

ITEM 7
MANDATE REDETERMINATION
SECOND HEARING: NEW TEST CLAIM DECISION
FINAL STAFF ANALYSIS AND
PROPOSED STATEMENT OF DECISION

Public Resources Code Section 5164(b)(1) and (b)(2)

Statutes 2001, Chapter 777

Local Recreational Areas: Background Screenings, (01-TC-11)

As Alleged to be Modified by:

Statutes 2010, Chapter 719 (SB 856)

12-MR-02

Department of Finance, Requester

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January 6, 2014 254



Received
May 20, 2013
Commission on
State Mandates

EDMUND G. BROWN JR. ■ GOVERNOR

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

May 20, 2013

Exhibit A

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 Local Recreational Areas: Background Screenings (01-TC-11) 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 mandated costs based on mandate redetermination law and Government Code section 17556, subdivision (d).

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 Randall Ward, Principal Program Budget Analyst at (916) 445-3274.

Sincerely,


TOM DYER
Assistant Program Budget Manager

Enclosures

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

Local Recreational Areas: Background Screenings

Test Claim No. (01-TC-11)

2. REQUESTER INFORMATION

Name of Local Agency, School District, Statewide Association of Local Agencies or School Districts, or State Agency
Randall Ward

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

randy.ward@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

<i>For CSM Use Only</i>
Filing Date:
NTCD#

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.

On December 9, 2005, the Commission on State Mandates adopted a statement of decision finding that the costs of activities required by Public Resources Code section 5164, subdivisions (b)(1) and (b)(2), as amended by Statutes 2001, chapter 777, section 1 for Local Recreational Areas: Background Screenings Test Claim No. (01-TC-11) are reimbursable by the state.

Public Resources Code section 5164, as amended by Statutes 2010, chapter 719, section 54 enacted on October 19, 2010, 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.

Sections 5, 6, and 7 should be answered on separate sheets of plain 8-1/2 x 11 paper. Each sheet should include the name of the request, requestor, section number (i.e., 5, 6, or 7), and a heading at the top of each page.

5. DETAILED ANALYSIS

Under the heading "5. Detailed Analysis," please provide a detailed analysis of how and why the state's liability for mandate reimbursement has been modified pursuant to article XIII B, section 6, subdivision (a) of the California Constitution based on a "subsequent change in law" as defined in Government Code section 17570. This analysis shall be more than a written narrative or simple statement of the facts at law. It requires the application of the law (Gov. Code, § 17570 (a) and (b)) to the facts (i.e., the alleged subsequent change in law) discussing, for each activity addressed in the prior test claim decision, how and why the state's liability for that activity has been modified. Specific references shall be made to chapters, articles, sections, or page numbers that are alleged to impose or not impose a reimbursable state-mandated program.

Also include all of the following elements:

The actual or estimated amount of the annual statewide changes in the state's liability for mandate reimbursement pursuant to Article XIII B, section 6 (subdivision (a)) on a subsequent change in the law.

- A. Identification of all of the following if relevant:
1. Dedicated state funds appropriated for the program.
 2. Dedicated federal funds appropriated for the program.
 3. Fee authority to offset the costs of the program.
 4. Federal law.
 5. Court decisions.
 6. State or local ballot measures and corresponding date of election.

6. DECLARATIONS

Under the heading "6. Declarations," support the detailed analysis with declarations that:

- A. Declare actual or estimated annual statewide costs that will or will not be incurred to implement the alleged mandate.
- B. Identify all local, state, or federal funds and fee authority that may or may not be used to offset the increased costs that will or will not be incurred by the claimants to implement the alleged mandate or result in a finding of no costs mandated by the state, pursuant to Government Code section 17556.
- C. Describe new activities performed to implement specified provisions of the statute or executive order alleged to impose a reimbursable state-mandated program.
- D. Make specific references to chapters, articles, sections, or page numbers alleged to impose or not impose a reimbursable state-mandated program.
- E. Are signed under penalty of perjury, based on the declarant's personal knowledge, information, or belief, by persons who are authorized and competent to do so.

7. DOCUMENTATION

Under heading "7. Documentation," support the detailed analysis with copies of all of the following:

- A. Statutes, and administrative or court decisions cited in the detailed analysis.

Statements of Decision and published court decisions from a state mandate determination by the Board of Control or the Commission are exempt from this requirement. When an omnibus bill is pled or cited, the requester shall file only the relevant pages of the statute, including the Legislative Counsel's Digest and the specific statutory changes at issue.

8. CERTIFICATION

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

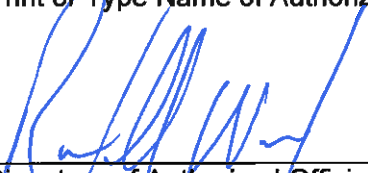
This request for a new test claim decision is true and complete to the best of my personal knowledge, information, or belief.

Randall Ward

Principal Program Budget Analyst

Print or Type Name of Authorized Official

Print or Type Title


Signature of Authorized Official

5-17-13
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
Local Recreational Areas: Background Screenings (01-TC-11)
Department of Finance

On December 9, 2005, the Commission on State Mandates adopted a statement of decision finding that Public Resources Code section 5164, subdivisions (b)(1) and (b)(2), as amended by Statutes 2001, chapter 777, section 1, impose 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 and 17556 for the following activities:

Activity 1: Requiring each local agency to have each prospective employee or volunteer who would have supervisory or disciplinary authority over minors to complete an application that inquires as to whether or not the prospective employee or volunteer has been convicted of any offense specified in Public Resources Code section 5164, subdivision (a). (Pub. Res. Code, §5164, subd. (b)(1)). This means that local agencies must perform the one-time activity of revising and printing job applications that inquire as to the applicants' criminal history.

Activity 2: Screening, pursuant to Penal Code section 11105.3, prospective employees and volunteers who would have supervisory or disciplinary authority over minors. The screening procedure for these individuals requires submitting the following to Department of Justice (DOJ): (1) The prospective employee's or volunteer's fingerprints; (2) Any other data specified by DOJ on a DOJ-approved form, and (3) For prospective employees only, paying the DOJ's fingerprint processing fee (no fee is required for a prospective volunteer.). (Pub. Res. Code, §5164, subds. (b)(1) & (b)(2)).

Section 5. Detailed Analysis
Request to Adopt a New Test Claim Decision
Local Recreational Areas: Background Screenings (01-TC-11)
Department of Finance

The Department of Finance (Finance) requests that the Commission on State Mandates (Commission) adopt a new test claim decision on the Local Recreational Areas: Background Screenings (01-TC-11) 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 2005, the Commission adopted the statement of decision finding that the costs of activities required by Public Resources Code section 5164, subdivisions (b)(1) and (b)(2) are reimbursable by the state. Subsequently, Statutes 2010, chapter 719, section 54, (SB 856) amended Public Resources Code section 5164 to grant local agencies authority to charge fees to cover all of the costs attributable to Public Resources Code section 5164. As a result, 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 SB 856 amended the language of Public Resources Code section 5164 by adding subdivision (b)(3), which reads as follows: "*A county, city, city and county, or special district may charge a prospective employee or volunteer described in subdivision (a) a fee to cover all of the county, city, city and county, or special district's costs attributable to the requirements imposed by this section.*" That 2010 amendment to the Public Resources Code section 5164 is the "subsequent change in law" that allows the Commission to make a new test claim finding that the cost of the mandated 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 Public Resources Code section 5164.

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 2011-12, 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
Local Recreational Areas: Background Screenings (01-TC-11)
Department of Finance

1. The state's estimated annual statewide costs for reimbursing the mandate program should be zero dollars as of July 1, 2011 based on Government Code section 17570, subdivision (f) and the pre-June 30, 2013 filing date of this request. According to Schedule B-1: Local Agencies of the State Controller's November 2012, "State Mandates Program Cost Report as of September 30, 2012" (See Attachment C), the state owes \$4.4 million as of fiscal year 2010-11. Based on that data, the Department of Finance estimates that annual statewide costs have averaged approximately \$400,000 since the program's reimbursement period began fiscal year 2001-02.
2. Statutes 2010, chapter 719, section 54, enacted on October 19, 2010 is the subsequent change in law, which provides local agencies sufficient fee authority to charge fees to cover the full costs of the mandated activities in the Local Recreational Areas: Background Screening mandate program. Effective July 1, 2011, 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.

5-24-13

At Sacramento, California



Carla Shelton

Section 7. Documentation
Request to Adopt a New Test Claim Decision
Local Recreational Areas: Background Screenings (01-TC-11
Department of Finance

- | | |
|---|--------------|
| 1. Statutes 2010, chapter 719, section 54 - "Subsequent change in law" Statute | Attachment A |
| 2. Statutes 2001, chapter 777, section 1 – Test Claim Statute | Attachment B |
| 3. Schedule B-1: Local Agencies of the State Controller's November 2012 State Mandates Program Cost Report as of September 30, 2012 | Attachment C |

**Attachment A: Subsequent Change in Law
Statutes of 2010, Chapter 719**

BILL NUMBER: SB 856 CHAPTERED 10/19/10

CHAPTER 719

FILED WITH SECRETARY OF STATE OCTOBER 19, 2010

APPROVED BY GOVERNOR OCTOBER 19, 2010

PASSED THE SENATE OCTOBER 7, 2010

PASSED THE ASSEMBLY OCTOBER 7, 2010

AMENDED IN ASSEMBLY OCTOBER 7, 2010

AMENDED IN ASSEMBLY OCTOBER 7, 2010

INTRODUCED BY Committee on Budget and Fiscal Review

JANUARY 11, 2010

An act to amend Sections 159.5, 160, 23399, and 23954.5 of, and to add Sections 154.2 and 210 to, the Business and Professions Code, to amend Section 337.5 of, and to add Section 348.5 to, the Code of Civil Procedure, to amend Section 94949 of, and to add and repeal Section 94874.3 of, the Education Code, to amend Sections 927, 927.2, 927.3, 927.5, 927.6, 927.7, 927.9, 7076, 7097.1, 7114.2, 7591, 7592, 11544, 16429.1, 17556, and 17557 of, to add Sections 927.13, 7072.3, 11546.4, 17570, and 17570.1 to, to repeal Sections 926.16 and 926.19 of, and to repeal Chapter 2 (commencing with Section 13996) of Part 4.7 of Division 3 of Title 2 of, the Government Code, to amend Section 50199.9 of the Health and Safety Code, to amend Sections 62.9, 1771.3, 1771.5, 1771.7, 1771.75, 1771.8, and 1777.5 of the Labor Code, to add Section 11105.8 to the Penal Code, to amend Section 5164 of the Public Resources Code, to amend Sections 11006 and 19558 of the Revenue and Taxation Code, to amend Sections 1088, 1112.5, 1113.1, 1275, 13021, and 13050 of, and to add Article 9 (commencing with Section 1900) to Chapter 7 of Part 1 of Division 1 of, the Unemployment Insurance Code, to amend Section 1673.2 of the Vehicle Code, and to amend and supplement the Budget Act of 2009 (Chapter 1 of the 2009-10 Third Extraordinary Session) by amending Item 0820-001-3086 of Section 2.00 of that act, relating to state government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 856, Committee on Budget and Fiscal Review. State government.

(1) Existing law provides for the regulation of various professions and vocations by regulatory boards within the Department of Consumer Affairs. Existing law creates in the department a Division of Investigation and authorizes the Director of Consumer Affairs to employ investigators, inspectors, and deputies as are necessary to investigate and prosecute all violations of any law, the enforcement of which is charged to the department or to any board in the department. Inspectors used by the boards are not required to be employees of the Division of Investigation, but may be employees of, or under contract to, the boards. Investigators of the Division of Investigation and of the Medical Board of California and the Dental

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Statutes of 2010, Chapter 719**

Board of California have the authority of peace officers and are in the division and appointed by the director.

This bill would authorize specified healing arts boards to employ individuals to serve as experts and would authorize those boards and the Division of Investigation to employ individuals who are not peace officers to provide investigative services. The bill would also provide that investigators of the Medical Board of California and the Dental Board of California who have the authority of peace officers are not required to be in the division.

(2) According to the strategic plan of the Department of Consumer Affairs, the BreEZe system is an integrated, enterprisewide enforcement and licensing system. Under existing law, the office of the State Chief Information Officer is responsible for, among other things, the approval and oversight of specified information technology projects.

This bill would authorize the department to enter into a contract with a vendor for the BreEZe system no sooner than 30 days after written notification to certain committees of the Legislature. The bill would require the amount of contract funds for the system to be consistent with costs approved by the office of the State Chief Information Officer, based on information provided by the department in a specified manner. The bill would provide that this cost provision is applicable to all Budget Act items for the department with an appropriation for the BreEZe system. If the department enters into a contract for the system, the bill would also require the department, by December 1, 2014, to submit to the Legislature and specified committees a report analyzing the workload of certain licensing personnel employed by boards participating in the BreEZe system.

(3) The Alcoholic Beverage Control Act authorizes the issuance of an event permit that allows specified licenses to sell beer, wine, and distilled spirits and requires an annual fee of \$100 for an event permit and a fee of not more than \$10 for each event authorization.

This bill would increase the fee for each event authorization to not more than \$25.

(4) Under existing law, the Alcoholic Beverage Control Act establishes various types of licenses and various annual fees for different categories of licensees. Existing law establishing a fee for an original on-sale general license or an original off-sale general license as \$12,000.

This bill would increase that fee to \$13,800 and would permit adjustment of the fee, as specified.

(5) Existing law provides that the period for commencement of action upon any bonds or coupons issued by the State of California is 10 years.

This bill would delete that provision and instead provide that the period for commencement of an action upon any bonds or coupons issued by the State of California shall have no limitation.

(6) Existing law establishes the California Private Postsecondary Education Act of 2009, which, among other things, provides for student protections and regulatory oversight of private postsecondary schools in the state. Existing law establishes the Bureau for

**Attachment A: Subsequent Change in Law
Statutes of 2010, Chapter 719**

Private Postsecondary Education to regulate private postsecondary institutions through the powers granted, and the duties imposed, by the act.

This bill would prohibit the bureau, for the period July 1, 2010, to July 1, 2011, inclusive, from enforcing the act against institutions that offer flight instruction or institutions that offer Federal Aviation Administration certified educational programs in aircraft maintenance. The bill would also require those institutions to notify the bureau if they operate during that period.

(7) Existing law also requires the Bureau for Private Postsecondary Education (bureau) to contract with the Bureau of State Audits to conduct a performance audit to evaluate the effectiveness and efficiency of the bureau's operation, on or before August 1, 2013, consistent with the requirements of the act. The act requires the Bureau of State Audits to report the results of the performance audit to the Legislature and the Governor.

This bill would additionally require the performance audit to include an evaluation of whether the bureau's staffing level and expertise are sufficient to fulfill their statutory responsibilities.

(8) The California Prompt Payment Act provides that a state agency that fails to make a payment for goods and services to certain entities pursuant to a contract is subject to an interest penalty fee, according to specified criteria. Existing law provides that in order to avoid late payment penalties, state agencies shall pay promptly submitted, undisputed invoices within 45 days, and specifies procedures and exclusions relating to that requirement. Existing law provides that penalties for late payments to certain small and nonprofit businesses accrue at 0.25% of the amount due, per calendar day.

Existing law provides that, subject to specified exceptions, a state agency that fails to pay a person an undisputed payment or refund due to that person within 31 days after the agency provides notice to that person that the payment is due is liable for interest on the undisputed amount.

This bill would revise and recast these provisions by requiring state agencies to pay refunds or other undisputed payments due to individuals within 45 days after receipt of a notice of refund or undisputed payment due, and would specify procedures and exclusions related to that requirement. The bill would also provide that penalties for late payments to certain small and nonprofit businesses accrue at a rate of 10% above the United States Prime Rate on June 30 of the prior fiscal year.

This bill would also delete obsolete provisions, cross-references, and references to the Year 2000 Problem.

(9) Existing law prescribes the duties and responsibilities of the Department of Housing and Community Development in connection with the establishment of various economic development areas, including enterprise zones, manufacturing enhancement areas, targeted tax areas, and local agency military base recovery areas. Existing law authorizes the department to assess each of these economic development areas a fee of not more than \$10 for each application it

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Statutes of 2010, Chapter 719**

accepts for the issuance of a specified tax certificate issued by a local government.

This bill would revise these provisions to require the department to collect a fee of \$15 for each application it accepts for the issuance of the specified tax certificate. The bill would require the fees to be deposited in the Enterprise Zone Fund, which the bill would create. These funds would be available to the department, upon appropriation by the Legislature, for the costs of administering the programs relating to each economic development area.

(10) Existing law appropriated \$15,000,000 to the Trade and Commerce Agency for a loan for allocation over 3 years in 3 equal amounts to that nonprofit organization currently named the San Diego National Sports Training Foundation for purposes of developing and constructing a California Olympic Training Center. Existing law provides that these loan allocations be repaid in full no later than 20 years from the date of receipt, as specified. Existing law creates the California Olympic Training Account in the General Fund for the receipt of moneys from fees paid for commemorative olympic license plates, which are to be used for repayment of the loan described above.

This bill would cancel any of the outstanding balance and any accrued interest on the loan for the California Olympic Training Center described above. The bill would require the Controller to annually transfer the moneys from fees paid for commemorative olympic license plates to the General Fund.

(11) Existing law creates the Technology Services Revolving Fund, administered by the State Chief Information Officer, for the purpose of receiving revenue from the sale of technology or technology services, and for payment, upon appropriation by the Legislature, of specified costs. The Governor's Reorganization Plan No. 1 of 2009 renamed and transferred the Department of Technology Services in the State and Consumer Services Agency to the Office of the Department of Technology Services within the office of the State Chief Information Officer, and renamed the Department of Technology Services Revolving Fund the Technology Services Revolving Fund, and made conforming changes. The plan also transferred duties relating to the state's procurement of information technology from the Department of Finance, the Department of General Services, and the Department of Information Technology to the office of the State Chief Information Officer.

This bill would make certain statutory codification changes made necessary by the Governor's Reorganization Plan No. 1 of 2009 in connection with the Technology Services Revolving Fund. This bill would also authorize the fund to receive revenues for other services rendered by the office of the State Chief Information Officer and to pay for other specified costs. The bill would authorize the office of the State Chief Information Officer to collect payments from public agencies for services requested from, rather than contracted for, the office of the State Chief Information Officer, as specified. The bill would also revise the conditions used to determine whether a balance remains in the Technology Services Revolving Fund at the end of a fiscal year to limit the amount that is used to determine a

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reduction in billing rates. The bill would provide that these provisions apply to all revenue earned on or after July 1, 2010.

(12) Existing law imposes a duty on the office of the State Chief Information Officer to be responsible for the approval and oversight of information technology projects, including, but not limited to, consulting with agencies during initial project planning to ensure that identified needs and benefits are consistent with statewide strategies, policies, and procedures.

This bill would, notwithstanding any other law, require the office to review, approve, and oversee any service contract proposed to be entered into by an agency that contains an information technology component, as specified.

(13) Existing law establishes the Manufacturing Technology Program within the Business, Transportation and Housing Agency, requires the agency to adopt regulations to implement the program, and requires the program to award grants, as specified, and to provide technical assistance to California nonprofit organizations and public agencies for the performance of specified functions relating to the improvement of the competitiveness and viability of specified manufacturing industries.

This bill would repeal these laws thereby eliminating the Manufacturing Technology Program.

(14) Existing law establishes the Local Agency Investment Fund, in trust in the custody of the Treasurer, to which specified local governmental individuals and entities, with the required consent, may remit money in its treasury that is not required for immediate needs for the purpose of investment. Existing law requires, immediately at the conclusion of each calendar quarter, that all interest earned and other increment derived from investments be distributed by the Controller to the contributing governmental units or trustees or fiscal agents, nonprofit corporations, and quasi-governmental agencies in amounts directly proportionate to the respective amounts deposited in the fund and the length of time the amounts remained therein. Existing law requires, however, that an amount equal to the reasonable costs incurred in carrying out duties related to the administration of the fund, not to exceed 1/2 of 1% of the earnings of the fund, be deducted from the earnings prior to distribution, and that this amount be credited as reimbursements to the state agencies having incurred costs in carrying out duties related to the administration of the fund.

This bill would increase the amount authorized to be deducted from earnings prior to distribution to be an amount equal to the reasonable costs incurred in carrying out these provisions, not to exceed a maximum of 5% of the earnings of the fund and not to exceed the amount appropriated in the annual Budget Act for this function.

(15) Under the California Constitution, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, including school districts, the state is required to provide a subvention of funds to reimburse the local government, with specified exceptions. Existing law establishes a test claim procedure for local governmental agencies to file claims for reimbursement of these costs with the Commission on State

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Statutes of 2010, Chapter 719**

Mandates.

This bill would authorize specified entities to request that the commission adopt a new test claim decision to supersede a previously adopted test claim. This bill would authorize the commission to adopt a new test claim decision only upon a showing that the state's liability for the previously adopted test claim decision has been modified based upon a subsequent change in law, as defined.

This bill would require that the commission adopt procedures for receiving these requests and for providing notice and a hearing on those requests, as prescribed, including a requirement that the submitted request be signed under penalty of perjury. Because this bill would expand the scope of an existing crime, this bill would impose a state-mandated local program.

(16) Existing law prohibits the commission from determining that certain costs in a test claim are mandated by the state if the costs meet specified conditions, including, among others, where the challenged costs result from a statute or executive order that imposes requirements mandated by federal law or regulation. Existing law provides that this prohibition applies regardless of whether the federal mandate was enacted before or after the statute or executive order.

This bill would provide that the exceptions for the other specified conditions likewise remain applicable regardless of whether the conditions occurred before or after the enactment of the statute or the adoption of the executive order that is the subject of the test claim.

(17) Existing law requires that the commission adopt parameters and guidelines for the reimbursement of approved test claims. Existing law authorizes a local agency, school district, or the state to file a written request with the commission to amend, modify, or supplement the parameters and guidelines, as specified.

This bill would authorize these entities to file a written request with the commission to amend the parameters and guidelines, and prescribe the types of changes for which the request may be filed, including, among others, deleting a reimbursable activity that has been repealed by statute or executive order.

(18) Existing law requires the California Tax Credit Allocation Committee to allocate specified tax credits for purposes of low-income housing projects. Existing law requires the committee to establish and charge fees it determines are reasonably sufficient to cover the costs in carrying out the responsibilities related to the low-income housing credit program and to deposit these fees in the Tax Credit Allocation Fee Account and the Occupancy Compliance Monitoring Account for specified purposes.

Existing law also authorizes the Governor, in certain circumstances, to direct the Controller to make transfers of money from any special funds and other accounts to the General Cash Revolving Fund.

This bill would authorize the Controller to use the fees deposited in the Tax Credit Allocation Fee Account and the Occupancy Compliance Monitoring Account for daily cash flow loans to the General Fund or the General Cash Revolving Fund in accordance with

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specified provisions of existing law.

(19) Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an injured employee for injuries sustained in the course of his or her employment. Existing law requires that the Director of Industrial Relations levy and collect assessments from employers in an amount determined by the director to be sufficient to fund specified workers' compensation programs implemented in the state. In that connection, existing law requires the director to include in the total assessment amount the Department of Industrial Relations' costs for administering the assessment, including the collections process and the cost of reimbursing the Franchise Tax Board for its cost of collection activities.

This bill would also require the director to include in the total assessment amount the department's costs for administering the assessment, including the collections process and the cost of reimbursing another agency or department other than the Franchise Tax Board.

(20) Existing law authorizes the Director of Industrial Relations, with the approval of the Director of Finance, to determine and assess a fee on any awarding body using funds derived from any bond issued by the state to fund public works projects, and requires the fees collected to be deposited in the State Public Works Enforcement Fund, a continuously appropriated fund.

This bill would require the fee to be payable by the board, commission, department, agency, or official responsible for the allocation of bond proceeds from the bond funds awarded to each project, at the time the funds are released to the project or any other time agreed upon by the department and the allocating entity.

(21) Existing law requires an awarding body that chooses to use funds from the Kindergarten-University Public Education Facilities Bond Act of 2002 or the Kindergarten-University Public Education Facilities Bond Act of 2004 for a public works project to pay a fee to the Department of Industrial Relations sufficient to support the department's costs in ensuring compliance with and enforcing prevailing wage requirements on the project and labor compliance, and requires the fees collected to be deposited in the State Public Works Enforcement Fund. Existing law requires the department to notify the State Allocation Board of awarding bodies that have paid the fee.

This bill would instead require the State Allocation Board to notify the department of awarding bodies that are awarded funds subject to the fee. This bill would also require the State Allocation Board to pay the fee to the department at the time bond funds are released to the awarding body.

(22) Existing law authorizes the awarding body for a public works project to not require the payment of the general prevailing rate of per diem wages on public works projects of specified sizes and types of work if the awarding body elects to meet certain requirements with regard to any public works project under its authority, including payment of a fee to the Department of Industrial Relations for the enforcement of prevailing wage obligations, in lieu of authorizing

**Attachment A: Subsequent Change in Law
Statutes of 2010, Chapter 719**

the awarding body to initiate and enforce a labor compliance program, for contracts awarded after the effective date of regulations and fees adopted by the department, as specified.

This bill would make technical, conforming changes to those provisions.

(23) Existing law requires that every apprentice employed upon public works, as defined, be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered, and requires that the apprentice be employed only at the work of the craft or trade to which he or she is registered. Existing law requires a contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade, to contribute to the California Apprenticeship Council the same amount that the Director of Industrial Relations determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. Existing law requires that all training contributions received pursuant to those provisions be deposited in the Apprenticeship Training Contribution Fund, and continuously appropriates that fund for purposes related to apprenticeship training and to pay the expenses of the Division of Apprenticeship Standards.

