

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

Claim of:

County of Los Angeles

Claimant

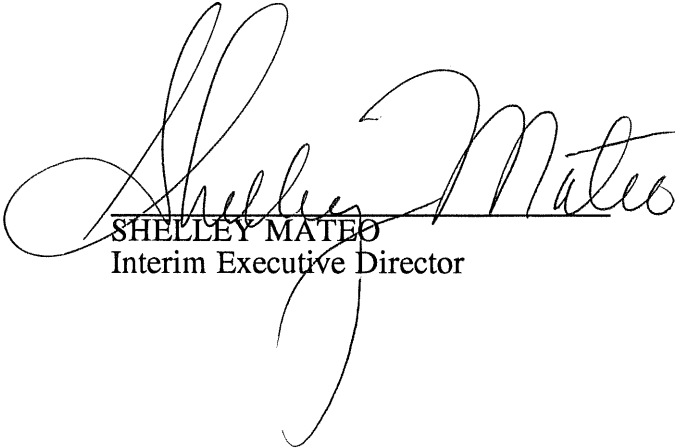
No. CSM-4448  
Revenue and Taxation Code  
Sections 95, 95.1, 97, 97.01, 97.02,  
97.03, 97.035, 97.04, 97.43, 97.5,  
98, and 99  
Chapter 697, 699, 700, 899, 1369,  
Statutes of 1992  
Chapter 66, 68, 904, 905, 1279,  
Statutes of 1993  
Allocation of Property Tax Revenues

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 18, 1994.

IT IS SO ORDERED October 18, 1994.

  
SHELLEY MATEO

Interim Executive Director

Hearing: October 18, 1994  
File, Number: CSM-4448  
Staff: s harlene T. Steed  
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PROPOSED STATEMENT OF DECISION  
ADOPTED MANDATE

Revenue and Taxation Code

Sections 95, 95.1, 97, 97.01,

' 97.02, 97.03, 97.035, 97.04, 97.43, 97.5, 98, and 99,

Added and Amended By

Chapter 697, Statutes of 1992, Chapter 699, Statutes of 1992,  
Chapter 700, Statutes of 1992, Chapter 899, Statutes of 1992,  
Chapter 1369, Statutes of 1992, Chapter 66, Statutes of 1993,  
Chapter 68, Statutes of 1993, Chapter 904, Statutes of 1993,  
Chapter 905, Statutes of 1993, Chapter 1279, Statutes of 1993

Allocation of Property Tax Revenues

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Executive Summary

The Commission on State Mandates at its hearing of July 21, 1994, determined that a reimbursable state mandated program is imposed upon counties pursuant to certain provisions of Revenue and Taxation Code sections 97, 97.01, 97.02, 97.03, 97.035, 97.5, 98, and 99, as added and amended by Chapter 697, Statutes of 1992, and other specified chaptered statutes. The reimbursable costs related to such programs are limited to those costs that apply to school districts since counties are specifically prohibited from charging school districts for their administrative costs of allocating property tax revenues to school districts. In addition, the Commission determined that Revenue and Taxation Code sections 95, 95.1, 97.04, and 97.43, as added and amended by Chapter 697, Statutes of 1992, and other specified chaptered statutes, do not impose a reimbursable state mandated program upon counties.

Member Shuman moved to adopt the staff recommendation. Member Lucas seconded the motion. The vote on the motion was unanimous. The motion carried.

Staff has prepared the attached proposed statement of decision which identifies the basis for the Commission's decision.

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BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

Claim of: ) No. CS M-444.8  
                  ) Revenue and Taxation Code  
                  ) Sections 95, 95.1, 97, 97.01, 97.02,  
                  ) 97.03, 97.035, 97.04, 97.43, 97.5,  
County of Los Angeles ) 98, and 99  
                  ) Chapter 697, 699, 700, 899, 1369,  
                  ) statutes of 1992  
Claimant ) Chapter 66, 68, 904, 905, 1279,  
                  ) Statutes of 1993  
                  ) Allocation of Property Tax Revenues

PROPOSED STATEMENT OF DECISION

This claim was heard by the Commission on State Mandates (Commission) on July 21, 1994, in Sacramento, California, during a regularly scheduled hearing.

