STATE REIMBURSEMENT OF MANDATED COSTS: A REVIEW OF STATUTES FUNDED IN 1985

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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 funded initially in Chapter 1175, Statutes of 1985. The specific mandates funded in the bill and reviewed in this report are listed below:

Mandate Authority	Description
1. Ch 1395/82	Retroactive Mobilehome Appeals
2. Ch 40/82	Mobilehomes
3. Ch 810/81	Parent/Child Counsel
4. Ch 1088/82	Juvenile Felony Arrests
5. Title 15, Sec. 4500, CAC	Detention of Minors
6. Executive Order	Governor's Proclamation: Special Election on Reapportionment

Chapter 1175 also contained funding for several other mandates which we have reviewed in previous reports.

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

SUMMARY OF MAJOR FINDINGS AND RECOMMENDATIONS

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

CHAPTER II: MOBILEHOME VLF REINSTATEMENTS

Chapter 1395, Statutes of 1982 and Chapter 1281, Statutes of 1983

1. Chapter 1395, Statutes of 1982, and Ch 1281/83, imposed a mandate on counties by requiring them to change assessments and tax rolls, correct tax billings and accounts, and respond to inquiries from mobilehome owners applying for reinstatement to the Vehicle License Fee (VLF) system.

2. We are unable to determine a statewide interest served by Ch 1395/82 and Ch 1281/83.

3. The provisions of Ch 1395/82 and Ch 1281/83 imposed additional tasks on counties only through the 1983-84 fiscal year; consequently, counties are no longer incurring mandated costs.

4. Because the mandate provisions of Ch 1395/82 and Ch 1281/83 no longer have any effect, no recommendation on this program is warranted.

Chapter 40, Statutes of 1982

1. Chapter 40, Statutes of 1982, imposed a mandate by requiring counties to provide an increased level of service and incur increased administrative costs. Specifically, Chapter 40 required counties to change assessments and tax rolls, correct tax billings and accounts, and respond to inquiries from mobilehome owners applying for reinstatement to the VLF system.

2. We are unable to determine a statewide interest served by Ch 40/82.

3. The provisions of Chapter 40 were repealed as of October 1984; consequently, counties are no longer incurring mandated costs.

4. Because the mandate provisions of Chapter 40 have been repealed, no recommendation on this program is warranted.

CHAPTER III: PARENT/CHILD COUNSEL

1. Chapter 810, Statutes of 1981, imposed a mandate on counties by requiring that courts appoint separate counsel to represent minors and their parents in custody cases, thus increasing county costs for legal representation.

2. The mandate serves a statewide interest by ensuring that a person's right to independent counsel in child custody cases is uniformly protected throughout the state.

3. To the extent that Chapter 810 has increased the frequency with which separate counsel is appointed for minors and their parents in child custody cases, the mandate has achieved results consistent with legislative intent.

4. We have no analytical means of comparing the benefits resulting from the mandate with the costs of compliance, although the costs do not appear to be unreasonable.

5. We are unable to determine whether the requirements of Chapter 810 are being met in the most efficient manner because the counties we contacted were unable to provide information regarding (a) their costs for attorney fees, investigator services, and expert witnesses and (b) workload increases experienced as a result of the mandate.

6. We recommend that the Legislature continue to fund this mandate because (a) it serves a statewide interest and (b) although we have no analytical means of comparing the benefits of the mandate with its costs, the costs do not appear to be unreasonable.

CHAPTER IV: JUVENILE FELONY ARRESTS

1. Chapter 1088, Statutes of 1982, imposes a mandate on counties by requiring county district attorney's offices to provide an increased level of review for certain felony cases involving minors.

2. This mandate appears to serve a statewide interest to the extent that it improves the operation of local juvenile justice systems.

3. We are unable to determine if the objectives of this program have been met because it has not been formally evaluated. Further, an informal telephone survey of several county probation departments and district attorney's offices produced mixed findings. Some counties reported increased filings and decreased processing time. An equal number, however, reported that Chapter 1088 had resulted in little, if any, change in the way juvenile felony cases were being processed.

4. The cost of this mandate exceeds the Legislature's expectation.

5. Because of the significant costs of this mandate and the lack of information as to whether the mandate has achieved the objectives anticipated by the Legislature, we recommend that the Department of the Youth Authority evaluate the impact of Chapter 1088 on the operation of local juvenile justice systems. To assist the Legislature in determining whether to continue this mandate, we further recommend that the evaluation address five specified issues.

