

AMENDED IN ASSEMBLY MAY 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1679**

**Introduced by Committee on Local Government (Longville  
(Chair), Maddox (Vice Chair), Thompson, Thomson, and  
Torlakson)**

March 18, 1999

---

An act to amend Sections ~~42302 and 42302.1~~ of the ~~Health and Safety Code, relating to local government.~~ 17521, 17527, 17553, 17559, 17561, 17564, 17565, and 17571 of the Government Code, to amend Sections 42302 and 42302.1 of the Health and Safety Code, and to amend Section 7285.5 of the Revenue and Taxation Code, relating to government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1679, as amended, Committee on Local Government. Local Government Omnibus Act of 1999.

**Existing**

(1) Existing law authorizes the Commission on State Mandates to adopt and rescind regulations that are not subject to review and approval by the Office of Administrative Law.

This bill would delete the exemption of these regulations from review and approval by the Office of Administrative Law.

(2) Existing law requires the commission to adopt procedures to receive claims of state-mandated local costs.

This bill would impose additional procedural requirements on the commission with regard to initial reimbursement

*claims, parameters, guidelines, reduced claims, and claiming instructions. The bill would also revise the deadlines for submitting claims with the Controller.*

(3) Existing law authorizes the district board of an air pollution control district or of an air quality management district to establish, by regulation, a permit system that requires, except as provided, that before any person builds, erects, alters, replaces, operates, or uses any article, machine, equipment, or other contrivance that may cause the issuance of air contaminants, the person obtain a permit to do so from the air pollution control officer of that district. Existing law provides that if a permit is denied, the applicant, within 10 days after receipt of the notice of denial, may request the hearing board of the district to hold a hearing on whether the permit was properly denied. Existing law also provides that within 10 days of any decision or action pertaining to the issuance of a permit by a district, or within 10 days after mailing, or after publication and mailing, as specified, of a notice of issuance of a permit, any aggrieved person who participated in the action before the district may request the hearing board of the district to hold a public hearing to determine whether the permit was properly issued.

This bill would extend those 10-day time periods to 30 days.

(4) Under existing law, the board of supervisors of a county is authorized to establish an authority for specific purposes and to impose a transactions and use tax of 0.25% or 0.5% if, among other things, the ordinance is approved by a majority of the voters voting on the issue.

*This bill instead would provide that the vote to approve the ordinance shall be in the amount that is otherwise required by law.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

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

- 1 SECTION 1. This act shall be known, and may be
- 2 cited, as the Local Government Omnibus Act of 1999.
- 3 SEC. 2. Section 17521 of the Government Code is
- 4 amended to read:



1 17521. “Test claim” means the first claim, *including*  
2 *claims joined or consolidated with the first claim*, filed  
3 with the commission alleging that a particular statute or  
4 executive order imposes costs mandated by the state.

5 *SEC. 3. Section 17527 of the Government Code is*  
6 *amended to read:*

7 17527. In carrying out its duties and responsibilities,  
8 the commission shall have the following powers:

9 (a) To examine any document, report, or data,  
10 including computer programs and data files, held by any  
11 local agency or school district.

12 (b) To meet at times and places as it may deem proper.

13 (c) As a body or, on the authorization of the  
14 commission, as a committee composed of one or more  
15 members, to hold hearings at any time and place it may  
16 deem proper.

17 (d) Upon a majority vote of the commission, to issue  
18 subpoenas to compel the attendance of witnesses and the  
19 production of books, records, papers, accounts, reports,  
20 and documents.

21 (e) To administer oaths.

22 (f) To contract with other agencies or individuals,  
23 public or private, as it deems necessary, to provide or  
24 prepare services, facilities, studies, and reports to the  
25 commission as will assist it in carrying out its duties and  
26 responsibilities.

27 (g) To adopt, promulgate, amend, and rescind rules  
28 and regulations, ~~which shall not be subject to the review~~  
29 ~~and approval of the Office of Administrative Law~~  
30 ~~pursuant to the provisions of the Administrative~~  
31 ~~Procedure Act provided for in Chapter 3.5 (commencing~~  
32 ~~with Section 11340) of Part 1 of Division 3 of Title 2.~~

33 (h) To do any and all other actions necessary or  
34 convenient to enable it fully and adequately to perform  
35 its duties and to exercise the powers expressly granted to  
36 it.

