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STATE OF CALIFORNIA COMMISSION ON STATE MANDATES

REPORT TO THE LEGISLATURE: APPROVED MANDATE CLAIMS

October 1, 2005 – December 31, 2006

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TABLE OF CONTENTS

| | <u>Page</u> |
|--|-------------|
| EXECUTIVE SUMMARY | iii |
| I. INTRODUCTION | 01 |
| II. NEW MANDATES | 03 |
| 1. <i>False Reports of Police Misconduct, 00-TC-26</i> | 05 |
| 2. <i>Crime Victim's Domestic Violence Incident Reports, 99-TC-08</i> | 09 |
| 3. <i>Peace Officer Personnel Records: Unfounded Complaints and Discovery,</i> <i>00-TC-24,</i> | 13 |
| 4. <i>Integrated Waste Management, 00-TC-07</i> | 17 |
| III. PENDING STATEWIDE COST ESTIMATES | 27 |

EXECUTIVE SUMMARY

Existing law requires the Commission on State Mandates to report to the Legislature on the number of mandates it has found, the estimated statewide costs of these mandates, and the reasons for recommending reimbursement. If the Legislature appropriates the amount of the statewide cost estimate and actual claims for reimbursement exceed this amount, the State Controller's Office prorates the claims and reports the deficiency in funding to the legislative budget committees and the Commission. The Commission then includes the deficiency in its Report to the Legislature to provide the Legislature with the amount of new mandates that are unfunded and the amount of funding still owed to local agencies and school districts for mandated programs.

New Mandates

Between October 2005 and December 2006, the Commission adopted four statewide cost estimates. These estimates include three new local programs totaling \$2,878,073, and one new community college school district program totaling \$10,785,532. The four estimates total \$13,663,605. This amount was not appropriated in the 2006-2007 Budget.

Deficiencies

On April 28, 2006, the State Controller reported that amounts appropriated for reimbursement of mandated programs were insufficient to fully pay mandate reimbursement claims, and therefore, there was a deficiency in the amount of \$2,062,184,297 (\$1,136,493,504 for local agencies, \$829,256,528 for school districts, and \$96,434,265 for community college districts).

The 2006-2007 Budget Act and 2006-2007 trailer bills appropriated over \$500 million for local agencies, almost \$957 million for school districts, and over \$44 million for community college districts for current and prior year mandate reimbursements. The Budget continues to defer funding on several mandates, and therefore, deficiencies for some programs will continue in the 2007-2008 fiscal year. The State Controller is required to issue a report in December each year showing the current deficiency. Since that report has not yet been released for 2006, the Commission will report the deficiency in its next Report to the Legislature.

INTRODUCTION

The Commission on State Mandates (Commission) is required to report to the Legislature at least twice each calendar year on the number of mandates it has found, the estimated statewide costs of each mandate, and the reasons for recommending reimbursement.¹

After the Commission submits its second semiannual report to the Legislature, the Legislative Analyst is required to submit a report to the Joint Legislative Budget Committee and legislative fiscal committees on the mandates included in the Commission's reports. The Legislative Analyst's report shall make recommendations as to whether the mandate should be repealed, funded, suspended, or modified.²

Immediately upon receipt of this report, a local government claims bill, at the time of its introduction, shall provide for an appropriation sufficient to pay the estimated costs of these mandates approved by the Commission.³ The Legislature may amend, modify, or supplement the parameters and guidelines for mandates contained in the local government claims bill. If the Legislature changes the parameters and guidelines, it shall make a declaration in the local government claims bill specifying the basis for the amendment, modification, or supplement.⁴

If the Legislature deletes funding for a mandate from a local government claims bill, the local agency or school district may file an action in declaratory relief in the Superior Court of the County of Sacramento to declare the mandate unenforceable and enjoin its enforcement.⁵

If payment for an initial reimbursement claim is being made more than 365 days after adoption of the statewide cost estimate, the State Controller's Office (SCO) shall include accrued interest at the Pooled Money Investment Account rate.⁶

If the Legislature appropriates the amount of the statewide cost estimate and actual claims exceed this amount, the SCO will prorate the claims.⁷ If the deficiency funds are not appropriated in the Budget Act, the SCO reports this information to the legislative budget committees and the Commission. The Commission will then include the deficiency in its report to the Legislature in order to ensure that it is included in the next claims bill.

Under Proposition 1A, which amended article XIII B, section 6 of the California Constitution, city, county, city and county, or special district mandate claims for costs incurred prior to the 2004-2005 fiscal year that have not been paid prior to the 2005-2006 fiscal year may be paid over a term of years, as prescribed by law. However, for the 2005-2006 fiscal year and every

¹ Government Code section 17600.

² Government Code section 17562, subdivision (c).

³ This provision is found in Government Code section 17612, subdivision (a). However, no claims bill has been introduced since 2002. Since that time, funding for mandates has been placed in the Governor's proposed Budget each year.

⁴ Government Code section 17612, subdivision (b).

⁵ Government Code section 17612, subdivision (c).

⁶ Government Code section 17561.5, subdivision (a).

⁷ Government Code section 17567.

subsequent fiscal year, the Constitution now requires the Legislature to either appropriate in the annual Budget Act, the full payable amount that has not been previously paid or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable.

The following table shows the statewide cost estimates that have been adopted during the period of October 1, 2005, through December 31, 2006.

