



April 11, 2024

Mr. Chris Hill
Department of Finance
915 L Street, 8th Floor
Sacramento, CA 95814

Mr. Fernando Lemus
County of Los Angeles
500 West Temple Street, Room 603
Los Angeles, CA 90012

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

Re: Draft Proposed Decision, Schedule for Comments, and Notice of Hearing
Disclosure Requirements and Deferral of Property Taxation, 22-TC-06
Statutes 2022, Chapter 712 (SB 989); Revenue and Taxation Code Sections
2610.8 and 2636.1
County of Los Angeles, Claimant

Dear Mr. Hill and Mr. Lemus:

The Draft Proposed Decision for the above-captioned matter is enclosed for your review and comment.

Written Comments

Written comments may be filed on the Draft Proposed Decision no later than **5:00 pm on May 2, 2024**. Please note that all representations of fact submitted to the Commission must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge, information, or belief. (Cal. Code Regs., tit. 2, § 1187.5.) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.¹

You are advised that comments filed with the Commission are required to be electronically filed (e-filed) in an unlocked legible and searchable PDF file, using the Commission's Dropbox. (Cal. Code Regs., tit. 2, § 1181.3(c)(1).) Refer to <https://www.csm.ca.gov/dropbox.shtml> on the Commission's website for electronic filing instructions. If e-filing would cause the filer undue hardship or significant prejudice, filing may occur by first class mail, overnight delivery or personal service only upon approval of a written request to the executive director. (Cal. Code Regs., tit. 2, § 1181.3(c)(2).)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

¹ 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.

Mr. Hill and Mr. Lemus
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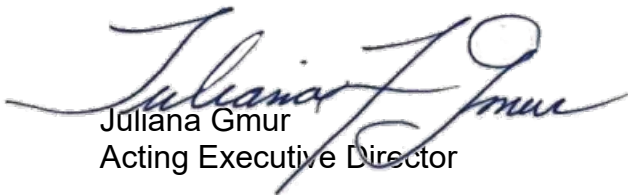
Hearing

This matter is set for hearing on **Friday, July 26, 2024**, at 10:00 a.m. The Proposed Decision will be issued on or about July 12, 2024.

Please notify Commission staff not later than the Wednesday prior to the hearing that you or a witness you are bringing plan to testify and please specify the names of the people who will be speaking for inclusion on the witness list. When calling or emailing, please identify the item you want to testify on and the entity you represent. The Commission Chairperson reserves the right to impose time limits on presentations as may be necessary to complete the agenda.

If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Sincerely,



Juliana Gmur
Acting Executive Director

ITEM ____
TEST CLAIM

DRAFT PROPOSED DECISION

Revenue and Taxation Code Sections 2610.8 and 2636.1

Statutes 2022, Chapter 712 (SB 989)

Disclosure Requirements and Deferral of Property Taxation

22-TC-06

County of Los Angeles, Claimant

EXECUTIVE SUMMARY

Overview

This Test Claim alleges new state-mandated activities and costs resulting from Statutes 2022, chapter 712 (the test claim statute), that added sections 2610.8 and 2636.1 to the Revenue and Taxation Code, effective September 28, 2022.¹

Section 2636.1 requires a county with a population over four million as determined by the 2020 census, and counties that opt into the requirements by passing a resolution, to defer property tax payments without penalty or interest for property owners claiming relief under Proposition 19 and section 69.6 (the Prop. 19 implementation statute) until the county assessor determines their claim. Deferment requests must be filed with the county within one year of receiving the first tax bill for the replacement property, but before January 1, 2024. Proposition 19 (November 2020) allowed, beginning April 1, 2021, property owners who are over 55, severely disabled, or victims of a wildfire or natural disaster, to transfer the taxable base year value of their primary residence to a replacement primary residence located anywhere in the state within two years of the sale of the original primary residence to prevent or mitigate increased property taxes when these property owners move or rebuild.² Property owners seeking relief under Proposition 19 and section 69.6 must file a claim with the county assessor

¹ Statutory references are to the Revenue and Taxation Code unless otherwise indicated.

² California Constitution, article XIII A, section 2.1(b)(1). All constitutional references are to the California Constitution.

where the replacement primary residence is located.³ Section 2636.1 sunsets on January 1, 2026.⁴

Section 2610.8 which does not sunset, requires the same county of over four million and counties that opt in to print brief summaries on property tax bills about the availability of Proposition 19 base year value transfers and tax deferral under section 2636.1.

Staff finds that the test claim statute imposes a reimbursable state-mandated program on only the County of Los Angeles (the only county with a population over four million as determined by the 2020 census). Other counties that opt into the program by passing a resolution are not mandated by the state to comply.⁵ Staff recommends that the Commission on State Mandates (Commission) approve this Test Claim with the reimbursement period beginning on September 28, 2022.

Procedural History

The claimant filed the Test Claim on May 2, 2023.⁶ The Department of Finance (Finance) filed comments on the Test Claim on October 5, 2023.⁷ The claimant did not file rebuttal comments.

Commission staff issued the Draft Proposed Decision on April 11, 2024.⁸

Commission Responsibilities

Under article XIII B, section 6 of the California Constitution, local agencies and school districts are entitled to reimbursement for the costs of state-mandated new programs or higher levels of service. In order for local government to be eligible for reimbursement, one or more similarly situated local agencies or school districts must file a test claim with the Commission. “Test claim” means the first claim filed with the Commission alleging that a particular statute or executive order imposes costs mandated by the state. Test claims function similarly to class actions and all members of the class have the opportunity to participate in the test claim process and all are bound by the final decision of the Commission for purposes of that test claim.

The Commission is the quasi-judicial body vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article

³ Revenue and Taxation Code section 69.6.

⁴ Revenue and Taxation Code 2636.1(f).

⁵ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 743; *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 807, 815.

⁶ Exhibit A, Test Claim, filed May 2, 2023.

⁷ Exhibit B, Finance’s Comments on the Test Claim, filed October 5, 2023.

⁸ Exhibit C, Draft Proposed Decision, issued April 11, 2024.

XIII B, section 6 of the California Constitution and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”⁹

Claims

The following chart provides a brief summary of the claims and issues raised and staff’s recommendation.

Issue	Description	Staff Recommendation
Was the Test Claim timely filed?	<p>Government Code section 17551(c) states: “test claims shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.” Section 1183.1(c) of the Commission’s regulations defines “12 months” as 365 days.¹⁰</p> <p>Government Code section 17557(e) requires that a test claim be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year.</p>	<p><i>Timely filed</i> – The test claim statute was an urgency statute that became effective on September 28, 2022.¹¹ The Test Claim was filed on May 2, 2023, within 12 months of the effective date of the statute, so the test claim was timely filed.¹²</p> <p>Based on the May 2, 2023 filing date, reimbursement eligibility was established for the 2021-2022 fiscal year. However, due to the September 28, 2022 effective date of the test claim statute, the potential period of reimbursement begins on September 28, 2022.</p>
Does the test claim statute (Rev. & Tax Code, § 2610.8 & 2636.1, Stats. 2022, ch. 712), impose a reimbursable state-mandated program?	Section 2636.1(a) requires a county with a population of over 4 million (as of the 2020 census) to defer property taxes (“process	<i>Approve</i> – The test claim statute imposes a reimbursable state-mandated program on the County of Los Angeles only, beginning

⁹ *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.

¹⁰ California Code of Regulations, title 2, section 1183.1(c), Register 2018, No. 18 (eff. April 1, 2018).

¹¹ Statutes 2022, chapter 712, section 4.

¹² Exhibit A, Test Claim, filed May 2, 2023, page 1.

