

COMMISSION ON STATE MANDATES

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June 2, 2009

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And: Interested Parties
(see enclosed mailing list)

Re: **Notice of Complete Test Claim Amendment Filing and Schedule for Comments**
Airport Land Use Commission/Plans II (03-TC-12) Amended, 08-TC-05

On May 28, 2009, a test claim amendment was filed on the above-named program by the County of Santa Clara, Claimant. Following initial review, the Commission staff found the test claim amendment to be complete. The Commission is now requesting state agencies and interested parties to comment on the test claim amendment as specified in the enclosed notice.

Please contact Nancy Patton at (916) 323-8217 if you have questions.

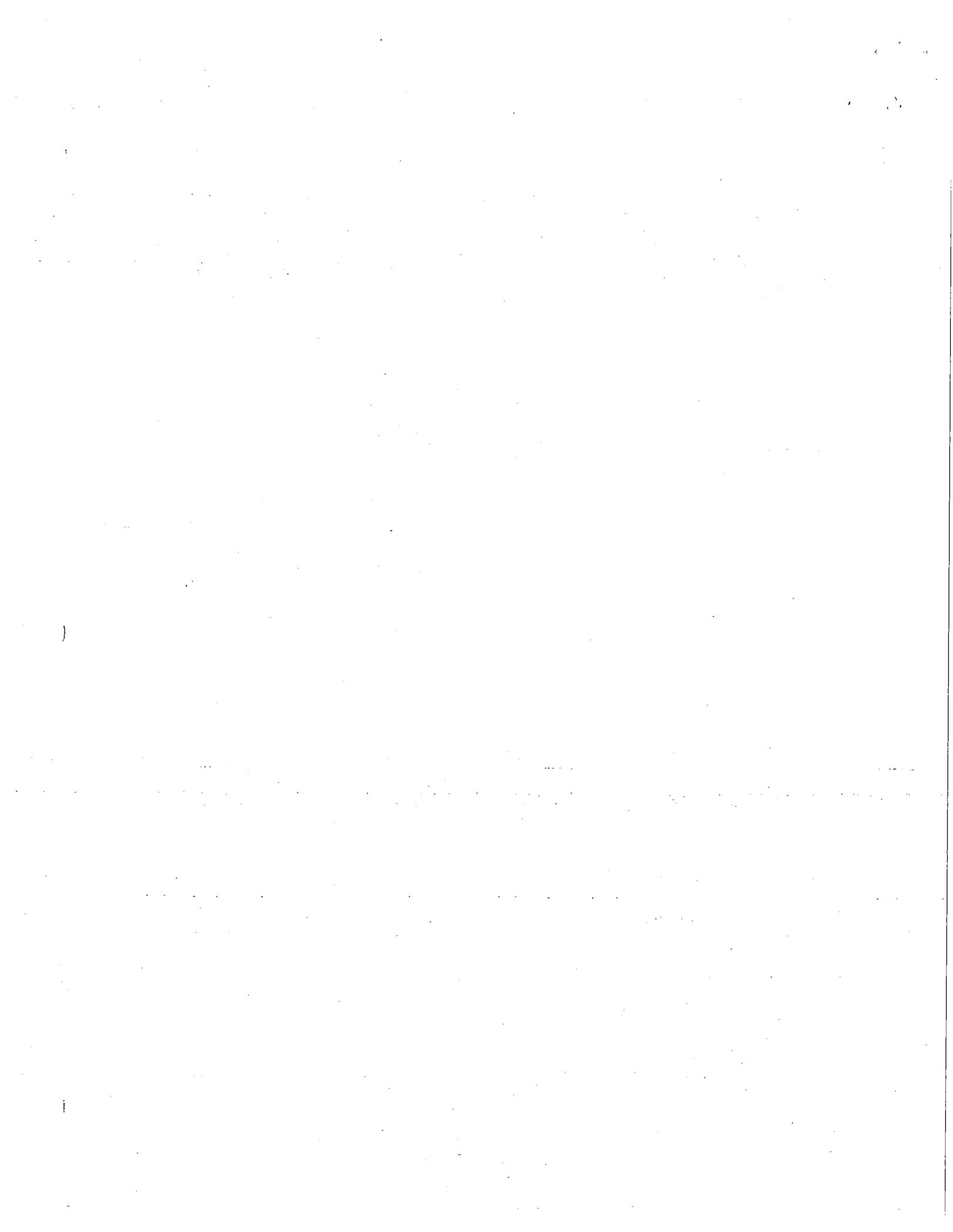
Sincerely,


PAULA HIGASHI
Executive Director

Enclosures:

Notice of Complete Test Claim Amendment Filing and Schedule for Comments
Copy of Test Claim Amendment (state agencies only)
Mailing List

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BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM AMENDMENT ON:

Public Utilities Code Section 21671.5, added by Statutes 1967, chapter 852; amended by Statutes 1972, chapter 419; Statutes 1989, chapter 306; Statutes 1990, chapter 1572 (AB3228); Statutes 1991, chapter 140 (SB 532); Statutes 2002, chapter 438 (AB 3026);

