



January 26, 2026

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

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

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

**Re: Proposed Decision**

*Stops: Notification by Peace Officers, 24-TC-03*  
Statutes 2022, Chapter 805, Section 5 (AB 2773); Vehicle Code Section 2806.5  
County of Los Angeles, Claimant

Dear Mr. Hill and Mr. Lemus:

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

**Hearing:** This matter is set for hearing on **Friday, February 13, 2026, at 10:00 a.m., at California Department of Food and Agriculture (CDFA), First Floor Auditorium, 1220 N Street, Sacramento, California, 95814 and via Zoom.**

The Commission is committed to ensuring that its public meetings are accessible to the public and that the public has the opportunity to observe the meeting and to participate by providing written and verbal comment on Commission matters whether they are physically appearing at the in-person meeting location or participating via Zoom. If you want to speak during the hearing and you are in-person, please come to the table for the swearing in and to speak when your item is up for hearing. If you are participating via Zoom, you must use the "Raise Hand" feature in order for our moderators to know you need to be unmuted.

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**Testimony at the Commission Hearing:** If you plan to address the Commission on an agenda item, please notify the Commission Office **not later than noon on the Tuesday prior to the hearing, February 10, 2026**. Please also include the names of the people who will be speaking for inclusion on the witness list and the names and email addresses of the people who will be speaking both in person and remotely to receive a hearing panelist link in Zoom. When calling or emailing, identify the item you want to testify on and the entity you represent. The Commission Chairperson reserves the right to impose time limits on presentations as may be necessary to complete the agenda.

**Time to File Written Comments:** Any person may submit comments in writing on any agenda item by filing them in accordance with section 1181.3 of the Commission's regulations. If you plan to file any written document, please note that comments filed at least 15 days in advance of the meeting shall be included in the Commissioners' hearing binders, a copy of which is available for public viewing at the Commission meeting. Additionally, comments filed more than five days in advance of the meeting shall be included in the Commission's meeting binders, if feasible, or shall be provided to the Commission when the item is called, unless otherwise agreed by the Commission or the executive director. (Cal. Code Regs., tit. 2, § § 1181.3 and 1181.10(b)(1)(A-B)).

However, written comments filed less than five days in advance of the meeting, the commenter shall electronically file (or e-file) a PDF copy with the Commission via the Commission's e-filing system, available on the Commission's website <https://www.csm.ca.gov/dropbox.shtml> at least 24 hours prior to the meeting.

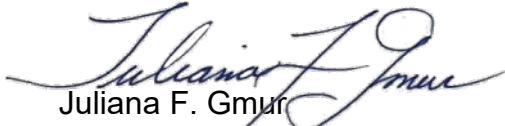
Commission staff shall provide copies of the comments to the Commission and shall place a copy on a table for public review when the item is called or, in the case of participation via teleconference, shall provide an electronic copy to the Commission and post a copy on the Commission's website, and may share the document with the Commission and the public using the "share" function. (Cal. Code Regs., tit. 2, § § 1181.3 and 1181.10(b)(1)(C)).

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

Mr. Hill and Mr. Lemus  
January 26, 2026  
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**Special Accommodations:** For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

Very truly yours,



Juliana F. Gmur  
Executive Director

**ITEM 3**  
**TEST CLAIM**  
**PROPOSED DECISION**

Vehicle Code Section 2806.5

Statutes 2022, Chapter 805, AB 2773

*Stops: Notification by Peace Officers*

24-TC-03

County of Los Angeles, Claimant

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**EXECUTIVE SUMMARY**

**Overview**

The Test Claim alleges new state-mandated activities and costs resulting from Vehicle Code section 2806.5, added by Statutes 2022, chapter 805, effective January 1, 2023. The test claim statute requires a peace officer making a traffic or pedestrian stop, before engaging in questioning about a criminal investigation or traffic violation, to state the reason for the stop, and also to document the reason on any resulting citation or police report, beginning on the statute's delayed operative date, January 1, 2024. These activities are not required when the officer reasonably believes withholding the reason for the stop is necessary to protect life or property from imminent threat, such as in cases of terrorism or kidnapping.

Staff finds the test claim statute is a reimbursable state-mandate within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

**Procedural History**

The claimant filed the Test Claim on December 20, 2024.<sup>1</sup> The Department of Finance (Finance) filed comments on the Test Claim on March 18, 2025.<sup>2</sup> The claimant filed rebuttal comments on April 7, 2025.<sup>3</sup> The County of Santa Clara filed comments on April 16, 2025.<sup>4</sup>

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<sup>1</sup> Exhibit A, Test Claim, page 1.

<sup>2</sup> Exhibit B, Finance's Comments on the Test Claim, page 1.

<sup>3</sup> Exhibit C, Claimant's Rebuttal Comments, page 1.

<sup>4</sup> Exhibit D, County of Santa Clara's Comments, page 1.

Commission staff issued the Draft Proposed Decision on October 6, 2025.<sup>5</sup> No comments were filed.

### **Commission Responsibilities**

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

The Commission is the quasi-judicial body vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”<sup>7</sup>

### **Claims**

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

<b>Issue</b>	<b>Description</b>	<b>Staff Recommendation</b>
Was the Test Claim timely filed?	Government Code section 17551(c) requires test claims “be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.” Section 1183.1(c) of the Commission’s regulations	Yes.  The test claim statute became effective on January 1, 2023, and has an operative date of January 1, 2024. <sup>8</sup>  The Test Claim was filed on December 20, 2024, <sup>9</sup> more than one year from the statute’s effective date. However, the claimant submitted evidence it began to incur increased costs

<sup>5</sup> Exhibit E, Draft Proposed Decision.

<sup>6</sup> Government Code section 17521.

<sup>7</sup> *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1281 citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

<sup>8</sup> Vehicle Code section 2806.5, as added by Statutes 2022, chapter 805.

<sup>9</sup> Exhibit A, Test Claim, page 1.

Issue	Description	Staff Recommendation
	<p>defines “12 months” as 365 days.</p> <p>Government Code section 17557(e) requires: “A test claim shall be submitted on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that year.”</p>	<p>under the statute on January 1, 2024.<sup>10</sup> The Test Claim is timely filed.</p> <p>Because the Test Claim was filed on December 20, 2024, the potential period of reimbursement begins on July 1, 2023.</p>
<p>Does Vehicle Code 2806.5, as added by Statutes 2022, chapter 805, impose a reimbursable state-mandated program?</p>	<p>The test claim statute, Vehicle Code section 2806.5 reads:</p> <p>(a) A peace officer making a traffic or pedestrian stop, before engaging in questioning related to a criminal investigation or traffic violation, shall state the reason for the stop. The officer shall document the reason for the stop on any citation or police report resulting from the stop.</p> <p>(b) Subdivision (a) does not apply when the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat, including, but not limited to, cases of terrorism or kidnapping.</p> <p>(c) This section shall become operative on January 1, 2024.</p>	<p>Yes, approve, with a period of reimbursement beginning July 1, 2023.</p> <p>Staff finds that Vehicle Code section 2806.5, as added by Statutes 2022, chapter 805, imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, for a county or city peace officer to do the following beginning January 1, 2024, when the officer makes a traffic or pedestrian stop:</p> <ul style="list-style-type: none"> <li>• State the reason for the stop before engaging in questioning related to a criminal investigation or traffic violation.</li> <li>• Document the reason for the stop on any citation or police report resulting from the stop.</li> </ul> <p>These activities are not required or mandated by the state when the officer</p>

<sup>10</sup> Exhibit A, Test Claim, page 16, paragraph 5 (Declaration of Jason Lymn, Deputy Sheriff Generalist, Risk Management Bureau, Field Operations Support Service, Office of Constitutional Policing).

Issue	Description	Staff Recommendation
		<p>reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat, including, but not limited to, cases of terrorism or kidnapping.</p> <p>In addition, documenting the reason for a stop is not new and does not mandate a new program or higher level of service when the officer's grounds for belief that the person violated Vehicle Code section 23136, 23140, 23152, or 23153 relating to DUI offenses, were the reason for the stop and that stop resulted in a suspension or arrest per Vehicle Code section 13380(a).</p>

### **Staff Analysis**

This Test Claim alleges new state-mandated activities and costs from Vehicle Code section 2806.5, as added by Statutes 2022, chapter 805. The test claim statute requires peace officers who make a traffic or pedestrian stop to state the reason for the stop before engaging in questioning about a criminal investigation or traffic violation and to document the reason on any citation or police report.<sup>11</sup> However, if the officer believes withholding the reason for the stop is necessary to protect life or property from imminent threat, including terrorism and kidnapping, then the activities of stating the reason for the stop and documenting the reason on the any citation or police report are not required.<sup>12</sup> These requirements are triggered by decisions of the officer to make a traffic or pedestrian stop and to engage in questioning.

Vehicle Code section 2806.5 was added in response to concern about “pretext stops,” in which a peace officer uses a minor traffic violation or other allowed reason for a stop as a pretext to investigate other crimes for which they did not have reasonable suspicion. In 1996, the U.S. Supreme Court, upheld this practice in *Whren v. United States*. The Court said:

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<sup>11</sup> Vehicle Code section 2806.5(a), as added by Statutes 2022, chapter 805.

<sup>12</sup> Vehicle Code section 2806.5(b), as added by Statutes 2022, chapter 805.

[T]he temporary detention of a motorist upon probable cause to believe that he has violated the traffic laws does not violate the Fourth Amendment's prohibition against unreasonable seizures, and "the constitutional reasonableness of traffic stops" does not depend "on the actual motivations of the individual officers involved."<sup>13</sup>

Use of the pretext stop as an investigative tool became "widespread" since the 1996 decision.<sup>14</sup> But pretext stops are widely criticized as a driver of racial bias in law enforcement.<sup>15</sup> In response to their growing use in California, the stated goal of the test claim statute is "equity and accountability in communities across California" and "transparency [in the] service of protecting our public."<sup>16</sup>

Staff finds that the Test Claim was timely filed with a potential period of reimbursement beginning July 1, 2023.

Staff finds the requirements are new and must be implemented on the statute's operative date of January 1, 2024.<sup>17</sup>

Staff further finds that the test claim statute imposes new requirements on local government peace officers who make a traffic or pedestrian stop to first state the reason for the stop before engaging in questioning about a criminal investigation or traffic violation and to document the reason on any citation or police report. However, documenting the reason for a stop is not new when the officer's grounds for belief that the person violated Vehicle Code section 23136, 23140, 23152, or 23153 relating to DUI offenses, were the reason for the stop and that stop resulted in a suspension or arrest per Vehicle Code section 13380(a) and a sworn report.

Staff further finds the new requirements are mandated by the state. The new requirements are not legally compelled by state law since the decision to stop the individual, engage in questioning, and in some cases to issue a citation or police report is made at the local level.<sup>18</sup> Nevertheless, the decisions to stop the individual and

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<sup>13</sup> *Whren v. United States* (1996) 517 U.S. 806, 813.

<sup>14</sup> Exhibit F (5), Senate Rules Committee, Office of Senate Floor Analyses, August 15, 2022, AB 2773, as amended August 11, 2022, page 4.

<sup>15</sup> Exhibit F (4), Senate Committee on Public Safety, June 21, 2022, AB 2773, as amended May 19, 2022, pages 3-4.

<sup>16</sup> Exhibit F (4), Senate Committee on Public Safety, June 21, 2022, AB 2773, as amended May 19, 2022, page 3.

<sup>17</sup> *People v. Valle* (2024) 105 Cal.App.5th 195, 203-204; Vehicle Code section 2806.5(c).

<sup>18</sup> *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 741 (This [legal compulsion] standard is similar to the showing necessary to obtain a traditional writ of mandate, which requires the petitioning party to establish the respondent has "a clear, present, and usually ministerial duty to act. ... Mandate will not issue if the duty is ... mixed with discretionary power."); *Coast Community College District v. Commission on State Mandates* (2022) 13 Cal.5th 800,



engage in questioning about a criminal investigation or traffic violation are not truly voluntary within the meaning of article XIII B, section 6 and the requirements to first state the reason for the stop and to document the reason for the stop on any citation or police report resulting therefrom are thus mandated by the state.

Staff further finds that the test claim statute imposes a new program or higher level of service which the California Supreme Court defined for purposes of article XIII B, section 6 as activities that carry 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.<sup>19</sup> The new state-mandated requirements imposed by the test claim statute apply uniquely to law enforcement, a peculiarly governmental function.<sup>20</sup> And the statute was intended to provide a service to the public: to “promote equity and accountability in communities across California” and “transparency to [the] service of protecting our public.”<sup>21</sup>

Finally, staff finds that the test claim statute results in costs mandated by the state. The claimant has provided evidence of increased costs exceeding \$1,000, as required by Government Code section 17564. Staff also finds that no exceptions to reimbursement in Government Code section 17556 apply. The test claim statute is aimed at peace officer behavior and does not create a new crime or infraction, eliminate a crime or infraction, or change the penalty for a crime or infraction within the meaning of Government Code section 17556(g) or article XIII B, section 6(a)(2) of the California Constitution.

Based on the foregoing, staff recommends that the Commission approve this Test Claim for the period of reimbursement beginning July 1, 2023, and find that Vehicle Code section 2806.5, as added by Statutes 2022, chapter 805, imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, for a county or city peace officer to do the following beginning January 1, 2024, when the officer makes a traffic or pedestrian stop:

- State the reason for the stop before engaging in questioning related to a criminal investigation or traffic violation.
- Document the reason for the stop on any citation or police report resulting from the stop.