Issue	Description	Staff Recommendation
	<p>requests for deferment”¹³) without penalty or interest if both of the following apply: (1) the property owner has claimed property tax relief under section 69.6 for the property, but the assessor has not yet determined the property’s eligibility for relief under that section; and (2) the property owner requests deferment within one calendar year, but before January 1, 2024, of receiving the first tax bill for the property. Section 2636.1 sunsets on January 1, 2026.¹⁴</p> <p>Section 2610.8 requires a county with a population of over 4 million (as of the 2020 census) to print the following disclosure on each property tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill: (1) a brief summary of the availability of the property tax relief under Section 69.6 (the Prop. 19 implementation statute regarding persons over 55 or disabled, victims of</p>	<p>September 28, 2022, to do the following:</p> <ul style="list-style-type: none"> • Process deferment requests of property tax payments if received within one year of the first tax bill but before January 1, 2024, and defer without penalty or interest payments that are not paid through impoundment accounts until either the county assessor reassesses the property and a corrected tax bill pursuant to section 69.6 is sent to the owner, or the assessor has determined the property is not eligible for exclusion under section 69.6 and has notified the property owner.¹⁵ • Print the brief summaries of 2636.1 deferment eligibility and Proposition 19 tax relief on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill.¹⁶ <p>The test claim statute imposes a state-mandated</p>

¹³ Exhibit X (6), Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended August 15, 2022, page 6.

¹⁴ Revenue and Taxation Code section 2636.1(f).

¹⁵ Revenue and Taxation Code section 2636.1 (Stats. 2022, ch. 712).

¹⁶ Revenue and Taxation Code section 2610.8 (Stats. 2022, Ch. 712).

Issue	Description	Staff Recommendation
	<p>natural disaster); and (2) a brief summary of deferment procedures under Section 2636.1, the code section that authorizes deferment.</p>	<p>program on the County of Los Angeles, the only county with a population over four million based on the 2020 federal census.¹⁷ Other counties that opt into the program are not mandated by the state to comply with the requirements.¹⁸</p> <p>The new requirements constitute a new program or higher level of service because they are unique to government and provide a service to the public by allowing property owners to defer tax payments and disclosing on their tax bill that deferment and Proposition 19 relief is available.¹⁹</p> <p>Finally, the evidence in the record supports a finding of increased costs mandated by the state.²⁰</p>

¹⁷ Exhibit X (3), Assembly Floor, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended August 15, 2022, page 1.

¹⁸ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 743; *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 807, 815.

¹⁹ Exhibit X (6), Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended August 15, 2022, page 6.

²⁰ Exhibit A, Test Claim, filed May 2, 2023, pages 12-13, 19 (Declaration of Sarkis Tellalyan), pages 13, 22-23 (Declaration of Matthew Herrera). See Government Code section 17514, and the exceptions in Government Code section 17556 do not apply.

Staff Analysis

A. The Test Claim Was Timely Filed with a Potential Period of Reimbursement Beginning September 28, 2022.

Government Code section 17551 requires that test claims be filed “not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.”²¹ Section 1183.1(c) of the Commission’s regulations defines “12 months” for purposes of filing a test claim as “365 days.”²²

The test claim statute was an urgency statute that became effective on September 28, 2022.²³ The Test Claim was filed May 2, 2023, within 12 months of the effective date of the test claim statute, so it was timely filed.²⁴

Government Code section 17557(e) requires that a test claim be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. Based on the May 2, 2023 filing date, reimbursement eligibility was established for the 2021-2022 fiscal year. However, due to the September 28, 2022 effective date of the test claim statute, the potential period of reimbursement begins on September 28, 2022.²⁵

B. The Test Claim Statute (Stats. 2022, ch. 712) Imposes a Reimbursable State-Mandated Program on the County of Los Angeles.

This Test Claim alleges new state-mandated activities and costs resulting from Statutes 2022, chapter 712 (the test claim statute), that added sections 2610.8 and 2636.1 effective September 28, 2022.

The test claim statute is a response to the Proposition 19 property tax relief initiative (November 2020) that allowed, beginning April 1, 2021, property owners who are over 55, severely disabled, or victims of a wildfire or natural disaster to transfer the taxable base year value of their primary residence to a replacement primary residence anywhere in the state within two years of the sale of the original primary residence to prevent or mitigate increased property taxes when these property owners move or rebuild.²⁶ Property owners seeking relief under Proposition 19 (and section 69.6, the Prop. 19 implementation statute) must file a claim with the county assessor where the replacement primary residence is located.²⁷

²¹ Government Code section 17551(c).

²² California Code of Regulations, title 2, section 1183.1(c), Register 2018, No. 18.

²³ Statutes 2022, chapter 712, section 4.

²⁴ Exhibit A, Test Claim, filed May 2, 2023, page 1.

²⁵ Statutes 2022, chapter 712, section 4.

²⁶ California Constitution, article XIII A, section 2.1(b)(1).

²⁷ Revenue and Taxation Code section 69.6.

Section 2636.1 requires a county with a population over four million as determined by the 2020 census, and counties that opt into the requirements by passing a resolution, to defer property tax payments upon request without penalty or interest for property owners claiming relief under Proposition 19 and section 69.6 until the county assessor determines their claim. Deferment requests must be filed with the county within one year of receiving the first tax bill for the replacement property, but before January 1, 2024. Section 2636.1 sunsets on January 1, 2026.²⁸ Section 2636.1 was enacted in response to a backlog of base year value transfer claims.²⁹

Section 2610.8 of the test claim statute, which does not sunset, requires the same county of over four million and counties that opt in to print the following disclosures on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill:

- A brief summary of the availability of the property tax relief under section 69.6 (the Prop. 19 implementation statute), and
- A brief summary of property tax deferment procedures under section 2636.1.

Staff finds that the requirements imposed by the test claim statute are new and impose a state-mandated program on the County of Los Angeles, the only county with a population over four million based on the 2020 federal census.³⁰ Other counties that opt into the program by passing a resolution are not mandated by the state to comply.³¹

The new requirements are unique to government and provide a service to the public by giving “taxpayers the ability to temporarily pause their tax bill while an assessment is under review and to make people aware of these remedies to their burdens.”³² Thus, the test claim statute mandates a new program or higher level of service.

Finally, the evidence in the record supports a finding of increased costs mandated by the state, and none of the exceptions to reimbursement apply to this claim.³³

²⁸ Revenue and Taxation Code 2636.1. The sunset provision is in subdivision (f).

²⁹ Exhibit X (2), Assembly Committee on Revenue and Taxation, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended June 13, 2022, pages 3 and 5; Revenue and Taxation Code section 2636.1(f).

³⁰ Exhibit X (3), Assembly Floor, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended August 15, 2022, page 1.

³¹ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 743; *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 807, 815.

³² Exhibit X (6), Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended August 15, 2022, page 6.

³³ Exhibit A, Test Claim, filed May 2, 2023, pages 12-13, 19 (Declaration of Sarkis Tellalyan), pages 13, 22-23 (Declaration of Matthew Herrera). See Government Code section 17514, and the exceptions in Government Code section 17556.

Conclusion

Accordingly, staff concludes that the test claim statute imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution on the County of Los Angeles, beginning September 28, 2022, to do the following:

- Process deferment requests of property tax payments if received within one year of the tax bill but before January 1, 2024, and defer without penalty or interest payments that are not paid through impoundment accounts until either the county assessor reassesses the property and a corrected tax bill pursuant to section 69.6 is sent to the owner, or the assessor has determined the property is not eligible for exclusion under section 69.6 and has notified the property owner.³⁴
- Print the following disclosures on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill:
 - A brief summary of the availability of the property tax relief under Revenue and Taxation Code section 69.6 (the Prop. 19 implementation statute), and
 - A brief summary of the deferment procedures under Revenue and Taxation Code section 2636.1.³⁵

Staff Recommendation

Staff recommends that the Commission adopt the Proposed Decision to approve the Test Claim and authorize staff to make any technical, non-substantive changes to the Proposed Decision following the hearing.

