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[Constitution of the State of California 1879 \(Refs & Annos\)](#)

[Article Xiiib. Government Spending Limitation \(Refs & Annos\)](#)

West's Ann.Cal.Const. Art. 13B, § 6

**§ 6. New programs or services mandated by Legislature or state agencies; subvention;  
appropriation of funds or suspension of operation**

Effective: June 4, 2014

[Currentness](#)

SEC. 6. (a) 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 that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates:

- (1) Legislative mandates requested by the local agency affected.
  - (2) Legislation defining a new crime or changing an existing definition of a crime.
  - (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.
  - (4) Legislative mandates contained in statutes within the scope of paragraph (7) of [subdivision \(b\) of Section 3 of Article I](#).
- (b)(1) Except as provided in paragraph (2), for the 2005-06 fiscal year and every subsequent fiscal year, for a mandate for which the costs of a local government claimant have been determined in a preceding fiscal year to be payable by the State pursuant to law, the Legislature shall either appropriate, in the annual Budget Act, the full payable amount that has not been previously paid, or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable in a manner prescribed by law.

(2) Payable claims for costs incurred prior to the 2004-05 fiscal year that have not been paid prior to the 2005-06 fiscal year may be paid over a term of years, as prescribed by law.

(3) Ad valorem property tax revenues shall not be used to reimburse a local government for the costs of a new program or higher level of service.

(4) This subdivision applies to a mandate only as it affects a city, county, city and county, or special district.

(5) This subdivision shall not apply to a requirement to provide or recognize any procedural or substantive protection, right, benefit, or employment status of any local government employee or retiree, or of any local government employee organization, that arises from, affects, or directly relates to future, current, or past local government employment and that constitutes a mandate subject to this section.

(c) 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.

#### Credits

(Adopted Nov. 6, 1979. Amended by Stats.2004, Res. c. 133 (S.C.A.4) ([Prop.1A](#), approved Nov. 2, 2004, eff. Nov. 3, 2004); [Stats.2013, Res. c. 123 \(S.C.A.3\)](#), § 2 (Prop. 42, approved June 3, 2014, eff. June 4, 2014).)

#### [Notes of Decisions \(248\)](#)

West's Ann. Cal. Const. Art. 13B, § 6, CA CONST Art. 13B, § 6  
Current with all laws through Ch. 372 of 2020 Reg.Sess.

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Notes Of Decisions (248)

### Construction and application

The state has conditional authority to enlist a local government in carrying out a new program or providing a higher level of service for an existing program. [County of San Diego v. Commission on State Mandates \(2018\)](#) 240 Cal.Rptr.3d 52, 430 P.3d 345 . [States](#) 111

Under constitutional provision requiring the Legislature either to fund or suspend local agency mandates, relief from compliance with a mandate is only automatic when the mandate is specifically identified in the Budget Act as being unfunded. [California School Bds. Assn. v. Brown \(App. 2 Dist. 2011\)](#) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507 , review denied. [States](#) 111

In the constitutional provision requiring the Legislature either to fund or suspend local agency mandates, the term "the Legislature" means the Legislature enacting laws as otherwise provided in the Constitution, including being subject to the Governor's veto. [California School Bds. Assn. v. Brown \(App. 2 Dist. 2011\)](#) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507 , review denied. [States](#) 111

Under constitutional provision requiring Legislature to make an appropriation of the full required amount for a local agency mandate or suspend the operation of the mandate, the Legislature was constitutionally required to make a choice, with respect to each mandate, between an appropriation of the full reimbursement payment due or nothing at all. [California School Bds. Assn. v. Brown \(App. 2 Dist. 2011\)](#) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507 , review denied. [States](#) 111

State's practice of appropriating only a nominal amount to fund mandates imposed on school districts and deferring the remaining payment did not satisfy the constitutional provision requiring the state to fund state mandates imposed upon local agencies, even though the state made payments on the outstanding debt, where the state did not fix a date for full payment. [California School Bds. Assn. v. State of California \(App. 4 Dist. 2011\)](#) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770 , rehearing denied, review denied. [Education](#) 219

Under the constitutional provision requiring the state to fund state mandates imposed upon local agencies, if the State wants to require local school districts to provide new programs or services, it is free to do so, but not by requiring local entities to use their own revenues to pay for the programs. [California School Bds. Assn. v. State of California \(App. 4 Dist. 2011\)](#) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770 , rehearing denied, review denied. [States](#) 111

The state is required to pay for any new governmental programs, or for higher levels of service under existing programs, that it imposes upon local governmental agencies. [County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 2003\)](#) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176 . [States](#) 111

In order for a state mandate to be found under constitution section requiring state to pay for increased costs associated with state mandates, there must be compulsion to expend revenue. [County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 2003\)](#) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176 . [States](#) 111

There is no basis for applying, as an equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities, the state constitutional provision generally requiring the state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency. [County of Sonoma v. Commission on State Mandates \(App. 1 Dist. 2000\)](#) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264 , modified on denial of rehearing, review denied. [States](#) 111

A reimbursable mandate is created, for purposes of constitutional provision requiring state to provide subvention of funds to reimburse local governments for costs of new programs or additional services mandated by state law,

only when the state imposes on a local government a new program or an increased level of service under an existing program. [City of El Monte v. Commission on State Mandates](#) (App. 3 Dist. 2000) 99 Cal.Rptr.2d 333, 83 Cal.App.4th 266 , rehearing denied, review denied. [States](#) 111

Although a law is addressed only to local governments and imposes new costs on them, it may still not be a reimbursable state-mandate within meaning of state constitution. [City of Richmond v. Commission on State Mandates](#) (App. 3 Dist. 1998) 75 Cal.Rptr.2d 754, 64 Cal.App.4th 1190 , review denied. [States](#) 123

Constitutional limitations and restrictions on legislative powers are not to be extended to include matters not covered by language used. [Redevelopment Agency v. Commission on State Mandates](#) (App. 4 Dist. 1997) 64 Cal.Rptr.2d 270, 55 Cal.App.4th 976 , review denied. [Constitutional Law](#) 2340

In construing this section, crucial issue was not intent of those who drafted provisions in question but, rather, intent of those who voted for measure. [County of Fresno v. State of California](#) (1991) 280 Cal.Rptr. 92, 53 Cal.3d 482, 808 P.2d 235 . [Constitutional Law](#) 584

### **Construction with other laws**

Where a statutory provision was only technically reenacted as part of other changes made by a voter initiative and the Legislature has retained the power to amend the provision through the ordinary legislative process, the provision cannot fairly be considered “expressly included in a ballot measure” within the meaning of statute exempting state from reimbursing local governments for costs incurred in connection with duties included in such a ballot measure; disapproving , 175 Cal.App.4th 577, 96 Cal.Rptr.3d 379 . [County of San Diego v. Commission on State Mandates](#) (2018) 240 Cal.Rptr.3d 52, 430 P.3d 345 . [Statutes](#) 1443 ; [Statutes](#) 1760

Sexually Violent Predators Act (SVPA) provisions technically restated, as required by constitution, as part enactment of Proposition 83, The Sexual Predator Punishment and Control Act: Jessica’s Law, were not expressly included in a ballot measure approved by the voters within the meaning of statute exempting state from reimbursing local governments for costs incurred in connection with duties included in such a ballot measure; restated provisions were not integral to accomplishing the initiative’s goals, nor was there any basis for believing that it was within the scope of the voters’ intended purpose in enacting the initiative to limit the Legislature’s capacity to alter or amend the provisions. [County of San Diego v. Commission on State Mandates](#) (2018) 240 Cal.Rptr.3d 52, 430 P.3d 345 . [States](#) 111

Constitutionally-required technical reenactment, as part of Proposition 83, The Sexual Predator Punishment and Control Act: Jessica’s Law, of Sexually Violent Predators Act (SVPA) provision stating that “[t]he rights, requirements, and procedures set forth in Section 6603 shall apply to all commitment proceedings” did not make that section “necessary to implement” Proposition 83 within meaning of statute exempting state from reimbursing local governments for costs incurred in connection with duties necessary to implement such a ballot measure; question was not whether the protections in that section were required by due process, but rather was whether the civil commitment program triggering those procedures was mandated by the state or by the voters. [County of San Diego v. Commission on State Mandates](#) (2018) 240 Cal.Rptr.3d 52, 430 P.3d 345 . [States](#) 111

Commission on State Mandates considering counties’ test claim that they were eligible for reimbursement for costs associated with certain activities required of local governments by the Sexually Violent Predator Act (SVPA) following passage of Proposition 83, The Sexual Predator Punishment and Control Act: Jessica’s Law was required to consider whether the expanded sexually violent predator definition in Proposition 83 transformed the subject statutes as a whole into a voter-imposed mandate or, alternatively, did so to the extent the expanded definition incrementally imposed new, additional duties on counties. [County of San Diego v. Commission on State Mandates](#) (2018) 240 Cal.Rptr.3d 52, 430 P.3d 345 . [States](#) 111

Proposition 218 was not intended to reach beyond taxation. [Paradise Irrigation Dist. v. Commission on State Mandates](#) (App. 3 Dist. 2018) 238 Cal.Rptr.3d 656 , rehearing granted, opinion not citeable, vacated 244 Cal.Rptr.3d 769 , review denied. [Water Law](#) 1035

The statute providing that no local agency shall be required to implement a mandate if the mandate has been “specifically identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year” does not exempt acts taken by the Legislature pursuant to the statute from the Governor’s veto, since the budget bill does not become the Budget Act without the Governor’s approval or a veto override. [California School Bds. Assn. v. Brown \(App. 2 Dist. 2011\) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507](#) , review denied. [Statutes 1045](#)

Under the statute providing that no local agency shall be required to implement a mandate if the mandate has been “specifically identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year,” a local agency is not exempted from implementing a mandate if the mandate is simply omitted from the Budget Act; instead, the mandate must be specifically identified in the schedule of reimbursable mandates and have an appropriation of zero. [California School Bds. Assn. v. Brown \(App. 2 Dist. 2011\) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507](#) , review denied. [States 111](#)

Constitutional provision requiring the state to reimburse local governments for cost of state mandated programs, and statutory scheme for reimbursement of state mandated costs, do not create an implied contract between the state and local agencies entitled to reimbursement as required for a breach of contract claim, as provision and statutes involve an exchange of performance compelled by law on both sides rather than an unambiguous exchange of contractual consideration, and do not involve a legislative offer to pay in exchange for the performance of certain acts but rather involve a constitutional requirement to reimburse the costs local agencies incur in providing services and programs mandated by the state. [County of San Diego v. State of California \(App. 4 Dist. 2008\) 79 Cal.Rptr.3d 489, 164 Cal.App.4th 580](#) , review denied. [States 111](#)

In order for a state mandate to be found under constitution section requiring state to pay for increased costs associated with state mandates, the local governmental entity must be required to expend the proceeds of its tax revenues. [County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 2003\) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176](#) . [States 111](#)

[Revenue and Taxation Code § 2207](#) , which defines costs for which state must reimburse local agency as those costs which local agency is required to incur as result of any laws enacted after January 1, 1973, was not rendered inoperative, as it related to pre-1975 laws, by provision of this section stating, inter alia, that legislature need not provide reimbursement for laws enacted prior to January 1, 1975, as adoption of amendment which added subdivisions expanding definition of reimbursable costs and referred to laws enacted after January 1, 1973 was a legislative reaffirmance of reimbursement obligation, and constituted an exercise of legislative discretion referred to in Constitution. [Los Angeles County v. State of Cal. \(App. 2 Dist. 1984\) 200 Cal.Rptr. 394, 153 Cal.App.3d 568](#) . [States 123](#)

### **Retroactive application**

Legislature was not constitutionally or statutorily required to reimburse school district for expenditures incurred in complying with state safety statutes enacted prior to 1975. [Los Angeles Unified School Dist. v. State of California \(App. 2 Dist. 1991\) 280 Cal.Rptr. 237, 229 Cal.App.3d 552](#) . [Education 219](#)

School district could be reimbursed for expenditures incurred in complying with an executive order for fiscal years prior to effective date of amendment which allowed for reimbursement of a local government for state-mandated expenses. [Long Beach Unified Sch. Dist. v. State of California \(App. 2 Dist. 1990\) 275 Cal.Rptr. 449, 225 Cal.App.3d 155](#) , modified, review denied. [States 111](#)

State must reimburse costs incurred by local governments pursuant to state mandates enacted after January 1, 1975, even though actual payments for reimbursement were not required to be made prior to July 1, 1980, the effective date of this section. [Long Beach Unified Sch. Dist. v. State of California \(App. 2 Dist. 1990\) 275 Cal.Rptr. 449, 225 Cal.App.3d 155](#) , modified, review denied. [States 111](#)

Claims of county for reimbursement of expenses for state-mandated protective clothing and equipment for fire fighters were reimbursable even to extent that expenses were incurred prior to effective date of this section. [Carmel Valley Fire Protection Dist. v. State \(App. 2 Dist. 1987\) 234 Cal.Rptr. 795, 190 Cal.App.3d 521](#) , review denied. [States 123](#)

### **Purpose**

Purpose of constitutional provision requiring the state reimburse local governments for costs incurred when the state enlists their assistance in implementing a state program was to prevent the state from unfairly shifting the costs of government onto local entities that were ill-equipped to shoulder the task. [County of San Diego v. Commission on State Mandates \(2018\) 240 Cal.Rptr.3d 52, 430 P.3d 345](#) . [States 111](#)

The purpose of the constitutional ban on unfunded state mandates was to protect the strapped budgets of local governments in the wake of Proposition 13. [County of San Diego v. Commission on State Mandates \(2018\) 240 Cal.Rptr.3d 52, 430 P.3d 345](#) . [States 111](#)

Purpose of constitutional provision providing that, if legislature or state agency required local government to provide new program or higher level of service, local government is entitled to reimbursement from state for associated costs is to prevent 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 imposed by constitutional articles restricting amounts state and local governments may appropriate and spend each year from proceeds of taxes and imposing direct constitutional limit on state and local power to adopt and levy taxes. [Department of Finance v. Commission on State Mandates \(2016\) 207 Cal.Rptr.3d 44, 378 P.3d 356](#) , modified on denial of rehearing. [Municipal Corporations 956\(1\) ; States 115 ; States 119 ; Taxation 2013](#)

Purpose of the constitutional provision requiring that state mandates be funded 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 imposed by the state constitution. [Department of Finance v. Commission on State Mandates \(App. 2 Dist. 2013\) 163 Cal.Rptr.3d 439, 220 Cal.App.4th 740](#) , as modified, review granted and opinion superseded [167 Cal.Rptr.3d 108, 316 P.3d 1218](#) , reversed [207 Cal.Rptr.3d 44, 378 P.3d 356](#) , modified on denial of rehearing. [States 111](#)

Purpose of constitutional provision requiring the state to reimburse local governments for cost of state-mandated programs 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 imposed by the state constitution. [California School Bds. Assn. v. Brown \(App. 2 Dist. 2011\) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507](#) , review denied. [States 111](#)

Purpose of constitutional provision requiring the state to fund state mandates imposed upon local agencies 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 the state constitution imposes. [California School Bds. Assn. v. State of California \(App. 4 Dist. 2011\) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770](#) , rehearing denied, review denied. [States 111](#)

Purpose of constitutional provision requiring the state to fund mandates imposed upon local agencies is to require each branch of government to live within its means, and to prohibit the state from circumventing this restriction by forcing local agencies such as school districts to bear the state's costs, even for a limited time period. [California School Bds. Assn. v. State of California \(App. 4 Dist. 2011\) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770](#) , rehearing denied, review denied. [States 111](#)

Purpose of constitutional provision requiring the state to reimburse local governments for cost of state-mandated programs 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 limitation. [County of San Diego v. State of California](#) (App. 4 Dist. 2008) 79 Cal.Rptr.3d 489, 164 Cal.App.4th 580 , review denied. [States](#) 111

Purpose of constitution section requiring state to pay for increased costs associated with state mandates is to avoid governmental programs from being forced on localities by the state. [County of Los Angeles v. Commission on State Mandates](#) (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176 . [States](#) 111

The principle of reimbursement, under the state constitutional provision generally requiring the state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency, was enshrined in the Constitution to provide local entities with the assurance that state mandates would not place additional burdens on their increasingly limited revenue resources. [County of Sonoma v. Commission on State Mandates](#) (App. 1 Dist. 2000) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264 , modified on denial of rehearing, review denied. [States](#) 111

State constitutional provision requiring reimbursement to local governments for state mandated local costs was designed to prevent state from forcing programs on local government. [City of Richmond v. Commission on State Mandates](#) (App. 3 Dist. 1998) 75 Cal.Rptr.2d 754, 64 Cal.App.4th 1190 , review denied. [States](#) 123