**Statewide Cost Estimates (SCE) Adopted
During the Period of October 1, 2005 – December 31, 2006**

| Date SCE Adopted ⁸ | Test Claim | Period of Reimbursement (Fiscal years) | <i>Estimated Costs</i> | | |
|-------------------------------------|--|--|------------------------|-------------------|---------------------|
| | | | Education | Non- Education | Totals |
| 01/26/06 | <i>False Reports of Police Misconduct, 00-TC-26</i> | 1999-2000 through 2006-2007 | | \$126,024 | \$126,024 |
| 10/04/06 | <i>Crime Victim's Domestic Violence Incident Reports, 99-TC-08</i> | 1999-2000 through 2007-2008 | | \$918,998 | \$918,998 |
| 10/04/06 | <i>Peace Officer Personnel Records: Unfounded Complaints and Discovery, 00-TC-24</i> | 1999-2000 through 2007-2008 | | \$1,833,051 | \$1,833,051 |
| 10/26/06 | <i>Integrated Waste Management, 00-TC-07</i> | 1999-2000 through 2007-2008 | \$10,785,532 | | \$10,785,532 |
| TOTALS | | | \$10,785,532 | \$2,878,073 | \$13,663,605 |

⁸ If payment for an initial reimbursement claim is made more than 365 days after adoption of the statewide cost estimate, the Controller shall include accrued interest at the Pooled Money Investment Account rate. (Gov. Code, § 17561.6, subd. (a).)

II. NEW MANDATES

False Reports of Police Misconduct (00-TC-26)

Penal Code Section 148.6, Subdivisions (a)(2) and (a)(3)

Statutes 1995, Chapter 590

Statutes 2000, Chapter 289

Test Claim Filed: July 2, 2001

Reimbursement Period: 1999-2000 through 2006-2007

Initial Reimbursement Claims Filed: October 4, 2005

Eligible Claimants: Cities, Counties, or Special District employing peace officers⁹

Statewide Cost Estimate: \$126,024

Adopted: January 26, 2006

The statewide cost estimate includes eight fiscal years for a total of \$126,024. This averages to \$15,753 annually in costs for the state. Following is a breakdown of estimated total costs per fiscal year:

| Fiscal Year | Number of Claims Filed with SCO | Claim Totals |
|------------------|---------------------------------|-------------------|
| 1999-2000 | 6 | \$ 16,787 |
| 2000-2001 | 5 | 16,797 |
| 2001-2002 | 5 | 15,254 |
| 2002-2003 | 4 | 13,341 |
| 2003-2004 | 3 | 11,175 |
| 2004-2005 | 4 | 16,979 |
| 2005-2006 (est.) | N/A | 17,573 |
| 2006-2007 (est.) | N/A | 18,118 |
| TOTALS | 27 | \$ 126,024 |

Summary of the Mandate

On January 29, 2004, the Commission on State Mandates (Commission) adopted its Statement of Decision for *False Reports of Police Misconduct (00-TC-26)*. The Commission found that Penal Code section 148.6, subdivision (a), sections (2) and (3), constitute a new program or higher levels of service and impose a reimbursable state-mandated program upon city and county law enforcement agencies within the meaning of article XIII B, section 6, of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514.

The claimant filed the test claim on July 5, 2001. The Commission adopted the Statement of Decision on January 29, 2004, and the parameters and guidelines on March 30, 2005. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office

⁹ Any city, county, city and county, or special district employing peace officers and incurring increased costs as a direct result of this mandate are eligible to claim reimbursement of these costs.

(SCO) by October 4, 2005. The Commission uses these initial claims to develop the statewide cost estimate.

Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

Reimbursement Period July 1, 1999 through December 31, 2000¹⁰:

In accepting an allegation of peace officer misconduct, requiring the complainant to read and sign the advisory prescribed in Penal Code section 148.6, subdivision (a)(2).¹¹

A. One-Time Activity

1. Update policies and procedures to implement the reimbursable activities listed in Section IV. B. of the parameters and guidelines.

B. Ongoing Activity

1. Provide the complainant with the PC 148.6 advisory form.

Reimbursement Period Begins January 1, 2001¹²:

Make the advisory available in multiple languages, utilizing the translations available from the state.¹³

C. One-Time Activities

1. Create an electronic and/or paper advisory form folder to file multi-language PC 148.6 advisory forms, which are created and released by the Department of Justice.
2. Update policies and procedures to implement the reimbursable activities listed in Section IV. C. and D. of the parameters and guidelines.

D. Ongoing Activities

1. Downloading the PC 148.6 advisory form and saving it to an electronic and/or paper advisory form folder.
2. Update the multi-language advisory form folder as needed, if additional PC 148.6 advisory forms become available through the Department of Justice.
3. Inform the local law enforcement agency employees about the availability of the new (or any changes made to the existing) PC 148.6 advisory forms by the Department of Justice.
4. Provide the complainant with the advisory form written in a language understood by the complainant if the advisory form is available from the Department of Justice.¹⁴

¹⁰ Pursuant to Government Code section 17557, subdivision (c).

¹¹ Penal Code section 148.6, subdivision (a)(2), as added by Statutes 1995, chapter 590.

¹² Pursuant to Government Code section 17557, subdivision (c).

¹³ Penal Code section 148.6, subdivision (a)(3), as added by Statutes 2000, chapter 289.

¹⁴ Penal Code section 148.6, subdivision (a)(2) and (a)(3).

Statewide Cost Estimate

Staff reviewed the claims data submitted by the claimants and compiled by the SCO. The actual claims data showed that eight cities and two counties filed 28 claims between fiscal years 1999-2000 and 2004-2005, for a total of \$90,990. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

Staff made the following assumptions:

1. *The actual claiming data is unaudited.* The 28 actual claims filed by eight cities and two counties for fiscal years 1999-2000 through 2004-2005 are unaudited and may be inaccurate.¹⁵
2. *The actual amount claimed will increase if late or amended claims are filed.* Only eight cities and two counties have filed reimbursement claims for this program. Thus, if reimbursement claims are filed by any of the remaining cities and counties, the amount of reimbursement claimed may exceed the statewide cost estimate. For this program, late claims may be filed until October 4, 2006. However, according to claimant representatives, no late claims will be filed.
3. *The SCO may reduce any reimbursement claim for this program.* If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may reduce a claim. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.
4. *Most cities and counties may not meet the minimum \$1,000 filing threshold that entitles them to claim for reimbursement,* because the Commission denied reimbursement for most of the activities alleged by the claimant.

