STATE OF CALIFORNIA Edmund G. Brown, Jr., *Governor*

COMMISSION ON STATE MANDATES
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March 4, 2011

Ms. Juliana F. Gmur
MAXIMUS, Inc.
2380 Houston Avenue
Clovis, CA 93611

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

RE: Final Staff Analysis, Proposed Statewide Cost Estimate and Hearing Date
02-TC-23 *Local Agency Formation Commission (LAFCO)*
Government Code Section, 56425, Subdivision (i)(1) (Formerly Subdivision (h)(10)
Statutes 2000, Chapter 761 (AB 2838)
Sacramento Metropolitan Fire District, Claimant

Dear Ms. Gmur:

The final staff analysis and proposed statewide cost estimate are enclosed.

Hearing

This matter is set for hearing on **Thursday, March 24, 2011**, at 9:30 a.m. in Room 447, State Capitol, Sacramento, CA. This matter is proposed for the Consent Calendar. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c)(2), of the Commission's regulations.

Special Accommodations

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

Please contact Nancy Patton at (916) 323-8217 if you have questions.

Sincerely,

Drew Bohan
Executive Director

Enclosures

ITEM 12
FINAL STAFF ANALYSIS
PROPOSED STATEWIDE COST ESTIMATE
$277,490

Government Code Section 56425, Subdivision (i)(1) (formerly Subdivision (h)(1))

Statutes 2000, Chapter 761 (AB 2838)

Local Agency Formation Commissions
02-TC-23

Sacramento Metropolitan Fire District, Claimant

STAFF ANALYSIS

Background

Local agency formation commissions (LAFCOs) are statutorily-created administrative bodies which make quasi-legislative determinations regarding formation and development of local agencies.[1] The courts have referred to LAFCOs as the Legislature's "watchdogs" over local boundaries.[2] LAFCO membership must include representatives from city and county government, and may include representation from independent special districts.

LAFCOs are required to adopt a sphere of influence for each local governmental agency within its jurisdiction so the local agency may carry out its responsibility for planning and shaping logical and orderly development within its boundaries. LAFCOs are charged with updating spheres of influence not less than once every five years. Special districts are required to file specified written statements with the LAFCOs when their spheres of influence are being updated.

Summary of the Mandate

On September 27, 2007, the Commission found that Government Code section 56425, subdivision (h)(1) (subsequently renumbered to subdivision (i)(1)), constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, and Government Code section 17514, in that it requires independent special districts to file written statements with the LAFCO specifying the functions or classes of service provided by those districts, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district.

These time periods and types of spheres of influence differ because section 56425 was changed effective January 2002. Statutes 2001, chapter 667 narrowed the spheres of influence affected by the requirements of subdivision (h). The 2001 statute replaced "any sphere of influence or a sphere of influence that includes a special district" with "a sphere of influence for a special district." Thus, for the six-month period of July 1, 2001, through December 31, 2001, Government Code section 56425, subdivision (h)(1) mandates a new program or higher level of

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[1] Government Code section 56301.
[2] *Tillie Lewis, supra,* 52 Cal.App.3d 983, 1005.

service for independent special districts to file written statements with the LAFCO specifying the functions or classes of service provided by the districts for any sphere of influence or sphere of influence that included a special district, including any update to a sphere of influence or any update to a sphere of influence that included a special district. Beginning January 1, 2002, the subdivision (h)(1) requirement – that LAFCOs require special districts to file written statements with the LAFCO specifying the functions or classes of service provided by the districts – is *only* applicable when LAFCOs adopt or update a sphere of influence for a special district, and not any other sphere of influence.

The claimant filed the test claim on May 29, 2003. The Commission adopted a Statement of Decision on September 27, 2007, and the parameters and guidelines on September 25, 2009.[3] Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by March 30, 2010, and late claims by March 30, 2011.

Eligible Claimants and Period of Reimbursement

Only those independent special districts that are subject to the tax and spend limitations of article XIII A and article XIII B are eligible claimants.

