

**ITEM 9**  
**FINAL STAFF ANALYSIS**  
**PROPOSED STATEWIDE COST ESTIMATE**

Education Code Sections 38139, Subdivisions (a) and (b) and  
49068.6, Subdivisions (b) and (d)

Statutes of 1986, Chapter 249  
Statutes of 1999, Chapter 832

*Missing Children Reports*  
01-TC-09

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**EXECUTIVE SUMMARY**

**Summary of the Mandate**

The Commission on State Mandates (Commission) adopted the Statement of Decision for *Missing Children Reports* (01-TC-09), which imposes requirements on school districts upon the occurrence of a missing child. The Commission found that Education Code sections 38139, subdivisions (a) and (b), and 49068.6, subdivisions (b) and (d), constitute a new program or higher level of service and impose a reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514.

The claimant filed the test claim on June 5, 2001. The Commission adopted the Statement of Decision on January 27, 2005, and the parameters and guidelines on October 26, 2006. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by December 5, 2007.

**Statewide Cost Estimate**

Staff reviewed the claims data submitted by nine school districts and four county superintendents of schools, and compiled by the SCO. The actual claims data showed that 19 claims were filed between fiscal years 2002-2003 and 2006-2007 for a total of \$34,381. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program. If the Commission adopts this proposed statewide cost estimate, it will be reported to the Legislature along with staff's assumptions and methodology.

Assumptions

Staff made the following assumptions:

1. While the actual amount claimed may increase if late or amended claims are filed, staff does not expect late claims to be filed because most claimants will be unable to meet the \$1,000 minimum filing threshold as this program is limited to three activities and only occur upon an inquiry about a missing child.

2. The SCO may audit and reduce any reimbursement claim for this program, which could result in the amount of reimbursement for this program being lower than the statewide cost estimate.
3. The number of claims and the claimants will vary each year because this program is completed only upon an inquiry about a missing child.

### Methodology

The proposed statewide cost estimate only includes fiscal years 2002-2003 through 2006-2007, because beginning in 2007-2008, reimbursement claims must be filed under consolidated parameters and guidelines *Missing Children Reports and Law Enforcement Agency Notification*.

The statewide cost estimate was computed by totaling the 19 unaudited reimbursement claims filed with the SCO for these fiscal years, and includes five fiscal years for a total of \$34,381. This averages to \$6,876 annually in costs for the state.

### State Agency Comments

The Department of Finance submitted comments on the draft staff analysis on September 2, 2008, recommending the adoption of the statewide cost estimate be delayed until the reimbursement claims used to develop the cost estimate are audited by the SCO.

Staff disagrees that the cost estimate can be delayed until reimbursement claims are audited.

Government Code section 17551 requires the Commission, if it determines there are costs mandated by the state, to determine the amount to be subvended to local agencies and school districts for reimbursement. Government Code section 17553 requires the Commission, when a determination is made that a mandate exists, to adopt regulations to ensure that a statewide cost estimate is adopted within 12 months after receipt of a test claim. Therefore, state law does not allow the Commission to delay adoption of the statewide cost estimate until the claims are audited by the SCO.

Moreover, Department of Finance's recommendation to delay the adoption of the statewide cost estimate is not consistent with the statutory scheme in Government Code section 17500 et seq. The adoption of a statewide cost estimate triggers other functions that can lead to an appropriation of funds for the mandated program. Government Code section 17600 requires the Commission to report the statewide cost estimate to the Legislature. Once the Commission reports the statewide cost estimates to the Legislature, Government Code section 17562 requires the Legislative Analyst's Office to review the new mandate(s) and make recommendations to the Legislature as to whether the mandate should be repealed, funded, suspended, or modified. The Legislature then has the authority under Government Code section 17612 to amend, modify, or supplement parameters and guidelines, reasonable reimbursement methodologies, and/or the statewide cost estimates of the mandated programs; or can fund the program for costs incurred in prior years in the subsequent Budget Act. Thus, the adoption of the statewide cost estimate is necessary for the Legislature to appropriate funds. Furthermore, a delay in the appropriation of funds can lengthen the audit period of the State Controller's Office. Government Code section 17558.5 provides that a reimbursement claim is subject to the initiation of an audit by the Controller no later than three years after the date that the reimbursement claim is filed or last amended, whichever is later, unless there has been no appropriation or payment to a claimant. "[I]f no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim." Accordingly, a delay in adopting a

statewide cost estimate is not consistent with the way the Legislature established the mandate reimbursement process.

Therefore, staff finds that the Commission should not delay adoption of this statewide cost estimate.

**Staff Recommendation**

Staff recommends that the Commission adopt the proposed statewide cost estimate of **\$34,381** (\$6,876 in annual costs) for costs incurred in complying with the *Missing Children Reports* program.

## STAFF ANALYSIS

### Summary of the Mandate

The test claim statutes impose numerous requirements on school districts for posting missing children bulletins, and notifying law enforcement agencies and parents of certain information about missing children.

On January 27, 2005, the Commission on State Mandates (Commission) adopted the Statement of Decision for *Missing Children Reports* (01-TC-09). The Commission found that Education Code sections 38139, subdivisions (a) and (b), and 49068.6, subdivisions (b) and (d), constitute a new program or higher level of service and impose a reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514.

The claimant filed the test claim on June 5, 2001. The Commission adopted a Statement of Decision on January 27, 2005, and the parameters and guidelines on October 26, 2006. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by December 5, 2007.

### Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

1. Posting Notices (Ed. Code § 38139, subd. (a) and (b))  
Posting at an appropriate area (one restricted to adults for primary schools) all information regarding missing children.
2. Filing Law Enforcement Agency Notices (Ed. Code § 49068.6, subd. (b))  
Placing the notice received from law enforcement agencies of a missing child in the front of the student's school record.
3. Report of Record Request (Ed. Code § 49068.6, subd. (d))  
Notifying law enforcement authorities when the school receives an outside student record inquiry or request regarding a missing child.

### Statewide Cost Estimate

Staff reviewed the claims data submitted by nine school districts and four county superintendents of schools, and compiled by the SCO. The actual claims data showed that 19 claims were filed between fiscal years 2002-2003 and 2006-2007 for a total of \$34,381.<sup>1</sup> Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program. If the Commission adopts this proposed statewide cost estimate, it will be reported to the Legislature along with staff's assumptions and methodology.

#### Assumptions

Staff made the following assumptions:

4. *The actual amount claimed may increase if late or amended claims are filed.*  
Only 13 school entities in California have filed 19 reimbursement claims for this program. Thus, if reimbursement claims are filed by any of the remaining school districts or county

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<sup>1</sup> Claims data reported as of August 7, 2008.

superintendents of schools, the amount of reimbursement claims may exceed the statewide cost estimate. For this program, late claims for 2002-2003 through 2006-2007 may be filed until December 2008. However, staff does not expect any late claims to be filed because most claimants will be unable to meet the \$1,000 minimum threshold for filing reimbursement claims, as this program is limited to three activities that may only occur upon an inquiry regarding a missing child.

5. *The SCO may reduce any reimbursement claim for this program.*

If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.

6. *The number of claims and the claimants will vary each year.*

The number of claims filed and the claimants will vary each year because this program is completed only upon an inquiry about a missing child.

Methodology

The proposed statewide cost estimate only includes fiscal years 2002-2003 through 2006-2007, because beginning in 2007-2008, reimbursement claims must be filed under consolidated parameters and guidelines *Missing Children Reports and Law Enforcement Agency Notification*.

The statewide cost estimate was computed by totaling the 19 unaudited reimbursement claims filed with the SCO for these fiscal years.

The proposed statewide cost estimate includes five fiscal years for a total of \$34,381. This averages to \$6,876 annually in costs for the state.

Following is a breakdown of claims filed:

**TABLE 1. BREAKDOWN OF ESTIMATED TOTAL COSTS PER FISCAL YEAR**

| <b>Fiscal Year</b> | <b>Number of Claims Filed with SCO</b> | <b>Estimated Cost</b> |
|--------------------|--|-----------------------|
| 2002-2003          | 1                                      | \$ 1,047              |
| 2003-2004          | 1                                      | 1,082                 |
| 2004-2005          | 2                                      | 7,119                 |
| 2005-2006          | 3                                      | 3,950                 |
| 2006-2007          | 12                                     | 21,183                |
| <b>TOTAL</b>       | <b>19</b>                              | <b>34,381</b>         |

State Agency Comments

The Department of Finance submitted comments on the draft staff analysis on September 2, 2008.<sup>2</sup> Finance states that it is premature to adopt a statewide cost estimate until the reimbursement claims used to develop the cost estimate are audited by the SCO.

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<sup>2</sup> Exhibit A.

Staff disagrees that the cost estimate can be delayed until reimbursement claims are audited.

Government Code section 17551 requires the Commission, if it determines there are costs mandated by the state, to determine the amount to be subvned to local agencies and school districts for reimbursement. Government Code section 17553 requires the Commission, when a determination is made that a mandate exists, to adopt regulations to ensure that a statewide cost estimate is adopted within 12 months after receipt of a test claim. Therefore, state law does not allow the Commission to delay adoption of the statewide cost estimate until the claims are audited by the SCO.

Moreover, Department of Finance's recommendation to delay the adoption of the statewide cost estimate is not consistent with the statutory scheme in Government Code section 17500 et seq. The adoption of a statewide cost estimate triggers other functions that can lead to an appropriation of funds for the mandated program. Government Code section 17600 requires the Commission to report the statewide cost estimate to the Legislature. Once the Commission reports the statewide cost estimates to the Legislature, Government Code section 17562 requires the Legislative Analyst's Office to review the new mandate(s) and make recommendations to the Legislature as to whether the mandate should be repealed, funded, suspended, or modified. The Legislature then has the authority under Government Code section 17612 to amend, modify, or supplement parameters and guidelines, reasonable reimbursement methodologies, and/or the statewide cost estimates of the mandated programs; or can fund the program for costs incurred in prior years in the subsequent Budget Act. Thus, the adoption of the statewide cost estimate is necessary for the Legislature to appropriate funds. Furthermore, a delay in the appropriation of funds can lengthen the audit period of the State Controller's Office. Government Code section 17558.5 provides that a reimbursement claim is subject to the initiation of an audit by the Controller no later than three years after the date that the reimbursement claim is filed or last amended, whichever is later, unless there has been no appropriation or payment to a claimant. "[I]f no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim." Accordingly, a delay in adopting a statewide cost estimate is not consistent with the way the Legislature established the mandate reimbursement process.

Therefore, staff finds that the Commission should not delay adoption of this statewide cost estimate.

### **Staff Recommendation**

Staff recommends that the Commission adopt the proposed statewide cost estimate of **\$34,381** (\$6,876 in annual costs) for costs incurred in complying with the *Missing Children Reports* program.