

ITEM 17
STAFF REPORT
2011 LEGISLATION

There are currently two active bills and two inactive bills that propose to revise the mandates process:

Active Bills:

AB 202 (Brownley). As amended on June 28, 2011, the bill would modify existing provisions for developing joint reasonable reimbursement methodologies by school district claimants and the Department of Finance.

The current process allows the Commission's executive director to grant claimants and Finance up to four 180-day extensions to submit a joint reasonable reimbursement methodology for approval. AB 202 would revise the extension authority to allow the executive director to grant only one 90-day extension to school district claimants and Finance. If a proposed joint reasonable reimbursement methodology is not submitted by this deadline, and the parties notify the Commission that a reasonable reimbursement methodology cannot be agreed upon, then the executive director shall immediately declare and notify the Fiscal Crisis and Management Assistant Team, claimants, and Finance that binding arbitration is necessary. The Fiscal Crisis Team would be required to serve as the sole arbitrator of the reasonable reimbursement methodology impasse, arbitrate the impasse, and following arbitration, submit a revised reasonable reimbursement methodology to the Commission for approval.

AB 202 would also increase reporting requirements for: (1) the Legislative Analyst regarding school district test claims; (2) the Commission regarding test claims filed that contain regulations; and (3) the State Controller regarding reimbursement claims filed that exceed a statewide cost estimate.

The Assembly Committee on Appropriations' analysis indicates that this bill was introduced to implement changes in the process in order to reduce the impact of ineffective and unnecessary mandates placed on school districts, reduce the long-term liability to the state for mandate reimbursement, and streamline the process and reduce the workload of the Commission, other state agencies, and school districts.

AB 202 passed Assembly Education Committee (10-0) on April 28, 2011; passed Assembly Appropriations Committee (16-0) on May 12, 2011; passed the Assembly (78-0) on May 19, 2011; passed Senate Education Committee (8-0) on June 27, 2011; currently pending in Senate Appropriations Committee.

SB 112 (Liu). Government Code section 17557 requires the Commission to adopt parameters and guidelines on approved mandates. Section 17557 authorizes local agencies, school districts, and state agencies to submit requests to amend existing parameters and guidelines to: (1) delete reimbursable activities that have been repealed by the Legislature; (2) update offsetting revenue and offsetting savings language; (3) include or amend a reasonable reimbursement methodology; (4) clarify what constitutes or does not constitute reimbursable activities; (5) add new activities; (6) consolidate two or more parameters and guidelines; or (7) amend the boilerplate language (the language in the parameters and guidelines that is not unique to each program).

Government Code section 17558 requires the State Controller's Office to issue claiming instructions 60 days after it receives the adopted parameters and guidelines, and revised claiming instructions 60 days after it receives the adopted amendments to parameters and guidelines. Issuance of the claiming instructions begins the process for the claimants to file reimbursement claims. When amendments to the parameters and guidelines are adopted and revised claiming instructions are issued, the claimants are entitled to file revised reimbursement claims.

As amended on March 7, 2011, SB 112 would clarify that any amendment to the boilerplate language in the parameters and guidelines that does not increase or decrease reimbursable costs shall limit the eligible filing period commencing with the fiscal year in which the parameters and guidelines are amended by the Commission. The bill would also provide the State Controller's Office with an additional 30 days to issue claiming instructions.

This bill is sponsored by the State Controller's Office. Controller's staff states that issuance of revised claiming instructions after adoption of parameters and guidelines amendments allows claimants to file revised reimbursement claims, even if the amendments to the parameters and guidelines did not increase or decrease any costs to the claimant. This bill would clarify that if amendments are made to boilerplate language that result in no increase or decrease in costs, claimants may not file revised reimbursement claims for past years.

SB 112 passed Senate Governance and Finance Committee (8-0) on April 16, 2011; passed Senate Appropriations pursuant to rule 28.8, and passed the Senate (40-0) on May 9, 2011; passed Assembly Local Government Committee (9-0) on June 15, 2011, passed the Assembly Appropriations Committee (16-0) on July 6, 2011; and is pending on the Assembly Floor.

Inactive Bills

SB 64 (Liu). Government Code section 17553 and the Commission's regulations establish procedures that govern filing of test claims for local agencies and school districts.

As amended on April 26, 2011, SB 64 would remove school districts from this process, and establish a new process for school districts to file test claims that would:

- Require the Commission to establish a school district test claim advisory committee.
- Require the advisory committee to review, new school district test claims, and make a recommendation on the test claim to the Commission.
- Require Commission staff to provide technical expertise and other support for the advisory committee.
- Shift some of the existing requirements for filing a test claim for school districts to the advisory committee and Commission staff.

- Shift the responsibility for drafting parameters and guidelines from school districts to the advisory committee and Commission staff.
- Declare that it is the policy of the state that the Commission adopt parameters and guidelines for school district programs that include reasonable reimbursement methodologies.
- Authorize the advisory committee to submit requests to amend parameters and guidelines on behalf of school districts.
- Require the advisory committee to review the parameters and guidelines for school district mandates at least once every three years, and if revisions to the parameters and guidelines are necessary, submit requests for amendments to the Commission.
- Authorize the advisory committee to negotiate joint reasonable reimbursement methodologies with the Department of Finance on behalf of school districts.

SB 64 passed the Senate Education Committee (8-0) on April 13, 2011. It was held in Senate Appropriations due to the potential high cost of the bill, and is now a two-year bill.

SB 887 (Emmerson). As amended April 25, 2011, SB 887 would enact the Streamlined Temporary Mandate Process Act of 2011 as a voluntary, temporary alternative to the existing mandates process. This alternative process would apply to school districts only. Under the bill, participating school districts would self-certify that they have complied with the underlying intentions of these 38 mandates, and would be reimbursed for these mandates on a per unit basis, with the amount appropriated annually in the Budget Act until 2015.

The bill would require all participating school districts, as part of their annual audits, to request a compliance report from an auditor specifying that the agency has complied or not complied with these provisions.

School districts that decide not to voluntarily participate in this process would be required to explain their reasons for non-participation at a duly noticed public meeting.

SB 887 remains in the Senate Education Committee.