

February 11, 2004

**RECEIVED**

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

FEB 18 2004

**COMMISSION ON  
STATE MANDATES**

Dear Ms. Higashi:

As requested in your letter of July 11, 2003, the Department of Finance has reviewed the test claim submitted by the Santa Monica Community College District (claimant) asking the Commission to determine whether specified costs incurred under the Community College Construction Act of 1980 (Chapter 910, Statutes of 1980) and subsequent legislation and regulations, are reimbursable state mandated costs (Claim No. CSM-02-TC-47 "Community College Construction"). Commencing with page 27 of the test claim, claimant has identified numerous new duties which it asserts are reimbursable state mandates. Each of these assertions is discussed in detail in the body of our response.

As the result of our review, we have concluded that there are two activities which could be interpreted as state-reimbursable mandated activities. These two activities are 1) the inclusion in the five-year plan of the district's estimate of funds available for capital outlay matching purposes [Education Code (Ed Code) §81821(f)], and 2) the reporting to the Chancellor's Office on plans to achieve greater use of joint facilities with Parks and Recreation and possible use of new facilities by the community [Title V California Code of Regulations (CCR) §57013].

We disagree with all other claims of state-reimbursable mandated activities in this test claim. The disputed activities include, but are not limited to, those that are 1) substantially similar to activities that have been continuously required since the Community College Construction Act of 1967, 2) a requirement of the California Community Colleges Chancellor's Office, a state entity, rather than duties imposed on local districts, 3) discretionary activities or 4) required to provide cost savings that either meet or exceed the amount of expenses incurred.

The following sections of this letter respond to each of the claims contained in this test claim.

**A) To transfer any unused project funds when the existing district is incorporated into a newly formed district (Ed Code §81808)**

The activity described in Ed Code §81808 is not a state-reimbursable mandate as it has continuously existed since the Community College Construction Act of 1967. From 1967 through 1976, this requirement was contained in Ed Code §20057. In 1977, the Education Code was reorganized and this activity was renumbered as Ed Code §81808.

The Community College Construction Act of 1980 merely repealed and then reinstated the same activity in the same code section. Government Code (Gov Code) §17514 specifically defines "costs mandated by the State" as:

...any increased cost 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 or an existing program within the meaning of Section 6 of Article XIII B or the California Constitution.

As the activity required by Ed Code §81808 has existed since 1967, the Community College Construction Act of 1980 creates neither a higher level of service nor a new program. Therefore, this task does not meet the criteria stated in Gov Code §17514 for finding a state-reimbursable mandated activity.

Should it nevertheless be determined that this action qualifies as a state-reimbursable mandated activity, we note that no existing districts have been incorporated into newly formed districts during the effective period of this test claim.

**B) Annually prepare and submit a five-year plan for capital construction to the Board of Governors of the California Community Colleges (Board), including any required modifications or changes, by February 1 (Ed Code §§81820 and 81823, and Title 5, California Code of Regulations (CCR) §57014)**

Ed Code §81820 is not a state-reimbursable mandated activity as the requirement to prepare and submit a capital outlay plan has continuously existed since the Community College Construction Act of 1967. From 1967 through 1976, this requirement was contained in Ed Code §20065. In 1977, the Education Code was reorganized and this activity was renumbered as Ed Code §81820. The Community College Construction Act of 1980 merely repealed and then reinstated the same activity in the same code section. Such an act does not meet the criteria under Gov Code §17514 for a state-reimbursable mandate, as there is no new program and no higher level of service.

Although the Community College Construction Act of 1980 amends Ed Code §81820 to require that the five-year plan be submitted by February 1, rather than November 1, it does not require the activities involved with preparing and submitting a plan to include anything more than was required under the prior law. As such, it would have the effect of requiring the same activity, but at a different point in time. That activity has certain costs associated with its preparation, but advancing its due date, while in some instances may require a shift in workload organization and/or priorities, does not increase such costs by itself. Therefore, this bill would not result in any state-reimbursable mandated costs on local government.

Furthermore, Ed Code §81823 is not a state-reimbursable mandated activity as it is discretionary. This section allows multiple campus college districts, if they so elect, to submit a capital outlay plan for each college or educational center within that district. "Mandates" as used in Article XIII B, Section 6, of the California Constitution has been defined to mean "orders" or "commands" (*Long Beach Unified School District, supra*, 225 Cal.App.3d 155, 174). As Ed Code §81823 does not mandate the community college district to perform a task, then compliance is within the discretion of the community college district and a state-mandated program does not exist.

Similarly, CCR §57014, regarding the districts ability to submit proposed projects to the Chancellor for review, is not a state-reimbursable mandated activity as it is also discretionary.

**C) To include in the five-year plan:**

- 1) The effect on estimated construction needs arising from particular courses of instruction and other student services [Ed Code §81821(a)];**
- 2) The district's enrollment projection [Ed Code §81821(b)];**
- 3) The district's current enrollment capacity [Ed Code §81821(c)];**
- 4) The district's office, library and supporting facilities capacity [Ed Code §81821(d)];**
- 5) The district's annual inventory of all facilities and land [Ed Code §81821(e)]; and**
- 6) The district's estimate of matching funds available for capital outlay [Ed Code §81821(f)]**

Activities C1 through C5 (Ed Code §81821 subdivisions a through e) are not state-reimbursable mandated activities because the requirements in existing law are substantially similar to plan elements that have been required continuously since the Community College Construction Act of 1967. From 1967 through 1976, this requirement was contained in Ed Code §20066. In 1977, the Education Code was reorganized and this activity was renumbered as Ed Code §81821. The Community College Construction Act of 1980 merely repealed and then reinstated the same activity in the same code section. Such an act does not meet the criteria under Gov Code §17514 for a state-reimbursable mandate, as there is no new program and no higher level of service.

We do acknowledge that activity C6, the requirement to include in the five-year plan an estimate of district funds available for capital outlay matching purposes may be a state-reimbursable mandate if the statewide cost of this activity exceeds \$1,000. It is possible that the cost would not exceed \$1,000 as districts are not required to provide a local match, and the recommended district match value is provided by the California Community Colleges Chancellor's Office pursuant to CCR §57033. Thus, the only state-reimbursable mandated activity would be the cost to transcribe the value provided by the Chancellor into the five-year plan.

**D) For community college districts with more than one campus, the opportunity for those districts to submit more than one plan, if either a) students are isolated within a district due to distance, inadequacy of transportation or inability to meet the costs of transportation, or b) inability of the colleges or educational centers in a district to meet the unique educational and cultural needs of a significant number of ethnic students (Ed Code §81823)**

As discussed in Section B, Ed Code §81823 is a discretionary activity and therefore is not a state mandate.

**E) To pay the Board fees charged for the review of proposed new college sites (Ed Code §81836)**

Ed Code §81836 is not a state-reimbursable mandated activity as the activities for which local districts are being charged are discretionary. We are unable to find anything in existing code or regulations that requires districts to seek new college sites or for districts to submit specific construction plans in addition to the five-year plans. "Mandates" as used in Article

XIII B, Section 6, of the California Constitution has been defined to mean "orders" or "commands" (*Long Beach Unified School District, supra*, 225 Cal. App. 3d 155, 174). As Ed Code §81836 does not mandate the community college district to perform a task, then compliance is within the discretion of the community college district and a state-mandated program does not exist.

Furthermore, the state Chancellor's Office, or its governing board, has been required to charge for these services since they were first included in the Community College Construction Act of 1967. While the State's formula for determining the fee has changed, the fact remains that from 1967 through 1976, this site review and construction plan review fee was contained in Ed Code §20080.1. In 1977, the Education Code was reorganized and this activity was renumbered as Ed Code §81836. The Community College Construction Act of 1980 merely repealed and then reinstated the same activity in the same code section. Such an act does not meet the criteria under Gov Code §17514 for a state-reimbursable mandate, as there is no new program and no higher level of service.

**F) To submit capital construction plans to the Board for a new college facility or renovation project, if such costs are to exceed \$150,000 (Ed Code §81837)**

Ed Code §81837 is not a state-reimbursable mandated activity as the requirement to prepare and submit capital construction plans has continuously existed in substantially the same form since the Community College Construction Act of 1967. From 1967 through 1976, this requirement was contained in Ed Code §20080.2. In 1977, the Education Code was reorganized and this activity was renumbered as Ed Code §81837. The Community College Construction Act of 1980 merely repealed and then reinstated the same activity in the same code section. Such an act does not meet the criteria under Gov Code §17514 for a state-reimbursable mandate, as there is no new program and no higher level of service.

**G) The district may include a proposed site in its plans and may enter into an agreement with existing owner of the proposed site for the option to purchase such property (Ed Code §81839)**

Ed Code §81839 is not a state-reimbursable mandated activity as it is discretionary. This section allows community college districts, if they so elect, to enter into an option to purchase agreement with the owner of the property of a proposed project site. "Mandates" as used in Article XIII B, Section 6, of the California Constitution has been defined to mean "orders" or "commands" (*Long Beach Unified School District, supra*, 225 Cal. App. 3d 155, 174). As Ed Code §81839 does not mandate the community college district to perform a task, then compliance is within the discretion of the community college district and a state-mandated program does not exist.