The reimbursement period for this new mandate begins July 1, 2001.

Reimbursable Activities

The Commission approved the following activities for reimbursement:

A. On-going Activities:

Filing written statements to the LAFCO pursuant to Government Code section 56425, subdivision (i)(1) (formerly numbered subdivision (h)(1)), specifying the functions or classes of service provided by the district, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district:
    1. Gather information on the functions or classes of services provided by the special district as needed to prepare the written statements required by Government Code section 56425, subdivision (i)(1).
    2. Draft written statements, including but not limited to, the initial draft, reviews and revisions as needed.
    3. File written statements with the LAFCO.
    4. Prepare for, attend and present written statements as required by Government Code section 54625, subdivision (i)(1), at a LAFCO hearing.

Statewide Cost Estimate

Staff reviewed the claims data submitted by 23 special districts, and compiled by the SCO. The actual claims data showed that 23 claims were filed for fiscal years 2002-2003 through 2008-2009 for a total of $277,490.[4] Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

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[3] Exhibit A.

[4] Claims data reported as of October 11, 2010.

Assumptions

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed.*

   Only 23 special districts filed reimbursement claims for this program. If other eligible claimants file reimbursement claims or late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Initial reimbursement claims for this program may be filed until March 30, 2011.

2. *There may be several reasons that non-claiming local agencies did not file reimbursement claims, including but not limited to:*

   - they are not eligible claimants because they are not independent special districts subject to the tax and spend limitations of article XIII A and article XIII B of the California Constitution;
   - they did not incur more than $1,000 in increased costs for this program;
   - the LAFCO did not adopt or update the sphere of influence for that special district, and thus no written statements were required;
   - they did not have supporting documentation to file a reimbursement claim.

3. *There is a wide variation in costs claimed for this program that appear to be eligible for reimbursement.*

   There is a wide variation in costs for this program. Staff reviewed the reimbursement claims filed and found that the average cost of the 23 claims is $12,064 per claim. Four claims exceed this amount. San Bernardino Valley Water Control District filed a claim for $160,196; Western San Bernardino County Water District filed a claim for $26,716; Kensington Fire Protection District filed a claim for $23,704; and Junipera-Riveria County Water District filed a claim for $14,855. Staff found that the agencies with higher than average costs hired outside law firms or consulting firms to complete the written LAFCO report required under this program.

   However, the parameters and guidelines and the law do not prohibit local agencies from using outside resources to implement a mandated program. In addition, the SCO conducted a preliminary desk review of these claims and approved them for reimbursement.

4. *The total amount of reimbursement for this program may be lower than the statewide cost estimate, because the SCO may reduce any reimbursement claim for this program.*

   As stated above, the SCO conducted a preliminary desk review of these claims. They reduced claims for various reasons, such as deducting penalties for late filings. They also rejected claims that were filed for amounts under the $1,000 minimum threshold. The SCO may also conduct full field audits on this program, and reduce any claim it deems to be excessive or unreasonable.

Methodology

Fiscal Years 2002-2003 through 2008-2009

The proposed statewide cost estimate for fiscal years 2002-2003 through 2008-2009 was developed by totaling the 23 reimbursement claims filed with the SCO for these years.

The proposed statewide cost estimate includes six fiscal years for a total of $277,490 for the *Local Agency Formation Commissions* program. This averages to $46,248 annually in costs for the state for this six-year period.

Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Special District Claims Filed with SCO	Estimated Cost
2002-2003	1	$4,871
2003-2004	2	$28,625
2004-2005	1	$4,880
2005-2006	7	$192,604
2006-2007	3	$9,843
2007-2008	3	$5,761
2008-2009	6	$30,906
TOTAL	**23**	**$277,490**

Comments on the Proposed Statewide Cost Estimate

Commission staff issued the draft staff analysis and proposed statewide cost estimate on January 21, 2011.[5] On January 31, 2011, the Department of Finance submitted comments concurring with the proposed statewide cost estimate.[6]

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of **$277,490** for costs incurred in complying with the *Local Agency Formation Commissions* program.

