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STATE OF CALIFORNIA COMMISSION ON STATE MANDATES

REPORT TO THE LEGISLATURE: APPROVED MANDATE CLAIMS

January 1, 2016 – June 30, 2016

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I. INTRODUCTION

Commission on State Mandates

Test Claim Process

Article XIII B, section 6 of the California Constitution requires the state to provide a subvention of funds to reimburse local government for the costs of new programs or increased levels of service mandated by the state. To implement article XIII B, section 6, the Legislature created the Commission on State Mandates (Commission) to succeed the State Board of Control in making determinations whether new statutes or executive orders are state-mandated programs.¹ The Commission was established to render sound quasi-judicial decisions and to provide an effective means of resolving disputes over the existence of state-mandated local programs. The Commission provides the sole and exclusive procedure for local agencies and school districts (claimants) to resolve disputes over the existence of state-mandated local programs and costs mandated by the state. The Commission is required to hear and decide claims (test claims) filed by local agencies and school districts that they are entitled to be reimbursed by the state for costs mandated by the state.²

Parameters and Guidelines

Government Code section 17557 provides that if the Commission determines that a statute or executive order imposes a mandate upon local agencies and school districts, the Commission is required to determine the amount to be subvended to local agencies and school districts for reimbursement by adopting parameters and guidelines. In adopting parameters and guidelines, the Commission may adopt a reasonable reimbursement methodology (RRM). Once parameters and guidelines are adopted, the Commission is required to adopt a statewide cost estimate of the mandated program (Gov. Code, § 17553).

Alternative Processes

Government Code section 17557.1 and 17557.2 provide an alternate process for determining the amount to be subvended for mandated programs. Under 17557.1, local governments and the Department of Finance may jointly develop reasonable reimbursement methodologies (RRMs) and statewide estimates of costs for mandated programs for approval by the Commission in lieu of parameters and guidelines and statewide cost estimates. Government Code section 17557.2 requires that joint RRMs have broad support and, if approved, they remain in effect for five years unless otherwise specified. Jointly developed RRMs and statewide estimates of costs that are approved by the Commission are included in the Commission's Annual Reports to the Legislature. To date, only one jointly developed RRM has ever been approved and it expired and was not extended by the parties so the Commission adopted parameters and guidelines for that program.

Government Code sections 17572 and 17573 provide another alternative process where the Department of Finance and local agencies, school districts, or statewide associations may jointly request that the Legislature determine that a statute or executive order imposes a state-mandated program, establish a reimbursement methodology, and appropriate funds for reimbursement of costs. This process is intended to bypass the Commission's test claim process, thus providing the Commission with more time to complete the caseload backlog. To date, this process has not been successfully utilized.

¹ Statutes 1984, chapter 1459, Government Code section 17500, et seq.

² Government Code section 17551.

Report to the Legislature

The Commission is required to report to the Legislature at least twice each calendar year on the number of mandates it has found, the estimated statewide costs of each mandate, and the reasons for recommending reimbursement.³ In 2010, SB 894 (Stats. 2010, ch. 699) was enacted to require the Commission to expand its Report to the Legislature to include:

- The status of pending parameters and guidelines that include proposed reimbursement methodologies.
- The status of pending joint proposals between the Department of Finance and local governments to develop reasonable reimbursement methodologies in lieu of parameters and guidelines.
- The status of joint proposals between the Department of Finance and local governments to develop legislatively-determined mandates.
- Any delays in the completion of the above-named caseload.

This report fulfills these requirements.

Legislative Analyst

After the Commission submits its report to the Legislature, the Legislative Analyst is required to submit a report to the Joint Legislative Budget Committee and legislative fiscal committees on the mandates included in the Commission's reports. The Legislative Analyst's report shall make recommendations as to whether each mandate should be repealed, funded, suspended, or modified.

