



Central Basin
Municipal Water District

RECEIVED
March 27, 2018
Commission on
State Mandates

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Re: Claim of Central Basin Municipal Water District
Implementation of Assembly Bill 1794
Statutes 2016, Chapter 401 (AB 1794)

Dear Ms. Halsey:

This is an appeal to the Commission for review of your decisions as executive director in which Commission staff finds the Test Claim to be incomplete.

You indicate that Commission staff has determined that the Central Basin Municipal Water District does not receive the proceeds of taxes, is not subject to the tax and spend limitations of article XIII B of the California Constitution and is therefore ineligible to seek reimbursement for costs alleged to be mandated by the state under article XIII B, section 6.

The explicit language of article XIII B, section 6 does not contain any of the language cited above as the basis for the determination

Article XIII B, section 6 makes no reference to such a threshold requirement.

Similarly, Government Code section 17500 *et. seq.* under Chapter 1459, Statutes of 1984, in implementing the claim and reimbursement process, fails to contain any reference to a requirement that the local agency which has increased expenses as a result of a legislative mandate must be a recipient of property taxes to qualify for reimbursement from the state for the resulting costs.

What Article XIII B, section 6 does say is "(a) 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

and Unincorporated Areas
of Los Angeles County

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reimburse the local government for costs of the program or increased level of service,..."

There is no doubt that the Central Basin Municipal Water District is a local agency.

There is no doubt that AB 1794 mandated procedures which required the expenditure of resources of the local agency to implement. This included the defense of two lawsuits filed for the specific purpose of challenging the procedures mandated by the state without any assistance in the defense of the lawsuits from the state's attorneys. Documentation regarding these expenditures have been previously provided, and we request that the data be provided to the Commission as part of their review. No one has challenged either the amounts identified, the extent of the procedures required to be taken to comply with the mandate, or the methodology in calculating the claim; as a result, none of that should be subject to question at this point.

Turning now to the legal basis for the claim, in the absence of any explicit qualifying requirement contained in article XIII B, section 6 or in Government Code section 17500 *et. seq.*, we point out that Section 2 of AB 1794 states as follows:

"If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code."

Note that Section 2 of AB 1794 does not contain any language, explicitly or by inclusion by reference, that to be reimbursed, the Central Basin Municipal Water District – the only district affected by the mandate of AB 1794 - must be a recipient of property taxes.

Note also that Section 2 of AB 1794 uses the mandatory term of "shall" rather than the permissive term of "may" in dictating that if costs for implementation were found to flow from the mandate of the legislation, then the district is to be reimbursed.

We are convinced that our view of the process is legally sound, and that the District should be reimbursed for the costs as previously submitted for a number of reasons. First, a specific statute controls over a general statute governing the same subject matter.¹ Further, a later enactment (AB 1794) controls earlier enactments governing the same subject.² These concepts have been relied upon by the California Attorney General as recently as December 2017 in addressing issues regarding legislation.

The Legislature is presumed to be aware of existing laws at the time that a new statute is enacted. The Legislature also clearly knows how to draft legislation which is

¹ Code of Civil Procedure section 1859; *Estate of Kramme* (1978) 20 Cal.3d 567; *Shewry v. Wooten* (2009) 172 Cal.App. 4th 741.

² *Collection Bureau of San Jose v. Ramsey* (2000) 24 Cal.4th 301

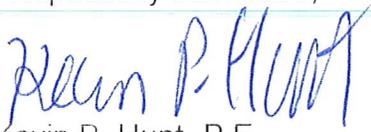
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contingent on a variety of conditions and preconditions. AB 1794 does not contain any language which would make reimbursement of the costs of Central Basin Municipal Water District – the only local agency subject to this statutory mandate- contingent on that local agency being a recipient of property taxes. In the absence of any such express requirement, Central Basin Municipal Water District should be reimbursed for its expenses as previously submitted to satisfy the express mandate of this most recent legislative enactment.

Please advise us of the time and location of the meeting at which the Commission will consider this appeal.

Should your staff have any questions prior to the meeting, please do not hesitate to contact me.

Respectfully submitted,



Kevin P. Hunt, P.E.
General Manager
Central Basin Municipal Water District

Cc: Alfred E. Smith, Esq.
Lloyd W. Pellman, Esq.

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.

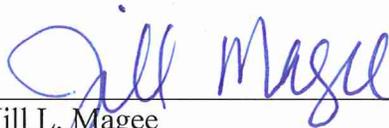
On March 30, 2018, I served the:

- **Notice of Test Claim Filing, Mootness of Appeal of Executive Director's Decision, Schedule for Comments, Request for Evidence of Proceeds of Taxes, and Notice of Tentative Hearing Date issued March 30, 2018**
- **Appeal of Executive Director's Decision filed March 27, 2018**
- **Test Claim filed by the Central Basin Municipal Water District on September 20, 2017**

Central Basin Municipal Water District Governance Reform, 17-TC-02
Statutes 2016, Chapter 401 (AB 1794)
Central Basin Municipal Water District, Claimant

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 March 30, 2018 at Sacramento, California.



Jill L. Magee
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 3/28/18

Claim Number: 17-TC-02

Matter: Central Basin Municipal Water District Governance Reform

Claimant: Central Basin Municipal Water District

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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