³⁴ Revenue and Taxation Code section 2636.1 (Stats. 2022, ch. 712).

³⁵ Revenue and Taxation Code section 2610.8 (Stats. 2022, ch. 712).

BEFORE THE
 COMMISSION ON STATE MANDATES
 STATE OF CALIFORNIA

<p>IN RE TEST CLAIM</p> <p>Revenue and Taxation Code Sections 2610.8 and 2636.1</p> <p>Statutes 2022, Chapter 712 (SB 989)</p> <p>Filed on May 2, 2023</p> <p>County of Los Angeles, Claimant</p>	<p>Case No.: 22-TC-06</p> <p><i>Disclosure Requirements and Deferral of Property Taxation</i></p> <p>DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7.</p> <p><i>(Adopted July 26, 2024)</i></p>
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DECISION

The Commission on State Mandates (Commission) heard and decided this Test Claim during a regularly scheduled hearing on July 26, 2024. [Witness list will be included in the adopted Decision.]

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/modified] the Proposed Decision to [approve/partially approve/deny] the Test Claim by a vote of [vote will be included in the adopted Decision], as follows:

Member	Vote
Lee Adams, County Supervisor	
Deborah Gallegos, Representative of the State Controller	
Jennifer Holman, Representative of the Director of the Office of Planning and Research	
Renee Nash, School District Board Member	
William Pahland, Representative of the State Treasurer, Vice Chairperson	
Michele Perrault, Representative of the Director of the Department of Finance, Chairperson	

Summary of the Findings

This Test Claim alleges new state-mandated activities and costs resulting from Statutes 2022, chapter 712 (the test claim statute), that added sections 2610.8 and 2636.1 to the

Revenue and Taxation Code, effective September 28, 2022.³⁶ The test claim statute is a response to the Proposition 19 property tax relief initiative (November 2020) that allowed, beginning April 1, 2021, property owners who are over 55, severely disabled, or victims of a wildfire or natural disaster to transfer the taxable base year value of their primary residence to a replacement primary residence anywhere in the state within two years of the sale of the original primary residence to prevent or mitigate increased property taxes when these property owners move or rebuild.³⁷ Property owners seeking relief under Proposition 19 (and section 69.6, the Prop. 19 implementation statute) must file a claim with the county assessor where the replacement primary residence is located.³⁸

Section 2636.1 of the test claim statute requires a county with a population over four million as determined by the 2020 census, and counties that opt into the requirements by passing a resolution, to defer property tax payments upon request without penalty or interest for property owners claiming relief under Proposition 19 and section 69.6 until the county assessor determines their claim. Deferral requests must be filed with the county within one year of receiving the first tax bill for the replacement property, but before January 1, 2024; and the statute is repealed as of January 1, 2026.³⁹ Section 2636.1 was enacted in response to a backlog of base year value transfer claims.⁴⁰

Section 2610.8 of the test claim statute, which does not sunset, requires the same county of over four million and counties that opt in to print the following disclosures on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill:

- A brief summary of the availability of the property tax relief under section 69.6 (the Prop. 19 implementation statute), and
- A brief summary of property tax deferral procedures under section 2636.1.

The Commission finds that the test claim was timely filed with a potential period of reimbursement beginning September 28, 2022 (the statutes' effective date).⁴¹

The Commission further finds that the requirements imposed by the test claim statute are new and impose a state-mandated program on the County of Los Angeles, the only

³⁶ All statutory references are to the Revenue and Taxation Code unless otherwise indicated.

³⁷ California Constitution, article XIII A, section 2.1(b)(1). All constitutional references are to the California Constitution.

³⁸ Revenue and Taxation Code section 69.6.

³⁹ Revenue and Taxation Code 2636.1. The sunset provision is in subdivision (f).

⁴⁰ Exhibit X (2), Assembly Committee on Revenue and Taxation, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended June 13, 2022, pages 3, 5.

⁴¹ Government Code sections 17551(c) and 17557(e); Statutes 2022, chapter 712, section 4; Exhibit A, Test Claim, filed May 2, 2023, page 1.

county with a population over four million based on the 2020 federal census.⁴² Other counties that opt into the program by passing a resolution are not mandated by the state to comply.⁴³

The new requirements are unique to government and provide a service to the public by giving “taxpayers the ability to temporarily pause their tax bill while an assessment is under review and to make people aware of these remedies to their burdens.”⁴⁴ Thus, the test claim statute mandates a new program or higher level of service.

Finally, the evidence in the record supports a finding of increased costs mandated by the state and none of the exceptions to reimbursement apply to this claim.⁴⁵

Accordingly, the Commission approves this Test Claim and finds that the test claim statute imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution on the County of Los Angeles, beginning September 28, 2022, to:

- Process deferment requests of property tax payments if received within one year of the first tax bill but before January 1, 2024, and defer without penalty or interest payments that are not paid through impoundment accounts until either the county assessor reassesses the property and a corrected tax bill pursuant to Revenue and Taxation Code section 69.6 is sent to the owner, or the assessor has determined the property is not eligible for exclusion under section 69.6 and has notified the property owner.⁴⁶
- Print the following disclosures on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill:
 - A brief summary of the availability of the property tax relief under Revenue and Taxation Code section 69.6 (the Prop. 19 implementation statute), and

⁴² Exhibit X (3), Assembly Floor, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended August 15, 2022, page 1.

⁴³ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 743. *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 807, 815.

⁴⁴ Exhibit X (6), Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended August 15, 2022, page 6.

⁴⁵ Exhibit A, Test Claim, filed May 2, 2023, pages 12-13, 19 (Declaration of Sarkis Tellalyan), pages 13, 22-23 (Declaration of Matthew Herrera). See Government Code section 17514, and the exceptions in Government Code section 17556.

⁴⁶ Revenue and Taxation Code section 2636.1 (Stats. 2022, ch. 712).

- A brief summary of the deferment procedures under Revenue and Taxation Code section 2636.1.⁴⁷

COMMISSION FINDINGS

I. Chronology

- 09/28/2022 Revenue and Taxation Code sections 2610.8 and 2636.1 were enacted.
- 05/02/2023 The claimant filed the Test Claim.⁴⁸
- 10/05/2023 The Department of Finance (Finance) filed comments on the Test Claim.⁴⁹
- 04/11/2024 Commission staff issued the Draft Proposed Decision.⁵⁰

II. Background

Proposition 13, a 1978 constitutional amendment, generally limits ad valorem taxes on real property to one percent of the full cash value of that property, defined as the county assessor's valuation of real property as shown on the 1975-1976 tax bill. Thereafter, the appraised value of the property is reassessed when it is purchased, newly constructed, or changes ownership, and assessment is subject to an annual inflation adjustment not to exceed two percent.⁵¹

⁴⁷ Revenue and Taxation Code section 2610.8 (Stats. 2022, ch. 712).

⁴⁸ Exhibit A, Test Claim, filed May 2, 2023.

⁴⁹ Exhibit B, Finance's Comments on the Test Claim, filed October 5, 2023.

⁵⁰ Exhibit C, Draft Proposed Decision, issued April 11, 2024.

