

**COMMISSION ON STATE MANDATES**

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November 26, 2008

Mr. Allan P. Burdick  
DMG-Maximus, Inc.  
4320 Auburn Blvd., Suite 2000  
Sacramento, CA 95841

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

**RE: Draft Staff Analysis, Proposed Statewide Cost Estimate, and Hearing Date**  
*Fire Safety Inspections of Care Facilities (01-TC-16)*  
City of San Jose, Claimant  
Statutes 1989, chapter 993  
Health and Safety Code Section 13235, Subdivision (a)

Dear Mr. Burdick:

The draft staff analysis and proposed statewide cost estimate for the above-named program are enclosed for your review and comment.

**Written Comments**

Any party or interested person may file written comments on the draft staff analysis by Friday, **December 16, 2009**. You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. (Cal. Code Regs., tit. 2, § 1181.2.) If you would like to request an extension of time to file comments, please refer to section 1183.01, subdivision (c)(1), of the Commission's regulations.

**Hearing**

This matter is set for hearing on Friday, **January 30, 2009**, at 9:30 a.m., in room 126, State Capitol, Sacramento, California. The final staff analysis will be issued on or about January 16, 2009. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c)(2), of the Commission's regulations.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy Patton".

NANCY PATTON  
Assistant Executive Director



Item \_\_\_\_

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**DRAFT STAFF ANALYSIS**

**STATEWIDE COST ESTIMATE**

Health and Safety Code Section 13235, Subdivision (a)

Statutes 1989, Chapter 993

*Fire Safety Inspections of Care Facilities*  
01-TC-16

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**EXECUTIVE SUMMARY**

**Summary of the Mandate**

The test claim statute requires local fire departments to perform fire safety inspections of all community care facilities, residential care facilities for the elderly, and child daycare facilities. Upon receipt of a request from a prospective licensee, the local fire department, or State Fire Marshal, whichever has primary jurisdiction, is required to conduct a preinspection of the facility prior to the fire clearance approval.

The Commission on State Mandates (Commission) adopted the Statement of Decision for the *Fire Safety Inspections of Care Facilities* test claim, finding that Health and Safety Code section 13235, subdivision (a), constitutes a new program or higher level of service and imposes a state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

**Statewide Cost Estimate**

Staff reviewed the claims data submitted by 11 cities and four fire protection agencies, and compiled by the SCO. The actual claims data showed that 61 claims were filed between fiscal years 2000-2001 and 2006-2007 for a total of \$521,968.<sup>1</sup> Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program. The Commission will report the adopted statewide cost estimate to the Legislature along with staff's assumptions and methodology.

Assumptions

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

Only 15 cities and fire protection agencies in California filed 61 reimbursement claims for this program. Thus, if reimbursement claims are filed by any of the remaining cities or fire protection agencies, the amount of reimbursement claims may exceed the statewide cost estimate.

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<sup>1</sup> Claims data reported as of November 6, 2008.

2. *The actual amount claimed for reimbursement may increase if the number of community care facilities, residential care facilities for the elderly, and child daycare facilities increases, and local fire departments are required to conduct preinspections of the facilities prior to the fire-clearance approval.*
3. *Non-claiming cities and fire protection agencies did not file claims because they did not incur more than \$1000 in increased costs for this program.*

A claimant representative reports that most cities and fire protection agencies will be unable to meet the \$1,000 minimum threshold for filing reimbursement claims for the following reasons:

- a. the fee authority provided to claimants for this program (\$50 per facility for medium facilities, and \$100 for large facilities) is sufficient to cover the costs of the program for many agencies; and
  - b. some cities do not allow these type of facilities within their boundaries.
4. *The cities and fire protection agencies that have filed reimbursement claims will continue to incur costs over \$1,000 and will continue to file reimbursement claims.*
  5. *The total amount of reimbursement for this program may be lower than the statewide cost estimate, because the SCO may reduce any reimbursement claim for this program.*

If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced.

#### Methodology

##### *Fiscal Years 2000-2001 through 2006-2007*

The proposed statewide cost estimate for fiscal years 2001-2002 through 2006-2007 is based on 61 unaudited actual reimbursement claims filed with the SCO for these years.

##### *Fiscal Year 2007-2008*

Staff estimated fiscal year 2007-2008 costs by multiplying the 2006-2007 estimate by the implicit price deflator for 2007-2008 (5.5%), as forecast by Department of Finance.

The proposed statewide cost estimate includes seven fiscal years for a total of \$627,411. This averages to \$52,284 annually in costs for the state.

#### **Staff Recommendation**

Staff recommends that the Commission adopt the proposed statewide cost estimate of **\$627,411** (\$52,284 in annual costs) for costs incurred in complying with the *Fire Safety Inspections of Care Facilities* program.

