

ITEM 4
TEST CLAIM
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Government Code Sections 23300-23397

Statutes 1974, Chapter 1392, Sections 2 and 3; Statutes 1975, chapter 1247; Statutes 1976, chapter 1143; Statutes 1977, chapter 1175; Statutes 1978, chapter 465; Statutes 1979, chapter 370; Statutes 1980, chapter 676; Statutes 1981, chapter 1114; Statutes 1984, chapter 226; Statutes 1985, chapter 702; Statutes 1986, chapter 248; Statutes 1994, chapter 923; and Statutes 2002, chapter 784; Statutes 2004, chapter 227

Governor’s Press Release, May 10, 2004

County Formation Cost Recovery

06-TC-02

County of Santa Barbara, Claimant

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Los Angeles Unified School District v. State of California (1991) 229 Cal.App.3d 552.

County of Los Angeles v. State of California (1984) 153 Cal.App.3d 568

Press Release from the Office of the Governor, dated May 10, 2004

Letter from County Administrator to State Controller's Office requesting \$400,000 warrant to be sent to County Administrator's Office, on behalf of County Formation Review Commission, dated August 19, 2004

Letter Requesting Extension of Time from Mission County Formation Review Commission to Governor Schwarzenegger, dated Sept. 27, 2004

Minutes of the Santa Barbara County Board of Supervisors, March 15, 2005

Claimant Request for Extension of Time, dated November 13, 2012

1. TEST CLAIM TITLE

~~County Formation Cost Recovery~~

2. CLAIMANT INFORMATION

Santa Barbara County
 Name of Local Agency or School District

Robert W. Geis, CPA, CPFO
 Claimant Contact

Auditor-Controller
 Title

105 E. Anapamu, Room 303
 Street Address

Santa Barbara, CA 93101
 City, State, Zip

(805) 568-2100
 Telephone Number

(805) 568-2016
 Fax Number

geis@co.santa-barbara.ca.us
 E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

Robilyn Eggertsen, CPA
 Claimant Representative Name

Division Chief
 Title

Auditor-Controller's Office / Santa Barbara County
 Organization

105 E. Anapamu, Room 303
 Street Address

Santa Barbara, CA 93101
 City, State, Zip

(805) 568-2134
 Telephone Number

(805) 568-2016
 Fax Number

reggertsen@co.santa-barbara.ca.us
 E-Mail Address

For CSM Use Only

Filing Date: **RECEIVED**
OCT 13 2006
COMMISSION ON STATE MANDATES

Test Claim #: 06-TC-02

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections, statutes, bill numbers, regulations, and/or executive orders that impose the alleged mandate (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]). When alleging regulations or executive orders, please include the effective date of each one.

- A) California Government Code Sections 23300-23397, effective January 1, 1975.
- B) Section 3 of Stats.1974, c. 1392, p. 3039 (excerpt attached).
- C) Press Release dated May 10, 2004 from Governor Schwarzenegger appointing members of the Mission County Formation Review Commission.

Copies of all statutes and executive orders cited are attached.

Sections 5, 6, and 7 are attached as follows:

- 5. **Written Narrative:** pages 1 to 1.
- 6. **Declarations:** pages 6.1 to 6.1.
- 7. **Documentation:** pages 7 to 35.

Sections 5, 6, and 7 should be answered on separate sheets of plain 8-1/2 x 11 paper. Each sheet should include the test claim name, the claimant, the section number, and heading at the top of each page.

5. WRITTEN NARRATIVE

Under the heading "5. Written Narrative," please identify the specific sections of statutes or executive orders alleged to contain a mandate.

Include a statement that actual and/or estimated costs resulting from the alleged mandate exceeds one thousand dollars (\$1,000), and include all of the following elements for each statute or executive order alleged:

- (A) A detailed description of the new activities and costs that arise from the mandate.
- (B) A detailed description of existing activities and costs that are modified by the mandate.
- (C) The actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate.
- (D) The actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.
- (E) A statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.
- (F) Identification of all of the following funding sources available for this program:
 - (i) Dedicated state funds
 - (ii) Dedicated federal funds
 - (iii) Other nonlocal agency funds
 - (iv) The local agency's general purpose funds
 - (v) Fee authority to offset costs
- (G) Identification of prior mandate determinations made by the Board of Control or the Commission on State Mandates that may be related to the alleged mandate.

6. DECLARATIONS

Under the heading "6. Declarations," support the written narrative with declarations that:

- (A) declare actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate;
- (B) identify all local, state, or federal funds, and fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs;
- (C) describe new activities performed to implement specified provisions of the new statute or executive order alleged to impose a reimbursable state-mandated program (specific references shall be made to chapters, articles, sections, or page numbers alleged to impose a reimbursable state-mandated program); and
- (D) are signed under penalty of perjury, based on the declarant's personal knowledge, information or belief, by persons who are authorized and competent to do so.

7. DOCUMENTATION

Under the heading "7. Documentation," support the written narrative with copies of all of the following:

- (A) the test claim statute that includes the bill number alleged to impose or impact a mandate; and/or
- (B) the executive order, identified by its effective date, alleged to impose or impact a mandate; and
- (C) relevant portions of state constitutional provisions, federal statutes, and executive orders that may impact the alleged mandate; and
- (D) administrative decisions and court decisions cited in the narrative. Published court decisions arising from a state mandate determination by the Board of Control or the Commission are exempt from this requirement.

Section 5. Written Narrative

(A) A detailed description of the new activities and costs that arise from the mandate.

New Activities Description

Santa Barbara County (County) is presenting this test claim due to increased costs that it incurred in connection with the legal, fiscal, and public policy process mandated for potentially forming a new county (Mission) in the State of California through the division of an existing county (Santa Barbara). Although the proposed new county was not formed, the County incurred significant costs in order to comply with the statutes and executive order governing county formation.

The County formation process is complex and lengthy and involves five general phases: Petition, Commission, Review and Determination, Formation Election, Officer Election and Creation, and Transition. The governing law relating to the formation of new counties is Title 3, Division 1, Chapter 3 of the California Government Code, Section 23300 et seq.

In approximately April 2003, proponents for the new county began circulating petitions for signatures. The Santa Barbara County Clerk, Recorder and Assessor found the petition to be sufficient to proceed with the formation of Mission County on December 10, 2003. The County Board of Supervisors transmitted the petition to Governor Schwarzenegger on January 8, 2004.

In May 2004, Governor Schwarzenegger appointed five commissioners to serve on the Mission County Formation Review Commission (Commission) and issued an announcement of his appointments via press release on May 10, 2004. The formation of the Commission and the subsequent press release are an "executive order" pursuant to the definition in Govt. Code Section 17516, which states that an "Executive order" means any order, plan, requirement, rule, or regulation issued by" the Governor.

The Governor's press release states in part that the Commission:

is charged with completing a comprehensive assessment and report for the community regarding the impact of the proposed Santa Barbara County split on the region.....The Commission will explore the fiscal impacts and economic viability of a split, make determinations, provide a forum for public input, propose new supervisorial districts and a new county seat along with other significant findings. The Commission will also determine the conditions for formation that will go on the ballot and apply should the voters choose to create a new County.....Within 180 days of appointment by the Governor, the Commission will transmit its report in writing to the Santa Barbara County Board of Supervisors, or upon the Governor's approval, the Commission may be granted an additional 180 days to submit its final report.

In achieving the above objectives, the Commission is required by statute (§§ 23332(a)-(k)) to make the following eleven "determinations":

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- (a) A fair, just, and equitable distribution, as between each affected county and the proposed county, of the indebtedness of each affected county.
- (b) The fiscal impact of the proposed county creation on each affected county.
- (c) The economic viability of the proposed county.
- (d) The final boundaries of the proposed county, pursuant to Sections 23337, 23337.5, and 23338.
- (e) A procedure for the orderly and timely transition of service functions and responsibilities from the affected county or counties to the proposed county.
- (f) The division of the proposed county into five supervisorial districts. The boundaries of the districts shall be established in a manner which results in a population in each district which is as equal as possible to the population in each of the other districts within the county.
- (g) The division of the proposed county into a convenient and necessary number of judicial, road, and school districts, the territory of which shall be defined. To the extent possible, existing judicial, road, and school districts located within the territory of the proposed county shall be maintained.
- (h) Which county offices shall be filled by election at the subsequent election of officials for an approved county conducted pursuant to Article 4.5 (commencing with Section 23374.1), and which of the offices shall be filled by appointments made by the board of supervisors of the approved county. At a minimum, the county offices to be filled by election shall be those which by law, are required to be filled by election.
- (i) That the boundaries of the proposed county do not create a territory completely surrounded by any affected county.
- (j) The location of the county seat of the proposed county.
- (k) The appropriations limit for the proposed county in accordance with Section 4 of Article XIII B of the California Constitution.

The Commission commenced meetings on May 17, 2004. At the Commission meeting on September 27, 2004, the Commission voted unanimously to extend their term for an additional 120 days upon approval of the Governor. The Commission sent their request to Governor Schwarzenegger who subsequently approved the request to extend their term until February 10, 2005.

The Commission and County staff performed the substantial work required to make the eleven determinations described above. To document the Commission's findings, the Commission created the Final Report of the Mission County Formation Review Commission, dated March 28, 2005, and presented it to the County Board of Supervisors.

The County performed the tasks required by Govt. Code Sections 23350-23374 to prepare for the election to determine whether the new Mission County should be formed.

At the June 2006 election, the ballot measure to create Mission County was defeated.

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County Costs

The costs incurred by the County to comply with County Formation Law exceed \$1,000. In fact, the total costs of the County formation process are calculated at \$996,007 (see Section 7 for a Cost Accumulation Report). The State mandated that the County incur these costs, both by statute and by executive order. Because the Govt. Code provides that the expenses of the Commission and the election shall be borne by the new county if it is created, the County did not know that it would be responsible for these costs until after the June 2006 election.

The County's costs incurred can be grouped into four main categories: 1) the staffing and administrative costs of the Commission, 2) the staffing and administrative costs to complete the Fiscal and Indebtedness Study, 3) the indirect costs required to support the overall process, and 4) the costs associated with the June 2006 election.

Category 1 Costs – The staffing costs for the Commission include legal counsel fees, salaries and benefits of the Commission Secretary, salaries and benefits of staff to the Commission Secretary, and salaries and benefits of staff providing technical and agenda noticing support for the Commission meetings. Staffing costs for the Commission totaled \$340,982. Other administrative costs totaled \$161,782 and included Advertising design services, Mapping services, Publications & legal notices, Commissioner stipends, Government Access TV, Legal description & district boundary services, and various other costs. The Commission held 29 Brown Act meetings from May 17, 2004 to March 25, 2005.

Category 2 Costs – The Fiscal and Indebtedness studies were the primary components of the Final Report of the Commission. These studies were used by the Commission and the electorate as a basis for determining the fiscal viability of the proposed new county and the fiscal impact to the remaining county. Both studies required countywide collaboration of all departments to understand and calculate service level delivery by geographic location matched to associated revenues and costs for those services. These studies required several hours of County staff time to complete, with costs totaling \$328,538.

Category 3 Costs – Indirect costs are calculated at 10% of salaries totaling \$43,606. Because much of the work was performed by department heads, who are a large component of overhead as it is calculated on the indirect cost rate proposals (ICRPs), and because not all departments calculate an ICRP rate, and of those that do, the rates are all different, it was decided to use a minimal overhead rate of 10% on straight salaries (no benefits). This is an option on SB90 claims. The straight salary value was derived by backing out a composite 25% for benefits.

Category 4 Costs – June 2006 Election costs totaled \$121,099. Election costs were comprised of Voter Costs (\$26,109), Sample Ballot Costs (\$5,828), Direct Identified Costs (\$21,402), Measure Costs (\$49,845), Division Indirect Charges (\$17,915). The cost per registered voter was \$0.66.

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(B) A detailed description of the existing activities and costs that are modified from the mandate.

Please see the discussion in Sections 5(A) and 5(G). If the Commission on State Mandates does not view the Commission, the study, and the election as a “new program”, then they are a “higher level of service of an existing program.”

(C) The actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate.

The County incurred total increased costs of \$996,007 as a result of the mandated county formation process. While the process spanned four fiscal years, (FY 2002-03, FY 2003-04, FY 2004-05, and FY 2005-06), the County did not know that it would be responsible for the costs until after the June 2006 election. According to Cal. Govt. Code § 23343, “If the proposed county is created, all expenses of the commission, together with the reasonable costs of stationery, postage, and incidental expenses shall be borne by the new county, or if the proposed county is not created, by each affected county, in equal shares.” Furthermore, Section 23374 provides that “All costs of an election shall be paid by the principal county, if the creation of the proposed county is defeated, or by the proposed county if it is created pursuant to this chapter.” Accordingly, the costs were not “incurred” by the County for purposes of Govt. Code Section 17551(c) until after the June 2006 election, when the proposal was defeated by the voters.

(D) The actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.

In June 2007, the County may incur costs estimated at \$24,860 as interest due on a \$400,000 loan provided by the State Controller to the Commission. This loan was deposited in the County Treasury on September 8, 2004. The loan documentation provides that the loan “shall be repaid with interest within one year from the date upon which the issue of county formation is voted on by the people.” Because the election was in June 2006, the loan and interest will be due in June 2007. Government Code § 23344 provides that the loan shall be at an interest rate equal to that of the Pooled Money Investment Fund at the time the loan was made. The State’s Pooled Money Investment rate for FY 2004/2005 was 2.26% per year. (This estimate of \$24,860 is based on $\$400,000 \times .0226/12 \times 33$ months).

(E) A statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.

As stated above, in June 2007, the County may incur costs estimated at \$24,860 as interest due on a \$400,000 loan provided by the State Controller to the Commission. This loan was deposited in the County Treasury on September 8, 2004. The loan documentation provides that the loan “shall be repaid with interest within one year from the date upon which the issue of county formation is voted on by the people.” Because

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the election was in June 2006, the loan and interest will be due in June 2007. Government Code § 23344 provides that the loan shall be at an interest rate equal to that of the Pooled Money Investment Fund at the time the loan was made. The State's Pooled Money Investment rate for FY 2004/2005 was 2.26% per year. (This estimate of \$24,860 is based on $\$400,000 \times .0226/12 \times 33$ months).

(F) Identification of all of the following funding sources available for this program:

(i) Dedicated state funds, (ii) Dedicated federal funds, (iii) Other nonlocal agency funds, (iv) The local agency's general purpose funds, (v) Fee authority to offset costs

The costs for the county formation process were absorbed by the County's general purpose funds. Additionally, the State of California provided a loan (to be repaid by the County) of \$400,000 to the Formation Commission pursuant to Article 3 (commencing with Section 23331) of Chapter 3 of Division 1 of Title 3 of the Government Code.

(G) Identification of prior mandate determinations made by the Board of Control or the Commission on State Mandates that may be related to the alleged mandate.

Article XIII B, Section 6 of the California Constitution provides that 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.

The courts have described what constitutes a "program" in *County of Los Angeles v. State of California* (1987) 43 Cal. 3d 46 and subsequent cases. In *County of Los Angeles*, the Court defined a "program" as one that 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." The county formation process was a "program" as described in *County of Los Angeles*. The County provided governmental services to the public by giving it the necessary information to determine whether forming a new county was desirable or economically feasible. These were unique requirements that to implement a state policy were imposed on the County, and that other entities in the state and residents were not required to perform.

The Legislature clearly stated when it enacted the County Formation law that the State must reimburse the counties for the costs of complying with the act. Section 3 of Stats. 1974, c. 1392, p. 3039 provides:

There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code because there are no duties, obligations, or responsibilities imposed on local entities in 1974-75 by this act. However, there are state-mandated local costs in this act in 1975 and subsequent years that require reimbursement under Section 2231 of the Revenue and Taxation Code which can be handled in the regular budget process. (Emphasis added).

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As you know, Section 2231 of the Revenue and Taxation Code was repealed and is now covered by Govt. Code §17561, which provides for reimbursement of local agencies.

Also, the County considers the formation process to be a “new program” because the 2004 executive order by Governor Schwarzenegger triggered the formation of the Commission and related costs.

If the Commission on State Mandates does not view the duties performed by the County and the Commission in connection with the proposed county split as a new program, then they are a higher level of service of an existing program. Again, the Commission and the County were required to perform these substantial duties when mandated by the Governor. These duties required a higher level of service to the public than the County had previously been required to perform, and they resulted in substantial increased costs to the County of \$996,007.

Section 17556(f) of the Government Code provides that the commission shall not find costs mandated by the state if “the statute or executive order imposes duties that are necessary to implement, reasonably within the scope of, or expressly included in a ballot measure approved by the voters in a statewide or local election. This subdivision applies regardless of whether the statute or executive order was enacted or adopted before or after the date on which the ballot measure was approved by the voters.” Section 17556(f) does not apply to this case. There was no ballot measure approved by the voters.

The State should reimburse the County for its costs in undergoing the County formation process because the Legislature clearly stated when it enacted the County Formation law that there are state-mandated local costs that require reimbursement. Additionally, the State should approve the subvention of funds for public policy reasons. The State required the County to form a Commission, make determinations, and hold an election to support the public’s participation in determining the form of county government that would best serve them. The county formation costs are unusual costs imposed on the County by the State to provide services to the public, in an amount that is substantial for the County to absorb.

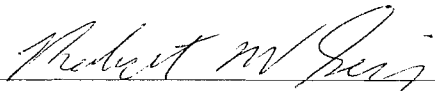
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Section 6. Declarations

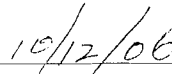
I declare that:

- (A) actual increased costs of \$996,007 have been incurred by Santa Barbara County to implement the subject mandate per county formation law (Title 3, Division 1, Chapter 3 of the California Government Code, §23300, et seq.) and the applicable executive orders;
- (B) all costs incurred to implement the subject mandate were absorbed by Santa Barbara County general purpose funds. Additionally, the State provided a loan (to be repaid by Santa Barbara County) of \$400,000 to the Mission County Formation Review Commission pursuant to Article 3 (commencing with Section 23331) of Chapter 3 of Division 1 of Title 3 of the Government Code;
- (C) the new activities required to be performed were to implement governing legislation (Title 3, Division 1, Chapter 3 of the California Government Code, §23300, et seq.) and executive orders, and are detailed in "Section 5 – Written Narrative" of this test claim. These activities included, but were not limited to:
 - i. staffing a 5-person Commission for 300 days charged with making 11 determinations pursuant to Government Code §§ 23332(a)-(k);
 - ii. preparing a Final Report on the results of the determinations;
 - iii. preparing the Fiscal and Indebtedness studies, which were primary components of the Commission's Final Report; and
 - iv. completing the steps necessary to include the county formation proposal on the June 2006 election.

I, Robert W. Geis, CPA, CPFO, Auditor-Controller for Santa Barbara County, hereby sign these declarations under penalty of perjury, based on my personal knowledge, information or belief.



Robert W. Geis, CPA, CPFO
Auditor-Controller
Santa Barbara County



Date

County Formation Cost Recovery Test Claim
Santa Barbara County
Section Number 7

Documentation

Chapter 3 – Creation of New Counties

Article 1 – General Provisions

GOVERNMENT CODE

SECTION 23300-23310

23300. New counties may be formed and created from portions of one or more existing counties solely pursuant to the provisions of this chapter.

23301. As used in this chapter:

(a) "Affected county" means each county from which territory is proposed to be transferred to create a new county.

(b) "Approved county" means the territory to be included in a new county after the registered voters in the affected county or counties have approved the creation of such a new county at a primary election, pursuant to Article 4 (commencing with Section 23350), but before an election is held for purposes of determining the location of the county seat and the selection of county officers for such new county, pursuant to Article 4.5 (commencing with Section 23374.1).

(c) "Clerk" means the clerk of a county board of supervisors. Where the office of clerk of the board is separate from the office of registrar of voters, "clerk" means the registrar of voters with respect to all duties pertaining to the conduct of elections and the certification of petitions and clerk of the board with respect to all other duties specified in this chapter.

(d) "Commission" means the County Formation Review Commission.

(e) "Indebtedness" means the net obligations of a county arising from contract or through the operation of law, other than short-term operational expenses, but including and not limited to obligations arising under general obligation bonds, leases, joint powers agreements, and similar obligations or contracts entered into by the county prior to the date on which a petition is filed. Net obligation shall be deemed to mean the gross obligation outstanding after deduction of offsetting revenues, other than tax revenues.

(f) "Principal county" means the county from which it is proposed that territory with the greatest proportion of assessed value, as shown on the last equalized assessment roll, relative to the total amount of taxable property within the boundaries of a proposed county, is to be transferred to create, in part, that proposed county.

(g) "Contiguous" means territory which adjoins the boundary line of the proposed county.

23306. A proposed county shall not be created if:

(a) The population of any affected county shall be reduced to less than 20,000.

(b) The population of the proposed county shall be less than 10,000.

(c) The area of any affected county will be reduced to less than 1,200 square miles.

The most recent federal decennial census shall be used for purposes of determining population.

23306.5. Notwithstanding the provisions of subdivision (c) of Section 23306, a county may be created from the territory of Nevada County provided that the territory which is proposed to be transferred from such county does not exceed 25 percent of the total territory of such county.

23309. No boundary line of a proposed county shall pass through or divide the territory of any incorporated city.

23310. Proceedings under this chapter shall not be subject to the provisions of Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5, relating to local agency formation commissions.

Article 2 – Initiation of Proceedings

GOVERNMENT CODE SECTION 23320-23330.5

23320. Proceedings for the creation of a proposed county shall be initiated by petition. Any such petition shall contain the following:

- (a) An accurate description of the boundaries of the proposed county.
- (b) A statement that such boundaries do not pass through or divide the territory of any incorporated city other than a city with a population greater than that of the proposed new county.
- (c) A statement of the population of the proposed county, as near as may be determined.
- (d) A statement of the population which will remain in the affected county or counties if the territory of the proposed county is detached therefrom, as near as may be determined.
- (e) A statement of the area in square miles which will remain in the affected county or counties if the territory of the proposed county is detached therefrom.
- (f) The name of the proposed county.
- (g) The name of the affected county or counties.
- (h) A request that proceedings for creation of the proposed county be initiated.

