

Mandates: Overview of Process and Issues

LEGISLATIVE ANALYST'S OFFICE

Presented To:

Assembly Special Committee on State Mandates





What's a "Mandate?"

- Word used broadly to mean many different inter-governmental requirements.**
- Definition in the California Constitution applies to a *limited* array of state requirements on local agencies:**

- **ARTICLE XIII B, SEC. 6**

Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates:

- (a) Legislative mandates requested by the local agency affected;
- (b) Legislation defining a new crime or changing an existing definition of a crime; or
- (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

- California state voters placed this mandate reimbursement requirement into the Constitution by approving Proposition 4 in 1979.**



Examples



State-Reimbursable Mandates

- ***Peace Officers Procedural Bill of Rights.*** Chapter 465, Statutes of 1976 (AB 301, Keysor) provides a series of rights and procedural protections to peace officers who are subject to interrogation or discipline by their employer. In 1999, the commission found that certain requirements of POBOR *exceeded* the rights provided all employees under the state and federal due process clauses and thus constituted a mandate. For example, the commission found that the state and federal due process clause does not require an administrative hearing when an employee is transferred as punishment. Thus, the POBOR provision to this effect constitutes a state-reimbursable mandate.
- ***Mandate for Regional Planning.*** Chapter 1143, Statutes of 1980 (AB 2853, Roos), significantly expanded the requirements of local housing elements by requiring additional analysis of local housing needs, particularly in relation to housing by income group. Each community is assigned numeric housing development goals by income (the community's "fair share" of housing) through a process administered by regional councils of government (COGs). Chapter 1143 was passed *after* the constitutional amendment that requires reimbursements for state-required activities. While the state does not pay for portions of the housing element process in place prior 1975, the Commission found that the state is required to reimburse (1) COG expenses related to distributing the region's housing goals to individual communities and (2) city and county expenses related to reviewing the COG's allocation and examining specialized housing factors in their housing element.



Examples

continued

- ***Adoptable Stray Animals.*** Chapter 752, Statutes of 1998 (SB 1785, Hayden) imposed various requirements on cities and counties to prevent the euthanization of adoptable stray animals, including increasing the holding period for these animals from three days to four to six business days. The Commission found the following local costs to be state-reimbursable mandates: (1) holding animals for the longer period (2) providing veterinary care and verifying the temperament of feral cats, and (3) posting lost and found lists and maintaining records regarding impounded animals.
- ***Special Education.*** Chapter 797, Statutes of 1980 (SB 1970, Rodda), also known as the state's Master Plan for Special Education (MPSE), requires eight activities in excess of federal requirements. For example, *the MPSE requires that schools provide instructional aides to at least 80 percent of certain learning resource specialists, while federal law only requires staffing as identified in a student's individual plan.* State law also requires *schools to obtain written parental consent of a student's education plan, but federal law does not require written consent.* The Commission found these eight additional requirements of the MPSE to be state-reimbursable mandates.
- ***School Financial and Compliance Audits.*** In legislation enacted between 1977 and 1995, the Legislature imposed new requirements on schools related to financial and compliance audits. In addition, revisions to the State Controller's Office audit guide imposed new duties on schools. These requirements include such duties as changing language in audit contracts and responding to inquiries regarding prior corrective action plans. The Commission on State Mandates found that the costs to comply with these new requirements constitute a state-reimbursable mandate.



