

ITEM 11
ADOPTION OF COMMISSION ORDER TO INITIATE RULEMAKING
PARAMETERS AND GUIDELINES:
REASONABLE REIMBURSEMENT METHODOLOGIES
PROPOSED AMENDMENTS TO
CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 3,
SECTION 1183.13

EXECUTIVE SUMMARY

Section 1189.2 of the Commission’s regulations requires the adoption of a Commission order to initiate rulemaking. Following adoption of the order, staff will publish a notice of hearing and mail the notice and rulemaking package to all interested persons for public comment.

The purpose of this rulemaking is to define reasonable reimbursement methodology terms and clarify conditions expressed in Government Code section 17518.5 so that the Commission can successfully adopt reasonable reimbursement methodologies for parameters and guidelines.

Proposed Order Number 07-1 (Exhibit A)

The proposed rulemaking includes the following proposed amendments:

Section 1183.13. Reasonable Reimbursement Methodology.

Proposes to define specific terms in Government Code section 17518.5, such as “costs to implement the program in a cost-efficient manner” and “eligible local agency and school district claimants.” Also proposes to clarify how reasonable reimbursement methodology conditions expressed in Government Code section 17518.5 can be met.

Text of Proposed Amendments (Exhibit B)

Staff’s draft of the proposed text is attached as Exhibit B.

Timetable

If the order is adopted, staff will proceed pursuant to the following timetable:

April 3, 2007	Notice of Rulemaking, Initial Statement of Reasons, and Proposed Text will be filed with the Office of Administrative Law for publication.
April 13, 2007	Notice of Proposed Regulatory Action will be issued and published.
May 31, 2007	End of public comment period. Public hearing will be held, if requested.
July 26, 2007	Regulations will be proposed for adoption by the Commission.
August 3, 2007	Adopted Regulations will be filed with the Office of Administrative Law.

Staff Recommendation

Staff recommends the Commission adopt Proposed Order 07-1.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

In the Matter of:

Amendments to California Code of
Regulations, Title 2, Division 2, Chapter 2.5,
Article 3

No. 07-1

ORDER TO INITIATE RULEMAKING
PROCEEDINGS

*Parameters And Guidelines: Reasonable
Reimbursement Methodologies*

Pursuant to California Code of Regulations, title 2, section 1189.2, the Commission on State Mandates (“Commission”) hereby adopts this order to institute rulemaking proceedings in accordance with the procedures of Government Code sections 11346.2, 11346.4, 11346.8, and 11346.9.

PROPOSED REGULATORY ACTION. The Commission proposes to amend section 1183.13 of the California Code of Regulations, title 2, chapter 2.5, division 2.

AUTHORITY AND REFERENCE. Government Code section 17527, subdivision (g), authorizes the Commission to adopt the proposed regulations. The purpose of this rulemaking is to define reasonable reimbursement methodology terms and clarify conditions expressed in Government Code section 17518.5 so that the Commission can successfully adopt reasonable reimbursement methodologies for parameters and guidelines.

WRITTEN COMMENT PERIOD. Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission. The Commission will only consider written comments received at the Commission’s office by 5:00 p.m. on May 31, 2007. Submit comments to:

Cathy Cruz Jefferson, Senior Program Analyst
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
Phone: (916) 323-3562 FAX: (916) 445-0278
Email: cathy.cruz@csm.ca.gov

PUBLIC HEARING. The Commission will hold a hearing on May 31, 2007, if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than May 16, 2007.

Date: _____ By: _____
Paula Higashi, Executive Director

PROPOSED AMENDMENTS TO:

**CALIFORNIA CODE OF REGULATIONS
TITLE 2. ADMINISTRATION
DIVISION 2. FINANCIAL OPERATIONS
CHAPTER 2.5. COMMISSION ON STATE MANDATES**

Article 3. Test Claims

§ 1183.13. Reasonable Reimbursement Methodology.

(a) Government Code section 17518.5 authorizes the adoption of a “reasonable reimbursement methodology” to reimburse claimants for mandated programs. Section 17518.5 requires the following conditions in order to adopt a reasonable reimbursement methodology:

(1) The total amount to be reimbursed statewide is equivalent to total estimated local agency and school district costs to implement the mandate in a cost-efficient manner.

(2) For fifty (50) percent or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully offset their projected costs to implement the mandate in a cost-efficient manner.

(b) For purposes of developing a reasonable reimbursement methodology, the following definitions apply:

(1) “Costs to implement the program in a cost-efficient manner” include only those costs for the activities that were determined to be reimbursable by the commission in the Statement of Decision, and the costs for the most reasonable methods of complying with the mandate pursuant to Section 1183.1, subdivision (a)(4), of these regulations.

(2) In order to determine that the reasonable reimbursement methodology is estimated to fully offset the projected costs to implement the mandate in a cost-efficient manner for “fifty (50) percent or more of eligible local agency and school district claimants”:

(A) “Eligible local agency and school district claimants” means the number of local agencies and/or school districts that will actually file reimbursement claims for the mandated program. This number may be determined by using the number of claimants that filed reimbursement claims for similar mandated programs with the same type(s) of claimant(s), as found in the Office of the State Controller’s AB 3000 Report or Annual Deficiency Report.

(B) A statewide organization that represents the local agency and/or school district claimant(s) may submit documentation showing that the proposed methodology fully offsets the majority of their local agency or school district members’ projected costs to implement the mandate in a cost-efficient manner.

EXHIBIT B

(C) When surveying or otherwise gathering cost data to develop a formula, “eligible local agency and school district claimants” does not include entities that do not respond to surveys or otherwise participate in submitting cost data.

(c) If the claimant indicates in the proposed parameters and guidelines or comments that a reasonable reimbursable methodology, as defined in Government Code section 17518.5, should be considered; or if the Department of Finance, Office of the State Controller, any affected state agency, claimant, or interested party proposes consideration of a reasonable reimbursement methodology, commission staff shall immediately schedule an informal conference to discuss the methodology.

(bd) Proposed reasonable reimbursement methodologies, as described in Government Code section 17518.5, shall include any documentation or assumption relied upon to develop the proposed methodology. Proposals shall be submitted to the commission within sixty (60) days following the informal conference.

(ee) Claimants, state agencies, and interested parties shall submit an original and two (2) copies of a proposed reasonable reimbursement methodology, and shall simultaneously serve a copy on the other parties and interested parties on the mailing list described in Section 1181.2 of these regulations.

(df) Commission staff shall notify all recipients that they shall have the opportunity to review and provide written comments or recommendations concerning the proposed reasonable reimbursement methodology within fifteen (15) days of service.

(eg) Claimants, state agencies, and interested parties shall submit an original and two (2) copies of written responses to commission staff and shall simultaneously serve a copy on the other parties and interested parties on the mailing list described in Section 1181.2 of these regulations.

(fh) Within fifteen (15) days of service of the written comments prepared by other parties and interested parties, the party that proposed the reasonable reimbursement methodology may submit an original and two (2) copies of written rebuttals to commission staff, and shall simultaneously serve a copy on the other parties and interested parties on the mailing list described in Section 1181.2 of these regulations.

Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections 17518.5 and 17557, Government Code.