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STATE OF CALIFORNIA COMMISSION ON STATE MANDATES

REPORT TO THE LEGISLATURE: APPROVED MANDATE CLAIMS

October 1, 2009 – July 31, 2011

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I. INTRODUCTION

Commission on State Mandates

Test Claim Process

Article XIII B, section 6 of the California Constitution requires the state to provide a subvention of funds to reimburse local government for the costs of new programs or increased levels of service mandated by the state. To implement article XIII B, section 6, the Legislature created the Commission on State Mandates (Commission) to succeed the State Board of Control in making determinations whether new statutes or executive orders are state-mandated programs.¹ The Commission was established to render sound quasi-judicial decisions and to provide an effective means of resolving disputes over the existence of state-mandated local programs. The Commission provides the sole and exclusive procedure for local agencies and school districts (claimants) to claim reimbursement for costs mandated by the state as required by article XIII B, section 6 of the California Constitution. The Commission is required to hear and decide claims (test claims) filed by local agencies and school districts that they are entitled to be reimbursed by the state for costs mandated by the state.²

Parameters and Guidelines

Government Code section 17557 provides that if the Commission determines that a statute or executive order imposes a mandate upon local agencies and school districts, the Commission is required to determine the amount to be subvented to local agencies and school districts for reimbursement by adopting parameters and guidelines. In adopting parameters and guidelines, the Commission may adopt a reasonable reimbursement methodology (RRM). Once parameters and guidelines are adopted, the Commission is required to adopt a statewide cost estimate of the mandated program (Gov. Code, § 17553).

Alternative Processes

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 reasonable reimbursement methodologies and statewide estimates of costs for mandated programs for approval by the Commission in lieu of parameters and guidelines and statewide cost estimates. Jointly developed reimbursement methodologies and statewide estimates of costs that are approved by the Commission are included in the Commission's Annual Reports to the Legislature.

AB 1222 also provided a process where the Department of Finance and local agencies, school districts, or statewide associations may jointly request that the Legislature determine that a statute or executive imposes a state-mandated program, establish a reimbursement methodology, and appropriate funds for reimbursement of costs. This process is intended to bypass the Commission, thus providing the Commission with more time to complete the caseload backlog.

¹ Statutes 1984, chapter 1459, Government Code section 17500, et seq.

² Government Code section 17551.

Report to the Legislature

The 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.³

In 2010, SB 894 (Stats. 2010, ch. 699) was enacted to require the Commission to expand its Report to the Legislature to include:

- The status of pending parameters and guidelines that include proposed reimbursement methodologies.
- The status of pending joint proposals between the Department of Finance and local governments to develop reasonable reimbursement methodologies in lieu of parameters and guidelines.
- The status of joint proposals between the Department of Finance and local governments to develop legislatively-determined mandates.
- Any delays in the completion of the above-named caseload.

This report fulfills these requirements.

Legislative Analyst

After the Commission submits its 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 each mandate should be repealed, funded, suspended, or modified.

The Legislature

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.⁴

The Legislature may amend, modify, or supplement the parameters and guidelines, reasonable reimbursement methodologies, and adopted statewide estimates 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 methodologies, or adopted statewide estimates 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.⁵

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

³ Government Code section 17600.

⁴ Government Code section 17612(a).

⁵ Government Code section 17612(b).

declaratory relief to declare the mandate unenforceable and enjoin its enforcement for that fiscal year.⁶

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.⁷

If the Legislature appropriates the amount of the statewide cost estimate and actual claims exceed this amount, the SCO will prorate the claims.⁸ If the funds to cover the remaining deficiency are not appropriated in the Budget Act, the SCO shall report 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.

II. NEW MANDATES

The following table shows the statewide cost estimates that were adopted during the period of October 1, 2009 through December 31, 2011.

**Statewide Cost Estimates (SCEs) Adopted
During the Period of October 1, 2009 through December 31, 2011**

Date SCE Adopted	Test Claim and Claim No.	Period of Reimbursement (Fiscal Years)	Estimated Costs		
			Education	Non- Education	Totals
11/9/10	<i>Pupil Discipline Records, Notification to Teachers: Pupils Subject to Suspension or Expulsion II, 00-TC-10/00-TC-11</i>	1/1/00 - 6/30/09	\$1,516,057		\$1,516,057
3/24/11	<i>Local Government Employee Relations, 01-TC-30</i>	1/1/06 – 6/30/09		\$4,925,403	\$4,925,403
3/24/11	<i>Local Agency Formation Commissions, 02-TC-23</i>	1/1/01 – 6/30/09		\$277,490	\$277,490

⁶ Government Code section 17612(c).

⁷ Government Code section 17561.5(a).

⁸ Government Code section 17567.

			<i>Estimated Costs</i>		
Date SCE Adopted	Test Claim and Claim No.	Period of Reimbursement (Fiscal Years)	Education	Non- Education	Totals
3/24/11	<i>Cal Grants</i> ,02- TC-28	7/1/01 – 6/30/09	\$60,094		\$60,094
5/26/11	<i>Prevailing Wage Rates</i> , 01-TC-28	7/1/01 – 6/30/09	\$480,655		\$480,655
5/26/11	<i>Academic Performance Index</i> , 01-TC-22	7/1/00 – 6/30/09	\$906,456		\$906,456
5/26/11	<i>Student Records</i> , 02-TC-34	7/1/00 – 6/30/09	\$802,888		\$802,888
7/28/11	<i>Child Abuse and Neglect Reports</i> , 01-TC-21	7/1/00 – 6/30/10	\$10,638		\$10,638
7/28/11	<i>Crime Victims’ Domestic Violence Incident Reports II</i> , 02-TC-18	1/1/02 – 6/30/10 & 1/1/03 – 6/30/10 ⁹		\$1,767,448	\$1,767,448
7/28/11	<i>Tuition Fee Waivers</i> , 02-TC-21	7/1/00 – 6/30/10	\$6,179,742		\$6,179,742
TOTAL			\$9,956,530	\$6,970,341	\$16,926,871

⁹ For this program, there are different reimbursement periods for different statutes.

III. PENDING PARAMETERS AND GUIDELINES, AMENDMENTS, AND STATEWIDE COST ESTIMATE CASELOAD

Following are tables showing parameters and guidelines, parameters and guidelines with proposed reasonable reimbursement methodologies (RRMs), requests to amend parameters and guidelines, and statewide cost estimates that are pending Commission determination.

A. Pending Parameters and Guidelines

	Program	Status
1.	<i>California Public Records Act, *&**</i> 02-TC-10 & 02-TC-51	Set for hearing on July 27, 2012.
2.	<i>Minimum Conditions for State Aid,</i> 02-TC-25 & 02-TC-31**	Set for hearing on May 25, 2012.
3.	<i>Developer Fees, 02-TC-42**</i>	To be set.
4.	<i>Discrimination Complaint Procedures, 02-TC-46**</i>	Set for hearing on May 25, 2012.
5.	<i>Community College Construction,</i> 02-TC-47**	Set for hearing on September 28, 2012
6.	<i>Tuberculosis Control, 03-TC-14*</i>	Set for hearing on September 28, 2012
7.	<i>Peace Officer Procedural Bill of Right II, 03-TC-18*</i>	To be set.

B. Pending Parameters and Guidelines that Include Proposed RRMs

	Program	Status
1.	<i>Behavioral Intervention Plans,</i> CSM-4464**	Tentatively set for hearing on May 25, 2012.
2.	<i>Interagency Child Abuse and Neglect (ICAN) Investigation Reports,</i> 00-TC-22*	Tentatively set for hearing on March 23, 2012.
3.	<i>Voter Identification Procedures,</i> 03-TC-23*	Set for hearing on March 23, 2012.

C. Pending Requests to Amend Parameters and Guidelines

	Program	Status
1.	<i>Enrollment Fee Collection and Waivers,</i> 08-PGA-02 (99-TC-13 & 00-TC-15)**	Tentatively set for hearing on March 22, 2012.
2.	<i>Habitual Truants, 09-PGA-01,</i> 01-PGA-06 (CSM-4487)**	Set for hearing on March 22, 2012.

* Local agency programs

** School district or community college district programs

3.	<i>Peace Officer Procedural Bill of Rights (POBOR), 09-PGA-05 (CSM-4499)*</i>	Set for hearing on September 29, 2011; Continued to March 23, 2012 hearing at request of claimant.
4.	<i>Interdistrict Attendance, 10-PGA-01 (CSM-4442)**</i>	Set for hearing on January 27, 2012
5.	<i>School Accountability Report Cards, 10-PGA-02, (97-TC-21)**</i>	Set for hearing on January 27, 2012
6.	<i>Pupil Promotion and Retention 10-PGA-03 (98-TC-19)**</i>	Set for hearing on January 27, 2012
7.	<i>Crime Statistics Reports for Department of Justice, 10-PGA-05, (02-TC-04, 02-TC-11, 07-TC-10)*</i>	To be set.
8.	<i>Peace Officer Procedural Bill of Rights (POBOR) 10-PGA-06 (CSM-4499)*</i>	To be set.
9.	<i>Notification of Truancy, 11-PGA-01 (CSM-4133)**</i>	To be set.
10.	<i>Annual Parent Notification, 11-PGA-02**</i>	To be set.
11.	<i>Graduation Requirements, 11-PGA-03 (CSM-4435)**</i>	To be set.
12.	<i>Physical Education Reports, 11-PGA-04 (98-TC-08)**</i>	To be set.
13.	<i>AIDs Instruction and AIDs Prevention Instruction, 11-PGA-05 (99-TC-07, 00-TC-01)**</i>	To be set.

