

ARNOLD SCHWARZENEGGER
GOVERNOR



STATE OF CALIFORNIA COMMISSION ON STATE MANDATES

REPORT TO THE LEGISLATURE: APPROVED MANDATE CLAIMS

July 1, 2008 – December 31, 2008

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J. Steven Worthley
County Supervisor
County of Tulare

Sarah Olsen
Public Member

Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814
(916) 323-3562

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EXECUTIVE SUMMARY

State law requires the Commission on State Mandates to report to the Legislature on the number of mandates it has found, the estimated statewide costs of these mandates, and the reasons for recommending reimbursement. This report fulfills that requirement.

New Mandates

Between July 1, 2008 and December 31, 2008, the Commission adopted four statewide cost estimates totaling **\$1,269,892**. This amount is not proposed for appropriation in the 2009-2010 Budget.

Pending Statewide Cost Estimates

There are currently 21 approved mandates for which statewide cost estimates are pending.

INTRODUCTION

Statewide Cost Estimates

The Commission on State Mandates (Commission) is required to report to the Legislature at least twice each calendar year on the number of mandates it has found, the estimated statewide costs of each mandate, and the reasons for recommending reimbursement.¹

After the Commission submits its semiannual report to the Legislature, the Legislative Analyst is required to submit a report to the Joint Legislative Budget Committee and legislative fiscal committees on the mandates included in the Commission's reports. The Legislative Analyst's report shall make recommendations as to whether the mandate should be repealed, funded, suspended, or modified.

Upon receipt of the report submitted by the Commission pursuant to Section 17600, funding shall be provided in the subsequent Budget Act for costs incurred in prior years. No funding shall be provided for years in which a mandate is suspended.²

The Legislature may amend, modify, or supplement the parameters and guidelines, reasonable reimbursement methodology, and adopted statewide estimate of costs for the initial claiming period and budget year for mandates contained in the annual Budget Act. If the Legislature amends, modifies, or supplements the parameters and guidelines, reasonable reimbursement methodology, and adopted statewide estimate of costs for the initial claiming period and budget year, it shall make a declaration in separate legislation specifying the basis for the amendment, modification, or supplement.³

Jointly Developed Statewide Estimate of Costs

In 2007, AB 1222 (Statutes 2007, chapter 329) was enacted to provide an alternate process for determining the costs of mandated programs. Under AB 1222, local governments and the Department of Finance may jointly develop reimbursement methodologies and statewide estimate of costs for mandated programs for approval by the Commission. Jointly developed statewide estimate of costs that are approved by the Commission will be included in the Commission's Annual Reports to the Legislature.

Mandate Funding Provisions

If the Legislature deletes from the annual Budget Act funding for a mandate, the local agency or school district may file in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement for that fiscal year.⁴

If payment for an initial reimbursement claim is being made more than 365 days after adoption of the statewide cost estimate, the State Controller's Office (SCO) shall include accrued interest at the Pooled Money Investment Account rate.⁵

If the Legislature appropriates the amount of the statewide cost estimate and actual claims exceed this amount, the SCO will prorate the claims.⁶ If the deficiency funds are not

¹ Government Code section 17600.

² Government Code section 17612, subdivision (a).

³ Government Code section 17612, subdivision (b).

⁴ Government Code section 17612, subdivision (c).

⁵ Government Code section 17561.5, subdivision (a).

appropriated in the Budget Act, the SCO reports this information to the legislative budget committees and the Commission.

Under Proposition 1A, which amended article XIII B, section 6 of the California Constitution, city, county, city and county, or special district mandate claims for costs incurred prior to the 2004-2005 fiscal year that have not been paid prior to the 2005-2006 fiscal year may be paid over a term of years, as prescribed by law. However, for the 2005-2006 fiscal year and every subsequent fiscal year, the Constitution now requires the Legislature to either appropriate in the annual Budget Act, the full payable amount that has not been previously paid or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable.

The following table shows the four statewide cost estimates that have been adopted during the period of July 1, 2008 through December 31, 2008.

