

### **ITEM 3**

## **PROPOSED DECISION AND PARAMETERS AND GUIDELINES**

Revenue and Taxation Code Sections 2610.8 and 2636.1

Statutes 2022, Chapter 712 (SB 989)

*Disclosure Requirements and Deferral of Property Taxation*

22-TC-06

County of Los Angeles, Claimant

Period of Reimbursement begins September 28, 2022

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August 1, 2024

**Exhibit A**

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

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

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

**Re: Decision**

*Disclosure Requirements and Deferral of Property Taxation, 22-TC-06*  
Statutes 2022, Chapter 712 (SB 989); Revenue and Taxation Code Sections  
2610.8 and 2636.1  
County of Los Angeles, Claimant

Dear Mr. Hill and Mr. Lemus:

On July 26, 2024, the Commission on State Mandates adopted the Decision approving the Test Claim on the above-captioned matter.

Sincerely,

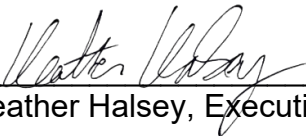
Heather Halsey  
Executive Director

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM	Case No.: 22-TC-06
Revenue and Taxation Code Sections 2610.8 and 2636.1	<i>Disclosure Requirements and Deferral of Property Taxation</i>
Statutes 2022, Chapter 712 (SB 989)	DECISION PURSUANT TO
Filed on May 2, 2023	GOVERNMENT CODE SECTION 17500
County of Los Angeles, Claimant	ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7.
	(Adopted July 26, 2024)
	(Served August 1, 2024)

**TEST CLAIM**

The Commission on State Mandates adopted the attached Decision on July 26, 2024.

  
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Heather Halsey, Executive Director

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM

Revenue and Taxation Code Sections  
2610.8 and 2636.1

Statutes 2022, Chapter 712 (SB 989)

Filed on May 2, 2023

County of Los Angeles, Claimant

Case No.: 22-TC-06

*Disclosure Requirements and Deferral of  
Property Taxation*

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

*(Adopted July 26, 2024)*

*(Served August 1, 2024)*

**DECISION**

The Commission on State Mandates (Commission) heard and decided this Test Claim during a regularly scheduled hearing on July 26, 2024. Fernando Lemus and Tina McKendell appeared on behalf of the claimant. Chris Hill appeared on behalf of the Department of Finance.

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

The Commission adopted the Proposed Decision to approve the Test Claim by a vote of 5-0, as follows:

Member	Vote
Lee Adams, County Supervisor	Yes
Shannon Clark, Representative of the Director of the Office of Planning and Research	Yes
Deborah Gallegos, Representative of the State Controller	Yes
Renee Nash, School District Board Member	Yes
William Pahland, Representative of the State Treasurer, Vice Chairperson	Yes
Michele Perrault, Representative of the Director of the Department of Finance, Chairperson	Absent

## **Summary of the Findings**

This Test Claim alleges new state-mandated activities and costs resulting from Statutes 2022, chapter 712 (the test claim statute), that added sections 2610.8 and 2636.1 to the Revenue and Taxation Code,<sup>1</sup> effective September 28, 2022.

The test claim statute is a response to the Proposition 19 property tax relief initiative (November 2020) that allowed, beginning April 1, 2021, property owners who are over 55, severely disabled, or victims of a wildfire or natural disaster to transfer the taxable base year value of their primary residence to a replacement primary residence anywhere in the state within two years of the sale of the original primary residence to prevent or mitigate increased property taxes when these property owners move or rebuild.<sup>2</sup> Property owners seeking relief under Proposition 19 (and section 69.6, the Prop. 19 implementation statute) must file a claim with the county assessor where the replacement primary residence is located.<sup>3</sup>

Section 2636.1 of the test claim statute requires a county with a population over four million as determined by the 2020 census, and counties that opt into the requirements by passing a resolution, to defer property tax payments upon request without penalty or interest for property owners claiming relief under section 69.6 until the county assessor determines their claims. Deferment requests must be filed with the county within one year of receiving the first tax bill for the replacement property, but before January 1, 2024; and section 2636.1 is repealed as of January 1, 2026.<sup>4</sup> This provision was enacted in response to a backlog of base year value transfer claims.<sup>5</sup>

Section 2610.8 of the test claim statute, which does not sunset, requires the same county of over four million and counties that opt in to print the following disclosures on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill:

- A brief summary of the availability of the property tax relief under section 69.6 (the Prop. 19 implementation statute), and
- A brief summary of property tax deferment procedures under section 2636.1.

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<sup>1</sup> All statutory references are to the Revenue and Taxation Code unless otherwise indicated.

<sup>2</sup> California Constitution, article XIII A, section 2.1(b)(1). All constitutional references are to the California Constitution.

<sup>3</sup> Revenue and Taxation Code section 69.6.

<sup>4</sup> Revenue and Taxation Code 2636.1. The sunset provision is in subdivision (f).

<sup>5</sup> Exhibit D (2), Assembly Committee on Revenue and Taxation, Analysis of SB 989 (2021-2022) as amended June 13, 2022, pages 3, 5.

The Commission finds that the Test Claim was timely filed with a potential period of reimbursement beginning September 28, 2022 (the statute's effective date).<sup>6</sup>

The Commission further finds that the requirements in the test claim statute are new and impose a state-mandated program on the County of Los Angeles, the only county with a population over four million based on the 2020 federal census.<sup>7</sup> Other counties that opt into the program by passing a resolution are not mandated by the state to comply.<sup>8</sup> The new requirements are unique to government and provide a service to the public by giving "taxpayers the ability to temporarily pause their tax bill while an assessment is under review and to make people aware of these remedies to their burdens."<sup>9</sup> Thus, the test claim statute mandates a new program or higher level of service.

Finally, the evidence in the record supports a finding of increased costs mandated by the state and none of the exceptions to reimbursement apply to this claim.<sup>10</sup>

Accordingly, the Commission approves this Test Claim and finds that the test claim statute imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution on the County of Los Angeles, beginning September 28, 2022, to:

- Process deferment requests of property tax payments if received within one year of the first tax bill but before January 1, 2024, and defer without penalty or interest payments that are not paid through impoundment accounts until either the county assessor reassesses the property and a corrected tax bill pursuant to Revenue and Taxation Code section 69.6 is sent to the owner, or the assessor has determined the property is not eligible for exclusion under section 69.6 and has notified the property owner.<sup>11</sup>
- Print the following disclosures on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill:

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<sup>6</sup> Government Code sections 17551(c) and 17557(e); Statutes 2022, chapter 712, section 4; Exhibit A, Test Claim, filed May 2, 2023, page 1.

<sup>7</sup> Exhibit D (3), Assembly Floor, Analysis of SB 989 (2021-2022) as amended August 15, 2022, page 1.

<sup>8</sup> *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 743. *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 807, 815.

<sup>9</sup> Exhibit D (6), Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 989 (2021-2022) as amended August 15, 2022, page 6.

<sup>10</sup> Exhibit A, Test Claim, filed May 2, 2023, pages 12-13, 19 (Tellalyan Declaration), pages 13, 22-23 (Herrera Declaration). See Government Code section 17514, and the exceptions in Government Code section 17556.

<sup>11</sup> Revenue and Taxation Code section 2636.1 (Stats. 2022, ch. 712).

- A brief summary of the availability of the property tax relief under Revenue and Taxation Code section 69.6 (the Prop. 19 implementation statute), and
- A brief summary of the deferment procedures under Revenue and Taxation Code section 2636.1.<sup>12</sup>

## **COMMISSION FINDINGS**

### **I. Chronology**

09/28/2022	Revenue and Taxation Code sections 2610.8 and 2636.1 were enacted.
05/02/2023	The claimant filed the Test Claim. <sup>13</sup>
10/05/2023	The Department of Finance (Finance) filed comments on the Test Claim. <sup>14</sup>
04/11/2024	Commission staff issued the Draft Proposed Decision. <sup>15</sup> No comments were filed on the Draft Proposed Decision.

### **II. Background**

Proposition 13, a 1978 amendment to the California Constitution, generally limits ad valorem taxes on real property to one percent of the full cash value of that property, defined as the county assessor's valuation of real property as shown on the 1975-1976 tax bill. Thereafter, the appraised value of the property is reassessed when it is purchased, newly constructed, or changes ownership, and assessment is subject to an annual inflation adjustment not to exceed two percent.<sup>16</sup>

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<sup>12</sup> Revenue and Taxation Code section 2610.8 (Stats. 2022, ch. 712).

