

## ITEM 8

### ADOPTION OF PROPOSED REGULATORY ACTION IMPLEMENTATION OF AB 1222

#### PROPOSED AMENDMENTS TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5

Article 1. General  
Article 3. Test Claims  
Article 7. Hearings

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#### EXECUTIVE SUMMARY

The purpose of this rulemaking is to implement statutory changes made by AB 1222 (Stats. 2007, ch. 329). The proposed regulations will conform the definition of “reasonable reimbursement methodology;” establish a new process for the Department of Finance and test claimant to jointly develop reasonable reimbursement methodologies and statewide estimates of costs for approval and adoption by the Commission; and make technical amendments to add statutory references to a new procedure for legislatively determined mandates.

The Notice of Proposed Rulemaking was mailed on December 21, 2007, which is 45 days prior to the close of the public comment period on February 4, 2008. The proposed text was made available to the public from December 21, 2007, through February 4, 2008, but no comments were received. No public hearing was requested on this matter.

Staff finds that no alternative would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations.

#### **Staff Recommendation**

Therefore, staff recommends that the Commission:

- Find that no alternative would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations.
- Adopt the proposed amendments to California Code of Regulations, Title 2, Division 2, Chapter 2.5, Articles 1, 3, and 7 as originally proposed.
- Authorize staff to make any non-substantive, technical corrections requested by the Office of Administrative Law or Barclays Official California Code of Regulations prior to publication.



BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

In the Matter of:

Amendments to California Code of  
Regulations, Title 2, Division 2, Chapter 2.5,  
Articles 1, 3, and 7

No. 07-2

ADOPTION OF PROPOSED  
REGULATORY ACTION

*Implementation of AB 1222*

On March 28, 2008, at a duly noticed public hearing held in Room 447 of the State Capitol, Sacramento, California, the Commission on State Mandates adopted the proposed regulatory action after close of the public comment period.

**PROPOSED REGULATORY ACTION.** The Commission proposes to amend sections 1181.1, 1181.2, 1181.3, 1183, 1183.01, 1183.04, 1183.08, 1183.11, 1183.13, 1183.14, and 1188.3; to renumber 1183.30 to 1183.25; and to add sections 1183.081, 1183.131, a new 1183.30, 1183.31, and 1183.32 of the California Code of Regulations, Division 2, Title 2, Chapter 2.5.

**AUTHORITY AND REFERENCE.** Government Code section 17527, subdivision (g), authorizes the Commission to adopt the proposed regulations.

The purpose of this rulemaking is to implement statutory changes made by AB 1222 (Stats. 2007, ch. 329). The proposed regulations will conform the definition of “reasonable reimbursement methodology”; establish a new process for the Department of Finance and test claimant to jointly develop reasonable reimbursement methodologies and statewide estimates of costs for approval and adoption by the Commission; and, make technical amendments to add statutory references to a new procedure for legislatively determined mandates.

By: \_\_\_\_\_  
Paula Higashi, Executive Director

March 28, 2008  
Date



PROPOSED AMENDMENTS TO:  
CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 2. FINANCIAL OPERATIONS  
CHAPTER 2.5. COMMISSION ON STATE MANDATES

**Article 1. General**

**§ 1181.1. Definitions.**

Unless otherwise indicated, the definitions in this chapter and those found in Government Code sections 17510 through 17524 apply to Articles 1, 2, 3, 4.5, 5, 6, 7, 8, and 8.5 of this chapter:

(a) "Affected state agency" means a state department or agency that is responsible, in whole or in part, for implementation, enforcement, or administration of any statute(s) or executive order(s) that is the subject of a claim.

(b) "Amendment" means the addition of new allegations based on new statutes or executive orders to an existing test claim. The addition or substitution of parties and supporting declarations based on the original statutes or executive orders alleged in an existing test claim is not an "amendment."

(c) "Claim" means test claim or incorrect reduction claim.

(d) "Claimant" means the local agency or school district filing a test claim or incorrect reduction claim.

(e) "Commission staff" means the executive director, legal counsel, or other commission employee authorized by the commission or the executive director to represent the commission on a specific claim or request, or to receive filings at the commission office.

(f) "Completed" means that all requirements for filing a claim, proposed parameters and guidelines, request to amend parameters and guidelines, request for reconsideration, or request to review claiming instructions have been satisfied by the claimant or requestor.

(g) "Filing date" means the date of delivery to the commission's office during normal business hours. For purposes of meeting the filing deadlines required by statute, the filing is timely if:

(1) the filing was mailed by certified or express mail or a common carrier promising overnight delivery, and

(2) the time for its filing had not expired on the date of its mailing by certified or express mail as shown on the postal receipt or postmark, or the date of its delivery to a common carrier promising overnight delivery as shown on the carrier's receipt.

(h) "Good cause" may include, but is not limited to, the following factors: (1) the number and complexity of the issues raised; (2) a party is new to the case, or other counsel is needed; (3) the individual responsible for preparing the document has other time-limited commitments during the affected period; (4) the individual responsible for appearing at the hearing has other time-limited commitments; (5) illness of a party; (6) a personal emergency; (7) a planned vacation that cannot reasonably be rearranged; (8) a pending public records request; and (9) any other factor, which in the context of a particular claim constitutes good cause. Good cause may be established by a specific showing of other obligations involving deadlines that as a practical matter preclude filing the document by the due date without impairing quality.