**Statewide Cost Estimates (SCE) Adopted
During the Period of July 1, 2008 – December 31, 2008**

Date SCE Adopted ⁷	Test Claim	Period of Reimbursement (Fiscal Years)	Estimated Costs		
			Education	Non-Education	Totals
9/26/08	<i>Charter Schools III, 99-TC-14</i>	1999-2000 through 2006-2007	\$102,420		\$102,420
9/26/08	<i>Missing Children Reports, 01-TC-09</i>	2002-2003- through 2006-2007	\$34,381		\$34,381
9/26/08	<i>Pupil Safety Notices, 02-TC-13</i>	2001-2002 through 2007-2008	\$45,668		\$45,668
11/6/08	<i>Post Conviction: DNA Court Proceedings, 00-TC-21, 01-TC-08</i>	2001-2002 through 2007-2008		\$1,087,423	\$1,087,423
TOTALS			\$182,469	\$1,087,423	\$1,269,892

⁶ Government Code section 17567.

⁷ If payment for an initial reimbursement claim is made more than 365 days after adoption of the statewide cost estimate, the Controller shall include accrued interest at the Pooled Money Investment Account rate. (Gov. Code, § 17561.6, subd. (a).)

II. NEW MANDATES

Charter Schools III
99-TC-14

Education Code Sections 47605, subdivision (b), and 47635
Statutes 1998, Chapter 34
Statutes 1999, Chapter 78
California Department of Education Memo (May 22, 2000)

Test claim Filed: June 29, 2000
Reimbursement Period for this Estimate: July 1, 1999 through June 30, 2007
Eligible Claimants: School Districts and County Offices of Education
Statewide Cost Estimate: \$102,420
Adopted: September 26, 2008

The statewide cost estimate includes 8 fiscal years for a total of \$102,420. This averages to \$12,803 annually in costs for the state. Following is a breakdown of claims filed:

**TABLE 1. BREAKDOWN OF ESTIMATED
TOTAL COSTS PER FISCAL YEAR**

Fiscal Years	Number of Claims Filed with SCO	Estimated Costs
1999-2000	1	\$1,005
2000-2001	1	1,225
2001-2002	1	1,100
2002-2003	1	1,180
2003-2004	1	1,295
2004-2005	1	1,932
2005-2006	4	9,700
2006-2007	16	84,983
Total	26	\$102,420

Summary of the Mandate

The test claim statutes impose administrative duties upon school districts and county offices of education regarding charter schools.

The Commission on State Mandates adopted its Statement of Decision finding that the test claim statutes impose a reimbursable state-mandated program on school districts or county offices of education within the meaning of article XIII B, section 6 of the California Constitution and Government Code sections 17514.

The claimant filed the test claim on June 29, 2000. The Commission adopted a Statement of Decision on May 25, 2006, and the parameters and guidelines on December 4, 2006. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by July 23, 2007, and late claims by July 23, 2008.

Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

A. School Districts

1. *Findings on denial.* Upon denial of a charter petition, a school district makes written findings of fact to support one or more of the following findings: (1) the charter school presents an unsound educational program for pupils; (2) petitioners are demonstrably unlikely to successfully implement the educational program; (3) the petition does not include the required number of signatures; (4) the petition does not contain reasonably comprehensive descriptions, as specified in statute (Ed. Code, § 47605, subd. (b), amended by Stats. 1998, ch. 34).⁸ (*Reimbursement period begins January 1, 1999.*)

B. School Districts and County Offices of Education

1. *Transfer funds in lieu of property taxes.* Except for local educational agencies that charge fees under Education Code section 47613, subdivision (c), a school district or county office of education that sponsors a charter school must transfer funds in monthly installments to the charter school in lieu of property taxes (Ed. Code, § 47635, added by Stats. 1999, ch. 78). (*Reimbursement period begins January 1, 2000.*)
2. *Financial information.* For school districts or county offices of education that are chartering authorities, including the revenues and expenditures generated by the charter school in the school district's or county office of education's annual statement, in a format specified by the California Department of Education. (*Reimbursement period: May 22, 2000 through June 30, 2001.*)

Statewide Cost Estimate

Staff reviewed the claims data submitted by 18 school districts and compiled by the SCO. The actual claims data showed that 26 claims were filed between fiscal years 1999-2000 and 2006-2007 for a total of \$102,420.⁹ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program. The Commission will report this adopted statewide cost estimate to the Legislature along with staff's assumptions and methodology.