⁵¹ California Constitution, article XIII A, sections 1 & 2. Prior to Proposition 13, the Senior Citizens Property Tax Assistance and Postponement Law authorized the state to pay property taxes to counties on behalf of seniors over age 62 or disabled persons with low incomes and at least 40 percent home equity. Repayment was secured by a lien on the claimant's property. Originally claimants filed for relief with the Franchise Tax Board but after 1980 with the State Controller's Office. (Revenue and Taxation Code, section 20581 et seq. Cal. Const., article XIII, section 8.5.) In 1979, the Board of Control (the predecessor to the Commission) determined that this program (Stats. 1977, ch. 1242, Stats. 1978, ch. 43) constituted a state mandate. (Board of Control, Parameters and Guidelines on *Senior Citizen Property Tax Postponement*, CSM-4359, amended March 17, 1983, <https://csm.ca.gov/decisions/4359pg.pdf> (accessed on Jan. 22, 2024)). The program ended when a statute was enacted that prohibited filing a claim for, and the Controller accepting applications for, postponement beginning in February 2009. (Stats. 2009 3d Ex. Sess., ch. 8).

Every California county has a tax collector and an assessor.⁵² Changes in ownership or new construction require the assessor to appraise the property at its full cash value on the date the ownership change or new construction is completed, and the appraisal becomes the property's new base year value.⁵³ The assessor is required to notify the property owner of the property's new base year value.⁵⁴ The assessor then sends the base year value to the county auditor, who applies the appropriate rate in that property's tax rate area⁵⁵ and conveys that information to the county tax collector who prepares and mails property tax bills.⁵⁶ The assessor also notifies the property owner of the new base year value.⁵⁷

A. Post-Proposition 13 Property Tax Relief, Including Proposition 19 (2021) and Section 69.6 for Seniors, the Severely Disabled, and Victims of Wildfires or Natural Disasters

In the years following Proposition 13, voters approved amendments permitting persons who are over 55 or severely disabled to transfer their previous home's base year value to another home of equal or lesser value, avoiding reassessment of the new property to a typically higher fair market value.⁵⁸ Proposition 60, adopted in 1986, authorized persons over 55 who sell a principal residence to transfer its base year value to a replacement principal residence within two years *in the same county*.⁵⁹ In 1988, Proposition 90 extended the transfer provision to a replacement residence in another county by allowing county boards of supervisors to accept base year value transfers from property owners moving from a different county.⁶⁰ In 1990, Proposition 110 was

⁵² Government Code sections 24000(i)-(j) and 27421. According to Government Code section 27422, the same person cannot hold the office of assessor and tax collector simultaneously.

⁵³ Revenue and Taxation Code section 75.10.

⁵⁴ Revenue and Taxation Code section 75.31.

⁵⁵ Government Code section 29103.

⁵⁶ Revenue and Taxation Code sections 2601-2604. Exhibit X (6), Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended August 15, 2022, page 5.

⁵⁷ Revenue and Taxation Code section 75.31.

⁵⁸ California Constitution, article XIII A, section 2(a).

⁵⁹ California Constitution, article XIII A, section 2(a); Revenue and Taxation Code section 69.5.

⁶⁰ California Constitution, article XIII A, section 2(a); Revenue and Taxation Code section 69.5.

adopted to extend these transfer benefits to severely disabled persons regardless of age.⁶¹

In November 2020, the voters adopted Proposition 19, adding section 2.1 to article XIII A of the California Constitution to allow, beginning April 1, 2021, property owners who are over 55, severely disabled, or victims of a wildfire or natural disaster to transfer the taxable base year value of their primary residence to a replacement primary residence located *anywhere* in the state, regardless of the value of the replacement primary residence, within two years of the sale of the original primary residence.⁶² “Primary residence” means a residence eligible for either a homeowner’s exemption or a disabled veteran’s exemption,⁶³ and property owners must claim one of these exemptions at the time they purchase or transfer their property.⁶⁴ To implement Proposition 19, the Legislature enacted section 69.6,⁶⁵ which along with Proposition 19, includes the following key provisions relevant to this Test Claim:

- The taxable value of the original primary residence that is transferred to a replacement primary residence of equal or lesser value is deemed to be the taxable value of the original primary residence.⁶⁶
- The taxable value of the original primary residence that is transferred to a replacement primary residence of greater value is calculated by adding the difference between the full cash value of the original primary residence and the full cash value of the replacement primary residence to the taxable value of the original primary residence.⁶⁷

⁶¹ California Constitution, article XIII A, section 2(a); Revenue and Taxation Code section 69.5.

⁶² California Constitution, article XIII A, section 2.1(b)(1).

⁶³ California Constitution, article XIII A, section 2.1(e)(1), (e)(7).

⁶⁴ California Constitution, article XIII A, section 2.1 (c)(5). The homeowner’s exemption is in article XIII, section 3(k) and includes homes reconstructed after a natural disaster for which the Governor proclaimed a state of emergency. Revenue and Taxation Code, section 218(b)(3). The disabled veterans’ exemption is in article XIII, section 4(a) and Revenue and Taxation section 205.5(a), (c).

⁶⁵ Statutes 2021, chapter 427, section 3, effective September 30, 2021.

⁶⁶ California Constitution, article XIII A, section 2.1(b)(2)(A); Revenue and Taxation Code section 69.6(e)(2).

⁶⁷ California Constitution, article XIII A, section 2.1(b)(2)(B); Revenue and Taxation Code section 69.6(e)(3). See Exhibit X (6), Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended August 15, 2022, page 3, that states: “... if the original property has a base year value of \$230,000 sells for \$500,000, and the taxpayer purchases a \$750,000 replacement property, its new base year value is \$480,000 ($\$750,000 - \$500,000 = \$250,000 + \$230,000 = \$480,000$).”

- An owner of a primary residence who is over 55 or severely disabled is not allowed to transfer the taxable value of a primary residence more than three times but victims of wildfire or natural disaster have no such limitation.⁶⁸
- Persons seeking to transfer the taxable value of their primary residence shall file a claim, to include specified information, with the assessor of the county in which the replacement primary residence is located.⁶⁹

Regulations adopted by the Board of Equalization (BOE) regarding base year value transfers require the property owner to file a claim on a designated BOE form with the county assessor “within three years of the date of buying or completing new construction of the replacement primary residence” to receive retroactive relief.⁷⁰

B. The Test Claim Statute (Stats. 2022, ch. 712) Defers Payment of Property Taxes for Property Owners Claiming Relief Under Proposition 19 Until After the County Determines the Claim and Requires Disclosure of the Proposition 19 Tax Relief and Section 2636.1 Deferment Procedures on Tax Bills for Properties that Have Been Purchased, Newly Constructed, or Changed Ownership in the Year Preceding the Tax Bill.

Current law requires the county tax collector to prepare the property tax bills and mail them by November 1. The first of the two equal installments is due November 1 and becomes delinquent after December 10.⁷¹ The second installment is due on February 1 and becomes delinquent April 10.⁷² Delinquent taxes are assessed a 10 percent penalty.⁷³ After the second installment of taxes is delinquent, the tax collector sends a notice of delinquency.⁷⁴

⁶⁸ California Constitution, article XIII A, section 2.1(b)(3); Revenue and Taxation Code section 69.6(a).

⁶⁹ Revenue and Taxation Code section 69.6(c)(1), (e)(1). Article XIII A, section 2.1(b)(4) of the California Constitution states: “Any person who seeks to transfer the taxable value of their primary residence pursuant to this subdivision shall file an application with the assessor of the county in which the replacement primary residence is located. The application shall, at minimum, include information comparable to that identified in paragraph (1) of subdivision (f) of Section 69.5 of the Revenue and Taxation Code, as that section read on January 1, 2020.” See also California Code of Regulations, title 18, section 462.540(d)(1).

⁷⁰ California Code of Regulations, title 18, section 462.540(d)(1). Under subdivision (d)(2), a claim filed after the deadline can still be considered by the assessor but the claimant may only receive prospective relief.

⁷¹ Revenue and Taxation Code section 2617.

⁷² Revenue and Taxation Code section 2618.

⁷³ Revenue and Taxation Code sections 2617, 2618.

⁷⁴ Revenue and Taxation Code section 2609.

