

State Reimbursement of Mandated Costs

A Review of Statutes Funded in 1988

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Introduction

Executive Summary

Introduction

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 1485, Statutes of 1988. The specific mandates are listed below.

Mandate Authority

1. Ch 486/75 and Ch 1459/84
2. Ch 913/79 and Ch 1158/80
3. Ch 332/81 and Ch 1425/84
4. Ch 498/83
5. Ch 51/84
6. Ch 1609/84
7. Ch 1xx/84
8. Ch 1203/85
9. Title 22 Section 64435(f),
California Administrative
Code (CAC)

Description

Mandate Reimbursement Process
Domestic Violence Diversion
Victim's Statements--Minors
Certification of Teacher Competence
Missing Persons Reports
Domestic Violence Reporting
Community College Health Fee Elimination
Disabled Motorist Assistance Program
Pretreatment Facilities for Drinking Water

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Executive Summary

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

Chapter II: Mandate Reimbursement Process

1. *Chapter 486, Statutes of 1975, and Chapter 1459, Statutes of 1984, resulted in a mandate because these statutes require local governments to file claims in order to establish the existence of state-mandated programs and to obtain reimbursement for the costs of these programs.*

2. *It appears to ease administration to reimburse the costs of the mandate reimbursement process through a single claim.* The state could reimburse the costs of filing test claims and annual reimbursement claims on a claim-by-claim basis when submitted by local governments, instead of in a single separate claim. However, it will simplify administration, for both the state and local governments, to reimburse these costs in the aggregate, rather than to attempt to identify how the costs are distributed between each individual claim.

3. *We recommend that the Legislature continue to fund this mandate.* This will help ensure reimbursement of all of the indirect costs imposed on local governments by state-mandated programs.

Chapter III: Domestic Violence Diversion

1. *Chapter 913, Statutes of 1979, and Chapter 1158, Statutes of 1980, resulted in a mandate by establishing a new program that diverts from the court system to alternative treatment programs defendants who are alleged to have committed acts of misdemeanor domestic violence.*

2. *The mandate appears to serve primarily statewide interests.* The purpose of this program is to prevent further domestic violence by persons charged with such offenses by diverting them into alternative treatment programs. To the extent that the program is successful in meeting its objectives, the state's interests in reducing criminal behavior and promoting citizen safety are served. The counties' interests also are served to the extent that domestic violence diversion programs reduce incidents of domestic violence, thereby reducing county law enforcement costs.

3. *The success of the Domestic Violence Diversion program is unclear at this time.* Currently, a study is being conducted to determine the effectiveness of this program. The program has been subject to allegations of various problems, including lack of statewide standards, and poor coordination between the courts and the probation departments. The

study has been designed to evaluate the benefits resulting from this program.

4. *We recommend continued funding of the Domestic Violence Diversion program at this time.* In our view, any decision to repeal or modify the statutory requirements related to domestic violence diversion programs should await the results of the program's study. Upon completion of that study, the Legislature should have better information about the benefits of the program, and any changes required in the program. In the event that the study determines the program is useful in reducing domestic violence, the Legislature may wish to consider allowing the courts to order defendants to pay all or a portion of the probation departments' costs associated with this program.

Chapter IV: Victim's Statements--Minors

1. This mandate was repealed effective January 1, 1988. Consequently, we make no recommendations concerning modification or repeal of this program.

Chapter V: Certification of Teacher Competence

1. *Chapter 498, Statutes of 1983, imposes a mandate by requiring school districts to adopt regulations for the following three activities: (1) ensuring the competence of teacher evaluators; (2) assisting and evaluating new teachers; and (3) establishing a parental complaint process.* Chapter 498 requires school districts to develop and adopt specified rules and regulations. The law, however, does not specify the size and scope of the program that districts should implement. In the absence of legislative directive, the Commission on State Mandates (COSM) has defined the mandate in an open-ended fashion. As a result, the full cost of any program designed and implemented by local districts must be reimbursed by the state.

2. *The mandate appears to serve a statewide interest.* The state appears to have a legitimate

interest in ensuring that (1) new teachers receive adequate training; (2) teacher evaluators are trained and certified; and (3) parental complaints are addressed. These activities have the potential to improve California schools by ensuring uniform teacher competence and adequate attention to parental concerns.

3. *The cost of this mandate exceeds the Legislature's expectations.* In enacting this requirement, the Legislature presumably intended that districts examine their current policies with the aim of improving the consistency of services in the area of teacher evaluation and support. We can find no indication that the Legislature contemplated providing funding for districts to establish an open-ended level of services in this area. In defining the mandate, however, the COSM ruled that districts can claim annual costs for *self-designed* programs to (1) train and certify teacher evaluators; (2) assist beginning teachers; and (3) address parental complaints.

Our analysis indicates that the costs of the program will be considerably higher than the COSM's estimate of \$582,000 per year. Based on our review of a similar program, we estimate that the statewide costs of implementing programs to assist beginning teachers could exceed \$2 million annually. The costs of training teacher evaluators could be substantially higher.

4. *The state currently is determining the most cost-effective way to train, assist, and evaluate new teachers.* The Commission on Teacher Credentialing and the State Department of Education are currently operating a \$3.2 million pilot program to determine the most cost-effective ways to support and assess new teachers. At the end of this program, which is expected to last from two to three years, these agencies will report to the Legislature on the result of their evaluation.

5. *We recommend that the Legislature continue the existing requirements relating to the parental complaint process. We further recommend the enactment of legislation that: (1)*

eliminates the requirement that districts adopt rules and regulations to assist and evaluate new teachers, and (2) specifies the activities districts should undertake to ensure that teacher evaluators are competent.

Our review of the parental complaint process indicates that it appears to be consistent with the statute and that the costs are reasonable. With respect to the other two components of the mandate, our analysis indicates that the mandated activities serve a statewide interest by helping to ensure uniform teacher competency. However, we are concerned that the mandate currently allows districts to receive unlimited funding for a multitude of activities. In order to remedy this problem, we recommend the enactment of legislation eliminating the requirement that districts adopt rules and regulations to train, assist, and evaluate new teachers pending the outcome of the teacher training pilot program. In addition, we recommend the enactment of legislation specifying the activities districts should undertake to certify teacher evaluators.

Chapter VI: Missing Persons Reports

1. *Four separate statutes impose mandates by increasing the level of service that local law enforcement agencies must provide in accepting and transmitting reports on specified missing persons.* The measures require law enforcement agencies to submit additional missing person reports and to include more detailed information in these reports. Furthermore, more law enforcement agencies are required to report than under the provisions of prior law.

2. *The mandates appear to serve a statewide interest.* The search for missing persons frequently extends across state and local boundaries. The state has an interest in coordinating the data collection efforts statewide to ensure that local law enforcement agencies are assisted in handling what is often a multijuris-

dictional problem. By collecting missing persons data at the state level, this information should be more readily accessible to law enforcement agencies across the state.

3. *The mandates have been judged by local law enforcement agencies to be moderately effective in (1) decreasing the amount of time that persons are missing and (2) increasing the probability of finding missing persons.* In a survey conducted by Arthur Young for the Department of Justice in February 1988, local law enforcement agencies were asked to assess the effectiveness of each mandate in decreasing the amount of time persons are missing, or in increasing the probability of finding a missing person. The 151 police and sheriffs' departments that responded to the survey concluded that the requirements were moderately effective in meeting both objectives.

4. *We are unable to quantify the benefits of the mandates in terms of improved citizen safety.* As noted above, police and sheriffs' departments have indicated that the mandates are moderately effective in decreasing the amount of time that persons are missing and increasing the probability of finding missing persons. However, we are unable to quantify these benefits in terms of improved citizen safety.