23321. (a) Where the population of the proposed county is less than 5 percent of the total population of the affected counties, a petition initiating proceedings shall be signed by qualified electors residing within the territory of the proposed county as described in the petition equaling in number not less than 25 percent of the number of electors of the territory of the proposed county registered within the territory on the date of the last preceding gubernatorial election and by not less than 10 percent of the electors registered within the balance of the affected counties on the date of the last

preceding gubernatorial election.

(b) Where the population of the proposed county is 5 percent or more of the total population of the affected counties, a petition initiating proceedings shall be signed by qualified electors residing within the territory of the proposed county as described in the petition equaling in number not less than 25 percent of the number of electors of the territory of the proposed county registered within the territory on the date of the last preceding gubernatorial election.

Each elector, after signing a petition, shall add the name of the county in which the elector resides, the elector's place of residence, giving a street and number or a designation sufficient to enable the place of residence to be readily ascertained, and the date the elector signed the petition.

23322. A petition may consist of a single instrument or several counterparts.

23323. A petition may designate not more than three persons as chief petitioners setting forth their names and mailing addresses.

23324. (a) Before circulating any petition pursuant to this article, the proponents shall file with the clerk as provided in Section 23325, a notice of intention to do so. The notice shall be accompanied by a printed statement not exceeding 500 words in length, stating the objectives to be achieved by creating the new county. The notice shall also specify the date of a public hearing, which shall be set not less than 30 days nor more than 60 days after filing of the notice, to be held in an appropriate place, as determined by the clerk of the county from which the new county is to be formed or the clerk of the principal county, as the case may be, for purposes of discussing the placement of the boundaries of the proposed county.

(b) The notice of intention required pursuant to subdivision (a) shall be published by the clerk at least once in a newspaper of general circulation in each affected county. It shall also be posted by the clerk in such appropriate public places as determined by the clerk.

(c) The clerk shall also act as an impartial moderator of the public hearing required by this section.

(d) No petition shall be accepted for filing pursuant to this article unless the signatures thereon shall have been secured within six months of the date on which the first signature on the petition was affixed and such petition is submitted for filing as provided in Section 23325 within 60 days after the last signature is affixed. If the time between the date on which the last signature is affixed and the date on which the petition is submitted for filing exceeds 60 days, or, if any signature on the petition has been secured more than six months from the date on which the first signature was affixed, the petition shall be considered insufficient and shall be filed by the clerk as a public record without prejudice to the filing of a new petition.

(e) No petition shall be circulated pursuant to this article until 60 days after the filing of the notice of intention pursuant to this section.

23325. All petitions shall be filed with (a) the clerk of the county from which the new county is to be formed if it is to be formed from but one county, or (b) the clerk of the principal county if it is to be formed from portions of two or more counties. All counterparts of a petition shall be filed at the same time.

23326. Within 30 days after the date of filing of a petition, the clerk of the principal county shall examine the petition and determine whether it is signed by the requisite number of signers. When the clerk has completed his examination, he shall certify the results of his examination.

23327. If the clerk certifies a petition to be insufficient he shall give mailed notice thereof to each of the chief petitioners, if any, and file the petition as a public record without prejudice to the filing of a new petition.

23328. If the clerk certifies a petition to be sufficient, he shall immediately transmit a copy of his certification to the board of supervisors of each affected county and to each of the chief petitioners, if any.

23329. In certifying the sufficiency of a petition, the clerk shall compare the name of each person signing the petition with the registration records of the county in which the person signing the petition resides.

23330. Upon certification of a petition, the board of the principal county shall forthwith transmit a copy of the petition certification to the Governor.

23330.5. No person shall file a petition pursuant to this article within five years of the date of certification, pursuant to Section 23328, of a prior petition which included in its description of boundaries for the proposed county any territory which is the subject of the new petition. The provisions of this section shall not apply to any new petition where the population of any affected county exceeds 5,000,000; however, the provisions of Section 23373 shall be applicable to such a new petition.

Article 3 – County Formation Review Commission

GOVERNMENT CODE

SECTION 23331-23344

23331. Upon receipt of notice pursuant to Section 23330, the Governor shall create a County Formation Review Commission to review the proposed county creation, and appoint five persons to be members

of the commission. Of the five persons appointed to the commission, two shall reside within the territory of the proposed county, two shall reside within the territory remaining in the affected county or counties should the proposed county be created; and one shall not be a resident of either the territory of the proposed county or the affected county or counties. The Governor shall appoint the members of the commission within 120 days following his receipt of the petition certification pursuant to Section 23330.

23332. The commission shall determine all of the following:

(a) A fair, just, and equitable distribution, as between each affected county and the proposed county, of the indebtedness of each affected county.

(b) The fiscal impact of the proposed county creation on each affected county.

(c) The economic viability of the proposed county.

(d) The final boundaries of the proposed county, pursuant to Sections 23337, 23337.5, and 23338.

(e) A procedure for the orderly and timely transition of service functions and responsibilities from the affected county or counties to the proposed county.

(f) The division of the proposed county into five supervisorial districts. The boundaries of the districts shall be established in a manner which results in a population in each district which is as equal as possible to the population in each of the other districts within the county.

(g) The division of the proposed county into a convenient and necessary number of judicial, road, and school districts, the territory of which shall be defined. To the extent possible, existing judicial, road, and school districts located within the territory of the proposed county shall be maintained.

(h) Which county offices shall be filled by election at the subsequent election of officials for an approved county conducted pursuant to Article 4.5 (commencing with Section 23374.1), and which of the offices shall be filled by appointments made by the board of supervisors of the approved county. At a minimum, the county offices to be filled by election shall be those which by law, are required to be filled by election.

(i) That the boundaries of the proposed county do not create a territory completely surrounded by any affected county.

(j) The location of the county seat of the proposed county.

(k) The appropriations limit for the proposed county in accordance with Section 4 of Article XIII B of the California Constitution.

The commission shall not be required to make any other determinations.

23333. In determining the fiscal impact of the creation of the proposed county on the affected county or counties and the economic viability of the proposed county, the commission shall consider:

(a) The cost of providing services in the proposed county and in each affected county.

(b) Projected revenues available to the proposed county and each affected county.

23334. Except as otherwise provided in this article, the commission may, in determining a fair, just and equitable distribution of the

indebtedness of each affected county, as between each affected county and the proposed county, provide for one or more of the following:

(a) The payment of a fixed or determinable amount of money by the proposed county either as a lump sum or in installments, for the acquisition, transfer, use or right of use of any part of the property, real or personal, owned by an affected county at the time a petition was filed pursuant to Section 23325.

(b) The levying or fixing and the collection in the proposed county of (1) special, extraordinary or additional taxes or assessments, or (2) special, extraordinary or additional service charges, rentals or rates, or (3) both; or the issuance and sale of bonds for purposes of providing for any payment required pursuant to subdivision (a) of this section.

(c) The imposition, exemption, transfer, division or apportionment, as between any affected county and the proposed county, of liability for payment of all or any part of principal, interest or any other amounts which shall become due on account of all or any part of any bonds, including revenue bonds, of an affected county which are outstanding or authorized, at the time a petition is filed pursuant to Section 23325, or other contracts or obligations of an affected county; and the levying or fixing and the collection in the proposed county of any (1) taxes or assessments, or (2) service charges, rentals or rates, or, (3) both, as may be necessary to provide for such payment.

In making its determinations, the commission shall ascertain the current indebtedness of each affected county. It shall also ascertain (a) the total assessed value of all property located in each affected county; and (b) the assessed value of the territory of the proposed county. The assessed values used by the commission shall be those shown on the last equalized assessment roll of each affected county.

The commission shall also identify and determine the location and value of all real and personal property owned by each county and located within the boundaries of the proposed county. Any real and personal property identified by the commission pursuant to this section shall become property of the proposed county, should it be established as provided in this chapter, upon settlement of the indebtedness in the manner specified by the commission.

(d) For purposes of this section, the unfunded liability of a county retirement system shall be deemed an indebtedness.

23335. Within 10 days after notice and acceptance of their appointment, the members of the commission shall meet at the principal administrative office of the principal county and organize by electing from their number a chairman. They shall also appoint a secretary who shall not be a member of the commission. Thereafter the members of the commission may meet at such times and places as they select.

A majority of the commissioners shall constitute a quorum for purposes of transacting business and making the "determinations" required pursuant to this article.

23336. The commission shall hear any protests and objections to and any support for the creation of the proposed county. Notices of the hearing shall be given pursuant to Section 6061 in a newspaper of general circulation published in each affected county. In addition, the board shall cause mailed notice of the hearing to be given to

each of the chief petitioners, if any, at least two weeks prior to the date of hearing.

23337. On the date and at the time fixed for hearing, the commission shall hear all protests and objections to and all support for the creation of the proposed county, and may grant or deny any requests for exclusion from, or inclusion in, the proposed county filed pursuant to Sections 23337.5 and 23338. The hearing may be continued from time to time during the course of the commission's determinations.

23337.5. At any time prior to the final hearing on the creation of the new county, any owner of real property contiguous to the boundary line of the proposed county may make a written request, filed with the commission, for exclusion of such person's property from, or inclusion of such person's property in, the proposed county. Such a request shall contain sufficient information to identify the property for which the exclusion or inclusion is sought.

23338. Written requests for exclusion from, or inclusion in, the proposed county of any territory contiguous to the boundary of the proposed county may be filed with the commission by any registered elector of the territory. Such a request shall contain sufficient information to identify the territory for which the exclusion or inclusion is sought.

23339. By citation or subpoena signed by its chairman and secretary, the commission may compel the attendance of such persons and the production of such books, papers and other documents before it as it deems necessary for the performance of its duties.

23340. All officers and employees of any state agency, board, or commission and any affected county shall cooperate with, perform any functions required by, and produce any books, records or other documents requested by the commission and necessary for the performance of the commission's functions.

23340.5. Anything in a county or city and county charter to the contrary notwithstanding, the commission, in lieu of using the county counsel of the affected county, may appoint a counsel and fix and order paid such counsel's compensation to provide legal assistance to the commission in the performance of any functions requested by the commission and necessary for the performance of its duties.

23341. The commission shall adopt a resolution making its determination and transmit its report in writing to the board of supervisors of each affected county, within 180 days of the date of notice and acceptance by the last appointed member and shall be signed and attested to by all the members of the commission. The commission may be granted up to 180 additional days to comply with the provisions of this section, upon a majority vote of the commission and the approval of the Governor.

23342. The determinations of the commission shall become the terms and conditions for creation of the proposed county. Further, the commission may impose additional terms and conditions as it deems necessary to ensure an efficient and effective transition. All terms and conditions shall be final and binding in each affected county and the proposed county should the proposed county be legally established as provided in this chapter.

23343. Members of the commission shall receive as compensation a per diem not to exceed fifty dollars (\$50) a day for every day they are actually employed together with their actual expenses incurred in performing their duties. If the proposed county is created, all expenses of the commission, together with the reasonable costs of stationery, postage, and incidental expenses shall be borne by the new county, or, if the proposed county is not created, by each affected county, in equal shares.

23344. (a) The commission may borrow such moneys as may be necessary to meet its expenses until the costs of the commission have been determined pursuant to the provisions of Section 23343.

(b) As an alternative to the procedure authorized by subdivision (a), the commission may request the State Controller, and the State Controller shall loan from the County Formation Revolving Fund such moneys as the commission shall determine necessary to meet its expenses until the costs have been determined pursuant to the provisions of Section 23343. Such loan shall be at an interest rate equal to that of the Pooled Money Investment Fund at the time the loan is made.

(c) Loans made pursuant to this section shall not exceed a total of one hundred thousand dollars (\$100,000) for each commission, and shall be repaid within one year of the date on which the issue of county formation was voted on by the people.

(d) The sum of one hundred thousand dollars (\$100,000) shall be transferred from the General Fund to the County Formation Revolving Fund, which is hereby created, and is hereby appropriated, without regard to fiscal years, for purposes of this section. An additional sum of three hundred thousand dollars (\$300,000) shall be transferred from the General Fund to the County Formation Revolving Fund on the effective date of the act amending this section during the 1977-78 Regular Session, and is hereby appropriated without regard to fiscal years for purposes of this section. The additional sum thus appropriated may be expended for any obligation incurred by any commission at any time. Any repayments on loans, including interest, received by the State Controller shall be deposited in the County Formation Revolving Fund.

Article 4 – Election on Creation of the Proposed County

GOVERNMENT CODE

SECTION 23350-23374

23350. Upon receiving the commission's determinations, the board of

supervisors of each affected county shall order and give proclamation and notice of an election to be held in each affected county on the same specified day which shall be the next statewide primary or general election date not less than 74 days after receipt of the commission's determinations, for the purpose of determining whether the proposed county shall be created. However, the election may be consolidated with the next statewide primary or general election.

23351. The proclamation and notice of election provided for pursuant to this article shall be published at least once a week for three weeks commencing not less than 70 days prior to the date of the election in a newspaper of general circulation in each affected county.

23352. If the election for the purpose of determining whether the proposed county shall be created results in the county being created, an election for purposes of determining the location of the county seat and the selection of county officers shall be held in the approved county at the next statewide primary or general election date, as provided in Article 4.5 (commencing with Section 23374. 1).

23353. The notice of election shall:

- (a) State distinctly the propositions to be submitted.
- (b) State the names of the affected county or counties.
- (c) State the date of the election.
- (d) Designate the election precincts and places at which the polls will be open as established by the board of each affected county.
- (e) Instruct the voters as to the methods and procedures of voting in the election.
- (f) Request the submission of written arguments for and written arguments against the creation of the proposed county.
- (g) Include a statement that the board of supervisors of an affected county or any member or members of such board authorized by the board, any city council of a city within an affected county or any member or members of such council authorized by the council, any qualified elector entitled to vote at the election, any bona fide association of citizens, or any combination of qualified electors and associations may submit and file written arguments with the elections official of the principal county for printing and distribution in the ballot pamphlet, in accordance with Section 9163 of the Elections Code.
- (h) Include a statement that only one argument for and one argument against shall be selected and printed in the ballot.
- (i) Include a statement that arguments shall not exceed 500 words in length and shall be accompanied by at least one and not more than three signatures.
- (j) Include a description of the boundaries of the proposed county.

23354. All qualified electors of each affected county who have been voters of the county 29 days prior to the date of the election are entitled to vote at the election. Registration and transfers of registration shall be made and shall close in the manner and at the times provided by law for registration and transfers of registration

for a primary election in the state.

23355. Ballots at the election shall contain the statement:

"Shall the new County of (insert the name of the proposed county) be formed?"

Opposite the question, and to its right, the words "Yes" and "No" shall be printed on separate lines, with voting squares. If a voter stamps a cross (+) in the voting square after the printed word "Yes," his or her vote shall be counted in favor of the adoption. If he or she stamps a cross (+) in the voting square after the printed word "No," his or her vote shall be counted against the adoption.

23357. The election shall be governed and controlled by the general election laws of the state so far as applicable, except as otherwise provided in this article.

23358. If more than one argument for or more than one argument against creation of the proposed county is filed with the clerk of the principal county the clerk shall select one of the arguments for and one of the arguments against creation of the proposed county for printing and distribution to the electors.

In selecting arguments, the clerk shall give preference and priority in the order specified to arguments submitted by the following:

(a) The board of supervisors of an affected county, or any member or members of the board authorized by it.

(b) The city council of any city located within an affected county, or any member or members of the council authorized by it.

(c) Qualified electors or bona fide associations of citizens, or combinations of electors and associations.

23359. The elections official shall cause a ballot pamphlet concerning the proposed county formation to be printed and mailed to each qualified elector of each affected county.

The ballot pamphlet shall contain the following in the order prescribed:

(a) An impartial analysis of the creation of the proposed county prepared by the commission.

(b) A summary of the commission's report on fiscal impact and financial viability.

(c) A summary of the commission's terms and conditions.

(d) The argument for creation of the proposed county.

(e) The argument against creation of the proposed county.

The elections official shall mail a ballot pamphlet to each qualified elector at least 10 days prior to the date of the election.

The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

23360. The clerk shall also prepare and mail to the qualified electors of each affected county a sample ballot. The sample ballot shall be mailed with and at the same time as the ballot pamphlet.

23361. The law relating to the preparation, printing, and

distribution of sample ballots and primary elections does not apply to any election held pursuant to this article.

23362. Except as otherwise provided by this article, the election shall be conducted as other elections in the principal county.

23363. The board of each affected county shall appoint as election officers three representatives who reside in the affected county represented and in the boundaries of the proposed new county, and each board shall pay its representatives.

23364. If necessary for the purposes of the election, the board of each affected county shall change the boundaries of the election precincts in its county to make them conform to the boundaries of the proposed county. The boundary lines of any precinct shall not extend beyond the boundary lines of the existing county in which it is located.

23365. The elections official of the principal county shall furnish to the officers of each precinct the supplies and equipment as provided for in Sections 14105 and 14110 of the Elections Code. The elections official of each other affected county from which territory is proposed to be taken for the proposed county shall provide to the officers of each precinct the indexes of registration for the precincts of the proposed county within their respective county. In addition, the elections official may, with the approval of the board of supervisors, furnish the original books of affidavits of registration or other material necessary to verify signatures.

23367. Immediately on the closing of the polls the election officers shall, in connection with the affected county they represent:

- (a) Canvass the ballots.
- (b) Make up and certify the tally sheets of the ballots cast.
- (c) Seal up the ballots.
- (d) Attach a statement, signed by each election officer, to the tally sheets showing the number of votes cast and the number of votes cast for and against each of the propositions submitted to the electors.
- (e) Seal up the tally sheets.

23368. The clerk of each affected county shall, upon the completion of a canvass of the vote, in the county the clerk represents, forward to the board of that county a certified copy of the results of the canvass, giving the number of votes cast in that affected county for the proposition submitted to the electors and the number of votes cast in that affected county against the proposition submitted to the electors.

23369. If upon a canvass of the total votes cast in all the affected counties at the election, it appears that within each affected county more than 50 percent of the total number of all votes

cast in the affected county, and more than 50 percent of the total number of all votes cast in the proposed county, are in favor of creation of the proposed county, the board of supervisors of the principal county, by resolution, shall:

(a) Declare the results of the election and that the proposed county shall not be deemed created until the election of its officers at the next statewide primary or general election, as provided in Article 4.5 (commencing with Section 23374.1). At the time that the officers of the county are elected and qualified, the proposed county is deemed created, and it shall be responsible for and discharge all the duties, powers, and functions of a county as required by law, except as provided in this chapter.

(b) State the effective date or dates upon which the various service responsibilities and functions for the proposed county shall be transferred from each affected county to the proposed county. The date or dates shall be established in accordance with the terms and conditions established by the commission and in a manner to provide for the orderly and expeditious transition of responsibilities and functions, but shall in no event exceed two fiscal years from the date on which the proposed county shall be deemed legally created as provided in subdivision (a).

23372. The board of supervisors of the principal county shall cause a copy of the resolution adopted pursuant to Section 23369 to be filed with the State Board of Equalization, the Secretary of State, and the board of supervisors of each affected county.

23373. If upon a canvass of the votes cast at the election, it appears that the votes cast for creation of the proposed county are 50 percent or less, of the total number of votes cast within each and every affected county, or 50 percent or less of the total number of votes cast within the proposed county, the board of supervisors of the principal county shall, by resolution, declare creation of the proposed county defeated and no further proceedings for creation of a county with substantially the same territory as the proposed county shall be initiated for a period of one year after the date of the election, except as otherwise provided in Section 23330.5.

23374. All costs of an election shall be paid by the principal county, if the creation of the proposed county is defeated, or by the proposed county if it is created pursuant to this chapter.

Article 4.5 – Election to Select County Officers and Location of County Seat in the Approved County

GOVERNMENT CODE

SECTION 23374.1-23374.19

23374.1. If the election for the purpose of determining whether the proposed county shall be created results in the county's creation being approved, an election for purposes of determining the location

of the county seat and the selection of county officers shall be held in the approved county at the next statewide primary or general election date. The board of supervisors of each affected county shall order and give proclamation and notice of the election. The election may be consolidated with the statewide primary or general election.

23374.2. The proclamation and notice of election provided for pursuant to this article shall be published at least once a week for three weeks commencing not less than 70 days prior to the date of the election in a newspaper of general circulation in the approved county.

23374.3. The content of the notice of election for the election to select the county officers for the approved county and the location of the county seat in the approved county shall be determined by the board of supervisors of the principal county. The notice of election shall include a statement that any city council in a city within the approved county or any member or members of the council authorized by the council, any qualified elector entitled to vote at the election, any bona fide association of citizens, or any combination of qualified electors and associations may submit and file written arguments with the elections official of the principal county for printing and distribution in the ballot pamphlet, in accordance with Section 9163 of the Elections Code.

23374.4. All registered voters residing in the boundaries of the approved county, who have been registered voters of the approved county 29 days prior to the election provided for in this article are entitled to vote in such election. Registration and transfers of registration shall be made and shall close in the manner and at the times provided by law for registration and transfers of registration for a general election in the state.

23374.5. Ballots at the election provided for in this article shall contain the statement:

"For _____ as county seat

(name of county seat as determined by commission)"

Opposite the statement, and to its right, the words "Yes" and "No" shall be printed on separate lines, with voting squares. If a voter stamps a cross (+) in the voting square after the printed word "Yes," his or her vote shall be counted in favor of the adoption. If he or she stamps a cross (+) in the voting square after the printed word "No," his or her vote shall be counted against its adoption.

23374.6. Candidates for elective offices of the approved county shall file nomination papers at the same time and in the same manner as candidates for the governing body of general law counties.

23374.7. The election shall be governed and controlled by the

general election laws of the state so far as applicable, except as otherwise provided in this article.

23374.8. The clerk of the principal county shall cause a ballot pamphlet concerning the election of county officers for the approved county and the location of the county seat in the approved county to be printed and mailed to each registered voter of the approved county.

The ballot pamphlet shall contain the following:

(a) The names of the persons to be voted for to fill the county offices designated by the commission.

(b) The argument for the location of the county seat in the approved county.

(c) The argument against the location of the county seat in the approved county.

