

ITEM 9
PROPOSED PARAMETERS AND GUIDELINES
AND
STATEMENT OF DECISION

Health & Safety Code Sections 33681.12, 33681.13, 33681.14, 33681.15; Revenue & Taxation
Code Sections 97.68, 97.70, 97.71, 97.72, 97.73, 97.75

Statutes of 2003, Chapter 162; Statutes of 2004, Chapter 211; Statutes of 2004, Chapter 610

Accounting for Local Revenue Realignments

05-TC-01

County of Los Angeles, Claimant

EXECUTIVE SUMMARY

The following is the proposed statement of decision for this matter prepared pursuant to section 1188.1 of the Commission on State Mandates' (Commission's) regulations. As of January 1, 2011, Commission hearings on the adoption of proposed parameters and guidelines are conducted under article 7 of the Commission's regulations.¹ Article 7 hearings are quasi-judicial hearings. The Commission is required to adopt a decision that is correct as a matter of law and based on substantial evidence in the record.² Oral or written testimony is offered under oath or affirmation in article 7 hearings.³

I. SUMMARY OF THE MANDATE

These proposed parameters and guidelines pertain to the *Accounting for Local Revenue Realignments* test claim, 05-TC-01, adopted September 27, 2013. Based on the filing date of the test claim, the period of reimbursement begins on July 1, 2004, or later for specified activities added by subsequent statutes.

The test claim statutes shifted and swapped revenue in three areas: the Educational Revenue Augmentation Fund (ERAF) established by each county; making the Vehicle License Fund (VLF) Swap permanent; and the "triple flip" of sales and use taxes to service debt payments on State Economic Recovery Bonds, "back-filled" from the ERAF, which was in turn replaced by direct subventions from the General Fund. The end result was a savings to the state of \$1.3 billion.⁴

The three revenue realignment programs created by the test claim statutes imposed reimbursable activities upon counties to establish new accounts within the treasury of the county, and to reduce and reallocate funds as directed by the statutes, and in amounts identified by the Department of Finance or the State Controller's Office, respectively. The test claim statutes do

¹ California Code of Regulations, Title 2, section 1187.

² Government Code section 17559(b); California Code of Regulations, Title 2, 1187.5.

³ *Ibid.*

⁴ Exhibit A, Test Claim Statement of Decision, at p. 2.

not, by the plain language, require counties to calculate, or to verify, the amounts required to be reduced during the 2004-2005 and 2005-2006 fiscal years, but the VLF Swap does require counties to calculate the adjustment amount beginning in the 2006-2007 fiscal year. None of the statutory exclusions from reimbursement found in section 17556 are applicable to these activities in the 2004-2005 and 2005-2006 fiscal years, but beginning in 2006-2007, all counties, except for the City and County of San Francisco, are authorized by Revenue and Taxation Code section 97.75 to charge cities within their jurisdiction fees in an amount sufficient to pay for the administrative costs of the VLF Swap and the Triple Flip required by sections 97.70 and 97.68 of the Revenue and Taxation Code. Therefore, reimbursement for the VLF Swap and Triple Flip ends in the 2006-2007 fiscal year for all counties, except the City and County of San Francisco, because they no longer incur increased costs mandated by the state, by virtue of their authority to charge the incurred costs to cities. However, because the City and County of San Francisco is not relieved of any incurred costs by the operation of the fee authority provided, the City and County continues to be eligible for reimbursement during and after the 2006-2007 fiscal year for the VLF Swap and the Triple Flip.

II. PROCEDURAL HISTORY

The statement of decision on the test claim was adopted on September 27, 2013. Draft expedited parameters and guidelines were issued on October 2, 2013. On October 17, 2013, the State Controller's Office submitted written comments on the draft expedited parameters and guidelines, suggesting that the period of reimbursement be clarified with respect to activities required under Revenue and Taxation Code section 97.68. No other comments have been received.

III. DISCUSSION

A. Period of Reimbursement (Section III. of Proposed Parameters and Guidelines)

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. LA County filed the first test claim on August 12, 2005, establishing eligibility for reimbursement for the 2004-2005 fiscal year. Therefore, costs incurred on or after July 1, 2004 are reimbursable under this consolidated test claim, for statutes in effect before July 1, 2004, or later, as specified, for statutes effective after July 1, 2004.

The Commission found, in the test claim statement of decision, that the shift of revenues from counties, cities, special districts, and redevelopment agencies to the Educational Revenue Augmentation Fund, and all of the accounting activities necessary to complete the shift, was only required for fiscal years 2004-2005 and 2005-2006.⁵ One activity required by section 33681.15 may, where applicable, require a county to incur costs other than during fiscal years 2004-2005 and 2005-2006 if a redevelopment agency obtains a loan to make the ERAF payments required by section 33681.12 and then fails to repay the loan.

Therefore, the language of section III. Period of Reimbursement reflects a reimbursement period ending on June 30, 2006, for all activities under Revenue and Taxation Code sections 97.71, 97.72, 97.73, and Health and Safety Code sections 33681.12, 33681.13, and 33681.14.

⁵ See Exhibit A, Test Claim Statement of Decision, at pp. 18-21.

Activities under Health and Safety Code section 33681.15 may, where applicable, be reimbursable on or after September 20, 2004.

In addition, Revenue and Taxation Code section 97.75 prohibits counties from charging cities within their jurisdiction for any administrative costs of the revenue-shifting required by sections 97.68 (the Triple Flip) and 97.70 (the VLF Swap) during fiscal years 2004-2005 and 2005-2006, but permits counties to charge the costs of administering the services required by sections 97.68 and 97.70 against the cities within their jurisdiction, beginning in the 2006-2007 fiscal year, and after. However, as discussed in the test claim statement of decision, the City and County of San Francisco is unable, both legally and practically, to avail itself of the fee authority provided by section 97.75. Therefore, the counties, with the exception of the City and County of San Francisco, have the authority to impose a fee or charge upon the cities for the administrative costs of implementing the VLF Swap and the Triple Flip, beginning July 1, 2006, which, as a matter of law, is “sufficient to pay for the mandated program,” within the meaning of Government Code section 17556(d). Accordingly, the Commission found in the test claim statement of decision that reimbursement ends for all activities under sections 97.70 and 97.68, for all counties, except the City and County of San Francisco, on June 30, 2006.