5. *We recommend that the Legislature continue to fund these mandates.* By ensuring that state and local law enforcement agencies share information in a timely manner, these statutes appear to increase the probability of finding a missing person, and to decrease the amount of time that persons are missing.

Chapter VII: Domestic Violence Reporting

1. *Chapter 1609, Statutes of 1984, and Chapter 668, Statutes of 1985, imposed a mandate by requiring local law enforcement agencies to provide an increased level of service in responding to and reporting on domestic violence incidents.*

2. *The mandate serves both a state and local interest.* The benefits resulting from the statutes serve a statewide interest to the extent that they result in quicker, more informed responses to domestic violence calls which may help reduce the risk of serious injury or death to victims of domestic violence.

Local law enforcement agencies also benefit from this mandate through the establishment of a standardized procedure which may result in more effective law enforcement responses to local domestic violence incidents. Furthermore, the more stringent reporting requirements should improve the quality of the information that is available to officers responding to the scene of repeat domestic violence incidents.

The reporting requirements also improve the information that is available to state and local officials on the magnitude of local domestic violence problems.

3. *While local criminal justice officials indicate that there are some direct benefits produced by the mandates, they are difficult to measure.* Local criminal justice officials suggest that the mandate produces more uniform and effective law enforcement responses to domestic violence calls, facilitates enforcement of protection orders, and assists victims of domestic violence in making decisions regarding prosecution of offenders. All of these services should promote citizen safety by ensuring that the law enforcement agency successfully intervenes when called upon and identifies the actions required to prevent future attacks. We were unable, however, to obtain sufficient data from law enforcement agencies or domestic violence programs to gauge the benefits of the program in terms of the outcome of domestic violence calls (for example, whether the perpetrator is cited, or whether future violence is avoided).

In terms of the benefits of uniform data to state officials, Department of Justice officials indicate that data collection efforts are still in the early stages. They suggest that it is too early to determine who will utilize the state-

wide domestic violence incident data or to assess how useful the information will be.

4. *We recommend that the Legislature continue to fund this mandate.* Its provisions appear to result in a more effective level of intervention in domestic violence situations, thereby promoting the safety of affected citizens.

Chapter VIII: Community College Health Fee Elimination

1. *Chapter 1xx, Statutes of 1984, and Chapter 1118, Statutes of 1987, resulted in a mandate by requiring community college districts to continue to offer health services programs that were previously optional.* Because both measures restricted the districts' ability to fund the costs of the mandate by either prohibiting a fee (Chapter 1xx), or by limiting the amount of a fee (Chapter 1118), districts are eligible for reimbursement of the net costs associated with providing the health services.

2. *The mandate appears to serve a statewide interest.* Because the community colleges represent a part of the state's higher education system, the state has an interest in regulating community college activities to ensure the quality of their educational services. Given that student health contributes to educational performance, there appears to be a statewide interest in requiring the provision of health services at community colleges.

3. *We recommend that the Legislature consider requiring those districts that provide no health services to establish and maintain a basic health services program.* The Legislature and 59 of 70 district governing boards have recognized the importance of providing health services to community college students. However, 11 community colleges are currently exempted from providing any level of health services. These districts are those that did not offer the program in 1986-87 and did not offer the program for a fee in 1983-84. We can find no analytical basis for this exemption.

4. *We recommend enactment of legislation deleting the statutory limit on the health services fee.* Under current law, districts mandated to provide health services are allowed to charge a fee of up to \$7.50 per student per semester. This fee level was established in 1981 and has not been increased to reflect the effects of inflation on the costs of providing health services. Elimination of the fee limitation would allow districts to recover the full costs of the health services program from the individuals who benefit from this program. However, if the Legislature wishes to maintain a fee limit at community colleges, we recommend that the fee at least be adjusted to reflect the effects of inflation on the costs of the program.

Chapter IX: Disabled Motorist Assistance Program

1. *Chapter 1203, Statutes of 1985, imposed a mandate by requiring local traffic law enforcement agencies to establish Disabled Motorist Assistance Programs.*

2. *The mandate serves a primarily local interest that can be addressed through local action.* Services provided by local traffic law enforcement agencies under their Disabled Motorist Assistance programs benefit disabled motorists traveling on city and county streets and roads. In our view, the provision of assistance to local travelers serves primarily a local interest, as evidenced by the fact that many local agencies had implemented such programs prior to enactment of Chapter 1203. Consequently, we do not see a statewide interest in funding such programs.

3. *The mandate does not appear to have resulted in a significantly higher level of service.* Chapter 1028, Statutes of 1987, required our office to assess the effects of this mandate on assistance to disabled motorists. Based on responses to a survey of cities and counties, this mandate does not appear to have significantly increased the level of assistance pro-

vided to disabled motorists. Many cities and counties indicated that, to comply with the mandate, they simply formalized, through a written policy, activities and policies that already existed prior to the mandate. In such cases, the state in effect is paying for the entire Disabled Motorist Assistance Program in order to have the local governments adopt a written articulation of existing activities.

4. *The imposition of the mandate does not appear necessary to ensure the provision of assistance to motorists with disabled vehicles.* The results of our survey indicate that the majority of cities and counties would continue their programs even if the state mandate was repealed.

5. *We recommend the enactment of legislation repealing the mandate imposed by Chapter 1203, Statutes of 1985, which requires local traffic law enforcement agencies to establish Disabled Motorist Assistance Programs.* Our analysis indicates that these programs primarily serve a local interest. Furthermore, we find that this mandate (1) does not appear to have resulted in a significantly higher level of disabled motorist assistance and (2) does not appear necessary to insure the provision of services to local disabled motorists, since many local agencies indicate they will provide these services even if not statutorily required to do so.

Chapter X: Pretreatment Facilities for Drinking Water

1. *California Administrative Code Title 22, Section 64435 (f) imposed a state-mandated program on local agencies by requiring the installation of pretreatment facilities.* This requirement resulted in higher capital outlay costs for facilities and increased operating costs. This requirement affects water agencies using surface water (lakes, rivers) for drinking purposes if the surface water is either exposed to significant sewage contamination or recreational use. The Department of Health Services

estimates that only a small number of water agencies have been affected by this requirement.

2. While the mandate serves a statewide interest, the benefits of the program accrue to local consumers. The pretreatment process results in reduced risk of acute illness on the part of water consumers. In so doing, this program advances the state's interest in ensuring the availability of clean drinking water in all its communities. However, the direct benefit of this mandate is enjoyed by the current and future water users served by each water district.

3. Under new legislation, the capital outlay costs of this mandate can now be funded through an increased standby fee. In our view, because the mandate's benefits are enjoyed locally, these costs should be paid by the current and future water users. Due to recent legislation (Ch 834/88), water districts are

now authorized to raise the standby fee above \$10. This will enable the individuals who enjoy the benefits of clean water to pay for the costs associated with producing it.

4. We recommend that the Legislature direct the COSM to amend its parameters and guidelines to disallow reimbursement of annual operating and capital costs, to the extent that they can be recovered through standby fees and monthly service charges. The parameters and guidelines adopted by the COSM allow the reimbursement of annual operating costs. In our view, the current users could reasonably pay for the annual operating costs associated with water pretreatment through their monthly service fee. In addition, recent statutory changes appear to allow water districts reasonable authority to recover their capital costs through standby fees charged to local land owners. ♦

Chapter I

Chapter I

Overview--How Are Unfunded Mandates Resolved?

The State Constitution (Article XIII B, Section 6) requires the state to reimburse local governments and school districts for all costs mandated by the state. Such costs are defined as those 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 provides, however, that the state *need not* reimburse local governments for mandates: (1) specifically requested by the local agency affected, (2) defining a new crime or changing an existing definition of a crime, or (3) enacted prior to January 1, 1975 or executive orders or regulations affecting legislation enacted prior to January 1, 1975.