<sup>13</sup> Exhibit A, Test Claim, filed May 2, 2023.

<sup>14</sup> Exhibit B, Finance's Comments on the Test Claim, filed October 5, 2023.

<sup>15</sup> Exhibit C, Draft Proposed Decision, issued April 11, 2024.

<sup>16</sup> California Constitution, article XIII A, sections 1 & 2. Prior to Proposition 13, the Senior Citizens Property Tax Assistance and Postponement Law authorized the state to pay property taxes to counties on behalf of seniors over age 62 or disabled persons with low incomes and at least 40 percent home equity. Repayment was secured by a lien on the claimant's property. Originally claimants filed for relief with the Franchise Tax Board but after 1980 with the State Controller's Office. (Rev. & Tax Code, §§ 20581 et seq. Cal. Const., art. XIII, § 8.5.) In 1979, the Board of Control (the predecessor to the Commission) determined that this program (Stats. 1977, ch. 1242, Stats. 1978, ch. 43) constituted a state mandate. (Board of Control, Parameters and Guidelines on *Senior Citizen Property Tax Postponement*, CSM-4359, amended March 17, 1983, <https://csm.ca.gov/decisions/4359pg.pdf> (accessed on Jan. 22, 2024)). The program ended when a statute was enacted that prohibited filing a claim for, and the Controller

Every California county has a tax collector and an assessor.<sup>17</sup> Changes in ownership or new construction require the assessor to appraise the property at its full cash value on the date of ownership change or new construction completion, and the appraisal becomes the property's new base year value.<sup>18</sup> The assessor is required to notify the property owner of the property's new base year value.<sup>19</sup> The assessor then sends the base year value to the county auditor, who applies the appropriate rate in that property's tax rate area,<sup>20</sup> and conveys that information to the county tax collector who prepares and mails property tax bills.<sup>21</sup> The assessor also notifies the property owner of the new base year value.<sup>22</sup>

**A. Post-Proposition 13 Property Tax Relief, Including Proposition 19 (2021) and Section 69.6 for Seniors, the Severely Disabled, and Victims of Wildfires or Natural Disasters**

In the years following Proposition 13, voters approved amendments permitting persons who are over 55 or severely disabled to transfer their previous home's base year value to another home of equal or lesser value, avoiding reassessment of the new property to a typically higher fair market value.<sup>23</sup> Proposition 60, adopted in 1986, authorized persons over 55 who sell a principal residence to transfer its base year value to a replacement principal residence within two years *in the same county*.<sup>24</sup> In 1988, Proposition 90 extended the transfer provision to a replacement residence in another county by allowing county boards of supervisors to accept base year value transfers from property owners moving from a different county.<sup>25</sup> In 1990, Proposition 110 was

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accepting applications for, postponement beginning in February 2009 (Stats. 2009 3d Ex. Sess., ch. 8).

<sup>17</sup> Government Code sections 24000(i)-(j) and 27421. According to Government Code section 27422, the same person cannot hold the office of assessor and tax collector simultaneously.

<sup>18</sup> Revenue and Taxation Code section 75.10.

<sup>19</sup> Revenue and Taxation Code section 75.31.

<sup>20</sup> Government Code section 29103.

<sup>21</sup> Revenue and Taxation Code sections 2601-2604. Exhibit D (6), Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 989 (2021-2022) as amended August 15, 2022, page 5.

<sup>22</sup> Revenue and Taxation Code section 75.31.

<sup>23</sup> California Constitution, article XIII A, section 2(a).

<sup>24</sup> California Constitution, article XIII A, section 2(a); Revenue and Taxation Code section 69.5.

<sup>25</sup> California Constitution, article XIII A, section 2(a); Revenue and Taxation Code section 69.5.



adopted to extend these transfer benefits to severely disabled persons regardless of age.<sup>26</sup>

In November 2020, the voters adopted Proposition 19, adding section 2.1 to article XIII A of the California Constitution to allow, beginning April 1, 2021, property owners who are over 55, severely disabled, or victims of a wildfire or natural disaster to transfer the taxable base year value of their primary residence to a replacement primary residence located *anywhere* in the state, regardless of the value of the replacement primary residence, within two years of the sale of the original primary residence.<sup>27</sup>

“Primary residence” means a residence eligible for either a homeowner’s exemption or a disabled veteran’s exemption,<sup>28</sup> and property owners must claim one of these exemptions at the time they purchase or transfer their property.<sup>29</sup> To implement Proposition 19, the Legislature enacted section 69.6,<sup>30</sup> which along with Proposition 19, includes the following key provisions relevant to this Test Claim:

- The taxable value of the original primary residence that is transferred to a replacement primary residence of equal or lesser value is deemed to be the taxable value of the original primary residence.<sup>31</sup>
- The taxable value of the original primary residence that is transferred to a replacement primary residence of greater value is calculated by adding the difference between the full cash value of the original primary residence and the full cash value of the replacement primary residence to the taxable value of the original primary residence.<sup>32</sup>

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<sup>26</sup> California Constitution, article XIII A, section 2(a); Revenue and Taxation Code section 69.5.

<sup>27</sup> California Constitution, article XIII A, section 2.1(b)(1).

<sup>28</sup> California Constitution, article XIII A, section 2.1(e)(1), (e)(7).

<sup>29</sup> California Constitution, article XIII A, section 2.1 (c)(5). The homeowner’s exemption (Cal. Const., art. XIII, § 3(k)) includes homes reconstructed after a natural disaster for which the Governor proclaimed a state of emergency. Revenue and Taxation Code, section 218(b)(3). The disabled veterans’ exemption is in California Constitution, article XIII, section 4(a) and Revenue and Taxation section 205.5(a), (c).

<sup>30</sup> Statutes 2021, chapter 427, section 3, effective September 30, 2021.

<sup>31</sup> California Constitution, article XIII A, section 2.1(b)(2)(A); Revenue and Taxation Code section 69.6(e)(2).

<sup>32</sup> California Constitution, article XIII A, section 2.1(b)(2)(B); Revenue and Taxation Code section 69.6(e)(3). See Exhibit D (6), Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 989 (2021-2022) as amended August 15, 2022, page 3, that states: “... if the original property has a base year value of \$230,000 sells for \$500,000, and the taxpayer purchases a \$750,000 replacement property, its new base year value is \$480,000 ( $\$750,000 - \$500,000 = \$250,000 + \$230,000 = \$480,000$ ).”

- An owner of a primary residence who is over 55 or severely disabled is not allowed to transfer the taxable value of a primary residence more than three times but victims of wildfire or natural disaster have no such limitation.<sup>33</sup>
- Persons seeking to transfer the taxable value of their primary residence shall file a claim, to include specified information, with the assessor of the county in which the replacement primary residence is located.<sup>34</sup>

Regulations adopted by the Board of Equalization (BOE) regarding base year value transfers require the property owner to file a claim on a designated BOE form with the county assessor “within three years of the date of buying or completing new construction of the replacement primary residence” to receive retroactive relief.<sup>35</sup>

**B. The Test Claim Statute (Stats. 2022, ch. 712) Defers Property Taxes for Property Owners Claiming Relief Under Proposition 19 Until After the County Determines the Claim; and Requires Disclosure of the Proposition 19 Tax Relief and Section 2636.1 Deferment Procedures on Tax Bills for Properties that Have Been Purchased, Newly Constructed, or Changed Ownership in the Year Preceding the Tax Bill.**

Current law requires the county tax collector to prepare the property tax bills and mail them by November 1. The first of the two equal installments is due November 1 and becomes delinquent after December 10.<sup>36</sup> The second installment is due on February 1 and becomes delinquent April 10.<sup>37</sup> Delinquent taxes are assessed a 10 percent penalty.<sup>38</sup> After the second installment of taxes is delinquent, the tax collector sends a notice of delinquency.<sup>39</sup>

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<sup>33</sup> California Constitution, article XIII A, section 2.1(b)(3); Revenue and Taxation Code section 69.6(a).

<sup>34</sup> Revenue and Taxation Code section 69.6(c)(1), (e)(1). Article XIII A, section 2.1(b)(4) of the California Constitution states: “Any person who seeks to transfer the taxable value of their primary residence pursuant to this subdivision shall file an application with the assessor of the county in which the replacement primary residence is located. The application shall, at minimum, include information comparable to that identified in paragraph (1) of subdivision (f) of Section 69.5 of the Revenue and Taxation Code, as that section read on January 1, 2020.” See also California Code of Regulations, title 18, section 462.540(d)(1).

