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STATE OF CALIFORNIA COMMISSION ON STATE MANDATES

REPORT TO THE LEGISLATURE: APPROVED MANDATE CLAIMS

January 1, 2013 – June 30, 2013

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I. INTRODUCTION

Commission on State Mandates

Test Claim Process

Article XIII B, section 6 of the California Constitution requires the state to provide a subvention of funds to reimburse local government for the costs of new programs or increased levels of service mandated by the state. To implement article XIII B, section 6, the Legislature created the Commission on State Mandates (Commission) to succeed the State Board of Control in making determinations whether new statutes or executive orders are state-mandated programs.¹ The Commission was established to render sound quasi-judicial decisions and to provide an effective means of resolving disputes over the existence of state-mandated local programs. The Commission provides the sole and exclusive procedure for local agencies and school districts (claimants) to claim reimbursement for costs mandated by the state as required by article XIII B, section 6 of the California Constitution. The Commission is required to hear and decide claims (test claims) filed by local agencies and school districts that they are entitled to be reimbursed by the state for costs mandated by the state.²

Parameters and Guidelines

Government Code section 17557 provides that if the Commission determines that a statute or executive order imposes a mandate upon local agencies and school districts, the Commission is required to determine the amount to be subvented to local agencies and school districts for reimbursement by adopting parameters and guidelines. In adopting parameters and guidelines, the Commission may adopt a reasonable reimbursement methodology (RRM). Once parameters and guidelines are adopted, the Commission is required to adopt a statewide cost estimate of the mandated program (Gov. Code, § 17553).

Alternative Processes

In 2007, AB 1222 (Statutes 2007, chapter 329) was enacted to provide an alternate process for determining the costs of mandated programs. Under AB 1222, local governments and the Department of Finance may jointly develop reasonable reimbursement methodologies and statewide estimates of costs for mandated programs for approval by the Commission in lieu of parameters and guidelines and statewide cost estimates. Jointly developed reimbursement methodologies and statewide estimates of costs that are approved by the Commission are included in the Commission's Annual Reports to the Legislature.

AB 1222 also provided a process where the Department of Finance and local agencies, school districts, or statewide associations may jointly request that the Legislature determine that a statute or executive order imposes a state-mandated program, establish a reimbursement methodology, and appropriate funds for reimbursement of costs. This process is intended to bypass the Commission, thus providing the Commission with more time to complete the caseload backlog.

¹ Statutes 1984, chapter 1459, Government Code section 17500, et seq.

² Government Code section 17551.

Report to the Legislature

The Commission is required to report to the Legislature at least twice each calendar year on the number of mandates it has found, the estimated statewide costs of each mandate, and the reasons for recommending reimbursement.³ In 2010, SB 894 (Stats. 2010, ch. 699) was enacted to require the Commission to expand its Report to the Legislature to include:

- The status of pending parameters and guidelines that include proposed reimbursement methodologies.
- The status of pending joint proposals between the Department of Finance and local governments to develop reasonable reimbursement methodologies in lieu of parameters and guidelines.
- The status of joint proposals between the Department of Finance and local governments to develop legislatively-determined mandates.
- Any delays in the completion of the above-named caseload.

This report fulfills these requirements.

Legislative Analyst

After the Commission submits its report to the Legislature, the Legislative Analyst is required to submit a report to the Joint Legislative Budget Committee and legislative fiscal committees on the mandates included in the Commission's reports. The Legislative Analyst's report shall make recommendations as to whether each mandate should be repealed, funded, suspended, or modified.

The Legislature

Upon receipt of the report submitted by the Commission pursuant to Section 17600, funding shall be provided in the subsequent Budget Act for costs incurred in prior years. No funding shall be provided for years in which a mandate is suspended.⁴

The Legislature may amend, modify, or supplement the parameters and guidelines, reasonable reimbursement methodologies, and adopted statewide estimates of costs for the initial claiming period and budget year for mandates contained in the annual Budget Act. If the Legislature amends, modifies, or supplements the parameters and guidelines, reasonable reimbursement methodologies, or adopted statewide estimates of costs for the initial claiming period and budget year, it shall make a declaration in separate legislation specifying the basis for the amendment, modification, or supplement.⁵

Mandate Funding Provisions

The Government Code provides that if the Legislature deletes from the annual Budget Act funding for a mandate, the local agency or school district may file in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement for that fiscal year.⁶ Under Proposition 1A, which amended article XIII B, section 6 of the California Constitution, city, county, city and county, or special district

³ Government Code section 17600.

⁴ Government Code section 17612(a).

⁵ Government Code section 17612(b).

⁶ Government Code section 17612(c).

mandate claims for costs incurred prior to the 2004-2005 fiscal year that have not been paid prior to the 2005-2006 fiscal year may be paid over a term of years, as prescribed by law. However, for the 2005-2006 fiscal year and every subsequent fiscal year, the Constitution now requires the Legislature to either appropriate in the annual Budget Act the full payable amount that has not been previously paid or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable.

If payment for an initial reimbursement claim is being made more than 365 days after adoption of the statewide cost estimate, the State Controller’s Office (SCO) shall include accrued interest at the Pooled Money Investment Account rate.⁷

If the Legislature appropriates the amount of the statewide cost estimate and actual claims exceed this amount, the SCO will prorate the claims.⁸ If the funds to cover the remaining deficiency are not appropriated in the Budget Act, the SCO shall report this information to the legislative budget committees and the Commission.

II. NEW MANDATES

The following table shows the statewide cost estimates that were adopted during the period of January 1, 2013 through June 30, 2013.

**Statewide Cost Estimates (SCE) Adopted
During the Period of January 1, 2013 through June 30, 2013**

SCE Adopted	Test Claim and Claim No.	Period of Reimbursement	Estimated Costs		
			Education	Non-Education	Totals
1/25/13	<i>Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan for Expelled Pupils, 96-358-03 et al.</i>	7/1/95 – 6/30/11	\$11,189,686	\$0	\$11,189,686
1/25/13	<i>Voter Identification Procedures, 03-TC-23</i>	7/1/02 – 6/30/11	\$0	\$6,435,706	\$6,435,706
4/19/13	<i>Developer Fees, 02-TC-42</i>	7/1/01 – 6/30/11	\$376,304	\$0	\$376,304
TOTAL			\$11,565,990	\$6,435,706	\$18,001,696

⁷ Government Code section 17561.5(a).

⁸ Government Code section 17567.

III. PENDING PARAMETERS AND GUIDELINES, AMENDMENTS, AND STATEWIDE COST ESTIMATE CASELOAD

Following are tables showing parameters and guidelines, parameters and guidelines with proposed reasonable reimbursement methodologies (RRMs), requests to amend parameters and guidelines, requests to amend parameters and guidelines with proposed RRM, and statewide cost estimates that are pending Commission determination. A request to include an RRM in parameters and guidelines or amendments thereto is a request made by a local entity claimant, an interested party, Finance, the Controller, or an affected state agency, pursuant to Government Code section 17557 and 17518.5. These requests are often disputed by one or more of the parties and interested parties.