23374.9. The clerk shall also prepare and mail to the registered voters of the approved county a sample ballot. The sample ballot shall be mailed with and at the same time as the ballot pamphlet.

23374.10. The law relating to the preparation, printing, and distribution of sample ballots and general elections does not apply to any election held pursuant to this article.

23374.11. Except as otherwise provided by this article, the election shall be conducted as other elections in the principal county.

23374.12. The election officers appointed pursuant to Section 23363 for purposes of the election held to determine whether the proposed county shall be created shall also act in such capacity for purposes of the election held to select county officers for the approved county and the location of the county seat in the approved county.

23374.13. The elections official of the principal county shall furnish to the officers of each precinct in the approved county the supplies and equipment as provided for in Sections 14105 and 14110 of the Elections Code. The elections official of each other affected county shall provide to the officers of each precinct the indexes of registration for the precincts of the approved county within their respective county. In addition, the elections official may, with the approval of the board of supervisors, furnish the original books of affidavits of registration or other material necessary to verify signatures.

23374.14. Immediately on the closing of the polls, the election officers shall, in connection with the affected county they represent:

(a) Canvass the ballots.

(b) Make up and certify the tally sheets of the ballots cast.

(c) Seal up the ballots.

(d) Attach a statement, signed by each election officer, to the

tally sheets showing the number of votes cast, the number of votes cast for each candidate and the numbers of votes cast for and against the proposed location of the county seat in the approved county.

23374.15. The clerk of the principal county shall, upon the completion of a canvass of the vote, forward to the board of the principal county a certified copy of the results of the canvass, giving the number of votes cast for each candidate and the number of votes cast for and against the proposed location of the county seat in the approved county.

23374.16. Upon receiving a certified copy of the results of the canvass, the board of supervisors of the principal county, by resolution, shall:

(a) Declare the results of the election on the county seat. If more than 50 percent of the total number of all votes cast within the approved new county are in favor of the county seat, such location shall be the county seat until removed in the manner provided by law.

Where the proposed county seat is not affirmed by the voters, the board of supervisors of the approved county shall designate a temporary county seat until removed in the manner provided by law.

(b) Name the persons receiving the highest number of votes cast for the several offices to be filled at the general election and declare those persons duly elected to the respective offices and that they shall enter upon the duties of their offices upon election and qualification, and prescribe the amount of the bonds such elected officers shall provide upon taking office.

23374.17. The clerk of the principal county shall immediately make out and deliver to each person elected a certificate of election, authenticated by his signature and the seal of the board of the principal county.

23374.18. All the officers elected at the election shall hold their offices until the times provided by general law for the election and qualification of such officers, and until their successors are elected and qualified.

23374.19. All costs of an election shall first be paid by the principal county. The new county shall then reimburse the principal county for all costs of the election held pursuant to this article.

Article 5 – Transfers

GOVERNMENT CODE SECTION 23375-23386

23375. After the creation of the proposed county its officers shall proceed to complete all proceedings necessary for the assessment or collection of the state and county taxes for the current year, and

all acts and steps theretofore taken by the officers of the affected county or counties prior to the creation of the proposed county shall be deemed performed by the officers of the proposed county for the benefit of the proposed county.

23376. The officers of each affected county shall immediately execute and deliver to the board of supervisors of the proposed county copies of all assessments or other proceedings relative to the assessment and collection of the current state and county taxes on property in the proposed county. The copies shall be filed with the respective officers of the proposed county who would have their custody if the proceedings had been originally had in the proposed county and shall be deemed originals. All proceedings recited in such copies shall be deemed original proceedings in the proposed county, and have the same effect as if the proceedings had been had at the proper time and in the proper manner by the respective officials of the proposed county. The officials of the proposed county shall proceed with the assessment and collection of the taxes as if the proceedings originally had in the affected county or counties had been originally had in the proposed county.

23377. The county superintendent of schools of each affected county shall furnish the county superintendent of schools of the proposed county with a certified copy of the last school census of the different school districts in the territory forming the proposed county, and shall draw his warrant on the treasurer of his county in favor of the treasurer of the proposed county, for all the money that is or may be due from his county by any apportionment or otherwise to the different school districts embraced in the proposed county.

23378. The auditor of each affected county shall draw his warrant on the treasurer of his county in favor of the treasurer of the proposed county for all money that is or may be due from his county by apportionment or otherwise to the different road and supervisorial or district funds in the territory forming the proposed county. The amounts shall be properly credited in both counties.

23379. The treasurer of each affected county shall immediately cause to be transferred to the county treasurer of the proposed county all money standing to the credit of or belonging to any road or school district, the territory comprising which is included within the boundaries of the proposed county. A compliance with the provisions of this section shall be a full and complete settlement of all debts which the proposed county has against the affected county or counties.

23380. Whenever in the formation of a proposed county, a road, supervisorial, or school district has been divided the board of each affected county shall by resolution direct its treasurer to transfer the proper proportionate amount of the money remaining in the fund of such district to the treasurer of the proposed county.

23381. The board of supervisors of any proposed county shall

provide suitable books and have transcribed from the records of the affected county or counties all parts thereof relating to or affecting the title to or property situate in the proposed county. When transcribed and certified the records shall have the same force and effect as original records. Compensation for services shall be fixed and allowed by the board of the proposed county at not to exceed eight cents (\$0.08) a folio for transcribing. The recorder of each affected county shall compare the books of transcripts and attach to each volume a certificate under his seal of office of the correctness of the records copied. For the service of comparing he may charge not to exceed two cents (\$0.02) a folio, and for each certificate, not to exceed twenty-five cents (\$0.25).

23382. All actions pending in the superior court of an affected county for the recovery of the possession of, quieting the title to, or for the enforcement of liens upon, real estate lying in the proposed county shall on motion of any party thereto be transferred to the superior court of the proposed county and deemed originally brought in the superior court of the proposed county. Any other action or special proceeding pending in the superior court of an affected county which might have been commenced in the proposed county if the proposed county had been in existence at the date of commencement, may in the discretion of the court in which it is pending and on motion of any party interested therein be transferred to the superior court of the proposed county.

23383. The affected county or counties shall continue to provide necessary services from the date of creation of the proposed county until service responsibilities and functions are transferred to the proposed county according to the provisions of the resolution of the board of supervisors of the principal county adopted pursuant to Section 23369. The proposed county shall contract with the affected county or counties for such purposes from the date of creation until actual transfer or the effective date or dates for transfer as provided in such resolution. The contract shall specify the amount or amounts to be paid by the proposed county to the affected county or counties for the performance of such services and functions. The proposed county may continue to contract with the affected county or counties for any services and functions subsequent to the date or dates specified in any resolution adopted pursuant to Section 23369.

23383.5. The maximum tax rate for the new county shall be established in accordance with Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code.

23384. Except as provided by the commission, upon creation of the proposed county the territory located within the proposed county shall be relieved of annual tax liability for outstanding indebtedness of each affected county in the year next succeeding the election on creation of the proposed county when assessments or taxes are to be levied for payment of such indebtedness.

Territory remaining in the affected county or counties upon the creation of the proposed county shall be relieved of annual tax liability for any outstanding indebtedness of such affected county or counties which the commission determines is to be assumed by the

proposed county. Such relief shall become effective in the year next succeeding the year in which the election on creation of the proposed county is held when assessments or taxes are to be levied for payment of such indebtedness.

Nothing in this section shall be construed as in any way limiting the power of a bondholder to enforce his contractual rights; and nothing in this section shall affect the ultimate liability of territory of the affected county or counties, or of the proposed county for bonded indebtedness of the affected county or counties, or of the proposed county for bonded indebtedness of the affected county or counties in case of default.

23385. When the proposed county is deemed created, all funds, records and the title to any property owned or held by, or in trust for any of the affected counties, or by their officers or boards in trust for public use, is vested in the proposed county, or its officers or boards.

23386. Except as otherwise provided in this chapter, creation of the proposed county does not affect any debts, demands, liabilities or obligations of any kind existing in favor of or against the affected county or counties. Creation of the proposed county does not affect any pending action or proceeding involving any such debt, demand, liability, or obligation, or any action or proceeding brought by or against any affected county prior to creation of the proposed county. All such proceedings shall be continued and concluded, by final judgment or otherwise, as if the proposed county had not been created.

Article 6 – Districts

GOVERNMENT CODE

SECTION 23390

23390. Notwithstanding any other provision of law, no special district, which is organized within the affected county or counties and governed by the board of supervisors thereof, shall have its territory divided or in any other way have its organization changed as the result of the establishment of the proposed county except by proceedings taken pursuant to law subsequent to the establishment of the proposed county.

Article 7 – Courts

GOVERNMENT CODE

SECTION 23394-23397

23394. On and after the date of creation of the proposed county, the county shall be included in that district court of appeals district which included the largest portion of the proposed county,

prior to its formation. The district court of appeals district which included any portion of the new county prior to its formation shall retain jurisdiction over all cases pending in a session of such court, within the boundaries of the proposed county immediately prior to its creation.

23395. In a proposed county there is one judge of the superior court who shall be selected as provided by law.

23396. The Trial Court Employment Protection and Governance Act (Chapter 7 (commencing with Section 71600) of Title 8) applies to the superior court and superior court employees in a proposed county, except that preference in appointment shall be given to those persons serving a session of the superior court located within the boundaries of the proposed county immediately prior to its creation.

23397. On and after the date of creation of the proposed county, the superior court in the affected county or counties shall retain jurisdiction in all cases pending in a session of such court which is located within the boundaries of the proposed county immediately prior to its creation.

End of Chapter 3

Press Release



OFFICE OF THE GOVERNOR

GAAS:194:04
FOR IMMEDIATE RELEASE
05/10/2004

Governor Schwarzenegger Appoints Members of the Mission County Formation Commission

Governor Arnold Schwarzenegger today announced the appointment of John "Jack" Boysen, June Christensen, Dick Frank, Harriet Miller and Ted Tedesco to the Mission County Formation Commission.

"Each member of this commission represents important and distinct areas of Santa Barbara County and has the expertise to offer fair and impartial information to the people of the County as they make this decision," said Governor Schwarzenegger.

Jack Boysen is currently a member of the County of Santa Barbara Planning Commission representing the constituents of North Santa Barbara County. The commission is charged with providing fairness and consistency to ensure compliance with all planning, zoning and subdivision matters. He also served on the Process Improvement Project, a steering committee charged with improving the efficiency of preparation and processing of ministerial land-use projects in Santa Barbara County. From 1988 through his retirement in 2003, Boysen was in day-to-day management with Boysen Construction, a general contracting and development company. Prior to 1988 he served in senior management positions with Deloitte, Haskins and Sells CPA, Frazee Paint and Union Bank. He earned a Bachelor of Science degree in accounting from San Diego State University. Boysen, 54, is a Republican from Santa Maria.

June Christensen is a former mayor and city councilperson for the City of Solvang. She retired from the County in 1998 where she served as a consultant for the Santa Maria Municipal Court for eight years. Her professional experience also includes service as a consultant to the Ventura County courts. Christensen's community experience includes service as a Superior Court Judge appointee to the Santa Barbara County Juvenile Justice & Delinquency Prevention Commission in addition to serving as secretary of the Santa Barbara County Grand Jury from 1974 to 1975 and as foreman from 1979 to 1980. Christensen, 66, is a Republican from Solvang.

Dick Frank served as the elected county assessor for the County of San Luis Obispo for 26 years, from 1976 through 2003. He has served in leadership positions with the California Assessors Association, including a year as president, was a member of the 1982 San Luis Obispo Redistricting Committee and was a member of the San Luis Obispo Mobile Home Rent Review Board. Frank's professional experience also includes more than fifteen years as a real estate appraiser with the Arizona Highway Department and the firm Marshall and Stevens. Frank, 70, is a Republican from San Luis Obispo.

Harriet Miller is the former mayor of the City of Santa Barbara, elected in 1995 serving through her retirement in 2002. Prior to her service as mayor she was a member of the Santa Barbara City Council from 1987 to 1994. Miller was the owner and president of HMA, Inc., a management consulting firm, before her appointment to the City Council. Prior to coming to California she served as the director of the American Association of Retired Persons in Washington, DC and was the superintendent of public instruction for the State of Montana and a professor at the University of Montana, Missoula. Miller is also a past member of the Santa Barbara County Association of Governments and a former member the boards of the National League of Cities, the League of California Cities and the Institute for Local Self-Government. In addition, she is currently a member of the boards of the Santa Barbara Symphony, the Rehabilitation Institute of Santa Barbara and the Santa Barbara Center for the Performing Arts. Miller, 84, is a Democrat from Santa Barbara.

Ted Tedesco is currently a trustee for the Santa Barbara County Employees Retirement System, the California Center for Civic Renewal, the National Urban Fellows and the ENO Transportation Foundation, and a former trustee for the Westmont College Foundation Board. He served as the vice president of corporate affairs for American Airlines from 1986 to 1998 and prior to that was the vice chancellor of administration at the University of Colorado, Boulder for seven years. Tedesco began his career as a city manager in 1962 for the City of Enfield, CT where he served for five years. He then moved to the City of Boulder, CO where he was the city manager from 1967 to 1972 after which he served in the same capacity for the City of San Jose, CA for six years. Tedesco, 72, is registered decline-to-state and a resident of Santa Barbara.

Mission County Formation Review Commission

Commissioners

Ted Tedesco, Chair
Dick Frank, Vice Chair
Jack Boysen
June Christensen
Harriet Miller



John Torell, CPA – Secretary
Raymond A. Biering – Counsel
P.O. Box 39
Santa Barbara, CA 93102-0039
Phone: 805-568-2102
Fax: 805-568-2016
www.missioncountyformation.org

Honorable Arnold Schwarzenegger
Governor of the State of California
State Capitol
Sacramento, CA 95814

September 27, 2004

Dear Governor Schwarzenegger:

The purpose of this letter is to request a 120-day extension of time, to February 10, 2005, for the term of office for the Mission County Formation Review Commission.

Section 23341 of the Government Code provides for an extension of up to 180 days upon approval of the Governor. At the Commission meeting on September 27, 2004, Commission members voted 5-0 to request that you approve this extension.

The Mission County Formation Review Commission took office May 10, 2004, for the purpose of completing a study of the proposed formation of Mission County from Santa Barbara County. The 180-day term of this Commission will expire November 10, 2004. The Commission and its staff are diligently pursuing its study and preparation of a report for the county's voters. The election on county formation will be held in March 2006.

The Commission has held weekly public meetings since its inception and has made significant progress to date. The complexity and extent of gathering and analyzing the pertinent fiscal and other data has been a significant undertaking. Approval of this requested extension would enable us to include the latest financial data available from the State (which will be available shortly) in our study.

Thank you for your prompt attention to this request.

Sincerely,

Ted Tedesco, Chair
Mission County Formation Review Commission

C: Jan Boel, Director
Governor's Office of Planning and Research

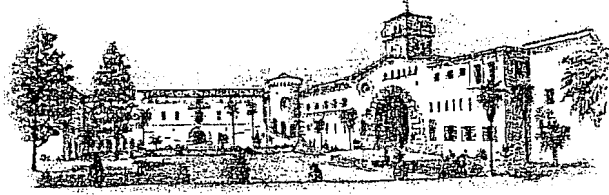
**Mission County Formation Review
Cost Accumulation Report (May 10, 2004 thru June 30, 2006)**

	<u>TOTAL AMOUNT</u>
DIRECT COSTS OF MCFR COMMISSION	
Commission staff:	
Legal counsel - Biering	\$ 87,267
Legal counsel - Stark	31,708
Secretary - Torell	102,381
Secretary - Stilwell	7,244
Secretary staff - Levin & Owen	100,051
Clerk of the MCFRC - Ayala, Cohen & Allen	8,697
IT - Robinson Stone	<u>3,634</u>
Commission staff sub-total	340,982
Publications & legal notices	65,455
Advertising design services	22,116
Economic research	14,800
Mapping services	13,348
Commissioner stipends	7,000
Legal description & district boundaries (PW Surveyor)	5,776
Government Access TV	4,662
Other Expenses:	
Travel & transportation	8,408
Computers (2 laptops)	4,406
Postage	3,843
Office expense & printing	9,144
Miscellaneous services	2,130
Telephone	442
Meeting hall & Food	<u>252</u>
Other Expenses sub-total	<u>28,625</u>
Total Direct Costs of MCFR Commission	<u>\$ 502,764</u>

**Mission County Formation Review
Cost Accumulation Report (May 10, 2004 thru June 30, 2006)**

	<u>TOTAL AMOUNT</u>
FISCAL & INDEBTEDNESS STUDIES	
Auditor/Controller staff:	
Auditor/Controller - Geis	27,144
Deputy Controller - Fallati	17,657
Financial Reporting - Struven & Eggertsen	42,674
Contract Acctng - Rogers & Paul	53,661
Property Tax - Richard	11,128
Internal Audit - Price	33,810
Other A/C staff & supplies	<u>18,956</u>
Auditor/Controller sub-total	205,030
Departmental Input to Fiscal & Indebtedness Studies:	
County Administrator	22,472
County Counsel	-
District Attorney	-
Probation	5,119
Public Defender	1,542
Fire	266
Sheriff	32,260
Public Health	15,689
Mental Health	1,074
Social Services	4,038
Child Support	1,065
Ag Commission	534
Parks	1,540
Planning & Development	1,941
Public Works	5,852
Housing & Community Development	352
Clerk-Recorder-Assessor	12,404
General Services	2,953
Human Resources	2,154
Treasurer-Tax Collector	1,989
General County Programs	<u>10,264</u>
Departmental Input sub-total	<u>123,508</u>
Total Fiscal & Indebtedness Studies	\$ 328,538
INDIRECT @ 10% of SALARIES	43,606
COST of JUNE 2006 ELECTION	<u>121,099</u>
GRAND TOTAL	<u>\$ 996,007</u>

COUNTY OF SANTA BARBARA



Michael F. Brown
County Administrator

105 East Anapamu Street, Suite 406
Santa Barbara, California 93101
805/568-3400 • Fax 805/568-3414
www.co.santa-barbara.ca.us

OFFICE OF THE COUNTY ADMINISTRATOR

August 19, 2004

State Controller's Office
Division of Accounting and Reporting
Kelly Martell
P.O. Box 942850
Sacramento, CA 94250-0001

Dear Mr. Martell:

**RE: SB 1113, Chapter 208, FY 2004-05
Line item 9210-102-0001**

On behalf of Santa Barbara County this is a request for the \$400,000 appropriated by SB 1113 for local assistance to the Santa Barbara County Formation Commission pursuant to Article 3 (commencing with Section 23331) of Chapter 3 of Division 1 of the Title 3 of the Government Code.

Please send the warrant to the County Administrator's Office at the address indicated on this letterhead.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael F. Brown".

Michael F. Brown
County Administrator

cc: Robert Geis, Auditor-Controller
John Torell, Executive Director, Santa Barbara County Formation Commission
Jim Laponis, Deputy County Administrator
Cliff Berg, Legislative Advocates

Item	Amount
and included in the language of this provision are specifically identified by the Legislature for suspension during the 2004–05 fiscal year:	
(4) 98.01.105.183-Senior Citizens' Mobilehome Property Tax Deferral (Ch. 1051, Stats. 1983)	
(5) 98.01.004.887-Property Tax-Family Transfers (Ch. 48, Stats. 1987)	
9210-101-0001—For local assistance, Local Government Financing	200,000,000
Provisions:	
1. For allocation by the Controller to local jurisdictions for public safety and juvenile justice purposes, as determined by the Director of Finance pursuant to Chapter 6.7 (commencing with Section 30061) of Division 3 of Title 3 of the Government Code.	
2. Notwithstanding any other provision of law, the funds appropriated in this item shall be available for expenditure until June 30, 2006. These funds shall be used to supplement and not supplant existing services.	
9210-102-0001—For local assistance, Local Government Financing	400,000
Provisions:	
1. The amount appropriated in this item is for allocation by the State Controller to the Santa Barbara County Formation Commission pursuant to Article 3 (commencing with Section 23331) of Chapter 3 of Division 1 of Title 3 of the Government Code.	
2. The amount appropriated in this item is a loan and shall be repaid with interest within one year from the date upon which the issue of county formation is voted on by the people.	
9210-105-0001—For local assistance, Local Government Financing, Property Tax Administration Grant Program	60,000,000
Provisions:	
1. For allocation by the Controller to counties, as determined by the Department of Finance, pursuant to Chapter 6 (commencing with Section 95.35) of Division 1 of the Revenue and Taxation Code.	

COUNTIES GENERALLY

§ 23320

Div. 1

(d) A statement of the population which will remain in the affected county or counties if the territory of the proposed county is detached therefrom, as near as may be determined.

(e) A statement of the area in square miles which will remain in the affected county or counties if the territory of the proposed county is detached therefrom.

(f) The name of the proposed county.

(g) The name of the affected county or counties.

(h) A request that proceedings for creation of the proposed county be initiated.

(Added by Stats.1974, c. 1392, p. 3027, § 2. Amended by Stats.1977, c. 1175, p. 3847, § 1.)

Historical and Statutory Notes

Section 3 of Stats.1974, c. 1392, p. 3039, provides:

"There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code because there are no duties, obligations, or responsibilities imposed on local entities in 1974-75 by this act. However, there are state-mandated local costs in this act in 1975-76 and subsequent years that require reimbursement under Section 2231 of the Revenue and Taxation Code which can be handled in the regular budget process."

Former § 23320, added by Stats.1947, c. 424, § 1, derived from Stats.1907, c. 227, § 2; Stats. 1909, c. 123, § 2; Stats.1921, c. 826, § 1, relating to presentation of petition to board of supervisors of county from which new county is to be formed, was repealed by Stats.1974, c. 1392, p. 3026, § 1. For disposition of subject matter of this section, see Table preceding Government Code § 23300.

Derivation: Former § 23324, added by Stats. 1947, c. 424, p. 1086, § 1.

Stats.1907, c. 227, § 2; Stats.1909, c. 123, § 2; Stats.1921, c. 826, § 1.

Cross References

City, defined for the purposes of this Code, see Government Code § 20.

County, defined for purposes of this division, see Government Code § 23000.

County elections, notice of intention to circulate petition, see Elections Code § 9103.

