures provided for evidentiary hearing and decision by Board of Control with right to judicial review, required that local government claims bill be introduced to fund reimbursable mandate, and enabled them to have judicial declaration that mandate was unenforceable if Legislature failed to provide appropriation to fund mandate. Contra Costa County v. State (App. 3 Dist. 1986) 222 Cal.Rptr. 750, 177 Cal.App.3d 62, review denied. States 111

Counties challenging cost mandating statutes as violating requirement that state provide subvention for reimbursement of costs imposed on local governments were precluded from establishing exception to rule that they exhaust administrative remedies before resorting to judicial action based on futility, where legislature provided for funding of some mandates found by Board of Control, albeit only a portion. Contra Costa County v. State (App. 3 Dist. 1986) 222 Cal.Rptr. 750, 177 Cal.App.3d 62, review denied.

43. ---- Mandamus, remedies

Writ of mandate directing the Legislature either to fund or suspend state mandates imposed upon local agencies, and to place the cost of determined mandates imposed on local agencies in the annual Budget Bill, violated California's separation of powers doctrine. California School Boards Assn. v. State (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770, rehearing denied , review denied. Constitutional Law 2525; Mandamus 100; States 111; States 121

Under the statute requiring the Legislature to place the cost of determined mandates imposed on local agencies in the annual Budget Bill, doing so was discretionary rather than ministerial, and thus a writ of mandate requiring the Legislature to do so was improperly issued, since placing items in the Budget Bill was a legislative power. California School Boards Assn. v. State (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770, rehearing denied , review denied. States 121

Under the constitutional provision stating that the state must fund mandates imposed upon local agencies, the Legislature had discretion not to fund such mandates and to require local agencies to seek relief from the mandates, and thus a writ of mandate requiring the Legislature either to fund or suspend such mandates was improperly issued because it compelled a discretionary, not a ministerial, act. California School Boards Assn. v. State (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770, rehearing denied , review denied. States 111

Statute authorizing a local agency such as a school district to file a declaratory relief action to declare an unfunded mandate unenforceable and enjoin its enforcement for that fiscal year provided an adequate remedy at law for state's failure to satisfy state constitution in paying only a nominal amount to school districts for mandated programs while deferring the balance of the cost, and thus mandamus relief was not appropriate. California School Boards Assn. v. State (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770, rehearing denied , review denied. Mandamus 3(1)

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

Counties were not entitled to a writ of mandate compelling prompt payment from state of approximately $115,000,000 in reimbursement claims for state-mandated programs, given the magnitude of the reimbursement claims, the large number of mandates at issue, the large number of agencies from which the counties sought reimbursement, and the insufficiency of the counties' evidence to show that the purposes of the subject mandates were generally related to the various appropriations from which the counties sought reimbursement or that the targeted funds were reasonably available. County of San Diego v. State (App. 4 Dist. 2008) 79 Cal.Rptr.3d 489, 164 Cal.App.4th 580, review denied. States 111

Statute required the State to reimburse counties for costs of state-mandated programs within 15-year period such that writ of mandate was unnecessary and unavailable to force state to comply with constitutional obligation to reimburse counties, despite court's concerns that legislature could repeal or change statute at any time. County of San Diego v. State (App. 4 Dist. 2008) 79 Cal.Rptr.3d 489, 164 Cal.App.4th 580, review denied. States 111

Trial court lacked power to order state legislature through writ of mandate to appropriate sufficient funds to satisfy the state's subject reimbursement obligations through future legislation and to pay those funds to counties in accord with constitutional provision requiring state to reimburse counties for costs of state mandated programs, as order violated the separation of powers doctrine. County of San Diego v. State (App. 4 Dist. 2008) 79 Cal.Rptr.3d 489, 164 Cal.App.4th 580, review denied. Constitutional Law 2525; Mandamus 100

44. Statute of limitations

On appeal from trial court's issuance of a writ of mandate directing the California Commission on State Mandates to set aside its decisions rejecting test claims of city and counties, which claims sought reimbursement pursuant to constitutional requirement for subvention for carrying out obligations under National Pollutant Discharge Elimination System (NPDES) Permit, Commission forfeited any right it may have had to assert 90-day statute of limitations defense, where Commission failed to raise the defense in its pleadings in the trial court. County of Los Angeles v. Commission on State Mandates (App. 2 Dist. 2007) 58 Cal.Rptr.3d 762, 150 Cal.App.4th 898. Mandamus 187.4

45. Accrual of cause of action

Statutory cause of action for violation of constitutional provision requiring that when state mandates program, state shall provide subvention of funds to reimburse local governments for cost of program, accrues when legislature deletes funding from local government claims bill after successful completion of statutorily prescribed administrative process for determining whether mandate exists and other issues on reimbursement. Berkeley Unified School Dist. v. State of California (App. 3 Dist. 1995) 39 Cal.Rptr.2d 326, 33 Cal.App.4th 350, review denied. Limitation Of Actions 58(1)