Mr. Leonard Kaye appeared on behalf of the County of Los Angeles, Ms. Marianne Reich appeared on behalf of the Auditor-Controller Department, County of Los Angeles, and Mr. James Apps appeared on behalf of the Department of Finance. Evidence both oral and documentary having been introduced, the matter submitted, and vote taken, the Commission finds:

ISSUE

Do the provisions of Revenue and Taxation Code sections 95, 95.1, 97, 97.07, 97.02, 97.03, 97.035, 97.04, 97.43, 97.5, 98, and 99, as added and amended by Chapter 697, Statutes of 1992, and other specified chaptered statutes, require local agencies to implement a new program or provide a higher level of service in an existing program within the meaning of section 6 article XIII B of the California Constitution and Government Code section 175 14?

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BACKGROUND AND FINDINGS OF FACT

The test claim was filed with the Commission on December 27, 1993, by the County of Los Angeles.

The elements for filing a test claim, as specified in section 1183 of Title 2 of the California Code of Regulations, were satisfied.

**Revenue & Taxation Code Sections 95 and 95.1**

The Commission noted that Revenue & Taxation Code sections 95, amended by Chapter 1369, Statutes of 1992, and 95.1, amended by Chapter 68, Statutes of 1993, define specified terms, and that these definitions, in and of themselves, cannot be found to impose a new program or higher level of service upon a local agency.

**Revenue & Taxation Code Section 97**

Revenue and Taxation Code section 97, amended by Chapters 697 and 699, Statutes of 1992, states in pertinent part:

".....

"(e)(3) The county shall use the additional revenue received pursuant to this subdivision only to fund the actual costs of assessing, collecting, and allocating property taxes. At least once each fiscal year, the county auditor shall report the amount of these actual costs and allowable overhead costs to the legislative body and any other jurisdiction or person that request the information. To the extent that actual costs for assessing, collecting, and allocating property taxes plus allowable overhead costs are less than the amount determined pursuant to paragraph (2), the county auditor shall apportion the difference to each incorporated city as otherwise required by this section.

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"(e)(5) It is the intent of the Legislature in enacting this subdivision to recognize that since the adoption of Article XIII A of the California Constitution by the voters, county governments have borne an unfair and disproportionate part of the financial burden of assessing, collecting, and allocating property tax revenues for cities. It is further the intent of the Legislature that the adjustments provided for by this subdivision shall constitute charges by a county for the assessment, collection, and allocation of property taxes and shall not exceed the actual costs reasonably borne by a county for those activities.

.....  
"(g) Notwithstanding subdivision (f), no invoice as described in that subdivision shall be submitted to any school district, community college district, or county office of education, nor shall any of those entities be required to pay any invoice, for property tax administrative costs for services rendered in the 1990-91 fiscal year, or in any subsequent fiscal year. This subdivision shall not be construed to prevent the auditor of any county from imposing and collecting from school districts, community college districts, and county offices of education, in accordance with subdivision (f), invoices for property tax administrative costs for services rendered to those entities in the 1989-90 fiscal year."

The Commission acknowledged that Revenue & Taxation Code section 97 does require the county auditor to follow guidelines which set forth instructions for counties regarding property tax reduction and allocation computations, deposits to the Educational Revenue Augmentation Fund, and property tax administrative costs. In addition, the Commission observed that the Revenue & Taxation Code section 97, subdivision (g), precludes counties from charging schools for administrative costs of property tax revenue allocation after the 1989-90 fiscal year and from recovering any lost school administrative fees by charging other types of jurisdictions.

The Commission noted that Revenue & Taxation Code 97, subdivision (e)(3), includes, but is not limited to, a requirement for the county auditor, at least once each year, to report the amount of actual costs of assessing, collecting, and allocating property taxes and allowable overhead costs to the legislative body and any other jurisdiction or person that request the information.

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1 **Revenue & Taxation Code Sections 97.01 and 97.02**

2 Revenue and Taxation Code section 97.01, as added and amended by Chapters 699 and 1369,  
3 Statutes of 1992, states in part:

4 " . . . . .

5 "(b) Notwithstanding any other provision of this chapter for the 1993-94 fiscal year  
6 only, for purposes of the calculations and allocations made by each county  
7 pursuant to Section 97, the amount of property tax revenue deemed allocated  
8 in the prior fiscal year to the Educational Revenue Augmentation Fund shall be  
reduced by the total amount of the reductions required for each county or city  
and county and each city or city and county pursuant to paragraph (1) of  
subdivision (a).

