

Item 7

PROPOSED AMENDED STATEWIDE COST ESTIMATE

Approximately \$19,352 to \$38,194 for Initial and First Year Annual Costs

(Approximate Prospective Cost of \$0 to \$11,130 Annually)

Government Code Sections 53232.2(b), 53232.3(a) and (b), 53235(f) and 53235.2(a)

Statutes 2005, Chapter 700

Local Agency Ethics (AB 1234)

07-TC-04

State Controller's Office, Requester

TABLE OF CONTENTS

Exhibit A

Test Claim Statement of Decision adopted May 25, 2012 2

Exhibit B

Parameters and Guidelines adopted September 28, 2012..... 38

Exhibit C

Statewide Cost Estimate adopted July 26, 2013 50

Exhibit D

State Controller's Office (SCO) Request to Amend the Statewide Cost Estimate filed May 5, 2014..... 53

Exhibit E

Reimbursement Claims filed with the State Controller's Office..... 68

Exhibit F

Draft Proposed Amended Statewide Cost Estimate issued June 6, 2014 106

Exhibit G

SCO Comments on Draft Proposed Amended Statewide Cost Estimate filed June 16, 2014.... 119

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Government Code Sections 25008, 36514.5, 53232, 53232.1, 53232.2, 53232.3, 53232.4, 53234, 53235, 53235.1, and 53235.2; Harbors and Navigation Code Sections 6060 and 7047; Health and Safety Code Sections 2030, 2851, 4733, 4733.5, 6489, 9031, 13857, 13866, and 32103; Military and Veterans Code Section 1197; Public Resources Code Sections 5536, 5536.5, 5784.15, and 9303; Public Utilities Code Sections 11908, 11908.1, 11908.2, 16002, and 22407; and Water Code Sections 20201, 21166, 30507, 30507.1, 34741, 40355, 50605, 55305, 56031, 60143, 70078, 71255, 74208, and 20201.5;

As Added or Amended by Statutes 2005, Chapter 700

Filed October 23, 2007 by

City of Newport Beach and Union Sanitary District, Co-Claimants

Case No.: 07-TC-04

Local Agency Ethics (AB 1234)

STATEMENT OF DECISION
PURSUANT TO GOVERNMENT
CODE SECTION 17500 ET SEQ.;
TITLE 2, CALIFORNIA CODE OF
REGULATIONS, DIVISION 2,
CHAPTER 2.5, ARTICLE 7.

(Adopted May 25, 2012)

(Served May 31, 2012)

STATEMENT OF DECISION

The Commission on State Mandates (Commission) heard and decided this test claim during a regularly scheduled hearing on May 25, 2012. Juliana Gmur appeared on behalf of claimant, City of Newport Beach. David O'Hara appeared on behalf of co-claimant, Union Sanitary District. Allan Burdick appeared on behalf of the CSAC-SB90 Service. Donna Ferebee and Randy Ward appeared on behalf of the Department of Finance.

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 *et seq.*, and related case law.

The Commission adopted the staff analysis to deny the test claim by a vote of 7-0.

Summary of the Findings

This test claim addresses activities of local agencies related to transparency and ethics training for members of the legislative bodies of local agencies. Specifically, this test claim addresses the policymaking, reporting, recordkeeping, ethics training and notice requirements imposed on

local agencies if they provide any type of compensation, salary, or stipend to a member of a legislative body, or provide reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties.

The Commission finds that Government Code sections 53232.2(b), 53232.3(a), 53235(a), and 53235.2(a) impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution on general law counties and those eligible special districts subject to the tax and spend provisions of articles XIII A and XIII B, that are required by their enabling act to provide reimbursement of expenses to perform the following activities only:

- Adopt a written policy, in a public meeting specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses relating to travel, meals, lodging and other actual and necessary expenses;¹
- Provide expense report forms;²
- Provide information on training courses to meet the ethics training requirements imposed by the test claim statute to its local officials at least once annually;³
- Maintain training records, inclusive of training date and training provider, for five years.⁴

The Commission further finds that the test claim statute does not impose a reimbursable state-mandated program on the remaining local agencies because either:

1. They are not eligible claimants subject to the tax and spend limitations of articles XIII A and XIII B of the California Constitution; or
2. The requirements of the test claim statute are imposed on them as a result of their discretionary decision to provide compensation, salary, stipend, or reimbursement and thus, under the analysis in *Kern*,⁵ are not mandated by the state.

¹ Government Code section 53232.2(b).

² Government Code section 53232.3(a).

³ Government Code section 53235(a).

⁴ Government Code section 53235.2(a).

⁵ *Department of Finance v. Commission on State Mandates* (2003) 30 Cal. App.4th 727, 745 (*Kern*).

COMMISSION FINDINGS

Claimant

City of Newport Beach

Co-claimant

Union Sanitary District

Chronology

- 10/23/2007 Claimant, City of Newport Beach, filed the test claim (07-TC-4) with the Commission⁶
- 11/01/2007 Commission staff issued a letter deeming the test claim filing complete and requested comments from state agencies
- 12/04/2007 Department of Finance (DOF) filed comments on the test claim
- 06/13/2008 Claimant, City of Newport Beach, filed a request to add co-claimant, Union Sanitary District to the test claim⁷
- 03/16/2012 Commission staff issued the draft staff analysis
- 04/06/2012 DOF submitted comments on the draft staff analysis
- 04/11/2012 Co-claimant submitted comments on the draft staff analysis
- 04/26/2012 Commission staff issued a letter to the State Controller's Office requesting additional information
- 04/30/2012 The State Controller's Office (SCO) provided a response to Commission staff's request for additional information

I. Introduction

This test claim addresses the policy making, reporting, record keeping, ethics training and notice requirements imposed on those local agencies that provide any type of compensation, salary, or stipend to a member of a legislative body, or that provide reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties.

Responding to reports by the State Auditor's Office, dozens of newspaper articles, and public requests regarding inappropriate uses of local tax dollars, Assemblymember Salinas introduced AB 1234 "to require local agencies to act with more transparency when they deal with issues such as compensation and travel reimbursements."⁸ According to the Assembly analysis:

⁶ Based on the filing date of October 23, 2007, the potential period of reimbursement for this test claim begins on July 1, 2006.

⁷ Exhibit C.

⁸ Exhibit I. Assembly Committee on Local Government, floor analysis of AB 1234, as amended April 5, 2005, p.5.

The incidents that occurred in the Sacramento Suburban Water District, Otay Water District, City of Elk Grove (although they were not charged), and many others have caused a flurry of questions on how local officials are using public resources and on the ability of local officials to follow the ethical guidelines set forth in statute. Cities, counties, and special districts have all seen an increase in the misuse of public resources and the consistent failure to follow conflict of interest laws from their own public officials. As a result of these and other instances, the reputations of many local governments that have done nothing wrong have been damaged due to the actions of few "bad actors."⁹

The Legislature also believed that this statute would not impose a state-mandated local program because compensation and reimbursement are at the discretion of local agencies. As the Senate Local Government Committee Analysis stated:

Legislative Counsel agrees that the bill doesn't create a new state-mandated local program. The requirements for compensation, expense reimbursement procedures, and ethics training apply only to those local agencies that compensate their governing bodies. If a city reimburses its councilmembers' expenses, then the city must follow the rules set by AB 1234. But because there's no requirement to reimburse expenses, the bill is not a mandate. No compensation, no requirements, no mandate.¹⁰

AB 1234 was supported by numerous cities, counties and special districts, while another bill during the same legislative session, SB 393 (which would have imposed auditing, whistleblower and other additional requirements on local agencies and was not enacted) was opposed by those same local agencies.

A. Provisions of AB 1234

Government Code sections 53232 and following impose the requirements on local agencies for which the claimants seek reimbursement pursuant to article XIII B, section 6 of the California Constitution.

The remaining code sections pled in the claim generally grant authority to local agencies to provide compensation or reimbursement for expenses to the members of their legislative bodies and are not new.¹¹ However, as amended by Statutes 2005, Chapter 700, these sections specify that if compensation, salary, stipend or reimbursement of expenses is provided to a member of the legislative body of a local agency: “. . .the determination of whether a [member of the legislative body's] activities on any specific day are compensable shall be made pursuant to

⁹ *Ibid.*

¹⁰ Exhibit I. Senate Local Government Committee, analysis of AB 1234 as amended June, 1, 2005, p. 7.

¹¹ See Government Code sections 25008 and 36514.5; Harbors and Navigation Code sections 6060 and 7047; Health and Safety Code sections 2030, 2851, 4733, 4733.5, 6489, 9031, 13857, 13866, and 32103; Military and Veterans Code section 1197; Public Resources Code sections 5536, 5536.5, 5784.15, and 9303; Public Utilities Code sections 11908, 11908.1, 11908.2, 16002, and 22407; and Water Code sections 20201, 21166, 30507, 30507.1, 34741, 40355, 50605, 55305, 56031, 60143, 70078, 71255, 74208, and 20201.

[Government Code] Article 2.3 (commencing with section 53232)”¹² and “reimbursement for these expenses is subject to [Government Code] sections 53232.2 and 53232.3.”¹³

The provisions of the test claim code sections are summarized below.

1. Compensation

When compensation is otherwise authorized by statute, a local agency *may* pay compensation to members of a legislative body for attendance at the following occurrences:

- A meeting of the legislative body;
- A meeting of an advisory body;
- A conference or organized educational activity conducted in compliance with subdivision (c) of section 54952.2, including, but not limited to, ethics training required by Article 2.4 (commencing with section 53234).¹⁴

Payment of compensation for attendance at occurrences other than those listed above is authorized only if the governing body has adopted, in a public meeting, a written policy specifying the types of occasions that constitute the performance of official duties for which a member of the legislative body may receive payment.¹⁵ The requirement to adopt a policy does not apply to any local agency that pays compensation in the form of a salary to the members of its legislative body.¹⁶

2. Reimbursement for Actual and Necessary Expenses

Government Code section 53232.2 provides that when reimbursement is otherwise authorized by statute, a local agency *may* reimburse members of a legislative body for actual and necessary expenses incurred in the performance of official duties, including, but not limited to, activities described in Article 2.4 of the Government Code (commencing with section 53234).¹⁷ If a local

¹² Exhibit A. Government Code 36514.5, Harbors and Navigation Code section 7047; Health and Safety Code sections 4733, 4733.5, 6489, 9031, 13857 and 32103; Public Resources Code sections 5536 and 5784.15; Public Utilities Code sections 11908, 11908.2, 16002 and 22407; and Water Code sections 20201, 21166, 30507, 34741, 40355, 55305, 56031, 60143, 70078, 71255 and 74208, as added or amended by Statutes 2005, Chapter 700.

¹³ Exhibit A. Government Code sections 25008; Harbors and Navigation Code sections 6060 and 7047; Health and Safety Code sections 2030, 2851, 4733, 6489, 9031, 13866, and 32103; Military and Veterans Code section 1197; Public Resources Code sections 5536.5, 5784.15, and 9303; Public Utilities Code sections 11908.1, 11908.2 and 22407; and Water Code sections 21166, 30507, 30507.1, 34741, 40355, 50605, 55305, 56031, 60143, 70078, 71255, 74208, and 20201.5 as added or amended by Statutes 2005, Chapter 700.

¹⁴ Exhibit A. Government Code section 53232.1(a), emphasis added.

¹⁵ Exhibit A. Government Code section 53232.1.

¹⁶ Exhibit A. Government Code section 53232.1(c).

¹⁷ Exhibit A. Government Code section 53232.2(a), emphasis added. Note that section 53232.2 (g) provides that this section shall not supersede any other laws establishing reimbursement rates for local agencies.

agency reimburses members of a legislative body for actual and necessary expenses incurred in the performance of official duties, then the governing body must adhere to the following requirements:

- a) Adopt a written policy, in a public meeting, specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses relating to travel, meals, lodging, and other actual and necessary expenses. This policy may also specify the reasonable reimbursement rates for travel, meals, and lodging, and other actual and necessary expenses or it shall use the Internal Revenue Service rates for reimbursement of travel, meals, lodging, and other actual and necessary expenses as established in Publication 463, or any successor publication.
- b) If the lodging is in connection with a conference or organized educational activity including the ethics training required by Article 2.4, lodging costs shall not exceed the maximum group rate published by the conference or activity sponsor, if lodging at the group rate is available to the member of a legislative body at the time of booking. If the group rate is not available, the member shall use comparable lodging that is consistent with the requirements of Government Code sections 53232.2(c) and (e).
- c) Members of the legislative body shall use government and group rates offered by a provider of transportation or lodging services for travel and lodging when available.
- d) All expenses that do not fall within the adopted travel reimbursement policy or the Internal Revenue Service reimbursable rates shall be approved by the governing body, in a public meeting before the expense is incurred, except as provided in subdivision (d).¹⁸

3. Expense Reporting Requirements

If a local agency reimburses members of a legislative body for actual and necessary expenses incurred in the performance of official duties, then a local agency shall provide expense report forms to be filed by the members of the legislative body.¹⁹ Reimbursable expenses shall include, but not be limited to, meals, lodging, and travel.²⁰ Expense reports are public records subject to disclosure under the California Public Records Act²¹ and they must meet the following requirements:

- a) Document that expenses meet the existing policy, adopted pursuant to section 53232.2, for expenditure of public resources;²²
- b) Be submitted by the member of the legislative body within a reasonable time after incurring the expense, as determined by the legislative body, and be accompanied by the receipts documenting each expense.²³

¹⁸ Exhibit A. Government Code section 53232.2.

¹⁹ Exhibit A. Government Code section 53232.3(a).

²⁰ *Ibid.*

²¹ Exhibit A. Government Code section 53232.3(e).

²² Exhibit A. Government Code section 53232.3(b).

²³ Exhibit A. Government Code section 53232.3(c).

Members of a legislative body are required to provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.²⁴

4. Penalties for Misuse of Public Resources or Falsifying Expense Reports

Penalties for misuse of public resources or falsifying expense reports in violation of expense reporting polices may include, but are not limited to, the following:

- a) The loss of reimbursement privileges.
- b) Restitution to the local agency.
- c) Civil penalties for misuse of public resources pursuant to section 8314.
- d) Prosecution for misuse of public resources, pursuant to section 424 of the Penal Code.²⁵

5. Ethics Training

If a local agency provides any type of compensation, salary, or stipend to a member of a legislative body, or provides reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties, then all of that local agencies' "local agency officials" shall receive training in ethics.²⁶ A "local agency official" means the following.

- a) Any member of a local agency legislative body or any elected local agency official who receives any type of compensation, salary, or stipend or reimbursement for actual and necessary expenses incurred in the performance of official duties; and
- b) Any employee designated by a local agency legislative body to receive the training specified under this article.²⁷

Local agency officials in local agency service as of January 1, 2006, except for officials whose term of office ended before January 1, 2007, were required to receive their initial ethics training before January 1, 2007.²⁸ Each local agency official who commences service with a local agency on or after January 1, 2006, is required to receive their initial ethics training no later than one year from the first day of service with the local agency.²⁹ After their initial ethics training, each local agency official is required to receive at least two hours of training in general ethics principles and ethics laws relevant to his or her public service at least once every two years.³⁰ A local agency official who serves more than one local agency is required to receive ethics training

²⁴ Exhibit A. Government Code section 53232.3(d).

²⁵ Exhibit A. Government Code section 53232.4.

²⁶ Exhibit A. Government Code section 53235(a).

²⁷ Exhibit A. Government Code section 53234(c).

²⁸ Exhibit A. Government Code section 53235.1(a).

²⁹ Exhibit A. Government Code section 53235.1(b).

³⁰ Exhibit A. Government Code sections 53235(b) and 53235.1(a) and (b).

once every two years without regard to the number of local agencies with which he or she serves.³¹

If any entity develops curricula to satisfy the requirements of this section, then the Fair Political Practices Commission and the Attorney General shall be consulted regarding the sufficiency and accuracy of any proposed course content. When reviewing any proposed course content the Fair Political Practices Commission and the Attorney General shall not preclude an entity from also including local ethics policies in the curricula.³² A local agency or an association of local agencies may offer one or more training courses or sets of self-study materials with tests, to meet the requirements of this section. These courses may be taken at home, in-person, or online.³³ Providers of training courses are required to provide participants with proof of participation to meet the requirements of section 53235.2.³⁴ Local agencies are required to provide information on available ethics training to their local officials at least once annually.³⁵

6. Record Keeping Requirements

A local agency that requires its local agency officials to complete the ethical training prescribed by the test-claim statute is required to maintain records for at least five years after local officials receive the training. These records are public records subject to disclosure under the California Public Records Act.³⁶ The records must indicate both of the following:

- The dates that local officials satisfied the requirements of this article.
- The entity that provided the training.

7. Linking the Provision of Compensation, Salary, Stipend or Reimbursement of Expenses to the Requirements of the Test Claim Statute

AB 1234 amended the enabling acts of many local agencies with regard to their grants of authority to provide compensation, salary, or stipend to state the following: “The determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.”³⁷ Article 2.3 generally specifies: the types of occurrences that are compensable if a local agency does not adopt a compensation policy; the requirements for a compensation policy if the district adopts one; the types of occurrences that are reimbursable if a

³¹ Exhibit A. Government Code section 53235.1(c).

³² Exhibit A. Government Code section 53235(c).

³³ Exhibit A. Government Code section 53235(d).

³⁴ Exhibit A. Government Code section 53235(e).

³⁵ Exhibit A. Government Code section 53235(f).

³⁶ Exhibit A. Government Code section 53235.2(a).

³⁷ Exhibit A. See Government Code 36514.5, Harbors and Navigation Code section 7047; Health and Safety Code sections 4733, 4733.5, 6489, 9031, 13857 and 32103; Public Resources Code sections 5536 and 5784.15; Public Utilities Code sections 11908, 11908.2, 16002 and 22407; and Water Code sections 20201, 21166, 30507, 34741, 40355, 55305, 56031, 60143, 70078, 71255 and 74208, as added or amended by Statutes 2005, Chapter 700.

district does not adopt a reimbursement policy; the requirements for a reimbursement policy if the district adopts one; the requirement to provide reimbursement forms, if reimbursement is provided; and, the penalties that may apply in the case of misuse of public resources or falsifying expense reports.

AB 1234 also amended the enabling acts of several local agencies with regard to their grants of authority to provide reimbursement to specify the following: "Reimbursement for these expenses is subject to sections 53232.2 and 53232.3 of the Government Code."³⁸ Government Code sections 53232.2 and 53232.3 are contained in Article 2.3 and generally provide for the types of occurrences that are reimbursable if a district does not adopt a reimbursement policy; the requirements for a reimbursement policy if the district adopts one; and the requirement to provide reimbursement forms, if reimbursement is provided to the members of the agency's legislative body.

B. Local Agencies Affected by Test Claim Statute

The requirements listed above are imposed on those local agencies that provide any type of compensation, salary, or stipend to a member of a legislative body, or that provide reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties. For purposes of the test claim statute, a "local agency" means a "city, county, city and county, charter city, charter county, charter city and county, or special district."³⁹

1. Counties

The legal provisions for the government of California counties are contained in the California Constitution and the California Government Code.⁴⁰ A county is the largest political subdivision of the state having corporate powers.⁴¹ California has 58 counties.

a. General Law Counties versus Charter Counties

The California Constitution recognizes two types of counties: general law counties and charter counties. General law counties adhere to state law as to the number and duties of county elected officials. Charter counties, on the other hand, have a limited degree of "home rule" authority that may provide for the election, compensation, terms, removal, and salary of the governing board; for the election or appointment (except the sheriff, district attorney, and assessor who must be

³⁸ Exhibit A. See Government Code sections 25008; Harbors and Navigation Code sections 6060 and 7047; Health and Safety Code sections 2030, 2851, 4733, 6489, 9031, 13866, and 32103; Military and Veterans Code section 1197; Public Resources Code sections 5536.5, 5784.15, and 9303; Public Utilities Code sections 11908.1, 11908.2 and 22407; and Water Code sections 21166, 30507, 30507.1, 34741, 40355, 50605, 55305, 56031, 60143, 70078, 71255, 74208, and 20201.5 as added or amended by Statutes 2005, Chapter 700.

³⁹ Exhibit A. Government Code section 53232.

⁴⁰ Exhibit I. California Constitution, article XI, section 1(a). See also Government Code section 23000 *et seq.*

⁴¹ Exhibit I. California Constitution, article XI, section 1(a). See also Government Code section 23002 ("The several existing counties of the State and such other counties as are hereafter organized are legal subdivisions of the State").

elected), compensation, terms, and removal of all county officers; for the powers and duties of all officers; and for consolidation and segregation of county offices.⁴² There are currently 44 general law counties and 14 charter counties. They are as follows:

General Law Counties: Alpine, Amador, Calaveras, Colusa, Contra Costa, Del Norte, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Plumas, Riverside, San Benito, San Joaquin, San Luis Obispo, Santa Barbara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Trinity, Tulare, Tuolumne, Ventura, Yolo, and, Yuba

Charter Counties: Alameda, Butte, El Dorado, Fresno, Los Angeles, Orange, Placer, Sacramento, San Bernardino, San Diego, San Francisco, San Mateo, Santa Clara, and, Tehama.

b. Compensation and Reimbursement of Expenses for Members of a County Board of Supervisors

Article 11, section 1(b) of the California Constitution provides that the governing body of each general law county, “shall prescribe by ordinance the compensation of its members, but the ordinance prescribing such compensation shall be subject to referendum.” Article 11, section 4(b) of the California Constitution requires that charter counties provide in their charters for “the compensation, terms, and removal of members of the governing body.” If a county charter has provided for the Legislature to prescribe the salary of the governing body, such compensation is now required to “be prescribed by the governing body by ordinance.”⁴³ Therefore, counties have the discretion to determine what salaries, if any, to provide their supervisors and must do so in their charters or by ordinance.

Additionally, the Government Code provides that members of general law county boards of supervisors “shall be allowed their actual expenses in going to, attendance upon, and returning from state association meetings and their actual and necessary traveling expenses when traveling outside their counties on official business.”⁴⁴ Charter counties, on the other hand, have authority to determine reimbursement of expenses for the members of their governing bodies without regard to state statutes.⁴⁵ Therefore, general law counties are required to reimburse the actual and necessary expenses of their supervisors, while charter counties have discretion to determine whether or not to do so.

2. Cities

The legal provisions for the government of California cities are contained in the California Constitution and the California Government Code.⁴⁶ As of July 1, 2011 there were 482 cities in California: 120 charter cities and 362 general law cities.

⁴² California Constitution, article XI, section 4.

⁴³ California Constitution, article 11, section 4(b).