37 *SEC. 4. Section 17553 of the Government Code is*  
38 *amended to read:*

39 17553. (a) The commission shall adopt procedures  
40 for receiving claims pursuant to this article and for



1 providing a hearing on those claims. The hearing  
2 procedure shall provide for presentation of evidence by  
3 the claimant, the Department of Finance and any other  
4 affected department or agency, and any other interested  
5 person. The procedures shall ensure that a statewide cost  
6 estimate is adopted within 12 months after receipt of a  
7 test claim, when a determination is made by the  
8 commission that a mandate exists. This deadline may be  
9 extended for up to six months upon the request of either  
10 the claimant or the commission. Hearing of a claim may  
11 be postponed at the request of the claimant, without  
12 prejudice, until the next scheduled hearing.

13 (b) The procedures adopted by the commission  
14 pursuant to subdivision (a) shall include the following:

15 (1) *Provisions for acceptance of more than one claim*  
16 *on the same statute or executive order relating to the*  
17 *same statute or executive order filed with the*  
18 *commission, and, absent agreement by the test claimants*  
19 *to the contrary, to designate the first to file as the lead test*  
20 *claimant.*

21 (2) Provisions for consolidating test claims relating to  
22 the same statute or executive order filed with the  
23 commission with time limits that do not exceed 30 days  
24 from the initial filing for consolidating the test claims and  
25 for claimants to designate a single contact for information  
26 regarding the test claim.

27 ~~(2)~~

28 (3) Provisions for claimants to designate a single  
29 claimant for a test claim relating to the same statute or  
30 executive order filed with the commission, with time  
31 limits that do not exceed 30 days from the initial filing for  
32 making that designation.

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

39 ~~(d) This section shall become operative on July 1, 1996.~~  
40 *In addition, the commission shall determine whether an*



1 *incorrect reduction claim is complete within 10 days after*  
2 *the date that the incorrect reduction claim is filed. If the*  
3 *commission determines that an incorrect reduction claim*  
4 *is not complete, the commission shall notify the local*  
5 *agency and school district that filed the claim stating the*  
6 *reasons that the claim is not complete. The local agency*  
7 *or school district shall have 30 days to complete the claim.*  
8 *The commission shall serve a copy of the complete*  
9 *incorrect reduction claim on the Controller. The*  
10 *Controller shall have no more than 30 days after the date*  
11 *the claim is delivered or mailed to file any rebuttal to an*  
12 *incorrect reduction claim. The commission shall hear any*  
13 *incorrect reduction claim within six months after the date*  
14 *that the incorrect reduction claim was filed. The*  
15 *Controller shall have the burden of proving that the*  
16 *reduction was correct.*

17 *SEC. 5. Section 17559 of the Government Code is*  
18 *amended to read:*

19 *17559. (a) The commission may order a*  
20 *reconsideration of all or part of a test claim or incorrect*  
21 *reduction claim on petition of any party. The power to*  
22 *order a reconsideration or amend a test claim decision*  
23 *shall expire 30 days after the statement of decision is*  
24 *delivered or mailed to the claimant. If additional time is*  
25 *needed to evaluate a petition for reconsideration filed*  
26 *prior to the expiration of the 30-day period, the*  
27 *commission may grant a stay of that expiration for no*  
28 *more than 30 days, solely for the purpose of considering*  
29 *the petition. If no action is taken on a petition within the*  
30 *time allowed for ordering reconsideration, the petition*  
31 *shall be deemed denied.*

32 *(b) A claimant or the state may commence a*  
33 *proceeding in accordance with the provisions of Section*  
34 *1094.5 of the Code of Civil Procedure to set aside a*  
35 *decision of the commission on the ground that the*  
36 *commission's decision is not supported by substantial*  
37 *evidence. The court may order the commission to hold*  
38 *another hearing regarding the claim and may direct the*  
39 *commission on what basis the claim is to receive a*  
40 *rehearing.*



1 SEC. 6. Section 17561 of the Government Code is  
2 amended to read:

3 17561. (a) The state shall reimburse each local  
4 agency and school district for all “costs mandated by the  
5 state,” as defined in Section 17514.

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

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

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

20 (2) In subsequent fiscal years appropriations for these  
21 costs shall be included in the annual Governor’s Budget  
22 and in the accompanying Budget Bill. In addition,  
23 appropriations to reimburse local agencies and school  
24 districts for continuing costs resulting from chaptered  
25 bills or executive orders for which claims have been  
26 awarded pursuant to subdivision (a) of Section 17551 shall  
27 be included in the annual Governor’s Budget and in the  
28 accompanying Budget Bill subsequent to the enactment  
29 of the local government claims bill pursuant to Section  
30 17600 ~~which~~ that includes the amounts awarded relating  
31 to these chaptered bills or executive orders.

