



Received
January 14, 2011
Commission on
State Mandates

EDMUND G. BROWN JR. • GOVERNOR

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January 14, 2011

Mr. Drew Bohan
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Mr. Bohan:

As requested in your letter of November 2, 2010, the Department of Finance (Finance) reviewed the consolidated test claims "California Public Records Act: Disclosure Procedures," (02-TC-10 and 02-TC-51) and provides the following comments regarding the effect of Proposition 59:

Proposition 59 provides a constitutional right of public access to meetings of government bodies, and writings of government officials for public scrutiny. The underlying requirement of Proposition 59 requires public entities to provide access to information about the conduct of the people's business.

Finance attests that subdivision (f) of Government Code Section 17556 applies and the Commission should find there are no costs mandated by the state because the test claim statutes are necessary to implement Proposition 59. Applying the holding in *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859 to determine when duties imposed by a test claim statute are "necessary to implement a ballot measure" under subdivision (f) of Government Code section 17556, Finance asserts the following:

- (1) Local agencies and school districts are mandated by a ballot measure, Proposition 59, to perform a duty. They must ensure that writings of public officials and agencies are open to public scrutiny, and that the people have the right of access to information concerning the conduct of the people's business.
- (2) The Legislature enacted the statutes to implement the purpose of the ballot measure—to further the public's right to access government records. It is of no consequence under Government Code section 17556, subdivision (f), that the test claim statutes were enacted before the ballot measure was approved by the voters in 2004.
- (3) Absent the test claim statutes, local agencies and school districts are still required to comply with the duties mandated by the ballot measure—to provide the right of access to the records and writings (and meetings) of government officials; and
- (4) The requirements imposed by the test claim statutes are not reimbursable, but are considered part and parcel to the underlying ballot measure mandate. The requirements are intended to implement (i.e., are incidental to) the ballot measure mandate, and the costs are, in context, de minimis.

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Based on the information provided, Finance believes that the test claim statutes are necessary to implement Proposition 59 and the Commission should find that there are no costs mandated by the state.

As required by the Commission's regulations, a "Proof of Service" has been enclosed indicating that the parties included on the mailing list which accompanied your November 2, 2010 letter have been provided with copies of this letter via either United States Mail, e-mail, or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Lorena Romero, Associate Finance Budget Analyst at (916) 445-8913.

Sincerely,



NONA MARTINEZ
Assistant Program Budget Manager

Enclosure

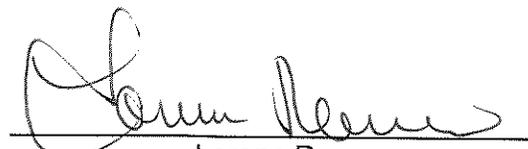
Enclosure A

DECLARATION OF LORENA ROMERO
DEPARTMENT OF FINANCE
CLAIM NO. CSM—02-TC-10/02-TC-51

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

January 14, 2011
at Sacramento, CA


Lorena Romero

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PROOF OF SERVICE

Test Claim Name: California Public Records Act
Test Claim Number: CSM--02-TC-10/02-TC-51

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 8 Floor, Sacramento, CA 95814.

On 01.14.2011, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 8 Floor, for Interagency Mail Service, addressed as follows:

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Mr. Drew Bohan, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
Facsimile No. 445-0278

SB 90 Service
C/O David M. Griffiths & Associates
Attention: Allan Burdick
4320 Auburn Boulevard, Suite 200
Sacramento, CA 95841

County of Los Angeles
Department of Auditor-Controller
Kenneth Hahn Hall of Administration
Attention: Leonard Kaye
500 West Temple Street, Suite 525
Los Angeles, CA 90012

County of San Bernardino
Office of Auditor / Controller / Recorder
Attention: Marcia Faulkner
222 West Hospitality Lane, Fourth Floor
San Bernardino, CA 92415 - 0018

Wellhouse and Associates
Attention: David Wellhouse
9175 Kiefer Boulevard, Suite 121
Sacramento, CA 95826

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on 01.14.2011 at Sacramento, California.



Tamara Johnson