

Adopted: May 25, 2012

STATEWIDE COST ESTIMATE

\$0

Government Code Section 17553(b)(1)(C) through (G) and (b)(2)
California Code of Regulations, Title 2, Sections 1183, Subdivision (d)
(Register 2005, No. 36, Effective September 6, 2005)

Statutes 2004, Chapter 890 (AB 2856)

Mandate Reimbursement Process II

05-TC-05

STAFF ANALYSIS

All costs claimed thus far for the *Mandate Reimbursement Process II* program should be disallowed because they were filed for activities that are not reimbursable under this program. Therefore, staff finds that, based on claims filed for the initial filing period, the proposed statewide cost estimate for this program is **\$0**.

Summary of the Mandate

The Commission on State Mandates (Commission) adopted the *Mandate Reimbursement Process I* program on March 27, 1986, and determined that under this program, local governments were eligible for reimbursement for participating in the entire mandate reimbursement process, including but not limited to, filing successful test claims, attending Commission hearings, submitting proposed parameters and guidelines, hiring consultants to manage mandated claims, and filing reimbursement claims with the State Controller.

Specifically, the following activities were approved for reimbursement under the *Mandate Reimbursement Process I* program:

- All costs incurred by local agencies and school districts in preparing and presenting successful test claims are reimbursable, including those same costs of an unsuccessful test claim if an adverse Commission ruling is later reversed as a result of a court order. These activities include, but are not limited to, the following: preparing and presenting test claims, developing parameters and guidelines, collecting cost data, and helping with the drafting of required claiming instructions. The costs of all successful test claims are reimbursable. Costs that may be reimbursed include the following: salaries and benefits, materials and supplies, consultant and legal costs, transportation, and allowable overhead.
- All costs incurred during the period of this claim for the preparation and submission of successful reimbursement claims to the State Controller are recoverable by the local agencies and school districts. Allowable costs include, but are not limited to, the following: salaries and benefits, service and supplies, contracted services, training, and overhead.
- Incorrect Reduction Claims are considered to be an element of the reimbursement process. Reimbursable activities for successful incorrect reduction claims include the appearance of necessary representatives before the Commission on State Mandates to

present the claim, in addition to the reimbursable activities set forth above for successful reimbursement claims.

In 2004, Statutes 2004, chapter 890 (AB 2856) was implemented as part of overall mandate reform. AB 2856 imposed additional requirements upon local agencies and school districts for filing test claims.

The City of Newport Beach filed a test claim on AB 2856 and the Commission's 2005 regulations (*Mandate Reimbursement Process II* program) on September 27, 2005. The Commission adopted a statement of decision for the *Mandate Reimbursement Process II* program on January 29, 2010, and parameters and guidelines on May 26, 2011. The Commission found that Government Code section 17553(b)(1)(C) through (G) and (b)(2) as amended by Statutes 2004, chapter 890, and section 1183, subdivision (d), of the Commission's regulations, as adopted in 2005, constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities beginning on July 1, 2005:

All test claims and test claim amendments shall include a written narrative, as described below.

- A. Draft the written narrative that identifies the specific statutes or executive orders alleged to contain a mandate. Complete the following reimbursable activities to include in the written narrative:
1. Gather and review information to complete the test claim narrative.
 2. Calculate the actual increased costs incurred by the claimant during the fiscal year for which the claim is filed.
 3. Calculate the actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim is filed.
 4. Calculate a statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim is filed.
 5. Investigate other funding sources to identify dedicated state funds appropriated for the program; dedicated federal funds appropriated for the program; other nonlocal agency funds dedicated to the program; the local agency's general purpose funds for the program; and fee authority to offset the costs of the program.
 6. Review and identify prior mandate determinations made by the Board of Control or the Commission that may be related to the alleged mandate.
- B. The written narrative in the test claim or test claim amendment shall be supported with declarations under penalty of perjury, based on the declarant's personal knowledge, information, or belief, and signed by persons who are authorized and competent to do so. The following activities to complete the declarations are reimbursable:

1. Draft and file the following declarations:
 - a. Declarations of actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate.
 - b. Declarations identifying all local, state, or federal funds, or fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs.
 - c. Declarations describing new activities performed to implement specified provisions of the new statute or executive order.

The only test claims that are affected by AB 2856 and 1183(d) of the Commission's regulations, as adopted in 2005, are new test claims filed by local governments after January 1, 2005.

Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by November 29, 2011. Since the filing deadline, only the Counties of Orange and San Bernardino have filed reimbursement claims.

Statewide Cost Estimate

Staff reviewed the claims data submitted by the two counties, and determined that the activities for which the counties are seeking reimbursement are not reimbursable under the *Mandates Reimbursement Process II* program, but could be claimed under the *Mandate Reimbursement Process I* program. Under *Mandate Reimbursement Process II*, claimants may only file for reimbursement for increased test claim filing requirements for test claims filed on or after January 1, 2005. Here, claimants filed for costs for test claims filed prior to January 1, 2005. Therefore, during the initial claiming period, no reimbursement claims were properly filed under the *Mandate Reimbursement Process II* program.

Staff made the following assumptions when calculating the statewide cost estimate:

Assumptions

- *No claims were properly filed for the initial claiming period.*

Staff reviewed all test claims filed with the Commission during the initial reimbursement period of July 1, 2005 through June 30, 2011, and determined that no claimants that filed test claims during this period filed claims for reimbursement.
- *There will be no reimbursement for test claims submitted between the 2005-2006 and 2009-2010 fiscal years (July 1, 2005 through June 30, 2010).*

Claimants that filed test claims between July 1, 2005 and June 30, 2010 are beyond the deadline for seeking reimbursement for any test claims filed for those fiscal years.
- *There will be no reimbursement for test claims during the 2010-2011 and 2011-2012 fiscal years (July 1, 2010 through June 30, 2012).*

The *Mandate Reimbursement Process II* program was suspended by the Legislature for these fiscal years. Therefore, claimants are not authorized to file for reimbursement, and there will be no costs to the state.

Based on the above assumptions, staff finds that the statewide cost estimate for this program for the initial claiming period is **\$0**.

Staff issued a draft staff analysis on April 25, 2012. No comments were filed on the draft staff analysis.

Staff Recommendation

Staff recommends the Commission adopt the proposed statewide cost estimate of **\$0** for costs incurred in complying with the *Mandate Reimbursement Process II* program.