



October 31, 2003

**RECEIVED**

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

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**COMMISSION ON  
STATE MANDATES**

Dear Ms. Higashi:

As requested in your letter of October 3, 2003, the Department of Finance has reviewed the test claim submitted by the Sacramento Metropolitan Fire Department (claimant) asking the Commission to determine whether specified costs incurred under Chapter No. 1124, Statutes of 2002, (AB 3000, Oropeza) are reimbursable state mandated costs (Claim No. 03-TC-10). Commencing with page one of the test claim, claimant has identified the following new duties, which it asserts are reimbursable state mandates:

**1. Tort Claims**—AB 3000 amended Government Code 910.4 to revise the method by which claims against public entities are submitted. The claimant is claiming reimbursement for research regarding the requisites for a tort claim against a public agency and the distribution of an approved form. The claimant asserts that the language has resulted in a higher level of service due to the need to determine whether a claim was submitted using the correct form and whether the claim should be considered late if it is returned because it does not comply with the new process. However, these activities are not specific to local agencies but are applicable to a claim against any public agency. In *City of Sacramento v. State of California*, 50 Cal 3d 51 (1990), on the issue of whether Chapter 2, Statutes of 1978, by extending unemployment insurance coverage from the private sector to the public sector, constituted a reimbursable state mandate, the State Supreme Court held that a statute, even if it imposes a new requirement on local agencies, is not reimbursable if it is not unique to local government. Therefore, although this bill may result in additional costs to local entities, those costs are not reimbursable because they are not unique to local government.

**2. Interest on Overpayment**—AB 3000 authorized the State to collect interest payments on reimbursement claims for which counties or school districts are overpaid. The claimant asserts that this provision requires the claimant to track each claim to ensure that the amount of payment is correct. Finance does not agree with the claimant on this point since these activities are simply accounting duties that should have already been performed. Further, the tracking activity is not required by AB 3000. Section 6 of Article XIII B of the California Constitution reads as follows:

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 program or increased level of service.

Since this provision did not create a new program or a higher level of service, Section 6 does not apply.

**3. Penalty on Late Claims Filed**—Prior law provided that local agencies could be charged up to 10 percent of the total claim if the claim was filed late, with a maximum penalty of \$1,000. AB 3000 removed the \$1,000 limit while retaining the provision for penalty charges of 10 percent. The claimant asserts that this provision would be onerous to small entities in particular, because of the lack of staff dedicated to tracking costs and deadlines. Section 6 of Article XIII B of the California Constitution reads as follows:

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 program or increased level of service.

Because this provision only increases the penalty for late filings, and imposes no new programs or higher level of service, Section 6 does not apply.

**4. Increase Minimum Claim Account**—AB 3000 also raised the minimum reimbursement allowed under the claims from \$200 to \$1,000. The claimant asserts that since the Claiming Instructions for fiscal year 2002-03 were not updated by the filing deadline, the State Controller's Office should not be requiring repayment of amounts paid out for 2002-03 claims under \$1,000. Section 6 of Article XIII B of the California Constitution reads as follows:

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 program or increased level of service.

The claimant asserts that the Controller's administrative actions in demanding repayment of claims under \$1,000 constitutes a reimbursable mandate, but no new program or higher level of service is specified. Therefore, no basis is provided for finding the Controller's actions to be a State-reimbursable mandate, and Finance staff find no justification for considering it as such.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list which accompanied your October 3, 2003 letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Keith Gmeinder, Principal Program Budget Analyst and state mandates claims coordinator for the Department of Finance, at (916) 445-8913.

Sincerely,



James E. Tilton  
Program Budget Manager

Attachments

Attachment A

DECLARATION OF KEITH GMEINDER  
DEPARTMENT OF FINANCE  
CLAIM NO. 03-TC-10

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.
2. We concur that the Chapter No. 1124, Statutes of 2002, (AB 3000, Oropeza) sections relevant to this claim are accurately quoted in the test claim submitted by claimants and, therefore, we do not restate them in this declaration.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

October 31, 2003

at Sacramento, CA



Keith Gmeinder

PROOF OF SERVICE

Test Claim Name: Budget Trailer Bill  
Test Claim Number: 03-TC-10

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 8th Floor, Sacramento, CA 95814.

On October 31, 2003, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 8<sup>th</sup> Floor, for Interagency Mail Service, addressed as follows:

A-16  
Ms. Paula Higashi, Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Facsimile No. 445-0278

B-8  
State Controller's Office  
Division of Accounting & Reporting  
Attention: Michael Havey  
3301 C Street, Room 500  
Sacramento, CA 95816

B-29  
Legislative Analyst's Office  
Attention Marianne O'Malley  
925 L Street, Suite 1000  
Sacramento, CA 95814

Mr. Allan Burdick  
MAXIMUS  
4320 Auburn Blvd, Suite 2000  
Sacramento, CA 95841

Mr. George B. Appel  
Sacramento Metropolitan Fire District  
2101 Hurly Way  
Sacramento, CA 95825

Mr. Paul Minney  
Spector, Middleton, Young & Minney, LLP  
7 Park Center Drive  
Sacramento, CA 95825

Mr. David Wellhouse  
David Wellhouse & Associates, Inc  
9175 Kiefer Blvd., Suite 121  
Sacramento, CA 95826

Ms. Harmeet Barkschat  
Mandate Resource Services  
5325 Elkhorn Blvd. #307  
Sacramento, CA 95842

Mr. Steve Smith  
Mandated Cost Systems, Inc.  
11130 Sun Center Drive, Suite 100  
Rancho Cordova, CA 95670

Ms. Annette Chinn  
Cost Recovery Systems  
705-2 East Bidweel Street, #294  
Folsom, CA 95630

Mr. Leonard Kaye, Esq.  
County of Los Angeles  
Auditor-Controller's Office  
500 W. Temple Street, Room 603  
Los Angeles, CA 90012

Ms. Cindy Sconce  
Centration, Inc.  
12150 Tributary Point Drive, Suite 140  
Gold River, CA 95670

A-15  
Mr. Keith Gmeinder  
Department of Finance  
915 L Street , 8<sup>th</sup> Floor  
Sacramento, CA 95814

Ms. Catherine Smith  
California Special District Association  
1215 K Street, Suite 930  
Sacramento, CA 95814

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 October 31, 2003 at Sacramento, California.

  
\_\_\_\_\_  
Mary Latorre