STATE of CALIFORNIA
COMMISSION ON STATE MANDATES

For CSM Use Only

Filing Date:

RECEIVED
June 26, 2020
Commission on State Mandates

Test Claim #: 19-TC-04

TEST CLAIM FORM

Section 1

Proposed Test Claim Title:

County of Los Angeles Citizens Redistricting Commission

Section 2

Local Government (Local Agency/School District) Name:

County of Los Angeles

Name and Title of Claimant's Authorized Official pursuant to CCR, tit.2, § 1183.1(a)(1-5):

Arlene Barrera, Auditor-Controller

Street Address, City, State, and Zip:

500 West Temple Street, Room 525, Los Angeles, CA 90012

Telephone Number	Fax Number	Email Address
(213) 974-8302	(213) 626-5427	abarrera@auditor.lacounty.gov

Section 3

Claimant Representative: Fernando Lemus Title Principal Accountant-Auditor

Organization: County of Los Angeles, Department of Auditor-Controller

Street Address, City, State, Zip:

500 West Temple Street, Room 603, Los Angeles, CA 90012

Telephone Number	Fax Number	Email Address
(213) 974-0324	(213) 617-8106	flemus@auditor.lacounty.gov

Section 4 – Please identify all code sections (include statutes, chapters, and bill numbers; e.g., Penal Code section 2045, Statutes 2004, Chapter 54 [AB 290]), regulatory sections (include register number and effective date; e.g., California Code of Regulations, title 5, section 60100 (Register 1998, No. 44, effective 10/29/98), and other executive orders (include effective date) that impose the alleged mandate pursuant to Government Code section 17553 and don't forget to check whether the code section has since been amended or a regulation adopted to implement it (refer to your completed WORKSHEET on page 7 of this form):

Senate Bill 958, Chapter 781 Statutes of 2016

Adding Chapter 6.3 (Commencing with Section 21530) to Division 21 of the Elections Code, relating to elections

☒ Test Claim is Timely Filed on [Insert Filing Date] [select either A or B]: 06 / 26 / 2020

☐ A: Which is not later than 12 months following [insert the effective date of the test claim statute(s) or executive order(s)] ___/___/_____, the effective date of the statute(s) or executive order(s) pled; or

☒ B: Which is within 12 months of [insert the date costs were *first* incurred to implement the alleged mandate] 07 / 01 / 2019, which is the date of first incurring costs as a result of the statute(s) or executive order(s) pled. *This filing includes evidence which would be admissible over an objection in a civil proceeding to support the assertion of fact regarding the date that costs were first incurred.*

(Gov. Code § 17551(c); Cal. Code Regs., tit. 2, §§ 1183.1(c) and 1187.5.)

Section 5 – Written Narrative:

☒ Includes a statement that actual and/or estimated costs exceed one thousand dollars ($1,000). (Gov. Code § 17564.)

☒ Includes all of the following elements for each statute or executive order alleged ***pursuant to Government Code section 17553(b)(1) (refer to your completed WORKSHEET on page 7 of this form)***:

☒ Identifies all sections of statutes or executive orders and the effective date and register number of regulations alleged to contain a mandate, including a detailed description of the *new* activities and costs that arise from the alleged mandate and the existing activities and costs that are *modified* by the alleged mandate;

☒ Identifies *actual* increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate;

☒ Identifies *actual or estimated* annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed;

☒ Contains a statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed;
Following FY: 2020 - 2021 Total Costs: $1,532,620

☒ Identifies all dedicated funding sources for this program; State: N/A

Federal: N/A Local agency's general purpose funds: N/A

Other nonlocal agency funds: N/A

Fee authority to offset costs: N/A

☒ Identifies prior mandate determinations made by the Board of Control or the Commission on State Mandates that may be related to the alleged mandate: N/A

☒ Identifies a legislatively determined mandate that is on the same statute or executive order: N/A

Section 6 – The Written Narrative Shall be Supported with Declarations Under Penalty of Perjury Pursuant to Government Code Section 17553(b)(2) and California Code of Regulations, title 2, section 1187.5, as follows (refer to your completed WORKSHEET on page 7 of this form):

☒ Declarations of actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate.

☒ Declarations identifying all local, state, or federal funds, and fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs.

☒ Declarations describing new activities performed to implement specified provisions of the new statute or executive order alleged to impose a reimbursable state-mandated program (specific references shall be made to chapters, articles, sections, or page numbers alleged to impose a reimbursable state-mandated program).

☒ If applicable, declarations describing the period of reimbursement and payments received for full reimbursement of costs for a legislatively determined mandate pursuant to Government Code section 17573, and the authority to file a test claim pursuant to paragraph (1) of subdivision (c) of Government Code section 17574.

☒ The declarations 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.

Section 7 – The Written Narrative Shall be Supported with Copies of the Following Documentation Pursuant to Government Code section 17553(b)(3) and California Code of Regulations, title 2, § 1187.5 (refer to your completed WORKSHEET on page 7 of this form):

☒ The test claim statute that includes the bill number, and/or executive order identified by its effective date and register number (if a regulation), alleged to impose or impact a mandate. Pages 29 to 34.

☒ Relevant portions of state constitutional provisions, federal statutes, and executive orders that may impact the alleged mandate. Pages 133 to 151.

☒ Administrative decisions and court decisions cited in the narrative. (Published court decisions arising from a state mandate determination by the Board of Control or the Commission are exempt from this requirement.) Pages 45 to 132.

☒ Evidence to support any written representation of fact. *Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.* (*Cal. Code Regs., tit. 2, § 1187.5*). Pages 19 to 27.

Section 8 –TEST CLAIM CERTIFICATION Pursuant to Government Code section 17553

☒ The test claim form is signed and dated at the end of the document, under penalty of perjury by the eligible claimant, with the declaration that the test claim is true and complete to the best of the declarant's personal knowledge, information, or belief.

Read, sign, and date this section. Test claims that are not signed by authorized claimant officials pursuant to California Code of Regulations, title 2, section 1183.1(a)(1-5) will be returned as incomplete. In addition, please note that this form also serves to designate a claimant representative for the matter (if desired) and for that reason may only be signed by an authorized local government official as defined in section 1183.1(a)(1-5) of the Commission's regulations, and not by the representative.

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim is true and complete to the best of my own personal knowledge, information, or belief. All representations of fact are supported by documentary or testimonial evidence and are submitted in accordance with the Commission's regulations. (Cal. Code Regs., tit.2, §§ 1183.1 and 1187.5.)

Arlene Barrera	Auditor-Controller
Name of Authorized Local Government Official pursuant to Cal. Code Regs., tit.2, § 1183.1(a)(1-5)	**Print or Type Title**
Arlene Barrera	11/19/20
Signature of Authorized Local Government Official pursuant to Cal. Code Regs., tit.2, § 1183.1(a)(1-5)	**Date**

Test Claim Form Sections 4-7 WORKSHEET

Complete Worksheets for Each New Activity and Modified Existing Activity Alleged to Be Mandated by the State, and Include the Completed Worksheets With Your Filing.

Statute, Chapter and Code Section/Executive Order Section, Effective Date, and Register Number: SB 958, Chapter 781, Statutes of 2016, Adding Chapter 6.3 (Commencing with Sectior

Activity: Creates a citizens redistricting commission to adjust the Los Angeles County Board of Supervisors' district boundaries after each decennial federal census.

Initial FY: 19 - 20 Cost: $36,802 Following FY: 20 - 21 Cost: $1,532,620

Evidence (if required): Declarations of Albert Navas and Twila Kerr

All dedicated funding sources; State: $0.00 Federal: $0.00

Local agency's general purpose funds: $0.00

Other nonlocal agency funds: $0.00

Fee authority to offset costs: $0.00

COUNTY OF LOS ANGELES TEST CLAIM

COUNTY OF LOS ANGELES CITIZENS REDISTRICTING COMMISSION

Senate Bill 958: Chapter 781, Statutes of 2016
An act to add Chapter 6.3 (commencing with Section 21530) to Division 21 of the Election Code, relating to elections

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SECTION 5: WRITTEN NARRATIVE

COUNTY OF LOS ANGELES TEST CLAIM

COUNTY OF LOS ANGELES CITIZENS REDISTRICTING COMMISSION

Senate Bill (SB) 958: Chapter 781, Statutes of 2016
An act to add Chapter 6.3 (commencing with Section 21530) to Division 21 of the Elections Code, relating to elections

I. STATEMENT OF THE TEST CLAIM

A. MANDATE SUMMARY

Prior to the passage of Senate Bill (SB) 958, California law allowed the County Board of Supervisors (Board) to adjust the boundaries of any and all supervisorial districts using federal decennial data. SB 958, cited above and on which this Test Claim (TC) is based, added Elections Code sections 21530-21535, which requires supervisorial boundaries to be drawn completely independently from the County of Los Angeles (County) Board through a 14-member Citizens Redistricting Commission (CRC or Commission) to be formed by the County by December 31, 2020. SB 958 mandates the County Elections Official to select the 60 most-qualified applicants and the Auditor-Controller to randomly select eight commissioners from the pool of 60, with at least one commissioner from each supervisorial district. The eight selected commissioners shall thereafter select the remaining six commissioners from the pool of remaining applicants. Among other eligibility and post-appointment requirements, commissioners are required to possess experience that demonstrates analytical skills relevant to the redistricting process, voting rights, an ability to be impartial, and an appreciation for the diverse demographics and geography of the County.

SB 958 added Elections Code sections 21530 to 21535 and mandates the creation of the CRC to establish single-member supervisorial districts prioritizing: (1) compliance with the United States Constitution and drawing districts that are reasonably equal in population with other districts for the board; (2) compliance with the Voting Rights Act of 1965 (52 U.S.C. section 10101 et seq.); (3) geographically contiguous districts; (4) geographic integrity of any city, local neighborhood, or local community of interest; and (5) geographical compactness to the extent possible. Once formed, the 14-member commission must hold at least nine public hearings, which must be held in a variety of locations and at various times and days to ensure reaching as large an audience as possible. The Commission must encourage County residents to participate in the public review process by providing information to the public, coordinating with community organizations, and posting information on the County's website.

SB 958 added Elections Code sections 21532(e), (f), and (g), which requires the County to perform two distinct functions in order to comply with the mandate. First, the County's Elections Official, referred to as the Registrar-Recorder/County Clerk (RR/CC), must inform the public about the CRC, create an application process, receive and review

applications, and select the 60 most-qualified applicants as specified. Second, the Auditor-Controller must randomly select eight commissioners out of the pool of 60 most-qualified applicants selected by the RR/CC, with the selected eight commissioners to appoint the remaining six commissioners on the 14-member CRC per Elections Code section 21532(g). Second, once the CRC is formed, Elections Code section 21534(c)(8) requires the County to provide reasonable funding and staffing for the Commission, so that the Commission may fulfil its obligations to redraw supervisorial districts, conduct public hearings, and encourage public participation in the process. Per Elections Code section 21534(c)(7), the County must also take all reasonable steps to ensure that a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide the public with ready access to redistricting data and computer software equivalent to what is available to the Commission. Further, SB 958 added Elections Code section 215333(d)(1)(2), which enables the County to retain a consultant to advise the CRC regarding any aspect of the redistricting commission only if the consultant meets the same qualifications as the CRC commissioners.

B. BACKGROUND

Existing law requires county boards of supervisors, following each decennial federal census, and using data from that census, to adjust the boundaries of any or all of the supervisorial districts of the county such that they are (1) as nearly equal in population based on the total population of residents of the county as determined by that census, and (2) comply with the applicable provisions of the United States Constitution, California Constitution, and the federal Voting Rights Act of 1965 (52 U.S.C. section 10301 et seq.). When adjusting the boundaries of supervisorial districts, a board of supervisors shall use the following factors, in order of priority: (1) geographically contiguous supervisorial districts; (2) maintaining geographic integrity of any local neighborhood or local community of interest; (3) geographic integrity of a city or census-designated place to minimize division; (4) easily identifiable and understandable boundaries; and (5) geographical compactness. A board of supervisors must hold at least four public hearings inviting the public to provide input regarding the composition of a supervisorial district before the public hearing at which the board votes to approve or defeat the proposal.

Except for the County of Los Angeles and San Diego County, State law allows a county board of supervisors, following a decennial federal census, to appoint an advisory, independent, or hybrid committee, comprised of county residents, to study and make changes to supervisorial boundaries.

California counties must follow State law governing redistricting. Several California cities have established redistricting commissions to adjust city council districts following each decennial census. In some cities, these commissions are advisory and only make recommendations to the city council, but in other cities, the redistricting commission has the authority to adopt a redistricting plan independent of the city council. Charter cities are able to establish such commissions because the State Constitution gives charter cities broad authority over the conduct of city elections and over the manner in which, method by which, times at which, and terms for which municipal officers are elected.

General law cities and all counties, on the other hand, are not granted the same level of authority over the conduct of their elections and, in fact, the State Constitution explicitly provides that "[c]harter counties are subject to statutes that relate to apportioning population of governing body districts."

In 2012, at the request of San Diego County officials, SB 1331, Chapter 508, Statutes of 2012 was enacted to establish a redistricting commission in San Diego County to adjust the boundaries of supervisorial districts after each decennial federal census. Under SB 1331, the San Diego County redistricting commission was to be comprised of five former or retired State or federal judges who are residents and voters in the county. This law was later amended by Assembly Bill (AB) 801, Chapter 711, Statutes of 2017, which increased the number of commission members from five to 14 and established a new selection process for commissioners, with additional commissioner qualifications and restrictions. Under San Diego County's current law and much like SB 958, which applies to the County of Los Angeles, eight of the 14 commission members are to be selected from among 60 of the most-qualified applicants through a random drawing, with the remaining six commission members to be appointed by the eight selected commission members.

Although costs associated with the original redistricting legislation requested by San Diego County local officials (SB 1331) were not State-reimbursable, AB 801 provides that costs associated with the legislation may be State-reimbursable upon a determination by the Commission on State Mandates. Furthermore, the Voters First Act (Proposition 11) required the Governor and the Legislature to provide the State redistricting commission with funding and adequate office space.

More specifically, Proposition 11 and the Voters First Act for Congress (Proposition 20) reformed the statewide redistricting process and established an independent 14-member Commission to draw the decennial district boundaries for California's Congressional delegation, State Senate, State Assembly, and the Board of Equalization.

In 2016, SB 1108 (Allen, Ch. 784 of 2016) was passed for all counties permitting a county board of supervisors, by resolution or ordinance, to use a commission (independent or advisory) to draw supervisorial district boundaries. The bill permits the board of supervisors to select commission members. In 2018, SB 1018 (Allen, Ch. 462 of 2018) was also passed, permitting a county board of supervisors to form, in addition to an independent or advisory commission, a hybrid commission to draw supervisorial district boundaries.

At the same time SB 1108 was passed in 2016, SB 958 was passed affecting only the County of Los Angeles' redistricting process, requiring the County to use an independent redistricting commission without option to form an advisory or hybrid commission to draw district boundaries, and removing the County's Board from the redistricting process. Unlike SB 958, neither SB 1108 nor SB 1018 provides that costs associated with the legislation may be State-reimbursable upon a determination by the Commission on State Mandates.

C. SENATE BILL 958

County supervisorial districts must be redrawn following each decennial federal census. SB 958 requires supervisorial boundaries to be drawn completely independently from the County of Los Angeles Board of Supervisors through the CRC. Due to the size of the County of Los Angeles and its redistricting history, the Legislature believed it was necessary to adopt a special law to guide the County's redistricting process. The State Legislature believed that the County's Board needed to be accountable to the public and SB 958 could aid in achieving that goal. Similar to AB 801, SB 958 provides that costs associated with the legislation may be State-reimbursable upon a determination by the Commission on State Mandates.

SB 958, as added in Elections Code sections 21530-21535, requires the County to form an independent CRC by December 31, 2020. The County's Board and its agents are prohibited from any involvement in reviewing and selecting qualified commissioner applicants. SB 958 requires the County's Elections Official to select the 60 most-qualified applicants and place them into supervisorial districts. At a public meeting, the Auditor-Controller randomly selects eight commissioners, at least one from each supervisorial district. The eight selected commissioners shall then appoint the other six from the pool of remaining applicants to make a 14-member commission.

Eligibility requirements for commissioners include residency within the county, continuous registration in the county with the same political party or unaffiliated with a political party for at least five years, and voting in at least one of the last three statewide elections. In addition, commissioners and their immediate family members cannot have: (1) been appointed to, elected to, or have been a candidate for office at the local, state, or federal level representing the County; (2) served as an employee of, or paid consultant for, an elected representative or a candidate for office at the local, state, or federal level representing the county; (3) served as an officer, employee, or paid consultant of a political party or as an appointed member of a political party central committee; or (4) been a registered state or local lobbyist. Commissioners are furthermore required to possess experience that demonstrates analytical skills relevant to the redistricting process and voting rights, an ability to be impartial, and an appreciation for the diverse demographics and geography of the county. Six of the 14 commissioners must reflect the County's diversity, including racial, ethnic, geographic and gender diversity, and the political party preferences of the commission members must be as proportional as possible to the total number of voters who are registered with each political party in the County.

The commission is responsible for establishing single-member supervisorial districts prioritizing: (1) compliance with the United States Constitution and drawing districts that are reasonably equal in population with other districts for the board; (2) compliance with the Voting Rights Act of 1965 (52 U.S.C. section 10101 et seq.); (3) geographically contiguous districts; (4) geographic integrity of any city, local neighborhood, or local community of interest; and (5) geographical compactness to the extent possible.

Once the CRC is formed, it must hold at least seven public hearings before a map is drawn and at least two public hearings after the map is drawn. Hearings must be held in a variety of locations and scheduled at various times and days of the week. Accommodations for live translation of the hearing must be made when requested 24 hours in advance of the public hearing. The CRC must also encourage County residents to participate in the public review process by providing information to the public, coordinating with community organizations, and posting information on the County's website. The Board is required to provide reasonable funding and staffing for the Commission, which includes taking all reasonable steps to ensure that a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide the public with ready access to redistricting data and computer software equivalent to what is available to the Commission.

II. CONTROLLING LEGISLATION

SB 958, Chapter 781, Statutes of 2016, which added Chapter 6.3 (commencing with Section 21530) to Division 21 of the Elections Code, relating to elections, was signed into law on September 28, 2016.

The County of Los Angeles ("Claimant") hereby submits this Test Claim seeking to recover its cost in performing mandated activities imposed by SB 958.

A. DESCRIPTION OF THE MANDATED ACTIVITIES

Pursuant to SB 958, the County is mandated to form an independent Citizens Redistricting Commission, which requires informing the public about the Commission, accepting and reviewing applications, and selecting qualified applicants as specified. Once the Commission is formed, the County is mandated to provide reasonable funding and staffing for the Commission so that the Commission may fulfill its obligations to redraw supervisorial districts, conduct public hearings, and encourage public participation in the process. The specific mandated activities are as follow:

SB 958, Chapter 781, Statutes of 2016, *COUNTY OF LOS ANGELES CITIZENS REDISTRICTING COMMISSION,* added:

SECTION 1. Chapter 6.3 (commencing with Section 21530) is added to Division 21 of the Elections Code, to read:

Definitions **[emphasis added]**

Section 21530. As used in this Chapter, the following terms have the following meanings:

(a) "Board" means the Board of Supervisors of the County of Los Angeles.

(b) "Commission" means the Citizens Redistricting Commission in the County of Los Angeles established pursuant to Section 21532.

(c) “Immediate family member” means a spouse, child, in-law, parent, or sibling.

Redistricting Commission Creation **[emphasis added]**

Section 21531

There is, in the County of Los Angeles, a Citizens Redistricting Commission. In the year following the year in which the decennial federal census is taken, the commission shall adjust the boundary lines of the supervisorial districts of the board in accordance with this chapter.

Section 21532

(a) The commission shall be created no later than December 31, 2020, and in each year ending in the number zero thereafter.

(b) The selection process is designed to produce a commission that is independent from the influence of the board and reasonably representative of the county’s diversity.

(c) The commission shall consist of 14 members. The political party preferences of the commission members, as shown on the members’ most recent affidavits of registration, shall be as proportional as possible to the total number of voters who are registered with each political party in the County of Los Angeles, as determined by registration at the most recent statewide election. However, the political party preferences of the commission members are not required to be the same as the proportion of political party preferences among the registered voters of the county. At least one commission member shall reside in each of the five existing supervisorial districts of the board.

(d) Each commission member shall meet all the following qualifications:

(1) Be a resident of the County of Los Angeles.

(2) Be a voter who has been continuously registered in the County of Los Angeles with the same political party or unaffiliated with a political party and who has not changed political party affiliation for five or more years immediately preceding the date of his or her appointment to the commission.

(3) Have voted in at least one of the last three statewide elections immediately preceding his or her application to be a member of the commission.

(4) Within the 10 years immediately preceding the date of application to the commission, neither the applicant, nor an immediate family member of the applicant, has done any of the following:

(A) Been appointed to, elected to, or have been a candidate for office at the local, state, or federal level representing the County of Los Angeles, including as a member of the board.

(B) Served as an employee of, or paid consultant for, an elected representative at the local, state, or federal level representing the County of Los Angeles.

(C) Served as an employee of, or paid consultant for, a candidate for office at the local, state, or federal level representing the County of Los Angeles.

(D) Served as an officer, employee, or paid consultant of a political party or as an appointed member of a political party central committee.

(E) Been a registered state or local lobbyist.

(5) Possess experience that demonstrates analytical skills relevant to the redistricting process and voting rights and possess an ability to comprehend and apply the applicable state and federal legal requirements.

(6) Possess experience that demonstrates an ability to be impartial.

(7) Possess experience that demonstrates an appreciation for the diverse demographics and geography of the County of Los Angeles.

(e) An interested person meeting the qualifications specified in subdivision (d) may submit an application to the county elections official to be considered for membership on the commission. The county elections official shall review the applications and eliminate applicants who do not meet the specified qualifications.

(f) (1) From the pool of qualified applicants, the county elections official shall select 60 of the most qualified applicants, taking into account the requirements described in subdivision (c). The county elections official shall make public the names of the 60 most qualified applicants for at least 30 days. The county elections official shall not communicate with a member of the board, or an agent for a member of the board, about any matter related to the nomination process or applicants before the publication of the list of the 60 most qualified applicants.

(2) During the period described in paragraph (1), the county elections official may eliminate any of the previously selected applicants if the official becomes aware that the applicant does not meet the qualifications specified in subdivision (d).

(g) (1) After complying with the requirements of subdivision (f), the county elections official shall create a sub-pool for each of the five existing supervisorial districts of the board.

(2) (A) At a regularly scheduled meeting of the board, the Auditor-Controller of the County of Los Angeles shall conduct a random drawing to select one commissioner from each of the five sub-pools established by the county elections official.

(B) After completing the random drawing pursuant to subparagraph (A), at the same meeting of the board, the Auditor-Controller shall conduct a random drawing from all of the remaining applicants, without respect to sub-pools, to select three additional commissioners.

(h) (1) The eight selected commissioners shall review the remaining names in the subpools of applicants and shall appoint six additional applicants to the commission.

(2) The six appointees shall be chosen based on relevant experience, analytical skills, and ability to be impartial, and to ensure that the commission reflects the county's diversity, including racial, ethnic, geographic, and gender diversity. However, formulas or specific ratios shall not be applied for this purpose. The eight commissioners shall also consider political party preference, selecting applicants so that the political party preference of the members of the commission complies with subdivision (c).

Section 21533

(a) A commission member shall apply this chapter in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process.

(b) The term of office of each member of the commission expires upon the appointment of the first member of the succeeding commission.

(c) Nine members of the commission shall constitute a quorum. Nine or more affirmative votes shall be required for any official action.

(d) (1) The commission shall not retain a consultant who would not be qualified as an applicant pursuant to paragraph (4) of subdivision (d) of Section 21532.

(2) For purposes of this subdivision, "consultant" means a person, whether or not compensated, retained to advise the commission or a commission member regarding any aspect of the redistricting process.

(e) Each commission member shall be a designated employee for purposes of the conflict of interest code adopted by the County of Los Angeles pursuant to Article 3 (commencing with Section 87300) of Chapter 7 of Title 9 of the Government Code.

Section 21534

(a) The commission shall establish single-member supervisorial districts for the board pursuant to a mapping process using the following criteria as set forth in the following order of priority:

(1) Districts shall comply with the United States Constitution and each district shall have a reasonably equal population with other districts for the board, except where deviation is required to comply with the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.) or allowable by law.

(2) Districts shall comply with the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.).

(3) Districts shall be geographically contiguous.

(4) The geographic integrity of any city, local neighborhood, or local community of interest shall be respected in a manner that minimizes its division to the extent possible without violating the requirements of paragraphs (1) to (3), inclusive. A community of interest is a contiguous population that shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.

(5) To the extent practicable, and where this does not conflict with paragraphs (1) to (4), inclusive, districts shall be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant areas of population.

(b) The place of residence of any incumbent or political candidate shall not be considered in the creation of a map. Districts shall not be drawn for purposes of favoring or discriminating against an incumbent, political candidate, or political party.

(c) (1) The commission shall comply with the Ralph M. Brown Act (Chapter 9, commencing with Section 54950, of Part 1 of Division 2 of Title 5 of the Government Code).

(2) Before the commission draws a map, the commission shall conduct at least seven public hearings, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district.

(3) After the commission draws a draft map, the commission shall do both of the following:

(A) Post the map for public comment on the Internet Web site of the County of Los Angeles.

(B) Conduct at least two public hearings to take place over a period of no fewer than 30 days.

(4) (A) The commission shall establish and make available to the public a calendar of all public hearings described in paragraphs (2) and (3). Hearings shall be scheduled at various times and days of the week to accommodate a variety of work schedules and to reach as large an audience as possible.

(B) Notwithstanding Section 54954.2 of the Government Code, the commission shall post the agenda for the public hearings described in paragraphs (2) and (3) at least seven days before the hearings. The agenda for a meeting required by paragraph (3) shall include a copy of the draft map.

(5) (A) The commission shall arrange for the live translation of a hearing held pursuant to this chapter in an applicable language if a request for translation is made at least 24 hours before the hearing.

(B) For purposes of this paragraph, an "applicable language" means a language for which the number of residents of the County of Los Angeles who are members of a language minority is greater than or equal to 3 percent of the total voting age residents of the county.

(6) The commission shall take steps to encourage county residents to participate in the redistricting public review process. These steps may include:

(A) Providing information through media, social media, and public service announcements.

(B) Coordinating with community organizations.

(C) Posting information on the Internet Web site of the County of Los Angeles that explains the redistricting process and includes a notice of each public hearing and the procedures for testifying during a hearing or submitting written testimony directly to the commission.

(7) The board shall take all steps necessary to ensure that a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide to the public ready access to redistricting data and computer software equivalent to what is available to the commission members.

(8) The board shall provide for reasonable funding and staffing for the commission.

(9) All records of the commission relating to redistricting, and all data considered by the commission in drawing a draft map or the final map, are public records.

(d) (1) The commission shall adopt a redistricting plan adjusting the boundaries of the supervisorial districts and shall file the plan with the county elections official before August 15 of the year following the year in which each decennial federal census is taken.

(2) The plan shall be effective 30 days after it is filed with the county elections official.

(3) The plan shall be subject to referendum in the same manner as ordinances.

(4) The commission shall issue, with the final map, a report that explains the basis on which the commission made its decisions in achieving compliance with the criteria described in subdivisions (a) and (b).

Section 21535

A commission member shall be ineligible for a period of five years, beginning from the date of appointment, to hold elective public office at the federal, state, county, or city level in this state. A commission member shall be ineligible for a period of three years, beginning from the date of appointment, to hold appointive federal, state, or local public office, to serve as paid staff for, or as a paid consultant to, the Board of Equalization, the Congress, the Legislature, or any individual legislator, or to register as a federal, state or local lobbyist in this state.

SEC. 2. The Legislature finds and declares that a special law is necessary, and that general law cannot be made applicable within the meaning of Section 16, Article IV of the California Constitution because of the unique circumstances facing the County of Los Angeles."

B. DESCRIPTION OF THE EXISTING ACTIVITIES AND COSTS MODIFIED BY THE MANDATE

Prior to enactment of SB 958, the County of Los Angeles was not required to create and maintain an independent Citizens Redistricting Commission. The County's Board used decennial federal census data to adjust the boundaries of any or all of the supervisorial districts of the county. The alleged mandates contained in SB 958 place requirements on two distinct County Departments, the Registrar-Recorder/County Clerk (RR/CC) and the Commission Services Division of the Executive Office of the Board.

SB 958, as added in Elections Code section 21532(e), requires the "county elections official" to review applications and select qualified applicants to the CRC. SB 958, as added in Elections Code section 21532(b), states, "the selection process is designed to produce a commission that is independent from the influence of the board and reasonably

representative of the county's diversity." Furthermore, Elections Code section 21532(d)(7) requires that commission members "possess experience that demonstrates an appreciation for the diverse demographics and geography of the County of Los Angeles." To that end, the RR/CC must educate and inform the public, through digital, print, radio, social, and earned media outreach on the importance of the Commission and how the public can apply and become a commission member.

SB 958, as added in Elections Code section 21534, mandates that "the board shall provide reasonable funding and staffing for the commission." Further, SB 958, as added in Elections Code section 21533, enables the County to retain a consultant in order to advise the newly formed Commission on issues related to redistricting, provided that the consultant meets all of the qualification requirements of the Commission members.

C. ACTUAL INCREASED COSTS INCURRED IN FY 2019-20, THE YEAR FOR WHICH THE TC WAS FILED EXCEEDS ONE THOUSAND DOLLARS

RR/CC first incurred costs on July 1, 2019 when its staff met internally to develop the CRC application and selection process, as contemplated in SB 958. Since there was no application process prior to SB 958, the County was mandated to develop and disseminate an application, as well as inform and educate the public on the significance of the Commission. SB 958 added Elections Code section 21532, subdivisions (e), (f), and (g), which require that the RR/CC accept applications from interested persons meeting the qualifications in Elections Code section21532(d). According to Albert Navas, Departmental Finance Manager, the RR/CC incurred $35,533.18 in actual increased costs related to planning the CRC's application and selection process and ensuring that the legislature's mandate of SB 958 was being followed. (See Sections 3-4 - Declaration of Albert Navas). RR/CC has designed and developed the CRC application process, created internal working documents, and designed and set up a CRC website, and the actual increased costs incurred for these activities are $1,268.91. (See Sections 3-5 - Declaration of Albert Navas)

D. ACTUAL OR ESTIMATED ANNUAL COSTS THAT WILL BE INCURRED BY THE CLAIMANT TO IMPLEMENT THE ALLEGED MANDATE DURING THE FY IMMEDIATELY FOLLOWING THE FY FOR WHICH THE TC WAS FILED

The RR/CC will be reviewing and tracking applications to the CRC for purposes of selecting a pool of 60 applicants as mandated under Elections Code section 21532(f)(1)(2), which was added by SB 958. RR/CC will continue to incur staffing costs in order to manage the CRC applications, answer phone calls, send e-mails, and direct all aspects of the application process as mandated in Elections Code section 21532(e). The estimated cost for these activities is $100,000. Also, the RR/CC will continue to incur costs associated with running a media campaign in order to promote the application process and educate the public on the redistricting process in accordance with Elections Code section 21532(b). The estimated cost for these activities is $250,000. Further, the RR/CC will incur an estimated $5,000 in costs related to staffing redistricting workshops to educate interested residents on the CRC, as required in Elections Code sections 21532 (a)-(e). The RR/CC estimates it will incur $50,000 in costs for advice from County

Counsel and miscellaneous expenses. The Claimant estimates that it would cost the RR/CC $405,000 to comply with its SB 958 mandate in FY 2020-21[1].

Additionally, the County's Commission Services Division at the Executive Office of the Board will also incur costs mandated by SB 958. Elections Code section 21534(c)(8) requires the Board to provide staffing and reasonable funding to the 14-member CRC. Staff will be responsible for scouting and reserving meeting locations, scheduling meetings, and preparing agendas, minutes, and supporting documents. The estimated cost for these activities is $184,000. SB 958, as added in Elections Code section 21534(c)(7), mandates that the County procure a computerized database for the CRC and the public. The cost for these activities is $439,000. Further, Elections Code section 21534(c)(6) requires that the County launch and engage in a media campaign to encourage County residents to participate in the redistricting public review process. The estimated cost for these activities is $250,000.

The County will also have increased costs related to securing public address systems, audio equipment, translation services, and assisted-hearing devices at public hearings as required under Elections Code section 21534(c). The estimated cost associated with these activities is $4,620. Moreover, SB 958, as added in Elections Code section 21534(d)(1)(2), enables the County to procure a consultant to guide the CRC and ensure it meets timelines for final map submission by December 15, 2021. The increased cost associated with these activities is $250,000. The County estimates that it would cost the Board $1,127,620 to comply with its SB 958 mandate in FY 2020-21[2]. (See Section 6 - Declaration of Twila Kerr)

E. STATEWIDE COST ESTIMATE OF INCREASED COSTS THAT ALL LOCAL AGENCIES WILL INCUR TO IMPLEMENT THE MANDATE

SB 958 applies to the Claimant only; however, according to the California State Assembly Committee on Elections and Redistricting hearing on June 15, 2016[3], SB 958 would likely result in a reimbursable State mandate. Estimated costs to the State are unknown, but could potentially reach the high hundreds of thousands of dollars every ten years. As an example, the statewide Citizens Redistricting Commission incurred costs of $6 million to draw the 2010 decennial boundaries for the State's congressional delegation, State Senate, State Assembly, and the Board of Equalization. Therefore, it would be reasonable to estimate an increased cost of $1,532,620 for the FY 2020-21 for the Claimant[4].

[1] Declaration of Albert Navas

[2] Declaration of Twila Kerr

[3] California State Assembly Committee on Elections and Redistricting, page 6, Fiscal Effect

[4] Declaration of Albert Navas and Declaration of Twila Kerr

F. IDENTIFICATION OF AVAILABLE FUNDING SOURCES

The Claimant is not aware of nor did it receive any State, federal, or other non-local agency funds available for this program and all the increased costs were paid and will be paid from the Claimant's General Fund appropriations[5].

G. IDENTIFICATION OF PRIOR MANDATE DETERMINATIONS MADE BY THE BOARD OF CONTROL OR COMMISSION ON STATE MANDATES

The Claimant is not aware of any prior mandate determination made by the Board of Control or Commission on State Mandates. All of the redistricting legislation was adopted after the 2010 decennial Census and would not be implemented until the 2020 decennial Census; therefore, no mandate determination has been made. Information on related and/or prior legislation is addressed in Section I.B. above, at pages 2-3 of this TC.

H. IDENTIFICATION OF LEGISLATIVELY DETERMINED MANDATES PURSUANT TO GOVERNMENT CODE SECTION 17573 THAT IS ON THE SAME STATUTE OR EXECUTIVE ORDER

The Claimant is not aware of any legislatively-determined mandates related to SB 958, Chapter 781, Statutes of 2016, pursuant to Gov. Code section 17573[6].

III. MANDATE MEETS BOTH SUPREME COURT TESTS

In *County of Los Angeles v. State of California*, 43 Cal.3d 46 (1987), the Supreme Court was called upon to interpret the phrase "new program or higher level of service" that was approved by the voters when Proposition 4 was passed in 1979, which added Article XIII B to the California Constitution. In reaching its decision the Court held that:

> …the term 'higher level of service' … must be read in conjunction with the predecessor phrase 'new program' to give it meaning. Thus read, it is apparent that the subvention requirement for increased or higher level of service is directed to state mandated increases in the services provided by local agencies in existing 'programs.' But the term 'program' itself is not defined in article XIII B. What programs then did the electorate have in mind when section 6 was adopted? We conclude that the drafters and the electorate had in mind the commonly understood meanings of the term programs that carry out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local government and do not apply generally to all residents and entities in the state[7].

[5] Declaration of Albert Navas and Declaration of Twila Kerr

[6] Declaration of Albert Navas; Declaration of Twila Kerr

[7] *County of Los Angeles v. State of California, 43 Cal.3d 46, 56 (1987).*

A program can either carry out the governmental function of providing services to the public or be a law that implements State policy that imposes unique requirements on the local government that does not apply to the entire State. Only one part of this definition has to apply in order for the mandate to qualify as a program. SB 958's mandated activities meet both prongs. *Carmel Valley Fire Protection Dist. v. State of California*, 190 Cal.App.3d 521, 537 (1987).

IV. MANDATE IS UNIQUE TO LOCAL GOVERNMENT

The sections of the law alleged in this TC are unique to the County of Los Angeles. The activities described in section A are provided by local governmental agencies.

V. MANDATE CARRIES OUT STATE POLICY

The new State statute, the subject of this TC, imposes a higher level of service by requiring local agencies to provide the mandated activities described in section A.

VI. STATE MANDATE LAW

Article XIII B section 6 of the California Constitution requires the State to provide a subvention of funds to local government agencies any time the legislature or a State agency requires the local government to implement a new program or provide a higher level of service under an existing program. Section 6 states in relevant part:

> 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 reimburse such local governments for the cost of such program or increased level of service . . .

The purpose of section 6 "is to preclude the State from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume the increased financial responsibilities because of the taxing and spending limitations that Articles XIII A and XIII B imposes[8]." This section "was designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues[9]." In order to implement section 6, the Legislature enacted a comprehensive administrative scheme to define and pay mandate claims[10]. Under this

[8] *County of San Diego v. State of California, 15 Cal.4th 68, 81 (1997); County of Fresno v. State of California, 53 Cal.3d 482, 487 (1991)*

[9] *County of Fresno, supra, 53 Cal.3d at 487; Redevelopment Agency v. Commission on State Mandates, 55 Cal.App.4th 976-985 (1997)*

[10] Gov. Code § 17500, et seq.; *Kinlaw v. State of California*, 54 Cal.3d 326, 331, 333 (1991) (statutes establish "procedure by which to implement and enforce § 6")

provision, the Legislature established the parameters regarding what constitutes a State-mandated cost, defining "costs mandated by the state" to include:

> …any increased costs which a local agency is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of § 6 of Article XIII B of the California Constitution[11].

VII. STATE FUNDING DISCLAIMERS ARE NOT APPLICABLE

There are seven disclaimers specified in Government Code section 17556, which could serve to bar recovery of "costs mandated by the State", as defined in Government Code section 17556. None of the seven disclaimers apply to this TC:

1. The claim is submitted by a local agency or school district, which requests legislative authority for that local agency or school district to implement the Program specified in the statute, and that statute imposes costs upon the local agency or school district requesting the legislative authority.

2. The statute or executive order affirmed for the State that which had been declared existing law or regulation by action of the courts.

3. The statute or executive order implemented a Federal law or regulation and resulted in costs mandated by the Federal government, unless the statute or executive order mandates costs which exceed the mandate in that Federal law or regulation.

4. The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

5. The statute or executive order provides for offsetting savings to local agencies or school districts, which result in no net costs to the local agencies or school districts or includes additional revenue that was specifically intended to fund costs of the State mandate in an amount sufficient to fund the cost of the State mandate.

6. The statute or executive order imposes duties, which were expressly included in a ballot measure approved by the voters in Statewide election.

7. The statute created a new crime or infraction, eliminated a crime or infraction, or changed penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

[11] Gov. Code § 17514.

None of the disclaimers or other statutory or constitutional provisions that would relieve the State from its constitutional obligation to provide reimbursement apply to this TC.

The enactment of SB 958, Chapter 781, Statutes of 2016, added Chapter 6.3 (commencing with Section 21530) to Division 21 of the Elections Code, relating to elections, imposes new State-mandated activities and costs on the Claimant, and none of the exceptions in Government Code section 17556 excuse the State from reimbursing Claimant for the costs associated with implementing the required activities. SB 958, therefore, represents a State mandate for which the Claimant is entitled to reimbursement pursuant to section 6 of the State Constitution.

VIII. CONCLUSION

SB 958, Chapter 781, Statutes of 2016, imposes State-mandated activities and costs on the Claimant. Those State-mandated costs are not exempted from the subvention requirements of section 6 of the State Constitution. There are no funding sources, and the Claimant lacks authority to develop and impose fees to fund any of these new State-mandated activities. Therefore, Claimant respectfully requests that the Commission on State Mandates find that the mandated activities set forth in the TC are State mandates that require subvention under the California Constitution section 6.

SECTION 6: DECLARATIONS

COUNTY OF LOS ANGELES TEST CLAIM

COUNTY OF LOS ANGELES CITIZENS REDISTRICTING COMMISSION

Declaration of Albert Navas
Election Code Sections 21530-21535,
Statutes of 2016, Chapter 6.3 (SB 958)

I, Albert Navas, declare under the penalty of perjury under the laws of the State of California that the following is true and correct based on my personal knowledge, information, and belief:

1) I am employed with the Claimant, the County of Los Angeles (County) Office of the Registrar-Recorder/County Clerk (RR/CC), and hold the title of Departmental Finance Manager II. I have been employed with the RR/CC since August 17, 2020. I am responsible for the overall management of the Finance Management Division, which includes the Budget, Fiscal Operations, Contracts, Purchasing, Asset Management, and Election Logistics units. The Finance Management Division consists of 95 staff. One of my responsibilities is ensuring a complete and timely recovery of costs mandated by the State.

2) Senate Bill (SB) 958, Chapter 781, Statutes of 2016, adding Chapter 6.3 (commencing with section 21530) to Division 21 of the Election Code, contains an alleged state mandate that requires the County elections official to provide a new and higher level of service by creating a Citizens Redistricting Commission (CRC). The specific section of the statute alleged to mandate these activities is Election Code section 21532, which mandates the County elections official to receive applications for membership on the commission, review the applications, and eliminate applicants who do not meet the specified qualifications. From the pool of qualified applicants, the County elections official shall select 60 of the most qualified applicants, taking into account the legal requirements outlined in subdivision (c) of section 21532. Once the process of reviewing and selecting the 60 most qualified applicants has been completed, the County elections official shall make public the names of the 60 most qualified applicants for at least 30-days pursuant to Elections Code section 21532(f)(1). During the 30-day period, the County elections official may receive public comment and eliminate any previously selected applicant if the County elections official becomes aware the applicant does not meet the qualifications specified in subdivision (d) of section 21532. As required in Elections Code section 21532(g)(1), after the 30-day period has elapsed, the County elections official shall create a subpool for each of the five existing supervisorial districts of the board of supervisors and the entire CRC must be created no later than December 31, 2020. As a result, the RR/CC has incurred and will continue to incur costs for implementing the mandated activities that will exceed $1,000.

3) As the Departmental Finance Manager II, I am familiar with the new activities and costs stemming from the statutory mandates in SB 958. The costs, as relayed to me, and the activities are accurately described in sections A, B, C, D, and E of the written narrative, as well as summarized here by Fiscal Year (FY) as follows:

FY	Department	Actual Cost	Activity	Statute
2019-20	RR/CC	$ 35,533.18	Meet with County Counsel and RR/CC staff on CRC application and selection process.	Election Code § 21532(e)(f)(g)
2019-20	RR/CC	$ 1,268.91	Design and develop the CRC application process, create internal CRC documents, and set up the CRC website	Election Code § 21532(e)
TOTAL		$ 36,802.09		

FY 2019-20 was the FY the mandates in SB 958 were implemented and the Test Claim was filed. The actual costs of implementing the mandated activities totaled $36,802.09 for FY 2019-20, from July 1, 2019 through June 30, 2020. The Claimant did not incur any costs to comply with SB 958 in FYs 2016-17, 2017-18, and 2018-19.

4) The RR/CC first incurred costs related to this alleged test claim mandate on July 1, 2019, when RR/CC met internally to discuss the application process contemplated by SB 958.

5) SB 958, as codified in Elections Code section 21532, mandates that the RR/CC create an application and selection process for creation of the CRC. Therefore, RR/CC designed and developed the CRC application process, created internal working documents, and designed and set up a CRC website pursuant to SB 958 as codified in Elections Code section 21532. In FY 2019-2020, the RR/CC incurred $1,268.91 in actual costs associated with designing and developing the CRC application process, creating internal CRC documents, and setting up the CRC website. RR/CC will hire permanent staff to plan, guide, and direct the implementation of the CRC. The estimated costs to be incurred for these activities in FY 2020-2021 are $100,000.

6) The RR/CC is also launching a complete media campaign using advertisements on radio, billboards, newspapers, and television to inform and encourage County residents to apply to the CRC. These activities are mandated by SB 958 and codified in Elections Code section 21532(b) in order to ensure that the selection process "produce a commission that is independent from the influence of the Board and reasonably representative of the county's diversity". The estimated costs to be incurred for these activities during FY 2020-2021 are $250,000.

7) The RRCC will also review and track CRC applications for purposes of selecting a pool of 60 applicants as mandated under subdivisions (e) and (f) of Elections Code sections 21532, which was added by SB 958. During FY 2020-21, the

RR/CC estimates it will incur costs of $5,000 associated with holding redistricting workshops for County residents and educating interested residents on the purpose of the commission, role of the commissioners, application process, eligibility guidelines, and selection criteria.

8) SB 958 added Elections Code section 21532, which requires the RR/CC to accept applications from interested persons meeting the qualifications in section 21532(d). As noted in paragraph (3) above, the County first incurred costs related to these activities on July 1, 2019, when RR/CC staff met internally and in consultation with County Counsel to discuss the application and selection process for the CRC. The RR/CC estimates it will incur an additional $50,000 in costs associated with consulting with County Counsel and conducting staff meetings dedicated to ensuring compliance with SB 958 during FY 2020-2021.

9) As detailed in paragraphs (5) through (8) above and the table below, the RR/CC estimates that it will incur $405,000 in increased costs for complying with SB 958 in FY 2020-21. FY 2020-21 is the FY following the implementation of the mandate.

FY	Department	Estimated Cost	Description	Statute
2020-21	RR/CC	$ 100,000	Temporary staff will manage CRC applications, answer phone calls, send e-mails, determine applicant qualifications and track all information. Permanent staff will respond to constituent inquiries, assist in the evaluation process, plan, guide, and direct the application process to select the 60 most qualified applicants.	Elections Code §§ 21532(e), (f), (g)
2020-21	RR/CC	$ 250,000	Implement a diverse media campaign using social, digital, print, radio and earned media to promote the application process and to inform all County residents of the need to create a CRC to assess and adjust the boundaries of the supervisorial districts.	Elections Code § 21532(b)

2020-21	RR/CC	$ 5,000	Permanent staff will engage with community based organizations to conduct Redistricting Workshops to educate interested residents on the purpose of the CRC, the role of the commissioners, and the application process, eligibility guidelines, and selection criteria.	Elections Code § 21532(a) thru (e)
2020-21	RR/CC	$ 50,000	County Counsel expenses and misc. expenses	Elections Code § 21532(e)(f)(g)
TOTAL		$ 405,000		

10) SB 958 applies only to the County of Los Angeles. According to the California State Assembly Committee on Elections and Redistricting on June 15, 2016, "this bill would likely result in a reimbursable state mandate." Estimated costs to the State are unknown, but could potentially reach the high hundreds of thousands of dollars (General Fund) every ten years. As an upper bound, the statewide Citizens Redistricting Commission incurred costs of $6 million (General Fund) to draw the 2010 decennial boundaries for the State's congressional delegation, State Senate, State Assembly, and the Board of Equalization.

11) RR/CC has not received any local, State, or federal funding and does not have a fee authority to offset its increased direct and indirect costs associated with the implementation of SB 958 and will incur an estimated cost of $405,000 for FY 2020-21.

12) There are four related/prior legislations: a) SB 1331 (Kehoe, Ch. 508 of 2012), established a redistricting commission in San Diego County to adjust the boundaries of supervisorial districts after each decennial federal census; b) Assembly Bill 801 (Weber, Ch. 711 of 2017), which amended SB 1331 by increasing the number of commission members from 5 to 14 and establishing a new selection process for commissioners with additional commissioner qualifications and restrictions; c) SB 1108 (Allen, Ch. 784 of 2016), enacted in September 2016, authorizes local jurisdictions to establish an advisory or independent redistricting commission that has the authority to adjust the boundaries of the districts of the board of supervisors or the city council; and d) SB 1018 (Allen, Ch. 462 of 2018), authorizing local jurisdictions to form, in addition to an advisory or independent redistricting commission, a hybrid commission to draw supervisorial district boundaries.

13) RR/CC is not aware of any prior mandate determination made by the Board of Control or Commission on State Mandates. All of the redistricting legislation was adopted after the 2010 decennial Census and would not be implemented until the 2020 decennial Census. RR/CC is not aware of any legislatively-determined

mandate related to SB 958 Chapter 781, Statutes of 2016, pursuant to Government Code section 17573.

14) I have examined the SB 958 CRC Test Claim prepared by the Claimant and, based on my personal knowledge, information, and belief, the costs incurred in this Test Claim were incurred to implement SB 958. Based on my personal knowledge, information, and belief, I find such costs to be correctly computed and are "costs mandated by the State", as defined in Government Code section 17514:

> ". . . any increased costs which a local agency is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of § 6 of Article XIII B of the California Constitution."

I have personal knowledge of the foregoing facts and information presented in this Test Claim and, if so required, I could and would testify to the statements made herein.

Executed this 13th day of November in NORWALK, CA

A Navas

Albert Navas
Departmental Finance Manager II
Registrar-Recorder/County Clerk
County of Los Angeles

Declaration of Twila Kerr
Election Code Sections 21530-21535
Statutes of 2016, Chapter 6.3 (SB958)

I, Twila Kerr, declare under the penalty of perjury under the laws of the State of California that the following is true and correct based on my personal knowledge, information, and belief:

1) I am Chief of the Commission Services Division at the Executive Office of the Board of Supervisors ("Board" or "BOS") for Los Angeles County ("Claimant") and have held this position since June 6, 2014. As Chief, I manage and oversee the operations of the Commission Services Division.

2) The Commission Services Division provides staff support to 23 County Commissions and five Redevelopment Oversight Boards. As Chief, I strategically plan the administration of services, develop trainings and forums to guide Commissioners in their roles, and oversee the maintenance and commission appointments for 209 County Commissions and the Sunset Review for 40 Citizens Advisory Commissions.

3) As Chief, I am familiar with the new activities and costs stemming from the statutory mandates in Senate Bill (SB) 958 outlined in Elections Code sections 21530-21535, Statutes of 2016, Chapter 6.3. The costs and the activities are accurately described in sections A, B, C, D, and E of the written narrative, as well as summarized here by Fiscal Year (FY) as follows:

FY	Department	Cost	Activity	Statute
2020-21	BOS	$ 184,000	Funding and staffing for the 14-member CRC.	Elections Code § 21534(c)(8)
2020-21	BOS	$439,000	Procure a computerized database for CRC and public	Elections Code § 21534(c)(7)
2020-21	BOS	$ 250,000	Launch and engage a media campaign to encourage County residents to participate in the redistricting public review process.	Elections Code § 21534(c)(6)
2020-21	BOS	$ 4,620	Secure public address systems, speakers, translation, and offer assisted listening devices at public hearings.	Elections Code § 21534(c)
2020-21	BOS	$ 250,000	Procure a consultant to guide the CRC and ensure it meets timelines for final map submission by December 15, 2021.	Elections Code § 21533(d)(1), (2)
TOTAL		$ 1,127,620		

FY 2019-20 was the FY the mandates in SB 958 were implemented and the Test Claim was filed. Claimant did not incur any costs to comply with SB

958 in FYs 2016-17, 2017-18, and 2018-19.

4) Prior to SB 958, existing law required that the Board adjust the boundaries of any and all supervisorial districts of the County following each decennial federal census. SB 958 now requires the County of Los Angeles to form an independent Citizens Redistricting Commission (CRC or Commission) by December 31, 2020. Once formed, per paragraphs two (2) and three (3) of Elections Code section 21534(c), the Commission must hold at least nine public hearings, seven to take place before the map is drawn with at least one public hearing being held in each supervisorial district taking place over at least a 30-day period, and two public hearings after the map is drawn taking place over at least a 30-day period. As outlined in paragraphs four (4) and five (5) of section 21534, the Commission shall establish and make available to the public a calendar of all public hearings and ensure that hearings are scheduled at various times and days to accommodate a variety of work schedules and to reach as large an audience as possible. These activities include, posting agendas at least seven days in advance with a copy of the proposed draft map and arranging for live translation of a hearing in an applicable language when timely requested. Paragraph six (6) of Elections Code section 21534 requires that the Commission shall take steps to encourage County residents to participate in the public review process by providing information to the public, coordinating with community organizations, and posting information on the County of Los Angeles' website. Elections Code section 21534(a) mandates the CRC draw single-member supervisorial districts, which must comply with the following criteria in the following order of priority: (1) comply with the United States Constitution and be reasonably equal in population with other districts for the board; (2) comply with the Voting Rights Act of 1965 (52 U.S.C. § 10101 et seq.); (3) be geographically contiguous; (4) respect geographic integrity of any city, local neighborhood, or local community of interest; and (5) be geographically compact to the extent possible. As a result of these statutory obligations, the County's Commission Services Division has not incurred, but will incur continued costs for implementing the mandated activities that will exceed $1,000.

5) SB 958 added Elections Code section 21534(c)(8), which mandates that the County's Board of Supervisors provide reasonable funding and staffing for the 14-member commission. The staff's mandated activities include providing administrative support to the CRC, administering the required nine public hearings, managing and publicizing a public calendar, and maintaining a CRC website. The staff must also solicit citizen participation through outreach efforts. The increased cost for staffing is approximately $184,000.

