



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

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AUDITOR-CONTROLLER

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COMMISSION ON
STATE MANDATES

July 20, 2006

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Dear Ms. Higashi:

**Los Angeles County's Requests
Extension of Time to Comment and Postponement of Hearing
Workers' Compensation Disability for Government Employees**

This is to request postponement of the subject test claim hearing scheduled for July 28, 2006 until at least 60 days following final adjudication of a relevant case, *CSAC Excess Insurance Authority and the City of Newport Beach v. Commission on State Mandates and the State Department of Finance*, currently under appeal. In addition, an extension of time, permitting comments in this matter to be filed with the Commission 30 days prior to the new hearing date, is requested. Justification for these requests is attached.

Leonard Kaye of my staff is available at (213) 974-8564 to answer questions you may have concerning this submission.

Very truly yours,

John Naimo FOR

J. Tyler McCauley
Auditor-Controller

JTM:CY:LK

by the legislature to give to their employees. It is a fact however that the Supreme Court has NEVER adopted that restrictive meaning. In 1987, and repeatedly since then, the Supreme Court has interpreted the constitutional language quoted above to apply to, "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." COUNTY OF LOS ANGELES v. STATE OF CALIFORNIA, 43 Cal.3d 46, 56 (1987) (Emphasis added). "

As stated by Judge Yaffe [above], a subvention of funds is required under two scenarios:

- (1) 'Programs' are found that carry out the governmental function of providing services to the public or
- (2) Laws which, to implement a State policy, impose unique requirements on local governments and do not apply generally to all resident and entities in the State.

Commission staff concur that the second scenario applies here. Specifically, they note that the subject legislation "... do[es] not apply to all residents and entities in the state". [Draft Staff Analysis, page 8]

Accordingly, the test claim legislation implements a State policy which imposes unique requirements on local governments. This is sufficient to warrant reimbursement¹. No additional proof that "... some increase in the actual level or quality of providing services provided to the public" is required.

Finally, where the purpose of the legislature is to increase the benefits of specific government workers, such legislation qualifies for reimbursement under Section 6 of

¹ Commission staff argue to the contrary. But the cases presented by staff apply only to programs which do not impose unique requirements on local governments and so are not relevant to the subject test claim. For example, in *City of Richmond v. Commission on State Mandates* (1998) 64 Cal App. 4th 1190, 1197, it was noted that the test claim legislation "imposes no "unique requirement" on local government". In *City of Anaheim v. State of California* (1987) 189 Cal.App.3rd 1478, 1484, Anaheim's argument that their test claim legislation imposed 'unique requirements on local governments' was rejected by the court. In *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 61 the Court stated that the test claim legislation, in that case, has not "... imposed a state policy "unique[ly]" on local governments".



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Declaration of Leonard Kaye

Leonard Kaye makes the following declaration and statement under oath:

I, Leonard Kaye, SB90 Coordinator, in and for the County of Los Angeles, am responsible for filing test claims, reviews of State agency comments, Commission staff analyses, requests for extension of time, postponement of hearings and for proposing, or commenting on, parameters and guidelines (Ps&Gs) and amendments thereto, and for filing incorrect reduction claims, all for the complete and timely recovery of costs mandated by the State. Specifically, I have prepared the subject requests, captioned above.

Specifically, I declare that I have examined the County's State mandated duties and resulting costs, in implementing the subject law, and find that such costs as set forth in the attached filing, are, in my opinion, reimbursable "costs mandated by the State", as defined in Government Code section 17514:

" ' Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information or belief, and as to those matters I believe them to be true.

7/20/06; Los Angeles, CA
Date and Place

[Signature]
Signature

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