

COMMISSION ON STATE MANDATES

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May 1, 2006

The Honorable John Laird, Chair
Assembly Budget Committee
State Capitol
Sacramento, CA 95814

The Honorable Mervyn Dymally, Chair
Assembly Budget Subcommittee No. 2
State Capitol
Sacramento, CA 95814

The Honorable Jackie Goldberg, Chair
Assembly Education Committee
State Capitol
Sacramento, CA 95814

RE: NOTICE OF PENDING TEST CLAIM, May 25, 2006 Hearing
Charter Schools III, 99-TC-14
Filed by Western Placer Unified School District and Fenton Avenue Charter School
Education Code Sections 41365, 47605, subdivisions (b),(c),(d), (j) and (l), 47604.3,
47607, subdivision (c), 47612.5, 47613 (former § 47613.7), and 47630-47664;
Statutes 1996, Chapter 786 (AB 3384)
Statutes 1998, Chapter 34 (AB 544)
Statutes 1998, Chapter 673 (AB 2417)
Statutes 1999, Chapter 162 (SB 434)
Statutes 1999, Chapter 736 (SB 267)
Statutes 1999, Chapter 78 (AB 1115)
California Department of Education Memo (May 22, 2000)

The Commission on State Mandates requested that the Legislature be notified of a pending test claim filed by a charter school and a school district. This test claim was originally scheduled for hearing on April 26, 2006. However, during the hearing, the Commission continued the matter to the May 25, 2006 hearing.

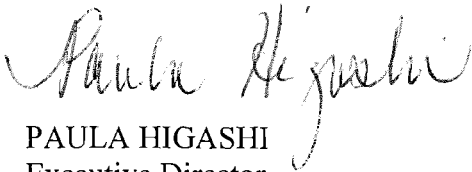
Based on existing law and court decisions, the Staff Analysis recommends that the Commission find that charter schools are not eligible for reimbursement under article XIII B, section 6 of the California Constitution for three reasons:

1. Charter schools are created voluntarily. Based on the California Supreme Court's decision in *Department of Finance v. Commission on State Mandates* (2003) 30 Cal.4th 727, school district participation in a voluntary program is not a reimbursable state mandated program.

2. Charter schools are not part of the Commission's statutory scheme (Gov. Code, § 17500 et seq.). "School district" is defined, for purposes of mandate reimbursement in Government Code section 17519, as "any school district, community college district, or county superintendent of schools." Because this definition makes no reference to charter schools, staff has recommended that charter schools not be eligible for reimbursement.
3. Education Code section 47610 states that charter schools are generally exempt from the law governing school districts. The Legislature has lifted this exemption for certain purposes, e.g., pupil assessments (Ed. Code, § 47605, subd. (c)(1)), teacher credentials (Ed. Code, § 47605, subd. (l)), collective bargaining (Ed. Code, § 47611.5), and Proposition 98 school funding (Ed. Code, § 47612, subd. (c)). However, there is no statute that deems a charter school a 'school district' for purposes of reimbursement under article XIII B, section 6 of the California Constitution.

Because of the importance of this issue, the Commission on State Mandates requested that this notification be made to the Legislature. If further information is needed, please contact me.

Sincerely



PAULA HIGASHI
Executive Director

Attachment: Staff Analysis

Copies to: Members, Assembly Budget Subcommittee No. 2
Members, Assembly Education Committee