46. Pleadings

A footnote of school districts' appellate brief mentioning the issue in passing was insufficient to present the argument on appeal that the requirement that local entities bring an action every year to seek relief from unfunded mandates was

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

an unreasonable restriction on districts' rights under the constitutional provision prohibiting the Legislature from imposing unfunded mandates on local government, where districts did not cross-appeal from the portion of the trial court's order rejecting this argument. California School Boards Assn. v. State (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770, rehearing denied , review denied. Appeal and Error 768

High school district's complaint against Department of Education, seeking declaratory and injunctive relief in connection with alleged unfunded state mandate to pay for mental health services for special education students, failed to state viable claims to the extent that the complaint alleged claims falling outside the purview of the Commission on State Mandates (CSM). Grossmont Union High School Dist. v. California Dept. of Educ. (App. 3 Dist. 2008) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869, review denied. States 111

47. Jurisdiction

Trial court lacked jurisdiction to consider whether state and regional water control boards, which amended river segment's water quality control plan, violated state constitutional prohibition on mandates by requiring local agencies to pay for state-mandates costs, as, pursuant to statute, a comprehensive administrative procedure constitutes the exclusive process by which a local agency may claim reimbursement for such costs. San Joaquin River Exchange Contractors Water Authority v. State Water Resources Control Bd. (App. 3 Dist. 2010) 108 Cal.Rptr.3d 290, 183 Cal.App.4th 1110, as modified , review denied. States 111

48. Questions of law

Determination of whether statutes established mandate under section of Constitution requiring state to reimburse local government for costs of state-mandated new program or higher level of service is question of law. Redevelopment Agency v. Commission on State Mandates (App. 4 Dist. 1997) 64 Cal.Rptr.2d 270, 55 Cal.App.4th 976, review denied. States 111

While ordinarily the Court of Appeals' conclusion that the trial court erred in failing to consider merits of State's challenge to decisions of Board of Control would require that matter be remanded to trial court for a full hearing, Court of Appeals would decide whether expenditures required to come into compliance with executive order were reimbursable, in that question of whether a cost is state mandated was one of law. Long Beach Unified Sch. Dist. v. State of California (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155, modified , review denied. States 184.40(5)

49. Justiciable controversy

Once a decision of the Commission on State Mandates becomes final and has not been set aside by a court pursuant to a petition for writ of administrative mandamus, it is not subject to collateral attack. California School Boards Ass'n v. State (App. 3 Dist. 2009) 90 Cal.Rptr.3d 501, 171 Cal.App.4th 1183. States 111

There was no actual controversy at trial as to state's constitutional and statutory obligation to pay counties' reim-

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

bursement claims for state-mandated programs, or as to the amount of the claims, as required for monetary award on counties' request for declaration that the state was constitutionally and statutorily required to promptly and fully pay them the requested amounts; as there was no dispute at trial as to the amount of the claims, there was no present controversy on that point, or a probable future controversy, to be resolved by declaratory relief. County of San Diego v. State (App. 4 Dist. 2008) 79 Cal.Rptr.3d 489, 164 Cal.App.4th 580, review denied. Declaratory Judgment 201; Declaratory Judgment 388

50. Damages

Counties could not recover monetary damages for state's violation of its constitutional and statutory obligation to reimburse counties for costs of state-mandated programs; constitution and statutes did not authorize a damages remedy or imply a private right of action, and monetary was not incidental to any writ relief. County of San Diego v. State (App. 4 Dist. 2008) 79 Cal.Rptr.3d 489, 164 Cal.App.4th 580, review denied. States 111

51. Interest

School district was entitled to interest award at rate of legal rate provided under Constitution on award of reimbursement to school district for expenditures incurred in complying with executive order, rather than 6% per annum pursuant to statute; 6% is part of Tort Claims Act which does not provide for claims for reimbursement for state-mandated expenditures. Long Beach Unified Sch. Dist. v. State of California (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155, modified , review denied. States 171

52. Attorney fees

Statute authorizing award of attorney fees under “private attorney general” theory to successful litigant in actions resulting in enforcement of important right affecting public interest did not create state-mandated program for purposes of this section. County of Fresno v. Lehman (App. 5 Dist. 1991) 280 Cal.Rptr. 310, 229 Cal.App.3d 340. States 111

53. Review

State's prior agreement to make future payment in full for nominally funded mandates imposed on school district, and its prior position that districts were required to comply with these mandates, would preclude state from arguing that school districts waived claims for reimbursement for prior unpaid mandates by previously failing to seek relief under the statute authorizing a local agency to file a declaratory relief action to declare an unfunded mandate unenforceable and enjoin its enforcement for that fiscal year. California School Boards Assn. v. State (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770, rehearing denied , review denied. Appeal and Error 881.1