6) SB 958 added Elections Code section 21534(c)(7), which mandates that the County's Board of Supervisors shall take all steps necessary to ensure that a complete and accurate computerized database is available for redistricting, and that the procedures are in place to provide to the public ready access to the redistricting data and computer software equivalent to what is available to the CRC members. The increased cost is approximately $439,000.

7) SB 958 added Elections Code section 21534(c), which requires that CRC staff prepare public media notices that comply with the Brown Act, maintain social media presence, and send out press releases of public hearings. In addition, the County will launch a media campaign to inform the public about the redistricting process, provide information on how to access public hearings, and to encourage public participation. The increased costs associated with these activities are approximately $250,000.

8) To effectively meet the requirements of SB 958, as outlined in Elections Code section 21534, at these public hearings, the County must provide public address systems, audio equipment, translation services, and offer assisted listening devices. The estimated costs for these activities are $4,620.

9) SB 958 added Elections Code section 21533(d)(1) and (2), which enables the County to retain a consultant "to advise the commission or commission member regarding any aspect of the redistricting process." The consultant will also ensure the CRC meets the established timeline for final map submission by December 15, 2021 and mobilize all other support staff to meet the CRC's needs and deliverables. The estimated cost for retaining a consultant is $250,000.

10) The County estimates that it will incur increased costs for complying with SB 958 in FY 2020-21. The estimated costs for implementing the CRC and ensuring compliance with SB 958 are $1,127,620.

11) The mandates contained in SB 958 only apply to Los Angeles County. According to the California State Assembly Committee on Elections and Redistricting on June 15, 2016, "this bill would likely result in a reimbursable state mandate." Estimated costs to the State are unknown, but could potentially reach the high hundreds of thousands of dollars (General Fund) every ten years. As an upper bound, the statewide Citizens Redistricting Commission incurred costs of $6 million (General Fund) to draw the 2010 decennial boundaries for the State's congressional delegation, State Senate, State Assembly, and the Board of Equalization.

12) There are four related/prior legislations: a) SB 1331 (Kehoe, Ch. 508 of 2012), established a redistricting commission in San Diego County to adjust the boundaries of supervisorial districts after each decennial federal census; b) Assembly Bill 801 (Weber, Ch. 711 of 2017), which amended SB 1331 by increasing the number of commission members from 5 to 14 and establishing a new selection process for commissioners with additional commissioner qualifications and restrictions; c) SB 1108 (Allen, Ch. 784 of 2016), enacted in September 2016, authorizes local jurisdictions to establish an advisory or independent redistricting commission that has the authority to adjust the boundaries of the districts of the board of supervisors or the city council; and d) SB 1018 (Allen, Ch. 462 of 2018), authorizing local jurisdictions to form, in addition to an advisory or independent redistricting commission, a hybrid commission to draw supervisorial district boundaries.

13) The County is not aware of any prior mandate determination made by the Board of Control or Commission on State Mandates. All of the redistricting legislation was adopted after the 2010 decennial Census and would not be implemented until the 2020 decennial Census.

14) The County is not aware of any legislatively-determined mandate related to SB 958 Chapter 781, Statutes of 2016, pursuant to Government Code § 17573.

15) I have examined the SB 958 Test Claim prepared by the Claimant and, based on my personal knowledge, information, and belief, the estimated costs in this Test Claim will be incurred pursuant to SB 958 and the subsequent enactment of Election Code sections 23153-23154.

16) Based on my personal knowledge, information, and belief, I find such costs to be correctly computed and are "costs mandated by the State", as defined in Government Code sections 17514:

> " 'Costs mandated by the State' means any increased costs which a local agency is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

I have personal knowledge of the foregoing facts and information presented in this Test Claim and, if so required, I could and would testify to the statements made herein.

Executed this 13th day of November 2020 in Los Angeles, CA

Chief, Commission Services Division
Executive Office of the Board of
Supervisors County of Los Angeles

SECTION 7: SUPPORTING DOCUMENTS

COUNTY OF LOS ANGELES TEST CLAIM

COUNTY OF LOS ANGELES CITIZENS REDISTRICTING COMMISSION

STATE AND ASSEMBLY BILL

COMMITTEES AND RULES

CASELAW AND CODES

Senate Bill No. 958

CHAPTER 781

An act to add Chapter 6.3 (commencing with Section 21530) to Division 21 of the Elections Code, relating to elections.

[Approved by Governor September 28, 2016. Filed with Secretary of State September 28, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 958, Lara. County of Los Angeles Citizens Redistricting Commission.

Existing law requires the board of supervisors of each county, following each decennial federal census, and using that census as a basis, to adjust the boundaries of any or all of the supervisorial districts of the county so that the districts are as nearly equal in population as possible and comply with applicable federal law, and specifies the procedures the board of supervisors must follow in adjusting those boundaries. Existing law establishes the Independent Redistricting Commission in the County of San Diego, which is charged with adjusting the supervisorial district boundaries for the county.

This bill would establish the Citizens Redistricting Commission in the County of Los Angeles, which would be charged with adjusting the boundary lines of the districts of the Board of Supervisors of the County of Los Angeles. The commission would consist of 14 members who meet specified qualifications. This bill would require the commission to adjust the boundaries of the supervisorial districts in accordance with specified criteria and adopt a redistricting plan, which would become effective 30 days following its submission to the county elections official. By increasing the duties on local officials, the bill would impose a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for the unique circumstances facing the County of Los Angeles.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Chapter 6.3 (commencing with Section 21530) is added to Division 21 of the Elections Code, to read:

Chapter 6.3. County of Los Angeles Citizens Redistricting Commission

21530. As used in this chapter, the following terms have the following meanings:

(a) "Board" means the Board of Supervisors of the County of Los Angeles.

(b) "Commission" means the Citizens Redistricting Commission in the County of Los Angeles established pursuant to Section 21532.

(c) "Immediate family member" means a spouse, child, in-law, parent, or sibling.

21531. There is, in the County of Los Angeles, a Citizens Redistricting Commission. In the year following the year in which the decennial federal census is taken, the commission shall adjust the boundary lines of the supervisorial districts of the board in accordance with this chapter.

21532. (a) The commission shall be created no later than December 31, 2020, and in each year ending in the number zero thereafter.

(b) The selection process is designed to produce a commission that is independent from the influence of the board and reasonably representative of the county's diversity.

(c) The commission shall consist of 14 members. The political party preferences of the commission members, as shown on the members' most recent affidavits of registration, shall be as proportional as possible to the total number of voters who are registered with each political party in the County of Los Angeles, as determined by registration at the most recent statewide election. However, the political party preferences of the commission members are not required to be exactly the same as the proportion of political party preferences among the registered voters of the county. At least one commission member shall reside in each of the five existing supervisorial districts of the board.

(d) Each commission member shall meet all of the following qualifications:

(1) Be a resident of the County of Los Angeles.

(2) Be a voter who has been continuously registered in the County of Los Angeles with the same political party or unaffiliated with a political party and who has not changed political party affiliation for five or more years immediately preceding the date of his or her appointment to the commission.

(3) Have voted in at least one of the last three statewide elections immediately preceding his or her application to be a member of the commission.

(4) Within the 10 years immediately preceding the date of application to the commission, neither the applicant, nor an immediate family member of the applicant, has done any of the following:

(A) Been appointed to, elected to, or have been a candidate for office at the local, state, or federal level representing the County of Los Angeles, including as a member of the board.

(B) Served as an employee of, or paid consultant for, an elected representative at the local, state, or federal level representing the County of Los Angeles.

(C) Served as an employee of, or paid consultant for, a candidate for office at the local, state, or federal level representing the County of Los Angeles.

(D) Served as an officer, employee, or paid consultant of a political party or as an appointed member of a political party central committee.

(E) Been a registered state or local lobbyist.

(5) Possess experience that demonstrates analytical skills relevant to the redistricting process and voting rights, and possess an ability to comprehend and apply the applicable state and federal legal requirements.

(6) Possess experience that demonstrates an ability to be impartial.

(7) Possess experience that demonstrates an appreciation for the diverse demographics and geography of the County of Los Angeles.

(e) An interested person meeting the qualifications specified in subdivision (d) may submit an application to the county elections official to be considered for membership on the commission. The county elections official shall review the applications and eliminate applicants who do not meet the specified qualifications.

(f) (1) From the pool of qualified applicants, the county elections official shall select 60 of the most qualified applicants, taking into account the requirements described in subdivision (c). The county elections official shall make public the names of the 60 most qualified applicants for at least 30 days. The county elections official shall not communicate with a member of the board, or an agent for a member of the board, about any matter related to the nomination process or applicants before the publication of the list of the 60 most qualified applicants.

(2) During the period described in paragraph (1), the county elections official may eliminate any of the previously selected applicants if the official becomes aware that the applicant does not meet the qualifications specified in subdivision (d).

(g) (1) After complying with the requirements of subdivision (f), the county elections official shall create a subpool for each of the five existing supervisorial districts of the board.

(2) (A) At a regularly scheduled meeting of the board, the Auditor-Controller of the County of Los Angeles shall conduct a random drawing to select one commissioner from each of the five subpools established by the county elections official.

(B) After completing the random drawing pursuant to subparagraph (A), at the same meeting of the board, the Auditor-Controller shall conduct a random drawing from all of the remaining applicants, without respect to subpools, to select three additional commissioners.

(h) (1) The eight selected commissioners shall review the remaining names in the subpools of applicants and shall appoint six additional applicants to the commission.

(2) The six appointees shall be chosen based on relevant experience, analytical skills, and ability to be impartial, and to ensure that the commission reflects the county's diversity, including racial, ethnic, geographic, and gender diversity. However, formulas or specific ratios shall not be applied for this purpose. The eight commissioners shall also consider political party preference, selecting applicants so that the political party preference of the members of the commission complies with subdivision (c).

21533. (a) A commission member shall apply this chapter in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process.

(b) The term of office of each member of the commission expires upon the appointment of the first member of the succeeding commission.

(c) Nine members of the commission shall constitute a quorum. Nine or more affirmative votes shall be required for any official action.

(d) (1) The commission shall not retain a consultant who would not be qualified as an applicant pursuant to paragraph (4) of subdivision (d) of Section 21532.

(2) For purposes of this subdivision, "consultant" means a person, whether or not compensated, retained to advise the commission or a commission member regarding any aspect of the redistricting process.

(e) Each commission member shall be a designated employee for purposes of the conflict of interest code adopted by the County of Los Angeles pursuant to Article 3 (commencing with Section 87300) of Chapter 7 of Title 9 of the Government Code.

21534. (a) The commission shall establish single-member supervisorial districts for the board pursuant to a mapping process using the following criteria as set forth in the following order of priority:

(1) Districts shall comply with the United States Constitution and each district shall have a reasonably equal population with other districts for the board, except where deviation is required to comply with the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.) or allowable by law.

(2) Districts shall comply with the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.).

(3) Districts shall be geographically contiguous.

(4) The geographic integrity of any city, local neighborhood, or local community of interest shall be respected in a manner that minimizes its division to the extent possible without violating the requirements of paragraphs (1) to (3), inclusive. A community of interest is a contiguous population that shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.

(5) To the extent practicable, and where this does not conflict with paragraphs (1) to (4), inclusive, districts shall be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant areas of population.

(b) The place of residence of any incumbent or political candidate shall not be considered in the creation of a map. Districts shall not be drawn for purposes of favoring or discriminating against an incumbent, political candidate, or political party.

(c) (1) The commission shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(2) Before the commission draws a map, the commission shall conduct at least seven public hearings, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district.

(3) After the commission draws a draft map, the commission shall do both of the following:

(A) Post the map for public comment on the Internet Web site of the County of Los Angeles.

(B) Conduct at least two public hearings to take place over a period of no fewer than 30 days.

(4) (A) The commission shall establish and make available to the public a calendar of all public hearings described in paragraphs (2) and (3). Hearings shall be scheduled at various times and days of the week to accommodate a variety of work schedules and to reach as large an audience as possible.

(B) Notwithstanding Section 54954.2 of the Government Code, the commission shall post the agenda for the public hearings described in paragraphs (2) and (3) at least seven days before the hearings. The agenda for a meeting required by paragraph (3) shall include a copy of the draft map.

(5) (A) The commission shall arrange for the live translation of a hearing held pursuant to this chapter in an applicable language if a request for translation is made at least 24 hours before the hearing.

(B) For purposes of this paragraph, an "applicable language" means a language for which the number of residents of the County of Los Angeles who are members of a language minority is greater than or equal to 3 percent of the total voting age residents of the county.

(6) The commission shall take steps to encourage county residents to participate in the redistricting public review process. These steps may include:

(A) Providing information through media, social media, and public service announcements.

(B) Coordinating with community organizations.

(C) Posting information on the Internet Web site of the County of Los Angeles that explains the redistricting process and includes a notice of each public hearing and the procedures for testifying during a hearing or submitting written testimony directly to the commission.

(7) The board shall take all steps necessary to ensure that a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide to the public ready access to redistricting data and computer software equivalent to what is available to the commission members.

(8) The board shall provide for reasonable funding and staffing for the commission.

(9) All records of the commission relating to redistricting, and all data considered by the commission in drawing a draft map or the final map, are public records.

(d) (1) The commission shall adopt a redistricting plan adjusting the boundaries of the supervisorial districts and shall file the plan with the county elections official before August 15 of the year following the year in which each decennial federal census is taken.

(2) The plan shall be effective 30 days after it is filed with the county elections official.

(3) The plan shall be subject to referendum in the same manner as ordinances.

(4) The commission shall issue, with the final map, a report that explains the basis on which the commission made its decisions in achieving compliance with the criteria described in subdivisions (a) and (b).

21535. A commission member shall be ineligible for a period of five years beginning from the date of appointment to hold elective public office at the federal, state, county, or city level in this state. A commission member shall be ineligible for a period of three years beginning from the date of appointment to hold appointive federal, state, or local public office, to serve as paid staff for, or as a paid consultant to, the Board of Equalization, the Congress, the Legislature, or any individual legislator, or to register as a federal, state or local lobbyist in this state.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances facing the County of Los Angeles.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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Date of Hearing: June 15, 2016

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Shirley Weber, Chair
SB 958 (Lara and Hall) – As Amended June 8, 2016

SENATE VOTE: 26-11

SUBJECT: County of Los Angeles Citizens Redistricting Commission.

SUMMARY: Establishes a Citizens Redistricting Commission (commission) in Los Angeles County and charges it with adjusting the boundaries of supervisorial districts after each decennial federal census. Specifically, **this bill**:

1) Provides for the creation of the commission in Los Angeles County, and tasks the commission with adjusting the boundary lines of the County's supervisorial districts in the year following the year in which the decennial federal census is taken.

2) Requires the commission to be comprised of 14 members, and to be created no later than December 31, 2020, and in each year ending in the number zero thereafter.

3) States that the selection process is designed to produce a commission that is independent from the influence of the Los Angeles County Board of Supervisors (board) and reasonably representative of the county's diversity.

4) Requires the political party preferences of commission members, as shown on the members' most recent voter registration affidavits, to be as proportional as possible to the total number of voters who are registered with each political party in Los Angeles County, as determined by registration at the most recent statewide election. Provides that the political party preferences of commission members are not required to be exactly the same as the proportion of political party preferences among the registered voters of the county. Requires at least one commission member to reside in each of the eight service planning areas (SPAs) in Los Angeles County.

5) Requires each commission member to meet all of the following qualifications:

    a) Be a resident of, and a registered voter in, Los Angeles County, who has been continuously registered in the County with the same political party or unaffiliated with a political party and who has not changed political party affiliation for five or more years immediately preceding the date of his or her appointment to the commission;

    b) Has voted in at least one of the last three statewide elections immediately preceding his or her application to be a member of the commission;

    c) Possess experience that demonstrates analytical skills relevant to the redistricting process and voting rights, and possess an ability to comprehend and apply the applicable state and federal legal requirements;

d) Possess experience that demonstrates an ability to be impartial; and,

e) Possess experience that demonstrates an appreciation for the diverse demographics and geography of Los Angeles County.

6) Provides that, within the 10 years immediately preceding the date of application to the commission, neither the applicant, nor an immediate family member of the applicant, as defined, may have done any of the following:

a) Been appointed to, elected to, or have been a candidate for office at the local, state, or federal level representing Los Angeles County, including as a member of the board of supervisors;

b) Served as an employee of, or paid consultant for, an elected representative at the local, state, or federal level representing Los Angeles County;

c) Served as an employee of, or paid consultant for, a candidate for office at the local, state, or federal level representing Los Angeles County;

d) Served as an officer, employee, or paid consultant of a political party or as an appointed member of a political party central committee; or,

e) Been a registered state or local lobbyist.

7) Permits an interested person meeting the qualifications detailed above to submit an application to the county elections official to be considered for membership on the commission. Requires the county elections official to review the applications and eliminate applicants who do not meet the qualifications detailed above.

8) Requires the county elections official to select 60 of the most qualified applicants, taking into account the relevant requirements, and to make public their names for at least 30 days. Prohibits the county elections official from communicating with a member of the board, or an agent for a member of the board, about any matter related to the nomination process or applicants before the publication of the list of the 60 most qualified applicants. Permits the elections official, during this period, to eliminate any of the previously selected applicants if the official becomes aware that the applicant does not meet the qualifications. Requires the county elections official to create a subpool for each of the eight SPAs in Los Angeles County.

9) Requires, at a regularly scheduled meeting of the board, the Auditor-Controller of Los Angeles County to conduct a random drawing to select one commissioner from each of the eight subpools established by the county elections official.

10) Requires the eight selected commissioners to review the remaining names in the subpools of applicants and to appoint six additional applicants to the commission. Requires the six appointees to be chosen based on relevant experience, analytical skills, and ability to be impartial, and to ensure that the commission reflects the county's diversity, including racial,

ethnic, geographic, and gender diversity, provided that formulas or specific ratios are not applied for this purpose. Requires the eight commissioners additionally to consider political party preference, and to select applicants so that the political party preferences of the members of the commission are as proportional as possible to the registered voters in the county, as detailed above.

11) Requires commission members to apply the requirements of this bill in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process.

12) Provides that the term of office of each member of the commission expires upon the appointment of the first member of the succeeding commission.

13) Provides that nine members of the commission shall constitute a quorum and that nine or more affirmative votes are required for any official action.

14) Prohibits the commission from retaining a consultant who would not be qualified as a commission applicant due to any of the disqualifying criteria described above in 6). Provides, for this purpose, that the term "consultant" means a person, whether or not compensated, retained to advise the commission or a commission member regarding any aspect of the redistricting process.

15) Requires each commission member to be a designated employee for the purposes of the conflict of interest code adopted by Los Angeles County, as specified, thereby requiring members to file statements of economic interests and to comply with specified state laws regarding conflicts of interests and limits on gifts and honoraria.

16) Requires the commission to establish single-member supervisorial districts for the board pursuant to a mapping process using the following criteria as set forth in the following order of priority:

    a) Requires districts to comply with the United States Constitution and requires each district to have a reasonably equal population with other districts for the board, except where deviation is required to comply with the federal Voting Rights Act (VRA) or allowable by law;

    b) Requires districts to comply with the federal VRA;

    c) Requires districts to be geographically contiguous;

    d) Requires the geographic integrity of any city, local neighborhood, or local community of interest, as defined, to be respected in a manner that minimizes its division to the extent possible without violating the above requirements; and,

    e) Requires, to the extent practicable, and where this does not conflict with the higher-priority criteria detailed above, districts to be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant areas

of population.

17) Prohibits the place of residence of any incumbent or political candidate from being considered in the creation of a map, and prohibits districts from being drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party.

18) Makes the redistricting commission subject to the Brown Act.

19) Requires the commission, prior to drawing a draft map, to conduct at least seven public hearings, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district.

20) Requires the commission, after drawing a draft map, to do both of the following:

    a) Post the map for public comment on Los Angeles County's Internet Web site; and,

    b) Conduct at least two public hearings to take place over a period of no fewer than thirty days.

21) Requires hearings to be scheduled at various times and days of the week to accommodate a variety of work schedules and to reach as large an audience as possible.

22) Requires the commission to establish and make available to the public a calendar of all public hearings and to post the agenda for the public hearings at least seven days before the hearings. Requires the agenda for a meeting conducted after the commission has drawn a draft map to include a copy of that map.

23) Requires the commission to arrange for the live translation of their hearings in an applicable language if a request for translation is made at least 24 hours before the hearing. Provides that an "applicable language," for these purposes, means a language for which the number of residents of Los Angeles County who are members of a language minority is greater than or equal to three percent of the total voting age residents of the county.

24) Requires the commission to take steps to encourage county residents to participate in the redistricting public review process. Provides that these steps may include the following:

    a) Providing information through media, social media, and public service announcements;

    b) Coordinating with community organizations; and,

    c) Posting information on Los Angeles County's Internet Web site that explains the redistricting process and includes a notice of each public hearing and the procedures for testifying during a hearing or submitting written testimony directly to the commission.

25) Requires the board to take all steps necessary to ensure that a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide to the public ready access to redistricting data and computer software equivalent to

what is available to the commission members.

26) Provides that all records of the commission relating to redistricting, and all data considered by the commission in drawing a draft map or the final map, are public records.

27) Requires the commission to adopt a redistricting plan and to file the plan with the county elections official before August 15 of the year following the year in which each decennial federal census is taken. Provides that the plan is effective 30 days after it is filed with the county elections official, and is subject to referendum in the same manner as ordinances.

28) Requires the commission to issue, with the final map, a report that explains the basis on which the commission made its decisions in achieving compliance with the criteria described above.

29) Prohibits a commission member from doing any of the following for a period of five years beginning from the date of his or her appointment to the commission:

    a) Holding elective public office at the federal, state, county, or city level in the state;

    b) Holding an appointive federal, state, or local public office;

    c) Serving as paid staff for or a paid consultant to, the Board of Equalization, Congress, the Legislature, or any individual legislator; or,

    d) Registering as a federal, state, or local lobbyist in the state.

30) Defines "immediate family member," for the purposes of this bill, as a spouse, child, in-law, parent, or sibling.

31) Defines "community of interest," for the purposes of this bill, as a contiguous population that shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. Provides that communities of interest do not include relationships with political parties, incumbents, or political candidates.

32) Makes findings and declarations that a special law is necessary because of the unique circumstances facing Los Angeles County.

EXISTING LAW:

1) Requires the board of supervisors of each county, following each decennial federal census, and using that census as a basis, to adjust the boundaries of any or all of the supervisorial districts of the county so that the districts are as nearly equal in populations as may be and comply with the applicable provisions of Section 2 of the VRA, as amended.

2) Permits a board of supervisors, when adjusting the boundaries of supervisorial districts, to give consideration to the following factors:

a) Topography;

b) Geography;

c) Cohesiveness, contiguity, integrity, and compactness of territory; and,

d) Communities of interests in the districts.

3) Requires a board of supervisors to hold at least one public hearing on any proposal to adjust the boundaries of a supervisorial district prior to the public hearing at which the board votes to approve or defeat the proposal.

4) Permits the board of supervisors of a county to appoint a committee composed of residents of the county to study the matter of changing the boundaries of supervisorial districts, as specified. Provides that recommendations of the committee are advisory only.

5) Establishes a procedure for a government of a county to adopt a charter by a majority vote of its electors voting on the question. Generally provides greater autonomy over county affairs to counties that have adopted charters.

6) Provides that counties that have adopted charters are subject to statutes that relate to apportioning population of governing body districts.

FISCAL EFFECT: According to the Senate Appropriations Committee analysis, this bill would likely result in a reimbursable state mandate. Estimated costs to the State are unknown; but could potentially reach the high hundreds of thousands of dollars (General Fund) every ten years. As an upper bound, the statewide Citizens Redistricting Commission incurred costs of $6 million (General Fund) to draw the 2010 decennial boundaries for the State's congressional delegation, State Senate, State Assembly, and the Board of Equalization. State-mandated local program; contains reimbursement direction.

COMMENTS:

1) **Purpose of the Bill**: According to the author:

> SB 958 is a good government proposal for the citizens of Los Angeles County. This bill seeks to align the Los Angeles County Board of Supervisors' redistricting policy with the statewide movement toward independent redistricting. San Diego, the second most populous county in California, established an independent redistricting commission for its Board therefore it is possible for the largest county in California, Los Angeles, to maximize public participation for its 10 million residents.

2) **California Citizens Redistricting Commission**: Proposition 11, which was approved by the voters at the 2008 statewide general election, created the Citizens Redistricting Commission (CRC), and gave it the responsibility for establishing district lines for Assembly, Senate, and Board of Equalization. Proposition 11 also modified the criteria to be used when drawing district lines. Proposition 20, which was approved by the voters at the 2010 statewide

general election, gave the CRC the responsibility for establishing lines for California's congressional districts, and made other changes to the procedures and criteria to be used by the CRC. The CRC consists of 14 registered voters, including five Democrats, five Republicans, and four others, all of whom are chosen according to procedures specified in Proposition 11.

3) **County Redistricting Commissions and Previous Legislation**: As noted above, existing law permits a county to create an advisory redistricting commission (described in state law as a "committee" of residents of the jurisdiction), but state law does not expressly permit local jurisdictions to create commissions that have the authority to establish district boundaries. Instead, the authority to establish district boundaries for a local jurisdiction generally is held by the governing body of that jurisdiction. Charter cities are able to establish redistricting commissions that have the authority to establish district boundaries because the state Constitution gives charter cities broad authority over the conduct of city elections and over the manner in which, method by which, times at which, and terms for which municipal officers are elected. As a result, a number of California cities have established redistricting commissions to adjust city council districts following each decennial census.

   Charter counties, on the other hand, are not granted the same level of authority over the conduct of county elections, and in fact, the state Constitution explicitly provides that "[c]harter counties are subject to statutes that relate to apportioning population of governing body districts." In light of this provision of the state Constitution, charter counties are unable to provide for the creation of a redistricting commission that has the authority to establish district boundaries unless statutory authority is provided to allow a county to have such a commission.

   In light of those restrictions, SB 1331 (Kehoe), Chapter 508, Statutes of 2012, gave San Diego County the authority to establish a redistricting commission, charged with adjusting the boundaries of supervisorial districts after each decennial federal census. The bill was requested by the San Diego County Board of Supervisors, who sought the change in state law necessary to create a commission with the authority to establish district boundaries. Because the San Diego County Board of Supervisors requested that bill, it was not a reimbursable state-mandated local program.

4) **Service Planning Areas and Amendments**: As detailed above, this bill requires the commission it creates to contain at least one commission member who resides in each of the eight SPAs in Los Angeles County. According to Los Angeles County, an SPA is a specific geographic region within the County. Due to the large size of the County (4,300 square miles), it has been divided into eight geographic areas so the Department of Public Health can "develop and provide more relevant public health and clinical services targeted to the specific health needs of the residents in these different areas." The eight SPAs are Area 1: Antelope Valley; Area 2: San Fernando Valley; Area 3: San Gabriel Valley; Area 4: Metro; Area 5: West; Area 6: South; Area 7: East; and Area 8: South Bay (including Catalina Island).

   Because the SPAs were designed to divide the county into geographic regions, the populations of SPAs vary significantly. According to Los Angeles County, the SPA with the

largest population—Area 2—has nearly seven times the population of the SPA with the smallest population—Area 1.

This bill's requirement that the redistricting commission contain at least one commission member who resides in each SPA is designed to ensure that the commission is geographically representative of the county as a whole. However, the fact that SPAs have significantly different populations means that, in practice, this geographic distribution requirement will give a disproportionate level of representation on the commission to sparsely populated areas of the county.

In response to this concern, the author has agreed to accept amendments to require that the commission contain at least one commissioner who resides in each of the *existing* supervisorial districts. While the populations of the existing supervisorial districts will vary somewhat, it is likely that they will be much closer to each other than the populations of SPAs. In order to ensure that the first eight commissioners are chosen at random from the pre-screened pool of 60 applicants, the Auditor-Controller of Los Angeles would be required to conduct a random drawing to select one commissioner from each of the existing supervisorial districts, and would then be required to conduct a random drawing from all of the remaining applicants, without respect to supervisorial district, to select three additional commissioners. As is the case with the existing version of the bill, those eight commissioners would then choose the remaining six members of the commission from the remaining pool of applicants.

5) **Funding and Staffing of the Commission and Amendments**: Proposition 11 required the Governor and the Legislature to provide the CRC with funding and adequate office space. SB 1331 (Kehoe), Chapter 508, Statutes of 2012, which created a redistricting commission for San Diego County, required the board of supervisors to provide for reasonable staffing and logistical support for the commission. This bill contains no similar requirement for Los Angeles County to provide the redistricting commission with funding, office space, or staffing support. The absence of a requirement to provide adequate support for the operation of the redistricting commission could threaten the commission's independence. In response to this concern, the author has agreed to accept an amendment to require the board to provide reasonable funding and staffing for the commission.

6) **Partisan Make Up**: The legislation establishing the San Diego County redistricting commission did not include any restrictions with respect to the partisan makeup of the commission. The state's redistricting commission is required to be made up of five members who are registered as preferring the Democratic Party, five who are registered as preferring the Republican Party, and four who are registered as preferring other parties or having no party preference.

This bill requires the political party preferences of the Los Angeles County redistricting commission members to be as proportional as possible to the total number of voters who are registered with each political party in Los Angeles County, as determined by registration at the most recent statewide election. According to current voter registration figures from the Secretary of State, 51.78% of registered voters in Los Angeles County are registered as Democrats, 24.08% are registered as having No Party Preference, 19.61% are registered as

Republicans, and the remaining 4.53% of voters are registered with another party or are registered with a political body that is attempting to qualify as a political party. While this bill provides that "the political party preferences of the commission members are not required to be exactly the same as the proportion of political party preferences among the registered voters of the county," in order to reflect these registration figures, a 14-member redistricting commission might be expected to have between 7-8 Democrats, between 3-4 members registered as having No Party Preference, between 2-3 Republicans, and between 0-1 members registered with other political parties or bodies. The ability for the commission to reflect those registration figures could be limited, to some extent, based on the results of the random drawing to select the first eight commissioners.

7) **Post-Service Restrictions**: As detailed above, this bill prohibits commission members from engaging in certain conduct for a period of time after their appointment to the commission. Among other things, commissioners are prohibited for a period of time from holding elective or appointive public office (including state and federal office), from serving as staff for certain elected officials (including state and federal officials), or from registering as lobbyists at the federal, state, or local level.

   These post-service restrictions closely mirror restrictions that apply to members of the CRC. The jurisdiction of the CRC, however, is much broader than that of the commission established by this bill. The CRC is responsible for establishing boundary lines for federal and state offices, so post-service restrictions that limit the ability of members of the CRC to serve in or interact with the state and federal government are tailored to reflect the work that the CRC does. By contrast, the commission established by this bill would establish boundary lines only for Los Angeles County. The committee may wish to consider whether the post-service restrictions in this bill should be more narrowly tailored to reflect the jurisdiction of the commission created by this bill.

8) **Technical Amendments**: This bill requires the commission to respect the geographic integrity of any "city and county" when drawing district lines. Because the commission is drawing lines for the supervisorial districts within a county, however, this requirement is unnecessary. Accordingly, the author has agreed to accept a technical amendment to delete "city and county," from page 6, line 9 of the bill.

   The most recent amendments to this bill added a sentence that is duplicative of a provision that appears elsewhere in the bill. Specifically, the sentence that appears on page 8, lines 11-13 of the bill is duplicative of a provision that appears on page 5, lines 16-18 of the bill. The author has agreed to an amendment to delete this duplicative language.

   Finally, the most recent amendments to this bill contained a drafting error with respect to the length of post-service restrictions on commission members. While it was the author's intent that commission members be prohibited from holding elective public office for a period of five years after being appointed to the commission, the author's intent was that the other post-service restrictions would apply for three years from the date of appointment. (Those restrictions limit commissioners from being appointed to public office, from serving as staff of or as a paid consultant to specified public officials, and from registering as a lobbyist.) To correctly reflect the author's intent, the author is proposing an amendment on page 8, line

17 of the bill to replace the word "five" with "three."

9) **Related Legislation**: SB 1108 (B. Allen), which is also being heard in this committee today, permits a city or a county to establish a redistricting commission, subject to specified conditions.

10) **Double-Referral**: This bill has been double-referred to the Assembly Local Government Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Common Cause (if amended) (prior version)
League of Women Voters of California

Opposition

None on file.

Analysis Prepared by: Ethan Jones / E. & R. / (916) 319-2094

User Name: Narine Grigoryan
Date and Time: Wednesday, November 18, 2020 5:09:00 PM PST
Job Number: 130390897

Document (1)

1. *County of Los Angeles v. State of California, 43 Cal. 3d 46*

Client/Matter: -None-
Search Terms: County of Los Angeles v. State of California
Search Type: Natural Language
Narrowed by:

Content Type	Narrowed by
Cases	-None-

County of Los Angeles v. State of California

Supreme Court of California

January 2, 1987

L.A. No. 32106

Reporter
43 Cal. 3d 46 *; 729 P.2d 202 **; 233 Cal. Rptr. 38 ***; 1987 Cal. LEXIS 273 ****

COUNTY OF LOS ANGELES et al., Plaintiffs and Appellants, v. THE STATE OF CALIFORNIA et al., Defendants and Respondents. CITY OF SONOMA et al., Plaintiffs and Appellants, v. THE STATE OF CALIFORNIA et al., Defendants and Respondents

Subsequent History: [**1]** Appellants' petition for a rehearing was denied February 26, 1987.

Prior History: Superior Court of Los Angeles County, Nos. C 424301 and C 464829, Leon Savitch and John L. Cole, Judges. The Court of Appeal, Second Dist., Div. Five, affirmed the first action; the second action was reversed and remanded to the State Board of Control for further and adequate findings (B001713 and B003561).

Disposition: The judgment of the Court of Appeal is reversed. Each side shall bear its own costs.

Core Terms

workers' compensation, increased level of service, local agency, reimbursement, costs, local government, employees, subvention, programs, benefits, mandated, changes, repeal, higher level of service, increases, constitutional provision, pro tanto repeal, increased cost, plenary power, electorate, incidental, workers' compensation benefits, discipline, provide a service, cost of living, new program, state-mandated, effected, maximum, additional cost

Case Summary

Procedural Posture

Appellant county and city sought review of a decision of the Court of Appeals, Third Appellate District, Second Division (California), which held that state-mandated increases in workers' compensation benefits, that do not exceed the rise in the cost of living, were not costs which must be borne by respondent state under Cal. Const. art. XIII B, and its legislative implementing statutes.

Overview

Proceedings were initiated to determine whether legislation, which increased certain workers' compensation benefit payments, was subject to the command of Cal. Const. art. XIII B that local government costs mandated by respondent state must be funded by respondent. Appellant county and city sought review of the appellate court decision which held that state-mandated increases in workers' compensation benefits, that did not exceed the rise in the cost of living, were not costs which must be borne by respondent under Cal. Const. art. XIII B. On appeal, the court agreed that the State Board of Control properly denied appellants' claims but the court's conclusion rested on entirely new grounds. Thus, the judgment was reversed on a finding that appellants' petitions for writs of mandate to compel approval of appellants' claims

lacked merit and should have been denied outright. The court concluded that *Cal. Const. art. XIII B, § 6* had no application to, and respondent need not provide subvention for, the costs incurred by local agencies in providing to their employees the same increase in workers' compensation benefits that employees of private individuals or organizations received.

Outcome

The judgment of the court of appeal was reversed in favor of respondent state. The court concluded that appellant county and city's reimbursement claims were both properly denied by the California State Board of Control. Their petitions for writs of mandate seeking to compel the board to approve the claims lacked merit and should have been denied by the superior court without the necessity of further proceedings before the board.

LexisNexis® Headnotes

Governments > Local Governments > Finance

Workers' Compensation & SSDI > Administrative Proceedings > Awards > Enforcement

Governments > Legislation > Interpretation

Governments > Public Improvements > General Overview

Workers' Compensation & SSDI > Coverage > Employment Status > Governmental Employees

HN1[] **Local Governments, Finance**

The legislative intent of the Cal. Const. art. XIII B was subvention for the expense or increased cost of programs administered locally and for expenses occasioned by laws that impose unique requirements on local governments and do not apply generally to all state residents or entities. In using the word "programs" the commonly understood meaning of the term was meant, as in programs which carry out the governmental function of providing services to the public.

Governments > Legislation > Expiration, Repeal & Suspension

HN2[] **Legislation, Expiration, Repeal & Suspension**

It is ordinarily to be presumed that the legislature by deleting an express provision of a statute intended a substantial change in the law.

Governments > Legislation > Interpretation

HN3[] **Legislation, Interpretation**

In construing the meaning of the constitutional provision, the court's inquiry is not focussed on what the legislature intended in adopting the former statutory reimbursement scheme, but rather on what the voters meant when they adopted Cal. Const. art. XIII B. To determine this intent, the court must look to the language of the provision itself.

Governments > Local Governments > Elections

Governments > Legislation > Enactment

Governments > Legislation > Types of Statutes

HN4[] **Local Governments, Elections**

Although a bill for state subvention for the incidental cost to local governments of general laws may be passed by simple majority vote of each house of the legislature pursuant to *Cal. Const. art. IV, § 8(b)*, the revenue measures necessary to make them effective may not. A bill which will impose costs subject to subvention of local agencies must be accompanied by a revenue measure providing the subvention required by Cal. Const. art. XIII B. *Cal. Rev. & Tax. Code § 2255(c)*. Revenue bills must be passed by two-thirds vote of each house of the legislature. *Cal. Const. art. IV, § 12(d)*.

Governments > State & Territorial
Governments > Relations With Governments

Workers' Compensation & SSDI > Administrative Proceedings > Judicial Review > General Overview

Governments > Local Governments > Duties & Powers

Governments > Public Improvements > General Overview

Business & Corporate Compliance > ... > Disability & Unemployment Insurance > Unemployment Compensation > Scope & Definitions

Workers' Compensation & SSDI > General Overview

Workers' Compensation & SSDI > Administrative Proceedings > Awards > Enforcement

Workers' Compensation & SSDI > Benefit Determinations > General Overview

Workers' Compensation & SSDI > ... > Course of Employment > Activities Related to Employment > Emergencies

HN5[] **State & Territorial Governments, Relations With Governments**

In no sense can employers, public or private, be considered to be administrators of a program of workers' compensation or to be providing services incidental to administration of the workers' compensation program. Workers' compensation is administered by the state through the Division of Industrial Accidents and the Workers' Compensation Appeals Board. *Cal. Lab. Code § 3201 et seq.* Therefore, although the state requires that employers provide workers' compensation for nonexempt categories of employees, increases in the cost of providing this employee benefit are not subject to reimbursement as state-mandated programs or higher levels of service within the meaning of *Cal. Const. art. XIII B, § 6*.

Governments > Legislation > Interpretation

HN6[] **Legislation, Interpretation**

In the absence of irreconcilable conflict among their various parts, constitutional provisions must be harmonized and construed to give effect to all parts.

Governments > Legislation > Effect & Operation > General Overview

Workers' Compensation & SSDI > Coverage > General Overview

HN7[] **Legislation, Effect & Operation**

Cal. Const. art. XIV, § 4 gives the legislature plenary power, unlimited by any provision of the California Constitution, over workers' compensation.

Governments > Legislation > Effect & Operation > General Overview

Workers' Compensation & SSDI > Coverage > General Overview

HN8[] **Legislation, Effect & Operation**

See *Cal. Const. art. XIV, § 4*.

Governments > Legislation > Expiration, Repeal & Suspension

HN9[] **Legislation, Expiration, Repeal & Suspension**

A pro tanto repeal of conflicting state constitutional provisions removes "insofar as necessary" any restrictions which would prohibit the realization of the objectives of the new article.

Headnotes/Summary

Summary
CALIFORNIA OFFICIAL REPORTS SUMMARY

The trial court denied a petition for writ of mandate to compel the State Board of Control to approve reimbursement claims of local government entities, for costs incurred in providing an increased level of service

mandated by the state for workers' compensation benefits. The trial court found that Cal. Cosnt., art. XIII B, § 6, requiring reimbursement when the state mandates a new program or a higher level of service, is subject to an implied exception for the rate of inflation. In another action, the trial court, on similar claims, granted partial relief and ordered the board to set aside its ruling denying the claims. The trial court, in this second action, found that reimbursement was not required if the increases in benefits were only cost of living increases not imposing a higher or increased level of service on an existing program. Thus, the second matter was remanded due to insubstantial evidence and legally inadequate findings. (Superior Court of Los Angeles County, Nos. C 424301 and C 464829, Leon Savitch and John L. Cole, Judges.) The Court of Appeal, Second Dist., Div. Five, Nos. B001713 and B003561 affirmed the first action; the second action was reversed and remanded to the State Board of Control for further and adequate findings.

The Supreme Court reversed the judgment of the Court of Appeal, holding that the petitions lacked merit and should have been denied by the trial court without the necessity of further proceedings before the board. The court held that when the voters adopted *art. XIII B, § 6*, their intent was not to require that state to provide subvention whenever a newly enacted statute results incidentally in some cost to local agencies, but only to require subvention for the expense or increased cost of programs administered locally, and for expenses occasioned by laws that impose unique requirements on local governments and do not apply generally to all state residents or entities. Thus, the court held, reimbursement was not required by *art. XIII B, § 6*. Finally, the court held that no pro tanto repeal of *Cal. Const., art. XIV, § 4* (workers' compensation), was intended or made necessary by the adoption of *art. XIII B, § 6*. (Opinion by Grodin, J., with Bird, C. J., Broussard, Reynoso, Lucas and Panelli, JJ., concurring. Separate concurring opinion by Mosk, J.)

Headnotes
CALIFORNIA OFFICIAL REPORTS HEADNOTES

Classified to California Digest of Official Reports, 3d Series

CA(1)[] **(1)**

State of California § 12—Fiscal Matters—Appropriations—Reimbursement to Local Governments—Costs to Be Reimbursed.

--When the voters adopted *Cal. Const., art. XIII B, § 6* (reimbursement to local agencies for new programs and services), their intent was not to require the state to provide subvention whenever a newly enacted statute resulted incidentally in some cost to local agencies. Rather, the drafters and the electorate had in mind subvention for the expenses occasioned by laws that impose unique requirements on local governments and do not apply generally to all state residents or entities.

CA(2)[] **(2)**

Statutes § 18—Repeal—Effect—"Increased Level of Service."

--The statutory definition of the phrase "increased level of service," within the meaning of *Rev. Tax. Code, § 2207, subd. (a)* (programs resulting in increased costs which local agency is required to incur), did not continue after it was specifically repealed, even though the Legislature, in enacting the statute, explained that the definition was declaratory of existing law. It is ordinarily presumed that the Legislature, by deleting an express provision of a statute, intended a substantial change in the law.

[See Am.Jur.2d, Statutes, § 384.]

CA(3)[] **(3)**

Constituional Law § 13—Construction of Constitutions—Language of Enactment.

--In construing the meaning of an initiative constitutional provision, a reviewing court's inquiry is focused on what the voters meant when they adopted the provision. To determine this intent, courts must look to the language of the provision itself.

CA(4)[] **(4)**

Constitutional Law § 13—Construction of Constitutions—Language of Enactment—"Program"

--The word "program," as used in *Cal. Const., art. XIII B, § 6* (reimbursement to local agencies for new programs and services), refers to programs that carry out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the

state.

CA(5)[] **(5)**

State of California § 12—Fiscal Matters—Appropriations—Reimbursement to Local Governments—Increases in Workers' Compensation Benefits.

--The provisions of *Cal. Const., art. XIII B. § 6* (reimbursement to local agencies for nw programs and services), have no application to, and the state need not provide subvention for, the costs incurred by local agencies in providing to their employees the same increase in workers' compensation benefits that employees of private individuals or organizations receive. Although the state requires that employers provide workers' compensation for nonexempt categories of employees, increases in the cost of providing this employee benefit are not subject to reimbursement as state-mandated programs or higher levels of service within the meaning of *art. XIII B. § 6*. Accordingly, the State Board of Control properly denied reimbursement to local governmental entitles for costs incurred in providing state-mandated increases in workers' compensation benefits. (Disapproving *City of Sacramento v. State of California (1984) 156 Cal. App. 3d 182 [203 Cal. Rptr. 258]*, to the extent it reached a different conclusion with respect to expenses incurred by local entities as the result of a newly enacted law requiring that all public employees by covered by unemployment insurance.)

[See **Cal.Jur.3d,** State of California, § 78.]

CA(6)[] **(6)**

Constitutional Law § 14—Construction of Constitutions—Reconcilable and Irreconcilable Conflicts.

--Controlling principles of construction require that in the absence of irreconcilable conflict among their various parts, constitutional provisions must be harmonized and construed to give effect to all parts.

CA(7)[] **(7)**

Constitutional Law § 14—Construction of Constitutions—Reconcilable and Irreconcilable Conflicts—Pro Tanto Repeal of Constitutional Provision.

--The goals of *Cal. Const., art XIII B, § 6* (reimbursement to local agencies for new programs and services), were to protect residents from excessive taxation and government spending, and to preclude a shift of financial responsibility for governmental functions from the state to local agencies. Since these goals can be achieved in the absence of state subvention for the expense of increases in workers' compensation benefit levels for local agency employees, the adoption of *art. XIII B, § 6*, did not effect a pro tanto repeal of *Cal. Const., art. XIV, § 4*, which gives the Legislature plenary power over workers' compensation.

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Judges: Opinion by Grodin, J., with Bird, C. J., Broussard, Reynoso, Lucas and Panelli, JJ., concurring. Separate concurring opinion by Mosk, J.

Opinion by: GRODIN

Opinion

[*49] [203] [***38]** We are asked in this proceeding to determine whether legislation enacted in 1980 and 1982 increasing certain workers' compensation benefit payments is subject to the command of article XIII B of the California Constitution that local government costs mandated by the state must be funded by the state. The County of Los Angeles and the City of Sonoma sought review by this court of a decision of the Court of Appeal which held that state-mandated increases **[***39]** in workers' compensation benefits that do not exceed the rise in the cost of living are not costs which must be borne by the state under article XIII B, an initiative constitutional provision, and legislative implementing **[****3]** statutes.

Although we agree that the State Board of Control properly denied plaintiffs' claims, our conclusion rests on grounds other than those relied upon by the Court of Appeal, and requires that its judgment be reversed. *CA(1)*[↑] **(1)** We conclude that when the voters adopted article XIII B, section 6, their intent was not to require the state to provide subvention whenever a newly enacted statute resulted incidentally in some cost to local agencies. *HN1*[↑] Rather, the drafters and the electorate had in mind subvention for the expense or **[*50]** increased cost of programs administered locally and for expenses occasioned by laws that impose unique requirements on local governments and do not apply generally to all state residents or entities. In using the word "programs" they had in mind the commonly understood meaning of the term, programs which carry out the governmental function of providing services to the public. Reimbursement for the cost or increased cost of providing workers' compensation benefits to employees of local agencies is not, therefore, required by section 6.

We recognize also the potential conflict between article XIII B and the grant of plenary power over workers' **[****4]** compensation bestowed upon the Legislature by section 4 of article XIV, but in accord with established rules of construction our construction of article XIII B, section 6, harmonizes these constitutional provisions.

I

On November 6, 1979, the voters approved an initiative measure which added article XIII B to the California Constitution. That article imposed spending limits on the state and local governments and provided in section 6 (hereafter section 6): "Whenever the Legislature or any state agency mandates a new program or higher level of **[**204]** service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates: [para.] (a) Legislative mandates requested by the local agency affected; [para.] (b) Legislation defining a new crime or changing an existing definition of a crime; or [para.] (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975." No **[****5]** definition of the phrase "higher level of service" was included in article XIII B, and the ballot materials did not explain its meaning. [1]

The genesis of this action was the enactment in 1980 and 1982, after article XIII B had been adopted, of laws increasing the amounts which **[*51]** employers, **[****6]** including local governments, must pay in workers' compensation benefits to injured employees and families of deceased employees.

The first of these statutes, Assembly, Bill No. 2750 (Stats. 1980, ch. 1042, p. 3328), amended several sections of the Labor Code related to workers' compensation. The amendments of *Labor Code sections 4453*, *4453.1* and *4460* increased the maximum weekly wage upon which temporary and permanent disability indemnity is computed from $ 231 per week to $ 262.50 per week. The amendment of *section 4702 of the Labor Code* increased certain death benefits from $ 55,000 to $ 75,000. No appropriation

[1] The analysis by the Legislative Analyst advised that the state would be required to "reimburse local governments for the cost of complying with 'state mandates.' 'State mandates' are requirements imposed on local governments by legislation or executive orders." Elsewhere the analysis repeats: "[The] initiative would establish a requirement that the state provide funds to reimburse local agencies for the cost of complying with state mandates . . . .

The one ballot argument which made reference to section 6, referred only to the "new program" provision, stating, "Additionally, this measure [para.] (1) will not allow the state government to force programs on local governments without the state paying for them."

[*40]** for increased state-mandated costs was made in this legislation. [2]

[**7]** Test claims seeking reimbursement for the increased expenditure mandated by these changes were filed with the State Board of Control in 1981 by the County of San Bernardino and the City of Los Angeles. The board rejected the claims, after hearing, stating that the increased maximum workers' compensation benefit levels did not change the terms or conditions under which benefits were to be awarded, and therefore did not, by increasing the dollar amount of the benefits, create an increased level of service. The first of these consolidated actions was then filed by the County of Los Angeles, the County of San Bernardino, and the City of San Diego, seeking a writ of mandate to compel the board to approve the reimbursement claims for costs incurred in providing an increased level of service mandated by the state pursuant to *Revenue and Taxation Code section 2207*. [3] They also sought a declaration that because the State of California and the board were obliged by article XIII B to reimburse them, they were not obligated to **[**205]** pay the increased benefits until the state provided reimbursement.

[**8]** The superior court denied relief in that action. The court recognized that although increased benefits reflecting cost of living raises were not expressly **[*52]** excepted from the requirement of state reimbursement in section 6 the intent of article XIII B to limit governmental expenditures to the prior year's level allowed local governments to make adjustment for changes in the cost of living, by increasing their own appropriations. Because the Assembly Bill No. 2750 changes did not exceed cost of living changes, they did not, in the view of the trial court, create an "increased level of service" in the existing workers' compensation program.

The second piece of legislation (Assem. Bill No. 684), enacted in 1982 (Stats. 1982, ch. 922. p. 3363), again changed the benefit levels for workers' compensation by increasing the maximum weekly wage upon which benefits were to be computed, and made other changes among which were: The bill increased minimum weekly earnings for temporary and permanent total disability from $ 73.50 to $ 168, and the maximum from $ 262.50 to $ 336. For permanent partial disability the weekly wage was raised from a minimum of $ 45 to $ 105, and from a maximum **[****9]** of $ 105 to $ 210, in each case for injuries occurring on or after January 1, 1984. (*Lab. Code, § 4453*.) A $ 10,000 limit on additional compensation for injuries resulting from serious and willful employer misconduct was removed (*Lab. Code, § 4553*), and the maximum death benefit was raised from $ 75,000 to $ 85,000 for deaths in 1983, and to $ 95,000 for deaths on or after January 1, 1984. (*Lab. Code, § 4702*.)

Again the statute included no appropriation and this time the statute expressly acknowledged that the omission was made "[notwithstanding] section 6 of Article XIIIB of the California Constitution and *section 2231* . . . of the Revenue and Taxation **[***41]** Code." (Stats. 1982, ch. 922, § 17, p. 3372.) [4]

[**10]** Once again test claims were presented to the State Board of Control, this time by the City of Sonoma, the County of Los Angeles, and the City of San Diego. Again the claims were denied on grounds that the statute made no change in the terms and conditions under which workers' compensation benefits were to be awarded, and the increased costs incurred as a result of higher benefit levels did not create an increased level of service as defined in *Revenue and Taxation Code section 2207, subdivision (a)*.

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[2] The bill was approved by the Governor and filed with the Secretary of State on September 22, 1980. Prior to this, the Assembly gave unanimous consent to a request by the bill's author that his letter to the Speaker stating the intent of the Legislation be printed in the Assembly Journal. The letter stated: (1) that the Assembly Ways and Means Committee had recommended approval without appropriation on grounds that the increases were a result of changes in the cost of living that were not reimbursable under either *Revenue and Taxation Code section 2231*, or article XIII B; (2) the Senate Finance Committee had rejected a motion to add an appropriation and had approved a motion to concur in amendments of the Conference Committee deleting any appropriation.

Legislative history confirms only that the final version of Assembly Bill No. 2750, as amended in the Assembly on April 16, 1986, contained no appropriation. As introduced on March 4, 1980, with a higher minimum salary of $ 510 on which to base benefits, an unspecified appropriation was included.

[3] The superior court consolidated another action by the County of Butte, Novato Fire Protection District, and the Galt Unified School District with that action. Neither those plaintiffs nor the County of San Bernardino are parties to the appeal.

[4] The same section "recognized," however, that a local agency "may pursue any remedies to obtain reimbursement available to it" under the statutes governing reimbursement for state-mandated costs in chapter 3 of the Revenue and Taxation Code, commencing with section 2201.

