

State Reimbursement of Mandated Costs: A Review of Statutes Funded in 1986

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PREFACE

Chapter 1256, Statutes of 1980, requires the Legislative Analyst to report each year on any previously unfunded state mandates for which the Legislature appropriated funds in a claims bill during the prior fiscal year.

This report reviews those mandates initially funded by Chapter 573, Statutes of 1986. The specific mandates are listed below:

| <u>Mandate Authority</u> | <u>Description</u> |
|-------------------------------|--|
| 1. Ch 718/78 | Limitation on Juror Days |
| 2. Ch 1220/83 | Employee Personnel Files |
| 3. Title 8, Sec. 3401(c), CAC | Personal Alarm Devices for Firefighters |

This report was prepared by Steve Shea and other members of the Legislative Analyst's staff, under the supervision of Peter Schaafsma.

EXECUTIVE SUMMARY

This section summarizes the major findings and recommendations resulting from our review of the three mandates which are the subject of this report.

CHAPTER II: LIMITATION ON JUROR DAYS

1. Chapter 718, Statutes of 1978, imposed a mandate by limiting to 10 the number of court days that any prospective juror may be required to serve (unless more time is needed to complete a trial); thereby increasing the number of persons some counties must contact for jury duty.

2. The mandate appears to serve a statewide interest by reducing the burden of jury service, thereby increasing the willingness and ability of citizens to participate in the jury process.

3. We have no analytical basis for comparing the benefits of this mandate with its cost. We do not have adequate information available to measure the benefits of increased participation in the jury process.

4. The 10-day limit appears to be arbitrary. We are not aware of any information which supports the use of a 10-day limit over any other limit on the maximum length of jury service.

5. The cost of this measure is not consistent with the Legislature's expectations. The cost of the mandate significantly exceeds the expectations of the Legislature when it enacted Chapter 718.

6. We recommend that the Legislature consider repealing this mandate. Because the costs of the mandate exceed the Legislature's expectations, and because of the arbitrary nature of the existing 10-day limit, we are not able analytically to justify retention of this mandate in its present form. Use of a higher limit for the number of days of service would reduce the costs of this mandate, but the savings cannot be quantified.

CHAPTER III: EMPLOYEE PERSONNEL FILES

1. Chapter 1120, Statutes of 1983, imposed a mandate by requiring local jurisdictions to provide copies of personnel records and permit employees to inspect their records without loss of compensation.

2. The mandate appears to serve a statewide interest. By ensuring that local public employees have access to personnel records which may affect the conditions of their employment, the state furthers its objective of ensuring fair and non-discriminatory employment practices.

3. The statewide annual cost of providing employees with information contained in their personnel files (less than \$20,000) is minor and appears to be consistent with legislative intent.

4. We recommend that the Legislature continue to fund this mandate in its present form, as the benefits derived from ensuring local employees access to personnel records appear to be worth the minor annual cost to the state.

CHAPTER IV: PERSONAL ALARM DEVICES FOR FIREFIGHTERS

The Occupational Health and Safety Standards Board within the Department of Industrial Relations is authorized to adopt safety standards requiring employers to take specific actions (such as providing safety equipment).

1. The amendment to Section 3401(c) of the Administrative Code imposed a mandate by requiring fire departments to provide an increased level of service and incur increased equipment costs.
2. This mandate appears to serve a statewide interest.
3. We have no analytical basis for comparing the benefits of the mandate with the costs of compliance.
4. We recommend that the Legislature continue to fund this mandate. Section 3401(c) of Title 8 appears to be consistent with legislative intent to provide a safe work environment to California workers, including firefighters.

