

What Is a Mandate: An Overview



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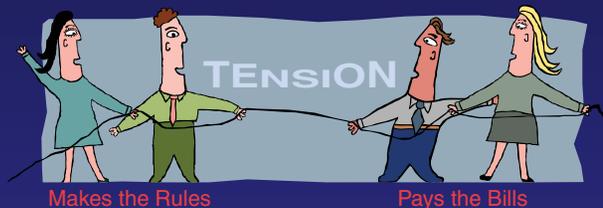


Californians Served by Many Different Governments

Federal Government	Special Districts
State Government	Schools
Cities, Counties	Community College Districts



Whenever Multiple Governments Serve the Same People. . .



California's Reimbursement Requirement

- **If State Government Mandates a Local Government Provide:**
 - "New Program"
 - "Higher Level of Service"
- **Constitution Requires State to Provide Reimbursement**



ARTICLE XIII B, Section 6

“Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse that local government . . .”



Reimbursement Requirement

- **Give Local Governments Financial Protection**
- **Added by Proposition 4, 1979**
- **Followed Proposition 13, 1978**



Proposition 4 Sounds Straightforward, But. . .

- **Sorting Out What Must Be Reimbursed Not Always Easy**
- **Sometimes:**
 - Minor Requirements Are Reimbursable Mandates
 - Major Requirements Are Not
- **California’s Definition of Reimbursable Mandate Differs from Other States and Federal Government**

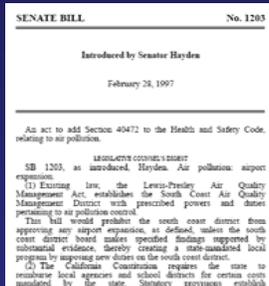


After Learning About Mandates, People Often Say . . .

- **State’s Cost to Reimburse Mandates Is Significant**
- **Number of State Requirements Found to Be a Reimbursable Mandate Is:**
 - Fewer Than Expected
 - Fewer Than Bills Identified as “State-mandated Local Program”



Legislative Counsel Bill Example



Vote: majority. Appropriation:
State-mandated local program: yes.



Purpose of This Presentation

- Help You Assess Whether a Proposal Would Be a Constitutionally Required Reimbursable Mandate



A Reimbursable Mandate Is:

- New Obligation
- State Freely Chooses to Impose Upon Local Agencies
- Forces Local Agencies to Pay For New Governmental Program or Procedure



What Is a “Governmental Program or Procedure?”

- Requirements Regarding Traditional Governmental Service:
 - Schools, Police, Fire
- Requirements Not a Reimbursable Mandate If:
 - Not Focused On Government Programs
 - Not Unique to Government
 - Affects Private And Public Sectors Equally
 - Example: Minimum Wage



Reimbursable Mandates Usually Involve

- **New Required Local Activity**
- **Pressure on Local Tax Revenues**
 - Homeless Shelters
 - Care For Stray Animals
 - Visit Homes of Students
- **Protecting Local Tax Revenues Part of Underlying Purpose of Proposition 4**



Increased Costs Without Required New Activity or New Program. . .

- **Typically Not a Mandate**
- **Example: County General Assistance**
 - Program Helps Poor
 - County Caseloads Could Increase If State Cuts Funds For Other Poverty Programs
 - Increased County Caseload Would Not Involve a New Program or New Activity
 - Probably Not a Reimbursable Mandate



State Requirements That Decrease Local Discretion?

- **Not Reimbursable Mandate, Unless State Requires New Program or Higher Level of Service**
- **Example: Substitute One Class of Math for One Class of History**
 - School Day Stays the Same
 - Facilities Stay the Same
- **Proposition 4 Does Not Safeguard Local Discretion**



Can a Change in Cost Sharing Be a Reimbursable Mandate?

- **Yes, Under Limited Circumstances**
- **Proposition 1A (2004) Expanded Mandate Definition**
- **Definition Now Includes:**
 - Some Actions By Legislature
 - That Shift Financial Responsibility
 - To Cities, Counties, or Special Districts



Proposition 1A (2004)

“(C) a mandated new program or higher level of service includes a transfer by the Legislature from the state to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the state previously had complete or partial financial responsibility.”