D. Pending Statewide Cost Estimates

	Program	Status
1.	<i>Pupil Expulsions II, Educational Services Plan for Expelled Pupils, and Pupil Suspensions II and Amendments, 96-358-03, 03A, 03B, 96-358-04, 04A, 04B, 97-TC-09, 98-TC-22, 98-TC-23, 01-TC-17, 01-TC-18**</i>	To be set.
2.	<i>Modified Primary Election, 01-TC-13*</i>	Set for hearing on July 27, 2012.
3.	<i>Domestic Violence Background Checks, 01-TC-29*</i>	Set for hearing on May 25, 2012.
4.	<i>Identity Theft, 03-TC-08*</i>	Set for hearing on May 25, 2012.
5.	<i>Permanent Absent Voter II, 03-TC-11*</i>	Set for hearing on July 27, 2012
6.	<i>Mandate Reimbursement Process II, 05-TC-05*&**</i>	Set for hearing on March 23, 2012.

*Local agency programs

**School district or community college district programs

IV. PENDING JOINT REASONABLE REIMBURSEMENT METHODOLOGIES AND LEGISLATIVELY- DETERMINED MANDATES

A. Joint Reasonable Reimbursement Methodologies

Following is a table showing programs where Department of Finance and test claimants are negotiating RRM's.

	Program	Date of Notice by Local Agencies or Department of Finance	Status
	None		

B. Joint Legislatively-Determined Mandates

Following is a table showing programs for which Department of Finance and local agencies are negotiating legislatively-determined mandates (LDMs) they may jointly propose to the Legislature for adoption.

	Program	Date of Notice	Status
1.	<i>Firefighters' Bill of Rights (FBOR), 07-LDM-01*</i> Statutes 2007, Chapter 508 (AB 1243)	April 28, 2008	Department of Finance and local agencies in negotiations.
2.	<i>Vote-by-Mail Voters 08-LDM-01*</i> Statutes 2007, Chapter 59 (AB 220)	September 12, 2008	Local agency representatives indicate they will be withdrawing this LDM.

* Local agency programs

** School district or community college district programs

C. Delays in the Process

Government Code section 17600 requires the Commission to report any delays in the process for joint RRM's or LDMs being developed by Department of Finance and local entities.

There are currently no pending joint RRM's. There are two pending LDMs. However, local agency representatives indicate they will be withdrawing the *Vote-by-Mail* LDM. Delays in negotiations for the pending LDMs have been attributed to staffing shortages and changes in staffing for both Department of Finance and the local agency representatives.

STATEWIDE COST ESTIMATE
\$906,456

Education Code Section 52056(c)

Statutes 1999, 1st Extraordinary Session, Chapter 3
Statutes 2000, Chapter 695

Academic Performance Index
01-TC-22

Test Claim Filed: June 28, 2002

Reimbursement Period for this Estimate: July 1, 2000 through June 30, 2009

Eligible Claimants: Any School District

STAFF ANALYSIS

Background and Summary of the Mandate

This program requires a school district governing board to discuss the results of its annual Academic Performance Index (API) ranking at the next regularly scheduled meeting following the annual publication of the API and Superintendent of Public Instruction (SPI) school rankings.

The Commission on State Mandates (Commission) adopted a statement of decision concluding that Education Code section 52056(c), as added and amended by the test claim statutes, imposes 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 28, 2002. The Commission adopted the statement of decision on July 31, 2009, and the parameters and guidelines on May 27, 2010. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by November 30, 2010, and late claims by November 30, 2011.

Eligible Claimants and Period of Reimbursement

School districts are eligible claimants. The reimbursement period for this new mandate began on July 1, 2000.

Reimbursable Activities

The Commission approved the following activities for reimbursement:

- For a school district governing board to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings (Ed. Code § 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695).

Reimbursement is allowed for obtaining the annual API data from the state's website and preparing a staff report, including a PowerPoint presentation, for the governing board's discussion. (Ed. Code §, 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695.)

However, districts discussing the results of the annual API and SPI rankings (in § 52056, subd. (c)) is not a reimbursable mandate for schools with fewer than 100 valid test scores, or schools in the alternative accountability system that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, alternative schools, including continuation high schools and opportunity schools and independent study schools. (Ed. Code, § 52052, subd. (f)(1), Stats. 2001, ch. 887 & Cal. Code Regs., tit. 5, § 1032, subd. (b).)

Participation in the Intermediate Intervention/Underperforming Schools Program (II/USP) pursuant to section 52053(d) and (j), and all other test claim statutes and regulations pled in the test claim do not constitute a reimbursable state mandate.

Statewide Cost Estimate

Staff reviewed the claims data submitted by 81 school districts and compiled by the SCO. The actual claims data showed that 445 claims were filed for 10 fiscal years for a total of \$906,456.¹⁰ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

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

There are currently 1,047 school districts in California. Of those, only 81 filed reimbursement claims for this program between 2000 and 2010. If other eligible claimants file late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims for this program may be filed until November 30, 2011.

2. *There may be several reasons that non-claiming school districts did not file for reimbursement, including but not limited to:*

- The Commission approved only a small portion of this program as a mandate. Therefore, most school districts cannot reach the \$1,000 threshold for filing reimbursement claims.
- They did not have supporting documentation to file a reimbursement claim.

3. *There is a wide variation in costs claimed for this program based on: (a) the hourly rate of the employee performing the reimbursable activities; and (b) the total number of hours worked to perform the reimbursable activities that appear to be eligible for reimbursement.*

Staff reviewed the claims data and found a wide variation in costs among claimants. The program generally allows for preparing and presenting the staff report on the API ranking to the governing board. The variation in costs is evident in the hourly rate of the employee performing the reimbursable activities.

For example, for fiscal year 2009-2010, Kelseyville Unified School District claimed the hourly rate of \$23.33 for the Director of Student Services. In comparison, Buena Park Elementary claimed the hourly rate of \$50.49 for the Secretary; Deserts Sands Unified claimed \$74.78 for the Assessment Administrator; and Glendale Unified claimed \$86.25 for the Administrator.

The variation in costs is also evident in the total number of hours worked to perform the reimbursable activities. For example, for fiscal year 2009-2010, Savanna School District

¹⁰ Claims data reported as of March 18, 2011.

claimed 67.5 total hours to prepare and present the staff report. In comparison, Desert Sands Unified claimed 17 total hours; Buena Park Elementary claimed 18 total hours; Colton Joint Unified claimed 20 total hours; and Glendale Unified claimed 52 total hours.

However, the parameters and guidelines do not require a specific classification of employee to perform the reimbursable activities, nor do they specify a maximum allowable number of hours to perform the reimbursable activities. Therefore, the costs appear to be eligible for reimbursement.

4. *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.*

The SCO is authorized to reduce any claims it deems excessive or unreasonable. While the costs claimed appear to be eligible for reimbursement, based on the wide variation, the SCO may decide to conduct an audit of the claims.

Methodology

Fiscal Years 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, and 2009-2010.

The proposed statewide cost estimate for the above-named fiscal years was developed by totaling the 445 reimbursement claims filed with the SCO for these years.

The proposed statewide cost estimate includes 10 fiscal years for a total of \$906,456 for the *Academic Performance Index* program. This averages to \$90,645 annually in costs for the state for this 10-year period.

Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of School District Claims Filed with SCO	Estimated Cost
2000-2001	28	\$49,030
2001-2002	29	\$55,132
2002-2003	31	\$58,673
2003-2004	36	\$71,784
2004-2005	43	\$80,946
2005-2006	43	\$88,536
2006-2007	54	\$107,498
2007-2008	54	\$114,802
2008-2009	58	\$122,147
2009-2010	69	\$157,908
TOTAL	445	\$906,456

Comments on the Draft Staff Analysis and Proposed Statewide Cost Estimate

On April 15, 2011, Commission staff issued the draft staff analysis and proposed statewide estimate for comment. No comments were submitted.

Conclusion

On May 26, 2011, the Commission adopted the statewide cost estimate of **\$906,456** for costs incurred in complying with the *Academic Performance Index* program.

STATEWIDE COST ESTIMATE

\$60,074

Education Code Section 69432.9(b)(3)(C)

Statutes 2000, Chapter 403 (SB 1644)

California Code of Regulations, Title 5, Sections 30007, 30023(a) and (d), and 30026

Cal Grants

02-TC-28

Test Claim Filed: June 13, 2003

Reimbursement Period for this Estimate: July 1, 2001 through June 30, 2009

Eligible Claimants: Community College Districts

STAFF ANALYSIS

Background and Summary of the Mandate

This program involves the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program, which was enacted by the Legislature in 2000 to address Cal Grant awards to students beginning in the 2001-2002 academic year. The Cal Grant program provides funding for California residents based on financial need and academic merit for public or private postsecondary education.

The Commission on State Mandates (Commission) adopted a Statement of Decision concluding that Education Code section 69432.9(b)(3)(C), and sections 30007, 30023(a) and (d), and 30026 of the Student Aid Commission's regulations, constitute a reimbursable state-mandated program 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 13, 2003. The Commission adopted the Statement of Decision on March 27, 2009, and the parameters and guidelines on January 29, 2010. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by August 3, 2010, and late claims by August 3, 2011.

Eligible Claimants and Period of Reimbursement

Community college districts are eligible claimants. The reimbursement period for this new mandate begins July 1, 2001.

Reimbursable Activities

The Commission approved the following activities for reimbursement:

- Calculating a college or community college grade point average pursuant to the instructions in California Code of Regulations, title 5, section 30007. (Ed. Code, § 69432.9, subd. (b)(3)(C), as added by Stats. 2000, ch. 403; Cal. Code Regs, tit. 5, §§ 30007, 30023, subd. (a), and 30026.)
- Certifying under penalty of perjury to the best of his or her knowledge from the school official filing the report that the grade point average is accurately reported and that it is subject to review by the Student Aid Commission or its designee. (Ed. Code, § 69432.9,

subd. (b)(3)(C), as added by Stats. 2000, ch. 403; Cal. Code Regs, tit. 5, §§ 30007 and 30026.)

- Completing or correcting a grade point average upon notice that the original submitted grade point average was not complete or correct. (Cal. Code Regs., tit. 5, § 30023, subd. (d).)

These activities apply to community colleges only when:

(1) a community college student applies for a Cal Grant Transfer Entitlement award for use at a four year college; (2) a community college student competes for a Competitive Cal Grant A to be held in reserve until the student attends a four year college; or (3) a community college student competes for a Competitive Cal Grant B award, which can be used at the community college.