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 against 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 commis-

sion 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 that finding 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 is provided on a block grant basis, with the amount of the grant equal to the average amount of reimburse-

ment received during a three-year base period for the mandates covered by the process. This amount is adjusted for inflation and any one-

time costs, and automatically subvented 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:

- 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? For example, are the benefits of the program concentrated within a particular jurisdiction, or are the interests of state residents in general served by the mandate? Does the mandate address a problem of statewide magnitude?
- 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

Chapter II

Mandate Reimbursement Process

Description

Chapter 486, Statutes of 1975, established the Board of Control's authority to hear and make determinations on claims submitted by local agencies that allege costs mandated by the state. In addition, Ch 486/75 contained provisions authorizing the State Controller's Office to receive, review, and pay reimburse-

ment claims for mandated costs submitted by local governments. Chapter 1459, Statutes of 1984, created the Commission on State Mandates (COSM), which replaced the Board of Control as the agency responsible for hearing mandated cost claims.

Commission on State Mandates Action

In November 1985, the City of Culver City filed a claim with COSM alleging mandated costs under Ch 486/75 and Ch 1459/84. In April 1986, COSM determined that these provisions impose state-mandated local costs by requiring local governments to file claims in order to establish the existence of state-mandated programs as well as to obtain reimbursement for the costs of these programs. In November 1986, COSM adopted parameters and guidelines allowing local agencies and school districts to claim reimbursement for

costs incurred on or after July 1, 1984. All costs incurred by local agencies in preparing and presenting *successful* test claims are reimbursable. The costs of preparing unsuccessful test claims are reimbursable only if an adverse COSM ruling is later reversed as a result of a court order. The parameters and guidelines also permit reimbursement for the ongoing costs of local agencies to file annual reimbursement claims with the State Controller's Office (SCO).

Funding History

In June 1987, COSM adopted a statewide estimate of costs for this program of \$19.2 million for 1984-85 through 1988-89, as shown

in Table 1. This estimate was based on responses to a survey by 32 counties, 14 cities and 14 school districts.

Table 1
Funding for Mandate Reimbursement Process
1984-85 through 1988-89
(dollars in millions)

<i>Funding Authority</i>	<i>Mandate Authority</i>	<i>Year for Which Funding Was Provided</i>	
Ch 1485/88	Ch 486/75	1984-85	\$3.1
	Ch 1459/84	1985-86	3.6
		1986-87	4.3
		1987-88	4.1
		1988-89	4.0

As adopted by the Legislature in 1988, Assembly Bill 2763 (Vasconcellos) contained a General Fund appropriation of \$19.2 million to fund the costs of this mandate. Our office recommended approval of this amount. The Governor, however, deleted all but \$4 million of this funding before signing the bill (Ch

1485/88), and specified that this amount was intended to fund the 1988-89 costs of the mandate. The Governor proposes to fund the prior-year costs of this mandate in equal amounts in the Budget Acts of 1989, 1990, and 1991.

Findings and Conclusions

1. Chapter 486, Statutes of 1975, and Chapter 1459, Statutes of 1984, represent an increased program requirement which results in higher costs to local governments. The local costs of filing test claims and annual reimbursement claims are part of the indirect costs of state-mandated local programs enacted by the Legislature. Local agencies and school districts would not incur these costs but for the enactment of state-mandated programs. On this basis, reimbursement of the local costs of the reimbursement process is appropriate.

2. It appears to ease administration to reimburse the costs of the mandate reimbursement process through a single claim. The state could reimburse the costs of filing test claims and

annual reimbursement claims on a claim-by-claim basis when submitted by local governments, instead of in a single separate claim. However, it will simplify administration, for both the state and local governments, to reimburse these costs in the aggregate, rather than to attempt to identify how the costs are distributed between each individual claim.

Recommendation

We recommend that the Legislature continue to fund this mandate. This will help ensure reimbursement of all of the indirect costs imposed on local governments by state-mandated programs. ♦

Chapter III

Chapter III

Domestic Violence Diversion

Description

Chapter 913, Statutes of 1979, as amended by Chapter 1158, Statutes of 1980, establishes a program to divert from the court system those persons charged with a misdemeanor offense of domestic violence. Under specific conditions, courts are required to order that a defendant be placed in a diversion program rather than continuing with normal court proceedings. Once a defendant is ordered into a diversion program, the probation department is required to conduct an investigation to de-

termine whether the defendant would benefit from education, treatment, or rehabilitation. The department must place the defendant in one or more community programs, monitor the progress of the defendant, and report its findings to the court. If it appears that the defendant is not benefiting from the program or is convicted of any other offense involving violence, the department is required to return a defendant to court for consideration of reinstatement of criminal proceedings.

Commission on State Mandates Action

Orange County filed a test claim with the State Board of Control on October 30, 1981 alleging mandated costs under Ch 913/79 and Ch 1158/80. On January 20, 1982 the Board of Control denied the claim based on its interpretation that these chapters changed the penalty for a crime. The Revenue and Taxation Code prohibits consideration of claims by the board if the statute changes the penalty for a crime or infraction or is related to its enforcement.

Orange County sought review of the board's decision in Superior Court. On July 22,

1983 the Superior Court ruled in favor of Orange County on the basis that the program did not change the penalty for a crime because the diversion program was to be entered *prior* to any trial or conviction of the defendant. Therefore, the diversion program was not a penalty for a crime. The Board of Control appealed the decision to the California Court of Appeals. On April 30, 1985 the Court of Appeals affirmed the Superior Court's decision. On September 26, 1985 the Commission on State Mandates (COSM), which replaced

the Board of Control, determined that Ch 913/79 and Ch 1158/80 imposed mandated costs on counties by requiring probation departments to investigate and make recommendations to the court in regard to eligible diversion defendants, and monitor the progress of the diverted defendants.

In February 1987 the COSM adopted parameters and guidelines under which claims

may be filed pursuant to these chapters. The parameters and guidelines allow reimbursement to any county which incurs increased costs as a result of the domestic violence diversion program on or after July 1, 1980 for Ch 913/79, and on or after January 1, 1981 for Ch 1158/80.

Funding History

Based on the parameters and guidelines adopted in February 1987, the COSM developed a statewide cost estimate of \$6.5 million for this mandate for the period from 1980-81 through 1988-89, as shown in Table 2. This

amount reflects the net costs to counties, taking into account any savings in terms of prosecution or incarceration costs. This estimate was based on actual cost information from 23 counties for 1980-81 through 1988-89.

Table 2
Funding for Domestic Violence Diversion Program
1980-81 through 1988-89
(dollars in thousands)

<i>Funding Authority</i>	<i>Mandate Authority</i>	<i>Year for Which Funding Was Provided</i>	
Ch 1485/88	Ch 913/79	1980-81	\$400
	Ch 1158/80	1981-82	494
		1982-83	561
		1983-84	535
		1984-85	637
		1985-86	880
		1986-87	1,000
		1987-88	1,000
		1988-89	962

As adopted by the Legislature in 1988, Assembly Bill 2763 (Vasconcellos) contained a General Fund appropriation of \$6.5 million to fund these mandated costs. Our office recommended approval of this amount. The Governor, however, vetoed all but \$962,000 of this

amount before signing the bill (Ch 1485/88), and stated that the amount provided was to fund costs incurred during 1988-89. The Governor proposes to fund the prior-year costs of this mandate in equal amounts in the Budget Acts of 1989, 1990, and 1991.

