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STATE OF CALIFORNIA COMMISSION ON STATE MANDATES

REPORT TO THE LEGISLATURE: APPROVED MANDATE CLAIMS

April 1, 2009 – September 30, 2009

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EXECUTIVE SUMMARY

State law requires the Commission on State Mandates to report to the Legislature on the number of mandates it has found, the estimated statewide costs of these mandates, and the reasons for recommending reimbursement. This report fulfills that requirement.

New Mandates

Between April 1, 2009 and September 30, 2009, the Commission adopted six statewide cost estimates totaling **\$4,485,157**. This amount is being proposed for appropriation in the 2010-2011 Budget.

Pending Statewide Cost Estimates

There are currently 23 approved mandates for which statewide cost estimates are pending.

I. INTRODUCTION

Statewide Cost Estimates

The Commission on State Mandates (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.¹

After the Commission submits its semiannual 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 The Legislative Analyst's report shall make recommendations as to whether the mandate should be repealed, funded, suspended, or modified.

Upon receipt of the report submitted by the Commission pursuant to 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.²

The Legislature may amend, modify, or supplement the parameters and guidelines, reasonable reimbursement methodology, and adopted statewide estimate 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 methodology, and adopted statewide estimate 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.³

Jointly Developed Statewide Estimate of Costs

In 2007, AB 1222 (Statutes 2007, chapter 329) was enacted to provide an alternate process for determining the costs of mandated programs. Under AB 1222, local governments and the Department of Finance may jointly develop reimbursement methodologies and statewide estimate of costs for mandated programs for approval by the Commission. Jointly developed statewide estimate of costs that are approved by the Commission will be included in the Commission's Annual Reports to the Legislature.

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.⁴

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 (SCO) shall include accrued interest at the Pooled Money Investment Account rate.⁵

¹ Government Code section 17600.

² Government Code section 17612, subdivision (a).

³ Government Code section 17612, subdivision (b).

⁴ Government Code section 17612, subdivision (c).

⁵ Government Code section 17561.5, subdivision (a).

If the Legislature appropriates the amount of the statewide cost estimate and actual claims exceed this amount, the SCO will prorate the claims.⁶ If the deficiency funds are not appropriated in the Budget Act, the SCO reports this information to the legislative budget committees and the Commission.

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 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.

The following table shows the six statewide cost estimates that have been adopted during the period of April 1, 2009 through September 30, 2009.

**Statewide Cost Estimates (SCE) Adopted
During the Period of April 1, 2009 through September 30, 2009**

		<i>Estimated Costs</i>			
Date SCE Adopted ⁷	Test Claim	Period of Reimbursement (Fiscal Years)	Education	Non- Education	Totals
5/29/09	<i>Local Recreational Areas: Background Screenings, 01-TC-11</i>	1/1/02 - 6/30/08		\$2,991,331	\$2,991,331
7/31/09	<i>CalSTRS Creditable Compensation/Service Credit, 01-TC-02/02-TC-19</i>	1/1/01 – 6/30/08	\$757,770		\$757,770
7/31/09	<i>Fifteen-Day Close of Voter Registration, 01-TC-15</i>	7/1/00 – 6/30/08		\$0	\$0
7/31/09	<i>In-Home Supportive Services II, 00-TC-23</i>	7/1/99 – 6/30/08		\$474,912	\$474,912
9/25/09	<i>California Fire Incident Reporting System (CFIRS) CSM-4419/00-TC-02</i>	7/1/90 – 6/29/92		\$219,628	\$219,628
9/25/09	<i>Reporting Improper Governmental Activities, 02-TC-24</i>	1/1/02 – 6/30/08	\$41,516		\$41,516
TOTALS			\$799,286	\$3,685,871	\$4,485,157

⁶ Government Code section 17567.

⁷ If payment for an initial reimbursement claim is made more than 365 days after adoption of the statewide cost estimate, the Controller shall include accrued interest at the Pooled Money Investment Account rate. (Gov. Code, § 17561.6, subd. (a).)

II. NEW MANDATES

STATEWIDE COST ESTIMATE

Public Resources Code Section 5164, Subdivisions (b)(1) and (b)(2)
Statutes 2001, Chapter 777

Local Recreational Areas: Background Screenings 01-TC-11

City of Los Angeles, Claimant

Test Claim Filed: February 8, 2002

Reimbursement Period for this Estimate: January 1, 2002 through June 30, 2008

Eligible Claimants: Any City, County, City and County, or Special District

The statewide cost estimate includes seven fiscal years for a total of **\$2,991,331** for the *Local Recreational Areas: Background Screenings* program. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
2001-2002	58	\$167,629
2002-2003	89	\$388,890
2003-2004	95	\$380,926
2004-2005	104	\$411,549
2005-2006	119	\$508,026
2006-2007	126	\$584,239
2007-2008	122	\$550,072
TOTAL	713	\$2,991,331

Summary of the Mandate

The test claim statutes involve the employment and background screening of employees or volunteers at local operated parks, playgrounds, recreational centers or beaches used for recreation purposes.

The Commission on State Mandates (Commission) adopted the Statement of Decision for the *Local Recreational Areas: Background Screenings* program (01-TC-11). The Commission found that the test claim statute constitutes a new program or higher level of service and imposes a state-mandated program on local agencies within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514.

The claimant filed the test claim on February 8, 2002. The Commission adopted a Statement of Decision on December 9, 2005, and the parameters and guidelines on June 26, 2008. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by December 31, 2008, and late claims by December 31, 2009.