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815 (“[A] local entity’s voluntary or discretionary decision to undertake an activity cannot be said to be legally compelled, even if that decision results in certain mandatory actions.”).

<sup>19</sup> *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

<sup>20</sup> *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 537.

<sup>21</sup> Exhibit F (4), Senate Committee on Public Safety, June 21, 2022, AB 2773, as amended May 19, 2022, page 3.

These activities are not required or mandated by the state when the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat, including, but not limited to, cases of terrorism or kidnapping.

In addition, documenting the reason for a stop is not new and does not mandate a new program or higher level of service when the officer's grounds for belief that the person violated Vehicle Code section 23136, 23140, 23152, or 23153 relating to DUI offenses, were the reason for the stop and that stop resulted in a suspension or arrest per Vehicle Code section 13380(a).

### **Staff Recommendation**

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

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM

Vehicle Code Section 2806.5

Statutes 2022, Chapter 805, AB 2773

Filed on December 20, 2024

County of Los Angeles, Claimant

Case No.: 24-TC-03

*Stops: Notification by Peace Officers*

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

*(Adopted February 13, 2026)*

**DECISION**

The Commission on State Mandates (Commission) heard and decided this Test Claim during a regularly scheduled hearing on February 13, 2026. [Witness list will be included in the adopted Decision.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

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

Member	Vote
Lee Adams, County Supervisor	
Deborah Gallegos, Representative of the State Controller, Vice Chairperson	
Karen Green Ross, Public Member	
Renee Nash, School District Board Member	
William Pahland, Representative of the State Treasurer	
Michele Perrault, Representative of the Director of the Department of Finance, Chairperson	
Alexander Powell, Representative of the Director of the Office of Land Use and Climate Innovation	

**Summary of the Findings**

This Test Claim alleges new state-mandated activities and costs from Vehicle Code section 2806.5, as added by Statutes 2022, chapter 805. The test claim statute

requires peace officers who make a traffic or pedestrian stop to state the reason for the stop before engaging in questioning about a criminal investigation or traffic violation and to document the reason on any citation or police report.<sup>22</sup> However, if the officer believes withholding the reason for the stop is necessary to protect life or property from imminent threat, including terrorism and kidnapping, then the activities of stating the reason for the stop and documenting the reason on any citation or police report are not required.<sup>23</sup> These requirements are triggered by decisions of the officer to make a traffic or pedestrian stop and to engage in questioning.

Vehicle Code section 2806.5 was added in response to concern about “pretext stops,” in which a peace officer uses a minor traffic violation or other allowed reason for a stop as a pretext to investigate other crimes for which they did not have reasonable suspicion. In 1996, the U.S. Supreme Court, upheld this practice in *Whren v. United States*. The Court said:

[T]he temporary detention of a motorist upon probable cause to believe that he has violated the traffic laws does not violate the Fourth Amendment’s prohibition against unreasonable seizures, and “the constitutional reasonableness of traffic stops” does not depend “on the actual motivations of the individual officers involved.”<sup>24</sup>

Use of the pretext stop as an investigative tool became “widespread” since the 1996 decision.<sup>25</sup> But pretext stops are widely criticized as a driver of racial bias in law enforcement.<sup>26</sup> In response to their growing use in California, the stated goal of the test claim statute is “equity and accountability in communities across California” and “transparency [in the] service of protecting our public.”<sup>27</sup>

The Commission finds that the Test Claim was timely filed with a potential period of reimbursement beginning July 1, 2023.

The requirements are new and must be implemented on the statute’s operative date of January 1, 2024.<sup>28</sup>

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<sup>22</sup> Vehicle Code section 2806.5(a), as added by Statutes 2022, chapter 805.

<sup>23</sup> Vehicle Code section 2806.5(b), as added by Statutes 2022, chapter 805.

<sup>24</sup> *Whren v. United States* (1996) 517 U.S. 806, 813.

<sup>25</sup> Exhibit F (5), Senate Rules Committee, Office of Senate Floor Analyses, August 15, 2022, AB 2773, as amended August 11, 2022, page 4.

<sup>26</sup> Exhibit F (4), Senate Committee on Public Safety, June 21, 2022, AB 2773, as amended May 19, 2022, pages 3-4.

<sup>27</sup> Exhibit F (4), Senate Committee on Public Safety, June 21, 2022, AB 2773, as amended May 19, 2022, page 3.

<sup>28</sup> *People v. Valle* (2024) 105 Cal.App.5th 195, 203-204; Vehicle Code section 2806.5(c).

The Commission finds that the test claim statute imposes new requirements on local government peace officers who make a traffic or pedestrian stop to first state the reason for the stop before engaging in questioning about a criminal investigation or traffic violation and to document the reason on any citation or police report. However, documenting the reason for a stop is not new when the officer's grounds for belief that the person violated Vehicle Code section 23136, 23140, 23152, or 23153 relating to DUI offenses, were the reason for the stop and that stop resulted in a suspension or arrest per Vehicle Code section 13380(a) and a sworn report.

The Commission also finds the new requirements are mandated by the state. The new requirements are not legally compelled by state law since the decision to stop the individual, engage in questioning, and in some cases to issue a citation or police report is made at the local level.<sup>29</sup> Nevertheless, the decisions to stop the individual and engage in questioning about a criminal investigation or traffic violation are not truly voluntary within the meaning of article XIII B, section 6 and the requirements to first state the reason for the stop and to document the reason for the stop on any citation or police report resulting therefrom are thus mandated by the state.

The Commission also finds that the test claim statute imposes a new program or higher level of service which the California Supreme Court defined for purposes of article XIII B, section 6 as activities that carry 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.<sup>30</sup> The new state-mandated requirements imposed by the test claim statute apply uniquely to law enforcement, a peculiarly governmental function.<sup>31</sup> And the statute was intended to provide a service to the public: to "promote equity and accountability in communities across California" and "transparency to [the] service of protecting our public."<sup>32</sup>

Finally, the Commission finds that the test claim statute results in costs mandated by the state. The claimant has provided evidence of increased costs exceeding \$1,000, as

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<sup>29</sup> *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 741 (This [legal compulsion] standard is similar to the showing necessary to obtain a traditional writ of mandate, which requires the petitioning party to establish the respondent has "a clear, present, and usually ministerial duty to act. ... Mandate will not issue if the duty is ... mixed with discretionary power."); *Coast Community College District v. Commission on State Mandates* (2022) 13 Cal.5th 800, 815 ("[A] local entity's voluntary or discretionary decision to undertake an activity cannot be said to be legally compelled, even if that decision results in certain mandatory actions.").

<sup>30</sup> *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

<sup>31</sup> *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 537.

<sup>32</sup> Exhibit F (4), Senate Committee on Public Safety, June 21, 2022, AB 2773, as amended May 19, 2022, page 3.

required by Government Code section 17564. The Commission further finds that no exceptions to reimbursement in Government Code section 17556 apply. The test claim statute is aimed at peace officer behavior and does not create a new crime or infraction, eliminate a crime or infraction, or change the penalty for a crime or infraction within the meaning of Government Code section 17556(g) or article XIII B, section 6(a)(2) of the California Constitution.

Based on the foregoing, the Commission approves this Test Claim for the period of reimbursement beginning July 1, 2023, and finds that Vehicle Code section 2806.5, as added by Statutes 2022, chapter 805, imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, for a county or city peace officer to do the following beginning January 1, 2024, when the officer makes a traffic or pedestrian stop:

- State the reason for the stop before engaging in questioning related to a criminal investigation or traffic violation.
- Document the reason for the stop on any citation or police report resulting from the stop.

These activities are not required or mandated by the state when the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat, including, but not limited to, cases of terrorism or kidnapping.

In addition, documenting the reason for a stop is not new and does not mandate a new program or higher level of service when the officer's grounds for belief that the person violated Vehicle Code section 23136, 23140, 23152, or 23153 relating to DUI offenses, were the reason for the stop and that stop resulted in a suspension or arrest per Vehicle Code section 13380(a).

## **COMMISSION FINDINGS**

### **I. Chronology**

- |            |   |
|------------|---|
| 01/01/2023 | Vehicle Code section 2806.5, Statutes 2022, chapter 805, became effective, and became operative on January 1, 2024. |
| 12/20/2024 | The claimant filed the Test Claim. <sup>33</sup>  |
| 03/18/2025 | The Department of Finance (Finance) filed comments on the Test Claim. <sup>34</sup>                                 |
| 04/07/2025 | The claimant filed rebuttal comments. <sup>35</sup>   |
| 04/16/2025 | The County of Santa Clara filed comments. <sup>36</sup>   |

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<sup>33</sup> Exhibit A, Test Claim.

<sup>34</sup> Exhibit B, Finance's Comments on the Test Claim.

<sup>35</sup> Exhibit C, Claimant's Rebuttal Comments.

<sup>36</sup> Exhibit D, County of Santa Clara's Comments.

10/06/2025 Commission staff issued the Draft Proposed Decision.<sup>37</sup>

## II. Background

### A. Prior Law

Traffic and pedestrian stop laws start with the Fourth Amendment. The Fourth Amendment to the U.S. Constitution provides that the right of the people to be secure against unreasonable searches and seizures shall not be violated. A traffic or pedestrian stop is a detention and therefore a seizure under the Fourth Amendment.<sup>38</sup>

Under Fourth Amendment law since the 1968 U. S. Supreme Court case of *Terry v. Ohio*,<sup>39</sup> to initiate a traffic or pedestrian stop, most often police must have a reasonable suspicion of criminal activity or the stopped person must consent to further detention.<sup>40</sup> “To support reasonable suspicion, an officer must put forth ‘specific and articulable facts that demonstrate at least a minimal level of objective justification for the belief that criminal activity is afoot.’”<sup>41</sup> Peace officers may only initiate a stop *without* reasonable

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<sup>37</sup> Exhibit E, Draft Proposed Decision.

<sup>38</sup> *Terry v. Ohio* (1968) 392 U.S. 1, 16 (“It must be recognized that whenever a police officer accosts an individual and restrains his freedom to walk away, he has ‘seized’ that person.”).

<sup>39</sup> *Terry v. Ohio* (1968) 392 U.S. 1, 2 (“And in justifying the particular intrusion the police officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.”).

<sup>40</sup> *U.S. v. Foreman* (2004) 369 F.3d 776, 780-781. *People v. Wells* (2006) 38 Cal.4th 1078, 1083. According to the *Foreman* case:

The standard of “reasonable suspicion” as used to evaluate the constitutionality of a *Terry* stop is not readily, or even usefully, reduced to a neat set of legal rules, but, rather, entails common sense, nontechnical conceptions that deal with factual and practical considerations of everyday life on which reasonable and prudent persons, not legal technicians, act. *Ornelas v. United States*, 517 U.S. 690, 695–96, 116 S.Ct. 1657, 134 L.Ed.2d 911 (1996). The reasonable suspicion standard, like the probable cause standard, is a fluid concept which takes its substantive content from the particular context in which the standard is being assessed. *Id.*

[¶] . . . [¶]

Notably, the reasonable suspicion standard “is a less demanding standard than probable cause and requires a showing considerably less than preponderance of the evidence.” *Illinois v. Wardlow*, 528 U.S. 119, 123, 120 S.Ct. 673, 145 L.Ed.2d 570 (2000). However, the *Terry* reasonable suspicion standard does require “a minimal level of objective justification” for the police action. *Id.*

<sup>41</sup> *United States v. Miller* (2022) 54 F.4th 219, 228 citing *United States v. Bowman* (2018) 884 F.3d 200, 213.

suspicion if there is “some special need ‘beyond the normal need’ for criminal law enforcement,” such as a mobile DUI (sobriety) checkpoint.<sup>42</sup> Another possibility is a vehicle safety hazard.<sup>43</sup> But in such circumstances, the detention is still a Fourth Amendment seizure subject to reasonableness.<sup>44</sup> Peace officers may take the additional step in any stop of requesting to see a driver’s license and vehicle registration as well.<sup>45</sup> “Any further investigative detention, however, is beyond the scope of the *Terry* stop and, therefore, illegal unless the officer has a reasonable suspicion of other criminal activity or the individual consents to the further detention.”<sup>46</sup> If the detainee receives a traffic citation and there is no reasonable suspicion of other criminal activity or consent to further detention, they must be released from custody upon signing (or placing a thumbprint upon) the citation.<sup>47</sup> As the courts summarize:

If a traffic offender provides proper identification, “the officer must simply prepare a written notice to appear (i.e., a citation or ‘ticket’) reciting the particulars of the violation (Veh.Code, § 40500, subd. (a)), and must release the offender when he signs a written promise to appear (*id.*, § 40504, subd. (a)).” (*McGaughran*, p. 583, 159 Cal.Rptr. 191, 601 P.2d 207, fn. omitted.) Accordingly, a driver stopped for a minor traffic infraction cannot be physically restrained absent “ ‘specific and articulable facts’ that could support a rational suspicion that [the driver was] involved in ‘some activity relating to crime.’ [Citation.]”<sup>48</sup>

While detained, any questioning is neither a search nor a seizure so long as the detention is not unreasonably prolonged beyond the time necessary to address the violation.<sup>49</sup> This remains true for investigations not directly related to the purpose of the stop.<sup>50</sup>

The many potential justifications for a stop have led to the controversial practice of the “pretext stop,” in which a peace officer uses a minor traffic violation or other allowed reason for a stop as a pretext to investigate other crimes for which they did not have reasonable suspicion. In 1996, the U.S. Supreme Court, upheld this practice in *Whren*

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<sup>42</sup> *Michigan Department of State Police v. Sitz* (1990) 496 U.S. 444, 450; Vehicle Code section 2814.2.