Findings and Conclusions

1. *Chapter 913, Statutes of 1979, and Chapter 1158, Statutes of 1980, resulted in a mandate by establishing a new program for the diversion from the court system of defendants who are alleged to have committed acts of misdemeanor domestic violence.*

2. *The mandate appears to serve primarily statewide interests.* The purpose of this program is to prevent further domestic violence by persons charged with such offenses by diverting these individuals into alternative treatment programs. To the extent that the program is successful in meeting its objectives, the state's interest in reducing criminal behavior and promoting citizen safety are served. Although the mandate serves primarily a statewide interest, the counties' interests also are served to the extent that domestic violence diversion programs reduce incidents of domestic violence, thereby reducing county law enforcement costs.

3. *The mandate results in higher net costs to the counties.* This program may result in some savings to the counties in terms of prosecution and incarceration costs. However, these savings do not offset the costs to the counties for probation department activities, as shown in Table 2. There is no provision in law which allows counties to assess fees or fines to cover the cost to the probation departments of the investigations, reports, referrals, or monitoring associated with these domestic violence diversion programs. Although Ch 1158/80 does allow the court to order a defendant to pay all or a portion of the cost of counseling provided under the diversion program, this fee provision does not address the costs of activities incurred by county probation departments.

4. *The success of the Domestic Violence Diversion program is unclear at this time.* Currently, a study is being conducted to determine the effectiveness of the Domestic Violence Diversion program. The program has been subject to allegations of various problems, such as lack of statewide standards and poor coordination between the courts and the probation departments. Also, concerns have been raised about the opportunity for a defendant to avoid prosecution by showing proof of enrollment in a diversion program without ever attending. The study has been designed to evaluate the benefits resulting from this program.

Recommendation

We recommend continued funding of the Domestic Violence Diversion program at this time. In our view, any decision to repeal or modify the statutory requirements related to domestic violence diversion programs should await the results of a current study of the program's effectiveness. Upon completion of this study, the Legislature should have better information about the benefits resulting from the program, and about any changes required to ensure the delivery of appropriate services and to ensure prosecution in cases where the defendant has not fulfilled the requirements of the diversion program.

In the event that the study determines that the program is useful in reducing domestic violence, the Legislature may wish to consider allowing the courts to order defendants to pay all or a portion of the probation departments' costs associated with this program. This would have the effect of reducing the state's reimbursement costs. ♦

Chapter IV

Chapter IV

Victim's Statements-- Minors

Description

Chapter 332, Statutes of 1981, required that, in cases where a minor was alleged to have committed an act which would have been a felony if committed by an adult, the probation officer must obtain a statement from the victim for inclusion in the officer's reports to the court. Chapter 1425, Statutes of 1984, further required inclusion of a statement from the

parent or guardian of the victim if the victim were a minor, or, if the victim had died, from the victim's next of kin. Chapter 1425 also required the probation officer to advise persons giving statements of the time and place of the disposition hearing. These provisions had a sunset date of January 1, 1988.

Commission on State Mandates Action

The County of San Bernardino filed a claim with the Board of Control in November 1982 alleging mandated costs under Ch 332/81. In December 1982, the Board of Control delayed action on the claim pending the outcome of a suit filed by the County Supervisors Association of California. On January 31, 1986, the Third District Court of Appeal directed the counties to exhaust their administrative remedies before resorting to judicial settlement of mandated program claims. Subsequently, San Bernardino County refiled the claim with the Commission on State Mandates (COSM) in August 1987.

In January 1987, COSM determined that Ch 332/81 and Ch 1425/84 imposed a new program on local entities by requiring probation officers to include within their reports a statement from the victim of certain crimes, or from the parent or guardian of the victim under specified conditions, and to advise those persons giving statements of the time and place of the hearing. In September 1987, COSM adopted parameters and guidelines allowing counties to claim reimbursement for costs incurred on or after January 1, 1982 for Ch 332/81, and on or after January 1, 1985 for Ch 1425/84.

Funding History

In April 1988, COSM adopted a statewide cost estimate of \$4.5 million for this mandate, for the period 1981-82 through 1987-88, as

shown in Table 3. This estimate was based on information from a survey of 23 counties, representing 64 percent of the state's population.

Table 3
Funding for Victim's Statements Program
1981-82 through 1987-88
(dollars in thousands)

<i>Funding Authority</i>	<i>Mandate Authority</i>	<i>Year for Which Funding Was Provided</i>	
Ch 1485/88	Ch 332/81	1981-82	\$334
	Ch 1425/84	1982-83	669
		1983-84	628
		1984-85	737
		1985-86	809
		1986-87	867
		1987-88	489

As adopted by the Legislature in 1988, Assembly Bill 2763 (Vasconcellos) contained a General Fund appropriation of \$4.5 million to fund the costs of this mandate. Our office recommended approval of this amount. The

Governor, however, deleted this funding before signing the bill (Ch 1485/88). The Governor proposes to fund the prior-year costs of this mandate in equal amounts in the Budget Acts of 1989, 1990, and 1991.

Findings and Conclusions

This mandate was repealed effective January 1, 1988. Consequently, we make no recom-

mendations concerning modification or repeal of this program. ♦

Chapter V

Chapter V

Certification of Teacher Competence

Description

Chapter 498, Statutes of 1983, requires school districts to adopt rules and regulations to (1) ensure that persons assigned to evaluate teachers are competent; (2) provide assistance to and evaluate probationary certificated employees; and (3) provide a process for par-

ents or guardians to present complaints about school personnel. Prior to the enactment of Chapter 498, some districts may have adopted these types of rules and regulations on their own.

Commission on State Mandates Action

The San Jose Unified School District filed a claim on September 20, 1984 alleging mandated costs under Ch 498/83. On September 26, 1985, the Commission on State Mandates (COSM) determined that a reimbursable state mandate existed under the statute. The COSM adopted parameters and guidelines for the reimbursement of mandated costs on April 24, 1986.

The parameters and guidelines allow districts to recover the costs of developing and implementing policies and procedures for (1) certifying teacher evaluators; (2) training, assisting, and evaluating new teachers; and (3) developing a parent complaint process to resolve and address parental concerns. The

parameters and guidelines allow districts considerable discretion in designing their own programs—including discretion over the program's size and cost—and specify that the state is responsible for reimbursing these costs. Some of the specific activities for which districts can claim reimbursement are:

- Providing training to administrators on effective ways to evaluate teachers; and
- Providing training to new teachers. Districts may be reimbursed for all training costs, including the costs of substitute teachers as needed to allow the probationary teachers to attend training activities.

Funding History

Based on the parameters and guidelines, COSM adopted a statewide cost estimate for this mandate of \$6.6 million for the period

from 1983-84 through 1988-89, as shown in Table 4.

Table 4
Funding for Certification of Teacher Competence
1983-84 through 1988-89
(dollars in thousands)

<i>Funding Authority</i>	<i>Mandate Authority</i>	<i>Year for Which Funding Was Provided</i>	
Ch 1485/88	Ch 498/83	1983-84	\$3,670
		1984-85	582
		1985-86	582
		1986-87	582
		1987-88	582
		1988-89	582

Assembly Bill 2763 (Vasconcellos) contained a General Fund appropriation of \$6.6 million to fund these costs. We recommended approval of this amount. The Governor, however, vetoed all but \$582,000 of this amount before signing the bill (Ch 1485/88),

and stated that the amount provided was to fund costs incurred during 1988-89. The Governor proposes to fund the prior-year costs of this mandate in equal amounts in the Budget Acts of 1989, 1990, and 1991.

Findings and Conclusions

1. *Chapter 498, Statutes of 1983, imposes a mandate by requiring school districts to adopt regulations for the following three activities: (1) ensuring the competence of teacher evaluators; (2) assisting and evaluating new teachers; and (3) establishing a parental complaint process.* Chapter 498 requires school districts to develop and adopt specified rules and regulations. The law, however, does not specify the size and scope of the program that districts should implement. In the absence of legislative directive, the COSM has defined the mandate in an open-ended fashion. As a

result, the full cost of any program designed and implemented by local districts must be reimbursed by the state.

