BEFORE THE COMMISSION ON STATE MANDATES STATE OF CALIFORNIA

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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 Buenrostro, Vice Chairperson Commission on State Mandates

BEFORE THE COMMISSION ON STATE MANDATES

Claim of:

San Diego Unified School District and San Bernardino County Office of Education Co-Claimants Nos. CSM 4211 CSM 4298 Chapter 7107, Statutes of 1984 Department of Education Guidelines Renoval of Chemicals

PROPOSED DECISION

This claim was heard by the Commission on State Mandates (commission) on July 28, 1988, in Sacramento, California, during a regularly scheduled hearing.

Evidence both oral and documentary having been introduced, the matter submitted, and vote taken, the commission finds:

I.

NOTE

1. The finding of a reinbursable state mandate does not mean that all increased costs claimed will be reinbursed. Reinbursement, if any, is subject to commission approval of parameters and guidelines for reinbursement of the claim, and a statewide cost estimate; a specific legislative appropriation for such purpose; a timely-filed claim for reinbursement; and subsequent review of the claim by the State Controller.

II.

FINDINGS AND CONCLUSIONS

1. The test claim was filed with the Commission on State Mandates on November 26, 1985, by San Diego Unified School District. The co-claim was filed on January 6, 1988, by the San Bernardino County Office of Education.

- 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 mendated 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 mendates 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 reinbursable 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 reinbursable 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