Reimbursable Activities

The Commission approved the following activities for reimbursement:

1. Have each prospective employee or volunteer who would have supervisory or disciplinary authority over minors to complete an application that inquires as to whether or not the

prospective employee or volunteer has been convicted of any offense specified in Public Resources Code section 5164, subdivision (a). (Pub. Res. Code, § 5164, subd. (b)(1)). This is a one-time activity of revising and printing job applications that inquire as to the applicants' criminal history.

2. Screening, pursuant to Penal Code section 11105.3, prospective employees and volunteers who would have supervisory or disciplinary authority over minors. The screening procedure for these individuals requires submitting the following to the Department of Justice (DOJ): (1) the prospective employee's or volunteer's fingerprints, (2) any other data specified by DOJ on a DOJ-approved form, (3) for prospective employees only, paying the DOJ's fingerprint processing fee (no fee is required for a prospective volunteer). (Pub. Res. Code, § 5164, subds. (b)(1) & (b)(2)).

The Commission found that the following activities **are not** reimbursable:

1. Taking fingerprints.
2. Paying DOJ's fingerprint processing fee for a prospective volunteer.

Statewide Cost Estimate

Staff reviewed the claims data submitted by 142 cities, seven counties, and three park and recreation districts, and compiled by the SCO. The actual claims data showed that 713 claims were filed between fiscal years 2001-2002 and 2007-2008 for a total of \$2,991,331.⁸ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed.*

There are 480 cities, 58 counties, and 67 recreation and park districts in California. Of those, only 152 filed reimbursement claims for this program. If other eligible claimants file reimbursement claims or late or amended claims are filed, the amount of reimbursement claims may exceed the statewide cost estimate.

2. *Non-claiming local agencies did not file claims because: (1) they did not incur more than \$1000 in increased costs for this program; (2) did not have supporting documentation to file a reimbursement claim; or (3) hired no recreation and park district employees.*

Claimant representatives report that many cities and counties use nonprofit agencies to operate their recreation programs. Nonprofit agencies are not part of this program, and therefore, local agencies that use nonprofit agencies will not be filing reimbursement claims.

3. *Based on the claims reviewed, the amounts claimed may be high.*

The Statement of Decision for this program authorizes reimbursement for *recreational* employees and volunteers *who have supervisory or disciplinary authority over minors*. Many claimants are seeking reimbursement for all newly hired employees. For example, the City of Laguna Beach submitted reimbursement for the background process for a police records technician, laborer, maintenance workers, police cadets, and drivers. While many of these employees may come in contact with children, they most likely do not supervise or discipline minors, or work in recreation-related jobs. Therefore, the background process for these

⁸ Claims data reported as of March 3, 2009.

employees is not reimbursable.

4. *There is a wide variation in costs for the claims filed.*

The claims data indicates that claimants are reporting a wide variation in the time it takes to process the applications. For the ten cities we reviewed, the time to complete the reimbursable activities ranged from four minutes per application to 25.3 minutes per application.

5. *Because the amounts claimed may be high, and there is a wide variation in costs claimed, an SCO audit of this program may be conducted.*

6. *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.*

If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced.

Methodology

Fiscal Years 2001-2002 through 2007-2008

The statewide cost estimate for fiscal years 2001-2002 through 2007-2008 was developed by totaling the 713 unaudited actual reimbursement claims filed with the SCO for these years.

No projections for future fiscal years were included because funding for 2008-2009 cannot occur until fiscal year 2009-2010.

The statewide cost estimate includes seven fiscal years for a total of \$2,991,331 for the *Local Recreational Areas: Background Screenings* program. This averages to \$427,333 annually in costs for the state for this seven-year period.

Conclusion

The Commission adopted the statewide cost estimate of **\$2,991,331** for costs incurred in complying with the *Local Recreational Areas: Background Screenings* program.

STATEWIDE COST ESTIMATE

Education Code Sections 22455.5, Subdivision (b), 22460, 22509, Subdivision (a),
22718, Subdivision (a)(1)(A), 22724, and 22852, Subdivision (e)

Statutes 1994, Chapter 603

Statutes 1996, Chapters 383, 634 and 680

Statutes 1997, Chapter 838

Statutes 1998, Chapter 965

Statutes 1999, Chapter 939

Statutes 2000, Chapter 1021

California State Teachers' Retirement System (CalSTRS) Service Credit
02-TC-19

Santa Monica Community College District, Claimant

Test Claim Filed: May 12, 2003

Reimbursement Period for this Estimate: July 1, 2001 through June 30, 2008

Eligible Claimants: School districts, county offices of education and community college districts

The statewide cost estimate includes seven fiscal years for a total of **\$757,770** for the *California State Teacher's Retirement System (CalSTRS) Service Credit* program. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of School District Claims Filed with SCO	Estimated Cost
2001-2002	14	\$33,715
2002-2003	16	\$39,897
2003-2004	17	\$49,800
2004-2005	17	\$85,399
2005-2006	19	\$82,233
2006-2007	26	\$88,376
2007-2008	22	\$72,433
Sub-Total	131	\$451,853
Fiscal Year	Number of Community College District Claims Filed with SCO	Estimated Cost
2001-2002	8	\$32,920
2002-2003	10	\$50,730
2003-2004	9	\$35,438
2004-2005	9	\$35,578
2005-2006	9	\$46,755
2006-2007	9	\$48,742
2007-2008	9	\$55,754
Sub-Total	63	\$305,917*
TOTAL	194	\$757,770*

Summary of the Mandate

The approved test claim statutes impose reporting and notice activities on school districts, county offices of education and community college districts for administering employee retirement programs.

The Commission on State Mandates (Commission) adopted the Statement of Decision for the *California State Teachers' Retirement System (CalSTRS) Service Credit* program (02-TC-19). The Commission found that the test claim statute constitutes a new program or higher level of service and imposes a state-mandated program on local agencies within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514.