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

36 (d) The Controller shall pay any eligible claim  
37 pursuant to this section within 60 days after the filing  
38 deadline for claims for reimbursement or 15 days after the  
39 date the appropriation for the claim is effective,  
40 whichever is later. The Controller shall disburse



1 reimbursement funds to local agencies or school districts  
2 if the costs of these mandates are not payable to state  
3 agencies, or to state agencies who would otherwise collect  
4 the costs of these mandates from local agencies or school  
5 districts in the form of fees, premiums, or payments.  
6 When disbursing reimbursement funds to local agencies  
7 or school districts, the Controller shall disburse them as  
8 follows:

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

16 (A) When claiming instructions are issued by the  
17 Controller pursuant to Section 17558 for each mandate  
18 determined pursuant to Section 17555 that requires state  
19 reimbursement, each local agency or school district to  
20 which the mandate is applicable shall submit claims for  
21 initial fiscal year costs to the Controller within 120 days of  
22 the issuance date for the claiming instructions.

23 (B) When the commission is requested to review the  
24 claiming instructions pursuant to Section 17571, each  
25 local agency or school district to which the mandate is  
26 applicable shall submit a claim for reimbursement within  
27 120 days after the commission reviews the claiming  
28 instructions for reimbursement issued by the Controller.

29 (C) If the local agency or school district does not  
30 submit a claim for reimbursement within the 120-day  
31 period, or submits a claim pursuant to revised claiming  
32 instructions, it may submit its claim for reimbursement as  
33 specified in Section 17560. The Controller shall pay these  
34 claims from the funds appropriated therefor, provided  
35 that the Controller ~~(A)~~ (i) may audit the records of any  
36 local agency or school district to verify the actual amount  
37 of the mandated costs, and ~~(B)~~ (ii) may reduce any claim  
38 ~~which~~ *that* the Controller determines is excessive or  
39 unreasonable.



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

12 (3) When paying a timely filed claim for initial  
13 reimbursement, the Controller shall withhold 20 percent  
14 of the amount of the claim until the claim is audited to  
15 verify the actual amount of the mandated costs. *All initial*  
16 *reimbursement claims for all fiscal years required to be*  
17 *filed on their initial filing date for a state-mandated local*  
18 *program shall be considered as one claim for the purpose*  
19 *of computing any late claim penalty.* Any claim for initial  
20 reimbursement filed after the filing deadline shall be  
21 reduced by 10 percent of the amount ~~which that~~ would  
22 have been allowed had the claim been timely filed,  
23 provided that the amount of this reduction shall not  
24 exceed one thousand dollars (\$1,000). The Controller  
25 may withhold payment of any late claim for initial  
26 reimbursement until the next deadline for funded claims  
27 unless sufficient funds are available to pay the claim after  
28 all timely filed claims have been paid. In no case shall a  
29 reimbursement claim be paid if submitted more than one  
30 year after the filing deadline specified in the Controller's  
31 claiming instructions on funded mandates contained in a  
32 claims bill.

33 ~~(e) The amendments to this section enacted at the~~  
34 ~~1995-96 Regular Session shall become operative on July 1,~~  
35 ~~1996.~~

36 *SEC. 7. Section 17564 of the Government Code is*  
37 *amended to read:*

38 17564. (a) No claim shall be made pursuant to  
39 Sections 17551 and 17561, nor shall any payment be made  
40 on claims submitted pursuant to Sections 17551 and 17561,



1 unless these claims exceed two hundred dollars (\$200),  
2 provided that a county superintendent of schools or  
3 county may submit a combined claim on behalf of school  
4 districts, direct service districts, or special districts within  
5 their county if the combined claim exceeds two hundred  
6 dollars (\$200) even if the individual school district's,  
7 direct service district's, or special district's claims do not  
8 each exceed two hundred dollars (\$200). The county  
9 superintendent of schools or the county shall determine  
10 if the submission of the combined claim is economically  
11 feasible and shall be responsible for disbursing the funds  
12 to each school, direct service, or special district. These  
13 combined claims may be filed only when the county  
14 superintendent of schools or the county is the fiscal agent  
15 for the districts. All subsequent claims based upon the  
16 same mandate shall only be filed in the combined form  
17 unless a school district, direct service district, or special  
18 district provides to the county superintendent of schools  
19 or county and to the Controller, at least 180 days prior to  
20 the deadline for filing the claim, a written notice of its  
21 intent to file a separate claim.

22 (b) Claims for direct and indirect costs filed pursuant  
23 to Section 17561 shall be filed in the manner prescribed  
24 by the Controller.