Offsetting Revenue Provisions

Any community college that uses the revenue from the appropriation in line item 6870-101-0001 of any Budget Act for the activities of calculating and certifying a grade point average and completing and correcting a grade point average pursuant to the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program must deduct that amount from the costs claimed.

Statewide Cost Estimate

Staff reviewed the claims data submitted by three community college districts, and compiled by the SCO. The actual claims data showed that 12 claims were filed for fiscal years 2001-2002, 2002-2003, 2003-2004, and 2005-2006 for a total of \$60,074.¹¹ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

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

There are 72 community college districts in California. Of those, only three filed reimbursement claims for this program between 2001 and 2006. If other eligible claimants file late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims for this program may be filed until August 3, 2011.

2. *However, it is probable that additional claims will not be filed.*

Only three of the 72 community college districts filed reimbursement claims, and those districts only filed for four fiscal years. Claimant representatives indicate that because the Commission approved only a small portion of the program as reimbursable, and because claimants must offset budget appropriations from those claims, most community college districts are unable to meet the minimum \$1,000 threshold for filing claims.

3. *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.*

The SCO may also conduct full field audits on this program, and reduce any claim it deems to be excessive or unreasonable.

¹¹ Claims data reported as of January 14, 2011.

Methodology

Fiscal Years 2001-2002, 2002-2003, 2003-2004, and 2005-2006

The proposed statewide cost estimate for the above-named fiscal years was developed by totaling the 12 reimbursement claims filed with the SCO for these years.

The proposed statewide cost estimate includes four fiscal years for a total of \$60,074 for the *Cal Grants* program. This averages to \$15,019 annually in costs for the state for this four-year period.

Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Community College District Claims Filed with SCO	Estimated Cost
2001-2002	3	\$12,848
2002-2003	3	\$18,850
2003-2004	3	\$16,297
2004-2005	0	\$0
2005-2006	3	\$12,079
TOTAL	12	\$60,074

Comments on the Draft Staff Analysis and Proposed Statewide Cost Estimate

On February 8, 2011, Commission staff issued the draft staff analysis and proposed statewide cost estimate for comment. No comments were filed.

Conclusion

The Commission on State Mandates adopted the statewide cost estimate of **\$60,074** for costs incurred in complying with the *Cal Grants* program.

STATEWIDE COST ESTIMATE

\$10,638

Penal Code Sections 11165.7(d) and 11174.3(a)

Statutes 1987, Chapters 640 and 1459

Statutes 1991, Chapter 132

Statutes 1992, Chapter 459

Statutes 1998, Chapter 311

Statutes 2000, Chapters 916

Statutes 2001, Chapters 133 and 754

Child Abuse and Neglect Reporting

01-TC-21

Test Claim Filed: June 28, 2002

Reimbursement Period for this Estimate: July 1, 2000 through June 30, 2010

Eligible Claimants: Any K-12 School District

STAFF ANALYSIS

Background and Summary of the Mandate

The test claim statutes address requirements imposed on school districts under California's mandatory child abuse reporting laws.

The claimant filed the test claim on June 28, 2002. The Commission on State Mandates (Commission) adopted a statement of decision on July 31, 2009 and the parameters and guidelines on July 29, 2010. The Commission found that the test claim statute and regulations constitute a new program or higher level of service and impose a state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

Eligible claimants were required to file initial reimbursement claims for fiscal years 2000-2001 through 2008-2009 with the State Controller's Office (SCO) by February 1, 2011, and for fiscal year 2009-2010 by February 15, 2011. Claims filed more than one year after the applicable deadline will not be accepted.

Eligible Claimants and Period of Reimbursement

Any "school district" as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate is eligible to claim reimbursement. Charter schools are not eligible claimants.

The period of reimbursement for this program begins on July 1, 2000.

Reimbursable Activities

This test claim was filed by a community college district. The Commission found that there were no reimbursable activities imposed on community college districts, but it did find that activities were imposed on school districts. The following is a summary of those activities described more fully in the parameters and guidelines:

- Reporting to the State Department of Education the reasons why training is not provided, whenever school districts do not train their employees specified in Penal Code section 11165.7(a), in the duties of mandated reporters under the child abuse reporting laws. (Pen. Code, § 11165.7(d).)¹²
- Informing staff members of their responsibilities prior to the interview whenever a suspected victim of child abuse or neglect is to be interviewed during school hours, on school premises, and has requested that a staff member of the school be present at the interview.

Statewide Cost Estimate

Staff reviewed the claims data submitted by two school districts. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*

There are 1,047 K-12 school districts in California. Of those, only two filed reimbursement claims for this program between 2001 and 2010. However, other eligible claimants could file reimbursement claims if they receive reports of child abuse or neglect, which could increase the cost of the program.

- *There may be several reasons that non-claiming school districts did not file for reimbursement, including but not limited to:*
 1. The Commission approved only a portion of this program as a mandate. Therefore, some school districts cannot reach the \$1,000 threshold for filing reimbursement claims.
 2. School districts did not have supporting documentation to file a reimbursement claim.
- *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.*

The SCO may conduct audits and reduce any claims it deems to be excessive or unreasonable.

¹² Added by Statutes 1987, chapter 1459; amended by Statutes 1991, chapter 132, Statutes 1992, chapter 459, Statutes 2000, chapter 916, Statutes 2001, chapter 133 (urgency), and Statutes 2001, chapter 754. Reimbursement for this activity begins July 1, 2000, based on the test claim filing date; the reimbursable activity was not substantively altered by later amendments.

Methodology

Fiscal Years 2009-2010

The statewide cost estimate for fiscal year 2009-2010 was developed by totaling the two actual reimbursement claims filed with the SCO for that year.

The statewide cost estimate includes one fiscal year for a total of \$10,638. Following is the total cost per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
2009-2010	2	\$10,638
TOTAL	2	\$10,638

Comments on the Draft Staff Analysis and Proposed Statewide Cost Estimate

The Commission issued the draft staff analysis and proposed statewide cost estimate for comment on June 21, 2011. No comments were submitted.

Conclusion

On July 28, 2011, the Commission adopted the statewide cost estimate of **\$10,638** for costs incurred in complying with the *Child Abuse and Neglect Reporting* program.

STATEWIDE COST ESTIMATE

\$1,767,448

Penal Code Sections 13730(c)(3), 12028.5;

Statutes 2001, Chapter 483, Statutes 2002, Chapter 833

Crime Victims' Domestic Violence Incident Reports II

02-TC-18

Test Claim Filed: April 2, 2003

Reimbursement Period for this Estimate: January 1, 2002 through June 30, 2010 for

Penal Code section 13730(c)(3); and January 1, 2003 through June 30, 2010 for

Penal Code section 12028.5

Eligible Claimants: Any County, City, or City and County

STAFF ANALYSIS

Background and Summary of the Mandate

The test claim statutes require that additional information be included on domestic violence incident report forms regarding the presence of firearms or deadly weapons at the scene of domestic violence incidents and domestic violence-related calls for assistance. The statutes also require officers "at the scene of a domestic violence incident involving a threat to human life or a physical assault" to take temporary custody of firearms or weapons in plain sight or discovered pursuant to a consensual or other lawful search, and provide a procedure for return or disposal of the weapons.

On September 27, 2007, the Commission on State Mandates (Commission) adopted a statement of decision, finding that effective January 1, 2002, Penal Code section 13730(c)(3) (Stats. 2001, ch. 483) imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for local agencies, on all domestic violence-related calls for assistance.

Also, effective January 1, 2003, in accordance with Penal Code section 12028.5 (Stats. 2002, ch. 833) the Commission found a reimbursable state-mandated program within the meaning of article XIII B, section 6 and Government Code section 17514, when firearms or other deadly weapons are discovered during any other lawful search at the scene of a domestic violence incident involving a threat to human life or a physical assault. Any other lawful search includes but is not limited to the following searches: (1) a search incident to arrest, or of people the officer has legal cause to arrest; (2) a search pursuant to a warrant; or (3) a search based on statements of persons who do not have authority to consent, but have indicated to law enforcement that a weapon is present at the scene.

The Commission adopted the parameters and guidelines on May 27, 2010. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by February 15, 2011. Late claims are due by February 15, 2012.

Eligible Claimants and Period of Reimbursement

Any county, city, or city and county is an eligible claimant. The reimbursement period for Penal Code section 13730(c)(3) (Stats. 2001, ch. 483) began on January 1, 2002, and January 1, 2003 for Penal Code section 12028.5 (Stats. 2002, ch. 833).

The Commission approved the following activities for reimbursement:

Effective January 1, 2002, Penal Code section 13730(c)(3) (Stats. 2001, ch. 483) imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for local agencies, on all domestic violence-related calls for assistance:

- To include on the domestic violence incident report form a notation of whether the officer or officers who responded to the domestic violence call found it necessary, for the protection of the peace officer or other persons present, to inquire of the victim, the alleged abuser, or both, whether a firearm or other deadly weapon was present at the location, and, if there is an inquiry, whether that inquiry disclosed the presence of a firearm or other deadly weapon. (Pen. Code, § 13730(c)(3).)

Effective January 1, 2003, in accordance with Penal Code section 12028.5 (Stats. 2002, ch. 833) the Commission finds that the activities listed below are a reimbursable state-mandated program within the meaning of article XIII B, section 6 and Government Code section 17514, when firearms or other deadly weapons are discovered during any other lawful search at the scene of a domestic violence incident involving a threat to human life or a physical assault. Any other lawful search includes but is not limited to the following searches: (1) a search incident to arrest, or of people the officer has legal cause to arrest; (2) a search pursuant to a warrant; or (3) a search based on statements of persons who do not have authority to consent, but have indicated to law enforcement that a weapon is present at the scene.

