

ITEM 5
MANDATE REDETERMINATION
SECOND HEARING: NEW TEST CLAIM DECISION
PROPOSED DECISION

Health and Safety Code section 13235(a)
Statutes 1989, Chapter 993

Fire Safety Inspection of Care Facilities, (01-TC-16)

As Alleged to be Modified by:

Statutes 2009-2010, Chapter 12 (ABX 4 12)
13-MR-01

Department of Finance, Requester

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EXHIBIT A

RECEIVED
July 29, 2013
Commission on
State Mandates

EDMUND G. BROWN JR. ■ GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

July 26, 2013

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms. Halsey:

Please find attached the Department of Finance's "Request to Adopt a New Test Claim Decision" on the Fire Safety Inspections of Care Facilities (01-TC-16) mandate program. A subsequent change in law amended the test claim statute of the program, and, as a result, has removed the state's obligation to fund the mandate.

Pursuant to section 1181.2, subdivision (c)(1)(E) of the California Code of Regulations, "documents that are e-filed with the Commission on State Mandates need not be otherwise served on persons that have provided an e-mail address for the mailing list."

If you have any questions regarding this letter, please contact Michael Byrne, Principal Program Budget Analyst at (916) 445-3274.

Sincerely,


for TOM DYER
Assistant Program Budget Manager

Enclosures

1. TITLE OF REQUEST TO ADOPT A NEW TEST CLAIM DECISION

Fire Safety Inspections of Care Facilities (01-TC-16)
Request to Adopt a New Test Claim Decision

For CSM Use Only
Filing Date: RECEIVED July 29, 2013 Commission on State Mandates
REQUEST# 13-MR-01

2. REQUESTER INFORMATION

Name of Local Agency, School District, Statewide Association of Local Agencies or School Districts, or State Agency
Michael Byrne
Requester Contact
Principal Program Budget Analyst
Title
California Department of Finance
Organization
915 L Street, Suite 1190
Street Address
Sacramento, CA 95814
City, State, Zip Code
(916) 445-3274
Telephone Number
(916) 449-5252
Fax Number
Michael.byrne@dof.ca.gov
E-Mail Address

3. REPRESENTATIVE INFORMATION

If requester designates another person to act as its sole representative for this request, all correspondence and communications regarding this request shall be forwarded to this representative. Any change in representation must be authorized by the requester in writing, and sent to the Commission on State Mandates. Please complete information below if designating a representative.

Representative Name
Title
Organization
Street Address
City, State, Zip Code
Telephone Number
Fax Number
E-Mail Address

4. IDENTIFYING INFORMATION

Please identify the name(s) of the programs, test claim number(s), and the date of adoption of the Statement of Decision, for which you are requesting a new test claim decision, and the subsequent change in law that allegedly changes the state's liability. Regarding the subsequent change in law, please identify all relevant code sections (include statutes, chapters, and bill numbers), regulations (include register number and effective date), executive orders (include effective date), cases, or ballot measures.

On March 29, 2006, the Commission on State Mandates adopted a statement of decision finding that the costs of activities required by Health and Safety Code section 13235, subdivision (a), as added Chapter 993, Statutes of 1989, under the Fire Safety Inspections of Care Facilities Test Claim No. (01-TC-16) are reimbursable by the state.

Health and Safety Code section 13235, subdivision (a) as amended by Chapter 12, Statutes of 2009, Fourth Extraordinary Session (ABX4 12), enacted on July 28, 2009, is the subsequent change in law that removes the state's obligation to reimburse the costs of complying with this mandate program based on Government Code sections 17570 and 17556, subdivision (d).

Sections 5, 6 and 7 are attached as follows:

- 5. Detailed Analysis: Pages 5 to 6.
- 6. Declarations: Pages 7 to 7.
- 7. Documentation: Pages 8 to 8.

8. CERTIFICATION

*Read, sign, and date this section and insert at the end of the request for a new test claim decision.**

This request for a new test claim decision is true and complete to the best of my personal knowledge, information, or belief.

Michael Byrne
Print or Type Name of Authorized Official

Principal Program Budget Analyst
Print or Type Title


Signature of Authorized Official

7/26/2013
Date

*If declarant for this certification is different from the contact identified in section 2 of the form, please provide the declarant's address, telephone number, fax number and e-mail address.

Section 5. Detailed Analysis
Request to Adopt a New Test Claim Decision
Fire Safety Inspections of Care Facilities (01-TC-16)
Department of Finance

On March 29, 2006, the Commission on State Mandates adopted a statement of decision finding that Health and Safety Code section 13235, subdivision (a), as added by Chapter 993, Statutes of 1989 imposes a reimbursable state-mandated program on local agencies within the meaning of Article XIII B, section 6 of the California Constitution and Government Code sections 17514 for the following activities:

1. The preinspection of community care facilities, residential care facilities for the elderly, and child day care facilities;
2. The consultation and interpretation of applicable fire safety regulations for the prospective facility licensee; and
3. Written notice to the prospective facility licensee of the specific fire safety regulations which shall be enforced in order to obtain the final fire clearance approval.

Section 5. Detailed Analysis
Request to Adopt a New Test Claim Decision
Fire Safety Inspections of Care Facilities (01-TC-16)
Department of Finance

The Department of Finance (Finance) requests that the Commission on State Mandates (Commission) adopt a new test claim decision on the Fire Safety Inspections of Care Facilities (01-TC-16) mandate program based on a "subsequent change in law" as defined by Government Code section 17570 and pursuant to Government Code section 17556, subdivision (d).

In 2006, the Commission adopted the statement of decision finding that the costs of activities required by Health and Safety Code section 13235, subdivision (a), are reimbursable by the state. Subsequently, Chapter 12, Statutes of 2009, Fourth Extraordinary Session (ABX4 12), amended Health and Safety Code section 13235, subdivision (a), to grant local agencies authority to charge a fee sufficient to cover all of the costs attributable to the mandated activities under Health and Safety Code section 13235, subdivision (a). The authority to collect such fees necessitates a new test claim decision finding there are no costs mandated by the state pursuant to Government Code section 17556, subdivision (d).

The enactment of ABX4 12 amended the language of Health and Safety Code section 13235 by adding language which allows local fire protection districts to charge a fee equal to, but not exceeding, the actual costs of their preinspection services. (See Attachment A, pages 11-12.) That 2009 amendment to Health and Safety Code section 13235, subdivision (a), is the "subsequent change in law" that requires the Commission to make a new test claim finding that the cost of the program is not a cost mandated by the state. Government Code section 17570 defines "subsequent change in law" "as a change in law that requires a finding that an incurred cost is a cost mandated by the state, as defined by Government Code section 17514, or is not a cost mandated by the state pursuant to Government Code section 17556, or a change in mandates law..." Additionally, Government Code section 17556, subdivision (d), provides that the Commission shall not find costs mandated by the state if a local agency has the authority to assess a fee sufficient to pay for the mandated program. As a result of the subsequent change in law, local agencies may charge a fee to cover all of their costs attributable to the mandated activities in Health and Safety Code section 13235, subdivision (a).

Based on Government Code sections 17570 and 17556, subdivision (d), Finance requests the Commission adopt a new test claim decision finding that there are no costs mandated by the state within the meaning of Article XIII B, section 6 of the California Constitution. Beginning fiscal year 2012-13, the state should not be obligated to reimburse any costs for local agencies to implement the mandated activities. The annual statewide cost estimate of the program should be zero dollars.

Section 6. Declarations
Request to Adopt a New Test Claim Decision
Fire Safety Inspections of Care Facilities (01-TC-16)
Department of Finance

1. The state's estimated annual statewide costs for reimbursing the program should be zero dollars as of July 1, 2012 based on Government Code section 17570, subdivision (f) and the pre-June 30, 2014 filing date of this request. (See Attachment C: *State Mandated Program Cost Report of Unpaid Claims and Deficiency (Pursuant to Government Code Section 17562(b)(2)): Schedule B, Section 2: Net Deficiencies and Surpluses for the Unfunded Mandates by Program.*) The state owes back costs of \$764,793 as of fiscal year 2008-09 for reimbursable claims submitted from 2000-01 through 2008-09. Based on that data, the Department of Finance estimates that annual statewide costs have averaged approximately \$85,000 since the program's reimbursement period began fiscal year 2000-01. No reimbursable claims were submitted after 2008-09 because the program was suspended in 2009-10 and there was a subsequent change in law providing local agencies sufficient fee authority.
2. Chapter 12, Statutes of 2009, Fourth Extraordinary Session, enacted on July 28, 2009 is the subsequent change in law which provides local agencies authority to charge fees sufficient to cover the full costs of the mandated activities in the Fire Safety Inspections of Care Facilities program. Effective July 1, 2012, the state should not be legally required to reimburse the costs of the mandate program.
3. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make these declarations on behalf of Finance.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters herein stated as information or belief and, as to those matters, I believe them to be true.

July 26, 2013
At Sacramento, California

Carla Shelton
Carla Shelton

Fire Safety Inspections of Care Facilities (01-TC-16)
Department of Finance

- | | |
|---|--------------|
| 1. Chapter 12, Statutes of 2009, Fourth Extraordinary Session (ABX4 12)
"Subsequent change in law" Statute | Attachment A |
| 2. Chapter 993, Statutes of 1989 – Test Claim Statute | Attachment B |
| 3. State Mandated Program Cost Report of Unpaid Claims and Deficiency Pursuant to
Government Code section 17562(b)(2): Schedule B, Section 2: Net Deficiencies and
Surpluses for the Unfunded Mandates by Program | Attachment C |

**Chapter 12, Statutes 2009-10, 4th Ex Session (ABX4 12)
Subsequent Change in Law**

BILL NUMBER: ABX4 12 CHAPTERED
BILL TEXT

CHAPTER 12
FILED WITH SECRETARY OF STATE JULY 28, 2009
APPROVED BY GOVERNOR JULY 28, 2009
PASSED THE SENATE JULY 23, 2009
PASSED THE ASSEMBLY JULY 24, 2009
AMENDED IN SENATE JULY 23, 2009

INTRODUCED BY Assembly Member Evans

JULY 2, 2009

An act to amend Section 19616.51 of, and to add Section 19616.52 to, the Business and Professions Code, to add Section 14044 to the Corporations Code, to add and repeal Article 20.7 (commencing with Section 69999.10) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code, to amend Sections 8610.5, 11545, 12715, 13302, and 22877 of, to add Sections 11019.10 and 12472.5 to, and to add and repeal Section 22864.1 of, the Government Code, to amend Sections 1566.2, 13235, 17031.8, 17036, 18114, 18502, and 51504 of the Health and Safety Code, to add Article 7 (commencing with Section 11885) to Chapter 4 of Part 3 of Division 2 of, and to add and repeal Section 12975.9 of, the Insurance Code, to amend Sections 62.5 and 4352 of, and to add Section 67 to, the Labor Code, to amend Section 1012.3 of, and to add Article 8.2 (commencing with Section 999.80) to Chapter 6 of Division 4 of, the Military and Veterans Code, to amend Section 679.02 of the Penal Code, to add Section 42102.5 to the Public Resources Code, to amend Sections 7204.3 and 7273 of the Revenue and Taxation Code, and to add Sections 10214.6 and 14022 to the Unemployment Insurance Code, relating to state government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 12, Evans. State government.

(1) Existing law, operative July 1, 2009, provides that, notwithstanding any other provision of law and in lieu of any license fee payable to the state prescribed for or referred to in specified provisions of the Horse Racing Law, any association or fair that conducts a racing meeting shall pay a license fee to the state to fund the California Horse Racing Board and the equine drug testing program, as provided.

This bill would instead require any association or fair to pay its proportional amount, as determined by the formula devised by the board in consultation with the industry, as a license fee to the state, to be deposited into the Horse Racing Fund, which the bill would

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establish, to fund the board and the equine drug testing program, as provided.

(2) Existing law, operative until June 30, 2009, provides that if the total amount paid to the state as license fees by racing associations and fairs is less than \$40,000,000 in any calendar year, all associations and fairs that conducted live racing during the year of the shortfall shall remit to the state, on a pro rata basis according to the amount paid as license fees by each association or fair, the amount necessary to bring the total amount paid to the state as license fees to \$40,000,000.

This bill would provide that in lieu of all amounts payable prior to July 1, 2009, as shortfall amounts, the sum of \$5,500,000 shall be paid by racing associations and fairs from the amount available for commissions, purses, and breeder awards, as determined by the board, into the State Treasury to the credit of the Fair and Exposition Fund over a period of 6 years, as provided.

The bill would require the proportionate share to be paid by each racing association and fair and the method of payment to be determined by a formula approved by the board in consultation with the industry. By imposing new requirements on licensees under the Horse Racing Law, the violation of which would be a crime under other provisions of existing law, this bill would create a new crime and thereby impose a state-mandated local program. Because this bill would require the above funds to be deposited into a continuously appropriated fund, the Fair and Exposition Fund, the bill would make an appropriation.

(3) The California Small Business Financial Development Corporation Law authorizes the formation of small business financial development corporations to grant loans or loan guarantees for the purpose of stimulating small business development. The California Small Business Expansion Fund, which is created under that law, provides funds to be used to pay for defaulted loan guarantees and administrative costs of these corporations, among other investments. Existing law authorizes moneys in that fund to be paid out to a lending institution or financial company that will act as trustee of the funds, as specified.

This bill would make state money, as defined, in the California Small Business Expansion Fund and the trust fund unavailable for new loans, loan guarantees, or other investments and would require state money not needed to guarantee existing loans, to administer existing loans, or for other existing investments, as determined by the Director of Finance, to revert to the General Fund.

(4) Existing law establishes various student financial aid programs under the administration of the Student Aid Commission, and establishes eligibility requirements for the receipt of awards under those programs for participating students attending qualifying institutions. Existing law establishes the Military Department, which includes the California National Guard, the State Military Reserve, and the Naval Militia, to perform various duties regarding the state militia.

This bill would establish the California National Guard Education Assistance Award Program on behalf of qualifying members of the California National Guard, the State Military Reserve, and the Naval Militia under the administration of the commission.

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The bill would require the Student Aid Commission, in consultation with the Military Department, to adopt emergency rules and regulations for the purpose of implementing the program. The bill would require the Student Aid Commission to report annually to the Legislature regarding program participation. The bill would require the Legislative Analyst, on or before January 1, 2016, to prepare and submit to the Legislature a report on the program. The bill would provide that the program would become operative only if funds are appropriated for the purposes of the program. The bill would also provide that implementation of the program would be contingent upon the receipt of federal funds. The program would become inoperative on July 1, 2019, and would be repealed on January 1, 2020.

(5) The California Emergency Services Act provides for the assessment of certain state agency costs on utilities operating certain nuclear powerplants, and the deposit of those moneys into, and the appropriation and allocation of moneys from, the Nuclear Planning Assessment Special Account. The amounts available for disbursement are adjusted and compounded each fiscal year by the percentage increase in the California Consumer Price Index of the previous calendar year. These provisions become inoperative on July 1, 2019, and are repealed on January 1, 2020.

This bill would instead make these adjustments based on the percentage increase in the California Consumer Price Index of the previous fiscal year.

(6) Existing law authorizes the creation of state agencies, departments, and other entities within state government.

This bill would prohibit, except as provided, the provision of automatic increases to the University of California, California State University, the State Courts, or to state agency operations.

(7) Existing law requires the State Chief Information Officer to produce an annual information technology strategic plan.

This bill would additionally require the State Chief Information Officer to produce an annual information technology report with specified information to be provided to the Joint Legislative Budget Committee.

(8) Existing law requires the Controller to install and operate a uniform state payroll system for all state agencies, except the California Exposition and State Fair and the University of California, in conformance with a prescribed accounting system. Existing law prohibits pay dates under that accounting system from being more than 10 calendar days following the close of the payroll period for monthly salaried employees and more than 15 calendar days following the close of the payroll period for semimonthly and biweekly payroll systems. Existing law provides that for the purposes of financial reporting, a payable exists when services have been delivered and the state is required to pay for those services, and an encumbrance exists when a valid obligation against an appropriation has been created.

This bill would require, on and after January 1, 2010, that payments to employees made through the Uniform State Payroll System for a pay period ending on June 30 of each year shall be on or after July 1, provided that employees shall, in any event, be paid promptly. The bill would require that payments to employees made in

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July through the Uniform State Payroll System for services rendered prior to June 30 of each year be considered payable in the fiscal year in which the warrant is issued. The bill would except from this provision payments made in July for purposes of calculating maintenance of effort expenditures under Section 8 of Article XVI of the California Constitution and other calculations of funds used by a program in the fiscal year, and would permit them to be counted towards the prior fiscal year.

(9) The Public Employees' Medical and Hospital Care Act requires that premiums charged for enrollment in a health benefit program reasonably reflect the cost of the benefits, provided that this does not limit the Board of Administration of the Public Employees' Retirement System from adjusting premiums charged under any health benefit plan or contract to reflect regional variations in providing services, which adjustments are at the sole discretion of the board.

This bill would authorize the board to use reserves generated by one or more self-funded health benefit plans to reduce the premiums charged for enrollment in one or more separate self-funded health benefit plans offered by the board, as specified.

(10) Existing law establishes, until December 31, 2011, the Rural Health Care Equity Program for the purpose of funding the subsidization and reimbursement of premium costs, deductibles, coinsurance, and other out-of-pocket health care expenses paid by employees living in rural areas, as specified. Existing law provides that the operation of the program is contingent upon funding in the annual Budget Act or another statute. Existing law provides that moneys remaining in an account of the program at the end of any fiscal year shall remain in the account for use in subsequent fiscal years, until the account is terminated and requires that moneys remaining in a program account upon its termination be deposited in the General Fund. State Bargaining Unit 5 has a labor contract with the state that is operative until July 2, 2010.

This bill would provide that, contingent on funding in the annual Budget Act or another statute, the Rural Health Care Equity Program operates solely for the benefit of State Bargaining Unit 5. The bill would terminate operation of the program on July 3, 2010. The bill would require that any moneys that remain in the accounts of the program on July 1, 2009, other than moneys attributable to employees in State Bargaining Unit 5 on that date, be deposited in the General Fund. The bill would provide that, on and after July 3, 2010, benefits of the program would cease to be available to employees in State Bargaining Unit 5, and would require any moneys remaining in the accounts of the program be deposited in the General Fund. The bill would also make technical, corrective, and conforming changes to these provisions.

(11) Existing law requires the local fire authority or the State Fire Marshal to conduct a facility reinspection upon request of a prospective community care facility licensee and authorizes the primary enforcement agency to assess reinspection fees not to exceed \$50 for a facility with a capacity to serve 25 or fewer and fees not to exceed \$100 for a facility with a capacity to serve 26 or more.

This bill would, instead, authorize the assessed fees to equal,

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but not exceed, the actual cost of the reinspection services.

(12) Existing law establishes the right of victims to be notified by the district attorney's office, in cases that involve a violent felony, as defined, or in the event of a homicide, the victim's next of kin, of a pending pretrial disposition before a change of plea is entered before a judge. Existing law provides that a victim of any felony may request to be notified, by the district attorney's office, of a pretrial disposition.

The Victims' Bill of Rights Act of 2008: Marcy's Law established, within the California Constitution, that victims, as defined, shall be entitled to certain rights, including the right, upon request, to be notified of and informed before any pretrial disposition of a case.

This bill would amend statutory language to conform the notification rights of victims found in statute to the notification rights provided in the Constitution pursuant to the Victims' Bill of Rights Act of 2008: Marcy's Law.

(13) Under existing law, the Employee Housing Act requires that buildings used for human habitation, and buildings accessory thereto, comply with the building standards in the California Building Standards Code relating to employee housing, as defined. Existing law requires the Department of Housing and Community Development to gather and include specified information in an annual report for all employee housing owner and operator permeates for which it acts as the enforcement agency.

This bill would, from July 1, 2009, to June 30, 2012, inclusive, suspend the requirement that the department gather and include specified information in its annual report.

(14) Under existing law, the department is required to establish a schedule of fees to pay for the cost of administration and enforcement of the Employee Housing Act.

This bill would require the department to establish a schedule of fees that includes, but is not limited to, specified minimum permit fees. The bill would authorize the department, on or after January 1, 2010, to increase these specified fees, if necessary, to finance the costs of administration and enforcement of the act.

(15) Existing law requires the California Housing Finance Agency to administer the California Homebuyer's Downpayment Assistance Program for the purpose of assisting first-time low- and moderate-income home buyers utilizing existing mortgage financing. Under the program, the amount of the downpayment assistance is due and payable at the end of the term or upon sale of or refinancing of the home.

