

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

Government Code Sections 54952, 54954.2, 54954.3, 54957.1, 54957.7;  
Statutes 1986, Chapter 641; Statutes 1993, Chapters 1136; 1137; 1138

As Alleged to be Modified by:

Proposition 30, General Election, November 6, 2012

*Open Meetings Act/Brown Act Reform, (CSM-4257/4469)*

13-MR-02

Department of Finance, Requester

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Text of Ballot Measure, Proposition 30

RECEIVED  
July 29, 2013  
Commission on  
State Mandates



EDMUND G. BROWN JR. ■ GOVERNOR

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

July 26, 2013

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

Dear Ms. Halsey:

The Department of Finance requests the Commission on State Mandates (Commission) adopt a new test claim decision on the Open Meetings Act (CSM-4257) and Brown Act Reform (CSM-4469) programs because a subsequent change in law has removed the state's obligation to fund the mandates. As this request is linked to anticipated General Fund savings, we respectfully request the Commission expedite the review and hearing process of this request.

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

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

Sincerely,

*for* TOM DYER  
Assistant Program Budget Manager

Enclosures

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

Open Meetings Act/Brown Act Reform (CSM – 4257/4469)  
Request to Adopt a New Test Claim Decision

RECEIVED July 29, 2013 Commission on State Mandates
For CSM Use Only Filing Date:
REQUEST# 13-MR-02

**2. REQUESTER INFORMATION**

Name of Local Agency, School District, Statewide Association of Local Agencies or School Districts, or State Agency  
 Michael Byrne  
 Requester Contact

Principal Program Budget Analyst  
 Title

California Department of Finance  
 Organization

915 L Street, Suite 1190  
 Street Address

Sacramento, CA 95814  
 City, State, Zip Code

(916) 445-3274  
 Telephone Number

(916) 449-5252  
 Fax Number

Michael.byrne@dof.ca.gov  
 E-Mail Address

**3. REPRESENTATIVE INFORMATION**

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

Representative Name

Title

Organization

Street Address

City, State, Zip Code

Telephone Number

Fax Number

E-Mail Address

**4. IDENTIFYING INFORMATION**

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

The Commission on State Mandates (Commission) adopted statements of decision for the Brown Act Reform (CSM-4469) on June 28, 2001 and Open Meetings Act (CSM-4257) on March 23, 1988; and approved reimbursement for the activities based on the statutory requirements that are part of Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code. On July 31, 2009, the Commission reinstated Parameters and Guidelines that were originally adopted on April 25, 2002.

On November 6, 2012, California voters approved Proposition 30 titled "The Schools and Local Public Safety Protection Act of 2012." (See attached page 3 - "4. Identifying Information Continued".)

Sections 5, 6 and 7 are attached as follows:

- 5. Detailed Analysis: Pages 5 to 8.
- 6. Declarations: Pages 9 to 9.
- 7. Documentation: Pages 10 to 10.

**Section 4. Identifying Information Continued**  
**Request to Adopt a New Test Claim Decision**  
**Open Meetings Act/Brown Act Reform (CSM – 4257/4469)**  
**Department of Finance**

Proposition 30 is the subsequent change in law where the voters expressly stated that the requirements to comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code are no longer reimbursable mandates. Chapter 9 includes the Government Code sections that had served as a basis for the Commission's statements of decision.

Based on the passage of Proposition 30, the state's obligation to provide reimbursement for the mandate programs has ceased pursuant to Government Code sections 17570 and 17556, subdivision (f).

**5: Detailed Analysis**  
**Request to Adopt a New Test Claim Decision**  
**Open Meetings Act/Brown Act Reform (CSM – 4257/4469)**  
**Department of Finance**

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The Commission on State Mandates (Commission) adopted statements of decision for Open Meetings Act (CSM-4257) on March 23, 1988 and Brown Act Reform (CSM-4469) on June 28, 2001. The Commission approved reimbursement for the activities below in the consolidated parameters and guidelines reinstated on July 31, 2009. These statutory requirements are part of Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code.

**ACTIVITY GROUP A: Agenda Preparation and Posting Activities:**

1. Prepare a single agenda for a regular meeting of a legislative body of a local agency or school district containing a brief description of each item of business to be transacted or discussed at a regular meeting, including items to be discussed in closed session, and citing the time and location of the regular meeting. (Gov. Code, § 54954.2, subd. (a).)
2. Post a single agenda 72 hours before a meeting in a location freely accessible to the public. Further, every agenda must state that there is an opportunity for members of the public to comment on matters that are within the subject matter jurisdiction of the legislative body, subject to exceptions stated therein. (Gov. Code, §§ 54954.2, subd. (a), and 54954.3, subd. (a).)

Beginning January 1, 1994, the following types of “legislative bodies” are eligible to claim reimbursement under the consolidated parameters and guidelines for the Agenda Preparation and Posting activities.

- Local Bodies created by state or federal statute.
- Standing Committees with less than a quorum of members of the legislative body that has a continuing subject matter jurisdiction or a meeting schedule fixed by formal action.
- Permanent & Temporary Advisory Bodies (except bodies of less than a quorum of the members of the legislative body).

Beginning January 1, 1994, the following “legislative bodies” are eligible to claim reimbursement under the consolidated parameters and guidelines for the preparation of a brief general description of closed session agenda items, using either the actual or standard time reimbursement options pursuant to claiming instructions:

- Governing board, commission, directors or body of a local agency or any board or commission thereof, as well as any board, commission, committee, or other body on which officers of a local agency serve in their official capacity.
- Any board, commission, committee, or body which exercises authority delegated to it by the legislative body.
- Planning commissions, library boards, recreation commissions, and other *permanent* boards or commissions of a local agency composed of at least a quorum of the members of the legislative body.

**5: Detailed Analysis**  
**Request to Adopt a New Test Claim Decision**  
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**Department of Finance**

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- Local Bodies created by state or federal statute.
- Standing Committees with less than a quorum of members of the legislative body that has a continuing subject matter jurisdiction or a meeting schedule fixed by formal action.
- Permanent & Temporary Advisory Bodies (except bodies of less than a quorum of the members of the legislative body).

**ACTIVITY GROUP B: Closed Session Activities**

1. Disclose in an open meeting, prior to holding any closed session, each item to be discussed in the closed session. (Gov. Code, § 54957.7, subd. (a).)
2. Reconvene in open session prior to adjournment to make any disclosures required by Section 54957.1 of action taken in the closed session, including items as follows: (Gov. Code, § 54957.7, subd. (b).)
  - a. Approval of an agreement concluding real estate negotiations as specified in Section 54956.8. (Gov. Code, § 54957.1, subd. (a)(1).)
  - b. Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of consultation under Section 54956.9. (Gov. Code, § 54957.1, subd. (a)(2).)
  - c. Approval given to its legal counsel of a settlement of pending litigation as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final. (Gov. Code, § 54957.1, subd. (a)(3).)
  - d. Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant. (Gov. Code, § 54957.1, subd. (a)(4).)
  - e. Approval of an agreement concluding labor negotiations with represented employees pursuant to Section 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. (Gov. Code, § 54957.1, subd. (a)(6).)
3. Provide copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session to a person who submitted a written request within the timelines specified or to a person who has made a standing request, as set forth in Sections 54954.1 or 54956 within the time lines specified. (Gov. Code, § 54957.1, subd. (b) and (c).)
4. Train members of only those legislative bodies that actually hold closed executive sessions, on the closed session requirements of Brown Act Reform. If such training is given to all members of the legislative body, whether newly appointed or existing members, contemporaneously, time of the trainer and legislative members is reimbursable.

**5: Detailed Analysis**  
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Additionally, time for preparation of training materials, obtaining materials including training videos and audio visual aids, and training the trainers to conduct the training is reimbursable.

Beginning January 1, 1994, the following “legislative bodies” are eligible to claim reimbursement under the adopted parameters and guidelines for Closed Session activities:

- Governing board, commission, directors or body of a local agency or any board or commission thereof, as well as any board, commission, committee, or other body on which officers of a local agency serve in their official capacity.
- Any board, commission, committee, or body which exercises authority delegated to it by the legislative body.
- Planning commissions, library boards, recreation commissions, and other *permanent* boards or commissions of a local agency composed of at least a quorum of the members of the legislative body.
- Local Bodies created by state or federal statute.
- Standing Committees with less than a quorum of members of the legislative body that has a continuing subject matter jurisdiction or a meeting schedule fixed by formal action.
- Permanent & Temporary Advisory Bodies (except bodies of less than a quorum of the members of the legislative body).



**5: Detailed Analysis**  
**Request to Adopt a New Test Claim Decision**  
**Open Meetings Act/Brown Act Reform (CSM – 4257/4469)**  
**Department of Finance**

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The Department of Finance (Finance) requests the Commission adopt a **new test claim decision** on Open Meetings Act (CSM-4257) and Brown Act Reform (CSM-4469) based on a subsequent change in law," the voters' enactment of Proposition 30.

On November 6, 2012, California voters approved Proposition 30 titled "The Schools and Local Public Safety Protection Act of 2012." This ballot measure stated "any requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code with respect to performing its Public Safety Services responsibilities, or any other matter, shall not be a reimbursable mandate under Section 6 of Article XIII B." (Cal. Const. art. XIII, § 36, subd. (c)(3)). By adding Article XIII, Section 36, subdivision (c)(3) to the Constitution, the electorate stated the reimbursable requirements of the Open Meetings Act and Brown Act Reform mandates are no longer reimbursable mandates.

The enactment of Proposition 30 constituted a "subsequent change in law" as defined in Government Code section 17570 because the voters determined the requirements of Chapter 9 (containing the statutes comprising the Open Meetings Act/Brown Act Reform mandates) are no longer costs mandated by the state.

The voters' decision to end state reimbursement for these mandated activities applies to all previously eligible claimants. Government Code section 54951 defines "local agency" as used in Proposition 30 to mean "a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency." The voters ended state reimbursement for these mandates with the enactment of Proposition 30.

Based on Government Code sections 17570, Finance requests the Commission adopt a new test claim decision finding there are no costs mandated by the state within the meaning of article XIII B, section 6, of the California Constitution. Beginning July 1, 2012 for local agencies and November 7, 2012 for local school districts and community colleges, the state is no longer obligated to reimburse any costs to implement the required activities. The program was suspended in fiscal year 2012-13 for local agencies. The annual statewide cost estimate of the program should be zero dollars.

**Section 6. Declaration**  
**Request to Adopt a New Test Claim Decision**  
**Open Meetings Act/Brown Act Reform (CSM – 4257/4469)**  
**Department of Finance**

1. The state's estimated annual statewide costs for reimbursing the program should be zero dollars as of November 6, 2012 based on Government Code section 17570, subdivision (f) and the pre-June 30, 2014 filing date of this request for local school districts and community colleges and as of July 1, 2012 for local agencies based on the program's suspension in fiscal year 2012-13. (See Attachment F - *State Mandated Program Cost Report of Unpaid Claims and Deficiency Pursuant to Government Code Section 17562(b)(2): Schedule B, Section 1: Net Deficiencies and Surpluses for the Funded Mandates by Fiscal Year.*) The state owes back costs of \$159.8 million combined for: local agencies (\$111,514,334), school districts (\$39,314,303), and community colleges (\$9,013,155) as of fiscal year 2011-12. Based on that data, the Department of Finance estimates that annual statewide costs have averaged approximately \$8.4 million for local governments.
2. In Proposition 30, "The Schools and Local Public Safety Protection Act of 2012," adopted on November 6, 2012, the voters expressly stated that the requirements to comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code are no longer reimbursable mandates. As a result, there are no costs mandated by the state to implement Government Code sections included in Chapter 9, that had served as a basis for the Commission's statements of decision.
3. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make these declarations on behalf of Finance.

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

*July 29, 2013*

At Sacramento, California

*Carla Shelton*

Carla Shelton

**Section 7. Documentation**  
**Request to Adopt a New Test Claim Decision**  
**Open Meetings Act/Brown Act Reform (CSM – 4257/4469)**  
**Department of Finance**

<b>Document Title</b>	<b>Attachment</b>
1. Text of Proposed Laws: Proposition 30 (Subsequent Change in Law) .....	A
2. Open Meetings Act Test Claim Statutes.....	B - D
Chapter 1136, Statutes of 1993	(Attachment B)
Chapter 1137, Statutes of 1993	(Attachment C)
Chapter 1138, Statutes of 1993	(Attachment D)
3. Chapter 641, Statutes of 1986 (Brown Act Reform test claim statute) .....	E
4. State Mandated Program Cost Report of Unpaid Claims and Deficiency Pursuant to Government Code Section 17562(b)(2): Schedule B, Section 1: Net Deficiencies and Surpluses for the Funded Mandates by Fiscal Year .....	F

**8. CERTIFICATION**

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

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

**Michael Byrne**

Print or Type Name of Authorized Official

**Principal Program Budget Analyst**

Print or Type Title



Signature of Authorized Official

7/26/2013

Date

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

## TEXT OF PROPOSED LAWS

## PROPOSITION 30

30

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds a section to the California Constitution; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

## PROPOSED LAW

## THE SCHOOLS AND LOCAL PUBLIC SAFETY PROTECTION ACT OF 2012

## SECTION 1. Title.

This measure shall be known and may be cited as "The Schools and Local Public Safety Protection Act of 2012."

## SEC. 2. Findings.

(a) Over the past four years alone, California has had to cut more than \$56 billion from education, police and fire protection, healthcare, and other critical state and local services. These funding cuts have forced teacher layoffs, increased school class sizes, increased college fees, reduced police protection, increased fire response times, exacerbated dangerous overcrowding in prisons, and substantially reduced oversight of parolees.

(b) These cuts in critical services have hurt California's seniors, middle-class working families, children, college students, and small businesses the most. We cannot afford more cuts to education and the other services we need.

(c) After years of cuts and difficult choices, it is necessary to turn the state around. Raising new tax revenue is an investment in our future that will put California back on track for growth and success.

(d) The Schools and Local Public Safety Protection Act of 2012 will make California's tax system more fair. With working families struggling while the wealthiest among us enjoy record income growth, it is only right to ask the wealthy to pay their fair share.

(e) The Schools and Local Public Safety Protection Act of 2012 raises the income tax on those at the highest end of the income scale—those who can most afford it. It also temporarily restores some sales taxes in effect last year, while keeping the overall sales tax rate lower than it was in early 2011.

(f) The new taxes in this measure are temporary. Under the California Constitution the 1/4-cent sales tax increase expires in four years, and the income tax increases for the wealthiest taxpayers end in seven years.

(g) The new tax revenue is guaranteed in the California Constitution to go directly to local school districts and community colleges. Cities and counties are guaranteed ongoing funding for public safety programs such as local police and child protective services. State money is freed up to help balance the budget and prevent even more devastating cuts to services for seniors, working families, and small businesses. Everyone benefits.

(h) To ensure these funds go where the voters intend, they are put in special accounts that the Legislature cannot touch. None of these new revenues can be spent on state bureaucracy

or administrative costs.

(i) These funds will be subject to an independent audit every year to ensure they are spent only for schools and public safety. Elected officials will be subject to prosecution and criminal penalties if they misuse the funds.

## SEC. 3. Purpose and Intent.

(a) The chief purpose of this measure is to protect schools and local public safety by asking the wealthy to pay their fair share of taxes. This measure takes funds away from state control and places them in special accounts that are exclusively dedicated to schools and local public safety in the state Constitution.

(b) This measure builds on a broader state budget plan that has made billions of dollars in permanent cuts to state spending.

(c) The measure guarantees solid, reliable funding for schools, community colleges, and public safety while helping balance the budget and preventing further devastating cuts to services for seniors, middle-class working families, children, and small businesses.

(d) This measure gives constitutional protection to the shift of local public safety programs from state to local control and the shift of state revenues to local government to pay for those programs. It guarantees that schools are not harmed by providing even more funding than schools would have received without the shift.

(e) This measure guarantees that the new revenues it raises will be sent directly to school districts for classroom expenses, not administrative costs. This school funding cannot be suspended or withheld no matter what happens with the state budget.

(f) All revenues from this measure are subject to local audit every year, and audit by the independent Controller to ensure that they will be used only for schools and local public safety.

SEC. 4. Section 36 is added to Article XIII of the California Constitution, to read:

SEC. 36. (a) For purposes of this section:

(1) "Public Safety Services" includes the following:

(A) Employing and training public safety officials, including law enforcement personnel, attorneys assigned to criminal proceedings, and court security staff.

(B) Managing local jails and providing housing, treatment, and services for, and supervision of, juvenile and adult offenders.

(C) Preventing child abuse, neglect, or exploitation; providing services to children and youth who are abused, neglected, or exploited, or who are at risk of abuse, neglect, or exploitation, and the families of those children; providing adoption services; and providing adult protective services.

(D) Providing mental health services to children and adults to reduce failure in school, harm to self or others, homelessness, and preventable incarceration or institutionalization.

(E) Preventing, treating, and providing recovery services for substance abuse.

(2) "2011 Realignment Legislation" means legislation enacted on or before September 30, 2012, to implement the state budget plan, that is entitled 2011 Realignment and provides for the assignment of Public Safety Services responsibilities to

local agencies, including related reporting responsibilities. The legislation shall provide local agencies with maximum flexibility and control over the design, administration, and delivery of Public Safety Services consistent with federal law and funding requirements, as determined by the Legislature. However, 2011 Realignment Legislation shall include no new programs assigned to local agencies after January 1, 2012, except for the early periodic screening, diagnosis, and treatment (EPSDT) program and mental health managed care.

(b) (1) Except as provided in subdivision (d), commencing in the 2011–12 fiscal year and continuing thereafter, the following amounts shall be deposited into the Local Revenue Fund 2011, as established by Section 30025 of the Government Code, as follows:

(A) All revenues, less refunds, derived from the taxes described in Sections 6051.15 and 6201.15 of the Revenue and Taxation Code, as those sections read on July 1, 2011.

(B) All revenues, less refunds, derived from the vehicle license fees described in Section 11005 of the Revenue and Taxation Code, as that section read on July 1, 2011.

(2) On and after July 1, 2011, the revenues deposited pursuant to paragraph (1) shall not be considered General Fund revenues or proceeds of taxes for purposes of Section 8 of Article XVI of the California Constitution.

(c) (1) Funds deposited in the Local Revenue Fund 2011 are continuously appropriated exclusively to fund the provision of Public Safety Services by local agencies. Pending full implementation of the 2011 Realignment Legislation, funds may also be used to reimburse the State for program costs incurred in providing Public Safety Services on behalf of local agencies. The methodology for allocating funds shall be as specified in the 2011 Realignment Legislation.

(2) The county treasurer, city and county treasurer, or other appropriate official shall create a County Local Revenue Fund 2011 within the treasury of each county or city and county. The money in each County Local Revenue Fund 2011 shall be exclusively used to fund the provision of Public Safety Services by local agencies as specified by the 2011 Realignment Legislation.

(3) Notwithstanding Section 6 of Article XIII B, or any other constitutional provision, a mandate of a new program or higher level of service on a local agency imposed by the 2011 Realignment Legislation, or by any regulation adopted or any executive order or administrative directive issued to implement that legislation, shall not constitute a mandate requiring the State to provide a subvention of funds within the meaning of that section. Any requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, with respect to performing its Public Safety Services responsibilities, or any other matter, shall not be a reimbursable mandate under Section 6 of Article XIII B.

(4) (A) Legislation enacted after September 30, 2012, that has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation shall apply to local agencies only to the extent that the State provides annual funding for the cost increase. Local agencies shall not be obligated to provide

programs or levels of service required by legislation, described in this subparagraph, above the level for which funding has been provided.

(B) Regulations, executive orders, or administrative directives, implemented after October 9, 2011, that are not necessary to implement the 2011 Realignment Legislation, and that have an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, shall apply to local agencies only to the extent that the State provides annual funding for the cost increase. Local agencies shall not be obligated to provide programs or levels of service pursuant to new regulations, executive orders, or administrative directives, described in this subparagraph, above the level for which funding has been provided.

(C) Any new program or higher level of service provided by local agencies, as described in subparagraphs (A) and (B), above the level for which funding has been provided, shall not require a subvention of funds by the State nor otherwise be subject to Section 6 of Article XIII B. This paragraph shall not apply to legislation currently exempt from subvention under paragraph (2) of subdivision (a) of Section 6 of Article XIII B as that paragraph read on January 2, 2011.

(D) The State shall not submit to the federal government any plans or waivers, or amendments to those plans or waivers, that have an overall effect of increasing the cost borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, except to the extent that the plans, waivers, or amendments are required by federal law, or the State provides annual funding for the cost increase.

(E) The State shall not be required to provide a subvention of funds pursuant to this paragraph for a mandate that is imposed by the State at the request of a local agency or to comply with federal law. State funds required by this paragraph shall be from a source other than those described in subdivisions (b) and (d), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund.

(5) (A) For programs described in subparagraphs (C) to (E), inclusive, of paragraph (1) of subdivision (a) and included in the 2011 Realignment Legislation, if there are subsequent changes in federal statutes or regulations that alter the conditions under which federal matching funds as described in the 2011 Realignment Legislation are obtained, and have the overall effect of increasing the costs incurred by a local agency, the State shall annually provide at least 50 percent of the nonfederal share of those costs as determined by the State.

(B) When the State is a party to any complaint brought in a federal judicial or administrative proceeding that involves one or more of the programs described in subparagraphs (C) to (E), inclusive, of paragraph (1) of subdivision (a) and included in the 2011 Realignment Legislation, and there is a settlement or judicial or administrative order that imposes a cost in the form of a monetary penalty or has the overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, the State shall annually provide at least 50 percent of the nonfederal share of those costs as determined by the State. Payment by the

State is not required if the State determines that the settlement or order relates to one or more local agencies failing to perform a ministerial duty, failing to perform a legal obligation in good faith, or acting in a negligent or reckless manner.

(C) The state funds provided in this paragraph shall be from funding sources other than those described in subdivisions (b) and (d), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund.

(6) If the State or a local agency fails to perform a duty or obligation under this section or under the 2011 Realignment Legislation, an appropriate party may seek judicial relief. These proceedings shall have priority over all other civil matters.

(7) The funds deposited into a County Local Revenue Fund 2011 shall be spent in a manner designed to maintain the State's eligibility for federal matching funds, and to ensure compliance by the State with applicable federal standards governing the State's provision of Public Safety Services.

(8) The funds deposited into a County Local Revenue Fund 2011 shall not be used by local agencies to supplant other funding for Public Safety Services.

(d) If the taxes described in subdivision (b) are reduced or cease to be operative, the State shall annually provide moneys to the Local Revenue Fund 2011 in an amount equal to or greater than the aggregate amount that otherwise would have been provided by the taxes described in subdivision (b). The method for determining that amount shall be described in the 2011 Realignment Legislation, and the State shall be obligated to provide that amount for so long as the local agencies are required to perform the Public Safety Services responsibilities assigned by the 2011 Realignment Legislation. If the State fails to annually appropriate that amount, the Controller shall transfer that amount from the General Fund in pro rata monthly shares to the Local Revenue Fund 2011. Thereafter, the Controller shall disburse these amounts to local agencies in the manner directed by the 2011 Realignment Legislation. The state obligations under this subdivision shall have a lower priority claim to General Fund money than the first priority for money to be set apart under Section 8 of Article XVI and the second priority to pay voter-approved debts and liabilities described in Section 1 of Article XVI.

(e) (1) To ensure that public education is not harmed in the process of providing critical protection to local Public Safety Services, the Education Protection Account is hereby created in the General Fund to receive and disburse the revenues derived from the incremental increases in taxes imposed by this section, as specified in subdivision (f).

(2) (A) Before June 30, 2013, and before June 30 of each year from 2014 to 2018, inclusive, the Director of Finance shall estimate the total amount of additional revenues, less refunds, that will be derived from the incremental increases in tax rates made in subdivision (f) that will be available for transfer into the Education Protection Account during the next fiscal year. The Director of Finance shall make the same estimate by January 10, 2013, for additional revenues, less refunds, that will be received by the end of the 2012–13 fiscal year.

(B) During the last 10 days of the quarter of each of the first

three quarters of each fiscal year from 2013–14 to 2018–19, inclusive, the Controller shall transfer into the Education Protection Account one-fourth of the total amount estimated pursuant to subparagraph (A) for that fiscal year, except as this amount may be adjusted pursuant to subparagraph (D).

(C) In each of the fiscal years from 2012–13 to 2020–21, inclusive, the Director of Finance shall calculate an adjustment to the Education Protection Account, as specified by subparagraph (D), by adding together the following amounts, as applicable:

(i) In the last quarter of each fiscal year from 2012–13 to 2018–19, inclusive, the Director of Finance shall recalculate the estimate made for the fiscal year pursuant to subparagraph (A), and shall subtract from this updated estimate the amounts previously transferred to the Education Protection Account for that fiscal year.

(ii) In June 2015 and in every June from 2016 to 2021, inclusive, the Director of Finance shall make a final determination of the amount of additional revenues, less refunds, derived from the incremental increases in tax rates made in subdivision (f) for the fiscal year ending two years prior. The amount of the updated estimate calculated in clause (i) for the fiscal year ending two years prior shall be subtracted from the amount of this final determination.

(D) If the sum determined pursuant to subparagraph (C) is positive, the Controller shall transfer an amount equal to that sum into the Education Protection Account within 10 days preceding the end of the fiscal year. If that amount is negative, the Controller shall suspend or reduce subsequent quarterly transfers, if any, to the Education Protection Account until the total reduction equals the negative amount herein described. For purposes of any calculation made pursuant to clause (i) of subparagraph (C), the amount of a quarterly transfer shall not be modified to reflect any suspension or reduction made pursuant to this subparagraph.

(3) All moneys in the Education Protection Account are hereby continuously appropriated for the support of school districts, county offices of education, charter schools, and community college districts as set forth in this paragraph.

(A) Eleven percent of the moneys appropriated pursuant to this paragraph shall be allocated quarterly by the Board of Governors of the California Community Colleges to community college districts to provide general purpose funding to community college districts in proportion to the amounts determined pursuant to Section 84750.5 of the Education Code, as that code section read upon voter approval of this section. The allocations calculated pursuant to this subparagraph shall be offset by the amounts specified in subdivisions (a), (c), and (d) of Section 84751 of the Education Code, as that section read upon voter approval of this section, that are in excess of the amounts calculated pursuant to Section 84750.5 of the Education Code, as that section read upon voter approval of this section, provided that no community college district shall receive less than one hundred dollars (\$100) per full time equivalent student.

(B) Eighty-nine percent of the moneys appropriated pursuant to this paragraph shall be allocated quarterly by the Superintendent of Public Instruction to provide general purpose

funding to school districts, county offices of education, and state general-purpose funding to charter schools in proportion to the revenue limits calculated pursuant to Sections 2558 and 42238 of the Education Code and the amounts calculated pursuant to Section 47633 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read upon voter approval of this section. The amounts so calculated shall be offset by the amounts specified in subdivision (c) of Section 2558 of paragraphs (1) through (7) of subdivision (h) of Section 42238 of, and Section 47635 of, the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read upon voter approval of this section, that are in excess of the amounts calculated pursuant to Sections 2558, 42238, and 47633 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read upon voter approval of this section, provided that no school district, county office of education, or charter school shall receive less than two hundred dollars (\$200) per unit of average daily attendance.

(4) This subdivision is self-executing and requires no legislative action to take effect. Distribution of the moneys in the Education Protection Account by the Board of Governors of the California Community Colleges and the Superintendent of Public Instruction shall not be delayed or otherwise affected by failure of the Legislature and Governor to enact an annual budget bill pursuant to Section 12 of Article IV, by invocation of paragraph (h) of Section 8 of Article XVI, or by any other action or failure to act by the Legislature or Governor.

(5) Notwithstanding any other provision of law, the moneys deposited in the Education Protection Account shall not be used to pay any costs incurred by the Legislature, the Governor, or any agency of state government.

(6) A community college district, county office of education, school district, or charter school shall have sole authority to determine how the moneys received from the Education Protection Account are spent in the school or schools within its jurisdiction, provided, however, that the appropriate governing board or body shall make these spending determinations in open session of a public meeting of the governing board or body and shall not use any of the funds from the Education Protection Account for salaries or benefits of administrators or any other administrative costs. Each community college district, county office of education, school district, and charter school shall annually publish on its Internet Web site an accounting of how much money was received from the Education Protection Account and how that money was spent.

(7) The annual independent financial and compliance audit required of community college districts, county offices of education, school districts, and charter schools shall, in addition to all other requirements of law, ascertain and verify whether the funds provided from the Education Protection Account have been properly disbursed and expended as required by this section. Expenses incurred by those entities to comply with the additional audit requirement of this section may be paid with funding from the Education Protection Account, and shall not be considered administrative costs for purposes of this section.

(8) Revenues, less refunds, derived pursuant to subdivision (f) for deposit in the Education Protection Account pursuant to this section shall be deemed "General Fund revenues," "General Fund proceeds of taxes," and "moneys to be applied by the State for the support of school districts and community college districts" for purposes of Section 8 of Article XVI.

(f) (1) (A) In addition to the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of 1/4 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this State on and after January 1, 2013, and before January 1, 2017.

(B) In addition to the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, an excise tax is hereby imposed on the storage, use, or other consumption in this State of tangible personal property purchased from any retailer on and after January 1, 2013, and before January 1, 2017, for storage, use, or other consumption in this state at the rate of 1/4 percent of the sales price of the property.

(C) The Sales and Use Tax Law, including any amendments enacted on or after the effective date of this section, shall apply to the taxes imposed pursuant to this paragraph.

(D) This paragraph shall become inoperative on January 1, 2017.

(2) For any taxable year beginning on or after January 1, 2012, and before January 1, 2019, with respect to the tax imposed pursuant to Section 17041 of the Revenue and Taxation Code, the income tax bracket and the rate of 9.3 percent set forth in paragraph (1) of subdivision (a) of Section 17041 of the Revenue and Taxation Code shall be modified by each of the following:

(A) (i) For that portion of taxable income that is over two hundred fifty thousand dollars (\$250,000) but not over three hundred thousand dollars (\$300,000), the tax rate is 10.3 percent of the excess over two hundred fifty thousand dollars (\$250,000).

(ii) For that portion of taxable income that is over three hundred thousand dollars (\$300,000) but not over five hundred thousand dollars (\$500,000), the tax rate is 11.3 percent of the excess over three hundred thousand dollars (\$300,000).

(iii) For that portion of taxable income that is over five hundred thousand dollars (\$500,000), the tax rate is 12.3 percent of the excess over five hundred thousand dollars (\$500,000).

(B) The income tax brackets specified in clauses (i), (ii), and (iii) of subparagraph (A) shall be recomputed, as otherwise provided in subdivision (h) of Section 17041 of the Revenue and Taxation Code, only for taxable years beginning on and after January 1, 2013.

(C) (i) For purposes of subdivision (g) of Section 19136 of the Revenue and Taxation Code, this paragraph shall be considered to be chaptered on the date it becomes effective.

(ii) For purposes of Part 10 (commencing with Section 17001) of, and Part 10.2 (commencing with Section 18401) of, Division 2 of the Revenue and Taxation Code, the modified tax brackets and tax rates established and imposed by this



paragraph shall be deemed to be established and imposed under Section 17041 of the Revenue and Taxation Code.

(D) This paragraph shall become inoperative on December 1, 2019.

(3) For any taxable year beginning on or after January 1, 2012, and before January 1, 2019, with respect to the tax imposed pursuant to Section 17041 of the Revenue and Taxation Code, the income tax bracket and the rate of 9.3 percent set forth in paragraph (1) of subdivision (c) of Section 17041 of the Revenue and Taxation Code shall be modified by each of the following:

(A) (i) For that portion of taxable income that is over three hundred forty thousand dollars (\$340,000) but not over four hundred eighty thousand dollars (\$408,000), the tax rate is 10.3 percent of the excess over three hundred forty thousand dollars (\$340,000).

(ii) For that portion of taxable income that is over four hundred eighty thousand dollars (\$408,000) but not over six hundred eighty thousand dollars (\$680,000), the tax rate is 11.3 percent of the excess over four hundred eighty thousand dollars (\$408,000).

(iii) For that portion of taxable income that is over six hundred eighty thousand dollars (\$680,000), the tax rate is 12.3 percent of the excess over six hundred eighty thousand dollars (\$680,000).

(B) The income tax brackets specified in clauses (i), (ii), and (iii) of subparagraph (A) shall be recomputed, as otherwise provided in subdivision (h) of Section 17041 of the Revenue and Taxation Code, only for taxable years beginning on and after January 1, 2013.

(C) (i) For purposes of subdivision (g) of Section 19136 of the Revenue and Taxation Code, this paragraph shall be considered to be chaptered on the date it becomes effective.

(ii) For purposes of Part 10 (commencing with Section 17001) of, and Part 10.2 (commencing with Section 18401) of, Division 2 of the Revenue and Taxation Code, the modified tax brackets and tax rates established and imposed by this paragraph shall be deemed to be established and imposed under Section 17041 of the Revenue and Taxation Code.

(D) This paragraph shall become inoperative on December 1, 2019.

(g) (1) The Controller, pursuant to his or her statutory authority, may perform audits of expenditures from the Local Revenue Fund 2011 and any County Local Revenue Fund 2011, and shall audit the Education Protection Account to ensure that those funds are used and accounted for in a manner consistent with this section.

(2) The Attorney General or local district attorney shall expeditiously investigate, and may seek civil or criminal penalties for, any misuse of moneys from the County Local Revenue Fund 2011 or the Education Protection Account.

#### SEC. 5. Effective Date.

Subdivision (b) of Section 36 of Article XIII of the California Constitution, as added by this measure, shall be operative as of July 1, 2011. Paragraphs (2) and (3) of subdivision (f) of Section 36 of Article XIII of the California Constitution, as added by this measure, shall be operative as of January 1, 2012. All other provisions of this measure shall become operative the day after

the election in which it is approved by a majority of the voters voting on the measure provided.

#### SEC. 6. Conflicting Measures.

In the event that this measure and another measure that imposes an incremental increase in the tax rates for personal income shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

SEC. 7. This measure provides funding for school districts and community college districts in an amount that equals or exceeds that which would have been provided if the revenues deposited pursuant to Sections 6051.15 and 6201.15 of the Revenue and Taxation Code pursuant to Chapter 43 of the Statutes of 2011 had been considered "General Fund revenues" or "General Fund proceeds of taxes" for purposes of Section 8 of Article XVI of the California Constitution.

### PROPOSITION 31

This initiative measure is submitted to the people of California in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends and adds sections to the California Constitution and adds sections to the Education Code and the Government Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

#### PROPOSED LAW

#### The Government Performance and Accountability Act

##### SECTION 1. Findings and Declarations

The people of the State of California hereby find and declare that government must be:

1. Trustworthy. California government has lost the confidence of its citizens and is not meeting the needs of Californians. Taxpayers are entitled to a higher return on their investment and the public deserves better results from government services.

2. Accountable for Results. To restore trust, government at all levels must be accountable for results. The people are entitled to know how tax dollars are being spent and how well government is performing. State and local government agencies must set measurable outcomes for all expenditures and regularly and publicly report progress toward those outcomes.

3. Cost-Effective. California must invest its scarce public resources wisely to be competitive in the global economy. Vital public services must therefore be delivered with increasing effectiveness and efficiency.

4. Transparent. It is essential that the public's business be public. Honesty and openness promote and preserve the integrity of democracy and the relationship between the people and their government.

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BILL NUMBER: AB 1426      CHAPTERED 10/11/93  
 BILL TEXT

CHAPTER 1136  
 FILED WITH SECRETARY OF STATE    OCTOBER 11, 1993  
 APPROVED BY GOVERNOR    OCTOBER 10, 1993  
 PASSED THE SENATE    SEPTEMBER 10, 1993  
 PASSED THE ASSEMBLY    SEPTEMBER 10, 1993  
 AMENDED IN SENATE    SEPTEMBER 8, 1993  
 AMENDED IN SENATE    JULY 7, 1993  
 AMENDED IN ASSEMBLY    JUNE 9, 1993

INTRODUCED BY    Assembly Member Burton

MARCH 3, 1993

An act to amend Sections 54952.7, 54953, 54953.5, 54954, 54954.2, 54954.3, 54956.9, 54957, 54957.1, 54957.5, 54957.7, 54959, 54960.1, 54961, and 54962 of, and to add Sections 54952.1, 54952.2, 54953.6, and 54954.5 to, the Government Code, relating to open meetings.

LEGISLATIVE COUNSEL'S DIGEST

AB 1426, Burton. Open meetings of local government.

The Ralph M. Brown Act generally requires that the meetings of the legislative bodies of local agencies, as those terms are defined, be conducted openly, with specified exceptions. Among other things, the act provides for certain notice requirements concerning public meetings and makes it a misdemeanor for a member of a legislative body to attend a meeting where a violation occurs with knowledge of the fact that the meeting violates the act.

This bill would also define "member of a legislative body of a local agency" to include any person elected to serve as a member of a legislative body and who has not yet assumed the duties of office.

The Ralph M. Brown Act generally requires all meetings of the legislative body of a local agency to be open and public.

This bill would define "meeting," with exceptions, as any congregation of a majority of the members of a legislative body in the same time and place to hear, discuss, or deliberate upon any item within the subject matter jurisdiction of the legislative body or its local agency, and any use of direct communication, personal intermediaries, or technological devices

employed by a majority of the members to develop a collective concurrence as to action to be taken on an item.

Existing law requires all meetings of the legislative body of a local agency shall be open and public with specified exceptions.

This bill would prohibit a legislative body from taking action by secret ballot.

The Ralph M. Brown Act permits recording of open and public meetings by any person.

This bill would make any recording made at the direction of a local agency subject to inspection pursuant to the California Public Records Act, as specified.

The bill would also provide that no legislative body shall prohibit or otherwise restrict the broadcast of its proceedings in the absence of a reasonable finding that the broadcast cannot be accomplished without disruption.

Under the Ralph M. Brown Act, meetings of the legislative body of a local agency need not be held within the boundaries of the territory over which the agency exercises jurisdiction. If an emergency makes the designated meeting place unsafe the presiding officer may designate a meeting place for the duration of the emergency.

This bill would require regular and special meetings to be held within the boundaries of the territory of the agency, with limited exceptions and with additional exceptions for the governing board of a school district, and would permit the presiding officer's designee to designate an emergency meeting place.

The Ralph M. Brown Act requires the posting of an agenda at least 72 hours before a regular meeting of a legislative body briefly describing each item of business and restricts action or discussion of the meeting to these items on the agenda, unless, by at least a 2/3 vote, as specified, the legislative body decides there is a need for action on a nonagenda item.

This bill would instead require the agenda to contain a brief general description of each item of business to be transacted or discussed, including items to be discussed in closed session and would permit members of a legislative body to respond to certain questions not relating to agenda items. This bill would make further restrictions on the discussion or action on nonagenda items.

The Ralph M. Brown Act requires the agenda for a regular meeting to provide an opportunity for members of the public to address the legislative body.

This bill would require the agenda for a special meeting at which action is proposed to be taken on an item to provide an opportunity for members of the public to address the legislative body prior to action on the item. The bill would further require the legislative body not to prohibit public criticism of the agency, as specified.

This bill would also prescribe disclosures of the nature of closed sessions according to a specified format.

The Ralph M. Brown Act authorizes closed sessions of a legislative body to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session would prejudice the position of the local agency in the litigation and describes the facts and circumstances that constitute pending litigation. Existing law states that this authority is the exclusive expression of the lawyer-client privilege for purposes of conducting closed sessions pursuant to the act. The act requires the legal counsel to prepare a memorandum concerning the reasons and legal authority for the closed session.

This bill would state that this authority for closed sessions for the legislative body to confer with or receive advice from its legal counsel does not limit or otherwise affect the lawyer-client privilege as it may apply to written or other communications outside meetings between the legislative body and its legal counsel. The bill would specify additional facts and circumstances for determining what is pending litigation. The bill would delete the memorandum requirement.

Under the Ralph M. Brown Act, closed sessions may be held for various reasons, including matters relating to employees, as defined.

This bill would revise the definition of employee to include an officer or independent contractor who functions as an officer or employee and to exclude any elected official, member of a legislative body, or other independent contractor and would require that, as a condition of holding a closed session on complaints against an employee, charges to consider disciplinary action, or to consider dismissal, the employee be given written notice of his or her right to a public session. The failure to give the notice would nullify any action taken in the closed session against the employee.

The Ralph M. Brown Act requires the legislative body to publicly report closed-session actions taken and roll call votes to appoint, employ, or dismiss a public employee.

This bill would instead require the legislative body to publicly report any action taken in closed session and the vote or abstention of every member present on real estate negotiations, litigation and pending litigation issues with specified exceptions, claims for various liability losses, various personnel actions, and certain collective bargaining matters. The bill would prohibit any action for injury to reputation, liberty, or other personal interest by an employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with these provisions.

The bill would prescribe how the reports are to be made and would require a brief statement of the information to be posted, as specified, thereby imposing a state-mandated local program.

Under the Ralph M. Brown Act, agendas and writings distributed to members of the legislative body by persons connected with the body for discussion or consideration at a public meeting of the body are public records unless specifically exempt from public disclosure.

This bill would specify that writings intended for distribution to members by any person in connection with a matter subject to discussion or consideration at a public meeting are public records, and would specify that writings intended for distribution prior to commencement of a public meeting are public records. The bill would require that writings that are made public records under this provision and are distributed during a public meeting shall be made available for public inspection at the meeting, or after the meeting, as specified.

The Ralph M. Brown Act requires the legislative body to state the general reason or reasons for holding any closed session prior to or after holding the closed session.

This bill would require the disclosure of the items to be discussed in the closed session prior to holding the closed session.

The Ralph M. Brown Act makes it a misdemeanor for a member of a legislative body to attend or participate in a meeting of the legislative body where action is taken in violation of the act with knowledge of the fact that the meeting is in violation of the act.

This bill would instead make it a misdemeanor if the member attends or participates with wrongful intent to deprive the public of information to which it is entitled under the act.

This bill, by enlarging the number of persons and bodies subject to the Ralph M. Brown Act and by revising the definition of a meeting elsewhere in the bill, would enlarge the scope of existing crimes and would create new crimes and would thereby impose a state-mandated local program.

The Ralph M. Brown Act permits any interested person to commence an action by mandamus or injunction to obtain a judicial determination that an action taken by a legislative body in violation of specified provisions of the act is null and void, unless any of specified conditions exist. However, a prior demand must first be made of the legislative body to cure or correct the alleged violation within 30 days from the date the action was taken.

This bill would expressly permit the district attorney or any interested person to commence an action as described and would also permit an action to determine the validity of any rule or action by the legislative body to limit the expression of its members or to compel the legislative body to tape record its closed sessions, as specified. The bill would also require the written demand to be made within 90 days if the alleged

violation occurred in a closed meeting.

The bill would prohibit the conduct of meetings or functions in facilities inaccessible to disabled persons or that require members of the public to make a payment or purchase. The bill would provide that no notice, agenda, announcement, or report required by the act need identify any victim or alleged victim of tortious sexual conduct or child abuse, as specified.

Existing law expressly permits the board of directors of a hospital district and the board of trustees of a municipal hospital to hold closed sessions for specified purposes.

This bill would expressly permit the board of directors of a county hospital to hold closed sessions on reports of hospital medical audits or quality assurance committees and would permit an applicant or medical staff member whose staff privileges are the direct subject of a hearing to request a public hearing.

This bill would provide that its provisions shall be operative only if SB 36 and SB 1140 are chaptered and become operative.

This bill would provide that it shall become operative on April 1, 1994.

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 cost 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 for certain costs no reimbursement is required by this act for a specified reason.

However, the bill would provide that if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

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

SECTION 1. Section 54925.1 is added to the Government Code, to read:

54925.1. As used in this chapter, "member of a legislative body of a local agency" includes, but is not limited to, any person elected to serve as a member of a legislative body who has not yet assumed the duties of office. That person shall conform his or her conduct to the requirements of this chapter and shall be treated for purposes of enforcement of this chapter as if he or she has already assumed office.

SEC. 2. Section 54952.2 is added to the Government Code, to

read:

54952.2. (a) As used in this chapter, "meeting" includes all of the following:

(1) Any congregation of a majority of the members of a legislative body in the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.

(2) Any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken on an item by the members of the legislative body.

(b) Nothing in subdivision (a) shall impose the requirements of this chapter upon any of the following:

(1) Individual contacts or conversations between a member of a legislative body and any other person.

(2) The attendance of a majority of the members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body, provided that a majority of the members do not discuss among themselves business of a specified nature that is within the subject matter jurisdiction of the local agency. Nothing in this paragraph is intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a legislative body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(4) The attendance of a majority of the members at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

SEC. 3. Section 54952.7 of the Government Code is amended to read:

54952.7. A legislative body of a local agency may require that a copy of this chapter be given to each member of the legislative body and any person elected to serve as a member of the legislative body who has not assumed the duties of office. An elected legislative body of a local agency may require that a copy of this chapter be given to each member of each legislative body all or a majority of whose members are

appointed by or under the authority of the elected legislative body.

SEC. 4. Section 54953 of the Government Code, as amended by Section 1 of Chapter 399 of the Statutes of 1988, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) Notwithstanding any other provision of law, the legislative body of a local agency may use video teleconferencing for the benefit of the public or the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The use of video teleconferencing, as authorized by this chapter, shall be limited to the receipt of public comment or testimony by the legislative body and to deliberations of the legislative body. If the legislative body of a local agency elects to use video teleconferencing, it shall post agendas at all video teleconference locations and adopt reasonable regulations to adequately protect the statutory or constitutional rights of the parties or the public appearing before the legislative body of a local agency. The term "video teleconference" shall mean a system which provides for both audio and visual participation between all members of the legislative body and the public attending a meeting or hearing at any video teleconference location.

SEC. 5. Section 54953.5 of the Government Code is amended to read:

54953.5. (a) Any person attending an open and public meeting of a legislative body of a local agency shall have the right to record the proceedings with an audio or video tape recorder or a still or motion picture camera in the absence of a reasonable finding by the legislative body of the local agency that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the local agency shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but, notwithstanding Section 34090, may be erased or destroyed 30 days after the taping or recording. Any inspection of a video or tape recording shall be provided without charge on a tape recorder made available by the local agency.

SEC. 6. Section 54953.6 is added to the Government Code, to read:

54953.6. No legislative body shall prohibit or otherwise restrict the broadcast of its proceedings in the absence of a



reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

SEC. 7. Section 54954 of the Government Code is amended to read:

54954. (a) The legislative body of a local agency shall provide, by ordinance, resolution, by-laws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings.

(b) Regular and special meetings of the legislative body shall be held within the boundaries of the territory over which the local agency exercises jurisdiction except to do any of the following:

(1) Otherwise comply with the state or federal law or court order.

(2) Inspect real or personal property which cannot be conveniently brought within the boundaries of the territory over which the local agency exercises jurisdiction.

(3) Participate in meetings or discussions of multiagency significance that are outside the boundaries of a local agency's jurisdiction. However, any meeting or discussion held pursuant to this subdivision shall take place within the jurisdiction of one of the participating local agencies and be noticed by all participating agencies as provided for in this chapter.

(4) Meet in the closest meeting facility if the local agency has no meeting facility within the boundaries of the territory over which the local agency exercises jurisdiction, or at the principal office of the local agency if that office is located outside the territory over which the agency exercises jurisdiction.

(5) Meet outside their immediate jurisdiction with elected or appointed officials of the United States or the State of California when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction.

(6) Meet outside their immediate jurisdiction if the meeting takes place in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility.

(7) Visit the office of the local agency's legal counsel for a closed session on pending litigation held pursuant to Section 54956.9, when to do so would reduce legal fees or costs.

(c) Meetings of the governing board of a school district shall be held within the district except under the circumstances enumerated in subdivision (b), or to do either of the following:

(1) Attend a conference on nonadversarial collective bargaining techniques.

(2) Interview members of the public residing in another

district with reference to the trustees' potential employment of the superintendent of that district.

(3) Interview a potential employee from another district.

(d) Meetings of a joint powers authority shall occur within the territory of at least one of its member agencies, or as provided in subdivision (b). However, a joint powers authority which has members throughout the state may meet at any facility in the state which complies with the requirements of Section 54961.

(e) If, by reason of fire, flood, earthquake, or other emergency, it shall be unsafe to meet in the place designated, the meetings shall be held for the duration of the emergency at the place designated by the presiding officer of the legislative body or his or her designee in a notice to the local media that have requested notice pursuant to Section 54956, by the most rapid means of communication available at the time.

SEC. 8. Section 54954.2 of the Government Code is amended to read:

54954.2. (a) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public.

No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative, or in response to questions posed by the public, members of a legislative body may ask a question for clarification, provide a reference to staff or other resources for factual information, or request staff to report back to the body at a subsequent meeting concerning any matter. Furthermore, a member of a legislative body, or the body itself, may take action to direct staff to place a matter of business of a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the legislative body, or, if less than two-thirds of the members are

present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

SEC. 9. Section 54954.3 of the Government Code is amended to read:

54954.3. (a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the legislative body concerning that item prior to action on the item.

(b) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

(c) The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

SEC. 10. Section 54954.5 is added to the Government Code, to read:

54954.5. For purposes of describing closed session items pursuant to Section 54954.2, the agenda may describe closed sessions as provided below. No legislative body or elected official shall be in violation of Section 54954.2 if the closed session items were described in substantial compliance with this

section. Substantial compliance is satisfied by including the information provided below, irrespective of format.

(a) With respect to a closed session held pursuant to Section 54956.7:

LICENSE/PERMIT DETERMINATION

Applicant(s): (Specify number of applicants)

(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Property: (Specify street address, or if no street address, the parcel number of other unique reference, of the real property under negotiation)

Negotiating parties: (Specify name of party (not agent))

Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

(c) With respect to every item of business to be discussed in closed session pursuant to Section 54956.9:

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Name of case: (Specify by reference to claimant's name, names of parties, case or claim numbers)

or

Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

CONFERENCE WITH LEGAL COUNSEL -ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: (Specify number of potential cases)

Initiation of litigation pursuant to subdivision (c) of Section 54956.9: (Specify number of potential cases)

(d) With respect to every item of business to be discussed in closed session pursuant to Section 54956.95:

LIABILITY CLAIMS

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency claimed against: (Specify name)

(e) With respect to every item of business to be discussed in closed session pursuant to Section 54957:

THREAT TO PUBLIC SERVICES OR FACILITIES

Consultation with: (Specify name of law enforcement agency and title of officer)

PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)

## PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release)

(f) With respect to every item of business to be discussed in closed session pursuant to Section 54957.6:

CONFERENCE WITH LABOR NEGOTIATOR

Agency negotiator: (Specify name)

Employee organization: (Specify name of organization representing employee)

or

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(g) With respect to closed sessions called pursuant to Section 54957.8:

CASE REVIEW/PLANNING

(h) With respect to every item of business discussed in closed session pursuant to Section 54962 and Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code:

REPORT INVOLVING TRADE SECRET

Discussion will concern: (Specify whether discussion will concern proposed new service, program, or facility)

Estimated date of public disclosure: (Specify month and year)

HEARINGS

Subject matter: (specify whether testimony/deliberation will concern staff privileges, report of medical audit committee, or report of quality assurance committee)

SEC. 11. Section 54956.9 of the Government Code is amended to read:

54956.9. Nothing in this chapter shall be construed to prevent a legislative body of a local agency, based on advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation.

For purposes of this chapter, all expressions of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this chapter.

For purposes of this section, "litigation" includes any adjudicatory proceedings, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing office, or arbitrator.

For purposes of this section, litigation shall be considered

pending when any of the following circumstances exist:

(a) Litigation, to which the local agency is a party, has been initiated formally.

(b) (1) A point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency.

(2) Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (1) of this subdivision.

For purposes of paragraphs (1) and (2), "existing facts and circumstances" shall consist only of one of the following:

(A) Facts and circumstances that might result in litigation against the agency but which the agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.

(B) Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the agency and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.

(C) The receipt of a claim pursuant to the Tort Claims Act or some other written communication from a potential plaintiff threatening litigation, which claim or communication shall be available for public inspection pursuant to Section 54957.5.

(D) A statement made by a person in an open and public meeting threatening litigation made on a specific matter within the responsibility of the legislative body.

(E) A statement threatening litigation made by a person outside an open and public meeting made on a specific matter within the responsibility of the local agency so long as the official or employee of the legislative body receiving knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting which record shall be available for public inspection pursuant to Section 54957.5. The records so created need not identify the alleged victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, or identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which a threat of litigation is based, unless the identity of the person has been publicly disclosed.

(F) Nothing in this section shall require disclosure of written communications that are privileged and not subject to disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

(c) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or

is deciding whether to initiate litigation.

Prior to holding a closed session pursuant to this section, the legislative body of the local agency shall state on the agenda or publicly announce the subdivision of this section that authorizes the closed session. If the session is closed pursuant to subdivision (a), the body shall state the title of or otherwise specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage. A local agency shall be considered to be a "party" or to have a "significant exposure to litigation" if an officer or employee of the local agency is a party or has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope of that office or employment, including litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.

SEC. 12. Section 54957 of the Government Code is amended to read:

54957. Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions with the Attorney General, district attorney, sheriff, or chief of police, or their respective deputies, on matters posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities, or from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session. As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void. The legislative body also may exclude from that public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

For the purposes of this section, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee but shall not include any elected official, member of a legislative body, or other independent

contractors. Nothing in this section shall limit local officials' ability to hold closed session meetings pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code. Closed sessions held pursuant to this section shall not include discussions of a local agency's available funds, funding priorities, or budget.

SEC. 13. Section 54957.1 of the Government Code is amended to read:

54957.1. (a) The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

(1) Approval of an agreement concluding real estate negotiations pursuant to Section 54956.8 shall be reported after the agreement is final as specified below:

(A) If its own approval renders the agreement final, the body shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with the other party to the negotiations, the local agency shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the local agency of its approval.

(2) Approval given to the body's legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a consultation under Section 54956.9 shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(3) Approval given to the body's legal counsel of a settlement of pending litigation, as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as specified below:

(A) If the body accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.



(B) If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the local agency shall disclose the fact of that approval and identify the substance of the agreement.

(4) Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant.

(5) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session pursuant to Section 54957 shall be reported at the public meeting during which the closed session is held. Any report required by this paragraph shall identify the title of the position and specify any change in compensation. The general requirement of this paragraph notwithstanding, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

(6) Approval of an agreement concluding labor negotiations pursuant to Section 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

(b) Reports that are required to be made pursuant to this section may be made orally or in writing. The legislative body shall provide to any person who has submitted a written request to the legislative body within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to Section 54954.1 or 54956, if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the legislative body or his or her designee orally summarizes the substance of the amendments for the benefit of the document requester or any other person present and requesting the information.

(c) The documentation referred to in paragraph (b) shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

(d) Nothing in this section shall be construed to require that the legislative body approve actions not otherwise subject to legislative body approval.

(e) No action for injury to a reputational, liberty, or other personal interest may be commenced by or on behalf of any employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with this section.

SEC. 14. Section 54957.5 of the Government Code is amended to read:

54957.5. (a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available pursuant to Sections 6253 and 6256 without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7.

(b) Writings which are public records under subdivision (a) and which are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person.

(d) Nothing in this chapter shall be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 6257.

(e) This section shall not be construed to limit or delay the public's right to inspect any record required to be disclosed under the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1). Nothing in this chapter shall be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

SEC. 15. Section 54957.7 of the Government Code is amended to read:

54957.7. (a) Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the legislative body may consider only those matters covered in its statement. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

(b) After any closed session, the legislative body shall

reconvene into open session prior to adjournment and shall make any disclosures required by Section 54957.1 of action taken in the closed session.

(c) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcements.

SEC. 16. Section 54959 of the Government Code is amended to read:

54959. Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, with wrongful intent to deprive the public of information to which it is entitled under this chapter, is guilty of a misdemeanor.

SEC. 17. Section 54960 of the Government Code is amended to read:

54960. (a) The district attorney or any interested person may commence an action by mandamus, injunction or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this chapter by members of the legislative body of a local agency or to determine the applicability of this chapter to actions or threatened future action of the legislative body, or to determine the validity under the laws of this state or of the United States of any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members, or to compel the legislative body to tape record its closed sessions as hereafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 54956.7, 54956.8, 54956.9, 54956.95, 54957, or 54957.6, order the legislative body to tape record its closed sessions and preserve the tape recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c) (1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The tapes shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the tape is sought by either the district attorney or the plaintiff in a civil action pursuant to Section 54959, 54960, or 54960.1 alleging that a violation of this chapter has occurred in a closed session which has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency which has custody and control of the tape recording. The notice shall be given pursuant to subdivision

(b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency which has custody and control of the recording.

(ii) An affidavit which contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this chapter, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications which are protected by the attorney-client privilege.

SEC. 18. Section 54960.1 of the Government Code is amended to read:

54960.1. (a) The district attorney or any interested person may commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of Section 54953, 54954.2, 54954.5, 54954.6, or 54956 is null and void under this section. Nothing in this chapter shall be construed to prevent a legislative body from curing or correcting an action challenged pursuant to this section.

(b) Prior to any action being commenced pursuant to subdivision (a), the district attorney or interested person shall make a demand of the legislative body to cure or correct the action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, or 54956. The demand shall be in writing and clearly describe the challenged action of the legislative body and nature of the alleged violation.

The written demand shall be made within 90 days from the date the action was taken unless the action was taken in an open session but in violation of Section 54954.2, in which case the written demand shall be made within 30 days from the date the action was taken. Within 30 days of receipt of the demand, the legislative body shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action. If the

legislative body takes no action within the 30-day period, the inaction shall be deemed a decision not to cure or correct the challenged action, and the 15-day period to commence the action described in subdivision (a) shall commence to run the day after the 30-day period to cure or correct expires. Within 15 days of receipt of the written notice of the legislative body's decision to cure or correct, or not to cure or correct, or within 15 days of the expiration of the 30-day period to cure or correct, whichever is earlier, the demanding party shall be required to commence the action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(c) An action taken that is alleged to have been taken in violation of Sections 54953, 54954.2, 54954.5, 54954.6, and 54956 shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in substantial compliance with Sections 54953, 54954.2, 54954.5, 54954.6, and 54956.

(2) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement thereto.

(3) The action taken gave rise to a contractual obligation, including a contract let by competitive bid other than compensation for services in the form of salary or fees for professional services, upon which a party has, in good faith and without notice of a challenge to the validity of the action, detrimentally relied.

(4) The action taken was in connection with the collection of any tax.

(5) Any person, city, city and county, county, district, or any agency or subdivision of the state alleging noncompliance with subdivision (a) of Section 54954.2, Section 54956, or Section 54956.5 because of any defect, error, irregularity, or omission in the notice given pursuant to those provisions had actual notice of the item of business at least 72 hours prior to the meeting at which the action was taken if the meeting was noticed pursuant to Section 54954.2, or 24 hours prior to the meeting at which the action was taken if the meeting was noticed pursuant to Section 54956, or prior to the meeting at which the action was taken if the meeting is held pursuant to Section 54956.5.

(d) During any action seeking a judicial determination pursuant to subdivision (a) if the court determines, pursuant to a showing by the legislative body that an action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, or 54956 has been cured or corrected by a subsequent action of the legislative body, the action filed pursuant to subdivision (a) shall be dismissed with prejudice.

(e) The fact that a legislative body takes a subsequent action to cure or correct an action taken pursuant to this section shall not be construed or admissible as evidence of a

violation of this chapter.

SEC. 19. Section 54961 of the Government Code is amended to read:

54961. (a) No legislative body of a local agency shall conduct any meeting in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every local agency as defined in Section 54951.

(b) No notice, agenda, announcement, or report required under this chapter need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.

SEC. 20. Section 54962 of the Government Code is amended to read:

54962. Except as expressly authorized by this chapter, or by Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code as they apply to hospitals, no closed session may be held by any legislative body of any local agency.

SEC. 21. Section 1461 is added to the Health and Safety Code, to read:

1461. Notwithstanding any other provisions of law, the board of directors of any hospital subject to this chapter may order that any hearings on the reports of hospital medical audit or quality assurance committees be held in closed session. An applicant or medical staff member whose staff privileges are the direct subject of a hearing may request a public hearing. Deliberations of the board of directors in connection with matters pertaining to these hearings may be held in closed session.

SEC. 22. This bill shall become operative only if Senate Bill 1140 and Senate Bill 36 of the 1993-94 Regular Session of the Legislature are chaptered and become operative.

SEC. 23. This act shall become operative on April 1, 1994.

SEC. 24. No reimbursement is required by this act pursuant to Section 6 of Article XIIIIB of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17160 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 costs of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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BILL NUMBER: SB 36 CHAPTERED 10/11/93  
BILL TEXT

CHAPTER 1137  
FILED WITH SECRETARY OF STATE OCTOBER 11, 1993  
APPROVED BY GOVERNOR OCTOBER 10, 1993  
PASSED THE SENATE SEPTEMBER 11, 1993  
PASSED THE ASSEMBLY SEPTEMBER 9, 1993  
AMENDED IN ASSEMBLY SEPTEMBER 8, 1993  
AMENDED IN ASSEMBLY AUGUST 19, 1993  
AMENDED IN ASSEMBLY AUGUST 16, 1993

INTRODUCED BY Senators Kopp, Ayala, Roberti, and Rosenthal  
(Coauthors: Assembly Members Bornstein and Richter)

DECEMBER 7, 1992

An act to amend Sections 54952.7, 54953, 54953.5, 54954, 54954.2, 54954.3, 54956.9, 54957, 54957.1, 54957.5, 54957.7, 54959, 54960, 54960.1, 54961, and 54962 of, and to add Sections 54952.1, 54952.2, 54953.6, and 54954.5 to, the Government Code, and to add Section 1461 to the Health and Safety Code, relating to open meetings.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 36, Kopp. Open meetings of local government.

The Ralph M. Brown Act generally requires that the meetings of the legislative bodies of local agencies, as those terms are defined, be conducted openly, with specified exceptions. Among other things, the act provides for certain notice requirements concerning public meetings and makes it a misdemeanor for a member of a legislative body to attend a meeting where a violation occurs with knowledge of the fact that the meeting violates the act.

This bill would also define "member of a legislative body of a local agency" to include any person elected to serve as a member of a legislative body and who has not yet assumed the duties of office.

The Ralph M. Brown Act generally requires all meetings of the legislative body of a local agency to be open and public.

This bill would define "meeting," with exceptions, as any congregation of a majority of the members of a legislative body in the same time and place to hear, discuss, or deliberate upon any item within the subject matter jurisdiction of the



legislative body or its local agency, and any use of direct communication, personal intermediaries, or technological devices employed by a majority of the members to develop a collective concurrence as to action to be taken on an item.

Existing law requires all meetings of the legislative body of a local agency shall be open and public with specified exceptions.

This bill would prohibit a legislative body from taking action by secret ballot.

The Ralph M. Brown Act permits recording of open and public meetings by any person.

This bill would make any recording made at the direction of a local agency subject to inspection pursuant to the California Public Records Act, as specified.

The bill would also provide that no legislative body shall prohibit or otherwise restrict the broadcast of its proceedings in the absence of a reasonable finding that the broadcast cannot be accomplished without disruption.

Under the Ralph M. Brown Act, meetings of the legislative body of a local agency need not be held within the boundaries of the territory over which the agency exercises jurisdiction. If an emergency makes the designated meeting place unsafe the presiding officer may designate a meeting place for the duration of the emergency.

This bill would require regular and special meetings to be held within the boundaries of the territory of the agency, with limited exceptions and with additional exceptions for the governing board of a school district, and would permit the presiding officer's designee to designate an emergency meeting place.

The Ralph M. Brown Act requires the posting of an agenda at least 72 hours before a regular meeting of a legislative body briefly describing each item of business and restricts action or discussion of the meeting to these items on the agenda, unless, by at least a 2/3 vote, as specified, the legislative body decides there is a need for action on a nonagenda item.

This bill would instead require the agenda to contain a brief general description of each item of business to be transacted or discussed, including items to be discussed in closed session and would permit members of a legislative body to respond to certain questions not relating to agenda items. This bill would make further restrictions on the discussion or action on nonagenda items.

The Ralph M. Brown Act requires the agenda for a regular meeting to provide an opportunity for members of the public to address the legislative body.

This bill would require the agenda for a special meeting at which action is proposed to be taken on an item to provide an opportunity for members of the public to address the legislative body prior to action on the item. The bill would further

require the legislative body not to prohibit public criticism of the agency, as specified.

This bill would also prescribe disclosures of the nature of closed sessions according to a specified format.

The Ralph M. Brown Act authorizes closed sessions of a legislative body to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session would prejudice the position of the local agency in the litigation and describes the facts and circumstances that constitute pending litigation. Existing law states that this authority is the exclusive expression of the lawyer-client privilege for purposes of conducting closed sessions pursuant to the act. The act requires the legal counsel to prepare a memorandum concerning the reasons and legal authority for the closed session.

This bill would state that this authority for closed sessions for the legislative body to confer with or receive advice from its legal counsel does not limit or otherwise affect the lawyer-client privilege as it may apply to written or other communications outside meetings between the legislative body and its legal counsel. The bill would specify additional facts and circumstances for determining what is pending litigation. The bill would delete the memorandum requirement.

Under the Ralph M. Brown Act, closed sessions may be held for various reasons, including matters relating to employees, as defined.

This bill would revise the definition of employee to include an officer or independent contractor who functions as an officer or an employee and to exclude any elected official, member of a legislative body, or other independent contractor and would require that, as a condition of holding a closed session on complaints against an employee, charges to consider disciplinary action, or to consider dismissal, the employee be given written notice of his or her right to a public session. The failure to give the notice would nullify any action taken in the closed session against the employee.

The Ralph M. Brown Act requires the legislative body to publicly report closed session actions taken and roll call votes to appoint, employ, or dismiss a public employee.

This bill would instead require the legislative body to publicly report any action taken in closed session and the vote or abstention of every member present on real estate negotiations, litigation and pending litigation issues with specified exceptions, claims for various liability losses, various personnel actions, and certain collective bargaining matters. The bill would prohibit any action for injury to reputation, liberty, or other personal interest by an employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with these provisions.

The bill would prescribe how the reports are to be made and

would require a brief statement of the information to be posted, as specified, thereby imposing a state-mandated local program.

Under the Ralph M. Brown Act, agendas and writings distributed to members of the legislative body by persons connected with the body for discussion or consideration at a public meeting of the body are public records unless specifically exempt from public disclosure.

This bill would specify that writings intended for distribution to members by any person in connection with a matter subject to discussion or consideration at a public meeting are public records. The bill would require that writings that are made public records under this provision and are distributed during a public meeting shall be made available for public inspection at the meeting, or after the meeting, as specified.

The Ralph M. Brown Act requires the legislative body to state the general reason or reasons for holding any closed session prior to or after holding the closed session.

This bill would require the disclosure of the items to be discussed in the closed session prior to holding the closed session.

The Ralph M. Brown Act makes it a misdemeanor for a member of a legislative body to attend or participate in a meeting of the legislative body where action is taken in violation of the act with knowledge of the fact that the meeting is in violation of the act.

This bill would instead make it a misdemeanor if the member attends or participates with wrongful intent to deprive the public of information to which it is entitled under the act.

This bill, by enlarging the number of persons and bodies subject to the Ralph M. Brown Act and by revising the definition of a meeting elsewhere in the bill, would enlarge the scope of existing crimes and would create new crimes and would thereby impose a state-mandated local program.

The Ralph M. Brown Act permits any interested person to commence an action by mandamus or injunction to obtain a judicial determination that an action taken by a legislative body in violation of specified provisions of the act is null and void, unless any of specified conditions exist. However, a prior demand must first be made of the legislative body to cure or correct the alleged violation within 30 days from the date the action was taken.

This bill would expressly permit the district attorney or any interested person to commence an action as described and would also permit an action to determine the validity of any rule or action by the legislative body to limit the expression of its members or to compel the legislative body to tape record its closed sessions, as specified. The bill would also require the written demand to be made within 90 days if the alleged

violation occurred in a closed meeting.

The bill would prohibit the conduct of meetings or functions in facilities inaccessible to disabled persons or that require members of the public to make a payment or purchase. The bill would provide that no notice, agenda, announcement, or report required by the act need identify the victim or alleged victim of tortious sexual conduct or child abuse, as specified.

Existing law expressly permits the board of directors of a hospital district and the board of trustees of a municipal hospital to hold closed sessions for specified purposes.

This bill would expressly permit the board of directors of a county hospital to hold closed sessions on reports of hospital medical audits or quality assurance committees and would permit an applicant or medical staff member whose staff privileges are the direct subject of a hearing to request a public hearing.

This bill would provide that its provisions shall be operative only if SB 1140 and AB 1426 are chaptered and become operative.

This bill would provide that it shall become operative on April 1, 1994.

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 cost 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 for certain costs no reimbursement is required by this act for a specified reason.

However, the bill would provide that if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

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

SECTION 1. Section 54952.1 is added to the Government Code, to read:

54952.1. As used in this chapter, "member of a legislative body of a local agency" includes, but is not limited to, any person elected to serve as a member of a legislative body who has not yet assumed the duties of office. That person shall conform his or her conduct to the requirements of this chapter and shall be treated for purposes of enforcement of this chapter as if he or she has already assumed office.

SEC. 2. Section 54952.2 is added to the Government Code, to

read:

54952.2. (a) As used in this chapter, "meeting" includes all of the following:

(1) Any congregation of a majority of the members of a legislative body in the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.

(2) Any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken on an item by the members of the legislative body.

(b) Nothing in subdivision (a) shall impose the requirements of this chapter upon any of the following:

(1) Individual contacts or conversations between a member of a legislative body and any other person.

(2) The attendance of a majority of the members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the local agency. Nothing in this paragraph is intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a legislative body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(4) The attendance of a majority of the members at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

SEC. 3. Section 54952.7 of the Government Code is amended to read:

54952.7. A legislative body of a local agency may require that a copy of this chapter be given to each member of the legislative body and any person elected to serve as a member of the legislative body who has not assumed the duties of office. An elected legislative body of a local agency may require that a copy of this chapter be given to each member of each legislative body all or a majority of whose members are

appointed by or under the authority of the elected legislative body.

SEC. 4. Section 54953 of the Government Code, as amended by Section 1 of Chapter 399 of the Statutes of 1988, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) Notwithstanding any other provision of law, the legislative body of a local agency may use video teleconferencing for the benefit of the public or the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The use of video teleconferencing, as authorized by this chapter, shall be limited to the receipt of public comment or testimony by the legislative body and to deliberations of the legislative body. If the legislative body of a local agency elects to use video teleconferencing, it shall post agendas at all video teleconference locations and adopt reasonable regulations to adequately protect the statutory or constitutional rights of the parties or the public appearing before the legislative body of a local agency. The term "video teleconference" shall mean a system which provides for both audio and visual participation between all members of the legislative body and the public attending a meeting or hearing at any video teleconference location.

(c) No legislative body shall take action by secret ballot, whether preliminary or final.

SEC. 5. Section 54953.5 of the Government Code is amended to read:

54953.5. (a) Any person attending an open and public meeting of a legislative body of a local agency shall have the right to record the proceedings with an audio or video tape recorder or a still or motion picture camera in the absence of a reasonable finding by the legislative body of the local agency that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the local agency shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but, notwithstanding Section 34090, may be erased or destroyed 30 days after the taping or recording. Any inspection of a video or tape recording shall be provided without charge on a tape recorder made available by the local agency.

SEC. 6. Section 54953.6 is added to the Government Code, to read:

54953.6. No legislative body shall prohibit or otherwise restrict the broadcast of its proceedings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

SEC. 7. Section 54954 of the Government Code is amended to read:

54954. (a) The legislative body of a local agency shall provide, by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings.

(b) Regular and special meetings of the legislative body shall be held within the boundaries of the territory over which the local agency exercises jurisdiction except to do any of the following:

(1) Otherwise comply with the state or federal law or court order.

(2) Inspect real or personal property which cannot be conveniently brought within the boundaries of the territory over which the local agency exercises jurisdiction.

(3) Participate in meetings or discussions of multiagency significance that are outside the boundaries of a local agency's jurisdiction. However, any meeting or discussion held pursuant to this subdivision shall take place within the jurisdiction of one of the participating local agencies and be noticed by all participating agencies as provided for in this chapter.

(4) Meet in the closest meeting facility if the local agency has no meeting facility within the boundaries of the territory over which the local agency exercises jurisdiction, or at the principal office of the local agency if that office is located outside the territory over which the agency exercises jurisdiction.

(5) Meet outside their immediate jurisdiction with elected or appointed officials of the United States or the State of California when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction.

(6) Meet outside their immediate jurisdiction if the meeting takes place in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility.

(7) Visit the office of the local agency's legal counsel for a closed session on pending litigation held pursuant to Section 54956.9, when to do so would reduce legal fees or costs.

(c) Meetings of the governing board of a school district shall be held within the district except under the circumstances enumerated in subdivision (b), or to do either of the following:

(1) Attend a conference on nonadversarial collective

bargaining techniques.

(2) Interview members of the public residing in another district with reference to the trustees' potential employment of the superintendent of that district.

(3) Interview a potential employee from another district.

(d) Meetings of a joint powers authority shall occur within the territory of at least one of its member agencies, or as provided in subdivision (b). However, a joint powers authority which has members throughout the state may meet at any facility in the state which complies with the requirements of Section 54961.

(e) If, by reason of fire, flood, earthquake, or other emergency, it shall be unsafe to meet in the place designated, the meetings shall be held for the duration of the emergency at the place designated by the presiding officer of the legislative body or his or her designee in a notice to the local media that have requested notice pursuant to Section 54956, by the most rapid means of communication available at the time.

SEC. 8. Section 54954.2 of the Government Code is amended to read:

54954.2. (a) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public.

No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative, or in response to questions posed by the public, members of a legislative body may ask a question for clarification, provide a reference to staff or other resources for factual information, or request staff to report back to the body at a subsequent meeting concerning any matter. Furthermore, a member of a legislative body, or the body itself, may take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.



(2) Upon a determination by a two-thirds vote of the legislative body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

SEC. 9. Section 54954.3 of the Government Code is amended to read:

54954.3. (a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the legislative body concerning that item prior to action on the item.

(b) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

(c) The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

SEC. 10. Section 54954.5 is added to the Government Code, to read:

54954.5. For purposes of describing closed session items pursuant to Section 54954.2, the agenda may describe closed sessions as provided below. No legislative body or elected

official shall be in violation of Section 54954.2 if the closed session items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

(a) With respect to a closed session held pursuant to Section 54956.7:

LICENSE/PERMIT DETERMINATION

Applicant(s): (Specify number of applicants)

(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Negotiating parties: (Specify name of party (not agent))

Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

(c) With respect to every item of business to be discussed in closed session pursuant to Section 54956.9:

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION

Name of case: (Specify by reference to claimant's name, names of parties, case or claim numbers)

or

Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: (Specify number of potential cases)

Initiation of litigation pursuant to subdivision (c) of Section 54956.9: (Specify number of potential cases)

(d) With respect to every item of business to be discussed in closed session pursuant to Section 54956.95:

LIABILITY CLAIMS

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency claimed against: (Specify name)

(e) With respect to every item of business to be discussed in closed session pursuant to Section 54957:

THREAT TO PUBLIC SERVICES OR FACILITIES

Consultation with: (Specify name of law enforcement agency and title of officer)

PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a

closed session to consider discipline, dismissal, or release)

(f) With respect to every item of business to be discussed in closed session pursuant to Section 54957.6:

CONFERENCE WITH LABOR NEGOTIATOR

Agency negotiator: (Specify name)

Employee organization: (Specify name of organization representing employee)

or

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(g) With respect to closed sessions called pursuant to Section 54957.8:

CASE REVIEW/PLANNING

(h) With respect to every item of business discussed in closed session pursuant to Section 54962 and Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code:

REPORT INVOLVING TRADE SECRET

Discussion will concern: (Specify whether discussion will concern proposed new service, program, or facility)

Estimated date of public disclosure: (Specify month and year)

HEARINGS

Subject matter: (Specify whether testimony/deliberation will concern staff privileges, report of medical audit committee, or report of quality assurance committee)

SEC. 11. Section 54956.9 of the Government Code is amended to read:

54956.9. Nothing in this chapter shall be construed to prevent a legislative body of a local agency, based on advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation.

For purposes of this chapter, all expressions of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this chapter.

For purposes of this section, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

For purposes of this section, litigation shall be considered pending when any of the following circumstances exist:

(a) Litigation, to which the local agency is a party, has been initiated formally.

(b) (1) A point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal

counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency.

(2) Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (1) of this subdivision.

For purposes of paragraphs (1) and (2), "existing facts and circumstances" shall consist only of one of the following:

(A) Facts and circumstances that might result in litigation against the agency but which the agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.

(B) Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the agency and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.

(C) The receipt of a claim pursuant to the Tort Claims Act or some other written communication from a potential plaintiff threatening litigation, which claim or communication shall be available for public inspection pursuant to Section 54957.5.

(D) A statement made by a person in an open and public meeting threatening litigation on a specific matter within the responsibility of the legislative body.

(E) A statement threatening litigation made by a person outside an open and public meeting on a specific matter within the responsibility of the legislative body so long as the official or employee of the local agency receiving knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting, which record shall be available for public inspection pursuant to Section 54957.5. The records so created need not identify the alleged victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, or identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which a threat of litigation is based, unless the identity of the person has been publicly disclosed.

(F) Nothing in this section shall require disclosure of written communications that are privileged and not subject to disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

(c) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.

Prior to holding a closed session pursuant to this section, the legislative body of the local agency shall state on the agenda or publicly announce the subdivision of this section that authorizes the closed session. If the session is closed

pursuant to subdivision (a), the body shall state the title of or otherwise specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

A local agency shall be considered to be a "party" or to have a "significant exposure to litigation" if an officer or employee of the local agency is a party or has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope of that office or employment, including litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.

SEC. 12. Section 54957 of the Government Code is amended to read:

54957. Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions with the Attorney General, district attorney, sheriff, or chief of police, or their respective deputies, on matters posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities, or from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session. As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void. The legislative body also may exclude from that public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

For the purposes of this section, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee but shall not include any elected official, member of a legislative body or other independent contractors. Nothing in this section shall limit local officials' ability to hold closed session meetings pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code. Closed

sessions held pursuant to this section shall not include discussions of a local agency's available funds, funding priorities, or budget.

SEC. 13. Section 54957.1 of the Government Code is amended to read:

54957.1. (a) The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

(1) Approval of an agreement concluding real estate negotiations pursuant to Section 54956.8 shall be reported after the agreement is final, as specified below:

(A) If its own approval renders the agreement final, the body shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with the other party to the negotiations, the local agency shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the local agency of its approval.

(2) Approval given to the body's legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a consultation under Section 54956.9 shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(3) Approval given to the body's legal counsel of a settlement of pending litigation, as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as specified below:

(A) If the body accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the local agency shall disclose

the fact of that approval, and identify the substance of the agreement.

(4) Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant.

(5) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session pursuant to Section 54957 shall be reported at the public meeting during which the closed session is held. Any report required by this paragraph shall identify the title of the position and specify any change in compensation. The general requirement of this paragraph notwithstanding, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

(6) Approval of an agreement concluding labor negotiations pursuant to Section 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

(b) Reports that are required to be made pursuant to this section may be made orally or in writing. The legislative body shall provide to any person who has submitted a written request to the legislative body within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to Section 54954.1 or 54956, if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the legislative body or his or her designee orally summarizes the substance of the amendments for the benefit of the document requester or any other person present and requesting the information.

(c) The documentation referred to in paragraph (b) shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

(d) Nothing in this section shall be construed to require that the legislative body approve actions not otherwise subject to legislative body approval.

(e) No action for injury to a reputational, liberty, or other personal interest may be commenced by or on behalf of any employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with this section.

SEC. 14. Section 54957.5 of the Government Code is amended to read:

54957.5. (a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available pursuant to Sections 6253 and 6256 without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7.

(b) Writings which are public records under subdivision (a) and which are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person.

(c) Nothing in this chapter shall be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 6257.

(d) This section shall not be construed to limit or delay the public's right to inspect any record required to be disclosed under the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1). Nothing in this chapter shall be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

SEC. 15. Section 54957.7 of the Government Code is amended to read:

54957.7. (a) Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the legislative body may consider only those matters covered in its statement. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

(b) After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by Section 54957.1 of action taken in the closed session.

(c) The announcements required to be made in open session



pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcements.

SEC. 16. Section 54959 of the Government Code is amended to read:

54959. Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, with wrongful intent to deprive the public of information to which it is entitled under this chapter, is guilty of a misdemeanor.

SEC. 17. Section 54960 of the Government Code is amended to read:

54960. (a) The district attorney or any interested person may commence an action by mandamus, injunction or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this chapter by members of the legislative body of a local agency or to determine the applicability of this chapter to actions or threatened future action of the legislative body, or to determine the validity under the laws of this state or of the United States of any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members, or to compel the legislative body to tape record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 54956.7, 54956.8, 54956.9, 54956.95, 54957, or 54957.6, order the legislative body to tape record its closed sessions and preserve the tape recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c) (1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The tapes shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the tape is sought by either the district attorney or the plaintiff in a civil action pursuant to Section 54959, 54960, or 54960.1 alleging that a violation of this chapter has occurred in a closed session which has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency which has custody and control of the tape recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency which has custody and control of the recording.

(ii) An affidavit which contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this chapter, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications which are protected by the attorney-client privilege.

SEC. 18. Section 54960.1 of the Government Code is amended to read:

54960.1. (a) The district attorney or any interested person may commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of Section 54953, 54954.2, 54954.5, 54954.6, or 54956 is null and void under this section. Nothing in this chapter shall be construed to prevent a legislative body from curing or correcting an action challenged pursuant to this section.

(b) Prior to any action being commenced pursuant to subdivision (a), the district attorney or interested person shall make a demand of the legislative body to cure or correct the action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, or 54956. The demand shall be in writing and clearly describe the challenged action of the legislative body and nature of the alleged violation.

The written demand shall be made within 90 days from the date the action was taken unless the action was taken in an open session but in violation of Section 54954.2, in which case the written demand shall be made within 30 days from the date the action was taken. Within 30 days of receipt of the demand, the legislative body shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action. If the legislative body takes no action within the 30-day period, the inaction shall be deemed a decision not to cure or correct the challenged action, and the 15-day period to commence the action described in subdivision (a) shall commence to run the day after

the 30-day period to cure or correct expires. Within 15 days of receipt of the written notice of the legislative body's decision to cure or correct, or not to cure or correct, or within 15 days of the expiration of the 30-day period to cure or correct, whichever is earlier, the demanding party shall be required to commence the action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(c) An action taken that is alleged to have been taken in violation of Sections 54953, 54954.2, 54954.5, 54954.6, and 54956 shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in substantial compliance with Sections 54953, 54954.2, 54954.5, 54954.6, and 54956.

(2) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement thereto.

(3) The action taken gave rise to a contractual obligation, including a contract let by competitive bid other than compensation for services in the form of salary or fees for professional services, upon which a party has, in good faith and without notice of a challenge to the validity of the action, detrimentally relied.

(4) The action taken was in connection with the collection of any tax.

(5) Any person, city, city and county, county, district, or any agency or subdivision of the state alleging noncompliance with subdivision (a) of Section 54954.2, Section 54956, or Section 54956.5 because of any defect, error, irregularity, or omission in the notice given pursuant to those provisions had actual notice of the item of business at least 72 hours prior to the meeting at which the action was taken if the meeting was noticed pursuant to Section 54954.2, or 24 hours prior to the meeting at which the action was taken if the meeting was noticed pursuant to Section 54956, or prior to the meeting at which the action was taken if the meeting is held pursuant to Section 54956.5.

(d) During any action seeking a judicial determination pursuant to subdivision (a) if the court determines, pursuant to a showing by the legislative body that an action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, or 54956 has been cured or corrected by a subsequent action of the legislative body, the action filed pursuant to subdivision (a) shall be dismissed with prejudice.

(e) The fact that a legislative body takes a subsequent action to cure or correct an action taken pursuant to this section shall not be construed or admissible as evidence of a violation of this chapter.

SEC. 19. Section 54961 of the Government Code is amended to read:

54961. (a) No legislative body of a local agency shall

conduct any meeting in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every local agency as defined in Section 54951.

(b) No notice, agenda, announcement, or report required under this chapter need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.

SEC. 20. Section 54962 of the Government Code is amended to read:

54962. Except as expressly authorized by this chapter, or by Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code as they apply to hospitals, no closed session may be held by any legislative body of any local agency.

SEC. 21. Section 1461 is added to the Health and Safety Code, to read:

1461. Notwithstanding any other provisions of law, the board of directors of any hospital subject to this chapter may order that any hearings on the reports of hospital medical audit or quality assurance committees be held in closed session. An applicant or medical staff member whose staff privileges are the direct subject of a hearing may request a public hearing. Deliberations of the board of directors in connection with matters pertaining to these hearings may be held in closed session.

SEC. 22. This bill shall become operative only if Senate Bill 1140 and Assembly Bill 1426 of the 1993-94 Regular Session of the Legislature are chaptered and become operative.

SEC. 23. This act shall become operative on April 1, 1994.