(i) "Incorrect reduction claim" means a claim alleging that the Office of State Controller incorrectly reduced the reimbursement claim of a local agency or school district.

(j) "Informational proceeding" means any hearing designed to gather and assess information to assist the commission in formulating policies, informing the public of commission actions, or obtaining public comment and opinion.

(k) "Interested party" means a local agency or school district; an organization or association representing local agencies or school districts; or a person authorized to represent a local agency or school district, having an interest in a specific claim or request other than the claimant.

(l) "Interested person" means any individual, local agency, school district, state agency, corporation, partnership, association, or other type of entity, having an interest in the activities of the commission.

(m) "Party" means the test claimant, the Department of Finance, Office of State Controller, or affected state agency.

(n) "Rulemaking proceeding" means any hearing designed to adopt, amend, or repeal any rule, regulation, or standard of general application that implements, interprets, or makes specific any provision of Title 2, Division 4, Part 7, beginning with Government Code section 17500 or any other statute enforced or administered by the commission.

(o) "Statewide cost estimate" means the approximate sum of money that local agencies or school districts may have incurred to implement a state-mandated program or any increased level of service of an existing mandated program. A statewide cost estimate submitted by a test claimant shall be an estimate of the first full fiscal year of actual or estimated costs based on the statutes and executive orders alleged in a test claim, except as provided in Government Code section 17557.1, subdivision (a). A statewide cost estimate adopted by the commission shall be an estimate based on the commission's determination of a test claim for the initial period of reimbursement to be reported to the Legislature.

(p) "Statewide estimate of costs" is based on a reasonable reimbursement methodology proposed by a test claimant and the Department of Finance, adopted by the commission, and reported to the Legislature pursuant to Government Code section 17557.2.

(pq) "Teleconference" means a conference of individuals in different locations, connected by electronic means, through audio, video, or both.

(qr) "Written material" shall include, but is not limited to, requests and correspondence on substantive and procedural matters, e.g., informal conferences, prehearing conferences, postponements of hearings, extensions of due dates for submission of opposition, recommendations, comments, reasonable reimbursement methodologies, statewide estimates of costs, supplemental declarations, stipulations, applications for subpoenas and subpoenas duces tecum, witness lists, etc. Test claims, incorrect reduction claims, or amendments thereto, are not considered written material.

Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections 11123, 17516-17521, 17527(c), 17529, 17530, 17531, 17532, 17551, 17553, 17557, 17557.1, 17557.2, and 17600, Government Code.

### **§ 1181.2. Filing and Service of Written Materials.**

(a) For each completed claim, commission staff shall promulgate and make available a mailing list of the names, addresses, phone numbers, and facsimile phone numbers of the parties and interested parties who have requested inclusion on the mailing list for a specific claim. The mailing list shall include only one representative for each party or interested party. This mailing list shall be provided by commission staff to the parties and interested parties to the claim and to any person who requests a copy.

(b) Unless otherwise provided in this chapter, when a party or interested party files with commission staff any written material concerning a claim, it shall simultaneously serve a copy of the written material on the other parties and interested parties to the claim identified on the mailing list provided by commission staff. A proof of service in compliance with Code of Civil Procedure section 417.10 and following shall be included with any written material filed with commission staff.

(c) Service of any written material may be effected by delivering or simultaneously mailing a copy of the document by first-class mail to commission staff and each party and interested party whose name is on the commission's mailing list. Delivery may be made by handing a copy of the document to the addressee or leaving it in a place where the addressee may reasonably be expected to obtain actual and timely receipt. Service by mail is complete when the document is deposited in the mail. The executive director may require more expeditious service or a particular form of service in appropriate circumstances.

(d) With the prior consent of the party or interested party being served or at the direction of the executive director, service may be made to commission staff by facsimile transmission, by electronic mail (e-mail), or by other electronic media. Such service is complete upon successful transmission or notification to the mailing list described in subdivision (a) of this Section that written material has been filed. Following successful transmission or notification, commission

staff may notify all parties and interested parties that written material may be viewed on the commission's website.

(e) For the following new filings received by the commission, the executive director shall issue sequential case numbers, by fiscal year, as follows:

1. Test Claim (TC)
2. Incorrect Reduction Claim (I)
3. Request to Amend Parameters and Guidelines (PGA)
4. Joint Request for Reasonable Reimbursement Methodology (RRM)
5. Request for Review of Claiming Instructions (CI)
6. Request for Removal or Inclusion in State Mandates Apportionment System (SMAS)
7. Joint Request for Legislatively Determined Mandate (LDM)

Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections 17530, ~~and 17551, 17553(a), 17557, 17557.1, 17571, 17573(b), 17573(g), and 17574 (c), and 17615.1,~~ Government Code.

### **§ 1181.3. Submissions of Written Materials in Other Media.**

To facilitate the timely hearing of test claims, parameters and guidelines, reasonable reimbursement methodologies, ~~and~~ statewide cost estimates, and statewide estimates of costs, a test claimant, state agency, or interested party may electronically submit the original text of a document filed with commission staff by saving it in an Adobe Acrobat PDF file and submitting it by e-mail or other electronic media.

Note: Authority cited: Sections 17527(g) and 17553, Government Code. Reference: Sections 17530, 17553, 17554, ~~and 17557, 17557.1, and 17557.2,~~ Government Code.

