STATE of CALIFORNIA
COMMISSION ON STATE MANDATES

July 23, 2021

Mr. Bernardo Iniguez
City of Bellflower
16600 Civic Center Drive
Bellflower, CA 90706

Ms. Natalie Sidarous
State Controller's Office
Local Government Programs and Services Division
3301 C Street, Suite 740
Sacramento, CA 95816

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Decision
Municipal Storm Water and Urban Runoff Discharges, 18-0304-I-01
Los Angeles Regional Quality Control Board Order No. 01-182,
Permit CAS004001, Part 4F5c3
Fiscal Years: 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, and 2009-2010
City of Bellflower, Claimant

Dear Mr. Iniguez and Ms. Sidarous:

On July 23, 2021, the Commission on State Mandates adopted the Decision on the above-entitled matter.

Sincerely,

Heather Halsey
Executive Director

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BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE INCORRECT REDUCTION CLAIM Los Angeles Regional Water Quality Control Board Order No. 01-182 Permit CAS004001 Part 4F53c Fiscal Years 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2009-2010 Filed on August 17, 2018 City of Bellflower, Claimant	Case No.: 18-0304-I-01 *Municipal Storm Water and Urban Runoff Discharges* DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7. (*Adopted July 23, 2021)* (*Served July 23, 2021*)

INCORRECT REDUCTION CLAIM

The Commission on State Mandates adopted the attached Decision on July 23, 2021.

Heather Halsey, Executive Director

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE INCORRECT REDUCTION CLAIM Los Angeles Regional Quality Control Board Order No. 01-182 Permit CAS004001, Part 4F5c3 Fiscal Years 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010 Filed on August 17, 2018 City of Bellflower, Claimant	Case No.: 18-0304-I-01 *Municipal Storm Water and Urban Runoff Discharges* DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7. (*Adopted July 23, 2021*) (*Served July 23, 2021*)

DECISION

The Commission in State Mandates (Commission) heard and decided this Incorrect Reduction Claim (IRC) during a regularly scheduled hearing on July 23, 2021. Lisa Kurokawa appeared on behalf of the State Controller's Office (Controller). The claimant did not appear at the hearing.

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission adopted the Proposed Decision to deny the IRC by a vote of 5-0, as follows:

Member	**Vote**
Lee Adams, County Supervisor	Yes
Jeannie Lee, Representative of the Director of the Office of Planning and Research	Yes
Gayle Miller, Representative of the Director of the Department of Finance, Chairperson	Yes
Sarah Olsen, Public Member	Absent
Spencer Walker, Representative of the State Treasurer	Yes
Jacqueline Wong-Hernandez, Representative of the State Controller, Vice Chairperson	Yes

Summary of the Findings

This IRC challenges the Controller's reduction to reimbursement claims filed by the City of Bellflower (claimant) for the *Municipal Storm Water and Urban Runoff Discharges* program for fiscal years 2002-2003 to 2009-2010 (the audit period).

The Controller found that the claimant failed to identify and deduct as offsetting revenues the Proposition C local return funds received from the Los Angeles County Metropolitan Transportation Authority (Metro) under the Proposition C local return program that the claimant

used to pay for the maintenance of trash receptacles at transit stops as required by the mandated program. During the audit period, the claimant filed reimbursement claims totaling $533,742 to perform the mandated activities of maintaining trash receptacles at each of its transit stops.[1] The claimant used $530,321 in Proposition C local return funds to pay for the ongoing mandated trash receptacle maintenance, so the Controller reduced the claims by $530,321.[2]

The Commission finds that the IRC was timely filed within three years of the date the Controller notified the claimant of the reduction.

The Commission also finds that Proposition C local return revenue used by the claimant is offsetting revenue that should have been identified and deducted from the reimbursement claims and thus, the Controller's reduction is correct as a matter of law. Section VIII of the Parameters and Guidelines requires that "reimbursement for this mandate received from any federal, state or *nonlocal source* shall be identified and deducted from this claim" as offsetting revenue.

To understand the meaning of *nonlocal* revenue, the Parameters and Guidelines must be read consistently with the constitutional legal principles underlying the reimbursement of state-mandated costs.[3] The purpose of article XIII B, section 6 is to preclude "the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities *because of the taxing and spending limitations that articles XIII A and XIII B impose*."[4] Thus, the courts have held that article XIII B, section 6 requires reimbursement only when the state-mandated program forces local governments to incur increased actual expenditures of their limited "proceeds of taxes," which are counted against the local governments' spending limit.[5] "Appropriations subject to limitation" for local government means "any authorization to expend during a fiscal year the 'proceeds of taxes levied by or for that entity'.. . . ."[6] Except for state subventions, the items that make up "proceeds of taxes" are charges levied to raise general revenues for the local entity.[7] The expenditure of funds that are not from the entity's proceeds of taxes are not subject to the

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[1] Exhibit A, IRC, filed August 17, 2018, pages 78-80 (Audit Report).

[2] Exhibit A, IRC, filed August 17, 2018, pages 81-82 (Audit Report).

[3] See *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 974, 811 and 812, where the court states that the parameters and guidelines must be read in context, and with the fundamental legal principles underlying state-mandated costs.

[4] *Dept. of Finance v. Commission on State Mandates* (2016) 1 Cal.5th 749, 763 (quoting *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81. Emphasis added. See also, *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487.

[5] *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283; *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1185; *Redevelopment Agency of the City of San Marcos* v. *Commission on State Mandates* (1997) 55 Cal.App.4th 976, 986-987.

[6] California Constitution, article XIII B, section 8(b) (emphasis added).

[7] Article XIII B, section 8(c), of the California Constitution; *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 451.

appropriation limit, nor are entities that spend nontax proceeds eligible for reimbursement under article XIII B, section 6.[8] The reference in the Parameters and Guidelines to "nonlocal" funds for a state-mandated program means that the funds used for the program are not the claimant's proceeds of taxes, nor are subject to the claimant's appropriations limit imposed by article XIII B, and entities that spend the nonlocal funds are not eligible for reimbursement under article XIII B, section 6. When used to pay for a state-mandated program, nonlocal funds are required to be identified and deducted from a reimbursement claim as offsetting revenue.