The Legislature

Upon receipt of the report submitted by the Commission pursuant to Government Code Section 17600, funding shall be provided in the subsequent Budget Act for costs incurred in prior years. No funding shall be provided for years in which a mandate is suspended.⁴

The Legislature may amend, modify, or supplement the parameters and guidelines, reasonable reimbursement methodologies, and adopted statewide estimates of costs for the initial claiming period and budget year for mandates contained in the annual Budget Act. If the Legislature amends, modifies, or supplements the parameters and guidelines, reasonable reimbursement methodologies, or adopted statewide estimates of costs for the initial claiming period and budget year, it shall make a declaration in separate legislation specifying the basis for the amendment, modification, or supplement.⁵

Mandate Funding Provisions

If the Legislature deletes from the annual Budget Act funding for a mandate, the local agency or school district may file in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement for that fiscal year.⁶ Under Proposition 1A, which amended article XIII B, section 6 of the California Constitution, city, county, city and county, or special district mandate claims for costs incurred

³ Government Code section 17600.

⁴ Government Code section 17612(a).

⁵ Government Code section 17612(b).

⁶ Government Code section 17612(c).

prior to the 2004-2005 fiscal year that have not been paid prior to the 2005-2006 fiscal year may be paid over a term of years, as prescribed by law. However, for the 2005-2006 fiscal year and every subsequent fiscal year, the Constitution now requires the Legislature to either appropriate in the annual Budget Act the full payable amount that has not been previously paid or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable.

If payment for an initial reimbursement claim is being made more than 365 days after adoption of the statewide cost estimate, the State Controller’s Office (Controller) shall include accrued interest at the Pooled Money Investment Account rate.⁷

If the Legislature appropriates the amount of the statewide cost estimate and actual claims exceed this amount, the Controller will prorate the claims.⁸ If the funds to cover the remaining deficiency are not appropriated in the Budget Act, the Controller shall report this information to the legislative budget committees and the Commission.

II. NEW MANDATES

The following table shows the statewide cost estimates that were adopted during the period of January 1, 2016 through June 30, 2016.

**Statewide Cost Estimates (SCE) Adopted
During the Period of January 1, 2016 through June 30, 2016**

<i>Adoption Date, Claim Name and Number, and Initial Claiming Period</i>			<i>Estimated Costs for Initial Claiming Period</i>			<i>Estimated Future Annual Costs</i>
Date	Test Claim Name and Number	Initial Claiming Period	Education (K-14)	Local Agency	Totals	Annual
1/22/16	<i>Sheriff Court-Security Services, 09-TC-02</i>	7/28/09-6/27/12	-	\$685,344	\$685,344	Unknown ⁹
TOTAL				\$685,344	\$685,344	

III. PENDING PARAMETERS AND GUIDELINES, AMENDMENTS, AND STATEWIDE COST ESTIMATE CASELOAD

Following are tables showing parameters and guidelines, parameters and guidelines which include proposed reasonable reimbursement RRM, requests to amend parameters and guidelines, requests to amend parameters and guidelines which include proposed RRM, and statewide cost estimates that are pending Commission determination. A request to include an RRM in parameters and guidelines or amendments thereto is a request made by a local entity claimant, an interested party, Finance, the Controller, or an affected state agency, pursuant to Government Code section 17557 and 17518.5 – which is distinct from the jointly proposed RRM, discussed above under “Alternative Processes”. These requests are often disputed by one or more of the parties and interested parties.

⁷ Government Code section 17561.5(a).

⁸ Government Code section 17567.

⁹ This mandate ended effective June 27, 2012, however, late initial claims may be filed until November 3, 2016 which may result in additional statewide costs.

A. Pending Parameters and Guidelines

	Program	Status
1.	<i>Discharge of Stormwater Runoff, 07-TC-09*</i>	Inactive pending court action.

* Local agency programs

† School district or community college district programs

B. Pending Parameters and Guidelines with Proposed RRMs

	Program	Status
1.	None	

* Local agency programs

† School district or community college district programs

C. Pending Requests to Amend Parameters and Guidelines

	Program	Status
1.	<i>Graduation Requirements, 11-PGA-03 (CSM-4435)†</i>	Inactive pending court action.

