

ITEM 20

PROPOSED ORDER TO SET ASIDE PARAMETERS AND GUIDELINES

American Government Course Document Requirements
04-PGA-29 (97-TC-02 (a.k.a. 97-258-01))

Education Code Section 51230
Added by Statutes 1996, Chapter 778

And

Repealed by Statutes 2004, Chapter 890 (Assem. Bill No. 2855, § 11)

EXECUTIVE SUMMARY

Background

In 1998, the Commission on State Mandates determined that the *American Government Course Document Requirements* program (Ed. Code, § 51230, Stats. 1996, ch. 778) imposed a reimbursable mandate on school districts. The Commission found that the test claim statute required school districts to teach, and students to read, the Declaration of Independence, the United States Constitution, including the Bill of Rights, the Federalist Papers, the Emancipation Proclamation, the Gettysburg Address, and George Washington's Farewell Address as part of the American Government and Civics courses required for high school graduation. The Commission adopted parameters and guidelines in 1999.

The test claim statute, Education Code section 51230, was repealed by Statutes 2004, chapter 890 (Assem. Bill No.2855).

Discussion

Article XIII B, section 6 of the California Constitution states 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." (Emphasis added.) This constitutional provision was specifically intended to prevent the state from forcing programs on local government that *require* expenditure by local governments of their tax revenues.¹ To implement article XIII B, section 6, the Legislature enacted Government Code section 17500 et seq. Government Code section 17514 defines "costs mandated by the state" as "any increased costs which a local agency or school district is *required* to incur . . . as a result of any statute. . . which *mandates* a new

¹ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Los Angeles, supra*, 43 Cal.3d 46, 56; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283-1284.

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.)

Staff finds that the test claim statute, Education Code section 51230 was repealed by Statutes 2004, Chapter 890. Without the test claim statute, no reimbursement is required pursuant to article XIII B, section 6 of the Constitution and Government Code section 17514 because there is no *American Government Course Document Requirements* program.

Conclusion

Therefore, staff concludes that the parameters and guidelines for this program should be set aside, effective January 1, 2005.

Staff Recommendation

Staff recommends the Commission adopt the proposed Order to Set Aside the Parameters and Guidelines for the *American Government Course Document Requirements* program.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Section 51230, as added by Statutes of 1996, Chapter 778;

Filed on September 14, 1997;

By the San Diego Unified School District and Sweetwater Union High School District, Co-Claimants.

Nos. 04-PGA-29 (97-TC-02 (*a.k.a.* 97-258-01))

American Government Course Document Requirements

PROPOSED ORDER TO SET ASIDE
PARAMETERS AND GUIDELINES

(Proposed on July 28, 2005)

ORDER TO SET ASIDE PARAMETERS AND GUIDELINES

In 1998, the Commission on State Mandates determined that the *American Government Course Document Requirements* program (Ed. Code, § 51230, Stats. 1996, ch. 778) imposed a reimbursable mandate on school districts. The Commission found that the test claim statute required school districts to teach, and students to read, the Declaration of Independence, the United States Constitution, including the Bill of Rights, the Federalist Papers, the Emancipation Proclamation, the Gettysburg Address, and George Washington’s Farewell Address as part of the American Government and Civics courses required for high school graduation. The Commission adopted parameters and guidelines in 1999.

The test claim statute, Education Code section 51230 was repealed by Statutes 2004, chapter 890 (Assem. Bill No. 2855, § 11).

Article XIII B, section 6 of the California Constitution states 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.” (Emphasis added.) This constitutional provision was specifically intended to prevent the state from forcing programs on local government that *require* expenditure by local governments of their tax revenues.² To implement article XIII B, section 6, the Legislature enacted Government Code section 17500 et seq. Government Code section 17514 defines “costs mandated by the state” as “any increased costs which a local agency or school district is *required* to incur . . . as a result of any statute. . . 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.)

² *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Los Angeles, supra*, 43 Cal.3d 46, 56; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283-1284.

The Commission finds that the test claim statute, Education Code section 51230 was repealed by Statutes 2004, Chapter 890. Without the test claim statute, no reimbursement is required pursuant to article XIII B, section 6 of the Constitution and Government Code section 17514 because there is no *American Government Course Document Requirements* program.

Therefore, the Commission sets aside the attached parameters and guidelines for the *American Government Course Document Requirements* program, effective January 1, 2005.

Paula Higashi, Executive Director

Date

Attachment: Parameters and Guidelines