SEC. 24. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17160 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 costs of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless

otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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BILL NUMBER: SB 1140      CHAPTERED 10/11/93  
 BILL TEXT

CHAPTER 1138  
 FILED WITH SECRETARY OF STATE    OCTOBER 11, 1993  
 APPROVED BY GOVERNOR    OCTOBER 10, 1993  
 PASSED THE SENATE    SEPTEMBER 11, 1993  
 PASSED THE ASSEMBLY    SEPTEMBER 9, 1993  
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 AMENDED IN ASSEMBLY    JULY 7, 1993  
 AMENDED IN SENATE    JUNE 8, 1993  
 AMENDED IN SENATE    MAY 24, 1993  
 AMENDED IN SENATE    MAY 10, 1993  
 AMENDED IN SENATE    APRIL 26, 1993  
 AMENDED IN SENATE    APRIL 19, 1993

INTRODUCED BY    Senator Calderon

MARCH 5, 1993

An act to amend Section 35145.5 of the Education Code, and to amend Sections 54952, 54952.3, 54952.7, 54957.6, 54961, and 54962 of, and to repeal Sections 36808, 54951.1, 54951.7, 54952.2, 54952.3, and 54952.5 of, the Government Code, relating to open meetings.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1140, Calderon. Open meetings of local government.

Existing law permits the taking of testimony at regularly scheduled school district governing board meetings on matters not on the agenda if no action is taken by the board on those matters at the same meeting.

This bill would permit action to be taken in specified circumstances.

An existing provision of law provides that the meetings of the city council shall be held within the corporate limits of the city at a place designated by ordinance and shall be public.

This bill would repeal that provision.

The Ralph M. Brown Act generally requires that the meetings of the legislative bodies of local agencies, as those terms are defined, be conducted openly, with specified exceptions. Among other things, the act makes certain notice requirements

concerning public meetings and makes it a misdemeanor for a member of a legislative body to attend a meeting where a violation occurs with knowledge of the fact that the meeting violates the act.

Under existing law a legislative body of a local agency may require that a copy of the act be given to each member of the legislative body.

This bill would additionally permit the legislative body to require that a copy of the act be given to any person elected to serve as a member of the legislative body who has not yet assumed office.

Existing law defines local agency to include, among other things, all private nonprofit organizations receiving public money to be expended for public purposes pursuant to the federal Economic Opportunity Act of 1964, and nonprofit corporations created by one or more local agencies, as prescribed, to acquire, construct, reconstruct, maintain, or operate any public work project.

This bill would repeal those definitions of local agency.

Existing law defines "legislative body" as any commission, committee, or any board or commission thereof which is supported in whole or part by funds provided by that agency. Existing law also defines legislative body as including any advisory commission, advisory committee or advisory body of a local agency created by charter, ordinance, resolution, or by any similar formal action of a legislative body or member of a legislative body of a local agency.

This bill would revise that definition to include those commissions, committees, boards, and other subsidiary bodies thereof, whether permanent or temporary, created by charter, ordinance, resolution, or formal action of a legislative body, as specified.

This bill further defines "legislative body" with respect to lessees of certain hospitals.

Existing law permits a legislative body of a local agency to hold closed sessions with the local agency's designated representatives on specified employment matters.

This bill would define employee for purposes of that authorization.

Existing law prohibits a local agency from conducting any meeting in any facility that prohibits the admittance of citizens on the basis of race, religious creed, color, national origin, ancestry, or sex.

This bill would extend those proscriptions and prohibit meetings in facilities inaccessible to disabled persons or where members of the public may not be present without making a payment or purchase.

Existing law states that no closed session may be held by any legislative body of any local agency except as provided by the Ralph M. Brown Act with a specified exception.

This bill would make an exception where the Education Code permits closed sessions by school districts and community college districts.

This bill would provide that it shall become operative only if SB 36 and AB 1426 of the 1993-94 Regular Session of the Legislature are chaptered and become operative.

This bill would provide that it shall become operative on April 1, 1994.

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 which 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 this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

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

SECTION 1. Section 35145.5 of the Education Code is amended to read:

35145.5. It is the intent of the Legislature that members of the public be able to place matters directly related to school district business on the agenda of school district governing board meetings, and that members of the public be able to address the board regarding items on the agenda as such items are taken up. Governing boards shall adopt reasonable regulations to insure that this intent is carried out. Such regulations may specify reasonable procedures to insure the proper functioning of governing board meetings.

This subdivision shall not preclude the taking of testimony at regular meetings on matters not on the agenda which any member of the public may wish to bring before the board, provided that, except as authorized by Section 54954.2 of the Government Code, no action is taken by the board on those matters at the same meeting at which the testimony is taken. Nothing in this paragraph shall be deemed to limit further discussion on the same subject matter at a subsequent meeting.

SEC. 2. Section 36808 of the Government Code is repealed.

SEC. 2.3. Section 54951.1 of the Government Code is repealed.

SEC. 2.5. Section 54951.7 of the Government Code is repealed.



SEC. 3. Section 54952 of the Government Code is amended to read:

54952. As used in this chapter, "legislative body" means:

(a) The governing body of a local agency or any other local body created by state or federal statute.

(b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body which are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.

(c) A board, commission, committee, or other multimember body that governs a private corporation or entity that either:

(1) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation or entity.

(2) Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body by the legislative body of the local agency.

(d) The lessee of any hospital the whole or part of which is first leased pursuant to subdivision (p) of Section 32121 of the Health and Safety Code after January 1, 1994, where the lessee exercises any material authority of a legislative body of a local agency delegated to it by that legislative body whether the lessee is organized and operated by the local agency or by a delegated authority.

SEC. 4. Section 54952.2 of the Government Code is repealed.

SEC. 5. Section 54952.3 of the Government Code is repealed.

SEC. 6. Section 54952.5 of the Government Code is repealed.

SEC. 7. Section 54952.7 of the Government Code is amended to read:

54952.7. A legislative body of a local agency may require that a copy of this chapter be given to each member of the legislative body and any person elected to serve as a member of the legislative body who has not assumed the duties of office. An elected legislative body of a local agency may require that a copy of this chapter be given to each member of each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body.

SEC. 8. Section 54957.6 of the Government Code is amended to read:

54957.6. (a) Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions with the local agency's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily-provided scope of representation. Closed sessions of a legislative body of a local agency, as permitted in this section, shall be for the purpose of reviewing its position and instructing the local agency's designated representatives. Closed sessions, as permitted in this section, may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

For the purposes enumerated in this section, a legislative body of a local agency may also meet with a state conciliator who has intervened in the proceedings.

(b) For the purposes of this section, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee, but shall not include any elected official, member of a legislative body, or other independent contractors.

Closed sessions held pursuant to this section shall not include discussions of a local agency's available funds, funding priorities, or budget.

SEC. 9. Section 54961 of the Government Code is amended to read:

54961. No legislative body of a local agency shall conduct any meeting in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every local agency as defined in Section 54951.

SEC. 10. Section 54962 of the Government Code is amended to read:

54962. Except as expressly authorized by this chapter, or by Sections 32106 and 32155 of the Health and Safety Code as they apply to hospital districts, or by any provision of the Education Code pertaining to school districts and community college districts, no closed session may be held by any legislative body of any local agency.

SEC. 11. This act shall become operative only if Senate Bill 36 and Assembly Bill 1426 of the 1993-94 Regular Session of the Legislature are chaptered and become operative.

SEC. 12. This act shall become operative on April 1, 1994.

SEC. 13. 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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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STATUTES OF 1986

[ Ch. 641

## CHAPTER 641

An act to amend Sections 35144, 35145, 72121, and 72129 of the Education Code, to amend Sections 54956, 54956.5, and 54960.5 of, and to add Sections 54954.2, 54954.3, and 54960.1 to, the Government Code, relating to local agencies.

[Approved by Governor August 29, 1986. Filed with  
Secretary of State September 2, 1986.]

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

**SECTION 1.** Section 35144 of the Education Code is amended to read:

**35144.** A special meeting of the governing board of a school district may be called at any time by the presiding officer of the board, or by a majority of the members thereof, by delivering personally or by mail written notice to each member of the board, and to each local newspaper of general circulation, radio, or television station requesting notice in writing. The notice shall be delivered personally or by mail at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at those meetings by the governing board. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the board a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public and district employees.

**SEC. 2.** Section 35145 of the Education Code is amended to read:

**35145.** Except as provided in Sections 54957 and 54957.6 of the Government Code and in Section 35146 of, and subdivision (c) of Section 48918 of, this code, all meetings of the governing board of any school district shall be open to the public, and all actions authorized or required by law of the governing board shall be taken at the meetings and shall be subject to the following requirements:

(a) Minutes shall be taken at all of those meetings, recording all actions taken by the governing board. The minutes are public records and shall be available to the public.

(b) An agenda shall be posted by the governing board, or its designee, in accordance with the requirements of Section 54954.2 of the Government Code. Any interested person may commence an action by mandamus or injunction pursuant to Section 54960.1 of the Government Code for the purpose of obtaining a judicial determination that any action taken by the governing board in

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violation of this subdivision or Section 35144 is null and void.

**SEC. 3.** Section 72121 of the Education Code is amended to read:

**72121.** Except as provided in Sections 54957 and 54957.6 of the Government Code and in Section 72122 of, and subdivision (c) of Section 48914 of, this code, all meetings of the governing board of any community college district shall be open to the public, and all actions authorized or required by law of the governing board shall be taken at the meetings and shall be subject to the following requirements:

(a) Minutes shall be taken at all of those meetings, recording all actions taken by the governing board. The minutes are public records and shall be available to the public.

(b) An agenda shall be posted by the governing board, or its designee, in accordance with the requirements of Section 54954.2 of the Government Code. Any interested person may commence an action by mandamus or injunction pursuant to Section 54960.1 of the Government Code for the purpose of obtaining a judicial determination that any action taken by the governing board in violation of this subdivision or subdivision (b) of Section 72129 is null and void.

**SEC. 4.** Section 72129 of the Education Code is amended to read:

**72129.** (a) Special meetings may be held at the call of the president of the board or upon a call issued in writing and signed by a majority of the members of the board.

(b) A notice of the meeting shall be posted at least 24 hours prior to the special meeting and shall specify the time and location of the meeting and the business to be transacted and shall be posted in a location that is freely accessible to members of the public and district employees.

**SEC. 5.** Section 54954.2 is added to the Government Code, to read:

**54954.2.** (a) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public. No action shall be taken on any item not appearing on the posted agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the following conditions:

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the legislative body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that the need to take action arose subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

SEC. 6. Section 54954.3 is added to the Government Code, to read:

54954.3. (a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on items of interest to the public that are within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, in the case of a meeting of a city council in a city or a board of supervisors in a city and county, the agenda need not provide an opportunity for members of the public to address the council or board on any item that has already been considered by a committee, composed exclusively of members of the council or board, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, unless the item has been substantially changed since the committee heard the item, as determined by the council or board.

(b) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

SEC. 7. Section 54956 of the Government Code is amended to read:

54956. A special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering personally or by mail written notice to each member of the legislative body and to each local newspaper of general circulation, radio or television station requesting notice in writing. The notice shall be delivered personally or by mail and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at these meetings by the legislative body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the legislative body a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of

the public.

**SEC. 8.** Section 54956.5 of the Government Code is amended to read:

**54956.5.** In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of Section 54956 or both of the notice and posting requirements.

For purposes of this section, "emergency situation" means any of the following:

(a) Work stoppage or other activity which severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

(b) Crippling disaster which severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

However, each local newspaper of general circulation and radio or television station which has requested notice of special meetings pursuant to Section 54956 shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting by telephone and all telephone numbers provided in the most recent request of such newspaper or station for notification of special meetings shall be exhausted. In the event that telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

Notwithstanding Section 54957, the legislative body shall not meet in closed session during a meeting called pursuant to this section.

All special meeting requirements, as prescribed in Section 54956 shall be applicable to a meeting called pursuant to this section, with the exception of the 24-hour notice requirement.

The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the legislative body, or designee of the legislative body, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

**SEC. 9.** Section 54960.1 is added to the Government Code, to read:

**54960.1.** (a) Any interested person may commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of Section 54953, 54954.2, or 54956 is null and void under this section. Nothing in this chapter shall be construed to prevent a legislative body from curing or correcting an action

challenged pursuant to this section.

(b) Prior to any action being commenced pursuant to subdivision (a), the interested person shall make a demand of the legislative body to cure or correct the action alleged to have been taken in violation of Section 54953, 54954.2, or 54956. The demand shall be in writing and clearly describe the challenged action of the legislative body and nature of the alleged violation. The written demand shall be made within 30 days from the date the action was taken. Within 30 days of receipt of the demand, the legislative body shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action. If the legislative body takes no action within the 30-day period, the inaction shall be deemed a decision not to cure or correct the challenged action, and the 15-day period to commence the action described in subdivision (a) shall commence to run the day after the 30-day period to cure or correct expires. Within 15 days of receipt of the written notice of the legislative body's decision to cure or correct, the expiration of the 30-day period to cure or correct, or 75 days from the date the challenged action was taken, whichever is earlier, the demanding party shall be required to commence the action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(c) An action taken shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in substantial compliance with Sections 54953, 54954.2, and 54956.

(2) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement thereto.

(3) The action taken gave rise to a contractual obligation, including a contract let by competitive bid, upon which a party has, in good faith, detrimentally relied.

(4) The action taken was in connection with the collection of any tax.

(d) During any action seeking a judicial determination pursuant to subdivision (a) if the court determines, pursuant to a showing by the legislative body that an action alleged to have been taken in violation of Section 54953, 54954.2, or 54956 has been cured or corrected by a subsequent action of the legislative body, the action filed pursuant to subdivision (a) shall be dismissed with prejudice.

(e) The fact that a legislative body takes a subsequent action to cure or correct an action taken pursuant to this section shall not be construed or admissible as evidence of a violation of this chapter.

SEC. 10. Section 54960.5 of the Government Code is amended to read:

54960.5. A court may award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to Section 54960 or 54960.1 where it is found that a legislative body of the local agency



has violated this chapter. The costs and fees shall be paid by the local agency and shall not become a personal liability of any public officer or employee of the local agency.

A court may award court costs and reasonable attorney fees to a defendant in any action brought pursuant to Section 54960 or 54960.1 where the defendant has prevailed in a final determination of such action and the court finds that the action was clearly frivolous and totally lacking in merit.

SEC. 11. The Legislature does not intend, by including an express reference to Sections 54954.2 and 54960.1 of the Government Code in Sections 35145 and 72121 of the Education Code, as amended by this act, to imply that other sections of the Ralph M. Brown Act which have been construed as applying to meetings of the governing boards of school and community college districts shall not continue to apply to those meetings.

SEC. 12. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund.

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## CHAPTER 642

An act to amend Sections 27538 and 27641 of, and to add Section 27537.5 to, the Health and Safety Code, relating to food facilities.

[Approved by Governor August 29, 1986. Filed with  
Secretary of State September 2, 1986.]

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

SECTION 1. Section 27537.5 is added to the Health and Safety Code, to read:

27537.5. "Stationary mobile food preparation unit" means any mobile food preparation unit, as defined by Section 27526, which operates at a state, county, district, or citrus fair or any approved occasional event, and which remains in a fixed position during food preparation and its hours of operation.

SEC. 2. Section 27538 of the Health and Safety Code is amended to read:

27538. "Temporary food facility" means a food facility operating out of temporary facilities approved by the enforcement officer at a fixed location for a period of time not to exceed 21 days in any 90-day period in conjunction with a single event or celebration.

SEC. 3. Section 27641 of the Health and Safety Code is amended to read:



**JOHN CHIANG**  
California State Controller

April 30, 2013

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,

*(Original Signed By)*

JOHN CHIANG  
 California State Controller

Enclosures

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

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

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**SCHEDULE B, SECTION 1:**

**NET DEFICIENCIES AND SURPLUSES**

**FOR THE FUNDED MANDATES**

**BY FISCAL YEAR**

**State Controller's Office**  
**Division of Accounting and Reporting**  
**Schedule B, Section 1: Net Deficiencies and Surpluses for the Funded Mandates by Fiscal Year**  
**As of April 1, 2013**

Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
<b>Local Agencies</b>									
2011-12	Administrative License Suspension	Ch.1460/89	246	\$ 2,358,631	\$ -	\$ -	\$ 2,358,631	\$ -	\$ 2,358,631
2011-12	Allocation of Property Tax Revenues	Ch. 697/92	152	\$ 577,052	\$ -	\$ -	\$ 577,052	\$ -	\$ 577,052
2011-12	Child Abduction and Recovery	Ch. 1399/76	13	\$ 11,607,476	\$ -	\$ -	\$ 11,607,476	\$ -	\$ 11,607,476
2011-12	Countywide Tax Rates	Ch. 921/87	90	\$ 212,006	\$ -	\$ -	\$ 212,006	\$ -	\$ 212,006
2011-12	Crime Victim's Domestic Violence Incident Reports	Ch. 1022/99	262	\$ 174,998	\$ -	\$ -	\$ 174,998	\$ -	\$ 174,998
2011-12	Domestic Violence Arrest Policies and Standards	Ch. 246/95	167	\$ 7,341,293	\$ -	\$ -	\$ 7,341,293	\$ -	\$ 7,341,293
2011-12	Domestic Violence Arrests and Victims Assistance	Ch. 698/98	274	\$ 1,572,950	\$ -	\$ -	\$ 1,572,950	\$ -	\$ 1,572,950
2011-12	Domestic Violence Treatment Services - Authorization and Case Management	Ch. 183/92	177	\$ 1,951,131	\$ -	\$ -	\$ 1,951,131	\$ -	\$ 1,951,131
2011-12	Health Benefits for Survivors of Peace Officers and Firefighters	Ch. 1120/96	197	\$ 1,983,218	\$ -	\$ -	\$ 1,983,218	\$ -	\$ 1,983,218
2011-12	Medi-Cal Beneficiary Probate	Ch. 102/81	43	\$ 9,047	\$ -	\$ -	\$ 9,047	\$ -	\$ 9,047
2011-12	Open Meetings Act/Brown Act Reform	Ch. 641/86	219	\$ 14,985,506	\$ -	\$ -	\$ 14,985,506	\$ -	\$ 14,985,506
2011-12	Peace Officers Personnel Records: Unfounded Complaints and Discovery	Ch. 630/78	264	\$ 694,558	\$ -	\$ -	\$ 694,558	\$ -	\$ 694,558
2011-12	Peace Officers Procedural Bill of Rights	Ch. 465/76	187	\$ 10,744,778	\$ -	\$ -	\$ 10,744,778	\$ -	\$ 10,744,778
2011-12	Pesticide Use Reports	Ch. 1200/89	121	\$ 38,671	\$ -	\$ -	\$ 38,671	\$ -	\$ 38,671
2011-12	Rape Victim Counseling Center Notices	Ch. 999/91	127	\$ 332,322	\$ -	\$ -	\$ 332,322	\$ -	\$ 332,322
2011-12	Sexually Violent Predators	Ch. 762/95	175	\$ 20,896,536	\$ -	\$ -	\$ 20,896,536	\$ -	\$ 20,896,536
<b>2011-12 Total</b>				<b>\$ 75,480,173</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 75,480,173</b>	<b>\$ -</b>	<b>\$ 75,480,173</b>
2010-11	Absentee Ballots	Ch. 77/78	2	\$ 24,850,404	\$ -	\$ -	\$ 24,850,404	\$ -	\$ 24,850,404
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	\$ 2,473,703	\$ 2,402,441	\$ 2,884	\$ 74,146	\$ 2,884	\$ 71,262
2010-11	Allocation of Property Tax Revenues	Ch. 697/92	152	\$ 451,455	\$ 495,047	\$ 46,822	\$ 3,230	\$ 46,822	\$ (43,592)
2010-11	Child Abduction and Recovery	Ch. 1399/76	13	\$ 11,410,830	\$ 11,406,520	\$ -	\$ 4,310	\$ -	\$ 4,310
2010-11	Countywide Tax Rates	Ch. 921/87	90	\$ 244,468	\$ 242,747	\$ -	\$ 1,721	\$ -	\$ 1,721
2010-11	Crime Victim's Domestic Violence Incident Reports	Ch. 1022/99	262	\$ 167,693	\$ 167,000	\$ -	\$ 693	\$ -	\$ 693
2010-11	Domestic Violence Arrest Policies and Standards	Ch. 246/95	167	\$ 7,249,934	\$ 6,984,998	\$ -	\$ 264,936	\$ -	\$ 264,936
2010-11	Domestic Violence Arrests and Victims Assistance	Ch. 698/98	274	\$ 1,531,006	\$ 1,368,714	\$ -	\$ 162,292	\$ -	\$ 162,292
2010-11	Domestic Violence Treatment Services - Authorization and Case Management	Ch. 183/92	177	\$ 1,998,676	\$ 1,944,000	\$ -	\$ 54,676	\$ -	\$ 54,676
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	\$ 36,714,731	\$ -	\$ -	\$ 36,714,731	\$ -	\$ 36,714,731
2010-11	Health Benefits for Survivors of Peace Officers and Firefighters	Ch. 1120/96	197	\$ 1,779,814	\$ 1,695,000	\$ -	\$ 84,814	\$ -	\$ 84,814

**State Controller's Office**  
**Division of Accounting and Reporting**  
**Schedule B, Section 1: Net Deficiencies and Surpluses for the Funded Mandates by Fiscal Year**  
**As of April 1, 2013**

Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
2010-11	In-Home Support Services II	Ch. 90/99	289	\$ 15,567	\$ -	\$ -	\$ 15,567	\$ -	\$ 15,567
2010-11	Mandate Reimbursement Process	Ch. 486/75	41	\$ 1,415,047	\$ -	\$ -	\$ 1,415,047	\$ -	\$ 1,415,047
2010-11	Open Meetings Act/Brown Act Reform	Ch. 641/86	219	\$ 16,598,314	\$ -	\$ -	\$ 16,598,314	\$ -	\$ 16,598,314
2010-11	Peace Officers Personnel Records: Unfounded Complaints and Discovery	Ch. 630/78	264	\$ 661,245	\$ 656,999	\$ -	\$ 4,246	\$ -	\$ 4,246
2010-11	Peace Officers Procedural Bill of Rights	Ch. 465/76	187	\$ 6,348,556	\$ -	\$ -	\$ 6,348,556	\$ -	\$ 6,348,556
2010-11	Rape Victim Counseling Center Notices	Ch. 999/91	127	\$ 327,331	\$ 327,684	\$ 1,264	\$ 911	\$ 1,264	\$ (353)
2010-11	Sexually Violent Predators	Ch. 762/95	175	\$ 20,789,555	\$ 20,754,301	\$ -	\$ 35,254	\$ -	\$ 35,254
2010-11	Voter Registration Procedures	Ch. 704/75	56	\$ 1,275,498	\$ -	\$ -	\$ 1,275,498	\$ -	\$ 1,275,498
<b>2010-11 Total</b>				<b>\$ 136,338,965</b>	<b>\$ 48,445,451</b>	<b>\$ 50,970</b>	<b>\$ 87,944,484</b>	<b>\$ 50,970</b>	<b>\$ 87,993,514</b>
2009-10	Absentee Ballots	Ch. 77/78	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	\$ 2,365,973	\$ 2,933	\$ 79,813	\$ 2,933	\$ 76,880
2009-10	Airport Land Use Commission/Plans	Ch. 644/94	178	\$ 1,263,401	\$ -	\$ -	\$ 1,263,401	\$ -	\$ 1,263,401
2009-10	Allocation of Property Tax Revenues	Ch. 697/92	152	\$ 685,223	\$ 692,250	\$ 7,027	\$ -	\$ 7,027	\$ (7,027)
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 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	\$ 7,375,282	\$ 65,723	\$ -	\$ 31,442	\$ (31,442)
2009-10	Domestic Violence Arrests and Victims Assistance	Ch. 698/98	274	\$ 1,366,505	\$ 1,374,148	\$ 7,643	\$ -	\$ 7,643	\$ (7,643)
2009-10	Handicapped and Disabled Students, Handicapped and Disabled Students II, and Seriously Emotionally Disturbed (SED) Pupils: Out of State Mental Health Services								
2009-10	In-Home Support Services II	Ch. 1747/84	273	\$ 133,719,866	\$ -	\$ -	\$ 133,719,866	\$ -	\$ 133,719,866
2009-10	Local Agency Formation Commissions (LAFCO)	Ch. 90/99	289	\$ 20,569	\$ -	\$ -	\$ 20,569	\$ -	\$ 20,569
2009-10	Mandate Reimbursement Process	Ch. 761/00	300	\$ 7,017	\$ -	\$ -	\$ 7,017	\$ -	\$ 7,017
2009-10	Mentally Disordered Offenders' Extended Commitment Proceedings	Ch. 486/75	41	\$ 5,494,725	\$ -	\$ -	\$ 5,494,725	\$ -	\$ 5,494,725
2009-10	Mentally Disordered Sex Offenders: Extended Commitment Proceedings	Ch. 1418/85	203	\$ 219,819	\$ -	\$ -	\$ 219,819	\$ -	\$ 219,819
2009-10	Mentally Retarded Defendants: Diversion	Ch. 1036/78	39	\$ 3,011	\$ -	\$ -	\$ 3,011	\$ -	\$ 3,011
2009-10	Not Guilty by Reason of Insanity	Ch. 1253/80	66	\$ 1,345	\$ -	\$ -	\$ 1,345	\$ -	\$ 1,345
2009-10	Open Meetings Act/Brown Act Reform	Ch. 1114/79	200	\$ 120,902	\$ -	\$ -	\$ 120,902	\$ -	\$ 120,902
2009-10	Pacific Beach Safety: Water Quality and Closures	Ch. 641/86	219	\$ 16,636,791	\$ -	\$ -	\$ 16,636,791	\$ -	\$ 16,636,791
2009-10	Peace Officers Procedural Bill of Rights	Ch. 961/92	122	\$ 1,466	\$ -	\$ -	\$ 1,466	\$ -	\$ 1,466
2009-10	Perinatal Services	Ch. 465/76	187	\$ 6,657,034	\$ -	\$ -	\$ 6,657,034	\$ -	\$ 6,657,034
2009-10		Ch. 1603/90	124	\$ 47,464	\$ -	\$ -	\$ 47,464	\$ -	\$ 47,464



**State Controller's Office**  
**Division of Accounting and Reporting**  
**Schedule B, Section 1: Net Deficiencies and Surpluses for the Funded Mandates by Fiscal Year**  
**As of April 1, 2013**

Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
2009-10	Permanent Absent Voters	Ch. 1422/82	83	\$ 1,310,491	\$ -	\$ -	\$ 1,310,491	\$ -	\$ 1,310,491
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
<b>2009-10 Total</b>				<b>\$ 205,100,383</b>	<b>\$ 11,840,678</b>	<b>\$ 83,326</b>	<b>\$ 193,343,031</b>	<b>\$ 49,045</b>	<b>\$ 193,293,986</b>
2008-09	Absentee Ballots	Ch. 77/78	2	\$ 25,668,036	\$ 26,680,453	\$ 1,012,417	\$ -	\$ 544,335	\$ (544,335)
2008-09	Administrative License Suspension	Ch. 1460/89	246	\$ 2,674,609	\$ 2,778,541	\$ 103,932	\$ -	\$ 101,274	\$ (101,274)
2008-09	Allocation of Property Tax Revenues	Ch. 697/92	152	\$ 562,473	\$ 567,744	\$ 5,271	\$ -	\$ 5,271	\$ (5,271)
2008-09	Animal Adoption	Ch. 752/98	213	\$ 22,144,748	\$ -	\$ -	\$ 22,144,748	\$ -	\$ 22,144,748
2008-09	Child Abduction and Recovery	Ch. 1399/76	13	\$ 13,398,566	\$ 13,449,786	\$ 51,220	\$ -	\$ 3,879	\$ (3,879)
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 Victim's Domestic Violence Incident Reports	Ch. 1022/99	262	\$ 172,788	\$ 175,045	\$ 2,257	\$ -	\$ 2,257	\$ (2,257)
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 Treatment Services - Authorization and Case Management	Ch. 183/92	177	\$ 2,174,267	\$ 2,472,463	\$ 298,196	\$ -	\$ 183,045	\$ (183,045)
2008-09	False Reports of Police Misconduct	Ch. 590/95	257	\$ 4,297	\$ -	\$ -	\$ 4,297	\$ -	\$ 4,297
2008-09	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	\$ 30,195,924	\$ 2,291	\$ -	\$ 30,193,633	\$ -	\$ 30,193,633
2008-09	Judicial Proceedings For Mentally Retarded Persons	Ch. 644/80	35	\$ 139,227	\$ -	\$ -	\$ 139,227	\$ -	\$ 139,227
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. 1056/78	39	\$ 40,980	\$ -	\$ -	\$ 40,980	\$ -	\$ 40,980
2008-09	Mentally Retarded Defendants: Diversion	Ch. 1253/80	66	\$ 17,862	\$ -	\$ -	\$ 17,862	\$ -	\$ 17,862
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	\$ 1,843,402	\$ 29,513	\$ -	\$ 29,513	\$ (29,513)
2008-09	Photographic Record of Evidence	Ch. 875/85	215	\$ 112,982	\$ -	\$ -	\$ 112,982	\$ -	\$ 112,982

**State Controller's Office**  
**Division of Accounting and Reporting**  
**Schedule B, Section 1: Net Deficiencies and Surpluses for the Funded Mandates by Fiscal Year**  
**As of April 1, 2013**

Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
2008-09	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
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
<b>2008-09 Total</b>				<b>\$ 139,283,915</b>	<b>\$ 47,969,725</b>	<b>\$ 1,502,806</b>	<b>\$ 92,816,996</b>	<b>\$ 869,574</b>	<b>\$ 91,947,422</b>
2007-08	Absentee Ballots	Ch. 77/78	2	\$ 22,557,828	\$ 22,661,713	\$ 103,885	\$ -	\$ 103,180	\$ (103,180)
2007-08	Administrative License Suspension	Ch. 1460/89	246	\$ 2,537,487	\$ 2,552,850	\$ 15,363	\$ -	\$ 10,789	\$ (10,789)
2007-08	Animal Adoption	Ch. 752/98	213	\$ 20,366,232	\$ -	\$ -	\$ 20,366,232	\$ -	\$ 20,366,232
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 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	\$ 7,607,630	\$ 17,895	\$ -	\$ 10,000	\$ (10,000)
2007-08	Domestic Violence Arrests and Victims Assistance	Ch. 698/98	274	\$ 1,238,574	\$ 1,359,492	\$ 120,918	\$ -	\$ 11,126	\$ (11,126)
2007-08	False Reports of Police Misconduct	Ch. 590/95	257	\$ 5,788	\$ -	\$ -	\$ 5,788	\$ -	\$ 5,788
2007-08	Firefighters' Cancer Presumption	Ch. 1568/82	23	\$ 6,058,218	\$ -	\$ -	\$ 6,058,218	\$ -	\$ 6,058,218
2007-08	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	\$ 75,430,592	\$ 5,347,016	\$ -	\$ 70,083,576	\$ -	\$ 70,083,576
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	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	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
2007-08	Pacific Beach Safety: Water Quality and Closures	Ch. 961/92	122	\$ 277,610	\$ -	\$ -	\$ 277,610	\$ -	\$ 277,610
2007-08	Peace Officers Cancer Presumption	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	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

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Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
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	\$ 374,090	\$ 12,360	\$ -	\$ 3,260	\$ (3,260)
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	Sexually Violent Predators	Ch. 762/95	175	\$ 17,392,295	\$ 17,538,609	\$ 146,314	\$ -	\$ 16,901	\$ (16,901)
2007-08	Stolen Vehicle Notification	Ch. 337/90	120	\$ 551,719	\$ -	\$ -	\$ 551,719	\$ -	\$ 551,719
<b>2007-08 Total</b>				<b>\$ 195,155,467</b>	<b>\$ 57,447,161</b>	<b>\$ 416,735</b>	<b>\$ 138,125,041</b>	<b>\$ 155,256</b>	<b>\$ 137,969,785</b>
2006-07	Absentee Ballots	Ch. 77/78	2	\$ 19,646,473	\$ 21,525,768	\$ 1,879,295	\$ -	\$ 83,120	\$ (83,120)
2006-07	Animal Adoption	Ch. 752/98	213	\$ 17,327,425	\$ 24,763,598	\$ 7,436,173	\$ -	\$ 4,228,329	\$ (4,228,329)
2006-07	Child Abduction and Recovery	Ch. 1399/76	13	\$ 13,449,011	\$ 14,408,397	\$ 959,386	\$ -	\$ 47,589	\$ (47,589)
2006-07	Domestic Violence Arrest Policies and Standards	Ch. 246/95	167	\$ 7,245,327	\$ 7,757,004	\$ 511,677	\$ -	\$ 308,085	\$ (308,085)
2006-07	Firefighters' Cancer Presumption	Ch. 1568/82	23	\$ 4,916,471	\$ 5,220,813	\$ 329,599	\$ 25,257	\$ 232,845	\$ (207,588)
<b>83</b>	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	\$ 53,147,299	\$ 46,650,693	\$ 1,713,460	\$ 8,210,066	\$ 1,398,763	\$ 6,811,303
2006-07	Health Benefits for Survivors of Peace Officers and Firefighters	Ch. 1120/96	197	\$ 911,198	\$ 974,587	\$ 63,389	\$ -	\$ 734	\$ (734)
2006-07	Mentally Disordered Offenders' Extended Commitment Proceedings	Ch. 1418/85	203	\$ 3,003,738	\$ 3,291,874	\$ 341,376	\$ 53,240	\$ -	\$ 53,240
2006-07	Not Guilty by Reason of Insanity	Ch. 1144/79	200	\$ 1,707,977	\$ 2,142,012	\$ 439,438	\$ 5,403	\$ -	\$ 5,403
2006-07	Open Meetings Act/Brown Act Reform	Ch. 641/86	219	\$ 15,737,180	\$ -	\$ -	\$ 15,737,180	\$ -	\$ 15,737,180
2006-07	Peace Officers' Cancer Presumption	Ch. 1171/89	118	\$ 5,458,348	\$ 5,846,627	\$ 499,658	\$ 111,379	\$ 239,459	\$ (128,080)
2006-07	Peace Officers' Procedural Bill of Rights	Ch. 465/76	187	\$ 9,846,865	\$ 18,460,565	\$ 10,543,101	\$ 1,929,401	\$ 2,206,276	\$ (276,875)
2006-07	Photographic Record of Evidence	Ch. 875/85	215	\$ 309,808	\$ 522,439	\$ 224,111	\$ 11,480	\$ 101,031	\$ (89,551)
2006-07	Post Conviction: DNA Court Proceedings	Ch. 821/00	279	\$ 359,305	\$ 334,797	\$ -	\$ 24,508	\$ -	\$ 24,508
2006-07	Postmortem Examinations: Unidentified Bodies, Human Remains	Ch. 284/00	255	\$ 1,454	\$ 570,616	\$ 569,162	\$ -	\$ 471,136	\$ (471,136)
2006-07	Senior Citizens Property Tax Postponement	Ch. 1242/77	18	\$ 273,468	\$ 273,468	\$ 384	\$ 384	\$ -	\$ 384
<b>2006-07 Total</b>				<b>\$ 153,341,347</b>	<b>\$ 152,743,258</b>	<b>\$ 25,510,209</b>	<b>\$ 26,108,298</b>	<b>\$ 9,317,367</b>	<b>\$ 16,790,931</b>
2005-06	Animal Adoption	Ch. 752/98	213	\$ 17,295,277	\$ 22,026,817	\$ 4,731,540	\$ -	\$ 2,550,936	\$ (2,550,936)
2005-06	Domestic Violence Arrest Policies and Standards	Ch. 246/95	167	\$ 6,667,418	\$ 6,943,391	\$ 275,973	\$ -	\$ 257,352	\$ (257,352)
2005-06	Handicapped and Disabled Students	Ch. 1747/84	111	\$ 47,584,774	\$ 70,071,305	\$ 24,034,991	\$ 1,548,460	\$ 7,812,926	\$ (6,264,466)
2005-06	Handicapped and Disabled Students II	Ch. 1747/84	263	\$ 1,413,312	\$ 241,607	\$ -	\$ 1,171,705	\$ -	\$ 1,171,705
2005-06	Local Agency Formation Commissions (LAFCO)	Ch. 761/00	300	\$ 202,633	\$ 192,604	\$ -	\$ 10,029	\$ -	\$ 10,029
2005-06	Open Meetings Act/Brown Act Reform	Ch. 641/86	219	\$ 14,357,147	\$ 588,051	\$ 187,248	\$ 13,956,344	\$ 30,463	\$ 13,925,881
2005-06	Peace Officers' Procedural Bill of Rights	Ch. 465/76	187	\$ 13,310,225	\$ 17,122,862	\$ 6,047,022	\$ 2,234,425	\$ 121,459	\$ 2,112,966
2005-06	Photographic Record of Evidence	Ch. 875/85	215	\$ 292,557	\$ 507,646	\$ 215,089	\$ -	\$ 127,443	\$ (127,443)

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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	\$ 258,165	\$ 133	\$ -	\$ -	\$ 133
<b>2005-06 Total</b>				<b>\$ 101,554,880</b>	<b>\$ 118,086,974</b>	<b>\$ 35,491,996</b>	<b>\$ 18,959,902</b>	<b>\$ 10,900,579</b>	<b>\$ 8,059,323</b>
2004-05	Absentee Ballots	Ch. 77/78	2	\$ 17,563,599	\$ 19,833,308	\$ 2,316,857	\$ -	\$ -	\$ 47,148
2004-05	Animal Adoption	Ch. 752/98	213	\$ 19,548,029	\$ 23,765,023	\$ 4,216,994	\$ -	\$ 1,386,262	\$ (1,386,262)
2004-05	Domestic Violence Arrest Policies and Standards	Ch. 246/95	167	\$ 6,141,561	\$ 7,251,728	\$ 1,110,167	\$ -	\$ -	\$ (59,067)
2004-05	Firefighters' Cancer Presumption	Ch. 1568/82	23	\$ 2,985,232	\$ 3,848,153	\$ 862,921	\$ -	\$ 31,407	\$ (31,407)
2004-05	Handicapped and Disabled Students	Ch. 1747/84	111	\$ 47,836,298	\$ 70,535,138	\$ 24,694,055	\$ 1,995,215	\$ 7,559,896	\$ (5,564,681)
2004-05	Handicapped and Disabled Students II	Ch. 1747/84	263	\$ 122,653	\$ -	\$ -	\$ 122,653	\$ -	\$ 122,653
2004-05	Local Agency Formation Commissions (LAFCO)	Ch. 761/00	300	\$ 9,603	\$ 4,880	\$ -	\$ -	\$ 4,723	\$ 4,723
2004-05	Open Meetings Act/Brown Act Reform	Ch. 641/86	219	\$ 14,798,506	\$ 16,129,559	\$ 1,691,111	\$ 360,058	\$ 2,619	\$ 357,439
2004-05	Peace Officers Procedural Bill of Rights	Ch. 465/76	187	\$ 13,187,078	\$ -	\$ -	\$ 13,187,078	\$ -	\$ 13,187,078
2004-05	Photographic Record of Evidence	Ch. 875/85	215	\$ 340,151	\$ 721,358	\$ 381,207	\$ -	\$ 155,293	\$ (155,293)
2004-05	Post Conviction: DNA Court Proceedings	Ch. 821/00	279	\$ 31,183	\$ 17,053	\$ -	\$ 14,130	\$ -	\$ 14,130
<b>2004-05 Total</b>				<b>\$ 122,563,893</b>	<b>\$ 142,106,200</b>	<b>\$ 35,273,312</b>	<b>\$ 15,731,005</b>	<b>\$ 9,194,544</b>	<b>\$ 6,536,461</b>
2003-04	Handicapped and Disabled Students II	Ch. 1747/84	263	\$ 1,183,695	\$ -	\$ -	\$ 1,183,695	\$ -	\$ 1,183,695
2003-04	In-Home Support Services II	Ch. 90/99	289	\$ 11,904	\$ -	\$ -	\$ 11,904	\$ -	\$ 11,904
2003-04	Post Conviction: DNA Court Proceedings	Ch. 821/00	279	\$ 148,711	\$ 124,059	\$ -	\$ 24,652	\$ -	\$ 24,652
<b>2003-04 Total</b>				<b>\$ 1,344,310</b>	<b>\$ 124,059</b>	<b>\$ -</b>	<b>\$ 1,220,251</b>	<b>\$ -</b>	<b>\$ 1,220,251</b>
2002-03	Handicapped and Disabled Students II	Ch. 1747/84	263	\$ 2,958,677	\$ -	\$ -	\$ 2,958,677	\$ -	\$ 2,958,677
2002-03	In-Home Support Services II	Ch. 90/99	289	\$ 132,994	\$ -	\$ -	\$ 132,994	\$ -	\$ 132,994
2002-03	Post Conviction: DNA Court Proceedings	Ch. 821/00	279	\$ 135,482	\$ 112,687	\$ -	\$ 22,795	\$ -	\$ 22,795
<b>2002-03 Total</b>				<b>\$ 3,227,153</b>	<b>\$ 112,687</b>	<b>\$ -</b>	<b>\$ 3,114,466</b>	<b>\$ -</b>	<b>\$ 3,114,466</b>
2001-02	Handicapped and Disabled Students II	Ch. 1747/84	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	Post Conviction: DNA Court Proceedings	Ch. 821/00	279	\$ 73,775	\$ 62,375	\$ -	\$ 11,400	\$ -	\$ 11,400
<b>2001-02 Total</b>				<b>\$ 2,533,731</b>	<b>\$ 62,375</b>	<b>\$ -</b>	<b>\$ 2,471,356</b>	<b>\$ -</b>	<b>\$ 2,471,356</b>
2000-01	In-Home Support Services II	Ch. 90/99	289	\$ 112,301	\$ -	\$ -	\$ 112,301	\$ -	\$ 112,301
<b>2000-01 Total</b>				<b>\$ 112,301</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 112,301</b>	<b>\$ -</b>	<b>\$ 112,301</b>
1999-00	In-Home Support Services II	Ch. 90/99	289	\$ 32,985	\$ -	\$ -	\$ 32,985	\$ -	\$ 32,985
<b>1999-00 Total</b>				<b>\$ 32,985</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 32,985</b>	<b>\$ -</b>	<b>\$ 32,985</b>
<b>Total Local Agencies</b>				<b>\$ 1,136,069,503</b>	<b>\$ 578,938,568</b>	<b>\$ 98,329,354</b>	<b>\$ 655,460,289</b>	<b>\$ 30,537,335</b>	<b>\$ 624,922,954</b>

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Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
<b>School Districts</b>									
2011-12	Agency Fee Arrangements	Ch. 893/00	269	\$ 4,614	\$ -	\$ -	\$ 4,614	\$ -	\$ 4,614
2011-12	AIDS Prevention Instruction II	Ch. 818/91	250	\$ 1,384,758	\$ -	\$ -	\$ 1,384,758	\$ -	\$ 1,384,758
2011-12	California State Teachers' Retirement System (CalSTRS) Service Credit	Ch. 603/94	286	\$ 45,817	\$ -	\$ -	\$ 45,817	\$ -	\$ 45,817
2011-12	Caregiver Affidavits to Establish Residence for School Attendance	Ch. 98/94	172	\$ 430,104	\$ -	\$ -	\$ 430,104	\$ -	\$ 430,104
2011-12	Charter Schools I, II, III	Ch. 781/92	278	\$ 1,573,135	\$ -	\$ -	\$ 1,573,135	\$ -	\$ 1,573,135
2011-12	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	11	\$ 17,984,995	\$ -	\$ -	\$ 17,984,995	\$ -	\$ 17,984,995
2011-12	Comprehensive School Safety Plans I and II	Ch. 736/97; Ch. 996/99	313	\$ 3,332,755	\$ -	\$ -	\$ 3,332,755	\$ -	\$ 3,332,755
2011-12	Consolidation of Annual Parent Notification/Schoolsite Discipline Rules/Alternative Schools	Ch. 448/75	272	\$ 7,799,412	\$ -	\$ -	\$ 7,799,412	\$ -	\$ 7,799,412
2011-12	Consolidation of Law Enforcement Agency Notification and Missing Children Reports	Ch. 1117/89	276	\$ 710,869	\$ -	\$ -	\$ 710,869	\$ -	\$ 710,869
2011-12	Consolidation of Notification to Teachers: Pupils Subject to Suspension or Expulsion and Pupil Discipline Records, Notification to Teachers: Pupils Subject to Suspension or Expulsion II	Ch. 1306/89	292	\$ 6,463,947	\$ -	\$ -	\$ 6,463,947	\$ -	\$ 6,463,947
2011-12	County Office of Education Fiscal Accountability Reporting	Ch. 917/87	209	\$ 268,885	\$ -	\$ -	\$ 268,885	\$ -	\$ 268,885
2011-12	Criminal Background Checks	Ch. 588/97	183	\$ 397,002	\$ -	\$ -	\$ 397,002	\$ -	\$ 397,002
2011-12	Criminal Background Checks II	Ch. 594/98	251	\$ 490,230	\$ -	\$ -	\$ 490,230	\$ -	\$ 490,230
2011-12	Differential Pay and Reemployment	Ch. 30/98	253	\$ 12,801	\$ -	\$ -	\$ 12,801	\$ -	\$ 12,801
2011-12	Expulsion of Pupils Transcript Cost for Appeals	Ch. 1253/75	91	\$ 14,415	\$ -	\$ -	\$ 14,415	\$ -	\$ 14,415
2011-12	Financial and Compliance Audits	Ch. 36/77	192	\$ 248,338	\$ -	\$ -	\$ 248,338	\$ -	\$ 248,338
2011-12	Graduation Requirements (On or after 01/01/2005)	Ch. 498/93	297	\$ 255,055,138	\$ -	\$ -	\$ 255,055,138	\$ -	\$ 255,055,138
2011-12	Habitual Truant	Ch. 1184/75	166	\$ 5,182,621	\$ -	\$ -	\$ 5,182,621	\$ -	\$ 5,182,621
2011-12	High School Exit Examination	Ch. 1/99	268	\$ 6,145,675	\$ -	\$ -	\$ 6,145,675	\$ -	\$ 6,145,675
2011-12	Immunization Records	Ch. 1176/77	32	\$ 4,558,200	\$ -	\$ -	\$ 4,558,200	\$ -	\$ 4,558,200
2011-12	Immunization Records - Hepatitis B	Ch. 325/78	230	\$ 5,454,002	\$ -	\$ -	\$ 5,454,002	\$ -	\$ 5,454,002
2011-12	Interdistrict Attendance Permits	Ch. 172/86	148	\$ 277,290	\$ -	\$ -	\$ 277,290	\$ -	\$ 277,290
2011-12	Intradistrict Attendance	Ch. 161/93	153	\$ 3,520,256	\$ -	\$ -	\$ 3,520,256	\$ -	\$ 3,520,256
2011-12	Juvenile Court Notices II	Ch. 1423/84	155	\$ 818,144	\$ -	\$ -	\$ 818,144	\$ -	\$ 818,144
2011-12	Notification of Truancy	Ch. 498/83	48	\$ 24,815,604	\$ -	\$ -	\$ 24,815,604	\$ -	\$ 24,815,604
2011-12	Open Meetings Act/Brown Act Reform	Ch. 641/86	218	\$ 3,189,875	\$ -	\$ -	\$ 3,189,875	\$ -	\$ 3,189,875

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2011-12	Physical Performance Tests	Ch. 975/95	173	\$ 1,443,279	\$ -	\$ -	\$ 1,443,279	\$ -	\$ 1,443,279
2011-12	Prevailing Wage Rate	Ch. 1249/78	304	\$ 159,665	\$ -	\$ -	\$ 159,665	\$ -	\$ 159,665
2011-12	Pupil Health Screenings	Ch. 1208/76	261	\$ 838,633	\$ -	\$ -	\$ 838,633	\$ -	\$ 838,633
2011-12	Pupil Promotion and Retention	Ch. 100/81	244	\$ 1,882,483	\$ -	\$ -	\$ 1,882,483	\$ -	\$ 1,882,483
2011-12	Pupil Safety Notices	Ch. 498/83	280	\$ 88,241	\$ -	\$ -	\$ 88,241	\$ -	\$ 88,241
2011-12	Pupil Suspensions, Expulsions, and Expulsion Appeals	Ch. 965/77	176	\$ 3,496,131	\$ -	\$ -	\$ 3,496,131	\$ -	\$ 3,496,131
2011-12	School Accountability Report Cards	Ch. 1463/89	171	\$ 2,276,379	\$ -	\$ -	\$ 2,276,379	\$ -	\$ 2,276,379
2011-12	School District Fiscal Accountability Reporting and Employee Benefits Disclosure	Ch. 100/81	258	\$ 2,671,899	\$ -	\$ -	\$ 2,671,899	\$ -	\$ 2,671,899
2011-12	The Stull Act	Ch. 498/83	260	\$ 17,450,560	\$ -	\$ -	\$ 17,450,560	\$ -	\$ 17,450,560
<b>2011-12 Total</b>				<b>\$ 380,486,152</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 380,486,152</b>	<b>\$ -</b>	<b>\$ 380,486,152</b>
2010-11	Agency Fee Arrangements	Ch. 893/00	269	\$ 8,679	\$ 1,000	\$ -	\$ 7,679	\$ -	\$ 7,679
2010-11	AIDS Prevention Instruction II	Ch. 818/91	250	\$ 1,284,869	\$ 1,000	\$ -	\$ 1,283,869	\$ -	\$ 1,283,869
2010-11	California State Teachers' Retirement System (CalSTRS) Service Credit	Ch. 603/94	286	\$ 48,564	\$ 1,000	\$ -	\$ 47,564	\$ -	\$ 47,564
2010-11	Caregiver Affidavits to Establish Residence for School Attendance	Ch. 98/94	172	\$ 509,912	\$ 1,000	\$ -	\$ 508,912	\$ -	\$ 508,912
2010-11	Charter Schools I, II, III	Ch. 781/92	278	\$ 2,038,721	\$ 1,000	\$ -	\$ 2,037,721	\$ -	\$ 2,037,721
2010-11	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	11	\$ 19,951,037	\$ 1,000	\$ -	\$ 19,950,037	\$ -	\$ 19,950,037
2010-11	Comprehensive School Safety Plans I and II	Ch. 736/97; Ch. 996/99	313	\$ 3,242,473	\$ 1,000	\$ -	\$ 3,241,473	\$ -	\$ 3,241,473
2010-11	Consolidation of Annual Parent Notification/Schoolsite Discipline Rules/Alternative Schools	Ch. 448/75	272	\$ 9,390,921	\$ 1,000	\$ -	\$ 9,389,921	\$ -	\$ 9,389,921
2010-11	Consolidation of Law Enforcement Agency Notification and Missing Children Reports	Ch. 1117/89	276	\$ 938,353	\$ 1,000	\$ -	\$ 937,353	\$ -	\$ 937,353
2010-11	Consolidation of Notification to Teachers: Pupils Subject to Suspension or Expulsion and Pupil Discipline Records, Notification to Teachers: Pupils Subject to Suspension or Expulsion II	Ch. 1306/89	292	\$ 7,856,369	\$ 1,000	\$ -	\$ 7,855,369	\$ -	\$ 7,855,369
2010-11	County Office of Education Fiscal Accountability Reporting	Ch. 917/87	209	\$ 297,042	\$ 1,000	\$ -	\$ 296,042	\$ -	\$ 296,042
2010-11	Criminal Background Checks	Ch. 588/97	183	\$ 472,674	\$ 1,000	\$ -	\$ 471,674	\$ -	\$ 471,674
2010-11	Criminal Background Checks II	Ch. 594/98	251	\$ 438,643	\$ 1,000	\$ -	\$ 437,643	\$ -	\$ 437,643
2010-11	Differential Pay and Reemployment	Ch. 30/98	253	\$ 7,611	\$ 1,000	\$ -	\$ 6,611	\$ -	\$ 6,611
2010-11	Expulsion of Pupils Transcript Cost for Appeals	Ch. 1253/75	91	\$ 15,135	\$ -	\$ -	\$ 15,135	\$ -	\$ 15,135
2010-11	Financial and Compliance Audits	Ch. 36/77	192	\$ 281,654	\$ 1,000	\$ -	\$ 280,654	\$ -	\$ 280,654

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Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
2010-11	Graduation Requirements (On or after 01/01/2005)	Ch. 498/93	297	\$ 271,208,498	\$ -	\$ -	\$ 271,208,498	\$ -	\$ 271,208,498
2010-11	Habitual Truant	Ch. 1184/75	166	\$ 6,242,908	\$ 1,000	\$ -	\$ 6,242,908	\$ -	\$ 6,242,908
2010-11	High School Exit Examination	Ch. 1/99	268	\$ 6,695,976	\$ 1,000	\$ -	\$ 6,695,976	\$ -	\$ 6,695,976
2010-11	Immunization Records	Ch. 1176/77	32	\$ 4,524,599	\$ 1,000	\$ -	\$ 4,524,599	\$ -	\$ 4,524,599
2010-11	Immunization Records - Hepatitis B	Ch. 325/78	230	\$ 5,839,873	\$ 1,000	\$ -	\$ 5,839,873	\$ -	\$ 5,839,873
2010-11	Interdistrict Attendance Permits	Ch. 172/86	148	\$ 421,322	\$ -	\$ -	\$ 421,322	\$ -	\$ 421,322
2010-11	Intradistrict Attendance	Ch. 161/93	153	\$ 4,617,785	\$ 1,000	\$ -	\$ 4,617,785	\$ -	\$ 4,617,785
2010-11	Juvenile Court Notices II	Ch. 1423/84	155	\$ 987,871	\$ 1,000	\$ -	\$ 987,871	\$ -	\$ 987,871
2010-11	Mandate Reimbursement Process	Ch. 486/75	42	\$ 16,151,484	\$ 1,000	\$ -	\$ 16,151,484	\$ -	\$ 16,151,484
2010-11	Notification of Truancy	Ch. 498/83	48	\$ 23,989,596	\$ 1,000	\$ -	\$ 23,989,596	\$ -	\$ 23,989,596
2010-11	Open Meetings Act/Brown Act Reform	Ch. 641/86	218	\$ 3,581,330	\$ 1,000	\$ -	\$ 3,581,330	\$ -	\$ 3,581,330
2010-11	Physical Education Reports	Ch. 640/97	195	\$ 9,000	\$ -	\$ -	\$ 9,000	\$ -	\$ 9,000
2010-11	Physical Performance Tests	Ch. 975/95	173	\$ 1,560,115	\$ 1,000	\$ -	\$ 1,560,115	\$ -	\$ 1,560,115
2010-11	Prevailing Wage Rate	Ch. 1249/78	304	\$ 201,323	\$ 1,000	\$ -	\$ 201,323	\$ -	\$ 201,323
2010-11	Pupil Health Screenings	Ch. 1208/76	261	\$ 790,823	\$ 1,000	\$ -	\$ 790,823	\$ -	\$ 790,823
2010-11	Pupil Promotion and Retention	Ch. 100/81	244	\$ 1,890,716	\$ 1,000	\$ -	\$ 1,890,716	\$ -	\$ 1,890,716
2010-11	Pupil Residency Verification and Appeals	Ch. 309/95	182	\$ 10,283	\$ -	\$ -	\$ 10,283	\$ -	\$ 10,283
2010-11	Pupil Safety Notices	Ch. 498/83	280	\$ 119,811	\$ 1,000	\$ -	\$ 119,811	\$ -	\$ 119,811
2010-11	Pupil Suspensions, Expulsions, and Expulsion Appeals	Ch. 965/77	176	\$ 4,815,713	\$ 1,000	\$ -	\$ 4,815,713	\$ -	\$ 4,815,713
2010-11	Removal of Chemicals	Ch. 1107/84	57	\$ 108,771	\$ -	\$ -	\$ 108,771	\$ -	\$ 108,771
2010-11	School Accountability Report Cards	Ch. 1463/89	171	\$ 2,692,899	\$ 1,000	\$ -	\$ 2,692,899	\$ -	\$ 2,692,899
2010-11	School District Fiscal Accountability Reporting and Employee Benefits Disclosure	Ch. 100/81	258	\$ 3,264,325	\$ 1,000	\$ -	\$ 3,264,325	\$ -	\$ 3,264,325
2010-11	School District Reorganization	Ch. 1192/80	228	\$ 7,405	\$ 1,000	\$ -	\$ 7,405	\$ -	\$ 7,405
2010-11	Scoliosis Screening	Ch. 1347/80	58	\$ 205,106	\$ -	\$ -	\$ 205,106	\$ -	\$ 205,106
2010-11	The Stull Act	Ch. 498/83	260	\$ 19,644,388	\$ 1,000	\$ -	\$ 19,644,388	\$ -	\$ 19,644,388
<b>2010-11 Total</b>				<b>\$ 426,368,577</b>	<b>\$ 34,000</b>	<b>\$ -</b>	<b>\$ 426,334,577</b>	<b>\$ -</b>	<b>\$ 426,334,577</b>
2009-10	Agency Fee Arrangements	Ch. 893/00	269	\$ 12,470	\$ 9,355	\$ -	\$ 3,115	\$ -	\$ 3,115
2009-10	AIDS Prevention Instruction II	Ch. 818/91	250	\$ 1,382,762	\$ 1,292,997	\$ -	\$ 89,765	\$ -	\$ 89,765
2009-10	Caregiver Affidavits to Establish Residence for School Attendance	Ch. 98/94	172	\$ 490,948	\$ 488,623	\$ -	\$ 2,325	\$ -	\$ 2,325
2009-10	Charter Schools I, II, III	Ch. 781/92	278	\$ 2,836,753	\$ 1,306,000	\$ -	\$ 1,530,753	\$ -	\$ 1,530,753
2009-10	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	11	\$ 23,262,632	\$ 1,789,000	\$ 5,853	\$ 21,479,485	\$ 3,720	\$ 21,475,765
2009-10	Comprehensive School Safety Plans I and II	Ch. 736/97; Ch. 996/99	313	\$ 3,339,644	\$ 2,996,282	\$ -	\$ 343,362	\$ -	\$ 343,362

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Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
2009-10	Consolidation of Annual Parent Notification/Schoolsite Discipline Rules/Alternative Schools	Ch. 448/75	272	\$ 9,245,785	\$ 8,843,988	\$ -	\$ 401,797	\$ -	\$ 401,797
2009-10	Consolidation of Law Enforcement Agency Notification and Missing Children Reports	Ch. 1117/89	276	\$ 824,608	\$ 1,000	\$ -	\$ 823,608	\$ -	\$ 823,608
2009-10	Consolidation of Notification to Teachers: Pupils Subject to Suspension or Expulsion and Pupil Discipline Records, Notification to Teachers: Pupils Subject to Suspension or Expulsion II	Ch. 1306/89	292	\$ 8,776,032	\$ 6,656,000	\$ 33,477	\$ 2,153,509	\$ 22,396	\$ 2,131,113
2009-10	County Office of Education Fiscal Accountability Reporting	Ch. 917/87	209	\$ 337,987	\$ 282,000	\$ -	\$ 55,987	\$ -	\$ 55,987
2009-10	Criminal Background Checks	Ch. 588/97	183	\$ 444,298	\$ 411,866	\$ -	\$ 32,432	\$ -	\$ 32,432
2009-10	Criminal Background Checks II	Ch. 594/98	251	\$ 382,165	\$ 303,000	\$ -	\$ 79,165	\$ -	\$ 79,165
2009-10	Expulsion of Pupils Transcript Cost for Appeals	Ch. 1253/75	91	\$ 12,754	\$ 1,000	\$ -	\$ 11,754	\$ -	\$ 11,754
2009-10	Financial and Compliance Audits	Ch. 36/77	192	\$ 312,270	\$ 303,505	\$ -	\$ 8,765	\$ -	\$ 8,765
2009-10	Graduation Requirements (On or after 01/01/2005)	Ch. 498/93	297	\$ 268,157,436	\$ 1,000	\$ -	\$ 268,156,436	\$ -	\$ 268,156,436
2009-10	Habitual Truant	Ch. 1184/75	166	\$ 6,257,553	\$ 1,383,000	\$ -	\$ 4,874,553	\$ -	\$ 4,874,553
2009-10	High School Exit Examination	Ch. 1/99	268	\$ 7,419,164	\$ 5,775,998	\$ -	\$ 1,643,166	\$ -	\$ 1,643,166
2009-10	Immunization Records	Ch. 1176/77	32	\$ 4,668,318	\$ 3,803,847	\$ -	\$ 864,471	\$ -	\$ 864,471
2009-10	Immunization Records - Hepatitis B	Ch. 325/78	230	\$ 5,705,616	\$ 4,600,408	\$ 173	\$ 1,105,381	\$ -	\$ 1,105,381
2009-10	Interdistrict Attendance Permits	Ch. 172/86	148	\$ 448,120	\$ -	\$ -	\$ 448,120	\$ -	\$ 448,120
2009-10	Intradistrict Attendance	Ch. 161/93	153	\$ 4,394,453	\$ 3,396,996	\$ -	\$ 997,457	\$ -	\$ 997,457
2009-10	Juvenile Court Notices II	Ch. 1423/84	155	\$ 1,071,881	\$ 993,861	\$ -	\$ 78,020	\$ -	\$ 78,020
2009-10	Mandate Reimbursement Process	Ch. 486/75	42	\$ 16,547,869	\$ 1,000	\$ 5	\$ 16,546,874	\$ 4	\$ 16,546,870
2009-10	Notification of Truancy	Ch. 498/83	48	\$ 18,669,551	\$ 3,645,000	\$ -	\$ 15,024,551	\$ -	\$ 15,024,551
2009-10	Open Meetings Act/Brown Act Reform	Ch. 641/86	218	\$ 3,729,137	\$ -	\$ -	\$ 3,729,137	\$ -	\$ 3,729,137
2009-10	Physical Education Reports	Ch. 640/97	195	\$ 10,552	\$ 1,000	\$ -	\$ 9,552	\$ -	\$ 9,552
2009-10	Physical Performance Tests	Ch. 975/95	173	\$ 1,540,395	\$ 1,457,433	\$ 1,826	\$ 84,788	\$ -	\$ 84,788
2009-10	Prevailing Wage Rate	Ch. 1249/78	304	\$ 22,223	\$ -	\$ -	\$ 22,223	\$ -	\$ 22,223
2009-10	Pupil Health Screenings	Ch. 1208/76	261	\$ 906,604	\$ 746,761	\$ -	\$ 159,843	\$ -	\$ 159,843
2009-10	Pupil Promotion and Retention	Ch. 100/81	244	\$ 2,767,841	\$ 1,073,998	\$ -	\$ 1,693,843	\$ -	\$ 1,693,843
2009-10	Pupil Residency Verification and Appeals	Ch. 309/95	182	\$ 113,910	\$ 1,000	\$ 19	\$ 112,929	\$ -	\$ 112,929
2009-10	Pupil Safety Notices	Ch. 498/83	280	\$ 118,719	\$ 72,000	\$ -	\$ 46,719	\$ -	\$ 46,719
2009-10	Pupil Suspensions, Expulsions, and Expulsion Appeals	Ch. 965/77	176	\$ 5,414,487	\$ 5,205,000	\$ 30,395	\$ 239,882	\$ 30,395	\$ 209,487
2009-10	Removal of Chemicals	Ch. 1107/84	57	\$ 973,526	\$ 1,000	\$ -	\$ 972,526	\$ -	\$ 972,526
2009-10	School Accountability Report Cards	Ch. 1463/89	171	\$ 2,358,194	\$ -	\$ -	\$ 2,358,194	\$ -	\$ 2,358,194
2009-10	School District Fiscal Accountability Reporting and Employee Benefits Disclosure	Ch. 100/81	258	\$ 3,461,835	\$ 2,666,881	\$ -	\$ 794,954	\$ -	\$ 794,954



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Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
2009-10	School District Reorganization	Ch. 1192/80	228	\$ 1,019	\$ 1,000	\$ -	\$ 19	\$ -	\$ 19
2009-10	Scoliosis Screening	Ch. 1347/80	58	\$ 3,292,644	\$ 1,000	\$ -	\$ 3,291,644	\$ -	\$ 3,291,644
2009-10	The Stull Act	Ch. 498/83	260	\$ 19,781,136	\$ 18,244,203	\$ -	\$ 1,536,933	\$ -	\$ 1,536,933
<b>2009-10 Total</b>				<b>\$ 429,493,291</b>	<b>\$ 77,757,002</b>	<b>\$ 71,748</b>	<b>\$ 351,808,037</b>	<b>\$ 56,515</b>	<b>\$ 351,751,522</b>
2008-09	AIDS Prevention Instruction II	Ch. 818/91	250	\$ 1,582,037	\$ 1,587,198	\$ 5,161	\$ -	\$ 1,049	\$ (1,049)
2008-09	California State Teachers' Retirement System (CalSTRS) Service Credit	Ch. 603/94	286	\$ 103,369	\$ 84,999	\$ -	\$ 18,370	\$ -	\$ 18,370
2008-09	Caregiver Affidavits to Establish Residence for School Attendance	Ch. 98/94	172	\$ 614,283	\$ 599,598	\$ 1,120	\$ 15,805	\$ -	\$ 15,805
2008-09	Charter Schools I, II, III	Ch. 781/92	278	\$ 2,559,473	\$ 1,367,020	\$ -	\$ 1,192,453	\$ -	\$ 1,192,453
2008-09	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	11	\$ 22,160,127	\$ 2,748,476	\$ 20,789	\$ 19,432,440	\$ 8,439	\$ 19,424,001
2008-09	Comprehensive School Safety Plans	Ch. 736/97	223	\$ 4,143,100	\$ 3,655,676	\$ 7,808	\$ 495,232	\$ 1,890	\$ 493,342
<b>09</b>	Consolidation of Annual Parent Notification/Schoolsite Discipline Rules/Alternative Schools	Ch. 448/75	272	\$ 10,098,477	\$ 10,958,046	\$ 865,406	\$ 5,837	\$ 853,819	\$ (847,982)
2008-09	Consolidation of Law Enforcement Agency Notification and Missing Children Reports	Ch. 1117/89	276	\$ 891,533	\$ -	\$ -	\$ 891,533	\$ -	\$ 891,533
2008-09	Consolidation of Notification to Teachers: Pupils Subject to Suspension or Expulsion and Pupil Discipline Records, Notification to Teachers: Pupils Subject to Suspension or Expulsion II	Ch. 1306/89	292	\$ 8,511,984	\$ 7,712,086	\$ 1,049	\$ 800,947	\$ 1,049	\$ 799,898
2008-09	County Office of Education Fiscal Accountability Reporting	Ch. 917/87	209	\$ 346,268	\$ 285,499	\$ -	\$ 60,769	\$ -	\$ 60,769
2008-09	Criminal Background Checks	Ch. 588/97	183	\$ 697,267	\$ 664,183	\$ 825	\$ 33,909	\$ -	\$ 33,909
2008-09	Criminal Background Checks II	Ch. 594/98	251	\$ 368,652	\$ 356,058	\$ 1,055	\$ 13,649	\$ 1,055	\$ 12,594
2008-09	Differential Pay and Reemployment	Ch. 30/98	253	\$ 2,996	\$ 2,000	\$ -	\$ 996	\$ -	\$ 996
2008-09	Expulsion of Pupils Transcript Cost for Appeals	Ch. 1253/75	91	\$ 13,929	\$ -	\$ -	\$ 13,929	\$ -	\$ 13,929
2008-09	Financial and Compliance Audits	Ch. 36/77	192	\$ 439,129	\$ 375,966	\$ 2,175	\$ 65,338	\$ 2,175	\$ 63,163
2008-09	Graduation Requirements (On or after 01/01/2005)	Ch. 498/93	297	\$ 261,409,029	\$ 52,675	\$ -	\$ 261,356,354	\$ -	\$ 261,356,354
2008-09	Habitual Truant	Ch. 1184/75	166	\$ 6,805,634	\$ 1,454,979	\$ 1,233	\$ 5,351,888	\$ 1,233	\$ 5,350,655
2008-09	High School Exit Examination	Ch. 1/99	268	\$ 7,755,202	\$ 5,776,234	\$ -	\$ 1,978,968	\$ -	\$ 1,978,968
2008-09	Immunization Records	Ch. 1176/77	32	\$ 4,662,828	\$ 4,629,781	\$ 15,736	\$ 48,783	\$ 14,610	\$ 34,173
2008-09	Immunization Records - Hepatitis B	Ch. 325/78	230	\$ 5,698,071	\$ 5,682,512	\$ 18,091	\$ 33,650	\$ 15,725	\$ 17,925
2008-09	Intradistrict Attendance Permits	Ch. 172/86	148	\$ 363,201	\$ -	\$ -	\$ 363,201	\$ -	\$ 363,201
2008-09	Intradistrict Attendance	Ch. 161/93	153	\$ 4,431,609	\$ 3,620,898	\$ 12,323	\$ 823,034	\$ 4,166	\$ 818,868
2008-09	Juvenile Court Notices II	Ch. 1423/84	155	\$ 1,256,537	\$ 1,094,166	\$ -	\$ 162,371	\$ -	\$ 162,371
2008-09	Mandate Reimbursement Process	Ch. 486/75	42	\$ 16,990,141	\$ 4,536	\$ -	\$ 16,985,605	\$ -	\$ 16,985,605

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Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
2008-09	National Norm-Referenced Achievement Test (formerly Standardized Testing and Reporting (STAR))	Ch. 828/97	265	\$ 65,051	\$ -	\$ -	\$ 65,051	\$ -	\$ 65,051
2008-09	Notification of Truancy	Ch. 498/83	48	\$ 17,620,049	\$ 4,029,457	\$ 1,150	\$ 13,591,742	\$ 1,150	\$ 13,590,592
2008-09	Open Meetings Act/Brown Act Reform	Ch. 641/86	218	\$ 3,808,780	\$ 12,161	\$ -	\$ 3,796,619	\$ -	\$ 3,796,619
2008-09	Physical Education Reports	Ch. 640/97	195	\$ 4,262	\$ -	\$ -	\$ 4,262	\$ -	\$ 4,262
2008-09	Physical Performance Tests	Ch. 975/95	173	\$ 1,813,841	\$ 1,813,430	\$ 4,260	\$ 4,671	\$ 3,151	\$ 1,520
2008-09	Prevailing Wage Rate	Ch. 1249/78	304	\$ 89,256	\$ -	\$ -	\$ 89,256	\$ -	\$ 89,256
2008-09	Pupil Health Screenings	Ch. 1208/76	261	\$ 927,647	\$ 817,208	\$ 12,411	\$ 122,850	\$ 2,322	\$ 120,528
2008-09	Pupil Promotion and Retention	Ch. 100/81	244	\$ 3,165,880	\$ 1,119,545	\$ 471	\$ 2,046,806	\$ -	\$ 2,046,806
2008-09	Pupil Residency Verification and Appeals	Ch. 309/95	182	\$ 109,517	\$ -	\$ -	\$ 109,517	\$ -	\$ 109,517
2008-09	Pupil Safety Notices	Ch. 498/83	280	\$ 87,954	\$ 75,760	\$ -	\$ 12,194	\$ -	\$ 12,194
2008-09	Pupil Suspensions, Expulsions, and Expulsion Appeals	Ch. 965/77	176	\$ 6,359,105	\$ 5,874,265	\$ 203,356	\$ 688,196	\$ -	\$ 688,196
2008-09	Removal of Chemicals	Ch. 1107/84	57	\$ 1,148,847	\$ -	\$ -	\$ 1,148,847	\$ -	\$ 1,148,847
2008-09	School Accountability Report Cards	Ch. 1463/89	171	\$ 2,152,482	\$ 6,523	\$ -	\$ 2,145,959	\$ -	\$ 2,145,959
2008-09	School District Fiscal Accountability Reporting and Employee Benefits Disclosure	Ch. 100/81	258	\$ 3,369,668	\$ 33,027	\$ -	\$ 3,336,641	\$ -	\$ 3,336,641
2008-09	Scoliosis Screening	Ch. 1347/80	58	\$ 3,305,227	\$ 8,159	\$ -	\$ 3,297,068	\$ -	\$ 3,297,068
2008-09	The Stull Act	Ch. 498/83	260	\$ 23,045,261	\$ 20,121,200	\$ 31,751	\$ 2,955,812	\$ 2,218	\$ 2,953,594
<b>2008-09 Total</b>				\$ <b>428,977,703</b>	\$ <b>86,623,321</b>	\$ <b>1,206,170</b>	\$ <b>343,560,552</b>	\$ <b>914,051</b>	\$ <b>342,646,501</b>
2007-08	Absentee Ballots	Ch. 77/78	170	\$ 19,654	\$ 1,000	\$ -	\$ 18,654	\$ -	\$ 18,654
2007-08	Agency Fee Arrangements	Ch. 893/00	269	\$ 5,267	\$ -	\$ -	\$ 5,267	\$ -	\$ 5,267
2007-08	AIDS Prevention Instruction II	Ch. 818/91	250	\$ 1,709,778	\$ 1,000	\$ 7	\$ 1,708,785	\$ 3	\$ 1,708,782
2007-08	California State Teachers' Retirement System (CalSTRS) Service Credit	Ch. 603/94	286	\$ 72,259	\$ -	\$ -	\$ 72,259	\$ -	\$ 72,259
2007-08	Caregiver Affidavits to Establish Residence for School Attendance	Ch. 98/94	172	\$ 624,944	\$ 2,327	\$ -	\$ 622,617	\$ -	\$ 622,617
2007-08	Charter Schools I, II, III	Ch. 781/92	278	\$ 1,740,107	\$ 34,978	\$ -	\$ 1,705,129	\$ -	\$ 1,705,129
2007-08	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	11	\$ 24,970,756	\$ 176,076	\$ 2	\$ 24,794,682	\$ 2	\$ 24,794,680
2007-08	Comprehensive School Safety Plans	Ch. 736/97	223	\$ 4,039,484	\$ 11,300	\$ 3	\$ 4,028,187	\$ 3	\$ 4,028,184
2007-08	Consolidation of Annual Parent Notification/Schoolsite Discipline Rules/Alternative Schools	Ch. 448/75	272	\$ 9,232,098	\$ 17,578	\$ 2	\$ 9,214,522	\$ 2	\$ 9,214,520
2007-08	Consolidation of Law Enforcement Agency Notification and Missing Children Reports	Ch. 1117/89	276	\$ 891,073	\$ 1,000	\$ -	\$ 890,073	\$ -	\$ 890,073

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Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
2007-08	Consolidation of Pupil Discipline Records and Notification to Teachers: Pupils Subject to Suspension or Expulsion II	Ch. 345/00	291	\$ 346,400	\$ 6,343	\$ -	\$ 340,057	\$ -	\$ 340,057
2007-08	County Office of Education Fiscal Accountability Reporting	Ch. 917/87	209	\$ 309,546	\$ 1,000	\$ -	\$ 308,546	\$ -	\$ 308,546
2007-08	Criminal Background Checks	Ch. 588/97	183	\$ 868,045	\$ 3,596	1	\$ 864,450	\$ -	\$ 864,450
2007-08	Criminal Background Checks II	Ch. 594/98	251	\$ 460,761	\$ 1,000	\$ -	\$ 459,761	\$ -	\$ 459,761
2007-08	Expulsion of Pupils Transcript Cost for Appeals	Ch. 1253/75	91	\$ 13,054	\$ 1,000	\$ -	\$ 12,054	\$ -	\$ 12,054
2007-08	Financial and Compliance Audits	Ch. 36/77	192	\$ 415,489	\$ 1,000	\$ -	\$ 414,489	\$ -	\$ 414,489
2007-08	Graduation Requirements	Ch. 498/83	26	\$ 27,025,365	\$ 756	\$ -	\$ 27,024,609	\$ -	\$ 27,024,609
2007-08	Graduation Requirements (On or after 01/01/2005)	Ch. 498/93	297	\$ 231,343,214	\$ 2,117,081	\$ -	\$ 229,226,133	\$ -	\$ 229,226,133
2007-08	Habitual Truant	Ch. 1184/75	166	\$ 7,098,458	\$ 9,611	1	\$ 7,088,848	\$ 1	\$ 7,088,847
2007-08	High School Exit Examination	Ch. 1/99	268	\$ 6,941,272	\$ 2,643	\$ -	\$ 6,938,629	\$ -	\$ 6,938,629
2007-08	Immunization Records	Ch. 1176/77	32	\$ 4,365,533	\$ 165,200	2	\$ 4,200,335	\$ 2	\$ 4,200,333
2007-08	Immunization Records - Hepatitis B	Ch. 325/78	230	\$ 5,527,457	\$ 14,204	3	\$ 5,513,256	\$ 3	\$ 5,513,253
2007-08	Interdistrict Attendance Permits	Ch. 172/86	148	\$ 267,572	\$ -	\$ -	\$ 267,572	\$ -	\$ 267,572
2007-08	Intradistrict Attendance	Ch. 161/93	153	\$ 4,238,386	\$ 1,000	\$ -	\$ 4,237,386	\$ -	\$ 4,237,386
2007-08	Juvenile Court Notices II	Ch. 1423/84	155	\$ 1,159,907	\$ 1,000	\$ -	\$ 1,158,907	\$ -	\$ 1,158,907
2007-08	Mandate Reimbursement Process	Ch. 486/75	42	\$ 16,426,591	\$ 3,785	\$ -	\$ 16,422,806	\$ -	\$ 16,422,806
2007-08	National Norm-Referenced Achievement Test (formerly Standardized Testing and Reporting (STAR))	Ch. 828/97	265	\$ 3,431,203	\$ 9,177	\$ -	\$ 3,422,026	\$ -	\$ 3,422,026
2007-08	Notification of Truancy	Ch. 498/83	48	\$ 16,873,954	\$ 34,745	10	\$ 16,839,219	\$ 1	\$ 16,839,218
2007-08	Notification to Teachers: Pupils Subject to Suspension or Expulsion	Ch. 1306/89	150	\$ 7,031,993	\$ 14,344	9	\$ 7,017,658	\$ 2	\$ 7,017,656
2007-08	Open Meetings Act/Brown Act Reform	Ch. 641/86	218	\$ 3,828,853	\$ 9,565	1,811	\$ 3,821,099	\$ -	\$ 3,821,099
2007-08	Physical Education Reports	Ch. 640/97	195	\$ 9,014	\$ 1,000	\$ -	\$ 8,014	\$ -	\$ 8,014
2007-08	Physical Performance Tests	Ch. 975/95	173	\$ 1,914,563	\$ 858,358	2	\$ 1,056,207	\$ 2	\$ 1,056,205
2007-08	Prevailing Wage Rate	Ch. 1249/78	304	\$ 150,888	\$ -	\$ -	\$ 150,888	\$ -	\$ 150,888
2007-08	Pupil Health Screenings	Ch. 1208/76	261	\$ 840,766	\$ 5,309	2	\$ 835,459	\$ 2	\$ 835,457
2007-08	Pupil Promotion and Retention	Ch. 100/81	244	\$ 2,791,621	\$ 12,880	\$ -	\$ 2,778,741	\$ -	\$ 2,778,741
2007-08	Pupil Residency Verification and Appeals	Ch. 309/95	182	\$ 90,993	\$ 1,000	\$ -	\$ 89,993	\$ -	\$ 89,993
2007-08	Pupil Safety Notices	Ch. 498/83	280	\$ 23,080	\$ -	\$ -	\$ 23,080	\$ -	\$ 23,080
2007-08	Pupil Suspensions, Expulsions, and Expulsion Appeals	Ch. 965/77	176	\$ 7,077,212	\$ 19,711	22	\$ 7,057,523	\$ 1	\$ 7,057,522
2007-08	Removal of Chemicals	Ch. 1107/84	57	\$ 1,377,233	\$ 1,000	\$ -	\$ 1,376,233	\$ -	\$ 1,376,233
2007-08	School Accountability Report Cards	Ch. 1463/89	171	\$ 2,194,113	\$ 7,936	\$ -	\$ 2,186,177	\$ -	\$ 2,186,177
2007-08	School District Fiscal Accountability Reporting and Employee Benefits Disclosure	Ch. 100/81	258	\$ 3,249,617	\$ 8,920	2,501	\$ 3,243,198	\$ 2,501	\$ 3,240,697

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Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
2007-08	School District Reorganization	Ch. 1192/80	228	\$ 47,447	\$ 1,000	\$ -	\$ 46,447	\$ -	\$ 46,447
2007-08	Scoliosis Screening	Ch. 1347/80	58	\$ 3,358,946	\$ 13,462	\$ 2	\$ 3,345,486	\$ 2	\$ 3,345,484
2007-08	The Stull Act	Ch. 498/83	260	\$ 22,168,457	\$ 55,548	\$ -	\$ 22,112,909	\$ -	\$ 22,112,909
<b>2007-08 Total</b>				<b>\$ 426,572,423</b>	<b>\$ 3,628,433</b>	<b>\$ 4,380</b>	<b>\$ 422,948,370</b>	<b>\$ 2,527</b>	<b>\$ 422,945,843</b>
2006-07	Agency Fee Arrangements	Ch. 893/00	269	\$ 6,011	\$ -	\$ -	\$ 6,011	\$ -	\$ 6,011
2006-07	AIDS Prevention Instruction II	Ch. 818/91	250	\$ 1,560,401	\$ 258,087	\$ 54,327	\$ 1,356,641	\$ 1,942	\$ 1,354,699
2006-07	California State Teachers' Retirement System (CalSTRS) Service Credit	Ch. 603/94	286	\$ 87,725	\$ -	\$ -	\$ 87,725	\$ -	\$ 87,725
2006-07	Caregiver Affidavits to Establish Residence for School Attendance	Ch. 98/94	172	\$ 713,312	\$ 134,787	\$ 28,693	\$ 607,218	\$ 13,666	\$ 593,552
2006-07	Charter Schools II	Ch. 34/98	249	\$ 2,310,086	\$ 168,098	\$ 20,038	\$ 2,162,026	\$ -	\$ 2,162,026
2006-07	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	11	\$ 27,822,780	\$ 3,635,220	\$ 147,591	\$ 24,335,151	\$ 28,754	\$ 24,306,397
2006-07	Comprehensive School Safety Plans	Ch. 736/97	223	\$ 3,840,616	\$ 712,859	\$ 93,330	\$ 3,221,087	\$ 48,349	\$ 3,172,738
2006-07	Consolidation of Annual Parent Notification/Schoolsite Discipline Rules/Alternative Schools	Ch. 448/75	272	\$ 9,089,467	\$ 1,473,263	\$ 55,256	\$ 7,671,460	\$ 6,462	\$ 7,664,998
2006-07	Consolidation of Pupil Discipline Records and Notification to Teachers: Pupils Subject to Suspension or Expulsion II	Ch. 345/00	291	\$ 215,949	\$ -	\$ -	\$ 215,949	\$ -	\$ 215,949
2006-07	County Office of Education Fiscal Accountability Reporting	Ch. 917/87	209	\$ 271,074	\$ 51,218	\$ 15,158	\$ 235,014	\$ -	\$ 235,014
2006-07	Criminal Background Checks	Ch. 588/97	183	\$ 814,197	\$ 164,784	\$ 40,116	\$ 689,529	\$ 677	\$ 688,852
2006-07	Criminal Background Checks II	Ch. 594/98	251	\$ 555,064	\$ 47,894	\$ 6,681	\$ 513,851	\$ 1,789	\$ 512,062
2006-07	Differential Pay and Reemployment	Ch. 30/98	253	\$ 2,919	\$ 1,262	\$ 1,262	\$ 2,919	\$ 1,262	\$ 1,657
2006-07	Expulsion of Pupils Transcript Cost for Appeals	Ch. 1253/75	91	\$ 14,079	\$ 2,924	\$ -	\$ 11,155	\$ -	\$ 11,155
2006-07	Financial and Compliance Audits	Ch. 36/77	192	\$ 386,700	\$ 54,891	\$ 16,641	\$ 348,450	\$ 1,125	\$ 347,325
2006-07	Graduation Requirements	Ch. 498/83	26	\$ 65,289,197	\$ 12,036,209	\$ 491,772	\$ 53,744,760	\$ 488,378	\$ 53,256,382
2006-07	Graduation Requirements (On or after 01/01/2005)	Ch. 498/93	297	\$ 173,189,364	\$ 3,001,107	\$ -	\$ 170,188,257	\$ -	\$ 170,188,257
2006-07	Habitual Truant	Ch. 1184/75	166	\$ 6,719,558	\$ 866,625	\$ 69,622	\$ 5,922,555	\$ 21,674	\$ 5,900,881
2006-07	High School Exit Examination	Ch. 1/99	268	\$ 6,589,849	\$ 8,349	\$ -	\$ 6,581,500	\$ -	\$ 6,581,500
2006-07	Immunization Records	Ch. 1176/77	32	\$ 4,151,300	\$ 1,878,665	\$ 1,352	\$ 2,273,987	\$ 440	\$ 2,273,547
2006-07	Immunization Records - Hepatitis B	Ch. 325/78	230	\$ 5,373,009	\$ 918,967	\$ 10,680	\$ 4,464,722	\$ 2,570	\$ 4,462,152
2006-07	Interdistrict Attendance Permits	Ch. 172/86	148	\$ 224,134	\$ -	\$ -	\$ 224,134	\$ -	\$ 224,134
2006-07	Intradistrict Attendance	Ch. 161/93	153	\$ 4,509,810	\$ 849,782	\$ 65,813	\$ 3,725,841	\$ 6,023	\$ 3,719,818
2006-07	Juvenile Court Notices II	Ch. 1423/84	155	\$ 1,176,856	\$ 199,433	\$ 28,652	\$ 1,006,075	\$ 1,204	\$ 1,004,871
2006-07	Law Enforcement Agency Notification	Ch. 1117/89	157	\$ 1,656,765	\$ 233,893	\$ 32,178	\$ 1,455,050	\$ 2,157	\$ 1,452,893
2006-07	Mandate Reimbursement Process	Ch. 486/75	42	\$ 15,562,513	\$ 21,089	\$ -	\$ 15,541,424	\$ -	\$ 15,541,424