* Local agency programs

† School district or community college district programs

D. Pending Requests to Amend Parameters and Guidelines with Proposed RRMs

	Program	Status
1.	None	

* Local agency programs

† School district or community college district programs

E. Pending Statewide Cost Estimates

	Program	Status
1.	<i>Immunization Records – Pertussis, 11-TC-02, (14-PGA-01)†</i>	Set for hearing on July 22, 2016.
2.	<i>Training for School Employee Mandated Reporters, 14-TC-02†</i>	Tentatively set for hearing on October 28, 2016.
3.	<i>Immunization Records – Mumps, Rubella, and Hepatitis B, 98-TC-05 (14-MR-04)†</i>	Tentatively set for hearing on January 27, 2017.
4.	<i>California Assessment of Student Performance and Progress (CAASPP), 14-TC-01 and 14-TC-04†</i>	Tentatively set for hearing on January 27, 2017.
5.	<i>Municipal Storm Water and Urban Runoff Discharges, 03-TC-04, 03-TC-19, 03-TC-20, and 03-TC-21*</i>	Inactive pending court action.

* Local agency programs

† School district or community college district programs

IV. PENDING JOINT REASONABLE REIMBURSEMENT METHODOLOGIES AND LEGISLATIVELY-DETERMINED MANDATES

A. Pending Joint Reasonable Reimbursement Methodologies

Following is a table showing programs where Department of Finance and test claimants are negotiating RRM's.

	Program	Date of Notice by Local Agencies or Department of Finance	Status
	None		

B. Pending Joint Legislatively-Determined Mandates

Following is a table showing programs for which Department of Finance and local agencies are negotiating legislatively-determined mandates (LDM's) they may jointly propose to the Legislature for adoption.

	Program	Date of Notice	Status
	None		

C. Delays in the Process

Government Code section 17600 requires the Commission to report any delays in the process for joint RRM's or LDM's being developed by Department of Finance and local entities and for RRM's proposed by any party pursuant to Government Code section 17518.5. There are currently no pending joint RRM's, LDM's or RRM's proposed by any party. Therefore, there are no delays in these processes.

With regard to RRM's included in parameters and guidelines amendments pursuant to Government Code sections 17557 and 17518.5, since the 2011-12 fiscal year, the Commission has adopted a total of five proposed RRM's in parameters and guidelines, or amendments thereto, and has denied five proposals based on a lack of evidence in the record, that the proposed formula or unit cost reasonably represents the costs mandated by the state for all eligible claimants in the state. There are currently no pending parameters and guidelines or amendments thereto containing RRM's.

There are currently 14 pending test claims, 13 of which were stayed, some for several years, pending court action. However, all pending test claims are now tentatively set for hearing through September 2018 in anticipation of the California Supreme Court's release of its opinion in *Department of Finance v. Commission on State Mandates* (County of Los Angeles), expected no later than August 31, 2016. At present, there is no test claim backlog, but once the 13 test claims become active upon issuance of the pending decision, the Commission will again have a test claim backlog. Commission staff projects it will take one to two years, dedicating all Commission resources, to present those claims for hearing. These claims will take substantially longer to prepare for hearing than test claims generally, because of the large, complex, and detailed records and mixed issues of fact and law that must be analyzed.

Because statewide cost estimates (which must be preceded by test claim and parameters and guidelines decisions) have a statutory deadline of 12-18 months from the filing of the test claim for completion, they, along with test claims and parameters and guidelines, will generally be prepared for hearing prior to other matters, including RRM's in parameters and guidelines amendments. Thus, to promptly hear and decide parameters and guidelines amendment proposals that contain RRM's in the future, it is necessary that the Commission operate without a backlog of test claims, parameters and guidelines and statewide cost estimates.