The test claim was filed on May 12, 2003. The Commission on State Mandates (Commission) adopted the Statement of Decision on April 16, 2007, and the parameters and guidelines on June 26, 2008. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by December 31, 2008, and must file late claims by December 31, 2009.

Reimbursable Activities

The Commission approved the following activities for reimbursement:

A. One-Time Activity

1. *Separation Notice:*

- a. Amend the notice that employers transmit to a member who terminates employment with less than five years of credited service, as part of the usual separation documents, to include the specific information specified in Education Code section 22460, subdivision (a)(1) – (3), regarding the Defined Benefit Supplement account. (Ed. Code, § 22460.)

B. Ongoing Activities

1. *Employment Notices:*

- a. Make available criteria for membership, including optional membership, in a timely manner to all persons employed to perform creditable service subject to coverage by the Defined Benefit Program, and inform part-time and substitute employees, within 30 days of the date of hire, that they may elect membership in the plan's Defined Benefit Program at any time while employed. (Ed. Code, § 22455.5, subd. (b).)
- b. Maintain written acknowledgment by the employee regarding information provided about the Defined Benefit Program in employer files on a form provided by CalSTRS. (Ed. Code, § 22455.5, subd. (b).)
- c. Within 10 working days of the date of hire of an employee who has the right to make an election pursuant to Education Code section 22508 or 22508.5, inform the employee of the right to make an election to CalSTRS or CalPERS and make available to the employee written information provided by each retirement system concerning the benefits provided under that retirement system to assist the employee in making an election. (Ed. Code, § 22509, subd. (a).)

2. *Sick Leave Days:*

- a. Certify the number of unused excess sick leave days to CalSTRS for retiring members, using the method of calculation described in Education Code section 22724, subdivision (a). (Ed. Code, § 22718, subd. (a)(1)(A).)
 - b. Upon request from the CalSTRS board, submit sick leave records of past years for audit purposes. (Ed. Code, § 22724, subd. (b).)
3. *Military Service Reemployment:*
- a. Provide information to CalSTRS regarding the reemployment of a member who is subject to federal law regarding the reemployment of military service personnel (38 U.S.C.A. § 4301 et seq.), on a form prescribed by CalSTRS, within 30 days of the date of reemployment. (Ed. Code, § 22852, subd. (e).)

Statewide Cost Estimate

Staff reviewed the claims data submitted by 23 school districts, four (4) county offices of education, and 11 community college districts, and compiled by the State Controller's Office (SCO). The actual claims data showed that 186 claims were filed for fiscal years 2001-2002 through 2007-2008 for a total of **\$757,770**. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed.*

There are 973 K-12 school districts, 58 county offices of education and 71 community college districts in California. Of those, only 23 school districts, 4 county offices of education, and 11 community college districts filed reimbursement claims for this program. If other eligible claimants file reimbursement claims or late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate.

2. *Non-claiming local agencies did not file claims because: (1) they did not incur more than \$1,000 in increased costs for this program; or (2) did not have supporting documentation to file a reimbursement claim.*

More than half the claims filed by school districts were for amounts that were less than \$2,000. Many of these claims were just over the \$1,000 minimum.

3. *For each claimant, the costs claimed will vary by fiscal year, based on:*

A. Actual number of:

- CALSTRS members;
- part-time and substitute employees eligible for CALSTRS;
- new CALSTRS eligible employees hired;
- retiring CALSTRS members;
- requests from the CALSTRS Board for sick leave records of past years for audit purposes; and,
- CALSTRS members who are re-employed after military service.

- B. Salary levels of employees who are performing the mandated activities.

4. *There is a wide variation in costs claimed for this program. 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.*

If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced.

Staff reviewed the summary claiming data for 2006-2007 fiscal year in which claims were filed by 26 school districts, four (4) county offices of education, and nine (9) community college districts. To compare the amounts claimed, staff divided the total claimed amounts by the total number of certificated employees employed by districts. The per capita cost ranged from \$.21 to \$55.81 /certificated employee for school districts and county offices of education.

- The San Diego County Superintendent of Schools claimed \$22,267 for Employment Notices; the per capita cost is \$55.81/employee.
- The Humboldt County Superintendent of Schools filed a “combined” claim which includes costs for the County Office of Education, the Arcata Elementary School District, Klamath Trinity Joint Unified School District, and the Fortuna Union High School District for \$1,262. The per capita cost for the combined claim is \$4.52.
- The Tulare County Superintendent of Schools filed a “combined” claim for \$1,688, which includes costs for the County Office of Education, Sundale Union Elementary School District and Terra Bella Union Elementary School District. The per capita cost for this claim is \$ 5.08.
- The Orange County Superintendent of Schools filed a “combined” claim for \$2,500, which includes costs for the County Department of Education, the Ocean View School District, Saddleback Valley Unified School District. The per capita cost for this claim is \$.85.

Staff also reviewed the summary claiming data for the community college districts. To compare the amounts claimed, staff divided the total claimed amounts by the total number of certificated employees.⁹ The per capita costs ranged from \$2.49 - 18.13 per certificated employee.

5. *The total costs of this program may increase in future years if there are significant increases in the number of CALSTRS members retiring in 2008-09 through 2009-2010 fiscal years.*

Methodology

Fiscal Years 2001-2002 through 2007-2008

The statewide cost estimate for fiscal years 2001-2002 through 2007-2008 was developed by totaling the 186 unaudited reimbursement claims filed with the SCO for these years.

The statewide cost estimate includes seven fiscal years for a total of \$759,770 for the *CalSTRS Service Credit* program. This averages to \$108,539 annually in costs for the state for this seven-year period.

