

**ITEM 14**  
**STAFF ANALYSIS**  
**PROPOSED PARAMETERS AND GUIDELINES AMENDMENT**

*County Treasury Withdrawals*  
*(Formerly County Treasury Oversight Committees)*

04-PGA-17 (CSM-96-365-03)

Government Code Sections 27130, 27131,  
27132, 27132.1, 27132.2, 27132.3, 27132.4,  
27133, 27134, 27135, 27136, 27137

Statutes 1995, Chapter 784  
Statutes 1996, Chapter 156

-And-

Amended by Statutes 2004, Chapter 889  
(Assem. Bill No. 2853, § 1, eff. September 29, 2004)

---

**EXECUTIVE SUMMARY**

On July 27, 2000, the Commission on State Mandates (Commission) adopted its Statement of Decision, finding that Statutes 1996, chapter 784 imposed a reimbursable state-mandated program upon local agencies and school districts within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514. Government Code section 27131<sup>1</sup> required the establishment of a County Treasury Oversight Committee for any county that is investing surplus funds. Specifically, the statutes:

1. Defined the membership of the committee. (§ 27132.)
2. Declared that the meetings of the committee are open to the public and subject to the Ralph M. Brown Act. (§ 27132.4.)
3. Placed various campaign, fiscal, and employment restrictions upon committee members. (§ 27132.1-27133.)
4. Required the county treasurer to annually prepare an investment policy that will be reviewed and monitored by the oversight committee. (§ 27133.)
5. Required the county treasury oversight committee to cause an annual audit to be conducted. (§ 27134.)

---

<sup>1</sup> All references are to the Government Code unless otherwise stated.

6. Required the county treasurer to evaluate and approve any withdrawal of funds proposed by a local agency that seeks to withdraw funds for the purpose of investing or depositing those funds outside the county treasury pool. (§§ 27136-27137.)
7. Provided funding of this program through county charges which could be included with those charges enumerated under Government Code section 27103. (§ 27135.)

On July 26, 2001, the Commission adopted the parameters and guidelines for this program.

Last year, Statutes 2004, chapter 889 (Assem. Bill No. 2853, § 1, eff. September 29, 2004) amended Government Code section 27131, making optional the establishment of the county treasury oversight committee for any county that is investing surplus funds.<sup>2</sup> Only one activity, unrelated to the establishment of the county treasury oversight committee, remains reimbursable.

On November 8, 2004, the State Controller's Office (SCO) requested amendment of the parameters and guidelines to conform to this amendment.<sup>3</sup>

### **Discussion**

Staff reviewed the legislation and the SCO's request. Staff modified each section of the parameters and guidelines as discussed below.

#### *Name of Program*

Staff proposes changing the name of this program from "*County Treasury Oversight Committees*" to "*County Treasury Withdrawals*." The new name describes the remaining reimbursable activity for the county treasurer.

#### *Code Sections in Title*

Staff deleted the code sections that are related to the county treasury oversight committees and that are no longer reimbursable based on the 2004 amendments.

#### *I. Summary of the Mandate*

This section was amended to include the 2004 amendment and to make the section consistent with other parameters and guidelines recently adopted by the Commission.

---

<sup>2</sup> Government Code section 27131, as amended:

(a) The board of supervisors in each county or city and county *may*, if the county or city and county is investing surplus funds, establish a county treasury oversight committee. The board of supervisors, in consultation with the county treasurer, shall determine the exact size of the committee, which shall consist of from 3 to 11 members, and the categories from which the members shall be represented, as specified in subdivisions (a) to (g), inclusive, of Section 27132. Members shall be nominated by the treasurer and confirmed by the board of supervisors.

(b) *In recognition of the state and local interests served by the action made optional in subdivision (a), the Legislature encourages local agencies to continue taking the action formerly mandated by this section. However, nothing in this subdivision may be construed to impose any liability on a local agency that does not continue to take the formerly mandated action.*

(Emphasis added.)

<sup>3</sup> See Exhibit A.