This bill would authorize the agency, in its discretion, to permit the downpayment assistance loan to be subordinated to refinancing if it determines that certain criteria have been met. The bill would authorize the agency to permit subordination on terms and conditions as it determines are reasonable.

(16) Existing law provides for the existence of the State Compensation Insurance Fund for the purpose of transacting workers' compensation insurance, insurance against the expense of defending any suit for serious and willful misconduct against an employer or

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his or her agent, and insurance to employees and other persons of the compensation fixed by the workers' compensation laws for employees and their dependents.

This bill would authorize the Director of Finance, acting as agent for the state, to sell a portion of or otherwise obtain value for the State Compensation Insurance Fund assets and liabilities. It would provide that this sale or other disposition shall be transacted with an entity that the director, in consultation with the Treasurer, determines will meet specified conditions. It would require that the Board of Directors of the State Compensation Insurance Fund concur that the assets and liabilities identified by the Director of Finance are appropriate for disposition.

This bill would specify the procedures applicable to the sale or other disposition of these assets and liabilities, and would require that the proceeds of any sale or any proceeds achieved through any other disposition of workers' compensation assets and liabilities, less transaction costs, be deposited into the General Fund. It would require the Director of Finance to notify the Joint Legislative Budget Committee in writing upon determining that neither the sale nor any other transaction authorized by this bill is anticipated to achieve the purposes of the bill or upon the completion of a disposition of assets and liabilities pursuant to these provisions.

(17) Existing law creates a Seismic Safety Account within the Insurance Fund, which may be appropriated by the Legislature to fund the Department of Insurance and the Seismic Safety Commission, as specified. Existing law imposes an assessment upon certain insurers to fund the account. This provision was repealed on July 1, 2009.

This bill would restore the provisions relating to the Seismic Safety Account and extend its operation until July 1, 2012.

(18) The Mobilehome Parks Act requires the payment of a fee of \$11 to the Department of Housing and Development at the time of original registration or renewal of registration for each transportable section of a manufactured home, mobilehome, or commercial coach that is subject to annual renewal, and, for a manufactured home, mobilehome, or truck camper that is not subject to annual renewal, at the time of original registration and upon application for specified subsequent changes. The act also requires the payment of a fee of \$30 for each original application for registration of a floating home and for specified subsequent changes.

This bill would raise to \$23 the fee for the original registration or renewal of registration for each transportable section of a manufactured home, mobilehome, or commercial coach that is subject to annual renewal, and, for a manufactured home, mobilehome, or truck camper that is not subject to annual renewal, the fee for original registration and specified subsequent changes. The bill would also raise the fee for each original application for registration of a floating home and for specified subsequent changes to \$42.

(19) The Mobilehome Parks Act, until January 1, 2012, requires an annual operating permit fee of \$25 and an additional \$2 per lot, as specified.

This bill would, until that same date, instead impose an annual operating permit fee of \$140 and an additional \$7 per lot, as

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specified.

(20) The Mobilehome Parks Act, beginning January 1, 2012, requires an annual operating permit fee of \$25 and an additional \$2 per lot or camping party, as specified, and a temporary recreational vehicle park operating permit fee of \$25, with no additional fee per lot.

This bill would, beginning January 1, 2012, instead impose an annual operating permit fee of \$140 and an additional \$7 per lot, as specified, and would eliminate the fee for a temporary recreational vehicle park operating permit.

(21) Existing law establishes the Division of Labor Standards Enforcement within the Department of Industrial Relations. Under existing law, the division enforces specified provisions of law relating to private employment.

This bill would establish the Labor Enforcement and Compliance Fund in the State Treasury. The bill would provide that moneys in the fund may be expended by the department, upon appropriation by the Legislature, for the support of the activities that the division performs pursuant to specified provisions of law.

The bill would require the Director of the Department of Industrial Relations to levy a separate surcharge upon all employers, as defined, for purposes of deposit in the Labor Enforcement and Compliance Fund. The bill would require that the total amount of the surcharges be allocated between employers in proportion to payroll respectively paid in the most recent year for which payroll information is available, and would require the director to adopt reasonable regulations governing the manner of collection of the surcharges.

(22) Existing law authorizes the California State Mediation and Conciliation Service (CSMCS) within the Department of Industrial Relations to investigate and mediate labor disputes.

This bill would authorize the Director of Industrial Relations to collect reimbursement for the services provided by CSMCS and would require the director to adopt regulations to implement these provisions.

(23) Under existing law, workers' compensation is the exclusive remedy of a disaster service worker, or his or her dependents, for injury or death arising out of, and in the course of, his or her activities as a disaster service worker. Under that law, no compensation may be paid or furnished to a disaster service worker or the worker's dependent except from money appropriated for the purpose of furnishing compensation to disaster service workers and their dependents. Liability for the payment or furnishing of compensation is dependent upon and limited to the availability of money so appropriated.

This bill would instead provide that workers' compensation may not be paid or furnished to a disaster service worker absent an initial appropriation of funds for that purpose, and that if appropriated funds are not available, the State Compensation Insurance Fund may provide compensation to an eligible claimant whose injuries have previously either been accepted or found to be compensable by the Workers' Compensation Appeals Board. The bill would require the California Emergency Management Agency to reimburse the fund when an

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appropriation becomes available.

(24) Existing law provides for certain services, protections, and benefits for veterans.

This bill would require that any entity, or other entities with which it subcontracts, that receives specified funding from the federal Workforce Investment Act of 1998, as provided in the 2009 Budget Act, identified for use for veterans, meet specified criteria, as prescribed.

(25) Existing law provides for the establishment and operation of the Veterans' Home of California at various sites for aged and disabled veterans who meet certain eligibility requirements. Existing law establishes the total individual member's fees and charges for any fiscal year based on the level of care, which may not be greater than a specified percentage of the member's annual income or a flat amount, whichever is less.

This bill would eliminate the requirement that the member's fees and charges for any fiscal year be the lesser of a percentage of the member's annual income or a flat amount, and instead prohibit the total of the member's fees and charges for any fiscal year to be greater than a certain percentage of the member's annual income. This bill would prohibit the total of the member's fees and charges for any fiscal year, for domiciliary care, to be greater than 47 1/2%, and, for residential care for the elderly or assisted living, to be greater than 55%, of the member's annual income. This bill would require nonveteran spouses who become members of the home on or after July 1, 2009, to pay fees and charges based on the level of care, as specified, or an amount equal to the annual amount of federal per diem received for a veteran member in domiciliary care, whichever is greater, as provided.

(26) The Bradley-Burns Uniform Local Sales and Use Tax Law and the Transactions and Use Tax Law authorize local governmental agencies to impose sales and use taxes in modified conformity to state sales and use taxes and authorize the State Board of Equalization to impose charges in administering those local taxes. Existing law requires, beginning with the 2006-07 fiscal year, that the amount charged to each local governmental agency be determined in accordance with a methodology described in a specified report by the State Board of Equalization, as provided.

This bill would, for the 2008-09 fiscal year to the 2014-15 fiscal year, inclusive, provide that the amounts determined in accordance with the methodology described in a specified report by the State Board of Equalization shall not include specified revenues.

(27) Existing law establishes the Employment Training Panel (ETP) in the Employment Development Department, and prescribes the membership and functions and duties of the ETP.

This bill would require the panel to establish the Partnership for Workforce Recovery Training (PWRT) for the purpose of supporting and implementing the workforce development goals set forth in the federal American Recovery and Reinvestment Act of 2009 (ARRA). The bill would require the panel to develop and publish guidelines for implementing the PWRT, as specified. The bill would authorize the panel to allocate funds it receives pursuant to the federal Workforce

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Investment Act of 1998 and the ARRA to support the activities of the PWRT, in accordance with specified requirements. The bill would require that any funds made available to the panel pursuant to those federal statutes be deposited into a separate account established by the Employment Development Department in the State Treasury, and used for the purposes of the PWRT. The bill would authorize the panel to adopt any regulations necessary to implement the provisions of the bill, as provided.

(28) Existing law, the California Workforce Investment Act, establishes the California Workforce Investment Board (CWIB), which is the body responsible for assisting the Governor in the development, oversight, and continuous improvement of California's workforce investment system, and prescribes the functions and duties of the board. Existing law, the California Green Collar Jobs Act of 2008 also establishes a special committee known as the Green Collar Jobs Council (GCJC), which is responsible for the development of a green collar jobs strategic initiative to address the growing need for a highly skilled and well-trained workforce to meet the needs of California's emerging green economy, as prescribed.

This bill would require the CWIB, in coordination with the Employment Development Department, to participate in the development and evaluation of specified grant allocations intended to provide funding to remove barriers for special needs populations for green technology and green collar jobs, and ensure consistency with the green collar jobs strategic initiative, as provided. The bill would also require the CWIB to prepare and annually submit to the Legislature a report containing specified information on the allocation of those grants funds.

(29) Existing law creates the Exposition Park Improvement Fund and requires that all revenues received by the California Science Center for the provision of certain services are deposited into that fund. Under existing law, the moneys in the Exposition Park Improvement Fund may only be used, upon appropriation by the Legislature, for improvements to Exposition Park, as specified.

This bill would authorize up to \$2,800,000 dollars to be transferred from the Exposition Park Improvement Fund into the General Fund for the 2009-10 fiscal year, as specified.

(30) Existing law requires the Department of Finance, the Controller, the Treasurer, and the Department of General Services to collaboratively develop, implement, utilize, maintain, and operate the Financial Information System for California (FISCAL) as a single integrated financial management system that encompasses the management of resources and dollars in the areas of budgeting, accounting, procurement, cash management, financial management, financial reporting, cost accounting, asset management, project accounting, grant management, and human resources management. Existing law requires the FISCAL Project Office in the Department of Finance to implement these provisions until the Office of the Financial Information System is established.

This bill would require the Department of Finance, before executing a contract for the prime vendor to implement these provisions, to submit a written report to the Legislature that

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Subsequent Change in Law

includes specified information. The bill would require the report to be submitted to the Legislature for review no less than 30 days before the contract is executed.

(31) Existing law, which has been amended by an initiative measure, requires that, prior to release from the custody of the Department of Corrections and Rehabilitation of a person who has been convicted of certain crimes of a sexual nature, the Director of Corrections and Rehabilitation refer that person to the State Department of Mental Health for evaluation if the director determines that person may be a sexually violent predator.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would require the Director of Finance to identify those local costs associated with the implementation of the sexually violent predator law that are necessary to implement or were expressly included in Proposition 83 of the November 7, 2006, General Election, and to propose an amendment to the applicable parameters and guidelines to the Commission on State Mandates.

(32) Existing law establishes, until January 1, 2012, the Chrome Plating Pollution Prevention Fund administered by the Business, Transportation and Housing Agency. Moneys in the fund, upon appropriation by the Legislature, are expended by the agency to provide specific loan guarantees to assist chrome plating facilities to purchase high performance environmental control equipment or technologies.

This bill would transfer all unencumbered moneys in the Chrome Plating Pollution Prevention Fund to the General Fund. The bill would require the Secretary of Business, Transportation and Housing to deposit any loan repayments into the General Fund.

(33) Existing law provides that no dog or cat impounded by a public pound or specified shelter shall be killed before 6 business days, as specified. Formerly, these laws required a waiting period of 72 hours.

This bill would declare the intent of the Legislature that the suspension in the Budget Act of 2009 of this requirement does not affect the duties provided in the laws that were impacted by that requirement, and that, therefore, the requirements that dogs and cats be held for a minimum of 72 hours remain in effect.

(34) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(35) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on July 1, 2009.

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This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on July 1, 2009, pursuant to the California Constitution.

(36) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SEC. 13. Section 1566.2 of the Health and Safety Code is amended to read:

1566.2. A residential facility, which serves six or fewer persons shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other family dwellings of the same type in the same zone are not likewise subject. Nothing in this section shall be construed to forbid the imposition of local property taxes, fees for water service and garbage collection, fees for inspections not prohibited by Section 1566.3, local bond assessments, and other fees, charges, and assessments to which other family dwellings of the same type in the same zone are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee for enforcing fire inspection regulations pursuant to state law or regulation or local ordinance, with respect to residential facilities that serve six or fewer persons, except for fees authorized pursuant to Section 13235.

For purposes of this section, "family dwellings," includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

SEC. 14. Section 13235 of the Health and Safety Code is amended to read:

13235. (a) Upon receipt of a request from a prospective licensee of a community care facility, as defined in Section 1502, of a residential care facility for the elderly, as defined in Section 1569.2, or of a child day care facility, as defined in Section 1596.750, the local fire enforcing agency, as defined in Section 13244, or State Fire Marshal, whichever has primary jurisdiction, shall conduct a preinspection of the facility prior to the final fire clearance approval. At the time of the preinspection, the primary fire enforcing agency shall provide consultation and interpretation of fire safety regulations, and shall notify the prospective licensee of the facility in writing of the specific fire safety regulations which shall be enforced in order to obtain fire clearance approval. A fee equal to, but not exceeding, the actual cost of the preinspection services may be charged for the preinspection of a facility with a capacity to serve 25 or fewer persons. A fee equal to, but not exceeding, the

Chapter 12, Statutes 2009-10, 4th Ex Session (ABX4 12)
Subsequent Change in Law

actual cost of the preinspection services may be charged for a preinspection of a facility with a capacity to serve 26 or more persons.

(b) The primary fire enforcing agency shall complete the final fire clearance inspection for a community care facility, residential care facility for the elderly, or child day care facility within 30 days of receipt of the request for the final inspection, or as of the date the prospective facility requests the final prelicensure inspection by the State Department of Social Services, whichever is later.

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STATUTES OF 1989

[Ch. 993

CHAPTER 993

An act to amend Section 13144.5 of, to add Sections 1531.2, 1569.149, and 1596.809 to, and to add Chapter 5.5 (commencing with Section 13235) to Part 2 of Division 12 of, the Health and Safety Code, relating to fire safety in care facilities.

[Approved by Governor September 29, 1989. Filed with Secretary of State September 29, 1989.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares the following:

Community care facilities, residential care facilities for the elderly, and child care facilities serve the needs of thousands of persons who are either physically impaired, mentally disabled, frail, elderly, or children, and who warrant care in a specialized, noninstitutional environment.

It is in the best interest of the California public that private citizens be encouraged to develop and operate community care facilities, residential care facilities for the elderly, and child day care facilities throughout the state in order to meet the critical demand for quality, specialized care homes.

Complex and unclear fire safety codes have frustrated the attempts of persons seeking to establish community care facilities, residential care facilities for the elderly, and child day care facilities, and have resulted in significant loss of money and resources to individuals who have received incorrect information regarding fire safety requirements from state or local officials, or no guidance at all.

Interpretation of state and local fire safety regulations varies between the more than 1,200 fire jurisdictions, and in some cases varies within the same jurisdiction, causing confusion and, in numerous instances, project cancellation.

Therefore, it is the intention of the Legislature that a prospective applicant for community care facility, residential care facility for the elderly, or child day care facility licensure shall be clearly informed in advance of making design modifications to a structure to meet specific fire safety requirements.

The Legislature further intends that it is incumbent on state and local agencies to assist persons in the interpretation of fire safety regulations for community care facilities, residential care facilities for the elderly, and child day care facilities, and that greater efforts must be made to clarify and streamline the fire safety clearance process.

SEC. 2. Section 1531.2 is added to the Health and Safety Code, to read:

1531.2. A prospective applicant for licensure shall be notified at the time of the initial request for information regarding application for licensure that, prior to obtaining licensure, the facility shall

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secure and maintain a fire clearance approval from the local fire enforcing agency, as defined in Section 13244, or the State Fire Marshal, whichever has primary fire protection jurisdiction. The prospective applicant shall be notified of the provisions of Section 13235, relating to the fire safety clearance application. The prospective applicant for licensure shall be notified that the fire clearance shall be in accordance with state and local fire safety regulations.

SEC. 3. Section 1569.149 is added to the Health and Safety Code, to read:

1569.149. A prospective applicant for licensure shall be notified at the time of the initial request for information regarding application for licensure that, prior to obtaining licensure, the facility shall secure and maintain a fire clearance approval from the local fire enforcing agency, as defined in Section 13244, or the State Fire Marshal, whichever has primary fire protection jurisdiction. The prospective applicant shall be notified of the provisions of Section 13235, relating to the fire safety clearance application. The prospective applicant for licensure shall be notified that the fire clearance shall be in accordance with state and local fire safety regulations.

SEC. 4. Section 1596.809 is added to the Health and Safety Code, to read:

1596.809. A prospective applicant for licensure shall be notified at the time of the initial request for information regarding application for licensure that, prior to obtaining licensure, the facility shall secure and maintain a fire clearance approval from the local fire enforcing agency, as defined in Section 13244, or the State Fire Marshal, whichever has primary fire protection jurisdiction. The prospective applicant shall be notified of the provisions of Section 13235, relating to the fire safety clearance application. The prospective applicant for licensure shall be notified that the fire clearance shall be in accordance with state and local fire safety regulations.

SEC. 5. Section 13144.5 of the Health and Safety Code is amended to read:

13144.5. The State Fire Marshal shall prepare and conduct voluntary regular training sessions devoted to the interpretation and application of the laws and rules and regulations in Title 19 and Title 24 of the California Code of Regulations relating to fire and panic safety. The training sessions shall include, but need not be limited to, interpretation of the regulations pertaining to community care facilities licensed pursuant to Section 1508, to residential care facilities for the elderly licensed pursuant to Section 1569.10, and to child day care facilities licensed pursuant to Section 1596.80, in order to coordinate a consistent interpretation and application of the regulations among local fire enforcement agencies.

SEC. 4. Chapter 5.5 (commencing with Section 13235) is added to Part 2 of Division 12 of the Health and Safety Code, to read:

CHAPTER 5.5. FIRE SAFETY INSPECTIONS OF CARE FACILITIES

13235. (a) Upon receipt of a request from a prospective licensee of a community care facility, as defined in Section 1502, of a residential care facility for the elderly, as defined in Section 1569.2, or of a child day care facility, as defined in Section 1596.750, the local fire enforcing agency, as defined in Section 13244, or State Fire Marshal, whichever has primary jurisdiction, shall conduct a preinspection of the facility prior to the final fire clearance approval. At the time of the preinspection, the primary fire enforcing agency shall provide consultation and interpretation of fire safety regulations, and shall notify the prospective licensee of the facility in writing of the specific fire safety regulations which shall be enforced in order to obtain fire clearance approval. A fee of not more than fifty dollars (\$50) may be charged for the preinspection of a facility with a capacity to serve 25 or fewer persons. A fee of not more than one hundred dollars (\$100) may be charged for a preinspection of a facility with a capacity to serve 26 or more persons.

(b) The primary fire enforcing agency shall complete the final fire clearance inspection for a community care facility, residential care facility for the elderly, or child day care facility within 30 days of receipt of the request for the final inspection, or as of the date the prospective facility requests the final prelicensure inspection by the State Department of Social Services, whichever is later.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

 CHAPTER 994

An act to amend Section 224n of the Civil Code, relating to adoption.

[Approved by Governor September 29, 1989 Filed with
Secretary of State September 29, 1989]

The people of the State of California do enact as follows:

SECTION 1. Section 224n of the Civil Code is amended to read:
224n. The department or licensed adoption agency to which a child has been freed for adoption by either relinquishment or termination of parental rights shall be responsible for the care of the child, and shall be entitled to the exclusive custody and control of the

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JOHN CHIANG
 California State Controller

April 30, 2013

The Honorable Mark Leno, Chair
 Senate Budget and Fiscal Review Committee
 Joint Legislative Budget Committee
 State Capitol, Room 5100
 Sacramento, CA 95814

The Honorable Robert Blumenfield, Chair
 Assembly Budget Committee
 State Capitol, Room 6026
 Sacramento, CA 95814

Ms. Ana J. Matosantos, Director
 Department of Finance
 State Capitol, Room 1145
 Sacramento, CA 95814

Re: State Mandated Program Cost Report of Unpaid Claims and Deficiency Pursuant to Government Code Section 17562(b)(2)

Dear Senator Leno, Assembly Member Blumenfield, and Ms. Matosantos:

Pursuant to the above statutory reference, the amount appropriated for reimbursement of state mandated programs was insufficient to fully pay the claims filed with the State Controller's Office. The funding deficiencies are the result of claims received subsequent to April 1, 2012 and of claims that were not fully paid in prior years. It also includes the unfunded mandates, which are initial claims filed for new mandated programs, and estimated accrued interest.