2. *The mandate appears to serve a statewide interest.* The state appears to have a legitimate interest in ensuring that (1) new teachers receive adequate training; (2) teacher evaluators are trained and certified; and (3) parental complaints are addressed. These activities have the potential to improve California schools by ensuring uniform teacher competence and adequate attention to parental concerns.

3. The cost of this mandate exceeds the Legislature's expectations. In enacting this requirement, the Legislature presumably intended that districts examine their current policies with the aim of improving the consistency of services in the area of teacher evaluation and support. We can find no indication, however, that the Legislature contemplated providing funding for districts to establish an open-ended level of services in this area.

In defining the mandate, the COSM ruled that districts can claim annual costs for *self-designed programs* to (1) train and certify teacher evaluators; (2) assist beginning teachers; and (3) address parental complaints. Thus, the scope of this mandate appears considerably broader than intended by the Legislature at the time of enactment.

The COSM staff originally estimated that this mandate could result in annual state costs of approximately \$5 million. However, the COSM reduced this amount to \$582,000 due to concern that the estimate was based on insufficient data. As far as we can determine, there is no analytic basis for the estimate adopted by COSM. Based on our review of a similar program (discussed below), we estimate that the statewide costs of implementing just the teacher support programs could exceed \$2 million annually. The costs of training teacher evaluators could be substantially higher.

Our analysis indicates that most of the implementation costs are attributable to the activities required to certify teacher evaluators and to train, assist, and evaluate new teachers. The lack of statutory guidance as to how districts should implement these programs leaves the state open to an extremely costly, open-ended mandate.

4. The state currently is determining the most cost-effective way to train, assist, and evaluate new teachers. Chapter 1355, Statutes of 1988 (SB 148--Bergeson), directs the Commission on Teacher Credentialing and the State Department of Education to evaluate

alternative methods of supporting and assessing new teachers. These two agencies are currently operating a \$3.2 million pilot program to determine the most cost-effective ways to accomplish these objectives. At the end of this program, which is expected to last from two to three years, these agencies will report to the Legislature on the results of their evaluation. We believe that the Legislature should await the results of this evaluation before funding districts' activities to train, assist, and evaluate new teachers.

Recommendations

We recommend that the Legislature continue the existing requirements relating to the parental complaint process. We further recommend the enactment of legislation that (1) eliminates the requirement that districts adopt rules and regulations to assist and evaluate new teachers and (2) specifies the activities districts should undertake to ensure that teacher evaluators are competent.

Our review of the parental complaint process indicates that it appears to be consistent with the statute and that the costs are reasonable. Accordingly, we recommend that the Legislature continue the existing requirements relating to the parental complaint process.

With respect to the other two components of the mandate, our analysis indicates that the mandated activities serve a statewide interest by helping to ensure uniform teacher competency. However, we are concerned that the mandate currently allows districts to receive unlimited funding for a multitude of activities. In order to remedy this problem, we recommend the enactment of legislation eliminating the provision requiring districts to adopt rules and regulations to train, assist, and evaluate new teachers pending the outcome of the teacher training pilot program. This will ensure that the program ultimately incorporates the most cost-effective ways of

supporting and training new teachers. In addition, we recommend the enactment of legislation revising the provision relating to certification of teacher evaluators to specify the activities districts should undertake in this area. This will protect the state from potentially high open-ended costs for these activities. ♦

Chapter VI

Chapter VI

Missing Persons Reports

Description

Four laws impose reporting requirements on local law enforcement agencies receiving missing persons reports, and specify the process by which the reports are transmitted to other law enforcement agencies, the Department of Justice (DOJ), and the National Crime Information Center (NCIC). The purpose of these measures is to ensure timely and accurate information sharing in order to help law enforcement agencies find missing persons more quickly. Quick resolution of missing persons cases in turn helps to ensure citizen safety.

The first measure--Ch 51/84--addresses those situations where minors are missing under suspicious circumstances. Specifically, it requires local law enforcement agencies to immediately contact the coroner and submit a missing persons report with dental records to DOJ within 24 hours of receiving a missing persons report.

Two additional measures--Ch 177/85 and Ch 1111/85--require local law enforcement agencies to accept and transmit missing persons reports within specified time limits. Specifically, local law enforcement agencies

must accept any report of a missing person or runaway, including telephone reports, without delay. If the department receiving the report is not within the same jurisdiction as the missing person's residence, the department must notify and forward a copy of the report to the agency which has jurisdiction over the residence of the missing person and to the agency which has jurisdiction over the place where the person was last seen. In the case of a child under 12 years of age, Ch 1111/85 requires the department to notify the NCIC within four hours of receiving a missing persons report.

Finally, Ch 249/86 requires district attorneys to furnish proper reporting forms and authorizes them to accept reports of missing persons. If the missing person has not been found within 45 days, Ch 249/86 requires the law enforcement agencies to submit a recent photograph to DOJ. If the missing person is under 13 years of age and has been missing for 14 days, the law enforcement agency must immediately contact the coroner, as well as prepare and submit a report with dental records and a recent photo within 24 hours.

Commission on State Mandates Action

The Legislature recognized the existence of a mandate in Ch 1111/85, and the Commission on State Mandates (COSM) adopted the parameters and guidelines for this mandate at its August 27, 1987 hearing. At this hearing, the COSM determined that Ch 51/84, Ch 177/85, and Ch 249/86 also impose mandates on

local law enforcement agencies by requiring them to fulfill specified reporting requirements. In January 1988, the COSM adopted amendments to the parameters and guidelines for Ch 1111/85 to allow local agencies to claim reimbursement for the costs associated with these three additional acts.

Funding History

In April 1988, based on the parameters and guidelines, the COSM adopted a statewide estimate of costs for this program of \$31.1

million for 1985-86 through 1988-89, as shown in Table 5. This estimate was based on a survey of city and county law enforcement agencies.

Table 5
Funding for Missing Persons Reporting Requirements
1985-86 through 1988-89
(dollars in millions)

<i>Funding Authority</i>	<i>Mandate Authority</i>	<i>Year for Which Funding Was Provided</i>	
Ch 1485/88	Ch 1111/85	1985-86	\$2.0
	Ch 51/84	1986-87	9.1
	Ch 177/85	1987-88	9.9
	Ch 249/86	1988-89	10.1

As adopted by the Legislature in 1988, Assembly Bill 2763 (Vasconcellos) contained a General Fund appropriation of \$31.1 million to fund the costs of this mandate. Our office recommended approval of this amount. However, in signing the measure (Ch 1485/

88) the Governor deleted all but \$10.1 million of the funding, and specified that this amount was intended to fund the current-year costs of the mandate. The Governor proposes to fund the prior-year costs in equal amounts in the Budget Acts of 1989, 1990, and 1991.

Findings and Conclusions

1. *These statutes impose a mandate by increasing the level of service that local law enforcement agencies must provide in accepting and transmitting reports on specified missing persons.* The measures require law enforcement agencies to submit additional missing person reports and to include more detailed information in these reports. Furthermore, more law enforcement agencies are required to report than under the provisions of prior law.

2. *The mandate appears to serve a statewide interest.* The search for missing persons frequently extends across state and local boundaries. The state has an interest in coordinating the data collection efforts statewide to ensure that local law enforcement agencies are assisted in handling what is often a multijurisdictional problem. By collecting missing persons data at the state level, the information on missing persons should be more readily accessible to law enforcement agencies across the state.

