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STATE OF CALIFORNIA
COMMISSION ON STATE MANDATES

REPORT TO THE LEGISLATURE: DENIED MANDATE CLAIMS

January 1, 2014 – December 31, 2014

TABLE OF CONTENTS

INTRODUCTION

The Commission on State Mandates (Commission) is required to annually report to the Legislature on the number of claims it denied during the preceding calendar year and the basis on which each of the claims was denied.[1]

This report includes a summary of seven test claims, two of which were consolidated for hearing, that the Commission denied during the period from January 1, 2014 through December 31, 2014. The complete text of the decisions for the denied claims may be found on the Commission's website at http://www.csm.ca.gov/denied_mandates.shtml.

The decisions are based on the administrative record of the claims and include findings and conclusions of the Commission as required by the California Code of Regulations, Title 2, section 1187.11.

[1] Government Code section 17601.

SUMMARY OF DENIED CLAIMS

Public Guardianship Omnibus Conservatorship Reform

07-TC-05

Probate Code Sections 1850(a), 1851(a), 2113, 2250(a)-(c), 2250.4(a)-(d); 2352(a)-(f), 2352.5(a)-(e), 2410, 2540(a)-(b), 2543(a)-(d), 2610(a), 2620(a)-(e), 2620.2(a)-(d), 2590, 2591(a)-(q), 2591.5(a)-(d), 2623(a)-(b), 2640(a)-(c), 2640.1(a)-(c), 2641(a)-(b), 2653(a)-(c), 2920(a)-(c), and 2923

Statutes 2006; Chapter 490 (SB 1116); Statutes 2006, Chapter 492 (SB 1716); Statutes 2006, Chapter 493 (AB 1363)

County of Los Angeles, Claimant

Test Claim Filed: December 13, 2007

Decision Adopted: January 24, 2014

This test claim sought reimbursement for the Omnibus Conservatorship and Guardianship Reform Act of 2006 ("OCRA"), which made comprehensive reforms to California's probate conservatorship program. Although the OCRA made sweeping changes to the conservatorship process as a whole, including reforms aimed at professional conservators, probate court proceedings, and educating the public regarding conservatorships, the test claim sought reimbursement only for those costs incurred as a result of changes made to statutes directly affecting county public guardians.

The Commission denied this test claim, finding that the test claim statutes and regulations do not impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution for the following reasons:

- Several activities pled were either not required of local government, or are triggered by a court order. Appropriations required to comply with mandates of the courts are not eligible for reimbursement under article XIII B, section 6.
- Although some activities pled were new requirements imposed by the state on the county office of public guardian, they are triggered by the county's discretionary decision to create the office of public guardian and therefore, the requirements do not create a state-mandated program within the meaning of article XIII B, section 6 of the California Constitution.

Upper Santa Clara River Chloride Requirements

10-TC-09

Los Angeles Regional Water Quality Control Board Resolution No. R4-2008-012, adopted December 11, 2008; approved by United States Environmental Protection Agency April 6, 2010

Santa Clarita Valley Sanitation District of Los Angeles County, Claimant

Test Claim Filed: March 30, 2011

Decision Adopted: January 24, 2014

This test claim sought reimbursement for activities to comply with Resolution R4-2008-012, adopted December 11, 2008 by the Regional Water Quality Control Board for the Los Angeles region (Regional Board). The Resolution amended the prior Basin Plan, which imposed a maximum chloride concentration limit, or "total maximum daily load" (TMDL) of 100 mg/L for the Santa Clara River and chloride concentration discharge limits, or "waste load allocations" (WLAs) of 100 mg/L for the District's two Water Reclamation Plants (WRPs). The Resolution includes a revised, less stringent, TMDL and WLAs, providing greater flexibility to the District with regard to chloride discharges into the river and significantly reducing the costs for the District to comply with the TMDL and WLAs for the Upper Santa Clara River. The revised TMDL calls for the implementation of an Alternative Water Resources Management program (AWRM), in order to meet conditional site-specific objectives (SSOs) for water quality in Reaches 4B, 5, and 6 of the river, and conditional WLAs of 150 mg/L for discharges to Reaches 5 and 6, and 117 mg/L for discharge to Reach 4B for the District's two WRPs.

