

Item 13

PROPOSED STATEWIDE COST ESTIMATE
\$95,464

(Approximate Prospective Cost of \$31,109 Annually)

Education Code Sections 48354(b)(1), 48356(d), 48357, 53202(a), 53202(b), 53300, and 53301

Statutes 2009-2010, 5th Extraordinary Session, Chapter 2 (SBX5 1);

Statutes 2009-2010, 5th Extraordinary Session, Chapter 3 (SBX5 4)

California Code of Regulations, Title 5, Section 4702(a) (Register 2010, No. 32)

Race to the Top

10-TC-06

STAFF ANALYSIS

Background and Summary of the Mandate

This test claim addresses statutes enacted in 2009 and 2010 and regulations adopted in 2010 to make California competitive in the federal *Race to the Top (RTTT)* education grant program.

On March 28, 2014, the Commission on State Mandates (Commission) adopted a statement of decision¹ on the *Race to the Top (RTTT)* test claim (10-TC-06) finding that the test claim statutes imposes a partially reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution, and Government Code section 17514.

Parameters and guidelines² were adopted on May 30, 2014 approving the reimbursable activities described below under the *Reimbursable Activities* section.

Eligible claimants were required to file initial reimbursement claims, for costs incurred for the period April 12, 2010 through June 30, 2013 by December 31, 2014 with the State Controller's Office (SCO), and fiscal year 2013-2014 by February 17, 2014. Late initial reimbursement claims may be filed until December 31, 2015.

Eligible Claimants and Period of Reimbursement

Any school district, with the exception of community colleges, that incurs increased costs as a result of this mandate is eligible to claim reimbursement.

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. Twin Rivers Unified School District filed the test claim November 23, 2010, establishing eligibility for reimbursement for the 2009-2010 fiscal year. However, the effective date of the reimbursable state-mandated activities

¹ Exhibit A. Test Claim Statement of Decision.

² Exhibit B. Parameters and Guidelines.

began April 12, 2010, the effective date of the test claim statute. As a result, any costs incurred for the activities in these parameters and guidelines are reimbursable on or after April 12, 2010.

Reimbursable Activities

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

1. Race to the Top

School districts that receive notice that a school or schools within the district have been identified by the Superintendent of Public Instruction (SPI) as persistently lowest-achieving pursuant to Education Code section 53200(b) are required to perform the following activities:

- a) Hold at least two public hearings for each school identified as a persistently lowest-achieving school to notify staff, parents, and the community of the designation and to seek input from staff, parents, and the community regarding the option or options most suitable for the applicable school or schools in its jurisdiction. At least one of the public hearings shall be held at a regularly scheduled meeting, if applicable, and at least one of the public hearings shall be held on the site of a school deemed persistently lowest-achieving. (Ed. Code, §53202(b); Stats. 2009-2010, 5th Ex. Sess., ch. 2, §8 (SBX5 1).)
- b) Conduct a meeting of the governing board to select one of the four interventions for turning around the identified persistently lowest-achieving school or schools as described in Appendix C of the Notice of Final Priorities, Requirements, Definitions, Selection Criteria for the *RTTT* program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009:
 - The turnaround model.
 - The restart model.
 - School closure.
 - The transformational model. (Ed. Code, §53202(a); Stats. 2009-2010, 5th Ex. Sess., ch. 2, §8 (SBX5 1).)
- c) Implement one of the four intervention models for turning around the identified persistently lowest-achieving school or schools. (Ed. Code, §53202(a); Stats. 2009-2010, 5th Ex. Sess., ch. 2, §8 (SBX5 1).)

The following schools are *exempt* from the requirements of Education Code section 53202(a) and (b) and are, therefore, *not* mandated by the state to comply with the above activities:

- Schools identified by the SPI and State Board of Education (SBE) as already having implemented a reform that conforms to the intervention requirements of the *RTTT* program, and are showing significant progress in its reform pursuant to Education Code section 53202(a); and
- Schools listed in Education Code section 53201(e) (i.e., county community schools, juvenile court schools, schools that provide educational services exclusively to individuals with exceptional needs, and schools that have

experienced academic growth of at least 50 points over the previous five years as measured by the Academic Performance Index (API).

2. Parent Empowerment Act

School districts that receive a petition, signed by the number of parents specified in Education Code section 53300 and for the purpose of improving academic achievement or pupil safety, requesting the implementation of one or more of the four intervention models described in Education Code section 53202 for a school that is not identified as a persistently lowest-achieving school, but is subject to corrective action pursuant to No Child Left Behind (NCLB), continues to fail to make adequate yearly progress, and has an API score of less than 800, are required to perform the following activities:

- a) Implement the intervention model requested by parents unless, in a regularly scheduled public hearing, the school district makes a finding in writing stating the reason it cannot implement the specific recommended option and instead designates in writing which of the other options it will implement in the subsequent school year consistent with the requirements specified in federal regulations and guidelines. (Ed. Code, §53300; Stats. 2009-2010, 5th Ex. Sess., ch. 3, §2 (SBX5 4).)
- b) Notify the SPI and SBE of the receipt of a petition and the final disposition of the petition. If the school district indicates in writing that it will implement in the upcoming school year a different alternative governance arrangement than requested by the parents, the school district shall notify the SPI and SBE that the alternative governance option selected has substantial promise of enabling the school to make adequate yearly progress as defined in NCLB, Title 20 United States Code section 6301 et seq.. (Ed. Code, §53301; Stats. 2009-2010, 5th Ex. Sess., ch. 3, §2 (SBX5 4).)

