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Mandates and the 2011-12 State Budget

LEGISLATIVE ANALYST'S OFFICE

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State Administration

Hon. Joan Buchanan, Chair

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Overview of Mandates

Proposition 4, 1979

- Since 1979, the California Constitution has required the state to reimburse local governments for certain mandatory new programs or higher levels of service.
- Determinations as to what constitutes a state-reimbursable mandate are made by the Commission on State Mandates. After this determination is made, local agencies submit mandate claims to the State Controller's Office.

Proposition 1A, 2004

- Proposition 1A (2004) requires the Legislature to either (1) appropriate funds in the budget bill to pay all outstanding claims for a mandate or (2) suspend or repeal the mandate.
- Claims submitted before 2004 may be paid over a period of years.

Mandate Suspension

- The Legislature may "suspend" a mandate by appropriating $0 funds for it in the budget bill and adding a provision specifically identifying it as suspended.
- When a mandate is suspended, local agency implementation of the requirement is optional for the fiscal year.
- State statutes are not modified to specify that a requirement is optional. The only statutory reference to a mandate suspension is in the budget act.

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Similarities With Prior-Year Budgets

☑ **Provides $52 Million to Keep Some Mandates Active**

☑ **Suspends Over 50 Mandates**

- Many of these mandates have been suspended for over a decade.
- Suspended mandates span a range of policy areas.

☑ **Provides No Funds to Pay Mandate Backlog**

- The state owes local agencies more than $1 billion in unpaid mandate bills.
- Statute specifies that the state will pay these bills over time, but no funding for this purpose has been included in the budget in recent years.

☑ **Provides No Funds for the Peace Officer Procedural Bill of Rights (POBOR) Mandate**

- Mandate requires local agencies to offer certain procedural protections to peace officers being investigated for disciplinary action.
- Proposition 1A (2004) does not require the state to annually fund mandates relating to "employee relations."
- Budget proposes to add these costs (about $13 million annually) to the state's backlog of pre-2004 mandate claims.

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Major Changes in Governor's Budget

☑ **Suspends Election Mandates**

- Counties would not be required to: mail ballots to people who ask to be permanent absentee voters, tabulate absentee ballot voting by precinct, or hold a special election when a candidate dies within three months of a general election.
- Suspension of these election requirements would affect the 2012 presidential primary election.
- Administration has not indicated how it would address the confusion resulting from the change in election law or whether it intends for this suspension to be ongoing.
- General Fund savings from suspending the elections mandates: Over $31 million related to prior-year claims. (Under the Constitution, the state eventually must pay these claims.)

☑ **Suspends Open Meeting Act Mandate**

- Local agencies would not be required to follow certain procedural requirements regarding posting agendas for hearings and disclosing actions taken during closed sessions.
- General Fund savings from suspending this mandate: Over $63 million related to prior-year claims. (Under the Constitution, the state eventually must pay these claims.)

☑ **Provides Funding for AB 3632 Mandate Under Realignment Plan**

- Administration indicates that it intends to maintain the program as a county mandate, but fund it within its realignment plan.
- Prior administration vetoed funding for this mandate in the current year and stated that the mandate was suspended.

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Legislature Faces Difficult Choices

☑ **Legislature Previously Rejected Proposals to Suspend the Elections Mandates**

- The Legislature previously acted to make the basic procedures for administering elections uniform across counties.
- Changes in administrative procedures—such as who is eligible for an absentee ballot—could affect voter turnout.
- Keeping the election mandates active would cost at least $31 million.

☑ **Legislature Previously Rejected Proposals to Suspend Open Meeting Act Mandate**

- The 2010-11 budget conference committee approved a trailer bill to recast this mandate to be advisory guidelines, but the Legislature did not approve this change.
- Keeping this mandates active would cost over $63 million.

☑ **Administration's Mandate Proposal Probably Will Cost More Than $52 Million**

- This will place additional pressure on the Legislature to make mandate changes or shift funds from other program areas to pay these costs.

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Legislative Alternatives

☑ **Consider Including Election Mandates in Realignment Plan**

- Mandate billing process is highly bureaucratic and payments to counties are uneven. There may be potential to revise state law to maintain key elements of the election system at reduced costs and include funding for it in the realignment plan.
- Developing lower-cost election procedures would require active participation of counties.

☑ **Consider Placing Some Mandates Before the State's Voters—or Recasting Them as Statutes That Implement Voter-Approved Measures**

- Measures approved by the state's voters are not state-reimbursable mandates. Laws necessary to implement a voter-approved measure are not state-reimbursable mandates.
- Legislature has considered putting open meeting act hearing notification requirements before the voters.
- Two mandates—Sexually Violent Offenders and Open Meeting Act—overlap considerably with existing voter-approved measures (Jessica's Law and Proposition 59) and it is possible that they could be recast as implementation measures.

☑ **Reconsider Whether Some Public Safety Mandates Should Be a Local Responsibility**

- The LAO has previously recommended that some mandates, such as POBOR and Health Benefits for Survivors of Peace Officers and Firefighters, be considered a local responsibility and a matter for discussion during local collective bargaining.