⁹ The certificated employee counts for community college districts were obtained from the California Community College Chancellor’s Office report on Staffing for Fall 2006. The counts for “Educ. Admin.,” “Tenured/Tenure,” and “Academic Temporary” were totaled.

Conclusion

The Commission adopted the statewide cost estimate of \$757,770 for costs incurred in complying with the *CalSTRS Service Credit* program.

STATEWIDE COST ESTIMATE

Elections Code Section 13303

Statutes 2000, Chapter 899 (AB 1094)

Fifteen-Day Close of Voter Registration

01-TC-15

County of Orange, Claimant

Test Claim Filed: May 17, 2002

Reimbursement Period for this Estimate: July 1, 2001 through June 30, 2008

Eligible Claimants: Any, county or city and county

All costs claimed for the *Fifteen-Day Close of Voter Registration* program were disallowed because they were filed for activities that are not reimbursable under this program. Therefore, the statewide cost estimate for fiscal years 2000-2001 through 2007-2008, is **\$0**.

Summary of the Mandate

The test claim statute involves changes to the deadline for voter registration prior to an election. Prior law allowed voters to newly register to vote, reregister, or change their address, with county elections officials, until the 29th day before an election. After that date, voter registration closed until the conclusion of the upcoming election. The test claim legislation allows new registrations or changes to voter registrations through the 15th day prior to an election.

The test claimant sought mandate reimbursement for costs incurred to register voters from the 28th through the 15th day before elections, such as for: implementation planning meetings; revising training programs; holding an informational media campaign; responding to additional inquiries about the new law; and providing additional personnel to accommodate the increased workload.

The Commission found that most of the statutory amendments by Statutes 2000, chapter 899, did not mandate a new program or higher level of service on county elections officials within the meaning of article XIII B, section 6. Processing and accepting voter registration affidavits and changes of address are not newly required under the Elections Code. County elections officials have been required to perform these activities long before the enactment of Statutes 2000, chapter 899. The test claim allegations generally requested reimbursement for increased staffing expenses, developing and conducting training, and holding planning meetings. These are not new *activities* directly required by the test claim legislation, but instead are *costs* that the claimant is associating with the changed timeframes. Counties are required to perform the same activities they have long performed – accepting new voter registrations and changes of address. The courts have consistently held that increases in the *cost of an existing program*, are not subject to reimbursement as state-mandated programs or higher levels of service within the meaning of article XIII B, section 6.

However, the Commission found that the test claim statute did constitute a new program or higher level of service and imposed a state-mandated program on local agencies within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514 for the following reimbursable activities:

Reimbursable Activities

One-Time Activities

- Amend the polling place notice sent to each voter who registered after the 29th day prior to the election, to include the following: information as to where the voter can obtain a sample ballot and a ballot pamphlet prior to the election, a statement indicating that those documents will be available at the polling place at the time of the election, and the address of the Secretary of State's website and, if applicable, of the county website where a sample ballot may be viewed. (Elec. Code, § 13303, subd. (c), Stats. 2000, ch. 899.)
- Redesign new election software used to amend the polling place notice sent to each voter who registered between the 29th and 15th day prior to the election pursuant to Elections Code section 13303, subdivision (c), as amended by Statutes 2000, chapter 899. Actually sending the notices is not reimbursable.

The claimant filed the test claim on May 17, 2002. The Commission adopted a Statement of Decision on October 4, 2006, and the parameters and guidelines on August 1, 2008. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by February 3, 2009, and must file late claims by February 3, 2010. The reimbursement period begins on January 1, 2001.

Statewide Cost Estimate

Staff reviewed the claims data submitted by one county (County of Merced), and compiled by the SCO. The actual claims data showed that one claim was filed for fiscal year 2007-2008 for a total of \$3,493.¹⁰ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed.*

There are 58 counties in California. Of those, only one filed a single reimbursement claim for this program. If other counties file reimbursement claims or late or amended claims are filed, the amount of reimbursement claims may exceed the statewide cost estimate. However, claimant representatives report that because only a small portion of the test claim was actually determined to be reimbursable, most counties did not incur \$1,000 in costs to be eligible to claim reimbursement.

2. *Non-claiming local agencies did not file claims because: (1) they did not incur more than \$1000 in increased costs for this program; or (2) did not have supporting documentation to file a reimbursement claim.*

Claimant representatives report that many counties did not file reimbursement claims because they did not incur enough costs to be eligible for reimbursement.

3. *The single claim filed should be audited by the State Controller and reduced, based on the fact that the costs claimed are excessive.*

The parameters and guidelines for this program allow reimbursement for the following one-time activity:

¹⁰ Claims data reported as of June 9, 2009.

amending the polling place notice sent to each voter who registered after the 29th day prior to the election, to include the following: information as to where the voter can obtain a sample ballot and a ballot pamphlet prior to the election, a statement indicating that those documents will be available at the polling place at the time of the election, and the address of the Secretary of State's website and, if applicable, of the county website where a sample ballot may be viewed. (Elec. Code, § 13303, subd. (c), Stats. 2000, ch. 899.)

The County claimed reimbursement for “entering affidavits, validating voters through CalVoter, and processing voter notification cards,” which are not activities eligible for reimbursement. The entire claim consists of the salaries and benefits attributed to these non-reimbursable activities, and is claimed under the one-time activity “Amendment of Notice.”

