

STATEWIDE COST ESTIMATE
\$277,490

Government Code Section 56425, Subdivision (i)(1) (formerly Subdivision (h)(1))

Statutes 2000, Chapter 761 (AB 2838)

Local Agency Formation Commissions
02-TC-23

Test Claim Filed: May 29, 2003

Reimbursement Period for this Estimate: July 1, 2001 through June 30, 2009

Eligible Claimants: Only those independent Special Districts that are Subject to the Tax and Spend Limitations of Article XIII A and Article XIII B

STAFF ANALYSIS

Background

Local agency formation commissions (LAFCOs) are statutorily-created administrative bodies which make quasi-legislative determinations regarding formation and development of local agencies.¹ The courts have referred to LAFCOs as the Legislature's "watchdogs" over local boundaries.² LAFCO membership must include representatives from city and county government, and may include representation from independent special districts.

LAFCOs are required to adopt a sphere of influence for each local governmental agency within its jurisdiction so the local agency may carry out its responsibility for planning and shaping logical and orderly development within its boundaries. LAFCOs are charged with updating spheres of influence not less than once every five years. Special districts are required to file specified written statements with the LAFCOs when their spheres of influence are being updated.

Summary of the Mandate

On September 27, 2007, the Commission found that Government Code section 56425, subdivision (h)(1) (subsequently renumbered to subdivision (i)(1)), constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, and Government Code section 17514, in that it requires independent special districts to file written statements with the LAFCO specifying the functions or classes of service provided by those districts, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district.

These time periods and types of spheres of influence differ because section 56425 was changed effective January 2002. Statutes 2001, chapter 667 narrowed the spheres of influence affected by the requirements of subdivision (h). The 2001 statute replaced "any sphere of influence or a sphere of influence that includes a special district" with "a sphere of influence for a special

¹ Government Code section 56301.

² *Tillie Lewis, supra*, 52 Cal.App.3d 983, 1005.

district.” Thus, for the six-month period of July 1, 2001, through December 31, 2001, Government Code section 56425, subdivision (h)(1) mandates a new program or higher level of service for independent special districts to file written statements with the LAFCO specifying the functions or classes of service provided by the districts for any sphere of influence or sphere of influence that included a special district, including any update to a sphere of influence or any update to a sphere of influence that included a special district. Beginning January 1, 2002, the subdivision (h)(1) requirement – that LAFCOs require special districts to file written statements with the LAFCO specifying the functions or classes of service provided by the districts – is *only* applicable when LAFCOs adopt or update a sphere of influence for a special district, and not any other sphere of influence.

The claimant filed the test claim on May 29, 2003. The Commission adopted a Statement of Decision on September 27, 2007, and the parameters and guidelines on September 25, 2009. Eligible claimants were required to file initial reimbursement claims with the State Controller’s Office (SCO) by March 30, 2010, and late claims by March 30, 2011.

Eligible Claimants and Period of Reimbursement

Only those independent special districts that are subject to the tax and spend limitations of article XIII A and article XIII B are eligible claimants.

The reimbursement period for this new mandate begins July 1, 2001.

Reimbursable Activities

The Commission approved the following activities for reimbursement:

A. On-going Activities:

Filing written statements to the LAFCO pursuant to Government Code section 56425, subdivision (i)(1) (formerly numbered subdivision (h)(1)), specifying the functions or classes of service provided by the district, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district:
 1. Gather information on the functions or classes of services provided by the special district as needed to prepare the written statements required by Government Code section 56425, subdivision (i)(1).
 2. Draft written statements, including but not limited to, the initial draft, reviews and revisions as needed.
 3. File written statements with the LAFCO.
 4. Prepare for, attend and present written statements as required by Government Code section 56425, subdivision (i)(1), at a LAFCO hearing.

Statewide Cost Estimate

Staff reviewed the claims data submitted by 23 special districts, and compiled by the SCO. The actual claims data showed that 23 claims were filed for fiscal years 2002-2003 through 2008-2009 for a total of \$277,490.³ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

³ Claims data reported as of October 11, 2010.

Assumptions

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed.*

Only 23 special districts filed reimbursement claims for this program. If other eligible claimants file reimbursement claims or late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Initial reimbursement claims for this program may be filed until March 30, 2011.

2. *There may be several reasons that non-claiming local agencies did not file reimbursement claims, including but not limited to:*

- they are not eligible claimants because they are not independent special districts subject to the tax and spend limitations of article XIII A and article XIII B of the California Constitution;
- they did not incur more than \$1,000 in increased costs for this program;
- the LAFCO did not adopt or update the sphere of influence for that special district, and thus no written statements were required;
- they did not have supporting documentation to file a reimbursement claim.

3. *There is a wide variation in costs claimed for this program that appear to be eligible for reimbursement.*

There is a wide variation in costs for this program. Staff reviewed the reimbursement claims filed and found that the average cost of the 23 claims is \$12,064 per claim. Four claims exceed this amount. San Bernardino Valley Water Control District filed a claim for \$160,196; Western San Bernardino County Water District filed a claim for \$26,716; Kensington Fire Protection District filed a claim for \$23,704; and Junipera-Riveria County Water District filed a claim for \$14,855. Staff found that the agencies with higher than average costs hired outside law firms or consulting firms to complete the written LAFCO report required under this program.

However, the parameters and guidelines and the law do not prohibit local agencies from using outside resources to implement a mandated program. In addition, the SCO conducted a preliminary desk review of these claims and approved them for reimbursement.

4. *The total amount of reimbursement for this program may be lower than the statewide cost estimate, because the SCO may reduce any reimbursement claim for this program.*

As stated above, the SCO conducted a preliminary desk review of these claims. They reduced claims for various reasons, such as deducting penalties for late filings. They also rejected claims that were filed for amounts under the \$1,000 minimum threshold. The SCO may also conduct full field audits on this program, and reduce any claim it deems to be excessive or unreasonable.

Methodology

Fiscal Years 2002-2003 through 2008-2009

The proposed statewide cost estimate for fiscal years 2002-2003 through 2008-2009 was developed by totaling the 23 reimbursement claims filed with the SCO for these years.

The proposed statewide cost estimate includes six fiscal years for a total of \$277,490 for the *Local Agency Formation Commissions* program. This averages to \$46,248 annually in costs for the state for this six-year period.

Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Special District Claims Filed with SCO	Estimated Cost
2002-2003	1	\$4,871
2003-2004	2	\$28,625
2004-2005	1	\$4,880
2005-2006	7	\$192,604
2006-2007	3	\$9,843
2007-2008	3	\$5,761
2008-2009	6	\$30,906
TOTAL	23	\$277,490

Comments on the Proposed Statewide Cost Estimate

Commission staff issued the draft staff analysis and proposed statewide cost estimate on January 21, 2011. On January 31, 2011, the Department of Finance submitted comments concurring with the proposed statewide cost estimate.

Conclusion

The Commission adopted the statewide cost estimate of **\$277,490** for costs incurred in complying with the *Local Agency Formation Commissions* program.