<sup>35</sup> California Code of Regulations, title 18, section 462.540(d)(1). Under subdivision (d)(2), a claim filed after the deadline can still be considered by the assessor but the claimant may only receive prospective relief.

<sup>36</sup> Revenue and Taxation Code section 2617.

<sup>37</sup> Revenue and Taxation Code section 2618.

<sup>38</sup> Revenue and Taxation Code sections 2617, 2618.

<sup>39</sup> Revenue and Taxation Code section 2609.

Under prior law, the property owner who filed a base year value transfer claim for relief under Proposition 19 and section 69.6 still had to pay the current year tax bill on the replacement property by the December and April due dates to avoid late penalties while the claim was being reviewed and processed. Property owners did not receive an adjustment to reflect a base year value transfer until the claim was approved and a supplemental assessment was mailed.<sup>40</sup> When a base year value transfer claim is filed, the county assessor is required to value both the original and replacement primary residences to determine the market value of each, which may require coordination between two counties and take several months to resolve.<sup>41</sup> Thus, as reflected in the legislative history of the test claim statute, this led to a backlog of Proposition 19 claims in Los Angeles County:

According to the author, County Assessors and Tax Collectors do not have the authority to pause taxpayers' requirement to pay a property tax bill if they have a pending application for an assessment review related to Proposition 19.

A Los Angeles Times article reported that the Los Angeles County Assessor's office had not completed any of the 1,271 applications it has received to recalculate the property taxes for older and disabled homeowners under the law. The Times also reported that Los Angeles County had not finished nearly 3,700 applications for parent-to-child and grandparent-to-grandchild inheritances, the other major piece of the tax measure. Los Angeles County Assessor Jeffrey Prang said in the article that his office needed at least one year to update its technology to implement the tax measure after it was passed, but the law gave assessors only several months to do so. The assessor also stated that the state law does not allow county officials to defer or reduce the property taxes while the application is under review.<sup>42</sup>

[¶] . . . [¶]

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<sup>40</sup> Exhibit D (5), County of Riverside, *Property Owner Guide to Base Year Value Transfers Under Proposition 19*, page 3, states:

**Do I still have to pay the existing, current tax bill on the replacement property or will that bill be adjusted to reflect the new value?**

Yes. You must pay the current year tax bill on your replacement property. That bill cannot be adjusted or cancelled to reflect the Prop. 19 benefit. Any correction resulting from the original value transfer will be made on the supplemental assessment. When the entire process is complete, you will have the same assessed value as your original property.

<sup>41</sup> Exhibit D (4), Board of Equalization, Bill Analysis of SB 989, July 19, 2022, page 5.

<sup>42</sup> Exhibit D (2), Assembly Committee on Revenue and Taxation, Analysis of SB 989 (2021-2022) as amended June 13, 2022, page 5.

The author has provided the following statement in support of this bill: Proposition 19 was approved by voters in 2020 and allows homeowners 55 and older, disabled individuals and those displaced by wildfire or other natural disaster, to apply their existing property tax value to a new home to prevent a massive increase in taxes when these homeowners move. While counties continue to implement Proposition 19, some have developed a backlog of claims that need to still be processed. This backlog not only creates a burden for the county assessor's office, but also a taxpayer who may receive a significantly higher property tax bill than expected. The burden should never be on the backs of the people we serve, it is government's responsibility to implement laws fairly. This is why SB 989 is necessary. To give taxpayers the ability to temporarily pause their tax bill while an assessment is under review and to make people aware of these remedies to their burdens.<sup>43</sup>

Thus, the test claim statute, which applies to counties of over four million population as of the 2020 census (only Los Angeles County) or counties that opt in by passing a resolution, addresses the problem by adding sections 2610.8 and 2636.1 to the Revenue and Taxation Code, effective September 28, 2022.<sup>44</sup>

Section 2636.1(a) authorizes property owners who are eligible to claim a base year value transfer under Proposition 19 and section 69.6 to temporarily pause their tax bill while an assessment is under review if they request deferment within one calendar year, but before January 1, 2024, of receiving their first property tax bill. Property taxes paid through impound accounts cannot be deferred.<sup>45</sup> Section 2636.1 sunsets by its own terms on January 1, 2026, so deferment is not available after that date.<sup>46</sup> Section 2636.1(a) and (b) state that property taxes “shall” be deferred (meaning that counties must process claims for deferment)<sup>47</sup> without penalty or interest under the following conditions:

- The property owner claimed property tax relief under section 69.6 [the Prop. 19 implementation statute] for the property, but the county assessor has not yet determined the property's eligibility for relief; and the property owner requests deferment with the county assessor within one calendar year, but before January 1, 2024, of receiving the first tax bill for the property.

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<sup>43</sup> Exhibit D (2), Assembly Committee on Revenue and Taxation, Analysis of SB 989 (2021-2022) as amended June 13, 2022, page 3.

<sup>44</sup> Revenue and Taxation Code sections 2610(b) and 2631.1(e) (Stats. 2022, ch. 712, §4); Exhibit D (3), Assembly Floor, Analysis of SB 989 (2021-2022) as amended August 15, 2022, page 1.

<sup>45</sup> Revenue and Taxation Code section 2636.1(d).

<sup>46</sup> Revenue and Taxation Code section 2636.1(f).

<sup>47</sup> Exhibit D (6), Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 989 (2021-2022) as amended August 15, 2022, page 6.

- Property tax shall be deferred until either the county assessor reassesses the property and a corrected tax bill is sent, or the county assessor has determined the property is not eligible for exclusion under section 69.6 and has notified the property owner.

Section 2636.1(c) governs when the first and second installments of deferred property taxes are due. If the assessor approves the section 69.6 claim for relief, the first installment of deferred property taxes is due and payable December 10 or 30 days after the claim is approved and a corrected tax bill is mailed or electronically transmitted to the owner, whichever is later. The second installment of deferred property taxes is due and payable April 10 or 30 days after the date the bill is mailed or electronically transmitted to the owner, whichever is later.<sup>48</sup>

If the assessor denies the claim for section 69.6 relief, the first installment of deferred property taxes is due and payable on December 10 or 30 days after the postmark date or date of mailing printed on the assessor's notice to the property owner of the denied claim, whichever is later. The second installment of deferred property taxes is due and payable April 10 or 30 days after the postmark date or date of mailing the notice to the property owner, whichever is later.<sup>49</sup>

The test claim statute also added a disclosure provision (§ 2610.8) to require the following disclosures to be printed on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill:

- A brief summary of the availability of the property tax relief under Section 69.6 and
- A brief summary of property tax deferment procedures under Section 2636.1.

This disclosure requirement does not sunset.

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

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

The claimant maintains that the test claim statute imposes state-mandated activities and costs that are subject to subvention under article XIII B of the California Constitution.<sup>50</sup>

The claimant attaches declarations from employees of both its Assessor and Treasurer Tax Collector that seek reimbursement for doing the following:

- Take immediate action to comply with the new legislation due to the urgency clause in the test claim statute. Specifically, the Treasurer Tax Collector had to hold meetings both internally and externally with other County departments and vendors in developing the language for the disclosure. The Treasurer Tax

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<sup>48</sup> Revenue and Taxation Code section 2636(c)(1).

<sup>49</sup> Revenue and Taxation Code section 2636(c)(2).

<sup>50</sup> Exhibit A, Test Claim, filed May 2, 2023, page 16.

