STATE REIMBURSEMENT OF MANDATED COSTS: A REVIEW OF STATUTES FUNDED BETWEEN SEPTEMBER 1983 AND SEPTEMBER 1984

MARCH 1985

85-11

TABLE OF CONTENTS

	Page
PREFACE	1
SUMMARY OF MAJOR FINDINGS AND RECOMMENDATIONS	3
CHAPTER I. INTRODUCTION	17
The Mandate Reimbursement Process	17
Review of Unfunded Mandates	21
CHAPTER II. MEDI-CAL BENEFICIARY PROBATE	23
CHAPTER III. FIRE STANDARDS FOR HIGH-RISE STRUCTURES	30
CHAPTER IV. PROPERTY APPRAISALS	36
CHAPTER V. CUSTODY OF MINORS	41
CHAPTER VI. WORKERS' COMPENSATION LIABILITY LIMITS	50
CHAPTER VII. PSYCHOLOGICAL EVALUATIONS	57
CHAPTER VIII. ABSENTEE BALLOTS	62
CHAPTER IX. ZONING CONSISTENCY	68
CHAPTER X. FILIPINO EMPLOYEE SURVEY	73
CHAPTER XI. POLLING PLACE ACCESSIBILITY	79
CHAPTER XII. SCHOOL CROSSING GUARDS	82
CHAPTER XIII. REGIONAL HOUSING NEEDS	88
CHAPTER XIV. NOTIFICATION OF INVOLUNTARY LIENS	95
CHAPTER XV. REASSESSMENT ON TRANSFER OF OWNERSHIP	100
CHAPTER XVI. LIS PENDENS	104
CHAPTER XVII. BART--UNIFORMED SAFETY ATTENDANTS	110

TABLE OF CONTENTS--contd

Page

CHAPTER XVIII. SOLID WASTE MANAGEMENT PLANS..... 115

CHAPTER XIX. BEDS FOR JUVENILE DETAINEES..... 121

CHAPTER XX. VICTIMS' STATEMENTS..... 125

CHAPTER XXI. WILLIAMSON ACT NOTIFICATION..... 130

PREFACE

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 funded initially in one of the following three claims bills: (A) Ch 1052/83 (SB 1274), (B) Ch 96/84 (AB 504), and (C) Ch 1436/84 (AB 2961). These measures were enacted during the period September 24, 1983 through September 30, 1984. The specific mandates funded in these bills and reviewed in this report are listed below:

Mandates Funded by Claims Bills Enacted in 1983 and 1984

Mandate Authority	Description
A. Ch 1052/83 (SB 1274):	
1. Ch 102/80	Medi-Cal Beneficiary Probate
B. Ch 96/84 (AB 504):	
2. Ch 946/73	Fire Standards for High-Rise Structures
3. Ch 1046/76	Property Appraisals
4. Ch 1399/76	Custody of Minors
5. Ch 360/77	Workers' Compensation Liability Limits
6. Ch 1130/77	Psychological Evaluations
7. Ch 77/78	Absentee Ballots
8. Ch 357/78	Zoning Consistency

9.	Ch 845/78	Filipino Employee Survey
10.	Ch 494/79	Polling Place Accessibility
11.	Ch 282/79	School Crossing Guards
12.	Ch 1143/80	Regional Housing Needs
13.	Ch 1281/80	Notification of Involuntary Liens
14.	Ch 1349/80	Reassessment on Transfer of Ownership
15.	Ch 889/81	Lis Pendens
16.	PUC Decision No. 90144	BART--Uniformed Safety Attendants
17.	Title 14, Sec. 17141, CAC	Solid Waste Management
18.	Title 15, Sec. 4323(c), CAC	Beds for Juvenile Detainees

C. Ch 1436/84 (AB 2961):

19.	Ch 1262/78	Victims' Statements
20.	Ch 1095/81	Williamson Act Notification

The three claims bills identified above also contained funding for several other mandates which we have reviewed in previous reports.

This report was prepared by Nancy Rose Anton and other members of the Legislative Analyst's staff, under the supervision of Peter Schaafsma.

SUMMARY OF MAJOR FINDINGS AND RECOMMENDATIONS

This section summarizes the major findings and recommendations resulting from our review of the 20 mandates that are the subject of this report. Table S-1 summarizes the report's major fiscal recommendations.

CHAPTER II: MEDI-CAL BENEFICIARY PROBATE

1. Chapters 102 and 1163, Statutes of 1981, and subsequent "all-county" letters have imposed a mandate on local governments because they require counties to provide the state with specified documents on deceased Medi-Cal recipients whose estates are handled by the county.

2. The mandate serves a statewide interest by allowing the state to recoup a portion of its Medi-Cal expenditures from the estates of Medi-Cal beneficiaries.

3. The Legislature's objectives have been achieved only in part because local agencies have not implemented the mandate on a uniform basis.

4. Accordingly, we recommend that the Legislature direct the Department of Health Services to (a) monitor and enforce county compliance with death notification and information requirements, (b) seek federal funding participation for reimbursement of the counties' administrative costs, and (c) develop an estimate of the amount of probate recoveries resulting from the mandate and determine the characteristics of these cases.

CHAPTER III: FIRE STANDARDS FOR HIGH-RISE STRUCTURES

1. Chapter 946, Statutes of 1973, requires local governments to provide an increased level of fire inspection services with respect to existing high-rise buildings.

2. This mandate appears to serve a statewide interest by ensuring that all high-rise buildings meet minimum standards for fire and panic safety.

3. Accordingly, we recommend that (a) this mandate be continued, and (b) the Legislature direct the State Fire Marshal to report on the status of compliance with fire safety regulations adopted pursuant to Chapter 946.

CHAPTER IV: PROPERTY APPRAISALS

1. Chapter 1046, Statutes of 1976, required county assessors to provide an increased level of service--with resultant increased costs--to develop a specific plan for appraising property and to conduct property appraisals on a more-frequent basis.

2. This mandate did not serve a statewide interest.

3. Chapter 1081, Statutes of 1980, repealed the mandate effective September 25, 1980; consequently, costs are no longer being incurred by counties.

4. Accordingly, no recommendation on this program is warranted.

CHAPTER V: CUSTODY OF MINORS

1. Chapter 1399, Statutes of 1976, mandates an increased level of service on local agencies by requiring district attorneys to take "all action necessary" to ensure that persons appear at custody hearings and comply with temporary and permanent custody orders. Such action includes locating individuals who have unlawful possession of a child, arresting that individual, if necessary, to ensure an appearance before the court, and taking physical custody of the child for delivery to the legal custodian.

2. The mandate appears to serve a statewide interest by ensuring that there is uniform and adequate enforcement of child custody court orders and decrees. This is consistent with provisions of the State Constitution which require "the Attorney General to see that the laws of the state are uniformly and adequately enforced."

3. The costs associated with the mandate greatly exceed the estimates provided to the Legislature at the time the mandate was enacted. The Legislature was advised that its costs would be minor; in fact, however, annual General Fund costs are approaching $1 million and are projected to increase to more than $1.2 million in 1984-85.

4. Although the courts are required, if appropriate, to require reimbursement of the costs associated with this mandate from the parties involved, the amount of reimbursement received by the counties has been negligible.

5. Accordingly, in order to control future costs we recommend that the Legislature (1) define the specific types of actions district attorneys are authorized to undertake to locate persons in possession of a child subject to a custody dispute, and (2) consider repealing the child custody mandate and replacing it with a local assistance grant program. Defining the activities district attorneys could undertake and establishing a block grant funding mechanism would encourage localities to continue to provide custody-related services while enabling the Legislature to control current and future state costs.

CHAPTER VI: WORKERS' COMPENSATION LIABILITY LIMITS

1. Chapter 360, Statutes of 1977, simplifies the calculation and payment of workers' compensation awards to injured or diseased workers throughout the state.

2. Chapter 360 appears to serve a statewide interest; however, it is not clear that the measure imposes a mandate on local agencies because, from a programmatic perspective, it does not appear to result in either a new program or an increased level of service.

3. The costs to the state to reimburse local agencies exceed the benefits resulting from the simplified administrative procedures established by Chapter 360. Further, although the measure was enacted by the Legislature with the understanding that it was a "no cost bill" the measure is resulting in estimated General Fund costs of approximately $5 million annually.

4. In 1984, the Governor vetoed funds approved by the Legislature to reimburse local agencies for Chapter 360-related costs.

5. We recommend that the Legislature repeal Chapter 360 in order to limit future costs. Further, we recommend that the Legislature not reimburse local agencies for the costs incurred in connection with Chapter 360 as a "reimbursable mandate" because it is not clear that reimbursement is required under the terms of the Constitution. To the extent that the Legislature wishes to provide funds to offset costs incurred by local agencies as a result of Chapter 360, such funds should be appropriated on an "equity," rather than a "reimbursable mandate" basis.

CHAPTER VII: PSYCHOLOGICAL EVALUATIONS

1. Chapter 1130, Statutes of 1977, required counties to provide an increased level of service by performing psychological evaluations of individuals convicted of abusing or neglecting a minor.

2. Chapter 282, Statutes of 1982, makes the inclusion of psychological evaluations in presentencing reports permissive, rather than mandatory, effective January 1, 1983.

3. Accordingly, we recommend continuation of existing law which allows but does not require counties to perform psychological evaluations on an "as needed" basis.

CHAPTER VIII: ABSENTEE BALLOTS

1. Chapter 77, Statutes of 1978, requires local governments to distribute and process an absentee ballot to any voter who requests one.

2. The mandate appears to serve a statewide interest.

3. The cost of the measure substantially exceeds the estimates provided to the Legislature at the time the measure was enacted.

4. Expanding the availability of absentee ballots may encourage persons who would cast a ballot anyway to use a more costly method of voting.

5. Accordingly, we recommend that the Legislature repeal this mandate and return to prior law whereby absentee ballots were provided only to registered voters unable, as defined, to vote at their polling place.

CHAPTER IX: ZONING CONSISTENCY

1. Chapter 357, Statutes of 1978, requires the City of Los Angeles to make its zoning ordinances consistent with its general plan by January 1, 1982.

2. We are unable to identify any statewide interest associated with this mandate.

3. The Legislature's objectives in establishing the mandate have been achieved only in part, because the city has not fully complied with the mandate's requirements.

4. Costs incurred by the city to comply with the mandate after January 1, 1982 (the statutory deadline for compliance) may be state reimbursable.

5. We recommend that the Legislature repeal Chapter 357 because it does not appear to serve a statewide interest.

CHAPTER X: FILIPINO EMPLOYEE SURVEY

1. Chapter 845, Statutes of 1978, requires cities and counties to collect specified data on Filipino employees in an effort to prevent employment discrimination.