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Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
2006-07	National Norm-Referenced Achievement Test (formerly Standardized Testing and Reporting (STAR))	Ch. 828/97	265	\$ 3,247,854	\$ 21,019	\$ -	\$ 3,226,835	\$ -	\$ 3,226,835
2006-07	Notification of Truancy	Ch. 498/83	48	\$ 14,663,645	\$ 2,148,624	\$ 203,988	\$ 12,719,009	\$ 4,353	\$ 12,714,656
2006-07	Notification to Teachers: Pupils Subject to Suspension or Expulsion	Ch. 1306/89	150	\$ 6,617,290	\$ 983,500	\$ 60,300	\$ 5,694,090	\$ 5,377	\$ 5,688,713
2006-07	Open Meetings Act/Brown Act Reform	Ch. 641/86	218	\$ 3,724,236	\$ 6,331	\$ -	\$ 3,717,905	\$ -	\$ 3,717,905
2006-07	Physical Education Reports	Ch. 640/97	195	\$ 6,689	\$ -	\$ -	\$ 6,689	\$ -	\$ 6,689
2006-07	Physical Performance Tests	Ch. 975/95	173	\$ 1,756,962	\$ 1,799,595	\$ 43,787	\$ 1,214	\$ 5,365	\$ (4,151)
2006-07	Prevailing Wage Rate	Ch. 1249/78	304	\$ 52,810	\$ -	\$ -	\$ 52,810	\$ -	\$ 52,810
2006-07	Pupil Health Screenings	Ch. 1208/76	261	\$ 814,086	\$ 220,091	\$ 72,250	\$ 666,245	\$ 42,954	\$ 623,291
2006-07	Pupil Promotion and Retention	Ch. 100/81	244	\$ 3,239,841	\$ 497,745	\$ 73,306	\$ 2,815,402	\$ 22,995	\$ 2,792,407
2006-07	Pupil Residency Verification and Appeals	Ch. 309/95	182	\$ 68,265	\$ 55,327	\$ 1,388	\$ 14,326	\$ -	\$ 14,326
2006-07	Pupil Safety Notices	Ch. 498/83	280	\$ 14,665	\$ -	\$ -	\$ 14,665	\$ -	\$ 14,665
2006-07	Pupil Suspensions, Expulsions, and Expulsion Appeals	Ch. 965/77	176	\$ 7,224,918	\$ 541,527	\$ 35,024	\$ 6,718,415	\$ 9,069	\$ 6,709,346
2006-07	Removal of Chemicals	Ch. 1107/84	57	\$ 964,299	\$ 68,494	\$ 14,205	\$ 910,010	\$ -	\$ 910,010
2006-07	School Accountability Report Cards	Ch. 1463/89	171	\$ 2,196,998	\$ 2,251	\$ -	\$ 2,194,747	\$ -	\$ 2,194,747
2006-07	School District Fiscal Accountability Reporting and Employee Benefits Disclosure	Ch. 100/81	258	\$ 2,758,435	\$ 670,203	\$ 42,825	\$ 2,131,057	\$ 2,402	\$ 2,128,655
2006-07	School District Reorganization	Ch. 1192/80	228	\$ 14,952	\$ -	\$ -	\$ 14,952	\$ -	\$ 14,952
2006-07	Scoliosis Screening	Ch. 1347/80	58	\$ 3,087,553	\$ 535,793	\$ 15,442	\$ 2,567,202	\$ 1,928	\$ 2,565,274
2006-07	The Stull Act	Ch. 498/83	260	\$ 20,924,951	\$ 148,316	\$ -	\$ 20,776,635	\$ -	\$ 20,776,635
2006-07 Total				\$ 403,511,184	\$ 34,418,162	\$ 1,741,677	\$ 370,834,699	\$ 720,915	\$ 370,113,784
2005-06	Agency Fee Arrangements	Ch. 893/00	269	\$ 13,832	\$ -	\$ -	\$ 13,832	\$ -	\$ 13,832
2005-06	AIDS Prevention Instruction II	Ch. 818/91	250	\$ 1,529,642	\$ 243,787	\$ -	\$ 1,285,855	\$ -	\$ 1,285,855
2005-06	California State Teachers' Retirement System (CalSTRS) Service Credit	Ch. 603/94	286	\$ 81,632	\$ -	\$ -	\$ 81,632	\$ -	\$ 81,632
2005-06	Caregiver Affidavits to Establish Residence for School Attendance	Ch. 98/94	172	\$ 789,966	\$ 130,023	\$ -	\$ 659,943	\$ -	\$ 659,943
2005-06	Charter Schools II	Ch. 34/98	249	\$ 1,894,352	\$ 64,827	\$ -	\$ 1,829,525	\$ -	\$ 1,829,525
2005-06	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	11	\$ 28,153,468	\$ 25,429,829	\$ 6,496,543	\$ 9,220,182	\$ 1,084,246	\$ 8,135,936
2005-06	Comprehensive School Safety Plans	Ch. 736/97	223	\$ 4,128,203	\$ 282,342	\$ -	\$ 3,845,861	\$ -	\$ 3,845,861
2005-06	Consolidation of Annual Parent Notification/Schoolsite Discipline Rules/Alternative Schools	Ch. 448/75	272	\$ 8,377,096	\$ 4,965,996	\$ -	\$ 3,411,100	\$ -	\$ 3,411,100

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Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
2005-06	Consolidation of Pupil Discipline Records and Notification to Teachers: Pupils Subject to Suspension or Expulsion II	Ch. 345/00	291	\$ 221,637	\$ -	\$ -	\$ 221,637	\$ -	\$ 221,637
2005-06	County Office of Education Fiscal Accountability Reporting	Ch. 917/87	209	\$ 330,968	\$ 3,536	\$ -	\$ 327,432	\$ -	\$ 327,432
2005-06	Criminal Background Checks	Ch. 588/97	183	\$ 1,054,716	\$ 1,081,409	\$ 324,824	\$ 298,131	\$ 1,743	\$ 296,388
2005-06	Criminal Background Checks II	Ch. 594/98	251	\$ 347,467	\$ 15,349	\$ -	\$ 332,118	\$ -	\$ 332,118
2005-06	Differential Pay and Reemployment	Ch. 30/98	253	\$ 9,089	\$ 968	\$ -	\$ 8,121	\$ -	\$ 8,121
2005-06	Expulsion of Pupils Transcript Cost for Appeals	Ch. 1253/75	91	\$ 11,182	\$ 1,696	\$ -	\$ 9,486	\$ -	\$ 9,486
2005-06	Financial and Compliance Audits	Ch. 36/77	192	\$ 345,937	\$ 68,025	\$ -	\$ 277,912	\$ -	\$ 277,912
2005-06	Graduation Requirements	Ch. 498/83	26	\$ 43,202,517	\$ 21,235,476	\$ 2,628,221	\$ 24,595,262	\$ 1,687,473	\$ 22,907,789
2005-06	Graduation Requirements (On or after 01/01/2005)	Ch. 498/93	297	\$ 178,572,293	\$ 6,217,536	\$ -	\$ 172,354,757	\$ -	\$ 172,354,757
2005-06	Habitual Truant	Ch. 1184/75	166	\$ 5,514,935	\$ 594,156	\$ -	\$ 4,920,779	\$ -	\$ 4,920,779
2005-06	High School Exit Examination	Ch. 1/99	268	\$ 6,928,053	\$ 1,095,422	\$ -	\$ 5,832,631	\$ -	\$ 5,832,631
2005-06	Immunization Records	Ch. 1176/77	32	\$ 3,940,566	\$ 3,030,032	\$ -	\$ 910,534	\$ -	\$ 910,534
2005-06	Immunization Records - Hepatitis B	Ch. 325/78	230	\$ 5,033,509	\$ 1,277,245	\$ -	\$ 3,756,264	\$ -	\$ 3,756,264
2005-06	Interdistrict Attendance Permits	Ch. 172/86	148	\$ 187,472	\$ -	\$ -	\$ 187,472	\$ -	\$ 187,472
2005-06	Intradistrict Attendance	Ch. 161/93	153	\$ 4,741,022	\$ 4,201,929	\$ 1,319,463	\$ 1,858,556	\$ 23,503	\$ 1,835,053
2005-06	Juvenile Court Notices II	Ch. 1423/84	155	\$ 1,185,878	\$ 223,002	\$ -	\$ 962,876	\$ -	\$ 962,876
2005-06	Law Enforcement Agency Notification	Ch. 1117/89	157	\$ 1,550,790	\$ 62,327	\$ -	\$ 1,488,463	\$ -	\$ 1,488,463
2005-06	Mandate Reimbursement Process	Ch. 486/75	42	\$ 16,509,166	\$ 1,240,990	\$ -	\$ 15,268,176	\$ -	\$ 15,268,176
2005-06	National Norm-Referenced Achievement Test (formerly Standardized Testing and Reporting (STAR))	Ch. 828/97	265	\$ 2,832,985	\$ 88,163	\$ -	\$ 2,744,822	\$ -	\$ 2,744,822
2005-06	Notification of Truancy	Ch. 498/83	48	\$ 12,359,486	\$ 2,492,581	\$ -	\$ 9,866,905	\$ -	\$ 9,866,905
2005-06	Notification to Teachers: Pupils Subject to Suspension or Expulsion	Ch. 1306/89	150	\$ 5,726,692	\$ 5,067,383	\$ 1,191,913	\$ 1,851,222	\$ 19,591	\$ 1,831,631
2005-06	Open Meetings Act/Brown Act Reform	Ch. 641/86	218	\$ 3,290,016	\$ 5,272	\$ -	\$ 3,284,744	\$ -	\$ 3,284,744
2005-06	Prevailing Wage Rate	Ch. 1249/78	304	\$ 6,121	\$ -	\$ -	\$ 6,121	\$ -	\$ 6,121
2005-06	Pupil Classroom Suspension: Counseling	Ch. 965/77	151	\$ -	\$ 154,522	\$ 154,522	\$ -	\$ 3,896	\$ (3,896)
2005-06	Pupil Exclusions	Ch. 668/78	165	\$ 858,538	\$ -	\$ -	\$ 858,538	\$ -	\$ 858,538
2005-06	Pupil Exclusions from School: Additional Hearing Costs for Mandatory Recommendations for Expulsion	Ch. 1253/75	271	\$ 4,310,781	\$ 149,779	\$ -	\$ 4,161,002	\$ -	\$ 4,161,002
2005-06	Pupil Health Screenings	Ch. 1208/76	261	\$ 1,283,024	\$ 155,887	\$ -	\$ 1,127,137	\$ -	\$ 1,127,137
2005-06	Pupil Promotion and Retention	Ch. 100/81	244	\$ 3,003,669	\$ 412,997	\$ -	\$ 2,590,672	\$ -	\$ 2,590,672
2005-06	Pupil Residency Verification and Appeals	Ch. 309/95	182	\$ 283,789	\$ 2,296	\$ -	\$ 281,493	\$ -	\$ 281,493
2005-06	Pupil Safety Notices	Ch. 498/83	280	\$ 10,081	\$ -	\$ -	\$ 10,081	\$ -	\$ 10,081
2005-06	Pupil Suspensions, Expulsions, and Expulsion Appeals	Ch. 965/77	176	\$ 3,178,106	\$ 492,585	\$ 337	\$ 2,685,858	\$ 337	\$ 2,685,521

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Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
2005-06	Removal of Chemicals	Ch. 1107/84	57	\$ 1,056,004	\$ 118,591	\$ -	\$ 937,413	\$ -	\$ 937,413
2005-06	School Accountability Report Cards	Ch. 1463/89	171	\$ 1,823,094	\$ 8,633	\$ -	\$ 1,814,461	\$ -	\$ 1,814,461
2005-06	Scoliosis Screening	Ch. 1347/80	58	\$ 2,981,606	\$ 628,890	\$ -	\$ 2,352,716	\$ -	\$ 2,352,716
2005-06	The Stull Act	Ch. 498/83	260	\$ 22,852,794	\$ 2,723,402	\$ -	\$ 20,129,392	\$ -	\$ 20,129,392
<b>2005-06 Total</b>				<b>\$ 380,512,174</b>	<b>\$ 83,966,883</b>	<b>\$ 12,115,823</b>	<b>\$ 308,661,114</b>	<b>\$ 2,820,789</b>	<b>\$ 305,840,325</b>
2004-05	Agency Fee Arrangements	Ch. 893/00	269	\$ 11,498	\$ -	\$ -	\$ 11,498	\$ -	\$ 11,498
2004-05	AIDS Prevention Instruction II	Ch. 818/91	250	\$ 1,663,814	\$ 1,664,911	\$ 1,097	\$ -	\$ 1,097	\$ (1,097)
2004-05	American Government Course Document Requirements	Ch. 778/96	179	\$ 35,823	\$ 37,551	\$ 1,728	\$ -	\$ 1,728	\$ (1,728)
2004-05	Annual Parent Notification III	Ch. 448/75	221	\$ 6,550,640	\$ 6,562,322	\$ 11,682	\$ -	\$ 11,682	\$ (11,682)
2004-05	California State Teachers' Retirement System (CalSTRS) Service Credit	Ch. 603/94	286	\$ 84,930	\$ -	\$ -	\$ 84,930	\$ -	\$ 84,930
2004-05	Caregiver Affidavits to Establish Residence for School Attendance	Ch. 98/94	172	\$ 862,291	\$ 870,632	\$ 8,341	\$ -	\$ 8,341	\$ (8,341)
<b>95</b>									
2004-05	Consolidation of Annual Parent Notification/Schoolsite Discipline Rules/Alternative Schools	Ch. 448/75	272	\$ 3,836,796	\$ 4,069,704	\$ 232,908	\$ -	\$ -	\$ (5,385)
2004-05	Consolidation of Pupil Discipline Records and Notification to Teachers: Pupils Subject to Suspension or Expulsion II	Ch. 345/00	291	\$ 278,636	\$ -	\$ -	\$ 278,636	\$ -	\$ 278,636
2004-05	Criminal Background Checks	Ch. 588/97	183	\$ 972,414	\$ 977,578	\$ 5,164	\$ -	\$ 5,164	\$ (5,164)
2004-05	Criminal Background Checks II	Ch. 594/98	251	\$ 410,381	\$ 423,650	\$ 13,269	\$ -	\$ 13,269	\$ (13,269)
2004-05	Emergency Procedures, Earthquake Procedures, and Disasters and Comprehensive School Safety Plans	Ch. 1659/84	225	\$ 7,692,381	\$ 9,983,724	\$ 2,291,343	\$ -	\$ 74,259	\$ (74,259)
2004-05	Financial and Compliance Audits	Ch. 36/77	192	\$ 326,816	\$ 355,259	\$ 28,443	\$ -	\$ 11,568	\$ (11,568)
2004-05	Graduation Requirements	Ch. 498/83	26	\$ 32,114,075	\$ 17,390,586	\$ 1,642,371	\$ 16,365,860	\$ 1,642,371	\$ 14,723,489
2004-05	Graduation Requirements (07/01/2004 to 12/21/2004)	Ch. 498/93	296	\$ 74,192,532	\$ 6,601,196	\$ -	\$ 67,591,336	\$ -	\$ 67,591,336
2004-05	Graduation Requirements (On or after 01/01/2005)	Ch. 498/93	297	\$ 98,984,746	\$ 4,964,664	\$ -	\$ 94,020,082	\$ -	\$ 94,020,082
2004-05	Habitual Truant	Ch. 1184/75	166	\$ 5,326,856	\$ 5,413,644	\$ 86,788	\$ -	\$ 84,864	\$ (84,864)
2004-05	High School Exit Examination	Ch. 1/99	268	\$ 3,889,184	\$ 382,026	\$ -	\$ 3,507,158	\$ -	\$ 3,507,158
2004-05	Immunization Records	Ch. 1176/77	32	\$ 3,750,504	\$ 3,757,899	\$ 7,395	\$ -	\$ 2,367	\$ (2,367)
2004-05	Immunization Records - Hepatitis B	Ch. 325/78	230	\$ 4,852,850	\$ 4,857,705	\$ 4,855	\$ -	\$ 1,409	\$ (1,409)
2004-05	Interdistrict Attendance Permits	Ch. 172/86	148	\$ 143,450	\$ -	\$ -	\$ 143,450	\$ -	\$ 143,450
2004-05	Mandate Reimbursement Process	Ch. 486/75	42	\$ 16,131,558	\$ 16,328,166	\$ 196,608	\$ -	\$ 196,608	\$ (196,608)
2004-05	National Norm-Referenced Achievement Test (formerly Standardized Testing and Reporting (STAR))	Ch. 828/97	265	\$ 1,985,085	\$ 8,083	\$ -	\$ 1,977,002	\$ -	\$ 1,977,002
2004-05	Notification of Tuancy	Ch. 498/83	48	\$ 9,690,577	\$ 9,947,003	\$ 256,426	\$ -	\$ 62,861	\$ (62,861)

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2004-05	Notification to Teachers: Pupils Subject to Suspension or Expulsion	Ch. 1306/89	150	\$ 5,227,141	\$ 5,228,896	\$ 1,755	\$ -	\$ 1,755	\$ (1,755)
2004-05	Open Meetings Act/Brown Act Reform	Ch. 641/86	218	\$ 5,599,525	\$ 1,700,970	\$ -	\$ 3,898,555	\$ -	\$ 3,898,555
2004-05	Physical Performance Tests	Ch. 975/95	173	\$ 1,640,120	\$ 1,661,277	\$ 21,157	\$ -	\$ 21,157	\$ (21,157)
2004-05	Prevailing Wage Rate	Ch. 1249/78	304	\$ 52,254	\$ -	\$ -	\$ 52,254	\$ -	\$ 52,254
2004-05	Pupil Classroom Suspension: Counseling	Ch. 965/77	151	\$ 284,214	\$ 306,009	\$ 21,795	\$ -	\$ 21,795	\$ (21,795)
2004-05	Pupil Exclusions	Ch. 668/78	165	\$ 2,729,603	\$ 2,732,862	\$ 3,259	\$ -	\$ 3,259	\$ (3,259)
2004-05	Pupil Expulsions from School: Additional Hearing Costs for Mandatory Recommendations for Expulsion	Ch. 1253/75	271	\$ 3,862,106	\$ 181,412	\$ -	\$ 3,680,694	\$ -	\$ 3,680,694
2004-05	Pupil Health Screenings	Ch. 1208/76	139	\$ 357,362	\$ 517,712	\$ 160,350	\$ -	\$ 159,185	\$ (159,185)
2004-05	Pupil Promotion and Retention	Ch. 100/81	244	\$ 2,403,492	\$ 2,545,284	\$ 141,792	\$ -	\$ 8,374	\$ (8,374)
2004-05	Pupil Safety Notices	Ch. 498/83	280	\$ 6,645	\$ -	\$ -	\$ 6,645	\$ -	\$ 6,645
2004-05	Pupil Suspensions, Expulsions, and Expulsion Appeals	Ch. 965/77	176	\$ 2,347,445	\$ 2,363,625	\$ 16,180	\$ -	\$ 9,275	\$ (9,275)
2004-05	Removal of Chemicals	Ch. 1107/84	57	\$ 1,056,561	\$ 497,056	\$ -	\$ 559,505	\$ -	\$ 559,505
2004-05	School Accountability Report Cards	Ch. 1463/89	171	\$ 3,386,012	\$ 3,469,148	\$ 96,733	\$ 13,597	\$ 96,733	\$ (83,136)
2004-05	School District Fiscal Accountability Reporting	Ch. 100/81	211	\$ 2,257,308	\$ 2,281,039	\$ 23,731	\$ -	\$ 23,731	\$ (23,731)
2004-05	Scoliosis Screening	Ch. 1347/80	58	\$ 2,735,317	\$ 2,743,490	\$ 8,173	\$ -	\$ 2,683	\$ (2,683)
2004-05	The Stull Act	Ch. 498/83	260	\$ 20,538,503	\$ 4,106,678	\$ -	\$ 16,431,825	\$ -	\$ 16,431,825
<b>2004-05 Total</b>				<b>\$ 328,271,445</b>	<b>\$ 124,931,761</b>	<b>\$ 5,283,343</b>	<b>\$ 208,623,027</b>	<b>\$ 2,470,920</b>	<b>\$ 206,152,107</b>
2003-04	Agency Fee Arrangements	Ch. 893/00	269	\$ 8,283	\$ 2,157	\$ -	\$ 6,126	\$ -	\$ 6,126
2003-04	California State Teachers' Retirement System (CalSTRS)	Ch. 603/94	286	\$ 49,345	\$ -	\$ -	\$ 49,345	\$ -	\$ 49,345
2003-04	Service Credit								
2003-04	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	11	\$ 28,107,019	\$ 28,624,494	\$ 517,475	\$ -	\$ 84,228	\$ (84,228)
2003-04	Consolidation of Pupil Discipline Records and Notification to Teachers: Pupils Subject to Suspension or Expulsion II	Ch. 345/00	291	\$ 176,468	\$ -	\$ -	\$ 176,468	\$ -	\$ 176,468
2003-04	Graduation Requirements (07/01/1995 to 06/30/2004)	Ch. 498/93	295	\$ 169,671,206	\$ 7,533,910	\$ -	\$ 162,137,296	\$ -	\$ 162,137,296
2003-04	Grand Jury Proceedings	Ch. 1170/96	226	\$ 31,159	\$ 13,282	\$ -	\$ 17,877	\$ -	\$ 17,877
2003-04	High School Exit Examination	Ch. 1/99	268	\$ 3,069,238	\$ 228,359	\$ -	\$ 2,840,879	\$ -	\$ 2,840,879
2003-04	Notification of Truancy	Ch. 498/83	48	\$ 8,694,253	\$ 9,947,598	\$ 1,253,345	\$ -	\$ 847,862	\$ (847,862)
2003-04	Open Meetings Act/Brown Act Reform	Ch. 641/86	218	\$ 6,207,326	\$ 2,162,772	\$ -	\$ 4,044,554	\$ -	\$ 4,044,554
2003-04	Prevailing Wage Rate	Ch. 1249/78	304	\$ 117,173	\$ -	\$ -	\$ 117,173	\$ -	\$ 117,173
2003-04	Pupil Expulsions from School: Additional Hearing Costs for Mandatory Recommendations for Expulsion	Ch. 1253/75	271	\$ 3,544,682	\$ 148,474	\$ -	\$ 3,396,208	\$ -	\$ 3,396,208
2003-04	Pupil Health Screenings	Ch. 1208/76	139	\$ 3,233,418	\$ 4,199,881	\$ 966,463	\$ -	\$ 966,463	\$ (966,463)
2003-04	Pupil Safety Notices	Ch. 498/83	280	\$ 6,634	\$ -	\$ -	\$ 6,634	\$ -	\$ 6,634



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2003-04	Removal of Chemicals	Ch. 1107/84	57	\$ 1,112,874	\$ 652,458	\$ -	\$ 460,416	\$ -	\$ 460,416
2003-04	School Accountability Report Cards	Ch. 1463/89	171	\$ 3,863,134	\$ 3,863,134	\$ 69	\$ 69	\$ -	\$ 69
2003-04	Standardized Testing and Reporting	Ch. 828/97	208	\$ 18,192,862	\$ 6,523,671	\$ 18,700	\$ 11,687,891	\$ -	\$ 11,687,891
2003-04	The Stull Act	Ch. 498/83	260	\$ 17,141,199	\$ 3,626,695	\$ -	\$ 13,514,504	\$ -	\$ 13,514,504
<b>2003-04 Total</b>				<b>\$ 263,226,273</b>	<b>\$ 67,526,885</b>	<b>\$ 2,756,052</b>	<b>\$ 198,455,440</b>	<b>\$ 1,898,553</b>	<b>\$ 196,556,887</b>
2002-03	California State Teachers' Retirement System (CalSTRS) Service Credit	Ch. 603/94	286	\$ 39,773	\$ -	\$ -	\$ 39,773	\$ -	\$ 39,773
2002-03	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	11	\$ 30,770,605	\$ 31,462,997	\$ 867,444	\$ 175,052	\$ 40,676	\$ 134,376
2002-03	Consolidation of Pupil Discipline Records and Notification to Teachers: Pupils Subject to Suspension or Expulsion II	Ch. 345/00	291	\$ 194,231	\$ -	\$ -	\$ 194,231	\$ -	\$ 194,231
2002-03	Graduation Requirements (07/01/1995 to 06/30/2004)	Ch. 498/93	295	\$ 176,566,893	\$ 5,767,696	\$ -	\$ 170,799,197	\$ -	\$ 170,799,197
2002-03	Grand Jury Proceedings	Ch. 1170/96	226	\$ 73,771	\$ 61,567	\$ -	\$ 12,204	\$ -	\$ 12,204
2002-03	High School Exit Examination	Ch. 1/99	268	\$ 3,016,345	\$ 216,611	\$ -	\$ 2,799,734	\$ -	\$ 2,799,734
2002-03	Intradistrict Attendance	Ch. 161/93	153	\$ 7,235,790	\$ 7,305,607	\$ 204,853	\$ 135,036	\$ -	\$ 135,036
2002-03	Notification of Truancy	Ch. 498/83	48	\$ 7,484,519	\$ 8,379,729	\$ 895,210	\$ -	\$ 538,111	\$ (538,111)
2002-03	Open Meetings Act/Brown Act Reform	Ch. 641/86	218	\$ 7,144,281	\$ 3,182,484	\$ -	\$ 3,961,797	\$ -	\$ 3,961,797
2002-03	Pupil Expulsions from School: Additional Hearing Costs for Mandatory Recommendations for Expulsion	Ch. 1253/75	271	\$ 2,711,305	\$ 84,178	\$ -	\$ 2,627,127	\$ -	\$ 2,627,127
2002-03	Pupil Health Screenings	Ch. 1208/76	139	\$ 3,491,968	\$ 5,889,858	\$ 2,397,890	\$ -	\$ 2,397,890	\$ (2,397,890)
2002-03	Pupil Promotion and Retention	Ch. 100/81	244	\$ 1,943,938	\$ 27,261,219	\$ 25,317,281	\$ -	\$ 22,595,758	\$ (22,595,758)
2002-03	Pupil Safety Notices	Ch. 498/83	280	\$ 5,874	\$ -	\$ -	\$ 5,874	\$ -	\$ 5,874
2002-03	Removal of Chemicals	Ch. 1107/84	57	\$ 1,462,432	\$ 876,262	\$ -	\$ 586,170	\$ -	\$ 586,170
2002-03	School Bus Safety I and II	Ch. 624/92	184	\$ 5,952	\$ -	\$ -	\$ 5,952	\$ -	\$ 5,952
2002-03	School Crimes Reporting II	Ch. 1607/84	190	\$ 28,400	\$ -	\$ -	\$ 28,400	\$ -	\$ 28,400
2002-03	School District of Choice: Transfers and Appeals	Ch. 160/93	156	\$ 774,664	\$ 416,834	\$ -	\$ 357,830	\$ -	\$ 357,830
2002-03	Standardized Testing and Reporting	Ch. 828/97	208	\$ 25,816,854	\$ 10,260,252	\$ 63,615	\$ 15,620,217	\$ -	\$ 15,620,217
2002-03	The Stull Act	Ch. 498/83	260	\$ 16,295,378	\$ 3,281,991	\$ -	\$ 13,013,387	\$ -	\$ 13,013,387
<b>2002-03 Total</b>				<b>\$ 285,062,973</b>	<b>\$ 104,447,285</b>	<b>\$ 29,746,293</b>	<b>\$ 210,361,981</b>	<b>\$ 25,572,435</b>	<b>\$ 184,789,546</b>
2001-02	AIDS Prevention Instruction	Ch. 818/91	123	\$ 3,563,107	\$ 4,401,140	\$ 838,033	\$ -	\$ 7,882	\$ (7,882)
2001-02	Annual Parent Notification II	Ch. 448/75	189	\$ (22,299)	\$ 133,373	\$ 155,672	\$ -	\$ 154	\$ (154)
2001-02	California State Teachers' Retirement System (CalSTRS) Service Credit	Ch. 603/94	286	\$ 33,574	\$ 31,669	\$ -	\$ 1,905	\$ -	\$ 1,905
2001-02	Charter Schools	Ch. 781/92	140	\$ 2,451,336	\$ 2,694,947	\$ 243,611	\$ -	\$ 49,576	\$ (49,576)
2001-02	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	11	\$ 34,671,017	\$ 41,908,891	\$ 7,346,372	\$ 108,498	\$ 24,579	\$ 83,919
2001-02	Comprehensive School Safety Plans	Ch. 736/97	223	\$ 5,548,278	\$ 5,562,934	\$ 14,656	\$ -	\$ 5,052	\$ (5,052)

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2001-02	Consolidation of Pupil Discipline Records and Notification to Teachers: Pupils Subject to Suspension or Expulsion II	Ch. 345/00	291	\$ 59,570	\$ -	\$ -	\$ 59,570	\$ -	\$ 59,570
2001-02	Criminal Background Checks	Ch. 588/97	183	\$ 3,258,459	\$ 5,591,437	\$ 2,332,978	\$ -	\$ 3,288	\$ (3,288)
2001-02	Emergency Procedures: Earthquakes and Disasters	Ch. 1659/84	75	\$ 15,787,553	\$ 20,317,573	\$ 4,530,020	\$ -	\$ 3,003	\$ (3,003)
2001-02	Graduation Requirements	Ch. 498/83	26	\$ 7,956,244	\$ 12,758,387	\$ 4,802,143	\$ -	\$ 281,925	\$ (281,925)
2001-02	Graduation Requirements (07/01/1995 to 06/30/2004)	Ch. 498/93	295	\$ 166,695,626	\$ 10,139,372	\$ -	\$ 156,556,254	\$ -	\$ 156,556,254
2001-02	Grand Jury Proceedings	Ch. 1170/96	226	\$ 22,713	\$ 4,354	\$ -	\$ 18,359	\$ -	\$ 18,359
2001-02	Habitual Truant	Ch. 1184/75	166	\$ 7,701,749	\$ 9,762,881	\$ 2,062,132	\$ 1,000	\$ 239	\$ 761
2001-02	High School Exit Examination	Ch. 1/99	268	\$ 2,153,703	\$ 126,570	\$ -	\$ 2,027,133	\$ -	\$ 2,027,133
2001-02	Intradistrict Attendance Permits	Ch. 172/86	148	\$ 1,807,989	\$ 2,575,133	\$ 767,144	\$ -	\$ 597	\$ (597)
2001-02	Intradistrict Attendance	Ch. 161/93	153	\$ 8,287,007	\$ 9,588,088	\$ 1,427,034	\$ 125,953	\$ 2,645	\$ 123,308
2001-02	Juvenile Court Notices II	Ch. 1423/84	155	\$ 798,088	\$ 870,459	\$ 72,371	\$ -	\$ 291	\$ (291)
2001-02	Law Enforcement Agency Notification	Ch. 1117/89	157	\$ 1,579,905	\$ 2,398,215	\$ 818,310	\$ -	\$ 1,330	\$ (1,330)
2001-02	Mandate Reimbursement Process	Ch. 486/75	42	\$ 18,513,506	\$ 18,807,989	\$ 294,483	\$ -	\$ 17,062	\$ (17,062)
2001-02	Open Meetings Act II	Ch. 641/86	201	\$ (25,166)	\$ 89,449	\$ 114,615	\$ -	\$ 1,759	\$ (1,759)
2001-02	Open Meetings Act/Brown Act Reform	Ch. 641/86	218	\$ 7,324,265	\$ 6,060,365	\$ 441,130	\$ 1,705,030	\$ 3,158	\$ 1,701,872
2001-02	Physical Performance Tests	Ch. 975/95	173	\$ 2,301,476	\$ 2,601,342	\$ 299,866	\$ -	\$ 381	\$ (381)
2001-02	Pupil Classroom Suspension: Counseling	Ch. 965/77	151	\$ 2,589,924	\$ 2,859,761	\$ 269,837	\$ -	\$ 1,226	\$ (1,226)
2001-02	Pupil Expulsions from School: Additional Hearing Costs for Mandatory Recommendations for Expulsion	Ch. 1253/75	271	\$ 2,441,052	\$ 81,273	\$ -	\$ 2,359,779	\$ -	\$ 2,359,779
2001-02	Pupil Health Screenings	Ch. 1208/76	139	\$ 4,917,750	\$ 5,565,812	\$ 648,062	\$ -	\$ 1,561	\$ (1,561)
2001-02	Pupil Promotion and Retention	Ch. 100/81	244	\$ 2,162,205	\$ 15,976,335	\$ 13,814,130	\$ -	\$ 13,159,772	\$ (13,159,772)
2001-02	Pupil Safety Notices	Ch. 498/83	280	\$ 5,692	\$ -	\$ -	\$ 5,692	\$ -	\$ 5,692
2001-02	Pupil Suspensions, Expulsions, and Expulsion Appeals	Ch. 965/77	176	\$ 3,499,391	\$ 5,207,593	\$ 1,708,202	\$ -	\$ 3,941	\$ (3,941)
2001-02	Removal of Chemicals	Ch. 1107/84	57	\$ 1,494,853	\$ 1,753,234	\$ 548,259	\$ 289,878	\$ 1,690	\$ 288,188
2001-02	School Accountability Report Cards	Ch. 1463/89	171	\$ 4,549,931	\$ 4,970,806	\$ 420,875	\$ -	\$ 583	\$ (583)
2001-02	School Bus Safety I and II	Ch. 624/92	184	\$ 1,197,389	\$ 893,860	\$ -	\$ 303,529	\$ -	\$ 303,529
2001-02	School District of Choice: Transfers and Appeals	Ch. 160/93	156	\$ 5,796,750	\$ 7,976,580	\$ 3,640,851	\$ 1,461,001	\$ 89,868	\$ 1,371,133
2001-02	Schoolsite Discipline Rules	Ch. 87/86	146	\$ 1,737,914	\$ 1,988,942	\$ 251,028	\$ -	\$ 862	\$ (862)
2001-02	Scoliosis Screening	Ch. 1347/80	58	\$ 2,443,018	\$ 2,792,016	\$ 348,998	\$ -	\$ 2,949	\$ (2,949)
2001-02	Standardized Testing and Reporting	Ch. 828/97	208	\$ 27,718,146	\$ 16,875,119	\$ 55,651	\$ 10,898,678	\$ -	\$ 10,898,678
2001-02	The Staff Act	Ch. 498/83	260	\$ 15,629,733	\$ 3,129,644	\$ -	\$ 12,500,089	\$ -	\$ 12,500,089
<b>2001-02 Total</b>				<b>\$ 366,651,428</b>	<b>\$ 226,495,543</b>	<b>\$ 48,266,463</b>	<b>\$ 188,422,348</b>	<b>\$ 13,665,373</b>	<b>\$ 174,756,975</b>
2000-01	Annual Parent Notification II	Ch. 448/75	189	\$ 6,343,796	\$ 6,493,197	\$ 152,718	\$ 3,317	\$ -	\$ 3,317
2000-01	Charter Schools	Ch. 781/92	140	\$ 4,273,117	\$ 4,357,731	\$ 84,614	\$ -	\$ 7,551	\$ (7,551)

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2000-01	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	11	\$ 36,980,185	\$ 47,282,678	\$ 10,511,050	\$ 208,557	\$ -	\$ 208,557
2000-01	Consolidation of Pupil Discipline Records and Notification to Teachers: Pupils Subject to Suspension or Expulsion II	Ch. 345/00	291	\$ 23,166	\$ -	\$ -	\$ 23,166	\$ -	\$ 23,166
2000-01	Criminal Background Checks	Ch. 588/97	183	\$ 5,005,596	\$ 5,749,061	\$ 743,465	\$ -	\$ 1,597	\$ (1,597)
2000-01	Emergency Procedures: Earthquakes and Disasters	Ch. 1659/84	75	\$ 19,422,607	\$ 22,029,586	\$ 2,606,979	\$ -	\$ 3,688	\$ (3,688)
2000-01	Graduation Requirements	Ch. 498/83	26	\$ 9,005,836	\$ 15,706,823	\$ 6,700,987	\$ -	\$ 53,187	\$ (53,187)
2000-01	Graduation Requirements (07/01/1995 to 06/30/2004)	Ch. 498/93	295	\$ 156,326,089	\$ 8,200,063	\$ -	\$ 148,126,026	\$ -	\$ 148,126,026
2000-01	Grand Jury Proceedings	Ch. 1170/96	226	\$ 5,759	\$ 1,214	\$ -	\$ 4,545	\$ -	\$ 4,545
2000-01	Habitual Truant	Ch. 1184/75	166	\$ 8,137,633	\$ 10,529,123	\$ 2,391,490	\$ -	\$ 6,597	\$ (6,597)
2000-01	High School Exit Examination	Ch. 1/99	268	\$ 1,045,174	\$ 84,334	\$ -	\$ 960,840	\$ -	\$ 960,840
2000-01	Intradistrict Attendance	Ch. 161/93	153	\$ 9,807,270	\$ 11,045,126	\$ 1,636,613	\$ 398,757	\$ 1,181	\$ 397,576
2000-01	Investment Reports	Ch. 783/95	169	\$ 231,880	\$ 288,051	\$ 56,171	\$ -	\$ 1,279	\$ (1,279)
2000-01	Mandate Reimbursement Process	Ch. 486/75	42	\$ 15,900,354	\$ 16,389,329	\$ 488,975	\$ -	\$ 5,580	\$ (5,580)
2000-01	Open Meetings Act	Ch. 641/86	92	\$ (4,198)	\$ 33,200	\$ 37,398	\$ -	\$ 7,052	\$ (7,052)
2000-01	Open Meetings Act II	Ch. 641/86	201	\$ 10,170,474	\$ 9,833,126	\$ 131,892	\$ 469,240	\$ 4,940	\$ 464,300
2000-01	Open Meetings Act/Brown Act Reform	Ch. 641/86	218	\$ 647,116	\$ 371,081	\$ -	\$ 276,035	\$ -	\$ 276,035
2000-01	Physical Performance Tests	Ch. 975/95	173	\$ 2,328,246	\$ 2,565,380	\$ 237,134	\$ -	\$ 378	\$ (378)
2000-01	Pupil Exclusions	Ch. 668/78	165	\$ 812,312	\$ 2,282,205	\$ 1,469,893	\$ -	\$ 673	\$ (673)
2000-01	Pupil Exclusions from School: Additional Hearing Costs for Mandatory Recommendations for Expulsion	Ch. 1253/75	271	\$ 2,328,868	\$ 59,841	\$ -	\$ 2,269,027	\$ -	\$ 2,269,027
2000-01	Pupil Health Screenings	Ch. 1208/76	139	\$ 5,225,419	\$ 5,526,896	\$ 301,477	\$ -	\$ 630	\$ (630)
2000-01	Removal of Chemicals	Ch. 1107/84	57	\$ 1,047,563	\$ 1,770,078	\$ 780,671	\$ 58,156	\$ -	\$ 58,156
2000-01	School Bus Safety I and II	Ch. 624/92	184	\$ 2,841,930	\$ 2,669,995	\$ 2,356	\$ 174,291	\$ -	\$ 174,291
2000-01	School District of Choice: Transfers and Appeals	Ch. 160/93	156	\$ 2,936,742	\$ 6,529,571	\$ 4,517,252	\$ 924,423	\$ 75,656	\$ 848,767
2000-01	Scoliosis Screening	Ch. 1347/80	58	\$ 2,597,375	\$ 2,825,218	\$ 227,843	\$ -	\$ 517	\$ (517)
2000-01	Standardized Testing and Reporting	Ch. 828/97	208	\$ 23,182,850	\$ 20,033,272	\$ 925,097	\$ 4,074,675	\$ -	\$ 4,074,675
2000-01	The Stull Act	Ch. 498/83	260	\$ 12,930,375	\$ 1,824,537	\$ -	\$ 11,105,838	\$ -	\$ 11,105,838
<b>2000-01 Total</b>				<b>\$ 339,553,534</b>	<b>\$ 204,480,716</b>	<b>\$ 34,004,075</b>	<b>\$ 169,076,893</b>	<b>\$ 170,506</b>	<b>\$ 168,906,387</b>
1999-00	Charter Schools	Ch. 781/92	140	\$ 3,778,490	\$ 3,845,118	\$ 66,628	\$ -	\$ 1,739	\$ (1,739)
1999-00	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	11	\$ 43,275,122	\$ 48,350,508	\$ 5,075,386	\$ -	\$ 5,464	\$ (5,464)
1999-00	Graduation Requirements	Ch. 498/83	26	\$ 7,457,120	\$ 8,471,451	\$ 1,014,331	\$ -	\$ 30,502	\$ (30,502)
1999-00	Graduation Requirements (07/01/1995 to 06/30/2004)	Ch. 498/93	295	\$ 136,355,794	\$ 6,689,479	\$ -	\$ 129,666,315	\$ -	\$ 129,666,315
1999-00	Grand Jury Proceedings	Ch. 1170/96	226	\$ 2,764	\$ -	\$ -	\$ 2,764	\$ -	\$ 2,764
1999-00	Intradistrict Attendance	Ch. 161/93	153	\$ 10,821,278	\$ 11,237,414	\$ 593,229	\$ 177,093	\$ -	\$ 177,093

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Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
1999-00	Mandate Reimbursement Process	Ch. 486/75	42	\$ 14,287,192	\$ 14,398,856	\$ 111,664	\$ -	\$ 127	\$ (127)
1999-00	Open Meetings Act	Ch. 641/86	92	\$ 4,416,671	\$ 4,483,907	\$ 67,236	\$ -	\$ 217	\$ (217)
1999-00	Open Meetings Act/Brown Act Reform	Ch. 641/86	218	\$ 222,400	\$ 169,307	\$ -	\$ 53,093	\$ -	\$ 53,093
1999-00	Pupil Expulsions from School: Additional Hearing Costs for Mandatory Recommendations for Expulsion	Ch. 1253/75	271	\$ 1,764,629	\$ 58,254	\$ -	\$ 1,706,375	\$ -	\$ 1,706,375
1999-00	Removal of Chemicals	Ch. 1107/84	57	\$ 1,287,916	\$ 1,916,276	\$ 633,360	\$ 5,000	\$ -	\$ 5,000
1999-00	School Bus Safety	Ch. 624/92	137	\$ (1,965)	\$ 7,543	\$ 9,508	\$ -	\$ 242	\$ (242)
1999-00	School Bus Safety I and II	Ch. 624/92	184	\$ 3,633,925	\$ 3,551,717	\$ 21,765	\$ 103,973	\$ 13	\$ 103,960
1999-00	School District of Choice: Transfers and Appeals	Ch. 160/93	156	\$ 3,808,205	\$ 4,411,518	\$ 1,122,365	\$ 519,052	\$ -	\$ 519,052
1999-00	Standardized Testing and Reporting	Ch. 828/97	208	\$ 24,451,824	\$ 20,106,399	\$ 456,853	\$ 4,802,278	\$ -	\$ 4,802,278
1999-00	The Stull Act	Ch. 498/83	260	\$ 10,987,978	\$ 1,535,989	\$ -	\$ 9,451,989	\$ -	\$ 9,451,989
<b>1999-00 Total</b>				<b>\$ 266,549,343</b>	<b>\$ 129,233,736</b>	<b>\$ 9,172,325</b>	<b>\$ 146,487,932</b>	<b>\$ 38,304</b>	<b>\$ 146,449,628</b>
1998-99	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	11	\$ 44,841,220	\$ 49,604,971	\$ 4,763,751	\$ -	\$ 10,196	\$ (10,196)
1998-99	Graduation Requirements (07/01/1995 to 06/30/2004)	Ch. 498/93	295	\$ 113,120,944	\$ 10,905,555	\$ -	\$ 102,215,389	\$ -	\$ 102,215,389
1998-99	Grand Jury Proceedings	Ch. 1170/96	226	\$ 6,697	\$ -	\$ -	\$ 6,697	\$ -	\$ 6,697
1998-99	Mandate Reimbursement Process	Ch. 486/75	42	\$ 11,713,000	\$ 12,950,169	\$ 1,237,169	\$ -	\$ 600	\$ (600)
1998-99	Open Meetings Act/Brown Act Reform	Ch. 641/86	218	\$ 188,974	\$ 140,120	\$ -	\$ 48,854	\$ -	\$ 48,854
1998-99	Pupil Expulsions from School: Additional Hearing Costs for Mandatory Recommendations for Expulsion	Ch. 1253/75	271	\$ 1,996,485	\$ 78,291	\$ -	\$ 1,918,194	\$ -	\$ 1,918,194
1998-99	Pupil Promotion and Retention	Ch. 100/81	244	\$ 860,408	\$ 4,046,576	\$ 3,186,168	\$ -	\$ 1,335,791	\$ (1,335,791)
1998-99	School Accountability Report Cards	Ch. 1463/89	171	\$ 2,804,864	\$ 3,289,585	\$ 484,721	\$ -	\$ 300	\$ (300)
1998-99	School Bus Safety I and II	Ch. 624/92	184	\$ 128,045	\$ 148,555	\$ 21,349	\$ 839	\$ -	\$ 839
1998-99	Standardized Testing and Reporting	Ch. 828/97	208	\$ 10,292,240	\$ 6,013,762	\$ 600,767	\$ 4,879,245	\$ -	\$ 4,879,245
1998-99	The Stull Act	Ch. 498/83	260	\$ 8,470,404	\$ 1,352,669	\$ -	\$ 7,117,735	\$ -	\$ 7,117,735
<b>1998-99 Total</b>				<b>\$ 194,423,281</b>	<b>\$ 88,530,253</b>	<b>\$ 10,293,925</b>	<b>\$ 116,186,953</b>	<b>\$ 1,346,887</b>	<b>\$ 114,840,066</b>
1997-98	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	11	\$ 36,462,408	\$ 43,418,759	\$ 6,956,351	\$ -	\$ 9,290	\$ (9,290)
1997-98	Emergency Procedures: Earthquakes and Disasters	Ch. 1659/84	75	\$ 21,038,713	\$ 22,354,764	\$ 1,479,796	\$ 163,745	\$ 465	\$ 163,280
1997-98	Graduation Requirements (07/01/1995 to 06/30/2004)	Ch. 498/93	295	\$ 104,027,444	\$ 5,388,570	\$ -	\$ 98,638,874	\$ -	\$ 98,638,874
1997-98	Grand Jury Proceedings	Ch. 1170/96	226	\$ 12,832	\$ -	\$ -	\$ 12,832	\$ -	\$ 12,832
1997-98	Interdistrict Attendance Permits	Ch. 172/86	148	\$ 1,779,604	\$ 2,028,749	\$ 249,145	\$ -	\$ 258	\$ (258)
1997-98	Interdistrict Transfer Requests: Parent's Employment	Ch. 172/86	149	\$ 1,090,110	\$ 1,527,781	\$ 437,671	\$ -	\$ 735	\$ (735)
1997-98	Open Meetings Act	Ch. 641/86	92	\$ 3,396,990	\$ 3,620,077	\$ 223,087	\$ -	\$ 2,687	\$ (2,687)
1997-98	Open Meetings Act/Brown Act Reform	Ch. 641/86	218	\$ 181,731	\$ 143,086	\$ -	\$ 38,645	\$ -	\$ 38,645
1997-98	Pupil Expulsions from School: Additional Hearing Costs for Mandatory Recommendations for Expulsion	Ch. 1253/75	271	\$ 1,554,418	\$ 36,712	\$ -	\$ 1,517,706	\$ -	\$ 1,517,706

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1997-98	School Bus Safety I and II	Ch. 624/92	184	\$ 133,174	\$ 135,502	\$ 2,452	\$ 124	\$ -	\$ 124
1997-98	Standardized Testing and Reporting	Ch. 828/97	208	\$ 8,124,832	\$ 4,432,074	\$ 455,243	\$ 4,148,001	\$ -	\$ 4,148,001
1997-98	The Stull Act	Ch. 498/83	260	\$ 7,592,373	\$ 1,617,952	\$ -	\$ 5,974,421	\$ -	\$ 5,974,421
<b>1997-98 Total</b>				<b>\$ 185,394,629</b>	<b>\$ 84,704,026</b>	<b>\$ 9,803,745</b>	<b>\$ 110,494,348</b>	<b>\$ 13,435</b>	<b>\$ 110,480,913</b>
1996-97	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	11	\$ 35,731,370	\$ 43,953,570	\$ 8,222,200	\$ -	\$ 14,965	\$ (14,965)
1996-97	Emergency Procedures: Earthquakes and Disasters	Ch. 1659/84	75	\$ 9,323,864	\$ 9,651,494	\$ 465,947	\$ 138,317	\$ -	\$ 138,317
1996-97	Graduation Requirements (07/01/1995 to 06/30/2004)	Ch. 498/93	295	\$ 91,415,568	\$ 2,345,578	\$ -	\$ 89,069,990	\$ -	\$ 89,069,990
1996-97	Open Meetings Act	Ch. 641/86	92	\$ 2,713,598	\$ 2,930,799	\$ 217,201	\$ -	\$ 151	\$ (151)
1996-97	Open Meetings Act/Brown Act Reform	Ch. 641/86	218	\$ 169,539	\$ 113,805	\$ -	\$ 55,734	\$ -	\$ 55,734
1996-97	Pupil Expulsions from School: Additional Hearing Costs for Mandatory Recommendations for Expulsion	Ch. 1253/75	271	\$ 1,474,140	\$ 39,307	\$ -	\$ 1,434,833	\$ -	\$ 1,434,833
1996-97	School Bus Safety I and II	Ch. 624/92	184	\$ 87,816	\$ 86,193	\$ -	\$ 1,623	\$ -	\$ 1,623
1996-97	School District of Choice: Transfers and Appeals	Ch. 160/93	156	\$ 5,772,216	\$ 5,908,915	\$ 136,699	\$ -	\$ 48	\$ (48)
1996-97	Scoliosis Screening	Ch. 1347/80	58	\$ 2,051,761	\$ 2,116,550	\$ 64,789	\$ -	\$ 304	\$ (304)
<b>1996-97 Total</b>				<b>\$ 148,739,872</b>	<b>\$ 67,146,211</b>	<b>\$ 9,106,836</b>	<b>\$ 90,700,497</b>	<b>\$ 15,468</b>	<b>\$ 90,685,029</b>
1995-96	AIDS Prevention Instruction	Ch. 818/91	123	\$ 2,063,016	\$ 2,754,853	\$ 691,837	\$ -	\$ 63	\$ (63)
1995-96	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	11	\$ 31,593,705	\$ 40,794,791	\$ 9,201,086	\$ -	\$ 9,679	\$ (9,679)
1995-96	Credent Monitoring	Ch. 1376/87	79	\$ 2,929,406	\$ 2,990,264	\$ 60,858	\$ -	\$ 68	\$ (68)
1995-96	Emergency Procedures: Earthquakes and Disasters	Ch. 1659/84	75	\$ 7,354,211	\$ 7,416,499	\$ 62,288	\$ -	\$ 290	\$ (290)
1995-96	Graduation Requirements (07/01/1995 to 06/30/2004)	Ch. 498/93	295	\$ 84,781,284	\$ 2,150,637	\$ -	\$ 82,630,647	\$ -	\$ 82,630,647
1995-96	Open Meetings Act	Ch. 641/86	92	\$ 1,774,560	\$ 1,983,083	\$ 208,523	\$ -	\$ 298	\$ (298)
1995-96	Open Meetings Act/Brown Act Reform	Ch. 641/86	218	\$ 160,444	\$ 107,574	\$ -	\$ 52,870	\$ -	\$ 52,870
1995-96	Pupil Expulsions from School: Additional Hearing Costs for Mandatory Recommendations for Expulsion	Ch. 1253/75	271	\$ 1,505,054	\$ 46,486	\$ -	\$ 1,458,568	\$ -	\$ 1,458,568
1995-96	School District of Choice: Transfers and Appeals	Ch. 160/93	156	\$ 4,726,009	\$ 4,812,377	\$ 86,368	\$ -	\$ 44	\$ (44)
1995-96	School Testing - Physical Fitness	Ch. 1675/84	115	\$ 562,926	\$ 782,760	\$ 219,834	\$ -	\$ 269	\$ (269)
<b>1995-96 Total</b>				<b>\$ 137,450,615</b>	<b>\$ 63,839,324</b>	<b>\$ 10,530,794</b>	<b>\$ 84,142,085</b>	<b>\$ 10,711</b>	<b>\$ 84,131,374</b>
1994-95	Open Meetings Act	Ch. 641/86	92	\$ 1,128,612	\$ 1,131,492	\$ 2,880	\$ -	\$ 246	\$ (246)
1994-95	Open Meetings Act/Brown Act Reform	Ch. 641/86	218	\$ 143,107	\$ 93,725	\$ -	\$ 49,382	\$ -	\$ 49,382
1994-95	Pupil Classroom Suspension: Counseling	Ch. 965/77	151	\$ 544,631	\$ 547,686	\$ 3,055	\$ -	\$ 412	\$ (412)
1994-95	Pupil Expulsions from School: Additional Hearing Costs for Mandatory Recommendations for Expulsion	Ch. 1253/75	271	\$ 1,394,717	\$ 37,648	\$ -	\$ 1,357,069	\$ -	\$ 1,357,069
1994-95	School District of Choice: Transfers and Appeals	Ch. 160/93	156	\$ 4,230,530	\$ 4,304,055	\$ 73,525	\$ -	\$ 48	\$ (48)
<b>1994-95 Total</b>				<b>\$ 7,441,597</b>	<b>\$ 6,114,606</b>	<b>\$ 79,460</b>	<b>\$ 1,406,451</b>	<b>\$ 706</b>	<b>\$ 1,405,745</b>

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Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
1993-94	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	11	\$ 29,969,495	\$ 33,829,257	\$ 3,859,762	\$ -	\$ 67,559	\$ (67,559)
1993-94	Open Meetings Act	Ch. 641/86	92	\$ 748,308	\$ 748,859	\$ 551	\$ -	\$ 551	\$ (551)
1993-94	Open Meetings Act/Brown Act Reform	Ch. 641/86	218	\$ 44,199	\$ 30,996	\$ -	\$ 13,203	\$ -	\$ 13,203
1993-94	Pupil Expulsions from School: Additional Hearing Costs for Mandatory Recommendations for Expulsion	Ch. 1253/75	271	\$ 1,216,367	\$ 48,134	\$ -	\$ 1,168,233	\$ -	\$ 1,168,233
1993-94	School District of Choice: Transfers and Appeals	Ch. 160/93	156	\$ 2,184,496	\$ 2,217,363	\$ 32,867	\$ -	\$ 32	\$ (32)
<b>1993-94 Total</b>				<b>\$ 34,162,865</b>	<b>\$ 36,874,609</b>	<b>\$ 3,893,180</b>	<b>\$ 1,181,436</b>	<b>\$ 68,142</b>	<b>\$ 1,113,294</b>
1992-93	Civic Center Act	Ch. 49/84	114	\$ 11,846,195	\$ 13,026,133	\$ 1,179,938	\$ -	\$ 386	\$ (386)
1992-93	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	11	\$ 29,309,461	\$ 32,379,749	\$ 3,070,287	\$ (0)	\$ 21,152	\$ (21,152)
1992-93	Credent Monitoring	Ch. 1376/87	79	\$ 1,853,410	\$ 2,507,286	\$ 654,070	\$ 194	\$ 5,033	\$ (4,839)
<b>1992-93 Total</b>				<b>\$ 43,009,066</b>	<b>\$ 47,913,168</b>	<b>\$ 4,904,295</b>	<b>\$ 193</b>	<b>\$ 26,571</b>	<b>\$ (26,378)</b>
1991-92	Civic Center Act	Ch. 49/84	114	\$ 10,650,345	\$ 11,708,674	\$ 1,058,329	\$ -	\$ 414	\$ (414)
1991-92	Open Meetings Act	Ch. 641/86	92	\$ 869,812	\$ 1,172,522	\$ 302,710	\$ -	\$ 76	\$ (76)
<b>1991-92 Total</b>				<b>\$ 11,520,157</b>	<b>\$ 12,881,196</b>	<b>\$ 1,361,039</b>	<b>\$ -</b>	<b>\$ 490</b>	<b>\$ (490)</b>
1990-91	Civic Center Act	Ch. 49/84	114	\$ 9,961,940	\$ 10,981,935	\$ 1,019,995	\$ -	\$ 400	\$ (400)
1990-91	Graduation Requirements	Ch. 498/83	26	\$ 5,435,894	\$ 8,376,823	\$ 2,940,929	\$ -	\$ 349,269	\$ (349,269)
<b>1990-91 Total</b>				<b>\$ 15,397,834</b>	<b>\$ 19,358,758</b>	<b>\$ 3,960,924</b>	<b>\$ -</b>	<b>\$ 349,669</b>	<b>\$ (349,669)</b>
1989-90	Civic Center Act	Ch. 49/84	114	\$ 9,684,270	\$ 10,638,370	\$ 954,100	\$ -	\$ 477	\$ (477)
1989-90	Graduation Requirements	Ch. 498/83	26	\$ 8,260,170	\$ 8,871,647	\$ 611,477	\$ -	\$ 40,090	\$ (40,090)
<b>1989-90 Total</b>				<b>\$ 17,944,440</b>	<b>\$ 19,510,017</b>	<b>\$ 1,565,577</b>	<b>\$ -</b>	<b>\$ 40,567</b>	<b>\$ (40,567)</b>
1988-89	Civic Center Act	Ch. 49/84	114	\$ 8,195,968	\$ 9,076,151	\$ 880,183	\$ -	\$ 501	\$ (501)
<b>1988-89 Total</b>				<b>\$ 8,195,968</b>	<b>\$ 9,076,151</b>	<b>\$ 880,183</b>	<b>\$ -</b>	<b>\$ 501</b>	<b>\$ (501)</b>
1987-88	Civic Center Act	Ch. 49/84	114	\$ 8,055,062	\$ 8,858,660	\$ 803,598	\$ -	\$ 475	\$ (475)
<b>1987-88 Total</b>				<b>\$ 8,055,062</b>	<b>\$ 8,858,660</b>	<b>\$ 803,598</b>	<b>\$ -</b>	<b>\$ 475</b>	<b>\$ (475)</b>
1986-87	Civic Center Act	Ch. 49/84	114	\$ 7,376,797	\$ 8,104,614	\$ 727,817	\$ -	\$ 900	\$ (900)
<b>1986-87 Total</b>				<b>\$ 7,376,797</b>	<b>\$ 8,104,614</b>	<b>\$ 727,817</b>	<b>\$ -</b>	<b>\$ 900</b>	<b>\$ (900)</b>
1985-86	Civic Center Act	Ch. 49/84	114	\$ 7,513,308	\$ 8,102,207	\$ 588,899	\$ -	\$ 532	\$ (532)
<b>1985-86 Total</b>				<b>\$ 7,513,308</b>	<b>\$ 8,102,207</b>	<b>\$ 588,899</b>	<b>\$ -</b>	<b>\$ 532</b>	<b>\$ (532)</b>
<b>Total School Districts</b>				<b>\$ 5,551,861,991</b>	<b>\$ 1,624,557,527</b>	<b>\$ 202,868,621</b>	<b>\$ 4,130,173,086</b>	<b>\$ 50,205,942</b>	<b>\$ 4,079,967,144</b>

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Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
<b>Community College Districts</b>									
2011-12	Agency Fee Arrangements	Ch. 893/00	270	\$ 5,830	\$ -	\$ -	\$ 5,830	\$ -	\$ 5,830
2011-12	California Grants	Ch. 403/00	302	\$ 4,501	\$ -	\$ -	\$ 4,501	\$ -	\$ 4,501
2011-12	California State Teachers' Retirement System (CalSTRS)								
	Service Credit	Ch. 603/94	287	\$ 18,939	\$ -	\$ -	\$ 18,939	\$ -	\$ 18,939
2011-12	Collective Bargaining and Collective Bargaining Agreement								
	Disclosure	Ch. 961/75	232	\$ 3,296,152	\$ -	\$ -	\$ 3,296,152	\$ -	\$ 3,296,152
2011-12	Enrollment Fee Collection and Waivers	Title 5	267	\$ 5,742,297	\$ -	\$ -	\$ 5,742,297	\$ -	\$ 5,742,297
2011-12	Health Fee Elimination (On or after 07/01/1994)	Ch. 1/84	234	\$ 5,243,173	\$ -	\$ -	\$ 5,243,173	\$ -	\$ 5,243,173
2011-12	Open Meetings/Brown Act Reform	Ch. 641/86	238	\$ 1,281,464	\$ -	\$ -	\$ 1,281,464	\$ -	\$ 1,281,464
2011-12	Prevailing Wage Rate	Ch. 1249/78	303	\$ 58,890	\$ -	\$ -	\$ 58,890	\$ -	\$ 58,890
2011-12	Tuition Fee Waivers	Ch. 36/77	301	\$ 721,726	\$ -	\$ -	\$ 721,726	\$ -	\$ 721,726
<b>2011-12 Total</b>				<b>\$ 16,372,972</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 16,372,972</b>	<b>\$ -</b>	<b>\$ 16,372,972</b>
2010-11	Agency Fee Arrangements	Ch. 893/00	270	\$ 38,850	\$ 1,000	\$ -	\$ 37,850	\$ -	\$ 37,850
2010-11	California Grants	Ch. 403/00	302	\$ 16,148	\$ 1,000	\$ -	\$ 15,148	\$ -	\$ 15,148
2010-11	California State Teachers' Retirement System (CalSTRS)								
	Service Credit	Ch. 603/94	287	\$ 40,850	\$ 1,000	\$ -	\$ 39,850	\$ -	\$ 39,850
2010-11	Collective Bargaining and Collective Bargaining Agreement								
	Disclosure	Ch. 961/75	232	\$ 4,168,058	\$ 1,000	\$ -	\$ 4,167,058	\$ -	\$ 4,167,058
2010-11	Enrollment Fee Collection and Waivers	Title 5	267	\$ 16,785,238	\$ 1,000	\$ -	\$ 16,784,238	\$ -	\$ 16,784,238
2010-11	Health Fee Elimination (On or after 07/01/1994)	Ch. 1/84	234	\$ 6,148,447	\$ 1,000	\$ -	\$ 6,147,447	\$ -	\$ 6,147,447
2010-11	Integrated Waste Management	Ch. 1116/92	256	\$ 473,707	\$ -	\$ -	\$ 473,707	\$ -	\$ 473,707
2010-11	Mandate Reimbursement Process	Ch. 486/75	237	\$ 676,281	\$ 1,000	\$ -	\$ 675,281	\$ -	\$ 675,281
2010-11	Open Meetings/Brown Act Reform	Ch. 641/86	238	\$ 1,550,241	\$ 1,000	\$ -	\$ 1,549,241	\$ -	\$ 1,549,241
2010-11	Prevailing Wage Rate	Ch. 1249/78	303	\$ 71,811	\$ 1,000	\$ -	\$ 70,811	\$ -	\$ 70,811
2010-11	Tuition Fee Waivers	Ch. 36/77	301	\$ 992,163	\$ 1,000	\$ -	\$ 991,163	\$ -	\$ 991,163
<b>2010-11 Total</b>				<b>\$ 30,961,794</b>	<b>\$ 10,000</b>	<b>\$ -</b>	<b>\$ 30,951,794</b>	<b>\$ -</b>	<b>\$ 30,951,794</b>
2009-10	California Grants	Ch. 403/00	302	\$ 20,636	\$ -	\$ -	\$ 20,636	\$ -	\$ 20,636
2009-10	Collective Bargaining and Collective Bargaining Agreement								
	Disclosure	Ch. 961/75	232	\$ 4,792,797	\$ 444,000	\$ -	\$ 4,348,797	\$ -	\$ 4,348,797
2009-10	Enrollment Fee Collection and Waivers	Title 5	267	\$ 21,269,624	\$ 2,999,999	\$ -	\$ 18,269,625	\$ -	\$ 18,269,625
2009-10	Health Fee Elimination (On or after 07/01/1994)	Ch. 1/84	234	\$ 4,395,907	\$ 3,177,596	\$ 603,794	\$ 1,822,105	\$ 347,191	\$ 1,474,914
2009-10	Integrated Waste Management	Ch. 1116/92	256	\$ 2,211,666	\$ -	\$ -	\$ 2,211,666	\$ -	\$ 2,211,666
2009-10	Mandate Reimbursement Process	Ch. 486/75	237	\$ 685,092	\$ -	\$ -	\$ 685,092	\$ -	\$ 685,092
2009-10	Open Meetings/Brown Act Reform	Ch. 641/86	238	\$ 1,405,673	\$ -	\$ -	\$ 1,405,673	\$ -	\$ 1,405,673
2009-10	Prevailing Wage Rate	Ch. 1249/78	303	\$ 83,173	\$ -	\$ -	\$ 83,173	\$ -	\$ 83,173
2009-10	Sexual Assault Response Procedures	Ch. 105/87	247	\$ 1,421	\$ -	\$ -	\$ 1,421	\$ -	\$ 1,421
2009-10	Tuition Fee Waivers	Ch. 36/77	301	\$ 763,416	\$ 13,000	\$ -	\$ 750,416	\$ -	\$ 750,416

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<b>2009-10 Total</b>				<b>\$ 35,629,405</b>	<b>\$ 6,634,595</b>	<b>\$ 603,794</b>	<b>\$ 29,598,604</b>	<b>\$ 347,191</b>	<b>\$ 29,251,413</b>
2008-09	California Grants	Ch. 403/00	302	\$ 23,555	\$ -	\$ -	\$ 23,555	\$ -	\$ 23,555
	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	232	\$ 5,255,258	\$ 602,002	\$ -	\$ 4,653,256	\$ -	\$ 4,653,256
2008-09	Enrollment Fee Collection and Waivers	Title 5	267	\$ 26,696,431	\$ 3,662,165	\$ -	\$ 23,034,266	\$ -	\$ 23,034,266
2008-09	Health Fee Elimination (On or after 07/01/1994)	Ch. 1/84	234	\$ 4,213,040	\$ 6,093,806	\$ 2,303,912	\$ 423,146	\$ 1,972,539	\$ (1,499,393)
2008-09	Integrated Waste Management	Ch. 1116/92	256	\$ 5,786,620	\$ -	\$ -	\$ 5,786,620	\$ -	\$ 5,786,620
2008-09	Mandate Reimbursement Process	Ch. 486/75	237	\$ 775,809	\$ 6,395	\$ -	\$ 769,414	\$ -	\$ 769,414
2008-09	Open Meetings/Brown Act Reform	Ch. 641/86	238	\$ 1,475,222	\$ 4,801	\$ -	\$ 1,470,421	\$ -	\$ 1,470,421
2008-09	Prevailing Wage Rate	Ch. 1249/78	303	\$ 63,845	\$ -	\$ -	\$ 63,845	\$ -	\$ 63,845
2008-09	Reporting Improper Governmental Activities	Ch. 416/01	294	\$ 14,940	\$ 14,000	\$ -	\$ 940	\$ -	\$ 940
2008-09	Tuition Fee Waivers	Ch. 36/77	301	\$ 642,515	\$ -	\$ -	\$ 642,515	\$ -	\$ 642,515
<b>2008-09 Total</b>				<b>\$ 44,947,235</b>	<b>\$ 10,383,169</b>	<b>\$ 2,303,912</b>	<b>\$ 36,867,978</b>	<b>\$ 1,922,539</b>	<b>\$ 34,945,439</b>
2007-08	Agency Fee Arrangements	Ch. 893/00	270	\$ 107,612	\$ 6,763	\$ -	\$ 100,849	\$ -	\$ 100,849
2007-08	California Grants	Ch. 403/00	302	\$ 23,844	\$ -	\$ -	\$ 23,844	\$ -	\$ 23,844
2007-08	California State Teachers' Retirement System (CalSTRS) Service Credit	Ch. 603/94	287	\$ 65,504	\$ -	\$ -	\$ 65,504	\$ -	\$ 65,504
	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	232	\$ 6,507,511	\$ 60,759	\$ -	\$ 6,446,752	\$ -	\$ 6,446,752
2007-08	Enrollment Fee Collection and Waivers	Title 5	267	\$ 22,013,728	\$ -	\$ -	\$ 22,013,728	\$ -	\$ 22,013,728
2007-08	Health Fee Elimination (On or after 07/01/1994)	Ch. 1/84	234	\$ 3,199,509	\$ 4,120,550	\$ 2,164,038	\$ 1,242,997	\$ 1,246,537	\$ (3,540)
2007-08	Integrated Waste Management	Ch. 1116/92	256	\$ 4,206,459	\$ -	\$ -	\$ 4,206,459	\$ -	\$ 4,206,459
2007-08	Mandate Reimbursement Process	Ch. 486/75	237	\$ 707,987	\$ -	\$ -	\$ 707,987	\$ -	\$ 707,987
2007-08	Open Meetings/Brown Act Reform	Ch. 641/86	238	\$ 1,225,722	\$ 73,548	\$ -	\$ 1,152,174	\$ -	\$ 1,152,174
2007-08	Prevailing Wage Rate	Ch. 1249/78	303	\$ 86,420	\$ -	\$ -	\$ 86,420	\$ -	\$ 86,420
2007-08	Reporting Improper Governmental Activities	Ch. 416/01	294	\$ 28,548	\$ -	\$ -	\$ 28,548	\$ -	\$ 28,548
2007-08	Tuition Fee Waivers	Ch. 36/77	301	\$ 827,080	\$ -	\$ -	\$ 827,080	\$ -	\$ 827,080
<b>2007-08 Total</b>				<b>\$ 38,999,924</b>	<b>\$ 4,261,620</b>	<b>\$ 2,164,038</b>	<b>\$ 36,902,342</b>	<b>\$ 1,246,537</b>	<b>\$ 35,655,805</b>
2006-07	Agency Fee Arrangements	Ch. 893/00	270	\$ 83,423	\$ -	\$ -	\$ 83,423	\$ -	\$ 83,423
2006-07	California Grants	Ch. 403/00	302	\$ 21,582	\$ -	\$ -	\$ 21,582	\$ -	\$ 21,582
2006-07	California State Teachers' Retirement System (CalSTRS) Service Credit	Ch. 603/94	287	\$ 57,897	\$ 1,401	\$ -	\$ 56,496	\$ -	\$ 56,496
	Collective Bargaining and Collective Bargaining Agreement Disclosure	Ch. 961/75	232	\$ 6,202,489	\$ 153,668	\$ -	\$ 6,048,821	\$ -	\$ 6,048,821
2006-07	Enrollment Fee Collection and Waivers	Title 5	267	\$ 15,502,521	\$ -	\$ -	\$ 15,502,521	\$ -	\$ 15,502,521
2006-07	Health Fee Elimination (On or after 07/01/1994)	Ch. 1/84	234	\$ 2,079,660	\$ 3,988,500	\$ 3,094,765	\$ 1,185,925	\$ 1,068,667	\$ 117,258
2006-07	Integrated Waste Management	Ch. 1116/92	256	\$ 3,724,117	\$ -	\$ -	\$ 3,724,117	\$ -	\$ 3,724,117
2006-07	Mandate Reimbursement Process	Ch. 486/75	237	\$ 853,887	\$ -	\$ -	\$ 853,887	\$ -	\$ 853,887
2006-07	Open Meetings/Brown Act Reform	Ch. 641/86	238	\$ 1,150,873	\$ 6,735	\$ -	\$ 1,144,138	\$ -	\$ 1,144,138

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**State Controller's Office**  
**Division of Accounting and Reporting**  
**Schedule B, Section 1: Net Deficiencies and Surpluses for the Funded Mandates by Fiscal Year**  
**As of April 1, 2013**

Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
2006-07	Prevailing Wage Rate	Ch. 1249/78	303	\$ 72,835	\$ -	\$ -	\$ 72,835	\$ -	\$ 72,835
2006-07	Tuition Fee Waivers	Ch. 36/77	301	\$ 821,439	\$ -	\$ -	\$ 821,439	\$ -	\$ 821,439
<b>2006-07 Total</b>				<b>\$ 30,570,723</b>	<b>\$ 4,150,304</b>	<b>\$ 3,094,765</b>	<b>\$ 29,515,184</b>	<b>\$ 1,068,667</b>	<b>\$ 28,446,517</b>
2005-06	Agency Fee Arrangements	Ch. 893/00	270	\$ 48,319	\$ -	\$ -	\$ 48,319	\$ -	\$ 48,319
2005-06	California Grants	Ch. 403/00	302	\$ 20,617	\$ -	\$ -	\$ 20,617	\$ -	\$ 20,617
2005-06	California State Teachers' Retirement System (CalSTRS)	Ch. 603/94	287	\$ 55,370	\$ 2,631	\$ -	\$ 52,739	\$ -	\$ 52,739
2005-06	Service Credit								
2005-06	Collective Bargaining and Collective Bargaining Agreement								
2005-06	Disclosure								
2005-06	Enrollment Fee Collection and Waivers	Ch. 961/75	232	\$ 5,497,305	\$ 152,149	\$ -	\$ 5,345,156	\$ -	\$ 5,345,156
2005-06	Health Fee Elimination (On or after 07/01/1994)	Title 5	267	\$ 16,081,918	\$ -	\$ -	\$ 16,081,918	\$ -	\$ 16,081,918
2005-06	Integrated Waste Management	Ch. 1/84	234	\$ 3,211,845	\$ 98,174	\$ -	\$ 3,113,671	\$ -	\$ 3,113,671
2005-06	Mandate Reimbursement Process	Ch. 1116/92	256	\$ 3,843,249	\$ 103,900	\$ -	\$ 3,739,349	\$ -	\$ 3,739,349
2005-06	Open Meetings/Brown Act Reform	Ch. 486/75	237	\$ 884,380	\$ 1,044,084	\$ 159,704	\$ -	\$ 13,819	\$ (13,819)
2005-06	Prevailing Wage Rate	Ch. 641/86	238	\$ 967,993	\$ 175,013	\$ 108,270	\$ 901,250	\$ 2,808	\$ 898,442
2005-06	Tuition Fee Waivers	Ch. 1249/78	303	\$ 151,809	\$ -	\$ -	\$ 151,809	\$ -	\$ 151,809
2005-06	Agency Fee Arrangements	Ch. 36/77	301	\$ 771,160	\$ -	\$ -	\$ 771,160	\$ -	\$ 771,160
<b>2005-06 Total</b>				<b>\$ 31,533,965</b>	<b>\$ 1,575,951</b>	<b>\$ 267,974</b>	<b>\$ 30,225,988</b>	<b>\$ 16,627</b>	<b>\$ 30,209,361</b>
2004-05	California Grants	Ch. 893/00	270	\$ 44,561	\$ -	\$ -	\$ 44,561	\$ -	\$ 44,561
2004-05	California State Teachers' Retirement System (CalSTRS)	Ch. 403/00	302	\$ 18,380	\$ -	\$ -	\$ 18,380	\$ -	\$ 18,380
2004-05	Service Credit	Ch. 603/94	287	\$ 44,826	\$ 1,570	\$ -	\$ 43,256	\$ -	\$ 43,256
2004-05	Collective Bargaining and Collective Bargaining Agreement								
2004-05	Disclosure								
2004-05	Enrollment Fee Collection and Waivers	Ch. 961/75	232	\$ 7,277,259	\$ 1,701,273	\$ -	\$ 5,575,986	\$ -	\$ 5,575,986
2004-05	Health Fee Elimination (On or after 07/01/1994)	Title 5	267	\$ 14,734,042	\$ 253,258	\$ -	\$ 14,480,784	\$ -	\$ 14,480,784
2004-05	Integrated Waste Management	Ch. 1/84	234	\$ 7,032,360	\$ 2,651,721	\$ -	\$ 4,380,639	\$ -	\$ 4,380,639
2004-05	Open Meetings/Brown Act Reform	Ch. 1116/92	256	\$ 3,821,849	\$ 635,895	\$ -	\$ 3,185,954	\$ -	\$ 3,185,954
2004-05	Prevailing Wage Rate	Ch. 1249/78	303	\$ 39,068	\$ -	\$ -	\$ 39,068	\$ -	\$ 39,068
2004-05	Tuition Fee Waivers	Ch. 36/77	301	\$ 678,167	\$ -	\$ -	\$ 678,167	\$ -	\$ 678,167
<b>2004-05 Total</b>				<b>\$ 33,690,512</b>	<b>\$ 5,243,717</b>	<b>\$ -</b>	<b>\$ 28,446,795</b>	<b>\$ -</b>	<b>\$ 28,446,795</b>
2003-04	Agency Fee Arrangements	Ch. 893/00	270	\$ 44,823	\$ -	\$ -	\$ 44,823	\$ -	\$ 44,823
2003-04	California Grants	Ch. 403/00	302	\$ 22,466	\$ -	\$ -	\$ 22,466	\$ -	\$ 22,466
2003-04	California State Teachers' Retirement System (CalSTRS)	Ch. 603/94	287	\$ 41,545	\$ 7,708	\$ -	\$ 33,837	\$ -	\$ 33,837
2003-04	Service Credit								
2003-04	Collective Bargaining and Collective Bargaining Agreement								
2003-04	Disclosure								
2003-04	Enrollment Fee Collection and Waivers	Ch. 961/75	232	\$ 7,315,173	\$ 4,987,683	\$ -	\$ 2,327,490	\$ -	\$ 2,327,490
2003-04	Integrated Waste Management	Title 5	267	\$ 15,055,917	\$ 155,838	\$ -	\$ 14,900,079	\$ -	\$ 14,900,079
2003-04	Open Meetings/Brown Act Reform	Ch. 1116/92	256	\$ 3,596,889	\$ 513,851	\$ -	\$ 3,083,038	\$ -	\$ 3,083,038
2003-04	Prevailing Wage Rate	Ch. 641/86	238	\$ 1,117,296	\$ 1,100,666	\$ -	\$ 16,630	\$ -	\$ 16,630
2003-04	Tuition Fee Waivers	Ch. 1249/78	303	\$ 28,285	\$ -	\$ -	\$ 28,285	\$ -	\$ 28,285

**State Controller's Office**  
**Division of Accounting and Reporting**  
**Schedule B, Section 1: Net Deficiencies and Surpluses for the Funded Mandates by Fiscal Year**  
**As of April 1, 2013**

Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
2003-04	Tuition Fee Waivers	Ch. 36/77	301	\$ 629,328	\$ -	\$ -	\$ 629,328	\$ -	\$ 629,328
<b>2003-04 Total</b>				<b>\$ 27,851,722</b>	<b>\$ 6,765,746</b>	<b>\$ -</b>	<b>\$ 21,085,976</b>	<b>\$ -</b>	<b>\$ 21,085,976</b>
2002-03	Agency Fee Arrangements	Ch. 893/00	270	\$ 48,740	\$ 30,019	\$ -	\$ 18,721	\$ -	\$ 18,721
2002-03	California Grants	Ch. 403/00	302	\$ 22,639	\$ 3,596	\$ -	\$ 19,043	\$ -	\$ 19,043
	Collective Bargaining and Collective Bargaining Agreement Disclosure								
2002-03	Disclosure	Ch. 961/75	232	\$ 7,694,198	\$ 8,289,687	\$ 595,489	\$ -	\$ 220,739	\$ (220,739)
2002-03	Enrollment Fee Collection and Waivers	Title 5	267	\$ 16,679,416	\$ 1,706,789	\$ -	\$ 14,972,627	\$ -	\$ 14,972,627
2002-03	Health Fee Elimination (On or after 07/01/1994)	Ch. 1/84	234	\$ 5,385,973	\$ 8,929,787	\$ 3,547,273	\$ 3,459	\$ 720,289	\$ (716,830)
2002-03	Integrated Waste Management	Ch. 1116/92	256	\$ 3,013,132	\$ 1,114,650	\$ 124,550	\$ 2,023,032	\$ 94,270	\$ 1,928,762
2002-03	Tuition Fee Waivers	Ch. 36/77	301	\$ 571,497	\$ -	\$ -	\$ 571,497	\$ -	\$ 571,497
<b>2002-03 Total</b>				<b>\$ 33,415,595</b>	<b>\$ 20,074,528</b>	<b>\$ 4,267,312</b>	<b>\$ 17,608,379</b>	<b>\$ 1,035,298</b>	<b>\$ 16,573,081</b>
2001-02	California Grants	Ch. 403/00	302	\$ 14,368	\$ 2,880	\$ -	\$ 11,488	\$ -	\$ 11,488
	Collective Bargaining and Collective Bargaining Agreement Disclosure								
2001-02	Disclosure	Ch. 961/75	232	\$ 8,329,244	\$ 9,234,555	\$ 964,882	\$ 59,571	\$ 24,577	\$ 34,994
2001-02	Enrollment Fee Collection and Waivers	Title 5	267	\$ 15,265,351	\$ 352,300	\$ -	\$ 14,913,051	\$ -	\$ 14,913,051
2001-02	Health Fee Elimination (On or after 07/01/1994)	Ch. 1/84	234	\$ 4,839,913	\$ 6,031,413	\$ 1,191,500	\$ -	\$ 146,367	\$ (146,367)
2001-02	Integrated Waste Management	Ch. 1116/92	256	\$ 2,829,824	\$ 1,003,710	\$ 71,971	\$ 1,898,085	\$ 35,050	\$ 1,863,035
2001-02	Tuition Fee Waivers	Ch. 36/77	301	\$ 475,140	\$ -	\$ -	\$ 475,140	\$ -	\$ 475,140
<b>2001-02 Total</b>				<b>\$ 31,753,840</b>	<b>\$ 16,624,858</b>	<b>\$ 2,228,353</b>	<b>\$ 17,357,335</b>	<b>\$ 205,994</b>	<b>\$ 17,151,341</b>
	Collective Bargaining and Collective Bargaining Agreement Disclosure								
2000-01	Disclosure	Ch. 961/75	232	\$ 8,165,560	\$ 8,466,686	\$ 381,699	\$ 80,573	\$ -	\$ 80,573
2000-01	Enrollment Fee Collection and Waivers	Title 5	267	\$ 13,735,590	\$ 212,641	\$ -	\$ 13,522,949	\$ -	\$ 13,522,949
2000-01	Integrated Waste Management	Ch. 1116/92	256	\$ 1,155,500	\$ 250,487	\$ -	\$ 905,013	\$ -	\$ 905,013
<b>2000-01 Total</b>				<b>\$ 23,056,650</b>	<b>\$ 8,929,814</b>	<b>\$ 381,699</b>	<b>\$ 14,508,535</b>	<b>\$ -</b>	<b>\$ 14,508,535</b>
	Collective Bargaining and Collective Bargaining Agreement Disclosure								
1999-00	Disclosure	Ch. 961/75	232	\$ 7,706,224	\$ 8,035,084	\$ 380,799	\$ 51,939	\$ -	\$ 51,939
1999-00	Enrollment Fee Collection and Waivers	Title 5	267	\$ 12,329,790	\$ 172,387	\$ -	\$ 12,157,403	\$ -	\$ 12,157,403
1999-00	Integrated Waste Management	Ch. 1116/92	256	\$ 656,158	\$ 111,750	\$ -	\$ 544,408	\$ -	\$ 544,408
1999-00	Open Meetings/Brown Act Reform	Ch. 641/86	238	\$ 239,700	\$ 274,543	\$ 46,320	\$ 11,477	\$ -	\$ 11,477
<b>1999-00 Total</b>				<b>\$ 20,931,872</b>	<b>\$ 8,593,764</b>	<b>\$ 427,119</b>	<b>\$ 12,765,227</b>	<b>\$ -</b>	<b>\$ 12,765,227</b>
1998-99	Enrollment Fee Collection and Waivers	Title 5	267	\$ 9,635,936	\$ 1,229,718	\$ -	\$ 8,406,218	\$ -	\$ 8,406,218
1998-99	Open Meetings/Brown Act Reform	Ch. 641/86	238	\$ 16,407	\$ -	\$ -	\$ 16,407	\$ -	\$ 16,407
<b>1998-99 Total</b>				<b>\$ 9,652,343</b>	<b>\$ 1,229,718</b>	<b>\$ -</b>	<b>\$ 8,422,625</b>	<b>\$ -</b>	<b>\$ 8,422,625</b>
	Collective Bargaining and Collective Bargaining Agreement Disclosure								
1997-98	Disclosure	Ch. 961/75	232	\$ 1,452,917	\$ 2,003,259	\$ 550,342	\$ -	\$ 3,700	\$ (3,700)
1997-98	Open Meetings/Brown Act Reform	Ch. 641/86	238	\$ 16,900	\$ -	\$ -	\$ 16,900	\$ -	\$ 16,900
<b>1997-98 Total</b>				<b>\$ 1,469,817</b>	<b>\$ 2,003,259</b>	<b>\$ 550,342</b>	<b>\$ 16,900</b>	<b>\$ 3,700</b>	<b>\$ 13,200</b>
1996-97	Open Meetings/Brown Act Reform	Ch. 641/86	238	\$ 18,586	\$ -	\$ -	\$ 18,586	\$ -	\$ 18,586
<b>1996-97 Total</b>				<b>\$ 18,586</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 18,586</b>	<b>\$ -</b>	<b>\$ 18,586</b>

State Controller's Office  
 Division of Accounting and Reporting  
**Schedule B, Section 1: Net Deficiencies and Surpluses for the Funded Mandates by Fiscal Year**  
 As of April 1, 2013

Fiscal Year	Program Name	Legal Reference	Program Number	Program Costs	Program Payments	Established Receivables	Payable Balance	Receivable Balance	Net Balance
1995-96	Open Meetings/Brown Act Reform	Ch. 641/86	238	\$ 17,217	\$ -	\$ -	\$ 17,217	\$ -	\$ 17,217
<b>1995-96 Total</b>				\$ 17,217	\$ -	\$ -	\$ 17,217	\$ -	\$ 17,217
1994-95	Open Meetings/Brown Act Reform	Ch. 641/86	238	\$ 13,033	\$ -	\$ -	\$ 13,033	\$ -	\$ 13,033
<b>1994-95 Total</b>				\$ 13,033	\$ -	\$ -	\$ 13,033	\$ -	\$ 13,033
1993-94	Open Meetings/Brown Act Reform	Ch. 641/86	238	\$ 1,352	\$ -	\$ -	\$ 1,352	\$ -	\$ 1,352
<b>1993-94 Total</b>				\$ 1,352	\$ -	\$ -	\$ 1,352	\$ -	\$ 1,352
<b>Total Community College Districts</b>				\$ 410,888,557	\$ 96,481,043	\$ 16,289,308	\$ 330,696,822	\$ 5,846,553	\$ 324,850,269
<b>Grand Total</b>				\$ 7,098,820,051	\$ 2,299,977,138	\$ 317,487,283	\$ 5,116,330,197	\$ 86,589,830	\$ 5,029,740,367

**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](mailto:csminfo@csm.ca.gov)



August 9, 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: Notice of Complete Filing and Schedule for Comments**

Mandate Redetermination Request, 13-MR-02

*Open Meetings Act/Brown Act Reform, (CSM-4257/4469)*

Government Code Sections 54952, 54954.2, 54954.3, 54957.1, and 54957.7; as added or amended by Statutes 1986, Chapter 641; Statutes 1993, Chapters 1136, 1137, and 1138

California Department of Finance, Requester

Dear Mr. Byrne:

On July 29, 2013, the Department of Finance filed a request to adopt a new test claim decision to supersede the prior decision on the above-named matter. Upon initial review, Commission on State Mandates (Commission) staff found the request to be complete. Based on the filing date of this request, the potential reimbursement period affected begins November 7, 2012. The request is posted at [http://www.csm.ca.gov/pub\\_comment.shtml](http://www.csm.ca.gov/pub_comment.shtml) on the Commission's website. The Commission is now asking affected state and local agencies and interested parties to comment on the mandate redetermination request as specified below.