Furthermore, Ed Code §81839 is not a state-reimbursable mandated activity as the ability to enter such an agreement has continuously existed since the Community College Construction Act of 1967. From 1967 through 1976, this requirement was contained in Ed Code §20085. In 1977, the Education Code was reorganized and this activity was renumbered as Ed Code §81845. The Community College Construction Act of 1980 merely repealed and then reinstated the same activity. Such an act does not meet the criteria under Gov Code §17514 for a state-reimbursable mandate, as there is no new program and no higher level of service.

**H) To apply for assistance under the Chapter 4, Part 49 of the Education Code (The Community College Construction Act of 1980) for various capital outlay projects at community college sites [CCR §57001.5(a) and (b)]**

CCR §57001.5(a) and (b) are not state-reimbursable mandated activities as there is no identifiable activity in this section of regulations, merely the definition of "project" as it pertains to the Community College Construction Act. It appears that the actual activity of applying for assistance occurs in accordance with language in Chapter 4, Part 49 of the Education Code, most likely Section §81837. Ed Code §81837 is not a state-reimbursable mandated activity, as noted in Section F of this response.

Furthermore, CCR §57001.5 is not a state-reimbursable mandated activity, as substantially similar language has continuously existed since the Community College Construction Act of 1967. From 1967 through 1976, this requirement was contained in Ed Code §20052. In 1977, the Education Code was reorganized and this activity was renumbered as Ed Code §81802. The Community College Construction Act of 1980 merely repealed and then reinstated the same activity. Chapter 1372, Statutes of 1990, shifted this language from the Education Code to the Title V Regulations, but in doing so, the Legislature ensured that there would be no lapse by indicating that all statutes listed for reversion would remain operative until the effective date of the regulations, March 4, 1991. An act, such as the Community College Construction Act of 1980 or Chapter 1372, Statutes of 1990, that repeals and then reinstates substantially similar language does not meet the criteria under Gov Code §17514 for a state-reimbursable mandate, as there is no new program and no higher level of service.

**I) The opportunity to appeal Board capital outlay actions (CCR §57010)**

CCR §57010 is not a state-reimbursable mandated activity as it is discretionary. This section allows community college districts, if they so elect, to appeal any action of the Board related to the Community College Construction Act. "Mandates" as used in Article XIII B, Section 6, of the California Constitution has been defined to mean "orders" or "commands" (*Long Beach Unified School District, supra*, 225 Cal. App. 3d 155, 174). As CCR §57010 does not mandate the community college district to perform a task, then compliance is within the discretion of the community college district and a state-mandated program does not exist.

In addition, CCR §57010 is not a state-reimbursable mandated activity, as the appeal opportunity has continuously existed since the Community College Construction Act of 1967. From 1967 through 1976, this requirement was contained in Ed Code §20055. In 1977, the Education Code was reorganized and this activity was renumbered as Ed Code §81806. The Community College Construction Act of 1980 merely repealed and then reinstated the same activity. In 1991, this section was transferred from statute to CCR §57010 without any lapse in the law. Such acts that repeal and then reinstate the same activity do not meet the criteria under Gov Code §17514 for a state-reimbursable mandate, as there is no new program and no higher level of service.

**J) To submit a final report, within 30 days after the closure of the current fiscal year, on all expenditures, by fund source, associated with a recently completed project (CCR §57011)**

CCR §57011 is not a state-reimbursable mandated activity, as the requirement has continuously existed since the Community College Construction Act of 1967. The only significant change is that the original law did not specify a due date. From 1967 through 1976, this requirement was contained in Ed Code §20058. In 1977, the Education Code was reorganized and this activity was renumbered as Ed Code §81809. The Community College Construction Act of 1980 merely repealed and then reinstated the same activity. In 1991, this section was transferred from statute to CCR §57011 without any lapse in the law. Such acts that repeal and then reinstate the same activity do not meet the criteria under Gov Code §17514 for a state-reimbursable mandate, as there is no new program and no higher level of service.

Although the Community College Construction Act of 1980 amended Ed Code §81820 to require that the final report be submitted within 30 days after the closure of the current fiscal year, it does not require the report contents to include anything more than was required under the prior law. As such, it would have the effect of requiring the same activity but at a specific point in time. That activity has certain costs associated with its preparation, but setting a due date, while in some instances may require a shift in workload organization and/or priorities, does not by itself increase such costs for an already required activity. Therefore, this bill would not result in any state-reimbursable mandated costs on local government.

- K) To meet with local park and recreation authorities to review methods of coordinating major capital outlay projects and, if a district is building new facilities, to report to the Chancellor's Office on plans for joint use of park and recreation facilities or possible use by the total community (CCR §57013)**

CCR §57013 does not require more than one meeting between the local district and recreation and parks authorities. Thus, subsequent meetings with Park and Recreation authorities are at the district's discretion and not a state-reimbursable mandated activity. Since this law was first enacted in 1980 as Ed Code §81821.5, it is very unlikely that a district would disregard the law until the effective period of this test claim, twenty years after the one-time requirement was created. For this reason it is also unlikely that meeting with local park and recreation authorities is a state-reimbursable mandated activity.

However, the component of CCR §57013 requiring local district to report to the Chancellor's Office on plans for joint use or community use of new facilities could be interpreted as a state-reimbursable mandated activity to the extent that a district is planning, designing or constructing a new facility within the effective period of this test claim. If deemed a mandate, the specific condition under which the reporting to the Chancellor's Office is to be reimbursed by the State will be determined by the Parameters and Guidelines for this test claim.

- L) For the Chancellor's Office to review and evaluate proposed projects. For a given project, such a review includes 1) an architectural analysis, 2) a determination of the amount of available federal funds available, 3) a determination of both the total cost of the project and the cost borne by the state and, if applicable, the local district and 4) the total funds required for the first phase of the project to be provided on a matching basis by the State and the district and the total state appropriation (CCR §57015)**

CCR §57015 does not contain any state-reimbursable mandated activities. The requirement for local districts to submit plans to the Chancellor's Office is codified in Ed Code §81837, and Ed Code §81837 is not a state-reimbursable mandated activity, as discussed in Section F of this response.

Furthermore, CCR §57015 solely pertains to activities required of the California Community Colleges Chancellor's Office, a state entity, upon the receipt of project plans from the local districts. As CCR §57015 does not impose any new activity or higher level of service on local community college districts, no mandate exists.

Not only do the activities of CCR §57015 solely apply to the Chancellor's Office, these requirements have continuously existed in substantially the same form since the Community College Construction Act of 1967. From 1967 through 1976, this requirement was contained in Ed Code §20081. In 1977, the Education Code was reorganized and this activity was renumbered as Ed Code §81838. The Community College Construction Act of 1980 merely repealed and then reinstated the same activity. In 1991, this section was transferred from statute to CCR §57015 without any lapse in the law. Such acts that repeal and then reinstate the same activity do not meet the criteria under Gov Code §17514 for a state-reimbursable mandate, as there is no new program and no higher level of service.

- M) If a district requests a state supported energy conservation project, inclusion of the local district energy conservation program and the need for state assistance in the annual Five-Year Construction Plan (CCR §57052)**
- N) When the need for state financial assistance for an energy conservation project has been established, it shall be submitted as a project planning guide as developed by the Chancellor's Office and containing evidence of an approved Energy Audit on file with the California Energy Commission (CCR §57053)**
- O) The opportunity to submit preliminary plans for an energy conservation related project to the Chancellor. If a college elects to submit preliminary plans, those plans shall include 1) the results of a technical audit which describes the energy conservation measures the project is to institute, 2) the status of the project as related to the various federal and state aided programs for energy conservation, and 3) an architectural and/or engineering analysis setting forth the detailed costs of the various elements of the project (CCR §57055)**
- P) If such services are available, for community college districts to arrange for the pre-audit and post-audit of buildings by investor-owned or municipal utility companies or by independent energy audit companies or organization which are recognized by federal or state regulated financial institutions. These audits are provided to identify an estimate of projected energy savings from an energy conservation project and to determine if the estimate was attained (CCR §57062)**
- Q) That any contracts entered into by the community college districts are with qualified businesses capable of retrofitting school buildings (CCR §57063)**

All regulations pertaining to energy conservation projects are not state-reimbursable mandates as all activities are contingent on the community college district electing to pursue funding for an energy conservation project. CCR §57052 states that only "those districts

requesting a state supported energy conservation project" need to perform any activities associated with such projects. "Mandates" as used in Article XIII B, Section 6, of the California Constitution has been defined to mean "orders" or "commands" (*Long Beach Unified School District, supra*, 225 Cal. App. 3d 155, 174). As no laws or regulations exist requiring community college districts to seek energy conservation projects, any required activities associated with such projects are based upon a discretionary action performed by the community college district. Therefore, a state-mandated program does not exist.

In addition to the discretionary nature of energy conservation projects, these projects, by definition, provide offsetting cost savings to districts through reduced energy consumption. CCR §57054 requires the Chancellor's Office to analyze energy savings and payback period as criteria for ranking energy conservation requests. CCR §57051 defines payback period as "the length of time required for the flow of net cash proceeds or cash savings produced by an investment to equal the original cash outlay required by the investment." Thus, it is very unlikely that the Chancellor's Office would approve a project that would not fully recover the capital investment through cost savings. In fact, the Chancellor's Office has verbally indicated that they only approve energy conservation projects that have an identifiable payback period. Furthermore, CCR §57055 indicates that support for the investment portion of such conservation projects often comes from state and federal sources, yet the districts, once any loans are paid, receive the full monetary benefits of this project.