9 "(c) For the purpose of this section, the population of a city, county, or city and  
10 county shall be the population determined pursuant to Section 11 005.

11 Revenue and Taxation Code section 97.02, as added by Chapter 68, Statutes of 1993,  
12 states:

13 "(a) Notwithstanding any other provision of this chapter, the computations and  
14 allocations made by each county pursuant to Section 97, as modified by Section  
15 97.03 for the 1992-93 fiscal year, shall be modified for the 1993-94 fiscal year  
as follows:

16 "(1) The amount of property tax revenue deemed allocated to the county or  
17 city and county in the prior fiscal year shall be reduced by an amount  
18 equal to eighty cents (\$.80) per each resident of the county or city and  
19 county. In addition, the amount of property tax revenue deemed  
allocated in the prior fiscal year to each city or city and county shall be  
20 reduced by an amount equal to one dollar and two cents (\$1.02) per  
each resident of that city or city and county.

21 "(2) The amount of property tax revenues not allocated to the county, city  
22 and county, and any city as a result of the reductions calculated  
pursuant to paragraph (1) shall be deposited in the Educational Revenue  
23 Augmentation Fund established pursuant to paragraph (1) of subdivision  
(d) of Section 97.03.

24 "(b) For the purpose of this section, the population of a city, county or city and  
25 county shall be the population determined pursuant to Section 1 1005.

26 The Commission acknowledged that Revenue & Taxation Code sections 97.01 and 97.02 do  
27 mandate new activities for counties, which include, but are not limited to, how property tax  
28 revenues allocated by counties are now to be modified to fund the required transfers to schools  
and modifies the 1992-93 and 1993-94 computations and allocations.

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**Revenue & Taxation code Section 97.03**

Revenue and Taxation Code section 97.03, as added and amended by chapters 699, 700, and 1369, Statutes of 1992, and Chapter 1279, Statutes of 1993, states in pertinent part:

"Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant to Section 97 shall be modified for the 1992-93 fiscal year pursuant to subdivisions (a) to (d), inclusive, and for the 1997-98 and 1998-99 fiscal years pursuant to subdivision (e), as follows:

" . . . . .

"(d)(1) The amount of property tax revenues not allocated to the county, cities within the county, and special districts as a result of the reductions calculated pursuant to subdivisions (a), (b), and (c) shall instead be deposited in the Educational Revenue Augmentation Fund to be established in each county. The amount of revenue in the Educational Revenue Augmentation Fund, derived from whatever source, shall be allocated pursuant to paragraphs (2) and (3) to school districts and county offices of education, in total, and to community college districts, in total, in the same proportion that property tax revenues were distributed to school districts and county offices of education, in total, and community college districts, in total, during the 1991-92 fiscal year.

"(2) The auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate the proportion of the Educational Revenue Augmentation Fund to those school districts and county offices of education within the county that are not excess tax school entities, as defined in Section 95.1. The county superintendent of schools shall determine the amount to be allocated to each school district and county office of education in inverse proportion to the amounts of property tax revenue per average daily attendance in each school district and county office of education. In no event shall any additional money be allocated from the fund to a school district or county office of education becoming an excess tax school entity.

"(3) The auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate the proportion of the Educational Revenue Augmentation Fund to those community college districts within the county that are not excess tax school entities, as defined in Section 84750 of the Education Code. The chancellor shall determine the amount to be allocated to each community college district in inverse proportion to the amounts of property tax revenue per funded full-time equivalent student in each community college district. In no event shall any additional money be allocated from the fund to a community college district upon that district becoming an excess tax school entity.

"(4) If, after making the allocation required pursuant to paragraph (2), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (3). If, after making the allocation pursuant to paragraph (3), the auditor determines that

there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (2).

- "(5) For purposes of allocations made pursuant to Section 97 for the 1993-94 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than amounts deposited in the Educational Revenue Augmentation Fund pursuant to Section 33681 of the Health and Safety Code, shall be deemed property tax revenue allocated to the Education Revenue Augmentation Fund in the prior fiscal year.