**Review of Mandate Redetermination Request**

The Department of Finance, State Controller's Office, any affected state agency, the original test claimant, and any interested party shall have the opportunity to review and provide a written response concerning the request on or before **September 9, 2013**. Requests for extensions of time may be filed in accordance with sections 1183.01(c) and 1181.1(h) of the Commission's regulations.

Please focus your responses on the legal issue of whether or not the state's liability has been modified based on a subsequent change in law. (See generally Gov. Code § 17570 and Cal. Code Regs., tit. 2, §1190 et seq.)

**Rebuttal**

Pursuant to section 1190.02 of the Commission's regulations, parties and interested parties may file rebuttals to the written responses within 30 days of service of the responses.

Mr. Michael Byrne

August 9, 2013

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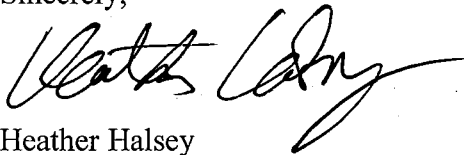
**Process for Filing Comments**

The Commission has promulgated a mailing list of parties, interested parties, and interested persons for this mandate redetermination request which is available on the Commission's website at [www.csm.ca.gov](http://www.csm.ca.gov).

You are advised that the original and two copies of a written response and supporting documentation 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 on the Commission's website. For instructions on electronic filing, please see the Commission's website at [http://www.csm.ca.gov/dropbox\\_procedures.shtml](http://www.csm.ca.gov/dropbox_procedures.shtml). The written responses will be posted on the Commission's website and the mailing list will be notified by electronic mail of the posting and the comment period. This procedure will satisfy all the service requirements under California Code of Regulations, title 2, section 1181.2.

Please contact Heidi Palchik at (916) 323-8218 if you have any questions.

Sincerely,



Heather Halsey  
Executive Director

**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 August 9, 2013, I served the:

**Mandate Redetermination Request; and  
Notice of Complete Filing and Schedule for Comments**

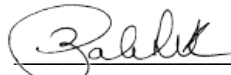
Mandate Redetermination Request, 13-MR-02

*Open Meetings Act/Brown Act Reform, (CSM-4257/4469)*

Government Code Sections 54952, 54954.2, 54954.3, 54957.1, and 54957.7; as added or amended by Statutes 1986, Chapter 641; Statutes 1993, Chapters 1136, 1137, and 1138  
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 August 9, 2013 at Sacramento, California.



---

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

# Commission on State Mandates

Original List Date: 8/9/2013  
Last Updated: 8/9/2013  
List Print Date: 8/9/2013  
Claim Number: 13-MR-02  
Issue: Open Meetings Act/Brown Act Reform, (CSM-4257/4469)

## 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.)

Adam Pirrie, City of Claremont, P.O. Box 880, Claremont, CA, 91711, [apirrie@ci.claremont.ca.us](mailto:apirrie@ci.claremont.ca.us)

Allan Burdick, Mandates Plus, 1104 Corporate Way, Sacramento, CA, 95831, [allanburdick@gmail.com](mailto:allanburdick@gmail.com)

Amanda Roberson, City of Lynwood, 11330 Bullis Road, Lynwood, CA, 90262,  
[aroberson@lynwood.ca.us](mailto:aroberson@lynwood.ca.us)

Amy Shepherd, County of Inyo, P.O. Drawer R, Independence, CA, 93526, [ashepherd@inyocounty.us](mailto:ashepherd@inyocounty.us)

Andrew Sisk, County of Placer, 2970 Richardson Drive, Auburn, CA, 95603, [asisk@placer.ca.gov](mailto:asisk@placer.ca.gov)

Andy Nichols, Nichols Consulting, 1857 44th Street, Sacramento, CA, 95819, [andy@nichols-consulting.com](mailto:andy@nichols-consulting.com)

Andy Okoro, City of Norco, 2870 Clark Avenue, Norco, CA, 92860, [aokoro@ci.norco.ca.us](mailto:aokoro@ci.norco.ca.us)

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[agandhy@downey.ca.org](mailto:agandhy@downey.ca.org)

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Barbara Pachon, City of San Bernardino, 300 North D Street, San Bernardino, CA, 92418-0001, pachon\_ba@ci.san-bernardino.ca.us

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BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

Claim of:

City of Las Angeles  
Claimant

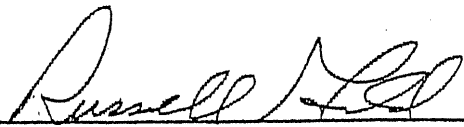
"No. CSM-4257  
Chapter 641, Statutes of 1986  
Government Code Sections 54954.2  
and 54954.3  
Open Meetings Act

DECISION

The attached Proposed Statement of Decision of the Commission on State Mandates is hereby adopted by the Commission on State Mandates as its decision in the above-entitled matter.

This Decision shall become effective on March 23, 1988.

IT IS SO ORDERED March 23, 1988.

  
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Russell Gould, Chairperson  
Commission on State Mandates

BEFORE THE  
COMMISSION ON STATE MANDATES;

Claim of:

City of Los Angeles  
Claimant

No., CSM-4257  
Government Code Sections 54954.2  
and 54954.3  
Chapter 641, Statutes of 1986  
Open Meetings Act

PROPOSED DECISION

This claim was heard by the Commission on State Mandates (commission) on October 22, 1987, in Sacramento, California, during a regularly scheduled meeting. Louis Chappuis appeared on behalf of the City of Los Angeles. James Apps- appeared on behalf of the Department of Finance. There were no other appearances,

Evidence both oral and documentary having been introduced, the matter submitted, and vote taken, the commission finds:

I.

NOTE

1. The finding of a reimbursable state mandate does not mean that all increased costs claimed will be reimbursed. Reimbursement, if any, is subject to commission approval of parameters and guidelines for reimbursement of the claim, and a statewide cost estimate; a specific appropriation by the Legislature for such purpose; a timely-filed claim for reimbursement; and subsequent review of the claim by the State Controller.



II.

FINDINGS AND CONCLUSIONS

1. The test claim of the City of Los Angeles was filed with the Commission on State Mandates on April 1, 1987.
2. The subject of the claim is Chapter 641, Statutes of 1986, Government Code Sections 54954.2 and 64954.3.
3. Chapter 641, Statutes of 1986 added Sections 54954.2 and 54954.3 to the Government Code to require the legislative body of a local agency to post an agenda containing a brief general description of each item of business to be transacted or discussed at a regular meeting, and would prohibit any action to be taken, as defined, on any item not appearing on the posted agenda. Additionally, this statute would require that every agenda for regular meetings provide an opportunity for members of the public to directly address the legislative body on items of interest to the public that are within the subject matter jurisdiction of the legislative body.
4. A higher level of service is now required of the legislative body of a local agency by Chapter 641, Statutes of 1986, Government Code Sections 54964.2 and 54954.3.
5. Government Code Section 17514 defines the term "costs mandated by the state" as "any increased costs which a local agency . . . is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, which mandates . . . a higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."
6. The City of Los Angeles has demonstrated that it has incurred increased costs which are costs mandated by the state.
7. None of the requisites for denying a claim, specified in Government Code Section 17556, subdivision (a), were established.

III.

DETERMINATION OF ISSUES

1. The Commission has the authority to decide this claim under the provisions of Government Code Section 17551.
2. Chapter 641, Statutes of 1986 imposed a reimbursable state mandate on the legislative body of a local agency. The City of Los Angeles has established that this statute imposed a higher level of service of an existing program by requiring the legislative body of a local agency to post an agenda containing a brief general description of each item of business to be transacted or discussed at a regular meeting, and would prohibit any action to be taken, as defined, on any item not appearing on the posted agenda. Additionally, this statute would require that every agenda for regular meetings provide an opportunity for members of the public to directly address the legislative body on items of interest to the public that are within the subject matter jurisdiction of the legislative body.

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Government Code sections 54952, 54954.2, 54957.1, and 54957.7 as amended by Statutes of 1993, Chapters 1136, 1137, 1138 and Statutes of 1994, Chapter 32;

Filed on December 29, 1994 and amended on August 7, 2000;

By the City of Newport Beach, Claimant.

No. CSM 4469

*Brown Act Reform*

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

*(Adopted on June 28, 2001)*

**STATEMENT OF DECISION**

The Commission on State Mandates (Commission) heard and decided this test claim on May 24, 2001 during a regularly scheduled hearing. Mr. Glen Everroad and Ms. Pamela Stone appeared on behalf of the City of Newport Beach. Mr. Allan Burdick appeared on behalf of the California State Association of Counties. Mr. Cedrik Zemitis and Mr. Jim Lombard appeared for the Department of Finance.

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

The Commission, by a vote of 4 to 2, approved this test claim.

**BACKGROUND AND FINDINGS**

The test claim legislation, Government Code sections 54952, 54954.2, 54957.1 and 54957.7, requires the “legislative bodies” of local agencies<sup>1</sup> to comply with certain changes to the Ralph M. Brown Act (Gov. Code § 54950 et seq., hereafter referred to as the Brown Act or the Act).<sup>2</sup> Section 54952 clarifies and changes the definition of “legislative body”; section 54954.2 requires closed session items to be listed on the meeting agenda; section 54957.1 requires the reporting of closed session items after the closed session and the provision of closed session documents; and, section 54957.7 requires the disclosure of certain closed session items both prior to and after the closed session.

The California Legislature enacted the Brown Act in 1953 based on an Assembly Judiciary Committee Report regarding the “secret decisionmaking” of local governments. The Act

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<sup>1</sup> As used in the Ralph M. Brown Act, “local agency” means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission, or agency thereof, or other local public agency. (Gov. Code, § 54951.)

<sup>2</sup> All further statutory references are to the California Government Code unless otherwise indicated.

declared the law's intent that deliberations as well as action of local agencies occur openly and publicly. It also represented the Legislature's determination of how the balance should be struck between public access to meetings of multi-member public bodies on the one hand and the need for confidential candor, debate, and information gathering on the other.<sup>3</sup> The underlying theme of the Brown Act recognizes that:

The people [of this State], in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.<sup>4</sup>

Since the Brown Act was enacted, it has been amended regularly to expand the requirements of the Act and to clarify the "legislative bodies" to which the requirements of the Act apply. Numerous court cases and Attorney General Opinions have re-affirmed the Legislature's original intent to ensure that deliberations and decisionmaking of local agencies be conducted in an open forum with full participation from the public.

### **Prior Test Claims**

The Commission on State Mandates has previously determined two test claims on the Brown Act.

#### *Open Meetings Act (CSM-4257)*

On March 23, 1988, the Commission adopted the *Open Meetings Act* test claim that added Government Code sections 54954.2 and 54954.3 to the Brown Act. Section 54954.2 required the "legislative bodies" of local agencies *for the first time* to prepare and post agendas for public meetings at least 72 hours prior to the scheduled meeting. In addition, the agenda was to contain a brief description of each item to be discussed. Local agencies were also prohibited from taking action on any item that was not on the agenda. Section 54954.3 required that each agenda provide the public with the opportunity to address the legislative body during the meeting.

Under CSM-4257, local agencies were eligible for reimbursement for the Brown Act requirements for the following types of legislative bodies: 1) the governing board, commission, directors or body of a local agency or any board or commission thereof, as well as any board, commission, committee, or other body on which officers of a local agency serve in their official capacity; 2) any board, commission, committee, or body which exercises authority delegated to it by the legislative body; and, 3) planning commissions, library boards, recreation commissions, and other *permanent* boards or commissions of a local agency composed of at least a quorum of the members of the legislative body. The Commission's Parameters and Guidelines for CSM-4257 specifically provided reimbursement for the increased costs to prepare and post a single agenda 72 hours before a meeting of the legislative body of a local agency containing a brief general description of each item of business to be transacted or discussed.

#### *School Site Councils and Brown Act Reform (CSM-4501)*

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<sup>3</sup> California Attorney General's Office, *The Brown Act, Open Meetings for Local Legislative Bodies* (1994).

<sup>4</sup> Government Code section 54950.

The Brown Act came before the Commission again in test claim CSM-4501, *School Site Councils and Brown Act Reform*, filed by the Kern High School District, San Diego Unified School District, and the County of Santa Clara. This test claim was filed on Government Code section 54952 and Education Code section 35147 and addressed the application of the open meeting provisions of the Brown Act to specified schoolsite councils and advisory committees of school districts. On April 27, 2000, the Commission approved this test claim finding that Statutes of 1993, chapter 1138 among other things, added Government Code section 54952, subdivision (a), which provided, in relevant part, that the term “legislative body” for purposes of the open meeting requirements of the Brown Act also included any local body created by state or federal statute.

The Commission also found that Statutes of 1994, chapter 239 removed certain school site councils and advisory committees from the full requirements of the Brown Act, but added Education Code section 35147, which imposed an abbreviated set of open meeting requirements on school site councils and advisory committees established as part of the following programs: School Improvement Program; Native American Indian Early Childhood Education Act; Chacon-Moscone Bilingual-Bicultural Education Act; School-Based Coordination Program; Compensatory Education Program; Migrant Education Program; Motivation and Maintenance Program; and the federal Indian Education Program.

The Commission’s Parameters and Guidelines for CSM-4501 provided reimbursement for notice and agenda activities for school district’s schoolsite councils and certain advisory committees.

### **Claimant’s Contentions**

In their test claim, claimant contends that the test claim legislation imposes an increased level of service on local agencies. The claimant asserts the following:

- Government Code section 54952, subdivisions (a), (b) and (c), as amended, impose a higher level of service on local agencies by expanding the definition of “legislative body” which is subject to the notice requirements of the Brown Act. The agenda preparation and posting requirements of section 54954.2 now apply to an increased number of entities such as standing committees, advisory bodies and other local bodies created by state or federal statute;
- Government Code section 54954.2, subdivision (a), as amended, imposes a higher level of service on local agencies by expanding the notice requirements to include a description of each item to be discussed or transacted in closed session;
- Government Code sections 54957.1, subdivisions (a), (b) and (c) and 54957.7, subdivisions (a), (b) and (c), as amended, impose a higher level of service on local agencies by expanding the nature and extent of the required public reporting of action taken in closed sessions; and,
- These amendments require an increased level of service by local agencies, necessitating training for local agencies.

## **Department of Finance Contentions**

The Department of Finance (DOF) submitted comments on this test claim on June 1, 1995. Their contention is that while chapters 1136 and 1137 (agenda and notice requirements and closed session requirements) may have resulted in reimbursable state-mandated costs pertaining to certain notification requirements, they may also have resulted in offsetting savings to local governments by specifying that agenda descriptions be restricted to 20 or less words. In addition, the DOF contends that the intent of chapter 1138 (definition of legislative body) was to provide cost savings to local governments by simplifying and clarifying the Brown Act requirements. Finally, regarding chapter 32, the DOF states that this is essentially clean-up legislation for the other three named chapters and does not affect the scope of the changes made by those chapters. Consequently, it is the DOF's belief that there are no reimbursable state-mandated costs in that legislation.<sup>5</sup>

At the hearing, the DOF argued that local agencies requested the enactment of the test claim legislation, and therefore, there are no costs mandated by the state.

## **Interested Party Contentions**

The County Counsel of Marin County submitted comments in support of the test claim on May 30, 1995. Their contention is that the 1993 and 1994 amendments to the Brown Act require local agencies to perform an increased level of service resulting in increased state mandated costs for reporting requirements, record keeping, and other County staff responsibilities. In addition, the County claims that these provisions have resulted in an increased level of service to advisory bodies, which are now subject to the Brown Act amendments.

## **Interested Persons Contentions**

Former Senator Quentin Kopp, author of the majority of the Brown Act legislation, submitted comments in opposition to the test claim. His contention is that the amendments to the Brown Act were proposed to reduce the costs to local agencies for posting agendas, making oral statements regarding closed session items, and providing a description of the items on the agenda.

The California Newspaper Publishers Association submitted comments in opposition to the test claim. Their contention is that the changes to the Brown Act do not create a state mandated local program because the amendments were intended by the legislature to be instructive, not to expand the open meeting requirements. In particular, the clarifying language "A brief general description of an item generally need not exceed 20 words" was added to radically reduce the costs of creating and posting agendas. The First Amendment Coalition submitted comments in opposition to the test claim adopting the arguments and conclusion of the California Newspaper Publishers Association.

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<sup>5</sup> Regarding chapter 32, the test claim submitted by claimant stated: "The provisions of Chapter 32, Statutes of 1994, did not effect the scope of the state mandated activities and costs described in this test claim."

Paul C. Minney of Spector, Middleton, Young & Minney, LLP submitted comments on the Draft Staff Analysis. His contention is that both permanent and temporary decisionmaking committees or boards created by formal action are “new legislative bodies” under the test claim statute because these bodies can exercise authority broader than that granted to the legislative body.

## COMMISSION FINDINGS

In order for a statute, which is the subject of a test claim, to impose a reimbursable state mandated program under article XIII B, section 6 of the California Constitution and Government Code section 17514, the statutory language must direct or obligate an activity or task upon local governmental entities. If the statutory language does not mandate or require local agencies to perform a task, then compliance with the test claim statute is within the discretion of the local agency and a reimbursable state mandated program does not exist.

Further, the required activity or task must be new or it must create an increased or higher level of service over the former required level of service. The California Supreme Court has defined the word “program,” subject to article XIII B, section 6 of the California Constitution, as an activity 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. To determine if the “program” is new or imposes a higher level of service, a comparison must be undertaken between the test claim legislation and the legal requirements in effect immediately before the enactment of the test claim legislation. Finally, the newly required activity or increased level of service must impose “costs mandated by the state.”<sup>6</sup>

The test claim legislation requires the performance of certain activities related to public meetings by specified “legislative bodies” of local agencies. These local governmental bodies are carrying out a basic governmental function of making decisions regarding the operations of local agencies that provide services to the public. The mandatory compliance with the Brown Act is unique to local agencies; it is a peculiarly governmental function that does not apply to all residents and entities in the state. Therefore, the Commission finds that compliance by local agencies with the open meeting requirements of the test claim legislation constitutes a “program” within the meaning of article XIII B, section 6 of the California Constitution.

The Commission continued its inquiry to determine if the test claim legislation constitutes a new program or higher level of service and imposes “costs mandated by the state” upon local agencies. Claimant contends that the test claim legislation imposes a higher level of service upon local agencies because the agenda preparation and posting requirements apply to an increased number of entities now defined as “legislative bodies” such as standing committees, advisory bodies and other local bodies created by state or federal statute. Claimant also contends that the test claim legislation requires new activities regarding the inclusion of closed session items on

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<sup>6</sup> *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537; *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 66; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835; Government Code section 17514.

agendas and the reporting of closed session items both prior to and after the closed session. The analysis of these issues for the statutes at issue is discussed below.

**Issue 1: Does the test claim legislation impose a new program or higher level of service upon local governmental bodies within the meaning of article XIII B, section 6 of the California Constitution?**

Issue 1 is presented in two parts: Part One discusses the entities subject to the open session notice and agenda requirements and Part Two discusses the closed session requirements for all legislative bodies.

**Part One: Entities Subject to Open Session Notice and Agenda Requirements**

The notice and agenda provisions of the Brown Act are found in Government Code section 54954.2. Under the test claim legislation, this section requires the “legislative bodies” of local agencies to post a notice and agenda containing a brief general description of each item to be discussed at the meeting. Section 54954.2 states in relevant part the following:

At least 72 hours before a regular meeting, the legislative body of a local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words.

**New Entities Subject to the Notice & Agenda Requirements**

Government Code section 54952 describes the “legislative bodies” required to comply with the Brown Act. The test claim legislation substantially amended section 54952 to clarify and describe the “legislative bodies” in greater detail. Section 54952 now defines “legislative body” in relevant part as follows:

- (a) The governing body of a local agency or any other local body created by state or federal statute.
- (b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body which are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.

Thus, the “legislative bodies” required to comply with the Brown Act now include the following:

- The governing body of a local agency;

- A local body created by state or federal statute;
- A permanent decisionmaking body created by formal action;
- A temporary decisionmaking body created by formal action;
- A permanent advisory body created by formal action (except an advisory body with less than a quorum of the members);
- A temporary advisory body created by formal action (except an advisory body with less than a quorum of the members); and,
- Standing committees, irrespective of their composition with a continuing subject matter jurisdiction, or a meeting schedule fixed by formal action.

Under prior law, the “legislative body” of a local agency required to comply with the Brown Act was defined in several statutory provisions. Section 54952 defined the governing body of a local agency or any board or commission thereof, and any body on which officers of a local agency serve in their official capacity as members; section 54952.2 defined any multimember body with delegated authority of the legislative body; section 54952.3 defined any advisory body created by formal action and included both reduced notice requirements and an exemption from all Brown Act requirements for a committee composed solely of members of the governing body of a local agency which are less than a quorum of such governing body; and, section 54952.5 defined planning commissions, library boards, recreation commissions, and other permanent boards or commissions of a local agency as “legislative bodies.”

While amending section 54952, the test claim legislation also repealed sections 54952.2, 54952.3 and 54952.5. Based on the following analysis, the Commission finds that the test claim legislation created the following two new “legislative bodies” required to comply with the provisions of the Brown Act including the notice and agenda requirements of section 54954.2:

- Any local body created by state or federal statute

This body was not identified as a “legislative body” in prior law. Thus, the Commission finds that under the test claim legislation, it *is* a new body required to comply with the open session notice and agenda requirements imposed by Government Code section 54954.2; and,

- Standing committees with less than a quorum of the governing body which have a continuing subject matter jurisdiction, or a meeting schedule fixed by formal action

The test claim legislation defines legislative body to include “standing committees of a legislative body, *irrespective of their composition*, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by formal action.” Historically, standing committees were permanent committees that met regularly and considered subjects of a particular class.<sup>7</sup> Their composition, however, varied depending on the body that created them.

Prior to the enactment of the test claim legislation, the various statutory provisions regarding the application of the Brown Act created much confusion as to whether committees, regardless of their composition, fell under the requirements of the Act. However, numerous judicial decisions

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<sup>7</sup> 79 Ops.Cal.Atty.Gen. 69, 72 (1996).



and opinions of the Attorney General found that the Brown Act essentially governed *all* meetings of a *quorum* of the legislative body of a local agency when the public’s business was discussed.<sup>8</sup>

In 1993, just prior to the passage of the test claim legislation, this issue was finally resolved in the *Freedom Newspaper* case.<sup>9</sup> In *Freedom*, a newspaper publisher sought a writ of mandate to compel a county employees retirement system board of directors to allow the public to attend meetings of the board’s operations committee. The committee was advisory in nature and was composed of four members of the nine-member board. The Supreme Court held that since the operations committee was an advisory committee composed solely of board members *numbering less than a quorum of the board*, the committee was not a “legislative body” pursuant to the provisions of Government Code section 54952.3, and was therefore excluded from the open meeting requirements of the Brown Act. The *Freedom* Court agreed with a long-standing 1968 Attorney General Opinion that stated: “[w]e have consistently concluded that committees composed of *less than a quorum of the legislative body creating them and not established on a permanent basis for a continuing function are not subject to the open meeting requirements of that Act.*” (Emphasis supplied).<sup>10</sup>

Thus, the Commission finds that while standing committees with less than a quorum of the members of the legislative body were exempt from the requirements of the Brown Act under prior law, the test claim legislation now defines “standing committees, *irrespective of their composition*” as new bodies required to comply with the open session notice and agenda requirements imposed by section 54954.2.

Regarding the other five bodies identified in the test claim legislation, the Commission finds they are not new “legislative bodies” because they were identified in prior law as follows:

- Governing body of a local agency

This body is identified as a “legislative body” in prior law in section 54952 and thus it is not a new body.

- Permanent decisionmaking committee or board created by formal action

Interested Person, Paul C. Minney, contends that permanent decisionmaking committees created by formal action were not subject to the Brown Act before the enactment of the test claim legislation. In his comments, he states:

Staff’s conclusion [in the draft staff analysis] is predicated upon the assumption that the legislative body of a local agency can only create a “permanent decision making board” which may exercise the authority of the body that created it. This assumption is incorrect. For example, when a school district approves a charter school (by formal action) it creates a permanent body with decision making body [sic] that exercises authority broader than that granted to the school district...

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<sup>8</sup> *Id.*, at page 69, fn 3.

<sup>9</sup> *Freedom Newspapers, Inc., v. Orange County Employees Retirement System Board of Directors* (1993) Cal.4<sup>th</sup> 821, 832-833.

<sup>10</sup> *Id.*, at pages 828-829.

The Commission disagrees. Under prior law, section 54952.2 stated:

As used in this chapter, “legislative body” also means *any* board, commission, committee, or similar multimember body which exercises *any authority* of a legislative body of a local agency *delegated* to it by that legislative body. (Emphasis added.)

Also, under prior law, section 54952.5 specifically included permanent boards and commissions of local agencies within the coverage of the Brown Act. That section stated:

As used in this chapter, ‘legislative body’ also includes, but is not limited to, planning commissions, library boards, recreation commissions, *and other permanent boards or commissions* of a local agency. (Emphasis added.)

When determining the intent of a statute, the first step is to look at the statute’s words and give them their plain and ordinary meaning. Where the words of the statute are not ambiguous, they must be applied as written and may not be altered in any way.<sup>11</sup> The plain language of former sections 54952.2 and 54952.5 include permanent boards and commissions as legislative bodies and any board or commission that exercises any authority delegated to it; i.e. decisionmaking authority.

Moreover, in their 1989 booklet, *Open Meeting Laws*, the Attorney General’s Office determined that decisionmaking bodies were required to comply with the Brown Act before the enactment of the test claim legislation. In the booklet, the Attorney General’s Office states:

*Under current law, decision-making bodies would primarily be covered under section 54952 or 54952.2 and advisory committees under section 54952.3. However, section 54952.5 was invoked by this office to apply to a hearing board of an air pollution control district. (71 Ops.Cal.Atty.Gen. 96 (1988).) Although there is not a published opinion or indexed letter precisely on point, we think that permanent committees (e.g., budget or finance committees) comprised solely of less than a quorum of the members of a board or commission were not intended to be covered by section 54952.5. (See discussion of less than a quorum exception in section C(6) at page 20 in this pamphlet.) However, if such committees “exercise” enough “authority” “delegated” to them by a legislative body, they might be covered by section 54952.2 as a decision-making body rather than an advisory body.*

While the Attorney General’s views do not bind the Commission, they are entitled to considerable weight. This is especially true here since the Attorney General regularly advises many local agencies about the meaning of the Brown Act and publishes a manual designed to assist local governmental agencies in complying with the Act’s open meeting requirements.<sup>12</sup>

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<sup>11</sup> *City of Merced v. State of California* (1984) 153 Cal.App.3d 777; *Carrisales v. Department of Corrections* (1999) 21 Cal.4th 1132.

<sup>12</sup> *Freedom Newspapers, Inc. v. Orange County Employees Retirement System Board of Directors*, *supra*, 6 Cal.4th at p. 829.

Accordingly, the Commission finds that permanent decisionmaking bodies created by formal action were subject to the Brown Act before the enactment of the test claim legislation and, thus, are not new.

- Temporary decisionmaking committee or board created by formal action

This body is also identified as a “legislative body” in prior law under section 54952.2 as discussed above. Section 54952.2 stated:

As used in this chapter, “legislative body” also means *any* board, commission, committee, or similar multimember body which exercises any authority of a legislative body of a local agency delegated to it by that legislative body. (Emphasis added.)

For the same reasons discussed under the section analyzing permanent decisionmaking bodies, the Commission finds that temporary decisionmaking bodies created by formal action were subject to the Brown Act before the enactment of the test claim legislation and, thus, are not new.

- Permanent advisory committee or board created by formal action (except less than a quorum of the members)

This body is identified under prior law in sections 54952.3 and 54952.5. Section 54952.3 defined “legislative body” as *any* advisory committee created by formal action. In addition, section 54952.3 provides an exception for any advisory committee composed solely of less than a quorum of the members of the legislative body. Section 54952.5 also defined “legislative body” to include permanent boards or commissions of a local agency. Thus, the Commission finds that permanent advisory committees or boards created by formal action (except less than a quorum of the members) were “legislative bodies” under prior law.

- Temporary advisory committee or board created by formal action (except less than a quorum of the members)

This body is identified under prior law in section 54952.3 as discussed above, and thus, the Commission finds that this body was a “legislative body” under prior law.

- Standing committees comprised of a quorum of the members of the legislative body

These bodies are also defined as a “legislative body” under prior law. Standing committees, by definition, are permanent committees that regularly consider a particular subject matter. When comprised of a quorum of the members of the legislative body, these committees fall under the definition of a committee with delegated authority since they are empowered to make decisions on behalf of the legislative body.<sup>13</sup> In addition, standing committees comprised of a quorum of the members fall under the definition of “legislative body” in former Government Code sections 54952.3 and 54952.5 (i.e. permanent advisory committees of a local agency). Thus, the Commission finds that standing committees composed of at least a quorum of the members of the legislative body are not new bodies under the test claim legislation.

The chart below provides a summary of the Commission’s findings:

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<sup>13</sup> Former Government Code section 54952.2 stated in relevant part as follows:

“...legislative body also means any board, commission, committee, or similar multimember body which exercises any authority of a legislative body of a local agency delegated to it by that legislative body.”

<b>Test Claim Legislation Section 54952</b>	<b>Prior Law Sections 54952, 54952.3, 54952.3, 54952.5</b>
Governing body	§ 54952 Governing body
Local body created by state or federal statute	<b>NEW</b>
Permanent decisionmaking committee or board created by formal action	§ 54952.2 Any board, committee, body that exercises any authority of a legislative body <i>delegated</i> to it by the legislative body § 54952.5 Planning commissions, library boards, recreation commissions, and other <i>permanent</i> boards or commissions of a local agency
Temporary decisionmaking committee or board created by formal action	§ 54952.2
Permanent advisory committee or board created by formal action (except less than a quorum of the members)	§ 54952.3 Any advisory committee created by formal action (except less than a quorum of the members) § 54952.5 Planning commissions, library boards, recreation commission, <i>and other permanent</i> boards or commissions of a local agency
Temporary advisory committee or board created by formal action (except less than a quorum of the members)	§ 54952.3
Standing committees, irrespective of their composition (i.e. even those with less than a quorum of the members of the legislative body) with a continuing subject matter jurisdiction, or a meeting schedule fixed by formal action	<b>NEW--Standing committees with less than a quorum of the members</b> However, standing committees with a quorum of members of the legislative body are covered in prior law through §§ 54952.2, 54952.3 and 54952.5.

Based on the foregoing, the Commission finds that Government Code sections 54952 and 54954.2, subdivision (a), of the test claim legislation constitute a new program or higher level of service pursuant to article XIII B, section 6 of the California Constitution for two new bodies (local bodies created by state or federal statute and standing committees with less than a quorum of the members of the legislative body with a continuing subject matter jurisdiction, or a meeting schedule fixed by formal action) to prepare and post an agenda of their meetings 72 hours prior to the meeting which contains a brief general description of each item to be transacted or discussed at the meeting.

### **Advisory Bodies Subject to the Notice & Agenda Requirements**

In the *Open Meetings Act* (CSM-4257) test claim, the Commission determined that Government Code section 54954.2 imposed a reimbursable state mandated program upon “all legislative bodies,” as defined, to post a notice and agenda 72 hours prior to the meeting of a legislative body. That section also required that the notice and agenda contain a brief general description of all items to be discussed at the meeting. Section 54954.2 was enacted in 1986 and applied to all legislative bodies, which by definition included advisory bodies before the enactment of the test claim legislation.

However, prior law (former Government Code section 54952.3, which was enacted in 1968) also *exempted* advisory bodies from the regular notice and agenda provisions of the Act and held them to significantly reduced notice requirements:

Meetings of such advisory commissions, committees or bodies...shall be open and public, and notice thereof must be delivered personally or by mail at least 24 hours before the time of such meeting to each person who has requested, in writing, notice of such meeting.

If the advisory commission, committee or body elects to provide for the holding of regular meetings, it shall provide by bylaws, or by whatever other rule is utilized by that advisory body for the conduct of its business, for the time and place for holding such regular meetings. *No other notice of regular meetings is required.* (Emphasis added.)

Thus, prior law, as specified in sections 54954.2 and 54952.3, imposed conflicting duties on advisory bodies. If an advisory body complied with section 54952.3 by not preparing and posting an agenda, did it violate section 54954.2? In other words, which statute constitutes prior law with respect to the duties imposed on advisory bodies?

*Sutherland Statutory Construction*, a treatise on statutory construction, explains that whenever the legislature enacts a provision, it has in mind previous statutes relating to the same subject matter. In the absence of any express repeal or amendment, the new provision is presumed to be in accord with the legislative policy embodied in those prior statutes. When a conflict exists, the more specific statute controls over the more general one.<sup>14</sup> However, where the conflict is irreconcilable, the statute that is the more recent of the two conflicting statutes prevails.<sup>15</sup>

In this case, the Commission finds the express language of section 54952.3 is more specific than the provisions of section 54954.2 and thus, prevails as prior law. Section 54952.3 *specifically* identified advisory commissions and committees as legislative bodies that were not required to prepare and post an agenda. They were only required to deliver notice of their meetings 24-hours prior to the meeting and to provide in their bylaws for the time and place of holding regular meetings. In contrast, section 54954.2 *generally* referred to “the legislative body of the local agency, or its designee,” when describing the bodies to which the notice requirements applied. Thus, by the repeal of section 54952.3 by the test claim legislation, advisory bodies are now subject, for the first time, to the full notice and agenda requirements specified in section 54954.2, subdivision (a), of the Brown Act.

Therefore, the Commission finds that Government Code section 54954.2, subdivision (a), constitutes a new program or higher level of service pursuant to article XIII B, section 6 of the California Constitution for all permanent and temporary advisory bodies created by formal action (except less than a quorum of the members of the legislative body) to comply with the full notice and agenda requirements of the Brown Act by preparing and posting an agenda of their meetings

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<sup>14</sup> *People v. Tanner* (1979) 24 Cal.3d 514, 521, where the California Supreme Court states that “[a] specific provision relating to a particular subject will govern a general provision, even though the general provision standing alone would be broad enough to include the subject to which the specific provision relates.”

<sup>15</sup> 2B, *Sutherland, Statutory Construction* (5<sup>th</sup> Ed. 1994) § 51.02.

72 hours prior to the meeting which contains a brief general description of each item to be transacted or discussed at the meeting.

## **Part Two: Closed Session Requirements**

Under prior law, the legislative body was required to state the reasons for a closed session either before or after the closed session and to publicly report the action and vote taken in closed session regarding the appointment, employment or dismissal of a public employee. The test claim legislation added four new closed session requirements that apply to all “legislative bodies” including those newly defined under the test claim legislation.

### **Notice and Agenda Requirements**

The test claim legislation amended the notice and agenda provisions to include closed session items on the agenda. Section 54954.2 states, in relevant part, the following:

At least 72 hours before a regular meeting, the legislative body of a local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. (Underlined portion indicates amendments to this section by the test claim legislation).

Under prior law, the legislative body was only required to state the general reason or reasons for the closed session either prior to or after holding the closed session and if desired, cite the statutory authority under which the session was being held.<sup>16</sup> The test claim legislation now requires a brief general description of closed session items to be included on the agenda for the meeting.

Thus, the Commission finds that Government Code section 54954.2, subdivision (a), of the test claim legislation constitutes a new program or higher level of service pursuant to article XIII B, section 6 of the California Constitution for all “legislative bodies” defined in Government Code section 54952 to provide a brief general description of all items to be discussed in closed session on the agenda of the meeting.

### **Prior Disclosure Requirements**

Under prior law, section 54957.7 only required a legislative body, prior to *or* after the closed session, to state the general reason for the closed session and to include the appropriate statutory authority, if desired. The test claim legislation amended this section to provide, in relevant part, as follows:

(a) Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda.

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<sup>16</sup> Former Government Code section 54957.7.

The test claim legislation now requires all legislative bodies to disclose each item to be discussed in closed session prior to the start of the closed session.

Accordingly, the Commission finds that Government Code section 54957.7, subdivision (a), of the test claim legislation constitutes a new program or higher level of service pursuant to article XIII B, section 6 of the California Constitution for all “legislative bodies” as defined in Government Code section 54952 to disclose, prior to holding a closed session, each item to be discussed in closed session.

### **Subsequent Reporting Requirements**

Subdivision (b) was added to section 54957.7 by the test claim legislation and provides as follows:

(b) After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by Section 54957.1 of action taken in the closed session.

Section 54957.1, subdivision (a) of the test claim legislation added an extensive list of items requiring the legislative body to publicly report, either orally or in writing,<sup>17</sup> the actions and votes taken in closed session for the following items:

(1) Approval of an agreement concluding real estate negotiations pursuant to Section 54956.8 shall be reported after the agreement is final, as specified below:

(A) If its own approval renders the agreement final, the body shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with the other party to the negotiations, the local agency shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the local agency of its approval.

(2) Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a consultation under Section 54956.9 shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or

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<sup>17</sup> Government Code section 54957.1(b) provides in relevant part the following:

“Reports that are required to be made pursuant to this section may be made orally or in writing.”

more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(3) Approval given to its legal counsel of a settlement of pending litigation, as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as specified below:

(A) If the legislative body accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the local agency shall disclose the fact of that approval, and identify the substance of the agreement.

(4) Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant.

(5) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session pursuant to Section 54957 shall be reported at the public meeting during which the closed session is held. Any report required by this paragraph shall identify the title of the position. The general requirement of this paragraph notwithstanding, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

(6) Approval of an agreement concluding labor negotiations with represented employees pursuant to Section 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

Under prior law, the sole reporting requirement for closed sessions under section 54957.1 was to report at the current or a subsequent meeting, any action taken and any roll call vote *to appoint, employ, or dismiss a public employee*.<sup>18</sup> Other issues that could be discussed in closed session such as licensing matters, real estate negotiations or pending litigation did not require any reporting in a public session.<sup>19</sup> The test claim legislation now requires the legislative body to

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<sup>18</sup> Former section 54957.1 stated the following:

“The legislative body of any local agency shall publicly report at the public meeting during which the closed session is held or at its next public meeting any action taken, and any roll call vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the legislative body.”

<sup>19</sup> Government Code sections 54956.7, 54956.8, 54956.9, 54957.



reconvene into public, open session and report the actions and votes taken on the five new items listed above which were discussed in closed session.

Therefore, the Commission finds that Government Code sections 54957.7, subdivision (b), and 54957.1, subdivision (a), of the test claim legislation constitute a new program or higher level of service pursuant to article XIII B, section 6 of the California Constitution for all bodies defined as “legislative bodies” in Government Code section 54952 to reconvene in public session prior to adjournment and report the five items identified in section 54957.1, subdivision (a) (1-4, 6) which were discussed in closed session.

### **Documentation Requirements**

Subdivisions (b) and (c) of section 54957.1 of the test claim legislation concern the provision of documentation from closed sessions to members of the public. This section provides, in relevant part, as follows:

(b)... The legislative body shall provide to any person who has submitted a written request to the legislative body within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to Section 54954.1 or 54956, if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the legislative body or his or her designee orally summarizes the substance of the amendment for the benefit of the document requester or any other person present and requesting the information.

(c) The documentation referred to in paragraph (b) shall be available to any person on the next business day following the meeting in which the actions referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

Prior to the test claim legislation, section 54957.1 did not address writings. The subject of ‘writings’ was addressed in section 54957.5 which provided for the inspection and distribution of certain writings that were public records under the California Public Records Act. However, subdivision (e) of section 54957.5 provided that, “(T)his section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a legislative body of a local agency...”. Thus, while prior law provided for the inspection and provision of certain writings distributed to the legislative body, it did not require the distribution of documentation from closed sessions to members of the public.

Accordingly, the Commission finds that Government Code section 54957.1, subdivisions (b) and (c), of the test claim legislation constitutes a new program or higher level of service pursuant to article XIII B, section 6 of the California Constitution for all bodies defined as “legislative

bodies” in Government Code section 54952 to provide copies of documentation from the closed session within the specified timelines.

**Issue 2: Does the test claim legislation impose costs mandated by the state pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514?**

The remaining issue is whether there are increased costs mandated by the state. Government Code section 17514 provides in relevant part the following:

Costs mandated by the state” means any *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...which mandates a new program or higher level of service within the meaning of Section 6 of Article XIII B of the California Constitution. (Emphasis added.)

In addition, section 17556 provides in relevant part the following:

The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

- (a) The claim is submitted by a local agency or school district which requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this paragraph.

At the May 24, 2001 hearing, the Department of Finance contended that local agencies requested the enactment of the test claim legislation and, thus, there are no costs mandated by the state. Mr. Cedrik Zemitis testified on behalf of the Department of Finance as follows:

MR. ZEMITIS: Second, local request, we would note that at the time the test claim statute was considered by the legislature, it was clear that these bills were introduced at the behest of local governments. The author of most of the bills stated for the record at the time that existing law was amended specifically at the request of local agencies. Indeed, numerous legislative committee analyses support the author.

In addition, the California School Boards Association at the time stated that clarification of the existing Brown Act will not create additional costs to local government. In addition, the California State Association of Counties and numerous other local entities all officially supported the legislation because it would simplify and clarify the Brown Act with no additional costs.

While we do not have resolutions from all of the affected local entities, which would be in the thousands literally, representatives of those entities clearly sponsored the legislation as well as reported savings and no new costs. Therefore we believe any mandate would not be reimbursable.<sup>20</sup>

In response, the claimant testified that the City of Newport Beach did not request legislative authority to implement the program nor did they sponsor the test claim legislation.<sup>21</sup> In addition, there is no evidence in the record of a resolution from any governing body of a local agency requesting authorization to implement the test claim legislation. Therefore, the Commission finds that Government Code section 17556, subdivision (a) does not apply in this test claim.

Further, section 17556, subdivision (e) provides that the commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

(e) The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

The Department of Finance contends that while chapters 1136 and 1137 may have resulted in reimbursable state-mandated activities pertaining to certain notification requirements, these chapters may also result in offsetting savings to local governments by specifying that agenda descriptions be restricted to 20 or less words. The Department also contends that the test claim legislation results in cost savings to local governments by simplifying and clarifying the Brown Act. The Department did not comment on the new closed session requirements of the test claim legislation.

The original claimant, the County of Santa Clara, submitted a declaration to support their contention that the test claim legislation resulted in an increase in costs incurred by several County departments. Steve Conrad, SB 90 Coordinator for the County of Santa Clara declared on December 28, 1994 that an additional \$560 will be incurred per year by Santa Clara county to include closed session items on the agenda, and that an additional \$2,200 will be incurred per year by Santa Clara county to record closed session discussions in order to report in open session the items discussed in closed session, and that an additional \$6,300 will be incurred per year by Santa Clara county to prepare and post an agenda for the new bodies defined as “legislative bodies” in the test claim legislation.

In reviewing the language of the test claim legislation, there is no language that provides for offsetting savings resulting in *no* net costs to the claimants, nor does the test claim legislation include any additional revenue specifically intended to fund the mandate. While the Department of Finance contends that the test claim statutes may result in offsetting savings to the claimants

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<sup>20</sup> Hearing Transcript, May 24, 2001 Commission on State Mandates Hearing, page 14, line 25; page 15, lines 1-25; page 16, lines 1-7.

<sup>21</sup> Hearing Transcript, May 24, 2001 Commission on State Mandates Hearing, page 29, lines 15-21.

by limiting the agenda descriptions to “20 words or less”, the Commission finds that the language of the test claim legislation does not support this conclusion. Nor has the Department provided any documentary evidence to support their contention. Former Senator Kopp contends that the legislative intent of these amendments was to simplify and clarify the Brown Act. However, no documentary evidence has been provided to support this contention. Thus, the Commission finds that Government Code section 17556, subdivision (e) does not apply in this test claim.

Therefore, the Commission finds that the test claim legislation, which requires the legislative bodies of local agencies to perform a number of additional activities in relation to the open meeting requirements of the Brown Act, imposes costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

## CONCLUSION

Based on the foregoing, the Commission concludes that the test claim legislation (Government Code sections 54952, 54954.2, 54957.1, and 54957.7) imposes a reimbursable state-mandated program upon local governments within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities:

### Open Session Requirements

<u>Activity</u>	<u>Applies To</u>
To prepare and post an agenda at least 72 hours before a regular meeting containing a brief general description of each item of business to be transacted or discussed at the meeting. A brief general description of an item generally need not exceed 20 words. [Gov. Code § 54954.2, subd. (a)]	Local Bodies created by state or federal statute.  Standing Committees with less than a quorum of members of the legislative body that has a continuing subject matter jurisdiction or a meeting schedule fixed by formal action.  Permanent & Temporary Advisory Bodies (except bodies of less than a quorum of the members of the legislative body).

### Closed Session Requirements

<u>Activity</u>	<u>Applies To</u>
To include a brief general description on the agenda of all items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. [Gov. Code § 54954.2, subd. (a)]	All “legislative bodies”
To disclose in an open meeting, prior to holding any closed session, each item to be discussed in the closed session. [Gov. Code § 54957.7, subd. (a)]	All “legislative bodies”
To reconvene in open session prior to adjournment and report the actions and votes taken in closed session for the five items identified in Government Code section 54957.1, subdivision (a)(1-4, 6). [Gov. Code § 54957.7, subd. (b)]	All “legislative bodies”
To provide copies of closed session documents as required. [Gov. Code § 54957.1, Subd. (b) and (c)]	All “legislative bodies”

The Commission further concludes that all other statutes and code sections included in this test claim do not constitute a reimbursable state-mandated program.

Reinstated: July 31, 2009  
Set Aside: July 19, 2005  
Adopted: April 25, 2002  
j:\mandates\csm4000\4469\PsGs\pgadopt042502

**Parameters and Guidelines**

Government Code Sections 54952, 54954.2, 54954.3, 54957.1, and 54957.7

Statutes of 1986, Chapter 641

Statutes of 1993, Chapters 1136, 1137 and 1138

*Open Meetings Act/Brown Act Reform*

**I. SUMMARY OF THE MANDATE**

Government Code sections 54952, 54954.2, 54957.1 and 54957.7, require that “legislative bodies” of local agencies comply with certain changes to the Ralph M. Brown Act, also known as the Open Meetings Act.

On June 28, 2001, the Commission on State Mandates (Commission) adopted its Statement of Decision on the *Brown Act Reform* test claim (CSM-4469). The Commission found that Government Code sections 54952, 54954.2, 54957.1, and 54957.7, as added and amended by Statutes of 1993, chapters 1136, 1137, and 1138, constitutes a reimbursable state mandated program upon local governments within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The test claim legislation expanded the types of “legislative bodies” required to comply with the notice and agenda requirements of Government Code sections 54954.2 and 54954.3, to include:

- Local Bodies created by state or federal statute.
- Standing Committees with less than a quorum of members of the legislative body that has a continuing subject matter jurisdiction or a meeting schedule fixed by formal action.
- Permanent & Temporary Advisory Bodies (except bodies of less than a quorum of the members of the legislative body).

It also required all “legislative bodies” to perform a number of additional activities in relation to the closed session requirements of the Brown Act, as follows:

- To include a brief general description on the agenda of all items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. (Gov. Code, § 54954.2, subd. (a).)
- To disclose in an open meeting, prior to holding any closed session, each item to be discussed in the closed session. (Gov. Code, § 54957.7, subd. (a).)
- To reconvene in open session prior to adjournment and report the actions and votes taken in closed session for the five items identified in Government Code section 54957.1, subdivision (a)(1-4, 6). (Gov. Code, § 54957.7, subd. (b).)
- To provide copies of closed session documents as required. (Gov. Code, § 54957.1, subd. (b) and (c).)

The Commission previously adopted two test claims on the Brown Act:

### 1. Open Meetings Act

On March 23, 1988, the Commission adopted the *Open Meetings Act* test claim (CSM-4257). Statutes of 1986, chapter 641, added Government Code section 54954.2 to require that the legislative body of the local agency, or its designee, post an agenda containing a brief general description of each item of business to be transacted or discussed at the regular meeting, subject to exceptions stated therein, specifying the time and location of the regular meeting and requiring that the agenda be posted at least 72 hours before the meeting in a location freely accessible to the public. The following types of “legislative bodies” were eligible for reimbursement:

- Governing board, commission, directors or body of a local agency or any board or commission thereof, as well as any board, commission, committee, or other body on which officers of a local agency serve in their official capacity.
- Any board, commission, committee, or body which exercises authority delegated to it by the legislative body.
- Planning commissions, library boards, recreation commissions, and other permanent boards or commissions of a local agency composed of at least a quorum of the members of the legislative body.

Statutes of 1986, chapter 641 also added Government Code section 54954.3 to provide an opportunity for members of the public to address the legislative body on specific agenda items or any item of interest that is within the subject matter jurisdiction of the legislative body, and this opportunity for comment must be stated on the posted agenda.

### 2. School Site Councils and Brown Act Reform

On April 27, 2000, the Commission approved the *School Site Councils and Brown Act Reform* test claim (CSM-4501). This test claim was based on Government Code section 54954 and Education Code section 35147, which addressed the application of the open meeting act provisions of the Brown Act to specified school site councils and advisory committees of school districts.<sup>1</sup>

## II. ELIGIBLE CLAIMANTS

Any county, city, a city and county, school 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, prior to its amendment by Statutes of 1998, chapter 681 (effective September 22, 1998), stated that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The test claim for *Brown Act Reform* was filed on December 29, 1994. Statutes of 1993, chapters 1136, 1137, and 1138, became effective January 1, 1994. Therefore, costs

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<sup>1</sup> The parameters and guidelines for the *School Site Councils and Brown Act Reform* test claim are not included in these parameters and guidelines.

incurred on or after January 1, 1994 for compliance with the *Brown Act Reform* mandate are eligible for reimbursement.

Actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of notification by the State Controller of the issuance of claiming instructions.

If total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564.

Initial years' costs shall not include any costs that were claimable or reimbursed pursuant to *Open Meetings Act* Parameters and Guidelines as amended on December 4, 1991 or November 30, 2000. Reimbursement for these costs must be claimed as prescribed in the Controller's Claiming Instructions No. 2000-15 and 2000-16 for local agencies and schools, respectively.

Annual claims, commencing with the 2001-2002 fiscal year, shall include all costs for *Open Meetings Act* and *Brown Act Reform*.

#### **IV. REIMBURSABLE ACTIVITIES**

For each eligible claimant, the following activities are eligible for reimbursement:

##### **A. Agenda Preparation and Posting Activities**

1. Prepare a single agenda for a regular meeting of a legislative body of a local agency or school district containing a brief description of each item of business to be transacted or discussed at a regular meeting, including items to be discussed in closed session, and citing the time and location of the regular meeting.<sup>2</sup> (Gov. Code, § 54954.2, subd. (a).)
2. Post a single agenda 72 hours before a meeting in a location freely accessible to the public. Further, every agenda must state that there is an opportunity for members of the public to comment on matters that are within the subject matter jurisdiction of the legislative body, subject to exceptions stated therein. (Gov. Code, §§ 54954.2, subd. (a), and 54954.3, subd. (a).)

Beginning January 1, 1994, the following types of "legislative bodies" are eligible to claim reimbursement under these parameters and guidelines for the activities listed in section IV.A:

- Local Bodies created by state or federal statute.
- Standing Committees with less than a quorum of members of the legislative body that has a continuing subject matter jurisdiction or a meeting schedule fixed by formal action.
- Permanent & Temporary Advisory Bodies (except bodies of less than a quorum of the members of the legislative body).

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<sup>2</sup> As amended by Statutes of 1993, chapter 1136.



Beginning January 1, 1994, the following “legislative bodies” are eligible to claim reimbursement under these parameters and guidelines for the preparation of a brief general description of closed session agenda items, using either the actual or standard time reimbursement options pursuant to section V.A.1 or 2:

- Governing board, commission, directors or body of a local agency or any board or commission thereof, as well as any board, commission, committee, or other body on which officers of a local agency serve in their official capacity.
- Any board, commission, committee, or body which exercises authority delegated to it by the legislative body.
- Planning commissions, library boards, recreation commissions, and other *permanent* boards or commissions of a local agency composed of at least a quorum of the members of the legislative body.
- Local Bodies created by state or federal statute.
- Standing Committees with less than a quorum of members of the legislative body that has a continuing subject matter jurisdiction or a meeting schedule fixed by formal action.
- Permanent & Temporary Advisory Bodies (except bodies of less than a quorum of the members of the legislative body).

B. Closed Session Activities

1. Disclose in an open meeting, prior to holding any closed session, each item to be discussed in the closed session. (Gov. Code, § 54957.7, subd. (a).)
2. Reconvene in open session prior to adjournment to make any disclosures required by Section 54957.1 of action taken in the closed session, including items as follows: (Gov. Code, § 54957.7, subd. (b).)
  - a. Approval of an agreement concluding real estate negotiations as specified in Section 54956.8. (Gov. Code, § 54957.1, subd. (a)(1).)
  - b. Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of consultation under Section 54956.9. (Gov. Code, § 54957.1, subd. (a)(2).)
  - c. Approval given to its legal counsel of a settlement of pending litigation as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final. (Gov. Code, § 54957.1, subd. (a)(3).)
  - d. Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies of the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant. (Gov. Code, § 54957.1, subd. (a)(4).)

- e. Approval of an agreement concluding labor negotiations with represented employees pursuant to Section 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. (Gov. Code, § 54957.1, subd. (a)(6).)
- 3. Provide copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session to a person who submitted a written request within the timelines specified or to a person who has made a standing request, as set forth in Sections 54954.1 or 54956 within the time lines specified. (Gov. Code, § 54957.1, subd. (b) and (c).)
- 4. Train members of only those legislative bodies that actually hold closed executive sessions, on the closed session requirements of *Brown Act Reform*. If such training is given to all members of the legislative body, whether newly appointed or existing members, contemporaneously, time of the trainer and legislative members is reimbursable. Additionally, time for preparation of training materials, obtaining materials including training videos and audio visual aids, and training the trainers to conduct the training is reimbursable. See Section V.B.6 of these parameters and guidelines.

Beginning January 1, 1994, the following “legislative bodies” are eligible to claim reimbursement under these parameters and guidelines for the activities listed in IV.B:

- Governing board, commission, directors or body of a local agency or any board or commission thereof, as well as any board, commission, committee, or other body on which officers of a local agency serve in their official capacity.
- Any board, commission, committee, or body which exercises authority delegated to it by the legislative body.
- Planning commissions, library boards, recreation commissions, and other *permanent* boards or commissions of a local agency composed of at least a quorum of the members of the legislative body.
- Local Bodies created by state or federal statute.
- Standing Committees with less than a quorum of members of the legislative body that has a continuing subject matter jurisdiction or a meeting schedule fixed by formal action.
- Permanent & Temporary Advisory Bodies (except bodies of less than a quorum of the members of the legislative body).

## V. CLAIM PREPARATION AND SUBMISSION

Each reimbursement claim must be timely filed. Each of the following cost elements must be identified for each reimbursable activity identified in section IV of this document.

### A. Reimbursement Options for Agenda Preparation and Posting, Including Closed Session Agenda Items

Eligible claimants may use the actual time, standard time, or flat rate reimbursement options for claiming costs incurred pursuant to section IV.A of these parameters and guidelines for agenda

preparation and posting, including closed session items.<sup>3</sup> Eligible claimants must claim actual costs incurred for subsequent reporting of action taken in closed session, providing copies of documents approved or adopted in closed session, and training.

For each type or name of meeting claimed during a fiscal year, select one of the following reimbursement options. For example, all city council meetings in a given fiscal year may be claimed on only one basis: actual time, standard time or flat-rate. If standard time is selected, all city council meetings must be claimed using this basis for the entire year. However, all city council meetings could be claimed on an actual cost basis during a subsequent fiscal year.

1. Actual Time

List the meeting names and dates. 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.

Counties and cities may claim indirect costs pursuant to section V.C.

2. Standard Time

a. Main Legislative Body Meetings of Counties and Cities

List the meeting names and dates. For each meeting, multiply the number of agenda items, excluding standard agenda items such as “adjournment”, “call to order”, “flag salute”, and “public comments”, by 30 minutes and then by the blended productive hourly rate of the involved employees.

Counties and cities may claim indirect costs pursuant to section V.C.

b. Special District Meetings, and County and City Meetings Other Than Main Legislative Body

List the meeting names and dates. For each meeting, multiply the number of agenda items, excluding standard agenda items such as “adjournment”, “call to order”, “flag salute”, and “public comments”, by 20 minutes and then by the blended productive hourly rate of the involved employees.

Special districts, counties and cities may claim indirect costs pursuant to section V.C.

c. School and Community College Districts and County Offices of Education

List the meeting names and dates. For each meeting, multiply the number of agenda items times the minutes per agenda item for County Offices of Education and for districts, by enrollment size, times the blended productive hourly rate of the involved employees. The minutes per agenda for County Offices of Education and for districts by enrollment size are:

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<sup>3</sup> The flat rate includes all of the costs for preparing and posting an agenda, including closed session agenda items. Claimants that filed reimbursement claims under the *Open Meetings Act* Program using the flat rate reimbursement option cannot file another reimbursement claim using the flat rate option for initial years costs for agenda preparation of closed session items under Brown Act Reform. Refer to sections III and IV of these parameters and guidelines.

County Offices of Education:	45 minutes
Districts:	
Enrollment 20,000 or more	45 minutes
Enrollment 10,000 – 19,999	15 minutes
Enrollment less than 10,000	10 minutes

School and community college districts and County Offices of Education may claim indirect costs pursuant to section V.C.

3. Flat Rate<sup>4</sup>

List the meeting names and dates. Multiply the uniform cost allowance, shown in the table provided below, by the number of meetings. The uniform cost allowance shall be adjusted each year subsequent to fiscal year 1997-1998 by the Implicit Price Deflator referenced in Government Code section 17523.

1993-1994	\$ 90.10
1994-1995	92.44
1995-1996	95.12
1996-1997	97.31
1997-1998	100.00

B. Direct Cost Reporting

Direct costs that are eligible for reimbursement are:

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

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<sup>4</sup> The flat rate includes all of the costs for preparing and posting an agenda, including closed session agenda items. Claimants that filed reimbursement claims under the *Open Meetings Act* Program using the flat rate reimbursement option cannot file another reimbursement claim using the flat rate option for initial years costs for agenda preparation of closed session items under Brown Act Reform. Refer to sections III and IV of these parameters and guidelines.

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 B.1, Salaries and Benefits, for each applicable reimbursable activity.

#### 6. Training

Report the cost of training members of the legislative body to perform the reimbursable activities, as specified in section IV.B of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element B.1, Salaries and Benefits, and B.2, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element B.3, Contracted Services. This data, if too voluminous to be included with the claim, may be reported in a summary. However, supporting data must be maintained as described in section VI.

### C. Indirect Cost Rates

Indirect costs are defined as costs which are incurred for a common or joint purpose, benefiting more than one program and are not directly assignable to a particular department of 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 central government services distributed to other departments based on a systematic and rational basis through a cost allocation plan.

#### Cities, Counties and Special Districts

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 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.

#### School Districts

School districts must use the J-380 (or subsequent replacement) nonrestrictive indirect cost rate provisionally approved by the California Department of Education.

#### County Offices of Education

County offices of education must use the J-580 (or subsequent replacement) nonrestrictive indirect cost rate provisionally approved by the California Department of Education.

#### Community Colleges

Community colleges have the option of using (1) a federally approved rate, using the cost accounting principles from the OMB Circular A-21 "Cost Principles of Educational Institutions", (2) the rate calculated on State Controller's Form FAM-29C; or (3) a 7% indirect cost rate.

## **VI. SUPPORTING DATA**

### **A. Source Documents**

For auditing purposes, all incurred costs claimed must be traceable to source documents that show evidence of their validity and relationship to the reimbursable activities. Documents may include, but are not limited to, worksheets, employee time records or time logs, cost allocation reports (system generated), invoices, receipts, purchase orders, contracts, agendas, training

packets with signatures and logs of attendees, calendars, declarations, and data relevant to the reimbursable activities otherwise reported in compliance with local, state, and federal government requirements.

For those entities that elect reimbursement pursuant to the standard time methodology, option 2 in section V.A, documents showing the calculation of the blended productive hourly rate and copies of agendas shall be sufficient evidence. For those entities that elect reimbursement pursuant to the flat-rate methodology, option 3 in section V.A, copies of agendas shall be sufficient evidence.

The blended productive hourly rate, used in claiming standard or unit time reimbursements, may be calculated by determining the percentage of time spent by persons or classifications of persons on the reimbursable activities and multiplying the productive hourly rate (including salaries, benefits and indirect costs, if not claimed elsewhere) for each person or classification of persons times the percentage of time spent by that person or classification of persons. Claimants may determine a percentage allocation for the person or classification of persons in a base fiscal year and use that percentage allocation for subsequent future years by multiplying the base year percentages times the productive hourly rate for that person or classification of persons for the fiscal year of the reimbursement claim.

For example, a city manager may determine that the percentage of time spent on the reimbursable activities by various classifications in a base year of fiscal year 1998-1999 was as follows:

City Manager	17%
City Attorney	15%
City Clerk	36%
Department Managers	9%
Secretaries	23%
Total	100%

The city determines that the productive hourly rate (salaries, benefits, and indirect costs) for fiscal year 2000-2001 for each classification is as follows:

	Salary	Benefits	Indirect Cost Rate	Indirect Costs	Productive Hourly Rate
City Manager	\$60	\$12	29%	\$13	\$85
City Attorney	\$55	\$10	30%	\$15	\$80
City Clerk	\$40	\$ 8	31%	\$12	\$60
Department Manager	\$45	\$ 9	30%	\$11	\$65
Secretaries	\$18	\$ 5	25%	\$ 7	\$30

The blended productive hourly rate for fiscal year 2000-2001 is determined by multiplying the percentages in the base year times the productive hourly rate in the fiscal year claimed, and adding the totals, as follows:

City Manager	17%	\$85	\$14.25
City Attorney	15%	\$80	\$12.00
City Clerk	36%	\$60	\$21.60

Department Manager	9%	\$65	\$ 5.85
Secretaries	23%	\$30	\$ 6.90
Total	100%		\$60.80

The city’s claim would be determined by multiplying the blended productive hourly rate times the minutes per agenda item times the number of agenda items.

**B. Record Keeping**

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 chapter is subject to audit by the State Controller no later than two years after the end of the calendar year in which the reimbursement claim is filed or last amended. See the State Controller’s claiming instructions regarding retention of required documentation during the audit period.

**VII. OFFSETTING SAVINGS AND REIMBURSEMENTS**

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain a mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any other 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 OFFICE REQUIRED CERTIFICATION**

An authorized representative of the claimant shall be required to provide a certification of the claim, as specified in the State Controller’s claiming instructions, for those costs mandated by the State contained herein.

**IX. PARAMETERS AND GUIDELINES AMENDMENTS**

Parameters and guidelines may be amended pursuant to Title 2, California Code of Regulations section 1183.2.





**JOHN CHIANG**  
**California State Controller**  
Division of Accounting and Reporting

September 9, 2013

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

RE: Notice of Complete Filing and Schedule for Comments  
Mandate Redetermination Request, 13-MR-02  
Open Meetings Act/Brown Act Reform, (CSM-4257/4469)  
Government Code Sections 54952: et. al.  
California Department of Finance, Requester

Dear Ms. Halsey:

The State Controller's Office (SCO) reviewed the Department of Finance's request to adopt a new test claim decision to supersede the prior decision on the Open Meetings Act/Brown Act Reform (OMA/BAR) mandated cost program.

Government Code (GC) sections 54952, 54954.2, 54954.3, 54957.1, and 54957.7 are the basis for determining that OMA/BAR is a reimbursable state mandated program. Proposition 30 states as follows: "...Any requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, with respect to performing its Public Safety Services responsibilities, or any other matter, shall not be a reimbursable mandate under Section 6 of Article XIII B."

The SCO concurs that Proposition 30 is the subsequent change in law that eliminated reimbursement of state mandated costs for OMA/BAR program. Accordingly, GC section 17556, subdivision (f) states as follows:

**§17556. Findings.** The commission shall not find costs mandated by the state in any claim submitted by a local agency or school districts, if, after a hearing, the commission finds...."

"(f) The statute or executive order imposes duties that are necessary to implement, or are expressly included in, a ballot measure approved by the voters in a statewide or local election. This subdivision applies regardless of whether the statute or executive order was enacted or adopted before or after the date on which the ballot measure was approved by the voters."

MAILING ADDRESS: P.O. Box 942850, Sacramento, CA 94250  
STREET ADDRESS: 3301 C Street, Suite 700, Sacramento, CA 95816

Ms. Heather Halsey  
September 9, 2013  
Page 2

If you have any questions regarding the above, please contact Eduardo Antonio at (916) 323-0755 or e-mail [eantonio@sco.ca.gov](mailto:eantonio@sco.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to be 'JAY LAL', with a long horizontal flourish extending to the right.

JAY LAL, Manager  
Local Reimbursements Section

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

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

On September 11, 2013, I served the:

**SCO Comments**

Mandate Redetermination Request, 13-MR-02

*Open Meetings Act/Brown Act Reform, (CSM-4257/4469)*

Government Code Sections 54952, 54954.2, 54954.3, 54957.1, and 54957.7; as added or amended by Statutes 1986, Chapter 641; Statutes 1993, Chapters 1136, 1137, and 1138  
California Department of Finance, Requester

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

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



---

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

# Commission on State Mandates

Original List Date: 8/9/2013  
Last Updated: 9/9/2013  
List Print Date: 9/9/2013  
Claim Number: 13-MR-02  
Issue: Open Meetings Act/Brown Act Reform, (CSM-4257/4469)

## 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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## COMMISSION ON STATE MANDATES

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September 5, 2014

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

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

Re: **Draft Proposed Decision, Schedule for Comments, and Notice of Hearing**  
Mandate Redetermination Request, 13-MR-02  
First Hearing: Adequate Showing  
*Open Meetings Act/Brown Act Reform, (CSM-4257/4469)*  
Government Code Sections 54952, et al.  
California Department of Finance, Requester

Dear Mr. Byrne:

The draft proposed decision for the above-named matter is enclosed for your review and comment.

### Written Comments

Written comments may be filed on the draft proposed decision by **September 26, 2014**. 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, § 1181.3.)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

### Hearing

This matter is set for hearing on **Friday, December 5, 2014**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. The proposed decision will be issued on or about November 21, 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 1187.9(b) of the Commission's regulations.

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

Sincerely,

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

Heather Halsey  
Executive Director

**ITEM \_\_**  
**MANDATE REDETERMINATION**  
**FIRST HEARING: ADEQUATE SHOWING**  
**DRAFT PROPOSED DECISION**

Government Code Sections 54952, 54954.2, 54954.3, 54957.1, 54957.7;  
Statutes 1986, Chapter 641; Statutes 1993, Chapters 1136; 1137; 1138; Statutes  
1994, Chapter 239

As Alleged to be Modified by:

Proposition 30, General Election, November 6, 2012

*Open Meetings Act/Brown Act Reform, (CSM-4257/4469)*

13-MR-02

Department of Finance, Requester

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**EXECUTIVE SUMMARY**

**Overview**

On March 23, 1988, the Commission on State Mandates (Commission) adopted the *Open Meetings Act* test claim decision, CSM-4257.<sup>1</sup> On June 28, 2001, the Commission adopted the *Brown Act Reform* test claim decision, CSM-4469. On April 25, 2002, the Commission adopted consolidated parameters and guidelines for *Open Meetings Act/Brown Act Reform*, CSM-4257/4469. Those parameters and guidelines provide for reimbursement for a county, city, city and county, school district or special district for specified notice, agenda and other public disclosure related requirements required by Government Code sections 54952, 54954.2(a), 54954.3(a), 54957.1(a-c) and 54957.7(a-b), as those sections are added or amended by Statutes 1986, chapter 641; and Statutes 1993, chapters 1136, 1137, and 1138.

On July 19, 2005, Statutes 2005, chapter 72 (AB 138) became effective and directed the Commission to set aside its decisions, reconsiderations and parameters and guidelines in the *Open Meetings Act*, CSM-4257 and *Brown Act Reform*, CSM-4469 test claims. On July 27, 2005, these decisions and parameters and guidelines were set aside by the Commission with an effective date of July 19, 2005 as required by Statutes 2005, chapter 72. However, the court in *California School Boards Association v. State of California* (2009)<sup>2</sup> held that “the Legislature

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<sup>1</sup> Parameters and Guidelines for *Open Meetings Act*, CSM-4257 were first adopted on December 4, 1991 and were amended on November 30, 2000, but those Parameters and Guidelines are no longer effective and so are not relevant to this decision.

<sup>2</sup> 171 Cal.App.4th 1183, at pp. 1198-1203.

cannot direct, on a case-by-case basis, that a final decision of the Commission be set aside,” and therefore the directive in AB 138 constituted an unconstitutional violation of separation of powers principles.<sup>3</sup> The court therefore ordered the Commission to reinstate the test claim decisions and parameters and guidelines. The test claims and parameters and guidelines were therefore reinstated on September 27, 2009.

On November 6, 2012, the voters approved Proposition 30, also known as “The Schools and Local Public Safety Protection Act of 2012.”<sup>4</sup> Among other changes, Proposition 30 expressly stated that “[n]otwithstanding Section 6 of Article XIII B, or any other constitutional provision... [a]ny requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, with respect to performing its Public Safety Services responsibilities, or any other matter, shall not be a reimbursable mandate under Section 6 of Article XIII B.”<sup>5</sup>

### **Procedural History**

On July 29, 2013, the Department of Finance (Finance) filed a request for redetermination of the *Open Meetings Act*, CSM-4257 and *Brown Act Reform*, CSM-4469 test claims.<sup>6</sup> Finance asserts that Proposition 30 “has removed the state’s obligation to fund the mandates.”<sup>7</sup> The State Controller’s Office (Controller) submitted comments on the request, concurring with Finance’s conclusion that Proposition 30 has removed the state’s obligation to fund the *Open Meetings Act*, CSM-4257 and *Brown Act Reform*, CSM-4469 programs.

### **Commission Responsibilities**

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 redetermination process provides for a two hearing process. The Commission’s regulations state:

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(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.<sup>8</sup>

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<sup>3</sup> *Id.*, at pp. 1198-1203.

<sup>4</sup> Exhibit X, Text of Proposition 30, at p. 2.

<sup>5</sup> Article XIII, section 36(c)(3) (adopted November 6, 2012).

<sup>6</sup> Based on the July 29, 2013 filing date, the potential period of reimbursement affected by this redetermination begins July 1, 2012.

<sup>7</sup> Exhibit A, Request for Redetermination, at p. 1.

<sup>8</sup> Code of Regulations, Title 2, section 1190.5(a)(1) (Register 2014, No. 21).



The regulations further state:

If 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.<sup>9</sup>

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**

Proposition 30, adopted by the voters on November 6, 2012, added article XIII, section 36 to the California Constitution. Section 36(c)(3) of the California Constitution provides that:

Any requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, with respect to performing its Public Safety Services responsibilities, or any other matter, shall not be a reimbursable mandate under Section 6 of Article XIII B.

In the *Open Meetings Act* and *Brown Act Reform* test claim decisions, the Commission found state-mandated increased costs under Government Code sections 54952, 54954.2, 54954.3, 54957.1, and 54957.7. These code sections are all found within Chapter 9 of Part 1 of Division 2 of Title 5 of the Government Code, as described in Section 36(c)(3).

Government Code section 17570 provides that a "subsequent change in law" includes "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..."<sup>10</sup> Here, article XIII, section 36 of the California Constitution does not clearly implicate either section 17556 or section 17514, but directly and explicitly states that activities under Chapter 9 of Part 1 of Division 2 of title 5 of the Government Code "shall not be a reimbursable mandate." Article XIII, section 36 of the California therefore constitutes a "subsequent change in law," because it expressly provides an exemption from reimbursement under article XIII B, section 6. Because article XIII, section 36 of the California Constitution was adopted after article XIII B, and because a more specific provision generally prevails over a more general one,<sup>11</sup> Proposition 30 is a valid exemption from the reimbursement requirement of article XIII B. Moreover, the Commission is required to presume that article XIII, section 36 is constitutional, and must interpret the two provisions in such a way as to harmonize their effects.<sup>12</sup>

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<sup>9</sup> Code of Regulations, Title 2, section 1190.5(b)(1) (Register 2014, No. 21).

<sup>10</sup> Government Code section 17570 (Stats. 2010, ch. 719 (SB 856)).

<sup>11</sup> *People v. Ahmed* (2011) 53 Cal.4th 156, at p. 163 [citing *Pacific Lumber Co. v. State Water Resources Control Board* (2006) 37 Cal.4th 921, at p. 942].

<sup>12</sup> California Constitution, article III, section 3.5.

Therefore, beginning on November 7, 2012, the effective date of Proposition 30, the requirements of “Chapter 9 of Part 1 of Division 2 of Title 5 of the Government Code [*i.e.*, Government Code sections 54950-54963]...shall not be a reimbursable mandate under Section 6 of Article XIII B.”<sup>13</sup>

Based on the foregoing, staff finds that the requester has made an adequate showing that the state’s liability has been modified based on a subsequent change in law.

**Staff Recommendation**

Staff recommends that the Commission adopt the proposed 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 decision, the second hearing for this matter will be set for January 23, 2015.

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

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<sup>13</sup> See California Constitution, article XIII, section 36 (as added by Proposition 30, November 6, 2012).

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

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

Government Code Sections 54952, 54954.2,  
54954.3, 54957.1, 54957.7;

Statutes 1986, Chapter 641; Statutes  
1993, Chapters 1136; 1137; 1138;  
Statutes 1994, Chapter 239

As Alleged to be Modified by:

Proposition 30, General Election,  
November 6, 2012

Filed on July 29, 2013

By the Department of Finance, Requester.

Case No.: 13-MR-01

*Open Meetings Act/Brown Act  
Reform, (CSM-4257/4469)*

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

*(Adopted December 5, 2014)*

**DECISION**

The Commission on State Mandates (Commission) heard and decided this mandate redetermination during a regularly scheduled hearing on December 5, 2014. [Witness list will be included in the adopted 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 1190 et seq., and related case law.

The Commission [adopted/modified] the proposed decision at the hearing by a vote of [vote count will be included in the adopted 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 *Open Meetings Act/Brown Act Reform*, CSM-4257/4469 mandates has been modified based on a subsequent change in law. Specifically, Proposition 30, adopted by the voters on November 6, 2012 added article XIII, section 36 to the California Constitution, which expressly declares that activities under Chapter 9 of Part 1 of Division 2 of Title 5 of the Government Code (commencing with section 54950) “shall not be a reimbursable mandate” under article XIII B,

section 6. The approved activities in the CSM-4257 and CSM-4469 test claims result from Government Code provisions within chapter 9, and are therefore within the scope of article XIII, section 36 of the California Constitution. 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

- 3/23/1988 The Commission adopted a statement of decision in the *Open Meetings Act* test claim, CSM-4257.<sup>14</sup>
- 12/4/1991 The Commission adopted parameters and guidelines for *Open Meetings Act*, CSM-4257.
- 11/30/2000 The Commission adopted amended parameters and guidelines for *Open Meetings Act*, CSM-4257.
- 6/28/2001 The Commission adopted a statement of decision in the *Brown Act Reform* test claim, CSM-4469.<sup>15</sup>
- 4/25/2002 The Commission adopted consolidated parameters and guidelines for *Open Meetings Act/Brown Act Reform*, CSM-4257/4469.<sup>16</sup>
- 7/19/2005 The Legislature enacted Statutes 2005, chapter 72 (AB 138), which required the Commission to set aside the test claim decisions and parameters and guidelines in CSM-4257 and CSM-4469.
- 9/27/2005 The Commission set aside CSM-4257 and CSM-4469, effective 7/19/2005.<sup>17</sup>
- 3/9/2009 The Third District Court of Appeal held that AB 138 violated separation of powers principles, and ordered the Commission to reinstate the prior decisions in CSM-4257 and CSM-4469.<sup>18</sup>
- 9/25/2009 The Commission reinstated CSM-4257 and CSM-4469, test claim decisions and parameters and guidelines, pursuant to *California School Boards Association v. State of California* (2009) 171 Cal.App.4th 1183.<sup>19</sup>
- 11/6/2012 The voters adopted Proposition 30, which added article XIII, section 36 to the California Constitution.<sup>20</sup>

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<sup>14</sup> Exhibit B, Test Claim Statement of Decision CSM-4257.

<sup>15</sup> Exhibit C, Test Claim Statement of Decision CSM-4469.

<sup>16</sup> Exhibit D, Parameters and Guidelines.

<sup>17</sup> Exhibit D, Parameters and Guidelines.

<sup>18</sup> *California School Boards Association v. State* (2009) 171 Cal.App.4th 1183, at pp. 1198-1218.

<sup>19</sup> Exhibit D, Parameters and Guidelines.

7/29/2013 The Department of Finance filed a request for redetermination on CSM-4257 and CSM-4469.<sup>21</sup>

9/9/2013 The Controller submitted written comments on the redetermination request.<sup>22</sup>

## II. Background

### A. The Commission has Approved Test Claims on the Open Meetings Act and Brown Act Reform and has Adopted Consolidated Parameters and Guidelines for these Mandates.

Statutes 1986, chapter 641 added section 54954.2 to the Government Code, which requires a local agency to post an agenda 72 hours before a regular meeting, describing the items to be discussed at the meeting and specifying the time and place of the meeting. Statutes 1986, chapter 641 also added section 54954.3, which generally requires all regular meetings to provide an opportunity for public comment. The Commission found these statutes to impose reimbursable costs mandated by the state, in CSM-4257.<sup>23</sup>

Statutes 1993, chapters 1136, 1137, and 1138 added or amended Government Code sections 54952, 54954.2, 54957.1, and 54957.7. The Commission found that these test claim statutes enlarged the definition of “legislative bodies” subject to the requirements of section 54952.2; required closed session items to be listed on a meeting agenda; required the reporting of closed session items after closed session and the provision of closed session documents; and required the disclosure of certain closed session items prior to and after the closed session.<sup>24</sup>

In the consolidated parameters and guidelines for the two test claims, the reimbursable activities are described as follows:

#### A. Agenda Preparation and Posting Activities

1. Prepare a single agenda for a regular meeting of a legislative body of a local agency or school district containing a brief description of each item of business to be transacted or discussed at a regular meeting, including items to be discussed in closed session, and citing the time and location of the regular meeting. (Gov. Code, § 54954.2, subd. (a).)
2. Post a single agenda 72 hours before a meeting in a location freely accessible to the public. Further, every agenda must state that there is an opportunity for members of the public to comment on matters that are within the subject matter jurisdiction of the legislative body, subject to exceptions stated therein. (Gov. Code, §§ 54954.2, subd. (a), and 54954.3, subd. (a).)

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<sup>20</sup> Exhibit X, Text of Ballot Measure, Proposition 30.

<sup>21</sup> Exhibit A, Request for Redetermination.

<sup>22</sup> Exhibit E, Controller’s Comments on Request for Redetermination.

<sup>23</sup> See Exhibit B, Test Claim Statement of Decision CSM-4257.

<sup>24</sup> See Exhibit C, Test Claim Statement of Decision CSM-4469.

Beginning January 1, 1994, the following types of “legislative bodies” are eligible to claim reimbursement under these parameters and guidelines for the activities listed in section IV.A:

- Local Bodies created by state or federal statute.
- Standing Committees with less than a quorum of members of the legislative body that has a continuing subject matter jurisdiction or a meeting schedule fixed by formal action.
- Permanent & Temporary Advisory Bodies (except bodies of less than a quorum of the members of the legislative body).

Beginning January 1, 1994, the following “legislative bodies” are eligible to claim reimbursement under these parameters and guidelines for the preparation of a brief general description of closed session agenda items, using either the actual or standard time reimbursement options pursuant to section V.A.1 or 2:

- Governing board, commission, directors or body of a local agency or any board or commission thereof, as well as any board, commission, committee, or other body on which officers of a local agency serve in their official capacity.
- Any board, commission, committee, or body which exercises authority delegated to it by the legislative body.
- Planning commissions, library boards, recreation commissions, and other permanent boards or commissions of a local agency composed of at least a quorum of the members of the legislative body.
- Local Bodies created by state or federal statute.
- Standing Committees with less than a quorum of members of the legislative body that has a continuing subject matter jurisdiction or a meeting schedule fixed by formal action.
- Permanent & Temporary Advisory Bodies (except bodies of less than a quorum of the members of the legislative body).

#### B. Closed Session Activities

1. Disclose in an open meeting, prior to holding any closed session, each item to be discussed in the closed session. (Gov. Code, § 54957.7, subd. (a).)
2. Reconvene in open session prior to adjournment to make any disclosures required by Section 54957.1 of action taken in the closed session, including items as follows: (Gov. Code, § 54957.7, subd. (b).)
  - a. Approval of an agreement concluding real estate negotiations as specified in Section 54956.8. (Gov. Code, § 54957.1, subd. (a)(1).)

- b. Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of consultation under Section 54956.9. (Gov. Code, § 54957.1, subd. (a)(2).)
  - c. Approval given to its legal counsel of a settlement of pending litigation as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final. (Gov. Code, § 54957.1, subd. (a)(3).)
  - d. Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies of the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant. (Gov. Code, § 54957.1, subd. (a)(4).)
  - e. Approval of an agreement concluding labor negotiations with represented employees pursuant to Section 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. (Gov. Code, § 54957.1, subd. (a)(6).)
3. Provide copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session to a person who submitted a written request within the timelines specified or to a person who has made a standing request, as set forth in Sections 54954.1 or 54956 within the time lines specified. (Gov. Code, § 54957.1, subd. (b) and (c).)
  4. Train members of only those legislative bodies that actually hold closed executive sessions, on the closed session requirements of Brown Act Reform. If such training is given to all members of the legislative body, whether newly appointed or existing members, contemporaneously, time of the trainer and legislative members is reimbursable. Additionally, time for preparation of training materials, obtaining materials including training videos and audio visual aids, and training the trainers to conduct the training is reimbursable. See Section V.B.6 of these parameters and guidelines.

Beginning January 1, 1994, the following “legislative bodies” are eligible to claim reimbursement under these parameters and guidelines for the activities listed in IV.B:

- Governing board, commission, directors or body of a local agency or any board or commission thereof, as well as any board, commission, committee, or other body on which officers of a local agency serve in their official capacity.
- Any board, commission, committee, or body which exercises authority delegated to it by the legislative body.

- Planning commissions, library boards, recreation commissions, and other permanent boards or commissions of a local agency composed of at least a quorum of the members of the legislative body.
- Local Bodies created by state or federal statute.
- Standing Committees with less than a quorum of members of the legislative body that has a continuing subject matter jurisdiction or a meeting schedule fixed by formal action.
- Permanent & Temporary Advisory Bodies (except bodies of less than a quorum of the members of the legislative body).<sup>25</sup>

### **III. Positions of the Parties, Interested Parties, and Interested Persons**

#### **A. Department of Finance, Requester**

Finance argues that “[b]y adding Article XIII, Section 36, subdivision (c)(3) to the Constitution, the electorate stated the reimbursable requirements of the Open Meetings Act and Brown Act Reform mandates are no longer reimbursable mandates.”

