

ITEM 19

PROPOSED ORDER TO SET ASIDE PARAMETERS AND GUIDELINES

Senior Citizens' Mobilehome Property Tax Postponement

04-PGA-31 (SB 90-1623)

Statutes 1983, Chapter 1051

As Amended by Statutes 2004, Chapter 227, Section 97
(Sen. Bill No. 1102, eff. August 16, 2004)

EXECUTIVE SUMMARY

Background

In 1984, the State Board of Control, the predecessor to the Commission on State Mandates (Commission), determined that the *Senior Citizens' Mobilehome Property Tax Postponement* program (Rev. & Tax Code, § 2514, as amended by Stats. 1983, ch.1051; Rev. and Tax Code, §§ 20639 et seq., as added by Stats. 1983, ch.1051) imposed a reimbursable state mandate on counties. The test claim legislation allowed the State Controller to provide mobile home property tax relief for eligible senior citizens. Under the program, senior citizens may defer payment of mobile home property taxes to local governments by requesting that the State Controller pay the amount deferred to the local government. The State Controller recovers its payments by placing a lien against the mobile home that must be paid prior to its sale.

In order to ensure repayment to the state, the test claim legislation required counties to file certificates of eligibility with the State Controller that establish liens and obtain payment of deferred taxes, record tax postponement information, and provide that information to interested parties. The counties were also required to notify the State Controller of any changes in the ownership of the mobile homes that have tax postponement liens. The Commission adopted parameters and guidelines for the program in 1986 and established a unit cost in the parameters and guidelines for reimbursement to counties.

Last year, the Legislature enacted Senate Bill (SB) 1102 (Stats. 2004, ch. 227, § 97) to make this program optional. SB 1102 was urgency legislation that become operative and effective on August 16, 2004.

Discussion

Article XIII B, section 6 of the California Constitution states that “whenever the Legislature or any state agency *mandates* a new program or higher level of service on any local government, the state shall provide a subvention of funds.” (Emphasis added.) This constitutional provision was specifically intended to prevent the state from forcing programs on local government that

require expenditure by local governments of their tax revenues.¹ To implement article XIII B, section 6, the Legislature enacted Government Code section 17500 et seq. Government Code section 17514 defines “costs mandated by the state” as “any increased costs which a local agency or school district is *required* to incur . . . as a result of any statute. . . which *mandates* a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.” (Emphasis added.)

In 2004, SB 1102, section 97, amended Revenue and Taxation Code section 2514, a statute addressing the duties of the county tax collector on receipt of a certificate of eligibility for property tax postponement. SB 1102 added subdivision (c) to section 2514 to make the *Senior Citizens’ Mobilehome Property Tax Postponement* program optional. This provision states the following:

Notwithstanding any other provision in this section, any action required of a local agency by this section in order to give effect to the Senior Citizens Mobilehome Property Tax Postponement Law (Chapter 3.3 (commencing with Section 20639) of Part 10.5 of Division 2, and that has been determined by the Commission on State Mandates to be a reimbursable mandate, *shall be optional*. (Emphasis added.)

Under the rules of statutory construction, the Commission may not disregard or enlarge the plain provisions of a statute, nor may it go beyond the meaning of the words used when the words are clear and unambiguous. Thus, the Commission, like the court, is prohibited from writing into a statute, by implication, express requirements that the Legislature itself has not seen fit to place in the statute.² This prohibition is based on the fact that the California Constitution vests the Legislature with the policymaking authority. As a result, the courts have instructed the Commission to strictly construe the meaning and effect of statutes analyzed under article XIII B, section 6.³

Thus, staff finds that, effective August 16, 2004, there is no new program or higher level of service or “costs mandated by the state” on local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 because the program has been made optional. Therefore, staff concludes that the parameters and guidelines for this program should be set aside.

Staff Recommendation

Staff recommends that the Commission adopt the attached order setting aside the parameters and guidelines for the *Senior Citizens’ Mobilehome Property Tax Postponement* program, effective August 16, 2004.

¹ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283-1284.