Collector was able to complete a special printing and mailing of 127,496 property tax bills to this specific population of taxpayers in November 2022.<sup>51</sup>

- Collaboration between the Assessor and Treasurer Tax Collector to create procedures for owners to make payments following a determination of eligibility.<sup>52</sup>
- Develop Assessor's processes and policies for processing claims for tax payment deferrals, which include creating unique and specific claim forms and sending correspondence to taxpayers that contain the requirements and relief prescribed by the test claim statute. The property owner must be provided a means to request deferment that is consistent with other existing means for seeking relief or review from the Assessor. This has typically been accomplished by making available a form specific to that relief that identifies the taxpayer and their property, provides contact information, and cites the Revenue and Taxation Code that applies to the relief being claimed. The means to request deferment must be provided in such a way that is not burdensome or different from other correspondence, claims, or requests for service. Constituents' and taxpayers' expectations are that access to forms, information, and instructions for completing claims properly and accurately are available on a public-facing website accessible 24/7.<sup>53</sup>
- The test claim statute states that property taxes shall be deferred when the county assessor has reassessed the property and a corrected tax bill is prepared or the county assessor has determined the property is not eligible for exclusion. Accordingly, the Assessor must reassess the property and determine whether the taxpayer is eligible for deferment. The Assessor must then confer with Treasurer Tax Collector following their determination because only the Treasurer Tax Collector may defer taxes and mail tax bills in Los Angeles County. "The A-C [Assessor-Controller] would track and provide auditing of SB 989 claims and fiscal impact for the State."<sup>54</sup>
- The test claim statute sets strict deadlines for when deferred property taxes become due. In order to comply with the timeline requirements, the Assessor created notification mechanisms for the applicant to verify receipt of deferment requests and to alert the Treasurer Tax Collector of parcels they must review for deferment eligibility. These reports are a necessary administrative process for accurately fulfilling the mandate. If a deferment application is received but no Base Year Value Exclusion claim was filed, the Assessor will notify the applicant that they are not eligible for deferment.<sup>55</sup>

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<sup>51</sup> Exhibit A, Test Claim, filed May 2, 2023, pages 12, 19 (Tellalyan Declaration).

<sup>52</sup> Exhibit A, Test Claim, filed May 2, 2023, pages 10-11, 21 (Herrera Declaration).

<sup>53</sup> Exhibit A, Test Claim, filed May 2, 2023, pages 10-11, 21-22 (Herrera Declaration).

<sup>54</sup> Exhibit A, Test Claim, filed May 2, 2023, pages 11, 22 (Herrera Declaration).

<sup>55</sup> Exhibit A, Test Claim, filed May 2, 2023, pages 11-12, 22 (Herrera Declaration).

- To ensure the Treasurer Tax Collector defers taxes for the appropriate amount of time, the Assessor must monitor approved tax-deferred parcels and notify the Treasurer Tax Collector when the deferment is no longer warranted.<sup>56</sup>

The claimant alleges increased costs to comply with the test claim statute backed by declarations signed under penalty of perjury. For the Assessor, the claimant alleges costs of \$9,092.48 for fiscal year 2022-2023 and estimated costs of \$22,397.44 for fiscal year 2023-2024.<sup>57</sup> For the Treasurer Tax Collector, the claimant alleges costs of \$50,857 for fiscal year 2022-2023 and estimated costs of \$25,000 for fiscal year 2023-2024.<sup>58</sup>

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

## **B. Department of Finance**

Finance summarizes Proposition 19 and the test claim statute but states no position on whether the test claim statute imposes a reimbursable state mandate. Finance comments that it is “unclear” why the Los Angeles County Treasurer-Tax Collector will incur costs after fiscal year 2022-2023 to include a brief summary of the Proposition 19 requirements on the property tax bills because doing so is a one-time cost.<sup>59</sup> Finance did not file comments on the Draft Proposed Decision.

## **IV. Discussion**

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

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

The purpose of article XIII B, section 6 is to “preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”<sup>60</sup> Thus, the subvention requirement of section 6 is “directed to state-mandated increases in the services provided by [local government] ...”<sup>61</sup>

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

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<sup>56</sup> Exhibit A, Test Claim, filed May 2, 2023, pages 12, 22 (Herrera Declaration).

<sup>57</sup> Exhibit A, Test Claim, filed May 2, 2023, pages, 13, 22-23 (Herrera Declaration).

<sup>58</sup> Exhibit A, Test Claim, filed May 2, 2023, pages 12-13, 19 (Tellalyan Declaration).

<sup>59</sup> Exhibit B, Finance’s Comments on the Test Claim, filed October 5, 2023, page 2.

<sup>60</sup> *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

<sup>61</sup> *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

1. A state statute or executive order requires or “mandates” local agencies or school districts to perform an activity.<sup>62</sup>
2. The mandated activity constitutes a “program” that either:
  - a. Carries out the governmental function of providing a service to the public; or
  - b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.<sup>63</sup>
3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.<sup>64</sup>
4. The mandated activity results in the local agency or school district incurring increased costs, within the meaning of section 17514. Increased costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.<sup>65</sup>

The Commission is vested with the exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution.<sup>66</sup> The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.<sup>67</sup> In making its decisions, the Commission must strictly construe article XIII B, section 6 of the California Constitution, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”<sup>68</sup>

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<sup>62</sup> *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874.

<sup>63</sup> *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875 (reaffirming the test set out in *County of Los Angeles* (1987) 43 Cal.3d 46, 56).

<sup>64</sup> *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835.

<sup>65</sup> *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

<sup>66</sup> *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 335.

<sup>67</sup> *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 109.

<sup>68</sup> *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1280 citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.



**A. The Test Claim Was Timely Filed with a Potential Period of Reimbursement Beginning September 28, 2022.**

Government Code section 17551 states that Test Claims must be filed “not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.”<sup>69</sup> Section 1183.1(c) of the Commission’s regulations defines “12 months” for purposes of filing a test claim as “365 days.”<sup>70</sup>

The test claim statute was an urgency statute that became effective on September 28, 2022.<sup>71</sup> The Test Claim was filed May 2, 2023, within 12 months of the effective date of the test claim statute, so it was timely filed.<sup>72</sup>

Government Code section 17557(e) requires that a test claim be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. Based on the May 2, 2023 filing date, reimbursement eligibility was established for the 2021-2022 fiscal year. However, due to the September 28, 2022 effective date of the test claim statute, the potential period of reimbursement begins on September 28, 2022.<sup>73</sup>

**B. The Test Claim Statute (Stats. 2022, ch. 712, SB 989) Imposes a Reimbursable State-Mandated Program on the County of Los Angeles.**

**1. Revenue and Taxation Code Sections 2610.8 and 2636.1 as Added by the Test Claim Statute Impose New Requirements Regarding Deferment and Disclosure.**

The purpose of article XIII B, section 6 is to prevent the state from forcing extra programs on local government each year in a manner that negates their careful budgeting of increased expenditures counted against the local government’s annual spending limit. Thus, article XIII B, section 6 requires a showing that the test claim statute mandates *new* activities on a county compared to preexisting law.<sup>74</sup>

The test claim statute added section 2636.1(a) to require a county to defer property taxes without penalty or interest if the property owner does both of the following:

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<sup>69</sup> Government Code section 17551(c).

<sup>70</sup> California Code of Regulations, title 2, section 1183.1(c), Register 2018, No. 18 (eff. April 1, 2018.)

<sup>71</sup> Statutes 2022, chapter 712, section 4.

<sup>72</sup> Exhibit A, Test Claim, filed May 2, 2023, page 1.

<sup>73</sup> Statutes 2022, chapter 712, section 4.

<sup>74</sup> California Constitution, articles XIII B, sections 1, 8(a) and (b); *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835; *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1595; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283; *Department of Finance v. Commission on State Mandates* (2016) 1 Cal.5th 749, 763.

- Claimed property tax relief under Revenue and Taxation code section 69.6 for the property [which implements the property tax relief under Proposition 19 for persons over 55, the severely disabled, and victims of a natural disaster], but the assessor has not yet determined the property’s eligibility for relief under that section.
- Requests deferment with the assessor within one calendar year, but before January 1, 2024, of receiving the first tax bill for the property.

Section 2636.1(b) states that payment of property taxes shall be deferred until either the county assessor reassesses the property and a corrected tax bill pursuant to section 69.6 is sent to the owner, or the assessor has determined the property is not eligible for exclusion under section 69.6 and has notified the property owner. The deferment provision does not apply to property taxes paid through impoundment accounts, and it sunsets on January 1, 2026.<sup>75</sup>

To “defer property taxes” means the assessor is required to “process requests for deferment” requested within one year of receiving the tax bill for the property, but by January 1, 2024, and defer payments until the property owner is sent a corrected tax bill or notice of ineligibility.<sup>76</sup>

The requirement to process deferment requests in section 2636.1 is new. Preexisting law sets strict deadlines and penalties for late property tax payments but did not authorize or require deferment when a property owner claims relief under Proposition 19 and section 69.6.<sup>77</sup>

The test claim statute also added a disclosure provision (§ 2610.8), which states that the following disclosures “shall be printed” on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill:

- A brief summary of the availability of the property tax relief under Section 69.6 (the Prop. 19 implementation statute), and
- A brief summary of deferment procedures under Section 2636.1.