A. Pending Parameters and Guidelines

	Program	Status
1.	<i>Teacher Credentialing</i> , 03-TC-09†	Set for hearing on July 26, 2013
2.	<i>Peace Officers Procedural Bill of Rights II</i> , 03-TC-18*	Tentatively set for hearing in January 2014
3.	<i>Discharge of Stormwater Runoff</i> , 07-TC-09*	To be set for hearing pending court action.

* Local agency programs

† School district or community college district programs

B. Pending Parameters and Guidelines with Proposed RRM

	Program	Status
1.	<i>Interagency Child Abuse and Neglect (ICAN) Investigation Reports</i> , 00-TC-22*	Tentatively set for hearing on December 6, 2013

* Local agency programs

† School district or community college district programs

C. Pending Requests to Amend Parameters and Guidelines

	Program	Status
1.	<i>Crime Statistics Reports for the Department of Justice</i> , 12-PGA-01 (02-TC-04, 02-TC-11, 07-TC-10)*	Tentatively set for hearing on September 27, 2013
2.	<i>Notification of Truancy</i> , 11-PGA-01 (CSM-4133)†	Tentatively set for hearing in May 2014
3.	<i>Filipino Employee Survey</i> , 12-PGA-02 (CSM-2142)*	Tentatively set for hearing in July 2014
4.	<i>Graduation Requirements</i> , 11-PGA-03 (CSM-4435)†	Inactive status pending court action.

* Local agency programs

† School district or community college district programs

D. Pending Requests to Amend Parameters and Guidelines with Proposed RRM

	Program	Status
1.	<i>Habitual Truants</i> , 01-PGA-06 (CSM-4487)†	Tentatively set for hearing on September 27, 2013
2.	<i>Habitual Truants</i> , 09-PGA-01 (CSM-4487)†	Tentatively set for hearing on September 27, 2013
3.	<i>Enrollment Fee Collection and Waivers</i> , 08-PGA-02 (99-TC-13 & 00-TC-15)†	Tentatively set for hearing in January 2014
4.	<i>Crime Statistic Reports for the Department of Justice</i> , 10-PGA-05 (02-TC-04, 02-TC-11, 07-TC-10)*	Tentatively set for hearing in January 2014
5.	<i>Peace Officer Procedural Bill of Rights</i> , 10-PGA-06 (CSM-4499)*	Tentatively set for hearing in March 2014
6.	<i>Peace Officer Procedural Bill of Rights (POBOR)</i> , 11-PGA-09 (CSM-4499, 05-RL-4499-01, 06-PGA-06) *	Tentatively set for hearing in January 2014
7.	<i>Domestic Violence Background Checks</i> , 11-PGA-10 (01-TC-29)*	Tentatively set for hearing in March 2014
8.	<i>Identity Theft</i> , 11-PGA-11 (03-TC-08)	Tentatively set for hearing in March 2014

* Local agency programs

† School district or community college district programs

E. Pending Statewide Cost Estimates

	Program	Status
1.	<i>Behavioral Intervention Plans</i> , CSM 4464†	Set for hearing on July 26, 2013
2.	<i>Public Contracts (K-14)</i> , 02-TC-35†	Set for hearing on July 26, 2013
3.	<i>Discrimination Complaint Procedures</i> , 02-TC-46†	Set for hearing on July 26, 2013
4.	<i>Charter Schools IV</i> , 03-TC-03†	Set for hearing on July 26, 2013
5.	<i>Local Agency Ethics (AB 1234)</i> , 07-TC-04*	Set for hearing on July 26, 2013
6.	<i>Tuberculosis Control</i> , 03-TC-14*	Tentatively set for hearing on September 27, 2013
7.	<i>Uniform Complaint Procedures (K-12)</i> , 03-TC-02†	Tentatively set for hearing on December 6, 2013
8.	<i>Minimum Conditions for State Aid</i> , 02-TC-25 and 02-TC-31†	Tentatively set for hearing in January 2014
9.	<i>Parental Involvement Programs</i> , 03-TC-16†	Tentatively set for hearing in January 2014
10.	<i>Williams Case Implementation I, II, III</i> , 05-TC-04, 07-TC-06, 08-TC-01†	Tentatively set for hearing in January 2014
11.	<i>California Public Records Act</i> , 02-TC-10 and 02-TC-51*	Tentatively set for hearing in May 2014
12.	<i>Municipal Storm Water and Urban Runoff Discharges</i> , 03-TC-04, 03-TC-19, 03-TC-20, and 03-TC-21*	Hearing date to be set pending court action.

* Local agency programs

† School district or community college district programs

IV. PENDING JOINT REASONABLE REIMBURSEMENT METHODOLOGIES AND LEGISLATIVELY- DETERMINED MANDATES

A. Pending Joint Reasonable Reimbursement Methodologies

Following is a table showing programs where Department of Finance and test claimants are negotiating RRM's.

	Program	Date of Notice by Local Agencies or Department of Finance	Status
	None		

B. Pending Joint Legislatively-Determined Mandates

Following is a table showing programs for which Department of Finance and local agencies are negotiating legislatively-determined mandates (LDMs) they may jointly propose to the Legislature for adoption.

	Program	Date of Notice	Status
	None		

C. Delays in the Process

Government Code section 17600 requires the Commission to report any delays in the process for joint RRM's or LDMs being developed by Department of Finance and local entities and for RRM's proposed by any party pursuant to Government Code section 17518.5. There are currently no pending joint RRM's or LDMs. However, there are eight RRM's in parameters and guidelines or amendments thereto proposed by local entities pursuant to Government Code sections 17557 and 17518.5 pending for the Commission's consideration.

While the adoption of an RRM pursuant to Government Code sections 17557 and 17518.5 may reduce the auditing issues on reimbursement claims filed with the Controller, the process increases the responsibility of the Commission. For these disputed RRM's, the Commission is required to make additional factual determinations, based on substantial evidence in the record, that the proposed formula or unit cost reasonably represents the costs mandated by the state for all eligible claimants in the state. Meeting this evidentiary standard also increases the responsibilities of the local entity claimants to compile evidence of costs and put it into the record, which is very time-consuming.

The proposed RRM must be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies and school districts, or other projections of local costs; and shall consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner. If these findings are made and an RRM is adopted by the Commission in the parameters and guidelines or amendments thereto, then the claiming is based on the adopted formula or unit cost, in lieu of requiring detailed documentation of actual costs incurred.