Improper payments to prevent petition circulation and filing, initiative, referendum, and recall, prohibition on improper practices and penal provisions, see Const. Art. 2, § 4; Elections Code § 18620 et seq.

Initiative and referendum petitions, state elections, petition signatures, see Elections Code § 9020 et seq.

Petitions and petition signers, declarations signed by circulators, certifications of truth and correctness, see Elections Code § 104.

Petitions and petition signers, personal affixation of information with assistance of other persons, signature requirements, see Elections Code § 100.5.

Petitions and petition signers, persons entitled to sign, verification and form, see Elections Code § 100.

Petitions and petition signers, signatures, verification and residence address, see Elections Code § 105.

Petitions and petition signers, withdrawal of signatures from petition, see Elections Code § 103.

Law Review and Journal Commentaries

California counties: Second-rate localities or ready-made regional governments? Jared Eigerman, 26 Hastings Const.L.Q. 621 (Spring 1999).

Library References

Counties ☞ 13.
Westlaw Topic No. 104.
C.J.S. Counties § 21.

Legal Jurisprudences
Cal Jur 3d Muni §§ 63, 70.

§ 23310. Inapplicability to law on local agency formation commissions

Proceedings under this chapter shall not be subject to the provisions of Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5, relating to local agency formation commissions.

(Added by Stats.1974, c. 1392, p. 3027, § 2.)

Law Review and Journal Commentaries

California counties: Second-rate localities or erman, 26 Hastings Const.L.Q. 621 (Spring ready-made regional governments? Jared Eig. 1999).

Article 2

INITIATION OF PROCEEDINGS

Section

- 23320. Petition; contents.
- 23321. Signatures; number; additional information.
- 23322. Single instrument or several counterparts.
- 23323. Chief petitioners; designation.
- 23324. Notice of intention; hearing; publication; moderator; accumulation of signatures and submission for filing; time.
- 23325. Filing.
- 23326. Examination of signatures; certification.
- 23327. Insufficiency of petition; certification; notice; filing.
- 23328. Certification of sufficiency; transmittal.
- 23329. Comparison of signatures with registration records.
- 23330. Petition certification; transmittal to governor.
- 23330.5. New petition after certification of prior petition; limitation; exception.

Article 2 was added by Stats.1974, c. 1392, p. 3027, § 2.

Cross References

- "Elector", defined, see Elections Code § 321.
- Petitions and petition signers, declarations signed by circulators, certifications of truth and correctness, see Elections Code § 104.
- Petitions and petition signers, personal affixation of information with assistance of other persons, signature requirements, see Elections Code § 100.5.
- Petitions and petition signers, persons entitled to sign, verification and form, see Elections Code § 100.
- Petitions and petition signers, signatures, verification and residence address, see Elections Code § 105.
- Petitions and petition signers, withdrawal of signatures from petition, see Elections Code § 103.

§ 23320. Petition; contents

Proceedings for the creation of a proposed county shall be initiated by petition. Any such petition shall contain the following:

- (a) An accurate description of the boundaries of the proposed county.
- (b) A statement that such boundaries do not pass through or divide the territory of any incorporated city other than a city with a population greater than that of the proposed new county.
- (c) A statement of the population of the proposed county, as near as may be determined.

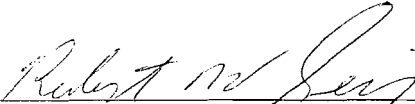
8. CLAIM CERTIFICATION

*Read, sign, and date this section and insert at the end of the test claim submission. **

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

Robert W. Geis, CPA, CPFO
Print or Type Name of Authorized Local Agency
or School District Official

Auditor-Controller for Santa Barbara County
Print or Type Title


Signature of Authorized Local Agency or
School District Official

10/12/06
Date

** If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*

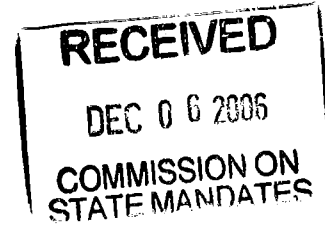


DEPARTMENT OF
FINANCE
OFFICE OF THE DIRECTOR

ARNOLD SCHWARZENEGGER, GOVERNOR
STATE CAPITOL ■ ROOM 1145 ■ SACRAMENTO CA ■ 95814-4998 ■ WWW.DOF.CA.GOV

November 30, 2006

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814



Dear Ms. Higashi:

As requested in your letter of October 31, 2006, the Department of Finance has reviewed the test claim submitted by the County of Santa Barbara, (claimant), Claim No. 06-TC-02 "County Formation Cost Recovery." Claimant asserts that the following new duties are required by Government Code Sections 23300 through 23397 and are a reimbursable state mandate:

- Staffing a 5-person County Commission for 300 days, charged with making determinations pursuant to Government Code Section 23332.
- Preparing a final report on the results of the determination.
- Preparing a fiscal and indebtedness study.
- Completing the steps necessary to include the County Formation proposal on the June 2006 ballot.
- Interest on the \$400,000 loan appropriated in Chapter 208, Statutes of 2004.

Finance recommends that the Commission on State Mandates deny this test claim for the reasons detailed below.

Section 6, of Article XIII B of the California Constitution reads as follows:

(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.

Sections 23300 through 23397 of the Government Code were enacted prior to January 1, 1975, with minor amendments in subsequent years. The Governor's appointments of the County Commission members in May 2004 implemented those Government Code Sections for Santa Barbara County but the appointments were made pursuant to a statute enacted prior to January 1, 1975. Accordingly, a subvention of funds is not required.

Finance also notes two concerns with the current activities claimed for reimbursement. The determinations required of the County Commission are not reimbursable to the claimant since the County Commission is not an eligible claimant subject to Article XIII B, Section 6 of the California Constitution. Our other concern is that the interest on the loan authorized by Chapter 208, Statutes of 2004, is not a reimbursable cost because Government Code Section 23344 authorizes the County Commission to request a loan but does not require it.

The test claim may have been filed after the statute of limitations pursuant to Government Code Section 17551(c). This section requires that test claims 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. Notice of the creation of the County Commission was made public May 10, 2004. The costs claimed for reimbursement are for May 10, 2004, to June 30, 2006, which extends beyond the 12 month filing period.

For the reasons stated above, the costs claimed are not reimbursable and the test claim should be denied.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list that accompanied your October 31, 2006 letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Carla Castañeda, Principal Program Budget Analyst at (916) (916) 445-3274.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas E. Dithridge", with a stylized flourish at the end.

Thomas E. Dithridge
Program Budget Manager

Attachments

Attachment A

DECLARATION OF CARLA CASTAÑEDA
DEPARTMENT OF FINANCE
CLAIM NO. 06-TC-02

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.
2. We concur that the Chapter 1392, Statutes of 1974, sections relevant to this claim are accurately quoted in the test claim submitted by claimants and, therefore, we do not restate them in this declaration.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

11-30-06

at Sacramento, CA

Carla Castañeda

Carla Castañeda

PROOF OF SERVICE

Test Claim Name: County Formation Cost Recovery

Test Claim Number: CSM 06-TC-02

I, Antonio Lockett the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 12 Floor, Sacramento, CA 95814.

On December 1, 2006, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 12 Floor, for Interagency Mail Service, addressed as follows:

A-16

Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Mr. Robert W. Geis
County of Santa Barbara
Auditor-Controller
105 E Anapamu St., Room 303
Santa Barbara, CA 93101

Ms. Robilyn Eggertsen
County of Santa Barbara
Auditor-Controller
105 E Anapamu St., Room 303
Santa Barbara, CA 93101

B-08
Ms. Ginny Brummels
State Controller's Office
Division of Accounting & Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

A-15

Ms. Donna Ferebee
Department of Finance
915 L Street, 12th Floor
Sacramento, CA 95814

Mr. David Wellhouse
Wellhouse and Associates
9175 Kiefer Boulevard, Suite 121
Sacramento, CA 95826

Ms. Annette Chinn
Cost Recovery Systems, Inc.
705-2 East Bidwell Street, #294
Folsom, CA 95630

Mr. Allan Burdick
MAXIMUS
4320 Auburn Boulevard, Suite 2000
Sacramento, CA 95841

Mr. Leonard Kaye
County of Los Angeles
Department of Auditor-Controller
Kenneth Hahn Hall of Administration
500 West Temple Street, Suite 525
Los Angeles, CA 90012

Mr. Glen Everroad
City of Newport Beach
3300 Newport Blvd.
P O Box 1768
Newport Beach , CA 92659-1768

A-15

Ms. Carla Castaneda
Department of Finance
915 L Street, 12th Floor
Sacramento, CA 95814


Mr. J. Bradley Burgess
Public Resource Management Group
1380 Lead Hill Blvd, Suite #106
Roseville, CA 95661

Ms. Bonnie Ter Keurst
County of San Bernardino
Office of the Auditor/Controller-
Recorder
222 West Hospitality Lane
San Bernardino, CA 92415-0018

A-15

Ms. Susan Geanacou
Department of Finance
915 L Street, 12th Floor
Sacramento, CA 95814

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on December 1, 2006 at Sacramento, California.

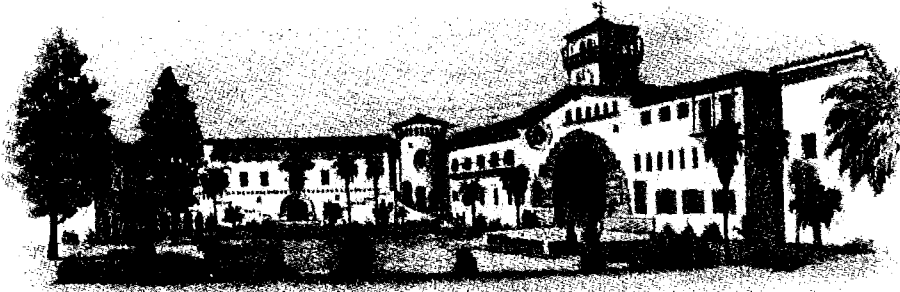

Antonio Lockett

ICC: DITHRIDGE, LYNN, MCGINN, CASTANEDA, GEAMACOU, FEREBEE, FILE
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COUNTY OF SANTA BARBARA

ROBERT W. GEIS, C.P.A.
Auditor-Controller

THEO FALLATI, C.P.A.
Assistant Auditor-Controller



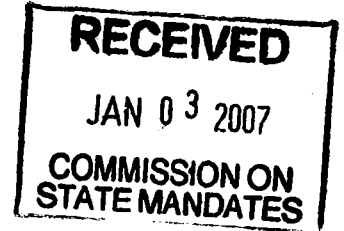
County Administration Bldg.
105 E. Anapamu Street, Rm. 303
Santa Barbara, CA 93101
(805) 568-2100

Auditor@co.santa-barbara.ca.us

Mailing Address:
P.O. Box 39
Santa Barbara, CA 93102-0039
FAX (805) 568-2016

OFFICE OF THE AUDITOR-CONTROLLER

December 28, 2006



Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: Claim No. 06-TC-02 "County Formation Cost Recovery"
Rebuttal to Letter from Department of Finance

Dear Ms. Higashi:

The County of Santa Barbara (County) is sending this letter to address the arguments made by the California Department of Finance (Finance) in its letter dated November 30, 2006 in connection with the test claim filed by the County titled "County Formation Cost Recovery".

Finance recommended that the Commission on State Mandates deny the County's test claim because Sections 23300 through 23397 of the California Government Code were enacted prior to January 1, 1975. The Commission is not barred from approving the test claim because of the date of enactment of the applicable statute. First, Section 6 of Article XIII B of the California Constitution states that the Legislature may, but need not, provide a subvention of funds for legislative mandates enacted prior to January 1, 1975.

Second, the Legislature clearly stated when it enacted the County formation law that the State must reimburse the counties for the costs of complying with the act. Section 3 of Stats 1974, c. 1392, p.3039 provides:

There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code because there are no duties, obligations, or responsibilities imposed on local entities in 1974-75 by this act. However, there are state-mandated local costs in this act in 1975 and subsequent years that require reimbursement under Section 2231 of the Revenue

and Taxation Code which can be handled in the regular budget process.
(Emphasis added).

As you know, Section 2231 of the Revenue and Taxation Code was repealed and is now covered by Government Code Section 17561, which provides for reimbursement of local agencies.

Third, the County was mandated by Governor Schwarzenegger's 2004 executive order to form the Commission, make determinations, and hold an election, as described in the County's test claim, and this executive order mandated either a new program or a higher level of service of an existing program.

Fourth, the Commission should approve the County's test claim for public policy reasons. The county formation law and the executive order are intended to provide constituents with the information that they need to participate in the political process and determine the structure of local government that is best for them and their communities. The costs mandated by the County formation law and the 2004 executive order are substantial, unforeseen costs that affect counties on rare occasions, and that can be difficult for counties to absorb. Counties should be encouraged to conduct sufficient studies to enable their constituents to determine what structure of local government best suits their needs. If counties do not receive assistance from the State, counties may not be able to afford to provide sufficiently accurate and complete information to allow the constituents to make informed decisions. Counties should not have to bear the burden of these costs without reimbursement by the State, particularly because the Legislature clearly intended for counties to be reimbursed for these costs.

Finance makes the argument that the County Commission is not an eligible claimant. The County Commission is not the claimant in this case; the County incurred the costs and the County is the claimant.

The State should reimburse the County for the interest that it will incur on the loan authorized by Government Code Section 23344 because the interest is a cost that will be incurred by the County to implement the mandate.

The County filed the test claim within the statute of limitations pursuant to Government Code Section 17551(c). The County did not know that it would be responsible for the county formation costs until after the June 2006 election, and the County filed the test claim on October 13, 2006. According to Government Code Section 23343, "If the proposed county is created, all expenses of the commission, together with the reasonable costs of stationery, postage, and incidental expenses shall be borne by the new county, or if the proposed county is not created, by each affected county, in equal shares." Furthermore, Section 23374 provides that "All costs of an election shall be paid by the principal county, if the creation of the proposed county is defeated, or by the proposed county if it is created pursuant to this chapter." Accordingly, the costs were not "incurred" by the County for purposes of Government Code Section 17551(c) until after the June 2006 election, when the proposal was defeated by the voters.

The Commission should approve the County's test claim because it may do so under Section 6 of Article XIII B of the California Constitution; the Legislature clearly stated that the county formation law requirements are state-mandated local costs that require reimbursement; the costs were triggered by Governor Schwarzenegger's 2004 executive order; and because of the public policy reasons described herein.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list that accompanied your October 31, 2006 letter have been provided with copies of this letter via United States Mail.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert W. Geis".

Robert W. Geis
Auditor-Controller

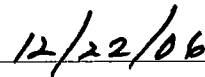
Attachments

Attachment A

DECLARATION OF ROBERT W. GEIS
COUNTY OF SANTA BARBARA
CLAIM NO. 06-TC-02

1. I declare that the attached rebuttal is true and complete to the best of my personal knowledge or information or belief.

I, Robert W. Geis, CPA, CPFO, Auditor-Controller for Santa Barbara County, hereby sign this declaration under penalty of perjury, based on my personal knowledge, information or belief.



Robert W. Geis, CPA, CPFO
Auditor-Controller
Santa Barbara County
105 East Anapamu Street – Room 303
Santa Barbara, CA 93102
Phone: (805) 568-2100
Fax: (805) 568-2016

Date

PROOF OF SERVICE
(C.C.P. §§ 1013(a), 2015.5)
STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled cause; my business address is 105 East Anapamu Street, Santa Barbara, California, 93101.

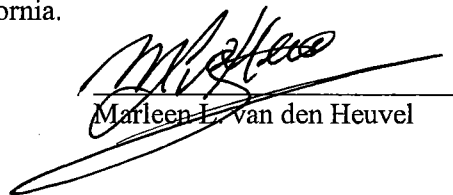
On December 28, 2006, I served a true copy of **THE COUNTY OF SANTA BARBARA'S REBUTTAL TO LETTER FROM DEPARTMENT OF FINANCE** on the interested parties in said action by:

- personally delivering it to the person(s) indicated below:
- depositing it in the United States Mail in a sealed envelope with postage thereon fully prepaid following ordinary business practices by the County of Santa Barbara.
- faxing the document to the fax number as listed below
- by Federal Express to the person(s) indicated below.

SEE ATTACHED ADDRESS LIST.

- (State) I declare, under penalty of perjury, that the above is true and correct.
- (Federal) I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on December 28, 2006, at Santa Barbara, California.



Marleen L. van den Heuvel

ADDRESS LIST FOR PROOF OF SERVICE

A-16

**Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814**

**Ms. Robilyn Eggertsen
County of Santa Barbara
Auditor Controller
105 E. Anapamu Street, Room 303
Santa Barbara, CA 93101**

A-15

**Ms. Donna Ferebee
Department of Finance
915 L Street, 11th Floor
Sacramento, CA 95814**

**Ms. Annette Chinn
Cost Recovery Systems, Inc.
705-2 East Bidwell Street, No. 294
Folsom, CA 95630**

**Mr. Leonard Kaye
County of Los Angeles
Auditor-Controller's Office
500 W. Temple Street, Room 603
Los Angeles, CA 90012**

A-15

**Ms. Carla Castaneda
Department of Finance
915 L Street, 11th Floor
Sacramento, CA 95814**

**Ms. Bonnie Ter Keurst
County of San Bernardino
Office of the Auditor-Controller-Recorder
222 W. Hospitality Lane
San Bernardino, CA 92415-0018**

**Mr. Robert W. Geis
County of Santa Barbara
Auditor-Controller
105 E. Anapamu Street, Room 303
Santa Barbara, CA 93101**

B-08

**Ms. Ginny Brummels
State Controller's Office
Division of Accounting & Reporting
3301 C Street, Suite 500
Sacramento, CA 95816**

**Mr. David Wellhouse
Wellhouse & Associates, Inc.
175 Kiefer Boulevard, Suite 121
Sacramento, CA 95826**

**Mr. Allen Burdick
MAXMUS
4320 Auburn Boulevard, Suite 2000
Sacramento, CA 95841**

**Mr. Glen Everroad
City of Newport Beach
3300 Newport Blvd.
P.O. Box 1768
Newport Beach, CA 92659-1768**

**Mr. J. Bradley Burgess
Public Resource Management
1380 Lead Hill Blvd., Suite 106
Roseville, CA 95661**

A-15

**Ms. Susan Geanacou
Department of Finance
915 L Street, Suite 1190
Sacramento, CA 95814**

Received
January 17, 2013
Commission on
State Mandates



EDMUND G. BROWN JR. ■ GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

January 17, 2013

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms. Halsey:

The Department of Finance (Finance) has reviewed the draft staff analysis of the test claim submitted by the County of Santa Barbara asking the Commission on State Mandates (Commission) to determine whether specified costs incurred pursuant to Government Code sections 23300 through 23397 (Chapter 1392, Statutes of 1974) are reimbursable state mandated costs for Claim No. 06-TC-02 "County Formation Cost Recovery."

Finance has no concerns with the Commission's draft staff analysis, and concurs with the Commission's recommendation to deny the test claim.

Pursuant to section 1181.2, subdivision (c)(1)(E) of the California Code of Regulations, "documents that are e-filed with the Commission on State Mandates need not be otherwise served on persons that have provided an e-mail address for the mailing list."

If you have any questions regarding this letter, please contact Randall Ward, Principal Program Budget Analyst at (916) 445-3274.

Sincerely,

TOM DYER
Assistant Program Budget Manager

Enclosure

Enclosure A

DECLARATION OF CARLA SHELTON
DEPARTMENT OF FINANCE
CLAIM NO. 06-TC-02

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

January 17, 2013
at Sacramento, CA

Carla Shelton
Carla Shelton

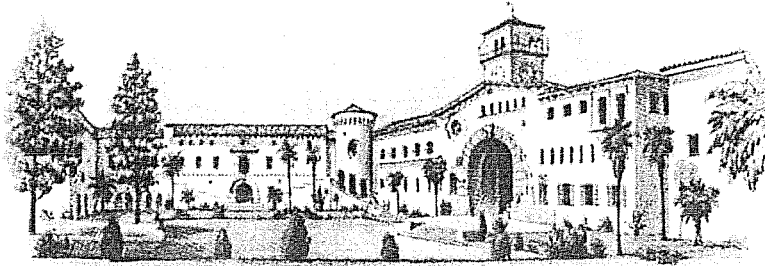
January 18, 2013

Commission on
State MandatesCounty Administration Building
105 E. Anapamu Street, Rm. 303
Santa Barbara, CA 93101
(805) 568-2100

Auditor@co.santa-barbara.ca.us

Mailing Address:
P.O. Box 39
Santa Barbara, CA 93102-0039
Fax: (805) 568-2016

COUNTY OF SANTA BARBARA

ROBERT W. GEIS, C.P.A.
Auditor-ControllerTHEO FALLATI, C.P.A.
Assistant Auditor-Controller

OFFICE OF THE AUDITOR-CONTROLLER

January 18, 2013

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: Claim No. 06-TC-02 "County Formation Cost Recovery"
Comments on Draft Staff Analysis and Proposed Statement
of Decision

Dear Ms. Halsey:

Pursuant to 2 C.C.R. section 1183.07, the County of Santa Barbara (County) submits these comments on the Commission on State Mandates Draft Staff Analysis and Proposed Statement of Decision in the above-referenced matter.

1. The County Formation Law is a Reimbursable State-Mandated Program.

Commission staff argues that reimbursement is not required because Govt. Code section 23300 et seq., was enacted in 1974, and the alleged executive order implemented the statute as enacted in 1974, placing the test claim outside the constitutional and statutory subvention requirement. Commission staff relies upon *Los Angeles Unified School District v. State of California* (1991) 229 Cal. App. 3d 552, 554 (Fn 2), 555-557. More fully, that case actually states:

The Legislature's abolition of the right to subvention as to pre-1975 statutes, obviating reimbursement for mandated costs relating to the 1973 Cal/OSHA legislation, constituted the lawful abolition of a right prior to final judgment in the present case. As in the present case, "...when a right of action does not exist at common law, but depends solely upon a statute, the repeal of the statute destroys the right **unless the right has been reduced to final judgment** or unless the repealing statute contains a

savings clause protecting the right in a pending litigation.” (Emphasis added.)