The total amount owed to local agencies, school districts, and community college districts increased from \$5.9 billion (\$1.8; \$3.8; and \$0.3 billion, respectively) to \$6.4 billion (\$1.9; \$4.2; and \$0.3 billion, respectively) as compared to last year's deficiency report.

The Honorable Mark Leno
 The Honorable Robert Blumenfield
 Ms. Ana J. Matosantos
 April 30, 2013
 Page 2

The following is the deficiency summary as of April 1, 2013:

	Local Agencies	School Districts	Community College Districts	Grand Totals	Schedules (see last year's report)
Total State Mandate Program Payable Balances as of 04/01/2012	(\$1,813,098,322)	(\$3,828,004,949)	(\$330,784,330)	(\$5,971,887,601)	
State Mandate Appropriations					
Beginning Appropriations, as of 07/01/2012	\$94,525,192	\$14,299,019	\$5,632,540	\$114,456,751	A
Add: Receipts and Recovered Receivables	\$10,154,191	\$684,554	\$2,260,064	\$13,098,809	A
Less: Payments	\$48,738,068	\$14,273,242	\$4,704,502	\$67,715,812	A, A1
Appropriation Balances as of 04/01/2013	\$55,941,315	\$710,331	\$3,188,102	\$59,839,748	
State Mandate Program Payable Balances (Claims received as of 04/01/2013)					
Funded Mandates	(\$655,460,289)	(\$4,130,173,086)	(\$330,696,822)	(\$5,116,330,197)	B1
Unfunded Mandates	(\$348,095,174)	(\$33,115,364)	(\$1,004,400)	(\$382,214,938)	B2
15-Year Payment Plan (Prop 1A)	(\$727,796,675)	\$0	\$0	(\$727,796,675)	B3
Subtotal State Mandate Program Payable Balances	(\$1,731,352,138)	(\$4,163,288,450)	(\$331,701,222)	(\$6,226,341,810)	
Add: Accrued Interest (Estimated as of 06/30/2013)	(\$178,132,797)	(\$77,375,075)	(\$9,324,306)	(\$264,832,178)	
Grand Total State Mandate Program Payable Balances	(\$1,909,484,935)	(\$4,240,663,525)	(\$341,025,528)	(\$6,491,173,988)	
Net Appropriation Deficiencies as of 04/01/2013	(\$1,853,543,620)	(\$4,239,953,194)	(\$337,837,426)	(\$6,431,334,240)	

In summary, the \$6,431,334,240 deficiency is the amount needed to fully satisfy all state mandated program liabilities. The \$59,839,748 appropriation balance (reflected on page 1 of the report) is from the Budget Acts of 2010 through 2012 and is a result of funds remaining after recovered receivables and the Budget Act provisions fulfilled. Because each Budget Act specifies the programs and fiscal years that may be paid, the \$59,839,748 appropriation balance would need to be re-appropriated before it can be applied to the current outstanding balance of \$6,491,173,988.

If you have any questions, please contact Jay Lal, by phone at (916) 324-0256.

Sincerely,

(Original Signed By)

JOHN CHIANG
 California State Controller

Enclosures

cc: Marianne O'Malley, Legislative Analyst's Office
 Heather Halsey, Commission on State Mandates
 Richard J. Chivaro, State Controller's Office

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**STATE MANDATED PROGRAM
APPROPRIATION
AND DEFICIENCY REPORT
AS OF APRIL 1, 2013**

**SCHEDULE B, SECTION 2:
NET DEFICIENCIES AND SURPLUSES
FOR THE UNFUNDED MANDATES
BY PROGRAM**

State Controller's Office
Division of Accounting and Reporting
Schedule B, Section 2: Net Deficiencies and Surpluses for the Unfunded Mandates by Program
As of April 1, 2013

Fiscal Year	Program Name	Legal Reference	Program Number	Local Agencies						
				Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance	
2002-03	Binding Arbitration	Ch. 906/00	284	\$ 122,267	\$ -	\$ -	\$ 122,267	\$ -	\$ 122,267	
2001-02	Binding Arbitration	Ch. 906/00	284	\$ 169,704	\$ -	\$ -	\$ 169,704	\$ -	\$ 169,704	
2000-01	Binding Arbitration	Ch. 906/00	284	\$ 36,299	\$ -	\$ -	\$ 36,299	\$ -	\$ 36,299	
	Binding Arbitration Total			\$ 328,270	\$ -	\$ -	\$ 328,270	\$ -	\$ 328,270	
1991-92	California Fire Incident Reporting System (CFIRS)	Ch. 445/00, 345/87	288	\$ 130,288	\$ -	\$ -	\$ 130,288	\$ -	\$ 130,288	
1990-91	California Fire Incident Reporting System (CFIRS)	Ch. 445/00, 345/87	288	\$ 85,888	\$ -	\$ -	\$ 85,888	\$ -	\$ 85,888	
	California Fire Incident Reporting System (CFIRS) Total			\$ 216,176	\$ -	\$ -	\$ 216,176	\$ -	\$ 216,176	
2011-12	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 14,244,549	\$ -	\$ -	\$ 14,244,549	\$ -	\$ 14,244,549	
2010-11	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 16,676,387	\$ -	\$ -	\$ 16,676,387	\$ -	\$ 16,676,387	
2009-10	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 16,504,011	\$ -	\$ -	\$ 16,504,011	\$ -	\$ 16,504,011	
2008-09	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 16,060,195	\$ -	\$ -	\$ 16,060,195	\$ -	\$ 16,060,195	
2007-08	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 15,655,373	\$ -	\$ -	\$ 15,655,373	\$ -	\$ 15,655,373	
2006-07	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 14,699,081	\$ -	\$ -	\$ 14,699,081	\$ -	\$ 14,699,081	
2005-06	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 14,208,617	\$ -	\$ -	\$ 14,208,617	\$ -	\$ 14,208,617	
2004-05	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 13,916,033	\$ -	\$ -	\$ 13,916,033	\$ -	\$ 13,916,033	
2003-04	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 12,995,063	\$ -	\$ -	\$ 12,995,063	\$ -	\$ 12,995,063	
2002-03	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 12,146,890	\$ -	\$ -	\$ 12,146,890	\$ -	\$ 12,146,890	
2001-02	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 11,348,947	\$ -	\$ -	\$ 11,348,947	\$ -	\$ 11,348,947	
	Crime Statistics Reports for the Department of Justice Total			\$ 158,455,146	\$ -	\$ -	\$ 158,455,146	\$ -	\$ 158,455,146	
2010-11	Crime Victims' Domestic Violence Incident Reports II	Ch. 483/01	306	\$ 57,816	\$ -	\$ -	\$ 57,816	\$ -	\$ 57,816	
2009-10	Crime Victims' Domestic Violence Incident Reports II	Ch. 483/01	306	\$ 297,792	\$ -	\$ -	\$ 297,792	\$ -	\$ 297,792	
2008-09	Crime Victims' Domestic Violence Incident Reports II	Ch. 483/01	306	\$ 263,698	\$ -	\$ -	\$ 263,698	\$ -	\$ 263,698	
2007-08	Crime Victims' Domestic Violence Incident Reports II	Ch. 483/01	306	\$ 275,387	\$ -	\$ -	\$ 275,387	\$ -	\$ 275,387	
2006-07	Crime Victims' Domestic Violence Incident Reports II	Ch. 483/01	306	\$ 253,715	\$ -	\$ -	\$ 253,715	\$ -	\$ 253,715	

State Controller's Office
Division of Accounting and Reporting
Schedule B, Section 2: Net Deficiencies and Surpluses for the Unfunded Mandates by Program
As of April 1, 2013

Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
2005-06	Crime Victims' Domestic Violence Incident Reports II	Ch. 483/01	306	\$ 228,442	\$ -	\$ -	\$ 228,442	\$ -	\$ 228,442
2004-05	Crime Victims' Domestic Violence Incident Reports II	Ch. 483/01	306	\$ 222,536	\$ -	\$ -	\$ 222,536	\$ -	\$ 222,536
2003-04	Crime Victims' Domestic Violence Incident Reports II	Ch. 483/01	306	\$ 198,432	\$ -	\$ -	\$ 198,432	\$ -	\$ 198,432
2002-03	Crime Victims' Domestic Violence Incident Reports II	Ch. 483/01	306	\$ 159,800	\$ -	\$ -	\$ 159,800	\$ -	\$ 159,800
2001-02	Crime Victims' Domestic Violence Incident Reports II	Ch. 483/01	306	\$ 51,990	\$ -	\$ -	\$ 51,990	\$ -	\$ 51,990
	Crime Victims' Domestic Violence Incident Reports II Total			\$ 2,009,608	\$ -	\$ -	\$ 2,009,608	\$ -	\$ 2,009,608
2011-12	Domestic Violence Background Checks	Ch. 713/01	322	\$ 2,269,994	\$ -	\$ -	\$ 2,269,994	\$ -	\$ 2,269,994
2010-11	Domestic Violence Background Checks	Ch. 713/01	322	\$ 2,330,399	\$ -	\$ -	\$ 2,330,399	\$ -	\$ 2,330,399
2009-10	Domestic Violence Background Checks	Ch. 713/01	322	\$ 1,982,459	\$ -	\$ -	\$ 1,982,459	\$ -	\$ 1,982,459
2008-09	Domestic Violence Background Checks	Ch. 713/01	322	\$ 2,206,334	\$ -	\$ -	\$ 2,206,334	\$ -	\$ 2,206,334
2007-08	Domestic Violence Background Checks	Ch. 713/01	322	\$ 2,049,524	\$ -	\$ -	\$ 2,049,524	\$ -	\$ 2,049,524
2006-07	Domestic Violence Background Checks	Ch. 713/01	322	\$ 1,716,586	\$ -	\$ -	\$ 1,716,586	\$ -	\$ 1,716,586
2005-06	Domestic Violence Background Checks	Ch. 713/01	322	\$ 1,512,773	\$ -	\$ -	\$ 1,512,773	\$ -	\$ 1,512,773
2004-05	Domestic Violence Background Checks	Ch. 713/01	322	\$ 1,396,937	\$ -	\$ -	\$ 1,396,937	\$ -	\$ 1,396,937
2003-04	Domestic Violence Background Checks	Ch. 713/01	322	\$ 1,548,593	\$ -	\$ -	\$ 1,548,593	\$ -	\$ 1,548,593
2002-03	Domestic Violence Background Checks	Ch. 713/01	322	\$ 1,581,911	\$ -	\$ -	\$ 1,581,911	\$ -	\$ 1,581,911
2001-02	Domestic Violence Background Checks	Ch. 713/01	322	\$ 626,681	\$ -	\$ -	\$ 626,681	\$ -	\$ 626,681
	Domestic Violence Background Checks Total			\$ 19,222,191	\$ -	\$ -	\$ 19,222,191	\$ -	\$ 19,222,191
2008-09	Fire Safety Inspections of Care Facilities	Ch. 993/89	283	\$ 100,886	\$ -	\$ -	\$ 100,886	\$ -	\$ 100,886
2007-08	Fire Safety Inspections of Care Facilities	Ch. 993/89	283	\$ 146,000	\$ -	\$ -	\$ 146,000	\$ -	\$ 146,000
2006-07	Fire Safety Inspections of Care Facilities	Ch. 993/89	283	\$ 99,516	\$ -	\$ -	\$ 99,516	\$ -	\$ 99,516
2005-06	Fire Safety Inspections of Care Facilities	Ch. 993/89	283	\$ 74,994	\$ -	\$ -	\$ 74,994	\$ -	\$ 74,994
2004-05	Fire Safety Inspections of Care Facilities	Ch. 993/89	283	\$ 83,670	\$ -	\$ -	\$ 83,670	\$ -	\$ 83,670
2003-04	Fire Safety Inspections of Care Facilities	Ch. 993/89	283	\$ 69,168	\$ -	\$ -	\$ 69,168	\$ -	\$ 69,168
2002-03	Fire Safety Inspections of Care Facilities	Ch. 993/89	283	\$ 59,501	\$ -	\$ -	\$ 59,501	\$ -	\$ 59,501
2001-02	Fire Safety Inspections of Care Facilities	Ch. 993/89	283	\$ 75,056	\$ -	\$ -	\$ 75,056	\$ -	\$ 75,056
2000-01	Fire Safety Inspections of Care Facilities	Ch. 993/89	283	\$ 56,002	\$ -	\$ -	\$ 56,002	\$ -	\$ 56,002
	Fire Safety Inspections of Care Facilities Total			\$ 764,793	\$ -	\$ -	\$ 764,793	\$ -	\$ 764,793
2009-10	Firearm Hearing for Discharged Inpatients	Ch. 578/99	293	\$ 4,732	\$ -	\$ -	\$ 4,732	\$ -	\$ 4,732
2008-09	Firearm Hearing for Discharged Inpatients	Ch. 578/99	293	\$ 31,906	\$ -	\$ -	\$ 31,906	\$ -	\$ 31,906
2007-08	Firearm Hearing for Discharged Inpatients	Ch. 578/99	293	\$ 27,775	\$ -	\$ -	\$ 27,775	\$ -	\$ 27,775
2006-07	Firearm Hearing for Discharged Inpatients	Ch. 578/99	293	\$ 17,343	\$ -	\$ -	\$ 17,343	\$ -	\$ 17,343
2005-06	Firearm Hearing for Discharged Inpatients	Ch. 578/99	293	\$ 14,818	\$ -	\$ -	\$ 14,818	\$ -	\$ 14,818
2004-05	Firearm Hearing for Discharged Inpatients	Ch. 578/99	293	\$ 9,385	\$ -	\$ -	\$ 9,385	\$ -	\$ 9,385
2003-04	Firearm Hearing for Discharged Inpatients	Ch. 578/99	293	\$ 10,431	\$ -	\$ -	\$ 10,431	\$ -	\$ 10,431
2002-03	Firearm Hearing for Discharged Inpatients	Ch. 578/99	293	\$ 12,410	\$ -	\$ -	\$ 12,410	\$ -	\$ 12,410
2001-02	Firearm Hearing for Discharged Inpatients	Ch. 578/99	293	\$ 15,208	\$ -	\$ -	\$ 15,208	\$ -	\$ 15,208
2000-01	Firearm Hearing for Discharged Inpatients	Ch. 578/99	293	\$ 13,248	\$ -	\$ -	\$ 13,248	\$ -	\$ 13,248
	Firearm Hearing for Discharged Inpatients Total			\$ 157,256	\$ -	\$ -	\$ 157,256	\$ -	\$ 157,256

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2011-12	Identity Theft	Ch. 956/00	321	\$ 9,297,842	\$ -	\$ -	\$ 9,297,842	\$ -	\$ 9,297,842
2010-11	Identity Theft	Ch. 956/00	321	\$ 10,344,505	\$ -	\$ -	\$ 10,344,505	\$ -	\$ 10,344,505
2009-10	Identity Theft	Ch. 956/00	321	\$ 9,924,117	\$ -	\$ -	\$ 9,924,117	\$ -	\$ 9,924,117
2008-09	Identity Theft	Ch. 956/00	321	\$ 10,775,496	\$ -	\$ -	\$ 10,775,496	\$ -	\$ 10,775,496
2007-08	Identity Theft	Ch. 956/00	321	\$ 10,388,483	\$ -	\$ -	\$ 10,388,483	\$ -	\$ 10,388,483
2006-07	Identity Theft	Ch. 956/00	321	\$ 8,958,838	\$ -	\$ -	\$ 8,958,838	\$ -	\$ 8,958,838
2005-06	Identity Theft	Ch. 956/00	321	\$ 7,185,143	\$ -	\$ -	\$ 7,185,143	\$ -	\$ 7,185,143
2004-05	Identity Theft	Ch. 956/00	321	\$ 6,574,227	\$ -	\$ -	\$ 6,574,227	\$ -	\$ 6,574,227
2003-04	Identity Theft	Ch. 956/00	321	\$ 5,303,310	\$ -	\$ -	\$ 5,303,310	\$ -	\$ 5,303,310
2002-03	Identity Theft	Ch. 956/00	321	\$ 4,695,299	\$ -	\$ -	\$ 4,695,299	\$ -	\$ 4,695,299
	Identity Theft Total			\$ 83,447,260	\$ -	\$ -	\$ 83,447,260	\$ -	\$ 83,447,260
2011-12	Local Elections: Consolidation	Ch. 1013/81	259	\$ 1,840	\$ -	\$ -	\$ 1,840	\$ -	\$ 1,840
2010-11	Local Elections: Consolidation	Ch. 1013/81	259	\$ 3,550	\$ -	\$ -	\$ 3,550	\$ -	\$ 3,550
	Local Elections: Consolidation Total			\$ 5,390	\$ -	\$ -	\$ 5,390	\$ -	\$ 5,390
2011-12	Local Government Employee Relations	Ch. 901/00	298	\$ 1,354,359	\$ -	\$ -	\$ 1,354,359	\$ -	\$ 1,354,359
2010-11	Local Government Employee Relations	Ch. 901/00	298	\$ 1,235,450	\$ -	\$ -	\$ 1,235,450	\$ -	\$ 1,235,450
2009-10	Local Government Employee Relations	Ch. 901/00	298	\$ 703,728	\$ -	\$ -	\$ 703,728	\$ -	\$ 703,728
2008-09	Local Government Employee Relations	Ch. 901/00	298	\$ 844,154	\$ -	\$ -	\$ 844,154	\$ -	\$ 844,154
2007-08	Local Government Employee Relations	Ch. 901/00	298	\$ 1,622,631	\$ -	\$ -	\$ 1,622,631	\$ -	\$ 1,622,631
2006-07	Local Government Employee Relations	Ch. 901/00	298	\$ 1,494,135	\$ -	\$ -	\$ 1,494,135	\$ -	\$ 1,494,135
2005-06	Local Government Employee Relations	Ch. 901/00	298	\$ 624,936	\$ -	\$ -	\$ 624,936	\$ -	\$ 624,936
2004-05	Local Government Employee Relations	Ch. 901/00	298	\$ 572,059	\$ -	\$ -	\$ 572,059	\$ -	\$ 572,059
2003-04	Local Government Employee Relations	Ch. 901/00	298	\$ 278,272	\$ -	\$ -	\$ 278,272	\$ -	\$ 278,272
2002-03	Local Government Employee Relations	Ch. 901/00	298	\$ 217,798	\$ -	\$ -	\$ 217,798	\$ -	\$ 217,798
2001-02	Local Government Employee Relations	Ch. 901/00	298	\$ 189,785	\$ -	\$ -	\$ 189,785	\$ -	\$ 189,785
	Local Government Employee Relations Total			\$ 9,137,307	\$ -	\$ -	\$ 9,137,307	\$ -	\$ 9,137,307
2010-11	Local Recreational Areas: Background Screenings	Ch. 777/01	285	\$ 77,349	\$ -	\$ -	\$ 77,349	\$ -	\$ 77,349
2009-10	Local Recreational Areas: Background Screenings	Ch. 777/01	285	\$ 518,685	\$ -	\$ -	\$ 518,685	\$ -	\$ 518,685
2008-09	Local Recreational Areas: Background Screenings	Ch. 777/01	285	\$ 669,845	\$ -	\$ -	\$ 669,845	\$ -	\$ 669,845
2007-08	Local Recreational Areas: Background Screenings	Ch. 777/01	285	\$ 661,256	\$ -	\$ -	\$ 661,256	\$ -	\$ 661,256
2006-07	Local Recreational Areas: Background Screenings	Ch. 777/01	285	\$ 608,739	\$ -	\$ -	\$ 608,739	\$ -	\$ 608,739
2005-06	Local Recreational Areas: Background Screenings	Ch. 777/01	285	\$ 520,454	\$ -	\$ -	\$ 520,454	\$ -	\$ 520,454
2004-05	Local Recreational Areas: Background Screenings	Ch. 777/01	285	\$ 423,486	\$ -	\$ -	\$ 423,486	\$ -	\$ 423,486
2003-04	Local Recreational Areas: Background Screenings	Ch. 777/01	285	\$ 389,996	\$ -	\$ -	\$ 389,996	\$ -	\$ 389,996
2002-03	Local Recreational Areas: Background Screenings	Ch. 777/01	285	\$ 397,782	\$ -	\$ -	\$ 397,782	\$ -	\$ 397,782
2001-02	Local Recreational Areas: Background Screenings	Ch. 777/01	285	\$ 171,461	\$ -	\$ -	\$ 171,461	\$ -	\$ 171,461
	Local Recreational Areas: Background Screenings Total			\$ 4,439,053	\$ -	\$ -	\$ 4,439,053	\$ -	\$ 4,439,053
2009-10	Mentally Disordered Offenders: Treatment as a Conditions of Parole	Ch. 1419/85	281	\$ 17,935	\$ -	\$ -	\$ 17,935	\$ -	\$ 17,935

