

Assembly Bill No. 2856

Passed the Assembly August 24, 2004

Chief Clerk of the Assembly

Passed the Senate August 18, 2004

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Section 44763 of the Education Code, and to amend Sections 17500, 17513, 17520, 17521, 17522, 17526, 17551, 17553, 17554, 17557, 17558, 17558.5, 17561, 17561.5, 17561.6, 17562, 17564, 17579, 17612, 17615.1, 17615.4, 17616, and 17630 of, to add Sections 17517.5 and 17518.5 to, to repeal Sections 17517, 17610, and 17614 of, and to repeal and add Section 17555 of, the Government Code, relating to state mandates.

LEGISLATIVE COUNSEL'S DIGEST

AB 2856, Laird. State mandates: Commission on State Mandates.

Under the California Constitution, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, including school districts, the state is required to provide a subvention of funds to reimburse the local government, with specified exceptions. Existing law establishes a procedure for local governmental agencies to file claims for reimbursement of these costs with the Commission on State Mandates. The procedure requires the commission to hear and decide upon each claim for reimbursement and provides that the commission may not find costs to be mandated by the state if, after a hearing, the commission makes specified findings, including, among others, that the statute or executive order imposing the mandate provides for offsetting savings to local agencies or school districts or includes additional revenue specifically intended to sufficiently fund the costs of the state mandate. The procedure provides for payment of claims from the State Mandates Claim Fund and pursuant to a local government claims bill.

This bill would revise the procedures for receiving claims and for hearings on claims, as specified. The bill would revise the definitions of terms related to the procedure and hearings and define additional terms. The bill would abolish the State Mandates Claim Fund and delete the option of paying claims from this fund. The bill would make other technical changes and delete obsolete references.



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

SECTION 1. Section 44763 of the Education Code is amended to read:

44763. (a) Notwithstanding Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code or any other provision of law, each state and local government agency shall provide to the Commission on Teacher Credentialing personal information regarding teachers and other certificated personnel as requested by the commission for the purposes of Section 44762.

(b) In accordance with the purpose of safeguarding the privacy rights of individuals, it is the intent of the Legislature that personal information be collected, maintained, and disseminated under this chapter only to the extent required to accomplish the purposes of Section 44762. The Commission on Teacher Credentialing shall establish and maintain specific and appropriate policies and practices that protect the privacy rights of individuals as to whom personal information has been received by the commission, and to otherwise implement the legislative intent set forth in this subdivision.

SEC. 2. Section 17500 of the Government Code is amended to read:

17500. The Legislature finds and declares that the existing system for reimbursing local agencies and school districts for the costs of state-mandated local programs has not provided for the effective determination of the state's responsibilities under Section 6 of Article XIII B of the California Constitution. The Legislature finds and declares that the failure of the existing process to adequately and consistently resolve the complex legal questions involved in the determination of state-mandated costs has led to an increasing reliance by local agencies and school districts on the judiciary and, therefore, in order to relieve unnecessary congestion of the judicial system, it is necessary to create a mechanism which is capable of rendering sound quasi-judicial decisions and providing an effective means of resolving disputes over the existence of state-mandated local programs.

It is the intent of the Legislature in enacting this part to provide for the implementation of Section 6 of Article XIII B of the California Constitution. Further, the Legislature intends that the



Commission on State Mandates, as a quasi-judicial body, will act in a deliberative manner in accordance with the requirements of Section 6 of Article XIII B of the California Constitution.

SEC. 3. Section 17513 of the Government Code is amended to read:

17513. “Costs mandated by the federal government” means any increased costs incurred by a local agency or school district after January 1, 1973, in order to comply with the requirements of a federal statute or regulation. “Costs mandated by the federal government” includes costs resulting from enactment of a state law or regulation where failure to enact that law or regulation to meet specific federal program or service requirements imposed upon the state would result in substantial monetary penalties or loss of funds to public or private persons in the state whether the federal law was enacted before or after the enactment of the state law, regulation, or executive order. “Costs mandated by the federal government” does not include costs which are specifically reimbursed or funded by the federal or state government or programs or services which may be implemented at the option of the state, local agency, or school district.

SEC. 4. Section 17517 of the Government Code is repealed.

