

Item 17

CONDUCT OF HEARINGS ON COUNTY APPLICATIONS FOR FINDINGS OF SIGNIFICANT FINANCIAL DISTRESS

Welfare & Institutions Code Section 17000.6
California Code of Regulations, Title 2, Chapter 2.5, Article 6.5

STAFF REPORT

Executive Summary

Background

The County of Butte (Butte) has notified the Commission on State Mandates (Commission) of its intent to file an SB 1033 application on or about September 1, 2004.

SB 1033 (Stats. 1993, ch. 72) imposed a new duty on the Commission to review county applications for findings of significant financial distress. The Commission is required to review county applications that include program and financial reports, conduct at least two public hearings on the matter, and determine if the applicant county is facing significant financial distress within 90 days of receiving the application. An affirmative finding by the Commission permits the county to reduce general assistance benefits for up to three years.

County applications are complex because they include budgets, budget forecasts, descriptions of county efforts to constrain expenditures, information on flexibility in spending and resources, debt and cash flow, and unmet budget needs, i.e., the programs or services a county cannot provide because of inadequate resources.

Commission regulations authorize the Chairperson to assign this application to a hearing panel consisting of one or more members of the Commission, which shall act on behalf of the Commission, or to a hearing officer for hearing and preparation of a preliminary decision. If an assignment is not made, then the application will be set for hearing before the Commission itself.

Budget and Staffing Considerations

In 1999, the Commission spent \$70,000 to contract with DOF to provide the budget and program analysis for Butte's previous application. This amount did not include the costs for time staff spent in processing the application and reviewing DOF's draft staff analysis. Staff proposes to continue this practice if DOF staff are available for this assignment. (The November 30, 1999 agenda item for adoption of the Proposed Final Statement of Decision is attached.)

The Commission's budget contains no funding for current year or budget year for the SB 1033 program. If a county application is filed, the Commission is authorized to

request augmentation of its budget to fund the cost of completing an application, under section 27.00 of the Budget Act. The Commission is authorized to toll the 90-day timeline until the CSM obtains necessary funding to complete the application.

Once the Commission decides how it wishes to hear the Butte application, a Section 27.00 Request can be prepared.

Since the last application was completed in 1999, the Commission's staff has been reduced by approximately 40 percent. There is currently a backlog of test claims on file with the Commission that must also be completed within statutory timeframes. The Commission does not have adequate staffing to complete test claim work and SB 1033 applications.

Options

1. Hearing Before the Commission. All Commission members would travel to Oroville for this hearing. There would be salary and travel per diem costs for a public member and the two local elected official members. State agency members may file travel claims with their own agencies. We would have costs to contract with the Department of Finance for review of the application and preparation of the staff analysis.
2. Hearing Panel. A limited number of Commission members would travel to Oroville for this hearing. Depending on who is on the panel, costs will vary. We would have costs to contract with the Department of Finance for review of the application and preparation of the staff analysis.
3. Hearing Officer. Assign the application to the Office of Administrative Hearings to provide a hearing officer to review the application, conduct hearing, consider evidence and prepare a proposed statement of decision for the Commission. The Commission would enter into an interagency agreement with the Office of Administrative Hearings. Depending on the expertise of the hearing officer, we would have to assess whether it would still be necessary to contract with the Department of Finance for review of the application and preparation of the staff analysis.
4. Hearing Officer. Appoint a person with expertise in county fiscal and program matters, and experience in the SB 1033 process to be the hearing officer, review the application and staff analysis, and present findings and recommended statement of decision to the Commission. Implementation of this option may require an exemption from the Department of Finance. We would still have costs to contract with the Department of Finance for review of the application and preparation of the staff analysis.

Recommendation

Staff recommends that the Chairperson assign the Butte SB 1033 application to a hearing officer with expertise in county budgets and programs.