Due to the on-going fiscal crisis beginning in 2002, the Commission's position authority has decreased. In addition, for most of 2008 to the present, Commission staff, like staff from other state offices, have been subject to furloughs and other paid leave programs. This naturally has made it more difficult to complete the Commission's backlog, including the RRM's proposed by local entities. However, the 2013-2014 budget bill contained a budget augmentation to fund two additional Commission positions: an attorney III and a senior legal analyst. These two new

positions will hasten the reduction of the Commission's backlog and facilitate timely hearing of current and future matters. To date, the Commission has adopted three proposed RRM parameters and guidelines and has denied one proposal based on a lack of evidence.

STATEWIDE COST ESTIMATE

\$11,189,686

CONSOLIDATED SUSPENSIONS, EXPULSIONS, and EXPULSION APPEALS

Formerly known as

PUPIL EXPULSIONS II (96-358-03, 03A, 98-TC-22, 01-TC-18)

PUPIL SUSPENSIONS II (98-TC-23)

EDUCATIONAL SERVICES PLAN FOR EXPELLED PUPILS (97-TC-09)

Education Code Sections 48900.8, 48915, 48915.2, 48916, 48916.1,
48918, 48918.5, 48923, 48926

As Amended by Statutes 1995, Chapters 972 and 974;

Statutes 1996, Chapters 915, 937, and 1052; Statutes 1997, Chapter 637;

Statutes 1998, Chapter 489; Statutes 1999, Chapter 332; Statutes 2000, Chapter 147;

Statutes 2001, Chapter 116

By San Juan Unified School District, Kern County Superintendent of Schools, Claimants

Beginning Fiscal Year 2012-2013 Consolidated with

PUPIL SUSPENSIONS FROM SCHOOL (CSM-4456)

Education Code Section 48911, Subdivisions (b) and (e)

Statutes 1977, Chapter 965; Statutes 1978, Chapter 668; Statutes 1980, Chapter 73;

Statutes 1983, Chapter 498; Statutes 1985, Chapter 856; Statutes 1987, Chapter 134

PUPIL EXPULSIONS FROM SCHOOL (CSM-4455)

Education Code Sections 48915, Subdivisions (a) and (b),

48915.1, 48915.2, 48916, and 48918

Statutes 1975, Chapter 1253; Statutes 1977, Chapter 965; Statutes 1978, Chapter 668; Statutes

1982, Chapter 318; Statutes 1983, Chapter 498; Statutes 1984, Chapter 622; Statutes 1987,
Chapter 942; Statutes 1990, Chapter 1231; Statutes 1992, Chapter 152; Statutes 1993, Chapters
1255, 1256, and 1257; Statutes 1994, Chapter 146

PUPIL EXPULSION APPEALS (CSM-4463)

Education Code Sections 48919, 48921, 48924

Statutes 1975, Chapter 1253; Statutes 1977, Chapter 965; Statutes 1978, Chapter 668;

Statutes 1983, Chapter 498

STAFF ANALYSIS

Background and Summary of the Mandate

The test claim statutes of the *Pupil Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* programs require school districts to perform various activities related to suspending and expelling pupils from school who have committed specified offenses. The Commission on State Mandates (Commission) found that the costs incurred to perform new activities mandated by the test claim statutes (enacted from 1995 to 2002), or triggered by new

offenses added by the test claim statutes, constitute a reimbursable state-mandated program beginning in fiscal year 1995-1996.

The suspension and expulsion procedures and post-expulsion requirements enacted by the Legislature between 1975 and 1994 were originally found to impose reimbursable state-mandated costs for possession of a firearm in decisions on the following test claims: *Pupil Suspensions from School*, *Pupil Expulsion from School*, and *Pupil Expulsion Appeals* (CSM-4456, 4455, 4463).

The *Pupil Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* test claims were consolidated for hearing. The Commission found that the test claim statutes impose a partially reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

On October 27, 2011, the Commission adopted six sets of parameters and guidelines which include activities that correspond to the statutes with operative dates between 1995 and 2002.⁹ Each set covers one or more fiscal years, and was intended to make reimbursement claims easier for school districts to submit and for the State Controller's Office to evaluate and pay. The sixth, and last, set of parameters and guidelines consolidates the Commission's decision in *Pupil Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* with *Pupil Suspensions from School*, *Pupil Expulsion from School*, and *Pupil Expulsion Appeals* (CSM-4456, 4455, 4463) beginning in fiscal year 2012-2013.¹⁰

Eligible claimants were required to file initial reimbursement claims for fiscal years 1995-1996 through 2010-2011 with the State Controller's Office (SCO) by October 17, 2012. Claims for fiscal year 2011-2012 must be filed by February 15, 2013. Claims filed more than one year after the applicable deadline will not be accepted.

Eligible Claimants, Period of Reimbursement, and Reimbursable Activities

Any "school district", as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate is eligible to claim reimbursement. This includes county offices of education. Charter schools are not eligible claimants.

⁹ Parameters and Guidelines on the Commission's website at <http://www.csm.ca.gov>.

¹⁰ Exhibit A. (Attached to complete SCE found on the "Commission Decisions" page at www.csm.ca.gov)

The six sets of parameters and guidelines for *Pupil Suspensions II*, *Pupil Expulsions II*, and *Educational Services Plan for Expelled Pupils* are summarized in the table below:

<u>Parameters and Guidelines</u>	<u>Period of Reimbursement</u>	<u>Statutes Approved</u>
Set 1	July 1, 1995 - June 30, 1996	§ 48915, as amended by Statutes 1995, chapter 972, and activities triggered by the new offenses added to section 48915.
Set 2	July 1, 1996 - June 30, 1997	§§ 48915.2, 48916, 48916.1, 48918, 48918.5, 48926, as amended by Statutes 1995, chapter 874, Statutes 1996, chapters 915, 937, 1052.
Set 3	July 1, 1997 – June 30, 1999	§§ 48900.8, 48918, as amended by Statutes 1997, chapter 637, Statutes 1998, chapter 498.
Set 4	July 1, 1999 – June 30, 2001	§§ 48918, 48923, as amended by Statutes 1999, chapter 332, Statutes 2000, chapter 147.
Set 5	July 1, 2001 – June 30, 2012	§ 48915, Statutes 2001, chapter 116.
Set 6	Beginning July 1, 2012	All statutes, consolidated with <i>Pupil Suspension from School</i> , <i>Pupil Expulsion from School</i> , and <i>Pupil Expulsion Appeals</i> (CSM-4456, 4455, 4463).

The Commission approved the consolidated test claim for the following reimbursable activities, beginning January 1, 1996:

- a. For the principal or superintendent to immediately suspend, pursuant to section 48911,¹¹ and recommend expulsion, and for the governing board to order expulsion for:
 1. A pupil who brandishes a knife at another person (§ 48915 (c)(2), Stats. 1995 ch. 972);
 2. A pupil who sells or furnishes a firearm unless the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal (§ 48915 (c)(1) and (d), Stats. 1995, ch. 972);
 3. A pupil's first offense of a sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis (§ 48915 (c)(3), Stats. 1995 ch. 972).

