

**COMMISSION ON STATE MANDATES**

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August 2, 2007

Mr. Leonard Kaye, Esq.  
County of Los Angeles  
Auditor-Controller's Office  
500 W. Temple Street, Room 603  
Los Angeles, CA 90012

*And Interested Parties and Affected State Agencies (See Enclosed Mailing List)*

**RE: Removal of Test Claim From Hearing Calendar**

*California Public Records Act: Disclosure Procedures  
(02-TC-10)*

County of Los Angeles, Claimant

Government Code sections 6252, 6253, 6253.1, 6253.9, and 6255

Statutes 2000, Chapter 982 (AB 2799), Statutes 2001, Chapter 355 (AB 1014),

Statutes 2002, Chapter 945 (AB1962), and Chapter 1073 (AB 2937)

Dear Mr. Kaye:

The above-named test claim filed by the County of Los Angeles is being removed from the 2007 Hearing Calendar and will be rescheduled at a later date.

An analysis of this test claim would require consideration of Government Code section 17556, subdivision (f), which was held to be unconstitutional in the Sacramento County Superior Court's March 13, 2007 decision in *California School Boards Association (CSBA), et al. v. Commission on State Mandates, et al.* [No. 06CS01335]. The court's judgment enjoins the Commission from taking any action to implement the AB 138 amendment to Government Code section 17556, subdivision (f). Since this case is on appeal to the Third District Court of Appeal, Case Number C055700, the Commission is unable to schedule this test claim for hearing until there is a final court decision in the *California School Boards Association, et al. v. Commission on State Mandates, et al.*

If you have questions on the above, please contact Kenny Louie at (916) 323-2611.

Sincerely,

A handwritten signature in cursive script that reads "Paula Higashi".

PAULA HIGASHI  
Executive Director

cc: Mailing list (enclosed)

Enc.: Judgment by the Court, Case No. 06 CS01335, *California School Boards Association, et al. v. Commission on State Mandates, et al.*



**COPY**

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By *[Signature]*

FILED/ENDORSED

APR 20 2007

By M. JEREMIAH DEPUTY CLERK

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7 *Attorneys for Petitioners/Plaintiffs*

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 9 COUNTY OF SACRAMENTO

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10 CALIFORNIA SCHOOL BOARDS  
 11 ASSOCIATION, EDUCATION LEGAL  
 12 ALLIANCE; COUNTY OF FRESNO; CITY OF  
 13 NEWPORT BEACH; SWEETWATER UNION  
 14 HIGH SCHOOL DISTRICT; and COUNTY OF  
 15 LOS ANGELES,

16 Petitioner/Plaintiffs,

17 v.

18  
 19 STATE OF CALIFORNIA; COMMISSION ON  
 20 STATE MANDATES; JOHN CHIANG, in his  
 official capacity as Controller of the State of  
 California; and DOES 1-5,

21 Respondent/Defendants.

22  
 23 DEPARTMENT OF FINANCE, Intervenor.  
 24

CASE NO.: 06 CS 01335

~~[proposed]~~

JUDGMENT BY THE COURT PURSUANT  
 TO CALIFORNIA CODE OF CIV. PROC.  
 §§ 526, 1060, 1085 & 1094.5

DATE: January 5, 2007  
 TIME: 10:30 a.m.  
 DEPT: 11 (Hon. Gail D. Ohanesian)

25 This matter came regularly before this court on January 5, 2007, the Honorable Gail D.

26 Ohanesian presiding. N. Eugene Hill, Olson Hagel & Fishburn, appeared as attorney for Petitioners.

27 Deputy Attorney General Steven M. Gevercer appeared as attorney for Respondent State of California,

28

1 Respondent John Chiang, Controller of the State of California, and Intervenor, Department of Finance.  
 2 Camille Shelton appeared as counsel for Respondent Commission on State Mandates.

3 The Court having issued its order substituting John Chiang, in his capacity as Controller of the  
 4 State of California for Respondent Steve Westly, in his former capacity as Controller of the State of  
 5 California, and having taken judicial notice of documents provided by the parties, the record of the  
 6 administrative proceedings having been received and examined by the court, and additional evidence  
 7 having been received and considered by the court, arguments having been presented, and the court  
 8 having issued its ruling on March 13, 2007,

9  
 10 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that:

11 1. It is necessary and proper under the facts of this case for the Court to declare the rights  
 12 and duties of Petitioners/Plaintiffs California Schools Boards Association, Education Legal Alliance,  
 13 County of Fresno, City of Newport Beach, Sweetwater Union High School District and County of Los  
 14 Angeles and Respondents State of California, Commission on State Mandates and John Chiang, in his  
 15 official capacity as Controller of the State of California, and Intervenor Department of Finance  
 16 concerning the application to each of them of article I, section 9, article III, section 3, article IV, section  
 17 16, and article XIII B section 6 of the California Constitution, subdivision (f) of section 17556 of the  
 18 Government Code, sections 7, 11, 12, 13, 14, 16 and 17 of Statutes 2005, chapter 72 (AB 138), section  
 19 18 of Statutes 2004, chapter 895 (AB 2855) and section 53 of Statutes 2005, chapter 677 (SB 512).

