

**ITEM 23**  
**EXECUTIVE DIRECTOR'S REPORT**  
**Workload, Budget, and**  
**Tentative Agendas**

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**I. WORKLOAD**

**A. PENDING COMMISSION CASELOAD (Info)**

Type of Action	July 15, 2009
Test Claims <sup>1</sup> to be Heard and Determined	60
Test Claims to be Reconsidered	0
Test Claims to be Reconsidered or Reinstated Based on Court Action	4
Incorrect Reduction Claims to be Heard and Determined	146
Incorrect Reduction Claims to be Reconsidered Based on Court Action	0
Reasonable Reimbursement Methodologies/Statewide Estimate of Costs	3
Proposed Parameters and Guidelines	16
Proposed Parameters and Guidelines Amendments	56 <sup>2</sup>
Parameters and Guidelines to be Amended, Set Aside, or Reinstated, as Directed by the Legislature or Court Action	4
Statewide Cost Estimates to be Adopted	7
New Test Claim Filings to be Reviewed	0
New Incorrect Reduction Claim Filings to be Reviewed	0
Appeals of Executive Director's Decision	0
Regulatory Actions Pending	0

On September 15, 2009, the Commission staff will report the current caseload to the Department of Finance. This report is required by provisional language in the 2009-2010 Budget Act and will be issued to the members and published on the Commission's website.

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<sup>1</sup> This includes 36 test claims filed by school districts and 24 filed by local agencies.

<sup>2</sup> Forty-eight of the proposed amendments were filed by the State Controller's Office under 05-PGA-17. These requests are being re-numbered.

**B. PENDING REQUESTS TO JOINTLY DEVELOP LEGISLATIVELY DETERMINED MANDATES**

Type of Action	
Notice of Intent to Pursue Legislatively Determined Mandates	2

**C. APPLICATIONS FOR FINDINGS OF SIGNIFICANT FINANCIAL DISTRESS**

Type of Action	
Applications for Findings of Significant Financial Distress Pending	0

Although no applications have been filed, four counties have inquired about the process (Sacramento, Los Angeles, San Diego, and Alameda).

**II. STATE BUDGET (Info/Action)**

**A. Commission Budget - 2009-2010**

We expect the Commission's budget to be reduced when the 2009-2010 budget amendments are enacted. If the amendments are consistent with the Governor's Executive Orders, there will be a 15% reduction in contracts, and a reduction in personal services to reflect 3 furlough days/month and the loss of 1 vacant staff counsel position.

The Commission's offices will be closed on the first, second, and third Fridays of each month through June 2010.

**B. Pending Conference Committee Actions**

Among many actions taken, the Conference Committee Report on the Budget included the following actions:

1. Local Agencies
  - a) Local Agency Mandate Reimbursements and Suspensions: The appropriation for cities, counties and special districts is now reduced to \$76.42 million from \$142 million. Of this amount, \$21,500,000 may be used to fund the initial reimbursement claims for mandates approved during the 2008-2009 fiscal year. (Budget Bill Language (BBL).)<sup>3</sup>
  - b) *Fire Safety Inspections*. Based on LAO recommendation, removes the fee cap, allowing local agencies to charge fees for the cost of the inspections. (Trailer bill language (TBL).)<sup>4</sup>
  - c) *Crime Victims*. Amends the test claim statute to specify that the statutory right of a crime victim includes being notified of the case, upon request, to

<sup>3</sup> See Exhibit A, for an excerpt from Item 8885-295-0001, ABX3 10.

<sup>4</sup> See Exhibit B, Legislative Analyst's Office, Analysis of Newly Identified Mandates, June 24, 2009.

the extent notification is required by Section 28 of Article I of the California Constitution. (TBL.)

- d) *Election Mandates*. Requires the Department of Finance (DOF), in consultation with the California State Association of Counties (CSAC), to review all mandates relating to elections. The DOF shall submit a report to the Joint Legislative Budget Committee, by October 1, 2009, with recommendations regarding simplifying the reimbursement process for these mandates, including replacement of the current mandates parameters and guidelines with a reasonable reimbursement methodology. Additional language prohibits the State Controller's Office (SCO) from disbursing, prior to June 1, 2010, any funds appropriated to pay election mandate claims, unless DOF has reported to the Joint Legislative Budget Committee and the SCO indicating that an agreement has been reached with CSAC on either the revised mandate reimbursement process proposed by DOF or an alternative simplified mandate reimbursement process proposed by CSAC. (BBL, see Item 8885-295-0001, Schedule 3, provision 6.) On July 30, 2009, Commission staff will be meeting with the CSAC SB 90 Group to review election mandates. We have also offered technical assistance to the Department of Finance.
- e) *Domestic Violence and Rape Counseling*. Based in LAO recommendation, requires DOF and the Department of Justice to review domestic violence and rape counseling mandates, submit a report to the Joint Legislative Budget Committee, by January 1, 2010, with recommendations regarding consolidating the mandated requirements, coordinating the mandated requirements with voter-approved measures, and, if appropriate, reallocating funding for these mandates to victims' assistance programs. (BBL, see Item 8885-295-0001, Schedule 3, provision 7.)
- f) *Mandate Reimbursement Process*. Requires DOF to review the mandate reimbursement process and submit a report to the Joint Legislative Budget Committee, by April 1, 2010, with a recommendation regarding simplifying the mandate reimbursement process and reducing its costs. (BBL, see Item 8885-295-0001, Schedule 3, provision 8.) We have requested clarification from DOF as to what this means.
- g) *Sexually Violent Predators*. Requires the Director of Finance to identify those local costs associated with implementation of the state-mandated program that are necessary to implement, or are expressly included within, Proposition 83 for the purposes of subdivision (f) of the section 17556, and propose an amendment to the parameters and guidelines. (TBL.)
- h) Legislative findings and declarations regarding the effect of the Victims' Bill of Rights Act of 2008 (Marsy's Law), on existing mandates. (TBL.)
- i) Legislative findings and declarations regarding the effect of suspension of the *Animal Adoption* mandate (Statutes 1998, chapter 752) and that this does not affect the duties that were in effect prior to the test claim statute, and that, the requirement that dogs and cats be held for a minimum of 72 hours remains in effect. (TBL.)