The three claimants then filed the second action asking that the board be compelled by writ of mandate to approve the claims and the state to pay them, and that chapter 922 be declared unconstitutional because it was not adopted in conformity with requirements of the Revenue and Taxation Code or **[*53]** section 6. The trial court granted partial relief and ordered the board to set aside its ruling. The court held that the board's decision was not supported by substantial evidence and legally adequate findings on the presence of a state-mandated cost. The basis for this ruling was the failure of the board to make adequate findings on the possible impact **[****11]** of changes in the burden of proof in some workers' compensation proceedings (*Lab. Code, § 3202.5*); a limitation on an injured worker's right to sue his employer under the "dual capacity" exception to the exclusive remedy doctrine (*Lab. Code, §§ 3601- 3602*); and changes in death and disability benefits and in liability in serious and wilful misconduct cases. (*Lab. Code, § 4551*.)

The court also held: "[The] changes made by chapter 922, Statutes of 1982 may be excluded from state-mandated costs if that change effects a cost of living increase which does not impose a higher or increased level of service on an existing program." The City of Sonoma, the County of Los Angeles, and the City of San Diego **[**206]** appeal from this latter portion of the judgment only.

II

The Court of Appeal consolidated the appeals. The court identified the dispositive issue as whether legislatively mandated increases in workers' compensation benefits constitute a "higher level of service" within the meaning of section 6, or are an "increased level of service" [5] described in subdivision (a) of *Revenue and Taxation Code section 2207* **[****12]** . The parties did not question the proposition that higher benefit payments might constitute a higher level of "service." The dispute centered on whether higher benefit payments which do not exceed increases in the cost of living constitute a higher level of service. Appellants maintained that the reimbursement requirement of section 6 is absolute and permits no implied or judicially created exception for increased costs that do not exceed the inflation rate. The Court of Appeal addressed the problem as one of defining "increased level of service."

The court rejected appellants' argument that a definition of "increased level of service" that once had been included in *section 2231, subdivision (e) of the Revenue and Taxation Code* should be applied. That definition brought any law that imposed "additional costs" within the scope of "increased **[****13]** level of service." The court concluded that the repeal of *section 2231* in 1975 (Stats. 1975, ch. 486, § 7, pp. 999-1000) and the failure of the Legislature by statute or the electorate in article XIII B to readopt the **[*54]** definition must be treated as reflecting an intent to change the law. (*Eu v. Chacon (1976) 16 Cal.3d 465, 470 [128 Cal. Rptr. 1, 546 P.2d 289]*.) [6] On that basis the court **[***42]** concluded that increased costs were no longer tantamount to an increased level of service.

[**14]** The court nonetheless assumed that an increase in costs mandated by the Legislature did constitute an increased level of service if the increase exceeds that in the cost of living. The judgment in the second, or "Sonoma" case was affirmed. The judgment in the first, or "Los Angeles" case, however, was reversed and the matter "remanded" to the board for more adequate findings, with directions. [7]

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[5] The court concluded that there was no legal or semantic difference in the meaning of the terms and considered the intent or purpose of the two provisions to be identical.

[6] The Court of Appeal also considered the expression of legislative intent reflected in the letter by the author of Assembly Bill No. 2750 (see fn. 2, *ante*). While consideration of that expression of intent may have been proper in construing Assembly Bill No. 2750, we question its relevance to the proper construction of either section 6, adopted by the electorate in the prior year, or of *Revenue and Taxation Code section 2207, subdivision (a)* enacted in 1975. (Cf. *California Employment Stabilization Co. v. Payne (1947) 31 Cal.2d 210, 213-214 [187 P.2d 702]*.) There is no assurance that the Assembly understood that its approval of printing a statement of intent as to the later bill was also to be read as a statement of intent regarding the earlier statute, and it was not relevant to the intent of the electorate in adopting section 6.

The Court of Appeal also recognized that the history of Assembly Bill No. 2750 and Statutes 1982, chapter 922, which demonstrated the clear intent of the Legislature to omit any appropriation for reimbursement of local government expenditures to pay the higher benefits precluded reliance on reimbursement provisions included in benefit-increase bills passed in earlier years. (See e.g., Stats. 1973, chs. 1021 and 1023.)

[7] We infer that the intent of the Court of Appeal was to reverse the order denying the petition for writ of mandate and to order the superior court to grant the petition and remand the matter to the board with directions to set aside its order and

III

The Court of Appeal did not articulate the basis for its conclusion that costs in excess of the increased cost of living do constitute a reimbursable increased level of service within the meaning of section 6. Our task in ascertaining **[****15]** the meaning of the phrase is aided somewhat by one explanatory reference to this part of section 6 in the ballot materials.

A statutory requirement of state reimbursement was in effect when section 6 **[**207]** was adopted. That provision used the same "increased level of service" phraseology but it also failed to include a definition of "increased level of service," providing only: "Costs mandated by the state' means any increased costs which a local agency is required to incur as a result of the following: [para.] (a) Any law . . . which mandates a new program or an increased level of service of an existing program." (*Rev. & Tax. Code § 2207*.) As noted, however, the definition of that term which had been **[*55]** included in *Revenue and Taxation Code section 2164.3* as part of the Property Tax Relief Act of 1972 (Stats. 1972, ch. 1406, § 14.7, p. 2961), had been repealed in 1975 when *Revenue and Taxation Code section 2231*, which had replaced *section 2164.3* in 1973, was repealed and a new *section 2231* enacted. (Stats. 1975. ch. 486, §§ 6 & 7, p. 999.) [8] Prior to repeal, *Revenue and Taxation Code section 2164.3* **[****16]** , and later *section 2231*, after providing in subdivision (a) for state reimbursement, explained in subdivision (e) that ""Increased level of service' means any requirement mandated by state law or executive regulation . . . which makes necessary expanded or additional costs to a county, city and county, city, or special district." (Stats. 1972, ch. 1406, § 14.7, p. 2963.)

[**17]** **[***43]** *CA(2)*[↑] **(2)** Appellants contend that despite its repeal, the definition is still valid, relying on the fact that the Legislature, in enacting *section 2207*, explained that the provision was "declaratory of existing law." (Stats. 1975, ch. 486, § 18.6, p. 1006.) We concur with the Court of Appeal in rejecting this argument. *HN2*[↑] "[I]t is ordinarily to be presumed that the Legislature by deleting an express provision of a statute intended a substantial change in the law." (*Lake Forest Community Assn. v. County of Orange (1978) 86 Cal. App. 3d 394, 402 [150 Cal. Rptr. 286]*; see also *Eu v. Chacon, supra, 16 Cal.3d 465, 470*.) Here, the revision was not minor: a whole subdivision was deleted. As the Court of Appeal noted, "A change must have been intended; otherwise deletion of the preexisting definition makes no sense."

Acceptance of appellants' argument leads to an unreasonable interpretation of *section 2207*. If the Legislature had intended to continue to equate "increased level of service" with "additional costs," then the provision would be circular: "costs mandated by the state" are defined as "increased costs" due to an "increased **[****18]** level of service," which, in turn, would be defined as "additional costs." We decline to accept such an interpretation. Under the repealed provision, "additional costs" may have been deemed tantamount to an "increased level of service," but not under the post-1975 statutory scheme. Since that definition has been repealed, an act of which the drafters of section 6 and the electorate are presumed to have been **[*56]** aware, we may not conclude that an intent existed to incorporate the repealed definition into section 6.

CA(3)[↑] **(3)** *HN3*[↑] In construing the meaning of the constitutional provision, our inquiry is not focussed on what the Legislature intended in adopting the former statutory reimbursement scheme, but rather on what the voters meant when they adopted article XIII B in 1979. To determine this intent, we must look to the language of the provision itself. (*ITT World Communications, Inc. v. City and County of San Francisco (1985) 37 Cal.3d 859, 866 [210 Cal. Rptr. 226, 693 P.2d 811]*.) In section 6, the electorate commands **[**208]** that the state reimburse local agencies for the cost of any "new program or higher level of service." Because workers' **[****19]** compensation is not a new program, the

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reconsider the claim after making the additional findings. (See *Code Civ. Proc. § 1094.5, subd. (f)*.)

[8] Pursuant to the 1972 and successor 1973 property tax relief statutes the Legislature had included appropriations in measures which, in the opinion of the Legislature, mandated new programs or increased levels of service in existing programs (see, e.g., Stats. 1973, ch. 1021, § 4, p. 2026; ch. 1022, § 2, p. 2027; Stats. 1976, ch. 1017, § 9, p. 4597) and reimbursement claims filed with the State Board of Control pursuant to *Revenue and Taxation Code sections 2218-2218.54* had been honored. When the Legislature fails to include such appropriations there is no judicially enforceable remedy for the statutory violation notwithstanding the command of *Revenue and Taxation Code section 2231, subdivision (a)* that "[the] state shall reimburse each local agency for all 'costs mandated by the state,' as defined in *Section 2207*" and the additional command of subdivision (b) that any statute imposing such costs "provide an appropriation therefor." (*County of Orange v. Flournoy (1974) 42 Cal. App. 3d 908, 913 [117 Cal. Rptr. 224]*.)

parties have focussed on whether providing higher benefit payments constitutes provision of a higher level of service. As we have observed, however, the former statutory definition of that term has been incorporated into neither section 6 nor the current statutory reimbursement scheme.

CA(4)[↑] **(4)** Looking at the language of section 6 then, it seems clear that by itself the term "higher level of service" is meaningless. It must be read in conjunction with the predecessor phrase "new program" to give it meaning. Thus read, it is apparent that the subvention requirement for increased or higher level of service is directed to state mandated increases in the services provided by local agencies in existing "programs." But the term "program" itself is not defined in article XIII B. What programs then did the electorate have in mind when section 6 was adopted? We conclude that the drafters and the electorate had in mind the commonly understood meanings of the term -- programs that carry out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local governments and **[****20]** do not apply generally to all residents and entities in the state.

The concern which prompted the inclusion of section 6 in article XIII B was the perceived attempt by the state to enact legislation or adopt administrative orders creating programs to be administered by local agencies, thereby transferring to those agencies the fiscal responsibility for providing services which the state believed should be extended to the public. In their ballot arguments, the proponents of article XIII B explained section 6 to the voters: "Additionally, this measure: (1) Will not allow the state government to *force programs* on local governments without the state paying for them." (Ballot Pamp., Proposed Amend. to Cal. Const. with arguments **[***44]** to voters, Spec. Statewide Elec. (Nov. 6, 1979) p. 18. Italics added.) In this context the phrase "to force programs on local governments" confirms that the intent underlying section 6 was to require reimbursement to local agencies for the costs involved in carrying out functions peculiar to government, not **[*57]** for expenses incurred by local agencies as an incidental impact of laws that apply generally to all state residents and entities. **[****21]** Laws of general application are not passed by the Legislature to "force" programs on localities.

The language of section 6 is far too vague to support an inference that it was intended that each time the Legislature passes a law of general application it must discern the likely effect on local governments and provide an appropriation to pay for any incidental increase in local costs. We believe that if the electorate had intended such a far-reaching construction of section 6, the language would have explicitly indicated that the word "program" was being used in such a unique fashion. (Cf. *Fuentes v. Workers' Comp. Appeals Bd. (1976) 16 Cal.3d 1, 7 [128 Cal. Rptr. 673, 547 P.2d 449]*; *Big Sur Properties v. Mott (1976) 63 Cal. App. 3d 99, 105 [132 Cal. Rptr. 835]*.) Nothing in the history of article XIII B that we have discovered, or that has been called to our attention by the parties, suggests that the electorate had in mind either this construction or the additional indirect, but substantial impact it would have on the legislative process.

HN4[↑] Were section 6 construed to require state subvention for the incidental cost to local governments **[****22]** of general laws, the result would be far-reaching indeed. Although such laws may be passed by simple majority vote of each house of the Legislature (art. IV, § 8, subd. (b)), the revenue measures necessary to make them effective may not. A bill which will impose costs subject to subvention of local agencies must be accompanied by a revenue measure providing the subvention required by article XIII B. (*Rev. & Tax. Code, §§ 2255, subd. (c)*.) Revenue bills must be passed by two-thirds vote of each house of the Legislature. (Art. IV, § 12, subd. (d).) Thus, were we to construe section 6 as **[**209]** applicable to general legislation whenever it might have an incidental effect on local agency costs, such legislation could become effective only if passed by a supermajority vote. [9] Certainly no such intent is reflected in the language or history of article XIII B or section 6.

[**23]** *CA(5)*[↑] **(5)** We conclude therefore that section 6 has no application to, and the state need not provide subvention for, the costs incurred by local agencies in providing to their employees the same increase in workers' compensation **[*58]** benefits that employees of private individuals or organizations receive. [10] Workers' compensation is not a program

[9] Whether a constitutional provision which requires a supermajority vote to enact substantive legislation, as opposed to funding the program, may be validly enacted as a Constitutional amendment rather than through revision of the Constitution is an open question. (See *Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization (1978) 22 Cal.3d 208, 228 [149 Cal. Rptr. 239, 583 P.2d 1281]*.)

[10] The Court of Appeal reached a different conclusion in *City of*

administered by local agencies to provide service to the public. Although local agencies must provide benefits to their employees either through insurance or direct payment, they are indistinguishable in this respect from private employers. *HN5*[↑] In no sense can employers, public or private, be considered to be administrators of a program of workers' compensation or to be providing services incidental to administration of the program. Workers' compensation is administered by the state through the Division of Industrial Accidents and the Workers' Compensation Appeals Board. (See **[***45]** *Lab. Code, § 3201 et seq.*) Therefore, although the state requires that employers provide workers' compensation for nonexempt categories of employees, increases in the cost of providing this employee benefit are not subject **[****24]** to reimbursement as state-mandated programs or higher levels of service within the meaning of section 6.

IV

CA(6)[↑] **(6)** *HN6*[↑] Our construction of section 6 is further supported by the fact that it comports with controlling principles of construction which "require that in the absence of irreconcilable conflict among their various parts, [constitutional provisions] must be harmonized and construed **[****25]** to give effect to all parts. (*Clean Air Constituency v. California State Air Resources Bd. (1974) 1 Cal.3d 801, 813-814 [114 Cal. Rptr. 577, 523 P.2d 617]*; *Serrano v. Priest (1971) 5 Cal.3d 584, 596 [96 Cal. Rptr. 601, 487 P.2d 1241, 41 A.L.R.3d 1187]*; *Select Base Materials* v. *Board of Equal*. *(1959) 51 Cal.2d 640, 645 [335 P.2d 672]*.)" (*Legislature v. Deukmejian (1983) 34 Cal.3d 658, 676 [194 Cal. Rptr. 781, 669 P.2d 17]*.)

HN7[↑] Our concern over potential conflict arises because article XIV, section 4, [11] gives the **[**210]** Legislature "plenary power, unlimited by any provision of

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Sacramento v. State of California (1984) 156 Cal. App. 3d 182 [203 Cal. Rptr. 258], with respect to a newly enacted law requiring that all public employees be covered by unemployment insurance. Approaching the question as to whether the expense was a "state mandated cost," rather than as whether the provision of an employee benefit was a "program or service" within the meaning of the Constitution, the court concluded that reimbursement was required. To the extent that this decision is inconsistent with our conclusion here, it is disapproved.

[11] *HN8*[↑] Section 4: "The Legislature is hereby *expressly vested with plenary power, unlimited by any provision of this Constitution*, to create, and enforce a complete system of workers' compensation, by appropriate legislation, and in that behalf to create and enforce a liability on the part of any or all persons to compensate any or all of their workers for injury or disability, and their dependents for death incurred or sustained by the said workers in the course of their employment, irrespective of the fault of any party. A complete system of workers' compensation includes adequate provisions for the comfort, health and safety and general welfare of any and all workers and those dependent upon them for support to the extent of relieving from the consequences of any injury or death incurred or sustained by workers in the course of their employment, irrespective of the fault of any party; also full provision for securing safety in places of employment; full provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve from the effects of such injury; full provision for adequate insurance coverage against liability to pay or furnish compensation; full provision for regulating such insurance coverage in all its aspects, including the establishment and management of a State compensation insurance fund; full provision for otherwise securing the payment of compensation and full provision for vesting power, authority and jurisdiction in an administrative body with all the requisite governmental functions to determine any dispute or matter arising under such legislation, to the end that the administration of such legislation shall accomplish substantial justice in all cases expeditiously, inexpensively, and without encumbrance of any character; all of which matters are expressly declared to be the social public policy of this State, binding upon all departments of the State government.

"The Legislature is vested with plenary powers, to provide for the settlement of any disputes arising under such legislation by arbitration, or by an industrial accident commission, by the courts, or by either, any, or all of these agencies, either separately or in combination, and may fix and control the method and manner of trial of any such dispute, the rules of evidence and the manner of review of decisions rendered by the tribunal or tribunals designated by it; provided, that all decisions of any such tribunal shall be subject to review by the appellate courts of this State. The Legislature may combine in one statute all the provisions for a complete system of workers' compensation, as herein defined.

"The Legislature shall have power to provide for the payment of an award to the state in the case of the death, arising out of and in the course of the employment, of an employee without dependents, and such awards may be used for the payment of extra compensation for subsequent injuries beyond the liability of a single employer for awards to employees of the employer.

"Nothing contained herein shall be taken or construed to impair or render ineffectual in any measure the creation and existence of the industrial accident commission of this State or the State compensation insurance fund, the creation and existence of which, with all the functions vested in them, are hereby ratified and confirmed." (Italics added.)

[*59] this Constitution" over workers' compensation. Although seemingly unrelated to workers' compensation, section 6, as we have shown, would have an indirect, but substantial impact on the ability of the Legislature to make future changes in the existing workers' compensation scheme. Any changes in the system which would increase benefit levels, provide new services, or extend current service might also increase local agencies' costs. Therefore, even though workers' compensation is a program which is **[****26]** intended **[***46]** to provide benefits to all injured or deceased employees and their families, because the change might have some incidental impact on local government costs, the change could be made only if it commanded a supermajority vote of two-thirds of the members of each house of the Legislature. The potential conflict between section 6 and the plenary power over workers' compensation granted to the Legislature by article XIV, section 4 is apparent.

[**27]** The County of Los Angeles, while recognizing the impact of section 6 on the Legislature's power over workers' compensation, argues that the "plenary power" granted by article XIV, section 4, is power over the substance of workers' compensation legislation, and that this power would be unaffected by article XIII B if the latter is construed to compel reimbursement. The subvention requirement, it is argued, is analogous to other procedural **[*60]** limitations on the Legislature, such as the "single subject rule" (art. IV, § 9), as to which article XIV, section 4, has no application. We do not agree. A constitutional requirement that legislation either exclude employees of local governmental agencies or be adopted by a supermajority vote would do more than simply establish a format or procedure by which legislation is to be enacted. It would place workers' compensation legislation in a special classification of substantive legislation and thereby curtail the power of a majority to enact substantive changes by any procedural means. If section 6 were applicable, therefore, article XIII B would restrict the power of the Legislature over workers' compensation.

The City of Sonoma **[****28]** concedes that so construed article XIII B *would* restrict the plenary power of the Legislature, and reasons that the provision therefore either effected a pro tanto repeal of article XIV, section 4, or must be accepted as a limitation on the power of the Legislature. We need not accept that conclusion, however, because our construction of section 6 permits the constitutional provisions to be reconciled. Construing a recently enacted constitutional provision such as section 6 to avoid conflict with, and thus pro tanto repeal of, an earlier provision is also consistent with **[**211]** and reflects the principle applied by this court in *Hustedt v. Workers' Comp. Appeals Bd. (1981) 30 Cal.3d 329 [178 Cal. Rptr. 801, 636 P.2d 1139]*. There, by coincidence, article XIV, section 4, was the later provision. A statute, enacted pursuant to the plenary power of the Legislature over workers' compensation, gave the Workers' Compensation Appeals Board authority to discipline attorneys who appeared before it. If construed to include a transfer of the authority to discipline attorneys from the Supreme Court to the Legislature, or to delegate that power to the board, article **[****29]** XIV, section 4, would have conflicted with the constitutional power of this court over attorney discipline and might have violated the separation of powers doctrine. (Art. III, § 3.) The court was thus called upon to determine whether the adoption of article XIV, section 4, granting the Legislature plenary power over workers' compensation effected a pro tanto repeal of the preexisting, exclusive jurisdiction of the Supreme Court over attorneys.

We concluded that there had been no pro tanto repeal because article XIV, section 4, did not give the Legislature the authority to enact the statute. Article XIV, section 4, did not expressly give the Legislature power over attorney discipline, and that power was not integral to or necessary to the establishment of a complete system of workers' compensation. In those circumstances the presumption against implied repeal controlled. "It is well established that the adoption of article XIV, section 4 'effected a repeal *pro tanto*' of any state constitutional provisions which conflicted with that **[*61]** amendment. (*Subsequent Etc. Fund. v. Ind. Acc. Com. (1952) 39 Cal.2d 83, 88 [244 P.2d 889]*; *Western Indemnity Co. v. Pillsbury (1915) 170 Cal. 686, 695, [151 P. 398]*.) **[****30]** *HN9*[⬆] A *pro tanto* repeal of conflicting state constitutional provisions removes 'insofar as necessary' any restrictions which would prohibit the realization **[***47]** of the objectives of the new article. (*Methodist Hosp. of Sacramento v. Saylor (1971) 5 Cal.3d 685, 691-692 [97 Cal. Rptr. 1, 488 P.2d 161]*; cf. *City and County of San Francisco v. Workers' Comp. Appeals Bd. (1978) 22 Cal.3d 103, 115-117 [148 Cal. Rptr. 626, 583 P.2d 151]*.) Thus the question becomes whether the board must have the power to discipline attorneys if the objectives of article XIV, section 4 are to be effectuated. In other words, does the achievement of those objectives compel the modification of a power -- the disciplining of attorneys -- that otherwise rests exclusively with this court?" (

Hustedt v. Workers' Comp. Appeals Bd., supra, 30 Cal.3d 329, 343.) We concluded that the ability to discipline attorneys appearing before it was not necessary to the expeditious resolution of workers' claims or the efficient administration of the agency. Thus, the absence of disciplinary power over attorneys would not preclude the board from achieving **[****31]** the objectives of article XIV, section 4, and no pro tanto repeal need be found.

CA(7)[↑] **(7)** A similar analysis leads to the conclusion here that no pro tanto repeal of article XIV, section 4, was intended or made necessary here by the adoption of section 6. The goals of article XIII B, of which section 6 is a part, were to protect residents from excessive taxation and government spending. (*Huntington Park Redevelopment Agency v. Martin (1985) 38 Cal.3d 100, 109-110 [211 Cal. Rptr. 133, 695 P.2d 220]*.) Section 6 had the additional purpose of precluding a shift of financial responsibility for carrying out governmental functions from the state to local agencies which had had their taxing powers restricted by the enactment of article XIII A in the preceding year and were ill equipped to take responsibility for any new programs. Neither of these goals is frustrated by requiring local agencies to provide the same protections to their employees as do private employers. Bearing the costs of salaries, unemployment insurance, and workers' compensation coverage -- costs which all employers must bear -- neither threatens excessive taxation or governmental spending, **[****32]** nor shifts from the state to a local agency the expense of providing governmental services.

[212]** Therefore, since the objectives of article XIII B and section 6 can be achieved in the absence of state subvention for the expense of increases in workers' compensation benefit levels for local agency employees, section 6 did not effect a pro tanto repeal of the Legislature's otherwise plenary power over workers' compensation, a power that does not contemplate that the Legislature rather than the employer must fund the cost or increases in **[*62]** benefits paid to employees of local agencies, or that a statute affecting those benefits must garner a supermajority vote.

Because we conclude that section 6 has no application to legislation that is applicable to employees generally, whether public or private, and affects local agencies only incidentally as employers, we need not reach the question that was the focus of the decision of the Court of Appeal -- whether the state must reimburse localities for state-mandated cost increases which merely reflect adjustments for cost-of-living in existing programs.

V

It follows from our conclusions above, that in each of these cases the **[****33]** plaintiffs' reimbursement claims were properly denied by the State Board of Control. Their petitions for writs of mandate seeking to compel the board to approve the claims lacked merit and should have been denied by the superior court without the necessity of further proceedings before the board.

In B001713, the Los Angeles case, the Court of Appeal reversed the judgment of the superior court denying the petition. In the B003561, the Sonoma case, the superior court granted partial relief, ordering further proceedings before the board, and the Court of Appeal affirmed that judgment.

The judgment of the Court of Appeal is reversed. Each side shall bear its own costs.

Concur by: MOSK

Concur

MOSK, J. I concur in the result reached by the majority, but I prefer the rationale of the Court of Appeal, i.e., that neither *article XIII B, section 6, of the Constitution* nor *Revenue and Taxation Code sections 2207* and *2231* require state subvention for increased workers' compensation benefits provided by chapter 1042, Statutes of 1980, and chapter 922, Statutes of 1982, but only if the increases do not exceed applicable cost-of-living adjustments **[****34]** because such payments do not result in an increased level of service.

Under the majority theory, the state can order unlimited financial burdens on local units of government without providing the funds to meet those burdens. This may have serious implications in the future, and does violence to the requirement of *section 2231, subdivision (a)*, that the state reimburse local government for "all costs mandated by the state."

In this instance it is clear from legislative history that the Legislature did not intend to mandate additional burdens, but merely to provide a cost-of-living **[*63]** adjustment. I agree with the Court of Appeal that this was permissible.

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1. *County of San Diego v. State of California, 15 Cal. 4th 68*

Client/Matter: -None-
Search Terms: County of San Diego v. State of California, 15 Cal. 4th 68
Search Type: Natural Language
Narrowed by:

Content Type	Narrowed by
Cases	-None-

County of San Diego v. State of California

Supreme Court of California

March 3, 1997, Decided

No. S046843.

Reporter
15 Cal. 4th 68 *; 931 P.2d 312 **; 61 Cal. Rptr. 2d 134 ***; 1997 Cal. LEXIS 630 ****; 97 Daily Journal DAR 2296; 97 Cal. Daily Op. Service 1555

COUNTY OF SAN DIEGO, Cross-complainant and Respondent, v. THE STATE OF CALIFORNIA et al., Cross-defendants and Appellants.

Prior History: [**1]** Superior Court of San Diego County, Super. Ct. No. 634931. Michael I. Greer, * Harrison R. Hollywood and Judith McConnell, Judges.

Disposition: The judgment of the Court of Appeal is affirmed insofar as it holds that the exclusion of adult MIP's from Medi-Cal imposed a mandate on San Diego within the meaning of section 6. The judgment is reversed insofar as it holds that the state required San Diego to spend at least $ 41 million on the CMS program in fiscal years 1989-1990 and 1990-1991. The matter is remanded to the Commission to determine whether, and by what amount, the statutory standards of care (e.g., *Health & Saf. Code, § 1442.5*, former subd. (c); *Welf. & Inst. Code, § 10000*, *17000*) forced San Diego to incur costs in excess of the funds provided by the state, and to determine the statutory remedies to which San Diego is entitled.

Core Terms

reimbursement, medical care, funds, adult, eligibility, costs, fiscal year, indigent, medically indigent, court of appeals, new program, provide medical care, programs, mandates, indigent person, trial court, mandamus, spending, higher level of service, local government, financial responsibility, superior court, healthcare, proceedings, medical services, Budget, linked, test claim, asserts, relieve

Case Summary

Procedural Posture

Appellant state sought review of the judgment from the Court of Appeal (California), which affirmed the trial court that reversed a decision of the state mandates commission. The state mandates commission had held that respondent county was not entitled to reimbursement under *Cal. Const. art. XIII B, § 6*, for its treatment of medically indigent adults after the legislature excluded such persons from the California Medical Assistance Program.

Overview

The legislature excluded medically indigent adults from receiving medical care pursuant to the California Medical Assistance Program (Medi-Cal). Subsequently, respondent county provided medical care to these persons and sought reimbursement from appellant state pursuant to *Cal. Const. art. XIII B, § 6*. The state mandates commission held for appellant, but the trial court reversed the commission's decision, and the court of appeals affirmed the trial court. The court affirmed the

* Retired judge of the San Diego Superior Court assigned by the Chief Justice pursuant to *article VI, section 6 of the California Constitution*.

court of appeal's decision in part and reversed in part. The court found that the legislature's exclusion of medically indigent adults from Medi-Cal mandated a new program within the meaning of *art. XIII B, § 6*. Former statutes, however, did not establish a $ 41 million spending floor for respondent's county medical services program. The court remanded the action to the state mandates commission to determine whether, and by what amount, respondent was forced to incur costs in excess of state-provided funds to comply with the standards of care provided by the former *Cal. Health & Safety Code § 1442.5(c)* and *Cal. Welf. & Inst. Code §§ 10000*, *17000*.

Outcome
The court affirmed the court of appeal's judgment that respondent county could recover costs incurred to treat medically indigent adults because the legislature mandated a new program by excluding medically indigent adults from the California Medical Assistance Program. The court reversed the court of appeal's judgment that respondent was entitled to at least $ 41 million and remanded to the state mandates commission for a cost determination.

LexisNexis® Headnotes

Governments > State & Territorial Governments > General Overview

Public Health & Welfare Law > Healthcare > General Overview

Public Health & Welfare Law > Social Security > Medicaid > General Overview

Public Health & Welfare Law > ... > Medicaid > Coverage > General Overview

HN1[] **Governments, State & Territorial Governments**

The California Medical Assistance Program, *Cal. Welf. & Inst. Code § 14063*, which began operating March 1, 1966, establishes a program of basic and extended health care services for recipients of public assistance and for medically indigent persons. It represents California's implementation of the federal medicaid program, *42 U.S.C.S. §§ 1396-1396v*, through which the federal government provides financial assistance to states so that they may furnish medical care to qualified indigent persons.

Governments > Local Governments > Finance

Healthcare Law > ... > Health Insurance > Reimbursement > General Overview

Public Health & Welfare Law > ... > Providers > Payments & Reimbursements > Hospitals

Public Health & Welfare Law > Healthcare > General Overview

Public Health & Welfare Law > Social Security > Medicaid > General Overview

HN2[] **Local Governments, Finance**

Former *Cal. Welf. & Inst. Code § 14150.1* provides in part that a county may elect to pay as its share of costs under the California Medical Assistance Program, *Cal. Welf. & Inst. Code § 14063*, *100* percent of the county cost of health care uncompensated from any source in 1964-65 for all categorical aid recipients, and all other persons in the county hospital or in a contract hospital, increases for such county for each fiscal year subsequent to 1964-65 by an amount proportionate to the increase in population for such county. If the county so elects, the county costs of health care in any fiscal year shall not exceed the total county costs of health care uncompensated from any source in 1964-65 for all categorical aid recipients, and all other persons in the county hospital or in a contract hospital, increases for such county for each fiscal year subsequent to 1964-65 by an amount proportionate to the increase in population for such county.

Governments > Local Governments > Finance

Healthcare Law > ... > Health

Insurance > Reimbursement > General Overview

Public Health & Welfare Law > Social Security > Medicaid > General Overview

Public Health & Welfare Law > Healthcare > General Overview

HN3 **Local Governments, Finance**

Former *Cal. Welf. & Inst. Code § 14150* provides the standard method for determining the counties' share of costs under the California Medical Assistance Program, *Cal. Welf. & Inst. Code § 14063*. Under it, a county is required to pay the state a specific sum, in return for which the state will pay for the medical care of all categorically linked individuals. Financial responsibility for nonlinked individuals remains with the counties.

Governments > Local Governments > Finance

Governments > State & Territorial Governments > Finance

HN4 **Local Governments, Finance**

Cal. Const. art. XIII A imposes a limit on the power of state and local governments to adopt and levy taxes. Cal. Const. art. XIII B imposes a complementary limit on the rate of growth in governmental spending. These two constitutional articles work in tandem, together restricting California governments' power both to levy and to spend for public purposes.

Governments > Local Governments > Finance

Governments > State & Territorial Governments > Finance

HN5 **Local Governments, Finance**

Cal. Const. art. XIII B, § 6, provides in part that 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 reimburse such local government for the costs of such program or increased level of service, except that the legislature may, but need not, provide such subvention of funds for legislative mandates that are enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

Governments > State & Territorial Governments > Finance

HN6 **State & Territorial Governments, Finance**

Cal. Const. art. XIII B § 6, essentially requires the state to pay for any new governmental programs, or for higher levels of service under existing programs, that it imposes upon local governmental agencies.

Governments > State & Territorial Governments > Finance

HN7 **State & Territorial Governments, Finance**

To determine whether a statute imposes state-mandated costs on a local agency within the meaning of *Cal. Const. art. XIII B, § 6*, the local agency must file a test claim with the Commission on State Mandates, which, after a public hearing, decides whether the statute mandates a new program or increased level of service. *Cal. Gov't Code §§ 17521*, *17551*, *17555*. If the commission finds a claim to be reimbursable, it determines the amount of reimbursement. *Cal. Gov't Code § 17557*. The local agency then follows certain statutory procedures to obtain reimbursement. *Cal. Gov't Code § 17558 et seq.*

Civil Procedure > ... > Declaratory Judgments > State Declaratory Judgments > General Overview

Governments > State & Territorial Governments > Finance

HN8 **Declaratory Judgments, State Declaratory Judgments**

If the legislature refuses to appropriate money for a reimbursable mandate, the local agency may file an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement. *Cal. Gov't Code § 17612(c)*. If the Commission on State Mandates finds no reimbursable mandate, the local agency may challenge this finding by administrative mandate proceedings under *Cal. Civ. Proc. Code § 1094.5*. *Cal.*

Gov't Code § 17559. Cal. Gov't Code § 17552 declares that these provisions provide the sole and exclusive procedure by which a local agency may claim reimbursement for costs mandated by the state as required by Cal. Const. art. XIII B, § 6.

Constitutional Law > ... > Case or Controversy > Standing > General Overview

HN9[] **Case or Controversy, Standing**

Individual taxpayers and recipients of government benefits lack standing to enforce Cal. Const. art. XIII B, § 6, because the applicable administrative procedures, which are the exclusive means for determining and enforcing the state's § 6 obligations, are available only to local agencies and school districts directly affected by a state mandate.

Administrative Law > Judicial Review > Remedies > Mandamus

Civil Procedure > ... > Jurisdiction > Subject Matter Jurisdiction > General Overview

Constitutional Law > The Judiciary > Jurisdiction > General Overview

Administrative Law > Judicial Review > Reviewability > Jurisdiction & Venue

Civil Procedure > ... > Subject Matter Jurisdiction > Jurisdiction Over Actions > General Overview

Civil Procedure > Remedies > Writs > General Overview

Civil Procedure > Appeals > Appellate Jurisdiction > State Court Review

HN10[] **Remedies, Mandamus**

The power of superior courts to perform mandamus review of administrative decisions derives in part from Cal. Const. art. VI, § 10. Section 10 gives the Supreme Court, courts of appeal, and superior courts original jurisdiction in proceedings for extraordinary relief in the nature of mandamus. Cal. Const. art. VI, § 10. The jurisdiction may not lightly be deemed to be destroyed. While the courts are subject to reasonable statutory regulation of procedure and other matters, they maintain their constitutional powers in order effectively to function as a separate department of government. Consequently an intent to defeat the exercise of the court's jurisdiction is not supplied by implication.

Administrative Law > Judicial Review > Reviewability > Jurisdiction & Venue

Civil Procedure > ... > Subject Matter Jurisdiction > Jurisdiction Over Actions > General Overview

HN11[] **Reviewability, Jurisdiction & Venue**

Under Cal. Gov't Code § 17500 et seq., the statutes governing determination of unfunded mandate claims, the court hearing the test claim has primary jurisdiction.

Civil Procedure > ... > Subject Matter Jurisdiction > Jurisdiction Over Actions > General Overview

HN12[] **Subject Matter Jurisdiction, Jurisdiction Over Actions**

A court that refuses to defer to another court's primary jurisdiction is not without jurisdiction.

Administrative Law > Judicial Review > Administrative Record > General Overview

Civil Procedure > Appeals > Reviewability of Lower Court Decisions > General Overview

HN13[] **Judicial Review, Administrative Record**

The threshold determination of whether a statute imposes a state mandate is an issue of law.

Administrative Law > Judicial Review > Reviewability > Exhaustion of Remedies

Civil Procedure > ... > Justiciability > Exhaustion of Remedies > Administrative Remedies

Governments > Local Governments > Claims By & Against

Civil Procedure > ... > Justiciability > Exhaustion of Remedies > General Overview

Civil Procedure > ... > Justiciability > Exhaustion of Remedies > Exceptions

HN14[] **Reviewability, Exhaustion of Remedies**

Counties seeking to pursue an unfunded mandate claim under *Cal. Const. art. XIII B, § 6*, must exhaust their administrative remedies. However, counties may pursue § 6 claims in superior court without first resorting to administrative remedies if they can establish an exception to the exhaustion requirement. The futility exception to the exhaustion requirement applies if a county can state with assurance that the Commission on State Mandates will rule adversely in its own particular case.

Public Health & Welfare
Law > Healthcare > General Overview

HN15[] **Public Health & Welfare Law, Healthcare**

Cal. Welf. & Inst. Code § 17000 creates the residual fund to sustain indigents who cannot qualify under any specialized aid programs. By its express terms, *§ 17000* requires a county to relieve and support indigent persons only when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions. *Cal. Welf. & Inst. Code § 17000*.

Governments > State & Territorial Governments > Legislatures

Public Health & Welfare
Law > Healthcare > General Overview

HN16[] **State & Territorial Governments, Legislatures**

In adopting the California Medical Assistance Program (Medi-Cal), *Cal. Welf. & Inst. Code § 14063*, the state legislature, for the most part, shifted indigent medical care from being a county responsibility to a state responsibility under the Medi-Cal program.

Governments > Legislation > Effect & Operation > General Overview

HN17[] **Legislation, Effect & Operation**

Cal. Const. art. XIII B, § 6, prohibits the state from shifting to counties the costs of state programs for which the state assumed complete financial responsibility before adoption of § 6.

Governments > Local Governments > Finance

Public Health & Welfare
Law > Healthcare > General Overview

HN18[] **Local Governments, Finance**

As amended in 1982, *Cal. Welf. & Inst. Code § 16704(c)(1)*, provides in part that the county board of supervisors shall assure that it will expend Medically Indigent Services Account funds only for the health services specified in *Cal. Welf. & Inst. Code §§ 14132* and *14021* provided to persons certified as eligible for such services pursuant to *Cal. Welf. & Inst. Code § 17000* and shall assure that it will incur no less in net costs of county funds for county health services in any fiscal year than the amount that is required to obtain the maximum allocation under *Cal. Welf. & Inst. Code § 16702*.

Governments > Local Governments > Finance

Labor & Employment Law > ... > Disability Benefits > Scope & Definitions > General Overview

Public Health & Welfare
Law > Healthcare > Services for Disabled & Elderly Persons > General Overview

Public Health & Welfare
Law > Healthcare > General Overview

HN19[] **Local Governments, Finance**

Cal. Welf. & Inst. Code § 16704(c)(3) provides in part that any person whose income and resources meet the income and resource criteria for certification for services pursuant to *Cal. Welf. & Inst. Code § 14005.7* other than

for the aged, blind, or disabled, shall not be excluded from eligibility for services to the extent that state funds are provided. Such persons may be held financially liable for these services based upon the person's ability to pay. A county may not establish a payment requirement which will deny medically necessary services. This section shall not be construed to mandate that a county provide any specific level or type of health care service.

Public Health & Welfare
Law > Healthcare > General Overview

HN20 **Public Health & Welfare Law, Healthcare**

The provisions of *Cal. Welf. & Inst. Code § 16704(c)(3)* shall become inoperative if a court ruling is issued which decrees that the provisions of this paragraph mandate that additional state funds be provided and which requires that additional state reimbursement be made to counties for costs incurred under this paragraph. This paragraph shall be operative only until June 30, 1983, unless a later enacted statute extends or deletes that date.

Governments > Local Governments > Charters

Public Health & Welfare
Law > Healthcare > General Overview

HN21 **Local Governments, Charters**

See *Cal. Welf. & Inst. Code § 17000*.

Governments > Local Governments > Duties & Powers

HN22 **Local Governments, Duties & Powers**

Cal. Welf. & Inst. Code § 17001 confers broad discretion upon the counties in performing their statutory duty to provide general assistance benefits to needy residents.

Administrative Law > Agency Rulemaking > General Overview

Governments > Local Governments > Duties & Powers

HN23 **Administrative Law, Agency Rulemaking**

When a statute confers upon a state agency the authority to adopt regulations to implement, interpret, make specific or otherwise carry out its provisions, the agency's regulations must be consistent, not in conflict with the statute, and reasonably necessary to effectuate its purpose. *Cal. Gov't Code § 11374*.

Administrative Law > Judicial Review > Reviewability > Questions of Law

HN24 **Reviewability, Questions of Law**

Courts have the final responsibility for the interpretation of the law.

Governments > Local Governments > Duties & Powers

Public Health & Welfare
Law > Healthcare > General Overview

HN25 **Local Governments, Duties & Powers**

Cal. Welf. & Inst. Code § 17000 requires counties to relieve and support all indigent persons lawfully resident therein, when such persons are not supported and relieved by their relatives or by some other means.

Governments > Local Governments > Duties & Powers

Public Health & Welfare
Law > Healthcare > General Overview

HN26 **Local Governments, Duties & Powers**

Counties have no discretion to refuse to provide medical care to "indigent persons" within the meaning of *Cal. Welf. & Inst. Code § 17000* who do not receive it from other sources.

Public Health & Welfare
Law > Healthcare > General Overview

HN27[] Public Health & Welfare Law, Healthcare

Adult medically indigent persons are "indigent persons" within the meaning of Cal. Welf. & Inst. Code § 17000 for medical care purposes. Section 17000 requires counties to relieve and support all indigent persons.

Evidence > Inferences & Presumptions > General Overview

Pensions & Benefits Law > Governmental Employees > County Pensions

Public Health & Welfare Law > ... > Medicaid > Coverage > General Overview

HN28[] Evidence, Inferences & Presumptions

An attorney general's opinion, although not binding, is entitled to considerable weight. Absent controlling authority, it is persuasive because the court presumes that the legislature is cognizant of the attorney general's construction of Cal. Welf. & Inst. Code § 17000 and would have taken corrective action if it disagreed with that construction.

Governments > Local Governments > Duties & Powers

Public Health & Welfare Law > Healthcare > General Overview

HN29[] Local Governments, Duties & Powers

Cal. Welf. & Inst. Code § 17000 mandates that medical care is provided to indigents and Cal. Welf. & Inst. Code § 10000 requires that such care be provided promptly and humanely. The duty is mandated by statute. There is no discretion concerning whether to provide such care.

Governments > Local Governments > Duties & Powers

Public Health & Welfare Law > Healthcare > General Overview

HN30[] Local Governments, Duties & Powers

Cal. Welf. & Inst. Code § 17000 imposes a mandatory duty upon all counties to provide medically necessary care, not just emergency care. It further imposes a minimum standard of care below which the provision of medical services may not fall.

Governments > Local Governments > Duties & Powers

Healthcare Law > ... > Health Insurance > Reimbursement > General Overview

Public Health & Welfare Law > Healthcare > General Overview

HN31[] Local Governments, Duties & Powers

The former Cal. Health & Safety Code § 1442.5(c) provides that, whether a county's duty to provide care to all indigent people is fulfilled directly by the county or through alternative means, the availability of services, and the quality of the treatment that is received by people who cannot afford to pay for their health care, shall be the same as that available to nonindigent people receiving health care services in private facilities in that county.

Governments > Local Governments > Duties & Powers

Public Health & Welfare Law > Healthcare > General Overview

HN32[] Local Governments, Duties & Powers

The Supreme Court of California disapproves Cooke v. Superior Court, 261 Cal. Rptr. 706, 213 Cal. App. 3d 401 (1989), to the extent it held that the former Cal. Health & Safety Code § 1442.5(c) was merely a limitation on a county's ability to close facilities or reduce services provided in those facilities, and was irrelevant absent a claim that a county facility was closed or that any services in the county were reduced.

Governments > Local Governments > Duties & Powers

Public Health & Welfare Law > Healthcare > General Overview

Governments > Local Governments > Finance

HN33[] **Local Governments, Duties & Powers**

Former *Cal. Welf. & Inst. Code § 16990(a)* requires counties receiving California Healthcare for the Indigent Program funds, at a minimum, to maintain a level of financial support of county funds for health services at least equal to its county match and any overmatch of county funds in the 1988-89 fiscal year, adjusted annually as provided.

Public Health & Welfare
Law > Healthcare > General Overview

HN34[] **Public Health & Welfare Law, Healthcare**

See former *Cal. Welf. & Inst. Code § 16991(a)(5)*.

Administrative Law > Judicial Review > Remedies > Mandamus

Civil Procedure > Remedies > Writs > General Overview

HN35[] **Remedies, Mandamus**

Mandamus pursuant to *Cal. Civ. Proc. Code § 1094.5*, commonly denominated "administrative" mandamus, is mandamus still. It is not possessed of a separate and distinctive legal personality. It is not a remedy removed from the general law of mandamus or exempted from the latter's established principles, requirements and limitations. The full panoply of rules applicable to "ordinary" mandamus applies to "administrative" mandamus proceedings, except where modified by statute. Where the entitlement to mandamus relief is adequately alleged, a trial court may treat a proceeding brought under *Cal. Civ. Proc. Code § 1085* as one brought under *Cal. Civ. Proc. Code § 1094.5* and deny a demurrer asserting that the wrong mandamus statute is invoked.

Civil Procedure > Appeals > Standards of Review

HN36[] **Appeals, Standards of Review**

The determination whether statutes establish a mandate under *Cal. Const. art. XIII B, § 6*, is a question of law. Where a purely legal question is at issue, the courts exercise independent judgment, no matter whether the issue arises by traditional or administrative mandate.

Civil Procedure > ... > Writs > Common Law Writs > Mandamus

Civil Procedure > Remedies > Writs > General Overview

HN37[] **Common Law Writs, Mandamus**

The denial of a peremptory disqualification motion pursuant to *Cal. Civ. Proc. Code § 170.6* is reviewable only by writ of mandate under *Cal. Civ. Proc. Code § 170.3(d)*.

Civil Procedure > Appeals > Reviewability of Lower Court Decisions > General Overview

Civil Procedure > Remedies > Injunctions > Preliminary & Temporary Injunctions

HN38[] **Appeals, Reviewability of Lower Court Decisions**

A preliminary injunction is immediately and separately appealable under *Cal. Civ. Proc. Code § 904.1(a)(6)*.

Headnotes/Summary

Summary
CALIFORNIA OFFICIAL REPORTS SUMMARY

After a county's unsuccessful administrative attempts to obtain reimbursement from the state for expenses incurred through its County Medical Services (CMS) program, and after a class action was filed on behalf of CMS program beneficiaries seeking to enjoin termination of the program, the county filed a cross-complaint and petition for a writ of mandate (*Code Civ. Proc., § 1085*) against the state, the Commission on State Mandates, and various state officers, to determine the county's rights under *Cal. Const., art. XIII B, § 6* (reimbursement to local government for state-mandated

new program or higher level of service). The county alleged that the Legislature's 1982 transfer to counties of responsibility for providing health care for medically indigent adults mandated a reimbursable new program. The trial court found that the state had an obligation to fund the county's CMS program. (Superior Court of San Diego County, No. 634931, Michael I. Greer, * Harrison R. Hollywood, and Judith McConnell, Judges.) The Court of Appeal, Fourth Dist., Div. One, No. D018634, affirmed the judgment of the trial court insofar as it provided that *Cal. Const., art. XIII B, § 6*, required the state to fund the CMS program. The Court of Appeal also affirmed the trial court's finding that the state had required the county to spend at least $ 41 million on the CMS program in fiscal years 1989-1990 and 1990-1991. However, the Court of Appeal reversed those portions of the judgment determining the final reimbursement amount and specifying the state funds from which the state was to satisfy the judgment. The Court of Appeal remanded to the commission to determine the reimbursement amount and appropriate statutory remedies.

The Supreme Court affirmed the judgment of the Court of Appeal insofar as it held that the exclusion of medically indigent adults from Medi-Cal imposed a mandate on the county within the meaning of *Cal. Const., art. XIII B, § 6*. The Supreme Court reversed the judgment insofar as it held that the state required the county to spend at least $ 41 million on the CMS program in fiscal years 1989-1990 and 1990-1991, and remanded the matter to the commission to determine whether, and by what amount, the statutory standards of care (e.g., *Health & Saf. Code, § 1442.5*, former subd. (c), *Welf. & Inst. Code, §§ 10000*, *17000*) forced the county to incur costs in excess of the funds provided by the state, and to determine the statutory remedies to which the county was entitled. The court held that the trial court had jurisdiction to adjudicate the county's mandate claim, notwithstanding that a test claim was pending in an action by a different county. The trial court should not have proceeded while the other action was pending, since one purpose of the test claim procedure is to avoid multiple proceedings addressing the same claim. However, the error was not jurisdictional; the governing statutes simply vest primary jurisdiction in the court hearing the test claim. The court also held that the Legislature's 1982 transfer to counties of responsibility for providing health care for medically indigent adults mandated a reimbursable new program. The state asserted the source of the county's obligation to provide such care was *Welf. & Inst. Code, § 17000*, enacted in 1965, rather than the 1982 legislation, and since *Cal. Const., art. XIII B, § 6*, did not apply to "mandates enacted prior to January 1, 1975," there was no reimbursable mandate. However, *Welf. & Inst. Code, § 17000*, requires a county to support indigent persons only in the event they are not assisted by other sources. The court further held that there was a reimbursable new program, despite the state's assertion that the county had discretion to refuse to provide the medical care. While *Welf. & Inst. Code, § 17001*, confers discretion on counties to provide general assistance, there are limits to this discretion. The standards must meet the objectives of *Welf. & Inst. Code, § 17000*, or be struck down as void by the courts. The court also held that the Court of Appeal, in reversing the damages portion of the trial court's judgment and remanding to the commission to determine the amount of any reimbursement due, erred in finding the county had a minimum required expenditure on its CMS program. (Opinion by Chin, J., with George, C. J., Mosk, and Baxter, JJ., Anderson, J., ** and Aldrich, J., + concurring. Dissenting opinion by Kennard, J.)

Headnotes
CALIFORNIA OFFICIAL REPORTS HEADNOTES

Classified to California Digest of Official Reports

CA(1)[] **(1)**

State of California § 12—Fiscal Matters—Appropriations—Reimbursement to Local Government for State-mandated Program.

--*Cal. Const., art. XIII A*, and art. XIII B, work in tandem, together restricting California governments' power both to levy and to spend for public purposes. Their goals are to protect residents from excessive taxation and government spending. The purpose of *Cal. Const., art. XIII B, § 6* (reimbursement to local government for state-mandated new program or higher level of service), is to

* Retired judge of the San Diego Superior Court, assigned by the Chief Justice pursuant to *article VI, section 6 of the California Constitution*.

** Presiding Justice, Court of Appeal, First Appellate District, Division Four, assigned by the Chief Justice pursuant to *article VI, section 6 of the California Constitution*.

+ Associate Justice, Court of Appeal, Second Appellate District, Division Three, assigned by the Chief Justice pursuant to *article VI, section 6 of the California Constitution*.

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 the taxing and spending limitations that *Cal. Const., arts. XIII A* and XIII B, impose. With certain exceptions, *Cal. Const., art. XIII B, § 6*, essentially requires the state to pay for any new governmental programs, or for higher levels of service under existing programs, that it imposes upon local governmental agencies.

CA(2a)[] **(2a)** *CA(2b)*[] **(2b)**

State of California § 12—Fiscal Matters—Appropriations—Reimbursement to Local Government for State-mandated Program—County's Reimbursement for Cost of Health Care to Indigent Adults—Jurisdiction—With Pending Test Claim.

--The trial court had jurisdiction to adjudicate a county's mandate claim asserting the Legislature's transfer to counties of the responsibility for providing health care for medically indigent adults constituted a new program or higher level of service that required state funding under *Cal. Const., art. XIII B, § 6* (reimbursement to local government for costs of new state-mandated program), notwithstanding that a test claim was pending in an action by a different county. The trial court should not have proceeded while the other action was pending, since one purpose of the test claim procedure is to avoid multiple proceedings addressing the same claim. However, the error was not jurisdictional; the governing statutes simply vest primary jurisdiction in the court hearing the test claim. The trial court's failure to defer to the primary jurisdiction of the other court did not prejudice the state. The trial court did not usurp the Commission on State Mandates' authority, since the commission had exercised its authority in the pending action. Since the pending action was settled, no multiple decisions resulted. Nor did lack of an administrative record prejudice the state, since determining whether a statute imposes a state mandate is an issue of law. Also, attempts to seek relief from the commission would have been futile, thus triggering the futility exception to the exhaustion requirement, given that the commission rejected the other county's claim.

CA(3)[] **(3)**

Administrative Law § 99—Judicial Review and Relief—Administrative Mandamus—Jurisdiction—As Derived From Constitution.

--The power of superior courts to perform mandamus review of administrative decisions derives in part from *Cal. Const., art. VI, § 10*. That section gives the Supreme Court, Courts of Appeal, and superior courts "original jurisdiction in proceedings for extraordinary relief in the nature of mandamus." The jurisdiction thus vested may not lightly be deemed to have been destroyed. While the courts are subject to reasonable statutory regulation of procedure and other matters, they will maintain their constitutional powers in order effectively to function as a separate department of government. Consequently an intent to defeat the exercise of the court's jurisdiction will not be supplied by implication.