Examples

continued

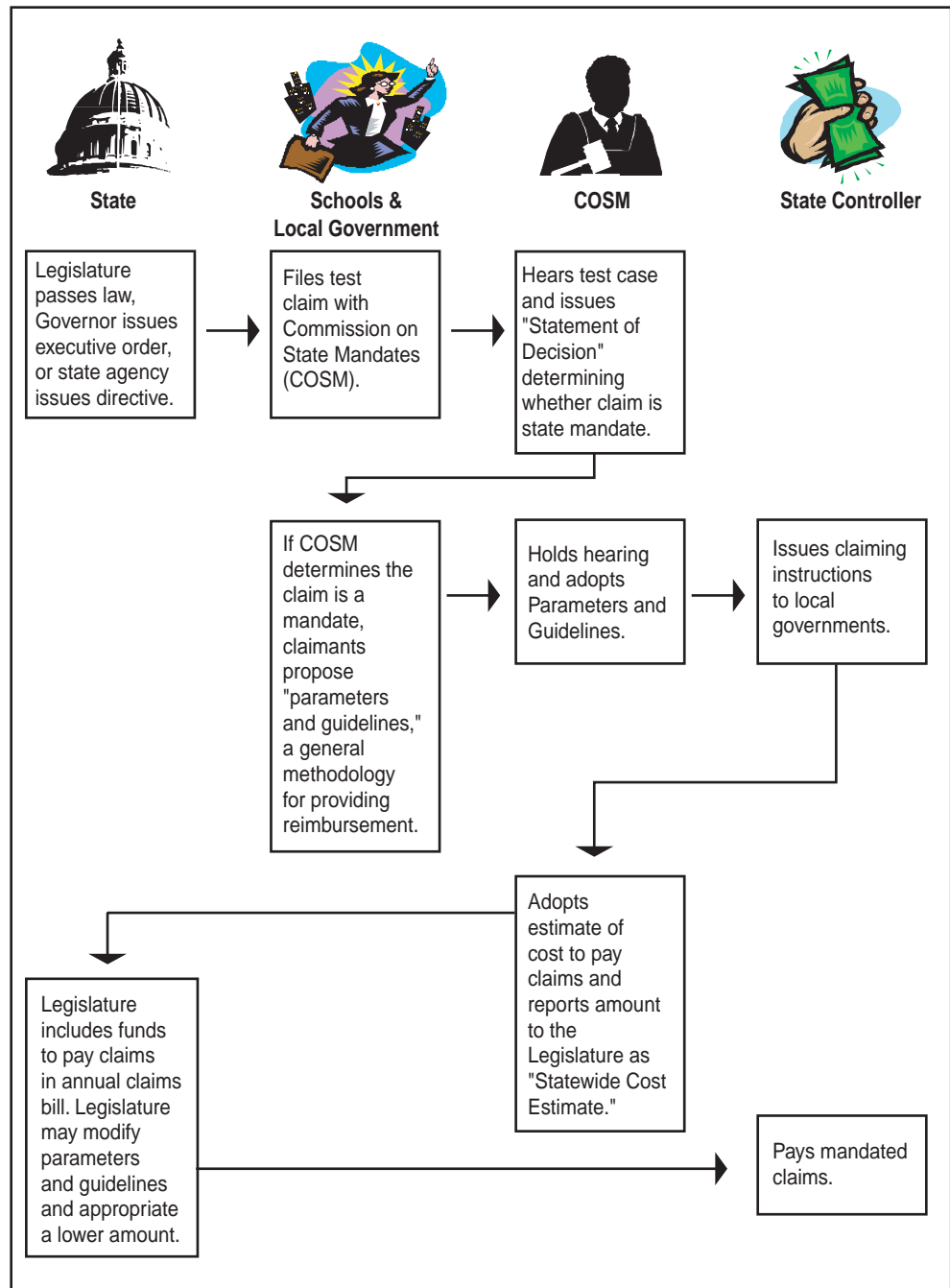


Measures not found to be a state-reimbursable mandate.

- ***ERAF.*** A reduction of revenues by itself is not a state-reimbursable mandate.
- ***Workers Compensation and Unemployment Compensation for Public Employees.*** Measures that impose requirements on local agencies that are comparable to the requirements on the private sector are not state-reimbursable mandates.
- ***Booking Fees.*** Measures that permit a shift in costs among local agencies are not state-reimbursable mandates.
- ***Site Council.*** Imposing a requirement on optional local boards or councils does not constitute a state-reimbursable mandate.