Based on the foregoing, section III. Period of Reimbursement reflects a reimbursement period beginning July 1, 2004, or later for specified activities added by subsequent statutes, and ending, for all activities under Revenue and Taxation Code sections 97.68 and 97.70, for all counties except the City and County of San Francisco, on June 30, 2006.

B. Reimbursable Activities (Section IV. of Parameters and Guidelines)

The activities for which reimbursement is provided under these parameters and guidelines are taken from the test claim statement of decision without substantial analysis. No comments on the reimbursable activities were received from any party or interested party.

IV. STAFF RECOMMENDATION

Staff recommends that the Commission adopt the attached proposed statement of decision and proposed parameters and guidelines; and authorize staff to make any non-substantive, technical corrections to these parameters and guidelines following the Commission hearing on this matter.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES:

Health & Safety Code Sections 33681.12, 33681.13, 33681.14, 33681.15; Revenue & Taxation Code Sections 97.68, 97.70, 97.71, 97.72, 97.73, 97.75

Statutes of 2003, Chapter 162; Statutes of 2004, Chapter 211; Statutes of 2004, Chapter 610

Period of reimbursement begins on July 1, 2004, or later for specified activities added by subsequent statutes.

Case No.: 05-TC-01

Accounting for Local Revenue Realignment

STATEMENT OF DECISION PURSUANT
TO GOVERNMENT CODE SECTION 17500
ET SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7

(Adopted January 24, 2014)

STATEMENT OF DECISION

The Commission on State Mandates (Commission) adopted this statement of decision and parameters and guidelines during a regularly scheduled hearing on January 24, 2014. [Witness list will be included in the final statement of 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 section 17500 et seq., and related case law.

The Commission adopted the parameters and guidelines and statement of decision by a vote of [Vote count will be included in the final statement of decision].

I. SUMMARY OF THE MANDATE

These proposed parameters and guidelines pertain to the *Accounting for Local Revenue Realignment* test claim, 05-TC-01, adopted September 27, 2013. Based on the filing date of the test claim, the period of reimbursement begins on July 1, 2004, or later for specified activities added by subsequent statutes.

The test claim statutes shifted and swapped revenue in three areas: the Educational Revenue Augmentation Fund (ERAF) established by each county; making the Vehicle License Fund (VLF) Swap permanent; and the "triple flip" of sales and use taxes to service debt payments on State Economic Recovery Bonds, "back-filled" from the ERAF, which was in turn replaced by direct subventions from the General Fund. The end result was a savings to the state of \$1.3 billion.⁶

⁶ Exhibit A, Test Claim Statement of Decision, at p. 2.

The three revenue realignment programs created by the test claim statutes imposed reimbursable activities upon counties to establish new accounts within the treasury of the county, and to reduce and reallocate funds as directed by the statutes, and in amounts identified by the Department of Finance (DOF) or the State Controller's Office (SCO), respectively. The test claim statutes do not, by the plain language, require counties to calculate, or to verify, the amounts required to be reduced during the 2004-2005 and 2005-2006 fiscal years, but the VLF Swap does require counties to calculate the adjustment amount beginning in the 2006-2007 fiscal year.

None of the statutory exclusions from reimbursement found in section 17556 are applicable to these activities in the 2004-2005 and 2005-2006 fiscal years, but beginning in 2006-2007, all counties, except for the City and County of San Francisco, are authorized by Revenue and Taxation Code section 97.75 to charge cities within their jurisdiction fees in an amount sufficient to pay for the administrative costs of the VLF Swap and the Triple Flip required by sections 97.70 and 97.68 of the Revenue and Taxation Code. Therefore, reimbursement for the VLF Swap and Triple Flip ends beginning July 1, 2006 for all counties, except the City and County of San Francisco. However, because the City and County of San Francisco is not relieved of any incurred costs by the operation of the fee authority provided, the City and County is eligible for continuing reimbursement during and after the 2006-2007 fiscal year for the VLF Swap and the Triple Flip.

II. PROCEDURAL HISTORY

The test claim was filed by the County of Los Angeles (LA County) on August 12, 2005. The County filed supplemental information regarding fee authority on June 9, 2008. Commission staff issued the draft staff analysis on the test claim on May 30, 2013. DOF submitted comments on July 10, 2013, expressing general agreement with the draft staff analysis. The claimant submitted comments on July 19, 2013 expressing agreement with the draft staff analysis. The consolidated test claim was heard and the statement of decision was adopted by the Commission on September 27, 2013. On October 2, 2013, Commission staff issued draft expedited parameters and guidelines. On October 17, 2013, the SCO submitted written comments on the draft expedited parameters and guidelines.

III. COMMISSION FINDINGS

A. Period of Reimbursement (Section III. of Parameters and Guidelines)

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. LA County filed the first test claim on August 12, 2005, establishing eligibility for reimbursement for the 2004-2005 fiscal year. Therefore, costs incurred on or after July 1, 2004 are reimbursable under this consolidated test claim, for statutes in effect before July 1, 2004, or later, as specified, for statutes effective after July 1, 2004.

1. Two of the three test claim statutes have effective dates after the earliest period of eligibility based on the test claim filing.

Here, three test claim statutes were pled: Statutes 2003, chapter 162 (AB 1766); Statutes 2004, chapter 211 (SB 1096); and Statutes 2004, chapter 610 (AB 2115). Statutes 2003, chapter 162 (AB 1766) was enacted and became effective August 2, 2003. Therefore, based on the filing date of the test claim, all activities and costs imposed by Statutes 2003, chapter 162 (AB 1766)

are reimbursable on or after July 1, 2004. Statutes 2004, chapter 211 (SB 1096) was enacted and became effective August 5, 2004. Therefore any activities or costs imposed by Statutes 2004, chapter 211 (SB 1096) are reimbursable on or after August 5, 2004. Statutes 2004, chapter 610 (AB 2115) was enacted and became effective September 20, 2004. Therefore any activities or costs imposed by Statutes 2004, chapter 610 (AB 2115) are reimbursable on or after September 20, 2004.

