

ITEM 6

PROPOSED DECISION

AND

PARAMETERS AND GUIDELINES

Government Code Section 69926(b)

Statutes 2009-2010 (4th Ex. Sess.), Chapter 22 (SB 13)

Sheriff Court-Security Services

09-TC-02

County of Los Angeles, Claimant

EXECUTIVE SUMMARY

I. Summary of Mandate

These parameters and guidelines address the cost of retiree health benefits for sheriff employees who provide court security services to the trial courts.

On December 5, 2014, the Commission on State Mandates (Commission) adopted a decision finding that Government Code section 69926(b), as amended by Statutes 2009-2010 (4th Ex. Sess.), chapter 22, constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6(c).¹ Specifically, the Commission found that the following retiree health benefit costs that had been funded under the Trial Court Funding Program before January 1, 2003, but were then shifted to the counties by the test claim statute are reimbursable from July 28, 2009 to June 27, 2012:

- Amounts actually paid in the claimed fiscal year to an insurer, other benefit provider, or trustee to prefund the future retiree health benefit costs earned by county employees in the claimed fiscal year who provided court security services in criminal and delinquency matters pursuant to Government Code section 69922; and
- Amounts actually paid in the claimed fiscal year to an insurer, other benefit provider, or trustee to reduce an existing unfunded liability of the county for the health benefit costs previously earned by county employees who provided court security services in criminal and delinquency matters pursuant to Government Code section 69922.

Additionally, the Commission found that current health benefit premiums paid to retirees or their beneficiaries after retirement on a pay-as-you-go basis are not reimbursable.

¹ Article XIII B, section 6(c), was added to the California Constitution in 2004 to expand the definition of a new program or higher level of service as follows: “A mandated new program or higher level of service includes a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.”

The Commission further concluded that revenue received by a county eligible to claim reimbursement from the 2011 Realignment (Gov. Code, §§ 30025, 30027; Stats. 2011, ch. 40) for this program in fiscal year 2011-2012 shall be identified and deducted as offsetting revenue from any claim for reimbursement.

II. Procedural History

On December 5, 2014, the Commission adopted a decision approving the test claim on *Sheriff Court-Security Services*.² Commission staff issued the draft expedited parameters and guidelines on December 12, 2014.³ No comments were filed by the parties on the draft expedited parameters and guidelines.

III. Discussion

The proposed parameters and guidelines include the findings adopted by the Commission in its test claim decision with respect to the period of reimbursement, the counties eligible to claim reimbursement, the reimbursable costs, and the offsetting revenues. There were no comments filed by any of the parties and staff made only minor technical changes to the findings adopted in the test claim, which staff copied and pasted into the proposed parameters and guidelines. Staff therefore finds that the findings in the test claim decision support the parameters and guidelines.

IV. Staff Recommendation

Based on the foregoing, staff recommends that the Commission adopt the proposed decision and parameters and guidelines and authorize staff to make any non-substantive, technical corrections following the hearing.

² Exhibit A, Test Claim Decision, adopted December 5, 2014.

³ Exhibit B, Draft Expedited Parameters and Guidelines, issued December 12, 2014.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
ON:

Government Code Section 69926(b)

Statutes 2009-2010 (4th Ex. Sess.), Chapter 22
(SB 13)

County of Los Angeles, Claimant

Case No.: 09-TC-02

Sheriff Court-Security Services

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

(Adopted March 27, 2015)

DECISION

The Commission on State Mandates (Commission) heard and decided these parameters and guidelines during a regularly scheduled hearing on March 27, 2015. [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(c) of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission [adopted/modified] the proposed decision to [approve/partially approve/deny] the parameters and guidelines at the hearing by a vote of [vote count will be included in the adopted decision].

I. Summary of Mandate

These parameters and guidelines address the cost of retiree health benefits for sheriff employees who provide court security services to the trial courts.