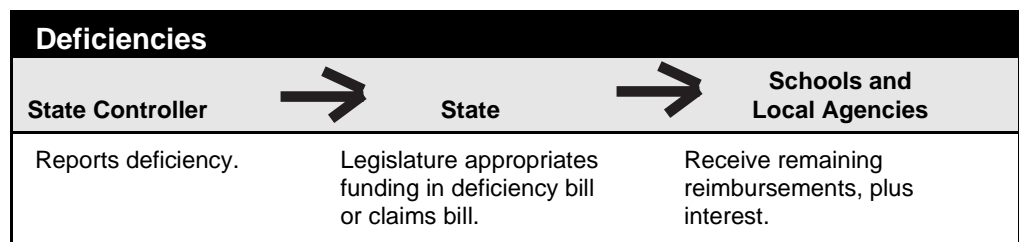
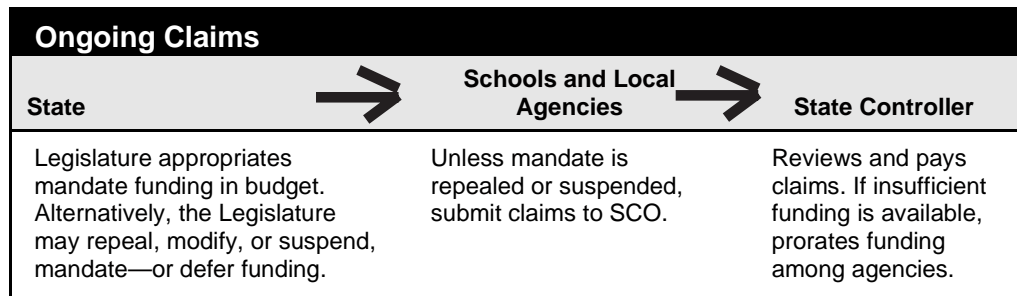
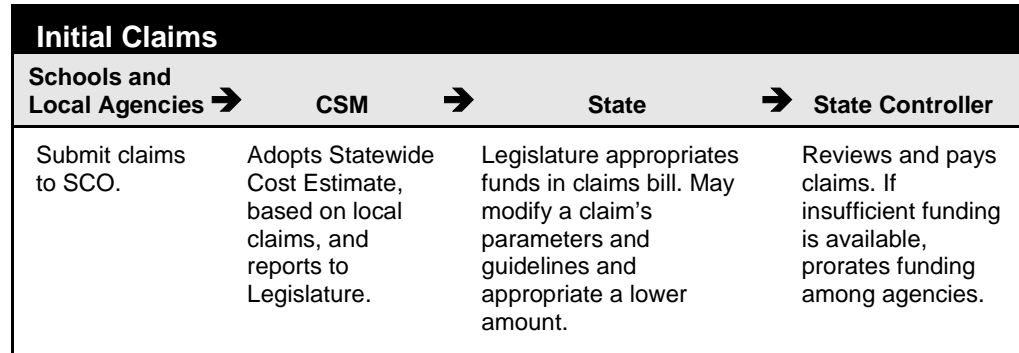


The Mandate Claim Decision Process





Mandate Reimbursement Funding Process





Glossary of Mandate Budget Terms



“Suspended Mandate” and “Long Suspended Mandates”

Pursuant to Government Code Section 17581 (17581.5 for education mandates), the Legislature may place a local mandate obligation “on pause” for a fiscal year (plus any time in the next fiscal year until a new budget act is adopted.) Suspended mandates show in the budget act with a \$0 appropriation, along with budget language denoting that the mandate is suspended. Because the legal obligation to carryout the mandate is eliminated for one year, the state incurs no cost for the mandate during that time. Roughly two dozen mandates have been suspended annually for about a decade. These mandates are referred to as “long suspended mandates.”



“Repealed Mandate”

The Legislature can permanently eliminate local responsibility to implement a mandate. Such an action eliminates state costs for the mandate on an ongoing basis. During the first year of mandate repeal, the mandate typically is displayed in the budget act with a zero appropriation. In future years, repealed mandates are not displayed in the budget act. Repealing a mandate usually requires legislation other than the budget act.



“Deferred Mandate”

If the Legislature maintains a local obligation to carryout a mandate, but does not provide funding, the mandate is a “deferred mandate.” Deferred mandates show in the budget act with a \$1,000 appropriation. At an unknown future date, the state will reimburse local agency mandate expenses, along with interest at the Pooled Money Investment Account Rate.



“Newly Identified Mandate” and “Ongoing Mandate”

After a mandate has been determined by the Commission on State Mandates, the mandate commonly is referred to as a “newly identified mandate.” These new mandates receive their first funding in the annual claims bill. Unless a local mandate obligation is one-time only, future funding for the mandate is included in the annual budget bill. Mandates included in the annual budget bill are referred to as an “ongoing mandates.”



Major Fiscal and Policy Concerns Regarding Mandates

- Mandate costs are rising rapidly. If not addressed, mandate costs will limit the Legislature's future fiscal options.**
 - Over \$1 billion of unpaid claims at State Controller's Office.
 - \$400 million of unpaid, newly identified mandate claims.
 - Ongoing mandate costs of about \$600 million.
- Delays in mandate reimbursement impose hardships on local agencies.**
- Failure to fund mandates creates uncertainty regarding local responsibilities.**
- Mandate budgeting practices fail to foster economies.**
- Insufficient review of ongoing mandates.**



Options for Legislative Consideration

- Consolidate education mandate funding into block grant.**
 - Gives schools incentives to meet mandate requirements in cost effective manner.
 - Reduces administrative costs, thereby freeing up Proposition 98 funding for direct education.
- Repeal or modify specific mandates to reduce future state mandate costs.**
 - Begin by outlining principles as to when state should maintain a mandate.
- Increase state oversight and auditing of claims.**
 - Auditing has found significant unsubstantiated claiming.
 - Could focus attention of SCO by allowing local agencies to claim only actual costs (as opposed to actual costs and projected future costs).
- Enact mandate review procedural changes process.**
 - Create process for reconsidering mandate decisions, based on modern court opinions and federal law.