The requirement to print the brief summaries of the property tax relief under Proposition 19 and section 69.6 and the deferment procedures required by section 2636.1 on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the previous year is new; it was not required by prior law.

Finance argues that the disclosure provision (§ 2610.8) imposes a one-time activity to disclose the brief summaries.<sup>78</sup> The Commission agrees that *developing* the language

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<sup>75</sup> Revenue and Taxation Code section 2636.1(d), (f) (“This section shall remain in effect only until January 1, 2026, and as of that date is repealed.”).

<sup>76</sup> Exhibit D (6), Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 989 (2021-2022) as amended August 15, 2022, page 6.

<sup>77</sup> Revenue and Taxation Code sections 2617, 2618.

<sup>78</sup> Exhibit B, Finance’s Comments on the Test Claim, filed October 5, 2023, page 2.

for the “brief summary” disclosures required by section 2610.8 may be a one-time activity.<sup>79</sup> However, printing the summary required by section 2610.8 on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill is ongoing. Although deferment requirements under section 2636.1 sunset on January 1, 2026, there is no sunset on the face of section 2610.8. That the property tax relief under Proposition 19 and section 69.6 remains in law indicates that disclosing that relief also continues. This is supported by the legislative history of the test claim statute.<sup>80</sup> The Senate Rules Committee analysis states that the bill: “Sunsets its property tax deferment provisions on January 1, 2026.”<sup>81</sup> Nothing is said about the bill’s disclosure provision. Similarly, the Assembly Appropriations Committee indicates that only the deferment section of SB 989 sunsets when it summarized the bill:

This bill requires, *until January 1, 2026*, property taxes to be deferred, without penalty or interest, if the property owner has claimed relief under Proposition 19, but the county assessor has not yet completed the determination of whether the property is eligible for that relief. This bill also requires applicable property tax bills to include information about Proposition 19 and deferment procedures.<sup>82</sup>

Based on the plain meaning of section 2610.8 and its legislative history, the Commission finds that printing the disclosure required on property tax bills is an ongoing activity.

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<sup>79</sup> The Declaration submitted in the Test Claim from the County’s Assistant Operations Chief of the Treasurer and Tax Collector Office (TTC) describes the activities required to comply with section 2610.8 to include printing and providing the disclosure as follows: “SB 989 § 1, subd. a and b as codified in RTC § 2610.8(a) requires TTC to print and provide a disclosure on each tax bill for properties that have been purchased, newly constructed, or changed in ownership in the year preceding the tax bill.” (Exhibit A, Test Claim, filed May 2, 2023, p. 19 (Tellalyan Declaration).) The claimant does not indicate in its Test Claim filing whether it developed the language for the brief summary disclosures, nor has the claimant provided evidence in the record that developing the language is reasonably necessary to comply with the mandate to print the summaries on the tax bills for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill.

<sup>80</sup> Under the rules of statutory interpretation, the Commission, like a court, first looks to the plain meaning of the statutory language and then to its legislative history. (*MacIsaac v. Waste Management Collection and Recycling, Inc.* (2005) 134 Cal.App.4th 1076, 1082.)

<sup>81</sup> Exhibit D (6), Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 989 (2021-2022) as amended August 15, 2022, page 4. Emphasis added.

<sup>82</sup> Exhibit D (1), Assembly Committee on Appropriations, Analysis of SB 989 (2021-2022) as amended June 29, 2022, page 1. Emphasis added.

The claimant also requests reimbursement for the assessor to reassess the property because the test claim statute “states that property taxes shall be deferred when the county assessor has reassessed the property and a corrected tax bill is prepared or the county assessor has determined the property is not eligible for exclusion.”<sup>83</sup> However, the requirement to reassess whether the property is eligible for a base year transfer and exclusion from a full reassessment of the newly purchased or constructed property is required by section 69.6 (Stats. 2021, ch. 427, eff. Sept. 30, 2021), and not the test claim statute. Additionally, sending a corrected tax bill for properties that are eligible for a base year transfer under section 69.6 or determining that the property owner is not eligible for relief under section 69.6 is not new.<sup>84</sup> And notifying the property owner of the property’s new base year value was also legally required before the test claim statute.<sup>85</sup>

Accordingly, only the following activities are newly required of a county:

- Process deferment requests of property tax payments if received within one year of the first tax bill but before January 1, 2024, and defer payments that are *not* paid through impoundment accounts until either the county assessor reassesses the property and a corrected tax bill pursuant to section 69.6 is sent to the owner, or the assessor has determined the property is not eligible for exclusion under section 69.6 and has notified the property owner.<sup>86</sup>
- Print the following disclosures on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill:
  - A brief summary of the availability of the property tax relief under Revenue and Taxation Code section 69.6 (the Prop. 19 implementation statute), and
  - A brief summary of deferment procedures under Revenue and Taxation Code section 2636.1.<sup>87</sup>

**2. The New Requirements Imposed by the Test Claim Statute (Stats. 2022, ch. 712, SB 989) Are Mandated by the State Solely on the County of Los Angeles and Not Other Counties That Adopt Resolutions to Implement the Test Claim Statute.**

Sections 2610.8 and 2636.1 both state that “[t]his section shall apply to counties with a population of over 4,000,000, as determined by the 2020 federal census.”<sup>88</sup> Only the

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<sup>83</sup> Exhibit A, Test Claim, filed May 2, 2023, page 11.

<sup>84</sup> See California Code of Regulations, title 18, section 462.540(d)(2).

<sup>85</sup> Revenue and Taxation Code section 75.31 (Stats. 2010, ch. 185).

<sup>86</sup> Revenue and Taxation Code section 2636.1.

<sup>87</sup> Revenue and Taxation Code section 2610.8.

<sup>88</sup> Revenue and Taxation Code sections 2610.8(b)(1), 2636.1(e)(1).

County of Los Angeles meets this definition.<sup>89</sup> The test claim statute further authorizes other counties to opt into the requirements by passing a resolution:

This section shall not apply to a county with a population of 4,000,000 or less, as determined by the 2020 federal census, unless the county's board of supervisors, after consultation with the county assessor, county auditor, county treasurer, and county tax collector, pass a resolution implementing the requirements of this section.<sup>90</sup>

The California Supreme Court explained that determining whether requirements are mandated by the state depends on whether the claimant's participation in the underlying program is voluntary or compelled.<sup>91</sup> Activities undertaken at the option or discretion of local government, without legal or practical compulsion, do not trigger a state-mandated program within the meaning of article XIII B, section 6.<sup>92</sup>

The California Supreme Court later expounded on the two distinct theories – legal or practical compulsion - for determining whether a program is mandated by the state. In the recent case of *Coast Community College Dist.*, the Court said:

Legal compulsion occurs when a statute or executive action uses mandatory language that require[s] or command[s] a local entity to participate in a program or service... Stated differently, legal compulsion is present when the local entity has a mandatory, legally enforceable duty to obey. This standard is similar to the showing necessary to obtain a traditional writ of mandate, which requires the petitioning party to establish the respondent has a clear, present, and usually ministerial duty to act. ... Mandate will not issue if the duty is ... mixed with discretionary power.

Thus, as a general matter, a local entity's voluntary or discretionary decision to undertake an activity cannot be said to be legally compelled, even if that decision results in certain mandatory actions.

[¶] . . . [¶]

“[P]ractical compulsion,” [is] a theory of mandate that arises when a statutory scheme does not command a local entity to engage in conduct, but rather induces compliance through the imposition of severe

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<sup>89</sup> Exhibit D (3), Assembly Floor, Analysis of SB 989 (2021-2022) as amended August 15, 2022, page 1.

<sup>90</sup> Revenue and Taxation Code sections 2610.8(b)(2) and 2631.1(e)(2) (Stats. 2022, ch. 712).

<sup>91</sup> *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 731, 743.

<sup>92</sup> *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727 731, 743.

consequences that leave the local entity no reasonable alternative but to comply.<sup>93</sup>

Thus, in the absence of legal compulsion, the courts have acknowledged the possibility that a state mandate can be found if local government can show that it faces “certain and severe penalties, such as double taxation or other draconian consequences,” leaving local government no choice but to comply with the state’s conditions.<sup>94</sup>

Here, based on the plain language of the test claim statute, the new requirements are mandated by the state on the County of Los Angeles; the only county “with a population of over 4,000,000, as determined by the 2020 federal census.”<sup>95</sup> According to section 16, “‘Shall’ is mandatory and ‘may’ is permissive.” The plain language of section 2636.1(a) states that “payment of property taxes for a property *shall* be deferred, without penalty or interest . . .” if the property owner makes a timely claim under section 69.6 and the assessor has not yet determined the property’s eligibility for tax relief under section 69.6. Similarly, section 2610.8(a) states that “a disclosure *shall* be printed on each tax bill for properties that have been purchased, newly constructed, or changed in ownership in the year preceding the tax bill.”

