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June 19, 2015
*Commission on
State Mandates*

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June 19, 2015

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

Dear Ms. Halsey:

Pursuant to Government Code section 17570, the Department of Finance requests that the Commission on State Mandates (Commission) adopt a new test claim decision and amend the parameters and guidelines for the Community College Construction (02-TC-47) state-mandated program by adding language to show that the reimbursement period of this mandate program ended on June 20, 2014. Chapter 34, Statutes of 2014 (SB 860) made components of Education Code section (ECS) 81821, that were determined to be reimbursable activities, permissive by moving those components into a subdivision that allows rather than requires specified estimates to be included in a district's five-year capital construction plan. It was the intent of the Legislature in enacting the statutory amendments to ECS 81821 to relieve local districts from the duty of performing reimbursable activities. Since the statute was amended, no reimbursement is required pursuant to Article XIII B, section 6 of the California Constitution and Government Code section 17514. As a result, the Community College Construction mandate program no longer exists based on the amendment of the test claim statute.

The Commission form "Request to Adopt New Test Claim Decision" is attached with a detailed analysis, declarations, and documentation.

Pursuant to section 1181.2 of the California Code of Regulations, "documents that are e-filed with the Commission need not be otherwise served on persons that have provided an e-mail address for the mailing list."

If you have any questions regarding this letter, please contact Chris Ferguson, Principal Program Budget Analyst at (916) 445-0328.

Sincerely,

CHRIS LIEF
Assistant Program Budget Manager

Attachment

**COMMISSION ON STATE MANDATES
FORM TO REQUEST TO ADOPT A NEW TEST CLAIM DECISION
(MANDATE REDETERMINATION)**

Authorized by Government Code section 17570

GENERAL INSTRUCTIONS

- Type All Responses
- Complete sections 1 through 8, as indicated. Failure to complete any of these sections will result in this request to adopt a new test claim decision being returned as incomplete.
- Please submit by either of the following methods:
 1. **E-filing.** The requester shall electronically file the completed form and any accompanying documents in pdf format to the e-filing system on the Commission's website (<http://www.csm.ca.gov/dropbox.shtml>), consistent with the Commission's regulations (CCR, tit.2, §1181.2). The requester is responsible for maintaining the paper documents with original signature(s) for the duration of the redetermination process, including any period of appeal. **No additional copies are required when e-filing the request.**
 2. **By hard copy.** The requester shall file, consistent with the Commission's regulations (CCR, tit. 2, § 1181.2), **one original signed hard copy, and seven (7) copies**, which shall include a table of contents, be unbound, double-sided, and shall not include tabs to: Commission on State Mandates, 980 Ninth Street, Suite 300, Sacramento, CA 95814

Within 10 days of receipt of a request to adopt a new test claim decision, Commission staff will notify the requester if the request is complete or incomplete. Requests to adopt a new test claim decision will be considered incomplete if any of the required sections are not included or are illegible. If a completed request is not received within 30 calendar days from the date the incomplete request was returned, the executive director may disallow the original request filing date. A new request may be accepted on the same subsequent change in law alleged to modify the state's liability pursuant to article XIII B, section 6(a) of the California Constitution.

You may download this form from our website at csm.ca.gov.

If you have questions, please contact us:

Website: www.csm.ca.gov
Telephone: (916) 323-3562
E-Mail: csminfo@csm.ca.gov

1. TITLE OF REQUEST TO ADOPT A NEW TEST CLAIM DECISION

Community College Construction (02-TC-47)

For CSM Use Only
<div style="border: 2px solid blue; border-radius: 15px; padding: 5px; display: inline-block;"> RECEIVED <i>Filing Date:</i> June 19, 2015 Commission on State Mandates </div>
REQUEST# 14-MR-03

2. REQUESTER INFORMATION

Name of Local Agency, School District, Statewide Association of Local Agencies or School Districts, or State Agency

California Department of Finance

Requester Contact

Chris Ferguson

Title

Principal Program Budget Analyst

Organization

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Street Address

Sacramento, CA, 95814

City, State, Zip Code

916-445-0328

Telephone Number

916-323-9530

Fax Number

Chris.Ferguson@dof.ca.gov

E-Mail Address

3. REPRESENTATIVE INFORMATION

If requester designates another person to act as its sole representative for this request, all correspondence and communications regarding this request shall be forwarded to this representative. Any change in representation must be authorized by the requester in writing, and sent to the Commission on State Mandates. Please complete information below if designating a representative.

Representative Name

Title

Organization

Street Address

City, State, Zip Code

Telephone Number

Fax Number

E-Mail Address

4. IDENTIFYING INFORMATION

Please identify the name(s) of the programs, test claim number(s), and the date of adoption of the Statement of Decision, for which you are requesting a new test claim decision, and the subsequent change in law that allegedly changes the state's liability. Regarding the subsequent change in law, please identify all relevant code sections (include statutes, chapters, and bill numbers), regulations (include register number and effective date), executive orders (include effective date), cases, or ballot measures.