## 2. School Districts

Requires school districts to first use funds provided for STAR Program (\$50,059,000), English Language Development Assessment (\$1,630,000), High School Exit Examination (\$7,200,000), and Assessment Apportionments (\$25,134,000) to offset any state-mandated reimbursable costs within the meaning of Section 17556 of the Government Code, that otherwise may be claimed through the state mandates reimbursement process for the *STAR Program, the California English Language Development Test, and the California High School Exit Examination*. Also states, "local educational agencies receiving funding from these schedules shall reduce their estimated and actual mandate reimbursement claims by the amount of funding provided to them from these schedules. (BBL, Item 6110-113-0001, provision 7.)

## 3. Community College Districts

- a) Requires community college districts to apply specified funding provided to community college districts to directly offset any mandated costs claimed by community college districts pursuant to Commission on State Mandates Test Claims 99-TC-13 (*Enrollment Fee Collection*) and 00-TC-15 (*Enrollment Fee Waivers*), and 02-TC-28 (*Cal Grants*). This applies to funds appropriated pursuant to Item 6870-101-0001, for Student Financial Aid Administration. (See Item 6870-101-0001, provision 11.)
- b) Mandate Reimbursement. Three mandates are included in the conference report, for an appropriation of \$3,000. (See Item 6870-295-0001.)

### III. BUREAU OF STATE AUDITS REPORT (action)

The Bureau of State Audits (BSA) is conducting a follow-up audit of California's mandates process, including the Commission's role in the process. This audit follows the October 2003 audit, *State Mandates: The High Level of Questionable Costs Claimed Highlights the Need for Structural Reforms of the Process*. According to a report made to the Joint Legislative Audit Committee, this audit is scheduled for completion in October 2009.

BSA is reviewing whether the commission and its staff have fully implemented the recommendations made in the 2003 audit report, and if not, the reasons why those recommendations have not been implemented. As part of this review, BSA plans to review changes resulting from legislation and any other reforms that have been implemented since the 2003 audit. Additionally, BSA plans to follow up on past mandates reviewed as well as examine the current process as it relates to selected mandates approved since 2003. Findings will be made public upon completion.

BSA will share its findings with commission staff in the form of a confidential draft of the results of the follow-up prior to making the review public. Because of a strict five-day timeline for submission of the Commission's response, staff recommends approval of the following actions:

- Formation of a two-member Audit Subcommittee to work with staff in reviewing the confidential draft and preparing the Commission's response. If a Commission meeting is not scheduled within the strict timelines, then the Audit Subcommittee is authorized to approve the Commission's response.
- For the September meeting, schedule Closed Session discussion of the Commission's response to the "confidential final draft audit report from the Bureau of State Audits." If

the final draft audit report is issued within five days of the Commission's meeting, copies will be distributed to the members for review and approval of the Commission's response. (Gov. Code, § 11126.2, subd. (a))

- For the October or December meeting, schedule the audit report for discussion in open session. After the public release of an audit report by BSA, the Commission must discuss the audit report in open session.

#### **IV. MODIFICATION OF 2009 MEETING CALENDAR**

Now that we are scheduled to have three furlough days each month through June 2010, it is more difficult to schedule completion of draft staff analyses and hearing dates for pending test claims. It is also difficult because during summer months staff is most likely to schedule vacation days.

We are still adjusting to the loss of three fixed work days each month and need to modify the Commission's 2009 meeting schedule:

Staff recommends:

- Schedule a meeting on October 30, 2009. This is currently set as a tentative meeting date.
- Cancel the Friday, December 4, 2009 meeting because it is set on a furlough day and schedule meeting on Thursday, December 3, 2009. (No school district items will be set for this meeting because of a conflict with the annual California School Boards Association meeting in San Diego.)

#### **V. TENTATIVE 2009 AGENDAS (Info/Action)**

*The tentative agendas are subject to change based on Commission staff's actual authorized work days, workload, requests for extensions of time to file comments on draft staff analyses, hearing postponements, pre-hearing conferences, and the complexity of the statutes and executive orders that are pled.*

##### **Friday, September 25, 2009 or Friday, October 30, 2009**

The draft staff analyses for September items must be issued by July 31, 2009; and October items must be issued by September 3, 2009. Items that do not make the September agenda will be moved to October.