- To take temporary custody of any firearm or other deadly weapon when necessary for the protection of the peace officer or other persons present. (Pen. Code, § 12028.5(b).)
- To give the owner or person in lawful possession of the firearm or other deadly weapon a receipt that describes the firearm or deadly weapon and lists any identification or serial number on the firearm, and indicates where the firearm or weapon can be recovered, the time limit for recovery, and the date after which the owner or possessor can recover it. (Pen. Code, § 12028.5(b).)
- To make the firearm or other deadly weapon available to the owner or person who was in lawful possession 48 hours after seizure or as soon as possible, but no later than five business days following the seizure. Reimbursement for this activity is not required if either: (1) the firearm or other deadly weapon confiscated is retained for use as evidence related to criminal charges as a result of domestic violence incident; or (2) if the firearm or other deadly weapon is retained because it was illegally possessed, or (3) if the firearm or other deadly weapon is retained because of a court petition filed pursuant to subdivision (f) of section 12028.5. (Pen. Code, § 12028.5(b).)

- To sell or destroy, as provided in subdivision (c) of Section 12028, any firearm or other deadly weapon taken into custody and held for longer than 12 months and not recovered by the owner or person in lawful possession at the time it was taken into custody. Reimbursement for this activity is not required for firearms or other deadly weapons not recovered within 12 months due to an extended hearing process as provided in subdivision (j) of section 12028.5. (Pen. Code, § 12028.5(e).)
- If the local agency has reasonable cause to believe that the return of a firearm or other deadly weapon would be likely to result in endangering the victim or the person reporting the assault or threat, for the agency to advise the owner of the firearm or other deadly weapon, and within 60 days of the date of seizure (or 90 days if an extension is granted) initiate a petition in superior court to determine if the firearm or other deadly weapon should be returned. (Pen. Code, § 12028.5(f).)
- To inform the owner or person who had lawful possession of the firearm or other deadly weapon, at that person's last known address by registered mail, return receipt requested, that he or she has 30 days from the date of receipt of the notice to respond to the court clerk to confirm his or her desire for a hearing, and that the failure to respond shall result in a default order forfeiting the confiscated firearm or other deadly weapon. If the person whose firearm or other deadly weapon was seized does not reside at the last address provided to the local agency, for the agency to make a diligent, good faith effort to learn the whereabouts of the person and to comply with the notification requirements in subdivision (g) of section 12028.5. (Pen. Code, § 12028.5(g).)
- If the owner or person who had lawful possession of the firearm or other deadly weapon requests a hearing, to show in court by a preponderance of evidence that the return of the firearm or other deadly weapon would result in endangering the victim or the person reporting the assault or threat. If the court orders the firearm or other deadly weapon returned to the owner or person who had lawful possession, the local agency upon order of the court shall pay reasonable attorney's fees to the prevailing party. (Pen. Code, § 12028.5(h).)
- If the owner or person who had lawful possession of the firearm or other deadly weapon does not request a hearing or does not respond within 30 days of the receipt of notice, to file a petition in court for an order of default. (Pen. Code, § 12028.5(i).)

Effective January 1, 2003, in accordance with Penal Code section 12028.5 (Stats. 2002, ch. 833) the Commission finds that the following activities are a reimbursable state-mandated program within the meaning of article XIII B, section 6 and Government Code section 17514, for local agencies, when firearms or other deadly weapons are taken into temporary custody at the scene of a domestic violence incident involving a threat to human life or a physical assault, and the firearm or other deadly weapon is discovered in plain sight or pursuant to a consensual or other lawful search.

- The one-time activity of amending the receipt for a confiscated firearm or other deadly weapon to include “the time limit for recovery as required” by section 12028.5. (Pen. Code, § 12028.5(b).)
- If the person who owns or had lawful possession of the firearm or other deadly weapon petitions the court for a second hearing within 12 months of the date of the initial hearing, showing by clear and convincing evidence that the return of the firearm or other deadly weapon would result in endangering the victim or the person reporting the assault or threat. If the court orders the firearm or other deadly weapon returned to the owner or person who had lawful possession, the local agency upon order of the court shall pay reasonable attorney’s fees to the prevailing party. (Pen. Code, § 12028.5, (j).)

Statewide Cost Estimate

Staff reviewed the claims data submitted by 52 cities and counties and compiled by the SCO. The actual claims data showed that 340 claims were filed for nine fiscal years for a total of \$1,767,448.¹³ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

5. *The actual amount claimed for reimbursement may increase if late or amended claims are filed.*

There are currently 478 cities and 58 counties in California. Of those, only 52 filed reimbursement claims for this program between 2001 and 2010. If other eligible claimants file late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims for this program may be filed until February 15, 2012.

6. *The number of reimbursement claims filed will vary from year to year.*

This program is based on activities performed by local agencies when firearms or other deadly weapons are discovered during a search or taken into temporary custody at the scene of a domestic violence incident; and for all violence-related calls for assistance. Therefore, the total number of reimbursement claims filed with the SCO will increase or decrease based on the number of incident reports taken by the local agencies.

7. *There may be several reasons that non-claiming cities and counties did not file for reimbursement, including but not limited to:*

- The Commission approved only a portion of this program as a mandate. Therefore, some cities and counties cannot reach the \$1,000 threshold for filing reimbursement claims.
- They did not have supporting documentation to file a reimbursement claim.

8. *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.*

The SCO may conduct full field audits, and reduce any claims it deems to be excessive or unreasonable.

¹³ Claims data reported as of June 30, 2011.

Methodology

Fiscal Years 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, and 2009-2010.

The statewide cost estimate for the above-named fiscal years was developed by totaling the 340 reimbursement claims filed with the SCO for these years.

The statewide cost estimate includes nine fiscal years for a total of \$1,767,448 for the *Crime Victims' Domestic Violence Incident Reports II* program. This averages to \$196,383 annually in costs for the state for this nine-year period.

Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
2001-2002	12	\$48,625
2002-2003	32	\$145,675
2003-2004	39	\$181,898
2004-2005	38	\$198,461
2005-2006	42	\$206,213
2006-2007	43	\$227,079
2007-2008	44	\$249,646
2008-2009	42	\$236,910
2009-2010	48	\$272,941
TOTAL	340	\$1,767,448

Comments on the Proposed Statewide Cost Estimate

On June 9, 2011, the Commission issued the draft staff analysis and proposed statewide cost estimate for comment. On June 29, 2011, Department of Finance submitted comments recommending updated claims data be used before adopting the proposed statewide cost estimate. Commission staff reviewed claims data reported as of June 30, 2011. There was no change in the total amount claimed for this program.

Conclusion

On July 28, 2011, the Commission adopted the statewide cost estimate of **\$1,767,448** for costs incurred in complying with the *Crime Victims' Domestic Violence Incident Reports II* program.

STATEWIDE COST ESTIMATE

\$277,490

Government Code Section 56425(i)(1) (formerly Subdivision (h)(1))

Statutes 2000, Chapter 761 (AB 2838)

Local Agency Formation Commissions

02-TC-23

Test Claim Filed: May 29, 2003

Reimbursement Period for this Estimate: July 1, 2001 through June 30, 2009

Eligible Claimants: Only those independent Special Districts that are Subject to the Tax and Spend Limitations of Article XIII A and Article XIII B

STAFF ANALYSIS

Background

Local agency formation commissions (LAFCOs) are statutorily-created administrative bodies which make quasi-legislative determinations regarding formation and development of local agencies.¹⁴ The courts have referred to LAFCOs as the Legislature's "watchdogs" over local boundaries.¹⁵ LAFCO membership must include representatives from city and county government, and may include representation from independent special districts.

LAFCOs are required to adopt a sphere of influence for each local governmental agency within its jurisdiction so the local agency may carry out its responsibility for planning and shaping logical and orderly development within its boundaries. LAFCOs are charged with updating spheres of influence not less than once every five years. Special districts are required to file specified written statements with the LAFCOs when their spheres of influence are being updated.

Summary of the Mandate

On September 27, 2007, the Commission found that Government Code section 56425(h)(1) (subsequently renumbered to subdivision (i)(1)), constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, and Government Code section 17514, in that it requires independent special districts to file written statements with the LAFCO specifying the functions or classes of service provided by those districts, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district.

These time periods and types of spheres of influence differ because section 56425 was changed effective January 2002. Statutes 2001, chapter 667 narrowed the spheres of influence affected by the requirements of subdivision (h). The 2001 statute replaced "any sphere of influence or a

¹⁴ Government Code section 56301.

¹⁵ *Tillie Lewis, supra*, 52 Cal.App.3d 983, 1005.

sphere of influence that includes a special district” with “a sphere of influence for a special district.” Thus, for the six-month period of July 1, 2001, through December 31, 2001, Government Code section 56425(h)(1) mandates a new program or higher level of service for independent special districts to file written statements with the LAFCO specifying the functions or classes of service provided by the districts for any sphere of influence or sphere of influence that included a special district, including any update to a sphere of influence or any update to a sphere of influence that included a special district. Beginning January 1, 2002, the subdivision (h)(1) requirement – that LAFCOs require special districts to file written statements with the LAFCO specifying the functions or classes of service provided by the districts – is *only* applicable when LAFCOs adopt or update a sphere of influence for a special district, and not any other sphere of influence.

The claimant filed the test claim on May 29, 2003. The Commission adopted a Statement of Decision on September 27, 2007, and the parameters and guidelines on September 25, 2009. Eligible claimants were required to file initial reimbursement claims with the State Controller’s Office (SCO) by March 30, 2010, and late claims by March 30, 2011.

Eligible Claimants and Period of Reimbursement

Only those independent special districts that are subject to the tax and spend limitations of article XIII A and article XIII B are eligible claimants.

The reimbursement period for this new mandate begins July 1, 2001.

Reimbursable Activities

The Commission approved the following activities for reimbursement:

A. On-going Activities:

Filing written statements to the LAFCO pursuant to Government Code section 56425(i)(1) (formerly numbered subdivision (h)(1)), specifying the functions or classes of service provided by the district, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district:
 1. Gather information on the functions or classes of services provided by the special district as needed to prepare the written statements required by Government Code section 56425(i)(1).
 2. Draft written statements, including but not limited to, the initial draft, reviews and revisions as needed.
 3. File written statements with the LAFCO.
 4. Prepare for, attend and present written statements as required by Government Code section 54625(i)(1), at a LAFCO hearing.