CHAPTER V: DETENTION OF MINORS

1. Title 15, Sections 4500 through 4549 of the California Administrative Code, imposes a mandate by requiring local agencies to ensure that their detention facilities meet certain standards when the facilities are used to confine minors.

2. The mandate serves a statewide interest by ensuring that minors who must be detained in local jails and other lockups are not subject to conditions inappropriate for juveniles.

3. The parameters and guidelines, as amended by the Board of Control at the Legislature's direction, accurately reflect the increased level of service required of local governments as a result of the Title 15 regulations.

4. The benefits from this program appear commensurate with the costs.

5. Accordingly, we recommend that the mandate contained in Title 15, Sections 4500 through 4549, be continued in its present form.

CHAPTER VI: GOVERNOR'S PROCLAMATION: SPECIAL ELECTION

1. The Governor's proclamation calling for a special election on reapportionment imposed a mandate on counties by requiring them to incur administrative and materials costs in order to prepare for the election, even though the election subsequently was canceled.

2. We have no analytical basis for determining whether the Governor's decision to advance the date of the next election served a statewide interest.

3. The mandated costs associated with this executive order were "one-time only" and are no longer being incurred by counties.

4. Accordingly, no recommendation on this mandate is warranted.

CHAPTER I

INTRODUCTION

THE MANDATE REIMBURSEMENT PROCESS

Article XIIIB, 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 such 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 subvened to local governments without the recipients having to file a claim.

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 this report are as follows:

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

CHAPTER II

MOBILEHOME VLF REINSTATEMENTS

DESCRIPTION

Chapter 1180, Statutes of 1979, required all mobilehomes sold on or after July 1, 1980, and installed for occupancy as a residence, to be subject to the local property tax (LPT) rather than the vehicle license fee (VLF). That measure also provided that a mobilehome owner who was more than 120 days delinquent in paying his or her vehicle license fee would have his or her mobilehome transferred from the VLF to the LPT.

Chapter 1395, Statutes of 1982, permitted mobilehome owners whose units were transferred to the LPT because their VLF became more than 120 days delinquent between July 1, 1980 and February 28, 1982, to apply for reinstatement to the VLF system. To qualify for reinstatement, an owner only had to: (1) pay the delinquent VLF or demonstrate that the applicable local property taxes had been paid and (2) file the waiver request by June 30, 1983 (Chapter 1281, Statutes of 1983, subsequently extended this filing deadline by six months to January 1, 1984). In effect, Chapters 1395/82 and 1281/83 allowed retroactive reinstatement to the VLF, regardless of the cause of delinquency.

Chapter 40, Statutes of 1982, permitted a mobilehome owner who became more than 120 days delinquent after February 1982 to appeal the transfer of his mobilehome from the VLF to the LPT. Specifically, it established a procedure allowing such delinquent owners to petition the Department of Housing and Community Development (HCD) to reinstate the mobilehome on the VLF if they could show that the delinquency was "due to

reasonable cause and circumstances beyond their control...and occurred absent willful neglect." Thus, Chapter 40 established an appeals process whereby owners whose mobilehomes were transferred to the LPT because of unique circumstances could apply to HCD for reinstatement to the VLF.

Chapter 1760, Statutes of 1984, eliminated -- as of October 1984 -- the automatic transfer of delinquent mobilehomes from the VLF to the LPT. Chapter 40, therefore, affected only owners delinquent between March 1982 and October 1984.

BOARD OF CONTROL ACTION

Chapter 1395, Statutes of 1982 and Chapter 1281, Statutes of 1983

San Bernardino County filed a test claim on November 30, 1983, alleging that Chapters 1395/82 and 1281/83 required counties to provide an increased level of service, and therefore imposed a state-mandated local program. On May 31, 1984, the Board of Control (BOC) concluded that the measures did result in a mandate because they imposed additional administrative tasks on counties.

Under the BOC-adopted parameters and guidelines, counties could be reimbursed for the increased costs of performing the following activities mandated by Chapter 1395:

1. Providing Request-for-Waiver applicants with verification of tax payment status;

2. Removing mobilehomes from property tax and assessment rolls following the receipt of notification from HCD that the property had been reinstated under the VLF system;

3. Correcting tax billings and accounts as necessary to reflect the removal of mobilehomes from property tax rolls; and

4. Responding to public requests for information about the reinstatement process and providing Request-for-Waiver forms.

Chapter 40, Statutes of 1982

The County of San Bernardino submitted a test claim on April 27, 1983, alleging that Chapter 40 contained a mandate requiring counties to provide an increased level of service. On July 28, 1983, the Board of Control found that Chapter 40 did result in a mandate because counties incurred costs in removing mobilehomes of successful petitioners from the local property tax rolls and in refunding any tax payments which had been made.