V. ADOPTED STATEWIDE COST ESTIMATES

Sheriff Court-Security Services, 09-TC-02

Adopted: January 22, 2016

STATEWIDE COST ESTIMATE

\$685,344

(This mandate ended on June 27, 2012, however, late initial claims may be filed until November 3, 2016 which may result in additional statewide costs)

Government Code Section 69926(b)

Statutes 2009-2010 (4th Ex. Sess.), Chapter 22 (SB 13)

Sheriff Court-Security Services

09-TC-02

STAFF ANALYSIS

Background and Summary of the Mandate

This mandated program addresses the cost of retiree health benefits for sheriff employees who provide court security services to the trial courts. Before 2009, these costs were funded by the state through the Trial Court Funding program. In 2009, the state shifted the cost of retiree health benefits for those employees to the counties. Pursuant to article XIII B, section 6(c) of the California Constitution, the Commission on State Mandates (Commission) found that reimbursement is required for these costs. Article XIII B, section 6(c), was added to the California Constitution in 2004 to expand the definition of a new program or higher level of service as follows: “A mandated new program or higher level of service includes a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.”

On December 5, 2014, the Commission adopted a decision¹⁰ on the *Sheriff Court-Security Services* test claim, 09-TC-02, finding that Government Code section 69926(b), as amended by Statutes 2009-2010 (4th Ex. Sess.), chapter 22, constitutes a partial reimbursable state-mandated program within the meaning of article XIII B, section 6(c). Specifically, the Commission found that the following retiree health benefit costs that had been funded under the Trial Court Funding Program before January 1, 2003, but were then shifted to the counties by the test claim statute are reimbursable from July 28, 2009 to June 27, 2012 only:

- Amounts actually paid in the claimed fiscal year to an insurer, other benefit provider, or trustee to prefund the future retiree health benefit costs earned by county employees in the claimed fiscal year who provided court security services in criminal and delinquency matters pursuant to Government Code section 69922; and
- Amounts actually paid in the claimed fiscal year to an insurer, other benefit provider, or trustee to reduce an existing unfunded liability of the county for the health benefit costs previously earned by county employees who provided court security services in criminal and delinquency matters pursuant to Government Code section 69922.

¹⁰ Exhibit A, Test Claim Decision.

The Commission further concluded that revenue received by a county eligible to claim reimbursement from the 2011 Realignment (Gov. Code, §§ 30025, 30027; Stats. 2011, ch. 40) for this program in fiscal year 2011-2012 shall be identified and deducted as offsetting revenue from any claim for reimbursement.

Eligible Claimants and Period of Reimbursement

Any county or city and county that incurs increased costs as a result of this mandate is eligible to claim reimbursement. To be eligible claimant must have: (1) previously included retiree health benefit costs for existing employees that provided sheriff court security services in criminal and delinquency matters in its cost for court operations and billed those costs to the state under the Trial Court Funding Program before January 1, 2003; and (2) prefunded the future retiree health benefit costs earned by county employees in the claimed fiscal year who provided court security services in criminal and delinquency matters pursuant to Government Code section 69922 or prefunded to reduce an existing unfunded liability of the county for the health benefit costs previously earned by county employees who provided court security services in criminal and delinquency matters pursuant to Government Code section 69922.

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 claimant filed the test claim on June 30, 2010, establishing eligibility for reimbursement for the 2008-2009 fiscal year. However, Government Code section 69926(b) as amended by the test claim statute (Stats. 2009-2010 (4th Ex. Sess.), ch. 22) became effective on July 28, 2009, and remained in law only until June 27, 2012, when it was repealed to implement the statutory realignment of superior court security funding by Statutes of 2011, chapter 40. Thus, the period of reimbursement for this claim is from July 28, 2009 to June 27, 2012.

Reimbursable Costs

The parameters and guidelines authorize reimbursement for the following costs:

- Amounts actually paid in the claimed fiscal year to an insurer, other benefit provider, or trustee to prefund the future retiree health benefit costs earned by county employees in the claimed fiscal year who provided court security services in criminal and delinquency matters pursuant to Government Code section 69922; and
- Amounts actually paid in the claimed fiscal year to an insurer, other benefit provider, or trustee to reduce an existing unfunded liability of the county for the health benefit costs previously earned by county employees who provided court security services in criminal and delinquency matters pursuant to Government Code section 69922.

Retiree health benefit payments to retirees or their beneficiaries made during the period of reimbursement are not eligible for reimbursement.

