

ITEM 16
ADOPTION OF COMMISSION ORDER TO INITIATE RULEMAKING
IMPLEMENTATION OF AB 1222

PROPOSED AMENDMENTS TO
CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5

Article 1. General
Article 3. Test Claims
Article 7. Hearings

EXECUTIVE SUMMARY

Section 1189.2 of the Commission's regulations requires the adoption of a Commission order to initiate rulemaking. Following adoption of the order, staff will publish a notice of hearing and mail the notice and rulemaking package to all interested persons for public comment.

The purpose of this rulemaking is to implement AB 1222 (Stats. 2007, ch. 329). The statutory changes that require the Commission to initiate this rulemaking are, as follows:

- The definition of reasonable reimbursement methodology (RRM) was modified. (Gov. Code, § 17518.5)
- Local governments and Department of Finance are authorized to negotiate an RRM and develop a statewide estimate of costs for submittal to the Commission instead of proposed parameters and guidelines and statewide cost estimates. (Gov. Code, §§ 17557.1 and 17557.2)
- A procedure is codified for the Department of Finance and local governments or statewide associations of local governments to request a legislatively determined mandate, a reimbursement methodology, and appropriation. (Gov. Code, §§ 17572-17574.5)

Proposed Order Number 07-2 (Exhibit A)

The proposed rulemaking includes the following proposed amendments:

Article 1. General

Section 1181.1. Definitions.

Proposes an amendment to define "statewide estimate of costs" and to include reasonable reimbursement methodologies and statewide estimates of costs to the examples of "written material."

Section 1181.2. Filing and Service of Written Materials

Proposes an amendment to enumerate the types of filings for which the Executive Director will issue sequential case numbers.

Section 1181.3. Submissions of Written Materials in Other Media.

Proposes an amendment to include reasonable reimbursement methodologies and statewide estimates of costs to the materials that can be submitted in other media.

Article 3. Test Claims

Section 1183.01. Timelines

Proposes an amendment to toll days for development of a reasonable reimbursement methodology from the timeline for the Commission to adopt a statewide cost estimate; includes statutory timelines for a test claimant and the Department of Finance to develop a reasonable reimbursement methodology and statewide estimate of costs pursuant to Government Code section 17557.1.

Section 1183.04. Informal Conferences.

Proposes an amendment to add the consideration of draft reasonable reimbursement methodologies and proposed statewide estimates of costs jointly prepared by test claimants and the Department of Finance to the purpose of an informal conference.

Section 1183.08. Withdrawal of Test Claims.

Proposes an amendment to clarify that this regulation does not apply to a test claim that is withdrawn after enactment of a legislatively determined mandate on the same statute or executive order pursuant to Government Code section 17574.

New Section 1183.081. Local Agency or School District “Abandonment” of Test Claim

Proposes a process for the Executive Director to deem a test claim “abandoned” and for a new local agency or school district to substitute for the original test claimant.

Section 1183.11. Submission and Review of Proposed Parameters and Guidelines; Submission of Comments.

Proposes an amendment to clarify that a successful test claimant shall submit proposed parameters and guidelines to the Commission within 30 days of the early termination or expiration of a reasonable reimbursement methodology.

Section 1183.13. Reasonable Reimbursement Methodology.

Proposes substantive and technical conforming changes to modify the definition of a reasonable reimbursement methodology, as defined in Government Code section 17518.5. Also proposes to delete the process for receiving and reviewing a proposed reasonable reimbursement methodology from this section.

New Section 1183.131. Reasonable Reimbursement Methodology Included in Parameters and Guidelines.

Proposes a process for receiving and reviewing a proposed reasonable reimbursement methodology, as formerly included in section 1183.13.

Section 1183.14. Adoption of Parameters and Guidelines

Proposes a technical amendment to clarify that Commission staff’s recommendation may include a reasonable reimbursement methodology developed by a party pursuant to Government Code section 17518.5.

Section 1183.25. Statewide Cost Estimate.

Proposes renumbering section 1183.3 to section 1183.25.

New Section 1183.30. Reasonable Reimbursement Methodology and Statewide Estimate of Costs Developed by the Test Claimant and Department of Finance.

Proposes a process for receiving and reviewing a reasonable reimbursement methodology and statewide estimate of costs developed by the test claimant and the Department of Finance.

New Section 1183.31. Joint Request for Early Termination of Reasonable Reimbursement Methodology.

Proposes a process for the test claimant and the Department of Finance to file a joint request for early termination of a reasonable reimbursement methodology.

New Section 1183.32. Expiration of Reasonable Reimbursement Methodology.

Proposes a process for notifying the test claimant and the Department of Finance of expiring reasonable reimbursement methodologies and receiving and reviewing jointly proposed amendments or requests to continue an expiring reasonable reimbursement methodology.

Minor, Non-Substantive, Clarifying and Technical Amendments

Proposes minor, non-substantive, or clarifying technical amendments in sections 1183 and 1188.3.

Text of Proposed Amendments (Exhibit B)

Staff's draft of the proposed text is attached as Exhibit B. Before filing with the Office of Administrative Law, staff may make technical corrections, as may be required.

Timetable

If the order is adopted, staff will proceed pursuant to the following timetable:

December 11, 2007	Notice of Rulemaking, Initial Statement of Reasons, and Proposed Text will be filed with the Office of Administrative Law for publication.
December 21, 2007	Notice of Proposed Regulatory Action will be issued and published.
January 18, 2008	Last day to request public hearing.
January 31, 2008	Public hearing will be held, if requested.
February 4, 2008	End of public comment period.
March 27, 2008	Regulations will be proposed for adoption by the Commission.
April 3, 2008	Adopted Regulations will be filed with the Office of Administrative Law.

Staff Recommendation

Staff recommends the Commission adopt Proposed Order 07-2.