CA(4)[] **(4)**

State of California § 12—Fiscal Matters—Appropriations—Reimbursement to Local Government for State-mandated Program—County's Reimbursement for Cost of Health Care to Indigent Adults—Existence of Mandate.

--In a county's action against the state to determine the county's rights under *Cal. Const., art. XIII B, § 6* (reimbursement to local government for state-mandated new program or higher level of service), the Legislature's 1982 transfer to counties of responsibility for providing health care for medically indigent adults mandated a reimbursable new program. The state asserted the source of the county's obligation to provide such care was *Welf. & Inst. Code, § 17000*, enacted in 1965, rather than the 1982 legislation, and since *Cal. Const., art. XIII B, § 6*, did not apply to "mandates enacted prior to January 1, 1975," there was no reimbursable mandate. However, *Welf. & Inst. Code, § 17000*, requires a county to support indigent persons only in the event they are not assisted by other sources. To the extent care was provided prior to the 1982 legislation, the county's obligation had been reduced. Also, the state's assumption of full funding responsibility prior to the 1982 legislation was not intended to be temporary. The 1978 legislation that assumed funding responsibility was limited to one year, but similar legislation in 1979 contained no such limiting language. Although the state asserted the health care program was never operated by the state, the Legislature, in adopting Medi-Cal, shifted responsibility for indigent medical care from counties to the state. Medi-Cal permitted county boards of supervisors to prescribe

rules (*Welf. & Inst. Code, § 14000.2*), and Medi-Cal was administered by state departments and agencies.

[See 9 Witkin, Summary of Cal. Law (9th ed. 1989) Taxation, § 123.]

CA(5a)[] **(5a)** ***CA(5b)***[] **(5b)**

State of California § 12—Fiscal Matters—Appropriations—Reimbursement to Local Government for State-mandated Program—County's Reimbursement for Cost of Health Care to Indigent Adults—Existence of Mandate—Discretion to Set Standards—Eligibility.

--In a county's action against the state to determine the county's rights under *Cal. Const., art. XIII B, § 6* (reimbursement to local government for state-mandated new program or higher level of service), the Legislature's 1982 transfer to counties of responsibility for providing health care for medically indigent adults mandated a reimbursable new program, despite the state's assertion that the county had discretion to refuse to provide such care. While *Welf. & Inst. Code, § 17001*, confers discretion on counties to provide general assistance, there are limits to this discretion. The standards must meet the objectives of *Welf. & Inst. Code, § 17000* (counties shall relieve and support "indigent persons"), or be struck down as void by the courts. As to eligibility standards, counties must provide care to all adult medically indigent persons (MIP's). Although *Welf. & Inst. Code, § 17000*, does not define "indigent persons," the 1982 legislation made clear that adult MIP's were within this category. The coverage history of Medi-Cal demonstrates the Legislature has always viewed all adult MIP's as "indigent persons" under *Welf. & Inst. Code, § 17000*. The Attorney General also opined that the 1971 inclusion of MIP's in Medi-Cal did not alter the duty of counties to provide care to indigents not eligible for Medi-Cal, and this opinion was entitled to considerable weight. Absent controlling authority, the opinion was persuasive since it was presumed the Legislature was cognizant of the Attorney General's construction and would have taken corrective action if it disagreed. (Disapproving *Bay General Community Hospital v. County of San Diego (1984) 156 Cal.App.3d 944 [203 Cal.Rptr. 184]* insofar as it holds that a county's responsibility under *Welf. & Inst. Code, § 17000*, extends only to indigents as defined by the county's board of supervisors, and suggests that a county may refuse to provide medical care to persons who are "indigent" within the meaning of *Welf. & Inst. Code, § 17000*, but do not qualify for Medi-Cal.)

CA(6)[] **(6)**

Public Aid and Welfare § 4—County Assistance—Counties' Discretion.

--Counties may exercise their discretion under *Welf. & Inst. Code, § 17001* (county board of supervisors or authorized agency shall adopt standards of aid and care for indigent and dependent poor), only within fixed boundaries. In administering General Assistance relief the county acts as an agent of the state. When a statute confers upon a state agency the authority to adopt regulations to implement, interpret, make specific or otherwise carry out its provisions, the agency's regulations must be consistent, not in conflict with the statute, and reasonably necessary to effectuate its purpose (*Gov. Code, § 11374*). Despite the counties' statutory discretion, courts have consistently invalidated county welfare regulations that fail to meet statutory requirements.

CA(7)[] **(7)**

State of California § 12—Fiscal Matters—Appropriations—Reimbursement to Local Government for State-mandated Program—County's Reimbursement for Cost of Health Care to Indigent Adults—Existence of Mandate—Discretion to Set Standards—Service.

--In a county's action against the state to determine the county's rights under *Cal. Const., art. XIII B, § 6* (reimbursement to local government for state-mandated new program or higher level of service), the Legislature's 1982 transfer to counties of responsibility for providing health care for medically indigent adults mandated a reimbursable new program, despite the state's assertion that the county had discretion to refuse to provide such care by setting its own service standards. *Welf. & Inst. Code, § 17000*, mandates that medical care be provided to indigents, and *Welf. & Inst. Code, § 10000*, requires that such care be provided promptly and humanely. There is no discretion concerning whether to provide such care. Courts construing *Welf. & Inst. Code, § 17000*, have held it imposes a mandatory duty upon counties to provide medically necessary care, not just emergency care, and it has been interpreted to impose a minimum standard of care. Until its repeal in 1992, *Health & Saf. Code, § 1442.5*, former subd. (c), also spoke to the level of

services that counties had to provide under *Welf. & Inst. Code, § 17000*, requiring that the availability and quality of services provided to indigents directly by the county or alternatively be the same as that available to nonindigents in private facilities in that county. (Disapproving *Cooke v. Superior Court (1989) 213 Cal.App.3d 401 [261 Cal.Rptr. 706]* to the extent it held that *Health & Saf. Code, § 1442.5*, former subd. (c), was merely a limitation on a county's ability to close facilities or reduce services provided in those facilities, and was irrelevant absent a claim that a county facility was closed or that services in the county were reduced.)

CA(8)[] **(8)**

State of California § 12—Fiscal Matters—Appropriations—Reimbursement to Local Government for State-mandated Program—County's Reimbursement for Cost of Health Care to Indigent Adults—Minimum Required Expenditure.

--In a county's action against the state to determine the county's rights under *Cal. Const., art. XIII B, § 6* (reimbursement to local government for state-mandated new program or higher level of service), in which the trial court found that the Legislature's 1982 transfer to counties of the responsibility for providing health care for medically indigent adults mandated a reimbursable new program entitling the county to reimbursement, the Court of Appeal, in reversing the damages portion of the trial court's judgment and remanding to the Commission on State Mandates to determine the amount of any reimbursement due, erred in finding the county had a minimum required expenditure on its County Medical Services (CMS) program. The Court of Appeal relied on Welf. & Inst. Code, former § 16990, subd. (a), which set forth the financial maintenance-of-effort requirement for counties that received California Healthcare for the Indigent Program (CHIP) funding. However, counties that chose to seek CHIP funds did so voluntarily. Thus, Welf. & Inst. Code, former § 16990, subd. (a), did not mandate a minimum funding requirement. Nor did Welf. & Inst. Code, former § 16991, subd. (a)(5), establish a minimum financial obligation. That statute required the state, for fiscal years 1989-1990 and 1990-1991, to reimburse a county if its allocation from various sources was less than the funding it received under *Welf. & Inst. Code, § 16703*, for 1988-1989. Nothing about this requirement imposed on the county a minimum funding requirement.

CA(9)[] **(9)**

State of California § 12—Fiscal Matters—Appropriations—Reimbursement to Local Government for State-mandated Program—County's Reimbursement for Cost of Health Care to Indigent Adults—Proper Mandamus Proceeding: Mandamus and Prohibition § 23—Claim Against Commission on State Mandates.

--In a county's action against the state to determine the county's rights under *Cal. Const., art. XIII B, § 6* (reimbursement to local government for state-mandated new program or higher level of service), after the Commission on State Mandates indicated the Legislature's 1982 transfer to counties of the responsibility for providing health care for medically indigent adults did not mandate a reimbursable new program, a mandamus proceeding under *Code Civ. Proc., § 1085*, was not an improper vehicle for challenging the commission's position. Mandamus under *Code Civ. Proc., § 1094.5*, commonly denominated "administrative" mandamus, is mandamus still. The full panoply of rules applicable to ordinary mandamus applies to administrative mandamus proceedings, except where they are modified by statute. Where entitlement to mandamus relief is adequately alleged, a trial court may treat a proceeding under *Code Civ. Proc., § 1085*, as one brought under *Code Civ. Proc., § 1094.5*, and should overrule a demurrer asserting that the wrong mandamus statute has been invoked. In any event, the determination whether the statutes at issue established a mandate under *Cal. Const., art. XIII B, § 6*, was a question of law. Where a purely legal question is at issue, courts exercise independent judgment, no matter whether the issue arises by traditional or administrative mandate.

Counsel: Daniel E. Lungren, Attorney General, Charlton G. Holland III, Assistant Attorney General, John H. Sanders and Richard T. Waldow, Deputy Attorneys General, for Cross-defendants and Appellants.

[**2]** Lloyd M. Harmon, Jr., County Counsel, John J. Sansone, Acting County Counsel, Diane Bardsley, Chief Deputy County Counsel, Valerie Tehan and Ian Fan, Deputy County Counsel, for Cross-complainant and Respondent.

Judges: Opinion by Chin, J., with George, C. J., Mosk, and Baxter, JJ., Anderson, J., * and Aldrich, J., ** concurring. Dissenting opinion by Kennard, J.

Opinion by: CHIN

Opinion

[*75] [314] [***136] CHIN, J.**

Section 6 of article XIII B of the California Constitution (section 6) requires the State of California (state), subject to certain exceptions, to "provide a subvention of funds to reimburse" local governments "[w]henever the Legislature or any state agency mandates a new program or higher level of service . . . ." In this action, the County of San Diego (San Diego or the County) **[****3]** seeks reimbursement under section 6 from the state for the costs of providing health care services to certain adults who formerly received medical care under the California Medical Assistance Program (Medi-Cal) (see Welf. & Inst. Code, ***[**315] [***137]*** § 14063) [1] because they were medically indigent, i.e., they had insufficient financial resources to pay for their own medical care. In 1979, when the electorate adopted section 6, the state provided Medi-Cal coverage to these medically indigent adults without requiring financial contributions from counties. Effective January 1, 1983, the Legislature excluded this population from Medi-Cal. (Stats. 1982, ch. 328, § 6, 8.3, 8.5, pp. 1574-1576; Stats. 1982, ch. 1594, § 19, 86, pp. 6315, 6357.) Since that date, San Diego has provided medical care to these individuals with varying levels of state financial assistance.

To resolve San Diego's claim, **[****4]** we must determine whether the Legislature's exclusion of medically indigent adults from Medi-Cal "mandate[d] a new program or higher level of service" on San Diego within the meaning of section 6. The Commission on State Mandates (Commission), which the Legislature created to determine claims under section 6, has ruled that section 6 does not apply to the Legislature's action and has rejected reimbursement claims like San Diego's. (See Kinlaw v. State of California (1991) 54 Cal. 3d 326, 330, fn. 2 [285 Cal. Rptr. 66, 814 P.2d 1308] (*Kinlaw*).) The trial court and Court of Appeal in this case disagreed with the Commission, finding that San Diego was entitled to reimbursement. The state seeks **[*76]** reversal of this finding. It also argues that San Diego's failure to follow statutory procedures deprived the courts of jurisdiction to hear its claim. We reject the state's jurisdictional argument and affirm the finding that the Legislature's exclusion of medically indigent adults from Medi-Cal "mandate[d] a new program or higher level of service" within the meaning of section 6. Accordingly, we remand the matter to the Commission to determine the amount of reimbursement, **[****5]** if any, due San Diego under the governing statutes.

I. FUNDING OF INDIGENT MEDICAL CARE

Before the start of Medi-Cal, "the indigent in California were provided health care services through a variety of different programs and institutions." (Assem. Com. on Public Health, Preliminary Rep. on Medi-Cal (Feb. 29, 1968) p. 3 (Preliminary Report).) County hospitals "provided a wide range of inpatient and outpatient hospital services to all persons who met county indigency requirements whether or not they were public assistance recipients. The major responsibility for supporting county hospitals rested upon the counties, financed primarily through property taxes, with minor contributions from" other sources. (*Id*. at p. 4.)

HN1[↑] Medi-Cal, which began operating March 1, 1966, established "a program of basic and extended health care services for recipients of public assistance and for medically indigent persons." (Morris v. Williams (1967) 67 Cal. 2d 733, 738 [63 Cal. Rptr. 689, 433 P.2d 697] (*Morris*); id. at p. 740; see also Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, p. 103.) It "represent[ed] California's implementation of the federal Medicaid program (42 U.S.C. § **[****6]** 1396-1396v), through which the federal government provide[d] financial assistance to states so that they [might] furnish medical care to qualified indigent persons. [Citation.]" (Robert F. Kennedy Medical Center v. Belsh (1996) 13

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* Presiding Justice, Court of Appeal, First Appellate District, Division Four, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

** Associate Justice, Court of Appeal, Second Appellate District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

[1] Except as otherwise indicated, all further statutory references are to the Welfare and Institutions Code.

Cal. 4th 748, 751 [55 Cal. Rptr. 2d 107, 919 P.2d 721] (*Belsh*).) "[B]y meeting the requirements of federal law," Medi-Cal "qualif[ied] California for the receipt of federal funds made available under title XIX of the Social Security Act." (*Morris, supra, 67 Cal. 2d at p. 738*.) "Title [XIX] permitted the combination of the major governmental health care systems which provided care for the indigent into a single system financed by the state and federal governments. By 1975, this system, at least as originally proposed, would provide a wide range of health care services for all those who [were] indigent regardless of whether they [were] public assistance recipients . . . ." (Preliminary Rep., *supra*, at p. 4; see also Act of July 30, 1965, Pub.L. No. 89-97, § 121(a), 79 Stat. 286, reprinted in 1965 U.S. Code **[*77]** Cong. & Admin. News, p. 378 [states must make effort to **[**316]** **[***138]** liberalize eligibility **[****7]** requirements "with a view toward furnishing by July 1, 1975, comprehensive care and services to substantially all individuals who meet the plan's eligibility standards with respect to income and resources"].) [2]

However, eligibility for Medi-Cal was initially limited only to persons linked to a federal categorical aid program by age (at least 65), blindness, disability, or membership in a family with dependent children within the meaning of the Aid to Families with Dependent Children program (AFDC). (See Legis. Analyst, Rep. to Joint Legis. Budget Com., Analysis of 1971-1972 Budget Bill, Sen. Bill No. 207 (1971 Reg. Sess.) pp. 548, 550 (1971 Legislative Analyst's Report).) Individuals possessing one of these characteristics (categorically linked persons) received full benefits if **[****8]** they actually received public assistance payments. (*Id*. at p. 550.) Lesser benefits were available to categorically linked persons who were only medically indigent, i.e., their income and resources, although rendering them ineligible for cash aid, were "not sufficient to meet the cost of health care." (*Morris, supra, 67 Cal. 2d at p. 750*; see also 1971 Legis. Analyst's Rep., *supra*, at pp. 548, 550; Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, pp. 105-106.)

Individuals not linked to a federal categorical aid program (non-categorically linked persons) were ineligible for Medi-Cal, regardless of their means. Thus, "a group of citizens, not covered by Medi-Cal and yet unable to afford medical care, remained the responsibility of" the counties. (*County of Santa Clara v. Hall (1972) 23 Cal. App. 3d 1059, 1061 [100 Cal. Rptr. 629]* (*Hall*).) In establishing Medi-Cal, the Legislature expressly recognized this fact by enacting former section 14108.5, which provided: "The Legislature hereby declares its concern with the problems which will be facing the counties with respect to the medical care of indigent persons who are not covered [by Medi-Cal] . . . and . **[****9]** . . whose medical care must be financed entirely by the counties in a time of heavily increasing medical costs." (Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, p. 116.) The Legislature directed the Health Review and Program Council "to study this problem and report its findings to the Legislature no later than March 1, 1967." (*Ibid*.)

Moreover, although it required counties to contribute to the costs of Medi-Cal, the Legislature established a method for determining the amount of their contributions that would "leave them with []sufficient funds to provide hospital care for those persons not eligible for Medi-Cal." (*Hall, supra, 23 Cal. App. 3d at p. 1061*, fn. omitted.) Former section 14150.1, **[*78]** which was known as the "county option" or the "option plan," required a county "to pay the state a sum equal to 100 percent of the county's health care costs (which included both linked and nonlinked individuals) provided in the 1964-1965 fiscal year, with an adjustment for population increase; in return the state would pay the county's entire cost of medical care." [3] **[****11]** (*County of Sacramento v. Lackner (1979) 97 Cal. App. 3d 576, 581 [159 Cal. Rptr. 1]* (*Lackner* **[****10]**).) Under the county option, "the state agreed to assume all county health care costs . . . in excess of" the county's payment. (*Id. at p. 586*.) It "made no distinction between 'linked' and 'nonlinked' persons," and "simply

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[2] Congress later repealed the requirement that states work towards expanding eligibility. (See Cal. Health and Welfare Agency, The Medi-Cal Program: A Brief Summary of Major Events (Mar. 1990) p. 1 (Summary of Major Events).)

[3] ***HN2***[] Former section 14150.1 provided in relevant part: "[A] county may elect to pay as its share [of Medi-Cal costs] one hundred percent . . . of the county cost of health care uncompensated from any source in 1964-65 for all categorical aid recipients, and all other persons in the county hospital or in a contract hospital, increased for such county for each fiscal year subsequent to 1964-65 by an amount proportionate to the increase in population for such county . . . . If the county so elects, the county costs of health care in any fiscal year shall not exceed the total county costs of health care uncompensated from any source in 1964-65 for all categorical aid recipients, and all other persons in the county hospital or in a contract hospital, increased for such county for each fiscal year subsequent to 1964-65 by an amount proportionate to the increase in population for such county . . . ." (Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, p. 121.)

guaranteed a medical cost ceiling to counties electing to come within the option plan." (*Ibid*.) "Any difference **[**317] [***139]** in actual operating costs and the limit set by the option provision [was] assumed entirely by the state." (Preliminary Rep., *supra*, at p. 10, fn. 2.) Thus, the county option "guarantee[d] state participation in the cost of care for medically indigent persons who [were] not otherwise covered by the basic Medi-Cal program or other repayment programs." [4] (1971 Legis. Analyst's Rep., *supra*, at p. 549.)

Primarily through the county option, Medi-Cal caused a "significant shift in financing of health care from the counties to the state and federal government. . . . During the first 28 months of the program the state . . . paid approximately $ 76 million for care of non-Medi-Cal indigents in county hospitals." (Preliminary Rep., *supra*, at p. 31.) These state funds paid "costs that would otherwise have been borne by counties through increases in property taxes." (Legis. Analyst, Rep. to Joint Legis. Budget Com., Analysis of 1974-1975 Budget Bill, Sen. Bill No. 1525 (1973-1974 Reg. Sess.) p. 626 (1974 Legislative Analyst's Report).) "[F]aced with escalating Medi-Cal costs, **[****12]** the Legislature in 1967 imposed strict guidelines on reimbursing counties electing to come under the 'option' plan. ([Former] § 14150.2.) Pursuant to subdivision (c) of [former] section 14150.2, the state imposed a limit on its obligation to pay for medical services to nonlinked persons **[*79]** served by a county within the 'option' plan." (*Lackner, supra, 97 Cal. App. 3d at p. 589*; see also Stats. 1967, ch. 104, § 3, p. 1019; Stats. 1969, ch. 21, § 57, pp. 106-107; 1974 Legis. Analyst's Rep., *supra*, at p. 626.)

In 1971, the Legislature substantially revised Medi-Cal. It extended coverage to certain noncategorically linked minors and adults "who [were] financially unable to pay for their medical care." (Legis. Counsel's Dig., Assem. Bill No. 949, 3 Stats. 1971 (Reg. Sess.) Summary Dig., p. 83; see Stats. 1971, ch. 577, § 12, 23, pp. 1110-1111, 1115.) These medically indigent individuals met "the income and resource requirements for aid under [AFDC] but [did] not otherwise qualify[] as a public assistance recipient." *(56 Ops.Cal.Atty.Gen. 568, 569 (1973)*.) The Legislature anticipated that this eligibility expansion would bring "approximately 800,000 **[****13]** additional medically needy Californians" into Medi-Cal. (Stats. 1971, ch. 577, § 56, p. 1136.) The 1971 legislation referred to these individuals as " '[n]oncategorically related needy person[s].' " (Stats. 1971, ch. 577, § 23, p. 1115.) Subsequent legislation designated them as "medically indigent person[s]" (MIP's) and provided them coverage under former section 14005.4. (Stats. 1976, ch. 126, § 7, p. 200; *id*. at § 20, p. 204.)

The 1971 legislation also established a new method for determining each county's financial contribution to Medi-Cal. The Legislature eliminated the county option by repealing former section 14150.1 and enacting former *section 14150*. That section specified (by amount) each county's share of Medi-Cal costs for the 1972-1973 fiscal year and set forth a formula for increasing the share in subsequent years based on the taxable assessed value of certain property. (Stats. 1971, ch. 577, § 41, 42, pp. 1131-1133.)

For the 1978-1979 fiscal year, the state assumed each county's share of Medi-Cal costs under former *section 14150*. (Stats. 1978, ch. 292, § 33, p. 610.) In July 1979, the Legislature repealed former *section 14150* altogether, thereby eliminating **[****14]** the counties' responsibility to share in Medi-Cal costs. (Stats. 1979, ch. 282, § 74, p. 1043.) Thus, in November 1979, when the electorate adopted section 6, "the state was funding Medi-Cal coverage for [MIP's] without requiring any county financial contribution." (*Kinlaw, supra, 54 Cal. 3d at p. 329*.) The state continued to provide full funding for MIP medical care through 1982.

In 1982, the Legislature passed two Medi-Cal reform bills that, as of January 1, 1983, excluded from Medi-Cal most adults who had been eligible **[*80]** under the MIP category **[***140]** (adult **[**318]** MIP's or Medically Indigent Adults). [5] (Stats. 1982, ch. 328, § 6, 8.3, 8.5, pp. 1574-1576; Stats. 1982, ch. 1594, § 19, 86, pp. 6315, 6357; *Cooke v. Superior Court (1989) 213 Cal. App. 3d 401, 411 [261 Cal. Rptr. 706]* (*Cooke*).) As part of excluding this population from Medi-Cal, the Legislature created the Medically Indigent Services Account (MISA) as a mechanism for "transfer[ing] [state]

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[4] ***HN3***[↑] Former *section 14150* provided the standard method for determining the counties' share of Medi-Cal costs. Under it, "a county was required to pay the state a specific sum, in return for which the state would pay for the medical care of all [categorically linked] individuals . . . . Financial responsibility for nonlinked individuals . . . remained with the counties." (*Lackner, supra, 97 Cal. App. 3d at p. 581*.)

[5] In this opinion, the terms "adult MIP's" and "Medically Indigent Adults" refer only to those persons who were excluded from the Medi-Cal program by the 1982 legislation.

funds to the counties for the provision of health care services." (Stats. 1982, ch. 1594, § 86, p. 6357.) Through MISA, the state annually allocated funds to counties based on "the **[****15]** average amount expended" during the previous three fiscal years on Medi-Cal services for county residents who had been eligible as MIP's. (Stats. 1982, ch. 1594, § 69, p. 6345.) The Legislature directed that MISA funds "be consolidated with existing county health services funds in order to provide health services to low-income persons and other persons not eligible for the Medi-Cal program." (Stats. 1982, ch. 1594, § 86, p. 6357.) It further provided: "Any person whose income and resources meet the income and resource criteria for certification for [Medi-Cal] services pursuant to Section 14005.7 other than for the aged, blind, or disabled, shall not be excluded from eligibility for services to the extent that state funds are provided." (Stats. 1982, ch. 1594, § 70, p. 6346.)

After passage of the 1982 legislation, San Diego established **[****16]** a county medical services (CMS) program to provide medical care to adult MIP's. According to San Diego, between 1983 and June 1989, the state fully funded San Diego's CMS program through MISA. However, for fiscal years 1989-1990 and 1990-1991, the state only partially funded San Diego's CMS program. For example, San Diego asserts that, in fiscal year 1990-1991, it exhausted state-provided MISA funds by December 24, 1990. Faced with this shortfall, San Diego's board of supervisors voted in February 1991 to terminate the CMS program unless the state agreed by March 8 to provide full funding for the 1990-1991 fiscal year. After the state refused to provide additional funding, San Diego notified affected individuals and medical service providers that it would terminate the CMS program at midnight on March 19, 1991. The response to the County's notification ultimately resulted in the unfunded mandate claim now before us.

II. UNFUNDED MANDATES

Through adoption of Proposition 13 in 1978, the voters ***HN4***[↑] added article XIII A to the California Constitution, which "imposes a limit on the power of state and local governments to adopt and levy taxes. [Citation.]" (County of Fresno v. State **[****17]** of California (1991) 53 Cal. 3d 482, 486 [280 Cal. Rptr. 92, **[*81]** 808 P.2d 235] (*County of Fresno*).) The next year, the voters added article XIII B to the Constitution, which "impose[s] a complementary limit on the rate of growth in governmental spending." (San Francisco Taxpayers Assn. v. Board of Supervisors (1992) 2 Cal. 4th 571, 574 [7 Cal. Rptr. 2d 245, 828 P.2d 147].) ***CA(1)***[↑] **(1)** These two constitutional articles "work in tandem, together restricting California governments' power both to levy and to spend for public purposes." (City of Sacramento v. State of California (1990) 50 Cal. 3d 51, 59, fn. 1 [266 Cal. Rptr. 139, 785 P.2d 522].) Their goals are "to protect residents from excessive taxation and government spending. [Citation.]" (County of Los Angeles v. State of California (1987) 43 Cal. 3d 46, 61 [233 Cal. Rptr. 38, 729 P.2d 202] (*County of Los Angeles*).)

HN5[↑] Article XIII B of the California Constitution includes section 6, which is the constitutional provision at issue here. It provides in relevant part: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide **[****18]** a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates: [P] . . . [P] (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975." Section 6 **[**319]** **[***141]** recognizes that articles XIII A and XIII B severely restrict the taxing and spending powers of local governments. (County of Fresno, supra, 53 Cal. 3d at p. 487.) Its purpose 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 the taxing and spending limitations that articles XIII A and XIII B impose. (County of Fresno, supra, 53 Cal. 3d at p. 487; County of Los Angeles, supra, 43 Cal. 3d at p. 61.) With certain exceptions, ***HN6***[↑] section 6 "[e]ssentially" requires the state "to pay for any new governmental programs, or for higher levels of service under existing programs, that **[****19]** it imposes upon local governmental agencies. [Citation.]" (Hayes v. Commission on State Mandates (1992) 11 Cal. App. 4th 1564, 1577 [15 Cal. Rptr. 2d 547].)

In 1984, the Legislature created a statutory procedure for ***HN7***[↑] determining whether a statute imposes state-mandated costs on a local agency within the meaning of section 6. (Gov. Code, § 17500 et seq.). The local agency must file a test claim with the Commission, which, after a public hearing, decides whether the statute mandates a new program or increased level of service. (Gov. Code, § 17521, 17551, 17555.) If the Commission finds a claim to be

reimbursable, it must determine the amount of reimbursement. (Gov. Code, § 17557.) The local agency must then follow certain statutory procedures to **[*82]** obtain reimbursement. (Gov. Code, § 17558 et seq.) HN8[↑] If the Legislature refuses to appropriate money for a reimbursable mandate, the local agency may file "an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement." (Gov. Code, § 17612, subd. (c).) If the Commission finds no reimbursable mandate, the local agency may challenge this finding by administrative mandate proceedings under **[****20]** section 1094.5 of the Code of Civil Procedure. (Gov. Code, § 17559.) Government Code section 17552 declares that these provisions "provide the sole and exclusive procedure by which a local agency . . . may claim reimbursement for costs mandated by the state as required by Section 6 . . . ."

III. ADMINISTRATIVE AND JUDICIAL PROCEEDINGS

A. *The Los Angeles Action*

On November 23, 1987, the County of Los Angeles (Los Angeles) filed a claim (the Los Angeles action) with the Commission asserting that the exclusion of adult MIP's from Medi-Cal constituted a reimbursable mandate under section 6. (Kinlaw, supra, 54 Cal. 3d at p. 330, fn. 2.) Alameda County subsequently filed a claim on November 30, 1987, but the Commission rejected it because of the pending Los Angeles claim. (Id. at p. 331, fn. 4.) Los Angeles refused to permit Alameda County to join as a claimant, but permitted San Bernardino County to join. (*Ibid.*)

In April 1989, the Commission rejected the Los Angeles claim, finding no reimbursable mandate. [6] (Kinlaw, supra, 54 Cal. 3d at p. 330, fn. 2.) It found that the 1982 legislation did not impose on counties a new program or a higher level of **[****21]** service for an existing program because counties had a "pre-existing duty" to provide medical care to the medically indigent under section 17000. That section provides in relevant part: "Every county . . . shall relieve and support all incompetent, poor, indigent persons . . . lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions." Section 17000 did not impose a reimbursable mandate under section 6, the Commission further reasoned, because it "was enacted prior to January 1, 1975 . . . ." Finally, the Commission found no mandate because the 1982 legislation "neither establish[ed] the level of care to be provided nor . . . define[d] the class of persons determined to be eligible for medical care since these criteria were established by boards of supervisors" pursuant to section 17001.

[**22]** **[**320]** **[***142]** On March 20, 1990, the Los Angeles Superior Court filed a judgment reversing the Commission's decision and directing issuance of a peremptory **[*83]** writ of mandate. On April 16, 1990, the Commission and the state filed an appeal in the Second District Court of Appeal. (*County of Los Angeles v. State of California*, No. B049625.) [7] In early 1992, the parties to the Los Angeles action agreed to settle their dispute and to seek dismissal. In April 1992, after learning of this agreement, San Diego sought to intervene. Explaining that it had been waiting for resolution of the action, San Diego requested that the Court of Appeal deny the dismissal request and add (or substitute in) the County as a party. The Court of Appeal did not respond. On December 15, 1992, the parties to the Los Angeles action entered into a settlement agreement that provided for vacation of the superior court judgment and dismissal of the appeal and superior court action. Consistent with the settlement agreement, on December 29, 1992, the Court of Appeal filed an order vacating the superior court judgment, dismissing the appeal, and instructing the superior court to dismiss the action **[****23]** without prejudice on remand. [8]

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[6] San Diego lodged with the trial court a copy of the Commission's decision in the Los Angeles action.

[7] In setting forth the facts relating to the Los Angeles action, we rely in part on the appellate record from that action, of which we take judicial notice. (Evid. Code, § 452, subd. (d), 459.)

[8] The settlement resulted from 1991 legislation that changed the system of health care funding as of June 30, 1991. (See § 17600 et seq.; Stats. 1991, chs. 87, 89, pp. 231-235, 243-341.) That legislation provided counties with new revenue sources, including a portion of state vehicle license fees, to fund health care programs. However, the legislation declared that the statutes providing counties with vehicle license fees would "cease to be operative on the first day of the month following the month in which the Department of Motor Vehicles is notified by the Department of Finance of a final judicial determination by the California Supreme Court or any California court of appeal" that "[t]he state is obligated to reimburse counties for costs of providing medical services to medically indigent adults pursuant to Chapters 328 and 1594 of the Statutes of 1982." (Rev. & Tax. Code, § 10753.8, subd. (b)(2), 11001.5, subd. (d)(2); see also Stats. 1991, ch. 89, § 210, p. 340.) Los Angeles and San Bernardino Counties

[**24]** B. *The San Diego Action*

1. *Administrative Attempts to Obtain Reimbursement*

On March 13, 1991, San Diego submitted an invoice to the State Controller seeking reimbursement of its uncompensated expenditures on the CMS program for fiscal year 1989-1990. The Controller is a member of the Commission. (*Gov. Code, § 17525*.) On April 12, the Controller returned the invoice "without action," stating that "[n]o appropriation has been given to this office to allow for reimbursement" of medical costs for adult MIP's, and noting that litigation was pending regarding the state's reimbursement obligation. On December 18, 1991, San Diego submitted a similar invoice for the 1990-1991 fiscal year. The state has not acted regarding this second invoice.

[*84] 2. *Court Proceedings*

Responding to San Diego's notice of intent to terminate the CMS program, on March 11, 1991, the Legal Aid Society of San Diego filed a class action on behalf of CMS program beneficiaries seeking to enjoin termination of the program. The trial court later issued a preliminary injunction prohibiting San Diego "from taking any action to reduce or terminate" the CMS program.

On March 15, 1991, San Diego **[****25]** filed a cross-complaint and petition for writ of mandate under *Code of Civil Procedure section 1085* against the state, the Commission, and various state officers. [9] The cross-complaint alleged that, by excluding adult MIP's from Medi-Cal and transferring responsibility for **[**321]** **[***143]** their medical care to counties, the state had mandated a new program and higher level of service within the meaning of section 6. The cross-complaint further alleged that the state therefore had a duty under section 6 to reimburse San Diego for the entire cost of its CMS program, and that the state had failed to perform its duty.

[**26]** Proceeding from these initial allegations, the cross-complaint alleged causes of action for indemnification, declaratory and injunctive relief, reimbursement and damages, and writ of mandate. In its first declaratory relief claim, San Diego alleged (on information and belief) that the state contended the CMS program was a nonreimbursable, county obligation. In its claim for reimbursement, San Diego alleged (again on information and belief) that the Commission had "previously denied the claims of other counties, ruling that county medical care programs for [adult MIP's] are not state-mandated and, therefore, counties are not entitled to reimbursement from the State for the costs of such programs." "Under these circumstances," San Diego asserted, "denial of the County's claim by the Commission . . . is virtually certain and further administrative pursuit of this claim would be a futile act."

For relief, San Diego requested a judgment declaring the following: (1) that the state must fully reimburse San Diego if it "is compelled to provide any CMS Program services to plaintiffs . . . after March 19, 1991"; (2) that section 6 requires the state "to fully fund the CMS Program" (or, **[****27]** alternatively, that the CMS program is discretionary); (3) that the state must pay San Diego for all of its unreimbursed costs for the CMS program during **[*85]** the 1989-1990 and 1990-1991 fiscal years; and (4) that the state shall assume responsibility for operating any court-ordered continuation of the CMS program. San Diego also requested that the court issue a writ of mandamus requiring the state to fulfill its reimbursement obligation. Finally, San Diego requested issuance of preliminary and permanent injunctions to ensure that the state fulfilled its obligations to the County.

In April 1991, San Diego determined that it could continue operating the CMS program using previously unavailable general fund revenues. Accordingly, San Diego and plaintiffs settled their dispute, and plaintiffs dismissed their complaint.

The matter proceeded solely on San Diego's cross-complaint. The court issued a preliminary injunction and alternative writ in May 1991. At a hearing on June 25, 1991, the court found that the state had an obligation to fund San Diego's CMS program, granted San Diego's request for a writ of mandate, and scheduled an evidentiary hearing to determine damages and **[****28]**

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settled their action to avoid triggering these provisions. Unlike the dissent, we do not believe that consideration of these recently enacted provisions is appropriate in analyzing the 1982 legislation. Nor do we assume, as the dissent does, that our decision necessarily triggers these provisions. That issue is not before us.

[9] The cross-complaint named the following state officers: (1) Kenneth W. Kizer, Director of the Department of Health Services; (2) Kim Belsh, Acting Secretary of the Health and Welfare Agency; (3) Gray Davis, the State Controller; (4) Kathleen Brown, the State Treasurer; and (5) Thomas Hayes, the Director of the Department of Finance. Where the context suggests, subsequent references in this opinion to "the state" include these officers.

remedies. On July 1, 1991, it issued an order reflecting this ruling and granting a peremptory writ of mandate. The writ did not issue, however, because of the pending hearing to determine damages. In December 1992, after an extensive evidentiary hearing and posthearing proceedings on the claim for a peremptory writ of mandate, the court issued a judgment confirming its jurisdiction to determine San Diego's claim, finding that section 6 required the state to fund the entire cost of San Diego's CMS program, determining the amount that the state owed San Diego for fiscal years 1989-1990 and 1990-1991, identifying funds available to the state to satisfy the judgment, and ordering issuance of a peremptory writ of mandate. [10] The court also issued a peremptory writ of mandate directing the state and various state officers to comply with the judgment.

The Court of Appeal affirmed the judgment insofar as it provided that section 6 requires the state **[****29]** to fund the CMS program. The Court of Appeal also affirmed the trial court's finding that the state had required San Diego to spend at least $ 41 million on the CMS program in fiscal years 1989-1990 and 1990-1991. However, the Court of Appeal reversed those portions of the judgment determining the final reimbursement amount and specifying the state funds from which the state was to satisfy the judgment. It remanded the matter to the Commission to determine the reimbursement amount and appropriate statutory remedies. We then granted the state's petition for review.

[322] [***144]** IV. SUPERIOR COURT JURISDICTION

CA(2a)[↑] **(2a)** Before reaching the merits of the appeal, we must address the state's assertion that the superior court lacked jurisdiction to hear San **[*86]** Diego's mandate claim. According to the state, in *Kinlaw, supra, 54 Cal. 3d 326*, we "unequivocally held that the orderly determination of [unfunded] mandate questions demands that only one claim on any particular alleged mandate be entertained by the courts at any given time." Thus, if a test claim is pending, "other potential claims must be held in abeyance . . . ." Applying this principle, the state asserts **[****30]** that, since "the test claim litigation was pending" in the Los Angeles action when San Diego filed its cross-complaint seeking mandamus relief, "the superior court lacked jurisdiction from the outset, and the resulting judgment is a nullity. That defect cannot be cured by the settlement of the test claim, which occurred after judgment was entered herein."

In *Kinlaw*, we held that *HN9*[↑] individual taxpayers and recipients of government benefits lack standing to enforce section 6 because the applicable administrative procedures, which "are the exclusive means" for determining and enforcing the state's section 6 obligations, "are available only to local agencies and school districts directly affected by a state mandate . . . ." (*Kinlaw, supra, 54 Cal. 3d at p. 328*.) In reaching this conclusion, we explained that the reimbursement right under section 6 "is a right given by the Constitution to local agencies, not individuals either as taxpayers or recipients of government benefits and services." (*Id. at p. 334*.) We concluded that "[n]either public policy nor practical necessity compels creation of a judicial remedy by which individuals may enforce the right of the county to **[****31]** such revenues." (*Id. at p. 335*.)

In finding that individuals do not have standing to enforce the section 6 rights of local agencies, we made several observations in *Kinlaw* pertinent to operation of the statutory process as it applies to entities that do have standing. Citing *Government Code section 17500*, we explained that "the Legislature enacted comprehensive administrative procedures for resolution of claims arising out of section 6 . . . because the absence of a uniform procedure had resulted in inconsistent rulings on the existence of state mandates, unnecessary litigation, reimbursement delays, and, apparently, resultant uncertainties in accommodating reimbursement requirements in the budgetary process." (*Kinlaw, supra, 54 Cal. 3d at p. 331*.) Thus, the governing statutes "establish[] procedures which exist for the express purpose of avoiding multiple proceedings, judicial and administrative, addressing the same claim that a reimbursable state mandate has been created." (*Id. at p. 333*.) Specifically, "[t]he legislation establishes a test-claim procedure to expeditiously resolve disputes affecting multiple agencies . . . ." (*Id. at p. 331*.) Describing **[****32]** the Commission's application of the test-claim procedure to claims regarding exclusion of adult MIP's from Medi-Cal, we observed: "The test claim by the County of Los Angeles was filed prior to that **[*87]** proposed by Alameda County. The Alameda County claim was rejected for that reason. (See [*Gov. Code,] § 17521*.) Los Angeles County permitted San Bernardino County to join in its claim which the Commission accepted as a test claim intended to resolve the [adult MIP exclusion] issues . . . . Los Angeles County declined a request from Alameda County that it be included in the test claim . . . ." (*Id. at*

[10] The judgment dismissed all of San Diego's other claims.

p. 331, fn. 4.)

Consistent with our observations in *Kinlaw*, we here agree with the state that the trial court should not have proceeded to resolve San Diego's claim for reimbursement under section 6 while the Los Angeles action was pending. A contrary conclusion would undermine one of "the express purpose[s]" OF THE STATUTORY PROCEDURE: to "avoid[] multiple proceedings . . . addressing the same claim that a reimbursable state mandate has been created." (*Kinlaw, supra, 54 Cal. 3d at p. 333*.)

CA(3)[⬆] **(3)** However, we reject the state's assertion that the error was jurisdictional. ***HN10***[⬆] **[****33]** The power of superior courts to perform mandamus review **[**323] [***145]** of administrative decisions derives in part from *article VI, section 10 of the California Constitution*. (*Bixby v. Pierno (1971) 4 Cal. 3d 130, 138 [93 Cal. Rptr. 234, 481 P.2d 242]*; *Lipari v. Department of Motor Vehicles (1993) 16 Cal. App. 4th 667, 672 [20 Cal. Rptr. 2d 246]*.) That section gives "[t]he Supreme Court, courts of appeal, [and] superior courts . . . original jurisdiction in proceedings for extraordinary relief in the nature of mandamus . . . ." (*Cal. Const., art. VI, § 10*.) "The jurisdiction thus vested may not lightly be deemed to have been destroyed." (*Garrison v. Rourke (1948) 32 Cal. 2d 430, 435 [196 P.2d 884]*, overruled on another ground in *Keane v. Smith (1971) 4 Cal. 3d 932, 939 [95 Cal. Rptr. 197, 485 P.2d 261]*.) "While the courts are subject to reasonable statutory regulation of procedure and other matters, they will maintain their constitutional powers in order effectively to function as a separate department of government. [Citations.] Consequently an intent to defeat the exercise of the court's jurisdiction will not be supplied by implication." (**[****34]** *Garrison, supra, at p. 436*.) ***CA(2b)***[⬆] **(2b)** Here, we find no statutory provision that either "expressly provide[s]" (*id. at p. 435*) or otherwise "clearly indicate[s]" (*id. at p. 436*) that the Legislature intended to divest all courts other than the court hearing the test claim of their mandamus jurisdiction.

Rather, following *Dowdall v. Superior Court (1920) 183 Cal. 348 [191 P. 685]* (*Dowdall*), we interpret the governing statutes as simply vesting primary jurisdiction in the court hearing the test claim. In *Dowdall*, we determined the jurisdictional effect of Code of Civil Procedure former section 1699 on actions to settle the account of trustees of a testamentary trust. Code of Civil Procedure former section 1699 provided in part: "Where any trust **[*88]** has been created by or under any will to continue after distribution, the Superior Court shall not lose jurisdiction of the estate by final distribution, but shall retain jurisdiction thereof for the purpose of the settlement of accounts under the trust." (Stats. 1889, ch. 228, § 1, p. 337.) We explained that, under this section, "the superior court, sitting in probate upon the distribution of an estate wherein **[****35]** the will creates a trust, retain[ed] jurisdiction of the estate for the purpose of the settlement of the accounts under the trust." (*Dowdall, supra, 183 Cal. at p. 353*.) However, we further observed that "the superior court of each county in the state has general jurisdiction in equity to settle trustees' accounts and to entertain actions for injunctions. This jurisdiction is, in a sense, concurrent with that of the superior court, which, by virtue of the decree of distribution, has jurisdiction of a trust created by will. The latter, however, is the primary jurisdiction, and if a bill in equity is filed in any other superior court for the purpose of settling the account of such trustee, that court, upon being informed of the jurisdiction of the court in probate and that an account is to be or has been filed therein for settlement, should postpone the proceeding in its own case and allow the account to be settled by the court having primary jurisdiction thereof." (*Ibid*.)

Similarly, we conclude that, ***HN11***[⬆] under the statutes governing determination of unfunded mandate claims, the court hearing the test claim has primary jurisdiction. Thus, if an action asserting the same unfunded **[****36]** mandate claim is filed in any other superior court, that court, upon being informed of the pending test claim, should postpone the proceeding before it and allow the court having primary jurisdiction to determine the test claim.

However, a court's erroneous refusal to stay further proceedings does not render those further proceedings void for lack of jurisdiction. As we explained in *Dowdall*, ***HN12***[⬆] a court that refuses to defer to another court's primary jurisdiction "is not without jurisdiction." (*Dowdall, supra, 183 Cal. at p. 353*.) Accordingly, notwithstanding pendency of the Los Angeles action, the trial court here did not lack jurisdiction to determine San Diego's mandamus petition. (See *Collins v. Ramish (1920) 182 Cal. 360, 366-369 [188 P. 550]* [although trial court erred in refusing to abate action because of former action pending, new trial was not warranted on issues that the trial court correctly decided]; *People* ex rel. *Garamendi v. American Autoplan, Inc. (1993) 20 Cal. App. 4th 760, 772 [***146] [25 Cal. Rptr. 2d 192]* **[**324]** (*Garamendi*) ["rule of exclusive concurrent jurisdiction is not 'jurisdictional' in the sense that failure to **[****37]** comply renders subsequent proceedings

void"]; *Stearns v. Los Angeles City School Dist. (1966) 244 Cal. App. 2d 696, 718 [53 Cal. Rptr. 482, 21 A.L.R.3d 164]* [where trial court errs in failing to stay proceedings in **[*89]** deference to jurisdiction of another court, reversal would be frivolous absent errors regarding the merits].) [11]

The trial court's failure to defer to the primary jurisdiction of the court hearing the Los Angeles action did not prejudice the state. Contrary to the state's assertion, the trial court did not "usurp" the Commission's "authority to determine, in the first **[****38]** place, whether or not legislation creates a mandate." The Commission had already exercised that authority in the Los Angeles action. Moreover, given the settlement of the Los Angeles action, which included vacating the judgment in that action, the trial court's exercise of jurisdiction here did not result in one of the principal harms that the statutory procedure seeks to prevent: multiple decisions regarding an unfunded mandate question. Finally, the lack of an administrative record specifically relating to San Diego's claim did not prejudice the state ***HN13***[⬆] because the threshold determination of whether a statute imposes a state mandate is an issue of law. (*County of Fresno v. Lehman (1991) 229 Cal. App. 3d 340, 347 [280 Cal. Rptr. 310]*.) To the extent that an administrative record was necessary, the record developed in the Los Angeles action could have been submitted to the trial court. [12] (See *Los Angeles Unified School Dist. v. State of California (1988) 199 Cal. App. 3d 686, 689 [245 Cal. Rptr. 140]*.)

[**39]** We also find that, on the facts of this case, San Diego's failure to submit a test claim to the Commission before seeking judicial relief did not affect the superior court's jurisdiction. ***HN14***[⬆] Ordinarily, counties seeking to pursue an unfunded mandate claim under section 6 must exhaust their administrative remedies. (*Central Delta Water Agency v. State Water Resources Control Bd. (1993) 17 Cal. App. 4th 621, 641 [21 Cal. Rptr. 2d 453]*; *County of Contra Costa v. State of California (1986) 177 Cal. App. 3d 62, 73-77 [222 Cal. Rptr. 750]* (*County of Contra Costa*).) However, counties may pursue section 6 claims in superior court without first resorting to administrative remedies if they "can establish an exception to" the exhaustion requirement. (*County of Contra Costa, supra, 177 Cal. App. 3d at p. 77*.) The futility exception to the exhaustion requirement applies if a county can "state with assurance that the [Commission] would rule adversely in its own particular case. [Citations.]" (*Lindeleaf v. Agricultural Labor Relations Bd. (1986) 41 Cal. 3d 861, 870 [226 Cal. Rptr. 119, 718 P.2d 106]*; see also *County of Contra Costa, supra, 177 Cal. App. 3d **[****40]** at pp. 77-78*.)

[*90] We agree with the trial court and the Court of Appeal that the futility exception applied in this case. As we have previously noted, San Diego invoked this exception by alleging in its cross-complaint that the Commission's denial of its claim was "virtually certain" because the Commission had "previously denied the claims of other counties, ruling that county medical care programs for [adult MIP's] are not state-mandated and, therefore, counties are not entitled to reimbursement . . . ." Given that the Commission rejected the Los Angeles claim (which alleged the same unfunded mandate claim that San Diego alleged) and appealed the judicial reversal of its decision, the trial court correctly determined that further attempts to seek relief from the Commission would have been futile. Therefore, we reject the state's jurisdictional argument and proceed to the merits of the appeal.

[325] [***147]** V. EXISTENCE OF A MANDATE UNDER SECTION 6

CA(4)[⬆] **(4)** In determining whether there is a mandate under section 6, we turn to our decision in *Lucia Mar Unified School Dist. v. Honig (1988) 44 Cal. 3d 830 [244 Cal. Rptr. 677, 750 P.2d 318]* (*Lucia Mar*). There, **[****41]** we discussed section 6's application to *Education Code section 59300*, which "requires a school district to contribute part of the cost of educating pupils from the district at state schools for the severely handicapped." (*Lucia Mar, supra, at p. 832*.) Before 1979, the Legislature had statutorily required school districts "to contribute to the education of pupils from the districts at the state schools [citations] . . . ." (*Id. at pp. 832-833*.) The Legislature repealed the statutory requirements in 1979 and, on July 12, 1979, the state assumed full-funding responsibility. (*Id. at p. 833*.) On July 1, 1980, when section 6 became effective, the state

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[11] In *Garamendi, supra, 20 Cal. App. 4th at pages 771-775*, the court discussed procedural requirements for raising a claim that another court has already exercised its concurrent jurisdiction. Given our conclusion that the trial court's error here was not jurisdictional, we express no opinion about this discussion in *Garamendi* or the sufficiency of the state's efforts to raise the issue in this case.

[12] Notably, in discussing the options still available to San Diego, the state asserts that San Diego "might have been able to go to superior court and file a [mandamus] petition based on the record of the prior test claim."

still had full-funding responsibility. On June 28, 1981, *Education Code section 59300* took effect. (*Lucia Mar, supra, at p. 833*.)

Various school districts filed a claim seeking reimbursement under section 6 for the payments that *Education Code section 59300* requires. The Commission denied the claim, finding that the statute did not impose on the districts a new program or higher level of service. The trial court and Court of Appeal agreed, the latter "reasoning that a shift in the funding of an existing program **[****42]** is not a new program or a higher level of service" under section 6. (*Lucia Mar, supra, 44 Cal. 3d at p. 834*.)

We reversed, finding that a contrary result would "violate the intent underlying section 6 . . . ." (*Lucia Mar, supra, 44 Cal. 3d at p. 835*.) That section "was intended to preclude the state from shifting to local agencies the financial responsibility for providing public services in view of the[] **[*91]** restrictions on the taxing and spending power of the local entities" that articles XIII A and XIII B of the California Constitution imposed. (*Lucia Mar, supra, at pp. 835-836*.) "The intent of the section would plainly be violated if the state could, while retaining administrative control of programs it has supported with state tax money, simply shift the cost of the programs to local government on the theory that the shift does not violate section 6 . . . because the programs are not 'new.' Whether the shifting of costs is accomplished by compelling local governments to pay the cost of entirely new programs created by the state, *or by compelling them to accept financial responsibility in whole or in part for a program which was funded entirely* **[****43]** *by the state before the advent of article XIII B*, the result seems equally violative of the fundamental purpose underlying section 6 . . . ." (*Id. at p. 836*, italics added, fn. omitted.) We thus concluded in *Lucia Mar* "that because [*Education Code] section 59300* shifts partial financial responsibility for the support of students in the state-operated schools from the state to school districts--an obligation the school districts did not have at the time article XIII B was adopted--it calls for [the school districts] to support a 'new program' within the meaning of section 6." (*Ibid*., fn. omitted.)

The similarities between *Lucia Mar* and the case before us "are striking. In *Lucia Mar*, prior to 1979 the state and county shared the cost of educating handicapped children in state schools; in the present case from 1971-197[8] the state and county shared the cost of caring for [adult MIP's] under the Medi-Cal program. . . . [F]ollowing enactment of [article XIII A], the state took full responsibility for both programs." (*Kinlaw, supra, 54 Cal. 3d at p. 353* (dis. opn. of Broussard, J.).) As to both programs, the Legislature cited adoption of article **[****44]** XIII A of the California Constitution, and specifically its effect on tax revenues, as the basis for the state's assumption of full funding responsibility. (Stats. 1979, ch. 237, § 10, p. 493; Stats. 1979, ch. 282, § 106, p. 1059.) "Then in 1981 (for handicapped children) and 1982 (for [adult MIP's]), the state sought to shift some of the burden back to the counties." (*Kinlaw, supra, [**326] [***148] 54 Cal. 3d at p. 353* (dis. opn. of Broussard, J.).)