Even if the claimed salaries and benefits had been for the reimbursable activity, it is questionable that the notice was first amended in 2007-2008. Since January 1, 2001, the operative date of the test claim statute, there have been four statewide primary elections (2002, 2004, 2006, 2008), four general elections (2002, 2004, 2006, 2008), and three statewide special elections (2003, 2005, 2009). Only two of these elections occurred during the 2007-2008 fiscal year. The Commission found that unless the County of Merced did not participate in any of the elections preceding those in 2007-2008 fiscal year, it is excessive and unreasonable to claim one-time costs for amending the notice, seven fiscal years after the operative date of the test claim statute.

The Commission also found that the actual costs claimed by the County of Merced were for activities that are not eligible for reimbursement. Thus, the SCO should audit the costs claims based on the fact that the costs claimed are excessive. Thus, all of the costs claimed should be disallowed and stricken from this statewide cost estimate.

Methodology

The statewide cost estimate is based on the single claim filed by the County of Merced. No projections for future fiscal years were included because funding for 2008-2009 cannot occur until fiscal year 2009-2010, and it is probable that no further claims may be filed.

The Commission disallowed the total amount claimed (\$3493) by the County of Merced because the 2007-2008 claim is based on activities that are not reimbursable under this program.

The statewide cost estimate for fiscal years 2000-2001 through 2007-2008, is \$0 for the *Fifteen-Day Close of Voter Registration* program.

Conclusion

The Commission adopted a statewide cost estimate of **\$0** for costs incurred in complying with the *Fifteen-Day Close of Voter Registration* program.

STATEWIDE COST ESTIMATE

Welfare and Institutions Code Sections 12301.3, 12301.4 and 12302.25

Statutes 1999, Chapter 90

Statutes 2000, Chapter 445

In-Home Supportive Services II

00-TC-23

County of San Bernardino, Claimant

Test Claim Filed: June 29, 2001

Reimbursement Period for this Estimate: July 1, 1999 through June 30, 2008

Eligible Claimants: Counties and Cities and Counties

The statewide cost estimate includes nine fiscal years for a total of **\$474,912** for the *In-Home Supportive Services II* program. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
1999-2000	1	\$32,985
2000-2001	2	\$112,301
2001-2002	5	\$116,534
2002-2003	4	\$132,994
2003-2004	1	\$11,904
2004-2005	1	\$17,837
2005-2006	1	\$16,040
2006-2007	1	\$15,378
2007-2008	1	\$18,939
TOTAL	17	\$474,912

STAFF ANALYSIS

Summary of the Mandate

The test claim statute, in part, address the form in which in-home supportive services care providers are employed, referred to as the “mode of service,” including requiring that all counties establish an employer of record for IHSS providers, other than the recipient of the services. The test claim statutes also provide that “[e]ach county shall appoint an in-home supportive services advisory committee that shall be comprised of not more than 11 individuals.”

The Commission on State Mandates (Commission) adopted the Statement of Decision for the *In-Home Supportive Services II* program (00-TC-23). The Commission found that the test claim statute constitutes a new program or higher level of service and imposes a state-mandated program on local agencies within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514.

The claimant filed the test claim on June 29, 2001. The Commission adopted a Statement of Decision on April 16, 2007, and the parameters and guidelines on August 1, 2008. Eligible

claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by February 3, 2009, and must file late claims by February 3, 2010.

Reimbursable Activities

The Commission approved the following activities for reimbursement:

For each eligible claimant, the following activities are reimbursable:

A. One-time Activities

1. County
 - a) Establishing an employer for in-home supportive service providers. This activity is limited to the administrative costs of establishing an employer of record through a public authority, nonprofit consortium, contract, county administration of the individual provider mode, county civil service personnel, or mixed modes of service. (Reimbursement period is limited to July 12, 1999 through December 31, 2002.)
 - b) Offering an individual provider employer option, for counties with an IHSS caseload of more than 500, upon request of a recipient, and in addition to a county's selected method of establishing an employer for in-home supportive service providers. This activity is limited to the administrative costs of establishing an employer of record in the individual provider mode, upon request. (Reimbursement period begins July 12, 1999.)

B. On-going Activities

1. Board of Supervisors
 - a) Appointing an in-home supportive services advisory committee comprised of:
 - i. Not more than 11 individuals, with membership as required by section 12301.3, subdivision (a): "No less than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or as recipients of services under this article." (Reimbursement period begins July 12, 1999.)
 - ii. In counties with fewer than 500 IHSS recipients, at least one member of the advisory committee shall be a current or former provider of in-home supportive services. (Reimbursement period begins September 14, 2000.)
 - iii. In counties with 500 or more IHSS recipients, at least two members of the advisory committee shall be a current or former provider of in-home supportive services. (Reimbursement period begins September 14, 2000.)
 - iv. A county board of supervisors shall not appoint more than one county employee as a member of the advisory committee. (Reimbursement period begins September 14, 2000.)

- b) Soliciting recommendations for qualified advisory committee members through a fair and open process that includes the provision of reasonable written notice to, and reasonable response time by, members of the general public and interested persons and organizations. (Reimbursement period begins July 12, 1999.)
- c) Soliciting recommendations from the advisory committee on the preferred mode or modes of service to be utilized in the county for in-home supportive services. (Reimbursement period is limited to July 12, 1999 through December 31, 2002.)
- d) Taking the advice and recommendations of the in-home supportive services advisory committee, as established pursuant to Section 12301.3, prior to making policy and funding decisions about IHSS on an ongoing basis. (Reimbursement period begins July 12, 1999.)

2. Advisory Committee

- a) Submitting recommendations to the county board of supervisors on the preferred mode or modes of service to be utilized in the county for in-home supportive services. (Reimbursement period begins July 12, 1999.)
- b) Providing ongoing advice and recommendations regarding in-home supportive services to the county board of supervisors, any administrative body in the county that is related to the delivery and administration of in-home supportive services, and the governing body and administrative agency of the public authority, nonprofit consortium, contractor, and public employees. (Reimbursement period begins July 12, 1999.)