For the activities related to the ERAF III shift from cities and counties to school districts, reimbursement begins August 5, 2004, the effective date of Statutes 2004, chapter 211 (SB 1096).⁷ In addition, for most activities related to the ERAF III shift from redevelopment agencies to school districts, reimbursement begins August 5, 2004, the effective date of Statutes 2004, chapter 211 (SB 1096).⁸ However, for the activity of reallocating funds from the legislative body of the community associated with a redevelopment agency if the agency fails to timely repay a loan financed by bonds, pursuant to Health and Safety Code section 33681.15, reimbursement begins September 20, 2004, the effective date of Statutes 2004, chapter 610 (AB 2115).⁹ For activities required to implement the Vehicle License Fee swap under Revenue and Taxation Code section 97.70, reimbursement begins August 5, 2004, the effective date of Statutes 2004, chapter 211 (SB 1096).¹⁰ Finally, for activities required to implement the Triple Flip under Revenue and Taxation Code section 97.68, reimbursement begins July 1, 2004, based on the filing date of the test claim.¹¹

The language of section III. Period of Reimbursement, therefore reflects a reimbursement period beginning July 1, 2004, or later for specified activities added by subsequent statutes. Where reimbursement for specified activities begins later than July 1, 2004, those activities are so identified in section IV. Reimbursable Activities.

2. The test claim statutes provide that activities under Health and Safety Code sections 33618.12, 33681.13, 33681.14, and 33681.15, and Revenue and Taxation Code sections 97.71, 97.72, and 97.73 are mandated only for fiscal years 2004-2005 and 2006-2006, with one exception, as specified.

The Commission found, in the test claim statement of decision, that the shift of revenues from counties, cities, special districts, and redevelopment agencies to the ERAF, and all of the accounting activities necessary to complete the shift, was only required for fiscal years 2004-2005 and 2005-2006.¹² Revenue and Taxation Code section 97.71 requires county auditors to

⁷ Revenue and Taxation Code sections 97.71, 97.72, 97.73 (Stats. 2004, ch. 211 (AB 1096) effective August 5, 2004).

⁸ Health and Safety Code sections 33681.12-33681.14 (added by Stats. 2004, ch. 211 (SB 1096); amended by Stats 2004, ch. 610 (AB 2115)).

⁹ Health and Safety Code section 33681.15(e-g) (added by Stats 2004, ch. 610 (AB 2115) effective September 20, 2004).

¹⁰ Revenue and Taxation Code section 97.70 (Stats. 2004, ch. 211 (SB 1096) effective August 5, 2004; Stats. 2004 ch. 610 (AB 2115) effective September 20, 2004).

¹¹ Revenue and Taxation Code section 97.68 (Stats. 2003, ch. 162 (AB 1766) effective August 2, 2003).

¹² See Exhibit A, Test Claim Statement of Decision, at pp. 18-21.

reduce, in the 2004-2005 and 2005-2006 fiscal years only, by amounts specified, the revenue otherwise allocated to counties, city and county, and cities within the county, and deposit those funds in the ERAF.¹³ Section 97.72 requires a county auditor to reduce, in the 2004-2005 and 2005-2006 fiscal years only, by amounts determined by the Controller, the amount of ad valorem property tax revenue otherwise required to be allocated to an *enterprise* special district, and deposit that amount in the ERAF.¹⁴ Section 97.73 requires a county auditor to reduce, in the 2004-2005 and 2005-2006 fiscal years only, by amounts determined by the Controller, the amount of ad valorem property tax revenue otherwise required to be allocated to a *non-enterprise* special district, and deposit that amount in the ERAF.¹⁵ And Health and Safety Code sections 33681.12, 33681.13, 33681.14, and 33681.15 require a county auditor, for fiscal years 2004-2005 and 2005-2006 only, to receive funds from a redevelopment agency for deposit in the county's ERAF, receive a report from the legislative body of the city or county as to how the agency intends to procure the funds necessary to transfer, and, if applicable, transfer the funds from the city or county's allocations if the redevelopment agency fails to transmit the amount required.¹⁶ One activity required by section 33681.15 may, where applicable, require a county to incur costs other than during fiscal years 2004-2005 and 2005-2006:

If a redevelopment agency enters into an agreement with an authorized issuer, as defined, pursuant to section 33681.15, in order to obtain a loan, financed by bonds, to make the payment required by section 33681.12 to the county auditor for deposit in the county's ERAF, the county auditor shall receive a schedule of payments for that loan. And in the event the redevelopment agency fails to timely repay the loan in accordance with the schedule, the county auditor shall receive notification from the trustee for the bonds of the amount that is past due. The county auditor shall then reallocate funds from the legislative body of the community associated with a redevelopment agency and shall pay to the authorized issuer, on behalf of the redevelopment agency, the past due amount on the loan from the first available proceeds of the property tax allocation that would otherwise be transferred to the legislative body pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. This transfer shall be deemed a reallocation of the property tax revenue from the legislative body to the agency for the purpose of payment of the loan, and not as a payment by the legislative body on the loan.¹⁷

¹³ Revenue and Taxation Code section 97.71(a-c) (Stats. 2004, ch. 211 (AB 1096); Stats. 2004, ch. 610 (AB 2115)).

¹⁴ Revenue and Taxation Code section 97.72(a-b) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004, ch. 610 (AB 2115)).

¹⁵ Revenue and Taxation Code section 97.73(a-b) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004, ch. 610 (AB 2115)).

¹⁶ Health and Safety Code section 33681.12(d) 33681.13(e); 33681.14(c) (added by Stats. 2004, ch. 211 (SB 1096); amended by Stats 2004, ch. 610 (AB 2115)).

¹⁷ Health and Safety Code section 33681.15(e-g) (added by Stats 2004, ch. 610 (AB 2115)).

Based on the foregoing, the language of section III. Period of Reimbursement reflects a reimbursement period beginning July 1, 2004, or later for specified activities added by subsequent statutes, and ending, for all activities under Revenue and Taxation Code sections 97.71, 97.72, 97.73, and Health and Safety Code sections 33681.12, 33681.13, and 33681.14, on June 30, 2006. Activities under Health and Safety Code section 33681.15 may, where applicable, be reimbursable on or after July 1, 2004.

3. The test claim statutes provide fee authority to counties, beginning in the 2006-2007 fiscal year, sufficient to cover the costs of the remaining two new programs.