<sup>43</sup> Vehicle Code section 2806.

<sup>44</sup> *Michigan Department of State Police v. Sitz* (1990) 496 U.S. 444, 450.

<sup>45</sup> *U.S. v. Foreman* (2004) 369 F.3d 776, 781; *People v. Saunders* (2006) 38 Cal.4th 1129, 1135. Vehicle Code sections 4462(a) and 12951(b).

<sup>46</sup> *U.S. v. Foreman* (2004) 369 F.3d 776, 781.

<sup>47</sup> Vehicle Code sections 40504(a) and 40303.5.

<sup>48</sup> *People v. Medina* (2003) 110 Cal.App.4th 171, 176.

<sup>49</sup> *People v. Gallardo* (2005) 130 Cal.App.4th 234, 239.

<sup>50</sup> *Arizona v. Johnson* (2009) 555 U.S. 323, 333; *People v. Esparza* (2023) 95 Cal.App.5th 1084, 1094-1095.



*v. United States*. The Court held that the temporary detention of a motorist upon probable cause to believe that he has violated the traffic laws does not violate the Fourth Amendment's prohibition against unreasonable seizures, and "the constitutional reasonableness of traffic stops" does not depend "on the actual motivations of the individual officers involved."<sup>51</sup>

In short, pretext stops are allowed because the subjective intent of the officer is irrelevant under the Fourth Amendment.<sup>52</sup> As long as the questioning does not unnecessarily extend the duration of the stop, there is no violation.<sup>53</sup>

Use of the pretext stop as an investigative tool has become "widespread" since the 1996 decision.<sup>54</sup> But pretext stops are widely criticized as a driver of racial bias in law enforcement.<sup>55</sup>

In one attempt to address racial bias in law enforcement, California peace officers have been prohibited since 2000 from engaging in racial profiling, as defined.<sup>56</sup> To promote this, the Legislature required training for every peace officer in the state.<sup>57</sup>

In 2015, the Legislature became more specific. It found and declared that pedestrians, users of public transit, and vehicle occupants who have been stopped, searched, interrogated, and subjected to a property seizure by a peace officer for no reason other than the color of their skin, national origin, religion, gender identity or expression, housing status, sexual orientation, or mental or physical disability are the victims of discriminatory practices.<sup>58</sup> It further found that "[r]acial or identity profiling alienates people from law enforcement, hinders community policing efforts, and causes law enforcement to lose credibility and trust among the people whom law enforcement is sworn to protect and serve."<sup>59</sup>

In 2015, the Legislature also required reporting on the nature of stops. It enacted the Racial and Identity Profiling Act (RIPA) requiring state and local agencies that employ peace officers to annually report data to the Attorney General on all stops conducted by

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<sup>51</sup> *Whren v. United States* (1996) 517 U.S. 806, 813.

<sup>52</sup> *People v. Esparza* (2023) 95 Cal.App.5th 1084, 1094.

<sup>53</sup> *Arizona v. Johnson* (2009) 555 U.S. 323, 333.

<sup>54</sup> Exhibit F (5), Senate Rules Committee, Office of Senate Floor Analyses, August 15, 2022, AB 2773, as amended August 11, 2022, page 4.

<sup>55</sup> Exhibit F (4), Senate Committee on Public Safety, June 21, 2022, AB 2773, as amended May 19, 2022, pages 3-4.

<sup>56</sup> Penal Code section 13519.4(e), as added by Statutes 2000, chapter 684, section 1.

<sup>57</sup> Penal Code section 13519.4(f), as added by Statutes 2000, chapter 684, section 1.

<sup>58</sup> Penal Code section 13519.4(d)(4), as added by Statutes 2015, chapter 466, section 4.

<sup>59</sup> Penal Code section 13519.4(d)(3), as added by Statutes 2015, chapter 466, section 4.

that agency's peace officers for the preceding calendar year.<sup>60</sup> "Stop" is defined for purposes of RIPA as "any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control."<sup>61</sup> The submitted reports had to include, at a minimum:

- The time, date, and location of the stop.
- The reason for the stop.
- The result of the stop, such as no action, warning, citation, arrest, etc.
- If a warning or citation was issued, the warning provided or the violation cited.
- If an arrest was made, the offense charged.
- The perceived race or ethnicity, gender, and approximate age of the person stopped. For motor vehicle stops, this paragraph only applies to the driver unless the officer took actions with regard to the passenger.
- Actions taken by the peace officer, as specified.<sup>62</sup>

#### **B. The Test Claim Statute**

The claimant pleads section five of the test claim statute, Statutes 2022, Chapter 805 (AB 2773), which added section 2806.5 to the Vehicle Code as follows:

- (a) A peace officer making a traffic or pedestrian stop, before engaging in questioning related to a criminal investigation or traffic violation, shall state the reason for the stop. The officer shall document the reason for the stop on any citation or police report resulting from the stop.
- (b) Subdivision (a) does not apply when the officer reasonably believes that withholding the reason for the stop is necessary to protect life or

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<sup>60</sup> Government Code section 12525.5(a)(1), as added by Statutes 2015, chapter 466, section 2. The Commission partially approved a Test Claim on the Racial Identity and Profiling Act (RIPA), including this code section. See Commission on State Mandates, Test Claim Decision on *Racial and Identity Profiling*, 18-TC-02, adopted May 22, 2020, [https://csm.ca.gov/decisions/18tc02\\_052220.pdf](https://csm.ca.gov/decisions/18tc02_052220.pdf) (accessed on September 25, 2025), pages 3-8. In that Test Claim, the reason for a stop was required to be reported to the Department of Justice. See Government Code section 15252.5(b)(2), as added by Statutes 2015, chapter 466, section 2.

<sup>61</sup> Government Code section 12525.5(g)(2), as added by Statutes 2015, chapter 466, section 2.

<sup>62</sup> Government Code section 12525.5(b)(1)-(7), as added by Statutes 2015, chapter 466, section 2. The test claim statute added to this code section a requirement to report the "reason given to the person stopped at the time of the stop." (Stats. 2022, ch. § 2.) A test claim has not been filed on Government Code section 12525.5, as amended by the 2022 statute.

property from imminent threat, including, but not limited to, cases of terrorism or kidnap[p]ing.

(c) This section shall become operative on January 1, 2024.

Building on prior law discussed above, this code section is concerned with racism and the “spirit” of the Fourth Amendment’s protection against unlawful searches and seizures in traffic and pedestrian stops.<sup>63</sup> Despite being constitutionally allowed, pretext stops “have been widely criticized” for their use as racial profiling and discrimination.<sup>64</sup> The test claim statute’s intent is to deter peace officers from operating on the premise that they might more easily stop someone and later fabricate a “legitimate justification for the stop.”<sup>65</sup>

While its broadly stated goal is “equity and accountability in communities across California” and “transparency [in the] service of protecting the public,”<sup>66</sup> legislative history also provides statistical information on racism in traffic stops. The statistical information includes the following from the California Public Defenders’ Association:

It is a common experience for community members to be stopped on our streets and highways by peace officers for minor traffic violations and pedestrian offenses. Those community members are obliged to stop for the officer, and failure to do so is at least a misdemeanor, which could subject them to a custodial arrest. Most people are nervous and apprehensive after being stopped by an officer who can deprive them of their liberty.

In October of 2021, the Public Policy Institute of California (PPIC) published a report entitled, 'Racial Disparities in Law Enforcement Stops.' In its report, which analyzed data for almost four million stops by California's 15 largest law enforcement agencies in 2019 it found the following:

Black Californians are significantly more likely to be stopped than white individuals.

Black individuals are more than twice as likely to be searched as white individuals.

Black people are at least twice as likely as whites to experience so-called intrusive outcomes, ranging from being asked to step out of a vehicle, to

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<sup>63</sup> Exhibit F (4), Senate Committee on Public Safety, June 21, 2022, AB 2773, as amended May 19, 2022, page 3.

<sup>64</sup> Exhibit F (6), Senate Committee on Appropriations, August 1, 2022, AB 2773, as amended June 13, 2022, page 2.

<sup>65</sup> Exhibit F (6), Senate Committee on Appropriations, August 1, 2022, AB 2773, as amended June 13, 2022, page 2.

<sup>66</sup> Exhibit F (4), Senate Committee on Public Safety, June 21, 2022, AB 2773, as amended May 19, 2022, page 3.

being handcuffed, to the stop involving a weapon. Stops of Black individuals are three times more likely to involve a weapon than stops of white individuals. In CHP stops for traffic violations, almost everyone, Black or white, receives at least a warning, 98.5% and 98.6%, respectively. While being stopped for a traffic violation rarely results in a booking, both state and local law enforcement agencies book Black drivers more often than white, about 3.5% and 2.5% respectively.<sup>67</sup>

Legislative history also cites the Stanford Open Policing Project:

In 2020, the Stanford Open Policing Project published an analysis of almost 100 million police traffic stops conducted between 2011 and 2017 by 21 state patrol agencies (including the California Highway Patrol) and 29 municipal police departments nationwide. One of the study's central findings was that "police stopped and searched black and Hispanic drivers on the basis of less evidence used in stopping white drivers, who are searched less but are more likely to be found with illegal items."

Moreover, these stops based on routine traffic violations often turn violent. A 2021 New York Times investigation found that in the preceding 5 years, police officers killed at least more than 400 unarmed drivers and passengers who were not under pursuit for a violent crime, while about 60 officers died at the hands of motorists who had been pulled over.<sup>68</sup>

Legislative history also shows that the purpose of the bill was to reduce the use of pretext stops by requiring peace officers to state the reason for the stop before "any interaction with the person being stopped."<sup>69</sup> In 2024, the First District Court of Appeal, in *People v. Valle*, cited the legislative history to further clarify that the test claim statute does not *ban* pretext stops, but requires notice and documentation regarding the objective reason for a stop:

Whether the officer also had additional reasons [beyond a traffic or vehicle violation] for conducting the traffic stop does not eliminate an otherwise reasonable suspicion that a driver was violating the law. (*Whren, supra*, 517 U.S. at pp. 812-813, 116 S.Ct. 1769 [noting that in *United States v. Villamonte-Marquez* (1983) 462 U.S. 579, 103 S.Ct. 2573, 77 L.Ed.2d 22, it "flatly dismissed the idea that an ulterior motive might serve to strip the agents of their legal justification"].) In other words, "[p]retextual stops are

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<sup>67</sup> Exhibit F (1), Assembly Floor Analysis, August 29, 2022, AB 2773, as amended August 11, 2022, pages 1-2.

<sup>68</sup> Exhibit F (5), Senate Rules Committee, Office of Senate Floor Analyses, August 15, 2022, AB 2773, as amended August 11, 2022, page 5.

<sup>69</sup> Exhibit F (6), Senate Committee on Appropriations, August 1, 2022, AB 2773, as amended June 13, 2022, page 2 ("This bill seeks to reduce the use of pretext stops by requiring a peace officer to state the reason for a stop prior to any interaction with the person being stopped."); Exhibit F (7) Assembly Committee on Public Safety, April 5, 2022, AB 2773, as introduced February 18, 2022, page 4.

tolerated—so long as the lawful bounds that justify the stop are observed.”  
[Citation omitted.] . . .

Nothing in Assembly Bill No. 2773 (2021-2022) (Assembly Bill 2773), which contains new section 2806.5 (Stats. 2022, ch. 805, § 5), alters this Fourth Amendment jurisprudence. It is true that the legislation was originally introduced in response to concerns that the United States Supreme Court's decision in *Whren* had led to the widespread use of pretext stops and that such stops were often conducted in a racially biased manner. (Assem. Com. on Pub. Safety, Analysis of Assem. Bill 2773, Apr. 5, 2022, pp. 3–4.) . . .

Thus, as enacted, section 2806.5 merely requires notice from the police to the detainee regarding the objective reason for a stop. Under the circumstances, it appears the purposes of section 2806.5 were best articulated by the Public Defender's Association, which stated in support of the legislation: Assembly Bill 2773 “ ‘would increase transparency and public confidence in law enforcement by requiring an officer to immediately reassure the individual of the reason for the stop. Unfortunately, some officers launch into a series of questions that may have no apparent relationship to any basis for the stop. The longer the questioning goes on the more apprehensive the individual becomes of the officer's true motives. However, when confronted by an officer they may feel compelled to answer the questions when in fact they are not required to do so. If informed at the outset of the basis for the stop, the individual would know if any subsequent questions are legitimate or an attempt to elicit incriminating statements or acquiescence to a search.’ ” (Concurrence in Sen. Amends. to Assem. Bill 2773, as amended Aug. 11, 2022, p. 2.)<sup>70</sup>

Thus, to increase transparency and reduce extraneous conversation by reassuring individuals of the reason for the stop upfront, Vehicle Code section 2806.5 requires two new activities, assuming no imminent threat to life or property: (1) that the peace officer verbally declare the reason for the stop before questioning an individual regarding any criminal activity or a traffic violation; and (2) that the peace officer document the reason for the stop on any citation or police report resulting from the stop.

