

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA


)	No. CSM-4363
Request for Inclusion)	State Mandates
)	Apportionment System
State Controller's Office,)	Chapter 952, Statutes of 1976
)	<u>Destruction of</u>
Claimant)	<u>Marijuana Records</u>
)	Chapter 494, Statutes of 1979
)	<u>Physically Handicapped</u>
)	<u>Voter Accessibility</u>
_____)

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 October 26, 1989.

IT IS SO ORDERED October 26, 1989.



Russell Gould, Chairperson
Commission on State Mandates

WP0081h

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Claimant)	Chapter 952, Statutes
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)	<u>Destruction of</u>
)	<u>Marijuana Records</u>
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)	Chapter 494, Statutes
)	of 1979
)	<u>Physically Handicapped</u>
)	<u>Voter Accessibility</u>

PROPOSED DECISION

This claim was heard by the Commission on State Mandates (Commission) on September 21, 1989, in Sacramento, California, during a regularly scheduled hearing.

James Apps appeared on behalf of the Department of Finance. Glen Beatie appeared on behalf of the State Controller's Office. Andrea Hix appeared on behalf of the CSAC SB-90 Service. Linda Willis appeared on behalf of the County of Los Angeles. Andrea Chipman appeared on behalf of the Sacramento County Sheriff's Department.

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

ISSUE

Should Chapter 494, Statutes of 1979 (Chapter 494/79), Physically Handicapped Voter Accessibility, and Chapter 952, Statutes of 1976 (Chapter 952/76), Destruction of Marijuana Records be included in the State Mandates Apportionment System?

FINDINGS OF FACT

Pursuant to the provisions of Government Code section 17615.1, the Commission is required to review certain mandated cost programs upon the request of the State Controller's Office (Controller's Office) and to determine whether such programs should be included in the State Mandates Apportionment System (Apportionment System).

The Request for Inclusion in the Apportionment System was filed with the Commission on June 1, 1989, by the Controller's Office. The requisites for filing a Request for Inclusion, as specified in Title 2, California Code of Regulations, section 1184.6 were satisfied.

Based upon its review of Chapter 494/79, Physically Handicapped Voter Accessibility, the Controller's Office found that due to a lack of stable costs over a consecutive three year period, 71 percent of the counties exceed the cost limit set forth in subdivision (c) of Government Code section 317615.8, and 29 percent fall under that same cost limit. The Controller's Office recommended that any apportionment made pursuant to these conditions will result in significant over and under payments to individual counties.

All parties concurred with the recommendation from the Controller's Office that Chapter 494/79, Physically Handicapped voter Accessibility, should not be included in the Apportionment System.

Based upon its review of Chapter 952/76, Destruction of Marijuana Records, the Controller's Office found that its analysis of cost data related to this program showed that 52 percent of the cities and counties are within the cost limits set forth in subdivision (c) of Government Code section 17615.8. Thus, the Controller's Office recommended the inclusion of Chapter 952/76 in the Apportionment System. The Department of Finance agreed with the recommendation from the Controller's Office.

The analysis by Commission staff, the CSAC! SB-90 Service, the County of Los Angeles, and the testimony of the Sacramento County Sheriff's Department, established that a significant number of cities and counties do not have stable costs related to Chapter 952/76 over a consecutive three year period.

APPLICABLE LAW

Government Code section 17615.1 provides:

"Notwithstanding the provisions of Section 2231 of the Revenue and Taxation Code, the commission shall establish a procedure for reviewing, upon request, mandated cost programs for which appropriations have been made by the Legislature for the 1982-83, 1983-84, and 1984-85 fiscal years, or any three consecutive fiscal years thereafter. At the request of the Department of Finance, the Controller, or any local agency or school district receiving reimbursement for the mandated program, the commission shall review the mandated cost program to determine whether the program should be included in the State Mandates Apportionment System. If the commission determines that the State Mandates Apportionment System would accurately reflect the **costs** of the state mandated program, the commission shall direct the Controller to include the program in the State Mandates Apportionment **System.**"

Subdivision (c) of Government Code section 17615.8 provides:

"If the commission determines that an apportionment or base year entitlement for funding costs mandated by the state does not accurately reflect the costs incurred by the local agency or school district for all mandates upon which that apportionment is based, the commission shall direct the Controller to adjust the apportionment accordingly. For the purposes of this section, an apportionment or a base year entitlement does not accurately reflect the costs incurred by a local agency or school district if it falls short of reimbursing, or overreimburses, that local agency's or school district's actual costs by 20 percent or by one thousand dollars (\$1,000)I whichever is **less.**"

Title 2, California Code of Regulations, section 1184.5, states in relevant part:

* * *

"(b) Stable costs. Stable costs are those costs incurred by local agencies or school districts as a result of implementing a mandated cost program which, when reviewed on a statewide basis over a three year period, have not fluctuated significantly?

* * *

Title 2, California Code of Regulations, section 1184.6, reads in relevant part:

"(a) Any local agency, school district, the Department of Finance or the State Controller's Office may request that the commission review a mandated cost program(s) for possible inclusion in the State Mandates Apportionment System in accordance with Section 17615.1 of the Government Code.

(b) In order to obtain a review and determination regarding inclusion in the system, a local agency, school district or state agency must file a 'Request for Inclusion' with the commission.

* * *

Title 2, California Code of Regulations, section 1184.7 states in relevant part:

"(a) The commission, after reviewing the request for inclusion and conducting at least one (1) hearing in accordance with Article 7 of these regulations, shall adopt a finding that the mandated program(s) will or will not be included in the State Mandates Apportionment System.

(b) The primary criteria to be used by the commission in making such a determination will include a review of the mandated program to determine if the program has a history of stable costs for most claimants, if the mandated program has been recently modified and if inclusion would accurately reflect the costs of the state mandated program."

* * *

CONCLUSION

The Commission has the authority to adopt a determination on this Request **for** Inclusion pursuant to the provisions of Government Code section 27615.1 and Title 2, California Code of Regulations, sections 1184.6 and 13184.7.

The Commission concludes that Chapter 494/79, Physically Handicapped Voter Wccessibility and Chapter 952/76, Destruction of Nariiuana Records, should not be included in the Apportionment System because neither program has stable costs related thereto for a consecutive three year period upon which to compute an accurate base year entitlement. Consequently, inclusion of these programs in the Apportionment System would result in a significant number of local agencies receiving over, or, under reimbursements.

The foregoing is subject to the following conditions:

The Commission's denial of including the aforementioned programs in the Apportionment System does not preclude the possible inclusion of these programs in the future. In the event that the Apportionment System more accurately **relects** the costs of these programs, a Request **for** Inclusion may be resubmitted to the Commission for its consideration.