On December 5, 2014, the Commission on State Mandates (Commission) adopted a decision finding that Government Code section 69926(b), as amended by Statutes 2009-2010 (4th Ex. Sess.), chapter 22, constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6(c).⁴ Specifically, the Commission found that the following retiree health benefit costs that had been funded under the Trial Court Funding Program before January 1, 2003, but were then shifted to the counties by the test claim statute are reimbursable from July 28, 2009 to June 27, 2012:

⁴ Article XIII B, section 6(c), was added to the California Constitution in 2004 to expand the definition of a new program or higher level of service as follows: "A mandated new program or higher level of service includes a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility."

- Amounts actually paid in the claimed fiscal year to an insurer, other benefit provider, or trustee to prefund the future retiree health benefit costs earned by county employees in the claimed fiscal year who provided court security services in criminal and delinquency matters pursuant to Government Code section 69922; and
- Amounts actually paid in the claimed fiscal year to an insurer, other benefit provider, or trustee to reduce an existing unfunded liability of the county for the health benefit costs previously earned by county employees who provided court security services in criminal and delinquency matters pursuant to Government Code section 69922.

Additionally, the Commission found that current health benefit premiums paid to retirees or their beneficiaries after retirement on a pay-as-you-go basis are not reimbursable.

The Commission further concluded that revenue received by a county eligible to claim reimbursement from the 2011 Realignment (Gov. Code, §§ 30025, 30027; Stats. 2011, ch. 40) for this program in fiscal year 2011-2012 shall be identified and deducted as offsetting revenue from any claim for reimbursement.

II. Procedural History

On December 5, 2014, the Commission adopted a decision approving the test claim on *Sheriff Court-Security Services*.⁵ On December 12, 2014, Commission staff issued the draft expedited parameters and guidelines.⁶ No comments were filed by the parties on the draft expedited parameters and guidelines.

III. Commission Findings

The parameters and guidelines for this program include the findings adopted by the Commission in its test claim decision with respect to the period of reimbursement, eligible claimants, reimbursable costs, and offsetting revenues. None of the parties filed comments and staff made only minor technical changes to the findings adopted in the test claim, which staff copied and pasted into the proposed parameters and guidelines. The Commission therefore finds that the parameters and guidelines are supported by the findings in the test claim decision.

IV. Conclusion

Based on the foregoing, the Commission hereby adopts the proposed decision and parameters and guidelines.

⁵ Exhibit A, Test Claim Decision, adopted December 5, 2014.

⁶ Exhibit B, Draft Expedited Parameters and Guidelines, issued December 12, 2014.

PROPOSED PARAMETERS AND GUIDELINES

Government Code Section 69926(b)

Statutes 2009-2010 (4th Ex. Sess.), Chapter 22 (SB 13)

Sheriff Court-Security Services

09-TC-02

Period of reimbursement: July 28, 2009 through June 27, 2012

I. SUMMARY OF THE MANDATE

On December 5, 2014, the Commission on State Mandates (Commission) adopted a decision finding that Government Code section 69926(b), as amended by Statutes 2009-2010 (4th Ex. Sess.), chapter 22, constitutes a partial reimbursable state-mandated program within the meaning of article XIII B, section 6(c).¹ Specifically, the Commission found that the following retiree health benefit costs that had been funded under the Trial Court Funding Program before January 1, 2003, but were then shifted to the counties by the test claim statute are reimbursable from July 28, 2009 to June 27, 2012 only:

- Amounts actually paid in the claimed fiscal year to an insurer, other benefit provider, or trustee to prefund the future retiree health benefit costs earned by county employees in the claimed fiscal year who provided court security services in criminal and delinquency matters pursuant to Government Code section 69922; and
- Amounts actually paid in the claimed fiscal year to an insurer, other benefit provider, or trustee to reduce an existing unfunded liability of the county for the health benefit costs previously earned by county employees who provided court security services in criminal and delinquency matters pursuant to Government Code section 69922.