### **III. Positions of the Parties**

#### **A. County of Los Angeles**

The claimant maintains that the test claim statute imposes a reimbursable state mandated program within the meaning of article XIII B, section 6, first arguing that the requirements are new: “Prior to AB 2773, peace officers were not required to disclose to the person stopped the reason for the stop prior to questioning. Peace officers were

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<sup>70</sup> *People v. Valle* (2024) 105 Cal.App.5th 195, 203-204.

not required to document the reason given on any citation or police report.”<sup>71</sup> The claimant also states that the test claim statute imposes a “program” as defined by the Supreme Court in that it carries out a governmental function of providing services to the public, or is a law that implements State policy that imposes unique requirements on local governments that do not apply to the entire state.<sup>72</sup> And the claimant asserts that there are no funding sources for the test claim statute, including no local fee authority,<sup>73</sup> and none of the exceptions in Government Code section 17556 apply.<sup>74</sup>

The claimant requests reimbursement for the activities of disclosing the reason for a stop and documenting the reason for a stop.<sup>75</sup> Specifically, the claimant requests reimbursement for the activities of approximately 3,477 sworn officers using new citation forms daily, as well as the printing of the new forms, development of procedures, and training of officers.<sup>76</sup>

In rebuttal comments, the claimant agrees with Finance that costs for printing new citation forms and for training and developing procedures should not be considered ongoing.<sup>77</sup> The claimant *disagrees* with Finance that costs for stating the reason(s) for a stop is not a new program or higher level of service, arguing that it was not required to perform these activities before the test claim statute. The claimant asserts that it “has been able to reasonably quantify and distinguish these new activities from the previous activities” before the test claim statute using body-worn cameras.<sup>78</sup>

The claimant did not file comments on the Draft Proposed Decision.

## **B. Department of Finance**

Finance acknowledges that before the test claim statute, peace officers were not required to state the reason for a traffic or pedestrian stop, but now AB 2773 requires it, as well as requiring peace officers to document the reason for the stop on any citation or police report.<sup>79</sup>

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<sup>71</sup> Exhibit A, Test Claim, page 10.

<sup>72</sup> Exhibit A, Test Claim, page 12.

<sup>73</sup> Exhibit A, Test Claim, page 14.

<sup>74</sup> Exhibit A, Test Claim, page 13.

<sup>75</sup> Exhibit A, Test Claim, pages 10 and 16, paragraph 3 (Declaration of Jason Lymn, Deputy Sheriff Generalist, Risk Management Bureau, Field Operations Support Service, Office of Constitutional Policing); Exhibit C, Claimant’s Rebuttal Comments, page 2.

<sup>76</sup> Exhibit A, Test Claim, page 16, paragraphs 4 and 6 (Declaration of Jason Lymn, Deputy Sheriff Generalist, Risk Management Bureau, Field Operations Support Service, Office of Constitutional Policing).

<sup>77</sup> Exhibit C, Claimant’s Rebuttal Comments, page 2.

<sup>78</sup> Exhibit C, Claimant’s Rebuttal Comments, page 2.

<sup>79</sup> Exhibit B, Finance’s Comments on the Test Claim, page 1.

Finance argues that there are one-time costs, but no ongoing costs, and that providing the reason for the stop verbally is not a new program or higher level of service as follows:

1. Finance argues that printing citation forms “are one-time costs and notes that the Claimant has always been required to print out citation forms,” so printing should not be an ongoing cost.<sup>80</sup>
2. Finance argues that the claimant’s proposed costs for developing procedures and training and briefing officers about the duration of a stop are also one-time costs and notes that “the Claimant has always had to train officers and maintain written procedures. These changes would be incorporated into the Claimant’s regular training.”<sup>81</sup>
3. Finance argues that there are no ongoing costs in officers giving verbal notice for stops. Finance contends that officers were already conducting traffic stops and already know the reason for the stop, and that providing the reason for the stop verbally is not a new program or higher level of service. Further, the costs to provide this verbal notice cannot be reasonably quantified or distinguished from activities occurring before the passage of AB 2773.<sup>82</sup>

Finance did not file comments on the Draft Proposed Decision.

### **C. Interested Party County of Santa Clara**

The County of Santa Clara is an interested party under section 1181.2(i) of the Commission’s regulations. In comments filed April 16, 2025, the County of Santa Clara disagrees with Finance and maintains that the test claim statute is a new program or higher level of service, citing the California Supreme Court that said “the requirements are new in comparison with the preexisting scheme in . . . that they did not exist prior to the enactment of [AB 2773].”<sup>83</sup>

To support its argument that the test claim statute’s requirements are new, the County quotes Finance’s comment that “prior to 2024, peace officers were not required to state the reason for a traffic or pedestrian stop before engaging in questioning,” and the text of AB 2773 that states it becomes effective January 1, 2024, which would be unnecessary if the statute merely declared existing law.<sup>84</sup> The legislative history also distinguishes between then-existing law and the test claim statute, stating it newly-

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<sup>80</sup> Exhibit B, Finance’s Comments on the Test Claim, page 1.

<sup>81</sup> Exhibit B, Finance’s Comments on the Test Claim, page 2.

<sup>82</sup> Exhibit B, Finance’s Comments on the Test Claim, page 2.

<sup>83</sup> Exhibit D, County of Santa Clara’s Comments, page 2 citing *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878.

<sup>84</sup> Exhibit D, County of Santa Clara’s Comments, page 2.

introduces a requirement for a peace officer to state the reason for the traffic or pedestrian stop.<sup>85</sup>

The County further argues that the statute provides an enhanced service to stopped individuals and the broader public. Individuals benefit by the enhanced likelihood of a lawful stop. As to the broader public, the County cites the legislative history of the bill that states it was enacted “to promote equity and accountability in communities across California,” and to “bring[] transparency to [the] service of protecting our public.”<sup>86</sup> And the bill’s notification requirement addresses criticisms of the U.S. Supreme Court’s decision in *Whren v. United States*, which found no Fourth Amendment violation by peace officers who temporarily detain individuals where an officer has probable cause to believe the individual has violated traffic laws. *Whren* gave rise to “pretext stops,” where peace officers use a minor traffic stop to investigate other possible crimes, but which have been criticized as a driver of racial basis in law enforcement.<sup>87</sup> According to the County, “by mandating that peace officers provide a reason for certain traffic or pedestrian stops, AB 2773 thus imposes a new or higher level of service.”<sup>88</sup>

The County did not file comments on the Draft Proposed Decision.

#### **IV. Discussion**

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

Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such programs or increased level of service...

The purpose of article XIII B, section 6 is to “preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”<sup>89</sup> Thus, the subvention requirement of section 6 is “directed to state-mandated increases in the services provided by [local government] ...”<sup>90</sup>

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

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<sup>85</sup> Exhibit D, County of Santa Clara’s Comments, page 2.

<sup>86</sup> Exhibit D, County of Santa Clara’s Comments, page 2.

<sup>87</sup> Exhibit D, County of Santa Clara’s Comments, page 2.

<sup>88</sup> Exhibit D, County of Santa Clara’s Comments, page 3.

<sup>89</sup> *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

<sup>90</sup> *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.



1. A state statute or executive order requires or “mandates” local agencies or school districts to perform an activity.<sup>91</sup>
2. The mandated activity constitutes a “program” that either:
  - a. Carries out the governmental function of providing a service to the public; or
  - b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.<sup>92</sup>
3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.<sup>93</sup>
4. The mandated activity results in the local agency or school district incurring increased costs, within the meaning of section 17514. Increased costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.<sup>94</sup>

The Commission is vested with the exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution.<sup>95</sup> The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.<sup>96</sup> In making its decisions, the Commission must strictly construe article XIII B, section 6 of the California Constitution, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”<sup>97</sup>

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<sup>91</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874.

<sup>92</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875 (reaffirming the test set out in *County of Los Angeles* (1987) 43 Cal.3d 46, 56).

<sup>93</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835.

<sup>94</sup> *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.

<sup>95</sup> *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 335.

<sup>96</sup> *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 109.

<sup>97</sup> *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1280 citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

**A. The Test Claim Statute Was Timely Filed with a Potential Period of Reimbursement Beginning January 1, 2023.**

Government Code section 17551 provides local government test claims shall be filed “not later than 12 months following the effective date of a statute or executive order or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.”<sup>98</sup> The Commission’s regulations clarify that “within 12 months of incurring costs” means “within 12 months (365 days) of *first* incurring costs as a result of a statute or executive order, whichever is later.”<sup>99</sup>

The test claim statute was effective January 1, 2023, and has a delayed operative date of January 1, 2024.<sup>100</sup> The Test Claim was filed on December 20, 2024,<sup>101</sup> more than one year from the statute’s effective date.

However, the claimant submitted evidence, which has not been rebutted, that it began to incur increased costs under the statute on January 1, 2024.<sup>102</sup> Therefore, the Test Claim is timely filed.

Government Code section 17557(e) requires a test claim to be “submitted on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year.” Because the Test Claim was filed December 20, 2024, during fiscal year 2024-2025, the potential period of reimbursement begins at the commencement of the 2023-2024 fiscal year, which is July 1, 2023.<sup>103</sup>

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<sup>98</sup> Government Code section 17551(c).

<sup>99</sup> California Code of Regulations, title 2, section 1183.1(c), emphasis added.

<sup>100</sup> Statutes 2022, chapter 805. As explained by the California Supreme Court, “‘The effective date [of a statute] is ... the date upon which the statute came into being as an existing law.’ (Citation omitted.) ‘[T]he operative date is the date upon which the directives of the statute may be actually implemented.’ (Citation omitted.) Although the effective and operative dates of a statute are often the same, the Legislature may ‘postpone the operation of certain statutes until a later time.’ (Citation omitted.) The Legislature may do so for reasons other than an intent to give the statute prospective effect. For example, the Legislature may delay the operation of a statute to allow ‘persons and agencies affected by it to become aware of its existence and to comply with its terms.’” *Preston v. State Board of Equalization* (2001) 25 Cal.4th 197, 223-224.

<sup>101</sup> Exhibit A, Test Claim, page 1.

<sup>102</sup> Exhibit A, Test Claim, page 16, paragraph 5 (Declaration of Jason Lymn, Deputy Sheriff Generalist, Risk Management Bureau, Field Operations Support Service, Office of Constitutional Policing).

<sup>103</sup> Although the test claim statute did not become operative until January 1, 2024, the claimant and other interested parties have the right to request reimbursement for activities that are “reasonably necessary for the performance of the state-mandated program” in accordance with Government Code section 17557(a), and California Code of Regulations, title 2, sections 1183.7(d) and 1187.5, which, *if* supported by substantial evidence in the record, may be reimbursable beginning with the July 1, 2023 period of

**B. The Test Claim Statute Imposes a State-Mandated New Program or Higher Level of Service.**

- 1. The Test Claim Statute Imposes New Requirements on Local Government Peace Officers Who Make a Traffic or Pedestrian Stop to First State the Reason for the Stop Before Engaging in Questioning about a Criminal Investigation or Traffic Violation and to Document the Reason on Any Citation or Police Report. However, Documenting the Reason for a Stop Is Not New when the Officer's Grounds for Belief that the Person Violated Vehicle Code Section 23136, 23140, 23152, or 23153 Relating to DUI Offenses, Were the Reason for the Stop and that Stop Resulted in a Suspension or Arrest per Vehicle Code Section 13380(a) and a Sworn Report.**

The test claim statute requires peace officers who make a traffic or pedestrian stop to state the reason for the stop before engaging in questioning about a criminal investigation or traffic violation and to document the reason on any citation or police report.<sup>104</sup> However, if the officer believes withholding the reason for the stop is necessary to protect life or property from imminent threat, including terrorism and kidnapping, then the activities of stating the reason for the stop and documenting the reason on any citation or police report are not required.<sup>105</sup> These requirements are triggered by decisions of the officer to make a traffic or pedestrian stop and to engage in questioning.

The requirements are new and must be implemented on the statute's operative date of January 1, 2024.<sup>106</sup> Under prior law, a peace officer could initiate a traffic stop, decide to question or not to question the detainee, decide to verbally inform or not to verbally inform the detainee of the reason for the stop, draft and issue the detainee a citation or write a police report without documenting the reason for the stop thereon, and conclude the encounter.<sup>107</sup> The peace officer had to document the reason for the stop in reports

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reimbursement. Here, the claimant is requesting reimbursement for activities that are not mandated by the plain language of the test claim statute, but may be proposed as reasonably necessary activities during the Parameters and Guidelines phase of these proceedings, with an explanation of why the activities are necessary for the performance of the state-mandated program: specifically for printing new forms, development of procedures, and training of officers. Exhibit A, Test Claim, page 16, paragraphs 4 and 6 (Declaration of Jason Lymn, Deputy Sheriff Generalist, Risk Management Bureau, Field Operations Support Service, Office of Constitutional Policing).

<sup>104</sup> Vehicle Code section 2806.5(a), as added by Statutes 2022, chapter 805.

<sup>105</sup> Vehicle Code section 2806.5(b), as added by Statutes 2022, chapter 805.

<sup>106</sup> *People v. Valle* (2024) 105 Cal.App.5th 195, 203-204; Vehicle Code section 2806.5(c).

<sup>107</sup> Vehicle Code sections 40500(a)-(b), 40610, and 40522.

to the Department of Justice, but generally not on the citation or police report itself.<sup>108</sup> One pre-existing requirement regarding DUIs, however, will be discussed below.