Section 97.68, also called the “Triple Flip,” requires counties to establish a Sales and Use Tax Compensation Fund in the treasury of the county; to shift revenues from the county ERAF to the cities and counties in amounts identified by DOF; to make adjustments based on amounts recalculated by DOF after each fiscal year; and to make adjustments in the last year of the “adjustment period,” as defined, in accordance with the statute.¹⁸ Section 97.70 requires counties to establish a Vehicle License Fee Property Tax Compensation Fund in the treasury of the county, and to shift revenues from the county ERAF to the cities and county,¹⁹ based on amounts calculated by the Controller.²⁰

Revenue and Taxation Code section 97.75 prohibits counties from charging the cities within their jurisdiction for any administrative costs of the revenue-shifting required by these sections during fiscal years 2004-2005 and 2005-2006, but permits counties to charge the costs of administering the services required by sections 97.68 and 97.70 against the cities within their jurisdiction, beginning in the 2006-2007 fiscal year, and after.

The Commission found, in the test claim statement of decision, that the fee authority provided pursuant to section 97.75 is sufficient, as a matter of law, to offset the costs of the mandated program, beginning in fiscal year 2006-2007. However, as discussed in the test claim statement of decision, the City and County of San Francisco is unable, both legally and practically, to avail itself of the fee authority provided by section 97.75. While the City and County of San Francisco is required to perform the reductions and transfers under sections 97.70 and 97.68, just as is every other county, the City and County of San Francisco is one consolidated local government with no separate or subordinate city government upon which to levy a fee or charge; the county would in effect be charging itself, which cannot logically be characterized as anything other than the proceeds of local taxes.^{21,22} Therefore, the Commission found in the test claim

¹⁸ Revenue and Taxation Code section 97.68 (Stats. 2003, ch. 162 (AB 1766); Stats. 2004, ch. 211 (SB 1096)).

¹⁹ Revenue and Taxation Code section 97.70(a-b) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004 ch. 610 (AB 2115)).

²⁰ See Revenue and Taxation Code section 97.76 (Stats. 2004, ch. 211 (SB 1096)).

²¹ *County of Fresno, supra*, at p. 487 [Section 17556 “effectively construes the term ‘costs’ in the constitutional provision as excluding expenses that are recoverable from sources other than taxes.”]

²² See Government Code section 23138, defining the boundaries of San Francisco city and county. See also San Francisco Administrative Code, section 2.1-1 [“The powers of the City and County, except the powers reserved to the people or delegated to other officials, boards or

statement of decision that while reimbursement for activities under section 97.68 and 97.70 ends for all other counties, the City and County of San Francisco continues to incur increased costs mandated by the state, and reimbursement is required.

Based on the foregoing, the language of section III. Period of Reimbursement reflects a reimbursement period beginning July 1, 2004, or later for specified activities added by subsequent statutes, and ending, for all activities under Revenue and Taxation Code sections 97.68 and 97.70, for all counties except the City and County of San Francisco, on June 30, 2006.

B. Reimbursable Activities (Section IV. of Parameters and Guidelines)

The reimbursable activities approved in the test claim statement of decision are included in the parameters and guidelines without substantial analysis.

All other test claim statutes and allegations not specifically approved above do not result in a reimbursable state-mandated program subject to article XIII B, section 6 of the California Constitution and are, therefore, denied.

IV. CONCLUSION

For the foregoing reasons the Commission hereby adopts the attached proposed parameters and guidelines, providing for actual cost reimbursement of the activities approved in the test claim statement of decision, as analyzed above.

commissions by the Charter, shall be vested in the Board of Supervisors and shall be exercised as provided in the Charter. [¶]The exercise of all rights and powers of the City and County when not prescribed in the Charter shall be as provided by ordinance or resolution of the Board of Supervisors.”] (Ordinance 65-13, File No. 130018, approved April 17, 2013, effective May 17, 2013.)

PROPOSED PARAMETERS AND GUIDELINES

Health & Safety Code Sections 33681.12, 33681.13, 33681.14, 33681.15; Revenue & Taxation
Code Sections 97.68, 97.70, 97.71, 97.72, 97.73, 97.75

Statutes 2003, Chapter 162; Statutes 2004, Chapter 211; Statutes 2004, Chapter 610

Accounting for Local Revenue Realignments

05-TC-01

County of Los Angeles, Claimant

I. SUMMARY OF THE MANDATE

On September 27, 2013, the Commission on State Mandates (Commission) adopted a test claim statement of decision finding that the test claim statutes impose a partially reimbursable 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 test claim statutes shifted and swapped revenue in three areas: the Educational Revenue Augmentation Fund (ERAF) established by each county; making the Vehicle License Fund (VLF) Swap permanent; and the “triple flip” of sales and use taxes to service debt payments on State Economic Recovery Bonds, “back-filled” from the ERAF, which was in turn replaced by direct subventions from the General Fund. The end result was a savings to the state of \$1.3 billion.¹ The three revenue realignment programs created by the test claim statutes imposed reimbursable activities upon counties to establish new accounts within the treasury of the county, and to reduce and reallocate funds as directed by the statutes, and in amounts identified by the Department of Finance or the Controller, respectively. The test claim statutes do not, by the plain language, require counties to calculate, or to verify, the amounts required to be reduced during the 2004-2005 and 2005-2006 fiscal years, but the VLF Swap does require counties to calculate the adjustment amount beginning in the 2006-2007 fiscal year. None of the statutory exclusions from reimbursement found in section 17556 are applicable to these activities in the 2004-2005 and 2005-2006 fiscal years, but beginning in 2006-2007, all counties, except for the City and County of San Francisco, are authorized by Revenue and Taxation Code section 97.75 to charge cities within their jurisdiction fees in an amount sufficient to pay for the administrative costs of the VLF Swap and the Triple Flip required by sections 97.70 and 97.68 of the Revenue and Taxation Code. Therefore, reimbursement for the VLF Swap and Triple Flip must end in the 2006-2007 fiscal year for all counties, except the City and County of San Francisco, because they no longer incur increased costs mandated by the state, by virtue of their authority to charge the incurred costs to cities. However, because the City and County of San Francisco is not relieved of any incurred costs by the operation of the fee authority provided, the City and County continues to be eligible for reimbursement during and after the 2006-2007 fiscal year for the VLF Swap and the Triple Flip.

¹ Exhibit A, Test Claim Statement of Decision, at p. 2.

II. ELIGIBLE CLAIMANTS

Any county, or city and county, which incurs increased costs as a result of this mandate, is eligible to claim reimbursement.