## *II. Eligible Claimants*

This section was amended to delete “any County Superintendent of Schools who is a member of the Oversight Committee” as an eligible claimant. The 2004 amendment made establishment of oversight committees optional. See discussion below under Section IV. Reimbursable Activities.

## *III. Period of Reimbursement*

This section was updated to include language recently adopted by the Commission and to conform to statutory changes made since 2001. For example, when these parameters and guidelines were adopted, the minimum threshold for filing reimbursement claims was \$200. In 2002, that amount was increased to \$1,000.<sup>4</sup>

In addition, Government Code section 17557 provides that a request for amendment of parameters and guidelines filed on or before January 15 following a fiscal year, shall establish reimbursement eligibility for that fiscal year. The SCO requested that these parameters and guidelines be amended on November 8, 2004. However, the legislation that amended the test claim statutes was effective on September 29, 2004. Therefore, staff revised this section to clarify that the period of reimbursement for this amendment begins on September 29, 2004, unless suspended in the annual budget act pursuant to Government Code section 17581 and article XIII B, section 6, subdivision (b), of the California Constitution. The proposed language updates this section to current law.

## *IV. Reimbursable Activities*

This section was revised to include language regarding supporting documentation requirements adopted by the Commission. This section was also revised to delete activities for which reimbursement is not required based on the 2004 amendment that made establishment of county treasury oversight committees optional and recent case law.

### 2004 Amendment

As amended, there is no express requirement in Government Code section 27131 for the board of supervisors in each county or city and county that is investing surplus funds to establish a county treasury oversight committee. Rather, the plain language of Government Code section 27131 now states that the board of supervisors in each county...“may”...establish a county treasury oversight committee.

The parameters and guidelines provided counties with reimbursement for the following one-time activities:

1. Create and determine the exact size and membership of the county treasury oversight committee, which shall consist of 3 to 11 members appointed as specified in Government Code section 27132. (§§ 27132, 27133.)
2. Provide training to inform new members of the county treasury oversight committee of their campaign, fiscal and employment restrictions. (§§ 27131.1, 27131.2, 27131.3, & 27137.)

The parameters and guidelines included six on-going activities for counties. Five of these activities are related to the functions of a county treasury oversight committee.

---

<sup>4</sup> Statutes 2002, chapter 1124 (Assem. Bill No. 3000).

1. Revise the size and membership of the county treasury oversight committee, as needed. (§§ 27131 and 27132.)
2. Prepare the annual statement of investment policy and submit it to the board of supervisors and the oversight committee for review and approval at a public hearing. (§ 27133.)
3. Cause an annual audit to be conducted to determine the county treasury's compliance with this article. (§ 27134.)
4. Prepare for and conduct meetings of the oversight committee. (§§ 27131, 27132.4.)
5. Oversight committee meetings shall be open to the public and subject to the provisions of the Ralph M. Brown Open Meetings Act. (§ 27132.4.)

One activity is unrelated to the establishment of the county treasury oversight committee:

1. Evaluate and approve the withdrawal of funds proposed by any local agency for the purpose of investing or depositing outside the county treasury pool. (§ 27136.)

The parameters and guidelines also provided reimbursement to county offices of education for the costs incurred by the county superintendent of schools or designee to prepare for and attend meetings of the oversight committee. (§ 27132, subd. (d).)

### **Staff Findings**

Under the rules of statutory construction, when the statutory language is plain, as the statute is here, the court is required to enforce the statute according to its terms. The California Supreme Court determined that:

In statutory construction cases, our fundamental task is to ascertain the intent of the lawmakers so as to effectuate the purpose of the statute. We begin by examining the statutory language, giving the words their usual and ordinary meaning. If the terms of the statute are unambiguous, we presume the lawmakers meant what they said, and the plain meaning of the language governs. [Citations omitted.]<sup>5</sup>

Moreover, the court 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 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.<sup>6</sup> Consistent with this principle, the courts have strictly construed the meaning and effects of statutes analyzed under article XIII B, section 6, and have not applied section 6 as an equitable remedy:

A strict construction of section 6 is in keeping with the rules of constitutional interpretation, which require that constitutional limitations and restrictions on legislative power “are to be construed strictly, and are not to be extended to include matters not covered by the language used.” [Citations omitted.][“Under our form of government, policymaking authority is vested in the Legislature and neither arguments as to the wisdom of an enactment nor questions as to the

---

<sup>5</sup> *Estate of Griswald* (2001) 25 Cal.4th 904, 910-911.