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2008-09	Mentally Disordered Offenders: Treatment as a Conditions of Parole	Ch. 1419/85	281	\$ 383,293	\$ -	\$ -	\$ 383,293	\$ -	\$ 383,293
2007-08	Mentally Disordered Offenders: Treatment as a Conditions of Parole	Ch. 1419/85	281	\$ 681,608	\$ -	\$ -	\$ 681,608	\$ -	\$ 681,608
2006-07	Mentally Disordered Offenders: Treatment as a Conditions of Parole	Ch. 1419/85	281	\$ 649,974	\$ -	\$ -	\$ 649,974	\$ -	\$ 649,974
2005-06	Mentally Disordered Offenders: Treatment as a Conditions of Parole	Ch. 1419/85	281	\$ 680,286	\$ -	\$ -	\$ 680,286	\$ -	\$ 680,286
2004-05	Mentally Disordered Offenders: Treatment as a Conditions of Parole	Ch. 1419/85	281	\$ 427,477	\$ -	\$ -	\$ 427,477	\$ -	\$ 427,477
2003-04	Mentally Disordered Offenders: Treatment as a Conditions of Parole	Ch. 1419/85	281	\$ 446,868	\$ -	\$ -	\$ 446,868	\$ -	\$ 446,868
2002-03	Mentally Disordered Offenders: Treatment as a Conditions of Parole	Ch. 1419/85	281	\$ 821,319	\$ -	\$ -	\$ 821,319	\$ -	\$ 821,319
2001-02	Mentally Disordered Offenders: Treatment as a Conditions of Parole	Ch. 1419/85	281	\$ 565,634	\$ -	\$ -	\$ 565,634	\$ -	\$ 565,634
2000-01	Mentally Disordered Offenders: Treatment as a Conditions of Parole	Ch. 1419/85	281	\$ 235,446	\$ -	\$ -	\$ 235,446	\$ -	\$ 235,446
Mentally Disordered Offenders: Treatment as a Conditions of Parole Total				\$ 4,909,840	\$ -	\$ -	\$ 4,909,840	\$ -	\$ 4,909,840
2011-12	Modified Primary Election	Ch. 898/00	323	\$ 551,501	\$ -	\$ -	\$ 551,501	\$ -	\$ 551,501
2010-11	Modified Primary Election	Ch. 898/00	323	\$ 2,509	\$ -	\$ -	\$ 2,509	\$ -	\$ 2,509
2009-10	Modified Primary Election	Ch. 898/00	323	\$ 468,288	\$ -	\$ -	\$ 468,288	\$ -	\$ 468,288
2007-08	Modified Primary Election	Ch. 898/00	323	\$ 321,317	\$ -	\$ -	\$ 321,317	\$ -	\$ 321,317
2005-06	Modified Primary Election	Ch. 898/00	323	\$ 224,217	\$ -	\$ -	\$ 224,217	\$ -	\$ 224,217
2003-04	Modified Primary Election	Ch. 898/00	323	\$ 138,065	\$ -	\$ -	\$ 138,065	\$ -	\$ 138,065
2001-02	Modified Primary Election	Ch. 898/00	323	\$ 32,181	\$ -	\$ -	\$ 32,181	\$ -	\$ 32,181
Modified Primary Election Total				\$ 1,738,078	\$ -	\$ -	\$ 1,738,078	\$ -	\$ 1,738,078
2011-12	Municipal Storm Water and Urban Runoff Discharges	Title 2	314	\$ 2,402,029	\$ -	\$ -	\$ 2,402,029	\$ -	\$ 2,402,029
2010-11	Municipal Storm Water and Urban Runoff Discharges	Title 2	314	\$ 2,826,117	\$ -	\$ -	\$ 2,826,117	\$ -	\$ 2,826,117
2009-10	Municipal Storm Water and Urban Runoff Discharges	Title 2	314	\$ 2,890,479	\$ -	\$ -	\$ 2,890,479	\$ -	\$ 2,890,479
2008-09	Municipal Storm Water and Urban Runoff Discharges	Title 2	314	\$ 3,464,041	\$ -	\$ -	\$ 3,464,041	\$ -	\$ 3,464,041
2007-08	Municipal Storm Water and Urban Runoff Discharges	Title 2	314	\$ 5,182,988	\$ -	\$ -	\$ 5,182,988	\$ -	\$ 5,182,988
2006-07	Municipal Storm Water and Urban Runoff Discharges	Title 2	314	\$ 5,196,315	\$ -	\$ -	\$ 5,196,315	\$ -	\$ 5,196,315
2005-06	Municipal Storm Water and Urban Runoff Discharges	Title 2	314	\$ 4,675,998	\$ -	\$ -	\$ 4,675,998	\$ -	\$ 4,675,998
2004-05	Municipal Storm Water and Urban Runoff Discharges	Title 2	314	\$ 4,614,117	\$ -	\$ -	\$ 4,614,117	\$ -	\$ 4,614,117
2003-04	Municipal Storm Water and Urban Runoff Discharges	Title 2	314	\$ 4,368,555	\$ -	\$ -	\$ 4,368,555	\$ -	\$ 4,368,555
2002-03	Municipal Storm Water and Urban Runoff Discharges	Title 2	314	\$ 3,691,405	\$ -	\$ -	\$ 3,691,405	\$ -	\$ 3,691,405
Municipal Storm Water and Urban Runoff Discharges Total				\$ 39,312,044	\$ -	\$ -	\$ 39,312,044	\$ -	\$ 39,312,044
2011-12	Permanent Absent Voters II	Ch. 922/01	324	\$ 4,074,733	\$ -	\$ -	\$ 4,074,733	\$ -	\$ 4,074,733

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2010-11	Permanent Absent Voters II	Ch. 922/01	324	\$ 2,038,396	\$ -	\$ -	\$ 2,038,396	\$ -	\$ 2,038,396
2009-10	Permanent Absent Voters II	Ch. 922/01	324	\$ 121,578	\$ -	\$ -	\$ 121,578	\$ -	\$ 121,578
2008-09	Permanent Absent Voters II	Ch. 922/01	324	\$ 191,573	\$ -	\$ -	\$ 191,573	\$ -	\$ 191,573
2007-08	Permanent Absent Voters II	Ch. 922/01	324	\$ 18,688	\$ -	\$ -	\$ 18,688	\$ -	\$ 18,688
2006-07	Permanent Absent Voters II	Ch. 922/01	324	\$ 24,807	\$ -	\$ -	\$ 24,807	\$ -	\$ 24,807
2005-06	Permanent Absent Voters II	Ch. 922/01	324	\$ 21,868	\$ -	\$ -	\$ 21,868	\$ -	\$ 21,868
2004-05	Permanent Absent Voters II	Ch. 922/01	324	\$ 24,382	\$ -	\$ -	\$ 24,382	\$ -	\$ 24,382
2003-04	Permanent Absent Voters II	Ch. 922/01	324	\$ 14,834	\$ -	\$ -	\$ 14,834	\$ -	\$ 14,834
2002-03	Permanent Absent Voters II	Ch. 922/01	324	\$ 9,310	\$ -	\$ -	\$ 9,310	\$ -	\$ 9,310
Permanent Absent Voters II Total				\$ 6,540,169	\$ -	\$ -	\$ 6,540,169	\$ -	\$ 6,540,169
2004-05	Racial Profiling: Law Enforcement Training	Ch. 684/00	282	\$ 126,355	\$ -	\$ -	\$ 126,355	\$ -	\$ 126,355
2003-04	Racial Profiling: Law Enforcement Training	Ch. 684/00	282	\$ 6,650,521	\$ -	\$ -	\$ 6,650,521	\$ -	\$ 6,650,521
2002-03	Racial Profiling: Law Enforcement Training	Ch. 684/00	282	\$ 3,008,618	\$ -	\$ -	\$ 3,008,618	\$ -	\$ 3,008,618
2001-02	Racial Profiling: Law Enforcement Training	Ch. 684/00	282	\$ 70,053	\$ -	\$ -	\$ 70,053	\$ -	\$ 70,053
2000-01	Racial Profiling: Law Enforcement Training	Ch. 684/00	282	\$ 4,292	\$ -	\$ -	\$ 4,292	\$ -	\$ 4,292
Racial Profiling: Law Enforcement Training Total				\$ 9,859,839	\$ -	\$ -	\$ 9,859,839	\$ -	\$ 9,859,839
2011-12	Voter Identification Procedures	Ch. 260/00	331	\$ 626,779	\$ -	\$ -	\$ 626,779	\$ -	\$ 626,779
2010-11	Voter Identification Procedures	Ch. 260/00	331	\$ 1,484,457	\$ -	\$ -	\$ 1,484,457	\$ -	\$ 1,484,457
2009-10	Voter Identification Procedures	Ch. 260/00	331	\$ 467,811	\$ -	\$ -	\$ 467,811	\$ -	\$ 467,811
2008-09	Voter Identification Procedures	Ch. 260/00	331	\$ 1,361,366	\$ -	\$ -	\$ 1,361,366	\$ -	\$ 1,361,366
2007-08	Voter Identification Procedures	Ch. 260/00	331	\$ 418,990	\$ -	\$ -	\$ 418,990	\$ -	\$ 418,990
2006-07	Voter Identification Procedures	Ch. 260/00	331	\$ 695,563	\$ -	\$ -	\$ 695,563	\$ -	\$ 695,563
2005-06	Voter Identification Procedures	Ch. 260/00	331	\$ 427,478	\$ -	\$ -	\$ 427,478	\$ -	\$ 427,478
2004-05	Voter Identification Procedures	Ch. 260/00	331	\$ 1,088,135	\$ -	\$ -	\$ 1,088,135	\$ -	\$ 1,088,135
2003-04	Voter Identification Procedures	Ch. 260/00	331	\$ 514,260	\$ -	\$ -	\$ 514,260	\$ -	\$ 514,260
2002-03	Voter Identification Procedures	Ch. 260/00	331	\$ 467,915	\$ -	\$ -	\$ 467,915	\$ -	\$ 467,915
Voter Identification Procedures Total				\$ 7,552,754	\$ -	\$ -	\$ 7,552,754	\$ -	\$ 7,552,754
Total Local Agencies				\$ 348,095,174	\$ -	\$ -	\$ 348,095,174	\$ -	\$ 348,095,174

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School Districts									
2011-12	Academic Performance Index	Ch. 695/00	305	\$ 489,335	\$ -	\$ -	\$ 489,335	\$ -	\$ 489,335
2010-11	Academic Performance Index	Ch. 695/00	305	\$ 404,335	\$ -	\$ -	\$ 404,335	\$ -	\$ 404,335
2009-10	Academic Performance Index	Ch. 695/00	305	\$ 163,684	\$ -	\$ -	\$ 163,684	\$ -	\$ 163,684
2008-09	Academic Performance Index	Ch. 695/00	305	\$ 125,080	\$ -	\$ -	\$ 125,080	\$ -	\$ 125,080
2007-08	Academic Performance Index	Ch. 695/00	305	\$ 117,677	\$ -	\$ -	\$ 117,677	\$ -	\$ 117,677
2006-07	Academic Performance Index	Ch. 695/00	305	\$ 110,375	\$ -	\$ -	\$ 110,375	\$ -	\$ 110,375
2005-06	Academic Performance Index	Ch. 695/00	305	\$ 91,574	\$ -	\$ -	\$ 91,574	\$ -	\$ 91,574
2004-05	Academic Performance Index	Ch. 695/00	305	\$ 83,768	\$ -	\$ -	\$ 83,768	\$ -	\$ 83,768
2003-04	Academic Performance Index	Ch. 695/00	305	\$ 74,511	\$ -	\$ -	\$ 74,511	\$ -	\$ 74,511
2002-03	Academic Performance Index	Ch. 695/00	305	\$ 61,134	\$ -	\$ -	\$ 61,134	\$ -	\$ 61,134
2001-02	Academic Performance Index	Ch. 695/00	305	\$ 57,561	\$ -	\$ -	\$ 57,561	\$ -	\$ 57,561
2000-01	Academic Performance Index	Ch. 695/00	305	\$ 51,150	\$ -	\$ -	\$ 51,150	\$ -	\$ 51,150
	Academic Performance Index Total			\$ 1,830,184	\$ -	\$ -	\$ 1,830,184	\$ -	\$ 1,830,184
2006-07	Charter Schools III	Ch. 34/98	277	\$ 84,983	\$ -	\$ -	\$ 84,983	\$ -	\$ 84,983
2005-06	Charter Schools III	Ch. 34/98	277	\$ 9,521	\$ -	\$ -	\$ 9,521	\$ -	\$ 9,521
2004-05	Charter Schools III	Ch. 34/98	277	\$ 1,932	\$ -	\$ -	\$ 1,932	\$ -	\$ 1,932
2003-04	Charter Schools III	Ch. 34/98	277	\$ 1,295	\$ -	\$ -	\$ 1,295	\$ -	\$ 1,295
2002-03	Charter Schools III	Ch. 34/98	277	\$ 1,180	\$ -	\$ -	\$ 1,180	\$ -	\$ 1,180
2001-02	Charter Schools III	Ch. 34/98	277	\$ 1,100	\$ -	\$ -	\$ 1,100	\$ -	\$ 1,100
2000-01	Charter Schools III	Ch. 34/98	277	\$ 1,225	\$ -	\$ -	\$ 1,225	\$ -	\$ 1,225
1999-00	Charter Schools III	Ch. 34/98	277	\$ 1,005	\$ -	\$ -	\$ 1,005	\$ -	\$ 1,005
	Charter Schools III Total			\$ 102,241	\$ -	\$ -	\$ 102,241	\$ -	\$ 102,241
2011-12	Child Abuse and Neglect Reporting	Ch. 640/87	309	\$ 18,035	\$ -	\$ -	\$ 18,035	\$ -	\$ 18,035
2010-11	Child Abuse and Neglect Reporting	Ch. 640/87	309	\$ 13,640	\$ -	\$ -	\$ 13,640	\$ -	\$ 13,640
2009-10	Child Abuse and Neglect Reporting	Ch. 640/87	309	\$ 10,638	\$ -	\$ -	\$ 10,638	\$ -	\$ 10,638
	Child Abuse and Neglect Reporting Total			\$ 42,313	\$ -	\$ -	\$ 42,313	\$ -	\$ 42,313
2008-09	Comprehensive School Safety Plans II: Discrimination and Harassment Policy, and Hate Crime Reporting Procedures	Ch. 890/01; Ch. 506/02	311	\$ 3,616	\$ -	\$ -	\$ 3,616	\$ -	\$ 3,616
2007-08	Comprehensive School Safety Plans II: Discrimination and Harassment Policy, and Hate Crime Reporting Procedures	Ch. 890/01; Ch. 506/02	311	\$ 3,730	\$ -	\$ -	\$ 3,730	\$ -	\$ 3,730
2004-05	Comprehensive School Safety Plans II: Discrimination and Harassment Policy, and Hate Crime Reporting Procedures	Ch. 890/01; Ch. 506/02	311	\$ 1,029	\$ -	\$ -	\$ 1,029	\$ -	\$ 1,029

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2002-03	Comprehensive School Safety Plans II: Discrimination and Harassment Policy, and Hate Crime Reporting Procedures	Ch. 890/01; Ch. 506/02	311	\$ 3,668	\$ -	\$ -	\$ 3,668	\$ -	\$ 3,668
2001-02	Comprehensive School Safety Plans II: Discrimination and Harassment Policy, and Hate Crime Reporting Procedures	Ch. 890/01; Ch. 506/02	311	\$ 6,973	\$ -	\$ -	\$ 6,973	\$ -	\$ 6,973
	Comprehensive School Safety Plans II: Discrimination and Harassment Policy, and Hate Crime Reporting Procedures Total			\$ 19,016	\$ -	\$ -	\$ 19,016	\$ -	\$ 19,016
2006-07	Comprehensive School Safety Plans II: Earthquake Emergency Procedure System and Use of School Buildings	Ch. 895/04	312	\$ 3,045	\$ -	\$ -	\$ 3,045	\$ -	\$ 3,045
2005-06	Comprehensive School Safety Plans II: Earthquake Emergency Procedure System and Use of School Buildings	Ch. 895/04	312	\$ 1,649	\$ -	\$ -	\$ 1,649	\$ -	\$ 1,649
	Comprehensive School Safety Plans II: Earthquake Emergency Procedure System and Use of School Buildings During Emergencies Total			\$ 4,694	\$ -	\$ -	\$ 4,694	\$ -	\$ 4,694
2011-12	Developer Fees	Ch. 955/77	333	\$ 30,191	\$ -	\$ -	\$ 30,191	\$ -	\$ 30,191
2010-11	Developer Fees	Ch. 955/77	333	\$ 48,961	\$ -	\$ -	\$ 48,961	\$ -	\$ 48,961
2009-10	Developer Fees	Ch. 955/77	333	\$ 63,178	\$ -	\$ -	\$ 63,178	\$ -	\$ 63,178
2008-09	Developer Fees	Ch. 955/77	333	\$ 31,346	\$ -	\$ -	\$ 31,346	\$ -	\$ 31,346
2007-08	Developer Fees	Ch. 955/77	333	\$ 43,667	\$ -	\$ -	\$ 43,667	\$ -	\$ 43,667
2006-07	Developer Fees	Ch. 955/77	333	\$ 29,385	\$ -	\$ -	\$ 29,385	\$ -	\$ 29,385
2005-06	Developer Fees	Ch. 955/77	333	\$ 40,677	\$ -	\$ -	\$ 40,677	\$ -	\$ 40,677
2004-05	Developer Fees	Ch. 955/77	333	\$ 23,209	\$ -	\$ -	\$ 23,209	\$ -	\$ 23,209
2003-04	Developer Fees	Ch. 955/77	333	\$ 36,273	\$ -	\$ -	\$ 36,273	\$ -	\$ 36,273
2002-03	Developer Fees	Ch. 955/77	333	\$ 19,497	\$ -	\$ -	\$ 19,497	\$ -	\$ 19,497
2001-02	Developer Fees	Ch. 955/77	333	\$ 18,499	\$ -	\$ -	\$ 18,499	\$ -	\$ 18,499
	Developer Fees Total			\$ 384,883	\$ -	\$ -	\$ 384,883	\$ -	\$ 384,883
2011-12	Mandate Reimbursement Process I and II	Ch. 486/75	319	\$ 16,448,287	\$ -	\$ -	\$ 16,448,287	\$ -	\$ 16,448,287
	Mandate Reimbursement Process I and II Total			\$ 16,448,287	\$ -	\$ -	\$ 16,448,287	\$ -	\$ 16,448,287
2005-07	Missing Children Reports	Ch. 249/86	275	\$ 23,761	\$ -	\$ -	\$ 23,761	\$ -	\$ 23,761
2005-06	Missing Children Reports	Ch. 249/86	275	\$ 3,950	\$ -	\$ -	\$ 3,950	\$ -	\$ 3,950
2004-05	Missing Children Reports	Ch. 249/86	275	\$ 7,119	\$ -	\$ -	\$ 7,119	\$ -	\$ 7,119
2003-04	Missing Children Reports	Ch. 249/86	275	\$ 1,082	\$ -	\$ -	\$ 1,082	\$ -	\$ 1,082
2002-03	Missing Children Reports	Ch. 249/86	275	\$ 1,047	\$ -	\$ -	\$ 1,047	\$ -	\$ 1,047
	Missing Children Reports Total			\$ 36,959	\$ -	\$ -	\$ 36,959	\$ -	\$ 36,959
2011-12	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan	Ch. 116/01	329	\$ 1,298,904	\$ -	\$ -	\$ 1,298,904	\$ -	\$ 1,298,904