[5] Exhibit B.
[6] Exhibit C.

Exhibit A

Adopted: September 25, 2009

PARAMETERS AND GUIDELINES

Government Code Section, 56425, Subdivision (i)(1) (formerly Subdivision (h)(1))

Chapter 761, Statutes of 2000

Local Agency Formation Commissions
02-TC-23

Sacramento Metropolitan Fire District, Claimant

I. SUMMARY OF THE MANDATE

On September 27, 2007, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the test claim legislation imposes a partially reimbursable state-mandated program upon certain independent special districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. Specifically, the Commission found that only one statutory provision, Government Code section 56425, subdivision (h) (subsequently renumbered to subdivision (i)(1)), constitutes a state-mandated "new program or higher level of service" in an existing program. The findings for this test claim apply to independent special districts that are subject to the tax and spend limitations of articles XIII A and XIII B of the California Constitution. Local agency formation commissions (LAFCOs) are not eligible claimants. All other activities claimed for sphere of influence reviews or municipal service reviews are either required of the LAFCO and not special districts, or the activities are not mandated since the Municipal Service Review Guidelines and Appendices do not constitute executive orders.

The Commission approved this test claim for the following reimbursable activities:

Filing written statements with the LAFCO specifying the functions or classes of service provided by independent special districts, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district.

II. ELIGIBLE CLAIMANTS

Any independent special district participating in the LAFCO which is subject to the tax and spend limitations of articles XIII A and XIII B of the California Constitution and that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs. LAFCOs are not eligible claimants.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557, subdivision (e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The Sacramento Metropolitan Fire District filed the test claim on May 29, 2003, establishing eligibility for reimbursement for fiscal year 2001-2002. Therefore, costs incurred pursuant to Government Code section 56425, subdivision (h) are reimbursable on or after July 1, 2001.

Actual costs for one fiscal year shall be included in each claim. Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.

If the total costs for a given fiscal year do not exceed $1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are reimbursable:

A. <u>On-going Activities:</u>

Filing written statements to the LAFCO pursuant to Government Code section 56425, subdivision (i)(1) (formerly numbered subdivision (h)(1).), specifying the functions or classes of service provided by the district, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district:
    1. Gather information on the functions or classes of services provided by the special district~~,~~ as needed to prepare the written statements required by Government Code section 56425, subdivision (i)(1).
    2. Draft written statements, including but not limited to, the initial draft, reviews and revisions as needed.
    3. File written statements with the LAFCO.
    4. Prepare for, attend, and present written statements as required by Government Code section 54625, subdivision (i)(1), at LAFCO hearing.

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1., Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular A-87 Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter[1] is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that

[1] This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.

STATE OF CALIFORNIA
COMMISSION ON STATE MANDATES
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Edmund G. Brown, Jr., *Governor*

Exhibit B

January 12, 2011

Ms. Juliana F. Gmur
MAXIMUS, Inc.
2380 Houston Avenue
Clovis, CA 93611

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

RE: Draft Staff Analysis, Proposed Statewide Cost Estimate and Hearing Date
02-TC-23 *Local Agency Formation Commission (LAFCO)*
Government Code Section, 56425, Subdivision (i)(1) (Formerly Subdivision (h)(10)
Statutes 2000, Chapter 761 (AB 2838)
Sacramento Metropolitan Fire District, Claimant

Dear Ms. Gmur:

The draft staff analysis and proposed statewide cost estimate are enclosed for your review and comment.

Written Comments

Any party or interested person may file written comments on the draft staff analysis by Friday, **February 2, 2011**. You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents on the Commission's website. Please see the Commission's website at http://www.csm.ca.gov/dropbox_procedures.shtml for instructions on electronic filing. (Cal. Code Regs., tit. 2, § 1181.2.) If you would like to request an extension of time to file comments, please refer to section 1183.01, subdivision (c)(1), of the Commission's regulations.