Purpose of section of Constitution requiring state to reimburse local government for costs of state-mandated new program or higher level of service is to preclude state from shifting financial responsibility for governmental functions to local agencies, which are ill equipped to undertake increased financial responsibilities because they are subject to constitutional taxing and spending limitations. [Redevelopment Agency v. Commission on State Mandates](#) (App. 4 Dist. 1997) 64 Cal.Rptr.2d 270, 55 Cal.App.4th 976 , review denied. [States](#) 111

Goals of constitutional provisions pertaining to tax and government spending limitations are to protect California residents from excessive taxation and government spending. [Redevelopment Agency v. Commission on State Mandates](#) (App. 4 Dist. 1997) 64 Cal.Rptr.2d 270, 55 Cal.App.4th 976 , review denied. [States](#) 119 ; [Taxation](#) 2005

Central purpose of section of Constitution requiring state to reimburse local government for costs of state-mandated new program or higher level of service is to prevent state's transfer of cost of government from itself to local level. [Redevelopment Agency v. Commission on State Mandates](#) (App. 4 Dist. 1997) 64 Cal.Rptr.2d 270, 55 Cal.App.4th 976 , review denied. [States](#) 111

Constitutional prohibition on state creation of unfunded mandates for local governments prohibits state from shifting to counties the costs of state programs for which the state assumed complete financial responsibility before adoption of the amendment. [County of San Diego v. State of California](#) (1997) 61 Cal.Rptr.2d 134, 15 Cal.4th 68, 931 P.2d 312 . [States](#) 111

Constitutional rule of state subvention which requires state to reimburse local government for implementing required governmental programs is intended to prevent state from transferring costs of government from self to local agencies. [Hayes v. Commission on State Mandates](#) (App. 3 Dist. 1992) 15 Cal.Rptr.2d 547, 11 Cal.App.4th 1564 , review denied. [States](#) 111

## Exclusions

In proceedings initiated by county and cities against California Commission on State Mandates for reimbursement, pursuant to constitutional requirement for subvention arising from a state mandate, for carrying out obligations under National Pollutant Discharge Elimination System (NPDES) Permit issued by Regional Water Quality Control Board, the question of whether the obligations constituted federal or state mandates presented factual issues that had to be addressed in the first instance by the Commission; although provision of Government Code would have excluded from subvention any order that included a permit issued by Regional Water Boards, that section was unconstitutional under article imposing subvention requirement whenever the Legislature "or any state agency" mandated a new program or higher level of service, making it necessary to

determine whether state mandates existed. [County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 2007\) 58 Cal.Rptr.3d 762, 150 Cal.App.4th 898](#) . [States](#) 111

### **Intent of voters**

Legislative history written and circulated after passage of this section placing limitations on ability of state and local governments to appropriate funds for expenditures was not relevant to determination of intent of those who voted for measure. [County of Fresno v. State of California \(1991\) 280 Cal.Rptr. 92, 53 Cal.3d 482, 808 P.2d 235](#) . [Constitutional Law](#) 604

### **Voters, intent of**

Legislative history written and circulated after passage of this section placing limitations on ability of state and local governments to appropriate funds for expenditures was not relevant to determination of intent of those who voted for measure. [County of Fresno v. State of California \(1991\) 280 Cal.Rptr. 92, 53 Cal.3d 482, 808 P.2d 235](#) . [Constitutional Law](#) 604

### **Ballot initiatives**

Not every single word printed in the body of an initiative falls within the scope of the terms “expressly included in, a ballot measure” in statute exempting state from reimbursing local governments for costs incurred in connection with duties included in such a ballot measure. [County of San Diego v. Commission on State Mandates \(2018\) 240 Cal.Rptr.3d 52, 430 P.3d 345](#) . [States](#) 111

A ballot initiative that modifies statutes previously found by the Commission on State Mandates to impose a state mandate only changes the source of the mandate, as required to exclude the mandate from the coverage of the state constitutional provision precluding a shift of financial responsibility for carrying out state mandates to local agencies, if the initiative changes the duties imposed by the statutes. [County of San Diego v. Commission on State Mandates \(App. 4 Dist. 2016\) 212 Cal.Rptr.3d 259](#) , review filed, review granted [215 Cal.Rptr.3d 276, 390 P.3d 1132](#) , affirmed and remanded [240 Cal.Rptr.3d 52, 430 P.3d 345](#) . [States](#) 111

The Sexually Violent Predator Act (SVPA) provisions that imposed on counties the costs of providing legal representation, mental health expertise, housing, and transportation in sexually violent predator (SVP) commitment proceedings were reimbursable state mandates, even though the provisions had been amended by ballot initiative in the Sexual Predator Punishment and Control Act (Jessica’s Law), and even though Jessica’s Law expanded the definition of “SVP,” since Jessica’s Law did not change the duties that had been imposed on counties by the Legislature prior to Jessica’s Law. [County of San Diego v. Commission on State Mandates \(App. 4 Dist. 2016\) 212 Cal.Rptr.3d 259](#) , review filed, review granted [215 Cal.Rptr.3d 276, 390 P.3d 1132](#) , affirmed and remanded [240 Cal.Rptr.3d 52, 430 P.3d 345](#) . [States](#) 111

If the source of a mandate is a ballot initiative, and not state legislation, then the constitutional requirement to fund or suspend the operation of the mandate does not apply. [County of San Diego v. Commission on State Mandates \(App. 4 Dist. 2016\) 212 Cal.Rptr.3d 259](#) , review filed, review granted [215 Cal.Rptr.3d 276, 390 P.3d 1132](#) , affirmed and remanded [240 Cal.Rptr.3d 52, 430 P.3d 345](#) . [States](#) 111

The Legislature’s ability to suspend a state mandate by defunding the program is not an element indicating whether a voter-enacted ballot measure constitutes a subsequent change in law supporting reassessment of an earlier Commission on State Mandates decision. [County of San Diego v. Commission on State Mandates \(App. 4 Dist. 2016\) 212 Cal.Rptr.3d 259](#) , review filed, review granted [215 Cal.Rptr.3d 276, 390 P.3d 1132](#) , affirmed and remanded [240 Cal.Rptr.3d 52, 430 P.3d 345](#) . [States](#) 111

The determination by the Commission on State Mandates of whether or not a program is state-mandated controls the application of the constitutional suspend-or-fund requirement, but the suspend-or-fund requirement does not



impact the Commission's determination as to whether a program is state-mandated or mandated by the People through a ballot initiative. [County of San Diego v. Commission on State Mandates \(App. 4 Dist. 2016\) 212 Cal.Rptr.3d 259](#) , review filed, review granted [215 Cal.Rptr.3d 276, 390 P.3d 1132](#) , affirmed and remanded [240 Cal.Rptr.3d 52, 430 P.3d 345](#) . [States 111](#)

### **Mandates, generally**

Statutes designating existing state funding as offsetting revenue for purposes of reimbursing school districts for the costs of state mandates for graduation requirements and behavioral intervention plans did not facially violate the state constitutional prohibition on state creation of unfunded mandates for local governments; Legislature had broad authority to determine how it would pay for existing mandates, and the mandate reimbursement requirement of the State Constitution did not dictate that additional revenue was the only way the Legislature could satisfy its mandate obligations. [California School Boards Assn. v. State of California \(2019\) 256 Cal.Rptr.3d 590, 454 P.3d 962](#) . [States 111](#)

The Commission on State Mandates has the sole and exclusive authority to adjudicate whether a state mandate exists under the constitutional provision requiring that state mandates be funded, and the Commission's authority is limited only by judicial review. [Department of Finance v. Commission on State Mandates \(App. 2 Dist. 2013\) 163 Cal.Rptr.3d 439, 220 Cal.App.4th 740](#) , as modified, review granted and opinion superseded [167 Cal.Rptr.3d 108, 316 P.3d 1218](#) , reversed [207 Cal.Rptr.3d 44, 378 P.3d 356](#) , modified on denial of rehearing. [States 111](#)

Commission on State Mandates, as a quasi-judicial body established to carry out a comprehensive administrative procedure for resolving claims for reimbursement of state-mandated local costs, has the sole and exclusive authority to adjudicate whether a state mandate exists. [California School Boards Assn. v. State of California \(App. 3 Dist. 2009\) 90 Cal.Rptr.3d 501, 171 Cal.App.4th 1183](#) . [States 111](#)

A state requirement that an entity redirect resources is not a reimbursable mandate under provision of State Constitution requiring state to reimburse a local government for state-mandated costs. [Grossmont Union High School Dist. v. State Dept. of Education \(App. 3 Dist. 2008\) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869](#) , review denied. [States 111](#)

"State mandates" are requirements imposed on local governments by legislation or executive orders. [County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 2003\) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176](#) . [States 111](#)

In order for a state mandate to be found under constitution section requiring state to pay for increased costs associated with state mandates, the local governmental entity must be required to expend the proceeds of its tax revenues. [County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 2003\) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176](#) . [States 111](#)

In order for a state mandate to be found under constitution section requiring state to pay for increased costs associated with state mandates, there must be compulsion to expend revenue. [County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 2003\) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176](#) . [States 111](#)

Legislative disclaimers, findings, and budget control language are not determinative to a finding of a state mandated reimbursable program. [County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 2003\) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176](#) . [States 111](#)

Commission on State Mandates has sole and exclusive authority to adjudicate whether state mandate exists; findings of legislature are irrelevant. [County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 1995\) 38 Cal.Rptr.2d 304, 32 Cal.App.4th 805](#) , review denied. [States 123](#)

### **Legislature**

In the constitutional provision requiring the Legislature either to fund or suspend local agency mandates, the term “the Legislature” means the Legislature enacting laws as otherwise provided in the Constitution, including being subject to the Governor’s veto. [California School Bds. Assn. v. Brown](#) (App. 2 Dist. 2011) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507 , review denied. [States](#) 111

Legislature’s directing the Commission on State Mandates, a quasi-judicial body, to set aside or reconsider certain final test claims decisions violated separation of powers doctrine. [California School Boards Assn. v. State of California](#) (App. 3 Dist. 2009) 90 Cal.Rptr.3d 501, 171 Cal.App.4th 1183 . [Constitutional Law](#) 2383 ; [States](#) 111

The term “Legislature” in state constitutional provision requiring the state to reimburse local government “[w]henver the Legislature or any state agency mandates a new program or higher level of service,” does not include the people acting pursuant to the power of initiative. [California School Boards Assn. v. State of California](#) (App. 3 Dist. 2009) 90 Cal.Rptr.3d 501, 171 Cal.App.4th 1183 . [States](#) 111

Understanding or belief of state legislature as to whether statute entitling local safety members of Public Employees’ Retirement System (PERS) to double death benefit was a state-mandated local program within meaning of State Constitution was irrelevant, where statute placed authority to decide that issue with Commission on State Mandates, subject to judicial review. [City of Richmond v. Commission on State Mandates](#) (App. 3 Dist. 1998) 75 Cal.Rptr.2d 754, 64 Cal.App.4th 1190 , review denied. [States](#) 123

### **Authority of agency**

Authority of Commission on State Mandates to issue a final decision that solely and exclusively adjudicates a test claim is limited only by judicial review. [California School Boards Assn. v. State of California](#) (App. 3 Dist. 2009) 90 Cal.Rptr.3d 501, 171 Cal.App.4th 1183 . [States](#) 111

### **Determination by test claim**

Statute requiring governing board of each community college district to establish procedures that would “ensure” rights and opportunity of faculty, staff, and students to voice opinions at campus level, which opinions would be given reasonable consideration, and to participate effectively in district and college governance, and that would “ensure” right of academic senates to assume primary responsibility for making recommendations in areas of curriculum and academic standards, entitled districts to subvention by State for costs associated with mandatory establishment of such procedures, but did not impose any ongoing, implementation mandates for which additional costs would be reimbursable; “ensure” was only used in statute to describe purpose of procedure that districts were required to establish. [Coast Community College District v. Commission on State Mandates](#) (App. 3 Dist. 2020) 261 Cal.Rptr.3d 26 , modified on denial of rehearing, review granted and ordered not to be published 267 Cal.Rptr.3d 267, 471 P.3d 383 . [States](#) 111

To determine whether a test claim regulation or statute mandates a new program or higher level of service that would entitle a community college district to subvention by the State for costs associated with the regulation or statute, the court compares the requirements in the test claim regulation or statute with the preexisting scheme, and in this context, requirements in a test claim regulation or statute are “new” if they did not exist prior to the enactment of the test claim regulation or statute. [Coast Community College District v. Commission on State Mandates](#) (App. 3 Dist. 2020) 261 Cal.Rptr.3d 26 , modified on denial of rehearing, review filed. [Mandamus](#) 187.7

Regulation providing that governing board of community college district “which requires that students provide instructional or other materials for a course shall adopt policies or regulations, ... which specify the conditions under which such materials will be required,” did not impose mandate in connection with underlying program legally compelled by State, as required for district to be entitled to subvention for costs associated with regulation; although Legislature did not intend, under statute requiring district to adopt such policies and regulations, that

districts provide students with all textbooks, materials, and equipment necessary for coursework, statutory and regulatory requirements were not triggered unless district obligated students to provide instructional and other materials. [Coast Community College District v. Commission on State Mandates \(App. 3 Dist. 2020\) 261 Cal.Rptr.3d 26](#) , modified on denial of rehearing, review filed. [Mandamus 187.7](#)

Permit issued by regional water quality board authorizing local agencies to operate storm drain systems, which contained conditions designed to maintain quality of state water and to comply with federal Clean Water Act, did not itself demonstrate what conditions would have been imposed had federal Environmental Protection Agency (EPA) granted permit, and thus permit itself did not indicate that conditions were federal mandates not subject to reimbursement under constitutional provision requiring state to reimburse local agency for costs associated with new program or higher level of service mandated by legislature or state agency; in issuing permit, regional board was implementing both state and federal law and was authorized to include conditions more exacting than federal law required. [Department of Finance v. Commission on State Mandates \(2016\) 207 Cal.Rptr.3d 44, 378 P.3d 356](#) , modified on denial of rehearing. [Environmental Law 197](#)

There is no precise formula or rule for determining whether the costs incurred by local government in implementing new programs or increased levels of service are the product of a federal mandate or are reimbursable state-mandated costs. [Grossmont Union High School Dist. v. State Dept. of Education \(App. 3 Dist. 2008\) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869](#) , review denied. [States 111](#)

Submitting a test claim to the Commission on State Mandates is the exclusive method for resolving whether a cost is or is not a reimbursable state mandate. [Grossmont Union High School Dist. v. State Dept. of Education \(App. 3 Dist. 2008\) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869](#) , review denied. [States 111](#)

Under legislatively enacted procedures to determine if reimbursable state-mandated costs have been imposed, the local agency files a test claim; if the Commission on State Mandates (CSM) approves the claim, it determines the amount to be reimbursed; if CSM denies claim, the agency can seek review by means of a petition for writ of administrative mandate. [Grossmont Union High School Dist. v. State Dept. of Education \(App. 3 Dist. 2008\) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869](#) , review denied. [States 111](#)

### **Determination of mandate**

Statute requiring governing board of each community college district to establish procedures that would “ensure” rights and opportunity of faculty, staff, and students to voice opinions at campus level, which opinions would be given reasonable consideration, and to participate effectively in district and college governance, and that would “ensure” right of academic senates to assume primary responsibility for making recommendations in areas of curriculum and academic standards, entitled districts to subvention by State for costs associated with mandatory establishment of such procedures, but did not impose any ongoing, implementation mandates for which additional costs would be reimbursable; “ensure” was only used in statute to describe purpose of procedure that districts were required to establish. [Coast Community College District v. Commission on State Mandates \(App. 3 Dist. 2020\) 261 Cal.Rptr.3d 26](#) , modified on denial of rehearing, review granted and ordered not to be published [267 Cal.Rptr.3d 267, 471 P.3d 383](#) . [States 111](#)

To determine whether a test claim regulation or statute mandates a new program or higher level of service that would entitle a community college district to subvention by the State for costs associated with the regulation or statute, the court compares the requirements in the test claim regulation or statute with the preexisting scheme, and in this context, requirements in a test claim regulation or statute are “new” if they did not exist prior to the enactment of the test claim regulation or statute. [Coast Community College District v. Commission on State Mandates \(App. 3 Dist. 2020\) 261 Cal.Rptr.3d 26](#) , modified on denial of rehearing, review filed. [Mandamus 187.7](#)

