Hearing Date: January 29, 2004
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ITEM 8
TEST CLAIM
FINAL STAFF ANALYSIS

Penal Code Section 148.6

Statutes 1995, Chapter 590
Statutes 1996, Chapter 586
Statutes 2000, Chapter 289

False Reports of Police Misconduct (00-TC-26)

County of San Bernardino, Claimant

EXECUTIVE SUMMARY

Background

Statutes 1995, chapter 590 (AB 1732) added section 148.6 to the Penal Code. This provision made it a misdemeanor for any individual to knowingly file a false complaint against a peace officer. It also required that any citizen filing a report must sign an informational advisory regarding the misdemeanor. Claimant, County of San Bernardino, alleges that Penal Code section 148.6, as amended, requires the claimant to engage in the following reimbursable state-mandated activities: warn all citizens making a complaint against a peace officer and advise that a false report can be a misdemeanor; make the advisory available in the language of the complainant; and explain the form to the citizen.

Claimant alleges costs from spending approximately 15 minutes explaining the form to the complainant. "Additionally, although the Department of Justice has provided translations of the forms, if the citizen desiring to make a complaint does not speak English, it takes additional time for staff to download and print the form in the language of the citizen complainant." Claimant estimates annual costs for complying with Penal Code section 148.6 at $52,000.

Department of Finance's (DOF's) response to the test claim allegations argues that there is no reimbursable state mandate stemming from the test claim legislation. First, DOF asserts: "Although Section 148.6 of the Penal Code may result in costs to local entities, those costs are not reimbursable because they are not unique to local government." Next, DOF critiques the time and cost estimates for the claimed activities, stating that some are discretionary, others are required by prior law, and ultimately, that providing the advisory on the legal consequences of filing a false report will result in a reduction of complaints filed, which "would more than offset any costs associated with this test claim."

In order for the test claim legislation to be subject to article XIII B, section 6 of the California Constitution, the legislation must constitute a "program." The California Supreme Court defined the word "program" within the meaning of article XIII B, section 6 as one that carries out the governmental function of providing a service to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all

residents and entities in the state. Staff finds that providing the advisory constitutes a "program" and, thus, is subject to article XIII B, section 6 of the California Constitution. However, this finding is only for city and county-level law enforcement agencies. School district employers of peace officers claims for these statutes are represented in a separate test claim filing, *False Reports of Police Misconduct, K-14* (02-TC-09).

Staff finds that Penal Code section 148.6, subdivision (a), sections (2) and (3), imposes a new program or higher level of service for city and county law enforcement agencies when accepting an allegation of peace officer misconduct. The legislation newly requires the law enforcement agency to: (1) require the complainant to read and sign the advisory prescribed; and (2) make the advisory available in multiple languages, utilizing the translations available from the State. In addition, staff finds that none of the Government Code section 17556 exceptions to finding costs mandated by the state apply to these activities.

Conclusion

Staff concludes that Penal Code section 148.6, subdivision (a), sections (2) and (3), imposes a new program or higher level of service for city and county law enforcement 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 the specific new activities identified on page 12. Staff recommends denial of any remaining alleged activities or costs.

Staff Recommendation

Staff recommends that the Commission adopt the final staff analysis, which partially approves this test claim for local agencies (cities and counties).

STAFF ANALYSIS

Claimant

County of San Bernardino

Chronology

07/05/01	Commission receives test claim filing[1]
07/10/01	Commission staff determines test claim is complete and requests comments
07/25/01	Interested party requests information regarding inclusion of K-14 school districts as eligible claimants
08/09/01	DOF files response to test claim allegations
09/07/01	Commission grants an extension of time for claimant's rebuttal comments
11/08/01	Claimant requests an extension of time to file rebuttal comments
11/09/01	Commission grants an extension of time for rebuttal comments
02/04/02	Claimant requests a second extension of time to file rebuttal comments
02/06/02	Commission grants an extension of time for rebuttal comments
02/27/02	Claimant files rebuttal comments
04/23/02	Claimant requests a third extension of time to file rebuttal comments
04/26/02	Commission grants an extension of time for rebuttal comments
05/15/02	Claimant re-files rebuttal to DOF response (document dated February 21, 2002)
05/24/02	Commission's Executive Director responds to interested party concerns regarding status of school districts as eligible claimants
11/25/03	Commission staff issues draft staff analysis; hearing set for January 29, 2004
12/23/03	Claimant requests extension of time to file comments until March 15, 2004
01/06/04	Claimant withdraws request for extension of time

