

What's a Mandate: Learning Through Examples



Legislative Analyst's Office
December 2006

California's Reimbursement Requirement

- **Idea Makes Intuitive Sense**
- **Sorting Out Which State Requirements Must Be Reimbursed Can Be Tricky**

“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. .”

ARTICLE XIII B, Section 6



This Training Presentation

- **Explores Examples**
 - Are They Reimbursable Mandates?
 - What Costs Are Reimbursable?
- **Follows First Presentation: *What's A Mandate: An Overview***

Spiked Orange Hair

- **Proposition 10009 Criminalizes Wearing Spiked Orange Hair**
- **Cities and Counties Must Enforce Law**
- **Is this a Reimbursable Mandate?**



A Requirement Is A Reimbursable Mandate If It . . .

- Was Freely Imposed by State Government Upon Local Agencies



Requires Local Agencies to Pay for New Governmental Program, Higher Level of Service, or Cost Share for a State-Local Program

Exemptions:

- Created before 1975
- Enacted upon local agency request
- Defines a crime or penalty
- Establishes voluntary provision—or requirement for voluntary program
- Possible to pay with fees, offsetting savings, or designated state funds
- Imposed upon a type of agency that did not levy a property tax
- Established to implement a voter/federal requirement

No, Not a Reimbursable Mandate

- **Voter Approved Measures Are Not Requirements “Freely Imposed” by State Government**
- **Measures Defining a Crime Are Not Reimbursable Mandates**



People Released From Jail for Orange Hair Crimes

- **Counties Must Provide Counseling Services**
- **Would This Be a Reimbursable Mandate?**



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Yes, a Reimbursable Mandate

- **All Costs to Run Counseling Program Reimbursable**
- **All 58 Counties**



Graffiti Bill

- **Cities Must Continue Existing Programs**
- **And Increase Funding For Inflation**
- **Is This a Reimbursable Mandate?**



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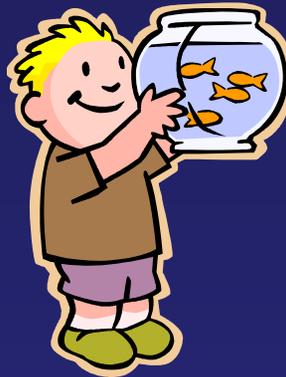
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Yes, a Reimbursable Mandate

- **Reimbursable Costs Include Baseline Program Costs**
- **And Inflation Adjustment**



Elementary School Goldfish



- **Schools Must Keep Goldfish in Classrooms**
- **All Major School Districts Sent Letters of Support for Pending Legislation**

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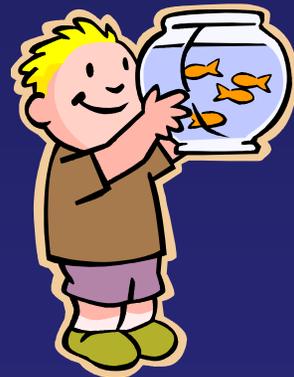
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Local Request Exemption

- **All Affected Local Agencies Must Pass Resolution Requesting Requirement**
- **Simple “Letter Of Support” Not Enough**
- **Requirement a Reimbursable Mandate on any Agency Not Passing Resolution**

Yes, an Reimbursable Mandate

- **Agencies Did Not Pass Resolution Requesting Requirement**
- **Mandate on all School Districts**
- **Reimbursable Costs**
 - Fish, Tanks, Fish Food,
 - Perhaps Facility Modifications, Teacher Training . . .