Trial court did not abuse its discretion in declining to permit school districts to engage in a wide-ranging discovery investigation in an attempt to identify state funds to pay over $900 million for prior mandates subject to a funding requirement under state constitution, before denying districts' request for an order compelling the state to reimburse

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

such funds, where the state was experiencing an extreme budget crisis with a budget deficit estimated to be more than $20 billion; any money a court would direct to the school districts would reduce funds available for other obligations and implicate funding priorities and policy making decisions. California School Boards Assn. v. State (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770, rehearing denied , review denied. States 111

Alleged procedural irregularity in applying exhaustion of remedies to bar entire declaratory and injunctive relief complaint by high school district against Department of Education (DOE) in connection with allegedly state-mandated costs, when DOE's demurrer to the complaint seemingly asserted a failure to exhaust administrative remedies only as to the first of three asserted "causes of action," was harmless; the second and third purported causes of action were also barred on alternate ground of failing to state claims. Grossmont Union High School Dist. v. California Dept. of Educ. (App. 3 Dist. 2008) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869, review denied. Declaratory Judgment 393

High school district could not complain, on appeal from order sustaining demurrer of Department of Education (DOE) to complaint for declaratory and injunctive relief in connection with alleged unfunded state mandate, that trial court deprived district of due process by determining that entire complaint was barred by failure to exhaust administrative remedies when demurrer seemingly raised exhaustion bar only against first of three purported "causes of action"; DOE's points and authorities argued that exhaustion barred entire complaint, district was fully apprised by a tentative ruling that trial court would apply exhaustion to entire complaint, and district did not request oral argument. Grossmont Union High School Dist. v. California Dept. of Educ. (App. 3 Dist. 2008) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869, review denied. Declaratory Judgment 392.1

High school district forfeited claim, on appeal from order sustaining Department of Education's demurrer to district's complaint for declaratory and injunctive relief in connection with alleged unfunded state mandate to pay costs of mental health services for special education students, that imposition of those costs on district violated propositions passed by voters relating to minimum funding for public schools and community colleges, where district's briefs did not explain the requirements of those propositions, how the requirements were violated, or how district had a civil claim for the purported violations. Grossmont Union High School Dist. v. California Dept. of Educ. (App. 3 Dist. 2008) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869, review denied. Declaratory Judgment 392.1

High school district, which appealed order that sustained Department of Education's demurrer to district's complaint for declaratory and injunctive relief in connection with alleged unfunded state mandate, forfeited whatever claim district meant to make under state constitutional provision relating to increases or decreases in appropriation limits when costs are shifted from one public entity to another, where district failed to discuss that provision anywhere in its briefs. Grossmont Union High School Dist. v. California Dept. of Educ. (App. 3 Dist. 2008) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869, review denied. Declaratory Judgment 392.1

Court of Appeal would review, as presenting questions of law, a decision of the Commission on State Mandates regarding whether Educational Revenue Augmentation Funds (ERAF) statutes established a mandate under state constitutional provision generally requiring state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency, where the underlying facts were undisputed. County of Sonoma v. Commission on State Mandates (App. 1 Dist. 2000) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264, modified on denial of rehearing , review denied. Appeal And Error 841

© 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

In evaluating a claim for subvention, under state constitutional provision generally requiring state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency, the court cannot become entangled in consideration of where the benefit of questioned state action falls. County of Sonoma v. Commission on State Mandates (App. 1 Dist. 2000) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264, modified on denial of rehearing , review denied. States 111

Whether statute created constitutionally reimbursable state mandated program or higher level of service was question of law which Court of Appeal reviewed de novo in city's proceeding to set aside decision of Commission on State Mandates. City of Richmond v. Commission on State Mandates (App. 3 Dist. 1998) 75 Cal.Rptr.2d 754, 64 Cal.App.4th 1190, review denied. States 123

Court of Appeal was bound to follow Supreme Court ruling which established definition of “program” to be used in determining whether reimbursement is required under this section. County of Los Angeles v. Department of Industrial Relations (App. 3 Dist. 1989) 263 Cal.Rptr. 351, 214 Cal.App.3d 1538, review denied. Courts 91(1)

West's Ann. Cal. Const. Art. 13B, § 6, CA CONST Art. 13B, § 6

Current with all 2014 Reg.Sess. laws, Res. Ch. 1 of 2013-2014 2nd Ex.Sess., and all propositions on 2014 ballots

(C) 2015 Thomson Reuters. No Claim to Orig. US Gov. Works.

END OF DOCUMENT