##### **A. Test Claims (5)**

1. *Notice to Students and Minimum Conditions for State Aid*, 02-TC-25 and 02-TC-31  
Los Rios and Santa Monica Community College Districts, Claimants
2. *Comprehensive School Safety Plans II*, 07-TC-11  
San Diego Unified School District, Claimant
3. *California Environmental Quality Act (CEQA)*, 03-TC-17  
Clovis Unified School District, Claimant
4. *Discharge of Stormwater Runoff*, 07-TC-09  
County of San Diego, Incorporated Cities of San Diego County, San Diego Port District, and San Diego County Regional Airport Authority, Claimants

- B. Court-Ordered Set Asides on Reconsideration and Orders to Set Aside Statements of Decision and Parameters and Guidelines Pursuant to California School Boards Association v. State of California (2009) 171 Cal.App4th 1183
  - 1. *Mandate Reimbursement Process* (05-RL-4204-02 (4204 & 4485))
  - 2. *School Accountability Report Cards* (04-RL-9721-11, 05-RL-9721-03 (97-TC-11))
  - 3. *Open Meetings Act and Brown Act Reform* (CSM-4257, 4469, 04-PGA-33)
- C. Parameters and Guidelines (4)
  - 1. *Permanent Absent Voter*, 03-TC-11  
County of Sacramento, Claimant
  - 2. *Modified Primary Election*, 01-TC-13  
County of Orange, Claimant
  - 3. *Expulsions II and Suspensions II*, 96-358-03, 03A-03B, 04, 04A-04B, 98-TC-22, 23, 01-TC-17, and 18 consolidated with *Education Services Plan*, 97-TC-09  
San Juan Unified School District, Claimant
  - 4. *Local Agency Formation Commissions (LAFCO)*, 02-TC-23  
Sacramento Metropolitan Fire Department, Claimant
- D. Parameters and Guidelines Amendments (1-48)
  - 1. *Update Boilerplate Language*, 05-PGA-17  
State Controller's Office, Requestor
- E. Dismissal of Withdrawn Parameters and Guidelines Amendment (1)
  - 1. *Seriously Emotionally Disturbed Pupils* (05-PGA-15)
- F. Statewide Cost Estimates (4)
  - 1. *Integrated Waste Management (Post-Litigation)*, 05-PGA-16 (00-TC-07)
  - 2. *Pupil Discipline Records and Notification to Teachers: Pupils Subject to Expulsion/Suspension II*, 00-TC-10 and 01-TC-11  
Sweetwater Union High School District, Carpinteria Unified School District and Grant Joint union High School District, Claimants
  - 3. *California Fire Incident Reports (CFIRS)*, CSM-4419  
City of Newport Beach, Claimant
  - 4. *Reporting Improper Governmental Activities*, 02-TC-24  
San Juan Unified School District and Santa Monica Community College District, Claimants

## **VI. ADOPTION OF 2010 MEETING CALENDAR**

Staff recommends that the Commission approve the following meeting dates for 2010:

Friday, January 29, 2010

Friday, March 26, 2010

Friday, May 28, 2010

Friday, June 25, 2010 (tentative)

Friday, July 30, 2010

Friday, September 24, 2010

Friday, October 29, 2010 (tentative)

Friday, December 3, 2010



1 SEC. 431. Item 8885-295-0001 of Section 2.00 of the Budget  
2 Act of 2009 is amended to read:

3

4 8885-295-0001—For local assistance for reimbursement, in  
5 accordance with the provisions of Section 6 of Article  
6 XIII B of the California Constitution or Section 17561 of  
7 the Government Code, of the costs of any new program  
8 or increased level of service of an existing program man-  
9 dated by statute or executive order, for disbursement by  
10 the Controller for claims for costs incurred during the  
11 specified periods..... 142,000,000  
12 76,420,000

13 Schedule:

- 14 (1) For payment of the following mandate  
15 claims for costs incurred in the  
16 2004–05 through 2007–08 fiscal  
17 years..... 134,000,000  
18 76,420,000
- 19 (a) ~~Crime-Victim Rights (Ch. 411, Stats. 1995)~~  
20 ~~(CSM-96-358-01)~~
  - 21 (b) Threats Against Peace Officers (Ch. 1249, Stats.  
22 1992; Ch. 666, Stats. 1995) (CSM-96-365-02)
  - 23 (c) Custody of Minors-Child Abduction and Recovery  
24 (Ch. 1399, Stats. 1976; Ch. 162, Stats. 1992; and  
25 Ch. 988, Stats. 1996) (CSM-4237)
  - 26 (d) ~~Stolen Vehicle Notification (Ch. 337, Stats. 1990)~~  
27 ~~(CSM-4403)~~
  - 28 (e) Absentee Ballots (Ch. 77, Stats. 1978) (CSM-  
29 3713)
  - 30 (f) Permanent Absent Voters (Ch. 1422, Stats. 1982)  
31 (CSM-4358)
  - 32 (g) Voter Registration Procedures (Ch. 704, Stats.  
33 1975) (04-LM-04)
  - 34 (h) Absentee Ballots-Tabulation by Precinct (Ch. 697,  
35 Stats. 1999) (00-TC-08)
  - 36 (i) Brendon Maguire Act (Ch. 391, Stats. 1988)  
37 (CSM-4357)
  - 38 (j) Medi-Cal Beneficiary Death Notices (Chs. 102  
39 and 1163, Stats. 1981) (CSM-4032)