Gov Code §17556(e) provides that the Commission on State Mandates shall not find a reimbursable mandate in a statute or executive order if the statute or executive order provides for offsetting savings which result in no net costs to local government. While energy conservation projects require an initial outlay of resources, the projected energy cost savings meet or exceed the outlay. Therefore, although this program may result in additional initial costs to locals that choose to participate, those costs are not reimbursable because savings will offset them.

**R) That any application submitted for the approval of plans for a district-funded project be accompanied by the plans and appropriate take-off or assignable and gross square footage. The application shall also comply with any and all requirements prescribed by the Chancellor (CCR §57154)**

CCR §57154 does not contain state-reimbursable mandated activities as the submittal of project plans was already required by Ed Code §81837 and the authority for the Chancellor to prescribe requirements, including the inclusion of appropriate take-off or assignable and gross square footage, is required by Ed Code §81836(b). The statutory requirements apply to all projects over \$150,000 and CCR §57152 specifies that a District-Funded Project is "a capital outlay project subject to the provisions of Section §81837 of the Education Code." Thus, CCR §57154 does not contain any new programs or highly level of service and is not a mandate.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list which accompanied your July 11, 2003 letter have been provided with copies of this letter via either United States Mail or, in the case of other State agencies, Interagency Mail Service.

Ms. Paula Higashi  
Commission on State Mandates  
February 10, 2004  
Page 9

If you have any questions regarding this letter, please contact Kathryn Amann, Principal Program Budget Analyst at (916) 445-9694 or Keith Gmeinder, State Mandates Claims Coordinator for the Department of Finance, at (916) 445-8913.

Sincerely,

A handwritten signature in cursive script that reads "Fred Klass". The signature is written in black ink and is positioned above the printed name and title.

FRED KLASS  
Program Budget Manager

Attachment

## PROOF OF SERVICE

Test Claim Name: Community College Construction  
Test Claim Number: CSM-02-TC-47

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, 9 Floor, Sacramento, CA 95814.

On February 9, 2004, 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, 9 Floor, for Interagency Mail Service, addressed as follows:

A-16

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

B-8

Mr. William Ashby  
State Controller's Office  
Division of Accounting & Reporting  
3301 C Street, Room 500  
Sacramento, CA 95816

B-29

Ms. Marianne O'Malley  
Legislative Analyst's Office  
925 L Street, Suite 1000  
Sacramento, CA 95814

Mr. Thomas J. Donner  
Santa Monica Community College District  
1900 Pico Blvd.  
Santa Monica, CA 90405-1628

Dr. Carol Berg  
Education Mandated Cost Network  
1121 L Street, Suite 1060  
Sacramento, CA 95814

Ms. Harmeet Barkschat  
Mandate Resource Services  
5325 Elkhorn Boulevard, #307  
Sacramento, CA 95842

Mr. Steve Shields  
Shields Consulting Group, Inc.  
1536 36<sup>TH</sup> Street  
Sacramento, CA 95816

Mr. Paul Minney  
Spector, Middleton, Young & Minney, LLP  
7 Park Center Drive  
Sacramento, CA 95825

Mr. Michael Havey  
State Controller's Office (B-08)  
Division of Accounting and Reporting  
3301 C Street, Suite 500  
Sacramento, CA 95814

Ms. Sandy Reynolds  
Reynolds Consulting Group, Inc.  
P.O. Box 987  
Sun City, CA 92586

Ms. Beth Hunter  
Centration, Inc.  
8316 Red Oak Street, Suite 101  
Rancho Cucamonga, CA 91730

Mr. Steve Smith  
Mandated Cost Systems, Inc.  
11130 Sun Center Drive, Suite 100  
Rancho Cordova, CA 95670

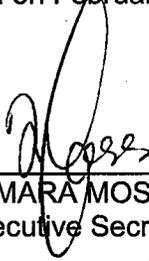
Mr. Keith Gmeinder  
Department of Finance (A-15)  
915 L Street, 8<sup>TH</sup> Floor  
Sacramento, CA 95814

Mr. Keith B. Peterson  
SixTen & Associates  
5252 Balboa Avenue, Suite 807  
San Diego, CA 92117

Mr. Thomas J. Donner  
Santa Monica Community College District  
1900 Pico Boulevard  
Santa Monica, CA 90405-1628

Mr. Fred Harris  
California Community Colleges (G-01)  
1102 Q Street, Suite 300  
Sacramento, CA 95814-6549

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 February 9, 2004 at Sacramento, California.

  
\_\_\_\_\_  
TAMARA MOSS  
Executive Secretary

1 Claim Prepared By:  
2 Keith B. Petersen  
3 SixTen and Associates  
4 5252 Balboa Avenue, Suite 807  
5 San Diego, CA 92117  
6 Voice: (858) 514-8605  
7

8 BEFORE THE  
9  
10 COMMISSION ON STATE MANDATES  
11  
12 STATE OF CALIFORNIA  
13

14 Test Claim of: )

15 )  
16 Santa Monica Community College )  
17 District )

18 )  
19 Test Claimant. )  
20 )  
21 )  
22 )  
23 )  
24 )

No. CSM \_\_\_\_\_

Chapter 758, Statutes of 1995  
Chapter 1038, Statutes of 1991  
Chapter 1372, Statutes of 1990  
Chapter 891, Statutes of 1981  
Chapter 470, Statutes of 1981  
Chapter 910, Statutes of 1980

Education Code Sections:

81663	81800	81805
81807	81808	81820
81821	81822	81823
81836	81837	81839

Title 5, California Code of Regulations,  
Sections:

57001	57001.5	57001.7
57002	57010	57011
57013	57014	57015
57016	57033.1	57050
57051	57052	57053
57054	57055	57060
57061	57062	57063
57150	57152	57154
57156	57158	

42 )  
43 )  
44 )  
45 )  
46 )  
COMMUNITY COLLEGE  
CONSTRUCTION

TEST CLAIM FILING



Test Claim of Santa Monica Community College District  
758/95 Community College Construction

1 1980. Subdivision (b) provides the legislative intent to assist districts in the construction  
2 of community college facilities.

3 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
4 81805<sup>3</sup>. The Chancellor must administer the Community College Construction Act of  
5 1980 and the Board of Governors shall, as may be necessary, adopt all necessary rules  
6 and regulations. The Chancellor must assemble statewide data on facility and  
7 construction costs, and formulate cost and construction standards.

8 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
9 81807<sup>4</sup> to require the allocation and disbursement of all funds appropriated for a

---

community college districts.

In enacting this chapter, the Legislature considers that there is a need to provide adequate community college facilities that will be required to accommodate community college students resulting from growth in population and from legislative policies expressed through implementation of the Master Plan for Higher Education.”

<sup>3</sup> Education Code Section 81805, as added by Chapter 910, Statutes of 1980, Section 2:

“This chapter shall be administered by the chancellor, and for purposes of such administration the board of governors may adopt all necessary rules and regulations.

For purposes of this chapter, the chancellor shall assemble statewide data on facility and construction costs, and on the basis thereof formulate cost standards and construction standards. The formulation of standards shall include also the formulation of average ratios of equipment cost to total project costs, unit equipment costs per faculty or other staff measure, and unit costs related to floor areas.”

<sup>4</sup> Education Code Section 81807, as added by Chapter 910, Statutes of 1980, Section 2:

“Funds appropriated for a project of a community college district for purposes of this chapter shall be allocated and disbursed upon order of the chancellor, and by warrants of the State Controller issued pursuant thereto.”

1 district's project under the Community College Construction Act of 1980 upon order of  
2 the Chancellor.

3 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
4 81808<sup>5</sup> to require the transfer of any unused project funds appropriated, or authorized  
5 for appropriation, to a district under the Community College Construction Act of 1980,  
6 when the existing district is included in a newly formed district.

7 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
8 81820<sup>6</sup> to require the governing board to prepare and submit a plan for capital  
9 construction to the Chancellor. The plan must reflect the five-year period commencing

---

<sup>5</sup> Education Code Section 81808, as added by Chapter 910, Statutes of 1980,  
Section 2:

"In the event an existing community college district is included in a newly formed community college district, any unused funds appropriated or authorized to be appropriated for a finally approved project of the included district pursuant to this chapter shall be transferred to the newly formed or including community college district on the date that such district is effective for all purposes, or prior to such effective date where the governing boards of the districts agree to such earlier transfer."

<sup>6</sup> Education Code Section 81820, as added by Chapter 910, Statutes of 1980,  
Section 2:

"On or before February 1, 1981, the governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district. The plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The five-year plan shall be subject to continuing review by the governing board and annually shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the five-year plan."

1 with the next proposed year of funding. The plan is subject to annual review by the  
2 Chancellor, and a report outlining required modifications or changes must be submitted  
3 to the Chancellor on or before the first day of February.

4 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
5 81821<sup>7</sup>. The five-year plan for capital construction must set out the estimated capital  
6 construction needs of the district referencing at least the following: (a) the district's  
7 plans concerning its future academic and student services programs, and the effect on  
8 estimated construction needs arising from particular courses of instruction, subject

---

<sup>7</sup> Education Code Section 81821, as added by Chapter 910, Statutes of 1980,  
Section 2:

"The five-year plan for capital construction shall set out the estimated capital  
construction needs of the district with reference to elements including at least all of the  
following:

(a) The plans of the district concerning its future academic and student services  
programs, and the effect on estimated construction needs which may arise because of  
particular courses of instruction or subject matter areas or student services to be  
emphasized.