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Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
2010-11	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan	Ch. 116/01	329	\$ 1,402,192	\$ -	\$ -	\$ 1,402,192	\$ -	\$ 1,402,192
2009-10	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan	Ch. 116/01	329	\$ 1,384,382	\$ -	\$ -	\$ 1,384,382	\$ -	\$ 1,384,382
2008-09	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan	Ch. 116/01	329	\$ 1,377,374	\$ -	\$ -	\$ 1,377,374	\$ -	\$ 1,377,374
2007-08	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan	Ch. 116/01	329	\$ 1,108,446	\$ -	\$ -	\$ 1,108,446	\$ -	\$ 1,108,446
2006-07	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan	Ch. 116/01	329	\$ 909,937	\$ -	\$ -	\$ 909,937	\$ -	\$ 909,937
2005-06	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan	Ch. 116/01	329	\$ 805,126	\$ -	\$ -	\$ 805,126	\$ -	\$ 805,126
2004-05	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan	Ch. 116/01	329	\$ 783,673	\$ -	\$ -	\$ 783,673	\$ -	\$ 783,673
2003-04	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan	Ch. 116/01	329	\$ 848,075	\$ -	\$ -	\$ 848,075	\$ -	\$ 848,075
2002-03	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan	Ch. 116/01	329	\$ 708,678	\$ -	\$ -	\$ 708,678	\$ -	\$ 708,678
2001-02	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan	Ch. 116/01	329	\$ 440,790	\$ -	\$ -	\$ 440,790	\$ -	\$ 440,790
	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan Total			\$ 11,067,577	\$ -	\$ -	\$ 11,067,577	\$ -	\$ 11,067,577
2000-01	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan	Ch. 332/99	328	\$ 357,331	\$ -	\$ -	\$ 357,331	\$ -	\$ 357,331
1999-00	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan	Ch. 332/99	328	\$ 394,091	\$ -	\$ -	\$ 394,091	\$ -	\$ 394,091
	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan Total			\$ 751,422	\$ -	\$ -	\$ 751,422	\$ -	\$ 751,422
1998-99	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan	Ch. 637/97	327	\$ 385,859	\$ -	\$ -	\$ 385,859	\$ -	\$ 385,859
1997-98	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan	Ch. 637/97	327	\$ 357,826	\$ -	\$ -	\$ 357,826	\$ -	\$ 357,826
	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan Total			\$ 743,685	\$ -	\$ -	\$ 743,685	\$ -	\$ 743,685
1996-97	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan	Ch. 874/95	326	\$ 349,502	\$ -	\$ -	\$ 349,502	\$ -	\$ 349,502
	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan Total			\$ 349,502	\$ -	\$ -	\$ 349,502	\$ -	\$ 349,502
1995-96	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan	Ch. 972/95	325	\$ 256,620	\$ -	\$ -	\$ 256,620	\$ -	\$ 256,620
	Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan Total			\$ 256,620	\$ -	\$ -	\$ 256,620	\$ -	\$ 256,620
2010-11	Student Records	Ch. 593/89	308	\$ 242,733	\$ -	\$ -	\$ 242,733	\$ -	\$ 242,733
2009-10	Student Records	Ch. 593/89	308	\$ 224,162	\$ -	\$ -	\$ 224,162	\$ -	\$ 224,162

State Controller's Office
Division of Accounting and Reporting
Schedule B, Section 2: Net Deficiencies and Surpluses for the Unfunded Mandates by Program
As of April 1, 2013

Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
2008-09	Student Records	Ch. 593/89	308	\$ 135,845	\$ -	\$ -	\$ 135,845	\$ -	\$ 135,845
2007-08	Student Records	Ch. 593/89	308	\$ 124,119	\$ -	\$ -	\$ 124,119	\$ -	\$ 124,119
2006-07	Student Records	Ch. 593/89	308	\$ 83,236	\$ -	\$ -	\$ 83,236	\$ -	\$ 83,236
2005-06	Student Records	Ch. 593/89	308	\$ 68,777	\$ -	\$ -	\$ 68,777	\$ -	\$ 68,777
2004-05	Student Records	Ch. 593/89	308	\$ 75,037	\$ -	\$ -	\$ 75,037	\$ -	\$ 75,037
2003-04	Student Records	Ch. 593/89	308	\$ 53,294	\$ -	\$ -	\$ 53,294	\$ -	\$ 53,294
2002-03	Student Records	Ch. 593/89	308	\$ 38,314	\$ -	\$ -	\$ 38,314	\$ -	\$ 38,314
2001-02	Student Records	Ch. 593/89	308	\$ 32,464	\$ -	\$ -	\$ 32,464	\$ -	\$ 32,464
	Student Records Total			\$ 1,077,981	\$ -	\$ -	\$ 1,077,981	\$ -	\$ 1,077,981
	Total School Districts			\$ 33,115,364	\$ -	\$ -	\$ 33,115,364	\$ -	\$ 33,115,364

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM:

Health and Safety Code Sections 1531.2,
1569.149, 1596.809, 13144.5, 13235;

Statutes 1989, Chapter 993;

Filed on June 3, 2002 by the City of San Jose,
Claimant.

Case No.: 01-TC-16

Fire Safety Inspections of Care Facilities

STATEMENT OF DECISION PURSUANT
TO GOVERNMENT CODE SECTION 17500
ET SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7

(Adopted on March 29, 2006)

STATEMENT OF DECISION

The attached Statement of Decision of the Commission on State Mandates is hereby adopted in the above-entitled matter.



PAULA HIGASHI, Executive Director

March 30, 2006

Date

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM:

Health and Safety Code Sections 1531.2,
1569.149, 1596.809, 13144.5, 13235;

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STATEMENT OF DECISION PURSUANT
TO GOVERNMENT CODE SECTION 17500
ET SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7

(Adopted on March 29, 2006)

STATEMENT OF DECISION

The Commission on State Mandates ("Commission") heard and decided this test claim during a regularly scheduled hearing on March 29, 2006. Pam Stone, David Schoonover and Gregory Lake appeared on behalf of claimant City of San Jose. Susan Geanacou appeared on behalf of the Department of Finance.

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission adopted the staff analysis at the hearing by a vote of 6-0.

Summary of Findings

As more fully described below, the Commission finds that the test claim legislation imposes a reimbursable state-mandated program on local agencies pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514 for the increased costs in performing the following activities:

1. the preinspection of community care facilities, residential care facilities for the elderly, and child day care facilities;
2. the consultation and interpretation of applicable fire safety regulations for the prospective facility licensee; and
3. written notice to the prospective facility licensee of the specific fire safety regulations which shall be enforced in order to obtain the final fire clearance approval.

Background

This test claim addresses amendments to the Health and Safety Code regarding fire inspections of specified community care facilities required by the State Fire Marshal. The purpose of the test claim legislation (Stats. 1989, ch. 993) is to ensure that community care facilities, residential care facilities for the elderly, and child day care facilities, during the process of being licensed by the State Department of Social Services, receive in a timely fashion the correct fire clearance information from the local fire enforcing agency or State Fire Marshal. The test claim legislation sets forth the Legislature's intent as follows:

It is in the best interest of the California public that private citizens be encouraged to develop and operate community care facilities, residential care facilities for the elderly, and child day care facilities throughout the state in order to meet the critical demand for quality, specialized care homes.

Complex and unclear fire safety codes have frustrated the attempts of persons seeking to establish community care facilities, residential care facilities for the elderly, and child day care facilities, and have resulted in significant loss of money and resources to individuals who have received incorrect information regarding fire safety requirements from state or local officials, or no guidance at all.

Interpretation of state and local fire safety regulations varies between the more than 1,200 fire jurisdictions, and in some cases varies within the same jurisdiction, causing confusion and, in numerous instances, project cancellation.

Therefore, it is the intention of the Legislature that a prospective applicant for community care facility, residential care facility for the elderly, or child day care facility licensure shall be clearly informed in advance of making design modifications to a structure to meet specific fire safety requirements.

The Legislature further intends that it is incumbent on state and local agencies to assist persons in the interpretation of fire safety regulations for community care facilities, residential care facilities for the elderly, and child day care facilities, and that greater efforts must be made to clarify and streamline the fire safety clearance process.¹

The State Fire Marshal establishes statewide fire safety standards² which are generally enforced at the local level by fire enforcing agencies established in cities and counties.³ Although local fire enforcing agencies are tasked with fire-related enforcement and inspections, such as the fire clearances required for the community care facilities, the State Fire Marshal carries out these duties when there is no local fire enforcing agency or may carry them out when asked to do so by the local fire official or local governing body.⁴ The statutory

¹ Senate Bill 1098, Statutes of 1989, chapter 993, Section 1.

² Health and Safety Code sections 13100 et seq.

³ Health and Safety Code sections 13800 et seq.

⁴ Health and Safety Code section 13146, subdivisions (c) and (d).

and regulatory scheme in existence prior to the test claim legislation required fire clearances for various community care facilities licensed by the Department of Social Services.⁵

Test Claim Legislation

The test claim legislation affected Health and Safety Code sections 1531.2, 1569.149, 1596.809, 13144.5, and 13235. These sections require the following activities:

- Under sections 1531.2, 1569.149 and 1596.809, the Department of Social Services is required to notify prospective applicants for a community care facility, residential care facility for the elderly, or child day care facility license that a fire clearance approval from the local fire enforcing agency or the State Fire Marshal is a prerequisite to licensure.
- Under section 13144.5, the State Fire Marshal is required to include, as part of its voluntary regular training sessions devoted to the interpretation and application of the laws and rules relating to fire and panic safety, interpretation of the regulations pertaining to community care facilities, residential care facilities for the elderly, and child day care facilities.
- Under section 13235, subdivision (a), the local fire enforcing agency or State Fire Marshal is required to conduct a preinspection of a community care facility, residential care facility for the elderly, or child day care facility upon receipt of a request from a prospective licensee of such a facility, prior to the final fire clearance approval. The preinspection shall include:
 - consultation and interpretation of fire safety regulations;
 - notification to the prospective licensee in writing of the specific fire safety regulations which shall be enforced in order to obtain fire clearance approval.
- Under section 13235, subdivision (b), the final fire clearance inspection shall be completed within 30 days of receipt of the request for final inspection.

Health and Safety Code section 13235, subdivision (a), specifically allows the following fees to be charged for the preinspection of a facility: 1) not more than \$50 for a facility serving 25 or fewer persons; and 2) not more than \$100 for a facility serving more than 25 persons.

Claimant's Position

The claimant contends that the test claim legislation constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The City of San Jose, according to its test claim, is seeking reimbursement for the following activities to the extent that the allowed preinspection fees of \$50 and \$100 do not cover the activities:

- training of fire inspector to conduct inspection(s);
- travel of fire inspector to site to conduct inspection(s);

⁵ California Code of Regulations, title 22, sections 80020, 87220, and 101171.

- fire inspector conducting pre-inspection and consultation regarding interpretation and application of fire safety regulations;
- fire inspector providing written information regarding what is needed to be done in order to obtain fire clearance; and
- fire inspector conducting final fire clearance inspection.

Department of Finance Position

Department of Finance submitted comments on the test claim contending that “the test claim legislation applies to the State Fire Marshal as well as local fire agencies, and is therefore not unique to local government” and that, accordingly, the test claim should be denied.

State Fire Marshal

The State Fire Marshal responded to Commission staff’s request for information by providing copies of materials that pertain to community care facilities, residential care facilities for the elderly and child day care facilities, used in the quarterly Statutes and Regulations training for state and local officials. The State Fire Marshal also stated: “Under [Health and Safety Code] section 13146(d), the local enforcing agency could request the [State Fire Marshal] to assume jurisdiction for these community care facilities provided that we have the resources to fulfill the request.”

Sacramento Metropolitan Fire District

The Sacramento Metropolitan Fire District commented that the Northern California Fire Prevention Officers Association (NORCAL), Building Standards Committee in cooperation with the State Fire Marshal’s Office has drafted a manual called the *California Fire Service Guide to Licensed Facilities*. The District supplied a copy of that draft to the Commission. The District also reiterated that the current costs for pre-inspections “far exceed[] the fees allowed by statute.”

Discussion

The courts have found that article XIII B, section 6 of the California Constitution⁶ recognizes the state constitutional restrictions on the powers of local government to tax and spend.⁷ “Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased

⁶ Article XIII B, section 6, subdivision (a), (as amended by Proposition 1A in November 2004) provides: “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 to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates: (1) Legislative mandates requested by the local agency affected. (2) Legislation defining a new crime or changing an existing definition of a crime. (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.”

⁷ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”⁸ A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.⁹ In addition, the required activity or task must be new, constituting a “new program,” or it must create a “higher level of service” over the previously required level of service.¹⁰

The courts have defined a “program” subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.¹¹ To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim legislation.¹² A “higher level of service” occurs when the new “requirements were intended to provide an enhanced service to the public.”¹³

Finally, the newly required activity or increased level of service must impose costs mandated by the state.¹⁴

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.¹⁵ In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”¹⁶

⁸ *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

⁹ *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

¹⁰ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878 (*San Diego Unified School Dist.*); *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835-836 (*Lucia Mar*).

¹¹ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 874, (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.).

¹² *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

¹³ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878.

¹⁴ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284 (*County of Sonoma*); Government Code sections 17514 and 17556.

¹⁵ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

¹⁶ *County of Sonoma*, *supra*, 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

This test claim presents the following issues:

- Is the test claim legislation subject to article XIII B, section 6 of the California Constitution?
- Does the test claim legislation impose a “new program” or “higher level of service” on local agencies within the meaning of article XIII B, section 6 of the California Constitution?
- Does the test claim legislation impose “costs mandated by the state” within the meaning of article XIII B, section 6 of the California Constitution?

Issue 1: Is the test claim legislation subject to article XIII B, Section 6 of the California Constitution?

Mandatory or Discretionary Activities?

In order for the test claim legislation to impose a reimbursable state-mandated program under article XIII B, section 6, the statutory language must mandate an activity or task upon local governmental agencies. If the statutory language does not mandate or require local agencies to perform a task, then article XIII B, section 6 is not triggered. In such a case, compliance with the test claim statute is within the discretion of the local agency.

Under the test claim legislation, the local fire enforcing agency or State Fire Marshal, whichever has primary jurisdiction, is required to: 1) conduct a preinspection of the facility prior to the final fire clearance approval; 2) provide consultation, interpretation and written notice to the facility applicant regarding applicable fire safety regulations;¹⁷ and 3) complete the final fire clearance inspection within 30 days of a request to do so.¹⁸ However, Health and Safety Code section 13146, subdivision (d), gives the State Fire Marshal authority to enforce building standards and regulations on behalf of the local fire enforcing agency upon request of the chief fire official or local governing body. According to information provided by the State Fire Marshal: “Under [Health and Safety Code] Section 13146(d), the local enforcing agency could request the [State Fire Marshal] to assume jurisdiction for these community care facilities provided that we have the resources to fulfill the request.”¹⁹

Because the local fire enforcing agency or local governing body could ask the State Fire Marshal to assume the enforcement duties pursuant to Section 13146, subdivision (d), the issue is raised as to whether those duties could be considered a discretionary activity by the local agency. Based on the following analysis, the enforcement duties are not discretionary.

Providing fire protection services by enforcing building standards is legally compelled by the statutory scheme under which the test claim legislation was enacted. The Health and Safety Code requires the State Fire Marshal or the chief of any city or county fire department or

¹⁷ Health and Safety Code section 13235, subdivision (a).

¹⁸ Health and Safety Code section 13235, subdivision (b).

¹⁹ Letter from Ruben Grijalva, State Fire Marshal, to Paula Higashi, Executive Director, Commission on State Mandates, December 27, 2005.

district providing fire services to enforce building standards and other regulations that have been adopted by the State Fire Marshal.²⁰ In addition, local fire enforcing agencies are required to enforce fire-related building standards for buildings used for human habitation.²¹

The Health and Safety Code, in section 13146, further delineates the authorities and requirements for enforcing State Fire Marshal building standards and other regulations. Under subdivision (b), the local fire enforcing agency “*shall enforce* within its jurisdiction the building standards and other regulations of the State Fire Marshal ...” Under subdivision (c), the State Fire Marshal “shall have authority to enforce the building standards and other regulations ... in areas outside of corporate cities and districts providing fire protection services.”

The statutory scheme also specifies that enforcement of fire regulations and fire-related building standards “shall, so far as practicable, be carried out at the local level by persons who are regular full-time members of a regularly organized fire department of a city, county, or district providing fire protection services ...”²² Furthermore, as noted above, section 13146, subdivision (d), gives the State Fire Marshal the authority to assume the fire enforcing duties where a local fire enforcing agency exists, but only upon the *request* of the chief fire official or the governing body. The State Fire Marshal has stated that jurisdiction over those duties could be assumed if the State Fire Marshal has “resources to fulfill the request.”

Thus while the fire enforcement duties might be considered discretionary for the State Fire Marshal where a local fire enforcing agency is established, the duties could not be considered discretionary for that local fire enforcing agency, since providing the services is legally compelled by the statutory scheme and would be required of the local agency if the State Fire Marshal could not provide the services. It follows that the specific requirements in the test claim legislation — i.e., the preinspection, the consultation, interpretation and written notice of fire safety regulations, and the 30-day requirement for completion of the final inspection — are not discretionary for the local fire enforcing agency.

²⁰ Health and Safety Code section 13145: “The State Fire Marshal, the chief of any city or county fire department or district providing fire protection services, and their authorized representatives, shall enforce in their respective areas building standards relating to fire and panic safety adopted by the State Fire Marshal and published in the State Building Standards Code and other regulations that have been formally adopted by the State Fire Marshal for the prevention of fire or for the protection of life and property against fire or panic.”

²¹ Health and Safety Code section 17962: “The chief of any city or any county fire department or district providing fire protection services, and their authorized representatives, shall enforce in their respective areas all those provisions of this part, the building standards published in the State Building Standards Code relating to fire and panic safety, and those rules and regulations promulgated pursuant to the provisions of this part pertaining to fire prevention, fire protection, the control of the spread of fire, and safety from fire or panic.”

²² Health and Safety Code section 13146.5.

Does the Test Claim Legislation Constitute a "Program"?

The test claim legislation must also constitute a "program" in order to be subject to article XIII B, section 6 of the California Constitution. The Department of Finance argues that the test claim legislation is not a program subject to reimbursement under article XIII B, section 6, because the test claim legislation is not unique to local government since the same requirements are imposed on the state, through the State Fire Marshal. The Commission disagrees with this position for the reasons cited below.

The relevant tests regarding whether this test claim legislation constitutes a "program" within the meaning of article XIII B, section 6 are set forth in case law. The California Supreme Court, in the case of *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, defined the word "program" within the meaning of article XIII B, section 6 as a program that carries out the governmental function of providing a service to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.²³ (Emphasis added.) Only one of these findings is necessary to trigger the applicability of article XIII B, section 6.

The *County of Los Angeles* case also found that the term "program" as it is used in article XIII B, section 6, "was [intended] to require reimbursement to local agencies for the costs involved in carrying out functions *peculiar to government*, not for expenses incurred by local agencies as an incidental impact of laws that apply generally to all state residents and entities." (Emphasis added.)²⁴ In this case, the court found that no reimbursement was required for the increase in workers' compensation and unemployment insurance benefits applied to all employees of private and public businesses.²⁵

Here, on the other hand, the requirements imposed by the test claim statute are carried out by state and local fire officials. Although both state and local officials perform the requirements imposed by the test claim legislation in conducting a precensus inspection for specified care facilities, these requirements do not apply "generally to all residents and entities in the state," as did the requirements for workers' compensation and unemployment insurance benefits in the *County of Los Angeles* case.

In addition, the Court of Appeal, Third Appellate District, in *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, has recognized that fire protection is a peculiarly governmental function, and that, along with police protection, fire protection is one of the "most essential and basic functions of local government."²⁶ In this respect, the precensus fire inspections provide basic fire protection services for the public.

²³ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56 (*County of Los Angeles*).

²⁴ *County of Los Angeles, supra*, 43 Cal.3d 46, 56-57.

²⁵ *County of Los Angeles, supra*, 43 Cal.3d 46, 57-58.

²⁶ *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 537 (*Carmel Valley*).

The Commission therefore finds that the test claim legislation carries out the governmental function of providing a service to the public and therefore constitutes a “program” within the meaning of article XIII B, section 6 of the California Constitution.

Issue 2: Does the test claim legislation impose a new program or higher level of service on local agencies within the meaning of article XIII B, section 6 of the California Constitution?

To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim legislation.²⁷

The claimant is requesting reimbursement for the entire fire clearance process, including:

- training of fire inspector to conduct inspection(s);
- travel of fire inspector to site to conduct inspection(s);
- fire inspector conducting pre-inspection and consultation regarding interpretation and application of fire safety regulations;
- fire inspector providing written information regarding what is needed to be done in order to obtain fire clearance; and
- fire inspector conducting final fire clearance inspection.