Proposition C is a transactions and use (or sales) tax levied by Metro and subject to Metro's spending limitation. These taxes are not levied by or for the claimant and are not subject to the claimant's appropriation limit.[9] Rather, a portion of Metro's Proposition C tax revenues are distributed to the claimant as "local return" funds for use on eligible transportation projects. The only entity with power and authority to levy the Proposition C sales tax is Metro.[10] In addition, Government Code section 7904 states: "In no event shall the appropriation of the same proceeds of taxes be subject to the appropriations limit of more than one local jurisdiction or the state." Because the Proposition C ordinance establishes an appropriations limit for Metro,[11] section 7904 prohibits the claimant from establishing an appropriations limit on the same Local Return funds. Accordingly, the claimant's local return revenues do not constitute the claimant's proceeds of taxes, nor are they subject to the claimant's appropriation limit, and are, therefore, "nonlocal" sources of revenue. Thus, expenditures from these "nonlocal" Proposition C local return funds should have been identified and deducted as offsetting revenues and the Controller's reduction is correct as a matter of law.

Accordingly, the Commission denies this IRC.

COMMISSION FINDINGS

I. Chronology

09/28/2011	The claimant signed its fiscal year 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010 reimbursement claims.[12]
09/21/2016	The Controller notified the claimant of the desk review.[13]

[8] *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 447; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283; *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1185; *Redevelopment Agency of the City of San Marcos* v. *Commission on State Mandates* (1997) 55 Cal.App.4th 976, 986-987.

[9] *Bell Community Redevelopment Agency v. Woosley* (1985) 169 Cal.App.3d. 24, 32-33.

[10] Public Utilities Code section 130231.

[11] Exhibit E, Los Angeles Metropolitan Transportation Authority, "An Ordinance Establishing An Additional Retail Transactions And Use Tax in the County of Los Angeles For Public Transit Purposes," November 1990, page 6.

[12] Exhibit A, IRC, filed August 17, 2018, pages 26-47 (Annual Reimbursement Claims).

[13] Exhibit A, IRC, filed August 17, 2018, page 76 (Audit Report cover letter).

10/25/2016	The Controller issued the desk review report.[14]
08/17/2018	The claimant filed the IRC.[15]
10/21/2019	The Controller filed late comments on the IRC.[16]
05/14/2021	Commission staff issued the Draft Proposed Decision.[17]
06/03/2021	The Controller filed comments on the Draft Proposed Decision.[18]

II. Background

A. The *Municipal Storm Water and Urban Runoff Discharges* Program

Under the *Municipal Storm Water and Urban Runoff Discharges* mandate, claimants (local agencies in Los Angeles County subject to Order No. 01-182, Permit CAS004001, that are not subject to a trash total maximum daily load (TMDL)) may be reimbursed for installing trash receptacles at transit stops and maintaining the receptacles and pads, including trash disposal no more than three times per week, beginning July 1, 2002. According to the Parameters and Guidelines:

> For each eligible local agency, the following activities are reimbursable:
>
> A. Install Trash Receptacles (one-time per transit stop, reimbursed using actual costs):
>
> 1. Identify locations of all transit stops within the jurisdiction required to have a trash receptacle pursuant to the Permit.
> 2. Select receptacle and pad type, evaluate proper placement of receptacles and prepare specifications and drawings.
> 3. Prepare contracts, conduct specification review process, advertise bids, and review and award bids.
> 4. Purchase or construct receptacles and pads and install receptacles and pads.
> 5. Move (including replacement if required) receptacles and pads to reflect changes in transit stops, including costs of removal and restoration of property at former receptacle location and installation at new location.
>
> B. Maintain Trash Receptacles and Pads (on-going, reimbursed using the reasonable reimbursement methodology):
>
> 1. Collect and dispose of trash at a disposal/recycling facility. *This activity is limited to no more than three times per week.*

[14] Exhibit A, IRC, filed August 17, 2018, pages 76-82 (Audit Report cover letter and Report).

[15] Exhibit A, IRC, filed August 17, 2018, page 1.

[16] Exhibit B, Controller's Late Comments on the IRC, filed October 21, 2019, page 1.

[17] Exhibit C, Draft Proposed Decision, issued May 14, 2021.

[18] Exhibit D, Controller's Comments on the Draft Proposed Decision, filed June 3, 2021.

2. Inspect receptacles and pads for wear, cleaning, emptying, and other maintenance needs.

3. Maintain receptacles and pads. This activity includes painting, cleaning, and repairing receptacles; and replacing liners. The cost of paint, cleaning supplies and liners is reimbursable. *Graffiti removal is not reimbursable.*

4. Replace individual damaged or missing receptacles and pads. The costs to purchase and install replacement receptacles and pads and dispose of or recycle replaced receptacles and pads are reimbursable.[19]

The Parameters and Guidelines for this program also require offsetting revenues to be identified and deducted from reimbursement claims:

> Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any federal, state or nonlocal source shall be identified and deducted from this claim.[20]

The Test Claim permit expired on December 27, 2012 with the adoption of a new storm water permit.[21]

B. Proposition C Local Return Funds

In 1977, the Legislature created the Los Angeles County Transportation Commission (Transportation Commission) as a countywide transportation improvement agency[22] and authorized the Transportation Commission to levy a transactions and use (or sales) tax throughout Los Angeles County.[23] One such tax levied by the Transportation Commission is the Proposition C sales tax, the purpose of which is to "improve transit service and operations, reduce traffic congestion, improve air quality, efficiently operate and improve the condition of

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[19] Exhibit A, IRC, filed August 17, 2018, page 91 (Parameters and Guidelines). Emphasis in original. The reasonable reimbursement methodology (RRM) reimburses a unit cost of $6.74, during the period of July 1, 2002 to June 30, 2009, for each trash collection or "pickup," multiplied by the annual number of trash collections, subject to the limitation of no more than three pickups per week. Beginning in fiscal year 2009-2010, the RRM shall be adjusted annually by the implicit price deflator as forecast by the Department of Finance.

