

ITEM 15
EXECUTIVE DIRECTOR'S REPORT
Workload, Budget, Legislation,
and Next Agenda

I. WORKLOAD

A. Pending Caseload

Type of Action	September 10, 2004	July 9, 2004	September 4, 2003
Test Claims to be Heard and Determined	109	117	121
Test Claims to be Reconsidered	0	0	1
Test Claims to be Reconsidered Based on Court Action	3	2	Not previously reported
Test Claims to be Reconsidered, as Directed by the Legislature	9	Not previously reported	Not previously reported
Incorrect Reduction Claims to be Heard and Determined	79	79	76
Proposed Parameters and Guidelines, and Amendments	28	29	35
Parameters and Guidelines to be Reconsidered, as Directed by the Legislature	1	Not previously reported	Not previously reported
Statewide Cost Estimates to be Adopted	11	14	7
New Test Claim Filings to be Reviewed	0	0	1
Appeals of Executive Director's Decision	0	0	0
Regulatory Actions Pending	0	0	1

B. Test Claims To Be Heard And Determined By Filing Date

Filing Date	Total New Filings	Pending School Test Claims	Pending Local Agency Test Claims	Total Pending Test Claims
Pre-1996-97		0	2 ¹	2
1996-97	15	4 ²	0	4
1997-98	25	1	0	1
1998-99	27	3	1	4
1999-00	15	2	1	3
2000-01	28	3	6	9
2001-02	30	8	15	23
2002-03	51	30	13	43
2003-04	30	9	11	20
		60	49	109

Source: Commission on State Mandates, Pending Test Claim Determinations: School Districts and Local Agencies, August 2, 2004. (See Exhibit A)

C. New Workload: Test Claim Decisions To Be Reconsidered, As Directed By Court Decision or New Legislation

The courts have directed reconsideration of three test claim decisions; the Legislature has directed reconsideration of eleven test claim decisions, as detailed below:

Type of Action	Reconsideration of Decisions
Court Remand	<i>School Bus Safety II</i>
Court Remand	<i>Standardized Emergency Management Systems</i>
Court Remand	<i>Expulsions</i>
SB 1102 (Stats. 2004, ch. 2227)	<i>Regional Housing Needs Determinations (4 Test Claims)</i>
SB 1108 (Stats. 2004, ch. 211, eff. Aug 16, 2004)	<i>Standardized Testing and Reporting (STAR)</i>
AB 2851 (Stats. 2004, ch. 316)	<i>Sex Offenders: Disclosure by Law Enforcement Officers (Megan's Law)</i>
AB 2851 (Stats. 2004, ch. 316)	<i>Extended Commitment: Youth Authority</i>
AB 2851 (Stats. 2004, ch. 316)	<i>Brown Act Reform</i>
AB 2851 (Stats. 2004, ch. 316)	<i>Photographic Record of Evidence</i>
AB 2855 (Governor's Desk)	<i>School Accountability Report Cards</i>
SB 1895 (Governor's Desk)	<i>Handicapped & Disabled Students</i>

¹ These two test claims were inactive, then assumed by new claimants.

² Commission staff postponed these test claims because the California Supreme Court agreed to review the *Expulsions* test claim.

II. BUDGET

A. Commission Budget

1. For 2004-05, the Commission on State Mandates (CSM) is budgeted at \$1.189 million, 9.7 personnel years. (In 2001-02 the Commission was budgeted for \$1.712 million, and 16.5 positions.)
2. SB 1033. No funding is included for CSM to hear and determine county applications for findings of significant financial distress. A request for funding a deficiency was filed with the Department of Finance to allow the CSM to hear Butte County's application when it is filed.
3. Test Claim Backlog. The Commission's budget is inadequate to address the backlog of 109 pending test claims; to comply with statutory timelines for test claim determinations; to reconsider prior decisions; and to implement mandate reform legislation. We estimate that with current staffing, the caseload backlog will not be completed for six years.
4. Budget Change Proposal. Commission staff is preparing a Budget Change Proposal (BCP) to address the backlog and new workload within the prescribed statutory timelines. The legislation described below will require the Commission to reconsider 11 prior decisions and the parameters and guidelines for those decisions by July 1, 2006. The legislation modifies or repeals 13 mandates, which will require the Commission to amend the parameters and guidelines for those mandates. Commission staff also estimates that ten new test claims will be filed in 2004-2005. Therefore, we are preparing a BCP that will allow the Commission to eliminate the backlog, and complete the new workload within two years.