Under prior law, the property owner who filed a base year value transfer claim for relief under Proposition 19 and section 69.6 still had to pay the current year tax bill on the replacement property by the December and April due dates to avoid late penalties while the claim was being reviewed and processed. Property owners did not receive an adjustment to reflect a base year value transfer until the claim was approved and a supplemental assessment was mailed.⁷⁵ When a base year value transfer claim is filed, the county assessor is required to value both the original and replacement primary residences to determine the market value of each, which may require coordination between two counties and take several months to resolve.⁷⁶ Thus, as reflected in the legislative history of the test claim statute, this led to a backlog of Proposition 19 claims in Los Angeles County:

According to the author, County Assessors and Tax Collectors do not have the authority to pause taxpayers' requirement to pay a property tax bill if they have a pending application for an assessment review related to Proposition 19.

A Los Angeles Times article reported that the Los Angeles County Assessor's office had not completed any of the 1,271 applications it has received to recalculate the property taxes for older and disabled homeowners under the law. The Times also reported that Los Angeles County had not finished nearly 3,700 applications for parent-to-child and grandparent-to-grandchild inheritances, the other major piece of the tax measure. Los Angeles County Assessor Jeffrey Prang said in the article that his office needed at least one year to update its technology to implement the tax measure after it was passed, but the law gave assessors only several months to do so. The assessor also stated that the state law does not allow county officials to defer or reduce the property taxes while the application is under review.⁷⁷

[¶] . . . [¶]

⁷⁵ Exhibit X (5), County of Riverside, *Property Owner Guide to Base Year Value Transfers Under Proposition 19*, page 3, states:

Do I still have to pay the existing, current tax bill on the replacement property or will that bill be adjusted to reflect the new value?

Yes. You must pay the current year tax bill on your replacement property. That bill cannot be adjusted or cancelled to reflect the Prop. 19 benefit. Any correction resulting from the original value transfer will be made on the supplemental assessment. When the entire process is complete, you will have the same assessed value as your original property.

⁷⁶ Exhibit X (4), Board of Equalization, Bill Analysis of SB 989, July 19, 2022, page 5.

⁷⁷ Exhibit X (2), Assembly Committee on Revenue and Taxation, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended June 13, 2022, page 5.

The author has provided the following statement in support of this bill: Proposition 19 was approved by voters in 2020 and allows homeowners 55 and older, disabled individuals and those displaced by wildfire or other natural disaster, to apply their existing property tax value to a new home to prevent a massive increase in taxes when these homeowners move. While counties continue to implement Proposition 19, some have developed a backlog of claims that need to still be processed. This backlog not only creates a burden for the county assessor's office, but also a taxpayer who may receive a significantly higher property tax bill than expected. The burden should never be on the backs of the people we serve, it is government's responsibility to implement laws fairly. This is why SB 989 is necessary. To give taxpayers the ability to temporarily pause their tax bill while an assessment is under review and to make people aware of these remedies to their burdens.⁷⁸

Thus, the test claim statute, which applies to counties of over four million population as of the 2020 census (only Los Angeles County) or counties that opt in by passing a resolution, addresses the problem by adding sections 2610.8 and 2636.1 to the Revenue and Taxation Code, effective September 28, 2022.⁷⁹

Section 2636.1(a) authorizes property owners who are eligible to claim a base year value transfer under Proposition 19 and section 69.6 to temporarily pause their tax bill while an assessment is under review if they request deferment within one calendar year, but before January 1, 2024, of receiving their first property tax bill. Property taxes paid through impound accounts cannot be deferred.⁸⁰ Section 2636.1 sunsets by its own terms on January 1, 2026, so deferment is not available after that date.⁸¹

Section 2636.1(a) and (b) state that property taxes “shall” be deferred (meaning that counties must process claims for deferment)⁸² without penalty or interest under the following conditions:

- The property owner claimed property tax relief under section 69.6 [the Prop. 19 implementation statute] for the property, but the county assessor has not yet determined the property's eligibility for relief; and the property owner requests deferment with the county assessor within one calendar year, but before January 1, 2024, of receiving the first tax bill for the property.

⁷⁸ Exhibit X (2), Assembly Committee on Revenue and Taxation, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended June 13, 2022, page 3.

⁷⁹ Revenue and Taxation Code sections 2610(b) and 2631.1(e) (Stats. 2022, ch. 712, §4); Exhibit X (3), Assembly Floor, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended August 15, 2022, page 1.

⁸⁰ Revenue and Taxation Code section 2636.1(d).

⁸¹ Revenue and Taxation Code section 2636.1(f).

⁸² Exhibit X (6), Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended August 15, 2022, page 6.

- Property tax shall be deferred until either the county assessor reassesses the property and a corrected tax bill is sent, or the county assessor has determined the property is not eligible for exclusion under section 69.6 and has notified the property owner.

Section 2636.1(c) governs when the first and second installments of deferred property taxes are due. If the assessor approves the section 69.6 claim for relief, the first installment of deferred property taxes is due and payable December 10 or 30 days after the claim is approved and a corrected tax bill is mailed or electronically transmitted to the owner, whichever is later. The second installment of deferred property taxes is due and payable April 10 or 30 days after the date the bill is mailed or electronically transmitted to the owner, whichever is later.⁸³

If the assessor denies the claim for section 69.6 relief, the first installment of deferred property taxes is due and payable on December 10 or 30 days after the postmark date or date of mailing printed on the assessor's notice to the property owner of the denied claim, whichever is later. The second installment of deferred property taxes is due and payable April 10 or 30 days after the postmark date or date of mailing the notice to the property owner, whichever is later.⁸⁴

The test claim statute also added section 2610.8 to the Revenue and Taxation Code to require the following disclosures to be printed on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill:

- A brief summary of the availability of the property tax relief under Section 69.6 and
- A brief summary of property tax deferment procedures under Section 2636.1.

This disclosure requirement in section 2610.8 does not sunset.

III. Positions of the Parties

A. County of Los Angeles

The claimant maintains that the test claim statute imposes state-mandated activities and costs that are subject to subvention under article XIII B of the California Constitution.⁸⁵

The claimant attaches declarations from employees of both its Assessor and Treasurer Tax Collector that seek reimbursement for doing the following:

- Take immediate action to comply with the new legislation due to the urgency clause in the test claim statute. Specifically, the Treasurer Tax Collector had to hold meetings both internally and externally with other County departments and vendors in developing the language for the disclosure. The Treasurer Tax

⁸³ Revenue and Taxation Code section 2636(c)(1).

⁸⁴ Revenue and Taxation Code section 2636(c)(2).

⁸⁵ Exhibit A, Test Claim, filed May 2, 2023, page 16.

Collector was able to complete a special printing and mailing of 127,496 property tax bills to this specific population of taxpayers in November 2022.⁸⁶

- Collaboration between the Assessor and Treasurer Tax Collector to create procedures for owners to make payments following a determination of eligibility.⁸⁷
- Develop Assessor's processes and policies for processing claims for tax payment deferrals, which include creating unique and specific claim forms and sending correspondence to taxpayers that contain the requirements and relief prescribed by the test claim statute. The property owner must be provided a means to request deferment that is consistent with other existing means for seeking relief or review from the Assessor. This has typically been accomplished by making available a form specific to that relief that identifies the taxpayer and their property, provides contact information, and cites the Revenue and Taxation Code that applies to the relief being claimed. The means to request deferment must be provided in such a way that is not burdensome or different from other correspondence, claims, or requests for service. Constituents' and taxpayers' expectations are that access to forms, information, and instructions for completing claims properly and accurately are available on a public-facing website accessible 24/7.⁸⁸
- The test claim statute states that property taxes shall be deferred when the county assessor has reassessed the property and a corrected tax bill is prepared or the county assessor has determined the property is not eligible for exclusion. Accordingly, the Assessor must reassess the property and determine whether the taxpayer is eligible for deferment. The Assessor must then confer with Treasurer Tax Collector following their determination because only the Treasurer Tax Collector may defer taxes and mail tax bills in Los Angeles County. "The A-C [Assessor-Controller] would track and provide auditing of SB 989 claims and fiscal impact for the State."⁸⁹
- The test claim statute sets strict deadlines for when deferred property taxes become due. In order to comply with the timeline requirements, the Assessor created notification mechanisms for the applicant to verify receipt of deferment requests and to alert the Treasurer Tax Collector of parcels they must review for deferment eligibility. These reports are a necessary administrative process for accurately fulfilling the mandate. If a deferment application is received but no

⁸⁶ Exhibit A, Test Claim, filed May 2, 2023, pages 12, 19 (Declaration of Sarkis Tellalyan).