[20] Exhibit A, IRC, filed August 17, 2018, page 94 (Parameters and Guidelines).

[21] The new permit took effect December 28, 2012. See Exhibit E., Los Angeles Regional Water Quality Control Board, Transmittal of Final Order No. R4-2012-0175, December 5, 2012, https://www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/municipal/la_ms4/Dec5/Transmittal%20memo.pdf (accessed on August 26, 2019).

[22] Public Utilities Code section 130050.

[23] Public Utilities Code sections 130231(a), 130350.

the streets and freeways utilized by public transit, and reduce foreign fuel dependence."[24] The enumerated purposes of the tax include:

(1) Meeting operating expenses; purchasing or leasing supplies, equipment or materials; meeting financial reserve requirements; obtaining funds for capital projects necessary to maintain service within existing service areas;

(2) Increasing funds for existing public transit service programs;

(3) Instituting or increasing passenger or commuter services on rail or highway rights of way;

(4) Continued development of a regional transportation improvement program.[25]

Under the Proposition C Ordinance, tax revenues are allocated as follows:

(1) Forty percent to improve and expand rail and bus transit, including fare subsidies, graffiti prevention and removal, and increased energy-efficiency;

(2) Five percent to improve and expand rail and bus security;

(3) Ten percent to increase mobility and reduce congestion;

(4) Twenty percent to the Local Return Program; and

(5) Twenty-five percent to provide transit-related improvements to freeways and state highways.[26]

In 1993, the Transportation Commission merged with the Southern California Rapid Transit District to form Metro.[27] Since becoming the successor agency to the Transportation Commission, Metro has continued to levy the Transportation Commission taxes, including Proposition C taxes.[28]

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[24] Exhibit E, Los Angeles Metropolitan Transportation Authority, "An Ordinance Establishing An Additional Retail Transactions And Use Tax in the County of Los Angeles For Public Transit Purposes," November 1990, page 3.

[25] Exhibit E, Los Angeles Metropolitan Transportation Authority, "An Ordinance Establishing An Additional Retail Transactions And Use Tax in the County of Los Angeles For Public Transit Purposes," November 1990, page 3.

[26] Exhibit E, Los Angeles Metropolitan Transportation Authority, "An Ordinance Establishing An Additional Retail Transactions And Use Tax in the County of Los Angeles For Public Transit Purposes," November 1990, pages 3-4.

[27] Public Utilities Code sections 130050.2, 130051.13. Section 130050.2 states: "There is hereby created the Los Angeles County Metropolitan Transportation Authority. The authority shall be the single successor agency to the Southern California Rapid Transit District and the Los Angeles County Transportation Commission as provided by the act that enacted this section."

[28] Exhibit E, Los Angeles Metropolitan Transportation Authority, Proposition A and Proposition C Local Return Guidelines, 2007 Edition, page 7.

Local jurisdictions receive transportation funding from Metro through the Proposition C local return program. Twenty percent of Proposition C funds are allocated to the local return program for cities and the County for use "in developing and/or improving public transit, paratransit, and the related transportation infrastructure."[29] Metro allocates and distributes local return funds to cities and the County of Los Angeles (for unincorporated areas) each month, on a "per capita" basis.[30]

The Proposition C Ordinance requires that Proposition C local return funds be used to benefit "public transit, paratransit, and related services including to improve and expand supplemental paratransit services to meet the requirements of the Federal Americans With Disabilities Act."[31] Eligible projects include "Congestion Management Programs, bikeways and bike lanes, street improvements supporting public transit service, and Pavement Management System projects."[32]

Amongst the eligible uses of Proposition C local return funds are bus stop improvements and maintenance projects.[33] The Local Return Guidelines provide as follows:

> Examples of eligible Bus Stop Improvement and Maintenance projects include installation/replacement and/or maintenance of:
>
> - Concrete landings – in street for buses and at sidewalk for passengers
> - Bus turn-outs
> - Benches
> - Shelters
> - *Trash receptacles*
> - Curb cut
> - Concrete or electrical work directly associated with the above items.[34]

Proposition C funds cannot be traded.[35] However, jurisdictions are permitted to use local return funds to advance eligible projects that will be reimbursed by "federal, state, or local grant

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[29] Exhibit E, Los Angeles Metropolitan Transportation Authority, Proposition A and Proposition C Local Return Guidelines, 2007 Edition, page 7.

[30] Exhibit E, Los Angeles Metropolitan Transportation Authority, Proposition A and Proposition C Local Return Guidelines, 2007 Edition, page 13.

[31] Exhibit E, Los Angeles Metropolitan Transportation Authority, Proposition A and Proposition C Local Return Guidelines, 2007 Edition, page 4.

[32] Exhibit E, Los Angeles Metropolitan Transportation Authority, Proposition A and Proposition C Local Return Guidelines, 2007 Edition, page 7.

[33] Exhibit E, Los Angeles Metropolitan Transportation Authority, Proposition A and Proposition C Local Return Guidelines, 2007 Edition, page 13.

[34] Exhibit E, Los Angeles Metropolitan Transportation Authority, Proposition A and Proposition C Local Return Guidelines, 2007 Edition, page 13. Emphasis added.