3. *The mandates have been judged by local law enforcement agencies to be moderately effective in (1) decreasing the amount of time that persons are missing and (2) increasing the probability of finding a missing person.* We were unable to obtain any quantitative data that would allow us to measure the effectiveness of the mandates in decreasing the

amount of time that persons are missing, or in increasing the probability of finding a missing person. However, in a survey conducted by Arthur Young for the Department of Justice in February 1988, local law enforcement agencies were asked to assess the effectiveness of each mandate in achieving these goals. The 151 police and sheriffs' departments that responded to the survey concluded that the requirements were moderately effective in meeting both objectives.

4. *We are unable to quantify the benefits of the mandate in terms of improved citizen safety.* As noted above, police and sheriffs' departments have indicated that the mandates are moderately effective in decreasing the amount of time that persons are missing and increasing the probability of finding a missing person. However, we are unable to quantify these benefits of the measures in terms of improved citizen safety.

Recommendation

We recommend that the Legislature continue to fund this mandate. By ensuring that state and local law enforcement agencies share information in a timely manner, these statutes appear to increase the probability of finding a missing person, and to decrease the amount of time that persons are missing. ♦

Chapter VII

Chapter VII

Domestic Violence Reporting

Description

Chapter 1609, Statutes of 1984, and Chapter 668, Statutes of 1985, generally require law enforcement agencies to develop standardized procedures for responding to and reporting on domestic violence incidents such as assaults between adult family members. These requirements were imposed in response to a perception that local law enforcement agencies did not always respond adequately to domestic violence calls. There was concern that inadequate law enforcement agency response put family members at risk of personal injury or death.

Chapter 1609 specifically required agencies to (1) develop, adopt, and implement policies and standards for officer's responses to domestic violence calls, (2) develop an incident report form to report domestic violence incidents to the Attorney General on a monthly

basis, (3) provide information to victims of domestic violence, and (4) maintain records of specific protection orders. These provisions are scheduled to sunset on January 1, 1991.

Chapter 1609 also requires the Commission on Peace Officer Standards and Training (POST) to develop and maintain policies and standards for officers' responses to domestic violence calls that are available for use by any law enforcement agency. In addition, the commission is required to incorporate training for domestic violence incidents into its existing statewide training program for new and existing peace officers.

Chapter 668 specified in additional detail the types of information be provided to a victim at the scene of a domestic violence incident.

Commission on State Mandates Action

The City of Madera Police Department filed a test claim with the Commission on State Mandates (COSM) on June 23, 1986 alleging that the state should reimburse it for costs mandated under Chapters 1609 and 668.

On November 20, 1986, the COSM determined that Chapters 1609 and 668 created a reimbursable mandate. On February 26, 1987, the COSM adopted final parameters and guidelines for claiming reimbursement of

mandated costs. These parameters and guidelines allow counties to claim reimbursement for the costs associated with the following activities:

- Developing, adopting, and implementing policies and standards for officers' responses to domestic violence calls;
- Developing a system for recording all domestic violence-related calls for assistance, including information as to whether weapons were involved;
- Providing specific information to victims of domestic violence;
- Compiling and submitting monthly summary reports to the Attorney General;
- Developing an incident report form;
- Maintaining specific protection order records; and
- Verifying stay-away orders at the scene of a domestic violence incident.

Funding History

Based on the parameters and guidelines, the COSM adopted a cost estimate of \$20.8 million for the years from 1985-86 through 1988-89, as

shown in Table 6. This estimate was based on a survey of city and county law enforcement agencies.

Table 6
Funding for Domestic Violence Reporting
1985-86 through 1988-89
(dollars in millions)

<i>Funding Authority</i>	<i>Mandate Authority</i>	<i>Year for Which Funding Was Provided</i>	
Ch 1485/88	Ch 1609/84	1985-86	\$4.7
	Ch 668/85	1986-87	5.1
		1987-88	5.5
		1988-89	5.5

As adopted by the Legislature in 1988, Assembly Bill 2763 (Vasconcellos) contained a General Fund appropriation of \$20.8 million to fund the costs of this mandate. Our office recommended approval of this amount. The Governor, however, vetoed all but \$5.5 mil-

lion of this amount before signing the bill (Ch 1485/88) and stated that the amount provided was to cover costs incurred during 1988-89. The Governor proposes to fund the prior-year costs of this item in equal amounts in the Budget Acts of 1989, 1990, and 1991.

Findings and Conclusions

1. Chapter 1609, Statutes of 1984, and Chapter 668, Statutes of 1985, imposed a mandate by requiring local law enforcement agencies to provide an increased level of service in

responding to and reporting on domestic violence incidents.

2. The mandate serves both state and local interests. This mandate serves a statewide

interest to the extent that it results in quicker, more informed responses to domestic violence calls which may help reduce the risk of serious injury or death to victims of domestic violence.

Local benefits occur to the extent that the establishment of a standardized procedure results in more effective law enforcement response to local domestic violence incidents. Furthermore, the more stringent reporting requirements should improve the quality of the information that is available to officers responding to the scene of repeat domestic violence incidents.

The reporting requirements also improve the information that is available to state and local officials on the magnitude of local domestic violence problems.

3. While local criminal justice officials indicate that there are some direct benefits produced by the mandates, they are difficult to measure. Local criminal justice officials suggest that the requirement to implement standard procedures in response to domestic violence calls produces more uniform and effective law enforcement responses to such calls. In addition, they indicate that maintaining records of protection orders facilitates enforcement of those orders by local agencies. Finally, providing specified information to

victims of domestic violence is likely to assist them to make decisions regarding prosecution of offenders and to obtain services available to them.

All of these services should promote citizen safety by ensuring that the law enforcement agency successfully intervenes when called upon and identifies the actions required to prevent future attacks. We were unable, however, to obtain sufficient data from law enforcement agencies or domestic violence programs to gauge the benefits of the program in terms of the outcome of domestic violence calls (for example, whether the perpetrator is cited, or whether future violence is avoided).

In terms of the benefits of uniform data to state officials, Department of Justice officials indicate that data collection efforts are still in the early stages. They suggest that it is too early to tell who will be utilizing the statewide domestic violence incident data or to assess how useful the information will be.

Recommendation

We recommend that the Legislature continue to fund this mandate. Its provisions appear to result in a more effective level of intervention in domestic violence situations, thereby promoting the safety of affected citizens. ♦

Chapter VIII

Chapter VIII

Community College Health Fee Elimination

Description

Chapter 1010, Statutes of 1976, authorized community college districts to operate student health centers and provide health supervision and services. The measure permitted districts to provide direct and indirect medical and hospitalization services and authorized school physicians to provide medical treatment at the centers. Chapter 1010 also authorized districts to charge students up to \$10 per year to cover the costs of the program (the maximum fee was subsequently increased to \$7.50 per semester--\$15 per year). As of 1983-84, 52 of the state's 70 districts levied this fee for health services, while seven provided such services from their general budget (no fee) and 11 provided no service.

Chapter 1xx, Statutes of 1984--the community college mandatory fee bill--imposed a new mandatory fee of \$100 per year on community college students, and repealed the Ch 1010/76 authority to charge a health fee. In order to prevent colleges from reducing health services in response to repeal of the health services fee, Chapter 1xx required those 52 districts that levied a health services fee in 1983-84 to maintain health services at the

same levels annually thereafter. These sections of Ch 1xx/84 had a sunset date of January 1, 1988.

This mandate was modified by Chapter 1118, Statutes of 1987, as follows. It (1) repealed the January 1, 1988 sunset established in Chapter 1xx; (2) required all community college districts that provided health services in 1986-87 (59 districts) to maintain those services at the same level in 1987-88 and annually thereafter (regardless of whether they previously charged a fee or not); and (3) reinstated, commencing January 1, 1988, the authorization for community college districts to charge students a fee of up to \$7.50 per semester to cover the cost of health supervision and services.