Regulation providing that governing board of community college district “which requires that students provide instructional or other materials for a course shall adopt policies or regulations, ... which specify the conditions under which such materials will be required,” did not impose mandate in connection with underlying program

legally compelled by State, as required for district to be entitled to subvention for costs associated with regulation; although Legislature did not intend, under statute requiring district to adopt such policies and regulations, that districts provide students with all textbooks, materials, and equipment necessary for coursework, statutory and regulatory requirements were not triggered unless district obligated students to provide instructional and other materials. [Coast Community College District v. Commission on State Mandates \(App. 3 Dist. 2020\) 261 Cal.Rptr.3d 26](#) , modified on denial of rehearing, review filed. [Mandamus 187.7](#)

Permit issued by regional water quality board authorizing local agencies to operate storm drain systems, which contained conditions designed to maintain quality of state water and to comply with federal Clean Water Act, did not itself demonstrate what conditions would have been imposed had federal Environmental Protection Agency (EPA) granted permit, and thus permit itself did not indicate that conditions were federal mandates not subject to reimbursement under constitutional provision requiring state to reimburse local agency for costs associated with new program or higher level of service mandated by legislature or state agency; in issuing permit, regional board was implementing both state and federal law and was authorized to include conditions more exacting than federal law required. [Department of Finance v. Commission on State Mandates \(2016\) 207 Cal.Rptr.3d 44, 378 P.3d 356](#) , modified on denial of rehearing. [Environmental Law 197](#)

There is no precise formula or rule for determining whether the costs incurred by local government in implementing new programs or increased levels of service are the product of a federal mandate or are reimbursable state-mandated costs. [Grossmont Union High School Dist. v. State Dept. of Education \(App. 3 Dist. 2008\) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869](#) , review denied. [States 111](#)

Submitting a test claim to the Commission on State Mandates is the exclusive method for resolving whether a cost is or is not a reimbursable state mandate. [Grossmont Union High School Dist. v. State Dept. of Education \(App. 3 Dist. 2008\) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869](#) , review denied. [States 111](#)

Under legislatively enacted procedures to determine if reimbursable state-mandated costs have been imposed, the local agency files a test claim; if the Commission on State Mandates (CSM) approves the claim, it determines the amount to be reimbursed; if CSM denies claim, the agency can seek review by means of a petition for writ of administrative mandate. [Grossmont Union High School Dist. v. State Dept. of Education \(App. 3 Dist. 2008\) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869](#) , review denied. [States 111](#)

#### **Test claim, determination by**

Statute requiring governing board of each community college district to establish procedures that would “ensure” rights and opportunity of faculty, staff, and students to voice opinions at campus level, which opinions would be given reasonable consideration, and to participate effectively in district and college governance, and that would “ensure” right of academic senates to assume primary responsibility for making recommendations in areas of curriculum and academic standards, entitled districts to subvention by State for costs associated with mandatory establishment of such procedures, but did not impose any ongoing, implementation mandates for which additional costs would be reimbursable; “ensure” was only used in statute to describe purpose of procedure that districts were required to establish. [Coast Community College District v. Commission on State Mandates \(App. 3 Dist. 2020\) 261 Cal.Rptr.3d 26](#) , modified on denial of rehearing, review granted and ordered not to be published [267 Cal.Rptr.3d 267, 471 P.3d 383](#) . [States 111](#)

To determine whether a test claim regulation or statute mandates a new program or higher level of service that would entitle a community college district to subvention by the State for costs associated with the regulation or statute, the court compares the requirements in the test claim regulation or statute with the preexisting scheme, and in this context, requirements in a test claim regulation or statute are “new” if they did not exist prior to the enactment of the test claim regulation or statute. [Coast Community College District v. Commission on State Mandates \(App. 3 Dist. 2020\) 261 Cal.Rptr.3d 26](#) , modified on denial of rehearing, review filed. [Mandamus 187.7](#)

Regulation providing that governing board of community college district “which requires that students provide

instructional or other materials for a course shall adopt policies or regulations, ... which specify the conditions under which such materials will be required," did not impose mandate in connection with underlying program legally compelled by State, as required for district to be entitled to subvention for costs associated with regulation; although Legislature did not intend, under statute requiring district to adopt such policies and regulations, that districts provide students with all textbooks, materials, and equipment necessary for coursework, statutory and regulatory requirements were not triggered unless district obligated students to provide instructional and other materials. [Coast Community College District v. Commission on State Mandates \(App. 3 Dist. 2020\) 261 Cal.Rptr.3d 26](#) , modified on denial of rehearing, review filed. [Mandamus](#) 187.7

Permit issued by regional water quality board authorizing local agencies to operate storm drain systems, which contained conditions designed to maintain quality of state water and to comply with federal Clean Water Act, did not itself demonstrate what conditions would have been imposed had federal Environmental Protection Agency (EPA) granted permit, and thus permit itself did not indicate that conditions were federal mandates not subject to reimbursement under constitutional provision requiring state to reimburse local agency for costs associated with new program or higher level of service mandated by legislature or state agency; in issuing permit, regional board was implementing both state and federal law and was authorized to include conditions more exacting than federal law required. [Department of Finance v. Commission on State Mandates \(2016\) 207 Cal.Rptr.3d 44, 378 P.3d 356](#) , modified on denial of rehearing. [Environmental Law](#) 197

There is no precise formula or rule for determining whether the costs incurred by local government in implementing new programs or increased levels of service are the product of a federal mandate or are reimbursable state-mandated costs. [Grossmont Union High School Dist. v. State Dept. of Education \(App. 3 Dist. 2008\) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869](#) , review denied. [States](#) 111

Submitting a test claim to the Commission on State Mandates is the exclusive method for resolving whether a cost is or is not a reimbursable state mandate. [Grossmont Union High School Dist. v. State Dept. of Education \(App. 3 Dist. 2008\) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869](#) , review denied. [States](#) 111

Under legislatively enacted procedures to determine if reimbursable state-mandated costs have been imposed, the local agency files a test claim; if the Commission on State Mandates (CSM) approves the claim, it determines the amount to be reimbursed; if CSM denies claim, the agency can seek review by means of a petition for writ of administrative mandate. [Grossmont Union High School Dist. v. State Dept. of Education \(App. 3 Dist. 2008\) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869](#) , review denied. [States](#) 111

### **Additional costs**

A reimbursable state mandate under constitutional provision requiring state to provide subvention of funds to reimburse local governments for costs of new programs or additional services mandated by state law is not commensurate with any "additional costs" that a local government may be required to bear; additional expense to a local agency arising as an incidental impact of a law that applies generally to all entities is not the type of expense that the voters had in mind when they adopted provision. [City of El Monte v. Commission on State Mandates \(App. 3 Dist. 2000\) 99 Cal.Rptr.2d 333, 83 Cal.App.4th 266](#) , rehearing denied, review denied. [States](#) 111

### **Single-subject rule**

The constitutional provision requiring the Legislature either to fund or suspend local agency mandates does not authorize the Legislature to enact substantive law in the budget bill. [California School Bds. Assn. v. Brown \(App. 2 Dist. 2011\) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507](#) , review denied. [States](#) 121

### **Executive orders**

Executive order and guidelines requiring that school districts develop and adopt a reasonably feasible plan for



alleviation and prevention of racial and ethnic segregation was a “state mandate,” for purposes of this section; there was no basis on which to exclude executive orders which implement case law or constitutional law while permitting reimbursement for executive orders implementing statutes. [Long Beach Unified Sch. Dist. v. State of California](#) (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155 , modified, review denied. [States](#) 111

### **Federal programs**

No state mandate exists under state constitution if requirements or provisions of state statute are also required by federal law. [County of Los Angeles v. Commission on State Mandates](#) (App. 2 Dist. 1995) 38 Cal.Rptr.2d 304, 32 Cal.App.4th 805 , review denied. [States](#) 123

Under constitutional rule of state subvention which requires state to pay for new governmental programs imposed on local government, costs of programs implemented under federal Education of the Handicapped Act are state mandated and subject to subvention to the extent that the state implemented the Act by freely choosing to impose the new programs or higher levels of service upon local school districts. [Hayes v. Commission on State Mandates](#) (App. 3 Dist. 1992) 15 Cal.Rptr.2d 547, 11 Cal.App.4th 1564 , review denied. [Education](#) 216

If state freely chooses to impose costs of federal program upon local agency as means of implementing federal program, then costs are result of a reimbursable state mandate for purposes of constitutional state subvention requirement, regardless whether costs were imposed upon state by federal government. [Hayes v. Commission on State Mandates](#) (App. 3 Dist. 1992) 15 Cal.Rptr.2d 547, 11 Cal.App.4th 1564 , review denied. [States](#) 111

When federal government imposes costs on local agency for federally mandated program, those costs are not mandated by state and, thus, do not generally require state subvention so long as state had no true choice in manner of implementation of federal mandate. [Hayes v. Commission on State Mandates](#) (App. 3 Dist. 1992) 15 Cal.Rptr.2d 547, 11 Cal.App.4th 1564 , review denied. [States](#) 111

Under constitutional state subvention provision which requires state to pay for governmental programs imposed on local governments, for purposes of determining which level of government would be responsible for paying for compliance with Education of the Handicapped Act, Act constituted federal mandate because alternative to compliance with Act was barrage of litigation by handicapped students and their parents with no real defense and ultimately state would have been compelled to accommodate educational needs of handicapped children in any event. [Hayes v. Commission on State Mandates](#) (App. 3 Dist. 1992) 15 Cal.Rptr.2d 547, 11 Cal.App.4th 1564 , review denied. [Education](#) 216

### **Federal mandate**

To be a “federal mandate” that would trigger exception to state constitutional subvention provision's requirement for reimbursement of local government for cost of increased program or service requirements, the federal law or regulation must expressly or explicitly require the condition imposed in the permit. [Department of Finance v. Commission on State Mandates](#) (App. 3 Dist. 2017) 226 Cal.Rptr.3d 846 , review denied. [States](#) 111

Provision of Clean Water Act granting regional water quality board discretion to meet “maximum extent practicable” standard in providing for pollutant reduction in storm water permits was not a federal mandate, and therefore, under state constitution's subvention provision, reimbursement of local government permittees was required for cost of storm water permit condition requiring reduction of pollutants to “maximum extent practicable”; regulation vested board with discretion to choose how permittees were to meet the standard at issue, and exercise of that discretion resulted in imposition of state mandate. [Department of Finance v. Commission on State Mandates](#) (App. 3 Dist. 2017) 226 Cal.Rptr.3d 846 , review denied. [Environmental Law](#) 196

Federal Environmental Protection Agency (EPA) regulations requiring storm water permit applicants to describe various proposed educational programs in permit application was not a federal mandate for particular educational requirements imposed by permit granted to municipal government permittees, and therefore, under state constitution's subvention provision, permittees were required to be reimbursed for cost of such educational



requirements; educational program and list of topics required by permit, including use of all media as appropriate to measurably increase impacts of urban runoff and best management practices, surpassed what federal regulations required. [Department of Finance v. Commission on State Mandates \(App. 3 Dist. 2017\) 226 Cal.Rptr.3d 846](#), review denied. [Environmental Law 196](#)

Federal Environmental Protection Agency (EPA) regulation requiring storm water permit applications to show that applicant had legal authority to control, through interagency agreements, the contribution of pollutants to a different jurisdiction was not a federal mandate for permittees to collaborate or to execute an agreement that established a management structure, and therefore, under state constitution's subvention provision, local government permittees were required to be reimbursed for cost of permit requirements to execute such an agreement; regulation required regional water quality board to assure itself that permittees had authority to address runoff pollution regionally, but it did not require board to define how permittees would organize themselves to do so. [Department of Finance v. Commission on State Mandates \(App. 3 Dist. 2017\) 226 Cal.Rptr.3d 846](#), review denied. [Environmental Law 196](#)

Federal Environmental Protection Agency (EPA) regulation allowing storm water permit applicants to propose a management program that imposed controls beyond a single jurisdiction was not a federal mandate for storm water permittees to implement regional and watershed urban runoff management programs, and therefore, under state constitution's subvention provision, local government permittees were required to be reimbursed for cost of such programs when programs were required by permit; regulation merely gave regional water quality board the discretion to require controls on a systemwide, watershed, or jurisdictional basis. [Department of Finance v. Commission on State Mandates \(App. 3 Dist. 2017\) 226 Cal.Rptr.3d 846](#), review denied. [Environmental Law 196](#)

Federal Environmental Protection Agency (EPA) regulation requiring storm water permit applicants to describe procedures for developing and enforcing controls to reduce discharge of pollutants which received discharges from areas of new development and significant redevelopment was not a federal mandate for storm water permittees to implement particular low impact development requirements, and therefore, under state constitution's subvention provision, reimbursement of local government permittees was required for cost of storm water permit condition requiring implementation of specified low impact development management practices; nothing in regulation required regional water quality board to impose specific requirements at issue. [Department of Finance v. Commission on State Mandates \(App. 3 Dist. 2017\) 226 Cal.Rptr.3d 846](#), review denied. [Environmental Law 196](#)

Federal Environmental Protection Agency (EPA) regulation requiring storm water permittees to describe, in permit application, practices for operating and maintaining streets and procedures for reducing the impact of discharges from storm sewer systems was not a federal mandate for street sweeping and cleaning of storm sewer systems, and therefore, under state constitution's subvention provision, reimbursement of local government permittees was required for cost of storm water permit condition requiring street sweeping and cleaning of storm sewer system, where EPA regulation did not expressly require the scope and detail of street sweeping and facility maintenance that permit imposed. [Department of Finance v. Commission on State Mandates \(App. 3 Dist. 2017\) 226 Cal.Rptr.3d 846](#), review denied. [Environmental Law 196](#)

Federal Environmental Protection Agency (EPA) regulation requiring storm water permit applicants to describe procedures for developing and enforcing controls to reduce discharge of pollutants which received discharges from areas of new development and significant redevelopment was not a federal mandate for storm water permittees to develop a hydromodification plan, and therefore, under state constitution's subvention provision, reimbursement of local government permittees was required for cost of storm water permit condition requiring development of hydromodification plan; regulation did not require a hydromodification plan nor restrict regional water quality board from exercising its discretion to require a specific type of plan. [Department of Finance v. Commission on State Mandates \(App. 3 Dist. 2017\) 226 Cal.Rptr.3d 846](#), review denied. [Environmental Law 196](#)

Condition contained in permit issued by regional water quality board authorizing local agencies to operate storm

drain systems, which required local agencies to conduct inspections of certain commercial and industrial facilities and construction sites, was not a federal mandate, but rather was a state mandate subject to reimbursement under constitutional provision providing that, if legislature or state agency required local government to provide new program or higher level of service, local government was entitled to reimbursement from state for associated costs; neither federal Clean Water Act (CWA) nor Environmental Protection Agency (EPA) regulations required local agencies to inspect facilities or construction sites, state and federal law required regional board to conduct inspections, and regional board exercised its discretion and shifted obligation to conduct inspections to local agencies. [Department of Finance v. Commission on State Mandates \(2016\) 207 Cal.Rptr.3d 44, 378 P.3d 356](#) , modified on denial of rehearing. [Environmental Law](#) 197

Regional water quality control board's municipal stormwater sewer permit's requirements for trash receptacles and inspection of commercial, industrial, and construction sites were within the "federal mandate" exception to the subvention requirement of the constitutional provision requiring that state mandates be funded, since those provisions furthered the state Clean Water Act goal of reducing pollution to the maximum extent practicable and thus constituted federal mandates, and the states functioned, for practical purposes, as arms of the Environmental Protection Agency (EPA) in implementing the Clean Water Act. [Department of Finance v. Commission on State Mandates \(App. 2 Dist. 2013\) 163 Cal.Rptr.3d 439, 220 Cal.App.4th 740](#) , as modified, review granted and opinion superseded [167 Cal.Rptr.3d 108, 316 P.3d 1218](#) , reversed [207 Cal.Rptr.3d 44, 378 P.3d 356](#) , modified on denial of rehearing. [Environmental Law](#) 180 ; [Environmental Law](#) 197 ; [States](#) 111

Definition of "federal mandate" is not different with respect to constitutional requirement of state subvention which provides that state is to pay for governmental programs imposed on local governments than with respect to taxing and spending limitations; test in either instance is the same--whether participation in federal program was truly voluntary choice. [Hayes v. Commission on State Mandates \(App. 3 Dist. 1992\) 15 Cal.Rptr.2d 547, 11 Cal.App.4th 1564](#) , review denied. [States](#) 111

### **Program, generally**

Under constitutional rule of state subvention which requires state to reimburse local government for governmentally imposed programs, reimbursement is required when state freely chooses to impose on local agencies any peculiarly governmental cost which they were not previously required to absorb. [County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 2007\) 58 Cal.Rptr.3d 762, 150 Cal.App.4th 898](#) . [States](#) 111