Methodology

Fiscal Years 1999-2000 through 2004-2005

The statewide cost estimate for fiscal years 1999-2000 through 2004-2005 is based on 27 of the 28 actual reimbursement claims filed with the SCO for these years. The claim filed by the City of Merced for fiscal year 2004-2005 was disallowed because it did not meet the minimum \$1,000 filing threshold that entitles it to claim for reimbursement.

Fiscal Years 2005-2006 and 2006-2007

Staff estimated fiscal year 2005-2006 costs by multiplying the 2004-2005 estimate by the implicit price deflator for 2004-2005 (3.5%), as forecast by the Department of Finance. Staff estimated fiscal year 2006-2007 costs by multiplying the 2005-2006 estimate by the implicit price deflator for 2005-2006 (3.1%).

¹⁵ Claims data reported as of November 3, 2005.

Crime Victim's Domestic Violence Incident Reports (99-TC-08)

Family Code Section 6228

Statutes 1999, Chapter 1022

Test Claim Filed: May 15, 2000

Reimbursement Period: 1999-2000 through 2007-2008

Initial Reimbursement Claims Filed: June 14, 2006

Eligible Claimants: Cities and Counties¹⁶

Statewide Cost Estimate: \$918,998

Adopted: October 4, 2006

The statewide cost estimate includes nine fiscal years for a total of \$918,998. This averages to \$102,111 annually in costs for the state. Following is a breakdown of estimated total costs per fiscal year:

| Fiscal Year | Number of Claims Filed with SCO | Claim Totals |
|-----------------------|---------------------------------|-------------------|
| 1999-2000 | 5 | 17,154 |
| 2000-2001 | 13 | 61,043 |
| 2001-2002 | 17 | 95,021 |
| 2002-2003 | 17 | 112,187 |
| 2003-2004 | 17 | 113,581 |
| 2004-2005 | 21 | 122,718 |
| 2005-2006 (estimated) | N/A | 127,013 |
| 2006-2007 (estimated) | N/A | 130,950 |
| 2007-2008 (estimated) | N/A | 139,331 |
| TOTALS | 90 | \$ 918,998 |

Summary of the Mandate

On September 25, 2003, the Commission on State Mandates (Commission) adopted a corrected Statement of Decision finding that Family Code section 6228, as added by Statutes 1999, chapter 1022, mandated a new program or higher level of service for local law enforcement agencies within the meaning of article XIII B, section 6 of the California Constitution, and imposed costs mandated by the state pursuant to Government Code section 17514 for the activity of storing domestic violence incident reports and face sheets for three years (Fam. Code, § 6228, subd. (e)) only.

The claimant filed the test claim on May 15, 2000. The Commission adopted a corrected Statement of Decision on September 25, 2003, and the parameters and guidelines on December 9, 2005. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by June 14, 2006.

¹⁶ Any city, county, and city and county that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.

Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

A. One-Time Activity

1. Revise existing policies and procedures regarding the storage of domestic violence incident reports and face sheets in a readily accessible format to include the *additional* three-year requirement.

B. Ongoing Activity

1. Store domestic violence incident reports and face sheets in a readily accessible hard copy, microfiche, or electronic image format for an *additional* three years. This is limited to the cost of retaining domestic violence incident reports and face sheets in a readily accessible format, including file storage, for the three-year period of time after the pre-existing mandatory two-year retention period provided in Government Code sections 26202 and 34090. Any activities that flow from this previous requirement are not reasonably necessary to carry out this mandate (e.g., scanning reports for archive, reviewing files, transferring or shipping files for storage).

Statewide Cost Estimate

Staff reviewed the claims data submitted by 18 cities and 3 counties and compiled by the SCO. The actual claims data showed that 21 local agencies filed 90 claims between fiscal years 1999-2000 and 2004-2005, for a total of \$521,704.¹⁷ A draft staff analysis and proposed statewide cost estimate were issued on August 3, 2006, but no comments were received. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

Staff made the following assumptions:

1. *The actual claiming data is unaudited but represents a reasonable estimate.* The 90 actual claims filed by local agencies for fiscal years 1999-2000 through 2004-2005 are unaudited, but staff reviewed nearly all of the claims and calculated an average of about \$0.42 to \$0.43 per year for each domestic violence incident report stored. For the most part, the cost per domestic violence incident report stored each year ranged from \$0.35 to \$0.47. Staff notes that these costs only represent an estimated cost of the program for fiscal years 1999-2000 through 2004-2005.
2. *The actual amount claimed may increase if late or amended claims are filed.* Only 18 cities and 3 counties in California have filed reimbursement claims for this program. Thus, if reimbursement claims are filed by any of the remaining local entities, the amount of reimbursement claims may exceed the statewide cost estimate. For this program, late claims may be filed until June 2007. However, staff does not expect any late claims to be filed because most claimants will be unable to meet the \$1,000 minimum threshold for filing reimbursement claims, as this program is limited to two activities.

¹⁷ Claims data reported as of July 12, 2006.

3. *There will be no significant increase in the number of domestic violence incident reports and face sheets stored by claimants in 2004-2005.* This assumption is based on data from the Department of Justice on domestic violence-related calls for assistance.
4. *The SCO may reduce any reimbursement claim for this program.* If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.

Methodology

Fiscal Years 1999-2000 through 2004-2005

The proposed statewide cost estimate for fiscal years 1999-2000 through 2004-2005 is based on the 90 actual reimbursement claims filed with the SCO for these years. However, staff notes that the claims are unaudited.