The Commission denied this test claim, finding that the test claim statutes and regulations do not impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution for the following reasons:

- Several of the Implementation Tasks included in the TMDL are not new and cannot impose a *new* program or higher level of service.
- Accelerating the implementation of final waste load allocations (discharge limitations) by one year is not a new program or higher level of service, and no increased costs are alleged.
- The Alternative Water Resources Management program is not a new program or higher level of service, but a lower level of service, and results in reduced costs with respect to prior law.
- Even if the Alternative Water Resources Management program did impose a new program or higher level of service, there are no costs mandated by the state, because the claimant has sufficient fee authority to cover the costs of any required activities.

Special Education Services for Adult Students in County Jail

10-TC-04

January 2010 Compliance Report from the California Department of Education;

November 2009 Decision by the Office of Administrative Hearings;

Education Code Section 56041, as enacted by Statutes 1992, Chapter 1360 (AB 2773)

Los Angeles Unified School District, Claimant

Test Claim Filed: November 3, 2010

Decision Adopted: March 28, 2014

This test claim sought reimbursement for activities to comply with a report issued by the California Department of Education (CDE) and a decision by the Office of Administrative Hearings (OAH) interpreting and applying Education Code section 56041. For those students ages 18 to 22 that are eligible for special education services pursuant to federal and state law, Education Code section 56041 provides a means for determining the district responsible for providing special education and related services beyond the pupil's 18th birthday. In December 2008, the Disability Rights Legal Center filed both a special education complaint with the CDE and a due process hearing complaint with the OAH on behalf of two students who were allegedly denied special education services that they were allegedly entitled to under federal and state law while incarcerated in Los Angeles County Jail. On November 19, 2009, the OAH interpreted and applied Education Code section 56041 and issued a decision (OAH Decision) finding that claimant was responsible for providing special education to students incarcerated in Los Angeles County Jail. In 2010, the CDE also interpreted and applied Education Code section 56041 and issued a decision (2010 CDE Compliance Report) finding that claimant was responsible for providing special education to students incarcerated in Los Angeles County Jail. Claimant sought reimbursement for complying with the OAH Decision, 2010 CDE Compliance Report, and Education Code section 56041.

The Commission denied this test claim, finding that the test claim statutes and regulations do not impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution for the following reasons:

- Education Code section 56041 is not new and the 2010 Compliance Report and OAH Decision do not alter existing law.
- The 2010 Compliance Report and the OAH Decision applied section 56041 and required claimant to comply with the law as it has existed since section 56041 was enacted in 1992.

Housing Successor Agency

12-TC-03

Health and Safety Code section 34176

Statutes 2011, First Extraordinary Session, Chapter 5 (ABX1 26); Statutes 2012, Chapter 26 (AB 1484)

Stanton Housing Authority, Claimant

Test Claim Filed: June 28, 2013

Decision Adopted: May 30, 2014

This test claim sought reimbursement for activities arising from the dissolution of the former Stanton Redevelopment Agency and the transfer of that agency's assets and obligations to the Stanton Housing Authority (Authority), pursuant to Health and Safety Code section 34176.

The Commission denied this test claim; finding that housing authorities are not claimants eligible to seek reimbursement pursuant to article XIII B, section 6, because they are not subject to the taxing and spending limitations of article XIII A and B of the California Constitution.