Assumptions

Staff made the following assumptions:

1. *The actual amounts claimed will not increase for fiscal years 1999-2000 through 2006-2007 because July 23, 2008 was the last day to file late or amended claims for the initial reimbursement period on this program. Beginning in 2007-2008, reimbursement claims must be filed under consolidated parameters and guidelines for Charter Schools I, II, and III.*
2. *The SCO may reduce any reimbursement claim for this program.*
If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.
3. *Costs for this program may increase if the number of charter schools increases, and the school districts that administer those charter schools file reimbursement claims.*

⁸ This activity does not apply to a county office of education.

⁹ Claims data reported as of August 7, 2008.

Methodology

Fiscal Years 1999-2000 through 2006-2007

The statewide cost estimate only includes fiscal years 1999-2000 through 2006-2007, because beginning in 2007-2008, reimbursement claims must be filed under consolidated parameters and guidelines *Charter Schools I, II and III*.

The statewide cost estimate was computed by totaling the 26 unaudited reimbursement claims filed with the SCO for these fiscal years.

Conclusion

On September 26, 2008, the Commission adopted a statewide cost estimate of **\$102,420** (\$12,803 in annual costs) for costs incurred in complying with the *Charter Schools III* program for the period of July 1, 1999 through June 30, 2007.

Missing Children Reports
01-TC-09

Education Code Sections 38139, Subdivisions (a) and (b) and
49068.6, Subdivisions (b) and (d)
Statutes of 1986, Chapter 249
Statutes of 1999, Chapter 832

Test Claim Filed: June 5, 2001

Reimbursement Period for this Estimate: July 1, 2002 through June 30, 2007

Eligible Claimants: School Districts and County Offices of Education

Statewide Cost Estimate: \$34,381

Adopted: September 26, 2008

The statewide cost estimate includes five fiscal years for a total of \$34,381. This averages to \$6,876 annually in costs for the state. Following is a breakdown of claims filed:

**TABLE 1. BREAKDOWN OF ESTIMATED
TOTAL COSTS PER FISCAL YEAR**

Fiscal Year	Number of Claims Filed with the SCO	Estimated Costs
2002-2003	1	\$ 1,047
2003-2004	1	1,082
2004-2005	2	7,119
2005-2006	3	3,950
2006-2007	12	21,183
Total	19	34,381

Summary of the Mandate

The test claim statutes impose numerous requirements on school districts for posting missing children bulletins, and notifying law enforcement agencies and parents of certain information about missing children.

On January 27, 2005, the Commission on State Mandates (Commission) adopted the Statement of Decision for *Missing Children Reports* (01-TC-09). The Commission found that Education Code sections 38139, subdivisions (a) and (b), and 49068.6, subdivisions (b) and (d), constitute a new program or higher level of service and impose a reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514.

The claimant filed the test claim on June 5, 2001. The Commission adopted a Statement of Decision on January 27, 2005, and the parameters and guidelines on October 26, 2006. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by December 5, 2007.

Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

1. Posting Notices (Ed. Code § 38139, subd. (a) and (b))
Posting at an appropriate area (one restricted to adults for primary schools) all information regarding missing children.
2. Filing Law Enforcement Agency Notices (Ed. Code § 49068.6, subd. (b))
Placing the notice received from law enforcement agencies of a missing child in the front of the student's school record.
3. Report of Record Request (Ed. Code § 49068.6, subd. (d))
Notifying law enforcement authorities when the school receives an outside student record inquiry or request regarding a missing child.

Statewide Cost Estimate

Staff reviewed the claims data submitted by nine school districts and four county superintendents of schools, and compiled by the SCO. The actual claims data showed that 19 claims were filed between fiscal years 2002-2003 and 2006-2007 for a total of **\$34,381**.¹⁰ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program. The Commission will report this adopted statewide cost estimate to the Legislature along with staff's assumptions and methodology.

Assumptions

Staff made the following assumptions:

1. *The actual amount claimed may increase if late or amended claims are filed.*
Only 13 school entities in California have filed 19 reimbursement claims for this program. Thus, if reimbursement claims are filed by any of the remaining school districts or county superintendents of schools, the amount of reimbursement claims may exceed the statewide cost estimate. For this program, late claims for 2002-2003 through 2006-2007 may be filed until December 2008. However, staff does not expect any late claims to be filed because most claimants will be unable to meet the \$1,000 minimum threshold for filing reimbursement claims, as this program is limited to three activities that may only occur upon an inquiry regarding a missing child.
2. *The SCO may reduce any reimbursement claim for this program.*
If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.
3. *The number of claims and the claimants will vary each year.*
The number of claims filed and the claimants will vary each year because this program is completed only upon an inquiry about a missing child.