¹¹ All statutory references are to the Education Code unless otherwise indicated.

For the principal or superintendent to immediately suspend, pursuant to section 48911, and for the governing board to order expulsion, for a pupil who sells a controlled substance, as defined (§ 48915 (c)(3), Stats. 1995 ch. 972).

- b. For the school to perform the following suspension procedures¹² for the offenses listed in (a) and (b) above:
 1. Precede the suspension with an informal conference conducted by the principal or the principal's designee or the superintendent of schools between the pupil and, whenever practicable, the teacher, supervisor, or school employee who referred the pupil to the principal, the principal's designee, or the superintendent of schools. Inform the pupil of the reason for the disciplinary action and the evidence against him or her and give the pupil the opportunity to present his or her version and evidence in his or her defense. (§ 48911 (b).)
 2. At the time of the suspension, a school employee shall make a reasonable effort to contact the pupil's parent or guardian in person or by telephone. Whenever the pupil is suspended from school, the parent or guardian shall be notified in writing of the suspension. (§ 48911 (d).)
 3. A school employee shall report the suspension of the pupil including the cause therefore, to the governing board of the school district or to the school district superintendent in accordance with the regulations of the governing board. (§ 48911 (e).)
- c. For the principal or superintendent of schools to recommend expelling a pupil for possession of a controlled substance, as defined (except for the first offense of possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis) (§ 48915 (a)(3), Stats. 1995, ch. 972). The section 48918 expulsion hearing procedures are part of this activity.
- d. For the governing board to refer a pupil expelled for any of the most serious offenses (in § 48915 (c)) to a program of study that meets the following criteria: (1) is appropriately prepared to accommodate pupils who exhibit discipline problems; (2) is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school; and (3) is not housed at the schoolsite attended by the pupil at the time of suspension (§ 48915 (d), Stats. 1995, ch. 972).

The Commission also approved the consolidated test claim for the following reimbursable activities, beginning July 1, 1996:

- a. For the superintendent of schools (or designee) to provide notice to a pupil expelled for any of the most serious offenses (in § 48915 (c)), of the education alternative placement to the pupil's parent or guardian at the time of the expulsion order. (§ 48918 (j), Stats. 1995, ch. 974.)
- b. For the governing board to amend its expulsion rules and regulations to provide for issuing subpoenas, as specified in subdivision (i) of section 48918. This is a one-time activity. (§ 48918 (i), Stats. 1995, ch. 974, §§ 7.5 & 10.)

¹² These offenses also trigger the expulsion procedures identified in the *Pupil Expulsions from School* (CSM-4455) test claim.

- c. If the county superintendent of schools develops a plan for providing education services to all expelled pupils in the county, for school district governing boards to adopt the plan. (§ 48926, Stats. 1995, ch. 974.)
- d. Ensure that an educational program is provided to the pupil expelled for any of the most serious offenses in subdivision (c) of section 48915. The program must conform to the specifications in section 48916.1. (§ 48916.1, Stats. 1995, ch. 974.)
- e. Recommend a rehabilitation plan to a pupil at the time of the expulsion order (§ 48916 (b), Stats. 1995, ch. 974) when a pupil is expelled for any of the most serious offenses listed in subdivision (c) of section 48915.
- f. For the one-time activity of adopting rules and regulations to establish the process for the required review of all expelled pupils for readmission. (§ 48916 (c), Stats. 1995, ch. 974.)
- g. Perform the following activities when the governing board orders the pupil expelled for any of the most serious mandatory expulsion offenses (in § 48915 (c)). (§ 48916, Stats. 1995, ch. 974.):
 - 1. Review the pupil for readmission. (§ 48916 (a).)
 - 2. Order the expelled pupil's readmission or make a finding to deny readmission if "the pupil has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other pupils or employees of the school district." (§ 48916 (c).)
 - 3. If readmission is denied, for the governing board to make the determination to either continue the placement of the expelled pupil in the alternative education program, or to place the pupil in another program that may include, but need not be limited to, serving expelled pupils, including placement in a county community school. (§ 48916 (d).)
 - 4. If readmission is denied, the governing board shall provide written notice to the expelled pupil and the pupil's parent or guardian describing the reasons for denying readmission to the regular school program. The written notice shall include the determination of the education program for the expelled pupil. (§ 48916 (e).)
- h. Before allowing the expelled pupil to enroll in a school district that did not expel the pupil, for the receiving district's governing board to determine, pursuant to a hearing under Section 48918, whether an individual expelled from another school district for the offenses listed below poses a danger to either the pupils or employees of the school district. (§ 48915.2 (b), Stats. 1995, ch. 974.) This activity is only reimbursable for determinations of applicants who have been expelled by a district that has not entered into a voluntary interdistrict transfer agreement with the receiving district:
 - 1. Unlawful possession of any controlled substance [as specified] ... including the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis. (§ 48915 (a)(3).)
 - 2. Possessing, selling, or otherwise furnishing a firearm ... [without permission as specified]. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district. (§ 48915 (c)(1).)
 - 3. Brandishing a knife at another person. (§ 48915 (c)(2).)

4. Committing or attempting to commit a sexual assault, as defined, or committing a sexual battery, as defined. (§ 48900 (n) & 48915 (c)(4) & (d), Stats. 1996, chs. 915 and 1052, operative Jan. 1, 1997.)

From July 1, 1996 until September 25, 1996, for school districts to maintain outcome data, as specified, for pupils expelled for the most serious offenses in subdivision (c) of section 48915. (§ 48916.1, Stats. 1995, ch. 974.)

Beginning September 26, 1996, for the school district to maintain data on the following and report it to the California Department of Education (CDE) for pupils expelled for the most serious offenses in section 48915, subdivision (c): (1) Whether the expulsion order was suspended; (2) The type of referral made after the expulsion; and (3) The disposition of the pupil after the end of the period of expulsion. (§ 48916.1 (e), Stats. 1996, ch. 937.)

Beginning September 26, 1996 until January 7, 2002, for school districts to maintain data on the following and report it to CDE for pupils expelled for the most serious offenses in section 48915, subdivision (c): (1) The number of pupils recommended for expulsion; (2) The grounds for each recommended expulsion; (3) Whether the pupil was subsequently expelled; (4) Whether the expulsion order was suspended; (5) The type of referral made after the expulsion; and (6) The disposition of the pupil after the end of the period of expulsion. (§ 48916.1 (e), Stats. 1996, ch. 937.)