A "program" falling within constitution section requiring state to pay for increased costs associated with state mandates is defined as a program which carries out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state. [County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 2003\) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176](#) . [States](#) 111

Programs which are not unique to the government do not qualify as programs for which the state is required to pay increased costs pursuant to constitutional provision governing funding of state mandates; the programs must involve the provision of governmental services. [County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 2003\) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176](#) . [States](#) 111

### **Higher level of service**

The state, with certain exceptions, must pay for any new governmental programs, or for higher levels of service under existing programs, that it imposes upon local governmental agencies. [County of San Diego v. Commission on State Mandates \(2018\) 240 Cal.Rptr.3d 52, 430 P.3d 345](#) . [States](#) 111

When the Legislature enacts a statute or executive order imposing obligations on a local government without providing additional funding, the local entity may file a "test claim" with the Commission on State Mandates,

which, after a public hearing, must determine whether the statute or executive order requires a new program or increased level of service. [California School Boards Assn. v. State of California \(App. 1 Dist. 2018\) 228 Cal.Rptr.3d 430](#) , modified on denial of rehearing, review granted [231 Cal.Rptr.3d 459, 415 P.3d 286](#) , affirmed [256 Cal.Rptr.3d 590, 454 P.3d 962](#) . [States 111](#)

Reimbursement provision in constitutional provision providing that, if legislature or state agency required local government to provide new program or higher level of service, local government is entitled to reimbursement from state for associated costs, was included in recognition of the fact that provision restricting amounts state and local governments may appropriate and spend each year from proceeds of taxes and provision imposing direct constitutional limit on state and local power to adopt and levy taxes severely restrict taxing and spending powers of local governments. [Department of Finance v. Commission on State Mandates \(2016\) 207 Cal.Rptr.3d 44, 378 P.3d 356](#) , modified on denial of rehearing. [Municipal Corporations 956\(1\)](#) ; [States 115](#) ; [States 119](#) ; [Taxation 2013](#)

To determine if a program is new or imposes a higher level of service, as would require subvention under the constitutional provision requiring that state mandates be funded, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim legislation, and a "higher level of service" occurs when new requirements are intended to provide an enhanced service to the public. [Department of Finance v. Commission on State Mandates \(App. 2 Dist. 2013\) 163 Cal.Rptr.3d 439, 220 Cal.App.4th 740](#) , as modified, review granted and opinion superseded [167 Cal.Rptr.3d 108, 316 P.3d 1218](#) , reversed [207 Cal.Rptr.3d 44, 378 P.3d 356](#) , modified on denial of rehearing. [States 111](#)

Hearing costs incurred by school district as result of actions related to discretionary expulsions did not constitute "new program or higher level of service," triggering right to reimbursement under state constitutional provision mandating reimbursement of local government for costs of "new program or higher level of service" imposed on local government by statute or state regulation, and, in any event, procedures related to discretionary expulsions were adopted to implement federal due process mandate, and thus were nonreimbursable, and costs exceeding federal requirements were de minimis, and so also nonreimbursable. [San Diego Unified School Dist. v. Commission On State Mandates \(2004\) 16 Cal.Rptr.3d 466, 33 Cal.4th 859, 94 P.3d 589](#) . [Education 219](#)

All hearing costs incurred by school district as result of mandatory actions related to expulsions of students for possession of firearm, at time relevant to mandamus proceeding initiated by district, constituted state-mandated "higher level of service" within meaning of state constitutional provision providing for reimbursement of local government for costs of "new program or higher level of service" imposed on local government by statute or state regulation, and thus were fully reimbursable; providing public schooling clearly constituted governmental function, enhancing safety of those who attended such schools constituted service to public, and mandatory expulsion provision did not implement federal law or regulation then extant. [San Diego Unified School Dist. v. Commission On State Mandates \(2004\) 16 Cal.Rptr.3d 466, 33 Cal.4th 859, 94 P.3d 589](#) . [Education 219](#)

The state is required to pay for any new governmental programs, or for higher levels of service under existing programs, that it imposes upon local governmental agencies. [County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 2003\) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176](#) . [States 111](#)

A program falling under constitution section requiring state to pay for increased costs associated with state mandates is a "new program" if the local governmental entity had not previously been required to institute it. [County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 2003\) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176](#) . [States 111](#)

A mere increase in the cost of providing a service which is the result of a requirement mandated by the State is not tantamount to a higher level of service, for purposes this section. [Long Beach Unified Sch. Dist. v. State of California \(App. 2 Dist. 1990\) 275 Cal.Rptr. 449, 225 Cal.App.3d 155](#) , modified, review denied.

Executive order and guidelines requiring that school districts develop and adopt a reasonably feasible plan for

alleviation and prevention of racial and ethnic segregation mandated a “higher level of service,” for purposes of this section; the order and guidelines went beyond constitutional and case law requirements, in that where courts had suggested that certain steps and approaches could be helpful, order and guidelines required specific actions. [Long Beach Unified Sch. Dist. v. State of California](#) (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155 , modified, review denied. [States](#) 111

### **New program or higher level of service**

The state, with certain exceptions, must pay for any new governmental programs, or for higher levels of service under existing programs, that it imposes upon local governmental agencies. [County of San Diego v. Commission on State Mandates](#) (2018) 240 Cal.Rptr.3d 52, 430 P.3d 345 . [States](#) 111

When the Legislature enacts a statute or executive order imposing obligations on a local government without providing additional funding, the local entity may file a “test claim” with the Commission on State Mandates, which, after a public hearing, must determine whether the statute or executive order requires a new program or increased level of service. [California School Boards Assn. v. State of California](#) (App. 1 Dist. 2018) 228 Cal.Rptr.3d 430 , modified on denial of rehearing, review granted 231 Cal.Rptr.3d 459, 415 P.3d 286 , affirmed 256 Cal.Rptr.3d 590, 454 P.3d 962 . [States](#) 111

Reimbursement provision in constitutional provision providing that, if legislature or state agency required local government to provide new program or higher level of service, local government is entitled to reimbursement from state for associated costs, was included in recognition of the fact that provision restricting amounts state and local governments may appropriate and spend each year from proceeds of taxes and provision imposing direct constitutional limit on state and local power to adopt and levy taxes severely restrict taxing and spending powers of local governments. [Department of Finance v. Commission on State Mandates](#) (2016) 207 Cal.Rptr.3d 44, 378 P.3d 356 , modified on denial of rehearing. [Municipal Corporations](#) 956(1) ; [States](#) 115 ; [States](#) 119 ; [Taxation](#) 2013

To determine if a program is new or imposes a higher level of service, as would require subvention under the constitutional provision requiring that state mandates be funded, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim legislation, and a “higher level of service” occurs when new requirements are intended to provide an enhanced service to the public. [Department of Finance v. Commission on State Mandates](#) (App. 2 Dist. 2013) 163 Cal.Rptr.3d 439, 220 Cal.App.4th 740 , as modified, review granted and opinion superseded 167 Cal.Rptr.3d 108, 316 P.3d 1218 , reversed 207 Cal.Rptr.3d 44, 378 P.3d 356 , modified on denial of rehearing. [States](#) 111

Hearing costs incurred by school district as result of actions related to discretionary expulsions did not constitute “new program or higher level of service,” triggering right to reimbursement under state constitutional provision mandating reimbursement of local government for costs of “new program or higher level of service” imposed on local government by statute or state regulation, and, in any event, procedures related to discretionary expulsions were adopted to implement federal due process mandate, and thus were nonreimbursable, and costs exceeding federal requirements were de minimis, and so also nonreimbursable. [San Diego Unified School Dist. v. Commission On State Mandates](#) (2004) 16 Cal.Rptr.3d 466, 33 Cal.4th 859, 94 P.3d 589 . [Education](#) 219

All hearing costs incurred by school district as result of mandatory actions related to expulsions of students for possession of firearm, at time relevant to mandamus proceeding initiated by district, constituted state-mandated “higher level of service” within meaning of state constitutional provision providing for reimbursement of local government for costs of “new program or higher level of service” imposed on local government by statute or state regulation, and thus were fully reimbursable; providing public schooling clearly constituted governmental function, enhancing safety of those who attended such schools constituted service to public, and mandatory expulsion provision did not implement federal law or regulation then extant. [San Diego Unified School Dist. v. Commission On State Mandates](#) (2004) 16 Cal.Rptr.3d 466, 33 Cal.4th 859, 94 P.3d 589 . [Education](#) 219

The state is required to pay for any new governmental programs, or for higher levels of service under existing

programs, that it imposes upon local governmental agencies. [County of Los Angeles v. Commission on State Mandates](#) (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176 . States 111

A program falling under constitution section requiring state to pay for increased costs associated with state mandates is a “new program” if the local governmental entity had not previously been required to institute it. [County of Los Angeles v. Commission on State Mandates](#) (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176 . States 111

A mere increase in the cost of providing a service which is the result of a requirement mandated by the State is not tantamount to a higher level of service, for purposes this section. [Long Beach Unified Sch. Dist. v. State of California](#) (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155 , modified, review denied.

Executive order and guidelines requiring that school districts develop and adopt a reasonably feasible plan for alleviation and prevention of racial and ethnic segregation mandated a “higher level of service,” for purposes of this section; the order and guidelines went beyond constitutional and case law requirements, in that where courts had suggested that certain steps and approaches could be helpful, order and guidelines required specific actions. [Long Beach Unified Sch. Dist. v. State of California](#) (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155 , modified, review denied. States 111

#### **New costs**

Under constitutional rule of state subvention which requires state to reimburse local government for governmentally imposed programs, reimbursement is required when state freely chooses to impose on local agencies any peculiarly governmental cost which they were not previously required to absorb. [Hayes v. Commission on State Mandates](#) (App. 3 Dist. 1992) 15 Cal.Rptr.2d 547, 11 Cal.App.4th 1564 , review denied. States 111

#### **Reimbursement**

The state must reimburse local governments for mandates imposed by the Legislature, but not for mandates imposed by the voters themselves through an initiative. [County of San Diego v. Commission on State Mandates](#) (2018) 240 Cal.Rptr.3d 52, 430 P.3d 345 . States 111

Where the Legislature cannot use the ordinary legislative process to amend or alter duties imposed by the voters, it can no longer be reasonably characterized as the source of those duties, and thus is not required to reimburse local governments for costs incurred in connection with those duties. [County of San Diego v. Commission on State Mandates](#) (2018) 240 Cal.Rptr.3d 52, 430 P.3d 345 . States 111

Commission on State Mandates was not required to defer to regional water quality control board's conclusion that challenged conditions contained in permits issued by regional board authorizing local agencies to operate storm drain systems were federally mandated, and thus qualified for exception to constitutional provision requiring state to reimburse local agency for costs associated with new program or higher level of service mandated by legislature or state agency; state had burden to show challenged conditions were mandated by federal law, requiring Commission to defer to regional board would have failed to honor legislature's intent in creating Commission, and policies supporting constitutional provision would have been undermined if Commission were required to defer to regional board on federal mandate question. [Department of Finance v. Commission on State Mandates](#) (2016) 207 Cal.Rptr.3d 44, 378 P.3d 356 , modified on denial of rehearing. Environmental Law 682

The statute requiring that “all” costs of state mandates imposed upon local agencies must be reimbursed by the state requires full payment once a mandate is determined by the Commission on State Mandates and any appeals process has been completed. [California School Bds. Assn. v. State of California](#) (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770 , rehearing denied, review denied. States 111



Statute allowing State Controller to adjust payments to fund state mandates imposed upon local agencies to correct for any prior underpayments does not authorize the state to make only nominal payments for a mandate. [California School Bds. Assn. v. State of California \(App. 4 Dist. 2011\) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770](#) , rehearing denied, review denied. [States 111](#)

The statute providing that an initial reimbursement claim for state mandates imposed upon local agencies “shall include accrued interest if the payment is being made more than 365 days after adoption of the statewide cost estimate for an initial claim” does not provide the Legislature with the authority to implement a policy under which it pays only a nominal amount of a mandated claim. [California School Bds. Assn. v. State of California \(App. 4 Dist. 2011\) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770](#) , rehearing denied, review denied. [States 111](#)

State’s constitutional duty to reimburse local governments for mandated costs does not include ballot measure mandates. [California School Boards Assn. v. State of California \(App. 3 Dist. 2009\) 90 Cal.Rptr.3d 501, 171 Cal.App.4th 1183](#) . [States 111](#)

Statutory provision declaring that no reimbursement of local government is necessary for costs resulting from “duties that are necessary to implement a ballot measure,” does not violate state constitutional provision requiring the state to reimburse local government whenever the Legislature or any state agency mandates a new program or higher level of service. [California School Boards Assn. v. State of California \(App. 3 Dist. 2009\) 90 Cal.Rptr.3d 501, 171 Cal.App.4th 1183](#) . [States 111](#)

Statutory provision declaring that no reimbursement of local governments is necessary for “duties that are reasonably within the scope of a ballot measure” is impermissibly broad, as it allows for denial of reimbursement when reimbursement is constitutionally required. [California School Boards Assn. v. State of California \(App. 3 Dist. 2009\) 90 Cal.Rptr.3d 501, 171 Cal.App.4th 1183](#) . [States 111](#)

Statutes imposing duties on local governments do not give rise to reimbursable costs if the duties are incidental to the ballot measure mandate and produce at most de minimis added costs. [California School Boards Assn. v. State of California \(App. 3 Dist. 2009\) 90 Cal.Rptr.3d 501, 171 Cal.App.4th 1183](#) . [States 111](#)

Where, as a practical matter, it is inevitable that certain actions will occur in the administration of a mandatory program, costs attendant to those actions cannot fairly and reasonably be characterized as voluntary for purposes of determining if state reimbursement under state constitutional provision requiring state to bear the costs of new mandates on local government. [Department of Finance v. Commission on State Mandates \(App. 3 Dist. 2009\) 89 Cal.Rptr.3d 93, 170 Cal.App.4th 1355](#) . [States 111](#)

If a local government participates voluntarily, i.e., without legal compulsion or compulsion as a practical matter, in a program with a rule requiring increased costs, there is no requirement of state reimbursement under state constitution. [Department of Finance v. Commission on State Mandates \(App. 3 Dist. 2009\) 89 Cal.Rptr.3d 93, 170 Cal.App.4th 1355](#) . [States 111](#)

Constitutional rule of state subvention which requires state to reimburse local government for implementing required governmental programs is intended to prevent state from transferring costs of government from itself to local agencies. [County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 2007\) 58 Cal.Rptr.3d 762, 150 Cal.App.4th 898](#) . [States 111](#)

Constitutional rule of state subvention that requires state to pay for new governmental programs imposed on local governments does not require state to reimburse local agencies for any incidental cost that may result from enactment of state law; rather, subvention requirement is restricted to governmental services which local agency is required by state law to provide to its residents. [County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 2007\) 58 Cal.Rptr.3d 762, 150 Cal.App.4th 898](#) . [States 111](#)

In the case of an existing program, an increase in existing costs does not result in a reimbursement requirement



under constitutional section requiring state to pay for increased costs associated with state mandate. [County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 2003\) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176](#) . States 111

Legislative disclaimers, findings, and budget control language are not determinative to a finding of a state mandated reimbursable program. [County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 2003\) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176](#) . States 111

Reimbursement to a county for costs incurred under a state mandate is not required unless there is a showing of actual increased costs mandated by the state. [County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 2003\) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176](#) . States 111

### Line-item veto

Governor did not improperly use a line-item veto to enact substantive law, in applying a line-item veto to reduce an appropriation funding a local agency mandate to zero, even though the veto had the substantive effect of suspending the mandate, since the veto only had that effect due to the operation of a previously-enacted statute. [California School Bds. Assn. v. Brown \(App. 2 Dist. 2011\) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507](#) , review denied. Statutes 1045

The statute providing that no local agency shall be required to implement a mandate if the mandate has been “specifically identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year” does not exempt acts taken by the Legislature pursuant to the statute from the Governor’s veto, since the budget bill does not become the Budget Act without the Governor’s approval or a veto override. [California School Bds. Assn. v. Brown \(App. 2 Dist. 2011\) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507](#) , review denied. Statutes 1045

The 2010-2011 state budget bill included an appropriation for a local agency mandate to provide child health care services, and thus such appropriation was subject to line-item veto, even though the bill listed the amount allocated to child health care services in a schedule set forth after the appropriation for local agency mandates, and the bill stated that such a schedule “is not itself an item of appropriation,” where the Legislature was constitutionally required to make an appropriation of the full required amount or suspend the operation of the mandate; it was clear that the Legislature intended to make the appropriation. [California School Bds. Assn. v. Brown \(App. 2 Dist. 2011\) 122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507](#) , review denied. Statutes 1045