However, other counties have a choice whether to participate in the program. The plain language indicates that the requirements of the statute do not apply to any county with a population of four million or less “unless the county board of supervisors, after consultation with the county assessor, county auditor, county treasurer, and county tax collector, pass a resolution implementing the requirements of this section”.<sup>96</sup> There is no evidence in the record that other counties are practically compelled to comply with the test claim statute. Thus, counties that pass a resolution to implement the test claim statute are not mandated by the state to comply with the downstream requirements resulting from their local decision.<sup>97</sup>

In sum, the Commission finds that the test claim statute imposes new state-mandated requirements on the County of Los Angeles to:

- Process deferment requests of property tax payments if received within one year of the first tax bill but before January 1, 2024, and defer without penalty or interest payments that are not paid through impoundment accounts until either the county assessor reassesses the property and a corrected tax bill pursuant to section 69.6 is sent to the owner, or the assessor has determined the property is

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<sup>93</sup> *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 816.

<sup>94</sup> *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 816-817.

<sup>95</sup> Exhibit D (3), Assembly Floor, Analysis of SB 989 (2021-2022) as amended August 15, 2022, page 1.

<sup>96</sup> Revenue and Taxation Code sections 2610.8(b)(2) and 2631.1(e)(2).

<sup>97</sup> *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th. 727, 731, 743.

not eligible for exclusion under section 69.6 and has notified the property owner.<sup>98</sup>

- Print the following disclosures on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill:
  - A brief summary of the availability of the property tax relief under Revenue and Taxation Code section 69.6 (the Prop. 19 implementation statute), and
  - A brief summary of the deferment procedures under Revenue and Taxation Code section 2636.1.<sup>99</sup>

The claimant also seeks reimbursement for other activities and costs that are not mandated by the plain language of the test claim statute.<sup>100</sup> *Except* for the activities discussed above that are required by other statutes and are not new, the activities the claimant requests may be proposed for inclusion in the Parameters and Guidelines if they are supported by evidence in the record showing they are “reasonably necessary for the performance of the state-mandated program.”<sup>101</sup>

### **3. The Newly Mandated Activities Constitute a New Program or Higher Level of Service Because They Are Unique to Government and Provide an Increased Level of Service to the Public.**

Article XIII B, section 6 requires reimbursement whenever the Legislature or any state agency mandates a new program or higher level of service that results in costs mandated by the state. “New program or higher level of service” is defined as “programs that carry 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.”<sup>102</sup> Only one of these alternatives is required to establish a new program or higher level of service.<sup>103</sup>

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<sup>98</sup> Revenue and Taxation Code section 2636.1.

<sup>99</sup> Revenue and Taxation Code section 2610.8.

<sup>100</sup> Exhibit A, Test Claim, filed May 2, 2023, pages 10-12.

<sup>101</sup> Government Code section 17557(a), and California Code of Regulations, title 2, sections 1183.7(d) and 1187.5.

<sup>102</sup> *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537; *Department of Finance v. Commission on State Mandates* (2021) 59 Cal.App.5th 546, 557.

<sup>103</sup> *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537; *Department of Finance v. Commission on State Mandates* (2021) 59 Cal.App.5th 546, 557.

As explained above, the mandated activities in the test claim statute are new. In addition, the Commission finds that the test claim statute is unique to government. As explained above, the requirements apply solely to Los Angeles County.<sup>104</sup>

The new activities in the test claim statute also provide a governmental service to the public. As noted in the legislative history, the test claim statute was intended to alleviate the burdens of taxpayers who, despite submitting a claim for property tax transfer of value, may receive a higher bill than expected due to claims processing backlogs.<sup>105</sup> The legislative history also states: “This is why SB 989 is necessary. To give taxpayers the ability to temporarily pause their tax bill while an assessment is under review and to make people aware of these remedies to their burdens.”<sup>106</sup>

Thus, the Commission finds that the newly mandated activities constitute a new program or higher level of service.

#### **4. The Test Claim Statute (Stats. 2022, ch. 712, SB 989) Results in Costs Mandated by the State and no Exceptions in Government Code Section 17556 Apply.**

The last issue is whether these new activities result in increased costs mandated by the state. Government Code section 17514 defines “costs mandated by the state” as any increased cost that a local agency or school district incurs as a result of any statute or executive order that mandates a new program or higher level of service. Government Code section 17564(a) further requires that no claim nor any payment shall be made unless the claim exceeds \$1,000. In addition, a finding of costs mandated by the state means that none of the exceptions in Government Code section 17556 apply to deny the claim.

The claimant alleges the following increased costs to comply with the test claim statute backed by submitted declarations signed under penalty of perjury:

	<b>FY 2022-2023</b>	<b>FY 2023-2024</b>
Assessor <sup>107</sup>	\$9,092.48	\$22,397.44 estimated
Treasurer Tax Collector <sup>108</sup>	\$50,857	\$25,000 estimated

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<sup>104</sup> Revenue and Taxation Code sections 2610.8(b)(1), 2636.1(e)(1). Exhibit D (3), Assembly Floor, Analysis of SB 989 (2021-2022) as amended August 15, 2022, page 1.

<sup>105</sup> Exhibit D (6), Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 989 (2021-2022) as amended August 15, 2022, page 5.

<sup>106</sup> Exhibit D (6), Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 989 (2021-2022) as amended August 15, 2022, page 6.

<sup>107</sup> Exhibit A, Test Claim, filed May 2, 2023, pages 13, 22-23 (Herrera Declaration).

<sup>108</sup> Exhibit A, Test Claim, filed May 2, 2023, pages 12-13, 19 (Tellalyan Declaration).



No law or facts in the record support a finding that the exceptions specified in Government Code section 17556 apply to this claim. There is nothing in the record to indicate that additional funds have been made available for the new state-mandated activities,<sup>109</sup> nor do counties have fee authority to pay the costs of the program.<sup>110</sup> Given the evidence in the record, the Commission finds that the test claim statute imposes increased costs mandated by the state within the meaning of article XIII B, section 6 and Government Code section 17514.

## **V. Conclusion**

Based on the foregoing, the Commission approves this Test Claim and finds that the test claim statute imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution on the County of Los Angeles, beginning September 28, 2022, to do the following:

- Process deferment requests of property tax payments if received within one year of the first tax bill but before January 1, 2024, and defer without penalty or interest payments that are not paid through impoundment accounts until either the county assessor reassesses the property and a corrected tax bill pursuant to section 69.6 is sent to the owner, or the assessor has determined the property is not eligible for exclusion under section 69.6 and has notified the property owner.<sup>111</sup>
- Print the following disclosures on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill:
  - A brief summary of the availability of the property tax relief under Revenue and Taxation Code section 69.6 (the Prop. 19 implementation statute), and
  - A brief summary of the deferment procedures under Revenue and Taxation Code section 2636.1.<sup>112</sup>

These requirements are not mandated by the state and are not reimbursable for counties that pass a resolution implementing the requirements of the test claim statute.<sup>113</sup>

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<sup>109</sup> Government Code section 17556(e).

<sup>110</sup> Government Code section 17556(d).

<sup>111</sup> Revenue and Taxation Code section 2636.1 (Stats. 2022, ch. 712).

<sup>112</sup> Revenue and Taxation Code section 2610.8 (Stats. 2022, ch. 712).

<sup>113</sup> Revenue and Taxation Code sections 2610.8(b)(2) and 2631.1(e)(2) (Stats. 2022, ch. 712); *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 743; *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 807, 815.

## **DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

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

On August 1, 2024, I served the:

- **Current Mailing List dated July 22, 2024**
- **Draft Expedited Parameters and Guidelines, Schedule for Comments, and Notice of Hearing issued August 1, 2024**
- **Decision adopted July 26, 2024**

*Disclosure Requirements and Deferral of Property Taxation, 22-TC-06*  
Statutes 2022, Chapter 712 (SB 989); Revenue and Taxation Code Sections 2610.8 and 2636.1  
County of Los Angeles, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on August 1, 2024 at Sacramento, California.