III. PERIOD OF 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 County of Los Angeles filed the test claim on August 12, 2005, establishing eligibility for reimbursement for the 2004-2005 fiscal year. Therefore, costs incurred are reimbursable on or after July 1, 2004, or later periods for statutes or amendments enacted after July 1, 2004. Statutes 2003, chapter 162 (AB 1766) has an effective date of August 2, 2003, but does not require any activities until the beginning of fiscal year 2004-2005. Statutes 2004, chapter 211 (SB 1096) has an effective date of August 5, 2004. Statutes 2004, chapter 610 (AB 2115) has an effective date of September 20, 2004.

All activities under Revenue and Taxation Code sections 97.71, 97.72, 97.73, and Health and Safety Code sections 33681.12, 33681.13, and 33681.14 are mandated **only** for the 2004-2005 and 2005-2006 fiscal years, and therefore are no longer reimbursable after June 30, 2006. One remaining activity under Health and Safety Code section 33681.15, as discussed below, may, where applicable, result in state-mandated increased costs other than during fiscal years 2004-2005 and 2005-2006, and therefore may be reimbursable on or after July 1, 2006.

In addition, section 97.75 provides for fee authority for activities mandated by sections 97.68 and 97.70, beginning in fiscal year 2006-2007. Specifically, counties are authorized to charge the administrative costs of the Triple Flip and the VLF swap against their subordinate cities, beginning in fiscal year 2006-2007. The Commission determined in the test claim decision that the fee authority is sufficient to pay for the mandated program, within the meaning of Government Code section 17556(d), for all counties except for the City and County of San Francisco, which cannot, either legally or as a practical matter, avail itself of the fee authority granted. Therefore, the Commission found that reimbursement for the activities required by sections 97.68 and 97.70 ends, for all claimants except the City and County of San Francisco, on June 30, 2006.

The relevant period of reimbursement for each of the activities is specified below under section IV. Reimbursable Activities.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560(a), a local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a local agency filing an

annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Government Code section 17560(b).)

5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564(a).
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

A. ERAF III Shift

The following requirements of the test claim statutes impose a reimbursable state-mandated program upon all counties beginning in the 2004-2005 fiscal year.

1. ERAF Shift from Counties and Cities

For 2004-2005 and 2005-2006 fiscal years only, beginning August 5, 2004:

- a. Reduce revenue otherwise required to be allocated to each county by the amounts listed in Revenue and Taxation Code section 97.71(a)(1), and deposit that amount in the county's ERAF.²
- b. Reduce revenue otherwise required to be allocated to a city and county by an amount identified by the Controller pursuant to Revenue and Taxation Code section 97.71(b)(2-3), and deposit that amount in the county's ERAF.³

² Revenue and Taxation Code section 97.71(a)(1); (c) (Stats. 2004, ch. 211 (AB 1096); Stats. 2004, ch. 610 (AB 2115)).

- c. Reduce revenue otherwise required to be allocated to each city within the county by an amount identified by the Controller pursuant to Revenue and Taxation Code section 97.71(b)(2-3), and deposit that amount in the county's ERAF.⁴
- d. Where applicable, accept from a city, in lieu of reduction of that city's revenues, an amount equal to the required reduction, and deposit those moneys in the county's ERAF.⁵

Reimbursement is not required for calculating the amounts of revenue otherwise required to be allocated to a city, county, or city and county, which must be reduced and deposited in the county ERAF.⁶

2. ERAF Shift from Special Districts

For fiscal years 2004-2005 and 2005-2006 only, beginning August 5, 2004:

- a. Reduce the amount of ad valorem property tax otherwise required to be allocated to an enterprise special district, including an enterprise special district located in more than one county, in amounts determined by the Controller and received from the Director of Finance, for each enterprise special district in the county.⁷
- b. Deposit the amounts reduced from each enterprise special district in the county's ERAF.⁸
- c. Reduce the amount of ad valorem property tax otherwise required to be allocated to a nonenterprise special district, including a nonenterprise special district located in more than one county, in amounts determined by the Controller for each special district in each county.⁹

³ Revenue and Taxation Code section 97.71(b); (c) (Stats. 2004, ch. 211 (AB 1096); Stats. 2004, ch. 610 (AB 2115)).

⁴ Revenue and Taxation Code section 97.71(c) (Stats. 2004, ch. 211 (AB 1096); Stats. 2004, ch. 610 (AB 2115)).

⁵ Revenue and Taxation Code section 97.71(b)(5) (Stats. 2004, ch. 211 (AB 1096); Stats. 2004, ch. 610 (AB 2115)).

⁶ Revenue and Taxation Code section 97.71(a)(1); (b)(3) (Stats. 2004, ch. 211 (AB 1096); Stats. 2004, ch. 610 (AB 2115)).

⁷ Revenue and Taxation Code section 97.72(a)(2) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004, ch. 610 (AB 2115)).

⁸ Revenue and Taxation Code section 97.72(b) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004, ch. 610 (AB 2115)).

⁹ Revenue and Taxation Code section 97.73(a)(2) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004, ch. 610 (AB 2115)).

- d. Deposit the amounts reduced from each nonenterprise special district in the county's ERAF.¹⁰

Reimbursement is not required for calculating the amounts of ad valorem property tax otherwise required to be allocated to an enterprise or nonenterprise special district which must be reduced and deposited in the county ERAF.¹¹

3. ERAF Shift from Redevelopment Agencies

For fiscal years 2004-2005 and 2005-2006 only, beginning August 5, 2004:

- a. Receive funds directly from a redevelopment agency in the amount identified by the Director of Finance, and deposit those funds in the county's ERAF.¹²
- b. Receive from the legislative body of the community associated with a redevelopment agency by March 1 of the applicable fiscal year, a report as to how the redevelopment agency intends to secure the funds required to be transferred to the county.¹³
- c. If a redevelopment agency fails to transmit the full amount of funds required by section 33681.12, is precluded by court order from transmitting that amount, or is otherwise unable to meet its full obligation pursuant to section 33681.12 the county auditor, by no later than May 15 of the applicable fiscal year, shall transfer any amount necessary to meet the obligations determined under section 33681.12 from the legislative body's allocations pursuant to Chapter 6 (commencing with section 95) of the Revenue and Taxation Code.¹⁴
- d. If the legislative body of the community associated with a redevelopment agency, pursuant to section 33681.12(d), reported to the county auditor that it intended to remit the amount required on behalf of the redevelopment agency and the legislative body fails to transmit the full amount as authorized by section 33681.12 by May 10 of the applicable fiscal year: the county auditor shall, no later than May 15 of the applicable fiscal year, transfer an amount necessary to meet the redevelopment agency's obligation pursuant to section 33681.12 from the legislative body's allocations pursuant to Chapter 6 (commencing with section 95) of the Revenue and Taxation Code. If the amount of the legislative body's allocations are not sufficient to meet the redevelopment agency's obligation pursuant to section 33681.12, the county auditor shall transfer an additional

¹⁰ Revenue and Taxation Code section 97.73(b) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004, ch. 610 (AB 2115)).