2. The mandate does not appear to serve a statewide interest because existing statistical information indicates that Filipinos are above parity as a percentage of the statewide labor force.

3. We are unable to identify the benefit of requiring all cities and counties, regardless of how large their Filipino populations are, to survey and maintain statistical information on Filipino employees.

4. Accordingly, we recommend that the mandate be made permissive. Cities and counties could continue to collect statistical information on the ethnic composition of their work force, at their option.

CHAPTER XI: POLLING PLACE ACCESSIBILITY

1. Chapter 494, Statutes of 1979, requires local elections clerks to provide an increased level of service by including in notices sent to each voter a statement as to whether the facility in which they will vote is accessible to the physically handicapped.

2. The mandate appears to serve a statewide interest.

3. The mandated notification requirement does little to assist handicapped persons in exercising their right to vote.

4. Accordingly, we recommend that the Legislature make the provisions of this mandate optional, rather than mandatory, because benefits from the program do not appear to outweigh the costs to the General Fund.

CHAPTER XII: SCHOOL CROSSING GUARDS

1. Chapter 282, statutes of 1979, as clarified by Chapters 1035 and 1039, Statutes of 1979, has required Santa Cruz County to provide school crossing guards.

2. The mandate serves both a local and a statewide interest.

3. Chapter 282 treated Santa Cruz County no differently than the state's 57 other counties, as all counties lost the option not to pay for crossing guards. Consequently, all counties may be eligible for reimbursement.

4. The mandate imposed by Chapter 282 is not state reimbursable because Chapter 282 provided revenue far in excess of the costs of providing school crossing guards.

5. Accordingly, we recommend that the Legislature appropriate no additional funds to reimburse Santa Cruz County.

CHAPTER XIII: REGIONAL HOUSING NEEDS

1. Chapter 1143, Statutes of 1980, imposes a mandate on local agencies because the housing element requirements established by the measure significantly increase the level of service that local agencies must provide.

2. The mandate serves a statewide interest.

3. The instructions for claiming reimbursement issued by the State Controller do not accurately reflect prior legislative action.

4. Information needed to evaluate the costs and benefits associated with this mandate is not available.

5. We recommend that the Legislature (1) direct the Controller to amend the instructions under which reimbursement claims are filed to reflect properly prior legislative action, and (2) direct the Department of Housing and Community Development to prepare a report evaluating the impact of Chapter 1143 on the attainment of statewide housing goals.

CHAPTER XIV: NOTIFICATION OF INVOLUNTARY LIENS

1. Chapter 1281, Statutes of 1980, requires counties to provide an increased level of service to process and mail notices to debtors regarding the imposition of an involuntary lien against the debtor's property.

2. The mandate appears to serve a statewide interest by ensuring that property owners throughout the state are treated in a uniform manner.

3. The costs resulting from the mandate are not borne by the mandate's beneficiaries.

4. We recommend that legislation be enacted authorizing counties to charge judgment debtors (the mandate's beneficiaries) a fee sufficient to pay the costs of providing the mandated notice, for annual General Fund savings of $500,000 to $1 million.

CHAPTER XV: REASSESSMENT ON TRANSFER OF OWNERSHIP

1. Chapter 1349, Statutes of 1980, required counties to provide an increased level of service with respect to the assessment and valuation of real property.

2. The mandate appears to have served a statewide interest.

3. The costs associated with this mandate were "one-time" costs and are no longer incurred by counties.

4. Accordingly, no recommendation on this mandate is warranted.

CHAPTER XVI: LIS PENDENS

1. Chapter 889, Statutes of 1981, requires local governments, when initiating certain legal actions, to make copies of a lis pendens (a formal notice of a pending court action), mail the copies to various specified parties and secure verification of delivery.

2. The mandate appears to serve a statewide interest by providing some property owners more time to exercise their legal rights to protect their property interests.

3. Local costs associated with Chapter 889 were eliminated beginning January 1, 1984, by Chapter 78, Statutes of 1983. The 1984 Budget Act, however, appropriated $17,000 from the General Fund to reimburse local agencies for costs incurred during 1984-85. The Department of Finance indicates that these funds should revert to the General Fund at the close of the fiscal year.

4. We recommend continuation of the mandate as modified by Chapter 78.

CHAPTER XVII: BART--UNIFORMED SAFETY ATTENDANTS

1. Public Utility Commission (PUC) decisions 90144 and 91091 require the Bay Area Rapid Transit District (BART) to place a second uniformed attendant on specified trains. These decisions result in a mandate, but the mandate is not state-reimbursable because BART has the authority to levy service charges sufficient to pay for the costs of the mandated program.

2. The PUC decisions appear to serve a statewide interest by increasing the level of safety for BART passengers.

3. The Governor vetoed funds approved by the Legislature to reimburse BART for the costs resulting from the PUC decisions, because such costs were recoverable through fees.

4. We recommend that the Legislature (a) not appropriate funds to reimburse BART for the costs resulting from the PUC decisions, and (b) adopt language specifying that the decisions result in a state-mandated local program, but that the costs of this program are not reimbursable.

CHAPTER XVIII: SOLID WASTE MANAGEMENT

1. Title 14 regulations (Title 14, Article 7, Chapter 2 and Section 17141 of the California Administrative Code) require counties to develop solid waste plans for their jurisdictions and to revise these plans, as necessary, every three years.

2. The mandate serves a statewide interest.

3. The benefits appear to be commensurate with the costs.

4. Accordingly, we recommend that (1) the mandate regarding solid waste planning remain in effect at this time, and (2) the Legislature direct the Waste Management Board to report on the effectiveness of the current planning process and recommend any needed changes.

CHAPTER XIX: BEDS FOR JUVENILE DETAINEES

1. Title 15, Section 4323(c) of the California Administrative Code specifies minimum size bed and mattress standards for newly constructed, county-run juvenile facilities.

2. Based on erroneous information provided by staff at the California Youth Authority, Alameda County replaced mattresses in existing facilities, incurring one-time costs as a result. No other county received this erroneous information; consequently, Alameda County is the only entity eligible for reimbursement under the existing parameters and guidelines.

3. Counties constructing new facilities may be eligible for reimbursement as a result of the Title 15 regulations, however they are not eligible under existing parameters and guidelines. To receive reimbursement, a new claim would have to be be filed.

4. Accordingly, no recommendation on this mandate is warranted.

CHAPTER XX: VICTIMS' STATEMENTS

1. Chapter 1262, Statutes of 1978, requires probation officers to include a statement from the victim of a felony in the probation report.

2. The mandate appears to serve neither a state nor a local interest.

3. The cost of implementing the mandate is greater than originally estimated at the time the Legislature enacted the measure.

4. Accordingly, we recommend that the Legislature make the inclusion of victims' comments in probation reports optional, rather than mandatory. Local probation departments would still have the authority to include victims' comments when warranted, but would no longer be required to so do in all cases.

CHAPTER XXI: WILLIAMSON ACT NOTIFICATION

1. Chapter 1095, Statutes of 1981, required cities and counties to provide on a "one-time only" basis, a specified notice to all landowners with Williamson Act contracts.

2. The mandate served a statewide interest by ensuring that all landowners participating in the Williamson Act program received timely and uniform notice about specified changes in the program.

3. The mandated costs associated with this chapter were "one-time only" and are no longer incurred by cities and counties.

4. Accordingly, no recommendation on this mandate is warranted.

Table S-1

Summary of Recommendations
(dollars in thousands)

Statute or Regulation	Legislative Analyst's Recommendation	Impact on Cost: State	Impact on Cost: Local
Ch 102/80 (Medi-Cal Beneficiary Probate)	Retain, but require departmental action	-$35	None
Ch 946/73 (Fire Standards For High-Rise Structures)	Retain, and require departmental report	None	None
Ch 1046/76 (Property Appraisals)	None; mandate has been repealed	--	--
Ch 1399/76 (Custody of Minors)	Replace with block grant funding	Unknown	Unknown
Ch 360/77 (Workers' Compensation Liability Limits)	Repeal; consider funding past claims on an "equity" basis	-$5,000	None
Ch 1130/77 (Psychological Evaluations)	Continue as is	--	--
Ch 77/78 (Absentee Ballots)	Repeal	-$1,500	None
Ch 357/78 (Zoning Consistency)	Repeal	Unknown Savings	Unknown Savings
Ch 845/78 (Filipino Employee Survey)	Make permissive	-$15	None
Ch 494/79 (Polling Place Accessibility)	Make permissive	-$10	None
Ch 282/79 (School Crossing Guards)	Not a reimbursable mandate; discontinue funding	-$3	$3
Ch 1143/80 (Regional Housing Needs)	Retain, but require departmental action	+Unknown	+Unknown
Ch 1281/80 (Notification of Involuntary Liens)	Retain, with changes	-$750	None

Statute or Regulation	Legislative Analyst's Recommendation	Impact on Cost: State	Local
Ch 1349/80 (Reassessment on Transfer of Ownership)	None; one-time only mandate	--	--
Ch 889/81 (Lis Pendens)	Continue as is	--	--
PUC Decision No. 90144 (BART--Uniformed Safety Attendants)	Not a reimbursable mandate; do not fund	--	--
Title 14, Sec.17141, CAC (Solid Waste Management)	Retain, and require departmental report	--	--
Title 15, Sec.4323(c), CAC (Beds for Juvenile Detainees)	None; one-time only mandate	--	--
Ch 1262/78 (Victims' Statements)	Make permissive	-$334	None
Ch 1095/81 (Williamson Act Notification)	None; one-time only mandate	--	--

CHAPTER I

INTRODUCTION

THE MANDATE REIMBURSEMENT PROCESS

Original Legislative Provisions

The original "SB 90" (Ch 1046/72), known as the Property Tax Relief Act of 1972, established the principle that the state should reimburse local agencies for certain state-mandated local costs and revenue losses. As originally enacted, SB 90 did not require the state to provide reimbursement for all increased local costs, all mandated local costs, or even all state-mandated local costs. For instance, SB 90 did not require that costs mandated by the courts, the federal government or the voters, as well as costs resulting from any changes in the definition of a crime or infraction, be reimbursed by the state. Generally, what SB 90 did require was that the state provide reimbursement in cases where state legislation or executive regulations required that local agencies incur costs in order to (1) establish a new program, or (2) provide an increased level of service under an existing program. Even under these circumstances, however, it was still possible for the Legislature to "disclaim" its responsibility to reimburse local agencies in a variety of ways.