3. Open Enrollment Act

- a) The school district of residence that receives notice that one or more of its schools are low-achieving and on the list created by the SPI, shall notify the parent(s) or guardian(s) of each pupil enrolled in a school included on the most recent Open Enrollment List of the option to transfer to another public school served by the district of residence or another school district. This notice shall be provided on the first day of instruction. If the district has not been notified of whether its school(s) is on the list, the notification shall be provided no later than 14 calendar days after the Open Enrollment List is posted on the California Department of Education's (CDE) Web site at <http://www.cde.ca.gov/>. (Ed. Code, §48354(b)(1); Cal. Code Regs., tit. 2, §4702(a).)
- b) Upon receipt of a transfer application, the school district of enrollment shall ensure that pupils who transfer pursuant to the Open Enrollment Act are enrolled in a school with a higher API than the school in which the pupil was previously enrolled, and are selected through a random, nonbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on his or her individual academic or athletic performance, physical condition, proficiency in the English language, family income, or other individual characteristics. If the number of pupils requesting a particular school exceeds the number of spaces available at that school, a lottery shall be conducted in the group priority order in section

48356(d)(1) and (2) to select pupils at random. (Ed. Code, §48356(d); Stats. 2009-2010, 5th Ex. Sess., ch. 3, §1 (SBX5 4).)

- c) Within 60 days of receiving an application from a parent or guardian for transfer, the school district of enrollment shall notify the applicant parent and the school district of residence in writing whether the application has been accepted or rejected. If an application is rejected, the school district of enrollment shall state in the notification the reasons for the rejection. (Ed. Code, §48357; Stats. 2009-2010, 5th Ex. Sess., ch. 3, §1 (SBX5 4).)

Court, community, community day schools, and charter schools are ***exempt and not mandated*** by the state to comply with the Open Enrollment Act.³

Offsetting Revenues and Reimbursements

The parameters and guidelines⁴ provide:

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim. Specifically, the School Improvement Grant funds under the state Budget Act Item 6110-134-0890 must be identified as offsetting revenue and deducted from the costs claimed by the district for implementing an intervention model pursuant to Education Code section 53202.

To the extent that the claimant has used fees or any funds provided by the state or federal government, as opposed to proceeds of local taxes, to pay for the cost of the program, those costs are not reimbursable.

Statewide Cost Estimate

Assumptions

Staff reviewed the reimbursement claims data submitted by the two school districts that submitted initial claims, which was compiled by the SCO.⁵ The data showed that only one school district filed initial claims for fiscal years 2009-2010 through 2011-2012 and two school districts filed an initial claim for fiscal year 2012-2013 for a total of \$95,464. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*
 - *Additional districts are likely to file late initial reimbursement claims and late claims for 2013-2014*

There are currently over 1000 school districts in California. Of those, only two school districts filed initial reimbursement claims totaling \$95,464. The reimbursable

³Education Code section 48352(a)(2)(B) and (C).

⁴ Exhibit B. Parameters and Guidelines.

⁵ Claims data reported as of February 3, 2015.

activities of this program are based on the number of schools who have been identified by the Superintendent of Public Instruction (SPI) as persistently low-achieving. In 2014, California's Department of Education identified 188 schools within 76 different school districts as persistently low-achieving based on graduation rates and academic performance. These institutions must comply with the requirements listed in the parameters and guidelines. Thus, late initial claims are likely to be filed on this program by some of the 74 districts that have not yet filed claims. If eligible claimants file late initial claims, the cost of reimbursing those claims may exceed the statewide cost estimate. Late initial reimbursement claims for this program for the period April 12, 2010 through June 30, 2014 may be filed until December 31, 2015. Annual reimbursement claims for fiscal year 2013-2014 were required to be filed by February 17, 2015 and late claims for that year may be filed until February 15, 2016.

- *There are reasons why a district that has incurred costs might not file a claim.*

There also may be several reasons that non-claiming school districts did not file reimbursement claims, including but not limited to, (1) they did not incur more than \$1,000 in increased costs for this program and (2) they did not have supporting documentation to file a reimbursement claim.

- *The number of reimbursement claims and amount of costs claimed will vary from year to year.*

As discussed above, costs under this program are driven by an SPI designation of a school as persistently low-achieving in a given year. Moreover, the number of petitions signed by parents requesting an intervention model for the purpose of improving academic achievement or pupil safety, and the number of parents who apply for a school transfer after receiving notification from the SPI the current school is low-achieving, can fluctuate year-to-year. Therefore, the reimbursable activities of this program are driven by circumstances rather than a fixed cycle.

- *The total amount of reimbursement for this program may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.*

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

Methodology

April 12, 2010 through June 30, 2013.

The statewide cost estimate for the period April 12, 2010 through June 30, 2013 was developed by totaling the 5 reimbursement claims filed with the SCO for this period. Staff finds that the average for the most recent three-year period is likely indicative of potential future costs. For that three-year period, costs averaged \$31,109 annually

Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
2009-2010	1	\$2,136
2010-2011	1	\$33,745
2011-2012	1	\$30,197
2012-2013	2	\$29,386
TOTAL	5	\$95,464

Draft Proposed Statewide Cost Estimate

On February 23, 2015, Commission staff issued the draft proposed statewide cost estimate.⁶ No comments were filed on the draft proposed statewide cost estimate.

Staff Recommendation

Staff recommends the Commission adopt the proposed statewide cost estimate of **\$95,464 (Approximate Prospective Cost of \$31,109 Annually)** for costs incurred in complying with the *Race To The Top* program.

⁶ Exhibit C. Draft Proposed Statewide Cost Estimate.