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STATE OF CALIFORNIA COMMISSION ON STATE MANDATES

REPORT TO THE LEGISLATURE: INCORRECT REDUCTION CLAIMS

January 1, 2013 – December 31, 2013

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INTRODUCTION

Government Code section 17602 requires the Commission on State Mandates (Commission) to report to the Legislature “the number of individual and consolidated incorrect reduction claims decided during the preceding calendar year and whether and why the reduction was upheld or overturned.” This report fulfills that requirement.

Government Code section 17561(b) authorizes the State Controller’s Office (SCO) to audit claims filed by local agencies and school districts and to reduce any claim for reimbursement of state-mandated costs that the State Controller’s Office determines is excessive or unreasonable.

Government Code Section 17551(d) requires the Commission to hear and decide a claim that the State Controller’s Office has incorrectly reduced payments to the local agency or school district (incorrect reduction claims or IRCs). If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.7 of the Commission’s regulations requires the Commission to send the statement of decision to the State Controller’s Office and request that the costs in the claim be reinstated.

This report includes a summary list of completed IRCs that were settled and withdrawn as a result of the Commission’s strategic approach to prioritizing for hearing those claims with many cross cutting issues and facilitating the work of the SCO and claimants in reevaluating pending IRCs consistent with the Commission’s decisions. As a result of continued work by all of the parties, 32 IRCs were resolved in 2013.

SUMMARY OF COMPLETED CLAIMS

Withdrawn Incorrect Reduction Claims

The filing of an Incorrect Reduction Claim (IRC) is an appeal of a State Controller's Office (SCO) decision. The SCO is authorized, by desk review or field audit, to reduce reimbursement claims that it deems excessive or unreasonable. The claimant is then authorized to appeal any reduction by filing an IRC with the Commission on State Mandates (Commission). Unlike test claims, where one claimant represents all potential claimants statewide in a manner analogous to a class action lawsuit, individual claimants file IRCs with the Commission and seek redress for reductions that apply directly only to that one claimant.¹ The process for resolving IRCs can be complex, and differs with each claim. For some claims, once the claimant files an IRC, an informal conference is conducted where Commission staff mediates the issues in dispute between the claimant and the SCO. If the issues are resolved in the informal conference, the IRC is settled and the claimant withdraws the IRC. The claimant and the SCO can also negotiate a resolution independent of Commission staff.

A total of 32 IRCs were resolved by the parties and withdrawn by the claimant between January 1, 2013 and December 31, 2013. Below is a breakdown of those withdrawn IRCs by mandated program.

Investment Reports (CSM 96-358-02) – 25 IRCs

- *Investment Reports*, 02-9635802-I-04
- *Investment Reports*, 02-9635802-I-06
- *Investment Reports*, 02-9635802-I-07
- *Investment Reports*, 02-9635802-I-09
- *Investment Reports*, 02-9635802-I-17
- *Investment Reports*, 02-9635802-I-18
- *Investment Reports*, 02-9635802-I-24
- *Investment Reports*, 02-9635802-I-25
- *Investment Reports*, 02-9635802-I-29
- *Investment Reports*, 02-9635802-I-34
- *Investment Reports*, 02-9635802-I-44
- *Investment Reports*, 02-9635802-I-50
- *Investment Reports*, 02-9635802-I-52
- *Investment Reports*, 02-9635802-I-53
- *Investment Reports*, 02-9635802-I-54
- *Investment Reports*, 02-9635802-I-55
- *Investment Reports*, 02-9635802-I-56
- *Investment Reports*, 02-9635802-I-57
- *Investment Reports*, 02-9635802-I-61
- *Investment Reports*, 02-9635802-I-63
- *Investment Reports*, 02-9635802-I-64
- *Investment Reports*, 02-9635802-I-65
- *Investment Reports*, 02-9635802-I-66
- *Investment Reports*, 02-9635802-I-69

¹ California has 58 counties, so county claims are limited to 58 potential IRCs per test claim. Mandates involving cities or school districts, however, create the potential for over 1,500 IRCs per test claim.

- *Investment Reports*, 02-9635802-I-70

Notification of Truancy (CSM 4133) – Three IRCs

- *Notification of Truancy*, 05-904133-I-03
- *Notification of Truancy*, 08-904133-I-06
- *Notification of Truancy*, 10-904133-I-08

Interdistrict Attendance Permits (CSM 4442) – Two IRCs

- *Interdistrict Attendance Permits*, 07-4442-I-01
- *Interdistrict Attendance Permits*, 09-4442-I-02

Open Meetings Act (CSM 4257) – One IRC²

- *Open Meetings Act*, 04-4257-I-367

Standardized Testing and Reporting (97-TC-23) – One IRC

- *Standardized Testing and Reporting*, 08-9723-I-02

STRATEGIC APPROACH TO IRC BACKLOG REDUCTION

The Investment Reports program resulted in 70 IRCs. Several of those claims had cross cutting issues. To efficiently reduce the backlog for this program, staff prioritized hearing those claims with many cross cutting issues. Commission staff also conducted several informal conferences with the parties to encourage the informal resolution of the remaining claims. Commission staff prepared stipulations, which were signed by many of the parties, in which the SCO agreed to reevaluate the IRCs on the Investment Reports program consistent with the Commission's decisions in the Investment Reports Incorrect Reduction Claims. The claimants also agreed to make available to the SCO, as may be requested, all documentation in support of claimed costs. As a result of continued work by all of the parties, there are now only 12 remaining IRCs for this program. Commission staff expects most or all of the remaining IRCs on this program to be resolved in 2014, as the parties continue to work toward reaching settlement.

The Commission remains committed to continuing to eliminate the entire IRC backlog by adhering to the first-in-time policy, unless circumstances justify an exception. The following are strategies the Commission is employing to more efficiently decide matters, with a goal of eliminating the backlog as soon as possible: (1) claim consolidation; (2) common issues; (3) simple test claims and single-issue IRCs; and (4) stakeholder requests.

1. Claim Consolidation – It may be appropriate in some cases to consolidate IRCs so that one analysis and statement of decision adopted by the Commission support multiple claims. Government Code section 17558.8 and section 1185.2 of the Commission's regulations allow the executive director to consolidate IRCs. However, consolidation has been used sparingly for IRCs because it only works if the issues of law and fact are the same, and the Controller auditors were consistent in making claim reductions based on similar documentation. Commission staff is working closely with Controller staff and the claimant community to identify situations where claims can be consolidated.

² This IRC was withdrawn after the draft staff analysis and proposed decision was prepared by Commission staff and issued for public comment. The IRC was set for hearing on January 24, 2014 and the draft staff analysis and proposed decision was issued for public comment on November 27, 2013. The claimant requested withdrawal of the IRC on December 13, 2013.

2. Cross-cutting Issues – Commission staff is working with the Controller and members of the claimant community to identify issues that are common to multiple IRCs. If the Commission decides an issue in one matter that is contested in other matters, the time required to complete those other matters will be reduced. For example, in 2010, the Commission adopted decisions on the County of Los Angeles and the City of Tustin Investment Reports IRCs. In doing so, the Commission resolved certain issues that are common to nearly all of the Investment Reports IRCs. It appears that many of the other issues in the remaining IRCs may be resolved informally through negotiations with claimants and Controller staff.
3. Stakeholder Requests – Commission staff occasionally receives requests from individual claimants to expedite certain matters. Naturally, all claimants would like their claims decided as quickly as possible. Though generally such requests are disfavored in the interest of fairness to other claimants, on occasion certain matters may be expedited, particularly where consolidation with an earlier filed claim is appropriate.