- 1           (k) ~~Pacific Beach Safety (Ch. 961, Stats. 1992)~~
- 2           ~~(CSM-4432)~~
- 3           (f) ~~Perinatal Services (Ch. 1603, Stats. 1990) (CSM-~~
- 4           ~~4397)~~
- 5           (m) ~~AIDS/Search Warrant (Ch. 1088, Stats. 1988)~~
- 6           ~~(CSM-4392)~~
- 7           (n) ~~Mentally Retarded Defendants Representation~~
- 8           ~~(Ch. 1253, Stats. 1980) (04-LM-12)~~
- 9           (o) ~~Judicial Proceedings (Ch. 644, Stats. 1980) (CSM-~~
- 10          ~~4366)~~
- 11          (p) ~~Conservatorship: Developmentally Disabled~~
- 12          ~~Adults (Ch. 1304, Stats. 1980) (04-LM-13)~~
- 13          (q) ~~Developmentally Disabled Attorneys' Services~~
- 14          ~~(Ch. 694, Stats. 1975) (04-LM-03)~~
- 15          (r) ~~Coroners Costs (Ch. 498, Stats. 1977) (04-LM-~~
- 16          ~~07)~~
- 17          (s) ~~Not Guilty by Reason of Insanity (Ch. 1114, Stats.~~
- 18          ~~1979) (CSM-2753)~~
- 19          (t) ~~Mentally Disordered Offenders' Extended Com-~~
- 20          ~~mitments Proceedings (Ch. 435, Stats. 1991) (98-~~
- 21          ~~TC-09)~~
- 22          (u) ~~Sexually Violent Predators (Chs. 762 and 763,~~
- 23          ~~Stats. 1995) (CSM-4509)~~
- 24          (v) ~~Mentally Disordered Sex Offenders' Recommit-~~
- 25          ~~ments (Ch. 1036, Stats. 1978) (04-LM-09)~~
- 26          (w) ~~Domestic Violence Treatment Services (Ch. 183,~~
- 27          ~~Stats. 1992) (CSM-96-281-01)~~
- 28          (x) ~~Police Officer's Cancer Presumption (Ch. 1171,~~
- 29          ~~Stats. 1989) (CSM-4416)~~
- 30          (y) ~~Firefighter's Cancer Presumption (Ch. 1568, Stats.~~
- 31          ~~1982) (CSM-4081)~~
- 32          (z) ~~Domestic Violence Arrest Policies (Ch. 246, Stats.~~
- 33          ~~1995) (CSM-96-362-02)~~
- 34          (aa) ~~Animal Adoption (Ch. 752, Stats. 1998) (98-TC-~~
- 35          ~~11)~~
- 36          (bb) ~~Unitary Countywide Tax Rates (Ch. 921, Stats.~~
- 37          ~~1987) (CSM-4355 and CSM-4317)~~
- 38          (cc) ~~Senior Citizens Property Tax Deferral (Ch. 1242,~~
- 39          ~~Stats. 1977) (CSM-4359)~~

- 1 (dd) Allocation of Property Tax Revenues (Ch. 697,  
2 Stats. 1992) (CSM-4448)
- 3 (ee) ~~Photographic Record of Evidence (Ch. 875, Stats.~~  
4 ~~1985) (98-TC-07)~~
- 5 (ff) Rape Victim Counseling (Ch. 999, Stats. 1991)  
6 (CSM-4426)
- 7 (gg) Health Benefits for Survivors of Peace Officers  
8 and Firefighters (Ch. 1120, Stats. 1996) (97-TC-  
9 25)
- 10 (hh) ~~Post Mortem Examinations (Ch. 284, Stats. 2000)~~  
11 ~~(00-TC-18)~~
- 12 (ii) ~~False Reports of Police Misconduct (Ch. 590,~~  
13 ~~Stats. 1995) (00-TC-26)~~
- 14 (jj) Crime Victim's Domestic Violence Incident Re-  
15 ports (Ch. 1022, Stats. 1999) (99-TC-08)
- 16 (kk) Peace Officer Personnel Records: Unfounded  
17 Complaints and Discovery (Ch. 630, Stats. 1978;  
18 Ch. 741, Stats. 1994) (00-TC-24)
- 19 (ll) Domestic Violence Arrests and Victims Assis-  
20 tance (Chs. 698, 701, and 703, Stats. 1998) (98-  
21 TC-14)
- 22 (mm) ~~Post Conviction DNA Court Proceedings (Ch.~~  
23 ~~943, Stats. 2001) (00-TC-21, 01-TC-08)~~
- 24 (nn) ~~DNA Database and Amendment to Post Mortem~~  
25 ~~Examinations: Unidentified Bodies (Ch. 822,~~  
26 ~~Stats. 2000; Ch. 467, Stats. 2001) (00-TC-27; 02-~~  
27 ~~TC-39)~~
- 28 (oo) ~~Handicapped and Disabled Students II (Ch. 1128,~~  
29 ~~Stats. 1994; Ch. 654, Stats. 1996) (02-TC-40; 02-~~  
30 ~~TC-49)~~
- 31 (pp) ~~Costs for AB 3632 mandates: Services to Handi-~~  
32 ~~capped Students (Ch. 1747, Stats. 1984) (CSM-~~  
33 ~~4282) and Seriously Emotionally Disturbed~~  
34 ~~Pupils (Ch. 654, Stats. 1996) (97-TC-05)~~
- 35 (qq) ~~Binding Arbitration (Ch. 906, Stats. 2000) (01-~~  
36 ~~TC-07)~~
- 37 (rr) ~~Firearm Hearings for Discharged Inpatients (Ch.~~  
38 ~~578, Stats. 1999)~~