⁴⁴ Government Code section 25008.

⁴⁵ California Constitution, article XI, section 1(b).

⁴⁶ California Constitution, article XI and Government Code sections 34000 *et seq.*

a. Charter Cities versus General Law Cities

The California Constitution gives cities the power to become charter cities.⁴⁷ The benefit of becoming a charter city is that charter cities have supreme authority over “municipal affairs.”⁴⁸ In other words, a charter city’s law concerning a municipal affair will trump a state law governing the same topic.⁴⁹ A city charter, in effect a city’s constitution, need not set out every municipal affair the city would like to govern. With few exceptions, so long as the charter contains a declaration that the city intends to avail itself of the full power provided by the California Constitution, any city ordinance that regulates a municipal affair will govern over a general law of the state.⁵⁰ Cities that have not adopted a charter are general law cities. General law cities are bound by the state’s general law, even with respect to municipal affairs.

b. Compensation and Reimbursement of Expenses for Members of the City Council⁵¹

The salary of council members of general law cities is controlled by Government Code section 36516(a), which permits a city council to establish by ordinance a salary up to a ceiling determined by the city's population. The electorate may approve a higher salary or may decrease the salary approved by the city council.⁵² City council members in general law cities “may be reimbursed for actual and necessary expenses incurred in the performance of official duties.”⁵³ However, general law cities are not required to provide reimbursement; the ultimate decision is made by the council itself.⁵⁴ Any amounts paid by a city to reimburse a council member for actual and necessary expenses pursuant to section 36514.5 shall not be included for purposes of determining salary.⁵⁵

The California Constitution grants plenary authority to charter cities to provide for compensation and reimbursement of expenses of officers and employees.⁵⁶ In the absence of express provisions in the charter, the courts presume that members are not entitled to compensation.⁵⁷

⁴⁷ California Constitution, article XI, section 3(a).

⁴⁸ California Constitution, article XI, section 5(a).

⁴⁹ *Johnson v. Bradley* (1992) 4 Cal.4th 389, 399.

⁵⁰ One exception to this rule, for example, is that a charter city is bound by the Public Contract Code unless the city’s charter expressly exempts the city from the Code’s provisions or a city ordinance conflicts with a provision in the Code. (Cal. Pub. Cont. Code § 1100.7.)

⁵¹ Note that “Elected officials not subject to civil service laws, e.g., elected mayors, council members, and sheriffs” are exempt from the federal Fair Labor Standards Act. (Exhibit I. 29 CFR § 553.11(a).

⁵² Government Code section 36516(b).

⁵³ Government Code section 36514.5.

⁵⁴ Exhibit I. 65 Ops.Cal.Atty.Gen. 523 (1982).

⁵⁵ Government Code section 36516(e).

⁵⁶ Exhibit I. California Constitution article XI, section 5(b).

⁵⁷ Exhibit I. *Woods v. Potter* (1908) 8 Cal.App. 41, 43.

Therefore whether and how much compensation and reimbursement is provided to the members of their legislative bodies is at the city's discretion.

3. Special Districts

A special district is “an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries and in areas outside district boundaries when authorized by the [local agency formation] commission pursuant to [Government Code] section 56133.”⁵⁸ Special districts include county service areas, but exclude the state, counties, cities, school districts, community college districts, assessment districts, special assessment districts, improvement districts, Mello-Roos community facilities districts, permanent road divisions, air pollution control districts, air quality maintenance districts, and, zones of special districts.⁵⁹ There are between roughly 3,294 and 4,776 special districts in California, depending upon whose definition is applied.⁶⁰ Approximately 610 of those special districts are subject to the appropriations limit set forth in article XIII B, section 4 of the California Constitution,⁶¹ and are thus eligible claimants for purposes of mandate reimbursement under article XIII B, section 6 of the California Constitution. Those approximately 610 districts that are subject to the appropriations limit will be referred to as “eligible districts” in this analysis. Eligible district in this context means that the district is eligible to bring a mandates claim. However, it may or may not be eligible to claim reimbursement under any given program, depending on whether the Commission has found that program imposes a reimbursable state-mandated program on special districts.

a) Principal Act versus Special Act Special Districts

Special districts operate either under a principal act or a special act. A principal act is a generic statute which applies to all special districts of that type. For example, the Community Services District Law governs all 325 community services districts. There are about 50 principal act statutes which local voters can use to create and govern special districts.⁶² On the other hand, districts which are regional in nature, have unusual governing board requirements, provide unique services, or need special financing, result in special act districts. Examples of districts formed under special acts include the Embarcadero Municipal Improvement District (Santa Barbara County), the Humboldt Bay Harbor, Recreation, and Conservation District, and the Shasta-Tehama County Watermaster District. There are about 125 special act districts.⁶³ All

⁵⁸ Government Code section 56036(a).

⁵⁹ *Ibid.*

⁶⁰ The Senate Local Government Committee asserts that there are approximately 3,294 while the State Controller asserts there are 4,776. (See Sen. Loc. Gov., *What's So Special About Special Districts?* (Fourth Edition), October 2010, p. 4.) However, for the Commission's purposes, we are only concerned with those, approximately 610 districts subject to the tax and spend restrictions of the California Constitution.

⁶¹ Exhibit I. State Controller, *Special Districts Annual Report*, December 13, 2011, Table 1.

⁶² Senate Local Government Committee, *What's So Special About Special Districts?* (Fourth Edition), October 2010, p. 5.

⁶³ Senate Local Government Committee, *What's So Special About Special Districts?* (Fourth Edition), October 2010, p. 5.

principal acts are codified state laws, whereas most special acts are not codified. For a list of special acts, see Appendix A in the State Controller's Special Districts Annual Report.⁶⁴

b) Enterprise Versus Non-enterprise Districts.

Just over a quarter of the special districts are enterprise districts. Enterprise districts deliver services that are run like business enterprises in that they charge their customers fees for services. For example, a hospital district generally charges room fees paid by patients, not the district's other residents. Generally, enterprise districts are not subject to the tax and spend restrictions of article XIII of the California Constitution and so are not eligible to receive mandate reimbursement. Nearly all of the water, wastewater, and hospital districts are enterprise districts which charge rates or fees for their services and do not receive any "proceeds of taxes" or tax revenues. Reimbursement under article XIII B, section 6 is required only when the local agency is subject to the tax and spend limitations of articles XIII A and XIII B, and only when the costs in question can be recovered solely from "proceeds of taxes," or tax revenues.⁶⁵ Since enterprise districts are usually not funded by proceeds of taxes, they are generally exempt from article XIII B's spending limit. However, there are a few enterprise districts which operate with a mix of tax and fee revenues; Alpaugh Irrigation District and Canebrake County Water District, for example.⁶⁶ These districts are subject to the tax and spend limitations of articles XIII A and XIII B, and are thus eligible claimants for mandates purposes.

Conversely, non-enterprise districts provide services which have been deemed by some to not easily lend themselves to fees.⁶⁷ It has been argued, for example, that fire protection services and mosquito abatement programs benefit the entire community, not just individual residents.⁶⁸ Non-enterprise districts rely overwhelmingly on property tax revenues and parcel taxes to pay their operational expenses, and are thus subject to the tax and spend limitations of articles XIII A and XIII B of the California Constitution. Therefore, non-enterprise districts are generally eligible claimants for state-mandates. Services commonly provided by non-enterprise districts include cemetery, fire protection, library, and police services. Although non-enterprise districts rely primarily on non-fee revenue, certain services, such as a recreation and park district's swimming pool or soccer programs, can generate some fee revenue. Therefore, depending upon the program at issue in a test claim, there may be an exception to the subvention requirement because the district has fee authority that is sufficient to pay the costs of the state-mandated new program.⁶⁹

⁶⁴ Appendix I. State Controller, *Special Districts Annual Report*, December 13, 2011, Appendix A.

⁶⁵ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 486-487.

⁶⁶ Appendix I. State Controller, *Special Districts Annual Report*, December 13, 2011.

⁶⁷ See Senate Local Government, *What's So Special About Special Districts?* (Fourth Edition), October 2010, p. 6.

⁶⁸ *Ibid.*

⁶⁹ Government Code 17556(d).

c) Governing Boards

Special district governing boards can vary with the size and type of the district. Most districts have five-member governing boards. Other governing boards vary from three to 11 or more members. Because of its special legislation, the Metropolitan Water District of Southern California has 37 board members.⁷⁰

d) Compensation and Reimbursement of Expenses for Special District Board Members

The compensation and reimbursement of members of the legislative bodies of special districts is generally controlled by the district's principal act or special act, also known as their enabling act.⁷¹ Most districts' enabling acts give them authority to provide a salary, stipend or other compensation and to authorize payment of expenses, but do not require the payment of salary, stipend, compensation or expenses. For example, a recreation and park district “*may* provide, by ordinance or resolution, that each of its members may receive compensation in an amount not to exceed one hundred dollars (\$100) for attending each meeting of the board.”⁷² In addition, members of the board of directors *may receive* their actual and necessary traveling and incidental expenses incurred while on official business.⁷³ Public Resources Code section 15 specifies that “‘shall’ is mandatory and ‘may’ is permissive.” The plain language of these provisions authorizes, but does not require, the payment of compensation and reimbursement of actual and necessary traveling expenses of board members of recreation and park districts.

However, some special districts are required to provide reimbursement of expenses to the members of their legislative bodies. For example, members of Harbor Districts “*shall* be allowed any actual and necessary expenses incurred in the performance of their duties.”⁷⁴ The plain language of this section requires that the harbor district reimburse the members of their legislative bodies for “actual and necessary expenses incurred in the performance of their duties”⁷⁵

Finally, though there are many examples in statute of the word “shall” used in conjunction with a member’s right to receive compensation, salary or stipend, the compensation the member “shall receive” is only that which the legislative body, by ordinance, provides. For example, section 16002 of the Public Utilities Code provides that “each member of the board *shall receive*

⁷⁰ Senate Local Government, What’s So Special About Special Districts? (Fourth Edition), October 2010, p. 7.

⁷¹ Appendix A. See, e.g. Harbors and Navigation Code section 6060 (harbor districts), Harbors and Navigation Code section 7047 (small craft harbor districts), Health and Safety Code section 2030 (mosquito abatement and vector control districts), Health and Safety Code section 2851 (pest abatement districts), Health and Safety Code section 4733 (county sanitation districts), Health and Safety Code section 6489 (sanitation districts).

⁷² Appendix A. Public Resources Code section 5784.15(a).

⁷³ Appendix A. Public Resources Code section 5784.15(c), emphasis added.

⁷⁴ Appendix A. Harbors and Navigation Code section 6060.

⁷⁵ See also Harbors and Navigation Code section 16 (“shall” is mandatory and “may” is permissive).

the compensation that the board by ordinance provides, not exceeding four thousand eight hundred dollars (\$4,800) a year.” Based on the plain language of the code sections pled, only if the board by ordinance provides shall each member receive the compensation. Thus, it is within the discretion of the board to provide for compensation by ordinance (or not) and to set the amount, not to exceed four thousand eight hundred dollars a year.

C. Procedural History

Claimant, City of Newport Beach submitted this test claim to the Commission on October 23, 2007. Based on the filing date of October 23, 2007, the potential period of reimbursement for this test claim begins on July 1, 2006.⁷⁶

Co-claimant, Union Sanitary District, filed a similar test claim (07-TC-01) on some of the code sections added by the test claim statute with the Commission on September 17, 2007.⁷⁷ That test claim was dismissed on October 18, 2007 pursuant to the Commission’s regulations (Cal. Code Regs, tit. 2, § 1183(i)) on the basis that the Commission does not have jurisdiction to hear claims brought by Union Sanitary District since that district is not eligible to receive reimbursement under article XIII B, section 6 of the California Constitution.⁷⁸ More specifically, the test claim was dismissed because reimbursement under article XIII B, section 6 is required only when the local agency is subject to the tax and spend limitations of articles XIII A and XIII B, and only when the costs in question can be recovered solely from “proceeds of taxes,” or tax revenues.⁷⁹ Since Union Sanitary District is not funded by proceeds of taxes, and is exempt from article XIII B’s spending limit, staff found that it is not a local agency eligible to claim reimbursement under article XIII B, section 6 of the California Constitution.

The dismissal letter sent to co-claimant, Union Sanitary District provided information on how to appeal the decision to dismiss the test claim.⁸⁰ Co-claimant, Union Sanitary District, filed an appeal from the notice of dismissal of 07-TC-01 with the Commission. However, on August 19, 2008, Claimant, City of Newport Beach notified the Commission that it was adding Union Sanitary District to this test claim as co-claimant for Government Code sections 53232-53235.2. When Union Sanitary District was added as co-claimant to this test claim, its appeal of the notice of dismissal of 07-TC-01 was dropped and it was agreed that the Commission would address the issues relating to special districts in this test claim.

⁷⁶ Government Code section 17557(e).

⁷⁷ Appendix A. Government Code sections 53234 and 53235.2 as added by Statutes 2005, chapter 700.

⁷⁸ Appendix I. See Dismissal Letter dated October 18, 2007.

⁷⁹ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 486-487.

⁸⁰ *Id.*, p. 3.

II. Positions of the Parties and Interested Parties

A. Claimants' Position

Claimants allege that the test claim statute imposes a state-mandated new program on local agencies, and that the required activities are new and subject to reimbursement under article XIII B, section 6 of the California Constitution.⁸¹

In its comments on the draft staff analysis, co-claimant argues that it is an eligible claimant because it operates primarily on proceeds of taxes and is subject to the tax and spend limitations of the California Constitution. In support of this assertion, co-claimant has attached Property Tax Remittance Advice letters for the County of Alameda Auditor-Controller. One of the letters, dated December, 20, 2006, shows a "December Advance" of \$15,126,733.75 under the 1% Tax column. Co-claimant also argues that based on Proposition 218 and the *Big-Horn* case, its charges are actually special taxes and therefore it is an eligible claimant. Co-claimant further states that Health and Safety Code section 6489 requires the district to provide compensation to the members of its legislative body thus triggering the requirements of the test claim statute. Finally, co-claimant states that it was required to prepare an ethics training course in 2006 because no free course was offered by the state at that time.

B. Department of Finance's Position

DOF states that portions of the test claim are not reimbursable state mandates because the local agency's decision to compensate and/or reimburse their members is optional.⁸² Specifically, DOF makes the following arguments:

- Government Code section 53232.1(a) and (b) do not impose state mandated requirements due to the section's permissive language. Subdivision (a) says that "[w]hen compensation is otherwise authorized by statute, a local agency may pay compensation to members of a legislative body..." and subdivision (b) provides that "[a] local agency may pay compensation for attendance at occurrences not specified in subdivision (a)." The activities are required only if the local agency chooses to compensate the members of its governing board. Further, section 53232.1 does not apply to local agencies that elect to pay compensation in the form of a salary.⁸³ Pursuant to Article XI, section 1 and section 5, of the California Constitution, the local agencies shall prescribe by ordinance the compensation of its members, but the ordinance must be subject to referendum. Therefore, this section does not impose a state mandate on local agencies within the meaning of article XIII B, section 6 of the California Constitution because the local agency has discretion to compensate its local governing members.⁸⁴
- Section 53232.2 (a) is not a state mandate because the language is permissive. The language of the subdivision is: "When reimbursement is otherwise authorized by statute, a local agency may reimburse members of a legislative body for actual and necessary expenses incurred in the performance of official duties, including, but not limited to, activities

⁸¹ Appendix A. Claimant, test claim p. 9.

⁸² Exhibit B. DOF, comments on the test claim, p. 1.

⁸³ Appendix A. Government Code section 53232.1(c).

⁸⁴ *Ibid.*

described in Article 2.4 (commencing with section 53234)." A local agency, therefore, has discretion to reimburse its members.⁸⁵

- The new activities of the test claim statute may be reimbursable for counties. Section 25008 of the Government Code requires the counties to reimburse their local governing members. "Members shall be allowed their actual expenses in going to, attendance upon, and returning from state association meetings and their actual and necessary traveling expenses when traveling outside their counties on official business." However, section 36514.5 of the Government Code provides discretionary language for cities to reimburse their governing members. "City council members may be reimbursed for actual and necessary expenses incurred in the performance of official duties."⁸⁶
- The activities of the following sections are optional and not reimbursable due to the permissive language and the cities' discretionary authority.
 - Subdivision (b) of section 53232.2 is not a reimbursable mandate because it follows from subdivision (a), which authorizes local agencies to reimburse members of a legislative body. The new activity to adopt written policy under subdivision (b) is not reimbursable since subdivision (a) is permissive. It is a downstream activity that is a consequence of the underlying discretionary act of local agencies to reimburse their governing members.
 - Subdivision (a) of section 53232.3 is not a reimbursable mandate because it is an optional activity. The language of the subdivision is "If a local agency reimburses members of a legislative body for actual and necessary expenses incurred in the performance of official duties, then a local agency shall provide expense report forms..." The new activity to provide an expense report is only required if the local agency has chosen to reimburse its governing members. Pursuant to section 36514.5 of the Government Code, the cities have discretion to reimburse members. Further, subdivisions (b) through (e) are not reimbursable state mandates since they are required as a result of subdivision (a), which may be an optional activity as a consequence of the underlying discretionary decision of the cities to reimburse their members.
 - Section 53235(a) requires that "if a local agency provides any type of compensation, salary, or stipend to a member of a legislative body, or provides reimbursement for actual and necessary expenses incurred by a member..., then all local agency officials shall receive training in ethics..." This activity is discretionary pursuant to the permissive language of the test claim statute and local agencies' Constitutional authority to compensate. Pursuant to article II, sections 1 and 5, of the California Constitution, the local agencies shall prescribe by ordinance the compensation of its members, but the ordinance must be subject to referendum. Further, subdivisions (b) through (f) are not reimbursable mandates since they are required as a result of subdivision (a), which may be an optional activity as a consequence of the underlying decision to compensate and/or reimburse members.

⁸⁵ Exhibit B. DOF, comments on the test claim, p. 2.

⁸⁶ Exhibit B. DOF, comments on the test claim, p. 2.

- Section 53235.1 is not a reimbursable mandate since the requirement to provide ethics training in section 53235(a) is optional. This section establishes the effective dates for local members to begin their bi-annual ethics training schedule. This activity is a consequence of the local agency's discretionary authority to compensate or reimburse its members.⁸⁷

DOF also notes that the courts have held that the increased costs associated with the downstream activities of an underlying discretionary action are not reimbursable. In *Department of Finance v. Commission on State Mandates* (2003) 30 Cal. App. 4th 727, 745 (*Kern*) the court affirmed that where participation in the underlying program is voluntary, the resulting new attached requirements do not constitute a reimbursable state mandate.⁸⁸

DOF filed comments concurring with the draft staff analysis.⁸⁹

III. Discussion

Article XIII B, section 6 of the California Constitution provides in relevant part the following:

Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such programs or increased level of service.

The purpose of article XIII B, section 6 is to “preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”⁹⁰ Thus, the subvention requirement of section 6 is “directed to state-mandated increases in the services provided by [local government] ...”⁹¹

Reimbursement under article XIII B, section 6 is required when the following elements are met:

1. A state statute or executive order requires or “mandates” local agencies or school districts to perform an activity.⁹²
2. The mandated activity either:
 - a. Carries out the governmental function of providing a service to the public; or
 - b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.⁹³

⁸⁷ Exhibit B. DOF, comments on the test claim, p.p. 2-3.

⁸⁸ Exhibit B. DOF, comments on the test claim, p. 3.

⁸⁹ Exhibit E. DOF, comments on the draft staff analysis.

⁹⁰ *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

⁹¹ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

⁹² *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874.

⁹³ *Id.* at 874-875 (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.)

3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.⁹⁴
4. The mandated activity results in the local agency or school district incurring increased costs. Increased costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.⁹⁵

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.⁹⁶ The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.⁹⁷ In making its decisions, the Commission must strictly construe article XIII B, section 6, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”⁹⁸

Issue 1: Special Districts that are not Subject to the Tax and Spend Restrictions of Article XIII of the California Constitution are not Eligible for Reimbursement under Article XIII B, Section 6 of the California Constitution.

Reimbursement under article XIII B, section 6 is required only when the local agency is subject to the tax and spend limitations of articles XIII A and XIII B, and only when the costs in question can be recovered solely from “proceeds of taxes,” or tax revenues.⁹⁹

[A]rticle XIII B does not limit the ability to expend government funds collected from all sources. Rather, the appropriations limit is based on “appropriations subject to limitation,” which consists primarily of the authorization to expend during a fiscal year the “proceeds of taxes.” (§ 8, subd. (a).) As to local governments, limits are placed only on the authorization to expend the proceeds of taxes levied by that entity, in addition to the proceeds of state subventions (§ 8, subd. (c)); no limitation is placed on the expenditure of those revenues that do not constitute “proceeds of taxes.” (*County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 447.)

⁹⁴ *San Diego Unified, supra*, 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835.

⁹⁵ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

⁹⁶ *Kinlaw v. State of California* (1991) 53 Cal.3d 482, 487; Government Code section 17551 and 17552.

⁹⁷ *County of San Diego, supra*, 15 Cal.4th 68, 109.

⁹⁸ *County of Sonoma, supra*, 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

⁹⁹ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 486-487.

Section 9 of Article XIII B sets forth specific circumstances wherein the costs in question *are not* “appropriations subject to limitation,” and therefore subvention is not required. One such exclusion to the limitation is found in subdivision (c), which applies to special districts:

Appropriations of any special district which existed on January 1, 1978, and which did not as of the 1977-78 fiscal year levy an ad valorem tax on property in excess of 12 ½ cents per \$100 of assessed value; *or the appropriations of any special district then existing or thereafter created by a vote of the people, which is totally funded by other than the proceeds of taxes.* (Emphasis added.)

Thus, article XIII B, section 6 does not require reimbursement when the costs are for expenses that are recoverable from sources other than tax revenue; i.e., service charges, fees, or assessments.¹⁰⁰ The courts have concluded that although article XIII B, section 6 does not expressly discuss the source of funds used by an agency to fund a program, the historical and contextual context of the provision demonstrates that it applies only to costs recovered solely from tax revenues.¹⁰¹ A local agency cannot accept the benefits of an exemption from article XIII B’s spending limit while asserting an entitlement to reimbursement under article XIII B, section 6.¹⁰²

In this case, co-claimant asserts that it is subject to the tax and spend limitations of the Constitution and, thus, may claim reimbursement under article XIII B, section 6. For the reasons below, the Commission finds that co-claimant, and other special districts that do not receive revenue in the form of “proceeds of taxes” and are not subject to the tax and spend limitations of the California Constitution, are not eligible to claim reimbursement under article XIII B, section 6 of the California Constitution.