The underlined language of the case above was omitted from the Commission staff’s analysis but it is significant, because with regard to the County Formation Law, the right to reimbursement has been reduced to final judgment. The County of Santa Barbara was a party to a final appellate court judgment on the merits that the County Formation Law is a reimbursable state mandate. (*County of Los Angeles v. State of California*, (1984) 153 Cal. App. 3d 568.)

As a party, the County of Santa Barbara previously prevailed against the State in a final appellate court judgment finding the County Formation Law to be a reimbursable state mandate. (*Id.*) The Court specifically stated that “Statutes of 1974, chapter 1392, (Gov. Code section 23300 et seq.) established procedures for the creation of new counties. Those procedures imposed state-mandated local costs for 1975-76 and succeeding years.” *Id.* at 570. The subsequent repeal of former Rev.& Tax. Code section 2231 does not destroy the County’s right to reimbursement, because the right had been reduced to final judgment before the change in the law. The issue of whether the County Formation Law is a reimbursable mandate was actually and necessarily litigated. We believe the decision in the above-cited *County of Los Angeles* case that the County Formation Law is a reimbursable state mandate should be given preclusive effect under the res judicata and collateral estoppel doctrines. The Commission on State Mandates is in privity with the State agencies that participated in that case. (See, for example, *Carmel Valley Fire Protection District et. al. v. State of California*, (1987) 190 Cal. App. 3d 521, 535-536). Furthermore, injustice would not result from application of these doctrines, because it would be in the public interest for the State to absorb these costs, rather than the County. The State required the formation of a Commission, the making of certain determinations, and for the County to hold an election to support the public’s participation in determining the form of county government that would best serve them. The county formation costs are unusual costs imposed on the County by the State for certain activities solely as a result of State law, in an amount that is substantial for the County to absorb.

2. The 2004 Executive Order implemented the County Formation Law as the County Formation Law existed in 2004, which included the several amendments to the County Formation Law after January 1, 1975.

Commission staff argues that the statutes that the Governor’s Press Release sought to implement were enacted prior to January 1, 1975, and are therefore beyond the constitutional and statutory reimbursement requirements. Per Govt. Code section 17514, "Costs mandated by the state" means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a

new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution. (Emphasis added.) The Governor took a new action based on statutes in effect in 2004, which included the amendments to the County Formation Law. The Executive Order imposed new activities on the County that were not activated until the Governor made this order.

3. Even if the Commission does not find the core County Formation Law effective January 1, 1975 to be a mandate, the amendments since that time are a reimbursable mandate.

Regardless of the Commission's decision on the statutes enacted pre-1975, the amendments to the County Formation Law since January 1, 1975 are a reimbursable state mandate, and they are a part of the County's test claim. The County's initial test claim filing contained all of the sections of the County Formation Law in effect as of 2006, when the test claim was filed. The amendments to the County Formation Law were pled; the attached statutes included the amendments. The County complied with the test claim requirements by attaching the applicable code sections and providing cost, activities, and other information. Commission staff acknowledged in the draft staff analysis that the County's submission alleged a number of activities and costs that were identifiable as tied to the amendments. The County's submission of the amended statutes, along with the cost, activities, and other information, alleged sufficient facts to put all parties on notice that the County's claim included the amendments. As an example, the County pled and attached Govt. Code section 23340.5. This 1978 amendment gave the County Formation Commission new authority to appoint outside counsel in lieu of using County Counsel, and the County included costs for such outside counsel, but Commission staff did not address this section at all in its Draft Staff Analysis and Proposed Statement of Decision. The County does not believe that it was required to segregate the amendments as part of its 2006 test claim. If Commission staff believed that the amendments were not sufficiently pled, they should have notified the County and given the County a chance to remedy the issue, instead of issuing a Notice of Completion. Instead, Commission staff issued a Notice of Completion and did not notify the County for over 6 years of any potential pleading issue.¹

We have attached additional information regarding the amendments, including printouts from Lexis-Nexis, and a spreadsheet with estimated costs tied to specific amendments of the Government Code. Amendments to the County Formation Law include:

¹ Govt. Code section 17554 states that "with the agreement of all parties to the claim, the commission may waive the application of any procedural requirement imposed by this chapter or pursuant to section 17553." To the extent that an agreement to waive a procedural requirement is needed, the County hereby requests such an agreement.

- Stats 1975 ch 1247 (which for example, amended section 23331 regarding creation of the Formation Commission by the Governor.)
- Stats 1977 ch 1175 (which, for example, amended sections regarding initiation of the County formation process by petition.)
- Stats 1978 ch 465 (which added provisions regarding the Formation Commission's authority to appoint outside counsel, and loans to the Commission.)
- Stats 1979 ch 370 (which made numerous changes, including amending definitions and adding certain hearing requirements and publication requirements, and requiring projected revenue determinations in each affected county.)
- Stats 1984 ch 226 (which, for example, added requirements regarding determinations of boundaries.)
- Stats 1985 ch 702 (which added required determinations regarding appointed offices in addition to determinations regarding elected offices, and required a determination of the appropriations limit of the proposed county.)
- Stats 2004 ch 227 (which included changes regarding loans to Formation Commissions.)

The attached estimated cost summary shows in more detail how the costs described below arise from some of the amendments shown above.

- In 1979, Section 23324(a) was amended to add certain hearing noticing requirements; Section 23324(b) was added regarding publication requirements, and Section 23324(c) was added to require the clerk to act as a moderator. Costs tied to these sections include staff time and publication costs.
- Sections 23332(d) and 23332(f) were amended in 1984 to add requirements regarding the determinations on final boundaries of the proposed county. The determination of boundaries, particularly of equal boundaries, was one of the prime determinations that needed to be analyzed and was one of the purposes of the Commission, resulting in mapping costs, costs for the surveyor, and substantial staff time. Section 23332(h) was amended in 1985 to add required determinations regarding appointed offices in addition to determinations regarding elected offices; Section 23332(k) was added in 1985 to require a determination of the appropriations limit of the proposed county.

- Section 23333(b) was amended in 1979 to require a determination of the projected revenues available to each affected county, which required substantial staff time, including surveying departments on where their revenues are derived from.
- Section 23334(d) was added in 1979 to require a determination of the unfunded liability of a county retirement system as part of the determination of the distribution of indebtedness, which required staff time; and
- Section 23340.5 was added in 1978 regarding the appointment of counsel in lieu of using county counsel by the County Formation Commission, and compensation of such counsel.

With regard to the estimated costs imposed by these amendments to the County Formation Law, the County reserves the right to present the applicable costs in a different manner, and amounts may differ, based on the Commission's decision on this test claim and on subsequent to-be-developed parameters and guidelines.

4. The duties under the County Formation Law are imposed by the State Legislature through the statutes and by the Governor through the Executive Order.

Commission staff argues that the statutes do not impose a state-mandated program, because all requirements of the test claim statutes are triggered by action of the voters, not by the state. We respectfully disagree with Commission staff as to this point. First, as discussed above, an appellate court found that the County Formation Law is a state-mandated program in *County of Los Angeles v. State of California* 1984) 153 Cal. App. 3d 568, stating: "As we have seen, chapter 1392 does include such state-mandated local costs." Proceedings for the creation of the proposed county were initiated by action in the voters in that case also. This decision should be given preclusive effect.

Second, the duties under the County Formation Law are required because of the state statutes and the Executive Order; it is irrelevant that the statutes allow the voters to initiate the process. The County had no discretion with regard to the formation of the County Formation Commission, the public noticing requirements, the boundary determinations, and other duties. The cases cited by Commission staff do not support their conclusion. For example, the Commission staff cites *California School Boards Association v. State of California*, (2009) 171 Cal. App. 4th 1183. That case looked at the constitutionality of Government Code section 17556(f), which provides that the Commission shall not find costs mandated by the state if the statute or executive order imposes duties that are necessary to implement, or are expressly included in, a ballot measure approved by the voters in a statewide or local election. In the County's case, Govt. Code section

17556(f) has no applicability because there was no ballot measure approved by the voters. The Court in *California School Boards Association* found that Cal. Const. art. XIII B, section 6 requires reimbursement for mandates imposed by the Legislature and not by ballot measure. *California School Boards Association*, at 1207. In the County's case, the duties under the County Formation Law were not imposed because of a ballot measure approved by the voters. The duties are imposed by the State through the statutes enacted by the State Legislature, and the 2004 Executive Order. As an example, it is the statutory requirement to determine equal districts that impose costs on the County, not the initiation by voters.

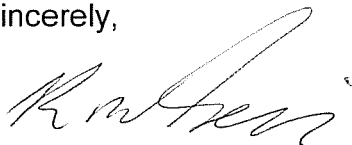
Commission staff also cites *City of San Jose v. State of California*, 45 Cal. App. 4th 1802, which involved a statute allowing the County the discretion whether to charge cities for certain costs of booking arrestees into the County jail. Unlike that case, the duties under the County Formation Law are imposed because of state law and the Executive Order, not because of discretionary action by the County.

Also, Commission staff argues that the Governor's Executive Order was not a state mandate because it was without discretion, as in *City of Sacramento v. State of California*, (1990) 50 Cal. 3d 51, where the State's implementation of federal law was without discretion. But here, even if the Governor's discretion is limited, the Governor's action is required because the State Legislature mandates it through Government Code section 23331 and subsequent amendments.

In conclusion, the County properly stated a claim in 2006 for this reimbursable state mandate. The County is asking that the Commission find the County Formation Law, as amended, to be a reimbursable state mandate. Alternatively, the County is asking that the Commission find the post-January 1, 1975 amendments to the County Formation Law related to the costs on the attached spreadsheet to be a reimbursable state mandate.

Thank you for the opportunity to comment. If you have any questions or would like additional information, please contact me at (805) 568-2100.

Sincerely,



Robert W. Geis
Auditor-Controller

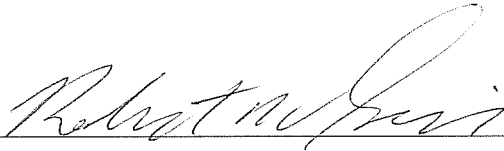
Attachments:

- (1) Estimated Cost Summary
- (2) Declaration
- (3) Excerpts of relevant statutes amended post-1975

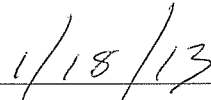
<u>California Government Code (Items in <i>BOLD italics</i> were new or amended)</u>		<u>Date</u>	<u>Estimated Costs</u>
23324. Notice of intention to circulate petition and securing of signatures on petition			
(a)	Before circulating any petition pursuant to this article, the proponents shall file with the clerk as provided in Section 23325, a notice of intention to do so. The notice shall be accompanied by a printed statement not exceeding 500 words in length, stating the objectives to be achieved by creating the new county. <i>The notice shall also specify the date of a public hearing, which shall be set not less than 30 days nor more than 60 days after filing of the notice, to be held in an appropriate place, as determined by the clerk of the county from which the new county is to be formed or the clerk of the principal county, as the case may be, for purposes of discussing the placement of the boundaries of the proposed county.</i>	1979	TBD
(b)	<i>The notice of intention required pursuant to subdivision (a) shall be published by the clerk at least once in a newspaper of general circulation in each affected county. It shall also be posted by the clerk in such appropriate public places as determined by the clerk.</i>	1979	\$ 65,455.00
(c)	<i>The clerk shall also act as an impartial moderator of the public hearing required by this section</i>	1979	\$ 8,697.00
23332. Determinations of commission			
(d)	The final boundaries of the proposed county, <i>pursuant to Sections 23337, 23337.5, and 23338</i>	1984	\$ 13,348.00
(f)	The division of the proposed county into five supervisorial districts. <i>The boundaries of the districts shall be established in a manner which results in a population in each district which is equal as possible to the population in each of the other districts within the county.</i>	1984 (2nd sentence added)	\$ 150,606.00
(h)	<i>Which county offices shall be filled by election at the subsequent election of officials for an approved county conducted pursuant to Article 4.5 (commencing with Section 23374.1), and which of the offices shall be filled by appointments made by the board of supervisors of the approved county. At a minimum, the county offices to be filled by election shall be those which by law, are required to be filled by election</i>	1985	TBD
(k)	<i>The appropriations limit for the proposed county in accordance with <u>Section 4 of Article XIII B of California Constitution</u></i>	1985	\$ 1,234.00
23333. Considerations in determining fiscal impact and economic viability of proposed county (In determining the fiscal impact of the creation of the proposed county on the affected county or counties and the economic viability of the proposed county, the commission shall consider:)			
(b)	Projected revenues available to the proposed county <i>and each affected county</i>	1979	\$ 132,273.58
23334. Determination of distribution of indebtedness; Provisions authorized			
(d)	<i>For purposes of this section, the unfunded liability of a county retirement system shall be deemed an indebtedness.</i>	1979	\$ 74,441.00
23340.5. Appointment of counsel in lieu of using county counsel by commission; Compensation			
	<i>Anything in a county of city and county charter to the contrary notwithstanding, the commission, in lieu of using the county counsel of the affected county, may appoint a counsel and fix and order paid such counsel's compensation to provide legal assistance to the commission in the performance of any functions requested by the commission and necessary for the performance of its duties.</i>	1978	\$ 87,267.00
			<u><u>\$ 533,321.58</u></u>

County Formation Cost Recovery Test Claim No. 06-TC-02
Declaration Supporting Comments on
Draft Staff Analysis and Proposed Statement of Decision

I, Robert W. Geis, CPA, CPFO, Auditor-Controller for the County of Santa Barbara, declare that the information provided herein is true and complete to the best of my personal knowledge, information or belief.



Robert W. Geis, CPA, CPFO
Auditor-Controller
County of Santa Barbara



Date



Deering's California Codes Annotated
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*** This document is current through the 2013 Supplement ***
 (All 2012 legislation, 2012 Governor's Reorg. Plan No. 2 and all
 propositions approved by the electorate at the June and November 2012 elections)

GOVERNMENT CODE
 Title 3. Government of Counties
 Division 1. Counties Generally
 Chapter 3. Creation of New Counties
 Article 2. Initiation of Proceedings

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 23324 (2013)

§ 23324. Notice of intention to circulate petition and securing of signatures on petition

(a) Before circulating any petition pursuant to this article, the proponents shall file with the clerk as provided in Section 23325, a notice of intention to do so. The notice shall be accompanied by a printed statement not exceeding 500 words in length, stating the objectives to be achieved by creating the new county. The notice shall also specify the date of a public hearing, which shall be set not less than 30 days nor more than 60 days after filing of the notice, to be held in an appropriate place, as determined by the clerk of the county from which the new county is to be formed or the clerk of the principal county, as the case may be, for purposes of discussing the placement of the boundaries of the proposed county.

(b) The notice of intention required pursuant to subdivision (a) shall be published by the clerk at least once in a newspaper of general circulation in each affected county. It shall also be posted by the clerk in such appropriate public places as determined by the clerk.

(c) The clerk shall also act as an impartial moderator of the public hearing required by this section.

(d) No petition shall be accepted for filing pursuant to this article unless the signatures thereon shall have been secured within six months of the date on which the first signature on the petition was affixed and such petition is submitted for filing as provided in Section 23325 within 60 days after the last signature is affixed. If the time between the date on which the last signature is affixed and the date on which the petition is submitted for filing exceeds 60 days, or, if any signature on the petition has been secured more than six months from the date on which the first signature was affixed, the petition shall be considered insufficient and shall be filed by the clerk as a public record without prejudice to the filing of a new petition.

(e) No petition shall be circulated pursuant to this article until 60 days after the filing of the notice of intention pursuant to this section.

HISTORY:

Added Stats 1974 ch 1392 § 2. Amended Stats 1979 ch 370 § 1.5.

NOTES:**Former Sections:**

Former § 23324 was added Stats 1947 ch 424 § 1 and repealed Stats 1974 ch 1392 § 1.

Amendments:**1979 Amendment:**

(1) Added subds (a), (b), (c), and (e); and (2) designated the former section to be subd (d).

Cross References:

Newspaper of general circulation: *Gov C §§ 6000 et seq.*

Hierarchy Notes:

Tit. 3, Div. 1, Ch. 3 Note



DEERING'S CALIFORNIA CODES ANNOTATED
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*** This document is current through the 2013 Supplement ***
 (All 2012 legislation, 2012 Governor's Reorg. Plan No. 2 and all
 propositions approved by the electorate at the June and November 2012 elections)

GOVERNMENT CODE
 Title 3. Government of Counties
 Division 1. Counties Generally
 Chapter 3. Creation of New Counties
 Article 3. County Formation Review Commission

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 23332 (2013)

§ 23332. Determinations of commission

The commission shall determine all of the following:

(a) A fair, just, and equitable distribution, as between each affected county and the proposed county, of the indebtedness of each affected county.

(b) The fiscal impact of the proposed county creation on each affected county.

(c) The economic viability of the proposed county.

(d) The final boundaries of the proposed county, pursuant to Sections 23337, 23337.5, and 23338.

(e) A procedure for the orderly and timely transition of service functions and responsibilities from the affected county or counties to the proposed county.

(f) The division of the proposed county into five supervisorial districts. The boundaries of the districts shall be established in a manner which results in a population in each district which is as equal as possible to the population in each of the other districts within the county.

(g) The division of the proposed county into a convenient and necessary number of road and school districts, the territory of which shall be defined. To the extent possible, existing road and school districts located within the territory of the proposed county shall be maintained.

(h) Which county offices shall be filled by election at the subsequent election of officials for an approved county conducted pursuant to Article 4.5 (commencing with Section 23374.1), and which of the offices shall be filled by appointments made by the board of supervisors of the approved county. At a minimum, the county offices to be filled by election shall be those which by law, are required to be filled by election.

(i) That the boundaries of the proposed county do not create a territory completely surrounded by any affected county.

(j) The location of the county seat of the proposed county.

(k) The appropriations limit for the proposed county in accordance with *Section 4 of Article XIII B of the California Constitution*.

The commission shall not be required to make any other determinations.

HISTORY:

Added Stats 1974 ch 1392 § 2. Amended Stats 1979 ch 370 § 3; Stats 1984 ch 226 § 1, effective June 21, 1984; Stats 1985 ch 702 § 4; Stats 2012 ch 470 § 26 (AB 1529), effective January 1, 2013.

NOTES:

Amendments:

1979 Amendment:

(1) Added ", pursuant to Sections 23337, 23337.5, and 23338" in subd (d); and (2) substituted "for such officials" for "on the proposed county creation" in subd (h).

1984 Amendment:

(1) Added "all of the following" in the introductory clause; (2) added the second sentence of subd (f); (3) added the comma after "road" both times it appears in subd (g); and (4) substituted "those" for "such" in subd (h).

1985 Amendment:

(1) Substituted subd (h) for former subd (h) which read: "(h) The county officials to be elected at the election for those officials."; (2) added subd (k); and (3) added the last paragraph.

2012 Amendment:

Substituted "road" for "judicial, road," in the first and second sentences of subd (g).

Law Revision Commission Comments:

2012

Subdivision (g) of Section 23332 is amended to reflect unification of the municipal and superior courts pursuant to former *Section 5(e) of Article VI of the California Constitution*. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district"). For provisions relating to boundaries of a court of appeal district, see Sections 23394 (court of appeal district in new county) and 69100 (court of appeal districts in existing counties). 39 Cal. L. Revision Comm'n Reports 157 (2009).

Hierarchy Notes:

Tit. 3, Div. 1, Ch. 3 Note



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GOVERNMENT CODE
 Title 3. Government of Counties
 Division 1. Counties Generally
 Chapter 3. Creation of New Counties
 Article 3. County Formation Review Commission

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 23333 (2013)

§ 23333. Considerations in determining fiscal impact and economic viability of proposed county

In determining the fiscal impact of the creation of the proposed county on the affected county or counties and the economic viability of the proposed county, the commission shall consider:

- (a) The cost of providing services in the proposed county and in each affected county.
- (b) Projected revenues available to the proposed county and each affected county.

HISTORY:

Added Stats 1974 ch 1392 § 2. Amended Stats 1979 ch 370 § 4.

NOTES:

Amendments:

1979 Amendment:

(1) Added "and each affected county" in subd (b); and (2) deleted former subd (c) which read: "(c) Effect of reduction in revenue available to the affected county or counties."

Hierarchy Notes:

Tit. 3, Div. 1, Ch. 3 Note



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GOVERNMENT CODE
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 Article 3. County Formation Review Commission

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 23334 (2013)

§ 23334. Determination of distribution of indebtedness; Provisions authorized

Except as otherwise provided in this article, the commission may, in determining a fair, just and equitable distribution of the indebtedness of each affected county, as between each affected county and the proposed county, provide for one or more of the following:

- (a) The payment of a fixed or determinable amount of money by the proposed county either as a lump sum or in installments, for the acquisition, transfer, use or right of use of any part of the property, real or personal, owned by an affected county at the time a petition was filed pursuant to Section 23325.
- (b) The levying or fixing and the collection in the proposed county of (1) special, extraordinary or additional taxes or assessments, or (2) special, extraordinary or additional service charges, rentals or rates, or (3) both; or the issuance and sale of bonds for purposes of providing for any payment required pursuant to subdivision (a) of this section.
- (c) The imposition, exemption, transfer, division or apportionment, as between any affected county and the proposed county, of liability for payment of all or any part of principal, interest or any other amounts which shall become due on account of all or any part of any bonds, including revenue bonds, of an affected county which are outstanding or authorized, at the time a petition is filed pursuant to Section 23325, or other contracts or obligations of an affected county; and the levying or fixing and the collection in the proposed county of any (1) taxes or assessments, or (2) service charges, rentals or rates, or, (3) both, as may be necessary to provide for such payment.

In making its determinations, the commission shall ascertain the current indebtedness of each affected county. It shall also ascertain (a) the total assessed value of all property located in each affected county; and (b) the assessed value of the territory of the proposed county. The assessed values used by the commission shall be those shown on the last equalized assessment roll of each affected county.

The commission shall also identify and determine the location and value of all real and personal property owned by each county and located within the boundaries of the proposed county. Any real and personal property identified by the commission pursuant to this section shall become property of the proposed county, should it be established as provided in this chapter, upon settlement of the indebtedness in the manner specified by the commission.

