

**ITEM 14**  
**EXECUTIVE DIRECTOR'S REPORT**  
**Workload, SB 1033, Governor's Proposed 2005-06 Budget,**  
**Reports to the Legislature, Legislation, and Next Hearing**

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**I. WORKLOAD**

A. Pending Caseload

Type of Action	March 15, 2005	January 10, 2005	March 4, 2004
Test Claims to be Heard and Determined	104	105 <sup>1</sup>	126
Test Claims to be Reconsidered	0	0	0
Test Claims to be Reconsidered Based on Court Action	3	3	2
Test Claims to be Reconsidered, as Directed by the Legislature	11	11	0
Incorrect Reduction Claims to be Heard and Determined	82	82	80
Proposed Parameters and Guidelines, and Amendments	32	30	29
Parameters and Guidelines to be Reconsidered, as Directed by the Legislature	1	1	0
Statewide Cost Estimates to be Adopted	2	5	16
New Test Claim Filings to be Reviewed	0	1	0
Appeals of Executive Director's Decision	1	0	5
Regulatory Actions Pending	2	0	0

**II. SB 1033 – BUTTE COUNTY (ACTION IF NECESSARY)**

In 1993, the Commission assumed a new duty to review county applications for findings of significant financial distress. The Commission is required to review county applications that include program and financial reports, conduct at least two public hearings on the matter, and determine if the applicant county is facing significant financial distress within 90 days of receiving the application. An affirmative finding by the Commission permits the county to reduce general assistance benefits for up to three years.

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<sup>1</sup> Includes three new test claims filed in December 2004.

County applications are complex because they include budgets, budget forecasts, descriptions of county efforts to constrain expenditures, information on flexibility in spending and resources, debt and cash flow, and unmet budget needs, i.e., the programs or services a county cannot provide because of inadequate resources.

Commission regulations authorize the Chairperson to assign this application to a hearing panel consisting of one or more members of the Commission, which shall act on behalf of the Commission, or to a hearing officer for hearing and preparation of a preliminary decision. If an assignment is not made, then the application will be set for hearing before the Commission itself.

Butte County filed its SB 1033 application on February 10, 2005. The Commission requested additional funding to review and hear this application. On March 14, 2005, the Joint Legislative Budget Committee approved the Department of Finance's request to approve a budget augmentation for this program.

Shirley Opie, former Assistant Executive Director will return to the Commission as a retired annuitant and manage the SB 1033 process. There are strict timelines that must be followed under this statutory scheme. The Department of Finance's Office of State Audits and Evaluation (OSAE) will review the County's application, prepare the fiscal and program analysis, and assist the Commission members when they travel to Oroville for this hearing. Commission members will be contacted directly to set the hearing dates for the evidentiary hearing in Oroville, and the hearing for adoption of the statement of decision. For informational purposes only, a copy of the Commission's decision on Butte County's last application is included as Exhibit A.

No further action is necessary at this time unless the Commission members would like the Chairperson to assign the application to a hearing panel or hearing officer for the evidentiary hearing in Oroville and preparation of the preliminary statement of decision.

### **III. 2005-2006 BUDGET**

#### **A. Commission Budget - Item 8885**

The Governor's Budget proposes \$1.629 million for the Commission on State Mandates. This includes an augmentation of \$427,000 to reduce the test claim backlog. If approved, the Commission would add three limited-term positions and one permanent position. Budget hearings have been scheduled, as follows:

- April 14        Senate Budget Subcommittee 4
- April 19        Assembly Budget Subcommittee 4

#### **B. Legislative Analyst's Report**

##### *The 2005-06 Budget: Perspectives and Issues*

In Part IV: Perspectives on State Expenditures, the Legislative Analyst (LAO) addresses "Estimated State Mandate Liabilities as of End of 2005-06" and "Major Mandate Budget Proposals."

Through the end of 2004-05, LAO estimates that the state will owe about \$2.8 billion:

- About \$2.2 billion for unpaid claims from 2003-04 and earlier years.
- Over \$500 million for unpaid claims in 2004-05.
- About \$100 million for new mandates identified by the Commission.

The LAO identifies the following issues for legislative consideration:

- Mandate costs for local agencies are reduced by \$250 million (\$210 million for one-time mandate suspensions, \$31 million of cost deferral of the *Peace Officers Bill of Rights*, and \$14 million due to ongoing savings from *Open Meeting Act* mandate).
- Additional mandate costs are pushed into the future: no funding for K-14 mandates and insufficient funding for local agency 2005-06 mandates.
- Proposed constitutional amendment (ACA 4) would amend article XIII B, section 6 of the California Constitution to authorize the state to pay claims for costs incurred by local agencies prior to the 2004-05 fiscal year over a term of 15 years. (Current law specifies that the payment term will be five years, beginning in 2006-07.)