In adopting parameters and guidelines, the BOC approved reimbursement for administrative costs associated with:

1. Notifying mobilehome owners about the petition process and responding to public inquiries;

2. Refunding or canceling all fees, penalties, and taxes if a petition had been approved, and in some instances when a petition had been denied;

3. Removing reinstated mobilehomes from the property tax rolls; and

4. One-time, start-up activities such as writing new procedures, designing forms, and developing computer programs.

FUNDING HISTORY

Table 1, below, summarizes the funding provided by the Legislature in Ch 1175/85 to reimburse claimants for their costs in complying with Ch 1395/82 and Ch 40/82:

Table 1

Funding for Mobilehome VLF Reinstatements

Funding Authority	Mandate Authority	Year for Which Funding Was Provided 1982-83	1983-84	1984-85
Ch 1175	Ch 1395/82	$85,700	$48,300	--
Ch 1175	Ch 40/82	43,844	35,226	$20,930

Our office recommended approval of the $134,000 funding level for Chapter 1395 and the $100,000 funding level for Chapter 40.

FINDINGS AND CONCLUSIONS

Chapter 1395, Statutes of 1982

1. Chapter 1395, Statutes of 1982 and Ch 1281/83 imposed a mandate because they required counties to provide an increased level of service and incur increased administrative costs. Counties were required to change assessments and tax rolls, correct tax billings and accounts, and respond to additional inquiries from applicants.

2. We are unable to determine a statewide interest served by Ch 1395/82 and Ch 1281/83. In enacting these measures, the state allowed certain individuals whose mobilehomes were transferred to the LPT to have their units reinstated under the VLF system regardless of the reason for the delinquency. Over 7,000 mobilehome owners were reinstated under this process. It is unclear to us what state purpose was served by allowing this "no fault" transfer of mobilehomes back to the VLF system.

3. The provisions of Ch 1395/82 and Ch 1281/83 imposed additional tasks on counties only through the 1983-84 fiscal year; consequently, mandated costs are no longer being incurred by counties under these statutes.

Chapter 40, Statutes of 1982

1. Chapter 40 imposed a mandate because it required counties to provide an increased level of service and incur increased administrative costs. Specifically, Chapter 40 required counties to change assessments and tax rolls, correct tax billings and accounts, and respond to additional inquiries from applicants.

2. We are unable to determine a statewide interest served by Ch 40/82. All owners who took advantage of the reinstatement process provided by Chapter 40 had owned their mobilehomes for a minimum of 20 months. Therefore, they had been subject to the VLF assessment for some time. It is unclear to us what state purpose was served by permitting individuals who were cognizant of their VLF liability, yet failed to make payment, to have their mobilehomes transferred back to the VLF, regardless of the uniqueness of the circumstances.

3. The provisions of Chapter 40 were repealed as of October 1984; consequently, mandated costs are no longer being incurred by counties under this statute.

RECOMMENDATION

Because the mandate provisions of Chapter 40 have been repealed, and those of Ch 1395/83 and Ch 1281/83 no longer have any effect, no recommendation regarding this program is warranted.

CHAPTER III

PARENT/CHILD COUNSEL

DESCRIPTION

Chapter 810, Statutes of 1981, prohibits a superior court from appointing the same attorney to represent both a minor and his or her parent at certain proceedings held to determine if the minor should be freed from the custody of either or both parents. Under this measure and prior law, the court is required to appoint an attorney to represent the minor whenever the judge determines it to be in the best interest of the minor. The court also is required to appoint an attorney to represent the parent, unless the right to court-appointed counsel is waived. Under prior law it was possible for a judge to appoint the same counsel to represent both the child and the parent in these custody cases. The county must pay for the legal counsel if the parties involved in the case cannot afford to pay these expenses themselves.