⁸⁷ Exhibit A, Test Claim, filed May 2, 2023, pages 10-11, 21 (Declaration of Matthew Herrera).

⁸⁸ Exhibit A, Test Claim, filed May 2, 2023, pages 10-11, 21-22 (Declaration of Matthew Herrera).

⁸⁹ Exhibit A, Test Claim, filed May 2, 2023, pages 11, 22 (Declaration of Matthew Herrera).

Base Year Value Exclusion claim was filed, the Assessor will notify the applicant that they are not eligible for deferment.⁹⁰

- To ensure the Treasurer Tax Collector defers taxes for the appropriate amount of time, the Assessor must monitor approved tax-deferred parcels and notify the Treasurer Tax Collector when the deferment is no longer warranted.⁹¹

The claimant alleges increased costs to comply with the test claim statute backed by declarations signed under penalty of perjury. For the Assessor, the claimant alleges costs of \$9,092.48 for fiscal year 2022-2023 and estimated costs of \$22,397.44 for fiscal year 2023-2024.⁹² For the Treasurer Tax Collector, the claimant alleges costs of \$50,857 for fiscal year 2022-2023 and estimated costs of \$25,000 for fiscal year 2023-2024.⁹³

B. Department of Finance

Finance summarizes Proposition 19 and the test claim statute but states no position on whether the test claim statute imposes a reimbursable state mandate. Finance comments that it is “unclear” why the Los Angeles County Treasurer-Tax Collector will incur costs after fiscal year 2022-2023 to include a brief summary of the Proposition 19 requirements on the property tax bills because any costs to do so are one-time costs.⁹⁴

IV. Discussion

Article XIII B, section 6 of the California Constitution provides in relevant part the following:

Whenever 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 such local government for the costs of such programs or increased level of service...

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.”⁹⁵ Thus, the subvention

⁹⁰ Exhibit A, Test Claim, filed May 2, 2023, pages 11-12, 22 (Declaration of Matthew Herrera).

⁹¹ Exhibit A, Test Claim, filed May 2, 2023, pages 12, 22 (Declaration of Matthew Herrera).

⁹² Exhibit A, Test Claim, filed May 2, 2023, pages, 13, 22-23 (Declaration of Matthew Herrera).

⁹³ Exhibit A, Test Claim, filed May 2, 2023, pages 12-13, 19 (Declaration of Sarkis Tellalyan).

⁹⁴ Exhibit B, Finance’s Comments on the Test Claim, filed October 5, 2023, page 2.

⁹⁵ *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

requirement of section 6 is “directed to state-mandated increases in the services provided by [local government] ...”⁹⁶

Reimbursement under article XIII B, section 6 is required when the following elements are met:

1. A state statute or executive order requires or “mandates” local agencies or school districts to perform an activity.⁹⁷
2. The mandated activity constitutes a “program” that either:
 - a. Carries out the governmental function of providing a service to the public; or
 - b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.⁹⁸
3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.⁹⁹
4. The mandated activity results in the local agency or school district incurring increased costs, within the meaning of section 17514. Increased costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.¹⁰⁰

The Commission is vested with the exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution.¹⁰¹ The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.¹⁰² In making its decisions, the Commission must strictly construe article XIII B, section 6 of the

⁹⁶ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

⁹⁷ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874.

⁹⁸ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875 (reaffirming the test set out in *County of Los Angeles* (1987) 43 Cal.3d 46, 56).

⁹⁹ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835.

¹⁰⁰ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

¹⁰¹ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 335.

¹⁰² *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 109.

California Constitution, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”¹⁰³

A. The Test Claim Was Timely Filed with a Potential Period of Reimbursement Beginning September 28, 2022.

Government Code section 17551 states that Test Claims must be filed “not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.”¹⁰⁴ Section 1183.1(c) of the Commission’s regulations defines “12 months” for purposes of filing a test claim as “365 days.”¹⁰⁵

The test claim statute was an urgency statute that became effective on September 28, 2022.¹⁰⁶ The Test Claim was filed May 2, 2023, within 12 months of the effective date of the test claim statute, so it was timely filed.¹⁰⁷

Government Code section 17557(e) requires that a test claim be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. Based on the May 2, 2023 filing date, reimbursement eligibility was established for the 2021-2022 fiscal year. However, due to the September 28, 2022 effective date of the test claim statute, the potential period of reimbursement begins on September 28, 2022.¹⁰⁸

B. The Test Claim Statute (Stats. 2022, ch. 712, SB 989) Imposes a Reimbursable State-Mandated Program on the County of Los Angeles.

1. Revenue and Taxation Code Sections 2610.8 and 2636.1 as Added by the Test Claim Statute Impose New Requirements.

The purpose of article XIII B, section 6 is to prevent the state from forcing extra programs on local government each year in a manner that negates their careful budgeting of increased expenditures counted against the local government’s annual spending limit and thus, article XIII B, section 6 requires a showing that the test claim statute mandates *new* activities on a county compared to preexisting law.¹⁰⁹

¹⁰³ *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1280 citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

¹⁰⁴ Government Code section 17551(c).

¹⁰⁵ California Code of Regulations, title 2, section 1183.1(c), Register 2018, No. 18 (eff. April 1, 2018.)

¹⁰⁶ Statutes 2022, chapter 712, section 4.

¹⁰⁷ Exhibit A, Test Claim, filed May 2, 2023, page 1.

¹⁰⁸ Statutes 2022, chapter 712, section 4.

¹⁰⁹ California Constitution, articles XIII B, sections 1, 8(a) and (b); *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835; *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1595; *County of Sonoma v. Commission on State Mandates* (2000)

The test claim statute added section 2636.1(a) to require a county to defer property taxes without penalty or interest if the property owner does both of the following:

- Claimed property tax relief under Revenue and Taxation code section 69.6 for the property [which implements the property tax relief under Proposition 19 for persons over 55, the severely disabled, and victims of a natural disaster], but the assessor has not yet determined the property’s eligibility for relief under that section.
- Requests deferment with the assessor within one calendar year, but before January 1, 2024, of receiving the first tax bill for the property.

Section 2636.1(b) states that payment of property taxes shall be deferred until either the county assessor reassesses the property and a corrected tax bill pursuant to section 69.6 is sent to the owner, or the assessor has determined the property is not eligible for exclusion under section 69.6 and has notified the property owner. Section 2636.1 does not apply to property taxes paid through impoundment accounts, and section 2636.1 sunsets on January 1, 2026.¹¹⁰

To “defer property taxes” means the assessor is required to “process requests for deferment” requested within one year of receiving the tax bill for the property, but by January 1, 2024, and defer payments until the property owner is sent a corrected tax bill or notice of ineligibility.¹¹¹

The requirement in section 2636.1 to process requests for deferment is new. Preexisting law set strict deadlines and penalties for late property tax payments but did not authorize or require deferment when a property owner claims relief under Proposition 19 and section 69.6.¹¹²

The test claim statute also added section 2610.8, which states that the following disclosures “shall be printed” on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill:

- A brief summary of the availability of the property tax relief under Section 69.6 (the Prop. 19 implementation statute), and
- A brief summary of deferment procedures under Section 2636.1.

