

ITEM 16
PROPOSED STATEWIDE COST ESTIMATE
STAFF ANALYSIS

Statutes 1996, Chapter 1170
Statutes 1997, Chapter 443
Statutes 1998, Chapter 230

Penal Code Sections 914, 933, 933.05, and 938.4

Grand Jury Proceedings (98-TC-27)

County of San Bernardino, Claimant

EXECUTIVE SUMMARY

On June 27, 2002, the Commission on State Mandates (Commission) adopted its Statement of Decision for the *Grand Jury Proceedings* program, finding that the test claim legislation constitutes a reimbursable state-mandated program upon local governments within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514 for the following activities:

- Providing comments to the grand jury report, including fiscal matters in the report.
- Providing training and consultation to the grand jury.
- Meeting with the subject of an investigation.
- Providing a meeting room and support for the grand jury.
- Forwarding copies of the grand jury report and responses to the State Archivist.

The claimant filed the test claim on June 30, 1999. The Commission on State Mandates (Commission) adopted the Statement of Decision on June 27, 2002, and the parameters and guidelines on July 31, 2003. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by February 3, 2004.

The SCO provided unaudited claims totals to the Commission on March 19, 2004. Staff reviewed this data and actual reimbursement claims to develop the proposed statewide cost estimate. The proposed statewide cost estimate includes eight fiscal years for a total of \$12,624,069. Of this amount, \$12,508,570 is for local agencies and \$115,499 is for school districts. This averages to \$1,578,009 annually in costs for the state. Following is a breakdown of the estimated total costs per fiscal year:

Local Agencies		
Fiscal Year	Number of Claims Filed	Amount of Claims Filed
1997-1998	27	\$ 769,743
1998-1999	37	\$1,268,085
1999-2000	42	\$1,419,724
2000-2001	50	\$1,664,916
2001-2002	43	\$1,694,540
2002-2003	50	\$1,864,863
2003-2004 (est.)*	N/A	\$1,907,755
2004-2005 (est.)*	N/A	\$1,918,944
Subtotal	249	\$12,508,570

School Districts		
Fiscal Year	Number of Claims Filed	Amount of Claims Filed
1997-1998	4	\$ 12,832
1998-1999	1	\$ 6,697
1999-2000	2	\$ 2,764
2000-2001	4	\$ 8,959
2001-2002	9	\$ 27,160
2002-2003	7	\$ 18,705
2003-2004 (est.)*	N/A	\$ 19,135
2004-2005 (est.)*	N/A	\$ 19,247
Subtotal	27	\$ 115,499

Total	276	\$12,624,069
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Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate for costs incurred in complying with the *Grand Jury Proceedings* program. If the statewide cost estimate is adopted, staff will report the estimate to the Legislature.

* Estimated using the Implicit Price Deflator as forecast by Department of Finance.

STAFF ANALYSIS

Background and Summary of the Mandate

Statutes 1996, chapter 1170, Statutes 1997, chapter 443, and Statutes 1998, chapter 230 added or amended Penal Code sections 914, 933, 933.05, and 938.4 to revise grand jury operations. On June 27, 2002, the Commission on State Mandates (Commission) adopted its Statement of Decision that the test claim legislation constitutes a reimbursable state-mandated program upon local governments within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514.

The claimant filed the test claim on June 30, 1999. The Commission adopted the Statement of Decision on June 27, 2002, and the parameters and guidelines on July 31, 2003. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by February 3, 2004.

Discussion

Staff reviewed the claims data submitted by the claimants and compiled by the SCO.

The Commission approved the following reimbursable activities for this program:

A. One-Time County Activities

1. Developing policies and procedures for the activities listed in section IV. of these parameters and guidelines. (*Reimbursement period begins July 1, 1997.*)
2. Developing a training program for grand jurors that consider or take action on civil matters. As required by the court, reimbursement is limited to training for report writing, interviews, and grand jury's scope of responsibility and statutory authority. Costs to the county for the court to meet with the district attorney, county counsel, and at least one former grand juror to consult regarding grand jury training are reimbursable. (Pen. Code, § 914, subd. (b)). (*Reimbursement period begins January 1, 1998.*)