[35] Exhibit E, Los Angeles Metropolitan Transportation Authority, Proposition A and Proposition C Local Return Guidelines, 2007 Edition, page 7.

funding, or private funds."[36] Subsequent reimbursement funds must then be returned to the Proposition C local return fund.[37]

C. The Controller's Audit and Summary of the Issues

The Controller audited reimbursement claims filed by the claimant for fiscal years 2002-2003 through 2009-2010 and found that of the total of $533,742 claimed, $530,321 was unallowable because the claimant used $530,321 of Proposition C revenues, which should have been identified and deducted as offsetting revenues, to pay for the ongoing trash receptacle maintenance.[38]

The Controller's audit in this case was limited to verifying the funding sources used to pay for the mandated activities.[39] The Controller found that the claimant "should have offset $530,321 in Proposition C funding used to pay for the ongoing maintenance of transit stop trash receptacles during the review period."[40] The Controller noted that under Proposition C's Local Return Guidelines, bus stop improvements and maintenance are authorized expenditures, and concluded:

> We confirmed that there were no general fund transfers into the Proposition C Fund during the review period. Therefore, as the city used Proposition C funds authorized to be used on the mandated activities, it did not have to rely on the use of discretionary general funds to pay for the mandated activities.[41]

III. Positions of the Parties

A. City of Bellflower

The claimant admits that it used Proposition C funds to pay for the costs to comply with the mandate, which is permissible under the Proposition C Local Return guidelines.[42] But the claimant alleges that the Controller improperly classified the Proposition C funds as offsetting revenue because Proposition C tax revenue does not conform to the description of offsetting revenue in the Parameters and Guidelines, which state "offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed."[43] In asserting that the

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[36] Exhibit E, Los Angeles Metropolitan Transportation Authority, Proposition A and Proposition C Local Return Guidelines, 2007 Edition, page 36.

[37] Exhibit E, Los Angeles Metropolitan Transportation Authority, Proposition A and Proposition C Local Return Guidelines, 2007 Edition, page 36.

[38] Exhibit A, IRC, filed August 17, 2018, pages 78-82 (Audit Report).

[39] Exhibit A, IRC, filed August 17, 2018, page 76 (Audit Report cover letter).

[40] Exhibit A, IRC, filed August 17, 2018, page 81 (Audit Report).

[41] Exhibit A, IRC, filed August 17, 2018, page 82 (Audit Report).

[42] Exhibit A, IRC, filed August 17, 2018, pages 3, 7 (Declaration of Bernardo Iniguez, Public Works Director for the City of Bellflower).

[43] Exhibit A, IRC, filed August 17, 2018, page 94 (Parameters and Guidelines).

Proposition C revenue and the Stormwater mandate are not "in the same program," the claimant argues:

> The mandate at issue, which is intended to minimize discharge of waste from municipal storm sewer systems, derives from the Water Code, as implemented by the RWQCB [Regional Water Quality Control Board] through the Order. (Wat. Code § 13000 et seq.; see also Dept. of Finance, 1 Cal. 5th 749.)
>
> By contrast, Proposition C never mandated that the City maintain the trash receptacles; it provided the City with discretionary authority to direct the LR [Local Return] funds towards certain enumerated transit-related projects. Moreover, because the Proposition C funds were expended to comply with the mandate in the Order, the City was unable to apply the LR funds towards other projects, as it would have done if it were not subject to the requirement to install and maintain trash receptacles.[44]

The claimant did not file comments on the Draft Proposed Decision.

B. State Controller's Office

The Controller maintains that its audit findings are correct and that the claimant's costs were overstated because it did not report any offsetting revenues. The Controller "concluded that the City [claimant] should have reported $530,321 in offsets received from Proposition C Local Return Funds used to pay for the ongoing maintenance of transit stop trash receptacles."[45] According to the Controller:

> The ongoing maintenance costs are recorded in Fund 135 – Proposition C, which is a special revenue fund type. Special revenue funds are used to account for the proceeds of specific revenue sources that are legally restricted to expenditures for specified purposes. During the review, the SCO [Controller] confirmed that there were no General Fund transfers into the Proposition C Local Return Fund during the review period. As the City used only Proposition C funds authorized to be used on the mandated activities, it did not need to rely on the use of discretionary general funds to pay for the mandated activities.[46]

The Controller disagrees with the claimant that its funds were improperly classified as offsetting revenue.[47] In responding to the claimant, the Controller quotes the offsetting revenue section in the Parameters and Guidelines that states "reimbursement for this mandate received from any federal, state or non-local source shall be identified and deducted from this claim." The Controller "believes that Proposition C is a non-local source, as it is not revenue that the City generated through its own means, such as with unrestricted sales tax. Rather, Proposition C is a

[44] Exhibit A, IRC, filed August 17, 2018, page 4.

[45] Exhibit B, Controller's Late Comments on the IRC, filed October 21, 2019, page 10.

[46] Exhibit B, Controller's Late Comments on the IRC, filed October 21, 2019, page 11.

[47] Exhibit B, Controller's Late Comments on the IRC, filed October 21, 2019, pages 12-14.

special supplementary sales tax that was approved by Los Angeles County voters in 1980 and is restricted in its use."[48]

The Controller also points out that the claimant's IRC itself states that Proposition C provided "discretionary authority" to direct the local return funds to enumerated transit-related projects, and that the claimant used the funds appropriately and at its own discretion as it saw fit.[49] According to the Controller:

> The general premise of mandated costs is that claimants are entitled to reimbursement to the extent that they incur increased costs as the direct result of a mandated program. However, the city did not incur increased costs to the extent that it relied on revenues raised outside of its appropriations limit, which were dedicated to public transit purposes to fund such costs.[50]

The Controller quotes the Commission's Decision in *Two-Way Traffic Control Signal Communication*, CSM-4504 that gas tax funds received by local agencies may be used to fund the cost of obtaining the traffic signal software, but reimbursement is not required to the extent local agencies use their gas tax proceeds to "fund the test claim legislation."[51] The Controller asserts that the same principle applies to the *Municipal Stormwater and Urban Runoff Discharges* program. The claimant used its discretion to apply Proposition C funds to the mandated activities, and reimbursement is not required to the extent Proposition C funds are used to pay for the mandated activities.[52]

The Controller filed comments concurring with the Draft Proposed Decision to deny the IRC.[53]

IV. Discussion

Government Code section 17561(d) authorizes the Controller to audit the claims filed by local agencies and school districts and to reduce any claim for reimbursement of state-mandated costs if the Controller determines that the claim is excessive or unreasonable.

Government Code section 17551(d) requires the Commission to hear and decide a claim that the Controller has incorrectly reduced payments to the local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.9 of the Commission's regulations requires the Commission to send the decision to the Controller and request that the costs in the claim be reinstated.