1	(2) For payment of mandate claims for the	
2	2005–06, 2006–07, and 2007–08 fiscal	
3	years for the Public Safety Officers	
4	Procedural Bill of Rights Act (Ch. 675,	
5	Stats. 1990) (CSM-4499).....	8,000,000
6		0
7	(3) Pursuant to the provisions of Section	
8	17581 of the Government Code, the	
9	mandates identified in the following	
10	schedule are specifically identified by	
11	the Legislature for suspension during	
12	the 2009–10 fiscal year.....	0
13	(a) Adult Felony Restitution (Ch. 1123, Stats. 1977)	
14	(04-LM-08)	
15	(b) AIDS/Search Warrant (Ch. 1088, Stats. 1988)	
16	(CSM-4392)	
17	(c) Animal Adoption (Ch. 752, Stats. 1998) (04-PGA-	
18	01, 98-TC-11)	
19	(d) Binding Arbitration (Ch. 906, Stats. 2000) (01-	
20	TC-07)	
21	(e) Conservatorship: Developmentally Disabled	
22	Adults (Ch. 1304, Stats. 1980) (04-LM-13)	
23	(f) Coroners Costs (Ch. 498, Stats. 1977) (04-LM-	
24	07)	
25	(g) Crime Victims Rights (Ch. 411, Stats. 1995)	
26	(CSM-96-358-01)	
27	(h) Deaf Teletype Equipment (Ch. 1032, Stats. 1980)	
28	(04-LM-11)	
29	(i) Developmentally Disabled Attorneys' Service (Ch.	
30	694, Stats. 1975) (04-LM-03)	
31	(j) DNA Database and Amendment to Post Mortem	
32	Examinations: Unidentified Bodies (Ch. 822,	
33	Stats. 2000; Ch. 467, Stats. 2001) (00-TC-27; 02-	
34	TC-39)	
35	(k) Domestic Violence Information (Ch. 1609, Stats.	
36	1984) (CSM-4222)	
37	(l) Elder Abuse, Law Enforcement Training (Ch. 444,	
38	Stats. 1997) (98-TC-12)	
39	(m) Extended Commitment, Youth Authority (Ch. 267,	
40	Stats. 1998) (98-TC-13)	

- 1           (n) *False Reports of Police Misconduct* (Ch. 590,  
2           Stats. 1995) (00-TC-26)
- 3           (o) *Filipino Employee Surveys* (Ch. 845, Stats. 1978)  
4           (CSM-2142)
- 5           (p) *Fire Safety Inspections of Care Facilities* (Ch.  
6           993, Stats. 1989) (01-TC-16)
- 7           (q) *Firearm Hearings for Discharged Inpatients* (Chs.  
8           578, Stats. 1999) (99-TC-11)
- 9           (r) *Grand Jury Proceedings* (Ch. 1170, Stats. 1996)  
10          (98-TC-27)
- 11          (s) *Guardianship/Conservatorship Filings* (Ch. 1357,  
12          Stats. 1976) (04-LM-15)
- 13          (t) *Handicapped Voter Access Information* (Ch. 494,  
14          Stats. 1979) (CSM-4363)
- 15          (u) *Inmate AIDS Testing* (Ch. 1597, Stats. 1988)  
16          (CSM-4369)
- 17          (v) *Judicial Proceedings* (Ch. 644, Stats. 1980)  
18          (CSM-4366)
- 19          (w) *Law Enforcement Sexual Harassment Training*  
20          (Ch. 126, Stats. 1993) (97-TC-07)
- 21          (x) *Local Coastal Plans* (Ch. 1330, Stats. 1976)  
22          (CSM-4431)
- 23          (z) *Mentally Disordered Offenders' Treatment as a*  
24          *Condition of Parole* (Ch. 228, Stats. 1989; Ch.  
25          706, Stats. 1994) (00-TC-28, 05-TC-06)
- 26          (aa) *Mentally Disordered Offenders' Extended Com-*  
27          *mitments Proceedings* (Ch. 435, Stats. 1991) (98-  
28          TC-09)
- 29          (bb) *Mentally Disordered Sex Offenders' Recommit-*  
30          *ments* (Ch. 1036, Stats. 1978) (04-LM-09)
- 31          (cc) *Mentally Retarded Defendants Representation*  
32          (Ch. 1253, Stats. 1980) (04-LM-12)
- 33          (dd) *Missing Persons Report* (Ch. 1456, Stats. 1988;  
34          Ch. 59, Stats. 1993) (CSM-4255, CSM-4484, and  
35          CSM-4368)
- 36          (ee) *Not Guilty by Reason of Insanity* (Ch. 1114, Stats.  
37          1979) (CSM-2753)
- 38          (ff) *Pacific Beach Safety* (Ch. 961, Stats. 1992) (CSM-  
39          4432)