Statewide Cost Estimate

Staff reviewed the claims data submitted by 23 special districts, and compiled by the SCO. The actual claims data showed that 23 claims were filed for fiscal years 2002-2003 through

2008-2009 for a total of \$277,490.¹⁶ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

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

Only 23 special districts filed reimbursement claims for this program. If other eligible claimants file reimbursement claims or late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Initial reimbursement claims for this program may be filed until March 30, 2011.

2. *There may be several reasons that non-claiming local agencies did not file reimbursement claims, including but not limited to:*
 - they are not eligible claimants because they are not independent special districts subject to the tax and spend limitations of article XIII A and article XIII B of the California Constitution;
 - they did not incur more than \$1,000 in increased costs for this program;
 - the LAFCO did not adopt or update the sphere of influence for that special district, and thus no written statements were required;
 - they did not have supporting documentation to file a reimbursement claim.

3. *There is a wide variation in costs claimed for this program that appear to be eligible for reimbursement.*

There is a wide variation in costs for this program. Staff reviewed the reimbursement claims filed and found that the average cost of the 23 claims is \$12,064 per claim. Four claims exceed this amount. San Bernardino Valley Water Control District filed a claim for \$160,196; Western San Bernardino County Water District filed a claim for \$26,716; Kensington Fire Protection District filed a claim for \$23,704; and Junipera-Riveria County Water District filed a claim for \$14,855. Staff found that the agencies with higher than average costs hired outside law firms or consulting firms to complete the written LAFCO report required under this program.

However, the parameters and guidelines and the law do not prohibit local agencies from using outside resources to implement a mandated program. In addition, the SCO conducted a preliminary desk review of these claims and approved them for reimbursement.

4. *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.*

As stated above, the SCO conducted a preliminary desk review of these claims. They reduced claims for various reasons, such as deducting penalties for late filings. They also rejected claims that were filed for amounts under the \$1,000 minimum threshold. The SCO may also conduct full field audits on this program, and reduce any claim it deems to be excessive or unreasonable.

¹⁶ Claims data reported as of October 11, 2010.

Methodology

Fiscal Years 2002-2003 through 2008-2009

The proposed statewide cost estimate for fiscal years 2002-2003 through 2008-2009 was developed by totaling the 23 reimbursement claims filed with the SCO for these years.

The proposed statewide cost estimate includes six fiscal years for a total of \$277,490 for the *Local Agency Formation Commissions* program. This averages to \$46,248 annually in costs for the state for this six-year period.

Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Special District Claims Filed with SCO	Estimated Cost
2002-2003	1	\$4,871
2003-2004	2	\$28,625
2004-2005	1	\$4,880
2005-2006	7	\$192,604
2006-2007	3	\$9,843
2007-2008	3	\$5,761
2008-2009	6	\$30,906
TOTAL	23	\$277,490

Comments on the Proposed Statewide Cost Estimate

Commission staff issued the draft staff analysis and proposed statewide cost estimate on January 21, 2011. On January 31, 2011, the Department of Finance submitted comments concurring with the proposed statewide cost estimate.

Conclusion

The Commission adopted the statewide cost estimate of **\$277,490** for costs incurred in complying with the *Local Agency Formation Commissions* program.

Adopted: March 24, 2011

STATEWIDE COST ESTIMATE

\$4,925,403

Government Code Sections 3502.5 and 3508.5

Statutes 2000, Chapter 901

California Code of Regulations, Title 8, Sections 32132, 32135, 32140, 32149, 32150, 32160, 32168, 32170, 32175, 32176, 32180, 32190, 32205, 32206, 32207, 32209, 32210, 32212, 32310, 32315, 32375, 32455, 32620, 32644, 32649, 32680, 32980, 60010, 60030, 60050, 60070

Register 2001, Number 49

Local Government Employee Relations

01-TC-30

Test Claim Filed: August 1, 2002

Reimbursement Period for this Estimate: July 1, 2001 through June 30, 2009

Eligible Claimants: Any County, City, or City and County, Special District or Other Local Agency Subject to the Jurisdiction of Public Employment Relations Board, Excluding the City and County of Los Angeles

STAFF ANALYSIS

Background and Summary of the Mandate

The test claim statute amended the Meyers-Milias-Brown Act (MMBA) regarding employer-employee relations between local public agencies and their employees. The test claim statute and its attendant regulations created an additional method for creating an agency shop arrangement, and expanded the jurisdiction of the Public Employment Relations Board (PERB) to include resolving disputes and enforcing the statutory duties and rights of those public employers and employees subject to the MMBA.

The Commission on State Mandates (Commission) adopted the Statement of Decision for the *Local Government Employee Relations* program (01-TC-30). The Commission found that the test claim statute and regulations constitute a new program or higher level of service and impose a state-mandated program on local agencies 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 August 1, 2002. The Commission adopted a Statement of Decision on December 4, 2006. The Commission adopted the parameters and guidelines on May 29, 2009, and issued corrected parameters and guidelines on June 16, 2009. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by December 1, 2009, and late claims by December 1, 2010.

Eligible Claimants and Period of Reimbursement

Any county, city, or city and county, special district or other local agency subject to the jurisdiction of PERB that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs. However, the City of Los Angeles and the County of Los Angeles are not eligible claimants because they are specifically excluded from PERB jurisdiction pursuant to Government Code section 3507.

The period of reimbursement for this program begins on July 1, 2001.

Reimbursable Activities

The Commission approved the following activities for reimbursement:

1. Deduct from an employees' wages the payment of dues or service fees required pursuant to an agency shop arrangement that was established under subdivision (b) of Government Code section 3502.5, and transmit such fees to the employee organization. (Gov. Code § 3508.5, subd. (b)).
2. Receive from the employee any proof of in lieu fee payments made to charitable organizations required pursuant to an agency shop arrangement that was established under subdivision (b) of Government Code section 3502.5. (Gov. Code, § 3502.5, subd. (c)).
3. Follow PERB procedures in responding to charges and appeals filed with PERB, by an entity other than the local public agency employer, concerning an unfair labor practice, a unit determination, representation by an employee organization, recognition of an employee organization, or election. Mandated activities are:
 - a. procedures for filing documents or extensions for filing documents with PERB (Cal. Code Regs., tit. 8, §§ 32132, 32135 (Register 2001, No. 49));
 - b. proof of service (Cal. Code Regs., tit. 8, § 32140 (Register 2001, No. 49));
 - c. responding to subpoenas and investigative subpoenas (Cal. Code Regs., tit. 8, §§ 32149, 32150 (Register 2001, No. 49));
 - d. conducting depositions (Cal. Code Regs., tit. 8, § 32160 (Register 2001, No. 49));
 - e. participating in hearings and responding as required by PERB agent, PERB Administrative Law Judge, or the five-member PERB (Cal. Code Regs., tit. 8, §§ 32168, 32170, 32175, 32176, 32180, 32205, 32206, 32207, 32209, 32210, 32212, 32310, 32315, 32375, 32455, 32620, 32644, 32649, 32680, 32980, 60010, 60030, 60050 and 60070 (Register 2001, No. 49)); and
 - f. filing and responding to written motions in the course of the hearing. (Cal. Code Regs. tit. 8, § 32190. (Register 2001, No. 49.)

Statewide Cost Estimate

Staff reviewed the claims data submitted by 50 cities, 17 counties, and 6 special districts, and compiled by the SCO. The actual claims data showed that 258 claims were filed between fiscal years 2000-2001 and 2008-2009 for a total of \$4,925,403.¹⁷ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

1. *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*

There are 481 cities, 58 counties, and over 4,000 special districts in California. Of those, only 73 filed reimbursement claims for this program between 2001 and 2009. However, other eligible claimants could file reimbursement claims if they must participate in PERB hearings, which could increase the cost of the program.

¹⁷ Claims data reported as of September 22, 2010.

2. *There is a wide variation in costs among claimants that is dependent on such circumstances as the number of PERB hearings, whether locals must attend informal conferences prior to the PERB hearings, and the amount of preparation required for the PERB hearing. These costs appear to be reimbursable.*

Staff reviewed the claims data and found a wide variation in costs among claimants.

Under the *Local Government Employee Relations* program, local agencies are reimbursed for participating in PERB hearings concerning unfair labor practices, and other circumstances. Therefore, the costs of this program will fluctuate depending on the number of entities that must participate in the PERB hearings each year, and the amount of preparation for the hearings.

The PERB decision-making process is quasi-judicial, and requires local agency representatives to be prepared for any hearing as required by any PERB agent, Administrative Law Judge, General Counsel, or the five-member PERB. Preparation may include drafting briefs, assembling documentation, evidence and exhibits, preparing witnesses, and attendance at the hearings.

The SCO conducted a preliminary desk review of these claims and approved them for reimbursement.

3. *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.*

As stated above, the SCO conducted a preliminary desk review of these claims. They reduced claims for various reasons, such as deducting penalties for late filings. They also rejected claims that were filed for amounts under the \$1,000 minimum threshold. The SCO may also conduct full field audits on this program, and reduce any claim it deems to be excessive or unreasonable.

4. *There may be several reasons that non-claiming local agencies did not file reimbursement claims, including but not limited to: (1) they did not incur more than \$1000 in increased costs for this program; (2) they did not have supporting documentation to file a reimbursement claim; and (3) they missed the deadline for filing reimbursement claims.*

Methodology

Fiscal Years 2000-2001 through 2008-2009

The statewide cost estimate for fiscal years 2000-2001 through 2008-2009 was developed by totaling the 258 actual reimbursement claims filed with the SCO for these years.