Fiscal Years 2005-2006 through 2007-2008

Staff estimated fiscal year 2005-2006 costs by multiplying the 2004-2005 estimate by the implicit price deflator for 2004-2005 (3.5%), as forecast by the Department of Finance. Staff estimated fiscal year 2006-2007 costs by multiplying the 2005-2006 estimate by the implicit price deflator for 2005-2006 (3.1%). Finally, staff estimated fiscal year 2007-2008 costs by multiplying the 2006-2007 estimate by the implicit price deflator for 2006-2007 (6.4%).

***Peace Officer Personnel Records:
Unfounded Complaints and Discovery (00-TC-24)***

Education Code Section 1043, subdivision (a)

Penal Code Sections 832.5, subdivisions (b) and (c), and
832.7, subdivisions (b) and (e)

Statutes 1978, Chapter 630

Statutes 1994, Chapter 741

Test Claim Filed: June 29, 2001

Reimbursement Period: 1999-2000 through 2007-2008

Initial Reimbursement Claims Filed: June 21, 2006

Eligible Claimants: Cities and Counties¹⁸

Statewide Cost Estimate: \$1,833,051

Adopted: October 4, 2006

The proposed statewide cost estimate includes nine fiscal years for a total of \$1,833,051. This averages to \$203,672 annually in costs for the state. Following is a breakdown of estimated total costs per fiscal year:

| Fiscal Year | Number of Claims Filed with SCO | Claim Totals |
|------------------|------------------------------------|---------------------|
| 1999-2000 | 4 | \$ 52,661 |
| 2000-2001 | 6 | 75,412 |
| 2001-2002 | 17 | 198,172 |
| 2002-2003 | 20 | 209,594 |
| 2003-2004 | 24 | 242,664 |
| 2004-2005 | 30 | 248,863 |
| 2005-2006 (est.) | N/A | 257,573 |
| 2006-2007 (est.) | N/A | 265,558 |
| 2007-2008 (est.) | N/A | 282,554 |
| TOTALS | 101 | \$ 1,833,051 |

Summary of the Mandate

On September 25, 2003, the Commission on State Mandates (Commission) adopted the Statement of Decision for *Peace Officer Personnel Records: Unfounded Complaints and Discovery* (00-TC-24). The Commission found that Evidence Code section 1043, subdivision (a), Penal Code sections 832.5, subdivisions (b) and (c), and 832.7, subdivisions (b) and (e) constitute a new program or higher level of service and impose a reimbursable state-mandated program upon local agency employers of peace officers within the meaning of article XIII B, section 6, of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514.

¹⁸ Any city, county, and city and county that incurs increased costs as a direct result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.

The Commission adopted the parameters and guidelines for this program on December 9, 2005. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by June 21, 2006. The Commission uses these initial claims to develop the statewide cost estimate.

Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

- A. Notice to Peace Officers (Evid. Code, § 1043, subd. (a).) Reimbursement period begins July 1, 1999.
 - 1. Provide immediate notice to an officer that his personnel file is the subject of discovery or disclosure.
- B. Record Retention (Pen. Code, § 832.5, subds. (b) and (c).) Reimbursement period begins July 1, 1999.
 - 1. Retain complaints against peace officers and any reports on findings relating to these complaints, for an *additional* three years. This is limited to the cost of retaining complaints against peace officers and any reports on findings relating to these complaints, including file storage of those records for the three-year period of time after the mandatory two-year retention period provided in Government Code sections 26202 and 34090. No staff time is required or reimbursable for this activity.
 - 2. Maintain those complaints found to be frivolous, unfounded or exonerated in a file separate from the officer's general personnel file.
- C. Notice to Complaining Party (Pen. Code, § 832.7, subds. (b) and (e).) Reimbursement period begins July 1, 2001.
 - 1. Make a copy of the complaining party's own statements at the time the complaint against the peace officer is filed, and provide the complaining party a copy of that statement.
 - 2. Provide written notification to the complaining party of the disposition of the complaint against the peace officer within thirty days of the disposition.

Statewide Cost Estimate

Staff reviewed the claims data submitted by the claimants and compiled by the SCO. The actual claims data showed that 31 claimants (25 cities and six counties) filed 101 claims between fiscal years 1999-2000 and 2004-2005, for a total of \$1,027,366. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

Staff made the following assumptions:

- 1. *The actual claiming data is unaudited.* The 101 actual claims filed by 31 claimants for fiscal years 1999-2000 through 2004-2005 are unaudited and may be inaccurate.¹⁹

¹⁹ Claims data reported as of August 8, 2006.

2. *The actual amount claimed will increase if late or amended claims are filed.* As of August 8, 2006, 25 cities and six counties filed reimbursement claims for this program. If reimbursement claims are filed by any of the remaining cities and counties, the amount of reimbursement claimed may exceed the statewide cost estimate. For this program, late claims may be filed until June 21, 2007. However, the claimants note that they are expecting only a few late claims will be filed by small agencies.
3. *The SCO may reduce any reimbursement claim for this program.* If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may reduce a claim. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.
4. *Although the costs claimed per complaint varied widely, the costs appear to be reasonable.* The majority of the costs claimed were for reimbursable activities A. 1. and C. 2. The cost to perform these activities ranged from \$3 to \$418 per complaint. The majority of the differences in costs appear to be the result of the hourly rate of the staff person who performed the activities. For example, the City of Los Angeles claimed staff time for a senior clerk typist to perform the activities while the City of Martinez claimed staff time for an administrative assistant and chief of police. There is no limit on who performs this mandate.
5. *The number of complaints received will remain at the same level and will not increase.* The claims data shows that the number of complaints has remained at the same level for the fiscal years that claims were filed.

Methodology

Fiscal Years 1999-2000 through 2004-2005

The proposed statewide cost estimate for fiscal years 1999-2000 through 2004-2005 is based the 101 actual reimbursement claims filed with the SCO for these years.

