

ITEM 16

CORRECTED PROPOSED ORDER TO SET ASIDE PARAMETERS AND GUIDELINES

Penal Code Sections 628.2 and 628.6

Statutes 1984, Chapter 1607

Statutes 1988, Chapter 78

Statutes 1989, Chapter 1457

Statutes 1992, Chapter 759

Statutes 1995, Chapter 410

Title 5, California Code of Regulations, Sections 700-704

California Department of Education's Guidelines for School Crimes Reporting and Validation
and School Crimes Reporting II

Repealed by Statutes 2005, Chapter 677

(Sen. Bill No. 512, § 49, eff. October 7, 2005)

School Crimes Reporting and Validation and School Crimes Reporting II

05-PGA-11 (97-TC-03)

EXECUTIVE SUMMARY

The test claim legislation and regulations required school districts and county offices of education to collect and report data regarding crimes committed within their jurisdictions. On March 30, 2000, the Commission on State Mandates (Commission) adopted its Statement of Decision that the test claim constituted a reimbursable state-mandated program pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514.

Penal Code sections 628.2 and 628.6 were repealed by Statutes 2005, chapter 677 (Sen. Bill No. 512, eff. Oct. 7, 2005).

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.)

Staff finds that the test claim statutes, Penal Code sections 628.2 and 628.6 were repealed by Statutes 2005, chapter 677. The authority to draft Title 5, California Code of Regulations, sections 700-704 and the Department of Education’s Guidelines for School Crimes Reporting stems from Penal Code sections 628.2 and 628.6. Without the test claim statutes, the regulations and Guidelines have no effect. Staff finds that no reimbursement is required pursuant to article XIII B, section 6 of the Constitution and Government Code section 17514 because there are no *School Crimes Reporting and Validation* and *School Crimes Reporting II* programs.

Conclusion

Therefore, staff concludes that the parameters and guidelines for this program should be set aside, effective October 7, 2005.

Staff Recommendation

Staff recommends the Commission adopt the proposed Order to Set Aside the Parameters and Guidelines for the *School Crimes Reporting and Validation* and *School Crimes Reporting II* programs.

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.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Penal Code Sections 628.2 and 628.6, as added or amended by Statutes 1984, Chapter 1607, Statutes 1988, Chapter 78, Statutes 1989, Chapter 1457, Statutes 1992, Chapter 759 and Statutes 1995, Chapter 410; and

Title 5, California Code of Regulations, Sections 700-704; and

California Department of Education Guidelines for School Crimes Reporting

Filed on November 30, 1990;

By San Diego Unified School District,
Claimant

No. 05-PGA-11 (97-TC-03)

School Crimes Reporting and Validation and School Crimes Reporting II

SET ASIDE OF PARAMETERS AND GUIDELINES

(Proposed for Adoption on December 9, 2005)

PROPOSED ORDER TO SET ASIDE PARAMETERS AND GUIDELINES

Penal Code Sections 628.2 and 628.6, as added or amended by Statutes 1992, chapter 759, and Statutes 1995, chapter 410; and Title 5, California Code of Regulations, sections 700-704, and California Department of Education's Guidelines for School Crimes Reporting required school districts and county offices of education to collect and report data regarding crimes committed within their jurisdictions. On March 30, 2000, the Commission on State Mandates (Commission) adopted its Statement of Decision that the test claim constituted a reimbursable state-mandated program pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514.

Penal Code sections 628.2 and 628.6 were repealed by Statutes 2005, chapter 677 (Sen. Bill No. 512, eff. Oct. 7, 2005).

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.² 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.)

The Commission finds that the test claim statutes, Penal Code sections 628.2 and 628.6 were repealed by Statutes 2005, chapter 677. The authority to draft Title 5, California Code of Regulations, sections 700-704 and the Department of Education’s Guidelines for School Crimes Reporting stems from Penal Code sections 628.2 and 628.6. Without the test claim statutes, the regulations and Guidelines have no effect. The Commission finds that no reimbursement is required pursuant to article XIII B, section 6 of the Constitution and Government Code section 17514 because there are no *School Crimes Reporting and Validation* and *School Crimes Reporting II* programs.

Therefore, the Commission sets aside the parameters and guidelines for *the School Crimes Reporting and Validation* and *School Crimes Reporting II* programs, effective October 7, 2005.

PAULA HIGASHI, Executive Director

Date

Attachment

² *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.