Offsetting Revenues

Each county receives \$59,000 annually in state and federal funds to assist in covering the costs of the in-home supportive services advisory committee, which must be offset from any reimbursement claims. Therefore, the parameters and guidelines include the following language:

Any offsets 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; and federal and state funds, including funds allocated for the direct costs of the IHSS advisory committee pursuant to Welfare and Institutions Code section 12301.4, subdivision (b), county fiscal letters issued by the Department of Social Services allocating state and federal funds for the IHSS advisory committee (DSS CFL Nos. Nos. 00/01-14, 00/01-33, 00/01-48, 01/02-12, 02/03-28, 02/03-73, 03/04-46, 03/04-51, 04/05-16, 04/05-22, 04/05-27, 05/06-10, 06/07-02), and future allocations of state and federal funds for the IHSS advisory committee shall be identified and deducted from this claim.

Statewide Cost Estimate

Staff reviewed the summary report of claims data prepared by the SCO. The report showed that five counties filed 17 claims between fiscal years 1999-2000 and 2007-2008 for a total of

\$474,912¹¹ Based on this report, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed.*

There are 58 counties in California. Of those, only five filed reimbursement claims for this program. If other eligible claimants file reimbursement claims or late or amended claims are filed, the amount of reimbursement claims may exceed the statewide cost estimate

2. *Non-claiming local agencies did not file claims because: (1) they did not incur more than \$1000 in increased costs for this program; (2) they receive other state and federal revenues that cover the costs of the program; or (3) they did not have supporting documentation to file a reimbursement claim.*

The state Department of Social Services allocates \$59,000 annually in state and federal funds to each county to assist in the cost of the in-home supportive services advisory committee reimbursed under this program. A claimant representative reports that this amount covers all costs of the program for most counties. All five counties claimed costs during the start-up period from 1999-2000 to 2002-2003, presumably for establishing an employer for in-home supportive service providers, offering an individual provider employer option, and establishing their advisory committees.¹² Only one county (Alameda County) continued to file reimbursement claims after 2002-2003. For the five county claimants, the average total cost claimed during the start-up period is \$98,704. The average ongoing cost/year for one county is \$16,020.

3. *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.*

If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced.

Methodology

The statewide cost estimate for fiscal years 1999-2000 through 2007-2008 was developed by totaling the 17 unaudited actual reimbursement claims filed with the SCO for these years. No projections for future fiscal years were included because funding for 2008-2009 cannot occur until fiscal year 2009-2010.

The statewide cost estimate includes nine fiscal years for a total of \$474,912 for the *In-Home Supportive Services II* program. For the five county claimants, the average total cost claimed during the start-up period is \$98,704. The average ongoing cost/year for one county is \$16,020.

Conclusion

The Commission adopted the statewide cost estimate of **\$474,912** for costs incurred in complying with the *In-Home Supportive Services II* program.

¹¹ Summary report received from SCO on June 9, 2009.

¹² Counties of Amador, San Bernardino, Santa Barbara, and Tuolumne.

STATEWIDE COST ESTIMATE

The New California Fire Incident Reporting System Manual – Version 1.0/July 1990

California Fire Incident Reporting System (CFIRS) CSM-4419/00-TC-02

San Ramon Valley Fire Protection District and City of Newport Beach, Claimants

Test Claim Filed: December 31, 1991

Reimbursement Period for this Estimate: July 1, 1990 through June 29, 1992

Eligible Claimants: Any County, City, City and County or Fire District

The statewide cost estimate includes two fiscal years for a total of \$219,628 for the *California Fire Incident Reporting System (CFIRS)* program. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
1990-1991	3	\$85,888
1991-1992	3	\$133,740
TOTAL	6	\$219,628

Summary of the Mandate

All fire protection agencies in California have had a duty since January 1, 1974, to report “information and data to the State Fire Marshal relating to each fire” in their jurisdiction pursuant to Health and Safety Code section 13110.5, in the form, time and manner prescribed by the State Fire Marshal. The State Fire Marshal issued a manual and reporting forms in 1974 entitled the “California Fire Incident Reporting System” (CFIRS). The approved test claim regulation involves how cities, counties and fire districts implement this fire reporting system.

The Commission on State Mandates (Commission) adopted the Statement of Decision for the *California Fire Incident Reporting System (CFIRS)* program (4419/00-TC-02). The Commission found that the test claim statute constitutes a new program or higher level of service and imposes a state-mandated program on local agencies within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514, by requiring the local implementation of a computerized version of CFIRS, with submission of forms by diskette or magnetic tape for a two-year period as follows:

- Claimants who incurred actual costs for implementing the new computerized CFIRS format from July 1, 1990 (the beginning of the reimbursement period), to June 30, 1992 (the date of the letter from the State Fire Marshal stating that computerized filing was no longer required), are eligible for one-time costs for acquiring and implementing any necessary hardware and software.

The claimant filed the test claim on December 31, 1991, and an amendment to the test claim on July 17, 2000. The Commission adopted a Statement of Decision on December 4, 2006, and the parameters and guidelines on August 1, 2008. Eligible claimants were required to file initial reimbursement claims with the State Controller’s Office (SCO) by February 1, 2009, and late claims by February 1, 2010.

Reimbursable Activities

A. One-Time Activities from July 1, 1990 through June 29, 1992:

1. Purchase of necessary computer hardware to implement the CFIRS program per the 1990 version of the CFIRS manual.
2. Purchase and/or development of computer software or conversion of existing computer software necessary to implement the CFIRS program per the 1990 version of the CFIRS manual.
3. Installation and/or implementation of necessary computer hardware and/or software.
4. Creation of back-up copy(ies) of necessary computer software.
5. Training on utilization of necessary computer hardware and/or software for each employee. (One-time per employee.)
6. Training on the submittal of reports via the necessary computer hardware and/or software for each employee. (One-time per employee.)