## **Article 3. Test Claims**

### **§ 1183. Test Claim Filing.**

(a) A local agency or school district shall file a test claim with the commission to obtain a mandate determination.

(b) Any test claim filed with the commission must allege increased costs as a result of the statute or executive order that exceed the amount set in Government Code section 17564.

(c) Except as provided in Government Code sections 17573 and 17574, ~~A~~any test claim or amendment filed with the commission must be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later. For purposes of this subsection,



"within 12 months" means by June 30 of the fiscal year following the fiscal year in which increased costs were first incurred by the test claimant.

(d) All test claims, or amendments thereto, shall be filed on a form developed by the executive director and shall contain all of the elements and supplemental documents required by the form and statute.

(e) The claimant shall file one original test claim, or amendment thereto, and accompanying documents with the commission. The original shall be unbound and single-sided, without tabs, and include a table of contents.

(f) The claimant shall also file seven (7) copies of the test claim, or amendment thereto, and accompanying documents with the commission. The copies may be double-sided and shall not include tabs.

(g) Within ten (10) days of receipt of a test claim, or amendment thereto, commission staff shall notify the claimant if the test claim is complete or incomplete and send a copy of these regulations unless a correct copy was previously provided. Test claims will be considered incomplete if any of the elements required in subsections (d), (e), or (f) of this Section are illegible or are not included. If a complete test claim is not received within thirty (30) calendar days from the date the incomplete test claim was returned, the executive director may disallow the original test claim filing date. A new test claim(s) may be accepted on the same statute or executive order alleged to impose a mandate.

(h) Test claims may be prepared as a joint effort between two or more claimants and filed with the commission if the claimants attest to all of the following in the test claim filing:

(1) The claimants allege state-mandated costs result from the same statute or executive order;

(2) The claimants agree on all issues of the test claim; and,

(3) The claimants have designated one contact person to act as the resource for information regarding the test claim.

(i) Any test claim, or portion of a test claim, that the commission lacks jurisdiction to hear for any reason may be dismissed by the executive director with a written notice stating the reason for dismissal.

(j) Any party may appeal to the commission for review of the actions and decisions of the executive director under this Section pursuant to Section 1181 of these regulations.

Note: Authority cited: Sections 17527(g) and 17553, Government Code. Reference: Sections 17521, 17530, 17551, 17553, 17557(e), ~~and 17564, 17573 and 17574,~~ Government Code.

**§ 1183.01. Timelines.**

(a) In computing any period of time prescribed by these regulations and applicable statutes, the following rules shall apply:

(1) The day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or state holiday.

(2) Days representing extensions of time and postponements of hearings granted to the parties shall be tolled and may not be counted toward the date on which a statewide cost estimate must be adopted by the commission.

(3) Days following a test claimant's submission of incomplete information to the commission, from the date on which commission staff returns the incomplete information to the claimant up to the date on which the commission receives complete information from the test claimant, shall be tolled and may not be counted toward the date on which a statewide cost estimate must be adopted by the commission.

(4) If a party or interested party to a test claim notifies commission staff that a reasonable reimbursement methodology may be developed for inclusion in pending parameters and guidelines, the days following the date of the notification up to the date on which a reasonable reimbursement methodology is developed, shall be tolled and may not be counted toward the date on which a statewide cost estimate must be adopted by the commission. The days tolled shall not exceed sixty (60) days from the date of the notification.

(5) If the test claimant and the Department of Finance notify the commission staff in writing of their intent to develop a reasonable reimbursement methodology and statewide estimate of costs for the initial claiming period and budget year for reimbursement pursuant to Government Code section 17557.1, the days following the date of the notification up to the date on which a draft reasonable reimbursement methodology and proposed statewide estimate of costs are developed and submitted to the commission, shall be tolled and may not be counted toward the date on which a statewide cost estimate must be adopted by the commission. The days tolled shall not exceed 180 days from the date of the notification.

~~(5)~~ Three (3) days shall be added to any prescribed period in which a party or interested party is required or permitted to do an act after service of a document upon that party or interested party by mail. For purposes of this Section, "mail" includes interdepartmental mail between state agencies. The three (3) days added for mail service shall be tolled and may not be counted toward the date on which a statewide cost estimate must be adopted.

~~(6)~~ Solely for the purpose of determining when a statewide cost estimate shall be adopted, test claims that are amended, severed, or consolidated shall be deemed received on the effective date of the last amendment, severance, or consolidation, unless otherwise stipulated by the parties and approved by the executive director.

(78) Days between the effective date of the parameters and guidelines and the date the initial reimbursement claims are due to the Office of the State Controller shall be tolled and may not be counted toward the date on which a statewide cost estimate must be adopted by the commission.