¹¹ Revenue and Taxation Code sections 97.72(a)(2); 97.73(a)(2) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004, ch. 610 (AB 2115)).

¹² Health and Safety Code section 33681.12(a)(1) (added by Stats. 2004, ch. 211 (SB 1096); amended by Stats 2004, ch. 610 (AB 2115)).

¹³ Health and Safety Code section 33681.12(d) (added by Stats. 2004, ch. 211 (SB 1096); amended by Stats 2004, ch. 610 (AB 2115)).

¹⁴ Health and Safety Code section 33681.13(e) (added by Stats. 2004, ch. 211 (SB 1096))

amount necessary to meet the redevelopment agency's obligation from the property tax increment revenue apportioned to the redevelopment agency pursuant to section 33670, provided that no moneys allocated to the agency's Low and Moderate Income Housing Fund shall be used for this purpose.¹⁵

Reimbursement is not required to calculate the amount of moneys to be remitted to the county auditor by a redevelopment agency.¹⁶

4. ERAF Shift from Redevelopment Agencies

Beginning September 20, 2004:

If a redevelopment agency enters into an agreement with an authorized issuer, as defined, pursuant to section 33681.15, in order to obtain a loan, financed by bonds, to make the payment required by section 33681.12 to the county auditor for deposit in the county's ERAF, the county auditor shall receive a schedule of payments for that loan. And in the event the redevelopment agency fails to timely repay the loan in accordance with the schedule, the county auditor shall receive notification from the trustee for the bonds of the amount that is past due. The county auditor shall then reallocate funds from the legislative body of the community associated with a redevelopment agency and shall pay to the authorized issuer, on behalf of the redevelopment agency, the past due amount on the loan from the first available proceeds of the property tax allocation that would otherwise be transferred to the legislative body pursuant to Chapter 6 (commencing with section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. This transfer shall be deemed a reallocation of the property tax revenue from the legislative body to the agency for the purpose of payment of the loan, and not as a payment by the legislative body on the loan.¹⁷

B. Vehicle License Fee Swap

The following requirements of the test claim statutes impose a reimbursable state-mandated program upon all counties for the 2004-2005 and 2005-2006 fiscal years, beginning August 5, 2004, and for the City and County of San Francisco ONLY, continuing in the 2006-2007 fiscal year.

1. Establish a Vehicle License Fee Property Tax Compensation Fund in the treasury of the county.¹⁸ This is a one-time activity, by definition.
2. Reduce the total amount of ad valorem property tax otherwise required to be allocated to a county's ERAF by the countywide vehicle license fee adjustment amount.¹⁹

¹⁵ Health and Safety Code section 33681.14(c) (added by Stats. 2004, ch. 211 (SB 1096)).

¹⁶ Health and Safety Code section 33681.12 (added by Stats. 2004, ch. 211 (SB 1096); amended by Stats 2004, ch. 610 (AB 2115)).

¹⁷ Health and Safety Code section 33681.15(e-g) (added by Stats 2004, ch. 610 (AB 2115)).

¹⁸ Revenue and Taxation Code section 97.70(a)(2) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004 ch. 610 (AB 2115)).

3. If, after performing the adjustments and allocations required by section 97.68, there is not enough ad valorem property tax revenue that is otherwise required to be allocated to a county ERAF for the auditor to complete the allocation reduction, the auditor shall also reduce the total amount of ad valorem property tax revenue otherwise required to be allocated to all school districts and community college districts in the county, in order to produce the remainder of the countywide vehicle license fee adjustment amount. Reductions to school districts and community college districts shall be made in proportion to each district's share of total ad valorem property tax revenue. School districts and community college districts subject to reductions when ERAF moneys are insufficient shall not include any districts that are excess tax school entities, as defined in Revenue and Taxation Code section 95.²⁰
 4. Allocate the countywide vehicle license fee adjustment amount to the Vehicle License Fee Property Tax Compensation Fund established in the treasury of each county.²¹
 5. Allocate the moneys in the Vehicle License Fee Property Tax Compensation Fund to each city in the county, and to the county or city and county, based on each entity's vehicle license fee adjustment amount.²² Allocate one-half of the entity's vehicle license fee adjustment amount on or before January 31 of each fiscal year, and the other one-half on or before May 31 of each fiscal year.²³
 6. On or before June 30 of each fiscal year, report to the Controller the vehicle license fee adjustment amount for the county and each city in the county for that fiscal year.²⁴
- Reimbursement for activities B 1-6 is not required for** calculating each entity's vehicle license fee adjustment amount for the 2004-2005 and 2005-2006 fiscal years.²⁵
7. For the City and County of San Francisco only: Beginning in the 2006-2007 fiscal year calculate each entity's vehicle license fee adjustment amount, and the countywide vehicle license fee adjustment amount, defined as the sum of the vehicle

¹⁹ Revenue and Taxation Code section 97.70(a)(1)(A) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004 ch. 610 (AB 2115)).

²⁰ Revenue and Taxation Code section 97.70(a)(1)(B) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004 ch. 610 (AB 2115)).

²¹ Revenue and Taxation Code section 97.70(a)(2) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004 ch. 610 (AB 2115)).

²² Revenue and Taxation Code section 97.70(b)(1) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004 ch. 610 (AB 2115)).

²³ Revenue and Taxation Code section 97.70(b)(2) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004 ch. 610 (AB 2115)).

²⁴ Revenue and Taxation Code section 97.70(c)(3) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004 ch. 610 (AB 2115)).