The Commission further concluded that revenue received by a county eligible to claim reimbursement from the 2011 Realignment (Gov. Code, §§ 30025, 30027; Stats. 2011, ch. 40) for this program in fiscal year 2011-2012 shall be identified and deducted as offsetting revenue from any claim for reimbursement.

II. ELIGIBLE CLAIMANTS

Any county, or city and county, that incurs increased costs as a result of this mandate and meets the following requirements is eligible to claim reimbursement. To be eligible a claimant must

¹ Article XIII B, section 6(c), was added to the California Constitution in 2004 to expand the definition of a new program or higher level of service as follows: “A mandated new program or higher level of service includes a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.”

have: (1) previously included retiree health benefit costs for existing employees that provided sheriff court security services in criminal and delinquency matters in its cost for court operations and billed those costs to the state under the Trial Court Funding Program before January 1, 2003; and (2) prefunded the future retiree health benefit costs earned by county employees in the claimed fiscal year who provided court security services in criminal and delinquency matters pursuant to Government Code section 69922 or prefunded to reduce an existing unfunded liability of the county for the health benefit costs previously earned by county employees who provided court security services in criminal and delinquency matters pursuant to Government Code section 69922.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The claimant filed the test claim on June 30, 2010, establishing eligibility for reimbursement for the 2008-2009 fiscal year. However, Government Code section 69926(b) as amended by the test claim statute (Stats. 2009-2010 (4th Ex. Sess.), ch. 22) became effective on July 28, 2009, and remained in law only until June 27, 2012, when it was repealed to implement the statutory realignment of superior court security funding by Statutes of 2011, chapter 40. Thus, the period of reimbursement for this claim is from July 28, 2009 to June 27, 2012.

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

- Actual costs for one fiscal year shall be included in each claim.
- Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller (Controller) within 120 days of the issuance date for the claiming instructions.
- Pursuant to Government Code section 17560(a), a local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
- If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code §17560(b).)
- If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564(a).
- There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE COSTS PURSUANT TO ARTICLE XIII B, SECTION 6(c)

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated program. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable program. A source

document is a document created at or near the same time the actual cost was incurred for the event, activity, or program cost in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, financial and accounting statements, and receipts.

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

The claimant is only allowed to claim and be reimbursed for the following retiree health benefit costs for existing employees that provided sheriff court security services in criminal and delinquency matters from July 28, 2009 to June 27, 2012:

- Amounts actually paid in the claimed fiscal year to an insurer, other benefit provider, or trustee to prefund the future retiree health benefit costs earned by county employees in the claimed fiscal year who provided court security services in criminal and delinquency matters pursuant to Government Code section 69922; and
- Amounts actually paid in the claimed fiscal year to an insurer, other benefit provider, or trustee to reduce an existing unfunded liability of the county for the health benefit costs previously earned by county employees who provided court security services in criminal and delinquency matters pursuant to Government Code section 69922.

*Retiree health benefit payments to **retirees or their beneficiaries** made during the period of reimbursement are not eligible for reimbursement.*

V. CLAIM PREPARATION AND SUBMISSION

Each claimed reimbursable cost must be supported by source documentation as described in section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

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

1. Employee Retiree Health Benefits

Report each employee providing court security services in criminal and delinquency matters during the period of reimbursement by name, job classification, and the reimbursable retiree health benefit cost incurred for that employee, as defined in section IV of these parameters and guidelines.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed by a county or city and county pursuant to this chapter² is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable costs, as described in section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Revenue received by a claimant from the 2011 Realignment (Gov. Code, §§ 30025, 30027; Stats. 2011, ch. 40) for this program and used by the claimant to pre-fund the costs of retiree health benefits of existing employees providing sheriff court security services in criminal and delinquency matters shall be identified and deducted as offsetting revenue from any claim for reimbursement.

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

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

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

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

IX. REMEDIES BEFORE THE COMMISSION

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

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

Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557(d), and California Code of Regulations, title 2, section 1183.17.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

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