BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

Claim of: Counties of Fresno and Shasta Claimants	Nos. 4355 and 4317 Chapter 921, Statutes of 7987 Revenue and Taxation Code Section 98.9 Countywide Tax Rates

DECISION

The attached Proposed Statement of Decision of the Commission on State Mandates is hereby adopted by the Commission on State Mandates as its decision in the above-entitled matter.

This Decision shall become effective on August 24, 1989.

IT IS SO ORDERED August 24, 7989.

Russell Gould, Chairperson
Commission on State Mandates

WP0081h

Hearing: 8/24/89
File Number: CSM-4355 and 4317
Staff: Gary D. Hori
WP 0082h

PROPOSED STATEMENT OF DECISION
ADOPTED MANDATE
Chapter 921, Statutes of 1987
Revenue and Taxation Code Section 98.9
Countvwide Tax Rates

The Commission on State Mandates, at its July 27, 1989 hearing, determined that a reimbursable mandate exists under the provisions of Revenue and Taxation Code section 98.9, as amended by Chapter 921, Statutes of 1987.

Member Creighton moved to find a mandate. Member Martinez seconded the motion. The roll call vote was unanimous. The motion carried.

Staff has prepared the attached proposed statement of decision which identifies the basis for the Commission's decision.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

Claim of: Counties of Fresno and Shasta Claimants	Nos. CSM-4355 and 4317 Chapter 921, Statutes of 1987 Revenue and Taxation Code Section 98.9 Countywide Tax Rates

PROPOSED DECISION

This claim was heard by the Commission on State Mandates (Commission) on July 27, 1989, in Sacramento, California, during a regularly scheduled hearing.

Evidence both oral and documentary having been introduced, the matter submitted, and vote taken, the Commission finds:

ISSUE

Does Revenue and Taxation Code section 98.9, as amended by Chapter 921, Statutes of 1987 (Chapter 921/87), require counties to provide a higher level of service in an existing program within the meaning of section 6, article XIIIB of the California Constitution?

FINDINGS OF FACT

(All section references shall refer to the Revenue and Taxation Code, unless otherwise specified.)

The test claim was filed with the Commission on September 6, 1988, by the County of Fresno and a co-test claim was filed by the County of Shasta on February 17, 7989. The elements for filing a test claim were satisfied and none of the requisites for denying a claim specified in Government Code section 17556 were applicable.

It was found that, pursuant to section 98.9, counties are required to allocate property tax revenue attributable to unitary and operating nonunitary property commencing with the 1988-89 fiscal year on the basis of a new formula. In

addition, counties are required to establish a single countywide tax rate area to which the assessed value of all unitary and operating nonunitary property will be assigned, and to issue each state assessee, other than a regulated railway company, a single tax bill for such property.

All parties to this test claim agreed that prior to the amendment of section 98.9 by Chapter 921/87, a different formula was used to allocate property tax revenue for unitary and operating nonunitary property. The assessed value of such property was allocated to each taxing jurisdiction in which the utility owned property and, thus, several tax bills were required.

It was found that there is no quantifiable evidence that savings exceed the costs of this mandate and, therefore, it was agreed by all parties that this issue of cost savings be addressed when the parameters and guidelines are developed.

APPLICABLE LAW

Government Code section 17551 (a) provides:

> "The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled to be reimbursed by the state for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution."

Government Code section 17514 provides:

> "'Costs mandated by the state' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

Section 6, article XIIIB of the California Constitution reads:

> 'Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates:

(a) Legislative mandates requested by the local agency affected;

(b) Legislation defining a new crime or changing an existing definition of a crime; or

(c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975."

The case of City of Sacramento v. State of California, (1984) 156 Cal.App.3d 182, 196 states in pertinent part:

> "The legislative disclaimers . . . are merely legislative characterizations of that enactment. . . . The interpretation of statutory language is a Judicial function. While legislative declarations and characterizations are a factor we may consider in construing legislation, they are not binding."

CONCLUSION

The Commission determines that it has the authority to decide this claim under the provisions of Government Code section 17551(a).

The Commission concludes that section 98.9, as amended by Chapter 921/87, requires counties to perform a higher level of service in an existing program because counties are required to (1) change the allocation formula used to assess the value attributable to unitary and operating nonunitary property, (2) establish a single countywide tax rate area for the assignment of the assessed value of all unitary and operating nonunitary property in each county, and (3) issue each state assessee, other than a regulated railway company, a single tax bill for all unitary and operating nonunitary property in the county.

Accordingly, such costs related thereto are subject to reimbursement within the meaning of section 6, article XIIIB of the California Constitution. Therefore, the claimants are directed to submit parameters and guidelines, pursuant to Government Code section 17557 and Title 2, California Code of Regulations section 1183.1, to the Commission for its consideration.

The foregoing is subject to the following conditions:

> The determination of a reimbursable state mandate does not mean that all increased costs claimed will be reimbursed. Reimbursement, if any, is subject to Commission approval of parameters and guidelines for reimbursement of the mandated program; approval of a statewide cost estimate; a specific legislative appropriation for such purpose; a timely-filed claim for reimbursement; and subsequent review of the claim by the State Controller's Office.

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment and business address is 7414 K Street, Suite 315, Sacramento, California 95814.

On August 30, 1989, I served the attached Statement of Decision by placing a true copy thereof in an envelope addressed to each of the persons named below at the address set out immediately below each respective name, and by sealing and depositing said envelope in the United States mail at Sacramento, California, with first-class postage thereon fully prepaid.

Mr. Raymond Tickner
County of Shasta
Office of the Auditor-Controller
1500 Court Street, Room 104
Redding, CA 96001

Pamela A. Stone, Sr. Deputy Counsel
County of Fresno County Counsel
2220 Tulare Street, 5th Floor
Fresno, CA 93721

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on August 30, 1989, at Sacramento, California.

Dale DiGirolamo

DALE DiGIROLAMO