.....

The Commission observed that the above statute does provide the county with new instructions, as stated therein, for the allocation of property tax revenue deemed allocated for the 1992-93, 1997-98, and 1998-99 fiscal years.

The Commission also observed that subdivisions (a)(3), (b)(3), and (c)(3)(A), of Revenue and Taxation Code section 97.03, are mandates for the Director of Finance, and as such, do not mandate a new program or higher level of service upon a local agency.

**Revenue & Taxation Code Section 97.035**

Revenue and Taxation Code section 97.035, as added and amended by Chapter 68, 904, and 905, Statutes of 1993, states in pertinent part:

"Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant to Section 97, as modified by Section 97.03 for the 1992-93 fiscal year, shall be modified for the 1993-94 fiscal year pursuant to subdivisions (a) to (c), inclusive, as follows:

- "(a) The amount of property tax revenue deemed allocated in the prior fiscal year to each county and city and county shall be reduced by an amount to be determined by the Director for Finance in accordance with the following:

.....

- "(5) Notwithstanding any other provision of this subdivision, the amount of the reduction specified in paragraph (1) for any county or city and county that has first implemented, for the 1993-94 fiscal year, the alternative procedure for the distribution of property tax levies authorized by Chapter 2 (commencing with Section 4701) of Part 8 shall be reduced, for the 1993-94 fiscal year only, in the amount of any increased revenue allocated to school districts, county offices of



education, and community college districts that would not have been allocated for the 1993-94 fiscal year but for the implementation of that alternative procedure. "

.....

"(d)(1) The amount of property tax revenues not allocated to the county, city and county, cities within the county, and special districts as a result of the reductions required by subdivisions (a), (b), and (c) shall instead be deposited in the Educational Revenue Augmentation Fund established in each county or city and county pursuant to Section 97.03. The amount of revenue in the Educational Revenue Augmentation Fund, derived from whatever source, shall be allocated pursuant to paragraphs (2) and (3) to school districts and county offices of education, in total, and to community college districts, in total, in the same proportion that property tax revenues were distributed to school districts and county offices of education, in total, and community college districts, in total, during the 1992-93 fiscal year.

"(2) The county auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate that proportion of the revenue in the Educational Revenue Augmentation Fund to be allocated to school districts and county offices of education only to those school districts and county offices of education within the county that are not excess tax school entities, as defined in Section 95.1. . . .

"(3) The county auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate that proportion of the revenue in the Education Revenue Augmentation Fund to be allocated to community college districts only to those community college districts within the county that are not excess tax school entities, as defined in Section 95.1.

.....

The Commission observed that this section does provide the county, notwithstanding requirements for the Chancellor of the California Community Colleges and county superintendent of schools and any other agency, as stated therein, with new instructions for modification of computations and reductions for property tax revenue allocation.

The Commission noted that the above section does mandate new activities for county, which include, but are not limited to, following specific modifications for the computations and allocations for property tax revenues for the 1993-94 fiscal year.

1 **Revenue & Taxation Code Section 97.04**

2 Revenue and Taxation Code section 97.04, as added and amended by Chapter 1369, Statutes of  
3 1992 and Chapter 68, Statutes of 1993, states:

4 "Notwithstanding Section 97.03 or 97.035 or any other provision of this chapter,  
5 in implementing the changes in allocations of property tax revenues required by  
6 Sections 97.01, 97.02, 97.03, and 97.035, the county auditor may elect to  
7 determine and give effect to the changes in allocations of property tax revenues  
8 required by sections 97.01, 97.02, 97.03, and 97.035 on a countywide, rather than  
9 tax rate area, basis. If the county auditor so elects, he or she shall ensure adequate  
10 recognition of year-to-year revenue growth so that the results of changes  
11 implemented on a countywide basis do not differ materially from the results which  
12 would be obtained from the use of a tax rate area basis. "

13 The Commission observed that the above section states that the county auditor "may elect" to  
14 determine property tax allocations on a countywide basis, and therefore, does not mandate a new  
15 program or higher level of service upon a local agency.