(b) The enrollment projections for each district formulated by the Department of  
Finance, expressed in terms of weekly student contact hours. The enrollment  
projections for each individual college and educational center within a district shall be  
made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly  
student contact hours and based upon the space and utilization standards for  
community college classrooms and laboratories adopted by the board of governors.

(d) District office, library, and supporting facility capacities as derived from the  
physical plant standards for office, library, and supporting facilities adopted by the  
board of governors in consultation with the California Postsecondary Education  
Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard  
definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay  
matching purposes pursuant to Section 81838."

1 matter areas, or student services to be emphasized; (b) the district's enrollment  
2 projections; (c) the district's current enrollment capacity; (d) the district's office, library,  
3 and supporting facility capacities; (e) the district's annual inventory of all facilities and  
4 land; and (f) the district's estimate of funds available for capital outlay matching  
5 purposes.

6 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
7 81822<sup>8</sup> to require the Chancellor to review and evaluate the district's plan for capital  
8 construction. The Chancellor shall then make such revisions and changes, and  
9 approve or disapprove the plan. The Chancellor must also review and evaluate  
10 continuing five-year plans and notify the districts of approval or disapproval.

11 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
12 81823<sup>9</sup>. Subdivision (a) provides that a district maintaining colleges, or one college and

---

<sup>8</sup> Education Code Section 81822, as added by Chapter 910, Statutes of 1980,  
Section 2:

"The chancellor shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and approve or disapprove the plan. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district shall be made on or before each succeeding first day of April. The chancellor shall, promptly after such approval or disapproval, notify the governing board of each community college district of the content of the district's plan for capital construction."

<sup>9</sup> Education Code Section 81823, as added by Chapter 910, Statutes of 1980,  
Section 2:

Test Claim of Santa Monica Community College District  
758/95 Community College Construction

1 one or more educational centers, shall, as may be necessary, submit its plan for capital  
2 construction on the basis of each college or educational center maintained by it if either  
3 of the following circumstances is present such that students will be better served by  
4 evaluating the capital outlay program on that basis: (1) the isolation of students within  
5 the district in terms of distance or inadequacy of transportation, and student financial  
6 inability to meet the costs of transportation to an educational program; or (2) the  
7 inability of existing colleges and educational centers to meet the unique educational  
8 and cultural needs of a significant number of ethnic students. Subdivision (b) requires a  
9 district submitting such a plan to include justification and documentation for doing so.  
10 Subdivision (c) requires the review and evaluation of the plan, as submitted, to include  
11 a review and evaluation of the justification and documentation for so doing.

12 Chapter 910, Statutes of 1980, Section 2, added Education Code Section

---

“(a) If a community college district maintains colleges, or one college and one or more educational centers, it may additionally submit the plan required by Section 81820 on the basis of each college or educational center maintained by the district, if either of the following circumstances is present such that students will be better served by evaluating the capital outlay program for the district on that basis: (1) the isolation of students within a district in terms of the distance of students from the location of an educational program, or inadequacy of transportation, and student financial inability to meet costs of transportation to an educational program; or (2) the inability of existing colleges and educational centers in the district to meet the unique educational and cultural needs of a significant number of ethnic students.

(b) If a district elects to submit such a plan, it shall include therewith justification and documentation for so doing.

(c) When a district so elects, the evaluation of the plan pursuant to Section 81822 shall include an evaluation of both of the following:

(1) The justification and documentation for so doing, including enrollment projections for individual campuses and centers.

(2) The plan as thus submitted.”

Test Claim of Santa Monica Community College District  
758/95 Community College Construction

1 81836<sup>10</sup>. Subdivision (a) requires the Chancellor to advise the governing board on the  
2 acquisition of new college sites and charge the board a reasonable fee as determined  
3 by the Chancellor's office for each school site reviewed.

4 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
5 81837<sup>11</sup> to require the governing board before letting any contract or contracts totaling

---

<sup>10</sup> Education Code Section 81836, as added by Chapter 910, Statutes of 1980,  
Section 2:

"The chancellor shall:

(a) Advise the governing board of each community college district on the acquisition of new college sites, and after a review of available plots, give the governing board of the district in writing a list of the approved locations in the order of their merit, considering especially the matters of educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction, and charge the governing board of the community college district a reasonable fee as determined by the chancellor's office for each 10 acres or fraction thereof of school site reviewed.

(b) Establish standards for community college facilities.

(c) Review plans and specifications for all construction in those community college districts that have submitted plans and specifications therefor to the chancellor for approval.

(d) For services rendered for the review of plans and specifications of a proposed project pursuant to Section 81831, the chancellor's office shall charge a reasonable fee as established by the board of governors.

(e) Approve plans and specifications submitted by governing boards of community college districts, and return without approval and with recommendation for changes, any plans not conforming to established standards."

<sup>11</sup> Education Code Section 81837, as added by Chapter 910, Statutes of 1980,  
Section 2:

"The governing board of each community college district, except districts governed by a city board of education, before letting any contract or contracts totaling one hundred thousand dollars (\$100,000), or more, in the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the chancellor's office, and obtain the

Test Claim of Santa Monica Community College District  
758/95 Community College Construction

1 one hundred thousand dollars (\$100,000), or more, for any new college facility, or for  
2 any addition to, or alteration of, an existing facility must submit plans therefore to the  
3 Chancellor's office, and obtain written approval. No contract is valid, nor will any public  
4 money be paid out, for any facility in contravention of this Section.

5 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
6 81839<sup>12</sup> to provide that a district's governing board shall, as may be necessary, include  
7 a proposed site in its plans for a project and enter into an agreement with the owner of  
8 property constituting such proposed site whereby the district, for an annual  
9 consideration to be borne by the district, is given an option to purchase, or lease with an  
10 option to purchase such property at an unspecified future date, as a building site. The  
11 existence of such an agreement will not affect the determination of the share of the cost

---

written approval of the plans by that office. No contract for construction made by any governing board of a community college district contrary to this section is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section."

<sup>12</sup> Education Code Section 81839, as added by Chapter 910, Statutes of 1980, section 2:

"The governing board of a community college district may include a proposed site in its plans for a project and may enter into an agreement with the owner of property constituting such proposed site whereby the district, for an annual consideration to be borne by the district, is given an option to purchase, or lease with an option to purchase such property at an unspecified future date, as a building site.

The existence of such an agreement shall in no way affect the determination of the share of the cost of the project to be borne by the state under this chapter, and the consideration paid by the district for such option or lease shall not be considered part of the cost of the project in determining the state's share of the funding thereof.

Such option or lease agreement shall constitute an obligation of the district and shall not be construed as in any way creating an obligation on the part of the state."

Test Claim of Santa Monica Community College District  
758/95 Community College Construction

1 of the project to be borne by the state under this Chapter, and the consideration paid by  
2 the district for such option or lease shall not be considered part of the cost of the project  
3 in determining the state's share of the funding thereof. Such option or lease agreement  
4 constitutes an obligation of the district and does not create a state obligation.

5 Chapter 470, Statutes of 1981, Section 256, amended Education Code Section  
6 81821<sup>13</sup>, subdivision (c), to require the Board of Governors to work in consultation with  
7 the California Postsecondary Education Commission to determine the current

---

<sup>13</sup> Education Code Section 81821, as added by Chapter 910, Statutes of 1980,  
Section 2, as amended by Chapter 470, Statutes of 1981, Section 256:

"The five-year plan for capital construction shall set out the estimated capital  
construction needs of the district with reference to elements including at least all of the  
following:

(a) The plans of the district concerning its future academic and student services  
programs, and the effect on estimated construction needs which may arise because of  
particular courses of instruction or subject matter areas or student services to be  
emphasized.

(b) The enrollment projections for each district formulated by the Department of  
Finance, expressed in terms of weekly student contact hours. The enrollment  
projections for each individual college and educational center within a district shall be  
made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly  
student contact hours and based upon the space and utilization standards for  
community college classrooms and laboratories adopted by the board of governors in  
consultation with the California Postsecondary Education Commission and consistent  
with its standards.

(d) District office, library, and supporting facility capacities as derived from the  
physical plant standards for office, library, and supporting facilities adopted by the  
board of governors in consultation with the California Postsecondary Education  
Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard  
definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay  
matching purposes pursuant to Section 81838."

1 enrollment capacity of the district.

2 Chapter 891, Statutes of 1981, Section 2, amended Education Code Section  
3 81821 without change.

4 Chapter 891, Statutes of 1981, Section 3, amended Education Code Section  
5 81822<sup>14</sup> to make technical changes.

6 Chapter 891, Statutes of 1981, Section 6, amended Education Code Section  
7 81837<sup>15</sup> to increase the dollar amounts.

---

<sup>14</sup> Education Code Section 81822, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 891, Statutes of 1981, Section 3:

“The chancellor shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and ~~approve or disapprove the plan~~ notify the district. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district shall be made on or before each succeeding first day of April. The chancellor shall, promptly after ~~such approval or disapproval~~ review, notify the governing board of each community college district of the content of the district's revised plan for capital construction.”

<sup>15</sup> Education Code Section 81837, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 891, Statutes of 1981, Section 6:

“The governing board of each community college district, except districts governed by a city board of education, before letting any contract or contracts totaling one hundred fifty thousand dollars (~~\$100,000~~)(\$150,000), or more, in the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the chancellor's office, and obtain the written approval of the plans by that office. No contract for construction made by any governing board of a community college district contrary to this section is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section.”

