

ITEM 28

EXECUTIVE DIRECTOR'S REPORT

Commission Workload, Budget, Legislation, and Next Meeting/Hearing

I. WORKLOAD: Pending Caseload

Type of Action	July 14, 2006	May 12, 2006	July 14, 2005
Test Claims to be Heard and Determined	102	104	104
Test Claims to be Reconsidered	0	0	0
Test Claims to be Reconsidered Based on Court Action	0	0	1
Test Claims to be Reconsidered, as Directed by the Legislature	0	1	6
Incorrect Reduction Claims to be Heard and Determined	117	108	86
Incorrect Reduction Claims to be Reconsidered Based on Court Action	6	6	6
Proposed Parameters and Guidelines, and Amendments	28	30	32
Parameters and Guidelines to be Amended or Set Aside, as Directed by the Legislature or Court Action	1	1	3
Statewide Cost Estimates to be Adopted	7	7	3
New Test Claim Filings to be Reviewed	0	0	0
New Incorrect Reduction Claim Filings to be Reviewed	0	0	Not Available
Appeals of Executive Director's Decision	0	0	0
Regulatory Actions Pending	1	1	2

II. STATE BUDGET

A. Commission's Budget

The Budget Act appropriates \$1.629 million for the CSM budget, converts three limited-term positions to permanent, directs the CSM to reconsider two prior decisions, and requires the CSM to submit an annual report to the Director of Finance "identifying workload levels and any backlog for the staff of the commission." The first report is due on September 15 and will include an overview of pending caseload, updated to reflect actions taken at the July hearing, and descriptions of pending claims and other matters, by filing date and subject matter.

B. Mandate Reimbursements

Mandate appropriations are included in AB 1801 (Budget Act of 2006, Stats. 2006, ch. 47), AB 1811 (Local Government Trailer Bill, Stats. 2006, ch. 47), and AB 1802 (Enrolled and to the Governor on July 7, 2006).

1. Local Agencies.

Cities, counties and special districts will receive over \$500 million for current and prior year mandate reimbursements and accrued interest.

- \$90,280,000 for 2005-06 claims. (AB 1801, Item 8885-295-0001, sch. (0.5).)
- \$109,000,000 for 2006-07 claims. (AB 1811, § 48, Item 8885-295-0001, sch. (1.0).)
- \$16,600,000 for 2005-06 claims for *POBOR* (CSM-4499) (AB 1801, Item 8885-295-0001, sch. (0.6).)
- \$16,600,000 for 2006-07 claims for *POBOR* (CSM-4499) (AB 1811, § 48, Item 8885-295-0001, sch. (2).)
- \$1,551,000 for 2006-07 claims for Administrative License Suspension Per Se (98-TC-16) (AB 1801, Item 8885-295-0044, sch. (1).)
- \$162,000 for 2006-07 claims for *Pesticide Use Reports* (CSM-4420) (AB 1801, Item 8885-295-0106, sch. (1).)
- \$83,000,000 for first year payment of mandate claims filed prior to July 1, 2004. (AB 1801, Item 8885-299-0001, sch. (1).)
- \$86,900,000 for second year payment of mandate claims filed prior to July 1, 2004. (AB 1811, § 49, Item 8885-299-0001, sch. (2).)
- \$66,000,000 for 2004-05 and 2005-06 costs of AB 3632 services. (AB 1801, Item 4440-295-0001.)
- \$52,000,000 to provide AB 3632 services through a categorical program. (AB 1801, § , Item 4440-104-000.)
- \$69,000,000 for county offices of education to allocate to county mental health departments for AB 3632 services. (AB 1801, Item 6110-0890, sch. (4).)

2. School Districts (K-12).

According to the Governor's Budget Summary, the budget provides approximately \$957 million in Proposition 98 General Fund to fund K-12 mandate costs. Of that amount, \$927 million is for the purpose of paying off prior year claims. This nearly

eliminates the accumulated debt the state has incurred from deferring mandate payments.