16 **Revenue & Taxation Code Section 97.43**

17 Revenue and Taxation Code section 97.43, as added by Chapter 899, Statutes of 1992, states:

18 "Notwithstanding any other provisions of law pertaining to the annual calculations  
19 pursuant to the TEA formula as defined in this chapter, for the 1990-91 fiscal year  
20 only, each qualifying city that received an allocation pursuant to the TEA formula  
21 in the 1989-90 fiscal year shall be allocated 90 percent of the 1989-90 fiscal year  
22 amount received pursuant to the TEA formula."

23 The Commission observed that the above section provides instructions for the county auditor  
24 regarding property tax allocations for qualifying cities for 1990-91 fiscal year. The Commission  
25 also observed that since the above section is applicable to the 1990-91 fiscal year only it is not  
26 claimable in this test claim, and therefore, is not a reimbursable mandate.

27 **Revenue & Taxation Code Section 97.5**

28 Revenue and Taxation Code section 97.5, as amended by Chapter 697, Statutes of 1992 and  
Chapter 66, Statutes of 1993, states in pertinent part:

"Except as otherwise provided in section 97.51 or 97.52, for the purpose of  
apportioning property tax revenues each fiscal year:

".....

"(b) The total amount of property tax revenue allocated to each jurisdiction with respect to all tax rate areas as determined pursuant to subdivision (a) shall be added to compute a total amount of property tax revenue for a jurisdiction in all tax rate areas.

"(c) Each amount determined pursuant to subdivision (b) shall be divided by the total of all such amounts computed. The quotient determined shall be used to apportion actual property tax collections and shall be known as the "property tax apportionment factors. "

".....

(d)(2) Each proportionate share of property tax administrative costs determined pursuant to paragraph (1), except for those proportionate shares determined with respect to a school entity, shall be deducted from the property tax revenue allocation of the relevant jurisdiction or community redevelopment agency, and shall be added to the property tax revenue allocation of the county. For purposes of applying this paragraph for the 1990-91 fiscal year, each proportionate share of property tax administrative costs shall be deducted from those amounts allocated to the relevant jurisdiction or community redevelopment agency after January 1, 1991.

".....

"(j) This section, as amended by Senate Bill 399 of the 1993-94 Regular Session, shall apply to the entire 1993-94 fiscal year, regardless of the operative date of Senate Bill 399, and to each fiscal year thereafter".

The Commission noted that Revenue and Taxation Code section 97.5 does mandate new activities for the counties, which include but are not limited to new instructions for the apportionment of property tax revenues .

#### Revenue & Taxation Code Section 98

Revenue and Taxation Code section 98, amended by Chapter 699, Statutes of 1992, states in pertinent part:

".....

"(i) For purposes of the calculations made pursuant to this section for the 1993-94 and 1998-99 fiscal years, the amount of property tax revenue allocated to the county, a city, a special district, a school district, community college district, or an Educational Reserve Augmentation Fund in the prior fiscal year shall be that amount as determined pursuant to Section 97, as modified or as provided in Section 97.01 or 97.03."

1 The Commission noted that the above section does mandate new activities, which include, but are  
2 not limited to, requirements for property tax revenue allocations and therefore does impose a new  
3 program or higher level of service upon counties.

4  
5 **Revenue & Taxation Code Section 99**

6 Revenue and Taxation Code section 99, as amended by Chapter 697 and 1369, Statutes of 1992,  
7 relates to the requirements of counties in recomputing costs and states, in pertinent part:

8  
9       “(a) For the purposes of the computations required by this chapter:

10               “(1) In the case of a jurisdictional change, other than a city incorporation or  
11               a formation of a district as defined in Section 2215, the auditor shall  
12               adjust the allocation of property tax revenue determined pursuant to  
13               section 96 or 97, or the annual tax increment determined pursuant to  
14               Section 98, for local agencies whose service area or service  
15               responsibility would be altered by the jurisdictional change, as  
16               determined pursuant to subdivision (b) or (c).

17               “.....

18 The Commission observed that the above section sets forth additional parameters for the county  
19 auditor, which include, but are not limited to, converting property tax allocation formulas.

20  
21 **APPLICABLE LAW RELEVANT TO THE DETERMINATION**  
22 **OF A REIMBURSABLE STATE MANDATED PROGRAM**

23 Government Code section 17500 and following, and section 6, article XIII B of the California  
24 Constitution and related case law.