This bill would eliminate this continuous appropriation and instead specify that, upon appropriation by the Legislature, all moneys in the fund be used for apprenticeship training and to pay the expenses of the Division of Apprenticeship Standards.

(24) Existing law requires the Department of Justice to maintain a master record of information pertaining to the identification and criminal history of persons, as specified. Existing law authorizes the department to provide that information to various entities for law enforcement and other purposes, as specified, including providing that information through the California Law Enforcement Telecommunications System.

This bill would authorize nonprofit organizations that are funded by certain federal grants or contracts for identifying, targeting, or removing criminal and terrorist conspiracies and activities to access local, state, or federal criminal justice system information that is available to law enforcement agencies, including access to the California Law Enforcement Telecommunications System, provided that the nonprofit organization meet state and federal requirements for access to that information or system.

(25) Existing law prohibits a county, city, city and county, or special district from hiring a person for employment or a volunteer to perform services, at a county, city, city and county, or special district operated park, playground, recreational center, or beach used for recreational purposes, in a position having supervisory or disciplinary authority over a minor, if that person has been convicted of specified offenses. Existing law requires a county, city, city and county, or special district to require each of those prospective employees and volunteers to complete an application that inquires as to whether that person has been convicted of one of those offenses, and imposes a screening requirement on the county, city,

**Attachment A: Subsequent Change in Law
Statutes of 2010, Chapter 719**

city and county, or special district with respect to those prospective employees and volunteers.

This bill would authorize a county, city, city and county, or special district to charge those prospective employees and volunteers a fee to cover all of the county, city, city and county, or special district's costs attributable to those requirements.

(26) The Vehicle License Fee (VLF) Law establishes, in lieu of any ad valorem property tax upon vehicles, an annual license fee for any vehicle subject to registration in this state in the amount of 2% of the market value of that vehicle, as specified. Existing law requires the Controller, in consultation with the Department of Motor Vehicles and the Department of Finance, to calculate certain allocation amounts with respect to the vehicle license fees paid by commercial vehicle operators, and to transfer moneys in those amounts from the General Fund.

This bill would eliminate the requirement that the Controller transfer one of the allocation amounts from the General Fund, as provided.

(27) Existing law prohibits the Franchise Tax Board and specified individuals who have access to certain documents filed with the board from disclosing information set forth in the documents, except as provided. Existing law authorizes the board to provide the Public Employees' Retirement System with identification and location information from income tax returns or other records solely for the purposes of disbursing unclaimed benefits and distributing member statements on an annual basis. Under existing law, unauthorized disclosure is a misdemeanor. Existing federal law establishes the Early Retiree Reinsurance Program, which provides federal reimbursement to participating employment-based group health benefits plans, as provided.

This bill would, until June 30, 2016, authorize the board to provide the Public Employees' Retirement System with identification and location information from income tax returns or other records for the purpose of filing required data pursuant to the federal Early Retiree Reinsurance Program and related regulations and departmental directives. By expanding the definition of a crime, the bill would impose a state-mandated local program.

(28) Existing law requires each employer to file with the Director of the Employment Development Department, within a specified time period for the payment of employer contributions, a report of contributions and a report of wages paid to his or her workers in the form and containing any information as the director prescribes. Existing law also requires every employer who pays wages to an employee for services performed in this state to withhold from those wages, except as provided, specified income taxes, to file specified reports with the director, and to pay the withheld taxes.

This bill would, instead, require each employer, beginning with the first calendar quarter of 2011, to file with the director a quarterly return, including certain information regarding the total amount of wages, employer contributions, worker contributions required to be withheld by the employer, taxes withheld, and any other information prescribed by the director, as specified.

**Attachment A: Subsequent Change in Law
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Existing law also requires each employer, in addition to the aforementioned reports, to file with the director an annual reconciliation return showing specified information pertaining to amounts required to be withheld for employer contributions, as determined by wages and other specified criteria, and taxes withheld as prescribed.

This bill also would eliminate the requirement that an employer file an annual reconciliation form with the director beginning in the 2012 calendar year, and would make related changes.

(29) Existing law provides for unemployment compensation benefits for eligible individuals in the state who are unemployed through no fault of their own. Existing law, for new claims filed on or after a specified date, but no later than April 3, 2011, for which a valid claim or benefit year cannot be established under the currently defined base periods, establish alternative base periods, as provided. Existing law also requires a claimant to submit specified information regarding wages to the Employment Development Department via an affidavit, under specified conditions, and requires the department to implement the technical changes necessary to establish claims under the alternative base period, as specified, as soon as possible, but no later than April 3, 2011.

This bill would extend to September 3, 2011, the time period within which the department is required to implement those changes related to the establishment of unemployment compensation benefit claims under the alternative base period program.

Existing law requires the department, until April 3, 2013, to report to the Joint Legislative Budget Committee, no less than quarterly, on the progress and effectiveness of implementation of the alternative base period program, as specified.

This bill would extend to September 3, 2013, the period during which those reports are required to be provided to the Joint Legislative Budget Committee.

This bill would authorize the Department of Industrial Relations to enter into an agreement that transfers all or part of the responsibility from the Department of Industrial Relations, or any office or division within the department, to the Employment Development Department for the collection of items including, but not limited to, delinquent fees, wages, penalties, judgments, assessments, costs, citations, debts, and any interest thereon, arising out of the enforcement of any law within the jurisdiction of the department, in accordance with specified requirements.

(30) Existing law creates in the State Treasury the Indian Gaming Special Distribution Fund for the receipt and deposit of moneys received by the state from certain Indian tribes pursuant to the terms of gaming compacts entered into with the state. Existing law authorizes moneys in that fund to be used for specified purposes, including for grants for the support of state and local government agencies impacted by tribal government gaming.

Existing law, until January 1, 2021, creates a County Tribal Casino Account in the treasury of each county that contains a tribal casino. Existing law requires the Controller to divide the County

**Attachment A: Subsequent Change in Law
Statutes of 2010, Chapter 719**

Tribal Casino Account for each county that has gaming devices that are subject to an obligation to make contributions to the Indian Gaming Special Distribution Fund into a separate account, known as an Individual Tribal Casino Account, for each tribe that operates a casino within the county. Each Individual Tribal Casino Account is required to be funded in proportion to the amount that each individual tribe paid in the prior fiscal year to the Indian Gaming Special Distribution Fund, and used for grants to local agencies impacted by tribal casinos, as specified.

This bill would appropriate \$30,000,000 from the Indian Gaming Special Distribution Fund to restore funding deleted from the Budget Act of 2007 for the purpose of providing grants to local government agencies impacted by tribal government gaming under the provisions described above.

(31) The Budget Act of 2009 (Chapter 1 of the 2009-10 3rd Extraordinary Session) and revisions to the Budget Act of 2009 (Chapter 1 of the 2009-10 4th Extraordinary Session) made appropriations for the support of state government during the 2009-10 fiscal year.

This bill would make an additional appropriation of moneys from the DNA Identification Fund to the Department of Justice for its support.

(32) Existing law gives the Citizens Redistricting Commission the responsibility for redrawing district boundaries for state Senate, Assembly, and Board of Equalization districts after each national decennial census. Existing law further directs the State Auditor to oversee the selection of members of the commission, and directs the Secretary of State to assist the commission in carrying out its redistricting responsibilities. Existing law requires the Legislature to include in the Budget Act, in each year ending in 9, an appropriation to meet the expenses of the commission, the State Auditor, and the Secretary of State in implementing the redistricting process. The appropriation is required to be a minimum of \$3,000,000 and is required to be available for a 3-year period. The Legislature is permitted to make additional appropriations in any year in which it determines that the commission requires additional funding. The Budget Act of 2009 appropriated \$3,000,000 for allocation by the Director of Finance among the Citizens Redistricting Commission, the Secretary of State, and the Bureau of State Audits to meet the expenses of those entities in implementing the redistricting process in connection with the 2010 national census.

This bill would provide that funds appropriated in the Budget Act of 2009 for expenses of the commission, the Secretary of State, and the Bureau of State Audits in connection with implementing the redistricting process shall be available until June 30, 2012, and would further provide that funds allocated pursuant to the Budget Act of 2010 for those purposes shall be available until June 30, 2013. The bill would prohibit those funds from being allocated by the Director of Finance until the State Auditor has selected the first 8 members of the commission and the Department of Finance has submitted to the Joint Legislative Budget Committee a 30-days' notice of intent to allocate those funds. The bill would require, in order for

**Attachment A: Subsequent Change in Law
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the Bureau of State Audits to receive an allocation of funds, that the bureau submit a request with a detailed cost estimate to the Chairperson of the Joint Legislative Budget Committee and the Director of Finance, and that the chairperson of the joint committee provide a written notification to the director that the requested allocation, or a lesser amount, is needed to carry out expenses of the bureau as set forth in the detailed cost estimate.

(33) Existing law creates the California Infrastructure and Economic Development Bank for the purpose of, among other things, providing financial assistance for public development facilities located in California. Existing law establishes the California Infrastructure Guarantee Trust Fund within which there is a guarantee reserve account to fund secure commitments under contracts to guarantee all or part of the bonds in the bank. Existing law permits the Legislature to establish for the guarantee reserve account a reserve account requirement. Existing law requires the bank to take all reasonable steps to maintain the reserve account requirement, and if the bank determines that the amount in the reserve account is below the reserve account requirement, the executive director of the bank is to certify to various parties in the Legislature the sum required to restore the reserve fund to the requirement, and upon making the certification, request an appropriation. Existing law provides that the obligation of the bank and the state to pay any guarantee is a limited obligation of the bank payable solely from amounts deposited in the guarantee trust fund that are made available under the respective contracts of guarantee, and prohibits the guarantee of loans or bonds from directly, indirectly, or contingently obligating the state to levy or to pledge any form of taxation or to make any appropriation for their payment. In 2003, the California Infrastructure and Economic Development Bank and the Imperial Irrigation District entered into a preliminary loan guarantee agreement.

This bill would require that funds in the California Infrastructure Guarantee Trust Fund, as of January 1, 2010, held for the benefit of the Imperial Irrigation District, be deposited in a guarantee reserve account in the fund, which the bill would establish, and would provide that this amount is the reserve account requirement, as specified, for the purpose of meeting the obligations of the Imperial Irrigation District up to \$150,000,000 in connection with certain water agreements. The bill would require that the California Infrastructure and Economic Development Bank guarantee certain bonds relating to the Imperial Irrigation District projects, and that the reserve account be paid for the benefit of bondholders in the event of a shortfall, as specified. The bill would specify the characteristics of these bonds, and would establish the limits of the liability of the Imperial Irrigation District, the California Infrastructure and Economic Development Bank, and the state in connection to them.

(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.

**Attachment A: Subsequent Change in Law
Statutes of 2010, Chapter 719**

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

(35) 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. 54. Section 5164 of the Public Resources Code is amended to read:

5164. (a) (1) A county, city, city and county, or special district shall not hire a person for employment, or hire a volunteer to perform services, at a county, city, city and county, or special district operated park, playground, recreational center, or beach used for recreational purposes, in a position having supervisory or disciplinary authority over a minor, if that person has been convicted of an offense specified in paragraph (2).

(2) (A) A violation or attempted violation of Section 220, 261.5, 262, 273a, 273d, or 273.5 of the Penal Code, or a sex offense listed in Section 290 of the Penal Code, except for the offense specified in subdivision (d) of Section 243.4 of the Penal Code.

(B) A felony or misdemeanor conviction specified in subparagraph (C) within 10 years of the date of the employer's request.

(C) A felony conviction that is over 10 years old, if the subject of the request was incarcerated within 10 years of the employer's request, for a violation or attempted violation of an offense specified in Chapter 3 (commencing with Section 207) of Title 8 of Part 1 of the Penal Code, Section 211 or 215 of the Penal Code, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022 of the Penal Code, in the commission of that offense, Section 217.1 of the Penal Code, Section 236 of the Penal Code, an offense specified in Chapter 9 (commencing with Section 240) of Title 8 of Part 1 of the Penal Code, or an offense specified in subdivision (c) of Section 667.5 of the Penal Code, provided that a record of a misdemeanor conviction shall not be transmitted to the requester unless the subject of the request has a total of three or more misdemeanor convictions, or a combined total of three or more misdemeanor and felony convictions, for violations listed in this section within the 10-year period immediately preceding the employer's request or has been incarcerated for any of those convictions within the preceding 10 years.

(b) (1) To give effect to this section, a county, city, city and county, or special district shall require each such prospective employee or volunteer to complete an application that inquires as to whether or not that individual has been convicted of an offense specified in subdivision (a). The county, city, city and county, or special district shall screen, pursuant to Section 11105.3 of the Penal Code, any such prospective employee or volunteer, having supervisory or disciplinary authority over a minor, for that person's criminal background.

(2) A local agency request for Department of Justice records

**Attachment A: Subsequent Change in Law
Statutes of 2010, Chapter 719**

pursuant to this subdivision shall include the prospective employee's or volunteer's fingerprints, which may be taken by the local agency, and any other data specified by the Department of Justice. The request shall be made on a form approved by the Department of Justice. A fee shall not be charged to the local agency for requesting the records of a prospective volunteer pursuant to this subdivision.

(3) A county, city, city and county, or special district may charge a prospective employee or volunteer described in subdivision (a) a fee to cover all of the county, city, city and county, or special district's costs attributable to the requirements imposed by this section.

**Attachment B: Test Claim Statute
Statutes of 2001, Chapter 777**

BILL NUMBER: AB 351 CHAPTERED 10/13/01

CHAPTER 777

FILED WITH SECRETARY OF STATE OCTOBER 13, 2001
APPROVED BY GOVERNOR OCTOBER 12, 2001
PASSED THE ASSEMBLY SEPTEMBER 12, 2001
PASSED THE SENATE SEPTEMBER 10, 2001
AMENDED IN SENATE AUGUST 20, 2001
AMENDED IN SENATE JULY 9, 2001
AMENDED IN ASSEMBLY MAY 1, 2001
AMENDED IN ASSEMBLY APRIL 16, 2001

INTRODUCED BY Assembly Member La Suer
(Coauthors: Senators Margett, Soto, and Torlakson)

FEBRUARY 16, 2001

An act to amend Section 5164 of the Public Resources Code,
relating to parks and recreation.

LEGISLATIVE COUNSEL'S DIGEST

AB 351, LaSuer. Local recreational areas: personnel: prior criminal convictions.

(1) Existing law prohibits a county or city or city and county or special district, in connection with the operation of a park, playground, recreational center, or beach used for recreational purposes, from hiring for employment or as a volunteer any person in a position having supervisory or disciplinary authority over any minor, if the person has been convicted of specified crimes, and authorizes a county, city, city and county, or special district to screen, in accordance with specified law, any such prospective employee or volunteer for their criminal background.

This bill would require a county or city or city and county or special district to require that each such prospective employee or volunteer complete an application that inquires as to whether or not that individual has been convicted of any of those specified crimes, and would require, instead of authorize, each of those entities to screen any such prospective employee or volunteer, having supervisory or disciplinary authority over any minor, for that person's criminal background. The bill would also make a technical, correcting change. By imposing a new duty on local agencies implementing its provisions, the bill would impose a state-mandated local program.

(2) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

**Attachment B: Test Claim Statute
Statutes of 2001, Chapter 777**

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

SECTION 1. Section 5164 of the Public Resources Code is amended to read:

5164. (a) A county or city or city and county or special district shall not hire a person for employment, or hire a volunteer to perform services, at a county or city or city and county or special district operated park, playground, recreational center, or beach used for recreational purposes, in a position having supervisory or disciplinary authority over any minor, if that person has been convicted of any offense specified in paragraph (1) of subdivision (h) of Section 11105.3 of the Penal Code, or any offense specified in paragraph (3) of subdivision (h) of Section 11105.3 of the Penal Code. However, this section shall not apply to a misdemeanor conviction under paragraph (3) of subdivision (h) of Section 11105.3 of the Penal Code unless that person has a total of three or more misdemeanor or felony convictions specified in Section 11105.3 of the Penal Code within the immediately preceding 10-year period.

(b) (1) To give effect to this section, a county or city or city and county or special district shall require each such prospective employee or volunteer to complete an application that inquires as to whether or not that individual has been convicted of any offense specified in subdivision (a). The county or city or city and county or special district shall screen, pursuant to Section 11105.3 of the Penal Code, any such prospective employee or volunteer, having supervisory or disciplinary authority over any minor, for that person's criminal background.

(2) Any local agency requests for Department of Justice records pursuant to this subdivision shall include the prospective employee's or volunteer's fingerprints, which may be taken by the local agency, and any other data specified by the Department of Justice. The request shall be made on a form approved by the Department of Justice. No fee shall be charged to the local agency for requesting the records of a prospective volunteer pursuant to this subdivision.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.



JOHN CHIANG
California State Controller

November 14, 2012

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

Re: State Mandated Program Cost Report (AB3000)
Chapter 179, Statutes of 2007, Government Code Section 17562(b)(1)

Dear Senator Leno and Assembly Member Blumenfield:

This report provides the information required pursuant to Government Code (GC) section 17562(b)(1). It summarizes mandate payments by fiscal year (FY) and reports the deficiencies and surpluses. This report consists of three parts, as follows:

1. FY 2012-13 State Mandated Program Appropriations and Payments (Schedules A and A1)
2. FY 2010-11 and Prior Years' State Mandated Program Claims Data, including Net Deficiencies and Surpluses (Schedules B through B4)
3. List of Incorrect Reduction Claims Filed with the Commission on State Mandates (Schedule C)

As reflected on Schedule B, as of September 30, 2012, the amount owed to local agencies, school and community college districts is \$5.6 billion:

Local Agencies	\$1.6 billion
School Districts	\$3.7 billion
Community College Districts	<u>\$0.3 billion</u>
Total	\$5.6 billion

Accrued interest as of June 30, 2012, at the Pooled Money Investment Account rates, due to local agencies, school and community college districts is estimated to be \$251.5 million (\$175

The Honorable Mark Leno
The Honorable Robert Blumenfeld
November 14, 2012
Page 2

million, \$67.9 million, and \$8.6 million, respectively). The accrued interest is not included in the enclosed report, nor in the \$5.6 billion amount identified on page one. Pursuant to GC section 17561.5, interest begins to accrue as of the 366th day after adoption of the statewide cost estimate for the initial claims. For subsequent claims, interest begins to accrue on August 16th following the filing deadline. The interest on unpaid claims will continue to accrue until the claims are fully paid.

Pending litigation listed below and incorrect reduction claims on mandates (Schedule C) may have a significant impact on accounts payable when decisions are rendered:

- Graduation Requirements
- Discharge of Storm Water Runoff
- Municipal Storm Water and Urban Runoff Discharges
- 2010-11 Budget Trailer Bills, Mandates Process for K-12 Schools, Redetermination Process

In addition to the State Mandated Program Cost Report, a disk containing an electronic version is enclosed. If you have any questions, you may contact Jay Lal at (916) 324-0256.

Sincerely,

(Original Signed By)

JOHN CHIANG
California State Controller

Enclosures

cc: Ms. Ana J. Matosantos, Department of Finance
Ms. Marianne O'Malley, Office of Legislative Analyst
Ms. Heather Halsey, Commission on State Mandates

STATE MANDATED PROGRAM COST REPORT

(AB 3000)

As of September 30, 2012



Prepared by

**Division of Accounting and Reporting
Local Reimbursements Section**

Note: This report provides information on State Mandated Program costs for local agencies, school and community college districts pursuant to Government Code section 17562 (b)(1).

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**Schedule B1:
Local Agencies**

State Controller's Office
Division of Accounting and Reporting
State Mandated Programs for Fiscal Year 2010-11 and Prior Years
Claims Received/Adjusted, Payments, Receivables, and Net Deficiencies and Surpluses
As of September 30, 2012

GENERAL GOVERNMENT	Fiscal Year	Schedules	ACCOUNTS PAYABLE (A/P)		ACCOUNTS RECEIVABLE (A/R)		Net Balance ⁵		
			Program Costs	Less: Net Payments ¹	A/P Balance ²	Established A/R ³		Less: Recovered Amount	A/R Balance ⁴
LOCAL AGENCIES									
Initial and Annual Claims	2010-11 and Prior	B1	\$ 1,294,248,596	\$ 427,684,313	\$ 866,564,283	\$ 97,168,039	\$ 67,908,815	\$ 29,259,224	\$ 837,305,059
Initial and Annual Claims (Proposition 1A) ⁶	2003-04 and Prior	B2	\$ 1,031,763,361	\$ 303,939,963	\$ 727,823,398	\$ 58,432,333	\$ 49,410,334	\$ 9,021,999	\$ 718,801,399
Total Local Agencies			\$ 2,326,011,957	\$ 731,624,276	\$ 1,594,387,681	\$ 155,600,372	\$ 117,319,149	\$ 38,281,223	\$ 1,556,106,458
EDUCATION									
SCHOOL DISTRICTS									
COMMUNITY COLLEGE DISTRICTS	2010-11 and Prior	B3	\$ 5,167,317,567	\$ 1,416,030,688	\$ 3,751,286,879	\$ 202,703,682	\$ 152,321,190	\$ 50,382,492	\$ 3,700,904,387
	2010-11 and Prior	B4	\$ 384,049,240	\$ 66,312,963	\$ 317,736,277	\$ 13,632,728	\$ 9,680,257	\$ 3,952,471	\$ 313,783,806
Total School and Community College Districts			\$ 5,551,366,807	\$ 1,482,343,651	\$ 4,069,023,156	\$ 216,336,410	\$ 162,001,447	\$ 54,334,963	\$ 4,014,688,193
Grand Total Local Agencies, School and Community College Districts			\$ 7,877,378,764	\$ 2,213,967,927	\$ 5,663,410,837	\$ 371,936,782	\$ 279,320,596	\$ 92,616,186	\$ 5,570,794,651

Footnotes:

- 1 Total Payments less Overpayments equals Net Payments.
- 2 Amount Due to Local Agencies, School and Community College Districts.
- 3 Total accounts receivable established due to desk review and field audit claim adjustments.
- 4 Amount Due from Local Agencies, School and Community College Districts.
- 5 Net Amount of Deficiencies and Surpluses. A/P Balance less A/R Balance equals Net Balance.
- 6 Claims filed for fiscal year 2003-04 and prior payable in 15-years must be paid by 2020-21 pursuant to Government Code section 17617.

