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**RECEIVED**  
December 12, 2014  
**Commission on  
State Mandates**

December 12, 2014

Heather Halsey, Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

Re: **Rebuttal to State Controller Comments Filed October 13, 2014**  
Incorrect Reduction Claim  
*Health Fee Elimination, 08-4206-I-18*

Dear Ms. Halsey:

This letter serves as Claimant Los Rios Community College District's ("Claimant") rebuttal to the State Controller's Office ("SCO") comments, dated October 10, 2014, to the above referenced Incorrect Reduction Claim ("IRC").

The SCO's comments should not be considered as evidence by the Commission on State Mandates ("Commission") in its consideration of the IRC. Pursuant to Government Code section 17553(d):

The Controller **shall have no more than 90 days after the date the claim is delivered or mailed to file any rebuttal to an incorrect reduction claim.** The failure of the Controller to file a rebuttal to an incorrect reduction claim shall not serve to delay the consideration of the claim by the commission.

(Emphasis added.)

The Commission notified Claimant and the SCO by letter, dated February 10, 2009, that the IRC filing was complete. The Commission informed the SCO in this letter that it must file its response and supporting documentation "regarding this claim within 90 days of the date of this letter." However, the SCO ignored both the legislative directive of Section 17553(d) and the Commission's instructions by failing to file its comments until October 13, 2014, over 5 years after the IRC filing was complete.

If the SCO required additional time to file a rebuttal to the IRC it could have filed a request for an extension of time in accordance with Commission regulations. (See Title 2, California Code of Regulations §1187.9(a).) No request for an extension of time was filed. Indeed, even if the SCO had filed a request for an extension of time, a 5 year extension would be



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excessive for this IRC. As noted in the Commission's letter, dated October 28, 2014, approving Claimant's request for an extension of time to submit this rebuttal, Claimant's request for a 90 day extension was modified to only 30 days as a 90 day extension would result in a "delay [that] is too long, particularly for a relatively simple matter such as this IRC."

To consider the SCO's comments would be in direct violation of Government Code section 17553(d) and the legislative intent of Section 17553(d) which prohibits the SCO from filing comments, without a valid request for extension, subsequent to the 90 day period. The plain language of Section 17553(d) creates a clear statute of limitations of 90 days in which the SCO may file comments. If the SCO comments are allowed to be submitted to, and relied upon by, the Commission this would make the language of Section 17553(d) superfluous.<sup>1</sup>

Because Government Code section 17553(d) prohibits the inclusion of the SCO's comments in the record and as evidence on which to base the Commission's statement of decision, it is unnecessary and inappropriate for Claimant to rebut the specific arguments made by the SCO. Instead, Claimant reaffirms the IRC including, without limitation, the Statement of the Issues set forth in Part VII.

Your consideration of this matter is greatly appreciated. Please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Sigrid K. Asmundson'.

Sigrid K. Asmundson  
for BEST BEST & KRIEGER LLP

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<sup>1</sup> *Beck v. Prupis* (2000) 529 U.S. 494, 506 [It is a "longstanding canon of statutory construction that terms in a statute should not be construed so as to render any provision of that statute meaningless or superfluous."]; *In re C.H.* (2011) 53 Cal.4th 94, 103 ["It is a settled principle of statutory construction that courts should 'strive to give meaning to every word in a statute and to avoid constructions that render words, phrases, or clauses superfluous.' [Citations.] We harmonize statutory provisions, if possible, giving each provision full effect."]; *Weber v. County of Santa Barbara* (1940) 15 Cal.2d 82, 86 ["It is a cardinal rule of statutory construction that in attempting to ascertain the legislative intention effect should be given, whenever possible, to the statute as a whole and to every word and clause thereof, leaving no part or provision useless or deprived of meaning."].

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On December 15, 2014, I served the:

**Claimant Rebuttal Comments dated December 12, 2014**

*Health Fee Elimination, 08-4206-I-18*

Education Code Section 76355

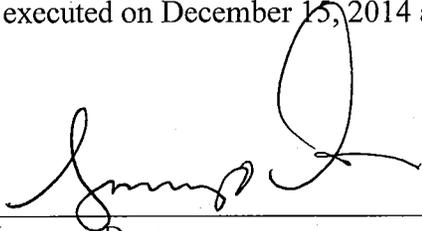
Statutes 1984, 2<sup>nd</sup> E.S.; Chapter 1; Statutes 1987, Chapter 1118;

Fiscal Years: 2002-2003, 2003-2004 and 2004-2005

Los Rios Community College District, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

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 December 15, 2014 at Sacramento, California.



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Lorenzo Duran  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 11/19/14

**Claim Number:** 08-4206-I-18

**Matter:** Health Fee Elimination

**Claimant:** Los Rios Community College District

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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