CHAPTER 1

INTRODUCTION

THE MANDATE REIMBURSEMENT PROCESS

Article XIIIIB, Section 6, of the State Constitution requires the state to reimburse local governments and school districts for all costs mandated by the state. Under the provisions of the Constitution, costs mandated by the state are defined as costs arising from legislation or executive orders which require the provision of a new program or an increased level of service in an existing program. The Constitution also provides that the state need not reimburse local governments for mandates: (a) specifically requested by the local agency affected, (b) defining a new crime or changing an existing definition of a crime, or (c) enacted prior to January 1, 1975 or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

Under existing law, local agencies may obtain reimbursement for the costs of a state-mandated local program in one of two ways. First, the legislation initially imposing the state-mandated local program may contain an appropriation to provide the reimbursement, and local agencies may file claims to obtain a share of these funds. Second, if the legislation does not contain an appropriation, or if the costs are imposed by executive order, the local agency may file a claim with the Commission on State Mandates. The first claim filed against a particular statute or

executive order initiates a fact-finding process which culminates in a decision by the commission as to the merits of the claim. If the commission determines that a particular statute or executive order contains a reimbursable state mandate, it notifies the Legislature of its findings and requests an appropriation sufficient to reimburse all potential claimants for the costs they have incurred since the time the mandate became operative.

Appropriations necessary to reimburse the claims recommended for payment by the commission are provided in a local government claims bill. Following enactment of such a bill, the State Controller notifies local agencies that funds for reimbursement are available and provides them with guidelines for preparing reimbursement claims. Local agencies then file their claims, based on the costs they actually incurred, and are paid from the appropriation in the local government claims bill. In subsequent years, an amount is included in the state budget act to provide for reimbursement of the ongoing costs of each statute or executive order.

Chapter 1534, Statutes of 1985 (AB 1791--Cortese), provides an alternative to this reimbursement process for ongoing mandates. Under the terms of Chapter 1534, reimbursement for certain mandates will be provided on a block grant basis, with the amount of the grant equal to the average amount of reimbursement received during a three-year base period for the mandates covered by the process. This amount will be adjusted for inflation and any one-time costs, and automatically subvened to local governments.

REVIEW OF UNFUNDED MANDATES

Chapter 1256, Statutes of 1980, requires the Legislative Analyst to prepare annually a report containing an evaluation of any previously unfunded mandated programs for which the Legislature appropriated reimbursement funds in a claims bill during the preceding fiscal year. The measure also requires the Analyst to make recommendations as to whether each of these mandates should be modified, repealed or made permissive.

In enacting this provision, the Legislature recognized that state-mandated programs, like other state programs funded in the budget, need to be reviewed periodically in order to determine whether they are achieving their intended goals in the most cost-effective manner.

The criteria we used in evaluating the mandates reviewed in the report are as follows:

- o Has the statute resulted in a "true" mandate by requiring local governments to establish a new program or provide an increased level of service?
- o Does the mandate serve a statewide interest, as opposed to a primarily local interest that can be served through local action?
- o Has compliance with the mandate achieved results consistent with the Legislature's intent and expectations?
- o Are the benefits produced by the mandate worth the cost?
- o Can the goal of the mandate be achieved through less costly alternatives?

CHAPTER II

LIMITATION ON JUROR DAYS

DESCRIPTION

Chapter 718, Statutes of 1978, made several changes in the law governing the administration of juries and the service of jurors. The chapter specifies that in all counties, no prospective juror shall be required to serve more than 10 court days, unless more time is needed to complete a trial. Prior to the passage of this statute, time limitations for trial jurors were established by local court rule. This requirement applies to superior, municipal, and justice courts.

In addition, Ch 718/78 requires, rather than permits, the superior court to adopt rules for the jury commissioner to follow in excusing persons from jury service. Finally, it requires the jury commissioner to notify prospective jurors of existing provisions of law which protect them from discharge from employment for taking time off to serve on a jury.

BOARD OF CONTROL ACTION

The City and County of San Francisco filed a test claim with the Board of Control on March 23, 1979 alleging mandated costs under Chapter 718. The Board of Control (BOC) determined that a mandate existed on July 25, 1979 and adopted parameters and guidelines on October 22, 1980 for reimbursement of costs associated with the processing of additional questionnaires and summons. Under these parameters and guidelines, a court could receive reimbursement for all juror contacts that exceeded the total number of contacts made in the base year of 1978.