<sup>6</sup> *Whitcomb v. California Employment Commission* (1944) 24 Cal.2d 753, 757.

motivation of the Legislature can serve to invalidate particular legislation.”] Under these principles, there is no basis for applying section 6 as an equitable remedy to cure the perceived unfairness resulting from political decisions on funding policies.<sup>7</sup>

This is further supported by the California Supreme Court’s decision in *Department of Finance v. Commission on State Mandates, Kern High School Dist., et al.*<sup>8</sup> In *Kern High School Dist.*, the court considered the meaning of the term “state mandate” as it appears in article XIII B, section 6 of the California Constitution. The court reviewed the ballot materials for article XIII B, which provided that “a state mandate comprises something that a local government entity is required or forced to do.”<sup>9</sup> The ballot summary by the Legislative Analyst further defined “state mandates” as “requirements imposed on local governments by legislation or executive orders.”<sup>10</sup>

The court also reviewed and affirmed the holding of *City of Merced v. State of California* (1984) 153 Cal.App.3d 777.<sup>11</sup> The court stated the following:

In *City of Merced*, the city was under no legal compulsion to resort to eminent domain-but when it elected to employ that means of acquiring property, its obligation to compensate for lost business goodwill was not a reimbursable state mandate, because the city was not required to employ eminent domain in the first place. Here as well, if a school district elects to participate in or continue participation in any underlying *voluntary* education-related funded program, the district’s obligation to comply with the notice and agenda requirements related to that program does not constitute a reimbursable state mandate. (Emphasis in original.)<sup>12</sup>

Thus, the Supreme Court held as follows:

[W]e reject claimants’ assertion that they have been legally compelled to incur notice and agenda costs, and hence are entitled to reimbursement from the state, based merely upon the circumstance that notice and agenda provisions are mandatory elements of education-related programs in which claimants have participated, *without regard to whether claimant’s participation in the underlying program is voluntary or compelled.* (Emphasis added.)<sup>13</sup>

The Supreme Court left undecided whether a reimbursable state mandate “might be found in circumstances short of legal compulsion – for example, if the state were to impose a substantial penalty (independent of the program funds at issue) upon any local entity that declined to participate in a given program.”<sup>14</sup>

---

<sup>7</sup> *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1816-1817.

<sup>8</sup> *Department of Finance v. Commission on State Mandates, Kern High School Dist., et al.* (2003) 30 Cal.4th 727 (*Kern High School Dist.*).

<sup>9</sup> *Id.* at page 737.

<sup>10</sup> *Ibid.*

<sup>11</sup> *Id.* at page 743.

<sup>12</sup> *Ibid.*

<sup>13</sup> *Id.* at page 731.

<sup>14</sup> *Ibid.*

In *San Diego Unified School Dist v. Commission on State Mandates* (2004) 33 Cal.4th, 859, the Supreme Court discusses the potential pitfalls of extending “the holding of *City of Merced* so as to preclude reimbursement ... whenever an entity makes an initial discretionary decision that in turn triggers mandated costs.”<sup>15</sup> In particular, the Court examines the factual scenario from *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, in which:

An executive order requiring that county firefighters be provided with protective clothing and safety equipment was found to create a reimbursable state mandate for the added costs of such clothing and equipment. (*Id.*, at pp. 537-538, 234 Cal.Rptr. 795.) The court in *Carmel Valley* apparently did not contemplate that reimbursement would be foreclosed in that setting merely because a local agency possessed discretion concerning how many firefighters it would employ--and hence, in that sense, could control or perhaps even avoid the extra costs to which it would be subjected. Yet, under a strict application of the rule gleaned from *City of Merced*, *supra*, 153 Cal.App.3d 777, 200 Cal.Rptr. 642, such costs would not be reimbursable for the simple reason that the local agency's decision to employ firefighters involves an exercise of discretion concerning, for example, how many firefighters are needed to be employed, etc. We find it doubtful that the voters who enacted article XIII B, section 6, or the Legislature that adopted Government Code section 17514, intended that result, and *hence we are reluctant to endorse, in this case*, an application of the rule of *City of Merced* that might lead to such a result. [Emphasis added.]