20 2. Section 341.5 of the Code of Civil Procedure is not applicable to challenges brought  
 21 against decisions of the Commission on State Mandates, including those brought under section 17559 of  
 22 the Code of Civil Procedure. All claims in this proceeding asserted by Petitioners/Plaintiffs California  
 23 Schools Boards Association, Education Legal Alliance, County of Fresno, City of Newport Beach,  
 24 Sweetwater Union High School District and County of Los Angeles are not barred by the statute of  
 25 limitations set forth Code of Civil Procedure 341.5.

26 3. Petitioners/Plaintiffs California Schools Boards Association and Education Legal  
 27 Alliance have both associational and organizational standing to challenge the constitutionality of  
 28 subdivision (f) of section 17556 of the Government Code; sections 7, 11, 12, 13, 14, 16 and 17 of

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1 Statutes 2005, chapter 72 (AB 138); section 18 of Statutes 2004, chapter 895 (AB 2855); and section 53  
2 of Statutes 2005, chapter 677 (SB 512).

3 4. Section 7 of Statutes of 2005, chapter 72, is invalid and of no force and effect as it  
4 conflicts with the provisions of the California Constitution set forth in section 6 of article XIII B.

5 5. Subdivision (c) of section 12, Statutes 2005, chapter 72, and Section 16 of Statutes 2005,  
6 chapter 72, are irrelevant to any decision of the Commission as to whether a state mandate exists and if  
7 the Commission determines to rehear its decisions on the Open Meetings Act (CSM-4257), and Brown  
8 Act Reform (CSM-4469), these provisions may not be considered by the Commission in any decision it  
9 makes as to whether the claim is reimbursable pursuant to article XIII B; subdivision (6).

10 6. Subdivision (f) of section 14 of Statutes 2005, chapter 72 is invalid and of no force and  
11 effect as it conflicts with the provisions of the California Constitution set forth in section 3 of article III.

12 7. Insofar as Subdivision (a) of section 17 of Statutes 2005, chapter 72, requires the  
13 Commission to reconsider its decision in the Mandate Reimbursement Process (CSM-4204) in the light  
14 of statutory changes and court decisions, it is procedural only, and operates, or can be construed to  
15 operate prospectively only and does not dictate the result; and therefore, does not violate section 3 of  
16 article III of the California Constitution.

17 8. Section 18 of Statutes 2004, chapter 895, is procedural only and operates, or can be  
18 construed to operate, prospectively only and does not dictate the result, and therefore does not violate  
19 the provisions of section 3 of article III of the California Constitution.

20 9. Section 53 of Statutes 2005, chapter 677, is procedural only and operates, or can be  
21 construed to operate, prospectively only and does not dictate the result, and therefore does not violate  
22 the provisions of section 3 of article III of the California Constitution.

23 10. Subdivision (b) of section 17 of Statutes 2005, chapter 72, is invalid and of no force and  
24 effect as it conflicts with the provisions of the California Constitution set forth in section 3 of article III  
25 of the California Constitution.

26 11. Subdivision (f) of Government Code section 17756, as it existed prior to amendment by  
27 section 7 of Statutes of 2005, chapter 72, does not conflict with the provisions of section 6, article XIII B  
28 of the California Constitution.

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1 12. Statutes 2005, chapter 72; section 18 of Statutes 2004, chapter 895; and section 53 of  
2 Statutes 2005, chapter 677 do not violate the provisions of article 1, section 9, of the California  
3 Constitution.

4 13. Respondents State of California, Commission on State Mandates, and John Chiang, in his  
5 capacity as Controller of the State of California, and Intervenor Department of Finance, and those public  
6 officers and employees acting by and through their authority, are permanently enjoined and estopped  
7 ~~from denying reimbursement for claims made by local governments, including school districts, for~~  
8 ~~reimbursement pursuant to section 6, article XIII B of the California Constitution, before July 19, 2005,~~  
9 ~~the effective date of Chapter 72, Statutes 2005 (AB 138), pursuant to decisions of the Commission on~~  
10 ~~State Mandates on test claims CSM 4204 [05 RL 4204] (Mandate Reimbursement Process), CSM 4205~~  
11 ~~(Mandate Reimbursement Process II), CSM 4469 (Brown Act Reform), and 97-TC-21 [04-RL-9721-~~  
12 ~~11; 05-RL-9721-03] (School Accountability Report Card). Respondent State of California is not~~  
13 estopped from enacting new legislation that results in the denial of reimbursement for programs and  
14 services that were previously deemed reimbursable as state mandates, so long as that legislation is  
15 otherwise constitutional.

16 14. Respondent State of California, Respondent Commission on State Mandates, Respondent  
17 John Chiang, as Controller of the State of California, and Intervenor Department of Finance, and those  
18 public officers and employees acting by and through their authority are permanently enjoined from  
19 taking any and all action to implement, apply, or enforce in any way, the following:

- 20 Section 7 of Statutes 2005, chapter 72;
- 21 Subdivision (f) of section 14 of Statutes 2005, chapter 72;
- 22 Subdivision (b) of section 17 of Statutes 2005, chapter 72.

