

April 18, 2018

Heather Halsey
Executive Director
Commission on State Mandates
980 9th Street
Sacramento, CA 95814

Re: Written Comments Regarding Review of Test Claim Filing
Central Basin Municipal Water District Governance Reform, 17-TC-02
Central Basin Municipal Water District, Claimant.

Dear Executive Director Halsey:

The California Special Districts Association (CSDA), hereby submit these comments as an interested party reviewing the merits of the Test Claim of Central Basin Municipal Water District pursuant to sections 1183.2 and 1181.3 of the Commission's regulations. CSDA represents over 1,000 special districts and affiliate organizations throughout the state, including all types of independent special districts, which provide millions of Californians with essential local services such as fire protection, water, resource conservation, and parks and recreation

CSDA filed an amicus brief in *Paradise Irrigation District, et al. v. Commission on State Mandates, Department of Finance, and Department of Water Resources* [Case No. C081929], following its original amicus filing to the Sacramento County Superior Court, Case No. 34-2015-80002016. In both matters, and in the present Central Basin Municipal Water Districts test claim (17-TC-02), CSDA urges the courts and Commission on State Mandates (CSM) to reject the exclusion of such entities from state-mandated reimbursement, as the clear language and intent of the California Constitution does not permit this exclusion, and because reasonable public policy warrants approval of the Central Basin Municipal Water District test claim.

California Constitutional Protection of Local Government Revenue Burdens

The Commission's interpretation of article XIII B, section 6 (Cal. Const., art. XIII B, § 6.), that it was designed to protect revenues of local governments and not the expenses that are recoverable from sources other than taxes, fails to account for the ever-increasing series of constraints on the funding available to administer these services.

Proposition 13 drastically cut property tax revenue by nearly 50% (California Senate Local Government Committee, *What's So Special About Special Districts, Fourth Edition*, 10 (2010)), creating a funding deficit for local agencies, particularly special districts. Funding deficits created a need for additional funding mechanisms, such as levying user fees. In 1996, Proposition 218 created restrictions on those sources of revenues, restricting assessment, fees and charges (*City of Riverside*, 73 Cal.App.4th at 686). For special districts and other local agencies,

regardless of the mix of revenue they rely on, they are restricted by these propositions when adopting new or increased fees.

The aforementioned propositions have created system whereby local governments and their constituent residents are charged with developing and implementing the programs and services they desire for their communities and bearing those costs. The current interpretation which makes many agencies ineligible for subvention exacerbates local agencies' and governments' funding woes, particularly when they are forced to implement and administer state-mandated actions.

The purpose of constitutionally required subvention "is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ill equipped to assume increased financial responsibilities because of constitutional taxing and spending limitations..." (*County of San Diego v. State of California*, 15 Cal 4th 68, 81). Excluding districts such as Central Basin Municipal Water District from eligibility for subvention, as CSM's decision and the Superior Court's ruling in *Paradise* attempt to do, is wholly contrary to the purpose and intent of Propositions 4 and 1A; to protect local governments with constitutional funding limitations from shouldering the financial burden of the Legislature's preferred programs.

Proposition 4 Subvention for State-Mandated Costs

Proposition 4, article XIII B, was intended to be a "permanent protection for taxpayers from excessive taxation" by establishing appropriations limit for each government entity (*County of Placer v. Corin* (1980) 113 Cal.App.3d 443). It also imposed the subvention requirements for state-mandated programs or higher levels of service that impose costs (*Cal. School Boards Assn.* (2018) 15 Cal.4th 68, 81).

The exclusion of local governments that do not receive property taxes or "proceeds of taxes" is contrary to the plain language of article XIII B, section 6, which provides subvention for "all" local governments. The denial for subvention in the case of Central Basin Municipal Water District, and other enterprise special districts, results in the creation of a class of local governments and their citizens that must always bear the cost of state mandates through increased fees, even before clearing the uncertain Proposition 218 voter authorization hurdle for said fee increases, while others deemed as eligible under the current interpretation will see no fee increases. The intent of Proposition 4 overwhelmingly is to ensure that government "will not favor one group of taxpayers over another," and that one group of ratepayers will not face a disproportionate burden based on the revenue source of their local government (*Legislature v. Eu* (1991) 54 Cal.3d 492, 504).

Implication of Current Eligibility Requirements Interpretation

The Sacramento Superior Court and CSM rulings on the subvention eligibility requirements are contrary to the intent of Proposition 4 (Cal. Const., art. XIII B, § 6.). Local governments face onerous requirements to increase fees, viewed as the ability to "recover expenses from other sources." The "other source" for local governments which operate as fee for service entities is

the ratepayer, which creates excessive taxation for some constituencies over others for the same new state-mandated program or service. A proper reading of the Constitution grants subvention for all local governments, to properly carry out state-mandates. The CSM and Sacramento Superior Court's current subvention eligibility interpretation should be reversed to protect against unreasonable injustice to the citizens and agencies which have adapted mixed funding methods to support local services, under the pressure of strict constitutional tax and fee regulations.

Accordingly, we respectfully urge the CSM to reverse its decision on the eligibility of the Central Basin Municipal Water District to file a Test Claim, and, to permit subvention claims by similarly situated enterprise districts constrained by the California Constitution in their ability to raise fees and charges.

We are happy to provide additional information or answer any follow-up questions the CSM or its staff may have. Please do not hesitate to contact Mustafa Hessabi at CSDA at (916) 442-7887.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mustafa Hessabi', with a stylized flourish at the end.

Mustafa Hessabi
Legislative Analyst - Attorney

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 May 2, 2018, I served the:

- **California Special Districts Association's (CSDA's) Comments on the Test Claim filed May 2, 2018**

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 May 2, 2018 at Sacramento, California.



Lorenzo Duran
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 4/13/18

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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