Constitutional Requirements

The reimbursement requirements have been amended many times since 1972. Most significantly, the voters' approval of Proposition 4 on the November 1979 ballot put in place a constitutional requirement (Article XIII B of the State Constitution) that the state reimburse local

governments for the costs of state-mandated programs. This effectively restricted the Legislature's ability to determine the circumstances under which reimbursement would be provided.

Reimbursement Process in Effect Until January 1, 1985

Under the process for reimbursing local governments that was in effect until January 1, 1985, a local government could file with the State Board of Control a claim for reimbursement of state-mandated local costs associated with unfunded legislation. The first of these claims, known as a "test claim," formed the basis for the board's review of statutes or regulations which were alleged to contain a state-mandated local program. After a series of hearings and a review of documents submitted by local and state agencies, the board then determined (1) if a mandate existed, (2) if the mandate was eligible for reimbursement, and (3) the amount of funding required to reimburse all local agencies for the costs incurred as a result of the mandate.

The amount of funding approved by the board in connection with individual mandates reflected the costs that the board estimated to have been incurred by all eligible local agencies from the operative date of the mandate through the current year. The cost determination was based on "parameters and guidelines" developed by the board, which delineated the types of costs which were eligible for reimbursement.

Periodically, the board would submit a report to the Legislature which summarized its findings regarding the need for reimbursement in connection with various statutes and regulations. At the board's request, a "claims bill" would then be introduced to appropriate the funds needed to

pay the claims approved by the board. After the claims bill was chaptered, the State Controller was responsible for establishing "claiming guidelines." These guidelines "translated" the provisions of the parameters and guidelines into a claim form which each eligible claimant was required to complete and submit to the Controller in order to receive reimbursement.

In subsequent years, funding for mandates that previously had been funded in a claims bill, would be provided through the regular budget process. Local agencies would have to file with the Controller on an annual basis claims for each mandate for which they were seeking reimbursement.

Court Challenges to the Reimbursement Process

Since the establishment of Article XIII B of the State Constitution, local agencies have filed approximately 35 suits against the state challenging various aspects of the mandated cost reimbursement process which was in effect prior to January 1, 1985. These cases, which involve more than 50 statutes and eight executive orders, generally fall into one of two categories: (1) those challenging the authority or jurisdiction of the state to make certain determinations relative to mandates, and (2) those challenging the adequacy of the funding level provided as reimbursement. Collectively, these cases provide the courts with an opportunity to significantly restructure the reimbursement process and, in the process, to restrict significantly the Legislature's flexibility regarding this process.

New Reimbursement Process

In an effort to resolve some of the issues raised by the 35 suits, the Legislature enacted SB 2337 (Ch 1459/84). This measure substantially revises the procedure for providing reimbursement to local agencies for state-mandated local programs effective January 1, 1985. Specifically, it does the following:

- Transfers from the Board of Control to the Commission on State Mandates (a new commission established by this measure) the responsibility for receiving, reviewing and making findings on local agency claims for reimbursement. The commission is composed of the following five members: the State Controller, the Treasurer, the Director of Finance, the Director of the Office of Planning and Research, and a public member appointed by the Governor and subject to Senate confirmation. The measure appropriated $200,000 from the General Fund to the commission to cover its administrative costs from January 1 through June 30, 1985.
- Establishes a State Mandates Claims Fund for the sole purpose of paying claims approved by the commission for which the statewide cost does not exceed $500,000. Approved claims for which the estimated statewide cost exceeds $500,000 would have to be submitted to the Legislature for funding in the form of a local government "claims bill." The measure appropriated $10 million from the General Fund to the State Mandates Claims Fund for payment of approved claims.

- Redefines "costs mandated by the state" to mean increased costs incurred as a result of any statute enacted on or after January 1, 1975, (or an executive order implementing such a statute) which established a new program or required an increased level of service for an existing program. Prior to the enactment of Chapter 1459, reimbursement generally was provided for costs resulting from statutes enacted on or after January 1, 1973, and for executive orders issued after January 1, 1978.
- Provides for local agencies to seek declaratory relief in Superior Court for any mandates which the Legislature deletes from a claims bill. If relief is granted by the court, the mandate would be unenforceable and its enforcement would be enjoined on a statewide basis.

We do not know what effect, if any, the establishment of this new reimbursement process will have on cases currently pending in the courts.

REVIEW OF UNFUNDED MANDATES

Chapter 1256 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 this 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?
- 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

MEDI-CAL BENEFICIARY PROBATE

DESCRIPTION

Chapters 102 and 1163, Statutes of 1981, require the public guardian or public administrator of a county to submit a specified report to the Department of Health Services (DHS). Specifically, within 90 days after the death of a Medi-Cal recipient, the county with jurisdiction over the probate must file certain information with the DHS. The department uses this information to file a claim against the estate of the deceased beneficiary for state health care expenditures made on his or her behalf. The department may claim reimbursement only for services provided to beneficiaries after they reached the age of 65; a claim is not allowed, however, in cases where there is a surviving spouse, a surviving child under age 21, or a child who is blind or disabled. The department also pursues recoveries against the estates of persons for whom the county does not handle probate.

Subsequent to the enactment of this law, DHS developed and released two "all-county" letters to clarify the requirements of the law. These letters, dated February 18, 1981, and March 31, 1982, require the counties to provide DHS with the decedent's (1) death certificate, (2) probate number, (3) Medi-Cal number and (4) estate inventory and appraisal.

The probate recovery program was established primarily by Ch 102/81, the 1981 Budget Trailer Bill, which contained many other significant

statutory provisions in addition to the ones relating to this program. The Legislative Counsel's digest for Chapter 102 indicated that the measure resulted in a state-mandated local program. Chapter 102 did not appropriate funds for these costs, but recognized that local agencies could seek reimbursement through the Board of Control process.

BOARD OF CONTROL ACTION

The City and County of San Francisco filed a test claim on July 8, 1982, alleging that Ch 102/81 and Ch 1163/81, together with the all-county letters, mandated both an "increased level of service" and a "new program" by requiring the public administrator or guardian to provide certain information regarding deceased Medi-Cal recipients to the DHS.

On December 2, 1982, the Board of Control found that these statutes and all-county letters did impose a reimbursable mandate. Subsequently, on February 3, 1983, the board adopted parameters and guidelines under which counties could seek reimbursement for costs incurred during 1981-82 and subsequent fiscal years. Specifically, reimbursement may be sought for:

1. Employee salaries and benefits.

2. Other costs, such as computer costs, mileage, and mailing death certificates and other forms.

3. Allowable overhead costs.

The board amended the parameters and guidelines on March 28, 1984, to require that counties pursue reimbursement for their administrative costs from the estates of deceased Medi-Cal recipients before seeking state reimbursement.

FUNDING HISTORY

Table 1 summarizes the funding that has been provided by the Legislature to reimburse counties for their costs in complying with this mandate.

Table 1

Funding for the Medi-Cal Beneficiary Probate Program

Funding Authority	Year for Which Funding Was Provided			
	1981-82	1982-83	1983-84	1984-85
Ch 1052/83	$11,255	$36,349	$77,102	--
Ch 258/84	--	--	--	$75,000

In Ch 1052/83, the Legislature appropriated $125,000 to pay estimated county costs from 1981-82 through 1983-84. The Budget Act of 1984 (Ch 258/84) appropriated $75,000 to reimburse counties for the costs they were expected to incur during 1984-85. The cost estimates were based on a 1983 Department of Finance survey of seven counties representing 50 percent of the Medi-Cal recipients.

Actual county costs will not be known until the Controller reviews the county claims. At the time this report was prepared, claims for 1981-82 and 1982-83 had been submitted to the Controller but not reviewed.

FINDINGS AND CONCLUSIONS

1. Chapters 102 and 1163, Statutes of 1981, together with the all-county letters, have resulted in a mandate because they require local governments to provide the state with documents that previously they were not required to provide. Prior law required each county to send to the

department's Vital Statistics Unit death certificates for all deaths that occurred within the county. As a result of Ch 102/81, Ch 1163/81, and the all-county letters, counties must now perform additional tasks. Specifically, they must determine whether probate cases involve Medi-Cal beneficiaries and, if so, they must submit to the department's Recovery Unit a copy of the decedent's (a) death certificate, (b) probate number, (c) Medi-Cal number, and (d) estate inventory and appraisal (performed as part of the probate procedure).

2. The mandate serves a statewide interest. The state has a legitimate fiscal interest in recouping its Medi-Cal expenditures when the deceased beneficiary leaves assets that are not needed to support a child or spouse. The data submitted by counties regarding probate numbers and estate evaluation, which are not readily available from any other source, assist the state in recovering these health care costs.

3. Estimated costs and benefits associated with the mandate appear to be consistent with the Legislature's expectations. The department estimates that these statutes may result in recoveries of costs incurred by the Medi-Cal program ranging from $300,000 ($150,000 General Fund and $150,000 federal funds) to $400,000 ($200,000 General Fund and $200,000 federal funds) in 1984-85. This estimate assumes that 10 percent of all probate recoveries received by the department will result from cases where the county handles the probate. The actual rate of recoveries, however, has not been determined. The department would have to perform a survey of past claims in order to determine what the actual level of recoveries has been.

The 1984 Budget Act appropriated a total of $107,400 for costs associated with this statute. This amount consists of $32,400 ($16,200 General Fund and $16,200 federal funds) for state administrative costs, and $75,000 (all General Fund) to reimburse county costs. Consequently, the minimum recovery per dollar spent would be $2.80 if the estimates of recoveries and county costs are correct.

Separating this per dollar recovery rate between the state and federal governments, we find that the state receives $1.65 for every General Fund dollar it spends on this program, whereas the federal government receives $9.26 for every dollar it spends. This is because although the state pays for 85 percent of all administrative costs ($91,200 in state expenditures as compared to $16,200 in federal fund contributions), it receives only 50 percent ($150,000) of all recovered revenue (the remaining 50 percent goes to the federal government).

4. The Legislature's objectives in establishing the mandate have been achieved only in part because the mandate has not been implemented on a uniform basis by local agencies. Some counties are complying with the mandate and send all of the required information to the state. Other counties, however, send only part of the required information, imposing an additional administrative burden on the department to follow-up on the counties' initial submission.

The extent to which this mandate has been implemented varies widely among counties, partly because Chapters 102 and 1163 do not require the department to enforce compliance with the mandate.

RECOMMENDATIONS

1. We recommend that the Legislature direct the Department of Health Services to pursue federal funding participation for county reimbursements. The federal government receives one-half of the amounts recovered and pays for one-half of state administrative expenses associated with the recovery program. County reimbursements for this mandate, however, are budgeted entirely from the General Fund. The department should pursue 50 percent federal funding for this portion of the recovery program's costs.