Pre-existing Fire Clearance Process

Prior to the test claim legislation, the Health and Safety Code required each of the three types of care facilities subject to the test claim to be licensed,²⁸ and the California Code of Regulations also required fire clearances for the facilities:

- California Code of Regulations, title 22, section 80020 – regarding community care facilities: “[a]ll facilities shall secure and maintain a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal.”
- California Code of Regulations, title 22, section 87220 – regarding residential care facilities for the elderly: “[a]ll facilities shall maintain a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal.”
- California Code of Regulations, title 22, section 101171 – regarding child day care facilities: “[a]ll child care centers shall secure and maintain a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal.”

²⁷ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

²⁸ Health and Safety Code sections 1508, subdivision (a), 1569.10 and 1596.80.

The Enrolled Bill Report submitted by the State Fire Marshal²⁹ provided a summary of the procedures in existence at the time the test claim legislation was enacted. The Report stated that upon application to the State Department of Social Services for a license, the Department would send a request for a fire safety inspection to the appropriate fire authority, either the local fire enforcing agency or the State Fire Marshal. Upon receipt of the request, the local fire agency or State Fire Marshal would then conduct an inspection of the facility and issue the fire clearance approval. It is apparent from the statements of the State Fire Marshal that at least one inspection of the facility was already required in order to issue the fire clearance.

New Requirements under Test Claim Legislation

The test claim legislation requires the local fire enforcing agency to “conduct a *preinspection* of the facility prior to the final fire clearance approval.” (Emphasis added.)³⁰ The fire enforcing agency is also required, at the time of the preinspection, to “provide consultation and interpretation of fire safety regulations,”³¹ “notify the prospective licensee of the facility in writing of the specific fire safety regulations which shall be enforced in order to obtain fire clearance approval,”³² and “complete the final fire clearance inspection ... within 30 days of receipt of the request for final inspection, or as of the date the prospective facility requests the final prelicensure inspection ..., whichever is later.”³³

Since the fire clearance approval requirement, which also required an inspection of the facility, was in effect prior to passage of the test claim legislation, the finding of a new program or higher level of service must be limited to activities relating to the *preinspection*. Any inspection activities related to the pre-existing final fire clearance approval requirements would not be considered a new program or higher level of service.

Therefore, the Commission finds that *with regard to the preinspection only*, the following activities fall within the meaning of “new program” or “higher level of service” under article XIII B, section 6:

1. the preinspection;
2. the consultation and interpretation of applicable fire safety regulations; and
3. written notice to the prospective licensee of the specific fire safety regulations which shall be enforced in order to obtain the final fire clearance approval.

The new requirement to complete the final fire clearance inspection for a facility within 30 days of receipt of the request does not mandate a new activity, since the final fire clearance inspection and approval requirement was already in existence. Instead it merely adds a timeline under which the activity must be completed. Therefore, the Commission finds that

²⁹ State Fire Marshal Enrolled Bill Report, Senate Bill 1098, September 18, 1989.

³⁰ Health and Safety Code section 13235, subdivision (a).

³¹ *Ibid.*

³² *Ibid.*

³³ Health and Safety Code section 13235, subdivision (b).

the 30-day requirement does not fall within the meaning of “new program” or “higher level of service” under article XIII B, section 6.

The test claim legislation also addressed training related to interpretation of the regulations for the subject care facilities. Health and Safety Code section 13144.5 was amended to read:

The State Fire Marshal shall prepare and conduct *voluntary* regular training sessions devoted to the interpretation and application of the laws and rules and regulations in Title 19 and Title 24 of the California Code of Regulations relating to fire and panic safety. The training sessions shall include, but need not be limited to, interpretation of the regulations pertaining to community care facilities licensed pursuant to Section 1508, to residential care facilities for the elderly licensed pursuant to Section 1569.10, and to child day care facilities licensed pursuant to Section 1596.80, in order to coordinate a consistent interpretation and application of the regulations among local fire enforcement agencies. (Emphasis added.)

The pre-existing statute required the State Fire Marshal to prepare and conduct *voluntary* training related to fire and panic safety regulations. The new text in the test claim legislation simply added a requirement that the State Fire Marshal’s training curriculum include interpretation of regulations relating to the subject facilities. Although the State Fire Marshal is required to provide such training, attendance is “voluntary” on the part of any local fire enforcing agency staff and no new mandate is established for the local fire enforcing agency as a result of the test claim legislation. Therefore, the Commission finds that the training activities do not constitute a local mandate under article XIII B, section 6. The Commission may, however, consider claimant’s request for reimbursement for training at the Parameters and Guidelines stage to determine whether training is a reasonable method of complying with the mandate pursuant to California Code of Regulations, title 2, section 1183.1, subdivision (a)(4).

Issue 3: Does the test claim legislation impose “costs mandated by the state” within the meaning of article XIII B, section 6 of the California Constitution?

In order for the mandated activities to impose a reimbursable, state-mandated program under article XIII B, section 6, two additional elements must be satisfied. First, the activities must impose costs mandated by the state pursuant to Government Code section 17514. Second, the statutory exceptions to reimbursement listed in Government Code section 17556 cannot apply.

Government Code section 17514 defines “costs mandated by the state” as any increased cost a local agency is required to incur as a result of a statute that mandates a new program or higher level of service.

The test claim states:

The fee authorization contained in the test claim legislation has not been increased in the 12 years since the passage of the subject legislation. At the present time an average of 3 hours is needed to complete the total fire clearance process for each facility. Some facilities, depending on the number of visits necessary to obtain the fire clearance, require up to 4 hours. Other facilities may only require 2 hours. Included in this process are travel time to the facility, time spent at the facility, telephone time, research of related codes, and data entry. Personnel turnover,

which necessitates the training of new fire inspectors, is also part of the equation. The San Jose Fire Department Bureau of Fire prevention is mandated by the City to be 100% cost recovery. The hourly rate at which our department charges in order to achieve full cost recovery is \$110. The present \$50 fee allowance for a preinspection does not quite cover the cost of one-half hour.

Thus, there is evidence in the record, signed under penalty of perjury, that there are increased costs as a result of the test claim legislation.

Government Code section 17556 lists several exceptions which preclude the Commission from finding costs mandated by the state. Because some fee authority exists for this program, section 17556, subdivision (d) — which requires the commission to deny the claim where a local agency has “the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service” — must be analyzed to determine whether it is applicable.

Government Code section 66014 allows local entities to charge fees to recover costs for local zoning and permitting activities, including building inspections, which “may not exceed the estimated reasonable cost of providing the service for which the fee is charged ...”³⁴ Health and Safety Code section 13146, subdivision (e), similarly addresses fee recovery for fire-related enforcement and inspections to “the reasonable cost of providing the service for which the fee is charged, pursuant to Section 66014 of the Government Code.”

The test claim legislation, however, states that fees charged for the preinspection cannot exceed: 1) \$50 for a facility with a capacity to serve 25 or fewer persons; and 2) \$100 for a facility with a capacity to serve 26 or more persons.³⁵ A further potential limitation on fees that can be charged is located in the Community Care Facilities Act (Health and Safety Code sections 1500 et seq.), applicable to all three types of facilities. Section 1566.2 states that “... [n]either the State Fire Marshal nor any local public entity shall charge any fee for enforcing fire inspection regulations pursuant to state law or regulation or local ordinance, with respect to residential facilities which serve six or fewer persons.”

The question then is whether the local fee authority found in Government Code section 66014 is sufficient to recover preinspection costs in light of the two potentially fee-limiting provisions. The applicable rule of statutory construction states that when a general provision of law cannot be reconciled with a more specific provision, the general provision is controlled by the special provision and the special provision is treated as an exception.³⁶ Here, the two fee-limiting provisions found in the test claim legislation and the Community Care Facilities Act are exceptions to the more general local fee authority. Accordingly, fee recovery for the preinspection activity is limited to: 1) \$0 for facilities which serve six or fewer persons; 2) \$50 for facilities with a capacity to serve seven to 25 persons; and 3) \$100 for facilities with a capacity to serve 26 or more persons.

³⁴ Government Code section 66014, subdivision (a).

³⁵ Health and Safety Code section 13235, subdivision (a).

³⁶ *People v. Superior Court* (2002) 28 Cal. 4th 798; *Garcia v. McCutchen* (1997) 16 Cal. 4th 469.

Therefore, the local agency does not have the authority to levy service charges, fees, or assessments sufficient to pay for the preinspections, and Government Code section 17556, subdivision (d), does not apply to deny the claim. However, Health and Safety Code section 13235, subdivision (a), will be identified as offsetting revenue in the Parameters and Guidelines, which must be deducted from the total costs claimed.

Conclusion

The Commission concludes that the test claim legislation imposes a reimbursable state-mandated program on local agencies pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514 for the increased costs in performing the following activities:

1. the preinspection of community care facilities, residential care facilities for the elderly, and child day care facilities;
2. the consultation and interpretation of applicable fire safety regulations for the prospective facility licensee; and
3. written notice to the prospective facility licensee of the specific fire safety regulations which shall be enforced in order to obtain the final fire clearance approval.

The reimbursement period for this test claim begins July 1, 2000.

Finally, any statutory provisions that were pled in this test claim that are not identified above do not constitute a reimbursable state-mandated program.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Health and Safety Code Section 13235,
Subdivision (a)

Statutes 1989, Chapter 993

Filed on June 3, 2002;

By City of San Jose, Claimant.

No. 01-TC-16

Fire Safety Inspections of Care Facilities

ADOPTION OF PARAMETERS AND
GUIDELINES PURSUANT TO GOVERNMENT
CODE SECTION 17557 AND TITLE 2,
CALIFORNIA CODE OF REGULATIONS,
SECTION 1183.12

(Adopted on March 28, 2008)

PARAMETERS AND GUIDELINES

On March 28, 2008, the Commission on State Mandates adopted the attached parameters and guidelines.



PAULA HIGASHI, Executive Director

Dated: April 2, 2008

PARAMETERS AND GUIDELINES

Health and Safety Code Section 13235, Subdivision (a)

Statutes 1989, Chapter 993

Fire Safety Inspections of Care Facilities

01-TC-16

I. SUMMARY OF THE MANDATE

Health and Safety Code section 13235, subdivision (a), requires local fire departments to perform fire safety inspections of all community care facilities, residential care facilities for the elderly, and child daycare facilities. Upon receipt of a request from a prospective licensee, the local fire department, or State Fire Marshal, whichever has primary jurisdiction, is required to conduct a preinspection of the facility prior to the fire clearance approval. At the time of the preinspection, the applicable fire enforcing agency will provide consultation and interpretation of the fire safety regulations that are to be enforced in order to obtain the clearances necessary to obtain a license.

On March 29, 2006, the Commission on State Mandates (Commission) adopted the Statement of Decision for the *Fire Safety Inspections of Care Facilities* test claim. The Commission found that Health and Safety Code section 13235, subdivision (a), constitutes a new program or higher level of service and imposes a state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The Commission approved this test claim for the following reimbursable activities relating to the preinspection of the facility:

1. the preinspection of community care facilities, residential care facilities for the elderly, and child day care facilities;
2. the consultation and interpretation of applicable fire safety regulations for the prospective facility licensee; and
3. written notice to the prospective facility licensee of the specific fire safety regulations which shall be enforced in order to obtain the final fire clearance approval.

Inspection activities relating to the final fire clearance approval are not reimbursable.

II. ELIGIBLE CLAIMANTS

Any city, county, city and county, and any fire protection district or other district performing fire protection services at the local level, formed pursuant to Health and Safety Code sections 13800 et seq., that is subject to the tax and spend limitations of articles XIII A and XIII B, and that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557, subdivision (e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The City of San Jose filed the test claim on June 3, 2002. Therefore, costs incurred on or after July 1, 2000, in compliance with Health and Safety Code section 13235, subdivision (a) (Stats. 1989, ch. 993), are eligible for reimbursement.

Actual costs for one fiscal year shall be included in each claim. Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.

If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564, subdivision (a).

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, calendars, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5.

Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities related to the preinspection are reimbursable:

A. One-Time Activity (one time per employee)

Training for each new fire inspector assigned to the preinspection of care facilities, pursuant to Health and Safety Code section 13235, subdivision (a). A maximum of four hours of training is allowable per employee.

B. Ongoing Activities

1. Conduct preinspections of community care facilities, residential care facilities for the elderly, and child day care facilities upon receipt of a request from a prospective licensee of such a facility, before the final fire clearance approval. More than one preinspection per facility as deemed necessary by the local fire agency is reimbursable.
2. Provide consultation and interpretation of applicable fire safety regulations for the prospective facility licensee.
3. Providing a written notice to the prospective facility licensee of the specific fire safety regulations that shall be enforced in order to obtain the final fire clearance approval.
4. Maintain files relating solely to preinspection activities pursuant to Health and Safety Code section 13235, subdivision (a).

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

6. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1, Salaries and Benefits, and A.2, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3, Contracted Services.

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular A-87 Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

Any offsetting revenues the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

Pursuant to Health and Safety Code section 13235, subdivision (a), fee recovery for the preinspection activity is limited to: 1) \$0 for facilities which serve six or fewer persons; 2) \$50 for facilities with a capacity to serve seven to 25 persons; and 3) \$100 for facilities with a capacity to serve 26 or more persons. This revenue shall be identified and deducted from total costs claimed. In the event that the Legislature enacts legislation which either increases or

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

decreases the fee authority, such legislation shall control and will not necessitate an amendment to these parameters and guidelines unless the activities to be performed are also amended.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.



EXHIBIT D

RECEIVED
September 9, 2013
COMMISSION ON
STATE MANDATES

JOHN CHIANG
California State Controller
Division of Accounting and Reporting

September 9, 2013

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: Mandate Redetermination Request, 13-MR-01
Fire Safety Inspections of Care Facilities, (01-TC-16)
Health and Safety Code Section 13235(a); as added or amended by
Statutes 1989, Chapter 993; Statutes 2009, Chapter (ABX4 12)
California Department of Finance, Requester

Dear Ms. Halsey:

The State Controller's Office (SCO) reviewed the Department of Finance's request to adopt a new test claim decision to supersede the prior decision on the above-named matter. The SCO agrees that the activities previously determined to be reimbursable in the Statement of Decision adopted on March 29, 2006, cease to be reimbursable in compliance with Government Code sections 17570, subdivision (b), and 17556, subdivision (d).

Health and Safety Code section 13235, subdivision (a), was amended by Chapter 12, Statutes of 2009, Fourth Extraordinary Session (ABX4 12), enacted on July 28, 2009. The amendment authorized local fire authorities or the State Fire Marshall to charge fees to cover their costs for pre-inspections of prospective community care facilities. Therefore, the state's liability has been modified based on this change in law.

Should you have any questions regarding these matters, please contact Travis White at (916) 323-0734 or e-mail twhite@sco.ca.gov.

Sincerely,

JAY LAL, Manager
Local Reimbursements Section

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Solano and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On September 11, 2013, I served the:

SCO Comments

Mandate Redetermination Request, 13-MR-01

Fire Safety Inspections of Care Facilities, (01-TC-16)

Health and Safety Code Section 13235(a); as added or amended by Statutes 1989, Chapter 993; Statutes 2009, Chapter 12 (ABX4 12)

California Department of Finance, Requester

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 11, 2013 at Sacramento, California.



Heidi J. Palchik
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

Commission on State Mandates

Original List Date: 8/9/2001
Last Updated: 9/9/2013
List Print Date: 9/9/2013
Claim Number: 13-MR-01
Issue: Fire Safety Inspections of Care Facilities (01-TC-16)

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. However, this requirement may also be satisfied by electronically filing your documents. Please see <http://www.csm.ca.gov/dropbox.shtml> on the Commission's website for instructions on electronic filing. (Cal. Code Regs., tit. 2, § 1181.2.)

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BEFORE THE
 COMMISSION ON STATE MANDATES
 STATE OF CALIFORNIA

IN RE MANDATE REDETERMINATION:
 FIRST HEARING: ADEQUATE SHOWING
 ON:

Health and Safety Code Section 13235(a);

Added by Statute 1989, Chapter 993.

*Fire Safety Inspections of Care
 Facilities, 01-TC-16*

As Alleged to be Modified by:

Statutes 2009-2010, Chapter 12 (ABX4 12)

Filed on July 29, 2013

By the Department of Finance, Requester.

Case No.: 13-MR-01

*Fire Safety Inspections of Care Facilities,
 (01-TC-16)*

DECISION PURSUANT TO
 GOVERNMENT CODE SECTION 17500,
 ET SEQ.; CALIFORNIA CODE OF
 REGULATIONS, TITLE 2, DIVISION 2,
 CHAPTER 2.5, ARTICLES 7 and 10.

(Adopted July 25, 2014)

(Served July 29, 2014)

DECISION

The Commission on State Mandates (Commission) heard and decided this mandate redetermination during a regularly scheduled hearing on July 25, 2014. Lee Scott and Susan Geanacou appeared on behalf of the Department of Finance.

The law applicable to the Commission’s determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., title 2, California Code of Regulations 1189 et seq., and related case law.

The Commission adopted the staff analysis at the hearing by a vote of 7-0, and directed staff to notice a second hearing to determine whether to adopt a new test claim decision to supersede the previously adopted test claim decision.

Summary of the Findings

The Commission finds that the Department of Finance (DOF) has made an adequate showing that the state’s liability pursuant to article XIII B, section 6(a) of the California Constitution, for the *Fire Safety Inspections of Care Facilities, 01-TC-16* program has been modified based upon a subsequent change in law. Specifically, Statutes 2009-2010, Extraordinary Session, chapter 12 (ABX4 12) provided local agencies with the authority to charge a fee equal to the reasonable cost of providing the mandated preinspection activities under Health and Safety Code section 13235(a). Government Code section 17556(d) proscribes a finding of cost mandated by the state where the local government has fee authority sufficient to cover the costs of the mandate.

Pursuant to Government Code section 17570(b)(d)(4), the Commission will hold a second hearing to determine if a new test claim decision shall be adopted to supersede the previously adopted test claim decision.

COMMISSION FINDINGS

I. Chronology

- 03/29/06 The Commission adopted the test claim statement of decision for *Fire Safety Inspections of Care Facilities*, 01-TC-16.¹
- 03/28/08 The Commission adopted parameters and guidelines.²
- 07/28/09 The Legislature enacted Statutes 2009-2010, Extraordinary Session, Chapter 12 to remove the cap from the fee authority for the program.
- 07/29/13 DOF filed a request for redetermination on test claim 01-TC-16.³
- 09/08/13 Commission staff deemed the filing complete.
- 09/09/13 The State Controller's Office, Division of Accounting and Reporting, submitted comments on the request.
- 05/16/14 The Commission issued the draft proposed decision.
- 07/25/14 The Commission adopted the decision and directed staff to notice the second hearing.

II. Background

Health and Safety Code Section 13235(a) and Test Claim Decision

Health and Safety Code section 13235 was amended in 1989 (Stats. 1989, ch. 993). The purpose of the amendments was to ensure that community care facilities, residential care facilities for the elderly, and child care facilities, during the process of being licensed by the State Department of Social Services, timely receive correct fire clearance information from the local fire enforcing agency or the State Fire Marshal. Upon receipt of a request from a prospective licensee, the local fire department or State Fire Marshal, whichever has primary jurisdiction, is required to conduct a preinspection of the facility prior to the fire clearance approval. At the time of preinspection, the applicable fire enforcing agency provides consultation and interpretation of the fire safety regulations that are to be enforced in order to obtain the clearances necessary to obtain a license.

On March 29, 2006, the Commission adopted the Statement of Decision for the *Fire Safety Inspections of Care Facilities*, 01-TC-16 test claim. The Commission found that Health and Safety Code section 13235(a), imposes a reimbursable state-mandated program upon local

¹ Exhibit B, Test Claim 01-TC-16, Statement of Decision, adopted March 29, 2006.

² Exhibit C, Test Claim 01-TC-16, Parameters and Guidelines, adopted March 28, 2008.

³ Exhibit A, Request for Mandate Redetermination, filed July 29, 2013.

agencies within the meaning of article XIII B, section 6 of the Californian Constitution and Government Code section 17514.