Additionally, as noted by the Los Angeles Sheriff's Department newsletter issued in response to the test claim statute,<sup>109</sup> and in accordance with the test claim statute, the Judicial Council amended its traffic citation forms on January 1, 2024, to add a space for "Reason for Stop,"<sup>110</sup> a further indication the requirement is new.

The requirement to document the reason for the stop is not new, however, when grounds for a DUI appear before a stop pursuant to Vehicle Code section 23136, 23140, 23152, or 23153, when those grounds are the reason for the stop, and an officer serves an order of suspension or makes an arrest pursuant to Vehicle Code section 13380(a), as follows:

If a peace officer serves a notice of an order of suspension pursuant to Section 13388, or arrests any person for a violation of Section 23140, 23152, or 23153, the peace officer shall immediately forward to the department a sworn report of all information relevant to the enforcement action, including information that adequately identifies the person, a statement of the officer's grounds for belief that the person violated Section 23136, 23140, 23152, or 23153, a report of the results of any chemical tests that were conducted on the person or the circumstances constituting a refusal to submit to or complete the chemical testing pursuant to Section 13388 or 23612, a copy of any notice to appear under which the person was released from custody, and, if immediately available, a copy of the complaint filed with the court. For the purposes of this section and subdivision (g) of Section 23612, "immediately" means on or before the end of the fifth ordinary business day following the arrest, except that with respect to Section 13388 only, "immediately" has the

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<sup>108</sup> Government Code section 12525.5(b)(1)-(7), added by Statutes 2015, chapter 466, section 2.

<sup>109</sup> Exhibit F (3), Los Angeles County Sheriff's Department Newsletter, *AB 2773 - Stating and Documenting the Reason for the Stop*, <https://pars.lasd.org/Viewer/Manuals/15183/Content/20724> (accessed on April 4, 2025), page 1.

<sup>110</sup> Exhibit F (2), Judicial Council of California, Form TR-130, <https://selfhelp.courts.ca.gov/jcc-form/TR-130> (accessed on April 4, 2025); Exhibit F (8), Judicial Council of California, Form TR-140, <https://selfhelp.courts.ca.gov/jcc-form/TR-140> (accessed July 22, 2025); Exhibit F (9) Judicial Council of California, Notice to Appear and Related Forms (Form TR-INST), Revised Effective January 1, 2025, page 14 (Under "Chapter 6 Mandatory Language/Data Fields": "6.130 **Reason for Stop** [-] The officer must write the reason for the stop on notices used for traffic stops (forms TR-130 and TR-140)" citing Vehicle Code section 1656.3, a mirroring provision to the test claim statute in AB 2773 (2022).) <https://selfhelp.courts.ca.gov/jcc-form/TR-INST> (accessed on July 22, 2025).

same meaning as that term is defined in paragraph (3) of subdivision (b) of Section 13388.<sup>111</sup>

The “statement of the officer’s grounds for belief that the person violated Section 23136, 23140, 23152, or 23153” in the “sworn report” that the police officer “shall immediately forward to the department,” where grounds for belief occurred before the stop, constitutes documenting the reason for the stop, and was thus mandatory before the test claim statute.<sup>112</sup> If the “officer’s grounds for belief that the person violated Section 23136, 23140, 23152, or 23153” were the reason for the stop and that stop resulted in a suspension or arrest per Vehicle Code section 13380(a), then the documentation requirement is not new.

## **2. The New Requirement for Peace Officers Who Make a Traffic or Pedestrian Stop to First State the Reason for the Stop Before Engaging in Questioning about a Criminal Investigation or Traffic Violation Is Mandated by the State.**

The Commission also finds the requirement that “a peace officer making a traffic or pedestrian stop, before engaging in questioning related to a criminal investigation or traffic violation, shall state the reason for the stop” is mandated by the state. In the Vehicle Code, “[s]hall’ is mandatory and ‘may’ is permissive.”<sup>113</sup> The plain language of the test claim statute requires the officer “shall state the reason for the stop . . . .”<sup>114</sup>

However, since the decision to stop the individual and engage in questioning is made at the local level, which then triggers the requirement to first state the reason for the stop in accordance with the test claim statute, the requirement is not *legally* compelled by state law.<sup>115</sup> Nevertheless, as explained below, the decisions to stop the individual and engage in questioning about a criminal investigation or traffic violation are not truly voluntary within the meaning of article XIII B, section 6 and the requirement to first state the reason for the stop is thus mandated by the state.

Case law indicates that a local decision is not truly voluntary for the purposes of article XIII B, section 6 if it is, as a practical matter, constrained by duty. In 2004, the California

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<sup>111</sup> Vehicle Code section 13380(a).

<sup>112</sup> Vehicle Code section 15 (“‘Shall’ is mandatory”).

<sup>113</sup> Vehicle Code section 15.

<sup>114</sup> Vehicle Code section 2806.5, as added by Statutes 2022, chapter 805.

<sup>115</sup> *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 741 (This [legal compulsion] standard is similar to the showing necessary to obtain a traditional writ of mandate, which requires the petitioning party to establish the respondent has “a clear, present, and usually ministerial duty to act. ... Mandate will not issue if the duty is ... mixed with discretionary power.”); *Coast Community College District v. Commission on State Mandates* (2022) 13 Cal.5th 800, 815 (“[A] local entity’s voluntary or discretionary decision to undertake an activity cannot be said to be legally compelled, even if that decision results in certain mandatory actions.”).

Supreme Court in *San Diego Unified School District v. Commission on State Mandates*, suggested that a local discretionary action should not be considered voluntary if, as a practical matter, it must inevitably occur.<sup>116</sup> In that case, the Court was faced with statutory hearing requirements triggered by two types of school expulsions: “mandatory” expulsions, which state law required school principals to recommend whenever a student was found to be in possession of a firearm at school or at a school activity off school grounds, and “discretionary” expulsions, which state law granted school principals the authority to recommend for other conduct.<sup>117</sup> Although the Court confidently concluded that costs for the hearing requirements triggered by “mandatory” expulsions were reimbursable state mandated costs,<sup>118</sup> it hesitated to apply that same logic to deny reimbursement for the “discretionary” expulsions.<sup>119</sup> Instead, it cautioned that denying reimbursement whenever a requirement was triggered by a technically discretionary local action may well contravene both the intent underlying article XIII B, section 6 and past holdings,<sup>120</sup> stating:

Upon reflection, we agree with the District and amici curiae that there is reason to question an extension of the holding of *City of Merced* [*v. State of California* (1984) 153 Cal.App.3d 777,] so as to preclude reimbursement under article XIII B, section 6 of the state Constitution and Government Code section 17514, whenever an entity makes an initial discretionary decision that in turn triggers mandated costs. Indeed, it would appear that under a strict application of the language in *City of Merced*, public entities would be denied reimbursement for state-mandated costs in apparent contravention of the intent underlying article XIII B, section 6 of the state Constitution and Government Code section 17514 and contrary to past decisions in which it has been established that reimbursement was in fact proper. For example, as explained above, in *Carmel Valley*, *supra*, 190 Cal.App.3d 521, 234 Cal.Rptr. 795, an executive order requiring that county firefighters be provided with protective clothing and safety equipment was found to create a reimbursable state mandate for the added costs of such clothing and equipment. (*Id.*, at pp. 537–538, 234 Cal.Rptr. 795.) The court in *Carmel*

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<sup>116</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 887-888; see *Department of Finance v. Commission on State Mandates (POBRA)* (2009) 170 Cal.App.4th 1355, 1367-1368.

<sup>117</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 869-870.

<sup>118</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 881-882.

<sup>119</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 887-888.

<sup>120</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 887-888.

*Valley* apparently did not contemplate that reimbursement would be foreclosed in that setting merely because a local agency possessed discretion concerning how many firefighters it would employ—and hence, in that sense, could control or perhaps even avoid the extra costs to which it would be subjected. Yet, under a strict application of the rule gleaned from *City of Merced*, *supra*, 153 Cal.App.3d 777, 200 Cal.Rptr. 642, such costs would not be reimbursable for the simple reason that the local agency’s decision to employ firefighters involves an exercise of discretion concerning, for example, how many firefighters are needed to be employed, etc. We find it doubtful that the voters who enacted article XIII B, section 6, or the Legislature that adopted Government Code section 17514, intended that result, and hence we are reluctant to endorse, in this case, an application of the rule of *City of Merced* that might lead to such a result.<sup>121</sup>

In 2009, the Third District Court of Appeal in *Department of Finance v. Commission on State Mandates (POBRA)*, indicated that duty is the dividing line between truly voluntary and technically discretionary decisions.<sup>122</sup> In that case, the court was tasked with determining whether the Public Safety Officers Procedural Bill of Rights Act (POBRA), which granted procedural protections to state and local peace officers subject to investigation, interrogation, or discipline, imposed a reimbursable state mandated program on school districts and community college districts that employ peace officers.<sup>123</sup> The court held that because those protections were triggered by a local discretionary decision, that statute did not impose a reimbursable state mandated program on those districts.<sup>124</sup> However, the court also clarified that this discretionary decision was *not* the district’s decision to investigate, interrogate, or discipline its peace officers, but rather the district’s decision to employ peace officers in the first place.<sup>125</sup> It explained that since counties and cities had a basic and mandatory duty to provide policing services,<sup>126</sup> their administration of this duty, as a practical matter, necessarily included actions such as investigating, interrogating, or disciplining its peace officers. Thus, like the “discretionary” expulsions discussed in *San Diego Unified School District*,

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<sup>121</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 887-888, footnote omitted and emphasis added.

<sup>122</sup> *Department of Finance v. Commission on State Mandates (POBRA)* (2009) 170 Cal.App.4th 1355, 1367-1368.

<sup>123</sup> *Department of Finance v. Commission on State Mandates* (2009) 170 Cal.App.4th 1355, 1358.

<sup>124</sup> *Department of Finance v. Commission on State Mandates (POBRA)* (2009) 170 Cal.App.4th 1355, 1367-1368.

<sup>125</sup> *Department of Finance v. Commission on State Mandates (POBRA)* (2009) 170 Cal.App.4th 1355, 1367-1368.

<sup>126</sup> *Department of Finance v. Commission on State Mandates (POBRA)* (2009) 170 Cal.App.4th 1355, 1367-1368.

those actions and the downstream requirements imposed by the POBRA statutes could not reasonably be considered “truly voluntary” when performed by counties and cities.<sup>127</sup>

In 2022, the California Supreme Court in *Coast Community College District v. Commission on State Mandates*, recognized that in cases where legal compulsion does not exist (i.e., there is no mandatory legally enforceable duty to obey), a reimbursable state mandate can exist based on a theory of practical compulsion, as follows:

[Practical compulsion] arises when a statutory scheme does not command a local entity to engage in conduct, but rather induces compliance through the imposition of severe consequences that leave the local entity no reasonable alternative but to comply.<sup>128</sup>

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[P]ractical compulsion determination ‘must depend on such factors as the nature and purpose of the federal program; whether its design suggests an intent to coerce; when state and/or local participation began; the penalties, if any, assessed for withdrawal or refusal to participate or comply; and any other legal and practical consequences of nonparticipation, noncompliance, or withdrawal’.<sup>129</sup>

Practical compulsion applies here. As the court stated in *POBRA*, counties and cities have an ordinary, principal, and mandatory duty to provide policing services within their jurisdiction. They are required by the California Constitution and state statute to employ peace officers.<sup>130</sup> County sheriffs are required by Government Code sections 26600 et seq. to preserve the peace, investigate public offenses, and make arrests of persons who commit public offenses. City chiefs of police are conferred these same powers by Government Code section 41601. And the courts have also recognized that “[l]aw

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<sup>127</sup> See *Department of Finance v. Commission on State Mandates (POBRA)* (2009) 170 Cal.App.4th 1355, 1367-1368.

<sup>128</sup> *Coast Community College District v. Commission on State Mandates* (2022) 13 Cal.5th 800, 816 citing *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 748-752 and *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 76.

<sup>129</sup> *Coast Community College District v. Commission on State Mandates* (2022) 13 Cal.5th 800, 816 citing *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 76.

<sup>130</sup> Article XI of the California Constitution provides for the formation of counties and cities. Section 1 states that the Legislature shall provide for an elected county sheriff. Section 5 specifies that city charters are to provide for the “government of the city police force.” Government Code sections 36505 and 41601 et seq. require the city council of a general law city to appoint the chief of police, imbue that officer with “the powers conferred upon sheriffs by general law,” and require deputies, police officers, and watchpersons in the city to promptly execute that officer’s lawful orders.



enforcement officers are the guardians of the peace and security of the community, and the efficiency of our whole system, designed for the purpose of maintaining law and order, depends upon the extent to which such officers perform their duties and are faithful to the trust reposed in them”<sup>131</sup> and that “[p]olice and fire protection are two of the most essential and basic functions of local government.”<sup>132</sup>

Moreover, like the student expulsions discussed in *San Diego Unified School District* and the procedural protections discussed in *POBRA*, traffic or pedestrian stops and the decision to question the individual about criminal investigation or a traffic violation must *necessarily* occur as part of a city or county’s duty to provide policing services because a law enforcement officer’s decision under those circumstances *is constrained by that duty*. School expulsions necessarily occur as part of a school district’s administration of its duty to educate students because that duty includes providing students with a safe learning environment.<sup>133</sup> Thus, whenever expelling a student is the best means of providing students with that safe learning environment, a school principal is duty-bound to recommend that expulsion.<sup>134</sup> The same goes for law enforcement. When an officer is faced with the decision of whether to stop and question an individual, their discretion is similarly constrained by their sworn duty to investigate apparent criminal activity<sup>135</sup> and to protect the citizenry.<sup>136</sup>

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<sup>131</sup> *Lopez v. Southern California Rapid Transit Dist.* (1985) 40 Cal.3d 780, 799 (internal quotations omitted); see also *Pasos v. Los Angeles County Civil Service Commission* (2020) 52 Cal.App.5th 690, 702, *as modified on denial of reh’g* (Aug. 18, 2020); *Allen v. Payne* (1934) 1 Cal.2d 607, 608 (“From the time of the adoption of our Constitution to the present, the accepted practice has been to leave the detection of crime in the hands of sheriffs and district attorneys, and in our opinion the departure from that practice finds no support in authority or legislative policy. The ferreting out of evidence of crime is a statutory duty expressly imposed upon certain officers, having the equipment and qualified personnel to perform it.”); *Christal v. Police Commission of City and County of San Francisco* (1939) 33 Cal.App.2d 564, 567.