The Court did not rely on this analysis to reach its conclusions, thus the statements are considered dicta; however, the Commission recognizes that the Court was giving clear notice that the *City of Merced* “discretionary” rationale is not without limitation. What the Court did *not* do was disapprove either the *City of Merced*, or its own rationale and holding in *Kern High School Dist.*

Rather, the 2003 decision of the California Supreme Court in *Kern High School Dist.* remains good law, relevant, and its reasoning continues to apply in this case. The Supreme Court explained, “the proper focus under a legal compulsion inquiry is upon the nature of the claimants’ participation in the underlying programs themselves.”<sup>16</sup>

The test claim legislation required county boards of supervisors to establish county treasury oversight committees. Now, based on the plain meaning of the 2004 amendment to Government Code section 27131, county boards of supervisors are not compelled by state law to establish county treasury oversight committees. The decision to establish a county treasury oversight committee is made at the local level and is within the discretion of the county board of supervisors.

However, five downstream activities that are directly related to the establishment of a county treasury oversight committee are included in the parameters and guidelines. Because the

---

<sup>15</sup> *San Diego Unified School Dist.v.Commission on State Mandates* (2004) 33 Cal.4th at page 887.

<sup>16</sup> *Kern High School Dist.*, *supra*, 30 Cal.4th at page 743.

establishment of the county treasury oversight committee is not compelled by the state, none of these downstream activities are reimbursable.

Thus, based on the authorities cited above, if a county board of supervisors elects to establish a county treasury oversight committee, compliance with sections 27131, 27132, 27132.4, 27133, 27134, and 27136 does not constitute a reimbursable state mandate.<sup>17</sup>

Likewise, based on the authorities cited above, if a county superintendent elects to participate in an optional county treasury oversight committee, the costs incurred for preparation and participation in the meetings, does not constitute a reimbursable state mandate.

Based on these findings, staff recommends deletion of all downstream activities related to the county treasury oversight committee and listed under “Ongoing-Counties” and “Ongoing-County Superintendent of Schools or Designee.”

One remaining activity, the requirement for the county treasurer to evaluate and approve any withdrawal of funds proposed by a local agency that seeks to withdraw funds for the purpose of investing or depositing those funds outside the county treasury pool was not affected by the 2004 amendment to section 27131 and will remain in the parameters and guidelines.

*Sections V. through X.*

The remaining sections regarding preparation of reimbursement claims, retaining records, and information regarding amending parameters and guidelines and the legal and factual basis for parameters and guidelines were added to make these parameters and guidelines consistent with other parameters and guidelines recently adopted by the Commission.

### **Staff Recommendation**

Staff recommends that the Commission adopt the proposed amendments to the parameters and guidelines for the *County Treasury Oversight Committees* program, beginning on page 9.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

---

<sup>17</sup> *Ibid.*



## PROPOSED PARAMETERS AND GUIDELINES AMENDMENT

Government Code Sections ~~27130, 27131,~~  
~~27132, 27132.1, 27132.2, 27132.3, 27132.4,~~  
~~27133, 27134, 27135, 27136, 27137~~

Statutes ~~of~~ 1995, Chapter 784

Statutes ~~of~~ 1996, Chapter 156

-And-

Amended by Statutes 2004, Chapter 889  
(Assem. Bill No. 2853, § 1, eff. September 29, 2004)