Bus Tire Tread



- **Congress Passes Law Placing State Transportation Funding at Risk**
- **States Must Ensure All Buses Maintain Minimum Tire Tread**
- **School Districts Have Increased Costs**

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Did Not Meet Either Threshold Criteria. No Need to Review Exemptions

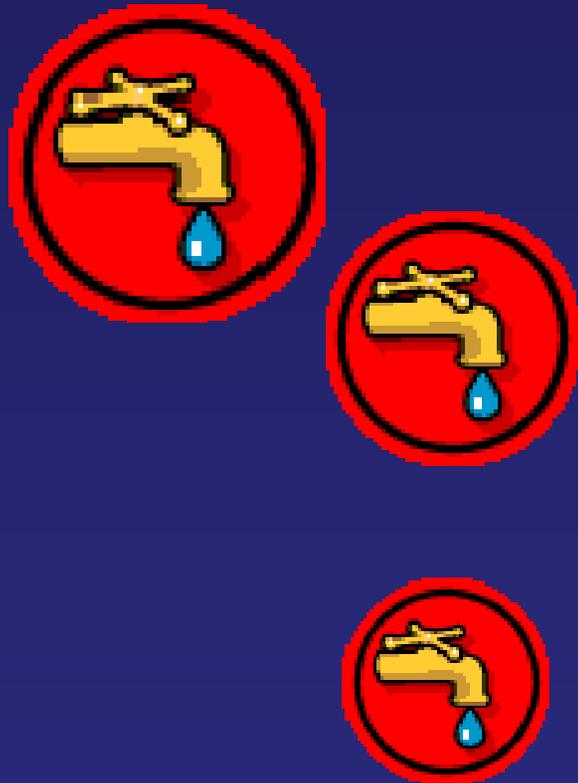
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No, Not an Reimbursable Mandate

- **Not “Freely Imposed by State”**
- **Not a Governmental Program—
Applies Equally to Private Sector**
- **Carries Out Federal Requirement**



Meter Water



- **State Law Requires Water Districts to Use Certain Type of Meter**
- **Governing Board**
 - Can Recover Costs Through Fees
 - But Don't Want To

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- **If Local Agency Can Offset Costs With Fees**
 - But Fee Revenues Must Be Realistic



Property Tax Shift



- **County Auditors Must Reallocate Property Taxes**
- **Schools Get More Money**
- **Other Local Agencies Get Less**

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Yes, Small Part of Measure Is a Reimbursable Mandate



- **Revenue Losses Are Not Mandates**
- **Sometimes, Only a Small Administrative Requirement Is a Reimbursable Mandate**
- **Minor Administrative Costs Are a Reimbursable Mandate**

Safer Clothing for State and Local Firefighters

- **State Agency Regulation Requires Fire Departments to Provide Safer Clothes to Fire Fighters**



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Yes, a Reimbursable Mandate

- **Marginal Costs to Buy Safer Clothes Is Reimbursable**



Worth Noting

- **Sometimes State Policy Can Be Drafted to Yield Similar Outcomes Without Imposing a Reimbursable Mandate**
 - Requiring “Safe Clothing” for All Employees In Dangerous Occupations
 - Not a Reimbursable Mandate

Ozone Limitations Plans



- **Federal Law Requires Plans**
- **State Law Adds Required Elements to Federal Planning Law**

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Yes, a Reimbursable Mandate



- **Marginal Cost to Comply With State Requirements Are Reimbursable**
- **What About Costs to Carry Out Plan?**
- **If State Law Directed Local Agencies to Implement Plan, Costs to Carry Out State Required Element Would Be Reimbursable**

Property Tax Administration



- **Counties May Charge Redevelopment Agencies Fees to Offset Costs**
- **Is this a Reimbursable Mandate?**

