

ITEM 16
STAFF REPORT
2011 LEGISLATION

There are currently four bills that propose to revise the mandates process:

AB 202 (Brownley). Government Code section 17562 requires a variety of reports on mandates be submitted by the State Controller, Legislative Analyst, and Department of Finance each year.

This bill would amend section 17562 to require the Legislative Analyst, at least once each legislative session, to review and make recommendations whether or not to amend or repeal each education-related reimbursable state mandate approved by the Commission that meets the following criteria:

- School districts have filed reimbursement claims on the mandate; and
- The Legislature has not yet funded the mandate.

The bill would also amend state law so that any newly enacted mandates related to school districts would become inoperative five years after the operative date of the mandate.

As amended on April 28, and May 11, 2011, the bill would also modify the provisions for developing joint reasonable reimbursement methodologies by school district claimants and the Department of Finance.

The current process allows the Commission's executive director to grant claimants and Finance up to four 180-day extensions to submit a joint reasonable reimbursement methodology for approval. AB 202 would revise the extension authority to allow the executive director to grant only one 90-day extension to school district claimants and Finance. If a proposed joint reasonable reimbursement methodology is not submitted upon this deadline, and the parties notify the Commission that a reasonable reimbursement methodology cannot be agreed upon, then the executive director shall immediately declare and notify the Fiscal Crisis and Management Assistant Team, claimants, and Finance that binding arbitration is necessary. The Fiscal Crisis Team would be required to serve as the sole arbitrator of the reasonable reimbursement methodology impasse, arbitrate the impasse, and following arbitration, submit a revised reasonable reimbursement methodology to the Commission for approval.

AB 202 would also increase reporting requirements for the Commission regarding test claims filed that contain regulations, and for the State Controller regarding reimbursement claims filed that exceed a statewide cost estimate.

The Assembly Committee on Appropriations' analysis indicates that this bill was introduced to implement changes in the process in order to reduce the impact of ineffective and unnecessary mandates placed on school districts, reduce the long-term liability to the state for mandate reimbursement, and streamline the process and reduce the workload of the Commission, other state agencies, and school districts.

AB 202 passed Assembly Education Committee (10-0) on April 28, 2011; and passed Assembly Appropriations Committee (16-0) on May 11, 2011. It is currently pending on the Assembly Floor.

SB 64 (Liu). Government Code section 17553 and the Commission's regulations establish procedures that govern filing of test claims for local agencies and school districts.

As amended on April 4 and 26, 2011, SB 64 would remove school districts from this process and establish a new process for school districts to file test claims. The bill would:

- Require the Commission to establish a school district test claim advisory committee (advisory committee). The membership of the advisory committee shall be selected by, and serve at the pleasure of, the Commission, consist of not more than seven members, and include officials from the Department of Finance, the State Department of Education, the Controller's Office, and representatives of school agencies, including, but not limited to, chief business officials, board members, and superintendents.
- Require the advisory committee to review, prior to a hearing by the Commission, any test claim filed by a school district. As part of the review, the advisory committee shall prepare and deliver to the Commission a report and recommendation for the school district test claim.
- Require Commission staff to provide technical expertise and other support for the advisory committee.
- Delete some of the existing requirements for filing a test claim for school districts, and instead require the Commission to meet with the advisory committee within three months of a test claim being filed to gather this information. The bill would require the Commission's staff analyses on test claims to include the advisory committee's recommendations.
- Require that school district test claims be completed within 12 months of filing.
- Shift the responsibility for drafting parameters and guidelines from school districts to the advisory committee.
- Declare that it is the policy of the state that the Commission adopt parameters and guidelines for school district programs that include reasonable reimbursement methodologies.
- Authorize the advisory committee to submit requests to amend parameters and guidelines on behalf of school districts.
- Require the advisory committee to review the parameters and guidelines for school district mandates at least once every three years, and if revisions to the parameters and guidelines are necessary, submit requests for amendments to the Commission.
- Authorize the advisory committee to negotiate joint reasonable reimbursement methodologies with the Department of Finance on behalf of school districts.

SB 64 passed the Senate Education Committee (8-0) on April 13, 2011. It is scheduled for hearing in the Senate Appropriations Committee on May 23, 2011.

Commission staff met with the sponsors of the bill (California Association of School Business Officials, California School Boards Association, and School Innovations and Advocacy) and the author's staff, and provided technical information about the mandates process.

SB 112 (Liu). Government Code section 17557 requires the Commission to adopt parameters and guidelines on approved mandates. Section 17557 authorizes local agencies, school districts, and state agencies to submit requests to amend existing parameters and guidelines to: (1) delete reimbursable activities that have been repealed by the Legislature; (2) update offsetting revenue and offsetting savings language; (3) include or amend a reasonable reimbursement methodology; (4) clarify what constitutes or does not constitute reimbursable activities; (5) add new activities; (6) consolidate two or more parameters and guidelines; or (7) amend the boilerplate language (the language in the parameters and guidelines that is not unique to each program).

Government Code section 17558 requires the State Controller's Office to issue claiming instructions 60 days after it receives the adopted parameters and guidelines, and revised claiming instructions 60 days after it receives the adopted amendments to parameters and guidelines. Issuance of the claiming instructions begins the process for the claimants to file reimbursement claims. When amendments to the parameters and guidelines are adopted and revised claiming instructions are issued, the claimants are entitled to file revised reimbursement claims.

As amended on March 7, 2011, SB 112 would clarify that any amendment to the boilerplate language in the parameters and guidelines that does not increase or decrease reimbursable costs shall limit the eligible filing period commencing with the fiscal year in which the parameters and guidelines are amended by the Commission. The bill would also provide the State Controller's Office with an additional 30 days to issue claiming instructions.

This bill is sponsored by the State Controller's Office. Controller's staff states that issuance of revised claiming instructions after adoption of parameters and guidelines amendments allows claimants to file revised reimbursement claims, even if the amendments to the parameters and guidelines did not increase or decrease any costs to the claimant. This bill would clarify that if amendments are made to boilerplate language that result in no increase or decrease in costs, claimants may not file revised reimbursement claims for past years.

SB 112 passed Senate Governance and Finance Committee (8-0) on April 16, 2011; passed Senate Appropriations pursuant to rule 28.8, and passed the Senate (40-0) on May 9, 2011. The bill is pending in the Assembly.

Commission staff met with the author's staff and staff with the Senate Governance and Finance Committee to provide an overview of the mandates process prior to the bill being heard in the Senate Government and Finance Committee.

SB 887 (Emmerson). As amended April 25, 2011, SB 887 would enact the Streamlined Temporary Mandate Process Act of 2011 as a voluntary, temporary alternative to the existing mandates process. This alternative process would apply to school districts only. Under the bill, participating school districts would self-certify that they have complied with the underlying intentions of these 38 mandates, and would be reimbursed for these mandates on a per unit basis, with the amount appropriated annually in the Budget Act until 2015.

The bill would require all participating school districts, as part of their annual audits, to request a compliance report from an auditor specifying that the agency has complied or not complied with these provisions.

School districts that decide not to voluntarily participate in this process would be required to explain their reasons for non-participation at a duly noticed public meeting.

AB 887 is pending in Assembly Education Committee; no hearing date has been set.