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3 BEFORE THE
4 COMMISSION ON STATE MANDATES
5 STATE OF CALIFORNIA
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9 Claim of:) No. CSM-4429
10 County of Fresno,) Penal Code Section 7511,
11) Subdivision (b),
12) Section 7514, Subdivision (b),
13) and Section 7555
14) Chapter 768, Statutes of 1991
15 Claimant) Law Enforcement/Inmate AIDS
16) Testing
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16 The attached Proposed Statement of Decision of the
17 Commission on State Mandates is hereby adopted by the
18 Commission on State Mandates as its decision in the
19 above-entitled matter.
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21 This Decision shall become effective on July 22, 1993.

22 IT IS SO ORDERED July 22, 1993.

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ISSUE

Does Chapter 768, Statutes of 1991 (Chapter 768/91), in amending Penal Code section 7511, subdivision (b), and adding section 7514, subdivision (b), and section 7555, require local agencies to implement a new program or a higher level of service in an existing program within the meaning of Government Code section 17514 and section 6 of article XIIIIB of the California Constitution?

BACKGROUND AND FINDINGS OF FACT

The test claim was filed with the Commission on December 31, 1992, by the County of Fresno (claimant).

The elements for filing a test claim, as specified in section 1183 of Title 2 of the California Code of Regulations, were satisfied.

The Commission observed that this test claim is related to the test claim which was previously approved involving Chapter 1579, Statutes of 1988 (Chapter 1579/88), Law Enforcement--AIDS Testing, Title 8, Part 3, commencing with section 7500 of the Penal Code, was added by Chapter 1579/88 to require the implementation of a new program of testing certain individuals for exposure to HIV.

The Commission noted that pursuant to section 7 of Chapter 1579/88, the Law Enforcement--AIDS Testing program was to be repealed on January 1, 1992, unless a statute was enacted before such date which prevented the program from becoming inoperative.

1 The Commission recognized that the provisions of Penal Code
2 section 7555 of Chapter 768/91 were enacted before the January 1,
3 1992 repeal date and set forth a revised repeal or sunset date of
4 January 1, 1995.

5
6 The Commission found that Penal Code section 7555 continued the
7 requirements of Title 8, commencing with section 7500 of the Penal
8 Code, regarding AIDS testing.

9
10 With respect to Penal Code section 7514, subdivision (b), the
11 Commission recognized that specified local agencies must report
12 certain data to the Joint Legislative Committee on Prison
13 Construction and Operation on or before January 15, 1993, 1994, and
14 1995. The Commission found that under prior law, the reporting of
15 such data was not required.

16
17 Regarding Penal Code section 7511, subdivision (b) I of
18 Chapter 768/91, the Commission found that the statutory language
19 contained therein merely clarifies the provisions previously set
20 forth in Penal Code section 7511, subdivision (b) , of
21 Chapter 1579/88. Furthermore, the Commission found that Penal Code
22 section 7511, subdivision (b), as amended by Chapter 768/91, will
23 be included as a reimbursable activity in the combined parameters
24 and guidelines for Chapter 1579/88 and Chapter 768/91.

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APPLICABLE LAW RELEVANT TO THE DETERMINATION
OF A REIMBURSABLE STATE MANDATED PROGRAM

Government Code section 17500 and following, and section 6, article XIII B of the California Constitution and related case law.

CONCLUSION

The Commission determines that it has the authority to decide this claim under the provisions of Government Code sections 17500 and 17551, subdivision (a).

The Commission concludes that Penal Code section 7514, subdivision (b), and section 7555 of Chapter 768/91 require local agencies to implement a new program or higher Level of service in an existing program, within the meaning of Government Code section 17514 and section 6, article XIII B of the California Constitution,

The Commission concludes that Penal Code section 7511, subdivision (b), of Chapter 768/91, does not expand the scope nor add any new requirements to the related state mandated program under Penal Code section 7511, subdivision (b), of Chapter 1579/88. However, the requirements set forth in Penal Code section 7511, subdivision (b), of Chapter 768/91, shall be included as a reimbursable activity in the combined parameters and guidelines for Chapter 1579/88 and Chapter 768/91.

//

1 The foregoing conclusion is subject to the following conditions:

2 The determination of a reimbursable state mandated
3 program does not mean that all increased costs claimed
4 will be reimbursed. Reimbursement, if any, is subject to
5 Commission approval of parameters and guidelines for
6 reimbursement of the mandated program; approval of a
7 statewide cost estimate; a specific legislative
8 appropriation for such purpose; a timely-filed claim for
9 reimbursement; and subsequent review of the claim by the
10 State Controller's Office.

11 If the statewide cost estimate for this mandate does not
12 exceed one million dollars (\$1,000,000) during the first
13 twelve (12) month period following the operative date of
14 the mandate, the Commission shall certify such estimated
15 amount to the State Controller's Office, and the State
16 Controller shall receive, review, and pay claims from the
17 State Mandates Claims Fund as claims are received.
18 (Government Code section 17610.)
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