Offsetting Revenues and Reimbursements

The parameters and guidelines¹¹ provide the following:

Revenue received by a claimant from the 2011 Realignment (Gov. Code, §§ 30025, 30027; Stats. 2011, ch. 40) for this program and used by the claimant to pre-fund the costs of retiree health benefits of existing employees providing sheriff court security services in criminal and delinquency matters shall be identified and deducted as offsetting revenue from any claim for reimbursement.

¹¹ Exhibit B, Parameters and Guidelines.

Any other 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.

To the extent that the claimant has used fees or any funds provided by the state or federal government, as opposed to proceeds of local taxes, to pay for the cost of the program, those costs are not reimbursable.

Statewide Cost Estimate

Assumptions

Staff reviewed the initial reimbursement claims data compiled by State Controller's Office (Controller).¹² Only the County of Sonoma submitted any initial claims, and it submitted claims for three fiscal years.

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

- *Additional counties are likely to file late initial reimbursement claims.*

There are currently 58 counties. Of those, only the County of Sonoma filed initial reimbursement claims totaling \$685,344. Based on the test claim declarations, however, there are additional counties¹³ that have alleged actual costs paid for this program. If an eligible county files late initial claims, then the total costs incurred for reimbursement may exceed the statewide cost estimate. Late initial reimbursement claims for this program may be filed until November 3, 2016.
- *There are reasons why an eligible county that has actual costs might not file an initial claim, such as, but not limited to the following:*

An eligible county may have offsetting revenues and as a result, its actual costs do not exceed \$1,000. Pursuant to the parameters and guidelines, revenue received by a claimant from the 2011 Realignment (Gov. Code §§ 30025, 30027; Stats. 2011, ch. 40) for this program and used by the claimant to pre-fund the costs of retiree health benefits of existing employees providing sheriff court security service in criminal and delinquency matters shall be identified and deducted as offsetting revenue from any claim for reimbursement.¹⁴
- *The total reimbursable costs for the program may be lower than the statewide cost estimate if they are reduced based on an audit by the Controller.*

The reimbursable costs may be reduced if they are not consistent with the requirement in the parameters and guidelines that they be "amounts actually paid by the county in the claimed fiscal year to prefund benefits earned by county employees providing sheriff court security services in criminal and delinquency matters in the claimed fiscal year" or "amounts actually paid in the claimed fiscal year to reduce an existing unfunded liability for the health benefit costs previously earned by a county employee providing sheriff court security services in

¹² Claims data reported as of November 19, 2015.

¹³ Los Angeles County, Sacramento County, Kern County, and Santa Clara County have alleged actual costs incurred to be reimbursed based on test claim declarations on pages 18 through 22.

¹⁴ Exhibit B, Parameters and Guidelines.

criminal and delinquency matters.” Current health benefit premiums paid to retirees or their beneficiaries after retirement on a pay-as-you-go basis have not been transferred by the state and do not constitute costs mandated by the state.

In addition, Statutes 2011, chapter 40 allocated funding for trial court security costs provided by county sheriffs. To the extent these funds were used by the county to pre-fund the costs of retiree health benefits of existing employees performing the mandate in fiscal year 2011-2012, they are offsetting and claimants are required to designate them as such. If a claimant failed to designate such offsetting funds in its reimbursement claim, the Controller may reduce costs claimed accordingly.

Methodology

July 28, 2009 to June 27, 2012

The statewide cost estimate for the period July 28, 2009 through June 27, 2012 was developed by totaling the three initial reimbursement claims filed with the Controller for this period. All costs incurred after June 27, 2012 are not reimbursable.

Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Initial Claims Filed with Controller	Estimated Costs
2009-2010	1	207,785
2010-2011	1	244,570
2011-2012	1	232,989
<i>TOTAL</i>	3	\$685,344

Draft Proposed Statewide Cost Estimate

On December 24, 2015, Commission staff issued the draft proposed statewide cost estimate.¹⁵ No comments were filed on the draft proposed statewide cost estimate.

Conclusion

On January 22, 2016, the Commission adopted the statewide cost estimate of \$685,344 for costs incurred in complying with the *Sheriff Court-Security Services* program.

¹⁵ Exhibit C, Draft Proposed Statewide Cost Estimate.