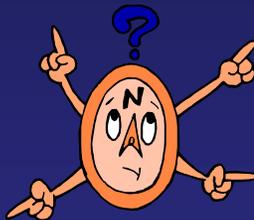


A Transfer of Financial Responsibility *Example?* Could Be a Mandate, if . . .

- **Shift Is By Legislature**
 - Not Governor or State Agency
- **To City, County, or Special District**
 - Not Schools or Community Colleges
- **Required Program**
 - Something Local Agencies Must Implement
- **Previous State Responsibility**
 - Look For Pre-existing Statutes Assigning Responsibility



Confused?



Steps to Learning

- **Broad Overview**
- **What Is *Not* a Reimbursable Mandate**
- **Explore Examples**
- **Rest of this Presentation:**
 - Requirements Not Reimbursable Mandates
- **Second LAO Presentation:**
 - What's a Mandate: Learning Through Examples



Exemptions— What Is Not a Mandate?

- **Check Whether Proposal Meets Any Exemption In:**
 - Constitution
 - Statutes/Case Law
- **If Meets Any Exemption, Constitution Does Not Require Reimbursement**
 - State May Elect to Provide Reimbursement



Three Constitutional Exemptions

- **Before January 1, 1975**
 - Need Not Provide Reimbursement for Requirements Enacted Before this Date
- **State Laws Defining Crime or Changing Definition of Crime**
 - Criminal Enforcement May Impose Costs, But Is Not a Reimbursable Mandate
- **State Requirement That Local Agency Requested**
 - If Ask For It, Not a Reimbursable Mandate



Four General Exemptions in Case Law And Statutes. . .

1. **Voter-Approved Initiatives and Federal Requirements**
2. **Anything Local Agency Has a Choice Whether to Implement**
3. **Requirements Local Agency Could Pay For With Fees, Additional State Money, or Offsetting Savings**
4. **Requirements on Agencies Other than a City, County, Special District, School, or Community College District**



Voter-Approved Initiatives and Federal Requirements

- **Requirements Imposed By Voters or Federal Government, Not State**
- **Includes Laws to Implement Initiatives or Federal Requirements**
 - But Not Laws that Go Beyond What Is Needed to Implement Initiative or Federal Requirement



Anything Local Agency Has a Choice Whether to Implement

- **Permissive Activities Are Not Mandates**
- **Mandatory Requirements on Optional Programs Are Not Mandates**
 - Example: Schools Receive Extra Funds If they Create Site Councils
 - Court Said Requirements Imposed On Optional Site Councils Are Not Mandates



Requirements Agency Could Pay for With Fees, Money Provided by State, or Offsetting Savings

- **If No Pressure On Local Tax Revenues, No Requirement to Reimburse**
- **Local Preference Regarding Fees Not a Factor**
- **State Funding or Offsetting Savings**
 - Funding Should Be Clearly Identified
 - Savings Should be Near Term and Identifiable



Requirements on Agencies Other Than a City, County, Special District, School, or Community College District

- **Not Eligible: Joint Powers Authorities, Redevelopment Agencies, Councils of Governments, Charter Schools**
- **Because:**
 - Agencies Voluntarily Created
 - Did Not Levy a Property Tax Before Proposition 13
 - Not Defined as Eligible Claimants In State Law



A Reimbursable Mandate is:

- **A Requirement Freely Imposed By the State Upon a Local Agency**
- **That Requires Local Agencies to Pay For New Program or Higher Level of Service**



A Reimbursable Mandate Is Not

- **A State Requirement Enacted:**
 - Before 1975
 - To Carry Out Federal Law or Voter-approved Measure
 - At the Request of Local Agencies
- **A State Requirement That:**
 - Defines a Crime
 - Is Voluntary or Imposed on a Program Local Agencies Chose to Create
 - Is Possible to Pay For Through Fees, Designated State Funds, or Offsetting Savings
 - Is Imposed Upon a Type of Agency that Never Levied a Property Tax



While List of Exemptions Is Long

- Many State Laws, Executive Orders, State Regulations Found to Be Mandates
- State Pays Hundreds of Millions of Dollars Annually For Mandates
- New Claims Filed Annually With Commission On State Mandates



Next Step

- Ready For Second Slide Presentation
- What's a Mandate: Learning Through Examples

