

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

Claim of:

San Diego Unified School District  
and  
San Bernardino Unified School  
District  
Co-Claimants

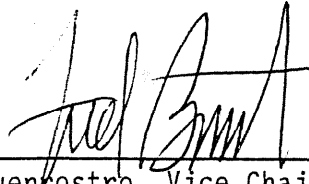
Nos. CSM-4211  
CSM-4298  
Chapter 1107, Statutes of 1984  
Removal of Chemicals

DECISION

The attached Proposed Statement of Decision of the Commission on State Mandates is hereby adopted by the Commission on State Mandates as its decision in the above-entitled matter.

This Decision shall become effective on August 24, 1988.

IT IS SO ORDERED August 24, 1988.



Fred Buenvostro, Vice Chairperson  
Commission on State Mandates



2. The subject of the claims is Chapter 1107, Statutes of 1984.
3. Chapter 1107, Statutes of 1984 added subdivision (b) to section 49411 of the Education Code to require the Superintendent of Public Instruction, in cooperation with the Division of Occupational Safety and Health within the Department of Industrial Relations, to develop guidelines for school districts for the regular removal and disposal of all chemicals whose estimated shelf life has elapsed. Additionally, section 49411(b) of the Education Code requires each school district to certify to the Superintendent of Public Instruction whether the district is in compliance with the guidelines.
4. A new program and a higher level of service of an existing program is now required of school districts by Chapter 1107, Statutes of 1984.
5. Government Code section 17514 defines the term "costs mandated by the state" as "any increased costs which a . . . school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 or Article XIII B of the California Constitution."
6. Government Code section 17516 defines "executive order" as "any order, plan, requirement, rule, or regulation issued by any of the following: . . . (c) .Any agency, department, board, or commission of state government."
7. San Diego Unified School District, and San Bernardino County Office of Education, have demonstrated that they have incurred increased costs which are costs mandated by the state.
8. None of the requisites for denying a claim, specified in Government Code Section 17556, subdivision (a), were established.

### III.

#### DETERMINATION OF ISSUES

1. The Commission has the authority to decide this claim under the provisions of Government Code Section 17551.
2. Chapter 1107, Statutes of 1984, imposed a reimbursable state mandate upon local school districts. San Diego Unified School District and San Bernardino County Office of Education have established that this statute required the Superintendent of Public Instruction, in cooperation with the Division of Occupational Safety and Health within the Department of Industrial Relations, to develop guidelines for school districts for the regular removal and disposal of all chemicals whose estimated shelf life has elapsed.

3. The co-claimants have established that the guidelines which were issued by the State Department of Education are an "executive order" as defined by Government Code section 17516 and imposed a reimbursable state mandate upon local school districts who are required to comply with the guidelines.
4. Chapter 1107, Statutes of 1984 further imposed a reimbursable state mandate upon local school districts by requiring each school district to certify to the Superintendent of Public Instruction whether the district is in compliance with the guidelines.

WP:0230d