- 1 (gg) *Perinatal Services* (Ch. 1603, Stats. 1990) (CSM-  
2 4397)
- 3 (hh) *Personal Alarm Devices* (8 Cal. Code Regs.  
4 3401(c)) (CSM-4087)
- 5 (ii) *Photographic Record of Evidence* (Ch. 875, Stats.  
6 1985) (98-TC-07)
- 7 (jj) *Pocket Masks* (Ch. 1334, Stats. 1987) (CSM-4291)
- 8 (kk) *Post Conviction: DNA Court Proceedings* (Ch.  
9 943, Stats. 2001) (00-TC-21, 01-TC-08)
- 10 (ll) *Post Mortem Examinations* (Ch. 284, Stats. 2000)  
11 (00-TC-18)
- 12 (mm) *Prisoner Parental Rights* (Ch. 820, Stats. 1991)  
13 (CSM-4427)
- 14 (nn) *Senior Citizens Property Tax Deferral* (Ch. 1242,  
15 Stats. 1977) (CSM-4359)
- 16 (oo) *Sex Crime Confidentiality* (Ch. 502, Stats. 1992;  
17 Ch. 36, Stats. 1994, 1st Ex. Sess.) (98-TC-21)
- 18 (pp) *Sex Offenders: Disclosure by Law Enforcement*  
19 *Officers* (Chs. 908 and 909, Stats. 1996) (97-TC-  
20 15)
- 21 (rr) *SIDS Autopsies* (Ch. 955, Stats. 1989) (CSM-  
22 4393)
- 23 (ss) *SIDS Contacts by Local Health Officers* (Ch. 268,  
24 Stats. 1991) (CSM-4424)
- 25 (tt) *SIDS Notices* (Ch. 453, Stats. 1974) (04-LM-01)
- 26 (uu) *SIDS Training for Firefighters* (Ch. 1111, Stats.  
27 1989) (CSM-4412)
- 28 (vv) *Stolen Vehicle Notification* (Ch. 337, Stats. 1990)  
29 (CSM-4403)
- 30 (ww) *Structural and Wildland Firefighter Safety*  
31 *Clothing and Equipment* (8 Cal. Code Regs.  
32 3401 to 3410, incl.) (CSM-4261 to CSM-4281)
- 33 (xx) *Substandard Housing* (Ch. 238, Stats. 1974)  
34 (CSM-4303)
- 35 (yy) *Very High Fire Hazard Severity Zones* (Ch. 1188,  
36 Stats. 1992) (97-TC-13)
- 37 (zz) *Victims Statements-Minors* (Ch. 332, Stats. 1981)  
38 (04-LM-14)
- 39 (aaa) *Racial Profiling: Law Enforcement Training*  
40 (Ch. 684, Stats. 2000) (01-TC-01)

Provisions:

1. Allocations of funds provided in this item to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior-year claims may be paid from this item. The funds appropriated in this item shall be allocated only for the payment of claims as required by Chapter 4 (commencing with Section 17550) of Part 7 of Division 4 of Title 2 of the Government Code, and that payment shall be made pursuant to Article 5 (commencing with Section 17615) of that chapter. Notwithstanding any other provision of law, interest shall be paid from funds appropriated in this item only to the extent, and in the amount, authorized by Section 17561.5 of the Government Code.
2. Notwithstanding any other provision of law, the payment of estimated reimbursement claims for the 2008–09 fiscal year shall not be made from this appropriation.
3. The Controller shall offset payments made from the appropriation in this item to recoup the amount of any unallowable mandate claim costs determined by desk or field audits.
4. Notwithstanding any other provision of law, accounts receivable for recoveries that result in savings as described in Provision 3 shall have no effect upon the positive balance of the General Fund. The savings may be used to pay claims for costs incurred to carry out the cited state mandates in this item.
5. Of the funds appropriated in Schedule (1), \$21,500,000 may be used to fund the initial reimbursement claims for mandates approved during the 2008–09 fiscal year.
6. *The Department of Finance, in consultation with the California State Association of Counties, shall review all mandates funded under this item relating to elections. The department shall submit a report to the Joint*

1           *Legislative Budget Committee, by October 1, 2009,*  
 2           *with recommendations regarding simplifying the reim-*  
 3           *bursement process for these mandates, including re-*  
 4           *placement of the current mandates' parameters and*  
 5           *guidelines with a reasonable reimbursement method-*  
 6           *ology. The Controller's office shall not disburse, prior*  
 7           *to June 1, 2010, any funds appropriated under this*  
 8           *item to pay election mandate claims, unless the Direc-*  
 9           *tor of Finance has submitted a letter to the Joint Leg-*  
 10           *islative Budget Committee and the Controller's office*  
 11           *indicating that the director has reached an agreement*  
 12           *with the California Association of Counties on either*  
 13           *the revised mandate reimbursement process proposed*  
 14           *by the Department of Finance or an alternative, sim-*  
 15           *plified mandate reimbursement process proposed by*  
 16           *the California Association of Counties.*

17           7. *The Department of Finance and the Department of*  
 18           *Justice shall review the mandates funded under this*  
 19           *item relating to domestic violence and rape counseling.*  
 20           *The departments shall submit a report to the Joint*  
 21           *Legislative Budget Committee, by January 1, 2010,*  
 22           *with recommendations regarding consolidating the*  
 23           *mandated requirements, coordinating the mandated*  
 24           *requirements with voter-approved measures, and, if*  
 25           *appropriate, reallocating funding for these mandates*  
 26           *to victims' assistance programs.*