Adopting the Commission's analysis in the Los Angeles action, the state nevertheless argues that *Lucia Mar* "is inapposite." The school program at issue in *Lucia Mar* "had been wholly operated, administered and financed by the state" and "was unquestionably a 'state program.' " " 'In contrast,' " the state argues, " 'the program here has never been operated or administered by the State of California. The counties have always borne legal and financial responsibility for' " it under *section 17000* and its predecessors. [13] The courts have interpreted *section 17000* as "impos[ing] upon counties a duty to **[*92]** provide hospital and medical services to indigent residents. [Citations.]" (*Board of Supervisors [****45] v. Superior Court (1989) 207 Cal. App. 3d 552, 557 [254 Cal. Rptr. 905]*.) Thus, the state argues, the source of San Diego's obligation to provide medical care to adult MIP's is *section 17000*, not the 1982 legislation. Moreover, because the Legislature enacted *section 17000* in 1965, and section 6 does not apply to "mandates enacted prior to January 1, 1975," there is no reimbursable mandate. Finally, the state argues that, because *section 17001* give counties "complete discretion" in setting eligibility and service standards under *section 17000*, there is no mandate. A contrary conclusion, the state asserts, "would erroneously expand the definition of what constitutes a 'new program' under" section 6. As we explain, we reject these arguments.

[**46]** A. *The Source and Existence of San Diego's Obligation*

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[13] "County General Assistance in California dates from 1855, and for many years afforded the only form of relief to indigents." (*Mooney v. Pickett (1971) 4 Cal. 3d 669, 677 [94 Cal. Rptr. 279, 483 P.2d 1231]* (*Mooney*).) *Section 17000* is substantively identical to former section 2500, which was enacted in 1937. (Stats. 1937, chs. 369, 464, pp. 1097, 1406.)

1. *The Residual Nature of the Counties' Duty Under section 17000*

The state's argument that San Diego's obligation to provide medical care to adult MIP's predates the 1982 legislation contains numerous errors. First, the state misunderstands San Diego's obligation under *section 17000*. That ***HN15***[⬆] section creates "the *residual* fund" to sustain indigents "who cannot qualify . . . under any specialized aid programs." (*Mooney, supra, 4 Cal. 3d at p. 681*, italics added; see also *Board of Supervisors v. Superior Court, supra, 207 Cal. App. 3d at p. 562*; *Boehm v. Superior Court (1986) 178 Cal. App. 3d 494, 499 [223 Cal. Rptr. 716]* [general assistance "is a program of last resort"].) By its express terms, the statute requires a county to relieve and support indigent persons *only* "when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions." (*§ 17000*.) [14] "Consequently, to the extent that the state or federal governments provide[d] care for [adult MIP's], the [C]ounty's obligation to do so [was] **[****47]** reduced . . . ." (*Kinlaw, supra, 54 Cal. 3d at p. 354, fn. 14* (dis. opn. of Broussard, J.).) [15]

[**48] [**327] [***149]** As we have explained, the state began providing adult MIP's with medical care under Medi-Cal in 1971. Although it initially required counties to **[*93]** contribute generally to the costs of Medi-Cal, it did not set forth a specific amount for coverage of MIP's. The state was primarily responsible for the costs of the program, and the counties were simply required to contribute funds to defray the state's costs. Beginning with the 1978-1979 fiscal year, the state paid all costs of the Medi-Cal program, including the cost of medical care for adult MIP's. Thus, when section 6 was adopted in November 1979, to the extent that Medi-Cal provided medical care to adult MIP's, San Diego bore no financial responsibility for these health care costs. [16]

The California Attorney General has expressed a similar understanding **[****49]** of Medi-Cal's effect on the counties' medical care responsibility under *section 17000*. After the 1971 extension of Medi-Cal coverage to MIP's, Fresno County sought an opinion regarding the scope of its duty to provide medical care under *section 17000*. It asserted that the 1971 repeal of former section 14108.5, which declared the Legislature's concern with the counties' problems in caring for indigents not eligible for Medi-Cal, evidenced a legislative intent to preempt the field of providing health services. (56 Ops.Cal.Atty.Gen., *supra*, at p. 571.) The Attorney General disagreed, concluding that the 1971 change "did not alter the duty of the counties to provide medical care to those indigents not eligible for Medi-Cal." (*Id. at p. 569*.) The Attorney General explained: "The statement of concern acknowledged the obligation

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[14] See also *County of Los Angeles v. Frisbie (1942) 19 Cal. 2d 634, 639 [122 P.2d 526]* (construing former section 2500); *Jennings v. Jones (1985) 165 Cal. App. 3d 1083, 1091 [212 Cal. Rptr. 134]* (counties must support all indigent persons "having no other means of support"); *Union of American Physicians & Dentists v. County of Santa Clara (1983) 149 Cal. App. 3d 45, 51, fn. 10 [196 Cal. Rptr. 602]*; *Rogers v. Detrich (1976) 58 Cal. App. 3d 90, 95 [128 Cal. Rptr. 261]* (counties have duty of support "where such support is not otherwise furnished").

[15] In asserting that Medi-Cal coverage did not supplant San Diego's obligation under *section 17000*, the dissent incorrectly relies on *Madera Community Hospital v. County of Madera (1984) 155 Cal. App. 3d 136 [201 Cal. Rptr. 768]* (*Madera*) and *Cooke, supra, 213 Cal. App. 3d 401*. (Dis. opn. of Kennard, J., *post*, at p. 115.) In *Madera*, the court voided a county ordinance that extended county benefits under *section 17000* only to persons " 'meeting all eligibility standards for the Medi-Cal program.' " (*Madera, supra, 155 Cal. App. 3d at p. 150*.) The court explained: "Because all funding for the Medi-Cal program comes from either the federal or the state government . . ., [c]ounty has denied any financial obligation whatsoever from county funds for the medical care of its indigent and poor residents." (*Ibid*.) Thus, properly understood, *Madera* held only that Medi-Cal does not relieve counties of their obligation to provide medical care to persons who are "indigent" within the meaning of *section 17000* but who are ineligible for Medi-Cal. The limit of *Madera*'s holding is apparent from the court's reliance on a 1979 opinion of the Attorney General discussing the scope of a county's authority under *section 17000*. (*Madera, supra, 155 Cal. App. 3d at pp. 151-152*.) The Attorney General explained that "[t]he county obligation [under *section 17000*] to provide general relief extends to those indigents who do not qualify under specialized aid programs, . . . including Medi-Cal." *(62 Ops.Cal.Atty.Gen. 70, 71, fn. 1 (1979)*.) Moreover, the *Madera* court expressly recognized that state and federal programs "alleviate, to a greater or lesser extent, [a] [c]ounty's burden." (*Madera, supra, 155 Cal. App. 3d at p. 151*.) In *Cooke*, the court simply made a passing reference to *Madera* in dictum describing the coverage history of Medi-Cal. (*Cooke, supra, 213 Cal. App. 3d at p. 411*.) It neither analyzed the issue before us nor explained the meaning of the dictum that the dissent cites.

[16] As we have previously explained, even before 1971 the state, through the county option, assumed much of the financial responsibility for providing medical care to adult MIP's.

of counties to continue to provide medical assistance under section 17000; the removal of the statement of concern was not accompanied by elimination of such duty on the part of the counties, *except as the addition of* [*MIP's*] *to the Medi-Cal program would remove the burden on the counties to provide medical care for such persons*." (*Id. at* ***[****50]*** *p. 571*, italics added.)

[*94] Indeed, the Legislature's statement of intent in an uncodified section of the 1982 legislation excluding adult MIP's from Medi-Cal suggests that it also shared our understanding of section 17000. Section 8.3 of the 1982 Medi-Cal revisions expressly declared the Legislature's intent "[i]n eliminating [M]edically [I]ndigent [A]dults from the Medi-Cal program . . . ." (Stats. 1982, ch. 328, § 8.3, p. 1575; Stats. 1982, ch. 1594, § 86, p. 6357.) It stated in part: "It is further the intent of the Legislature to provide counties with as much flexibility as possible in organizing county health services to serve *the population being transferred*." (Stats. 1982, ch. 328, § 8.3, p. 1576; Stats. 1982, ch. 1594, § 86, p. 6357, italics added.) If, as the state contends, counties had always been responsible under section 17000 for the medical care of adult MIP's, the description of adult MIP's as "the population being transferred" would have been inaccurate. By so describing adult MIP's, the Legislature indicated its understanding that counties did not have this responsibility while adult MIP's were eligible for Medi-Cal. These sources fully support **[****51]** our rejection of the state's argument that the 1982 legislation did not impose a mandate because, under section 17000, counties had always borne the responsibility for providing medical care to adult MIP's.

2. *The State's Assumption of Full Funding Responsibility for Providing Medical Care to Adult MIP's Under Medi-Cal*

To support its argument that it never relieved counties of their obligation under section ***[**328] [***150]*** 17000 to provide medical care to adult MIP's, the state characterizes as "temporary" the Legislature's assumption of full-funding responsibility for adult MIP's. According to the state, "any ongoing responsibility of the county was, at best, only temporarily, partially, alleviated (and never supplanted)." The state asserts that the Court of Appeal thus "erred by focusing on one phase in th[e] shifting pattern of arrangements" for funding indigent health care, "a focus which led to a myopic conclusion that the state alone is forever responsible for funding the health care for" adult MIP's.

A comparison of the 1978 and 1979 statutes that eliminated the counties' share of Medi-Cal costs refutes the state's claim. The Legislature expressly limited **[****52]** the effect of the 1978 legislation to one fiscal year, providing that the state "shall pay" each county's Medi-Cal cost share "for the period from July 1, 1978, to June 30, 1979." (Stats. 1978, ch. 292, § 33, p. 610.) The Legislative Counsel's Digest explained that this section would require the state to pay "[a]ll county costs for Medi-Cal" for "the 1978-79 fiscal year only." (Legis. Counsel's Dig., Sen. Bill No. 154, 4 Stats. 1978 (Reg. Sess.), Summary Dig., p. 71.) The digest further explained that the purpose of the bill containing this section was "the *partial* relief of local government from the *temporary* difficulties brought about by the approval of Proposition 13." **[*95]** (*Id. at p. 70*, italics added.) Clearly, the Legislature knew how to include words of limitation when it intended the effects of its provisions to be temporary.

By contrast, the 1979 legislation contains no such limiting language. It simply provided: " *Section 14150 of the Welfare and Institutions Code* is repealed." (Stats. 1979, ch. 282, § 74, p. 1043.) In setting forth the need to enact the legislation as an urgency statute, the Legislature explained: "The adoption of Article XIII A . **[****53]** . . may cause the curtailment or elimination of programs and services which are vital to the state's public health, safety, education, and welfare. In order that such services not be interrupted, it is necessary that this act take effect immediately." (Stats. 1979, ch. 282, § 106, p. 1059.) In describing the effect of this legislation, the Legislative Counsel first explained that, "[u]nder existing law, the counties pay a specified annual share of the cost of" Medi-Cal. (Legis. Counsel's Dig., Assem. Bill No. 8, 4 Stats. 1979 (Reg. Sess.), Summary Dig., p. 79.) Referring to the 1978 legislation, it further explained that "[f]or the 1978-79 fiscal year only, the state pays . . . [P] . . . [a]ll county costs for Medi-Cal . . . ." (*Ibid*.) The 1979 legislation, the digest continued, "provid[ed] for state assumption of all county costs of Medi-Cal." (*Ibid*.) We find nothing in the 1979 legislation or the Legislative Counsel's summary indicating a legislative intent to eliminate the counties' cost share of Medi-Cal only temporarily.

The state budget process for the 1980-1981 fiscal year confirms that the Legislature's assumption of all Medi-Cal costs was not viewed as **[****54]** "temporary." In the summary of his proposed budget, then Governor Brown described Assembly Bill No. 8, 1981-1982 Regular Session, generally as "a long-term local financing measure" (Governor's Budget for 1980-1981 as submitted to Legislature (1979-1980 Reg. Sess.)

Summary of Local Government Fiscal Relief, p. A-30) through which "[t]he total cost of [the Medi-Cal] program was *permanently* assumed by the State . . . ." (*Id*. at p. A-32, italics added.) Similarly, in describing to the Joint Legislative Budget Committee the Medi-Cal funding item in the proposed budget, the Legislative Analyst explained: "Item 287 includes the state cost of 'buying out' the county share of Medi-Cal expenditures. Following passage of Proposition 13, [Senate Bill No.] 154 appropriated $ 418 million to relieve counties of all fiscal responsibility for Medi-Cal program costs. Subsequently, [Assembly Bill No.] 8 was enacted, *which made permanent state assumption of county Medi-Cal costs*." (Legis. Analyst, Rep. to Joint Legis. Budget Com., Analysis of 1980-1981 Budget Bill, Assem. Bill No. 2020 (1979-1980 Reg. Sess.) at p. 721, italics added.) Thus, the state errs in asserting that the 1979 **[****55]** legislation eliminated the counties' financial support of Medi-Cal "only temporarily."

[*96] [329] [***151]** 3. *State Administration of Medical Care for Adult MIP's Under Medi-Cal*

The state argues that, unlike the school program before us in *Lucia Mar, supra, 44 Cal. 3d 830*, which "had been wholly operated, administered and financed by the state," the program for providing medical care to adult MIP's " 'has never been operated or administered by' " the state. According to the state, Medi-Cal was simply a state "reimbursement program" for care that *section 17000* required counties to provide. The state is incorrect.

One of the legislative goals of Medi-Cal was "to allow eligible persons to secure basic health care in the same manner employed by the public generally, and without discrimination or segregation based purely on their economic disability." (Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, p. 104.) "In effect, this meant that poorer people could have access to a private practitioner of their choice, and not be relegated to a county hospital program." (*California Medical Assn. v. Brian (1973) 30 Cal. App. 3d 637, 642 [106 Cal. Rptr. 555]*.) **[****56]** Medi-Cal "provided for reimbursement to both public and private health care providers for medical services rendered." (*Lackner, supra, 97 Cal. App. 3d at p. 581*.) It further directed that, "[i]nsofar as practical," public assistance recipients be afforded "free choice of arrangements under which they shall receive basic health care." (Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, p. 115.) Finally, since its inception, Medi-Cal has permitted county boards of supervisors to "prescribe rules which authorize the county hospital to integrate its services with those of other hospitals into a system of community service which offers free choice of hospitals to those requiring hospital care. The intent of this section is to eliminate discrimination or segregation based on economic disability so that the county hospital and other hospitals in the community share in providing services to paying patients and to those who qualify for care in public medical care programs." (*§ 14000.2*.) Thus, "Medi-Cal eligibles were to be able to secure health care in the same manner employed by the general public (i.e., in the private sector or at a county facility)." (1974 Legis. Analyst's Rep., **[****57]** *supra*, at p. 625; see also Preliminary Rep., *supra*, at p. 17.) By allowing eligible persons "a choice of medical facilities for treatment," Medi-Cal placed county health care providers "in competition with private hospitals." (*Hall, supra, 23 Cal. App. 3d at p. 1061*.)

Moreover, administration of Medi-Cal over the years has been the responsibility of various state departments and agencies. (§ 10720-10721, 14061-14062, 14105, 14203; *Belsh, supra, 13 Cal. 4th at p. 751*; *Morris, supra, 67 Cal. 2d at p. 741*; Summary of Major Events, *supra*, at pp. 2-3, 15.) Thus, ***HN16***[⬆] "[i]n adopting the Medi-Cal program the state Legislature, for the most part, shifted indigent medical care from being a county responsibility to a State **[*97]** responsibility under the Medi-Cal program. [Citation.]" (*Bay General Community Hospital v. County of San Diego (1984) 156 Cal. App. 3d 944, 959 [203 Cal. Rptr. 184]* (*Bay General*); see also Preliminary Rep., *supra*, at p. 18 [with certain exceptions, Medi-Cal "shifted to the state" the responsibility for administration of the medical care provided to eligible persons].) We therefore reject the state's assertion **[****58]** that, while Medi-Cal covered adult MIP's, county facilities were the sole providers of their medical care, and counties both operated and administered the program that provided that care.

The circumstances we have discussed readily distinguish this case from *County of Los Angeles v. Commission on State Mandates (1995) 32 Cal. App. 4th 805 [38 Cal. Rptr. 2d 304]*, on which the state relies. There, the court rejected the claim that *Penal Code section 987.9*, which required counties to provide criminal defendants with certain defense funds, imposed an unfunded state mandate. Los Angeles filed the claim after the state, which had enacted appropriations between 1977 and 1990 "to reimburse counties for their costs under" the statute, made no appropriation for the 1990-1991 fiscal year. (*County of Los Angeles v. Commission on State Mandates, supra, at p. 812*.) In rejecting the claim, **[**330]** **[***152]** the court first held

that there was no state mandate because *Penal Code section 987.9* merely implemented the requirements of federal law. (*County of Los Angeles v. Commission on State Mandates, supra, at pp. 814-816*.) Thus, the court stated, "[a]ssuming, arguendo, **[****59]** the provisions of [*Penal Code] section 987.9* [constituted] a new program" under section 6, there was no state mandate. (*County of Los Angeles v. Commission on State Mandates, supra, at p. 818*.) Here, of course, it is unquestionably the state that has required San Diego to provide medical care to indigent persons.

In dictum, the court also rejected the argument that, under *Lucia Mar, supra, 44 Cal. 3d 830*, the state's "decision not to reimburse the counties for their programs under [*Penal Code] section 987.9*" imposed a new program by shifting financial responsibility for the program to counties. (*County of Los Angeles v. Commission on State Mandates, supra, 32 Cal. App. 4th at p. 817*.) The court explained: "In contrast [to *Lucia Mar*], the program here has never been operated or administered by the State of California. The counties have always borne legal and financial responsibility for implementing the procedures under [*Penal Code] section 987.9*. The state merely reimbursed counties for specific expenses incurred by the counties in their operation of a program for which they had a primary legal and financial responsibility." (*Ibid*.) Here, **[****60]** as we have explained, between 1971 and 1983, the state administered and bore financial responsibility for the medical care that adult MIP's received under Medi-Cal. The Medi-Cal program was not simply a **[*98]** method of reimbursement for county costs. Thus, the state's reliance on this dictum is misplaced. [17]

In summary, our discussion demonstrates the Legislature excluded adult MIP's from Medi-Cal *knowing* and *intending* that the 1982 legislation would trigger the counties' responsibility to provide medical care as providers of last resort under *section 17000*. Thus, through the 1982 legislation, the Legislature attempted to do precisely that which the voters enacted section 6 to prevent: "transfer[] to [counties] the fiscal responsibility for providing services **[****61]** which the state believed should be extended to the public." [18] (*County of Los Angeles, supra, 43 Cal. 3d at p. 56*; see also *City of Sacramento v. State of California, supra, 50 Cal. 3d at p. 68* [A "central purpose" of section 6 was "to prevent the state's transfer of the *cost of government* from *itself* to the local level."].) Accordingly, we view the 1982 legislation as having mandated a " 'new program' " on counties by "compelling them to accept financial responsibility in whole or in part for a program," i.e., medical care for adult MIP's, "which was funded entirely by the state before the advent of article XIII B." [19] (*Lucia Mar, supra, 44 Cal. 3d at p. 836*.)

[**62]** A contrary conclusion would defeat the purpose of section 6. Under the state's interpretation of that section, because *section 17000* was enacted before 1975, the Legislature could eliminate the *entire* Medi-Cal program and shift to the counties under *section 17000* complete financial responsibility for medical care that the state has been providing **[**331]** **[***153]** since 1966. However, the taxing and spending limitations imposed by articles XIII A and XIII B would greatly limit the ability of counties to meet their expanded *section 17000* obligation. "County taxpayers would be forced to accept new taxes or see the county forced to cut existing programs further . . . ." (*Kinlaw, supra, 54 Cal. 3d at p. 351* (dis. opn. of Broussard, J.).) As we have previously explained, the voters, recognizing that articles XIII A and XIII B left counties "ill equipped" to assume such increased financial responsibilities, adopted section 6 precisely to avoid this result. (*County of Los Angeles, **[*99]** supra, 43 Cal. 3d at p. 61*.) Thus, it was the voters who decreed that we must, as the state puts it, "focus[] on one phase in th[e] shifting pattern of [financial] arrangements" **[****63]** between the state and the counties. Under section 6, the state simply cannot "compel[] [counties] to accept financial responsibility in whole or in part for a program which was funded entirely by the state before the advent

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[17] Because *County of Los Angeles v. Commission on State Mandates, supra, 32 Cal. App. 4th 805*, is distinguishable, we need not (and do not) express an opinion regarding the court's analysis in that decision or its conclusions.

[18] The state properly does not contend that the provision of medical care to adult MIP's is not a "program" within the meaning of section 6. (See *County of Los Angeles, supra, 43 Cal. 3d at p. 56* [section 6 applies to "programs that carry out the governmental function of providing services to the public"].)

[19] Alternatively, the 1982 legislation can be viewed as having mandated an increase in the services that counties were providing through existing *section 17000* programs, by adding adult MIP's to the indigent population that counties already had to serve under that section. (See *County of Los Angeles, supra, 43 Cal. 3d at p. 56* ["subvention requirement for increased or higher level of service is directed to state mandated increases in the services provided by local agencies in existing 'programs' "].)

of article XIII B . . . ." [20] (*Lucia Mar, supra, 44 Cal. 3d at p. 836*.)

[**64]** B. *County Discretion to Set Eligibility and Service Standards*

CA(5a)[↑] **(5a)** The state next argues that, because San Diego had statutory discretion to set eligibility and service standards, there was no reimbursable mandate. Citing *section 16704*, the state asserts that the 1982 legislation required San Diego to spend MISA funds "only on those whom the county deems eligible under *§ 17000*," "gave the county exclusive authority to determine the level and type of benefits it would provide," and required counties "to include [adult MIP's] in their *§ 17000* eligibility **only to the extent state funds were available and then only for 3 years.**" (Original emphasis.) [21] **[****65]** According to the state, under *section 17001*, "[t]he counties **[*100]** have complete discretion over the determination of eligibility, scope of benefits and how the services will be provided." [22]

The state exaggerates the extent of a county's discretion under *section 17001*. It is true "case law . . . has recognized that *HN22*[↑] *section 17001* confers broad discretion upon the counties in performing their statutory duty to provide general assistance benefits to needy residents. [Citations.]" (*Robbins v. [**332] [***154] Superior Court (1985) 38 Cal. 3d 199, 211 [211 Cal. Rptr. 398, 695 P.2d 695]* (*Robbins*).) However, there are "clear-cut limits" to this discretion. (*Ibid*.) *CA(6)*[↑] **(6)** The counties may exercise their discretion "only within fixed boundaries. In administering General Assistance relief the county acts as an agent of the state. [Citation.] *HN23*[↑] When a statute confers upon a state agency the authority to adopt regulations to implement, interpret, make specific or otherwise carry out its provisions, the agency's regulations must be consistent, not in **[****66]** conflict with the statute, and reasonably necessary to effectuate its purpose. (*Gov. Code, § 11374*.)" (*Mooney, supra, 4 Cal. 3d at p. 679*.) Thus, the counties' eligibility and service standards must "carry out" the objectives of *section 17000*. (*Mooney, supra, 4 Cal. 3d at p. 679*; see also *Poverty Resistance Center v. Hart (1989) 213 Cal. App. 3d 295, 304-305 [261 Cal. Rptr. 545]*; § 11000 ["provisions of law relating to a public assistance program shall be fairly and equitably construed to effect the stated objects and purposes of the program"].) County standards that fail to carry out *section 17000*'s objectives "are void and no protestations that they are merely an exercise of administrative discretion can sanctify them." (*Morris, supra, 67 Cal. 2d at p. 737*.) *HN24*[↑] Courts, which have " 'final responsibility for the interpretation of the law,' " must strike them down. (*Id. at p. 748*.) Indeed, despite the counties' statutory discretion, "courts have consistently invalidated . . . county welfare regulations that fail to meet statutory requirements. [Citations.]"

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[20] In reaching a contrary conclusion, the dissent ignores the electorate's purpose in adopting section 6. The dissent also mischaracterizes our decision. We do not hold that "whenever there is a change in a state program that has the effect of increasing a county's financial burden under *section 17000* there must be reimbursement by the state." (Dis. opn. of Kennard, J., *post*, at p. 116.) Rather, we hold that *HN17*[↑] section 6 prohibits the state from shifting to counties the costs of state programs for which the state assumed complete financial responsibility before adoption of section 6. Whether the state may discontinue assistance that it initiated after section 6's adoption is a question that is not before us.

[21] *HN18*[↑] As amended in 1982, *section 16704, subdivision (c)(1)*, provided in relevant part: "The [county board of supervisors] shall assure that it will expend [MISA] funds only for the health services specified in *Sections 14132* and *14021* provided to persons certified as eligible for such services pursuant to *Section 17000* and shall assure that it will incur no less in net costs of county funds for county health services in any fiscal year than the amount required to obtain the maximum allocation under *Section 16702*." (Stats. 1982, ch. 1594, § 70, p. 6346.) *HN19*[↑] *Section 16704, subdivision (c)(3)*, provided in relevant part: "Any person whose income and resources meet the income and resource criteria for certification for services pursuant to *Section 14005.7* other than for the aged, blind, or disabled, shall not be excluded from eligibility for services to the extent that state funds are provided. Such persons may be held financially liable for these services based upon the person's ability to pay. A county may not establish a payment requirement which would deny medically necessary services. This section shall not be construed to mandate that a county provide any specific level or type of health care service . . . *HN20*[↑] . The provisions of this paragraph shall become inoperative if a court ruling is issued which decrees that the provisions of this paragraph mandates [*sic*] that additional state funds be provided and which requires that additional state reimbursement be made to counties for costs incurred under this paragraph. This paragraph shall be operative only until June 30, 1983, unless a later enacted statute extends or deletes that date." (Stats. 1982, ch. 1594, § 70, pp. 6346-6347.)

[22] *HN21*[↑] *Section 17001* provides: "The board of supervisors of each county, or the agency authorized by county charter, shall adopt standards of aid and care for the indigent and dependent poor of the county or city and county."

(*Robbins, supra, 38 Cal. 3d at p. 212*.)

1. *Eligibility*

CA(5b)[⬆] **(5b)** Regarding eligibility, **[****67]** we conclude that counties must provide medical care to all adult MIP's. As we emphasized in *Mooney*, ***HN25***[⬆] *section 17000* requires counties to relieve and support " '*all indigent persons* lawfully resident therein, "when such persons are not supported and relieved by their relatives" or by some other means.' " (*Mooney, supra, 4 Cal. 3d at p. 678*; see also *Bernhardt v. Board of Supervisors (1976) 58 Cal. App. 3d 806, 811 [130 Cal. Rptr. 189]*.) Moreover, *section 10000* declares that the statutory "purpose" of division 9 of the Welfare and Institutions Code, which includes *section 17000*, "is to provide for protection, care, and assistance to the **[*101]** people of the state in need thereof, and to promote the welfare and happiness of all of the people of the state by providing appropriate aid and services to *all* of its needy and distressed." (Italics added.) Thus, ***HN26***[⬆] counties have no discretion to refuse to provide medical care to "indigent persons" within the meaning of *section 17000* who do not receive it from other sources. [23] (See *Bell v. Board of Supervisors (1994) 23 Cal. App. 4th 1695, 1706 [28 Cal. Rptr. 2d 919]* [eligibility standards may not "defeat the **[****68]** purpose of the statutory scheme by depriving qualified recipients of mandated support"]; *Washington v. Board of Supervisors (1993) 18 Cal. App. 4th 981, 985 [22 Cal. Rptr. 2d 852]* [courts have repeatedly "voided county ordinances which have attempted to redefine eligibility standards set by state statute"].)

Although *section 17000* does not define the term "indigent persons," the 1982 legislation made clear that all adult MIP's fall within this category for purposes of defining a county's obligation to provide medical care. [24] As part of its exclusion of adult MIP's, that legislation required counties to **[****69]** participate in the MISA program. (Stats. 1982, ch. 1594, § 68, 70, 86, pp. 6343-6347, 6357.) Regarding that program, the 1982 legislation amended *section 16704, subdivision (c)(1)*, to require **[**333]** **[***155]** that a county board of supervisors, in applying for MISA funds, "assure that it will expend such funds only for [specified] health services . . . provided to persons certified as eligible for such services pursuant to *Section 17000* . . . ." (Stats. 1982, ch. 1594, § 70, p. 6346.) At the same time, the 1982 legislation amended *section 16704, subdivision (c)(3)*, to provide that "[a]ny person whose income and resources meet the income and resource criteria for certification for services pursuant to *Section 14005.7* other than for the aged, blind, or disabled, shall not be excluded from eligibility for services to the extent that state funds are provided." (Stats. 1982, ch. 1594, § 70, p. 6346.) As the state correctly explains, under this provision, "counties had to include [Medically Indigent Adults] in their *[section] 17000* eligibility" standards. By requiring counties to make all adult MIP's eligible for services paid for with MISA funds, while at the same time **[****70]** requiring counties to promise to spend such funds *only* on those certified as eligible under *section 17000*, the Legislature established that all adult MIP's are "indigent persons" for purposes of the counties' duty to provide medical care under *section 17000*. Otherwise, the counties could not comply with their promise.

[*102] Our conclusion is not affected by language in *section 16704, subdivision (c)(3)*, making it "operative only until June 30, 1985, unless a later enacted statute extends or deletes that date." [25] As we have explained, the subdivision established that ***HN27***[⬆] adult MIP's are "indigent persons" within the meaning of *section 17000* for medical care purposes. As we have also explained, *section 17000* requires counties to relieve and support *all* "indigent persons." Thus, even if **[****71]** the state is correct in asserting that *section 16704, subdivision (c)(3)*, is now inoperative and no longer prohibits counties from excluding adult MIP's from eligibility for medical services, *section 17000* has that effect. [26]

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[23] We disapprove *Bay General, supra, 156 Cal. App. 3d at pages 959-960*, insofar as it (1) states that a county's responsibility under *section 17000* extends only to indigents as defined by the county's board of supervisors, and (2) suggests that a county may refuse to provide medical care to persons who are "indigent" within the meaning of *section 17000* but do not qualify for Medi-Cal.

[24] Our conclusion is limited to this aspect of a county's duty under *section 17000*. We express no opinion regarding the scope of a county's duty to provide other forms of relief and support under *section 17000*.

[25] The 1982 legislation made the subdivision operative until June 30, 1983. (Stats. 1982, ch. 1594, § 70, p. 6347.) In 1983, the Legislature repealed and reenacted *section 16704*, and extended the operative date of subdivision (c)(3) to June 30, 1985. (Stats. 1983, ch. 323, § 131.1, 131.2, pp. 1079-1080.)

[26] Given our analysis, we express no opinion about the statement in *Cooke, supra, 213 Cal. App. 3d at page 412*,

Additionally, the coverage history of Medi-Cal demonstrates that the Legislature has always viewed all adult MIP's as "indigent persons" within the **[****72]** meaning of *section 17000* for medical care purposes. As we have previously explained, when the Legislature created the original Medi-Cal program, which covered only categorically linked persons, it "declar[ed] its concern with the problems which [would] be facing the counties with respect to the medical care of indigent persons who [were] not covered" by Medi-Cal, "whose medical care [had to] be financed entirely by the counties in a time of heavily increasing medical costs." (Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, p. 116 [enacting former § 14108.5].) Moreover, to ensure that the counties' Medi-Cal cost share would not leave counties "with insufficient funds to provide hospital care for those persons not eligible for Medi-Cal," the Legislature also created the county option. (*Hall, supra, 23 Cal. App. 3d at p. 1061*.) Through the county option, "the state agreed to assume all county health care costs . . . in excess of county costs incurred during the 1964-1965 fiscal year, adjusted for population increases." (*Lackner, supra, 97 Cal. App. 3d at p. 586*.) Thus, the Legislature expressly recognized that the categorically linked persons initially eligible **[****73]** for Medi-Cal did not constitute all "indigent persons" entitled to medical care under *section 17000*, and required the state to share in the financial responsibility for providing that care.

In adding adult MIP's to Medi-Cal in 1971, the Legislature extended Medi-Cal coverage to noncategorically linked persons "who [were] financially unable to pay for their medical care." (Legis. Counsel's Dig., Assem. Bill No. 949, 3 Stats. 1971 (Reg. Sess.) Summary Dig., p. 83.) This **[*103]** description was consistent with prior judicial decisions that, for purposes of a county's duty to provide "indigent persons" with hospitalization, **[***156]** had **[**334]** defined the term to include a person "who has insufficient means to pay for his maintenance in a private hospital after providing for those who legally claim his support." (*Goodall v. Brite (1936) 11 Cal. App. 2d 540, 550 [54 P.2d 510]*.)

Moreover, the fate of amendments to *section 17000* proposed at the same time suggests that, in the Legislature's view, the category of "indigent persons" entitled to medical care under *section 17000* extended even *beyond* those eligible for Medi-Cal as MIP's. The June 17, 1971, version of **[****74]** Assembly Bill No. 949 amended *section 17000* by adding the following: "however, the health needs of such persons shall be met under [Medi-Cal]." (Assem. Bill No. 949 (1971 Reg. Sess.) § 53.3, as amended June 17, 1971.) The Assembly deleted this amendment on July 20, 1971. (Assem. Bill No. 949 (1971 Reg. Sess.) as amended July 20, 1971, p. 37.) Regarding this change, the Assembly Committee on Health explained: "The proposed amendment to *Section 17000*, . . . which would have removed the counties' responsibilities as health care provider of last resort, is deleted. This change was originally proposed to clarify the guarantee to hold counties harmless from additional Medi-Cal costs. It is deleted since it cannot remove the fact that counties are, by definition, a 'last resort' for any person, with or without the means to pay, who does not qualify for federal or state aid." (Assem. Com. on Health, Analysis of Assem. Bill No. 949 (1971 Reg. Sess.) as amended July 20, 1971 (July 21, 1971), p. 4.)

The Legislature's failure to amend *section 17000* in 1971 figured prominently in the Attorney General's interpretation of that section only two years later. In a 1973 published opinion, the Attorney **[****75]** General stated that the 1971 inclusion of MIP's in Medi-Cal "did not alter the duty of the counties to provide medical care to those indigents not eligible for Medi-Cal." (56 Ops.Cal.Atty.Gen., *supra*, at p. 569.) He based this conclusion on the 1971 legislation, relevant legislative history, and "the history of state medical care programs." (*Id. at p. 570*.) The opinion concluded: "The definition of medically indigent in [the chapter establishing Medi-Cal] is applicable only to that chapter and *does not include all those enumerated in* *section 17000*. If the former medical care program, by providing care only for a specific group, public assistance recipients, did not affect the responsibility of the counties to provide such service under *section 17000*, we believe the most recent expansion of the medical assistance program does not affect, *absent an express legislative intent to the contrary*, the duty of the counties under *section 17000* to continue to provide services to those eligible under *section 17000* but not under [Medi-Cal]." (*Ibid*., italics added.) ***HN28***[↑] The Attorney General's opinion, although not binding, is entitled to considerable weight. **[*104]** (*Freedom* **[****76]** *Newspapers, Inc. v. Orange County Employees Retirement System (1993) 6 Cal. 4th 821, 829 [25 Cal. Rptr. 2d 148, 863 P.2d 218]*.) Absent controlling authority, it is persuasive because we presume that the Legislature was cognizant of the Attorney General's

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footnote 9, that the "life" of *section 16704, subdivision (c)(3)*, "was implicitly extended" by the fact that the "paragraph remains in the statute despite three subsequent amendments to the statute . . . ."

construction of section 17000 and would have taken corrective action if it disagreed with that construction. (California Assn. of Psychology Providers v. Rank (1990) 51 Cal. 3d 1, 17 [270 Cal. Rptr. 796, 793 P.2d 2].)

In this case, of course, we need not (and do not) decide whether San Diego's obligation under section 17000 to provide medical care extended beyond adult MIP's. Our discussion establishes, however, that the obligation extended *at least* that far. The Legislature has made it clear that all adult MIP's are "indigent persons" under section 17000 for purposes of San Diego's obligation to provide medical care. Therefore, the state errs in arguing that San Diego had discretion to refuse to provide medical care to this population. [27]

[**77] [**335] [***157]** 2. *Service Standards*

CA(7)[↑] **(7)** A number of statutes are relevant to the state's argument that San Diego had discretion in setting service standards. Section 17000 requires in general terms that counties "relieve and support" indigent persons. Section 10000, which sets forth the purpose of the division containing section 17000, declares the "legislative intent that aid shall be administered and services provided promptly and humanely, with due regard for the preservation of family life," so "as to encourage self-respect, self-reliance, and the desire to be a good citizen, useful to society." (§ 10000.) "**HN29**[↑] Section 17000, as authoritatively interpreted, mandates that medical care be provided to indigents and section 10000 requires that such care be provided promptly and humanely. The duty is mandated by statute. There is no discretion concerning whether to provide such care . . . ." (Tailfeather v. Board of Supervisors (1996) 48 Cal. App. 4th 1223, 1245 [56 Cal. Rptr. 2d 255] (*Tailfeather*).)

Courts construing section 17000 have held that **HN30**[↑] it "imposes a mandatory duty upon all counties to provide 'medically necessary care,' not just **[*105]** emergency **[****78]** care. [Citation.]" (County of Alameda v. State Bd. of Control (1993) 14 Cal. App. 4th 1096, 1108 [18 Cal. Rptr. 2d 487]; see also Gardner v. County of Los Angeles (1995) 34 Cal. App. 4th 200, 216 [40 Cal. Rptr. 2d 271]; § 16704.1 [prohibiting a county from requiring payment of a fee or charge "before [it] renders medically necessary services to . . . persons entitled to services under Section 17000"].) It further "ha[s] been interpreted . . . to impose a minimum standard of care below which the provision of medical services may not fall." (Tailfeather, supra, 48 Cal. App. 4th at p. 1239.) In *Tailfeather*, the court stated that "section 17000 requires provision of medical services to the poor at a level which does not lead to unnecessary suffering or endanger life and health . . . ." (Id. at p. 1240.) In reaching this conclusion, it cited Cooke, supra, 213 Cal. App. 3d at page 404, which held that section 17000 requires counties to provide "dental care sufficient to remedy substantial pain and infection." (See also § 14059.5 [defining "[a] service [as] 'medically necessary' . . . when it is reasonable and necessary to protect life, to **[****79]** prevent significant illness or significant disability, or to alleviate severe pain"].)

During the years for which San Diego sought reimbursement, Health and Safety Code section 1442.5, former subdivision (c) (former subdivision (c)), also spoke to the level of services that counties had to provide under Welfare and Institutions Code section 17000. [28] **[****81]** As enacted in September 1974, **HN31**[↑] former subdivision (c) provided that, whether a county's duty to provide care to all indigent people "is fulfilled directly by the county or through alternative means, the availability of services, and the quality of the treatment received by people who cannot afford to pay for their health care shall be the same as that available to nonindigent people receiving health care services in private facilities in that county." (Stats. 1974, ch. 810, § 3, p. 1765.) The express "purpose and intent" of the act that contained former subdivision (c) was "to insure that the duty of counties to provide health care to indigents

[27] Although asserting that nothing required San Diego to provide "all" adult MIP's with medical care, the state never precisely identifies which adult MIP's were legally entitled to medical care and which ones were not. Nor does the state ever directly assert that some adult MIP's were not "indigent persons" under section 17000. On the contrary, despite its argument, the state seems to suggest that San Diego's medical care obligation under section 17000 extended even beyond adult MIP's. It asserts: "At no time prior to or following 1983 did Medi-Cal ever provide medical services to, or pay for medical services provided to, all persons who could not afford such services and therefore might be deemed 'medically indigent.' . . . For some period prior to 1983, Medi-Cal paid for services for some indigent adults under its 'medically indigent adults' category. . . . [A]t no time did the state ever assume financial responsibility for all adults who are too indigent to afford health care." (Original emphasis.)

[28] The state argues that former subdivision (c) is irrelevant to our determination because, like section 17000, it "predate[d] 1975." Our previous analysis rejecting this argument in connection with section 17000 applies here as well.

[was] properly and continuously fulfilled." (Stats. 1974, ch. 810, § 1, p. 1764.) Thus, until its repeal in September 1992, [29] former subdivision (c) "[r]equire[d] that the availability **[****80]** and quality of services provided to indigents directly by the county or alternatively be the same as that available to nonindigents in private facilities in that county." (Legis. Counsel's Dig., Sen. Bill No. 2369, 2 Stats. 1974 (Reg. Sess.) Summary Dig., p. 130; see also *Gardner v. [**336] [***158] County of Los Angeles, supra, 34 Cal. App. 4th at p. 216*; **[*106]** *Board of Supervisors v. Superior Court, supra, 207 Cal. App. 3d at p. 564* [former subdivision (c) required that care provided "be *comparable* to that enjoyed by the nonindigent"].) [30] "For the 1990-91 fiscal year," the Legislature qualified this obligation by providing: "nothing in [former] subdivision (c) . . . shall require any county to exceed the standard of care provided by the state Medi-Cal program. Notwithstanding any other provision of law, counties shall not be required to increase eligibility or expand the scope of services in the 1990-91 fiscal year for their programs." (Stats. 1990, ch. 457, § 23, p. 2013.)

Although we have identified statutes relevant to service standards, we need not here define the precise contours of San Diego's statutory health care obligation. The state argues generally that San Diego had discretion regarding the services it provided. However, **[****82]** the state fails to identify either the specific services that San Diego provided under its CMS program or which of those services, if any, were not required under the governing statutes. Nor does the state argue that San Diego could have eliminated all services and complied with statutory requirements. Accordingly, we reject the state's argument that, because San Diego had some discretion in providing services, the 1982 legislation did not impose a reimbursable mandate. [31]

VI. MINIMUM REQUIRED EXPENDITURE

CA(8)[↑] **(8)** The Court of Appeal held that, under the governing statutes, the Commission must initially determine the precise amount of any reimbursement due San Diego. It therefore reversed the damages portion of the trial court's judgment and remanded the matter to the Commission for this **[****83]** determination. Nevertheless, the Court of Appeal affirmed the trial court's finding that the Legislature required San Diego to spend at least $ 41 million on its CMS program for fiscal years 1989-1990 and 1990-1991. In affirming this finding, the Court of Appeal relied primarily on *section 16990, subdivision (a)*, as it read at all relevant times. The state contends this provision did not mandate that San Diego spend any minimum amount on the CMS program. It further asserts that the Court of Appeal's "ruling in effect sets a damages baseline, in contradiction to [its] ostensible reversal of the damage award."

[*107] Former *section 16990, subdivision (a)*, set forth the financial maintenance-of-effort requirement for counties that received funding under the California Healthcare for the Indigent Program (CHIP). The Legislature enacted CHIP in 1989 to implement Proposition 99, the Tobacco Tax and Health Protection Act of 1988 (codified at *Rev. & Tax. Code, § 30121 et seq.*). Proposition 99, which the voters approved on November 8, 1988, increased the tax on tobacco products and allocated the resulting revenue in part to medical and hospital care for certain persons who could not **[****84]** afford those services. (*Kennedy Wholesale, Inc. v. State Bd. of Equalization (1991) 53 Cal. 3d 245, 248, 254 [279 Cal. Rptr. 325, 806 P.2d 1360]*.) During the 1989-1990 and 1990-1991 fiscal years, *HN33*[↑] former *section 16990, subdivision (a)*, required counties receiving CHIP funds, "at a minimum," to "maintain a level of financial support of county funds for health services at least equal to its county match and any overmatch of county funds in the 1988-89 fiscal year," adjusted annually as provided. (Stats. 1989, ch. 1331, § 9, p. 5427.) Applying this provision, the Court of Appeal affirmed the trial court's finding that the state had required San Diego to spend in fiscal years 1989-1990 and 1990-1991 **[**337]** **[***159]** at least $ 41 million

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[29] Statutes 1992, chapter 719, section 2, page 2882, repealed former subdivision (c) and enacted a new subdivision (c) in its place. This urgency measure was approved by the Governor on September 14, 1992, and filed with the Secretary of State on September 15, 1992.

[30] *HN32*[↑] We disapprove *Cooke, supra, 213 Cal. App. 3d at page 410*, to the extent it held that *Health and Safety Code section 1442.5*, former subdivision (c), was merely "a limitation on a county's ability to close facilities or reduce services provided in those facilities," and was irrelevant absent a claim that a "county facility was closed [or] that any services in [the] county . . . were reduced." Although former subdivision (c) was contained in a section that dealt in part with closures and service reductions, nothing limited its reach to that context.

[31] During further proceedings before the Commission to determine the amount of reimbursement due San Diego, the state may argue that particular services available under San Diego's CMS program exceeded statutory requirements.

on the CMS program.

We agree with the state that this finding is erroneous. Unlike participation in MISA, which was mandatory, participation in CHIP was voluntary. In establishing CHIP, the Legislature appropriated funds "for allocation to counties *participating* in" the program. (Stats. 1989, ch. 1331, § 10, p. 5436, italics added.) Section 16980, subdivision (a), directed the State Department of Health Services to make CHIP payments **[****85]** "upon application of the county assuring that it will comply with" applicable provisions. Among the governing provisions were former *sections 16990, subdivision (a)*, and *16995, subdivision (a)*, which provided: "To be eligible for receipt of funds under this chapter, a county may not impose more stringent eligibility standards for the receipt of benefits under *Section 17000* or reduce the scope of benefits compared to those which were in effect on November 8, 1988." (Stats. 1989, ch. 1331, § 9, p. 5431.)

However, San Diego has cited no provision, and we have found none, that *required* eligible counties to participate in the program or apply for CHIP funds. Through *Revenue and Taxation Code section 30125*, which was part of Proposition 99, the electorate directed that funds raised through Proposition 99 "shall be used to supplement existing levels of service and not to fund existing levels of service." (See also Stats. 1989, ch. 1331, § 1, 19, pp. 5382, 5438.) Counties not wanting to supplement their existing levels of service, and which therefore did not want CHIP funds, were not bound by the program's requirements. Those counties, including San Diego, that chose **[*108]** to **[****86]** seek CHIP funds did so voluntarily. [32] Thus, the Court of Appeal erred in concluding that former *section 16990, subdivision (a)*, mandated a minimum funding requirement for San Diego's CMS program.

Nor did former *section 16991, subdivision (a)(5)*, which the trial court and Court of Appeal also cited, establish a minimum financial obligation for San Diego's CMS program. Former *section 16991* generally "establish[ed] a procedure for the allocation of funds to each county receiving funds from the [MISA] . . . for the provision of services to persons meeting certain Medi-Cal **[****87]** eligibility requirements, based on the percentage of newly legalized individuals under the federal Immigration Reform and Control Act (IRCA)." (Legis. Counsel's Dig., Assem. Bill No. 75, 4 Stats. 1989 (Reg. Sess.) Summary Dig., p. 548.) Former *section 16991, subdivision (a)(5)*, required the state, for fiscal years 1989-1990 and 1990-1991, to reimburse a county if its combined allocation from various sources was less than the funding it received under section 16703 for fiscal year 1988-1989. [33] Nothing about this state reimbursement requirement imposed on San Diego a minimum funding requirement for its CMS program.

[**88]** Thus, we must reverse the judgment insofar as it finds that former *sections 16990, subdivision (a)*, and *16991, subdivision (a)(5)*, established a $ 41 million spending floor for San Diego's CMS program. Instead, the various statutes that we have previously discussed (e.g., *§ 10000*, *17000*, and *Health & [**338] [***160] Saf. Code, § 1442.5*, former subd. (c)), the cases construing those statutes, and any other relevant authorities must guide the Commission's determination of the level of services that San Diego had to provide and any reimbursement to which it is entitled.

[*109] VII. REMAINING ISSUES

CA(9)[↑] **(9)** The state raises a number of additional issues. It first complains that a mandamus proceeding under *Code of Civil Procedure section 1085* was an improper vehicle for challenging the Commission's

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[32] Consistent with the electorate's direction, in its application for CHIP funds, San Diego assured the state that it would "[e]xpend [CHIP] funds only to supplement existing levels of services provided and not to fund existing levels of service . . . ." Because San Diego's initial decision to seek CHIP funds was voluntary, the evidence it cites of state threats to withhold CHIP funds if it eliminated the CMS program is irrelevant.

[33] ***HN34***[↑] Former *section 16991, subdivision (a)(5)*, provided in full: "If the sum of funding that a county received from its allocation pursuant to Section 16703, the amount of reimbursement it received from federal State Legalization Impact Assistance Grant [(SLIAG)] funding for indigent care, and its share of funding provided in this section is less than the amount of funding the county received pursuant to Section 16703 in fiscal year 1988-89 the state shall reimburse the county for the amount of the difference. For the 1990-91 fiscal year, if the sum of funding received from its allocation, pursuant to Section 16703 and the amount of reimbursement it received from [SLIAG] Funding for indigent care that year is less than the amount of funding the county received pursuant to Section 16703 in the 1988-89 fiscal year, the state shall reimburse the amount of the difference. If the department determines that the county has not made reasonable efforts to document and claim federal SLIAG funding for indigent care, the department shall deny the reimbursement." (Stats. 1989, ch. 1331, § 9, p. 5428.)

position. It asserts that, under Government Code section 17559, review by administrative mandamus under Code of Civil Procedure section 1094.5 is the exclusive method for challenging a Commission decision denying a mandate claim. The Court of Appeal rejected this argument, reasoning that the trial court had jurisdiction under Code of Civil Procedure section 1085 because, under section **[****89]** 6, the state has a ministerial duty of reimbursement when it imposes a mandate.

Like the Court of Appeal, but for different reasons, we reject the state's argument. ***HN35***[⬆] "[M]andamus pursuant to [Code of Civil Procedure] section 1094.5, commonly denominated 'administrative' mandamus, is mandamus still. It is not possessed of 'a separate and distinctive legal personality. It is not a remedy removed from the general law of mandamus or exempted from the latter's established principles, requirements and limitations.' [Citations.] The full panoply of rules applicable to 'ordinary' mandamus applies to 'administrative' mandamus proceedings, except where modified by statute. [Citations.]" (Woods v. Superior Court (1981) 28 Cal. 3d 668, 673-674 [170 Cal. Rptr. 484, 620 P.2d 1032].) Where the entitlement to mandamus relief is adequately alleged, a trial court may treat a proceeding brought under Code of Civil Procedure section 1085 as one brought under Code of Civil Procedure section 1094.5 and should deny a demurrer asserting that the wrong mandamus statute has been invoked. (Woods, supra, 28 Cal. 3d at pp. 673-674; Anton v. San Antonio Community Hosp. (1977) 19 Cal. 3d ***[****90]*** 802, 813-814 [140 Cal. Rptr. 442, 567 P.2d 1162].) Thus, even if San Diego identified the wrong mandamus statute, the error did not affect the trial court's ability to grant mandamus relief.

"In any event, distinctions between traditional and administrative mandate have little impact on this appeal . . . ." (McIntosh v. Aubry (1993) 14 Cal. App. 4th 1576, 1584 [18 Cal. Rptr. 2d 680].) ***HN36***[⬆] The determination whether the statutes here at issue established a mandate under section 6 is a question of law. (County of Fresno v. Lehman, supra, 229 Cal. App. 3d at p. 347.) In reaching our conclusion, we have relied on no facts that are in dispute. Where, as here, a "purely legal question" is at issue, courts "exercise independent judgment . . ., no matter whether the issue arises by traditional or administrative mandate. [Citations.]" (McIntosh, supra, 14 Cal. App. 4th at p. 1584.) As the state concedes, even under Code of Civil Procedure section 1094.5, a judgment must "be reversed if based on erroneous conclusions of law." Thus, any differences between the two mandamus statutes have had no impact on our analysis.

[*110] The state next contends that the trial **[****91]** court prejudicially erred in denying the "peremptory disqualification" motion that the Director of the Department of Finance filed under Code of Civil Procedure section 170.6. We will not review this ruling, however, because ***HN37***[⬆] it is reviewable only by writ of mandate under Code of Civil Procedure section 170.3, subdivision (d). (People v. Webb (1993) 6 Cal. 4th 494, 522-523 [24 Cal. Rptr. 2d 779, 862 P.2d 779]; People v. Hull (1991) 1 Cal. 4th 266 [2 Cal. Rptr. 2d 526, 820 P.2d 1036].)

Nor can we address the state's argument that the trial court erred in granting a preliminary injunction. The May 1991 order granting the ***HN38***[⬆] preliminary injunction was "immediately and separately appealable" under Code of Civil Procedure section 904.1, subdivision (a)(6). (Art Movers, Inc. v. Ni West, Inc. (1992) 3 Cal. App. 4th 640, 645 [4 Cal. Rptr. 2d 689].) Thus, the state's attempt to challenge the order in an appeal filed after entry of final judgment in December 1992 **[**339]** **[***161]** was untimely. [34] (See Chico Feminist Women's Health Center v. Scully (1989) 208 Cal. App. 3d 230, 251 [256 Cal. Rptr. 194].) Moreover, the state's attempt to appeal the order granting **[****92]** the preliminary injunction is moot because of (1) the trial court's July 1 order granting a peremptory writ of mandate, which expressly "supersede[d] and replace[d]" the preliminary injunction order and (2) entry of final judgment. (Sheward v. Citizens' Water Co. (1891) 90 Cal. 635, 638-639 [27 P. 439]; People v. Morse (1993) 21 Cal. App. 4th 259, 264-265 [25 Cal. Rptr. 2d 816]; Art Movers, Inc., supra, 3 Cal. App. 4th at p. 647.)

Finally, the state requests that we reverse the trial court's reservation of jurisdiction regarding an award of attorney fees. This request is premature. In the judgment, the trial court "retain[ed] jurisdiction to determine any right to and amount of attorneys' fees . . . ." **[****93]** This provision does not declare that San Diego in fact has a right to an award of attorney fees. Nor has San Diego asserted such a right. As San Diego states, at this point, "[t]here is nothing for this Court to review." We will not give an advisory ruling on this issue.