The Commission also approved the consolidated test claim for the following reimbursable activities, beginning January 1, 1997:

- a. Amend the school district's rules and regulations, as specified, to include procedures that apply when there is a recommendation to expel a pupil based on an allegation of sexual assault or attempted sexual assault, or sexual battery, as defined in subdivision (n) of section 48900. (§ 48918 (b) & 48918.5, Stats. 1996, ch. 915, one-time costs.)
- b. For the principal or superintendent to suspend, pursuant to section 48911, and recommend expulsion, and for the governing board to order expulsion for pupils who commit or attempt to commit a sexual assault or sexual battery as defined. (§ 48915 (c)(4), Stats. 1996, ch. 1052.) The section 48911 suspension procedures and section 48918 expulsion hearing procedures are part of this activity.
- c. For the principal or superintendent to recommend expelling a pupil for assault or battery on any school employee. (§ 48915 (a)(5), Stats. 1996, chs. 915 & 1052.) The expulsion hearing procedures in section 48918 are part of this activity.
- d. For school districts to follow specified procedures when a pupil is recommended for an expulsion involving allegations of sexual assault or attempted sexual assault, as defined, or sexual battery, as defined in section 48900, subdivision (n). (§ 48918 and 48918.5, Stats. 1996, ch. 915.)

Beginning January 1, 1998, for school districts to identify by offense, in all appropriate official records of a pupil, each suspension of that pupil for any of the most serious mandatory offenses in section 48915, subdivision (c). (§ 48900.8, Stats. 1997, ch. 637.)

Beginning January 1, 1999, for the school district to amend its expulsion rules and regulations as follows:

If compliance by the governing board with the time requirements for the conduct of an expulsion hearing under subdivision (a) of section 48918 is impracticable due to a summer recess of governing board meetings of more than two weeks, the days during the

recess period shall not be counted as schooldays in meeting the time requirements. The days not counted as schooldays in meeting the time requirements for an expulsion hearing because of a summer recess of governing board meetings shall not exceed 20 schooldays, as defined in subdivision (c) of Section 48915, and unless the pupil requests in writing that the expulsion hearing be postponed, the hearing shall be held no later than 20 calendar days prior to the first day of school for the school year. (§ 48918 (a), Stats. 1998, ch. 489.)

Beginning January 1, 2000:

For school districts to perform the following one-time activities: (1) updating the school district rules and regulations on notification to the pupil regarding the opportunity to be represented by legal counsel or a nonattorney adviser, and (2) revising the pupil notification to include the right to be represented by legal counsel or a nonattorney advisor. (§ 48918 (b)(5), Stats. 1999, ch. 332). These activities are reimbursable when the pupil commits any of the offenses specified in subdivisions (a) or (c) of section 48915.

Beginning January 1, 2001:

For a county board of education to remand an expulsion matter to a school district for adoption of the required findings if the school district's decision is not supported by the findings required by section 48915, but evidence supporting the required findings exists in the record of the proceedings. (§ 48923, subdivision (b), Stats. 2000, ch. 147.) This activity is reimbursable for an expulsion for any reason.

For a school district, when adopting the required findings on remand from the county board of education, to: (1) take final action on the expulsion in a public session (not hold another hearing) and; (2) provide notice to the pupil or the pupil's parent or guardian of the following: the expulsion decision, the right to appeal to the county board, the education alternative placement to be provided during the expulsion, and the obligation of the parent or guardian to inform a new school district in which the pupil may enroll of the pupil's expulsion (§ 48918 (j)); and (3) maintain a record of each expulsion and the cause therefor. (§ 48918 (k)). (§ 48923 (b), Stats. 2000, ch. 147.) This activity is only reimbursable when the district governing board orders the pupil expelled for any of the most serious mandatory expulsion offenses. (listed in § 48915 (c).)

Beginning January 1, 2002:

- For a principal or superintendent to immediately suspend, pursuant to section 48911, a pupil who possesses an explosive at school or at a school activity off school grounds. (§ 48915 (c) & (d), Stats. 2001, ch. 116.) The section 48911 suspension procedures are part of this activity.

The parameters and guidelines include the reasonable reimbursement methodology (RRM) adopted by the Commission in the *Pupil Suspensions, Pupil Expulsions, and Pupil Expulsion Appeals* parameters and guidelines (CSM-4456, 4455, 4463) for the reimbursement of the direct and indirect expulsion hearing costs incurred by a school district.

Uniform Cost Allowances and Formula for Reimbursable Activities

The RRM consists of uniform cost allowances to cover all direct and indirect costs of performing activities in Section IV.D.3 and applied to a formula for calculating claimable costs.

1. The uniform cost allowances for reimbursement of activities in Section IV.D.3 are as follows:

Reimbursable Component	Uniform Cost Allowance
IV.D.3 (a) Hearing Preparation	\$115.72
IV.D.3 (b). Hearing	\$144.58
IV.D.3 (c) Written Expulsion Recommendation to the Governing Board	\$171.00
IV.D.3 (d) Hearing Record	\$1.47
Total	\$432.77

The uniform cost allowances shall be adjusted each subsequent year by the Implicit Price Deflator. The State Controller's Office will provide the correct uniform cost allowance for each fiscal year with each year's claiming instructions.

2. Formula

Reimbursement of Activities IV.D.3 (a) – (d) is determined by multiplying the uniform cost allowance for the appropriate fiscal year by the number of mandatory recommendations for expulsion that resulted in expulsion hearings. If a hearing does not result, claimant may claim increased costs incurred for Section IV.D.3 (a), Preparation for Expulsion Hearing.

Eligible claimants may additionally claim and be reimbursed for increased costs of performing the reimbursable activities approved in the parameters and guidelines, which are not included in the RRM. These activities are described more fully in the parameters and guidelines.¹³

Statewide Cost Estimate

Staff reviewed the claims data for the *Pupil Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* programs submitted by 305 school districts and compiled by the SCO. The actual claims data showed that 1541 claims were filed for 16 fiscal years (1995-1996 through 2010-2011) for a total of \$11,189,686.¹⁴ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*

There are 1047 K-12 school districts in California. Of those, 305 school districts filed initial reimbursement claims for this program for fiscal years 1995-1996 through 2010-2011. If other eligible claimants file late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims filed on the initial claiming period of July 1, 1995 through June 30, 2011 may be filed until October 17, 2013. Late claims for fiscal year 2011-2012 may be filed until February 15, 2014.

¹³ Parameters and Guidelines on the Commission's website at <http://www.csm.ca.gov>.

¹⁴ Claims data reported as of November 1, 2012.