Statewide Cost Estimate

Staff reviewed the claims data submitted by four cities and one fire district and compiled by the SCO. The actual claims data showed that six claims were filed for fiscal years 1990-1991 and 1991-1992 for a total of \$219,628.¹³ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed.*

Only four cities and one fire protection agency in California filed six reimbursement claims for this program. Thus, if reimbursement claims are filed by any of the remaining cities, fire protection agencies, or counties, the amount of reimbursement claims may exceed the statewide cost estimate. For this program, late claims may be filed until February 2010.

However, under this program, reimbursement is only authorized for those claimants that set up the new fire reporting system between 1990 and 1992. And, the State Fire Marshall no longer requires this type of reporting. It is unlikely that further claims will be filed.

2. *Non-claiming local agencies did not file claims during the two-year reimbursement period because: (1) they did not incur more than \$1000 in increased costs for this program; or (2) did not have supporting documentation to file a reimbursement claim.*

Reimbursement for this program is limited to one-time activities during a two-year period. Therefore, many eligible claimants may not have incurred the minimum threshold of \$1,000 to file reimbursement claims. In addition, because the claiming period goes back to 1990-1992, some claimants may not have retained the appropriate documentation to support a reimbursement claim.

3. *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.*

¹³ Claims data reported as of August 18, 2009.

If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced.

Methodology

Fiscal Years 1990-1991 through 1991-1992

The statewide cost estimate for fiscal years 1990-1991-1991-1992 was developed by totaling the six unaudited actual reimbursement claims filed with the SCO for these years.

No projections for future fiscal years were included because reimbursement for this program ended on June 30, 1992.

The statewide cost estimate includes two fiscal years for a total of \$219,628 for the *California Fire Incident Reporting System (CFIRS)* program.

Conclusion

The Commission adopted a statewide cost estimate of **\$219,628** for costs incurred in complying with the *California Fire Incident Reporting System (CFIRS)* program.

STATEWIDE COST ESTIMATE

Education Code Section 87164

Statutes 2001, Chapter 416

Statutes 2002, Chapter 81

Reporting Improper Governmental Activities 02-TC-24

Santa Monica Community College District, Claimant

Test Claim Filed: June 5, 2003

Reimbursement Period for this Estimate: January 1, 2002 through June 30, 2008

Eligible Claimants: Any Community College District

The statewide cost estimate includes two fiscal years for a total of \$41,516 for the *Reporting Improper Governmental Activities* program. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
2006-2007	1	\$17,211
2007-2008	2	\$24,305
TOTAL	3	\$41,516

Summary of the Mandate

The approved test claim statutes address the procedures used to protect community college employees and applicants for employment from employees, officers, or administrators who intentionally engage in acts of reprisal, or coercion against an employee or applicant for employment who has disclosed improper governmental activity of the employer.

The Commission on State Mandates (Commission) adopted the Statement of Decision for the *Reporting Improper Governmental Activities* program (02-TC-24). The Commission found that the test claim statute constitutes a new program or higher level of service and imposes a state-mandated program on local agencies within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514, for the cost of community college employees or applicants for employment filing complaints with the State Personnel Board (SPB), including the cost for SPB to conduct informal hearings or investigations of the complaint.

The test claim was filed on June 5, 2003. The Commission on State Mandates (Commission) adopted the Statement of Decision on September 27, 2007, and the parameters and guidelines on September 26, 2008. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by March 31, 2009, and must file late claims by March 31, 2010.

Reimbursable Activities

For each eligible claimant, the following activities are reimbursable when an employee or applicant for employment files a complaint with the State Personnel Board alleging retaliation, acts of reprisal, or similar improper acts prohibited by Education Code section 87163:

- Beginning January 1, 2003, fully comply with the rules of practice and procedure of the State Personnel Board, set forth in California Code of Regulations, title 2, sections 56 – 57.4. This includes serving the employee or applicant for employment and the State Personnel Board with a written response to the applicant for employment’s complaint addressing the allegations, and responding to investigations or attending hearings, and producing documents during investigations or hearings (Ed. Code, § 87164, subd. (c)(1), as added and amended by Stats. 2002, ch. 81).
- Beginning January 1, 2003, pay for all costs associated with the State Personnel Board hearing regarding a complaint filed by an employee or applicant for employment (Ed. Code, § 87164, subd. (c)(2), as added and amended by Stats. 2002, ch. 81).
- Beginning January 1, 2002, if the State Personnel Board finds that a supervisor, community college administrator, or public school employer has violated Education Code section 87163, to make an entry into that individual’s official personnel file by placing a copy of the State Personnel Board’s decision in that individual’s official personnel file (Ed. Code, § 87164, subd. (f), as added by Stats. 2001, ch. 416).

Statewide Cost Estimate

Staff reviewed the claims data submitted by two community college districts, and compiled by the State Controller’s Office (SCO). The actual claims data showed that three claims were filed for fiscal years 2006-2007 and 2007-2008 for a total of \$41,516.¹⁴ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed.*

There are 71 community college districts in California. Of those, only two filed reimbursement claims for this program. If other eligible claimants file reimbursement claims or late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. For this program, late claims may be filed until March 2010.