25 **CONCLUSION**

26 The Commission determines that it has the authority to decide this claim under the provisions of  
27 Government Code sections 17500 and 17551, subdivision (a).

1 The Commission concludes that the provisions of Revenue and Taxation Code sections 95 and  
2 95.1, as added and amended as specified herein, do not impose a new program or higher level of  
3 service in an existing program within the meaning of section 6 of article XIII B of the California  
4 Constitution and Government Code section 17514 because they define specified terms, and these  
5 definitions, in and of themselves, cannot be found to mandate a new program or higher level of  
6 service upon a local agency,

7  
8 The Commission concludes that the provisions of Revenue & Taxation Code section 97.04, as  
9 added and amended as specified herein, do not impose a new program or higher level of service  
10 in an existing program within the meaning of section 6 of article XIII B of the California  
11 Constitution and Government Code section 17514 because it states that the county auditor "may  
12 elect" to determine property tax allocations on a countywide basis, and therefore, provides  
13 unfettered discretion as to compliance with this section.

14  
15 The Commission concludes that the provisions of Revenue and Taxation Code section 97.43, as  
16 added and amended as specified herein, do not impose a new program or higher level of service  
17 in an existing program within the meaning of section 6 of article XIII B of the California  
18 Constitution and Government Code section 17514 because this section provides property tax  
19 allocation instructions for the county auditor for qualifying cities for the 1990-91 fiscal year, and  
20 therefore, this fiscal year is not claimable in this test claim.

21  
22 The Commission concludes that the provisions of Revenue and Taxation Code sections 97, 99.01,  
23 97.02, 97.03, 97.035, 97.5, 98, and 99, as added and amended as specified herein, do impose  
24 a new program or higher level of service in an existing program upon counties within the meaning  
25 of section 6 of article XIII B of the California Constitution and Government Code section 17514  
26 by requiring counties to redesign the terms, conditions, rules and formulas for reallocating  
27 California's local property tax revenues.

28

1 The Commission concludes that the new and additional accounting procedures are the result of the  
2 legislation subject to this test claim which requires counties to implement new accounting  
3 procedures to be able to allocate property taxes in accordance with the new laws,  
4

5 However, the Commission concludes that the reimbursable state mandated activities are limited  
6 to only that portion of the new and additional accounting procedures that apply to school districts  
7 because counties are specifically forbidden from charging school districts for the administrative  
8 cost of allocating property taxes as specified and from recovering any lost school administrative  
9 fees by charging other types of jurisdictions.  
10

11 The Commission concludes that the adoption of the staff recommendations are conditioned upon  
12 the documentation, specification, and justification of any ongoing activities and related costs.  
13

14 Accordingly, costs which apply only to school districts that relate to the aforementioned  
15 reimbursable state mandated program contained in Revenue and Taxation Code sections 97, 97.01,  
16 97.02, 97.03, 97.035, 97.5, 98, and 99, are costs mandated by the state and are subject to  
17 reimbursement within the meaning of section 6 of article XIII B of the California Constitution.  
18 Therefore, the claimant is directed to submit parameters and guidelines, pursuant to Government  
19 Code section 17557 and Title 2, California Code of Regulations, section 1183.1, to the  
20 Commission for its consideration.  
21

22 The foregoing conclusions pertaining to the requirements contained in Revenue and Taxation Code  
23 sections 97, 97.01, 97.02, 97.03, 97.035, 97.5, 98, and 99, are subject to the following  
24 conditions:

25 The determination of a reimbursable state mandated program does not mean that  
26 all increased costs claimed will be reimbursed. Reimbursement, if any, is subject  
27 to Commission approval of parameters and guidelines for reimbursement of the  
28 mandated program; approval of a statewide cost estimate; a specific legislative  
appropriation for such purpose; a timely-filed claim for reimbursement; and  
subsequent review of the claim by the State Controller's Office.

As provided in the subject legislation, except Chapter 1369, statutes of 1992, and Chapter 700, Statutes of 1992, if the statewide cost estimate for this mandate does not exceed one million dollars (\$1,000,000) during the first twelve (12) month period following the operative date of the mandate, the Commission shall certify such estimated amount to the State Controller's Office, and the State Controller shall receive, review, and pay claims from the State Mandates Claims Fund as claims are received. (Government Code section 17610.)