County Treasury Withdrawals Oversight Committees

### I. SUMMARY OF THE MANDATE

Statutes ~~of~~ 1995, chapter 784 added article 6, section 27130, et seq. to the Government Code requiring the establishment of a County Treasury Oversight Committee for any county that is investing surplus funds. Specifically, the legislation:

1. defines the membership of the committee;
2. declares that the meetings of the committee are open to the public and subject to the Ralph M. Brown Act;
3. requires the county treasurer to annually prepare an investment policy that will be reviewed and monitored by the Oversight Committee;
4. requires the County Treasury Oversight Committee to cause an annual audit to be conducted to determine compliance with article 6 of the Government Code; and
5. requires the county treasurer to evaluate and approve any withdrawal of funds proposed by a local agency that seeks to withdraw funds for the purpose of investing or depositing those funds outside the county treasury pool.

Statutes ~~of~~ 1996, chapter 156 made technical, nonsubstantive changes to sections 27131 and 27136, and amended sections 27132.1, 27132.2, and 27132.3 to further restrict the activities and qualifications of members on the Oversight Committee.

On July 27, 2000, the Commission on State Mandates adopted its Statement of Decision, finding that the test claim legislation imposes a reimbursable state-mandated program upon local

agencies within the meaning of article XIII B, section 6, of the California Constitution and section 17514 of the Government Code.

Statutes 2004, chapter 889 (Assem. Bill No. 2853, § 1) amended Government Code section 27131, making establishment of a county treasury oversight committee optional, effective September 29, 2004.

## **II. ELIGIBLE CLAIMANTS**

Any county, or city and county.

~~Any County Superintendent of Schools who is a member of the Oversight Committee is an eligible claimant with respect to the activities identified in Section IV (C)(1) of these Parameters and Guidelines.~~

## **III. PERIOD OF REIMBURSEMENT**

The period of reimbursement begins on September 29, 2004, unless the program known as “County Treasury Withdrawals (96-365-03)” is suspended in the annual budget act pursuant to Government Code sections 17581 and article XIII B, section 6, subdivision (b), of the California Constitution.

Actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial years’ costs shall be submitted within 120 days of notification by the State Controller of the issuance of claiming instructions.

If the total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

~~Government Code section 17557, prior to its amendment by Statutes of 1998, chapter 681, stated that a test claim must be submitted on or before December 31<sup>st</sup> following a given fiscal year to establish eligibility for that fiscal year. The County of San Bernardino filed the test claim for this state mandated program on December 30, 1996, establishing eligibility for reimbursement beginning July 1, 1995. However, Statutes of 1995, chapter 784 was not in effect until January 1, 1996. Therefore, costs incurred for implementing Statutes of 1995, chapter 784 on or after January 1, 1996 are eligible for reimbursement.~~

~~Statutes of 1996, chapter 156, which contained an urgency clause, was not effective until July 12, 1996. However, this legislation made only technical, nonsubstantive changes and further restricted the activities and qualifications of the Oversight Committee members. Therefore, all of the reimbursable activities listed in Section IV., Reimbursable Activities, of the Parameters and Guidelines were effective, and are therefore eligible for reimbursement, on or after January 1, 1996.~~

~~Actual costs for one fiscal year shall be included in each claim. Estimated costs of the subsequent year may be included on the same claim, if applicable. Pursuant to section 17561, subdivision (d)(1) of the Government Code, all claims for reimbursement of initial years' costs shall be submitted within 120 days from the date on which the State Controller issues claiming instructions.~~

~~If the total costs for a given year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.~~

#### **IV. REIMBURSABLE ACTIVITIES**

~~To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.~~

~~Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.~~

~~The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.~~

~~For each eligible claimant, the following activities are reimbursable: The direct and indirect costs of labor, materials and supplies, contracted services, equipment, training, and travel incurred for the mandate components listed below are eligible for reimbursement.~~

Eligible claimants are only entitled to reimbursement for the proportionate share of costs borne by the claimant, and its dependent special districts, as measured by their percentage of ownership in the county treasury's investment pool. Claims filed with the State Controller's Office shall identify the claimant's percentage of ownership in the county treasury's investment pool.