#### **B. State Controller**

The Controller states that it “concur[s] that Proposition 30 is the subsequent change in law that eliminated reimbursement of state mandated costs” for the Open Meetings Act and Brown Act Reform test claims.

### **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.<sup>26</sup> The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.<sup>27</sup> In making its decisions, the Commission must strictly construe

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<sup>25</sup> Exhibit D, Parameters and Guidelines.

<sup>26</sup> *Kinlaw v. State of California* (1991) 53 Cal.3d 482, 487; Government Code sections 17551; 17552.

<sup>27</sup> *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.”<sup>28</sup>

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 to determine, pursuant to the Government Code and the Commission’s regulations, 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(f), 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.”<sup>29</sup> 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. Proposition 30 Constitutes a Subsequent Change in Law, as Defined.**

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. 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

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<sup>28</sup> *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.

<sup>29</sup> 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.

in the statutes or executive orders that impose new state-mandated activities and require a finding pursuant to subdivision (a) of Section 17551.<sup>30</sup>

Under this definition, then, a subsequent change in law is one that (1) requires a finding of a new cost mandated by the state under section 17514; (2) requires a new finding that a cost is not a cost mandated by the state pursuant to section 17556; or (3) another change in mandates law. This request for redetermination does not allege a subsequent change in law that requires a finding of a new cost mandated by the state pursuant to section 17514, or a finding that a cost is not mandated by the state pursuant to section 17556. Rather, the request is based on the plain language exception to reimbursement adopted in Proposition 30 and, thus, is alleged as another subsequent change in mandates law. Article XIII, section 36 of the California Constitution, adopted by the voters November 6, 2012, provides, in pertinent part:

Any requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, with respect to performing its Public Safety Services responsibilities, or any other matter, shall not be a reimbursable mandate under Section 6 of Article XIII B.<sup>31</sup>

The test claim statements of decision and parameters and guidelines for CSM-4257 and CSM-4469 found reimbursable activities imposed by Government Code sections 54952, 54954.2, 54954.3, 54957.1, and 54957.7. Chapter 9, Part 1, Division 2 of title 5 of the Government Code includes sections 54950 through 54963. Therefore, all code sections found to impose activities in test claims CSM-4257 and CSM-4469 are within Chapter 9, and pursuant to California Constitution article XIII, section 36(c)(3), “shall not be a reimbursable mandate...”

California Constitution article XIII, section 36(c)(3), adopted November 6, 2012 is “a change in mandates law,” as defined in Government Code section 17570. Article XIII, section 36 of the California Constitution directly invokes article XIII B, section 6, and states that a specified chapter of the Government Code, which contains a mandate previously approved by the Commission, cannot impose a *reimbursable* mandate under section 6. Proposition 30 was codified as article XIII, section 36 of the California Constitution, and is therefore on equal footing with article XIII B, section 6. And, being later-enacted, article XIII, section 36 is presumed to take precedence.<sup>32</sup> In addition, a more specific provision of law controls over a more general provision.<sup>33</sup> Therefore, to the extent that article XIII, section 36 conflicts with article XIII B, section 6, the former should be treated as an exception to the latter.<sup>34</sup> Moreover,

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<sup>30</sup> Government Code section 17570 (Stats. 2010, ch. 719 (SB 856)).

<sup>31</sup> California Constitution article XIII, section 36(c)(3), adopted November 6, 2012.

<sup>32</sup> *People v. Moody* (Cal. Ct. App. 3d Dist. 2002) 96 Cal.App.4th 987.

<sup>33</sup> *People v. Ahmed* (2011) 53 Cal.4th 156, at p. 163 [citing *Pacific Lumber Co. v. State Water Resources Control Board* (2006) 37 Cal.4th 921, at p. 942].

<sup>34</sup> *People v. Superior Court* (2002) 28 Cal.4th 798, at p. 809.

the Commission is required to presume that article XIII, section 36 is constitutional, and must interpret the two provisions in such a way as to harmonize their effects.<sup>35</sup>

Based on the foregoing, the Commission finds that article XIII, section 36 of the California Constitution, added by Proposition 30 on November 6, 2012, constitutes a subsequent change in law, as defined.

**B. The Requester Has Made an Adequate Showing that the State’s Liability Has Been Modified Based on a Subsequent Change in Law.**

At this hearing, the Commission is required to determine whether “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.”<sup>36</sup> If the Commission determines that the request has a substantial possibility of prevailing at the second hearing, the Government Code provides that the Commission shall notice a second hearing to determine if a new test claim decision shall be adopted to supersede the previously adopted test claim decision.<sup>37</sup>

Although the Commission retains exclusive jurisdiction to determine whether a statute imposes a state mandate, the Commission is also bound to presume that subsequent enactments are constitutional.<sup>38</sup> Here, the subsequent change in law is an amendment to the California Constitution, which expressly and directly disclaims the existence of a reimbursable state mandate based on any requirements of Government Code sections 54950-54963. Both articles XIII B, section 6 and XIII, section 36 “have equal dignity, as constituents of the state Constitution.”<sup>39</sup> The provisions therefore should be interpreted in a manner that would harmonize their effects, if possible.<sup>40</sup> If it is not possible to reconcile two potentially conflicting provisions, “special provisions control more general provisions, and the general and special provisions operate together, neither working the repeal of the other.”<sup>41</sup> In addition, “where two constitutional provisions conflict, the one that was enacted later in time controls.”<sup>42</sup> Therefore, article XIII, section 36, enacted by Proposition 30, to the extent that it provides an exemption from the reimbursement requirement of article XIII B, section 6, is presumptively controlling. Section 36 is both later-enacted, and more specific, than article XIII B, section 6; it provides an

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<sup>35</sup> California Constitution, article III, section 3.5.

<sup>36</sup> Code of Regulations, title 2, section 1190.05.

<sup>37</sup> Government Code section 17570(d)(4) (Stats. 2010, ch. 719 (SB 856)).

<sup>38</sup> California Constitution, article III, section 3.5 (added, Proposition 5, June 6, 1978).

<sup>39</sup> *Miller v. Superior Court* (1999) 21 Cal.4th 883, at p. 892.

<sup>40</sup> *Ibid.*

<sup>41</sup> *State Board of Education v. Honig* (1993) 13 Cal.App.4th 720, at p. 759.

<sup>42</sup> *Crawford v. Huntington Beach Union High School District* (2002) 98 Cal.App.4th 1275, at p. 1286.

exemption from the subvention requirement pertaining only to a single chapter of the Government Code.

**V. Conclusion**

Based on the foregoing, the Commission finds that the requester has made an adequate showing that the state's liability has been modified based on a subsequent change in law, and a second hearing is required to determine whether to adopt a new test claim decision to reflect the state's modified liability.

**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 5, 2014, I served the:

**Draft Proposed Decision, Schedule for Comments, and Notice of Hearing**  
Mandate Redetermination Request, 13-MR-02  
First Hearing: Adequate Showing  
*Open Meetings Act/Brown Act Reform, (CSM-4257/4469)*  
Government Code Sections 54952, et al.  
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 5, 2014 at Sacramento, California.



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## Mailing List

**Last Updated:** 9/5/14

**Claim Number:** 13-MR-02

**Matter:** Open Meetings Act/Brown Act Reform (CSM-4257/4469)

**Requester:** Department of Finance

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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, § 1181.3.)

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RECEIVED  
September 26, 2014  
Commission on  
State Mandates

**JOHN CHIANG**  
California State Controller  
Division of Accounting and Reporting

September 26, 2014

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

Re: Draft Proposed Decision, Schedule for Comments, and Notice of Hearing  
Mandate Redetermination Request, 13-MR-02  
First Hearing: Adequate Showing  
Open Meetings Act/Brown Act Reform, (CSM-4257/4469)  
Government Code Sections 54952, et al.  
California Department of Finance, Requester

Dear Ms. Halsey:

The State Controller's Office has no comments on the draft proposed decision for the Open Meetings Act/Brown Act Reform program.

Should you have any questions regarding the above, please contact Eduardo Antonio at (916) 327-0755 or e-mail [eantonio@sco.ca.gov](mailto:eantonio@sco.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "JAY LAL", with a long horizontal flourish extending to the right.

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 Sacramento 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 29, 2014, I served the:

**SCO Comments**

Mandate Redetermination Request, 13-MR-02

First Hearing: Adequate Showing

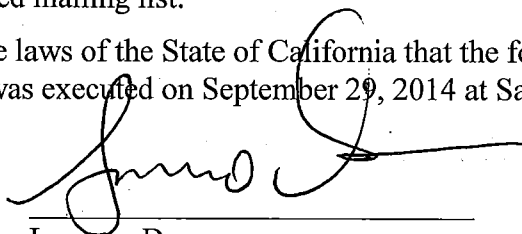
*Open Meetings Act/Brown Act Reform, (CSM-4257/4469)*

Government Code Sections 54952, et al.

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 29, 2014 at Sacramento, California.



\_\_\_\_\_  
Lorenzo Duran

Commission on State Mandates

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# COMMISSION ON STATE MANDATES

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**Last Updated:** 9/25/14

**Claim Number:** 13-MR-02

**Matter:** Open Meetings Act/Brown Act Reform (CSM-4257/4469)

**Requester:** Department of Finance

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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, § 1181.3.)

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December 5, 2014

Mr. Michael Byrne  
Department of Finance  
915 L Street, 8<sup>th</sup> Floor  
Sacramento, CA 95814

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

Re: **First Hearing Decision, Second Hearing Draft Proposed  
Decision, and Notice of Hearing**  
Mandate Redetermination Request, 13-MR-02  
*Open Meetings Act/Brown Act Reform (CSM-4257/4469)*  
Government Code Sections 54952, et al.  
California Department of Finance, Requester

Dear Mr. Byrne:

On December 5, 2014, the Commission on State Mandates (Commission) adopted the decision for the first hearing on 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 first hearing decision is enclosed for your review. The draft proposed decision for the second hearing is enclosed for your review and comment.

### Written Comments

Written comments may be filed on the draft proposed decision by **December 26, 2014**. 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, § 1181.3.)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

### Hearing

This second hearing on the request for a mandate redetermination is set for hearing on **Friday, January 23, 2015**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. The proposed decision will be issued on or about January 9, 2015. Please let us know in advance if



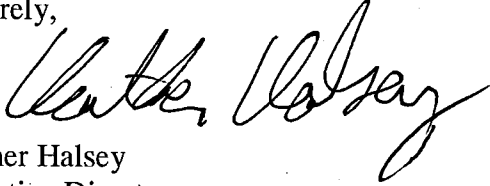
Mr. Michael Byrne

December 5, 2014

Page 2

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 1187.9(b) of the Commission's regulations.

Sincerely,

A handwritten signature in cursive script, appearing to read "Heather Halsey".

Heather Halsey  
Executive Director

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

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

Government Code Sections 54952, 54954.2,  
54954.3, 54957.1, 54957.7;

Statutes 1986, Chapter 641; Statutes  
1993, Chapters 1136; 1137; 1138

As Alleged to be Modified by:

Proposition 30, General Election,  
November 6, 2012

Filed on July 29, 2013

By the Department of Finance, Requester.

Case No.: 13-MR-02

*Open Meetings Act/Brown Act  
Reform (CSM-4257/4469)*

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

*(Adopted December 5, 2014)*

*(Served December 5, 2014)*

**DECISION**

The Commission on State Mandates (Commission) heard and decided this mandate redetermination during a regularly scheduled hearing on December 5, 2014. Michael Byrne and Donna Ferebee appeared on behalf of the Department of Finance.

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., title 2, California Code of Regulations 1190 et seq., and related case law.

The Commission adopted the proposed decision at the hearing by a vote of six to zero, 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 *Open Meetings Act/Brown Act Reform*, CSM-4257/4469 mandates has been modified based on a subsequent change in law. Specifically, Proposition 30, adopted by the voters on November 6, 2012 added article XIII, section 36 to the California Constitution, which expressly declares that activities under Chapter 9 of Part 1 of Division 2 of Title 5 of the Government Code (commencing with section 54950) "shall not be a reimbursable mandate" under article XIII B, section 6. Chapter 9 defines a "local agency" to include counties, cities, cities and counties,

towns, school districts, municipal corporations, districts, political subdivisions, or any boards, commissions, or agencies thereof.<sup>1</sup> The approved activities in the CSM-4257 and CSM-4469 test claims result from Government Code provisions within chapter 9, and are therefore within the scope of article XIII, section 36 of the California Constitution. Pursuant to Government Code section 17570(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

- 3/23/1988 The Commission adopted a statement of decision in the *Open Meetings Act* test claim, CSM-4257.<sup>2</sup>
- 12/4/1991 The Commission adopted parameters and guidelines for *Open Meetings Act*, CSM-4257.
- 11/30/2000 The Commission adopted amended parameters and guidelines for *Open Meetings Act*, CSM-4257.
- 6/28/2001 The Commission adopted a statement of decision in the *Brown Act Reform* test claim, CSM-4469.<sup>3</sup>
- 4/25/2002 The Commission adopted consolidated parameters and guidelines for *Open Meetings Act/Brown Act Reform*, CSM-4257/4469.<sup>4</sup>
- 7/19/2005 The Legislature enacted Statutes 2005, chapter 72 (AB 138), which required the Commission to set aside the test claim decisions and parameters and guidelines in CSM-4257 and CSM-4469.
- 9/27/2005 The Commission set aside CSM-4257 and CSM-4469, effective 7/19/2005.<sup>5</sup>
- 3/9/2009 The Third District Court of Appeal held that AB 138 violated separation of powers principles, and ordered the Commission to reinstate the prior decisions in CSM-4257 and CSM-4469.<sup>6</sup>
- 9/25/2009 The Commission reinstated CSM-4257 and CSM-4469, test claim decisions and parameters and guidelines, pursuant to *California School Boards Association v. State of California* (2009) 171 Cal.App.4th 1183.<sup>7</sup>

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<sup>1</sup> Government Code section 54951 (Stats. 1959, ch. 1417).

<sup>2</sup> Exhibit B, Test Claim Statement of Decision CSM-4257.

<sup>3</sup> Exhibit C, Test Claim Statement of Decision CSM-4469.

<sup>4</sup> Exhibit D, Parameters and Guidelines.

<sup>5</sup> Exhibit D, Parameters and Guidelines.

<sup>6</sup> *California School Boards Association v. State* (2009) 171 Cal.App.4th 1183, at pp. 1198-1218.

<sup>7</sup> Exhibit D, Parameters and Guidelines.

- 11/6/2012 The voters adopted Proposition 30, which added article XIII, section 36 to the California Constitution.<sup>8</sup>
- 7/29/2013 The Department of Finance filed a request for redetermination on CSM-4257 and CSM-4469.<sup>9</sup>
- 9/9/2013 The Controller filed comments on the redetermination request.<sup>10</sup>
- 9/5/2014 Commission staff issued the draft proposed decision.<sup>11</sup>
- 9/26/2014 The Controller filed comments on the draft proposed decision.<sup>12</sup>

**II. Background**

**A. The Commission has Approved Test Claims on the Open Meetings Act and Brown Act Reform and has Adopted Consolidated Parameters and Guidelines for these Mandates.**

Statutes 1986, chapter 641 added section 54954.2 to the Government Code, which requires a local agency to post an agenda 72 hours before a regular meeting, describing the items to be discussed at the meeting and specifying the time and place of the meeting. Statutes 1986, chapter 641 also added section 54954.3, which generally requires all regular meetings to provide an opportunity for public comment. The Commission found these statutes to impose reimbursable costs mandated by the state, in CSM-4257.<sup>13</sup>

Statutes 1993, chapters 1136, 1137, and 1138 added or amended Government Code sections 54952, 54954.2, 54957.1, and 54957.7. The Commission found that these test claim statutes enlarged the definition of “legislative bodies” subject to the requirements of section 54952.2; required closed session items to be listed on a meeting agenda; required the reporting of closed session items after closed session and the provision of closed session documents; and required the disclosure of certain closed session items prior to and after the closed session.<sup>14</sup>

In the consolidated parameters and guidelines for the two test claims, the reimbursable activities are described as follows:

**A. Agenda Preparation and Posting Activities**

1. Prepare a single agenda for a regular meeting of a legislative body of a local agency or school district containing a brief description of each item of business to be transacted or discussed at a regular meeting, including items to

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<sup>8</sup> Exhibit H, Text of Ballot Measure, Proposition 30.

<sup>9</sup> Exhibit A, Request for Redetermination.

<sup>10</sup> Exhibit E, Controller’s Comments on Request for Redetermination.

<sup>11</sup> Exhibit F, Draft Proposed Decision.

<sup>12</sup> Exhibit G, Controller’s Comments on the Draft Proposed Decision.

<sup>13</sup> See Exhibit B, Test Claim Statement of Decision CSM-4257.

<sup>14</sup> See Exhibit C, Test Claim Statement of Decision CSM-4469.

be discussed in closed session, and citing the time and location of the regular meeting. (Gov. Code, § 54954.2, subd. (a).)

2. Post a single agenda 72 hours before a meeting in a location freely accessible to the public. Further, every agenda must state that there is an opportunity for members of the public to comment on matters that are within the subject matter jurisdiction of the legislative body, subject to exceptions stated therein. (Gov. Code, §§ 54954.2, subd. (a), and 54954.3, subd. (a).)

Beginning January 1, 1994, the following types of “legislative bodies” are eligible to claim reimbursement under these parameters and guidelines for the activities listed in section IV.A:

- Local Bodies created by state or federal statute.
- Standing Committees with less than a quorum of members of the legislative body that has a continuing subject matter jurisdiction or a meeting schedule fixed by formal action.
- Permanent & Temporary Advisory Bodies (except bodies of less than a quorum of the members of the legislative body).

Beginning January 1, 1994, the following “legislative bodies” are eligible to claim reimbursement under these parameters and guidelines for the preparation of a brief general description of closed session agenda items, using either the actual or standard time reimbursement options pursuant to section V.A.1 or 2:

- Governing board, commission, directors or body of a local agency or any board or commission thereof, as well as any board, commission, committee, or other body on which officers of a local agency serve in their official capacity.
- Any board, commission, committee, or body which exercises authority delegated to it by the legislative body.
- Planning commissions, library boards, recreation commissions, and other permanent boards or commissions of a local agency composed of at least a quorum of the members of the legislative body.
- Local Bodies created by state or federal statute.
- Standing Committees with less than a quorum of members of the legislative body that has a continuing subject matter jurisdiction or a meeting schedule fixed by formal action.
- Permanent & Temporary Advisory Bodies (except bodies of less than a quorum of the members of the legislative body).

#### B. Closed Session Activities

1. Disclose in an open meeting, prior to holding any closed session, each item to be discussed in the closed session. (Gov. Code, § 54957.7, subd. (a).)

2. Reconvene in open session prior to adjournment to make any disclosures required by Section 54957.1 of action taken in the closed session, including items as follows: (Gov. Code, § 54957.7, subd. (b).)
  - a. Approval of an agreement concluding real estate negotiations as specified in Section 54956.8. (Gov. Code, § 54957.1, subd. (a)(1).)
  - b. Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of consultation under Section 54956.9. (Gov. Code, § 54957.1, subd. (a)(2).)
  - c. Approval given to its legal counsel of a settlement of pending litigation as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final. (Gov. Code, § 54957.1, subd. (a)(3).)
  - d. Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies of the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant. (Gov. Code, § 54957.1, subd. (a)(4).)
  - e. Approval of an agreement concluding labor negotiations with represented employees pursuant to Section 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. (Gov. Code, § 54957.1, subd. (a)(6).)
3. Provide copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session to a person who submitted a written request within the timelines specified or to a person who has made a standing request, as set forth in Sections 54954.1 or 54956 within the time lines specified. (Gov. Code, § 54957.1, subd. (b) and (c).)
4. Train members of only those legislative bodies that actually hold closed executive sessions, on the closed session requirements of Brown Act Reform. If such training is given to all members of the legislative body, whether newly appointed or existing members, contemporaneously, time of the trainer and legislative members is reimbursable. Additionally, time for preparation of training materials, obtaining materials including training videos and audio visual aids, and training the trainers to conduct the training is reimbursable. See Section V.B.6 of these parameters and guidelines.

Beginning January 1, 1994, the following “legislative bodies” are eligible to claim reimbursement under these parameters and guidelines for the activities listed in IV.B:

- Governing board, commission, directors or body of a local agency or any board or commission thereof, as well as any board, commission, committee,

or other body on which officers of a local agency serve in their official capacity.

- Any board, commission, committee, or body which exercises authority delegated to it by the legislative body.
- Planning commissions, library boards, recreation commissions, and other permanent boards or commissions of a local agency composed of at least a quorum of the members of the legislative body.
- Local Bodies created by state or federal statute.
- Standing Committees with less than a quorum of members of the legislative body that has a continuing subject matter jurisdiction or a meeting schedule fixed by formal action.
- Permanent & Temporary Advisory Bodies (except bodies of less than a quorum of the members of the legislative body).<sup>15</sup>

### **III. Positions of the Parties, Interested Parties, and Interested Persons**

#### **A. Department of Finance, Requester**

Finance argues that “[b]y adding Article XIII, Section 36, subdivision (c)(3) to the Constitution, the electorate stated the reimbursable requirements of the Open Meetings Act and Brown Act Reform mandates are no longer reimbursable mandates.”

#### **B. State Controller**

The Controller states that it “concur[s] that Proposition 30 is the subsequent change in law that eliminated reimbursement of state mandated costs” for the Open Meetings Act and Brown Act Reform test claims.

### **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.<sup>16</sup> The determination whether a statute or executive order imposes a reimbursable state-mandated

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<sup>15</sup> Exhibit D, Parameters and Guidelines.

<sup>16</sup> *Kinlaw v. State of California* (1991) 54 Cal.3d 326, at p. 332; Government Code sections 17551; 17552.

program is a question of law.<sup>17</sup> 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.”<sup>18</sup>

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 to determine, pursuant to the Government Code and the Commission’s regulations, 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(f), 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.”<sup>19</sup> 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. Proposition 30 Constitutes a Subsequent Change in Law, as Defined.**

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. 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.<sup>20</sup>

Under this definition, then, a subsequent change in law is one that (1) requires a finding of a new cost mandated by the state under section 17514; (2) requires a new finding that a cost is not a cost mandated by the state pursuant to section 17556; or (3) another change in mandates law. This request for redetermination does not allege a subsequent change in law that requires a finding of a new cost mandated by the state pursuant to section 17514, or a finding that a cost is

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<sup>17</sup> *County of San Diego v. State of California*, (1997) 15 Cal.4th 68, 109.

<sup>18</sup> *County of Sonoma v. Commission on State Mandates*, (2000) 84 Cal.App.4th 1265, 1281, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

<sup>19</sup> Code of Regulations, Title 2, section 1190.5 (Register 2014, No.21).

<sup>20</sup> Government Code section 17570 (Stats. 2010, ch. 719 (SB 856)).



not mandated by the state pursuant to section 17556. Rather, the request is based on the plain language exception to reimbursement adopted in Proposition 30 and, thus, is alleged as another subsequent change in mandates law. Article XIII, section 36 of the California Constitution, adopted by the voters November 6, 2012, provides, in pertinent part:

Any requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, with respect to performing its Public Safety Services responsibilities, or any other matter, shall not be a reimbursable mandate under Section 6 of Article XIII B.<sup>21</sup>

The test claim statements of decision and parameters and guidelines for CSM-4257 and CSM-4469 found reimbursable activities imposed by Government Code sections 54952, 54954.2, 54954.3, 54957.1, and 54957.7. Chapter 9, Part 1, Division 2 of title 5 of the Government Code includes sections 54950 through 54963. Therefore, all code sections found to impose activities in test claims CSM-4257 and CSM-4469 are within Chapter 9, and pursuant to California Constitution article XIII, section 36(c)(3), “shall not be a reimbursable mandate...”

California Constitution article XIII, section 36(c)(3), adopted November 6, 2012 is “a change in mandates law,” as defined in Government Code section 17570. Article XIII, section 36 of the California Constitution directly invokes article XIII B, section 6, and states that a specified chapter of the Government Code, which contains a mandate previously approved by the Commission, cannot impose a *reimbursable* mandate under section 6. Proposition 30 was codified as article XIII, section 36 of the California Constitution, and is therefore on equal footing with article XIII B, section 6. And, being later-enacted, article XIII, section 36 is presumed to take precedence.<sup>22</sup> In addition, a more specific provision of law controls over a more general provision.<sup>23</sup> Therefore, to the extent that article XIII, section 36 conflicts with article XIII B, section 6, the former should be treated as an exception to the latter.<sup>24</sup> Moreover, the Commission is required to presume that article XIII, section 36 is constitutional, and must interpret the two provisions in such a way as to harmonize their effects.<sup>25</sup>

Based on the foregoing, the Commission finds that article XIII, section 36 of the California Constitution, added by Proposition 30 on November 6, 2012, constitutes a subsequent change in law, as defined.

**B. The Requester Has Made an Adequate Showing that the State’s Liability Has Been Modified Based on a Subsequent Change in Law.**

At this hearing, the Commission is required to determine whether “the request, when considered in light of all of the written responses and supporting documentation in the record of this request,

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<sup>21</sup> California Constitution article XIII, section 36(c)(3), adopted November 6, 2012.

<sup>22</sup> *People v. Moody* (Cal. Ct. App. 3d Dist. 2002) 96 Cal.App.4th 987.

<sup>23</sup> *People v. Ahmed* (2011) 53 Cal.4th 156, at p. 163 [citing *Pacific Lumber Co. v. State Water Resources Control Board* (2006) 37 Cal.4th 921, at p. 942].

<sup>24</sup> *People v. Superior Court* (2002) 28 Cal.4th 798, at p. 809.

<sup>25</sup> California Constitution, article III, section 3.5.

has a substantial possibility of prevailing at the second hearing.”<sup>26</sup> If the Commission determines that the request has a substantial possibility of prevailing at the second hearing, the Government Code provides that the Commission shall notice a second hearing to determine if a new test claim decision shall be adopted to supersede the previously adopted test claim decision.<sup>27</sup>

Although the Commission retains exclusive jurisdiction to determine whether a statute imposes a state mandate,<sup>28</sup> the Commission is also bound to presume that subsequent enactments are constitutional.<sup>29</sup> Here, the subsequent change in law is an amendment to the California Constitution, which expressly and directly disclaims the existence of a reimbursable state mandate based on any requirements of Government Code sections 54950-54963. Both articles XIII B, section 6 and XIII, section 36 “have equal dignity, as constituents of the state Constitution.”<sup>30</sup> The provisions therefore should be interpreted in a manner that would harmonize their effects, if possible.<sup>31</sup> If it is not possible to reconcile two potentially conflicting provisions, “special provisions control more general provisions, and the general and special provisions operate together, neither working the repeal of the other.”<sup>32</sup> In addition, “where two constitutional provisions conflict, the one that was enacted later in time controls.”<sup>33</sup> Therefore, article XIII, section 36, enacted by Proposition 30, to the extent that it provides an exemption from the reimbursement requirement of article XIII B, section 6, is presumptively controlling. Section 36 is both later-enacted, and more specific, than article XIII B, section 6; it provides an exemption from the subvention requirement pertaining only to a single chapter of the Government Code.

## V. Conclusion

Based on the foregoing, the Commission finds that the requester has made an adequate showing that the state’s liability has been modified based on a subsequent change in law, and a second hearing is required to determine whether to adopt a new test claim decision to reflect the state’s modified liability. Therefore, staff shall notice the second hearing on this redetermination request.

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<sup>26</sup> Code of Regulations, title 2, section 1190.5 (Register 2014, No. 21).

<sup>27</sup> Government Code section 17570(d)(4) (Stats. 2010, ch. 719 (SB 856)).

<sup>28</sup> *Kinlaw, supra*, 54 Cal.3d at p. 332; *County of Los Angeles v. Commission* (1995) 32 Cal.App.4th 805, at p. 819.

<sup>29</sup> California Constitution, article III, section 3.5 (added, Proposition 5, June 6, 1978).

<sup>30</sup> *Miller v. Superior Court* (1999) 21 Cal.4th 883, at p. 892.

<sup>31</sup> *Ibid.*

<sup>32</sup> *State Board of Education v. Honig* (1993) 13 Cal.App.4th 720, at p. 759.

<sup>33</sup> *Crawford v. Huntington Beach Union High School District* (2002) 98 Cal.App.4th 1275, at p. 1286.

**COMMISSION ON STATE MANDATES**

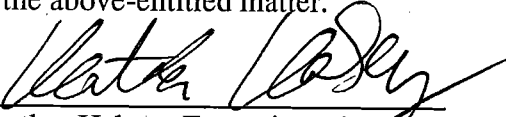
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**RE: Decision**

Mandate Redetermination Request, 13-MR-02  
*Open Meetings Act/Brown Act Reform (CSM-4257/4469)*  
Government Code Sections 54952, et al.  
California Department of Finance, Requester

On December 5, 2014, the foregoing decision of the Commission on State Mandates was adopted in the above-entitled matter.

  
Heather Halsey, Executive Director

Dated: December 5, 2014

**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 5, 2014, I served the:

**First Hearing Decision, Second Hearing Draft Proposed  
Decision, and Notice of Hearing**

Mandate Redetermination Request, 13-MR-02

*Open Meetings Act/Brown Act Reform (CSM-4257/4469)*

Government Code Sections 54952, et al.

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 5, 2014 at Sacramento, California.



---

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

## Mailing List

**Last Updated:** 11/24/14

**Claim Number:** 13-MR-02

**Matter:** Open Meetings Act/Brown Act Reform (CSM-4257/4469)

**Requester:** Department of Finance

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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, § 1181.3.)

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## COMMISSION ON STATE MANDATES

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December 5, 2014

Mr. Michael Byrne  
Department of Finance  
915 L Street, 8<sup>th</sup> Floor  
Sacramento, CA 95814

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

Re: **First Hearing Decision, Second Hearing Draft Proposed  
Decision, and Notice of Hearing**  
Mandate Redetermination Request, 13-MR-02  
*Open Meetings Act/Brown Act Reform (CSM-4257/4469)*  
Government Code Sections 54952, et al.  
California Department of Finance, Requester

Dear Mr. Byrne:

On December 5, 2014, the Commission on State Mandates (Commission) adopted the decision for the first hearing on 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 first hearing decision is enclosed for your review. The draft proposed decision for the second hearing is enclosed for your review and comment.

### Written Comments

Written comments may be filed on the draft proposed decision by **December 26, 2014**. 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, § 1181.3.)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

### Hearing

This second hearing on the request for a mandate redetermination is set for hearing on **Friday, January 23, 2015**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. The proposed decision will be issued on or about January 9, 2015. Please let us know in advance if

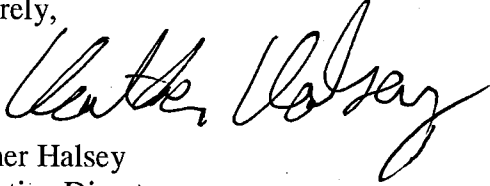
Mr. Michael Byrne

December 5, 2014

Page 2

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 1187.9(b) of the Commission's regulations.

Sincerely,

A handwritten signature in cursive script, appearing to read "Heather Halsey".

Heather Halsey  
Executive Director

Hearing Date: January 23, 2015

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

Government Code Sections 54952, 54954.2, 54954.3, 54957.1, 54957.7;

Statutes 1986, Chapter 641; Statutes 1993, Chapters 1136; 1137; 1138

As Alleged to be Modified by:

Proposition 30, General Election, November 6, 2012

*Open Meetings Act/Brown Act Reform (CSM-4257/4469)*

13-MR-02

Department of Finance, Requester

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**EXECUTIVE SUMMARY**

**Overview**

On March 23, 1988, the Commission on State Mandates (Commission) adopted the *Open Meetings Act* test claim, CSM-4257.<sup>1</sup> On June 28, 2001, the Commission adopted the *Brown Act Reform* test claim, CSM-4469. On April 25, 2002 the Commission adopted and consolidated parameters and guidelines for *Open Meetings Act/Brown Act Reform*. Those parameters and guidelines provide for reimbursement for a county, city, city and county, school district or special district for specified notice, agenda and other public disclosure related requirements required by Government Code sections 54952, 54954.2(a), 54954.3(a), 54957.1(a-c) and 54957.7(a-b), as those sections are added or amended by Statutes 1986, chapter 641; and Statutes 1993, chapters 1136, 1137, and 1138.

On July 19, 2005, Statutes 2005, chapter 72 (AB 138) became effective and directed the Commission to set aside its decisions, reconsiderations and parameters and guidelines in the *Open Meetings Act*, CSM-4257 and *Brown Act Reform*, CSM-4469 test claims. On July 27, 2005, these decisions and parameters and guidelines were set aside by the Commission with an effective date of July 19, 2005 as required by Statutes 2005, chapter 72. However, the court in *California School Boards Association v. State of California* (2009)<sup>2</sup> held that “the Legislature

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<sup>1</sup> Parameters and Guidelines for *Open Meetings Act*, CSM-4257 were first adopted on December 4, 1991 and were amended on November 30, 2000, but those Parameters and Guidelines are no longer effective and so are not relevant to this decision.

<sup>2</sup> 171 Cal.App.4th 1183, at pp. 1198-1203.

cannot direct, on a case-by-case basis, that a final decision of the Commission be set aside,” and therefore the directive in AB 138 constituted an unconstitutional violation of separation of powers principles.<sup>3</sup> The court therefore ordered the Commission to reinstate the test claim decisions and parameters and guidelines. The test claims and parameters and guidelines were therefore reinstated on September 27, 2009.

On November 6, 2012 the voters approved Proposition 30, also known as “The Schools and Local Public Safety Protection Act of 2012.”<sup>4</sup> Among other changes, Proposition 30 expressly stated that Notwithstanding Section 6 of Article XIII B, or any other constitutional provision... Any requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, with respect to performing its Public Safety Services responsibilities, or any other matter, shall not be a reimbursable mandate under Section 6 of Article XIII B.<sup>5</sup>

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 “[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.”<sup>6</sup>

### **Procedural History**

On July 29, 2013, the Department of Finance (Finance) filed a request for redetermination of the Open Meetings Act (CSM-4257) and Brown Act Reform (CSM-4469) test claims.<sup>7</sup> Finance asserts that Proposition 30 “has removed the state’s obligation to fund the mandates.”<sup>8</sup> The State Controller’s Office (Controller) submitted comments on the request, concurring with Finance’s conclusion that Proposition 30 has removed the state’s obligation to fund the *Open Meetings Act*, CSM-4257 and *Brown Act Reform*, CSM-4469 programs.<sup>9</sup> On September 5, 2014, Commission

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<sup>3</sup> *Id.*, at pp. 1198-1203.

<sup>4</sup> Exhibit X, Text of Proposition 30, page 2.

<sup>5</sup> Article XIII, section 36(c)(3) (adopted November 6, 2012).

<sup>6</sup> Code of Regulations, title 2, section 1190.5 (Register 2014, No. 21).

<sup>7</sup> Based on the July 29, 2013 filing date, the potential period of reimbursement affected by this redetermination begins July 1, 2011.

<sup>8</sup> Exhibit A, Request for Redetermination, page 1.

<sup>9</sup> Exhibit E, Controller’s Comments on Request for Redetermination.

staff issued the draft proposed decision for the first hearing.<sup>10</sup> On September 26, 2014, the Controller submitted comments concurring with the draft proposed decision.<sup>11</sup>

On December 5, 2014 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 whether to adopt a new test claim decision.<sup>12</sup> On December 5, 2014, Commission staff issued the draft proposed decision for the second hearing.<sup>13</sup>

### **Commission Responsibilities**

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 redetermination process provides for a two hearing process. The Commission's regulations state:

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(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.<sup>14</sup>

The regulations further state:

If 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.<sup>15</sup>

Therefore, the issue before the Commission at this second hearing is whether the state's liability has been modified based on a subsequent change in law, as defined in section 17570, thus requiring adoption of a new test claim decision to supersede the previously adopted test claim decision.

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<sup>10</sup> Exhibit F, Draft Proposed Decision.

<sup>11</sup> Exhibit G, Controller's Comments on Draft Proposed Decision.

<sup>12</sup> Exhibit H, Adopted Decision, First Hearing, issued December 5, 2014.

<sup>13</sup> Exhibit I, Draft Proposed Decision, Second Hearing.

<sup>14</sup> Code of Regulations, Title 2, section 1190.5(a)(1) (Register 2014, No. 21).

<sup>15</sup> Code of Regulations, Title 2, section 1190.5(b)(1) (Register 2014, No. 21).

## Staff Analysis

The issue for this hearing is to what extent the state's liability under the test claim statutes has been modified and whether a new test claim shall be adopted to supersede the prior test claim decision.

Proposition 30, adopted by the voters on November 6, 2012, added article XIII, section 36 to the California Constitution. Section 36(c)(3) provides that:

Any requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, with respect to performing its Public Safety Services responsibilities, or any other matter, shall not be a reimbursable mandate under Section 6 of Article XIII B.

The Open Meetings Act and Brown Act Reform test claims found state-mandated increased costs under Government Code sections 54952, 54954.2, 54954.3, 54957.1, and 54957.7. These code sections are all found within Chapter 9 of Part 1 of Division 2 of Title 5 of the Government Code, as described in Section 36(c)(3).

Generally constitutional or statutory provisions should be harmonized if possible, and both article XIII B, section 6, and article XIII, section 36, as amended by Proposition 30, "have equal dignity as constituents of the state Constitution."<sup>16</sup> The Commission is required to presume that article XIII, section 36 is constitutional, and must interpret the two provisions in such a way as to harmonize their effects.<sup>17</sup> However, if it is not possible to reconcile two potentially conflicting provisions, "special provisions control more general provisions, and the general and special provisions operate together, neither working the repeal of the other."<sup>18</sup> In addition, "where two constitutional provisions conflict, the one that was enacted later in time controls."<sup>19</sup> Therefore, article XIII, section 36, enacted by Proposition 30, to the extent that it provides an exemption from the reimbursement requirement of article XIII B, section 6, is presumptively controlling. Article XIII, section 36 is both later-enacted, and more specific, than article XIII B, section 6; it provides an exemption from the subvention requirement pertaining only to a single chapter of the Government Code.

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 July 29, 2013, establishing eligibility beginning July 1, 2012. However, the effective date of article XIII, section 36, is November 7, 2012, the day after the election at which Proposition 30 was approved.<sup>20</sup> Therefore, as a result of this

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<sup>16</sup> *Miller v. Superior Court* (1999) 21 Cal.4th 883, at p. 892.

<sup>17</sup> California Constitution, article III, section 3.5.

<sup>18</sup> *State Board of Education v. Honig* (1993) 13 Cal.App.4th 720, at p. 759.

<sup>19</sup> *Crawford v. Huntington Beach Union High School District* (2002) 98 Cal.App.4th 1275, at p. 1286.

<sup>20</sup> See Exhibit X, Text of Proposed Law, section 5.

proposed decision, staff finds that the approved activities in the prior test claim decision are no longer reimbursable as of November 7, 2012.<sup>21</sup>

Based on the foregoing, staff finds the *Open Meetings Act/Brown Act Reform* program no longer constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6 and article XIII, section 36 of the California Constitution, beginning November 7, 2012.

### **Staff Recommendation**

Staff recommends that the Commission adopt the proposed decision as its new test claim decision, ending reimbursement for the mandated program beginning November 7, 2012.

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

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<sup>21</sup> California Constitution, article II, section 10 [“An initiative statute or referendum approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise.”].

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

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

Government Code Sections 54952, 54954.2,  
54954.3, 54957.1, 54957.7;

Statutes 1986, Chapter 641; Statutes  
1993, Chapters 1136; 1137; 1138

As Alleged to be Modified by:

Proposition 30, General Election,  
November 6, 2012

Filed on July 29, 2013

By the Department of Finance, Requester.

Case No.: 13-MR-02

*Open Meetings Act/Brown Act  
Reform (CSM-4257/4469)*

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 January 23, 2015)*

**DECISION**

The Commission on State Mandates (Commission) heard and decided this mandate redetermination during a regularly scheduled hearing on January 23, 2015. [Witness list will be included in the adopted decision.]

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

The Commission [adopted/modified] the proposed decision as its new test claim decision, granting the request for redetermination and approving the request to end reimbursement for the test claim activities by a vote of [vote count will be included in the adopted 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 CSM-4257/4469 mandates has been modified based on a subsequent change in law. Specifically, article XIII, section 36 of the California Constitution, enacted by Proposition 30, which was adopted by the voters on November 6, 2012, expressly declared that activities under Chapter 9 of Part 1 of Division 2 of Title 5 of the Government Code (commencing with section 54950) "shall not be a reimbursable mandate" under article XIII



B, section 6. Pursuant to Government Code section 17570, the Commission approves the request for redetermination and concludes that the *Open Meetings Act/Brown Act Reform* program no longer constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6 and article XIII, section 36 of the California Constitution, effective November 7, 2012.<sup>22</sup>

## COMMISSION FINDINGS

### I. Chronology

- 3/23/1988            The Commission adopted the statement of decision for the Open Meetings Act test claim (CSM-4257).<sup>23</sup>
- 6/28/2001            The Commission adopted the statement of decision for the Brown Act Reform test claim (CSM-4469).<sup>24</sup>
- 4/25/2002            The Commission adopted consolidated parameters and guidelines for Open Meetings Act/Brown Act Reform (CSM-4257/4469).<sup>25</sup>
- 7/19/2005            The Legislature enacted Statutes 2005, chapter 72 (AB 138), which required the Commission to set aside the test claim decisions and parameters and guidelines in CSM-4257 and CSM-4469.
- 9/27/2005            The Commission set aside CSM-4257 and CSM-4469, effective 7/19/2005.<sup>26</sup>
- 3/9/2009             The Third District Court of Appeal held that AB 138 violated separation of powers principles, and ordered the Commission to reinstate the prior decisions in CSM-4257 and CSM-4469.<sup>27</sup>
- 9/25/2009            The Commission reinstated CSM-4257 and CSM-4469, test claim decisions and parameters and guidelines, pursuant to *California School Boards Association v. State of California* (2009) 171 Cal.App.4th 1183, effective July 31, 2009.<sup>28</sup>

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<sup>22</sup> California Constitution, article II, section 10 [“An initiative statute or referendum approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise.”].

<sup>23</sup> Exhibit B, Test Claim Statement of Decision CSM-4257.

<sup>24</sup> Exhibit C, Test Claim Statement of Decision CSM-4469.

<sup>25</sup> Exhibit D, Parameters and Guidelines.

<sup>26</sup> Exhibit D, Parameters and Guidelines.

<sup>27</sup> *California School Boards Association v. State* (2009) 171 Cal.App.4th 1183, at pp. 1198-1218.

<sup>28</sup> Exhibit D, Parameters and Guidelines.

- 11/6/2012 The voters adopted Proposition 30, which added article XIII, section 36 to the California Constitution.<sup>29</sup>
- 7/29/2013 The Department of Finance (Finance) filed a request for redetermination on CSM-4257 and CSM-4469.<sup>30</sup>
- 9/9/2013 The Controller submitted comments on the redetermination request.<sup>31</sup>
- 9/5/2014 Commission staff issued the draft decision for the first hearing.<sup>32</sup>
- 9/26/2014 The Controller submitted written comments on the draft.<sup>33</sup>
- 12/05/2014 The Commission adopted the decision on the first hearing, finding that Finance made an adequate showing and directed staff to prepare the draft proposed decision for the second hearing.
- 12/05/2014 Commission staff issued the adopted decision for the first hearing and the draft proposed decision for the second hearing.<sup>34</sup>

## **II. Background**

### **A. The Open Meetings Act, the Brown Act, and the Alleged Subsequent Change in Law**

Statutes 1986, chapter 641 added section 54954.2 to the Government Code, which requires a local agency to post an agenda 72 hours before a regular meeting, describing the items to be discussed at the meeting and specifying the time and place of the meeting. Statutes 1986, chapter 641 also added section 54954.3, which generally requires all regular meetings to provide an opportunity for public comment. The Commission found this statute imposed costs mandated by the state, in CSM-4257.<sup>35</sup>

Statutes 1993, chapters 1136, 1137, and 1138 added or amended sections 54952, 54954.2, 54957.1, and 54957.7 to the Government Code. The Commission found that this test claim statute enlarged the definition of “legislative bodies” subject to the requirements of section 54952.2; required closed session items to be listed on a meeting agenda; required the reporting of

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<sup>29</sup> Exhibit X, Text of Ballot Measure, Proposition 30.

<sup>30</sup> Exhibit A, Request for Redetermination.

<sup>31</sup> Exhibit E, Controller’s Comments on the Request for Redetermination.

<sup>32</sup> Exhibit F, Draft Proposed Decision, First Hearing.

<sup>33</sup> Exhibit G, Controller’s Comments on the Draft Proposed Decision, First Hearing.

<sup>34</sup> Exhibit H, Adopted Decision, First Hearing; Exhibit I, Draft Proposed Decision, Second Hearing.

<sup>35</sup> See Exhibit B, Test Claim Statement of Decision CSM-4257.

closed session items after closed session and the provision of closed session documents; and required the disclosure of certain closed session items prior to and after the closed session.<sup>36</sup>

In the parameters and guidelines for the two test claims, the reimbursable activities are described as follows:

A. Agenda Preparation and Posting Activities

1. Prepare a single agenda for a regular meeting of a legislative body of a local agency or school district containing a brief description of each item of business to be transacted or discussed at a regular meeting, including items to be discussed in closed session, and citing the time and location of the regular meeting. (Gov. Code, § 54954.2, subd. (a).)
2. Post a single agenda 72 hours before a meeting in a location freely accessible to the public. Further, every agenda must state that there is an opportunity for members of the public to comment on matters that are within the subject matter jurisdiction of the legislative body, subject to exceptions stated therein. (Gov. Code, §§ 54954.2, subd. (a), and 54954.3, subd. (a).)

Beginning January 1, 1994, the following types of “legislative bodies” are eligible to claim reimbursement under these parameters and guidelines for the activities listed in section IV.A:

- Local Bodies created by state or federal statute.
- Standing Committees with less than a quorum of members of the legislative body that has a continuing subject matter jurisdiction or a meeting schedule fixed by formal action.
- Permanent & Temporary Advisory Bodies (except bodies of less than a quorum of the members of the legislative body).

Beginning January 1, 1994, the following “legislative bodies” are eligible to claim reimbursement under these parameters and guidelines for the preparation of a brief general description of closed session agenda items, using either the actual or standard time reimbursement options pursuant to section V.A.1 or 2:

- Governing board, commission, directors or body of a local agency or any board or commission thereof, as well as any board, commission, committee, or other body on which officers of a local agency serve in their official capacity.
- Any board, commission, committee, or body which exercises authority delegated to it by the legislative body.

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<sup>36</sup> See Exhibit C, Test Claim Statement of Decision CSM-4469.

- Planning commissions, library boards, recreation commissions, and other permanent boards or commissions of a local agency composed of at least a quorum of the members of the legislative body.
- Local Bodies created by state or federal statute.
- Standing Committees with less than a quorum of members of the legislative body that has a continuing subject matter jurisdiction or a meeting schedule fixed by formal action.
- Permanent & Temporary Advisory Bodies (except bodies of less than a quorum of the members of the legislative body).

B. Closed Session Activities

1. Disclose in an open meeting, prior to holding any closed session, each item to be discussed in the closed session. (Gov. Code, § 54957.7, subd. (a).)
2. Reconvene in open session prior to adjournment to make any disclosures required by Section 54957.1 of action taken in the closed session, including items as follows: (Gov. Code, § 54957.7, subd. (b).)
  - a. Approval of an agreement concluding real estate negotiations as specified in Section 54956.8. (Gov. Code, § 54957.1, subd. (a)(1).)
  - b. Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of consultation under Section 54956.9. (Gov. Code, § 54957.1, subd. (a)(2).)
  - c. Approval given to its legal counsel of a settlement of pending litigation as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final. (Gov. Code, § 54957.1, subd. (a)(3).)
  - d. Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies of the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant. (Gov. Code, § 54957.1, subd. (a)(4).)
  - e. Approval of an agreement concluding labor negotiations with represented employees pursuant to Section 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. (Gov. Code, § 54957.1, subd. (a)(6).)
3. Provide copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session to a

person who submitted a written request within the timelines specified or to a person who has made a standing request, as set forth in Sections 54954.1 or 54956 within the time lines specified. (Gov. Code, § 54957.1, subd. (b) and (c).)

4. Train members of only those legislative bodies that actually hold closed executive sessions, on the closed session requirements of Brown Act Reform. If such training is given to all members of the legislative body, whether newly appointed or existing members, contemporaneously, time of the trainer and legislative members is reimbursable. Additionally, time for preparation of training materials, obtaining materials including training videos and audio visual aids, and training the trainers to conduct the training is reimbursable. See Section V.B.6 of these parameters and guidelines.

Beginning January 1, 1994, the following “legislative bodies” are eligible to claim reimbursement under these parameters and guidelines for the activities listed in IV.B:

- Governing board, commission, directors or body of a local agency or any board or commission thereof, as well as any board, commission, committee, or other body on which officers of a local agency serve in their official capacity.
- Any board, commission, committee, or body which exercises authority delegated to it by the legislative body.
- Planning commissions, library boards, recreation commissions, and other permanent boards or commissions of a local agency composed of at least a quorum of the members of the legislative body.
- Local Bodies created by state or federal statute.
- Standing Committees with less than a quorum of members of the legislative body that has a continuing subject matter jurisdiction or a meeting schedule fixed by formal action.
- Permanent & Temporary Advisory Bodies (except bodies of less than a quorum of the members of the legislative body).<sup>37</sup>

Article XIII, section 36 of the California Constitution, enacted by Proposition 30, which was adopted by the voters on November 6, 2013, expressly disclaims the existence of any reimbursable state mandate arising from Government Code 54950 et seq. Specifically, Proposition 30 provides that “[a]ny requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code,

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<sup>37</sup> Exhibit D, Parameters and Guidelines.

with respect to performing its Public Safety Services responsibilities, or any other matter, shall not be a reimbursable mandate under Section 6 of Article XIII B.”<sup>38</sup>

#### 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 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.”<sup>39</sup>

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.<sup>40</sup>

If the Commission finds, at the first hearing, that the requester has made an adequate showing, “when considered in light of all of the written responses, rebuttals and supporting documentation in the record and testimony at the hearing, 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.”<sup>41</sup>

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.”<sup>42</sup> 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.”<sup>43</sup>

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<sup>38</sup> Exhibit X, Text of Proposed Laws, November 6, 2012 General Election, page 2.

<sup>39</sup> Code of Regulations, Title 2, section 1190.05(a)(1).

<sup>40</sup> Government Code section 17570, as added by Statutes 2010, chapter 719 (SB 856).

<sup>41</sup> California Code of Regulations, Title 2, section 1190.05(a)(5)(B).

<sup>42</sup> Code of Regulations, Title 2, section 1190.05(b)(1).

<sup>43</sup> Government Code section 17570(i) (Stats. 2010, chapter 719 (SB 856)).

### **III. Positions of the Requester, Test Claimant, and Interested Parties and Persons**

#### **A. Department of Finance, Requester**

Finance argues that “[b]y adding Article XIII, Section 36, subdivision (c)(3) to the Constitution, the electorate stated the reimbursable requirements of the Open Meetings Act and Brown Act Reform mandates are no longer reimbursable mandates.”<sup>44</sup>

#### **B. Controller’s Position**

The Controller states that it “concur[s] that Proposition 30 is the subsequent change in law that eliminated reimbursement of state mandated costs” for the Open Meetings Act and Brown Act Reform test claims.<sup>45</sup>

### **IV. Discussion**

Pursuant to 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. 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.<sup>46</sup> The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.<sup>47</sup> 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.”<sup>48</sup>

Government Code section 17570 provides that, 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

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<sup>44</sup> Exhibit A, Request for Redetermination, 13-MR-02, page 7.

<sup>45</sup> Exhibit E, Controller’s Comments, page 1.

<sup>46</sup> *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 332; Government Code sections 17551; 17552.

<sup>47</sup> *County of San Diego v. State of California*, (1997) 15 Cal.4th 68, 109.

<sup>48</sup> *County of Sonoma v. Commission on State Mandates*, (2000) 84 Cal.App.4th 1265, 1281, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

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.<sup>49</sup>

**A. Proposition 30 Constitutes a Subsequent Change in Law, as Defined.**

Government Code section 17570 provides that 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. A subsequent change in law is defined in section 17570 as “[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...”<sup>50</sup> Under this definition, then, a subsequent change in law is one that (1) requires a finding of a new cost mandated by the state under section 17514; (2) requires a new finding that a cost is not a cost mandated by the state pursuant to section 17556; or (3) another change in mandates law.

This request for redetermination does not allege a subsequent change in law that requires a finding of a new cost mandated by the state pursuant to section 17514, or a finding that a cost is not mandated by the state pursuant to section 17556. Rather, the request is based on the plain language exception to reimbursement adopted in Proposition 30 and, thus, is alleged as another change in mandates law. Proposition 30, adopted by the voters November 6, 2012, provides, in pertinent part:

Any requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, with respect to performing its Public Safety Services responsibilities, or any other matter, shall not be a reimbursable mandate under Section 6 of Article XIII B.<sup>51</sup>

The test claim statements of decision and parameters and guidelines for CSM-4257 and CSM-4469 found reimbursable activities imposed by Government Code sections 54952, 54954.2, 54954.3, 54957.1, and 54957.7. Chapter 9, Part 1, Division 2 of title 5 of the Government Code includes sections 54950 through 54963. Therefore, all code sections found to impose activities in test claims CSM-4257 and CSM-4469 are within Chapter 9, and pursuant to Proposition 30, “shall not be a reimbursable mandate...”

Additionally, while amended article XIII, section 36 provides for an exemption from subvention for “a local agency” required to comply with Chapter 9, the chapter itself interprets “local agency” broadly to include school districts. Government Code sections 17518 and 17519, normally controlling in the Commission’s analyses, define “local agency” and “school district” separately. And generally, when the Commission identifies both local agencies and school districts together, for purposes of a mandate finding, the preferred usage is “local government.” However, Government Code 54951, contained within chapter 9, part 1, Division 2 of title 5 of

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<sup>49</sup> Government Code section 17570 (Stats. 2010, ch. 719 (SB 856)).

<sup>50</sup> Government Code section 17570 (Stats. 2010, ch. 719 (SB 856)).

<sup>51</sup> Exhibit X, Text of Proposed Laws, November 6, 2012 General Election, page 2.



the Government Code, which Proposition 30 purports to modify, provides that “[a]s used in this chapter, local agency means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.” Therefore, section 54951 defines “local agency” more broadly than is usually meant in the Commission’s processes, and article XIII, section 36, as added by Proposition 30, must be interpreted to apply the same definition.

Article XIII, section 36 of the California Constitution as enacted by Proposition 30 effects “a change in mandates law,” in that it directly invokes article XIII B, section 6, and states that a certain chapter of the Government Code, which contains the mandate previously approved by the Commission, cannot impose a reimbursable mandate under section 6. Since Proposition 30 was codified as article XIII, section 36 of the California Constitution, it is on equal footing with article XIII B, section 6, and, being later-enacted, is presumed to take precedence.<sup>52</sup> In addition, a more specific provision controls over a more general provision. Therefore, to the extent that article XIII, section 36 conflicts with article XIII B, section 6, the former should be treated as an exception to the latter.<sup>53</sup> The Commission is required to presume that article XIII, section 36 is constitutional, and must interpret the two provisions in such a way as to harmonize their effects.<sup>54</sup>

Based on the foregoing, the Commission found at the first hearing on this redetermination that Proposition 30, adding article XIII, section 36 to the California Constitution, constitutes a subsequent change in law, as defined.<sup>55</sup>

**B. Proposition 30 Creates a Valid Exception to the Reimbursement Requirement of Article XIII B, Section 6.**

Article XIII, section 36 of the California Constitution, added by Proposition 30, adopted November 6, 2012, provides, in pertinent part:

Notwithstanding Section 6 of Article XIII B, or any other constitutional provision, a mandate of a new program or higher level of service on a local agency imposed by the 2011 Realignment Legislation, or by any regulation adopted or any executive order or administrative directive issued to implement that legislation, shall not constitute a mandate requiring the State to provide a subvention of funds within the meaning of that section. Any requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, with respect to performing its Public Safety Services

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<sup>52</sup> *People v. Moody* (Cal. Ct. App. 3d Dist. 2002) 96 Cal.App.4th 987.

<sup>53</sup> *People v. Superior Court* (2002) 28 Cal.4th 798, at p. 809.

<sup>54</sup> California Constitution, article III, section 3.5.

<sup>55</sup> See Exhibit H, First Hearing Decision, page 8.

responsibilities, or any other matter, shall not be a reimbursable mandate under Section 6 of Article XIII B.<sup>56</sup>

As shown above, the Commission has previously found reimbursable state-mandated activities under Government Code sections 54952, 54954.2, 54957.7, and 54957.1.<sup>57</sup> These sections of the Government Code are found within Chapter 9 of Part 1 of Division 2 of Title 5 of the Government Code, which includes sections 54950 through and include 54963. Therefore, the plain language of article XIII, section 36 directly implicates these sections of the Government Code.

Although the Commission retains exclusive jurisdiction to determine whether a statute imposes a state mandate, the Commission is also bound to presume that subsequent enactments are constitutional.<sup>58</sup> Here, the subsequent enactment is in fact an amendment to the California Constitution, which expressly and directly disclaims the existence of a reimbursable state mandate based on any requirements of Government Code sections 54950-54963.

The California Constitution states that “[a]ll political power is inherent in the people,” and that “[g]overnment is instituted for their protection, security, and benefit, and they have the right to alter or reform it when the public good may require.”<sup>59</sup> The California Supreme Court has recognized the supremacy of the electorate as follows: “[t]he people of this state, as the ultimate source of legitimate political power, are of course free through constitutional amendment to adopt whatever changes in the existing system they consider appropriate, subject only to limitations contained in the Constitution of the United States.”<sup>60</sup> And the United States Supreme Court has held that the only limitation on the power of a state to alter its constitution is that the government of the state “must be of the Republican form.”<sup>61</sup>

Both articles XIII B, section 6 and XIII, section 36 “have equal dignity, as constituents of the state Constitution.”<sup>62</sup> The two provisions therefore should be interpreted in a manner that would harmonize their effects, if possible.<sup>63</sup> If it is not possible to reconcile two potentially conflicting provisions, “special provisions control more general provisions, and the general and special

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<sup>56</sup> California Constitution, article XIII, section 36 (added, Proposition 30, November 6, 2012).

<sup>57</sup> See Exhibit D, Parameters and Guidelines.

<sup>58</sup> California Constitution, article III, section 3.5 (added, Proposition 5, June 6, 1978).

<sup>59</sup> California Constitution, article II, section 1.

<sup>60</sup> *Legislature v. Deukmejian* (1983) 34 Cal.3d 658, at p. 680.

<sup>61</sup> *Chisholm v. Georgia* (1793) 2U.S. 419, at p. 448.

<sup>62</sup> *Miller v. Superior Court* (1999) 21 Cal.4th 883, at p. 892.

<sup>63</sup> *Ibid.*

provisions operate together, neither working the repeal of the other.<sup>64</sup> In addition, “where two constitutional provisions conflict, the one that was enacted later in time controls.”<sup>65</sup>

Therefore, article XIII, section 36, enacted by Proposition 30, to the extent that it provides an exception to the reimbursement requirement of article XIII B, section 6, is presumptively controlling. The two provisions cannot be harmonized, because section 36 creates an express exception for “[a]ny requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code...” from the operation of article XIII B, section 6, as that provision has previously been interpreted by the Commission, and as certain sections of chapter 9 have been previously found to impose a reimbursable state mandate.<sup>66</sup> However, section 36 is both later-enacted, and more specific, than article XIII B, section 6; it provides an exception from the subvention requirement pertaining only to a single chapter of the Government Code. Therefore, the general and special provisions can operate together “neither working the repeal of the other,”<sup>67</sup> and section 36 is presumed to create a valid exception to the reimbursement requirement of article XIII B, section 6.

Based on the foregoing, the Commission finds that the state’s liability for the test claim statutes has been modified based on a subsequent change in law, and a new test claim decision is required.

**C. The Open Meetings Act/Brown Act Reform Program Does Not Constitute a Reimbursable State-Mandated Program Within the Meaning of Article XIII B, Section 6 of the California Constitution Beginning November 7, 2012.**

Government Code section 17570 provides that a redetermination request “shall be filed on or before June 30 following a fiscal year in order to establish eligibility for reimbursement or loss of reimbursement for that fiscal year.”<sup>68</sup> This redetermination request was filed on July 29, 2013, establishing potential eligibility beginning July 1, 2012. However, the subsequent change in law identified was adopted on November 6, 2012, and became effective the following day.<sup>69</sup> Therefore, the Open Meetings Act/Brown Act Reform program no longer constitutes a reimbursable state-mandated program beginning November 7, 2012.

**V. CONCLUSION**

Based on the foregoing, the Commission approves the request for redetermination and concludes that the Open Meetings Act/Brown Act Reform program does not constitute a reimbursable

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<sup>64</sup> *State Board of Education v. Honig* (1993) 13 Cal.App.4th 720, at p. 759.

<sup>65</sup> *Crawford v. Huntington Beach Union High School District* (2002) 98 Cal.App.4th 1275, at p. 1286.

<sup>66</sup> See Exhibits A, B, C, Test Claims and Parameters and Guidelines.

<sup>67</sup> *State Board of Education v. Honig* (1993) 13 Cal.App.4th 720, at p. 759.

<sup>68</sup> Government Code section 17570 (Stats. 2010, ch. 719 (SB 856)).

<sup>69</sup> California Constitution, article II, section 10.

state-mandated program within the meaning of article XIII B, section 6 and article XIII, section 36 of the California Constitution and, beginning November 7, 2012.

**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 5, 2014, I served the:

**First Hearing Decision, Second Hearing Draft Proposed  
Decision, and Notice of Hearing**

Mandate Redetermination Request, 13-MR-02

*Open Meetings Act/Brown Act Reform (CSM-4257/4469)*

Government Code Sections 54952, et al.

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 5, 2014 at Sacramento, California.



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Heidi J. Palchik  
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# COMMISSION ON STATE MANDATES

## Mailing List

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**Claim Number:** 13-MR-02

**Matter:** Open Meetings Act/Brown Act Reform (CSM-4257/4469)

**Requester:** Department of Finance

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RECEIVED  
December 22, 2014  
Commission on  
State Mandates

JOHN CHIANG  
California State Controller  
Division of Accounting and Reporting

December 22, 2014

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

Re: First Hearing Decision, Second Hearing Draft Proposed Decision, and Notice of Hearing Mandate Redetermination Request, 13-MR-02  
Open Meetings Act/Brown Act Reform, (CSM-4257/4469)  
Government Code Sections 54952, et al.  
California Department of Finance, Requester

Dear Ms. Halsey:

The State Controller's Office has no comments on the second hearing draft proposed decision for the Open Meetings Act/Brown Act Reform program.

Should you have any questions regarding the above, please contact Eduardo Antonio at (916) 327-0755 or e-mail eantonio@sco.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "JAL", written over a light blue horizontal line.

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 Sacramento 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 23, 2014, I served the:

**SCO Comments**

Mandate Redetermination Request, 13-MR-02

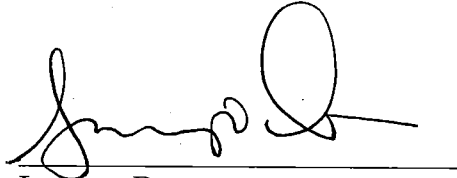
*Open Meetings Act/Brown Act Reform (CSM-4257/4469)*

Government Code Sections 54952, et al.

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 23, 2014 at Sacramento, California.



Lorenzo Duran

Commission on State Mandates

980 Ninth Street, Suite 300

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(916) 323-3562

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## Mailing List

**Last Updated:** 12/9/14

**Claim Number:** 13-MR-02

**Matter:** Open Meetings Act/Brown Act Reform (CSM-4257/4469)

**Requester:** Department of Finance

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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, § 1181.3.)

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## TEXT OF PROPOSED LAWS

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## PROPOSITION 30

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds a section to the California Constitution; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

## PROPOSED LAW

## THE SCHOOLS AND LOCAL PUBLIC SAFETY PROTECTION ACT OF 2012

## SECTION 1. Title.

This measure shall be known and may be cited as “The Schools and Local Public Safety Protection Act of 2012.”

## SEC. 2. Findings.

(a) Over the past four years alone, California has had to cut more than \$56 billion from education, police and fire protection, healthcare, and other critical state and local services. These funding cuts have forced teacher layoffs, increased school class sizes, increased college fees, reduced police protection, increased fire response times, exacerbated dangerous overcrowding in prisons, and substantially reduced oversight of parolees.

(b) These cuts in critical services have hurt California’s seniors, middle-class working families, children, college students, and small businesses the most. We cannot afford more cuts to education and the other services we need.

(c) After years of cuts and difficult choices, it is necessary to turn the state around. Raising new tax revenue is an investment in our future that will put California back on track for growth and success.

(d) The Schools and Local Public Safety Protection Act of 2012 will make California’s tax system more fair. With working families struggling while the wealthiest among us enjoy record income growth, it is only right to ask the wealthy to pay their fair share.

(e) The Schools and Local Public Safety Protection Act of 2012 raises the income tax on those at the highest end of the income scale — those who can most afford it. It also temporarily restores some sales taxes in effect last year, while keeping the overall sales tax rate lower than it was in early 2011.

(f) The new taxes in this measure are temporary. Under the California Constitution the 1/4-cent sales tax increase expires in four years, and the income tax increases for the wealthiest taxpayers end in seven years.

(g) The new tax revenue is guaranteed in the California Constitution to go directly to local school districts and community colleges. Cities and counties are guaranteed ongoing funding for public safety programs such as local police and child protective services. State money is freed up to help balance the budget and prevent even more devastating cuts to services for seniors, working families, and small businesses. Everyone benefits.

(h) To ensure these funds go where the voters intend, they are put in special accounts that the Legislature cannot touch. None of these new revenues can be spent on state bureaucracy

or administrative costs.

(i) These funds will be subject to an independent audit every year to ensure they are spent only for schools and public safety. Elected officials will be subject to prosecution and criminal penalties if they misuse the funds.

## SEC. 3. Purpose and Intent.

(a) The chief purpose of this measure is to protect schools and local public safety by asking the wealthy to pay their fair share of taxes. This measure takes funds away from state control and places them in special accounts that are exclusively dedicated to schools and local public safety in the state Constitution.

(b) This measure builds on a broader state budget plan that has made billions of dollars in permanent cuts to state spending.

(c) The measure guarantees solid, reliable funding for schools, community colleges, and public safety while helping balance the budget and preventing further devastating cuts to services for seniors, middle-class working families, children, and small businesses.

(d) This measure gives constitutional protection to the shift of local public safety programs from state to local control and the shift of state revenues to local government to pay for those programs. It guarantees that schools are not harmed by providing even more funding than schools would have received without the shift.

(e) This measure guarantees that the new revenues it raises will be sent directly to school districts for classroom expenses, not administrative costs. This school funding cannot be suspended or withheld no matter what happens with the state budget.

(f) All revenues from this measure are subject to local audit every year, and audit by the independent Controller to ensure that they will be used only for schools and local public safety.

SEC. 4. Section 36 is added to Article XIII of the California Constitution, to read:

*SEC. 36. (a) For purposes of this section:*

*(1) “Public Safety Services” includes the following:*

*(A) Employing and training public safety officials, including law enforcement personnel, attorneys assigned to criminal proceedings, and court security staff.*

*(B) Managing local jails and providing housing, treatment, and services for, and supervision of, juvenile and adult offenders.*

*(C) Preventing child abuse, neglect, or exploitation; providing services to children and youth who are abused, neglected, or exploited, or who are at risk of abuse, neglect, or exploitation, and the families of those children; providing adoption services; and providing adult protective services.*

*(D) Providing mental health services to children and adults to reduce failure in school, harm to self or others, homelessness, and preventable incarceration or institutionalization.*

*(E) Preventing, treating, and providing recovery services for substance abuse.*

*(2) “2011 Realignment Legislation” means legislation enacted on or before September 30, 2012, to implement the state budget plan, that is entitled 2011 Realignment and provides for the assignment of Public Safety Services responsibilities to*



local agencies, including related reporting responsibilities. The legislation shall provide local agencies with maximum flexibility and control over the design, administration, and delivery of Public Safety Services consistent with federal law and funding requirements, as determined by the Legislature. However, 2011 Realignment Legislation shall include no new programs assigned to local agencies after January 1, 2012, except for the early periodic screening, diagnosis, and treatment (EPSDT) program and mental health managed care.

(b) (1) Except as provided in subdivision (d), commencing in the 2011–12 fiscal year and continuing thereafter, the following amounts shall be deposited into the Local Revenue Fund 2011, as established by Section 30025 of the Government Code, as follows:

(A) All revenues, less refunds, derived from the taxes described in Sections 6051.15 and 6201.15 of the Revenue and Taxation Code, as those sections read on July 1, 2011.

(B) All revenues, less refunds, derived from the vehicle license fees described in Section 11005 of the Revenue and Taxation Code, as that section read on July 1, 2011.

(2) On and after July 1, 2011, the revenues deposited pursuant to paragraph (1) shall not be considered General Fund revenues or proceeds of taxes for purposes of Section 8 of Article XVI of the California Constitution.

(c) (1) Funds deposited in the Local Revenue Fund 2011 are continuously appropriated exclusively to fund the provision of Public Safety Services by local agencies. Pending full implementation of the 2011 Realignment Legislation, funds may also be used to reimburse the State for program costs incurred in providing Public Safety Services on behalf of local agencies. The methodology for allocating funds shall be as specified in the 2011 Realignment Legislation.

(2) The county treasurer, city and county treasurer, or other appropriate official shall create a County Local Revenue Fund 2011 within the treasury of each county or city and county. The money in each County Local Revenue Fund 2011 shall be exclusively used to fund the provision of Public Safety Services by local agencies as specified by the 2011 Realignment Legislation.

(3) Notwithstanding Section 6 of Article XIII B, or any other constitutional provision, a mandate of a new program or higher level of service on a local agency imposed by the 2011 Realignment Legislation, or by any regulation adopted or any executive order or administrative directive issued to implement that legislation, shall not constitute a mandate requiring the State to provide a subvention of funds within the meaning of that section. Any requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, with respect to performing its Public Safety Services responsibilities, or any other matter, shall not be a reimbursable mandate under Section 6 of Article XIII B.

(4) (A) Legislation enacted after September 30, 2012, that has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation shall apply to local agencies only to the extent that the State provides annual funding for the cost increase. Local agencies shall not be obligated to provide

programs or levels of service required by legislation, described in this subparagraph, above the level for which funding has been provided.

(B) Regulations, executive orders, or administrative directives, implemented after October 9, 2011, that are not necessary to implement the 2011 Realignment Legislation, and that have an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, shall apply to local agencies only to the extent that the State provides annual funding for the cost increase. Local agencies shall not be obligated to provide programs or levels of service pursuant to new regulations, executive orders, or administrative directives, described in this subparagraph, above the level for which funding has been provided.

(C) Any new program or higher level of service provided by local agencies, as described in subparagraphs (A) and (B), above the level for which funding has been provided, shall not require a subvention of funds by the State nor otherwise be subject to Section 6 of Article XIII B. This paragraph shall not apply to legislation currently exempt from subvention under paragraph (2) of subdivision (a) of Section 6 of Article XIII B as that paragraph read on January 2, 2011.

(D) The State shall not submit to the federal government any plans or waivers, or amendments to those plans or waivers, that have an overall effect of increasing the cost borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, except to the extent that the plans, waivers, or amendments are required by federal law, or the State provides annual funding for the cost increase.

(E) The State shall not be required to provide a subvention of funds pursuant to this paragraph for a mandate that is imposed by the State at the request of a local agency or to comply with federal law. State funds required by this paragraph shall be from a source other than those described in subdivisions (b) and (d), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund.

(5) (A) For programs described in subparagraphs (C) to (E), inclusive, of paragraph (1) of subdivision (a) and included in the 2011 Realignment Legislation, if there are subsequent changes in federal statutes or regulations that alter the conditions under which federal matching funds as described in the 2011 Realignment Legislation are obtained, and have the overall effect of increasing the costs incurred by a local agency, the State shall annually provide at least 50 percent of the nonfederal share of those costs as determined by the State.

(B) When the State is a party to any complaint brought in a federal judicial or administrative proceeding that involves one or more of the programs described in subparagraphs (C) to (E), inclusive, of paragraph (1) of subdivision (a) and included in the 2011 Realignment Legislation, and there is a settlement or judicial or administrative order that imposes a cost in the form of a monetary penalty or has the overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, the State shall annually provide at least 50 percent of the nonfederal share of those costs as determined by the State. Payment by the

State is not required if the State determines that the settlement or order relates to one or more local agencies failing to perform a ministerial duty, failing to perform a legal obligation in good faith, or acting in a negligent or reckless manner.

(C) The state funds provided in this paragraph shall be from funding sources other than those described in subdivisions (b) and (d), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund.

(6) If the State or a local agency fails to perform a duty or obligation under this section or under the 2011 Realignment Legislation, an appropriate party may seek judicial relief. These proceedings shall have priority over all other civil matters.

(7) The funds deposited into a County Local Revenue Fund 2011 shall be spent in a manner designed to maintain the State's eligibility for federal matching funds, and to ensure compliance by the State with applicable federal standards governing the State's provision of Public Safety Services.

(8) The funds deposited into a County Local Revenue Fund 2011 shall not be used by local agencies to supplant other funding for Public Safety Services.

(d) If the taxes described in subdivision (b) are reduced or cease to be operative, the State shall annually provide moneys to the Local Revenue Fund 2011 in an amount equal to or greater than the aggregate amount that otherwise would have been provided by the taxes described in subdivision (b). The method for determining that amount shall be described in the 2011 Realignment Legislation, and the State shall be obligated to provide that amount for so long as the local agencies are required to perform the Public Safety Services responsibilities assigned by the 2011 Realignment Legislation. If the State fails to annually appropriate that amount, the Controller shall transfer that amount from the General Fund in pro rata monthly shares to the Local Revenue Fund 2011. Thereafter, the Controller shall disburse these amounts to local agencies in the manner directed by the 2011 Realignment Legislation. The state obligations under this subdivision shall have a lower priority claim to General Fund money than the first priority for money to be set apart under Section 8 of Article XVI and the second priority to pay voter-approved debts and liabilities described in Section 1 of Article XVI.

(e) (1) To ensure that public education is not harmed in the process of providing critical protection to local Public Safety Services, the Education Protection Account is hereby created in the General Fund to receive and disburse the revenues derived from the incremental increases in taxes imposed by this section, as specified in subdivision (f).

(2) (A) Before June 30, 2013, and before June 30 of each year from 2014 to 2018, inclusive, the Director of Finance shall estimate the total amount of additional revenues, less refunds, that will be derived from the incremental increases in tax rates made in subdivision (f) that will be available for transfer into the Education Protection Account during the next fiscal year. The Director of Finance shall make the same estimate by January 10, 2013, for additional revenues, less refunds, that will be received by the end of the 2012–13 fiscal year.

(B) During the last 10 days of the quarter of each of the first

three quarters of each fiscal year from 2013–14 to 2018–19, inclusive, the Controller shall transfer into the Education Protection Account one-fourth of the total amount estimated pursuant to subparagraph (A) for that fiscal year, except as this amount may be adjusted pursuant to subparagraph (D).

(C) In each of the fiscal years from 2012–13 to 2020–21, inclusive, the Director of Finance shall calculate an adjustment to the Education Protection Account, as specified by subparagraph (D), by adding together the following amounts, as applicable:

(i) In the last quarter of each fiscal year from 2012–13 to 2018–19, inclusive, the Director of Finance shall recalculate the estimate made for the fiscal year pursuant to subparagraph (A), and shall subtract from this updated estimate the amounts previously transferred to the Education Protection Account for that fiscal year.

(ii) In June 2015 and in every June from 2016 to 2021, inclusive, the Director of Finance shall make a final determination of the amount of additional revenues, less refunds, derived from the incremental increases in tax rates made in subdivision (f) for the fiscal year ending two years prior. The amount of the updated estimate calculated in clause (i) for the fiscal year ending two years prior shall be subtracted from the amount of this final determination.

(D) If the sum determined pursuant to subparagraph (C) is positive, the Controller shall transfer an amount equal to that sum into the Education Protection Account within 10 days preceding the end of the fiscal year. If that amount is negative, the Controller shall suspend or reduce subsequent quarterly transfers, if any, to the Education Protection Account until the total reduction equals the negative amount herein described. For purposes of any calculation made pursuant to clause (i) of subparagraph (C), the amount of a quarterly transfer shall not be modified to reflect any suspension or reduction made pursuant to this subparagraph.

(3) All moneys in the Education Protection Account are hereby continuously appropriated for the support of school districts, county offices of education, charter schools, and community college districts as set forth in this paragraph.

(A) Eleven percent of the moneys appropriated pursuant to this paragraph shall be allocated quarterly by the Board of Governors of the California Community Colleges to community college districts to provide general purpose funding to community college districts in proportion to the amounts determined pursuant to Section 84750.5 of the Education Code, as that code section read upon voter approval of this section. The allocations calculated pursuant to this subparagraph shall be offset by the amounts specified in subdivisions (a), (c), and (d) of Section 84751 of the Education Code, as that section read upon voter approval of this section, that are in excess of the amounts calculated pursuant to Section 84750.5 of the Education Code, as that section read upon voter approval of this section, provided that no community college district shall receive less than one hundred dollars (\$100) per full time equivalent student.

(B) Eighty-nine percent of the moneys appropriated pursuant to this paragraph shall be allocated quarterly by the Superintendent of Public Instruction to provide general purpose

funding to school districts, county offices of education, and state general-purpose funding to charter schools in proportion to the revenue limits calculated pursuant to Sections 2558 and 42238 of the Education Code and the amounts calculated pursuant to Section 47633 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read upon voter approval of this section. The amounts so calculated shall be offset by the amounts specified in subdivision (c) of Section 2558 of, paragraphs (1) through (7) of subdivision (h) of Section 42238 of, and Section 47635 of, the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read upon voter approval of this section, that are in excess of the amounts calculated pursuant to Sections 2558, 42238, and 47633 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read upon voter approval of this section, provided that no school district, county office of education, or charter school shall receive less than two hundred dollars (\$200) per unit of average daily attendance.

(4) This subdivision is self-executing and requires no legislative action to take effect. Distribution of the moneys in the Education Protection Account by the Board of Governors of the California Community Colleges and the Superintendent of Public Instruction shall not be delayed or otherwise affected by failure of the Legislature and Governor to enact an annual budget bill pursuant to Section 12 of Article IV, by invocation of paragraph (h) of Section 8 of Article XVI, or by any other action or failure to act by the Legislature or Governor.

(5) Notwithstanding any other provision of law, the moneys deposited in the Education Protection Account shall not be used to pay any costs incurred by the Legislature, the Governor, or any agency of state government.

(6) A community college district, county office of education, school district, or charter school shall have sole authority to determine how the moneys received from the Education Protection Account are spent in the school or schools within its jurisdiction, provided, however, that the appropriate governing board or body shall make these spending determinations in open session of a public meeting of the governing board or body and shall not use any of the funds from the Education Protection Account for salaries or benefits of administrators or any other administrative costs. Each community college district, county office of education, school district, and charter school shall annually publish on its Internet Web site an accounting of how much money was received from the Education Protection Account and how that money was spent.

(7) The annual independent financial and compliance audit required of community college districts, county offices of education, school districts, and charter schools shall, in addition to all other requirements of law, ascertain and verify whether the funds provided from the Education Protection Account have been properly disbursed and expended as required by this section. Expenses incurred by those entities to comply with the additional audit requirement of this section may be paid with funding from the Education Protection Account, and shall not be considered administrative costs for purposes of this section.

(8) Revenues, less refunds, derived pursuant to subdivision (f) for deposit in the Education Protection Account pursuant to this section shall be deemed "General Fund revenues," "General Fund proceeds of taxes," and "moneys to be applied by the State for the support of school districts and community college districts" for purposes of Section 8 of Article XVI.

(f) (1) (A) In addition to the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of 1/4 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this State on and after January 1, 2013, and before January 1, 2017.

(B) In addition to the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, an excise tax is hereby imposed on the storage, use, or other consumption in this State of tangible personal property purchased from any retailer on and after January 1, 2013, and before January 1, 2017, for storage, use, or other consumption in this state at the rate of 1/4 percent of the sales price of the property.

(C) The Sales and Use Tax Law, including any amendments enacted on or after the effective date of this section, shall apply to the taxes imposed pursuant to this paragraph.

(D) This paragraph shall become inoperative on January 1, 2017.

(2) For any taxable year beginning on or after January 1, 2012, and before January 1, 2019, with respect to the tax imposed pursuant to Section 17041 of the Revenue and Taxation Code, the income tax bracket and the rate of 9.3 percent set forth in paragraph (1) of subdivision (a) of Section 17041 of the Revenue and Taxation Code shall be modified by each of the following:

(A) (i) For that portion of taxable income that is over two hundred fifty thousand dollars (\$250,000) but not over three hundred thousand dollars (\$300,000), the tax rate is 10.3 percent of the excess over two hundred fifty thousand dollars (\$250,000).

(ii) For that portion of taxable income that is over three hundred thousand dollars (\$300,000) but not over five hundred thousand dollars (\$500,000), the tax rate is 11.3 percent of the excess over three hundred thousand dollars (\$300,000).

(iii) For that portion of taxable income that is over five hundred thousand dollars (\$500,000), the tax rate is 12.3 percent of the excess over five hundred thousand dollars (\$500,000).

(B) The income tax brackets specified in clauses (i), (ii), and (iii) of subparagraph (A) shall be recomputed, as otherwise provided in subdivision (h) of Section 17041 of the Revenue and Taxation Code, only for taxable years beginning on and after January 1, 2013.

(C) (i) For purposes of subdivision (g) of Section 19136 of the Revenue and Taxation Code, this paragraph shall be considered to be chaptered on the date it becomes effective.

(ii) For purposes of Part 10 (commencing with Section 17001) of, and Part 10.2 (commencing with Section 18401) of, Division 2 of the Revenue and Taxation Code, the modified tax brackets and tax rates established and imposed by this

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paragraph shall be deemed to be established and imposed under Section 17041 of the Revenue and Taxation Code.

(D) This paragraph shall become inoperative on December 1, 2019.

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(3) For any taxable year beginning on or after January 1, 2012, and before January 1, 2019, with respect to the tax imposed pursuant to Section 17041 of the Revenue and Taxation Code, the income tax bracket and the rate of 9.3 percent set forth in paragraph (1) of subdivision (c) of Section 17041 of the Revenue and Taxation Code shall be modified by each of the following:

(A) (i) For that portion of taxable income that is over three hundred forty thousand dollars (\$340,000) but not over four hundred eight thousand dollars (\$408,000), the tax rate is 10.3 percent of the excess over three hundred forty thousand dollars (\$340,000).

(ii) For that portion of taxable income that is over four hundred eight thousand dollars (\$408,000) but not over six hundred eighty thousand dollars (\$680,000), the tax rate is 11.3 percent of the excess over four hundred eight thousand dollars (\$408,000).

(iii) For that portion of taxable income that is over six hundred eighty thousand dollars (\$680,000), the tax rate is 12.3 percent of the excess over six hundred eighty thousand dollars (\$680,000).

(B) The income tax brackets specified in clauses (i), (ii), and (iii) of subparagraph (A) shall be recomputed, as otherwise provided in subdivision (h) of Section 17041 of the Revenue and Taxation Code, only for taxable years beginning on and after January 1, 2013.

(C) (i) For purposes of subdivision (g) of Section 19136 of the Revenue and Taxation Code, this paragraph shall be considered to be chaptered on the date it becomes effective.

(ii) For purposes of Part 10 (commencing with Section 17001) of, and Part 10.2 (commencing with Section 18401) of, Division 2 of the Revenue and Taxation Code, the modified tax brackets and tax rates established and imposed by this paragraph shall be deemed to be established and imposed under Section 17041 of the Revenue and Taxation Code.

(D) This paragraph shall become inoperative on December 1, 2019.

(g) (1) The Controller, pursuant to his or her statutory authority, may perform audits of expenditures from the Local Revenue Fund 2011 and any County Local Revenue Fund 2011, and shall audit the Education Protection Account to ensure that those funds are used and accounted for in a manner consistent with this section.

(2) The Attorney General or local district attorney shall expeditiously investigate, and may seek civil or criminal penalties for, any misuse of moneys from the County Local Revenue Fund 2011 or the Education Protection Account.

SEC. 5. Effective Date.

Subdivision (b) of Section 36 of Article XIII of the California Constitution, as added by this measure, shall be operative as of July 1, 2011. Paragraphs (2) and (3) of subdivision (f) of Section 36 of Article XIII of the California Constitution, as added by this measure, shall be operative as of January 1, 2012. All other provisions of this measure shall become operative the day after

the election in which it is approved by a majority of the voters voting on the measure provided.

SEC. 6. Conflicting Measures.