Chapter 96, Statutes of 1984, required the board to modify the parameters and guidelines to exclude additional juror contacts necessitated by the establishment of new judgeships, and to exclude the cost of Ch 593/75 which increased the number of peremptory challenges. Chapter 593 tended to require a larger number of juror contacts because it increased the number of persons that attorneys can excuse from serving on a particular jury. The Legislature had already provided funding for this increased cost, and its instructions to the board were intended to prevent double reimbursement.

In November 1984, the BOC amended the parameters and guidelines to limit reimbursement only to those costs resulting directly from Chapter 718. In January 1985, the matter was transferred to the Commission on State Mandates (COSM), the successor to the BOC for the determination of local government claims for reimbursement of state-mandated costs.

FUNDING HISTORY

Chapter 573, Statutes of 1986 (AB 4264), provided \$4,420,000 to reimburse counties for costs incurred under Chapter 718 from 1978-79 to 1986-87 as shown in Table 1.

Table 1
Funding for Limitation on Juror Days

| <u>Funding Authority</u> | <u>Mandate Authority</u> | <u>Year for Which Funding Was Provided</u> | |
|--------------------------|--------------------------|--|--------------------------------|
| | | <u>1978-79</u> | <u>1979-80 through 1986-87</u> |
| Ch 573/86 | Ch 718/78 | \$260,000 | \$520,000 per year |

Our office recommended approval of the \$4,420,000 funding level provided in Chapter 573.

FINDINGS AND CONCLUSIONS

1. Chapter 718, Statutes of 1978, resulted in a mandate by increasing the number of persons some counties must contact for jury duty. Under prior law, counties could require prospective jurors to report for more than 10 days of service even if the individuals were not chosen to serve on a jury during a trial. Our analysis indicates that several counties required more than 10 days of jury service prior to enactment of Ch 718/78. Table 2 summarizes jury service requirements in selected counties.

Table 2

Number of Days of Required Jury Service in Selected Counties Before and After the Passage of Chapter 718, Statutes of 1978*

| <u>County</u> | <u>Days of Jury Service Required Before Ch. 718</u> | <u>Days of Jury Service Required After Ch. 718</u> |
|---------------|---|--|
| Los Angeles | 30 | 10 |
| San Francisco | 15 | 10 |
| Orange | 8 to 20 | 4 to 10 |
| Alameda | 20 | 10 |
| San Diego | 20 | 10 |

* This information applies to superior courts. Other trial courts may have different jury service requirements.

Our survey shows that some of the larger counties reduced their level of jury service under the new law. For example, the Superior Court of Los Angeles County required up to 30 days of jury service prior to enactment of the 10-day limit, and several other counties required from 15 to 20 days. According to the Department of Finance, 19 counties indicated

that they did not need to change their jury requirement in order to comply with Chapter 718.

Because the measure resulted in some jurors serving shorter periods of jury service, affected counties indicate that they need to contact more individuals in order to maintain adequate jury panels. However, it is important to note that not all of these counties incurred additional costs to comply with the mandate. The variation in costs incurred may be linked to the fact that counties use different juror notification processes, some of which may be more efficient than others.

2. The mandate appears to serve a statewide interest. Prior to enactment of this measure, the number of days a person was required to serve on a jury was established by local court rule. Limiting the required number of days to 10 decreased the burden of jury service in many counties, because it reduced the amount of time lost from work or other personal activities. This decreased burden serves a statewide interest to the extent that it increases the willingness and ability of citizens to participate in the jury process.

3. We have no analytical basis for comparing the benefits of this mandate with its costs. As noted above, the reduction in the length of the jury service requirement may increase the willingness and ability of citizens to participate in the jury process. There is no analytical basis for comparing the benefit of increased participation with the costs of contacting additional jurors.

4. The 10-day limit appears to be arbitrary. We are not aware of any information which supports the use of a 10-day limit over any other limit on the maximum length of jury service.