The Commission approved this test claim for the following reimbursable activities relating to the preinspection of the facility:

1. The preinspection of community care facilities, residential care facilities for the elderly, and child day care facilities;
2. The consultation and interpretation of applicable fire safety regulations for the prospective facility licensee; and
3. Written notice to the prospective facility licensee of the specific fire safety regulations which shall be enforced in order to obtain the final fire clearance approval.⁴

Former Health and Safety Code section 13235(a), specifically allowed the following fees to be charged for the preinspection of a facility: 1) not more than \$50 for a facility serving 25 or fewer persons; and 2) not more than \$100 for a facility serving more than 25 persons. In its Statement of Decision, the Commission found that this limited fee authority did not cover the actual cost of the program, but identified it as offsetting revenue.⁵

Statutes 2009-2010, Extraordinary Session, chapter 12 amended the fee authority provision in Health and Safety Code section 13235(a) as follows in underline and strikeout:

A fee of not more than fifty dollars (\$50) equal to, but not exceeding, the actual cost of the preinspection services may be charged for the preinspection of a facility with a capacity to serve 25 or fewer persons. A fee of not more than one hundred dollars (\$100) equal to, but not exceeding, the actual cost of the preinspection services may be charged for a preinspection of a facility with a capacity to serve 26 or more persons.

As amended, section 13235(a) provides fee authority for the actual cost of preinspection services.

Mandate Redetermination Process under Section 17570

Government Code section 17570 provides a process whereby a test claim decision may be redetermined and superseded by a new test claim decision, if a subsequent change in law, as defined, has modified the state's liability for reimbursement. Section 17570 calls for a two hearing process; at the first hearing, the requestor must make "an adequate showing which identifies a subsequent change in law as defined by Government Code section 17570, material to the prior test claim decision, that may modify the state's liability pursuant to article XIII B, section 6, subdivision (a) of the California Constitution."⁶

A subsequent change in law is defined in section 17570 as follows:

⁴ Exhibit B, Test Claim 01-TC-16, Statement of Decision, p. 13.

⁵ Exhibit B, Test Claim 01-TC-16, Statement of Decision, pp. 12-13.

⁶ California Code of Regulations, title 2, section 1190.5(a)(1)(Register 2014, No. 21.)

[A] change in law that requires a finding that an incurred cost is a cost mandated by the state, as defined by section 17556, or a change in mandates law, except that a “subsequent change in law” does not include the amendments to Section 6 of Article XIII B of the California Constitution that were approved by the voters on November 2, 2004. A “subsequent change in law” also does not include a change in the statutes or executive orders that impose new state-mandated activities and require a finding pursuant to subdivision (a) of Section 17551.⁷

An “adequate showing” is defined in the Commission’s regulations as follows:

The Commission shall find that the requestor has made an adequate showing if it finds the request, when considered in the light of all the written comments and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.⁸

If the Commission finds, at the first hearing, that the requestor has made an adequate showing, “the Commission shall publish a decision finding that an adequate showing has been made and setting the second hearing on the request to adopt a new test claim decision to supersede the previously adopted test claim decision.”⁹

III. Position of the Parties

Department of Finance, Requester

DOF submitted a request to adopt a new test claim decision regarding Health and Safety Code section 13235(a), pursuant to Government Code section 17570.¹⁰ DOF asserts that Statutes 2009-2010, chapter 12 constitutes a subsequent change in law, as defined in section 17570, which when analyzed in light of Government Code section 17556, results in a change in the state’s liability under the test claim. DOF asserts that the amendment to Health and Safety Code section 13235(a) provides authority to charge fees sufficient to cover the full costs of the mandated activities in the *Fire Safety Inspection of Care Facilities* Program. Therefore, DOF asserts the state is no longer obligated to reimburse any costs for the mandated activities, pursuant to Government Code sections 17570 and 17556(d). DOF did not comment on the draft proposed decision.

State Controller’s Office

The State Controller’s Office (SCO) filed comments concurring with the DOF request for redetermination.¹¹ The SCO did not comment on the draft proposed decision.

Local Agencies

There were no local agency comments filed on either the request or the draft proposed decision.

⁷ Government Code section 17570, as added by Statutes 2010, chapter 719 (SB 856).

⁸ California Code of Regulations, Title 2, section 1190.5(a)(1) (Register 2014, No. 21).

⁹ California Code of Regulations, Title 2, section 1190.5(a)(5)(B) (Register 2014, No. 21).

¹⁰ Exhibit A, Request for Mandate Redetermination, filed July 29, 2013.

¹¹ Exhibit D, SCO, Division of Accounting and Reporting, Comments filed September 9, 2013.

IV. Discussion

Under article XIII B, section 6 of the California Constitution, local agencies and school districts are entitled to reimbursement for the costs of state-mandated new programs or higher levels of service. In order for local government to be eligible for reimbursement, one or more similarly situated local agencies or school districts must file a test claim with the Commission. “Test claim” means the first claim filed with the Commission alleging that a particular statute or executive order imposes costs mandated by the state. Test claims function similarly to class actions and all members of the class have the opportunity to participate in the test claim process and all are bound by the final decision of the Commission for purposes of that test claim.

The Commission is the quasi-judicial body vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.¹² The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.¹³ In making its decisions, the Commission must strictly construe article XIII B, section 6, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”¹⁴

Under Government Code section 17570, upon request, the Commission may consider the adoption of a new test claim decision to supersede a prior test claim decision based on a subsequent change in law which modifies the states liability.

The first hearing in the mandate redetermination process is intended, pursuant to the Government Code and the Commission’s regulations, to determine only whether the requester has made an adequate showing that the state’s liability has been modified based on a subsequent change in law, as defined. Therefore, analysis of section 17556(d), as well as consideration of the comments submitted by interested parties, will be limited to whether the request, “when considered in light of all of the written comments and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.”¹⁵

A thorough mandates analysis to determine whether and to what extent the state’s liability has been modified, considering the applicable law, the arguments put forth by the parties and interested parties, and the facts in the record, will be prepared for the second hearing on this matter.

A. A Subsequent Change in Law is Alleged Resulting from Statutes 2009-2010, Chapter 12.

On March 29, 2006, the Commission adopted a test claim decision for the *Fire Safety Inspections of Care Facilities*, 01-TC-16 test claim. The Commission found that Health and Safety Code section 13235(a), as amended by Statutes 1989, chapter 993 imposed a reimbursable

¹² *Kinlaw v. State of California* (1991) 53 Cal.3d 482, 487; Government Code sections 17551; 17552.

¹³ *County of San Diego v. State of California*, (1997) 15 Cal.4th 68, 109.

¹⁴ *County of Sonoma v. Commission on State Mandates*, (2000) 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

¹⁵ Code of Regulations, Title 2, section 1190.5(a)(1) (Register 2014, No. 21).

state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. On March 28, 2008, the Commission adopted parameters and guidelines for reimbursement of the claims under the statute, which outlined the reimbursable activities as follows:

A. One-Time Activity (one time per employee)

Training for each new fire inspector assigned to preinspection of care facilities, pursuant to Health and Safety Code section 13235, subdivision (a). A maximum of four hours of training is allowable per employee.

B. Ongoing Activities

1. Conduct preinspections of community care facilities, residential care facilities for the elderly, and child day care facilities upon receipt of a request from a prospective licensee of such a facility, before final fire clearance approval. More than one preinspection per facility as deemed necessary by the local fire agency is reimbursable.
2. Provide consultation and interpretation of applicable fire safety regulations for the prospective facility licensee.
3. Provide a written notice to the prospective licensee of the specific fire safety regulations that shall be enforced in order to obtain the final fire clearance approval.
4. Maintain files relating solely to preinspection activities pursuant to Health and Safety Code section 13235, subdivision (a).¹⁶

Statutes 2009-2010, 4th Extraordinary Session, chapter 12 (AB 12), amended section 13235(a) to provide as follows in underline and strikeout:

(a) Upon receipt of a request from a prospective licensee of a community care facility, as defined in Section 1502, of a residential care facility for the elderly, as defined in Section 1569.2, or of a child day care facility, as defined in Section 1596.750, the local fire enforcing agency, as defined in Section 13244, or the State Fire Marshal, whichever has primary jurisdiction, shall conduct a preinspection of the facility prior to the final fire clearance approval. A the time of the preinspection, the primary fire enforcing agency shall provide consultation and interpretation of fire safety regulations, and shall notify the prospective licensee of the facility in writing of the specific fire safety regulations which shall be enforced in order to obtain fire clearance approval. A fee of not more than fifty dollars (\$50) equal to, but not exceeding, the actual cost of the preinspection services may be charged for the preinspection of a facility with a capacity to serve 25 or fewer persons. A fee of not more than one hundred dollars (\$100) equal to, but not exceeding, the

¹⁶ Exhibit C, 01-TC-16, Parameters and Guidelines, adopted March 28, 2008, pp. 2-3.

actual cost of the preinspection services may be charged for a preinspection of a facility with a capacity to serve 26 or more persons.¹⁷

In its request for mandate redetermination,¹⁸ DOF asserts that the amendment of Health and Safety Code section 13235(a) granted local agencies authority to charge a fee sufficient to cover all of the costs attributable to the mandated activities under Health and Safety Code section 13235(a).¹⁹ As a result, DOF maintains that a new test claim decision must issue finding there are no costs mandated by the state pursuant to Government Code section 17556(d). DOF asserts that the amendment to section 13235(a) is a “subsequent change in law” as defined in Government Code section 17570.²⁰

B. Section 17556(d) is Not Self-Executing, but Requires Commission Action Pursuant to Section 17570, Where a Commission Decision on the Test Claim Statutes has Been Previously Adopted.

Government Code section 17556(d) provides that the Commission “shall not find costs mandated by the state, as defined in Section 17514” if the Commission finds that “the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.” The California Supreme Court upheld the constitutionality of Government Code section 17556 (d), in *County of Fresno v. State of California*.²¹ The court, in holding that the term “costs” in article XIII B, section 6, excludes expenses recoverable from sources other than taxes, stated:

Section 6 was included in article XIII B in recognition that article XIII A of the Constitution severely restricted the taxing powers of local governments. (See *County of Los Angeles I, supra*, 43 Cal.3d at p. 61.) The provision was intended to preclude the state from shifting financial responsibility for carrying out governmental functions onto local entities that were ill equipped to handle the task. (*Ibid.*; see *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 836, fn. 6 [244 Cal.Rptr. 677, 750 P.2d 318].) Specifically, it was designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues. Thus, although its language broadly declares that the “state shall provide a subvention of funds to reimburse ... local government for the costs [of a state-mandated new] program or higher level of service,” read in its textual and historical context section 6 of article XIII B requires subvention only when the costs in question can be recovered *solely from tax revenues*.²²

¹⁷ Health and Safety Code section 13235(a), amended by Statutes 2009-2010 4th Extraordinary session, chapter 12 (AB 12), § 14, effective July 28, 2009.

¹⁸ Exhibit A, Request for Mandate Redetermination, filed July 29, 2013.

¹⁹ Exhibit A, Request for Mandate Redetermination, p. 6.

²⁰ Exhibit A, Request for Mandate Redetermination, p. 6.

²¹ *County of Fresno v. State of California, supra*, 53 Cal.3d 482.

²² *Id.* at p. 487.

Accordingly, in *Clovis Unified School District v. Chiang*, the court found that the SCO was not acting in excess of its authority in reducing reimbursement claims to the full extent of the districts' authority to impose fees, even if there existed practical impediments to collecting the fees. In making its decision, the court noted that the concept underlying the state mandates process that Government Code sections 17514 and 17556(d) embody is that "[t]o the extent a local agency or school district 'has the authority' to charge for the mandated program or increased level of service, that charge cannot be recovered as a state-mandated cost."²³ The court further noted that, "this basic principle flows from common sense as well. As the Controller succinctly puts it, 'Claimants can choose not to require these fees, but not at the state's expense.'"²⁴

Section 17556(d) further provides that the limitation "applies regardless of whether the authority to levy charges, fees, or assessments was enacted or adopted prior to or after the date on which the statute or executive order was enacted or issued." In the context of fee authority enacted *after the test claim decision* on the subject matter has been adopted, an analysis under section 17556(d) cannot be entertained absent the redetermination process provided in section 17570. The Commission's process is the sole and exclusive venue in which eligible claimants vindicate the reimbursement requirement of article XIII B, section 6, and the Commission's decision on a test claim is final and binding, absent judicial review.²⁵ A later-enacted statute providing fee authority for a mandated program cannot, of its own force, undermine the Commission's mandate determination in a prior test claim decision. Section 17570 thus provides the mechanism for considering section 17556(d) when there is a subsequent change in law, as defined, "material to the prior test claim decision, that may modify the state's liability" pursuant to article XIII B, section 6.

"Subsequent change in law," is defined in section 17570(a)(2) as follows:

[A] change in law that requires a finding that an incurred cost is a cost mandated by the state, as defined by Section 17514, or is not a cost mandated by the state pursuant to Section 17556, or a change in mandates law, except that a "subsequent change in law" does not include the amendments to Section 6 of Article XIII B of the California Constitution that were approved by the voters on November 2, 2004. A "subsequent change in law" also does not include a change in the statutes or executive orders that impose new state-mandated activities and require a finding pursuant to subdivision (a) of Section 17551.²⁶

Here, the amendments effected by Statutes 2009-2010, 4th Extraordinary Session, chapter 12 (AB 12), authorize local fire enforcing agencies to charge a fee "equal to, but not exceeding the actual cost of the preinspection service," implicate a section 17556(d) analysis, and therefore the amendments constitute a subsequent change in law, as defined.

²³ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, at p. 812.

²⁴ *Ibid.*

²⁵ *CSBA I, supra*, 171 Cal.App.4th 1183, at pp. 1199-1200.

²⁶ Government Code section 17570, as added by Statutes 2010, chapter 719 (SB 856).

C. DOF has Made an Adequate Showing That the State’s Liability has Been Modified.

DOF brings this request to adopt a new test claim decision relying on Government Code section 17556(d), and Statutes 2009- 2010, 4th Extraordinary Session, chapter 12 (AB 12). Statutes 2009-2010, chapter 12 constitutes, by definition, a subsequent change in law, as discussed above.

The issue for this first hearing is whether DOF has made an adequate showing that the state’s liability has been modified based on a subsequent change in law. The Commission shall find that the requester has made an adequate showing if it finds “that the request, when considered in light of all of the written comments and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.”²⁷

Here, a section 17556 analysis, presuming, as the Commission must, the constitutionality of the Government Code, would likely result in a finding that the fees authorized by the amended code section are sufficient to fully fund the costs of the program and so defeat a mandate finding. If the “local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service” the Commission is proscribed from finding increased costs mandated by the state. It is sufficient, at this time, to determine that there is a substantial possibility that the requester will prevail at the second hearing, on the basis of section 17556(d), and the manner in which the test claim statute has been modified by a subsequent change in law.

IV. CONCLUSION

Based on the foregoing, the Commission finds that DOF has made an adequate showing at this first hearing to proceed to a second hearing to determine whether to adopt a new test claim decision.²⁸ The Commission hereby directs Commission staff to notice the second hearing and to prepare a full mandates analysis on the issue of whether the Commission shall adopt a new test claim decision to supersede the Commission’s previously adopted test claim decision in 01-TC-16.

²⁷ Code of Regulations, Title 2, section 1190.5(a)(1) (Register 2014, No. 21).

²⁸ See Government Code section 17570(d) (Stats. 2010, ch. 719 (SB 856)).

COMMISSION ON STATE MANDATES

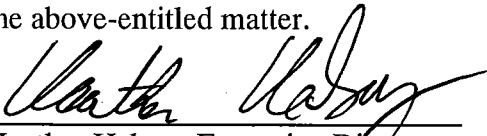
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RE: Adopted Decision

Mandate Redetermination Request, 13-MR-01
Fire Safety Inspections of Care Facilities, (01-TC-16)
Health and Safety Code Section 13235(a); as added or amended by
Statutes 1989, Chapter 993; Statutes 2009, Chapter 12 (ABX4 12)
Department of Finance, Requester

On July 25, 2014, the foregoing decision of the Commission on State Mandates was adopted in the above-entitled matter.



Heather Halsey, Executive Director

Dated: July 29, 2014

Hearing Date: September 26, 2014

J:\MANDATES\2001\tc\01-tc-16 (Fire Safety Care Facs)\13-MR-01\Second Hearing - New Test Claim Decision\Draft PD.docx

ITEM __

**MANDATE REDETERMINATION
SECOND HEARING: NEW TEST CLAIM DECISION
DRAFT PROPOSED DECISION**

Health and Safety Code section 13235(a)

Statutes 1989, Chapter 993

Fire Safety Inspections of Care Facilities, (01-TC-16)

As Alleged to be Modified by:

Statutes 2009-2010, Chapter 12 (ABX 4 12)

13-MR-01

Department of Finance, Requester

EXECUTIVE SUMMARY

Overview

On March 29, 2006, the Commission on State Mandates (Commission) adopted the Statement of Decision for the *Fire Safety Inspections of Care Facilities* test claim.¹ The Commission found that Health and Safety Code section 13235(a) imposed a reimbursable new program or higher level of service upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The Commission approved the test claim for the following reimbursable activities relating to the preinspection of a facility:

1. The preinspection of community care facilities, residential care facilities for the elderly, and child daycare facilities;
2. The consultation and interpretation of applicable fire safety regulations for the prospective facilities licensee; and
3. Written notice to the prospective facility licensee of the specific fire safety regulations which shall be enforced in order to obtain the final fire clearance approval.

The Commission also found that inspection activities relating to the final fire clearance approval are not reimbursable.

Statutes 2009-2010, Extraordinary Session, chapter 12 amended Health and Safety Code section 13235(a) to provide as follows in underline and strikeout:

¹ Test Claim 01-TC-16 Statement of Decision, adopted March 29, 2006.

A fee of not more than fifty dollars (\$50) equal to, but not exceeding, the actual cost of the preinspection services may be charged for the preinspection of a facility with a capacity to serve 25 or fewer persons. A fee of not more than one hundred dollars (\$100) equal to, but not exceeding, the actual cost of the preinspection services may be charged for a preinspection of a facility with a capacity to serve 26 or more persons.

On July 29, 2013, the Department of Finance (DOF) filed a request for redetermination of the test claim decision pursuant to Government Code section 17570.² Pursuant to 17570(f), a request “shall be filed on or before June 30 following a fiscal year in order to establish eligibility for reimbursement or loss of reimbursement for that fiscal year.” Thus, based on the filing date of July 29, 2013, the period of reimbursement potentially affected by this decision begins July 1, 2012. DOF alleges that Health and Safety Code section 13235(a) as amended constitutes a subsequent change in law as defined in section 17570. DOF further alleges that this change, pursuant to Government Code section 17556(d), results in a modification of the state’s liability under the test claim statute. DOF specifically states, “the amendment provides authority to charge fees sufficient to cover the full costs of the mandated activities in the Fire Safety Inspections of Care Facilities Program.”³

Section 17570 provides a process whereby a previously determined mandate finding can be redetermined by the Commission based on a subsequent change in law. The Government Code provides for a two-step hearing process. The Commission’s regulations state that “[i]f the Commission proceeds to the second hearing, it shall consider whether the state’s liability...has been modified based on the subsequent change in law alleged by the requester, thus requiring adoption of a new test claim decision to supersede the previously adopted test claim decision.”⁴ If the Commission adopts a new test claim decision that supersedes the previously adopted test claim decision, and “which finds that there are costs mandated by the state pursuant to article XIII B, section 6(a) of the California Constitution, the amount and method of reimbursement shall be redetermined in accordance with article 3 of these regulations.”⁵

On July 25, 2014, the Commission held the first hearing on this matter. The Commission found that DOF made an adequate showing that the request had a substantial possibility of prevailing at the second hearing, and the Commission therefore directed staff to set the matter for hearing on whether a new test claim decision should be adopted. The issue in this second hearing, pursuant to the code and the applicable regulations, is whether to adopt a new test claim decision to supersede the previously adopted test claim decision. If a new test claim decision is adopted that finds that the states liability for any of the reimbursable activities has been modified, the parameters and guidelines must be amended to reflect such modification in accordance with the period of eligibility established by the filing date of the request for redetermination.

² Exhibit B, Request for Determination, filed July 29, 2013 at p. 6.

³ Exhibit B, Request for Determination, filed July 29, 2013 at p. 6.

⁴ California Code of Regulations, title 2, section 1190.5 (Register 2014, No. 21).

⁵ California Code of Regulations, title 2, section 1190.5(b)(7) (Register 2014, No. 21).