Fiscal Years 2005-2006 and 2006-2007

Staff estimated fiscal year 2005-2006 costs by multiplying the 2004-2005 estimate by the implicit price deflator for 2005-2006 (3.5%), as forecast by the Department of Finance. Staff estimated fiscal year 2006-2007 costs by multiplying the 2005-2006 estimate by the implicit price deflator for 2006-2007 (3.1%).

Staff estimated fiscal year 2007-2008 costs by multiplying the 2006-2007 estimate by the implicit price deflator for 2007-2008 (6.4%).

Integrated Waste Management (00-TC-07)

Public Resources Code Sections 40148, 40196.3, 42920-42928
Public Contract Code Sections 12167 and 12167.1

Statutes 1999, Chapter 764 (AB 75)
Statutes 1992, Chapter 1116 (AB 3521)

State Agency Model Integrated Waste Management Plan (February 2000)

Test Claim Filed: March 9, 2001
Reimbursement Period: 1999-2000 through 2007-2008

Initial Reimbursement Claims Filed: October 4, 2005
Eligible Claimants: Community College Districts²⁰

Statewide Cost Estimate: \$10,785,532
Adopted: October 26, 2006

The proposed statewide cost estimate includes nine fiscal years for a total of \$10,785,532. This averages to \$1,198,392 annually in costs for the state. Following is a breakdown of estimated total costs per fiscal year:

| Fiscal Year | Number of Claims Filed With SCO | Claim Totals |
|-----------------------|---------------------------------|----------------------|
| 1999-2000 | 21 | \$ 478,106 |
| 2000-2001 | 25 | 788,658 |
| 2001-2002 | 23 | 1,003,710 |
| 2002-2003 | 25 | 1,109,250 |
| 2003-2004 | 25 | 1,203,354 |
| 2004-2005 | 24 | 1,463,719 |
| 2005-2006 (estimated) | N/A | 1,514,949 |
| 2006-2007 (estimated) | N/A | 1,561,912 |
| 2007-2008 (estimated) | N/A | 1,661,874 |
| TOTALS | 143 | \$ 10,785,532 |

Summary of the Mandate

On March 25, 2004, the Commission on State Mandates (Commission) adopted its Statement of Decision finding that Public Resources Code sections 40148, 40196.3, 42920-42928; Public Contract Code sections 12167 and 12167.1; and the State Agency Model Integrated Waste Management Plan (February 2000) require new activities, as specified below, which constitute new programs or higher levels of service for community college districts within the meaning of article XIII B, section 6, of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514.

²⁰ Community college districts that incur increased costs as a result of this mandate are eligible to claim reimbursement.

The claimant filed the test claim on March 9, 2001. The Commission adopted the Statement of Decision on March 25, 2004, and the parameters and guidelines on March 30, 2005. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by October 4, 2005.

Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

A. One-Time Activities (Reimbursable starting January 1, 2000)

1. Develop the necessary district policies and procedures for the implementation of the integrated waste management plan.
2. Train district staff on the requirements and implementation of the integrated waste management plan (one-time per employee). Training is limited to the staff working directly on the plan.

B. Ongoing Activities (Reimbursable starting January 1, 2000)

1. Complete and submit to the Board the following as part of the State Agency Model Integrated Waste Management Plan (Pub. Resources Code, § 42920, subd. (b)(3) & State Agency Model Integrated Waste Management Plan, February 2000.):
 - a. state agency or large state facility information form;
 - b. state agency list of facilities;
 - c. state agency waste reduction and recycling program worksheets that describe program activities, promotional programs, and procurement activities, and other questionnaires; and
 - d. state agency integrated waste management plan questions.

NOTE: Although reporting on promotional programs and procurement activities in the model plan is reimbursable, implementing promotional programs and procurement activities is not.

2. Respond to any Board reporting requirements during the approval process. (Pub. Resources Code, § 42920, subd. (b)(3) & State Agency Model Integrated Waste Management Plan, February 2000.)
3. Consult with the Board to revise the model plan, if necessary. (Pub. Resources Code, § 42920, subd. (b)(3) & State Agency Model Integrated Waste Management Plan, February 2000.)
4. Designate one solid waste reduction and recycling coordinator ("coordinator") for each college in the district to perform new duties imposed by chapter 18.5 (Pub. Resources Code, §§ 42920 – 42928). The coordinator shall implement the integrated waste management plan. The coordinator shall act as a liaison to other state agencies (as defined by section 40196.3) and coordinators. (Pub. Resources Code, § 42920, subd. (c).)
5. Divert at least 25 percent of all solid waste from landfill disposal or transformation facilities by January 1, 2002, and at least 50 percent of all solid waste from landfill disposal or transformation facilities by January 1, 2004, through source reduction,

recycling, and composting activities. Maintain the required level of reduction, as approved by the Board. (Pub. Resources Code, §§ 42921 & 42922, subd. (i).)