Public Utilities Code Section 21675, added by Statutes 1970, chapter 1182; amended by Statutes 1973, chapter 844; Statutes 1980, Chapter 725; Statutes 1981, chapter 714, Statutes 1984, chapter 1117; Statutes 1987, chapter 1018; Statutes 1989, chapter 306; Statutes 1990, chapter 563 (AB 54265); Statutes 2002, chapters 438 (AB 3026) and 971 (SB 1468);

Public Utilities Code Section 21676, added by Statutes 1970, chapter 1182; amended by Statutes 1982, chapter 1041; Statutes 1987, chapter 1018; Statutes 2002, chapter 438 (AB 3026);

Public Resources Code Section 21080, added by Statutes 1983, chapter 872, amended by Statutes 1985, chapter 392; Statutes 1993, chapter 1131; Statutes 1994, chapter 1230; Statutes 1996, chapter 547;

Filed on May 28, 2009,

By the County of Santa Clara, Claimant.

No. 08-TC-05

(Amendment to 03-TC-12)

NOTICE OF COMPLETE TEST CLAIM
AMENDMENT FILING AND SCHEDULE
FOR COMMENTS (Gov. Code, § 17500 et
seq.; Cal. Code Regs., Tit. 2, §§ 1183,
subd.(g),
& 1183.02)

*Airport Land Use Commissions/Plans II
(Amended)*

**TO: Department of Transportation
Department of Finance
State Controller's Office
California State Association of Counties
Interested Parties**

On May 28, 2009, the County of Santa Clara, Claimant, filed a test claim amendment on the above-described statutes and/or executive orders alleging a reimbursable state-mandated program pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514. The test claim is complete. A pdf file of the test claim amendment will be posted on the Commission's website under "For Public Comment." The test claim, as amended, will be heard and determined by the Commission on State Mandates pursuant to article XIII B, section 6, Government Code section 17500 et seq., and case law. The procedures for hearing and determining this claim are prescribed in the Commission's regulations, California Code of Regulations, title 2, chapter 2.5, section 1181.

COMMENT PERIOD

The key issues before the Commission are:

- Do the provisions listed above impose a new program or higher level of service within an existing program upon local entities within the meaning of article XIII B, section 6 of the California Constitution and costs mandated by the state pursuant to Government Code section 17514 of the Government Code? Are claimants entitled to reimbursement for legislative mandates enacted before January 1, 1975?
- Does Government Code section 17556, including subdivision (d), preclude the Commission from finding that any of the test claim provisions impose costs mandated by the state?
- Have funds been appropriated for this program (e.g., state budget) or are there any other sources of funding available? If so, what is the source?
- What is the effect, if any, of the suspension of the *Airport Land Use Commission* mandate pursuant to Government Code section 17581 on this test claim amendment?

State Agency Review of Test Claim - State agencies are requested to analyze the test claim amendment and to file written comments within 30 days, or no later than **July 2, 2009**. Requests for extensions of time may be filed in accordance with sections 1183.01, subdivision (c), and 1181.1, subdivision (g) of the regulations.

Claimant Rebuttal - The claimant and interested parties may file rebuttals to state agencies' comments under section 1183.03 of the regulations. The rebuttal is due 30 days from the actual service date of written comments from any state agencies.

Mailing Lists - Under section 1181.2 of the regulations, the Commission will promulgate a mailing list of parties, interested parties, and interested persons for each test claim and provide the list to those included on the list, and to anyone who requests a copy. Any written material filed with the Commission on this claim shall be simultaneously served on the other parties listed on the mailing list provided by the Commission.

Consolidating Test Claims - Pursuant to Commission regulations, the executive director may consolidate part or all of any test claim with another test claim. See sections 1183.05 and 1183.06 of the regulations.

INFORMAL/PREHEARING CONFERENCE

An informal conference or prehearing conference may be scheduled if requested by any party. See sections 1183.04 and 1187.4 of the regulations.

HEARING AND STAFF ANALYSIS

A tentative hearing date for the amended test claim will be set when a new draft staff analysis of the amended claim is issued. At least eight weeks before a hearing is conducted, the new draft staff analysis on the amended test claim will be issued to parties, interested parties, and interested persons for comment. Comments are due at least five weeks prior to the hearing or on the date set by the Executive Director, pursuant to section 1183.07 of the regulations. Before the hearing, a final staff analysis will be issued.

Dismissal of Test Claims - Under section 1183.09 of the regulations, test claims may be dismissed when postponed or placed on inactive status by the claimant for more than one year. Before dismissing a test claim, the Commission will provide 60 days notice and opportunity for other parties to take over the claim.

Parameters and Guidelines - If the Commission determines that a reimbursable state mandate exists, the claimant is responsible for submitting proposed parameters and guidelines for reimbursing all eligible local entities. See section 1183.1 of the regulations. All interested parties and affected state agencies will be given an opportunity to comment on the claimant's proposal before consideration and adoption by the Commission.