<sup>132</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 887-888; *Carmel Valley Fire Protection District v. State* (1987) 190 Cal.App.3d 521, 537.

<sup>133</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 887, footnote 22.

<sup>134</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 887, footnote 22.

<sup>135</sup> See *People v. Coston* (1990) 221 Cal.App.3d 898, 903; *McCain v. Sheridan* (1958) 160 Cal.App.2d 174, 177-178.

<sup>136</sup> *Lopez v. Southern California Rapid Transit District* (1985) 40 Cal.3d 780, 799; *Pasos v. Los Angeles County Civil Service Commission* (2020) 52 Cal.App.5th 690, 702, *as modified on denial of rehearing* (Aug. 18, 2020).

Consequently, the decisions to make a traffic or pedestrian stop and engage in questioning about a criminal investigation or traffic violation are not a truly “voluntary” local action within the meaning of article XIII B, section 6 that would preclude reimbursement for downstream statutory requirements triggered by those actions.

Although the Commission’s decisions are not precedential, the Commission notes that this conclusion is consistent with its past decisions. In *Post-Conviction: DNA Court Proceedings*, 00-TC-21, the Commission similarly determined that a statute that required the court to “appoint counsel to investigate and, *if appropriate*, to file a motion for DNA testing” mandated the filing of that motion.<sup>137</sup> In reaching that conclusion, the Commission reasoned that “an attorney’s duty is ‘to present his case vigorously in a manner as favorable to the client as the rules of law and professional ethics will permit’” and that “[b]ecause whether or not to file the DNA testing motion is a matter of professional judgment, the indigent defense counsel’s duty to file it, if appropriate, *is not truly discretionary. Rather, it is an activity mandated by the state.*”<sup>138</sup>

Similarly, in its Decision on reconsideration of the Test Claim that was at issue in *POBRA*, the Commission held that a local entity does not decide who to investigate or discipline based on the costs incurred to the entity. Instead, a local entity makes this decision, like the expulsion decisions discussed by the Supreme Court in *San Diego Unified School District*, to maintain the public’s confidence in its police force and to protect the health, safety, and welfare of its citizens.<sup>139</sup>

And in *Juveniles: Custodial Interrogation*, 21-TC-01, the Commission found that the test claim statute’s requirements on law enforcement to ensure that a youth, 17 years old or younger, consults with legal counsel prior to custodial interrogation and before the waiver of any *Miranda* rights is mandated by state law even though the requirement is triggered by a law enforcement officer’s decision to interrogate the youth.<sup>140</sup> Similarly here, the requirement that a law enforcement officer state the reason for a traffic or

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<sup>137</sup> Commission on State Mandates, Test Claim Decision on *Post Conviction: DNA Court Proceedings*, 00-TC-21 and 01-TC-08, <https://csm.ca.gov/decisions/00tc21,01tc08sod.pdf> (accessed on August 18, 2025), adopted July 28, 2006, page 13, emphasis added.

<sup>138</sup> Commission on State Mandates, Test Claim Decision on *Post Conviction: DNA Court Proceedings*, 00-TC-21 and 01-TC-08, <https://csm.ca.gov/decisions/00tc21,01tc08sod.pdf> (accessed on August 18, 2025), adopted July 28, 2006, page 14, emphasis added.

<sup>139</sup> Commission on State Mandates, Test Claim Decision on Reconsideration of *Peace Officer Procedural Bill of Rights*, 05-RL-4499-01, <https://csm.ca.gov/decisions/4499sod.pdf> (accessed on August 18, 2025), adopted April 26, 2006, page 21.

<sup>140</sup> Commission on State Mandates, Decision on *Juveniles: Custodial Interrogation*, 21-TC-01, <https://www.csm.ca.gov/decisions/013123-21-tc-01.pdf> (accessed on August 18, 2025), adopted January 27, 2023, pages 26-32.

pedestrian stop is a new task to perform “before engaging in questioning related to a criminal investigation or traffic violation.”<sup>141</sup>

Accordingly, the Commission finds that the new requirement for peace officers who make a traffic or pedestrian stop to first state the reason for the stop before engaging in questioning about a criminal investigation or traffic violation is mandated by the state.

### **3. The New Requirement for Peace Officers to Document the Reason for the Traffic or Pedestrian Stop on Any Citations or Police Reports Resulting from the Stop Is Mandated by the State.**

The test claim statute requires the officer who makes a traffic or pedestrian stop and states the reason for the stop before engaging in questioning related to a criminal investigation or traffic violation in accordance with the test claim statute, “shall [also] document the reason for the stop on *any* citation or police report resulting from the stop.”<sup>142</sup> As indicated above, this requirement is new except when the officer’s grounds for belief that the person violated Vehicle Code section 23136, 23140, 23152, or 23153 relating to DUI offenses, were the reason for the stop and that stop resulted in a suspension or arrest per Vehicle Code section 13380(a). Under those circumstances, the officer had a preexisting duty to document the reason for the stop in a sworn report and the requirement to document the reason for the stop is not new.

The activity to document the reason for the stop is triggered by two decisions of the officer: (1) the decision to make a traffic or pedestrian stop, and (2) the decision to issue a citation or complete a police report resulting from the stop.

As stated above, the decisions to make a traffic or pedestrian stop and engage in questioning are practically compelled by duty and therefore not truly voluntary for purposes of article XIII B, section 6.<sup>143</sup>

In addition, following the officer’s decision to initiate a stop, there are some statutes that require a written citation or report and, thus, the new requirement to document the reason for the stop is mandated by the state in those circumstances. For example, as to traffic citations, statutes mandate the following two documentation actions once a violation is found:

- When an officer finds a non-felony Vehicle Code violation or traffic violation, the officer “shall prepare in triplicate the written notice to appear in court,” as prescribed by the Judicial Council.<sup>144</sup> This “notice to appear” is Form TR-130, the citation form the claimant cites that was updated by the Judicial Council to

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<sup>141</sup> Vehicle Code section 2806.5(a).

<sup>142</sup> Vehicle Code section 2806.5(a), emphasis added.

<sup>143</sup> *Coast Community College District v. Commission on State Mandates* (2022) 13 Cal.5th 800, 815.

<sup>144</sup> Vehicle Code section 40500(a)–(b).

comply with the test claim statute's documentation requirement.<sup>145</sup> As revised by the Judicial Council on January 1, 2024, it includes a new "Mandatory Language/Data Field" labeled "Reason for Stop."<sup>146</sup>

- When an officer finds that a safety correction must be made to a vehicle, and "the investigating officer decides to take enforcement action, the officer shall prepare, in triplicate, and the violator shall sign, a written notice containing the violator's promise to correct the alleged violation and to deliver proof of correction of the violation to the issuing agency."<sup>147</sup> This "Notice to Correct Violation" (fix-it-ticket) is Form TR-140.<sup>148</sup> Though not cited by the claimant, Form TR-140 was also revised by the Judicial Council on January 1, 2024, and now it includes the same new "Mandatory Language/Data Field" labeled "Reason for Stop."<sup>149</sup>

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<sup>145</sup> Exhibit A, Test Claim, page 16, paragraph 4 (Declaration of Jason Lymn, Deputy Sheriff Generalist, Risk Management Bureau, Field Operations Support Service, Office of Constitutional Policing.); Exhibit F (2), Judicial Council of California, Form TR-130, <https://selfhelp.courts.ca.gov/jcc-form/TR-130> (accessed on April 4, 2025); Exhibit F (8), Judicial Council of California, Form TR-140, <https://selfhelp.courts.ca.gov/jcc-form/TR-140> (accessed on July 22, 2025); Exhibit F (9) Judicial Council of California, Notice to Appear and Related Forms (Form TR-INST), Revised Effective January 1, 2025, page 14 (Under "Chapter 6 Mandatory Language/Data Fields": "6.130 **Reason for Stop** [-] The officer must write the reason for the stop on notices used for traffic stops (forms TR-130 and TR-140)") citing Vehicle Code section 1656.3, a mirroring provision to the test claim statute in AB 2773 (2022).) <https://selfhelp.courts.ca.gov/jcc-form/TR-INST> (accessed on July 22, 2025).

<sup>146</sup> Exhibit F (9) Judicial Council of California, Notice to Appear and Related Forms (Form TR-INST), Revised Effective January 1, 2025, page 14 (Under "Chapter 6 Mandatory Language/Data Fields": "6.130 **Reason for Stop** [-] The officer must write the reason for the stop on notices used for traffic stops (forms TR-130 and TR-140)") citing Vehicle Code section 1656.3, a mirroring provision to the test claim statute in AB 2773 (2022).) <https://selfhelp.courts.ca.gov/jcc-form/TR-INST> (accessed on July 22, 2025).

<sup>147</sup> Vehicle Code section 40610(a); see also Vehicle Code section 40303.5 (listing conditions for releasing the "person arrested" upon a promise to correct the violation).

<sup>148</sup> Exhibit F (8), Judicial Council of California, Form TR-140, <https://selfhelp.courts.ca.gov/jcc-form/TR-140> (accessed on July 22, 2025).

<sup>149</sup> Exhibit F (9) Judicial Council of California, Notice to Appear and Related Forms (Form TR-INST), Revised Effective January 1, 2025, page 14 (Under "Chapter 6 Mandatory Language/Data Fields": "6.130 **Reason for Stop** [-] The officer must write the reason for the stop on notices used for traffic stops (forms TR-130 and TR-140)") citing Vehicle Code section 1656.3, a mirroring provision to the test claim statute in AB 2773 (2022).) <https://selfhelp.courts.ca.gov/jcc-form/TR-INST> (accessed on July 22, 2025).

In addition, police reports are required when an officer observes or suspects child abuse or elder or dependent adult abuse.<sup>150</sup> The officer, as a mandated reporter, is required to make the report, but if the report resulted from a traffic or pedestrian stop, the officer is now required by the test claim statute to document in that report the reason for the traffic stop. Thus, documenting the reason for the stop on these reports is mandated by the state.

The Commission is obligated to presume these reports resulting from a stop are written within an officer's scope of duty, and that, like the decision to make the stop itself, they serve ultimately to promote justice and public safety.<sup>151</sup>

Accordingly, the Commission finds that the documentation requirement to add the reason for the stop on any citations and police reports resulting from traffic or pedestrian stops is also mandated by the state.

#### **4. The State-Mandated Requirements to State the Reason for the Stop and Document the Reason for the Stop, Except as Provided for Certain DUI Offenses, Impose a New Program or Higher Level of Service.**

The Commission also finds that the test claim statute imposes a new program or higher level of service which the California Supreme Court defined for purposes of article XIII B, section 6 as activities that carry 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.<sup>152</sup> The new state-mandated requirements imposed by the test claim statute apply uniquely to law enforcement, a peculiarly governmental function.<sup>153</sup> And the statute was intended to provide a service to the public: to "promote equity and accountability in communities across California" and "transparency to [the] service of protecting our public."<sup>154</sup>

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<sup>150</sup> Penal Code sections 11165.7(a)(19), 11166 and 11166(c) (failure to report suspected child abuse or neglect is a misdemeanor); Welfare and Institutions Code section 15630 (a)-(b) and 15630(h) (failure to report suspected elder or dependent adult abuse is a misdemeanor); *People v. Lara* (2010) 48 Cal.4th 216, 227 (Legislature's inclusion of penalty or consequence renders "shall" mandatory where "shall" is not defined as mandatory by statute).

<sup>151</sup> Evidence Code sections 664 and 1280; *Murphey v. Shiimoto* (2017) 13 Cal.App.5th 1052, 1064 (Under Evidence Code sections 664 and 1280, a police officer's "duty to observe and correctly report" is presumed to have been performed, for purposes of admissibility of evidence analysis under hearsay rules.).

<sup>152</sup> *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

<sup>153</sup> *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 537.

<sup>154</sup> Exhibit F (4), Senate Committee on Public Safety, June 21, 2022, AB 2773, as amended May 19, 2022, page 3.

Accordingly, the new state mandated requirements impose a new program or higher level of service within the meaning of article XIII B, section 6.

**C. The Test Claim Statute Imposes Costs Mandated by the State.**

The last issue is whether the new activities mandated by the test claim statute result in increased costs mandated by the state, defined as any increased cost a local agency or school district incurs as a result of any statute or executive order that mandates a new program or higher level of service.<sup>155</sup> No claim nor any payment shall be made unless the claim exceeds \$1,000.<sup>156</sup> All representations of fact shall be supported by documentary or testimonial evidence in accordance with the Commission's regulations.<sup>157</sup> A finding of costs mandated by the state further means that none of the exceptions in Government Code section 17556 apply to deny the claim.