The requirement to print the brief summaries of the property tax relief under Proposition 19 and section 69.6 and the deferment procedures required by section 2636.1 on each

84 Cal.App.4th 1264, 1283; *Department of Finance v. Commission on State Mandates* (2016) 1 Cal.5th 749, 763.

¹¹⁰ Revenue and Taxation Code section 2636.1(d), (f) (“This section shall remain in effect only until January 1, 2026, and as of that date is repealed.”).

¹¹¹ Exhibit X (6), Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended August 15, 2022, page 6.

¹¹² Revenue and Taxation Code sections 2617, 2618.

tax bill for properties that have been purchased, newly constructed, or changed ownership in the previous year is new; it was not required by prior law.

Finance argues that section 2610.8 imposes a one-time activity to disclose the brief summaries.¹¹³ The Commission agrees that *developing* the language for the “brief summary” disclosures required by section 2610.8 is a one-time activity. However, printing the summary required by section 2610.8 in each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill is ongoing. Although deferment requirements under section 2636.1 sunset on January 1, 2026, there is no sunset on the face of section 2610.8. That the property tax relief under Proposition 19 and section 69.6 remains in law indicates that disclosing that relief also continues. This is supported by the legislative history of the test claim statute.¹¹⁴ The Senate Rules Committee analysis states that the bill: “Sunsets its property tax deferment provisions on January 1, 2026.”¹¹⁵ Nothing is said about the bill’s disclosure provision. Similarly, the Assembly Appropriations Committee indicates that only the deferment section of SB 989 sunsets when it summarized the bill:

This bill requires, *until January 1, 2026*, property taxes to be deferred, without penalty or interest, if the property owner has claimed relief under Proposition 19, but the county assessor has not yet completed the determination of whether the property is eligible for that relief. This bill also requires applicable property tax bills to include information about Proposition 19 and deferment procedures.¹¹⁶

Based on the plain meaning of section 2610.8 and its legislative history, the Commission finds that the disclosure required on property tax bills is an ongoing activity.

The claimant also requests reimbursement for the assessor to reassess the property since the test claim statute “states that property taxes shall be deferred when the county assessor has reassessed the property and a corrected tax bill is prepared or the county assessor has determined the property is not eligible for exclusion.”¹¹⁷ However, the requirement to reassess whether the property is eligible for a base year transfer and exclusion from a full reassessment of the newly purchased or constructed property is

¹¹³ Exhibit B, Finance’s Comments on the Test Claim, filed October 5, 2023, page 2.

¹¹⁴ Under the rules of statutory interpretation, the Commission, like a court, first looks to the plain meaning of the statutory language and then to its legislative history. (*MacIsaac v. Waste Management Collection and Recycling, Inc.* (2005) 134 Cal.App.4th 1076, 1082.)

¹¹⁵ Exhibit X (6), Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended August 15, 2022, page 4. Emphasis added.

¹¹⁶ Exhibit X (1), Assembly Committee on Appropriations, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended June 29, 2022, page 1. Emphasis added.

¹¹⁷ Exhibit A, Test Claim, filed May 2, 2023, page 11.

required by section 69.6 (Stats. 2021, ch. 427, eff. September 30, 2021), and not the test claim statute. Additionally, sending a corrected tax bill for properties that are eligible for a base year transfer under section 69.6 or determining that the property owner is not eligible for relief under section 69.6 is not new.¹¹⁸ And notifying the property owner of the property's new base year value was also legally required before the test claim statute.¹¹⁹

Accordingly, only the following activities are newly required of a county:

- Process deferment requests of property tax payments if received within one year of the first tax bill but before January 1, 2024, and defer payments that are *not* paid through impoundment accounts until either the county assessor reassesses the property and a corrected tax bill pursuant to section 69.6 is sent to the owner, or the assessor has determined the property is not eligible for exclusion under section 69.6 and has notified the property owner.¹²⁰
- Print the following disclosures on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill:
 - A brief summary of the availability of the property tax relief under Revenue and Taxation Code section 69.6 (the Prop. 19 implementation statute), and
 - A brief summary of deferment procedures under Revenue and Taxation Code section 2636.1.¹²¹

2. The New Requirements Imposed by the Test Claim Statute (Stats. 2022, ch. 712, SB 989) Are Mandated by the State Solely on the County of Los Angeles and Not on Other Counties That Adopt Resolutions to Implement the Test Claim Statute.

Sections 2610.8 and 2636.1 state that “[t]his section shall apply to counties with a population of over 4,000,000, as determined by the 2020 federal census.”¹²² Only the County of Los Angeles meets this definition.¹²³ The test claim statute further authorizes other counties to opt into the requirements by passing a resolution:

This section shall not apply to a county with a population of 4,000,000 or less, as determined by the 2020 federal census, unless the county's board of supervisors, after consultation with the county assessor, county auditor,

¹¹⁸ See California Code of Regulations, title 18, section 462.540(d)(2).

¹¹⁹ Revenue and Taxation Code section 75.31 (Stats. 2010, ch. 185).

¹²⁰ Revenue and Taxation Code section 2636.1.

¹²¹ Revenue and Taxation Code section 2610.8.

¹²² Revenue and Taxation Code sections 2610.8(b)(1), 2636.1(e)(1).

¹²³ Exhibit X (3), Assembly Floor, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended August 15, 2022, page 1.

county treasurer, and county tax collector, pass a resolution implementing the requirements of this section.¹²⁴

The California Supreme Court explained that determining whether requirements are mandated by the state depends on whether the claimant’s participation in the underlying program is voluntary or compelled.¹²⁵ Activities undertaken at the option or discretion of local government, without legal or practical compulsion, do not trigger a state-mandated program within the meaning of article XIII B, section 6.¹²⁶

The California Supreme Court later expounded on the two distinct theories – legal or practical compulsion - for determining whether a program is mandated by the state. In the recent case of *Coast Community College Dist.*, the Court said:

Legal compulsion occurs when a statute or executive action uses mandatory language that require[s] or command[s] a local entity to participate in a program or service... Stated differently, legal compulsion is present when the local entity has a mandatory, legally enforceable duty to obey. This standard is similar to the showing necessary to obtain a traditional writ of mandate, which requires the petitioning party to establish the respondent has a clear, present, and usually ministerial duty to act. ... Mandate will not issue if the duty is ... mixed with discretionary power.

Thus, as a general matter, a local entity’s voluntary or discretionary decision to undertake an activity cannot be said to be legally compelled, even if that decision results in certain mandatory actions.

[¶] . . . [¶]

“[P]ractical compulsion,” [is] a theory of mandate that arises when a statutory scheme does not command a local entity to engage in conduct, but rather induces compliance through the imposition of severe consequences that leave the local entity no reasonable alternative but to comply.¹²⁷

Thus, in the absence of legal compulsion, the courts have acknowledged the possibility that a state mandate can be found if local government can show that it faces “certain

¹²⁴ Revenue and Taxation Code sections 2610.8(b)(2) and 2631.1(e)(2) (Stats. 2022, ch. 712).

¹²⁵ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 731, 743.

¹²⁶ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727 731, 743.

¹²⁷ *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 816.

and severe penalties, such as double taxation or other draconian consequences,” leaving local government no choice but to comply with the state’s conditions.¹²⁸

Here, based on the plain language of the test claim statute, the new requirements are mandated by the state on the County of Los Angeles; the only county “with a population of over 4,000,000, as determined by the 2020 federal census.”¹²⁹ According to section 16, “‘Shall’ is mandatory and ‘may’ is permissive.” The plain language of section 2636.1(a) states that “payment of property taxes for a property *shall* be deferred, without penalty or interest . . .” if the property owner makes a timely claim under section 69.6 and the assessor has not yet determined the property’s eligibility for tax relief under section 69.6. Similarly, section 2610.8(a) states that “a disclosure *shall* be printed on each tax bill for properties that have been purchased, newly constructed, or changed in ownership in the year preceding the tax bill.”