To help determine the issue, the State Controller’s Office (SCO) issues an annual report on special districts that identifies those special districts that collect tax revenue and are subject to the spending limitations of article XIII B. On December 13, 2011, SCO issued its *Special Districts Annual Report* for fiscal year 2009-2010. The report shows that approximately 610, or roughly seven percent of all special districts, are subject to the appropriations limit of article XIII B, thus making them eligible claimants for mandates purposes. Special districts have a statutory duty to submit annual reports to the SCO pursuant to Government Code section 12463.¹⁰³ The report is required to contain, among other things:

- (a) The aggregate amount of taxes levied and assessed against the taxable property in the local agency, which became due and payable during the next preceding fiscal year.
- (b) The aggregate amount of taxes levied and assessed against this property collected by or for the local agency during the fiscal year. ...

¹⁰⁰ *County of Fresno, supra*, 53 Cal.3d at p. 487.

¹⁰¹ *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 987.

¹⁰² *City of El Monte v. Commission on State Mandates* (2000) 83 Cal.App.4th 266, 281-282.

¹⁰³ Exhibit I. Government Code section 12463.

(e) The assessed valuation of all of the taxable property in the local agency as set forth on the assessment roll of the local agency equalized for the fiscal year, or, if the officers of the county in which the city or district is situated have collected for the city or district the general taxes levied by the city or district for the fiscal year, the assessed valuation of all taxable property.¹⁰⁴

If an officer of the district willfully and knowingly rendered a false report to the Controller, that officer would be guilty of a misdemeanor.¹⁰⁵ The report submitted by the special districts contains the data upon which the SCO bases its *Special Districts Annual Report*.

The SCO's most recent *Special Districts Annual Report* shows, on page 293, that the revenues and expenditures of Union Sanitary District in fiscal year 2009-2010 were not subject to the appropriations limit of article XIII B of the California Constitution and that Union Sanitary District did not collect any tax revenues.¹⁰⁶ Co-claimant, Union Sanitary District, however, submitted comments on the draft staff analysis stating that it is an eligible claimant because it operates primarily on proceeds of taxes and is subject to the tax and spend limitations of the Constitution. It states that it is "not an enterprise district which can be run like a business, it has strict limitations on income imposed as a result of Proposition 218." In support of these assertions, co-claimant has attached Property Tax Remittance Advice letters from the County of Alameda Auditor-Controller. One of the letters, dated December, 20, 2006, shows a "December Advance" of \$15,126,733.75 under the 1% Tax column. Thus, co-claimant's assertion conflicts with the SCO report on special districts. The Remittance Advice letters submitted by co-claimant do not explain the conflict. Nor has co-claimant explained or provided the basis of the facts identified on the form, or filed other direct evidence to support its assertion that its revenue is considered "proceeds of taxes."¹⁰⁷

Moreover, the Commission has before it public records that can be officially noticed by the Commission, which reasonably explains the tax column on the Remittance Advice Letters, and shows that co-claimant's revenue is not tax revenue. These records directly contradict co-claimant's assertion.¹⁰⁸

Co-claimant's Sewer Service Charge Ordinance 31.34, Section 5(a) (Collection of Charges on Tax Roll) provides the following:

¹⁰⁴ Exhibit I. Government Code section 53892.

¹⁰⁵ Exhibit I. Government Code section 53894.

¹⁰⁶ Exhibit I. The State Controller's *Special Districts Annual Report*, dated December 13, 2011.

¹⁰⁷ Substantial evidence in the record is required to support a finding of fact. (Gov. Code, § 17559; Cal. Code Regs., tit. 2, § 1187.5.) Moreover, the claimant has the burden of proof on the issue of whether it is entitled to reimbursement under article XIII B, section 6 of the California Constitution. (Evid. Code, § 500; *Cornell v. Reilly* (1954) 127 Cal.App.2d 178, holding that the party asserting the affirmative in an administrative proceeding has the burden of proof.)

¹⁰⁸ California Code of Regulations, title 2, section 1187.5, which states that "Official notice may be taken in the manner and of such information as is described [under the Administrative Procedures Act] in Government Code section 11515.

Pursuant to the provisions of Division 5, Part 3, Chapter 6, Article 4, of the Health and Safety Code of the State of California, and subject to the exceptions hereinafter set forth, the District hereby elects as an alternative procedure for the collection of sewer service charges prescribed or imposed by the provisions of this ordinance to have all such sewer service charges for each fiscal year commencing with fiscal year 1974-1975, *collected on the tax roll in the same manner, by the same persons, and at the same time as, and together with and not separately, from general taxes.*¹⁰⁹

Union Sanitary District's website corroborates the district's ordinance and explains to its ratepayers and the public on its website that:

Annual Sewer Service Charges are placed on your Alameda County property tax statement. The charges appear on the tax statement as a line next to our phone number 477-7500 and are listed as "Union Sewer Svc." *Sewer Service Charges are not a property tax and are not related to the assessed value of a property. They represent a charge for a service provided, similar to your phone and P.G. & E. bills. We simply include the yearly charges on the property tax statement to save the administrative cost of generating and mailing our own invoices. . . .*¹¹⁰

Additionally, Union Sanitary District's website states that the district receives revenue from four primary sources; "Sewer service charges, capacity fees, other minor operating revenues such as permits, inspections and outside work that we perform in cooperation with other municipalities, and interest earnings on reserve funds."¹¹¹ Its revenue is not funded through "proceeds of taxes," or property taxes.

Similarly, co-claimant's 2010-2011 report to the SCO states that it has no general or special tax revenues.¹¹² Co-claimant reported that of its fee and charge revenues used to fund its annual operating expenses of \$46,773,152, nearly 12 percent or \$5,574,250 was for "Administration and General."¹¹³ "Administration and General" would include the cost of co-claimant's activities required by the test claim statute, which are administrative in nature.

The State Controller's *Special Districts Annual Report* is admissible to prove whether a district is subject to the appropriations limit of article XIII B of the California Constitution because it is properly the subject of judicial notice under Evidence Code section 452(c), which permits courts to take judicial notice of the official acts of state administrative agencies and by extension,

¹⁰⁹ Exhibit I. Union Sanitary District, Sewer Service Charge Ordinance 31.34 (Collection of Charges on the Tax Roll), Section 5(a). Emphasis added.

¹¹⁰ Exhibit I. Union Sanitary District Web Site: UnionSanitary.com/sewerService.htm, accessed May 10, 2012.

¹¹¹ Exhibit I. <http://www.unionsanitary.com/financialinfo.htm>.

¹¹² Exhibit H. Union Sanitary District (Alameda) Special District Financial Transactions Report, Fiscal Year 2011, p. 1

¹¹³ *Ibid.*

California Code of Regulations, title 2, section 1187.5(c), which makes it admissible to support a finding in Commission proceedings.¹¹⁴

Thus, the Commission finds that Union Sanitary District does not operate on proceeds of taxes, is not subject to the appropriations limitation of article XIII B, and is not an eligible claimant for mandate reimbursement.

Co-claimant's final argument - that Proposition 218 in effect makes its charges special taxes - need not be addressed here. Proposition 218 generally requires property related taxes and fees to be voted on by the rate payers or the electorate and specifically excludes sewer service from the definition of "property related fee". The Commission's jurisdiction, however, is limited to determinations regarding whether a local agency or school district is entitled to be reimbursed by the state for costs mandated by the state as required by article XIII B, section 6 of the California Constitution.¹¹⁵ Whether or not a fee or charge becomes a special tax under Proposition 218 is a question of fact that must be determined by the courts. Co-claimant has submitted no evidence that a court has determined that Union Sanitary District's sewer service charges are, in fact, special taxes; it has not reported any tax revenues to the SCO; nor has it submitted evidence that its rate payers have approved a special tax which would be used to fund the activities required by the test claim statute. Therefore, the evidence in the record does not support claimant's assertions that its charges have been determined to be "proceeds of taxes."

Therefore, since Union Sanitary District is not funded by proceeds of taxes, it is exempt from article XIII B's spending limit. Thus, the Commission finds that co-claimant, Union Sanitary District, and the other special districts that are not subject to the tax and spend restrictions of articles XIII A and XIII B of the California Constitution are not eligible for reimbursement under article XIII B, section 6 of the California Constitution.

However, there are roughly between 3,294 and 4,776 special districts in California, depending upon whose definition is applied.¹¹⁶ Of that total, there are approximately 610 special districts that are reportedly subject to the appropriations limit set forth in article XIII B, section 4 of the California Constitution.¹¹⁷ Those special districts that are subject to the tax and spend provisions of articles XIII A and XIII B of the California Constitution may be eligible to claim reimbursement under article XIII B, section 6.

¹¹⁴ California Code of Regulations, title 2, section 1187.5(c); See also *Pearson v. State Social Welfare Board* (1960) 54 Cal.2d 184, p. 210.

¹¹⁵ Government Code section 17551.

¹¹⁶ The Senate Local Government Committee asserts that there are approximately 329,000 while the State Controller asserts there are 4,776. (See Sen. Loc. Gov., *What's So Special About Special Districts?* (Fourth Edition), October 2010, p. 4.)

¹¹⁷ Exhibit I. State Controller, *Special Districts Annual Report*, December 13, 2011, Table 1.

Issue 2: The Test Claim Statute Imposes a State-Mandated New Program or Higher Level of Service Within The Meaning of Article XIII B, Section 6 of the California Constitution on General Law Counties and Some Eligible Special Districts for Some of the Activities Claimed.

Claimants allege that the test claim statute imposes a state-mandated new program on local agencies. Specifically, claimants allege the following activities are mandated by the test claim statute:

- Providing compensation for attendance to meetings;¹¹⁸
- Reimbursing expenses and adopting a written policy manual on compensation;¹¹⁹
- Developing expense forms to document reimbursements;¹²⁰
- Requiring two hours of ethics training to local members every two years;¹²¹
- Disseminating information on available training at least once a year;¹²²
- Maintaining training records, inclusive of training date and training provider/entity, for five years.¹²³

The Commission finds that some of the activities pled are not required by the plain language of the statute. The Commission also finds that local agencies are not required to provide compensation to the members of their legislative bodies. Thus, the requirements of the test claim statute that flow from providing compensation, salary or stipend to the members of the legislative body are triggered by the local agency's underlying discretionary decision to provide such compensation and are not reimbursable.

However, the Commission finds that the test claim statute does impose some requirements, which are triggered by the provision of reimbursement of expenses for members of a legislative body, only on general law counties and those eligible special districts that are required by their special act or principal act to provide reimbursement of expenses.

A. Some of the Code Sections Pled Do Not Require Local Agencies to Perform Any Activities and, thus, Do Not Impose a State-Mandated Program.

The following code sections pled in the claim generally grant authority to local agencies to provide compensation or reimbursement for expenses to the members of their legislative bodies and are not new: Government Code sections 25008 and 36514.5; Harbors and Navigation Code sections 6060 and 7047; Health and Safety Code sections 2030, 2851, 4733, 4733.5, 6489, 9031, 13857, 13866, and 32103; Military and Veterans Code section 1197; Public Resources Code sections 5536, 5536.5, 5784.15, and 9303; Public Utilities Code sections 11908, 11908.1,

¹¹⁸ Exhibit A. Claimant, test claim p. 4, citing Government Code section 53232.1.

¹¹⁹ *Ibid*, citing Government Code section 53232.2.

¹²⁰ *Ibid*, citing Government Code section 53232.3.

¹²¹ Exhibit A. Claimant, test claim p. 6, citing Government Code sections 53235 and 53235.1.

¹²² *Ibid*, citing Government Code section 53235.

¹²³ *Ibid*, citing Government Code section 53235.2.

11908.2, 16002, and 22407; and Water Code sections 20201, 21166, 30507, 30507.1, 34741, 40355, 50605, 55305, 56031, 60143, 70078, 71255, 74208, and 20201.5. However, as amended by Statutes 2005, Chapter 700, these sections specify that if compensation, salary, or stipend is provided to a member of the legislative body of a local agency: “. . .the determination of whether a [member of the legislative body’s] activities on any specific day are compensable shall be made pursuant to [Government Code] Article 2.3 (commencing with section 53232)”¹²⁴ and if reimbursement of expenses is provided: “reimbursement for these expenses is subject to [Government Code] sections 53232.2 and 53232.3.”¹²⁵

The Commission finds that the amendments to these code sections do not require the performance of activities. Rather, they cross reference to the substantive requirements of the test claim statute which are contained in Government Code articles 2.3 and 2.4. Therefore, the Commission finds that Government Code sections 25008 and 36514.5; Harbors and Navigation Code sections 6060 and 7047; Health and Safety Code sections 2030, 2851, 4733, 4733.5, 6489, 9031, 13857, 13866, and 32103; Military and Veterans Code section 1197; Public Resources Code sections 5536, 5536.5, 5784.15, and 9303; Public Utilities Code sections 11908, 11908.1, 11908.2, 16002, and 22407; and Water Code sections 20201, 21166, 30507, 30507.1, 34741, 40355, 50605, 55305, 56031, 60143, 70078, 71255, 74208, and 20201, as amended by the test claim statute, do not mandate a new program or higher level of service.

Government Code sections 53232 and 53234 define terms and do not require the performance of any activities.

Government Code section 53232.1 authorizes compensation for certain specified occurrences. It also authorizes compensation for occurrences that are not specified in statute, “if the governing body has adopted, in a public meeting, a written policy specifying the other types of occasions that constitute the performance of official duties for which a member of the legislative body may receive payment.” Agencies that pay compensation in the form of salary are exempt from the requirement to adopt a policy.¹²⁶ The Commission finds that the plain language of this section authorizes, but does not require local agencies to provide compensation for occurrences that are not specified. Because there is no requirement to provide compensation, the Commission finds that this section does not require local agencies to perform any activities.

¹²⁴ See Exhibit A. Government Code 36514.5, Harbors and Navigation Code section 7047; Health and Safety Code sections 4733, 4733.5, 6489, 9031, 13857 and 32103; Public Resources Code sections 5536 and 5784.15; Public Utilities Code sections 11908, 11908.2, 16002 and 22407; and Water Code sections 20201, 21166, 30507, 34741, 40355, 55305, 56031, 60143, 70078, 71255 and 74208, as added or amended by Statutes 2005, chapter 700.

¹²⁵ See Exhibit A. Government Code section 25008; Harbors and Navigation Code sections 6060 and 7047; Health and Safety Code sections 2030, 2851, 4733, 6489, 9031, 13866, and 32103; Military and Veterans Code section 1197; Public Resources Code sections 5536.5, 5784.15, and 9303; Public Utilities Code sections 11908.1, 11908.2 and 22407; and Water Code sections 21166, 30507, 30507.1, 34741, 40355, 50605, 55305, 56031, 60143, 70078, 71255, 74208, and 20201.5 as added or amended by Statutes 2005, chapter 700.

¹²⁶ Exhibit A. Government Code 53232.1(c).

Similarly, Government Code section 53232.4 provides that “[p]enalties for misuse of public resources or falsifying expense reports in violation of expense reporting polices may include, but are not limited to, the following: . . .” This section specifies penalties that may be imposed on individuals who misuse public resources or falsify expense reports. However, the plain language of this section does not require the performance of any activities.

Co-claimant argues, in its comments on the draft staff analysis that it was required to prepare course material for ethics training because there was no free on-line course in 2006. The Commission disagrees. The plain language of Government Code section 53235.1 does not require local agencies to perform any activities. Rather, it provides a training timetable and specifies frequency requirements imposed on local agency officials if the local agency provides compensation or reimbursement of expenses. This section provides that if the local agency provides compensation or reimbursement of expenses then “*each local agency official* in local agency service as of . . . shall receive the training. . . .” Thus the training requirement is imposed on the local agency officials themselves, and not on the local agency. Note, however, that members of local legislative bodies have many options for meeting this requirement including the free online ethics training course developed by the Institute for Local Government and the Fair Political Practices Commission (FPPC), which can be found on the FPPC’s web site at <http://www.fppc.ca.gov/index.php?id=477>. This free training course has been online since October 2006.¹²⁷

Therefore, the Commission finds that the plain language of Government Code sections 25008, 36514.5, 53232, 53232.1, 53232.4, 53234 and 53235.1; Harbors and Navigation Code sections 6060 and 7047; Health and Safety Code sections 2030, 2851, 4733, 4733.5, 6489, 9031, 13857, 13866, and 32103; Military and Veterans Code section 1197; Public Resources Code sections 5536, 5536.5, 5784.15, and 9303; Public Utilities Code sections 11908, 11908.1, 11908.2, 16002, and 22407; and Water Code sections 20201, 21166, 30507, 30507.1, 34741, 40355, 50605, 55305, 56031, 60143, 70078, 71255, 74208, and 20201 as added or amended by Statutes 2005, chapter 700 does not mandate a new program or higher level of service on local agencies.

B. The Activities Required by Government Code Sections 53232.2(b), 53232.3(a), 53235(a), and 53235.2(a) are State-Mandated for those Local Agencies That are Required by Statute to Provide Reimbursement for Expenses.

1. The Requirements of the Test Claim Statute are Only Triggered If a Local Agency Provides Any Type of Compensation, Salary, Stipend or Reimbursement of Actual and Necessary Expenses Incurred by a Member of a Legislative Body in the Performance of Official Duties.

The Commission finds that the requirements of the test claim statute are triggered by the provision of some type of compensation or reimbursement by the local agency.

Government Code section 53232.2(b) provides: “*If a local agency reimburses* members of a legislative body for actual and necessary expenses incurred in the performance of official duties, then the governing body shall adopt a written policy, in a public meeting specifying the types of

¹²⁷ Exhibit I. Institute for Local Government, email to Assembly Local Government Committee, dated October 23, 2006 (stating that it went on line the prior week).

occurrences that qualify a member of the legislative body to receive reimbursement of expenses relating to travel, meals, lodging and other actual and necessary expenses.” (Emphasis added.) Based on the plain language of this section, the requirement to adopt a written policy is triggered by providing reimbursement to the members of the legislative body.

Government Code section 53232.3(a) provides in pertinent part: “*If a local agency reimburses* members of a legislative body for actual and necessary expenses incurred in the performance of official duties, then a local agency shall provide expense report forms” The remainder of the section specifies the contents, timing and disclosability of those reports. Based on the plain language of this section, the requirement to provide expense report forms is triggered by providing reimbursement to the members of the legislative body.

Government Code section 53235(a) provides: “*If a local agency provides any type of compensation, salary, or stipend* to a member of a legislative body, *or provides reimbursement* for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties, then all local agency officials shall receive training in ethics pursuant to this article.” Subdivisions (b)-(e) provide authority for a local agency or association to offer a course to meet the ethics training requirement and provide the consultation requirements, required duration and content of the course. Though the plain language of this section requires local agency officials to receive training, it authorizes, but does not require local agencies to provide training. However, 53235(f) requires that: “a local agency shall provide information on training courses to meet the requirements of this article to its local officials at least once annually.” Based on the plain language of this section, the requirement to provide information on training courses is triggered by providing compensation, salary, stipend, or reimbursement to the members of the legislative body.

Government Code section 53235.2(a) provides: “*A local agency that requires* its local agency officials to complete the ethical training prescribed by this article shall maintain records...” A local agency in effect “requires” the members of its legislative body to receive ethics training by providing compensation, salary, stipend, or reimbursement to the members of the legislative body.¹²⁸ Therefore, the activity of maintaining the records of such training is likewise triggered by providing compensation, salary, stipend, or reimbursement to the members of the legislative body.

Based on the plain language of the statute, the Commission finds that none of the requirements of the test claim statute are triggered unless a local agency:

- Provides any type of compensation, salary, or stipend to a member of a legislative body, or
- Provides reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties.

¹²⁸ See discussion under Government Code section 53235(a), above.

2. Local Agencies Are Not Required to Provide Compensation, Salary or Stipend to a Member of a Legislative Body.

- a. Counties are not required to provide compensation, salary, stipend to the members of their legislative bodies.

Article 11, section 1(b) of the California Constitution provides that the governing body of each general law county, “shall prescribe by ordinance the compensation of its members, but the ordinance prescribing such compensation shall be subject to referendum.” Article 11, section 4(b) of the California Constitution requires that charter counties provide in their charters for “the compensation, terms, and removal of members of the governing body.” If a county charter has provided for the Legislature to prescribe the salary of the governing body, such compensation is now required to “be prescribed by the governing body by ordinance.”¹²⁹ Therefore, counties have the discretion to determine what salaries, if any, to provide their supervisors and must do so in their charters or by ordinance. Thus, the Commission finds that counties are not required to provide compensation, salary or stipend to the members of their legislative bodies.

- b. Cities are not required to provide compensation, salary, stipend to the members of their legislative bodies.

The salary of council members of general law cities is controlled by Government Code section 36516(a), which permits a city council to establish by ordinance a salary up to a ceiling determined by the city's population. The electorate may approve a higher salary or may decrease the salary approved by the city council.¹³⁰

The California Constitution grants plenary authority to charter cities to provide for compensation and reimbursement of expenses of officers and employees.¹³¹ In the absence of express provisions in the charter, the courts presume that members are not entitled to compensation.¹³²

Therefore whether and how much compensation is provided to the members of their legislative bodies is at the city's discretion. Thus, the Commission finds that cities are not required to provide compensation, salary or stipend to the members of their legislative bodies.

- c. Special districts are not required to provide compensation, salary, stipend to the members of their legislative bodies.

Most special districts' principal acts or special acts give them authority to provide a salary, stipend or other compensation and to set the level of that compensation by ordinance, though some prohibit compensation. However, upon review of dozens of principal acts and special acts, staff did not find one that removed from the local agency's legislative body the discretion to determine whether, and in what amount (below certain specified caps), the agency would pay compensation, salary or stipend.

¹²⁹ California Constitution, article XI, section 4(b).

¹³⁰ Government Code section 36516(b).

¹³¹ California Constitution article XI, section 5(b).

¹³² Exhibit I. *Woods v. Potter* (1908) 8 Cal.App. 41, 43.

Section 1197 of the Military and Veterans Code, for example provides that members of memorial districts “*shall* serve without compensation. . .” (Emphasis added.) Section 14 of the Military and Veterans Code provides: “‘shall’ is mandatory and ‘may’ is permissive.” The Commission finds that the plain language of this provision prohibits memorial districts and districts with similar language in their enabling statute from providing compensation.

On the other hand, a recreation and park district “*may* provide, by ordinance or resolution, that each of its members *may* receive compensation in an amount not to exceed one hundred dollars (\$100) for attending each meeting of the board.”¹³³ Section 15 of the Public Resources Code provides “‘shall’ is mandatory and ‘may’ is permissive.” The Commission finds that the plain language of this provision authorizes, but does not require, the payment of compensation to members of the legislative body of recreation and park districts. This language is typical of many principal acts.