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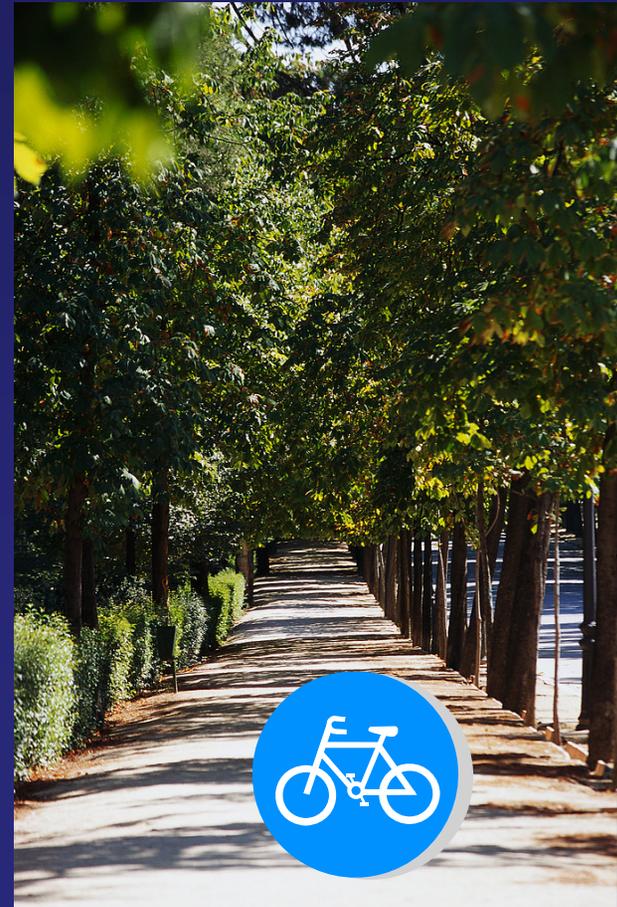
No, Not a Reimbursable Mandate

- **No New Program**
 - Reallocating Responsibilities of Local Governments
- **Redevelopment Agencies Not Eligible**



Bike And Shade Tree (BAST) Program

- **Free Bikes and Trees**
- **State Funds Half of Program's Costs For 12 Years**
- **Law Deletes BAST Funding and Says Cities Are Responsible for All Costs**



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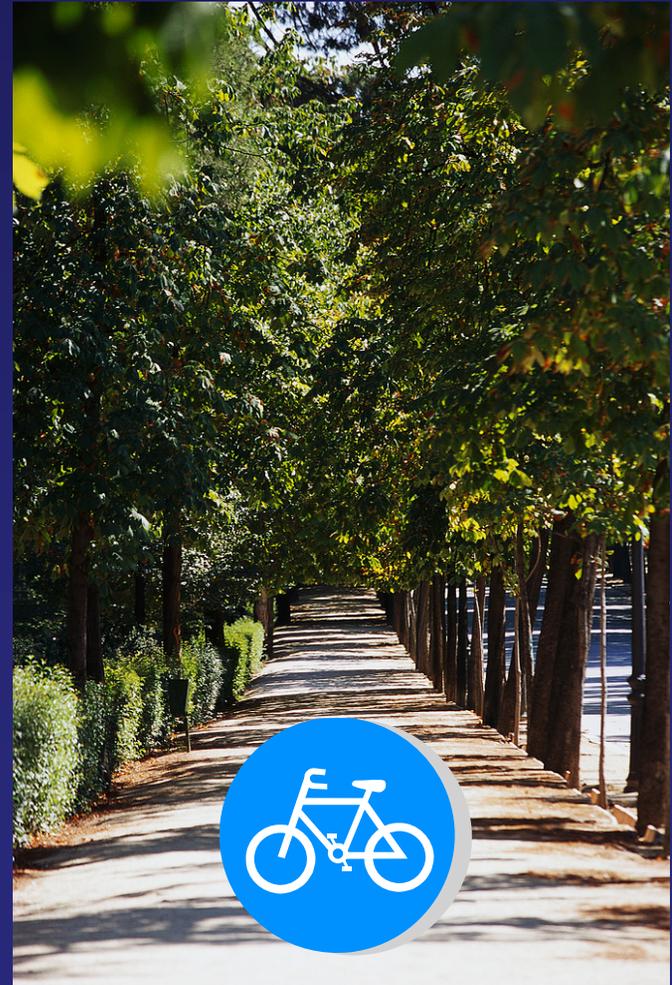
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A Transfer of Financial Responsibility Could Be a Reimbursable Mandate, If . . .

