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# Improving the Mandate Process

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LEGISLATIVE ANALYST'S OFFICE





## Concerns With Mandate Process

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- Process takes a long time, posing difficulties for state and local governments.
  - Currently takes over five years from local government “test claim” filing to final action by Commission on State Mandates.
  - During this time, local governments do not receive reimbursements and state liabilities mount.
  - Length of process also complicates state policy review because the Legislature receives a mandate’s cost information years after the debate regarding its imposition has concluded.
  
- Claiming reimbursement is exceedingly complicated.
  - Most mandates are not complete programs, but impose increased requirements on ongoing local programs. Measuring the cost to carry out these marginal changes is complex.
  - Instead of relying on unit costs or other approximations of local costs, reimbursement methodologies (or “parameters and guidelines”) typically require local governments to document their actual costs to carry out each element of the mandate.
  - The documentation required makes it difficult for local governments to file claims and leads to disputes with the State Controller’s Office.
  - Because the commission bases its estimate of a mandate’s costs on initial claims submitted by local governments, the commission’s estimates typically are inaccurate. Over time, local governments increase their ability to comply with the reimbursement methodology and claims increase substantially.
  
- Little incentive for cost containment.
  - Because local governments are reimbursed for actual costs, they typically do not benefit from their efforts to carry out mandate requirements in a cost-effective manner.



## LAO Proposal Overview

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- Goals and focus:
  - Simplify and expedite the mandate determination process.
  - Procedural reform, focusing on period between imposition of a mandate and the report of the mandate to the Legislature.
  - Avoid “tilting the scales” to favor state or local interests, or giving greater authority to the administration, Legislature, or local governments.
  
- Includes three alternatives—use of any alternative would require the consent of the local government claimant and Department of Finance.
  
- Proposal is in AB 1576 (Silva).



## Alternative 1: Amend the Reasonable Reimbursement Methodology Statute

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- Expand the use of unit-based and other simple claiming methodologies by clarifying the type of easy-to-administer methodologies that the Legislature envisioned when it enacted this statute.
  
- Greater reliance on simple claiming methodologies would reduce:
  - Local costs to file claims.
  - State costs to process and audit claims.
  - Disputes regarding mandate claims and appeals to the commission regarding State Controller claim reductions. Reducing commission work to hear appeals would give it more time to focus on mandate determinations.



## Alternative 2: Allow Reimbursement Methodologies and Cost Estimates to Be Developed Through Negotiations

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- Create a process whereby local governments and the department jointly develop a mandate's reimbursement methodology and estimate its costs.
  
- Department of Finance and claimant responsibilities:
  - Propose a negotiations work plan. Plan must ensure that costs from a representative sample of local claimants are considered.
  - Jointly review local cost data.
  - Develop a reasonable reimbursement methodology. Assess local support. Modify methodology to secure local support. Specify a date when the department and test claimant will reconsider methodology to ensure that it remains useful over time.
  - Use the methodology to provide the Legislature an estimate of its statewide costs.
  
- Commission on State Mandates responsibilities.
  - Review methodology to ensure that parties considered costs from a representative sample of local governments and that the methodology is supported by a wide range of local governments.
  - Review the methodology for general consistency with the underlying Statement of Decision.
  - Adopt the methodology and report statewide costs.
  
- Advantages of negotiated process.
  - Realizes all of the benefits of the reasonable reimbursement methodology approach previously described in Alternative 1.
  - Trims at least a year from the current five-year mandate process.



## Alternative 3: Create a “Fast Track” Alternative Dispute Resolution Process

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- Create a process whereby local governments and the department may jointly propose that a state requirement be declared a “legislatively determined mandate” and propose a reimbursement methodology. The commission would not play a role in this alternative.
  
- Joint Department of Finance and claimant responsibilities:
  - Identify state requirements to propose for legislatively determined mandate.
  - Propose a reimbursement methodology and estimate of statewide costs.
  - Provide Legislature evidence of local support for reimbursement methodology.
  
- Legislature’s alternatives:
  - May adopt proposal, or amend and adopt proposal. Enact a statute declaring the state requirement to be a legislatively determined mandate and specifying the reimbursement methodology. Appropriate required funding.
  - May reject proposal.
  - May repeal, suspend, or modify the mandate.



## Alternative 3: Create a “Fast Track” Alternative Dispute Resolution Process

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Local government options:

- May accept funding provided for mandate. Such an action signifies that the local government accepts the methodology as reimbursement for the Fast Track period (say, five years). During this time, the local government may not file a test claim or accept other reimbursement for this mandate, unless the state does not provide the funding specified in statute. At the end of the Fast Track period, works with the department to update the reimbursement methodology.
- May reject funding and file a test claim with the commission.



Advantages of Fast Track process.

- Realizes all of the benefits of the reasonable reimbursement methodology approach previously described in Alternative 1.
- Resolves mandate claims in about a year, four years less than current process.
- Reduces the commission’s caseload, freeing up time for it to focus on other claims.