C. Alternative Compliance (*Reimbursable from January 1, 2000 – December 31, 2005*)

1. Seek either an alternative requirement or time extension if a community college is unable to comply with the January 1, 2002 deadline to divert 25 percent of its solid waste, by doing the following: (Pub. Resources Code, §§ 42927 & 42923 subds. (a) & (c).)
 - a. Notify the Board in writing, detailing the reasons for its inability to comply.
 - b. Request of the Board an alternative to the January 1, 2002 deadline.
 - c. Provide evidence to the Board that the college is making a good faith effort to implement the source reduction, recycling, and composting programs identified in its integrated waste management plan.
 - d. Provide information that describes the relevant circumstances that contributed to the request for extension, such as lack of markets for recycled materials, local efforts to implement source reduction, recycling and composting programs, facilities built or planned, waste disposal patterns, and the type of waste disposed of by the community college.
 - e. Submit a plan of correction that demonstrates that the college will meet the requirements of Section 42921 [the 25 and 50 percent diversion requirements] before the time extension expires, including the source reduction, recycling, or composting steps the community college will implement, a date prior to the expiration of the time extension when the requirements of Section 42921 will be met, the existing programs that it will modify, any new programs that will be implemented to meet those requirements, and the means by which these programs will be funded.
2. Seek either an alternative requirement or time extension if a community college is unable to comply with the January 1, 2004 deadline to divert 50 percent of its solid waste, by doing the following: (Pub. Resources Code, §§ 42927 & 42922, subds. (a) & (b).)
 - a. Notify the Board in writing, detailing the reasons for its inability to comply.
 - b. Request of the Board an alternative to the 50-percent requirement.
 - c. Participate in a public hearing on its alternative requirement.
 - d. Provide the Board with information as to:
 - (i) the community college's good faith efforts to implement the source reduction, recycling, and composting measures described in its integrated waste management plan, and demonstration of its progress toward meeting the alternative requirement as described in its annual reports to the Board;
 - (ii) the community college's inability to meet the 50 percent diversion requirement despite implementing the measures in its plan;
 - (iii) how the alternative source reduction, recycling, and composting requirement represents the greatest diversion amount that the community college may reasonably and feasibly achieve; and,

- (iv) the circumstances that support the request for an alternative requirement, such as waste disposal patterns and the types of waste disposed by the community college.

D. Accounting System (*Reimbursable starting January 1, 2000*)

Developing, implementing, and maintaining an accounting system to enter and track the college's source reduction, recycling and composting activities, the cost of those activities, the proceeds from the sale of any recycled materials, and such other accounting systems which will allow it to make its annual reports to the state and determine waste reduction. Note: only the pro-rata portion of the costs incurred to implement the reimbursable activities can be claimed.

E. Annual Report (*Reimbursable starting January 1, 2000*)

Annually prepare and submit, by April 1, 2002, and by April 1 each subsequent year, a report to the Board summarizing its progress in reducing solid waste. The information in the report must encompass the previous calendar year and shall contain, at a minimum, the following as outlined in section 42926, subdivision (b): (Pub. Resources Code, §§ 42926, subd. (a) & 42922, subd. (i).)

1. calculations of annual disposal reduction;
2. information on the changes in waste generated or disposed of due to increases or decreases in employees, economics, or other factors;
3. a summary of progress made in implementing the integrated waste management plan;
4. the extent to which the community college intends to use programs or facilities established by the local agency for handling, diversion, and disposal of solid waste (If the college does not intend to use those established programs or facilities, it must identify sufficient disposal capacity for solid waste that is not source reduced, recycled or composted.);
5. for a community college that has been granted a time extension by the Board, it shall include a summary of progress made in meeting the integrated waste management plan implementation schedule pursuant to section 42921, subdivision (b), and complying with the college's plan of correction, before the expiration of the time extension;
6. for a community college that has been granted an alternative source reduction, recycling, and composting requirement by the Board pursuant to section 42922, it shall include a summary of progress made towards meeting the alternative requirement as well as an explanation of current circumstances that support the continuation of the alternative requirement.

F. Annual Recycled Material Reports (*Reimbursable starting July 1, 1999*)

Annually report to the Board on quantities of recyclable materials collected for recycling. (Pub. Contract Code, § 12167.1.) (See Section VII. of parameters and guidelines regarding offsetting revenues from recyclable materials.)

Statewide Cost Estimate

Staff reviewed the claims data submitted by the claimants and compiled by the SCO. The actual claims data showed that 27 community college districts filed 142 claims between fiscal years 1999-2000 and 2004-2005, for a total of over \$6 million. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

A draft staff analysis was issued on January 9, 2006, in which staff requested additional information regarding the costs associated with diversion of solid waste and complying with the *Integrated Waste Management Plan* program that may assist in the development of a more accurate statewide cost estimate. The California Integrated Waste Management Board (Board) submitted comments on March 30, 2006, and the Department of Finance (DOF) submitted comments on April 4, 2006. Commission staff conducted a prehearing conference on July 27, 2006, so the parties could assist in identifying offsets and, again, to assist in developing a more accurate estimate. The comments are addressed below; however, staff notes that the additional comments did not provide enough evidence to help staff reduce the proposed estimate by deducting offsets that should have been realized, but not claimed.

Assumptions

Staff made the following assumptions:

1. *The actual claiming data is unaudited and may be inaccurate.* The 142 actual claims filed by 27 community college districts for fiscal years 1999-2000 through 2004-2005 are unaudited and may be inaccurate.²¹

Staff reviewed a sample of claims filed by eight community college districts: Chabot-Las Positas, Coast, Rancho Santiago, Grossmont–Cuyamaca, Santa Monica, Palomar, Gavilan Joint, and Los Rios. These districts are among the top claiming districts, as shown in Table 1 below.

²¹ Claims data reported as of August 8, 2006.

TABLE 1. CLAIMS FILED FOR FISCAL YEAR 1999-2000 THROUGH 2004-2005

| District | Total Claimed |
|-------------------------|----------------------|
| Lassen | 6,256 |
| Santa Clarita | 6,292 |
| College of the Sequoias | 14,412 |
| Foothill-Deanza | 16,839 |
| Yuba | 30,070 |
| Marin | 49,759 |
| Yosemite | 53,449 |
| Contra Costa | 78,762 |
| San Jose | 90,570 |
| Citrus | 102,400 |
| Solano Co | 128,120 |
| Mt. San Antonio | 136,684 |
| Los Rios | 149,598 |
| Sierra Joint | 163,294 |
| San Mateo Co | 189,773 |
| Merced | 193,811 |
| Hartnell | 198,387 |
| State Center | 228,701 |
| El Camino | 258,557 |
| Redwoods | 300,373 |
| Gavilan Joint | 368,229 |
| Grossmont-Cuyamaca | 432,930 |
| Santa Monica | 436,149 |
| Rancho Santiago | 494,944 |
| Palomar | 552,868 |
| Coast | 592,398 |
| Chabot-Las Positas | 773,172 |
| TOTAL | \$ 6,046,797 |

Staff notes the following:

- a. *Three out of the eight community college districts did not report any offsetting revenues.*

Section VII. of the parameters and guidelines state the following:

Reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds allocated to any service provided under this program, shall be identified and deducted from this claim. Offsetting revenue shall include the revenues cited in Public Resources Code section 42925 and Public Contract Code sections 12167 and 12167.1.