Test Claim of Santa Monica Community College District  
758/95 Community College Construction

---

1 Chapter 1372, Statutes of 1990, Section 566, amended Education Code Section  
2 81805<sup>16</sup> to transfer all duties of the Chancellor under this Section to the Board of  
3 Governors while requiring the Board to adopt all necessary rules and regulations.

4 Chapter 1372, Statutes of 1990, Section 568, amended Education Code Section  
5 81807<sup>17</sup> to transfer all duties of the Chancellor under this Section to the Board of  
6 Governors.

7 Chapter 1372, Statutes of 1990, Section 571, amended Education Code Section  
8 81820<sup>18</sup> to require the governing board to submit its five-year plan and any annual

---

<sup>16</sup> Education Code Section 81805, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 1372, Statutes of 1990, Section 566:

"This chapter shall be administered by the ~~chancellor~~ Board of Governors of the California Community Colleges, and for purposes of ~~such the~~ administration the board of governors ~~may shall~~ adopt all necessary rules and regulations.

For purposes of this chapter, the ~~chancellor~~ board of governors shall assemble statewide data on facility and construction costs, and on the basis thereof formulate cost standards and construction standards. The formulation of standards shall include also the formulation of average ratios of equipment cost to total project costs, unit equipment costs per faculty or other staff measure, and unit costs related to floor areas."

<sup>17</sup> Education Code Section 81807, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 1372, Statutes of 1990, section 568:

"Funds appropriated for a project of a community college district for purposes of this chapter shall be allocated and disbursed upon order of the ~~chancellor~~ Board of Governors of the California Community Colleges, and by warrants of the State Controller issued pursuant thereto."

<sup>18</sup> Education Code Section 81820, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 1372, Statutes of 1990, Section 571:

~~"On or before February 1, 1981, t~~The governing board of each community

Test Claim of Santa Monica Community College District  
758/95 Community College Construction

1 modifications or changes to the Board of Governors as opposed to the Chancellor.

2 Chapter 1372, Statutes of 1990, Section 573, amended Education Code Section  
3 81822<sup>19</sup> to require review and evaluation of the district's capital construction plan by the  
4 Board of Governors as opposed to the Chancellor.

5 Chapter 1372, Statutes of 1990, Section 577, amended Education Code Section  
6 81836<sup>20</sup> to transfer all duties of the Chancellor under this Section to the Board of

---

college district shall prepare and submit to the ~~chancellor~~ Board of Governors of the California Community Colleges a plan for capital construction for community college purposes of the district. The plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The five-year plan shall be subject to continuing review by the governing board and annually shall be extended one year, and there shall be submitted to the ~~chancellor~~ board of governors, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the five-year plan."

<sup>19</sup> Education Code Section 81822, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 1372, Statutes of 1990, Section 573:

"The ~~chancellor~~ board of governors shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of ~~such~~ the review and evaluation, make ~~such~~ the revision and changes therein as are appropriate, and notify the district. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district shall be made ~~on or before each succeeding first day of April~~. The ~~chancellor~~ board of governors shall, promptly after review, notify the governing board of each community college district of the content of the district's revised plan for capital construction."

<sup>20</sup> Education Code Section 81836, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 1372, Statutes of 1990, Section 577:

"The ~~chancellor~~ Board of Governors of the California Community Colleges shall:  
(a) Advise the governing board of each community college district on the

Test Claim of Santa Monica Community College District  
758/95 Community College Construction

---

1     Governors.

2             Chapter 1372, Statutes of 1990, Section 578, amended Education Code Section  
3     81837<sup>21</sup> to require the governing board to submit its plans to the Board of Governors as  
4     opposed to the Chancellor's office and receive written approval from them.

5             Chapter 1038, Statutes of 1991, Section 8, added Education Code Section

---

acquisition of new college sites, and after a review of available plots, give the governing board of the district in writing a list of the approved locations in the order of their merit, considering especially the matters of educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction, and charge the governing board of the community college district a reasonable fee as determined by the ~~chancellor's office~~ board of governors for each 10 acres or fraction thereof of schoolsite reviewed.

(b) Establish standards for community college facilities.

(c) Review plans and specifications for all construction in those community college districts that have submitted plans and specifications therefor to the ~~chancellor~~ board of governors for approval.

(d) For services rendered for the review of plans and specifications of a proposed project ~~pursuant to Section 81834, the chancellor's office~~ board of governors shall charge a reasonable fee as established by ~~the board of governors~~ it.

(e) Approve plans and specifications submitted by governing boards of community college districts, and return without approval and with recommendation for changes, any plans not conforming to established standards."

<sup>21</sup> Education Code Section 81837, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 1372, Statutes of 1990, Section 578:

"The governing board of each community college district, ~~except districts governed by a city board of education,~~ before letting any contract or contracts totaling one hundred fifty thousand dollars (\$150,000), or more, in the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the ~~chancellor's office~~ Board of Governors of the California Community Colleges, and obtain the written approval of the plans by ~~that office~~ the board of governors. No contract for construction made by any governing board of a community college district contrary to ~~the provisions of this section~~ is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section."

Test Claim of Santa Monica Community College District  
758/95 Community College Construction

1 81663<sup>22</sup>, subdivision (a), to provide that a college district shall, as may be necessary,  
2 borrow funds from federal or state regulated financial institutions for design and  
3 construction costs associated with retrofitting buildings to become more energy  
4 efficient. The amount borrowed shall not exceed the amount that can be repaid from  
5 energy cost avoidance savings accumulated from the improvement of facilities.

6 Subdivision (b) provides that any savings association may make loans or advances of  
7 credit in an amount not in excess of 5 percent of its total assets.

8 Chapter 758, Statutes of 1995, Section 121, amended Education Code Section  
9 81821<sup>23</sup> to make technical changes.

---

<sup>22</sup> Education Code Section 81663, added by Chapter 1038, Statutes of 1991,  
Section 8:

“(a) The governing board of any community college district may borrow funds from federal or state regulated financial institutions for design and construction costs associated with retrofitting buildings to become more energy efficient. The amount borrowed shall not exceed the amount that can be repaid from energy cost avoidance savings accumulated from the improvement of facilities.

(b) Any savings association may make loans or advances of credit pursuant to subdivision (a) in an amount not in excess of 5 percent of its total assets. This investment may be in addition to any other investment savings associations are permitted to undertake.”

<sup>23</sup> Education Code Section 81821, added by Chapter 910, Statutes of 1980,  
Section 2, as amended by Chapter 758, Statutes of 1995, Section 121:

“The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

Test Claim of Santa Monica Community College District  
758/95 Community College Construction

---

1 Title 5, California Code of Regulations, Section 57001 (added in 1991), defines  
2 the terms and phrases: "a small community college," "leased or rented," "permanent  
3 building," "temporary building," and "weekly student contact hours."

4 Section 57001.5 (added in 1991), subdivision (a), defines the term "project" as  
5 the purpose for which a community college district has applied for assistance under the  
6 Community College Construction Act of 1980 for one or more institutions under its  
7 authority or for district wide facilities. A project shall include, as may be necessary:

8 (1) The planning, acquisition, and improvement of community college sites;

9 (2) The planning, construction, reconstruction, or remodeling of any  
10 permanent structure necessary for use as a classroom, a laboratory, a

11 library, a performing arts facility, a gymnasium, the basic outdoor physical

---

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to ~~Section 81838~~ regulations adopted by the board of governors."

Test Claim of Santa Monica Community College District  
758/95 Community College Construction

---

1 education facilities, the basic food service facilities, or child development  
2 centers;

3 (3) Related facilities necessary for the instruction of students or for  
4 administration of the educational program;

5 (4) Maintenance or utility facilities essential to the operation of the foregoing  
6 facilities and the initial acquisition of equipment; and

7 (5) The initial furnishing of, and initial acquisition of equipment for, any facility  
8 leased or lease-purchased by a district as of August 1, 1987, for  
9 educational purpose or purposes.

10 Subdivision (b) further provides that a project shall, as may be necessary, include the  
11 reconstruction or remodeling of any facility leased or lease-purchased for educational  
12 purposes. The Chancellor's Office must then require transfer to the community college  
13 district of title or any other interest considered sufficient by the district, in and to facilities  
14 presently leased or to be leased in the future by the district, to the extent of the funds  
15 appropriated for reconstruction or remodeling of leased facilities. If sufficient title or  
16 interest has not been transferred, the term of the lease must be of sufficient duration to  
17 completely amortize the reconstruction or remodeling cost as determined by utilizing  
18 current interest rates and normal accounting practices. However, if the lease is  
19 terminated prior to amortizing the reconstruction or remodeling costs the district must  
20 repay the state for any unamortized state costs. If the governing board leases property  
21 from the federal government, the state, or any county, city and county, city, or district for

1 the purpose of constructing school buildings and facilities thereon in accordance with  
2 Education Code Section 81530, subdivision (b), it is eligible for state funding. The  
3 terms of a lease must be of sufficient duration to completely amortize the cost of the  
4 project and the governing board must provide in the lease agreement a hold harmless  
5 clause satisfactory to the lessor. The amortization shall be determined by utilizing  
6 current interest rates and normal accounting practices. If the lease is terminated prior  
7 to amortizing the project, the district must pay the state for any unamortized state costs.  
8 Subdivision (c) provides that the Board of Governors retains discretion as to the type or  
9 possible number of projects that may be considered during any fiscal year. Subdivision  
10 (d) prohibits the inclusion of the planning or construction of dormitories, student centers  
11 other than cafeterias, stadia, the improvement of sites for student or staff parking, or  
12 single-purpose auditoriums.