Staff Analysis

Government Code section 17570 provides, with respect to mandate redetermination, that:

“Subsequent change in law” is a change in law that requires a finding that an incurred cost is a cost mandated by the state, as defined by Section 17514, or is not a cost mandated by the state pursuant to section 17556, or a change in mandates law...⁶

Government Code section 17556(d) provides that the Commission *shall not find* costs mandated by the state, within the meaning of article XIII B, section 6, if “[t]he local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.” Section 17556(d) also states that this rule “applies regardless of whether the authority to levy charges, fees, or assessments was enacted or adopted prior to or after the date on which the statute or executive order was enacted or issued.”⁷

Staff finds that Statutes 2009-2010, Extraordinary Session, chapter 12 (ABX 4 12) constitutes a subsequent change in law, as defined in section 17570. Health and Safety Code section 13235(a), as amended, provides local government with the authority to charge a fee equal to the actual cost of preinspection services. Thus, Statutes 2009-2010, chapter 12 provides fee authority sufficient to pay for the mandated program, and, pursuant to Government Code section 17556(d), the Commission shall not find costs mandated by the state where a local government has such fee authority.

Section 17570(f) provides that a request for adoption of a new test claim decision shall be filed on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year. This request was filed on July 29, 2013, establishing eligibility beginning on July 1, 2012. Therefore, as a result of this proposed decision, staff finds that the approved activities in the prior test claim decision are no longer reimbursable as of July 1, 2012.

Staff Recommendation

Staff recommends that the Commission adopt this analysis as its new test claim decision, ending reimbursement for the mandated program as of July 1, 2012.

Staff also recommends that the Commission, for its next item of business, adopt the proposed expedited amended parameters and guidelines that reflect the end of the state’s liability for this program, beginning July 1, 2012.

Staff further recommends that the Commission authorize staff to make any non-substantive, technical changes to the proposed new test claim decision following the hearing.

⁶ Government Code section 17570(a)(2) (Stats. 2010, ch. 719 (SB 856)).

⁷ Government Code section 17556 (As amended by Stats. 2010, ch. 719 (SB 856)).

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE MANDATE REDETERMINATION:
SECOND HEARING: NEW TEST CLAIM
DECISION FOR:

Health and Safety Code Section 13235(a);
As amended by Statutes 1989, Chapter 993.

*Fire Safety Inspections of Care
Facilities, 01-TC-16*

As Alleged to be Modified by:
Statutes 2009-2010, Chapter 12 (ABX 4 12)

Filed on July 29, 2013

By the Department of Finance, Requester.

Case No.: 13-MR-01

*Fire Safety Inspections of Care Facilities
(01-TC-16)*

DECISION PURSUANT TO
GOVERNMENT CODE SECTION
17500, ET SEQ.; CALIFORNIA CODE
OF REGULATIONS, TITLE 2,
DIVISION 2, CHAPTER 2.5,
ARTICLE 7.

[Gov. Code, § 17570; Cal. Code Regs.,
tit. 2, § 1190.5]

(Adopted September 26, 2014)

DECISION

The Commission on State Mandates (Commission) heard and decided this mandate redetermination during a regularly scheduled hearing on September 26, 2014. [Witness list will be included in the final decision.]

Government Code section 17570 and section 1190 et seq. of the Commission's regulations establish the mandate redetermination process. In addition, the law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., title 2, California Code of Regulations 1181 et seq., and related case law.

The Commission [adopted/modified] the proposed decision as its new test claim decision, granting the request for redetermination and approving the request to end reimbursement for the test claim activities by a vote of [vote count will be included in the final decision].

Summary of the Findings

The Commission finds the state's liability pursuant to article XIII B, section 6(a) of the California Constitution, for the *Fire Safety Inspections of Care Facilities, 01-TC-16* mandate has been modified based on a subsequent change in law, and that a new test claim decision must be adopted to supersede the previously adopted test claim decision. Specifically, Statutes 2009-2010, chapter 12 (ABX 4 12) amended Health and safety Code section 13235(a) to provide local

agencies with the authority to charge a fee equal to the actual cost of the mandated preinspection services. Government Code section 17556(d) proscribes a finding of costs mandated by the state where the local government has fee authority sufficient to cover the costs of the mandate. Pursuant to Government Code section 17570, the Commission approves the request for redetermination and concludes that the *Fire Safety Inspection of Care Facilities*, 01-TC-16 program does not constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17556(d), beginning July 1, 2012.

COMMISSION FINDINGS

I. Chronology

- 03/29/06 The Commission adopted the test claim statement of decision for *Fire Safety Inspections of Care Facilities*, 01-TC-16.⁸
- 03/28/08 The Commission adopted parameters and guidelines.⁹
- 07/29/13 Department of Finance (DOF) filed a request for redetermination on test claim 01-TC-16.¹⁰
- 08/09/13 Commission staff deemed the filing complete.
- 09/09/13 The State Controller's Office (SCO), Division of Accounting and Reporting, filed comments concurring with DOF's request for redetermination.
- 05/16/14 Commission staff issued the draft staff analysis for the first hearing.
- 07/25/14 The Commission adopted the decision for the first hearing, directing Commission staff to set the matter for the second hearing.
- 07/29/14 Commission staff issued the draft proposed decision for the second hearing and the amendment to parameters and guidelines.

II. Background

Health and Safety Code Section 13235(a) and Test Claim Decision

Health and Safety Code section 13235(a) was enacted in 1989 (Stats. 1989, ch. 993), amending previous section 13235. The purpose of the amendments was to ensure that community care facilities, residential care facilities for the elderly, and child care facilities, during the process of being licensed by the State Department of Social Services, timely receive correct fire clearance information from the local fire enforcing agency or the State Fire Marshal. Upon receipt of a request from a prospective licensee, the local fire department or State Fire Marshal, whichever has primary jurisdiction, is required to conduct a preinspection of the facility prior to the fire

⁸ Exhibit A, Test Claim 01-TC-16 Statement of Decision.

⁹ Exhibit C, Test Claim 01-TC-16 Parameters and Guidelines.

¹⁰ Exhibit B, DOF Request for Redetermination, filed July 29, 2013.

clearance approval. At the time of preinspection, the applicable fire enforcing agency will provide consultation and interpretation of the fire safety regulations that are to be enforced in order to obtain the clearances necessary to obtain a license.

On March 29, 2006, the Commission adopted the Statement of Decision for the *Fire Safety Inspections of Care Facilities* test claim.¹¹ The Commission found that Health and Safety Code section 13235(a), constituted a new program or higher level of service and imposes a state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the Californian Constitution and Government Code section 17514.

The Commission approved the test claim for the following reimbursable activities relating to the preinspection of the facility:

1. The preinspection of community care facilities, residential care facilities for the elderly, and child day care facilities;
2. The consultation and interpretation of applicable fire safety regulations for the prospective facility licensee; and
3. Written notice to the prospective facility licensee of the specific fire safety regulations which shall be enforced in order to obtain the final fire clearance approval.¹²

At the time of the test claim decision, Health and Safety Code section 13235(a), specifically allowed the following fees to be charged for the preinspection of a facility: 1) not more than \$50 for a facility serving 25 or fewer persons; and 2) not more than \$100 for a facility serving more than 25 persons. In the test claim Statement of Decision for this program, the Commission found that this limited fee authority did not cover the actual cost of the program and identified it as offsetting revenue.¹³

Health and Safety Code section 13235(a) was amended as follows, in underline and strikeout to provide:

A fee of not more than fifty dollars (\$50) equal to, but not exceeding, the actual cost of the preinspection services may be charged for the preinspection of a facility with a capacity to serve 25 or fewer persons. A fee of not more than one hundred dollars (\$100) equal to, but not exceeding, the actual cost of the preinspection services may be charged for a preinspection of a facility with a capacity to serve 26 or more persons.¹⁴

As amended, section 13235(a) provides fee authority for the full actual cost of preinspection services.

¹¹ Exhibit A, Test Claim 01-TC-16 Statement of Decision.

¹² Exhibit A, Test Claim 01-TC-16 Statement of Decision, p. 13.

¹³ Exhibit A, Test Claim 01-TC-16 Statement of Decision, pp.12-13.

¹⁴ Statutes 2009-2010, 4th Extraordinary Session, chapter 12 (AB 12), section 14, effective July 28, 2009.

Mandate Redetermination Process under Section 17570

Government Code section 17570 provides a process whereby a test claim decision may be redetermined and superseded by a new test claim decision, if a subsequent change in law, as defined, has modified the state's liability for reimbursement. Section 17570 calls for a two hearing process; at the first hearing, the requestor must make "an adequate showing which identifies a subsequent change in law as defined by Government Code section 17570, material to the prior test claim decision, that may modify the state's liability pursuant to article XIII B, section 6, (a) of the California Constitution."¹⁵ At the second hearing, the Commission "shall consider whether the state's liability pursuant to Article XIII B, section 6(a) of the California Constitution has been modified based on the subsequent change in law alleged by the requester, thus requiring the adoption of a new test claim decision to supersede the previously adopted test claim decision."¹⁶

A subsequent change in law is defined in section 17570 as follows:

[A] change in law that requires a finding that an incurred cost is a cost mandated by the state, as defined by section 17556, or a change in mandates law, except that a "subsequent change in law" does not include the amendments to Section 6 of Article XIII B of the California Constitution that were approved by the voters on November 2, 2004. A "subsequent change in law" also does not include a change in the statutes or executive orders that impose new state-mandated activities and require a finding pursuant to subdivision (a) of Section 17551.¹⁷

If the Commission finds, at the second hearing, that the state's liability has been modified based upon a subsequent change in law, "it shall adopt a new decision that reflects the modified liability of the state."¹⁸ If the Commission adopts a new test claim statement of decision that supersedes the previously adopted test claim decision, the Commission shall amend existing parameters and guidelines pursuant to Section 17557.¹⁹

III. Position of the Parties

A. Department of Finance, Requester

DOF asserts that Statutes 2009-2010, chapter 12 (ABX 4 12) constitutes a subsequent change in the law, as defined in section 17570, which, when analyzed in light of section 17556, results in the state's liability under the test claim statutes being modified. DOF asserts that the amendment to section 13235(a) "provides authority to charge fees sufficient to cover the full costs of the mandated activities in the Fire Safety Inspection Program." Therefore the state is no longer

¹⁵ California Code of Regulations, title 2, section 1190.5(a)(1).

¹⁶ California Code of Regulations, title 2, section 1190.5(b)(1).

¹⁷ Government Code section 17570, as added by Statutes 2010, chapter 719 (SB 856).

¹⁸ California Code of Regulations, Title 2, section 1190.5(b)(1).

¹⁹ Government Code section 17570(i) (Stats. 2010, chapter 719 (S.B. 856)).

obligated to reimburse any costs for the mandated activities, pursuant to Government Code sections 17570 and 17556(d).²⁰

State Controller's Office

The SCO filed comments concurring with the DOF request for redetermination.

IV. Discussion

Under article XIII B, section 6 of the California Constitution, local agencies and school districts are entitled to reimbursement for the increased costs of state-mandated new programs or higher levels of service. In order for local government to be eligible for reimbursement, one or more similarly situated local agencies or school districts must file a successful test claim with the Commission. "Test claim" means the first claim filed with the Commission alleging that a particular statute or executive order imposes costs mandated by the state. Test claims function similarly to class actions and all members of the class have the opportunity to participate in the test claim process and all are bound by the final decision of the Commission for purposes of that test claim.

The Commission is the quasi-judicial body vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.²¹ The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.²² In making its decisions, the Commission must strictly construe article XIII B, section 6, and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."²³

Under Government Code section 17570, upon request, the Commission may consider the adoption of a new test claim decision to supersede a prior test claim decision based on a subsequent change in law which modifies the state's liability. If the Commission adopts a new test claim decision that supersedes the previously adopted test claim decision which approved reimbursement, the Commission is required to amend existing parameters and guidelines.

A. Statutes 2009-2010, Chapter 12 Constitutes a Subsequent Change in Law.

On March 29, 2006, the Commission adopted a test claim decision for the *Fire Safety Inspections of Care Facilities* test claim 01-TC-16.²⁴ The Commission found that Health and Safety Code section 13235(a), added by Statutes 1989, chapter 993 imposed a reimbursable state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. On March 28, 2008, the

²⁰ Exhibit B, Request for Redetermination, filed July 29, 2013 at p. 6.

²¹ *Kinlaw v. State of California* (1991) 53 Cal.3d 482, 487; Government Code sections 17551; 17552.

²² *County of San Diego v. State of California*, (1997) 15 Cal.4th 68, 109.

²³ *County of Sonoma v. Commission on State Mandates*, (2000) 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

²⁴ Exhibit A, Test Claim 01-TC-16 Statement of Decision.

Commission adopted parameters and guidelines which outlined the reimbursable activities as follows:

A. One-Time Activity (one time per employee)

Training for each new fire inspector assigned to preinspection of care facilities, pursuant to Health and Safety Code section 13235, subdivision (a). A maximum of four hours of training is allowable per employee.

B. Ongoing Activities

1. Conduct preinspections of community care facilities, residential care facilities for the elderly, and child day care facilities upon receipt of a request from a prospective licensee of such a facility, before final fire clearance approval. More than one preinspection per facility as deemed necessary by the local fire agency is reimbursable.
2. Provide consultation and interpretation of applicable fire safety regulations for the prospective facility licensee.
3. Provide a written notice to the prospective licensee of the specific fire safety regulations that shall be enforced in order to obtain the final fire clearance approval.
4. Maintain files relating solely to preinspection activities pursuant to Health and Safety Code section 13235, subdivision (a).²⁵

Statutes 2009-2010, 4th Extraordinary Session, chapter 12 (AB 12), effective July 28, 2009, amended section 13235(a) to provide as follows in ~~strikeout~~ and underline:

(a) Upon receipt of a request from a prospective licensee of a community care facility, as defined in Section 1502, of a residential care facility for the elderly, as defined in Section 1569.2, or of a child day care facility, as defined in Section 1596.750, the local fire enforcing agency, as defined in Section 13244, or the State Fire Marshal, whichever has primary jurisdiction, shall conduct a preinspection of the facility prior to the final fire clearance approval. At the time of the preinspection, the primary fire enforcing agency shall provide consultation and interpretation of fire safety regulations, and shall notify the prospective licensee of the facility in writing of the specific fire safety regulations which shall be enforced in order to obtain fire clearance approval. A fee ~~of not more than fifty dollars (\$50)~~ equal to, but not exceeding, the actual cost of the preinspection services may be charged for the preinspection of a facility with a capacity to serve 25 or fewer persons. A fee ~~of not more than one hundred dollars (\$100)~~ equal to, but not exceeding, the actual cost of the preinspection services may be charged for a preinspection of a facility with a capacity to serve 26 or more persons.²⁶

²⁵ Exhibit C, 01-TC-16, Parameters and Guidelines, adopted March 28, 2008, pp. 2-3.

²⁶ Health and Safety Code section 13235(a), amended by Statutes 2009-2010 4th Extraordinary session, chapter 12 (AB 12), § 14, effective July 28, 2009.

In its request for mandate redetermination,²⁷ DOF asserts that the amendment of Health and Safety Code section 13235(a) granted local agencies authority to “charge a fee sufficient to cover all of the costs attributable to the mandated activities under Health and Safety Code section 13235, subdivision (a).”²⁸ As sufficient fee authority has been provided, DOF maintains that a new test claim decision must issue finding there are no costs mandated by the state pursuant to Government Code section 17556(d). DOF asserts that the amendment to section 13235(a) is a “subsequent change in law” as defined in Government Code section 17570.²⁹

B. Section 17556(d) is Not Self-Executing, but Requires Commission Action Pursuant to Section 17570, Where a Commission Decision on the Test Claim Statutes has been Previously adopted.

Government Code section 17556(d) provides that the Commission “shall not find costs mandated by the state, as defined in Section 17514” if the Commission finds that “the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.” The California Supreme Court upheld the constitutionality of Government Code section 17556(d), in *County of Fresno v. State of California*.³⁰ The court, in holding that the term “costs” in article XIII B, section 6, excludes expenses recoverable from sources other than taxes, stated:

Section 6 was included in article XIII B in recognition that article XIII A of the Constitution severely restricted the taxing powers of local governments. (See *County of Los Angeles I, supra*, 43 Cal.3d at p. 61.) The provision was intended to preclude the state from shifting financial responsibility for carrying out governmental functions onto local entities that were ill equipped to handle the task. (*Ibid.*; see *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 836, fn. 6 [244 Cal.Rptr. 677, 750 P.2d 318].) Specifically, it was designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues. Thus, although its language broadly declares that the “state shall provide a subvention of funds to reimburse ... local government for the costs [of a state-mandated new] program or higher level of service,” read in its textual and historical context section 6 of article XIII B requires subvention only when the costs in question can be recovered *solely from tax revenues*.³¹

Accordingly, in *Clovis Unified School District v. Chiang*, the court found that the SCO was not acting in excess of its authority in reducing reimbursement claims to the full extent of the districts’ authority to impose fees, even if there existed practical impediments to collecting the fees. In making its decision the court noted that the concept underlying the state mandates

²⁷ Exhibit B, DOF Request for Mandate Redetermination, filed July 29, 2013, p. 6.

²⁸ Exhibit B, DOF Request for Mandate Redetermination, filed July 29, 2013, p. 6.

²⁹ Exhibit B, DOF Request for Mandate Redetermination, filed July 29, 2013, p. 6.

³⁰ *County of Fresno v. State of California, supra*, 53 Cal.3d 482.

³¹ *Id.*, at p. 487.

process that Government Code sections 17514 and 17556(d) embody is that “[t]o the extent a local agency or school district ‘has the authority’ to charge for the mandated program or increased level of service, that charge cannot be recovered as a state-mandated cost.”³² The court further noted that, “this basic principle flows from common sense as well. As the Controller succinctly puts it, ‘Claimants can choose not to require these fees, but not at the state’s expense.’”³³

Section 17556(d) further provides that the limitation “applies regardless of whether the authority to levy charges, fees, or assessments was enacted or adopted prior to or after the date on which the statute or executive order was enacted or issued. In the context of fee authority enacted *after the test claim decision* on the subject matter has been adopted, an analysis under section 17556(d) cannot be entertained absent the redetermination process provided in section 17570. The Commission’s process is the sole and exclusive venue in which eligible claimants vindicate the reimbursement requirement of article XIII B, section 6, and the Commission’s decision on a test claim is final and binding, absent judicial review.³⁴ A later-enacted statute providing fee authority for a mandated program cannot, of its own force, undermine the Commission’s mandate determination in a prior test claim decision. Section 17570 thus provides the mechanism for considering section 17556(d) when there is a subsequent change in law, as defined, “material to the prior test claim decision, that may modify the state’s liability” pursuant to article XIII B, section 6.

“Subsequent change in law,” is defined in section 17570(a)(2) as follows:

[A] change in law that requires a finding that an incurred cost is a cost mandated by the state, as defined by Section 17514, or is not a cost mandated by the state pursuant to Section 17556, or a change in mandates law, except that a “subsequent change in law” does not include the amendments to Section 6 of Article XIII B of the California Constitution that were approved by the voters on November 2, 2004. A “subsequent change in law” also does not include a change in the statutes or executive orders that impose new state-mandated activities and require a finding pursuant to subdivision (a) of Section 17551.³⁵

Here, the amendments effected by Statutes 2009-2010, 4th Extraordinary Session, chapter 12 (AB 12), authorize local fire enforcing agencies to charge a fee “equal to, but not exceeding the actual cost of the preinspection service”, implicate a section 17556(d) analysis, and therefore the amendments constitute a subsequent change in law, as defined.

Based on the foregoing, the Commission finds that there are no costs mandated by the state, as defined in section 17514, under Health and Safety Code section 13235(a), as amended by Statutes 2009-2010, chapter 12 (ABX 4 12). Section 17570 provides that a request for adoption of a new test claim decision shall be filed on or before June 30 following a fiscal year in order to

³² *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, at p. 812.

³³ *Ibid.*

³⁴ *CSBA I, supra*, 171 Cal.App.4th 1183, at pp. 1199-1200.

³⁵ Government Code section 17570, as added by Statutes 2010, chapter 719 (SB 856).

establish eligibility for reimbursement for that fiscal year. This request was filed on July 29, 2013, establishing eligibility beginning July 1, 2012. Therefore, the activities approved for reimbursement in the prior test claim decision are no longer reimbursable as of July 1, 2012.

V. CONCLUSION

Based on the foregoing, the Commission approves the request for redetermination and concludes that the *Fire Safety Inspection of Care Facilities*, 01-TC-16 program does not constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17556(d), beginning July 1, 2012.