### Eminent domain

Requirement of St.1975, c. 1275, § 1 et seq., relating to eminent domain, that condemnor pay for business goodwill when condemning property, was not state mandated cost, and therefore was not reimbursable mandate, in that city or county was not required to exercise eminent domain. [Contra Costa County v. State \(App. 3 Dist. 1986\) 222 Cal.Rptr. 750, 177 Cal.App.3d 62](#) , review denied. States 111

### Education

Pre-amended provision of regulation requiring community college district to adopt policy identifying categories of college directory information which “may” be released, including “student’s name, address, telephone number, date and place of birth, major field of study,” and other enumerated categories of student’s information, involved “new” program or higher level of service compelled by State, within meaning of statute limiting reimbursable costs to increased costs that district “was required to incur after July 1, 1980 as a result of a statute or regulation enacted on or after January 1, 1975,” thus entitling districts to subvention by State for costs associated with regulation, where statute that first imposed those requirements was enacted after January 1, 1975. [Coast Community College District v. Commission on State Mandates \(App. 3 Dist. 2020\) 261 Cal.Rptr.3d 26](#) , modified on denial of rehearing, review filed. Mandamus 187.2

Community college district was not entitled to subvention for costs associated with provisions of regulation governing release of categories of directory information, such as student's name, address, major field of study, and information relevant to student's educational and extracurricular career, which authorized district to release information to any student attending college, under certain conditions, but which prohibited release of such information if student notified college in writing that such information not be released, and authorizing district to add categories of information, provided that release "shall be authorized in writing by the student"; requirements imposed pursuant to regulation were triggered only if college elected to release information designated as directory information, and nothing in statute pursuant to which regulation was adopted nor regulation required it to do so. [Coast Community College District v. Commission on State Mandates \(App. 3 Dist. 2020\) 261 Cal.Rptr.3d 26](#) , modified on denial of rehearing, review granted and ordered not to be published [267 Cal.Rptr.3d 267](#) , 471 P.3d 383 . [States 111](#)

Provisions of regulation governing community college course description, stating that description "may indicate that the course is designed to meet certain specialized needs" and "[i]f so indicated, the availability of the course to all qualified students must also be affirmed" did not impose mandate in connection with underlying program legally compelled by state, as required for community college district to be entitled to subvention for costs associated with regulation, despite district's assertion that regulation require it to include in course descriptions that certain courses were available to students with special needs; regulation did not require that description indicate that it was designed to meet specialized needs, and latter provision was triggered only if description did so. [Coast Community College District v. Commission on State Mandates \(App. 3 Dist. 2020\) 261 Cal.Rptr.3d 26](#) , modified on denial of rehearing, review filed. [States 111](#)

Former regulation authorizing community college to include noncredit course towards attainment of associate degree "[u]pon student petition to and certification by a governing board of credit-level achievement and prescribed academic rigor, and evidence of prescribed competence as approved by the faculty" did not impose mandate in connection with underlying program legally compelled by state, and thus, community college district was not entitled to subvention for costs associated with regulation. [Coast Community College District v. Commission on State Mandates \(App. 3 Dist. 2020\) 261 Cal.Rptr.3d 26](#) , modified on denial of rehearing, review filed. [States 111](#)

Former regulation providing authorizing governing board of community college district to "reinstate any course which was deleted from the credit or noncredit curriculum during" designated fiscal year, due to budget cuts, and which established criteria and procedures for doing so, did not impose mandate in connection with underlying program legally compelled by state, and thus, district was not entitled to subvention by state for costs associated with regulation, where regulation did not require that district reinstate coursework that was deleted during that fiscal year. [Coast Community College District v. Commission on State Mandates \(App. 3 Dist. 2020\) 261 Cal.Rptr.3d 26](#) , modified on denial of rehearing, review filed. [States 111](#)

A school district is a "local government" protected by State constitution section establishing that the State shall provide a subvention of funds to reimburse local governments for the costs of programs or increased level of services. [San Diego Unified School Dist. v. Yee \(App. 4 Dist. 2018\) 241 Cal.Rptr.3d 896](#) . [Education 219](#)

Statutory scheme designating special education funding that had already been provided to school districts as offsetting revenue with respect to school district requests for reimbursement of costs of state's "behavioral intervention" plan (BIP) mandate did not violate state constitutional requirement that state mandates be funded. [California School Boards Assn. v. State of California \(App. 1 Dist. 2018\) 228 Cal.Rptr.3d 430](#) , modified on denial of rehearing, review granted [231 Cal.Rptr.3d 459](#) , 415 P.3d 286 , affirmed [256 Cal.Rptr.3d 590](#) , 454 P.3d 962 . [States 111](#)

Statutory scheme designating state general education funding provided to school districts as offsetting revenue with respect to school district requests for reimbursement of the teacher-salary costs of state's graduation requirement (GR) mandate did not violate state constitutional requirement that state mandates be funded. [California School Boards Assn. v. State of California \(App. 1 Dist. 2018\) 228 Cal.Rptr.3d 430](#) , modified on denial

of rehearing, review granted [231 Cal.Rptr.3d 459, 415 P.3d 286](#) , affirmed [256 Cal.Rptr.3d 590, 454 P.3d 962](#) .  
[Education](#) 219 ; [States](#) 111

The constitutional provision requiring the Legislature to either fund or suspend local agency mandates does not apply to mandates on local education agencies. [California School Bds. Assn. v. Brown](#) (App. 2 Dist. 2011) [122 Cal.Rptr.3d 674, 192 Cal.App.4th 1507](#) , review denied. [States](#) 111

Public Safety Officers Procedural Bill of Rights Act (POBRA) did not constitute a state-mandated program for school districts and special districts that was reimbursable under state constitutional provision requiring state to bear the costs of new mandates on local government; the districts were permitted by statute, but not required, to employ peace officers who supplemented the general law enforcement units of cities and counties. [Department of Finance v. Commission on State Mandates](#) (App. 3 Dist. 2009) [89 Cal.Rptr.3d 93, 170 Cal.App.4th 1355](#) .  
[States](#) 111

Educational Revenue Augmentation Fund (ERAF) legislation, shifting a portion of redevelopment agency funds to local schools, did not create a reimbursable state mandate for purposes of constitutional provision requiring state to provide subvention of funds to reimburse local governments for costs of new programs or additional services mandated by state law. [City of El Monte v. Commission on State Mandates](#) (App. 3 Dist. 2000) [99 Cal.Rptr.2d 333, 83 Cal.App.4th 266](#) , rehearing denied, review denied. [States](#) 111

Public education constitutes a “program” within this section. [Long Beach Unified Sch. Dist. v. State of California](#) (App. 2 Dist. 1990) [275 Cal.Rptr. 449, 225 Cal.App.3d 155](#) , modified, review denied.

[Education Code § 59300](#) requiring local school districts to pay 10% of excess annual cost of educating any pupil who attends state-operated school for pupils not educable at local schools and whose parent or guardian lives within district creates “new program,” for purposes of this section, although impact of [Educ.Code § 59300](#) was to require districts to contribute funds to operate state schools for handicapped rather than to themselves administer program; [Educ.Code § 59300](#) shifted partial financial responsibility for support of students in state operated schools from state to local districts. [Lucia Mar Unified School Dist. v. Honig](#) (1988) [244 Cal.Rptr. 677, 44 Cal.3d 830, 750 P.2d 318](#) , rehearing denied. [Education](#) 228

### Safety regulations

Elevator fire and earthquake safety regulations were not a “program” subject to this section; regulations did not impose a unique requirement on local governments in that they applied to all elevators and not just to those which were publicly owned and providing elevators equipped with fire and earthquake safety features was not a governmental function. [County of Los Angeles v. Department of Industrial Relations](#) (App. 3 Dist. 1989) [263 Cal.Rptr. 351, 214 Cal.App.3d 1538](#) , review denied. [States](#) 111

### Fire departments

As to cities, counties, and such districts that have as an ordinary, principal, and mandatory duty the provision of policing and firefighting services within their territorial jurisdiction, new statutory duties that increase the costs of police and firefighter services are prima facie reimbursable under state constitutional provision requiring state to bear the costs of new mandates on local government; 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. [Department of Finance v. Commission on State Mandates](#) (App. 3 Dist. 2009) [89 Cal.Rptr.3d 93, 170 Cal.App.4th 1355](#) . [States](#) 111

Statute requiring local law enforcement officers to participate in two hours of domestic violence training did not mandate any increased costs and thus Commission on State Mandates was not required to reimburse county for its costs associated with the mandate even though county had added two hours to its Peace Officer Standards and Training (POST); statute directed local law enforcement agencies to reallocate training resources rather than to add training, and state did not shift cost of a program previously administered and funded by the state.

[County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 2003\) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176 . States 111](#)

Executive orders mandating purchase of protective clothing for fire fighters were type of “program” subject to this section. [Carmel Valley Fire Protection Dist. v. State \(App. 2 Dist. 1987\) 234 Cal.Rptr. 795, 190 Cal.App.3d 521 , review denied. States 123](#)

### **Police and fire departments**

As to cities, counties, and such districts that have as an ordinary, principal, and mandatory duty the provision of policing and firefighting services within their territorial jurisdiction, new statutory duties that increase the costs of police and firefighter services are prima facie reimbursable under state constitutional provision requiring state to bear the costs of new mandates on local government; 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. [Department of Finance v. Commission on State Mandates \(App. 3 Dist. 2009\) 89 Cal.Rptr.3d 93, 170 Cal.App.4th 1355 . States 111](#)

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### **Correctional facilities**

When a local agency brings a particular juvenile facility into compliance with the minimum standards established by the Board of Corrections, the state is not required to reimburse the local agency for the costs incurred in meeting the standards since no new program is involved. [Op.Atty.Gen. No. 99-1214 \(May 2, 2000\) , 2000 WL 529577 .](#)

### **Water districts**

Authority of water districts to levy fees means the costs of complying with the Conservation Act are not subject to subvention because the costs are recoverable from sources other than taxes within the meaning state constitution. [Paradise Irrigation Dist. v. Commission on State Mandates \(App. 3 Dist. 2018\) 238 Cal.Rptr.3d 656 , rehearing granted, opinion not citeable, vacated 244 Cal.Rptr.3d 769 , review denied. Water Law 1035](#)

Proposition 218 did not undermine the authority of water districts to levy fees to cover costs of maintaining water infrastructure and complying with Conservation Act, although authority is subject to majority protest of water district customers, since voter-approval requirement did not apply to levying fees for water service. [Paradise Irrigation Dist. v. Commission on State Mandates \(App. 3 Dist. 2018\) 238 Cal.Rptr.3d 656 , rehearing granted, opinion not citeable, vacated 244 Cal.Rptr.3d 769 , review denied. Taxation 2100](#)

### **Unemployment insurance**

Statute extending mandatory unemployment insurance coverage to local government employees imposed no “unique” obligation on local governments, nor required them to provide new or increased governmental services

to public, and thus State was not required to subvent costs incurred by local governments in providing such coverage. [City of Sacramento v. State of California \(1990\) 266 Cal.Rptr. 139, 50 Cal.3d 51, 785 P.2d 522](#) . States 111

Costs incurred by local governments in complying with statutory provisions which required public employees to be covered by state unemployment insurance law were “costs mandated by the state” for which reimbursement was required by Constitution and [Rev. & T.C. § 2231](#) . [City of Sacramento v. State \(App. 3 Dist. 1984\) 203 Cal.Rptr. 258, 156 Cal.App.3d 182](#) . States 123

### **Workers’ compensation benefits**

This section was not applicable to costs incurred by local governments in complying with legislatively mandated increases in workers’ compensation benefits where increases were applicable to both public and private employers; disapproving [156 Cal.App.3d 182, 203 Cal.Rptr. 258 \(3 Dist.\)](#) . [Los Angeles County v. State \(1987\) 233 Cal.Rptr. 38, 43 Cal.3d 46, 729 P.2d 202](#) , rehearing denied.

### **Pension benefits**

Statute entitling local members of Public Employees’ Retirement System (PERS) to death benefit under both PERS and workers’ compensation was not a “state mandate” requiring reimbursement to local government under State Constitution; statute did not create a new program or higher level of service, and it did not impose a unique requirement on local governments, but merely eliminated a previous exemption from providing workers’ compensation death benefits to local safety members. [City of Richmond v. Commission on State Mandates \(App. 3 Dist. 1998\) 75 Cal.Rptr.2d 754, 64 Cal.App.4th 1190](#) , review denied. States 123

Pension payments to retired city employees do not constitute a “program” or “service” as those terms are used in this section; calling into doubt [156 Cal.App.3d 182, 203 Cal.Rptr. 258 \(3 Dist.\)](#) . [City of Anaheim v. State \(Board of Admin. of Public Employees’ Retirement System\) \(App. 2 Dist. 1987\) 235 Cal.Rptr. 101, 189 Cal.App.3d 1478](#) . States 123

### **Retirement benefits**

Statute entitling local members of Public Employees’ Retirement System (PERS) to death benefit under both PERS and workers’ compensation was not a “state mandate” requiring reimbursement to local government under State Constitution; statute did not create a new program or higher level of service, and it did not impose a unique requirement on local governments, but merely eliminated a previous exemption from providing workers’ compensation death benefits to local safety members. [City of Richmond v. Commission on State Mandates \(App. 3 Dist. 1998\) 75 Cal.Rptr.2d 754, 64 Cal.App.4th 1190](#) , review denied. States 123

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### **Medical care**

When Medi-Cal covered adult medically indigent persons (MIP), county facilities were not sole providers of their medical care, so that counties’ obligations did not predate 1975 for purposes of determining whether counties were entitle to reimbursement for unfunded state mandate when adult MIP’s were excluded from Medi-Cal and became obligation of the counties. [County of San Diego v. State of California \(1997\) 61 Cal.Rptr.2d 134, 15 Cal.4th 68, 931 P.2d 312](#) . States 111



Legislature excluded adult medically indigent persons (MIP) from Medi-Cal knowing and intending that 1982 legislation would trigger counties' responsibility to provide medical care as providers of last resort and thus attempted to do precisely that which the voters amended constitution to prevent, so that 1982 legislation mandated new program on counties by compelling them to accept financial responsibility in whole or in part for medical care for adult MIP's which was funded entirely by state before the advent of the constitutional amendment. [County of San Diego v. State of California \(1997\) 61 Cal.Rptr.2d 134, 15 Cal.4th 68, 931 P.2d 312](#) . [States 111](#)

Although county had some statutory discretion to set eligibility and service standards for assistance to adult medically indigent persons (MIP), its obligation as provider of last resort imposed clear-cut limits and county could not have eliminated all services and still complied with statutory requirements, so that its obligation following elimination of MIP's from Medi-Cal coverage created reimbursable unfunded mandate. [County of San Diego v. State of California \(1997\) 61 Cal.Rptr.2d 134, 15 Cal.4th 68, 931 P.2d 312](#) . [States 111](#)

In determining amount to which county was entitled to reimbursement for expenditures for adult medically indigent persons (MIP) which became unfunded mandate after their elimination from Medi-Cal coverage, it was error to use county's California Healthcare for Indigent Program (CHIP) expenditures, as participation in CHIP was voluntary, unlike participation in Medically Indigent Services Account (MISA) program, which was mandatory. [County of San Diego v. State of California \(1997\) 61 Cal.Rptr.2d 134, 15 Cal.4th 68, 931 P.2d 312](#) . [States 111](#)

#### **Property tax revenues, reallocation of**

State's reallocation of property tax revenues, under Educational Revenue Augmentation Funds (ERAF) legislation, did not impose a "new program or higher level of service" on county with respect to costs of education, within meaning of state constitutional provision generally requiring state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency, where education had been jointly funded by state and local governments at time of, and after, adoption of the constitutional provision, and local governments had always been responsible for a substantial share of the cost of supporting education. [County of Sonoma v. Commission on State Mandates \(App. 1 Dist. 2000\) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264](#) , modified on denial of rehearing, review denied. [Education 219](#) ; [States 111](#)

State constitutional provision establishing minimum level of funding for public schools and community colleges did not require state to reimburse county, under state constitutional provision generally requiring the state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency, for county's loss of revenues because of state's reallocation of property tax revenues under Educational Revenue Augmentation Funds (ERAF) legislation. [County of Sonoma v. Commission on State Mandates \(App. 1 Dist. 2000\) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264](#) , modified on denial of rehearing, review denied. [Education 219](#) ; [States 111](#)

#### **Reallocation of property tax revenues**

State's reallocation of property tax revenues, under Educational Revenue Augmentation Funds (ERAF) legislation, did not impose a "new program or higher level of service" on county with respect to costs of education, within meaning of state constitutional provision generally requiring state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency, where education had been jointly funded by state and local governments at time of, and after, adoption of the constitutional provision, and local governments had always been responsible for a substantial share of the cost of supporting education. [County of Sonoma v. Commission on State Mandates \(App. 1 Dist. 2000\) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264](#) , modified on denial of rehearing, review denied. [Education 219](#) ; [States 111](#)

State constitutional provision establishing minimum level of funding for public schools and community colleges did



not require state to reimburse county, under state constitutional provision generally requiring the state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency, for county's loss of revenues because of state's reallocation of property tax revenues under Educational Revenue Augmentation Funds (ERAF) legislation. [County of Sonoma v. Commission on State Mandates](#) (App. 1 Dist. 2000) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264 , modified on denial of rehearing, review denied. [Education](#) 219 ; [States](#) 111

## Courts

Where the legislature increases the number of judges in a municipal court district, the state is not required to reimburse the costs incurred by local agencies for such additional judges. [63 Op.Atty.Gen. 700, 8-28-80](#) .