13 Section 57001.7 (added in 1991 and last amended in 1994), defines the term  
14 "educational center."

15 Section 57002 (added in 1991), requires that prorated federal funds, for a project  
16 subject to a federal grant that differs materially from the physical detail and intent for  
17 which state funds are appropriated, be applicable to the project subject to the state  
18 matching funds.

19 Section 57010 (added in 1991), provides that an affected governing board shall,  
20 as may be necessary appeal to the Board of Governors any action of the Chancellor.  
21 The appeal must be placed on the agenda of the Board in accordance with the general

1 agenda practices of the Board. The decision of the Board on such appeals is final.

2 Section 57011 (added in 1991), requires the governing board to submit to the  
3 Chancellor, within 30 days after the closure of the current fiscal year, a final report on  
4 all expenditures in connection with the sources of the funds expended for completed  
5 projects. The district is subject to a state post-audit review of fund claims for all such  
6 projects.

7 Section 57013 (added in 1991), requires the governing board to meet with  
8 appropriate local government recreation and park authorities to review all possible  
9 methods of coordinating planning, design, and construction of new facilities and sites or  
10 major additions to existing facilities and recreation and park facilities in the community.  
11 Any district planning, designing, or constructing new facilities must report to the  
12 Chancellor's Office on plans to achieve:

- 13 (a) A greater use of any joint or contiguous recreation and park facilities by  
14 the district; and  
15 (b) Possible use by the total community of such facilities and sites and  
16 recreation and park facilities.

17 Section 57014 (added in 1991), provides for the submission of a district's  
18 proposed project to the Chancellor for review and approval or disapproval. The  
19 proposed project must be an element of the district's plan for capital construction, and  
20 be in such form and contain such detail as will permit its evaluation and approval with  
21 reference to the elements of the five-year capital construction program as specified in

1 Education Code Section 81821.

2 Section 57015 (added in 1991), requires the Chancellor to review and evaluate  
3 each proposed project with reference to the elements of the capital construction  
4 program specified in Education Code Section 81821. The review shall include the  
5 following elements:

- 6 (a) An architectural analysis to determine costs of the various phases of the  
7 project, with particular attention to be directed to the type of construction,  
8 unit costs, and the efficiency of particular buildings and facilities in terms  
9 of effective utilization of area.
- 10 (b) Determining the amount of federal funds available for the project, and  
11 taking appropriate measures to ensure that the project will qualify for the  
12 maximum amounts of federal funds practicable under the circumstances.
- 13 (c) Determining the total cost of the project, reducing the total cost by the  
14 amount of federal funds available thereof, and determining the remainder  
15 thereof to be borne by the state, or, if the district has matching funds, by  
16 the state and by the district. Whether the district has funds to provide all  
17 or part of its matching share of the project shall be made on the basis of  
18 district ability. If the district ability, as determined by Section 57033.1, is  
19 sufficient to meet the matching costs of the project or its individual phases  
20 of planning, working drawings, construction, equipment, or land  
21 acquisition, the district must bear its matching share of the cost of the

1 project or one or more of its phases. If the district funds available are  
2 insufficient to provide the district's matching share for the cost of the  
3 project or one or more of its phases, computed pursuant to section  
4 57033.1, the district shall provide the moneys available, as defined by the  
5 Board of Governors, and state funds may be requested to provide the  
6 balance of funds required. Private funds available for specific projects  
7 shall be used, as may be necessary, as a credit toward the district match.

8 (d) Determining the total of funds required for the first phase of the project  
9 to be provided on a matching basis by the state and the district, and the  
10 total state appropriation required to be provided for the project or one or  
11 more of its phases.

12 Section 57016 (added in 1991), provides that the submission of a district's  
13 proposal to the Chancellor prior to February 1st of each year must be acted upon by the  
14 Chancellor on or before the next succeeding May 1st of each year.

15 Section 57033.1 (added in 1991), requires the Chancellor to adopt criteria for  
16 determining districts' matching shares of the cost of capital outlay projects. Pursuant to  
17 that criteria, the Chancellor must recommend each district's match, which shall be  
18 reviewed by the Board of Governors in forwarding its annual budget request to the  
19 Department of Finance for determination by the Legislature.

20 Section 57050 (added in 1980 and last amended in 1991), requires the  
21 administration and implementation of this subchapter's provisions to the Community

1 College Construction Act.

2 Section 57051 (added in 1980 and last amended in 1991), defines the terms  
3 "Energy Conservation Project," "Energy Conservation Program," "Energy Audit (EA),"  
4 "Technical Audit (TA)," "Technical Auditor," "Pay-back Period," and "Energy  
5 Conservation Measure."

6 Section 57052 (added in 1980 and last amended in 1991), subdivision (a),  
7 requires districts requesting a state supported energy conservation project, to include a  
8 summary of the local district energy conservation program as adopted by the governing  
9 board in the district's annual five-year construction plan. Subdivision (b) requires a  
10 district submitting an energy conservation project for state aid under the capital outlay  
11 program of the Community College Construction Act of 1980 to indicate the need for  
12 such assistance in the annual district five-year construction plan.

13 Section 57053 (added in 1980 and last amended in 1991), subdivision (a),  
14 requires that when the need for state financial assistance for an energy conservation  
15 project has been adequately established, it must be submitted as a project planning  
16 guide in accordance with established format to the Chancellor's Office. Subdivision (b)  
17 requires that the project planning guide contain evidence of an approved Energy Audit  
18 (EA) on file with the California Energy Commission.

19 Section 57054 (added in 1980 and last amended in 1991), requires the ranking  
20 of all projects submitted as energy conservation related on the basis of criteria  
21 developed by the Chancellor's Office, including but not limited to:

1 (a) The level of energy use. Those projects identified to correct conditions of  
2 higher energy use application shall receive higher priority evaluation.

3 (b) The pay-back period. Those projects which by their design or proposed  
4 application demonstrate the shortest possible pay-back period shall  
5 receive higher priority evaluation.

6 (c) The extent to which the district has implemented an energy conservation  
7 program which meets the objectives specified in Board of Governors  
8 Policy Statement on Energy and Resource Conservation.

9 Section 57055 (added in 1980 and last amended in 1991), subdivision (a),  
10 requires the Chancellor to evaluate and rank for approval energy conservation related  
11 projects following the existing procedures for the statewide capital outlay program.

12 Subdivision (b) provides that the governing board shall submit, as may be necessary,  
13 the preliminary plans upon securing approval of a proposed energy conservation project  
14 by all appropriate review agencies, to the Chancellor for approval, or disapproval.

15 Subdivision (c) requires that the preliminary plans for energy related projects include:

16 (1) The results of a technical audit (TA) performed by an authorized  
17 Technical Auditor which describes in detail the energy conservation  
18 measures the project is to institute.

19 (2) The status of the project as related to the various federal and state aided  
20 programs for energy conservation.

21 (3) An architectural and/or engineering analysis setting forth the detailed

1 costs of the various elements of the project.

2 Section 57060 (added in 1991), encourages districts to retrofit buildings so as to  
3 conserve energy and reduce the costs of supplying energy.

4 Section 57061 (added in 1991), subdivision (a), provides that districts shall, as  
5 may be necessary, borrow funds from state regulated financial institutions for the  
6 purposes of design and construction costs associated with retrofitting buildings to  
7 become more energy efficient. Districts are only authorized to borrow an amount which  
8 does not exceed that which can be repaid from energy cost avoidance savings  
9 accumulated from the improvement of school facilities. Subdivision (b) provides that  
10 any savings and loan association may make loans or advances of credit in an amount  
11 not in excess of 5 percent of its total assets.

12 Section 57062 (added in 1991), requires districts, to the extent that services are  
13 available, to arrange for the pre-audit and post-audit of buildings by investor-owned or  
14 municipal utility companies or by independent energy audit companies or organizations  
15 which are recognized by federal or state regulated financial institutions. The pre-audit  
16 must identify the type and amount of work necessary to retrofit the buildings and shall  
17 include an estimate of projected energy savings. The post-audit must be conducted  
18 upon completion of the retrofitting of the buildings to insure that the project satisfies the  
19 recommendations of the pre-audit.

20 Section 57063 (added in 1991), requires districts taking action under this article  
21 to contract with qualified businesses capable of retrofitting school buildings. To the  
22 extent that lists of qualified businesses are made available to community college

1 districts by investor-owned or municipal utility companies or federal or state regulated  
2 financial institutions, districts may utilize the services of these businesses.

3 Section 57150 (added 1980 and last amended in 1991), provides these  
4 regulations as basic definitions, principles, and standards for use by the Chancellor in  
5 considering any district-funded construction project subject to the requirements  
6 Education Code Section 81837.

7 Section 57152 (added in 1980 and last amended in 1991), defines the terms:

8 (A) "Capital Outlay Project" to include the purchase of land and costs related  
9 thereto, including court costs, condemnation costs, legal fees, title fees,  
10 etc.; construction projects, including working drawings; and equipment  
11 related to a construction project regardless of cost or timing.

12 (b) "Construction Project" to include new construction, alteration, and  
13 extension or betterment of existing structures.

14 (c) "State-Funded Project" to mean a capital outlay project qualifying as a  
15 project pursuant to section 81805 of the Education Code, and for which a  
16 district requests or receives State funding assistance.

