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STATE OF CALIFORNIA COMMISSION ON STATE MANDATES

REPORT TO THE LEGISLATURE: APPROVED MANDATE CLAIMS

April 1, 2005 – September 30, 2005

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EXECUTIVE SUMMARY

The Commission on State Mandates (Commission) adopted one statewide cost estimate during the period from April 1, 2005, through September 30, 2005. For the initial period of reimbursement, the statewide cost estimate for one new county program totaled \$142,139. The statewide cost estimate was not included in a local government claims bill or appropriated in the 2005-2006 Budget Act or trailer bills.

The State Controller issued a letter dated May 2, 2005, requesting additional funds in the amount of \$2,005,461,080 due to an overall appropriation deficiency. Of this amount, \$1,196,195,732 is for local agencies, \$718,790,843 is for school districts, and \$90,474,505 is for community colleges. The 2005-2006 Budget Act appropriates \$73.156 million for payment of various local agency mandate claims for the 2004-2005 fiscal year, \$60.568 million for payment of prior year state obligations for K-12 mandate claims and interest, and \$10 million for payment of prior year state obligations for community college mandate claims and interest.

The Budget Act also ensures continued deferral by appropriating \$1,000 for each education mandate, totaling \$40,000 for K-12 and \$4,000 for California community colleges, respectively.

This results in a deficiency of \$1,123,039,732 for local agencies and \$738,653,348 for school districts and community college districts.

I. INTRODUCTION

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 second 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 The Legislative Analyst's report shall make recommendations as to whether the mandate should be repealed, funded, suspended, or modified.²

Immediately upon receipt of this report, a local government claims bill, at the time of its introduction, shall provide for an appropriation sufficient to pay the estimated costs of these mandates approved by the Commission.³ The Legislature may amend, modify, or supplement the parameters and guidelines for mandates contained in the local government claims bill. If the Legislature changes the parameters and guidelines, it shall make a declaration in the local government claims bill specifying the basis for the amendment, modification, or supplement.⁴ If the Legislature deletes funding for a mandate from a local government claims bill, the local agency or school district may file an action in declaratory relief in the Superior Court of the County of Sacramento to declare the mandate unenforceable and enjoin its enforcement.⁵

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.⁶

If the Legislature appropriates the amount of the statewide cost estimate and actual claims exceed this amount, the SCO will prorate the claims.⁷ If the deficiency funds are not appropriated in the Budget Act, the SCO reports this information to the legislative budget committees and the Commission. The Commission will then include the deficiency in its report to the Legislature in order to ensure that it is included in the next claims bill.

On November 2, 2004, California voters approved Proposition 1A, which amended article XIII B, section 6 of the California Constitution. The amendment applies to a mandate only as it affects a city, county, city and county, or special district. Payable 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

¹ Government Code section 17600.

² Government Code section 17562, subdivision (c).

³ Government Code section 17612, subdivision (a).

⁴ Government Code section 17612, subdivision (b).

⁵ Government Code section 17612, subdivision (c).

⁶ Government Code section 17561.5, subdivision (a).

⁷ Government Code section 17567.

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 table below shows the statewide cost estimates that have been adopted during the period of April 1, 2005, through September 30, 2005.

**Statewide Cost Estimates (SCE) Adopted
During the Period of April 1, 2005 – September 30, 2005**

		<i>Estimated Costs</i>			
Date SCE Adopted ⁸	Test Claim	Initial Period of Reimbursement (Fiscal years)	Education	Non- Education	Totals
07/28/05	<i>Postmortem Examinations: Unidentified Bodies, Human Remains, 00-TC-18</i>	2000-2001 through 2005-2006		\$142,139	\$142,139
TOTALS				\$142,139	\$142,139

⁸ 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

Postmortem Examinations: Unidentified Bodies, Human Remains (00-TC-18)