## Arbitration

Judicial arbitration is mandated by the Legislature for municipal courts within the meaning of this section as to arbitration based upon stipulation or plaintiff election and as to "court ordered" arbitration resulting from a local court rule adopted after July 1, 1980, the effective date of this article. [64 Op.Atty.Gen. 261, 4-9-81](#) .

## Subvention, generally

"Subvention" under constitutional provision concerning reimbursement to local government for state-mandated programs generally means grant of financial aid or assistance, or subsidy. [County of Los Angeles v. Commission on State Mandates](#) (App. 2 Dist. 2007) 58 Cal.Rptr.3d 762, 150 Cal.App.4th 898 ; [Hayes v. Commission on State Mandates](#) (App. 3 Dist. 1992) 15 Cal.Rptr.2d 547, 11 Cal.App.4th 1564 , review denied.

In order to qualify for subvention under the constitutional provision requiring that state mandates be funded, the required activity or task must constitute a new program or higher level of service. [Department of Finance v. Commission on State Mandates](#) (App. 2 Dist. 2013) 163 Cal.Rptr.3d 439, 220 Cal.App.4th 740 , as modified, review granted and opinion superseded [167 Cal.Rptr.3d 108, 316 P.3d 1218](#) , reversed [207 Cal.Rptr.3d 44, 378 P.3d 356](#) , modified on denial of rehearing. [States](#) 111

For a program to require subvention under the constitutional provision requiring that state mandates be funded, the newly required activity or increased level of service must impose costs mandated by the state. [Department of Finance v. Commission on State Mandates](#) (App. 2 Dist. 2013) 163 Cal.Rptr.3d 439, 220 Cal.App.4th 740 , as modified, review granted and opinion superseded [167 Cal.Rptr.3d 108, 316 P.3d 1218](#) , reversed [207 Cal.Rptr.3d 44, 378 P.3d 356](#) , modified on denial of rehearing. [States](#) 111

Not every increase in cost that results from a new state directive automatically results in a valid subvention claim, especially if the directive can be complied with by a minimal reallocation of resources within the entity seeking reimbursement. [County of Los Angeles v. Commission on State Mandates](#) (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176 . [States](#) 111

State constitutional provision, generally requiring the state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency, does not provide subvention for every increased cost mandated by state law. [County of Sonoma v. Commission on State Mandates](#) (App. 1 Dist. 2000) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264 , modified on denial of rehearing, review denied. [States](#) 111

State constitutional provision generally requiring the state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency was aimed at controlling and capping government spending, not curbing changes in revenue allocations.

[County of Sonoma v. Commission on State Mandates](#) (App. 1 Dist. 2000) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264 , modified on denial of rehearing, review denied. [States](#) 111

No state duty of subvention is triggered, under state constitutional provision generally requiring the state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency, where the local agency is not required to expend its proceeds of taxes. [County of Sonoma v. Commission on State Mandates](#) (App. 1 Dist. 2000) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264 , modified on denial of rehearing, review denied. [States](#) 111

Under section of Constitution requiring state to provide subvention of funds to reimburse local government for costs of state-mandated new program or higher level of services, subvention is required only when costs in question can be recovered solely from tax revenues; thus, no state duty of subvention is triggered where local agency is not required to expend its proceeds of taxes. [Redevelopment Agency v. Commission on State Mandates](#) (App. 4 Dist. 1997) 64 Cal.Rptr.2d 270, 55 Cal.App.4th 976 , review denied. [States](#) 111

Finding either that state agency has mandated program to carry out governmental functions of providing services to public, or that law has been passed which, to implement state policy, imposes unique requirement on local government and does not apply generally to all residents and entities of State, is required to trigger imperative of subvention under this section. [Carmel Valley Fire Protection Dist. v. State](#) (App. 2 Dist. 1987) 234 Cal.Rptr. 795, 190 Cal.App.3d 521 , review denied. [States](#) 123

### **Legislative disclaimers**

Unsupported legislative disclaimers are insufficient to defeat reimbursement of a school district for costs of complying with a state mandate. [Long Beach Unified Sch. Dist. v. State of California](#) (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155 , modified, review denied. [States](#) 111

Legislature cannot limit a constitutional right, and thus legislature's finding that executive order which required school districts to develop and adopt a plan for alleviation and prevention of racial and ethnic segregation did not impose a "state-mandated local program" did not prevent reimbursement of a school district for costs in providing increased service mandated by State. [Long Beach Unified Sch. Dist. v. State of California](#) (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155 , modified, review denied. [States](#) 111

### **Self-financing programs**

There was no substantial evidence that those who voted for state constitutional measure requiring State to provide subvention of funds to reimburse local government for costs of state-mandated new program or higher level of service sought to treat as immaterial presence or absence of any "self-financing" provision, so as to render unconstitutional statute prohibiting commission on state mandates from finding costs mandated by State if it finds that local government has authority to levy service charges, fees, or assessments sufficient to pay for program or increased level of service. [County of Fresno v. State of California](#) (1991) 280 Cal.Rptr. 92, 53 Cal.3d 482, 808 P.2d 235 . [Taxation](#) 2100

Statute prohibiting commission on state mandates from finding costs mandated by State if it finds that local government has authority to levy service charges, fees, or assessments sufficient to pay for mandated program or increased level of service is facially constitutional under this section requiring State to provide subvention of funds to reimburse local government for costs of state-mandated new program or higher level of service; considered in its context, statute effectively and properly construes term "costs" in constitutional provision as excluding expenses that are recoverable from sources other than taxes. [County of Fresno v. State of California](#) (1991) 280 Cal.Rptr. 92, 53 Cal.3d 482, 808 P.2d 235 . [Taxation](#) 3237

### **Crimes**

Statute prohibiting use of high-altitude decompression chamber for destruction of dogs and cats was legislation finding new crime or changing definition of existing crime, and as such was expressly excluded from operation of requirement that state provide subvention for reimbursement of costs imposed on local governments. [Contra Costa County v. State](#) (App. 3 Dist. 1986) 222 Cal.Rptr. 750, 177 Cal.App.3d 62 , review denied. [States](#) 111

#### **Funds, source of**

Trial court acted within its discretion in denying school districts' request to compel state to reimburse funds spent on mandates imposed by state and only nominally funded, where districts sought more than \$900 million in funds from state, the state was experiencing an extreme budget crisis, districts cited only the Proposition 98 reversion fund as an account that could possibly contain funds reasonably related to the nature of costs incurred, appropriations for the budget year at issue were placed in a chartered bill following the Governor's signature on the Budget Act, and districts did not come forward with any predicate facts showing a reasonable basis to believe sufficient funds existed and that the funds would meet the criteria of the exception. [California School Bds. Assn. v. State of California](#) (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770 , rehearing denied, review denied. [States](#) 111

Provision of this section declaring that "state shall provide a subvention of funds to reimburse \* \* \* local government for the costs [of a state-mandated new] program or higher level of service," read in its textual and historical context, requires subvention only when costs in question can be recovered solely from tax revenues. [County of Fresno v. State of California](#) (1991) 280 Cal.Rptr. 92, 53 Cal.3d 482, 808 P.2d 235 . [Taxation](#) 2100

Monies in the fines and forfeiture funds in the custody and possession of auditor-controller of county for transfer to state treasury were not "reasonably available" for reimbursement of state-mandated expenditures, and thus could not be used to reimburse a school district for costs of complying with executive order. [Long Beach Unified Sch. Dist. v. State of California](#) (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155 , modified, review denied. [States](#) 127

Monies in fines and forfeiture funds in custody and possession of auditor-controller of county could not be made available to the school district for reimbursement of costs incurred in complying with executive order while the monies were in the possession of the auditor-controller; there was no set-off relationship between county and school district. [Long Beach Unified Sch. Dist. v. State of California](#) (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155 , modified, review denied. [States](#) 127

Appropriations in certain Department of Education (DOE) line item account number were generally related to nature of costs incurred by school district to comply with executive order requiring school districts to develop and adopt a plan for alleviation and prevention of segregation, when comparing requirements of order and guidelines with broad range of activities supported by the DOE budget, and thus could be used to reimburse district for cost of compliance with order. [Long Beach Unified Sch. Dist. v. State of California](#) (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155 , modified, review denied. [States](#) 132

Special fund for economic uncertainties, which was established for a disaster relief fund, could not be used for reimbursement of school district's expenses incurred in complying with executive order; there was no evidence indicating a general relationship between the purpose of the special fund and costs incurred by the school district. [Long Beach Unified Sch. Dist. v. State of California](#) (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155 , modified, review denied. [States](#) 133

Descriptions of sources of funding to reimburse a school district for costs of complying with executive order which required school districts to develop and adopt a plan to alleviate and prevent racial and ethnic segregation as "similarly designated accounts" failed to sufficiently identify the sources, and thus would be struck from judgment which designated funds to be used to reimburse the district. [Long Beach Unified Sch. Dist. v. State of California](#) (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155 , modified, review denied. [States](#) 184.40(5)

Remand was required to enable trial court to determine whether funds in line item account numbers which could

be used to reimburse school district for costs of complying with executive order were sufficient to satisfy the award to school district at the time of the order, and if trial court determined that unexhausted funds remaining in the specified appropriations were insufficient, trial court order could be further amended to reach subsequent appropriated funds. [Long Beach Unified Sch. Dist. v. State of California](#) (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155 , modified, review denied. [States](#) 184.40(5)

### Source of funds

Trial court acted within its discretion in denying school districts' request to compel state to reimburse funds spent on mandates imposed by state and only nominally funded, where districts sought more than \$900 million in funds from state, the state was experiencing an extreme budget crisis, districts cited only the Proposition 98 reversion fund as an account that could possibly contain funds reasonably related to the nature of costs incurred, appropriations for the budget year at issue were placed in a chartered bill following the Governor's signature on the Budget Act, and districts did not come forward with any predicate facts showing a reasonable basis to believe sufficient funds existed and that the funds would meet the criteria of the exception. [California School Bds. Assn. v. State of California](#) (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770 , rehearing denied, review denied. [States](#) 111

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Special fund for economic uncertainties, which was established for a disaster relief fund, could not be used for reimbursement of school district's expenses incurred in complying with executive order; there was no evidence indicating a general relationship between the purpose of the special fund and costs incurred by the school district. [Long Beach Unified Sch. Dist. v. State of California](#) (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155 , modified, review denied. [States](#) 133

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Remand was required to enable trial court to determine whether funds in line item account numbers which could be used to reimburse school district for costs of complying with executive order were sufficient to satisfy the award to school district at the time of the order, and if trial court determined that unexhausted funds remaining in the specified appropriations were insufficient, trial court order could be further amended to reach subsequent appropriated funds. [Long Beach Unified Sch. Dist. v. State of California](#) (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155 , modified, review denied. [States](#) 184.40(5)

## **Costs**

### **Costs - In general**

Under constitution section requiring state to pay for increased costs associated with state mandates, “costs” does not necessarily equal every increase in a locality’s budget resulting from compliance with a new state directive; rather, the state must be attempting to divest itself of its responsibility to provide fiscal support for a program, or forcing a new program on a locality for which it is ill-equipped to allocate funding. [County of Los Angeles v. Commission on State Mandates](#) (App. 2 Dist. 2003) 2 Cal.Rptr.3d 419, 110 Cal.App.4th 1176 . [States](#) 111

County’s mere loss of revenues to fund education, caused by state’s reallocation of property tax revenues under Educational Revenue Augmentation Funds (ERAF) legislation, did not result in reimbursable “costs,” within meaning of state constitutional provision generally requiring state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency. [County of Sonoma v. Commission on State Mandates](#) (App. 1 Dist. 2000) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264 , modified on denial of rehearing, review denied. [States](#) 111

It is the expenditure of tax revenues of local governments that is the appropriate focus, under state constitutional provision generally requiring the state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency. [County of Sonoma v. Commission on State Mandates](#) (App. 1 Dist. 2000) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264 , modified on denial of rehearing, review denied. [States](#) 111

“Costs,” within meaning of state constitutional provision generally requiring the state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency, means an actual and demonstrated expenditure, and does not include mere losses of revenues. [County of Sonoma v. Commission on State Mandates](#) (App. 1 Dist. 2000) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264 , modified on denial of rehearing, review denied. [States](#) 111

For purposes of determining whether a statute creates a constitutionally reimbursable state-mandated program or higher level of service, a higher cost to the local government for compensating its employees is not the same as a higher cost of providing services to the public. [City of Richmond v. Commission on State Mandates](#) (App. 3 Dist. 1998) 75 Cal.Rptr.2d 754, 64 Cal.App.4th 1190 , review denied. [States](#) 123

Constitution did not require state to reimburse city redevelopment agency for 20% deposits agency had made, as required by statute, of its tax increment financing proceeds into housing fund for purposes of improving supply of affordable housing; such use of tax increment financing was not “cost” within meaning of section of Constitution requiring state to reimburse local government for costs of state-mandated new program or higher level of services. [Redevelopment Agency v. Commission on State Mandates](#) (App. 4 Dist. 1997) 64 Cal.Rptr.2d 270, 55 Cal.App.4th 976 , review denied. [States](#) 111

This section is not intended to be limited to only those costs incurred pursuant to statutes or executive orders implementing statutes except as set forth in a subdivision of this section. [Long Beach Unified Sch. Dist. v. State of California](#) (App. 2 Dist. 1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155 , modified, review denied.