However, some principal acts are worded a little differently. For example, section 16002 of the Public Utilities Code provides: “each member of the board *shall* receive the compensation that the board by ordinance provides, not exceeding four thousand eight hundred dollars (\$4,800) a year.” Though the plain language of this provision says “shall,” shall modifies the compensation which the board by ordinance provides. Thus, it is within the discretion of the board to provide for compensation by ordinance (or not) and to set the amount, not to exceed four thousand eight hundred dollars a year. Only if the board provides for the compensation by ordinance, is the member entitled to receive it. Therefore, the Commission finds that public utility districts are not required by state law to compensate their members.

Co-claimant, in its comments on the test claim statute argues that it is required, pursuant to Health and Safety Code section 6489, to compensate the members of its legislative body. However, as with the example for public utility districts above, the board adopts the ordinance determining what its compensation shall be and the statute sets the ceiling, not the floor for such compensation. This is evident from the “not to exceed” language in the code section.

Based on staff’s review of numerous principal acts and special acts, the above discussion, and the lack of any evidence in the record to the contrary, the Commission finds that special districts are not required by state law to provide compensation, salary or stipend to the members of their legislative bodies.

3. General Law Counties and Some Eligible Special Districts Are Required to Provide Reimbursement for Actual and Necessary Expenses to Members of Their Legislative Bodies and, thus are mandated by the state to comply with Government Code sections 53232.2(b) , 53232.3(a), 53235(a), and 53235.2(a).

- a. Cities are not required to provide reimbursement for expenses to the members of their legislative bodies.

City council members in general law cities “*may* be reimbursed for actual and necessary expenses incurred in the performance of official duties.”¹³⁴ Government Code section 14 provides that “‘shall’ is mandatory and ‘may’ is permissive.” General law cities are not required

¹³³ Exhibit A. Public Resources Code section 5784.15(a).

¹³⁴ Exhibit A. Government Code section 36514.5.

to provide reimbursement; the ultimate decision is made by the council itself.¹³⁵ The California Constitution grants plenary authority to charter cities to provide for reimbursement of expenses of officers and employees.¹³⁶ Reimbursement for expenses is subject to sections 53232.2 and 53232.3.¹³⁷ Thus, the Commission finds that both general law and charter cities have discretion regarding whether or not to pay such expenses.

- b. Charter counties are not required to provide reimbursement of expenses to the members of their legislative bodies, however, general law counties are required to provide reimbursement for actual and necessary traveling expenses incurred by the members of their legislative bodies, in going to, attendance upon, and returning from state association meetings and when traveling outside their counties on official business.

The Government Code provides that members of general law county boards of supervisors “*shall* be allowed their actual expenses in going to, attendance upon, and returning from state association meetings and their actual and necessary traveling expenses when traveling outside their counties on official business.”¹³⁸ Charter counties, on the other hand, have plenary authority to determine reimbursement of expenses for the members of their governing bodies without regard to state statutes.¹³⁹ Therefore, the Commission finds that only general law counties are required to reimburse the actual and necessary traveling expenses of their supervisors in these circumstances while charter counties have discretion to determine whether or not to do so.

- c. Some special districts are required to provide reimbursement for actual and necessary expenses incurred by the members of their legislative bodies.

Most special districts’ principal acts provide authority for, but do not require, reimbursement of the expenses of members of the district’s legislative body. For example, members of the legislative body of a recreation and park district “...*may receive* their actual and necessary traveling and incidental expenses incurred while on official business.”¹⁴⁰ The Commission finds that the plain language of this provision authorizes, but does not require, the reimbursement of actual and necessary traveling expenses of board members of recreation and park districts.

However, some special districts are required to provide reimbursement to the members of their legislative bodies. For example section 1197 of the Military and Veterans Code provides that members of memorial districts “. . . *shall* be entitled to actual and necessary expenses incurred in the performance of duties.” (Emphasis added.) The Commission finds that the plain language of this provision requires memorial districts to provide reimbursement for the actual and necessary expenses of the members of its legislative body.

¹³⁵ Exhibit I. 65 Ops. Cal. Atty. Gen.523 (1982).

¹³⁶ Exhibit I. California Constitution article XI, section 5(b).

¹³⁷ Exhibit A. Government Code sections 25008 and 36514.5.

¹³⁸ Exhibit A. Government Code section 25008.

¹³⁹ Exhibit I. California Constitution, article XI, section 1(b).

¹⁴⁰ Exhibit A. Public Resources Code section 5784.15(c), emphasis added.

Therefore, the Commission finds that the test claim statute imposes the following requirements, which are triggered by the provision of reimbursement of expenses for members of a legislative body, only on general law counties and those eligible special districts that are required by their special act or principal act to provide reimbursement of expenses:

- Adopt a written policy, in a public meeting specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses relating to travel, meals, lodging and other actual and necessary expenses;¹⁴¹
- Provide expense report forms;¹⁴²
- Provide information on training courses to meet the ethics training requirements imposed by the test claim statute to its local officials at least once annually;¹⁴³
- Maintain training records, inclusive of training date and training provider, for five years.¹⁴⁴

The Commission further finds that the test claim statute does not impose requirements on general law cities, charter cities, charter counties, charter cities and counties, or recreation and park districts and other similarly situated eligible special districts which are authorized, but not required by the state, to provide compensation, salary, or stipend to a member of a legislative body, or reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties. Rather, for these local agencies, the requirements of the test claim statute are triggered by the district's discretionary decision to provide compensation, salary, stipend or reimbursement for actual and necessary expenses to a member of its legislative body.

In 2003, the California Supreme Court decided the *Kern High School Dist.* case and considered the meaning of the term “state mandate” as it appears in article XIII B, section 6 of the California Constitution. The school district claimants in *Kern* participated in various funded programs each of which required the use of school site councils and other advisory committees. The claimants sought reimbursement for the costs from subsequent statutes which required that such councils and committees provide public notice of meetings, and post agendas for those meetings.¹⁴⁵

When analyzing the term “state mandate,” the court reviewed the ballot materials for article XIII B, which provided that “a state mandate comprises something that a local government entity is required or forced to do.”¹⁴⁶ The ballot summary by the Legislative Analyst further defined “state mandates” as “requirements imposed on local governments by legislation or executive orders.”¹⁴⁷ The court also reviewed and affirmed the holding of *City of Merced*,¹⁴⁸ determining

¹⁴¹ Exhibit A. Government Code section 53232.2(b).

¹⁴² Exhibit A. Government Code section 53232.3(a).

¹⁴³ Exhibit A. Government Code section 53235(a).

¹⁴⁴ Exhibit A. Government Code section 53235.2(a).

¹⁴⁵ *Kern High School Dist.*, *supra*, 30 Cal.4th 727.

¹⁴⁶ *Kern High School Dist.*, *supra*, at p. 737.

¹⁴⁷ *Ibid.*

that, when analyzing state-mandate claims, the underlying program must be reviewed to determine if the claimant's participation in the underlying program is voluntary or legally compelled.¹⁴⁹ The court stated the following:

In *City of Merced*, the city was under no legal compulsion to resort to eminent domain-but when it elected to employ that means of acquiring property, its obligation to compensate for lost business goodwill was not a reimbursable state mandate, because the city was not required to employ eminent domain in the first place. Here as well, if a school district elects to participate in or continue participation in any underlying *voluntary* education-related funded program, the district's obligation to comply with the notice and agenda requirements related to that program does not constitute a reimbursable state mandate.¹⁵⁰ (Emphasis in the original.)

Thus, the Supreme Court held as follows:

[W]e reject claimants' assertion that they have been legally compelled to incur notice and agenda costs, and hence are entitled to reimbursement from the state, based merely upon the circumstance that notice and agenda provisions are mandatory elements of education-related programs in which claimants have participated, *without regard to whether claimant's participation in the underlying program is voluntary or compelled*. [Emphasis added.]¹⁵¹

Based on the plain language of the statutes creating the underlying education programs in *Kern*, the court determined that school districts were not legally compelled by the state to establish school site councils and advisory bodies, or to participate in eight of the nine underlying state and federal programs and, hence, not legally compelled to incur the notice and agenda costs required under the open meeting laws. Rather, the districts elected to participate in the school site council programs to receive funding associated with the programs.¹⁵²

Similarly here, with the exception of general law counties and some of the eligible special districts, local agencies are not legally compelled to provide compensation, salary, or stipend to a member of a legislative body, or reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties. However, if districts choose to provide such compensation or reimbursement then they must comply with the requirements of the test claim statute, discussed above. Under these circumstances, reimbursement is not required under article XIII B, section 6 of the California Constitution.

¹⁴⁸ *City of Merced v. State of California* (1984) 153 Cal.App.3d 777.

¹⁴⁹ *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 743.

¹⁵⁰ *Ibid.*

¹⁵¹ *Id.* at p. 731.

¹⁵² *Id.* at pp. 744-745.

C. Government Code Sections 53232.2(b), 53232.3(a), 53235(a), and 53235.2(a) Impose a New Program on General Law Counties and Those Eligible Special Districts That are Required by Their Enabling Act to Provide Reimbursement of Expenses.

The courts have defined a “program” subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.¹⁵³ To determine if the program is new or imposes a higher level of service, the test claim statute must be compared with the legal requirements in effect immediately before the enactment.¹⁵⁴ A “higher level of service” occurs when the new “requirements were intended to provide an enhanced service to the public.”¹⁵⁵

With regard to claimants’ alleged activity of requiring reimbursement of expenses, the test claim statute does not require reimbursement. Rather, the test claim statute added requirements for those local agencies that provide reimbursement, whether or not they are required to do so. General law counties were required to reimburse the members of their legislative bodies under the law in effect immediately prior to the enactment of the test claim statute.¹⁵⁶ With regard to those eligible special districts that are required to provide reimbursement to the members of their legislative bodies, the test claim statute did not add this requirement to their special acts or principal acts. They also were required reimburse the members of their legislative bodies under the law in effect immediately prior to the enactment of the test claim statute.¹⁵⁷ Therefore, the Commission finds that the requirement for general law counties and certain eligible special districts to reimburse the members of their legislative bodies is not new, and not eligible for reimbursement pursuant to article XIII B, section 6.

However, the required activities that were added by the test claim statute are new and were not required prior to the enactment of AB 1234. Moreover, these requirements apply only to local agencies and are thus unique to government. Finally, these activities provide an enhanced service to the public. Specifically, the requirements of the test claim statute provide accountability to tax, fee and rate payers by requiring “local agencies to act with more transparency when they deal with issues such as compensation and travel reimbursements.”¹⁵⁸ Therefore, the Commission finds that the test claim statute, by requiring the following activities, imposes a new program on general law counties and those eligible special districts that are required by their enabling act to provide reimbursement of expenses:

¹⁵³ *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 874-875 (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; see also *Lucia Mar, supra*,

¹⁵⁴ *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 878; *Lucia Mar, supra*, 44 Cal.3d 830, 835.

¹⁵⁵ *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 878.

¹⁵⁶ See Government Code section 25008 as enacted by Statutes 1947, chapter 424.

¹⁵⁷ See e.g. Harbors and Navigation Code section 6060 as amended by Statutes 1991, chapter 978.

¹⁵⁸ Exhibit I. Assembly Committee on Local Government, floor analysis, as amended April 5, 2005, p.5.

- Adopt a written policy, in a public meeting specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses relating to travel, meals, lodging and other actual and necessary expenses;¹⁵⁹
- Provide expense report forms;¹⁶⁰
- Provide information on training courses to meet the ethics training requirements imposed by the test claim statute to its local officials at least once annually;¹⁶¹
- Maintain training records, inclusive of training date and training provider, for five years.¹⁶²

Issue 3: General Law Counties and Those Eligible Special Districts That are Required by Their Enabling Act to Provide Reimbursement of Expenses Incur Costs Mandated by the State Within the Meaning of Article XIII B, Section 6 and Government Code Section 17514?

The final issue is whether the state-mandated activities impose costs mandated by the state,¹⁶³ and whether any statutory exceptions listed in Government Code section 17556 apply to the test claim. Government Code section 17514 defines “costs mandated by the state” as any increased cost a local agency is required to incur as a result of a statute that mandates a new program or higher level of service.” Government Code section 17564 requires reimbursement claims to exceed \$1,000 to be eligible for reimbursement.

Claimant states that it had costs of \$5,000 for all of the activities claimed, as of the filing date and estimates that it will have continuing costs of approximately \$1,000 per year.¹⁶⁴ Claimant also asserts that none of the exceptions to finding a reimbursable state-mandated program under Government Code section 17556 apply here.¹⁶⁵ Additionally, claimant states that other similarly situated local agencies have incurred costs ranging from \$300 to \$20,468 as of the time of filing.¹⁶⁶ Claimant projects that annual state-wide costs for all local agencies would be \$3 million for the first year of compliance, not accounting for factors that may cause a reduction in costs, such as a single member serving on various boards but only needing to be trained once and obligating the costs of a single agency, or the inability for small jurisdictions to meet the minimum filing amount.¹⁶⁷ However, given that the Commission finds that the test claim statute does not impose a state-mandated program on most local agencies and that the most costly activities claimed, the compensation and reimbursement of members of local agency legislative

¹⁵⁹ Exhibit A. Government Code section 53232.2(b).

¹⁶⁰ Exhibit A. Government Code section 53232.3(a).

¹⁶¹ Exhibit A. Government Code section 53235(a).

¹⁶² Exhibit A. Government Code section 53235.2(a).

¹⁶³ *Lucia Mar, supra*, 44 Cal.3d 830, 835; Government Code section 17514.

¹⁶⁴ Exhibit A. Test Claim, p.p. 8 and 9.

¹⁶⁵ Exhibit A. Test Claim, p. 7.

¹⁶⁶ Exhibit A. Test Claim, p. 9.

¹⁶⁷ *Ibid.*

bodies, are not required by the test claim statute, these costs will likely be significantly lower than projected by claimant. Nonetheless, the Commission finds that the activities that are mandated by the statute are new and do result in increased costs for general law counties and some eligible special districts.

There has been no suggestion by any of the parties or interested parties, and there is no evidence before the Commission, that any exception to Government Code section 17556 applies to this test claim. Therefore, the Commission finds that none of the exceptions in Government Code section 17556 apply here.

Accordingly, the Commission finds that Government Code sections 53232.2(b), 53232.3(a), 53235(a), and 53235.2(a) impose costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

IV. CONCLUSION

The Commission finds that Government Code sections 53232.2(b), 53232.3(a), 53235(a), and 53235.2(a) impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution on general law counties and those eligible special districts subject to the tax and spend provisions of Articles XIII A and XIII B, that are required by their enabling act to provide reimbursement of expenses to perform the following activities only:

- Adopt a written policy, in a public meeting specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses relating to travel, meals, lodging and other actual and necessary expenses;¹⁶⁸
- Provide expense report forms;¹⁶⁹
- Provide information on training courses to meet the ethics training requirements imposed by the test claim statute to its local officials at least once annually;¹⁷⁰
- Maintain training records, inclusive of training date and training provider, for five years.¹⁷¹

The Commission further finds that all other code sections pled and costs claimed do not constitute a state-mandated new program or higher level of service within the meaning of article XIII B, section 6 and, thus, are not eligible for reimbursement.

¹⁶⁸ Exhibit A. Government Code section 53232.2(b).

¹⁶⁹ Exhibit A. Government Code section 53232.3(a).

¹⁷⁰ Exhibit A. Government Code section 53235(a).

¹⁷¹ Exhibit A. Government Code section 53235.2(a).

COMMISSION ON STATE MANDATES

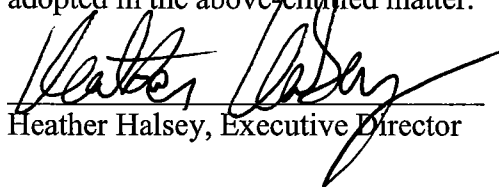
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RE: Adopted Statement of Decision

Local Agency Ethics (AB 1234), 07-TC-04
Government Code Sections 25008
Statutes 2005, Chapter 700
City of Newport Beach and Union Sanitary District, Co-Claimants

On May 25, 2012, the foregoing statement of decision of the Commission on State Mandates was adopted in the above-entitled matter.



Heather Halsey, Executive Director

Dated: May 31, 2012

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
FOR:

Government Code Sections 53232.2(b),
53232.3(a) and (b), 53235(f), and 53235.2(a)
Statutes 2005, Chapter 700

Period of reimbursement beginning:
July 1, 2006.

Case No.: 07-TC-04

Local Agency Ethics (AB 1234)

STATEMENT OF DECISION
PURSUANT TO GOVERNMENT
CODE SECTION 17500 ET SEQ.;
TITLE 2, CALIFORNIA CODE OF
REGULATIONS, DIVISION 2,
CHAPTER 2.5, ARTICLE 7.

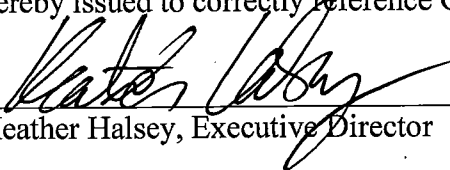
(Adopted September 28, 2012)

(Served October 5, 2012)

(Corrected January 28, 2013)

CORRECTED STATEMENT OF DECISION

On September 28, 2012, the Commission on State Mandates (Commission) adopted the statement of decision in the above-entitled matter. Pursuant to California Code of Regulations, title 2, section 1188.2(b), the attached corrected statement of decision of the Commission is hereby issued to correctly reference Government Code section 53235(f) instead of 53235(a).



Heather Halsey, Executive Director

Dated: January 28, 2013

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
FOR:

Government Code Sections 53232.2(b),
53232.3(a) and (b), 53235(f), and 53235.2(a)
Statutes 2005, Chapter 700

Period of reimbursement beginning:
July 1, 2006.

Case No.: 07-TC-04

Local Agency Ethics (AB 1234)

STATEMENT OF DECISION
PURSUANT TO GOVERNMENT
CODE SECTION 17500 ET SEQ.;
TITLE 2, CALIFORNIA CODE OF
REGULATIONS, DIVISION 2,
CHAPTER 2.5, ARTICLE 7.

(Adopted September 28, 2012)

(Served October 5, 2012)

(Corrected January 28, 2013)

STATEMENT OF DECISION

The Commission on State Mandates (Commission) adopted this statement of decision and parameters and guidelines on consent during a regularly scheduled hearing on September 28, 2012.

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

On January 28, 2013, Commission staff corrected the statements of decision for the test claim and parameters and guidelines to correct a typographical error in the findings. Reference to Government Code section 53235(a) is not correct, but should be Government Code section 53235(f).

I. Summary of the Mandate

The test claim statute addresses activities of local agencies related to transparency and ethics training for members of the legislative bodies of local agencies. Specifically, it addresses the policymaking, reporting, recordkeeping, ethics training and notice requirements imposed on local agencies if they provide any type of compensation, salary, or stipend to a member of a

legislative body, or provide reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties.

On May 25, 2012, the Commission adopted a statement of decision finding that the test claim legislation imposes a partially reimbursable state-mandated program upon on general law counties and those eligible special districts subject to the tax and spend provisions of articles XIII A and XIII B, that are required by their enabling acts to provide reimbursement of expenses, within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

II. Procedural History

The test claim statement of decision was adopted on May 25, 2012.¹ Claimant requested that the Commission issue expedited draft proposed parameters and guidelines, which Commission staff issued for comment on June 5, 2012.² On June 27, 2012, the Department of Finance filed comments recommending one clarifying change but otherwise concurring with the draft parameters and guidelines.³

III. Commission Findings

The test claim statement of decision, the draft parameters and guidelines, the comments filed by the Department of Finance were reviewed and considered by the Commission as discussed below.

III. Period of Reimbursement

The Department of Finance requested an amendment to add the following underlined language to the boilerplate provisions of Section III, Period of Reimbursement: “6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law and for which funds have not been appropriated in the annual Budget Act.”

The Commission did not add the requested language. To suspend the operation of a mandate pursuant to state law, Government code section 17581 requires that funds not be appropriated in the Budget Act. In addition, the suspension statute also requires a specific identification of the mandate being suspended in a schedule. The language in 17581(a)(2) states the following: the “statute or executive order, or portion thereof, or the commission’s test claim number, has been specifically identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year. For purposes of this paragraph, a mandate shall be considered to have been specifically identified by the Legislature only if it has been included within the schedule of reimbursable mandates shown in the Budget Act and it is specifically identified in the language of a provision of the item providing the appropriation for mandate reimbursements.” Therefore, the Commission did not make this change because it is unnecessary and already covered by the language that the suspension of the mandate is “pursuant

¹ Exhibit A.

² Exhibit B.

³ Exhibit C.

to state law.” In addition, the added language may be confusing since it only partially addresses the requirements of Government Code section 17581 to suspend a mandated program for local agencies.

The Commission also removes the following language from the parameters and guidelines:

Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Activities that require varying levels of efforts are not appropriate for time studies. Claimants wishing to use time studies to support salary and benefit costs are required to comply with the State Controller’s Time-Study Guidelines before a time study is conducted. Time study usage is subject to the review and audit conducted by the State Controller’s Office.

This language was mistakenly included in the parameters and guidelines for the test claim as boilerplate language, but has not been adopted by the Commission as such.

IV. Conclusion

The Commission adopts the statement of decision and parameters and guidelines for the *Local Agency Ethics Program (AB 1234)*, 07-TC-04, with a period of reimbursement beginning July 1, 2006.

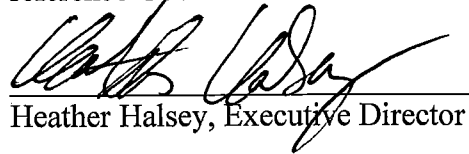
COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csminfo@csm.ca.gov

**RE: Corrected Statement of Decision**

Local Agency Ethics (AB 1234), 07-TC-04
Government Code Sections 25008
Statutes 2005, Chapter 700
City of Newport Beach and Union Sanitary District, Co-Claimants

On September 28, 2012, the foregoing statement of decision of the Commission on State Mandates for the parameters and guidelines was adopted in the above-entitled matter. On January 28, 2013 the statement of decision for the parameters and guidelines was corrected to reference Government Code section 53235(f) instead of 53235(a).



Heather Halsey, Executive Director

Dated: January 28, 2013

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
FOR:

Government Code Sections 53232.2(b),
53232.3(a) and (b), 53235(a), and 53235.2(a)

Statutes 2005, Chapter 700

Period of reimbursement beginning:
July 1, 2006.