Government Code Section 27521.1

Statutes 2000, Chapter 284

Test Claim Filed: June 29, 2001

Reimbursement Period: 2000-2001 through 2005-2006

Initial Reimbursement Claims Filed: March 22, 2004

Eligible Claimants: Cities and Counties⁹

Statewide Cost Estimate: \$142,139

Adopted: July 28, 2005

The statewide cost estimate includes six fiscal years for a total of \$142,139. This averages to \$23,690 annually in costs to the state. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Claim Totals
2000-2001	1	\$ 11,532
2001-2002	1	24,425
2002-2003	2	25,984
2003-2004	2	25,920
2004-2005 (est.)	N/A	26,672
2005-2006 (est.)	N/A	27,606
TOTALS	6	\$ 142,139

Summary of the Mandate

On September 25, 2003, the Commission on State Mandates (Commission) adopted its Statement of Decision finding that Government Code section 27521.1 imposes a reimbursable 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 mandate is for local law enforcement agencies investigating the death of an unidentified person to report the death to the Department of Justice (DOJ), in a DOJ-approved format, within 10 calendar days of the date the body or human remains are discovered. Reimbursement is not required for “children under 12 or found persons with evidence that they were at risk, as defined by Penal Code section 14213.”

The claimant filed the test claim on June 29, 2001. The Commission adopted the Statement of Decision on September 25, 2003, and the parameters and guidelines on July 29, 2004. Eligible claimants were required to file initial reimbursement claims with the State Controller’s Office (SCO) by February 1, 2005. The Commission uses these initial claims to develop the statewide cost estimate.

⁹ Any county, city, or city and county that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.

Reimbursable Activity

The Commission approved the following reimbursable activity performed by local law enforcement personnel:

1. Initial reporting of the death of an unidentified person to the DOJ, in a DOJ-approved format, within 10 calendar days of the date the body or human remains are discovered. Reimbursement is not required for “children under 12 or found persons with evidence that they were at risk, as defined by Penal Code section 14213.”¹⁰ Reimbursement is limited to submitting the following mandatory information to DOJ to complete the 10-day report:
 - a. Originating agency case number
 - b. Originating agency identification number
 - c. Date subject’s body was found
 - d. Cause and manner of subject’s death
 - e. Subject’s estimated date of death
 - f. Subject’s eye color
 - g. Subject’s hair color
 - h. Subject’s race or ethnicity
 - i. Subject’s sex
 - j. Subject’s height
 - k. Subject’s approximate weight
 - l. Subject’s approximate age range
 - m. Status of subject’s body parts
 - n. Subject’s fingerprint classification
 - o. Availability of subject’s dental chart/x-rays
 - p. Availability of subject’s body/skeletal x-rays
 - q. Availability of subject’s footprint
 - r. Identification of any scars, marks, or tattoos on subject

Statewide Cost Estimate

Staff reviewed the claims data submitted by the claimants and compiled by the SCO. Initial reimbursement claims were due to the SCO by February 1, 2005, and were provided to the Commission on February 16, 2005. Staff made the following assumptions and used the following methodology to develop a statewide cost estimate of the program. If the Commission

¹⁰ This exclusion from the mandate refers to children under 12, or certain persons who have been reported missing and subsequently found. These are excluded because law enforcement is already required to report them to the DOJ.

adopts this statewide cost estimate, the estimate, including staff’s assumptions and methodology, will be reported to the Legislature.

Assumptions

1. *The claiming data is unaudited and inaccurate.* The statewide cost estimate is based on six unaudited, actual claims filed by two local agencies for fiscal years 2000-2001 through 2003-2004.¹¹
 - a. *The County of Los Angeles’ claims include non-reimbursable costs.* The County of Los Angeles’ claims account for over 99 percent of total claims filed on the *Postmortem Examinations: Unidentified Bodies, Human Remains* program.¹² Table 1 below shows the County of Los Angeles’ claimed costs by fiscal year.

TABLE 1. Costs Claimed by the County of Los Angeles

Fiscal Year	Claimed Cost
2000-2001	\$ 243,898
2001-2002	506,833
2002-2003	525,131
2003-2004	520,620
Total	\$ 1,796,482

After reviewing the claims and the adopted parameters and guidelines, staff determined that the County of Los Angeles’ claims include costs that the Commission determined to be non-reimbursable. Table 2 below shows a breakdown of the county’s claims as evidenced by the documentation submitted with their reimbursement claims.