### **Costs - Shifting of costs**



Shifting costs from one local entity to another is not a reimbursable mandate under provision of State Constitution requiring state to reimburse a local government for state-mandated costs. [Grossmont Union High School Dist. v. State Dept. of Education](#) (App. 3 Dist. 2008) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869 , review denied. States 111

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### **Costs - Incidental costs**

Constitutional rule of state subvention which requires state to pay for new governmental programs imposed on local governments does not require state to reimburse local agencies for any incidental cost that may result from enactment of state law; rather, subvention requirement is restricted to governmental services which local agency is required by state law to provide to its residents. [Hayes v. Commission on State Mandates](#) (App. 3 Dist. 1992) 15 Cal.Rptr.2d 547, 11 Cal.App.4th 1564 , review denied. States 111

Section which required Public Employees' Retirement System, a state agency, to increase pension payments to retired public employees did not compel city to do anything and any increase in cost to city through additional contributions needed because of reduction in interest being credited to it was only incidental to the system's compliance with the section, so that city was not entitled to reimbursement from State for the additional amounts contributed. [City of Anaheim v. State \(Board of Admin. of Public Employees' Retirement System\)](#) (App. 2 Dist. 1987) 235 Cal.Rptr. 101, 189 Cal.App.3d 1478 . States 123

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### **Remedies**

#### **Remedies - In general**

Under the statute authorizing a local agency to file a declaratory relief action to declare an unfunded mandate unenforceable and enjoin its enforcement for that fiscal year, a party is permitted to seek relief for nominal funding as well as a complete lack of funding for a determined state mandate. [California School Bds. Assn. v. State of California](#) (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770 , rehearing denied, review denied. States 111



Declaratory relief was a proper remedy for school districts' dispute with state over whether state's practice of paying only a nominal amount for mandated programs while deferring the balance of the cost constituted a failure to provide a subvention of funds for the mandates as required by the state constitution, as there was an actual controversy between the parties regarding the interpretation of the state constitution and a statute, pertaining to the use of deferred mandate payments. [California School Bds. Assn. v. State of California](#) (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770 , rehearing denied, review denied. [Declaratory Judgment](#) 210

When the Legislature provides only nominal funding for a mandate, the remedy for the local agency seeking constitutionally-mandated funding is to file an action to declare the mandate unenforceable and to enjoin its enforcement for that fiscal year. [County of San Diego v. State of California](#) (App. 4 Dist. 2008) 79 Cal.Rptr.3d 489, 164 Cal.App.4th 580 , review denied. [States](#) 111

Action by special education local plan area seeking to force county to continue providing mental health services did not assert duties under unenforceable unfunded state mandate where, although legislature reduced to nominal level funding to counties for Individuals with Disabilities Education Act (IDEA) programs, legislature did not specifically identify mental health services mandate as unfunded. [Tri-County Special Educ. Local Plan Area v. County of Tuolumne](#) (App. 5 Dist. 2004) 19 Cal.Rptr.3d 884, 123 Cal.App.4th 563 . [States](#) 111

A county is excused from duties imposed under a state mandate if the Legislature specifically states that the mandated program is not funded or if the superior court in Sacramento declares the program an unfunded mandate; however, these avenues for relief from duties imposed by state mandate are exclusive. [Tri-County Special Educ. Local Plan Area v. County of Tuolumne](#) (App. 5 Dist. 2004) 19 Cal.Rptr.3d 884, 123 Cal.App.4th 563 . [States](#) 111

If a county believes state funding for a mandated program is inadequate, the local government may file a claim with the Commission on State Mandates and, if the claim is denied, seek review by writ of administrative mandate in superior court. [Tri-County Special Educ. Local Plan Area v. County of Tuolumne](#) (App. 5 Dist. 2004) 19 Cal.Rptr.3d 884, 123 Cal.App.4th 563 . [States](#) 111

### **Administrative remedies**

High school district that sought declaratory and injunctive relief against Department of Education, challenging an alleged unfunded state mandate to pay costs of providing mental health services to special education students, was not excused on asserted futility grounds from exhausting administrative remedies by submitting a claim to Commission on State Mandates (CSM); it was not certain that CSM would find the costs were a federal as opposed to a state mandate, as district's complaint alleged facts suggesting the mandate might be a "mixed" mandate for which partial reimbursement would be available. [Grossmont Union High School Dist. v. State Dept. of Education](#) (App. 3 Dist. 2008) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869 , review denied. [Declaratory Judgment](#) 44 ; [States](#) 111

Failure of a local agency to exhaust administrative remedies of filing a test claim to determine if reimbursable state-mandated costs have been imposed bars agency from seeking court relief. [Grossmont Union High School Dist. v. State Dept. of Education](#) (App. 3 Dist. 2008) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869 , review denied. [States](#) 111

Without first exhausting administrative remedies, a local agency cannot claim a state mandate is unfunded, in violation of state Constitution, in defense of its failure to perform its duty. [Tri-County Special Educ. Local Plan Area v. County of Tuolumne](#) (App. 5 Dist. 2004) 19 Cal.Rptr.3d 884, 123 Cal.App.4th 563 . [States](#) 111

Ordinarily, counties seeking to pursue unfunded mandate claim under constitution must exhaust their administrative remedies, but counties may pursue those claims in superior court without first resorting to administrative remedies if they can establish an exception to exhaustion requirement. [County of San Diego v. State of California](#) (1997) 61 Cal.Rptr.2d 134, 15 Cal.4th 68, 931 P.2d 312 . [States](#) 111

"Futility exception" to the exhaustion requirement for pursuing unfunded mandate claim under Constitution applies if county can state with assurance that Commission on State Mandates would rule adversely in its own particular case. [County of San Diego v. State of California \(1997\) 61 Cal.Rptr.2d 134, 15 Cal.4th 68, 931 P.2d 312](#) . States 111

Presenting questions concerning state-mandated costs to Commission on State Mandates is exclusive means of pursuing claim that state is required to provide subvention of funds for new program or higher level of service which local government is required to provide. [Central Delta Water Agency v. State Water Resources Control Bd. \(App. 3 Dist. 1993\) 21 Cal.Rptr.2d 453, 17 Cal.App.4th 621](#) , rehearing denied, review denied. States 111

School district's failure to make its claim for reimbursement of expenditures required by executive order requiring school districts to develop and adopt a reasonably feasible plan for the alleviation and prevention of racial and ethnic segregation before the Commission on state mandates did not amount to a failure on the school board's part to exhaust its administrative remedies precluding district from receiving reimbursement; Board of Control decisions favorable to school district became administratively final in 1984, Commission was not in place until January 1, 1985, and school district pursued remedy of seeking declaratory judgment to declare executive order void and to enjoin its enforcement. [Long Beach Unified Sch. Dist. v. State of California \(App. 2 Dist. 1990\) 275 Cal.Rptr. 449, 225 Cal.App.3d 155](#) , modified, review denied. States 111

Administrative remedy available to counties challenging cost mandating statutes as violating requirement that state provide subvention for reimbursement of costs imposed on local governments was not inadequate, in that applicable procedures provided for evidentiary hearing and decision by Board of Control with right to judicial review, required that local government claims bill be introduced to fund reimbursable mandate, and enabled them to have judicial declaration that mandate was unenforceable if Legislature failed to provide appropriation to fund mandate. [Contra Costa County v. State \(App. 3 Dist. 1986\) 222 Cal.Rptr. 750, 177 Cal.App.3d 62](#) , review denied. States 111

Counties challenging cost mandating statutes as violating requirement that state provide subvention for reimbursement of costs imposed on local governments were precluded from establishing exception to rule that they exhaust administrative remedies before resorting to judicial action based on futility, where legislature provided for funding of some mandates found by Board of Control, albeit only a portion. [Contra Costa County v. State \(App. 3 Dist. 1986\) 222 Cal.Rptr. 750, 177 Cal.App.3d 62](#) , review denied.

### **Remedies - Administrative remedies**

High school district that sought declaratory and injunctive relief against Department of Education, challenging an alleged unfunded state mandate to pay costs of providing mental health services to special education students, was not excused on asserted futility grounds from exhausting administrative remedies by submitting a claim to Commission on State Mandates (CSM); it was not certain that CSM would find the costs were a federal as opposed to a state mandate, as district's complaint alleged facts suggesting the mandate might be a "mixed" mandate for which partial reimbursement would be available. [Grossmont Union High School Dist. v. State Dept. of Education \(App. 3 Dist. 2008\) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869](#) , review denied. Declaratory Judgment 44 ; States 111

Failure of a local agency to exhaust administrative remedies of filing a test claim to determine if reimbursable state-mandated costs have been imposed bars agency from seeking court relief. [Grossmont Union High School Dist. v. State Dept. of Education \(App. 3 Dist. 2008\) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869](#) , review denied. States 111

Without first exhausting administrative remedies, a local agency cannot claim a state mandate is unfunded, in violation of state Constitution, in defense of its failure to perform its duty. [Tri-County Special Educ. Local Plan Area v. County of Tuolumne \(App. 5 Dist. 2004\) 19 Cal.Rptr.3d 884, 123 Cal.App.4th 563](#) . States 111

Ordinarily, counties seeking to pursue unfunded mandate claim under constitution must exhaust their administrative remedies, but counties may pursue those claims in superior court without first resorting to administrative remedies if they can establish an exception to exhaustion requirement. [County of San Diego v. State of California \(1997\) 61 Cal.Rptr.2d 134, 15 Cal.4th 68, 931 P.2d 312](#) . [States](#) 111

“Futility exception” to the exhaustion requirement for pursuing unfunded mandate claim under Constitution applies if county can state with assurance that Commission on State Mandates would rule adversely in its own particular case. [County of San Diego v. State of California \(1997\) 61 Cal.Rptr.2d 134, 15 Cal.4th 68, 931 P.2d 312](#) . [States](#) 111

Presenting questions concerning state-mandated costs to Commission on State Mandates is exclusive means of pursuing claim that state is required to provide subvention of funds for new program or higher level of service which local government is required to provide. [Central Delta Water Agency v. State Water Resources Control Bd. \(App. 3 Dist. 1993\) 21 Cal.Rptr.2d 453, 17 Cal.App.4th 621](#) , rehearing denied, review denied. [States](#) 111

School district’s failure to make its claim for reimbursement of expenditures required by executive order requiring school districts to develop and adopt a reasonably feasible plan for the alleviation and prevention of racial and ethnic segregation before the Commission on state mandates did not amount to a failure on the school board’s part to exhaust its administrative remedies precluding district from receiving reimbursement; Board of Control decisions favorable to school district became administratively final in 1984, Commission was not in place until January 1, 1985, and school district pursued remedy of seeking declaratory judgment to declare executive order void and to enjoin its enforcement. [Long Beach Unified Sch. Dist. v. State of California \(App. 2 Dist. 1990\) 275 Cal.Rptr. 449, 225 Cal.App.3d 155](#) , modified, review denied. [States](#) 111

Administrative remedy available to counties challenging cost mandating statutes as violating requirement that state provide subvention for reimbursement of costs imposed on local governments was not inadequate, in that applicable procedures provided for evidentiary hearing and decision by Board of Control with right to judicial review, required that local government claims bill be introduced to fund reimbursable mandate, and enabled them to have judicial declaration that mandate was unenforceable if Legislature failed to provide appropriation to fund mandate. [Contra Costa County v. State \(App. 3 Dist. 1986\) 222 Cal.Rptr. 750, 177 Cal.App.3d 62](#) , review denied. [States](#) 111

Counties challenging cost mandating statutes as violating requirement that state provide subvention for reimbursement of costs imposed on local governments were precluded from establishing exception to rule that they exhaust administrative remedies before resorting to judicial action based on futility, where legislature provided for funding of some mandates found by Board of Control, albeit only a portion. [Contra Costa County v. State \(App. 3 Dist. 1986\) 222 Cal.Rptr. 750, 177 Cal.App.3d 62](#) , review denied.

## **Mandamus, remedies**

Writ of mandate directing the Legislature either to fund or suspend state mandates imposed upon local agencies, and to place the cost of determined mandates imposed on local agencies in the annual Budget Bill, violated California’s separation of powers doctrine. [California School Bds. Assn. v. State of California \(App. 4 Dist. 2011\) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770](#) , rehearing denied, review denied. [Constitutional Law](#) 2525 ; [Mandamus](#) 100 ; [States](#) 111 ; [States](#) 121

Under the statute requiring the Legislature to place the cost of determined mandates imposed on local agencies in the annual Budget Bill, doing so was discretionary rather than ministerial, and thus a writ of mandate requiring the Legislature to do so was improperly issued, since placing items in the Budget Bill was a legislative power. [California School Bds. Assn. v. State of California \(App. 4 Dist. 2011\) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770](#) , rehearing denied, review denied. [States](#) 121

Under the constitutional provision stating that the state must fund mandates imposed upon local agencies, the

Legislature had discretion not to fund such mandates and to require local agencies to seek relief from the mandates, and thus a writ of mandate requiring the Legislature either to fund or suspend such mandates was improperly issued because it compelled a discretionary, not a ministerial, act. [California School Bds. Assn. v. State of California \(App. 4 Dist. 2011\) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770](#) , rehearing denied, review denied. [States 111](#)

Statute authorizing a local agency such as a school district to file a declaratory relief action to declare an unfunded mandate unenforceable and enjoin its enforcement for that fiscal year provided an adequate remedy at law for state's failure to satisfy state constitution in paying only a nominal amount to school districts for mandated programs while deferring the balance of the cost, and thus mandamus relief was not appropriate. [California School Bds. Assn. v. State of California \(App. 4 Dist. 2011\) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770](#) , rehearing denied, review denied. [Mandamus 3\(1\)](#)

Counties were not entitled to a writ of mandate compelling prompt payment from state of approximately \$115,000,000 in reimbursement claims for state-mandated programs, given the magnitude of the reimbursement claims, the large number of mandates at issue, the large number of agencies from which the counties sought reimbursement, and the insufficiency of the counties' evidence to show that the purposes of the subject mandates were generally related to the various appropriations from which the counties sought reimbursement or that the targeted funds were reasonably available. [County of San Diego v. State of California \(App. 4 Dist. 2008\) 79 Cal.Rptr.3d 489, 164 Cal.App.4th 580](#) , review denied. [States 111](#)

Statute required the State to reimburse counties for costs of state-mandated programs within 15-year period such that writ of mandate was unnecessary and unavailable to force state to comply with constitutional obligation to reimburse counties, despite court's concerns that legislature could repeal or change statute at any time. [County of San Diego v. State of California \(App. 4 Dist. 2008\) 79 Cal.Rptr.3d 489, 164 Cal.App.4th 580](#) , review denied. [States 111](#)

Trial court lacked power to order state legislature through writ of mandate to appropriate sufficient funds to satisfy the state's subject reimbursement obligations through future legislation and to pay those funds to counties in accord with constitutional provision requiring state to reimburse counties for costs of state mandated programs, as order violated the separation of powers doctrine. [County of San Diego v. State of California \(App. 4 Dist. 2008\) 79 Cal.Rptr.3d 489, 164 Cal.App.4th 580](#) , review denied. [Constitutional Law 2525](#) ; [Mandamus 100](#)

## **Remedies - Mandamus**

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Under the constitutional provision stating that the state must fund mandates imposed upon local agencies, the Legislature had discretion not to fund such mandates and to require local agencies to seek relief from the mandates, and thus a writ of mandate requiring the Legislature either to fund or suspend such mandates was improperly issued because it compelled a discretionary, not a ministerial, act. [California School Bds. Assn. v. State of California \(App. 4 Dist. 2011\) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770](#) , rehearing denied, review denied. [States 111](#)

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### Limitation of actions

The 90-day statute of limitations period set forth in statute governing actions challenging the constitutionality of State funding for school districts, rather than statutory period related to State Controller's constitutional duty to reimburse school districts, via subvention of funds, for the costs of programs or increased level of services, applied in school districts' challenge to Controller's reduction of subvention, where gravamen of action was constitutional challenge to general State funding statutes rather than Controller's duty to pay subvention. [San Diego Unified School Dist. v. Yee \(App. 4 Dist. 2018\) 241 Cal.Rptr.3d 896](#) . [Education](#) 379

On appeal from trial court's issuance of a writ of mandate directing the California Commission on State Mandates to set aside its decisions rejecting test claims of city and counties, which claims sought reimbursement pursuant to constitutional requirement for subvention for carrying out obligations under National Pollutant Discharge Elimination System (NPDES) Permit, Commission forfeited any right it may have had to assert 90-day statute of limitations defense, where Commission failed to raise the defense in its pleadings in the trial court. [County of Los Angeles v. Commission on State Mandates \(App. 2 Dist. 2007\) 58 Cal.Rptr.3d 762, 150 Cal.App.4th 898](#) . [Mandamus](#) 187.4

### Statute of limitations

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### **Accrual of cause of action**

Statutory cause of action for violation of constitutional provision requiring that when state mandates program, state shall provide subvention of funds to reimburse local governments for cost of program, accrues when legislature deletes funding from local government claims bill after successful completion of statutorily prescribed administrative process for determining whether mandate exists and other issues on reimbursement. [Berkeley Unified School Dist. v. State of California](#) (App. 3 Dist. 1995) 39 Cal.Rptr.2d 326, 33 Cal.App.4th 350 , review denied. [Limitation Of Actions](#) 58(6)

### **Cause of action, accrual of**

Statutory cause of action for violation of constitutional provision requiring that when state mandates program, state shall provide subvention of funds to reimburse local governments for cost of program, accrues when legislature deletes funding from local government claims bill after successful completion of statutorily prescribed administrative process for determining whether mandate exists and other issues on reimbursement. [Berkeley Unified School Dist. v. State of California](#) (App. 3 Dist. 1995) 39 Cal.Rptr.2d 326, 33 Cal.App.4th 350 , review denied. [Limitation Of Actions](#) 58(6)

### **Pleadings**

School districts did not establish reasonable probability they could allege facts showing entitlement to relief under any possible legal theory in their challenge to statutes' mandated allocation of general State funds as violating their constitutional right to subvention via State Controller reimbursement process, and thus districts were not entitled to leave to amend complaint, where districts did not specify the allegations they would add or change to correct any defect, or what additional facts they could allege that would support a cause of action against the Controller. [San Diego Unified School Dist. v. Yee](#) (App. 4 Dist. 2018) 241 Cal.Rptr.3d 896 . [Education](#) 219 ; [Education](#) 382

A footnote of school districts' appellate brief mentioning the issue in passing was insufficient to present the argument on appeal that the requirement that local entities bring an action every year to seek relief from unfunded mandates was an unreasonable restriction on districts' rights under the constitutional provision prohibiting the Legislature from imposing unfunded mandates on local government, where districts did not cross-appeal from the portion of the trial court's order rejecting this argument. [California School Bds. Assn. v. State of California](#) (App. 4 Dist. 2011) 121 Cal.Rptr.3d 696, 192 Cal.App.4th 770 , rehearing denied, review denied. [Appeal and Error](#) 768