Thus, the effect of Chapter 1118 was to (1) expand the mandate to provide health services programs to 59 of the 70 community college districts (an additional seven districts) and (2) authorize the districts to charge students a health services fee of up to \$7.50 per semester to help cover the costs of the program.

Commission on State Mandates Action

On December 2, 1985, the Rio Hondo Community College District filed a test claim with the Commission on State Mandates (COSM) alleging mandated costs under Chapter 1xx. In November 1986, the COSM determined that Ch 1xx imposed a mandate by repealing the community college districts' authority to levy a fee to fund health services without providing an alternative funding mechanism. In August 1987, the COSM adopted parameters and guidelines allowing reimbursement of the full costs of providing health services, for districts that provided services in 1983-84.

The passage of Ch 1118/87 changed the basis for reimbursement of community college districts beginning January 1, 1988. First,

any community college district that provided health services in 1986-87 will be eligible for reimbursement of program costs. This will have the effect of allowing an additional seven districts to seek reimbursement. Second, districts no longer will be eligible for full reimbursement of program costs. Rather, districts will be eligible for reimbursement of costs incurred in providing services at the 1986-87 level, after subtracting revenues generated from charging the \$7.50 fee. (For purposes of determining a district's share of reimbursable costs, local revenues are based on the \$7.50 maximum fee authority, regardless of whether districts actually levy the maximum fee.)

Funding History

Based on the parameters and guidelines, the COSM adopted a cost estimate of \$42.4 million to cover the cost of health services programs of the districts for the period from 1983-84

through 1988-89, as shown in Table 7. This estimate is based on data from a survey of community college districts.

Table 7
Funding for Community Colleges Health Services
1983-84 through 1988-89
(dollars in millions)

<i>Funding Authority</i>	<i>Mandate Authority</i>	<i>Year for Which Funding Was Provided^a</i>	
Ch 1485/88	Ch 1xx/84	1983-84	\$4.8
		1984-85	9.6
		1985-86	10.0
		1986-87	10.4
		1987-88	6.1
		1988-89	1.4

^a Detail does not add to total due to rounding.

As adopted by the Legislature in 1988, Assembly Bill 2763 (Vasconcellos) contained a General Fund appropriation of \$42.4 million to fund the mandated costs. We recommended approval of this amount. The Governor, however, vetoed all but \$1.4 million of

this amount before signing the bill (Ch 1485/88) and stated that the \$1.4 million was to cover costs incurred during 1988-89. The Governor proposes to fund the prior-year costs of this item in equal amounts in the Budget Acts of 1989, 1990, and 1991.

Findings and Conclusions

1. *Chapter 1xx, Statutes of 1984, and Chapter 1118, Statutes of 1987, resulted in a mandate by requiring community college districts to continue to offer health services programs that were previously optional.* Because both measures restricted the districts' ability to fund the costs of the mandate by either prohibiting the fee (Chapter 1xx), or by limiting the amount of the fee (Chapter 1118), districts are eligible for reimbursement of the net costs associated with providing the health services.

2. *The mandate appears to serve a statewide interest.* Because the community colleges represent a part of the state's higher education system, the state has an interest in regulating community college activities to ensure the quality of their educational services. Given that student health contributes to educational performance, there appears to be a statewide interest in requiring the provision of health services at community colleges. These services improve student health through the provision of services such as first aid, physical examinations, immunization, accident insurance, and health education programs.

3. *The mandate to provide health services is not consistently applied.* Our review finds that 11 districts are currently exempt from the mandate to provide health services. These districts are those that did not offer the program in 1986-87 and did not offer the program for a fee in 1983-84. We can find no analytical basis for this exemption.

4. *The community colleges should be allowed to recover the full cost of the program through student fees.* Under current law, dis-

tricts mandated to provide health services are allowed to charge a fee of up to \$7.50 per student per semester. This fee level was established in 1981 and has not been increased to reflect the effects of inflation on the costs of providing health services. We estimate that the Implicit Price Deflator for State and Local Purchases of Goods and Services will increase by approximately 36 percent between 1981-82 and 1988-89. Costs associated with the health services program have been subject to similar inflationary pressures.

The current limitation on the health services fee constrains the ability of districts to recover the full costs of the health care services program. Elimination of the statutory limit on the health services fee would distribute the cost of the program to those receiving the services--the students--and would eliminate the state's responsibility for reimbursement of mandated costs. Moreover, this is consistent with the state's current policy of funding health services programs at the University of California and California State University campuses through student fees.

Recommendations

1. *We recommend that the Legislature consider requiring those districts that provide no health services to establish and maintain a basic health services program.* The Legislature and 59 of 70 district governing boards have recognized the importance of providing health services to community college students. However, 11 community colleges are currently exempted from providing any level

of health services. Our review identifies no analytic justification for this exemption.

2. *We recommend the enactment of legislation deleting the statutory limit on the health services fee.* The current maximum health fee of \$7.50 per student per semester has not been adjusted since 1981, despite a significant increase in inflation over the period. Moreover, the fee limit does not reflect the differences in costs and levels of service offered by the districts in the base-year. Elimination of the fee limit would allow districts to recover the full costs of the health services program from the individuals who benefit from this program.

However, if the Legislature wishes to maintain a fee limit at community colleges, we recommend that the fee at least be adjusted to reflect the effects of inflation on the costs of the program.

We note that current law prohibits districts from charging students the health services fee if the student is eligible for a waiver of the mandatory enrollment fee. Thus, a student already identified as financially needy would not be required to pay the higher health services fee. The state would remain liable for reimbursement of such costs. ♦

Chapter IX

Chapter IX

Disabled Motorist Assistance Program

Description

Chapter 1203, Statutes of 1985, requires every traffic law enforcement agency to establish a Disabled Motorist Assistance Program. Specifically, agencies are required to implement a written policy to provide assistance to

motorists stranded on city or county streets and roads. Prior to the enactment of this statute, many local law enforcement agencies provided these services on an informal basis.

Commission on State Mandates Action

The City of Ceres filed a test claim with the Commission on State Mandates (COSM) in April 1986, alleging that the state should reimburse additional costs mandated under Chapter 1203. In August 1986, COSM determined that Chapter 1203 imposed mandated costs on

local traffic law enforcement agencies. The COSM adopted parameters and guidelines in January 1987 allowing local agencies to claim reimbursement for their costs of implementing the program.

Funding History

In January 1988, COSM adopted a statewide cost estimate for the Disabled Motorist Assistance Program of \$10.6 million for the period 1985-86 through 1988-89, as shown in Table 8. This estimate was based on a statewide random survey of local traffic law enforcement

agencies. As adopted by the Legislature in 1988, Assembly Bill 2763 (Vasconcellos) contained a General Fund appropriation of \$10.6 million to reimburse counties for the total costs of the program since 1985-86. We recommended approval of this amount.

Table 8
Funding for Disabled Motorist Assistance Program
1985-86 through 1988-89
(dollars in millions)

<i>Funding Authority</i>	<i>Mandate Authority</i>	<i>Year for Which Funding Was Provided^a</i>	
Ch 1485/88	Ch 1203/85	1985-86	\$1.5
		1986-87	2.9
		1987-88	3.0
		1988-89	3.1

^a Detail does not add to total due to rounding.

The Governor, however, vetoed all but \$3.1 million of the amount contained in AB 2763 before signing the bill (Ch 1485/88), and stated that the funding provided was to cover

the costs incurred in 1988-89. The Governor proposes to fund the prior-year costs in equal amounts in the Budget Acts of 1989, 1990, and 1991.

Findings and Conclusions

1. Chapter 1203, Statutes of 1985, imposed a mandate by requiring local traffic law enforcement agencies to establish Disabled Motorist Assistance Programs.