- \$38,000 for 2006-07 claims. (AB 1811 amendment of AB 1801, Item 6110-485-0001.)
- \$39,000 for *Attendance Accounting* for 1998-99 claims. (AB 1801, Item 6110-485, (3).)
- \$18,726,000 for prior year state obligations for K-12 mandate claims and interest. (AB 1801, Item 6110-485, (10).)
- \$30,000,000 for any costs of 2006-07 K-12 certified mandate claims beyond what is appropriated in Item 6110-295-0001, to be disbursed by the Controller. (AB 1801, Item 6110-485 (12).)
- \$650,062,000 for the 1995-96-2005-06 claims. (First pay oldest claims no longer subject to audit, including accrued interest; second claims still subject to audit, including accrued interest. The Controller may adjust the amounts paid on the basis of final audits; no payments may be made for any claims for *Standardized Testing and Reporting (STAR)* or *National Norm-Referenced Achievement Test programs, Schoolsite Councils, Brown Act and Open Meetings Act, School Bus Safety II, Grand Jury Proceedings, or the Removal of Chemicals*. Repayments from an audit may be counted towards future claims submitted by the agency. (AB 1802, §. 43.)
- \$258,189,000 for the 1995-1996-2005-2006 claims (for school districts, county offices; first pay oldest claims no longer subject to audit, including accrued interest; second claims still subject to audit, including accrued interest. The Controller may adjust the amounts paid on the basis of final audits, no payments may be made for any claims listed above. Repayments resulting from an audit may be counted towards future claims submitted by the agency. (AB 1802, § 44, subd. (a)(3)(A).)

3. Community College Districts.

Community colleges will be reimbursed \$4,040,000 for budget year claims and \$40 million for prior year costs, as specified below:

- \$3,998,500 for *Health Fees* (CSM-4206) (AB 1801, Item 6870-295-0001)(1).)
- \$11,000 for *Sex Offenders: Disclosure Requirements* (97-TC-15) (AB 1801, Item 6870-295-0001)(2).)
- \$4,500 for *Law Enforcement Jurisdiction Agreements* (98-TC-20) (AB 1801, Item 6870-295-0001)(3).)
- \$15,000,000 for 1995-96- 2005-06 claims. (First, pay oldest claims no longer subject to audit, including accrued interest; second, claims still subject to audit, including accrued interest. The Controller may adjust the amounts paid based on the final audits. Repayments resulting from an audit may be counted towards future claims submitted by the agency.) (AB1802, § 43, subd. (a)(25).)
- \$25,000,000 for the 1995-96 – 2005-06 claims(same conditions as above.) (AB1802, § 44, subd. (a)(3)(B).)

C. AB 1805. Local Government Trailer Bill (Enrolled and to the Governor on July 6, 2006)

AB 1805 amends Government Code section 17561 to clarify Proposition 1A's amendment of article XIII B, section 6 of the California Constitution. Proposition 1A adds the phrase a mandate that is "determined in a preceding fiscal year to be payable by the state" to clarify the state's duty to reimburse local governments. AB 1805 defines this phrase to mean "all mandates for which the Commission adopted a statewide cost estimate ... during a previous fiscal year or that were identified as mandates by a predecessor agency to the Commission, unless the mandate has been repealed or otherwise eliminated." The new definition further provides that if the Commission adopts a statewide during the months of April, May, or June, the state's payment obligation under Proposition 1A shall begin one year after the time specified.

This trailer bill also directs the Commission to reconsider two Statements of Decision and parameters and guidelines for the following mandates: Cancer Presumption-Peace Officers (CSM-4416) and Firefighter's Cancer Presumption (CSM-4081). The reconsiderations must be completed no later than six months after a final decision in the pending court case – CSAC Excess Insurance Authority and City of Newport Beach v. Commission on State Mandates, now pending in the Second District Court of Appeal. The reconsiderations shall be effective on July 1 after adoption by the Commission.

III. LEGISLATION

Note: The bills described below may be reviewed at leginfo.ca.gov or from the links to “Other Bills” on the Commission’s website: csm.ca.gov.

A. AB 2652 (Laird) is our sponsored bill to reform the incorrect reduction claim (IRC) process. The bill would:

1. Authorize one claimant to file an IRC that would result in consolidated IRCs on the same program if certain criteria are met.
2. Authorize the Commission to consolidate IRCs already on file with the Commission on the same program based on the same criteria as claimant initiated consolidations.

Status: Pending on Senate Floor

B. AB 2176 (Niello) was amended on May 26, 2006. AB 2176 would revise the process for bills that state they do not impose a reimbursable state mandate because the local agency or school district to which the bill applies has the authority to levy services charges, fees, or assessments sufficient to pay for the new mandate or increased level of service. Specifically, the bill would require the Legislature to specify in the bill whom the charge, fee or assessment may be levied upon.

Status: Pending in Senate Appropriations Committee, no hearing date set.

C. AB 2846 (Daucher) was amended on May 10, 2006. The bill would have imposed substantive changes to the process for reimbursing local educational agencies for mandates, including adding charter schools as eligible claimants; establishing a settlement process whereby schools receive 80% of the total amount they claim, and in exchange, the State Controller is prohibited from auditing that reimbursement claim; and requiring certain state agencies, the Legislative Analyst’s Office, and several school-related organizations to establish a working group to develop unit rates for reimbursing education mandates.

Status: Failed passage in Assembly Appropriations Committee.