- **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

No, Not a Reimbursable Mandate

- **Because State Never Assumed Financial Responsibility**



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Subsequent BAST Legislation

- **Goals of Program Not Being Realized**
- **Legislature Passes Law Requiring More Expensive Trees and Bikes**
- **Requirements Not Mentioned in Measure Approved by Voter**

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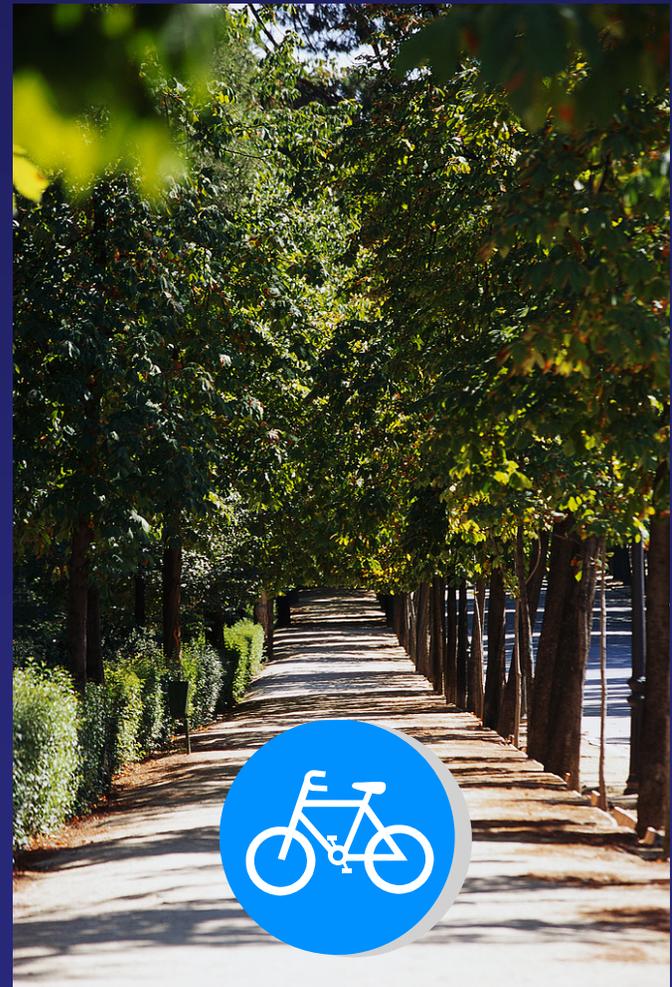
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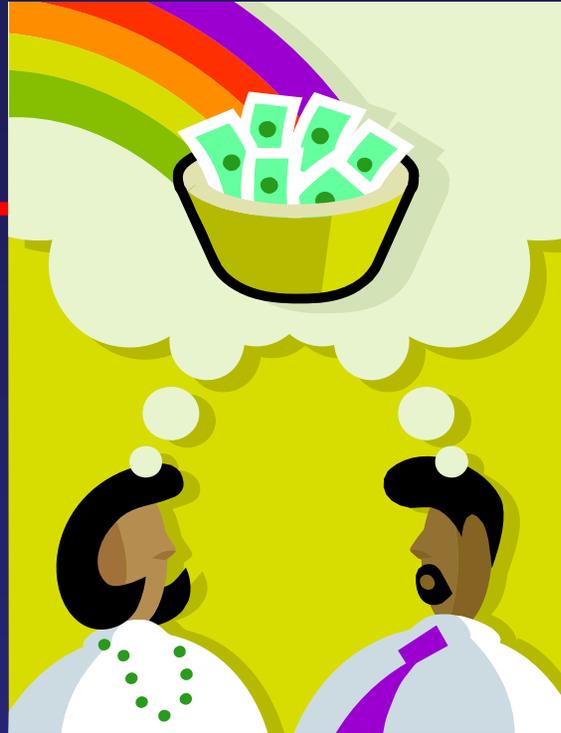
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Subsequent BAST Measure Not a Reimbursable Mandate

- **Because Legislature
Simply Trying to Carry
Out Wishes of Voters**



Questions



Sources of Information

- **Your Counsel**
- **Commission on State Mandates**
 - (916) 323-3562 Or Csminfo@csm.Ca.Gov
- **LAO—General**
 - Marianne O'Malley (916) 391-8315
 - Marianne.O'Malley@lao.Ca.Gov
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 - Paul Warren (916) 391-8307
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