Background

Statutes 1995, chapter 590 (AB 1732) added section 148.6 to the Penal Code. This provision made it a misdemeanor for any individual to knowingly file a false complaint against a peace officer. It also required that any citizen filing a report must sign an informational advisory regarding the misdemeanor. AB 1732 was sponsored by the Los Angeles County Professional Peace Officers Association and supported by a number of law enforcement agencies and

[1] The test claim filing was dated July 2, 2001. June 30 fell on a Saturday in 2001, therefore the filing deadline for establishing a July 1, 1999 reimbursement period pursuant to Government Code section 17557, subdivision (c), and the operative regulations, was delivery or postmark by Monday, July 2, 2001. The potential reimbursement period for this claim begins no earlier than July 1, 1999.

associations.[2] The goals of the legislation, according to a September 5, 1995 letter from Assemblywoman Paula Boland[3] were to "discourage these malicious reports," which could be damaging to the personnel record of the officer accused, and also to "save the state a substantial amount of money … [which] could then be used towards putting officers out on the street, thereby enhancing public safety." In 2000, Penal Code section 148.6 was amended to add subdivision (a)(3): "The advisory shall be available in multiple languages."

Claimant's Position

Claimant, County of San Bernardino, alleges that the test claim legislation requires the following reimbursable state-mandated activities:

- warn all citizens making a complaint against a peace officer and advise that a false report can be a misdemeanor;
- make the advisory available in the language of the complainant;
- explain the form to the citizen.

Claimant alleges costs from spending approximately 15 minutes explaining the form to the complainant. "Additionally, although the Department of Justice has provided translations of the forms, if the citizen desiring to make a complaint does not speak English, it takes additional time for staff to download and print the form in the language of the citizen complainant." Claimant estimates annual costs for complying with Penal Code section 148.6 at $52,000.

State Agency's Position

DOF's August 9, 2001 response to the test claim allegations argues that there is no reimbursable state mandate stemming from the test claim legislation. First, DOF asserts: "Although Section 148.6 of the Penal Code may result in costs to local entities, those costs are not reimbursable because they are not unique to local government." This argument is described and analyzed below, under "Issue 1."

Next, DOF critiques the time and cost estimates for the claimed activities, stating that some are discretionary, others are required by prior law, and ultimately, that providing the advisory on the legal consequences of filing a false report will result in a reduction of complaints filed, which "would more than offset any costs associated with this test claim." These individual contentions will be described in greater detail in the analysis below. No comments were received on the draft staff analysis.

Discussion

The courts have found that article XIII B, section 6 of the California Constitution[4] recognizes the state constitutional restrictions on the powers of local government to tax and spend.[5] "Its

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[2] Claimant was not identified as a sponsor or supporter of the legislation.

[3] See Attachment 1 to Exhibit E.

[4] Article XIII B, section 6 provides: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention

purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."[6] A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.[7] In addition, the required activity or task must be new, constituting a "new program," or it must create a "higher level of service" over the previously required level of service.[8]

The courts have defined a "program" subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.[9] To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim legislation.[10] Finally, the newly required activity or increased level of service must impose costs mandated by the state.[11]

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.[12] In making its

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of funds for the following mandates: (a) Legislative mandates requested by the local agency affected; (b) Legislation defining a new crime or changing an existing definition of a crime; or (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975."

[5] *Department of Finance v. Commission on State Mandates* (2003) 30 Cal.4th 727, 735.