Case No.: 07-TC-04

Local Agency Ethics (AB 1234)

STATEMENT OF DECISION
PURSUANT TO GOVERNMENT
CODE SECTION 17500 ET SEQ.;
TITLE 2, CALIFORNIA CODE OF
REGULATIONS, DIVISION 2,
CHAPTER 2.5, ARTICLE 7.

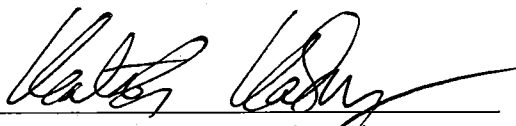
(Adopted September 28, 2012)

(Served October 5, 2012)

(Corrected January 28, 2013)

CORRECTED PARAMETERS AND GUIDELINES

On September 28, 2012, the Commission on State Mandates (Commission) adopted parameters and guidelines. Pursuant to California Code of Regulations, title 2, section 1188.2(b), the attached corrected parameters and guidelines are hereby issued to reference Government Code section 53235(f) instead of 53235(a).



Heather Halsey, Executive Director

Dated: January 28, 2013

PARAMETERS AND GUIDELINES

Government Code Sections 53232.2(b), 53232.3(a) and (b), 53235(f) and 53235.2(a)
Statutes 2005, Chapter 700

Local Agency Ethics (AB 1234)
07-TC-04

I. SUMMARY OF THE MANDATE

The test claim statute addresses activities of local agencies related to transparency and ethics training for members of the legislative bodies of local agencies. Specifically, it addresses the policymaking, reporting, recordkeeping, ethics training and notice requirements imposed on local agencies if they provide any type of compensation, salary, or stipend to a member of a legislative body, or provide reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties.

On May 25, 2012, the Commission on State Mandates (Commission) adopted a statement of decision finding that the test claim statute imposes a partially reimbursable state-mandated program on general law counties and those eligible special districts subject to the tax and spend provisions of articles XIII A and XIII B, that are required by their enabling acts to provide reimbursement of expenses to perform the following:

1. Adopt a written policy, in a public meeting specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses relating to travel, meals, lodging and other actual and necessary expenses;¹
2. Provide expense report forms;²
3. Provide information on training courses to meet the ethics training requirements imposed by the test claim statute to its local officials at least once annually;³
4. Maintain training records, inclusive of training date and training provider, for five years.⁴

II. ELIGIBLE CLAIMANTS

General law counties and those eligible special districts subject to the tax and spend provisions of articles XIII A and XIII B of the California Constitution, that are required by their enabling act to provide reimbursement of expenses to perform the reimbursable activities are eligible to claim reimbursement.

¹ Government Code section 53232.2(b).

² Government Code section 53232.3(a).

³ Government Code section 53235(f).

⁴ Government Code section 53235.2(a).

III. PERIOD OF REIMBURSEMENT

Government Code section 17557(e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The City of Newport Beach filed the test claim on October 23, 2007, establishing eligibility for reimbursement for the 2006-2007 fiscal year. Therefore, costs incurred are reimbursable on or after July 1, 2006.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560(a), a local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Government Code section 17560(b).)
5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564(a).
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant that is required by their enabling act to provide reimbursement of expenses to members of their legislative bodies, and that incurs increased costs, the following activities are reimbursable:

1. Adopt a written policy, in a public meeting specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses relating to travel, meals, lodging and other actual and necessary expenses;⁵
2. Provide expense report forms to the members of the legislative body;⁶
3. Provide information on training courses to meet the ethics training requirements imposed by the test claim statute to its local officials at least once annually;⁷
4. Maintain training records indicating the dates that local officials satisfied the ethics training and the entity that provided the training, for five years.⁸

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent

⁵ Government Code section 53232.2(b).

⁶ Government Code section 53232.3(a).

⁷ Government Code section 53235(f).

⁸ Government Code section 53235.2(a).

on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1., Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both: (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in 2 CFR Part 225 (Office of Management and Budget (OMB) Circular A-87). Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B)). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be: (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.); (2) direct salaries and wages; or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by: (1) classifying a department's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount of allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by: (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount of allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter⁹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

⁹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

Pursuant to Government Code section 17561(d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557(d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The statements of decision for the test claim and parameters and guidelines are legally binding on all parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.

Adopted: July 26, 2013

STATEWIDE COST ESTIMATE

\$0

Government Code Sections 53232.2(b), 53232.3(a) and (b), 53235(f) and 53235.2(a)

Statutes 2005, Chapter 700

Local Agency Ethics (AB 1234)

07-TC-04

City of Newport Beach, Claimant

STAFF ANALYSIS

Background and Summary of the Mandate

This test claim statute addresses activities of local agencies related to transparency and ethics training for members of the legislative bodies of local agencies. Specifically, it addresses the policymaking, reporting, recordkeeping, and notice requirements imposed on local agencies if they provide any type of compensation, salary, or stipend to a member of a legislative body, or provide reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties.

On May 25, 2012, the Commission on State Mandates (Commission) adopted a statement of decision¹ finding that the test claim statutes impose a partially reimbursable state-mandated program on general law counties and those special districts subject to the tax and spend provisions of articles XIII A and XIII B of the California Constitution, that are required by their enabling act to provide compensation or reimbursement of expenses to perform the reimbursable activities to their members, within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. Parameters and guidelines were adopted on September 28, 2012.²

Eligible claimants were required to file initial reimbursement claims, for costs incurred between July 1, 2006, and June 30, 2012, with the State Controller's Office (SCO) by May 3, 2013. Late initial reimbursement claims may be filed until May 3, 2014. Annual reimbursement claims for fiscal year 2012-2013 are due by February 18, 2014.

Eligible Claimants and Period of Reimbursement

General law counties and those eligible special districts subject to the tax and spend provisions of articles XIII A and XIII B of the California Constitution, that are required by their enabling act to provide reimbursement of expenses to perform the reimbursable activities, are eligible to claim reimbursement.

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The test claim was filed on October 23, 2007, establishing eligibility for reimbursement for the 2006-2007 fiscal year.

¹ Exhibit A.

² Exhibit B.

Therefore, the costs incurred for compliance with the mandated activities are reimbursable on or after July 1, 2006.

Reimbursable Activities

The parameters and guidelines authorize reimbursement of each eligible claimant for the following activities:

1. Adopt a written policy, in a public meeting specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses relating to travel, meals, lodging, and other actual and necessary expenses;³
2. Provide expense report forms to the members of the legislative body;⁴
3. Provide information on training courses to meet the ethics training requirements imposed by the test claim statute to its local officials at least once annually;⁵
4. Maintain training records indicating the dates that local officials satisfied the ethics training and the entity that provided the training for five years.⁶

In the test claim decision, the Commission found that ethics training was *not* a reimbursable activity.

Statewide Cost Estimate

Assumptions

Staff reviewed the one reimbursement claim submitted by one special district, Idyllwild Water District, to the SCO. The claim was filed for fiscal year 2011-2012 for a total of \$21,195.⁷ However, because Idyllwild Water District is not subject to the tax and spend limitations of articles XIII A and XIII B of the California Constitution, it is not an eligible claimant.⁸

Therefore, no claims subject to reimbursement have been filed on this program. Based on this information, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

³ Government Code section 53232.2(b).

⁴ Government Code section 53232.3(a).

⁵ Government Code section 53235(f).

⁶ Government Code section 53235.2(a).

⁷ Claims data reported as of May 17, 2013.

⁸ The SCO issues an annual report that identifies those special districts that collect tax revenue and are subject to the spending limitations of article XIII B. On October 30, 2012, the SCO issued its *Special Districts Annual Report* for fiscal year 2010-2011. The report shows that Idyllwild Water District is not subject to the appropriations limit of article XIII B, thus making it an ineligible claimant for mandates purposes. Special districts have a statutory duty to submit annual reports to the SCO pursuant to Government Code section 12463, which provide the information on which the SCO's annual report is based.

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*
 - There are currently 44 general law counties and approximately 610 eligible special districts in California. However, not a single eligible claimant has filed a reimbursement claim. If eligible claimants file late or amended initial claims, the reimbursement claims would exceed the statewide cost estimate. Late initial claims for this program for fiscal years 2006-2007 through 2011-2012 may be filed until May 3, 2014.
- *There may be several reasons that non-claiming general law counties and eligible special districts did not file for reimbursement, including but not limited to:*
 - The Commission approved only a few minor administrative activities for this program and found that the test claim statute does not impose a state-mandated program on most local agencies and that the most costly activities claimed, the compensation and reimbursement of members of local agency legislative bodies, ethics training and travel are not required by the test claim statute. Therefore, eligible claimants may not be able to reach the \$1,000 threshold for filing annual reimbursement claims.
 - Eligible claimants did not have supporting documentation to file a reimbursement claim.
- *Because of the dearth of data available to prepare this statewide cost estimate, it may not be very accurate in predicting future costs of the program.*

Methodology

Fiscal Years 2006-2007 through 2011-2012

The statewide cost estimate for fiscal years 2006-2007 through 2011-2012 was developed by reviewing the one reimbursement claim filed with the SCO for fiscal year 2011-2012, which was filed by a special district that is not an eligible claimant.

Draft Staff Analysis and Proposed Statewide Cost Estimate

On June 18, 2013, Commission staff issued the draft staff analysis and proposed statewide cost estimate for comment.⁹ No comments were received.

Conclusion

On July 26, 2013, the Commission adopted the statewide cost estimate of \$0 for costs incurred in complying with the *Local Agency Ethics (AB 1234)* program on consent.

⁹ Exhibit C.

RECEIVED
 May 05, 2014
 Commission on
 State Mandates



JOHN CHIANG
 California State Controller

May 5, 2014

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

Re: Request to Amend the Statewide Cost Estimate for the Initial Claims
Filed under Local Agency Ethics (AB 1234), 07-TC-04

Dear Ms. Halsey:

The State Controller's Office (SCO) requests the Commission of State Mandates (CSM) to revise the Statewide Cost Estimates for the Local Agency Ethics program to include claims submitted by Idyllwild Water District (Idyllwild) and County of Colusa, as follows:

Fiscal Year	Claimant Name	Claimed Amount	Date of Claims Received
2006-2007	County of Colusa	\$5,337	5/23/2013
2010-2011	County of Colusa	\$3,698	5/23/2013
2011-2012	Idyllwild Water District	\$21,195	5/17/2013

On March 19, 2014, the Idyllwild Water District provided the SCO a copy of attached board resolution. The document established the district's appropriation limit, subject to the tax and spending limitations, pursuant to Article XIII A and XIII B of the California Constitution. Upon SCO's verification, it concludes that Idyllwild is an eligible claimant. In addition to Idyllwild claim, SCO received two late claims from the County of Colusa filed on May 23, 2013.

Ms. Heather Halsey
May 5, 2014
Page 2

If you have any questions, please call Gwendolyn Carlos at (916) 323-0706, or e-mail GCarlos@sco.ca.gov.

Sincerely,



JAY LAL, Manager
Local Reimbursements Section

JL/GC/ds

Enclosure

1
2 A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
3 IDYLLWILD WATER DISTRICT, ESTABLISHING
4 THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 1991-92
5 FOR THE IDYLLWILD WATER DISTRICT IN ACCORDANCE
6 WITH THE PROVISIONS OF DIVISION 9 OF TITLE 1 OF THE
7 CALIFORNIA GOVERNMENT CODE.

8
9 WHEREAS Article XIII B of the Constitution of the State of
10 California as proposed by the Initiative Measure approved by the
11 people at the special statewide election held on November 6, 1979 and
12 amended in June, 1990 by the people of the State of California
13 (Proposition 111), provides that the total annual appropriations
14 subject to limitations of each local government shall not exceed the
15 appropriations limit of such entity for the prior year adjusted for
16 changes in the cost of living and population except as otherwise
17 specifically provided for in said Article; and

18
19 WHEREAS the State Legislature added Division 9 (commencing with
20 Section 7900) to Title 1 of the Government Code of the State of
21 California to implement Article XIII B of the California Constitution;
22 and

23
24 WHEREAS Section 7910 of the Government Code provides that each
25 year the governing body of each local jurisdiction shall, by
26 resolution, establish its appropriations limit for the following
27 fiscal year pursuant to Article XIII B at a regularly scheduled
28 meeting or a noticed special meeting and that fifteen days prior to
29 such meeting, documentation used in the determination of the
30 appropriations limit shall be available to the public; and

31
32 WHEREAS Proposition 111 as approved by the voters of the State
33 of California, requires a recorded vote of the Board of Directors
34 regarding which of the annual adjustment factors have been selected
35 each year; and

36
37 WHEREAS at the time of adoption of this resolution, data
38 necessary to calculate the increase in the non-residential assessed
valuation was not available from the County Assessor's office; and

WHEREAS Section 7902(a) of the Government Code sets forth the
method for determining the appropriations limit for each local
jurisdiction for the 1991-92 fiscal year; and

WHEREAS the Board of Directors of the Idyllwild Water District
wishes to establish the appropriations limit for fiscal year 1991-92
for the Idyllwild Water District

1 NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the
2 Idyllwild Water District, as follows:

3 Section 1: That it is hereby found and determined that the
4 documentation used in the determination of the appropriations limit
5 for the Idyllwild Water District for fiscal year 1991-92 was available
6 to the public in the District Office of said District at least fifteen
7 days prior to this date.

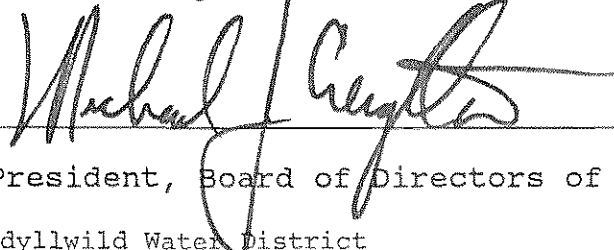
8 Section 2: That the growth in California Per Capita Income and
9 Unincorporated County Population were selected for the 1986-87, 1987-
10 88, 1988-89, 1989-90, 1990-91 and 1991-92 fiscal years.

11 Section 3: That there may be a need to amend the inflation
12 factor selected and adjust the appropriations limit once the non-
13 residential assessed valuation data becomes available from the County
14 Assessor's office.

15 Section 4: That the appropriations limit for the Idyllwild Water
16 District as established in accordance with Section 7902(a) of the
17 California Government Code is \$1,246,792 .

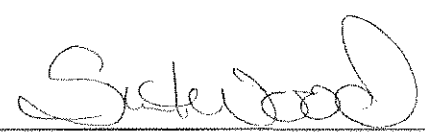
18 ADOPTED by the Board of Directors and signed by the President and
19 attested by the Secretary this 9th day of July, 1991 .

20 Michael Creighton

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25 President, Board of Directors of the
26 Idyllwild Water District

27 Attest:

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Sheila Wood - Acting Board
Secretary of the

Idyllwild Water District

I, Sheila Wood, Acting Board, Secretary of the
Idyllwild Water District, hereby certify that the foregoing resolution
was duly and regularly introduced and adopted by the Board of
Directors of said District at its meeting held on the 9th day of
July, 1991, by the following vote, to wit:

Ayes: MICHAEL CREIGHTON, GEORGE KRETSINGER, MANFORD ZUEHLKE
PATTY GREEVES, WALTER HASBACH

Noes:

Absent:

1 IN WITNESS WHEREOF I have hereunto set my hand and affixed the
2 official seal of the Idyllwild Water District, this 9th day of
3 July, 1991.

4 

5 Sheila Wood - Acting Board
6 Secretary of the

7 Idyllwild Water District

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1
2 A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
3 IDYLLWILD WATER DISTRICT - IMPROVEMENT DISTRICT NO. 1,
4 ESTABLISHING THE APPROPRIATIONS LIMIT FOR FISCAL YEAR
5 1991-92 FOR THE IDYLLWILD WATER DISTRICT - IMPROVEMENT
6 DISTRICT NO. 1 IN ACCORDANCE WITH THE PROVISIONS OF
7 DIVISION 9 OF TITLE 1 OF THE CALIFORNIA GOVERNMENT CODE.

8
9 WHEREAS Article XIII B of the Constitution of the State of
10 California as proposed by the Initiative Measure approved by the
11 people at the special statewide election held on November 6, 1979 and
12 amended in June, 1990 by the people of the State of California
13 (Proposition 111), provides that the total annual appropriations
14 subject to limitations of each local government shall not exceed the
15 appropriations limit of such entity for the prior year adjusted for
16 changes in the cost of living and population except as otherwise
17 specifically provided for in said Article; and

18
19 WHEREAS the State Legislature added Division 9 (commencing with
20 Section 7900) to Title 1 of the Government Code of the State of
21 California to implement Article XIII B of the California Constitution;
22 and

23
24 WHEREAS Section 7910 of the Government Code provides that each
25 year the governing body of each local jurisdiction shall, by
26 resolution, establish its appropriations limit for the following
27 fiscal year pursuant to Article XIII B at a regularly scheduled
28 meeting or a noticed special meeting and that fifteen days prior to
29 such meeting, documentation used in the determination of the
30 appropriations limit shall be available to the public; and

31
32 WHEREAS Proposition 111 as approved by the voters of the State
33 of California, requires a recorded vote of the Board of Directors
34 regarding which of the annual adjustment factors have been selected
35 each year; and

36
37 WHEREAS at the time of adoption of this resolution, data
38 necessary to calculate the increase in the non-residential assessed
valuation was not available from the County Assessor's office; and

WHEREAS Section 7902(a) of the Government Code sets forth the
method for determining the appropriations limit for each local
jurisdiction for the 1991-92 fiscal year; and

WHEREAS the Board of Directors of the Idyllwild Water District -
Improvement District No. 1 wishes to establish the appropriations
limit for fiscal year 1991-92 for the Idyllwild Water District -

1 Improvement District No. 1

2 NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the
3 Idyllwild Water District - Improvement District No. 1, as follows:

4 Section 1: That it is hereby found and determined that the
5 documentation used in the determination of the appropriations limit
6 for the Idyllwild Water District - Improvement District No. 1 for
7 fiscal year 1991-92 was available to the public in the District Office
8 of said District at least fifteen days prior to this date.


9 Section 2: That the growth in California Per Capita Income and
10 Unincorporated County Population were selected for the 1986-87, 1987-
11 88, 1988-89, 1989-90, 1990-91 and 1991-92 fiscal years.

12 Section 3: That there may be a need to amend the inflation
13 factor selected and adjust the appropriations limit once the non-
14 residential assessed valuation data becomes available from the County
15 Assessor's office.


16 Section 4: That the appropriations limit for the Idyllwild Water
17 District - Improvement District No. 1 as established in accordance
18 with Section 7902(a) of the California Government Code is \$2,890,371.

19 ADOPTED by the Board of Directors and signed by the President and
20 attested by the Secretary this 9th day of July, 1991.

21 Michael Creighton

22 
23 _____
24 President, Board of Directors of the
25 Idyllwild Water District

26
27 Attest:

28 
29 _____
30 Sheila Wood - Acting Board
31 Secretary of the
32 Idyllwild Water District

33 I, Sheila Wood, Acting, Secretary of the
34 Idyllwild Water District - Improvement District No. 1, hereby certify
35 that the foregoing resolution was duly and regularly introduced and
36 adopted by the Board of Directors of said District at its meeting held
37 on the 9th day of July, 1991, by the following vote, to
38 wit:

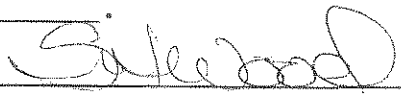
Ayes: MICHAEL CREIGHTON, GEORGE KRETSINGER, MANFORD ZUEHLKE,
PATTY GREEVES, WALTER HASBACH

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Noes:

Absent:

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the Idyllwild Water District - Improvement District No. 1, this 9th day of July, 1991



Sheila Wood - Acting Board
Secretary of the

Idyllwild Water District -
Improvement District No. 1

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Yolo and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On May 7, 2014, I served the:

State Controller's Office (SCO) Request to Amend Statewide Cost Estimate
Local Agency Ethics (AB 1234), 07-TC-04
Government Code Sections 53232.2(b), 53232.3(a) and (b), 53235(f), and 53235.2(a)
Statutes 2005, Chapter 700
City of Newport Beach, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on May 7, 2014 at Sacramento, California.