---

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

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 7/22/24

**Claim Number:** 22-TC-06

**Matter:** Disclosure Requirements and Deferral of Property Taxation

**Claimant:** County of Los Angeles

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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

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August 1, 2024

## Exhibit B

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Ms. Natalie Sidarous  
State Controller's Office  
Local Government Programs and  
Services Division  
3301 C Street, Suite 740  
Sacramento, CA 95816

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

**Re: Draft Expedited Parameters and Guidelines, Schedule for Comments, and Notice of Tentative Hearing Date**

*Disclosure Requirements and Deferral of Property Taxation, 22-TC-06*  
Statutes 2022, Chapter 712 (SB 989); Revenue and Taxation Code Sections  
2610.8 and 2636.1  
County of Los Angeles, Claimant

Dear Mr. Lemus and Ms. Sidarous:

On July 26, 2024, the Commission on State Mandates (Commission) adopted the Decision partially approving the Test Claim on the above-entitled matter.

State law provides that reimbursement, if any, is subject to Commission approval of parameters and guidelines for reimbursement of the mandated program, approval of a statewide cost estimate, a specific legislative appropriation for such purpose, a timely-filed claim for reimbursement, and subsequent review of the reimbursement claim by the State Controller's Office.

Following is a description of the responsibilities of all parties and of the Commission during the parameters and guidelines phase.

### **Draft Expedited Parameters and Guidelines**

Pursuant to California Code of Regulations, title 2, section 1183.9, Commission staff has expedited the parameters and guidelines process by preparing Draft Expedited Parameters and Guidelines to assist the claimant. The proposed reimbursable activities have been limited to those approved in the Decision by the Commission. Reasonably necessary activities to perform the mandated activities may be proposed by the parties. (Cal. Code Regs., tit. 2, §1183.7(d).) "Reasonably necessary activities" are those activities necessary to comply with the statutes, regulations and other executive orders found to impose a state-mandated program (Cal. Code Regs., tit. 2, §1183.7(d).) Whether an activity is reasonably necessary is a mixed question of law and fact. All representations of fact to support any proposed reasonably necessary activities shall be supported by documentary evidence submitted in accordance with section 1187.5 of the Commission's regulations.

### **Review of Draft Expedited Parameters and Guidelines**

Proposed modifications and comments may be filed on the Draft Expedited Parameters and Guidelines no later than **5:00 pm on August 22, 2024**. (Cal. Code Regs., tit. 2, §1183.9(b).) Please note that all representations of fact submitted to the Commission

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must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge, information, or belief. (Cal. Code Regs., tit. 2, §1187.5.) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.<sup>1</sup>

#### Rebuttals

Written rebuttals may be filed within 15 days of service of comments. (Cal. Code Regs., tit. 2, § 1183.9(c).)

#### **Draft Proposed Decision and Parameters and Guidelines**

If there are no substantive comments filed by the comment deadline, then no Draft Proposed Decision will be prepared or issued for comment and the matter will be set for the next regularly scheduled hearing, pursuant to section 1183.9(d) of the Commission's regulations. If substantive comments are filed, Commission staff will review the Draft Expedited Parameters and Guidelines, comments, and any rebuttals and will prepare a Draft Proposed Decision and Parameters and Guidelines, which will be issued for comment.

#### **Alternative Process: Joint Reasonable Reimbursement Methodology and Statewide Estimate of Costs**

##### Test Claimant and Department of Finance Submission of Letter of Intent

Within 30 days of the Commission's adoption of a decision on a test claim, the test claimant and the Department of Finance may notify the executive director of the Commission in writing of their intent to follow the process described in Government Code sections 17557.1–17557.2 and section 1183.11 of the Commission's regulations to develop a *joint reasonable reimbursement methodology* and *statewide estimate of costs* for the initial claiming period and budget year for reimbursement of costs mandated by the state. The written notification shall provide all information and filing dates as specified in Government Code section 17557.1(a).

##### Test Claimant and Department of Finance Submission of Draft Reasonable Reimbursement Methodology and Statewide Estimate of Costs

Pursuant to the plan, the test claimant and the Department of Finance shall submit the *Draft Reasonable Reimbursement Methodology and Statewide Estimate of Costs* to the Commission. See Government Code section 17557.1 for guidance in preparing and filing a timely submission.

##### Review of Proposed Reasonable Reimbursement Methodology and Statewide Estimate of Costs

Upon receipt of the jointly developed proposals, Commission staff shall notify all

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<sup>1</sup> Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

recipients that they shall have the opportunity to review and provide written comments concerning the draft reasonable reimbursement methodology and proposed statewide estimate of costs within 15 days of service. The test claimant and Department of Finance may submit written rebuttals to Commission staff.

Adoption of Reasonable Reimbursement Methodology and Statewide Estimate of Costs

At least 10 days prior to the next hearing, Commission staff shall review comments and rebuttals and issue a staff recommendation on whether the Commission should approve the draft reasonable reimbursement methodology and adopt the proposed statewide estimate of costs pursuant to Government Code section 17557.2.

**Alternative Process: Reasonable Reimbursement Methodology Proposed for Inclusion in Parameters and Guidelines**

Government Code section 17518.5 provides a process for a reasonable reimbursement methodology to be proposed by the Department of Finance, the State Controller, an affected state agency, the claimant, or an interested party for inclusion in the parameters and guidelines of an amendment to parameters and guidelines. In this context, Government Code section 17518.5 defines “reasonable reimbursement methodology” as a formula for reimbursing local agencies and school districts for costs mandated by the state, as defined in Section 17514 which shall:

- Be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies and school districts, or other projections of local costs.
- Consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner, and
- Whenever possible, be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.

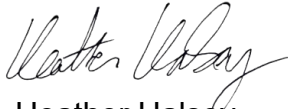
You are advised that comments filed with the Commission are required to be electronically filed (e-filed) in an unlocked legible and searchable PDF file, using the Commission’s Dropbox. (Cal. Code Regs., tit. 2, § 1181.3(c)(1).) Refer to <https://www.csm.ca.gov/dropbox.shtml> on the Commission’s website for electronic filing instructions. If e-filing would cause the filer undue hardship or significant prejudice, filing may occur by first class mail, overnight delivery or personal service only upon prior approval of a written request to the executive director. (Cal. Code Regs., tit. 2, § 1181.3(c)(2).)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission’s regulations.

## Hearing

The Proposed Decision and Parameters and Guidelines for this matter are tentatively set for hearing on **Friday, September 27, 2024**, at 10:00 a.m., and will be issued on or about September 13, 2024, but may be heard on **Friday, November 22, 2024**, at 10:00 a.m., and will be issued on or about November 8, 2024, if substantive comments are filed by the comment deadline.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Halsey", written in a cursive style.

Heather Halsey  
Executive Director

## **DRAFT EXPEDITED PARAMETERS AND GUIDELINES**

Revenue and Taxation Code Sections 2610.8 and 2636.1

Statutes 2022, Chapter 712 (SB 989)

### ***Disclosure Requirements and Deferral of Property Taxation***

**22-TC-06**

County of Los Angeles, Claimant

Period of reimbursement begins September 28, 2022

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#### **I. SUMMARY OF THE MANDATE**

These Parameters and Guidelines address Statutes 2022, chapter 712 (the test claim statute) that added sections 2610.8 and 2636.1 to the Revenue and Taxation Code, effective September 28, 2022.<sup>1</sup>

Section 2636.1 requires a county with a population over four million as determined by the 2020 census, and counties that opt into the requirements by passing a resolution, to defer property tax payments without penalty or interest for property owners claiming relief under Proposition 19 and section 69.6 (the Prop. 19 implementation statute) until the county assessor determines their claim. Deferment requests must be filed with the county within one year of receiving the first tax bill for the replacement property, but before January 1, 2024. Proposition 19 (November 2020) allows, beginning April 1, 2021, property owners who are over 55, severely disabled, or victims of a wildfire or natural disaster, to transfer the taxable base year value of their primary residence to a replacement primary residence located anywhere in the state within two years of the sale of the original primary residence to prevent or mitigate increased property taxes when these property owners move or rebuild.<sup>2</sup> Property owners seeking relief under Proposition 19 and section 69.6 must file a claim with the county assessor where the replacement primary residence is located.<sup>3</sup> Section 2636.1 sunsets on January 1, 2026.<sup>4</sup>

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<sup>1</sup> Statutory references are to the Revenue and Taxation Code unless otherwise indicated.

