

ITEM 19
EXECUTIVE DIRECTOR'S REPORT
Workload, SB 1033, Governor's Proposed 2005-06 Budget,
Reports to the Legislature, Legislation, and Next Hearing

I. WORKLOAD

A. Pending Caseload

Type of Action	May 13, 2005	March 15, 2005	May 10, 2004
Test Claims to be Heard and Determined	104	104	120
Test Claims to be Reconsidered	0	0	0
Test Claims to be Reconsidered Based on Court Action	3	3	0
Test Claims to be Reconsidered, as Directed by the Legislature	7	11	0
Incorrect Reduction Claims to be Heard and Determined	83	82	80
Proposed Parameters and Guidelines, and Amendments	32	32	32
Parameters and Guidelines to be Amended or Set Aside, as Directed by the Legislature	4	2	0
Statewide Cost Estimates to be Adopted	2	2	15
New Test Claim Filings to be Reviewed	0	0	0
Appeals of Executive Director's Decision	0	1	0
Regulatory Actions Pending	2	2	0

B. Butte County Application for Finding of Significant Financial Distress (SB 1033)

On May 12, 2005, the Commission held a hearing on Butte County's Application for a Finding of Significant Financial Distress. The Commission will make its preliminary decision on May 26, and adopt the statement of decision on June 10.

II. 2005-2006 BUDGET

A. Commission Budget - Item 8885

The Assembly and Senate Budget Subcommittees have approved the Governor's Proposed Budget for the Commission on State Mandates. The Commission's budget would be augmented by \$427,000 to reduce the test claim backlog. If approved, the Commission would add three limited-term positions and one permanent position.

B. May Revision – Mandate Reimbursements

The May Revision proposes an increase of \$108 million for mandate reimbursements for local governments.

1. Department of Education

The May Revision¹ states as follows:

Individuals with Disabilities Education Act Required Mental Health Services

The May Revision includes \$190 million for special education mental health services. This is an increase of \$90 million over the Governor's January Budget proposal. The Administration also proposes to repeal the mandate on county mental health agencies (CMH) for the provision of mental health services related to individualized education plans, allow SELPAS to contract with CMHs to provide these services, and amends Chapter 482, Statutes of 2004 (SB 1895), to ensure that special education pupils continue to have access to appropriate mental health services. (Counties will receive an additional \$90 million over the January budget on a one-time basis to help with the services provided to this population that might not be picked up by school districts.)

The May Revision continues to provide \$100 million in special education funding for mental health services to SELPAs as required by the Federal Individuals with Disabilities Education Act. Of this funding, \$35 million (\$4 million of which is specifically targeted for the provision of mental health services and \$31 million of the general funds to provide pre-referral mental health services for children with exceptional needs) is Proposition 98 General Fund and \$65 million in federal funds. Additionally, \$90 million in non-Proposition 98 General Fund is allocated to CMHs to fund prior mandate claims. It also is intended that the State Controller will audit CMH mandate claims to determine both the appropriateness of prior claims and distinguish educationally necessary claims from those that are not educationally necessary on a going-forward basis.

2. Department of Mental Health

The May Revision² states as follows:

Mental Health Services to Special Education Pupils (AB 3632).

An increase of \$90 million General Fund to reimburse counties for prior years costs claimed for the Services to Handicapped Students and Emotionally Disturbed Pupils (AB 3632) mandates. In addition, resources are provided to the State Controller for a multi-year effort to audit county claims for these mandates.

3. State Personnel Board

The May Revision³ states as follows:

Peace Officer Procedural Bill of Rights—The May Revision proposes to provide funding [\$18.1 million] for the Peace Officer Procedural Bill of Rights (POBOR) mandate. This mandate has been deferred since fiscal year 2001-02. The POBOR provides a series of rights and procedural protections to peace officers who are subject to interrogation or discipline by their employer.

¹ Governor's Budget, May Revision, 2005-06, page 20.

² Governor's Budget, May Revision, 2005-06, page 43.

³ Governor's Budget, May Revision, 2005-06, page 70.