State Controller's Office
Division of Accounting and Reporting
State Mandated Programs by Fiscal Year 2010-11 and Prior Years
Claims Received/Adjusted, Payments, Receivables, and Net Deficiencies and Surpluses
As of September 30, 2012

Fiscal Year	Program Name	Legal Reference	Program Number	ACCOUNTS PAYABLE (A/P)			ACCOUNTS RECEIVABLE (A/R)			Net Balance
				Program Costs	Less: Net Payments	A/P Balance	Established A/R	Less: Recovered Amount	A/R Balance	
2010-11	Absentee Ballots	Ch. 771/78	2	\$ 24,839,999	\$ -	\$ 24,839,999	\$ -	\$ -	\$ 24,839,999	
2010-11	Absentee Ballots: Tabulation by Precinct	Ch. 697/99	248	\$ 35,138	\$ -	\$ 35,138	\$ -	\$ -	\$ 35,138	
2010-11	Administrative License Suspension	Ch. 1460/89	246	\$ 2,407,825	\$ 2,402,441	\$ 5,384	\$ -	\$ -	\$ 5,384	
2010-11	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 16,181,454	\$ -	\$ 16,181,454	\$ -	\$ -	\$ 16,181,454	
2010-11	Crime Victim's Domestic Violence Incident Reports	Ch. 1022/99	262	\$ 167,693	\$ 167,000	\$ 693	\$ -	\$ -	\$ 693	
2010-11	Crime Victims' Domestic Violence Incident Reports II	Ch. 483/01	306	\$ 57,816	\$ -	\$ 57,816	\$ -	\$ -	\$ 57,816	
2010-11	Domestic Violence Arrest Policies and Standards	Ch. 246/95	167	\$ 6,993,913	\$ 6,984,998	\$ 8,915	\$ -	\$ -	\$ 8,915	
2010-11	Domestic Violence Arrests and Victims Assistance	Ch. 698/98	274	\$ 1,497,023	\$ 1,368,714	\$ 128,309	\$ -	\$ -	\$ 128,309	
2010-11	Domestic Violence Background Checks	Ch. 713/01	322	\$ 2,208,200	\$ -	\$ 2,208,200	\$ -	\$ -	\$ 2,208,200	
2010-11	Domestic Violence Treatment Services - Authorization and Case Management	Ch. 183/92	177	\$ 1,987,049	\$ 1,944,000	\$ 43,049	\$ -	\$ -	\$ 43,049	
2010-11	Handicapped and Disabled Students; Handicapped and Disabled Students II, and Seriously Emotionally Disturbed (SED) Pupils: Out of State Mental Health Services	Ch. 1747/84	273	\$ 20,442,289	\$ -	\$ 20,442,289	\$ -	\$ -	\$ 20,442,289	
2010-11	Health Benefits for Survivors of Peace Officers and Firefighters	Ch. 1120/96	197	\$ 1,751,313	\$ 1,695,000	\$ 56,313	\$ -	\$ -	\$ 56,313	
2010-11	Identity Theft	Ch. 956/00	321	\$ 9,792,559	\$ -	\$ 9,792,559	\$ -	\$ -	\$ 9,792,559	
2010-11	In-Home Support Services II	Ch. 90/99	289	\$ 15,567	\$ -	\$ 15,567	\$ -	\$ -	\$ 15,567	
2010-11	Local Government Employee Relations	Ch. 901/00	288	\$ 1,157,287	\$ -	\$ 1,157,287	\$ -	\$ -	\$ 1,157,287	
2010-11	Local Recreational Areas: Background Screenings	Ch. 777/01	285	\$ 77,349	\$ -	\$ 77,349	\$ -	\$ -	\$ 77,349	
2010-11	Mandate Reimbursement Process	Ch. 486/75	41	\$ 1,415,047	\$ -	\$ 1,415,047	\$ -	\$ -	\$ 1,415,047	
2010-11	Modified Primary Election	Ch. 898/00	323	\$ 2,509	\$ -	\$ 2,509	\$ -	\$ -	\$ 2,509	
2010-11	Municipal Storm Water and Urban Runoff Discharges	Title 2	314	\$ 2,774,562	\$ -	\$ 2,774,562	\$ -	\$ -	\$ 2,774,562	
2010-11	Open Meetings Act/Brown Act Reform	Ch. 641/86	219	\$ 16,181,289	\$ -	\$ 16,181,289	\$ -	\$ -	\$ 16,181,289	
2010-11	Peace Officers Personal Records: Unfounded	Ch. 630/78	284	\$ 661,245	\$ 656,999	\$ 4,246	\$ -	\$ -	\$ 4,246	
2010-11	Peace Officers and Discovery	Ch. 465/76	187	\$ 6,334,127	\$ -	\$ 6,334,127	\$ -	\$ -	\$ 6,334,127	
2010-11	Permanent Absent Voters II	Ch. 922/01	324	\$ 2,012,753	\$ -	\$ 2,012,753	\$ -	\$ -	\$ 2,012,753	
2010-11	Voter Registration Procedures	Ch. 704/75	56	\$ 1,275,498	\$ -	\$ 1,275,498	\$ -	\$ -	\$ 1,275,498	
2010-11 Total				\$ 120,269,504	\$ 15,219,152	\$ 105,050,352	\$ -	\$ -	\$ 105,050,352	
2009-10	Absentee Ballots	Ch. 771/78	2	\$ 24,710,823	\$ -	\$ 24,710,823	\$ -	\$ -	\$ 24,710,823	
2009-10	Absentee Ballots: Tabulation by Precinct	Ch. 697/99	248	\$ 32,562	\$ -	\$ 32,562	\$ -	\$ -	\$ 32,562	
2009-10	Administrative License Suspension	Ch. 1460/89	246	\$ 2,442,853	\$ 2,363,040	\$ 79,813	\$ 2,933	\$ -	\$ 2,933	
2009-10	Airport Land Use Commission/Plans	Ch. 644/94	178	\$ 1,263,401	\$ -	\$ 1,263,401	\$ -	\$ -	\$ 1,263,401	
2009-10	Animal Adoption	Ch. 752/98	213	\$ 1,639,542	\$ -	\$ 1,639,542	\$ -	\$ -	\$ 1,639,542	
2009-10	Conservatorship: Developmentally Disabled Adults	Ch. 1304/80	67	\$ 12,927	\$ -	\$ 12,927	\$ -	\$ -	\$ 12,927	
2009-10	Coroner's Costs	Ch. 498/77	88	\$ 8,996	\$ -	\$ 8,996	\$ -	\$ -	\$ 8,996	
2009-10	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 16,504,011	\$ -	\$ 16,504,011	\$ -	\$ -	\$ 16,504,011	

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Fiscal Year	Program Name	Legal Reference	Program Number	ACCOUNTS PAYABLE (A/P)				ACCOUNTS RECEIVABLE (A/R)				Net Balance
				Program Costs	Less: Net Payments	A/P Balance	Established A/R	Less: Recovered Amount	A/R Balance			
2009-10	Crime Victims' Domestic Violence Incident Reports II	Ch. 483/01	306	\$ 297,792	\$ -	\$ 297,792	\$ -	\$ -	\$ -	\$ 297,792		
2009-10	Crime Victims' Rights	Ch. 411/95	158	\$ 25,577	\$ -	\$ 25,577	\$ -	\$ -	\$ -	\$ 25,577		
2009-10	Developmentally Disabled: Attorneys' Services	Ch. 694/75	87	\$ 37,798	\$ -	\$ 37,798	\$ -	\$ -	\$ -	\$ 37,798		
2009-10	Domestic Violence Arrest Policies and Standards	Ch. 246/95	167	\$ 7,309,559	\$ 7,309,559	\$ -	\$ 65,723	\$ 34,281	\$ 31,442	\$ (31,442)		
2009-10	Domestic Violence Arrests and Victims Assistance	Ch. 698/98	274	\$ 1,366,505	\$ 1,366,505	\$ -	\$ 7,643	\$ -	\$ 7,643	\$ (7,643)		
2009-10	Domestic Violence Background Checks	Ch. 713/01	322	\$ 1,871,143	\$ -	\$ 1,871,143	\$ -	\$ -	\$ -	\$ 1,871,143		
2009-10	Firearm Hearing for Discharged Inpatients	Ch. 578/99	293	\$ 4,732	\$ -	\$ 4,732	\$ -	\$ -	\$ -	\$ 4,732		
2009-10	Handicapped and Disabled Students, Handicapped and Disabled Students II, and Seriously Emotionally Disturbed (SED) Pupils: Out of State Mental Health Services	Ch. 1747/84	273	\$ 134,478,404	\$ -	\$ 134,478,404	\$ -	\$ -	\$ -	\$ 134,478,404		
2009-10	Identity Theft	Ch. 956/00	321	\$ 9,361,799	\$ -	\$ 9,361,799	\$ -	\$ -	\$ -	\$ 9,361,799		
2009-10	In-Home Support Services II	Ch. 90/99	289	\$ 20,569	\$ -	\$ 20,569	\$ -	\$ -	\$ -	\$ 20,569		
2009-10	Local Agency Formation Commissions (LAFCO)	Ch. 761/00	300	\$ 7,017	\$ -	\$ 7,017	\$ -	\$ -	\$ -	\$ 7,017		
2009-10	Local Government Employee Relations	Ch. 901/00	288	\$ 703,728	\$ -	\$ 703,728	\$ -	\$ -	\$ -	\$ 703,728		
2009-10	Local Recreational Areas: Background Screenings	Ch. 777/01	285	\$ 518,685	\$ -	\$ 518,685	\$ -	\$ -	\$ -	\$ 518,685		
2009-10	Mandate Reimbursement Process	Ch. 486/75	41	\$ 5,494,668	\$ -	\$ 5,494,668	\$ -	\$ -	\$ -	\$ 5,494,668		
2009-10	Mentally Disordered Offenders: Treatment as a Condition of Parole	Ch. 1419/85	281	\$ 17,935	\$ -	\$ 17,935	\$ -	\$ -	\$ -	\$ 17,935		
2009-10	Mentally Disordered Offenders' Extended Commitment Proceedings	Ch. 1418/85	203	\$ 219,819	\$ -	\$ 219,819	\$ -	\$ -	\$ -	\$ 219,819		
2009-10	Mentally Disordered Sex Offenders: Extended Commitment Proceedings	Ch. 1036/78	39	\$ 3,011	\$ -	\$ 3,011	\$ -	\$ -	\$ -	\$ 3,011		
2009-10	Mentally Retarded Defendants: Diversion	Ch. 1253/80	66	\$ 1,345	\$ -	\$ 1,345	\$ -	\$ -	\$ -	\$ 1,345		
2009-10	Modified Primary Election	Ch. 898/00	323	\$ 468,288	\$ -	\$ 468,288	\$ -	\$ -	\$ -	\$ 468,288		
2009-10	Municipal Storm Water and Urban Runoff Discharges	Title 2	314	\$ 2,806,076	\$ -	\$ 2,806,076	\$ -	\$ -	\$ -	\$ 2,806,076		
2009-10	Not Guilty By Reason of Insanity	Ch. 1114/79	200	\$ 120,902	\$ -	\$ 120,902	\$ -	\$ -	\$ -	\$ 120,902		
2009-10	Open Meetings Act/Brown Act Reform	Ch. 641/86	219	\$ 16,636,791	\$ -	\$ 16,636,791	\$ -	\$ -	\$ -	\$ 16,636,791		
2009-10	Pacific Beach Safety: Water Quality and Closures	Ch. 961/92	122	\$ 1,466	\$ -	\$ 1,466	\$ -	\$ -	\$ -	\$ 1,466		
2009-10	Peace Officers Procedural Bill of Rights	Ch. 465/76	187	\$ 6,657,034	\$ -	\$ 6,657,034	\$ -	\$ -	\$ -	\$ 6,657,034		
2009-10	Perinatal Services	Ch. 1609/90	124	\$ 47,464	\$ -	\$ 47,464	\$ -	\$ -	\$ -	\$ 47,464		
2009-10	Permanent Absent Voters	Ch. 1422/82	83	\$ 1,310,491	\$ -	\$ 1,310,491	\$ -	\$ -	\$ -	\$ 1,310,491		
2009-10	Permanent Absent Voters II	Ch. 922/01	324	\$ 121,578	\$ -	\$ 121,578	\$ -	\$ -	\$ -	\$ 121,578		
2009-10	Pesticide Use Reports	Ch. 1200/89	121	\$ 47,069	\$ 33,025	\$ 14,044	\$ -	\$ -	\$ -	\$ 14,044		
2009-10	Photographic Record of Evidence	Ch. 875/85	215	\$ 2,177	\$ -	\$ 2,177	\$ -	\$ -	\$ -	\$ 2,177		
2009-10	Post Conviction: DNA Court Proceedings	Ch. 821/00	279	\$ 7,804	\$ -	\$ 7,804	\$ -	\$ -	\$ -	\$ 7,804		
2009-10	Search Warrant: AIDS	Ch. 1088/88	73	\$ 48,090	\$ -	\$ 48,090	\$ -	\$ -	\$ -	\$ 48,090		
2009-10	Stolen Vehicle Notification	Ch. 337/90	120	\$ 13,379	\$ -	\$ 13,379	\$ -	\$ -	\$ -	\$ 13,379		
2009-10	Voter Registration Procedures	Ch. 704/75	56	\$ 1,205,598	\$ -	\$ 1,205,598	\$ -	\$ -	\$ -	\$ 1,205,598		
2009-10 Total				\$ 237,869,408	\$ 11,072,129	\$ 226,777,279	\$ 76,299	\$ 34,281	\$ 42,018	\$ 226,735,261		
2008-09	Absentee Ballots	Ch. 771/78	2	\$ 25,668,036	\$ 25,668,036	\$ -	\$ 1,012,417	\$ 468,082	\$ 544,335	\$ (544,335)		
2008-09	Administrative License Suspension	Ch. 1460/89	246	\$ 2,674,609	\$ 2,674,609	\$ -	\$ 103,932	\$ 2,658	\$ 101,274	\$ (101,274)		
2008-09	Animal Adoption	Ch. 752/98	213	\$ 23,049,564	\$ -	\$ 23,049,564	\$ -	\$ -	\$ -	\$ 23,049,564		

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Fiscal Year	Program Name	Legal Reference	Program Number	ACCOUNTS PAYABLE (A/P)			ACCOUNTS RECEIVABLE (A/R)			Net Balance
				Program Costs	Less: Net Payments	A/P Balance	Established A/R	Less: Recovered Amount	A/R Balance	
2008-09	Conservatorship: Developmentally Disabled Adults	Ch. 1304/80	67	\$ 171,702	\$ -	\$ 171,702	\$ -	\$ -	\$ 171,702	
2008-09	Coroner's Costs	Ch. 498/77	88	\$ 113,089	\$ -	\$ 113,089	\$ -	\$ -	\$ 113,089	
2008-09	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 16,060,195	\$ -	\$ 16,060,195	\$ -	\$ -	\$ 16,060,195	
2008-09	Crime Victim's Domestic Violence Incident Reports	Ch. 1022/99	262	\$ 172,788	\$ 172,788	\$ -	\$ 2,257	\$ -	\$ (2,257)	
2008-09	Crime Victims' Domestic Violence Incident Reports II	Ch. 483/01	306	\$ 263,698	\$ -	\$ 263,698	\$ -	\$ -	\$ 263,698	
2008-09	Crime Victims' Rights	Ch. 411/95	158	\$ 363,356	\$ -	\$ 363,356	\$ -	\$ -	\$ 363,356	
2008-09	Developmentally Disabled: Attorneys' Services	Ch. 694/75	87	\$ 567,312	\$ -	\$ 567,312	\$ -	\$ -	\$ 567,312	
2008-09	DNA Database	Ch. 822/00	266	\$ 146,180	\$ -	\$ 146,180	\$ -	\$ -	\$ 146,180	
2008-09	Domestic Violence Background Checks	Ch. 713/01	322	\$ 2,086,981	\$ -	\$ 2,086,981	\$ -	\$ -	\$ 2,086,981	
2008-09	Domestic Violence Treatment Services - Authorization and Case Management	Ch. 183/92	177	\$ 2,174,267	\$ 2,174,267	\$ -	\$ 298,196	\$ 115,151	\$ (183,045)	
2008-09	False Reports of Police Misconduct	Ch. 590/95	257	\$ 4,297	\$ -	\$ 4,297	\$ -	\$ -	\$ 4,297	
2008-09	Fire Safety Inspections of Care Facilities	Ch. 993/89	283	\$ 100,886	\$ -	\$ 100,886	\$ -	\$ -	\$ 100,886	
2008-09	Firearm Hearing for Discharged Inpatients	Ch. 578/99	293	\$ 31,906	\$ -	\$ 31,906	\$ -	\$ -	\$ 31,906	
2008-09	Handicapped and Disabled Students, Handicapped and Disabled Students II, and Seriously Emotionally Disturbed (SED) Pupils: Out of State Mental Health Services	Ch. 174/84	273	\$ 32,151,097	\$ 2,291	\$ 32,148,806	\$ -	\$ -	\$ 32,148,806	
2008-09	Identity Theft	Ch. 956/00	321	\$ 10,110,100	\$ -	\$ 10,110,100	\$ -	\$ -	\$ 10,110,100	
2008-09	Judicial Proceedings For Mentally Retarded Persons	Ch. 644/80	35	\$ 139,227	\$ -	\$ 139,227	\$ -	\$ -	\$ 139,227	
2008-09	Local Government Employee Relations	Ch. 901/00	298	\$ 844,154	\$ -	\$ 844,154	\$ -	\$ -	\$ 844,154	
2008-09	Local Recreational Areas: Background Screenings	Ch. 777/01	285	\$ 669,845	\$ -	\$ 669,845	\$ -	\$ -	\$ 669,845	
2008-09	Mentally Disordered Offenders: Treatment as a Conditions of Parole	Ch. 1419/85	281	\$ 383,293	\$ -	\$ 383,293	\$ -	\$ -	\$ 383,293	
2008-09	Mentally Disordered Offenders' Extended Commitment Proceedings	Ch. 1418/85	203	\$ 3,794,562	\$ -	\$ 3,794,562	\$ -	\$ -	\$ 3,794,562	
2008-09	Mentally Disordered Sex Offenders: Extended Commitment Proceedings	Ch. 1036/78	39	\$ 40,980	\$ -	\$ 40,980	\$ -	\$ -	\$ 40,980	
2008-09	Mentally Retarded Defendants: Diversion	Ch. 1153/80	66	\$ 17,862	\$ -	\$ 17,862	\$ -	\$ -	\$ 17,862	
2008-09	Municipal Storm Water and Urban Runoff Discharges	Title 2	314	\$ 3,344,905	\$ -	\$ 3,344,905	\$ -	\$ -	\$ 3,344,905	
2008-09	Not Guilty by Reason of Insanity	Ch. 1114/79	200	\$ 2,749,480	\$ -	\$ 2,749,480	\$ -	\$ -	\$ 2,749,480	
2008-09	Open Meetings Act/Brown Act Reform	Ch. 641/86	219	\$ 16,772,447	\$ -	\$ 16,772,447	\$ -	\$ -	\$ 16,772,447	
2008-09	Pacific Beach Safety: Water Quality and Closures	Ch. 961/92	122	\$ 64,851	\$ -	\$ 64,851	\$ -	\$ -	\$ 64,851	
2008-09	Peace Officers Procedural Bill of Rights	Ch. 465/76	187	\$ 12,813,444	\$ -	\$ 12,813,444	\$ -	\$ -	\$ 12,813,444	
2008-09	Perinatal Services	Ch. 1603/90	124	\$ 1,009,278	\$ -	\$ 1,009,278	\$ -	\$ -	\$ 1,009,278	
2008-09	Permanent Absent Voters	Ch. 1422/82	83	\$ 1,813,889	\$ 1,813,889	\$ -	\$ 29,513	\$ -	\$ (29,513)	
2008-09	Permanent Absent Voters II	Ch. 922/01	324	\$ 191,573	\$ -	\$ 191,573	\$ -	\$ -	\$ 191,573	
2008-09	Photographic Record of Evidence	Ch. 875/85	215	\$ 112,982	\$ -	\$ 112,982	\$ -	\$ -	\$ 112,982	
2008-09	Post Conviction: DNA Court Proceedings	Ch. 821/00	279	\$ 142,458	\$ -	\$ 142,458	\$ -	\$ -	\$ 142,458	
2008-09	Postmortem Examinations: Unidentified Bodies, Human Remains	Ch. 284/00	255	\$ 1,122	\$ -	\$ 1,122	\$ -	\$ -	\$ 1,122	

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Fiscal Year	Program Name	Legal Reference	Program Number	ACCOUNTS PAYABLE (A/P)				ACCOUNTS RECEIVABLE (A/R)				Net Balance
				Program Costs	Less: Net Payments	A/P Balance	Established A/R	Less: Recovered Amount	A/R Balance			
2008-09	Search Warrant AIDS	Ch. 1088/88	73	\$ 706,871	\$ -	\$ 706,871	\$ -	\$ -	\$ -	\$ 706,871		
2008-09	Senior Citizens Property Tax Postponement	Ch. 1242/77	18	\$ 195,373	\$ -	\$ 195,373	\$ -	\$ -	\$ -	\$ 195,373		
2008-09	Stolen Vehicle Notification	Ch. 337/90	120	\$ 551,742	\$ -	\$ 551,742	\$ -	\$ -	\$ -	\$ 551,742		
2008-09 Total				\$ 1,453,986	\$ -	\$ 1,453,986	\$ -	\$ -	\$ -	\$ 1,453,986		
2007-08	Absentee Ballots	Ch. 777/8	2	\$ 22,557,828	\$ 32,505,880	\$ 129,764,521	\$ 1,446,315	\$ 585,891	\$ 860,424	\$ 128,904,097		
2007-08	Administrative License Suspension	Ch. 1460/89	246	\$ 2,537,487	\$ 2,537,487	\$ -	\$ 103,885	\$ 705	\$ 103,180	\$ (103,180)		
2007-08	Animal Adoption	Ch. 752/98	213	\$ 20,630,891	\$ -	\$ 20,630,891	\$ 15,363	\$ 4,574	\$ 10,789	\$ (10,789)		
2007-08	Conservatorship: Developmentally Disabled Adults	Ch. 1304/80	67	\$ 164,218	\$ -	\$ 164,218	\$ -	\$ -	\$ -	\$ 164,218		
2007-08	Coroner's Costs	Ch. 498/77	88	\$ 99,582	\$ -	\$ 99,582	\$ -	\$ -	\$ -	\$ 99,582		
2007-08	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 15,655,373	\$ -	\$ 15,655,373	\$ -	\$ -	\$ -	\$ 15,655,373		
2007-08	Crime Victims' Domestic Violence Incident Reports II	Ch. 483/01	306	\$ 275,387	\$ -	\$ 275,387	\$ -	\$ -	\$ -	\$ 275,387		
2007-08	Crime Victims' Rights	Ch. 411/95	158	\$ 321,041	\$ -	\$ 321,041	\$ -	\$ -	\$ -	\$ 321,041		
2007-08	Developmentally Disabled: Attorneys' Services	Ch. 694/75	87	\$ 593,232	\$ -	\$ 593,232	\$ -	\$ -	\$ -	\$ 593,232		
2007-08	DNA Database	Ch. 822/00	266	\$ 163,634	\$ -	\$ 163,634	\$ -	\$ -	\$ -	\$ 163,634		
2007-08	Domestic Violence Arrest Policies and Standards	Ch. 246/95	167	\$ 7,589,735	\$ 7,589,735	\$ -	\$ 17,895	\$ 7,895	\$ 10,000	\$ (10,000)		
2007-08	Domestic Violence Arrests and Victims Assistance	Ch. 698/98	274	\$ 1,238,574	\$ 1,238,574	\$ -	\$ 120,918	\$ 109,792	\$ 11,126	\$ (11,126)		
2007-08	Domestic Violence Background Checks	Ch. 713/01	322	\$ 1,942,263	\$ -	\$ 1,942,263	\$ -	\$ -	\$ -	\$ 1,942,263		
2007-08	False Reports of Police Misconduct	Ch. 590/95	257	\$ 5,788	\$ -	\$ 5,788	\$ -	\$ -	\$ -	\$ 5,788		
2007-08	Fire Safety Inspections of Care Facilities	Ch. 993/89	283	\$ 146,000	\$ -	\$ 146,000	\$ -	\$ -	\$ -	\$ 146,000		
2007-08	Firearm Hearing for Discharged Inpatients	Ch. 578/99	293	\$ 27,775	\$ -	\$ 27,775	\$ -	\$ -	\$ -	\$ 27,775		
2007-08	Firefighters' Cancer Presumption	Ch. 1568/82	23	\$ 6,058,218	\$ -	\$ 6,058,218	\$ -	\$ -	\$ -	\$ 6,058,218		
	Handicapped and Disabled Students, Handicapped and Disabled Students II, and Seriously Emotionally Disturbed (SED) Pupils: Out of State Mental Health Services	Ch. 1747/84	273	\$ 76,180,806	\$ 5,347,016	\$ 70,833,790	\$ -	\$ -	\$ -	\$ 70,833,790		
2007-08	Identity Theft	Ch. 956/00	321	\$ 9,689,339	\$ -	\$ 9,689,339	\$ -	\$ -	\$ -	\$ 9,689,339		
2007-08	Judicial Proceedings For Mentally Retarded Persons	Ch. 644/80	35	\$ 134,655	\$ -	\$ 134,655	\$ -	\$ -	\$ -	\$ 134,655		
2007-08	Local Agency Formation Commissions (LAFCO)	Ch. 761/00	300	\$ 9,133	\$ 5,761	\$ 3,372	\$ -	\$ -	\$ -	\$ 3,372		
2007-08	Local Government Employee Relations	Ch. 901/00	298	\$ 1,622,631	\$ -	\$ 1,622,631	\$ -	\$ -	\$ -	\$ 1,622,631		
2007-08	Local Recreational Areas: Background Screenings	Ch. 777/01	285	\$ 661,256	\$ -	\$ 661,256	\$ -	\$ -	\$ -	\$ 661,256		
2007-08	Mentally Disordered Offenders: Treatment as a Conditions of Parole	Ch. 1419/85	281	\$ 681,608	\$ -	\$ 681,608	\$ -	\$ -	\$ -	\$ 681,608		
2007-08	Mentally Disordered Offenders' Extended Commitment Proceedings	Ch. 1418/85	203	\$ 3,146,513	\$ -	\$ 3,146,513	\$ -	\$ -	\$ -	\$ 3,146,513		
2007-08	Mentally Disordered Sex Offenders: Extended Commitment Proceedings	Ch. 1036/78	39	\$ 295,550	\$ -	\$ 295,550	\$ -	\$ -	\$ -	\$ 295,550		
2007-08	Mentally Retarded Defendants: Diversion	Ch. 1253/80	66	\$ 16,698	\$ -	\$ 16,698	\$ -	\$ -	\$ -	\$ 16,698		
2007-08	Modified Primary Election	Ch. 898/00	323	\$ 321,317	\$ -	\$ 321,317	\$ -	\$ -	\$ -	\$ 321,317		
2007-08	Municipal Storm Water and Urban Runoff Discharges	Title 2	314	\$ 4,934,428	\$ -	\$ 4,934,428	\$ -	\$ -	\$ -	\$ 4,934,428		
2007-08	Not Guilty by Reason of Insanity	Ch. 1114/79	200	\$ 2,338,247	\$ -	\$ 2,338,247	\$ -	\$ -	\$ -	\$ 2,338,247		
2007-08	Open Meetings Act/Brown Act Reform	Ch. 641/86	219	\$ 16,500,776	\$ -	\$ 16,500,776	\$ -	\$ -	\$ -	\$ 16,500,776		

