

COMMISSION ON STATE MANDATES

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July 11, 2013

Ms. Evelyn Tseng
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Mr. Aaron C. Harp
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Ms. Jill Kanemasu
State Controller's Office
Division of Accounting and Reporting
3301 C Street, Suite 700
Sacramento, CA 95816

And Affected State Agencies and Interested Parties (See Mailing List)

RE: **Final Staff Analysis and Proposed Statewide Cost Estimate, and Notice of Hearing**
Local Agency Ethics (AB 1234), 07-TC-04
Government Code Sections 53232.2(b), 53232.3(a) and (b), 53235(f), and 53235.2(a)
Statutes 2005, Chapter 700
City of Newport Beach, Claimant

Dear Ms. Tseng, Mr. Harp and Ms. Kanemasu:

The final staff analysis and proposed statewide cost estimate for this matter are enclosed.

Hearing

This matter is set for hearing on **Friday July 26, 2013**, at 10:00 a.m., in the State Capitol, Room 447, Sacramento, California. This matter is proposed for the Consent Calendar. Please let us know in advance if you object to this item being on consent and therefore 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 1183.01(c)(2) of the Commission's regulations.

Special Accommodations

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

Please contact Heidi Palchik 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 13
FINAL STAFF ANALYSIS
PROPOSED STATEWIDE COST ESTIMATE

\$0

Government Code Sections 53232.2(b), 53232.3(a) and (b), 53235(f) and 53235.2(a)

Statutes 2005, Chapter 700

Local Agency Ethics (AB 1234)

07-TC-04

City of Newport Beach, Claimant

STAFF ANALYSIS

Background and Summary of the Mandate

This test claim statute addresses activities of local agencies related to transparency and ethics training for members of the legislative bodies of local agencies. Specifically, it addresses the policymaking, reporting, recordkeeping, and notice requirements imposed on local agencies if they provide any type of compensation, salary, or stipend to a member of a legislative body, or provide reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties.

On May 25, 2012, the Commission on State Mandates (Commission) adopted a statement of decision¹ finding that the test claim statutes impose a partially reimbursable state-mandated program on general law counties and those special districts subject to the tax and spend provisions of articles XIII A and XIII B of the California Constitution, that are required by their enabling act to provide compensation or reimbursement of expenses to perform the reimbursable activities to their members, within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. Parameters and guidelines were adopted on September 28, 2012.²

Eligible claimants were required to file initial reimbursement claims, for costs incurred between July 1, 2006, and June 30, 2012, with the State Controller's Office (SCO) by May 3, 2013. Late initial reimbursement claims may be filed until May 3, 2014. Annual reimbursement claims for fiscal year 2012-2013 are due by February 18, 2014.

Eligible Claimants and Period of Reimbursement

General law counties and those eligible special districts subject to the tax and spend provisions of articles XIII A and XIII B of the California Constitution, that are required by their enabling act to provide reimbursement of expenses to perform the reimbursable activities, are eligible to claim reimbursement.

¹ Exhibit A.

² Exhibit B.

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The test claim was filed on October 23, 2007, establishing eligibility for reimbursement for the 2006-2007 fiscal year. Therefore, the costs incurred for compliance with the mandated activities are reimbursable on or after July 1, 2006.

Reimbursable Activities

The parameters and guidelines authorize reimbursement of each eligible claimant for the following activities:

1. Adopt a written policy, in a public meeting specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses relating to travel, meals, lodging, and other actual and necessary expenses;³
2. Provide expense report forms to the members of the legislative body;⁴
3. Provide information on training courses to meet the ethics training requirements imposed by the test claim statute to its local officials at least once annually;⁵
4. Maintain training records indicating the dates that local officials satisfied the ethics training and the entity that provided the training for five years.⁶

In the test claim decision, the Commission found that ethics training was *not* a reimbursable activity.

Statewide Cost Estimate

Assumptions

Staff reviewed the one reimbursement claim submitted by one special district, Idyllwild Water District, to the SCO. The claim was filed for fiscal year 2011-2012 for a total of \$21,195.⁷ However, because Idyllwild Water District is not subject to the tax and spend limitations of articles XIII A and XIII B of the California Constitution, it is not an eligible claimant.⁸

³ Government Code section 53232.2(b).

⁴ Government Code section 53232.3(a).

⁵ Government Code section 53235(f).

⁶ Government Code section 53235.2(a).

⁷ Claims data reported as of May 17, 2013.

⁸ The SCO issues an annual report that identifies those special districts that collect tax revenue and are subject to the spending limitations of article XIII B. On October 30, 2012, the SCO issued its *Special Districts Annual Report* for fiscal year 2010-2011. The report shows that Idyllwild Water District is not subject to the appropriations limit of article XIII B, thus making it an ineligible claimant for mandates purposes. Special districts have a statutory duty to submit annual reports to the SCO pursuant to Government Code section 12463, which provide the information on which the SCO's annual report is based.

Therefore, no claims subject to reimbursement have been filed on this program. Based on this information, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*
 - There are currently 44 general law counties and approximately 610 eligible special districts in California. However, not a single eligible claimant has filed a reimbursement claim. If eligible claimants file late or amended initial claims, the reimbursement claims would exceed the statewide cost estimate. Late initial claims for this program for fiscal years 2006-2007 through 2011-2012 may be filed until May 3, 2014.
- *There may be several reasons that non-claiming general law counties and eligible special districts did not file for reimbursement, including but not limited to:*
 - The Commission approved only a few minor administrative activities for this program and found that the test claim statute does not impose a state-mandated program on most local agencies and that the most costly activities claimed, the compensation and reimbursement of members of local agency legislative bodies, ethics training and travel are not required by the test claim statute. Therefore, eligible claimants may not be able to reach the \$1,000 threshold for filing annual reimbursement claims.
 - Eligible claimants did not have supporting documentation to file a reimbursement claim.
- *Because of the dearth of data available to prepare this statewide cost estimate, it may not be very accurate in predicting future costs of the program.*

Methodology

Fiscal Years 2006-2007 through 2011-2012

The statewide cost estimate for fiscal years 2006-2007 through 2011-2012 was developed by reviewing the one reimbursement claim filed with the SCO for fiscal year 2011-2012, which was filed by a special district that is not an eligible claimant.

Draft Staff Analysis and Proposed Statewide Cost Estimate

On June 18, 2013, Commission staff issued the draft staff analysis and proposed statewide cost estimate for comment.⁹ No comments were received.

Staff Recommendation

Staff recommends the Commission adopt the proposed statewide cost estimate of **\$0** for costs incurred in complying with the *Local Agency Ethics (AB 1234)* program.

⁹ Exhibit C.

Commission on State Mandates

Original List Date:
Last Updated: 6/21/2013
List Print Date: 07/10/2013
Claim Number: 07-TC-04
Issue: Local Agency Ethics (AB 1234)

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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