Subject to the approval of the California Integrated Waste Management Board, revenues derived from the sale of recyclable materials by a community college that do not exceed two thousand dollars (\$2,000) annually are continuously appropriated for expenditure by the community college for the

purpose of offsetting recycling program costs. Revenues exceeding two thousand dollars (\$2,000) annually may be available for expenditure by the community college only when appropriated by the Legislature. To the extent so approved or appropriated and applied to the college, these amounts are a reduction to the recycling costs mandated by the state to implement Statutes 1999, chapter 764.

In addition, revenue from a building-operating fee imposed pursuant to Education Code section 76375, subdivision (a) if received by a claimant and the revenue is applied to this program, shall be deducted from the costs claimed.

The districts that did not offset revenues or other reimbursements include Coast Community College District, Gavilan Joint Community College District, and Rancho Santiago Community College District. Coast claimed a total of \$592,398 for six fiscal years; Gavilan Joint claimed a total of \$368,229 for six fiscal years; and Rancho Santiago claimed a total of \$494,944 for six fiscal years.

On March 30, 2005, the Commission adopted the staff analysis on the proposed parameters and guidelines, which found that there was insufficient legal authority to support a requirement to track cost savings that may result from avoiding disposal costs as a result of this program. Staff explained that Public Resources Code section 42925's reference to "cost savings" actually means "revenues" received and redirected via Public Contract Code sections 12167 and 12167.1 Further, the Board would have claimants reduce disposal costs from the claims submitted. As explained in the staff analysis:

The problem with this approach is that the test claim statutes enacted a new waste diversion program in 2000 that was not previously reimbursed. "Disposal" costs were not previously reimbursed by the state, nor are they required to be reimbursed under the test claim statutes. Rather, it is "diversion" costs that are reimbursed under this program. Because there was no prior state-mandated program for diversion or disposal upon which to calculate savings, there can be no offsetting savings for these costs.

In addition, Public Resources Code section 42925, subdivision (a), states that the cost savings must be redirected to fund the integrated waste plan only, "to the extent feasible." Thus, the Legislature's direction to redirect cost savings is not mandated. Section 42925 allows any savings to be redirected to other campus programs if the community college finds that it is not "feasible" to use those savings to implement the waste management plan.

Usually, under section VII. Offsetting Revenues and Reimbursements of the parameters and guidelines, there is a standard provision that states, "Any offsetting savings 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." Staff notes that all the cost savings identified by the Board during the parameters and guidelines phase (e.g., reduced disposal) were not rooted in the costs that are mandated by the test claim legislation, so they are not "in the same program as a result of the same statutes or executive orders found to contain the mandate." Therefore, the Board's request for additional information on offsetting savings was not included because the

Commission found that it was inconsistent with the test claim's statutory scheme and the analysis of offsetting savings. As shown above, staff added to the standard provision in section VII. of the parameters and guidelines by identifying specific offsetting revenues.

In its comments dated March 30, 2006, the Board argued that its request for additional information on offsetting savings in the parameters and guidelines was deemed unnecessary, and that a "stronger reference" to ensure that cost savings were properly identified were not included in the parameters and guidelines. Thus, the Board requested a parameters and guidelines amendment to include "additional information as a method to accurately capture offsetting savings." The Board provided a summary of the additional expenses and offsetting savings, stating that:

the failure to provide either a stronger explanation of offsetting savings that must be included or a format/table to fill out to help determine offsetting savings, has resulted in the inaccurate claims that have been presented and which inevitably led to an inaccurate Statewide Cost Estimate. The only reasonable and efficient way to remedy this situation is to amend...the Parameters and Guidelines to ensure that the necessary information is provided.

The DOF concurred with the Board's summary of additional expenses and offsetting savings.

Staff notes that in general, the Board's comments focused on its request to amend the parameters and guidelines. However, because the reimbursement claims for fiscal years 1999-2000 through 2004-2005 have already been submitted, the Board's suggestion to add additional information to the parameters and guidelines regarding offsetting savings will not affect these claims.²² Thus, staff was unable to improve the proposed statewide cost estimate for the initial years based on the Board's comments.

The Board's request to amend the parameters and guidelines was sent to affected state agencies and interested parties on April 10, 2006, for review and comment. As of September 2006, no comments have been received. This matter will be heard and determined at a later hearing, and if adopted, would be effective on July 1, 2005.

- b. *Five out of the eight community college districts claimed one-time activities over multiple fiscal years.* The parameters and guidelines provided one-time reimbursement for the development of necessary district policies and procedures for the implementation of the integrated waste management plan, and for training of district staff on the requirements and implementation of the integrated waste management plan (one-time per employee). Training was limited to the staff working directly on the plan. However, Table 2 below shows the "one-time" costs claimed by five of the eight community college districts reviewed.

²² Government Code section 17557, subdivision (c), states that "[a] parameters and guidelines amendment filed more than 90 days after the claiming deadline for initial claims...and on or before January 15 following a fiscal year, shall establish eligibility for that fiscal year."