(b) The following timelines shall be used by commission staff as a reference for the timely processing of test claims, ~~and~~ adoption of statewide cost estimates or statewide estimates of costs:

(1) Timeline for a Test Claim, Parameters and Guidelines, and Statewide Cost Estimate (12 Months)

PARTY/ACTIVITIES	DAY NUMBER
<u>TEST CLAIM</u>	
CLAIMANT files test claim with the commission.	0
COMMISSION staff begins counting days on the first day after receipt.	1
COMMISSION staff reviews test claim to determine if complete	by 10
COMMISSION staff sends test claim to state agencies for review.	by 10
COMMISSION staff convenes informal conference with parties, if necessary.	by 30
STATE AGENCIES file comments on test claim.	by 40
CLAIMANT submits rebuttal.	by 70
COMMISSION staff completes draft analysis of test claim and serves on parties.	by 100
PARTIES submit comments on staff's draft analysis of test claim.	by 130
COMMISSION staff completes analysis and issues Proposed Statement of Decision.	by 160
COMMISSION hears test claim and adopts Proposed Statement of Decision.	by 180
COMMISSION staff issues Statement of Decision and serves on parties.	by 190
<u>COMMISSION staff notifies Legislature of Statement of Decision</u>	<u>by 210</u>

#### PARAMETERS AND GUIDELINES

CLAIMANT submits proposed Parameters and Guidelines.	by 220
STATE AGENCIES AND PARTIES may file comments.	by 235
CLAIMANT rebuts comments.	by 250
COMMISSION staff completes draft Parameters and Guidelines and serves on parties.	by 265
PARTIES submit comments on staff's draft Parameters and Guidelines.	by 275
COMMISSION staff completes Parameters and Guidelines and serves on parties.	by 279
COMMISSION conducts hearing and adopts Parameters and Guidelines	by 293
COMMISSION staff issues adopted Parameters and Guidelines.	by 303

#### STATEWIDE COST ESTIMATE

COMMISSION staff develops Statewide Cost Estimate.	by 335
ALL PARTIES comment on Statewide Cost Estimate.	by 345
COMMISSION staff revises Statewide Cost Estimate.	by 350
COMMISSION conducts hearing and adopts Statewide Cost Estimate.	by 365
<u>COMMISSION staff reports Statewide Cost Estimate to the Legislature.....</u>	<u>by 395</u>

2. Timeline for a Test Claim, Reasonable Reimbursement Methodology, and Statewide Estimate of Costs

PARTY/ACTIVITIES DAY NUMBER

TEST CLAIM

CLAIMANT files test claim with the commission.....0  
COMMISSION staff begins counting days on the first day after receipt.....1  
COMMISSION staff reviews test claim to determine if complete.....by 10  
COMMISSION staff sends test claim to state agencies for review.....by 10  
COMMISSION staff convenes informal conference with parties, if necessary.....by 30  
STATE AGENCIES file comments on test claim. ....by 40  
CLAIMANT submits rebuttal.....by 70  
COMMISSION staff completes draft analysis of test claim and serves on parties.....by 100  
PARTIES submit comments on staff's draft analysis of test claim. ....by 130  
COMMISSION staff completes analysis and issues Proposed Statement of Decision.....by 160  
COMMISSION hears test claim and adopts Proposed Statement of Decision. ....by 180  
COMMISSION staff issues Statement of Decision and serves on parties. ....by 190  
COMMISSION staff notifies Legislature of Statement of Decision .....by 220

REASONABLE REIMBURSEMENT METHODOLOGY (RRM)  
AND STATEWIDE ESTIMATE OF COSTS (SEC)

CLAIMANT AND DOF notify Commission in writing of their intent to follow the process in 17557.1 to develop a RRM and SEC for the initial claiming period and budget year (30 days after SOD) .....by 220  
CLAIMANT AND DOF submit plan no later than 6 months after the date of letter of intent and sixty (60) days before hearing .....by 400  
COMMISSION staff notifies parties of comment period .....by 410  
PARTIES submit comments on the draft RRM and SEC.....by 425  
CLAIMANT AND DOF submit written rebuttal.....by 432  
COMMISSION staff issues review comments and recommendation .....by 450  
COMMISSION conducts hearing, approves the draft RRM, and adopts the proposed SEC for the initial claiming period and budget year.....by 460  
COMMISSION staff submits RRM to the CONTROLLER.....by 470  
COMMISSION staff reports SEC to the Legislature.....by 490

(c) Extensions of Time and Postponements of Hearings

(1) Any party or interested party may request an extension of time by filing a request with the executive director before the date set for filing of responses, opposition, recommendations, rebuttals, plan, informational update, or comments with commission staff. Such request shall fully explain the reason(s) for the extension, propose a new date for filing, and be simultaneously served on all parties and interested parties who are on the mailing list pursuant to Section 1181.2

of these regulations. Any request for extension of time to file comments that would necessitate rescheduling a hearing shall also include a request for postponement of the hearing, pursuant to Section 1183.01(c)(2). Within forty-eight (48) hours of receipt of the request, the executive director shall make a determination and shall notify all parties and interested parties who are on the mailing list of the determination.

(A) A request filed by stipulation of the parties, including the claimant, shall be approved by the executive director for good cause.

(B) A request filed by the claimant, a state agency or interested party may be approved by the executive director for good cause.

(2) Any party may request the postponement of a hearing on a test claim, parameters and guidelines, or statewide cost estimate, until the next regularly scheduled hearing, or other date if specified. Such request shall fully explain the reason(s) for the postponement, and be simultaneously served on all parties and interested parties who are on the mailing list pursuant to Section 1181.2 of these regulations. Within forty-eight (48) hours of receipt of such a request, the executive director shall make a determination and shall notify all parties and interested parties who are on the mailing list of the determination.

(A) A request filed by the claimant at least fifteen (15) days before the hearing shall be approved by the executive director for good cause.

(B) A request filed by stipulation of the parties, including the claimant, shall be approved by the executive director for good cause.

(C) A request filed by the claimant less than fifteen (15) days before the hearing may be approved by the executive director for good cause.

