



Cognitors

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May 27, 2020  
Commission on  
State Mandates

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May 23, 2020

Commission on State Mandates  
State of California  
Sacramento, CA

Re: **Public Comment** -- SANDAG Independent Performance Auditor, 19-TC-03

Commission Members:

I am writing in support of your determination that AB 805 (October 11, 2017) is an unfunded mandate. AB 805 amended Public Utilities Code § 132354.1 to require that the San Diego Association of Governments (SANDAG) appoint an independent performance auditor who may only be removed for cause by a vote of at least two-thirds of the audit committee and the board.

Section 19 of AB 805 contemplates your determination that AB 805 imposes an unfunded mandate. (“If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made....”)

AB 805 clearly “mandates a new program or higher level of service” within the meaning of Const. Art. XIII-B, Section 6. Specifically, PUC section 132354.1 imposes upon SANDAG – *and upon SANDAG only* – a duty with accompanying expense that does not otherwise exist under California law, i.e., the duty to appoint an independent performance auditor who has expansive responsibilities and authority. This is manifest from the text of § 132354.1 which endows the mandated independent performance auditor with “the power to appoint, employ, and remove assistants, employees, and personnel.” As such, all reasonable costs of SANDAG’s Office of the Independent Performance Auditor are reimbursable as an unfunded mandate.

Very respectfully,

Paul J. Dostart

## DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento 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 28, 2020, I served the:

- **City of Chula Vista's Comments on the Test Claim filed May 27, 2020**
- **City of El Cajon's Comments on the Test Claim filed May 27, 2020**
- **Mr. Paul J. Dostart's Comments on the Test Claim filed May 27, 2020**
- **San Diego County Supervisor, Fifth District's Comments on the Test Claim filed May 26, 2020**

*SANDAG: Independent Performance Auditor, 19-TC-03*  
Public Utilities Code Section 132354.1 (b)(1), (2), (3), (4)  
San Diego Association of Government (SANDAG), 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 28, 2020 at Sacramento, California.

*Lorenzo Duran*

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Lorenzo Duran  
Commission on State Mandates  
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# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 5/5/20

**Claim Number:** 19-TC-03

**Matter:** SANDAG: Independent Performance Auditor

**Claimant:** San Diego Association of Government (SANDAG)

### 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, § 1181.3.)

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