23 15. Respondent Commission on State Mandates, and those public officers and employees  
24 acting by and through its authority, are permanently enjoined from considering subdivision (c) of section  
25 12, Statutes 2005, chapter 72, and Section 16 of Statutes 2005, chapter 72, in any decision of the  
26 Commission in proceedings to determine whether claims pending in proceedings CSM-4257 and CSM-  
27 4469 are reimbursable pursuant to subdivision 6, article XIII B, of the California Constitution.

28 16. Respondent Commission on State Mandates has abused that discretion vested in it by law

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1 in that it adopted decisions or orders in proceedings 05-TC-05, 97-TC-21, CSM-4204, CSM-4257,  
2 CSM-4469 and CSM-4485 that are not in accord with the law as found by this court.

3 17. A peremptory writ of mandate shall issue from this court pursuant to Code of Civil  
4 Procedure section 1094.5 directing Respondent Commission on State Mandates to set aside as null and  
5 void the order adopted on September 27, 2005, to set aside the Statement of Decision in Proceeding  
6 CSM-4257 (Open Meeting Act); the order to set aside the Statement of Decision in Proceeding CSM-  
7 4469 (Brown Act Reform); the order to set aside the consolidated parameters and guidelines pertaining  
8 to Proceeding CSM-4257 and CSM-4469; and in taking further actions in proceedings CSM-4257 and  
9 -4469 as may be otherwise required by law, and which are consistent with the ruling of this court, it  
10 shall not take into consideration the provisions of section 7, Chapter 72, Statutes 2005 or the provisions  
11 of subdivision (f) of Government Code section 17556, as amended by section 7.

12 18. A peremptory writ of mandate shall issue from this court pursuant to Code of Civil  
13 Procedure section 1094.5 directing Respondent Commission on State Mandates to set aside as null and  
14 void the Statements of Decisions adopted in Proceeding 97-TC-21, on July 28, 2005 and January 26,  
15 2006, in their entirety, including any modifications made to parameters and guidelines as a result of the  
16 July 28, 2005 and January 26, 2006, decisions; and in taking further actions in proceeding 97-TC-21 as  
17 may be otherwise required by law, and which are consistent with the ruling of this court, it shall not take  
18 into consideration the provisions of section 7, Chapter 72, Statutes 2005 or the provisions of subdivision  
19 (f) of Government Code section 17556, as amended by section 7.

20 19. A peremptory writ of mandate shall issue from this court pursuant to Code of Civil  
21 Procedure section 1094.5 directing Respondent Commission on State Mandates to set aside as null and  
22 void the Statement of Decision adopted on May 25, 2006, to reconsider its prior decisions in  
23 proceedings CSM-4204 and CSM-4485 in their entirety, including any modifications made to  
24 parameters and guidelines as a result of the May 25, 2006 decision; and in taking further actions in  
25 proceedings CSM-4204 and -4485 as may be otherwise required by law, and which are consistent with  
26 the ruling of this court, it shall not take into consideration the provisions of section 7, Chapter 72,  
27 Statutes 2005 or the provisions of subdivision (f) of Government Code section 17556, as amended by  
28 section 7.

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1           20. A peremptory writ of mandate shall issue from this court pursuant to Code of Civil  
 2 Procedure section 1094.5 directing Respondent Commission on State Mandates to set aside as null and  
 3 void the Statement of Decision adopted October 4, 2006 in Proceeding 05-TC-05 in its entirety, and in  
 4 taking further actions in proceeding 05-TC-05 as may be otherwise required by law, and which are  
 5 consistent with the ruling of this court, it shall not take into consideration the provisions of section 7,  
 6 Chapter 72, Statutes 2005 or the provisions of subdivision (f) of Government Code section 17556, as  
 7 amended by section 7.

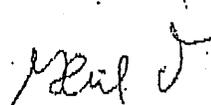
8           21. Respondent Commission on State Mandates shall file a return to the Peremptory Writ of  
 9 Mandate within sixty days of service of the Writ or show cause why you have not complied.

GAIL D. OHANESIAN

GDO

10           22. The Petitioner<sup>GDO</sup> for Writ Mandate as set forth in the Seventh Cause of Action is duplicative  
 11 to the relief set forth above and on that basis is denied.

12           23. Petitioners are entitled to recover their costs from Respondent State of California;  
 13 Respondent John Chiang, as Controller of the State of California, Respondent Commission on State  
 14 Mandates and Intervenor Department of Finance, upon appropriate application, including a  
 15 memorandum of costs, in the sum of \$ \_\_\_\_\_

16  
 17  GAIL D. OHANESIAN  
 18 \_\_\_\_\_  
 Judge of the Superior Court

## Commission on State Mandates

Original List Date: 10/17/2002 Mailing Information: Other  
Last Updated: 4/26/2007  
List Print Date: 08/02/2007 **Mailing List**  
Claim Number: 02-TC-10  
Issue: California Public Records Act: Disclosure Procedures

### TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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