

Key Elements of Mandate Reform— Major Recommendations Proposed

LEGISLATIVE ANALYST'S OFFICE

Presented To:
Assembly Special Committee on State Mandates
Hon. John Laird, Chair





Key Elements of Mandate Reform— Major Recommendations Proposed

1. Little Confidence in Mandate Determination Process

- (a) Revamp the Commission on State Mandates (CSM) membership to address the perception of bias. (LAO and MCS)
- (b) Either (1) replace commission with independent review process or (2) balance state and local membership, provide for a neutral chair, and allow for local alternates. (CSAC and League)
- (c) Assign greater fiscal and policy review responsibility to state agencies. (LAO)
- (d) Cease practice of commission staff representing state interests. (CSAC and League)

2. Lack of Payments Undermines Credibility of System

- (a) Sunset mandates if the state does not pay promptly. (LAO)
- (b) Provide specific date for payment when the state defers reimbursement payments. (MCS)
- (c) Fully fund all mandates, thereby eliminating interest payments (State Controller's Office [SCO]). Assign greater fiscal and policy review responsibility to state agencies. (LAO)
- (d) Repeal the suspension provision—or modify it greatly. (LAO)
- (e) Repeal suspended mandates. (CSAC and League)
- (f) Identify deferred mandate liability in the state's annual audited financial statements and specify repayment date in budget document. (CSAC and League)
- (g) Provide appropriation for mandate one year after SOD is adopted. (EMCN)



Key Elements of Mandate Reform— Major Recommendations Proposed *(Continued)*

3. Delays Decrease Legislative Oversight

- (a) Require local agencies to submit clearer claims, and do so faster. (LAO)
- (b) Fund CSM so that it may meet its statutory deadlines. (LAO and SCO)
- (c) Impose state interest penalties two years after effective date of mandate to encourage adequate staffing of state agencies with mandate responsibilities. (CSAC, League, and MCS)
- (d) Consider independent management audit of mandate determination process and request Legislature's local government committees to examine mandate claims procedures annually. (CSAC and League)
- (e) Provide a specific time period and deadline for the CSM to determine if a law is a mandate. (MCS)
- (f) Set a one-year deadline for the CSM to act upon a final court determination regarding a mandate or accept winning party's final position, unless all parties agree to extend deadline. (CSAC and League)
- (g) Allow parties to amend parameters and guidelines (Ps&Gs) when mandate is amended, rather than require filing of new claim. (CSAC and League)
- (h) The CSM should ensure that it carries out its process in a timely manner, and should continue to assess its caseload and work with the Department of Finance (DOF) and the Legislature to obtain sufficient staffing. (State Auditor)



Key Elements of Mandate Reform— Major Recommendations Proposed *(Continued)*

4. The Legislature Needs Better Information

- (a) Create cost estimating unit to assist during legislative development. (LAO)
- (b) Require the test claimant to submit a statewide cost estimate with the original filed test claim. (SCO)
- (c) Require the SCO to perform fiscal analysis of the test claim prior to the development of the Ps&Gs to assess the validity of potential claimable costs. (SCO)
- (d) Require test claim to adequately identify all offsetting savings within the test claim. (SCO)
- (e) Inform the Legislature of mandate determination costs shortly after mandate enactment. (LAO)
- (f) Require Appropriations Committees to review all bills with a fiscal effect on local agencies, not just bills identified as a “mandate.” (CSAC and League)
- (g) Establish process after adoption of the parameters and guidelines to give Legislature information regarding costs and allow Legislature to request revision or reconsideration. (DOF)
- (h) Impose a sunset on all legislation three years after the initial appropriation for mandate reimbursement to allow Legislature to reexamine need for mandate and its costs. (CSAC and League)
- (i) The CSM staff should analyze more carefully the completeness of the claims data used to develop statewide cost estimates. When reporting statewide cost estimates to the Legislature, CSM staff should disclose the incomplete nature of the claims data and the assumptions used to develop statewide cost estimates. (State Auditor)



Key Elements of Mandate Reform— Major Recommendations Proposed *(Continued)*

5. Claiming System Invites Problems

- (a) Revamp and simplify mandate reimbursement procedures. (LAO and SCO)
- (b) Direct local agencies to submit all claims the year *after* costs are incurred. (LAO)
- (c) Eliminate estimated claims to streamline the process. (SCO)
- (d) Ensure that Ps&Gs are clear and consistent. (MCS)
- (e) Consider establishing an independent review of effectiveness of Ps&Gs after period of, say, three years. (CSAC, League, and SCO)
- (f) Make any change on a prospective basis. (Ed Coalition)
- (g) Base most mandate reimbursements on unit costs. (EMCN, Ed Coalition, and MCS)
- (h) Reform current mandate apportionment option, allowing specific mandates to be an apportionment rather than annual filing of detailed cost claims. (SCO)
- (i) External claim preparers should pay to have their systems and methodologies professionally certified by the SCO for compliance with the specific mandate's interpretation, implementation, and supporting documentation using Generally Accepted Accounting Principals. (MCS)
- (j) The SCO should perform a field review of initial reimbursement claims for selected new mandates before development of the Ps&Gs and statewide cost estimates to identify any inappropriate claiming and to suggest needed changes to the Ps&Gs. (State Auditor)
- (k) Require CSM to adopt the terms, conditions, and rate of reimbursement upon adoption to link mandate finding with accurate measure of its costs. (EMCN)



Key Elements of Mandate Reform— Major Recommendations Proposed *(Continued)*

6. Mandate Determinations Are Stuck in the Past

- (a) Establish process for reconsidering mandates when legal thinking or law changes. (LAO)
- (b) Replace current 30-day open-ended reconsideration period with ongoing authority to reconsider mandates for only two reasons: (1) failure to consider material information and (2) change in law. (DOF)

7. Definition of Mandated Costs Needs Tightening

- (a) Change definition of mandates to limit reimbursement to increased local costs to implement requirement in most cost-effective manner possible. Exclude reimbursement for costs for (1) optional programs, (2) redirected staff time, or (3) activities subsequently mandated by the federal government. (DOF)
- (b) Change standard of proof for cost issues to require local documentation. (DOF)
- (c) Require CSM to consider, and claiming instructions to require information regarding, any funding provided by state to implement mandates. (DOF)
- (d) Oppose efforts to revise statutes to (1) “under-fund local agencies for bona fide local agency mandates” (CSAC and League) or (2) exclude costs for redirected state time or costs from local agencies previously performing the activity. (Ed Coalition)



Key Elements of Mandate Reform— Major Recommendations Proposed *(Continued)*

8. Audit Process Needs Improvement

- (a) The SCO should audit the external claim preparer's process and approach, rather than individual claims filed, to promote standardized processes and documentation requirements that would eliminate the need for claimants to support claimed costs during audit. (MCS)
- (b) The SCO should verify how external claim preparers ensure that their clients have implemented the mandated activities as intended by the Legislature. (MCS)
- (c) The SCO should ensure the documentation of reimbursable activities is properly recorded in a clear auditable format. (MCS)