The Test Claim includes a declaration under penalty of perjury by the claimant's Deputy Sheriff Generalist that alleges in pertinent part:

6. In Fiscal Year 2023-24, the Sheriff has incurred \$111,694.19 for work related to implementing the mandates of AB 2773, including \$13,618.75 for printing new versions of the citation form, \$84,412.87 for developing procedures, training officers, and briefing to officers about the duration of a stop, and \$13,662.57 for traffic stops.

7. The Sheriff estimates incurring costs of \$37,036.14 for FY 2024-25.

8. The Sheriff estimates an increased statewide cost of \$740,463.75 in FY 2024-25.<sup>158</sup>

Thus, the claimant has provided evidence of increased costs exceeding \$1,000, as required by Government Code section 17564.

"Costs" under article XIII B, section 6, must be actual and demonstrated.<sup>159</sup> The claimant has clarified that "\$13,662.57 for traffic stops" as stated in the Test Claim includes the "costs related to stating the reason for the stop and documenting the reason on the citation."<sup>160</sup>

However, it is disputed whether the verbal notice requirement imposes costs mandated by the state. Finance contends that officers were already conducting traffic stops and

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<sup>155</sup> Government Code section 17514.

<sup>156</sup> Government Code section 17564(a).

<sup>157</sup> California Code of Regulations, title 2, sections 1183.1(e), 1187.5.

<sup>158</sup> Exhibit A, Test Claim, pages 10-11 and 16, paragraphs 6-8 (Declaration of Jason Lymn, Deputy Sheriff Generalist, Risk Management Bureau, Field Operations Support Service, Office of Constitutional Policing).

<sup>159</sup> *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1282 ("Section 6 Subvention Is Intended for Increases in Actual Costs.").

<sup>160</sup> Exhibit C, Claimant's Rebuttal Comments, page 2.

already know the reason for the stop, and that providing the reason for the stop verbally cannot be reasonably quantified or distinguished from activities occurring before the passage of the test claim statute.<sup>161</sup> The claimant counters Finance by stating it “has been able to reasonably quantify and distinguish these new activities from the previous activities” required before the test claim statute using body-worn cameras.<sup>162</sup>

There is some support for Finance’s position in legislative history, which suggests that the new requirements may reduce the time taken during a stop. The test claim statute was intended to “reduce” and “deter ‘pretext stops’”<sup>163</sup> and to eliminate “launch[ing]”<sup>164</sup> into other conversation in which the “longer the questioning goes on the more apprehensive the individual becomes of the officer’s true motives.”<sup>165</sup>

However, there is no evidence that a reduction of time occurs as a result of the additional requirement to state the reason for the traffic or pedestrian stop before engaging in questioning. And here, Finance agrees that the requirement to state the reason for the stop before questioning the individual is a new requirement.<sup>166</sup>

Moreover, the requirements here do not merely reallocate existing staff time, as suggested by Finance. To explain this point, this case is unlike and is distinguishable from the 2003 case of *County of Los Angeles v. Commission on State Mandates*, which found there were no increased costs mandated by the state for a required two hour domestic violence training course for peace officers, which was included in the existing regulations imposed by the State Commission on Peace Officer Standards and Training

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<sup>161</sup> Exhibit B, Finance’s Comments on the Test Claim, page 2.

<sup>162</sup> Exhibit C, Claimant’s Rebuttal Comments, page 2.

<sup>163</sup> Exhibit F (6), Senate Committee on Appropriations, August 1, 2022, AB 2773, as amended June 13, 2022, page 2 (“This bill seeks to reduce the use of pretext stops by requiring a peace officer to state the reason for a stop prior to any interaction with the person being stopped.”); Exhibit F (7) Assembly Committee on Public Safety, April 5, 2022, AB 2773, as introduced February 18, 2022, page 4.

<sup>164</sup> *People v. Valle* (2024) 105 Cal.App.5th.195, 203-204 cites in legislative history that previously, officers might “‘launch into a series of questions that may have no apparent relationship to any basis for the stop. The longer the questioning goes on the more apprehensive the individual becomes of the officer’s true motives. However, when confronted by an officer they may feel compelled to answer the questions when in fact they are not required to do so. If informed at the outset of the basis for the stop, the individual would know if any subsequent questions are legitimate or an attempt to elicit incriminating statements or acquiescence to a search.’” (Concurrence in Sen. Amends. to Assem. Bill 2773, as amended Aug. 11, 2022, p. 2.).”

<sup>165</sup> Exhibit F (7) Assembly Committee on Public Safety, April 5, 2022, AB 2773, as introduced February 18, 2022, page 6.

<sup>166</sup> Exhibit B, Finance’s Comments on the Test Claim, page 1 (“Prior to 2024, peace officers were not required to state the reason for a traffic or pedestrian stop before engaging in questioning.”).

(POST) requiring “24 hours of [peace officer] training every two years, to be chosen from a menu of available courses.”<sup>167</sup> The County argued it should be reimbursed for the law enforcement personnel to attend the domestic violence training.<sup>168</sup> The Court of Appeal upheld the Commission’s decision to deny reimbursement for the two-hour training requirement because “local law enforcement agencies may cho[o]se from a menu of course offerings to fulfill the [existing] 24-hour requirement.”<sup>169</sup> It also found nothing more than “merely ‘incidental’” increased costs, despite acknowledging that “[o]fficer downtime will be incurred,” because “the state is requiring certain courses to be placed within an already existing framework for training.”<sup>170</sup> The court concluded: “Thus, while there may be a mandate, there are no increased costs mandated by [the test claim statute].”<sup>171</sup>

Similarly, in the Commission’s Decision in *Physical Performance Tests*, 96-365-01, which was upheld in an unpublished decision by the Third District Court of Appeal, school teachers had been newly required to administer physical fitness assessment tests to 5th, 7th, and 9th graders during the school day, which was previously defined by statute.<sup>172</sup> As in *County of Los Angeles*, the school districts argued that the teachers’ time to administer the tests must be reimbursed, but the Commission denied the Test Claim for the same reason the police officers’ time spent on domestic violence training in *County of Los Angeles* could not be reimbursed. Like the 24 hours of total training time in *County of Los Angeles*, neither the school day hours nor the minimum number of education days in a school year were extended because of the assessment tests and there was no evidence of additional costs incurred as a result of teacher staffing time. Thus, as part of the existing program of providing education within a previously set minimum number of hours in a school day and number of days in a school year, the teachers’ time was merely reallocated within that existing time frame.<sup>173</sup>

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<sup>167</sup> *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal. App.4th 1176, 1181, 1183.

<sup>168</sup> *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal. App.4th 1176, 1181.

<sup>169</sup> *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal. App.4th 1176, 1194.

<sup>170</sup> *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal. App.4th 1176, 1194.

<sup>171</sup> *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1195.

<sup>172</sup> *San Diego Unified School District v. Commission on State Mandates*, Third District Court of Appeal, Case No. C044162, 2004 WL 1664857.

<sup>173</sup> Commission on State Mandates, Test Claim Decision on *Physical Performance Tests*, 96-365-01, <https://csm.ca.gov/decisions/9636501sod.pdf> (accessed on August 18, 2025), adopted June 25, 1998, pages 5-6.



*County of Los Angeles* and *Physical Performance Tests* are the exceptions to the general rule that costs mandated by the state through new programs are reimbursable. Here, there are no existing laws establishing a time frame for traffic and pedestrian stops. Instead, stating the reason for the stop is a new and additional requirement imposed by the state and the claimants have provided evidence in the record to support the increased costs to comply with the new requirement to state the reason for the stop. As the courts have declared:

[A]s to cities, counties, and [] districts [with an ordinary, principal and mandatory duty to provide policing services], new statutory duties that increase the costs of such services are prima facie reimbursable. This is true, notwithstanding a potential argument that such a local government's decision is voluntary in part, as to the number of personnel it hires.<sup>174</sup>

As a new requirement mandated by the state with evidence of costs exceeding \$1000, the Commission finds that the requirement to state the reason for the stop results in increased costs mandated by the state within the meaning of Government Code section 17514.

Finally, none of the exceptions in Government Code section 17556 apply. The test claim statute is solely aimed at modifying peace officer behavior and does not create a new crime or infraction, eliminate a crime or infraction, or change the penalty for a crime or infraction within the meaning of Government Code section 17556(g) or article XIII B, section 6(a)(2) of the California Constitution.

Accordingly, the Commission finds that the test claim statute results in costs mandated by the state.

## **V. Conclusion**

Based on the foregoing, the Commission approves this Test Claim for the period of reimbursement beginning July 1, 2023, and finds that Vehicle Code section 2806.5, as added by Statutes 2022, chapter 805, imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, for a county or city peace officer to do the following beginning January 1, 2024, when the officer makes a traffic or pedestrian stop:

- State the reason for the stop before engaging in questioning related to a criminal investigation or traffic violation.
- Document the reason for the stop on any citation or police report resulting from the stop.

These activities are not required or mandated by the state when the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat, including, but not limited to, cases of terrorism or kidnapping.

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<sup>174</sup> *Department of Finance v. Commission on State Mandates (POBRA)* (2009) 170 Cal. App.4th 1355, 1367.

In addition, documenting the reason for a stop is not new and does not mandate a new program or higher level of service when the officer's grounds for belief that the person violated Vehicle Code section 23136, 23140, 23152, or 23153 relating to DUI offenses, were the reason for the stop and that stop resulted in a suspension or arrest per Vehicle Code section 13380(a).

## **DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On January 26, 2026, I served the:

- **Current Mailing List dated December 19, 2025**
- **Proposed Decision issued January 26, 2026**

*Stops: Notification by Peace Officers, 24-TC-03*

Statutes 2022, Chapter 805, Section 5 (AB 2773); Vehicle Code Section 2806.5

County of Los Angeles, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on January 26, 2026 at Sacramento, California.



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Jill Magee  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 12/19/25

**Claim Number:** 24-TC-03

**Matter:** Stops: Notification by Peace Officers

**Claimant:** County of Los Angeles

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Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

**Adaoha Agu**, *County of San Diego Auditor & Controller Department*

Projects, Revenue and Grants Accounting, 5530 Overland Avenue, Ste. 410 , MS:O-53, San Diego, CA 92123

Phone: (858) 694-2129

Adaoha.Agu@sdcounty.ca.gov

**Manny Alvarez Jr.**, Executive Director, *Commission on Peace Officer Standards and Training (POST)*

860 Stillwater Road, Suite 100, West Sacramento, CA 95605

Phone: (916) 227-3909

Manny.Alvarez@post.ca.gov

**Rachelle Anema**, Assistant Auditor-Controller, *County of Los Angeles*

Accounting Division, 500 W. Temple Street, Los Angeles, CA 90012

Phone: (213) 974-8321

RANEMA@auditor.lacounty.gov

**Lili Apgar**, Specialist, *State Controller's Office*

Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 324-0254

lapgar@sco.ca.gov

**Socorro Aquino**, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

**Matthew Aveling**, Chief Deputy, *Riverside County Sheriff's Department*

Sheriff's Administration, 4905 Lemon Street, Riverside, CA 92501

Phone: (951) 955-2416

maveling@riversidesheriff.org

**Aaron Avery**, Legislative Representative, *California Special Districts Association*  
1112 I Street Bridge, Suite 200, Sacramento, CA 95814  
Phone: (916) 442-7887  
Aarona@csda.net

**Edward Bachman**, Captain, *San Bernardino County Sheriff's Department*  
Information / Technical Services Division, 655 East Third Street, San Bernardino, CA 92415  
Phone: (909) 884-0156  
rec-requests@sbcscd.org

**David Bass**, Vice Mayor, *City of Rocklin*  
3970 Rocklin Road, Rocklin, CA 95677  
Phone: (916) 663-8504  
David.Bass@rocklin.ca.us

**Ginni Bella Navarre**, Deputy Legislative Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8342  
Ginni.Bella@lao.ca.gov

**Guy Burdick**, Consultant, *MGT Consulting*  
2251 Harvard Street, Suite 134, Sacramento, CA 95815  
Phone: (916) 833-7775  
gburdick@mgtconsulting.com

**Allan Burdick**,  
7525 Myrtle Vista Avenue, Sacramento, CA 95831  
Phone: (916) 203-3608  
allanburdick@gmail.com

**Rica Mae Cabigas**, Chief Accountant, *Auditor-Controller*  
Accounting Division, 500 West Temple Street, Los Angeles, CA 90012  
Phone: (213) 974-8309  
rcabigas@auditor.lacounty.gov

**Evelyn Calderon-Yee**, Bureau Chief, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816  
Phone: (916) 324-5919  
ECalderonYee@sco.ca.gov

**Julissa Ceja Cardenas**, *California State Association of Counties*  
1100 K Street, Suite 101, Sacramento, CA 95814  
Phone: (916) 327-7500  
jcejacardenas@counties.org

**Michele Cervone**, Legislative Assistant, *Aaron Read & Associates*  
1415 L Street, Suite 1100, Sacramento, CA 95814  
Phone: (916) 448-3444  
mcervone@aaronread.com

**Rolando Charvel**, Chief Financial Officer, *City of San Diego*  
202 C Street, 9th Floor, San Diego, CA 92101  
Phone: (619) 236-6218  
rcharvel@sandiego.gov