SEC. 5. Section 17517.5 is added to the Government Code, to read:

17517.5. “Cost savings authorized by the state” means any decreased costs that a local agency or school district realizes as a result of any statute enacted or any executive order adopted that permits or requires the discontinuance of or a reduction in the level of service of an existing program that was mandated before January 1, 1975.

SEC. 6. Section 17518.5 is added to the Government Code, to read:

17518.5. (a) “Reasonable reimbursement methodology” means a formula for reimbursing local agency and school district costs mandated by the state that meets the following conditions:

(1) The total amount to be reimbursed statewide is equivalent to total estimated local agency and school district costs to implement the mandate in a cost-efficient manner.

(2) For 50 percent or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully



offset their projected costs to implement the mandate in a cost-efficient manner.

(b) Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.

(c) A reasonable reimbursement methodology may be developed by any of the following:

- (1) The Department of Finance.
- (2) The Controller.
- (3) An affected state agency.
- (4) A claimant.
- (5) An interested party.

SEC. 7. Section 17520 of the Government Code is amended to read:

17520. “Special district” means any agency of the state that performs governmental or proprietary functions within limited boundaries. “Special district” includes a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area. “Special district” does not include a city, a county, a school district, or a community college district.

County free libraries established pursuant to Chapter 2 (commencing with Section 27151) of Division 20 of the Education Code, areas receiving county fire protection services pursuant to Section 25643 of the Government Code, and county road districts established pursuant to Chapter 7 (commencing with Section 1550) of Division 2 of the Streets and Highways Code shall be considered “special districts” for all purposes of this part.

SEC. 8. Section 17521 of the Government Code is amended to read:

17521. “Test claim” means the first claim filed with the commission alleging that a particular statute or executive order imposes costs mandated by the state.



SEC. 9. Section 17522 of the Government Code is amended to read:

17522. (a) “Initial reimbursement claim” means a claim filed with the Controller by a local agency or school district for costs to be reimbursed for the fiscal years specified in the first claiming instructions issued by the Controller pursuant to subdivision (b) of Section 17558.

(b) “Annual reimbursement claim” means a claim for actual costs incurred in a prior fiscal year filed with the Controller by a local agency or school district for which appropriations are made to the Controller for this purpose.

(c) “Estimated reimbursement claim” means a claim filed with the Controller by a local agency or school district in conjunction with an initial reimbursement claim, annual reimbursement claim, or at other times, for estimated costs to be reimbursed during the current or future fiscal years, for which appropriations are made to the Controller for this purpose.

(d) “Entitlement claim” means a claim filed by a local agency or school district with the Controller for the purpose of establishing or adjusting a base year entitlement. All entitlement claims are subject to Section 17616.

SEC. 10. Section 17526 of the Government Code is amended to read:

17526. (a) All meetings of the commission shall be open to the public, except that the commission may meet in executive session to consider the appointment or dismissal of officers or employees of the commission or to hear complaints or charges brought against a member, officer, or employee of the commission.

(b) The commission shall meet at least once every two months.

(c) The time and place of meetings may be set by resolution of the commission, by written petition of a majority of the members, or by written call of the chairperson. The chairperson may, for good cause, change the starting time or place, reschedule, or cancel any meeting.

SEC. 11. Section 17551 of the Government Code is amended to read:

17551. (a) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled



to be reimbursed by the state for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution.

(b) Commission review of claims may be had pursuant to subdivision (a) only if the test claim is filed within the time limits specified in this section.

(c) Local agency and school district test claims shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.

(d) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district filed on or after January 1, 1985, that the Controller has incorrectly reduced payments to the local agency or school district pursuant to paragraph (2) of subdivision (d) of Section 17561.

SEC. 12. Section 17553 of the Government Code is amended to read:

17553. (a) The commission shall adopt procedures for receiving claims pursuant to this article and for providing a hearing on those claims. The procedures shall do all of the following:

(1) Provide for presentation of evidence by the claimant, the Department of Finance and any other affected department or agency, and any other interested person.

(2) Ensure that a statewide cost estimate is adopted within 12 months after receipt of a test claim, when a determination is made by the commission that a mandate exists. This deadline may be extended for up to six months upon the request of either the claimant or the commission.

(3) Permit the hearing of a claim to be postponed at the request of the claimant, without prejudice, until the next scheduled hearing.