2. We recommend that the Legislature direct the Department of Health Services to monitor and enforce county compliance with death notification and information requirements. The department does not currently monitor or enforce county probate recovery compliance. Consequently, the level of county participation and the number of potential recovery claims are not known. Monitoring county compliance and requiring counties to develop and implement corrective action plans where necessary would result in more consistent county participation and promote achievement of the Legislature's objectives. If the department experiences difficulties in enforcing the mandate under current laws and regulations, it should seek necessary changes in the law.

3. We recommend that the Legislature direct the department to develop an accurate estimate of probate recoveries resulting from the mandate and determine the characteristics of the cases that result in these recoveries. Currently, we know that probate recoveries result in net savings overall but we have no way of knowing whether the counties'

activities are cost-effective. Counties are probably responsible for smaller estates, on the average, and the recoveries from these estates may not cover program costs. Information on the characteristics of the probate cases and the amount recovered under each case might help the Legislature determine if changes in the program are warranted. For example, the department could target specific types of cases for counties and thereby improve the cost-effectiveness of the program. The characteristics and recoveries from county cases could be determined by conducting a survey of past cases.

CHAPTER III

FIRE STANDARDS FOR HIGH-RISE STRUCTURES

DESCRIPTION

Chapter 946, Statutes of 1973, required the State Fire Marshal to promulgate regulations defining minimum fire safety standards for high-rise structures. These standards are intended to prevent fire and protect life and property. A high-rise structure is defined as any building, except hospitals, which exceeds 75 feet in height. Chapter 946 further specified that the regulations were to differentiate between new structures (construction commencing after July 1, 1974) and existing structures, and that enforcement of the regulations would be the responsibility of local fire authorities. Previous law did not address high-rise structures specifically.

When Chapter 946 was being considered by the Legislature, the Legislative Counsel's digest stated that the bill would establish a state-mandated local program. Chapter 946, however, disclaimed responsibility to reimburse local costs, on the grounds that the bill merely changed the definition of "crimes and infractions." Our analysis of the bill pointed out that the measure contained a mandate, but did not include an estimate of what the potential costs of the mandate to local government might be.

Regulations setting forth fire standards for high-rise structures were developed by the State Fire Marshal and adopted under Title 19 of the

California Administrative Code (CAC), Sections 17.33 (existing high-rise structures) and 18.07 (new high-rise structures).

The provisions of Chapter 946 have been amended several times since 1973. Chapter 1246, Statutes of 1974, redefined high-rise structures as any building having floors used for human occupancy which are more than 75 feet above the lowest floor level that has an exterior door suitable and available for use by the fire department. Chapter 675, Statutes of 1978, provided that the period for compliance with the high-rise fire safety regulations could be extended for up to two years for good cause, provided the owner submitted a plan of correction. Chapter 1378, Statutes of 1980, exempted certain types of structures from compliance with the fire prevention standards, and Ch 443/81, established criminal penalties for violations of the provisions governing fire safety for high-rise structures.

BOARD OF CONTROL ACTION

The City and County of San Francisco filed a test claim on March 27, 1980, alleging mandated costs under Chapter 946. On August 20, 1980, the Board of Control determined that a reimbursable mandate existed under the statute, and it adopted parameters and guidelines on December 16, 1981. The parameters and guidelines limit the application of the mandate to the compliance provisions of Chapter 946. In other words, the board held that Chapter 946 requires local agencies to conduct only those activities necessary to determine compliance. It does not require them to conduct activities which relate to enforcement. Thus, the costs of preparing a legal action to force a building owner to bring a building into compliance

would not be reimbursable, but reimbursement would be made for the increased level of inspection service required to determine whether a building was in compliance with the standards.

The parameters and guidelines limit reimbursement to the cost of one inspection annually for those high-rise structures found to be in compliance. The parameters and guidelines further specify that eligible claimants include city or county fire departments as well as separate fire protection districts.

FUNDING HISTORY

Chapter 96, Statutes of 1984 (AB 504), provided $1,693,859 to cover the costs incurred by the City and County of San Francisco from fiscal year 1977-78 through December 31, 1982, and by other cities, counties, and fire districts from fiscal year 1979-80 through December 31, 1982. The appropriation provided funding for (1) inspecting high-rise structures to ensure compliance and preparing reports of the results, and (2) reviewing relevant reports, correspondence and plans regarding the applicability of specific fire standards to high rise structures. Table 2 shows the relationship between the funding contained in Chapter 96 and the reimbursable cost incurred by local agencies, by fiscal year.

Chapter 447, Statutes of 1982, permitted local agencies to collect a fee from building owners sufficient to cover the costs of inspecting their high-rise structures for compliance with building standards and other regulations of the State Fire Marshal. This legislation went into effect on January 1, 1983. Consequently, state reimbursement for costs associated with Chapter 946 after December 31, 1982, is not required, since local agencies may recover these costs themselves.

Table 2

Appropriations to Reimburse Local Agencies
for Determining Compliance With
Fire Standards for High-Rise Structures

Funding Authority	Year for Which Funding Was Provided					
	1977-78[a]	1978-79	1979-80	1980-81	1981-82	1982-83[a]
Ch 96/84	$67,581[b]	$147,186[b]	$634,922	$327,007	$330,281	$186,882

a. Half-year funding.
b. City and County of San Francisco only.

FINDINGS AND CONCLUSIONS

1. Chapter 946, Statutes of 1973, requires local governments to provide an increased level of fire inspection services with respect to existing high-rise buildings, thereby imposing a mandate on these entities. Chapter 946 established minimum fire safety standards for existing high-rise buildings, and required those buildings to be in compliance with the standards by a specified date. Under prior law, only newly constructed and remodeled buildings were required to meet applicable fire safety regulations adopted by the State Fire Marshal. Chapter 946, in effect, required local governments to conduct additional inspections of high-rise buildings to determine if the buildings complied with the specified fire safety standards.

2. This mandate appears to serve a statewide interest by ensuring that all high-rise buildings meet minimum standards for fire and panic safety. The state has an interest in protecting the lives and property of

its citizens. Chapter 946 furthers this state interest by setting minimum fire safety standards for high-rise structures. Although it appears some local governments had established fire safety standards for high-rise buildings prior to this legislation, there is no evidence to indicate that all local governments would have done so without the passage of this legislation.

3. We are unable to determine whether the goal of this mandate has been achieved. The Legislature's goal in enacting Chapter 946 was to ensure that high-rise buildings throughout the state conform to minimum standards for the prevention of fire and for the protection of life and property. Minimum standards for new and existing high-rise buildings were established by the State Fire Marshal in October 1974 and July 1976, respectively. The State Fire Marshal's staff indicates, however, that he does not know how many of the 1,700 high-rise buildings statewide are in compliance with the standards which have been established.

RECOMMENDATION

1. We recommend that this program be continued in its present form.

2. We further recommend that the Legislature direct the State Fire Marshal to report on the degree of compliance with fire safety regulations adopted pursuant to Chapter 946. The fire safety standards developed through this mandate have increased the safety of high-rise buildings. Therefore, the program should be continued. Because complete information on the level of compliance with these standards does not exist, the Legislature cannot determine if its intent in enacting the mandate has been fully achieved. Consequently, we believe a comprehensive report on the

status of compliance with these high-rise safety regulations is needed. This report should identify the number, location and Chapter 946 compliance status of all high-rise buildings in the state. The information for this report can be obtained from existing records maintained by local fire departments and the State Fire Marshal.

CHAPTER IV

PROPERTY APPRAISALS

DESCRIPTION

Chapter 1046, Statutes of 1976, required each county assessor to prepare and file with the Board of Equalization, by March 1, 1978, a plan for the orderly, sequential and cyclical appraisal (or reappraisal) of all property within the county. These appraisals were to be conducted at least once every five years. Prior to the enactment of Chapter 1046, county assessors had broad discretion to determine the frequency of appraisals.

Proposition 13, which was adopted by the voters on June 6, 1978, modified the provisions of Chapter 1046 by specifying exactly when and under what circumstances properties were to be reappraised. The Board of Equalization adopted rules on July 3, 1978, which interpreted the provisions of Proposition 13 so as to apply them to all types of locally-assessed property. As a result, the provisions of Chapter 1046 became inoperative.

Approximately one year later, on July 10, 1979, the Legislature enacted Ch 242/79, which, among other things, directed the Board of Equalization to revise its rules to make it clear that five specified types of properties were not covered by the provisions of Proposition 13. As a result, these specified types of properties once again became subject to the provisions of Chapter 1046. The five types of property were: (1) nonprofit golf courses, (2) California Land Conservation Act properties,

(3) timberland, (4) government-owned lands located outside their boundaries, and (5) historical properties.

Chapter 1081, Statutes of 1980, repealed the provisions of Chapter 1046 effective September 25, 1980.

At the time Chapter 1046 was being considered by the Legislature, the Legislative Counsel's digest indicated that the measure would result in a state-mandated local program. Chapter 1046, however, disclaimed the Legislature's obligation to provide reimbursement for any mandated costs on the basis that "the duties, obligations or responsibilities imposed on local governmental entities...by this act are such that related costs are incurred as part of their normal operating procedures."

BOARD OF CONTROL ACTION

Fresno County submitted a test claim on December 1, 1978, alleging that Chapter 1046 required county assessors to provide an increased level of service and, therefore, imposed a state-mandated local program. On February 22, 1979, the Board of Control concluded that Chapter 1046 did result in a mandate because it required county assessors to develop a specified plan and to conduct property appraisals on a more frequent basis.

The board adopted initial parameters and guidelines for this statute on December 19, 1979. These permit reimbursement of costs associated with the following activities:

- Preparation and filing of the five-year plan for property appraisals;
- Preparation and filing of any revisions to the plan which apply to the five specified types of properties;

- Completion of appraisals performed in order to comply with the mandate; and
- Additional equalization hearings resulting from the increased number of appraisals ending in appeals.

Because of the various changes in law which affected the mandate provisions of Chapter 1046, the parameters and guidelines identify two distinct periods of time during which costs incurred by counties are eligible for reimbursement. These are: (1) from January 2, 1978 (the effective date of Chapter 1046), through July 3, 1978 (the date the Board of Equalization revised its rules), and (2) from July 10, 1979 (the effective date of Chapter 242, which reinstated the provisions of Chapter 1046 relating to the five specified types of property), through September 25, 1980 (the date the provisions of Chapter 1046 were repealed).

FUNDING HISTORY

Chapter 96, Statutes of 1984, provided $256,000 for costs incurred by counties in connection with property appraisals, as displayed in Table 3.

Table 3

Funding for Property Appraisals

Funding Authority	Year for Which Funding was Provided			
	1977-78	1978-79	1979-80	1980-81
Ch 96/84	$23,471	--	$187,047	$44,623

Our office recommended approval of the $256,000 funding level contained in Chapter 96.

