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April 16, 2025

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RECEIVED
April 16, 2025
**Commission on
State Mandates**

Juliana F. Gmur
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
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And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Rebuttal to the Department of Finance
Notification by Peace Officers, 24-TC-03
Statutes 2022, Chapter 805, Section 5 (AB 2773); Vehicle Code Section
2806.5
County of Los Angeles, Claimant

Dear Director Gmur:

The County of Santa Clara ("County") files its rebuttal to the Commission on State Mandates ("Commission") in response to the Department of Finance ("DOF"), which commented on test claim 24-TC-03 ("Test Claim"), concerning peace officer stops. The Test Claim asserts that AB 2773, which adds section 2806.5 to the Vehicle Code, imposes an unfunded mandate on counties and thus requires subvention pursuant to article XIII B, section 6 of the California Constitution ("Section 6").

In response to the Claimants legal argument and account of costs concerning "Traffic Stops," DOF "contends that officers were already conducting traffic stops and already know the reason for the stop, and that providing the reason for the stop verbally is not a new or higher level of service." (DOF Comment, at p. 2.) The County respectfully disagrees and urges the Commission to find that AB 2773, through the addition of Vehicle Code section 2806.5, imposes a new or higher level of service.

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The actions compelled by Vehicle Code section 2806.5 impose a new program or higher level of service because “the requirements are new in comparison with the preexisting scheme in view of the circumstance that they did not exist prior to the enactment of [AB 2773]” and “the requirements were intended to provide an enhanced service to the public.” (*San Diego Unified Sch. Dist. v. Comm’n on State Mandates* (2004) 33 Cal. 4th 859, 878.)

To start, DOF itself recognizes earlier in its comment that “[p]rior to 2024, peace officers were not required to state the reason for a traffic or pedestrian stop before engaging in questioning.” (DOF Comment, at p. 1.) This observation is consistent with the text of AB 2773 and the Legislature’s understanding of the bill in committee reports, neither of which convey that AB 2773 is declaratory of existing law. Subdivision (c) of Vehicle Code section 2806.5 states that the “section shall become operative on January 1, 2024.” It would be unnecessary to set a future effective date if the statute merely declared existing law. Further, both the Senate Floor Analysis and the Assembly Concurrence Report make the same distinction between then-existing law and AB 2773, stating that the bill newly introduces a requirement for a peace officer making a traffic or pedestrian stop, before engaging in questioning related to a criminal investigation or traffic violation, to state the reason for the stop, unless the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat. (Sen. Floor Analysis, Bill No. 2773 (2021-2022 Reg. Sess., pp. 3-4; Assem. Concurrence in Senate Amendments, Bill No. 2773 (2021-2022 Reg. Sess.), p. 1.)

Moreover, the requirement to state the reason for traffic and pedestrian stops provides an enhanced service to stopped individuals and the broader public. Prior to the enactment of AB 2773, an individual motorist or pedestrian stopped by a peace officer might not be given a reason and might instead be asked by the officer if the *individual* knew why they were being stopped. The requirement under AB2773 thus enhances the likelihood of a lawful stop.

These benefits extend to the broader public. As captured in the Senate Floor Analysis for AB 2773, the bill author intended “to promote equity and accountability in communities across California,” and “bring[] transparency to [the] service of protecting our public.” (Sen. Floor Analysis, at p. 4.) In particular, the notification requirement added via Vehicle Code section 2806.5 addresses the many criticisms associated with law enforcement practice in the wake of *Whren v. United States* (1996) 517 U.S. 806, which found no Fourth Amendment violation by peace officers who temporarily detain individuals where an officer has probable cause to believe the individual has violated traffic laws. (*Ibid.*) As the legislative material explains, “*Whren* has given rise to what have been dubbed ‘pretext stops,’ a practice in which a law enforcement officer uses a minor traffic violation as a pretext to stop a vehicle in order to investigate other possible crimes.” (*Ibid.*) Critics claim that pretext stops drive “racial bias in law enforcement”

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and give “officers carte blanche to stop a vehicle.” (*Ibid.*) To address these “racial disparities in police stops and in an effort to improve police accountability,” the bill author introduced AB 2773 to require officers to communicate and document the reason for their stop. (*Id.* at pp. 5-6.) These aims of AB 2773 reflect the California Supreme Court’s view that enhanced services promote a social good. (See *San Diego Unified Sch. Dist.*, *supra*, 33 Cal. 4th at p. 878 [highlighting the benefits of “safer schools for the vast majority of students”].)

By mandating that peace officers provide a reason for certain traffic or pedestrian stops, AB 2773 thus imposes a new or higher level of service. The County urges the Commission to find that the new and modified activities as outlined by the County of Los Angeles constitute a reimbursable mandate in the meaning of Section 6 of Article XIII B of the California Constitution.

Certification

I certify by my signature below, under penalty of perjury under the laws of the State of California, that the statements made in this document are true and complete to the best of my own personal knowledge or based on information and belief and that I am authorized and competent to do so.

Very truly yours,
TONY LOPRESTI
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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.

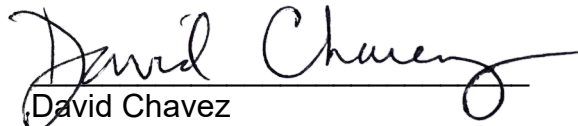
On April 17, 2025, I served the:

- **Current Mailing List dated April 10, 2025**
- **County of Santa Clara's Rebuttal Comments filed April 16, 2025**

Stops: Notification by Peace Officers, 24-TC-03
Statutes 2022, Chapter 805, Section 5 (AB 2773); Vehicle Code Section 2806.5
County of Los Angeles, 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 April 17, 2025 at Sacramento, California.



David Chavez
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 4/10/25

**Claim
Number:** 24-TC-03

Matter: Stops: Notification by Peace Officers

Claimant: County of Los Angeles

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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