(b) All test claims shall be filed on a form prescribed by the commission and shall contain at least the following elements and documents:

(1) A written narrative that identifies the specific sections of statutes or executive orders alleged to contain a mandate and shall include all of the following:

(A) A detailed description of the new activities and costs that arise from the mandate.



(B) A detailed description of existing activities and costs that are modified by the mandate.

(C) The actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate.

(D) The actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.

(E) A statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.

(F) Identification of all of the following:

- (i) Dedicated state funds appropriated for this program.
- (ii) Dedicated federal funds appropriated for this program.
- (iii) Other nonlocal agency funds dedicated for this program.
- (iv) The local agency's general purpose funds for this program.
- (v) Fee authority to offset the costs of this program.

(G) Identification of prior mandate determinations made by the Board of Control or the Commission on State Mandates that may be related to the alleged mandate.

(2) The written narrative shall be supported with declarations under penalty of perjury, based on the declarant's personal knowledge, information or belief, and signed by persons who are authorized and competent to do so, as follows:

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

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

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

(3) (A) The written narrative shall be supported with copies of all of the following:



(i) The test claim statute that includes the bill number or executive order, alleged to impose or impact a mandate.

(ii) Relevant portions of state constitutional provisions, federal statutes, and executive orders that may impact the alleged mandate.

(iii) Administrative decisions and court decisions cited in the narrative.

(B) State mandate determinations made by the Board of Control and the Commission on State Mandates and published court decisions on state mandate determinations made by the Commission on State Mandates are exempt from this requirement.

(4) A test claim shall be signed at the end of the document, under penalty of perjury by the claimant or its authorized representative, with the declaration that the test claim is true and complete to the best of the declarant's personal knowledge or information or belief. The date of signing, the declarant's title, address, telephone number, facsimile machine telephone number, and electronic mail address shall be included.

(c) If a completed test claim is not received by the commission within 30 calendar days from the date that an incomplete test claim was returned by the commission, the original test claim filing date may be disallowed, and a new test claim may be accepted on the same statute or executive order.

(d) In addition, the commission shall determine whether an incorrect reduction claim is complete within 10 days after the date that the incorrect reduction claim is filed. If the commission determines that an incorrect reduction claim is not complete, the commission shall notify the local agency and school district that filed the claim stating the reasons that the claim is not complete. The local agency or school district shall have 30 days to complete the claim. The commission shall serve a copy of the complete incorrect reduction claim on the Controller. The Controller shall have no more than 90 days after the date the claim is delivered or mailed to file any rebuttal to an incorrect reduction claim. The failure of the Controller to file a rebuttal to an incorrect reduction claim shall not serve to delay the consideration of the claim by the commission.

SEC. 13. Section 17554 of the Government Code is amended to read:



17554. With the agreement of all parties to the claim, the commission may waive the application of any procedural requirement imposed by this chapter or pursuant to Section 17553. The authority granted by this section includes the consolidation of claims and the shortening of time periods.

SEC. 14. Section 17555 of the Government Code is repealed.

SEC. 15. Section 17555 is added to the Government Code, to read:

17555. (a) No later than 30 days after hearing and deciding upon a test claim pursuant to subdivision (a) of Section 17551, the commission shall notify the appropriate Senate and Assembly policy and fiscal committees, the Legislative Analyst, the Department of Finance, and the Controller of that decision.

(b) For purposes of this section, the “appropriate policy committee” means the policy committee that has jurisdiction over the subject matter of the statute, regulation, or executive order, and bills relating to that subject matter would have been heard.

SEC. 16. Section 17557 of the Government Code is amended to read:

17557. (a) If the commission determines there are costs mandated by the state pursuant to Section 17551, it shall determine the amount to be subvended to local agencies and school districts for reimbursement. In so doing it shall adopt parameters and guidelines for reimbursement of any claims relating to the statute or executive order. The successful test claimants shall submit proposed parameters and guidelines within 30 days of adoption of a statement of decision on a test claim. At the request of a successful test claimant, the commission may provide for one or more extensions of this 30-day period at any time prior to its adoption of the parameters and guidelines. If proposed parameters and guidelines are not submitted within the 30-day period and the commission has not granted an extension, then the commission shall notify the test claimant that the amount of reimbursement the test claimant is entitled to for the first 12 months of incurred costs will be reduced by 20 percent, unless the test claimant can demonstrate to the commission why an extension of the 30-day period is justified.