The Legislature previously denied funding for reimbursement of local costs related to this mandate. This funding had been included in SB 1261 of 1981. The Legislature took this action on the basis that the increased frequency of appraisals resulted in offsetting increases in property tax revenues. However, our analysis indicated that, due to the unique nature of the five property types and the existence of enforceable restrictions on these land uses, the values of these properties should be relatively stable over the reappraisal period. Consequently, we concluded that the increased frequency of appraisals would yield minimal, if any, increases in property tax revenues for these types of property.

Subsequently, the Legislature provided funding in Chapter 96, but also added language prohibiting the distribution of any reimbursement funds until the Board of Control, in recognition of the fact that more frequent appraisals result in additional revenues, amended the parameters and guidelines to account for any increased revenues. Accordingly, the board amended the parameters and guidelines on July 19, 1984.

FINDINGS AND CONCLUSIONS

1. Chapter 1046 imposed a mandate because it required local agencies to provide an increased level of service and incur increased costs relating to property appraisals. Chapter 1046 required county assessors to develop a specific plan for appraising property and to conduct property appraisals on a more frequent basis.

2. The mandate served a statewide interest until Proposition 13 narrowed its applicability. At the time it was enacted, Chapter 1046 served a statewide interest because it promoted uniformity of assessment practices for all types of property throughout the state. Following the voters' approval of Proposition 13, however, the measure no longer served a statewide interest, because it removed from local assessors the flexibility to determine the appropriate level and frequency of assessments for the remaining five specified types of property to which it applied.

3. The mandate was repealed on September 25, 1981; consequently, mandated costs are no longer being incurred by counties.

RECOMMENDATION

Because the mandate has been repealed and costs associated with Chapter 1046 are no longer being incurred by local agencies, no recommendation on this program is warranted.

CHAPTER V

CUSTODY OF MINORS

DESCRIPTION

Chapter 1399, Statutes of 1976, requires counties to undertake various new activities in order to assist in the resolution of child custody disputes and to enforce child custody decrees. Specifically, Chapter 1399 requires the district attorney's office, acting on behalf of the court, to locate individuals who have possession of a child subject to a custody dispute and to ensure that the individual returns with the child and appears at custody hearings. Once custody has been determined by the court, Chapter 1399 requires the district attorney's office to assist in the enforcement of custody decrees. Such enforcement activities include locating children who have been taken away in violation of consent decrees, and guaranteeing the appearance of offenders in court actions. The measure also establishes a court procedure for ensuring that a child, under a custody decree of another state, is returned to the legal custodian. Prior to the enactment of Chapter 1399, the district attorney was under no statutory obligation to assist in enforcing child custody decrees.

At the time Chapter 1399 was enacted, the Legislature disclaimed any state obligation to reimburse county officers for mandated costs on the basis that the act "contained a revenue source which could cover the cost of the mandate." Specifically, Chapter 1399 requires the courts to charge the parties involved for actual costs <u>if in the discretion of the court such charges are appropriate</u>.

BOARD OF CONTROL ACTION

San Bernardino County filed a test claim on April 17, 1979, alleging that Chapter 1399 imposed a mandate. The county maintained that, by requiring district attorneys to take "all actions necessary" to (1) locate and bring before the court any person possessing a child subject to a custody dispute, and (2) return the child to the person who has the legal right to custody, Chapter 1399 requires the county to increase the level of service provided in connection with custody disputes. The Board of Control determined that a reimbursable mandate existed on September 19, 1979.

Parameters and guidelines were initially adopted on January 21, 1981. They allow reimbursement for the following district attorney costs associated with returning the detained child to his or her legal custodian:

- Contacting the offenders and offended parties.
- Proceeding with civil court action to secure compliance.
- Taking legal court action in cases involving custody decrees when the legal custodian is from another state.
- Securing the appearance in court of the offender when an arrest warrant has been served.
- Returning illegally detained or concealed children to their legal custodians.

As initially adopted, the parameters and guidelines did not require that the costs claimed by counties be reduced by the amount of any costs recovered through charges imposed by the court. Pursuant to legislative direction contained in Chapter 96, Statutes of 1984 (the claims bill appropriating reimbursement funding for Chapter 1399), the board adopted

amendments to these guidelines on July 19, 1984, providing that any charges imposed by the courts be deducted from any claims for reimbursement.

FUNDING HISTORY

Chapter 96, Statutes of 1984 (AB 504), provided $4,589,000 for costs incurred by counties during the period 1977-78 through 1983-84, as displayed in Table 4. The amount of the appropriation was based on a statewide cost estimate prepared by the Department of Finance. The estimate was based, in part, on information provided by the County of Los Angeles which indicated that its costs would not exceed $10,000 per year. The appropriation language strictly limits Los Angeles County's allocation to that amount.

Table 4

Funding for Custody of Minors
(dollars in thousands)

Funding Authority	Year for Which Funding was Provided						
	1977-78	1978-79	1979-80	1980-81	1981-82	1982-83	1983-84
Ch 96/84	$48[a]	$608	$663	$724	$791	$857	$898

a. For San Bernardino County only.

Our office recommended approval of the $4,589,000 contained in Chapter 96, subject to the adoption of language requiring the Board of Control to amend the parameters and guidelines in order to provide for the deduction of court charges from any claimed costs.

Based on information recently provided by Los Angeles County, it appears that the county's claim for reimbursement will increase

substantially, beginning in 1984-85. The county is in the process of gathering a complete set of data to support its cost claims and, as a result, the county anticipates that its future claims for reimbursement will exceed $300,000 annually. As a result, total statewide costs for the 1984-85 fiscal year could exceed $1,200,000.

FINDINGS AND CONCLUSIONS

1. Chapter 1399 has resulted in a mandate by requiring local governments to provide an increased level of service. Chapter 1399 requires district attorneys to take "all action necessary" to ensure that persons appear at custody hearings and comply with temporary and permanent custody orders. The increased activities imposed on local government by this measure include locating individuals who have unlawful possession of a child, arresting that individual, if necessary, to ensure his or her appearance before the court, and taking physical custody of the child for delivery to the legal custodian. Although district attorneys had the authority to enforce custody decrees prior to the enactment of Chapter 1399, few if any offices were involved in such activities.

2. The mandate appears to serve a statewide interest. From a broad policy standpoint, the state has an interest in ensuring that there is uniform and adequate enforcement of child custody court orders and decrees. This is consistent with the policy expressed in the State Constitution which requires "the Attorney General to see that the laws of the state are uniformly and adequately enforced." In addition, district attorneys can perform these enforcement activities in a more efficient manner than private attorneys because they generally have better access to information

such as Franchise Tax Board records and criminal history files. Finally, the state has an interest in assisting other states to enforce their child custody court orders because this encourages those states to provide California with similar assistance.

The primary beneficiaries of this mandate appear to be the party or parties to child custody disputes. This is because, prior to enactment of the mandate, these parties were required to expend private resources to hire private attorneys and investigators in order to obtain assistance, or were simply unable to obtain any assistance due to lack of resources.

3. We have no analytical basis for comparing the benefits resulting from the mandate with the costs of complying with it. The primary benefits from the mandate result from the resolution of child custody disputes and the enforcement of child custody decrees. There are no data available identifying the number of child custody disputes resolved or decrees enforced as a result of this mandate that otherwise would not have been resolved.

4. Although no funds were initially appropriated to finance Chapter 1399, the measure requires the state to provide full reimbursement to counties for costs incurred. Chapter 1399 added Section 4605 to the Civil Code authorizing counties to make advance payments for expenses incurred by a district attorney to ensure compliance with certain court orders or to enforce custody decrees. Section 4605 specifically directs the state to reimburse counties for these payments. Section 4605 also requires the courts, if appropriate, to charge the parties at custody hearings for these costs and requires counties to collect and transmit all recovered funds to

the state. As a result, the reimbursement procedure established in Section 4605 requires the state to reimburse counties fully for their costs, while making it likely that the state will recover less than the full cost of the program through court-imposed charges.

The State Controller, however, is unable at present to pay counties for claims submitted under Section 4605 because the Legislature has not appropriated funds for that purpose. As a result, the counties are submitting claims under the mandated-cost reimbursement provisions of the Revenue and Taxation Code. Chapter 1399, however, disclaimed the Legislature's responsibility for providing such reimbursement on the basis that additional costs resulting from the measure would be offset by court-imposed reimbursements. Our analysis indicates that this disclaimer is inappropriate because counties are not authorized to use court-imposed reimbursements to offset their costs but, instead, must transmit those reimbursements to the state.

5. The courts generally have not exercised the authority given to them by Chapter 1399, to recoup from the parties involved in the child custody disputes the costs incurred by the district attorneys under the act. Section 4605 of the Civil Code requires the courts, when appropriate, to charge the parties involved in custody hearings for the costs incurred by district attorneys pursuant to Chapter 1399. Counties are required to collect and transmit to the state all funds recovered through these court-imposed charges. The State Controller's office informs us, however, that it has no record of any funds being sent to the state under this section.

In addition, Chapter 1399 requires the courts to order reimbursement of costs from defendants convicted of child abduction crimes. A survey of several counties indicates that court-ordered reimbursement under this provision has been negligible.

6. The cost of implementing this mandate does not appear to be consistent with the Legislature's intent and expectations. When Chapter 1399 was enacted, the Legislature was advised that the costs of the measure would probably be minor. Although it was not possible to predict the number of child custody cases that would be subject to the act's provisions, the Legislature anticipated that much of the additional cost resulting from the measure would be offset by court-imposed reimbursements from either or both parties to the custody hearings. These reimbursements have not materialized. As a result, General Fund costs to reimburse the mandate are approaching $1 million annually, and are projected to increase to more than $1.2 million in 1984-85. This magnitude of costs was not anticipated by the Legislature when Chapter 1399 was enacted.

In addition, several counties maintain that there could be a substantial increase in future costs as the availability of services under the act becomes more widely known among people involved in child custody cases.

RECOMMENDATION

In order to maintain existing child custody services, but control future costs, we recommend that the Legislature (1) enact legislation defining the specific types of actions district attorneys are authorized to take to locate a person in possession of a child subject to a custody

dispute, and (2) consider repealing the child custody mandate and replacing it with a new local assistance grant program. In enacting Chapter 1399, the Legislature indicated that enforcement of child custody decrees is a high policy priority. Further, the Legislature expressed its intent to reimburse the counties for the costs incurred and, if appropriate, to charge parties involved in the child custody disputes for the costs of the program. State costs, however, have been greater than anticipated, primarily because the courts have not required the involved parties to reimburse any of the costs for the district attorney's services.