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

[7] *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174. In *Department of Finance v. Commission on State Mandates, supra*, 30 Cal.4th at page 742, the court agreed that "activities undertaken at the option or discretion of a local government entity (that is, actions undertaken without any legal compulsion or threat of penalty for nonparticipation) do not trigger a state mandate and hence do not require reimbursement of funds - even if the local entity is obligated to incur costs as a result of its discretionary decision to participate in a particular program or practice." The court left open the question of whether non-legal compulsion could result in a reimbursable state mandate, such as in a case where failure to participate in a program results in severe penalties or "draconian" consequences. (*Id*., at p. 754.)

[8] *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835-836.

[9] *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar, supra*, 44 Cal.3d 830, 835.

[10] *Lucia Mar, supra*, 44 Cal.3d 830, 835.

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

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

decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."[13]

Issue 1: Is the test claim legislation subject to article XIII B, section 6 of the California Constitution?

In order for the test claim legislation to be subject to article XIII B, section 6 of the California Constitution, the legislation must constitute a "program." In *County of Los Angeles v. State of California*, the California Supreme Court defined the word "program" within the meaning of article XIII B, section 6 as one that carries out the governmental function of providing a service to the public, *or* laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.[14] Although the court has held that only one of these findings is necessary,[15] both will be analyzed here in order to address one of the arguments presented by DOF.

DOF contends that the test claim legislation does not impose a reimbursable state-mandated program because it is not unique to local government. This directly counters the claimant's assertion that:

> The statutory scheme … imposes a unique requirement on local government. Only local government hires peace officers, and only local government is required to accept complaints against peace officers. Only local government is required to present to citizen complainants a warning that the making of a false report can be a misdemeanor.

DOF correctly argues that the test claim statute affects all law enforcement agencies in the state, including the California Highway Patrol, the University of California, the Department of Fish and Game, and the Department of Corrections. DOF states that the California Supreme Court decision in *County of Los Angeles* supports its position.[16]

However, staff finds that DOF misapprehends the decision in *County of Los Angeles* for support of its argument that the statutes relating to peace officers are not unique to local government and therefore not subject to reimbursement under the California Constitution. *County of Los Angeles* involved state-mandated increases in workers' compensation benefits, which affected public and *private* employers alike. The California Supreme Court found that the term "program" as used in article XIII B, section 6, and the intent underlying section 6 "was to require reimbursement to local agencies for the costs involved in carrying out functions *peculiar to government*, not for expenses incurred as an incidental impact of law that apply generally to all state residents and entities."[17] (Emphasis added.) Since the increase in workers' compensation benefits applied to

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[13] *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817; *County of Sonoma, supra*, 84 Cal.App.4th 1265, 1280.

[14] *County of Los Angeles, supra*, 43 Cal.3d at page 56.

[15] *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537.

[16] *County of Los Angeles, supra*, 43 Cal.3d 46.

[17] *Id.* at pages 56-57; *City of Sacramento, supra*, 50 Cal.3d at page 67.

all employees of private and public businesses, the court found that no reimbursement was required.

Here, the test claim legislation is to be followed by all law enforcement agencies, which by definition are public entities.[18] The statutes do not apply "generally to all state residents and entities," such as private businesses. Thus, the test claim legislation meets this test for "program" in that it does not impose requirements that apply generally to all residents and entities of the state, but only upon those public entities that employ peace officers.

Next, staff finds that the test claim legislation satisfies the other test that triggers article XIII B, section 6, carrying out the governmental function of providing a service to the public, to the extent that the test claim legislation requires law enforcement agencies to provide complainants with information concerning the right to file a complaint against a police officer, including an advisory of the misdemeanor charge that may be filed if the individual knowingly makes a false complaint. As discussed by the court in *Carmel Valley*, police protection is one "of the most essential and basic functions of local government."[19] Therefore, governmental functions required of law enforcement agencies, ultimately provide a service to the public. Accordingly, staff finds that providing the advisory constitutes a "program" and, thus, is subject to article XIII B, section 6 of the California Constitution.

However, this finding is only for city and county-level law enforcement agencies. School district employers of peace officers claims for these statutes are represented in a separate test claim filing, *False Reports of Police Misconduct, K-14* (02-TC-09). Therefore, the analysis that follows is limited to mandate findings on behalf of city and county (local agency) claimants.

