



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION
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J. TYLER McCAULEY
AUDITOR-CONTROLLER



May 23, 2007

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Dear Ms. Higashi:

**Los Angeles County's Requests
Extension of Time to Comment and Postponement of Hearing
Workers' Compensation Disability for Government Employees**

This is to request postponement of the subject test claim hearing scheduled for May 31, 2007 until the Commission's July 26, 2007 or subsequent hearing. In addition, an extension of time, permitting comments in this matter to be filed with the Commission 30 days prior to the new hearing date, is requested. Justification for these requests is attached.

Leonard Kaye of my staff is available at (213) 974-8564 to answer questions you may have concerning this submission.

Very truly yours,

A handwritten signature in cursive script that reads "J. Tyler McCauley".

J. Tyler McCauley
Auditor-Controller

JTM:CY:LK
Enclosures

Justification
Los Angeles County's Requests
Extension of Time to Comment and Postponement of Hearing
Workers' Compensation Disability for Government Employees

Postponement of the subject test claim hearing scheduled for May 31, 2007 until the Commission's July 26, 2007 or subsequent hearing is requested as well as an extension of time, permitting comments in this matter to be filed with the Commission 30 days prior to the new hearing date. Justification for these requests is as follows.

Claimant's have not been given an opportunity to address new issues raised in Commission's May 22, 2007 analysis --- just six business days before the scheduled May 31, 2007 hearing.

Surprisingly, Commission staff now reverse their earlier conclusion, issued on March 22, 2007, that "... the test claim legislation does constitute a "program" that is subject to article XIII B, section 6 of the California Constitution". [March 22, 2007 Staff Analysis, page 9.]

Commission staff now conclude that "... the test claim statutes do not mandate a new program or higher level of service in an existing program". [May 22, 2007 Staff Analysis, page 13.]

Further, Commission staff now change their March 22, 2007 finding that the test claim legislation "... does not apply "generally to all residents and entities in the state," as did the requirements for workers' compensation and unemployment insurance benefits that were the subject of the County of Los Angeles case [emphasis added.]. [March 22, 2007 Staff Analysis, page 9.]

Commission staff now find that the test claim legislation does apply to "generally to all residents and entities in the state," as did the requirements for workers' compensation and unemployment insurance benefits that were the subject of the County of Los Angeles case. [May 22, 2007 Staff Analysis, pages 9-10.]

In addition, Commission staff failed to raise the issue of whether the test claim legislation is a state or locally administered program in their March 22, 2007 analysis.

However, on May 22, 2007, Commission staff introduce the allegation that the test claim legislation is a state administered program, not a locally administered "program" subject to reimbursement. In this regard, staff appear to follow and rely

upon the holdings in *CSAC Excess Insurance Authority and the City of Newport Beach v. Commission on State Mandates* [Second District Court of Appeal, 2006, Case No. B188169], an unpublished case --- not to be relied upon here.

Moreover, the facts here are different than those found in the *CSAC* case. In particular, the Attorney General notes that "... the specific statutory plan set up in sections 4850 through 4854 is not controlled by the general limitations imposed on disability payments by sections 4650 and 4652"¹. So this is a different matter, not applicable to staff's analysis and reliance on the *CSAC* case.

Therefore, for all of the above reasons, sufficient time to address the new issues and conclusions raised in the latest Commission staff analysis is requested.

Specifically, postponement of the subject test claim hearing scheduled for May 31, 2007 until the Commission's July 26, 2007 or subsequent hearing is requested as well as an extension of time, permitting comments in this matter to be filed with the Commission 30 days prior to the new hearing date.

¹ Attorney General Opinion No. 68-1, Volume 51, page 34.



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Declaration of Leonard Kaye

Leonard Kaye makes the following declaration and statement under oath:

I, Leonard Kaye, SB90 Coordinator, in and for the County of Los Angeles, am responsible for filing test claims, reviews of State agency comments, Commission staff analyses, requests for extension of time, postponement of hearings and for proposing, or commenting on, parameters and guidelines (Ps&Gs) and amendments thereto, and for filing incorrect reduction claims, all for the complete and timely recovery of costs mandated by the State. Specifically, I have prepared the subject requests, captioned above.


Specifically, I declare that I have examined the County's State mandated duties and resulting costs, in implementing the subject law, and find that such costs as set forth in the attached filing, are, in my opinion, reimbursable "costs mandated by the State", as defined in Government Code section 17514:

" ' 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."

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information or belief, and as to those matters I believe them to be true.

5/23/07; Los Angeles, CA
Date and Place


Signature

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DECLARATION OF SERVICE

STATE OF CALIFORNIA, County of Los Angeles:

Hasmik Yaghobyan states: I am and at all times herein mentioned have been a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen years and not a party to nor interested in the within action; that my business address is 603 Kenneth Hahn Hall of Administration, City of Los Angeles, County of Los Angeles, State of California;

That on the 23rd day of May 2007, I served the attached:

Documents: Los Angeles County's Requests, Extension of Time to Comment and Postponement of Hearing, Workers' Compensation Disability for Government Employees, [00-TC-20 and 02-TC-02], including a 1 page letter of J. Tyler McCauley dated 5/23/07, a 2 page narrative, and a 1 page declaration of Leonard Kaye dated 5/23/07, now pending before the Commission on State Mandates.

- [X] by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date. Commission on State Mandates FAX as well as mail of originals.
[] by placing [] true copies [] original thereof enclosed in a sealed envelope addressed as stated on the attached mailing list.
[X] by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California, addressed as set forth below.
[] by personally delivering the document(s) listed above to the person(s) as set forth below at the indicated address.

PLEASE SEE ATTACHED MAILING LIST

That I am readily familiar with the business practice of the Los Angeles County for collection and processing of correspondence for mailing with the United States Postal Service; and that the correspondence would be deposited within the United States Postal Service that same day in the ordinary course of business. Said service was made at a place where there is delivery service by the United States mail and that there is a regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 23rd day of May 2007, at Los Angeles, California.

[Signature]
Hasmik Yaghobyan