The statewide cost estimate includes eight fiscal years for a total of \$4,925,403. This averages to \$615,675 annually in costs for the state for this eight-year period. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
2001-2002	18	\$ 123,130
2002-2003	27	\$ 184,753
2003-2004	35	\$ 253,199
2004-2005	30	\$ 525,115
2005-2006	28	\$ 546,881
2006-2007	36	\$1,191,655

2007-2008	43	\$1,408,892
2008-2009	41	\$691,778
TOTAL	258	\$4,925,403

Comments on the Draft Staff Analysis and Proposed Statewide Cost Estimate

On January 21, 2011, Commission staff issued the draft staff analysis and proposed statewide estimate for comment. On February 10, 2011, Department of Finance submitted comments stating it had no significant concerns with the proposed statewide cost estimate.

Conclusion

The Commission adopted the statewide cost estimate of **\$4,925,403** for costs incurred in complying with the *Local Government Employee Relations* program.

Adopted: May 26, 2011

STATEWIDE COST ESTIMATE

\$480,655

Labor Code Section 1776

Statutes 1978, Chapter 1249

California Code of Regulations, Title 8,
Sections 16400(c) and (d), 16403(a), and 16408(b)

Prevailing Wage Rate

01-TC-28

Test Claim Filed: June 28, 2002

Reimbursement Period for this Estimate: July 1, 2000 through June 30, 2009

Eligible Claimants: Any School District, including Community College Districts

STAFF ANALYSIS

Background and Summary of the Mandate

The test claim statute and regulations address changes to the California Prevailing Wage Law (CPWL), which is “a comprehensive statutory scheme designed to enforce minimum wage standards on construction projects funded in whole or in part with public funds.” Contractors for public works projects that exceed \$1,000 are required to pay local prevailing wages to construction workers on those projects. The provisions of the CPWL are only applicable when a district contracts with a private entity to carry out a public works project. The test claim statute and regulations mandate certain activities when the CPWL provisions are triggered by projects for repair or maintenance to school facilities and property,¹⁸ when the project constitutes a public works project pursuant to the CPWL, and when the project must be let to contract.

The Commission adopted a statement of decision concluding that Labor Code section 1776, Statutes 1978, chapter 1249, and California Code of Regulations, Title 8, sections 16400(c) and (d), 16403(a), and 16408(b), constitute a reimbursable state-mandated program 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 28, 2002. The Commission adopted a statement of decision on January 31, 2009, and the parameters and guidelines on January 29, 2010. The parameters and guidelines were corrected on May 25, 2010. Eligible claimants were required to file initial reimbursement claims with the State Controller’s Office (SCO) by November 30, 2010, and late claims by November 30, 2011.

¹⁸ Pursuant to Education Code sections 17002, 17565, 17593, and 81601.

Eligible Claimants and Period of Reimbursement

Any “school district” as defined in Government Code section 17519, including community colleges, is eligible to claim reimbursement. The reimbursement period for this new mandate began on July 1, 2000.

Reimbursable Activities

The Commission approved the following activities for reimbursement:

- A. Upon a request made to the awarding body by the public for certified payroll records:
 - Obtain certified payroll records from the contractor, including specified information in the request. (Cal. Code Regs., tit. 8, § 16400, subd. (c).)
 - Send an acknowledgment to the requestor including notification of the costs to be paid for preparing the records. (Cal. Code Regs., tit. 8, § 16400, subd. (d).)
 - Provide copies of the records to the requestor. (Lab. Code, § 1776, subd. (b)(3).)
 - Retain copies of payroll records requested by the public and provided by the awarding body for at least 6 months. (Cal. Code Regs., tit. 8, § 16403, subd. (a).)
- B. Withhold penalties from contractor progress payments for noncompliance with the requirement to provide certified payroll records under Labor Code section 1776, upon request of the Department of Industrial Relations’ Division of Apprenticeship Standards or the Division of Labor Standards Enforcement. (Lab. Code, § 1776, subd. (g) (as amended by Stats. 1978, ch. 1249).)
- C. Insert stipulations regarding the contractor’s and subcontractor’s requirements pursuant to Labor Code section 1776 in the contract. (Lab. Code, § 1776, subd. (h) (as amended by Stats. 1978, ch. 1249); Cal. Code Regs., tit. 8, § 16408, subd. (b).)

The above-named activities are only reimbursable when those activities are triggered by projects for repair or maintenance to school facilities and property, pursuant to Education Code sections 17002, 17565, 17593, and 81601, when the project constitutes a public works project pursuant to the CPWL, and when the project must be let to contract under the following circumstances:

1. For *K-12 school districts*, when the project is not an emergency as set forth in Public Contract Code section 20113, and
 - a. for districts with an average daily attendance of less than 35,000, when the total number of hours on the job exceeds 350; or
 - b. for districts with an average daily attendance of 35,000 or greater, the total number of hours on the job exceeds 750 hours or the material cost exceeds \$21,000. (Pub. Contract Code, § 20114.)
2. For *community college districts*, when the project is not an emergency as set forth in Public Contract Code section 20654, and
 - a. for districts with full-time equivalent students of fewer than 15,000, when the total number of hours on the job exceeds 350; or
 - b. for districts with full-time equivalent students of 15,000 or more, the total number of hours on the job exceeds 750 hours or the material cost exceeds \$21,000. (Pub. Contract Code, § 20655.)

3. For any K-12 school district or community college district that is subject to the Uniform Public Contract Cost Accounting Act (UPCCAA), when a project is not an emergency as set forth in Public Contract Code section 22035, and the project cost will exceed:
 - a. \$25,000 for projects completed by December 31, 2006;
 - b. \$30,000 for projects completed on or after January 1, 2007. (Pub. Contract Code, § 22032.)

Activities that are performed as a result of a district's implementation of the Labor Compliance Program pursuant to labor Code section 1771.5 are **not** reimbursable.

Offsetting Revenue Provisions

Any fees received by school districts pursuant to Labor Code section 1776(e), and title 8, California Code of Regulations, section 16402 for obtaining certified payroll records from the contractor, sending an acknowledgment to the requestor, and providing copies of the records to the requestor are identified as offsetting revenue in the parameters and guidelines. Furthermore, any grant funds available to awarding bodies under the deferred maintenance program, or any other eligible grant program, when used for the newly mandated activities in this test claim, are identified in the parameters and guidelines as possible offsetting revenues.

Statewide Cost Estimate

Staff reviewed the claims data submitted by six community college districts, and one school district, and compiled by the SCO. The actual claims data showed that 23 claims were filed for fiscal years 2003-2004 through 2009-2010, for a total of \$480,655.¹⁹ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

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

There are 72 community college districts, and over 1,000 school districts in California. Of those, only 6 community college districts and 1 school district filed a total of 23 reimbursement claims for this program between 2003 and 2010. If other eligible claimants file late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims for this program may be filed until November 30, 2011.
2. *There may be several reasons that non-claiming community college and school districts did not file reimbursement claims, including but not limited to:*
 - The Commission approved only a small portion of this program as a mandate. Therefore, many community college districts and school districts cannot reach the \$1,000 threshold for filing reimbursement claims.
 - There is grant money and fees available for this program that, if received, must be offset from reimbursement claims. This may also contribute to the fact that districts cannot reach the \$1,000 threshold for filing claims.
 - They did not have supporting documentation to file a reimbursement claim.

¹⁹ Claims data reported as of April 11, 2011.

3. *There is a wide variation in costs claimed for this program that appear to be eligible for reimbursement.*

Staff reviewed the reimbursement claims filed and found that the average cost of the 23 claims is \$20,898 per claim. Six claims exceed this amount.²⁰ Staff found that the agencies with higher-than-average costs hired outside consulting firms to complete the activities required by this program, including obtaining certified payroll records, sending an acknowledgment to the requestor, providing copies of the records to the requestor, and retaining copies of payroll records.

However, the parameters and guidelines and the law do not prohibit community college districts and school districts from using outside resources to implement a mandated program. Therefore, these costs appear to be eligible for reimbursement.

4. *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.*

The SCO may conduct audits on this program, and reduce any claim it deems to be excessive or unreasonable.

Methodology

Fiscal Years 2003-2004 through 2009-2010

The proposed statewide cost estimate for the above-named fiscal years was developed by totaling the 23 reimbursement claims filed with the SCO for these years.

The proposed statewide cost estimate includes seven fiscal years for a total of \$480,655 for the *Prevailing Wage Rate* program. This averages to \$68,665 annually in costs for the state for this seven-year period.

Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of School District Claims Filed with SCO	Number of Community College District Claims Filed with SCO	Estimated Cost
2003-2004	0	3	\$28,285
2004-2005	0	3	\$39,068
2005-2006	1	3	\$83,591
2006-2007	0	3	\$72,835
2007-2008	0	4	\$184,792
2008-2009	1	3	\$67,892
2009-2010	0	2	\$4,192
SUB-TOTAL	2	21	\$480,655

²⁰ Santa Clarita Community College District filed claims for: (1) \$29,300 in 2004-2005; (2) \$71,900 in 2005-2006; (3) \$52,275 in 2006-2007; (4) \$73,728 in 2007-2008; and (5) \$57,428 in 2008-2009. Yuba Community College District filed a reimbursement claim for \$103,622 in 2007-2008.

Comments on the Proposed Statewide Cost Estimate

Commission staff issued the draft staff analysis and proposed statewide cost estimate for comment on April 15, 2011. No comments were submitted.

Conclusion

The Commission adopted the statewide cost estimate of **\$480,655** for costs incurred in complying with the *Prevailing Wage Rate* program.

Adopted: November 9, 2010

STATEWIDE COST ESTIMATE

Education Code Sections 48201 and 49079

Statutes 2000, Chapter 345 (AB 29)

*Pupil Discipline Records,
Notification to Teachers: Pupils Subject to Suspension or Expulsion II*
00-TC-10/00-TC-11

Carpinteria Unified School District, Sweetwater Union High School District,
and Grant Joint Union High School District, Co-Claimants

Test Claims Filed: May 10 and 11, 2001

Reimbursement Period for this Estimate: 2000-2001 through 2008-2009

Eligible Claimants: School Districts

Statewide Cost Estimate Adopted: November 9, 2010

The statewide cost estimate includes eight fiscal years for a total of \$1,516,057 for the *Pupil Discipline Records, Notification to Teachers: Pupils Subject to Suspension or Expulsion II* program. This averages to \$189,507 annually in costs for the state for this eight-year period.

Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of School District Claims Filed with SCO	Estimated Cost
2000-2001	4	\$23,166
2001-2002	6	\$59,570
2002-2003	9	\$194,231
2003-2004	12	\$176,468
2004-2005	13	\$278,636
2005-2006	13	\$221,637
2006-2007	11	\$215,949
2007-2008	29	\$346,400
TOTAL	97	\$1,516,057

Summary of the Mandate

The approved test claim statutes require school districts to inform teachers of new specified acts (sexual harassment; hate violence; harassment, threats or intimidation; and terroristic threats) a pupil has engaged in, or is reasonably suspected to have engaged in, for which a pupil can be suspended or expelled from school. (Ed. Code, § 49079.) The test claim statutes also require school districts, when receiving a pupil that transferred from another school district, to request from the former school district in which the pupil was last enrolled, records the district maintains in the ordinary course of business or receives from a law enforcement agency regarding acts committed by the pupil that resulted in the pupil's suspension or expulsion from school. (Ed. Code, § 48201.)

The Commission on State Mandates (Commission) adopted the Statement of Decision for the *Pupil Discipline Records, Notification to Teachers: Pupils Subject to Suspension or Expulsion II* program (00-TC10/00-TC11). The Commission found that the test claim statute constitutes a

new program or higher level of service and imposes a state-mandated program on local agencies within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514.

The two test claims were filed on May 10 and 11, 2001, and consolidated on June 16, 2006. The Commission on State Mandates (Commission) adopted the Statement of Decision on April 16, 2007, and the parameters and guidelines on August 1, 2008. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by February 9, 2009, and file late claims by February 9, 2010.

Reimbursable Activities

The Commission approved the following activities for reimbursement:

A. Notification to Teachers of Pupils Whose Actions are Grounds for Suspension or Expulsion (Ed. Code, § 49079, as amended by Stats. 2000, ch. 345 (AB 29))

1. Identify pupils who have engaged in or are reasonably suspected to have engaged in any of the acts described in Education Code sections 48900.2 (sexual harassment), 48900.3 (hate violence), 48900.4 (harassment, threats, or intimidation), and 48900.7 (terroristic threats against school officials or school property) during the previous three school years from records maintained by the district in its ordinary course of business or received from a law enforcement agency, and identify the pupils' teachers.
2. Inform teachers on a regular and timely basis of each pupil who has engaged in or is reasonably suspected to have engaged in any of the acts listed below during the previous three school years from records maintained by the district in its ordinary course of business or received from a law enforcement agency:
 - a. Sexual harassment, as defined in Education Code section 48900.2.
 - b. Hate violence, as defined in Education Code section 48900.3.
 - c. Harassment, threats, or intimidation, as defined in Education Code section 48900.4.
 - d. Terroristic threats against school officials or school property, or both, as defined in Education Code section 48900.7.

The information provided to teachers pursuant to Education Code section 49079 shall be made in a manner designed to maintain confidentiality of this information.

Maintaining separate records or information about pupils engaged in or reasonably suspected to have engaged in the acts described in Education Code sections 48900.2, 48900.3, 48900.4, and 48900.7 is not reimbursable.

B. Transfer Student Notifications (Ed. Code, § 48201, as amended by Stats. 2000, ch. 345 (AB 29))

- 1 For a receiving school district in which the pupil is transferring, to request from the school district in which the pupil was last enrolled any records the district maintains in its ordinary course of business or receives from a law enforcement agency regarding acts committed by the transferring pupil that resulted in the pupil's suspension from school or expulsion from the school district. (Ed. Code, § 48201, subd. (b)(1).)

2. For a sending school district in which the pupil was last enrolled, to provide upon request to the school district in which the pupil is transferring any suspension records the district maintains in its ordinary course of business or receives from a law enforcement agency regarding the acts committed by the transferring pupil that resulted in the pupil's suspension from school.

Providing expulsion records is not reimbursable under this mandated program.

3. Upon receipt of information regarding acts committed by the transferring pupil that resulted in suspension from school or expulsion from the school district, inform any teacher of the pupil that the pupil was suspended from school or expelled from the school district, and inform the teacher of the act that resulted in that action. (Ed. Code, § 48201, subd. (b)(1).)

Statewide Cost Estimate

Staff reviewed the State Controller's (SCO) report on claims filed by 31 school districts, and two county superintendents of schools. The actual claims data showed that 97 claims were filed for fiscal years 2000-2001 through 2007-2008 for a total of \$1,516,057.²¹ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

1. *The actual amount claimed for reimbursement for the initial claiming period will not increase because the deadline to file late or amended initial reimbursement claims was February 9, 2010.*

There are 973 K-12 school districts and 58 county offices of education in California. Of those, only 31 school districts and two county offices of education filed initial reimbursement claims for this program. The deadline to file late or amended claims was February 9, 2010. Therefore, the actual amount claimed for initial reimbursement will not increase because it is too late for claimants to file late or amended claims.

2. *Non-claiming local agencies did not file claims because: (1) they did not incur more than \$1,000 in increased costs for this program; or (2) did not have supporting documentation to file a reimbursement claim.*

More than half the claims filed by school districts were for amounts that were less than \$2,000. Many of these claims were just over the \$1,000 minimum.

3. *For each claimant, the costs claimed will vary by fiscal year, based on:*
 - The number of transfer pupils with records (school district or law enforcement) of acts committed by the transferring pupil that resulted in the pupil's suspension from school or expulsion from the school district.
 - The number of transfer pupils entering a district school that were suspended or expelled from their previous school.
 - The number of records maintained by the district (for three years) or received from a law enforcement agency that document a pupil who has engaged in or is reasonably suspected

²¹ Claims data reported as of September 22, 2010.

to have engaged in any of the acts described in Education Code sections 48900.2;²² 48900.3;²³ 48900.4;²⁴ and 48900.7.²⁵

4. *There is a wide variation in costs claimed for this program. 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 was developed by totaling the 97 unaudited reimbursement claims filed with the SCO for these years.

The statewide cost estimate includes eight fiscal years for a total of \$1,516,057 for the *Pupil Discipline Records, Notification to Teachers: Pupils Subject to Suspension or Expulsion II* program. This averages to \$189,507 annually in costs for the state for this eight-year period.

Conclusion

The Commission adopted the statewide cost estimate of \$1,516,057 for costs incurred in complying with the *Pupil Discipline Records, Notification to Teachers: Pupils Subject to Suspension or Expulsion II* program.

Adopted: May 29, 2009

²² Education Code section 48900.2 refers to sexual harassment, as specified.

²³ Education Code section 48900.3 refers to hate violence, as specified.

²⁴ Education Code section 48900.4 refers to harassment, threats or intimidation, as specified.

²⁵ Education Code section 48900.7 refers to terroristic threats against school officials or school property, or both, as specified.

STATEWIDE COST ESTIMATE

\$802,888

Education Code Sections 49069.3, 49069.5, 49076.5, 76234

Statutes 1989, Chapter 593

Statutes 1993, Chapter 561

Statutes 1998, Chapter 311

Statutes 2000, Chapter 67;

Student Records

02-TC-34

Test Claim Filed: June 23, 2003

Reimbursement Period for this Estimate: July 1, 2000 through June 30, 2009

Eligible Claimants: Any School District, including Community College Districts

STAFF ANALYSIS

Background and Summary of the Mandate

This program addresses various areas of pupil and student record management for kindergarten through 12th grade (K-12) school districts and community college districts including access to and the privacy of pupil and student records.

The Commission on State Mandates (Commission) adopted a statement of decision concluding that Education Code sections 49069.3, 49069.5, and 49076.5 for K-12 school districts and Education Code 76234 for community college districts constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The test claim was filed on June 23, 2003. The Commission adopted the statement of decision on May 29, 2009, and the parameters and guidelines on July 29, 2010. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by January 31, 2011, and late claims by January 31, 2012.

Eligible Claimants and Period of Reimbursement

Any "school district" as defined in Government Code section 17519, including community colleges, which incurs increased costs as a result of this mandate, is eligible to claim reimbursement. The reimbursement period for this new mandate began on July 1, 2001.

Reimbursable Activities

The Commission approved the following activities for reimbursement:

A. K-12 School Districts

1. Provide access to records of grades and transcripts, and any individualized education plans of a current or former pupil under the jurisdiction of a foster family agency to the foster family agency. (Ed. Code, § 49069.3 (Stats. 2000, ch. 67).)

2. Cooperate with the county social service or probation department to ensure that a pupil's education record is transferred to the receiving local education agency in a timely manner after the K-12 school district has been informed of the pupil's next educational placement and upon the request of a county social service or probation department, a regional center for the developmentally disabled, or other placing agency. (Ed. Code, § 49069.5, subd. (b) (Stats. 1998, ch. 311.) (Period of reimbursement July 1, 2001-Dec. 31, 2003).)
3. Cooperate with the county social service or probation department to ensure that educational background information for a pupil's health and educational record is transferred to the receiving local educational agency in a timely manner after the K-12 school district has been informed of the pupil's next educational placement.
 Educational background information transferred pursuant to Education Code section 49069.5(c), includes but is not limited to: (1) a health and education summary as described in Welfare and Institutions Code section 16010 (Stats. 2001, ch. 353); (2) the location of the pupil's records; (3) the last school and teacher of the pupil; (4) the pupil's current grade level; and (5) any information deemed necessary to enable enrollment at the receiving school, to the extent allowable under state and federal law. (Ed. Code, § 49069.5, subds. (c) and (d) (Stats. 1998., ch. 311.) (Period of reimbursement July 1, 2001-Dec. 31, 2003).)
4. Transfer the educational and health record of a pupil in foster care to the pupil's new local educational agency within five working days of receipt of information regarding the new educational placement of the pupil. (Ed. Code, § 49069.5, subd. (e) (Stats. 1998, ch. 311).)
5. Release any information it has specific to a particular pupil's identity and location that relates to the transfer of that pupil's records to another school district within this state or any other state or to a private school in this state to a designated peace officer, upon his or her request, when a proper police purpose exists for the use of that information. (Ed. Code, § 49076.5, subd. (a) (Stats. 1993, ch. 561).)