25 ~~(e) Local agencies and school districts may file  
26 estimated claims and reimbursement claims with the  
27 Controller for increased costs resulting from any law  
28 enacted between January 1, 1973, and January 1, 1975, or  
29 an executive order implementing a statute enacted  
30 during that period, that resulted in a new program or a  
31 higher level of service of an existing program, and for  
32 which a specific appropriation has been made. The  
33 Controller shall pay these estimated claims, and  
34 approved reimbursement claims, from funds  
35 appropriated expressly therefor, provided that the  
36 Controller (1) may audit the records of any local agency  
37 or school district to verify the actual amount of the  
38 mandated costs, (2) may reduce any claim which the  
39 Controller determines is excessive or unreasonable, and  
40 (3) shall adjust the payment to correct for any~~



1 ~~underpayments or overpayments which occurred in~~  
2 ~~previous fiscal years. The provisions of this chapter~~  
3 ~~relative to estimated and reimbursement claims~~  
4 ~~generally shall also apply to claims filed pursuant to this~~  
5 ~~subdivision in the parameters and guidelines. Neither the~~  
6 ~~commission nor the Controller shall require a local~~  
7 ~~agency or school district to maintain or supply any record~~  
8 ~~or document that is not maintained in the normal course~~  
9 ~~of the local agency's or school district's business in order~~  
10 ~~to support a reimbursement claim. A local agency or~~  
11 ~~school district may rely upon any sort of record or~~  
12 ~~documentation that is relied upon by reasonable people~~  
13 ~~in the conduct of business, including, but not limited to,~~  
14 ~~declarations certifying an after-the-fact determination of~~  
15 ~~the actual effort expended on the mandate.~~

16 SEC. 8. Section 17565 of the Government Code is  
17 amended to read:

18 17565. If a local agency or a school district, at its  
19 option, has been incurring costs ~~which~~ that are  
20 subsequently mandated by the state, the state shall  
21 reimburse the local agency or school district for those  
22 costs *mandated by the state that were* incurred after the  
23 operative date of the mandate.

24 SEC. 9. Section 17571 of the Government Code is  
25 amended to read:

26 17571. The commission, upon request of a local  
27 agency or school district, shall review the claiming  
28 instructions issued by the Controller or any other  
29 authorized state agency for reimbursement of mandated  
30 costs, ~~and may modify these instructions with regard to~~  
31 ~~the inclusion or exclusion of specific cost items. If the~~  
32 *commission determines that the claiming instructions do*  
33 *not conform to the parameters and guidelines, the*  
34 *commission shall direct the Controller to modify the*  
35 *claiming instructions and the Controller shall modify the*  
36 *claiming instructions to conform to the parameters and*  
37 *guidelines as directed by the commission.*

38 SEC. 10. Section 42302 of the Health and Safety Code  
39 is amended to read:



1 42302. An applicant for a permit that has been denied  
2 may request, within 30 days after receipt of the notice of  
3 the denial, the hearing board of the district to hold a  
4 hearing on whether the permit was properly denied.

5 ~~SEC. 3.—~~

6 *SEC. 11.* Section 42302.1 of the Health and Safety  
7 Code is amended to read:

8 42302.1. Within 30 days of any decision or action  
9 pertaining to the issuance of a permit by a district, or  
10 within 30 days after mailing of the notice of issuance of the  
11 permit to any person who has requested notice, or within  
12 30 days of the publication and mailing of notice provided  
13 for in Section 1 of Chapter 1131 of the Statutes of 1993, any  
14 aggrieved person who, in person or through a  
15 representative, appeared, submitted written testimony,  
16 or otherwise participated in the action before the district  
17 may request the hearing board of the district to hold a  
18 public hearing to determine whether the permit was  
19 properly issued. Except as provided in Section 1 of  
20 Chapter 1131 of the Statutes of 1993, within 30 days of the  
21 request, the hearing board shall hold a public hearing and  
22 shall render a decision on whether the permit was  
23 properly issued.

24 *SEC. 12.* Section 7285.5 of the Revenue and Taxation  
25 Code is amended to read:

26 7285.5. As an alternative to the procedure set forth in  
27 Section 7285, the board of supervisors of any county may  
28 establish an authority for specific purposes.

29 An authority so established may impose a transactions  
30 and use tax at a rate of 0.25 or 0.5 percent for the purpose  
31 for which it is established, if all of the following  
32 requirements are met:

33 (a) The ordinance proposing that tax is approved by a  
34 two-thirds vote of the authority and is subsequently  
35 approved by a ~~majority~~ vote of the qualified voters of the  
36 county voting in an election on the issue *in the amount*  
37 *that is otherwise required by law.*

38 (b) The transactions and use tax conforms to Part 1.6  
39 (commencing with Section 7251).



1 (c) The ordinance includes an expenditure plan  
2 describing the specific projects for which the revenues  
3 from the tax may be expended.

O