B. Mandate Reimbursements

1. Local Agencies. Appropriations were made for two programs: *Animal Adoption* (\$13.9 million) and *Handicapped and Disabled Students* (\$69 million); all other local agency mandates were deferred or suspended.
2. School Districts: For 2003-04 fiscal year, \$58.396 million was appropriated for payment of prior year state obligations for education mandate claims and interest. Also, 39 programs were deferred and 5 programs were suspended.

C. Budget Trailer Bills

1. SB 1096, Local Government Finance Trailer Bill (Gov. Code, § 17617, as added by Stats. 2004, ch. 211, effective August 5, 2004)
 - Codifies the state's promise to begin appropriating for payment over a period of not more than five years, beginning with the Budget Act of 2006-07, the total amount due to each city, county, city and county, and special district, for which the state has determined, as of June 30, 2005, that reimbursement is

required under article XIII B, section 6 of the California Constitution.

2. SB 1102, General Government Trailer Bill (Stats. 2004, ch. 227, effective August 16, 2004)
 - ❑ Modifies several long-time suspended local agency mandates, by making implementation optional.
 - ❑ Directs CSM reconsideration of 4 prior Board of Control decisions on *Regional Housing Needs Determinations (3916, 3758, 3760, 3929)* and amendment of parameters and guidelines for consistency.
 - ❑ Requires CSM to amend applicable parameters and guidelines to conform to the provisions of this local government trailer bill.
3. SB 1108, Education Budget Trailer Bill (Stats. 2004, ch. 216, effective August 16, 2004)
 - ❑ Authorizes the state to suspend the following education mandates with a “0” appropriation in the budget act: *Investment Reports, Law Enforcement Sexual Harassment Training, and County Treasury Oversight Committees.*
 - ❑ Directs CSM reconsideration of its prior decision regarding the *STAR*-testing mandate, in light of federal statutes and new case law.
 - ❑ Appropriates \$58,396,000 to the Controller to pay for prior year state obligations for education mandate claims and interest, as specified. The Controller is directed to use the funds to pay for the oldest claims of those no longer subject to audit, including accrued interest.
4. SCA 4 (Proposition 1A). This proposed constitutional amendment is on the November ballot.

The Legislative Analyst’s summary states:

- ❑ The measure amends the State Constitution to require the state to suspend certain state laws creating mandates in any year that the state does not fully reimburse local governments for their costs to comply with the mandates. Specifically, beginning July 1, 2005, the measure requires the state to either fully fund each mandate affecting cities, counties, and special districts or suspend the mandate’s requirements for the fiscal year. This provision does not apply to mandates relating to schools or community colleges or to those mandates relating to employee rights.
- ❑ The measure also appears to expand the circumstances under which the state would be responsible for reimbursing cities, counties, and special districts for carrying out new state requirements. Specifically, the measure defines as a mandate state actions that transfer to local governments financial

responsibility for a required program for which the state previously had complete or partial financial responsibility. Under current law, some such transfers of financial responsibilities may not be considered a state mandate.

- Because the measure appears to expand the circumstances under which the state is required to reimburse local agencies, the measure may increase future state costs or alter future state actions regarding local or jointly funded state-local programs. While it is not possible to determine the cost to reimburse local agencies for potential future state actions, our review of state measures enacted in the past suggests that, over time, increased state reimbursement costs may exceed a hundred million dollars annually. (See Exhibit B)

III. LEGISLATION

A. CSM Sponsored Legislation

1. AB 2224 implements the Bureau of State Audits recommendations regarding the mandates process. (Stats. 2004, ch. 313)
 - Requires CSM to amend the parameters and guidelines for the *Animal Adoption* mandate.
 - Authorizes Controller to conduct field review of any mandate reimbursement claims after the claims have been submitted, and prior to paying the claims and requires the audits to be completed no later than two years after the date the audits commenced.
 - Codifies procedures and reimbursement period for amendments to parameters and guidelines.