(D) A request filed by a state agency may be approved by the executive director for good cause. If a state agency makes such a request before filing a response, opposition, or recommendation on the test claim, such request shall be accompanied by a notice of intent to oppose the test claim in whole or in part.

(3) The executive director may postpone a hearing on a test claim, parameters and guidelines, and a statewide cost estimate for good cause and shall notify all parties and interested parties who are on the mailing list.

Note: Authority cited: Sections 17527(g) and 17553, Government Code. Reference: Sections 17530, 17553, ~~and 17557~~, and 17557.1, Government Code.

#### **§ 1183.04. Informal Conference.**

(a) The executive director may schedule an informal conference with the test claimant, the Department of Finance, Office of the State Controller, other affected state agencies and

interested parties upon request. With the consent of the parties, the informal conference may be a teleconference.

(b) The purpose of an informal conference may be to

(1) Set dates for receiving state agency responses, opposition, recommendations, or claimant rebuttal; completing the staff analysis; and hearing the test claim.

(2) Give the test claimant the opportunity to present the test claim and to respond to questions from commission staff and other state agency staff or representatives for the purpose of resolving or clarifying issues of fact or law.

(3) Consider whether a reasonable reimbursement methodology may be developed and included in the parameters and guidelines.

(4) Review a draft reasonable reimbursement methodology and proposed statewide estimate of costs that are jointly prepared by the test claimant and the Department of Finance pursuant to Government Code section 17557.1.

(c) Any party may notify the executive director of any interested parties who should be invited to attend an informal conference.

(d) Unless waived by the parties, commission staff shall provide at least ten (10) days notice of the informal conference by mail, facsimile transmission, e-mail, or by other electronic media.

(e) Anything said, any document disclosed, and any new assertions and representations of fact made during an informal conference shall not be made part of the administrative record of a test claim unless properly admitted into the record through the submission of an amendment to a test claim, a written response, opposition, recommendations, comments, rebuttal, and/or public testimony.

Note: Authority cited: Sections 17527(g), 17553(a), Government Code. Reference: Sections 17518.5, 17530 and 17553(a), and 17557.1, Government Code.

#### **§ 1183.08. Withdrawal of Test Claims.**

A test claim, or any portion of a test claim, may be withdrawn by the claimant(s) upon written application to the executive director any time before a decision is adopted or after enactment of a legislatively determined mandate on the same statute or executive order pursuant to Government Code section 17574. The claimant(s) shall serve a copy of the written application to ~~on~~ all parties and interested parties on the mailing list described in Section 1181.2 of these regulations. Except as provided in Government Code section 17574, If no other local agency or school district takes over ~~the~~ a claim by substitution of parties within sixty (60) days of service of the application to withdraw, a decision dismissing the claim shall be issued by the commission.

Note: Authority cited: Section 17527(g) and 17553(a), Government Code. Reference: Section 17553(a), and 17574, Government Code.

**§ 1183.081. Local Agency or School District “Abandonment” of Test Claim**

(a) The executive director may deem a test claim “abandoned” if any of the following events occurs:

1. The test claimant does not respond, within thirty (30) days of service, to a written notification sent to the superintendent of the school district or chief administrative officer of the local agency from the executive director that the test claim will be deemed “abandoned” .

2. The local agency or school district provides written notification to the commission of their withdrawal as the test claimant from the test claim.

(b) If the executive director deems a test claim “abandoned” pursuant to subdivision (a), the executive director shall serve a copy of a written notice that a test claim has been “abandoned” on the original test claimant and any persons designated as their representative for the test claim, all parties and interested parties on the mailing list described in Section 1181.2 of these regulations, and associations representing local agencies and school districts. The first local agency or school district that requests in writing to the executive director to substitute for the original test claimant, within sixty (60) days of service of the written notice of abandonment, shall be the test claimant for purposes of the test claim proceedings. Other local agencies or school districts which submit subsequent timely written requests will be included as co-claimants.

(c) The original test claimant may appeal to the commission for review of the actions and decisions of the executive director under this section pursuant to Section 1181 of these regulations.

Note: Authority cited: Sections 17527 (g) and 17553 (a), Government Code. Reference Cited: Section 17553(a), Government Code.

**§ 1183.11. Submission and Review of Proposed Parameters and Guidelines; Submission of Comments.**

(a) Within thirty (30) days of adoption of the statement of decision on a test claim, or the early termination or expiration of a reasonable reimbursement methodology, the successful test claimant shall submit to commission staff an original and seven (7) copies of proposed parameters and guidelines, pursuant to Government Code section 17557, subdivision (a).

(b) If any of the elements described in Section 1183.1 are missing or are not adequately addressed, commission staff shall, within ten (10) days of receipt, deem the proposed parameters

and guidelines incomplete and shall return the proposal to the claimants with a description of the subjects that are to be redrafted or supplemented.

(c) Within ten (10) days of receipt of completed proposed parameters and guidelines, commission staff shall send a copy to the Department of Finance, Office of the State Controller, affected state agencies, and interested parties who are on the mailing list described in Section 1181.2 of these regulations.

(d) Commission staff shall notify all recipients that they shall have the opportunity to review and provide written comments or recommendations concerning the proposed parameters and guidelines within fifteen (15) days of service.

(e) State agencies and interested parties shall submit an original and two (2) copies of written responses to commission staff and shall simultaneously serve a copy on the test claimant, other affected state agencies, and other interested parties who are on the mailing list described in Section 1181.2 of these regulations.