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Fiscal Year	Program Name	Legal Reference	Program Number	ACCOUNTS PAYABLE (A/P)		ACCOUNTS RECEIVABLE (A/R)		Net Balance
				Program Costs	Less: Net Payments	A/P Balance	Established A/R	
2007-08	Pacific Beach Safety: Water Quality and Closures	Ch. 961/92	122	\$ 277,610	\$ -	\$ 277,610	\$ -	\$ 277,610
2007-08	Peace Officers Cancer Prescription	Ch. 1171/89	118	\$ 4,951,263	\$ -	\$ 4,951,263	\$ -	\$ 4,951,263
2007-08	Peace Officers Procedural Bill of Rights	Ch. 465/76	187	\$ 9,354,360	\$ -	\$ 9,354,360	\$ -	\$ 9,354,360
2007-08	Perinatal Services	Ch. 1603/90	124	\$ 1,280,819	\$ -	\$ 1,280,819	\$ -	\$ 1,280,819
2007-08	Permanent Absent Voters II	Ch. 922/01	324	\$ 18,688	\$ -	\$ 18,688	\$ -	\$ 18,688
2007-08	Photographic Record of Evidence	Ch. 875/85	215	\$ 163,955	\$ -	\$ 163,955	\$ -	\$ 163,955
2007-08	Post Conviction: DNA Court Proceedings	Ch. 821/00	279	\$ 123,677	\$ -	\$ 123,677	\$ -	\$ 123,677
2007-08	Postmortem Examinations: Unidentified Bodies, Human Remains	Ch. 284/00	255	\$ 4,338	\$ -	\$ 4,338	\$ -	\$ 4,338
2007-08	Rape Victim Counseling Center Notices	Ch. 999/91	127	\$ 361,730	\$ -	\$ 361,730	\$ -	\$ 361,730
2007-08	Search Warrant: AIDS	Ch. 1088/88	73	\$ 841,064	\$ -	\$ 841,064	\$ -	\$ 841,064
2007-08	Senior Citizens Property Tax Postponement	Ch. 1242/77	18	\$ 284,904	\$ -	\$ 284,904	\$ -	\$ 284,904
2007-08	Stolen Vehicle Notification	Ch. 337/90	120	\$ 551,719	\$ -	\$ 551,719	\$ -	\$ 551,719
2007-08 Total				\$ 214,754,110	\$ 39,638,131	\$ 175,115,979	\$ 270,421	\$ 134,066
2006-07	Absentee Ballots	Ch. 77/78	2	\$ 19,646,473	\$ 19,646,473	\$ -	\$ 1,879,295	\$ 1,796,175
2006-07	Animal Adoption	Ch. 752/98	213	\$ 17,578,031	\$ 17,578,031	\$ -	\$ 7,173,913	\$ 1,796,175
2006-07	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 14,699,081	\$ -	\$ 14,699,081	\$ -	\$ 14,699,081
2006-07	Crime Victims' Domestic Violence Incident Reports II	Ch. 483/01	306	\$ 253,715	\$ -	\$ 253,715	\$ -	\$ 253,715
2006-07	Domestic Violence Arrest Policies and Standards	Ch. 246/95	167	\$ 7,245,327	\$ 7,245,327	\$ -	\$ 511,677	\$ 203,592
2006-07	Domestic Violence Background Checks	Ch. 713/01	322	\$ 1,613,395	\$ -	\$ 1,613,395	\$ -	\$ 308,085
2006-07	Fire Safety Inspections of Care Facilities	Ch. 993/89	283	\$ 99,516	\$ -	\$ 99,516	\$ -	\$ -
2006-07	Firearm Hearing for Discharged Inpatients	Ch. 578/99	293	\$ 17,343	\$ -	\$ 17,343	\$ -	\$ 99,516
2006-07	Firefighters' Cancer Prescription	Ch. 1568/82	23	\$ 4,916,471	\$ 4,891,214	\$ 25,257	\$ 329,599	\$ -
2006-07	Handicapped and Disabled Students, Handicapped and Disabled Students II, and Seriously Emotionally Disturbed (SED) Pupils: Out of State Mental Health Services	Ch. 1747/84	273	\$ 55,055,560	\$ 45,839,884	\$ 9,215,676	\$ 810,809	\$ 314,697
2006-07	Health Benefits for Survivors of Peace Officers and Firefighters	Ch. 1120/96	197	\$ 911,198	\$ 911,198	\$ -	\$ 63,389	\$ 62,655
2006-07	Identity Theft	Ch. 956/00	321	\$ 8,195,588	\$ -	\$ 8,195,588	\$ -	\$ 734
2006-07	Local Government Employee Relations	Ch. 901/90	298	\$ 1,494,135	\$ -	\$ 1,494,135	\$ -	\$ 8,195,588
2006-07	Local Recreational Areas: Background Screenings	Ch. 777/01	285	\$ 608,739	\$ -	\$ 608,739	\$ -	\$ 1,494,135
2006-07	Mentally Disordered Offenders: Treatment as a Conditions of Parole	Ch. 1419/85	281	\$ 649,974	\$ -	\$ 649,974	\$ -	\$ -
2006-07	Mentally Disordered Offenders' Extended Commitment Proceedings	Ch. 1418/85	203	\$ 3,003,738	\$ 2,950,498	\$ 53,240	\$ 341,376	\$ 341,376
2006-07	Municipal Storm Water and Urban Runoff Discharges	Ch. 1114/79	314	\$ 4,945,546	\$ -	\$ 4,945,546	\$ -	\$ -
2006-07	Net Gully by Reason of Insanity	Ch. 641/86	200	\$ 1,707,977	\$ 1,702,574	\$ 5,403	\$ 439,438	\$ 439,438
2006-07	Open Meetings Act/Brown Act Reform	Ch. 1171/89	118	\$ 5,458,348	\$ -	\$ 5,458,348	\$ -	\$ 5,403
2006-07	Peace Officers Cancer Prescription	Ch. 465/76	187	\$ 9,846,865	\$ 7,917,464	\$ 1,929,401	\$ 10,543,101	\$ 260,199
2006-07	Permanent Absent Voters II	Ch. 922/01	324	\$ 24,807	\$ -	\$ 24,807	\$ -	\$ 239,459
2006-07	Photographic Record of Evidence	Ch. 875/85	215	\$ 309,808	\$ 298,328	\$ 11,480	\$ 224,111	\$ 123,080
2006-07	Post Conviction: DNA Court Proceedings	Ch. 821/00	279	\$ 359,305	\$ 334,797	\$ 24,508	\$ -	\$ 101,031

State Mandated Programs for Fiscal Year 2010-11 and Prior Years
Claims Received/Adjusted, Payments, Receivables, and Net Deficiencies and Surpluses
Schedule B1: Local Agencies

State Controller's Office
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Fiscal Year	Program Name	Legal Reference	Program Number	ACCOUNTS PAYABLE (A/P)			ACCOUNTS RECEIVABLE (A/R)			Net Balance
				Program Costs	Less: Net Payments	A/P Balance	Established A/R	Less: Recovered Amount	A/R Balance	
2005-06	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 14,208,617	\$ -	\$ 14,208,617	\$ -	\$ -	\$ -	\$ 14,208,617
2005-06	Crime Victims' Domestic Violence Incident Reports II	Ch. 483/01	306	\$ 228,442	\$ -	\$ 228,442	\$ -	\$ -	\$ -	\$ 228,442
2005-06	Domestic Violence Arrest Policies and Standards	Ch. 246/95	167	\$ 6,667,418	\$ 6,667,418	\$ -	\$ 275,973	\$ 18,621	\$ 257,352	\$ (257,352)
2005-06	Domestic Violence Background Checks	Ch. 713/01	322	\$ 1,404,520	\$ -	\$ 1,404,520	\$ -	\$ -	\$ -	\$ 1,404,520
2005-06	Fire Safety Inspections of Care Facilities	Ch. 993/89	283	\$ 74,994	\$ -	\$ 74,994	\$ -	\$ -	\$ -	\$ 74,994
2005-06	Firearm Hearing for Discharged Inpatients	Ch. 578/99	293	\$ 14,818	\$ -	\$ 14,818	\$ -	\$ -	\$ -	\$ 14,818
2005-06	Handicapped and Disabled Students	Ch. 1128/94	111	\$ 47,584,774	\$ 46,036,314	\$ 1,548,460	\$ 24,034,991	\$ 16,222,065	\$ 7,812,926	\$ (6,264,466)
2005-06	Handicapped and Disabled Students II	Ch. 1128/94	263	\$ 1,413,312	\$ 241,607	\$ 1,171,705	\$ -	\$ -	\$ -	\$ 1,171,705
2005-06	Identify Theft	Ch. 956/00	321	\$ 6,606,055	\$ -	\$ 6,606,055	\$ -	\$ -	\$ -	\$ 6,606,055
2005-06	Local Agency Formation Commissions (LAFCO)	Ch. 761/00	300	\$ 202,633	\$ 192,604	\$ 10,029	\$ -	\$ -	\$ -	\$ 10,029
2005-06	Local Government Employee Relations	Ch. 901/00	298	\$ 624,936	\$ -	\$ 624,936	\$ -	\$ -	\$ -	\$ 624,936
2005-06	Local Recreational Areas: Background Screenings	Ch. 777/01	285	\$ 520,454	\$ -	\$ 520,454	\$ -	\$ -	\$ -	\$ 520,454
2005-06	Mentally Disordered Offenders: Treatment as a									
2005-06	Conditions of Parole	Ch. 1419/85	281	\$ 680,286	\$ -	\$ 680,286	\$ -	\$ -	\$ -	\$ 680,286
2005-06	Modified Primary Election	Ch. 898/00	323	\$ 224,217	\$ -	\$ 224,217	\$ -	\$ -	\$ -	\$ 224,217
2005-06	Municipal Storm Water and Urban Runoff Discharges	Title 2	314	\$ 4,426,491	\$ -	\$ 4,426,491	\$ -	\$ -	\$ -	\$ 4,426,491
2005-06	Open Meetings Act/Brown Act Reform	Ch. 641/86	219	\$ 14,357,147	\$ 400,803	\$ 13,956,344	\$ 187,248	\$ 156,785	\$ 30,463	\$ 13,925,881
2005-06	Peace Officers Procedural Bill of Rights	Ch. 465/76	187	\$ 13,310,225	\$ 11,075,800	\$ 2,234,425	\$ 6,047,022	\$ 5,925,563	\$ 121,459	\$ 2,112,966
2005-06	Permanent Absent Voters II	Ch. 922/01	324	\$ 21,868	\$ -	\$ 21,868	\$ -	\$ -	\$ -	\$ 21,868
2005-06	Photographic Record of Evidence	Ch. 875/85	215	\$ 292,557	\$ 292,557	\$ -	\$ 215,089	\$ 87,646	\$ 127,443	\$ (127,443)
2005-06	Post Conviction: DNA Court Proceedings	Ch. 821/00	279	\$ 173,372	\$ 134,566	\$ 38,806	\$ -	\$ -	\$ -	\$ 38,806
2005-06	Senior Citizens Property Tax Postponement	Ch. 1242/77	18	\$ 258,165	\$ 258,032	\$ 133	\$ 133	\$ 133	\$ -	\$ 133
2005-06 Total				\$ 130,590,578	\$ 82,594,978	\$ 47,995,600	\$ 35,491,996	\$ 24,591,417	\$ 10,900,579	\$ 37,095,021
2004-05	Absentee Ballots	Ch. 77/78	2	\$ 17,563,599	\$ 17,516,451	\$ 47,148	\$ 2,316,857	\$ 2,316,857	\$ -	\$ 47,148
2004-05	Animal Adoption	Ch. 752/98	213	\$ 19,548,029	\$ 19,548,029	\$ -	\$ 4,216,994	\$ 2,830,732	\$ 1,386,262	\$ (1,386,262)
2004-05	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 13,916,033	\$ -	\$ 13,916,033	\$ -	\$ -	\$ -	\$ 13,916,033
2004-05	Crime Victims' Domestic Violence Incident Reports II	Ch. 483/01	306	\$ 222,536	\$ -	\$ 222,536	\$ -	\$ -	\$ -	\$ 222,536
2004-05	Domestic Violence Arrest Policies and Standards	Ch. 246/95	167	\$ 6,141,561	\$ 6,141,561	\$ -	\$ 1,110,167	\$ 1,051,100	\$ 59,067	\$ (59,067)
2004-05	Domestic Violence Background Checks	Ch. 713/01	322	\$ 1,301,244	\$ -	\$ 1,301,244	\$ -	\$ -	\$ -	\$ 1,301,244
2004-05	Fire Safety Inspections of Care Facilities	Ch. 993/89	283	\$ 83,670	\$ -	\$ 83,670	\$ -	\$ -	\$ -	\$ 83,670
2004-05	Firearm Hearing for Discharged Inpatients	Ch. 578/99	293	\$ 9,385	\$ -	\$ 9,385	\$ -	\$ -	\$ -	\$ 9,385
2004-05	Firefighters' Cancer Prescription	Ch. 1568/82	23	\$ 2,985,232	\$ 2,985,232	\$ -	\$ 862,921	\$ 831,514	\$ 31,407	\$ (31,407)
2004-05	Handicapped and Disabled Students	Ch. 1128/94	111	\$ 47,836,298	\$ 45,841,083	\$ 1,995,215	\$ 24,694,055	\$ 17,134,159	\$ 7,559,896	\$ (5,564,681)
2004-05	Handicapped and Disabled Students II	Ch. 1128/94	263	\$ 122,653	\$ -	\$ 122,653	\$ -	\$ -	\$ -	\$ 122,653
2004-05	Identify Theft	Ch. 956/00	321	\$ 6,015,442	\$ -	\$ 6,015,442	\$ -	\$ -	\$ -	\$ 6,015,442
2004-05	Local Agency Formation Commissions (LAFCO)	Ch. 761/00	300	\$ 9,603	\$ 4,880	\$ 4,723	\$ -	\$ -	\$ -	\$ 4,723
2004-05	Local Government Employee Relations	Ch. 901/00	298	\$ 572,059	\$ -	\$ 572,059	\$ -	\$ -	\$ -	\$ 572,059

State Mandated Programs for Fiscal Year 2010-11 and Prior Years
Claims Received/Adjusted, Payments, Receivables, and Net Deficiencies and Surpluses
Schedule B1: Local Agencies

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Fiscal Year	Program Name	Legal Reference	Program Number	ACCOUNTS PAYABLE (A/P)			ACCOUNTS RECEIVABLE (A/R)			Net Balance
				Program Costs	Less: Net Payments	A/P Balance	Established A/R	Less: Recovered Amount	A/R Balance	
2004-05	Local Recreational Areas: Background Screenings	Ch. 777/01	285	\$ 423,486	\$ -	\$ 423,486	\$ -	\$ -	\$ 423,486	
2004-05	Mentally Disordered Offenders: Treatment as a Conditions of Parole	Ch. 1419/85	281	\$ 427,477	\$ -	\$ 427,477	\$ -	\$ -	\$ 427,477	
2004-05	Municipal Storm Water and Urban Runoff Discharges	Title 2	314	\$ 4,377,858	\$ -	\$ 4,377,858	\$ -	\$ -	\$ 4,377,858	
2004-05	Open Meetings Act/Brown Act Reform	Ch. 641/86	219	\$ 14,798,506	\$ 14,438,448	\$ 360,058	\$ 1,690,642	\$ 1,688,023	\$ 2,619	
2004-05	Peace Officers Procedural Bill of Rights	Ch. 465/76	187	\$ 13,187,078	\$ -	\$ 13,187,078	\$ -	\$ -	\$ 13,187,078	
2004-05	Permanent Absent Voters II	Ch. 922/01	324	\$ 24,382	\$ -	\$ 24,382	\$ -	\$ -	\$ 24,382	
2004-05	Photographic Record of Evidence	Ch. 875/85	215	\$ 340,151	\$ 340,151	\$ -	\$ 381,207	\$ 225,914	\$ (155,293)	
2004-05	Post Conviction: DNA Court Proceedings	Ch. 821/00	279	\$ 31,183	\$ 17,053	\$ 14,130	\$ -	\$ -	\$ 14,130	
2004-05	Racial Profiling: Law Enforcement Training	Ch. 684/00	282	\$ 126,355	\$ -	\$ 126,355	\$ -	\$ -	\$ 126,355	
2004-05 Total				\$ 150,063,820	\$ 106,832,898	\$ 43,230,922	\$ 35,272,843	\$ 26,078,299	\$ 9,194,544	
2003-04	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 12,995,063	\$ -	\$ 12,995,063	\$ -	\$ -	\$ 12,995,063	
2003-04	Crime Victims' Domestic Violence Incident Reports II	Ch. 483/01	306	\$ 198,432	\$ -	\$ 198,432	\$ -	\$ -	\$ 198,432	
2003-04	Domestic Violence Background Checks	Ch. 713/01	322	\$ 1,445,585	\$ -	\$ 1,445,585	\$ -	\$ -	\$ 1,445,585	
2003-04	Fire Safety Inspections of Care Facilities	Ch. 993/89	283	\$ 69,168	\$ -	\$ 69,168	\$ -	\$ -	\$ 69,168	
2003-04	Firearm Hearing for Discharged Inpatients	Ch. 578/99	293	\$ 10,431	\$ -	\$ 10,431	\$ -	\$ -	\$ 10,431	
2003-04	Handicapped and Disabled Students II	Ch. 1128/94	263	\$ 1,183,695	\$ -	\$ 1,183,695	\$ -	\$ -	\$ 1,183,695	
2003-04	Identity Theft	Ch. 956/00	321	\$ 4,922,194	\$ -	\$ 4,922,194	\$ -	\$ -	\$ 4,922,194	
2003-04	In-Home Support Services II	Ch. 90/99	289	\$ 11,904	\$ -	\$ 11,904	\$ -	\$ -	\$ 11,904	
2003-04	Local Government Employee Relations	Ch. 901/00	298	\$ 278,272	\$ -	\$ 278,272	\$ -	\$ -	\$ 278,272	
2003-04	Local Recreational Areas: Background Screenings	Ch. 777/01	285	\$ 389,996	\$ -	\$ 389,996	\$ -	\$ -	\$ 389,996	
2003-04	Mentally Disordered Offenders: Treatment as a Conditions of Parole	Ch. 1419/85	281	\$ 446,868	\$ -	\$ 446,868	\$ -	\$ -	\$ 446,868	
2003-04	Modified Primary Election	Ch. 898/00	323	\$ 138,065	\$ -	\$ 138,065	\$ -	\$ -	\$ 138,065	
2003-04	Municipal Storm Water and Urban Runoff Discharges	Title 2	314	\$ 4,166,048	\$ -	\$ 4,166,048	\$ -	\$ -	\$ 4,166,048	
2003-04	Permanent Absent Voters II	Ch. 922/01	324	\$ 14,834	\$ -	\$ 14,834	\$ -	\$ -	\$ 14,834	
2003-04	Post Conviction: DNA Court Proceedings	Ch. 821/00	279	\$ 148,711	\$ 124,059	\$ 24,652	\$ -	\$ -	\$ 24,652	
2003-04	Racial Profiling: Law Enforcement Training	Ch. 684/00	282	\$ 6,650,521	\$ -	\$ 6,650,521	\$ -	\$ -	\$ 6,650,521	
2003-04 Total				\$ 33,069,787	\$ 124,059	\$ 32,945,728	\$ -	\$ -	\$ 32,945,728	
2002-03	Blindness Arbitration	Ch. 906/00	284	\$ 122,267	\$ -	\$ 122,267	\$ -	\$ -	\$ 122,267	
2002-03	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 12,146,890	\$ -	\$ 12,146,890	\$ -	\$ -	\$ 12,146,890	
2002-03	Crime Victims' Domestic Violence Incident Reports II	Ch. 483/01	306	\$ 159,800	\$ -	\$ 159,800	\$ -	\$ -	\$ 159,800	
2002-03	Domestic Violence Background Checks	Ch. 713/01	322	\$ 1,482,019	\$ -	\$ 1,482,019	\$ -	\$ -	\$ 1,482,019	
2002-03	Fire Safety Inspections of Care Facilities	Ch. 993/89	283	\$ 59,501	\$ -	\$ 59,501	\$ -	\$ -	\$ 59,501	
2002-03	Firearm Hearing for Discharged Inpatients	Ch. 578/99	293	\$ 12,410	\$ -	\$ 12,410	\$ -	\$ -	\$ 12,410	
2002-03	Handicapped and Disabled Students II	Ch. 1128/94	263	\$ 2,958,677	\$ -	\$ 2,958,677	\$ -	\$ -	\$ 2,958,677	
2002-03	Identity Theft	Ch. 956/00	321	\$ 4,322,291	\$ -	\$ 4,322,291	\$ -	\$ -	\$ 4,322,291	
2002-03	In-Home Support Services II	Ch. 90/99	289	\$ 132,994	\$ -	\$ 132,994	\$ -	\$ -	\$ 132,994	
2002-03	Local Government Employee Relations	Ch. 901/00	298	\$ 217,798	\$ -	\$ 217,798	\$ -	\$ -	\$ 217,798	
2002-03	Local Recreational Areas: Background Screenings	Ch. 777/01	285	\$ 397,782	\$ -	\$ 397,782	\$ -	\$ -	\$ 397,782	

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Fiscal Year	Program Name	Legal Reference	Program Number	ACCOUNTS PAYABLE (A/P)			ACCOUNTS RECEIVABLE (A/R)			Net Balance
				Program Costs	Less: Net Payments	A/P Balance	Established A/R	Less: Recovered Amount	A/R Balance	
2002-03	Mentally Disordered Offenders: Treatment as a Conditions of Parole	Ch. 1419/85	281	\$ 821,319	\$ -	\$ 821,319	\$ -	\$ -	\$ -	\$ 821,319
2002-03	Municipal Storm Water and Urban Runoff Discharges	Title 2	314	\$ 3,642,082	\$ -	\$ 3,642,082	\$ -	\$ -	\$ -	\$ 3,642,082
2002-03	Permanent Absent Voters II	Ch. 922/01	324	\$ 9,310	\$ -	\$ 9,310	\$ -	\$ -	\$ -	\$ 9,310
2002-03	Post Conviction: DNA Court Proceedings	Ch. 821/00	279	\$ 135,482	\$ 112,687	\$ 22,795	\$ -	\$ -	\$ -	\$ 22,795
2002-03	Racial Profiling: Law Enforcement Training	Ch. 684/00	282	\$ 3,008,618	\$ -	\$ 3,008,618	\$ -	\$ -	\$ -	\$ 3,008,618
2002-03 Total				\$ 29,629,240	\$ 112,687	\$ 29,516,553	\$ -	\$ -	\$ -	\$ 29,516,553
2001-02	Blinding Arbitration	Ch. 906/00	284	\$ 169,704	\$ -	\$ 169,704	\$ -	\$ -	\$ -	\$ 169,704
2001-02	Crime Statistics Reports for the Department of Justice	Ch. 1172/89	310	\$ 11,348,947	\$ -	\$ 11,348,947	\$ -	\$ -	\$ -	\$ 11,348,947
2001-02	Crime Victims' Domestic Violence Incident Reports II	Ch. 483/01	306	\$ 51,990	\$ -	\$ 51,990	\$ -	\$ -	\$ -	\$ 51,990
2001-02	Domestic Violence Background Checks	Ch. 713/01	322	\$ 583,468	\$ -	\$ 583,468	\$ -	\$ -	\$ -	\$ 583,468
2001-02	Fire Safety Inspections of Care Facilities	Ch. 993/89	283	\$ 75,056	\$ -	\$ 75,056	\$ -	\$ -	\$ -	\$ 75,056
2001-02	Firearm Hearing for Discharged Inpatients	Ch. 578/99	283	\$ 15,208	\$ -	\$ 15,208	\$ -	\$ -	\$ -	\$ 15,208
2001-02	Handicapped and Disabled Students II	Ch. 1128/94	263	\$ 2,343,422	\$ -	\$ 2,343,422	\$ -	\$ -	\$ -	\$ 2,343,422
2001-02	In-Home Support Services II	Ch. 90/99	289	\$ 116,534	\$ -	\$ 116,534	\$ -	\$ -	\$ -	\$ 116,534
2001-02	Local Government Employee Relations	Ch. 901/00	298	\$ 189,785	\$ -	\$ 189,785	\$ -	\$ -	\$ -	\$ 189,785
2001-02	Local Recreational Areas: Background Screenings	Ch. 777/01	285	\$ 171,461	\$ -	\$ 171,461	\$ -	\$ -	\$ -	\$ 171,461
2001-02	Mentally Disordered Offenders: Treatment as a Conditions of Parole	Ch. 1419/85	281	\$ 565,634	\$ -	\$ 565,634	\$ -	\$ -	\$ -	\$ 565,634
2001-02	Modified Primary Election	Ch. 898/00	323	\$ 32,181	\$ -	\$ 32,181	\$ -	\$ -	\$ -	\$ 32,181
2001-02	Post Conviction: DNA Court Proceedings	Ch. 821/00	279	\$ 73,775	\$ 62,375	\$ 11,400	\$ -	\$ -	\$ -	\$ 11,400
2001-02	Racial Profiling: Law Enforcement Training	Ch. 684/00	282	\$ 70,053	\$ -	\$ 70,053	\$ -	\$ -	\$ -	\$ 70,053
2001-02 Total				\$ 15,807,218	\$ 62,375	\$ 15,744,843	\$ -	\$ -	\$ -	\$ 15,744,843
2000-01	Binding Arbitration	Ch. 906/00	284	\$ 36,299	\$ -	\$ 36,299	\$ -	\$ -	\$ -	\$ 36,299
2000-01	Fire Safety Inspections of Care Facilities	Ch. 993/89	283	\$ 56,002	\$ -	\$ 56,002	\$ -	\$ -	\$ -	\$ 56,002
2000-01	Firearm Hearing for Discharged Inpatients	Ch. 578/99	293	\$ 13,248	\$ -	\$ 13,248	\$ -	\$ -	\$ -	\$ 13,248
2000-01	In-Home Support Services II	Ch. 90/99	289	\$ 112,301	\$ -	\$ 112,301	\$ -	\$ -	\$ -	\$ 112,301
2000-01	Mentally Disordered Offenders: Treatment as a Conditions of Parole	Ch. 1419/85	281	\$ 235,446	\$ -	\$ 235,446	\$ -	\$ -	\$ -	\$ 235,446
2000-01	Racial Profiling: Law Enforcement Training	Ch. 684/00	282	\$ 4,292	\$ -	\$ 4,292	\$ -	\$ -	\$ -	\$ 4,292
2000-01 Total				\$ 457,588	\$ -	\$ 457,588	\$ -	\$ -	\$ -	\$ 457,588
1999-00	In-Home Support Services II	Ch. 90/99	289	\$ 32,985	\$ -	\$ 32,985	\$ -	\$ -	\$ -	\$ 32,985
1999-00 Total				\$ 32,985	\$ -	\$ 32,985	\$ -	\$ -	\$ -	\$ 32,985
1998-99	Open Meetings Act	Ch. 641/86	49	\$ 5,866,046	\$ 5,866,046	\$ -	\$ 120,751	\$ 119,988	\$ 763	\$ (763)
1998-99 Total				\$ 5,866,046	\$ 5,866,046	\$ -	\$ 120,751	\$ 119,988	\$ 763	\$ (763)
1997-98	Open Meetings Act	Ch. 641/86	49	\$ 4,707,412	\$ 4,707,412	\$ -	\$ 183,902	\$ 183,169	\$ 733	\$ (733)
1997-98 Total				\$ 4,707,412	\$ 4,707,412	\$ -	\$ 183,902	\$ 183,169	\$ 733	\$ (733)
1995-96	Open Meetings Act	Ch. 641/86	49	\$ 3,690,222	\$ 3,690,222	\$ -	\$ 870,559	\$ 867,771	\$ 2,788	\$ (2,788)
1995-96 Total				\$ 3,690,222	\$ 3,690,222	\$ -	\$ 870,559	\$ 867,771	\$ 2,788	\$ (2,788)
1992-93	Open Meetings Act	Ch. 641/86	49	\$ 4,970,992	\$ 4,970,992	\$ -	\$ 713	\$ -	\$ 713	\$ (713)
1992-93 Total				\$ 4,970,992	\$ 4,970,992	\$ -	\$ 713	\$ -	\$ 713	\$ (713)
1991-92	California Fire Incident Reporting System (CFIRS)	Ch. 445/00, 345/87	288	\$ 130,288	\$ -	\$ 130,288	\$ -	\$ -	\$ -	\$ 130,288