B. On-Going County Activities

1. Training each grand jury that considers or takes action on civil matters, as outlined in section IV. A. above (Pen. Code, § 914, subd. (b)). (*Reimbursement period begins January 1, 1998.*)
2. Grand jury meeting(s) with the subjects(s) of the grand jury's investigation(s) regarding the investigation.¹ Grand jury participation in the meeting(s) is reimbursable (Pen. Code, § 933.05, subd. (e)). (*Reimbursement period begins January 1, 1998.*)
3. Providing a suitable meeting room and providing support to the grand jury as the superior court determines is necessary (Pen. Code, § 938.4). See sections V. A3 and A4 for claiming the pro rata share of the meeting room cost if it is used for other purposes. (*Reimbursement period begins January 1, 1998.*)
4. The county clerk submitting a copy of the grand jury report and responses from the person or entity that is the subject of the grand jury report to the State Archivist. This includes the cost of duplication, mailing, or other form of transmittal (Pen. Code, § 933, subd. (b)). (*Reimbursement period begins January 1, 1999.*)

¹ During an investigation, the grand jury shall meet with the subject of that investigation. (Pen. Code, § 933.05, subd. (e).)

C. On-Going Local Agency or School District Activities² (*Reimbursement period begins July 1, 1997.*)

1. Preparing a response to each grand jury finding including those involving fiscal matters. The responding person or entity shall include one of the following into the response for each finding:
 - a. The respondent agrees with the finding.
 - b. The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.
2. Preparing a response to each grand jury recommendation in which the responding person or entity shall report one of the following actions for each recommendation:
 - a. The recommendation has been implemented, with a summary regarding the implemented action.
 - b. The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
 - c. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report regarding the grand jury finding.
 - d. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore. (Pen. Code, § 933.05, subd. (a) and (b).)
3. A local agency or school district meeting with the grand jury as the subject of an investigation is reimbursable (Pen. Code, §933.05, subd. (e)). (*Reimbursement period begins January 1, 1998.*)

Statewide Cost Estimate

Recommendations from the Bureau of State Audits

On October 15, 2003, the Bureau of State Audits (BSA) issued an audit report on two mandated programs and the mandates process. The BSA issued one recommendation regarding the development of statewide cost estimates, stating:

To project more accurate statewide cost estimates, the Commission staff should more carefully analyze the completeness of the initial claims data they use to develop the estimates and adjust the estimates accordingly. Additionally, when reporting to the Legislature, the Commission should disclose the incomplete nature of the initial claims data it uses to develop the estimates.

² Any county, city, city and county, special district, joint powers agency, or school or community college district that is responding to a grand jury report.

Staff made the following assumptions and used the following methodology to develop a statewide cost estimate of the program and to implement the BSA's recommendation. If the Commission adopts this statewide cost estimate, the estimate, including staff's assumptions and methodology will be reported to the Legislature.

Assumptions

Staff made the following assumptions:

- The statewide cost estimate is based on 276 claims; 249 filed by 18 cities, 37 counties, one city and county, and three special districts; and 27 filed by 15 school districts.³
- The actual amount claimed will increase when late or amended claims are filed. Twenty of the 58 counties have not filed any reimbursement claims for this program. Fifteen of the non-filing counties have populations less than 200,000 persons. If reimbursement claims are filed by the remaining five counties: San Diego, Contra Costa, Kern, San Joaquin, and Solano, the amount of reimbursement claims may exceed the statewide cost estimate. For this program, late claims may be filed until February 2005.
- Any reimbursement claim for this program may be reduced by the SCO if it is audited and deemed to be excessive or unreasonable. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.

Methodology

1997-2002 Costs

- Staff reviewed the summary claims data provided by the SCO for fiscal years (FY) 1997-1998 through 2002-2003. Staff then reviewed the reimbursement claims to study claiming data and possible trends. No trends could be identified for this program. Significant variations in costs claimed were found in county reimbursement claims.
- The proposed statewide cost estimate for FY 1997-1998 through 2002-2003 is based on the 276 unaudited, actual reimbursement claims.

2003-2005 Projected Costs

- Staff projected totals for FY 2003-2004 by multiplying the FY 2002-2003 claim total filed by claimants with the SCO by the implicit price deflator for 2002-2003 (2.3%), as forecast by the Department of Finance. Staff projected totals for FY 2004-2005 by multiplying the FY 2002-2003 claims total by the implicit price deflator for 2003-2004 (2.9%).

The proposed statewide cost estimate includes eight fiscal years for a total of \$12,624,069. Of this amount, \$12,508,570 is for local agencies and \$115,499 is for school districts. This averages to \$1,578,009 annually in costs for the state.

³ Claims data reported by the SCO as of March 19, 2004.

Following is a breakdown of estimated total costs per fiscal year:

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Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of **\$12,624,069** for costs incurred in complying with the *Grand Jury Proceedings* program.

* Estimated using the Implicit Price Deflator as forecast by Department of Finance.