17 (d) "District-Funded Project" to mean a capital outlay project subject to the  
18 provisions of section 81837 of the Education Code for which any funds,  
19 other than state funds, are paid or to be paid for erecting, adding to, or  
20 altering any community college facility.

21 (e) "Five-Year Construction Plans" to mean a plan for capital construction for  
22 community college purposes of a district for the five-year period

1 commencing with the next proposed year of funding.

2 Section 57154 (added in 1980 and last amended in 1991), requires that each  
3 application for approval of plans for a district-funded project be accompanied by the  
4 plans and full, complete and accurate take-off of assignable and gross square feet of  
5 space, complying with any and all requirements prescribed by the Chancellor.

6 Section 57156 (added in 1980 and last amended in 1991), requires the  
7 Chancellor to review and evaluate the plans for a district-funded project including:

8 (a) Reference to the elements of the capital construction program specified in  
9 Education Code Section 81821; and

10 (b) Whether the locally funded project is of appropriate size, is appropriately  
11 timed and is justified in terms of the elements of the capital construction  
12 plans and where applicable, the standards as adopted by the Board of  
13 Governors.

1 Section 57158 (added in 1980 and last amended in 1991), subdivision (a),  
2 requires plan approval when the Chancellor's analysis reveals locally-funded  
3 construction of a community college facility would not result in facilities which would be  
4 substantially at variance with space and utilization standards adopted by the Board of  
5 Governors. Subdivision (b) requires that, when approval of the plans would result in  
6 facilities which would be substantially at variance with space and utilization standards  
7 adopted by the Board of Governors, the Chancellor respond by:

8 (1) Imposing conditions for the approval of the plans; or

9 (2) Finding that despite the substantial variance with space standards, the

1 plans, as submitted, are acceptable, and responding to the district with:

2 (A) Cautions, and/or

3 (B) Appraisal of the potential consequences of this variance.

4 PART III. STATEMENT OF THE CLAIM

5 SECTION 1. COSTS MANDATED BY THE STATE

6 The code sections and regulations referenced in this test claim result in  
7 community college districts incurring costs mandated by the state, as defined in  
8 Government Code section 17514<sup>24</sup>, by creating new state-mandated duties related to  
9 the uniquely governmental function of providing public services and these statutes  
10 apply to community college districts and do not apply generally to all residents and  
11 entities in the state.<sup>25</sup>

12 The new duties mandated by the state upon community colleges districts require

---

<sup>24</sup> Government Code section 17514, as added by Chapter 1459/84:

"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.

<sup>25</sup> Public schools are a Article XIII B, Section 6 "program," pursuant to Long Beach Unified School District v. State of California, (1990) 225 Cal.App.3d 155; 275 Cal.Rptr. 449:

"In the instant case, although numerous private schools exist, education in our society is considered to be a peculiarly government function. (Cf. Carmel Valley Fire Protection Dist. V. State of California (1987) 190 Cal.App.3d at p.537) Further, public education is administered by local agencies to provide service to the public. Thus public education constitutes a 'program' within the meaning of Section 6."

Test Claim of Santa Monica Community College District  
758/95 Community College Construction

---

1 state reimbursement of the direct and indirect costs of labor, materials and supplies,  
2 data processing services and software, contracted services and consultants, equipment  
3 and capital assets, staff and student training and travel to implement the following  
4 activities:

- 5       A) To transfer any unused project funds appropriates, or authorized for  
6           appropriation, when the existing district is incorporated into a newly  
7           formed district, pursuant to Education Code Section 81808.
- 8       B) To prepare and submit a plan for capital construction to the Board of  
9           Governors of the California Community Colleges reflecting the five-year  
10          period commencing with the next proposed year of funding, pursuant to  
11          Education Code Section 81820. The capital construction plan is subject  
12          to annual review by the Board and a report outlining any required  
13          modifications or changes must be submitted on or before the 1<sup>st</sup> day of  
14          February, pursuant to Education Code Sections 81820 and 81823, and  
15          Title 5, California Code of Regulations Section 57014.
- 16       C) To set out the estimated capital construction needs of the district in its  
17          five-year capital construction plan including:
- 18           1) The district's plans concerning its future academic and student  
19           services programs, and the effect on estimated construction needs  
20           arising from particular courses of instruction, subject matter areas,  
21           or student services to be emphasized, pursuant to Education Code  
22           Section 81821, subdivision (a);

Test Claim of Santa Monica Community College District  
758/95 Community College Construction

---

- 1                   2)    The district's enrollment projections, pursuant to Education Code  
2                                    Section 81821, subdivision (b);
- 3                   3)    The district's current enrollment capacity, pursuant to Education  
4                                    Code Section 81821, subdivision (c);
- 5                   4)    The district's office, library and supporting facility capacities,  
6                                    pursuant to Education Code Section 81821, subdivision (d);
- 7                   5)    The district's annual inventory of all facilities and land, pursuant to  
8                                    Education Code Section 81821, subdivision (e); and
- 9                   6)    The district's estimate of funds available for capital outlay matching  
10                                   purposes, pursuant to Education Code Section 81821, subdivision  
11                                   (f).
- 12           D)    To include justification and documentation in its capital construction plan  
13                                   when it is deemed necessary by the district to submit its plan for capital  
14                                   construction on the basis of each college or educational center  
15                                   maintained by it to better serve its students because:
- 16                   1)    The students are isolated within the district in terms of distance or  
17                                   inadequacy of transportation, and the students are financially  
18                                   unable to meet the costs of transportation to an educational  
19                                   program, pursuant to Education Code Section 81823, subdivisions  
20                                   (a)(1) and (b), or
- 21                   2)    The inability of the existing colleges and educational centers to  
22                                   meet the unique educational and cultural needs of a significant

Test Claim of Santa Monica Community College District  
758/95 Community College Construction

---

1                    number of ethnic students, pursuant to Educational Code Section  
2                    81823, subdivisions (a)(2) and (b).

3            E)    To pay to the Board of Governors any reasonable fees charged for the  
4            review of proposed new college sites, pursuant to Education Code  
5            Section 81836.

6            F)    To submit its capital construction plans for any new college facility, or for  
7            any addition to, or alteration of, an existing facility totaling for than one  
8            hundred fifty thousand dollars (\$150,000) to the Board of Governors  
9            before contracting for such, pursuant to Education Code Section 81837.

10           No contract is valid, nor will any public money be paid out before the  
11           district receives written approval from the Board of Governors, pursuant to  
12           Education Code Section 81837.

13           G)    The district shall, as may be necessary, include a proposed site in its  
14           capital construction plan, and enter into an option contract with the  
15           property owner whereby the district pays the consideration for the option,  
16           pursuant to Education Code Section 81839.

17           H)    To apply, as may be necessary, for project assistance under the  
18           Community College Construction Act of 1980, including:

19           1)    The planning, acquisition, and improvement of community college  
20           sites, pursuant to Title 5, California Code of Regulations Section  
21           57001.5, subdivision (a);

22           2)    The planning, construction, reconstruction. or remodeling of any

Test Claim of Santa Monica Community College District  
758/95 Community College Construction

---

1 permanent structure necessary for use as a classroom, a  
2 laboratory, a library, a performing arts facility, a gymnasium, the  
3 basic outdoor physical education facilities, the basic food service  
4 facilities, or child development centers, pursuant to Title 5,  
5 California Code of Regulations Section 57001.5, subdivision (a);

6 3) Related facilities necessary for the instruction of students or for  
7 administration of the educational program, pursuant to Title 5,  
8 California Code of Regulations Section 57001.5, subdivision (a);

9 4) Maintenance or utility facilities essential to the operation of the  
10 foregoing facilities and the initial acquisition of equipment, pursuant  
11 to Title 5, California Code of Regulations Section 57001.5,  
12 subdivision (a);

13 5) The initial furnishing of, and initial acquisition of equipment for, any  
14 facility leased or lease-purchased by a district as of August 1,  
15 1987, for educational purpose or purposes, pursuant to Title 5,  
16 California Code of Regulations Section 57001.5, subdivision (a);  
17 and

18 6) The reconstruction or remodeling of any facility leased or leased-  
19 purchased for educational purposes, pursuant to Title 5, California  
20 Code of Regulations Section 57001.5, subdivision (b). Title or any  
21 other interest considered sufficient by the district shall be  
22 transferred, but a district must repay the state for any unamortized

Test Claim of Santa Monica Community College District  
758/95 Community College Construction

---

1 state costs if the lease is terminated prior to amortizing the  
2 reconstruction or remodeling costs. If the district leases property  
3 from the federal government, the state, or any county, city and  
4 county, city, or district for the purposes of constructing school  
5 buildings and facilities, it is eligible for state funding, pursuant to  
6 Title 5, California Code of Regulations Section 57001.5, subdivision  
7 (b).