²⁵ Revenue and Taxation Code section 97.76 (added, Stats. 2004, ch. 211 (SB 1096); amended Stats. 2004, ch. 610 (AB 2115)).

license fee adjustment amounts of all entities in the county, pursuant to section 97.70(c)(1)(C).²⁶

This activity includes increasing the prior year's vehicle license fee adjustment amount for each entity based on the percentage change from the prior fiscal year to the current fiscal year in gross taxable assessed valuation within the jurisdiction of the entity, as reflected in the equalized assessment roll for those fiscal years.

C. Triple Flip

The following requirements of the test claim statutes impose a reimbursable state-mandated program upon all counties for the 2004-2005 and 2005-2006 fiscal years, and for the City and County of San Francisco ONLY, continuing in the 2006-2007 fiscal year.

1. Establish a Sales and Use Tax Compensation Fund in the treasury of the county.²⁷
This is a one-time activity, by definition.
2. During the fiscal adjustment period, reduce, by the countywide adjustment amount provided by the Department of Finance, the amount otherwise required to be allocated to a county's ERAF, and deposit that amount in the Sales and Use Tax Compensation Fund.²⁸

Reimbursement is not required to calculate the countywide adjustment amount; the amount is annually estimated by the Department of Finance, pursuant to section 97.68(b)(2), except in a fiscal year in which the suspension of 0.25 percent taxing authority is ended, pursuant to Revenue and Taxation Code section 7203.1.

3. During the fiscal adjustment period, allocate revenues in the Sales and Use Tax Compensation Fund among the county and the cities in the county pursuant to the portions of the countywide adjustment amount identified by the Department of Finance for each city and for the county. Allocate one half of the amount identified for each city and for the county in each January during the fiscal adjustment period, and one half the amount identified for each city and for the county in each May during the fiscal adjustment period.²⁹

Reimbursement is not required to calculate the portion of the countywide adjustment amount attributable to the county and each city within the county; the amounts are provided by the Department of Finance, pursuant to section 97.68(c)(1), and recalculated after the end of each fiscal year, pursuant to section 97.68(c)(3),

²⁶ Revenue and Taxation Code section 97.70(c)(1)(C) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004 ch. 610 (AB 2115)). See also Revenue and Taxation Code section 97.76 (Stats. 2004, ch. 211 (SB 1096)).

²⁷ Revenue and Taxation Code section 97.68(a)(2) (Stats. 2003, ch. 162 (AB 1766); Stats. 2004, ch. 211 (SB 1096)).

²⁸ Revenue and Taxation Code section 97.68(a-b) (Stats. 2003, ch. 162 (AB 1766); Stats. 2004, ch. 211 (SB 1096)).

²⁹ Revenue and Taxation Code section 97.68(c) (Stats. 2003, ch. 162 (AB 1766); Stats. 2004, ch. 211 (SB 1096)).

except a fiscal year in which the suspension of 0.25 percent taxing authority is ended, pursuant to Revenue and Taxation Code section 7203.1.

4. If the amount recalculated by the Department of Finance after the end of each fiscal year based on the actual amount of sales and use taxes not transmitted for the prior fiscal year is greater than the amount allocated to a city or to the county based on the portion of the countywide adjustment amount estimated by the Department of Finance, transfer an amount of ad valorem property tax revenue equal to this difference from the Sales and Use Tax Compensation Fund to that local agency.³⁰
5. If the amount recalculated by the Department of Finance after the end of each fiscal year based on the actual amount of sales and use taxes not transmitted for the prior fiscal year is less than the amount allocated to a city or to the county based on the portion of the countywide adjustment amount estimated by the Department of Finance, in the fiscal year following the fiscal year for which the allocation was made, reduce the total amount of ad valorem property tax revenue otherwise allocated to that city or county from the Sales and Use Tax Compensation Fund by an amount equal to this difference and instead allocate this difference to the county ERAF.³¹
6. If there is an insufficient amount of moneys in a county's Sales and Use Tax Compensation Fund to make the necessary transfers, transfer from the county ERAF to the Sales and Use Tax Compensation Fund an amount sufficient to make the full amount of these transfers.³²
7. If the suspension of sales and use tax authority under section 7203.1 ceases to be operative on October 1 of any fiscal year:
 - a. Allocate that portion of the countywide adjustment amount attributable to the county and each city within the county on or before January 31 of that fiscal year. The countywide adjustment amount shall be defined as the combined total revenue loss to the county and each city within the county, as estimated by the director of the Department of Finance based on the prior year's *first quarter* sales and use tax revenues transmitted under section 7204; *plus* the difference between 1) the total amount allocated from the Sales and Use Tax Compensation Fund among the county and the cities in the county pursuant to the portions of the countywide adjustment amount identified by the Department of Finance in the prior year; and 2) the actual amount of sales and use tax not transmitted to all entities in the county for the prior year as a result of the 0.25% suspension of local sales and use tax authority.
 - b. If, for any county or city, the portion of the countywide adjustment amount allocated to that entity from the Sales and Use Tax Compensation Fund is greater than the actual total amount of local sales and use tax revenue that was not transmitted to the entity for the prior fiscal year as a result of the 0.25

³⁰ *Ibid.*

³¹ *Ibid.*

³² *Ibid.*

percent suspension of local sales and use tax authority applied by Section 7203.1, on or before January 31 of the following fiscal year, reallocate from the entity to the county ERAF the difference between those amounts.