In the event that this measure and another measure that imposes an incremental increase in the tax rates for personal income shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

SEC. 7. This measure provides funding for school districts and community college districts in an amount that equals or exceeds that which would have been provided if the revenues deposited pursuant to Sections 6051.15 and 6201.15 of the Revenue and Taxation Code pursuant to Chapter 43 of the Statutes of 2011 had been considered "General Fund revenues" or "General Fund proceeds of taxes" for purposes of Section 8 of Article XVI of the California Constitution.

PROPOSITION 31

This initiative measure is submitted to the people of California in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends and adds sections to the California Constitution and adds sections to the Education Code and the Government Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

The Government Performance and Accountability Act

SECTION 1. Findings and Declarations

The people of the State of California hereby find and declare that government must be:

1. Trustworthy. California government has lost the confidence of its citizens and is not meeting the needs of Californians. Taxpayers are entitled to a higher return on their investment and the public deserves better results from government services.

2. Accountable for Results. To restore trust, government at all levels must be accountable for results. The people are entitled to know how tax dollars are being spent and how well government is performing. State and local government agencies must set measurable outcomes for all expenditures and regularly and publicly report progress toward those outcomes.

3. Cost-Effective. California must invest its scarce public resources wisely to be competitive in the global economy. Vital public services must therefore be delivered with increasing effectiveness and efficiency.

4. Transparent. It is essential that the public's business be public. Honesty and openness promote and preserve the integrity of democracy and the relationship between the people and their government.

5. Focused on Results. To improve results, public agencies need a clear and shared understanding of public purpose. With this measure, the people declare that the purpose of state and local governments is to promote a prosperous economy, a quality environment, and community equity. These purposes are advanced by achieving at least the following goals: increasing employment, improving education, decreasing poverty, decreasing crime, and improving health.

6. Cooperative. To make every dollar count, public agencies must work together to reduce bureaucracy, eliminate duplication, and resolve conflicts. They must integrate services and adopt strategies that have been proven to work and can make a difference in the lives of Californians.

7. Closer to the People. Many governmental services are best provided at the local level, where public officials know their communities and residents have access to elected officials. Local governments need the flexibility to tailor programs to the needs of their communities.

8. Supportive of Regional Job Generation. California is composed of regional economies. Many components of economic vitality are best addressed at the regional scale. The State is obliged to enable and encourage local governments to collaborate regionally to enhance the ability to attract capital investment into regional economies to generate well-paying jobs.

9. Willing to Listen. Public participation is essential to ensure a vibrant and responsive democracy and a responsive and accountable government. When government listens, more people are willing to take an active role in their communities and their government.

10. Thrifty and Prudent. State and local governments today spend hundreds of millions of dollars on budget processes that do not tell the public what is being accomplished. Those same funds can be better used to develop budgets that link dollars to goals and communicate progress toward those goals, which is a primary purpose of public budgets.

#### SEC. 2. Purpose and Intent

In enacting this measure, the people of the State of California intend to:

1. Improve results and accountability to taxpayers and the public by improving the budget process for the state and local governments with existing resources.

2. Make state government more efficient, effective, and transparent through a state budget process that does the following:

a. Focuses budget decisions on what programs are trying to accomplish and whether progress is being made.

b. Requires the development of a two-year budget and a review of every program at least once every five years to make sure money is well spent over time.

c. Requires major new programs and tax cuts to have clearly identified funding sources before they are enacted.

d. Requires legislation—including the Budget Act—to be public for three days before lawmakers can vote on it.

3. Move government closer to the people by enabling and encouraging local governments to work together to save money, improve results, and restore accountability to the public through the following:

a. Focusing local government budget decisions on what programs are trying to accomplish and whether progress is being made.

b. Granting counties, cities, and schools the authority to develop, through a public process, a Community Strategic Action Plan for advancing community priorities that they cannot achieve by themselves.

c. Granting local governments that approve an Action Plan flexibility in how they spend state dollars to improve the outcomes of public programs.

d. Granting local governments that approve an Action Plan the ability to identify state statutes or regulations that impede progress and a process for crafting a local rule for achieving a state requirement.

e. Encouraging local governments to collaborate to achieve goals more effectively addressed at a regional scale.

f. Providing some state funds as an incentive to local governments to develop Action Plans.

g. Requiring local governments to report their progress annually and evaluate their efforts every four years as a condition of continued flexibility—thus restoring accountability of local elected officials to local voters and taxpayers.

4. Involve the people in identifying priorities, setting goals, establishing measurements of results, allocating resources in a budget, and monitoring progress.

5. Implement the budget reforms herein using existing resources currently dedicated to the budget processes of the state and its political subdivisions without significant additional funds. Further, establish the Performance and Accountability Trust Fund from existing tax bases and revenues. No provision herein shall require an increase in any taxes or modification of any tax rate or base.

SEC. 3. Section 8 of Article IV of the California Constitution is amended to read:

SEC. 8. (a) At regular sessions no bill other than the budget bill may be heard or acted on by committee or either house until the 31st day after the bill is introduced unless the house dispenses with this requirement by rollcall vote entered in the journal, three fourths of the membership concurring.

(b) The Legislature may make no law except by statute and may enact no statute except by bill. No bill may be passed unless it is read by title on 3 days in each house except that the house may dispense with this requirement by rollcall vote entered in the journal, two thirds of the membership concurring. No bill *other than a bill containing an urgency clause that is passed in a special session called by the Governor to address a state of emergency declared by the Governor arising out of a natural disaster or a terrorist attack* may be passed until the bill with amendments has been **printed in print** and distributed to the members *and available to the public for at least 3 days*. No bill may be passed unless, by rollcall vote entered in the journal, a majority of the membership of each house concurs.

(c) (1) Except as provided in paragraphs (2) and (3) of this subdivision, a statute enacted at a regular session shall go into effect on January 1 next following a 90-day period from the date of enactment of the statute and a statute enacted at a special session shall go into effect on the 91st day after adjournment of the special session at which the bill was passed.

(2) A statute, other than a statute establishing or changing boundaries of any legislative, congressional, or other election district, enacted by a bill passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, shall go into effect on January 1 next following the enactment date of the statute unless, before January 1, a copy of a referendum petition affecting the statute is submitted to the Attorney General pursuant to subdivision (d) of Section 10 of Article II, in which event the statute shall go into effect on the 91st day after the enactment date unless the petition has been presented to the Secretary of State pursuant to subdivision (b) of Section 9 of Article II.

(3) Statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes shall go into effect immediately upon their enactment.

(d) Urgency statutes are those necessary for immediate preservation of the public peace, health, or safety. A statement of facts constituting the necessity shall be set forth in one section of the bill. In each house the section and the bill shall be passed separately, each by rollcall vote entered in the journal, two thirds of the membership concurring. An urgency statute may not create or abolish any office or change the salary, term, or duties of any office, or grant any franchise or special privilege, or create any vested right or interest.

SEC. 4. Section 9.5 is added to Article IV of the California Constitution, to read:

*SEC. 9.5. A bill passed by the Legislature that (1) establishes a new state program, including a state-mandated local program described in Section 6 of Article XIII B, or a new agency, or expands the scope of such an existing state program or agency, the effect of which would, if funded, be a net increase in state costs in excess of twenty-five million dollars (\$25,000,000) in that fiscal year or in any succeeding fiscal year, or (2) reduces a state tax or other source of state revenue, the effect of which will be a net decrease in State revenue in excess of twenty-five million dollars (\$25,000,000) in that fiscal year or in any succeeding fiscal year, is void unless offsetting state program reductions or additional revenue, or a combination thereof, are provided in the bill or another bill in an amount that equals or exceeds the net increase in state costs or net decrease in state revenue. The twenty-five-million-dollar (\$25,000,000) threshold specified in this section shall be adjusted annually for inflation pursuant to the California Consumer Price Index.*

SEC. 5. Section 10 of Article IV of the California Constitution is amended to read:

SEC. 10. (a) Each bill passed by the Legislature shall be presented to the Governor. It becomes a statute if it is signed by the Governor. The Governor may veto it by returning it with any objections to the house of origin, which shall enter the objections in the journal and proceed to reconsider it. If each house then passes the bill by rollcall vote entered in the journal, two-thirds of the membership concurring, it becomes a statute.

(b) (1) Any bill, other than a bill which would establish or change boundaries of any legislative, congressional, or other

election district, passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, that is not returned within 30 days after that date becomes a statute.

(2) Any bill passed by the Legislature before June 30 of the second calendar year of the biennium of the legislative session and in the possession of the Governor on or after June 30 that is not returned on or before July 31 of that year becomes a statute. In addition, any bill passed by the Legislature before September 1 of the second calendar year of the biennium of the legislative session and in the possession of the Governor on or after September 1 that is not returned on or before September 30 of that year becomes a statute.

(3) Any other bill presented to the Governor that is not returned within 12 days becomes a statute.

(4) If the Legislature by adjournment of a special session prevents the return of a bill with the veto message, the bill becomes a statute unless the Governor vetoes the bill within 12 days after it is presented by depositing it and the veto message in the office of the Secretary of State.

(5) If the 12th day of the period within which the Governor is required to perform an act pursuant to paragraph (3) or (4) of this subdivision is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.

(c) (1) Any bill introduced during the first year of the biennium of the legislative session that has not been passed by the house of origin by January 31 of the second calendar year of the biennium may no longer be acted on by the house. No bill may be passed by either house on or after ~~September 1 of an even-numbered year~~ June 30 of the second year of the biennium ~~except statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes bills that take effect immediately,~~ and bills passed after being vetoed by the Governor.

(2) No bill may be introduced or considered in the second year of the biennium that is substantially the same and has the same effect as any introduced or amended version of a measure that did not pass the house of origin by January 31 of the second calendar year of the biennium as required in paragraph (1).

(d) (1) The Legislature may not present any bill to the Governor after November 15 of the second calendar year of the biennium of the legislative session. On the first Monday following July 4 of the second year of the biennium, the Legislature shall convene, as part of its regular session, to conduct program oversight and review. The Legislature shall establish an oversight process for evaluating and improving the performance of programs undertaken by the State or by local agencies implementing state-funded programs on behalf of the State based on performance standards set forth in statute and in the biennial Budget Act. Within one year of the effective date of this provision, a review schedule shall be established for all state programs whether managed by a state or local agency implementing state-funded programs on behalf of the State. The schedule shall sequence the review of similar programs so that relationships among program objectives can be identified and reviewed. The review process shall result in recommendations

*in the form of proposed legislation that improves or terminates programs. Each program shall be reviewed at least once every five years.*

(2) *The process established for program oversight under paragraph (1) shall also include a review of Community Strategic Action Plans adopted pursuant to Article XI A for the purpose of determining whether any state statutes or regulations that have been identified by the participating local government agencies as state obstacles to improving results should be amended or repealed as requested by the participating local government agencies based on a review of at least three years of experience with the Community Strategic Action Plans. The review shall assess whether the Action Plans have improved the delivery and effectiveness of services in all parts of the community identified in the plan.*

(e) *The Governor may reduce or eliminate one or more items of appropriation while approving other portions of a bill. The Governor shall append to the bill a statement of the items reduced or eliminated with the reasons for the action. The Governor shall transmit to the house originating the bill a copy of the statement and reasons. Items reduced or eliminated shall be separately reconsidered and may be passed over the Governor's veto in the same manner as bills.*

(f) (1) *If, following the enactment of the budget bill for the 2004–05 fiscal year or any subsequent fiscal year, the Governor determines that, for that fiscal year, General Fund revenues will decline substantially below the estimate of General Fund revenues upon which the budget bill for that fiscal year, as enacted, was based, or General Fund expenditures will increase substantially above that estimate of General Fund revenues, or both, the Governor may issue a proclamation declaring a fiscal emergency and shall thereupon cause the Legislature to assemble in special session for this purpose. The proclamation shall identify the nature of the fiscal emergency and shall be submitted by the Governor to the Legislature, accompanied by proposed legislation to address the fiscal emergency. In response to the Governor's proclamation, the Legislature may present to the Governor a bill or bills to address the fiscal emergency.*

(2) *If the Legislature fails to pass and send to the Governor a bill or bills to address the fiscal emergency by the 45th day following the issuance of the proclamation, the Legislature may not act on any other bill, nor may the Legislature adjourn for a joint recess, until that bill or those bills have been passed and sent to the Governor.*

(3) *A bill addressing the fiscal emergency declared pursuant to this section shall contain a statement to that effect. For purposes of paragraphs (2) and (4), the inclusion of this statement shall be deemed to mean conclusively that the bill addresses the fiscal emergency. A bill addressing the fiscal emergency declared pursuant to this section that contains a statement to that effect, and is passed and sent to the Governor by the 45th day following the issuance of the proclamation declaring the fiscal emergency, shall take effect immediately upon enactment.*

(4) (A) *If the Legislature has not passed and sent to the Governor a bill or bills to address a fiscal emergency by the 45th day following the issuance of the proclamation declaring*

*the fiscal emergency, the Governor may, by executive order, reduce or eliminate any existing General Fund appropriation for that fiscal year to the extent the appropriation is not otherwise required by this Constitution or by federal law. The total amount of appropriations reduced or eliminated by the Governor shall be limited to the amount necessary to cause General Fund expenditures for the fiscal year in question not to exceed the most recent estimate of General Fund revenues made pursuant to paragraph (1).*

(B) *If the Legislature is in session, it may, within 20 days after the Governor issues an executive order pursuant to subparagraph (A), override all or part of the executive order by a rollcall vote entered in the journal, two-thirds of the membership of each house concurring. If the Legislature is not in session when the Governor issues the executive order, the Legislature shall have 30 days to reconvene and override all or part of the executive order by resolution by the vote indicated above. An executive order or a part thereof that is not overridden by the Legislature shall take effect the day after the period to override the executive order has expired. Subsequent to the 45th day following the issuance of the proclamation declaring the fiscal emergency, the prohibition set forth in paragraph (2) shall cease to apply when (i) one or more executive orders issued pursuant to this paragraph have taken effect, or (ii) the Legislature has passed and sent to the Governor a bill or bills to address the fiscal emergency.*

(C) *A bill to restore balance to the budget pursuant to subparagraph (B) may be passed in each house by rollcall vote entered in the journal, a majority of the membership concurring, to take effect immediately upon being signed by the Governor or upon a date specified in the legislation, provided, however, that any bill that imposes a new tax or increases an existing tax must be passed by a two-thirds vote of the Members of each house of the Legislature.*

SEC. 6. Section 12 of Article IV of the California Constitution is amended to read:

SEC. 12. (a) (1) *Within the first 10 days of each odd-numbered calendar year, the Governor shall submit to the Legislature, with an explanatory message, a budget for the ensuing two fiscal year years, containing itemized statements for recommended state expenditures and estimated total state revenues resources available to meet those expenditures. The itemized statement of estimated total state resources available to meet recommended expenditures submitted pursuant to this subdivision shall identify the amount, if any, of those resources that are anticipated to be one-time resources. The two-year budget, which shall include a budget for the budget year and a budget for the succeeding fiscal year, shall be known collectively as the biennial budget. Within the first 10 days of each even-numbered year, the Governor may submit a supplemental budget to amend or augment the enacted biennial budget.*

(b) *The biennial budget shall contain all of the following elements to improve performance and accountability:*

(1) *An estimate of the total resources available for the expenditures recommended for the budget year and the succeeding fiscal year.*

(2) *A projection of anticipated expenditures and anticipated*

revenues for the three fiscal years following the fiscal year succeeding the budget year.

(3) A statement of how the budget will promote the purposes of achieving a prosperous economy, quality environment, and community equity, by working to achieve at least the following goals: increasing employment; improving education; decreasing poverty; decreasing crime; and improving health.

(4) A description of the outcome measures that will be used to assess progress and report results to the public and of the performance standards for state agencies and programs.

(5) A statement of the outcome measures for each major expenditure of state government for which public resources are proposed to be appropriated in the budget and their relationship to the overall purposes and goals set forth in paragraph (3).

(6) A statement of how the State will align its expenditure and investment of public resources with that of other government entities that implement state functions and programs on behalf of the State to achieve the purposes and goals set forth in paragraph (3).

(7) A public report on progress in achieving the purposes and goals set forth in paragraph (3) and an evaluation of the effectiveness in achieving the purposes and goals according to the outcome measures set forth in the preceding year's budget.

(c) If, for the budget year and the succeeding fiscal year, collectively, recommended expenditures exceed estimated revenues, the Governor shall recommend reductions in expenditures or the sources from which the additional revenues should be provided, or both. To the extent practical, the recommendations shall include an analysis of the long-term impact that expenditure reductions or additional revenues would have on the state economy. Along with the biennial budget, the Governor shall submit to the Legislature any legislation required to implement appropriations contained in the biennial budget, together with a five-year capital infrastructure and strategic growth plan, as specified by statute.

(d) If the Governor's budget proposes to (1) establish a new state program, including a state-mandated local program described in Section 6 of Article XIII B, or a new agency, or expand the scope of an existing state program or agency, the effect of which would, if funded, be a net increase in state costs in excess of twenty-five million dollars (\$25,000,000) in that fiscal year or in any succeeding fiscal year, or (2) reduce a state tax or other source of state revenue, the effect of which will be a net decrease in state revenue in excess of twenty-five million dollars (\$25,000,000) in that fiscal year or any succeeding fiscal year, the budget shall propose offsetting state program reductions or additional revenue, or a combination thereof, in an amount that equals or exceeds the net increase in state costs or net decrease in state revenue. The twenty-five-million-dollar (\$25,000,000) threshold specified in this subdivision shall annually be adjusted for inflation pursuant to the California Consumer Price Index.

(b) (e) The Governor and the Governor-elect may require a state agency, officer or employee to furnish whatever information is deemed necessary to prepare the biennial budget and any supplemental budget.

(c) (f) (1) The biennial budget and any supplemental budget

shall be accompanied by a budget bill itemizing recommended expenditures for the budget year and the succeeding fiscal year. A supplemental budget bill shall be accompanied by a bill proposing the supplemental budget.

(2) The budget bill and other bills providing for appropriations related to the budget bill or a supplemental budget bill, as submitted by the Governor, shall be introduced immediately in each house by the persons chairing the committees that consider the budget.

(3) On or before May 1 of each year, after the appropriate committees of each house of the Legislature have considered the budget bill, each house shall refer the budget bill to a joint committee of the Legislature, which may include a conference committee, which shall review the budget bill and other bills providing for appropriations related to the budget bill and report its recommendations to each house no later than June 1 of each year. This shall not preclude the referral of any of these bills to policy committees in addition to a joint committee.

(3) (4) The Legislature shall pass the budget bill and other bills providing for appropriations related to the budget bill by midnight on June 15 of each year. Appropriations made in the budget bill, or in other bills providing for appropriations related to the budget bill, for the succeeding fiscal year shall not be expended in the budget year.

(4) (5) Until the budget bill has been enacted, the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the fiscal budget year or the succeeding fiscal year for which the budget bill is to be enacted, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature.

(4) (g) No bill except the budget bill or the supplemental budget bill may contain more than one item of appropriation, and that for one certain, expressed purpose. Appropriations from the General Fund of the State, except appropriations for the public schools and appropriations in the budget bill, the supplemental budget bill, and in other bills providing for appropriations related to the budget bill, are void unless passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring.

(e) (h) (1) Notwithstanding any other provision of law or of this Constitution, the budget bill, the supplemental budget bill, and other bills providing for appropriations related to the budget bill may be passed in each house by rollcall vote entered in the journal, a majority of the membership concurring, to take effect immediately upon being signed by the Governor or upon a date specified in the legislation. Nothing in this subdivision shall affect the vote requirement for appropriations for the public schools contained in subdivision (4) (g) of this section and in subdivision (b) of Section 8 of this article.

(2) For purposes of this section, "other bills providing for appropriations related to the budget bill or a supplemental budget bill" shall consist only of bills identified as related to the budget in the budget bill or in the supplemental budget bill passed by the Legislature.

(3) For purposes of this section, "budget bill" shall mean the bill or bills containing the budget for the budget year and the succeeding fiscal year.



(f) (i) The Legislature may control the submission, approval, and enforcement of budgets and the filing of claims for all state agencies.

(g) (j) For the 2004–05 fiscal year, or any subsequent fiscal year, the Legislature ~~may~~ shall not send to the Governor for consideration, nor ~~may~~ shall the Governor sign into law, a budget bill for the budget year or for the succeeding fiscal year that would appropriate from the General Fund, for ~~that~~ each fiscal year of the biennial budget, a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the budget bill’s passage, and the amount of any General Fund moneys transferred to the Budget Stabilization Account for that fiscal year pursuant to Section 20 of Article XVI, exceeds General Fund revenues, transfers, and balances available from the prior fiscal year for that fiscal year estimated as of the date of the budget bill’s passage. ~~That~~ The estimate of General Fund revenues, transfers, and balances shall be set forth in the budget bill passed by the Legislature. The budget bill passed by the Legislature shall also contain a statement of the total General Fund obligations described in this subdivision for each fiscal year of the biennial budget, together with an explanation of the basis for the estimate of General Fund revenues, including an explanation of the amount by which the Legislature projects General Fund revenues for that fiscal year to differ from General Fund revenues for the immediately preceding fiscal year.

(h) (k) Notwithstanding any other provision of law or of this Constitution, including subdivision (e) (f) of this section, Section 4 of this article, and Sections 4 and 8 of Article III, in any year in which the budget bill is not passed by the Legislature by midnight on June 15, there shall be no appropriation from the current budget or future budget to pay any salary or reimbursement for travel or living expenses for Members of the Legislature during any regular or special session for the period from midnight on June 15 until the day that the budget bill is presented to the Governor. No salary or reimbursement for travel or living expenses forfeited pursuant to this subdivision shall be paid retroactively.

SEC. 7. Article XI A is added to the California Constitution, to read:

**ARTICLE XI A  
COMMUNITY STRATEGIC ACTION PLANS**

**SECTION 1.** (a) Californians expect and require that local government entities publicly explain the purpose of expenditures and whether progress is being made toward their goals. Therefore, in addition to the requirements of any other provision of this Constitution, the adopted budget of each local government entity shall contain all of the following as they apply to the entity’s powers and duties:

(1) A statement of how the budget will promote, as applicable to a local government entity’s functions, role, and locally determined priorities, a prosperous economy, quality environment, and community equity, as reflected in the following goals: increasing employment, improving education, decreasing poverty, decreasing crime, improving health, and other community priorities.

(2) A description of the overall outcome measurements that

will be used to assess progress in all parts of the community toward the goals established by the local government entity pursuant to paragraph (1).

(3) A statement of the outcome measurement for each major expenditure of government for which public resources are appropriated in the budget and the relationship to the overall goals established by the local government entity pursuant to paragraph (1).

(4) A statement of how the local government entity will align its expenditure and investment of public resources to achieve the goals established by the local government entity pursuant to paragraph (1).

(5) A public report on progress in achieving the goals established by the local government entity pursuant to paragraph (1) and an evaluation of the effectiveness in achieving the outcomes according to the measurements set forth in the previous year’s budget.

(b) Each local government entity shall develop and implement an open and transparent process that encourages the participation of all aspects of the community in the development of its proposed budget, including identifying community priorities pursuant to paragraph (1) of subdivision (a).

(c) This section shall become operative in the budget year of the local government entity that commences in the year 2014.

(d) The provisions of this section are self-executing and are to be interpreted to apply only to those activities over which local entities exercise authority.

**SEC. 2.** (a) A county, by action of the board of supervisors, may initiate the development of a Community Strategic Action Plan, hereinafter referred to as the Action Plan. The county shall invite the participation of all other local government entities within the county whose existing functions or services are within the anticipated scope of the Action Plan. Any local government entity within the county may petition the board of supervisors to initiate an Action Plan, to be included in the planning process, or to amend the Action Plan.

(b) The participating local government entities shall draft an Action Plan through an open and transparent process that encourages the participation of all aspects of the community, including neighborhood leaders. The Action Plan shall include all of the following:

(1) A statement that (A) outlines how the Action Plan will achieve the purposes and goals set forth in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 1 of this article, (B) describes the public services that will be delivered pursuant to the Action Plan and the roles and responsibilities of the participating entities, (C) explains why those services will be delivered more effectively and efficiently pursuant to the Action Plan, (D) provides for an allocation of resources to support the plan, including funds that may be received from the Performance and Accountability Trust Fund, (E) considers disparities within communities served by the Action Plan, and (F) explains how the Action Plan is consistent with the budgets adopted by the participating local government entities.

(2) The outcomes desired by the participating local government entities and how those outcomes will be measured.

(3) A method for regularly reporting outcomes to the public and to the State.

(c) (1) *The Action Plan shall be submitted to the governing bodies of each of the participating local government entities within the county. To ensure a minimum level of collaboration, the Action Plan must be approved by the county, local government entities providing municipal services pursuant to the Action Plan to at least a majority of the population in the county, and one or more school districts serving at least a majority of the public school pupils in the county.*

(2) *The approval of the Action Plan, or an amendment to the Action Plan, by a local government entity, including the county, shall require a majority vote of the membership of the governing body of that entity. The Action Plan shall not apply to any local government entity that does not approve the Action Plan as provided in this paragraph.*

(d) *Once an Action Plan is adopted, a county may enter into contracts that identify and assign the duties and obligations of each of the participating entities, provided that such contracts are necessary for implementation of the Action Plan and are approved by a majority vote of the governing body of each local government entity that is a party to the contract.*

(e) *Local government entities that have adopted an Action Plan pursuant to this section and have satisfied the requirements of Section 3 of this article, if applicable, may integrate state or local funds that are allocated to them for the purpose of providing the services identified by the Action Plan in a manner that will advance the goals of the Action Plan.*

SEC. 3. (a) *If the parties to an Action Plan adopted pursuant to Section 2 of this article conclude that a state statute or regulation, including a statute or regulation restricting the expenditure of funds, impedes progress toward the goals of the Action Plan or they need additional statutory authority to implement the Action Plan, the local government entities may include provisions in the Action Plan that are functionally equivalent to the objective or objectives of the applicable statute or regulation. The provision shall include a description of the intended state objective, of how the rule is an obstacle to better outcomes, of the proposed community rule, and of how the community rule will contribute to better outcomes while advancing a prosperous economy, quality environment, and community equity. For purposes of this section, a provision is functionally equivalent to the objective or objectives of a statute or regulation if it substantially complies with the policy and purpose of the statute or regulation.*

(b) *The parties shall submit an Action Plan containing the functionally equivalent provisions described in subdivision (a) with respect to one or more state statutes to the Legislature during a regular or special session. If, within 60 days following its receipt of the Action Plan, the Legislature takes no concurrent action, by resolution or otherwise, to disapprove the provisions, the provisions shall be deemed to be operative, with the effect in law that compliance with the provisions shall be deemed compliance with the state statute or statutes.*

(c) *If the parties to an Action Plan adopted pursuant to Section 2 of this article conclude that a regulation impedes the goals of the Action Plan, they may follow the procedure described in subdivision (a) of this section by submitting their proposal to the agency or department responsible for promulgating or administering the regulation, which shall*

*consider the proposal within 60 days. If, within 60 days following its receipt of the Action Plan, the agency or department takes no action to disapprove the provisions, the provisions shall be deemed to be operative, with the effect in law that compliance with the provisions shall be deemed compliance with the state regulation or regulations. Any action to disapprove the provision shall include a statement setting forth the reasons for doing so.*

(d) *This section shall apply only to statutes or regulations that directly govern the administration of a state program that is financed in whole or in part with state funds.*

(e) *Any authority granted pursuant to this section shall automatically expire four years after the effective date, unless renewed pursuant to this section.*

SEC. 4. (a) *The Performance and Accountability Trust Fund is hereby established in the State Treasury for the purpose of providing state resources for the implementation of integrated service delivery contained in the Community Strategic Action Plans prepared pursuant to this article. Notwithstanding Section 13340 of the Government Code, money in the fund shall be continuously appropriated solely for the purposes provided in this article. For purposes of Section 8 of Article XVI, the revenues transferred to the Performance and Accountability Trust Fund pursuant to the act that added this article shall be considered General Fund proceeds of taxes which may be appropriated pursuant to Article XIII B.*

(b) *Money in the Performance and Accountability Trust Fund shall be distributed according to statute to counties whose Action Plans include a budget for expenditure of the funds that satisfies Sections 1 and 2 of this article.*

(c) *Any funds allocated to school districts pursuant to an Action Plan must be paid for from a revenue source other than the Performance and Accountability Trust Fund, and may be paid from any other source as determined by the entities participating in the Action Plan. The allocation received by any school district pursuant to an Action Plan shall not be considered General Fund proceeds of taxes or allocated local proceeds of taxes for purposes of Section 8 of Article XVI.*

SEC. 5. *A county that has adopted an Action Plan pursuant to Section 2 of this article shall evaluate the effectiveness of the Action Plan at least once every four years. The evaluation process shall include an opportunity for public comments, and for those comments to be included in the final report. The evaluation shall be used by the participating entities to improve the Action Plan and by the public to assess the performance of its government. The evaluation shall include a review of the extent to which the Action Plan has achieved the purposes and goals set forth in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 1, including: improving the outcomes among the participating entities in the delivery and effectiveness of the applicable governmental services; progress toward reducing community disparities; and whether the individuals or community members receiving those services were represented in the development and implementation of the Action Plan.*

SEC. 6. (a) *The State shall consider how it can help local government entities deliver services more effectively and efficiently through an Action Plan adopted pursuant to Section 2. Consistent with this goal, the State or any department*

or agency thereof may enter into contracts with one or more local government entities that are participants in an Action Plan to perform any function that the contracting parties determine can be more efficiently and effectively performed at the local level. Any contract made pursuant to this section shall conform to the Action Plan adopted pursuant to the requirements of Section 2.

(b) The State shall consider and determine how it can support, through financial and regulatory incentives, efforts by local government entities and representatives of the public to work together to address challenges and to resolve problems that local government entities have voluntarily and collaboratively determined are best addressed at the geographic scale of a region in order to advance a prosperous economy, quality environment, and community equity. The State shall promote the vitality and global competitiveness of regional economies and foster greater collaboration among local governments within regions by providing priority consideration for state-administered funds for infrastructure and human services, as applicable, to those participating local government entities that have voluntarily developed a regional collaborative plan and are making progress toward the purposes and goals of their plan, which shall incorporate the goals and purposes set forth in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 1.

SEC. 7. Nothing in this article is intended to abrogate or supersede any existing authority enjoyed by local government entities, nor to discourage or prohibit local government entities from developing and participating in regional programs and plans designed to improve the delivery and efficiency of government services.

SEC. 8. For purposes of this article, the term "local government entity" shall mean a county, city, city and county, and any other local government entity, including school districts, county offices of education, and community college districts.

SEC. 8. Section 29 of Article XIII of the California Constitution is amended to read:

SEC. 29. (a) The Legislature may authorize counties, cities and counties, and cities to enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them that is collected for them by the State. Before the contract becomes operative, it shall be authorized by a majority of those voting on the question in each jurisdiction at a general or direct primary election.

(b) Notwithstanding subdivision (a), on and after the operative date of this subdivision, counties, cities and counties, and cities, may enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, or any successor provisions, that is collected for them by the State, if the ordinance or resolution proposing each contract is approved by a two-thirds vote of the governing body of each jurisdiction that is a party to the contract.

(c) Notwithstanding subdivision (a), counties, cities and counties, cities, and any other local government entities, including school districts and community college districts, that are parties to a Community Strategic Action Plan adopted

pursuant to Article XI A may enter into contracts to apportion between and among them the revenue they receive from ad valorem property taxes allocated to them, if the ordinance or resolution proposing each contract is approved by a two-thirds vote of the governing body of each jurisdiction that is a party to the contract. Contracts entered into pursuant to this section shall be consistent with each participating entity's budget adopted in accordance with Section 1 of Article XI A.

SEC. 9. Chapter 6 (commencing with Section 55750) is added to Part 2 of Division 2 of Title 5 of the Government Code, to read:

CHAPTER 6. COMMUNITY STRATEGIC ACTION PLANS

55750. (a) Notwithstanding Section 7101 of the Revenue and Taxation Code or any other provision of law, beginning in the 2013–14 fiscal year, the amount of revenues, net of refunds, collected pursuant to Section 6051 of the Revenue and Taxation Code and attributable to a rate of 0.035 percent shall be deposited in the State Treasury to the credit of the Performance and Accountability Trust Fund, as established pursuant to Section 4 of Article XI A of the California Constitution, and shall be used exclusively for the purposes for which that fund is created.

(b) To the extent that the Legislature reduces the sales tax base and that reduction results in less revenue to the Performance and Accountability Trust Fund than the fund received in the 2013–14 fiscal year, the Controller shall transfer from the General Fund to the Performance and Accountability Trust Fund an amount that when added to the revenues received by the Performance and Accountability Trust Fund in that fiscal year equals the amount of revenue received by the fund in the 2013–14 fiscal year.

55751. (a) Notwithstanding Section 7101 of the Revenue and Taxation Code or any other provision of law, beginning in the 2013–14 fiscal year, the amount of revenues, net of refunds, collected pursuant to Section 6201 of the Revenue and Taxation Code and attributable to a rate of 0.035 percent shall be deposited in the State Treasury to the credit of the Performance and Accountability Trust Fund, as established pursuant to Section 4 of Article XI A of the California Constitution, and shall be used exclusively for the purposes for which that fund is created.

(b) To the extent that the Legislature reduces the use tax base and that reduction results in less revenue to the Performance and Accountability Trust Fund than the fund received in the 2013–14 fiscal year, the Controller shall transfer from the General Fund to the Performance and Accountability Trust Fund an amount that when added to the revenues received by the Performance and Accountability Trust Fund in that fiscal year equals the amount of revenue received by the fund in the 2013–14 fiscal year.

55752. (a) In the 2014–15 fiscal year and every subsequent fiscal year, the Controller shall distribute funds in the Performance and Accountability Trust Fund established pursuant to Section 4 of Article XI A of the California Constitution to each county that has adopted a Community Strategic Action Plan that is in effect on or before June 30 of the preceding fiscal year, and that has submitted its Action Plan to

the Controller for the purpose of requesting funding under this section. The distribution shall be made in the first quarter of the fiscal year. Of the total amount available for distribution from the Performance and Accountability Trust Fund in a fiscal year, the Controller shall apportion to each county Performance and Accountability Trust Fund, which is hereby established, to assist in funding its Action Plan, a percentage equal to the percentage computed for that county under subdivision (c).

(b) As used in this section, the population served by a Community Strategic Action Plan is the population of the geographic area that is the sum of the population of all of the participating local government entities, provided that a resident served by one or more local government entities shall be counted only once. The Action Plan shall include a calculation of the population of the geographic area served by the Action Plan, according to the most recent Department of Finance demographic data.

(c) The Controller shall determine the population served by each county's Action Plan as a percentage of the total population computed for all of the Action Plans that are eligible for funding pursuant to subdivision (a).

(d) The funds provided pursuant to Section 4 of Article XI A of the California Constitution and this chapter represent in part ongoing savings that accrue to the state that are attributable to the 2011 realignment and to the measure that added this section. Four years following the first allocation of funds pursuant to this section, the Legislative Analyst's Office shall assess the fiscal impact of the Action Plans and the extent to which the plans have improved the efficiency and effectiveness of service delivery or reduced the demand for state-funded services.

SEC. 10. Section 42246 is added to the Education Code, to read:

42246. Funds contributed or received by a school district pursuant to its participation in a Community Strategic Action Plan authorized by Article XI A of the California Constitution shall not be considered in calculating the state's portion of the district's revenue limit under Section 42238 or any successor statute.

SEC. 11. Section 9145 is added to the Government Code, to read:

9145. For the purposes of Sections 9.5 and 12 of Article IV of the California Constitution, the following definitions shall apply:

(a) "Expand the scope of an existing state program or agency" does not include any of the following:

(1) Restoring funding to an agency or program that was reduced or eliminated in any fiscal year subsequent to the 2008–09 fiscal year to balance the budget or address a forecasted deficit.

(2) Increases in state funding for a program or agency to fund its existing statutory responsibilities, including increases in the cost of living or workload, and any increase authorized by a memorandum of understanding approved by the Legislature.

(3) Growth in state funding for a program or agency as required by federal law or a law that is in effect as of the effective date of the measure adding this section.

(4) Funding to cover one-time expenditures for a state program or agency, as so identified in the statute that appropriates the funding.

(5) Funding for a requirement described in paragraph (5) of subdivision (b) of Section 6 of Article XIII B of the California Constitution.

(b) "State costs" do not include costs incurred for the payment of principal or interest on a state general obligation bond.

(c) "Additional revenue" includes, but is not limited to, revenue to the state that results from specific changes made by federal or state law and that the state agency responsible for collecting the revenue has quantified and determined to be a sustained increase.

SEC. 12. Section 11802 is added to the Government Code, to read:

11802. No later than June 30, 2013, the Governor shall, after consultation with state employees and other interested parties, submit to the Legislature a plan to implement the performance-based budgeting provisions of Section 12 of Article IV of the California Constitution. The plan shall be fully implemented in the 2015–16 fiscal year and in each subsequent fiscal year.

SEC. 13. Section 13308.03 is added to the Government Code, to read:

13308.03. In addition to the requirements set forth in Section 13308, the Director of Finance shall:

(a) By May 15 of each year, submit to the Legislature and make available to the public updated projections of state revenue and state expenditures for the budget year and the succeeding fiscal year either as proposed in the budget bill pending in one or both houses of the Legislature or as appropriated in the enacted budget bill, as applicable.

(b) Immediately prior to passage of the biennial budget, or any supplemental budget, by the Legislature, submit to the Legislature a statement of total revenues and total expenditures for the budget year and the succeeding fiscal year, which shall be incorporated into the budget bill.

(c) By November 30 of each year, submit a fiscal update containing actual year-to-date revenues and expenditures for the current year compared to the revenues and expenditures set forth in the adopted budget to the Legislature. This requirement may be satisfied by the publication of the Fiscal Outlook Report by the Legislative Analyst's Office.

SEC. 14. Amendment

The statutory provisions of this measure may be amended solely to further the purposes of this measure by a bill approved by a two-thirds vote of the Members of each house of the Legislature and signed by the Governor.

SEC. 15. Severability

If any of the provisions of this measure or the applicability of any provision of this measure to any person or circumstances shall be found to be unconstitutional or otherwise invalid, that finding shall not affect the remaining provisions or applications of this measure to other persons or circumstances, and to that extent the provisions of this measure are deemed to be severable.

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SEC. 16. Effective Date

Sections 4, 5, and 6 of this Act shall become operative on the first Monday of December in 2014. Unless otherwise specified in the Act, the other sections of the act shall become operative the day after the election at which the act is adopted.

SEC. 17. Legislative Counsel

(a) The people find and declare that the amendments proposed by this measure to Section 12 of Article IV of the California Constitution are consistent with the amendments to Section 12 of Article IV of the California Constitution proposed by Assembly Constitutional Amendment No. 4 of the 2009–10 Regular Session (Res. Ch. 174, Stats. 2010) (hereafter ACA 4), which will appear on the statewide general election ballot of November 4, 2014.

(b) For purposes of the Legislative Counsel’s preparation and proofreading of the text of ACA 4 pursuant to Sections 9086 and 9091 of the Elections Code, and Sections 88002 and 88005.5 of the Government Code, the existing provisions of Section 12 of Article IV of the California Constitution shall be deemed to be the provisions of that section as amended by this measure. The Legislative Counsel shall prepare and proofread the text of ACA 4, accordingly, to distinguish the changes proposed by ACA 4 to Section 12 of Article IV of the California Constitution from the provisions of Section 12 of Article IV of the California Constitution as amended by this measure. The Secretary of State shall place the complete text of ACA 4, as prepared and proofread by the Legislative Counsel pursuant to this section, in the ballot pamphlet for the statewide general election ballot of November 4, 2014.

**PROPOSITION 32**

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds sections to the Government Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

**PROPOSED LAW**

SECTION 1. Title, Findings, and Declaration of Purpose

A. Special interests have too much power over government. Every year, corporations and unions contribute millions of dollars to politicians, and the public interest is buried beneath the mountain of special-interest spending.

B. Yet, for many years, California’s government has failed its people. Our state is billions of dollars in debt and many local governments are on the verge of bankruptcy. Too often politicians ignore the public’s need in favor of the narrow special interests of corporations, labor unions, and government contractors who make contributions to their campaigns.

C. These contributions yield special tax breaks and public contracts for big business, costly government programs that enrich private labor unions, and unsustainable pensions, benefits, and salaries for public employee union members, all at the expense of California taxpayers.

D. Even contribution limits in some jurisdictions have not slowed the flow of corporate and union political money into the

political process. So much of the money overwhelming California’s politics starts as automatic deductions from workers’ paychecks. Corporate employers and unions often pressure, sometimes subtly and sometimes overtly, workers to give up a portion of their paycheck to support the political objectives of the corporation or union. Their purpose is to amass millions of dollars to gain influence with our elected leaders without any regard for the political views of the employees who provide the money.

E. For these reasons, and in order to curb actual corruption and the appearance of corruption of our government by corporate and labor union contributions, the people of the State of California hereby enact the Stop Special Interest Money Now Act in order to:

1. Ban both corporate and labor union contributions to candidates;
2. Prohibit government contractors from contributing money to government officials who award them contracts;
3. Prohibit corporations and labor unions from collecting political funds from employees and union members using the inherently coercive means of payroll deduction; and
4. Make all employee political contributions by any other means strictly voluntary.

SEC. 2. The Stop Special Interest Money Now Act

Article 1.5 (commencing with Section 85150) is added to Chapter 5 of Title 9 of the Government Code, to read:

*Article 1.5. The Stop Special Interest Money Now Act*

85150. (a) *Notwithstanding any other provision of law and this title, no corporation, labor union, or public employee labor union shall make a contribution to any candidate, candidate controlled committee; or to any other committee, including a political party committee, if such funds will be used to make contributions to any candidate or candidate controlled committee.*

(b) *Notwithstanding any other provision of law and this title, no government contractor, or committee sponsored by a government contractor, shall make a contribution to any elected officer or committee controlled by any elected officer if such elected officer makes, participates in making, or in any way attempts to use his or her official position to influence the granting, letting, or awarding of a public contract to the government contractor during the period in which the decision to grant, let, or award the contract is to be made and during the term of the contract.*

85151. (a) *Notwithstanding any other provision of law and this title, no corporation, labor union, public employee labor union, government contractor, or government employer shall deduct from an employee’s wages, earnings, or compensation any amount of money to be used for political purposes.*

(b) *This section shall not prohibit an employee from making voluntary contributions to a sponsored committee of his or her employer, labor union, or public employee labor union in any manner, other than that which is prohibited by subdivision (a), so long as all such contributions are given with that employee’s written consent, which consent shall be effective for no more than one year.*

(c) *This section shall not apply to deductions for retirement*

*benefit, health, life, death or disability insurance, or other similar benefit, nor shall it apply to an employee's voluntary deduction for the benefit of a charitable organization organized under Section 501(c)(3) of Title 26 of the United States Code.*

85152. For purposes of this article, the following definitions apply:

(a) "Corporation" means every corporation organized under the laws of this state, any other state of the United States, or the District of Columbia, or under an act of the Congress of the United States.

(b) "Government contractor" means any person, other than an employee of a government employer, who is a party to a contract between the person and a government employer to provide goods, real property, or services to a government employer. Government contractor includes a public employee labor union that is a party to a contract with a government employer.

(c) "Government employer" means the State of California or any of its political subdivisions, including, but not limited to, counties, cities, charter counties, charter cities, charter city and counties, school districts, the University of California, special districts, boards, commissions, and agencies, but not including the United States government.

(d) "Labor union" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(e) "Political purposes" means a payment made to influence or attempt to influence the action of voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure; or any payment received by or made at the behest of a candidate, a controlled committee, a committee of a political party, including a state central committee, and county central committee, or an organization formed or existing primarily for political purposes, including, but not limited to, a political action committee established by any membership organization, labor union, public employee labor union, or corporation.

(f) "Public employee labor union" means a labor union in which the employees participating in the labor union are employees of a government employer.

(g) All other terms used this article that are defined by the Political Reform Act of 1974, as amended (Title 9 (commencing with Section 81000)), or by regulation enacted by the Fair Political Practices Commission, shall have the same meaning as provided therein, as they existed on January 1, 2011.

SEC. 3. Implementation

(a) If any provision of this measure, or part of it, or the application of any such provision or part to any person, organization, or circumstance, is for any reason held to be invalid or unconstitutional, then the remaining provisions, parts, and applications shall remain in effect without the invalid provision, part, or application.

(b) This measure is not intended to interfere with any existing contract or collective bargaining agreement. Except as governed by the National Labor Relations Act, no new or

amended contract or collective bargaining agreement shall be valid if it violates this measure.

(c) This measure shall be liberally construed to further its purposes. In any legal action brought by an employee or union member to enforce the provisions of this act, the burden shall be on the employer or labor union to prove compliance with the provisions herein.

(d) Notwithstanding Section 81012 of the Government Code, the provisions of this measure may not be amended by the Legislature. This measure may only be amended or repealed by a subsequent initiative measure or pursuant to subdivision (c) of Section 10 of Article II of the California Constitution.

**PROPOSITION 33**

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds a section to the Insurance Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

**PROPOSED LAW**

SECTION 1. Title

This measure shall be known as the 2012 Automobile Insurance Discount Act.

SEC. 2. The people of the State of California find and declare that:

(a) Under California law, the Insurance Commissioner regulates insurance rates and determines what discounts auto insurance companies can give to drivers.

(b) It is in the best interest of California insurance consumers to be allowed to receive discounted prices if they have continuously followed the state's mandatory insurance laws, regardless of which insurance company they have used.

(c) A consumer discount for continuous automobile coverage rewards responsible behavior. That discount should belong to the consumer, not the insurance company.

(d) A personal discount for maintaining continuous coverage creates competition among insurance companies and is an incentive for more consumers to purchase and maintain automobile insurance.

SEC. 3. Purpose

The purpose of this measure is to allow California insurance consumers to obtain discounted insurance rates if they have continuously followed the mandatory insurance law.

SEC. 4. Section 1861.023 is added to the Insurance Code, to read:

1861.023. (a) *Notwithstanding paragraph (4) of subdivision (a) of Section 1861.02, an insurance company may use continuous coverage as an optional auto insurance rating factor for any insurance policy subject to Section 1861.02.*

(b) *For purposes of this section, "continuous coverage" shall mean uninterrupted automobile insurance coverage with any admitted insurer or insurers, including coverage provided pursuant to the California Automobile Assigned Risk Plan or the California Low-Cost Automobile Insurance Program.*

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(1) Continuous coverage shall be deemed to exist if there is a lapse in coverage due to an insured's active military service.

(2) Continuous coverage shall be deemed to exist even if there is a lapse in coverage of up to 18 months in the last five years due to loss of employment resulting from a layoff or furlough.

(3) Continuous coverage shall be deemed to exist even if there is a lapse of coverage of not more 90 days in the previous five years for any reason.

(4) Children residing with a parent shall be provided a discount for continuous coverage based upon the parent's eligibility for a continuous coverage discount.

(c) Consumers who are unable to demonstrate continuous coverage shall be granted a proportional discount. This discount shall be a proportion of the amount of the rate of reduction that would have been granted if the consumer had been able to demonstrate continuous coverage. The proportion shall reflect the number of whole years in the immediately preceding five years for which the consumer was insured.

SEC. 5. Conflicting Ballot Measures

In the event that this measure and another measure or measures relating to continuity of coverage shall appear on the same statewide election ballot, the provisions of the other measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measures shall be null and void.

SEC. 6. Amendment

The provisions of this act shall not be amended by the Legislature except to further its purposes by a statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring.

SEC. 7. Severability

It is the intent of the people that the provisions of this act are severable and that if any provision of this act, or the application thereof to any person or circumstance, is held invalid such invalidity shall not affect any other provision or application of this act which can be given effect without the invalid provision or application.

PROPOSITION 34

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends and repeals sections of the Penal Code and adds sections to the Government Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

The SAFE California Act

SECTION 1. Title

This initiative shall be known and may be cited as "The Savings, Accountability, and Full Enforcement for California

Act," or "The SAFE California Act."

SEC. 2. Findings and Declarations

The people of the State of California do hereby find and declare all of the following:

1. Murderers and rapists need to be stopped, brought to justice, and punished. Yet, on average, a shocking 46 percent of homicides and 56 percent of rapes go unsolved every year. Our limited law enforcement resources should be used to solve more crimes, to get more criminals off our streets, and to protect our families.

2. Police, sheriffs, and district attorneys now lack the funding they need to quickly process evidence in rape and murder cases, to use modern forensic science such as DNA testing, or even hire enough homicide and sex offense investigators. Law enforcement should have the resources needed for full enforcement of the law. By solving more rape and murder cases and bringing more criminals to justice, we keep our families and communities safer.

3. Many people think the death penalty is less expensive than life in prison without the possibility of parole, but that's just not true. California has spent \$4 billion on the death penalty since 1978 and death penalty trials are 20 times more expensive than trials seeking life in prison without the possibility of parole, according to a study by former death penalty prosecutor and judge, Arthur Alarcon, and law professor Paula Mitchell. By replacing the death penalty with life in prison without the possibility of parole, California taxpayers would save well over \$100 million every year. That money could be used to improve crime prevention and prosecution.

4. Killers and rapists walk our streets free and threaten our safety, while we spend hundreds of millions of taxpayer dollars on a select few who are already behind bars forever on death row. These resources would be better spent on violence prevention and education, to keep our families safe.

5. By replacing the death penalty with life in prison without the possibility of parole, we would save the state \$1 billion in five years without releasing a single prisoner—\$1 billion that could be invested in law enforcement to keep our communities safer, in our children's schools, and in services for the elderly and disabled. Life in prison without the possibility of parole ensures that the worst criminals stay in prison forever and saves money.

6. More than 100 innocent people have been sentenced to death in this country and some innocent people have actually been executed. Experts concluded that Cameron Todd Willingham was wrongly executed for a fire that killed his three children. With the death penalty, we will always risk executing innocent people.

7. Experts have concluded that California remains at risk of executing an innocent person. Innocent people are wrongfully convicted because of faulty eyewitness identification, outdated forensic science, and overzealous prosecutions. We are not doing what we need to do to protect the innocent. State law even protects a prosecutor if he or she intentionally sends an innocent person to prison, preventing accountability to taxpayers and victims. Replacing the death penalty with life in prison without the possibility of parole will at least ensure that we do not execute an innocent person.

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8. Convicted murderers must be held accountable and pay for their crimes. Today, less than 1 percent of inmates on death row work and, as a result, they pay little restitution to victims. Every person convicted of murder should be required to work in a high-security prison and money earned should be used to help victims through the victim’s compensation fund, consistent with the victims’ rights guaranteed by Marsy’s Law.

9. California’s death penalty is an empty promise. Death penalty cases drag on for decades. A sentence of life in prison without the possibility of parole provides faster resolution for grieving families and is a more certain punishment.

10. Retroactive application of this act will end a costly and ineffective practice, free up law enforcement resources to increase the rate at which homicide and rape cases are solved, and achieve fairness, equality and uniformity in sentencing.

SEC. 3. Purpose and Intent

The people of the State of California declare their purpose and intent in enacting the act to be as follows:

1. To get more murderers and rapists off the streets and to protect our families.

2. To save the taxpayers \$1 billion in five years so those dollars can be invested in local law enforcement, our children’s schools, and services for the elderly and disabled.

3. To use some of the savings from replacing the death penalty to create the SAFE California Fund, to provide funding for local law enforcement, specifically police departments, sheriffs, and district attorney offices, to increase the rate at which homicide and rape cases are solved.

4. To eliminate the risk of executing innocent people.

5. To require that persons convicted of murder with special circumstances remain behind bars for the rest of their lives, with mandatory work in a high-security prison, and that money earned be used to help victims through the victim’s compensation fund.

6. To end the more than 25-year-long process of review in death penalty cases, with dozens of court dates and postponements that grieving families must bear in memory of loved ones.

7. To end a costly and ineffective practice and free up law enforcement resources to keep our families safe.

8. To achieve fairness, equality and uniformity in sentencing, through retroactive application of this act to replace the death penalty with life in prison without the possibility of parole.

SEC. 4. Section 190 of the Penal Code is amended to read:

190. (a) Every person guilty of murder in the first degree shall be punished by ~~death~~; imprisonment in the state prison for life without the possibility of parole; or imprisonment in the state prison for a term of 25 years to life. The penalty to be applied shall be determined as provided in Sections ~~190.1~~, 190.2, ~~190.3~~, 190.4, and 190.5.

Except as provided in subdivision (b), (c), or (d), every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of 15 years to life.

(b) Except as provided in subdivision (c), every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of 25 years to life if the victim was a peace officer, as defined in subdivision (a) of

Section 830.1, subdivision (a), (b), or (c) of Section 830.2, subdivision (a) of Section 830.33, or Section 830.5, who was killed while engaged in the performance of his or her duties, and the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties.

(c) Every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of life without the possibility of parole if the victim was a peace officer, as defined in subdivision (a) of Section 830.1, subdivision (a), (b), or (c) of Section 830.2, subdivision (a) of Section 830.33, or Section 830.5, who was killed while engaged in the performance of his or her duties, and the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties, and any of the following facts has been charged and found true:

(1) The defendant specifically intended to kill the peace officer.

(2) The defendant specifically intended to inflict great bodily injury, as defined in Section 12022.7, on a peace officer.

(3) The defendant personally used a dangerous or deadly weapon in the commission of the offense, in violation of subdivision (b) of Section 12022.

(4) The defendant personally used a firearm in the commission of the offense, in violation of Section 12022.5.

(d) Every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of 20 years to life if the killing was perpetrated by means of shooting a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict great bodily injury.

(e) Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not apply to reduce any minimum term of a sentence imposed pursuant to this section. A person sentenced pursuant to this section shall not be released on parole prior to serving the minimum term of confinement prescribed by this section.

*(f) Every person found guilty of murder and sentenced pursuant to this section shall be required to work within a high-security prison as many hours of faithful labor in each day and every day during his or her term of imprisonment as shall be prescribed by the rules and regulations of the Department of Corrections and Rehabilitation, pursuant to Section 2700. In any case where the prisoner owes a restitution fine or restitution order, the Secretary of the Department of Corrections and Rehabilitation shall deduct money from the wages and trust account deposits of the prisoner and shall transfer those funds to the California Victim Compensation and Government Claims Board according to the rules and regulations of the Department of Corrections and Rehabilitation, pursuant to Sections 2085.5 and 2717.8.*

SEC. 5. Section 190.1 of the Penal Code is repealed.

~~190.1. A case in which the death penalty may be imposed pursuant to this chapter shall be tried in separate phases as follows:~~

~~(a) The question of the defendant’s guilt shall be first determined. If the trier of fact finds the defendant guilty of first degree murder, it shall at the same time determine the truth of~~



~~all special circumstances charged as enumerated in Section 190.2 except for a special circumstance charged pursuant to paragraph (2) of subdivision (a) of Section 190.2 where it is alleged that the defendant had been convicted in a prior proceeding of the offense of murder in the first or second degree.~~

~~(b) If the defendant is found guilty of first degree murder and one of the special circumstances is charged pursuant to paragraph (2) of subdivision (a) of Section 190.2 which charges that the defendant had been convicted in a prior proceeding of the offense of murder of the first or second degree, there shall thereupon be further proceedings on the question of the truth of such special circumstance.~~

~~(c) If the defendant is found guilty of first degree murder and one or more special circumstances as enumerated in Section 190.2 has been charged and found to be true, his sanity on any plea of not guilty by reason of insanity under Section 1026 shall be determined as provided in Section 190.4. If he is found to be sane, there shall thereupon be further proceedings on the question of the penalty to be imposed. Such proceedings shall be conducted in accordance with the provisions of Section 190.3 and 190.4.~~

SEC. 6. Section 190.2 of the Penal Code is amended to read:

190.2. (a) The penalty for a defendant who is found guilty of murder in the first degree is death or imprisonment in the state prison for life without the possibility of parole if one or more of the following special circumstances has been found under Section 190.4 to be true:

(1) The murder was intentional and carried out for financial gain.

(2) The defendant was convicted previously of murder in the first or second degree. For the purpose of this paragraph, an offense committed in another jurisdiction, which if committed in California would be punishable as first or second degree murder, shall be deemed murder in the first or second degree.

(3) The defendant, in this proceeding, has been convicted of more than one offense of murder in the first or second degree.

(4) The murder was committed by means of a destructive device, bomb, or explosive planted, hidden, or concealed in any place, area, dwelling, building, or structure, and the defendant knew, or reasonably should have known, that his or her act or acts would create a great risk of death to one or more human beings.

(5) The murder was committed for the purpose of avoiding or preventing a lawful arrest, or perfecting or attempting to perfect, an escape from lawful custody.

(6) The murder was committed by means of a destructive device, bomb, or explosive that the defendant mailed or delivered, attempted to mail or deliver, or caused to be mailed or delivered, and the defendant knew, or reasonably should have known, that his or her act or acts would create a great risk of death to one or more human beings.

(7) The victim was a peace officer, as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.4, 830.5, 830.6, 830.10, 830.11, or 830.12, who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or

reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties; or the victim was a peace officer, as defined in the above-enumerated sections, or a former peace officer under any of those sections, and was intentionally killed in retaliation for the performance of his or her official duties.

(8) The victim was a federal law enforcement officer or agent who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or reasonably should have known, that the victim was a federal law enforcement officer or agent engaged in the performance of his or her duties; or the victim was a federal law enforcement officer or agent, and was intentionally killed in retaliation for the performance of his or her official duties.

(9) The victim was a firefighter, as defined in Section 245.1, who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or reasonably should have known, that the victim was a firefighter engaged in the performance of his or her duties.

(10) The victim was a witness to a crime who was intentionally killed for the purpose of preventing his or her testimony in any criminal or juvenile proceeding, and the killing was not committed during the commission or attempted commission, of the crime to which he or she was a witness; or the victim was a witness to a crime and was intentionally killed in retaliation for his or her testimony in any criminal or juvenile proceeding. As used in this paragraph, "juvenile proceeding" means a proceeding brought pursuant to Section 602 or 707 of the Welfare and Institutions Code.

(11) The victim was a prosecutor or assistant prosecutor or a former prosecutor or assistant prosecutor of any local or state prosecutor's office in this or any other state, or of a federal prosecutor's office, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(12) The victim was a judge or former judge of any court of record in the local, state, or federal system in this or any other state, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(13) The victim was an elected or appointed official or former official of the federal government, or of any local or state government of this or any other state, and the killing was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(14) The murder was especially heinous, atrocious, or cruel, manifesting exceptional depravity. As used in this section, the phrase "especially heinous, atrocious, or cruel, manifesting exceptional depravity" means a conscienceless or pitiless crime that is unnecessarily torturous to the victim.

(15) The defendant intentionally killed the victim by means of lying in wait.

(16) The victim was intentionally killed because of his or her race, color, religion, nationality, or country of origin.

(17) The murder was committed while the defendant was engaged in, or was an accomplice in, the commission of, attempted commission of, or the immediate flight after committing, or attempting to commit, the following felonies:

(A) Robbery in violation of Section 211 or 212.5.

- (B) Kidnapping in violation of Section 207, 209, or 209.5.
- (C) Rape in violation of Section 261.
- (D) Sodomy in violation of Section 286.
- (E) The performance of a lewd or lascivious act upon the person of a child under the age of 14 years in violation of Section 288.
- (F) Oral copulation in violation of Section 288a.
- (G) Burglary in the first or second degree in violation of Section 460.
- (H) Arson in violation of subdivision (b) of Section 451.
- (I) Train wrecking in violation of Section 219.
- (J) Mayhem in violation of Section 203.
- (K) Rape by instrument in violation of Section 289.
- (L) Carjacking, as defined in Section 215.
- (M) To prove the special circumstances of kidnapping in subparagraph (B), or arson in subparagraph (H), if there is specific intent to kill, it is only required that there be proof of the elements of those felonies. If so established, those two special circumstances are proven even if the felony of kidnapping or arson is committed primarily or solely for the purpose of facilitating the murder.
- (18) The murder was intentional and involved the infliction of torture.
- (19) The defendant intentionally killed the victim by the administration of poison.
- (20) The victim was a juror in any court of record in the local, state, or federal system in this or any other state, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.
- (21) The murder was intentional and perpetrated by means of discharging a firearm from a motor vehicle, intentionally at another person or persons outside the vehicle with the intent to inflict death. For purposes of this paragraph, "motor vehicle" means any vehicle as defined in Section 415 of the Vehicle Code.
- (22) The defendant intentionally killed the victim while the defendant was an active participant in a criminal street gang, as defined in subdivision (f) of Section 186.22, and the murder was carried out to further the activities of the criminal street gang.
- (b) Unless an intent to kill is specially required under subdivision (a) for a special circumstance enumerated therein, an actual killer, as to whom the special circumstance has been found to be true under Section 190.4, need not have had any intent to kill at the time of the commission of the offense which is the basis of the special circumstance in order to suffer death or confinement in the state prison for life without the possibility of parole.
- (c) Every person, not the actual killer, who, with the intent to kill, aids, abets, counsels, commands, induces, solicits, requests, or assists any actor in the commission of murder in the first degree shall be punished by death or imprisonment in the state prison for life without the possibility of parole if one or more of the special circumstances enumerated in subdivision (a) has been found to be true under Section 190.4.
- (d) Notwithstanding subdivision (c), every person, not the actual killer, who, with reckless indifference to human life and as a major participant, aids, abets, counsels, commands,

induces, solicits, requests, or assists in the commission of a felony enumerated in paragraph (17) of subdivision (a) which results in the death of some person or persons, and who is found guilty of murder in the first degree therefor, shall be punished by death or imprisonment in the state prison for life without the possibility of parole if a special circumstance enumerated in paragraph (17) of subdivision (a) has been found to be true under Section 190.4.

The penalty shall be determined as provided in this section and Sections ~~190.1, 190.3, 190.4,~~ and 190.5.

SEC. 7. Section 190.3 of the Penal Code is repealed.

~~190.3. If the defendant has been found guilty of murder in the first degree, and a special circumstance has been charged and found to be true, or if the defendant may be subject to the death penalty after having been found guilty of violating subdivision (a) of Section 1672 of the Military and Veterans Code or Sections 37, 128, 219, or 4500 of this code, the trier of fact shall determine whether the penalty shall be death or confinement in state prison for a term of life without the possibility of parole. In the proceedings on the question of penalty, evidence may be presented by both the people and the defendant as to any matter relevant to aggravation, mitigation, and sentence including, but not limited to, the nature and circumstances of the present offense, any prior felony conviction or convictions whether or not such conviction or convictions involved a crime of violence, the presence or absence of other criminal activity by the defendant which involved the use or attempted use of force or violence or which involved the express or implied threat to use force or violence, and the defendant's character, background, history, mental condition and physical condition.~~

~~However, no evidence shall be admitted regarding other criminal activity by the defendant which did not involve the use or attempted use of force or violence or which did not involve the express or implied threat to use force or violence. As used in this section, criminal activity does not require a conviction.~~

~~However, in no event shall evidence of prior criminal activity be admitted for an offense for which the defendant was prosecuted and acquitted. The restriction on the use of this evidence is intended to apply only to proceedings pursuant to this section and is not intended to affect statutory or decisional law allowing such evidence to be used in any other proceedings.~~

~~Except for evidence in proof of the offense or special circumstances which subject a defendant to the death penalty, no evidence may be presented by the prosecution in aggravation unless notice of the evidence to be introduced has been given to the defendant within a reasonable period of time as determined by the court, prior to trial. Evidence may be introduced without such notice in rebuttal to evidence introduced by the defendant in mitigation.~~

~~The trier of fact shall be instructed that a sentence of confinement to state prison for a term of life without the possibility of parole may in future after sentence is imposed, be commuted or modified to a sentence that includes the possibility of parole by the Governor of the State of California.~~

~~In determining the penalty, the trier of fact shall take into account any of the following factors if relevant:~~

- ~~(a) The circumstances of the crime of which the defendant~~

~~was convicted in the present proceeding and the existence of any special circumstances found to be true pursuant to Section 190.1.~~

~~(b) The presence or absence of criminal activity by the defendant which involved the use or attempted use of force or violence or the express or implied threat to use force or violence.~~

~~(c) The presence or absence of any prior felony conviction.~~

~~(d) Whether or not the offense was committed while the defendant was under the influence of extreme mental or emotional disturbance.~~

~~(e) Whether or not the victim was a participant in the defendant's homicidal conduct or consented to the homicidal act.~~

~~(f) Whether or not the offense was committed under circumstances which the defendant reasonably believed to be a moral justification or extenuation for his conduct.~~

~~(g) Whether or not defendant acted under extreme duress or under the substantial domination of another person.~~

~~(h) Whether or not at the time of the offense the capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was impaired as a result of mental disease or defect, or the affects of intoxication.~~

~~(i) The age of the defendant at the time of the crime.~~

~~(j) Whether or not the defendant was an accomplice to the offense and his participation in the commission of the offense was relatively minor.~~

~~(k) Any other circumstance which extenuates the gravity of the crime even though it is not a legal excuse for the crime.~~

~~After having heard and received all of the evidence, and after having heard and considered the arguments of counsel, the trier of fact shall consider, take into account and be guided by the aggravating and mitigating circumstances referred to in this section, and shall impose a sentence of death if the trier of fact concludes that the aggravating circumstances outweigh the mitigating circumstances. If the trier of fact determines that the mitigating circumstances outweigh the aggravating circumstances the trier of fact shall impose a sentence of confinement in state prison for a term of life without the possibility of parole.~~

SEC. 8. Section 190.4 of the Penal Code is amended to read:

190.4. (a) Whenever special circumstances as enumerated in Section 190.2 are alleged and the trier of fact finds the defendant guilty of first degree murder, the trier of fact shall also make a special finding on the truth of each alleged special circumstance. The determination of the truth of any or all of the special circumstances shall be made by the trier of fact on the evidence presented at the trial ~~or at the hearing held pursuant to Subdivision (b) of Section 190.1.~~

In case of a reasonable doubt as to whether a special circumstance is true, the defendant is entitled to a finding that is not true. The trier of fact shall make a special finding that each special circumstance charged is either true or not true. Whenever a special circumstance requires proof of the commission or attempted commission of a crime, such crime shall be charged and proved pursuant to the general law applying to the trial and conviction of the crime.

If the defendant was convicted by the court sitting without a jury, the trier of fact shall be a jury unless a jury is waived by the defendant and by the people, in which case the trier of fact shall be the court. If the defendant was convicted by a plea of guilty, the trier of fact shall be a jury unless a jury is waived by the defendant and by the people.

If the trier of fact finds that any one or more of the special circumstances enumerated in Section 190.2 as charged is true, ~~there shall be a separate penalty hearing~~ *the defendant shall be punished by imprisonment in state prison for life without the possibility of parole,* and neither the finding that any of the remaining special circumstances charged is not true, nor if the trier of fact is a jury, the inability of the jury to agree on the issue of the truth or untruth of any of the remaining special circumstances charged, shall prevent the holding of a separate penalty hearing.

In any case in which the defendant has been found guilty by a jury, and the jury has been unable to reach an unanimous verdict that one or more of the special circumstances charged are true, and does not reach a unanimous verdict that all the special circumstances charged are not true, the court shall dismiss the jury and shall order a new jury impaneled to try the issues, but the issue of guilt shall not be tried by such jury, nor shall such jury retry the issue of the truth of any of the special circumstances which were found by an unanimous verdict of the previous jury to be untrue. If such new jury is unable to reach the unanimous verdict that one or more of the special circumstances it is trying are true, the court shall dismiss the jury and in the court's discretion shall either order a new jury impaneled to try the issues the previous jury was unable to reach the unanimous verdict on, or impose a punishment of confinement in state prison for a term of 25 years.

(b) If defendant was convicted by the court sitting without a jury the trier of fact at the penalty hearing shall be a jury unless a jury is waived by the defendant and the people, in which case the trier of fact shall be the court. If the defendant was convicted by a plea of guilty, the trier of fact shall be a jury unless a jury is waived by the defendant and the people.

If the trier of fact is a jury and has been unable to reach a unanimous verdict as to what the penalty shall be, the court shall dismiss the jury and shall order a new jury impaneled to try the issue as to what the penalty shall be. If such new jury is unable to reach a unanimous verdict as to what the penalty shall be, the court in its discretion shall either order a new jury or impose a punishment of confinement in state prison for a term of life without the possibility of parole.

(c) (b) If the trier of fact which convicted the defendant of a crime for which he may be subject to *imprisonment in state prison for life without the possibility of parole* the death penalty was a jury, the same jury shall consider any plea of not guilty by reason of insanity pursuant to Section 1026, and the truth of any special circumstances which may be alleged, and the penalty to be applied, unless for good cause shown the court discharges that jury in which case a new jury shall be drawn. The court shall state facts in support of the finding of good cause upon the record and cause them to be entered into the minutes.

(d) In any case in which the defendant may be subject to the death penalty, evidence presented at any prior phase of the trial,

including any proceeding under a plea of not guilty by reason of insanity pursuant to Section 1026 shall be considered an any subsequent phase of the trial, if the trier of fact of the prior phase is the same trier of fact at the subsequent phase.

(e) In every case in which the trier of fact has returned a verdict or finding imposing the death penalty, the defendant shall be deemed to have made an application for modification of such verdict or finding pursuant to Subdivision 7 of Section 11. In ruling on the application, the judge shall review the evidence, consider, take into account, and be guided by the aggravating and mitigating circumstances referred to in Section 190.3, and shall make a determination as to whether the jury's findings and verdicts that the aggravating circumstances outweigh the mitigating circumstances are contrary to law or the evidence presented. The judge shall state on the record the reasons for his findings.

The judge shall set forth the reasons for his ruling on the application and direct that they be entered on the Clerk's minutes. The denial of the modification of the death penalty verdict pursuant to subdivision (7) of Section 1181 shall be reviewed on the defendant's automatic appeal pursuant to subdivision (b) of Section 1239. The granting of the application shall be reviewed on the People's appeal pursuant to paragraph (6):

SEC. 9. Chapter 33 (commencing with Section 7599) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 33. SAFE CALIFORNIA FUND TO INVESTIGATE UNSOLVED RAPES AND MURDERS

Article 1. Creation of SAFE California Fund

7599. A special fund to be known as the "SAFE California Fund" is created within the State Treasury and is continuously appropriated for carrying out the purposes of this division.

Article 2. Appropriation and Allocation of Funds

7599.1. Funding Appropriation

On January 1, 2013, ten million dollars (\$10,000,000) shall be transferred from the General Fund to the SAFE California Fund for the 2012-13 fiscal year and shall be continuously appropriated for the purposes of the act that added this chapter. On July 1 of each of fiscal years 2013-14, 2014-15 and 2015-16, an additional sum of thirty million dollars (\$30,000,000) shall be transferred from the General Fund to the SAFE California Fund and shall be continuously appropriated for the purposes of the act that added this chapter. Funds transferred to the SAFE California Fund shall be used exclusively for the purposes of the act that added this chapter and shall not be subject to appropriation or transfer by the Legislature for any other purpose. The funds in the SAFE California Fund may be used without regard to fiscal year.

7599.2. Distribution of Moneys from SAFE California Fund

(a) At the direction of the Attorney General, the Controller shall disburse moneys deposited in the SAFE California Fund to police departments, sheriffs and district attorney offices, for the purpose of increasing the rate at which homicide and rape cases are solved. Projects and activities that may be funded include, but are not limited to, faster processing of physical evidence collected in rape cases, improving forensic science capabilities including DNA analysis and matching, increasing

staffing in homicide and sex offense investigation or prosecution units, and relocation of witnesses. Moneys from the SAFE California Fund shall be allocated to police departments, sheriffs and district attorney offices through a fair and equitable distribution formula to be determined by the Attorney General.

(b) Any costs associated with the allocation and distribution of these funds shall be deducted from the SAFE California Fund. The Attorney General and Controller shall make every effort to keep the costs of allocation and distribution at or close to zero, to ensure that the maximum amount of funding is allocated to programs and activities that increase the rate at which homicide and rape cases are solved.

SEC. 10. Retroactive Application of act

(a) In order to best achieve the purpose of this act as stated in Section 3 and to achieve fairness, equality and uniformity in sentencing, this act shall be applied retroactively.

(b) In any case where a defendant or inmate was sentenced to death prior to the effective date of this act, the sentence shall automatically be converted to imprisonment in the state prison for life without the possibility of parole under the terms and conditions of this act. The State of California shall not carry out any execution following the effective date of this act.

(c) Following the effective date of this act, the Supreme Court may transfer all death penalty appeals and habeas petitions pending before the Supreme Court to any district of the Court of Appeal or superior court, in the Supreme Court's discretion.

SEC. 11. Effective Date

This act shall become effective on the day following the election pursuant to subdivision (a) of Section 10 of Article II of the California Constitution.

SEC. 12. Severability

The provisions of this act are severable. If any provision of this act or its application is held invalid, including but not limited to Section 10, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

PROPOSITION 35

This initiative measure is submitted to the people of California in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds a section to the Evidence Code and amends and adds a chapter heading and sections to the Penal Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

CALIFORNIANS AGAINST SEXUAL EXPLOITATION ACT ("CASE ACT")

SECTION 1. Title.

This measure shall be known and may be cited as the "Californians Against Sexual Exploitation Act" ("CASE Act").

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## SEC. 2. Findings and Declarations.

The people of the State of California find and declare:

1. Protecting every person in our state, particularly our children, from all forms of sexual exploitation is of paramount importance.

2. Human trafficking is a crime against human dignity and a grievous violation of basic human and civil rights. Human trafficking is modern slavery, manifested through the exploitation of another's vulnerabilities.

3. Upwards of 300,000 American children are at risk of commercial sexual exploitation, according to a United States Department of Justice study. Most are enticed into the sex trade at the age of 12 to 14 years old, but some are trafficked as young as four years old. Because minors are legally incapable of consenting to sexual activity, these minors are victims of human trafficking whether or not force is used.

4. While the rise of the Internet has delivered great benefits to California, the predatory use of this technology by human traffickers and sex offenders has allowed such exploiters a new means to entice and prey on vulnerable individuals in our state.

5. We need stronger laws to combat the threats posed by human traffickers and online predators seeking to exploit women and children for sexual purposes.

6. We need to strengthen sex offender registration requirements to deter predators from using the Internet to facilitate human trafficking and sexual exploitation.

## SEC. 3. Purpose and Intent.

The people of the State of California declare their purpose and intent in enacting the CASE Act to be as follows:

1. To combat the crime of human trafficking and ensure just and effective punishment of people who promote or engage in the crime of human trafficking.

2. To recognize trafficked individuals as victims and not criminals, and to protect the rights of trafficked victims.

3. To strengthen laws regarding sexual exploitation, including sex offender registration requirements, to allow law enforcement to track and prevent online sex offenses and human trafficking.

SEC. 4. Section 1161 is added to the Evidence Code, to read:

1161. (a) Evidence that a victim of human trafficking, as defined in Section 236.1 of the Penal Code, has engaged in any commercial sexual act as a result of being a victim of human trafficking is inadmissible to prove the victim's criminal liability for any conduct related to that activity.

(b) Evidence of sexual history or history of any commercial sexual act of a victim of human trafficking, as defined in Section 236.1 of the Penal Code, is inadmissible to attack the credibility or impeach the character of the victim in any civil or criminal proceeding.

SEC. 5. The heading of Chapter 8 (commencing with Section 236) of Title 8 of Part 1 of the Penal Code is amended to read:

## CHAPTER 8. FALSE IMPRISONMENT AND HUMAN TRAFFICKING

SEC. 6. Section 236.1 of the Penal Code is amended to read:

236.1. (a) Any person who deprives or violates the personal

liberty of another with the intent to effect or maintain a felony violation of Section 266, 266h, 266i, 267, 311.4, or 518, or to obtain forced labor or services, is guilty of human trafficking and shall be punished by imprisonment in the state prison for 5, 8, or 12 years and a fine of not more than five hundred thousand dollars (\$500,000).

(b) Except as provided in subdivision (c), a violation of this section is punishable by imprisonment in the state prison for three, four, or five years.

(c) A violation of this section where the victim of the trafficking was under 18 years of age at the time of the commission of the offense is punishable by imprisonment in the state prison for four, six, or eight years.

(d) (1) For purposes of this section, unlawful deprivation or violation of the personal liberty of another includes substantial and sustained restriction of another's liberty accomplished through fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, under circumstances where the person receiving or apprehending the threat reasonably believes that it is likely that the person making the threat would carry it out.

(2) Duress includes knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or immigration document of the victim.

(e) For purposes of this section, "forced labor or services" means labor or services that are performed or provided by a person and are obtained or maintained through force, fraud, or coercion, or equivalent conduct that would reasonably overbear the will of the person.

(b) Any person who deprives or violates the personal liberty of another with the intent to effect or maintain a violation of Section 266, 266h, 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518 is guilty of human trafficking and shall be punished by imprisonment in the state prison for 8, 14, or 20 years and a fine of not more than five hundred thousand dollars (\$500,000).

(c) Any person who causes, induces, or persuades, or attempts to cause, induce, or persuade, a person who is a minor at the time of commission of the offense to engage in a commercial sex act, with the intent to effect or maintain a violation of Section 266, 266h, 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518 is guilty of human trafficking. A violation of this subdivision is punishable by imprisonment in the state prison as follows:

(1) Five, 8, or 12 years and a fine of not more than five hundred thousand dollars (\$500,000).

(2) Fifteen years to life and a fine of not more than five hundred thousand dollars (\$500,000) when the offense involves force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person.

(d) In determining whether a minor was caused, induced, or persuaded to engage in a commercial sex act, the totality of the circumstances, including the age of the victim, his or her relationship to the trafficker or agents of the trafficker, and any handicap or disability of the victim, shall be considered.

(e) Consent by a victim of human trafficking who is a minor at the time of the commission of the offense is not a defense to a criminal prosecution under this section.

(f) *Mistake of fact as to the age of a victim of human trafficking who is a minor at the time of the commission of the offense is not a defense to a criminal prosecution under this section.*

(f) (g) The Legislature finds that the definition of human trafficking in this section is equivalent to the federal definition of a severe form of trafficking found in Section 7102(8) of Title 22 of the United States Code.

(g) (1) ~~In addition to the penalty specified in subdivision (c), any person who commits human trafficking involving a commercial sex act where the victim of the human trafficking was under 18 years of age at the time of the commission of the offense shall be punished by a fine of not more than one hundred thousand dollars (\$100,000).~~

(2) ~~As used in this subdivision, “commercial sex act” means any sexual conduct on account of which anything of value is given or received by any person.~~

(h) ~~Every fine imposed and collected pursuant to this section shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund services for victims of human trafficking. At least 50 percent of the fines collected and deposited pursuant to this section shall be granted to community-based organizations that serve victims of human trafficking.~~

(h) *For purposes of this chapter, the following definitions apply:*

(1) *“Coercion” includes any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; the abuse or threatened abuse of the legal process; debt bondage; or providing and facilitating the possession of any controlled substance to a person with the intent to impair the person’s judgment.*

(2) *“Commercial sex act” means sexual conduct on account of which anything of value is given or received by any person.*

(3) *“Deprivation or violation of the personal liberty of another” includes substantial and sustained restriction of another’s liberty accomplished through force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, under circumstances where the person receiving or apprehending the threat reasonably believes that it is likely that the person making the threat would carry it out.*

(4) *“Duress” includes a direct or implied threat of force, violence, danger, hardship, or retribution sufficient to cause a reasonable person to acquiesce in or perform an act which he or she would otherwise not have submitted to or performed; a direct or implied threat to destroy, conceal, remove, confiscate, or possess any actual or purported passport or immigration document of the victim; or knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or immigration document of the victim.*

(5) *“Forced labor or services” means labor or services that are performed or provided by a person and are obtained or maintained through force, fraud, duress, or coercion, or equivalent conduct that would reasonably overbear the will of the person.*

(6) *“Great bodily injury” means a significant or substantial physical injury.*

(7) *“Minor” means a person less than 18 years of age.*

(8) *“Serious harm” includes any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor, services, or commercial sexual acts in order to avoid incurring that harm.*

(i) *The total circumstances, including the age of the victim, the relationship between the victim and the trafficker or agents of the trafficker, and any handicap or disability of the victim, shall be factors to consider in determining the presence of “deprivation or violation of the personal liberty of another,” “duress,” and “coercion” as described in this section.*

SEC. 7. Section 236.2 of the Penal Code is amended to read:

236.2. Law enforcement agencies shall use due diligence to identify all victims of human trafficking, regardless of the citizenship of the person. When a peace officer comes into contact with a person who has been deprived of his or her personal liberty, a minor who has engaged in a commercial sex act, a person suspected of violating subdivision (a) or (b) of Section 647, or a victim of a crime of domestic violence or rape sexual assault, the peace officer shall consider whether the following indicators of human trafficking are present:

(a) Signs of trauma, fatigue, injury, or other evidence of poor care.

(b) The person is withdrawn, afraid to talk, or his or her communication is censored by another person.

(c) The person does not have freedom of movement.

(d) The person lives and works in one place.

(e) The person owes a debt to his or her employer.

(f) Security measures are used to control who has contact with the person.

(g) The person does not have control over his or her own government-issued identification or over his or her worker immigration documents.

SEC. 8. Section 236.4 is added to the Penal Code, to read:

236.4. (a) *Upon the conviction of a person of a violation of Section 236.1, the court may, in addition to any other penalty, fine, or restitution imposed, order the defendant to pay an additional fine not to exceed one million dollars (\$1,000,000). In setting the amount of the fine, the court shall consider any relevant factors, including, but not limited to, the seriousness and gravity of the offense, the circumstances and duration of its commission, the amount of economic gain the defendant derived as a result of the crime, and the extent to which the victim suffered losses as a result of the crime.*

(b) *Any person who inflicts great bodily injury on a victim in the commission or attempted commission of a violation of Section 236.1 shall be punished by an additional and consecutive term of imprisonment in the state prison for 5, 7, or 10 years.*

(c) *Any person who has previously been convicted of a violation of any crime specified in Section 236.1 shall receive an additional and consecutive term of imprisonment in the state prison for 5 years for each additional conviction on charges separately brought and tried.*

(d) Every fine imposed and collected pursuant to Section 236.1 and this section shall be deposited in the Victim-Witness Assistance Fund, to be administered by the California Emergency Management Agency (Cal EMA), to fund grants for services for victims of human trafficking. Seventy percent of the fines collected and deposited shall be granted to public agencies and nonprofit corporations that provide shelter, counseling, or other direct services for trafficked victims. Thirty percent of the fines collected and deposited shall be granted to law enforcement and prosecution agencies in the jurisdiction in which the charges were filed to fund human trafficking prevention, witness protection, and rescue operations.

SEC. 9. Section 290 of the Penal Code is amended to read:

290. (a) Sections 290 to ~~290.023~~ 290.024, inclusive, shall be known and may be cited as the Sex Offender Registration Act. All references to “the Act” in those sections are to the Sex Offender Registration Act.

(b) Every person described in subdivision (c), for the rest of his or her life while residing in California, or while attending school or working in California, as described in Sections 290.002 and 290.01, shall be required to register with the chief of police of the city in which he or she is residing, or the sheriff of the county if he or she is residing in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is residing upon the campus or in any of its facilities, within five working days of coming into, or changing his or her residence within, any city, county, or city and county, or campus in which he or she temporarily resides, and shall be required to register thereafter in accordance with the Act.

(c) The following persons shall be required to register:

Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of Section 187 committed in the perpetration, or an attempt to perpetrate, rape or any act punishable under Section 286, 288, 288a, or 289, Section 207 or 209 committed with intent to violate Section 261, 286, 288, 288a, or 289, Section 220, except assault to commit mayhem, *subdivision (b) and (c) of Section 236.1*, Section 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, or 266c, subdivision (b) of Section 266h, subdivision (b) of Section 266i, Section 266j, 267, 269, 285, 286, 288, 288a, 288.3, 288.4, 288.5, 288.7, 289, or 311.1, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of Section 653f, subdivision 1 or 2 of Section 314, any offense involving lewd or lascivious conduct under Section 272, or any felony violation of Section 288.2; any statutory predecessor that includes all elements of one of the above-mentioned offenses; or any person who since that date has been or is hereafter convicted of the attempt or conspiracy to commit any of the above-mentioned offenses.

SEC. 10. Section 290.012 of the Penal Code is amended to read:

290.012. (a) Beginning on his or her first birthday

following registration or change of address, the person shall be required to register annually, within five working days of his or her birthday, to update his or her registration with the entities described in subdivision (b) of Section 290. At the annual update, the person shall provide current information as required on the Department of Justice annual update form, including the information described in paragraphs (1) to (3) (5), inclusive of subdivision (a) of Section 290.015. The registering agency shall give the registrant a copy of the registration requirements from the Department of Justice form.

(b) In addition, every person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, shall, after his or her release from custody, verify his or her address no less than once every 90 days and place of employment, including the name and address of the employer, in a manner established by the Department of Justice. Every person who, as a sexually violent predator, is required to verify his or her registration every 90 days, shall be notified wherever he or she next registers of his or her increased registration obligations. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notice shall be a defense to the penalties prescribed in subdivision (f) of Section 290.018.

(c) In addition, every person subject to the Act, while living as a transient in California, shall update his or her registration at least every 30 days, in accordance with Section 290.011.

(d) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

SEC. 11. Section 290.014 of the Penal Code is amended to read:

290.014. (a) If any person who is required to register pursuant to the Act changes his or her name, the person shall inform, in person, the law enforcement agency or agencies with which he or she is currently registered within five working days. The law enforcement agency or agencies shall forward a copy of this information to the Department of Justice within three working days of its receipt.