In addition, future state costs are subject to uncontrollable expansion. First, counties have been given wide latitude within which they determine enforcement costs. The measure requires district attorneys to take "all actions necessary" to locate a person in possession of a child subject to a custody dispute. The term "all actions necessary," however, is not defined in statute. Consequently, counties have full authority to determine what actions to undertake.

Allowing counties to interpret what actions are necessary could result in enforcement costs substantially greater than what was anticipated by the Legislature. For instance, a county would be more likely to initiate an expensive investigative effort (for example, one that might include international travel) to find a missing child when it is assured of receiving full reimbursement from the state, than if it had to pay all or a portion of the costs.

Second, future costs are likely to increase as the availability of these services become better known.

If the Legislature wishes to reduce or control the state costs of providing the services required by Chapter 1399, we recommend that:

1. The Legislature enact legislation which more narrowly defines the term "all actions necessary." By specifying the types of actions that district attorneys would be authorized to undertake, the Legislature could ensure that the program was being conducted as the Legislature intended, while at the same time controlling costs by ensuring that unnecessarily expensive activities are avoided.

2. The Legislature repeal the mandate in Chapter 1399 and replace it with a local assistance grant program. Under such a program, the Legislature could appropriate a fixed amount of funds to be allocated by a state agency, such as the Office of Criminal Justice Planning, to local agencies choosing to participate in the program. Local agencies wishing to participate could be required to establish a core program which provides these services and state grants could be allocated to pay some or all of the costs of the program. Under this arrangement, local agencies would be encouraged to provide these services, but the Legislature would be able to control current and future state costs.

CHAPTER VI

WORKERS' COMPENSATION LIABILITY LIMITS

DESCRIPTION

State law requires employers--including local public agencies--to provide workers' compensation to employees who suffer an impairment or disability attributable to occupational hazards. Work-related impairments include, among other things, a cumulative injury or occupational disease. A "cumulative injury" results from a series of minor stresses and strains, not sufficient in themselves to cause a traumatic injury, but whose combined effect over time is a physical impairment or disability (for example, heart, back, and hearing impairments). Chapter 360, Statutes of 1977, modified the manner in which liability for workers' compensation costs in cases of cumulative injury or occupational disease is allocated among different employers or insurance companies.

Prior to Ch 360/77, liability for cumulative injury depended on the employee's prior work history. If an employee had worked for more than one employer, workers' compensation liability was apportioned among all of the employers (or their insurance carriers) for whom the employee worked during the five-year period prior to the date the impairment first manifested itself. In the case of a worker who had worked for only one employer, the liability was apportioned among all insurers who provided coverage for the employer during the employee's entire period of employment prior to manifestation of the injury or disease.

Chapter 360 (1) limited the liability for cumulative injuries and occupational disease to employers (or their insurance carriers) who employed the worker during the last year of employment (effective January 1, 1981), and (2) repealed the provisions requiring liability to be apportioned among all insurers in cases where the employee had worked for only one employer. Thus, under current law, workers' compensation liability for cumulative injury and occupational disease is limited in all cases to the employers (or the employer's insurance carriers) during the year of employment prior to manifestation of the injury or disease.

Legislative Counsel did not identify a mandate when this measure was moving through the Legislature. Consequently, this act was not heard by the fiscal committees, and our office did not have an opportunity to review it. Legislative Counsel has since advised us that this measure does impose a mandate on selected local agencies.

BOARD OF CONTROL ACTION

On October 23, 1979, the Los Angeles Unified School District filed a test claim with the Board of Control asserting that those provisions of Ch 360/77 which repealed the apportioning of liability in the case of one employer resulted in a reimbursable mandate. The district argued that, as a result of the measure, public agencies which recently became self-insured were made fully liable for the costs of workers' compensation in the case of cumulative injury or occupational disease to an employee. Previously, the liability would have been shared with the State Compensation Insurance Fund (SCIF), the exclusive commercial insurer for local governments.

On February 21, 1980, the Board of Control determined that Ch 360/77 constituted a mandate because a portion of the liability for cumulative injury claims could no longer be charged to the SCIF. The Board established parameters and guidelines on May 27, 1982, in which it limited reimbursement to those local agencies which had become self-insured prior to January 1, 1978 (the effective date of Ch 360/77).

FUNDING HISTORY

As introduced in 1983, AB 504, a local government claims bill, would have appropriated $51,585,000 from the General Fund to reimburse local agencies for the mandated costs they incurred as a result of Chapter 360 during the years 1978-79 through 1983-84.

Legislative Action. The Legislature subsequently amended AB 504 to (1) reduce the appropriation to $30 million, and (2) require that prior to the disbursement of the funds, the Board of Control amend the parameters and guidelines to require that any dividends received from the SCIF by an eligible claimant after January 1, 1978 be deducted from the amounts claimed by the local agency.

Table 5 shows the allocation of the $30 million appropriation, by fiscal year. Local governments may realize additional Chapter 360-related costs beyond those identified in Table 5 well into the future. This is because it can take many years before a worker exhibits the first signs of a cumulative injury or an occupational disease.

Table 5

Legislative Funding for
Workers' Compensation Liability Limits
(dollars in thousands)

	1978-79	1979-80	1980-81	1981-82	1982-83	1983-84	Total
Proposed Allocations	$6,254	$5,789	$5,649	$4,643	$4,120	$3,545	$30,000

Governor's Veto. Before signing AB 504 into law (Ch 96/84), the Governor vetoed the funds approved by the Legislature for the mandate contained in Ch 360/77. In his veto message the Governor stated that (1) Chapter 360 resulted in offsetting savings to the SCIF, and (2) local costs should be reimbursed from the SCIF, rather than from the General Fund. During legislative review of AB 504, both this office and the Department of Finance recommended that the funds necessary to reimburse local agencies for costs attributable to Ch 360/77 be appropriated from the SCIF. Our analysis indicated that SCIF was an appropriate financing source since the SCIF experienced unexpected savings exactly equivalent to the additional costs incurred by the newly self-insured local agencies.

FINDINGS AND CONCLUSIONS

1. It is not clear that Ch 360/77 imposes a mandate on local agencies. Under existing law, the state is responsible for reimbursing increased local costs only if they can be attributed to a "new program" or an "increased level of service" mandated by the state. From a programmatic perspective, Ch 360/77 does not appear to satisfy this definition of mandated costs, as it neither added nor increased workers' compensation benefits. Local agencies argue, however, that the increase in their share

of total liability for cumulative injury or occupational disease constitutes an increased level of service.

There is no dispute that many of the agencies that switched to self-insurance did, in fact, experience increased costs as a result of Chapter 360. It was on this basis that Legislative Counsel, in reviewing the provisions of Ch 360/77 subsequent to the Board of Control's mandate determination, informally advised us that the measure does contain a mandate.

It can be argued, however, that an increased share of liability for costs is not legally equivalent to an "increased level of service." In order to avoid setting a precedent that could be cited in cases where it does not believe reimbursement is appropriate, the Legislature may wish to avoid deeming an increase in share-of-cost to be evidence of a reimbursable mandate.

2. The requirements established by Ch 360/77 serve a statewide interest. The state has an interest in simplifying, to the extent possible, the calculation and payment of workers' compensation awards to injured or diseased workers. Such a simplification can result in both administrative cost savings and improved benefit service to workers. It appears to us that Ch 360/77 helps achieve those objectives, and therefore serves a statewide interest.

3. The cost to the state of reimbursing local agencies for Ch 360/77 claims far exceeds the benefits derived from the legislation. As noted above, Ch 360/77 results in minor administrative benefits. In enacting this measure, the Legislature apparently believed it was securing

these benefits at no state cost. This is because the bill was not thought to contain a reimbursable mandate. Consequently, AB 155 was not heard by the fiscal committees. It is not clear that the Legislature would have approved the measure had it known that these minor administrative benefits would cost the state General Fund approximately $5 million annually.

RECOMMENDATIONS

1. We recommend that the Legislature repeal the provision of Ch 360/77 which limits the liability of the affected employee's employer for cumulative injury or occupational disease in cases where the employee has worked for only one employer. As noted above, the cost to the state of reimbursing local governments for costs incurred under this statute through 1983-84 is $30 million. It is likely that the costs associated with Ch 360/77 in future years will be considerable, as it may take many years for symptoms of a cumulative injury or occupational disease to show up. In contrast, the benefits produced by this measure are relatively minor. For this reason, we question whether the Legislature would have approved this measure in the first place had it known what the costs to limit the liability of insurers would turn out to be.

In order to limit these costs, we recommend that the Legislature repeal those provisions of Chapter 360 which limit the liability of employers for workers' compensation payments in cases where a victim of a cumulative injury or occupational disease has worked only for one employer.

2. We recommend that the Legislature not reimburse local agencies for the costs which they have already incurred under Chapter 360 as a "reimbursable mandate." Instead, we recommend that to the extent that the

Legislature wishes to provide funds to offset costs incurred by local agencies as a result of Chapter 360, such funds be appropriated on an "equity," rather than a "reimbursable mandate" basis. Our analysis indicates that reimbursement is not required under the terms of Article XIII B of the State Constitution because no increased level of service has been provided to recipients of workers' compensation payments. Rather, the measure simply changes the mechanism for funding benefits to which workers who suffer a work-related cumulative injury are already entitled.

At the same time, we recognize that local agencies have incurred increased costs as a result of Chapter 360. The Legislature, in enacting Chapter 360, had no intention of increasing local agency costs. Therefore, as a matter of equity, rather than of compliance with Article XIII B of the State Constitution, the Legislature may wish to provide funds to offset all or a portion of these costs. If the Legislature chooses to appropriate funds for this purpose, we recommend that it include language specifying that funding is provided at the discretion of the Legislature to offset the financial hardships caused by Chapter 360.

CHAPTER VII

PSYCHOLOGICAL EVALUATIONS

DESCRIPTION

Chapter 1130, Statutes of 1977, required county probation departments to include in presentencing reports submitted to the courts a psychological evaluation of each individual convicted of a misdemeanor for abusing or neglecting a minor. These evaluations are intended to help the courts determine the extent to which counseling is necessary for the successful rehabilitation of a convicted person. A court may mandate counseling for such persons during the term of probation, when probation is ordered. The statute provides that the evaluation may be performed by psychologists, psychiatrists, or licensed social workers.

Prior to enactment of Ch 1130/77, county probation departments were not required to include psychological evaluations in these cases.

The bill digest for Chapter 1130 failed to identify that it contained a state-mandated local program, nor did we identify a mandate in our analysis of the bill. Consequently, the bill contained neither a disclaimer of, nor funding for, any mandated local costs.