B. Assembly Special Committee on State Mandates Sponsored Legislation

1. AB 2851 (Stats. 2004, ch. 316, effective August 25, 2004)
 - Authorizes suspension of the *School Bus Safety I, Investment Reports, and County Treasury Oversight Committees* mandates for school districts.
 - Declares the following mandates repealed – *Mineral Resource Policies, Democratic Party Presidential Delegates, and Short-Doyle Case Management, Short-Doyle Audits, and Residential Care Services*.
 - Requires CSM to reconsider the following programs to determine whether they continue to be reimbursable state-mandated programs in light of recent federal statutes and federal and state court decisions: *Sex Offenders: Disclosure by Law Enforcement Officers (Megan’s Law); Extended Commitment: Youth Authority; Brown Act Reform; and Photographic Record of Evidence*.

2. AB 2853 (Enrolled and to the Governor on August 25, 2004)
 - ❑ Makes the following mandates optional: *Involuntary Lien Notices, Property Taxation: Family Transfers, County Treasury Oversight Committees, Investment Reports, and Two-Way Traffic Signal Communication*. Encourages local agencies to continue implementing these programs on a voluntary basis, and declares that this statement does not impose any liability upon any local agency that does not continue to implement these programs.
 - ❑ Narrows the *Misdemeanors: Booking and Fingerprinting* mandate.
3. AB 2854 (Stats. 2004, ch. 206, urgency, eff. July 27, 2004)
 - ❑ Makes the *Local Elections: Consolidation* program optional, and encourages local agencies and officials to continue implementing this mandate on a voluntary basis.
4. AB 2855 (To Enrollment on August 26, 2004)
 - ❑ Repeals the *Employee Benefits Disclosure, Pupil Health Exclusions, and the American Government Course Document Requirements* mandates.
 - ❑ Makes optional the *Pupil Suspensions: Parent Classroom Visits* and *Pupil Classroom Suspensions: Counseling* mandates.
 - ❑ Combines the *Comprehensive School Safety Plans* and the *Emergency Procedures, Earthquake Procedures and Disasters* mandates.
 - ❑ Clarifies a school district's duty to reduce reimbursement claims for the *Graduation Requirements* mandate by offsetting bond revenues.
 - ❑ Narrows the provisions of the *Caregiver Affidavit* and *Pupil Health Screenings* mandate.
 - ❑ Requires the Commission on State Mandates (CSM), by December 31, 2005, to reconsider the *School Accountability Report Cards* and *Standardized Testing and Reporting* mandates.
 - ❑ Recasts existing law to prohibit the CSM from finding a reimbursable mandate for programs that are:
 - adequately funded through a Budget Act or other legislation;
 - implementing federal legislation or regulations, when the federal legislation or regulations were enacted after the state statute or executive order; and,
 - expressly included in local ballot measures.
5. AB 2856 (Enrolled and to the Governor on September 1, 2004)
 - ❑ Specifies the content of a test claim filing with the CSM.
 - ❑ Authorizes the CSM to reject duplicate test claims filed by local governments.
 - ❑ Reduces from three years to one year the time under which local governments may file test claims with the CSM.