5. The costs of this measure are not consistent with the Legislature's expectations. When this measure was before the Legislature, estimates of its fiscal impact ranged from "savings" to "minor additional costs." Therefore, the cost of the mandate significantly exceeds the expectations of the Legislature when it enacted Chapter 718.

RECOMMENDATION

We recommend that the Legislature consider repeal of this mandate. Because the costs of the mandate exceed the Legislature's expectations, and because of the arbitrary nature of the existing 10-day limit, we are not able analytically to justify retention of this mandate in its present form. If, in the Legislature's judgment, there is a higher priority for the use of the \$520,000 per year currently required for reimbursement of this program's costs, the Legislature could:

1. Increase the number of days a person may be required to serve on jury duty. This action could lower the cost of the mandate by reducing the number of jurors that courts would need to contact. There is no information available that would permit us to estimate the fiscal effect of such changes, however.
2. Repeal the mandate. Repeal of the mandate would save the state \$520,000 per year. The elimination of state funding for this mandate may encourage counties to modify their jury notification processes to the extent that they could make them more efficient and potentially reduce their costs. Under this option, counties would have greater responsibility for making decisions related to the length of jury service and the administration of the jury

process. Counties currently have the responsibility for determining other administrative procedures involved in the jury selection process, and they may be in a better position to evaluate the benefits of the 10-day limit relative to other means of encouraging increased participation in the jury process. This option may result in an increase in the length of time citizens must be available for jury service in some counties.

In conclusion, although these options could decrease or eliminate the cost of this mandate, the appropriate limit depends on the Legislature's judgment of the length of time it is reasonable to expect a person to serve on jury duty, and the level of funding the Legislature is willing to provide to reimburse counties for the additional costs of compliance.

CHAPTER III

EMPLOYEE PERSONNEL FILES

DESCRIPTION

Chapter 1220, Statutes of 1983, requires public employers to (a) provide a copy of personnel records at the employee's work location, and (b) permit employees to inspect their personnel records at the location where such records are stored with no loss of compensation. Prior to the passage of Chapter 1220, the issue of record access was subject to negotiation between employee groups and local agencies.

BOARD OF CONTROL ACTION

In August 1984, the Board of Control determined that Chapter 1220 imposed mandated costs on local agencies by requiring them to provide improved access to personnel files for their employees. In January 1985, the matter was transferred to the Commission on State Mandates, which in June 1985 adopted parameters and guidelines allowing all local public employers, exclusive of school districts, to claim reimbursement for costs incurred after January 1, 1984. School districts are not eligible for reimbursement because preexisting law required them to provide similar access to employee personnel files.

FUNDING HISTORY

Table 3 indicates that the Legislature provided \$63,000 in Ch 573/86 to reimburse public employers for their costs of complying with the mandate in Chapter 1220.

Table 3

Employee Personnel Files

| <u>Funding Authority</u> | <u>Mandate Authority</u> | <u>Year for Which Funding Was Provided</u> | | | |
|--------------------------|--------------------------|--|----------------|----------------|----------------|
| | | <u>1983-84</u> | <u>1984-85</u> | <u>1985-86</u> | <u>1986-87</u> |
| Ch 573/86 | Ch 1220/83 | \$9,000 | \$18,000 | \$18,000 | \$18,000 |

Our office recommended approval of the \$63,000 funding level requested by the Commission on State Mandates for the period from January 1, 1984 through the 1986-87 fiscal year.

FINDINGS AND CONCLUSIONS

1. Chapter 1220, Statutes of 1983, imposed a mandate by requiring local jurisdictions to provide copies of personnel records and permit employees to inspect their records without loss of compensation.

2. The mandate appears to serve a statewide interest. The state has an interest in ensuring that local public employees have access to personnel records which may affect the conditions of their employment. The requirement is consistent with the state objective of ensuring fair and non-discriminatory employment practices.

3. The statewide annual cost of providing employees with information contained in their personnel files (less than \$20,000) is minor and appears to be reasonable and consistent with legislative intent.