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Fiscal Year	Program Name	Legal Reference	Program Number	ACCOUNTS PAYABLE (A/P)			ACCOUNTS RECEIVABLE (A/R)			Net Balance
				Program Costs	Less: Net Payments	A/P Balance	Established A/R	Less: Recovered Amount	A/R Balance	
1991-92	Open Meetings Act	Ch. 641/86	49	\$ 5,350,067	\$ 5,350,067	\$ -	\$ 48,328	\$ 46,542	\$ 1,786	\$ (1,786)
1991-92 Total				\$ 5,480,355	\$ 5,350,067	\$ 130,288	\$ 48,328	\$ 46,542	\$ 1,786	\$ 128,502
1990-91	California Fire Incident Reporting System (CFIRS)	Ch. 445/00,	288	\$ 85,888	\$ -	\$ 85,888	\$ -	\$ -	\$ -	\$ 85,888
1990-91 Total				\$ 85,888	\$ -	\$ 85,888	\$ -	\$ -	\$ -	\$ 85,888
Grand Total				\$ 1,294,248,596	\$ 427,684,313	\$ 866,564,283	\$ 97,168,039	\$ 67,908,815	\$ 29,259,224	\$ 837,305,059

**Schedule B2:
Local Agencies
for 15-year Payment
Pursuant to Proposition 1A**

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 May 29, 2013, I served the:

**New Mandates Redetermination Filing; and
Notice of Complete Filing and Schedule for Comments**

Mandate Redetermination Request, 12-MR-02

Local Recreational Areas: Background Screenings, (01-TC-11)

Public Resources Code Section 5164(b)(1), (b)(2), and (b)(3) as added or amended by Statutes 2001, Chapter 777 (AB 351); Statutes 2010, Chapter 719, (SB 856)

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 May 29, 2013 at Sacramento, California.



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Commission on State Mandates

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Claim Number: 12-MR-02

Issue: Local Recreational Areas: Background Screenings (01-TC-11)

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 TEST CLAIM ON:

Public Resources Code Section 5164,
Subdivisions (b) (1) and (2); Statutes 2001,
Chapter 777

Filed on February 8, 2002

By City of Los Angeles, Claimant

No. 01-TC-11

*Local Recreational Areas: Background
Screenings*

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 December 9, 2005)

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

Dec. 14, 2005

Date

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

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Subdivisions (b) (1) and (2); Statutes 2001,
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REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7

(Adopted on December 9, 2005)

STATEMENT OF DECISION

The Commission on State Mandates (Commission) heard and decided this test claim during a regularly scheduled hearing on December 9, 2005. Harold T. Fujita appeared on behalf of claimant City of Los Angeles. Susan Geanacou appeared on behalf of the Department of Finance, and Alan Burdick appeared on behalf of the CSAC-SB90 Service.

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 to approve the test claim at the hearing by a vote of 6-0.

BACKGROUND

Public Resources Code section 5164 was enacted in 1993 (Stats. 1993, ch. 972) to prohibit a city, county or special district from hiring a volunteer or employee for positions having supervisory or disciplinary authority over any minor at specified local agency recreational areas if the employee or volunteer has been convicted of specified crimes. Section 5164 was enacted because of a volunteer coach's 1992 conviction for kidnapping and molesting a boy who was coached at Hoover Recreation Center in Los Angeles County. The coach was a registered sex offender whose background had not been inquired about by the recreation center.¹ The Legislature's response was to enact section 5164.

¹ Assembly Committee on Local Government, Analysis of Assembly Bill 1663, as amended April 12, 1993 (1993-1994 Reg. Sess.), page 2.

The test claim statute (Stats. 2001, ch. 777, Assem. Bill No. 351)² amended Public Resources Code section 5164 as follows (changes marked in ~~strikeout~~ and underline).

- (a) A county or city or city and county or special district shall not hire a person for employment, or hire a volunteer to perform services, at a county or city or city and county or special district operated park, playground, recreational center, or beach used for recreational purposes, in a position having supervisory or disciplinary authority over any minor if ~~the~~ that person has been convicted of any offense specified in paragraph (1) of subdivision ~~(g)~~ (h) of Section 11105.3 of the Penal Code, or any offense specified in paragraph (3) of subdivision ~~(g)~~ (h) of Section 11105.3 of the Penal Code. However, this section shall not apply to a misdemeanor conviction under paragraph (3) of subdivision ~~(g)~~ (h) of Section 11105.3 of the Penal Code unless ~~the~~ that person has a total of three or more misdemeanor or felony convictions specified in Section 11105.3 of the Penal Code within the immediately preceding 10-year period.
- (b) (1) To give effect to this section, a county or city or city and county or special district ~~may~~ shall require each such prospective employee or volunteer to complete an application that inquires as to whether or not that individual has been convicted of any offense specified in subdivision (a). The county or city or city and county or special district shall screen, pursuant to Section 11105.3 of the Penal Code, any such prospective employee or volunteer having supervisory or disciplinary authority over any minor, for ~~the~~ that person's criminal background.
- (b) (2) Any local agency requests for Department of Justice records pursuant to this subdivision shall include the prospective employee's or volunteer's fingerprints, which may be taken by the local agency,^[3] and any other data specified by the Department of Justice. The request shall be made on a form approved by the Department of Justice. No fee shall be charged to the local agency for requesting the records of a prospective volunteer pursuant to the subdivision.

Penal Code section 11105.3, subdivision (h)(3), (now Pub. Res. Code, § 5164 subd. (a)(2))⁴ listed the crimes for which to screen prospective employees or volunteers who would have supervisory or disciplinary authority over minors as follows:

² Section 5164 has been amended since the test claim filing by Statutes 2004, chapter 184, but the amendments are not part of this analysis.

³ If the local agency takes the fingerprints, it may charge a fee not to exceed \$10 (Pen. Code, § 13300, subd. (e)). Other entities may charge more; see <<http://ag.ca.gov/fingerprints/publications/contact.htm>> [as of August 18, 2005].

⁴ Former Penal Code section 11105.3, subdivision (h)(3), was amended by Statutes 2004, chapter 184, and moved to Public Resources Code section 5164, subdivision (a)(2).

- Assault with intent to commit rape, sodomy, oral copulation, rape in concert with another, lascivious acts upon a child, or penetration of genitals or anus with a foreign object (Pen. Code, § 220)
- Unlawful sexual intercourse with a person under 18 (Pen. Code, § 261.5)
- Spousal rape (Pen. Code, § 262)
- Willful harm or injury to a child (Pen. Code, § 273a)
- Corporal punishment or injury of child (Pen. Code, § 273d)
- Willful infliction of corporal injury (Pen. Code, § 273.5)
- Sex offenses for which registration is required (Pen. Code, § 290) except the sexual battery offense in Penal Code 243.4, subdivision (d).
- Any felony or misdemeanor conviction within 10 years of the date of the employer's request if the person has a total of three or more misdemeanor or felony convictions within the immediately preceding 10-year period.⁵

Although Statutes 2004, chapter 184 amended the list of crimes for which to screen prospective employees or volunteers who would have supervisory or disciplinary authority over minors (see footnote 5), that amendment is not part of this test claim or this analysis.

Claimant's Position

Claimant City of Los Angeles contends that the test claim legislation constitutes a reimbursable state-mandated program pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514. Claimant requests reimbursement for the costs of screening employees in accordance with section 11105.3 of the Penal Code. According to claimant's test claim:

⁵ Statutes 2004, chapter 184, amended this provision as follows: "(B) Any felony or misdemeanor conviction specified in subparagraph (C) within 10 years of the date of the employer's request. (C) Any felony conviction that is over 10 years old, if the subject of the request was incarcerated within 10 years of the employer's request, for a violation or attempted violation of any of the offenses specified in Chapter 3 (commencing with Section 207) of Title 8 of part 1 of the Penal Code, Section 211 or 215 of the Penal Code, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022 of the Penal Code, in the commission of that offense, Section 217.1 of the Penal Code, Section 236 of the Penal Code, any of the offenses specified in Chapter 9 (commencing with Section 240) of Title 8 of Part 1 of the Penal Code, or any of the offenses specified in subdivision (c) of Section 667.5 of the Penal Code, provided that no record of a misdemeanor conviction shall be transmitted to the requester unless the subject of the request has a total of three or more misdemeanor convictions, or a combined total of three or more misdemeanor and felony convictions, for violations listed in this section within the 10-year period immediately preceding the employer's request or has been incarcerated for any of those convictions within the preceding 10 years."

An individual can be screened by requesting the Department of Justice [DOJ] to furnish any criminal history record it has on a prospective employee or volunteer. Such a request necessitates taking the fingerprints of the individual and submitting the fingerprints to the DOJ for processing. The DOJ does not charge a fee to fulfill the request for the record of each prospective volunteer. The DOJ charges a fee of \$32.00 to fulfill the request for the record of each prospective employee. [¶]...[¶]

As of November 2001, the City of Los Angeles Department of Recreation and Parks has hired 122 employees whose fingerprints had to be processed by the DOJ pursuant to Section 5164 of the Public Resources Code at a cost to the City of \$3904.00. It is estimated that the City will incur a total cost of approximately \$32,000 to achieve compliance with the Code during this current fiscal year (07/01/2001 to 06/30/2002).⁶

The claim includes a declaration certifying that the costs stated are true and correct. Claimant concurred with the draft staff analysis.

State Agency Positions

The Department of Finance (DOF) and Department of Justice (DOJ) each filed comments on the test claim. DOF, in a letter received May 3, 2002, states that, "as a result of our review, we have concluded that the statute may have resulted in costs mandated by the state."

The DOJ, in a letter received March 11, 2002, states that the test claim statute "does not modify DOJ processing procedures. As such, the DOJ is submitting a statement of non-response to the Commission on State Mandates."

No state agency filed comments on the draft staff analysis.

COMMISSION FINDINGS

The courts have found that article XIII B, section 6 of the California Constitution⁷ recognizes the state constitutional restrictions on the powers of local government to tax and spend.⁸ "Its

⁶ A claimant must incur at least \$1000 in costs to file a test claim with the Commission or a reimbursement claim with the State Controller's Office (Gov. Code, § 17564, subd. (a)).

⁷ Article XIII B, section 6, subdivision (a), (as amended by Proposition 1A in 2004) provides:

(a) 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.

⁸ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

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 financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”⁹ 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.¹⁰

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.¹¹

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.¹² 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.¹³ A “higher level of service” occurs when the new “requirements were intended to provide an enhanced service to the public.”¹⁴

Finally, the newly required activity or increased level of service must impose costs mandated by the state.¹⁵

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 6.¹⁶ In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an

⁹ *County of San Diego v. State of California (County of San Diego)*(1997) 15 Cal.4th 68, 81.

¹⁰ *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

¹¹ *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*).

¹² *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.)

¹³ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

¹⁴ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878.

¹⁵ *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.

¹⁶ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

“equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”¹⁷

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

The first issue is whether the test claim statute imposes state-mandated activities on local agencies. The Commission finds that it does.

The test claim statute states that the local agency “shall require each such prospective employee or volunteer to complete an application that inquires as to whether or not that individual has been convicted of any offense specified in subdivision (a).”¹⁸ The offenses inquired after include assault with intent to commit specified sexual acts upon a child (Pen. Code, § 220), unlawful sexual intercourse with a person under 18 (Pen. Code, § 261.5), spousal rape (Pen. Code, § 262), willful harm or injury to a child (Pen. Code, § 273a), corporal punishment or injury of child (Pen. Code, § 273d), willful infliction of corporal injury (Pen. Code, § 273.5), sex offenses for which registration is required (Pen. Code, § 290) except the sexual battery offense in Penal Code 243.4, subdivision (d), or any felony or misdemeanor conviction within 10 years of the date of the employer’s request if the person has a total of three or more misdemeanor or felony convictions within the immediately preceding 10-year period.

The test claim statute also states that the local agency “shall screen, pursuant to Section 11105.3 of the Penal Code, any such prospective employee or volunteer having supervisory or disciplinary authority over any minor, for that person’s criminal background.”¹⁹

Both of these activities are mandatory because the statutory language uses the word “shall.”²⁰ “[The local agency] *shall* require each prospective employee or volunteer to complete an application ... [The local agency] *shall* screen ... any such prospective employee or volunteer....” [Emphasis added.] Therefore, the Commission finds that the test claim statute imposes state-mandated activities on local agencies to: (1) require prospective employees or volunteers to complete an application that inquires into their criminal histories, and (2) effect criminal background screenings, pursuant to Penal Code section 11105.3, for prospective employees or volunteers having supervisory or disciplinary authority over minors.

Subdivision (b)(2) of section 5164, which preceded the test claim statute, states that the local agency, when requesting DOJ records, “shall include the prospective employee’s or volunteer’s fingerprints, ... and any other data specified by the Department of Justice. The request shall be made on a form approved by the Department of Justice.”²¹ Even though this provision was in preexisting law, the test claim statute amendment to subdivision (b)(1), which required local agencies to screen potential employees and volunteers, makes the (b)(2) screening procedures a

¹⁷ *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.

¹⁸ Public Resources Code section 5164, subdivision (b)(1).

¹⁹ *Ibid.*

²⁰ Public Resources Code section 15 states, “‘Shall’ is mandatory and ‘may’ is permissive.”

²¹ Public Resources Code section 5164, subdivision (b)(2).

requirement. Therefore, the screening procedure (except for taking fingerprints) in subdivision (b)(2) also imposes a state-mandated activity on local agencies.

Although the test claim statute requires the local agency to submit fingerprints to DOJ, the local agency is not required to take them. Subdivision (b)(2) of the test claim statute requires the local agency to submit the fingerprints, but states that they “may be taken by the local agency.” If the local agency takes the fingerprints, it may charge a fee not to exceed \$10, and other entities may charge more.²² Since whether the local agency takes the fingerprints is permissive, and the prints may be taken by the local agency or another entity at the expense of the prospective employee or volunteer, the Commission finds that taking fingerprints is not a state-mandated activity and therefore, not subject to article XIII B, section 6.

The second issue is whether the test claim legislation constitutes a program within the meaning of article XIII B, section 6. The Commission finds that it does.

In order for the test claim legislation to be subject to article XIII B, section 6 of the California Constitution, it must constitute a “program,” defined 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 Only one of these findings is necessary to trigger article XIII B, section 6.²⁴

The test claim statute requires local agencies to require prospective employees or volunteers who would have supervisory or disciplinary authority over minors to complete an application that inquires as to their criminal histories, and requires screening specified employees or volunteers in order to protect the public from those convicted of specified crimes. These activities are peculiarly governmental public safety, crime prevention functions administered by local agencies as a service to the public. The primary purpose of these activities is to protect children who participate in youth recreational programs. Moreover, the test claim legislation imposes unique requirements on local agencies that do not apply generally to all residents and entities of the state. Therefore, the Commission finds the test claim statutes constitute a “program” within the meaning of article XIII B, section 6.

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, a comparison must be made between the test claim legislation and the legal requirements in effect immediately before enacting the test claim legislation.²⁵ Each activity is discussed separately.

²² Penal code section 13300, subdivision (e). As to other entities’ ability to charge more, see <<http://ag.ca.gov/fingerprints/publications/contact.htm>> [as of August 18, 2005].

²³ *County of Los Angeles, supra*, 43 Cal.3d 46, 56.

²⁴ *Carmel Valley Fire Protection Dist.* (1987) 190 Cal.App.3d 521, 537.

²⁵ *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 878; *Lucia Mar, supra*, 44 Cal.3d 830, 835.

Application: Subdivision (b)(1) of the test claim statute states that the local agency shall require each prospective employee or volunteer “to complete an application that inquires as to whether or not the individual has been convicted of any offense specified”

Prior law prohibited a local agency from hiring an individual convicted of an offense specified in Penal Code section 11105.3 subdivision (h)(1) and (h)(3).²⁶ There was no previous requirement, however, for prospective employees or volunteers to complete an application that inquires after their criminal histories. Therefore, the Commission finds that requiring prospective employees or volunteers to complete an application that inquires after their criminal histories is a new program or higher level of service.

Screening employees: Subdivision (b)(1) of the test claim statute states, “The [local agency] ... shall screen, pursuant to Section 11105.3 of the Penal Code, any such prospective employee or volunteer having supervisory or disciplinary authority over any minor, for that person’s criminal background.” The screening procedure of section 11105.3 is stated in subdivision (b) as follows:

Any request for records under subdivision (a) shall include the applicant’s fingerprints, which may be taken by the requester, and any other data specified by the department [DOJ]. The request shall be on a form approved by the department, and the department may charge a fee to be paid by the employer, human resource agency, or applicant for the actual cost of processing the request. However, no fee shall be charged to a nonprofit organization. ...²⁷

As to the DOJ fee, the test claim statute states that no fee is required for a prospective volunteer.²⁸

Likewise, subdivision (b)(2) of the test claim statute states, “Any local agency requests for Department of Justice records pursuant to this subdivision shall include the prospective employee’s or volunteer’s fingerprints, which may be taken by the local agency, and any other data specified by the Department of Justice. The request shall be made on a form approved by the Department of Justice.”

Subdivision (b)(2) predates the test claim statute, so if the local agency elected to screen a prospective employee or volunteer, the local agency was required to comply with the procedure in (b)(2). As discussed above, however, enactment of the test claim statute made the screening mandatory for local agencies. Therefore, as a new requirement, the Commission finds that local agency screening of employees or volunteers for positions having supervisory or disciplinary authority over minors is a new program or higher level of service. The screening procedure outlined in Penal Code section 11105.3 and subdivision (b)(2) of the test claim statute requires forwarding to DOJ the following: (1) the prospective employee’s or volunteer’s fingerprints,

²⁶ The offenses are now listed in Public Resources Code section 5164 subdivision (a)(2).

²⁷ Penal Code section 11105.3, subdivision (b). The current DOJ fee is \$32. See <<http://www.ag.ca.gov/fingerprints/forms/fees.pdf>> as of October 3, 2005.

²⁸ Public Resources Code section 5164, subdivision (b)(2).

(2) any other data specified by DOJ on a DOJ form, and (3) DOJ's fingerprint processing fee²⁹ (except that no fee is required for a prospective volunteer).³⁰

Issue 3: Does the test claim statute impose "costs mandated by the state" within the meaning of Government Code sections 17514 and 17556?

In order for the test claim statute's activities to impose a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution, the activities must impose increased costs mandated by the state.³¹ In addition, no statutory exceptions as listed in Government Code section 17556 can apply. Government Code section 17514 defines "costs mandated by the state" as follows:

[A]ny increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

In its test claim, claimant states that it "hired 122 employees whose fingerprints had to be processed by the DOJ pursuant to Section 5164 of the Public Resources Code at a cost to the City of \$3904.00. It is estimated that the City will incur a total cost of approximately \$32,000 to achieve compliance with the Code during this current fiscal year (07/01/2001 to 06/30/2002)." Therefore, the claimant has shown costs sufficient to state a claim.³²

The final issue is whether the test claim statute imposes costs mandated by the state within the meaning of Government Code sections 17556 and 17514.

The test claim statute requires local agencies to:

- Require each prospective employee or volunteer who would have disciplinary or supervisory over minors "to complete an application that inquires as to whether or not the individual has been convicted of any offense specified"
- Screen, pursuant to Penal Code section 11105.3, prospective employees or volunteers who would have supervisory or disciplinary authority over minors. Penal Code section 11105.3 outlines the screening procedure: "The request [for fingerprint processing] shall be on a form approved by the department, and the department may charge a fee to be paid by the employer, human resource agency, or applicant for the actual cost of processing the request." As stated above, the screening procedure consists of forwarding to DOJ the following:
 1. the prospective employee's or volunteer's fingerprints;

²⁹ Penal Code section 11105.3, subdivision (b).

³⁰ Public Resources Code section 5164, subdivision (b)(2).

³¹ *Kern High School Dist.*, *supra*, 30 Cal. 4th 727, 736; *Lucia Mar Unified School Dist.*, *supra*, 44 Cal.3d 830, 835; Government Code section 17514.

³² The claimant must incur a minimum of \$1000 to file a claim. Government Code section 17564, subdivision (a).

2. any other data specified by DOJ on a DOJ form, and;
- For prospective employees only, paying DOJ's fingerprint processing fee³³ (no fee is required for a prospective volunteer).³⁴

Applications: Requiring local agencies to require each prospective employee or volunteer who would have supervisory or disciplinary authority over minors to complete an application that inquires as to whether or not the prospective employee or volunteer has been convicted of any offense specified in Public Resources Code section 5164, subdivision (a),³⁵ is a new state-mandated activity, and none of the exceptions in Government Code section 17556 to finding costs mandated by the state apply to it. In order to comply, local agencies must revise and print job applications that inquire as to the applicants' criminal history. This would be a one-time activity. Therefore, the Commission finds that this one-time activity imposes "costs mandated by the state" within the meaning of Government Code sections 17514.

Screening Employees: The issue is whether local agencies that request the background screenings from DOJ have the authority to charge a fee to prospective employees within the meaning of Government Code section 17556, subdivision (d), or have offsetting savings within the meaning of Government Code section 17556, subdivision (e).

In interpreting a statute, the Commission, like a court, focuses on its plain meaning.

[W]e look to the intent of the Legislature in enacting the law, being careful to give the statute's words their plain, commonsense meaning. If the language of the statute is not ambiguous, the plain meaning controls and resort to extrinsic sources to determine the Legislature's intent is unnecessary.³⁶

Public Resources Code section 5164 states that the local agency "shall screen, pursuant to Section 11105.3 of the Penal Code, any ... prospective employee or volunteer" According to Penal Code section 11105.3, DOJ's fee for screening may be paid by "the employer, human resource agency, or applicant for the actual cost of processing the request."³⁷ The fee authority in 11105.3 is authority for a fingerprint-processing fee granted to DOJ.

The plain meaning of section 11105.3, however, does not grant the local agency fee authority for this screening, nor does it expressly grant the local agency authority to pass on the cost of the DOJ- screening to a prospective employee.

The legislative history of Public Resources Code section 5164 indicates that when section 5164 was enacted (Stats. 1993, ch. 972), the Legislature intended that local agencies have fee authority

³³ Penal Code section 11105.3, subdivision (b).

³⁴ Public Resources Code section 5164, subdivision (b)(2).

³⁵ These offenses were listed in former Penal Code section 11105.3 prior to Statutes 2004, chapter 184.

³⁶ *In re Jennings* (2004) 34 Cal. 4th 254, 263.

³⁷ Penal Code section 11105.3, subdivision (b), as amended by Statutes 1992, chapter 1227. Prior to this amendment, section 11105.3 stated that DOJ may charge a fee to be paid by "the requester."

for the background screening,³⁸ even though this original statute made the screening provision permissive (and prohibited hiring an employee or volunteer who had been convicted of specified crimes). However, neither the plain meaning of section 5164, nor section 11105.3 of the Penal Code support this stated legislative intention.

Therefore, the Commission finds that the test claim statute imposes “costs mandated by the state” within the meaning of Government Code sections 17514 and 17556 for the activity of screening prospective employees by submitting to DOJ the required fingerprints, form(s), and fee paid by the local agency. Reimbursement would not be required if the DOJ fingerprint processing fee were paid by the applicant rather than the local agency because the local agency would not incur the cost.