- ❑ Revises deadlines for local governments to amend test claims.
- ❑ Requires the CSM to notify appropriate Senate and Assembly policy and fiscal committees of test claim decisions.
- ❑ Clarifies that redevelopment agencies and joint powers agencies are not eligible to file test claims or claim reimbursement under this process.
- ❑ Requires the CSM, when adopting parameters and guidelines, to adopt a reasonable reimbursement methodology that balances accuracy and simplicity, and would define reasonable reimbursement methodology.
- ❑ Codifies the period of reimbursement and procedures for amendments to parameters and guidelines.
- ❑ Clarifies that the State Controller must complete audits of reimbursement claims no later than two years after the date the audit is commenced.
- ❑ Recasts existing law to prohibit the CSM from finding a reimbursable mandate for programs that are implementing federal legislation or regulations, when the federal legislation or regulations were enacted before or after the state statute or executive order.
- ❑ Defines cost-savings.
- ❑ Abolishes the State Mandates Claims Fund.

C. Other Legislation

1. SB 815 (Enrolled and to the Governor on August 31, 2004)
 - ❑ Appropriates \$3,660,754 to the Attorney General to pay for the judgment in *County of San Diego v. Commission on State Mandates, et al.*, GIC 762953.
2. SB 1271 (Enrolled and to the Governor on August 26, 2004)
 - ❑ Double-joins bill to AB 2855 to avoid chaptering out problems with amendment of Government Code section 17556.
3. SB 1895 (Enrolled and to the Governor on September 3, 2004)
 - ❑ Provides clarification and accountability regarding funds appropriated in the Budget Act of 2004 for mental health services for students with special needs.
 - ❑ Requires the Commission on State Mandates (CSM) to reconsider its prior statement of decision and parameters and guidelines concerning state reimbursement for mental health services for students with special needs. (AB 3632).
 - ❑ Allocates \$100 million appropriated in the Budget Act of 2004 to county mental health agencies and special education local plan areas (SELPAs).

IV. Next Hearing Agenda – December 9, 2004

The tentative agenda is subject to change based on requests for extensions of time to file comments on draft staff analyses, hearing postponements, pre-hearing conferences, Commission staff's legislative and litigation workload, and receipt of claiming data from the State Controller's Office or cost data from claimants.

A. Test Claims/Proposed Statements of Decision

1. *Post Conviction: DNA Court Proceedings*, 00-TC-21, and Amendment, 02-TC-08, County of Los Angeles, Claimant
2. *Handicapped and Disabled Students*, 02-TC-40, County of Stanislaus, Claimant and *Pupils with Disabilities*, 02-TC-49, and Amendment, County of Los Angeles, Claimant
3. *Domestic Violence Arrests and Victim Assistance*, 98-TC-14, County of Los Angeles, Claimant and Amendment
4. *Skin Cancer Presumption for Lifeguards*, 01-TC-27, City of Newport Beach, Claimant and *Lifeguard Skin Cancer Presumption (K-14)*, 02-TC-16, Santa Monica Community College District, Claimant
5. *Missing Children Report*, 01-TC-09, San Jose Unified School District, Claimant

B. Proposed Parameters and Guidelines

1. *Crime Victims' Domestic Violence Incident Reports*, 99-TC-08, County of Los Angeles, Claimant
2. *Enrollment Fee Collection*, 99-TC-13, and *Enrollment Fee Waivers*, 00-TC-15, Los Rios Community College District and Glendale Community College District, Claimants - TENTATIVE
3. *Peace Officer Personnel Records; Unfounded Complaints Against Peace Officers; Discovery of Peace Officer Personnel Records*; 00-TC-24, 00-TC-25, 02-TC-07, 02-TC-08, Cities of Hayward and San Mateo, Claimants
4. *Pupil Health Screenings*, 01-PGA-09, Clovis Unified School District, Claimant

C. Proposed Statewide Cost Estimates

1. *Comprehensive School Safety Plans*, 98-TC-01 and 99-TC-10, Kern High School District, Claimant
2. *Pupil Promotion and Retention*, 98-TC-19, San Diego Unified School District, Claimant
3. *AIDS Prevention Instruction II*, 99-TC-07 and Amendment, 00-TC-01, Sweetwater Union High School District
4. *Administrative License Suspension Per Se*, 98-TC-16, City of Newport Beach, Claimant (IF NOT HEARD ON SEPTEMBER AGENDA)
5. *Teacher Incentive Program*, 99-TC-15, San Diego Unified School District, Claimant