BOARD OF CONTROL ACTION

The County of San Mateo filed a test claim on August 26, 1982, alleging mandated costs under Chapter 810. The county's claim alleged that under certain circumstances, counties must pay for the additional legal costs resulting from the appointment of separate counsel to represent minors and their parents in these custody cases. The Board of Control determined that a mandate existed on December 2, 1982, and adopted parameters and guidelines on January 19, 1984. The guidelines specify that counties may be reimbursed for the cost of the attorney representing the minor, as well as for related investigator time, the cost of expert witnesses, and other administrative or direct support costs.

The parameters and guidelines further specify that reimbursements to counties be adjusted to account for the fact that (1) in many cases courts appointed separate counsel to represent minors and their parents prior to the passage of Chapter 810 and (2) in such cases counties were required to pay for this representation if the parties involved in the case were unable to pay.

As a result of this provision, the total reimbursement each county can receive for Chapter 810-related costs is limited by a formula which reflects the percentage of cases in which the county did not pay for separate counsel in 1980-81, the last fiscal year prior to the effective date of the mandate. Based on the limited data available at this time, we are unable to verify that the formula contained in the parameters and guidelines accurately reflects the increased costs which counties have incurred as a result of this mandate.

FUNDING HISTORY

Chapter 1175, Statutes of 1985 (AB 1301), provided $344,000 for costs incurred by counties from 1981-82 through 1985-86 for Chapter 810, as shown in Table 2.

Table 2

Funding For Parent/Child Counsel

Funding Authority	Year for Which Funding Was Provided				
	1981-82	1982-83	1983-84	1984-85	1985-86
Ch 1175/85	$16,800	$36,400	$68,000	$102,800	$110,000

Our office recommended approval of the $344,000 funding level provided in Chapter 1175.

FINDINGS AND CONCLUSIONS

1. Chapter 810, Statutes of 1981, resulted in a mandate by requiring that courts appoint separate attorneys to represent minors and their parents in custody cases, thus increasing county costs.

2. The mandate serves a statewide interest. This mandate ensures that when minors and their parents are involved in a custody dispute affected by this law, they shall receive separate legal representation. Prior to enactment of this statute, some parties received separate counsel in such cases, while others did not. The state has an interest in ensuring that a person's right to independent counsel--with no conflicting interest--is uniformly protected throughout the state.

3. To the extent that the statute has increased the frequency with which separate counsel is provided to protect the rights of minors and their parents in child custody cases, the mandate has achieved results consistent with legislative intent.

4. We have no analytical basis for comparing the benefits resulting from the mandate with the costs of compliance. The primary benefit yielded

by this mandate is a reduction in the number of instances in which potentially inadequate legal representation is provided to parties involved in custody disputes. Such problems could arise due to the conflict of interest that arises when an attorney represents two different parties to the same legal action. Although we have no analytical basis for comparing the magnitude of this benefit with the costs involved, the cost of the mandate does not appear unreasonable.

5. We are unable to determine whether the requirements of Chapter 810 are being met in the most efficient manner. Generally, the counties which we contacted were unable to provide data detailing (a) the costs they incur for attorney fees, investigator services, and expert witnesses, or (b) the workload increases they have experienced as a result of this mandate. The State Controller's office, however, indicates that counties claiming reimbursement under this mandate in the future will have to supply this information.

RECOMMENDATION

We recommend that the Legislature continue to fund this mandate in its present form, because it serves a statewide interest and the costs of compliance do not appear to be unreasonable.

CHAPTER IV

JUVENILE FELONY ARRESTS

DESCRIPTION

Chapter 1088, Statutes of 1982, requires district attorneys, rather than probation officers, to perform the initial review of certain juvenile felony arrest cases. Specifically, Chapter 1088 requires the probation officer to refer a case to the district attorney for the purpose of deciding whether to initiate proceedings in juvenile court against a minor, if the minor is (1) 16 years of age or older and arrested for a felony, (2) under 16 years of age and arrested for a second felony, or (3) of any age and arrested for a serious felony.

Under prior law, a probation officer had the option of (1) placing the minor in informal probation, (2) releasing the minor without further action, or (3) referring the case to the district attorney. In effect, Chapter 1088 shifted decisionmaking responsibility for certain juvenile felony cases from the probation department to the district attorney.

Chapter 1088 was established as a two-year pilot program to evaluate the effect of revising the procedure for the commencement of proceedings in juvenile court. Although the measure's provisions were scheduled to terminate on January 1, 1985, Chapter 1412, Statutes of 1984, subsequently made these provisions permanent. In addition, Chapter 1412 requires the district attorney to refer a case back to the probation officer if (1) the affidavit was not properly referred, (2) the minor would benefit from a program of informal supervision, or (3) the minor should be charged only with a misdemeanor. Prior law merely authorized the district attorney to refer the case back to the probation department.