(f) Within fifteen (15) days of service of the comments and recommendations prepared by state agencies and interested parties, the claimant and other interested parties may submit an original and two (2) copies of written rebuttals to commission staff, and shall simultaneously serve a copy on the other parties and interested parties who are on the mailing list described in Section 1181.2 of these regulations.

Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections 17530, 17553(a), ~~and 17557~~, and 17557.2, Government Code.

### **§ 1183.13. Reasonable Reimbursement Methodology.**

(a) Government Code section 17518.5 ~~authorizes the adoption of~~ defines a "reasonable reimbursement methodology" ~~to reimburse claimants for mandated programs. Section 17518.5 requires the following conditions in order to adopt a reasonable reimbursement methodology: as a formula for reimbursing local agencies and school districts for costs mandated by the state, as defined in Section 17514.~~

~~–(1) The total amount to be reimbursed statewide is equivalent to total estimated local agency and school district costs to implement the mandate in a cost efficient manner.~~

~~–(2) For fifty (50) percent or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully offset their projected costs to implement the mandate in a cost efficient manner.~~

(b) For purposes of developing a reasonable reimbursement methodology pursuant to Government Code sections 17557 or 17557.1, the following definitions apply:



(1) "Costs to implement the ~~program~~ mandate in a cost-efficient manner" include only those costs for the activities that were determined to be reimbursable by the commission in the Statement of Decision, and the costs for the most reasonable methods of complying with the mandate pursuant to Section 1183.1, subdivision (a)(4), of these regulations.

~~-(2) In order to determine that the reasonable reimbursement methodology is estimated to fully offset the projected costs to implement the mandate in a cost efficient manner for "fifty (50) percent or more of eligible local agency and school district claimants":~~

~~-(A) "Eligible local agency and school district claimants" means the number of local agencies and/or school districts that will actually file reimbursement claims for the mandated program. This number may be determined by using the number of claimants that filed reimbursement claims for similar mandated programs with the same type(s) of claimant(s), as found in the Office of the State Controller's AB 3000 Report or Annual Deficiency Report.~~

~~-(B) A statewide organization that represents the local agency and/or school district claimant(s) may submit documentation showing that the proposed methodology fully offsets the majority of their local agency or school district members' projected costs to implement the mandate in a cost efficient manner.~~

(2) An interested party may submit cost information or other cost projections that can be the basis of a reasonable reimbursement methodology, and letters in support of a draft reasonable reimbursement methodology submitted pursuant to Government Code section 17557.1.

~~(C3) When surveying or otherwise gathering cost data to develop a formula, "eligible local agency and school district claimants" "representative sample of claimants" does not include entities eligible claimants that do not respond to surveys or otherwise participate in submitting cost data.~~

~~(c) If the claimant indicates in the proposed parameters and guidelines or comments that a reasonable reimbursable methodology, as defined in Government Code section 17518.5, should be considered; or if the Department of Finance, Office of the State Controller, any affected state agency, claimant, or interested party proposes consideration of a reasonable reimbursement methodology, commission staff shall immediately schedule an informal conference to discuss the methodology.~~

~~(d) Proposed reasonable reimbursement methodologies, as described in Government Code section 17518.5, shall include any documentation or assumption relied upon to develop the proposed methodology. Proposals shall be submitted to the commission within sixty (60) days following the informal conference.~~

~~(e) Claimants, state agencies, and interested parties shall submit an original and two (2) copies of a proposed reasonable reimbursement methodology, and shall simultaneously serve a copy on the other parties and interested parties on the mailing list described in Section 1181.2 of these regulations.~~

~~(f) Commission staff shall notify all recipients that they shall have the opportunity to review and provide written comments or recommendations concerning the proposed reasonable reimbursement methodology within fifteen (15) days of service.~~

~~(g) Claimants, state agencies, and interested parties shall submit an original and two (2) copies of written responses to commission staff and shall simultaneously serve a copy on the other parties and interested parties on the mailing list described in Section 1181.2 of these regulations.~~

~~(h) Within fifteen (15) days of service of the written comments prepared by other parties and interested parties, the party that proposed the reasonable reimbursement methodology may submit an original and two (2) copies of written rebuttals to commission staff, and shall simultaneously serve a copy on the other parties and interested parties on the mailing list described in Section 1181.2 of these regulations.~~

Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections 17518.5, ~~and 17557, and 17557.1,~~ Government Code.

**§ 1183.131. Reasonable Reimbursement Methodology, Included in Parameters and Guidelines.**

(a) If the claimant indicates in the proposed parameters and guidelines or comments that a reasonable reimbursable methodology, as defined in Government Code section 17518.5, should be considered for inclusion in the parameters and guidelines; or if the Department of Finance, Office of the State Controller, any affected state agency, claimant, or interested party proposes consideration of a reasonable reimbursement methodology, commission staff shall immediately schedule an informal conference to discuss the methodology.

(b) Proposed reasonable reimbursement methodology, as described in Government Code section 17518.5, shall include any documentation or assumption relied upon to develop the proposed methodology. Proposals shall be submitted to the commission within sixty (60) days following the informal conference described in this section.

(c) Claimants, state agencies, and interested parties shall submit an original and two (2) copies of a proposed reasonable reimbursement methodology, and shall simultaneously serve a copy on the other parties and interested parties on the mailing list described in Section 1181.2 of these regulations.