(d) For purposes of this section, the unfunded liability of a county retirement system shall be deemed an indebtedness.

HISTORY:

Added Stats 1974 ch 1392 § 2. Amended Stats 1979 ch 370 § 4.5.

NOTES:

Amendments:

1979 Amendment:

Added subd (d).

Hierarchy Notes:

Tit. 3, Div. 1, Ch. 3 Note



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GOVERNMENT CODE
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Chapter 3. Creation of New Counties
Article 3. County Formation Review Commission

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 23340.5 (2013)

§ 23340.5. Appointment of counsel in lieu of using county counsel by commission; Compensation

Anything in a county or city and county charter to the contrary notwithstanding, the commission, in lieu of using the county counsel of the affected county, may appoint a counsel and fix and order paid such counsel's compensation to provide legal assistance to the commission in the performance of any functions requested by the commission and necessary for the performance of its duties.

HISTORY:

Added Stats 1978 ch 465 § 1, effective July 19, 1978.

NOTES:

Hierarchy Notes:

Tit. 3, Div. 1, Ch. 3 Note

229 Cal.App.3d 552, 280 Cal.Rptr. 237, 66 Ed. Law Rep. 1175, 1991 O.S.H.D. (CCH) P 29,408
(Cite as: **229 Cal.App.3d 552**)

H

LOS ANGELES UNIFIED SCHOOL DISTRICT,
Plaintiff and Respondent,

v.

THE STATE OF CALIFORNIA et al., Defendants
and Appellants.

No. B046357.

Court of Appeal, Second District, Division 5, Cali-
fornia.

Apr. 19, 1991.

SUMMARY

The trial court granted a school district's petition for writ of mandate seeking to set aside a decision of the Board of Control of the State of California denying the district's claim for reimbursement for the financial cost of complying with legislation that created the California Occupational Safety and Health Administration (Cal/OSHA). To comply with Cal/OSHA, the district had expended funds undertaking several safety-related measures. (Superior Court of Los Angeles County, No. C332013, Kurt J. Lewin, Judge.)

The Court of Appeal reversed with directions to deny the petition. It held that as a matter of law no constitutional or statutory provision mandates the reimbursement to local governments of costs incurred complying with Cal/OSHA; thus the district had not established a right to reimbursement. (Opinion by Boren, J., with Turner, P.J., and Ashby, J., concurring.)

HEADNOTES

Classified to California Digest of Official Reports (**1a**, **1b**, **1c**) State of California § 11--Reimbursement of State-mandated Cost--School District's Expenditures Complying With Cal/OSHA.

As a matter of law, no provision mandates the reimbursement of costs incurred under California Occupational Safety and Health Administration (Cal/OSHA); thus a school district seeking reimbursement for its expenditures complying with Cal/OSHA had no right to reimbursement. Cal/OSHA was enacted in 1973. By its terms, Cal. Const., art. XIII B, § 6 (reimbursement to local governments for

new programs and services), enacted in 1975, allows but does not require reimbursements for funds expended complying with prior legislation. Also, the Legislature enacted reimbursement provisions in 1980 (Gov. Code, § 17500 et seq.), and later repealed Rev. & Tax. Code, §§ 2207.5, 2231, also dealing with reimbursement. These legislative acts effectively preclude reimbursement for compliance with legislation enacted before 1975.

[See 9 **Witkin**, Summary of Cal. Law (9th ed. 1989) Taxation, § 123.]

(2) Appellate Review § 32--Raising Issue for First Time on Appeal--Legal Question.

The appellate court has discretion to entertain an issue not raised previously where the issue presents a purely legal question involving no disputed facts.

(3) Abatement, Survival, and Revival § 1--Abatement--Repeal of Statute.

Where an action is dependent upon a statute that is later repealed, the action cannot be maintained.

[See Cal.Jur.3d, Actions, § 78 et seq.]
COUNSEL

John K. Van de Kamp and Daniel E. Lungren, Attorneys General, N. Eugene Hill, Assistant Attorney General, and Henry G. Ullerich, Deputy Attorney General, for Defendants and Appellants.

Ron Apperson and Howard Friedman for Plaintiff and Respondent.

BOREN, J.

The Los Angeles Unified School District (District) filed with the Board of Control of the State of California (Board) a claim in 1980 seeking reimbursement for the financial costs of complying with legislation (Stats. 1973, ch. 993) which created the California Occupational Safety and Health Administration (Cal/OSHA). The District claimed approximately \$45,000 in reimbursements as a result of Cal/OSHA's regulations, standards and orders, which required the District to modify several school *554 buildings and other facilities by installing or repairing a myriad of safety-related items. Following the Board's denial of the District's claim for reimbursement and the Los Angeles Superior Court's initial denial of the District's petition for a writ of mandate,

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this Division of the Court of Appeal reversed and remanded the cause on a procedural matter and not on the merits. (*Los Angeles Unified School Dist. v. State of California* (1988) 199 Cal.App.3d 686 [245 Cal.Rptr. 140].) Upon remand, the superior court granted the District's petition for a writ of mandamus and commanded the Board to set aside the denial of the District's claim for reimbursement. The Board appeals, and we reverse.

Discussion

(1a) The Board contends that the duty to provide a safe workplace was an obligation of the school districts because of preexisting safety orders and the continuous jurisdiction of the Department of Industrial Relations over school districts. As the Board views the matter, to the extent that the 1973 legislation creating Cal/OSHA required additional costs and duties of all employers, the legislation did not either require a new service to the public or impose unique requirements on local government that do not apply generally to all residents and entities in the state. According to the Board, the Cal/OSHA legislation did not create any new programs or an increased level of services within the meaning of relevant reimbursement provisions and case law addressing reimbursement of state-mandated costs and therefore did not lead to reimbursable expenses.

The reimbursement provisions at issue are [article XIII B, section 6 of the California Constitution](#)^{FN1} and former sections 2231 and 2207.5 of the Revenue and Taxation Code.^{FN2} We hold that as a matter of law (see *555 *Los Angeles Unified School Dist. v. State of California*, *supra*, 199 Cal.App.3d at p. 689; *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 536 [234 Cal.Rptr. 795]), no provision mandates the reimbursement of costs incurred under the Cal/OSHA law, and the District thus has not established a right to reimbursement.

FN1 [Article XIII B, section 6 of the California Constitution](#) provides, in pertinent part, as follows: “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 such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of

funds ... [in several specified situations, including] [¶] (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.” (Adopted Nov. 6, 1979, effective July 1, 1980.)

FN2 The pertinent former provisions of the Revenue and Taxation Code applicable when the District's claim was denied have since been repealed, and the subject matter is now addressed in [Government Code section 17500](#) et seq. (See *Los Angeles Unified School Dist. v. State of California*, *supra*, 199 Cal.App.3d at p. 689, fn. 2.)

Former Revenue and Taxation Code section 2231, subdivision (a) provided: “The state shall reimburse each local agency for all 'costs mandated by the state,' as defined in Section 2207. The state shall reimburse each school district only for those 'costs mandated by the state' as defined in [Section 2207.5](#).” (Stats. 1978, ch. 794, § 1.1, p. 2546, repealed by Stats. 1986, ch. 879, § 23, p. 3045.)

Former Revenue and Taxation Code section 2207.5 provided, in pertinent part, that “[c]osts mandated by the state” which “a school district is required to incur” include costs increased by reason of a law enacted “after January 1, 1973,” which “mandates a new program or increased level of service of an existing program.” (Stats. 1977, ch. 1135, § 5, p. 3646, amended by Stats. 1980, ch. 1256, § 5, p. 4248, repealed by Stats. 1989, ch. 589, § 8.)

The District's petition for writ of mandamus claimed a right to reimbursement, not under [article XIII B, section 6 of the California Constitution](#), but under the Revenue and Taxation Code provisions. On appeal, the District does not address the Revenue and Taxation Code provisions, but only [article XIII B, section 6](#).

(2) The District may urge for the first time on appeal that its claim is dependent upon the [California Constitution article XIII B, section 6](#). The District's claim regarding this constitutional provision can be

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belatedly raised because it raises a purely legal question involving no disputed facts. (See *Ward v. Taggart* (1959) 51 Cal.2d 736, 742 [336 P.2d 534]; *Bayside Timber Co. v. Board of Supervisors* (1971) 20 Cal.App.3d 1, 4 [97 Cal.Rptr. 431].)

(1b) Nonetheless, this constitutional provision does not require reimbursement for expenditures pursuant to a statute enacted as early as 1973, the year Cal/OSHA legislation was enacted. The District ignores the language in the provision itself that “the Legislature may, *but need not*, provide such subvention of funds for the following mandates: ... (c) Legislative mandates enacted *prior to January 1, 1975*, or executive orders or regulations implementing legislation enacted prior to January 1, 1975.” (*Cal. Const., art. XIII B, § 6*, italics added.) Since the Cal/OSHA legislation at issue was enacted in 1973 (Stats. 1973, ch. 993), the Legislature was not required to provide subvention of funds.

The District's abandonment on appeal of its claim to subvention of funds based on the Revenue and Taxation Code provisions is understandable. *Revenue and Taxation Code section 2231*, the statutory basis for the District's petition alleging a right to reimbursement, was repealed in 1986. *556 (Stats. 1986, ch. 879, § 23, p. 3045.) In *1989, Revenue and Taxation Code section 2207.5* was also repealed. (Stats. 1989, ch. 589, § 8.) (3) It is well settled that, as here, when an action is dependent upon a statute which is later repealed, the action cannot be maintained. (*Younger v. Superior Court* (1978) 21 Cal.3d 102, 109 [145 Cal.Rptr. 674, 577 P.2d 1014]; see *Governing Board v. Mann* (1977) 18 Cal.3d 819, 829 [135 Cal.Rptr. 526, 558 P.2d 1].)

(1c) Although the Legislature repealed its authorization for subvention of funds for costs mandated by the state by reason of a law enacted after January 1, 1973 (see former Rev. & Tax. Code, §§ 2231 & 2207.5), the repealing legislation also added (Stats. 1986, ch. 879) and amended (Stats. 1989, ch. 589) provisions in the *Government Code (§ 17500 et seq.)* which address the same subject. *Government Code section 17561*, subdivision (a) provides: “The state shall reimburse each local agency and school district for all 'costs mandated by the state' as defined in Section 17514.” (Stats. 1986, ch. 879, § 6, p. 3041, amended most recently by Stats. 1989, ch. 589, § 1.5 (No. 4 Deering's Adv. Legis. Service, pp.

1828-1829).) *Government Code section 17514*, enacted in 1984, provides: “ 'Costs mandated by the state' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of *Section 6 of Article XIII B of the California Constitution*.” (Stats. 1984, ch. 1459, § 1, p. 5114.)^{FN3}

FN3 We also note that all the costs for which the District seeks reimbursement were incurred in 1978 and 1979 and thus prior to the July 1, 1980, statutory cutoff date. The District's petition has thus also failed to allege sufficient facts to bring its claim not only within the cutoff date of the statute involved, but within the cutoff date for the costs incurred.

As indicated above (*ante*, p. 555), the Legislature in 1986 and 1989 repealed provisions which permitted the subvention of funds for costs mandated by the state as to laws enacted after January 1, 1973, and it enacted provisions which permitted reimbursement for costs mandated by the state incurred after July 1, 1980, as a result of a statute enacted on or after January 1, 1975. This legislative chronology reveals that there is no present legislative intent to provide subvention as to pre-1975 statutes. (See *California Mfrs. Assn. v. Public Utilities Com.* (1979) 24 Cal.3d 836, 844 [157 Cal.Rptr. 676, 598 P.2d 836].)^{FN4} The Legislature's abolition of the right to *557 subvention as to pre-1975 statutes, obviating reimbursement for mandated costs relating to the 1973 Cal/OSHA legislation, constituted the lawful abolition of a right prior to final judgment in the present case. As in the present case, “... when a right of action does not exist at common law, but depends solely upon a statute, the repeal of the statute destroys the right unless the right has been reduced to final judgment or unless the repealing statute contains a saving clause protecting the right in a pending litigation.” (*Krause v. Rarity* (1930) 210 Cal. 644, 652 [293 P. 62, 77 A.L.R. 1327]; see *Southern Service Co., Ltd. v. Los Angeles* (1940) 15 Cal.2d 1, 11-12 [97 P.2d 963].)

FN4 The Board raised for the first time in its reply brief in this appeal that the statutory

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changes established a legislative intent not to provide subvention as to pre-1975 statutes. At oral argument, the District argued that the Board had waived the issue as to the statutory changes and was barred from belatedly raising it. Generally, an issue must be raised in the trial court to be preserved for appeal. (*Parker v. City of Fountain Valley* (1981) 127 Cal.App.3d 99, 117 [179 Cal.Rptr. 351].) However, as we previously discussed when permitting the District to belatedly raise its constitutional claim (*ante*, p. 555), an appellate court has the discretionary power to hear a new issue where no controverted facts are involved and the issue is a question of law. (*California Pools, Inc. v. Pazargad* (1982) 131 Cal.App.3d 601, 604 [182 Cal.Rptr. 568].) Although the question of law regarding the statutory changes was raised by the Board in its reply brief rather than in its opening brief (see *Nelson v. Gaunt* (1981) 125 Cal.App.3d 623, 641 [178 Cal.Rptr. 167]), the District had an opportunity to respond and did so during oral argument.

The propriety of the Legislature's repeal of the Revenue and Taxation Code provisions which supported a right to reimbursement was recognized, with apparent foresight, in *County of Los Angeles v. State of California* (1984) 153 Cal.App.3d 568 [200 Cal.Rptr. 394]. “[T]he mandatory provisions of *Revenue and Taxation Code section 2231* do not restrict legislative power. The Legislature remains free to amend or repeal *section 2231* as it applies to pre-1975 legislative mandates. [Citations.]” (*Id.* at p. 573.) When the Legislature repealed *sections 2231* and *2207.5* and left legislation limiting reimbursement for costs mandated by the state to costs incurred “as a result of any statute enacted on or after January 1, 1975” (*Gov. Code, § 17561*, subd. (a)), it effectively precluded reimbursement for costs incurred as a result of the 1973 Cal/OSHA legislation.

As this court recently observed in an unrelated state mandate context, “The legislature [has] consistently limited reimbursement of costs by reference to the effective dates of statutes and executive orders and nothing indicates the state intended recovery of costs to be open-ended.” (*Long Beach Unified Sch. Dist. v. State of California* (1990) 225 Cal.App.3d 155, 179 [275 Cal.Rptr. 449].) In view of our conclusion that the

Legislature has effectively precluded reimbursement for the District's claimed costs, we need not determine whether the 1973 Cal/OSHA legislation created a new obligation on the part of the District or mandated a new program or increased level of service within the meaning of *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56 [233 Cal.Rptr. 38, 729 P.2d 202]. *558

Finally, as the Board views the matter, new costs to school districts were proximately caused by specific new safety orders and not by the 1973 Cal/OSHA statute, which merely established state agencies to adopt standards, hear appeals and investigate and penalize for violations. The Board cites other contexts in which it has determined that specific regulations constitute reimbursable mandates. (See, e.g., *County of Los Angeles v. Department of Industrial Relations* (1989) 214 Cal.App.3d 1538, 1542 [263 Cal.Rptr. 351] [elevator earthquake safety regulations]; *Carmel Valley Fire Protection Dist. v. State of California, supra*, 190 Cal.App.3d at p. 535 [firefighter protective clothing and equipment required by administrative code sections].) The Board thus urges that upon the filing of a specific claim arising from a specific regulation by Cal/OSHA, the Board may receive evidence on the old duties and the new duties and determine the quantum of increased costs, although a hearing involving all safety orders at one time is a practical impossibility.

It appears that the Board, whose functions were transferred to a new Commission on State Mandates (*Gov. Code, §§ 17525, 17630*; Stats. 1984, ch. 1459, § 1, pp. 5115-5117; amended by Stats. 1985, ch. 179, § 4, pp. 1111-1112, eff. July 8, 1985, operative Jan. 1, 1985), seeks judicial permission to entertain claims of whether specific orders and regulations pertaining to Cal/OSHA contain state mandated costs.^{FNS} We decline the invitation to rule on such a theoretical issue involving claims not involved in the present case. To the extent that the Board is concerned with the safety orders and regulations mandating the costs incurred in the present case, such orders and regulations cannot arise in a vacuum. Safety orders and regulations must have some specific legislation as a statutory predicate. Even assuming that the District had adequately pleaded specific Cal/OSHA orders and regulations, neither the Board nor the District alleges that any costs claimed were incurred as a result of any post-1975 legislation. There is no indication in the record that the

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costs incurred by the District, even if relating to post-1975 safety orders and regulations, were incurred “as a result of” ([Gov. Code, § 17561](#), subd. (a)) anything other than the pre-1975 Cal/OSHA legislation. The District's costs are thus unreimbursable. *559

FN5 When this case was previously before this court and was remanded on a procedural matter, we noted as follows: “As we understand District's position, it contends the trial court erred in refusing to consider the question of law whether [the Cal/OSHA legislation reflected in] Statutes 1973, chapter 993 *itself* comes within the meaning of [section 2207.5](#). We assume District does not contest that portion of the trial court's judgment which holds that District has not adequately pleaded specific *executive orders and regulations* pertaining to Cal OSHA which might contain state mandated costs.” ([Los Angeles Unified School Dist. v. State of California, supra, 199 Cal.App.3d at p. 692, fn. 8](#), italics in original.)

Disposition

The judgment is reversed, and the superior court is directed to deny the petition for a writ of mandate. Each party to bear its own costs on appeal.

Turner, P. J., and Ashby, J., concurred. *560

Cal.App.2.Dist.

Los Angeles Unified School Dist. v. State of California

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END OF DOCUMENT

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C

COUNTY OF LOS ANGELES et al., Plaintiffs and
 Respondents,
 v.
 THE STATE OF CALIFORNIA, Defendant and
 Appellant.

Civ. No. 67641.

Court of Appeal, Second District, Division 3, Cali-
 fornia.
 Mar 23, 1984.

SUMMARY

The trial court granted two counties a writ of mandate commanding the state to comply with [Rev. & Tax. Code, § 2201](#) et seq., and with Stats. 1974, ch. 1392, § 3, by reimbursing the counties for all costs incurred by them in implementing the mandate contained in ch. 1392 in connection with the defeat of four proposed new counties. The writ also restrained the state from implementing an offset against any moneys due the counties to recover the amount of loans the state had made to them to implement the mandate. Stats. 1974, ch. 1392, established procedures for the creation of new counties and imposed state-mandated local costs for 1975-1976 and succeeding years, and stated that such costs required reimbursement under [Rev. & Tax. Code, § 2231](#), subd. (a). The latter statute requires the state to reimburse each local agency for all costs mandated by the state as defined in [Rev. & Tax. Code, § 2207](#), subd. (a), defining such costs as any increased costs which a local agency is required to incur as the result of any law enacted after January 1, 1973 which mandates a new program or an increased level of service of an existing program. (Superior Court of Los Angeles County, No. C 381645, Robert I. Weil, Judge.)

The Court of Appeal affirmed, holding that, although [Cal. Const., art. XIII B, § 6](#), subd. (c), approved in 1980, provided the Legislature may, but need not, reimburse local governments for costs of legislative mandates enacted prior to January 1, 1975, the Legislature in 1980 amended [Rev. & Tax. Code, § 2207](#), and thereby reaffirmed its statutory obligation to reimburse local agencies for the costs defined in [§ 2207](#),

subd. (a), which constituted the exercise of legislative discretion authorized by the constitutional provision. It further held the mandatory provisions of [Rev. & Tax. Code, § 2231](#), did not restrict legislative power, as the Legislature was free to amend or repeal the section as it applies to pre-1975 legislative mandates, but the Legislature was not free to ignore the requirements of existing legislation. (Opinion by Danielson, J., with Lui, Acting P. J., and Arabian, J., concurring.)

HEADNOTES

Classified to California Digest of Official Reports **(1a, 1b)** State of California § 12--Fiscal Matters--Appropriations-- Reimbursement of Local Agencies--State Mandated Costs--Constitutional Discretion--Construction of Statutes.

Under [Rev. & Tax. Code, § 2231](#), subd. (a), requiring the state to reimburse local agencies for all costs mandated by the state, as defined in [Rev. & Tax. Code, § 2207](#), subd. (a), defining such costs as any increased costs a local agency is required to incur as a result of any law enacted after January 1, 1973, the Legislature had a statutory duty to reimburse two counties for all state-mandated costs incurred after the 1974-75 fiscal year pursuant to Stats. 1974, ch. 1392 ([Gov. Code, § 23300](#) et seq.) in connection with the defeat of four proposed new counties. Although [Cal. Const., art. XIII B, § 6](#), subd. (c), approved in 1980, provided the Legislature may, but need not, reimburse local governments for costs of legislative mandates enacted prior to January 1, 1975, the Legislature in 1980 amended [Rev. & Tax. Code, § 2207](#), thereby reaffirming its statutory obligation to reimburse local agencies for the costs defined in [§ 2207](#), subd. (a), which constituted the exercise of legislative discretion authorized by [Cal. Const., art. XIII B, § 6](#), subd. (c). The mandatory provisions of [Rev. & Tax. Code, § 2231](#), do not restrict legislative power, and the Legislature is free to amend or repeal it as it applies to pre-1975 legislative mandates.

[See [Cal. Jur. 3d, State of California, § 78](#); [Am. Jur. 2d, States, Territories, and Dependencies, § 75](#).]

(2) Legislature § 5--Powers--Successor Legislatures.

The legislative power of the state is vested in the Legislature except that which is reserved to the people by way of initiative ([Cal. Const., art. IV, § 1](#)), and one

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legislature cannot limit or restrict its own power or that of successor legislatures.

COUNSEL

John K. Van de Kamp, Attorney General, Daniel J. Kremer, Chief Assistant Attorney General, S. Clark Moore and N. Eugene Hill, Assistant Attorneys General and Martin H. Milas, Deputy Attorney General, for Defendant and Appellant. *570

John N. Larson, County Counsel, Donald K. Byrne, Chief Deputy County Counsel, Lawrence B. Launer, Principal Deputy County Counsel, Kenneth L. Nelson, County Counsel, and Don H. Vickers, Deputy County Counsel, for Plaintiffs and Respondents.