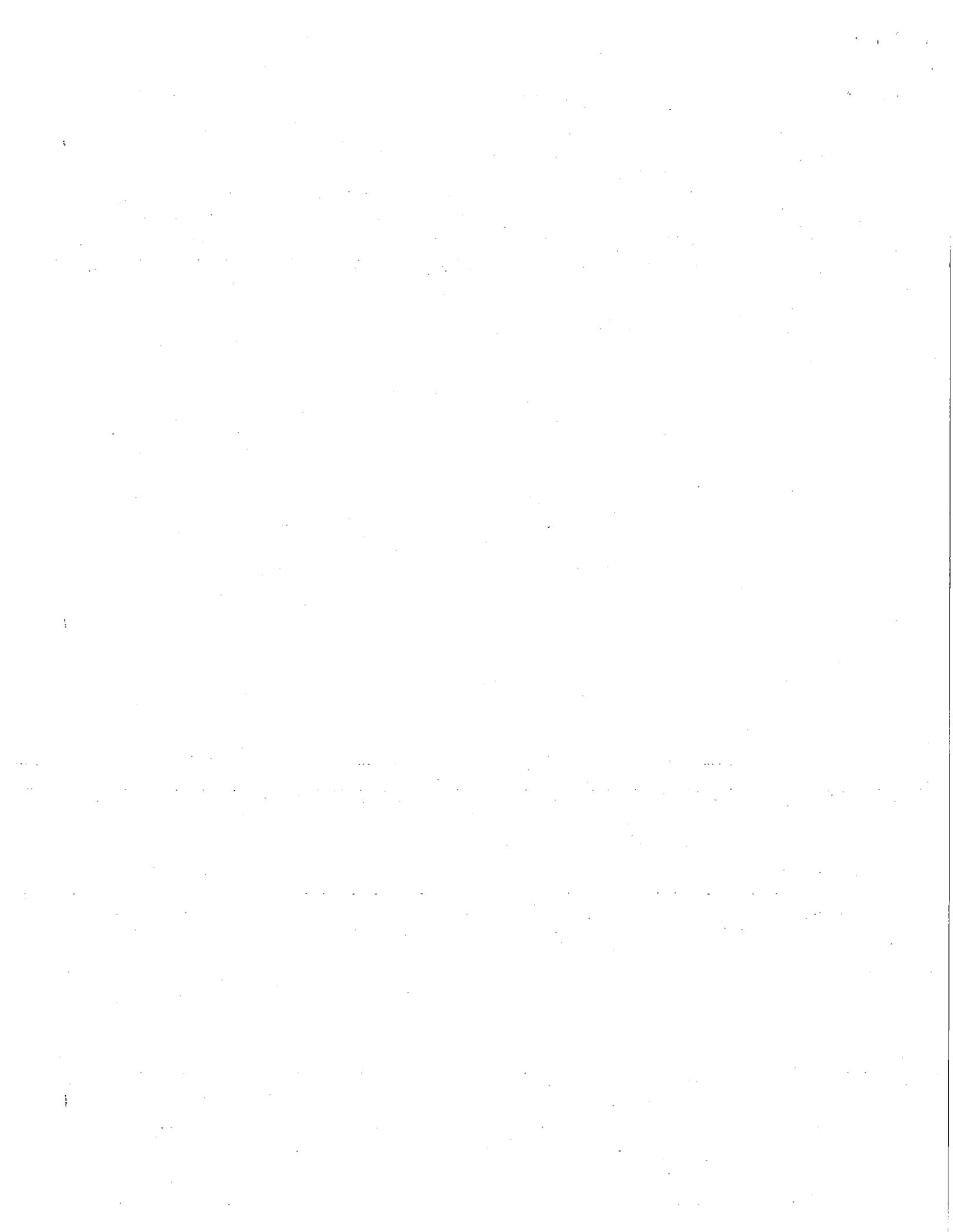
Reasonable Reimbursement Methodology - Government Code section 17557 requires the Commission, when adopting parameters and guidelines, to consult with claimants, Department of Finance, the State Controller, and the Legislature to consider a reasonable reimbursement methodology. Government Code section 17518.5 authorizes the claimant or any affected state agency or interested party to propose a reasonable reimbursement methodology.

Statewide Cost Estimate - The Commission is required to adopt a statewide cost estimate of the reimbursable state-mandated program within 12 months of receipt of a test claim. This deadline may be extended for up to six months upon the request of either the claimant or the Commission.

Alternative Process - Within 30 days of the Commission's adoption of a statement of decision on a test claim, the test claimant and the Department of Finance may notify the executive director in writing of their intent to follow the process described in Government Code section 17557.1 (effective Jan. 1, 2008) to develop a reasonable reimbursement methodology and statewide estimate of costs for the initial claiming period and budget year for reimbursement of costs mandated by the state. The letter of intent shall include the date on which the test claimant and the Department of Finance will submit a plan to ensure that costs from a representative sample of eligible claimants are considered in the development of a reasonable reimbursement methodology. If this letter of intent is submitted, the Commission will provide further information for all parties and interested parties to the test claim.


PAULA HIGASHI
Executive Director

Dated: June 2, 2009



Commission on State Mandates

Original List Date: 10/1/2003
Last Updated: 6/2/2009
List Print Date: 06/02/2009
Claim Number: 03-TC-12
Issue: Airport Land Use Commissions/Plans II

Agenda Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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