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[34] Despite its argument here, when it initially appealed, the state apparently recognized that it could no longer challenge the May 1991 order. In its March 1993 notice of appeal, it appealed only from the judgment entered December 18, 1992, and did not mention the May 1991 order.

VIII. DISPOSITION

The judgment of the Court of Appeal is affirmed insofar as it holds that the exclusion of adult MIP's from Medi-Cal imposed a mandate on San Diego within the meaning of section 6. The judgment is reversed insofar as it holds that the state required San Diego to spend at least $ 41 million on the CMS program in fiscal years 1989-1990 and 1990-1991. The matter is **[*111]** remanded to the Commission to determine whether, and by what amount, the statutory standards of care (e.g., *Health & Saf. Code, § 1442.5*, former subd. (c); *Welf. & Inst. Code, § 10000*, *17000*) forced San Diego to incur costs in excess of the funds provided by the state, and to determine the statutory remedies to which San Diego is entitled.

George, C. J., Mosk, J., Baxter, J., Anderson, J., * **[****94]** and Aldrich, J., ** concurred.

Dissent by: KENNARD

Dissent

KENNARD, J.

I dissent.

As part of an initiative measure placing spending limits on state and local government, the voters in 1979 added article XIII B to the California Constitution. Section 6 of this article provides that when the state "mandates a new program or higher level of service on any local government," the state must reimburse the local government for the cost of such program or service. Under subdivision (c) of this constitutional provision, however, the state "may, but need not," provide such reimbursement *if the state mandate was enacted before January 1, 1975*. (*Cal. Const., art. XIII B, § 6, subd. (c)*.) Subdivision (c) is the critical provision here.

Because the counties have for many decades been under a state mandate to provide for the poor, a mandate that existed before the voters added article XIII B to the state Constitution, the express language of subdivision **[****95]** (c) of section 6 of article XIII B exempts the state from any *legal obligation* to reimburse the counties for the cost of medical care to the needy. The fact that for a certain period after 1975 the state directly paid under the state Medi-Cal program for these costs did not lead to the creation of a new mandate once the state stopped doing so. To hold to the contrary, as the majority does, is to render subdivision (c) a nullity.

The issue here is not whether the poor are entitled to medical care. They are. The issue is whether the state or the counties must pay for this care. The majority places this obligation on the state. The counties' **[**340]** **[***162]** win, however, may be a pyrrhic victory. For, in anticipation of today's decision, the Legislature has enacted legislation that will drastically reduce the counties' share of other state revenue, as discussed in part III below.

I

Beginning in 1855, California imposed a legal obligation on the counties to take care of their poor. (*Mooney v. Pickett (1971) 4 Cal. 3d 669, 677-678 **[*112]** [94 Cal. Rptr. 279, 483 P.2d 1231]*.) Since 1965, this obligation has been codified in *Welfare and Institutions Code **[****96]** section 17000*. (Stats. 1965, ch. 1784, § 5, p. 4090.) That statute states in full: "Every county and every city and county shall relieve and support all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions." (*Welf. & Inst. Code, § 17000*.) Included in this is a duty to provide medical care to indigents. (*Board of Supervisors v. Superior Court (1989) 207 Cal. App. 3d 552, 557 [254 Cal. Rptr. 905]*.)

A brief overview of the efforts by federal, state, and local governments to furnish medical services to the poor may be helpful.

Before March 1, 1966, the date on which California began its Medi-Cal program, medical services for the poor "were provided in different ways and were funded by the state, county, and federal governments in varying amounts." (Assem. Com. on Public Health, Preliminary

* Presiding Justice, Court of Appeal, First Appellate District, Division Four, assigned by the Chief Justice pursuant to *article VI, section 6 of the California Constitution*.

** Associate Justice, Court of Appeal, Second Appellate District, Division Three, assigned by the Chief Justice pursuant to *article VI, section 6 of the California Constitution*.

Rep. on Medi-Cal (Feb. 29, 1968) p. 3.) The Medi-Cal program, which California adopted to implement the federal Medicaid program (*42 U.S.C. § 1396 et seq.*; see *Morris* **[****97]** *v. Williams (1967) 67 Cal. 2d 733, 738 [63 Cal. Rptr. 689, 433 P.2d 697]*), at first limited eligibility to those persons "linked" to a federal categorical aid program by being over age 65, blind, disabled, or a member of a family with dependent children. (Legis. Analyst, Rep. to Joint Legis. Budget Com., Analysis of 1971-1972 Budget Bill, Sen. Bill No. 207 (1971 Reg. Sess.), pp. 548, 550.) Persons not linked to federal programs were ineligible for Medi-Cal; they could obtain medical care from the counties. (*County of Santa Clara v. Hall (1972) 23 Cal. App. 3d 1059, 1061 [100 Cal. Rptr. 629]*.)

In 1971, the Legislature revised Medi-Cal by extending coverage to certain so-called "noncategorically linked" persons, or "medically indigent persons." (Stats. 1971, ch. 577, § 12, 13, 22.5, 23, pp. 1110-1111, 1115.) The revisions included a formula for determining each county's share of Medi-Cal costs for the 1972-1973 fiscal year, with increases in later years based on the assessed value of property. (*Id*. at § 41, 42, pp. 1131-1133.)

In 1978, California voters added to the state Constitution article XIII A (Proposition 13), which severely limited property taxes. In that **[****98]** same year, to help the counties deal with the drastic drop in local tax revenue, the Legislature assumed the counties' share of Medi-Cal costs. (Stats. 1978, ch. 292, § 33, p. 610.) In 1979, the Legislature relieved the counties of their obligation to share in Medi-Cal costs. (Stats. 1979, ch. 282, § 106, p. 1059.) **[*113]** Also in 1979, the voters added to the state Constitution article XIII B, which placed spending limits on state and local governments and added the mandate/reimbursement provisions at issue here.

In 1982, the Legislature removed from Medi-Cal eligibility the category of "medically indigent persons" that had been added in 1971. The Legislature also transferred funds for indigent health care services from the state to the counties through the Medically Indigent Services Account. (Stats. 1982, ch. 328, § 6, 8.3, 8.5, pp. 1574-1576; Stats. 1982, ch. 1594, § 19, 86, pp. 6315, 6357.) Medically Indigent Services Account funds were then combined with county health service funds to provide health care to persons not eligible for Medi-Cal (Stats. 1982, ch. 1594, § 86, p. 6357), and counties were to provide health services to persons in this category "to the extent **[****99]** that state funds are provided" (*id*., § 70, p. 6346).

From 1983 through June 1989, the state fully funded San Diego County's program for furnishing medical care to the poor. Thereafter, in fiscal years 1989-1990 and 1990-1991, the state partially funded San Diego **[**341]** **[***163]** County's program. In early 1991, however, the state refused to provide San Diego County full funding for the 1990-1991 fiscal year, prompting a threat by the county to terminate its indigent medical care program. This in turn led the Legal Aid Society of San Diego to file an action against the County of San Diego, asserting that *Welfare and Institutions Code section 17000* imposed a legal obligation on the county to provide medical care to the poor. The county cross-complained against the state. The county argued that the state's 1982 removal of the category of "medically indigent persons" from Medi-Cal eligibility mandated a "new program or higher level of service" within the meaning of *section 6 of article XIII B of the California Constitution*, because it transferred the cost of caring for these persons to the county. Accordingly, the county contended, section 6 required the state to reimburse **[****100]** the county for its cost of providing such care, and prohibited the state from terminating reimbursement as it did in 1991. The county eventually reached a settlement with the Legal Aid Society of San Diego, leading to a dismissal of the latter's complaint.

While the County of San Diego's case against the state was pending, litigation was proceeding in a similar action against the state by the County of Los Angeles and the County of San Bernardino. In that action, the Superior Court for the County of Los Angeles entered a judgment in favor of Los Angeles and San Bernardino Counties. The state sought review in the Second District Court of Appeal in Los Angeles. In December 1992, the parties to the Los Angeles case entered into a settlement agreement providing for dismissal of the appeal and vacating of the superior court judgment. **[*114]** The Court of Appeal thereafter ordered that the superior court judgment be vacated and that the appeal be dismissed.

The County of San Diego's action against the state, however, was not settled. It proceeded on the county's claim against the state for reimbursement of the county's expenditures for medical care to the indigent. [1] The majority **[****101]** holds that the county is entitled to such reimbursement. I disagree.

II

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[1] I agree with the majority that the superior court had jurisdiction to decide this case. (Maj. opn., *ante*, at pp. 85-90.)

Article XIII B, section 6 of the California Constitution provides: "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 reimburse such local government for the costs of such program or increased level of service, *except that the Legislature may, but need not, provide such subvention of funds for the following mandates:* [P] . . . [P] *(c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975*." (Italics added.) [2]

[**102]** Of importance here is *Welfare and Institutions Code section 17000* (hereafter sometimes *section 17000*). It imposes a legal obligation on the counties to provide, among other things, medical services to the poor. (*Board of Supervisors v. Superior Court, supra, 207 Cal. App. 3d at p. 557*; *County of San Diego v. Viloria (1969) 276 Cal. App. 2d 350, 352 [80 Cal. Rptr. 869]*.) *Section 17000* was enacted long before, and has existed continuously since, January 1, 1975, the date set forth in *subdivision (c) of section 6 of article XIII B of the California Constitution*. Thus, *section 17000* falls within subdivision (c)'s language of "[l]egislative mandates enacted prior to January 1, 1975," rendering it exempt from the reimbursement provision of section 6.

Contrary to the majority's conclusion, the Legislature's 1982 legislation removing the category of "medically indigent persons" from Medi-Cal did not meet *California Constitution, article XIII B, section 6*'s requirement of imposing on local government "a new program or higher level of service," and therefore did not entitle the counties to reimbursement **[**342]** **[***164]** from the state under section 6 of article **[****103]** XIII B. The counties' legal obligation to provide medical care arises from *section 17000*, not from the subsequently enacted **[*115]** 1982 legislation. The majority itself concedes that the 1982 legislation merely "trigger[ed] the counties' responsibility to provide medical care as providers of last resort under *section 17000*." (Maj. opn., *ante*, at p. 98.) Although certain actions by the state and the federal government during the 1970's and 1980's may have alleviated the counties' financial burden of providing medical care for the indigent, those actions did not supplant or remove the counties' existing legal obligation under *section 17000* to furnish such care. (*Cooke v. Superior Court (1989) 213 Cal. App. 3d 401, 411 [261 Cal. Rptr. 706]*; *Madera Community Hospital v. County of Madera (1984) 155 Cal. App. 3d 136, 151 [201 Cal. Rptr. 768]*.)

The state's reimbursement obligation under *section 6 of article XIII B of the California Constitution* arises only if, after January 1, 1975, the date mentioned in subdivision (c) of section 6, the state imposes on the counties "a new program or higher level of service." That did not occur here. As I pointed out above, **[****104]** the counties' legal obligation to provide for the poor arises from *section 17000*, enacted long before the January 1, 1975, cutoff date set forth in subdivision (c) of section 6. That statutory obligation remained in effect when, during a certain period after 1975, the state assumed the financial burden of providing medical care to the poor, in an effort to help the counties deal with a drastic drop in local revenue as a result of the voters' passage of Proposition 13, which severely limited property taxes. Because the counties' statutory obligation to provide health care to the poor was created before 1975 and has existed unchanged since that time, the state's 1982 termination of Medi-Cal eligibility for "medically indigent persons" did not create a "new program or higher level of service" within the meaning of section 6 of article XIII B, and therefore did not obligate the state to reimburse the counties for their expenditures in health care for the poor.

III

In imposing on the state a legal obligation to reimburse the counties for their cost of furnishing medical services to the poor, the majority's holding appears to bail out financially strapped counties. Not so.

Today's **[****105]** decision will immediately result in a reduction of state funds available to the counties. Here is why. In 1991, the Legislature added *section 11001.5* to the Revenue and Taxation Code, providing that 24.33 percent of the moneys collected by the Department of Motor Vehicles as motor vehicle license fees must be deposited in the State Treasury to the credit of the Local Revenue Fund. In anticipation of today's decision, the Legislature stated in subdivision (d) of this statute: "This section shall cease to be operative on **[*116]** the first day of the month following the month in which the Department of Motor Vehicles is notified by the Department of Finance of a final judicial determination by the California Supreme Court or any California court

[2] Section 6 of article XIII B pertains to two types of mandates: new programs and higher levels of service. The words "such subvention" in the first paragraph of this constitutional provision makes the subdivision (c) exemption applicable to both types of mandates.

of appeal [that]: [P] . . . [P] (2) The state is obligated to reimburse counties for costs of providing medical services to medically indigent adults pursuant to Chapters 328 and 1594 of the Statutes of 1982." (Rev. & Tax. Code, § 11001.5, subd. (d); see also *id*., § 10753.8, subd. (b).)

The loss of such revenue, which the Attorney General estimates at "hundreds of millions of dollars," may put the counties in a serious financial **[****106]** bind. Indeed, realization of the scope of this revenue loss appears to explain why the County of Los Angeles, after a superior court victory in its action seeking state reimbursement for the cost of furnishing medical care to "medically indigent persons," entered into a settlement with the state under which the superior court judgment was effectively obliterated by a stipulated reversal. (See Neary v. Regents of University of California (1992) 3 Cal. 4th 273 [10 Cal. Rptr. 2d 859, 834 P.2d 119].) In a letter addressed to the Second District Court of Appeal, sent while the County of Los Angeles was engaged in settlement negotiations with the state, the county's attorney referred to the legislation mentioned above in these terms: "This legislation was quite clearly written with this case in mind. Consequently, **[**343] [***165]** to pursue this matter, *the County of Los Angeles risks losing a funding source it must have to maintain its health services programs at current levels*. The additional funding that might flow to the County from a final judgment in its favor in this matter, is several years away *and is most likely of a lesser amount than this County's share of* **[****107]** *the vehicle license fees*." (Italics added.) Thus, the County of Los Angeles had apparently determined that a legal victory entitling it to reimbursement from the state for the cost of providing medical care to the category of "medically indigent persons" would not in fact serve its economic interests.

I have an additional concern. According to the majority, whenever there is a change in a state program that has the effect of increasing a county's financial burden under section 17000 there must be reimbursement by the state. This means that so long as section 17000 continues to exist, an increase in state funding to a particular county for the care of the poor, once undertaken, may be irreversible, thus locking the state into perpetual financial assistance to that county for health care to the needy. This would, understandably, be a major disincentive for the Legislature to ever increase the state's funding of a county's medical care for the poor.

The rigidity imposed by today's holding will have unfortunate consequences should the state's limited financial resources prove insufficient to **[*117]** reimburse the counties under section 6 of article XIII B of the California Constitution **[****108]** for the "new program or higher level of service" of providing medical care to the poor under section 17000. In that event, the state may be required to modify this "new program or higher level of service" in order to reconcile the state's reimbursement obligation with its finite resources and its other financial commitments. Such modifications are likely to take the form of limitations on eligibility for medical care or on the amount or kinds of medical care that the counties must provide to the poor under section 17000. A more flexible system--one that actively encouraged shared state and county responsibility for indigent medical care, using a variety of innovative funding mechanisms--would be less likely to result in a curtailment of medical services to the poor.

And if the Legislature is unable or unwilling to appropriate funds to comply with the majority's reimbursement order, the law allows the county to file "in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement." (Gov. Code, § 17612, subd. (c); see maj. opn., *ante*, at p. 82.) Such a declaration would do nothing to alleviate the **[****109]** plight of the poor.

Conclusion

The dispute in this case ultimately arises from a collision between the taxing limitations on the counties imposed by article XIII A of the state Constitution and the preexisting, open-ended mandate imposed on them under Welfare and Institutions Code section 17000 to provide medical care for the poor. As I have explained, the Legislature's assumption thereafter of some of the resulting financial burden to the counties did not repeal section 17000's mandate, nor did the Legislature's later termination of its financial support create a new mandate. In holding to the contrary, the majority imposes on the Legislature an obligation that the Legislature does not have under the law.

I recognize that my resolution of this issue--that under existing law the state has *no legal obligation* to reimburse the counties for health expenditures for the poor--would leave the counties in the same difficult position in which they find themselves now: providing funding for indigent medical care while maintaining other essential public services in a time of fiscal austerity. But complex policy questions such as the structuring and

funding of indigent medical care **[****110]** are best left to the counties, the Legislature, and ultimately the electorate, rather than to the courts. It is the counties that must figure out how to allocate the limited budgets imposed on them by the electorate's adoption of articles XIII A and XIII B of the California Constitution among indigent medical care programs and a host of other pressing **[*118]** and essential needs. It is the Legislature that must decide whether to furnish financial assistance to the counties so **[***166]** they **[**344]** can meet their *section 17000* obligations to provide for the poor, and whether to continue to impose the obligations of *section 17000* on the counties. It is the electorate that must decide whether, given the ever-increasing costs of meeting the needs of indigents under *section 17000*, counties should be afforded some relief from the taxing and spending limits of articles XIII A and XIII B, both enacted by voters' initiative. These are hard choices, but for the reasons just given they are better made by the representative branches of government and the electorate than by the courts.

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1. *County of Fresno v. State, 53 Cal. 3d 482*

Client/Matter: -None-
Search Terms: County of Fresno v. State, 53 Cal. 3d 482
Search Type: Natural Language
Narrowed by:

Content Type	Narrowed by
Cases	-None-

County of Fresno v. State

Supreme Court of California

April 22, 1991.

No. S015637.

Reporter
53 Cal. 3d 482 *; 808 P.2d 235 **; 280 Cal. Rptr. 92 ***; 1991 Cal. LEXIS 1363 ****; 91 Daily Journal DAR 4617; 91 Cal. Daily Op. Service 2870

COUNTY OF FRESNO, Plaintiff and Appellant, v. THE STATE OF CALIFORNIA et al., Defendants and Respondents.

Prior History: [**1]** Superior Court of Fresno County, No. 379518-4, Gary S. Austin, Judge.

Core Terms

local government, costs, mandates, reimbursement, taxes, user fee, subvention, facially, powers, voters, new program, appropriations, expenses, increased level of service, mandated costs, limitations, initiative, regulation, Statewide, programs, spending, charges, Ballot, levy

Case Summary

Procedural Posture

Appellant county sought review of a judgment from the Court of Appeal (California), which affirmed the trial court's dismissal of appellant's petition for writ of mandate that sought a declaration that the state reimbursement statute, *Cal. Gov't Code § 17556(d)*, was facially unconstitutional under *Cal. Const. art. XIII B, § 6*.

Overview

Appellant county filed a petition for writ of mandate and a complaint for declaratory relief against respondents, state, commission, and others, that sought to vacate respondent commission's decision, and sought a declaration that *Cal. Gov't Code § 17556(d)* was unconstitutional under *Cal. Const. art. XIII B, § 6*. The trial court denied appellant's petition for writ of mandate and complaint for declaratory relief. The appellate court affirmed. The court granted review for determination on whether *§ 17556(d)* was facially constitutional under *Cal. Const. art. XIII B, § 6*. The court rejected appellant's argument that the state's enactment of *§ 17556(d)* created a new exception to the reimbursement requirement of *Cal. Const. art. XIII B, § 6*. The court held that the *§ 17556(d)* was facially constitutional under *Cal. Const. art. XIII B, § 6*. The court affirmed the appellate court's judgment.

Outcome

The court affirmed the appellate court's judgment, and affirmed the dismissal of appellant county's petition for writ of mandate because the state's reimbursement statute was facially constitutional under the California constitution.

LexisNexis® Headnotes

Constitutional Law > Congressional Duties & Powers > Spending & Taxation

HN1[] **Congressional Duties & Powers, Spending & Taxation**

See *Cal. Const. art. XIII B, § 6*.

Constitutional Law > Congressional Duties & Powers > Spending & Taxation

Governments > Local Governments > Administrative Boards

Governments > Local Governments > Claims By & Against

HN2[] **Congressional Duties & Powers, Spending & Taxation**

Cal. Gov't Code §§ 17500-17630 is enacted to implement *Cal. Const. art. XIII B, § 6*. *Cal. Gov't Code § 17500*. A quasi-judicial body is created called the Commission on State Mandates to hear and decide upon any claim by a local government that the local government is entitled to be reimbursed by the state for costs as required by *Cal. Const. art. XIII B, § 6*. *Cal. Gov't. Code § 17551(a)*.

Constitutional Law > Congressional Duties & Powers > Spending & Taxation

HN3[] **Congressional Duties & Powers, Spending & Taxation**

Costs is defined as costs mandated by the state for any increased costs that the local government is required to incur as a result of any statute, or any executive order implementing any statute, which mandates a new program or higher level of service of any existing program within the meaning of *Cal. Const. art. XIII B, § 6*. *Cal. Gov't. Code § 17514*.

Constitutional Law > Congressional Duties & Powers > Spending & Taxation

Governments > Local Governments > Duties & Powers

HN4[] **Congressional Duties & Powers, Spending & Taxation**

Cal. Gov't Code § 17556(d) declares that the commission shall not find costs mandated by the state if, after a hearing, the commission finds that the local government has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

Constitutional Law > Congressional Duties & Powers > Spending & Taxation

HN5[] **Congressional Duties & Powers, Spending & Taxation**

Cal. Const. arts. XIIIA, XIIIB work in tandem, together restricting the California government's power both to levy and to spend taxes for public purposes.

Constitutional Law > Congressional Duties & Powers > Spending & Taxation

Tax Law > State & Local Taxes > General Overview

HN6[] **Congressional Duties & Powers, Spending & Taxation**

Cal. Const. art. XIIIB intention is to apply to taxation specifically that provides permanent protection for taxpayers from excessive taxation, and a reasonable way to provide discipline in tax spending at state and local levels.

Constitutional Law > Congressional Duties & Powers > Spending & Taxation

HN7[] **Congressional Duties & Powers, Spending & Taxation**

The relevant appropriations subject to limitation is defined as any authorization to expend during a fiscal year the proceeds of taxes. Cal. Const. art. XIIIB, § 8(b). Proceeds of taxes is defined as including all tax revenues and the proceeds to government from regulatory licenses, user charges, and user fees to the extent that such proceeds exceed the costs reasonably

borne by government in providing the regulation, product, or service. Cal. Const. art. XIIIB, § 8(c). Excess proceeds from licenses, charges, and fees are taxes.

Constitutional Law > Congressional Duties & Powers > Spending & Taxation

Governments > Local Governments > Finance

HN8[] **Congressional Duties & Powers, Spending & Taxation**

Cal. Const. art. XIIIB, § 6 is included in recognition that Cal. Const. art. XIIIA severely restricts the taxing powers of local governments. The provision was intended to preclude the state from shifting financial responsibility for carrying out governmental functions onto local entities that are ill equipped to handle the task.

Constitutional Law > Congressional Duties & Powers > Spending & Taxation

Governments > Local Governments > Duties & Powers

HN9[] **Congressional Duties & Powers, Spending & Taxation**

Cal. Gov't Code § 17556(d) provides that the commission shall not find costs mandated by the state if, after a hearing, the commission finds that the local government has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

Headnotes/Summary

Summary
CALIFORNIA OFFICIAL REPORTS SUMMARY

A county filed a test claim with the Commission on State Mandates seeking, under *Cal. Const., art. XIII B, § 6* (state must provide subvention of funds to reimburse local governments for costs of state-mandated programs or increased levels of service), reimbursement from the state for costs incurred in implementing the Hazardous Materials Release Response Plans and Inventory Act (*Health & Saf. Code, § 25500 et seq.*). The commission found the county had the authority to charge fees to pay for the program, and the program was thus not a reimbursable state-mandated program under *Gov. Code, § 17556, subd. (d)*, which provides that costs are not state-mandated if the agency has the authority to levy a charge or fee sufficient to pay for the program. The county filed a petition for writ of mandate and a complaint for declaratory relief against the state. The trial court denied relief. (Superior Court of Fresno County, No. 379518-4, Gary S. Austin, Judge.) The Court of Appeal, Fifth Dist., No. F011925, affirmed.

The Supreme Court affirmed the decision of the Court of Appeal. The court held, as to the single issue on review, that *Gov. Code, § 17556, subd. (d)*, was facially constitutional under *Cal. Const., art. XIII B, § 6*. It held art. XIII B was not intended to reach beyond taxation, and § 6 was included in art. XIII B in recognition that *Cal. Const., art. XIII A*, severely restricted the taxing powers of local governments. It held that *art. XIII B, § 6* was designed to protect the tax revenues of local governments from state mandates that would require an expenditure of such revenues and, when read in textual and historical context, requires subvention only when the costs in question can be recovered solely from tax revenues. Accordingly, the court held that *Gov. Code, § 17556, subd. (d)*, effectively construed the term "cost" in the constitutional provision as excluding expenses that are recoverable from sources other than taxes, and that such a construction is altogether sound. (Opinion by Mosk, J., with Lucas, C. J., Broussard, Panelli, Kennard, JJ., and Best (Hollis G.), J., * concurring. Separate concurring opinion by Arabian, J.)

Headnotes
CALIFORNIA OFFICIAL REPORTS HEADNOTES

Classified to California Digest of Official Reports, 3d Series

CA(1)[] **(1)**

State of California § 11—Reimbursement to Local Governments for State-mandated Costs—Costs for Which Fees May Be Levied—Validity of Exclusion.

--In a proceeding by a county seeking reversal of a

* Presiding Justice, Court of Appeal, Fifth Appellate District, assigned by the Chairperson of the Judicial Council.

decision by the Commission on State Mandates that the state was not required by Cal. Const., art. XIII B, § 6, to reimburse the county for costs incurred in implementing the Hazardous Materials Release Response Plans and Inventory Act (Health & Saf. Code, § 25500 et seq.), the trial court properly found that Gov. Code, § 17556, subd. (d) (costs are not state-mandated if agency has authority to levy charge or fee sufficient to pay for program), was facially constitutional. Cal. Const., art. XIII B, was intended to apply to taxation and was not intended to reach beyond taxation, as is apparent from its language and confirmed by its history. It was designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues; read in its textual and historical contexts, it requires subvention only when the costs in question can be recovered solely from tax revenues. Gov. Code, § 17556, subd. (d), effectively construes the term "costs" in the constitutional provision as excluding expenses that are recoverable from sources other than taxes, and that construction is altogether sound. Accordingly, Gov. Code, § 17556, subd. (d), is facially constitutional under Cal. Const., art. XIII B, § 6.

[See 9 **Witkin,** Summary of Cal. Law (9th ed. 1988) Taxation, § 124.]

Counsel: Max E. Robinson, County Counsel, and Pamela A. Stone, Deputy County Counsel, for Plaintiff and Appellant.

B. C. Barnum, County Counsel (Kern), and Patricia J. Randolph, Deputy County Counsel, as Amici Curiae on behalf of Plaintiff and Appellant.

John K. Van de Kamp and Daniel E. Lungren, Attorneys General, N. Eugene Hill, Assistant Attorney General, and Richard M. Frank, Deputy Attorney General, for Defendants and Respondents.

Judges: Mosk, J. Lucas, C.J., Broussard, J., Panelli, J., Kennard, J., Best (Hollis G.), J., * concur. Arabian, J., concurring.

Opinion by: MOSK

Opinion

[*484] [236] [***93]** MOSK, J.

We granted review in this proceeding to decide whether section 17556, subdivision (d), of the Government Code (section 17556(d)) is facially valid under article XIII B, section 6, of the California Constitution (article XIII B, section 6).

HN1[⬆] Article XIII B, section 6, provides: "Whenever the Legislature or **[****2]** 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 reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates: [P] (a) Legislative mandates requested by the local agency affected; [P] (b) Legislation defining a new crime or changing an existing definition of a crime; or [P] (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975."

The Legislature enacted ***HN2***[⬆] Government Code sections 17500 through 17630 to implement article XIII B, section 6. (Gov. Code, § 17500.) It created a "quasi-judicial body" (*ibid* .) called the Commission on State Mandates (commission) (*id* ., § 17525) to "hear and decide upon [any] claim" by a local government that the local government "is entitled to be reimbursed by the state for costs" as required by article XIII B, section 6. (Gov. Code, § 17551, subd. (a).) It defined ***HN3***[⬆] "costs" as "costs mandated by the state"—"any increased **[****3]** costs" that the local government "is required to incur . . . as a result of any statute . . . , or any executive order implementing any statute . . . , which mandates a new program or higher level of service of any existing program" within the meaning of article XIII B, section 6. (Gov. Code, § 17514.) Finally,

* Presiding Justice, Court of Appeal, Fifth Appellate District, sitting under assignment by the Chairperson of the Judicial Council.

HN4[↑] in section 17556(d) it declared that "The commission shall not find costs mandated by the state . . . if, after a hearing, the commission finds that" the local government "has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service."

For the reasons discussed below, we conclude that section 17556(d) is facially constitutional under article XIII B, section 6.

[*485] I. FACTS AND PROCEDURAL HISTORY

The present proceeding arose after the Legislature enacted the Hazardous Materials Release Response Plans and Inventory Act (Act). (Health & Saf. Code, § 25500 et seq.) The Act establishes minimum statewide standards for business and area plans relating to the handling and release or threatened release of hazardous materials. (*Id* ., § 25500.) It requires local governments to implement its provisions. **[****4]** (*Id* ., § 25502.) To cover the costs they may incur, it authorizes them to collect fees from those who handle hazardous materials. (*Id*., § 25513.)

The County of Fresno (County) implemented the Act but chose not to impose the authorized fees. Instead, it filed a so-called "test" or initial claim with the commission (Gov. Code, § 17521) seeking reimbursement from the State of California (State) under article XIII B, section 6. After a hearing, the commission rejected the claim. In its statement of decision, the commission made the following findings, among others: the Act constituted a "new program"; the County did indeed incur increased **[**237]** **[***94]** costs; but because it had authority under the Act to levy fees sufficient to cover such costs, section 17556(d) prohibited a finding of reimbursable costs.

The County then filed a petition for writ of mandate and complaint for declaratory relief against the State, the commission, and others, seeking vacation of the commission's decision and a declaration that section 17556(d) is unconstitutional under article XIII B, section 6. While the matter was pending, the commission amended its statement of decision to include another basis for denial **[****5]** of the test claim: the Act did not constitute a "program" under the rationale of County of Los Angeles v. State of California (1987) 43 Cal.3d 46 [233 Cal.Rptr. 38, 729 P.2d 202] (*County of Los Angeles*), because it did not impose unique requirements on local governments.

After a hearing, the trial court denied the petition and effectively dismissed the complaint. It determined, inter alia, that mandate under Code of Civil Procedure section 1094.5 was the County's sole remedy, and that the commission was the sole properly named respondent. It also determined that section 17556(d) is constitutional under article XIII B, section 6. It did not address the question whether the Act constituted a "program" under *County of Los Angeles* . Judgment was entered accordingly.

The Court of Appeal affirmed. It held the Act did indeed constitute a "program" under County of Los Angeles , supra , 43 Cal.3d 46. It also held section 17556(d) is constitutional under article XIII B, section 6.

[*486] *CA(1)*[↑] **(1)** We granted review to decide a single issue, i.e., whether section 17556(d) is facially constitutional under article XIII B, section 6.

[**6]** II. DISCUSSION

We begin our analysis with the California Constitution. At the June 6, 1978, Primary Election, article XIII A was added to the Constitution through the adoption of Proposition 13, an initiative measure aimed at controlling ad valorem property taxes and the imposition of new "special taxes." (*Amador Valley Joint Union High Sch. Dist*. v. State Bd. of Equalization (1978) 22 Cal.3d 208, 231-232 [149 Cal.Rptr. 239, 583 P.2d 1281].) The constitutional provision imposes a limit on the power of state and local governments to adopt and levy taxes. (City of Sacramento v. State of California (1990) 50 Cal.3d 51, 59, fn. 1 [266 Cal.Rptr. 139, 785 P.2d 522] (*City of Sacramento*).)

At the November 6, 1979, Special Statewide Election, article XIII B was added to the Constitution through the adoption of Proposition 4, another initiative measure. That measure places limitations on the ability of both state and local governments to appropriate funds for expenditures.

HN5[↑] "Articles XIII A and XIII B work in tandem, together restricting California governments' power both to levy and **[****7]** to spend [taxes] for public purposes." (City of Sacramento , supra , 50 Cal.3d at p. 59, fn. 1.)

HN6[↑] Article XIII B of the Constitution was intended to apply to taxation specifically, to provide "permanent protection for taxpayers from excessive taxation" and "a reasonable way to provide discipline in tax spending at state and local levels." (See County of Placer v. Corin

(1980) 113 Cal.App.3d 443, 446 [170 Cal.Rptr. 232], quoting and following Ballot Pamp., Proposed Stats. and Amends. to Cal. Const. with arguments to voters, Special Statewide Elec. (Nov. 6, 1979), argument in favor of Prop. 4, p. 18.) To this end, it establishes an "appropriations limit" for both state and local governments (Cal. Const., art. XIII B, § 8, subd. (h)) and allows no "appropriations subject to limitation" in excess thereof (*id* ., § 2). (See County of Placer v. Corin , supra , 113 Cal.App.3d at p. 446.) It defines ***HN7***[⬆] the relevant "appropriations subject to limitation" as "any authorization to expend during a fiscal year the proceeds of taxes . . . ." (Cal. Const., art. XIII B, § 8, subd. (b).) It defines "proceeds of **[****8]** taxes" as including "all tax revenues and the proceeds to . . . government from," inter alia, "regulatory licenses, user charges, and user fees *to the extent that such proceeds exceed the costs reasonably borne by [government] in providing* **[**238] [***95]** *the regulation, product, or service* . . . ." (Cal. Const., art. XIII B, § 8, subd. (c), italics added.) Such "excess" proceeds from "licenses," "charges," and "fees" "are but **[*487]** *taxes* " for purposes here. (County of Placer v. Corin , supra , 113 Cal.App.3d at p. 451, italics in original.)

Article XIII B of the Constitution, however, was not intended to reach beyond taxation. That fact is apparent from the language of the measure. It is confirmed by its history. In his analysis, the Legislative Analyst declared that Proposition 4 "would not restrict the growth in appropriations financed from other [i.e., nontax] sources of revenue, including federal funds, bond funds, traffic fines, user fees based on reasonable costs, and income from gifts." (Ballot Pamp., Proposed Stats. and Amends. to Cal. Const. with arguments to voters, Special Statewide Elec. (Nov. 6, 1979), analysis by Legislative Analyst, **[****9]** p. 16.)

HN8[⬆] Section 6 was included in article XIII B in recognition that article XIII A of the Constitution severely restricted the taxing powers of local governments. (See County of Los Angeles , supra , 43 Cal.3d at p. 61.) The provision was intended to preclude the state from shifting financial responsibility for carrying out governmental functions onto local entities that were ill equipped to handle the task. (*Ibid* .; see *Lucia Mar Unified School Dist*. v. Honig (1988) 44 Cal.3d 830, 836, fn. 6 [244 Cal.Rptr. 677, 750 P.2d 318].) Specifically, it was designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues. Thus, although its language broadly declares that the "state shall provide a subvention of funds to reimburse . . . local government for the costs [of a state-mandated new] program or higher level of service," read in its textual and historical context section 6 of article XIII B requires subvention only when the costs in question can be recovered *solely from tax revenues* .

In view of the foregoing analysis, **[****10]** the question of the facial constitutionality of section 17556(d) under article XIII B, section 6, can be readily resolved. As noted, ***HN9***[⬆] the statute provides that "The commission shall not find costs mandated by the state . . . if, after a hearing, the commission finds that" the local government "has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service." Considered within its context, the section effectively construes the term "costs" in the constitutional provision as excluding expenses that are recoverable from sources other than taxes. Such a construction is altogether sound. As the discussion makes clear, the Constitution requires reimbursement only for those expenses that are recoverable solely from taxes. It follows that section 17556(d) is facially constitutional under article XIII B, section 6.

The County argues to the contrary. It maintains that section 17556(d) in essence creates a new exception to the reimbursement requirement of article XIII B, section 6, for self-financing programs and that the Legislature cannot create exceptions to the reimbursement requirement beyond those enumerated in the **[****11]** Constitution.

We do not agree that in enacting section 17556(d) the Legislature created a new exception to the reimbursement requirement of article **[*488]** XIII B, section 6. As explained, the Legislature effectively and properly construed the term "costs" as excluding expenses that are recoverable from sources other than taxes. In a word, such expenses are outside of the scope of the requirement. Therefore, they need not be explicitly excepted from its reach.

The County nevertheless argues that no matter how characterized, section 17556(d) is indeed inconsistent with article XIII B, section 6. Its contention is in substance as follows: the source of section 17556(d) is former Revenue and Taxation Code section 2253.2; at the time of Proposition 4, subdivision (b)(4) of that former section stated that the State Board of Control shall not allow a claim for reimbursement of costs mandated by the state if the legislation contains a self-financing authority; the **[**239] [***96]** drafters of

Proposition 4 incorporated some of the provisions of former *Revenue and Taxation Code section 2253.2* into article XIII B, section 6, but did not incorporate former subdivision (b)(4); their failure to do so reveals **[****12]** an intent to treat as immaterial the presence or absence of a "self-financing" provision; and such an intent is confirmed by the "legislative history" set out at page 55 in Spirit of 13, Inc., Summary of Proposed Implementing Legislation and Drafters' Intent: "the state may not arbitrarily declare that it is not going to comply with Section 6 . . . if the state provides new compensating revenues."

In our view, the County's argument is unpersuasive. Even if we assume arguendo that the intent of those who drafted Proposition 4 is as claimed, what is crucial here is the intent of those who voted for the measure. (See *County of Los Angeles , supra , 43 Cal.3d 46, 56*.) There is no substantial evidence that the voters sought what the County assumes the drafters desired. Moreover, the "legislative history" cited above cannot be considered relevant; it was written and circulated after the passage of Proposition 4. As such, it could not have affected the voters in any way.

To avoid this result, the County advances one final argument: "Based on the authority of *[section 17556(d)]*, the Commission on State Mandates refuses to hear mandates on **[****13]** the merits once it finds that the authority to charge fees is given by the Legislature. This position is taken whether or not fees can actually or legally be charged to recover the entire costs of the program."

[*489] The County appears to be making one or both of the following arguments: (1) the commission applies *section 17556(d)* in an unconstitutional manner; or (2) the Act's self-financing authority is somehow lacking. Such contentions, however, miss the designated mark. They raise questions bearing on the constitutionality of *section 17556(d)* as applied and the legal efficacy of the authority conferred by the Act. The sole issue on review, however, is the facial constitutionality of *section 17556(d)*.

III. CONCLUSION

For the reasons set forth above, we conclude that *section 17556(d)* is facially constitutional under article XIII B, section 6.

The judgment of the Court of Appeal is affirmed.

Lucas, C. J., Broussard, J., Panelli, J., Kennard, J., and Best (Hollis G.), J., * concurred.

[**14]**

Concur by: ARABIAN

Concur

ARABIAN, J., Concurring.

I concur in the determination that *Government Code section 17556, subdivision (d)* [1] (*section 17556(d)*), does not offend *article XIII B, section 6, of the California Constitution* (*article XIII B, section 6*). In my estimation, however, the constitutional measure of the issue before us warrants fuller examination than the majority allow. A literalistic analysis begs the question of whether the Legislature had the authority to act statutorily upon a subject matter the electorate has spoken to constitutionally through the initiative process.

Article XIII B, section 6, unequivocally commands that "the state shall provide a subvention of funds to reimburse . . . local government for the costs of [a new] program or increased level of service" except as specified therein. Article XIII B does not define this reference to "costs." (See *Cal. Const., art. XIII B, § 8*.) Rather, the Legislature assumed the **[****15]** task of explicating the related concept of "costs mandated by the state" when it created the Commission on State Mandates and enacted procedures intended to implement *article XIII B, section 6*, more effectively. (See *§ 17500 et seq.*) As part of this statutory scheme, it exempted the state from its constitutionally imposed subvention obligation under certain enumerated circumstances. Some of these exemptions the electorate expressly contemplated in approving *article XIII B, section 6* (*§ 17556, subds. (a)*, *(c)*, & *(g)*; see **[**240]** **[***97]** *§ 17514*), while others are strictly of legislative formulation and derive from **[*490]** former *Revenue and Taxation Code section 2253.2*. (*§ 17556, subds. (b)*, *(d)*, *(e)*, & *(f)*.)

The majority find *section 17556* valid notwithstanding

* Presiding Justice, Court of Appeal, Fifth Appellate District, assigned by the Chairperson of the Judicial Council.

[1] Unless otherwise indicated, all further statutory references are to the Government Code.

the mandatory language of article XIII B, section 6, based on the circular and conclusory rationale that "the Legislature effectively and properly construed the term 'costs' as excluding expenses that are recoverable from sources other than taxes. In a word, such expenses are outside of the scope of the [subvention] requirement. Therefore, they need not be explicitly excepted from its reach." (Maj. opn., *ante* , at p. 488.) In my view, **[****16]** excluding or otherwise removing something from the purview of a law is tantamount to creating an exception thereto. When an exclusionary implication is clear from the import or effect of the statutory language, use of the word "except" should not be necessary to construe the result for what it clearly is. In this circumstance, "I would invoke the folk wisdom that if an object looks like a duck, walks like a duck and quacks like a duck, it is likely to be a duck." (*In re Deborah C. (1981) 30 Cal.3d 125, 141 [177 Cal.Rptr. 852, 635 P.2d 446]* (conc. opn. by Mosk, J.).)

Of at least equal importance, *section 17500 et seq.* constitutes a legislative implementation of article XIII B, section 6. As such, the overall statutory scheme must comport with the express constitutional language it was designed to effectuate as well as the implicit electoral intent. Eschewing semantics, I would squarely and forthrightly address the fundamental and substantial question of whether the Legislature could lawfully enlarge upon the scope of article XIII B, section 6, to include exceptions not originally designated in the initiative.

I do not hereby seek to undermine **[****17]** the majority holding but rather to set it on a firmer constitutional footing. "[S]tatutes must be given a reasonable interpretation, one which will carry out the intent of the legislators and render them valid and operative rather than defeat them. In so doing, sections of the Constitution, as well as the codes, will be harmonized where reasonably possible, in order that all may stand." (*Rose v. State of California (1942) 19 Cal.2d 713, 723 [123 P.2d 505]*; see also *County of Los Angeles v. State of California (1987) 43 Cal.3d 46, 58 [233 Cal.Rptr. 38, 729 P.2d 202]*.) To this end, it is a fundamental premise of our form of government that "the Constitution of this State is not to be considered as a grant of power, but rather as a restriction upon the powers of the Legislature; and . . . it is competent for the Legislature to exercise all powers not forbidden . . . ." (*People v. Coleman (1854) 4 Cal. 46, 49*.) "Two important consequences flow from this fact. First, the entire law-making authority of the state, except the people's right of initiative and referendum, is vested **[****18]** in the **[*491]** Legislature, and that body may exercise any and all legislative powers which are not expressly or by necessary implication denied to it by the Constitution. [Citations.] *In other words, 'we do not look to the Constitution to determine whether the legislature is authorized to do an act, but only to see if it is prohibited* .' [Citation.] [P] Secondly, all intendments favor the exercise of the Legislature's plenary authority: 'If there is any doubt as to the Legislature's power to act in any given case, the doubt should be resolved in favor of the Legislature's action. Such restrictions and limitations [imposed by the Constitution] are to be construed strictly, and are not to be extended to include matters not covered by the language used.' [Citations.]" (*Methodist Hosp. of Sacramento v. Saylor (1971) 5 Cal.3d 685, 691 [97 Cal.Rptr. 1, 488 P.2d 161]*, italics added.) "Specifically, the express enumeration of legislative powers is not an exclusion of others not named unless accompanied by negative terms. [Citations.]" (*Dean v. Kuchel (1951) 37 Cal.2d 97, 100 [230 P.2d 811]*.)

As **[****19]** the majority opinion impliedly recognizes, neither the language nor the intent of article XIII B conflicts with the exercise of legislative prerogative we review today. Of paramount significance, neither section 6 nor any other provision of article XIII B prohibits statutory delineation of additional **[**241]** **[***98]** circumstances obviating reimbursement for state mandated programs. (See *Dean v. Kuchel , supra , 37 Cal.2d at p. 101*; *Roth Drugs, Inc. v. Johnson (1936) 13 Cal.App.2d 720, 729 [57 P.2d 1022]*; see also *Kehrlein v. City of Oakland (1981) 116 Cal.App.3d 332, 338 [172 Cal.Rptr. 111]*.)

Furthermore, the initiative was "[b]illed as a flexible way to provide discipline in government spending" by creating appropriations limits to restrict the amount of such expenditures. (*County of Placer v. Corin (1980) 113 Cal.App.3d 443, 447 [170 Cal.Rptr. 232]*; see *Cal. Const., art. XIII B, § 1*.) By their nature, user fees do not affect the equation of local government spending: While they facilitate implementation of newly mandated state programs or increased **[****20]** levels of service, they are excluded from the "appropriations subject to limitations" calculation and its attendant budgetary constraints. (See *Cal. Const., art. XIII B, § 8*; see also *City Council v. South (1983) 146 Cal.App.3d 320, 334 [194 Cal.Rptr. 110]*; *County of Placer v. Corin , supra , 113 Cal.App.3d at pp. 448-449*; *Cal. Const., art. XIII B, § 3, subd. (b)*; cf. *Russ Bldg. Partnership v. City and County of San Francisco (1987) 199 Cal.App.3d 1496, 1505 [246 Cal.Rptr. 21]* ["fees not exceeding the

reasonable cost of providing the service or regulatory activity for which the fee is charged and which are not levied for general revenue purposes, have been considered outside the realm of "special taxes" [limited by California Constitution, article XIII A]q "]; Terminal Plaza Corp. v. City [*492] and County of San Francisco (1986) 177 Cal.App.3d 892, 906 [223 Cal.Rptr. 379] [same].)

This conclusion fully accommodates the intent of the voters in adopting article XIII B, as reflected in the ballot materials accompanying the proposition. **[****21]** (See Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization (1978) 22 Cal.3d 208, 245-246 [149 Cal.Rptr. 239, 583 P.2d 1281].) In general, these materials convey that "[t]he goals of article XIII B, of which section 6 is a part, were to protect residents from excessive taxation and government spending." (County of Los Angeles v. State of California , supra , 43 Cal.3d at p. 61; Huntington Park Redevelopment Agency v. Martin (1985) 38 Cal.3d 100, 109-110 [211 Cal.Rptr. 133, 695 P.2d 220].) To the extent user fees are not borne by the general public or applied to the general revenues, they do not bear upon this purpose. Moreover, by imputation, voter approval contemplated the continued imposition of reasonable user fees outside the scope of article XIII B. (Ballot Pamp., Proposed Amends. to Cal. Const. with arguments to voters, Limitation of Government Appropriations, Special Statewide Elec. (Nov. 6, 1979), arguments in favor of and against Prop. 4, p. 18 [initiative "WILL curb excessive user fees imposed by local government" **[****22]** but "will NOT eliminate user fees . . ."]; see County of Placer v. Corin , supra , 113 Cal.App.3d at p. 452.)

"The concern which prompted the inclusion of section 6 in article XIII B was the perceived attempt by the state to enact legislation or adopt administrative orders creating programs to be administered by local agencies, thereby transferring to those agencies the fiscal responsibility for providing services which the state believed should be extended to the public." (County of Los Angeles v. State of California , supra , 43 Cal.3d at p. 56; see City of Sacramento v. State of California (1990) 50 Cal.3d 51, 66 [266 Cal.Rptr. 139, 785 P.2d 522].) "Section 6 had the additional purpose of precluding a shift of financial responsibility for carrying out governmental functions from the state to local agencies which had had their taxing powers restricted by the enactment of article XIII A in the preceding year and were ill equipped to take responsibility for any new programs." (County of Los Angeles v. State of California , supra , 43 Cal.3d at p. 61.) **[****23]** An exemption from reimbursement for state mandated programs for which local governments are authorized to charge offsetting user fees does not frustrate or compromise these goals or otherwise disturb the balance of local government financing **[**242]** **[***99]** and expenditure. [2] (See County of Placer v. Corin , supra , 113 Cal.App.3d at p. 452, [*493] fn. 7.) Article XIII B, section 8, subdivision (c), specifically includes regulatory licenses, user charges, and user fees in the appropriations limitation equation only "to the extent that those proceeds exceed the costs reasonably borne by [the governmental] entity in providing the regulation, product, or service . . . ."

[**24]** The self-executing nature of article XIII B does not alter this analysis. "It has been uniformly held that the legislature has the power to enact statutes providing for reasonable regulation and control of rights granted under constitutional provisions. [Citations.]" (Chesney v. Byram (1940) 15 Cal.2d 460, 465 [101 P.2d 1106].) ""Legislation may be desirable, by way of providing convenient remedies for the protection of the right secured, or of regulating the claim of the right so that its exact limits may be known and understood; but all such legislation must be subordinate to the constitutional provision, and in furtherance of its purpose, and must not in any particular attempt to narrow or embarrass it." [Citations.]" (Id ., at pp. 463-464; see also County of Contra Costa v. State of California (1986) 177 Cal.App.3d 62, 75 [222 Cal.Rptr. 750].) Section 17556(d) is not "merely [a] transparent attempt[] to do indirectly that which cannot lawfully be done directly." (Carmel Valley Fire Protection Dist. v. State of California (1987) 190 Cal.App.3d 521, 541 [234 Cal.Rptr. 795].) **[****25]** On the contrary, it creates no conflict with the constitutional directive it subserves. Hence, rather than pursue an interpretive expedient, this court should expressly declare that it operates as a valid legislative implementation thereof.

"[Initiative] provisions of the Constitution and of charters and statutes should, as a general rule, be liberally construed in favor of the reserved power. [Citations.] As

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[2] This conclusion also accords with the traditional and historical role of user fees in promoting the multifarious functions of local government by imposing on those receiving a service the cost of providing it. (Cf. County of Placer v. Corin , supra , 113 Cal.App.3d at p. 454 ["Special assessments, being levied only for improvements that benefit particular parcels of land, and not to raise general revenues, are simply not the type of exaction that can be used as a mechanism for circumventing these tax relief provisions. [Citation.]"].)

opposed to that principle, however, 'in examining and ascertaining the intention of the people with respect to the scope and nature of those . . . powers, it is proper and important to consider what the consequences of applying it to a particular act of legislation would be, and if upon such consideration it be found that by so applying it the inevitable effect would be greatly to impair or wholly destroy the efficacy of some other governmental power, the practical application of which is essential and, perhaps, . . . indispensable, to the convenience, comfort, and well-being of the inhabitants of certain legally established districts or subdivisions of the state or of the whole state, then in such case the courts may and should assume that the people intended no such result **[****26]** to flow from the application of those powers and that they do not so apply.' [Citation.]" (*Hunt v. Mayor & Council of Riverside (1948) 31 Cal.2d 619, 628-629 [191 P.2d 426]*.)

[*494] This court is not infrequently called upon to resolve the tension of apparent or actual conflicts in the express will of the people. [3] Whether that expression emanates directly from the ballot or indirectly through legislative implementation, each deserves our fullest estimation and effectuation. Given the historical and abiding role of government by initiative, I decline to circumvent that responsibility and accept uncritically the Legislature's self-validating statutory scheme as the basis for approving **[***100]** the exercise **[**243]** of its prerogative. It is not enough to say a broader constitutional analysis yields the same result and therefore is unnecessary. We provide a higher quality of justice harmonizing rather than ignoring the divers voices of the people, for such is the nature of our office.

[**27]**

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[3] See, e.g., *Zumwalt v. Superior Court (1989) 49 Cal.3d 167 [260 Cal.Rptr. 545, 776 P.2d 247]*; *Los Angeles County Transportation Com. v. Richmond (1982) 31 Cal.3d 197 [182 Cal.Rptr. 324, 643 P.2d 941]*; *California Housing Finance Agency v. Patitucci (1978) 22 Cal.3d 171 [148 Cal.Rptr. 875, 583 P.2d 729]*; *California Housing Finance Agency v. Elliott (1976) 17 Cal.3d 575 [131 Cal.Rptr. 361, 551 P.2d 1193]*; *Blotter v. Farrell (1954) 42 Cal.2d 804 [270 P.2d 481]*; *Dean v. Kuchel , supra , 37 Cal.2d 97*; *Hunt v. Mayor & Council of Riverside , supra , 31 Cal.2d 619*.

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1. *Kinlaw v. State of California, 54 Cal. 3d 326*

Client/Matter: -None-
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Content Type	Narrowed by
Cases	-None-

Kinlaw v. State of California

Supreme Court of California

August 30, 1991

No. S014349

Reporter
54 Cal. 3d 326 *; 814 P.2d 1308 **; 285 Cal. Rptr. 66 ***; 1991 Cal. LEXIS 3745 ****; 91 Daily Journal DAR 10744; 91 Cal. Daily Op. Service 7086

FRANCES KINLAW et al., Plaintiffs and Appellants, v. THE STATE OF CALIFORNIA et al., Defendants and Respondents

Prior History: [**1]** Superior Court of Alameda County, No. 632120-4, Henry Ramsey, Jr., and Demetrios P. Agretelis, Judges.

Disposition: The judgment of the Court of Appeal is reversed.