B. Community College Districts

1. Inform the alleged victim of sexual assault or physical abuse (as defined by Ed. Code, § 76234), within three days of the results of any disciplinary action by the community college and the results of any appeal, whenever there is included in any student record information concerning any disciplinary action taken by a community college concerning the alleged sexual assault or physical abuse. (Ed. Code, § 76234 (Stats. 1989, ch. 593).)

Offsetting Revenue Provisions

The Commission found that the fee authority to charge a fee that does not exceed the actual cost of furnishing copies of any pupil records, set forth in Education Code section 49065, is applicable to the state-mandated programs here. This fee authority does not extend to furnishing the first two transcripts of former pupils' records, or the first two verifications of various records of former pupils, or the search for or retrieval of any pupil record. Therefore, any revenue resulting from the fee authority set forth in Education Code section 49065 is offsetting revenue and shall be deducted from the costs claimed for furnishing pupil records.

Statewide Cost Estimate

Staff reviewed the claims data submitted by 22 school districts and compiled by the SCO. The actual claims data showed that 80 claims were filed for nine fiscal years for a total of \$802,888.²⁶ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Amendments to Education Code section 49069.5 in 2003 removed two of the five reimbursable activities for school districts. Reimbursement for those activities ended on December 31, 2003. Of the 50 claims that staff reviewed in detail, none of them contained costs for those two deleted activities after fiscal year 2003-2004.

Assumptions

- 1) *The amount claimed for reimbursement may increase if late or amended claims are filed.*

There are currently 1,047 school districts and 72 community college districts in California. Of those, only 22 school districts filed reimbursement claims for this program between 2001 and 2010. If other eligible claimants file late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims for this program may be filed until January 31, 2012.

- 2) *The total costs of this program may also increase in future years if there is an increase in the number of requests to:*

K-12 School Districts

- provide access to records of current or former pupils to foster family agencies;
- transfer educational and health records to new educational agencies;
- release identity and location information to designated peace officers;

Community College Districts

- inform victims of sexual assault or physical abuse of any disciplinary action taken by the community college.

- 3) *There may be several reasons that non-claiming school districts did not file for reimbursement, including but not limited to:*

- The Commission approved only a small portion of this program as a mandate. Therefore, most school districts cannot reach the \$1,000 threshold for filing reimbursement claims.
- They did not have supporting documentation to file a reimbursement claim.

- 4) *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.*

The SCO may conduct audits on this program and reduce any claim it deems to be excessive or unreasonable.

²⁶ Claims data reported as of March 18, 2011.

Methodology

Fiscal Years 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, and 2009-2010.

The proposed statewide cost estimate for the above-named fiscal years was developed by totaling the 80 reimbursement claims filed with the SCO for these years.

The proposed statewide cost estimate includes nine fiscal years for a total of \$802,888 for the *Student Records* program. This averages to \$89,210 annually in costs for the state for this nine-year period.

Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of School District Claims Filed with SCO	Estimated Cost
2001-2002	5	\$32,464
2002-2003	6	\$38,314
2003-2004	6	\$46,467
2004-2005	6	\$70,554
2005-2006	7	\$65,714
2006-2007	8	\$78,325
2007-2008	10	\$119,826
2008-2009	10	\$131,350
2009-2010	22	\$219,874
TOTAL	80	\$802,888

Comments on the Draft Staff Analysis and Proposed Statewide Cost Estimate

On April 15, 2011, Commission staff issued the draft staff analysis and proposed statewide estimate for comment. No comments were submitted.

Conclusion

The Commission on State Mandates adopted a statewide cost estimate of **\$802,888** for costs incurred in complying with the *Student Records* program.

STATEWIDE COST ESTIMATE
\$6,179,742

Education Code Sections 68044(a), (b), (c), 68051, 68074, 68075.5, 68076(d), 68077, 68078(b), 68082, 68083, 68084, 68121, 68130.5, and 76140 Statutes 1977, Chapter 36 (AB 447); Statutes 1980, Chapter 580 (AB 2567); Statutes 1981, Chapter 102 (AB 251); Statutes 1982, Chapter 1070 (AB 2627); Statutes 1988, Chapter 753 (AB 3958); Statutes 1989, Chapters 424, 900, and 985 (AB 1237, AB 259, and SB 716); Statutes 1990, Chapter 1372 (SB 1854); Statutes 1991, Chapter 455 (AB 1745); Statutes 1993, Chapter 8 (AB 46); Statutes 1995, Chapter 389 (AB 723); Statutes 1997, Chapter 438 (AB 1317); Statutes 1998, Chapter 952 (AB 639); Statutes 2000, Chapters 571 and 949 (AB 1346 and AB 632); Statutes 2001, Chapter 814 (AB 540); and Statutes 2002, Chapter 450 (AB 1746)

California Code of Regulations, Title 5, Sections 54012(b), (c), (d), 54024(e), (f); 54030, 54032(a); 54041, 54045(b), (c); 54045.5 (b); 54046, 54060(a), (b)

Register 77, No. 45 (Nov. 5, 1977); Register 82, No. 48 (Nov. 27, 1982); Register 83, No. 24 (Jun. 11, 1983) Register 86, No. 10 (Mar. 8, 1986); Register 91, No. 23 (April 5, 1991); Register 92, No. 4 (Jan. 24, 1992); Register 95, No. 19 (May 19, 1995); Register 99, No. 20 (May 14, 1999); Register 02, No. 25 (Jun. 21, 2002)

Revised Guidelines and Information, "Exemption from Nonresident Tuition" Chancellor of the California Community Colleges, May 2002

Tuition Fee Waivers
02-TC-21

Test Claim Filed: May 23, 2003

Reimbursement Period for this Estimate: July 1, 2000 through June 30, 2010

Eligible Claimants: Any Community College District

STAFF ANALYSIS

Background and Summary of the Mandate

The test claim statutes, regulations and executive order involve determining student residence status and nonresident student tuition fee charges or waivers at community colleges.

The claimant filed the test claim on May 23, 2003. The Commission on State Mandates (Commission) adopted a statement of decision on March 27, 2009, and parameters and guidelines on October 30, 2009. The Commission found that the test claim statutes and executive orders impose a partially reimbursable state-mandated program upon community college districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by May 11, 2010.

Eligible Claimants and Period of Reimbursement

Any “community college district” as defined in Government Code section 17519, which incurs increased costs as a result of this mandate, is eligible to claim reimbursement.

Government Code section 17557(e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The Contra Costa Community College District filed the test claim on May 23, 2003, establishing eligibility for reimbursement on or after July 1, 2001. The costs incurred for compliance with most of the mandated activities are reimbursable on or after July 1, 2001. However, portions of the Education Code, the registers, and the revised guidelines from the Chancellor’s Office became effective on different dates after July 1, 2001, as described in the parameters and guidelines.

Reimbursable Activities

The Commission approved the following activities for reimbursement: adopting rules and regulations on the method of payment for nonresident tuition; determining residence classification; providing nonresident students with notice of nonresident tuition fee charges; determining exemptions from paying nonresident tuition; waiving mandatory fees for a student who is the surviving dependent of an individual killed in the September 11, 2001 attacks; and notifying students of residence classification decisions and appeal procedures. These activities are described more fully in the parameters and guidelines.

Statewide Cost Estimate

Staff reviewed the claims data submitted by 12 community college districts and compiled by the SCO. The actual claims data showed that 102 claims were filed between fiscal years 2001-2002 and 2009-2010 for a total of \$6,179,742.²⁷ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*

There are 72 community college districts in California. Of those, only 12 filed reimbursement claims for this program between 2001 and 2009. However, other eligible claimants could file reimbursement claims, which could increase the cost of the program. Initial claims were due by May 11, 2010; late claims were due by May 11, 2011.

- *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. There is a wide variation in costs claimed for this program. Therefore, an SCO audit of this program may be warranted.*

Staff reviewed the claims data and found a wide variation in costs among claimants. The program requires districts to determine whether students are qualified for lower in-state tuition fees. Therefore, there appears to be a connection between the cost of the program and the size of the district’s student population. Nevertheless, for fiscal year 2002-2003 Santa Clarita Community College, with a student population of 23,636, submitted claims for \$203,578. In contrast, Los Rios Community College District, with a student population of 115,864, submitted claims totaling \$5,189. Based on the wide variation in

²⁷ Claims data reported as of June 1, 2011.

costs claimed, an SCO audit of the claims may be warranted to reduce any claims it deems to be excessive or unreasonable.

- *There may be several reasons that non-claiming community college districts did not file claims including, but not limited to:*
 - They did not incur more than \$1000 in increased costs for this program.
 - They did not have supporting documentation to file a reimbursement claim.

Methodology

Fiscal Years 2000-2001 through 2009-2010

The statewide cost estimate for fiscal years 2000-2001 through 2009-2010 was developed by totaling the 102 actual reimbursement claims filed with the SCO for these years.

The statewide cost estimate includes nine fiscal years for a total of \$6,179,742. This averages to \$686,638 annually in costs for the state for this nine year period. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
2001-2002	9	\$475,140
2002-2003	11	\$571,497
2003-2004	11	\$629,328
2004-2005	11	\$678,167
2005-2006	12	\$771,160
2006-2007	12	\$821,439
2007-2008	12	\$827,080
2008-2009	12	\$642,515
2009-2010	12	\$763,416
TOTAL	102	\$6,179,742

Comments on the Draft Staff Analysis and Proposed Statewide Cost Estimate

The Commission issued the draft staff analysis and proposed statewide cost estimate for comment on June 21, 2011. No comments were submitted.

Conclusion

On July 28, 2011, the Commission adopted the statewide cost estimate of **\$6,179,742** for costs incurred in complying with the *Tuition Fee Waiver* program.