DANIELSON, J.

Appellant, the State of California (the State), appeals from a judgment granting a peremptory writ of mandate commanding the State to comply with [Revenue and Taxation Code section 2201](#) et seq. and with Statutes 1974, chapter 1392, section 3, by reimbursing respondent Counties of Los Angeles and Santa Barbara (the Counties) for all costs incurred by them in implementing the mandate contained in said chapter 1392 and restraining the State from implementing an offset against any moneys due the Counties to recover the amount of loans the State had made to the Counties to implement the mandate of said chapter 1392 until the Counties are completely reimbursed for all of their costs for implementing that mandate. We affirm.

Facts

Statutes of 1974, chapter 1392, ([Gov. Code, § 23300](#) et seq.) established procedures for the creation of new counties. Those procedures imposed state-mandated local costs for 1975-1976 and succeeding years. ‘... [T]here are state-mandated local costs in this act in 1975-76 and subsequent years that require reimbursement under [Section 2231 of the Revenue and Taxation Code](#) which can be handled in the regular budget process.’ (Stats. 1974, ch. 1392, § 3, p. 3039.)

Subsequent to the 1974-1975 fiscal year, the Counties incurred state-mandated costs pursuant to chapter 1392 in connection with the defeat of four proposed new counties. The Legislature, however, has refused to appropriate sufficient moneys to reimburse the Counties in the regular budget process. Rather, the

Counties were directed to file their claims with the State Board of Control. They did so, but the board declined to take action indicating that because the Legislature had already determined that a state mandate requiring reimbursement existed, the Board had no jurisdiction to act.

A portion of the costs incurred by the Counties was financed by loans from the State’s County Formation Revolving Fund ([Gov. Code § 23344](#)). When the State threatened to offset the loans against funds it owed the Counties, the Counties brought suit seeking to compel the State to reimburse *571 the costs incurred and to prevent the offset. The superior court rendered judgment for the Counties. The State appealed.

Contentions

The State contends that [California Constitution, article XIII B, section 6](#), subdivision (c) (adopted November 6, 1979; effective July 1, 1980), permits the Legislature to exercise its discretion in deciding whether to reimburse local governments for costs flowing from mandates enacted prior to January 1, 1975, and that the Legislature has chosen not to reimburse the Counties at the present time for the full amount of costs incurred in the case at bench.

(1a)The Counties contend that the Legislature has a statutory duty to provide reimbursement for costs flowing from mandates enacted after January 1, 1973. They claim that [Revenue and Taxation Code sections 2231](#) and [2207](#), when read together, establish a statutory duty of reimbursement. The Counties further claim that these statutes are not in conflict with the state Constitution. They reason that when the Legislature amended [Revenue and Taxation Code section 2207](#) in 1980 by adding new subdivisions (d) through (h), it did not modify those subdivisions of [section 2207](#) that required it to reimburse local governments for state mandates enacted after January 1, 1973, thus reaffirming its reimbursement obligation. The Counties conclude that in so doing the Legislature exercised its constitutional discretion to require itself to provide reimbursement.

Discussion

[Revenue and Taxation Code section 2231](#), subdivision (a), requires the state to ‘reimburse each local agency for all ‘costs mandated by the state’, as defined in [Section 2207](#).’ [Section 2207](#), subdivision (a), de-

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finer such costs as ‘any increased costs which a local agency is required to incur as a result of ... [a]ny law enacted after January 1, 1973, which mandates a new program or an increased level of service of an existing program’ As we have seen, chapter 1392 does include such state-mandated local costs.

In 1979 the electorate approved Proposition 4, adding [article XIII B, section 6, to the California Constitution](#) to provide for reimbursement by the State to local governments for the costs of new programs or higher levels of service mandated by the State. The Counties contend that the new constitutional provision calls for discretionary reimbursement by the Legislature for costs incurred by the Counties in implementing chapter 1392. The constitutional provision reads, in part: ‘Wherever the Legislature ... mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government *572 for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for ... Legislative mandates enacted prior to January 1, 1975’ ([Cal. Const., art. XIII B, § 6](#), subd. (c); effective July 1, 1980.)

In 1980, after the adoption of [article XIII B, section 6](#), the Legislature amended [Revenue and Taxation Code sections 2207 and 2231](#). In so doing, the Legislature retained the requirement that the State reimburse local governments for costs such as those incurred in implementing chapter 1392.

The Counties point to the well settled rule that ‘failure to make changes in a given statute in a particular respect when the subject is before the Legislature, and changes are made in other respects, is indicative of an intention to leave the law unchanged in that respect.’ ([Kusior v. Silver \(1960\) 54 Cal.2d 603, 618 \[7 Cal.Rptr. 129, 354 P.2d 657\]](#); [Orr v. Superior Court \(1969\) 71 Cal.2d 220, 226 \[77 Cal.Rptr. 816, 454 P.2d 712\]](#).)

Relying on [Government Code section 9605](#), the State argues that the mere reenactment of a statute without change does not necessarily constitute legislative reapproval of the unaffected provisions. [Section 9605](#) provides, in part: ‘Where ... part of a statute is amended, ... [t]he portions which are not altered are to be considered as having been the law from the time when they were enacted; the new provisions are to be

considered as having been enacted at the time of the amendment’

The State concludes that [Revenue and Taxation Code section 2207](#), subdivision (a), to the limited extent it relates to pre-1975 mandates, is inoperative because it conflicts with the state Constitution, and that the discretion granted to the Legislature regarding pre-1975 mandates is to be applied on a case by case basis.

In determining the Legislature's intent in enacting its 1980 amendments, we look to the new provisions of [section 2207](#). The amendment added subdivisions (d) through (h), expanding the definition of ‘costs mandated by the State’ to include particular situations and in each case referred to statutes enacted after January 1, 1973. ^{FN1} *573

FN1 Subdivisions (d) through (h) provide as follows: ‘(d) Any statute enacted after January 1, 1973, or executive order issued after January 1, 1973, which implements or interprets a federal statute or regulation and, by such implementation or interpretation, increases program or service levels above the levels required by such federal statute or regulation. [¶] (e) Any statute enacted after January 1, 1973, or executive order issued after January 1, 1973, which implements or interprets a statute or amendment adopted or enacted pursuant to the approval of a statewide ballot measure by the voters and, by such implementation or interpretation, increases program or service levels above the levels required by such ballot measure. [¶] (f) Any statute enacted after January 1, 1973, or executive order issued after January 1, 1973, which (i) removes an option previously available to local agencies and thereby increases program or service levels or (ii) prohibits a specific activity which results in the local agencies using a more costly alternative to provide a mandated program or service. [¶] (g) Any statute enacted after January 1, 1973, or executive order issued after January 1, 1973, which requires that an existing program or service be provided in a shorter time period and thereby increases the costs of such program or service. [¶] (h) Any statute enacted after January 1, 1973, or executive or-

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der issued after January 1, 1973, which adds new requirements to an existing optional program or service and thereby increases the cost of such program or service if the local agencies have no reasonable alternatives other than to continue the optional program.’

END OF DOCUMENT

The remaining addition of 1980, found in [section 2231](#), subdivision (d)(3), is not material to our discussion.

We find that the adoption, in subdivisions (d) through (h), of January 1, 1973, the same date that is specified in subdivision (a), to be indicative of and consistent with an intent by the Legislature to reaffirm its statutory obligation to reimburse local agencies for the costs defined in subdivision (a). We conclude that this reaffirmance constituted the exercise of the legislative discretion authorized by [article XIII B, section 6](#), subdivision (c), of the California Constitution.

(2) We recognize that the legislative power of the state is vested in the Legislature, except that which is reserved to the people by way of initiative ([Cal. Const., art. IV, § 1](#)); and that one legislature cannot limit or restrict its own power or that of successor legislatures. (*In re Collie* (1952) 38 Cal.2d 396, 398 [240 P.2d 275], cert. den. *sub nom. Collie v. Heinze* (1953) 345 U.S. 1000 [97 L.Ed. 1406, 73 S.Ct. 1145].) However, the mandatory provisions of [Revenue and Taxation Code section 2231](#) do not restrict legislative power. The Legislature remains free to amend or repeal [section 2231](#) as it applies to pre-1975 legislative mandates. (*Ibid. United Milk Producers v. Cecil* (1941) 47 Cal.App.2d 758, 764-765 [118 P.2d 830].) Until that time, the Legislature must not ignore the requirements of existing legislation.

Decision

The judgment is affirmed.

Lui, Acting P. J., and Arabian, J., concurred.

A petition for a rehearing was denied April 18, 1984, and appellant's petition for a hearing by the Supreme Court was denied May 16, 1984. *574

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County of Los Angeles v. State of California
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Press Release



OFFICE OF THE GOVERNOR

GAAS:194:04
FOR IMMEDIATE RELEASE
05/10/2004

Governor Schwarzenegger Appoints Members of the Mission County Formation Commission

Governor Arnold Schwarzenegger today announced the appointment of John "Jack" Boysen, June Christensen, Dick Frank, Harriet Miller and Ted Tedesco to the Mission County Formation Commission.

"Each member of this commission represents important and distinct areas of Santa Barbara County and has the expertise to offer fair and impartial information to the people of the County as they make this decision," said Governor Schwarzenegger.

Jack Boysen is currently a member of the County of Santa Barbara Planning Commission representing the constituents of North Santa Barbara County. The commission is charged with providing fairness and consistency to ensure compliance with all planning, zoning and subdivision matters. He also served on the Process Improvement Project, a steering committee charged with improving the efficiency of preparation and processing of ministerial land-use projects in Santa Barbara County. From 1988 through his retirement in 2003, Boysen was in day-to-day management with Boysen Construction, a general contracting and development company. Prior to 1988 he served in senior management positions with Deloitte, Haskins and Sells CPA, Frazee Paint and Union Bank. He earned a Bachelor of Science degree in accounting from San Diego State University. Boysen, 54, is a Republican from Santa Maria.

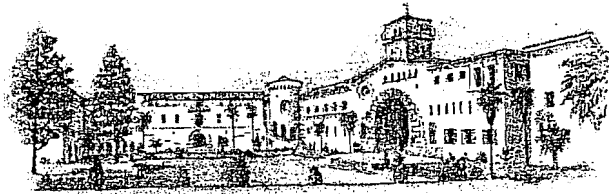
June Christensen is a former mayor and city councilperson for the City of Solvang. She retired from the County in 1998 where she served as a consultant for the Santa Maria Municipal Court for eight years. Her professional experience also includes service as a consultant to the Ventura County courts. Christensen's community experience includes service as a Superior Court Judge appointee to the Santa Barbara County Juvenile Justice & Delinquency Prevention Commission in addition to serving as secretary of the Santa Barbara County Grand Jury from 1974 to 1975 and as foreman from 1979 to 1980. Christensen, 66, is a Republican from Solvang.

Dick Frank served as the elected county assessor for the County of San Luis Obispo for 26 years, from 1976 through 2003. He has served in leadership positions with the California Assessors Association, including a year as president, was a member of the 1982 San Luis Obispo Redistricting Committee and was a member of the San Luis Obispo Mobile Home Rent Review Board. Frank's professional experience also includes more than fifteen years as a real estate appraiser with the Arizona Highway Department and the firm Marshall and Stevens. Frank, 70, is a Republican from San Luis Obispo.

Harriet Miller is the former mayor of the City of Santa Barbara, elected in 1995 serving through her retirement in 2002. Prior to her service as mayor she was a member of the Santa Barbara City Council from 1987 to 1994. Miller was the owner and president of HMA, Inc., a management consulting firm, before her appointment to the City Council. Prior to coming to California she served as the director of the American Association of Retired Persons in Washington, DC and was the superintendent of public instruction for the State of Montana and a professor at the University of Montana, Missoula. Miller is also a past member of the Santa Barbara County Association of Governments and a former member the boards of the National League of Cities, the League of California Cities and the Institute for Local Self-Government. In addition, she is currently a member of the boards of the Santa Barbara Symphony, the Rehabilitation Institute of Santa Barbara and the Santa Barbara Center for the Performing Arts. Miller, 84, is a Democrat from Santa Barbara.

Ted Tedesco is currently a trustee for the Santa Barbara County Employees Retirement System, the California Center for Civic Renewal, the National Urban Fellows and the ENO Transportation Foundation, and a former trustee for the Westmont College Foundation Board. He served as the vice president of corporate affairs for American Airlines from 1986 to 1998 and prior to that was the vice chancellor of administration at the University of Colorado, Boulder for seven years. Tedesco began his career as a city manager in 1962 for the City of Enfield, CT where he served for five years. He then moved to the City of Boulder, CO where he was the city manager from 1967 to 1972 after which he served in the same capacity for the City of San Jose, CA for six years. Tedesco, 72, is registered decline-to-state and a resident of Santa Barbara.

COUNTY OF SANTA BARBARA



OFFICE OF THE COUNTY ADMINISTRATOR

Michael F. Brown
County Administrator

105 East Anapamu Street, Suite 406
Santa Barbara, California 93101
805/568-3400 • Fax 805/568-3414
www.co.santa-barbara.ca.us

August 19, 2004

State Controller's Office
Division of Accounting and Reporting
Kelly Martell
P.O. Box 942850
Sacramento, CA 94250-0001

Dear Mr. Martell:

**RE: SB 1113, Chapter 208, FY 2004-05
Line item 9210-102-0001**

On behalf of Santa Barbara County this is a request for the \$400,000 appropriated by SB 1113 for local assistance to the Santa Barbara County Formation Commission pursuant to Article 3 (commencing with Section 23331) of Chapter 3 of Division 1 of the Title 3 of the Government Code.

Please send the warrant to the County Administrator's Office at the address indicated on this letterhead.

Thank you for your consideration.

Sincerely,

Michael F. Brown
County Administrator

cc: Robert Geis, Auditor-Controller
John Torell, Executive Director, Santa Barbara County Formation Commission
Jim Laponis, Deputy County Administrator
Cliff Berg, Legislative Advocates

Mission County Formation Review Commission

Commissioners

Ted Tedesco, Chair
Dick Frank, Vice Chair
Jack Boysen
June Christensen
Harriet Miller



John Torell, CPA – Secretary
Raymond A. Biering – Counsel
P.O. Box 39
Santa Barbara, CA 93102-0039
Phone: 805-568-2102
Fax: 805-568-2016
www.missioncountyformation.org

Honorable Arnold Schwarzenegger
Governor of the State of California
State Capitol
Sacramento, CA 95814

September 27, 2004

Dear Governor Schwarzenegger:

The purpose of this letter is to request a 120-day extension of time, to February 10, 2005, for the term of office for the Mission County Formation Review Commission.

Section 23341 of the Government Code provides for an extension of up to 180 days upon approval of the Governor. At the Commission meeting on September 27, 2004, Commission members voted 5-0 to request that you approve this extension.

The Mission County Formation Review Commission took office May 10, 2004, for the purpose of completing a study of the proposed formation of Mission County from Santa Barbara County. The 180-day term of this Commission will expire November 10, 2004. The Commission and its staff are diligently pursuing its study and preparation of a report for the county's voters. The election on county formation will be held in March 2006.

The Commission has held weekly public meetings since its inception and has made significant progress to date. The complexity and extent of gathering and analyzing the pertinent fiscal and other data has been a significant undertaking. Approval of this requested extension would enable us to include the latest financial data available from the State (which will be available shortly) in our study.

Thank you for your prompt attention to this request.

Sincerely,

Ted Tedesco, Chair
Mission County Formation Review Commission

C: Jan Boel, Director
Governor's Office of Planning and Research

County of Santa Barbara
BOARD OF SUPERVISORS

ACTION SUMMARY

March 15, 2005

**COUNTY ADMINISTRATION BUILDING
BOARD HEARING ROOM, FOURTH FLOOR
105 EAST ANAPAMU STREET, SANTA BARBARA**

The Board of Supervisors meets concurrently as the Board of Directors of the Flood Control & Water Conservation District, Water Agency, Redevelopment Agency, the Santa Barbara Fund for Public and Educational Access and other Special Districts.

Agendas, Supplemental Materials and Minutes of the Board of Supervisors are available on the internet at:
www.countyofsb.org

7:50 A.M. Convened and Recessed to Closed Session

9:00 A.M. Reconvened to Regular Session

(CONVENED AT 9:20 AM)

Roll Call

Present: Supervisor Carbajal, Supervisor Rose, Supervisor Firestone, Supervisor Gray and Supervisor Centeno

Invocation: Ralph Remick, Auditor-Controller's Office

Report from Closed Session

No reportable action taken.

Approval of Minutes of the March 8, 2005 meeting

A motion was made by Supervisor Centeno, seconded by Supervisor Carbajal, to Approve the Minutes. The motion carried unanimously.

Administrative Agenda

Resolutions to be Presented at 2:00 PM

(TOTAL HEARING TIME: 20 MIN.)

A-1) SUPERVISOR CARBAJAL

[File Reference No. 05-00284](#)

Adopt a resolution proclaiming March 2005 as Mediation Month in Santa Barbara County.

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Adopted

RESOLUTION NO. 05-059

The motion carried unanimously.

A-2) SUPERVISOR ROSE [File Reference No. 05-00298](#)

Adopt a resolution proclaiming March 2005 as American Red Cross Month in Santa Barbara County.

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Adopted

RESOLUTION NO. 05-060

The motion carried unanimously.

A-3) SUPERVISOR ROSE [File Reference No. 05-00306](#)

Adopt a Resolution of Commendation for Deputy Fire Chief Steve Vittum upon his retirement after 30 years of service to the County of Santa Barbara.

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Adopted

RESOLUTION NO. 05-061

The motion carried unanimously.

A-4) SUPERVISOR FIRESTONE [File Reference No. 05-00199](#)

Adopt a resolution honoring Bryan Herring (American Medical Response), James Espinoza, Bruno Bertuzzi and Kevin Huddel (Santa Barbara County Sheriff's Department) for their dedication and service as Emergency Service Providers.

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Adopted

RESOLUTION NO. 05-062

The motion carried unanimously.

Honorary Resolutions

A-5) SUPERVISOR CARBAJAL [File Reference No. 05-00300](#)

Adopt a resolution honoring the 2004 Santa Barbara Foundation Man of the Year.

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Adopted

RESOLUTION NO. 05-063

The motion carried unanimously.

A-6) SUPERVISOR CARBAJAL [File Reference No. 05-00301](#)

Adopt a resolution honoring the 2004 Santa Barbara Foundation Woman of the Year.

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Adopted

RESOLUTION NO. 05-064

The motion carried unanimously.

A-7)

SUPERVISOR ROSE

[File Reference No. 05-00299](#)

Adopt a Resolution of Commendation for Stephen C. Green, Probation Department, upon his retirement after 32 years of service to the County of Santa Barbara.

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Adopted

RESOLUTION NO. 05-065

The motion carried unanimously.

Administrative ItemsA-8) AGRICULTURAL COMMISSIONER [File Reference No. 05-00286](#)

Adopt a resolution to ratify the application for an Urban Streams Restoration Grant, submitted by the Agricultural Commissioner to the California Department of Water Resources, and authorize the Agricultural Commissioner to accept the grant, if offered, and designate contract manager and fiscal agent for the contract.

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Adopted

RESOLUTION NO. 05-066

The motion carried unanimously.

A-9) BOARD OF DIRECTORS, WATER AGENCY [File Reference No. 05-00282](#)

Approve and authorize the Chair to execute an agreement with Questa Engineering Corporation (not a local vendor) for design services for the planning, design and permitting of fish passage barrier modification projects along various creeks along the South Coast of Santa Barbara County for the period of March 15, 2005 through June 30, 2006 in an amount not to exceed \$129,580.23, First District.

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Approved; Chair to Execute. The motion carried unanimously.

A-10) COMMUNICATIONS FOR REFERRAL [File Reference No. 05-00291](#)

Casmalia Community Services District - Approve the request of the Casmalia Community Services District to consolidate Special District Elections with Statewide General Elections to be held on the first Tuesday after the first Monday of November in each even-numbered year, rather than odd-numbered year. (APPROVE AND REFER TO THE COUNTY CLERK-RECORDER-ASSESSOR)

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Approved. The motion carried unanimously.

A-11) COMMUNICATIONS FOR REFERRAL [File Reference No. 05-00292](#)

Carpinteria-Summerland Fire Protection District - Approve the request of the Carpinteria-Summerland Fire Protection District to consolidate Special District Elections with Statewide General Elections to be held on the first Tuesday after the first Monday of November in each even-numbered year, rather than odd-numbered year. (APPROVE AND REFER TO THE COUNTY CLERK-RECORDER-ASSESSOR)

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Approved. The motion carried unanimously.

A-12) COMMUNICATIONS FOR REFERRAL [File Reference No. 05-00293](#)

Orcutt Fire Protection District - Approve the request of the Orcutt Fire Protection District to consolidate Special District Elections with Statewide General Elections to be held on the first Tuesday after the first Monday of November in each even-numbered year, rather than odd-numbered year. (APPROVE AND REFER TO THE COUNTY CLERK-RECORDER-ASSESSOR)

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Approved. The motion carried unanimously.

A-13) COMMUNICATIONS FOR REFERRAL [File Reference No. 05-00294](#)

Carpinteria Sanitary District - Approve the request of the Carpinteria Sanitary District to consolidate Special District Elections with Statewide General Elections to be held on the first Tuesday after the first Monday of November in each even-numbered year, rather than odd-numbered year.(APPROVE AND REFER TO THE COUNTY CLERK-RECORDER-ASSESSOR)

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Approved. The motion carried unanimously.

A-14) COMMUNICATIONS FOR REFERRAL [File Reference No. 05-00295](#)

Carpinteria Valley Water District - Approve the request of the Carpinteria Valley Water District to consolidate Special District Elections with Statewide General Elections to be held on the first Tuesday after the first Monday of November in each even-numbered year, rather than odd-numbered year. (APPROVE AND REFER TO THE COUNTY CLERK-RECORDER-ASSESSOR)

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Approved. The motion carried unanimously.

A-15) COUNTY EXECUTIVE OFFICE [File Reference No. 05-00311](#)

Approve Budget Revision requests. (SEE EXHIBIT A WITH POSTED AGENDA)

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Approved. The motion carried unanimously.