RECOMMENDATION

We recommend that the Legislature continue to fund this mandate in its present form, as the benefits from ensuring local employees access to personnel records appear to be worth the minor annual cost to the state.

CHAPTER IV

PERSONAL ALARM DEVICES FOR FIREFIGHTERS

DESCRIPTION

Amendments to Title 8, Section 3401(c) of the California Administrative Code, adopted by the California Occupational Safety and Health Standards Board (OSHSB) in January 1982, require fire departments to provide a personal alarm device for every firefighter who uses a self-contained breathing apparatus while engaged in interior structural firefighting. The alarms make it possible to locate a firefighter who is in distress inside a burning building. Beginning in 1978, fire departments were required to furnish firefighters with a self-contained breathing device before they entered a building to fight an interior structural fire.

BOARD OF CONTROL ACTION

The City of Paradise filed a test claim on May 19, 1983 alleging increased costs as a result of this state regulatory requirement. The Board of Control determined in March 1984 that the amendments to Title 8 did constitute a reimbursable mandate. The board's decision was based on the finding that the requirement to provide personal alarm devices was an increased service level, resulting in increased fire department costs. In October 1984, the board adopted parameters and guidelines providing for reimbursement of alarm purchase costs and costs of preparing and presenting the test claim. In January 1985, the matter was transferred to the Commission on State Mandates. Three months later, the commission

amended the parameters and guidelines to exclude reimbursement of test claim costs, and adopted a statewide cost estimate of \$1,610,000 to reimburse fire departments for their purchase of alarm devices after January 27, 1982. This estimate was based on the assumptions that:

(1) fire departments would need to purchase devices for 33 percent of their firefighters, and (2) there would be a 10 percent annual replacement rate.

FUNDING HISTORY

As Table 4 indicates, the Legislature provided \$1,445,000 in Ch 573/86 to reimburse claimants for their costs of complying with the 1982 amendments to Section 3401(c) of the California Administrative Code for fiscal years 1982-83 through 1986-87.

Table 4
Funding for Personal Alarm Devices for Firefighters

| <u>Funding Authority</u> | <u>Mandate Authority</u> | <u>Year for Which Funding Was Provided</u> | | | | |
|--------------------------|--------------------------|--|----------------|----------------|----------------|----------------|
| | | <u>1982-83</u> | <u>1983-84</u> | <u>1984-85</u> | <u>1985-86</u> | <u>1986-87</u> |
| Ch 573/86 | Section 3401(c) CAC | \$1,033,000 | \$103,000 | \$103,000 | \$103,000 | \$103,000 |

Our office recommended approval of the \$1,445,000 funding level on the basis that 30 percent of local firefighting personnel, rather than 33 percent, would be on duty at any particular time and need the alarm devices.

FINDINGS AND CONCLUSIONS

1. Section 3401(c) imposed a mandate because it requires fire departments to provide an increased level of service and incur increased equipment costs. Fire departments are required to purchase personal alarm devices for all on-duty firefighters.
2. This mandate appears to serve a statewide interest. Under current law, the Department of Industrial Relations is responsible for assuring safe working conditions for all California workers. Toward that end, the department's Occupational Health and Safety Standards Board (OHSSB) is authorized to adopt safety standards requiring employers to take specific actions (such as providing safety equipment). The OHSSB's regulatory requirement on personal alarm devices is aimed at reducing accident rates for employees working in especially dangerous conditions.
3. We have no analytical basis at this time for comparing the benefits of the mandate with the costs of compliance. Neither data on the actual cost of purchasing the personal alarm devices nor statistics on the frequency of injury to firefighters before and after introduction of the devices are available. Moreover, we are unable to determine to what extent local firefighting jurisdictions would have provided the alarm devices absent a state requirement.

RECOMMENDATION

We recommend that the Legislature continue to fund this mandate.
Section 3401(c) of Title 8 appears to be consistent with legislative

intent to provide a safe work environment to workers in California, including firefighters. In addition, the costs of the mandate appear to be reasonable.