

LATE FILING

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Commission on  
State Mandates



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September 11, 2013

Ms. Heather Halsey  
Executive Director  
California Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

**RE: 05-TC-01 – Accounting for Local Revenue Realignments**

Dear Ms. Halsey:

On behalf of the California State Association of Counties, I respectfully submit comments on the matter of the above named mandate claim.

**1. Fee authority only partially offsets county costs.**

The Proposed Statement of Decision would find that for the fiscal years 2006-07 and all subsequent fiscal years, the costs imposed on counties by Revenue and Taxation Code Sections 97.68 and 97.70 are not reimbursable because counties are authorized by Section 97.75 to charge fees to cities in an amount sufficient to pay for the administrative costs, and that “therefore reimbursement for the VLF Swap and Triple Flip must end in the 2006-07 fiscal year.”

However, counties are only authorized to charge fees on a city in proportion to that city’s share of increased revenue. This leaves a portion of the increased costs still imposed on the county, since the county also receives a share of the increased revenue. In many counties, if not every county, the county receives more property taxes than any single city within its jurisdiction. This leaves the largest portion of the administrative costs still a burden to the county.

The Commission should find that costs imposed on counties by this mandate are reimbursable only to the extent those costs are not offset by the fee authority granted in Section 97.75 or claimed as a part of any other mandate.

**2. Authority to charge fees to other local agencies merely shifts the mandate’s burden.**

The authority for counties to charge fees to cities does not mean that the program is not a reimbursable mandate; it merely changes the level of government that bears the mandated cost. The state is required to reimburse cities for mandated costs just as they must reimburse counties. Shifting the burden from one local agency to another does not mean the state is not liable, it just means the state owes the money to a different agency.

The analysis cites *City of San Jose v. State of California*, and summarizes its finding that these fees on cities are not reimbursable because the charges were not costs mandated by the state, but imposed by another local government entity. But this summary is incorrect because it is taken entirely out of context. In the *San Jose* suit, the court found that the statute in question “simply authorizes allocation of booking costs... among all the local entities responsible for the arrests.” The costs in the *City of San Jose* case were existing local costs, and counties were given authority to bill cities for their discretionary actions (arrests and bookings).

The issue before the Commission here is clearly different. Here, the costs are undisputedly newly mandated, not existing local costs. The state is imposing a mandate and then specifying the allocation of the mandated costs among local agencies. The cities are taking no discretionary actions, but simply bearing the burden of having new costs for a mandated program imposed upon them.

The Commission should therefore find that, beginning in fiscal year 2006-07, the costs of this mandate are reimbursable to whichever level of government bears final responsibility for those costs. As a matter of convenience, the Commission could authorize counties to claim the full costs as long as they do not also bill cities for the costs, which would save paperwork and the costs to claim and audit at both the state and local level.

For all these reasons, CSAC respectfully requests that the Commission adopt a Statement of Decision reflecting the costs discussed above. If you have any questions about our position, please do not hesitate to contact Geoffrey Neill at 916/327-7500.

Respectfully,



Jean Kinney Hurst  
Senior Legislative Representative