The Commission must review questions of law, including interpretation of the parameters and guidelines, de novo, without consideration of legal conclusions made by the Controller in the context of an audit. The Commission is vested with exclusive authority to adjudicate disputes

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[48] Exhibit B, Controller's Late Comments on the IRC, filed October 21, 2019, page 13.

[49] Exhibit B, Controller's Late Comments on the IRC, filed October 21, 2019, pages 13.

[50] Exhibit B, Controller's Late Comments on the IRC, filed October 21, 2019, page 13.

[51] Exhibit B, Controller's Late Comments on the IRC, filed October 21, 2019, page 14.

[52] Exhibit B, Controller's Late Comments on the IRC, filed October 21, 2019, page 14.

[53] Exhibit D, Controller's Comments on the Draft Proposed Decision, filed June 3, 2021.

over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution.[54] The Commission must also interpret the Government Code and implementing regulations in accordance with the broader constitutional and statutory scheme. In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."[55]

With regard to the Controller's audit decisions, the Commission must determine whether they were arbitrary, capricious, or entirely lacking in evidentiary support. This standard is similar to the standard used by the courts when reviewing an alleged abuse of discretion of a state agency.[56] Under this standard, the courts have found that:

> When reviewing the exercise of discretion, "[t]he scope of review is limited, out of deference to the agency's authority and presumed expertise: 'The court may not reweigh the evidence or substitute its judgement for that of the agency. [Citation.]'" … "In general … the inquiry is limited to whether the decision was arbitrary, capricious, or entirely lacking in evidentiary support…." [Citations.] When making that inquiry, the " ' "court must ensure that an agency has adequately considered all relevant factors, and has demonstrated a rational connection between those factors, the choice made, and the purposes of the enabling statute." [Citation.]' "[57]

The Commission must review the Controller's audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with the claimant.[58] In addition, sections 1185.1(f)(3) and 1185.2(d) and (e) of the Commission's regulations require that any assertions of fact by the parties to an IRC must be supported by documentary evidence. The Commission's ultimate findings of fact must be supported by substantial evidence in the record.[59]

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[54] *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

[55] *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1281, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

[56] *Johnson v. Sonoma County Agricultural Preservation and Open Space Dist.* (2002) 100 Cal.App.4th 973, 983-984. See also *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.

[57] *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547-548.

[58] *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

[59] Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

A. The Claimant Timely Filed this IRC Within Three Years from the Date the Claimant Received from the Controller a Final State Audit Report, Letter, or Other Written Notice of Adjustment to a Reimbursement Claim.

Government Code section 17561 authorizes the Controller to audit the reimbursement claims and records of a local government to verify the actual amount of the mandated costs, and to reduce any claim that the Controller determines is excessive or unreasonable. If the Controller reduces a claim on a state-mandated program, the Controller is required by Government Code section 17558(c) to notify the claimant in writing, specifying the claim components adjusted, the amounts adjusted, interest charges on claims adjusted to reduce the overall reimbursement to the claimant, and the reason for the adjustment.[60] The claimant may then file an IRC with the Commission "pursuant to regulations adopted by the Commission" contending that the Controller's reduction was incorrect and to request that the Controller reinstate the amounts reduced to the claimant.[61]

In this case, the Audit Report, dated October 25, 2016, specifies the claim components and amounts adjusted, and the reasons for the adjustments and thus, complies with the notice requirements in Government Code section 17558.5(c).[62]

The Commission's regulations require that an IRC be timely filed within three years of the date the claimant is provided notice of a reduction, which complies with Government Code section 17558.5(c), as follows:

> All incorrect reduction claims shall be filed with the Commission no later than three years following the date a claimant first receives from the Office of State Controller a final state audit report, letter, or other written notice of adjustment to a reimbursement claim, which complies with Government Code section 17558.5(c) by specifying the claim components adjusted, the amounts adjusted, interest charges on claims adjusted to reduce the overall reimbursement to the claimant, and the reasons for the adjustment.[63]

Because the claimant filed the IRC on August 17, 2018,[64] within three years of the October 25, 2016 Audit Report, the IRC was timely filed.

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[60] Government Code section 17558.5(c).

[61] Government Code sections 17551(d), 17558.7; California Code of Regulations, title 2, sections 1185.1, 1185.9.

[62] Exhibit A, IRC, filed August 17, 2018, pages 76-82 (Audit Report cover letter and Audit Report).

[63] California Code of Regulations, title 2, sections 1185.1(c), 1185.2(a), as amended operative October 1, 2016.

[64] Exhibit A, IRC, filed August 17, 2018, page 1.

B. The Controller's Reduction, Based on the Determination that Proposition C Local Return Funds Are Offsetting Revenue that Should Have Been Identified and Deducted from the Reimbursement Claims, Is Correct as a Matter Of Law.

The Controller determined that the claimant received tax revenues from Metro's Proposition C local return program and used those funds to perform the mandated activities of installing and maintaining transit-stop trash receptacles. The claimant concurs with this finding.[65] However, the claimant did not identify and deduct the Proposition C local return funds as offsetting revenues in its reimbursement claims.[66] The claimant alleges that the Controller improperly designated the Proposition C local return funds as offsetting revenue because the revenue did not come from the mandated program, as the claimant argues is required by the Parameters and Guidelines. The claimant asserts that Proposition C is not in "the same program" as the mandated program because Proposition C does not require the claimant to maintain the trash receptacles. Rather, Proposition C provides the claimant with discretionary authority to apply Local Return funds to specified transit-related purposes.[67]

The Commission finds that the Controller's reduction of costs claimed, based on the designation of Proposition C funds as offsetting revenues, is correct as a matter of law.

1. Proposition C local return funds constitute reimbursement from a nonlocal source, within the meaning of the Parameters and Guidelines, which are required to be identified and deducted from reimbursement claims as offsetting revenue.