Jason Hone
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 5/7/14

Claim Number: 07-TC-04

Matter: Local Agency Ethics (AB 1234)

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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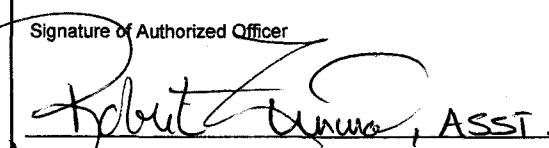
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hyaghobyan@auditor.lacounty.gov

Late

State Controller's Office

Local Mandated Cost Manual

LOCAL AGENCY ETHICS CLAIM FOR PAYMENT		For State Controller Use Only		PROGRAM
		(19) Program Number 00334	(20) Date Filed MAY 23 2013	334
(01) Claimant Identification Number 9900	9906	Reimbursement Claim Data		
(02) Claimant Name County of Colusa		(22) FORM 1, (04) 1. (g)	0	
County of Location Colusa County		(23) FORM 1, (04) 2. (g)	4,662	
Street Address or P.O. Box 546 Jay Street	Suite Suite 202	(24) FORM 1, (04) 3. (g)	216	
City Colusa	State CA Zip Code 95932	(25) FORM 1, (04) 4. (g)	120	
	Type of Claim	(26) FORM 1, (6)	10	
(03)	(09) Reimbursement <input checked="" type="checkbox"/>	(27) FORM 1, (7)	338	
(04)	(10) Combined <input type="checkbox"/>	(28) FORM 1, (9)	0	
(05)	(11) Amended <input type="checkbox"/>	(29) FORM 1, (10)	0	
Fiscal Year of Cost	(06) (12) 2006/2007	(30)		
Total Claimed Amount	(07) (13) 5,336.88	(31)		
Less: 10% Late Penalty (refer to attached instructions)	(14) (533.69)	(32)		
Less: Prior Claim Payment Received	(15) 0	(33)		
Net Claimed Amount	(16) 4,803.19	(34)		
Due from State	(08) (17) 4,803.19	(35)		
Due to State	(18) 0	(36)		
(37) CERTIFICATION OF CLAIM				
<p>In accordance with the provisions of Government Code Sections 17560 and 17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Article 4, Chapter 1 of Division 4 of Title 1 Government Code.</p> <p>I further certify that there was no application other than from the claimant, nor any grants or payments received for reimbursement of costs claimed herein and claimed costs are for a new program or increased level of services of an existing program. All offsetting revenues and reimbursements set forth in the parameters and guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.</p> <p>The amount for this reimbursement is hereby claimed from the State for payment of actual costs set forth on the attached statements.</p> <p>I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</p>				
Signature of Authorized Officer		Date Signed	5.17.13	
		Telephone Number	(530)458-0407	
Peggy Scroggins County Auditor-Controller		E-Mail Address	pscroggins@countyofcolusa.org	
Type or Print Name and Title of Authorized Signatory				
(38) Name of Agency Contact Person for Claim		Telephone Number	(530)458-0424	
Ruby Vasquez		E-mail Address	rvasquez@countyofcolusa.org	
Name of Consulting Firm/Claim Preparer		Telephone Number		
		E-mail Address		

PROGRAM 334	LOCAL AGENCY ETHICS CLAIM SUMMARY						FORM 1
(01) Claimant County of Colusa				(02)		Fiscal Year 20 <u>06</u> / <u>2007</u>	
(03) Department Auditor-Controller							
Direct Costs				Object Accounts			
(04) Reimbursable Activities	(a) Salaries	(b) Benefits	(c) Materials and Supplies	(d) Contract Services	(e) Fixed Assets	(f) Travel	(g) Total
1. Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses	0	0					0
2. Provide expense report forms to the members of the legislative body	3146.62	1515.72					4662.34
3. Provide information on training courses to meet the ethics training requirements at least once annually	152.52	63.36					215.88
4. Maintain training records indicating the dates and providers for five years	85.05	35.19					120.24
(05) Total Direct Costs	3384.19	1614.27					4998.46
Indirect Costs							
(06) Indirect Cost Rate	[From ICRP or 10%]					%	
(07) Total Indirect Costs	[Refer to Claim Summary Instructions]					338.42	
(08) Total Direct and Indirect Costs	[Line (05)(g) + line (07)]					5336.88	
Cost Reduction							
(09) Less: Offsetting Revenues						0	
(10) Less: Other Reimbursements						0	
(11) Total Claimed Amount	[Line (08) - {(line (09) + line (10))}]					5336.88	

PROGRAM 334	LOCAL AGENCY ETHICS ACTIVITY COST DETAIL	FORM 2
------------------------------	-----------------------------------------------------------	-------------------------

(01) Claimant County of Colusa	(02) Fiscal Year 20 <u>06</u> /20 <u>07</u>
-----------------------------------	------------------------------------------------

(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses	<input type="checkbox"/> Provide information on training courses to meet the ethics training requirements at least once annually
<input checked="" type="checkbox"/> Provide expense report forms to the members of the legislative body	<input type="checkbox"/> Maintain training records indicating the dates and providers for five years

(04) Description of Expenses : Employee Time			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials and Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel
Peggy Scroggins Ethics Training	50.84 21.12	2	101.68	42.24				
Mary Anderson Ethics Training	40.76 18.35	2	81.52	36.70				
Scott Marshall Ethics Training	49.50 30.50	2	99.00	61.00				
Curtis Boewer Ethics Training	49.69 21.79	2	99.38	43.58				
Steve Bordin Ethics Training	43.42 24.83	2	86.84	49.66				
Kathie Moran Ethics Training	42.94 19.65	2	85.88	39.30				
Steve Hackney Ethics Training	51.22 21.02	2	102.44	42.04				
Henry Rodegerdts Ethics Training	53.48 22.35	2	106.96	44.70				
(05) Total <input type="checkbox"/> Subtotal <input checked="" type="checkbox"/>			763.70	359.22				

PROGRAM 334	LOCAL AGENCY ETHICS ACTIVITY COST DETAIL	FORM 2
------------------------------	-----------------------------------------------------	-------------------------

(01) Claimant County of Colusa	(02) Fiscal Year 20 <u>06</u> /20 <u>07</u>
-----------------------------------	------------------------------------------------

(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses	<input type="checkbox"/> Provide information on training courses to meet the ethics training requirements at least once annually
<input type="checkbox"/> Provide expense report forms to the members of the legislative body	<input type="checkbox"/> Maintain training records indicating the dates and providers for five years

(04) Description of Expenses : Employee Time			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials and Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel
Ellen Brow Ethics Training	30.78 14.86	2	61.56	29.72				
Gary Evans Ethics Training	16.14 5.72	2	32.28	11.44				
Mark Marshall Ethics Training	17.14 8.49	2	34.28	16.98				
Harry Krug Ethics Training	55.68 24.24	2	111.36	48.48				
Wayne Zoller Ethics Training	39.19 17.65	2	78.38	35.30				
Dan Charter Ethics Training	49.28 22.59	2	98.56	45.18				
Jon Wrynski Ethics Training	46.15 20.50	2	92.30	41.00				
Cindy Lovelace Ethics Training	37.42 16.58	2	74.84	33.16				
(05) Total <input type="checkbox"/> Subtotal <input checked="" type="checkbox"/> Page: <u>2</u> of <u>6</u>			1347.26	620.48				

PROGRAM 334	LOCAL AGENCY ETHICS ACTIVITY COST DETAIL	FORM 2
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(01) Claimant County of Colusa	(02) Fiscal Year 20 <u>06</u> /20 <u>07</u>
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(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses	<input type="checkbox"/> Provide information on training courses to meet the ethics training requirements at least once annually
<input checked="" type="checkbox"/> Provide expense report forms to the members of the legislative body	<input type="checkbox"/> Maintain training records indicating the dates and providers for five years

(04) Description of Expenses : Employee Time			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials and Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel
Christine Azevedo Ethics Training	26.79 12.35	2	53.58	24.70				
Shane Maxey Ethics Training	35.30 19.63	2	70.60	39.26				
Doug Turner Ethics Training	41.34 25.94	2	82.68	51.88				
Miguel Villasenor Ethics Training	32.26 17.66	2	64.52	35.32				
Robert Zunino Ethics Training	36.96 15.28	2	73.92	30.56				
Jeanne Brodermar Ethics Training	23.86 11.70	2	47.72	23.40				
Kevin Erdelt Ethics Training	32.83 20.46	2	65.66	40.92				
Leslie Pingrey Ethics Training	20.81 10.04	2	41.62	20.08				
Katy Tanner Ethics Training	32.98 15.59	2	65.96	31.18				
(05) Total <input type="checkbox"/> Subtotal <input checked="" type="checkbox"/>			1913.52	917.78				

PROGRAM 334	LOCAL AGENCY ETHICS ACTIVITY COST DETAIL	FORM 2
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(01) Claimant County of Colusa	(02) Fiscal Year 20 <u>06</u> /20 <u>07</u>
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(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses	<input type="checkbox"/> Provide information on training courses to meet the ethics training requirements at least once annually
<input checked="" type="checkbox"/> Provide expense report forms to the members of the legislative body	<input type="checkbox"/> Maintain training records indicating the dates and providers for five years

(04) Description of Expenses : Employee Time			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials and Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel
Merced Corona Ethics Training	33.78 18.48	2	67.56	36.96				
Charles Price Ethics Training	26.79 12.60	2	53.58	25.20				
Jon Richter Ethics Training	36.22 16.52	2	72.44	33.04				
Renee McCormick Ethics Training	28.06 13.32	2	56.12	26.64				
Kevin Wheeler Ethics Training	49.66 30.14	2	99.32	60.28				
Donna Dennis Ethics Training	26.79 12.79	2	53.58	25.58				
Richard McKey Ethics Training	34.59 20.73	2	69.18	41.46				
Israel Medrano Ethics Training	22.29 11.01	2	44.58	22.02				
Cheryl Moss Ethics Training	23.86 11.64	2	47.72	23.28				
(05) Total <input type="checkbox"/> Subtotal <input checked="" type="checkbox"/> Page: <u>4</u> of <u>6</u>			2477.60	1212.24				

PROGRAM 334	LOCAL AGENCY ETHICS ACTIVITY COST DETAIL	FORM 2
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(01) Claimant County of Colusa	(02) Fiscal Year 20 <u>06</u> / <u>2007</u>
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(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses	<input type="checkbox"/> Provide information on training courses to meet the ethics training requirements at least once annually
<input checked="" type="checkbox"/> Provide expense report forms to the members of the legislative body	<input type="checkbox"/> Maintain training records indicating the dates and providers for five years

(04) Description of Expenses : Employee Time			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials and Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel
Greg Pankey Ethics Training	39.52 16.43	2	79.04	32.86				
Nancy Dickson Ethics Training	44.78 20.22	2	89.56	40.44				
Jill Rablin Ethics Training	19.01 8.10	2	38.02	16.20				
Alex Rodriguez Ethics Training	22.96 8.88	2	45.92	17.76				
Kay Sharpe Ethics Training	30.78 14.55	2	61.56	29.10				
Debbie Garofalo Ethics Training	37.96 17.63	2	75.92	35.26				
Bertha Ortega Ethics Training	26.40 12.28	2	52.80	24.56				
Barbara Rosas Ethics Training	20.23 9.72	2	40.46	19.44				
Rose Tanner Ethics Training	19.32 9.30	2	38.64	18.60				
(05) Total <input type="checkbox"/> Subtotal <input checked="" type="checkbox"/> Page: <u>5</u> of <u>6</u>			2999.52	1446.46				

PROGRAM 334	LOCAL AGENCY ETHICS ACTIVITY COST DETAIL	FORM 2
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(01) Claimant County of Colusa	(02) Fiscal Year 20 <u>06</u> /20 <u>07</u>
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(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses	<input type="checkbox"/> Provide information on training courses to meet the ethics training requirements at least once annually
<input checked="" type="checkbox"/> Provide expense report forms to the members of the legislative body	<input type="checkbox"/> Maintain training records indicating the dates and providers for five years

(04) Description of Expenses : Employee Time			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials and Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel
James Rogers Ethics Training	26.20 12.10	2	52.40	24.20				
Barbara Salazar Ethics Training	22.37 10.47	2	44.74	20.94				
Rande Brookins Ethics Training	24.98 12.06	2	49.96	24.12				
(05) Total <input checked="" type="checkbox"/> Subtotal <input type="checkbox"/> Page: <u>6</u> of <u>6</u>			3146.62	1515.72				

PEGGY SCROGGINS
AUDITOR-CONTROLLER
COUNTY OF COLUSA
546 JAY STREET, SUITE 202
COLUSA, CALIFORNIA 95932



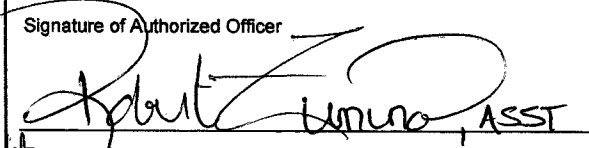
Office of the State Controller
Attn: Local Reimbursements Section
Division of Accounting and Reporting
P.O. Box 942850
Sacramento, CA 94250

MAY 23 2013

Late

State Controller's Office

Local Mandated Cost Manual

LOCAL AGENCY ETHICS CLAIM FOR PAYMENT		For State Controller Use Only		PROGRAM
		(19) Program Number 00334 (20) Date Filed MAY 23 2013 (21) LRS Input		334
(01) Claimant Identification Number 9906		Reimbursement Claim Data		
(02) Claimant Name County of Colusa		(22) FORM 1, (04) 1. (g)	0	
County of Location Colusa County		(23) FORM 1, (04) 2. (g)	3,080	
Street Address or P.O. Box 546 Jay Street		Suite Suite 202	(24) FORM 1, (04) 3. (g)	238
City Colusa		State CA	Zip Code 95932	(25) FORM 1, (04) 4. (g) 133
		Type of Claim		(26) FORM 1, (6) 10
		(03) (09) Reimbursement <input checked="" type="checkbox"/>	(27) FORM 1, (7)	246
		(04) (10) Combined <input type="checkbox"/>	(28) FORM 1, (9)	0
		(05) (11) Amended <input type="checkbox"/>	(29) FORM 1, (10)	0
Fiscal Year of Cost		(06) (12) 2010/2011	(30)	
Total Claimed Amount		(07) (13) 3,697.80	(31)	
Less: 10% Late Penalty (refer to attached Instructions)		(14) 369.78	(32)	
Less: Prior Claim Payment Received		(15) 0	(33)	
Net Claimed Amount		(16) 3,328.02	(34)	
Due from State		(08) (17) 3,328.02	(35)	
Due to State		(18) 0	(36)	
(37) CERTIFICATION OF CLAIM				
<p>In accordance with the provisions of Government Code Sections 17560 and 17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Article 4, Chapter 1 of Division 4 of Title 1 Government Code.</p> <p>I further certify that there was no application other than from the claimant, nor any grants or payments received for reimbursement of costs claimed herein and claimed costs are for a new program or increased level of services of an existing program. All offsetting revenues and reimbursements set forth in the parameters and guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.</p> <p>The amount for this reimbursement is hereby claimed from the State for payment of actual costs set forth on the attached statements.</p> <p>I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</p>				
Signature of Authorized Officer		Date Signed <u>5.17.13</u>		
		Telephone Number <u>(530)458-0407</u>		
Peggy Scroggins County Auditor-Controller		E-Mail Address <u>pscroggins@countyofcolusa.org</u>		
Type or Print Name and Title of Authorized Signatory				
(38) Name of Agency Contact Person for Claim		Telephone Number <u>(530)458-0424</u>		
Ruby Vasquez		E-mail Address <u>rvasquez@countyofcolusa.org</u>		
Name of Consulting Firm/Claim Preparer		Telephone Number _____		
		E-mail Address _____		

PROGRAM 334	LOCAL AGENCY ETHICS CLAIM SUMMARY						FORM 1
(01) Claimant County of Colusa				(02)		Fiscal Year 20 <u>10</u> /20 <u>11</u>	
(03) Department Auditor-Controller							
Direct Costs				Object Accounts			
(04) Reimbursable Activities	(a) Salaries	(b) Benefits	(c) Materials and Supplies	(d) Contract Services	(e) Fixed Assets	(f) Travel	(g) Total
1. Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses	0	0					0
2. Provide expense report forms to the members of the legislative body	2190.17	890.31					3080.48
3. Provide information on training courses to meet the ethics training requirements at least once annually	172.59	65.64					238.23
4. Maintain training records indicating the dates and providers for five years	97.62	35.43					133.05
(05) Total Direct Costs	2460.38	991.38					3451.76
Indirect Costs							
(06) Indirect Cost Rate						[From ICRP or 10%] %	
(07) Total Indirect Costs						[Refer to Claim Summary Instructions] 246.04	
(08) Total Direct and Indirect Costs						[Line (05)(g) + line (07)] 3697.80	
Cost Reduction							
(09) Less: Offsetting Revenues						0	
(10) Less: Other Reimbursements						0	
(11) Total Claimed Amount						[Line (08) - {(line (09) + line (10))}] 3697.80	

New 01/13

PROGRAM 334	LOCAL AGENCY ETHICS ACTIVITY COST DETAIL	FORM 2
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(01) Claimant County of Colusa	(02) Fiscal Year 20 <u>10</u> /20 <u>11</u>
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(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses	<input type="checkbox"/> Provide information on training courses to meet the ethics training requirements at least once annually
<input checked="" type="checkbox"/> Provide expense report forms to the members of the legislative body	<input type="checkbox"/> Maintain training records indicating the dates and providers for five years

(04) Description of Expenses : Employee Time			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials and Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel
Tom Parker Ethics Training	74.11 28.09	2	148.22	56.18				
Wendy Burke Ethics Training	48.11 18.26	2	96.22	36.52				
Kathie Moran Ethics Training	56.93 23.53	2	113.86	47.06				
Wayne Zoller Ethics Training	44.14 18.17	4.25	187.60	77.22				
Gary Evans Ethics Training	19.56 7.08	2	39.12	14.16				
Dan Charter Ethics Training	55.72 23.34	2	111.44	46.68				
Elizabeth Kelly Ethics Training	42.80 17.36	2.20	94.16	38.19				
James Bell Ethics Training	58.49 22.26	3.68	215.24	81.91				
Mary Anderson Ethics Training	45.94 19.13	2.15	98.77	41.13				
(05) Total <input type="checkbox"/> Subtotal <input checked="" type="checkbox"/> Page: <u>1</u> of <u>3</u>			1104.63	439.05				

PROGRAM 334	LOCAL AGENCY ETHICS ACTIVITY COST DETAIL	FORM 2
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(01) Claimant County of Colusa	(02) Fiscal Year 20 <u>10</u> /20 <u>11</u>
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(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses	<input type="checkbox"/> Provide information on training courses to meet the ethics training requirements at least once annually
<input checked="" type="checkbox"/> Provide expense report forms to the members of the legislative body	<input type="checkbox"/> Maintain training records indicating the dates and providers for five years

(04) Description of Expenses : Employee Time			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials and Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel
Nikki Berry Ethics Training	41.56 16.99	3.63	150.86	61.67				
Peggy Scroggins Ethics Training	57.53 21.88	2.97	170.86	64.98				
Scott Marshall Ethics Training	61.56 36.06	2	123.12	72.12				
Stephen Hackney Ethics Training	57.68 21.65	2.18	125.74	47.19				
Mark Marshall Ethics Training	19.97 7.90	2	39.94	15.80				
Mary Anne Azevedo Ethics Training	37.39 15.09	2	74.78	30.18				
David Brown Ethics Training	29.05 10.67	2	58.10	21.34				
Andrea Correa Ethics Training	28.67 12.24	2	57.34	24.48				
Ann Nordyke Ethics Training	20.14 8.51	2	40.28	17.02				
(05) Total <input type="checkbox"/> Subtotal <input checked="" type="checkbox"/> Page: <u>2</u> of <u>3</u>			1945.65	793.83				

PROGRAM 334	LOCAL AGENCY ETHICS ACTIVITY COST DETAIL	FORM 2
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(01) Claimant County of Colusa	(02) Fiscal Year 20 <u>10</u> /20 <u>11</u>
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(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses	<input type="checkbox"/> Provide information on training courses to meet the ethics training requirements at least once annually
<input checked="" type="checkbox"/> Provide expense report forms to the members of the legislative body	<input type="checkbox"/> Maintain training records indicating the dates and providers for five years


(04) Description of Expenses : Employee Time			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials and Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel
Barbara Rosas Ethics Training	23.85 10.33	2	47.70	20.66				
Barbara Salazar Ethics Training	25.44 10.86	2	50.88	21.72				
Robert Zunino Ethics Training	45.92 17.43	2	91.84	34.86				
Yolanda Tirado Ethics Training	27.05 9.62	2	54.10	19.24				
(05) Total <input checked="" type="checkbox"/> Subtotal <input type="checkbox"/> Page: <u>3</u> of <u>3</u>			2190.17	890.31				

PEGGY SCROGGINS
AUDITOR-CONTROLLER
COUNTY OF COLUSA
546 JAY STREET, SUITE 202
COLUSA, CALIFORNIA 95932



Office of the State Controller
Attn: Local Reimbursements Section
Division of Accounting and Reporting
P.O. Box 942850
Sacramento, CA 94250

MAY 23 2013

LOCAL AGENCY ETHICS CLAIM FOR PAYMENT		For State Controller Use Only			
		(19) Program Number 00334	334		
		(20) Date Filed JAN 21 2014			
		(21) LRS Input			
(01) Claimant Identification Number		Reimbursement Claim Data			
(02) Claimant Name County of Colusa		(22) FORM 1, (04) 1. (g)	0		
County of Location Colusa County		(23) FORM 1, (04) 2. (g)	4,577.10		
Street Address or P.O. Box 546 Jay Street Suite 202		(24) FORM 1, (04) 3. (g)	254.58		
City Colusa State CA Zip Code 95932		(25) FORM 1, (04) 4. (g)	164.76		
		Type of Claim			
		(03)	(09) Reimbursement <input checked="" type="checkbox"/>	(26) FORM 1, (6)	10
		(04)	(10) Combined <input type="checkbox"/>	(27) FORM 1, (7)	377.13
		(05)	(11) Amended <input type="checkbox"/>	(28) FORM 1, (9)	0
				(29) FORM 1, (10)	0
Fiscal Year of Cost		(06)	(12) 2012/2013	(30)	
Total Claimed Amount		(07)	(13) 5,373.57	(31)	
Less: 10% Late Penalty (refer to attached Instructions)		(14)	0	(32)	
Less: Prior Claim Payment Received		(15)	0	(33)	
Net Claimed Amount		(16)	5,373.57	(34)	
Due from State		(08)	(17) 5,373.57	(35)	
Due to State		(18)	0	(36)	
(37) CERTIFICATION OF CLAIM					
<p>In accordance with the provisions of Government Code Sections 17560 and 17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Article 4, Chapter 1 of Division 4 of Title 1 Government Code.</p> <p>I further certify that there was no application other than from the claimant, nor any grants or payments received for reimbursement of costs claimed herein and claimed costs are for a new program or increased level of services of an existing program. All offsetting revenues and reimbursements set forth in the parameters and guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.</p> <p>The amount for this reimbursement is hereby claimed from the State for payment of actual costs set forth on the attached statements.</p> <p>I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</p>					
Signature of Authorized Officer					
 Peggy Scroggins County Auditor-Controller Type or Print Name and Title of Authorized Signatory		Date Signed		1-17-14	
		Telephone Number		(530)458-0407	
		E-Mail Address		pscroggins@countyofcolusa.org	
(38) Name of Agency Contact Person for Claim					
Ruby Vasquez		Telephone Number		(530)458-0424	
Name of Consulting Firm/Claim Preparer		E-mail Address		rvasquez@countyofcolusa.org	
		Telephone Number			
		E-mail Address			

PROGRAM 334	LOCAL AGENCY ETHICS CLAIM FOR PAYMENT INSTRUCTIONS	FORM FAM-27
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- (01) Enter the claimant identification number assigned by the State Controller's Office.
- (02) Enter claimant official name, county of location, street or postal office box address, city, State, and zip code.
- (03) to (08) Leave blank.
- (09) If filing a reimbursement claim, enter an "X" in the box on line (09) Reimbursement.
- (10) Not applicable
- (11) If filing an amended reimbursement claim, enter an "X" in the box on line (11) Amended.
- (12) Enter the fiscal year for which actual costs are being claimed. If actual costs for more than one fiscal year are being claimed, complete a separate Form FAM-27 for each fiscal year.
- (13) Enter the amount of the reimbursement claim as shown on Form 1 line (11). The total claimed amount must exceed \$1,000; minimum claim must be \$1,001.
- (14) Initial claims must be filed as specified in the claiming instructions. Annual reimbursement claims must be filed by **February 15**, or otherwise specified in the claiming instructions following the fiscal year in which costs were incurred. Claims filed after the specified date must be reduced by a late penalty. Enter zero if the claim was filed on time. Otherwise, enter the penalty amount as a result of the calculation formula as follows:
- Late Initial Claims: Form FAM-27 line (13) multiplied by 10%, without limitation; or
 - Late Annual Reimbursement Claims: Form FAM-27, line (13) multiplied by 10%, late penalty not to exceed \$10,000.
- (15) Enter the amount of payment, if any, received for the claim. If no payment was received, enter zero.
- (16) Enter the net claimed amount by subtracting the sum of lines (14) and (15) from line (13).
- (17) If line (16), Net Claimed Amount, is positive, enter that amount on line (17), Due from State.
- (18) If line (16), Net Claimed Amount, is negative, enter that amount on line (18), Due to State.
- (19) to (21) Leave blank.
- (22) to (36) Bring forward the cost information as specified on the left-hand column of lines (22) through (36) for the reimbursement claim, e.g., Form 1, (04) 1. (g), means the information is located on Form 1, line (04) 1., column (g). Enter the information on the same line but in the right-hand column. Cost information should be rounded to the nearest dollar, i.e., no cents. Indirect costs percentage should be shown as a whole number and without the percent symbol, i.e., 35.19% should be shown as 35. **Completion of this data block will expedite the process.**
- (37) Read the statement of Certification of Claim. The claim must be dated, signed by the agency's authorized officer, and must type or print name, title, date signed, telephone number, and e-mail address. **Claims cannot be paid unless accompanied by an original signed certification. (Please sign the Form FAM-27 in blue ink and attach the copy to the top of the claim package.)**
- (38) Enter the name, telephone number, and e-mail address of the agency contact person for the claim. If the claim was prepared by a consultant, type or print the name of the consulting firm, the claim preparer, telephone number, and e-mail address.