Local agencies do not incur costs for submitting fingerprints of prospective volunteers to DOJ because Public Resources Code section 5164, subdivision (b)(2) precludes the DOJ fee for volunteers. Thus, as to prospective volunteers that must be screened, the Commission finds that the local agencies do not incur DOJ-imposed fingerprint processing costs, and therefore are not subject to costs mandated by the state for screening prospective volunteers.

CONCLUSION

The Commission finds that the test claim statute 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 and 17556 for the following activities:

- Requiring each local agency to have each prospective employee or volunteer who would have supervisory or disciplinary authority over minors to complete an application that inquires as to whether or not the prospective employee or volunteer has been convicted of any offense specified in Public Resources Code section 5164, subdivision (a). (Pub. Res. Code, § 5164, subd. (b)(1)). This means that local agencies must perform the one-time activity of revising and printing job applications that inquire as to the applicants’ criminal history.
- Screening, pursuant to Penal Code section 11105.3, prospective employees and volunteers who would have supervisory or disciplinary authority over minors. The screening procedure for these individuals requires submitting the following to DOJ: (1) the prospective employee’s or volunteer’s fingerprints, (2) any other data specified by DOJ on a DOJ-approved form, (3) for prospective employees only, paying the DOJ’s fingerprint processing fee (no fee is required for a prospective volunteer).³⁹ (Pub. Res. Code, § 5164, subds. (b)(1) & (b)(2)).

³⁸ Senate Committee on Appropriations, Analysis of Assembly Bill No. 1663, as amended August 18, 1993 (1993-1994 Reg. Sess.) page 1.

³⁹ Public Resources Code section 5164, subdivision (b)(2).

PARAMETERS AND GUIDELINES

Public Resources Code Section 5164, Subdivisions (b)(1) and (b)(2)

Statutes 2001, Chapter 777

Local Recreational Areas: Background Screenings

01-TC-11

City of Los Angeles, Claimant

I. SUMMARY OF THE MANDATE

On December 9, 2005, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that Public Resources Code section 5164, subdivisions (b)(1) and (b)(2), as amended by Statutes 2001, chapter 777, 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 and 17556 for the following activities:

- Requiring each local agency to have each prospective employee or volunteer who would have supervisory or disciplinary authority over minors to complete an application that inquires as to whether or not the prospective employee or volunteer has been convicted of any offense specified in Public Resources Code section 5164, subdivision (a). This means that local agencies must perform the one-time activity of revising and printing job applications that inquire as to the applicants' criminal history.
- Screening, pursuant to Penal Code section 11105.3, prospective employees and volunteers who would have supervisory or disciplinary authority over minors. The screening procedure for these individuals requires submitting the following to Department of Justice (DOJ): (1) the prospective employee's or volunteer's fingerprints, (2) any other data specified by DOJ on a DOJ-approved form, (3) for prospective employees only, paying the DOJ's fingerprint processing fee (no fee is required for a prospective volunteer).¹

The Commission denied any remaining alleged costs or activities because they do not impose a new program or higher level of service, and do not impose costs mandated by the state. Specifically, the Commission found that the following activities are not reimbursable:

- Taking fingerprints.
- Paying DOJ's fingerprint processing fee for a prospective volunteer.

II. ELIGIBLE CLAIMANTS

Any city, county, city and county, or special district that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.

¹ Public Resources Code section 5164, subdivision (b)(2).

III. PERIOD OF REIMBURSEMENT

Government Code section 17557, subdivision (c), as amended by Statutes 1998, chapter 681, 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 Los Angeles filed the test claim on February 8, 2002, establishing eligibility for fiscal year 2000-2001. However, the operative date of Public Resources Code section 5164, subdivisions (b)(1) and (b)(2), as amended by Statutes 2001, chapter 777, is January 1, 2002. Therefore, costs incurred pursuant to Public Resources Code section 5164, subdivisions (b)(1) and (b)(2), as amended by Statutes 2001, chapter 777, are reimbursable on or after January 1, 2002.

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.

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, 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.

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 are reimbursable:

1. Have each prospective employee or volunteer who would have supervisory or disciplinary authority over minors to complete an application that inquires as to whether or not the prospective employee or volunteer has been convicted of any offense specified in Public Resources Code section 5164, subdivision (a). (Pub. Res. Code, § 5164, subd. (b)(1)). This is a one-time activity of revising and printing job applications that inquire as to the applicants' criminal history.

2. Screening, pursuant to Penal Code section 11105.3, prospective employees and volunteers who would have supervisory or disciplinary authority over minors. The screening procedure for these individuals requires submitting the following to the Department of Justice (DOJ): (1) the prospective employee's or volunteer's fingerprints, (2) any other data specified by DOJ on a DOJ-approved form, (3) for prospective employees only, paying the DOJ's fingerprint processing fee (no fee is required for a prospective volunteer). (Pub. Res. Code, § 5164, subds. (b)(1) & (b)(2)).

The Commission found that the following activities **are not** reimbursable:

- Taking fingerprints.
- Paying DOJ's fingerprint processing fee for a prospective volunteer.

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.

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 chapter² 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.

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.

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

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.

COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csminfo@csm.ca.gov



September 17, 2013

Mr. Michael Byrne
Department of Finance
915 L Street, Room 1190
Sacramento, CA 95814

And Affected State and Local Agencies and Interested Parties (See Mailing List)

Re: **Draft Staff Analysis, Schedule for Comments, and Notice of Hearing**
Mandate Redetermination Request, 12-MR-02
Local Recreational Areas: Background Screenings, (01-TC-11)
Public Resources Code Section 5164(b)(1), (b)(2), and (b)(3) as added or amended by
Statutes 2001, Chapter 777 (AB 351); Statutes 2010, Chapter 719, (SB 856)
California Department of Finance, Requester

Dear Mr. Byrne:

The draft staff analysis for the above-named matter is enclosed for your review and comment.

Written Comments

Written comments may be filed on the draft staff analysis by **October 8, 2013**. You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. 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.)

If you would like to request an extension of time to file comments, please refer to section 1183.01(c)(1) of the Commission's regulations.

Hearing

This matter is set for hearing on **Friday, December 6, 2013**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. The final staff analysis will be issued on or about November 22, 2013. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01(c)(2) of the Commission's regulations.

Please contact Matthew Jones at (916) 323-3562 if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Heather Halsey".

Heather Halsey
Executive Director

Hearing Date: December 6, 2013

J:\MANDATES\2001\tc\01-tc-11 (Local Recreational Areas Background Screenings)\12-MR-02\First Hearing - Adequate Showing\DSA_PSOD.docx

ITEM __
MANDATE REDETERMINATION
FIRST HEARING: ADEQUATE SHOWING
DRAFT STAFF ANALYSIS AND
PROPOSED STATEMENT OF DECISION

Public Resources Code Section 5164

Statutes 2001, Chapter 777

Local Recreational Areas: Background Screenings, (01-TC-11)

As Alleged to be Modified by:

Statutes 2010, Chapter 719 (SB 856)

12-MR-02

Department of Finance, Requester

Attached is the draft proposed statement of decision for this matter. This Executive Summary and the draft proposed statement of decision also function as the draft staff analysis, as required by section 1190.05 of the Commission's regulations.

EXECUTIVE SUMMARY

Overview

On December 9, 2005, the Commission on State Mandates (Commission) adopted a statement of decision approving reimbursement for the *Local Recreational Areas: Background Screenings* program, 01-TC-11, which required local agencies to have prospective employees or volunteers complete an application that inquires whether the person has been convicted of any offense specified in Public Resources Code 5164, and to screen prospective employees and volunteers who would have supervisory or disciplinary authority over minors pursuant to Penal Code section 11105.3. That screening requires submitting the prospective employee's or volunteer's fingerprints, along with any other information required on a DOJ-approved form, and paying a fingerprint processing fee for prospective employees, but not for volunteers.

On June 26, 2008, the Commission adopted parameters and guidelines for the approved activities, which specifically clarified that reimbursement is *not required* for taking the fingerprints of the prospective employee or volunteer, or for paying DOJ's processing fee for a volunteer.

Statutes 2010, chapter 719 (SB 856) added subdivision (b)(3) to Public Resources Code section 5164, which provides that "[a] county, city, city and county, or special district may charge a prospective employee or volunteer described in subdivision (a) a fee to cover all of the...costs

attributable to the requirements imposed by this section.”¹ Statutes 2010, chapter 719 also added section 17570 to the Government Code, outlining the Commission’s process for redetermination of test claims. This statute was an urgency measure and was chaptered on October 19, 2010.

On May 20, 2013, the Department of Finance (Finance) filed a request for redetermination of the test claim decision pursuant to Government Code section 17570.² Finance asserts that Statutes 2010, chapter 719 constitutes a subsequent change in the law, as defined in section 17570, which, pursuant to section 17556(d), results in the state’s liability under the test claim statutes being modified.³ Specifically, Finance argues that “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 Public Resources Code section 5164.”

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 hearing process. The Commission’s regulations state that “the first hearing shall be limited to the issue of whether the requester has made 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.” The regulations state that 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 responses and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.” The regulations further 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

Therefore, the sole issue before the Commission at this first hearing is whether Finance, as the requester, has made an adequate showing that the state’s liability has been modified pursuant to a subsequent change in law, as defined in section 17570.

Staff Analysis

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

¹ Public Resources Code section 5164 (as amended by Stats. 2010, ch. 719 (SB 856)).

² Based on the May 20, 2013 filing date, the potential period of reimbursement affected by this redetermination begins July 1, 2011.

³ Exhibit A, Request for Redetermination, at p. 6.

⁴ Code of Regulations, Title 2, section 1190.05 (Register 2010, No. 48).

“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.”⁵

Staff finds that Statutes 2010, chapter 719 (SB 856) constitutes a subsequent change in law, as defined in section 17570. Statutes 2010, chapter 719 provides local government with the authority to impose fees or charges “to cover all...costs attributable to the requirements imposed by” the test claim statute and, pursuant to section 17556(d), the Commission shall not find costs mandated by the state where the local government has such authority. Therefore, Finance has made an adequate showing that the state’s liability under the 01-TC-11 test claim decision has been modified, and that Finance has a substantial possibility of prevailing at the second hearing.

Staff Recommendation

Staff recommends that the Commission adopt this statement of decision and, pursuant to Government Code section 17570(b)(d)(4), direct staff to notice the request for a second hearing to determine if a new test claim decision shall be adopted to supersede the previously adopted test claim decision. If the Commission adopts the attached proposed statement of decision, the second hearing for this matter will be set for January 24, 2014.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical changes to the proposed statement of decision following the hearing.

⁵ 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:
FIRST HEARING: ADEQUATE SHOWING
ON:

Public Resources Code Section 5164;

As amended by Statutes 2001, Chapter 777.

*Local Recreational Areas: Background
Screenings, 01-TC-11*

As Alleged to be Modified by:

Statutes 2010, Chapter 719 (SB 856)

Filed on May 30, 2013

By the Department of Finance, Requester.

Case No.: 12-MR-02

*Local Recreational Areas: Background
Screenings, (01-TC-11)*

STATEMENT OF 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, § 1190.05]

(Adopted December 6, 2013)

STATEMENT OF DECISION

The Commission on State Mandates (Commission) heard and decided this mandate redetermination during a regularly scheduled hearing on December 6, 2013. [Witness list will be included in the final statement of decision.]

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/modified] the staff analysis at the hearing by a vote of [vote count will be included in the final statement of decision], and [directed/did not direct] 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 (Finance) has made an adequate showing that the state's liability pursuant to article XIII B, section 6(a) of the California Constitution, for the 01-TC-11 mandate has been modified based on a subsequent change in law. Specifically, Statutes 2010, chapter 719 (SB 856) provided local agencies with the authority to charge a fee on prospective employees or volunteers to cover all costs attributable to the mandated background

check activities under Public Resources Code section 5164, and 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(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

Chronology

- 12/9/2005 The Commission adopted the test claim statement of decision for *Local Recreational Areas: Background Screenings*, 01-TC-11, approving reimbursement for certain activities under Public Resources Code section 5164.⁶
- 06/26/2008 The Commission adopted parameters and guidelines.⁷
- 10/19/2010 The Legislature enacted SB 856, which added subdivision (b)(3) to Public Resources Code section 5164, providing for fee authority.⁸
- 05/20/2013 The Department of Finance filed a request for redetermination on test claim 01-TC-11.⁹
- 05/29/2013 Commission staff deemed the filing complete.

I. Background

Public Resources Code Section 5164 and Test Claim Decision

Public Resources Code section 5164 was enacted in 1993 (Stats. 1993, ch. 972) to prohibit a city, county or special district from hiring a volunteer or employee for positions having supervisory or disciplinary authority over any minor at specified local agency recreational areas if the employee or volunteer has been convicted of specified crimes. Section 5164 was enacted because of a volunteer coach's 1992 conviction for kidnapping and molesting a boy who was coached at Hoover Recreation Center in Los Angeles County. The coach was a registered sex offender whose background had not been inquired about by the recreation center.¹⁰ The test claim statute at issue in 01-TC-11 (Stats. 2001, ch. 777, (AB 351)),¹¹ amended Public Resources Code section 5164 to provide that a city, county, city and county, or special district, shall not hire a person for

⁶ Exhibit B, Test Claim Statement of Decision.

⁷ Exhibit C, Test Claim Parameters and Guidelines.

⁸ See Exhibit A, Request for Redetermination.

⁹ Exhibit A, Request for Redetermination.

¹⁰ Assembly Committee on Local Government, Analysis of Assembly Bill 1663, as amended April 12, 1993 (1993-1994 Reg. Sess.), page 2.

¹¹ Section 5164 has been amended since the test claim filing by Statutes 2004, chapter 184, but the amendments are not part of this analysis.

employment, or take on a volunteer, in a position having supervisory or disciplinary authority over any minor if that person has been convicted of any offense specified in Penal Code section 11105.3(h)(1) or (h)(3). Statutes 2001, chapter 777 (AB 351) further provided that the city, county, or special district shall require each prospective employee or volunteer to complete an application inquiring whether the individual has been convicted of any of certain specified offenses, and shall screen any such prospective employee or volunteer for that person's criminal background, including obtaining fingerprints and a Department of Justice record. Penal Code section 11105.3(h)(3), (now Pub. Res. Code, § 5164(a)(2))¹² listed a number of crimes for which to screen prospective employees or volunteers who would have supervisory or disciplinary authority over minors, including, but not limited to, a number of permutations of sexual assault and sexual battery, unlawful sexual intercourse with a person under 18, corporal punishment or injury of a child, willful infliction of corporal injury, registerable sex offenses under section 290, or any other felony or misdemeanor conviction within 10 years of the prospective employer's request if the person has a total of three or more misdemeanor or felony convictions within the immediately preceding 10 year period.¹³

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 altered the state's liability for reimbursement. Section 17570 calls for a two hearing process; at the first hearing, the requester must make "an adequate showing which identifies a subsequent change in law as defined by Government Code section 17570, material to the prior the claim decision, that may modify the state's liability pursuant to Article XIII B, section 6, subdivision (a) of the California Constitution."¹⁴

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 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 17551.¹⁵

An "adequate showing" is defined in the Commission's regulations as follows:

¹² Former Penal Code section 11105.3, subdivision (h)(3), was amended by Statutes 2004, chapter 184, and moved to Public Resources Code section 5164, subdivision (a)(2).

¹³ Exhibit B, Test Claim Statement of Decision, at pp. 2-4.

¹⁴ Code of Regulations, Title 2, section 1190.05(a)(1).

¹⁵ Government Code section 17570, as added by Statutes 2010, chapter 719 (SB 856).

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 responses and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.¹⁶

If the Commission finds, at the first hearing, that the requester 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.”¹⁷

II. Position of the Department of Finance, Requester¹⁸

Finance submitted a request to adopt a new test claim decision regarding Public Resources Code section 5164, pursuant to Government Code section 17570. Finance asserts that Statutes 2010, chapter 719 (SB 856) 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. Finance argues that “local agencies may charge a fee to cover all of their costs attributable to the mandated activities in Public Resources Code section 5164,” and that therefore the state is no longer obligated to reimburse any costs for the mandated activities, pursuant to Government Code sections 17570 and 17556(d).¹⁹

III. 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 6.²⁰ The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.²¹ In making its decisions, the Commission must strictly construe

¹⁶ California Code of Regulations, Title 2, section 1190.05(a)(1).

¹⁷ California Code of Regulations, Title 2, section 1190.05(a)(5)(B).

¹⁸ No other parties, or interested parties or persons have filed comments on this request for redetermination.

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

²⁰ *Kinlaw v. State of California* (1991) 53 Cal.3d 482, 487; Government Code sections 17551; 17552.

²¹ *County of San Diego v. State of California*, (1997) 15 Cal.4th 68, 109.

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.”²²

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 responses and supporting documentation in the records of this request, has a substantial possibility of prevailing at the second hearing.”²³ 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 2010, Chapter 719.

On December 9, 2005, the Commission adopted a test claim decision in *Local Recreational Areas: Background Screenings*, 01-TC-11, finding reimbursable state-mandated activities imposed by Public Resources Code section 5164, as amended by Statutes 2001, chapter 777 (AB 351). On June 26, 2008, the Commission adopted parameters and guidelines for reimbursement of claims under the statute, which outlined the reimbursable activities as follows:

1. Have each prospective employee or volunteer who would have supervisory or disciplinary authority over minors to complete an application that inquires as to whether or not the prospective employee or volunteer has been convicted of any offense specified in Public Resources Code section 5164(a). (Pub. Res. Code, § 5164(b)(1)). This is a one-time activity of revising and printing job applications that inquire as to the applicants’ criminal history.

²² *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.

²³ Code of Regulations, Title 2, section 1190.05 (Register 2010, No. 48). This regulation describes the standard for the first hearing as follows:

The first hearing shall be limited to the issue of whether the requester has made 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. 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 responses and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.

2. Screening, pursuant to Penal Code section 11105.3, prospective employees and volunteers who would have supervisory or disciplinary authority over minors. The screening procedure for these individuals requires submitting the following to the Department of Justice (DOJ): (1) the prospective employee's or volunteer's fingerprints, (2) any other data specified by DOJ on a DOJ-approved form, (3) for prospective employees only, paying the DOJ's fingerprint processing fee (no fee is required for a prospective volunteer). (Pub. Res. Code, § 5164(b)(1) & (b)(2)).

The Commission found that the following activities are not reimbursable:

- Taking fingerprints.
- Paying DOJ's fingerprint processing fee for a prospective volunteer.²⁴

Statutes 2010, chapter 719 (SB 856), effective October 19, 2010, added subdivision (b)(3) to Public Resources Code section 5164, which provides that a local government may charge a fee for the prospective employee or volunteer to cover "all...costs attributable to the requirements imposed by this section." Paragraph (25) of the Legislative Counsel's Digest accompanying the bill states:

Existing law prohibits a county, city, city and county, or special district from hiring a person for employment or a volunteer to perform services, at a county, city, city and county, or special district operated park, playground, recreational center, or beach used for recreational purposes, in a position having supervisory or disciplinary authority over a minor, if that person has been convicted of specified offenses. Existing law requires a county, city, city and county, or special district to require each of those prospective employees and volunteers to complete an application that inquires as to whether that person has been convicted of one of those offenses, and imposes a screening requirement on the county, city, city and county, or special district with respect to those prospective employees and volunteers.

This bill would authorize a county, city, city and county, or special district to charge those prospective employees and volunteers a fee *to cover all of the county, city, city and county, or special district's costs attributable to those requirements.*²⁵

Finance argues that the "2010 amendment to the Public Resources Code section 5164 is the "subsequent change in law" that allows the Commission to make a new test claim finding that the cost of the mandated program is not a cost mandated by the state." Finance maintains that

²⁴ Exhibit C, Test Claim (01-TC-11) Parameters and Guidelines, at p. 1.

²⁵ Statutes 2010, chapter 719 (SB 856) Legislative Counsel's Digest, paragraph (25) [uncodified].

“[a]s 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 Public Resources Code section 5164.”²⁶

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, subdivision (d), in *County of Fresno v. State of California*.²⁷ 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*.²⁸

Accordingly, in *Clovis Unified School District v. Chiang*, the court found that the Controller’s office 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.”²⁹ The court further noted that, “this basic principle flows from common sense as well. As the

²⁶ Exhibit A, Request for Redetermination, at p. 6.

²⁷ *County of Fresno v. State of California, supra*, 53 Cal.3d 482.

²⁸ *Id.*, at p. 487.

²⁹ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, at p. 812.

Controller succinctly puts it, ‘Claimants can choose not to require these fees, but not at the state’s expense.’”³⁰

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.³¹ 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 17551.³²

Here, the amendments effected by Statutes 2010, chapter 719, providing local government with authority to charge a fee for costs associated with screening prospective employees or volunteers, implicate a section 17556(d) analysis, and therefore the amendments constitute a subsequent change in law, as defined.

C. Finance has made an Adequate Showing that the State’s Liability has been Modified.

Finance brings this request to adopt a new test claim decision relying on Government Code section 17556(d), and Statutes 2010, chapter 719 (SB 856). Statutes 2010, chapter 719 constitutes, by definition, a subsequent change in law, as discussed above.

The issue for this first hearing is whether Finance 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

³⁰ *Ibid.*

³¹ *CSBA I, supra*, 171 Cal.App.4th 1183, at pp. 1199-1200.

³² Government Code section 17570, as added by Statutes 2010, chapter 719 (SB 856).

light of all of the written responses and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.”³³

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 Finance has made a sufficient showing at this first hearing to proceed to a second hearing to determine whether to adopt a new test claim decision.³⁴ The Commission hereby directs Commission staff to notice the second hearing and to prepare a full mandates analysis on the issue of whether the CSM shall adopt a new test claim decision to supersede the Commission’s previously adopted test claim decision in 01-TC-11.

³³ Code of Regulations, title 2, section 1190.05.

³⁴ See Government Code section 17570(d) (Stats. 2010, ch. 719 (SB 856)).

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 17, 2013, I served the:

Draft Staff Analysis, Schedule for Comments, and Notice of Hearing

Mandate Redetermination Request, 12-MR-02

Local Recreational Areas: Background Screenings, (01-TC-11)

Public Resources Code Section 5164(b)(1), (b)(2), and (b)(3) as added or amended by Statutes 2001, Chapter 777 (AB 351); Statutes 2010, Chapter 719, (SB 856)

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 17, 2013 at Sacramento, California.



Heidi J. Palchik
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Commission on State Mandates

Original List Date: 1/18/2013
Last Updated: 9/17/2013
List Print Date: 9/17/2013 **Mailing List**
Claim Number: 12-MR-02
Issue: Local Recreational Areas: Background Screenings (01-TC-11)

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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JOHN CHIANG
California State Controller
Division of Accounting and Reporting

Exhibit E
RECEIVED
September 30, 2013
COMMISSION ON
STATE MANDATES

September 30, 2013

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

Re: Mandate Redetermination Request, 12-MR-02
Local Recreational Areas: Background Screenings, (01-TC-11)
Public Resources Code Section 5164(b)(1), (b)(2), and (b)(3) as added or amended by
Statutes 2001, Chapter 777 (AB 351); Statutes 2010, Chapter 719, (SB 856)
California Department of Finance, Requester

Dear Ms. Halsey:

The State Controller's Office (SCO) reviewed the draft staff analysis prepared by your office. The SCO agrees that the activities previously determined to be reimbursable in the Statement of Decision adopted on December 9, 2005, cease to be reimbursable in compliance with Government Code sections 17570, subdivision (b), and 17556, subdivision (d).

Public Resources Code section 5164 was amended by Chapter 719, Statutes of 2010, (SB 856) enacted on October 19, 2010. The amendment provides that a local government may charge a fee to cover all costs for the above mandated program. 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 October 2, 2013, I served the:

State Controller's Office Comments

Mandate Redetermination Request, 12-MR-02

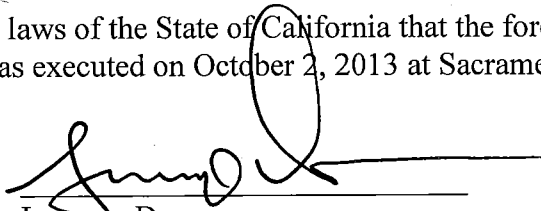
Local Recreational Areas: Background Screenings, (01-TC-11)

Public Resources Code Section 5164(b)(1), (b)(2), and (b)(3) as added or amended by Statutes 2001, Chapter 777 (AB 351); Statutes 2010, Chapter 719, (SB 856)

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 October 2, 2013 at Sacramento, California.



Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

Commission on State Mandates

Original List Date: 5/28/2013
Last Updated: 10/2/2013
List Print Date: 10/2/2013
Claim Number: 12-MR-02
Issue: Local Recreational Areas: Background Screenings (01-TC-11)

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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Received
October 8, 2013
Commission on
State Mandates

October 8, 2013

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

Dear Ms. Halsey:

**Draft Staff Analysis and Proposed Statement of Decision on the Mandate
Redetermination, Local Recreational Area: Background Screenings Test Claim (12-MR-
02)**

The Department of Finance (Finance) has reviewed the draft staff analysis and proposed statement of decision prepared in response to our mandate redetermination request regarding the Local Recreational Area: Background Screenings Test Claim (12-MR-02.) Finance concurs with the draft staff analysis which recommends the Commission adopt the proposed statement of decision and direct staff to notice a request for a second hearing to determine if a new test claim decision should be adopted.

