

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Labor Code section 4856, subdivisions (a) and (b) and Government Code section 21635, as added and amended by Statutes of 1996, Chapter 1120 and Statutes of 1997, Chapter 193;

Filed on June 9, 1998

By the City of Palos Verdes Estates,  
Claimant.

No. 97-TC-25

*Health Benefits for Survivors of Peace Officers  
and Firefighters*

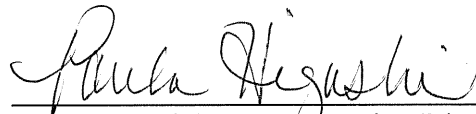
ADOPTION OF PARAMETERS AND  
GUIDELINES PURSUANT TO  
GOVERNMENT CODE SECTION 17557  
AND TITLE 2, CALIFORNIA CODE OF  
REGULATIONS, SECTION 1183.12

*(Adopted on March 29, 2001)*

**ADOPTED PARAMETERS AND GUIDELINES**

The attached Parameters and Guidelines is hereby adopted in the above-entitled matter.

This Decision shall become effective on April 3, 2001.

  
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PAULA HIGASHI, Executive Director

## **Parameters and Guidelines**

Labor Code Section 4856, Government Code Section 21635  
Statutes of 1996, Chapter 1120  
Statutes of 1997, Chapter 193

### *Health Benefits for Survivors of Peace Officers and Firefighters*

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

Statutes of 1996, chapter 1120 enacted Labor Code section 4856, which requires local agencies to provide lifelong health benefits to the survivors of peace officers and firefighters who die in the line of duty. Statutes of 1997, chapter 193 further amended Labor Code section 4856 by applying this benefit retroactively. Additionally, chapter 1120 amended Government Code section 21635, by deleting language exempting local agencies from collective bargaining under the Meyers-Milias-Brown Act with their employees for survivor health benefits.

On October 26, 2000, the Commission adopted its Statement of Decision that the test claim legislation constitutes a reimbursable state mandated program upon local governments within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

#### **II. ELIGIBLE CLAIMANTS**

1. Providing Survivor Health Benefits (Labor Code Section 4856)  
Counties, cities, a city and county, and special districts, as defined in Government Code section 175 18 that employ peace officers and firefighters, and school districts, as defined in Government Code section 175 19, that employ peace officers are eligible claimants.
2. Collective Bargaining (Government Code Section 21635)  
Counties, cities, a city and county, and special districts, as defined in Government Code section 17518 are eligible claimants.

#### **III. PERIOD OF REIMBURSEMENT**

Section 17557 of the Government Code, prior to its amendment by Statutes of 1998, chapter 681, (effective September 22, 1998), stated that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The test claim for this mandate was filed on June 9, 1998.

Statutes of 1996, chapter 1120, an urgency statute, became effective September 30, 1996, It requires that local agencies provide health benefits to the survivors of peace officers and firefighters killed in the line of duty **after** September 30, 1996. And it allows collective bargaining for the continued health benefits coverage of a surviving spouse. Therefore, costs incurred for Statutes of 1996, chapter 1120, are eligible for reimbursement on or after July 1, 1997.

Statutes of 1997, chapter 193, became effective on January 1, 1998. It requires that local agencies provide health benefits to the survivors of peace officers and firefighters killed in the line of duty **before** September 30, 1996. Therefore, cost incurred for Statutes of 1997, chapter 193, are eligible for reimbursement on or after January 1, 1998.

Actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to section 17561, subdivision (d)( 1) of the Government Code, all claims for reimbursement of initial years' costs shall be submitted within 120 days of notification by the State Controller of the issuance of claiming instructions.

If total costs for a given year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

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

For each eligible claimant, all direct and indirect costs of labor, materials, supplies and services, training and travel for the performance of the following activities, are eligible for reimbursement:

##### Component A. Providing Survivor Health Benefits (Labor Code Section 4856)

1. Developing or updating internal policies, procedures and manuals as necessary to provide health benefits to the deceased peace officer's or firefighter's surviving spouse and eligible dependents, as required under Labor Code section 4856 (one-time activity).
2. Upon the death of a peace officer or firefighter killed in the line of duty, the ongoing costs of maintaining files, manually or electronically, related to providing health benefits to the deceased peace officer's or firefighter's surviving spouse and eligible dependents, as required under Labor Code section 4856, is reimbursable.
3. Dependent Notification
  - a. Upon the death of a peace officer or firefighter killed in the line of duty, providing a one-time notification to the surviving spouse that the local government employer must continue providing health benefits to the deceased employee's spouse and minor dependents under the same terms and conditions provided before death, or prior to the accident or injury that caused death. If there is no surviving spouse, then providing a one-time notification to the minor dependents, or guardian, that the local

government employer must continue providing health benefits until the minor dependents reach the age of 21 years.

- b. Providing a one-time notice to the minor dependents of peace officers or firefighters killed in the line of duty, when they are no longer eligible for continued health benefits under the surviving spouse's coverage. Or, if there is no surviving spouse, when the minor dependents reach the age of 21 years.
  - c. Upon remarriage of the surviving spouse, providing a one-time notice to the surviving spouse that the new spouse or stepchildren cannot be added as family members under the continued health benefits coverage of the surviving spouse.
4. Upon the death of a peace officer or firefighter killed in the line of duty, communicating with the insurance plan provider for the purpose of notifying the insurance plan provider of the peace officer's or firefighter's death, and coordinating with the insurance plan provider to ensure that the deceased peace officer's or firefighter's surviving spouse and eligible dependents will continue receiving health benefits under the same terms and conditions as provided before death, or prior to the accident or injury that caused death.
  5. Upon the death of a peace officer or firefighter killed in the line of duty, the amount of the insurance premiums paid to HMOs, or the contributions to self-insured pools, for the continued health benefits coverage to the deceased peace officer's or firefighter's surviving spouse, as required under Labor Code section 4856, is reimbursable. Eligible minor dependents are provided health benefits under the surviving spouse's coverage. If there is no surviving spouse, eligible dependents are provided health benefits until the age of 21 years. A surviving spouse's new spouse or stepchildren are ineligible for continued health benefits under the surviving spouse's coverage.