- *The number of reimbursement claims filed will vary from year to year.*
 This program is based on activities involving pupil expulsions and suspensions, rehabilitations, readmissions, and expulsion appeals, as well as county office of education plans for educational services to expelled pupils for various offenses and related activities. Therefore, the total number of reimbursement claims filed with the SCO will increase or decrease based on the actual number and type of offense for pupil expulsions and suspensions filed in each school district in a particular year.
- *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.*
 The SCO may conduct audits and reduce any claims it deems to be excessive or unreasonable.
- *There may be several reasons that non-claiming school districts did not file for reimbursement, including but not limited to:*
 - Districts could not reach the \$1,000 threshold for filing reimbursement claims.
 - Districts did not have supporting documentation to file a reimbursement claim.

Methodology

Fiscal Years 1995-1996 through 2010-2011

The statewide cost estimate for fiscal years 1995-1996 through 2010-2011 was developed by totaling the 1541 actual reimbursement claims filed with the SCO for these years.

The statewide cost estimate includes 16 fiscal years for a total of \$11,189,686. However, in fiscal year 2002-2003, additional reimbursable activities were added pursuant to Education Code section 48915, Statutes 2001, chapter 116. Therefore, the average annual costs could be viewed more accurately divided into two parts. The first seven fiscal years, 1995-1996 through 2001-2002, average to \$360,895 in annual statewide costs. The next nine fiscal years, 2002-2003 through 2010-2011, average to \$962,602 in annual statewide costs. Over the most recent three fiscal years for which there is claiming data, statewide costs appear to have stabilized to an average of \$1,249,825 per year.

Following is the total cost per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
1995-1996	34	\$244,211
1996-1997	40	\$348,296
1997-1998	42	\$356,772
1998-1999	44	\$384,776
1999-2000	45	\$394,091
2000-2001	41	\$357,331
2001-2002	47	\$440,790
2002-2003	137	\$704,822
2003-2004	136	\$848,075
2004-2005	122	\$723,489
2005-2006	118	\$757,982
2006-2007	124	\$866,916
2007-2008	129	\$1,012,660
2008-2009	156	\$1,241,790
2009-2010	155	\$1,257,846
2010-2011	171	\$1,249,839
TOTAL	1541	\$11,189,686

Beginning July 1, 2012, the *Pupil Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* programs are consolidated with the pre-existing *Pupil Suspensions from School*, *Pupil Expulsion from School*, and *Pupil Expulsion Appeals* programs. Historical claiming data for the pre-existing mandate for the *Pupil Suspensions from School*, *Pupil Expulsion from School*, and *Pupil Expulsion Appeals* programs indicates that the average annual claim submitted to the SCO beginning with fiscal year 1993-1994 through 2010-2011 is approximately \$4.2 million.¹⁵ Therefore, future reimbursement claims beginning fiscal year 2012-2013 and forward for the pre-existing program combined with the averaged \$1.2 million from the newly approved and consolidated program would likely be \$5.4 million per year.

Draft Staff Analysis and Proposed Statewide Cost Estimate

On December 17, 2012, Commission staff issued the draft staff analysis and proposed statewide cost estimate for comment.¹⁶ On December 27, 2012, the claimant notified the Commission that they have no comments on the draft staff analysis. No other comments were received.

Conclusion

On January 25, 2013, the Commission adopted the statewide cost estimate of **\$11,189,686** for costs incurred in complying with the *Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* program.

¹⁵ This figure is based on the averaged claims for fiscal years 1993-1994 through 2010-2011 in the *State Mandated Program Cost Report of Audit Findings* for April 1, 2011 through March 31, 2012 for program 176, *Pupil Suspensions, Expulsion, and Expulsion Appeals* found on the SCO's website at <http://sco.ca.gov/Files-ARD-Local/LocRep/budgetactitem0804yr2012.pdf>.

¹⁶ Exhibit B. (Attached to complete SCE found on the "Commission Decisions" page at www.csm.ca.gov)

Statewide Cost Estimate
\$6,435,706

Elections Code Section 14310
Statutes 2000, Chapter 260 (SB 414)

Voter Identification Procedures

03-TC-23

County of San Bernardino, Claimant

STAFF ANALYSIS

Background and Summary of the Mandate

This test claim, filed on October 1, 2003, addressed an amendment to Elections Code section 14310, regarding counting “provisional ballots.” A provisional ballot is a regular ballot that has been sealed in a special envelope, signed by the voter, and then deposited in the ballot box. Provisional ballots can be required for several reasons, generally to prevent unregistered individuals from voting, or to prevent registered voters from voting twice. For example, provisional ballots may be required when poll workers cannot immediately verify an individual’s name on the official roster, or if a voter requested an absentee ballot, but instead comes to the polling place without bringing the absentee ballot.

The test claim statute, Statutes 2000, chapter 260, amended Elections Code section 14310, subdivision (c)(1), to add a requirement that elections officials “compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration.”

The Commission found that although prior law required that “the elections official shall examine the records with respect to all provisional ballots cast,” the law did not require that each signature on a provisional ballot be directly compared to the signature on the voter’s registration affidavit. This is akin to the analysis by the court in *Long Beach*,¹⁷ which found a higher level of service was mandated when general law on an existing program is changed to require performance of activities in a very specific manner.

The Commission adopted the test claim statement of decision on October 4, 2006, concluding that Elections Code section 14310 (c)(1), as amended by Statutes 2000, chapter 260, mandates a new program or higher level of service on local agencies within the meaning of article XIII B, section 6 of the California Constitution, and imposes costs mandated by the state pursuant to Government Code section 17514, for performing the following specific new activity as part of statutorily-required elections:

- Using the procedures that apply to the comparison of signatures on absentee ballots, the elections official shall compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration. If the signatures do not compare, the ballot shall be rejected. (Elec. Code, § 14310, subd. (c)(1).)

The Commission further concluded that in a case where a local government calls a special election that could have otherwise been legally consolidated with the next local or statewide

¹⁷*Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 173.

election, holding the special election is a voluntary decision on the part of the local government, and the downstream costs for checking signatures on provisional ballots are not reimbursable.

Parameters and guidelines were adopted on March 23, 2012.¹⁸

Eligible claimants were required to file initial reimbursement claims (for costs incurred between July 1, 2002, and June 30, 2011) with the State Controller's Office (SCO) by October 23, 2012. Reimbursement claims for fiscal year 2011-2012 are due by February 15, 2013.

Eligible Claimants and Period of Reimbursement

Any city, county, or city and county that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement.

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The test claim was filed on October 1, 2003, establishing eligibility for reimbursement for the 2002-2003 fiscal year. Therefore, the costs incurred for compliance with the mandated activities are reimbursable on or after July 1, 2002.

Reimbursable Activities

The parameters and guidelines authorize reimbursement of each eligible claimant for the following activity:

- Using the procedures that apply to the comparison of signatures on absentee ballots, the elections official shall compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration. If the signatures do not compare, the ballot shall be rejected. (Elec. Code, § 14310(c)(1).)