At the time Chapter 1088 was being considered by the Legislature, the Legislative Counsel's digest indicated that the measure did not establish a state-mandated local program. Our analysis stated, however, that the measure could result in increased costs to local district attorneys and the courts.

BOARD OF CONTROL ACTION

Fresno County filed a test claim on March 30, 1983, alleging mandated costs under Chapter 1088. On September 29, 1983, the Board of Control (BOC) determined that a reimbursable mandate existed under the statute, and on July 19, 1984, the BOC adopted parameters and guidelines. The parameters and guidelines allow for the reimbursement of personnel and recordkeeping costs related to the district attorney's review of cases which otherwise would have been handled through informal probation or release under prior law. Costs involving the trial, fitness hearings, court appearances and other activities related to the processing of the case, however, are not reimbursable. Costs associated with juvenile cases involving narcotics and drug offenses, as specified, also are not reimbursable.

The parameters and guidelines further specify that any savings resulting from a decrease in workload in county probation departments be deducted from any claimed costs.

FUNDING HISTORY

Chapter 1175, Statutes of 1984 (AB 1301), provided $2.3 million to cover costs incurred by counties in implementing Ch 1088/82 from January 1, 1983, through fiscal year 1985-86, as shown in Table 3.

Table 3

Funding for Juvenile Felony Arrests

Funding Authority	Year for Which Funding Is Provided			
	1982-83	1983-84	1984-85	1985-86
Ch 1175/85	$479,745	$848,360	$407,515	$600,000

Our office recommended approval of the $2.3 million funding level provided in Chapter 1175.

FINDINGS AND CONCLUSIONS

1. Chapter 1088, Statutes of 1982, requires local governments to provide an increased level of juvenile case review by district attorneys, and thus imposes a mandate on these entities. Chapter 1088 requires that certain felony cases involving minors be referred by the probation officer to the district attorney for review and action on the issue of whether to initiate proceedings in juvenile court. Under prior law, the probation officer had the option of referring the case to the district attorney. Consequently, Chapter 1088 removed options which previously were available to counties for dealing with certain juvenile offenders and requires district attorneys' offices to provide an increased level of review for some juvenile cases.

2. This mandate appears to serve a statewide interest. The state has an interest in improving the operation of local juvenile justice systems. Chapter 1088 appears to further this statewide interest by establishing a two-year pilot program to evaluate the effect of changing

the method for initiating proceedings in juvenile court for certain juvenile felony cases.

3. We are unable to determine if the objectives of this mandate have been achieved because the pilot program has not been formally evaluated. During legislative deliberations on this measure, proponents indicated that the pilot program would yield two principal benefits.

First, they suggested that shifting the responsibility for filing petitions in juvenile court for certain juvenile felony cases from the probation department to the district attorney's office would decrease the amount of time required to adjudicate these cases. Under prior law, the probation officer had up to 21 days to decide whether to take a case to the district attorney for filing in juvenile court, or whether to take some other action such as imposing informal probation. Chapter 1088, however, requires the probation officer to forward these petitions to the district attorney within 48 hours. The district attorney then determines whether to commence proceedings in juvenile court or re-refer the case to the probation department.

Second, proponents claimed that the pilot program would increase juvenile court filings. This assessment apparently was based on the belief that probation departments were inappropriately placing certain juvenile felons on informal probation instead of initiating proceedings in juvenile court, and that district attorneys were better qualified to determine the disposition of these cases.

We are unable to determine whether Chapter 1088 has actually produced these benefits because the two-year statewide pilot program created by Chapter 1088 has not been formally evaluated.

An informal telephone survey of several county probation departments and district attorneys' offices produced mixed views regarding the program. Some counties reported increased filings and decreased processing time. An equal number, however, reported that Chapter 1088 had resulted in little if any changes in the way juvenile felony cases were being processed.

4. The cost of this mandate exceeds the Legislature's expectation. As previously stated, one of the benefits anticipated from Chapter 1088 was more efficient processing of juvenile felony cases. From the evidence available to date, however, it is not at all clear that this has occurred.