(b) *If any person who is required to register pursuant to the Act adds or changes his or her account with an Internet service provider or adds or changes an Internet identifier, the person shall send written notice of the addition or change to the law enforcement agency or agencies with which he or she is currently registered within 24 hours. The law enforcement agency or agencies shall make this information available to the Department of Justice. Each person to whom this subdivision applies at the time this subdivision becomes effective shall immediately provide the information required by this subdivision.*

SEC. 12. Section 290.015 of the Penal Code is amended to read:

290.015. (a) A person who is subject to the Act shall register, or reregister if he or she has previously registered, upon release from incarceration, placement, commitment, or release on probation pursuant to subdivision (b) of Section 290.

This section shall not apply to a person who is incarcerated for less than 30 days if he or she has registered as required by the Act, he or she returns after incarceration to the last registered address, and the annual update of registration that is required to occur within five working days of his or her birthday, pursuant to subdivision (a) of Section 290.012, did not fall within that incarceration period. The registration shall consist of all of the following:

(1) A statement in writing signed by the person, giving information as shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment if that is different from the employer's main address.

(2) The fingerprints and a current photograph of the person taken by the registering official.

(3) The license plate number of any vehicle owned by, regularly driven by, or registered in the name of the person.

(4) A list of any and all Internet identifiers established or used by the person.

(5) A list of any and all Internet service providers used by the person.

(6) A statement in writing, signed by the person, acknowledging that the person is required to register and update the information in paragraphs (4) and (5), as required by this chapter.

(7) Notice to the person that, in addition to the requirements of the Act, he or she may have a duty to register in any other state where he or she may relocate.

(8) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the date he or she is allowed to register.

(b) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(1) If a person fails to register in accordance with subdivision (a) after release, the district attorney in the jurisdiction where the person was to be paroled or to be on probation may request that a warrant be issued for the person's arrest and shall have the authority to prosecute that person pursuant to Section 290.018.

(2) If the person was not on parole or probation at the time of release, the district attorney in the following applicable jurisdiction shall have the authority to prosecute that person pursuant to Section 290.018:

(A) If the person was previously registered, in the jurisdiction in which the person last registered.

(B) If there is no prior registration, but the person indicated on the Department of Justice notice of sex offender registration requirement form where he or she expected to reside, in the jurisdiction where he or she expected to reside.

(C) If neither subparagraph (A) nor (B) applies, in the jurisdiction where the offense subjecting the person to registration pursuant to this Act was committed.

SEC. 13. Section 290.024 is added to the Penal Code, to read:

290.024. For purposes of this chapter, the following terms apply:

(a) "Internet service provider" means a business, organization, or other entity providing a computer and communications facility directly to consumers through which a person may obtain access to the Internet. An Internet service provider does not include a business, organization, or other entity that provides only telecommunications services, cable services, or video services, or any system operated or services offered by a library or educational institution.

(b) "Internet identifier" means an electronic mail address, user name, screen name, or similar identifier used for the purpose of Internet forum discussions, Internet chat room discussions, instant messaging, social networking, or similar Internet communication.

SEC. 14. Section 13519.14 of the Penal Code is amended to read:

13519.14. (a) The commission shall implement by January 1, 2007, a course or courses of instruction for the training of law enforcement officers in California in the handling of human trafficking complaints and also shall develop guidelines for law enforcement response to human trafficking. The course or courses of instruction and the guidelines shall stress the dynamics and manifestations of human trafficking, identifying and communicating with victims, providing documentation that satisfy the law enforcement agency Law Enforcement Agency (LEA) endorsement (LEA) required by federal law, collaboration with federal law enforcement officials, therapeutically appropriate investigative techniques, the availability of civil and immigration remedies and community resources, and protection of the victim. Where appropriate, the training presenters shall include human trafficking experts with experience in the delivery of direct services to victims of human trafficking. Completion of the course may be satisfied by telecommunication, video training tape, or other instruction.

(b) As used in this section, "law enforcement officer" means any officer or employee of a local police department or sheriff's office, and any peace officer of the Department of the California Highway Patrol, as defined by subdivision (a) of Section 830.2.

(c) The course of instruction, the learning and performance objectives, the standards for the training, and the guidelines shall be developed by the commission in consultation with appropriate groups and individuals having an interest and expertise in the field of human trafficking.

(d) The commission, in consultation with these groups and individuals, shall review existing training programs to



determine in what ways human trafficking training may be included as a part of ongoing programs.

~~(e) Participation in the course or courses specified in this section by peace officers or the agencies employing them is voluntary~~ *Every law enforcement officer who is assigned field or investigative duties shall complete a minimum of two hours of training in a course or courses of instruction pertaining to the handling of human trafficking complaints as described in subdivision (a) by July 1, 2014, or within six months of being assigned to that position, whichever is later.*

SEC. 15. Amendments.

This act may be amended by a statute in furtherance of its objectives passed in each house of the Legislature by rollcall vote entered in the journal, a majority of the membership of each house concurring.

SEC. 16. Severability.

If any of the provisions of this measure or the applicability of any provision of this measure to any person or circumstances shall be found to be unconstitutional or otherwise invalid, such finding shall not affect the remaining provisions or applications of this measure to other persons or circumstances, and to that extent the provisions of this measure are deemed to be severable.

**PROPOSITION 36**

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends and adds sections to the Penal Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

**PROPOSED LAW**

THREE STRIKES REFORM ACT OF 2012

SECTION 1. Findings and Declarations:

The People enact the Three Strikes Reform Act of 2012 to restore the original intent of California’s Three Strikes law—imposing life sentences for dangerous criminals like rapists, murderers, and child molesters.

This act will:

(1) Require that murderers, rapists, and child molesters serve their full sentences—they will receive life sentences, even if they are convicted of a new minor third strike crime.

(2) Restore the Three Strikes law to the public’s original understanding by requiring life sentences only when a defendant’s current conviction is for a violent or serious crime.

(3) Maintain that repeat offenders convicted of non-violent, non-serious crimes like shoplifting and simple drug possession will receive twice the normal sentence instead of a life sentence.

(4) Save hundreds of millions of taxpayer dollars every year for at least 10 years. The state will no longer pay for housing or long-term health care for elderly, low-risk, non-violent inmates serving life sentences for minor crimes.

(5) Prevent the early release of dangerous criminals who are currently being released early because jails and prisons are overcrowded with low-risk, non-violent inmates serving life

sentences for petty crimes.

SEC. 2. Section 667 of the Penal Code is amended to read:

667. (a) (1) In compliance with subdivision (b) of Section 1385, any person convicted of a serious felony who previously has been convicted of a serious felony in this state or of any offense committed in another jurisdiction which includes all of the elements of any serious felony, shall receive, in addition to the sentence imposed by the court for the present offense, a five-year enhancement for each such prior conviction on charges brought and tried separately. The terms of the present offense and each enhancement shall run consecutively.

(2) This subdivision shall not be applied when the punishment imposed under other provisions of law would result in a longer term of imprisonment. There is no requirement of prior incarceration or commitment for this subdivision to apply.

(3) The Legislature may increase the length of the enhancement of sentence provided in this subdivision by a statute passed by majority vote of each house thereof.

(4) As used in this subdivision, “serious felony” means a serious felony listed in subdivision (c) of Section 1192.7.

(5) This subdivision shall not apply to a person convicted of selling, furnishing, administering, or giving, or offering to sell, furnish, administer, or give to a minor any methamphetamine-related drug or any precursors of methamphetamine unless the prior conviction was for a serious felony described in subparagraph (24) of subdivision (c) of Section 1192.7.

(b) It is the intent of the Legislature in enacting subdivisions (b) to (i), inclusive, to ensure longer prison sentences and greater punishment for those who commit a felony and have been previously convicted of *one or more* serious and/or violent felony offenses.

(c) Notwithstanding any other law, if a defendant has been convicted of a felony and it has been pled and proved that the defendant has one or more prior *serious and/or violent* felony convictions as defined in subdivision (d), the court shall adhere to each of the following:

(1) There shall not be an aggregate term limitation for purposes of consecutive sentencing for any subsequent felony conviction.

(2) Probation for the current offense shall not be granted, nor shall execution or imposition of the sentence be suspended for any prior offense.

(3) The length of time between the prior *serious and/or violent* felony conviction and the current felony conviction shall not affect the imposition of sentence.

(4) There shall not be a commitment to any other facility other than the state prison. Diversion shall not be granted nor shall the defendant be eligible for commitment to the California Rehabilitation Center as provided in Article 2 (commencing with Section 3050) of Chapter 1 of Division 3 of the Welfare and Institutions Code.

(5) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not exceed one-fifth of the total term of imprisonment imposed and shall not accrue until the defendant is physically placed in the state prison.

(6) If there is a current conviction for more than one felony count not committed on the same occasion, and not arising

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from the same set of operative facts, the court shall sentence the defendant consecutively on each count pursuant to subdivision (e).

(7) If there is a current conviction for more than one serious or violent felony as described in paragraph (6), the court shall impose the sentence for each conviction consecutive to the sentence for any other conviction for which the defendant may be consecutively sentenced in the manner prescribed by law.

(8) Any sentence imposed pursuant to subdivision (e) will be imposed consecutive to any other sentence which the defendant is already serving, unless otherwise provided by law.

(d) Notwithstanding any other law and for the purposes of subdivisions (b) to (i), inclusive, a prior conviction of a *serious and/or violent* felony shall be defined as:

(1) Any offense defined in subdivision (c) of Section 667.5 as a violent felony or any offense defined in subdivision (c) of Section 1192.7 as a serious felony in this state. The determination of whether a prior conviction is a prior felony conviction for purposes of subdivisions (b) to (i), inclusive, shall be made upon the date of that prior conviction and is not affected by the sentence imposed unless the sentence automatically, upon the initial sentencing, converts the felony to a misdemeanor. None of the following dispositions shall affect the determination that a prior conviction is a prior felony for purposes of subdivisions (b) to (i), inclusive:

(A) The suspension of imposition of judgment or sentence.

(B) The stay of execution of sentence.

(C) The commitment to the State Department of Health Services as a mentally disordered sex offender following a conviction of a felony.

(D) The commitment to the California Rehabilitation Center or any other facility whose function is rehabilitative diversion from the state prison.

(2) A *prior* conviction in another jurisdiction for an offense that, if committed in California, is punishable by imprisonment in the state prison—~~A shall constitute a prior conviction of a particular *serious and/or violent* felony shall include a if the prior conviction in another the other jurisdiction is for an offense that includes all of the elements of the a particular *serious and/or violent* felony as defined in subdivision (c) of Section 667.5 or *serious felony* as defined in subdivision (c) of Section 1192.7.~~

(3) A prior juvenile adjudication shall constitute a prior *serious and/or violent* felony conviction for purposes of sentence enhancement if:

(A) The juvenile was 16 years of age or older at the time he or she committed the prior offense.

(B) The prior offense is listed in subdivision (b) of Section 707 of the Welfare and Institutions Code or described in paragraph (1) or (2) as a *serious and/or violent* felony.

(C) The juvenile was found to be a fit and proper subject to be dealt with under the juvenile court law.

(D) The juvenile was adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code.

(e) For purposes of subdivisions (b) to (i), inclusive, and in addition to any other enhancement or punishment provisions

which may apply, the following shall apply where a defendant has a *one or more prior serious and/or violent felony conviction convictions*:

(1) If a defendant has one prior *serious and/or violent* felony conviction *as defined in subdivision (d)* that has been pled and proved, the determinate term or minimum term for an indeterminate term shall be twice the term otherwise provided as punishment for the current felony conviction.

(2) (A) ~~If~~ *Except as provided in subparagraph (C)*, if a defendant has two or more prior *serious and/or violent* felony convictions as defined in subdivision (d) that have been pled and proved, the term for the current felony conviction shall be an indeterminate term of life imprisonment with a minimum term of the indeterminate sentence calculated as the ~~greater~~ *greatest* of:

(i) Three times the term otherwise provided as punishment for each current felony conviction subsequent to the two or more prior *serious and/or violent* felony convictions.

(ii) Imprisonment in the state prison for 25 years.

(iii) The term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 190 or 3046.

(B) The indeterminate term described in subparagraph (A) shall be served consecutive to any other term of imprisonment for which a consecutive term may be imposed by law. Any other term imposed subsequent to any indeterminate term described in subparagraph (A) shall not be merged therein but shall commence at the time the person would otherwise have been released from prison.

(C) *If a defendant has two or more prior serious and/or violent felony convictions as defined in subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7 that have been pled and proved, and the current offense is not a serious or violent felony as defined in subdivision (d), the defendant shall be sentenced pursuant to paragraph (1) of subdivision (e) unless the prosecution pleads and proves any of the following:*

(i) *The current offense is a controlled substance charge, in which an allegation under Section 11370.4 or 11379.8 of the Health and Safety Code was admitted or found true.*

(ii) *The current offense is a felony sex offense, defined in subdivision (d) of Section 261.5 or Section 262, or any felony offense that results in mandatory registration as a sex offender pursuant to subdivision (c) of Section 290 except for violations of Sections 266 and 285, paragraph (1) of subdivision (b) and subdivision (e) of Section 286, paragraph (1) of subdivision (b) and subdivision (e) of Section 288a, Section 311.11, and Section 314.*

(iii) *During the commission of the current offense, the defendant used a firearm, was armed with a firearm or deadly weapon, or intended to cause great bodily injury to another person.*

(iv) *The defendant suffered a prior serious and/or violent felony conviction, as defined in subdivision (d) of this section, for any of the following felonies:*

(I) *A “sexually violent offense” as defined in subdivision (b) of Section 6600 of the Welfare and Institutions Code.*

(II) Oral copulation with a child who is under 14 years of age, and who is more than 10 years younger than he or she as defined by Section 288a, sodomy with another person who is under 14 years of age and more than 10 years younger than he or she as defined by Section 286, or sexual penetration with another person who is under 14 years of age, and who is more than 10 years younger than he or she, as defined by Section 289.

(III) A lewd or lascivious act involving a child under 14 years of age, in violation of Section 288.

(IV) Any homicide offense, including any attempted homicide offense, defined in Sections 187 to 191.5, inclusive.

(V) Solicitation to commit murder as defined in Section 653f.

(VI) Assault with a machine gun on a peace officer or firefighter, as defined in paragraph (3) of subdivision (d) of Section 245.

(VII) Possession of a weapon of mass destruction, as defined in paragraph (1) of subdivision (a) of Section 11418.

(VIII) Any serious and/or violent felony offense punishable in California by life imprisonment or death.

(f) (1) Notwithstanding any other law, subdivisions (b) to (i), inclusive, shall be applied in every case in which a defendant has a *one or more* prior serious and/or violent felony conviction as defined in subdivision (d). The prosecuting attorney shall plead and prove each prior serious and/or violent felony conviction except as provided in paragraph (2).

(2) The prosecuting attorney may move to dismiss or strike a prior serious and/or violent felony conviction allegation in the furtherance of justice pursuant to Section 1385, or if there is insufficient evidence to prove the prior serious and/or violent felony conviction. If upon the satisfaction of the court that there is insufficient evidence to prove the prior serious and/or violent felony conviction, the court may dismiss or strike the allegation. *Nothing in this section shall be read to alter a court's authority under Section 1385.*

(g) Prior serious and/or violent felony convictions shall not be used in plea bargaining as defined in subdivision (b) of Section 1192.7. The prosecution shall plead and prove all known prior felony serious and/or violent convictions and shall not enter into any agreement to strike or seek the dismissal of any prior serious and/or violent felony conviction allegation except as provided in paragraph (2) of subdivision (f).

(h) All references to existing statutes in subdivisions (c) to (g), inclusive, are to statutes as they existed on ~~June 30, 1993~~ November 7, 2012.

(i) If any provision of subdivisions (b) to (h), inclusive, or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of those subdivisions which can be given effect without the invalid provision or application, and to this end the provisions of those subdivisions are severable.

(j) The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

SEC. 3. Section 667.1 of the Penal Code is amended to read:

667.1. Notwithstanding subdivision (h) of Section 667, for

all offenses committed on or after the effective date of this act November 7, 2012, all references to existing statutes in subdivisions (c) to (g), inclusive, of Section 667, are to those statutes as they existed on the effective date of this act, including amendments made to those statutes by the act enacted during the 2005–06 Regular Session that amended this section November 7, 2012.

SEC. 4. Section 1170.12 of the Penal Code is amended to read:

1170.12. ~~(a) Aggregate and consecutive terms for multiple convictions; Prior conviction as prior felony; Commitment and other enhancements or punishment.~~

(a) Notwithstanding any other provision of law, if a defendant has been convicted of a felony and it has been pled and proved that the defendant has one or more prior serious and/or violent felony convictions, as defined in subdivision (b), the court shall adhere to each of the following:

(1) There shall not be an aggregate term limitation for purposes of consecutive sentencing for any subsequent felony conviction.

(2) Probation for the current offense shall not be granted, nor shall execution or imposition of the sentence be suspended for any prior offense.

(3) The length of time between the prior serious and/or violent felony conviction and the current felony conviction shall not affect the imposition of sentence.

(4) There shall not be a commitment to any other facility other than the state prison. Diversion shall not be granted nor shall the defendant be eligible for commitment to the California Rehabilitation Center as provided in Article 2 (commencing with Section 3050) of Chapter 1 of Division 3 of the Welfare and Institutions Code.

(5) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not exceed one-fifth of the total term of imprisonment imposed and shall not accrue until the defendant is physically placed in the state prison.

(6) If there is a current conviction for more than one felony count not committed on the same occasion, and not arising from the same set of operative facts, the court shall sentence the defendant consecutively on each count pursuant to this section.

(7) If there is a current conviction for more than one serious or violent felony as described in ~~paragraph (6) of this subdivision (b)~~, the court shall impose the sentence for each conviction consecutive to the sentence for any other conviction for which the defendant may be consecutively sentenced in the manner prescribed by law.

~~(8) Any sentence imposed pursuant to this section will be imposed consecutive to any other sentence which the defendant is already serving, unless otherwise provided by law.~~

(b) Notwithstanding any other provision of law and for the purposes of this section, a prior serious and/or violent conviction of a felony shall be defined as:

(1) Any offense defined in subdivision (c) of Section 667.5 as a violent felony or any offense defined in subdivision (c) of Section 1192.7 as a serious felony in this state. The determination of whether a prior conviction is a prior serious and/or violent felony conviction for purposes of this section shall be made

upon the date of that prior conviction and is not affected by the sentence imposed unless the sentence automatically, upon the initial sentencing, converts the felony to a misdemeanor. None of the following dispositions shall affect the determination that a prior *serious and/or violent* conviction is a ~~prior serious and/or violent~~ felony for purposes of this section:

- (A) The suspension of imposition of judgment or sentence.
- (B) The stay of execution of sentence.
- (C) The commitment to the State Department of Health Services as a mentally disordered sex offender following a conviction of a felony.
- (D) The commitment to the California Rehabilitation Center or any other facility whose function is rehabilitative diversion from the state prison.

(2) A *prior* conviction in another jurisdiction for an offense that, if committed in California, is punishable by imprisonment in the state prison ~~shall constitute a prior conviction of a particular serious and/or violent felony shall include a if the prior conviction in another the other jurisdiction is for an offense that includes all of the elements of the particular violent felony as defined in subdivision (c) of Section 667.5 or serious felony as defined in subdivision (c) of Section 1192.7.~~

(3) A prior juvenile adjudication shall constitute a prior *serious and/or violent* felony conviction for the purposes of sentence enhancement if:

- (A) The juvenile was sixteen years of age or older at the time he or she committed the prior offense, and
- (B) The prior offense is
  - (i) listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, or
  - (ii) listed in this subdivision as a *serious and/or violent* felony, and
- (C) The juvenile was found to be a fit and proper subject to be dealt with under the juvenile court law, and
- (D) The juvenile was adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code.

(c) For purposes of this section, and in addition to any other enhancements or punishment provisions which may apply, the following shall apply where a defendant has a *one or more* prior *serious and/or violent* felony ~~conviction~~ convictions:

(1) If a defendant has one prior *serious and/or violent* felony conviction as defined in subdivision (b) that has been pled and proved, the determinate term or minimum term for an indeterminate term shall be twice the term otherwise provided as punishment for the current felony conviction.

(2) (A) ~~If~~ Except as provided in subparagraph (C), if a defendant has two or more prior *serious and/or violent* felony convictions, as defined in ~~paragraph (1)~~ subdivision (b), that have been pled and proved, the term for the current felony conviction shall be an indeterminate term of life imprisonment with a minimum term of the indeterminate sentence calculated as the ~~greater~~ greatest of:

(i) three times the term otherwise provided as punishment for each current felony conviction subsequent to the two or more prior *serious and/or violent* felony convictions, or

(ii) twenty-five years or

(iii) the term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 190 or 3046.

(B) The indeterminate term described in subparagraph (A) of paragraph (2) of this subdivision shall be served consecutive to any other term of imprisonment for which a consecutive term may be imposed by law. Any other term imposed subsequent to any indeterminate term described in subparagraph (A) of paragraph (2) of this subdivision shall not be merged therein but shall commence at the time the person would otherwise have been released from prison.

(C) If a defendant has two or more prior *serious and/or violent* felony convictions as defined in subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7 that have been pled and proved, and the current offense is not a felony described in paragraph (1) of subdivision (b) of this section, the defendant shall be sentenced pursuant to paragraph (1) of subdivision (c) of this section, unless the prosecution pleads and proves any of the following:

(i) The current offense is a controlled substance charge, in which an allegation under Section 11370.4 or 11379.8 of the Health and Safety Code was admitted or found true.

(ii) The current offense is a felony sex offense, defined in subdivision (d) of Section 261.5 or Section 262, or any felony offense that results in mandatory registration as a sex offender pursuant to subdivision (c) of Section 290 except for violations of Sections 266 and 285, paragraph (1) of subdivision (b) and subdivision (e) of Section 286, paragraph (1) of subdivision (b) and subdivision (e) of Section 288a, Section 314, and Section 311.11.

(iii) During the commission of the current offense, the defendant used a firearm, was armed with a firearm or deadly weapon, or intended to cause great bodily injury to another person.

(iv) The defendant suffered a prior conviction, as defined in subdivision (b) of this section, for any of the following *serious and/or violent* felonies:

(I) A “sexually violent offense” as defined by subdivision (b) of Section 6600 of the Welfare and Institutions Code.

(II) Oral copulation with a child who is under 14 years of age, and who is more than 10 years younger than he or she as defined by Section 288a, sodomy with another person who is under 14 years of age and more than 10 years younger than he or she as defined by Section 286 or sexual penetration with another person who is under 14 years of age, and who is more than 10 years younger than he or she, as defined by Section 289.

(III) A lewd or lascivious act involving a child under 14 years of age, in violation of Section 288.

(IV) Any homicide offense, including any attempted homicide offense, defined in Sections 187 to 191.5, inclusive.

(V) Solicitation to commit murder as defined in Section 653f.

(VI) Assault with a machine gun on a peace officer or firefighter, as defined in paragraph (3) of subdivision (d) of Section 245.

(VII) Possession of a weapon of mass destruction, as defined

in paragraph (1) of subdivision (a) of Section 11418.

(VIII) Any serious and/or violent felony offense punishable in California by life imprisonment or death.

(d) (1) Notwithstanding any other provision of law, this section shall be applied in every case in which a defendant has a one or more prior serious and/or violent felony conviction convictions as defined in this section. The prosecuting attorney shall plead and prove each prior serious and/or violent felony conviction except as provided in paragraph (2).

(2) The prosecuting attorney may move to dismiss or strike a prior serious and/or violent felony conviction allegation in the furtherance of justice pursuant to Section 1385, or if there is insufficient evidence to prove the prior serious and/or violent conviction. If upon the satisfaction of the court that there is insufficient evidence to prove the prior serious and/or violent felony conviction, the court may dismiss or strike the allegation. Nothing in this section shall be read to alter a court's authority under Section 1385.

(e) Prior serious and/or violent felony convictions shall not be used in plea bargaining, as defined in subdivision (b) of Section 1192.7. The prosecution shall plead and prove all known prior serious and/or violent felony convictions and shall not enter into any agreement to strike or seek the dismissal of any prior serious and/or violent felony conviction allegation except as provided in paragraph (2) of subdivision (d).

(f) If any provision of subdivisions (a) to (e), inclusive, or of Section 1170.126, or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of those subdivisions which can be given effect without the invalid provision or application, and to this end the provisions of those subdivisions are severable.

(g) The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

SEC. 5. Section 1170.125 of the Penal Code is amended to read:

1170.125. Notwithstanding Section 2 of Proposition 184, as adopted at the November 8, 1994, ~~general election~~ General Election, for all offenses committed on or after ~~the effective date of this act~~ November 7, 2012, all references to existing statutes in ~~Section~~ Sections 1170.12 and 1170.126 are to those statutes sections as they existed on the effective date of this act, including amendments made to those statutes by the act enacted during the 2005–06 Regular Session that amended this section November 7, 2012.

SEC. 6. Section 1170.126 is added to the Penal Code, to read:

1170.126. (a) The resentencing provisions under this section and related statutes are intended to apply exclusively to persons presently serving an indeterminate term of imprisonment pursuant to paragraph (2) of subdivision (e) of Section 667 or paragraph (2) of subdivision (c) of Section 1170.12, whose sentence under this act would not have been an indeterminate life sentence.

(b) Any person serving an indeterminate term of life imprisonment imposed pursuant to paragraph (2) of subdivision (e) of Section 667 or paragraph (2) of subdivision (c) of Section 1170.12 upon conviction, whether by trial or plea, of a felony or felonies that are not defined as serious and/or violent felonies by subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7, may file a petition for a recall of sentence, within two years after the effective date of the act that added this section or at a later date upon a showing of good cause, before the trial court that entered the judgment of conviction in his or her case, to request resentencing in accordance with the provisions of subdivision (e) of Section 667, and subdivision (c) of Section 1170.12, as those statutes have been amended by the act that added this section.

(c) No person who is presently serving a term of imprisonment for a "second strike" conviction imposed pursuant to paragraph (1) of subdivision (e) of Section 667 or paragraph (1) of subdivision (c) of Section 1170.12, shall be eligible for resentencing under the provisions of this section.

(d) The petition for a recall of sentence described in subdivision (b) shall specify all of the currently charged felonies, which resulted in the sentence under paragraph (2) of subdivision (e) of Section 667 or paragraph (2) of subdivision (c) of Section 1170.12, or both, and shall also specify all of the prior convictions alleged and proved under subdivision (d) of Section 667 and subdivision (b) of Section 1170.12.

(e) An inmate is eligible for resentencing if:

(1) The inmate is serving an indeterminate term of life imprisonment imposed pursuant to paragraph (2) of subdivision (e) of Section 667 or subdivision (c) of Section 1170.12 for a conviction of a felony or felonies that are not defined as serious and/or violent felonies by subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7.

(2) The inmate's current sentence was not imposed for any of the offenses appearing in clauses (i) to (iii), inclusive, of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or clauses (i) to (iii), inclusive, of subparagraph (C) of paragraph (2) of subdivision (c) of Section 1170.12.

(3) The inmate has no prior convictions for any of the offenses appearing in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or clause (iv) of subparagraph (C) of paragraph (2) of subdivision (c) of Section 1170.12.

(f) Upon receiving a petition for recall of sentence under this section, the court shall determine whether the petitioner satisfies the criteria in subdivision (e). If the petitioner satisfies the criteria in subdivision (e), the petitioner shall be resentenced pursuant to paragraph (1) of subdivision (e) of Section 667 and paragraph (1) of subdivision (c) of Section 1170.12 unless the court, in its discretion, determines that resentencing the petitioner would pose an unreasonable risk of danger to public safety.

(g) In exercising its discretion in subdivision (f), the court may consider:

(1) The petitioner's criminal conviction history, including the type of crimes committed, the extent of injury to victims, the length of prior prison commitments, and the remoteness of the crimes;

(2) *The petitioner’s disciplinary record and record of rehabilitation while incarcerated; and*

(3) *Any other evidence the court, within its discretion, determines to be relevant in deciding whether a new sentence would result in an unreasonable risk of danger to public safety.*

(h) *Under no circumstances may resentencing under this act result in the imposition of a term longer than the original sentence.*

(i) *Notwithstanding subdivision (b) of Section 977, a defendant petitioning for resentencing may waive his or her appearance in court for the resentencing, provided that the accusatory pleading is not amended at the resentencing, and that no new trial or retrial of the individual will occur. The waiver shall be in writing and signed by the defendant.*

(j) *If the court that originally sentenced the defendant is not available to resentence the defendant, the presiding judge shall designate another judge to rule on the defendant’s petition.*

(k) *Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the defendant.*

(l) *Nothing in this and related sections is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of this act.*

(m) *A resentencing hearing ordered under this act shall constitute a “post-conviction release proceeding” under paragraph (7) of subdivision (b) of Section 28 of Article I of the California Constitution (Marsy’s Law).*

**SEC. 7. Liberal Construction:**

*This act is an exercise of the public power of the people of the State of California for the protection of the health, safety, and welfare of the people of the State of California, and shall be liberally construed to effectuate those purposes.*

**SEC. 8. Severability:**

*If any provision of this act, or the application thereof to any person or circumstance, is held invalid, that invalidity shall not affect any other provision or application of this act, which can be given effect without the invalid provision or application in order to effectuate the purposes of this act. To this end, the provisions of this act are severable.*

**SEC. 9. Conflicting Measures:**

*If this measure is approved by the voters, but superseded by any other conflicting ballot measure approved by more voters at the same election, and the conflicting ballot measure is later held invalid, it is the intent of the voters that this act shall be given the full force of law.*

**SEC. 10. Effective Date:**

*This act shall become effective on the first day after enactment by the voters.*

**SEC. 11. Amendment:**

*Except as otherwise provided in the text of the statutes, the provisions of this act shall not be altered or amended except by one of the following:*

(a) *By statute passed in each house of the Legislature, by rollcall entered in the journal, with two-thirds of the membership and the Governor concurring; or*

(b) *By statute passed in each house of the Legislature, by*

*rollcall vote entered in the journal, with a majority of the membership concurring, to be placed on the next general ballot and approved by a majority of the electors; or*

(c) *By statute that becomes effective when approved by a majority of the electors.*

**PROPOSITION 37**

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8, of the California Constitution.

This initiative measure amends and adds sections to the Health and Safety Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

**PROPOSED LAW**

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

THE CALIFORNIA RIGHT TO KNOW GENETICALLY  
ENGINEERED FOOD ACT

SECTION 1. FINDINGS AND DECLARATIONS

(a) California consumers have the right to know whether the foods they purchase were produced using genetic engineering. Genetic engineering of plants and animals often causes unintended consequences. Manipulating genes and inserting them into organisms is an imprecise process. The results are not always predictable or controllable, and they can lead to adverse health or environmental consequences.

(b) Government scientists have stated that the artificial insertion of DNA into plants, a technique unique to genetic engineering, can cause a variety of significant problems with plant foods. Such genetic engineering can increase the levels of known toxicants in foods and introduce new toxicants and health concerns.

(c) Mandatory identification of foods produced through genetic engineering can provide a critical method for tracking the potential health effects of eating genetically engineered foods.

(d) No federal or California law requires that food producers identify whether foods were produced using genetic engineering. At the same time, the U.S. Food and Drug Administration does not require safety studies of such foods. Unless these foods contain a known allergen, the FDA does not even require developers of genetically engineered crops to consult with the agency.

(e) Polls consistently show that more than 90 percent of the public want to know if their food was produced using genetic engineering.

(f) Fifty countries—including the European Union member states, Japan and other key U.S. trading partners—have laws mandating disclosure of genetically engineered foods. No international agreements prohibit the mandatory identification of foods produced through genetic engineering.

(g) Without disclosure, consumers of genetically engineered food can unknowingly violate their own dietary and religious restrictions.

(h) The cultivation of genetically engineered crops can also cause serious impacts to the environment. For example, most genetically engineered crops are designed to withstand weed-

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killing pesticides known as herbicides. As a result, hundreds of millions of pounds of additional herbicides have been used on U.S. farms. Because of the massive use of such products, herbicide-resistant weeds have flourished—a problem that has resulted, in turn, in the use of increasingly toxic herbicides. These toxic herbicides damage our agricultural areas, impair our drinking water, and pose health risks to farm workers and consumers. California consumers should have the choice to avoid purchasing foods production of which can lead to such environmental harm.

(i) Organic farming is a significant and increasingly important part of California agriculture. California has more organic cropland than any other state and has almost one out of every four certified organic operations in the nation. California’s organic agriculture is growing faster than 20 percent a year.

(j) Organic farmers are prohibited from using genetically engineered seeds. Nonetheless, these farmers’ crops are regularly threatened with accidental contamination from neighboring lands where genetically engineered crops abound. This risk of contamination can erode public confidence in California’s organic products, significantly undermining this industry. Californians should have the choice to avoid purchasing foods whose production could harm the state’s organic farmers and its organic foods industry.

(k) The labeling, advertising and marketing of genetically engineered foods using terms such as “natural,” “naturally made,” “naturally grown,” or “all natural” is misleading to California consumers.

SEC. 2. STATEMENT OF PURPOSE

The purpose of this measure is to create and enforce the fundamental right of the people of California to be fully informed about whether the food they purchase and eat is genetically engineered and not misbranded as natural so that they can choose for themselves whether to purchase and eat such foods. It shall be liberally construed to fulfill this purpose.

SEC. 3. Article 6.6 (commencing with Section 110808) is added to Chapter 5 of Part 5 of Division 104 of the Health and Safety Code, to read:

ARTICLE 6.6.

THE CALIFORNIA RIGHT TO KNOW GENETICALLY ENGINEERED FOOD ACT

110808. Definitions

The following definitions shall apply only for the purposes of this article:

(a) *Cultivated commercially.* “Cultivated commercially” means grown or raised by a person in the course of his business or trade and sold within the United States.

(b) *Enzyme.* “Enzyme” means a protein that catalyzes chemical reactions of other substances without itself being destroyed or altered upon completion of the reactions.

(c) *Genetically engineered.* (1) “Genetically engineered” means any food that is produced from an organism or organisms in which the genetic material has been changed through the application of:

(A) *In vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) techniques and the direct injection*

*of nucleic acid into cells or organelles, or*

(B) *Fusion of cells, including protoplast fusion, or hybridization techniques that overcome natural physiological, reproductive, or recombination barriers, where the donor cells/ protoplasts do not fall within the same taxonomic family, in a way that does not occur by natural multiplication or natural recombination.*

(2) *For purposes of this subdivision:*

(A) *“Organism” means any biological entity capable of replication, reproduction, or transferring genetic material.*

(B) *“In vitro nucleic acid techniques” include, but are not limited to, recombinant DNA or RNA techniques that use vector systems and techniques involving the direct introduction into the organisms of hereditary materials prepared outside the organisms such as micro-injection, macro-injection, chemoporation, electroporation, micro-encapsulation, and liposome fusion.*

(d) *Processed food.* “Processed food” means any food other than a raw agricultural commodity, and includes any food produced from a raw agricultural commodity that has been subject to processing such as canning, smoking, pressing, cooking, freezing, dehydration, fermentation, or milling.

(e) *Processing aid.* “Processing aid” means:

(1) *A substance that is added to a food during the processing of such food, but is removed in some manner from the food before it is packaged in its finished form;*

(2) *A substance that is added to a food during processing, is converted into constituents normally present in the food, and does not significantly increase the amount of the constituents naturally found in the food; or*

(3) *A substance that is added to a food for its technical or functional effect in the processing, but is present in the finished food at insignificant levels and does not have any technical or functional effect in that finished food.*

(f) *Food Facility.* “Food facility” shall have the meaning set forth in Section 113789.

110809. Disclosure With Respect to Genetic Engineering of Food

(a) *Commencing July 1, 2014, any food offered for retail sale in California is misbranded if it is or may have been entirely or partially produced with genetic engineering and that fact is not disclosed:*

(1) *In the case of a raw agricultural commodity on the package offered for retail sale, with the clear and conspicuous words “Genetically Engineered” on the front of the package of such commodity or, in the case of any such commodity that is not separately packaged or labeled, on a label appearing on the retail store shelf or bin in which such commodity is displayed for sale;*

(2) *In the case of any processed food, in clear and conspicuous language on the front or back of the package of such food, with the words “Partially Produced with Genetic Engineering” or “May be Partially Produced with Genetic Engineering.”*

(b) *Subdivision (a) of this section and subdivision (e) of Section 110809.2 shall not be construed to require either the listing or identification of any ingredient or ingredients that were genetically engineered or that the term “genetically*

engineered” be placed immediately preceding any common name or primary product descriptor of a food.

110809.1. *Misbranding of Genetically Engineered Foods as “Natural”*

In addition to any disclosure required by Section 110809, if a food meets any of the definitions in subdivision (c) or (d) of Section 110808, and is not otherwise exempted from labeling under Section 110809.2, the food may not in California, on its label, accompanying signage in a retail establishment, or in any advertising or promotional materials, state or imply that the food is “natural,” “naturally made,” “naturally grown,” “all natural,” or any words of similar import that would have any tendency to mislead any consumer.

110809.2. *Labeling of Genetically Engineered Food—Exemptions*

The requirements of Section 110809 shall not apply to any of the following:

(a) Food consisting entirely of, or derived entirely from, an animal that has not itself been genetically engineered, regardless of whether such animal has been fed or injected with any genetically engineered food or any drug that has been produced through means of genetic engineering.

(b) A raw agricultural commodity or food derived therefrom that has been grown, raised, or produced without the knowing and intentional use of genetically engineered seed or food. Food will be deemed to be described in the preceding sentence only if the person otherwise responsible for complying with the requirements of subdivision (a) of Section 110809 with respect to a raw agricultural commodity or food obtains, from whoever sold the commodity or food to that person, a sworn statement that such commodity or food: (1) has not been knowingly or intentionally genetically engineered; and (2) has been segregated from, and has not been knowingly or intentionally commingled with, food that may have been genetically engineered at any time. In providing such a sworn statement, any person may rely on a sworn statement from his or her own supplier that contains the affirmation set forth in the preceding sentence.

(c) Any processed food that would be subject to Section 110809 solely because it includes one or more genetically engineered processing aids or enzymes.

(d) Any alcoholic beverage that is subject to the Alcoholic Beverage Control Act, set forth in Division 9 (commencing with Section 23000) of the Business and Professions Code.

(e) Until July 1, 2019, any processed food that would be subject to Section 110809 solely because it includes one or more genetically engineered ingredients, provided that: (1) no single such ingredient accounts for more than one-half of one percent of the total weight of such processed food; and (2) the processed food does not contain more than 10 such ingredients.

(f) Food that an independent organization has determined has not been knowingly and intentionally produced from or commingled with genetically engineered seed or genetically engineered food, provided that such determination has been made pursuant to a sampling and testing procedure approved in regulations adopted by the department. No sampling procedure shall be approved by the department unless sampling is done according to a statistically valid sampling plan

consistent with principles recommended by internationally recognized sources such as the International Standards Organization (ISO) and the Grain and Feed Trade Association (GAFTA). No testing procedure shall be approved by the department unless: (1) it is consistent with the most recent “Guidelines on Performance Criteria and Validation of Methods for Detection, Identification and Quantification of Specific DNA Sequences and Specific Proteins in Foods,” (CAC/GL 74 (2010)) published by the Codex Alimentarius Commission; and (2) it does not rely on testing of processed foods in which no DNA is detectable.

(g) Food that has been lawfully certified to be labeled, marketed, and offered for sale as “organic” pursuant to the federal Organic Food Products Act of 1990 and the regulations promulgated pursuant thereto by the United States Department of Agriculture.

(h) Food that is not packaged for retail sale and that either: (1) is a processed food prepared and intended for immediate human consumption or (2) is served, sold, or otherwise provided in any restaurant or other food facility that is primarily engaged in the sale of food prepared and intended for immediate human consumption.

(i) Medical food.

110809.3. *Adoption of Regulations*

The department may adopt any regulations that it determines are necessary for the enforcement and interpretation of this article, provided that the department shall not be authorized to create any exemptions beyond those specified in Section 110809.2.

110809.4. *Enforcement*

In addition to any action under Article 4 (commencing with Section 111900) of Chapter 8, any violation of Section 110809 or 110890.1 shall be deemed a violation of paragraph (5) of subdivision (a) of Section 1770 of the Civil Code and may be prosecuted under Title 1.5 (commencing with section 1750) of Part 4 of Division 3 of the Civil Code, save that the consumer bringing the action need not establish any specific damage from, or prove any reliance on, the alleged violation. The failure to make any disclosure required by Section 110809, or the making of a statement prohibited by section 110809.1, shall each be deemed to cause damage in at least the amount of the actual or offered retail price of each package or product alleged to be in violation.

#### SEC. 4. ENFORCEMENT

Section 111910 of the Health and Safety Code is amended to read:

111910. (a) Notwithstanding the provisions of Section 111900 or any other provision of law, any person may bring an action in superior court pursuant to this section and the court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of Article 6.6 (commencing with Section 110808), or Article 7 (commencing with Section 110810) of Chapter 5. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the person shall not be required to allege facts



necessary to show, or tending to show, lack of adequate remedy at law, or to show, or tending to show, irreparable damage or loss, or to show, or tending to show, unique or special individual injury or damages.

(b) In addition to the injunctive relief provided in subdivision (a), the court may award to that person, organization, or entity reasonable attorney’s fees *and all reasonable costs incurred in investigating and prosecuting the action* as determined by the court.

(c) This section shall not be construed to limit or alter the powers of the department and its authorized agents to bring an action to enforce this chapter pursuant to Section 111900 or any other provision of law.

SEC. 5. MISBRANDING

Section 110663 is added to the Health and Safety Code, to read:

*110663. Any food is misbranded if its labeling does not conform to the requirements of Section 110809 or 110809.1.*

SEC. 6. SEVERABILITY

If any provision of this initiative or the application thereof is for any reason held to be invalid or unconstitutional, that shall not affect other provisions or applications of the initiative that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this initiative are severable.

SEC. 7. CONSTRUCTION WITH OTHER LAWS

This initiative shall be construed to supplement, not to supersede, the requirements of any federal or California statute or regulation that provides for less stringent or less complete labeling of any raw agricultural commodity or processed food subject to the provisions of this initiative.

SEC. 8. EFFECTIVE DATE

This initiative shall become effective upon enactment pursuant to subdivision (a) of Section 10 of Article II of the California Constitution.

SEC. 9. CONFLICTING MEASURES

In the event that another measure or measures appearing on the same statewide ballot impose additional requirements relating to the production, sale and/or labeling of genetically engineered food, then the provisions of the other measure or measures, if approved by the voters, shall be harmonized with the provisions of this act, provided that the provisions of the other measure or measures do not prevent or excuse compliance with the requirements of this act.

In the event that the provisions of the other measure or measures prevent or excuse compliance with the provisions of this act, and this act receives a greater number of affirmative votes, then the provisions of this act shall prevail in their entirety, and the other measure or measures shall be null and void.

SEC. 10. AMENDMENTS

This initiative may be amended by the Legislature, but only to further its intent and purpose, by a statute passed by a two-thirds vote in each house.

PROPOSITION 38

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends and adds sections to the Education Code, the Penal Code, and the Revenue and Taxation Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

OUR CHILDREN, OUR FUTURE: LOCAL SCHOOLS AND EARLY EDUCATION INVESTMENT AND BOND DEBT REDUCTION ACT

SECTION 1. Title.

This measure shall be known and may be cited as “Our Children, Our Future: Local Schools and Early Education Investment and Bond Debt Reduction Act.”

SEC. 2. Findings and Declaration of Purpose.

(a) California is shortchanging the future of our children and our state. Today, our state ranks 46th nationally in what we invest to educate each student. California also ranks dead last, 50th out of 50 states, with the largest class sizes in the nation.

(b) Recent budget cuts are putting our schools even farther behind. Over the last three years, more than \$20 billion has been cut from California schools; essential programs and services that all children need to be successful have been eliminated or cut; and over 40,000 educators have been laid off.

(c) We are also failing with our early childhood development programs, which many studies confirm are one of the best educational investments we can make. Our underfunded public preschool programs serve only 40 percent of eligible three- and four-year olds. Only 5 percent of very low income infants and toddlers, who need the support most, have access to early childhood programs.

(d) We can and must do better. Children are our future. Investing in our schools and early childhood programs to prepare children to succeed is the best thing we can do for our children and the future of our economy and our state. Without a quality education, our children will not be able to compete in a global economy. Without a skilled workforce, our state will not be able to compete for jobs. We owe it to our children and to ourselves to improve our children’s education.

(e) It is time to make a real difference: no more half-measures but real, transformative investment in the schools on which the future of our state and our families depends. This act will enable schools to provide a well-rounded education that supports college and career readiness for every student, including a high-quality curriculum of the arts, music, physical education, science, technology, engineering, math, and vocational and technical education courses; smaller class sizes; school libraries, school nurses, and counselors.

(f) This act requires that decisions about how best to use new funds to improve our schools must be made not in Sacramento, but locally, with respect for the voices of parents, teachers, other school staff, and community members. It requires local school

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boards to work with parents, teachers, other school staff, and community members to decide what is most needed at each particular school.

(g) In order for all our schools to be transformed, so that all our children benefit, this act makes sure that new funding gets to every local school—including charter schools, county schools, and schools for children with special needs—and is allocated fairly and transparently. New funding will be allocated to every local school on a per-pupil basis, with funds required to be spent at local schools, not district headquarters.

(h) This measure holds local school boards accountable for how they spend new taxpayer money. They are required to explain how expenditures will improve educational outcomes and how they propose to determine whether the expenditures were successful. They will be required to report back on what results were achieved so that parents, teachers, and the community will know whether their money is being used wisely.

(i) This act limits what schools can spend from these new funds on administrative costs to no more than 1 percent and ensures schools may not use these new funds to increase salaries and benefits.

(j) This act will help prepare disadvantaged young children to succeed in school and in life by raising standards for early childhood education programs and by expanding the number of children who can attend.

(k) As Californians, we all should share in the cost of improving our schools and early education programs because we all share in the benefits that better schools and a well-educated workforce will bring to our economy and the quality of life in our state.

(l) Our schools and early childhood programs have suffered from years of being shortchanged. Rather than allow further cutbacks, we need to increase funding to provide every child an opportunity to succeed. If we all join together to send more resources to all our children and classrooms, and we all participate in ensuring good decisions are made about how to use these funds effectively, we can once again make California schools great and grow our economy.

(m) This measure raises the money needed to invest in our children through a sliding scale income tax increase which varies with taxpayers' ability to pay, with the highest income earners contributing the most.

(n) During the first four years of this initiative, as described below, 60 percent of the funds will go to K–12 schools, 10 percent will go to early education and 30 percent will go to reduce state debt and prevent further harmful budget cuts that could undermine these new educational investments. For the remaining eight years of the initiative, from 2017 on, 100 percent of the funds will go to increase K–12 and early education funding. To avoid wide fluctuations in revenue and ensure continued investment in needed school and early education facilities, any revenues that exceed the rate of growth of California per capita personal income will be used to help service and pay down existing state education bond debt, ensuring California's ability to issue new bonds, as needed, to build and modernize school and early education facilities.

(o) All the new money raised by this initiative will be put in

a separate trust fund that can *only* be spent for local schools, for early childhood care and education, and to help service and retire school bond debt, according to the provisions of this act. The Legislature and the Governor will not be allowed to use this money for anything else, nor will they be able to change the per-pupil allocation system that ensures money flows fairly to every local school.

(p) This initiative contains tough, effective accountability provisions that require oversight, audits, and public disclosure. For the first time, we will have transparent schoolsite budgets and know exactly how our money is being spent in every school. Anyone who knowingly violates the allocation or distribution provisions of this act will be guilty of a felony.

(q) The initiative also builds in an extra layer of accountability by ending the tax after 12 years unless it is re-approved by the voters. That gives our schools enough time to show that the new funds have actually improved educational outcomes, while protecting taxpayers by eliminating the tax if voters decide they don't want to keep it.

(r) This initiative will be taking effect as California grapples with one of the worst economic downturns in its history. If the initiative were fully implemented immediately and nothing were done to help close our state's budget deficit, continuing extreme budget cuts could deprive our schools and children of the support they need to fully benefit from the educational investments provided by this act. Therefore, this initiative will be implemented in two phases. For the first four fiscal years, until the end of 2016–17, 30 percent of the funds—about \$3 billion—will go to service and retire state school bond and other bond debt, freeing up a like amount to meet other budget needs critical to the overall well-being of children and the families and communities in which they live. Beginning in the 2017–18 fiscal year, the initiative will be fully implemented, and 100 percent of the funds will be new money, which cannot be used in place of Proposition 98 or any other current funding for K–12 education or early childhood programs. The result of this phased approach will be that, beginning immediately, 70 percent of the funds will be used to increase funding for schools and early education programs as required by this act, and after four years, all of the funds—100 percent—must be spent for that purpose to fulfill our obligation to our children and our future.

### SEC. 3. Purpose and Intent.

The people of the State of California declare that this act is intended to do the following:

(a) To strengthen and support California's public schools, including charter schools, by increasing per-pupil funding to improve academic performance, graduation rates, and vocational, college, career, and life readiness.

(b) To strengthen and support the education of California's children by restoring funding, improving quality, and expanding access to early care and education programs for disadvantaged and at-risk children.

(c) To create more accountability, transparency, and community involvement in how public education funds are spent.

(d) To ensure that the revenues generated by this act will be used for K–12 educational activities at the schoolsite; to expand

and strengthen early care and education for disadvantaged children; and, to the limited extent and under the limited circumstances specifically permitted by this act, to strengthen the overall fiscal position of the state and encourage adequate future investment in educational facilities by reducing the burden of current state education bond debt.

(e) To ensure that the revenues generated by this act cannot be used to supplant existing state funding for K–12 education or early care and education.

(f) To ensure that the Legislature cannot borrow or divert the revenues generated by this act for any other purpose, nor dictate to local school communities how those funds shall be spent.

SEC. 4. Part 9.7 (commencing with Section 14800) is added to Division 1 of Title 1 of the Education Code, to read:

**PART 9.7. OUR CHILDREN, OUR FUTURE: LOCAL SCHOOLS, EARLY EDUCATION INVESTMENT AND BOND DEBT REDUCTION ACT**

*14800. This part shall be known and may be cited as the Our Children, Our Future: Local Schools, Early Education Investment, and Bond Debt Reduction Act.*

*14800.5. For purposes of this part, and of Chapter 1.8 (commencing with Section 8160) of Part 6 of Division 1 of Title 1, the following definitions apply:*

(a) “Local education agency” or “LEA” includes school districts, county offices of education, governing boards of independent public charter schools, and the governing bodies of direct instructional services provided by the state, including the California Schools for the Deaf and the California School for the Blind.

(b) “K–12 school” or “school” means any public school, including but without limitation any charter school, county school, or school for special needs children, that annually enrolls, and provides direct instructional services to, pupils in any or all of grades kindergarten through 12 and that is under the operational jurisdiction of any LEA. The term “kindergarten” in this part includes transitional kindergarten.

(c) “Early care and education” or “ECE” means preschool and other programs that are designed to care for and further the education of children from birth to kindergarten eligibility, including both programs providing early care and education to children and programs that strengthen the early care and education capacity of parents and caregivers so that they can better serve children.

(d) For the 2013–14 school year, a school’s “enrollment” means the October enrollment figures reported for the 2012–13 school year, reduced or increased by the average percentage growth or decline in its October enrollment figures over the past three school years. For all subsequent years, a school’s “enrollment” means the average monthly active enrollment for the prior school year calculated pursuant to Section 46305, or the October enrollment for the prior school year if the Section 46305 figure is not available, reduced or increased by the average percentage growth or decline in these enrollment figures over the past three school years. Each LEA’s enrollment shall be the sum of enrollments at all schools under that LEA’s jurisdiction. Statewide enrollment shall be the sum of all LEAs’ enrollments.

(e) “Educational program” means expenditures for the

*following purposes at a K–12 schoolsite, approved at a public hearing by the governing board of the LEA with jurisdiction over the school, to improve the pupils’ academic performance, graduation rates, and vocational, career, college, and life readiness:*

(1) *Instruction in the arts, physical education, science, technology, engineering, mathematics, history, civics, financial literacy, English and foreign languages, and technical, vocational, or career education.*

(2) *Smaller class sizes.*

(3) *More counselors, librarians, school nurses, and other support staff at the schoolsite.*

(4) *Extended learning time through longer school days or longer school years, summer school, preschool, after school enrichment programs, and tutoring.*

(5) *Additional social and academic support for English language learners, low-income pupils, and pupils with special needs.*

(6) *Alternative education models that build pupils’ capacity for critical thinking and creativity.*

(7) *More communication and engagement with parents as true partners with schools in helping all children succeed.*

(f) “CETF funds” means those revenues deposited in the California Education Trust Fund pursuant to Section 17041.1 of the Revenue and Taxation Code, together with all interest earned on those funds pending their initial allocation and all interest earned on any recaptured funds pending their reallocation.

(g) “Superintendent” means the Superintendent of Public Instruction.

*14801. (a) The California Education Trust Fund (CETF) is hereby created in the State Treasury. CETF funds are held in trust and, notwithstanding Section 13340 of the Government Code, are continuously appropriated, without regard to fiscal years, for the exclusive purposes set forth in this act.*

(b) *CETF funds transferred and allocated to or from the California Education Trust Fund shall not constitute appropriations subject to limitation for purposes of Article XIII B of the California Constitution. CETF funds are held in trust for purposes of this Act only and shall not be considered General Fund revenues or proceeds of taxes, and thus shall not be included in the calculations required by Section 8 of Article XVI, nor subject to the provisions of Section 12 of Article IV or Section 20 of Article XVI, of the California Constitution.*

(c) *CETF funds shall be allocated and used exclusively as set forth in this act and shall not be used to pay administrative costs except as specifically authorized by the act. Notwithstanding any other provision of law, CETF funds shall not be transferred or loaned to the General Fund or to any other fund, person, or entity for any purpose or at any time except as expressly permitted in Section 14813.*

(d) *CETF funds allocated to LEAs and the Superintendent from the CETF shall supplement state, local, and federal funds committed for public K–12 schools and early care and education as of November 1, 2012, and shall not be used to supplant or replace the per capita state, local, or federal funding levels that were in place for these purposes as of that date,*

corrected for changes in the cost of living and, with respect to federal funds, for any overall decline in federal funding availability. The amounts appropriated from funds other than the CETF for support of the K–12 education system and early care and education programs, whether constitutionally mandated or otherwise, shall not be reduced as a result of funds allocated pursuant to this act.

14802. (a) The Fiscal Oversight Board is hereby created to provide oversight and accountability in the distribution and use of all CETF funds. The members of the board are the Controller, the State Auditor, the Treasurer, the Attorney General, and the Director of Finance. The Fiscal Oversight Board shall be responsible for ensuring that CETF funds are distributed exactly as provided by this part and are used solely for the purposes set forth in this part.

(b) Notwithstanding any other provision of law, the actual costs incurred by the Fiscal Oversight Board, the Controller, and the Superintendent in administering the California Education Trust Fund shall be paid by CETF funds; provided, however, that such costs may not exceed three-tenths of 1 percent of all revenues collected in the fund over any three-year period, an average of one-tenth of 1 percent annually. Until the end of fiscal year 2016–17, 30 percent of the costs authorized by this section shall be deducted from the temporary support funds provided pursuant to Section 14802.1, 60 percent of the costs authorized by this section shall be deducted from the funds set aside for K–12 pursuant to Section 14803, and 10 percent of the costs authorized by this section shall be deducted from the funds set aside for ECE pursuant to Section 14803. Thereafter, 85 percent of the costs authorized by this section shall be deducted from the funds set aside for K–12, and 15 percent shall be deducted from the funds set aside for ECE, pursuant to Section 14803.

(c) The Fiscal Oversight Board may adopt such regulations, including emergency regulations, as are necessary to fulfill its obligations under this act.

14802.1. (a) Until the end of the 2016–17 fiscal year, the Controller shall allocate 30 percent of CETF funds as provided in this section and the remainder in accordance with Sections 14803, 14804, 14805, 14806, and 14807. Thereafter, all CETF funds shall be allocated pursuant to Sections 14803, 14804, 14805, 14806, and 14807.

(b) Until the end of the 2016–17 fiscal year, the term “CETF funds” as used in Section 14803 shall refer to the 70 percent of CETF funds that are allocated in accordance with Sections 14803, 14804, 14805, 14806, and 14808, and the term “temporary support funds” shall refer to the 30 percent of CETF funds that are allocated pursuant to this section.

(c) Until the end of the 2016–17 fiscal year, on a quarterly basis, the Controller shall draw warrants on and distribute the temporary support funds to the Education Debt Service Fund established by Section 14813 for distribution pursuant to that section.

14803. (a) During the first two full fiscal years following the effective date of this act, the Controller shall set aside 85 percent of CETF funds for allocation to local educational agencies for K–12 schools, and 15 percent of CETF funds for allocation to the Superintendent for provision to early care and

education programs, in the amounts and manner set forth in this act. These funds, minus actual costs pursuant to subdivision (b) of Section 14802, shall be deemed “available revenues” under Section 14804.

(b) In order to provide stability and avoid wide fluctuations in funding, CETF funds shall be distributed as follows in each fiscal year subsequent to the first two full fiscal years following the effective date of this act:

(1) (A) Commencing with the 2015–16 fiscal year and for every year other than the 2017–18 fiscal year, at the beginning of the fiscal year, the Fiscal Oversight Board shall determine the average rate at which California personal income per capita has grown over the previous five years and shall apply that percentage rate of growth to the CETF funds that were distributed to LEAs and the Superintendent from the California Education Trust Fund in the fiscal year that just ended.

(B) For the 2017–18 fiscal year only, in order to make the transition from the temporary support funds provided by subdivision (a) of Section 14802.1 to full funding of K–12 schools and ECE programs, at the beginning of the fiscal year, the Fiscal Oversight Board shall determine the average rate at which California personal income per capita has grown over the previous five years and shall apply that percentage rate of growth to the product of 1.429 times the amount of CETF funds that were distributed to LEAs and the Superintendent from the California Education Trust Fund in the fiscal year that just ended.

(2) The amount determined pursuant to paragraph (1), minus actual costs pursuant to subdivision (b) of Section 14802, shall be deemed “available revenues” under Section 14804 and shall be available for distribution on a quarterly basis to LEAs and the Superintendent in the fiscal year then beginning.

(c) CETF funds that exceed available revenues shall be distributed at the end of the fiscal year pursuant to Section 14813.

(d) All CETF funds allocated to LEAs shall be spent by LEAs within one year of receipt; provided, however, that LEAs may carry over no more than 10 percent of these moneys for expenditure in the following school year. The Fiscal Oversight Board shall recapture any funds not expended within the original one-year period and any funds carried over but not spent within the following year. All funds that are recaptured shall be deemed available revenues, shall be combined with other available revenues, and shall be reallocated in accordance with Section 14804.

14804. (a) On a quarterly basis, the Controller shall draw warrants on and distribute 15 percent of the available revenues to the Superintendent for provision to early care and education programs and supports in the manner and amounts provided by Chapter 1.8 (commencing with Section 8160) of Part 6.

(b) On a quarterly basis, the Controller shall draw warrants on and distribute 85 percent of the available revenues to LEAs, earmarked for expenditure at each K–12 school within each LEA’s jurisdiction, in the amounts calculated by the Controller pursuant to Sections 14805 to 14807, inclusive.

(c) This section, and Sections 14802.1, 14803, 14805, 14806, and 14807, are self-executing and require no legislative action to take effect. Distribution of CETF funds and temporary

support funds shall not be delayed or otherwise affected by failure of the Legislature and the Governor to enact an annual Budget Bill pursuant to Section 12 of Article IV of the California Constitution, nor by any other action or inaction on the part of the Governor or the Legislature.

14805. Of the available revenues allocated for quarterly distribution to LEAs under subdivision (b) of Section 14804, the Controller shall distribute 70 percent as per-pupil educational program grants. The number and size of the educational program grants to be distributed to each LEA, and the number and size of the educational program grants to be earmarked for each K–12 school under the LEA’s jurisdiction, shall be as follows:

(a) The Controller shall establish a uniform, statewide per-pupil grant for each of the following three grade level groupings: kindergarten through 3rd grade, inclusive (the “K–3 grant”), 4th through 8th grade, inclusive (the “4–8 grant”), and 9th through 12th grade, inclusive (the “9–12 grant”).

(b) These uniform grants shall be based on total statewide enrollment in each of the three grade level groupings. The per-pupil 4–8 grant amount shall be 120 percent of the per-pupil K–3 grant amount, and the per-pupil 9–12 grant amount shall be 140 percent of the per-pupil K–3 grant amount.

(c) Each LEA shall receive the same number of K–3 grants as it has enrollment in kindergarten through 3rd grade, inclusive; the same number of 4–8 grants as it has enrollment in 4th through 8th grade, inclusive; and the same number of 9–12 grants as it has enrollment in 9th through 12th grade, inclusive.

(d) Each of these per-pupil grants shall be earmarked for the specific K–12 school whose enrollment gave rise to the LEA’s eligibility for that grant.

(e) The grade level adjustments provided in subdivisions (a) and (b) shall be the only deviation allowed in the equal per-pupil distribution of the educational program funds to all K–12 schools according to their enrollments.

14806. Of the available revenues allocated for quarterly distribution to LEAs under subdivision (b) of Section 14804, the Controller shall distribute 18 percent as low-income per-pupil grants. The number and size of the low-income per-pupil grants to be distributed to each eligible LEA, and the number and size of the low-income per-pupil grants to be earmarked for each K–12 school under the LEA’s jurisdiction, shall be as follows:

(a) Based on the total statewide enrollment of pupils in all K–12 schools who are identified as eligible for free meals under the Income Eligibility Guidelines established by the United States Department of Agriculture to implement the federal Richard B. Russell National School Lunch Act and the federal Child Nutrition Act of 1966 (“free meal eligible pupils”), the Controller shall establish a uniform, statewide per-pupil grant to provide additional educational support for these low-income pupils (“the low-income per-pupil grant”).

(b) Each LEA shall receive the same number of low-income per-pupil grants as it has free-meal-eligible pupils.

(c) Each of these low-income per-pupil grants shall be earmarked for the specific K–12 school whose free meal eligible pupil enrollment gave rise to the LEA’s eligibility for that grant.

14807. Of the available revenues allocated for quarterly

distribution to LEAs under subdivision (b) of Section 14804, the Controller shall distribute 12 percent for training, technology, and teaching materials grants on a per-pupil basis. The number and size of these grants to be distributed to each LEA, and the number and size of the grants to be earmarked for each K–12 school under the LEA’s jurisdiction, shall be as follows:

(a) Based on total statewide enrollment for all K–12 schools, the Controller shall establish a uniform, statewide per-pupil grant to support increased instructional skills for K–12 school staff and up-to-date technology and teaching materials (“training, technology, and teaching materials grants” or “3T grants”).

(b) Each LEA shall receive the same number of 3T grants as it has pupils, based on the LEA’s enrollment.

(c) Each of these per-pupil 3T grants shall be earmarked for the specific K–12 school whose enrollment gave rise to the LEA’s eligibility for that grant.

14808. (a) With the limited exceptions provided in paragraph (2) of subdivision (c), funds LEAs receive pursuant to Sections 14805, 14806, and 14807 shall be expended or encumbered only at the specific K–12 school for which they were earmarked pursuant to subdivision (d) of Section 14805, subdivision (c) of Section 14806, and subdivision (c) of Section 14807, respectively, and shall be used exclusively for purposes authorized by this section.

(b) Educational program and low-income pupil grants may be used for educational programs or, up to a total of 200 percent of any school’s 3T grants, for any purpose permitted for a 3T grant. 3T grants shall be spent exclusively for up-to-date teaching materials and technology and to strengthen skills of school staff in ways that improve pupils’ academic performance, graduation rates, and vocational, career, college, and life readiness.

(c) (1) Other than as specifically provided for in paragraph (2), all funds received pursuant to Sections 14805 to 14807, inclusive, shall be spent only for the direct provision of services or materials at K–12 schoolsites and shall not be spent on any service or material not physically delivered to the school or its pupils; nor for any full-time personnel who do not spend at least 90 percent of their compensated time physically present at the school or with the school’s pupils; nor for any personnel except to cover the amount of time the personnel are physically present at the school or with the school’s pupils; nor for any direct or indirect administrative costs incurred by the LEA.

(2) (A) The governing board of each LEA may withhold, on an equal percentage basis from each of the per-pupil grants it receives, an amount sufficient to cover its actual costs in complying with this part’s public meeting, audit, budget, and reporting requirements. Funds withheld for such purposes shall not exceed 2 percent of total grants received in any two-year period, an average of 1 percent per year.

(B) Costs of skills improvement programs provided off site to members of the school’s staff specifically to enhance their skills in providing services at the site or to the school’s pupils may be covered by these per-pupil grants, when the offsite provision of such services is more cost effective than onsite provision.

(d) No CETF funds shall be used to increase salary or benefits for any personnel or category of personnel beyond the

salary and benefits that were in place for those personnel or that category of personnel as of November 1, 2012; provided, however, that positions partially or totally funded by this act may receive from CETF funds salary and benefit increases adopted by a governing board and equivalent to increases being received by other like employees in the school on a proportional basis to their partial or full-time status.

14809. No later than 30 days following each quarterly allocation of CETF funds to LEAs, the Fiscal Oversight Board shall create a list of each LEA that received funds and the amount of funds earmarked for each school within that LEA under each of the funding categories specified in Sections 14805, 14806, and 14807. The board shall publish this list online at a suitable location, and the Superintendent shall publish a link to the online listing in a prominent spot on the home page of the Superintendent's Internet Web site.

14810. Neither the Legislature nor the Governor, nor any other state or local governmental body except the governing board of the LEA that has operational jurisdiction over a school, shall direct how CETF funds are used at that school. Each LEA's governing board shall have sole authority over that decision, subject, however, to the following:

(a) Each year the governing board, in person or through appropriate representatives, shall seek input, at an open public meeting with the school's parents, teachers, administrators, other school staff, and pupils, as appropriate (the "school community"), at or near that school's site, about how CETF funds will be used at that school and why.

(b) Following that meeting, the LEA or its appropriate representatives shall offer a written recommendation for use of CETF funds at a second open public meeting at or near the schoolsite at which the school community is given an opportunity to respond to the LEA's recommendation.

(c) The governing board shall ensure that, during the decisionmaking process regarding use of CETF funds, all members of the school community are provided an opportunity to submit input in writing or online.

(d) At the time it makes its decision about the use of the funds each year, the governing board shall explain, publicly and online, how its proposed expenditures of CETF funds will improve educational outcomes and how the board will determine whether those improved outcomes have been achieved.

14811. (a) As a condition of receiving any CETF funds, each LEA shall establish a separate account for the receipt and expenditure of those moneys, which account shall be clearly identified as the California Education Trust Fund account. Each LEA shall allocate and spend the funds in that account solely in accordance with Sections 14805 to 14808, inclusive.

(b) The independent financial and compliance audit required of school districts shall, in addition to all other requirements of law, ascertain and verify whether CETF funds have been properly disbursed and expended as required by this part. This requirement shall be added to the audit guide requirements for school districts and shall be part of the audit reports annually reviewed and monitored by the Controller pursuant to Section 14504.

(c) LEAs shall annually prepare and post on their Internet

Web sites, within 60 days after the close of each school year, a clear and transparent report of exactly how CETF funds were spent at each of the schools within their jurisdiction, what the goals for those expenditures were as relayed to the school community under Section 14810, and the extent to which they achieved the goals established. The Superintendent shall provide a link on his or her Internet Web site that enables community members and researchers to access all such reports statewide within two weeks after they are posted by LEAs.

14812. (a) Beginning with the 2012–13 school year, as a condition of receiving CETF funds, the governing board of each LEA that receives funds under this act shall create and publish online a budget for every school within the LEA's jurisdiction that compares actual funding and expenditures for that school from the prior fiscal year with the budgeted funding and expenditures for that school for the current fiscal year. The Internet Web site of the Superintendent shall provide a link enabling community members and researchers to access all such budgets statewide, for current and past years, dating back to the 2012–13 school year. The budget shall show the source and amount of all funds being spent at the school, including, but not limited to, funds provided under this act, and how each source category of funds is being spent. The budget shall be in a uniform format designed and approved by the Superintendent. Expenditures shall be reported overall per pupil and by average teacher salary, as well as by instruction, instructional support, administration, maintenance, and other important categories. The State Department of Education shall require and ensure that school districts and schools uniformly report expenditures by appropriate category and uniformly distinguish between school and school district expenditures. The budget shall also include personnel costs described by number, type, and seniority of personnel and use actual salary and benefit figures for employees at the school without any individual identifying information. Each K–12 school receiving money from the California Education Trust Fund shall also include these funds as a separate section in a single school plan that substantially meets the criteria of subdivisions (d), (f), and (h) of Section 64001.

(b) Allocations from the California Education Trust Fund are intended to provide pupils with additional support and programs beyond those currently provided from other state, local, and federal sources. Beginning in the 2013–14 fiscal year, LEAs shall make every reasonable effort to maintain, from funds other than those provided under this act, per-pupil expenditures at each of their schools at least equal to the 2012–13 fiscal year per-pupil expenditures, adjusted for changes in the cost of living. This shall be known as the "maintenance of effort target" for that school. The uniform schoolsite budget required by subdivision (a) shall include a clear statement of what the per-pupil expenditures were at that school in 2012–13 fiscal year from all fund sources other than those provided under this act, and a projection of what those expenditures would be for the current school year if the school had annually met its maintenance of effort target. If in any year an LEA cannot meet its maintenance of effort target for any of its schools, the LEA shall explain why in its schoolsite budget for that school and shall discuss that explanation at a public

meeting to be held at or near the schoolsite pursuant to Section 14810. At that meeting, officials from the LEA shall address why it is not possible to meet the maintenance of effort target for that particular school, and how the agency proposes to keep the failure to meet the target from having a negative impact on pupils and their families.

14813. (a) Funds allocated pursuant to subdivision (a) of Section 14802.1 and CETF funds that are determined by the Fiscal Oversight Board to exceed both available revenues and the board and Controller's actual reimbursable costs pursuant to Section 14803 shall be transferred on a quarterly basis by the Controller to the Education Debt Service Fund, which is hereby created in the State Treasury. Education Debt Service Fund moneys are held in trust and, notwithstanding Section 13340 of the Government Code, are continuously appropriated, without regard to fiscal years, for the exclusive purposes set forth in this section.

(b) Moneys in the Education Debt Service Fund shall be used solely to pay debt service on bonds, or to redeem or defease bonds, maturing in a subsequent fiscal year, that either (1) were or are issued by the state for the construction, reconstruction, rehabilitation, or replacement of pre-kindergarten through university school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for such school facilities ("school bonds"); or (2) to the limited extent permitted by subdivision (c), were or are issued by the state for children's hospital or other general obligation bonds.

(c) From moneys transferred to the Education Debt Service Fund, the Controller shall transfer, as an expenditure reduction to the General Fund, amounts necessary to offset the cost of current-year debt service payments made from the General Fund on school bonds, children's hospital, or other general obligation bonds, or to redeem or defease school bonds, children's hospital, or other general obligation bonds, as directed by the Director of Finance; provided, however, that no funds in the Education Debt Service Fund shall be used to offset the cost of current-year debt service payments on children's hospital or other general obligation bonds, or to redeem or defease children's hospital or other general obligation bonds, until and unless the Controller, at the direction of the Director of Finance, has first fully reimbursed the General Fund for the cost of current-year debt service payments on all outstanding school bonds. Funds so transferred shall not constitute General Fund proceeds of taxes appropriated pursuant to Article XIII B of the California Constitution, for purposes of Section 8 of Article XVI of the California Constitution.

14814. (a) No later than six months following the end of each fiscal year, the Fiscal Oversight Board shall cause an independent audit to be conducted of the California Education Trust Fund and shall submit to the Legislature and the Governor, and shall post prominently on the Internet Web site of the Fiscal Oversight Board, with a link to the report clearly displayed on the Superintendent's home page, both the full audit report and an easily understandable summary of the results of that audit. The report shall include an accounting of all proceeds of the personal tax increments established pursuant to Section 17041.1 of the Revenue and Taxation Code, all transfers of those

proceeds to the California Education Trust Fund, a listing of the amount of funds received from the California Education Trust Fund that fiscal year by each LEA and each school within that LEA's jurisdiction, and a summary, based on the reports required of all LEAs by subdivision (c) of Section 14811, showing the way each LEA used the funds at each of its schools and the results the LEA was seeking and achieved.

(b) The Superintendent, in consultation with the Fiscal Oversight Board, shall design and provide to each LEA and ECE provider a form or format for ensuring uniform reporting of the information required for the audit report.

(c) The costs of performing the annual audit, and of creating, distributing, and collecting the required reports, shall be determined by the Fiscal Oversight Board to ensure prudent use of funding while ensuring the intent of this act is carried out. Such costs shall be included within the items whose actual cost may be paid for by CETF funds pursuant to subdivision (b) of Section 14802.

(d) In the course of performing and reporting on the annual audit, the independent auditor shall promptly report to the Attorney General and the public any suspected allocation or use of funds in contravention of this act, whether by the Fiscal Oversight Board or its agents, or by any LEA.

(e) Every officer charged with the allocation or distribution of funds pursuant to Sections 14803, 14804, 14805, 14806, and 14807 who knowingly fails to allocate or distribute the funds to each LEA and each local school on a per-pupil basis as specified in those sections is guilty of a felony subject to prosecution by the Attorney General, or if he or she fails to act promptly, the district attorney of any county, pursuant to subdivision (b) of Section 425 of the Penal Code. The Attorney General, or if the Attorney General fails to act, the district attorney of any county, shall expeditiously investigate and may seek criminal penalties and immediate injunctive relief for any allocation or distribution of funds in contravention of Sections 14803, 14804, 14805, 14806, and 14807.

SEC. 5. Section 46305 of the Education Code is amended to read:

46305. Each elementary, high school, and unified school district, and each independent charter school, county office of education, and state-run school, shall report to the Superintendent of Public Instruction on forms prepared by the Department of Education in addition to all other attendance data as required, the active enrollment as of the third Wednesday of each school month and the actual attendance on the third Wednesday of each school month; except that if such day is a school holiday, the active enrollment and actual attendance of the first immediate preceding schoolday shall be reported. "Active enrollment" on a day a count is taken means the pupils in enrollment in the regular schooldays of the district on the first day of the school year on which the schools were in session, plus all later enrollees, minus all ~~withdrawals since that day~~ pupils who have not been in attendance for at least one day between the first day of the school year or the first schoolday immediately following the next preceding day for which a count was taken pursuant to this section, whichever is later, and the day the count is being taken, inclusive. The Superintendent may, as necessary, modify the collection dates or methodologies

in order to reduce any local educational agency's administrative duties in the implementation of this section.

SEC. 6. Chapter 1.8 (commencing with Section 8160) is added to Part 6 of Division 1 of Title 1 of the Education Code, to read:

CHAPTER 1.8. EARLY CHILDHOOD QUALITY IMPROVEMENT AND EXPANSION PROGRAM

Article 1. General Provisions

8160. The following definitions shall apply throughout this chapter:

(a) The terms "early care and education program" or "ECE program" mean any state-funded or state-subsidized preschool, child care, or other state-funded or state-subsidized early care and education program for children from birth to kindergarten eligibility, including but not limited to programs supported in whole or in part with funds from the California Children and Families Trust Fund. Where an ECE program is not funded exclusively with state funds, the term "ECE program" means that portion of the program that is state funded.

(b) The term "ECE provider" or "provider" means any person or agency legally authorized to deliver an ECE program.

(c) The term "take-up rates" means the degree to which ECE providers apply for and are granted program funding under the provisions of this chapter.

(d) The term "reimbursement rate" means the per-child payment ECE providers receive on behalf of eligible families from state funds to cover their costs in providing ECE services.

(e) The term "ECE funds" means the funds allocated to early care and education pursuant to Sections 14803 and 14804.

(f) The term "SAE funds" means funds set aside for strengthening and expanding ECE programs pursuant to subdivision (b) of Section 8161.

(g) The term "highly at-risk children" means children who are from low-income birth families, low-income foster families, or low-income group homes and who also (1) are in foster care or have been referred to Child Protective Services; (2) are the children of young parents who are themselves in foster care; or (3) are otherwise abused, neglected, or exploited, or probably in danger of being abused, neglected, or exploited, as shall be further defined by the Superintendent.

8161. ECE funds shall be allocated annually to the Superintendent to be used as follows:

(a) No more than 23 percent of the ECE funds shall be used as follows:

(1) Three hundred million dollars (\$300,000,000) for existing ECE programs to restore funding to fiscal year 2008–09 levels in proportion to reductions made to each ECE program in fiscal years 2009–10 through 2012–13, inclusive, subject to the following:

(A) Restoration shall apply equally to all types of reductions, whether accomplished by reduced child eligibility, reduced reimbursement rates, reduction in contract amounts, reduction in number of contracts let, or otherwise.

(B) To the extent the Superintendent is required to allocate funds to the State Department of Social Services or any successor agency to accomplish this restoration of funds, he or she shall do so.

(C) If the Superintendent and the State Department of Social Services jointly find that any funds cannot be restored due to shortfalls in take-up rates, those funds shall be used to increase the baseline quality reimbursement rates established pursuant to subdivision (b) of Section 8168.

(2) Five million dollars (\$5,000,000) to the Community Care Licensing Division of the State Department of Social Services, or any successor agency, to increase the frequency of licensing inspections of ECE providers beyond fiscal year 2011–12 levels under terms agreed upon by the Superintendent and the State Department of Social Services or any successor agency by no later than July 1, 2013.

(3) Up to ten million dollars (\$10,000,000) to develop and implement the database established pursuant to Section 8171 to track the educational progress of children who have participated in the state's ECE programs.

(4) Forty million dollars (\$40,000,000) to develop, implement, and maintain the Early Learning Quality Rating and Improvement System ("the QRIS system") established pursuant to Article 4 (commencing with Section 8167). Funds provided by this section shall not be used for increases in provider reimbursement rates or other provider compensation, but rather for the design, implementation, and evaluation of the system, for ECE provider assessment and skills development, for improving and expanding the ECE skills development programs offered by community colleges and other high-quality trainers, for data keeping and analysis, and for communication with the public about the quality levels being achieved by ECE providers.

(5) The amounts set forth in paragraphs (1) to (4), inclusive, shall be adjusted annually by the inflation adjustment calculated pursuant to subdivision (b) of Section 42238.1 as it read on the date of enactment of this section.

(6) In any year in which ECE funds are insufficient to cover the requirements of paragraphs (1), (3), and (4), the amounts required by those paragraphs shall be reduced pro rata.

(b) After allocating the restoration and system improvement funds provided in subdivision (a), the Superintendent shall use the remaining ECE funds, to be known as "the SAE funds" pursuant to subdivision (f) of Section 8160, to strengthen and expand ECE programs as set forth in this chapter.

(c) ECE funds allocated to the Superintendent shall be spent for the purposes provided in this chapter within one year of their receipt by the Superintendent. The Fiscal Oversight Board established pursuant to Section 14802 shall annually recover any unspent funds, and they shall again become part of the ECE funds, to be re-allocated pursuant to this chapter.

8162. (a) Except as may be required by federal law, any child's eligibility for any ECE program, including, but not limited to, any ECE program established, improved, or expanded with funds allocated under this chapter, shall be established once annually upon the child's enrollment in the program. Subsequent to enrollment, a child shall be deemed eligible to participate in the program for the remainder of the program year, and then may re-establish eligibility in subsequent years on an annual basis.

(b) Beginning in the 2013–14 fiscal year, the annual appropriation for ECE programs as a percentage of the General



*Fund shall not be reduced as a result of funds allocated pursuant to this act below the percentage of General Fund revenues appropriated for ECE programs in the 2012–13 fiscal year.*

8163. *The Superintendent shall allocate SAE funds as follows:*

(a) *Twenty-five percent of the SAE funds shall be allocated for the benefit of children aged birth to three years pursuant to this subdivision as follows:*

(1) *Up to 1 percent of the SAE funds shall be allocated to raise the reimbursement rate in contracted group care programs for children younger than 18 months of age to the baseline quality reimbursement rate established pursuant to subdivision (b) of Section 8168.*

(2) *Up to 2½ percent of the SAE funds, as take-up rates permit, shall be allocated to increase reimbursement rates above 2012–13 fiscal year rates through a supplement provided under the QRIS system for those ECE programs and providers serving children aged birth to three years that improve their quality standards under the QRIS system or demonstrate that they already meet a QRIS quality standard higher than the baseline quality standard established pursuant to subdivision (b) of Section 8168.*

(3) *Twenty-one and one-half percent of the SAE funds shall be allocated to the California Early Head Start program established pursuant to Article 2 (commencing with Section 8164). No less than 35 percent of the SAE funds allocated to the California Early Head Start program under this paragraph shall be used specifically for strengthening parents and other caregivers pursuant to subdivision (d) of Section 8164.*

(b) *Seventy-five percent of the SAE funds shall be used to expand and strengthen preschool programs for children of three to five years of age, as set forth in Article 3 (commencing with Section 8165).*

(c) *No more than 3 percent of the SAE funds shall be spent for administrative costs incurred at the state level.*

(d) *No more than 15 percent of the funding an ECE provider receives from SAE funds shall be used for re-purposing, renovation, development, maintenance or rent, and lease expense for an appropriate program facility. The Superintendent shall promulgate appropriate regulations to oversee and structure appropriate use of SAE funds for facilities.*

#### *Article 2. California Early Head Start Program*

8164. *Using the funds allocated pursuant to paragraph (3) of subdivision (a) of Section 8163, the Superintendent shall develop and implement the California Early Head Start program to expand care for children aged birth to three years as follows:*

(a) *The program shall be under the ongoing regulation and control of the Superintendent, but it shall be modeled on the federal Early Head Start program established pursuant to Section 9840a of Title 42 of the United States Code. In consultation with the Early Learning Advisory Council (ELAC) described in Section 8167, the Superintendent shall ensure that, at minimum, the California Early Head Start program complies with all content and quality standards and requirements in place as of November 2011, for the federal Early Head Start program. The Superintendent may adopt subsequent federal Early Head Start program standards and requirements at his or*

*her discretion.*

(b) *Funds used for the California Early Head Start program shall not be used to supplant money currently spent on any other state or federal program for children aged birth to three years.*

(c) *The Superintendent shall adopt the same eligibility standards used by the federal Early Head Start program as of November 2011; provided, however, that highest priority for enrollment shall go first to highly at-risk children as defined in paragraph (1) of subdivision (g) of Section 8160, then to highly at-risk children as defined in paragraph (2) of subdivision (g) of Section 8160, and then to highly at-risk children as defined in paragraph (3) of subdivision (g) of Section 8160.*

(d) *In addition to providing high-quality group care in licensed centers and family child care homes, the California Early Head Start program shall provide services to families and caregivers of children who are not enrolled in a California Early Head Start group care setting. These services shall be designed to strengthen the capacity of parents and caregivers of children aged birth to three years to improve the care, education, and health of very young children both in group care settings and at home. Services may include any of those that may be offered to families of federal or California Early Head Start group care enrollees, including but not limited to voluntary home visits, early developmental screenings and interventions, family and caregiver literacy programs, and parent and caregiver trainings. Among programs provided to caregivers pursuant to this subdivision, priority shall go to programs for license-exempt family, friend, and neighbor providers.*

(e) *In consultation with ELAC, the Superintendent shall establish quality standards for the services provided under subdivision (d), incorporating the standards and training regimens of the federal Early Head Start program. The Superintendent shall coordinate with other public agencies that operate similar programs to ensure uniform standards across these programs.*

(f) *California Early Head Start funds may be used to expand the number of children served by existing ECE programs for children aged birth to three years, provided that the programs meet the quality standards described in subdivisions (a) and (e) and the children served meet the eligibility criteria of subdivision (c).*

(g) *At least 75 percent of the group care spaces created statewide with California Early Head Start funds shall provide full-day, full-year care.*

#### *Article 3. Strengthening and Expanding Preschool Programs*

8165. (a) *SAE funds allocated to strengthen and expand preschool programs for three-to-five-year olds pursuant to subdivision (b) of Section 8163 shall be allocated as follows:*

(1) *Up to 8 percent of SAE funds, as take-up rates permit, to increase reimbursement rates above 2012–13 fiscal year rates through a supplement provided under the QRIS system for those ECE programs and providers serving children three to five years of age that improve their quality standards under the QRIS system or demonstrate that they already meet a QRIS quality standard higher than the baseline quality standard established pursuant to subdivision (b) of Section 8168.*

(2) *The remainder, no less than 67 percent of all SAE funds, shall be used to expand the number of children served by high-quality preschool programs for three- to five year olds in licensed or K–12 based programs that meet the two highest quality ratings established under the QRIS system. Until the statewide QRIS is established and able to assess the quality of significant numbers of programs, the Superintendent may issue temporary regulations authorizing use of the expansion funds described in this subdivision for programs otherwise shown to meet high-quality standards, including but not limited to programs having ratings in the top two tiers of pre-existing local or regional QRIS systems, programs with nationally recognized quality accreditations, or programs meeting the quality standards applicable to transitional kindergarten. QRIS program standards shall be established and publicly available no later than January 1, 2014. Providers qualified under the Superintendent’s temporary regulations shall receive priority for evaluation under the new system. The temporary regulations shall sunset on January 1, 2015, and the provisionally certified providers shall then, to retain funding, be qualified under the established QRIS program standards by no later than January 1, 2017.*

(3) *At least 65 percent of the new spaces created statewide pursuant to paragraph (2), shall be full-day, full-year spaces, which may be created solely through this chapter or by combining funding from two or more sources to create a combined schoolday, after school, and summer enrichment program.*

(b) *Children shall be deemed to be “three to five years of age” and thus eligible for programs funded pursuant to paragraph (2) of subdivision (a), if they are three or four years old as of September 1 of the school year in which they are enrolled in the programs and are not yet eligible to attend kindergarten.*

8166. (a) *Using data from the United States Census Bureau, the Superintendent shall disburse the funds allocated pursuant to paragraph (2) of subdivision (a) of Section 8165 (the “preschool expansion funds”) according to an income-ordered list of all California neighborhoods, starting with the lowest income neighborhood and progressing as far up the list of neighborhoods by income as the preschool expansion funds permit, as follows:*

(1) *The Superintendent shall create a neighborhood list based on median household income and on neighborhoods as defined by ZIP Codes or an equivalent geographic unit. Throughout this section, the term “neighborhood” means a ZIP Code or equivalent geographic unit included in the neighborhood list. Using available data on ECE availability, the Superintendent shall identify annually the neighborhoods and school districts within which children live who are age-eligible for preschool expansion funds and who do not currently have access to an ECE program or a transitional kindergarten program.*

(2) *For each ZIP Code or equivalent geographic unit, the Superintendent shall determine the number of eligible, unserved children and inform the school district, the licensed Family Child Care Home Education Networks (“licensed networks”), the licensed center-based ECE providers, and the providers of federal Head Start or other federal ECE programs (“federal*

*providers”) operating within the ZIP Code or equivalent geographic unit that they are eligible to expand their programs to serve these children, and solicit applications from them for preschool expansion funding. To be eligible for funding, applicants shall be able and willing to serve the eligible children for whom they are applying in the first school year following notification of eligibility.*

(3) *Licensed networks, licensed center-based ECE programs, and federal providers operating within the ZIP Code or other geographic unit shall have priority if there are duplicate applications for the same eligibility. By awarding priority to joint applications, the Superintendent shall encourage school districts, licensed networks, licensed center-based ECE providers, and federal providers in eligible areas to cooperate in a joint application that maximizes the strengths of all programs and minimizes disputes. If the eligible school district, the eligible networks, the eligible center-based programs, and the federal providers are all unable or decline to serve children they are eligible to serve, or any of them, the Superintendent shall request proposals from alternative qualified local educational agencies, licensed networks, licensed center-based ECE providers, and federal providers to serve the eligible children. In seeking alternative qualified providers, the Superintendent shall communicate, specifically but without limitation, with alternative payment providers working in the county where the eligible children reside.*

(4) *Attendance at preschool, including preschool programs established or expanded pursuant to this chapter, is voluntary. Unfilled spaces that have been offered in any ZIP Code or equivalent geographic unit for three consecutive years, with effective outreach throughout the eligible community, but have still not been filled, may be deemed declined, and may be offered to the next highest income neighborhood on the neighborhood list.*

(5) *At least once every five years, the Superintendent shall review which spaces have been deemed declined and shall restore lost eligibility to any neighborhood to the extent changed conditions indicate that the spaces would now be filled.*

(b) *Children will be eligible to attend programs funded with preschool expansion funds upon proving either that they reside in an eligible ZIP Code or equivalent geographic unit or that their families meet the income eligibility requirements of any existing means-tested ECE program; provided, however, that highest priority for enrollment shall go first to highly at-risk children as defined in paragraph (1) of subdivision (g) of Section 8160, then to highly at-risk children as defined in paragraph (2) of that subdivision, and then to highly at-risk children as defined in paragraph (3) of that subdivision.*

#### Article 4. California Early Learning Quality Rating and Improvement System

8167. *As used in this article, the term “Early Learning Advisory Council” (ELAC) means the Early Learning Advisory Council established pursuant to Executive Order S-23-09 or any successor agency.*

8168. (a) *Taking into consideration the report and recommendations prepared by the California Early Learning Quality Improvement System Advisory Committee in 2010, the Superintendent, in consultation with ELAC, shall develop and*

implement an Early Learning Quality Rating and Improvement System (QRIS system) by no later than January 1, 2014, that includes all of the following:

(1) A voluntary quality rating scale available to all ECE programs, including preschool, that serve children from birth to five years of age, inclusive, including preschool age children, infants, and toddlers. The quality rating scale shall give highest priority to those features of ECE programs that have been demonstrated to contribute most effectively to young children's healthy social and emotional development and readiness for success in school.