High school district's complaint against Department of Education, seeking declaratory and injunctive relief in connection with alleged unfunded state mandate to pay for mental health services for special education students, failed to state viable claims to the extent that the complaint alleged claims falling outside the purview of the Commission on State Mandates (CSM). [Grossmont Union High School Dist. v. State Dept. of Education](#) (App. 3 Dist. 2008) 86 Cal.Rptr.3d 890, 169 Cal.App.4th 869 , review denied. [States](#) 111

### **Jurisdiction**

Trial court lacked jurisdiction to consider whether state and regional water control boards, which amended river segment's water quality control plan, violated state constitutional prohibition on mandates by requiring local

agencies to pay for state-mandates costs, as, pursuant to statute, a comprehensive administrative procedure constitutes the exclusive process by which a local agency may claim reimbursement for such costs. [San Joaquin River Exchange Contractors Water Authority v. State Water Resources Control Bd. \(App. 3 Dist. 2010\) 108 Cal.Rptr.3d 290, 183 Cal.App.4th 1110](#) , as modified, review denied. [States 111](#)

### Law questions

The determination as to whether statutes impose a state mandate, and thus require reimbursement, is a question of law reviewed independently. [County of San Diego v. Commission on State Mandates \(2018\) 240 Cal.Rptr.3d 52, 430 P.3d 345](#) . [Appeal and Error 3748](#)

The issue of whether the Sexual Predator Punishment and Control Act (Jessica's Law) negated part of the state mandate to carry out activities required of local governments by the Sexually Violent Predator Act (SVPA), under the state constitutional provision precluding a shift of financial responsibility for carrying out state mandates to local agencies, was a legal question subject to independent review by the Court of Appeal, since it required no reliance on disputed facts. [County of San Diego v. Commission on State Mandates \(App. 4 Dist. 2016\) 212 Cal.Rptr.3d 259](#) , review filed, review granted [215 Cal.Rptr.3d 276, 390 P.3d 1132](#) , affirmed and remanded [240 Cal.Rptr.3d 52, 430 P.3d 345](#) . [Mental Health 467](#)

Determination of whether statutes established mandate under section of Constitution requiring state to reimburse local government for costs of state-mandated new program or higher level of service is question of law. [Redevelopment Agency v. Commission on State Mandates \(App. 4 Dist. 1997\) 64 Cal.Rptr.2d 270, 55 Cal.App.4th 976](#) , review denied. [States 111](#)

While ordinarily the Court of Appeals' conclusion that the trial court erred in failing to consider merits of State's challenge to decisions of Board of Control would require that matter be remanded to trial court for a full hearing, Court of Appeals would decide whether expenditures required to come into compliance with executive order were reimbursable, in that question of whether a cost is state mandated was one of law. [Long Beach Unified Sch. Dist. v. State of California \(App. 2 Dist. 1990\) 275 Cal.Rptr. 449, 225 Cal.App.3d 155](#) , modified, review denied. [States 184.40\(5\)](#)

### Questions of law

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[Dist. v. State of California \(App. 2 Dist. 1990\) 275 Cal.Rptr. 449, 225 Cal.App.3d 155](#) , modified, review denied. [States 184.40\(5\)](#)

### **Justiciable controversy**

Once a decision of the Commission on State Mandates becomes final and has not been set aside by a court pursuant to a petition for writ of administrative mandamus, it is not subject to collateral attack. [California School Boards Assn. v. State of California \(App. 3 Dist. 2009\) 90 Cal.Rptr.3d 501, 171 Cal.App.4th 1183](#) . [States 111](#)

There was no actual controversy at trial as to state's constitutional and statutory obligation to pay counties' reimbursement claims for state-mandated programs, or as to the amount of the claims, as required for monetary award on counties' request for declaration that the state was constitutionally and statutorily required to promptly and fully pay them the requested amounts; as there was no dispute at trial as to the amount of the claims, there was no present controversy on that point, or a probable future controversy, to be resolved by declaratory relief. [County of San Diego v. State of California \(App. 4 Dist. 2008\) 79 Cal.Rptr.3d 489, 164 Cal.App.4th 580](#) , review denied. [Declaratory Judgment 201](#) ; [Declaratory Judgment 388](#)

### **Damages**

Counties could not recover monetary damages for state's violation of its constitutional and statutory obligation to reimburse counties for costs of state-mandated programs; constitution and statutes did not authorize a damages remedy or imply a private right of action, and monetary was not incidental to any writ relief. [County of San Diego v. State of California \(App. 4 Dist. 2008\) 79 Cal.Rptr.3d 489, 164 Cal.App.4th 580](#) , review denied. [States 111](#)

### **Interest**

School district was entitled to interest award at rate of legal rate provided under Constitution on award of reimbursement to school district for expenditures incurred in complying with executive order, rather than 6% per annum pursuant to statute; 6% is part of Tort Claims Act which does not provide for claims for reimbursement for state-mandated expenditures. [Long Beach Unified Sch. Dist. v. State of California \(App. 2 Dist. 1990\) 275 Cal.Rptr. 449, 225 Cal.App.3d 155](#) , modified, review denied. [States 171](#)

### **Attorney fees**

Statute authorizing award of attorney fees under "private attorney general" theory to successful litigant in actions resulting in enforcement of important right affecting public interest did not create state-mandated program for purposes of this section. [County of Fresno v. Lehman \(App. 5 Dist. 1991\) 280 Cal.Rptr. 310, 229 Cal.App.3d 340](#) . [States 111](#)

### **Review**

Court of Appeal would not consider, on appeal from denial of petition for writ of mandate, claim by community college districts that parameters and guidelines established by Commission on State Mandates to determine amount of costs reimbursable by State for districts' compliance with state-mandated programs and services failed to conform to Commission's statement of decision, which stated that costs associated with regulation requiring colleges to offer sufficient sections of corequisite course to reasonably accommodate all students who were required to take corequisite indicated that cost of offering corequisite course and cost associated with teacher time for such course were not reimbursable because State did not require community college districts to provide any specific corequisite course, where districted merely repeated language in statement of decision and asserted that parameters and guidelines had to be consistent with underlying mandate decisions, but did not discuss alleged inconsistency in any detail or develop argument. [Coast Community College District v. Commission on State Mandates \(App. 3 Dist. 2020\) 261 Cal.Rptr.3d 26](#) , modified on denial of rehearing, review filed. [States 111](#)

Court of Appeal would not consider, on appeal from denial of petition for writ of mandate, claim by community college districts that parameters and guidelines issued by Commission on State Mandates for reimbursement of costs incurred by community college districts for compliance with statutes and regulations that imposed mandates in connection with new program or higher level of service failed to include all activities listed in statutes requiring districts to maintain student transfer counseling services, and which set forth minimum criteria for such services, where districts did not identify regulations that implemented those statutory mandates and did not explain how parameters and guidelines omitted State-mandated activities set forth in those regulations. [Coast Community College District v. Commission on State Mandates \(App. 3 Dist. 2020\) 261 Cal.Rptr.3d 26](#) , modified on denial of rehearing, review granted and ordered not to be published [267 Cal.Rptr.3d 267, 471 P.3d 383](#) . [Mandamus 187.7](#)

Court of Appeal would not consider, on appeal from denial of petition for writ of mandate, claim by community college districts that Commission on State Mandates' conclusion that subvention for costs associated with provisions of regulation governing standards and criteria for courses, which required that each section of associate degree course, non-degree course or noncredit course be taught by qualified instructor in accordance with objectives and other specifications defined in course outline of record constituted state mandated activities, did not include reimbursement for process required to determine that instructor was qualified or cost of course instruction, where districts did not explain why Commission's stated rationale was erroneous, other than to claim that Commission applied same "flawed" reasoning. [Coast Community College District v. Commission on State Mandates \(App. 3 Dist. 2020\) 261 Cal.Rptr.3d 26](#) , modified on denial of rehearing, review filed. [States 111](#)

Court of Appeal would not consider, on appeal from denial of petition for writ of mandate, claim raised by Commission on State Mandates that community college districts were not entitled to subvention by State for costs associated with regulation requiring district to adopt policy identifying categories of college directory information which "may" be released, including "student's name, address, telephone number, date and place of birth, major field of study," and other enumerated categories of student's information, because Commission did not address whether districts claimants incurred increased costs mandated by State, where argument was not raised in appellate briefs. [Coast Community College District v. Commission on State Mandates \(App. 3 Dist. 2020\) 261 Cal.Rptr.3d 26](#) , modified on denial of rehearing, review filed. [States 111](#)

Court of Appeal would not consider, on appeal from denial of petition for writ of mandate, community college district's claim for subvention by State for costs associated with provision of former regulation governing calculation of grade point average, which provided that "grades earned in non-degree credit courses shall not be included," despite district's assertion that prohibitory language implied mandatory duty compelled by State, where district's discussion in appellate brief was perfunctory and lacked details in support of argument. [Coast Community College District v. Commission on State Mandates \(App. 3 Dist. 2020\) 261 Cal.Rptr.3d 26](#) , modified on denial of rehearing, review filed. [States 111](#)

Court of Appeal would not consider, on appeal from denial of petition for writ of mandate, community college district's claim for subvention for costs associated with regulations prohibiting gender discrimination with respect to student participation in college athletics and prohibited certain acts relating to procedures for registration and standards for enrollment in any course, where districts' arguments in appellate brief were presented in perfunctory fashion and did not identify activities required by state. [Coast Community College District v. Commission on State Mandates \(App. 3 Dist. 2020\) 261 Cal.Rptr.3d 26](#) , modified on denial of rehearing, review filed. [States 111](#)

Any error in trial court's admission of a report issued by the California Department of Mental Health under the Sexually Violent Predator Act (SVPA), stating that the number of sexually violent predator (SVP) commitment referrals received by the Department of Corrections increased "nearly 800 percent" after the passage of Sexual Predator Punishment and Control Act (Jessica's Law) expanded the definition of "SVP," was not prejudicial to counties and thus was harmless as to their challenge to the decision by the Commission on State Mandates that costs associated with activities required of local governments by the SVPA remained reimbursable state mandates after the passage of Jessica's Law, where the Court of Appeal determined as a matter of law that the

activities remained reimbursable state mandates. [County of San Diego v. Commission on State Mandates \(App. 4 Dist. 2016\) 212 Cal.Rptr.3d 259](#) , review filed, review granted [215 Cal.Rptr.3d 276](#), [390 P.3d 1132](#) , affirmed and remanded [240 Cal.Rptr.3d 52](#), [430 P.3d 345](#) . [Mental Health](#) 467

State's prior agreement to make future payment in full for nominally funded mandates imposed on school district, and its prior position that districts were required to comply with these mandates, would preclude state from arguing that school districts waived claims for reimbursement for prior unpaid mandates by previously failing to seek relief under the statute authorizing a local agency to file a declaratory relief action to declare an unfunded mandate unenforceable and enjoin its enforcement for that fiscal year. [California School Bds. Assn. v. State of California \(App. 4 Dist. 2011\) 121 Cal.Rptr.3d 696](#), [192 Cal.App.4th 770](#) , rehearing denied, review denied. [Appeal And Error](#) 3106

Trial court did not abuse its discretion in declining to permit school districts to engage in a wide-ranging discovery investigation in an attempt to identify state funds to pay over \$900 million for prior mandates subject to a funding requirement under state constitution, before denying districts' request for an order compelling the state to reimburse such funds, where the state was experiencing an extreme budget crisis with a budget deficit estimated to be more than \$20 billion; any money a court would direct to the school districts would reduce funds available for other obligations and implicate funding priorities and policy making decisions. [California School Bds. Assn. v. State of California \(App. 4 Dist. 2011\) 121 Cal.Rptr.3d 696](#), [192 Cal.App.4th 770](#) , rehearing denied, review denied. [States](#) 111

Alleged procedural irregularity in applying exhaustion of remedies to bar entire declaratory and injunctive relief complaint by high school district against Department of Education (DOE) in connection with allegedly state-mandated costs, when DOE's demurrer to the complaint seemingly asserted a failure to exhaust administrative remedies only as to the first of three asserted "causes of action," was harmless; the second and third purported causes of action were also barred on alternate ground of failing to state claims. [Grossmont Union High School Dist. v. State Dept. of Education \(App. 3 Dist. 2008\) 86 Cal.Rptr.3d 890](#), [169 Cal.App.4th 869](#) , review denied. [Declaratory Judgment](#) 393

High school district could not complain, on appeal from order sustaining demurrer of Department of Education (DOE) to complaint for declaratory and injunctive relief in connection with alleged unfunded state mandate, that trial court deprived district of due process by determining that entire complaint was barred by failure to exhaust administrative remedies when demurrer seemingly raised exhaustion bar only against first of three purported "causes of action"; DOE's points and authorities argued that exhaustion barred entire complaint, district was fully apprised by a tentative ruling that trial court would apply exhaustion to entire complaint, and district did not request oral argument. [Grossmont Union High School Dist. v. State Dept. of Education \(App. 3 Dist. 2008\) 86 Cal.Rptr.3d 890](#), [169 Cal.App.4th 869](#) , review denied. [Declaratory Judgment](#) 392.1

High school district forfeited claim, on appeal from order sustaining Department of Education's demurrer to district's complaint for declaratory and injunctive relief in connection with alleged unfunded state mandate to pay costs of mental health services for special education students, that imposition of those costs on district violated propositions passed by voters relating to minimum funding for public schools and community colleges, where district's briefs did not explain the requirements of those propositions, how the requirements were violated, or how district had a civil claim for the purported violations. [Grossmont Union High School Dist. v. State Dept. of Education \(App. 3 Dist. 2008\) 86 Cal.Rptr.3d 890](#), [169 Cal.App.4th 869](#) , review denied. [Declaratory Judgment](#) 392.1

High school district, which appealed order that sustained Department of Education's demurrer to district's complaint for declaratory and injunctive relief in connection with alleged unfunded state mandate, forfeited whatever claim district meant to make under state constitutional provision relating to increases or decreases in appropriation limits when costs are shifted from one public entity to another, where district failed to discuss that provision anywhere in its briefs. [Grossmont Union High School Dist. v. State Dept. of Education \(App. 3 Dist. 2008\) 86 Cal.Rptr.3d 890](#), [169 Cal.App.4th 869](#) , review denied. [Declaratory Judgment](#) 392.1



Court of Appeal would review, as presenting questions of law, a decision of the Commission on State Mandates regarding whether Educational Revenue Augmentation Funds (ERAF) statutes established a mandate under state constitutional provision generally requiring state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency, where the underlying facts were undisputed. [County of Sonoma v. Commission on State Mandates \(App. 1 Dist. 2000\) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264](#) , modified on denial of rehearing, review denied. [Appeal And Error 3187](#)

In evaluating a claim for subvention, under state constitutional provision generally requiring state to provide subvention of funds to reimburse local governments for costs of new programs or increased levels of services mandated by the legislature or by a state agency, the court cannot become entangled in consideration of where the benefit of questioned state action falls. [County of Sonoma v. Commission on State Mandates \(App. 1 Dist. 2000\) 101 Cal.Rptr.2d 784, 84 Cal.App.4th 1264](#) , modified on denial of rehearing, review denied. [States 111](#)

Whether statute created constitutionally reimbursable state mandated program or higher level of service was question of law which Court of Appeal reviewed de novo in city's proceeding to set aside decision of Commission on State Mandates. [City of Richmond v. Commission on State Mandates \(App. 3 Dist. 1998\) 75 Cal.Rptr.2d 754, 64 Cal.App.4th 1190](#) , review denied. [States 123](#)

Court of Appeal was bound to follow Supreme Court ruling which established definition of "program" to be used in determining whether reimbursement is required under this section. [County of Los Angeles v. Department of Industrial Relations \(App. 3 Dist. 1989\) 263 Cal.Rptr. 351, 214 Cal.App.3d 1538](#) , review denied. [Courts 91\(1\)](#)

## Remand

Remand was required for Commission on State Mandates to address in first instance community college districts' test claim for subvention for costs associated with former regulation governing course repetition, which Commission failed to address in statement of decision. [Coast Community College District v. Commission on State Mandates \(App. 3 Dist. 2020\) 261 Cal.Rptr.3d 26](#) , modified on denial of rehearing, review filed. [Mandamus 187.7](#)

Remand was appropriate, on appeal from denial of petition for writ of mandate, for claim raised by Commission on State Mandates that community college districts were not entitled to subvention by State for costs associated with regulation requiring district to adopt policy identifying categories of college directory information which "may" be released, including "student's name, address, telephone number, date and place of birth, major field of study," and other enumerated categories of student's information, because Commission did not address whether districts claimants incurred increased costs mandated by State, where argument was not raised in appellate briefs. [Coast Community College District v. Commission on State Mandates \(App. 3 Dist. 2020\) 261 Cal.Rptr.3d 26](#) , modified on denial of rehearing, review filed. [States 111](#)