TABLE 2. Breakdown of Costs Claimed by the County of Los Angeles

Fiscal Year	Description of Expenses	Claimed Cost
2000-2001	Investigation and establishing identity of descendents including any required anthropology & archaeology services. Dental X-rays, Body X-Rays – At Scene death	\$ 188,234.96
	Investigation and establishing identity of descendents including any required anthropology & archaeology services. Dental X-rays, Body X-Rays – At Hospital death	44,131.50
	Filing reports to DOJ	11,531.95
2001-2002	Investigation and establishing identity of descendents including any required anthropology & archaeology services. Dental X-rays, Body X-Rays – At Scene death	431,457.72
	Investigation and establishing identity of descendents including any required anthropology & archaeology services. Dental X-rays, Body X-Rays – At Hospital death	50,951.37
	Filing reports to DOJ	24,425.26

¹¹ Claims data reported by the SCO as of February 16, 2005.

¹² The total amount of claims filed with the SCO for this program is \$1,799,743.

2002-2003	Investigation and establishing identity of descendents including any required anthropology & archaeology services. Dental X-rays, Body X-Rays – At Scene death	434,196.70
	Investigation and establishing identity of descendents including any required anthropology & archaeology services. Dental X-rays, Body X-Rays – At Hospital death	66,410.76
	Filing reports to DOJ	24,523.07
2003-2004	Investigation and establishing identity of descendents including any required anthropology & archaeology services. Dental X-rays, Body X-Rays – At Scene death	474,485.38
	Investigation and establishing identity of descendents including any required anthropology & archaeology services. Dental X-rays, Body X-Rays – At Hospital death	22,015.20
	Filing reports to DOJ	24,120.16

The parameters and guidelines for this program only provide reimbursement for the initial reporting of the death of an unidentified person to the DOJ. The Commission expressly found that conducting medical examinations and completing the final report of investigation pursuant to Health and Safety Code section 102870 and Government Code section 27521 are not reimbursable because these activities are a result of the coroner’s discretionary autopsy.

Therefore, staff only included the county’s claimed amounts for “Filing reports to DOJ,” a total of \$84,600, in the proposed statewide cost estimate.

- b. *The County of Los Angeles claims a greater number of cases reported than DOJ claims to have received.* Staff notes that the County of Los Angeles reported a greater number of reports made to DOJ than DOJ claims to have received from all counties. In February 2005, staff requested DOJ to provide the number of 10-day reports it received pursuant to the *Postmortem Examinations: Unidentified Bodies, Human Remains* program. Table 3 below shows “the [number of] reports of unidentified persons entered into the Department of Justice, Missing and Unidentified Persons System” versus the number of cases reported by the County of Los Angeles, as indicated in their reimbursement claims.

TABLE 3. Number of Cases Reported Versus Number of Reports Received

County of Los Angeles		Department of Justice	
Fiscal Year	Cases Reported	Calendar Year	Reports Received
2000-2001	153	2000	159
2001-2002	305	2001	142
2002-2003	295	2002	180
2003-2004	284	2003	193
		2004	266

In support of its numbers, the County of Los Angeles stated, “...the Coroner counted the number of persons who were identified just before the 10-day period was expired as unidentified... [S]ince they had performed all the requirements of the 10-day report...they felt that they were eligible for reimbursement.”

However, despite the discrepancy, staff does not have sufficient evidence to further reduce the total claimed by the County of Los Angeles because it is unclear whether DOJ counts reports made for bodies that are later identified. Also, staff notes that the County of Los Angeles reported the number of cases reported in a *fiscal* year, whereas DOJ entered reports into their Missing and Unidentified Persons System by *calendar* year. DOJ was not able to provide a breakdown of reports made by month or by county.