##### ~~A. One-time Activities:~~

- ~~1. Create and determine the exact size and membership of the County Treasury Oversight Committee, which shall consist of 3 to 11 members appointed as specified in Government Code section 27132. (Gov. Code, § 27131, 27132.)~~

~~2. Provide training to inform new members of the County Treasury Oversight Committee of their campaign, fiscal and employment restrictions, as follows:~~

- ~~• They may not be employed by an entity that has contributed to the campaign of a candidate for the office of local treasurer, or contributed to the campaign of a candidate to be a member of a legislative body on any local agency that has deposited funds in the county treasury, in the previous three years or during the period that the employee is a member of the committee. (Gov. Code, § 27131.1.)~~
- ~~• They may not directly or indirectly raise money for a candidate for local treasurer or a member of the governing board of any local agency that has deposited funds in the county treasury while a member of the committee. (Gov. Code, § 27131.2.)~~
- ~~• They may not secure employment with, or be employed by, bond underwriters, bond counsel, security brokerages or dealers, financial services firms, with whom the treasurer is doing business during the period that the person is a member of the committee or for one year after leaving the committee. (Gov. Code, § 27131.3.)~~
- ~~• That nothing in this article (Gov. Code, § 27130 et seq.) shall be construed to allow the County Treasury Oversight Committee to direct individual investment decisions, select individual investment advisors, brokers, or dealers, or impinge on the day to day operations of the county treasury. (Gov. Code, § 27137.)~~

B.A. Ongoing Activities – Counties:

~~1. Revise the size and membership of the County Treasury Oversight Committee, as needed. (Gov. Code, § 27131, 27132.)~~

~~2. Prepare the annual statement of investment policy and submit it to the board of supervisors and the Oversight Committee for review and approval at a public hearing. (Gov. Code, § 27133.)~~

~~This activity is also claimable under the *Investment Reports* program, CSM 96-358-02, (Stats. 1996, ch. 156). Claimants may claim reimbursement for the performance of this activity under these Parameters and Guidelines *or* the *Investment Reports* Parameters and Guidelines, but not both.~~

~~2. Cause an annual audit to be conducted to determine the county treasury's compliance with this article (Gov. Code, § 27130 et seq.). The audit may include issues relating to the structure of the investment portfolio and risk. (Gov. Code, § 27134.)~~

~~3. Prepare for and conduct meetings of the Oversight Committee. (Gov. Code, §§ 27131, 27132.4.)~~

~~4. Oversight Committee meetings shall be open to the public and subject to the provisions of the Ralph M. Brown Open Meetings Act. (Gov. Code, § 27132.4.) This shall include the following:~~

- ~~Preparing a single agenda containing a brief general description of each item of business to be transacted or discussed at a regular meeting and citing the time and location of the regular meeting; and~~
- ~~Posting a single agenda 72 hours before a meeting in a location freely accessible to the public.~~

~~Claimants may claim reimbursement for the performance of this activity under these Parameters and Guidelines or the *Open Meetings Act* Parameters and Guidelines (CSM 4257), but not both.~~

~~6.1. Evaluate and approve the withdrawal of funds proposed by any local agency for the purpose of investing or depositing outside the county treasury pool. (Gov. Code, § 27136.)~~

~~C. Ongoing Activities — County Superintendent of Schools or designee:~~

~~1. Prepare for and attend meetings of the Oversight Committee. (Gov. Code, § 27132, subd. (d).)~~

## **V. CLAIM PREPARATION AND SUBMISSION**

~~Each claim for reimbursement must be timely filed and identify each cost element for which reimbursement is claimed under this mandate. Claimed costs must be identified to each reimbursable activity identified in Section IV. of these Parameters and Guidelines.~~

~~Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.~~

### A. Direct Costs Reporting

~~Direct costs are defined as costs that can be traced to specific goods, services, programs, activities, or functions and shall be supported by the following cost element information: Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.~~