Top Two Candidates Open Primary Act

12-TC-02

Statutes 2009, Chapter 2 (SCA 4), adopted June 8, 2010 (Proposition 14);

Elections Code Sections 13, 300.5, 325, 332.5, 334, 337, 359.5, 9083.5, 13102, 13105, 13110, 13206, 13230, 13302, 14105.1, as added or amended by Statutes 2009, Chapter 1 (SB 6);

Elections Code Sections 8002.5, 8040, 8062, 9083.5, 13105, 13206, 13206.5, 13302, as added or amended by Statute 2012, Chapter 3 (AB 1413);

Secretary of State County Clerk/Registrar of Voters Memoranda Nos. 11005, effective 1/26/11; 11125, effective 11/23/11; 11126, effective 11/23/11; 12059, effective 2/10/12.

Sacramento County, Claimant

Test Claim Filed: June 11, 2013

Decision Adopted: September 26, 2014

This test claim sought reimbursement for activities arising from amendments to the State Constitution (i.e., Proposition 14) and the Elections Code and subsequent implementing executive orders to provide for a "top-two" primary election system for all statewide and congressional offices. Proposition 14 eliminated partisan primary elections for most offices, and established, for all congressional and state offices, a voter-nominated primary election system, in which voters are entitled to vote for any candidate, regardless of the party preference designated by the candidate or the voter, and the top two candidates for each office advance to the general election, regardless of their party preference or lack of party preference. The amended Elections Code provisions and implementing executive orders pled in this claim provided more specific requirements and procedures for the implementation of Proposition 14.

The Commission denied this test claim, finding that the test claim statutes and regulations do not impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution for the following reasons:

- Statutes 2009, chapter 2 was adopted by the voters as Proposition 14 in a statewide election, and therefore does not impose a state-mandated local program.
- Many of the code sections, as amended by the test claim statutes, and the executive orders pled, do not impose any new state-mandated activities on local government.
- Some of the test claim statutes and executive orders alleged require counties to perform some new activities, but the required activities do not impose costs mandated by the state because they are necessary to implement Proposition 14 or are intended to implement and incidental to Proposition 14 and impose at most de minimis added costs in the context of the Top Two Primary program.

Water Conservation

10-TC-12

Water Code Division 6, Part 2.55 [sections 10608-10608.64] and Part 2.8 [sections 10800-10853] as added by Statutes 2009-2010, 7th Extraordinary Session, Chapter 4

Consolidated with

12-TC-01

California Code of Regulations, Title 23, Division 2, Chapter 5.1, Article 2, Sections 597-597.4; Register 2012, No. 28.

South Feather Water and Power Agency, Paradise Irrigation District, Richvale Irrigation District, Biggs-West Gridley Water District, Oakdale Irrigation District, and Glenn-Colusa Irrigation District, Claimants

Test Claim Filed: June 30, 2011 (10-TC-12) and February 28, 2013 (12-TC-01)

Decision Adopted: December 5, 2014

This test claim sought reimbursement for activities arising from the Water Conservation Act of 2009 and regulations adopted by the Department of Water Resources in 2012 to implement the Act.

The Water Conservation Act added Part 2.55 to Division 6 of the Water Code, consisting of sections 10608 through 10608.64, and repealed and added Part 2.8 to Division 6 of the Water Code, consisting of sections 10800 through 10853. Part 2.55 primarily addresses urban retail water suppliers, while Part 2.8 and the alleged regulations apply exclusively to agricultural water suppliers. The alleged test claim regulations address agricultural water measurement, and provide a range of specific options for measurement of agricultural water, as well as standards of accuracy for measurement devices, record retention requirements, and protocols for field testing of measurement devices.

The Commission found that the Water Conservation Act of 2009, and the Agricultural Water Measurement regulations promulgated by the Department of Water Resources to implement the Act, impose some new required activities on urban water suppliers and agricultural water suppliers. However, to the extent that the test claim statute and regulations impose any new state-mandated activities, they do not impose costs mandated by the state because the Commission found that urban water suppliers and agricultural water suppliers possess fee authority, sufficient as a matter of law, to cover the costs of any new required activities.

Therefore, the Commission found that the test claim statute and regulations do not impose costs mandated by the state, pursuant to Government Code section 17556(d), and are not reimbursable under article XIII B, section 6 of the California Constitution.