II. REPORTS TO THE LEGISLATURE

A. State Controller’s Office Letter to Department of Finance

On May 2, 2005, the State Controller’s Office notified the Department of Finance that there is a deficiency of \$2,005,461,080 (\$1,196,195,732 for local agencies, \$718,790,843 for school districts and \$90,474,505 for community college districts) because of an overall appropriation deficiency. According to the State Controller’s Office, mandate program funding deficiencies are the result of deferred funding for new claims received during the 2002-03, 2003-04 and 2004-05 fiscal years and prior years’ insufficient appropriations. The new claims include 2002-03 late claims, 2003-04 actual cost claims and 2004-05 estimated claims that are in excess of available appropriation balances. See Exhibit A for letter and detailed spreadsheets.

B. Commission on State Mandates

1. Approved Mandates

On April 8, 2005, the Commission on State Mandates reported four statewide cost estimates to the Legislature for the following school district programs:

Date SCE Adopted ⁴	Test Claim	Initial Period of Reimbursement (Fiscal years)	Education	Totals
01/27/05	<i>Pupil Promotion and Retention, 98-TC-19</i>	1997-1998 through 2004-2005	\$9,025,655	\$9,025,655
01/27/05	<i>AIDS Prevention Instruction II, 99-TC-07, 00-TC-01</i>	1998-1999 through 2004-2005	\$44,622	\$44,622
01/27/05	<i>Teacher Incentive Program, 99-TC-15</i>	1998-1999 through 2004-2005	\$59,530	\$59,530
03/30/05	<i>Differential Pay and Reemployment, 99-TC-02</i>	1998-1999 through 2004-2005	\$192,033	\$192,033
TOTALS			\$9,321,840	\$9,321,840

⁴ If payment for an initial reimbursement claim is made more than 365 days after adoption of the statewide cost estimate, the Controller shall include accrued interest at the Pooled Money Investment Account rate. (Gov. Code, § 17561.6, subd. (a).)

2. Mandate Appropriation Deficiencies

If the Legislature does not appropriate funds for the overall mandate deficiency reported to the Department of Finance by the State Controller's Office, the Commission is required to report this information to the Legislature to ensure inclusion in the next claims bill.

3. Statements of Decision

After this hearing, the Commission will report adopted statements of decision to the Legislature as required by AB 2856.

III. LEGISLATION

A. Commission Sponsored Legislation

AB 943 (Keene) would revise the SB 1033 process to allow counties to self-certify that they are in significant financial distress rather than seeking a determination from the Commission. Status: This bill is being dropped by the author.

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

B. Other Mandate Bills

Assembly

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

ACA 1X 4 (Keene) would place on the ballot a constitutional amendment to implement the Governor's budget process proposals. This proposal includes two amendments to article XIII B, section 6 which would: (1) clarify that a reduction in appropriation for a mandated program shall not be deemed to reduce the overall amount to which local governments are entitled; and (2) require state reimbursement to local agencies for prior year claims within 15 years instead of 5 years. Status: Assembly Committee on Budget Process.

Senate

SB 190 (Cedillo) would require the Department of Finance, on or before June 1, 2006, to develop a reasonable reimbursement methodology for the *Peace Officer's Bill of Rights (POBOR)* mandate by convening a series of meetings with the State Controller's Office, affected state agencies, local agencies, and interested parties. Status: Pending committee assignment in the Assembly.

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

C. Other Bills

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

IV. NEXT HEARING AGENDAS

JUNE 10, 2005

Adoption of proposed statement of decision, Butte County's Application for a Finding of Significant Financial Distress

JULY 28, 2005

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

A. Reconsideration Directed by the Legislature

1. *Photographic Record of Evidence*
2. *Extended Commitment Proceedings*
3. *Brown Act Reform*

B.. Proposed Parameters and Guidelines

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

C. Parameters and Guidelines Amendments Directed by the Legislature

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

D. Proposed Regulatory Action

Adoption of Proposed Amendments to Implement AB 2856.