(d) Commission staff shall notify all recipients that they shall have the opportunity to review and provide written comments or recommendations concerning the proposed reasonable reimbursement methodology within fifteen (15) days of service.

(e) Claimants, state agencies, and interested parties shall submit an original and two (2) copies of written responses to commission staff and shall simultaneously serve a copy on the other parties and interested parties on the mailing list described in Section 1181.2 of these regulations.

(f) Within fifteen (15) days of service of the written comments prepared by other parties and interested parties, the party that proposed the reasonable reimbursement methodology may submit an original and two (2) copies of written rebuttals to commission staff, and shall simultaneously serve a copy on the other parties and interested parties on the mailing list described in Section 1181.2 of these regulations.

Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections 17518.5, 17557, and 17557.1, Government Code.

#### **§ 1183.14. Adoption of Parameters and Guidelines.**

(a) After review of the proposed parameters and guidelines, written comments, recommendations, and rebuttals submitted by state agencies and interested parties, commission staff shall recommend the adoption of the claimant's proposed parameters and guidelines or adoption of an amended, modified, or supplemented version of the claimant's proposed parameters and guidelines. Commission staff's recommendation may include a reasonable reimbursement methodology developed by a party pursuant to Government Code section 17518.5.

(b) A draft of commission staff's recommendation may be presented to the parties and interested parties at a prehearing or informal conference before presentation to the commission.

(c) The commission shall conduct at least one (1) informational hearing on parameters and guidelines before adoption pursuant to Government Code section 17557.

(d) Within ten (10) days of the adoption of parameters and guidelines, the executive director shall send copies to the Office of the State Controller, and to parties and interested parties who are on the mailing list described in Section 1181.2 of these regulations.

Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference cited: Sections 17518.5, 17557 and 17553(a), Government Code.

#### **~~§ 1183.3~~ 1183.25. Statewide Cost Estimate.**

(a) If the commission determines that there are state-mandated costs pursuant to Government Code sections 17514 and 17556, it shall adopt a statewide cost estimate of the amount within twelve (12) months after receipt of a completed test claim unless extended to eighteen (18) months by the commission or executive director. As provided in Section 1183.01, certain days may be tolled and may not be counted toward the date a statewide cost estimate must be adopted by the commission.

(b) Commission staff may develop the statewide cost estimate based on initial reimbursement claims filed with the Office of the State Controller, application of a reasonable reimbursement methodology, or use a different methodology based on recommendations from the test claimant, the Department of Finance, or other interested parties.

(c) Before presenting a statewide cost estimate to the commission for adoption, commission staff shall disclose to the parties and interested parties the methodology, basis for any assumptions made, and sources of any data used to develop the estimate. This information may be disclosed to the parties and interested parties to the test claim during an informal conference or prehearing conference.

(d) Before adopting the statewide cost estimate, the commission shall hold at least one (1) informational hearing.

(e) Upon adoption of the statewide cost estimate by the commission, a summary of the parameters and guidelines and the statewide cost estimate shall be included in the commission's report to the Legislature required by Government Code section 17600.

Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections 17518.5, 17553 and 17557(a), Government Code.

**§ 1183.30. Reasonable Reimbursement Methodology and Statewide Estimate of Costs Developed by the Test Claimant and Department of Finance.**

(a) Notwithstanding Government Code section 17557, within thirty (30) days of the adoption of a statement of decision on a test claim, the successful test claimant and the Department of Finance may notify the executive director in writing of their intent to follow the process described in Government Code sections 17557.1-17557.2 to develop a reasonable reimbursement methodology and statewide estimate of costs.

(b) The written notification shall provide all information and filing dates, as specified in Government Code section 17557.1, subdivision (a).

(c) At the request of the test claimant and the Department of Finance, the executive director may provide for up to four extensions of the 180-day period for submittal of the draft reasonable reimbursement methodology and proposed statewide estimate of costs for the initial claiming period and budget year. Any request must be based on good cause as defined in Section 1181.1 and also include an update of all information and filing dates provided in the original written notification submitted pursuant to Government Code section 17557.1, subdivision (a).

(d) The test claimant and Department of Finance shall submit an original and two (2) copies of any filings made pursuant to Government Code section 17557.1 and shall simultaneously serve a copy on the other parties and interested parties on the mailing list described in Section 1181.2 of these regulations.

(e) Commission staff shall notify all recipients that they shall have the opportunity to review and provide written comments or recommendations concerning the draft reasonable reimbursement methodology and proposed statewide estimate of costs within fifteen (15) days of service.

(f) Claimants, state agencies, and interested parties shall submit an original and two (2) copies of written responses to commission staff and shall simultaneously serve a copy on the other parties and interested parties on the mailing list described in Section 1181.2 of these regulations.

(g) Within seven (7) days of service of the written comments prepared by other parties and interested parties, the test claimant and Department of Finance may submit an original and two (2) copies of written rebuttals to commission staff, and shall simultaneously serve a copy on the other parties and interested parties on the mailing list described in Section 1181.2 of these regulations.

(h) At least ten (10) days prior to the next hearing, commission staff shall issue review comments and a staff recommendation on whether the commission should approve the draft reasonable reimbursement methodology and adopt the proposed statewide estimate of costs pursuant to Government Code section 17557.2.