2. The mandate serves a primarily local interest that can be addressed through local action. Services provided by local traffic law enforcement agencies under their Disabled Motorist Assistance programs benefit disabled motorists traveling on city and county streets and roads. In our view, the provision of assistance to local travelers serves primarily a local interest, as evidenced by the fact that many local agencies had implemented such programs prior to enactment of Chapter 1203.

3. The mandate does not appear to have resulted in a significantly higher level of service. Chapter 1028, Statutes of 1987, required our office to assess the effects of this mandate on assistance to disabled motorists. In our survey of cities and counties in accordance with Ch 1028/87, we found that local agencies did not have precise data to indicate whether Chapter 1203 increased the amount of assistance provided to motorists. Our analysis

therefore is based on the informal assessment of local agencies of the impact of the mandate.

Based on responses from local entities, the imposition of the mandate does not appear to have significantly increased the level of assistance provided to disabled motorists. Many cities and counties indicated that, to comply with the mandate, they simply formalized, in a written policy, activities and policies that already existed prior to the mandate. For these cities and counties, the mandate may have resulted only in the adoption of a formal policy, and not an increased level of services to disabled motorists. In such cases, the state in effect is paying for the entire Disabled Motorist Assistance Program in order to have the local governments adopt a written articulation of existing activities.

4. The imposition of the mandate does not appear necessary to ensure the provision of assistance to disabled motorists. The results of our survey indicate that the majority of cities and counties would continue their programs even if the state mandate was repealed. This suggests that local agencies will provide

assistance to disabled motorists regardless of whether they are statutorily mandated to do so.

Recommendation

We recommend the enactment of legislation repealing the mandate imposed by Chapter 1203, Statutes of 1985, which requires local traffic law enforcement agencies to establish Disabled Motorist Assistance Programs. Our analysis indicates that these programs pri-

marily serve a local interest. Furthermore, we find that this mandate (1) does not appear to have resulted in a significantly higher level of disabled motorist assistance, and (2) does not appear necessary to insure the provision of services to local disabled motorists, since many local agencies indicate they will provide these services even if not statutorily required to do so. Consequently, we recommend that the mandate be repealed. ♦

Chapter X

Chapter X

Pretreatment Facilities for Drinking Water

Description

In November 1977, the Department of Health Services (DHS) amended California Administrative Code Title 22, Section 64435 (f) to require water agencies using surface water (lakes, rivers) for drinking purposes to install pretreatment facilities if the surface water is either exposed to significant sewage contamination or recreational use. The pretreatment

process involves the removal of larger particles of matter from the water. It thus reduces the potential for bacteriological contamination, which can result in acute illnesses such as stomach ailments and dysentery. In addition, the pretreatment process improves the effectiveness of the following filtration process which removes smaller particles of matter.

Commission on State Mandates Action

In 1982, the DHS assumed jurisdiction over the Stallion Springs Community Services District, and required the district to install pretreatment facilities. In 1985, the district filed a claim with the Commission on State Mandates (COSM) to seek reimbursement of the costs of pretreating its water supply. The COSM referred the claim to an administrative law judge (ALJ), who determined that (1) requiring pretreatment facilities did result in a higher level of service and therefore was a state-mandated program, and (2) although the district had the authority to charge fees, it could not reasonably generate funds sufficient to pay for the facilities.

The district lacked sufficient fee authority to recover its costs because the water system--built to serve 2,240 residential lots--was operating at only 8 percent of its capacity (225 customers) at the time this mandate was imposed. The judge determined that to require these few customers to pay the costs of the pretreatment facility would represent an unreasonable burden. Current law does allow a district to levy a "standby fee" on all lots within its jurisdiction to cover any new capital costs. However, the Stallion Springs District already was levying the maximum standby fee authorized by law (\$10 per acre) at the time this mandate was imposed. (Subsequently,

the Legislature eliminated this limit and established procedures for raising the standby fee in Ch 834/88.)

The COSM adopted the decision of the ALJ in September 1986. In January 1987, the COSM

adopted parameters and guidelines allowing the reimbursement of both capital outlay for required facilities and the annual increased operating expenses required by the higher level of water treatment.

Funding History

The COSM conducted a survey of 60 water agencies and determined that three additional agencies had incurred costs resulting from the pretreatment mandate. In June 1987, COSM adopted a statewide cost estimate of \$3.1 million for the period from 1984-85 through 1988-89, as shown in Table 9.

As adopted by the Legislature in 1988, Assembly Bill 2763 (Vasconcellos) contained a General Fund appropriation of \$3.1 million to

fund the mandated costs. We recommended approval of this amount. The Governor, however, vetoed all but \$400,000 of this amount before signing the bill (Ch 1485/88) and stated that the amount provided was to cover costs incurred during 1988-89. The Governor proposes to fund the prior-year costs of this item in equal amounts in the Budget Acts of 1989, 1990, and 1991.

Table 9
Funding for Pretreatment Facilities for Drinking Water
1984-85 through 1988-89
(dollars in thousands)

Funding Authority	Mandate Authority	Year for Which Funding Was Provided	
Ch 1485/88	CAC Title 22, Section 64435 (f)	1984-85	\$347
		1985-86	269
		1986-87	147
		1987-88	1,949
		1988-89	400

Findings and Conclusions

1. *California Administrative Code Title 22, Section 64435 (f) imposed a reimbursable state-mandated program on local agencies by requiring the installation of pretreatment facilities.* This requirement resulted in higher capital outlay costs for facilities and increased operating costs. This requirement affects water agencies using surface water (lakes, rivers) for drinking purposes if the surface water is either exposed to significant sewage contamination or recreational use. The De-

partment of Health Services estimates that only a small number of water agencies have been affected by this requirement.

2. *While the mandate serves a statewide interest, the benefits of the program accrue to local consumers.* The pretreatment process results in reduced risk of acute illness on the part of water consumers. In so doing, this program advances the state's interest in ensuring the availability of clean drinking water in all of its communities. However, the direct

benefit of this mandate is enjoyed by the current and future water users served by each water district.

3. *Under new legislation, the capital outlay costs of this mandate can be funded through an increased standby fee.* In our view, because the mandate's benefits are enjoyed locally, these costs should be paid by the current and future water users. Since the ALJ decision, state law has been amended (Ch 834/88) to authorize water districts to raise the standby fee if certain procedures are followed. As a result of this change in state law, it appears that water districts will now be able to distribute the cost of capital outlay to those receiving the services--the current and future water users.

It is unlikely that the required fee increase would impose an unreasonable burden on local water users. Using Stallion Springs as an example, the district could have financed the capital costs (\$282,920) by increasing the standby fee by only \$10 per year. This assumes that the district finances the facility through issuance of a bond, making level payments over 20 years at an interest rate of 8 percent.

4. *The annual operating costs could be funded through the monthly fees charged to water users.* Although the ALJ decision appeared only to address the reimbursement of

capital outlay costs, the parameters and guidelines adopted by COSM allow the reimbursement of annual operating costs as well. In our view, these operating costs could reasonably be funded through the monthly usage fee charged to water users. Again, using Stallion Springs as an example, the district faces increased annual operating costs of \$50,000 per year. As of October 1988, the district had 400 water connections. If the operating costs were charged to local users, the fee increase would be in the range of \$10 per month. This does not appear to be an unreasonable burden given that the average water bills currently range from \$25 per month in the winter to \$75 per month in the summer.

Recommendations

We recommend that the Legislature direct the COSM to amend its parameters and guidelines to disallow reimbursement of annual operating and capital costs, to the extent that these can be recovered through standby fees and monthly service charges. In our view, the current users could reasonably pay for the annual operating costs associated with water pretreatment through their monthly service fee. In addition, recent statutory changes appear to allow water districts reasonable authority to recover their capital costs by charging standby fees to local land owners. ♦