However, other counties have a choice whether to participate in the program. The plain language indicates that the requirements of the statute do not apply to any county with a population of four million or less “unless the county board of supervisors, after consultation with the county assessor, county auditor, county treasurer, and county tax collector, pass a resolution implementing the requirements of this section”.¹³⁰ And there is no evidence in the record that other counties are practically compelled to comply with the test claim statute. Thus, counties that pass a resolution to implement the test claim statute are not mandated by the state to comply with the downstream requirements resulting from their local decision.¹³¹

In sum, the Commission finds that the test claim statute imposes new state-mandated requirements on the County of Los Angeles to:

- Process deferment requests of property tax payments if received within one year of the first tax bill but before January 1, 2024, and defer without penalty or interest payments that are not paid through impoundment accounts until either the county assessor reassesses the property and a corrected tax bill pursuant to section 69.6 is sent to the owner, or the assessor has determined the property is not eligible for exclusion under section 69.6 and has notified the property owner.¹³²

¹²⁸ *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 816-817.

¹²⁹ Exhibit X (3), Assembly Floor, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended August 15, 2022, page 1.

¹³⁰ Revenue and Taxation Code sections 2610.8(b)(2) and 2631.1(e)(2).

¹³¹ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th. 727, 731, 743.

¹³² Revenue and Taxation Code section 2636.1.

- Print the following disclosures on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill:
 - A brief summary of the availability of the property tax relief under Revenue and Taxation Code section 69.6 (the Prop. 19 implementation statute), and
 - A brief summary of the deferral procedures under Revenue and Taxation Code section 2636.1.¹³³

The claimant also seeks reimbursement for other activities and costs that are not mandated by the plain language of the test claim statute.¹³⁴ *Except* for the activities discussed above that are required by other statutes and are not new, the activities the claimant requested may be proposed for inclusion in the Parameters and Guidelines if they are supported by evidence in the record showing they are “reasonably necessary for the performance of the state-mandated program.”¹³⁵

3. The Newly Mandated Activities Constitute a New Program or Higher Level of Service Because They Are Unique to Government and Provide an Increased Level of Service to the Public.

Article XIII B, section 6 requires reimbursement whenever the Legislature or any state agency mandates a new program or higher level of service that results in costs mandated by the state. “New program or higher level of service” is defined as “programs that carry out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.”¹³⁶ Only one of these alternatives is required to establish a new program or higher level of service.¹³⁷

¹³³ Revenue and Taxation Code section 2610.8.

¹³⁴ Exhibit A, Test Claim, filed May 2, 2023, pages 10-12.

¹³⁵ Government Code section 17557(a), and California Code of Regulations, title 2, sections 1183.7(d) and 1187.5.

¹³⁶ *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537; *Department of Finance v. Commission on State Mandates* (2021) 59 Cal.App.5th 546, 557.

¹³⁷ *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537; *Department of Finance v. Commission on State Mandates* (2021) 59 Cal.App.5th 546, 557.

As explained above, the mandated activities in the test claim statute are new. In addition, the Commission finds that the test claim statute is unique to government. As explained above, the requirements apply solely to Los Angeles County.¹³⁸

The new activities in the test claim statute also provide a governmental service to the public. As noted in the legislative history, the statute was intended to alleviate the burdens of taxpayers who, despite submitting a claim for property tax transfer of value, may receive a higher bill than expected due to claims processing backlogs.¹³⁹ The legislative history also states: “This is why SB 989 is necessary. To give taxpayers the ability to temporarily pause their tax bill while an assessment is under review and to make people aware of these remedies to their burdens.”¹⁴⁰

Thus, the Commission finds that the newly mandated activities constitute a new program or higher level of service.

4. The Test Claim Statute (Stats. 2022, ch. 712, SB 989) Results in Costs Mandated by the State and no Exceptions in Government Code Section 17556 Apply.

The last issue is whether these new activities result in increased costs mandated by the state. Government Code section 17514 defines “costs mandated by the state” as any increased cost that a local agency or school district incurs as a result of any statute or executive order that mandates a new program or higher level of service. Government Code section 17564(a) further requires that no claim nor any payment shall be made unless the claim exceeds \$1,000. In addition, a finding of costs mandated by the state means that none of the exceptions in Government Code section 17556 apply to deny the claim.

The claimant alleges the following increased costs to comply with the test claim statute backed by submitted declarations signed under penalty of perjury:

	FY 2022-2023	FY 2023-2024
Assessor ¹⁴¹	\$9,092.48	\$22,397.44 estimated
Treasurer Tax Collector ¹⁴²	\$50,857	\$25,000 estimated

¹³⁸ Revenue and Taxation Code sections 2610.8(b)(1), 2636.1(e)(1). Exhibit X (3), Assembly Floor, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended August 15, 2022, page 1.

¹³⁹ Exhibit X (6), Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended August 15, 2022, page 5.

¹⁴⁰ Exhibit X (6), Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 989 (2021-2022 Reg. Sess.) as amended August 15, 2022, page 6.

¹⁴¹ Exhibit A, Test Claim, filed May 2, 2023, pages 13, 22-23 (Declaration of Matthew Herrera).

¹⁴² Exhibit A, Test Claim, filed May 2, 2023, pages 12-13, 19 (Declaration of Sarkis Tellalyan).

No law or facts in the record support a finding that the exceptions specified in Government Code section 17556 apply to this claim. There is nothing in the record to indicate that additional funds have been made available for the new state-mandated activities,¹⁴³ nor do counties have fee authority to pay the costs of the program.¹⁴⁴ Based on the evidence in the record, the Commission finds that the test claim statute imposes increased costs mandated by the state within the meaning of article XIII B, section 6 and Government Code section 17514.

V. Conclusion

Based on the foregoing, the Commission approves this Test Claim and finds that the test claim statute imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution on the County of Los Angeles, beginning September 28, 2022, to do the following:

- Process deferment requests of property tax payments if received within one year of the first tax bill but before January 1, 2024, and defer without penalty or interest payments that are not paid through impoundment accounts until either the county assessor reassesses the property and a corrected tax bill pursuant to section 69.6 is sent to the owner, or the assessor has determined the property is not eligible for exclusion under section 69.6 and has notified the property owner.¹⁴⁵
- Print the following disclosures on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill:
 - A brief summary of the availability of the property tax relief under Revenue and Taxation Code section 69.6 (the Prop. 19 implementation statute), and
 - A brief summary of the deferment procedures under Revenue and Taxation Code section 2636.1.¹⁴⁶

¹⁴³ Government Code section 17556(e).

¹⁴⁴ Government Code section 17556(d).

¹⁴⁵ Revenue and Taxation Code section 2636.1 (Stats. 2022, ch. 712).

¹⁴⁶ Revenue and Taxation Code section 2610.8 (Stats. 2022, ch. 712).

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 April 11, 2024, I served the:

- **Current Mailing List dated April 4, 2024**
- **Draft Proposed Decision, Schedule for Comments, and Notice of Hearing issued April 11, 2024**

Disclosure Requirements and Deferral of Property Taxation, 22-TC-06
Statutes 2022, Chapter 712 (SB 989); Revenue and Taxation Code Sections
2610.8 and 2636.1
County of Los Angeles, 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 April 11, 2024 at Sacramento, California.



Jill 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: 4/4/24

Claim Number: 22-TC-06

Matter: Disclosure Requirements and Deferral of Property Taxation

Claimant: County of Los Angeles

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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