(b) In adopting parameters and guidelines, the commission may adopt a reasonable reimbursement methodology.



(c) The parameters and guidelines adopted by the commission shall specify the fiscal years for which local agencies and school districts shall be reimbursed for costs incurred. However, the commission may not specify in the parameters and guidelines any fiscal year for which payment could be provided in the annual Budget Act.

(d) A local agency, school district, or the state may file a written request with the commission to amend, modify, or supplement the parameters or guidelines. The commission may, after public notice and hearing, amend, modify, or supplement the parameters and guidelines. A parameters and guidelines amendment submitted within 90 days of the claiming deadline for initial claims, as specified in the claiming instructions pursuant to Section 17561, shall apply to all years eligible for reimbursement as defined in the original parameters and guidelines. A parameters and guidelines amendment filed more than 90 days after the claiming deadline for initial claims, as specified in the claiming instructions pursuant to Section 17561, and on or before January 15 following a fiscal year, shall establish reimbursement eligibility for that fiscal year.

(e) A test claim shall be submitted on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year. The claimant may thereafter amend the test claim at any time, but before the test claim is set for a hearing, without affecting the original filing date as long as the amendment substantially relates to the original test claim.

(f) In adopting parameters and guidelines, the commission shall consult with the Department of Finance, the affected state agency, the Controller, the fiscal and policy committees of the Assembly and Senate, the Legislative Analyst, and the claimants to consider a reasonable reimbursement methodology that balances accuracy with simplicity.

SEC. 17. Section 17558 of the Government Code is amended to read:

17558. (a) The commission shall submit the adopted parameters and guidelines to the Controller. All claims relating to a statute or executive order that are filed after the adoption or amendment of parameters and guidelines pursuant to Section 17557 shall be transferred to the Controller who shall pay and audit the claims from funds made available for that purpose.



(b) Not later than 60 days after receiving the adopted parameters and guidelines from the commission, the Controller shall issue claiming instructions for each mandate that requires state reimbursement, to assist local agencies and school districts in claiming costs to be reimbursed. In preparing claiming instructions, the Controller shall request assistance from the Department of Finance and may request the assistance of other state agencies. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the commission.

(c) The Controller shall, within 60 days after receiving revised adopted parameters and guidelines from the commission or other information necessitating a revision of the claiming instructions, prepare and issue revised claiming instructions for mandates that require state reimbursement that have been established by commission action pursuant to Section 17557 or after any decision or order of the commission pursuant to Section 17551. In preparing revised claiming instructions, the Controller may request the assistance of other state agencies.

SEC. 18. Section 17558.5 of the Government Code is amended to read:

17558.5. (a) A reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced.

(b) The Controller may conduct a field review of any claim after the claim has been submitted, prior to the reimbursement of the claim.

(c) The Controller shall notify the claimant in writing within 30 days after issuance of a remittance advice of any adjustment to a claim for reimbursement that results from an audit or review. The notification shall specify the claim components adjusted, the amounts adjusted, interest charges on claims adjusted to reduce the



overall reimbursement to the local agency or school district, and the reason for the adjustment. Remittance advices and other notices of payment action shall not constitute notice of adjustment from an audit or review.

(d) The interest rate charged by the Controller on reduced claims shall be set at the Pooled Money Investment Account rate and shall be imposed on the dollar amount of the overpaid claim from the time the claim was paid until overpayment is satisfied.

(e) Nothing in this section shall be construed to limit the adjustment of payments when inaccuracies are determined to be the result of the intent to defraud, or when a delay in the completion of an audit is the result of willful acts by the claimant or inability to reach agreement on terms of final settlement.

SEC. 19. Section 17561 of the Government Code is amended to read:

17561. (a) The state shall reimburse each local agency and school district for all “costs mandated by the state,” as defined in Section 17514.

(b) (1) For the initial fiscal year during which these costs are incurred, reimbursement funds shall be provided as follows:

(A) Any statute mandating these costs shall provide an appropriation therefor.

(B) Any executive order mandating these costs shall be accompanied by a bill appropriating the funds therefor, or alternatively, an appropriation for these costs shall be included in the Budget Bill for the next succeeding fiscal year. The executive order shall cite that item of appropriation in the Budget Bill or that appropriation in any other bill which is intended to serve as the source from which the Controller may pay the claims of local agencies and school districts.