Issue 2: Does the test claim legislation impose a new program or higher level of service within an existing program upon city and county law enforcement agencies within the meaning of article XIII B, section 6 of the California Constitution?

Penal Code Section 148.6

Penal Code section 148.6, as added by Statutes 1995, chapter 590, and amended by Statutes 1996, chapter 586, and Statutes 2000, chapter 289, follows:

> (a)(1) Every person who files any allegation of misconduct against any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, knowing the allegation to be false, is guilty of a misdemeanor.
>
> (2) Any law enforcement agency accepting an allegation of misconduct against a peace officer shall require the complainant to read and sign the following advisory, all in boldface type:
>
> > **You have the right to make a complaint against a police officer for any improper police conduct. California law requires this agency to have a procedure to investigate citizens' complaints. You have a right to a written description of this procedure. This agency may find**

[18] Penal Code section 830 et seq.

[19] *Carmel Valley*, *supra*, 190 Cal.App.3d at page 537.

after investigation that there is not enough evidence to warrant action on your complaint; even if that is the case, you have the right to make the complaint and have it investigated if you believe an officer behaved improperly. Citizen complaints and any reports or findings relating to complaints must be retained by this agency for at least five years.

It is against the law to make a complaint that you know to be false. If you make a complaint against an officer knowing that it is false, you can be prosecuted on a misdemeanor charge.

I have read and understood the above statement.

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Complainant

(3) The advisory shall be available in multiple languages.

(b) Every person who files a civil claim against a peace officer or a lien against his or her property, knowing the claim or lien to be false and with the intent to harass or dissuade the officer from carrying out his or her official duties, is guilty of a misdemeanor. This section applies only to claims pertaining to actions that arise in the course and scope of the peace officer's duties.

Statutes 1996, chapter 586 amended the original language, adding what is now subdivision (b), an additional misdemeanor for knowingly filing a false civil claim against a peace officer in his or her official capacity, with the intent to harass the officer. Statutes 2000, chapter 289 amended the section, adding subdivision (a)(3): "The advisory shall be available in multiple languages."

Claimant does *not* allege a reimbursable state mandate from the addition of the new misdemeanor charges to the Penal Code. The California Constitution and the Government Code expressly disallow a mandate finding for such reimbursement. Article XIII B, section 6 provides "that the Legislature may, but need not, provide such subvention of funds for the following mandates: … (b) Legislation defining a new crime or changing an existing definition of a crime." In addition, Government Code section 17556, subdivision (g) provides that the Commission shall not find costs mandated by the state if the test claim statute "created a new crime or infraction … but only for that portion of the statute directly relating to the enforcement of the crime or infraction." Thus Penal Code section 148.6, subdivision (a)(1) and subdivision (b) do not impose a new program or higher level of service on law enforcement agencies, and do not impose costs mandated by the state.

Claimant alleges that Penal Code section 148.6 imposes a reimbursable state mandate by requiring a law enforcement agency to: warn all citizens making a complaint against a peace officer and advise that a false report can be a misdemeanor; make the advisory available in the language of the complainant; and explain the form to the citizen.

Regarding the final alleged activity, DOF's response dated August 9, 2001, asserts:

> [T]he test claim statute does not require local law enforcement agencies to read and explain the advisory form to potential complainants. Therefore, any costs resulting from the time that a local agency spends reading and explaining the form

to potential complainants are not reimbursable because those actions are done at the discretion of that agency.

Claimant, in a letter dated February 21, 2002, responded that DOF's "expectation that citizens be handed a document to read and sign is not realistic," and:

> presumes that the citizen:
>
> 1. Will have no questions, or
> 2. Will understand all terms used in the form, or
> 3. Is calm enough to take the time to read all the information, or
> 4. Can read in their spoken language, or
> 5. Can read, or
> 6. Will sign the document, or
> 7. Is even present. (They may have submitted their complaint in a letter mailed to the law enforcement agency.)