¹⁰ Claims data reported as of August 7, 2008.

Methodology

The statewide cost estimate only includes fiscal years 2002-2003 through 2006-2007, because beginning in 2007-2008, reimbursement claims must be filed under consolidated parameters and guidelines *Missing Children Reports and Law Enforcement Agency Notification*.

The statewide cost estimate was computed by totaling the 19 unaudited reimbursement claims filed with the SCO for these fiscal years.

Conclusion

On September 26, 2008, the Commission adopted the statewide cost estimate of **\$34,381** (\$6,876 in annual costs) for costs incurred in complying with the *Missing Children Reports* program for the period of July 1, 2002, through June 30, 2007.

Pupil Safety Notices

02-TC-13

Education Code Sections 32242, 32243, 32245, 46010.1; 48904, 48904.3, 48987
Welfare and Institutions Code Section 18285
Statutes 1983, Chapter 498; Statutes 1984, Chapter 482; Statutes 1984, Chapter 948;
Statutes 1986, Chapter 196; Statutes 1986, Chapter 332; Statutes 1992, Chapter 445;
Statutes 1992, Chapter 1317; Statutes 1993, Chapter 589; Statutes 1994, Chapter 1172;
Statutes 1996, Chapter 1023; Statutes 2002, Chapter 492
California Code of Regulations, Title 5, Section 11523

Test Claim Filed: February 21, 2003

Reimbursement for This Estimate: July 1, 2001 through June 30, 2008

Eligible Claimants: School Districts

Statewide Cost Estimate: \$45,668

Adopted: September 26, 2008

The statewide cost estimate includes seven fiscal years for a total of \$45,668. This averages to \$6,524 annually in costs for the state. Following is a breakdown of estimated total costs per fiscal year:

**TABLE 1. BREAKDOWN OF ESTIMATED
TOTAL COSTS PER FISCAL YEAR**

Fiscal Years	Number of Claims Filed with the SCO	Estimated Costs
2001-2002	2	\$ 4,726
2002-2003	2	4,776
2003-2004	2	5,624
2004-2005	2	5,582
2005-2006	2	8,652
2006-2007	2	7,936
2007-2008	N/A	8,372
Total	12	\$45,668

Summary of the Mandate

This program requires(1) school districts to provide, for the first time, notices and information regarding health, safety and legal issues to staff, parents, guardians and students; and (2) for a school district receiving a transfer student, upon notice that the school district from which the student is being transferred has withheld the grades, diploma or transcripts of that student, to continue to withhold the grades, diploma or transcripts of any transfer student, until it receives notice that the district that initiated the decision to withhold, has rescinded that decision.

The Commission on State Mandates (Commission) adopted the Statement of Decision for the *Pupil Safety Notices* test claim. The Commission found that test claim statutes and regulation constitute a new program or higher level of service and impose a partially reimbursable state-

mandated program upon school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The claimant filed the test claim on February 21, 2003. The Commission adopted a Statement of Decision on December 4, 2006, and the parameters and guidelines on December 6, 2007. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by June 9, 2008.

Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

1. For the principal of the school site, within 45 days of receiving lead test survey results from the Department of Health Services, to notify the teachers and other school personnel and parents of the survey results. (Ed. Code, § 32242, subd. (c).)
2. For schools to notify parents of the Childhood Lead Poisoning Prevention Act of 1991 upon receiving a finding that a school site has significant risk factors for lead. (Ed. Code, § 32243, subd. (a).)
3. For schools, within 45 days of receiving a finding by the Department of Health Services that a school subject to the Lead-Safe Schools Act has significant risk factors for lead, to notify the teachers, other personnel, and the parents of the finding. (Ed. Code, § 32243, subd. (a).)
4. For school districts to amend an existing notice sent to pupils in grades 7-12 and their parents or guardians to include the provision that "school authorities may excuse any pupil from the school for the purpose of obtaining confidential medical services without the consent of the pupil's parent or guardian." This activity is a one-time activity. (Ed. Code, § 46010.1.)
5. To disseminate guidelines, upon request, that describe complaint procedures, adopted by the State Department of Education, to parents or guardians of minor pupils in the primary language of the parent or guardian which he or she can follow in filing a complaint of child abuse by a school employee or other person committed against a pupil at a school site. (Ed. Code, § 48987.)
6. To provide an interpreter for a parent or guardian, whose primary language is other than English, in the case of any communications concerning the guidelines and procedures for filing child abuse complaints committed against a pupil at a school site. (Ed. Code, § 48987.)
7. For the principal of each school with students in grades 11 and/or 12 to distribute to each pupil in those grades an announcement explaining the California High School Proficiency Exam provided for under Education Code section 48412 in time to meet registration requirements for the fall test of that year. (Cal. Code Regs., tit. 5, § 11523.)
8. To establish rules and regulations governing procedures for withholding grades, transcripts, and diplomas. (Ed. Code, § 48904, subd. (b)(3).)
9. For a transferee school, upon notice that a school district has withheld the grades, diploma or transcripts of any pupil pursuant to Education code section 48904, to continue to withhold the grades, diploma or transcripts of any transfer student as authorized by that section, until such time as it receives notice, from the district that initiated the decision to withhold, that the decision has been rescinded under the terms of that section. (Ed. Code, § 48904.3, subd. (a).)