² *Whitcomb v. California Employment Commission* (1944) 24 Cal.2d 753, 757; *In re Rudy L.* (1994) 29 Cal.App.4th 1007, 1011.

³ *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1816-1817.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Statutes 1983, Chapter 1051;

Amended by Statutes 2004, Chapter 227,
Section 97 (Sen. Bill No. 1102, effective
August 16, 2004).

Nos. 04-PGA-31 (SB 90-1623)

*Senior Citizens' Mobilehome Property Tax
Postponement Program*

PROPOSED ORDER TO SET ASIDE
PARAMETERS AND GUIDELINES

(Proposed on September 27, 2005)

ORDER TO SET ASIDE PARAMETERS AND GUIDELINES

In 1984, the State Board of Control, the predecessor to the Commission on State Mandates (Commission), determined that the *Senior Citizens' Mobilehome Property Tax Postponement* program (Rev. & Tax Code, § 2514, as amended by Stats. 1983, ch.1051; Rev. and Tax Code, §§ 20639 et seq., as added by Stats. 1983, ch.1051) imposed a reimbursable state mandate on counties. The test claim legislation allowed the State Controller to provide mobile home property tax relief for eligible senior citizens. Under the program, senior citizens may defer payment of mobile home property taxes to local governments by requesting that the State Controller pay the amount deferred to the local government. The State Controller recovers its payments by placing a lien against the mobile home that must be paid prior to its sale.

In order to ensure repayment to the state, the test claim legislation required counties to file certificates of eligibility with the State Controller that establish liens and obtain payment of deferred taxes, record tax postponement information, and provide that information to interested parties. The counties are also required to notify the State Controller of any changes in the ownership of the mobile homes that have tax postponement liens. The Commission adopted parameters and guidelines for the program in 1986 and established a unit cost in the parameters and guidelines for reimbursement to counties.

In 2004, SB 1102, section 97, amended Revenue and Taxation Code section 2514, a statute addressing the duties of the county tax collector on receipt of a certificate of eligibility for property tax postponement. SB 1102 added subdivision (c) to section 2514 to make the *Senior Citizens' Mobilehome Property Tax Postponement* program optional. This provision states the following:

Notwithstanding any other provision in this section, any action required of a local agency by this section in order to give effect to the Senior Citizens Mobilehome Property Tax Postponement Law (Chapter 3.3 (commencing with Section 20639)

of Part 10.5 of Division 2, and that has been determined by the Commission on State Mandates to be a reimbursable mandate, *shall be optional*. (Emphasis added.)

SB 1102 was urgency legislation that became operative and effective on August 16, 2004.

Article XIII B, section 6 of the California Constitution states that “whenever the Legislature or any state agency *mandates* a new program or higher level of service on any local government, the state shall provide a subvention of funds.” (Emphasis added.) This constitutional provision was specifically intended to prevent the state from forcing programs on local government that *require* expenditure by local governments of their tax revenues.⁴ To implement article XIII B, section 6, the Legislature enacted Government Code section 17500 et seq. Government Code section 17514 defines “costs mandated by the state” as “any increased costs which a local agency or school district is *required* to incur . . . as a result of any statute. . . which *mandates* a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.” (Emphasis added.)

Under the rules of statutory construction, the Commission may not disregard or enlarge the plain provisions of a statute, nor may it go beyond the meaning of the words used when the words are clear and unambiguous. Thus, the Commission, like the court, is prohibited from writing into a statute, by implication, express requirements that the Legislature itself has not seen fit to place in the statute.⁵ This prohibition is based on the fact that the California Constitution vests the Legislature with the policymaking authority. As a result, the courts have instructed the Commission to strictly construe the meaning and effect of statutes analyzed under article XIII B, section 6.⁶

The Commission finds that, effective August 16, 2004, there is no new program or higher level of service or “costs mandated by the state” on local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 because the program has been made optional.

Therefore, the Commission sets aside the attached parameters and guidelines for the *Senior Citizens’ Mobilehome Property Tax Postponement* Program.

Paula Higashi, Executive Director

Date

Attachment: Parameters and Guidelines

⁴ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283-1284.

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