Hearing

This matter is set for hearing on **Thursday, March 24, 2011**, at 9:30 a.m. in Room 447, State Capitol, Sacramento, CA. The final staff analysis will be issued on or about March 10, 2011. This matter is proposed for the Consent Calendar. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c)(2), of the Commission's regulations.

Please contact Nancy Patton at (916) 323-8217 if you have questions.

Sincerely,

Drew Bohan
Executive Director

Enclosures

ITEM ___
DRAFT STAFF ANALYSIS
STATEWIDE COST ESTIMATE

Government Code Section 56425, Subdivision (i)(1) (formerly Subdivision (h)(1))

Statutes 2000, Chapter 761 (AB 2838)

Local Agency Formation Commissions
02-TC-23

Sacramento Metropolitan Fire District, Claimant

Executive Summary

The proposed statewide cost estimate includes seven fiscal years for a total of **$277,490** for the *Local Agency Formation Commissions* program. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Special District Claims Filed with SCO	Estimated Cost
2002-2003	1	$4,871
2003-2004	2	$28,625
2004-2005	1	$4,880
2005-2006	7	$192,604
2006-2007	3	$9,843
2007-2008	3	$5,761
2008-2009	6	$30,906
TOTAL	**23**	**$277,490**

Background and Summary of the Mandate

Local agency formation commissions (LAFCOs) are statutorily-created administrative bodies which make quasi-legislative determinations regarding formation and development of local agencies, including independent special districts. LAFCOs are required to adopt a sphere of influence for each local governmental agency within its jurisdiction so the local agency may carry out its responsibility for planning and shaping logical and orderly development within its boundaries. LAFCOs are charged with updating spheres of influence not less than once every five years. Special districts are required to file specified written statements with the LAFCOs when their spheres of influence are being updated.

On September 27, 2007, the Commission found that by requiring special districts to file the written statements, Government Code section 56425, subdivision (h)(1) (subsequently renumbered to subdivision (i)(1)), constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, and Government Code section 17514.

Eligible Claimants and Period of Reimbursement

Only those independent special districts that are subject to the tax and spend limitations of article XIII A and article XIII B are eligible claimants.

The reimbursement period for this new mandate begins July 1, 2001.

Statewide Cost Estimate

Staff reviewed the State Controller's (SCO) report on claims filed by 23 special districts. The actual claims data showed that 23 claims were filed for fiscal years 2002-2003 through 2008-2009 for a total of $277,490. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed. Claims may be filed on this program until March 30, 2011.*
2. *Non-claiming special districts did not file claims because: (1) they are not eligible claimants because they are not independent special districts subject to the tax and spend limitations of article XIII A and article XIII B of the California Constitution; (2) they did not incur more than $1,000 in increased costs for this program; (3) the LAFCO did not adopt or update the sphere of influence for that special district, and thus no written statements were required; or (4) they did not have supporting documentation to file a reimbursement claim.*
3. *There is a wide variation in costs claimed for this program that appear to be eligible for reimbursement.*
4. *The total amount of reimbursement for this program may be lower than the statewide cost estimate, because the SCO may reduce any reimbursement claim for this program if it is deemed to be excessive or unreasonable.*

Methodology

Fiscal Years 2002-2003 through 2008-2009

The proposed statewide cost estimate for fiscal years 2002-2003 through 2008-2009 was developed by totaling the 23 reimbursement claims filed with the SCO for these years.

The proposed statewide cost estimate includes seven fiscal years for a total of $277,490 for the *Local Agency Formation Commissions* program. This averages to $39,641 annually in costs for the state for this seven-year period.

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of **$277,490** for costs incurred in complying with the *Local Agency Formation Commissions* program.