Statewide Cost Estimate

Staff reviewed the claims data submitted by two school districts, and compiled by the SCO. The actual claims data showed that 12 claims were filed between fiscal years 2001-2002 and 2006-2007 for a total of \$37,296.¹¹ This program requires school districts to, among other things; disseminate several different notices regarding school site lead risk factors, confidential medical services, the California High School Proficiency Exam, and guidelines for complaint procedures regarding child abuse committed against a pupil at a school site, including any costs to interpret those guidelines in other languages for the requesting parents or guardians. Staff found that the majority of costs for the two districts that filed reimbursement claims were for disseminating the child abuse guidelines and related interpreter costs.

Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program. The Commission will report the adopted statewide cost estimate to the Legislature along with staff's assumptions and methodology.

Assumptions

Staff made the following assumptions:

1. *The actual amount claimed may increase if late or amended claims are filed.*

Only two school districts in California have filed 12 reimbursement claims for this program. Thus, if reimbursement claims are filed by any of the remaining school districts, the amount of reimbursement claims may exceed the statewide cost estimate. For this program, late claims for 2002-2003 through 2006-2007 may be filed until June 2009.

2. *Non-claiming school districts did not file claims because they did not incur more than \$1000 in increased costs for this program.*

Most school districts will be unable to meet the \$1,000 minimum threshold for filing reimbursement claims, because only a portion of this program was approved as a reimbursable state mandate, and there are offsetting revenues available for a portion of the mandate.

3. *The Galt Joint Union High School District and Live Oak Unified School District will continue to incur costs over \$1,000 and will continue to file reimbursement claims.*

4. *The SCO may reduce any reimbursement claim for this program.*

If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.

Methodology

Fiscal Years 2001-2002 through 2006-2007

The statewide cost estimate for fiscal years 2001-2002 through 2006-2007 is based on the 12 unaudited actual reimbursement claims filed with the SCO for these years.

Fiscal Year 2007-2008

Staff estimated fiscal year 2007-2008 costs by multiplying the 2006-2007 estimate by the implicit price deflator for 2007-2008 (5.5%), as forecast by Department of Finance.

¹¹ Claims data reported as of August 13, 2008.

Conclusion

On September 26, 2008, the Commission adopted a statewide cost estimate of **\$45,668** (\$6,524 in annual costs) for costs incurred in complying with the *Pupil Safety Notices* program for the period of July 1, 2001 through June 30, 2008.

Post Conviction: DNA Court Proceedings
00-TC-21, 01-TC-08

Penal Code Sections 1405 and 1417.9
Statutes 2000, Chapter 821; Statutes 2001, Chapter 943
County of Los Angeles, Claimant

Test Claims Filed: June 29, 2001
Reimbursement Period for this Estimate: July 1, 2001 through June 30, 2008
Eligible Claimants: Cities and Counties
Statewide Cost Estimate: \$1,087,423
Adopted: November 6, 2008

The statewide cost estimate includes seven fiscal years for a total of \$1,087,423. This averages to \$155,346 annually in costs for the state. Following is a breakdown of estimated total costs per fiscal year:

**TABLE 1. BREAKDOWN OF ESTIMATED
TOTAL COSTS PER FISCAL YEAR**

Fiscal Year	Number of Claims Filed with the SCO	Estimated Costs
2001-2002	2	\$ 62,375
2002-2003	3	112,687
2003-2004	3	124,059
2004-2005	1	17,053
2005-2006	4	134,566
2006-2007	4	334,797
2007-2008	4	301,886
Total	21	\$1,087,423

Summary of the Mandate

In 2000, the Legislature enacted the test claim statutes as a post-conviction remedy for convicted felons to obtain DNA testing of biological evidence. The statutes also establish procedures and timelines for the retention of biological evidence.