Core Terms

funds, reimbursement, local agency, school district, costs, state mandate, local government, healthcare, medically indigent, merits, taxpayers, mandates, programs, effective, Finance, new program, obligations, financial responsibility, spending limit, expenditures, subvention, Italics, appropriations limit, appropriations, state-mandated, declaratory, budget, state and county, transferring, injunction

Case Summary

Procedural Posture

Defendant State of California and the Director of the Department of Health Services, challenged an order of the court of appeal (California), which ruled that plaintiffs, medically indigent adults and taxpayers, had standing to seek enforcement of *Cal. Const. art., XIII B, § 6*. The court of appeal held that their class action seeking declaratory and injunctive relief was not barred by the availability of administrative remedies.

Overview

Plaintiffs, medically indigent adults and taxpayers, filed a class-action suit against defendants, State of California and the Director of the Department of Health Services. Plaintiffs sought enforcement of *Cal. Const. art. XIII B, § 6*, which imposed on defendant state an obligation to reimburse local agencies for the cost of most programs and services they were required to provide pursuant to a state mandate. Plaintiffs requested restoration of Medi-Cal, from which they were removed under 1982 Stats. ch. 328, or reimbursement to the county for the cost of providing health care to them. The trial court granted summary judgment to defendants. On appeal, the court of appeal held that plaintiffs had standing and that the action was not barred by the availability of administrative remedies. Defendants appealed. The court reversed and concluded that plaintiffs lacked standing. The legislature adopted a comprehensive legislative scheme with the express intent of providing the exclusive remedy for a claimed violation of *art. XIII, § 6*. The administrative remedy created was adequate to fully implement *art. XIII, § 6*. Plaintiffs had no right to any reimbursement for health care services.

Outcome
The court reversed and ruled that plaintiffs, medically indigent adults and taxpayers, lacked standing. The legislature established administrative procedures for local agencies and school districts directly affected by a state mandate to seek reimbursement for the cost of programs and services. The legislature's comprehensive scheme was the exclusive means by which the state's obligations were to be determined and enforced.

LexisNexis® Headnotes

Governments > State & Territorial
Governments > Finance

Governments > Legislation > Initiative & Referendum

HN1[] **State & Territorial Governments, Finance**

Cal. Const. art. XIII B, § 6, adopted on November 6, 1979, as part of an initiative measure imposing spending limits on state and local government, also imposes on the state an obligation to reimburse local agencies for the cost of most programs and services which they must provide pursuant to a state mandate, if the local agencies were not under a preexisting duty to fund the activity.

Governments > State & Territorial
Governments > Finance

HN2[] **State & Territorial Governments, Finance**

See *Cal. Const. art. XIII B, § 6*.

Governments > Local Governments > Finance

Public Health & Welfare
Law > Healthcare > General Overview

HN3[] **Local Governments, Finance**

1982 Cal. Stats. ch. 328 removed medically indigent adults from the state Medi-Cal program effective January 1, 1983.

Civil Procedure > ... > Jury Trials > Right to Jury Trial > Actions in Equity

Governments > Local Governments > Claims By & Against

HN4[] **Right to Jury Trial, Actions in Equity**

An injunction against enforcement of a state mandate is available only after the legislature fails to include funding in a local government claims bill following a determination by the Commission on State Mandates that a state mandate exists. *Cal. Gov't Code §17612*.

Administrative Law > Agency Rulemaking > State Proceedings

HN5[] **Agency Rulemaking, State Proceedings**

The legislature enacted comprehensive administrative procedures for resolution of claims arising out of *Cal. Const. art. XIII B, § 6*. *Cal. Gov't Code § 17500*.

Administrative Law > Agency Rulemaking > State Proceedings

Civil Procedure > Pleading & Practice > Joinder of Claims & Remedies > Joinder of Claims

Civil Procedure > Pleading & Practice > Joinder of Claims & Remedies > General Overview

HN6[] **Agency Rulemaking, State Proceedings**

The legislature created the Commission on State Mandates (Commission), *Cal. Gov't Code § 17525*, to adjudicate disputes over the existence of a state-mandated program, *Cal. Gov't Code §§ 17551*, *17557*, and to adopt procedures for submission and adjudication of reimbursement claims. *Cal. Gov't Code § 17553*. The five-member Commission includes the Controller, the Treasurer, the Director of Finance, the Director of the Office of Planning and Research, and a

public member experienced in public finance. Cal. Gov't Code § 17525. The legislation establishes a test-claim procedure to expeditiously resolve disputes affecting multiple agencies, Cal. Gov't Code § 17554, establishes the method of payment of claims, Cal. Gov't Code §§ 17558, 17561, and creates reporting procedures which enable the legislature to budget adequate funds to meet the expense of state mandates. Cal. Gov't Code §§ 17562, 17600, 17612(a).

Administrative Law > Agency Rulemaking > State Proceedings

HN7[] Agency Rulemaking, State Proceedings

Pursuant to procedures which the Commission on State Mandates (Commission) is authorized to establish, Cal. Gov't Code § 17553, local agencies and school districts are to file claims for reimbursement of state-mandated costs with the Commission, Cal. Gov't Code §§ 17551, 17560, and reimbursement is to be provided only through this statutory procedure. Cal. Gov't Code §§ 17550, 17552.

Governments > Local Governments > General Overview

HN8[] Governments, Local Governments

"Local agency" means any city, county, special district, authority, or other political subdivision of the state. Cal. Gov't Code § 17518.

Education Law > Administration & Operation > Elementary & Secondary School Boards > Authority of School Boards

HN9[] Elementary & Secondary School Boards, Authority of School Boards

"School district" means any school district, community college district, or county superintendent of schools. Cal. Gov't Code § 17519.

Administrative Law > Agency Rulemaking > State Proceedings

HN10[] Agency Rulemaking, State Proceedings

The first reimbursement claim filed which alleges that a state mandate is created under a statute or executive order is treated as a "test claim." Cal. Gov't Code § 17521. A public hearing must be held promptly on any test claim. At the hearing on a test claim or on any other reimbursement claim, evidence may be presented not only by the claimant, but also by the Department of Finance and any other department or agency potentially affected by the claim. Cal. Gov't Code § 17553. Any interested organization or individual may participate in the hearing. Cal. Gov't Code § 17555.

Administrative Law > Judicial Review > General Overview

Civil Procedure > ... > Writs > Common Law Writs > Mandamus

Administrative Law > Agency Rulemaking > State Proceedings

HN11[] Administrative Law, Judicial Review

A local agency filing a test claim need not first expend sums to comply with the alleged state mandate, but may base its claim on estimated costs. Cal. Gov't Code § 17555. The Commission on State Mandates (Commission) must determine both whether a state mandate exists and, if so, the amount to be reimbursed to local agencies and school districts, adopting parameters and guidelines for reimbursement of any claims relating to that statute or executive order. Cal. Gov't Code § 17557. Procedures for determining whether local agencies have achieved statutorily authorized cost savings and for offsetting these savings against reimbursements are also provided. Cal. Gov't Code § 17620 et seq. Finally, judicial review of the Commission decision is available through petition for writ of mandate filed pursuant to Cal. Civ. Proc. Code § 1094.5. Cal. Gov't Code § 17559.

Administrative Law > Agency Rulemaking > State Proceedings

HN12[] Agency Rulemaking, State Proceedings

The parameters and guidelines adopted by the Commission on State Mandates must be submitted to

the controller, who is to pay subsequent claims arising out of the mandate. Cal. Gov't Code § 17558. Executive orders mandating costs are to be accompanied by an appropriations bill to cover the costs if the costs are not included in the budget bill, and in subsequent years the costs must be included in the budget bill. Cal. Gov't Code § 17561(a) and (b). Regular review of the costs is to be made by the legislative analyst, who must report to the legislature and recommend whether the mandate should be continued. Cal. Gov't Code § 17562.

Administrative Law > Agency Rulemaking > State Proceedings

HN13[] Agency Rulemaking, State Proceedings

The Commission on State Mandates is also required to make semiannual reports to the legislature of the number of mandates found and the estimated reimbursement cost to the state. Cal. Gov't Code § 17600. The legislature must then adopt a local government claims bill. If that bill does not include funding for a state mandate, an affected local agency or school district may seek a declaration from the superior court for the County of Sacramento that the mandate is unenforceable, and an injunction against enforcement. Cal. Gov't Code § 17612. Additional procedures, enacted in 1985, create a system of state-mandate apportionments to fund reimbursement. Cal. Gov't Code § 17615 et seq.

Administrative Law > Agency Rulemaking > State Proceedings

HN14[] Agency Rulemaking, State Proceedings

See Cal. Gov't Code § 17552.

Administrative Law > Separation of Powers > Constitutional Controls > General Overview

Constitutional Law > Substantive Due Process > Scope

Administrative Law > Agency Rulemaking > State Proceedings

HN15[] Separation of Powers, Constitutional Controls

Unless the exercise of a constitutional right is unduly restricted, the court must limit enforcement to the procedures established by the legislature.

Governments > Local Governments > Finance

Public Health & Welfare
Law > Healthcare > General Overview

HN16[] Local Governments, Finance

Cal. Gov't Code § 17563 gives the local agency complete discretion in the expenditure of funds received pursuant to Cal. Const. art. XIII B, § 6.

Governments > Local Governments > Finance

HN17[] Local Governments, Finance

See Cal. Gov't Code § 17563.

Civil Procedure > Judgments > Declaratory Judgments > General Overview

Governments > Local Governments > Claims By & Against

Governments > Local Governments > Finance

Public Health & Welfare
Law > Healthcare > General Overview

HN18[] Judgments, Declaratory Judgments

The remedy for the failure to fund a program is a declaration that the mandate is unenforceable. That relief is available only after the Commission on State Mandates has determined that a mandate exists and the legislature has failed to include the cost in a local government claims bill, and only on petition by the county. Cal. Gov't Code § 17612.

Headnotes/Summary

Summary
CALIFORNIA OFFICIAL REPORTS SUMMARY

Medically indigent adults and taxpayers brought an action pursuant to Code Civ. Proc., § 526a, against the state, alleging that it had violated Cal. Const., art. XIII B, § 6 (reimbursement of local governments for state-mandated new programs), by shifting its financial responsibility for the funding of health care for the poor onto the county without providing the necessary funding, and that as a result the state had evaded its constitutionally mandated spending limits. The trial court granted summary judgment for the State after concluding plaintiffs lacked standing to prosecute the action. (Superior Court of Alameda County, No. 632120-4, Henry Ramsey, Jr., and Demetrios P. Agretelis, Judges.) The Court of Appeal, First Dist., Div. Two, Nos. A041426 and A043500, reversed.

The Supreme Court reversed the judgment of the Court of Appeal, holding the administrative procedures established by the Legislature (Gov. Code, § 17500 et seq.), which are available only to local agencies and school districts directly affected by a state mandate, were the exclusive means by which the state's obligations under Cal. Const., art. XIII B, § 6, were to be determined and enforced. Accordingly, the court held plaintiffs lacked standing to prosecute the action. (Opinion by Baxter, J., with Lucas, C. J., Panelli, Kennard, and Arabian, JJ., concurring. Separate dissenting opinion by Broussard, J., with Mosk, J., concurring.)

Headnotes
CALIFORNIA OFFICIAL REPORTS HEADNOTES

Classified to California Digest of Official Reports, 3d Series

CA(1)[] **(1)**

State of California § 7—Actions—State-mandated Costs—Reimbursement—Exclusive Statutory Remedy.

-- Gov. Code, § 17500 et seq., creates an administrative forum for resolution of state mandate claims arising under Cal. Const., art. XIII B, § 6, and establishes procedures which exist for the express purpose of avoiding multiple proceedings, judicial and administrative, addressing the same claim that a reimbursable state mandate has been created. The statutory scheme also designates the Sacramento County Superior Court as the venue for judicial actions to declare unfunded mandates invalid. In view of the comprehensive nature of the legislative scheme, and from the expressed intent, the Legislature has created what is clearly intended to be a comprehensive and exclusive procedure by which to implement and enforce Cal. Const., art. XIII B, § 6.

CA(2)[] **(2)**

State of California § 7—Actions—State-mandated Costs—Reimbursement—Private Action to Enforce—Standing.

--In an action by medically indigent adults and taxpayers seeking to enforce Cal. Const., art. XIII B, § 6, for declaratory and injunctive relief requiring the state to reimburse the county for the cost of providing health care services to medically indigent adults who, prior to 1983, had been included in the state Medi-Cal program, the Court of Appeal erred in holding that the existence of an administrative remedy (Gov. Code, § 17500 et seq.) by which affected local agencies could enforce their constitutional right under art. XIII B, § 6 to reimbursement for the cost of state mandates did not bar the action. Because the right involved was given by the Constitution to local agencies and school districts, not individuals either as taxpayers or recipients of government benefits and services, the administrative remedy was adequate to fully implement the constitutional provision. The Legislature has the authority to establish procedures for the implementation of local agency rights under art. XIII B, § 6; unless the exercise of a constitutional right is unduly restricted, a court must limit enforcement to the procedures established by the Legislature. Plaintiffs' interest, although pressing, was indirect and did not differ from the interest of the public at large in the financial plight of local government. Relief by way of reinstatement to Medi-Cal pending further action by the state was not a remedy available under the statute, and thus was not one which a court may award.

[See 7 **Witkin,** Summary of Cal. Law (9th ed. 1988) Constitutional Law, § 112.]

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Judges: Opinion by Baxter, J., with Lucas, C. J., Panelli, Kennard, and Arabian, JJ., concurring. Separate dissenting opinion by Broussard, J., with Mosk, J., concurring.

Opinion by: BAXTER

Opinion

[*328] [1309] [***67]** Plaintiffs, medically indigent adults and taxpayers, seek to enforce section 6 of **[****2]** article XIII B (hereafter, section 6) of the California Constitution through an action for declaratory and injunctive relief. They invoked the jurisdiction of the superior court as taxpayers pursuant to *Code of Civil Procedure section 526a* and as persons affected by the alleged failure of the state to comply with section 6. The superior court granted summary judgment for defendants State of California and Director of the Department of Health Services, after concluding that plaintiffs lacked standing to prosecute the action. On appeal, the Court of Appeal held that plaintiffs have standing and that the action is not barred by the availability of administrative remedies.

[1310] [***68]** We reverse. The administrative procedures established by the Legislature, which are available only to local agencies and school districts directly affected by a state mandate, are the exclusive means by which the state's obligations under section 6 are to be determined and enforced. Plaintiffs therefore lack standing.

I

State Mandates

HN1[↑] Section 6, adopted on November 6, 1979, as part of an initiative measure imposing spending limits on state and local government, also imposes on the state an obligation **[****3]** to reimburse local agencies for the cost of most programs and services which they must provide pursuant to a state mandate if the local agencies were not under a preexisting duty to fund the activity. It provides:

[*329] "*HN2*[↑] 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 reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates:

"(a) Legislative mandates requested by the local agency affected;

"(b) Legislation defining a new crime or changing an existing definition of a crime; or

"(c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975."

A complementary provision, section 3 of article XIII B, provides for a shift from the state to the local agency of a portion of the spending or "appropriation" limit of the state when responsibility for funding an activity is shifted to a local agency:

"The appropriations limit for any **[****4]** fiscal year . . . shall be adjusted as follows: [para.] (a) In the event that the financial responsibility of providing services is transferred, in whole or in part, . . . from one entity of government to another, then for the year in which such transfer becomes effective the appropriations limit of the transferee entity shall be increased by such reasonable amount as the said entities shall mutually agree and the appropriations limit of the transferor entity shall be decreased by the same amount."

II

Plaintiffs' Action

The underlying issue in this action is whether the state is obligated to reimburse the County of Alameda, and shift to Alameda County a concomitant portion of the state's spending limit, for the cost of providing health care services to medically indigent adults who prior to 1983 had been included in the state Medi-Cal program. Assembly Bill No. 799 (1981-1982 Reg. Sess.) (AB 799) (*HN3*[↑] Stats. 1982, ch. 328, p. 1568) removed medically indigent adults from Medi-Cal effective January 1, 1983. At the time section 6 was adopted, the state was funding Medi-Cal coverage for these persons without requiring any county financial contribution.

Plaintiffs initiated this action in **[****5]** the Alameda County Superior Court. They sought relief on their own behalf and on behalf of a class of similarly **[*330]** situated medically indigent adult residents of Alameda County. The only named defendants were the State of California, the Director of the Department of Health Services, and the County of Alameda.

In the complaint for declaratory and injunctive relief, plaintiffs sought an injunction compelling the state to restore Medi-Cal eligibility to medically indigent adults or to reimburse the County of Alameda for the cost of providing health care to those persons. They also prayed for a declaration that the transfer of responsibility from the state-financed Medi-Cal program to the counties without adequate reimbursement violated the California Constitution. [1]

[**6]** **[**1311]** **[***69]** At the time plaintiffs initiated their action neither Alameda County, nor any other county or local agency, had filed a reimbursement claim with the Commission on State Mandates (Commission). [2]

Whether viewed as an action seeking restoration of Medi-Cal benefits, one to compel state reimbursement of county costs, or one for declaratory relief, therefore, the action required a determination that the enactment of AB 799 created a state **[****7]** mandate within the contemplation of section 6. Only upon resolution of that issue favorably to plaintiffs would the state have an obligation to reimburse the county for its increased expense and shift a portion of its appropriation limit, or to reinstate Medi-Cal benefits for plaintiffs and the class they seek to represent.

The gravamen of the action is, therefore, enforcement of section 6. [3]

[**8]** **[*331]** III

Enforcement of Article XIII B, Section 6

In 1984, almost five years after the adoption of article XIII B, *HN5*[↑] the Legislature enacted comprehensive administrative procedures for resolution of claims arising out of section 6. (*§ 17500*.) The Legislature did so because the absence of a uniform procedure had resulted in inconsistent rulings on the existence of state mandates, unnecessary litigation, reimbursement delays, and, apparently, resultant uncertainties in accommodating reimbursement requirements in the budgetary process. The necessity for the legislation was explained in *section 17500*:

"The Legislature finds and declares that the existing system for reimbursing local agencies and school

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[1] The complaint also sought a declaration that the county was obliged to provide health care services to indigents that were equivalent to those available to nonindigents. This issue is not before us. The County of Alameda aligned itself with plaintiffs in the superior court and did not oppose plaintiffs' effort to enforce section 6.

[2] On November 23, 1987, the County of Los Angeles filed a test claim with the Commission. San Bernardino County joined as a test claimant. The Commission ruled against the counties, concluding that no state mandate had been created. The Los Angeles County Superior Court subsequently granted the counties' petition for writ of mandate (*Code Civ. Proc., § 1094.5*), reversing the Commission, on April 27, 1989. (No. C-731033.) An appeal from that judgment is presently pending in the Court of Appeal. (*County of Los Angeles* v. *State of California*, No. B049625.)

[3] Plaintiffs argue that they seek only a declaration that AB 799 created a state mandate and an injunction against the shift of costs until the state decides what action to take. This is inconsistent with the prayer of their complaint which sought an injunction requiring defendants to restore Medi-Cal eligibility to all medically indigent adults until the state paid the cost of full health services for them. It is also unavailing.

HN4[↑] An injunction against enforcement of a state mandate is available only after the Legislature fails to include funding in a local government claims bill following a determination by the Commission that a state mandate exists. (*Gov. Code, § 17612*.) Whether plaintiffs seek declaratory relief and/or an injunction, therefore, they are seeking to enforce section 6.

All further statutory references are to the Government Code unless otherwise indicated.

districts for the costs of state-mandated local programs has not provided for the effective determination of the state's responsibilities under *Section 6 of Article XIII B of the California Constitution*. The Legislature finds and declares that the failure of the existing process to adequately and consistently resolve the complex legal questions involved in the determination of state-mandated costs has led to an increasing reliance by local agencies and school districts on the judiciary **[****9]** and, therefore, in order to relieve unnecessary congestion of the judicial system, *it is necessary to create a mechanism which is capable of rendering sound quasi-judicial decisions and providing an effective means of resolving disputes over the existence of state-mandated local programs*." (Italics added.)

In part 7 of division 4 of title 2 of the Government Code, "State-Mandated Costs," which commences with *section 17500*, ***HN6***[⬆] the Legislature created the Commission (*§ 17525*), to adjudicate disputes over the existence of a state mandated program (*§§ 17551*, *17557*) and to adopt procedures for submission and adjudication of reimbursement claims (*§ 17553*). The five-member Commission includes the Controller, the Treasurer, the Director of Finance, the Director of the Office of Planning and **[**1312]** **[***70]** Research, and a public member experienced in public finance. (*§ 17525*.)

The legislation establishes a test-claim procedure to expeditiously resolve disputes affecting multiple agencies (*§ 17554*), [4] establishes the method of **[*332]** payment of claims (*§§ 17558*, *17561*), and creates reporting procedures which enable the Legislature to budget adequate funds to meet the expense of state **[****10]** mandates (*§§ 17562*, *17600*, *17612, subd. (a)*.)

HN7[⬆] Pursuant to procedures which the Commission was authorized to establish (*§ 17553*), local agencies [5] and school districts [6] are to file claims for reimbursement of state-mandated costs with the Commission (*§§ 17551*, *17560*), and reimbursement is to be provided **[****11]** only through this statutory procedure. (*§§ 17550*, *17552*.)

HN10[⬆] The first reimbursement claim filed which alleges that a state mandate has been created under a statute or executive order is treated as a "test claim." (*§ 17521*.) A public hearing must be held promptly on any test claim. At the hearing on a test claim or on any other reimbursement claim, evidence may be presented not only by the claimant, but also by the Department of Finance and any other department or agency potentially affected by the claim. (*§ 17553*.) Any interested organization or individual may participate in the hearing. (*§ 17555*.)

HN11[⬆] A local agency filing a test claim need not first expend sums to comply with the alleged state mandate, but may base its claim on estimated costs. (*§ 17555*.) The Commission **[****12]** must determine both whether a state mandate exists and, if so, the amount to be reimbursed to local agencies and school districts, adopting "parameters and guidelines" for reimbursement of any claims relating to that statute or executive order. (*§ 17557*.) Procedures for determining whether local agencies have achieved statutorily authorized cost savings and for offsetting these savings against reimbursements are also provided. (*§ 17620 et seq.*) Finally, judicial review of the Commission decision is available through petition for writ of mandate filed pursuant to *Code of Civil Procedure section 1094.5*. (*§ 17559*.)

The legislative scheme is not limited to establishing the claims procedure, however. It also contemplates reporting to the Legislature and to departments and agencies of the state which have responsibilities related to funding state mandates, budget planning, and payment. ***HN12***[⬆] The parameters and guidelines adopted by the Commission must be submitted to the Controller, who is to pay subsequent claims arising out

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[4] The test claim by the County of Los Angeles was filed prior to that proposed by Alameda County. The Alameda County claim was rejected for that reason. (See *§ 17521*.) Los Angeles County permitted San Bernardino County to join in its claim which the Commission accepted as a test claim intended to resolve the issues the majority elects to address instead in this proceeding. Los Angeles County declined a request from Alameda County that it be included in the test claim because the two counties' systems of documentation were so similar that joining Alameda County would not be of any benefit. Alameda County and these plaintiffs were, of course, free to participate in the Commission hearing on the test claim. (*§ 17555*.)

[5] "***HN8***[⬆] 'Local agency' means any city, county, special district, authority, or other political subdivision of the state." (*§ 17518*.)

[6] "***HN9***[⬆] 'School district' means any school district, community college district, or county superintendant of schools." (*§ 17519*.)

of the mandate. (§ 17558.) Executive orders mandating costs are to be accompanied by an appropriations **[*333]** bill to cover the costs if the costs are not included **[****13]** in the budget bill, and in subsequent years the costs must be included in the budget bill. (§ 17561, subds. (a) & (b).) Regular review of the costs is to be made by the Legislative Analyst, who must report to the Legislature and recommend whether the mandate should be continued. (§ 17562.) ***HN13***[↑] The Commission is also required to make semiannual reports to the Legislature of the number of mandates found and the estimated reimbursement cost to the state. (§ 17600.) The Legislature must then adopt a "local government claims bill." If that bill does not include funding for a state mandate, an affected local agency or school district may seek a declaration from the superior court for the County of Sacramento that the mandate is unenforceable, **[**1313]** **[***71]** and an injunction against enforcement. (§ 17612.)

Additional procedures, enacted in 1985, create a system of state-mandate apportionments to fund reimbursement. (§ 17615 et seq.)

CA(1)[↑] **(1)** It is apparent from the comprehensive nature of this legislative scheme, and from the Legislature's expressed intent, that the exclusive remedy for a claimed violation of section 6 lies in these procedures. The statutes create an administrative forum **[****14]** for resolution of state mandate claims, and establishes procedures which exist for the express purpose of avoiding multiple proceedings, judicial and administrative, addressing the same claim that a reimbursable state mandate has been created. The statutory scheme also designates the Sacramento County Superior Court as the venue for judicial actions to declare unfunded mandates invalid (§ 17612).

The legislative intent is clearly stated in section 17500: "It is the intent of the Legislature in enacting this part to provide for the implementation of Section 6 of Article XIII B of the California Constitution and to consolidate the procedures for reimbursement of statutes specified in the Revenue and Taxation Code with those identified in the Constitution. . . ." And section 17550 states: "Reimbursement of local agencies and school districts for costs mandated by the state shall be provided pursuant to this chapter."

Finally, ***HN14***[↑] section 17552 provides: "This chapter shall provide *the sole and exclusive procedure* by which a local agency or school district may claim reimbursement for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution." **[****15]** (Italics added.)

In short, the Legislature has created what is clearly intended to be a comprehensive and exclusive procedure by which to implement and enforce section 6.

[*334] IV

Exclusivity

CA(2)[↑] **(2)** Plaintiffs argued, and the Court of Appeal agreed, that the existence of an administrative remedy by which affected local agencies could enforce their right under section 6 to reimbursement for the cost of state mandates did not bar this action because the administrative remedy is available only to local agencies and school districts.

The Court of Appeal recognized that the decision of the County of Alameda, which had not filed a claim for reimbursement at the time the complaint was filed, was a discretionary decision which plaintiffs could not challenge. (Dunn v. Long Beach L. & W. Co. (1896) 114 Cal. 605, 609, 610-611 [46 P. 607]; Silver v. Watson (1972) 26 Cal.App.3d 905, 909 [103 Cal.Rptr. 576]; Whitson v. City of Long Beach (1962) 200 Cal.App.2d 486, 506 [19 Cal.Rptr. 668]; Elliott v. Superior Court (1960) 180 Cal.App.2d 894, 897 [5 Cal.Rptr. 116].) **[****16]** The court concluded, however, that public policy and practical necessity required that plaintiffs have a remedy for enforcement of section 6 independent of the statutory procedure.

The right involved, however, is a right given by the Constitution to local agencies, not individuals either as taxpayers or recipients of government benefits and services. Section 6 provides that the "state shall provide a subvention of funds *to reimburse . . . local governments* . . . ." (Italics added.) The administrative remedy created by the Legislature is adequate to fully implement section 6. That Alameda County did not file a reimbursement claim does not establish that the enforcement remedy is inadequate. Any of the 58 counties was free to file a claim, and other counties did so. The test claim is now before the Court of Appeal. The administrative procedure has operated as intended.

The Legislature has the authority to establish procedures for the implementation of local agency rights under section 6. ***HN15***[↑] Unless the exercise of a constitutional right is unduly restricted, the court must limit enforcement to the procedures established by the Legislature. (People v. **[**1314]** **[***72]** Western Air

Lines, Inc. (1954) 42 Cal.2d 621, 637 [268 P.2d 723]; **[****17]** *Chesney v. Byram (1940) 15 Cal.2d 460, 463 [101 P.2d 1106]*; *County of Contra Costa v. State of California (1986) 177 Cal.App.3d 62, 75 [222 Cal.Rptr. 750]*.)

Plaintiffs' argument that they must be permitted to enforce section 6 as individuals because their right to adequate health care services has been compromised by the failure of the state to reimburse the county for the cost **[*335]** of services to medically indigent adults is unpersuasive. Plaintiffs' interest, although pressing, is indirect and does not differ from the interest of the public at large in the financial plight of local government. Although the basis for the claim that the state must reimburse the county for its costs of providing the care that was formerly available to plaintiffs under Medi-Cal is that AB 799 created a state mandate, plaintiffs have no right to have any reimbursement expended for health care services of any kind. Nothing in article XIII B or other provision of law controls the county's expenditure of the funds plaintiffs claim must be paid to the county. To the contrary, ***HN16***[⬆] *section 17563* gives the **[****18]** local agency complete discretion in the expenditure of funds received pursuant to section 6, providing: "***HN17***[⬆] Any funds received by a local agency or school district pursuant to the provisions of this chapter may be used for any public purpose."

The relief plaintiffs seek in their prayer for state reimbursement of county expenses is, in the end, a reallocation of general revenues between the state and the county. Neither public policy nor practical necessity compels creation of a judicial remedy by which individuals may enforce the right of the county to such revenues. The Legislature has established a procedure by which the county may claim any revenues to which it believes it is entitled under section 6. That test-claim statute expressly provides that not only the claimant, but also "any other interested organization or individual may participate" in the hearing before the Commission (*§ 17555*) at which the right to reimbursement of the costs of such mandate is to be determined. Procedures for receiving any claims must "provide for presentation of evidence by the claimant, the Department of Finance and any other affected department or agency, *and any other interested person*." **[****19]** (*§ 17553*. Italics added.) Neither the county nor an interested individual is without an opportunity to be heard on these questions. These procedures are both adequate and exclusive. [7]

The alternative relief plaintiffs seek -- reinstatement **[****20]** to Medi-Cal pending further action by the state -- is not a remedy available under the statute, and thus is not one which this court may award. ***HN18***[⬆] The remedy for the failure to fund a program is a declaration that the mandate is unenforceable. That relief is available only after the Commission has determined that a mandate exists **[*336]** and the Legislature has failed to include the cost in a local government claims bill, and only on petition by the county. (*§ 17612*.) [8]

Moreover, the judicial remedy approved by the Court of Appeal permits resolution of the issues raised in a state mandate claim without the participation of those **[****21]** officers and individuals the Legislature deems necessary to a full and fair exposition and resolution of the issues. Neither the Controller nor the Director of Finance **[**1315]** **[***73]** was named a defendant in this action. The Treasurer and the Director of the Office of Planning and Research did not participate. All of these officers would have been involved in determining the question as members of the Commission, as would the public member of the Commission. The judicial procedures were not equivalent to the public hearing required on test claims before the Commission by *section 17555*. Therefore, other affected departments, organizations, and individuals had no opportunity to be heard. [9]

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[7] Plaintiffs' argument, that the Legislature's failure to make provision for individual enforcement of section 6 before the Commission demonstrates an intent to permit legal actions, is not persuasive. The legislative statement of intent to relegate all mandate disputes to the Commission is clear. A more likely explanation of the failure to provide for test cases to be initiated by individuals lies in recognition that (1) because section 6 creates rights only in governmental entities, individuals lack sufficient beneficial interest in either the receipt or expenditure of reimbursement funds to accord them standing; and (2) the number of local agencies having a direct interest in obtaining reimbursement is large enough to ensure that citizen interests will be adequately represented.

[8] Plaintiffs are not without a remedy if the county fails to provide adequate health care, however. They may enforce the obligation imposed on the county by *Welfare and Institutions Code sections 17000* and *17001*, and by judicial action. (See, e.g., *Mooney v. Pickett (1971) 4 Cal.3d 669 [94 Cal.Rptr. 279, 483 P.2d 1231]*.)

[9] For this reason, it would be inappropriate to address the

[**22]** Finally, since a determination that a state mandate has been created in a judicial proceeding rather than one before the Commission does not trigger the procedures for creating parameters and guidelines for payment of claims, or for inclusion of estimated costs in the state budget, there is no source of funds available for compliance with the judicial decision other than the appropriations for the Department of Health Services. Payment from those funds can only be at the expense of another program which the department is obligated to fund. No public policy supports, let alone requires, this result.

The superior court acted properly in dismissing this action.

The judgment of the Court of Appeal is reversed.

Dissent by: BROUSSARD

Dissent

ROUSSARD, J.

I dissent. For nine years the Legislature has defied the mandate of article XIII B of the California Constitution (hereafter article XIII B). Having transferred responsibility for the care of medically indigent adults (MIA's) to county governments, the Legislature has failed to provide the counties with sufficient money to meet this responsibility, yet the **[*337]** Legislature computes its own appropriations limit as if it fully funded the program. **[****23]** The majority, however, declines to remedy this violation because, it says, the persons most directly harmed by the violation -- the medically indigent who are denied adequate health care -- have no standing to raise the matter. I disagree, and will demonstrate that (1) plaintiffs have standing as citizens to seek a declaratory judgment to determine whether the state is complying with its constitutional duty under article XIII B; (2) the creation of an administrative remedy whereby counties and local districts can enforce article XIII B does not deprive the citizenry of its own independent right to enforce that provision; and (3) even if plaintiffs lacked standing, our recent decision in *Dix v. Superior Court (1991) 53 Cal.3d 442 [279 Cal.Rptr. 834, 807 P.2d 1063]* permits us to reach and resolve any significant issue decided by the Court of Appeal and fully briefed and argued here. I conclude that we should reach the merits of the appeal.

On the merits, I conclude that the state has not complied with its constitutional obligation under article XIII B. To prevent the state from avoiding the spending limits imposed **[****24]** by article XIII B, section 6 of that article prohibits the state from transferring previously state-financed programs to local governments without providing sufficient funds to meet those burdens. In 1982, however, the state excluded the medically indigent from its Medi-Cal program, thus shifting the responsibility for such care to the counties. Subvention funds provided by the state were inadequate to reimburse the counties for this responsibility, and became less adequate every year. At the same time, the state continued to compute its spending limit as if it fully financed the entire program. The result is exactly what article XIII B was intended to prevent: the state enjoys a falsely inflated spending limit; the county is compelled to assume a burden it cannot afford; and the medically indigent receive inadequate health care.

I. Facts and Procedural History

Plaintiffs -- citizens, taxpayers, and persons in need of medical care -- allege that **[**1316]** **[***74]** the state has shifted its financial responsibility for the funding of health care for MIA's to the counties without providing the necessary funding and without any agreement transferring appropriation limits, and that **[****25]** as a result the state is violating article XIII B. Plaintiffs further allege they and the class they claim to represent cannot, consequently, obtain adequate health care from the County of Alameda, which lacks the state funding to provide it. The county, although nominally a defendant, aligned **[*338]** itself with plaintiffs. It admits the inadequacy of its program to provide medical care for MIA's but blames the absence of state subvention funds. [1]

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merits of plaintiff's claim in this proceeding. (Cf. *Dix v. Superior Court (1991) 53 Cal.3d 442 [279 Cal.Rptr. 834, 807 P.2d 1063]*.) Unlike the dissent, we do not assume that in representing the state in this proceeding, the Attorney General necessarily represented the interests and views of these officials.

[1] The majority states that "Plaintiffs are not without a remedy if the county fails to provide adequate health care . . . . They may enforce the obligation imposed on the county by *Welfare and Institutions Code sections 17000* and *17001*, and by judicial action." (Maj. opn., *ante*, p. 336, fn. 8)

The majority fails to note that plaintiffs have already tried this

At hearings below, plaintiffs presented uncontradicted evidence **[****26]** regarding the enormous impact of these statutory changes upon the finances and population of Alameda County. That county now spends about $ 40 million annually on health care for MIA's, of which the state reimburses about half. Thus, since article XIII B became effective, Alameda County's obligation for the health care of MIA's has risen from zero to more than $ 20 million per year. The county has inadequate funds to discharge its new obligation for the health care of MIA's; as a result, according to the Court of Appeal, uncontested evidence from medical experts presented below shows that, "The delivery of health care to the indigent in Alameda County is in a state of shambles; the crisis cannot be overstated . . . ." "Because of inadequate state funding, some Alameda County residents are dying, and many others are suffering serious diseases and disabilities, because they cannot obtain adequate access to the medical care they need . . . ." "The system is clogged to the breaking point. . . . All community clinics . . . are turning away patients." "The funding received by the county from the state for MIAs does not approach the actual cost of providing health care to the MIAs. **[****27]** As a consequence, inadequate resources available to county health services jeopardize the lives and health of thousands of people . . . ."

The trial court acknowledged that plaintiffs had shown irreparable injury, but denied their request for a preliminary injunction on the ground that they could not prevail in the action. It then granted the state's motion for summary judgment. Plaintiffs appealed from both decisions of the trial court.

The Court of Appeal consolidated the two appeals and reversed the rulings below. It concluded that plaintiffs had standing to bring this action to enforce the constitutional spending limit of article XIII B, and that the action is not barred by the existence of administrative remedies available to counties. It then held that the shift of a portion of the cost of medical indigent care by the state to Alameda County constituted a state-mandated new program under the provisions of article XIII B, which triggered that article's provisions requiring a subvention of funds by the state to reimburse Alameda **[*339]** County for the costs of such program it was required to assume. The judgments denying a preliminary injunction and granting summary judgment **[****28]** for defendants were reversed. We granted review.

II. Standing

A. *Plaintiffs have standing to bring an action for declaratory relief to determine whether the state is complying with article XIII B*.

Plaintiffs first claim standing as taxpayers under *Code of Civil Procedure section 526a*, which provides that: "An action to obtain a judgment, restraining and preventing any illegal expenditure of, waste of, or injury to, the estate, funds, or other property of a county . . . , may be maintained **[**1317]** **[***75]** against any officer thereof, or any agent, or other person, acting in its behalf, either by a citizen resident therein, or by a corporation, who is assessed for and is liable to pay, or, within one year before the commencement of the action, has paid, a tax therein. . . ." As in *Common Cause v. Board of Supervisors (1989) 49 Cal.3d 432, 439 [261 Cal.Rptr. 574, 777 P.2d 610]*, however, it is "unnecessary to reach the question whether plaintiffs have standing to seek an injunction under *Code of Civil Procedure section 526a*, because there is an independent basis for permitting them to proceed." Plaintiffs here **[****29]** seek a declaratory judgment that the transfer of responsibility for MIA's from the state to the counties without adequate reimbursement violates article XIII B. A declaratory judgment that the state has breached its duty is essentially equivalent to an action in mandate to compel the state to perform its duty. (See *California Assn. of Psychology Providers v. Rank (1990) 51 Cal.3d 1, 9 [270 Cal.Rptr. 796, 793 P.2d 2]*, which said that a declaratory judgment establishing that the state has a duty to act provides relief equivalent to mandamus, and makes issuance of the writ unnecessary.) Plaintiffs further seek a mandatory injunction requiring that the state pay the health costs of MIA's under the Medi-Cal program until the state meets its obligations under article XIII B. The majority similarly characterize plaintiffs' action as one comparable to mandamus brought to enforce section 6 of article XIII B.

We should therefore look for guidance to cases that discuss the standing of a party seeking a writ of mandate to compel a public official to perform his or her duty. [2] Such an action may be brought by any person

remedy, and met with the response that, owing to the state's inadequate subvention funds, the county cannot afford to provide adequate health care.

[2] It is of no importance that plaintiffs did not request issuance of a writ of mandate. In *Taschner v. City Council (1973) 31 Cal.App.3d 48, 56 [107 Cal.Rptr. 214]* (overruled on other grounds in *Associated Home Builders etc., Inc. v. City of*

"beneficially **[****30]** interested" in the issuance of the writ. (*Code Civ. Proc., § 1086*.) In *Carsten **[*340]** v. Psychology Examining Com. (1980) 27 Cal.3d 793, 796 [166 Cal.Rptr. 844, 614 P.2d 276]*, we explained that the "requirement that a petitioner be 'beneficially interested' has been generally interpreted to mean that one may obtain the writ only if the person has some special interest to be served or some particular right to be preserved or protected over and above the interest held in common with the public at large." We quoted from Professor Davis, who said, "One who is in fact adversely affected by governmental action should have standing to challenge that action if it is judicially reviewable." (Pp. 796-797, quoting 3 Davis, Administrative Law Treatise (1st ed. 1958) p. 291.) Cases applying this standard include *Stocks v. City of Irvine (1981) 114 Cal.App.3d 520 [170 Cal.Rptr. 724]*, which held that low-income residents of Los Angeles had standing to challenge exclusionary zoning laws of suburban communities which prevented the plaintiffs from moving there; *Taschner* v. *City Council, supra*, 31 Cal.App.3d 48, **[****31]** which held that a property owner has standing to challenge an ordinance which may limit development of the owner's property; and *Felt v. Waughop (1924) 193 Cal. 498 [225 P. 862]*, which held that a city voter has standing to compel the city clerk to certify a correct list of candidates for municipal office. Other cases illustrate the limitation on standing: *Carsten v. Psychology Examining Com., supra, 27 Cal.3d 793*, held that a member of the committee who was neither seeking a license nor in danger of losing one had no standing to challenge **[**1318]** **[***76]** a change in the method of computing the passing score on the licensing examination; *Parker v. Bowron (1953) 40 Cal.2d 344 [254 P.2d 6]* held that a union official who was neither a city employee nor a city resident had no standing to compel a city to follow a prevailing wage ordinance; and *Dunbar v. Governing Board (1969) 275 Cal.App.2d 14 [79 Cal.Rptr. 662]* held that a member of a student organization had standing **[****32]** to challenge a college district's rule barring a speaker from campus, but persons who merely planned to hear him speak did not.

[**33]** No one questions that plaintiffs are affected by the lack of funds to provide care for MIA's. Plaintiffs, except for plaintiff Rabinowitz, are not merely citizens and taxpayers; they are medically indigent persons living in Alameda County who have been and will be deprived of proper medical care if funding of MIA programs is inadequate. Like the other plaintiffs here, **[*341]** plaintiff Kinlaw, a 60-year-old woman with diabetes and hypertension, has no health insurance. Plaintiff Spier has a chronic back condition; inadequate funding has prevented him from obtaining necessary diagnostic procedures and physiotherapy. Plaintiff Tsosie requires medication for allergies and arthritis, and claims that because of inadequate funding she cannot obtain proper treatment. Plaintiff King, an epileptic, says she was unable to obtain medication from county clinics, suffered seizures, and had to go to a hospital. Plaintiff "Doe" asserts that when he tried to obtain treatment for AIDS-related symptoms, he had to wait four to five hours for an appointment and each time was seen by a different doctor. All of these are people personally dependent upon the quality of care of Alameda County's **[****34]** MIA program; most have experienced inadequate care because the program was underfunded, and all can anticipate future deficiencies in care if the state continues its refusal to fund the program fully.

The majority, however, argues that the county has no duty to use additional subvention funds for the care of MIA's because under *Government Code section 17563* "[a]ny funds received by a local agency . . . pursuant to the provisions of this chapter may be used for any public purpose." Since the county may use the funds for other purposes, it concludes that MIA's have no special interest in the subvention. [3]

Livermore (1976) 18 Cal.3d 582, 596 [135 Cal.Rptr. 41, 557 P.2d 473, 92 A.L.R.3d 1038]), the court said that "[a]s against a general demurrer, a complaint for declaratory relief may be treated as a petition for mandate [citations], and where a complaint for declaratory relief alleges facts sufficient to entitle plaintiff to mandate, it is error to sustain a general demurrer without leave to amend."

In the present case, the trial court ruled on a motion for summary judgment, but based that ruling not on the evidentiary record (which supported plaintiffs' showing of irreparable injury) but on the issues as framed by the pleadings. This is essentially equivalent to a ruling on demurrer, and a judgment denying standing could not be sustained on the narrow ground that plaintiffs asked for the wrong form of relief without giving them an opportunity to correct the defect. (See *Residents of Beverly Glen, Inc. v. City of Los Angeles (1973) 34 Cal.App.3d 117, 127-128 [109 Cal.Rptr. 724]*.)

[3] The majority's argument assumes that the state will comply with a judgment for plaintiffs by providing increased subvention funds. If the state were instead to comply by restoring Medi-Cal coverage for MIA's, or some other method of taking responsibility for their health needs, plaintiffs would benefit directly.

This argument would be sound if the county were already meeting its obligations to MIA's under Welfare **[****35]** and Institutions Code section 17000. If that were the case, the county could use the subvention funds as it chose, and plaintiffs would have no more interest in the matter than any other county resident or taxpayer. But such is not the case at bar. Plaintiffs here allege that the county is not complying with its duty, mandated by Welfare and Institutions Code section 17000, to provide health care for the medically indigent; the county admits its failure but pleads lack of funds. Once the county receives adequate funds, it must perform its statutory duty under section 17000 of the Welfare and Institutions Code. If it refused, an action in mandamus would lie to compel performance. (See Mooney v. Pickett (1971) 4 Cal.3d 669 [94 Cal.Rptr. 279, 483 P.2d 1231].) In fact, the county has made clear throughout this litigation that it would use the subvention funds to provide care for MIA's. The majority's conclusion that plaintiffs lack a special, beneficial interest in the state's compliance with article XIII B ignores the practical realities of health care funding.

Moreover, we have recognized an exception to the rule **[****36]** that a plaintiff must be beneficially interested. "Where the question is one of public right **[*342]** and the object of the mandamus is to procure the enforcement of a public duty, the relator need not show that he has any legal or special interest in the result, since it is sufficient that he is interested as a citizen in having the laws executed and the duty in question **[**1319] [***77]** enforced." (Bd. of Soc. Welfare v. County of L. A. (1945) 27 Cal.2d 98, 100-101 [162 P.2d 627].) We explained in Green v. Obledo (1981) 29 Cal.3d 126, 144 [172 Cal.Rptr. 206, 624 P.2d 256], that this "exception promotes the policy of guaranteeing citizens the opportunity to ensure that no governmental body impairs or defeats the purpose of legislation establishing a public right. . . . It has often been invoked by California courts. [Citations.]"

Green v. *Obledo* presents a close analogy to the present case. Plaintiffs there filed suit to challenge whether a state welfare regulation limiting deductibility of work-related expenses in determining eligibility for aid to families **[****37]** with dependent children (AFDC) assistance complied with federal requirements. Defendants claimed that plaintiffs were personally affected only by a portion of the regulation, and had no standing to challenge the balance of the regulation. We replied that "[t]here can be no question that the proper calculation of AFDC benefits is a matter of public right [citation], and plaintiffs herein are certainly citizens seeking to procure the enforcement of a public duty. [Citation.] It follows that plaintiffs have standing to seek a writ of mandate commanding defendants to cease enforcing [the regulation] in its entirety." (29 Cal.3d at p. 145.)

We again invoked the exception to the requirement for a beneficial interest in Common Cause v. Board of Supervisors, supra, 49 Cal.3d 432. Plaintiffs in that case sought to compel the county to deputize employees to register voters. We quoted Green v. Obledo, supra, 29 Cal.3d 126, 144, and concluded that "[t]he question in this case involves a public right to voter **[****38]** outreach programs, and plaintiffs have standing as citizens to seek its vindication." (49 Cal.3d at p. 439.) We should reach the same conclusion here.

B. Government Code sections 17500- 17630 *do not create an exclusive remedy which bars citizen-plaintiffs from enforcing article XIII B.*

Four years after the enactment of article XIII B, the Legislature enacted Government Code sections 17500 through 17630 to implement article XIII B, section 6. These statutes create a quasi-judicial body called the Commission on State Mandates, consisting of the state Controller, state Treasurer, state Director of Finance, state Director of the Office of Planning and Research, and one public member. The commission has authority to "hear and decide upon [any] claim" by a local government that it "is entitled to be reimbursed by the state" for costs under article XIII B. (Gov. Code, § 17551, **[*343]** subd. (a).) Its decisions are subject to review by an action for administrative mandamus in the superior court. (See Gov. Code, § 17559.)

The majority maintains that a proceeding before the Commission on State Mandates is the exclusive means **[****39]** for enforcement of article XIII B, and since that remedy is expressly limited to claims by local agencies or school districts (Gov. Code, § 17552), plaintiffs lack standing to enforce the constitutional provision. [4] I

[4] The majority emphasizes the statement of purpose of Government Code section 17500: "The Legislature finds and declares that the existing system for reimbursing local agencies and school districts for the costs of state-mandated local programs has not provided for the effective determination of the state's responsibilities under section 6 of article XIII B of the California Constitution. The Legislature finds and declares that the failure of the existing process to adequately and consistently resolve the complex legal questions involved in

disagree, for two reasons.

[**40] [**1320] [***78]** First, *Government Code section 17552* expressly addressed the question of exclusivity of remedy, and provided that "[t]his chapter shall provide the sole and exclusive procedure by which *a local agency or school district* may claim reimbursement for costs mandated by the state as required by *Section 6 of Article XIII B of the California Constitution*." (Italics added.) The Legislature was aware that local agencies and school districts were not the only parties concerned with state mandates, for in *Government Code section 17555* it provided that "any other interested organization or individual may participate" in the commission hearing. Under these circumstances the Legislature's choice of words -- "the sole and exclusive procedure by which a local agency or school district may claim reimbursement" -- limits the procedural rights of those claimants only, and does not affect rights of other persons. *Expressio unius est exclusio alterius* -- "the expression of certain things in a statute necessarily involves exclusion of other things not expressed." (*Henderson v. Mann Theatres Corp. (1976) 65 Cal.App.3d 397, 403 [135 Cal.Rptr. 266]*.) **[****41]**

The case is similar in this respect to *Common Cause v. Board of Supervisors, supra, 49 Cal.3d 432*. Here defendants contend that the counties' right of action under *Government Code sections 17551- 17552* impliedly excludes **[*344]** any citizen's remedy; in *Common Cause* defendants claimed the Attorney General's right of action under *Elections Code section 304* impliedly excluded any citizen's remedy. We replied that "the plain language of *section 304* contains no limitation on the right of private citizens to sue to enforce the section. To infer such a limitation would contradict our long-standing approval of citizen actions to require governmental officials to follow the law, expressed in our expansive interpretation of taxpayer standing [citations], and our recognition of a 'public interest' exception to the requirement that a petitioner for writ of mandate have a personal beneficial interest in the proceedings [citations]." (*49 Cal.3d at p. 440*, fn. omitted.) Likewise in this case the plain language of *Government Code sections 17551- 17552* contain no limitation **[****42]** on the right of private citizens, and to infer such a right would contradict our long-standing approval of citizen actions to enforce public duties.

The United States Supreme Court reached a similar conclusion in *Rosado v. Wyman (1970) 397 U.S. 397 [25 L.Ed.2d 442, 90 S.Ct. 1207]*. In that case New York welfare recipients sought a ruling that New York had violated federal law by failing to make cost-of-living adjustments to welfare grants. The state replied that the statute giving the Department of Health, Education and Welfare authority to cut off federal funds to noncomplying states constituted an exclusive remedy. The court rejected the contention, saying that "[w]e are most reluctant to assume Congress has closed the avenue of effective judicial review to those individuals most directly affected by the administration of its program." (P. 420 [*25 L.Ed.2d at p. 460*].) The principle is clear: the persons actually harmed by illegal state action, not only some administrator who has no personal stake in the matter, should have standing to challenge that action.

[**43]** Second, article XIII B was enacted to protect taxpayers, not governments. Section 1 and 2 of article XIII B establish strict limits on state and local expenditures, and require the refund of all taxes collected in excess of those limits. Section 6 of article XIII B prevents the state from evading those limits and burdening county taxpayers by transferring financial responsibility for a program to a county, yet counting the cost of that program toward the limit on state expenditures.

These provisions demonstrate a profound distrust of government and a disdain for excessive government spending. An exclusive remedy under which only governments can enforce article XIII B, and the taxpayer-citizen can appear only if a government **[**1321]** **[***79]** has first instituted proceedings, is inconsistent with the ethos that led to article XIII B. The drafters of article XIII B and the voters who enacted it

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the determination of state-mandated costs has led to an increasing reliance by local agencies and school districts on the judiciary, and, therefore, in order to relieve unnecessary congestion of the judicial system, it is necessary to create a mechanism which is capable of rendering sound quasi-judicial decisions and providing an effective means of resolving disputes over the existence of state-mandated local programs."

The "existing system" to which *Government Code section 17500* referred was the Property Tax Relief Act of 1972 (*Rev. & Tax. Code, §§ 2201- 2327*), which authorized local agencies and school boards to request reimbursement from the state Controller. Apparently dissatisfied with this remedy, the agencies and boards were bypassing the Controller and bringing actions directly in the courts. (See, e.g., *County of Contra Costa v. State of California (1986) 177 Cal.App.3d 62 [222 Cal.Rptr. 750]*.) The legislative declaration refers to this phenomena. It does not discuss suits by individuals.

would not accept that the state Legislature -- the principal body regulated by the article -- could establish a procedure **[*345]** under which the only way the article can be enforced is for local governmental bodies to initiate proceedings before a commission composed largely of state **[****44]** financial officials.

One obvious reason is that in the never-ending attempts of state and local government to obtain a larger proportionate share of available tax revenues, the state has the power to coerce local governments into forgoing their rights to enforce article XIII B. An example is the Brown-Presley Trial Court Funding Act (*Gov. Code, § 77000 et seq.*), which provides that the county's acceptance of funds for court financing may, in the discretion of the Governor, be deemed a waiver of the counties' rights to proceed before the commission on all claims for reimbursement for state-mandated local programs which existed and were not filed prior to passage of the trial funding legislation. [5] The ability of state government by financial threat or inducement to persuade counties to waive their right of action before the commission renders the counties' right of action inadequate to protect the public interest in the enforcement of article XIII B.