SUBMIT A SIGNED ORIGINAL FORM FAM-27 AND ONE COPY WITH ALL OTHER FORMS TO:**Address, if delivered by U.S. Postal Service:**

OFFICE OF THE STATE CONTROLLER
 ATTN: Local Reimbursements Section
 Division of Accounting and Reporting
 P.O. Box 942850
 Sacramento, CA 94250

Address, if delivered by other delivery service:

OFFICE OF THE STATE CONTROLLER
 ATTN: Local Reimbursements Section
 Division of Accounting and Reporting
 3301 G Street, Suite 700
 Sacramento, CA 95816

PROGRAM 334	LOCAL AGENCY ETHICS CLAIM SUMMARY						FORM 1
(01) Claimant County of Colusa				(02)		Fiscal Year 20 <u>12</u> /20 <u>13</u>	
(03) Department Auditor-Controller							
Direct Costs				Object Accounts			
	(a)	(b)	(c)	(d)	(e)	(f)	(g)
(04) Reimbursable Activities	Salaries	Benefits	Materials and Supplies	Contract Services	Fixed Assets	Travel	Total
1. Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses	0	0					0
2. Provide expense report forms to the members of the legislative body	3446.39	1130.71					4577.10
3. Provide information on training courses to meet the ethics training requirements at least once annually	197.43	57.15					254.58
4. Maintain training records indicating the dates and providers for five years	127.52	37.24					164.76
(05) Total Direct Costs	3771.34	1225.10					4996.44
Indirect Costs							
(06) Indirect Cost Rate	[From ICRP or 10%]						10 %
(07) Total Indirect Costs	[Refer to Claim Summary Instructions]						377.13
(08) Total Direct and Indirect Costs	[Line (05)(g) + line (07)]						5,373.57
Cost Reduction							
(09) Less: Offsetting Revenues							0
(10) Less: Other Reimbursements							0
(11) Total Claimed Amount	[Line (08) - {(line (09) + line (10))}]						5,373.57

New 01/13

PROGRAM 334	LOCAL AGENCY ETHICS CLAIM SUMMARY INSTRUCTIONS	FORM 1
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- (01) Enter the name of the claimant.
- (02) Enter the fiscal year of costs.
- (03) If more than one department has incurred costs for this mandate, give the name of each department. A separate Form 1 should be completed for each department.
- (04) For each reimbursable activity, enter the totals from Form 2, line (05), columns (d) through (i), to Form 1, block (04), columns (a) through (f), in the appropriate row. Total each row.
- (05) Total columns (a) through (g).
- (06) Indirect costs may be computed as 10% of direct labor costs, excluding fringe benefits, without preparing an Indirect Cost Rate Proposal (ICRP). If an indirect cost rate of greater than 10% is used, include the ICRP with the claim.
- (07) Local agencies have the option of using the flat rate of 10% of direct labor costs or using a department's ICRP in accordance with the Office of Management and Budget OMB Circular A-87 (Title 2 CFR Part 225). If the flat rate is used for indirect costs, multiply Total Salaries, line (05)(a), by 10%. If an ICRP is submitted, multiply applicable costs used in the distribution base for the computation of the indirect cost rate by the Indirect Cost Rate, line (06). If more than one department is reporting costs, each must have its own ICRP for the program.
- (08) Enter the sum of Total Direct Costs, line (05)(g), and Total Indirect Costs, line (07).
- (09) If applicable, enter any revenue received by the claimant for this mandate from any state or federal source.
- (10) If applicable, enter the amount of other reimbursements received from any source including, but not limited to, service fees collected, federal funds, and other state funds that reimbursed any portion of the mandated cost program. Submit a schedule detailing the reimbursement sources and amounts.
- (11) From Total Direct and Indirect Costs, line (08), subtract the sum of Offsetting Revenues, line (09), and Other Reimbursements, line (10). Enter the remainder on this line and carry the amount forward to Form FAM-27, line (13) for the Reimbursement Claim.

PROGRAM 334	LOCAL AGENCY ETHICS ACTIVITY COST DETAIL	FORM 2
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(01) Claimant County of Colusa	(02) Fiscal Year 20 <u>12</u> /20 <u>13</u>
-----------------------------------	------------------------------------------------

(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses	<input type="checkbox"/> Provide information on training courses to meet the ethics training requirements at least once annually
<input checked="" type="checkbox"/> Provide expense report forms to the members of the legislative body	<input type="checkbox"/> Maintain training records indicating the dates and providers for five years

(04) Description of Expenses : Employee Time			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials and Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel
Estella Dudman Ethics Training	31.58 9.57	2	63.16	19.14				
Cindy Lovelace Ethics Training	49.80 16.24	2	99.60	32.48				
Daniel Charter Ethics Training	64.01 20.58	2.25	144.02	46.31				
Darla Marazzo Ethics Training	34.48 10.59	2	68.96	21.18				
Denise Carter Ethics Training	22.04 8.84	2	44.08	17.68				
Elizabeth Kelly Ethics Training	59.04 18.61	2	118.08	37.22				
Joseph Damiano Ethics Training	55.97 16.20	2	111.94	32.40				
Joe Garofalo Ethics Training	43.06 19.94	2	86.12	39.88				
(05) Total <input type="checkbox"/> Subtotal <input checked="" type="checkbox"/>			735.96	246.29				

PROGRAM 334	LOCAL AGENCY ETHICS ACTIVITY COST DETAIL	FORM 2
------------------------------	-----------------------------------------------------------	-------------------------

(01) Claimant County of Colusa	(02) Fiscal Year 20 <u>12</u> /20 <u>13</u>
-----------------------------------	------------------------------------------------

(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses	<input type="checkbox"/> Provide information on training courses to meet the ethics training requirements at least once annually
<input checked="" type="checkbox"/> Provide expense report forms to the members of the legislative body	<input type="checkbox"/> Maintain training records indicating the dates and providers for five years

(04) Description of Expenses : Employee Time			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials and Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel
Kathleen Moran Ethics Training	68.50 21.61	2.5	171.25	54.03				
Michael Bradwell Ethics Training	39.34 18.53	2	78.68	37.06				
Peggy Scroggins Ethics Training	65.81 19.05	4.75	312.60	90.49				
Robert Zunino Ethics Training	52.70 15.32	2	105.40	30.64				
Russ Jones Ethics Training	48.26 23.28	2.25	108.59	52.38				
Scott Marshall Ethics Training	76.22 38.14	2	152.44	76.28				
Shane Maxey Ethics Training	53.03 25.23	2.25	119.32	56.77				
Stephen Hackney Ethics Training	69.04 19.61	2.25	155.34	44.12				
Tom Indrieri Ethics Training	21.42 8.15	2	42.84	16.30				
(05) Total <input type="checkbox"/> Subtotal <input checked="" type="checkbox"/>			1982.42	704.36				

PROGRAM 334	LOCAL AGENCY ETHICS ACTIVITY COST DETAIL	FORM 2
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(01) Claimant County of Colusa	(02) Fiscal Year 20 <u>12</u> /20 <u>13</u>
-----------------------------------	------------------------------------------------

(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses	<input type="checkbox"/> Provide information on training courses to meet the ethics training requirements at least once annually
<input checked="" type="checkbox"/> Provide expense report forms to the members of the legislative body	<input type="checkbox"/> Maintain training records indicating the dates and providers for five years

(04) Description of Expenses : Employee Time			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials and Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel
Kim Vann Ethics Training	21.56 6.48	2	43.12	12.96				
Wendy Burke Ethics Training	55.10 16.16	4.75	261.73	32.32				
William Fenton Ethics Training	62.79 11.35	2.25	141.28	25.54				
Mary Anderson Ethics Training	53.05 17.30	2	106.10	34.60				
Bradley Danielson Ethics Training	41.24 19.89	2.5	103.10	49.73				
James Bell Ethics Training	67.02 19.28	4.25	284.84	81.81				
Joan Carr Ethics Training	47.60 15.59	2.5	119.00	38.98				
Kevin Erdelt Ethics Training	45.31 23.14	2.5	113.28	57.85				
(05) Total <input type="checkbox"/> Subtotal <input checked="" type="checkbox"/> Page: <u>3</u> of <u>4</u>			3154.87	1038.15				

PROGRAM 334	LOCAL AGENCY ETHICS ACTIVITY COST DETAIL	FORM 2
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(01) Claimant County of Colusa	(02) Fiscal Year 20 <u>12</u> /20 <u>13</u>
-----------------------------------	------------------------------------------------

(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses	<input type="checkbox"/> Provide information on training courses to meet the ethics training requirements at least once annually
<input checked="" type="checkbox"/> Provide expense report forms to the members of the legislative body	<input type="checkbox"/> Maintain training records indicating the dates and providers for five years

(04) Description of Expenses : Employee Time			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials and Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel
Margaret Kemp-Williams Ethics Training	69.07 21.54	2.75	189.94	59.24				
Wayne Zoller Ethics Training	50.79 16.66	2	101.58	33.32				
(05) Total <input checked="" type="checkbox"/> Subtotal <input type="checkbox"/> Page: <u>4</u> of <u>4</u>			3446.39	1130.71				

LOCAL AGENCY ETHICS CLAIM FOR PAYMENT	For State Controller Use Only	334
	(19) Program Number 00334	
	(20) Date Filed MAY 03 2013	
	(21) LRS Input	

(01) Claimant Identification Number 4233058		Reimbursement Claim Data	
(02) Claimant Name Idyllwild Water District		(22) FORM 1, (04) 1. (g)	7935
County of Location Riverside		(23) FORM 1, (04) 2. (g)	
Street Address or P.O. Box PO Box 397 Suite		(24) FORM 1, (04) 3. (g)	13260
City Idyllwild State CA Zip Code 92549		(25) FORM 1, (04) 4. (g)	
	Type of Claim	(26) FORM 1, (6)	
(03)	(09) Reimbursement <input checked="" type="checkbox"/>	(27) FORM 1, (7)	
(04)	(10) Combined <input type="checkbox"/>	(28) FORM 1, (9)	
(05)	(11) Amended <input type="checkbox"/>	(29) FORM 1, (10)	
Fiscal Year of Cost	(06)	(12) 2011/2012	(30)
Total Claimed Amount	(07)	(13) 2195	(31)
Less: 10% Late Penalty (refer to attached instructions)		(14)	(32)
Less: Prior Claim Payment Received		(15)	(33)
Net Claimed Amount		(16)	(34)
Due from State	(08)	(17) 2195	(35)
Due to State		(18)	(36)

(37) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code Sections 17560 and 17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Article 4, Chapter 1 of Division 4 of Title 1 Government Code.

I further certify that there was no application other than from the claimant, nor any grants or payments received for reimbursement of costs claimed herein and claimed costs are for a new program or increased level of services of an existing program. All offsetting revenues and reimbursements set forth in the parameters and guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.

The amount for this reimbursement is hereby claimed from the State for payment of actual costs set forth on the attached statements.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature of Authorized Officer



Date Signed

5/2/2013

Telephone Number

951-659-2143

E-Mail Address

hosny@idyllwildwater.com

Hosny Shauman (CFO)
Type or Print Name and Title of Authorized Signatory

(38) Name of Agency Contact Person for Claim

Telephone Number _____

Name of Consulting Firm/Claim Preparer

E-mail Address _____

Telephone Number _____

E-mail Address _____

PROGRAM 334	LOCAL AGENCY ETHICS CLAIM SUMMARY	FORM 1
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(01) Claimant 4233058	(02) Idyllwild Water District Fiscal Year PO Box 397 Idyllwild, CA 92549 20/1/2012 Riverside County
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(03) Department

Direct Costs	Object Accounts
---------------------	------------------------

	(a)	(b)	(c)	(d)	(e)	(f)	(g)
(04) Reimbursable Activities	Salaries	Benefits	Materials and Supplies	Contract Services	Fixed Assets	Travel	Total
1. Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses	5500	-	2200	-	-	235	7935
2. Provide expense report forms to the members of the legislative body							
3. Provide information on training courses to meet the ethics training requirements at least once annually	8360	3200	1500	-	-	200	13260
4. Maintain training records indicating the dates and providers for five years							
(05) Total Direct Costs							21195

Indirect Costs	
(06) Indirect Cost Rate	[From ICRP or 10%] %
(07) Total Indirect Costs	[Refer to Claim Summary Instructions]
(08) Total Direct and Indirect Costs	[Line (05)(g) + line (07)]

Cost Reduction	
(09) Less: Offsetting Revenues	X
(10) Less: Other Reimbursements	not applicable
(11) Total Claimed Amount	[Line (08) - {(line (09) + line (10))}] 21195

PROGRAM 334	LOCAL AGENCY ETHICS ACTIVITY COST DETAIL	FORM 2
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(01) Claimant 4233058	(02) Idyllwild Water District Fiscal Year Po Box 397 Idyllwild, CA 92549 2011/2012 <i>Riverside County</i>
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(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input checked="" type="checkbox"/> Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses <input type="checkbox"/> Provide expense report forms to the members of the legislative body	<input type="checkbox"/> Provide information on training courses to meet the ethics training requirements at least once annually <input type="checkbox"/> Maintain training records indicating the dates and providers for five years
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(04) Description of Expenses			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials and Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel
-Allan Morphett President of the Board of Directors meets and studies policy and procedures -Warren Monroe Board of Directors Vice President. Reviewing policy and procedure regarding Brown Act for Idyllwild Water District. -John Cook Board of Director Past experience, attorney, reviewing agency ethics.	50.00 50.00 50.00	55 35 20	2750. 1750. 1000.		2200			235.00

(05) Total	<input type="checkbox"/> Subtotal	Page: ___ of ___	5500	2200		235
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PROGRAM 334	LOCAL AGENCY ETHICS ACTIVITY COST DETAIL	FORM 2
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(01) Claimant 4233058	(02) Idyllwild Water District Fiscal Year PO Box 377 Idyllwild CA 92549 Riverside County 2011/2012
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(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses <input type="checkbox"/> Provide expense report forms to the members of the legislative body	<input checked="" type="checkbox"/> Provide information on training courses to meet the ethics training requirements at least once annually <input type="checkbox"/> Maintain training records indicating the dates and providers for five years
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(04) Description of Expenses			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials and Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel
-Terry Lyons Idyllwild Water District General Manager provide information on training courses for assets and fraud.	55	152	8360	3200	1500			200

(05) Total	<input type="checkbox"/> Subtotal	Page: ___ of ___	8360	3200	1500			200
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LOCAL AGENCY ETHICS CLAIM FOR PAYMENT		(19) Program Number 00334 (20) Date Filed FEB 06 2014 (21) LRS Input	
(01) Claimant Identification Number <u>12443304800 4493098</u>		Reimbursement Claim Data	
(02) Claimant Name Lake Hemet Municipal Water District		(22) FORM 1, (04) 1. (g)	
County of Location Riverside		(23) FORM 1, (04) 2. (g)	
Street Address or P.O. Box P O Box 5039		(24) FORM 1, (04) 3. (g)	
City Hemet		(25) FORM 1, (04) 4. (g)	\$3,494
State CA			
Zip Code 92544			
Type of Claim		(26) FORM 1, (6)	
(03)	(09) Reimbursement <input checked="" type="checkbox"/>	(27) FORM 1, (7)	
(04)	(10) Combined <input type="checkbox"/>	(28) FORM 1, (9)	
(05)	(11) Amended <input type="checkbox"/>	(29) FORM 1, (10)	
(06)			
Fiscal Year of Cost	(12) 2012/2013	(30)	
Total Claimed Amount	(13) \$3,494	(31)	
Less: 10% Late Penalty (refer to attached instructions)	(14) -0-	(32)	
Less: Prior Claim Payment Received	(15) -0-	(33)	
Net Claimed Amount	(16) \$3,494	(34)	
Due from State	(17) \$3,494	(35)	
Due to State	(18) -0-	(36)	
(37) CERTIFICATION OF CLAIM			
<p>In accordance with the provisions of Government Code Sections 17560 and 17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Article 4, Chapter 1 of Division 4 of Title 1 Government Code.</p> <p>I further certify that there was no application other than from the claimant, nor any grants or payments received for reimbursement of costs claimed herein and claimed costs are for a new program or increased level of services of an existing program. All offsetting revenues and reimbursements set forth in the parameters and guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.</p> <p>The amount for this reimbursement is hereby claimed from the State for payment of actual costs set forth on the attached statements.</p> <p>I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</p>			
Signature of Authorized Officer		Date Signed	<u>2-4-2014</u>
<u>Thomas W. Wagoner</u>		Telephone Number	<u>951.658.3241</u>
Thomas W. Wagoner, General Manager		E-Mail Address	<u>twagoner@lhmwd.org</u>
Type or Print Name and Title of Authorized Signatory			
(38) Name of Agency Contact Person for Claim		Telephone Number	<u>951.658.3241</u>
Contact: <u>Karen Hornbarger</u>		E-mail Address	<u>khornbarger@lhmwd.org</u>
Name of Consulting Firm/Claim Preparer		Telephone Number	
		E-mail Address	

PROGRAM 334	LOCAL AGENCY ETHICS CLAIM SUMMARY
------------------------	----------------------------------------------

(01) Claimant Lake Hemet Municipal Water District	(02)	Fiscal Year 2012 /2013
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(03) Department

Direct Costs	Object Accounts
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(04) Reimbursable Activities	(a) Salaries	(b) Benefits	(c) Materials and Supplies	(d) Contract Services	(e) Fixed Assets	(f) Travel	(g) Total
1. Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses							
2. Provide expense report forms to the members of the legislative body							
3. Provide information on training courses to meet the ethics training requirements at least once annually							
4. Maintain training records indicating the dates and providers for five years			196.	2,654			3,494
(05) Total Direct Costs							

Indirect Costs

(06) Indirect Cost Rate	[From ICRP or 10%]	%
(07) Total Indirect Costs	[Refer to Claim Summary Instructions]	0
(08) Total Direct and Indirect Costs	[Line (05)(g) + line (07)]	\$ 3,494

Cost Reduction

(09) Less: Offsetting Revenues		0
(10) Less: Other Reimbursements		0
(11) Total Claimed Amount	[Line (08) - (line (09) + line (10))]	\$ 3,494

PROGRAM 334	LOCAL AGENCY ETHICS ACTIVITY COST DETAIL
------------------------	-----------------------------------------------------

(01) Claimant Lake Hemet Municipal Water District	(02) Fiscal Year 2012 /2013
------------------------------------------------------	--------------------------------

(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Adopt a written policy specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses	<input type="checkbox"/> Provide information on training courses to meet the ethics training requirements at least once annually
<input type="checkbox"/> Provide expense report forms to the members of the legislative body	<input type="checkbox"/> Maintain training records indicating the dates and providers for five years

(04) Description of Expenses			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials and Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel
General Counsel for the District Davis & Wojcik Atty at Law 1001 E Morton Pl #A Hemet, CA 92543 Joe Wojcik, Attorney Regina Anderson, Para-legal Printed Materials from Davis & Wojcik	 \$210/hr \$140/hr	 12.64 4.60			196.	2654. 644.		

(05) Total	<input checked="" type="checkbox"/>	Subtotal	<input type="checkbox"/>	Page: <u>1</u> of <u>1</u>	196	3298		
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LAKE HEMET MUNICIPAL WATER DISTRICT
 26385 Fairview Ave. - P.O. Box 5039
 Hemet, California 92544-0039
 Phone (951) 858-3241

THE BANK OF HEMET
 1600 EAST FLORIDA AVENUE
 HEMET, CALIFORNIA 92544
 951-882-2871

9034182
 1222

CONTROL NO. **220860**

PAY EXACTLY ***16,436 DOLLARS AND *NO* CENTS

517

CHECK NO.	DATE	AMOUNT
220860	02-20-13	*16,436.00

LAKE HEMET MUNICIPAL WATER DISTRICT

TO THE
 ORDER
 OF

DAVIS & WOJCIK
 1001 E MORTON PL
 SUITE A
 HEMET, CA 92543

ORIGINAL CHECK HAS A WATERMARK IN PAPER - HOLD UP TO LIGHT TO VIEW

⑈ 220860 ⑈ ⑆ 122234194 ⑆ 0205067601 ⑈

02-01-13 4364	SEXUAL HARASSMENT TRAINING	3426.00
02-01-13 4364	ETHICS TRAINING	3494.00
02-01-13 4364	GENERAL LEGAL	9516.00

RECEIVED
FEB 04 2013

517

DAVIS & WOJCIK

A PROFESSIONAL LAW CORPORATION

February 1, 2013

Tom:
Review +
ok for
payment.