The post-conviction remedy applies to cases where biological evidence is available and is previously untested or tested by a less reliable test, and where identity of the perpetrator was an issue. The test claim statutes specify how a defendant files a motion to obtain DNA testing and what conditions must be met before the court grants the testing motion.

In 2001, the original test claim statute was amended (Stats. 2001, ch. 943) to clarify that the defendant's right to file a motion for post-conviction DNA testing cannot be waived, nor can the

right be waived to receive notice of a governmental entity's intention to dispose of biological material before expiration of the period of imprisonment.¹²

The Commission on State Mandates (Commission) found that test claim statutes constitute a new program or higher level of service and impose a partially reimbursable state-mandated program upon school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The claimant filed the test claim on June 29, 2001. The Commission adopted a Statement of Decision on July 28, 2006, and the parameters and guidelines on May 31, 2007. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by December 17, 2007.

Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

- **Representation and investigation:** For indigent defense counsel investigation of the DNA-testing and representation of the convicted person (except for drafting and filing the DNA-testing motion) effective January 1, 2001 (Pen. Code, § 1405, subd. (c) as added by Stats. 2000, ch. 821).
- **Prepare and file motion for DNA testing & representation:** If the person is indigent and has met the statutory requirements, and if counsel was not previously appointed by the court, for counsel to prepare and file a motion for DNA testing, if appropriate, effective January 1, 2002 (Pen. Code, § 1405, subds. (a) & (b)(3)(A)). Also, providing notice of the motion to "the Attorney General, the district attorney in the county of conviction, and, if known, the governmental agency or laboratory holding the evidence sought to be tested" is mandated as of January 1, 2002 (Pen. Code, § 1405, subd. (c)(2)).
- **Prepare and file response to the motion:** Effective January 1, 2001, to prepare and file a response to the motion for testing, if any, by the district attorney "within 60 days of the date on which the Attorney General and the district attorney are served with the motion, unless a continuance is granted for good cause" (Pen. Code, § 1405, subd. (c)(2)).
- **Provide prior test lab reports and data:** When the evidence was subjected to DNA or other forensic testing previously by either the prosecution or defense, the prosecution or defense, whichever previously ordered the testing, provides all parties and the court with access to the laboratory reports, underlying data, and laboratory notes prepared in connection with the DNA or other biological evidence testing effective January 1, 2001 (Pen. Code, § 1405, subd. (d)).
- **Agree on a DNA lab:** Effective January 1, 2001, for the public defender and the district attorney to agree on a DNA-testing laboratory (Pen. Code, § 1405, subd. (g)(2)).
- **Writ review:** Effective January 1, 2001, prepare and file petition, or response to petition, for writ review by indigent defense counsel and the district attorney of the trial-court's decision on the DNA-testing motion (Pen. Code, § 1405, subd. (j)).

¹² Penal Code section 1405 was technically amended by Statutes 2004, chapter 405. Staff makes no finding on this amendment.

- **Retain biological material:** Effective January 1, 2001, retain all biological material that is secured in connection with a felony case for the period of time that any person remains incarcerated in connection with that case (Pen. Code, § 1417.9, subd. (a)).

The Commission found that all other statutes in the test claim, including holding a hearing on the DNA testing motion, were not a reimbursable state-mandated program within the meaning of article XIII B, section 6 and Government Code section 17514.

Statewide Cost Estimate

Staff reviewed the claims data submitted by one city and five counties¹³, and compiled by the SCO. The actual claims data showed that 21 claims were filed between fiscal years 2001-2002 and 2007-2008 for a total of \$1,087,423.¹⁴

This program reimburses local agencies for indigent defense counsel and district attorney hearing preparation costs when a convicted felon requests DNA testing of biological evidence, and for the costs of storing that biological material that is secured in connection with a criminal case for the period of time that any person remains incarcerated in connection with that case.