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 email 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,


Tom Dyer
Assistant Program Budget Manager

Enclosure A

DECLARATION OF MICHAEL BYRNE
DEPARTMENT OF FINANCE
CLAIM NO. 12-MR-02

1. 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 this declaration on behalf of Finance.
2. 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 therein stated as information or belief and, as to those matters, I believe them to be true.

10/8/2013

at Sacramento, California.



Michael Byrne

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 October 11, 2013, I served the:

DOF Comments

Mandate Redetermination Request, 12-MR-02

Local Recreational Areas: Background Screenings, (01-TC-11)

Public Resources Code Section 5164(b)(1), (b)(2), and (b)(3) as added or amended by Statutes 2001, Chapter 777 (AB 351); Statutes 2010, Chapter 719, (SB 856)

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 October 11, 2013 at Sacramento, California.



Heidi J. Palchik
Commission on State Mandates
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 10/10/13

Claim Number: 12-MR-02

Issue: Local Recreational Areas: Background Screenings (01-TC-11)

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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. (Cal. Code Regs., tit. 2, § 1181.2.)

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And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: **Adopted Statement of Decision, Notice of Draft Staff Analysis and Proposed Statement of Decision, Draft Expedited Amendment to Parameters and Guidelines, and Notice of Hearing**
Mandate Redetermination Request, 12-MR-02
Local Recreational Areas: Background Screenings, (01-TC-11)
Public Resources Code Section 5164(b)(1), (b)(2), and (b)(3) as added or amended by Statutes 2001, Chapter 777 (AB 351); Statutes 2010, Chapter 719, (SB 856)
California Department of Finance, Requester

Dear Mr. Dyer:

On December 6, 2013, the Commission on State Mandates adopted the statement of decision on the first hearing for the above-named matter 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. The draft staff analysis for the second hearing as well as the draft expedited amendment to parameters and guidelines are enclosed for your review and comment.

Written Comments on Draft Staff Analysis

Written comments may be filed on the second hearing draft staff analysis by **January 6, 2014**.

Additionally, staff has prepared a draft expedited amendment to parameters and guidelines for adoption at the January Commission hearing. The draft expedited amendment to parameters and guidelines is set for hearing on **January 24, 2014** and will only be taken up if the Commission first approves the request for redetermination.

Written Comments on Draft Expedited Amendment to Parameters and Guidelines

Review of Draft Expedited Amendment to Parameters and Guidelines. All parties, interested parties, and interested persons may file comments on staff's proposal by **January 6, 2014**. (Cal. Code Regs., tit. 2, § 1183.12(b)(c).)

Rebuttals. Within 15 days of service of the comments, all parties, interested parties, and interested persons may submit written rebuttals to Commission staff. (Cal. Code Regs., tit. 2, § 1183.11(f).)

You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your

Mr. Tom Dyer
December 16, 2013
Page 2

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.)

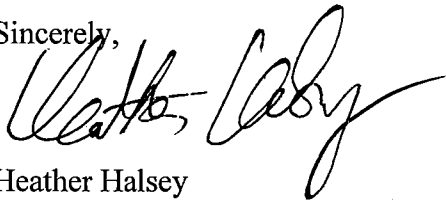
If you would like to request an extension of time to file comments, please refer to section 1183.01(c)(1) of the Commission's regulations.

Hearing

This second hearing statement of decision is set for hearing on **Friday, January 24, 2014**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. Additionally, the amendment to the parameters and guidelines is also set for hearing on **Friday, January 24, 2014**, but will only be taken up if the Commission first approves the request for redetermination. The final staff analyses for the second hearing and amendment to the parameters and guidelines will be issued on or about January 10, 2014. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01(c)(2) of the Commission's regulations.

Please contact Heidi Palchik at (916) 323-3562 if you have any questions.

Sincerely,



Heather Halsey
Executive Director

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

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

Public Resources Code Section 5164;
As amended by Statutes 2001, Chapter 777.

*Local Recreational Areas: Background
Screenings, 01-TC-11*

As Alleged to be Modified by:
Statutes 2010, Chapter 719 (SB 856)

Filed on May 20, 2013

By the Department of Finance, Requester.

Case No.: 12-MR-02

*Local Recreational Areas: Background
Screenings, (01-TC-11)*

STATEMENT OF 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, § 1190.05]

(Adopted December 6, 2013)

(Served December 16, 2013)

STATEMENT OF DECISION

The Commission on State Mandates (Commission) heard and decided this mandate redetermination during a regularly scheduled hearing on December 6, 2013. Michael Byrne and Kathleen Lynch appeared for the Department of Finance, requester.

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 (Finance) has made an adequate showing that the state's liability pursuant to article XIII B, section 6(a) of the California Constitution, for the 01-TC-11 mandate has been modified based on a subsequent change in law. Specifically, Statutes 2010, chapter 719 (SB 856) provided local agencies with the authority to charge a fee on prospective employees or volunteers to cover all costs attributable to the mandated background check activities under Public Resources Code section 5164, and 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(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

- 12/09/2005 The Commission adopted the test claim statement of decision for *Local Recreational Areas: Background Screenings*, 01-TC-11, approving reimbursement for certain activities under Public Resources Code section 5164.¹
- 06/26/2008 The Commission adopted parameters and guidelines.²
- 10/19/2010 The Legislature enacted SB 856, which added subdivision (b)(3) to Public Resources Code section 5164, providing for fee authority.³
- 05/20/2013 The Department of Finance filed a request for redetermination on test claim 01-TC-11.⁴
- 05/29/2013 Commission staff deemed the filing complete.
- 09/17/2013 Staff issued a draft staff analysis and proposed statement of decision for the first hearing.⁵
- 09/30/2013 The State Controller's Office submitted written comments on the draft staff analysis for the first hearing.⁶
- 10/08/2013 The Department of Finance submitted written comments on the draft staff analysis for the first hearing.⁷

II. Background

Public Resources Code Section 5164 and Test Claim Decision

Public Resources Code section 5164 was enacted in 1993 (Stats. 1993, ch. 972) to prohibit a city, county or special district from hiring a volunteer or employee for positions having supervisory or disciplinary authority over any minor at specified local agency recreational areas if the employee or volunteer has been convicted of specified crimes. Section 5164 was enacted because of a volunteer coach's 1992 conviction for kidnapping and molesting a boy who was coached at

¹ Exhibit B, Test Claim Statement of Decision.

² Exhibit C, Test Claim Parameters and Guidelines.

³ See Exhibit A, Request for Redetermination.

⁴ Exhibit A, Request for Redetermination.

⁵ Exhibit D, Draft Staff Analysis, First Hearing.

⁶ Exhibit E, SCO Comments on Draft Staff Analysis, First Hearing.

⁷ Exhibit F, Finance Comments on Draft Staff Analysis, First Hearing.

Hoover Recreation Center in Los Angeles County. The coach was a registered sex offender whose background had not been inquired about by the recreation center.⁸ The test claim statute at issue in 01-TC-11 (Stats. 2001, ch. 777, (AB 351)),⁹ amended Public Resources Code section 5164 to provide that a city, county, city and county, or special district, shall not hire a person for employment, or take on a volunteer, in a position having supervisory or disciplinary authority over any minor if that person has been convicted of any offense specified in Penal Code section 11105.3(h)(1) or (h)(3). Statutes 2001, chapter 777 (AB 351) further provided that the city, county, or special district shall require each prospective employee or volunteer to complete an application inquiring whether the individual has been convicted of any of certain specified offenses, and shall screen any such prospective employee or volunteer for that person's criminal background, including obtaining fingerprints and a Department of Justice record. Penal Code section 11105.3(h)(3), (now Pub. Res. Code, § 5164(a)(2))¹⁰ listed a number of crimes for which to screen prospective employees or volunteers who would have supervisory or disciplinary authority over minors, including, but not limited to, a number of permutations of sexual assault and sexual battery, unlawful sexual intercourse with a person under 18, corporal punishment or injury of a child, willful infliction of corporal injury, registerable sex offenses under section 290, or any other felony or misdemeanor conviction within 10 years of the prospective employer's request if the person has a total of three or more misdemeanor or felony convictions within the immediately preceding 10 year period.¹¹

The Commission found that the test claim statute imposed a reimbursable state-mandated program on local government for the following activities:

- Requiring each local agency to have each prospective employee or volunteer who would have supervisory or disciplinary authority over minors to complete an application that inquires as to whether or not the prospective employee or volunteer has been convicted of any offense specified in Public Resources Code section 5164(a). (Pub. Res. Code, § 5164, subd. (b)(1)). This means that local agencies must perform the one-time activity of revising and printing job applications that inquire as to the applicants' criminal history.
- Screening, pursuant to Penal Code section 11105.3, prospective employees and volunteers who would have supervisory or disciplinary authority over minors. The screening procedure for these individuals requires submitting the following to DOJ: (1) the prospective employee's or volunteer's fingerprints, (2) any other data specified by DOJ on a DOJ-approved form, (3) for prospective employees only, paying the DOJ's

⁸ Assembly Committee on Local Government, Analysis of Assembly Bill 1663, as amended April 12, 1993 (1993-1994 Reg. Sess.), page 2.

⁹ Section 5164 has been amended since the test claim filing by Statutes 2004, chapter 184, but the amendments are not part of this analysis.

¹⁰ Former Penal Code section 11105.3(h)(3), was amended by Statutes 2004, chapter 184, and moved to Public Resources Code section 5164(a)(2).

¹¹ Exhibit B, Test Claim Statement of Decision, at pp. 2-4.

fingerprint processing fee (no fee is required for a prospective volunteer).¹² (Pub. Res. Code, § 5164, subds. (b)(1) & (b)(2)).

The Commission further found that fingerprints “may be taken by the local agency,” and if taken by the local agency, the agency “may charge a fee not to exceed \$10,” and other entities may charge more. The Commission therefore concluded that taking fingerprints was permissive, and therefore not reimbursable.¹³

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 altered the state’s liability for reimbursement. Section 17570 calls for a two hearing process; at the first hearing, the requester must make “an adequate showing which identifies a subsequent change in law as defined by Government Code section 17570, material to the prior the claim decision, that may modify the state’s liability pursuant to Article XIII B, section 6, subdivision (a) of the California Constitution.”¹⁴

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 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 17551.¹⁵

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

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 responses and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.¹⁶

If the Commission finds, at the first hearing, that the requester 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.”¹⁷

¹² Public Resources Code section 5164(b)(2).

¹³ Exhibit B, Test Claim Statement of Decision, at p. 7 [citing Penal Code section 13300].

¹⁴ Code of Regulations, Title 2, section 1190.05(a)(1).

¹⁵ Government Code section 17570, as added by Statutes 2010, chapter 719 (SB 856).

¹⁶ California Code of Regulations, Title 2, section 1190.05(a)(1).

¹⁷ California Code of Regulations, Title 2, section 1190.05(a)(5)(B).

III. Position of the Department of Finance, Requester¹⁸

Finance submitted a request to adopt a new test claim decision regarding Public Resources Code section 5164, pursuant to Government Code section 17570. Finance asserts that Statutes 2010, chapter 719 (SB 856) 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. Finance argues that "local agencies may charge a fee to cover all of their costs attributable to the mandated activities in Public Resources Code section 5164," and that therefore the state is no longer obligated to reimburse any costs for the mandated activities, pursuant to Government Code sections 17570 and 17556(d).¹⁹

On October 8, 2013, Finance submitted comments on the draft staff analysis and proposed statement of decision, concurring with the recommendation to adopt the proposed statement of decision and proceed to a second hearing to determine whether to adopt a new test claim decision.²⁰

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 6.²¹ 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

¹⁸ No other parties, or interested parties or persons have filed comments on this request for redetermination.

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

²⁰ Exhibit F, Finance Comments on Draft Staff Analysis, First Hearing.

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.

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 responses and supporting documentation in the records of this request, has a substantial possibility of prevailing at the second hearing."²⁴ 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 2010, Chapter 719.

On December 9, 2005, the Commission adopted a test claim decision in *Local Recreational Areas: Background Screenings*, 01-TC-11, finding reimbursable state-mandated activities imposed by Public Resources Code section 5164, as amended by Statutes 2001, chapter 777 (AB 351). On June 26, 2008, the Commission adopted parameters and guidelines for reimbursement of claims under the statute, which outlined the reimbursable activities as follows:

1. Have each prospective employee or volunteer who would have supervisory or disciplinary authority over minors to complete an application that inquires as to whether or not the prospective employee or volunteer has been convicted of any offense specified in Public Resources Code section 5164(a). (Pub. Res. Code, § 5164(b)(1)). This is a one-time activity of revising and printing job applications that inquire as to the applicants' criminal history.
2. Screening, pursuant to Penal Code section 11105.3, prospective employees and volunteers who would have supervisory or disciplinary authority over minors. The screening procedure for these individuals requires submitting the following to the Department of Justice (DOJ): (1) the prospective employee's or volunteer's fingerprints, (2) any other data specified by DOJ on a DOJ-approved form, (3) for

²⁴ Code of Regulations, Title 2, section 1190.05 (Register 2010, No. 48). This regulation describes the standard for the first hearing as follows:

The first hearing shall be limited to the issue of whether the requester has made 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. 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 responses and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.

prospective employees only, paying the DOJ's fingerprint processing fee (no fee is required for a prospective volunteer). (Pub. Res. Code, § 5164(b)(1) & (b)(2)).

The Commission found that the following activities are not reimbursable:

- Taking fingerprints.
- Paying DOJ's fingerprint processing fee for a prospective volunteer.²⁵

Statutes 2010, chapter 719 (SB 856), effective October 19, 2010, added subdivision (b)(3) to Public Resources Code section 5164, which provides that a local government may charge a fee for the prospective employee or volunteer to cover "all...costs attributable to the requirements imposed by this section." Paragraph (25) of the Legislative Counsel's Digest accompanying the bill states:

Existing law prohibits a county, city, city and county, or special district from hiring a person for employment or a volunteer to perform services, at a county, city, city and county, or special district operated park, playground, recreational center, or beach used for recreational purposes, in a position having supervisory or disciplinary authority over a minor, if that person has been convicted of specified offenses. Existing law requires a county, city, city and county, or special district to require each of those prospective employees and volunteers to complete an application that inquires as to whether that person has been convicted of one of those offenses, and imposes a screening requirement on the county, city, city and county, or special district with respect to those prospective employees and volunteers.

This bill would authorize a county, city, city and county, or special district to charge those prospective employees and volunteers a fee *to cover all of the county, city, city and county, or special district's costs attributable to those requirements.*²⁶

Finance argues that the "2010 amendment to the Public Resources Code section 5164 is the "subsequent change in law" that allows the Commission to make a new test claim finding that the cost of the mandated program is not a cost mandated by the state." Finance maintains that "[a]s 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 Public Resources Code section 5164."²⁷

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.

²⁵ Exhibit C, Test Claim (01-TC-11) Parameters and Guidelines, at p. 1.

²⁶ Statutes 2010, chapter 719 (SB 856) Legislative Counsel's Digest, paragraph (25) [uncodified].

²⁷ Exhibit A, Request for Redetermination, at p. 6.

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*.²⁸ 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*.²⁹

Accordingly, in *Clovis Unified School District v. Chiang*, the court found that the Controller’s office 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.”³⁰ 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.’”³¹

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

²⁸ *County of Fresno v. State of California, supra*, 53 Cal.3d 482.

²⁹ *Id.*, at p. 487.

³⁰ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, at p. 812.

³¹ *Ibid.*

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.³² 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 17551.³³

Here, the amendments effected by Statutes 2010, chapter 719, providing local government with authority to charge a fee for costs associated with screening prospective employees or volunteers, implicate a section 17556(d) analysis, and therefore the amendments constitute a subsequent change in law, as defined.

C. Finance has made an Adequate Showing that the State's Liability has been Modified.

Finance brings this request to adopt a new test claim decision relying on Government Code section 17556(d), and Statutes 2010, chapter 719 (SB 856). Statutes 2010, chapter 719 constitutes, by definition, a subsequent change in law, as discussed above.

The issue for this first hearing is whether Finance 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 responses and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing."³⁴

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

³² *CSBA I, supra*, 171 Cal.App.4th 1183, at pp. 1199-1200.

³³ Government Code section 17570, as added by Statutes 2010, chapter 719 (SB 856).

³⁴ Code of Regulations, title 2, section 1190.05.

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.

V. CONCLUSION

Based on the foregoing, the Commission finds that Finance has made a sufficient showing at this first hearing to proceed to a second hearing to determine whether to adopt a new test claim decision.³⁵ 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-11.

³⁵ See Government Code section 17570(d) (Stats. 2010, ch. 719 (SB 856)).

COMMISSION ON STATE MANDATES

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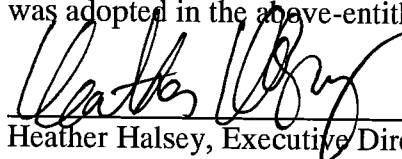
RE: Adopted Statement of Decision

Mandate Redetermination Request, 12-MR-02

Local Recreational Areas: Background Screenings, (01-TC-11)

Public Resources Code Section 5164(b)(1), (b)(2), and (b)(3) as added or amended by
Statutes 2001, Chapter 777 (AB 351); Statutes 2010, Chapter 719, (SB 856)
California Department of Finance, Requester

On December 6, 2013, the foregoing statement of decision of the Commission on State Mandates was adopted in the above-entitled matter.



Heather Halsey, Executive Director

Dated: December 16, 2013

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 December 16, 2013, I served the:

Adopted Statement of Decision, Notice of Draft Staff Analysis and Proposed Statement of Decision, Draft Expedited Amendment to Parameters and Guidelines, and Notice of Hearing

Mandate Redetermination Request, 12-MR-02

Local Recreational Areas: Background Screenings, (01-TC-11)

Public Resources Code Section 5164(b)(1), (b)(2), and (b)(3) as added or amended by Statutes 2001, Chapter 777 (AB 351); Statutes 2010, Chapter 719, (SB 856)

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 December 16, 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

Mailing List

Last Updated: 12/2/13

Claim Number: 12-MR-02

Matter: Local Recreational Areas: Background Screenings (01-TC-11)

Claimant(s): Department of Finance

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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. (Cal. Code Regs., tit. 2, § 1181.2.)

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COMMISSION ON STATE MANDATES

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December 16, 2013

Mr. Tom Dyer
Department of Finance
915 L Street
Sacramento, CA 95814

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: **Adopted Statement of Decision, Notice of Draft Staff Analysis and Proposed Statement of Decision, Draft Expedited Amendment to Parameters and Guidelines, and Notice of Hearing**
Mandate Redetermination Request, 12-MR-02
Local Recreational Areas: Background Screenings, (01-TC-11)
Public Resources Code Section 5164(b)(1), (b)(2), and (b)(3) as added or amended by Statutes 2001, Chapter 777 (AB 351); Statutes 2010, Chapter 719, (SB 856)
California Department of Finance, Requester

Dear Mr. Dyer:

On December 6, 2013, the Commission on State Mandates adopted the statement of decision on the first hearing for the above-named matter 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. The draft staff analysis for the second hearing as well as the draft expedited amendment to parameters and guidelines are enclosed for your review and comment.

Written Comments on Draft Staff Analysis

Written comments may be filed on the second hearing draft staff analysis by **January 6, 2014**.

Additionally, staff has prepared a draft expedited amendment to parameters and guidelines for adoption at the January Commission hearing. The draft expedited amendment to parameters and guidelines is set for hearing on **January 24, 2014** and will only be taken up if the Commission first approves the request for redetermination.

Written Comments on Draft Expedited Amendment to Parameters and Guidelines

Review of Draft Expedited Amendment to Parameters and Guidelines. All parties, interested parties, and interested persons may file comments on staff's proposal by **January 6, 2014**. (Cal. Code Regs., tit. 2, § 1183.12(b)(c).)

Rebuttals. Within 15 days of service of the comments, all parties, interested parties, and interested persons may submit written rebuttals to Commission staff. (Cal. Code Regs., tit. 2, § 1183.11(f).)

You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your

Mr. Tom Dyer
December 16, 2013
Page 2

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.)

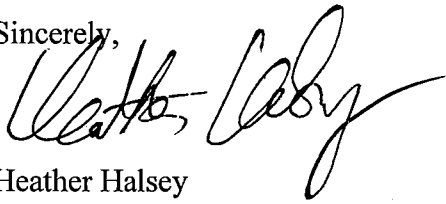
If you would like to request an extension of time to file comments, please refer to section 1183.01(c)(1) of the Commission's regulations.

Hearing

This second hearing statement of decision is set for hearing on **Friday, January 24, 2014**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. Additionally, the amendment to the parameters and guidelines is also set for hearing on **Friday, January 24, 2014**, but will only be taken up if the Commission first approves the request for redetermination. The final staff analyses for the second hearing and amendment to the parameters and guidelines will be issued on or about January 10, 2014. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01(c)(2) of the Commission's regulations.

Please contact Heidi Palchik at (916) 323-3562 if you have any questions.

Sincerely,



Heather Halsey
Executive Director

Hearing Date: January 24, 2014

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ITEM __
MANDATE REDETERMINATION
SECOND HEARING: NEW TEST CLAIM DECISION
DRAFT STAFF ANALYSIS AND
PROPOSED STATEMENT OF DECISION

Public Resources Code Section 5164

Statutes 2001, Chapter 777

Local Recreational Areas: Background Screenings, (01-TC-11)

As Alleged to be Modified by:

Statutes 2010, Chapter 719 (SB 856)

12-MR-02

Department of Finance, Requester

Attached is the draft proposed statement of decision for this matter. This Executive Summary and draft proposed statement of decision also function as the draft staff analysis on the issue of whether the Commission shall adopt a new test claim decision.

EXECUTIVE SUMMARY

Overview

On December 9, 2005, the Commission adopted a statement of decision approving reimbursement for the *Local Recreational Areas: Background Screenings* program, 01-TC-11, which required local agencies to have prospective employees or volunteers complete an application that inquires whether the person has been convicted of any offense specified in Public Resources Code 5164, and to screen prospective employees and volunteers who would have supervisory or disciplinary authority over minors pursuant to Penal Code section 11105.3. That screening requires submitting the prospective employee's or volunteer's fingerprints, along with any other information required on a DOJ-approved form, and paying a fingerprint processing fee for prospective employees, but not for volunteers.

On June 26, 2008, the Commission adopted parameters and guidelines for the approved activities, which specifically clarified that reimbursement is not required for taking the fingerprints of the prospective employee or volunteer, or for paying DOJ's processing fee for a volunteer.

Statutes 2010, chapter 719 (SB 856) added subdivision (b)(3) to Public Resources Code section 5164, which provides that "[a] county, city, city and county, or special district may charge a prospective employee or volunteer described in subdivision (a) a fee to cover all of the...costs

attributable to the requirements imposed by this section.” Statutes 2010, chapter 719 also added section 17570 to the Government Code, outlining the Commission’s process for redetermination of test claims. This statute was an urgency measure and was chaptered on October 19, 2010, giving it an effective date of on October 19, 2010.

On May 20, 2013, the Department of Finance (Finance) filed a request for redetermination of the test claim decision pursuant to Government Code section 17570. Finance asserts that Statutes 2010, chapter 719 constitutes a subsequent change in the law, as defined in section 17570, which, pursuant to section 17556(d), results in the state’s liability under the test claim statutes being modified.¹ Specifically, Finance argues that “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 Public Resources Code section 5164.”

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.”² 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, subdivision (a) of the California Constitution, the amount and method of reimbursement shall be redetermined in accordance with sections 1183.1-1183.32 of these regulations.”³

On December 6, 2013 the Commission held the first hearing. The Commission found that Finance had 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 a new test claim decision. The issue in this 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 any remaining reimbursable activities, new parameters and guidelines must also be adopted; otherwise, parameters and guidelines must be amended to reflect the end of reimbursement in accordance with the period of eligibility established by the filing date of the request for redetermination.

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

¹ Exhibit A, Request for Redetermination, at p. 6.

² Code of Regulations, Title 2, section 1190.05 (Register 2010, No. 48).

³ Code of Regulations, Title 2, section 1190.05(b)(6) (Register 2010, No. 48).

not a cost mandated by the state pursuant to section 17556, or a change in mandates law...⁴

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.”⁵

Staff finds that Statutes 2010, chapter 719 (SB 856) constitutes a subsequent change in law, as defined in section 17570. Statutes 2010, chapter 719 provides local government with the authority to impose fees or charges “to cover all...costs attributable to the requirements imposed by” the test claim statute and therefore, pursuant to section 17556(d), the Commission shall not find costs mandated by the state where the local government has such authority.

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 establish eligibility for reimbursement for that fiscal year. This request was filed on May 20, 2013, establishing eligibility beginning July 1, 2011. 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, 2011. **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, 2011.

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, 2011.

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.

⁴ Government Code section 17570(a)(2) (Stats. 2010, ch. 719 (SB 856)).

⁵ 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:

Public Resources Code Section 5164;

As amended by Statutes 2001, Chapter 777.

*Local Recreational Areas: Background
Screenings, 01-TC-11*

As Alleged to be Modified by:

Statutes 2010, Chapter 719 (SB 856)

Filed on May 20, 2013

By the Department of Finance, Requester.