STAFF ANALYSIS

Background

Local agency formation commissions (LAFCOs) are statutorily-created administrative bodies which make quasi-legislative determinations regarding formation and development of local agencies.[1] The courts have referred to LAFCOs as the Legislature's "watchdogs" over local boundaries.[2] LAFCO membership must include representatives from city and county government, and may include representation from independent special districts.

LAFCOs are required to adopt a sphere of influence for each local governmental agency within its jurisdiction so the local agency may carry out its responsibility for planning and shaping logical and orderly development within its boundaries. LAFCOs are charged with updating spheres of influence not less than once every five years. Special districts are required to file specified written statements with the LAFCOs when their spheres of influence are being updated.

Summary of the Mandate

On September 27, 2007, the Commission found that Government Code section 56425, subdivision (h)(1) (subsequently renumbered to subdivision (i)(1)), constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, and Government Code section 17514, in that it requires independent special districts to file written statements with the LAFCO specifying the functions or classes of service provided by those districts, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district.

These time periods and types of spheres of influence differ because section 56425 was changed effective January 2002. Statutes 2001, chapter 667 narrowed the spheres of influence affected by the requirements of subdivision (h). The 2001 statute replaced "any sphere of influence or a sphere of influence that includes a special district" with "a sphere of influence for a special district." Thus, for the six-month period of July 1, 2001, through December 31, 2001, Government Code section 56425, subdivision (h)(1) mandates a new program or higher level of service for independent special districts to file written statements with the LAFCO specifying the functions or classes of service provided by the districts for any sphere of influence or sphere of influence that included a special district, including any update to a sphere of influence or any update to a sphere of influence that included a special district. Beginning January 1, 2002, the subdivision (h)(1) requirement – that LAFCOs require special districts to file written statements with the LAFCO specifying the functions or classes of service provided by the districts – is *only* applicable when LAFCOs adopt or update a sphere of influence for a special district, and not any other sphere of influence.

<u>Eligible Claimants and Period of Reimbursement</u>

Only those independent special districts that are subject to the tax and spend limitations of article XIII A and article XIII B are eligible claimants.

The reimbursement period for this new mandate begins July 1, 2001.

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[1] Government Code section 56301.

[2] *Tillie Lewis, supra,* 52 Cal.App.3d 983, 1005.

Reimbursable Activities

The Commission approved the following activities for reimbursement:

A. On-going Activities:

Filing written statements to the LAFCO pursuant to Government Code section 56425, subdivision (i)(1) (formerly numbered subdivision (h)(1)), specifying the functions or classes of service provided by the district, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district:
  1. Gather information on the functions or classes of services provided by the special district as needed to prepare the written statements required by Government Code section 56425, subdivision (i)(1).
  2. Draft written statements, including but not limited to, the initial draft, reviews and revisions as needed.
  3. File written statements with the LAFCO.
  4. Prepare for, attend and present written statements as required by Government Code section 54625, subdivision (i)(1), at a LAFCO hearing.

Statewide Cost Estimate

Staff reviewed the claims data submitted by 23 special districts, and compiled by the SCO. The actual claims data showed that 23 claims were filed for fiscal years 2002-2003 through 2008-2009 for a total of $277,490.[3] Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed.*

   Only 23 special districts filed reimbursement claims for this program. If other eligible claimants file reimbursement claims or late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Claims for this program may be filed until March 30, 2011.

2. *Non-claiming special districts did not file claims because:*

   - they are not eligible claimants because they are not independent special districts subject to the tax and spend limitations of article XIII A and article XIII B of the California Constitution;
   - they did not incur more than $1,000 in increased costs for this program;
   - the LAFCO did not adopt or update the sphere of influence for that special district, and thus no written statements were required; or
   - they did not have supporting documentation to file a reimbursement claim.

[3] Claims data reported as of October 11, 2010.