- D. SB 328 (Cedillo) was amended on June 15, 2006. This bill would codify a settlement agreement proposed by the California State Association of Counties (CSAC) to reimburse cities and counties for the *Peace Officer Procedural Bill of Rights (POBOR)* mandate. Specifically the bill would:
1. Define “mandated costs” for the POBOR mandate, so that local agencies are reimbursed for activities that were denied as reimbursable by the Commission on State Mandates (CSM).
 2. Require the CSM to adopt a reasonable reimbursement methodology for the POBOR mandate by June 30, 2007. The methodology must specify that a local agency’s annual mandated costs shall be reimbursed in amount that equals the number of public safety officers subject to POBOR who are employed by the local agency on January 1 of the applicable year, multiplied by \$528.
 3. Limit the State Controller’s authority to audit reimbursement claims filed using the reasonable reimbursement methodology, to the number of public safety officers employed by the local agency.
 4. Clarify that local agencies that received any reimbursement for claims filed for the 1994-95 through 2000-01 fiscal years shall be deemed fully paid; and that local agencies that have not received any reimbursement for the same period shall be deemed fully paid if the state reimburses them at the same rate that it used to pay claims of other local agencies for costs incurred during the same period.
 5. Allow local agencies to claim reimbursement for actual costs or costs using the reasonable reimbursement methodology commencing with the 2001-02 fiscal year.
 6. Require unpaid POBOR claims filed prior to the 2005-06 fiscal year to be paid no later than January 1, 2022; and any unpaid POBOR claims filed in any fiscal year beginning with 2005-06 be paid no later than three years.

Status: Set for hearing in Assembly Appropriations Committee on August 9, 2006.

IV. TENTATIVE AGENDA FOR NEXT HEARING: SEPTEMBER 28, 2006

A. Test Claims

1. *Fifteen -Day Close of Voter Registration*, 01-TC-15
County of Orange, Claimant
2. *Voter Identification Procedures*, 03-TC-23
San Bernardino County, Claimant
3. *Mandate Reimbursement Process II (AB 2856)*, 05-TC-05
City of Newport Beach, Claimant
4. *Racial Profiling: Law Enforcement Training*, 01-TC-01, 02-TC-05
County of Sacramento and Santa Monica Community College District, Claimants

B. Proposed Parameters and Guidelines and Proposed Amendments

1. *Handicapped and Disabled Students I and II, and Seriously Emotionally Disturbed (SED) Pupils: Out of State Mental Health Services: Proposed Consolidation of Parameters and Guidelines*, 04-RL-4282-10, 02-TC-40/02-TC-49, and 97-TC-05

2. *Handicapped and Disabled Students: Proposed Amendments to Parameters and Guidelines*, 00-PGA-03 and 00-PGA-04
Counties of Los Angeles and Stanislaus, Requestors
3. *Missing Children Reports*, 01-TC-09,
San Jose Unified School District, Claimant, and
Request to Consolidate Missing Children Reports with Law Enforcement Agency Notifications, 04-PGA-03
San Jose Unified School District, Requestor, and
Request To Amend Parameters And Guidelines To Include Time Study Language, 04-PGA-04
State Controller's Office, Requestor
4. *Domestic Violence Arrests and Victims Assistance*, 98-TC-14
County of Los Angeles, Claimant
5. *Removal of Chemicals: Proposed Amendments to Parameters and Guidelines*, 03-PGA-04
Department of Finance, Requestor
6. *School District of Choice: Proposed Amendments to Parameters and Guidelines*, 03-PGA-03
State Controller's Office, Requestor
7. Department of Finance's Requests to Amend Several Peace Officer Programs to Delete School Districts as Eligible Claimants:
 - *Health Benefits for Survivors of Peace Officers and Firefighters*, 05-PGA-06
 - *Peace Officers Procedural Bill of Rights*, 05-PGA-07
 - *Law Enforcement Sexual Harassment Complaint Procedures*, 05-PGA-08
 - *Sex Offenders: Disclosure by Law Enforcement Officers*, 05-PGA-09
 - *Law Enforcement College Jurisdiction*, 05-PGA-10

C. Proposed Statewide Cost Estimates

1. *The Stull Act*, 98-TC-25
Denair Unified School District and Lassen County Office of Education, Claimants
2. *Crime Victim's Domestic Violence Incident Reports*, 99-TC-08
County of Los Angeles, Claimant
3. *Integrated Waste Management*, 00-TC-07
Santa Monica and Lake Tahoe Community College Districts, Claimants
4. *Peace Officer Personnel Records: Unfounded Complaints Against Peace Officers and Discovery of Peace Officer Personnel Records*, 00-TC-24 and 00-TC-25
Cities of Hayward San Mateo, Claimants

D. Notice of Regulatory Action – Incorrect Reduction Claims