Note: Authority: Sections 17527(c) and (g) and 17532, Government Code. Reference: Sections 17557.1 and 17557.2, Government Code.

**§ 1183.31. Joint Request for Early Termination of Reasonable Reimbursement Methodology.**

(a) The test claimant and the Department of Finance may file a joint request for early termination of a reasonable reimbursement methodology with the commission by submitting an original and two (2) copies of a request made pursuant to Government Code section 17557.2, subdivision (e), and shall simultaneously serve a copy on the other parties and interested parties on the mailing list described in Section 1181.2 of these regulations.

(b) Commission staff shall notify all recipients that they shall have the opportunity to review and provide written comments or recommendations on the joint request for early termination of a reasonable reimbursement methodology within fifteen (15) days of service.

(c) Claimants, state agencies, and interested parties shall submit an original and two (2) copies of written responses to commission staff and shall simultaneously serve a copy on the other parties and interested parties on the mailing list described in Section 1181.2 of these regulations.

(d) Within seven (7) days of service of the written comments prepared by other parties and interested parties, the test claimant and Department of Finance may submit an original and two (2) copies of written rebuttals to commission staff, and shall simultaneously serve a copy on the other parties and interested parties on the mailing list described in Section 1181.2 of these regulations.

(e) At least ten (10) days prior to the next hearing, commission staff shall issue review comments and a staff recommendation on whether the commission should approve the joint request for early termination of a reasonable reimbursement methodology pursuant to Government Code section 17557.2, subdivision (e).

(f) If the commission approves a joint request for early termination, the commission shall notify the test claimant of the duty to submit proposed parameters and guidelines to the commission pursuant to subdivision (a) of Government Code section 17557, and Section 1183.11 of these regulations.

Note: Authority Cited: Sections 17527(g) and 17553 (a), Government Code. Reference: Section 17553(a), 17557, and 17557.2, Government Code.

**§ 1183.32. Expiration of Reasonable Reimbursement Methodology.**

(a) At least one year before the expiration of a reasonable reimbursement methodology, commission staff shall notify the test claimant and the Department of Finance, that they may do one of the following:

1. Jointly propose amendments to the reasonable reimbursement methodology by submitting: (A) the draft reasonable reimbursement methodology, (B) A description of the steps the test claimant and the Department of Finance undertook to determine the level of support by local agencies or school districts for the draft reasonable reimbursement methodology, (C) an agreement that the reasonable reimbursement methodology developed and approved under Government Code section 17557.2 shall be in effect for a period of five years unless a different term is approved by the commission, and (D) an estimate of the mandate's annual cost for the subsequent budget year.

2. Jointly propose that the reasonable reimbursement methodology remain in effect.

3. Allow the reasonable reimbursement methodology to expire and notify the commission that the test claimant will submit proposed parameters and guidelines to the commission pursuant to subdivision (a) of Government Code section 17557 and Section 1183.11 of these regulations to replace the reasonable reimbursement methodology.

(b) Copies of the notice provided under subdivision (a) shall be simultaneously provided to the other parties and interested parties on the mailing list described in Section 1181.2 of these regulations.

(c) The test claimant and the Department of Finance may jointly propose amendments to the reasonable reimbursement methodology or the continuation of a reasonable reimbursement methodology by submitting an original and two (2) copies of a request made pursuant to Government Code section 17557.2, subdivision (f), and shall simultaneously serve a copy on the other parties and interested parties on the mailing list described in Section 1181.2 of these regulations.

(d) Commission staff shall notify all recipients that they shall have the opportunity to review and provide written comments or recommendations on the jointly proposed amendments or request for continuation of the reasonable reimbursement methodology within thirty (30) days of service.

(e) Claimants, state agencies, and interested parties shall submit an original and two (2) copies of written responses to commission staff and shall simultaneously serve a copy on the other parties and interested parties on the mailing list described in Section 1181.2 of these regulations.

(f) Within fifteen (15) days of service of the written comments prepared by other parties and interested parties, the test claimant and Department of Finance may submit an original and two (2) copies of written rebuttals to commission staff, and shall simultaneously serve a copy on the other parties and interested parties on the mailing list described in Section 1181.2 of these regulations.

(g) At least ten (10) days prior to the next hearing, commission staff shall issue review comments and a staff recommendation on whether the commission should approve the jointly proposed amendments or the continuation of a reasonable reimbursement methodology pursuant to Government Code section 17557.2, subdivision (g).

(h) Within ten (10) days of the adoption of the jointly proposed amendments or the continuation of a reasonable reimbursement methodology, the executive director shall send copies to the Office of the State Controller, and to parties and interested parties who are on the mailing list described in Section 1181.2 of these regulations.

Note: Authority Cited: Sections 17527(g) and 17553 (a), Government Code. Reference: Section 17553(a), 17557, 17557.1, 17557.2, Government Code.

## **Article 7. Hearings and Decisions**

### **§ 1188.3. Withdrawal of Claims and Requests.**

A claim, or any portion of a claim, may be withdrawn by written application any time before a decision is adopted, or by oral application at the time of hearing. If such application is made, the commission may issue a decision dismissing the claim. If the withdrawal is of a test claim, or portion thereof, the procedures described in Section 1183.08 must be followed before dismissal, except as provided in Government Code section 17574.

Note: Authority cited: Sections 17553, 17573, 17574, and 17621, Government Code. Reference: Sections 17553, 17573, 17574, and 17621, Government Code.