On October 27, 2011, the Commission on State Mandates (Commission) adopted the Statement of Decision for the Community College Construction (02-TC-47) mandate program and approved reimbursement for specified capital construction estimates mandated in Education Code Section 81821. Pursuant to Government Code section 17570, the Department of Finance requests that the Commission adopt a new test claim decision and amend the parameters and guidelines for the mandated program by adding language to show that the reimbursement period of this mandate program ended on June 20, 2014. Chapter 34, Statutes of 2014 (SB 860) made components of statute, that were determined to be reimbursable activities, permissive by moving those components into a subdivision that allows rather than requires specified estimates to be included in a district's five-year capital construction plan.

Sections 5, 6 and 7 are attached as follows:

- 5. Detailed Analysis: Pages 5 to 5.
- 6. Declarations: Pages 6 to 6.
- 7. Documentation: Pages 7 to 9.

Sections 5, 6, and 7 should be answered on separate sheets of plain 8-1/2 x 11 paper. Each sheet should include the name of the request, requestor, section number (i.e., 5, 6, or 7), and a heading at the top of each page.

5. DETAILED ANALYSIS

Under the heading "5. Detailed Analysis," please provide a detailed analysis of how and why the state's liability for mandate reimbursement has been modified pursuant to article XIII B, section 6(a) of the California Constitution based on a "subsequent change in law" as defined in Government Code section 17570. This analysis shall be more than a written narrative or simple statement of the facts at law. It requires the application of the law (Gov. Code, § 17570 (a) and (b)) to the facts (i.e., the alleged subsequent change in law) discussing, for each activity addressed in the prior test claim decision, how and why the state's liability for that activity has been modified. Specific references shall be made to chapters, articles, sections, or page numbers that are alleged to impose or not impose a reimbursable state-mandated program.

Also include all of the following elements:

The actual or estimated amount of the annual statewide changes in the state's liability for mandate reimbursement pursuant to Article XIII B, section 6 (subdivision (a)) on a subsequent change in the law.

- A. Identification of all of the following if relevant:
 - 1. Dedicated state funds appropriated for the program.
 - 2. Dedicated federal funds appropriated for the program.
 - 3. Fee authority to offset the costs of the program.
 - 4. Federal law.
 - 5. Court decisions.
 - 6. State or local ballot measures and corresponding date of election.

6. DECLARATIONS

Under the heading "6. Declarations," support the detailed analysis with declarations that:

- A. Declare actual or estimated annual statewide costs that will or will not be incurred to implement the alleged mandate.
- B. Identify all local, state, or federal funds and fee authority that may or may not be used to offset the increased costs that will or will not be incurred by the claimants to implement the alleged mandate or result in a finding of no costs mandated by the state, pursuant to Government Code section 17556.
- C. Describe new activities performed to implement specified provisions of the statute or executive order alleged to impose a reimbursable state-mandated program.
- D. Make specific references to chapters, articles, sections, or page numbers alleged to impose or not impose a reimbursable state-mandated program.
- E. Are signed under penalty of perjury, based on the declarant's personal knowledge, information, or belief, by persons who are authorized and competent to do so.

7. DOCUMENTATION

Under heading "7. Documentation," support the detailed analysis with copies of all of the following:

- A. Statutes, and administrative or court decisions cited in the detailed analysis.

Statements of Decision and published court decisions from a state mandate determination by the Board of Control or the Commission are exempt from this requirement. When an omnibus bill is pled or cited, the requester shall file only the relevant pages of the statute, including the Legislative Counsel's Digest and the specific statutory changes at issue.

8. CERTIFICATION

*Read, sign, and date this section and insert at the end of the request for a new test claim decision.**

This request for a new test claim decision is true and complete to the best of my personal knowledge, information, or belief.

Chris Ferguson

Print or Type Name of Authorized Official

Principal Program Budget Analyst

Print or Type Title



Signature of Authorized Official

6/19/2015

Date

*If declarant for this certification is different from the contact identified in section 2 of the form, please provide the declarant's address, telephone number, fax number and e-mail address.

Request to Adopt a New Test Claim and Amend Parameters & Guidelines
Department of Finance
Community College Construction (02-TC-47)
Section 5: Detailed Analysis

Summary of Mandate

On October 27, 2011, the Commission on State Mandates (Commission) adopted the Statement of Decision for the Community College Construction (02-TC-47) mandate program (Construction Mandate) and approved reimbursement for specified capital construction estimate requirements mandated in Education Code section (ECS) 81821. ECS 81821 dates back to 1980 (Chapter 910, Statutes of 1980), which was substantially similar to requirements contained in ECS 20066 since 1967 as a part of the Community College Construction Act of 1967. Nevertheless, the Commission found 4 of the 6 construction estimate requirements within ECS 81821 to be reimbursable because they expanded requirements of an existing program or level of service.