**TABLE 2. ONE-TIME ACTIVITIES CLAIMED
OVER MULTIPLE FISCAL YEARS**

| District | Activity | 1999- 2000 | 2000- 2001 | 2001- 2002 | 2002- 2003 | 2003- 2004 | 2004- 2005 |
|-----------------|-----------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Gavilan Joint | <i>Policies</i> | \$ 185 | \$ 1,987 | \$ 2,499 | \$ 1,531 | \$ 1,876 | \$ 1,938 |
| | <i>Training</i> | \$ 189 | \$ 410 | \$ 431 | \$ 474 | \$ 516 | \$ 476 |
| Grossmont | <i>Policies</i> | - | \$ 620 | - | - | - | - |
| | <i>Training</i> | \$ 693 | \$ 561 | \$ 1,731 | \$ 863 | \$ 793 | \$ 1,374 |
| Los Rios | <i>Policies</i> | - | \$ 1,337 | - | \$ 1,300 | - | - |
| | <i>Training</i> | - | \$ 152 | \$ 308 | - | - | - |
| Palomar | <i>Policies</i> | - | - | - | - | - | - |
| | <i>Training</i> | \$ 7,087 | \$18,872 | \$20,368 | \$22,471 | \$23,115 | \$25,499 |
| Santa Monica | <i>Policies</i> | - | - | - | \$ 1,538 | \$ 1,346 | \$10,461 |
| | <i>Training</i> | - | - | \$ 6,190 | \$ 9,051 | \$10,646 | \$ 1,130 |

The claims did not include enough information as to whether the costs claimed for training were in fact for new employees only. A representative of the Palomar Community College District indicated that “groundskeepers and maintenance technicians [reported] 20 to 50 hours of training each year” and guessed that the time related to “operation of equipment relevant to source reduction....” The representative also indicated that one recycling coordinator reported 400 hours of training, “which might cover organized training events for district employee[s].” Overall, the representative believed that the district’s training time was unique and quantitatively above average.

The Board commented that the costs associated with the reimbursable one-time activities should be relatively small because:

the Board has already developed and provided access to many model policies and procedures that can be easily and with little or no time or cost be adapted for and utilized by Community College Districts. Likewise, the Board provides free training and support to recycling coordinators. In a recent training session, conducted by the Community Colleges, which Board staff was invited to, more than 15 college campuses and District offices were able to completely prepare and finalize for submittal, the regional annual report within a total of 5 hours.

Staff notes that other districts may have also claimed one-time activities over multiple fiscal years.

Therefore, based on the foregoing observations, staff finds that the 142 actual claims filed by 27 community college districts only represent an estimated cost of the program for fiscal years 1999-2000 through 2004-2005.

2. *The actual amount claimed will increase when late or amended claims are filed.* Only 27 of the 72 community college districts in California have filed reimbursement claims for this program. Many of the largest community college districts, including the Los Angeles Community College District, have not filed reimbursement claims. Thus, if reimbursement claims are filed by any of the remaining districts, the amount of reimbursement claims may

exceed the statewide cost estimate. For this program, late claims may be filed until October 2006.

3. *The SCO may reduce any reimbursement claim for this program.* If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.

Methodology

Fiscal Years 1999-2000 through 2004-2005

The proposed statewide cost estimate for fiscal years 1999-2000 through 2004-2005 is based on the 142 actual reimbursement claims filed with the SCO for these years. However, staff notes that the claims are unaudited and may be inaccurate for the reasons stated above.

Fiscal Years 2005-2006 and 2006-2007

Staff estimated fiscal year 2005-2006 costs by multiplying the 2004-2005 estimate by the implicit price deflator for 2004-2005 (3.5%), as forecast by the Department of Finance. Staff estimated fiscal year 2006-2007 costs by multiplying the 2005-2006 estimate by the implicit price deflator for 2005-2006 (3.1%). Staff estimated fiscal year 2007-2008 costs by multiplying the 2006-2007 estimate by the implicit price deflator for 2006-2007 (6.4%).

III. PENDING STATEWIDE COST ESTIMATES

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Pending Statewide Cost Estimates, Local Agencies and School Districts

| Local Agencies | School Districts |
|---|---|
| <i>California Fire Incident Reporting System (CFIRS) Manual, 4419, 00-TC-02*</i> | <i>Behavioral Intervention Plans, 4464*</i> |
| <i>Domestic Violence Arrests and Victim Assistance, 98-TC-14</i> | <i>The Stull Act, 98-TC-25</i> |
| <i>Firearm Hearings for Discharged Inpatients, 99-TC-11*</i> | <i>Enrollment Fee Collection, 99-TC-13 and Enrollment Fee Waivers, 00-TC-15</i> |
| <i>Post Conviction: DNA Court Proceedings, 00-TC-21, 01-TC-08*</i> | <i>Charter Schools III, 99-TC-14</i> |
| <i>DNA Database, 00-TC-27 and Amendment to Post Mortem Exams: Unidentified Bodies, 02-TC-39</i> | <i>High School Exit Exam, 00-TC-06</i> |
| <i>Mentally Disordered Offenders: Treatment as a Condition of Parole, 00-TC-28, 05-TC-06*</i> | <i>Agency Fee Arrangements 00-TC-17, 01-TC-14</i> |
| <i>Racial Profiling: Law Enforcement Training, 01-TC-01*</i> | <i>Missing Children Reports, 01-TC-09</i> |
| <i>Local Recreational Areas: Background Screenings, 01-TC-11*</i> | <i>Pupil Safety Notices, 02-TC-13</i> |
| <i>Modified Primary Election, 01-TC-13*</i> | |
| <i>Fifteen Day Close of Voter Registration, 01-TC-15*</i> | |
| <i>Fire Safety Inspections of Care Facilities, 01-TC-16*</i> | |
| <i>Local Government Employment Relations, 01-TC-30*</i> | |
| <i>Handicapped and Disabled Students II, 02-TC-40/02-TC49*</i> | |
| <i>Permanent Absent Voter II, 03-TC-11*</i> | |
| <i>Voter Identification Procedures, 03-TC-23*</i> | |

* Currently in the parameters and guidelines phase.