2. *Non-claiming community college districts did not file claims because: (1) no complaints were filed with SPB and thus, they did not incur more than \$1,000 in increased costs for this program; or (2) they did not have supporting documentation to file a reimbursement claim.*

This program provides reimbursement only when community college district employees and applicants for employment submit complaints to the SPB, after which the SPB is required to initiate an informational hearing or investigation of the complaint. Therefore, reimbursement will only occur if complaints are filed.

Reimbursement for this program is authorized on or after January 1, 2002. However, no claims were filed until 2006-2007. No reimbursement claims were filed for fiscal years 2001-2002 through 2005-2006 because either no complaints were filed, or claimants did not retain the appropriate documentation for those years to file reimbursement claims.

3. *The total costs of this program may increase in future years if there are increases in the number of reports of improper governmental activities filed against community college district employees, officers or administrators.*

¹⁴ Claims data reported as of August 18, 2009.

4. *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.*

If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced.

Methodology

Fiscal Years 2006-2007 and 2007-2008

The statewide cost estimate for fiscal years 2006-2007 and 2007-2008 was developed by totaling the three unaudited reimbursement claims filed with the SCO for these years.

The statewide cost estimate includes two fiscal years for a total of \$41,516 for the *Reporting Improper Governmental Activities* program.

Conclusion

The Commission adopted the statewide cost estimate of **\$41,516** for costs incurred in complying with the *Reporting Improper Governmental Activities* program.

III. PENDING JOINT REASONABLE REIMBURSEMENT METHODOLOGIES, PARAMETERS AND GUIDELINES AND STATEWIDE COST ESTIMATES

Background

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). In lieu of parameters and guidelines, Government Code section 17557.1 provides an alternative process where the Department of Finance and test claimants jointly develop and propose RRM's. Once parameters and guidelines and/or RRM's are adopted, the Commission is required to adopt a statewide cost estimate of the mandated program (Gov. Code, § 17553). Following is a list of the parameters and guidelines, joint RRM's, and statewide cost estimates that are pending Commission determination.

A. Pending Joint RRM's

	Program	Status
1.	<i>Domestic Violence Background Checks, 01-TC-29*</i>	No hearing date set.
2.	<i>Identity Theft, 03-TC-08*</i>	No hearing date set.

B. Parameters and Guidelines Pending while Claimants Develop RRM's for Inclusion in Parameters and Guidelines

	Program	Status
3.	<i>Interagency Child Abuse and Neglect (ICAN) Investigation Reports, 00-TC-22*</i>	Tentatively set for hearing in May 2010.
4.	<i>Crime Victims' Domestic Violence Incident Reports II, 02-TC-18*</i>	Tentatively set for hearing in March 2010.
5.	<i>Permanent Absent Voter II, 03-TC-11*</i>	No hearing date set.
6.	<i>Voter Identification Procedures, 03-TC-23*</i>	No hearing date set.

C. Parameters and Guidelines Pending Litigation

	Program	Status
7.	<i>Behavioral Intervention Plans(BIPs), 4464**</i>	Litigation is currently pending which enjoins the Commission from adopting parameters and guidelines for the <i>BIPs</i> program because Department of Finance and school officials are negotiating a settlement agreement on reimbursement for this program.

* Local agency programs

** School district or community college district programs

D. Pending Parameters and Guidelines

	Program	Status
8.	<i>Pupil Expulsions II, Educational Services Plan for Expelled Pupils, and Pupil Suspensions II and Amendments, 96-358-03, 96-358-03A, 03B, 96-358-04, 96-358-04A, 04B, 97-TC-09, 98-TC-22, 98-TC-23, 01-TC-17, 01-TC-18**</i>	Tentatively set for hearing in March 2010.
9.	<i>Modified Primary Election, 01-TC-13*</i>	Tentatively set for hearing in March 2010.
10.	<i>Child Abuse & Neglect Reporting, 01-TC-21**</i>	Tentatively set for hearing in July 2010.
11.	<i>Academic Performance Index, 01-TC-22**</i>	Tentatively set for hearing in March 2010.
12.	<i>Prevailing Wage Rates, 01-TC-28*</i>	Set for hearing on January 29, 2010.
13.	<i>Crime Statistic Reports for Department of Justice, 02-TC-04, 02-TC-11*</i>	Tentatively set for prehearing conference in January 2010, and for hearing in March 2010.
14.	<i>Cal Grants, 02-TC-28**</i>	Set for hearing on January 29, 2010.
15.	<i>Comprehensive School Safety Plans II, 02-TC-33**</i>	Tentatively set for hearing in March 2010.
16.	<i>Student Records, 02-TC-34*</i>	Tentatively set for hearing in March 2010.
17.	<i>Municipal Storm Water & Urban Runoff Discharge, 03-TC-04, 03-TC-19, 03-TC-20, 03-TC-21*</i>	Tentatively set for hearing in March 2010.
18.	<i>Crime Statistics Reports for Department of Justice Amendment, 07-TC-10*</i>	Tentatively set for prehearing conference in January 2010, and for hearing in March 2010.
19.	<i>Comprehensive School Safety Plans Amendment, 07-TC-11**</i>	Tentatively set for hearing in March 2010.

E. Pending Statewide Cost Estimates

	Program	Status
20.	<i>Local Government Employment Relations, 01-TC-30*</i>	Tentatively set for hearing in March 2010.
21.	<i>Local Agency Formation Commissions, 02-TC-23*</i>	Tentatively set for hearing in July 2010.
23.	<i>Pupil Discipline Records & Notification to Teachers: Pupils Subject to Suspension or Expulsion, 00-TC-10; 00-TC-11**</i>	Tentatively set for hearing in March 2010.
24.	<i>Tuition Fee Waivers, 02-TC-21**</i>	Tentatively set for hearing in July 2010.

* Local agency programs

** School district or community college district programs