Pursuant to Government Code section 17570, the Department of Finance requests that the Commission adopt a new test claim decision and amend the parameters and guidelines for the Construction Mandate to reflect that the reimbursement period of this program ended on June 20, 2014, which is the date amendments to ECS 81821 were signed into law. Chapter 34, Statutes of 2014 (SB 860) made reimbursable capital construction estimate requirements permissive. It was the intent of the Legislature in enacting these statutory amendments to relieve local districts of the duty to perform reimbursable activities. The activities required in former Education Code section 81821 (a), (b), (e), and (f) were made permissive by the amendments and are now set forth in Education Code section 81821(b)(1) through (4), respectively. Since the statute was amended, no reimbursement is required pursuant to Article XIII B, section 6 of the California Constitution and Government Code section 17514. As a result, the Construction Mandate should no longer exist based on the amendment of the test claim statute.

The following activities are no longer reimbursable:

A. Scope of Mandate

Community college districts shall be reimbursed for the costs of providing specified information in their five-year plan for capital construction and to annually monitor and report on this information.

B. Reimbursable Activities/Costs

For each eligible claimant, the following cost items are reimbursable:

1. Inclusion of the following information in their five-year plan for capital construction:
 - The plans of the district concerning its future student services programs, and the effect on estimated construction needs that may arise because of particular student services to be emphasized.
 - The enrollment projections for each educational center within a community college district, made cooperatively by the Department of Finance and the district.
 - An annual inventory of all land of the district using standard definitions, forms, and instructions adopted by the Board of Governors.
 - An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to regulations adopted by the Board of Governors.
2. Annual monitoring, updates, and reporting of this information.

Request to Adopt a New Test Claim and Amend Parameters & Guidelines
Department of Finance
Community College Construction (02-TC-47)
Section 6: Declarations

According to the State Controller's Office's April 30, 2015, Deficiency Report "State Mandated Program Cost Report of Unpaid Claims and Deficiency Pursuant to Government Code Section 17562(b)(2)", from 2001-02 to 2011-12, community college districts claimed \$617,293 in reimbursement claims and the state paid \$1,000, leaving a balance of \$616,293 for reimbursable activities, subject to audit. Based on these reimbursement claims we estimate that approximately up to \$140,000 in annual costs will not be incurred. To the extent that districts that file reimbursement claims under this mandate participate in the Mandates Block Grant program, this annual cost avoidance would be lower.

The forgoing analysis provides substantiation that the reimbursable activities pursuant to Education Code section 81821 identified in the Community College Construction Statement of Decision should cease to be eligible for reimbursement effective June 20, 2014, therefore the state's liability for mandate reimbursement pursuant to Article XIII B, Section 6 of the California Constitution should be zero after that date.

DECLARATION OF CHRIS FERGUSON
DEPARTMENT OF FINANCE

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.

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.

6/19/2015

at Sacramento, CA



Chris Ferguson

Request to Adopt a New Test Claim and Amend Parameters & Guidelines
Department of Finance
Community College Construction (02-TC-47)
Section 7: Documentation

Statute Before Chapter 34, Statutes of 2014

Education Code section 81821

The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to regulations adopted by the board of governors.

Request to Adopt a New Test Claim and Amend Parameters & Guidelines
Department of Finance
Community College Construction (02-TC-47)
Section 7: Documentation

Statute After Chapter 34, Statutes of 2014

Education Code section 81821

(a) The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to at least both of the following elements:

(1) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors.

(2) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors.

(b) The five-year plan for capital construction may also set out the estimated capital construction needs of the district with reference to other elements, including, but not limited to:

(1) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs that may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

(2) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the Chancellor of the California Community Colleges.

(3) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(4) An estimate of district funds that shall be made available for capital outlay matching purposes pursuant to regulations adopted by the board of governors.

Request to Adopt a New Test Claim and Amend Parameters & Guidelines
Department of Finance
Community College Construction (02-TC-47)
Section 7: Documentation

Link to the State Controller's Office's Deficiency Report: http://www.sco.ca.gov/Files-ARD-Local/LocRep/locreim_reports_deficiency2015.pdf

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On July 1, 2015, I served the:

New Filing; and Notice of Complete Filing and Schedule for Comments

Community College Construction (02-TC-47)

Education Code Sections 81820, 81821(a), (b), (e), and (f)

Statutes 1980, Chapter 910; Statutes 1981, Chapter 470; Statutes 1981, Chapter 891;
and Statutes 1995, Chapter 758

As Alleged to be Modified by Statutes 2014, Chapter 34 (SB 860)

California Department of Finance, Requester

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

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 July 1, 2015 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

980 Ninth Street, Suite 300

Sacramento, CA 95814

(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 6/26/15

Claim Number: 14-MR-03

Matter: Community College Construction (02-TC-47)

Requester: Department of Finance

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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, § 1181.3.)

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