Statewide Cost Estimate

Assumptions

Staff reviewed the reimbursement claims data submitted by 17 counties and 2 cities and compiled by the SCO. The actual claims data showed that 115 claims were filed by those 19 claimants for fiscal years 2002-2003 through 2010-2011 for a total of \$6,435,706.¹⁹ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*
 - There are currently 58 counties and 482 cities in California. Of those, only 17 counties and 2 cities filed initial reimbursement claims totaling \$6,435,706 for this program for fiscal years 2002-2003 through 2010-2011. If other eligible claimants file late or amended initial claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late initial claims for this program for fiscal years 2002-2003 through 2010-2011 may be filed until October 23, 2013.
- *The number of reimbursement claims filed will vary from year to year.*

¹⁸ Exhibit A. (Attached to complete SCE found on the "Commission Decisions" page at www.csm.ca.gov)

¹⁹ Claims data reported as of November 1, 2012.

- This program requires an elections official to compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration. Therefore, the total number of reimbursement claims filed with the SCO will increase or decrease based on the election year cycle and the number of provisional ballots that are filed.
- There will be spikes in the number of claims filed, and in the costs claimed, based on whether or not it is a high profile election year. For example, there were 15 claims filed for a total of \$1,297,114 for the fiscal year 2008-2009. While in fiscal year 2009-2012 there were only 14 claims filed for a total of \$436,753. This is likely due to the fact that there was a presidential election in fiscal year 2008-2009 and, thus, higher voter turnout. It is reasonable to assume that the current fiscal year (2012-2013) and future fiscal years which coincide with presidential elections will result in higher claim amounts. Similarly, in years where there is a gubernatorial or primary election or where there are particularly controversial initiatives on the ballot, higher claim amounts can reasonably be expected.
- *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.*

The SCO may conduct audits and reduce any claims it deems to be excessive or unreasonable.

Methodology

Fiscal Years 2002-2003 through 2010-2011

The statewide cost estimate for fiscal years 2002-2003 through 2010-2011 was developed by totaling the 115 reimbursement claims filed with the SCO for these years, for a total of \$6,435,706. This averages to \$715,078 annually in costs for the state over this nine-year period: \$446,007 in lower profile election years and \$1,253,220 in higher profile election years (such as presidential or gubernatorial elections). Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
2002-2003	8	\$440,281
2003-2004	12	\$432,198
2004-2005	12	\$1,048,938
2005-2006	11	\$387,325
2006-2007	14	\$667,797
2007-2008	14	\$311,691
2008-2009	15	\$1,297,114
2009-2010	14	\$436,753
2010-2011	15	\$1,413,609
<i>TOTAL</i>	115	\$6,435,706

Comments on the Draft Staff Analysis and Proposed Statewide Cost Estimate

On December 19, 2012, Commission staff issued the draft staff analysis and proposed statewide cost estimate for comment.²⁰ On December 31, 2012, The Department of Finance submitted comments stating that they had no concerns with the Commission's recommendation to adopt the statewide cost estimate.²¹

Conclusion

On January 25, 2013, the Commission adopted the statewide cost estimate of **\$6,435,706** for costs incurred in complying with the *Voter Identification Procedures* program.

²⁰ Exhibit B. (Attached to complete SCE found on the "Commission Decisions" page at www.csm.ca.gov)

²¹ Exhibit C. (Attached to complete SCE found on the "Commission Decisions" page at www.csm.ca.gov)

Statewide Cost Estimate
\$376,304

Government Code Sections 65970, 65971, 65972, 65973, 65974, 65974.5,
65975, 65976, 65977, 65978, 65979, 65980, 65981

Statutes 1977, Chapter 955, Statutes 1979, chapter 282, Statutes 1980,
Chapter 1354, Statutes 1981, Chapter 201, Statutes 1982, Chapter 923, Statutes
1983, Chapter 1254, Statutes 1984, Chapter 1062, Statutes 1985, Chapter 1498,
Statutes 1986, Chapters 136 and 887, Statutes 1994, Chapter 1228

Developer Fees

02-TC-42

Clovis Unified School District, Claimant

STAFF ANALYSIS

Background and Summary of the Mandate

This test claim, filed on June 27, 2003, addresses activities required as a condition of imposing developer fees to help pay for school facilities.

On December 1, 2011, the Commission adopted a statement of decision partially approving the test claim for new requirements as a condition of imposing developer fees. Parameters and guidelines were adopted on May 25, 2012.²²

The Commission found that the School Facilities Act imposed a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, beginning July 1, 2001 for school districts to perform the following activities:

- Notify the city council or county board of supervisors if the school district finds, based on clear and convincing evidence, that:
 - 1) Conditions of overcrowding exists in one or more of the attendance areas within the district that will impair the normal functioning of educational programs, and
 - 2) All reasonable methods of mitigating conditions of overcrowding have been evaluated and no feasible methods for reducing those conditions exist.
- Specify in the notice of findings the reason for the existence of the overcrowding conditions and the mitigation measures considered and include a copy of a completed application to the OPSC for preliminary determination of eligibility under the Leroy F. Greene State School Building Lease-Purchase Law of 1976.
- Submit to the city council or county board of supervisors a schedule for the use of fees, including the school sites to be used, classroom facilities to be made available, and the times when those facilities will be available. The schedule shall be submitted before the

²² Exhibit A. (Attached to complete SCE found on the “Commission Decisions” page at www.csm.ca.gov)

city or county makes a decision to require the dedication of land or the payment of fees, or to increase the amount of land to be dedicated or the fees to be paid.

If an ordinance is adopted by the city council or county board of supervisors pursuant to Government Code section 65974 requiring the dedication of land, the payment of fees in lieu thereof, or a combination of both:

- Make a recommendation regarding the amount of fees to be assessed, within 60 days following the initial permit for the development, when required by the city council or county board of supervisors; and
- Where two separate school districts operate schools in an attendance area where overcrowding conditions exist for both school districts, enter into an agreement with the city or county for the purpose of determining the distribution of revenues to both school districts from the fees levied pursuant to the School Facilities Act.

If a school district receives funds pursuant to the School Facilities Act:

- Maintain a separate account for any fees paid; and
- File a report by October 15 of each year with the city council or county board of supervisors which specifies:
 - The balance in the account at the end of the previous fiscal year;
 - The facilities leased, purchased, or constructed;
 - The dedication of land during the previous fiscal year; and
 - Which attendance areas will continue to be overcrowded when the fall term begins and where conditions of overcrowding will no longer exist.

All other reimbursement for activities requested by the claimant with respect to collecting developer fees were denied by the Commission.

Eligible claimants were required to file initial reimbursement claims (for costs incurred between July 1, 2001, and June 30, 2011) with the State Controller's Office (SCO) by January 2, 2013. Reimbursement claims for fiscal year 2011-2012 are due by February 15, 2013.