(2) A voluntary assessment and skills-development program to help ECE providers increase the quality ratings of their programs under the QRIS system.

(3) A method for increasing reimbursement rates above 2011–12 fiscal year rates through a supplement provided for ECE programs and providers that improve their ratings or verify that they already meet higher ratings standards under the QRIS system.

(4) A means by which parents and caregivers receive accurate information about the quality and type of program in which their children are enrolled or may be enrolled, including prompt publication of the quality ratings of programs and providers conducted pursuant to the QRIS system.

(b) The Superintendent, in consultation with ELAC, shall also establish baseline quality reimbursement rates that are sufficient to cover the cost of providing ECE programs at the quality standards applicable to those programs under the laws and regulations that governed those programs as of November 1, 2012 (the "baseline quality reimbursement rate"). If any current reimbursement rate is below the baseline quality reimbursement rate, the Superintendent may use any funds available under subparagraph (C) of paragraph (1) of subdivision (a) of Section 8161, or for programs for children younger than 18 months, the funds available under paragraph (1) of subdivision (a) of Section 8163, to increase that reimbursement rate.

8169. (a) ELAC and the Superintendent shall collaborate with local planning councils, the First 5 California Commission, and each county First 5 commission to develop and oversee the QRIS, the California Early Head Start program, and preschool expansion programs established pursuant to Article 2 (commencing with Section 8164), Article 3 (commencing with Section 8165), and this article. These persons and entities shall work together to utilize local, state, federal, and private resources, including resources available pursuant to the California Children and Families Act of 1998 (Division 108 (commencing with Section 130100) of the Health and Safety Code), as part of a comprehensive effort to advance the efficiency, educational and developmental effectiveness, and community responsiveness of the ECE system.

(b) ELAC shall hold at least one joint public meeting each year in each region of the state with the region's local planning councils and the region's county First 5 commissions (alternatively known as California Children and Families Commissions) to receive public input and report on the progress of the programs established pursuant to this act.

(c) Funds provided under paragraph (4) of subdivision (a) of

Section 8161 may be used to fund the collaboration and convening activities required by this section.

8170. (a) The Superintendent shall account for moneys received pursuant to this chapter separately from all other moneys received or spent and shall, within 90 days after the close of each fiscal year, prepare an annual report that lists the ECE programs that received funding with their quality ratings as available; the amounts each program received; the number of children they served; the types of services the children received; and the child outcomes achieved as available. The Superintendent shall post the report as soon as it is prepared on the Superintendent's Internet Web site and provide a link to it on his or her home page. The report shall be included in the report issued pursuant to Section 8236.1. The Fiscal Oversight Board shall verify the contents of the report and include it in the annual audit report required by subdivision (a) of Section 14814.

(b) The Superintendent shall also do all of the following:

(1) Monitor the award of contracts to ensure that ECE providers meet quality standards.

(2) Ensure uniform financial reporting and independent annual audits for all ECE providers receiving funds under this chapter.

(3) Receive, investigate, and act upon complaints regarding any aspect of the programs established pursuant to this chapter.

8171. (a) By no later than July 1, 2014, the Superintendent shall ensure that every child aged birth to five years who participates in an ECE program is assigned a unique identifier that is recorded and maintained as part of a statewide Early Education Services Database.

(b) The Early Education Services Database shall be an integral part of the California Longitudinal Pupil Achievement Data System (CALPADS), or any successor pupil-level data system that can trace a child's educational path from birth to 18 years of age, so that any child's full educational history, including ECE participation, will be automatically accessible through the child's unique identifier.

(c) At a minimum, the Early Education Services Database shall include all of the following for each child:

(1) The child's ZIP Code of residence each year.

(2) What ECE services the child received each year, such as whether the child attended a full or part-day program.

(3) The setting in which the ECE services were delivered.

(4) The agency that delivered the ECE services.

(5) The QRIS rating and any other quality rating available for that ECE provider.

(6) The child's kindergarten-readiness assessment, if available, including, but not limited to, the child's primary home language, level of fluency, and whether the child was screened for early intervention.

(d) CALPADS shall be reimbursed for its actual cost of implementing this section, up to the annual amount allocated in paragraph (3) of subdivision (a) of Section 8161.

8172. The Superintendent shall issue regulations, including emergency regulations, in order to implement this chapter.

SEC. 7. Section 425 of the Penal Code is amended to read:

425. (a) Every officer charged with the receipt, safe

keeping, or disbursement of public moneys, who neglects or fails to keep and pay over the same in the manner prescribed by law, is guilty of a felony.

(b) Every officer charged with the allocation or distribution of funds pursuant to Sections 14803, 14804, 14805, 14806, and 14807 of the Education Code who knowingly fails to allocate or distribute the funds to each local educational agency or each local school on a per-pupil basis as specified in those sections is guilty of a felony, subject to prosecution by the Attorney General or, if he or she fails to act promptly, the district attorney of any county. The Attorney General or, if the Attorney General fails to act, the district attorney of any county, shall expeditiously investigate and may seek criminal penalties and immediate injunctive relief for any allocation or distribution of funds in contravention of Sections 14803, 14804, 14805, 14806, and 14807 of the Education Code. Any person guilty of violating this subdivision shall be punished pursuant to Section 18 and shall be disqualified from holding any office in this state.

SEC. 8. Section 17041.1 is added to the Revenue and Taxation Code, to read:

17041.1. (a) For each taxable year beginning on or after January 1, 2013, in addition to any other taxes imposed by this part, an additional tax is hereby imposed on the taxable income of any taxpayer whose tax is computed under subdivision (a) of Section 17041 to support the California Education Trust Fund. The additional tax for taxable years beginning on or after January 1, 2013 and before January 1, 2014 shall be computed based on the following rate table, with the tax brackets adjusted as provided by subdivision (h) of Section 17041 for the changes in the California Consumer Price Index between 2011 and 2013:

If the taxable income is:	The additional tax on taxable income is:
Not over \$7,316	0
Over \$7,316 but not over \$17,346	0.4% of the excess over \$7,316
Over \$17,346 but not over \$27,377	\$40 plus 0.7% of the excess over \$17,346
Over \$27,377 but not over \$38,004	\$110 plus 1.1% of the excess over \$27,377
Over \$38,004 but not over \$48,029	\$227 plus 1.4% of the excess over \$38,004
Over \$48,029 but not over \$100,000	\$368 plus 1.6% of the excess over \$48,029
Over \$100,000 but not over \$250,000	\$1,199 plus 1.8% of the excess over \$100,000
Over \$250,000 but not over \$500,000	\$3,899 plus 1.9% of the excess over \$250,000
Over \$500,000 but not over \$1,000,000	\$8,649 plus 2.0% of the excess over \$500,000
Over \$1,000,000 but not over \$2,500,000	\$18,649 plus 2.1% of the excess over \$1,000,000
Over \$2,500,000	\$50,149 plus 2.2% of the excess over \$2,500,000

(b) For each taxable year beginning on or after January 1, 2013, in addition to any other taxes imposed by this part, an additional tax is hereby imposed on the taxable income of any taxpayer whose tax is computed under subdivision (c) of Section 17041 to support the California Education Trust Fund. The additional tax for taxable years beginning on or after January 1, 2013, and before January 1, 2014, shall be computed based on the following rate table, with the tax brackets adjusted as provided by subdivision (h) of Section 17041 for the changes in the California Consumer Price Index between 2011 and 2013:

If the taxable income is:	The additional tax on taxable income is:
Not over \$14,642	0%
Over \$14,642 but not over \$34,692	0.4% of the excess over \$14,642
Over \$34,692 but not over \$44,721	\$80 plus 0.7% of the excess over \$34,692
Over \$44,721 but not over \$55,348	\$150 plus 1.1% of the excess over \$44,721
Over \$55,348 but not over \$65,376	\$267 plus 1.4% of the excess over \$55,348
Over \$65,376 but not over \$136,118	\$408 plus 1.6% of the excess over \$65,376
Over \$136,118 but not over \$340,294	\$1,540 plus 1.8% of the excess over \$136,118
Over \$340,294 but not over \$680,589	\$5,215 plus 1.9% of the excess over \$340,294
Over \$680,589 but not over \$1,361,178	\$11,680 plus 2.0% of the excess over \$680,589
Over \$1,361,178 but not over \$3,402,944	\$25,292 plus 2.1% of the excess over \$1,361,178
Over \$3,402,944	\$68,169 plus 2.2% of the excess over \$3,402,944

(c) For taxable years beginning on or after January 1, 2014, the additional tax imposed under this section shall be computed based on the tax rate tables described in subdivisions (a) and (b), with the brackets in effect for taxable years beginning on or after January 1, 2013, and before January 1, 2014, adjusted annually as provided by subdivision (h) of Section 17041 for the change in the California Consumer Price Index.

(d) Except as provided in subdivisions (e) and (f), the additional tax imposed under this section shall be deemed to be a tax imposed under Section 17041 for purposes of all other provisions of this code, including Section 17045 or any successor provision relating to joint returns.

(e) The estimated amount of revenues, less refunds, derived from the additional tax imposed under this section shall be deposited on a monthly basis in the California Education Trust Fund, established by Section 14801 of the Education Code, in a manner that corresponds to the process set forth in Section 19602.5 of this code and is established by regulation by the Franchise Tax Board, based on the additional tax imposed under this section, no later than December 1, 2012. The adoption, amendment, or repeal of a regulation authorized by

*this section is hereby exempted from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).*

*(f) Notwithstanding Section 13340 of the Government Code, the California Education Trust Fund is hereby continuously appropriated, without regard to fiscal year, solely for the funding of the Our Children, Our Future: Local Schools and Early Education Investment and Bond Debt Reduction Act.*

*(g) The additional tax imposed under this section does not apply to any taxable year beginning on or after January 1, 2025, except as may otherwise be provided in a measure that extends the Our Children, Our Future: Local Schools and Early Education Investment and Bond Debt Reduction Act and is approved by the electorate at a statewide election held on or before the first Tuesday after the first Monday in November of 2024.*

SEC. 9. Section 19602 of the Revenue and Taxation Code is amended to read:

19602. Except for amounts collected or accrued under Sections 17935, 17941, 17948, 19532, and 19561, ~~and~~ revenues deposited pursuant to Section 19602.5, *and revenues collected pursuant to Section 17041.1*, all moneys and remittances received by the Franchise Tax Board as amounts imposed under Part 10 (commencing with Section 17001), and related penalties, additions to tax, and interest imposed under this part, shall be deposited, after clearance of remittances, in the State Treasury and credited to the Personal Income Tax Fund.

SEC. 10. Severability.

The provisions of this act are meant to be severable. If any of the provisions of this measure or the applicability of any provision of this measure to any person or circumstances shall be found to be unconstitutional or otherwise invalid, that finding shall not affect the remaining provisions of the act or the application of this measure to other persons or circumstances.

SEC. 11. Conflicting Initiatives.

(a) In the event that this measure and another measure or measures amending the California personal income tax rate for any taxpayer or group of taxpayers, or amending the rate of tax imposed on retailers for the privilege of selling tangible personal property at retail, or amending the rate of excise tax imposed on the storage, use or other consumption in this state of tangible personal property purchased from any retailer for storage, use or other consumption in this state, shall appear on the same statewide election ballot, the rate-amending provisions of the other measure or measures and all provisions of that measure that are funded by its rate-amending provisions, shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than any such other measure, the rate-amending provisions of the other measure, and all provisions of that measure that are funded by its rate-amending provisions, shall be null and void, and the provisions of this measure shall prevail instead.

(b) Conflicts between other provisions not subject to subdivision (a) shall be resolved pursuant to subdivision (b) of Section 10 of Article II of the California Constitution.

SEC. 12. Amendments.

This act may not be amended except by majority vote of the people in a statewide general election.

SEC. 13. Effective Dates and Expiration.

(a) This measure shall be effective the day after its enactment. Operative dates for the various provisions of this measure shall be those set forth in the act.

(b) The tax imposed by subdivisions (a) and (b) of Section 17041.1 of the Revenue and Taxation Code added pursuant to this act shall cease to be operative and shall expire on December 31, 2024, unless the voters, by majority vote, approve the extension of the act at a statewide election held on or before the first Tuesday after the first Monday in November, 2024.

**PROPOSITION 39**

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends, repeals, and adds sections to the Public Resources Code and the Revenue and Taxation Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

**PROPOSED LAW**

THE CALIFORNIA CLEAN ENERGY JOBS ACT

SECTION 1. The people of the State of California do hereby find and declare all of the following:

(1) California is suffering from a devastating recession that has thrown more than a million Californians out of work.

(2) Current tax law both discourages multistate companies from locating jobs in California, and puts job-creating California companies at a competitive disadvantage.

(3) To address this problem, most other states have changed their laws to tax multistate companies on the percent of sales in that state, a tax approach referred to as the “single sales factor.”

(4) If California were to adopt the single sales factor approach, the independent Legislative Analyst’s Office estimates that state revenues would increase by as much as \$1.1 billion per year and create a net gain of 40,000 California jobs.

(5) In addition, by dedicating a portion of increased revenue to job creation in the energy efficiency and clean energy sectors, California can create tens of thousands of additional jobs right away, reducing unemployment, improving our economy, and saving taxpayers money on energy.

(6) Additional revenue would be available to public schools consistent with current California law.

SEC. 2. Division 16.3 (commencing with Section 26200) is added to the Public Resources Code, to read:

*DIVISION 16.3. CLEAN ENERGY JOB CREATION*

*CHAPTER 1. GENERAL PROVISIONS*

*26200. This division shall be known and may be cited as the California Clean Energy Jobs Act.*

*26201. This division has the following objectives:*

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(a) Create good-paying energy efficiency and clean energy jobs in California.

(b) Put Californians to work repairing and updating schools and public buildings to improve their energy efficiency and make other clean energy improvements that create jobs and save energy and money.

(c) Promote the creation of new private sector jobs improving the energy efficiency of commercial and residential buildings.

(d) Achieve the maximum amount of job creation and energy benefits with available funds.

(e) Supplement, complement, and leverage existing energy efficiency and clean energy programs to create increased economic and energy benefits for California in coordination with the California Energy Commission and the California Public Utilities Commission.

(f) Provide a full public accounting of all money spent and jobs and benefits achieved so the programs and projects funded pursuant to this division can be reviewed and evaluated.

CHAPTER 2. CLEAN ENERGY JOB CREATION FUND

26205. The Clean Energy Job Creation Fund is hereby created in the State Treasury. Except as provided in Section 26208, the sum of five hundred fifty million dollars (\$550,000,000) shall be transferred from the General Fund to the Job Creation Fund in fiscal years 2013–14, 2014–15, 2015–16, 2016–17, and 2017–18. Moneys in the fund shall be available for appropriation for the purpose of funding projects that create jobs in California improving energy efficiency and expanding clean energy generation, including all of the following:

(a) Schools and public facilities:

(1) Public schools: Energy efficiency retrofits and clean energy installations, along with related improvements and repairs that contribute to reduced operating costs and improved health and safety conditions, on public schools.

(2) Universities and colleges: Energy efficiency retrofits, clean energy installations, and other energy system improvements to reduce costs and achieve energy and environmental benefits.

(3) Other public buildings and facilities: Financial and technical assistance including revolving loan funds, reduced interest loans, or other financial assistance for cost-effective energy efficiency retrofits and clean energy installations on public facilities.

(b) Job training and workforce development: Funding to the California Conservation Corps, Certified Community Conservation Corps, YouthBuild, and other existing workforce development programs to train and employ disadvantaged youth, veterans, and others on energy efficiency and clean energy projects.

(c) Public-private partnerships: Assistance to local governments in establishing and implementing Property Assessed Clean Energy (PACE) programs or similar financial and technical assistance for cost-effective retrofits that include repayment requirements. Funding shall be prioritized to maximize job creation, energy savings, and geographical and economic equity. Where feasible, repayment revenues shall be

used to create revolving loan funds or similar ongoing financial assistance programs to continue job creation benefits.

26206. The following criteria apply to all expenditures from the Job Creation Fund:

(a) Project selection and oversight shall be managed by existing state and local government agencies with expertise in managing energy projects and programs.

(b) All projects shall be selected based on in-state job creation and energy benefits for each project type.

(c) All projects shall be cost effective: total benefits shall be greater than project costs over time. Project selection may include consideration of non-energy benefits, such as health and safety, in addition to energy benefits.

(d) All projects shall require contracts that identify the project specifications, costs, and projected energy savings.

(e) All projects shall be subject to audit.

(f) Program overhead costs shall not exceed 4 percent of total funding.

(g) Funds shall be appropriated only to agencies with established expertise in managing energy projects and programs.

(h) All programs shall be coordinated with the California Energy Commission and the California Public Utilities Commission to avoid duplication and maximize leverage of existing energy efficiency and clean energy efforts.

(i) Eligible expenditures include costs associated with technical assistance, and with reducing project costs and delays, such as development and implementation of processes that reduce the costs of design, permitting or financing, or other barriers to project completion and job creation.

26208. If the Department of Finance and the Legislative Analyst jointly determine that the estimated annual increase in revenues as a result of the amendment, addition, or repeal of Sections 25128, 25128.5, 25128.7, and 25136 of the Revenue and Taxation Code is less than one billion one hundred million dollars (\$1,100,000,000), the amount transferred to the Job Creation Fund shall be decreased to an amount equal to one-half of the estimated annual increase in revenues.

CHAPTER 3. ACCOUNTABILITY, INDEPENDENT AUDITS, PUBLIC DISCLOSURE

26210. (a) The Citizens Oversight Board is hereby created.

(b) The board shall be composed of nine members: three members shall be appointed by the Treasurer, three members by the Controller, and three members by the Attorney General. Each appointing office shall appoint one member who meets each of the following criteria:

(1) An engineer, architect, or other professional with knowledge and expertise in building construction or design.

(2) An accountant, economist, or other professional with knowledge and expertise in evaluating financial transactions and program cost-effectiveness.

(3) A technical expert in energy efficiency, clean energy, or energy systems and programs.

(c) The California Public Utilities Commission and the California Energy Commission shall each designate an ex officio member to serve on the board.

(d) The board shall do all of the following:

(1) Annually review all expenditures from the Job Creation Fund.

(2) Commission and review an annual independent audit of the Job Creation Fund and of a selection of projects completed to assess the effectiveness of the expenditures in meeting the objectives of this division.

(3) Publish a complete accounting of all expenditures each year, posting the information on a publicly accessible Internet Web site.

(4) Submit an evaluation of the program to the Legislature identifying any changes needed to meet the objectives of this division.

CHAPTER 4. DEFINITIONS

26220. The following definitions apply to this division:

(a) "Clean energy" means a device or technology that meets the definition of "renewable energy" in Section 26003, or that contributes to improved energy management or efficiency.

(b) "Board" means the Citizens Oversight Board established in Section 26210.

(c) "Job Creation Fund" means the Clean Energy Job Creation Fund established in Section 26205.

(d) "Program overhead costs" include staffing for state agency development and management of funding programs pursuant to this division, but excluding technical assistance, evaluation, measurement, and validation, or costs related to increasing project efficiency or performance, and costs related to local implementation.

SEC. 3. Section 23101 of the Revenue and Taxation Code is amended to read:

23101. (a) "Doing business" means actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

(b) For taxable years beginning on or after January 1, 2011, a taxpayer is doing business in this state for a taxable year if any of the following conditions has been satisfied:

(1) The taxpayer is organized or commercially domiciled in this state.

(2) Sales, as defined in subdivision (e) or (f) of Section 25120 as applicable for the taxable year, of the taxpayer in this state exceed the lesser of five hundred thousand dollars (\$500,000) or 25 percent of the taxpayer's total sales. For purposes of this paragraph, sales of the taxpayer include sales by an agent or independent contractor of the taxpayer. For purposes of this paragraph, sales in this state shall be determined using the rules for assigning sales under ~~Section~~ Sections 25135 and subdivision (b) of Section 25136, and the regulations thereunder, as modified by regulations under Section 25137.

(3) The real property and tangible personal property of the taxpayer in this state exceed the lesser of fifty thousand dollars (\$50,000) or 25 percent of the taxpayer's total real property and tangible personal property. The value of real and tangible personal property and the determination of whether property is in this state shall be determined using the rules contained in Sections 25129 to 25131, inclusive, and the regulations thereunder, as modified by regulation under Section 25137.

(4) The amount paid in this state by the taxpayer for compensation, as defined in subdivision (c) of Section 25120,

exceeds the lesser of fifty thousand dollars (\$50,000) or 25 percent of the total compensation paid by the taxpayer. Compensation in this state shall be determined using the rules for assigning payroll contained in Section 25133 and the regulations thereunder, as modified by regulations under Section 25137.

(c) (1) The Franchise Tax Board shall annually revise the amounts in paragraphs (2), (3), and (4) of subdivision (b) in accordance with subdivision (h) of Section 17041.

(2) For purposes of the adjustment required by paragraph (1), subdivision (h) of Section 17041 shall be applied by substituting "2012" in lieu of "1988."

(d) The sales, property, and payroll of the taxpayer include the taxpayer's pro rata or distributive share of pass-through entities. For purposes of this subdivision, "pass-through entities" means a partnership or an "S" corporation.

SEC. 4. Section 25128 of the Revenue and Taxation Code is amended to read:

25128. (a) Notwithstanding Section 38006, for taxable years beginning before January 1, 2013, all business income shall be apportioned to this state by multiplying the business income by a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is four, except as provided in subdivision (b) or (c).

(b) If an apportioning trade or business derives more than 50 percent of its "gross business receipts" from conducting one or more qualified business activities, all business income of the apportioning trade or business shall be apportioned to this state by multiplying business income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

(c) For purposes of this section, a "qualified business activity" means the following:

- (1) An agricultural business activity.
- (2) An extractive business activity.
- (3) A savings and loan activity.
- (4) A banking or financial business activity.
- (d) For purposes of this section:

(1) "Gross business receipts" means gross receipts described in subdivision (e) or (f) of Section 25120 (other than gross receipts from sales or other transactions within an apportioning trade or business between members of a group of corporations whose income and apportionment factors are required to be included in a combined report under Section 25101, limited, if applicable, by Section 25110), whether or not the receipts are excluded from the sales factor by operation of Section 25137.

(2) "Agricultural business activity" means activities relating to any stock, dairy, poultry, fruit, fur bearing animal, or truck farm, plantation, ranch, nursery, or range. "Agricultural business activity" also includes activities relating to cultivating the soil or raising or harvesting any agricultural or horticultural commodity, including, but not limited to, the raising, shearing, feeding, caring for, training, or management of animals on a farm as well as the handling, drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or

operator of the farm regularly produces more than one-half of the commodity so treated.

(3) “Extractive business activity” means activities relating to the production, refining, or processing of oil, natural gas, or mineral ore.

(4) “Savings and loan activity” means any activities performed by savings and loan associations or savings banks which have been chartered by federal or state law.

(5) “Banking or financial business activity” means activities attributable to dealings in money or moneyed capital in substantial competition with the business of national banks.

(6) “Apportioning trade or business” means a distinct trade or business whose business income is required to be apportioned under Sections 25101 and 25120, limited, if applicable, by Section 25110, using the same denominator for each of the applicable payroll, property, and sales factors.

(7) Paragraph (4) of subdivision (c) shall apply only if the Franchise Tax Board adopts the Proposed Multistate Tax Commission Formula for the Uniform Apportionment of Net Income from Financial Institutions, or its substantial equivalent, and shall become operative upon the same operative date as the adopted formula.

(8) In any case where the income and apportionment factors of two or more savings associations or corporations are required to be included in a combined report under Section 25101, limited, if applicable, by Section 25110, both of the following shall apply:

(A) The application of the more than 50 percent test of subdivision (b) shall be made with respect to the “gross business receipts” of the entire apportioning trade or business of the group.

(B) The entire business income of the group shall be apportioned in accordance with either subdivision (a) or (b), or ~~subdivision (b) of Section 25128.5; Section 25128.5 or 25128.7,~~ as applicable.

SEC. 5. Section 25128.5 of the Revenue and Taxation Code is amended to read:

25128.5. (a) Notwithstanding Section 38006, for taxable years beginning on or after January 1, 2011, *and before January 1, 2013*, any apportioning trade or business, other than an apportioning trade or business described in subdivision (b) of Section 25128, may make an irrevocable annual election on an original timely filed return, in the manner and form prescribed by the Franchise Tax Board to apportion its income in accordance with this section, and not in accordance with Section 25128.

(b) Notwithstanding Section 38006, for taxable years beginning on or after January 1, 2011, *and before January 1, 2013*, all business income of an apportioning trade or business making an election described in subdivision (a) shall be apportioned to this state by multiplying the business income by the sales factor.

(c) The Franchise Tax Board is authorized to issue regulations necessary or appropriate regarding the making of an election under this section, including regulations that are consistent with rules prescribed for making an election under Section 25113.

(d) *This section shall not apply to taxable years beginning on*

*or after January 1, 2013, and as of December 1, 2013, is repealed.*

SEC. 6. Section 25128.7 is added to the Revenue and Taxation Code, to read:

25128.7. *Notwithstanding Section 38006, for taxable years beginning on or after January 1, 2013, all business income of an apportioning trade or business, other than an apportioning trade or business described in subdivision (b) of Section 25128, shall be apportioned to this state by multiplying the business income by the sales factor.*

SEC. 7. Section 25136 of the Revenue and Taxation Code is amended to read:

25136. (a) For taxable years beginning before January 1, 2011, and for taxable years beginning on or after January 1, 2011, *and before January 1, 2013*, for which Section 25128.5 is operative and an election under subdivision (a) of Section 25128.5 has not been made, sales, other than sales of tangible personal property, are in this state if:

(1) The income-producing activity is performed in this state; or

(2) The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(3) This subdivision shall apply, and subdivision (b) shall not apply, for any taxable year beginning on or after January 1, 2011, *and before January 1, 2013*, for which Section 25128.5 is not operative for any taxpayer subject to the tax imposed under this part.

(b) For taxable years beginning on or after January 1, 2011, *and before January 1, 2013*:

(1) Sales from services are in this state to the extent the purchaser of the service received the benefit of the service in this state.

(2) Sales from intangible property are in this state to the extent the property is used in this state. In the case of marketable securities, sales are in this state if the customer is in this state.

(3) Sales from the sale, lease, rental, or licensing of real property are in this state if the real property is located in this state.

(4) Sales from the rental, lease, or licensing of tangible personal property are in this state if the property is located in this state.

(5) (A) If Section 25128.5 is operative, then this subdivision shall apply in lieu of subdivision (a) for any taxable year for which an election has been made under subdivision (a) of Section 25128.5.

(B) If Section 25128.5 is not operative, then this subdivision shall not apply and subdivision (a) shall apply for any taxpayer subject to the tax imposed under this part.

(C) Notwithstanding subparagraphs (A) or (B), this subdivision shall apply for purposes of paragraph (2) of subdivision (b) of Section 23101.

(c) The Franchise Tax Board may prescribe those regulations as necessary or appropriate to carry out the purposes of subdivision (b).

(d) *This section shall not apply to taxable years beginning on*



or after January 1, 2013, and as of December 1, 2013, is repealed.

SEC. 8. Section 25136 is added to the Revenue and Taxation Code, to read:

25136. (a) Notwithstanding Section 38006, for taxable years beginning on or after January 1, 2013, sales, other than sales of tangible personal property, are in this state if:

(1) Sales from services are in this state to the extent the purchaser of the service received the benefit of the services in this state.

(2) Sales from intangible property are in this state to the extent the property is used in this state. In the case of marketable securities, sales are in this state if the customer is in this state.

(3) Sales from the sale, lease, rental, or licensing of real property are in this state if the real property is located in this state.

(4) Sales from the rental, lease, or licensing of tangible personal property are in this state if the property is located in this state.

(b) The Franchise Tax Board may prescribe regulations as necessary or appropriate to carry out the purposes of this section.

SEC. 9. Section 25136.1 is added to the Revenue and Taxation Code, to read:

25136.1. (a) For taxable years beginning on or after January 1, 2013, a qualified taxpayer that apportions its business income under Section 25128.7 shall apply the following provisions:

(1) Notwithstanding Section 25137, qualified sales assigned to this state shall be equal to 50 percent of the amount of qualified sales that would be assigned to this state pursuant to Section 25136 but for the application of this section. The remaining 50 percent shall not be assigned to this state.

(2) All other sales shall be assigned pursuant to Section 25136.

(b) For purposes of this section:

(1) "Qualified taxpayer" means a member, as defined in paragraph (10) of subdivision (b) of Section 25106.5 of Title 18 of the California Code of Regulations as in effect on the effective date of the act adding this section, of a combined reporting group that is also a qualified group.

(2) "Qualified group" means a combined reporting group, as defined in paragraph (3) of subdivision (b) of Section 25106.5 of Title 18 of the California Code of Regulations, as in effect on the effective date of the act adding this section, that satisfies the following conditions:

(A) Has satisfied the minimum investment requirement for the taxable year.

(B) For the combined reporting group's taxable year beginning in calendar year 2006, the combined reporting group derived more than 50 percent of its United States network gross business receipts from the operation of one or more cable systems.

(C) For purposes of satisfying the requirements of subparagraph (B), the following rules shall apply:

(i) If a member of the combined reporting group for the taxable year was not a member of the same combined reporting

group for the taxable year beginning in calendar year 2006, the gross business receipts of that nonincluded member shall be included in determining the combined reporting group's gross business receipts for its taxable year beginning in calendar year 2006 as if the nonincluded member were a member of the combined reporting group for the taxable year beginning in calendar year 2006.

(ii) The gross business receipts shall include the gross business receipts of a qualified partnership, but only to the extent of a member's interest in the partnership.

(3) "Cable system" and "network" shall have the same meaning as defined in Section 5830 of the Public Utilities Code, as in effect on the effective date of the act adding this section. "Network services" means video, cable, voice, or data services.

(4) "Gross business receipts" means gross receipts as defined in paragraph (2) of subdivision (f) of Section 25120 (other than gross receipts from sales or other transactions between or among members of a combined reporting group, limited, if applicable, by Section 25110).

(5) "Minimum investment requirement" means qualified expenditures of not less than two hundred fifty million dollars (\$250,000,000) by a combined reporting group during the calendar year that includes the beginning of the taxable year.

(6) "Qualified expenditures" means any combination of expenditures attributable to this state for tangible property, payroll, services, franchise fees, or any intangible property distribution or other rights, paid or incurred by or on behalf of a member of a combined reporting group.

(A) An expenditure for other than tangible property shall be attributable to this state if the member of the combined reporting group received the benefit of the purchase or expenditure in this state.

(B) A purchase of or expenditure for tangible property shall be attributable to this state if the property is placed in service in this state.

(C) Qualified expenditures shall include expenditures by a combined reporting group for property or services purchased, used, or rendered by independent contractors in this state.

(D) Qualified expenditures shall also include expenditures by a qualified partnership, but only to the extent of the member's interest in the partnership.

(7) "Qualified partnership" means a partnership if the partnership's income and apportionment factors are included in the income and apportionment factors of a member of the combined reporting group, but only to the extent of the member's interest in the partnership.

(8) "Qualified sales" means gross business receipts from the provision of any network services, other than gross business receipts from the sale or rental of customer premises equipment. "Qualified sales" shall include qualified sales by a qualified partnership, but only to the extent of a member's interest in the partnership.

(c) The rules in this section with respect to qualified sales by a qualified partnership are intended to be consistent with the rules for partnerships under paragraph (3) of subdivision (f) of Section 25137-1 of Title 18 of the California Code of Regulations.

PROPOSITION 40

The Statewide Senate Map certified by the Citizens Redistricting Commission on August 15, 2011, is submitted to the people as a referendum in accordance with subdivision (i) of Section 2 of Article XXI of the California Constitution.

PROPOSED LAW

FILED  
in the office of the Secretary of State  
of the State of California

AUG 15 2011

Resolution  
California Citizens Redistricting Commission  
Certification of Statewide Senate Map

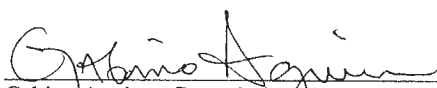
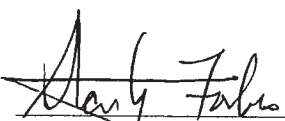
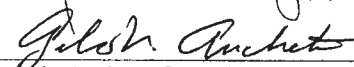
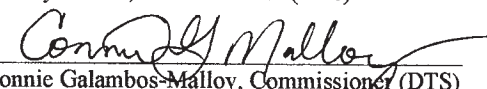
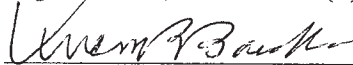


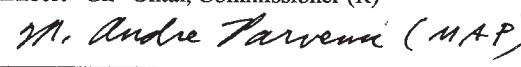
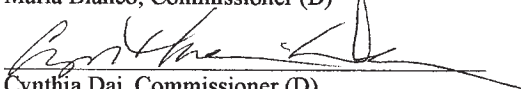
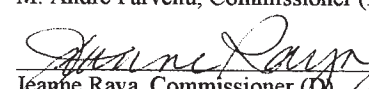

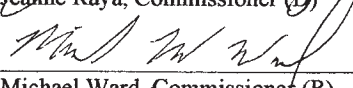

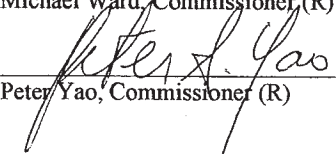
August 15, 2011

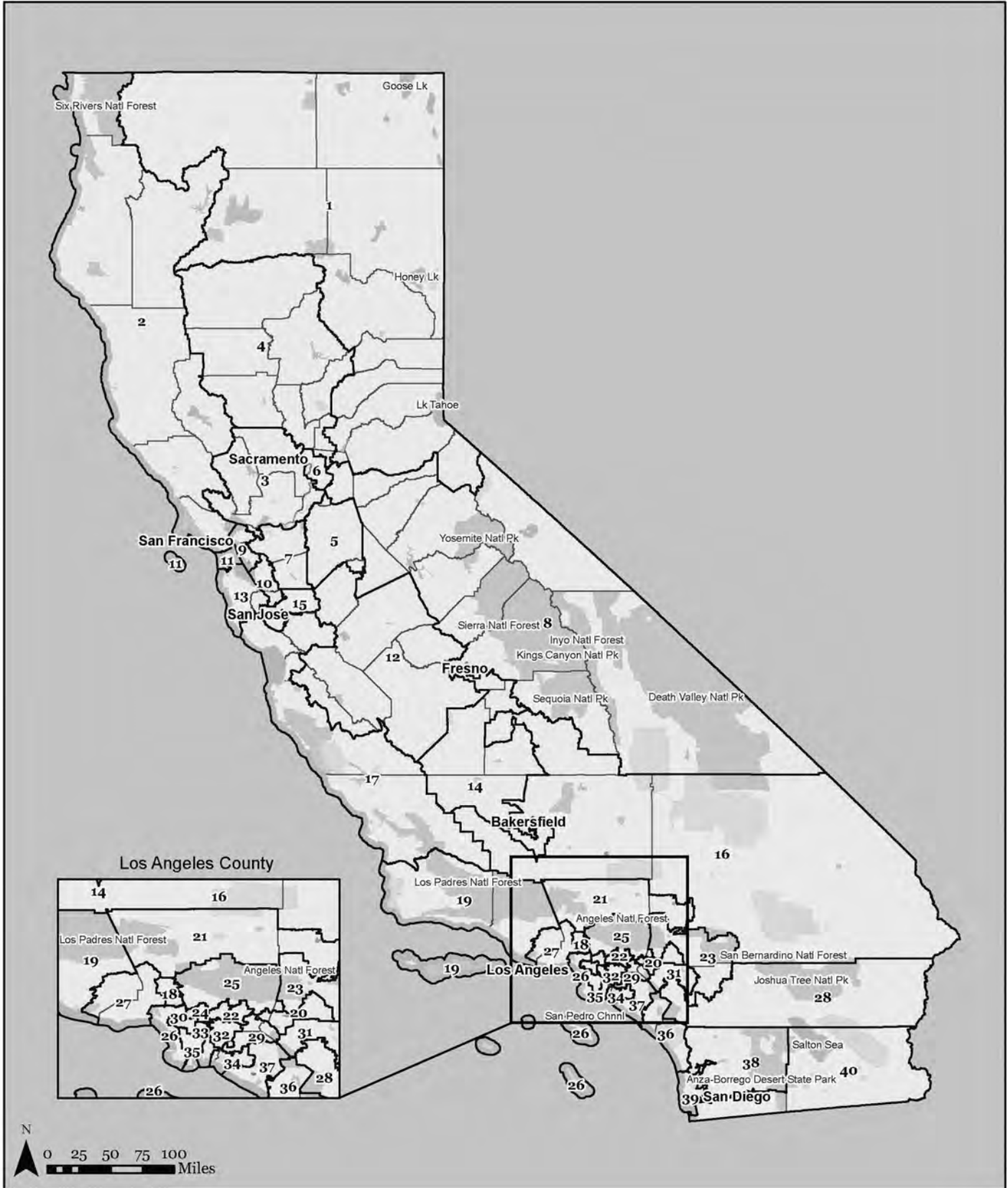
Whereas, on July 29, 2011 the California Citizens Redistricting Commission (Commission) voted to approve for posting and public comment the statewide Senate Map (Senate Map) referred to as the preliminary final Senate Map; and,

Whereas, on August 15, 2011, pursuant to Article XXI, Section 2(c)(5) of the California Constitution, the Commission voted to adopt as final the Senate Map, identified by crc\_20110815\_senate\_certified\_statewide.zip and secure hash algorithm (SHA-1) number 14cd4e126ddc5bdce946f67376574918f3082d6b.

Now, therefore, be it resolved, that pursuant to Article XXI, Section 2 (g) of the California Constitution, the Senate Map, identified with the above referenced SHA -1 is hereby certified by the Commission and shall be delivered forthwith to the California Secretary of State; and,

Resolved further, that the members of the Commission have affixed their signatures to this Resolution.

 _____ Gabino Aguirre, Commissioner (D)	 _____ Stanley Forbes, Commissioner (DTS)
 _____ Angelo Ancheta, Commissioner (D)	 _____ Connie Galambos-Malloy, Commissioner (DTS)
 _____ Vincent Barabba, Commissioner (R)	 _____ Lilbert "Gil" Ontai, Commissioner (R)
 _____ Maria Blanco, Commissioner (D)	 _____ M. Andre Parvenu, Commissioner (DTS)
 _____ Cynthia Dai, Commissioner (D)	 _____ Jeanne Raya, Commissioner (D)
 _____ Michelle DiGuilio, Commissioner (DTS)	 _____ Michael Ward, Commissioner (R)
 _____ Jodie Filkins Webber, Commissioner (R)	 _____ Peter Yao, Commissioner (R)



California State Senate Districts



California State Senate District 1



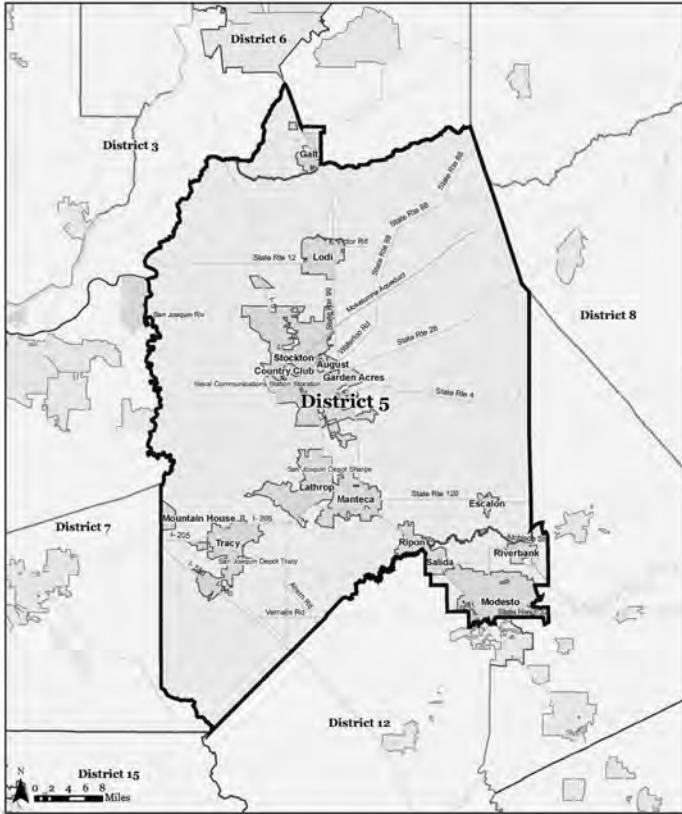
California State Senate District 2



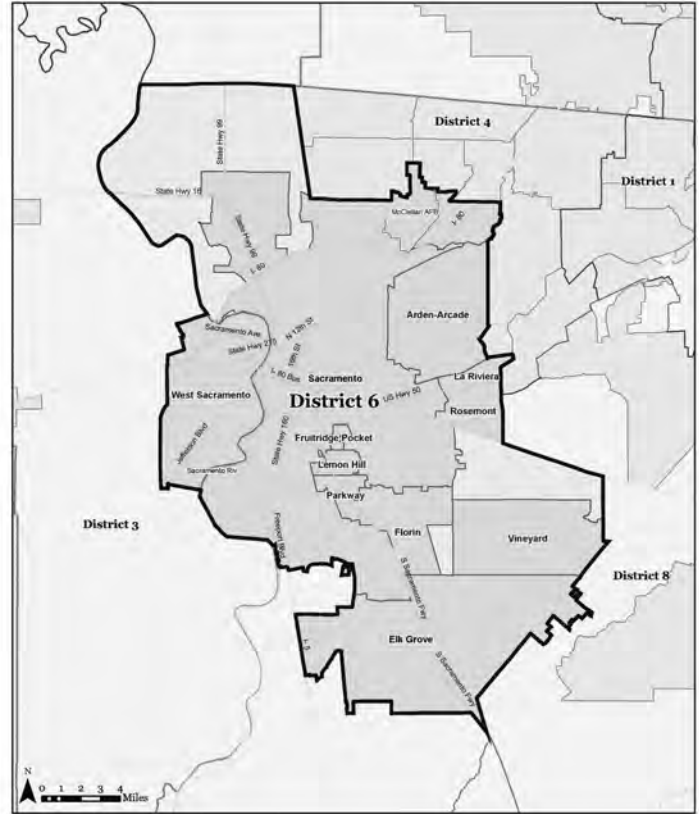
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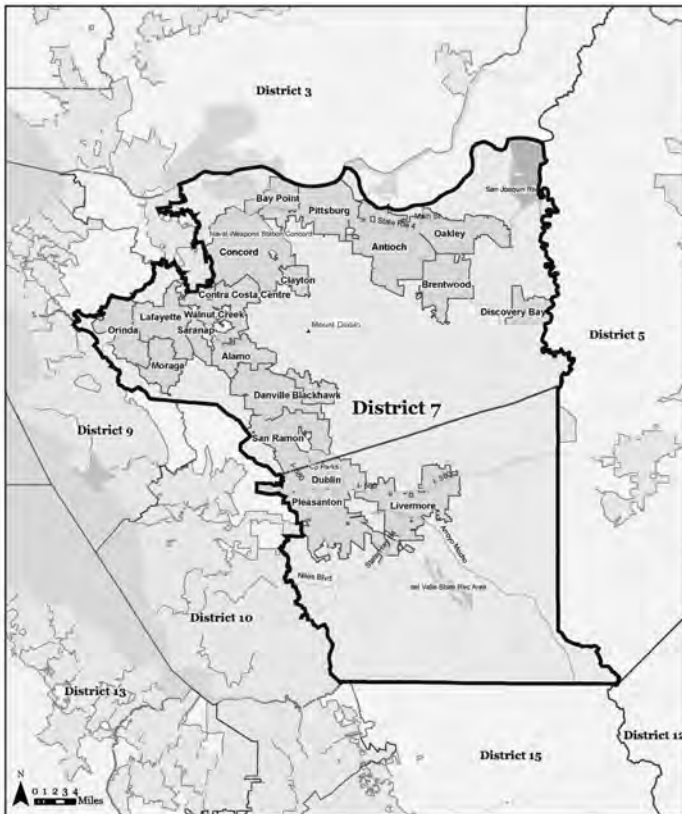
California State Senate District 4



California State Senate District 5



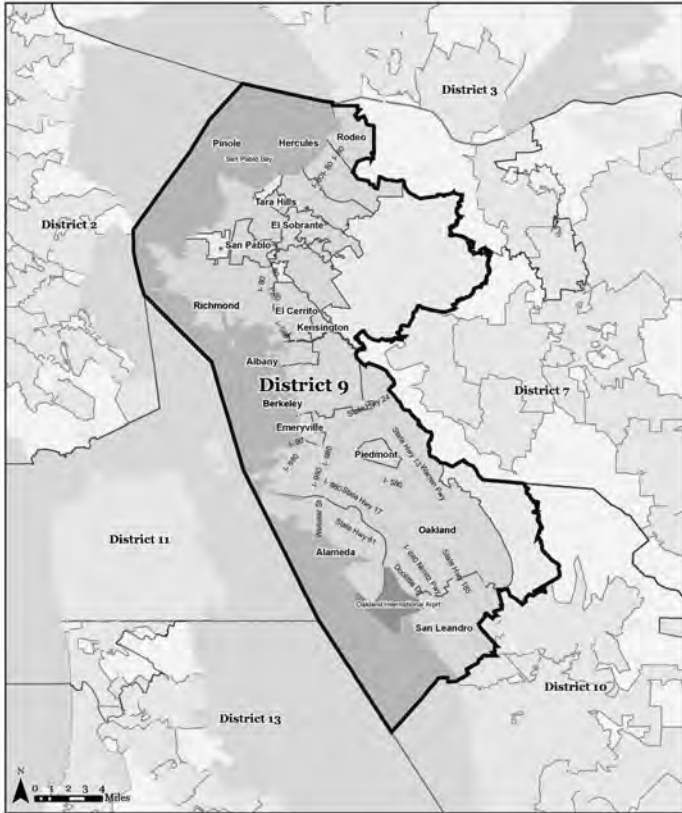
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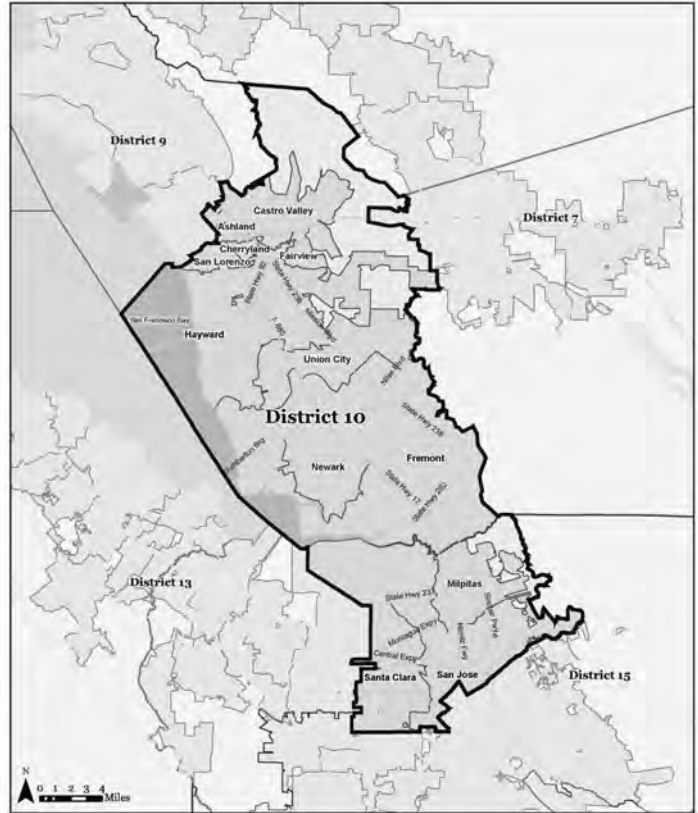
California State Senate District 7



California State Senate District 8



California State Senate District 9



California State Senate District 10



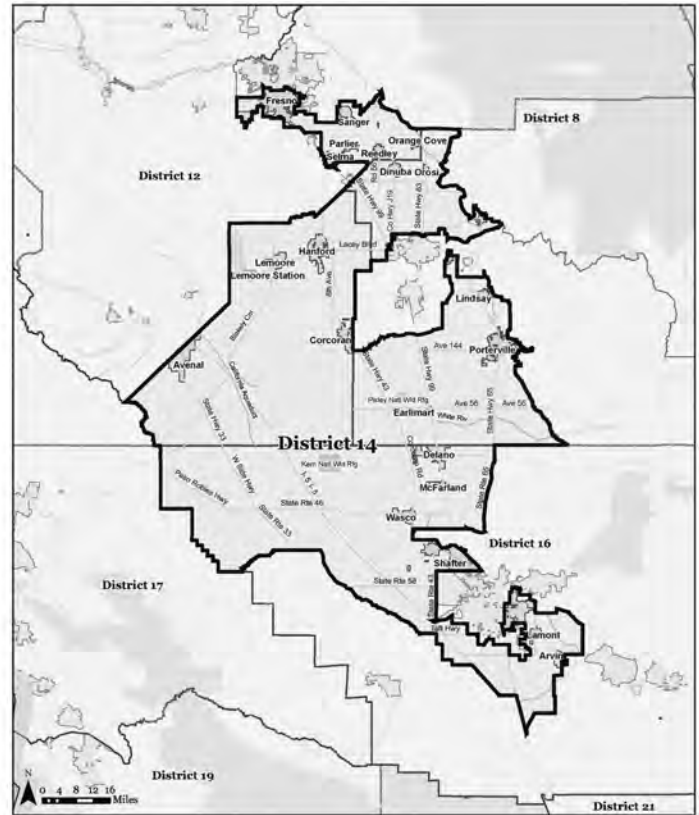
California State Senate District 11



California State Senate District 12



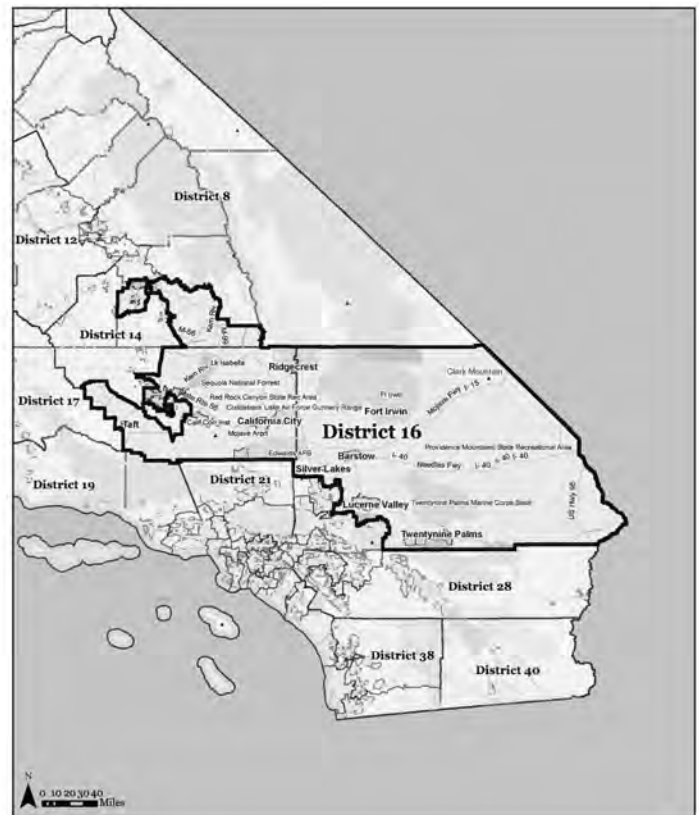
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California State Senate District 14



California State Senate District 15



California State Senate District 16



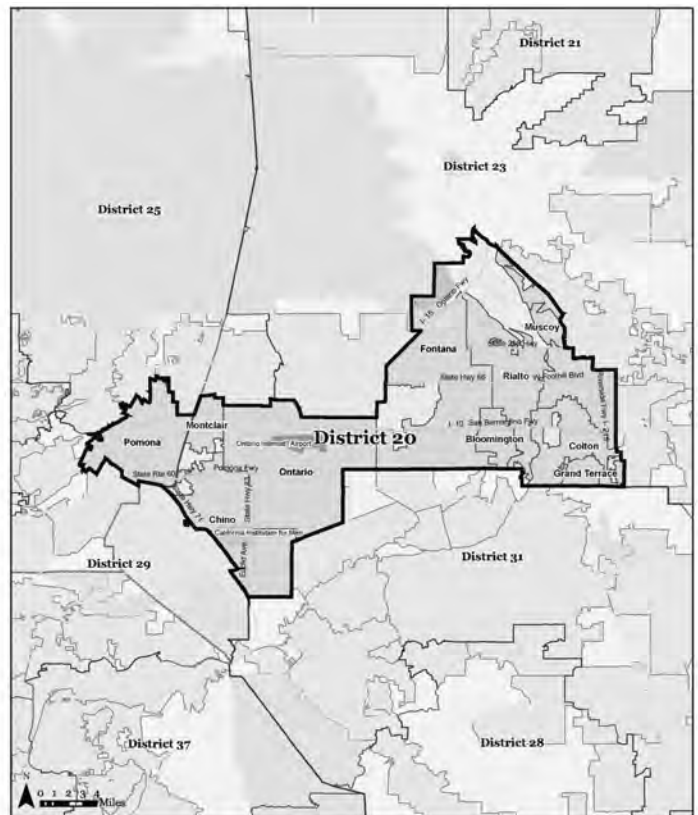
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California State Senate District 18



California State Senate District 19

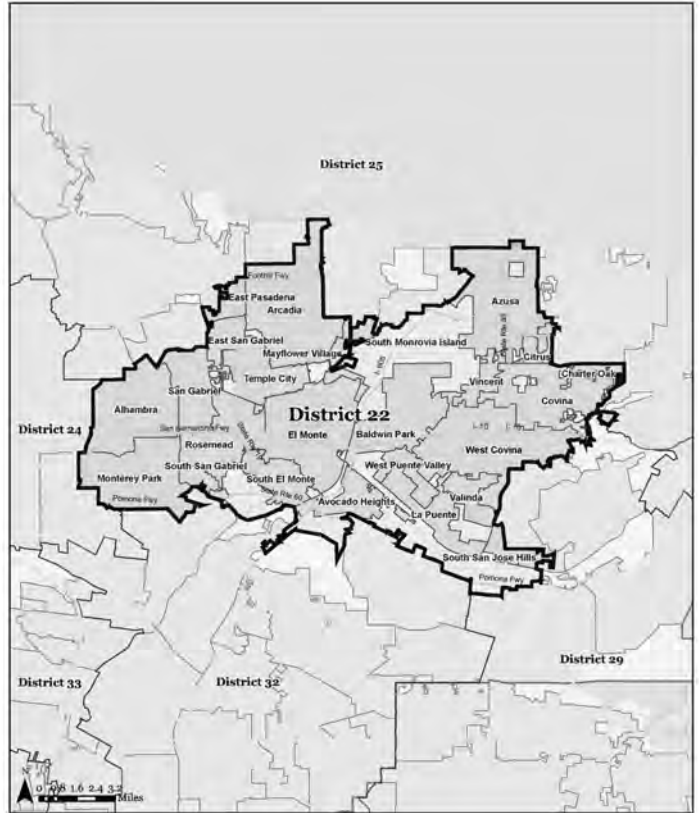


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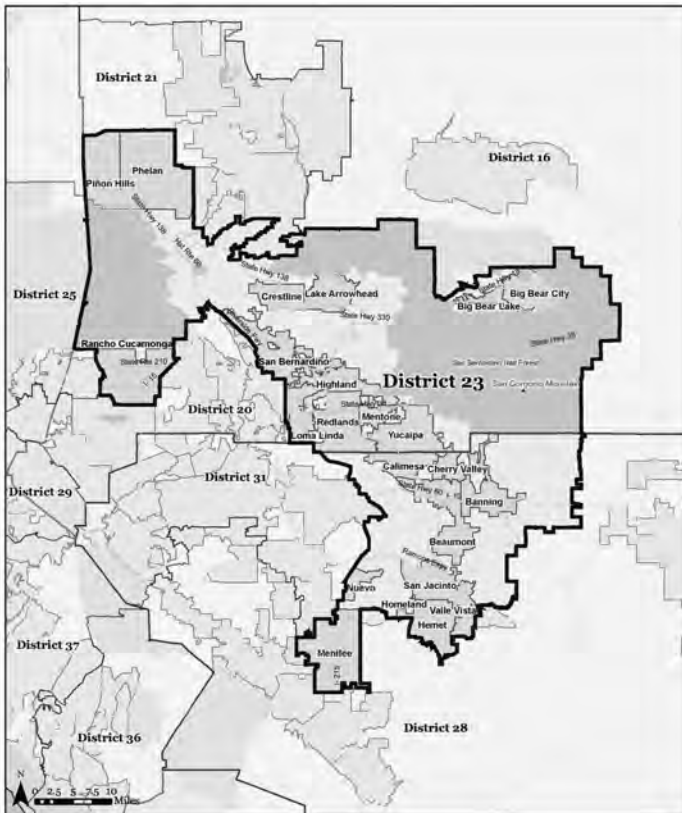




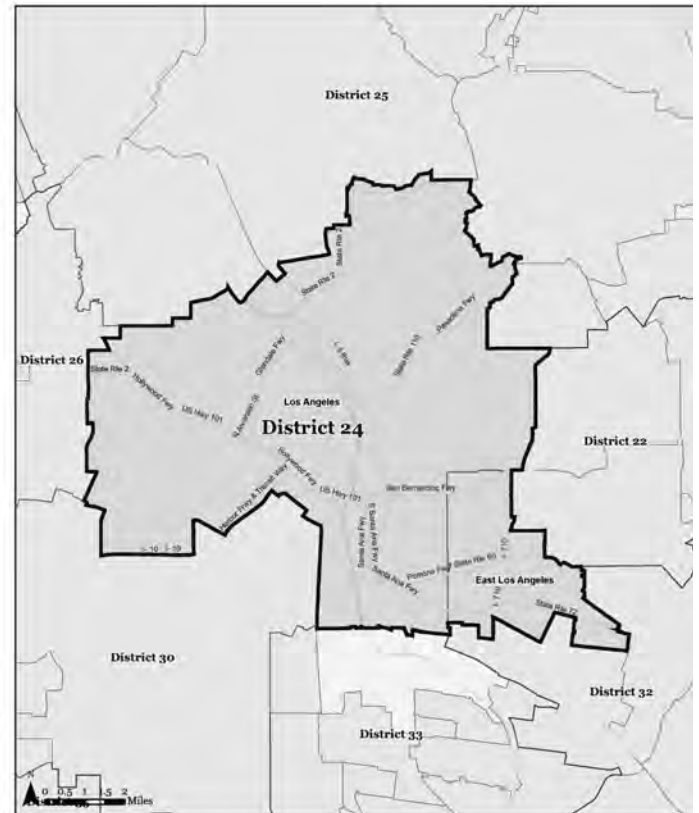
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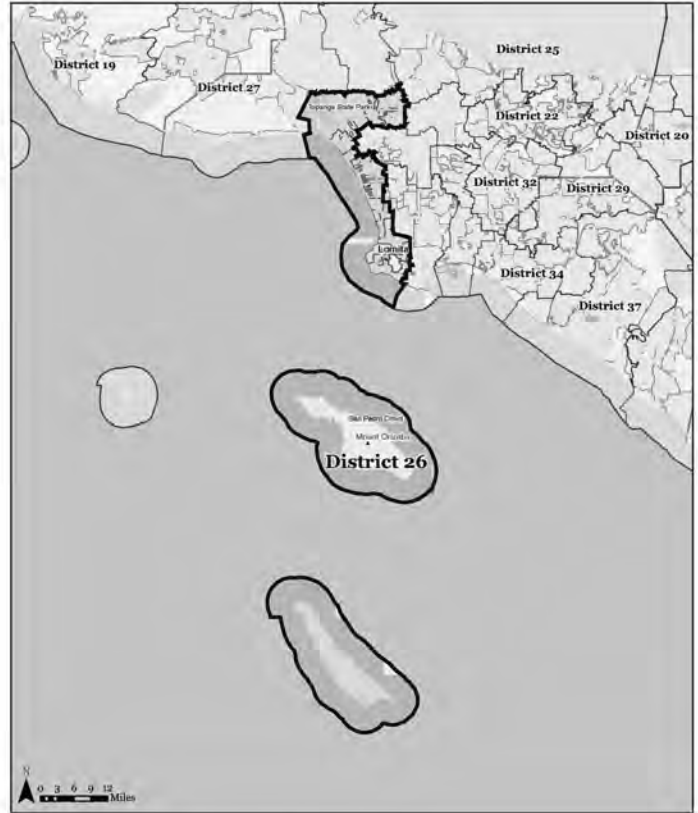
California State Senate District 23



California State Senate District 24



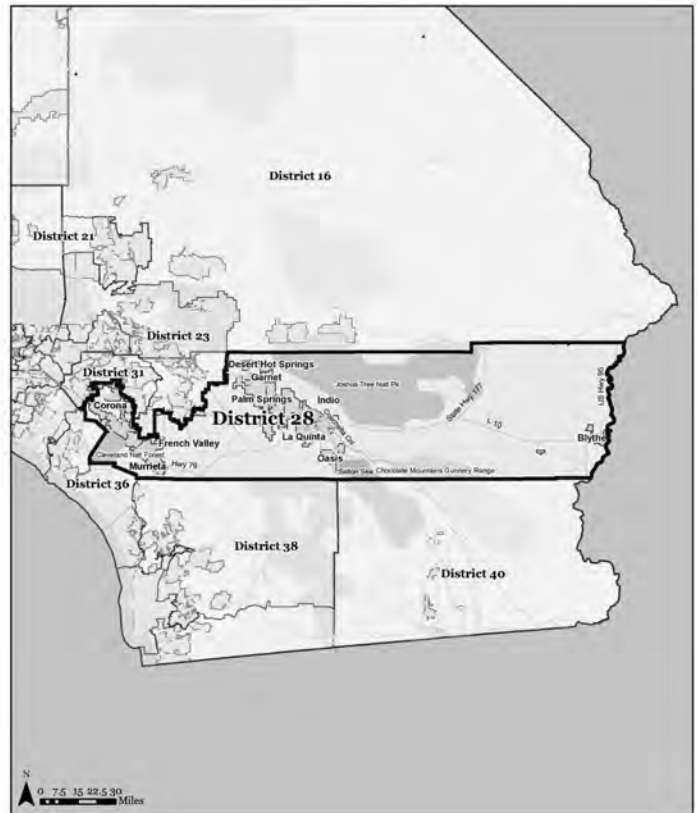
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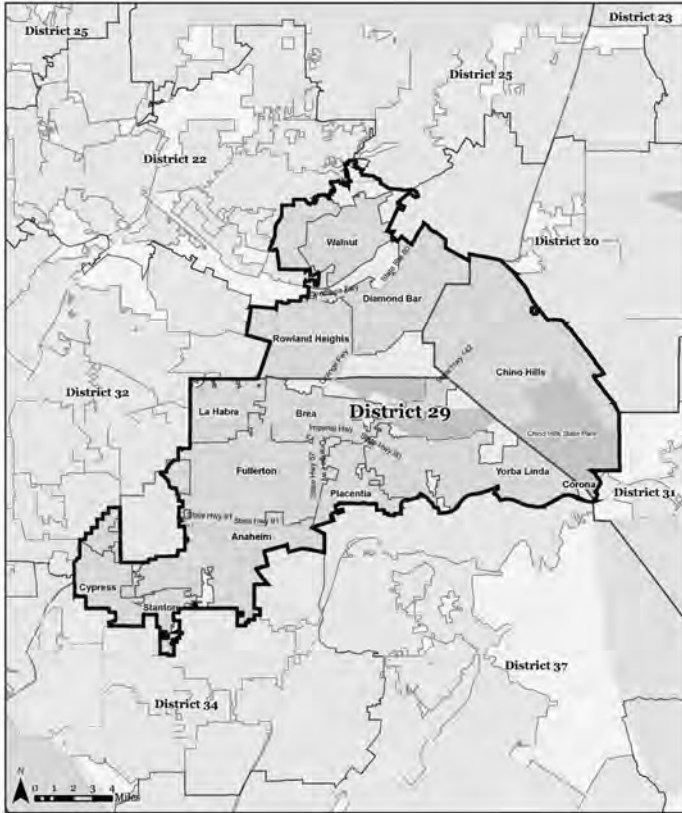
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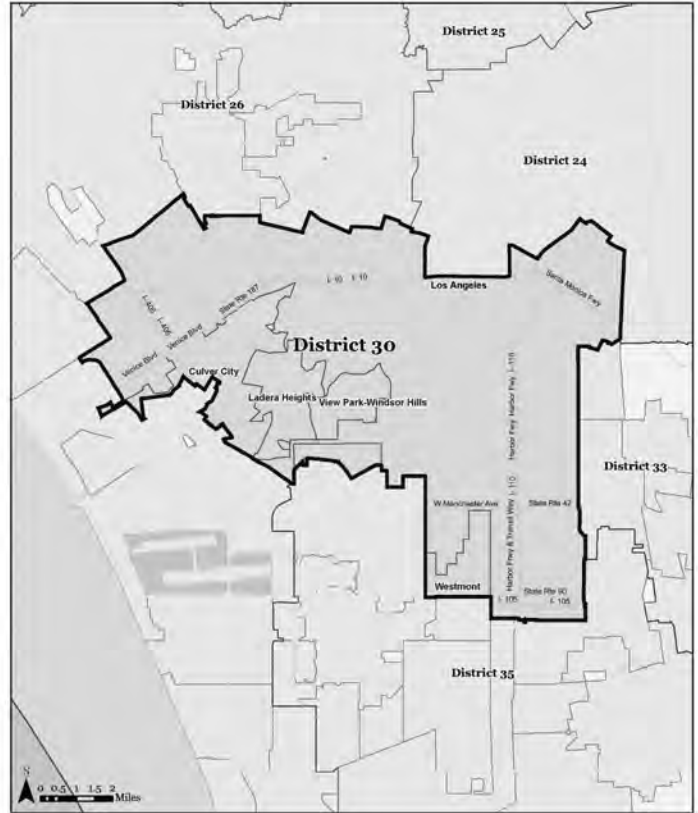
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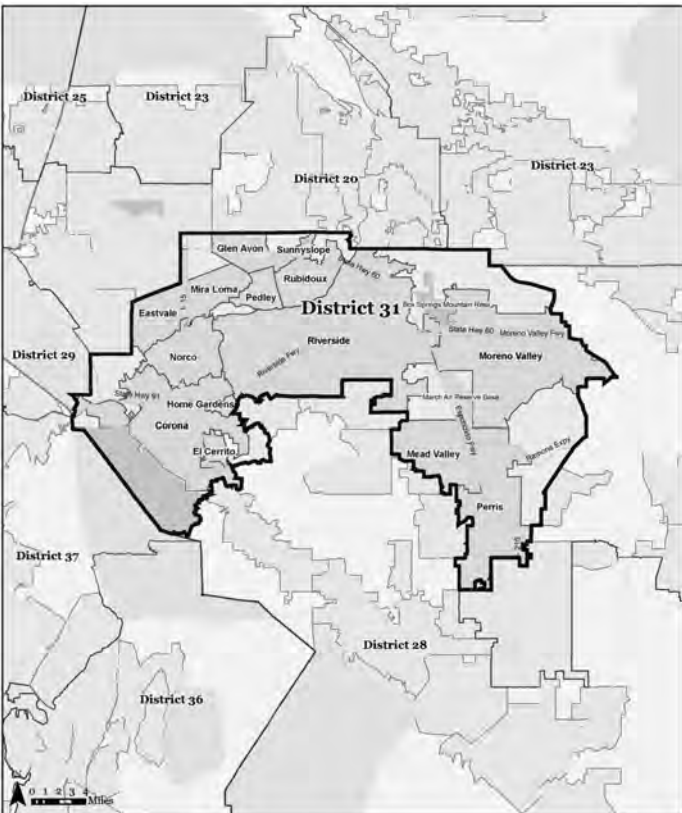
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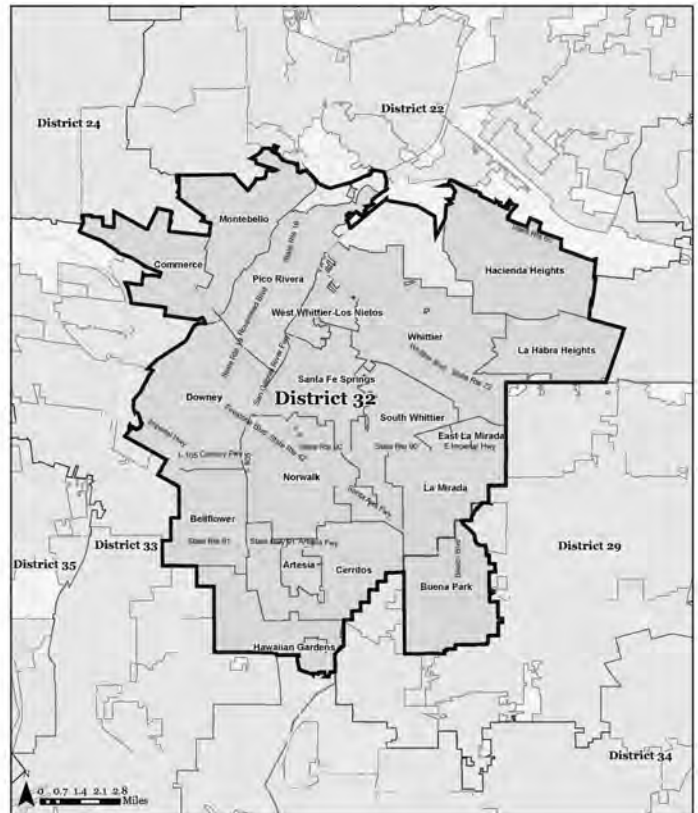
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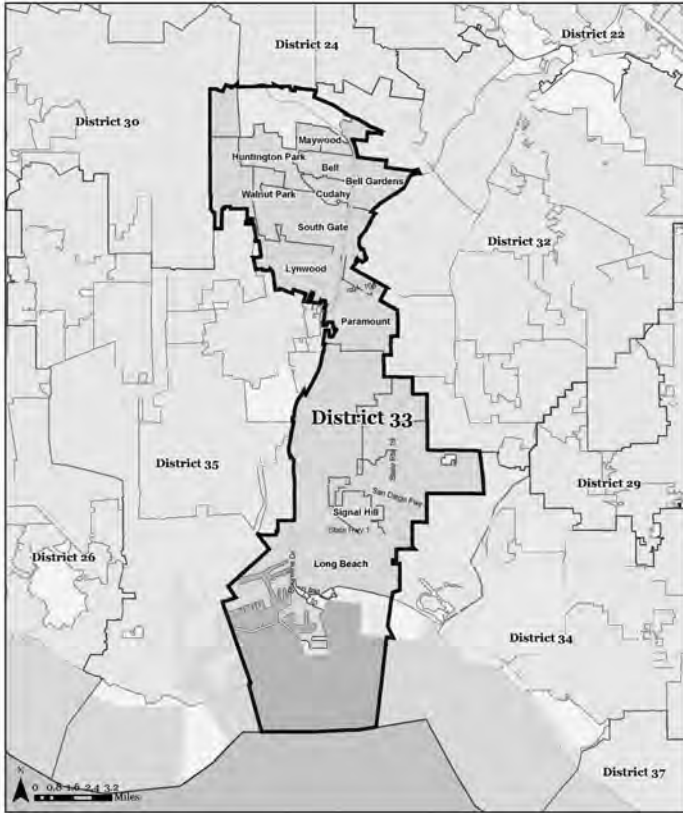
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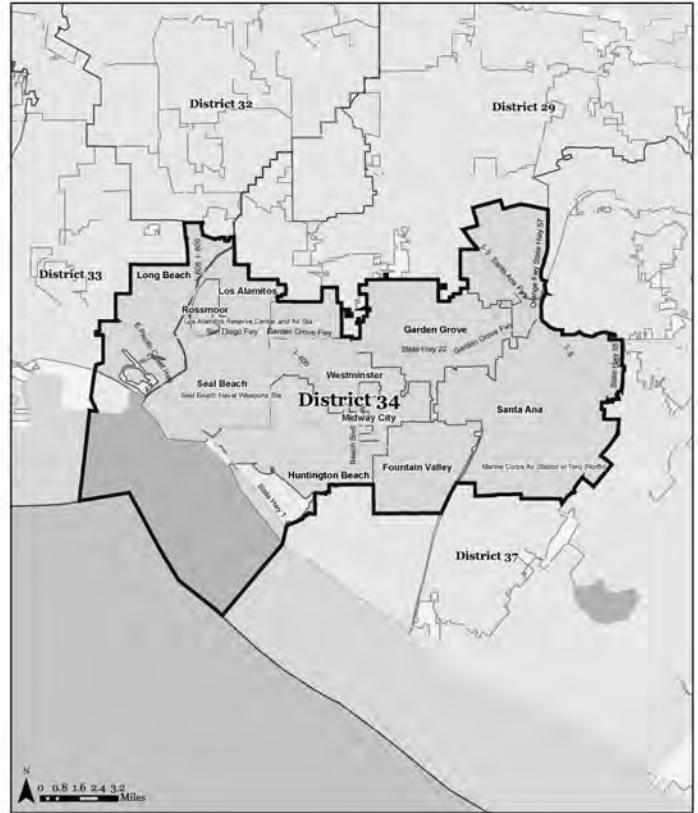
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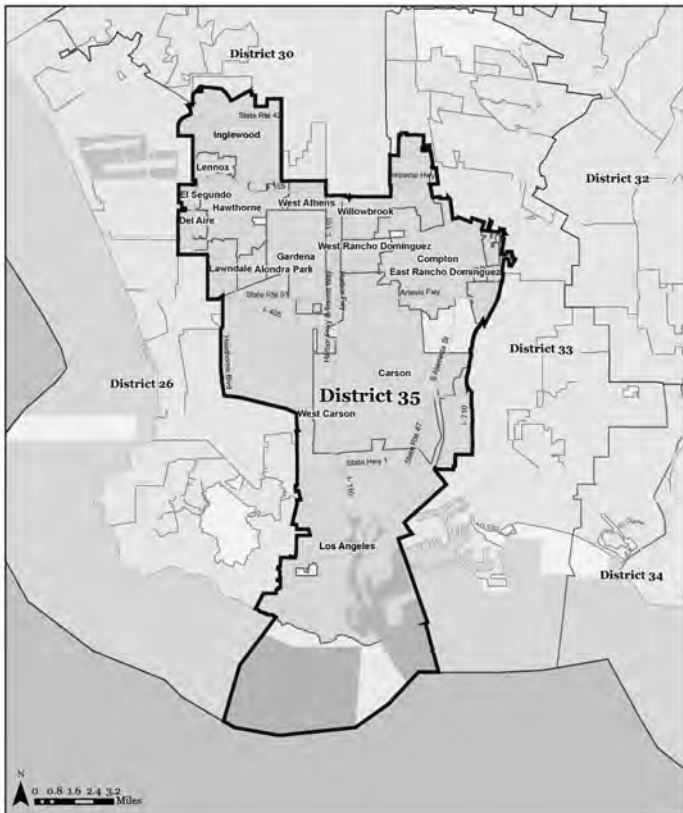
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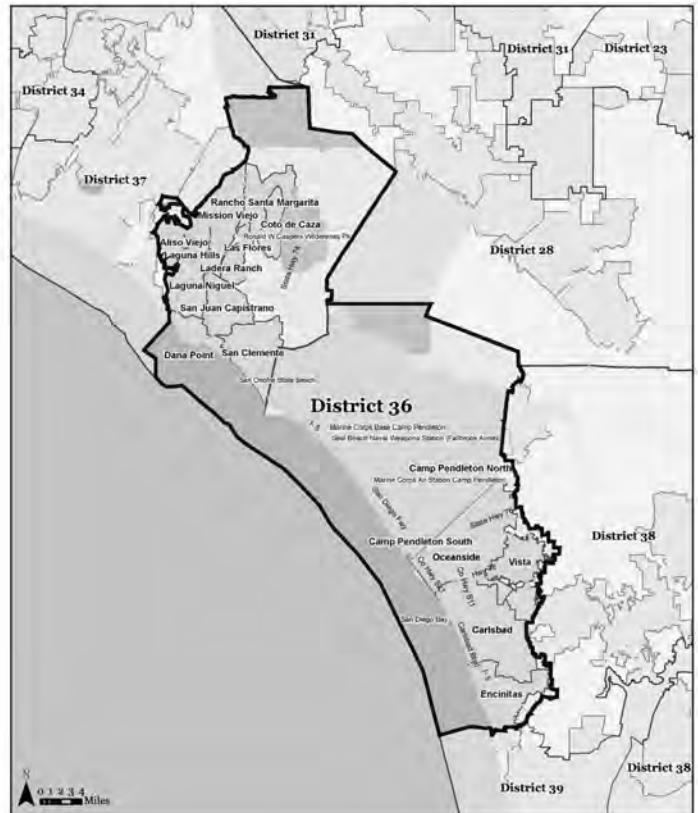
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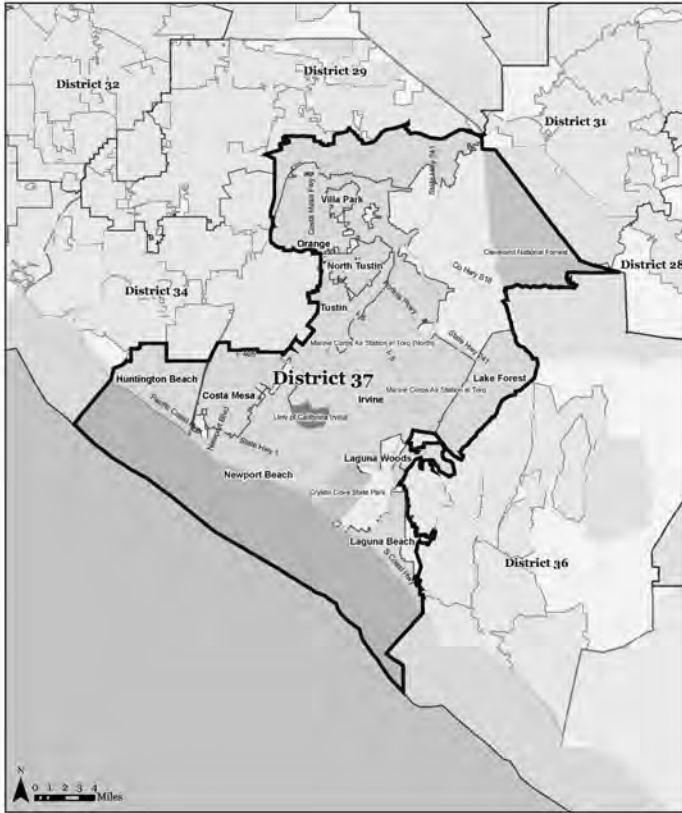
California State Senate District 34



California State Senate District 35



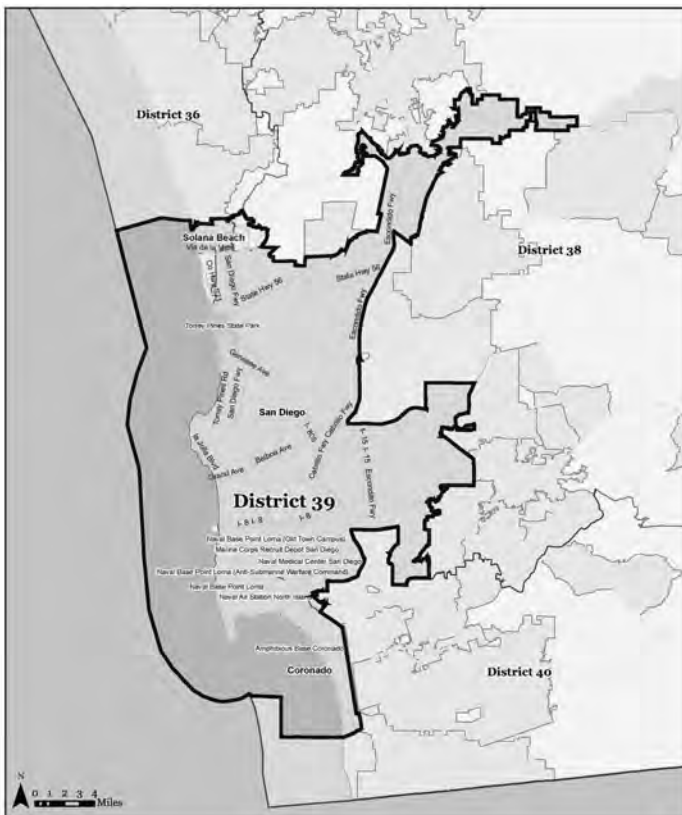
California State Senate District 36



California State Senate District 37



California State Senate District 38



California State Senate District 39



California State Senate District 40