Analysis of the 2005-2006 Budget Bill

On February 24, 2005, the Legislative Analyst’s Office (LAO) issued the 2005 Budget Analysis. The LAO makes recommendations on newly identified mandates and mandates that are included in the Governor’s proposed budget. Commission staff may be requested to attend budget hearings for other departments or items if there are mandate-related recommendations being discussed. An overview of the recommendations on mandated programs follows:

Department/Item No.	Mandated Programs	Legislative Analyst’s (LAO) Recommendation
Judicial Branch 0250	<i>New Mandate: Grand Jury Proceedings Mandate</i>	<ul style="list-style-type: none"> <li>▪ Adopt the Governor’s proposal to suspend the mandate to allow the Legislature time to evaluate the outcomes of these mandates without incurring additional costs.</li> <li>▪ Adopt supplemental report language requiring the Administrative Office of the Courts to report to the Legislature by December 1, 2005 on the grand jury proceedings process to determine if the goals and objectives of the subject legislation have been achieved.</li> </ul>
Secretary of State 0890	<i>Handicapped Voter Access Information</i> <i>New Mandate: Presidential Primaries</i> <i>Brendon Maguire Act</i> <i>New: Absentee Ballots, Tabulation by Precinct</i> <i>Voter Registration Procedures</i> <i>Absentee Ballots</i> <i>Permanent Absentee Ballots</i>	<ul style="list-style-type: none"> <li>▪ Repeal the <i>Handicapped Voter Access Information</i> and <i>Presidential Primaries Mandates</i>.</li> <li>▪ Fully fund the <i>Brendon Maguire Act</i> and the <i>Absentee Ballots, Tabulation by Precinct</i></li> <li>▪ Reject the Governor’s proposal to suspend three mandates and fund the mandates under a new reasonable reimbursement methodology developed by a Working Group convened by the State Controller that would include CSM staff.</li> </ul>

State Personnel Board 1880	<i>Peace Officers' Procedural Bill of Rights</i>	<ul style="list-style-type: none"> <li>Request the Commission on State Mandates to reconsider its decision regarding this mandate in light of a recent California Supreme Court decision.</li> </ul>
Department of Motor Vehicles 2740	<i>New Mandate: Administrative License Suspension Per Se</i>	<ul style="list-style-type: none"> <li>Reimburse local law enforcement agencies for the mandated costs of the administrative license suspension program.</li> </ul>
Department of Mental Health 4440 Department of Education: Special Education 6110	<i>Handicapped and Disabled Students (AB 3632) Severely Emotionally Disturbed Students: Out of State Placements</i>	<ul style="list-style-type: none"> <li>Eliminate two state-mandated programs with the Department of Mental Health budget for mental health services for special education students;</li> <li>Provide \$143 million in state and federal funds to support the costs of Special Education Local Plan Areas for providing these mental health services.</li> </ul>
Department of Education: Mandates 6110-295-001	<i>New Mandates: Immunization Records: Hepatitis B Pupil Promotion and Retention Standards-Based Accountability Charter Schools II Criminal Background Checks II School District Reorganization Attendance Accounting Comprehensive School Safety Plans</i>	<ul style="list-style-type: none"> <li>Add eight new mandates to the budget bill in order to signal recognition of the state's mandate liabilities.</li> <li>Direct the State Department of Education and the State Controller's Office to submit a joint plan to the budget subcommittees by April 1, 2005, outlining a process for sharing information needed to reduce the state cost of state-mandated local programs.</li> <li>Add budget bill and trailer bill language to ensure that districts use available funds to pay for local costs of the new <i>Comprehensive School Safety Plan</i> mandate.</li> </ul>
Department of Food and Agriculture 857 0-295-001	<i>Animal Adoption</i>	<ul style="list-style-type: none"> <li>Direct the Commission on State Mandates to revise the parameters and guidelines of the mandate to lower its costs.</li> </ul> <p>Note: An amendment required by the Bureau of State Audits Report and AB 2224 is currently pending.</p>
Tax Relief 9100	<i>New Mandate: Redevelopment Agencies – Tax Disbursement Reporting</i>	<ul style="list-style-type: none"> <li>Repeal this mandate by deleting the requirement that [county] auditors prepare these reports.</li> </ul>
Local Government Financing 9210	<i>Open Meeting Act</i>	<ul style="list-style-type: none"> <li>LAO withholds recommendation on this mandate pending release of the administration's proposal.</li> </ul>

Local Government Financing 9210	<i>Health Benefits for Survivors of Peace Officers and Firefighters</i>	<ul style="list-style-type: none"> <li>▪ Augment the budget by \$482,000 to fully fund its 2005-06 and 2004-05 costs.</li> <li>▪ Enact legislation to eliminate the mandate on a prospective basis.</li> </ul>
Local Government Financing 9210	<i>Rape Victim Counseling</i>	<ul style="list-style-type: none"> <li>▪ Delete funding for this mandate and enact legislation to specify that the mandate's provisions are expressions of legislative intent.</li> <li>▪ Consider adopting budget language making Citizens' Option for Public Safety funding contingent upon local law enforcement agency certification that it will carry out these responsibilities.</li> </ul>
Local Government Financing 9210	<i>Photographic Record of Evidence</i>	<ul style="list-style-type: none"> <li>▪ Enact trailer bill language to repeal this mandate and, if necessary, clarify or expand court authority to require substitutes for evidence that poses a health, safety, security, or storage problem.</li> </ul>
Local Government Financing 9210	<i>Mandate Reimbursement Process</i>	<ul style="list-style-type: none"> <li>▪ LAO withholds recommendation on the Governor's Budget proposal to suspend this program, pending development of a proposal to replace the existing process with a simpler one.</li> </ul>
Local Government Financing 9210	<i>CPR Pocket Masks Domestic Violence Information Filipino Employee Surveys Lis Pendens</i>	<ul style="list-style-type: none"> <li>▪ Recast these statutes as statements of legislative intent.</li> </ul>

