

Non-Education Mandates and the 2012-13 State Budget

LEGISLATIVE ANALYST'S OFFICE





Overview of Mandates



Proposition 4 (1979) Created Reimbursement Requirement

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



Proposition 1A (2004) Requires Prompt Payments for Ongoing Mandates

- The Legislature must either (1) appropriate funds in the budget bill to pay all outstanding claims for a mandate or (2) suspend or repeal the mandate.
- Exceptions from the prompt payment requirement: School and employee relations mandates and any claim submitted before 2004. Legislature created a 15-year payment plan for outstanding pre-2004 mandate claims.



Legislature May Suspend a Mandate

- When a mandate is suspended, local agency implementation of the requirement is optional for the fiscal year.
- Process: Appropriate \$0 for the mandate in the budget bill and add a provision specifically identifying it as suspended. State statutes are not modified to specify that a requirement is optional.



2012-13 Budget Proposal

- No Funds to Pay \$1.5 Billion Claim Backlog.** The state owes cities, counties, and special districts:

 - \$720 million for claims submitted before 2004. The state established a 15-year payment plan for these claims, but has not made a payment for several years.
 - \$621 million for claims submitted in or after 2004.
 - \$174 million for accrued interest on unpaid claims.

- No Funds for Employee Relations Mandates.** Similar to previous years, the budget assumes local governments will implement the Peace Officer Procedural Bill of Rights and Local Government Employee Relations mandates and that reimbursement will be provided at some unspecified future date.

- Includes \$51.3 Million (\$48.8 Million General Fund) to Keep 15 Mandates Active.** Most of these mandates pertain to public safety or tax collection.

- Proposes to “Repeal” (Render Optional) 32 Mandates.** The administration proposes trailer bill language to specify that these provisions are not required.

 - All of these mandates have been suspended for at least two years; seven have been suspended since 1990.
 - To ensure that these mandates are not reactivated if their trailer bill legislation is not enacted by July 1, 2012, the budget also proposes to suspend the mandates.

- Proposes to Suspend 24 Mandates.** These mandates span a range of policy areas, including open meeting requirements and voting procedures. Many have been suspended annually for over a decade.



Why Repealing—Not Suspending—Mandates Makes Sense

- Suspensions Are Confusing.*** A member of the public would have to do the following to determine whether a statutory requirement has the force of law:

 - Determine whether the requirement was the topic of a successful claim filed with CSM.
 - If so, note the name of the mandate as established by the commission—or the chapter/year of the primary legislation creating the mandate.
 - Check Budget Item 8885. If the requirement is a mandate and funded at \$0, the requirement is suspended and does not have the force of law.

- State Has Never Reactivated a Mandate Suspended More Than Once.*** Repeatedly suspending mandates reduces the transparency of state laws without advancing other policy objectives.

- Mandates Are Inefficient Means to Achieving State Policy Objectives.*** While mandate reimbursements are an important fiscal safeguard for local governments, they are a poor choice for financing state objectives because they (1) do not encourage local agencies to contain costs and (2) seldom are well aligned with state goals. (Under the animal adoption mandate, for example, the state reimburses shelters for animals that they euthanize rather than those they successfully adopt out.) The state usually can achieve its objectives more effectively by funding local agencies to achieve certain goals, rather than instituting mandates.



A Closer Look at Selected Mandates

- Animal Adoption.** Mandate extends the holding period for animals in shelters, generally from three to six days. This mandate has been suspended annually since 2009-10 and the state owes \$62 million for it.

 - The budget proposes to repeal the mandate.
 - Recommend approval of the budget proposal because state funding does not promote state objectives.

- Open Meeting Act.** Mandate requires local agencies to prepare and post agendas for public meetings and provide information regarding actions taken during closed sessions. The state owes \$115 million for the mandate. In 2011-12, the administration deemed the mandate to be suspended because the budget did not list it or fund it. The SCO, however, is accepting claims for this mandate because it was not suspended in accordance with the law.

 - The budget proposes to suspend the mandate.
 - Recommend recasting the mandated provisions as “best practices” for implementing Proposition 59 (2004), the constitutional amendment granting the public the right to access government records. Require each local government to announce its policies for carrying out Proposition 59 at a regularly scheduled public hearing. After making this announcement, specify that the local government may not alter its policies for at least one year, except to adopt the best practices policy.
 - The Governor’s proposed November 2012 ballot measure contains provisions that would reactivate this mandate’s requirements.



A Closer Look at Selected Mandates

(Continued)



Peace Officer Procedural Bill of Rights. Mandate requires local agencies to offer certain procedural protections to peace officers being investigated for disciplinary action. The state owes local governments \$145 million for the mandate.

- The budget proposes to add another year's costs for this mandate (about \$15 million) to the state's backlog of unpaid mandate claims.
- Recommend amending the mandate's requirements to render them optional. Local employment practices can be determined locally through collective bargaining.