27           8. *The Department of Finance shall review the mandate*  
 28           *reimbursement process and shall submit a report to*  
 29           *the Joint Legislative Budget Committee, by April 1,*  
 30           *2010, with a recommendation regarding simplifying*  
 31           *the mandate reimbursement process and reducing its*  
 32           *costs.*

33  
 34           *SEC. 432. Item 8940-001-0001 of Section 2.00 of the Budget*  
 35           *Act of 2009 is amended to read:*

36		
37	8940-001-0001—For support of Military Department.....	41,683,000
38	Schedule:	
39	(1) 10-Army National Guard.....	74,019,000
40		74,470,000

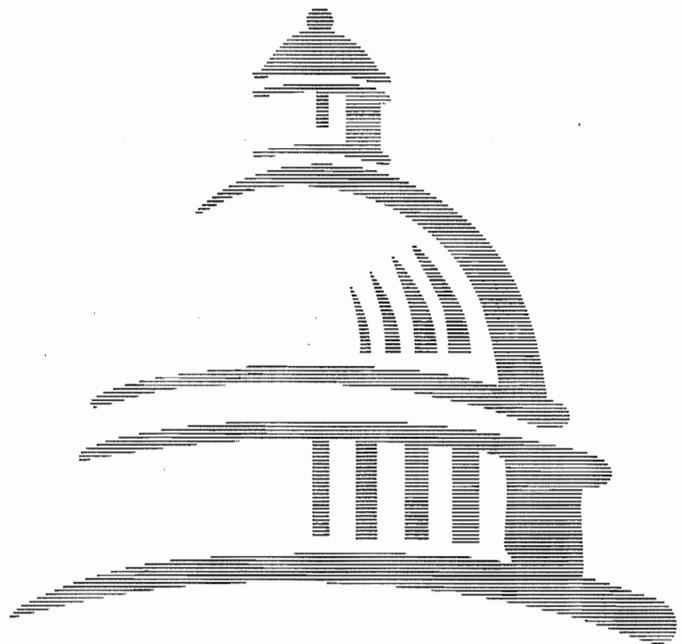


June 24, 2009

# Analysis of Newly Identified Mandates

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LEGISLATIVE ANALYST'S OFFICE



## ANALYSIS OF NEWLY IDENTIFIED MANDATES

Chapter 1124, Statutes of 2002 (AB 3000, Committee on Budget), requires the Legislative Analyst's Office to review each mandate included in the commission's semiannual report of newly identified mandates. The commission's June 10, 2009 semiannual report identifies six new mandates:

- Fire Safety Inspections of Care Facilities.
- Mentally Disordered Offenders: Treatment as a Condition of Parole.
- Racial Profiling: Law Enforcement Training.
- Domestic Violence Arrests and Victim Assistance.
- National Norm-Referenced Achievement Test.
- Pupil Expulsions from School: Additional Hearing Costs for Mandated Recommendations of Expulsion for Specified Offenses.

This report includes the analyses required pursuant to Chapter 1124 for the first four mandates shown above (relating to fire safety and criminal justice). Our office expedited the review of these mandates because Proposition 1A of 2006 requires the Legislature to take action in the *2009-10 Budget Act* to fund, suspend, or repeal these mandates.

Proposition 1A does not place a comparable deadline on legislative action regarding new education mandates. Accordingly, we will include our analysis of the two new education mandates in our *Analysis of the 2010-11 Budget Bill*.

### Fire Safety Inspections of Care Facilities

**Background.** Chapter 993, Statutes of 1989 (SB 1098, Rosenthal), requires local fire departments to perform fire safety inspections at all community care facilities, residential care facilities for the elderly, and child day care facilities. The Community Care Licensing Division of the Department of Social Services licenses these facilities separately to operate as community care facilities. Chapter 993 authorized the local fire department to assess a fee of not more than \$50 for medium-sized facilities, and not more than \$100 for large facilities, for these fire safety inspections and related work. In March, the commission adopted a statewide cost estimate of approximately \$630,000 to reimburse 15 cities and fire agencies for the costs of this program not covered by fees over the past eight years.

**Recommendation.** We recommend the Legislature eliminate future state costs for this mandate by amending the law to allow local governments and fire agencies to increase their fees to fully offset program costs. In addition, given the state's fiscal condition, we recommend that the Legislature adopt the Governor's May Revision proposal to defer payment of the prior-year cost for this mandate to a future date. We note that the Budget Conference Committee has taken actions already that are consistent with this approach.

## **Mentally Disordered Offenders: Treatment as a Condition of Parole**

*Background.* Under state law, inmates who have certain mental health diagnoses and who committed certain crimes can receive a commitment as a mentally disordered offender, upon their release from prison, to a state mental hospital or to an outpatient treatment program. Chapter 1419, Statutes of 1985 (SB 1296, McCorquodale), and subsequent related statutory changes, makes it possible for an inmate to appeal the state's determination that he/she is a mentally disordered offender to the state Board of Parole Hearings (BPH). If an inmate disagrees with BPH's ruling on such an appeal, Chapter 1419 allows the inmate to file a petition for a hearing on the matter in a trial court. The hearing is conducted in the county in which he or she is incarcerated in prison or, if they have already been released from prison, in the county of the state mental hospital or outpatient program in which they are being treated. The court is required to conduct a hearing on such a petition, with the district attorney required to represent the people and the public defender required to represent the petitioner if he or she is indigent.