(2) In subsequent fiscal years appropriations for these costs shall be included in the annual Governor’s Budget and in the accompanying Budget Bill. In addition, appropriations to reimburse local agencies and school districts for continuing costs resulting from chaptered bills or executive orders for which claims have been awarded pursuant to subdivision (a) of Section 17551 shall be included in the annual Governor’s Budget and in the accompanying Budget Bill subsequent to the enactment of the local government claims bill pursuant to Section 17600 that



includes the amounts awarded relating to these chaptered bills or executive orders.

(c) The amount appropriated to reimburse local agencies and school districts for costs mandated by the state shall be appropriated to the Controller for disbursement.

(d) The Controller shall pay any eligible claim pursuant to this section within 60 days after the filing deadline for claims for reimbursement or 15 days after the date the appropriation for the claim is effective, whichever is later. The Controller shall disburse reimbursement funds to local agencies or school districts if the costs of these mandates are not payable to state agencies, or to state agencies that would otherwise collect the costs of these mandates from local agencies or school districts in the form of fees, premiums, or payments. When disbursing reimbursement funds to local agencies or school districts, the Controller shall disburse them as follows:

(1) For initial reimbursement claims, the Controller shall issue claiming instructions to the relevant local agencies and school districts pursuant to Section 17558. Issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the commission.

(A) When claiming instructions are issued by the Controller pursuant to Section 17558 for each mandate determined pursuant to Section 17551 that requires state reimbursement, each local agency or school district to which the mandate is applicable shall submit claims for initial fiscal year costs to the Controller within 120 days of the issuance date for the claiming instructions.

(B) When the commission is requested to review the claiming instructions pursuant to Section 17571, each local agency or school district to which the mandate is applicable shall submit a claim for reimbursement within 120 days after the commission reviews the claiming instructions for reimbursement issued by the Controller.

(C) If the local agency or school district does not submit a claim for reimbursement within the 120-day period, or submits a claim pursuant to revised claiming instructions, it may submit its claim for reimbursement as specified in Section 17560. The Controller shall pay these claims from the funds appropriated therefor, provided that the Controller (i) may audit the records of any local



agency or school district to verify the actual amount of the mandated costs, and (ii) may reduce any claim that the Controller determines is excessive or unreasonable.

(2) In subsequent fiscal years each local agency or school district shall submit its claims as specified in Section 17560. The Controller shall pay these claims from funds appropriated therefor, provided that the Controller (A) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, (B) may reduce any claim that the Controller determines is excessive or unreasonable, and (C) shall adjust the payment to correct for any underpayments or overpayments which occurred in previous fiscal years.

(3) When paying a timely filed claim for initial reimbursement, the Controller shall withhold 20 percent of the amount of the claim until the claim is audited to verify the actual amount of the mandated costs. All initial reimbursement claims for all fiscal years required to be filed on their initial filing date for a state-mandated local program shall be considered as one claim for the purpose of computing any late claim penalty. Any claim for initial reimbursement filed after the filing deadline shall be reduced by 10 percent of the amount that would have been allowed had the claim been timely filed. The Controller may withhold payment of any late claim for initial reimbursement until the next deadline for funded claims unless sufficient funds are available to pay the claim after all timely filed claims have been paid. In no case may a reimbursement claim be paid if submitted more than one year after the filing deadline specified in the Controller's claiming instructions on funded mandates contained in a claims bill.

SEC. 20. Section 17561.5 of the Government Code is amended to read:

17561.5. The payment of an initial reimbursement claim by the Controller shall include accrued interest at the Pooled Money Investment Account rate, if the payment is being made more than 365 days after adoption of the statewide cost estimate for an initial claim or, in the case of payment of a subsequent claim relating to that same statute or executive order, if payment is being made more than 60 days after the filing deadline for, or the actual date of receipt of, the subsequent claim, whichever is later. In those instances, interest shall begin to accrue as of the 366th day after adoption of the statewide cost estimate for an initial claim and as



of the 61st day after the filing deadline for, or actual date of receipt of, the subsequent claim, whichever is later.

SEC. 21. Section 17561.6 of the Government Code is amended to read:

17561.6. A budget act item or appropriation pursuant to this part for reimbursement of claims shall include an amount necessary to reimburse any interest due pursuant to Section 17561.5.