Chapter 282, Statutes of 1982, subsequently amended the Penal Code to make inclusion of psychological evaluations in presentencing reports permissive, rather than mandatory, effective January 1, 1983.

BOARD OF CONTROL ACTION

On May 24, 1984, San Bernardino County filed a claim of "first impression", alleging that Chapter 1130 resulted in increased local costs by requiring that a psychological evaluation be included in certain court presentencing investigation reports. On August 12, 1982, the Board of Control found that Chapter 1130 created a mandate that resulted in increased costs for local entities.

The board adopted parameters and guidelines for this statute on September 30, 1982. They identified as eligible claimants those counties required to add a psychological evaluation to the probation officer's report as a result of Penal Code Section 1203h (the Penal Code section added by Chapter 1130). The parameters and guidelines allow reimbursement for (1) the costs of having a licensed clinical social worker perform the psychological evaluation, and (2) the increased costs incurred by the probation officer to include the results of the evaluation in the report to the court.

Although the mandate became effective on January 1, 1978, the first test claim was not filed until 1982. Consequently, counties are not eligible to be reimbursed for any costs incurred prior to the 1981-82 fiscal year. Further, subsequent legislation made the inclusion of psychological evaluation in probation officers' reports optional, effective January 1, 1983. Consequently, the parameters and guidelines restrict reimbursement to the two-year period from 1981-82 through 1982-83.

FUNDING HISTORY

Chapter 96, Statutes of 1984 (AB 504), provided $700,000 to reimburse eligible counties for the costs they incurred to include the specified psychological evaluation in court reports during 1981-82 and 1982-83. Table 6 identifies the amount of funds provided for each of these years.

Table 6

Funding for Psychological Evaluations

Funding Authority	Year for Which Funding was Provided	
	1981-82	1982-83
Ch 96/84	$538,270	$163,200

The $700,000 appropriation provided by Ch 96/84 was based on a 1983 estimate prepared by the Department of Finance. In order to determine the costs of conducting the evaluations, the department surveyed eight counties which account for more than one-half of the state's population. This survey formed the basis for the department's assumption that all counties would seek reimbursement for a total of 2,833 evaluations conducted in 1981-82, and 808 evaluations conducted in 1982-83. The department estimated that the average statewide cost of conducting a psychological evaluation was $190 in 1981-82, and $192 in 1982-83. Because there are no claims available for examination, we are unable to determine the validity of the department's estimate or comment on the adequacy of the appropriation.

FINDINGS AND CONCLUSIONS

1. Chapter 1130, Statutes of 1977, imposed a mandate in that it required counties to provide an increased level of service by securing psychological evaluations of individuals convicted of abuse or neglect of a minor. This mandate resulted in increased costs to those counties which found it necessary to obtain the professional services of psychologists, psychiatrists, or licensed social workers to conduct the evaluations. These and other counties incurred additional costs in preparing the evaluation reports for inclusion in the presentencing reports given to the court. As a result of Ch 282/82, however, the inclusion of a psychological evaluation report became optional rather than mandatory, after December 31, 1982.

2. As modified by Chapter 282, the "mandate" appears to serve a statewide interest. The state has an interest in ensuring that adequate information is available to the courts prior to sentencing persons convicted of abuse or neglect of a minor. It also is in the interest of both the state and the local jurisdiction that those guilty of such crimes be successfully rehabilitated through counseling to minimize the possibility of similar charges or convictions in the future. When a psychological evaluation is warranted, it serves to assist the court in determining the extent of counseling needed.

3. Benefits resulting from the mandate cannot be measured. There is no objective way to measure the benefits from the required psychological evaluations or to compare them with the associated costs. This is primarily because there is no way of determining the extent to which these

evaluations influence a court's decision. In addition, the type and comprehensiveness of evaluations conducted pursuant to this mandate differ from county to county, depending partially on whether the county uses in-house personnel or contracts with psychiatrists, psychologists, or licensed social workers to perform the service.

4. Elimination of the mandate requiring psychological evaluations was appropriate. Under Chapter 1130, counties were required to prepare or obtain psychological evaluations for persons convicted of child abuse or neglect for inclusion in the presentencing report in all cases, even if the benefits of such evaluations were questionable. The Legislature eliminated this mandate by giving counties the option to include psychological evaluations in the presentencing report beginning in 1982.

RECOMMENDATION

We recommend retention of existing law, which allows, but does not require, counties to secure psychological evaluations of individuals convicted of child abuse or neglect for inclusion in the presentencing report to the court.

CHAPTER VIII

ABSENTEE BALLOTS

DESCRIPTION

Chapter 77, Statutes of 1978, requires any local agency which conducts elections to provide an absentee ballot to any registered voter requesting one. Under prior law, local agencies were required to provide absentee ballots only to registered voters who were unable to vote at their polling place because of: (1) illness, (2) absence from their precinct on election day, (3) a physical handicap, (4) conflicting religious commitment, or (5) the polling booth being located more than 10 miles away from the voter's home.

At the time Ch 77/78 was enacted, the Legislature disclaimed any obligation to reimburse counties for any costs resulting from the measure on the basis that the duties imposed were minor and would not place any financial burden on local government. The measure was not heard by the legislative fiscal committees; consequently, our office did not have the opportunity to prepare an analysis or comment on the potential fiscal implications of the bill.

BOARD OF CONTROL ACTION

On January 2, 1981, the City and County of San Francisco filed a test claim with the Board of Control seeking reimbursement for costs associated with the requirement that an increased number of absentee ballots be made available to voters. The board ruled on June 17, 1981 that

Chapter 77 mandated an increased level of service, resulting in increased costs to counties.

The parameters and guidelines adopted by the board on August 12, 1982 allow counties to claim reimbursement for costs attributable to the increase in the overall proportion of registered voters casting absentee ballots. That is, if in 1978 5 percent of the total ballots cast were absentee ballots, then in 1982 the county may claim reimbursement for the number of absentee ballots filed which exceeds 5 percent of the total ballots filed in 1982. The number of ballots so computed is then multiplied by the cost per ballot, to obtain the actual amount of reimbursement to which each county is entitled.

FUNDING HISTORY

As introduced, AB 504 proposed a funding level of $5,233,000 to reimburse counties for costs incurred under Chapter 77. Our office, however, recommended that the appropriation be reduced by $496,000, because the cost per ballot in Los Angeles was significantly higher than that in comparable counties. In 1982-83 and 1983-84, Los Angeles County estimated its cost per ballot at approximately $12.76 and $11.52, respectively. The average cost per ballot for three other large counties (Alameda, Sacramento and San Francisco) was reported at $5.79.

The Legislature adopted our recommendation and reduced the amount appropriated for reimbursement of Chapter 77-related costs. It also adopted language which limits the amount of reimbursement available to Los Angeles to a maximum of $9.00 per ballot. As chaptered, AB 504 contained $4,737,000 to reimburse counties for costs incurred during the period 1980-81 through 1983-84, as shown in Table 7.

Table 7

Funding for Absentee Ballots
(dollars in thousands)

Funding Authority	Year for Which Funding was Provided			
	1980-81	1981-82	1982-83	1983-84
Ch 96/84 (AB 504)	$1,116	$688	$1,370	$1,563

Our analysis indicates that the $4,737,000 appropriated is reasonable.

FINDINGS AND CONCLUSIONS

1. Chapter 77, Statutes of 1978, imposes a mandate on counties by requiring them to increase the level of service they provide. Specifically, it requires local governments to distribute and process a greater number of absentee ballots, resulting in an increased level of service.

2. This mandate appears to serve a statewide interest. The state has an interest in promoting voter participation in the electoral process. Thus, to the extent that making absentee ballots available to all voters results in increased voter participation, a statewide interest is served.

3. We have no analytical basis to measure the benefits of this mandate or compare them with the costs. Discussions with various county clerks indicate that, generally, more registered voters now choose to vote absentee than was true under prior law. Table 8 displays the growth in the use of statewide absentee ballots for elections conducted since 1978. As illustrated in Table 8, use of absentee ballots has increased from 4.8 percent of all ballots cast in 1978 to approximately 9.7 percent in 1984.

Table 8

Growth in Use of Absentee Ballots
1978 through 1984

Date of Election	Total Ballots Cast	Total Absentee Ballots Cast	
		Number	Percent
June 1978	6,843,001	325,518	4.8%
November 1978	7,132,210	314,258	4.4
November 1979[a]	3,740,800	155,058	4.2
June 1980	6,774,184	343,875	5.1
November 1980	8,775,459	549,077	6.3
June 1982	5,846,026	326,213	5.6
November 1982	8,064,314	525,186	6.5
June 1984	5,609,063	418,109	7.5
November 1984	9,796,375	948,014	9.7

a. First election conducted after Chapter 77 became effective.

However, it is not possible to determine from this or other available data whether making absentee ballots available to all voters has resulted in an increase in overall voter participation. Based on our discussions with state election officials, we do not believe it is analytically possible to distinguish the effect which increased availability of absentee ballots has had on voter participation levels from the effects of other factors influencing voter participation.

4. The cost of this mandate does not appear to be consistent with the Legislature's expectation. Chapter 77 was not considered to be a

fiscal bill when it was before the Legislature in 1978. Consequently, the measure was not heard by the legislative fiscal committees. Since the measure is costing $1.5 million annually, we conclude the costs are greater than what the Legislature was led to believe they would be.

5. Expanding the availability of absentee ballots has encouraged some voters who otherwise would vote in person to use this more costly method of voting for reasons of convenience. The use of absentee ballots is more costly to counties than in-person voting at a polling place because (a) the absentee ballot duplicates a regular ballot which has been prepared for use at the polling place, (b) counties incur costs to mail absentee ballots to voters, and (c) absentee ballots require special processing when returned. To the extent that the increased number of voters who use absentee ballots do so simply for the convenience of not having to travel to a regular polling place, the state is incurring additional costs without accomplishing its primary purpose.

RECOMMENDATION

We recommend that the Legislature repeal this mandate and restore prior law under which absentee ballots were available to any registered voter who was unable to vote at his or her polling place, but were not available to those who, for reasons of personal convenience, preferred not to vote in person. We recognize the state's interest in encouraging the highest possible voter turnout at elections. We believe, however, that there are more cost-effective ways to accomplish this objective than mandating that absentee ballots be made available on demand to all voters. Thus, we recommend that the Legislature (1) repeal this mandate and restore

prior law, under which counties provided absentee ballots to registered voters who were unable to vote at their polling place, and (2) review the various categories under which registered voters can qualify for an absentee ballot in order to determine whether additional categories should be created in order to assure maximum participation in elections.