3. *There is a wide variation in costs claimed for this program that appear to be eligible for reimbursement.*

   There is a wide variation in costs for this program. Staff reviewed the reimbursement claims filed and found that the average cost of the 23 claims is $12,064 per claim. Four claims exceed this amount. San Bernardino Valley Water Control District filed a claim for $160,196; Western San Bernardino County Water District filed a claim for $26,716; Kensington Fire Protection District filed a claim for $23,704; and Junipera-Riveria County Water District filed a claim for $14,855. Staff found that the agencies with higher than average costs hired outside law firms or consulting firms to complete the written LAFCO report required under this program.

   However, the parameters and guidelines and the law do not prohibit local agencies from using outside resources to implement a mandated program. In addition, the SCO conducted a preliminary desk review of these claims and approved them for reimbursement.

4. *The total amount of reimbursement for this program may be lower than the statewide cost estimate, because the SCO may reduce any reimbursement claim for this program.*

   As stated above, the SCO conducted a preliminary desk review of these claims. They reduced claims for various reasons, such as deducting penalties for late filings. They also rejected claims that were filed for amounts under the $1,000 minimum threshold. The SCO may also conduct full field audits on this program, and reduce any claim it deems to be excessive or unreasonable.

Methodology

Fiscal Years 2002-2003 through 2008-2009

The proposed statewide cost estimate for fiscal years 2002-2003 through 2008-2009 was developed by totaling the 23 reimbursement claims filed with the SCO for these years.

The proposed statewide cost estimate includes six fiscal years for a total of $277,490 for the *Local Agency Formation Commissions* program. This averages to $46,248 annually in costs for the state for this six-year period.

Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Special District Claims Filed with SCO	Estimated Cost
2002-2003	1	$4,871
2003-2004	2	$28,625
2004-2005	1	$4,880
2005-2006	7	$192,604
2006-2007	3	$9,843
2007-2008	3	$5,761
2008-2009	6	$30,906
TOTAL	**23**	**$277,490**

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of **$277,490** for costs incurred in complying with the *Local Agency Formation Commissions* program.

Received
January 31, 2011
Commission on
State Mandates

DEPARTMENT OF FINANCE
EDMUND G. BROWN JR. • GOVERNOR
915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

EXHIBIT C

February 2, 2011

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

Dear Mr. Bohan:

The Department of Finance has reviewed the proposed statewide cost estimate for Claim No. 02-TC-23 "Local Agency Formation Commissions (LAFCO)."

The Department of Finance concurs with the Commission on State Mandates' (Commission) recommendation to adopt the statewide cost estimate of $277,490 for fiscal years 2002-03 through 2008-09. As noted by the Commission's analysis, Commission staff reviewed the reimbursement claims filed and found that the average cost of the 23 claims is approximately $12,064 per claim; however, four claims exceed this amount, ranging in cost from $14,855-$160,196. The Commission also notes that actual costs may be higher or lower based on audit findings or submittal of amended or late claims. Late claims for this program may be filed until March 30, 2011.

The Commission's regulations specify that proof of service shall be included with any written material filed with the Commission (1181.2, subd. (b)). Pursuant to section 1181.2, subdivision (c)(1)(E) "documents e-filed with the Commission need not be otherwise served on persons that have provided an e-mail address for the mailing list."

If you have any questions regarding this letter, please contact Jeff Carosone, Principal Program Budget Analyst at (916) 445-8913.

Sincerely,

Nona Martinez

NONA MARTINEZ
Assistant Program Budget Manager

Enclosure

Received
January 31, 2011
Commission on
State Mandates

Enclosure A

DECLARATION OF JEFF CAROSONE
DEPARTMENT OF FINANCE
CLAIM NO. 02-TC-23

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.

1-28-11
at Sacramento, CA

Jeff Carosone
Jeff Carosone

Commission on State Mandates

Original List Date: 6/18/2003
Last Updated: 3/7/2011
List Print Date: 03/07/2011
Claim Number: 02-TC-23
Issue: LAFCO

Mailing List

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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