Despite claimant's concerns, staff notes that the Commission first looks to the plain meaning of the statutory language when identifying a reimbursable state-mandated program. According to the California Supreme Court:

> In statutory construction cases, our fundamental task is to ascertain the intent of the lawmakers so as to effectuate the purpose of the statute. "We begin by examining the statutory language, giving the words their usual and ordinary meaning." If the terms of the statute are unambiguous, we presume the lawmakers meant what they said, and the plain meaning of the language governs.[20] (Citations omitted.)

The plain language of Penal Code section 148.6 does not require a law enforcement agency to read the document aloud, explain the document, answer questions, or make sure the complainant is "calm enough to take the time to read all the information." As further evidence that the statute does not require the advisory to be read aloud and explained to the complainant, Senate Bill 2133, as introduced, sought to amend Penal Code section 148.6 from "a peace officer shall require the complainant to read and sign the following advisory," to "a peace officer shall read the following advisory to the complainant, provide the complainant with a written copy of this advisory and require the complainant to acknowledge this advisory by his or her signature, prior to filing the complaint."[21] Instead, when the bill was chaptered as Statutes 2000, chapter 289, this amendment was removed and the Legislature only added a requirement that the advisory be available in multiple languages (discussed below). Thus, the Legislature considered an amendment requiring greater action on the part of peace officers, but chose not to implement it when adopting the final version of the bill. Staff agrees with DOF's assertion that any explanatory or other additional activities are undertaken at the discretion of the law enforcement agency, and thus are not reimbursable. Staff finds that the plain language of the statute imposes

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[20] *Estate of Griswald* (2001) 25 Cal.4th 904, 910-911.

[21] Senate Bill 2133, as introduced. (Attachment to Exh. E.)

a new program or higher level of service for city and county law enforcement agencies when accepting an allegation of peace officer misconduct, for requiring the complainant to read and sign the advisory prescribed in Penal Code section 148.6, subdivision (a)(2).

Regarding the statutory requirement that "the advisory shall be available in multiple languages," claimant alleges that this provision means that the advisory shall be available in the language of the complainant. DOF, on the contrary, argues that having the advisory available in "only one language in addition to English would serve to comply with the law." DOF also references the Dymally–Alatorre Bilingual Services Act, and asserts this law previously required local agencies "to provide translated materials."

Government Code section 7290 et seq., known as the Dymally–Alatorre Bilingual Services Act,[22] requires state and local agencies to provide certain bilingual services to people who would otherwise be "precluded from utilizing public services because of language barriers." Specifically Government Code section 7295 requires local agencies to provide non-English translation of "any materials explaining services available" into language spoken by a "substantial number of the public served by the agency." The statute concludes: "The determination of when these materials are necessary when dealing with local agencies shall be left to the discretion of the local agency." Penal Code section 148.6, by specifically requiring that the advisory be available in multiple languages, has removed that determination from the local agency's discretion. Therefore, staff finds that the prior law of the Bilingual Services Act does not preclude a finding of a new program or a higher level of service.

Claimant acknowledges that "the Department of Justice has provided translations of the forms," but asserts that if the complainant "does not speak English, it takes additional time for staff to download and print the form in the language of the citizen complainant."[23] DOF disagrees with this methodology and asserts "A more efficient process would be to download the form once from the Department of Justice website and make photocopies of that form to have available as needed." Claimant responds: "Local law enforcement agencies are better able to determine the frequency and number of forms needed in additional languages." Staff finds that this is an appropriate issue to defer for parameters and guidelines. California Code of Regulations, title 2, section 1183.1 requires a successful test claimant to submit proposed parameters and guidelines including "a description of the most reasonable methods of complying with the mandate."

However, claimant and DOF have an additional disagreement requiring a legal finding: DOF asserts that having the form available in "only one language in addition to English would serve to comply with the law." Claimant contends, "because of the variety and non-conformity of non-English languages and dialects, might not the law enforcement agency encounter a situation in which a version of the form has not been developed by the Department of Justice?" Staff finds that the statutory language calls for a practical interpretation that neither argument supports.

Again, subdivision (a)(3) simply requires "The advisory shall be available in multiple languages." DOF focuses on the word "multiple," and contends that it merely means "more than one." Although this is a recognized definition of the word, it is also a synonym to "many," "numerous," and "several." The Legislature, by use of the word "multiple" likely did not intend

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[22] Statutes 1973, chapter 1182.