Section VIII of the Parameters and Guidelines states:

> Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any federal, state or *nonlocal* source shall be identified and deducted from this claim.[68]

Thus, the Parameters and Guidelines identify two types of offsetting revenues that are required to be identified and deducted from a reimbursement claim: revenues received from the mandated program, and "reimbursement . . . received from any federal, state or *nonlocal* source" used to pay for the mandated costs. As described below, the second type of offsetting revenues (specifically, revenues received from nonlocal sources) is at issue here. To understand the

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[65] Exhibit A, IRC, filed August 17, 2018, page 3, 7 (Declaration of Bernardo Iniguez, Public Works Director for the City of Bellflower).

[66] Exhibit A, IRC, filed August 17, 2018, pages 81-82 (Audit Report).

[67] Exhibit A, IRC, filed August 17, 2018, page 4.

[68] Exhibit A, IRC, filed August 17, 2018, page 94 (Parameters and Guidelines). Emphasis added.

meaning of this phrase, the Parameters and Guidelines must be read consistently with the constitutional legal principles underlying the reimbursement of state-mandated costs.[69]

The courts have made it clear that the reimbursement requirement in article XIII B, section 6 of the California Constitution must be interpreted in the context of articles XIII A and XIII B, which "work in tandem, together restricting California governments' power both to levy and to spend taxes for public purposes."[70] In 1978, the voters adopted Proposition 13, which added article XIII A to the California Constitution to impose a limit on state and local power to adopt and levy taxes.[71]

Article XIII B was adopted by the voters in 1979 as Proposition 4, and was called "the next logical step to Proposition 13."[72] Article XIII B imposes a limit on the amount of tax revenues or "proceeds of taxes" a government entity may spend each year. Thus, article XIII B established an "appropriations limit" on the "proceeds of taxes" for each "entity of local government" beginning in fiscal year 1980-1981.[73] Section 1 of article XIII B defines the appropriations limit as:

> The total annual appropriations subject to limitation of the State and of each local government shall not exceed the appropriations limit of the entity of government for the prior year adjusted for the change in the cost of living and the change in population, except as otherwise provided in this article.[74]

Local governments may not make "appropriations subject to limitation" in excess of their appropriation limits, and revenues received in excess of authorized appropriations must be returned to the taxpayers within the following two fiscal years.[75]

"Appropriations subject to limitation" for local government means "any authorization to expend during a fiscal year the '*proceeds of taxes levied by or for that entity*' and the proceeds of state subventions to that entity (other than subventions made pursuant to Section 6) exclusive of refunds of taxes."[76] "To levy taxes by or for an entity," as used in article XIII B, section 8(b),

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[69] See *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 974, 811 and 812, where the court states that the parameters and guidelines must be read in context, and with the fundamental legal principles underlying state-mandated costs.

[70] *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 486; *Dept. of Finance v. Commission on State Mandates* (2016) 1 Cal.5th 749, 763 [quoting *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81].

[71] California Constitution, article XIII A, section 1 (adopted June 6, 1978).

[72] *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 446.

[73] California Constitution, article XIII B, section 8(d), (h) (adopted Nov. 6, 1979; amended by Proposition 111, June 5, 1990).

[74] See also Government Code section 7901(a) and (b).

[75] California Constitution, article XIII B, section 2 (adopted Nov. 6, 1979; amended by Proposition 111, June 5, 1990).

[76] California Constitution, article XIII B, section 8(b). Emphasis added.

means that the entity for whom the taxes are levied has the authority to levy the tax itself. As the court in *Bell Community Redevelopment Agency v. Woosley* explained:

> The phrase "to levy taxes by or for an entity" has a special meaning of long-standing. The concept of one entity levying taxes for another dates back to at least 1895 (stats. 1895, p. 219) and the adoption of an act providing for the levy of taxes "by or for" municipal corporations. This act allowed general law and charter cities to continue to exercise their taxing power directly or, if they so desired, to have the county levy and collect their taxes for them. [Citations omitted.] The legal effect of this arrangement, as explained by case law, was that the taxing power exercised was that of the city, and it remained in the city. The county officers in levying taxes for the city became ex-officio officers of the city and exercised the city's taxing power. [Citations omitted.] In levying taxes for the city the county was levying "municipal taxes" through the ordinary county machinery. [Citation omitted.]
>
> Thus, the necessary characteristics of one entity levying taxes "by or for" another entity are: (1) the entity for whom the taxes are levied has the taxing power; (2) the levying officers of the county exercise the taxing power of the entity for whom they are levying; (3) they exercise such power as ex-officio officers of that entity, and (4) the taxes collected are those of the "levied for" entity.[77]

Except for state subventions, the items that make up "proceeds of taxes" are charges levied to raise general revenues for the local entity.[78] "Proceeds of taxes," is defined to include "all tax revenues," as well as "proceeds ... from ... regulatory licenses, user charges, and user fees [only] to the extent that such proceeds exceed the costs reasonably borne by such entity in providing the regulation, product or service...."[79] These "excess" regulatory or user fees are considered taxes that raise general revenue for the entity.[80]

Article XIII B does not impose spending limits on revenues that do *not* constitute the entity's "proceeds of taxes."[81] In addition, article XIII B, section 9 identifies appropriations that are expressly excluded from the appropriations limit, including appropriations required to comply with a federal mandate.

Section 6 was included in article XIII B to require that "[w]henever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service…" The purpose of section 6 is to preclude "the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities *because of the taxing and*

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[77] *Bell Community Redevelopment Agency v. Woosley* (1985) 169 Cal.App.3d. 24, 32-33.

[78] *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 451.

[79] California Constitution, article XIII B, section 8(c).

[80] *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 451.