Eligible Claimants and Period of Reimbursement

Any "school district" as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate, is eligible to claim reimbursement.

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The test claim was filed on June 27, 2003, establishing eligibility for reimbursement for the 2001-2002 fiscal year. Therefore, the costs incurred for compliance with the mandated activities are reimbursable on or after July 1, 2001.

Reimbursable Activities

The parameters and guidelines authorize reimbursement of each eligible claimant for the following activities:

- A. Local Government Notice of Finding

1. Notify the city council or county board of supervisors if the school district finds, based on clear and convincing evidence, that:
 - Conditions of overcrowding exists in one or more of the attendance areas within the district that will impair the normal functioning of educational programs, and
 - All reasonable methods of mitigating conditions of overcrowding have been evaluated and no feasible methods for reducing those conditions exist.
2. Specify in the notice of findings the reason for the existence of the overcrowding conditions and the mitigation measures considered and include a copy of a completed application to the OPSC for preliminary determination of eligibility under the Leroy F. Greene State School Building Lease-Purchase Law of 1976.

B. Schedule of Fees

Submit to the city council or county board of supervisors a schedule for the use of fees, including the school sites to be used, classroom facilities to be made available, and the times when those facilities will be available. The schedule shall be submitted before the city or county makes a decision to require the dedication of land or the payment of fees, or to increase the amount of land to be dedicated or the fees to be paid.

C. Fee Amount

If an ordinance is adopted by the city council or county board of supervisors pursuant to Government Code section 65974 requiring the dedication of land, the payment of fees in lieu thereof, or a combination of both:

1. Make a recommendation regarding the amount of fees to be assessed, within 60 days following the initial permit for the development, when required by the city council or county board of supervisors; and
2. Where two separate school districts operate schools in an attendance area where overcrowding conditions exist for both school districts, enter into an agreement with the city or county for the purpose of determining the distribution of revenues to both school districts from the fees levied pursuant to the School Facilities Act.

D. Fund Accounting

If a school district receives funds pursuant to the School Facilities Act of 1979:

1. Maintain a separate account for any fees paid; and
2. File a report by October 15 of each year with the city council or county board of supervisors which specifies:
 - The balance in the account at the end of the previous fiscal year;
 - The facilities leased, purchased, or constructed;
 - The dedication of land during the previous fiscal year; and Which attendance areas will continue to be overcrowded when the fall term begins and where conditions of overcrowding will no longer exist.

Statewide Cost Estimate

Assumptions

Staff reviewed the reimbursement claims data submitted by 10 school districts and compiled by the SCO. The actual claims data showed that 55 initial claims were filed for fiscal years 2001-2002 through 2010-2011 and three annual claims for fiscal year 2011-2012 for a total of \$376,304.²³ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*
 - There are approximately 1055 school districts in California, of those, only 10 districts filed initial reimbursement claims totaling \$354,692 for this program for fiscal years 2001-2002 through 2010-2011. If other eligible claimants file late or amended initial claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late initial claims for this program for fiscal years 2001-2002 through 2010-2011 may be filed until January 2, 2014.
 - Also, according to the claims data, three of those same districts already filed annual reimbursement claims totaling \$21,612 for fiscal year 2011-2012. Late annual reimbursement claims for fiscal year 2011-2012 may be filed until February 15, 2014.
- *The number of reimbursement claims filed will vary from year to year.*

This program requires school districts to notify the city council or county board of supervisors if the school district finds, based on clear and convincing evidence, that, as a result of new development: 1) conditions of overcrowding exist in one or more of the attendance areas that impair the normal functioning of the educational programs; 2) all reasonable methods of mitigating conditions of overcrowding have been evaluated by the district; and 3) no feasible method exists to reduce the overcrowding conditions. Claims will vary depending on new development in an area and the ability of a district to absorb the resulting increased student enrollment. Furthermore, the rate and volume of development is not constant. Therefore, claims will likely follow broader economic and land development trends.

- *The Commission approved only a portion of the School Facilities Act program as a mandate.*

Other portions of the School Facilities Act and all of the AB 2926 and the Mitigation Fee Act programs activities, which were pled in the same test claim were found not to impose a reimbursable state-mandated new program or higher level of service. The costs claimed thus far may exceed what is reimbursable if they include costs of the AB 2926 and the Mitigation Fee Act programs or any activities under the School Facilities Act program which were not specifically approved in the test claim and parameters and guidelines decisions.

- *School districts are only eligible to be reimbursed for the activities approved in the mandate if they make a finding of overcrowding and only if that finding is based on clear and convincing evidence. Clear and convincing evidence is a very high standard. There*

²³ Claims data reported as of January 22, 2013.

may be several reasons that other school districts did not file for reimbursement, including but not limited to:

- The school districts did not have overcrowding that was created by new development; or
- The school districts were unable to meet the “clear and convincing”²⁴ standard needed to prove the overcrowding.
- *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.*

The SCO may conduct audits and reduce any claims it deems to be excessive or unreasonable.

Methodology

Fiscal Years 2001-2002 through 2011-2012

The statewide cost estimate for fiscal years 2001-2002 through 2011-2012 was developed by totaling the 58 reimbursement claims filed with the SCO for these years, for a total of \$376,304. This averages to \$34,209 annually in costs for the state over this eleven-year period. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year ²⁵	Number of Claims Filed with SCO	Estimated Cost
2001-2002	4	\$18,499
2002-2003	4	\$19,497
2003-2004	4	\$36,273
2004-2005	4	\$23,209
2005-2006	7	\$40,677
2006-2007	6	\$29,385
2007-2008	6	\$43,667
2008-2009	7	\$31,346
2009-2010	7	\$63,178
2010-2011	6	\$48,961
2011-2012	3	\$21,612
<i>TOTAL</i>	58	\$376,304

Comments on the Draft Staff Analysis and Proposed Statewide Cost Estimate

On February 27, 2013, Commission staff issued the draft staff analysis and proposed statewide cost estimate²⁶ for comments. No comments were received.

²⁴ “Clear and convincing” evidence means evidence of such convincing force that it demonstrates, in contrast to the opposing evidence, a high probability of the truth of the fact[s] for which it is offered as proof. Such evidence requires a higher standard of proof than proof by a preponderance of the evidence (CA BAJI 2.62, *Burden of Proof and Clear and Convincing Evidence*).

²⁵ Initial reimbursement claims were filed for fiscal years 2001-2002 through 2010-2011 and annual reimbursement claims were filed for fiscal year 2011-2012.

²⁶ Exhibit B. (Attached to complete SCE found on the “Commission Decisions” page at www.csm.ca.gov)

Conclusion

On April 19, 2013, the Commission adopted the statewide cost estimate of **\$376,304** for costs incurred in complying with the *Developer Fees* program.