At the time Chapter 1088 was being considered by the Legislature, the Legislative Counsel's digest indicated that the measure did not establish a state-mandated local program. Our analysis of Chapter 1088 indicated that the measure could result in additional costs to district attorneys to review juvenile felony cases. Moreover, Chapter 1412 (which made the provisions of Chapter 1088 permanent) was not identified by the Legislative Counsel as a fiscal bill when it was before the Legislature in 1984, so the measure was not reviewed by the Legislature's fiscal committees.

Because the mandate is estimated to cost $750,000 annually, we conclude that the cost of the program is greater than what the Legislature was led to believe.

RECOMMENDATION

1. We recommend that the Legislature direct the Department of the Youth Authority to evaluate the impact of Chapter 1088 on the operation of local juvenile justice systems. This evaluation should address, at a minimum, the following issues:

a. To what extent, and in what ways, has Chapter 1088 "streamlined" the adjudication of juvenile felony cases at the local level?

b. Have juvenile felony court filings increased as a result of shifting decisionmaking authority to the district attorney's office? Have there been instances in which juvenile felony cases were filed in juvenile court which may have been more appropriately handled through informal probation?

c. What factors have contributed to the significant costs reported by counties for complying with this mandate? Have there been corresponding savings in local probation departments?

d. How has Chapter 1088 affected the relationships between district attorney offices' and probation departments throughout the state?

CHAPTER V

DETENTION OF MINORS

DESCRIPTION

State law requires the Department of the Youth Authority to adopt and prescribe minimum standards which local entities must follow when detaining a minor in an adult facility for more than 24 hours. The department also is required to inspect each local facility annually to determine if it is in compliance with the minimum standards. A local facility which is not in compliance may not be used to confine any minor, after a specified notification period, until the department reinspects the facility and certifies that the conditions which are out of compliance have been remedied and the facility is suitable for confinement of minors.

In 1979, the department adopted Title 15, Division 4, Chapter 2, Subchapter 7 of the California Administrative Code (Sections 4500-4549), which contains the minimum standards that must be met by local jails and lockups which detain minors for more than 24 hours. The regulations include requirements for the separation of minors and adults, standards for the size and condition of cells, and minimum program service standards for minors confined in local facilities.

The rules and regulations were promulgated under provisions of law originally enacted in 1961 and replaced standards which the department had adopted in 1964. The prior standards, however, had not been promulgated and filed pursuant to provisions of the Administrative Procedures Act. Chapter 860, Statutes of 1979, however, required all Department of the Youth Authority rules to be promulgated as administrative regulations.

BOARD OF CONTROL ACTION

San Bernardino County filed a test claim on September 22, 1980, alleging increased costs as a result of the 1979 regulations. The Board of Control (BOC) determined on June 17, 1981, that a reimbursable mandate existed because the new rules and regulations specifically defined the requirements to which a local agency must adhere in order to confine minors in an adult facility. The BOC further determined that the prior standards, which had been in effect since 1964, had been advisory only.

On May 27, 1982, the BOC adopted parameters and guidelines allowing reimbursement for personnel costs directly related to: (1) supervision of segregated activities (Title 15 prohibits contact between minors and adults in local detention facilities), (2) preparation of monthly population reports and minor status reports, (3) preparation of medical, dental and dietary plans, (4) providing access to religious services, (5) professional counseling, and (6) providing certain postage materials to indigent minors.

The BOC requested $9,358,000 in a local government claims bill (AB 504/84) to pay local agencies for mandated costs calculated in accordance with these parameters and guidelines. The Legislature, however, deleted the requested funds and directed the BOC to amend the parameters and guidelines to limit reimbursement to only those activities not required by the 1964 standards. The Legislature took this action because several of the activities eligible for reimbursement were already being performed by local agencies based on the original 1961 law and the procedures developed by the Youth Authority in 1964.

In August 1984, the BOC amended the parameters and guidelines to allow reimbursement only for costs not required by the 1964 guidelines. The new parameters and guidelines deleted reimbursement for costs related to (1) general supervision of segregated activities, (2) visitation rights, and (3) the provision of access to religious counseling.

Activities eligible for reimbursement under the revised parameters and guidelines include: (1) supervision of specialized personal hygiene and exercise activities (as opposed to general supervision of all segregated activities), (2) preparation of monthly population and minor status reports, (3) preparation of medical, dental and dietary plans, (4) the provision of access to religious services, and (5) the provision of personal counseling for youths with problems (as opposed to all other types of professional counseling activities). Eligible claimants are limited to those local agencies authorized by the Department of the Youth Authority to detain minors who are under 18 years of age for more than 24 hours in jails or lockups.