[**45]** The facts of the present litigation also demonstrate the inadequacy of the commission remedy. The state began transferring financial responsibility for MIA's to the counties in 1982. Six years later no county had brought a proceeding before the commission. After the present suit was filed, two counties filed claims for 70 percent reimbursement. Now, nine years after the 1982 legislation, the counties' claims are pending before the Court of Appeal. After that court acts, and we decide whether to review its decision, the matter may still have to go back to the commission for hearings to **[*346]** determine the amount of the mandate -- which is itself an appealable order. When an issue involves the life and health of thousands, a procedure which permits this kind of delay is not an adequate remedy.

In sum, effective, efficient enforcement of article XIII B requires that standing to enforce that measure be given to those harmed by its violation -- in this case, the medically indigent -- and not be vested exclusively in local officials who have no personal interest at stake and are subject to financial and political pressure to overlook violations.

C. *Even if plaintiffs lack standing* **[****46]** *this court should nevertheless address and resolve the merits of the appeal*.

Although ordinarily a court will not decide the merits of a controversy if the plaintiffs lack standing (see *McKinny v. Board of Trustees (1982) 31 Cal.3d 79, 90 [181 Cal.Rptr. 549, 642 P.2d 460]*), we recognized **[**1322]** **[***80]** an exception to this rule in our recent decision in *Dix v. Superior Court, supra, 53 Cal.3d 442* (hereafter *Dix*). In *Dix*, the victim of a crime sought to challenge the trial court's decision to recall a sentence under *Penal Code section 1170*. We held that only the prosecutor, not the victim of the crime, had standing to raise that issue. We nevertheless went on to consider and decide questions raised by the victim concerning the trial court's authority to recall a sentence under *Penal Code section 1170, subdivision (d)*. We explained that the sentencing issues "are significant. The case is fully briefed and all parties apparently seek a decision on the merits. Under such circumstances, we deem it appropriate to address [the victim's] sentencing **[****47]** arguments for the guidance of the lower courts. Our discretion to do so under analogous

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[5] "(a) The initial decision by a county to opt into the system pursuant to Section 77300 *shall constitute a waiver of all claims for reimbursement for state-mandated local programs not theretofore approved by the State Board of Control, the Commission on State Mandates, or the courts to the extent the Governor, in his discretion, determines that waiver to be appropriate*; provided, that a decision by a county to opt into the system pursuant to Section 77300 beginning with the second half of the 1988-89 fiscal year shall not constitute a waiver of a claim for reimbursement based on a statute chaptered on or before the date the act which added this chapter is chaptered, which is filed in acceptable form on or before the date the act which added this chapter is chaptered. A county may petition the Governor to exempt any such claim from this waiver requirement; and the Governor, in his discretion, may grant the exemption in whole or in part. The waiver shall not apply to or otherwise affect any claims accruing after initial notification. Renewal, renegotiation, or subsequent notification to continue in the program shall not constitute a waiver. [para.] (b) The initial decision by a county to opt into the system pursuant to Section 77300 shall constitute a waiver of any claim, cause of action, or action whenever filed, with respect to the Trial Court Funding Act of 1985, Chapter 1607 of the Statutes of 1985, or Chapter 1211 of the Statutes of 1987." (*Gov. Code, § 77203.5*, italics added.)

"As used in this chapter, 'state-mandated local program' *means any and all reimbursements owed or owing by operation of either Section 6 of Article XIII B of the California Constitution*, or *Section 17561 of the Government Code*, or both." (*Gov. Code, § 77005*, italics added.)

circumstances is well settled. [Citing cases explaining when an appellate court can decide an issue despite mootness.]" (*53 Cal.3d at p. 454*.) In footnote we added that "Under *article VI, section 12, subdivision (b) of the California Constitution* . . . , we have jurisdiction to 'review the *decision of a Court of Appeal* in any cause.' (Italics added.) Here the Court of Appeal's decision addressed two issues -- standing and merits. Nothing in *article VI, section 12(b)* suggests that, having rejected the Court of Appeal's conclusion on the preliminary issue of standing, we are foreclosed from 'review[ing]' the second subject addressed and resolved in its decision." (Pp. 454-455, fn. 8.)

I see no grounds on which to distinguish *Dix*. The present case is also one in which the Court of Appeal decision addressed both standing and merits. It is fully briefed. Plaintiffs and the county seek a decision on the merits. While the state does not seek a decision on the merits in this proceeding, its appeal of the superior court decision in the **[****48]** mandamus proceeding brought by the County of Los Angeles (see maj. opn., *ante*, p. 330, fn. 2) shows that it is not opposed to an appellate decision on the merits.

[*347] The majority, however, notes that various state officials -- the Controller, the Director of Finance, the Treasurer, and the Director of the Office of Planning and Research -- did not participate in this litigation. Then in a footnote, the majority suggests that this is the reason they do not follow the *Dix* decision. (Maj. opn., *ante*, p. 336, fn. 9.) In my view, this explanation is insufficient. The present action is one for declaratory relief against the state. It is not necessary that plaintiffs also sue particular state officials. (The state has never claimed that such officials were necessary parties.) I do not believe we should refuse to reach the merits of this appeal because of the nonparticipation of persons who, if they sought to participate, would be here merely as amici curiae. [6]

[**49]** The case before us raises no issues of departmental policy. It presents solely an issue of law which this court is competent to decide on the briefs and arguments presented. That issue is one of great significance, far more significant than any raised in *Dix*. Judges rarely recall sentencing under *Penal Code section 1170, subdivision (d)*; when they do, it generally affects only the individual defendant. In contrast, the legal issue here involves immense sums of money and affect budgetary planning for both the state and counties. State and county governments need to know, as soon as possible, what their **[**1323]** **[***81]** rights and obligations are; legislators considering proposals to deal with the current state and county budget crisis need to know how to frame legislation so it does not violate article XIII B. The practical impact of a decision on the people of this state is also of great importance. The failure of the state to provide full subvention funds and the difficulty of the county in filling the gap translate into inadequate staffing and facilities for treatment of thousands of persons. Until the constitutional issues are resolved the legal uncertainties may **[****50]** inhibit both levels of government from taking the steps needed to address this problem. A delay of several years until the Los Angeles case is resolved could result in pain, hardship, or even death for many people. I conclude that, whether or not plaintiffs have standing, this court should address and resolve the merits of the appeal.

D. *Conclusion as to standing*.

As I have just explained, it is not necessary for plaintiffs to have standing for us to be able to decide the merits of the appeal. Nevertheless, I conclude **[*348]** that plaintiffs have standing both as persons "beneficially interested" under *Code of Civil Procedure section 1086* and under the doctrine of *Green v. Obledo, supra, 29 Cal.3d 126*, to bring an action to determine whether the state has violated its duties under article XIII B. The remedy given local agencies and school districts by *Government Code sections 17500- 17630* is, as *Government Code section 17552* states, the exclusive remedy by which those bodies can challenge the state's refusal to provide subvention funds, but the statute does not limit the remedies available to individual citizens. **[****51]**

III. Merits of the Appeal

A. *State funding of care for MIA's*.

[6] It is true that these officials would participate in a proceeding before the Commission on State Mandates, but they would do so as members of an administrative tribunal. On appellate review of a commission decision, its members, like the members of the Public Utilities Commission or the Workers' Compensation Appeals Board, are not respondents and do not appear to present their individual views and positions. For example, in *Lucia Mar Unified School Dist. v. Honig (1988) 44 Cal.3d 830 [244 Cal.Rptr. 677, 750 P.2d 318]*, in which we reviewed a commission ruling relating to subvention payments for education of handicapped children, the named respondents were the state Superintendent of Public Instruction, the Department of Education, and the Commission on State Mandates. The individual members of the commission were not respondents and did not participate.

Welfare and Institutions Code section 17000 requires every county to "relieve and support" all indigent or incapacitated residents, except to the extent that such persons are supported or relieved by other sources. [7] From 1971 until 1982, and thus at the time article XIII B became effective, counties were not required to pay for the provision of health services to MIA's, whose health needs were met through the state-funded Medi-Cal program. Since the medical needs of MIA's were fully met through other sources, the counties had no duty under *Welfare and Institutions Code section 17000* to meet those needs. While the counties did make general contributions to the Medi-Cal program (which covered persons other than MIA's) from 1971 until 1978, at the time article XIII B became effective in 1980 the counties were not required to make any financial contributions to Medi-Cal. It is therefore undisputed that the counties were not required to provide financially for the health needs of MIA's when article XIII B became effective. The state funded all such needs of MIA's.

[**52]** In 1982, the Legislature passed Assembly Bill No. 799 (1981-1982 Reg. Sess.; Stats. 1982, ch. 328, pp. 1568-1609) (hereafter AB No. 799), which removed MIA's from the state-funded Medi-Cal program as of January 1, 1983, and thereby transferred to the counties, through the County Medical Services Plan which AB No. 799 created, the financial responsibility to provide health services to approximately 270,000 MIA's. AB No. 799 required that the counties provide health care for MIA's, yet appropriated only 70 percent of what the state would have spent on MIA's had those persons remained a state responsibility under the Medi-Cal program.

Since 1983, the state has only partially defrayed the costs to the counties of providing health care to MIA's. Such state funding to counties was **[*349]** initially relatively constant, generally more than $ 400 million per year. By 1990, however, state **[***82]** funding **[**1324]** had decreased to less than $ 250 million. The state, however, has always included the full amount of its former obligation to provide for MIA's under the Medi-Cal program in the year preceding July 1, 1980, as part of its article XIII B "appropriations limit," i.e., as part **[****53]** of the base amount of appropriations on which subsequent annual adjustments for cost-of-living and population changes would be calculated. About $ 1 billion has been added to the state's adjusted spending limit for population growth and inflation *solely* because of the state's inclusion of all MIA expenditures in the appropriation limit established for its base year, 1979-1980. The state has not made proportional increases in the sums provided to counties to pay for the MIA services funded by the counties since January 1, 1983.

B. *The function of article XIII B*.

Our recent decision in *County of Fresno v. State of California (1991) 53 Cal.3d 482, 486-487 [280 Cal.Rptr. 92, 808 P.2d 235]* (hereafter *County of Fresno*), explained the function of article XIII B and its relationship to article XIII A, enacted one year earlier:

"At the June 6, 1978, Primary Election, article XIII A was added to the Constitution through the adoption of Proposition 13, an initiative measure aimed at controlling ad valorem property taxes and the imposition of new 'special taxes.' (*Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization (1978) 22 Cal.3d 208, 231-232 [149 Cal.Rptr. 239, 583 P.2d 1281]*.) **[****54]** The constitutional provision imposes a limit on the power of state and local governments to adopt and levy taxes. (*City of Sacramento v. State of California (1990) 50 Cal.3d 51, 59, fn. 1 [266 Cal.Rptr. 139, 785 P.2d 522]* (*City of Sacramento*).)

"At the November 6, 1979, Special Statewide Election, article XIII B was added to the Constitution through the adoption of Proposition 4, another initiative measure. That measure places limitations on the ability of both state and local governments to appropriate funds for expenditures.

"'Articles XIII A and XIII B work in tandem, together restricting California governments' power both to levy and to spend [taxes] for public purposes.' (*City of Sacramento, supra, 50 Cal.3d at p. 59, fn. 1*.)

"Article XIII B of the Constitution was intended . . . to provide 'permanent protection for taxpayers from excessive taxation' and 'a reasonable way to provide discipline in tax spending at state and local levels.' (See *County of Placer v. Corin (1980) 113 Cal.App.3d 443, 446 [170 Cal.Rptr. 232]*, **[****55]** quoting and following Ballot Pamp., Proposed Stats. and Amends. to Cal. Const. with arguments to voters, Special Statewide Elec. (Nov. 6, 1979), argument **[*350]** in favor of Prop. 4, p. 18.) To this end, it establishes an 'appropriations

[7] *Welfare and Institutions Code section 17000* provides that "[e]very county . . . shall relieve and support all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions."

limit' for both state and local governments (*Cal. Const., art. XIII B, § 8, subd. (h)*) and allows no 'appropriations subject to limitation' in excess thereof (*id*., § 2). [8] (See *County of Placer v. Corin, supra, 113 Cal.App.3d at p. 446*.) It defines the relevant 'appropriations subject to limitation' as 'any authorization to expend during a fiscal year the proceeds of taxes . . . .' (*Cal. Const., art. XIII B, § 8, subd. (b)*.)" (*County of Fresno, supra, 53 Cal.3d at p. 486*.)

[**56]** Under section 3 of article XIII B the state may transfer financial responsibility for a program to a county if the state and county mutually agree that the appropriation limit of the state will be decreased and that of the county increased by the same amount. [9] **[**1325]** **[***83]** Absent such an agreement, however, section 6 of article XIII B generally precludes the state from avoiding the spending limits it must observe by shifting to local governments programs and their attendant financial burdens which were a state responsibility prior to the effective date of article XIII B. It does so by requiring that "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 reimburse such local government for the cost of such program or increased level of service . . . ." [10]

[8] Article XIII B, section 1 provides: "The total annual appropriations subject to limitation of the state and of each local government shall not exceed the appropriations limit of such entity of government for the prior year adjusted for changes in the cost of living and population except as otherwise provided in this Article."

[9] Section 3 of article XIII B reads in relevant part: "The appropriations limit for any fiscal year . . . shall be adjusted as follows:

"(a) In the event that the financial responsibility of providing services is transferred, in whole or in part . . . from one entity of government to another, then for the year in which such transfer becomes effective the appropriation limit of the transferee entity shall be increased by such reasonable amount as the said entities shall mutually agree and the appropriations limit of the transferor entity shall be decreased by the same amount. . . ."

[10] Section 6 of article XIII B further provides that the "Legislature may, but need not, provide such subvention of funds for the following mandates: (a) Legislative mandates requested by the local agency affected; (b) Legislation defining a new crime or changing an existing definition of a crime; or (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975." None of these exceptions apply in the present case.

[**57]** "Section 6 was included in article XIII B in recognition that article XIII A of the Constitution severely restricted the taxing powers of local governments. (See *County of Los Angeles [*v. *State of California* (1987)] *43 Cal.3d 46, 61 [233 Cal.Rptr. 38, 729 P.2d 202]*.) The provision was intended to preclude the state from shifting financial responsibility for carrying out governmental functions onto local entities that were ill equipped to handle the task. (*Ibid*.; see *Lucia Mar Unified School Dist. v. Honig, supra, 44 Cal.3d 830, 836, fn. 6*.) Specifically, it was designed to protect the tax **[*351]** revenues of local governments from state mandates that would require expenditure of such revenues." (*County of Fresno, supra, 53 Cal.3d at p. 487*.)

C. *Applicability of article XIII B to health care for MIA's*.

The state argues that care of the indigent, including medical care, has long been a county responsibility. It claims that although the state undertook to fund this responsibility from **[****58]** 1979 through 1982, it was merely temporarily (as it turned out) helping the counties meet their responsibilities, and that the subsequent reduction in state funding did not impose any "new program" or "higher level of service" on the counties within the meaning of section 6 of article XIII B. Plaintiffs respond that the critical question is not the traditional roles of the county and state, but who had the fiscal responsibility on November 6, 1979, when article XIII B took effect. The purpose of article XIII B supports the plaintiffs' position.

As we have noted, article XIII A of the Constitution (Proposition 13) and article XIII B are complementary measures. The former radically reduced county revenues, which led the state to assume responsibility for programs previously financed by the counties. Article XIII B, enacted one year later, froze both state and county appropriations at the level of the 1978-1979 budgets -- a year when the budgets included state financing for the prior county programs, but not county financing for these programs. Article XIII B further limited the state's authority to transfer obligations to the counties. Reading the two together, it seems clear **[****59]** that article XIII B was intended to limit the power of the Legislature to retransfer to the counties those obligations which the state had assumed in the wake of Proposition 13.

Under article XIII B, both state and county appropriations limits are set on the basis of a calculation

that begins with the budgets in effect when article XIII B was enacted. If the state could transfer to the county a program for which the state at that time had full financial responsibility, the county could be forced to assume additional financial obligations without the right to appropriate additional moneys. The state, at the same time, would get credit toward its appropriations limit for expenditures it did not pay. County taxpayers **[**1326] [***84]** would be forced to accept new taxes or see the county forced to cut existing programs further; state taxpayers would discover that the state, by counting expenditures it did not pay, had acquired an actual revenue surplus while avoiding its obligation to refund revenues in excess of the appropriations limit. Such consequences are inconsistent with the purpose of article XIII B.

Our decisions interpreting article XIII B demonstrate that the state's **[****60]** subvention requirement under section 6 is not vitiated simply because the **[*352]** "program" existed before the effective date of article XIII B. The alternate phrase of section 6 of article XIII B, "'higher level of service[,]' . . . must be read in conjunction with the predecessor phrase 'new program' to give it meaning. Thus read, it is apparent that *the subvention requirement for increased or higher level of service is directed to state mandated increases in the services provided by local agencies in existing 'programs*.'" (*County of Los Angeles v. State of California (1987) 43 Cal.3d 46, 56 [233 Cal.Rptr. 38, 729 P.2d 202]*, italics added.)

Lucia Mar Unified School Dist. v. Honig, supra, 44 Cal.3d 830, presents a close analogy to the present case. The state Department of Education operated schools for severely handicapped students, but prior to 1979 *school districts were required by statute to contribute* to education of those students from the district at the state schools. In 1979, in response to the restrictions on school district revenues **[****61]** imposed by Proposition 13, the statutes requiring such district contributions were repealed and the state assumed full responsibility for funding. The state funding responsibility continued until June 28, 1981, when *Education Code section 59300* (hereafter *section 59300*), requiring school districts to share in these costs, became effective.

The plaintiff districts filed a test claim before the commission, contending they were entitled to state reimbursement under section 6 of article XIII B. The commission found the plaintiffs were not entitled to state reimbursement, on the rationale that the increase in costs to the districts compelled by *section 59300* imposed no new program or higher level of services. The trial and intermediate appellate courts affirmed on the ground that *section 59300* called for only an "'adjustment of costs'" of educating the severely handicapped, and that "*a shift in the funding of an existing program is not a new program or a higher level of service*" within the meaning of article XIII B. (*Lucia Mar Unified School Dist. v. Honig, supra, 44 Cal.3d at p. 834*, italics added.)

We reversed, **[****62]** rejecting the state's theories that the funding shift to the county of the subject program's costs does not constitute a new program. "[There can be no] doubt that although the schools for the handicapped have been operated by the state for many years, the program was new insofar as plaintiffs are concerned, since *at the time section 59300 became effective* they were not required to contribute to the education of students from their districts at such schools. [para.] . . . To hold, under the circumstances of this case, that a shift in funding of an existing program from the state to a local entity is not a new program as to the local agency would, we think, violate the intent underlying section 6 of article XIIIB. That article imposed spending limits on state and local governments, and it followed by one year the adoption by initiative of article XIIIA, which severely limited the taxing **[*353]** power of local governments. . . . [para.] The intent of the section would plainly be violated if the state could, while retaining administrative control [[11]] of programs it has supported with state **[***85]** tax money, **[**1327]** simply shift the cost of the programs to local government **[****63]** on the theory that the shift does not violate section 6 of article XIIIB because the programs are not 'new.' Whether the shifting of costs is accomplished by compelling local governments to pay the cost of entirely new programs created by the state, *or by compelling them to accept financial responsibility in whole or in part for a program which was funded entirely by the state before the advent of article XIIIB, the result seems equally violative of the fundamental*

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[11] The state notes that, in contrast to the program at issue in *Lucia Mar*, it has not retained administrative control over aid to MIA's. But the quoted language from *Lucia Mar*, while appropriate to the facts of that case, was not intended to establish a rule limiting article XIII B, section 6, to instances in which the state retains administrative control over the program that it requires the counties to fund. The constitutional language admits of no such limitation, and its recognition would permit the Legislature to evade the constitutional requirement.

purpose underlying section 6 of that article." (*Lucia Mar Unified School Dist. v. Honig, supra, 44 Cal.3d at pp. 835-836*, fn. omitted, italics added.)

[**64]** The state seeks to distinguish *Lucia Mar* on the ground that the education of handicapped children in state schools had never been the responsibility of the local school district, but overlooks that the local district had previously been required to contribute to the cost. Indeed the similarities between *Lucia Mar* and the present case are striking. In *Lucia Mar*, prior to 1979 the state and county shared the cost of educating handicapped children in state schools; in the present case from 1971-1979 the state and county shared the cost of caring for MIA's under the Medi-Cal program. In 1979, following enactment of Proposition 13, the state took full responsibility for both programs. Then in 1981 (for handicapped children) and 1982 (for MIA's), the state sought to shift some of the burden back to the counties. To distinguish these cases on the ground that care for MIA's is a county program but education of handicapped children a state program is to rely on arbitrary labels in place of financial realities.

The state presents a similar argument when it points to the following emphasized language from *Lucia Mar Unified School Dist. v. Honig, supra, 44 Cal.3d 830*: **[****65]** "[B]ecause *section 59300* shifts partial financial responsibility for the support of students in the state-operated schools from the state to school districts -- *an obligation the school districts did not have at the time article XIII B was adopted* -- it calls for plaintiffs to support a 'new program' within the meaning of section 6." (P. 836, fn. omitted, italics added.) It urges *Lucia Mar* reached its result *only* because the "program" requiring school district funding in that case *was not required by statute* at the effective date of **[*354]** article XIII B. The state then argues that the case at bench is distinguishable because it contends Alameda County had a continuing obligation *required by statute* antedating that effective date, which had only been "temporarily" [12] suspended when article XIII B became effective. I fail to see the distinction between a case -- *Lucia Mar* -- in which no existing statute as of 1979 imposed an obligation on the local government and one -- this case -- in which the statute existing in 1979 imposed no obligation on local government.

[**66]** The state's argument misses the salient point. As I have explained, the application of section 6 of article XIII B does not depend upon when the program was created, but upon who had the burden of funding it when article XIII B went into effect. Our conclusion in *Lucia Mar* that the educational program there in issue was a "new" program as to the school districts was not based on the presence or absence of any antecedent statutory obligation therefor. *Lucia Mar* determined that whether the program was new *as to the districts* depended on *when* they were compelled to assume the obligation to partially fund an existing program which they had not funded at the time article XIII B became effective.

The state further relies on two decisions, *Madera Community Hospital v. County of Madera (1984) 155 Cal.App.3d 136 [201 Cal.Rptr. 768]* and *Cooke v. Superior Court (1989) 213 Cal.App.3d 401 [261 Cal.Rptr. 706]*, which hold that the county has a statutory obligation to provide medical care for indigents, but that it need not provide precisely **[**1328]** **[***86]** the same level of **[****67]** services as the state provided under Medi-Cal. [13] Both are correct, but irrelevant to this case. [14] The county's obligation to MIA's is defined by *Welfare and Institutions Code section 17000*, not by the former Medi-Cal program. [15] If the **[*355]** state, in transferring an

[12] The state's repeated emphasis on the "temporary" nature of its funding is a form of post hoc reasoning. At the time article XIII B was enacted, the voters did not know which programs would be temporary and which permanent.

[13] It must, however, provide a *comparable* level of services. (See *Board of Supervisors v. Superior Court (1989) 207 Cal.App.3d 552, 564 [254 Cal.Rptr. 905]*.)

[14] Certain language in *Madera Community Hospital v. County of Madera, supra, 155 Cal.App.3d 136*, however, is questionable. That opinion states that the "Legislature intended that County bear an obligation to its poor and indigent residents, *to be satisfied from county funds*, notwithstanding federal or state programs which exist concurrently with County's obligation and alleviate, to a greater or lesser extent, County's burden." (P. 151.) *Welfare and Institutions Code section 17000* by its terms, however, requires the county to provide support to residents only "when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions." Consequently, to the extent that the state or federal governments provide care for MIA's, the county's obligation to do so is reduced pro tanto.

[15] The county's right to subvention funds under article XIII B arises because its duty to care for MIA's is a state-mandated responsibility; if the county had no duty, it would have no right to funds. No claim is made here that the funding of medical services for the indigent shifted to Alameda County is not a

obligation to the counties, permits them to provide less services than the state provided, the state need only pay for the lower level of services. But it cannot escape its responsibility entirely, leaving the counties with a state-mandated obligation and no money to pay for it.

[**68]** The state's arguments are also undercut by the fact that it continues to use the approximately $ 1 billion in spending authority, generated by its previous total funding of the health care program in question, as a portion of its initial *base spending limit* calculated pursuant to sections 1 and 3 of article XIII B. In short, the state may maintain here that care for MIA's is a county obligation, but when it computes its appropriation limit it treats the entire cost of such care as a state program.

IV. Conclusion

This is a time when both state and county governments face great financial difficulties. The counties, however, labor under a disability not imposed on the state, for article XIII A of the Constitution severely restricts their ability to raise additional revenue. It is, therefore, particularly important to enforce the provisions of article XIII B which prevent the state from imposing additional obligations upon the counties without providing the means to comply with these obligations.

The present majority opinion disserves the public interest. It denies standing to enforce article XIII B both to those persons whom it was designed to protect -- the citizens and taxpayers **[****69]** -- and to those harmed by its violation -- the medically indigent adults. And by its reliance on technical grounds to avoid coming to grips with the merits of plaintiffs' appeal, it permits the state to continue to violate article XIII B and postpones the day when the medically indigent will receive adequate health care.

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program "'mandated'" by the state; i.e., that Alameda County has any option other than to pay these costs. (*Lucia Mar Unified School Dist. v. Honig, supra, 44 Cal.3d at pp. 836-837*.)

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Cal Gov Code § 17514

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§ 17514. "Costs mandated by the state"

"Costs mandated by the state" means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of *Section 6 of Article XIII B of the California Constitution.*

History

Added Stats 1984 ch 1459 § 1.

Annotations

NOTES TO DECISIONS

1. Constitutionality

Because Gov C § *17516(c)* was unconstitutional to the extent that it exempted regional water quality control boards from the constitutional state mandate subvention requirement, a trial court properly issued a writ of mandate directing the California Commission on State Mandates to resolve, on the merits and without reference to § 17516(c), test claims presented by a county and several cities seeking reimbursement for carrying out obligations required by a National Pollutant Discharge Elimination System Permit for municipal stormwater and urban runoff

discharges that was issued by a regional water quality control board. *County of Los Angeles v. Commission on State Mandates (Cal. App. 2d Dist. May 10, 2007), 150 Cal. App. 4th 898, 58 Cal. Rptr. 3d 762, 2007 Cal. App. LEXIS 711*.

Gov C § 17516c is unconstitutional to the extent that it purports to exempt orders issued by regional water quality control boards from the definition of "executive orders" for which subvention of funds to local governments for carrying out state mandates is required pursuant to Cal Const Art XIII B, § *6* because the exemption contravenes the clear, unequivocal intent of Cal Const Art XIII B, § *6* that subvention of funds was required whenever any state agency mandated a new program or higher level of service on any local government, and whether one or both of the subject two obligations constitutes a state mandate necessitating subvention of funds under Cal Const Art XIII B, § *6* is an issue that must in the first instance be resolved by the California Commission on State Mandates. Moreover, a contrary conclusion is not compelled by virtue of the fact that Gov C § 17516c essentially mirrors the language of Rev & Tax C § *2209(c)* because a statute cannot trump the constitution. *County of Los Angeles v. Commission on State Mandates (Cal. App. 2d Dist. May 10, 2007), 150 Cal. App. 4th 898, 58 Cal. Rptr. 3d 762, 2007 Cal. App. LEXIS 711*.

2. Construction

Simply because a state law or order may increase the costs borne by local government in providing services, this does not necessarily establish that the law or order constitutes an increased or higher level of the resulting "service to the public" under Cal Const Art XIII B § *6*, and Gov C § *17514*. *San Diego Unified School Dist. v. Commission on State Mandates (Cal. Aug. 2, 2004), 33 Cal. 4th 859, 16 Cal. Rptr. 3d 466, 94 P.3d 589, 2004 Cal. LEXIS 7079*.

3. Construction with Other Law

No hearing costs incurred in carrying out those expulsions that are discretionary under Ed C § *48915*, including costs related to hearing procedures claimed to exceed the requirements of federal law, are reimbursable; the discretionary expulsion provision of § 48915 is not a "new program or higher level of service" under Cal Const Art XIII B § *6*, and under Gov C § *17514*. *San Diego Unified School Dist. v. Commission on State Mandates (Cal. Aug. 2, 2004), 33 Cal. 4th 859, 16 Cal. Rptr. 3d 466, 94 P.3d 589, 2004 Cal. LEXIS 7079*.

California Public Safety Officers Procedural Bill of Rights Act, Gov C § *3300* et seq., is not a reimbursable mandate as to school districts and special districts that are permitted by statute, but not required, to employ peace officers who supplement the general law enforcement units of cities and counties. *Department of Finance v. Commission on State Mandates (Cal. App. 3d Dist. Feb. 6, 2009), 170 Cal. App. 4th 1355, 89 Cal. Rptr. 3d 93, 2009 Cal. App. LEXIS 152*.

State auditing rule used to reduce reimbursement claims by school districts and community college districts for state-mandated programs, which stated that there would be a reduction for health fees authorized by Ed C § *76355*, subd. (a)(1), was valid under Gov C § *11350*, subd. (a), because it was not a regulation as defined in Gov C § *11342.600*. Such a reduction was required by Gov C §§ *17514*, *17556*, subd. (d), which make clear that costs are not state-mandated if local fees could be imposed to recover the costs, whether or not actually imposed. *Clovis Unified School Dist. v. Chiang (Cal. App. 3d Dist. Sept. 21, 2010), 188 Cal. App. 4th 794, 116 Cal. Rptr. 3d 33, 2010 Cal. App. LEXIS 1643*, modified, *(Cal. App. 3d Dist. Oct. 14, 2010), 2010 Cal. App. LEXIS 1774*.

4. Error

Trial court erred in upholding the California Commission on State Mandates' determination that, as to school districts not compelled by statute to employ peace officers, the California Public Safety Officers Procedural Bill of Rights Act, Gov C § *3300* et seq., requirements were a reimbursable state mandate where its judgment rested on

the insupportable legal conclusion that the districts, identified in Gov C § 3301, were as a practical matter compelled to exercise their authority to hire peace officers; districts in issue were authorized, but not required, to provide their own peace officers and did not have provision of police protection as an essential and basic function. *Department of Finance v. Commission on State Mandates (Cal. App. 3d Dist. Feb. 6, 2009), 170 Cal. App. 4th 1355, 89 Cal. Rptr. 3d 93, 2009 Cal. App. LEXIS 152*.

5. Particular Determinations

Community college districts were entitled to reimbursement, also called subvention, from the state because some of the former minimum condition regulations for state aid to community college districts imposed requirements in connection with state-mandated programs. Subvention was not required as to regulations that implemented duties under pre-1975 statutes, and some of the other regulations had not been identified in the test claims and thus were not properly before the court on appeal. *Coast Community College Dist. v. Commission on State Mandates (Cal. App. 3d Dist. Apr. 3, 2020), 261 Cal. Rptr. 3d 26, 47 Cal. App. 5th 415, 2020 Cal. App. LEXIS 273*, modified, *(Cal. App. 3d Dist. May 1, 2020), 2020 Cal. App. LEXIS 371*, review granted, depublished, *(Cal. Aug. 12, 2020), 2020 Cal. LEXIS 5364*.

Opinion Notes

Attorney General's Opinions

Regarding claims for "costs mandated by the state" filed with the Board of Control before January 1, 1985, and transferred to the Commission on State Mandates upon its establishment pursuant to *Government Code Section 17630* and based upon a statute enacted after July 1, 1980, the Commission should determine if the claim is for "costs mandated by the state" as defined in *Government Code Section 17514*, and, if it is, allow it; if the claim does not meet the definition, the Commission should determine if it is for "costs mandated by the state" as defined in *Revenue and Taxation Code Section 2207* or *2207.5*, and, if it is, allow it; or if the claim does not meet any of the foregoing definitions, the Commission should reject it. *68 Ops. Cal. Atty. Gen. 244*.

Research References & Practice Aids

Treatises:

Cal. Forms Pleading & Practice (Matthew Bender) ch 472 "Public Agency Rules".

Hierarchy Notes:

Cal Gov Code Title 2, Div. 4

Cal Gov Code Title 2, Div. 4, Pt. 7

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Cal Gov Code § 17500

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§ 17500. Legislative findings and declarations

The Legislature finds and declares that the existing system for reimbursing local agencies and school districts for the costs of state–mandated local programs has not provided for the effective determination of the state's responsibilities under *Section 6 of Article XIIIB of the California Constitution.* The Legislature finds and declares that the failure of the existing process to adequately and consistently resolve the complex legal questions involved in the determination of state–mandated costs has led to an increasing reliance by local agencies and school districts on the judiciary and, therefore, in order to relieve unnecessary congestion of the judicial system, it is necessary to create a mechanism which is capable of rendering sound quasi–judicial decisions and providing an effective means of resolving disputes over the existence of state–mandated local programs.

It is the intent of the Legislature in enacting this part to provide for the implementation of *Section 6 of Article XIIIB of the California Constitution.* Further, the Legislature intends that the Commission on State Mandates, as a quasi–judicial body, will act in a deliberative manner in accordance with the requirements of *Section 6 of Article XIIIB of the California Constitution.*

History

Added Stats 1984 ch 1459 § 1. Amended *Stats 2004 ch 890 § 2 (AB 2856)*.

Annotations

Notes

Amendments:

Note—

Amendments:

2004 Amendment:

Deleted “and to consolidate the procedures for reimbursement of statutes specified in the Revenue and Taxation Code with those identified in the constitution” at the end of the first sentence in the second paragraph.

Note—

Stats 2005 ch 72 provides:

> SEC. 17. (a) Notwithstanding any other provision of law, the Commission on State Mandates, no later than June 30, 2006, shall reconsider its test claim statement of decision in CSM-4202 on the Mandate Reimbursement Program to determine whether Chapter 486 of the Statutes of 1975 and Chapter 1459 of the Statutes of 1984 constitute a reimbursable mandate under *Section 6 of Article XIII B of the California Constitution* in light of federal and state statutes enacted and federal and state court decisions rendered since these statutes were enacted. If a new test claim is filed on Chapter 890 of the Statutes of 2004, the commission shall, if practicable, hear and determine the new test claim at the same time as the reconsideration of CSM-4202. The commission, if necessary, shall revise its parameters and guidelines in CSM-4485 to be consistent with this reconsideration and, if practicable, shall include a reasonable reimbursement methodology as defined in *Section 17518.5 of the Government Code*. If the parameters and guidelines are revised, the Controller shall revise the appropriate claiming instructions to be consistent with the revised parameters and guidelines. Any changes by the commission to the original statement of decision in CSM-4202 shall be deemed effective on July 1, 2006.
>
> (b) Notwithstanding any other provision of law, the Commission on State Mandates shall set-aside all decisions, reconsiderations, and parameters and guidelines on the Open Meetings Act (CSM-4257) and Brown Act Reform (CSM-4469) test claims. The operative date of these actions shall be the effective date of this act. In addition, the Commission on State Mandates shall amend the appropriate parameters and guidelines, and the Controller shall revise the appropriate reimbursement claiming instructions, as necessary to be consistent with any other provisions of this act.

NOTES TO DECISIONS

1. Generally

Gov C § *17500*-*17630* was enacted to implement Cal Const Art XIII B § *6*. *County of Fresno v. State (Cal. Apr. 22, 1991), 53 Cal. 3d 482, 280 Cal. Rptr. 92, 808 P.2d 235, 1991 Cal. LEXIS 1363*.

Gov C § 17556(d) declares that the commission shall not find costs mandated by the state if, after a hearing, the commission finds that the local government has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service. *County of Fresno v. State (Cal. Apr. 22, 1991), 53 Cal. 3d 482, 280 Cal. Rptr. 92, 808 P.2d 235, 1991 Cal. LEXIS 1363*.

2. Particular Determinations

State's practice of paying only a nominal amount for mandated programs, while indefinitely deferring the remaining costs, did not comply with the mandate reimbursement requirements of Cal Const Art XIII B § 6, and the implementing statutes contained in Gov C §§ 17500 et seq., as clearly expressed in Gov C § 17561. Thus, school districts were entitled to declaratory relief under CCP § 1060. *California School Bds. Assn. v. State of California (Cal. App. 4th Dist. Feb. 9, 2011), 192 Cal. App. 4th 770, 121 Cal. Rptr. 3d 696, 2011 Cal. App. LEXIS 164*.

3. Legislative Intent

In enacting Gov C §§ 17500 et seq., the Legislature established the Commission on State Mandates as a quasi-judicial body to carry out a comprehensive administrative procedure for resolving claims for reimbursement of state-mandated local costs arising out of Cal Const Art XIII B § 6. The Legislature did so because the absence of a uniform procedure had resulted in inconsistent rulings on the existence of state mandates, unnecessary litigation, reimbursement delays, and, apparently, resultant uncertainties in accommodating reimbursement requirements in the budgetary process. It is apparent from the comprehensive nature of this legislative scheme, and from the Legislature's expressed intent, that the exclusive remedy for a claimed violation of Cal Const Art XIII B § 6, lies in these procedures. The statutes create an administrative forum for resolution of state mandate claims, and establish procedures that exist for the express purpose of avoiding multiple proceedings, judicial and administrative, addressing the same claim that a reimbursable state mandate has been created. In short, the Legislature has created what is clearly intended to be a comprehensive and exclusive procedure by which to implement and enforce Cal Const Art XIII B § 6. Thus, the statutory scheme contemplates that the commission, as a quasi-judicial body, has the sole and exclusive authority to adjudicate whether a state mandate exists. *Redevelopment Agency v. California Comm'n on State Mandates (Cal. App. 4th Dist. Mar. 7, 1996), 43 Cal. App. 4th 1188, 51 Cal. Rptr. 2d 100, 1996 Cal. App. LEXIS 267*.

4. Construction

Although the State may require local entities to provide new programs or services, it may not require the local entities to use their own revenues to pay for the programs. Payment at some later, undefined time is impermissible. *California School Bds. Assn. v. State of California (Cal. App. 4th Dist. Feb. 9, 2011), 192 Cal. App. 4th 770, 121 Cal. Rptr. 3d 696, 2011 Cal. App. LEXIS 164*.

5. Construction with Other Law

The Legislature's initial appropriation to reimburse counties for the costs of Pen C § 987.9 (funding by court for preparation of defense for indigent defendants in capital cases), was not a final and unchallengeable determination that the statute constitutes a state mandate, nor did the Commission on State Mandates err in finding that the statute is not a state mandate, despite the Legislature's finding to the contrary in a later appropriations bill. The commission was not bound by the Legislature's determination, and it had discretion to determine whether a state mandate existed. The comprehensive administrative procedures for resolution of claims arising out of Cal Const Art XIII B § 6 (Gov C §§ 17500 et seq.), are the exclusive procedures by which to implement and enforce the constitutional provision. Thus, the commission, as a quasi-judicial body, has the sole and exclusive authority to adjudicate whether a state mandate exists. Any legislative findings are irrelevant to the issue of whether a state

mandate exists, and the commission properly determined that no such mandate existed. In any event, the Legislature itself ceased to regard the provisions of Pen C § 987.9, as a state mandate in 1983. *County of Los Angeles v. Commission on State Mandates (Cal. App. 2d Dist. Feb. 24, 1995), 32 Cal. App. 4th 805, 38 Cal. Rptr. 2d 304, 1995 Cal. App. LEXIS 161*.

While the legislative history of an amendment to Lab C § 4707 may have evinced the understanding or belief of the Legislature that the amendment created a state mandate, such understanding or belief was irrelevant to the issue of whether a state mandate existed. The Legislature has entrusted that determination to the Commission on State Mandates, subject to judicial review (Gov C §§ 17500, 17559), and has provided that the initial determination by Legislative Counsel is not binding on the Commission. (Gov C § 17575.) *City of Richmond v. Commission on State Mandates (Cal. App. 3d Dist. May 28, 1998), 64 Cal. App. 4th 1190, 75 Cal. Rptr. 2d 754, 1998 Cal. App. LEXIS 546*.

4. Jurisdiction

The superior court had jurisdiction to adjudicate a county's assertion that the Legislature's transfer to counties of the responsibility for providing health care services for medically indigent adults constituted a new program that required state funding under Cal Const Art XIII B § 6 (reimbursement to local government for costs of new state-mandated program). Although the administrative procedures for determining state-mandated local costs, set forth in Gov C §§ 17500 et seq., are the exclusive means by which the state's obligations under Cal Const Art XIII B § 6, are to be determined, in this case requiring the county to resort to the statutory procedures would have unduly restricted the county's constitutional right. Other counties' test claim to determine the state's obligations, which was supposed to create an administrative process capable of resolving all disputes, was settled and dismissed without resolving the pertinent issues. This undermined the adequacy of the statutory procedures. Moreover, the county had twice filed claims for reimbursement with the Commission on State Mandates, but the commission did not respond. Requiring the county to pursue further, futile administrative procedures would have resulted in irreparable harm in light of the county's expressed intent to terminate, for lack of funding, its program for the medically indigent. *County of San Diego v. State of California (Cal. App. 4th Dist. Apr. 18, 1995), 33 Cal. App. 4th 1787, 40 Cal. Rptr. 2d 193, 1995 Cal. App. LEXIS 364*, review granted, depublished, *(Cal. July 13, 1995), 46 Cal. Rptr. 2d 586, 904 P.2d 1197, 1995 Cal. LEXIS 4446*, reprinted, *(Cal. App. 4th Dist. Apr. 18, 1995), 38 Cal. App. 4th 1151*.

In a water quality regulation dispute, Gov C §§ 17500 et seq., deprived the trial court of jurisdiction to consider an issue regarding state-mandated costs. *San Joaquin River Exchange Contractors Water Authority v. State Water Resources Control Bd. (Cal. App. 3d Dist. Apr. 13, 2010), 183 Cal. App. 4th 1110, 108 Cal. Rptr. 3d 290, 2010 Cal. App. LEXIS 514*, modified, *(Cal. App. 3d Dist. May 5, 2010), 2010 Cal. App. LEXIS 610*.

Research References & Practice Aids

Jurisprudences

Cal. Forms Pleading & Practice (Matthew Bender®) ch 324 "Jurisdiction: Subject Matter Jurisdiction".

Treatises:

Cal. Forms Pleading & Practice (Matthew Bender) ch 474 "Availability of Judicial Review of Agency Decisions".

Cal. Employment Law (Matthew Bender), § 21.02.

9 Witkin Summary (10th ed) Taxation § 122.

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Cal Gov Code Title 2, Div. 4

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§ 17564. Filing of claims; Threshold amount

(a) No claim shall be made pursuant to *Sections 17551*, *17561*, or *17573*, nor shall any payment be made on claims submitted pursuant to *Sections 17551* or *17561*, or pursuant to a legislative determination under *Section 17573*, unless these claims exceed one thousand dollars ($1,000). However, a county superintendent of schools or county may submit a combined claim on behalf of school districts, direct service districts, or special districts within their county if the combined claim exceeds one thousand dollars ($1,000) even if the individual school district's, direct service district's, or special district's claims do not each exceed one thousand dollars ($1,000). The county superintendent of schools or the county shall determine if the submission of the combined claim is economically feasible and shall be responsible for disbursing the funds to each school, direct service, or special district. These combined claims may be filed only when the county superintendent of schools or the county is the fiscal agent for the districts. All subsequent claims based upon the same mandate shall only be filed in the combined form unless a school district, direct service district, or special district provides to the county superintendent of schools or county and to the Controller, at least 180 days prior to the deadline for filing the claim, a written notice of its intent to file a separate claim.

(b) Claims for direct and indirect costs filed pursuant to *Section 17561* shall be filed in the manner prescribed in the parameters and guidelines or reasonable reimbursement methodology and claiming instructions.

(c) Claims for direct and indirect costs filed pursuant to a legislatively determined mandate pursuant to *Section 17573* shall be filed and paid in the manner prescribed in the Budget Act or other bill, or claiming instructions, if applicable.

History

Added Stats 1986 ch 879 § 9. Amended *Stats 1992 ch 1041 § 4 (AB 1690)*; *Stats 1999 ch 643 § 6 (AB 1679)*; *Stats 2002 ch 1124 § 30.9 (AB 3000)*, effective September 30, 2002; *Stats 2004 ch 890 § 23 (AB 2856)*; *Stats 2007 ch 329 § 9 (AB 1222)*, effective January 1, 2008.

Annotations

Notes

Derivation:

Amendments:

Note—

Derivation:

Former Rev & Tax C § 2233, as added Stats 1975 ch 105 § 1, amended Stats 1977 ch 1135 § 8, Stats 1980 ch 1256 § 10, Stats 1982 ch 1638 § 5.

Amendments:

1992 Amendment:

Substituted the fourth sentence of subd (a) for the former fourth sentence which read: "All subsequent claims based upon the same mandate shall only be filed in the combined form."

1999 Amendment:

(1) Substituted "in the parameters and guidelines" for "by the Controller" in subd (b); and (2) deleted former subd (c) which read: "(c) Local agencies and school districts may file estimated claims and reimbursement claims with the Controller for increased costs resulting from any law enacted between January 1, 1973, and January 1, 1975, or an executive order implementing a statute enacted during that period, that resulted in a new program or a higher level of service of an existing program, and for which a specific appropriation has been made. The Controller shall pay these estimated claims, and approved reimbursement claims, from funds appropriated expressly therefor, provided that the Controller (1) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, (2) may reduce any claim which the Controller determines is excessive or unreasonable, and (3) shall adjust the payment to correct for any underpayments or overpayments which occurred in previous fiscal years. The provisions of this chapter relative to estimated and reimbursement claims generally shall also apply to claims filed pursuant to this subdivision."

2002 Amendment:

Substituted "one thousand dollars ($1,000)" for "two hundred dollars ($200)" in three places in subd (a).

2004 Amendment:

Added "and claiming instructions" at the end of subd (b).

2007 Amendment:

(1) Amended subd (a) by (a) substituting "Sections 17551, 17561, or 17573," for "Sections 17551 and 17561,"; (b) substituting "Sections 17551 or 17561, or pursuant to a legislative determination under Section 17573," for "Sections 17551 and 17561,"; and (c) substituting ". However," for ", provided that" in the second sentence; (2) added "or reasonable reimbursement methodology" in subd (b); and (3) added subd (c).

Note—

Stats 1999 ch 643 provides:

SECTION 1. This act shall be known, and may be cited, as the Local Government Omnibus Act of 1999.

Research References & Practice Aids

Cross References:

Hearing and decision on claims: Gov C § *17551*.

Hierarchy Notes:

Cal Gov Code Title 2, Div. 4

Cal Gov Code Title 2, Div. 4, Pt. 7

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1. *Cal Gov Code § 17573*
   Client/Matter: -None-
   Search Terms: Cal Gov Code§ 17573
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Cal Gov Code § 17573

Deering's California Codes are current through Chapters 1-35, 37-87, 89, 91-97, 99-102, 104-139, 142-150, 152-155, 159-162, 164-172, 175, 176, 178, 183, 188-191, 194, 199-201, 206-209, 211-228, 232, 236, 239-257, 260-262, 264-268, 270-292, 294, 298-310, 313-319, 322-326, 330-337, 343, 346-356, and 366-369 of the 2020 Regular Session, including all urgency legislation.

Deering's California Codes Annotated > GOVERNMENT CODE (§§ 1 — 500000–500049) > Title 2 Government of the State of California (Divs. 1 — 5) > Division 4 Fiscal Affairs (Pts. 1 — 8) > Part 7 State-Mandated Local Costs (Chs. 1 — 6) > Chapter 4 Identification and Payment of Costs Mandated by the State (Arts. 1 — 5) > Article 1.5 Legislatively Determined Mandate Procedure (§§ 17572 — 17574.5)

§ 17573. Request for legislatively determined mandate; Elements; Procedure

(a) Notwithstanding *Section 17551*, the Department of Finance and a local agency, school district, or statewide association may jointly request of the chairpersons of the committees in each house of the Legislature that consider appropriations, and the chairpersons of the committees and appropriate subcommittees in each house of the Legislature that consider the State Budget, that the Legislature (1) determine that a statute or executive order, or portion thereof, mandates a new program or higher level of service requiring reimbursement of local governments pursuant to *Section 6 of Article XIII B of the California Constitution*, (2) establish a reimbursement methodology, and (3) appropriate funds for reimbursement of costs. For purposes of this section, "statewide association" includes a statewide association representing local agencies or school districts, as defined in *Sections 17518* and *17519*.

(b) The statute of limitations specified in *Section 17551* shall be tolled from the date a local agency, school district, or statewide association contacts the Department of Finance or responds to a Department of Finance request to initiate a joint request for a legislatively determined mandate pursuant to subdivision (a), to (1) the date that the Budget Act for the subsequent fiscal year is adopted if a joint request is submitted pursuant to subdivision (a), or (2) the date on which the Department of Finance, or a local agency, school district, or statewide association notifies the other party of its decision not to submit a joint request. A local agency, school district, or statewide association, or the Department of Finance shall provide written notification to the commission of each of these dates.

(c)A joint request made under subdivision (a) shall be in writing and include all of the following:

> **(1)**Identification of those provisions of the statute or executive order, or portion thereof, that mandate a new program or higher level of service requiring reimbursement of local agencies or school districts pursuant to *Section 6 of Article XIII B of the California Constitution*, a proposed reimbursement methodology, and the period of reimbursement.
>
> **(2)**A list of eligible claimants and a statewide estimate for the initial claiming period and annual dollar amount necessary to reimburse local agencies or school districts to comply with that statute or executive order that mandates a new program or higher level of service.
>
> **(3)**Documentation of significant support among local agencies or school districts for the proposed reimbursement methodology, including, but not limited to, endorsements by statewide associations and letters of approval from local agencies or school districts.

(d)A joint request authorized by this section may be submitted to the Legislature pursuant to subdivision (a) at any time after enactment of a statute or issuance of an executive order, regardless of whether a test claim on

the same statute or executive order is pending with the commission. If a test claim is pending before the commission, the period of reimbursement established by that filing shall apply to a joint request filed pursuant to this section.

(e)

(1) If the Legislature accepts the joint request and determines that those provisions of the statute or executive order, or portion thereof, mandate a new program or higher level of service requiring reimbursement of local agencies or school districts pursuant to *Section 6 of Article XIII B of the California Constitution*, it shall adopt a statute declaring that the statute or executive order, or portion thereof, is a legislatively determined mandate and specify the term and period of reimbursement and methodology for reimbursing eligible local agencies or school districts. If no term is specified in the statute, then the term shall be five years, beginning July 1 of the year in which the statute is enacted.

(2) For the purpose of this subdivision, “term” means the number of years specified in the statute adopted pursuant to this subdivision for reimbursing eligible local agencies or school districts for a legislatively determined mandate.

(f) When the Legislature adopts a statute pursuant to paragraph (1) of subdivision (e) on a mandate subject to subdivision (b) of *Section 6 of Article XIII B of the California Constitution*, the Legislature shall do either of the following:

(1) Appropriate in the Budget Act the full payable amount for reimbursement to local agencies that has not been previously paid.

(2) Suspend the operation of the mandate pursuant to *Section 17581* or repeal the mandate.

(g) The Department of Finance, or a local agency, school district, or statewide association shall notify the commission of actions taken pursuant to this section, as specified below:

(1) Provide the commission with a copy of any communications regarding development of a joint request under this section and a copy of a joint request when it is submitted to the Legislature.

(2) Notify the commission of the date of (A) the Legislature’s action on a joint request in the Budget Act, or (B) the Department of Finance’s decision not to submit a joint request on a specific statute or executive order.

(h) Upon receipt of notice that a joint request has been submitted to the Legislature on the same statute or executive order as a pending test claim, the commission may stay its proceedings on the pending test claim upon the request of any party.

(i) Upon enactment of a statute declaring a legislatively determined mandate, enactment of a reimbursement methodology, and appropriation for reimbursement of the full payable amount that has not been previously paid in the Budget Act, all of the following shall apply:

(1) The Controller shall prepare claiming instructions pursuant to *Section 17558*, if applicable.

(2) The commission shall not adopt a statement of decision, parameters and guidelines, or statewide cost estimate on the same statute or executive order unless a local agency or school district that has rejected the amount of reimbursement files a test claim or takes over a withdrawn test claim on the same statute or executive order.

(3)A local agency or school district accepting payment for the statute or executive order, or portion thereof, that mandates a new program or higher level of service pursuant to *Section 6 of Article XIII B of the California Constitution* shall not be required to submit parameters and guidelines if it is the successful test claimant pursuant to *Section 17557*.

History

Added *Stats 2007 ch 329 § 11 (AB 1222)*, effective January 1, 2008.

Annotations

Research References & Practice Aids

Hierarchy Notes:

Cal Gov Code Tit. 2, Div. 4

Cal Gov Code Tit. 2, Div. 4, Pt. 7

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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 November 25, 2020, I served the:

- **Notice of Complete Test Claim, Schedule for Comments, and Notice of Tentative Hearing Date issued November 25, 2020**
- **Test Claim filed by the County of Los Angeles on June 26, 2020**

  County of Los Angeles Citizens Redistricting Commission, 19-TC-04
  Elections Code Division 21, Chapter 6.3 (Commencing with Section 21530) as added by Statutes 2016, Chapter 781 (SB 958)
  County of Los Angeles, 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 November 25, 2020 at Sacramento, California.

Jill L. Magee
Commission on State Mandates
980 Ninth Street, Suite 300
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 11/25/20

Claim Number: 19-TC-04

Matter: County of Los Angeles Citizens Redistricting Commission

Claimant: County of Los Angeles

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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