- 8 I) To appeal to the Board of Governors any action of the Chancellor  
9 adversely affecting the district, pursuant to Title 5, California Code of  
10 Regulations Section 57010.
- 11 J) To submit to the Chancellor, within 30 days after the closure of the current  
12 fiscal year, a final report on all expenditures in connection with the  
13 sources of funds expended for completed projects, pursuant to Title 5,  
14 California Code of Regulations Section 57011. The district must further  
15 submit to any state post-audit review of fund claims for all projects,  
16 pursuant to Title 5, California Code of Regulations Section 57011.
- 17 K) To meet with appropriate local government recreation and park authorities  
18 to review all possible methods of coordinating planning, design, and  
19 construction of new facilities and sites or major additions to existing  
20 facilities and recreation and park facilities in the community, pursuant to  
21 Title 5, California Code of Regulations Section 57013. Any district  
22 planning, designing, or constructing new facilities must report to the

1 Chancellor's office on plans to achieve:

2 1) A greater use of any joint or contiguous recreation and park  
3 facilities by the district, pursuant to Title 5, California Code of  
4 Regulations Section 57013, subdivision (a);

5 2) Possible use by the total community of such facilities and sites and  
6 recreation and park facilities, pursuant to Title 5, California Code of  
7 Regulations Section 57013, subdivision (b).

8 L) To include in its capital construction program submission to the  
9 Chancellor's office the following to aid in the review and evaluation  
10 process:

11 1) An architectural analysis to determine costs of the various phases  
12 of the project, with particular attention to be directed to the type of  
13 construction, unit costs, and the efficiency of particular buildings  
14 and facilities in terms of effective utilization of area, pursuant to  
15 Title 5, California Code of Regulations Section 57015, subdivision  
16 (a).

17 2) A determination of the amount of federal funds available for the  
18 project, taking appropriate measures to ensure that the project will  
19 qualify for the maximum amounts of federal funds practicable  
20 under the circumstances, pursuant to Title 5, California Code of  
21 Regulations Section 57015, subdivision (b).

22 3) A determination of the total cost of the project, reducing the total

1 cost by the amount of federal funds available thereof, and  
2 determining the remainder thereof to be borne by the state, or, if  
3 the district has matching funds, by the state and by the district,  
4 pursuant to Title 5, California Code of Regulations Section 57015,  
5 subdivision (c). If the district ability is sufficient to meet the  
6 matching costs of the project or its individual phases of planning,  
7 working drawings, construction, equipment, or land acquisition, the  
8 district must bear its matching share of the cost of the project or  
9 one or more of its phases, but if the district funds available are  
10 insufficient to provide the district's matching share for the cost of  
11 the project or one or more of its phases, the district shall provide  
12 the moneys available, as defined by the Board of Governors, and  
13 state funds may be requested to provide the balance of funds  
14 required, pursuant to Title 5, California Code of Regulations  
15 Section 57015, subdivision (c).

16 4) A determination of the total of funds required for the first phase of  
17 the project to be provided on a matching basis by the state and the  
18 district, pursuant to Title 5, California Code of Regulations Section  
19 57015, subdivision (d).

20 M) To must include a summary of the local district energy conservation  
21 program and indicate its need for such assistance in its annual five-year  
22 construction plan when requesting a state supported energy conservation

1 project, pursuant to Title 5, California Code of Regulations Section 57052,  
2 subdivisions (a) and (b).

3 N) When the need for state financial assistance has been adequately  
4 established, the energy conservation project must be submitted as a  
5 project planning guide in accordance with the Chancellor's office's  
6 established format including evidence of an approved Energy Audit on file  
7 with the California Energy Commission, pursuant to Title 5, California  
8 Code of Regulations Section 57053.

9 O) To include in its preliminary plans for energy related projects: (1) the  
10 results of a technical audit performed by an authorized Technical Auditor  
11 which describes in detail the energy conservation measures the project is  
12 it institute, (2) the status of the project as related to the various federal  
13 and state aided programs for energy conservation; and (3) an  
14 architectural and/or engineering analysis setting forth the detailed costs of  
15 the various elements of the project, pursuant to Title 5, California Code of  
16 Regulations Section 57055, subdivision (b).

17 P) To arrange, to the extent that services are available, for the pre-audit and  
18 post-audit of buildings by investor-owned or municipal utility companies or  
19 by independent energy audit companies or organizations which are  
20 recognized by federal or state regulated financial institutions, pursuant to  
21 Title 5, California Code of Regulations Section 57062. The pre-audit must  
22 identify the type and amount of work necessary to retrofit the buildings

1           and shall include an estimate of projected energy savings, while the post-  
2           audit must be conducted upon completion of the retrofitting of the  
3           buildings to insure that the project satisfies the recommendations of the  
4           pre-audit, pursuant to Title 5, California Code of Regulations Section  
5           57062.

6           Q) To contract only with qualified business capable of retrofitting school  
7           buildings, pursuant to Title 5, California Code of Regulations Section  
8           57063.

9           R) To include complete and accurate take-off of assignable and gross square  
10          feet of space, complying with any and all requirements prescribed by the  
11          Chancellor in each application for capital construction plan approval,  
12          pursuant to Title 5, California Code of Regulations Section 57154.

13   SECTION 2. EXCEPTIONS TO MANDATE REIMBURSEMENT

14   None of the Government Code Section 17556<sup>26</sup> statutory exceptions to a finding of

---

<sup>26</sup> Government Code section 17556, as last amended by Chapter 589, Statutes of 1989:

“The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

(a) The claim is submitted by a local agency or school district which requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this paragraph.

(b) The statute or executive order affirmed for the state that which had been

1 costs mandated by the state apply to this test claim. Note, that to the community  
2 college districts may have previously performed functions similar to those mandated by  
3 the referenced code sections, such efforts did not establish a preexisting duty that  
4 would relieve the state of its constitutional requirement to later reimburse community  
5 college districts when these activities became mandated.<sup>27</sup>

### 6 SECTION 3. FUNDING PROVIDED FOR THE MANDATED PROGRAM

7 No funds are appropriated by the state for reimbursement of these costs  
8 mandated by the state and there is no other provision of law for recovery of costs from  
9 any other source.

---

declared existing law or regulation by action of the courts.

(c) The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

(e) The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

(f) The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a statewide election.

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction."

<sup>27</sup> Government Code section 17565, added by Chapter 879, Statutes of 1986:

"If a local agency or a school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate."

PART IV. ADDITIONAL CLAIM REQUIREMENTS

The following elements of this claim are provided pursuant to Section 1183, Title  
2, California Code of Regulations:

Exhibit 1: Thomas J. Donner, Executive Vice President of  
Business and Administration  
Santa Monica Community College District

Exhibit 2: Copies of Statutes Cited

Chapter 758, Statutes of 1995

Chapter 1038, Statutes of 1991

Chapter 1372, Statutes of 1990

Chapter 891, Statutes of 1981

Chapter 470, Statutes of 1981

Chapter 910, Statutes of 1980

Exhibit 3: Copies of Code Sections Cited

Education Code Section 81663

Education Code Section 81800

Education Code Section 81805

Education Code Section 81807

Education Code Section 81808

Education Code Section 81820

Education Code Section 81821

Education Code Section 81822

Education Code Section 81823

1 Education Code Section 81836

2 Education Code Section 81837

3 Education Code Section 81839

4 Exhibit 4: Copies of Regulations Cited

5 Title 5, California Code of Regulations, Section 57001

6 Title 5, California Code of Regulations, Section 57001.5

7 Title 5, California Code of Regulations, Section 57001.7

8 Title 5, California Code of Regulations, Section 57002

9 Title 5, California Code of Regulations, Section 57010

10 Title 5, California Code of Regulations, Section 57011

11 Title 5, California Code of Regulations, Section 57013

12 Title 5, California Code of Regulations, Section 57014

13 Title 5, California Code of Regulations, Section 57015

14 Title 5, California Code of Regulations, Section 57016

15 Title 5, California Code of Regulations, Section 57033.1

16 Title 5, California Code of Regulations, Section 57050

17 Title 5, California Code of Regulations, Section 57051

18 Title 5, California Code of Regulations, Section 57052

19 Title 5, California Code of Regulations, Section 57053

20 Title 5, California Code of Regulations, Section 57054

21 Title 5, California Code of Regulations, Section 57055

22 Title 5, California Code of Regulations, Section 57060

Test Claim of Santa Monica Community College District  
758/95 Community College Construction

---

- 1 Title 5, California Code of Regulations, Section 57061
- 2 Title 5, California Code of Regulations, Section 57062
- 3 Title 5, California Code of Regulations, Section 57063
- 4 Title 5, California Code of Regulations, Section 57150
- 5 Title 5, California Code of Regulations, Section 57152
- 6 Title 5, California Code of Regulations, Section 57154
- 7 Title 5, California Code of Regulations, Section 57156
- 8 Title 5, California Code of Regulations, Section 57158
- 9 /
- 10 /
- 11 /
- 12 /
- 13 /
- 14 /
- 15 /
- 16 /
- 17 /
- 18 /
- 19 /
- 20 /
- 21 /
- 22 /

Test Claim of Santa Monica Community College District  
758/95 Community College Construction

1 PART V. CERTIFICATION

2 I certify by my signature below, under penalty of perjury, that the statements  
3 made in this document are true and complete of my own knowledge or information and  
4 belief.

5 Executed on June 23, 2003, at Santa Monica, California by:

6   
7

8 Thomas J. Donner  
9 Executive Vice President of  
10 Business and Administration  
11 Santa Monica Community College District

12 Voice: (310) 434-4201  
13 Fax: (310) 434-8200  
14

15  
16 PART VI. APPOINTMENT OF REPRESENTATIVE

17 Santa Monica Community College District appoints Keith B. Petersen, SixTen and  
18 Associates, as its representative for this test claim.

19  
20 

6-23-03

21 Thomas J. Donner  
22 Executive Vice President of  
23 Business and Administration  
24 Santa Monica Community College District

Date