## STAFF ANALYSIS

### Summary of the Mandate

Health and Safety Code section 13235, subdivision (a), requires local fire departments to perform fire safety inspections of all community care facilities, residential care facilities for the elderly, and child-daycare facilities. Upon receipt of a request from a prospective licensee, the local fire department, or State Fire Marshal, whichever has primary jurisdiction, is required to conduct a preinspection of the facility prior to the fire clearance approval. At the time of the preinspection, the applicable fire enforcing agency will provide consultation and interpretation of the fire safety regulations that are to be enforced in order to obtain the clearances necessary to obtain a license.

The Commission on State Mandates (Commission) adopted the Statement of Decision for the *Fire Safety Inspections of Care Facilities* test claim, finding that Health and Safety Code section 13235, subdivision (a), constitutes a new program or higher level of service and imposes a state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The claimant filed the test claim on June 30, 2002. The Commission adopted a Statement of Decision on March 29, 2006, and the parameters and guidelines on March 28, 2008. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by October 1, 2008, and late claims by October 1, 2009.

### Reimbursable Activities

The Commission approved the following reimbursable activities relating to the preinspection of the facility:

1. the preinspection of community care facilities, residential care facilities for the elderly, and child day care facilities;
2. the consultation and interpretation of applicable fire safety regulations for the prospective facility licensee; and
3. written notice to the prospective facility licensee of the specific fire safety regulations which shall be enforced in order to obtain the final fire clearance approval.

Inspection activities relating to the final fire clearance approval are not reimbursable.

### Statewide Cost Estimate

Staff reviewed the claims data submitted by 11 cities and four fire protection agencies, and compiled by the SCO. The actual claims data showed that 61 claims were filed between fiscal years 2000-2001 and 2006-2007 for a total of \$521,968.<sup>2</sup> Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program. The Commission will report the adopted statewide cost estimate to the Legislature along with staff's assumptions and methodology.

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<sup>2</sup> Claims data reported as of November 6, 2008.

## Assumptions

Staff made the following assumptions:

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

Only 15 cities and fire protection agencies in California filed 61 reimbursement claims for this program. Thus, if reimbursement claims are filed by any of the remaining cities or fire protection agencies, the amount of reimbursement claims may exceed the statewide cost estimate. For this program, late claims for 2000-2001 through 2006-2007 may be filed until October 2009.

2. *The actual amount claimed for reimbursement may increase if the number of community care facilities, residential care facilities for the elderly, and child daycare facilities increases, and local fire departments are required to conduct preinspections of the facilities prior to the fire-clearance approval.*
3. *Non-claiming cities and fire protection agencies did not file claims because they did not incur more than \$1000 in increased costs for this program.*

A claimant representative reports that most cities and fire protection agencies will be unable to meet the \$1,000 minimum threshold for filing reimbursement claims for the following reasons:

- a. the fee authority provided to claimants for this program (\$50 per facility for medium facilities, and \$100 for large facilities) is sufficient to cover the costs of the program for many agencies; and
  - b. some cities do not allow these type of facilities within their boundaries.
4. *The cities and fire protection agencies that have filed reimbursement claims will continue to incur costs over \$1,000 and will continue to file reimbursement claims.*
  5. *The total amount of reimbursement for this program may be lower than the statewide cost estimate, because the SCO may reduce any reimbursement claim for this program.*

If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced.

## Methodology

### *Fiscal Years 2000-2001 through 2006-2007*

The proposed statewide cost estimate for fiscal years 2001-2002 through 2006-2007 is based on 61 unaudited actual reimbursement claims filed with the SCO for these years.

### *Fiscal Year 2007-2008*

Staff estimated fiscal year 2007-2008 costs by multiplying the 2006-2007 estimate by the implicit price deflator for 2007-2008 (5.5%), as forecast by Department of Finance.

The proposed statewide cost estimate includes seven fiscal years for a total of \$627,411. This averages to \$52,284 annually in costs for the state.

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

**TABLE 1. BREAKDOWN OF ESTIMATED  
TOTAL COSTS PER FISCAL YEAR**

<b>Fiscal Year</b>	<b>Number of Claims Filed with SCO</b>	<b>Estimated Cost</b>
2000-2001	3	\$ 45,598
2001-2002	6	67,137
2002-2003	7	50,259
2003-2004	9	73,370
2004-2005	11	86,329
2005-2006	12	83,450
2006-2007	13	107,673
2007-2008	N/A	113,595
<b>TOTAL</b>	<b>61</b>	<b>\$627,411</b>

**Staff Recommendation**

Staff recommends that the Commission adopt the proposed statewide cost estimate of **\$627,411** (\$52,284 in annual costs) for costs incurred in complying with the *Fire Safety Inspections of Care Facilities* program.



# Commission on State Mandates

Original List Date: 6/7/2002  
Last Updated: 7/19/2006  
List Print Date: 11/24/2008  
Claim Number: 01-TC-16

Mailing Information: Draft Staff Analysis

## Mailing List

Issue: Fire Safety Inspections of Care Facilities

### TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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