<sup>2</sup> California Constitution, article XIII A, section 2.1(b)(1).

<sup>3</sup> Revenue and Taxation Code section 69.6(c)(1), (e)(1). California Constitution article XIII A, section 2.1(b)(4).

<sup>4</sup> Revenue and Taxation Code 2636.1(f).

Section 2610.8, which does not sunset, requires the same county of over four million population and counties that opt in to print brief summaries on property tax bills about the availability of Proposition 19 base year value transfers and tax deferment under section 2636.1.

On July 26, 2024, the Commission on State Mandates (Commission) adopted a Decision finding that the test claim statute imposes a reimbursable state-mandated program on the County of Los Angeles, the only county with a population over four million as determined by the 2020 census, within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, beginning September 28, 2022, for the following reimbursable activities:

- Process deferment requests of property tax payments if received within one year of the first tax bill but before January 1, 2024, and defer without penalty or interest payments that are not paid through impoundment accounts until either the county assessor reassesses the property and a corrected tax bill pursuant to section 69.6 is sent to the owner, or the assessor has determined the property is not eligible for exclusion under section 69.6 and has notified the property owner.<sup>5</sup>
- Print the following disclosures on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill:
  - A brief summary of the availability of the property tax relief under Revenue and Taxation Code section 69.6 (the Prop. 19 implementation statute), and
  - A brief summary of the deferment procedures under Revenue and Taxation Code section 2636.1.<sup>6</sup>

These requirements are not mandated by the state and are not reimbursable for counties that pass a resolution implementing the requirements of the test claim statute.<sup>7</sup>

## **II. ELIGIBLE CLAIMANTS**

The County of Los Angeles is eligible to claim reimbursement for the increased costs incurred as a result of this mandate to the extent the County's costs are paid from proceeds of taxes.

## **III. PERIOD OF REIMBURSEMENT**

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The

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<sup>5</sup> Revenue and Taxation Code section 2636.1 (Stats. 2022, ch. 712).

<sup>6</sup> Revenue and Taxation Code section 2610.8 (Stats. 2022, ch. 712).

<sup>7</sup> Revenue and Taxation Code sections 2610.8(b)(2) and 2631.1(e)(2) (Stats. 2022, ch. 712); *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 743; *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 807, 815.

claimant filed the Test Claim on May 2, 2023, establishing eligibility for reimbursement for the 2021-2022 fiscal year. However, the test claim statute was an urgency statute that became effective on September 28, 2022.<sup>8</sup> Therefore, costs incurred are reimbursable on or after September 28, 2022.

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

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

#### **IV. REIMBURSABLE ACTIVITIES**

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event, or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities

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<sup>8</sup> Statutes 2022, chapter 712, section 4.



otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

The following activities are reimbursable beginning September 28, 2022:

- A. Process deferment requests of property tax payments if received within one year of the first tax bill but before January 1, 2024, and defer without penalty or interest payments that are not paid through impoundment accounts until either the county assessor reassesses the property and a corrected tax bill pursuant to section 69.6 is sent to the owner, or the assessor has determined the property is not eligible for exclusion under section 69.6 and has notified the property owner.<sup>9</sup>
- B. Print the following disclosures on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill:
  1. A brief summary of the availability of the property tax relief under Revenue and Taxation Code section 69.6 (the Prop. 19 implementation statute), and
  2. A brief summary of the deferment procedures under Revenue and Taxation Code section 2636.1.<sup>10</sup>

## **V. CLAIM PREPARATION AND SUBMISSION**

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV., Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

### **A. Direct Cost Reporting**

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

#### **1. Salaries and Benefits**

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

#### **2. Materials and Supplies**

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the

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<sup>9</sup> Revenue and Taxation Code section 2636.1 (Stats. 2022, ch. 712).

<sup>10</sup> Revenue and Taxation Code section 2610.8 (Stats. 2022, ch. 712).

actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

### 3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

### 4. Fixed Assets

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

## B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both: (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement in accordance with the Office of Management and Budget Circular 2 CFR, Chapter I and Chapter II, Part 200 et al. Claimants have the option of using 10 percent of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10 percent.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be: (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.); (2) direct salaries and wages; or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) shall be accomplished by: (1) classifying a department's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage that the total amount of allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) shall be accomplished by: (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount of allowable indirect costs bears to the base selected.

## **VI. RECORD RETENTION**

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed pursuant to this chapter<sup>11</sup> is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV., must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

## **VII. OFFSETTING REVENUES AND REIMBURSEMENTS**

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, state and federal funds, any service charge, fee, or assessment authority to offset all or part of the costs of this program, and any other funds that are not the claimant's proceeds of taxes shall be identified and deducted from any claim submitted for reimbursement.

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<sup>11</sup> This refers to title 2, division 4, part 7, chapter 4 of the Government Code.

## **VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS**

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

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

## **IX. REMEDIES BEFORE THE COMMISSION**

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

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

## **X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES**

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

## **DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

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

On August 1, 2024, I served the:

- **Current Mailing List dated July 22, 2024**
- **Draft Expedited Parameters and Guidelines, Schedule for Comments, and Notice of Hearing issued August 1, 2024**
- **Decision adopted July 26, 2024**

*Disclosure Requirements and Deferral of Property Taxation, 22-TC-06*  
Statutes 2022, Chapter 712 (SB 989); Revenue and Taxation Code Sections  
2610.8 and 2636.1  
County of Los Angeles, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on August 1, 2024 at Sacramento, California.



---

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

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 7/22/24

**Claim Number:** 22-TC-06

**Matter:** Disclosure Requirements and Deferral of Property Taxation

**Claimant:** County of Los Angeles

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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

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## Exhibit C

**RECEIVED**  
August 20, 2024  
**Commission on  
State Mandates**

MALIA M. COHEN  
CALIFORNIA STATE CONTROLLER

August 20, 2024

Heather Halsey, Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

**SUBJECT: Draft Expedited Parameters and Guidelines, Schedule for Comments, and  
Notice of Tentative Hearing Date**

*Disclosure Requirements and Deferral of Property Taxation, 22-TC-06*  
Statutes 2022, Chapter 712 (SB 989); Revenue and Taxation Code Sections  
2610.8 and 2636.1  
County of Los Angeles, Claimant

Dear Heather Halsey:

The State Controller's Office reviewed the Draft Expedited Parameters and Guidelines for Disclosure Requirements and Deferral of Property Taxation and recommend no changes.

If you have any questions, please contact Edoneia Valdez, Local Reimbursements Section, Local Government Programs and Services Division, by email at [evaldez@sco.ca.gov](mailto:evaldez@sco.ca.gov), or by telephone at 916-283-7753.

Sincerely,

*Darryl Mar*

Darryl Mar  
Manager, Local Reimbursements Section

## **DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

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


On August 20, 2024, I served the:

- **Current Mailing List dated August 15, 2024**
- **Controller's Comments on the Draft Expedited Parameters and Guidelines filed August 20, 2024**

*Disclosure Requirements and Deferral of Property Taxation, 22-TC-06*  
Statutes 2022, Chapter 712 (SB 989); Revenue and Taxation Code Sections  
2610.8 and 2636.1  
County of Los Angeles, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on August 20, 2024 at Sacramento, California.



David Chavez  
Commission on State Mandates  
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(916) 323-3562

## COMMISSION ON STATE MANDATES

### Mailing List

**Last Updated:** 8/15/24

**Claim  
Number:** 22-TC-06

**Matter:** Disclosure Requirements and Deferral of Property Taxation

**Claimant:** County of Los Angeles

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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## **DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

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

On August 20, 2024, I served the:

- **Current Mailing List dated August 15, 2024**
- **Controller's Comments on the Draft Expedited Parameters and Guidelines filed August 20, 2024**

*Disclosure Requirements and Deferral of Property Taxation, 22-TC-06*  
Statutes 2022, Chapter 712 (SB 989); Revenue and Taxation Code Sections  
2610.8 and 2636.1  
County of Los Angeles, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on August 20, 2024 at Sacramento, California.



David Chavez  
Commission on State Mandates  
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Sacramento, CA 95814  
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### Mailing List

**Last Updated:** 8/15/24

**Claim  
Number:** 22-TC-06

**Matter:** Disclosure Requirements and Deferral of Property Taxation

**Claimant:** County of Los Angeles

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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

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