[23] Test Claim Filing, page 2.

to require individual law enforcement agencies to provide translations in every conceivable language or dialect. Nor did it likely intend that agencies serving diverse immigrant populations would merely make available a single translation other than English, in order to comply with the bare minimum expressed in the statutory language. The Department of Justice, under the authority of the state Attorney General, has created translations of the advisory and made them available via its website, according to the test claim declarations, to law enforcement agencies statewide. Use of any or all of these translated advisories, as necessary, is a reasonable interpretation of the statutory meaning of "make the advisory available in multiple languages."

Thus, staff finds that Penal Code section 148.6, subdivision (a), sections (2) and (3), imposes a new program or higher level of service for city and county law enforcement agencies for the following activities:

- In accepting an allegation of peace officer misconduct, requiring the complainant to read and sign the advisory prescribed in Penal Code section 148.6, subdivision (a)(2). (Pen. Code, § 148.6, subd. (a)(2).)[24]
- Make the advisory available in multiple languages, utilizing the translations available from the State. (Pen. Code, § 148.6, subd. (a)(3).)[25]

Issue 3: Does the test claim legislation found to require a new program or higher level of service also impose "costs mandated by the state" within the meaning of Government Code sections 17514 and 17556?

Reimbursement under article XIII B, section 6 is required only if any new program or higher-level of service is also found to impose "costs mandated by the state." Government Code section 17514 defines "costs mandated by the state" as any *increased* cost a local agency is required to incur as a result of a statute that mandates a new program or higher level of service. Claimant estimated costs of $200 or more for the test claim allegations.[26] Staff finds that claimant met this threshold showing.

The Commission shall not find costs mandated by the state, as defined in section 17514, in certain instances. (Gov. Code, § 17556.) Claimant states that none of the Government Code section 17556 exceptions apply. DOF disagrees, claiming potential offsetting savings to costs arising from the statute.[27] DOF argues that "having the form available in multiple languages will reduce the number of complaints filed, thereby providing substantial saving to law enforcement agencies." But DOF offers no evidence in support of its argument for this alleged offset. Accordingly, staff finds that none of the section 17556 exceptions apply. For the activities listed

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[24] As added by Statutes 1995, chapter 590; reimbursement period begins no earlier than July 1, 1999. (Gov. Code, § 17557, subd. (c).).

[25] As amended by Statutes 2000, chapter 289; reimbursement period begins no earlier than January 1, 2001, the operative date of the statute.

[26] As required by Government Code section 17564 at the time the claim was filed. Current statute and regulations require claims filed to exceed $1000.

[27] The Commission shall not find costs if "[t]he statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts . . . ." (Gov. Code, § 17556, subd. (e).)

below, staff finds that they impose costs mandated by the state upon city and county law enforcement agencies within the meaning of Government Code section 17514.

CONCLUSION

Staff concludes that Penal Code section 148.6, subdivision (a), sections (2) and (3), imposes a new program or higher level of service for city and county law enforcement 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 the following specific new activities:

- In accepting an allegation of peace officer misconduct, requiring the complainant to read and sign the advisory prescribed in Penal Code section 148.6, subdivision (a)(2). (Pen. Code, § 148.6, subd. (a)(2).)[28]
- Make the advisory available in multiple languages, utilizing the translations available from the State. (Pen. Code, § 148.6, subd. (a)(3).)[29]

Staff recommends denial of any remaining alleged activities or costs, including any from Penal Code section 148.6, subdivision (a)(1), as added by Statutes 1995, chapter 590, and subdivision (b) as added by Statutes 1996, chapter 586, because they do not impose a new program or higher level of service, and do not impose costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code sections 17514 and 17556.

[28] As added by Statutes 1995, chapter 590; reimbursement period begins no earlier than July 1, 1999. (Gov. Code, § 17557, subd. (c).).

[29] As amended by Statutes 2000, chapter 289; reimbursement period begins no earlier than January 1, 2001, the operative date of the statute.