#### 1. Salaries and Benefits

~~Identify the employee(s), and/or show the classification of the employee(s) involved. Describe the reimbursable activities performed, specify the actual time devoted to each activity by each employee, and the productive hourly rate, and related fringe benefits.~~

~~Reimbursement for personnel services includes compensation paid for salaries, wages, and employee fringe benefits. Employee fringe benefits include regular compensation paid to an employee during periods of authorized absences (e.g., annual leave, sick leave) and the employer's contributions to social security, pension plans, insurance, and worker's compensation insurance. Fringe benefits are eligible for reimbursement when distributed equitably to all job activities performed by the employee.~~

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

## 2. Materials and Supplies

~~Only expenditures that can be identified as direct costs of this mandate may be claimed. List the cost of the materials and supplies consumed specifically for the purposes of this mandate. Purchases shall be claimed at the actual price after deducting cash discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged based on a recognized method of costing, consistently applied.~~

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

## 3. Travel

~~Travel expenses for mileage, per diem, lodging, and other employee entitlements are eligible for reimbursement in accordance with the rules of the local jurisdiction. Provide the name(s) of traveler(s), purpose of travel, inclusive dates and times of travel, destination point(s), and travel costs.~~

## 4. Training

~~The cost of training an employee to perform the mandated activities, as specified in Section IV of these Parameters and Guidelines, is eligible for reimbursement. Identify the employee(s) by name and job classification. Provide the title and subject of the training session, the date(s) attended, and the location. Reimbursable costs may include salaries and benefits, registration fees, transportation, lodging, and per diem.~~

### 3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

### 4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

## B. Indirect Costs Rates

~~Compensation for indirect costs is eligible for reimbursement. Indirect costs are those that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.~~

~~Indirect costs include (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.~~

~~County Offices of Education must use the J-580 (or subsequent replacement) nonrestrictive costs rate provisionally approved by the California Department of Education.~~

~~All other claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) pursuant to the Office of Management and Budget (OMB) Circular A-87.~~

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular A-87 Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

## **VI. SUPPORTING DATA**

~~For auditing purposes, all costs claimed shall be traceable to source documents (e.g., employee time records, cost allocation reports, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, time studies, etc.) that show evidence of the validity of such costs and their relationship to this mandate. All documentation in support of claimed costs shall be made available to the State Controller's Office, as may be requested. Pursuant to Government Code section 17558.5, these documents must be kept on file by the agency submitting the claim for a period of no less than two years after the later of (1) the end of the calendar year in which the reimbursement claim is filed or last amended, or (2) if no funds are appropriated for the fiscal year for which the claim is made, the date of initial payment of the claim.~~

## **VI. RECORD RETENTION**

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter<sup>1</sup> is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if 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

<sup>1</sup> This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

#### ~~VII.OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS~~

~~Any offsetting savings that the claimant experiences as a direct result of this mandate must be deducted from the costs claimed. Additionally, reimbursement for this mandate received from any source, including but not limited to federal funds and other state funds, shall be identified and deducted from this claim.~~

#### **VII. OFFSETTING SAVINGS AND REIMBURSEMENTS**

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, services fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

#### ~~VII.STATE CONTROLLER'S OFFICE REQUIRED CERTIFICATION~~

~~An authorized representative of the claimant shall be required to provide a certification of the claim, as specified in the State Controller's Office claiming instructions, for those costs mandated by the state contained herein.~~

#### **VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS**

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

#### ~~IX.PARAMETERS AND GUIDELINES AMENDMENTS~~

~~Pursuant to title 2, California Code of Regulations, section 1183.2, Parameters and Guidelines amendments filed before the deadline for initial claims as specified in the Claiming Instructions shall apply to all years eligible for reimbursement as defined in the original Parameters and guidelines. A Parameters and Guidelines amendment filed after the initial claiming deadline~~

must be submitted on or before January 15, following a fiscal year in order to establish eligibility for reimbursement for the fiscal year.

#### **IX. REMEDIES BEFORE THE COMMISSION**

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

#### **X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES**

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.