Component B. Collective Bargaining for the Continued Health Benefits Coverage of a Surviving Spouse (Government Code Section 2 1635)

1. Developing or updating internal policies, procedures and manuals as necessary to collectively bargain with local employee representatives (one-time activity).
2. Maintaining files manually or electronically related to collective bargaining.
3. The cost of up to five employer representatives and the cost of up to five employee representatives will be reimbursed for the following activities if a representative of a recognized employee organization requests that the local governmental employer meet and confer in good faith.
  - a. Reviewing the recognized employee organization's initial contract proposal.
  - b. Developing and presenting the local government employer's response to the recognized employee organization's initial contract proposal.
  - c. Participating in negotiating planning sessions in preparation of pending negotiations with the recognized employee organization's representatives.

- d. Negotiating with the recognized employee organization's representatives.
- e. Holding public hearings, pursuant to Government Code 3505.1, so that the governing board can approve the memorandum of understanding.
- f. Reproducing and distributing to employer representatives (supervisory, management, and confidential) that portion of the final contract agreement. Reproducing and distributing copies of the final contract to collective bargaining unit members are not reimbursable.

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

Claims for reimbursement must be timely filed and identify each cost element for which reimbursement is claimed under this mandate. Claimed costs must be identified to each reimbursable activity identified in Section IV of this document.

### SUPPORTING DOCUMENTATION

Claimed costs shall be supported by the following cost element information:

#### **A. Direct Costs**

Direct Costs are defined as costs that can be traced to specific goods, services, units, programs, activities or functions.

Claimed costs shall be supported by the following cost element information:

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

Identify the employee(s), and/or show the classification of the employee(s) involved. Describe the reimbursable activities performed and specify the actual time devoted to each reimbursable activity, the productive hourly rate, and related employee benefits.

Reimbursement includes compensation paid for salaries, wages, and employee benefits. Employee benefits include regular compensation paid to an employee during periods of authorized absences (e.g., annual leave, sick leave) and the employer's contributions to social security, pension plans, insurance, and workers' compensation insurance. Employee benefits are eligible for reimbursement when distributed equitably to all job activities performed by the employee.

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

Only expenditures that can be identified as a direct cost of this mandate may be claimed. List the cost of the materials and supplies consumed specifically for the purposes of this mandate. Purchases shall be claimed at the actual price after deducting cash discounts, rebates and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged based on a recognized method of costing, consistently applied.

##### **3. Contract Services**

Contracted services for participation of employer representatives in contract negotiations and negotiation planning sessions will be reimbursed. Provide the name(s) of the

contractor(s) who performed the services, including any fixed contracts for services. Describe the reimbursable activity(ies) performed by each named contractor and give the number of actual hours spent on the activities, if applicable. Show the inclusive dates when services were performed and itemize all costs for those services. Submit contract consultant and attorney invoices with the claim.

#### 4. Travel

Travel expenses for mileage, per diem, lodging, and other employee entitlements are eligible for reimbursement in accordance with the rules of the local jurisdiction. Provide the name(s) of the traveler(s), purpose of travel, inclusive dates and times of travel, destination points and travel costs.

#### 5. Training

The cost of training an employee to perform the mandated activities is eligible for reimbursement. Identify the employee(s) by name and job classification. Provide the title and subject of the training session, the date(s) attended, and the location. Reimbursable costs may include salaries and benefits, registration fees, transportation, lodging, and per diem.

#### B. Indirect Costs

Indirect costs are defined as costs which 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 central government services distributed to other departments based on a systematic and rational basis through a cost allocation plan.

#### Cities, Counties, and Special Districts

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the OMB A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular A-87 Attachments A and B). 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 two following methodologies:

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) 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 which the total amount allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) 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 which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

#### School Districts

1. School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.
2. County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the State Department of Education.
3. Community colleges have the option of using (1) a federally approved rate, utilizing the cost accounting principles from the Office of Management and Budget Circular A-21 "Cost Principles of Educational Institutions", (2) the rate calculated on State Controller's Form FAM-29C, or (3) a 7 % indirect cost rate.

#### **VI. SUPPORTING DATA**

For audit purposes, all costs claimed shall be traceable to source documents (e.g., employee time records, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, etc.) that show evidence of the validity of such costs and their relationship to the state mandated program. All documentation in support of the claimed costs shall be made available to the State Controller's Office, as may be requested, and all reimbursement claims are subject to audit during the period specified in Government Code, section 17558.5, subdivision (a).

## **VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENT**

Any offsetting savings the claimant experiences as a direct result of the subject mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to, service fees collected, federal funds and other state funds shall be identified and deducted from this claim.

## **VIII. STATE CONTROLLER'S OFFICE REQUIRED CERTIFICATION**

An authorized representative of the claimant shall be required to provide a certification of the claim, as specified in the State Controller's claiming instructions, for those costs mandated by the State contained herein.

## **IX. PARAMETERS AND GUIDELINES AMENDMENTS**

Pursuant to Title 2, California Code of Regulations, section 1183.2, Parameters and Guidelines amendments filed before the deadline for initial claims as specified in the Claiming Instructions shall apply to all years eligible for reimbursement as defined in the original parameters and guidelines. A Parameters and Guidelines amendment filed after the initial claiming deadline must be submitted on or before January 15, following a fiscal year in order to establish eligibility for reimbursement for that fiscal year.