SEC. 22. Section 17562 of the Government Code is amended to read:

17562. (a) The Legislature hereby finds and declares that the increasing revenue constraints on state and local government and the increasing costs of financing state-mandated local programs make evaluation of state-mandated local programs imperative. Accordingly, it is the intent of the Legislature to increase information regarding state mandates and establish a method for regularly reviewing the costs and benefits of state-mandated local programs.

(b) The Controller shall submit a report to the Joint Legislative Budget Committee and fiscal committees by January 1 of each year. This report shall summarize, by state mandate, the total amount of claims paid per fiscal year and the amount, if any, of mandate deficiencies or surpluses. This report shall be made available in an electronic spreadsheet format. The report shall compare the annual cost of each mandate to the statewide cost estimate adopted by the commission.

(c) After the commission submits its second semiannual report to the Legislature pursuant to Section 17600, the Legislative Analyst shall submit a report to the Joint Legislative Budget Committee and legislative fiscal committees on the mandates included in the commission's reports. The report shall make recommendations as to whether the mandate should be repealed, funded, suspended, or modified.

(d) In its annual analysis of the Budget Bill and based on information provided pursuant to subdivision (b), the Legislative Analyst shall identify mandates that significantly exceed the statewide cost estimate adopted by the commission. The Legislative Analyst shall make recommendations on whether the mandate should be repealed, funded, suspended, or modified.



(e) (1) A statewide association of local agencies or school districts or a Member of the Legislature may submit a proposal to the Legislature recommending the elimination or modification of a state-mandated local program. To make such a proposal, the association or member shall submit a letter to the Chairs of the Assembly Committee on Education or the Assembly Committee on Local Government, as the case may be, and the Senate Committee on Education or the Senate Committee on Local Government, as the case may be, specifying the mandate and the concerns and recommendations regarding the mandate. The association or member shall include in the proposal all information relevant to the conclusions. If the chairs of the committees desire additional analysis of the submitted proposal, the chairs may refer the proposal to the Legislative Analyst for review and comment. The chairs of the committees may refer up to a total of 10 of these proposals to the Legislative Analyst for review in any year. Referrals shall be submitted to the Legislative Analyst by December 1 of each year.

(2) The Legislative Analyst shall review and report to the Legislature with regard to each proposal that is referred to the office pursuant to paragraph (1). The Legislative Analyst shall recommend that the Legislature adopt, reject, or modify the proposal. The report and recommendations shall be submitted annually to the Legislature by March 1 of the year subsequent to the year in which referrals are submitted to the Legislative Analyst.

(3) The Department of Finance shall review all statutes enacted each year that contain provisions making inoperative Section 17561 or Section 17565 that have resulted in costs or revenue losses mandated by the state that were not identified when the statute was enacted. The review shall identify the costs or revenue losses involved in complying with the statutes. The Department of Finance shall also review all statutes enacted each year that may result in cost savings authorized by the state. The Department of Finance shall submit an annual report of the review required by this subdivision, together with the recommendations as it may deem appropriate, by December 1 of each year.

(f) It is the intent of the Legislature that the Assembly Committee on Local Government and the Senate Committee on



Local Government hold a joint hearing each year regarding the following:

(1) The reports and recommendations submitted pursuant to subdivision (e).

(2) The reports submitted pursuant to Sections 17570, 17600, and 17601.

(3) Legislation to continue, eliminate, or modify any provision of law reviewed pursuant to this subdivision. The legislation may be by subject area or by year or years of enactment.

SEC. 23. Section 17564 of the Government Code is amended to read:

17564. (a) No claim shall be made pursuant to Sections 17551 and 17561, nor shall any payment be made on claims submitted pursuant to Sections 17551 and 17561, unless these claims exceed one thousand dollars (\$1,000), provided that a county superintendent of schools or county may submit a combined claim on behalf of school districts, direct service districts, or special districts within their county if the combined claim exceeds one thousand dollars (\$1,000) even if the individual school district's, direct service district's, or special district's claims do not each exceed one thousand dollars (\$1,000). The county superintendent of schools or the county shall determine if the submission of the combined claim is economically feasible and shall be responsible for disbursing the funds to each school, direct service, or special district. These combined claims may be filed only when the county superintendent of schools or the county is the fiscal agent for the districts. All subsequent claims based upon the same mandate shall only be filed in the combined form unless a school district, direct service district, or special district provides to the county superintendent of schools or county and to the Controller, at least 180 days prior to the deadline for filing the claim, a written notice of its intent to file a separate claim.