### III. REPORTS TO THE LEGISLATURE

#### A. Reporting Statements of Decision to the Legislature

Pursuant to AB 2856 of 2004, Commission staff is now forwarding adopted statements of decision to the Legislature within 30 days of adoption.

#### B. Reporting Statewide Cost Estimates to the Legislature

Commission staff will submit a Report to the Legislature following this hearing that reports statewide cost estimates for the *Pupil Promotion and Retention, AIDS Prevention Instruction II, Teacher Incentive Program, and Differential Pay and Reemployment* mandates. This will complete the statewide cost estimates for 2004-2005.

### IV. LEGISLATION

#### A. Commission Sponsored Legislation

The Commission is sponsoring two bills this year:

AB 943 (Keene) would revise the SB 1033 process to allow counties to self-certify that they are in significant financial distress rather than seeking a determination from the Commission.

AB 1467 (Laird) would require mandates listed in the State Budget to also be identified by Commission test claim number. This bill will act as a placeholder for mandate reform proposals.

#### B. Other Mandate Bills

AB 500 (La Malfa) would reduce from \$1,000 to \$200, the threshold for filing reimbursement claims with the State Controller's Office.

ACA 1X 4 (Keene) would place on the ballot a constitutional amendment to implement the Governor's budget process proposals. This proposal includes two amendments to

article XIII B, section 6 which would: (1) clarify that a reduction in appropriation for a mandated program shall not be deemed to reduce the overall amount to which local governments are entitled; and (2) require state reimbursement to local agencies for prior year claims within 15 years instead of 5 years.

SB 190 (Cedillo) would make a technical revision to the procedures for proposing a reasonable reimbursement methodology that were adopted last year.

SCA1X 2 (McClintock) would place on the ballot a constitutional amendment to repeal article XIII B, and instead provide that no local government be required to provide any new program or higher level of service unless and until it has received a subvention of funds to reimburse them for the costs of the program or increased level of service.

### C. Other Bills

AB 94 (Haynes) would require each state agency, department, board, and commission to prepare and provide a report to the Legislature on its financial activities for the 2000-2001, 2001-2002, 2002-2003, 2003-2004, and 2004-2005 fiscal years no later than January 15, 2006, and by January 15 for each subsequent fiscal year.

AB 1561 (Umberg) would declare the intent of the Legislature to implement procedures to impose penalties and/or remove from office appointed members of state boards and commissions who do not adequately perform their duties, including the regular attendance of meetings.

AB 1625 (Klehs) would require every written report submitted to the Legislature by any state agency, department, board, or commission include a signed statement by the head of that agency or chair of the board or commission declaring under penalty of perjury that the contents of the report are accurate to the best of his or her knowledge. This bill only applies to those individuals appointed by the Governor and confirmed by the Senate.

## V. **NEXT HEARING AGENDA**

The tentative agenda is subject to change based on requests for extensions of time to file comments on draft staff analyses, hearing postponements, pre-hearing conferences, Commission staff's legislative and litigation workload.

### A. Reconsiderations Directed by the Courts

1. *Expulsions, CSM 4456, San Diego Unified School District, Claimant*

### B. Reconsideration Directed by the Legislature

1. *Handicapped and Disabled Students (04-RL-4282-10)*
2. *School Accountability Report Cards (04-RL-9721-11)*
3. *Standardized Testing and Reporting (04-RL-9723-01)*

### C. Test Claims/Proposed Statements of Decision - Tentative

1. *Handicapped and Disabled Students II and Pupils With Disabilities, 02-TC-40 and 02-TC-4, Counties of Stanislaus and Los Angeles, Claimants*
2. *Tenure Grievance Arbitration, 98-OTC-18, Sierra Joint Community College District*

D. Proposed Parameters and Guidelines and Amendments

1. *Crime Victims' Domestic Violence Incident Reports, 99-TC-08, County of Los Angeles, Claimant*
2. *Peace Officer Personnel Records; Unfounded Complaints Against Peace Officers; Discovery of Peace Officer Personnel Records; 00-TC-24, 00-TC-25, 02-TC-07, 02-TC-08, Cities of Hayward and San Mateo, Claimants*

E. Parameters and Guidelines Amendment Directed by the Legislature

1. *Animal Adoption, 98-TC-11, Legislature, Requestor*
2. *Various Mandates Amended by AB 2224, AB 2853, AB 2854 and AB 2855*