According to local agency representatives, there are two primary reasons that only five counties and one city have filed reimbursement claims for this program. First, counties have received few requests from convicted felons for additional DNA testing of biological evidence. Second, counties are finding it difficult to carve out costs specifically dedicated to storing biological evidence under this program. For these reasons, local agency representatives contend that there are few late claims pending, and a larger number of claims will not be filed in future years.

Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program. If the Commission adopts this statewide cost estimate, it will be reported to the Legislature along with staff's assumptions and methodology.

Assumptions

Staff made the following assumptions:

1. *The actual amount claimed may increase if late or amended claims are filed.* Only six local agencies in California have filed 21 reimbursement claims for this program. Thus, if reimbursement claims are filed by any of the remaining cities and counties, the amount of reimbursement claims may exceed the statewide cost estimate. For this program, late claims for 2001-2002 through 2007-2008 may be filed until December 2008.

2. *The cost of this program may increase if the number of felony convictions increases.*

This program requires counties to store any biological evidence secured in connection with a felony conviction. Therefore, if the number of felony convictions increases, the number of convictions with related biological evidence may also rise, causing increase in the cost of this program.

3. *The costs of this program may remain constant.*

According to local agency representatives, counties have received few requests from convicted felons for additional DNA testing of biological evidence. And, counties are finding it difficult to carve out costs specifically dedicated to storing biological evidence

¹³ Counties of Los Angeles, Monterey, Sacramento, San Bernardino, Santa Clara, and the City of Fairfield

¹⁴ Claims data reported as of August 13, 2008.

under this program. For these reasons, local agency representatives contend that there are few late claims pending, and a larger number of claims will not be filed in future years.

4. *The one city and five counties that filed reimbursement claims for the initial reimbursement period will continue to file reimbursement claims.*
5. *The total amount of reimbursement for this program may be lower than the statewide cost estimate, because the SCO may reduce any reimbursement claim for this program.*

If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced.

Methodology

Fiscal Years 2001-2002 through 2007-2008

The statewide cost estimate for fiscal years 2001-2002 through 2007-2008 is based on the 21 unaudited actual reimbursement claims filed with the SCO for these years.

Conclusion

On November 6, 2008, the Commission adopted a statewide cost estimate of **\$1,087,423** (\$155,346 in annual costs) for costs incurred in complying with the *Post Conviction: DNA Court Proceedings* program for the period of July 1, 2001 through June 30, 2008.

IV. PENDING STATEWIDE COST ESTIMATES

	Local Agencies		School Districts
1.	<i>California Fire Incident Reporting System (CFIRS) Manual, 4419, 00-TC-02</i>	18.	<i>Pupil Discipline Records & Notification to Teachers: Pupils Subject to Suspension or Expulsion, 00-TC-10; 00-TC-11</i>
2.	<i>Domestic Violence Arrests and Victim Assistance, 98-TC-14</i>	19.	<i>CalSTRS Creditable Compensation, 01-TC-02; 02-TC-19</i>
3.	<i>Interagency Child Abuse and Neglect (ICAN) Investigation Reports, 00-TC-22*</i>	20.	<i>Reporting Improper Governmental Activities, 02-TC-24</i>
4.	<i>In-Home Supportive Services II, 00-TC-23</i>	21.	<i>Comprehensive School Safety Plans II. 02-TC-33*</i>
5.	<i>Mentally Disordered Offenders: Treatment as a Condition of Parole, 00-TC-28, 05-TC-06</i>		
6.	<i>Racial Profiling: Law Enforcement Training, 01-TC-01</i>		
7.	<i>Local Recreational Areas: Background Screenings, 01-TC-11</i>		
8.	<i>Modified Primary Election, 01-TC-13*</i>		
9.	<i>Fifteen Day Close of Voter Registration, 01-TC-15</i>		
10.	<i>Fire Safety Inspections of Care Facilities, 01-TC-16</i>		
11.	<i>Domestic Violence Background Checks, 01-TC-29*</i>		
12.	<i>Local Government Employment Relations, 01-TC-30*</i>		
13.	<i>Local Agency Formation Commissions, 02-TC-23*</i>		
14.	<i>Permanent Absent Voter II, 03-TC-11*</i>		
15.	<i>Voter Identification Procedures, 03-TC-23*</i>		
16.	<i>Crime Statistic Reports for the Department of Justice, 02-TC-04, 02-TC-11*</i>		
17.	<i>Crime Victims' Domestic Violence Incident Reports II, 02-TC-18*</i>		

* Parameters and Guidelines Phase