(b) Claims for direct and indirect costs filed pursuant to Section 17561 shall be filed in the manner prescribed in the parameters and guidelines and claiming instructions.

SEC. 24. Section 17579 of the Government Code is amended to read:

17579. Any bill introduced or amended for which the Legislative Counsel has determined the bill will mandate a new program or higher level of service pursuant to Section 6 of Article



XIII B of the California Constitution shall contain a section specifying that reimbursement shall be made pursuant to this chapter or that the mandate is being disclaimed and the reason therefor.

SEC. 25. Section 17610 of the Government Code is repealed.

SEC. 26. Section 17612 of the Government Code is amended to read:

17612. (a) Immediately upon receipt of the report submitted by the commission pursuant to Section 17600, a local government claims bill shall be introduced in the Legislature. The local government claims bill, at the time of its introduction, shall provide for an appropriation sufficient to pay the estimated costs of these mandates.

(b) The Legislature may amend, modify, or supplement the parameters and guidelines for mandates contained in the local government claims bill. If the Legislature amends, modifies, or supplements the parameters and guidelines, it shall make a declaration in the local government claims bill specifying the basis for the amendment, modification, or supplement.

(c) If the Legislature deletes from a local government claims bill funding for a mandate, the local agency or school district may file in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement.

SEC. 27. Section 17614 of the Government Code is repealed.

SEC. 28. Section 17615.1 of the Government Code is amended to read:

17615.1. The commission shall establish a procedure for reviewing, upon request, mandated cost programs for which appropriations have been made by the Legislature for the 1982–83, 1983–84, and 1984–85 fiscal years, or any three consecutive fiscal years thereafter. At the request of the Department of Finance, the Controller, or any local agency or school district receiving reimbursement for the mandated program, the commission shall review the mandated cost program to determine whether the program should be included in the State Mandates Apportionment System. If the commission determines that the State Mandates Apportionment System would accurately reflect the costs of the state-mandated program, the commission shall direct the



Controller to include the program in the State Mandates Apportionment System.

SEC. 29. Section 17615.4 of the Government Code is amended to read:

17615.4. (a) When a new mandate imposes costs that are funded either by legislation or in local government claims bills, local agencies and school districts may file reimbursement claims as required by Section 17561, for a minimum of three years after the initial funding of the new mandate.

(b) After actual cost claims are submitted for three fiscal years against such a new mandate, the commission shall determine, upon request of the Controller or a local entity or school district receiving reimbursement for the program, whether the amount of the base year entitlement adjusted by changes in the deflator and workload accurately reflects the costs incurred by the local agency or school district. If the commission determines that the base year entitlement, as adjusted, does accurately reflect the costs of the program, the commission shall direct the Controller to include the program in the State Mandates Apportionment System.

(c) The Controller shall make recommendations to the commission and the commission shall consider the Controller's recommendations for each new mandate submitted for inclusion in the State Mandates Apportionment System. All claims included in the State Mandates Apportionment System pursuant to this section are also subject to the audit provisions of Section 17616.

SEC. 30. Section 17616 of the Government Code is amended to read:

17616. The Controller shall have the authority to do either or both of the following:

(a) Audit the fiscal years comprising the base year entitlement no later than three years after the year in which the base year entitlement is established. The results of such audits shall be used to adjust the base year entitlements and any subsequent apportionments based on that entitlement, in addition to adjusting actual cost payments made for the base years audited.

(b) Verify that any local agency or school district receiving funds pursuant to this article is providing the reimbursed activities.

SEC. 31. Section 17630 of the Government Code is amended to read:



17630. Except for Article 5, the provisions of this part shall be applicable to claims for state reimbursement of costs mandated by the state on and after January 1, 1985. All claims for state reimbursement filed under Article 1 (commencing with Section 2201), Article 2 (commencing with Section 2227), and Article 3 (commencing with Section 2240) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code that have not been included in a local government claims bill pursuant to Section 2255 of the Revenue and Taxation Code enacted before January 1, 1985, shall be transferred to and considered by the commission pursuant to the provisions of this part.



Approved _____, 2004

Governor