- c. If, for any county or city, the portion of the countywide adjustment amount allocated to that entity from the Sales and Use Tax Compensation Fund is less than the actual total amount of local sales and use tax revenue that was not transmitted to the entity for the prior fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by Section 7203.1, on or before January 31 of the following fiscal year, reallocate from the county ERAF to that entity the difference between those amounts.³³

Reimbursement is not required, under Section 97.68(d)(1), to calculate or identify countywide adjustment amount, or the portion attributable to the county and to each city within the county, or the difference between the countywide adjustment amounts allocated to the county and to each city and the actual sales and use tax revenues not transmitted to the county and to each city as a result of the suspension of sales and use tax authority; the county auditor shall be notified of those amounts by the director of the Department of Finance.³⁴

- 8. If the suspension of sales and use tax authority under section 7203.1 ceases to be operative on January 1 of any fiscal year:
 - a. Allocate that portion of the countywide adjustment amount attributable to the county and each city within the county; one half of the amount on or before January 31 of that fiscal year, and the remaining half of the amount on or before May 31 of that fiscal year. The countywide adjustment amount shall be defined as the combined total revenue loss to the county and each city within the county, as estimated by the director of the Department of Finance based on the sales and use tax revenues transmitted under section 7204 for the *first two quarters* of the prior fiscal year as determined by the Board of Equalization and reported to the director on or before that August 15; *plus* the difference between the total amount allocated to all entities in the county in the prior year and the actual amount of sales and use tax not transmitted to all entities in the county for the prior year.
 - b. If, for any county or city, the portion of the countywide adjustment amount allocated to that entity from the Sales and Use Tax Compensation Fund is greater than the actual total amount of local sales and use tax revenue that was not transmitted to the entity for the prior fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by section 7203.1, on or before January 31 of the following fiscal year, reallocate from the entity to the county ERAF the difference between those amounts.
 - c. If, for any county or city, the portion of the countywide adjustment amount allocated to that entity from the Sales and Use Tax Compensation Fund is less than the actual total amount of local sales and use tax revenue that was not

³³ Revenue and Taxation Code section 97.68(d)(1) (Stats. 2004, ch. 211 (SB 1096)).

³⁴ Revenue and Taxation Code section 97.68(d)(1)(C)(ii) (Stats. 2004, ch. 211 (SB 1096)).

transmitted to the entity for the prior fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by section 7203.1, on or before January 31 of the following fiscal year, reallocate from the county ERAF to that entity the difference between those amounts.³⁵

Reimbursement is not required, under Section 97.68(d)(2), to calculate or identify countywide adjustment amount, or the portion attributable to the county and to each city within the county, or the difference between the countywide adjustment amounts allocated to the county and to each city and the actual sales and use tax revenues not transmitted to the county and to each city as a result of the suspension of sales and use tax authority; the county auditor shall be notified of those amounts by the director of the Department of Finance.³⁶

9. If the suspension of sales and use tax authority under section 7203.1 ceases to be operative on April 1 of any fiscal year:
 - a. Reduce the amount otherwise required to be allocated in May of that fiscal year from the Sales and Use Tax Compensation Fund by the amount reported by director representing that portion of the countywide adjustment amount attributable to the estimated sales and use tax revenue losses resulting from the rate suspension applied by section 7203.1 for the fourth quarter of that fiscal year for the county and each city in the county.
 - b. After May allocations have been made, transfer any moneys remaining in the county Sales and Use Tax Compensation Fund to the county ERAF.
 - c. If, for any county or city, the portion of the countywide adjustment amount allocated to that entity from the Sales and Use Tax Compensation Fund is greater than the actual total amount of local sales and use tax revenue that was not transmitted to the entity for the prior fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by section 7203.1, on or before January 31 of that fiscal year, reallocate from the entity to the county ERAF the difference between those amounts.
 - d. If, for any county or city, the portion of the countywide adjustment amount allocated to that entity from the Sales and Use Tax Compensation Fund is less than the actual total amount of local sales and use tax revenue that was not transmitted to the entity for the prior fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by section 7203.1, on or before January 31 of the following fiscal year, reallocate from the county ERAF to that entity the difference between those amounts.³⁷

Reimbursement is not required, under Section 97.68(d)(3), to calculate or identify countywide adjustment amount, or the portion attributable to the county and to each city within the county, or the difference between the countywide adjustment amounts

³⁵ Revenue and Taxation Code section 97.68 (d)(2) (Stats. 2004, ch. 211 (SB 1096)).

³⁶ Revenue and Taxation Code section 97.68(d)(2)(C)(ii) (Stats. 2004, ch. 211 (SB 1096)).

³⁷ Revenue and Taxation Code section 97.68(d)(3) (Stats. 2004, ch. 211 (SB 1096)).

allocated to the county and to each city and the actual sales and use tax revenues not transmitted to the county and to each city as a result of the suspension of sales and use tax authority; the county auditor shall be notified of those amounts by the director of the Department of Finance.³⁸

10. If the suspension of sales and use tax authority under section 7203.1 ceases to be operative on July 1 of any fiscal year:

- a. If, for any county or city, the portion of the countywide adjustment amount allocated to that entity from the Sales and Use Tax Compensation Fund is greater than the actual total amount of local sales and use tax revenue that was not transmitted to the entity for the prior fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by section 7203.1, on or before January 31 of that fiscal year, reallocate from the entity to the county ERAF the difference between those amounts.
- b. If, for any county or city, the portion of the countywide adjustment amount allocated to that entity from the Sales and Use Tax Compensation Fund is less than the actual total amount of local sales and use tax revenue that was not transmitted to the entity for the prior fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by section 7203.1, on or before January 31 of the following fiscal year, reallocate from the county ERAF to that entity the difference between those amounts.³⁹

Reimbursement is not required, under Section 97.68(d)(4), to calculate or identify countywide adjustment amount, or the portion attributable to the county and to each city within the county, or the difference between the countywide adjustment amounts allocated to the county and to each city and the actual sales and use tax revenues not transmitted to the county and to each city as a result of the suspension of sales and use tax authority; the county auditor shall be notified of those amounts by the director of the Department of Finance.⁴⁰

All other test claim statutes and allegations not specifically approved above do not result in a reimbursable state-mandated program subject to article XIII B, section 6 of the California Constitution and are, therefore, denied.

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in section IV. Additionally, each reimbursement claim must be filed in a timely manner.

³⁸ Revenue and Taxation Code section 97.68(d)(3)(C)(ii) (Stats. 2004, ch. 211 (SB 1096)).

³⁹ Revenue and Taxation Code section 97.68(d)(4) (Stats. 2004, ch. 211 (SB 1096)).

⁴⁰ Revenue and Taxation Code section 97.68(d)(4)(B)(2) (Stats. 2004, ch. 211 (SB 1096)).

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1., Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both: (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in 2 CFR Part 225 (Office of Management and Budget (OMB) Circular A-87). Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B)). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be: (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.); (2) direct salaries and wages; or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by: (1) classifying a department's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount of allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by: (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount of allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter⁴¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in section IV, must be retained during the period subject to audit. If an audit has been initiated by

⁴¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561(d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557(d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The statements of decision adopted for the test claim and parameters and guidelines are legally binding on all parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.