The Commission on State Mandates recently found that the requirements in Chapter 1419 that counties conduct the hearings constitute a state-reimbursable mandate. The costs eligible for state reimbursement include activities conducted by attorneys, investigators, paralegals, and secretarial staff related to the hearings (such as reviewing relevant documents, filing motions with the court, and traveling to and from state hospitals and prisons in order to meet with inmate petitioners). In March, the commission adopted a statewide cost estimate of approximately \$4.9 million. This includes \$4.2 million for prior fiscal years 2000-01 through 2007-08 and \$700,000 for 2008-09, based on claims filed by San Bernardino County. (The identified mandate primarily affects San Bernardino and San Luis Obispo Counties, because they are the two counties with a state mental hospital that houses mentally disordered offenders.) The Governor's 2009-10 May Revision proposes to suspend this mandate for one year and defer payment for the costs incurred through 2007-08 to the future.

*Recommendation.* Given the state's fiscal condition, we recommend that the Legislature approve the Governor's May Revision proposal to suspend the above mandate. Under such a suspension, counties would not be required to conduct hearings in 2009-10 on petitions filed by inmates challenging BPH's ruling that they have a mental disorder. However, these offenders would still be able to appeal their commitment as a mentally disordered offender to BPH. The Budget Conference Committee has already taken the action we propose.

## **Racial Profiling: Law Enforcement Training**

*Background.* Chapter 684, Statutes of 2000 (SB 1102, Murray), prohibits law enforcement officers from engaging in racial profiling and expands the mandatory training of officers to include coursework on racial profiling. Specifically, the statute required the Commission on Peace Officer Standards and Training (POST)—which is responsible for developing and certifying a variety of courses for officers—to develop a curriculum on racial profiling that would be used by local agencies. In addition, the law required local governments to provide racial profiling training to incumbent officers. In March 2009,

the Commission on State Mandates found that these training requirements constituted a state-reimbursable mandate for those officers who completed basic training on or before January 1, 2004. The commission also estimated that the mandate would cost about \$9.2 million through 2004-05. (Instruction on racial profiling was included as part of the basic training provided to officers trained after January 1, 2004. Because there are no reimbursement claims for any fiscal years after 2004-05, the commission indicates that it is unlikely that further claims will be filed by local agencies.) The Governor's 2009-10 May Revision includes about \$9.5 million for local costs related to this mandate, based on updated cost estimates.

*Recommendation.* The Budget Conference Committee has taken action to suspend this mandate and reject the Governor's May Revision proposal to fund it in 2009-10. However, rather than suspend the mandate, we recommend that the Legislature repeal the mandate. Because racial profiling training has become part of the ongoing basic instruction for law enforcement officers—as certified by POST—such training for new officers is likely to continue even in the absence of the mandate.

### **Domestic Violence Arrests and Victim Assistance**

*Background.* Penal Code Sections 13702 and 264.2 require law enforcement officers to provide victims of specified sex crimes with a card that includes information on domestic violence assistance. In 1993, the Commission on State Mandates found that the cost of this requirement constituted a state-reimbursable mandate. The Legislature has since enacted two statutory changes to broaden the preexisting requirement. First, Chapter 698, Statutes of 1998 (AB 1201, Murray), expands the group of crime victims who must receive such cards to include victims of alleged battery or corporal injury. In addition, Chapter 702, Statutes of 1998 (AB 2177, Kuehl), adds the requirement that the card include phone numbers for local battered-women shelters and a statement that, even in cases where the victim knows the defendant, domestic violence or assault is a crime. In March 2009, the commission found that the costs incurred by local governments to carry out the two additional requirements also constitute newly identified state-reimbursable mandates, estimated to cost \$11.1 million through 2008-09. The Governor's 2009-10 May Revision includes about \$370,000 for local costs related to the original requirement and \$2.4 million for additional requirements in Chapters 698 and 702.

*Recommendation.* We recommend that, for purposes of the 2009-10 budget, the Legislature fund this mandate at the amount proposed in the May Revision. However, we also recommend that the Legislature direct the Department of Justice (DOJ), in consultation with the Department of Finance, to report to the Legislature by January 10, 2010 on the feasibility of consolidating the above card with the so-called "Marsy's rights" card that must be provided to all victims of crime under a ballot measure approved by the voters in November 2008.

Proposition 9, also known as "Marsy's Law," requires prosecutorial and law enforcement agencies to provide all crime victims with a card—designed by DOJ—that includes a list of victims' rights, information on accessing a "Marsy's Page" Web site, and a toll-free number to access local victim assistance offices. Because the Marsy's Law require-

ments were imposed by a voter-approved initiative, the costs to local law enforcement agencies of implementing these provisions do not constitute a reimbursable state mandate. If DOJ concludes that the card for victims of domestic violence can be consolidated with the Marsy's card, the Legislature could repeal the various statutes (Penal Code Sections 13702 and 264.2) relating to the victims of domestic violence card, while still accomplishing its intent that information be provided to domestic violence victims. The Budget Conference Committee has already taken this action.



The Legislative Analyst's Office (LAO) is a nonpartisan office which provides fiscal and policy information and advice to the Legislature.

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