A-16) GENERAL SERVICES [File Reference No. 05-00290](#)

Approve and execute the Supplemental Lease Agreement No. 9 with the United States Department of Veterans Affairs (VA) for the VA's continued use of the medical facility located at 4440 Calle Real, extending the lease term through March 31, 2007, in the amount of \$686,088.87 for the period of April 1, 2005 through March 31, 2006, and \$711,499.57 for the period of April 1, 2006 through March 31, 2007 (Folio No. 001050), Second District.

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Approved; Chair to Execute. The motion carried unanimously.

A-17) GENERAL SERVICES [File Reference No. 05-00302](#)

Approve and execute the First Amendment to Sublease Agreement with John J. Peyton, Trustee of the John J. Peyton Revocable Trust created March 20, 2003, for the County's use of Hangar G-7 at the Santa Ynez Airport extending the term for a period of one (1) year, commencing April 1, 2005 and terminating March 31, 2006, with two (2) renewal options of 1 year each, in the amount of \$3,494.26 for the first year (Project No. 003271), Third District.

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Approved; Chair to Execute. The motion carried unanimously.

A-18) GENERAL SERVICES [File Reference No. 05-00303](#)

Consider recommendations regarding the Alcohol, Drug, Mental Health Services Children's Services Building (Site # J02007, Project # 8612), Second District, as follows:

a) Award and authorize the Chair to execute a Construction contract in the amount of \$3,810,700 to

Morrissey Construction Company (not a local vendor) subject to provisions of the documents and certifications as set forth in the plans and specifications applicable to the project and as required by California Law;

- b) Authorize the Director of General Services to approve change orders in the aggregate amount of 10% of the contract amount.

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Acted on as follows:

a) Awarded and authorized; Chair to execute.

b) Authorized.

The motion carried unanimously.

A-19) GENERAL SERVICES

[File Reference No. 05-00304](#)

Consider recommendations regarding Health Insurance Portability and Accountability Act (HIPAA) Business Associate Agreement Amendment, as follows:

- a) Approve model language for Business Associate Agreements, which incorporates the requirements of the HIPAA Security Rule;

b) Delegate to County Department Heads and the Purchasing Manager, the authority to renegotiate existing County contracts with HIPAA business associates, by incorporating the model language, or alternative language which is in substantial conformity with the model language;

- c) Approve the use of the model language in future business associate agreements.

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Acted on as follows:

a) Approved.

b) Authorized.

c) Approved.

The motion carried unanimously.

A-20) GENERAL SERVICES

[File Reference No. 05-00305](#)

Approve and execute the Real Property Sale Contract and Escrow Instructions related to the conveyance of an easement at 131 Greenwell Ave (APNs 005-204-037 and -045) (Real Property Folio No. 003457), Summerland area, First District.

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Acted on and set for a hearing, as follows: a) Adopted.

RESOLUTION NO. 05-067

b) Set April 5, 2005 on the Administrative Agenda. The motion carried unanimously.

A-21) GENERAL SERVICES

[File Reference No. 05-00309](#)

Authorize the Purchasing Manager to donate surplus Cell Phones, that are of no value, to Coast Hills Federal Credit Union for the purpose of supplying them to U.S. soldiers through www.cellphonesforsoldiers.com.

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Authorized. The motion carried unanimously.

A-22) HOUSING AND COMMUNITY DEVELOPMENT [File Reference No. 05-00283](#)

Approve the appointment of Guy Smith, Director, Santa Barbara City College, School of Media Arts to the Economic Vitality Committee as the Higher Education (South) Sector Representative.

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Approved. The motion carried unanimously.

A-23) COUNTY EXECUTIVE OFFICE: HUMAN RESOURCES [File Reference No. 05-00308](#)

Approve Memorandum of Understanding with the Deputy District Attorneys Association, effective March 14, 2005 through October 7, 2007.

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Approved. The motion carried unanimously.

A-24) PARKS [File Reference No. 05-00288](#)

Adopt a resolution authorizing the pass through of Santa Barbara County's Proposition 40 Roberti Z'Berg-Harris block grant funds, in the amount of \$350,000, to the City of Lompoc for the construction of the Lompoc Aquatic Center, Fourth District.

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Adopted

RESOLUTION NO. 05-068

The motion carried unanimously.

A-25) PROBATION [File Reference No. 05-00289](#)

Consider recommendations regarding an application to pursue funding under Title V of the Juvenile Justice Delinquency and Prevention (JJDP) Act, as follows:

a) Adopt a resolution authorizing the Chief Probation Officer, as your lead agent, to sign and submit a Community Prevention Grant proposal to the California Board of Corrections (BOC) in order to pursue funding under Federal Title V of the Juvenile Justice Delinquency and Prevention (JJDP) Act, from July 1, 2005 through June 30, 2006;

b) Direct the County's existing Juvenile Justice Coordination Council (JJCC) to function as the County's Prevention Policy Board (PPB), an approved arrangement by the BOC, and in that capacity, review and approve the County's three-year Delinquency Prevention Plan (DPP);

c) Assure that the County, if awarded funding, will adhere to the BOC's contract terms and statutory requirements, participate in the collection of the required data, and use grant funding to supplement and not supplant existing programs.

A motion was made that this matter be Acted on as follows:

a) Adopted.

RESOLUTION NO. 05-069

b) Directed.

c) Approved.

The motion carried unanimously.

- A-26) PUBLIC HEALTH [File Reference No. 05-00285](#)
- Approve the continued Local Emergency, Resolution Number 00-193, due to the spread and on-going epidemic of blood-borne viral hepatitis (Hepatitis B and C) and human immunodeficiency virus (HIV) infections among injection drug users and authorize Pacific Pride Foundation as the agent of the County to carry out the Syringe Exchange and Education Program.
- A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Approved. The motion carried unanimously.**
- A-27) PUBLIC WORKS [File Reference No. 05-00307](#)
- Approve an amendment to the agreement for County Surveyor/City Engineer services between the County of Santa Barbara and the City of Solvang, extending the current contract indefinitely, Third District.
- A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Approved. The motion carried unanimously.**
- A-28) SHERIFF [File Reference No. 05-00287](#)
- Approve and execute Amendment No. 2 to the Professional Services Agreement with Prison Health Services (not a local vendor) for off-site jail medical services in the amount of \$1,036,630, for a total in the amount of \$12,000,000 for the period July 1, 2000 through June 30, 2005.
- A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Approved; Chair to Execute. The motion carried unanimously.**

Board of Supervisors

- A-29) SUPERVISOR CARBAJAL [File Reference No. 05-00310](#)
- Approve the appointment of Dr. Elliott Schulman to the Santa Barbara Regional Health Authority, as County member.
- A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Approved. The motion carried unanimously.**
- A-30) SUPERVISOR FIRESTONE [File Reference No. 05-00296](#)
- Approve the reappointment of Randy Melcombe to the Santa Barbara County Historic Landmarks Advisory Committee.
- A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Approved. The motion carried unanimously.**
- A-31) SUPERVISOR FIRESTONE [File Reference No. 05-00297](#)
- Approve the reappointment of Mary Ann Bagne to the Santa Barbara County Historic Landmarks Advisory Committee.
- A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Approved. The motion carried unanimously.**
- A-32) SUPERVISOR CARBAJAL [File Reference No. 05-00313](#)
- Adopt a Resolution of Commendation for John Torell, Assistant Auditor-Controller, for 14 years of

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Adopted

RESOLUTION NO. 05-070

The motion carried unanimously.

Approval of Administrative Agenda

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, to Approve the Administrative Agenda as Amended (TOTAL HEARING TIME: 35 MIN.)

The motion carried unanimously.

[File Reference No. 05-00051](#)

PUBLIC COMMENT

Accepted Public Comment

Persons desiring to address the Board must complete and deliver to the Clerk the form which is available at the Hearing Room entrance prior to the commencement of this comment period. THE PUBLIC COMMENT PERIOD IS RESERVED FOR COMMENT ON MATTERS WITHIN THE SUBJECT MATTER JURISDICTION OF THE BOARD OF SUPERVISORS. EACH PERSON MAY ADDRESS THE BOARD FOR UP TO THREE MINUTES AT THE DISCRETION OF THE CHAIR, FOR A TOTAL PUBLIC COMMENT PERIOD OF NO MORE THAN 15 MINUTES. (Resolution No. 03-282) (05-00051)

RE: Food Bank Warehouse Donations / National Budget - Sister Janet Corcoran addressed the Board.

RE: Budget / Medical Issues - Floyd Meyer addressed the Board.

RE: Toro Canyon Property Issues - John Thorndike IV addressed the Board.

RE: Santa Ynez Valley / Isla Vista Bluff Top Property - Dan Milstein addressed the Board.

(TOTAL HEARING TIME: 12 MIN.)

Departmental Agenda -- Public Hearings1) PLANNING AND DEVELOPMENT[File Reference No. 04-00936](#)

HEARING - Consider the Planning Commission's recommendation to approve the Ocean Meadows Residences project, located at 6925 Whittier Drive near Storke Road in the Goleta area (APNs 073-090-062 and -013) (03GPA-00000-00003, 03RZN-00000-00002, 03DVP-00000-00022, 03DVP-00000-00044, 03TRM-00000-00002, 04CDP-00000-00078, 04CUP-00000-00020, 04CUP-00000-00038, and 04CUP-00000-00046), Third District, as follows:

a) Approve Case Numbers 03DVP-00000-00022, 03DVP-00000-00044, 03TRM-00000-00002, 04CDP-00000-00078, 04CUP-00000-00020, 04CUP-00000-00038, and 04CUP-00000-00046, subject to the conditions of approval;

b) Adopt the required findings for approval of Case Numbers 03DVP-00000-00022, 03DVP-00000-00044, 03TRM-00000-00002, 04CDP-00000-00078, 04CUP-00000-00020, 04CUP-00000-00038, and 04CUP-00000-00046, including the CEQA findings;

c) Certify the Environmental Impact Report and adopt the mitigation monitoring program as set forth in the conditions of approval;

d) Obtain proof of easement or right of access to the project site from Whittier Drive and Storke Road prior to approval of 03DVP-00000-00022, 03DVP-00000-00044, 03TRM-00000-00002, and 04CDP-00000-00078;

e) Consider the applicant's request, as submitted following the Planning Commission's hearing, that a fee deferral and waiver be granted for proposed affordable housing units pursuant to Section 35-144C.4 of Article II (Coastal Zoning Ordinance).

A motion was made by Supervisor Centeno, seconded by Supervisor Firestone, that this matter be Withdrawn from the agenda. The motion carried unanimously.

2) PLANNING AND DEVELOPMENT[File Reference No. 05-00226](#)

HEARING - Receive a briefing regarding Planning and Development's "Interpretive Guidelines for Protection of Urban Oaks and Other Native and Specimen Trees".

A motion was made by Supervisor Centeno, seconded by Supervisor Gray, that this matter be Withdrawn from the agenda. The motion carried unanimously.

3) PLANNING AND DEVELOPMENT[File Reference No. 05-00229](#)

HEARING - Consider zoning ordinance text amendment to Article II Coastal Zoning Ordinance, implementing Government Code Section 65892.13 by adopting regulations allowing for the installation of small wind energy systems in the unincorporated coastal zone portion of the County outside of urbanized areas (Case Nos. 02ORD-00000-00001), as follows:

a) Find that the amendments are categorically exempt from the California Environmental Quality Act pursuant to Section 15308 of the Guidelines for Implementation of CEQA;

b) Adopt findings for approval of the proposed amendment;

A motion was made by Supervisor Centeno, seconded by Supervisor Gray, that this matter be Withdrawn from the agenda. The motion carried unanimously.

4) COUNTY COUNSEL [File Reference No. 05-00268](#)

HEARING - Consider recommendations regarding amending Santa Barbara County Code, Chapter 15, Article IIIA (Carpinteria-Summerland Fire Protection District Fire Mitigation Fee). (EST. TIME: 10 MIN.)

- a) Consider the introduction (First Reading) of an Ordinance amending Santa Barbara County Code, Chapter 15, Article IIIA (Carpinteria-Summerland Fire Protection District Fire Mitigation Fee);
- b) Adopt a resolution approving the Development Impact Fee Nexus Calculation Report for the Carpinteria-Summerland Fire Protection District, dated December 1, 2004;
- c) Adopt a resolution establishing a Fire Protection Mitigation Fee Schedule for Development Within a Portion of the County of Santa Barbara on behalf of the Carpinteria-Summerland Fire Protection District;
- d) Approve and execute a Hold Harmless and Indemnification Agreement between the County of Santa Barbara and the Carpinteria-Summerland Fire Protection District.

COUNTY ADMINISTRATOR'S RECOMMENDATION: APPROVE

A motion was made by Supervisor Carbajal, seconded by Supervisor Gray, that this matter be Acted on and continued, as follows: (TOTAL HEARING TIME: 8 MIN.)

Received and filed staff report and conducted public hearing.

- a) Read title, waived reading of the ordinance in its entirety. Introduction approved; adoption (second reading) of ordinance set for April 5, 2005.
- b) and c) Continued to April 5, 2005.
- d) Approved; Chair to execute.

The motion carried unanimously.

5) PUBLIC WORKS [File Reference No. 05-00156](#)

HEARING - Consider recommendations regarding 2005-06 through 2009-10 Measure "D" Five-Year Local Program of Projects, as follows: (EST. TIME: 45 MIN.)

- a) Adopt a Resolution for the Measure "D" Five-Year Local Program of Projects for Fiscal Years 2005-06 through 2009-10, for submittal to the Santa Barbara County Local Transportation Authority for acceptance;
- b) Reaffirm Resolution 89-465, which established priorities and policies for the use of the local portion of the one-half cent sales tax for the transportation needs in Santa Barbara County;
- c) Approve Notice of Exemption pursuant to the County's California Environmental Quality Act (CEQA) guidelines for the above; (Post);
- d) Reaffirm the Measure "D" distribution formula (50% lane miles/50% population) for allocation of

revenues to Supervisorial Districts;

- e) Consider revenue options in response to the recent storm emergency (Option A, B or C);
- f) Direct staff to prepare Fiscal Year 2005-06 Road Maintenance Annual Plan (RdMap) based upon approved Measure "D" distribution formula.

COUNTY ADMINISTRATOR'S RECOMMENDATION: POLICY

Acted on as follows:

(TOTAL HEARING TIME: 60 MIN.)

Received and filed staff report and conducted public hearing.

A motion was made by Supervisor Centeno, seconded by Supervisor Carbajal as follows:

d) Approved.

The motion carried unanimously.

A motion was made by Supervisor Carbajal, seconded by Supervisor Centeno as follows:

a) Adopted.

RESOLUTION NO. 05-071

b) Reaffirmed Resolution 89-465.

c) Approved.

e) Approved Option A (Local Storm Revenue Match from General Fund), Sub-Option 5.

f) Directed.

The motion carried unanimously.

11:00 AM Time Certain

2:00 PM Presentation of Resolutions and Awards

Planning Items and Public Hearings

6) COUNTY EXECUTIVE OFFICE: HUMAN RESOURCES

[File Reference No. 05-00148](#)

HEARING - Adopt a resolution officially recognizing employees with 10, 15, 20, 25, 30, and 35 years of service achieved in 2004 and present service awards to South County employees in categories of 20 years of service and over and department heads and elected officials in categories of 10 years of service and over. (EST. TIME: 1 HR.)

COUNTY ADMINISTRATOR'S RECOMMENDATION: APPROVE

A motion was made by Supervisor Carbajal, seconded by Supervisor Gray, that this matter be Adopted

(TOTAL HEARING TIME: 60 MIN.)

RESOLUTION NO. 05-072

The motion carried unanimously.

7) AGRICULTURAL COMMISSIONER

[File Reference No. 05-00262](#)

HEARING - Receive a report regarding Department Operations for the Office of the Agricultural Commissioner. (EST. TIME: 60 MIN.)

COUNTY ADMINISTRATOR'S RECOMMENDATION: APPROVE

(TOTAL HEARING TIME: 58 MIN.)

Received and filed staff report and conducted public hearing.

8) PLANNING AND DEVELOPMENT

[File Reference No. 05-00312](#)

HEARING - Consider a response to California Coastal Commission regarding proposed changes to the Residential Second Unit Ordinance, as follows: (EST. TIME: 30 MIN.)

a) Consider options for responding to the California Coastal Commission regarding changes proposed by Commission staff to the Residential Second Unit Ordinance amendments which amended the county's certified Local Coastal Program;

b) Transmit a letter to the Coastal Commission for consideration at their hearing in Newport Beach on Wednesday, March 16 that requests they approve the proposed amendments with some of the minor modifications proposed by Commission staff.

COUNTY ADMINISTRATOR'S RECOMMENDATION: POLICY

A motion was made by Supervisor Carbajal, seconded by Supervisor Centeno, that this matter be Acted on as follows:
(TOTAL HEARING TIME: 38 MIN.)

Received and filed staff report and conducted public hearing.

a) Considered and authorized the submission of comments in response to the Coastal Commission Staff's suggested modifications as reflected in draft letter dated March 15, 2005 as amended at hearing.

b) Approved.

The motion carried by the following vote:

Ayes: 4 - Supervisor Carbajal, Supervisor Rose, Supervisor Firestone and Supervisor Centeno

Absent: 1 - Supervisor Gray

9) COUNTY EXECUTIVE OFFICE, AUDITOR-CONTROLLER
and COUNTY COUNSEL

[File Reference No. 05-00239](#)

HEARING - Receive report regarding the Mission County formation review process and provide direction as appropriate. (EST. TIME: 1 HR)

a) Request the Commission consider amending Part 1 of the Distribution of Indebtedness Determination to enable Santa Barbara County to receive credit for financing new assets in the

proposed county;

- b) Whether to request the Commission consider finding an alternative indebtedness allocations as fair, just, and equitable;
- c) Request the Commission consider amending the Distribution of Indebtedness Determination to specify the process for liquidating certain operational liabilities;
- d) Request the Commission consider amending the Distribution of Indebtedness Determination to require Santa Barbara County and Mission County to work cooperatively to seek special legislation amending the maintenance of effort payments for the operations of the courts.

COUNTY ADMINISTRATOR'S RECOMMENDATION: APPROVE

A motion was made by Supervisor Carbajal, seconded by Supervisor Firestone, that this matter be Acted on as follows: (TOTAL HEARING TIME: 70 MIN.)

Received and filed staff report and conducted public hearing.

Approved submission of comments/requested amendments to the Mission County Formation Review Commission as reflected in recommendations a), c) and d) of the Board Letter dated March 10, 2005. The Board took no action on recommendation b).

The motion carried by the following vote:

Ayes: 4 - Supervisor Carbajal, Supervisor Rose, Supervisor Firestone and Supervisor Centeno

Absent: 1 - Supervisor Gray

Adjourn to March 22, 2005

Betteravia Government Center
Board Hearing Room
511 East Lakeside Parkway
Santa Maria

Adjourn

(ADJOURNED AT 4:48 PM)

Announcements

THE MEETING OF MARCH 15, 2005 WILL BE TELECAST LIVE ON GOVERNMENT ACCESS TV CHANNEL 20 AT 9:00 A. M., AND WILL BE REBROADCAST ON THE FOLLOWING THURSDAY, MARCH 17, 2005 AT 5:00 P.M. ON GATV CHANNEL 20.

<http://www.countyofsb.org>

COUNTY OF SANTA BARBARA

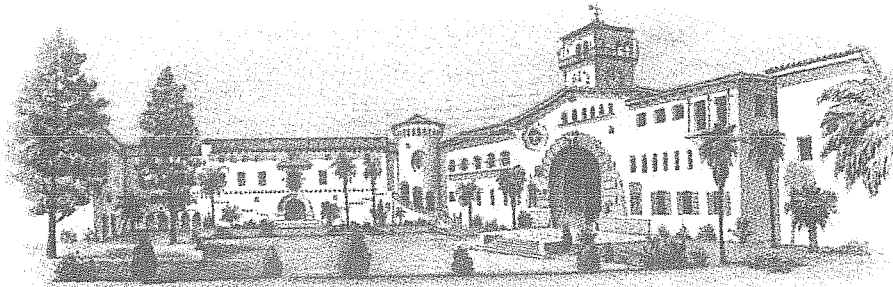
Received
November 13, 2012

Commission on
State Mandates

County Administration Bldg.
105 E. Anapamu Street, Rm. 303
Santa Barbara, CA 93101
(805) 568-2100

Auditor@co.santa-barbara.ca.us

Mailing Address:
P.O. Box 39
Santa Barbara, CA 93102-0039
FAX (805) 568-2016



ROBERT W. GEIS, C.P.A.
Auditor-Controller

THEO FALLATI, C.P.A.
Assistant Auditor-Controller

November 13, 2012

OFFICE OF THE AUDITOR-CONTROLLER

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

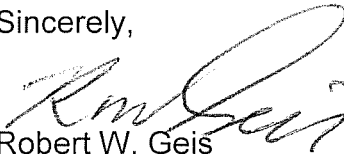
Re: Claim No. 06-TC-02 "County Formation Cost Recovery"
Request for Extension of Time to File Comments on Draft
Staff Analysis and Proposed Statement of Decision, and
Request for Postponement of Hearing Date

Dear Ms. Halsey:

The County of Santa Barbara (County) hereby requests an extension of time pursuant to California Code of Regulations, title 2, section 1183.01(c)(1) to file comments on the Commission on State Mandates Draft Staff Analysis and Proposed Statement of Decision in the above-referenced matter. The Draft Staff Analysis and Proposed Statement of Decision raise a number of complex issues that need to be analyzed in detail. In addition, staff members assigned to work on this matter have competing workload demands and commitments and need sufficient time to provide appropriate comments. Therefore, the County respectfully requests an extension of time to file comments until the close of business on January 18, 2013.

In addition, because we have been informed by your staff that this extension of time to file comments would necessitate rescheduling the hearing on the test claim, and to allow the County adequate time to prepare for the hearing on this complex matter, the County requests postponement of the hearing on the test claim, pursuant to California Code of Regulations, title 2, section 1183.01(c)(2), to April 19, 2013.

Sincerely,


Robert W. Geis
Auditor-Controller