2. *The actual amount claimed will increase if late or amended claims are filed.* The claims data includes only six claims filed by two of the state's 58 counties. While late claims may be filed for this program until February 2006, additional claims are not expected because most counties will be unable to meet the \$1,000 minimum threshold for filing reimbursement claims, as this program is limited to one activity.
3. *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. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.
4. *For future year projections, only the costs to carry out the activity will increase.* For purposes of projecting fiscal years 2004-2005 and 2005-2006, staff assumes that no other counties will file claims and that the number of reports made will not increase. Future costs are projected using the implicit price deflator as forecast by the Department of Finance.

Methodology

2000-2004 Costs

The proposed statewide cost estimate for fiscal years 2000-2001 through 2003-2004 is based on six unaudited, actual reimbursement claims. However, Commission staff adjusted the total claimed by the County of Los Angeles to eliminate non-reimbursable activities, as described above.

2004-2006 Projected Costs

Staff projected totals for fiscal year 2004-2005 by multiplying the total for 2003-2004 reimbursement claims by the implicit price deflator for 2003-2004 (2.9%), as forecast by the Department of Finance. Staff projected totals for fiscal year 2005-2006 by multiplying the estimate for 2004-2005 by the implicit price deflator for 2004-2005 (3.5%), as forecast by the Department of Finance.

III. PENDING STATEWIDE COST ESTIMATES

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Pending Statewide Cost Estimates, Local Agencies and School Districts

Local Agencies	School Districts
<i>Domestic Violence Arrests and Victim Assistance, 98-TC-14*</i>	<i>Behavioral Intervention Plans, 4464*</i>
<i>Crime Victims' Domestic Violence Incident Reports, 99-TC-08*</i>	<i>The Stull Act, 98-TC-25</i>
<i>Peace Officer Personnel Records: Unfounded Complaints and Discovery, 00-TC-24 and 00-TC-25*</i>	<i>Enrollment Fee Collection, 99-TC-13* and Enrollment Fee Waivers, 00-TC-15*</i>
<i>False Reports of Police Misconduct, 00-TC-26</i>	<i>High School Exit Exam, 00-TC-06*</i>
<i>DNA Database, 00-TC-27* and Amendment to Post Mortem Exams: Unidentified Bodies, 02-TC-39*</i>	<i>Integrated Waste Management, 00-TC-07</i>
<i>Handicapped and Disabled Students II, 02-TC-40/02-TC49*</i>	<i>Missing Children Reports, 01-TC-09*</i>

* Currently in the parameters and guidelines phase.

**IV. DEFICIENCY FOR
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The State Controller's letter dated May 2, 2005, requests additional funds in the amount of \$2,005,461,080 due to an overall appropriation deficiency.

A. Local Agencies

The mandate deficiency for local agencies is \$1,196,195,732. The 2005 Budget Act (Stats. 2005, ch. 38, item 8885-295-0001, schedule (1)) appropriates \$73.156 million for payment of various mandate claims for the 2004-2005 fiscal year, leaving a deficiency of \$1,123,039,732.

B. School Districts

The State Controller also identifies mandate deficiencies in the amount of \$718,790,843 for school districts and \$90,474,505 for community colleges. Two 2005 Budget Act trailer bills make the following appropriations for this purpose:

- Statutes 2005, chapter 39 (Senate Bill 80), item 6110-485-0001 (8). Appropriates \$53.757 million from the Proposition 98 Reversion Account to the Controller to pay for prior year state obligations for K-12 mandate claims and interest.
- Statutes 2005, chapter 491 (Senate Bill 65), section 31, subdivision (b)(1). Appropriates \$16.811 million of Proposition 98 funding to the Controller to pay for prior year state obligations for K-12 and community college mandate claims and interest. The sum of \$6.811 million is for reimbursement of claims filed by school districts and county offices of education. The sum of \$10 million is for reimbursement of claims filed by community college districts.

Items 6110-295-0001 and 6870-295-0001 of the 2005 Budget Act ensure continued deferral by appropriating \$1,000 for each education mandate, totaling \$40,000 for K-12 and \$4,000 for California community colleges, respectively.

This results in a deficiency of \$738,653,348 for school districts and community college districts.