(K)

Invoice submitted to:

Lake Hemet Municipal Water District
c/o Tom Wagoner, General Manager
26385 Fairview Avenue
P. O. Box 5039
Hemet, CA 92544

OK Wagner
to pay 2/4/2013

Professional services rendered for the following period:

January 3, 2013 through January 31, 2013 (General Matters)	\$13,736.00
January 2, 2013 through January 28, 2013 (Research)	<u>\$ 2,700.00</u>
TOTAL AMOUNT DUE	<u>\$16,436.00</u>

Sexual Harassment Training	3426.00
Ethics Training	<u>3494.00</u>
General Legal	9516.00

36-239-00



DAVIS & WOJCIK
 1001 E. Morton Place, Ste. A
 Hemet, CA 92543

DAVIS &
 WOJCIK

(951) 652-9000

A PROFESSIONAL
 LAW CORPORATION

Statement Date: 02/01/2013

Statement No. 4364

Account No. LAKEHEM.001

LAKE HEMET MUNICIPAL WATER DISTRICT
 C/O TOM WAGONER, GENERAL MANAGER
 26385 FAIRVIEW AVENUE
 P.O. BOX 5039
 HEMET, CA 92544

GENERAL MATTERS

STATEMENT FOR SERVICES RENDERED

		Rate	Hours	
01/03/2013	JMW [REDACTED]	210.00	0.40	84.00 ✓
01/04/2013	JMW [REDACTED] RE [REDACTED] T;	210.00		1,650.00 ✓
01/08/2013	JMW [REDACTED]	210.00	1.80	378.00
	JMW [REDACTED] RE: [REDACTED] RE:	210.00	0.60	126.00
01/09/2013	JMW [REDACTED] TO MR. RECEIPT [REDACTED]	210.00	1.60	336.00 ✓
01/10/2013	RMA [REDACTED]	140.00	0.30	42.00 ✓
01/11/2013	JMW [REDACTED] E	210.00	0.70	147.00
01/15/2013	JMW [REDACTED]			2,250.00 ✓

LAKE HEMET MUNICIPAL WATER DIS
 Account No. LAKEHEM.001
 RE: GENERAL MATTERS

Statement Date: 02/01/2013
 Statement No. 4364
 Page No. 2

		Rate	Hours	
	JMW [REDACTED]	210.00	0.80	168.00
	JMW [REDACTED]	210.00	0.80	168.00 ✓
01/16/2013	JMW [REDACTED]	210.00	2.70	567.00
	JMW [REDACTED]	210.00	4.60	966.00
01/17/2013	JMW [REDACTED]	210.00	3.60	756.00
01/21/2013	JMW [REDACTED]	210.00	2.80	588.00
	JMW [REDACTED]	210.00	0.30	63.00
01/23/2013	JMW [REDACTED]	210.00	0.80	168.00
01/24/2013	JMW [REDACTED]	210.00	0.80	168.00 ✓
01/25/2013	JMW [REDACTED]	210.00	1.20	252.00
01/28/2013	RMA [REDACTED]	140.00	0.80	112.00
	JMW [REDACTED]	210.00	1.20	252.00
	JMW ETHICS TRAINING AND PRINTED MATERIALS			2,850.00
	JMW [REDACTED]	210.00	2.40	504.00
01/29/2013	RMA PREPARE MEMO RE PUC CODE RE NOTICE TO TENANTS OF MOBILEHOME PARK	140.00	0.50	70.00

210.00 12.64 = 2654.
 materials = 196.

Karen Hornbarger

From: Lucia Rincon [lucia@davisandwojcik.com]
Sent: Wednesday, January 08, 2014 11:14 AM
To: Karen Hornbarger
Cc: Regina Anderson
Subject: FW: Ethics Training and Materials Breakdown

\$ 196

Hi Karen,

The amount for the ethics training materials was \$196.91 and balance of what was billed was for Joe's time.

Lucia J. Rincon, Legal Assistant

\$ 2654.

*Davis and Wojcik
1001 E. Morton Place, Suite A
Hemet, CA 92543
(951) 652-9000
(951) 658 8308 facsimile*

\$ 2850.

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From: Regina Anderson
Sent: Wednesday, January 08, 2014 10:35 AM
To: Lucia Rincon
Subject: FW: Ethics Training and Materials Breakdown

Can you look this up for Karen it is for the ethics training

*Regina M. Anderson, Paralegal
Davis and Wojcik
1001 E. Morton Place, Suite A
Hemet, CA 92543
(951) 652-9000
(951) 658-8308--facsimile*

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From: Karen Hornbarger [mailto:khornbarger@lhmwd.org]
Sent: Wednesday, January 08, 2014 10:34 AM
To: Regina Anderson
Subject: Ethics Training and Materials Breakdown



DAVIS & WOJCIK
 1001 E. Morton Place, Ste. A
 Hemet, CA 92543

DAVIS & WOJCIK (951) 652-9000

A PROFESSIONAL LAW CORPORATION

Statement Date: 02/01/2013

Statement No. 4365

Account No. LAKEHEM.002

LAKE HEMET MUNICIPAL WATER DISTRICT
 C/O TOM WAGONER, GENERAL MANAGER
 26385 FAIRVIEW AVENUE
 P.O. BOX 5039
 HEMET, CA 92544

RESEARCH

*Revised +
 attached 1-17*

STATEMENT FOR SERVICES RENDERED

			Rate	Hours	
01/02/2013	RMA	[REDACTED]	140.00	1.70	238.00 *
01/07/2013	RMA	[REDACTED]	140.00	4.10	574.00 *
01/08/2013	RMA	[REDACTED]	140.00	1.30	182.00 *
01/09/2013	RMA	[REDACTED]	140.00	0.50	70.00
01/10/2013	RMA	[REDACTED]	140.00	0.50	70.00 *
01/14/2013	RMA	[REDACTED]	140.00	0.80	112.00 *
01/23/2013	RMA	REVIEW ETHICS PRESENTATION AND UPDATE	140.00	4.10	574.00 ←
01/25/2013	RMA	ADDITIONAL PREPARATION FOR ETHICS TRAINING	140.00	0.50	70.00 ←
	MD	[REDACTED]	240.00	2.50	600.00
01/28/2013	RMA	[REDACTED]	140.00	1.50	210.00
		For Current Services Rendered		17.50	2,700.00
		Previous Balance			\$1,477.00
		Total Current Work			2,700.00

LAKE HEMET MUNICIPAL WATER DIS
Account No. LAKEHEM.002
RE: RESEARCH

Statement Date: 02/01/2013
Statement No. 4365
Page No. 2

Payments

01/28/2013	Payment - Thank you.	-1,477.00
	Balance Due	<u>\$2,700.00</u>

COMMISSION ON STATE MANDATES

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 SACRAMENTO, CA 95814
 PHONE: (916) 323-3562
 FAX: (916) 445-0278
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June 6, 2014

Mr. Jay Lal
 State Controller's Office
 Division of Accounting and Reporting
 3301 C Street, Suite 700
 Sacramento, CA 95816

Ms. Jill Kanemasu
 State Controller's Office
 Division of Accounting and Reporting
 3301 C Street, Suite 700
 Sacramento, CA 95816

And Parties, Interested Parties and Interested Persons (See Mailing List)

RE: **Draft Proposed Amended Statewide Cost Estimate, Schedule for Comments, and Notice of Hearing**

Local Agency Ethics (AB 1234), 07-TC-04

Government Code Sections 53232.2(b), 53232.3(a) and (b), 53235(f), and 53235.2(a)
 Statutes 2005, Chapter 700

State Controller's Office, Requester

Dear Mr. Lal and Ms. Kanemasu:

The draft staff analysis and proposed amended statewide cost estimate for this matter are enclosed for your review and comment.

Written Comments

Written comments on the draft staff analysis and proposed amended statewide cost estimate may be filed by **June 16, 2014**. If you would like to request an extension of time to file comments, please refer to section 1183.01(c)(1) of the Commission's regulations (California Code of Regulations, title 2).

Hearing

This matter is set for hearing on **Friday, July 25, 2014** at 10:00 a.m. in Room 447, State Capitol, Sacramento, CA. The final staff analysis will be issued on or about July 11, 2014. This matter is proposed for the Consent Calendar. Please let us know in advance if you oppose having this item placed on consent and wish to testify at the hearing, or have a representative testify on your behalf, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01(c)(2) of the Commission's regulations.

Please contact Jason Hone at (916) 323-3562 if you have any questions.

Sincerely,

Heather Halsey
 Executive Director

Item ___

DRAFT PROPOSED AMENDED STATEWIDE COST ESTIMATE
Approximately \$19,352 to \$38,194 for Initial and First Year Annual Costs

(Approximate Prospective Cost of \$0 to \$11,130 Annually)

Government Code Sections 53232.2(b), 53232.3(a) and (b), 53235(f) and 53235.2(a)

Statutes 2005, Chapter 700

Local Agency Ethics (AB 1234)

07-TC-04

State Controller's Office, Requester

STAFF ANALYSIS

Background and Summary of the Mandate

This program addresses activities of local agencies related to transparency and ethics training for members of the legislative bodies of local agencies. Specifically, it addresses the policymaking, reporting, recordkeeping, and notice requirements imposed on local agencies if they provide any type of compensation, salary, or stipend to a member of a legislative body, or provide reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties.

On May 25, 2012, the Commission on State Mandates (Commission) adopted a statement of decision¹ finding that the test claim statutes impose a partially reimbursable state-mandated program on general law counties and those special districts subject to the tax and spend provisions of articles XIII A and XIII B of the California Constitution, *that are required by their enabling act to provide compensation or reimbursement of expenses to perform the reimbursable activities to their members*, within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.² (Emphasis added.)

Eligible claimants were required to file initial reimbursement claims, for costs incurred between July 1, 2006, and June 30, 2012, with the State Controller's Office (SCO) by May 3, 2013. Late initial reimbursement claims may have been filed until May 3, 2014. Annual reimbursement claims for fiscal year 2012-2013 were due by February 18, 2014.

Eligible Claimants and Period of Reimbursement

General law counties and those eligible special districts subject to the tax and spend provisions of articles XIII A and XIII B of the California Constitution, that are required by their enabling

¹ Exhibit A, Test Claim Statement of Decision.

² Note that many special districts do not have such a requirement in their enabling act and so this determination will need to be made by the SCO on a district, by district basis. Only districts with such a statutory requirement are entitled to reimbursement under this program.

act to provide reimbursement of expenses to perform the reimbursable activities, are eligible to claim reimbursement.

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The test claim was filed on October 23, 2007, establishing eligibility for reimbursement for the 2006-2007 fiscal year. Therefore, the costs incurred for compliance with the mandated activities are reimbursable on or after July 1, 2006.

Reimbursable Activities

The parameters and guidelines³ were adopted on September 28, 2012 finding only the following limited activities reimbursable:

1. Adopt a written policy, in a public meeting specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses relating to travel, meals, lodging and other actual and necessary expenses;⁴
2. Provide expense report forms;⁵
3. Provide information on training courses to meet the ethics training requirements imposed by the test claim statute to its local officials at least once annually;⁶ and
4. Maintain training records, inclusive of training date and training provider, for five years.⁷

The test claim decision specifically found that *providing the ethics training was not a reimbursable activity*, since the duty to receive the training is imposed on the local official, not the local agency.⁸ Additionally, the Commission found that the *reimbursement of expenses which are paid by the local agency is not reimbursable*.⁹

³ Exhibit B, Parameters and Guidelines.

⁴ Government Code section 53232.2(b).

⁵ Government Code section 53232.3(a).

⁶ Government Code section 53235(f).

⁷ Government Code section 53235.2(a).

⁸ On page 26 of the test claim decision it states: “The plain language of Government Code section 53235.1 does not require local agencies to perform any activities. Rather, it provides a training timetable and specifies frequency requirements imposed on local agency officials if the local agency provides compensation or reimbursement of expenses. This section provides that if the local agency provides compensation or reimbursement of expenses then “*each local agency official* in local agency service as of . . . shall receive the training. . . .” Thus the training requirement is imposed on the local agency officials themselves, and not on the local agency.”

⁹ On page 33 of the test claim decision it states: “With regard to claimants’ alleged activity of requiring reimbursement of expenses, the test claim statute does not require reimbursement. Rather, the test claim statute added requirements for those local agencies that provide reimbursement, whether or not they are required to do so. General law counties were required to reimburse the members of their legislative bodies under the law in effect immediately prior to the enactment of the test claim statute.⁹ With regard to those eligible special districts that are required to provide reimbursement to the members of their legislative bodies, the test claim statute did not add this requirement to their special acts or principal acts. They also were

Offsetting Revenues

The Parameters and Guidelines provide:

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, *reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.* [Emphasis added].

As was noted in the test claim decision, most enterprise districts (such as water and sanitary districts) are primarily funded with fees.¹⁰ To the extent they have used fees, as opposed to proceeds of taxes, to pay for the costs of the program, those costs are not reimbursable.

Amended Statewide Cost Estimate

Request to Amend Previously Adopted Statewide Cost Estimate

The Commission adopted a statewide cost estimate of \$0 for this program on July 26, 2013.¹¹ That estimate was based on one reimbursement claim submitted by one special district, Idyllwild Water District (Idyllwild), to the SCO. Based on the most recent *Special Districts Annual Report* available at the time, Commission staff determined that Idyllwild Water District was not subject to the tax and spend limitations of articles XIII A and XIII B of the California Constitution, and was therefore not an eligible claimant.¹²

On May 5, 2014, the SCO filed a request¹³ for an amended statewide cost estimate based on late claims filed by Colusa County and evidence submitted to the SCO to support Idyllwild's standing as an eligible special district claimant, subject to the taxing and spending limitations of the California Constitution.

Assumptions

In the previously adopted statewide cost estimate staff reviewed the only claim available at the

required reimburse the members of their legislative bodies under the law in effect immediately prior to the enactment of the test claim statute.⁹ Therefore, the Commission finds that the requirement for general law counties and certain eligible special districts to reimburse the members of their legislative bodies is not new, and not eligible for reimbursement pursuant to article XIII B, section 6.”

¹⁰ Exhibit A, Test Claim Statement of Decision, Page 13.

¹¹ Exhibit C, Statewide Cost Estimate adopted July 26, 2013.

¹² The SCO issues an annual report that identifies those special districts that collect tax revenue and are subject to the spending limitations of article XIII B. On October 30, 2012, the SCO issued its *Special Districts Annual Report* for fiscal year 2010-2011. This report showed that Idyllwild Water District was not subject to the appropriations limit of article XIII B, thus making it an ineligible claimant for mandates purposes. Special districts have a statutory duty to submit annual reports to the SCO pursuant to Government Code section 12463, which provide the information on which the SCO's annual report is based.

¹³ Exhibit D, SCO Request to Amend the Statewide Cost Estimate filed May 5, 2014.

time. That claim was filed by Idyllwild for fiscal year 2011-2012 for a total of \$21,195.¹⁴ To be eligible to claim reimbursement for state mandated costs, a claimant must be both: 1) a local agency; and 2) subject to the tax and spend limitations of articles XIII A and B of the California Constitution. With the May 5, 2014, request to amend the previously adopted statewide cost estimate, the SCO provided a board resolution from Idyllwild establishing the district's appropriation limit, demonstrating that it is subject to the tax and spend limitations of articles XIII A and B of the California Constitution. Additionally, the SCO request included data for late claims from the County of Colusa received on May 23, 2013.

While it appears Idyllwild has standing as an eligible claimant to file a test claim for state mandated costs because it is a local agency subject to the taxing and spending limitations of the California Constitution; for purposes of reimbursement, a special district must also demonstrate that the costs incurred in complying with the mandated program were paid for using proceeds of taxes and not service charges or some other source of non-tax revenue. All revenues other than tax revenues are offsetting revenues for mandate reimbursement purposes.

Based on this information, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

- *Future annual amounts claimed for reimbursement may increase and exceed the estimated annual claim amount in this statewide cost estimate.*
 - There are currently 44 general law counties and approximately 610 eligible special districts in California. However, very few eligible claimants have filed a reimbursement claim. Although the deadline of May 3, 2014 to file late initial claims for this program for fiscal years 2006-2007 through 2011-2012 has passed, more eligible claimants may file annual claims for this program in the future.
- *There may be several reasons that non-claiming general law counties and eligible special districts did not file for reimbursement, including but not limited to:*
 - The Commission approved only a few minor administrative activities for this program and found that the test claim statute does not impose a state-mandated program on most local agencies and that the most costly activities claimed, the compensation and reimbursement of members of local agency legislative bodies for ethics training and related travel are not required by the test claim statute. Therefore, eligible claimants may not be able to reach the \$1,000 threshold for filing annual reimbursement claims.
 - Eligible claimants did not have supporting documentation to file a reimbursement claim.
- *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.*
 - The SCO may conduct audits and reduce any claims it deems to be excessive or unreasonable.
 - The test claim decision specifically denied the costs of training or travel to training, so to the extent that reimbursement claims are submitted for these activities, they will be reduced by the SCO upon audit. In a desk review of the filed claim forms, Commission staff notes that it appears that many of the claimed activities exceed the

¹⁴ Claims data reported as of May 17, 2013.

limited scope of this reimbursable mandate. For example:

- Colusa County filed claims for three fiscal years totaling \$14,408.25. Of that total, \$12,319.92 is claimed for the activity to "Provide expense report forms to the members of the legislative body." In their claims, compensation for several employees, including several board of supervisor members, is listed at two or more hours each with the expense description reading "Ethics Training" under each employee's name. This was submitted for the reimbursable activity to "Provide expense report forms to the members of the legislative body."
- The \$3,494 claim from Lake Hemet Municipal Water District for FY 2012-13 lists expenditures under the category of "Maintain training records indicating the dates and providers for five years," however, attached documentation identifies costs as "Ethics Training and Printed Materials" provided by a contracted law firm.
- The \$21,195 claim from Idyllwild Water District for fiscal year 2011-12 included \$13,260 for the reimbursable activity to "Provide information on training courses to meet the ethics training requirements at least once annually." Expenses for one employee are claimed under this activity. This employee's expenses include 152 hours of salary and benefits, as well as materials and travel.
- In its capacity as an auditor, the SCO may determine the extent to which proceeds of taxes are used by a special district to fund the costs of this reimbursable program, since only costs which must be paid with proceeds of taxes are reimbursable. It is expected that many enterprise districts, even if subject to the taxing and spending restrictions of the Constitution, will nonetheless not be entitled to reimbursement since they did not expend proceeds of taxes for the program.
- *The total amount of reimbursement for this program may be lower than the statewide cost estimate because fewer eligible claimants may be able to reach the \$1,000 threshold for filing annual reimbursement claims.*
 - Given the low cost of the three ongoing activities to provide expense report forms;¹⁵ provide information on training courses to meet the ethics training requirements imposed by the test claim statute to its local officials at least once annually;¹⁶ and maintain training records, inclusive of training date and training provider, for five years,¹⁷ it may be difficult for many claimants to reach the threshold for future claims. Presumably adopting the policy in the initial claiming period is the most costly activity and the initial claiming period has ended.

Methodology

Fiscal Years 2006-2007 through 2012-2013

The amended statewide cost estimate for fiscal years 2006-2007 through 2012-2013 was developed by totaling the three reimbursement claims filed with the SCO for the initial claiming

¹⁵ Exhibit A. Government Code section 53232.3(a).

¹⁶ Exhibit A. Government Code section 53235(f).

¹⁷ Exhibit A. Government Code section 53235.2(a).

period (2006-2007 through 2011-2012) as well as the two annual claims filed for 2012-2013. The two annual claims filed for the 2012-2013 fiscal year were:

1. \$5,374 claimed by County of Colusa, filed January 21, 2014; and
2. \$3,494 claimed by Lake Hemet Municipal Water District, filed February 6, 2014.

Staff finds that the averages for the most recent three-year period are likely the most indicative of future annual costs. Based on the last three years of claims data, costs averaged \$11,130 annually. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
<i>Initial Claiming Period</i>		
2006-2007	1 ¹⁸	\$4,803
2007-2008	0	\$0
2008-2009	0	\$0
2009-2010	0	\$0
2010-2011	1 ¹⁹	\$3,328
2011-2012	1	\$21,195
Subtotal	3	\$29,326
<i>Annual Claims</i>		
2012-2013	2	\$8,868
TOTAL	8	\$38,194

Staff Recommendation

Based on the forgoing, staff recommends the Commission adopt the proposed amended statewide cost estimate of approximately **\$19,352 to \$38,194** for initial and first year annual costs incurred in complying with the *Local Agency Ethics (AB 1234)* program and approximate prospective costs of **\$0 to \$11,130** annually.

¹⁸ The County of Colusa filed late claims for two fiscal years of the initial claiming period. The respective figures in this table have been adjusted by Commission staff to account for the 10% late filing penalty that would be assessed by the SCO.

¹⁹ See above.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Yolo and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On June 6, 2014, I served the:

Draft Proposed Amended Statewide Cost Estimate, Schedule for Comments, and Notice of Hearing

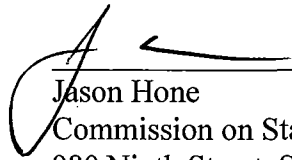
Local Agency Ethics (AB 1234), 07-TC-04

Government Code Sections 53232.2(b), 53232.3(a) and (b), 53235(f), and 53235.2(a)
Statutes 2005, Chapter 700

State Controller's Office, Requester

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on June 6, 2014 at Sacramento, California.



Jason Hone
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 5/21/14

Claim Number: 07-TC-04

Matter: Local Agency Ethics (AB 1234)

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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JOHN CHIANG
California State Controller
Division of Accounting and Reporting

RECEIVED
June 16, 2014
Commission on
State Mandates

June 16, 2014

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

Re: Draft Proposed Amended Statewide Cost Estimate, Schedule for Comments, and
Notice of Hearing
Local Agency Ethics (AB 1234), 07-TC-04
Government Code Sections 53232.2(b), 53232.3(a) and (b), 53235(f), and 53235.2(a)
Statutes 2005, Chapter 700
State Controller's Office, Requester

Dear Ms. Halsey:

The State Controller's Office reviewed the proposed amendment to the statewide cost estimate for the Local Agency Ethics program and recommends no changes.

Should you have any questions regarding the above, please contact Nick Kondoleon at (916) 322-8733 or email NKondoleon@sco.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "JAY LAL", with a long horizontal flourish extending to the right.

JAY LAL, Manager
Local Reimbursements Section

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Yolo and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On June 17, 2014, I served the:

SCO Comments on Draft Proposed Amended Statewide Cost Estimate

Local Agency Ethics (AB 1234), 07-TC-04

Government Code Sections 53232.2(b), 53232.3(a) and (b), 53235(f), and 53235.2(a)

Statutes 2005, Chapter 700

State Controller's Office, Requester

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on June 17, 2014 at Sacramento, California.



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Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 6/10/14

Claim Number: 07-TC-04

Matter: Local Agency Ethics (AB 1234)

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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