[81] *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 447.

spending limitations that articles XIII A and XIII B impose."[82] In this respect, the courts have held that reimbursement under article XIII B, section 6 is required only when the mandated program forces local government to incur "increased actual expenditures of limited tax proceeds that are counted against the local government's spending limit."[83]

Thus, courts have focused on the source of funds used to pay for programs for which mandate reimbursement is sought, and have analyzed the source of funds to determine if they are proceeds of taxes that are subject to the local agency's appropriations limit.[84] For example, in *County of Fresno v. State*, the California Supreme Court determined that Government Code section 17556(d) (which provides there are no costs mandated by the state and reimbursement is not required when the local agency has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program) is facially constitutional and consistent with the purpose of article XIII B, section 6.[85] "Considered within its context, the section [section 6] effectively construes the term 'costs' in the constitutional provision as excluding expenses that are recoverable from sources other than taxes."[86]

Similarly, in *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* and *City of El Monte v. Commission on State Mandates*, the courts focused on the source of funds used by redevelopment agencies to pay for activities required by state law to find that funds received through tax increment financing were not subject to the appropriations limit because the funds are not the "proceeds of taxes" and therefore, are not reimbursable under article XIII B, section 6.[87]

> Because of the financing they receive, tax increment financing, redevelopment agencies are not subject to this type of appropriations limitations or spending caps; they do not expend any "proceeds of taxes." Nor do they raise, through tax increment financing, "general revenues for the local entity." [Citation omitted.][88]

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[82] *Dept. of Finance v. Commission on State Mandates* (2016) 1 Cal.5th 749, 763 (quoting *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81. Emphasis added. See also, *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487.

[83] *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283; *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1185.

[84] See, *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 984-985, where the court disagrees with the argument by a redevelopment agency that the source of funds used was not relevant to the determination of reimbursement under article XIII B, section 6.

[85] *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487.

[86] *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487.

[87] *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 984-986; *City of El Monte v. Commission on State Mandates* (2000) 83 Cal.App.4th 266, 280-282.

[88] *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 986.

Accordingly, reimbursement under article XIII B, section 6 is required only when the mandated program forces local government to incur increased actual expenditures of limited tax proceeds that are counted against the local government's spending limit.[89] Expenditures of funds that are not from the entity's proceeds of taxes are not subject to the appropriation limit, nor are entities that spend non-tax revenue eligible for reimbursement under article XIII B, section 6.

In this case, the offsetting revenue language in Section VIII of the Parameters and Guidelines, which requires that "reimbursement for this mandate received from any federal, state or nonlocal source shall be identified and deducted from this claim," is consistent with these constitutional principles.[90] "Nonlocal" revenue used for a state-mandated program means that the funds used for the program are not the claimant's proceeds of taxes nor are they subject to the claimant's appropriations limit imposed by article XIII B. Thus, nonlocal sources of funding used by a local agency for the state-mandated program are required to be identified and deducted from reimbursement claims as offsetting revenue.

2. The Proposition C local return funds that the claimant used for the mandated activities are not the claimant's "proceeds of taxes" within the meaning of article XIII B of the California Constitution because the taxes were not levied by or for the claimant nor are they subject to the claimant's appropriations limit; thus, the Controller's finding that expenditures of these funds are required to be identified and deducted as offsetting revenues is correct as a matter of law.

The power of a local government to tax is derived from the Constitution, upon the Legislature's authorization.[91] "The Legislature may not impose taxes for local purposes but may authorize local governments to impose them."[92] In other words, a local government's taxing authority is derived from statute.

Metro, as the successor to the Los Angeles County Transportation Commission, is authorized by statute to levy the Proposition C transactions and use tax throughout Los Angeles County.[93] Under the Proposition C ordinance, twenty percent of Proposition C taxes are allocated to the local return program funds for cities and the County to use for public transit purposes.[94] As discussed in the Background above, local jurisdictions are then permitted to use those funds on

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[89] *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283; *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1185.

[90] *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 974, 811 and 812.

[91] California Constitution, article XIII, section 24(a).

[92] *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 450 ("Taxes are levied by the Legislature, or by counties and municipalities under their delegated power, for the support of the state, county, or municipal government").

[93] Public Utilities Code section 130350 (Stats. 1976, ch. 1333).

[94] Los Angeles Metropolitan Transportation Authority, "An Ordinance Establishing An Additional Retail Transactions And Use Tax in the County of Los Angeles For Public Transit Purposes," November 1990, pages 3-4.

public transit projects as prescribed by the Local Return Guidelines.[95] Permissible uses include bus stop improvements and maintenance projects, which include the installation, replacement and maintenance of trash receptacles,[96] as specified in the ordinance:

> …[The] Local Return Program [is] to be used by cities and the County for public transit, paratransit, and related services including to improve and expand supplemental paratransit services to meet the requirements of the Federal Americans With Disabilities Act. At the option of each city and of the County funds can be used consistent with the County's Congestion Management Program to increase safety and improve road conditions by repairing and maintaining streets heavily used by public transit. Transportation system and demand management programs are also eligible.[97]

The parties agree that the claimant is authorized to use the local return funds for the mandated program and they do not dispute than a portion of the claimant's local return funds were used for the mandated activities.[98] Nonetheless, the claimant disputes the reduction, arguing that the Proposition C funds were not "specifically intended" to fund the mandated program.[99]

However, Proposition C transactions and use taxes are non-local revenues because they are *not* the claimant's "local taxes" in that they are neither levied by nor for the claimants. As the Court of Appeal explained:

> The phrase "to levy taxes by or for an entity" has a special meaning of long-standing. The concept of one entity levying taxes for another dates back to at least 1895 (stats. 1895, p. 219) and the adoption of an act providing for the levy of taxes "by or for" municipal corporations. This act allowed general law and charter cities to continue to exercise their taxing power directly or, if they so desired, to have the county levy and collect their taxes for them. (*Griggs v. Hartzoke* (1910) 13 Cal.App. 429, 430–432, 109 P. 1104; *County of Los Angeles v. Superior Court* (1941) 17 Cal.2d 707, 710–711, 112 P.2d 10.) The legal effect

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[95] Exhibit E, Los Angeles Metropolitan Transportation Authority, Proposition A and Proposition C Local Return Guidelines, 2007 Edition, pages 7, 11-16.

[96] Exhibit E, Los Angeles Metropolitan Transportation Authority, Proposition A and Proposition C Local Return Guidelines, 2007 Edition, page 13.