Case No.: 12-MR-02

*Local Recreational Areas: Background
Screenings, (01-TC-11)*

STATEMENT OF 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, § 1190.05]

(Adopted January 24, 2014)

STATEMENT OF DECISION

The Commission on State Mandates (Commission) heard and decided this mandate redetermination during a regularly scheduled hearing on January 24, 2014. [Witness list will be included in the final statement of 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 partially approving the request to end reimbursement for the test claim activities by a vote of [vote count will be included in the final statement of 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 *Local Recreational Areas: Background Screenings, 01-TC-11* 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 2010, chapter 719 (SB 856) provided local agencies with the authority to charge a fee on prospective employees or volunteers to cover all costs attributable to the mandated background check activities under Public Resources Code section 5164, and 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 *Local Recreational Areas: Background Screenings*, 01-TC-11 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, 2011.

COMMISSION FINDINGS

Chronology

- 12/9/2005 The Commission adopted the test claim statement of decision for *Local Recreational Areas: Background Screenings*, 01-TC-11, approving reimbursement for certain activities under Public Resources Code section 5164.⁶
- 06/26/2008 The Commission adopted parameters and guidelines.⁷
- 10/19/2010 The Legislature enacted SB 856, which added subdivision (b)(3) to Public Resources Code section 5164, providing for fee authority.
- 05/20/2013 The Department of Finance filed a request for redetermination on test claim 01-TC-11.⁸
- 05/29/2013 Commission staff deemed the filing complete.
- 09/17/2013 Staff issued a draft staff analysis and proposed statement of decision for the first hearing.
- 09/30/2013 The State Controller's Office submitted written comments on the draft staff analysis for the first hearing.
- 10/08/2013 The Department of Finance submitted written comments on the draft staff analysis for the first hearing.
- 12/06/2013 The Commission determined that the requester made an adequate showing for redetermination and directed staff to set the matter for a second hearing.
- 12/09/2013 Commission staff issued the draft staff analysis for the second hearing.

⁶ Exhibit B, Test Claim Statement of Decision, 01-TC-11.

⁷ Exhibit C, Parameters and Guidelines, 01-TC-11.

⁸ Exhibit A, Request for Redetermination.

I. Background

Public Resources Code Section 5164 and Test Claim Decision

Public Resources Code section 5164 was enacted in 1993 (Stats. 1993, ch. 972) to prohibit a city, county or special district from hiring a volunteer or employee for positions having supervisory or disciplinary authority over any minor at specified local agency recreational areas if the employee or volunteer has been convicted of specified crimes. Section 5164 was enacted because of a volunteer coach's 1992 conviction for kidnapping and molesting a boy who was coached at Hoover Recreation Center in Los Angeles County. The coach was a registered sex offender whose background had not been inquired about by the recreation center.⁹ The test claim statute at issue in 01-TC-11 (Stats. 2001, ch. 777, (AB 351))¹⁰ amended Public Resources Code section 5164 to provide that a city, county, city and county, or special district, shall not hire a person for employment, or take on a volunteer, in a position having supervisory or disciplinary authority over any minor if that person has been convicted of any offense specified in Penal Code section 11105.3(h)(1) or (h)(3). Statutes 2001, chapter 777 (AB 351) further provides that the city, county, or special district shall require each prospective employee or volunteer to complete an application inquiring whether the individual has been convicted of any offense specified, and shall screen any such prospective employee or volunteer for that person's criminal background, including obtaining fingerprints and a Department of Justice record. Penal Code section 11105.3, subdivision (h)(3), (now Pub. Res. Code, § 5164 subd. (a)(2))¹¹ listed a number of crimes for which to screen prospective employees or volunteers who would have supervisory or disciplinary authority over minors, including, but not limited to, a number of permutations of assault crimes, sexual assault, sexual battery, unlawful sexual intercourse with a person under 18, or any other felony or misdemeanor conviction within 10 years of the prospective employer's request if the person has a total of three or more misdemeanor or felony convictions within the immediately preceding 10 year period.¹²

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 altered the state's liability for reimbursement. The redetermination process calls for a two-step hearing process; at the first hearing, the requester must make "an adequate showing which identifies a subsequent change in law as defined by Government Code section 17570, material to the prior the claim decision, that may modify the state's liability pursuant to Article

⁹ Assembly Committee on Local Government, Analysis of Assembly Bill 1663, as amended April 12, 1993 (1993-1994 Reg. Sess.), page 2.

¹⁰ Section 5164 has been amended since the test claim filing by Statutes 2004, chapter 184, but the amendments are not part of this analysis.

¹¹ Former Penal Code section 11105.3, subdivision (h)(3), was amended by Statutes 2004, chapter 184, and moved to Public Resources Code section 5164, subdivision (a)(2).

¹² Exhibit B, Test Claim Statement of Decision, at pp. 2-4.

XIII B, section 6, subdivision (a) of the California Constitution.”¹³ At the second hearing, the Commission “shall consider whether the state’s liability pursuant to Article XIII B, section 6, subdivision (a) of the California Constitution has been modified based on the subsequent change in law alleged by the requester.”¹⁴

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 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 17551.¹⁵

If the Commission finds, at the second hearing, that the state’s liability has been modified based on a subsequent change in law, “it shall adopt a new statement of decision that reflects the modified liability of the state.”¹⁶ If the Commission adopts a new test claim statement of decision that supersedes the previously adopted test claim decision, the Commission “shall adopt new parameters and guidelines or amend existing parameters and guidelines...pursuant to Section 17557.”¹⁷

II. Position of the Department of Finance, Requester¹⁸

Finance submitted a request to adopt a new test claim decision regarding Public Resources Code section 5164, pursuant to Government Code section 17570. Finance asserts that Statutes 2010, chapter 719 (SB 856) 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. Finance argues that “local agencies may charge a fee to cover all of their costs attributable to the mandated activities in Public Resources Code section 5164,” and that therefore the state is no longer obligated to reimburse any costs for the mandated activities, pursuant to Government Code sections 17570 and 17556(d).¹⁹

¹³ Code of Regulations, Title 2, section 1190.05(a)(1).

¹⁴ Code of Regulations, Title 2, section 1190.05(b).

¹⁵ Government Code section 17570, as added by Statutes 2010, chapter 719 (SB 856).

¹⁶ Code of Regulations, Title 2, section 1190.05(b)(1).

¹⁷ Government Code section 17570(i) (Stats. 2010, chapter 719 (SB 856)).

¹⁸ No other parties, or interested parties or persons have filed comments on this request for redetermination.

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

III. 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 6.²⁰ The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.²¹ 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.”²²

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. If the Commission adopts a new test claim decision that supersedes the previously adopted test claim decision, the Commission is required to adopt new parameters and guidelines or amend existing parameters and guidelines.

A. Statutes 2010, Chapter 719 Constitutes a Subsequent Change in Law.

On December 9, 2005, the Commission adopted a test claim decision in *Local Recreational Areas: Background Screenings*, 01-TC-11, finding reimbursable state-mandated activities imposed by Public Resources Code section 5164, as amended by Statutes 2001, chapter 777 (AB 351). On June 26, 2008, the Commission adopted parameters and guidelines for reimbursement of claims under the statute, which outlined the reimbursable activities as follows:

1. Have each prospective employee or volunteer who would have supervisory or disciplinary authority over minors to complete an application that inquires as to whether or not the prospective employee or volunteer has been convicted of any offense specified in Public Resources Code section 5164(a). (Pub. Res. Code, § 5164(b)(1)). This is a one-time activity of revising and printing job applications that inquire as to the applicants’ criminal history.

²⁰ *Kinlaw v. State of California* (1991) 53 Cal.3d 482, 487; Government Code sections 17551; 17552.

²¹ *County of San Diego v. State of California*, (1997) 15 Cal.4th 68, 109.

²² *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.

2. Screening, pursuant to Penal Code section 11105.3, prospective employees and volunteers who would have supervisory or disciplinary authority over minors. The screening procedure for these individuals requires submitting the following to the Department of Justice (DOJ): (1) the prospective employee's or volunteer's fingerprints, (2) any other data specified by DOJ on a DOJ-approved form, (3) for prospective employees only, paying the DOJ's fingerprint processing fee (no fee is required for a prospective volunteer). (Pub. Res. Code, § 5164(b)(1) & (b)(2)).

The Commission found that the following activities are not reimbursable:

- Taking fingerprints.
- Paying DOJ's fingerprint processing fee for a prospective volunteer.²³

Paragraph (25) of the Legislative Counsel's Digest accompanying Statutes 2010, chapter 719 (SB 856) states:

Existing law prohibits a county, city, city and county, or special district from hiring a person for employment or a volunteer to perform services, at a county, city, city and county, or special district operated park, playground, recreational center, or beach used for recreational purposes, in a position having supervisory or disciplinary authority over a minor, if that person has been convicted of specified offenses. Existing law requires a county, city, city and county, or special district to require each of those prospective employees and volunteers to complete an application that inquires as to whether that person has been convicted of one of those offenses, and imposes a screening requirement on the county, city, city and county, or special district with respect to those prospective employees and volunteers.

This bill would authorize a county, city, city and county, or special district to charge those prospective employees and volunteers a fee *to cover all of the county, city, city and county, or special district's costs attributable to those requirements.*²⁴

Statutes 2010, chapter 719 (SB 856), effective October 19, 2010, added subdivision (b)(3) to Public Resources Code section 5164. The amended section now provides:

(a)(1) A county, city, city and county, or special district shall not hire a person for employment, or hire a volunteer to perform services, at a county, city, city and county, or special district operated park, playground, recreational center, or beach used for recreational purposes, in a position having supervisory or disciplinary authority over a minor, if that person has been convicted of an offense specified in paragraph (2).

²³ Exhibit C, Parameters and Guidelines, 01-TC-11, at p. 1.

²⁴ Statutes 2010, chapter 719 (SB 856) Legislative Counsel's Digest, paragraph (25) [uncodified].

¶...¶

(b)(1) To give effect to this section, a county, city, city and county, or special district shall require each such prospective employee or volunteer to complete an application that inquires as to whether or not that individual has been convicted of an offense specified in subdivision (a). The county, city, city and county, or special district shall screen, pursuant to Section 11105.3 of the Penal Code, any such prospective employee or volunteer, having supervisory or disciplinary authority over a minor, for that person's criminal background.

(2) A local agency request for Department of Justice records pursuant to this subdivision shall include the prospective employee's or volunteer's fingerprints, which may be taken by the local agency, and any other data specified by the Department of Justice. The request shall be made on a form approved by the Department of Justice. A fee shall not be charged to the local agency for requesting the records of a prospective volunteer pursuant to this subdivision.

(3) A county, city, city and county, or special district may charge a prospective employee or volunteer described in subdivision (a) a fee to cover all of the county, city, city and county, or special district's costs attributable to the requirements imposed by this section.²⁵

Finance argues that the “2010 amendment to the Public Resources Code section 5164 is the “subsequent change in law” that allows the Commission to make a new test claim finding that the cost of the mandated program is not a cost mandated by the state.” Finance maintains that “[a]s 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 Public Resources Code section 5164.”²⁶

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, subdivision (d), in *County of Fresno v. State of California*.²⁷ 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

²⁵ Public Resources Code section 5164 (as amended by Stats. 2010, ch. 719 (SB 856)).

²⁶ Exhibit A, Request for Redetermination, at p. 6.

²⁷ *County of Fresno v. State of California*, *supra*, 53 Cal.3d 482.

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*.²⁸

Accordingly, in *Connell v. Superior Court of Sacramento County*,²⁹ the Santa Margarita Water District, among others, was denied reimbursement on the basis of its authority to impose fees on water users. The water districts submitted evidence “that rates necessary to cover the increased costs [of pollution control regulations] would render the reclaimed water unmarketable and would encourage users to switch to potable water.”³⁰ The court concluded that “[t]he question is whether the Districts have authority, i.e., the right or power, to levy fees sufficient to cover the costs.” Water Code section 35470 authorized the levy of fees to “correspond to the cost and value of the service,” and “to defray the ordinary operation or maintenance expenses of the district and for any other lawful district purpose.”³¹ The court held that the districts had not demonstrated “that anything in Water Code section 35470 limits the authority of the Districts to levy fees “sufficient” to cover their costs,” and that therefore “the economic evidence presented by SMWD to the Board [of Control] was irrelevant and injected improper factual questions into the inquiry.”³²

Likewise, in *Clovis Unified School District v. Chiang*, the court found that the Controller’s office 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.”³³ The

²⁸ *Id.*, at p. 487.

²⁹ *Connell v. Superior Court of Sacramento County* (Cal. Ct. App. 3d Dist. 1997) 59 Cal.App.4th 382.

³⁰ *Id.*, at p. 399.

³¹ *Ibid.*

³² *Connell, supra*, (1997) 59 Cal.App.4th at p. 401.

³³ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, at p. 812.

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.’”³⁴

The amendments effected by Statutes 2010, chapter 719, providing local government with authority to charge a fee for costs associated with screening prospective employees or volunteers, implicate a section 17556(d) analysis, and therefore the amendments constitute a subsequent change in law, as defined. Pursuant to that section 17556(d) analysis, the only issue is whether the fee authority is sufficient to cover the costs of the mandated activities. The parties have not raised the potential chilling effect on recruitment and retention of employees and volunteers due to the fees or charges that might be levied against individuals seeking employment or volunteer work in which the individual would have supervisory or disciplinary authority over children. However, *Connell*,³⁵ and *Clovis*,³⁶ *supra*, plainly hold that “sufficiency” of fee authority does not rely on practical or economic considerations; rather, the issue is a question of law. Here, the plain language of the fee authority provision states that it is “to cover *all of the county, city, city and county, or special district's costs attributable to the requirements imposed by this section.*” Where there is fee authority sufficient to cover the costs of the mandate under section 17556(d), the Commission is proscribed from finding costs mandated by the state, within the meaning of section 17514.

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.³⁷ 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. Finance has utilized the process called for in section 17570 to bring this test claim statute before the Commission for redetermination, and to permit a new analysis of section 17556(d) pursuant to the subsequent change in law.

Based on the foregoing, the Commission finds that there are no costs mandated by the state, as defined in section 17514, under Public Resources Code section 5164, as amended by Statutes

³⁴ *Ibid.*

³⁵ 59 Cal.App.4th at p. 399.

³⁶ 188 Cal.App.4th 794, at p. 812.

³⁷ *California School Boards Association v. State of California* (2009) 171 Cal.App.4th 1183, at pp. 1199-1200.

2010, chapter 719 (SB 856). 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 establish eligibility for reimbursement for that fiscal year. This request was filed on May 20, 2013, establishing eligibility beginning July 1, 2011. Therefore, the activities approved for reimbursement in the prior test claim decision are no longer reimbursable as of July 1, 2011.

IV. CONCLUSION

Based on the foregoing, the Commission approves the request for redetermination and concludes that the *Local Recreational Areas: Background Screenings*, 01-TC-11 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, 2011.

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 December 16, 2013, I served the:

Adopted Statement of Decision, Notice of Draft Staff Analysis and Proposed Statement of Decision, Draft Expedited Amendment to Parameters and Guidelines, and Notice of Hearing

Mandate Redetermination Request, 12-MR-02

Local Recreational Areas: Background Screenings, (01-TC-11)

Public Resources Code Section 5164(b)(1), (b)(2), and (b)(3) as added or amended by Statutes 2001, Chapter 777 (AB 351); Statutes 2010, Chapter 719, (SB 856)

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 December 16, 2013 at Sacramento, California.



Heidi J. Palchik
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Mailing List

Last Updated: 12/2/13

Claim Number: 12-MR-02

Matter: Local Recreational Areas: Background Screenings (01-TC-11)

Claimant(s): Department of Finance

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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December 16, 2013

Mr. Tom Dyer
 Department of Finance
 915 L Street
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And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: **Adopted Statement of Decision, Notice of Draft Staff Analysis and Proposed Statement of Decision, Draft Expedited Amendment to Parameters and Guidelines, and Notice of Hearing**
 Mandate Redetermination Request, 12-MR-02
Local Recreational Areas: Background Screenings, (01-TC-11)
 Public Resources Code Section 5164(b)(1), (b)(2), and (b)(3) as added or amended by Statutes 2001, Chapter 777 (AB 351); Statutes 2010, Chapter 719, (SB 856)
 California Department of Finance, Requester

Dear Mr. Dyer:

On December 6, 2013, the Commission on State Mandates adopted the statement of decision on the first hearing for the above-named matter 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. The draft staff analysis for the second hearing as well as the draft expedited amendment to parameters and guidelines are enclosed for your review and comment.

Written Comments on Draft Staff Analysis

Written comments may be filed on the second hearing draft staff analysis by **January 6, 2014**.

Additionally, staff has prepared a draft expedited amendment to parameters and guidelines for adoption at the January Commission hearing. The draft expedited amendment to parameters and guidelines is set for hearing on **January 24, 2014** and will only be taken up if the Commission first approves the request for redetermination.

Written Comments on Draft Expedited Amendment to Parameters and Guidelines

Review of Draft Expedited Amendment to Parameters and Guidelines. All parties, interested parties, and interested persons may file comments on staff's proposal by **January 6, 2014**. (Cal. Code Regs., tit. 2, § 1183.12(b)(c).)

Rebuttals. Within 15 days of service of the comments, all parties, interested parties, and interested persons may submit written rebuttals to Commission staff. (Cal. Code Regs., tit. 2, § 1183.11(f).)

You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your

Mr. Tom Dyer
December 16, 2013
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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.)

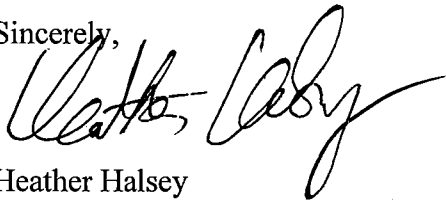
If you would like to request an extension of time to file comments, please refer to section 1183.01(c)(1) of the Commission's regulations.

Hearing

This second hearing statement of decision is set for hearing on **Friday, January 24, 2014**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. Additionally, the amendment to the parameters and guidelines is also set for hearing on **Friday, January 24, 2014**, but will only be taken up if the Commission first approves the request for redetermination. The final staff analyses for the second hearing and amendment to the parameters and guidelines will be issued on or about January 10, 2014. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01(c)(2) of the Commission's regulations.

Please contact Heidi Palchik at (916) 323-3562 if you have any questions.

Sincerely,



Heather Halsey
Executive Director

Amended: January 24, 2014

Adopted: June 26, 2008

J:\MANDATES\2001\01-tc-11 (Local Recreational Areas Background Screenings)\12-MR-02\PsGs

**DRAFT EXPEDITED AMENDMENTS TO
PARAMETERS AND GUIDELINES**

Public Resources Code Section 5164, Subdivisions (b)(1) and (b)(2)
Statutes 2001, Chapter 777

Local Recreational Areas: Background Screenings

01-TC-11

(amended by 12-MR-02)

City of Los Angeles, Claimant

As Modified by:

Statutes 2010, Chapter 719 (SB 856)

The reimbursement period for this program ends June 30, 2011

I. SUMMARY OF THE MANDATE

On December 9, 2005, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that Public Resources Code section 5164, subdivisions (b)(1) and (b)(2), as amended by Statutes 2001, chapter 777, 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 and 17556 for the following activities:

- Requiring each local agency to have each prospective employee or volunteer who would have supervisory or disciplinary authority over minors to complete an application that inquires as to whether or not the prospective employee or volunteer has been convicted of any offense specified in Public Resources Code section 5164, subdivision (a). This means that local agencies must perform the one-time activity of revising and printing job applications that inquire as to the applicants' criminal history.
- Screening, pursuant to Penal Code section 11105.3, prospective employees and volunteers who would have supervisory or disciplinary authority over minors. The screening procedure for these individuals requires submitting the following to Department of Justice (DOJ): (1) the prospective employee's or volunteer's fingerprints, (2) any other data specified by DOJ on a DOJ-approved form, (3) for prospective employees only, paying the DOJ's fingerprint processing fee (no fee is required for a prospective volunteer).¹

¹ Public Resources Code section 5164, subdivision (b)(2).

The Commission denied any remaining alleged costs or activities because they do not impose a new program or higher level of service, and do not impose costs mandated by the state. Specifically, the Commission found that the following activities are not reimbursable:

- Taking fingerprints.
- Paying DOJ's fingerprint processing fee for a prospective volunteer.

On May 20, 2013, the Department of Finance (Finance) filed a request for redetermination of the test claim decision pursuant to Government Code section 17570. Finance asserted that Statutes 2010, chapter 719 constitutes a subsequent change in the law, as defined in section 17570, which, pursuant to section 17556(d), results in the state's liability under the test claim statutes being modified.

On January 24, 2014, the Commission adopted a new test claim decision finding that Statutes 2010, chapter 719 (SB 856), effective October 19, 2010, added subdivision (b)(3) to Public Resources Code section 5164, and provided local agencies sufficient fee authority to cover the full costs attributable to mandated activities in Public Resource Code section 5164. Thus, based on the filing date of the request for redetermination, the subsequent statutory change eliminated the state's obligation to reimburse this program as of June 30, 2011. These parameters and guidelines have been amended in accordance to with the new test claim decision.

II. ELIGIBLE CLAIMANTS

Any city, county, city and county, or special district 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 (c), as amended by Statutes 1998, chapter 681, 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 Los Angeles filed the test claim on February 8, 2002, establishing eligibility for fiscal year 2000-2001. However, the operative date of Public Resources Code section 5164, subdivisions (b)(1) and (b)(2), as amended by Statutes 2001, chapter 777, is January 1, 2002. Therefore, costs incurred pursuant to Public Resources Code section 5164, subdivisions (b)(1) and (b)(2), as amended by Statutes 2001, chapter 777, are reimbursable on or after January 1, 2002.

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.

Statutes 2010, chapter 719 (SB 856) ended the reimbursement period for this mandate program as of June 30, 2011.

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, 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. 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 are reimbursable:

1. Have each prospective employee or volunteer who would have supervisory or disciplinary authority over minors to complete an application that inquires as to whether or not the prospective employee or volunteer has been convicted of any offense specified in Public Resources Code section 5164, subdivision (a). (Pub. Res. Code, § 5164, subd. (b)(1)). This is a one-time activity of revising and printing job applications that inquire as to the applicants' criminal history.
2. Screening, pursuant to Penal Code section 11105.3, prospective employees and volunteers who would have supervisory or disciplinary authority over minors. The screening procedure for these individuals requires submitting the following to the Department of Justice (DOJ): (1) the prospective employee's or volunteer's fingerprints, (2) any other data specified by DOJ on a DOJ-approved form, (3) for prospective employees only, paying the DOJ's fingerprint processing fee (no fee is required for a prospective volunteer). (Pub. Res. Code, § 5164, subds. (b)(1) & (b)(2)).

The Commission found that the following activities **are not** reimbursable:

- Taking fingerprints.
- Paying DOJ's fingerprint processing fee for a prospective volunteer.

The activities of this program are no longer reimbursable beginning July 1, 2011.

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.

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 chapter² 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.

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

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

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~~ statements of Decision ~~decision for the test claim and parameters and guidelines~~ is ~~are~~ 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.

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 December 16, 2013, I served the:

Adopted Statement of Decision, Notice of Draft Staff Analysis and Proposed Statement of Decision, Draft Expedited Amendment to Parameters and Guidelines, and Notice of Hearing

Mandate Redetermination Request, 12-MR-02

Local Recreational Areas: Background Screenings, (01-TC-11)

Public Resources Code Section 5164(b)(1), (b)(2), and (b)(3) as added or amended by Statutes 2001, Chapter 777 (AB 351); Statutes 2010, Chapter 719, (SB 856)

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 December 16, 2013 at Sacramento, California.



Heidi J. Palchik
Commission on State Mandates
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 12/2/13

Claim Number: 12-MR-02

Matter: Local Recreational Areas: Background Screenings (01-TC-11)

Claimant(s): Department of Finance

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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. (Cal. Code Regs., tit. 2, § 1181.2.)

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Exhibit J

RECEIVED
January 06, 2014
Commission on
State Mandates

JOHN CHIANG
California State Controller
Division of Accounting and Reporting

January 6, 2014

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

Re: Adopted Statement of Decision, Notice of Draft Staff Analysis and Proposed Statement of Decision, Draft Expedited Amendment to Parameters and Guidelines, and Notice of Hearing Mandate Redetermination Request, 12-MR-02
Local Recreational Areas: Background Screenings, (01-TC-11)
Public Resources Code Section 5164(b)(1), (b)(2), and (b)(3) as added to amended by Statutes 2001, Chapter 777 (AB 351); Statutes 2010, Chapter 719, (SB 856)
California Department of Finance, Requestor

Dear Ms. Halsey:

The State Controller's Office reviewed and recommends no changes to the draft expedited amendment to parameters and guidelines for the Local Recreational Areas: Background Screenings program.

Should you have any questions regarding the above, 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 Yolo 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 January 7, 2014 I served the:

SCO Comments

Mandate Redetermination Request, 12-MR-02

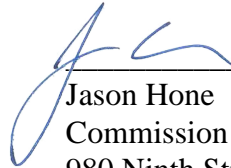
Local Recreational Areas: Background Screenings, (01-TC-11)

Public Resources Code Section 5164(b)(1), (b)(2), and (b)(3) as added or amended by Statutes 2001, Chapter 777 (AB 351); Statutes 2010, Chapter 719, (SB 856)

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 January 7, 2014 at Sacramento, California.



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Commission on State Mandates
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(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 12/18/13

Claim Number: 12-MR-02

Matter: Local Recreational Areas: Background Screenings (01-TC-11)

Requester: Department of Finance

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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. (Cal. Code Regs., tit. 2, § 1181.2.)

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