**Ali Chemkhi**, Senior Supervising Accountant/Auditor, *County of San Bernardino*  
Office of Auditor-Controller, 268 West Hospitality Lane, Fourth Floor, San Bernardino, CA 92415-

0018

Phone: (909) 382-7035

ali.chemkhi@sbccountyatc.gov

**Annette Chinn**, *Cost Recovery Systems, Inc.*

705-2 East Bidwell Street, #294, Folsom, CA 95630

Phone: (916) 939-7901

achinnrcs@aol.com

**Carolyn Chu**, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*

925 L Street, Suite 1000, Sacramento, CA 95814

Phone: (916) 319-8326

Carolyn.Chu@lao.ca.gov

**Adam Cripps**, Interim Finance Manager, *Town of Apple Valley*

14955 Dale Evans Parkway, Apple Valley, CA 92307

Phone: (760) 240-7000

acripps@applevalley.org

**Thomas Deak**, Senior Deputy, *County of San Diego*

Office of County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101

Phone: (619) 531-4810

Thomas.Deak@sdcounty.ca.gov

**Executive Director**, *California Peace Officers' Association*

555 Capitol Mall, Suite 1495, Sacramento, CA 95814

Phone: (916) 263-0541

cpoa@cpoa.org

**Laura Dougherty**, Attorney, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562

Laura.Dougherty@csm.ca.gov

**Phill Dupper**, Lieutenant, *San Bernardino County Sheriff's Department*

Information / Technical Services Division, 655 East Third Street, San Bernardino, CA 92415

Phone: (909) 884-0156

pdupper@sbcasd.org

**Patrick Dyer**, Director, *MGT Consulting*

2251 Harvard Street, Suite 134, Sacramento, CA 95815

Phone: (916) 443-3411

pdyer@mgtconsulting.com

**Kevin Fisher**, Assistant City Attorney, *City of San Jose*

Environmental Services, 200 East Santa Clara Street, 16th Floor, San Jose, CA 95113

Phone: (408) 535-1987

kevin.fisher@sanjoseca.gov

**Tim Flanagan**, Office Coordinator, *County of Solano*

Register of Voters, 678 Texas Street, Suite 2600, Fairfield, CA 94533

Phone: (707) 784-3359

Elections@solanocounty.com

**Juliana Gmur**, Executive Director, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562

juliana.gmur@csm.ca.gov

**M. Green**, *California State Sheriffs' Association*  
1231 I Street, Suite 200, Sacramento, CA 95814  
Phone: (916) 375-8000  
cgreen@calsheriffs.org

**Jim Grottkau**, Bureau Chief, *Commission on Peace Officer Standards and Training (POST)*  
Basic Training, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605  
Phone: (916) 227-3909  
Jim.Grottkau@post.ca.gov

**Zachary Hall**, Sheriff's Captain, *Riverside County Sheriff's Department*  
4905 Lemon Street, Riverside, CA 92501  
Phone: (951) 955-2400  
zhall@riversidesheriff.org

**Chris Hill**, Principal Program Budget Analyst, *Department of Finance*  
Local Government Unit, 915 L Street, 8th Floor, Sacramento, CA 95814  
Phone: (916) 445-3274  
Chris.Hill@dof.ca.gov

**Tiffany Hoang**, Associate Accounting Analyst, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816  
Phone: (916) 323-1127  
THoang@sco.ca.gov

**Ken Howell**, Senior Management Auditor, *State Controller's Office*  
Audits, Compliance Audits Bureau, 3301 C Street, Suite 725A, Sacramento, CA 95816  
Phone: (916) 323-2368  
KHowell@sco.ca.gov

**Jason Jennings**, Director, *Maximus Consulting*  
Financial Services, 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236  
Phone: (804) 323-3535  
SB90@maximus.com

**Angelo Joseph**, Supervisor, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816  
Phone: (916) 323-0706  
AJoseph@sco.ca.gov

**Emma Jungwirth**, Senior Legislative Advocate, *California State Association of Counties (CSAC)*  
1100 K Street, Ste 101, Sacramento, CA 95814  
Phone: (916) 650-8115  
ejungwirth@counties.org

**Anne Kato**, Acting Chief, *State Controller's Office*  
Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA  
95816  
Phone: (916) 322-9891  
akato@sco.ca.gov

**Anita Kerezsi**, *AK & Company*  
2425 Golden Hill Road, Suite 106, Paso Robles, CA 93446  
Phone: (805) 239-7994  
akcompanysb90@gmail.com

**Joanne Kessler**, Fiscal Specialist, *City of Newport Beach*  
Revenue Division, 100 Civic Center Drive , Newport Beach, CA 90266  
Phone: (949) 644-3199  
jkessler@newportbeachca.gov

**Lisa Kurokawa**, Bureau Chief for Audits, *State Controller's Office*  
Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 327-3138  
lkurokawa@sco.ca.gov

**Government Law Intake**, *Department of Justice*  
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550  
Phone: (916) 210-6046  
governmentlawintake@doj.ca.gov

**Eric Lawyer**, Legislative Advocate, *California State Association of Counties (CSAC)*  
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814  
Phone: (916) 650-8112  
elawyer@counties.org

**Kim-Anh Le**, Deputy Controller, *County of San Mateo*  
555 County Center, 4th Floor, Redwood City, CA 94063  
Phone: (650) 599-1104  
kle@smcgov.org

**Fernando Lemus**, Principal Accountant - Auditor, *County of Los Angeles*  
**Claimant Representative**  
Auditor-Controller's Office, 500 West Temple Street, Room 603, Los Angeles, CA 90012  
Phone: (213) 974-0324  
flemus@auditor.lacounty.gov

**Erika Li**, Chief Deputy Director, *Department of Finance*  
915 L Street, 10th Floor, Sacramento, CA 95814  
Phone: (916) 445-3274  
erika.li@dof.ca.gov

**Kenneth Louie**, Chief Counsel , *Department of Finance*  
1021 O. Street, Suite 3110, Sacramento, CA 95814  
Phone: (916) 322-0971  
Kenny.Louie@dof.ca.gov

**Everett Luc**, Accounting Administrator I, Specialist, *State Controller's Office*  
3301 C Street, Suite 740, Sacramento, CA 95816  
Phone: (916) 323-0766  
ELuc@sco.ca.gov

**Jill Magee**, Program Analyst, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
Jill.Magee@csm.ca.gov

**Darryl Mar**, Manager, *State Controller's Office*  
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816  
Phone: (916) 323-0706  
DMar@sco.ca.gov

**Brian Marvel**, President, *Peace Officers Research Association of California (PORAC)*  
4010 Truxel Road, Sacramento, CA 95834



Phone: (916) 928-3777  
president@porac.org

**Michelle Mendoza**, *MAXIMUS*  
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403  
Phone: (949) 440-0845  
michellemendoza@maximus.com

**Marilyn Munoz**, Senior Staff Counsel, *Department of Finance*  
915 L Street, Sacramento, CA 95814  
Phone: (916) 445-8918  
Marilyn.Munoz@dof.ca.gov

**Andy Nichols**, *Nichols Consulting*  
1857 44th Street, Sacramento, CA 95819  
Phone: (916) 455-3939  
andy@nichols-consulting.com

**Patricia Pacot**, Accountant Auditor I, *County of Colusa*  
Office of Auditor-Controller, 546 Jay Street, Suite #202, Colusa, CA 95932  
Phone: (530) 458-0424  
ppacot@countyofcolusa.org

**Arthur Palkowitz**, *Law Offices of Arthur M. Palkowitz*  
12807 Calle de la Siena, San Diego, CA 92130  
Phone: (858) 259-1055  
law@artpalk.onmicrosoft.com

**Kirsten Pangilinan**, Specialist, *State Controller's Office*  
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816  
Phone: (916) 322-2446  
KPangilinan@sco.ca.gov

**Trevor Power**, Accounting Manager, *City of Newport Beach*  
100 Civic Center Drive, Newport Beach, CA 92660  
Phone: (949) 644-3085  
tpower@newportbeachca.gov

**Jonathan Quan**, Associate Accountant, *County of San Diego*  
Projects, Revenue, and Grants Accounting, 5530 Overland Ave, Suite 410, San Diego, CA 92123  
Phone: 6198768518  
Jonathan.Quan@sdcounty.ca.gov

**Roberta Raper**, Director of Finance, *City of West Sacramento*  
1110 West Capitol Ave, West Sacramento, CA 95691  
Phone: (916) 617-4509  
robertar@cityofwestsacramento.org

**Aaron Read**, Legislative Advocate, *Aaron Read & Associates*  
1415 L Street, Suite 1100, Sacramento, CA 95814  
Phone: (916) 448-3444  
aread@aaronread.com

**Chad Rinde**, Director of Finance, *County of Sacramento*  
700 H Street, Room 3650, Sacramento, CA 95814  
Phone: (916) 874-7248  
RindeC@SacCounty.gov

**Jessica Sankus**, Senior Legislative Analyst, *California State Association of Counties (CSAC)*  
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814  
Phone: (916) 327-7500  
jsankus@counties.org

**Cindy Sconce**, Director, *Government Consulting Partners*  
5016 Brower Court, Granite Bay, CA 95746  
Phone: (916) 276-8807  
cindysconcegc@gmail.com

**Camille Shelton**, Chief Legal Counsel, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
camille.shelton@csm.ca.gov

**Carla Shelton**, Senior Legal Analyst, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
carla.shelton@csm.ca.gov

**Cheryl Smith**, Bureau Chief, *Commission on Peace Officer Standards and Training (POST)*  
Administrative Services Bureau, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605  
Phone: (916) 227-3909  
Cheryl.Smith@post.ca.gov

**Paul Steenhausen**, Principal Fiscal and Policy Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, , Sacramento, CA 95814  
Phone: (916) 319-8303  
Paul.Steenhausen@lao.ca.gov

**Jolene Tollenaar**, *MGT Consulting Group*  
2251 Harvard Street, Suite 134, Sacramento, CA 95815  
Phone: (916) 243-8913  
jolenetollenaar@gmail.com

**James Touchstone**, General Counsel, *California State Sheriffs' Association*  
3777 North Harbor Boulevard, Fullerton, CA 92835  
Phone: (714) 446-1400  
jrt@jones-mayer.com

**Robert Trostle**, Lieutenant, *San Bernardino County Sheriff's Department*  
Information / Technical Services Division, 655 East Third Street, San Bernardino, CA 92415  
Phone: (909) 884-0156  
rtrostle@sbcasd.org

**Jessica Uzarski**, Consultant, *Senate Budget and Fiscal Review Committee*  
1020 N Street, Room 502, Sacramento, CA 95814  
Phone: (916) 651-4103  
Jessica.Uzarski@sen.ca.gov

**Oscar Valdez**, Auditor-Controller, *County of Los Angeles*

**Claimant Contact**

Auditor-Controller's Office, 500 West Temple Street, Room 525, Los Angeles, CA 90012  
Phone: (213) 974-8302  
ovaldez@auditor.lacounty.gov

**Alejandra Villalobos**, Management Services Manager, *County of San Bernardino*  
Office of Auditor-Controller, 222 West Hospitality Lane, Forth Floor, San Bernardino, CA 92415

Phone: (909) 382-3191  
alejandra.villalobos@sbcountyatc.gov

**Dennis Vrooman**, Assistant Sheriff, *Riverside County Sheriff's Department*  
Sheriff's Administration, 4905 Lemon Street, Riverside, CA 92501  
Phone: (951) 955-8792  
dvrooman@riversidesheriff.org

**Renee Wellhouse**, *David Wellhouse & Associates, Inc.*  
3609 Bradshaw Road, H-382, Sacramento, CA 95927  
Phone: (916) 797-4883  
dwa-renee@surewest.net

**Adam Whelen**, Director of Public Works, *City of Anderson*  
1887 Howard St., Anderson, CA 96007  
Phone: (530) 378-6640  
awhelen@ci.anderson.ca.us

**R. Matthew Wise**, Supervising Deputy Attorney General, *Department of Justice*  
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550  
Phone: (916) 210-6046  
Matthew.Wise@doj.ca.gov

**Arthur Wylene**, General Counsel, *Rural County Representatives of California (RCRC)*  
1215 K Street, Suite 1650, Sacramento, CA 95814  
Phone: (916) 447-4806  
awylene@rcrcnet.org

**Elisa Wynne**, Staff Director, *Senate Budget & Fiscal Review Committee*  
California State Senate, State Capitol Room 5019, Sacramento, CA 95814  
Phone: (916) 651-4103  
elisa.wynne@sen.ca.gov

**Kaily Yap**, Budget Analyst, *Department of Finance*  
Local Government Unit, 915 L Street, Sacramento, CA 95814  
Phone: (916) 445-3274  
Kaily.Yap@dof.ca.gov

**Siew-Chin Yeong**, Director of Public Works, *City of Pleasanton*  
3333 Busch Road, Pleasanton, CA 94566  
Phone: (925) 931-5506  
syelong@cityofpleasantonca.gov

**Traci Young**, IS Project Director, *City and County of San Francisco*  
San Francisco Public Utilities Commission (SFPUC), 525 Golden Gate Ave, San Francisco, CA 94102  
Phone: (415) 653-2583  
tmyoung@sfwater.org

**Helmholt Zinser-Watkins**, Associate Governmental Program Analyst, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 324-7876  
HZinser-watkins@sco.ca.gov