[97] Exhibit E, Los Angeles Metropolitan Transportation Authority, "An Ordinance Establishing An Additional Retail Transactions And Use Tax in the County of Los Angeles For Public Transit Purposes," November 1990, pages 3-5. Other uses of Proposition C funds include: improving and expanding rail and bus transit on a County-wide basis (40 percent), improve and expand rail and bus security (5 percent), commuter rail and building transit centers, park-and-ride lots, and freeway bus stops (10 percent), and essential County-wide transit-related improvements to freeways and state highways (25 percent).

[98] Exhibit A, IRC, filed August 17, 2018, pages 3, 7 (Declaration of Bernardo Iniguez, Public Works Director for the City of Bellflower). Exhibit A, IRC, filed August 17, 2018, page 82 (Audit Report).

[99] Exhibit A, IRC, filed August 17, 2018, pages 4-5.

> of this arrangement, as explained by case law, was that the taxing power exercised was that of the city, and it remained in the city. The county officers in levying taxes for the city became ex-officio officers of the city and exercised the city's taxing power. (*Madary v. City of Fresno* (1912) 20 Cal.App. 91, 93–94, 128 P. 340.) In levying taxes for the city the county was levying "municipal taxes" through the ordinary county machinery. (*Griggs*, *supra*, 13 Cal.App. at p. 432, 109 P. 1104.)
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> Thus, the salient characteristics of one entity levying taxes "for" another entity are: (1) the entity for whom the taxes are levied has the taxing power; (2) the levying officers of the county exercise the taxing power of the entity for whom they are levying; (3) they exercise such power as ex-officio officers of that entity, and (4) the taxes collected are those of the "levied for" entity.[100]

Similar to the redevelopment agency in *Bell Community Redevelopment Agency v. Woosley*, the claimant here does not have the power to levy the Proposition C taxes.[101] Therefore, Metro is not levying the Proposition C taxes "for" the claimant. The claimant's receipt and use of Proposition C tax revenues through the local return program does not change the nature of those funds as Metro's "proceeds of taxes" and subject to Metro's appropriations limit.

Article XIII B does not limit a local government's ability to expend tax revenues that are not the claimant's "proceeds of taxes."[102] Where a tax is neither levied by nor for the local government claiming reimbursement, the resulting revenue is not the local government's "proceeds of taxes" and is therefore not the local government's "appropriations subject to limitation."[103] Reimbursement under article XIII B, section 6 is only required to the extent that a local government must incur "increased actual expenditures of limited tax proceeds that are counted against the local government's spending limit."[104] Because the Proposition C local return funds are not the claimants' "proceeds of taxes levied by or for that entity," they are not part of the claimants' "appropriations subject to limitation."[105] The Proposition C Ordinance provides that the Proposition C funds are included in Metro appropriations limit:

> 3-10-080 Appropriations Limit. A [Los Angeles County Transportation] Commission appropriations limit is hereby established equal to the revenues

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[100] *Bell Community Redevelopment Agency v. Woosley* (1985) 169 Cal.App.3d 24, 32.

[101] See *Bell Community Redevelopment Agency v. Woosley* (1985) 169 Cal.App.3d 24, 27 [Because redevelopment agency did not have the authority to levy a tax to fund its efforts, allocation and payment of tax increment funds to redevelopment agency by county, a government taxing agency, were not "proceeds of taxes levied by or for" the redevelopment agency and therefore were not subject to the appropriations limit of Article XIII B].

[102] *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 447.

[103] California Constitution, article XIII B, section 8.

[104] *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283; *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1185.

[105] California Constitution, article XIII B, section 8.

> collected and allocated during the 1990/91 fiscal year plus an amount equal to one and a half times the taxes that would be levied or allocated on a one-half of one percent transaction and use tax in the first full fiscal year following enactment and implementation of this Ordinance.[106]

In addition, Government Code section 7904 states that: "In no event shall the appropriation of the same proceeds of taxes be subject to the appropriations limit of more than one local jurisdiction or the state." Because the Proposition C ordinance establishes an appropriations limit for Metro for the proposition C funds,[107] section 7904 prohibits the claimant from establishing an appropriations limit on the same proceeds of taxes.

Reimbursement under article XIII B, section 6 is required only when the mandated program forces local government to incur increased actual expenditures of limited tax proceeds that are counted against the local government's spending limit.[108] Local agencies cannot accept the benefits of revenue that is not subject to their appropriations limits, while asserting an entitlement to reimbursement under article XIII B, section 6.[109] The Proposition C local return revenue is not the claimant's proceeds of taxes, nor is it subject to the claimant's appropriation limit. Therefore, the reduction of costs claimed, based on the Controller's finding that the Proposition C local return funds should have been identified and deducted as offsetting revenues, is correct as a matter of law.

V. Conclusion

Based on the forgoing, the Commission concludes that the Controller's reduction of costs is correct as a matter of law. Accordingly, the IRC is denied.

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[106] Exhibit E, Los Angeles Metropolitan Transportation Authority, "An Ordinance Establishing An Additional Retail Transactions And Use Tax in the County of Los Angeles For Public Transit Purposes," November 1990, page 6.

[107] Exhibit E, Los Angeles Metropolitan Transportation Authority, "An Ordinance Establishing An Additional Retail Transactions And Use Tax in the County of Los Angeles For Public Transit Purposes," November 1990, page 6.

[108] *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283; *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1185.

[109] *City of El Monte v. Commission on State Mandates* (2000) 83 Cal.App.4th 266, 281-282.

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 July 23, 2021, I served the:

- **Decision adopted July 23, 2021**

  Municipal Storm Water and Urban Runoff Discharges, 18-0304-I-01
  Los Angeles Regional Quality Control Board Order No. 01-182,
  Permit CAS004001, Part 4F5c3
  Fiscal Years: 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, and 2009-2010
  City of Bellflower, 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 July 23, 2021 at Sacramento, California.

Jill L. Magee
Commission on State Mandates
980 Ninth Street, Suite 300
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(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 7/7/21

Claim Number: 18-0304-I-01

Matter: Municipal Storm Water and Urban Runoff Discharges

Claimant: City of Bellflower

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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