FUNDING HISTORY

Chapter 1175, Statutes of 1985 (AB 1301), provided $105,000 to reimburse local agencies for costs incurred from 1979-80 through 1985-86 under the revised parameters and guidelines, as indicated in Table 4.

Table 4

Funding for Detention of Minors

Funding Authority	Year For Which Funding Was Provided						
	1979-80	1980-81	1981-82	1982-83	1983-84	1984-85	1985-86
Ch 1175/85	$18,054	$19,967	$15,079	$7,638	$15,044	$14,503	$15,000

Our office recommended approval of the $105,000 requested in Chapter 1175.

FINDINGS AND CONCLUSIONS

1. Title 15, Sections 4500 through 4549 of the California Administrative Code, results in a mandate because the regulations increase the level of service which a local agency must provide in order to confine minors in an adult facility.

2. The mandate appears to serve a statewide interest. The state has an interest in ensuring that local jails and lockups maintain custody and treatment services which will provide a safe, clean and secure environment for minors detained in such facilities. The Title 15 regulations further this statewide interest by establishing minimum hygiene, safety, medical, nutritional and recreational requirements that local facilities must meet in order to ensure a safe and secure environment for minors.

3. The parameters and guidelines, as amended by the BOC at the direction of the Legislature, accurately reflect the increased level of service required of local governments as a result of Title 15 regulations. Several Title 15 requirements, such as supervision of minors during segregated activities and provision of religious visits and/or counseling,

previously were being performed by local agencies based on the original 1961 law and the procedures detailed in the prior standards. Recognizing this, the Legislature directed the BOC to amend the parameters and guidelines to limit reimbursement to only those activities not previously required by the 1964 standards.

4. The benefits of this program appear commensurate with the costs.

RECOMMENDATIONS

We recommend that the mandate contained in Title 15, Sections 4500-4549 be continued in its present form. The regulations appear to be consistent with legislative intent to provide a safe and secure environment for minors detained in local jails and lockups. In addition, the costs of the mandate are consistent with legislative expectations.

CHAPTER VI

SPECIAL ELECTION

DESCRIPTION

On July 17, 1983, the Governor issued a proclamation calling for a statewide special election to be held on December 13, 1983. The election was to be held in order to allow voters to cast ballots on the reapportionment of legislative districts. The special election subsequently was canceled because the state Supreme Court removed the measure from the ballot on constitutional grounds.

In his proclamation, the Governor stated that funding for reimbursement provided to local agencies would be included in the 1984-85 state budget, or in a separate claims bill. Funds for the special election were not requested in the Governor's Budget for either 1984-85 or 1985-86. As a result, no reimbursement has been made to the counties that incurred costs in preparing for the election.

BOARD OF CONTROL ACTION

Yolo County filed a test claim on November 5, 1983, alleging that the Governor's Proclamation constituted an "executive order," as defined in Revenue and Taxation Code Section 2209, and that mandated costs resulted from the proclamation. On January 19, 1984, the Board of Control (BOC) determined that the Governor's proclamation did constitute an executive order and that state-mandated costs were incurred as a result of the proclamation.

Parameters and guidelines allowing for the reimbursement of costs incurred by counties in preparing for the election were adopted on May 31,

1984. Reimbursable costs under the parameters and guidelines include (a) staff time expended in preparation and planning for the election, (b) costs of nonreusable supplies purchased for the election, and (c) storage of materials purchased for the election.

FUNDING HISTORY

Chapter 1175 provided $440,000 to reimburse counties for costs incurred during 1983-84 in preparation for the special election. Our office recommended approval of this level of funding.

FINDINGS AND CONCLUSIONS

1. The Governor's proclamation (a) amounted to an executive order under the terms of Section 2207 of the Revenue and Taxation Code and (b) imposed a mandate on counties by requiring them to increase the level of service they provide. Specifically, counties incurred administrative and materials costs in preparing for the election, even though the election subsequently was canceled.

2. We have no analytical basis for determining whether the Governor's decision to hold a special election served a statewide interest.

3. The mandated costs associated with this proclamation were "one-time" only, and are no longer being incurred by counties.

4. Because costs associated with this proclamation are no longer being incurred, no recommendation on this mandate is warranted.