

COMMISSION ON STATE MANDATES

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October 1, 2013

Mr. Tom Dyer
Department of Finance
915 L Street
Sacramento, CA 95814

And Parties, Interested Parties and Interested Persons (See Mailing List)

Re: **Adopted Staff Recommendation to Adopt a New Test Claim Decision, Postponing Consideration of the Reimbursement Period Based on Potential Retroactivity Issues for Decision and the Adoption of the Decision to the December 6, 2013 Hearing**
Mandate Redetermination Request, 12-MR-01
Sexually Violent Predators, (CSM-4509)
Welfare and Institutions Code Sections 6601 through 6605, and 6608
Statutes 1995, Chapter 762; Statutes 1995, Chapter 763;
Statutes 1996, Chapter 4; As alleged to be modified by Proposition 83,
General Election, November 7, 2006
California Department of Finance, Requester

Dear Mr. Dyer:

On September 27, 2013, the Commission on State Mandates (Commission) voted to approve the staff recommendation to adopt a new test claim decision for the *Sexually Violent Predators* ("SVP," CSM-4509) test claim pursuant to Government Code section 17570. The Commission determined that six of the eight mandated activities identified in the previously adopted test claim decision are no longer reimbursable because these activities do not impose costs mandated by the state pursuant to Government Code section 17556(f). The Commission further determined that the remaining two activities relating to the probable cause hearing continue to impose costs mandated by the state and, thus, continue to be eligible for reimbursement.

The Commission, however, left *one* issue open for consideration at the December 6, 2013 meeting. At the September 27, 2013 hearing, the County of Los Angeles cited, for the first time, the Supreme Court decision in *People v. Castillo* (2010) 49 Cal.4th 145, which upheld an agreement entered into by the District Attorney and the Public Defender of the County of Los Angeles to continue the application of prior law and not apply the provisions of Proposition 83 to pending SVP cases. The County of Los Angeles relies on this decision to argue that applying Proposition 83 to cases pending at the time of its enactment is an inappropriate retroactive application of the law and, thus, mandate reimbursement should therefore continue for those pending SVP cases. The County further argues that applying the period of reimbursement of July 1, 2011 to the new test claim decision, a date based on the provisions of Government Code section 17570, would essentially nullify the decision of the California Supreme Court.

The Commission directed staff to consider and analyze the effect of the court's decision upholding the stipulation and agreement on the period of reimbursement for the new test claim decision, for the December 6, 2013 Commission hearing. Commission staff will issue a draft staff analysis **on this issue only**, on or before October 11, 2013 and invite comments from parties and interested parties and persons **only on the question** of the retroactive effect of

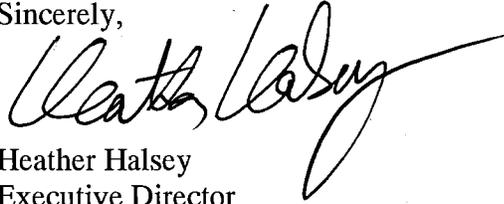
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Proposition 83 and whether the County of Los Angeles and other counties similarly situated might be entitled to continuing reimbursement, and if so, to what extent.

Please note that the Commission voted to adopt a new test claim decision in this matter, and adopted findings on the activities that are no longer reimbursable; those findings are final. Comments on issues already decided will not be considered.

Please contact Heidi Palchik at (916) 323-3562 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Halsey", with a long, sweeping underline that extends to the right.

Heather Halsey
Executive Director