CHAPTER IX

ZONING CONSISTENCY

DESCRIPTION

State law requires each city and county to adopt a comprehensive, long-term general plan for its physical development. The law also requires counties and general law cities (cities which are not governed by a charter) to make their zoning ordinances consistent with their general plans by January 1, 1974.

Chapter 357, Statutes of 1978, requires any charter city with a population of two million or more to make all zoning ordinances adopted prior to January 1, 1979 consistent with its general plan by January 1, 1981. Chapter 304, Statutes of 1979, extended the original deadline to July 1, 1982. Senate Bill 1848 of the 1983-84 session, which would have extended this deadline to June 30, 1987, was vetoed by the Governor.

Because Ch 357/78 and Ch 304/79 apply only to charter cities with a population of two million or more, Los Angeles is the only city affected by this provision.

At the time Chapter 357 was considered by the Legislature, the Legislative Counsel's Digest stated that the measure would establish a state-mandated local program. The measure disclaimed the Legislature's obligation to provide reimbursement for the cost of this program on the basis that the measure imposed no new duties, obligations or responsibilities on local government.

BOARD OF CONTROL ACTION

The City of Los Angeles filed a test claim on March 2, 1979, seeking reimbursement of mandated costs associated with Chapter 357. On June 20, 1979, the board found that a reimbursable mandate existed; parameters and guidelines were subsequently adopted on July 16, 1980. The parameters and guidelines allow reimbursement of personnel-related costs associated with the reconciliation of the general plan and zoning ordinances adopted prior to January 1979.

The activities specifically authorized for reimbursement include: (1) conducting field surveys, (2) preparing maps, (3) conducting public hearings, and (4) other necessary information-gathering tasks. The parameters and guidelines specify that the City of Los Angeles is the only entity eligible for reimbursement, since it is the only charter city with a population of two million or more.

FUNDING HISTORY

Chapter 96, Statutes of 1984 (AB 504), appropriated $628,208 to reimburse Los Angeles for its costs of complying with the provisions of Chapter 357. Table 9 displays this appropriation by fiscal year.

Table 9

Funding for Zoning Consistency

Funding Authority	Year for Which Funding was Provided			
	1978-79	1979-80	1980-81	1981-82
Ch 96/84	$82,054	$151,777	$102,645	$291,732

As adopted, Chapter 96 contains language prohibiting the disbursement of these funds until the Board of Control amends the parameters and guidelines to ensure that any costs that would have been incurred under prior law are offset against the city's total claim. The board amended the parameters and guidelines as directed on July 19, 1984.

FINDINGS AND CONCLUSIONS

1. Chapter 357 has resulted in a mandate by requiring the City of Los Angeles to increase the level of services it provides by making its zoning ordinances consistent with its general plan. City staff currently are reconciling zoning ordinances, which have been established since 1946, with the general plan adopted by the city in 1970. Based on a review of each of the city's 35 community planning areas, the staff estimates that the zoning on approximately 130,000 parcels is inconsistent with the general plan. The city has incurred significant costs in order to compile the zoning information necessary to conform its zoning ordinances to its general plan. These costs are state reimbursable.

2. We are unable to determine a unique statewide interest that is served by this mandate. The state has recognized that land use decisions made by individual cities may affect citizens in adjoining jurisdictions. This is clearly the case in Los Angeles, the largest city in the state. In addition, the Legislature has determined that there is a statewide interest in achieving the "orderly and harmonious development" of entire urban areas encompassing many local jurisdictions. The failure of the City of Los Angeles to make its zoning ordinances consistent with its general plan could jeopardize this state interest.

Nevertheless, under current law, zoning decisions generally are matters of local discretion and local concern, and the primary costs and benefits resulting from the City of Los Angeles' zoning and land use decisions clearly accrue to residents of the city.

3. We have no analytical basis on which to determine if the benefits realized as a result of this mandate outweigh the costs to the state. The benefits to the state of having the City of Los Angeles conform certain zoning ordinances to its general plan cannot be measured. Although changes in the use of land could significantly affect state and local revenues and expenditures, the impact of zoning ordinance or general plan revisions on such uses cannot be determined.

4. The Legislature's objectives in establishing the mandate have been achieved only in part, because the city has not fully complied with its requirements. As of April 1984, city staff had completed the reconciliation of zoning ordinances with the general plan for only six of the city's 35 community planning areas.

5. The "offsetting savings" provision of the parameters and guidelines will not limit the extent of reimbursements provided by the state to the City of Los Angeles. As noted previously, the Legislature directed the Board of Control to amend the parameters and guidelines to ensure that costs which under prior law would have been incurred by the city in making its zoning ordinances consistent with its general plan are deducted in determining the amount of reimbursement to which the city is entitled. However, the laws in effect prior to the enactment of Chapter 357 specifically exempt charter cities from compliance with the

zoning consistency mandate. Thus, the city is entitled to full reimbursement of all costs resulting from Chapter 357.

6. The state may be obligated to reimburse Los Angeles for compliance costs incurred in future years. In addition to the $628,208 already appropriated to reimburse the city for costs incurred through January 1, 1982 (the statutory deadline for compliance), the state could be liable to reimburse the city for costs incurred from this date forward. This is because the city is still required to comply with the mandate. Consequently, even though costs are incurred by the city after the statutory deadline for compliance with the mandate, the state may be obligated to reimburse these costs.

RECOMMENDATION

We recommend that the Legislature repeal Ch 357/78. We have not been able to identify benefits to the state as a whole that would justify the cost of subsidizing this one city to conform its zoning ordinances to its general plan. While conformity promotes certain goals of importance to the state, most of the benefits from conformity accrue to residents of the city itself. Furthermore, we note that none of the state's 80 other charter cities, many of which are in the greater Los Angeles urban area, must comply with this requirement, nor must the City of Los Angeles conform ordinances that it adopted after January 1, 1979, to its general plan.

For these reasons, we recommend that the Legislature take action to cap the amount it will have to pay the city as reimbursement for mandated costs by repealing this mandate.

CHAPTER X

FILIPINO EMPLOYEE SURVEY

DESCRIPTION

Chapter 845, Statutes of 1978, specifies that if cities and counties conduct any survey or maintain a statistical tabulation of minority group employees, they must identify in the survey or tabulation any employees whose ancestry or ethnic origin is Filipino. Chapter 845 applies only to cities and counties that have at least 5,000 residents, or in which 5 percent of the population is of Filipino ancestry or ethnic origin according to the last federal census. However, because federal regulations require all local agencies with more than 15 employees to collect specified data regarding the ethnic status of their employees, Chapter 845 effectively applies to all cities and counties that have more than 15 employees. (The federal regulations do not require the separate categorization of Filipinos.) Prior to the enactment of Chapter 845, cities and counties were not required to maintain statistical information on Filipino employees.

The Legislative Counsel's Digest associated with Chapter 845 indicated that the bill would result in state-mandated local costs. The measure stated that such costs would be eligible for reimbursement and that reimbursement could be provided through the regular budget process.

BOARD OF CONTROL ACTION

The City of Los Angeles filed a test claim on November 6, 1979, alleging that Chapter 845 required an increased level of service by requiring cities and counties to conduct a survey to identify members of their workforce who are of Filipino ancestry or ethnic origin. The city indicated that it had incurred costs of $14,024 to conduct such a survey.

On May 21, 1980, the Board of Control determined that Chapter 845 contained a reimbursable mandate.

Subsequently, on May 27, 1982, the board adopted parameters and guidelines which allow cities and counties to be reimbursed for the increased costs associated with the following specified activities:

- Preparation of draft and final survey instruments.
- Collection and tabulation of survey results.
- Rewriting of existing computer programs to include data on Filipino employees.

FUNDING HISTORY

Assembly Bill 504 (Chapter 96, Statutes of 1984) appropriated $41,000 to reimburse cities and counties for costs incurred in fiscal years 1978-79 through 1983-84, as indicated in Table 10.

Table 10

Funding for Filipino Employee Surveys

Funding Authority	Year for Which Funding is Provided					
	1978-79	1979-80	1980-81	1981-82	1982-83	1983-84
Ch 96/84	$34,700	$1,100	$1,155	$1,235	$1,322	$1,415

Our office recommended approval of the funding requested in AB 504. Costs for the first year (1978-79) are significantly higher than those in subsequent years because they include the one-time only costs incurred by cities and counties in adapting their existing manual or data processing system to include the new category of "Filipino." For subsequent years, Los Angeles County is the only local government entity seeking reimbursement because it is the only entity which has ongoing annual costs in excess of $200.

FINDINGS AND CONCLUSIONS

1. Chapter 845, Statutes of 1978, requires cities and counties to provide an increased level of service and it, therefore, constitutes a mandate. Chapter 845 requires specified cities and counties, when conducting any survey or tabulation of minority group employees, to identify all employees whose ancestry or ethnic origin is Filipino. By requiring local governments to conduct a more detailed personnel survey than they otherwise would, Chapter 845 generally increases the responsibility and workload for local personnel departments and results in additional costs for reprogramming and data collection/analysis.

2. The mandate does not appear to serve a statewide interest. Chapter 845 indicates that it is the intent of the Legislature to ensure that persons of Filipino ancestry and national origin are not being incorrectly classified as either Spanish surname or Asian in city and county personnel surveys because such categorization unfairly discriminates against such persons in the operation of a city or county government's equal employment opportunity program.

Clearly, the state has an interest in preventing Filipinos from being discriminated against for employment opportunities with cities and counties, as indeed it has an interest in preventing members of all racial and ethnic groups from discrimination. The need for state action along the lines of Chapter 845, however, is less clear.

A review of various statistical information relating to Filipinos indicates that Filipinos comprise a higher percentage of the statewide labor force, and a higher percentage of the state's and counties' labor forces, than their percentage of the state's population. Further, a review of the 1980 Federal Census data indicates that there are no counties and only seven cities which have Filipino populations that amount to more than 5 percent of the locality's population; nonetheless, virtually all cities and counties within California are required by Chapter 845 to maintain specified statistical data on Filipino employees.

We reviewed the 1980 Federal Census data for all of California's 58 counties and for 75 of the 426 cities which were incorporated as of June 30, 1980. On a statewide basis, Filipinos comprised 1.51 percent of the population. A review of the figures for counties indicates that Filipinos comprised more than 1 percent of the population in only seven of California's 58 counties; there are no counties in which 5 percent or more of the population is Filipino.

Table 11 displays the information for the 75 cities we surveyed. The cities surveyed represent all cities (1) with populations in excess of 100,000, and (2) located within a county in which 1 percent or more of the population is Filipino.

Table 11

Filipinos as a Percentage
of Selected California Cities' Population

Percent of City Population that is Filipino	Number of Cities
0-1%	33
1-2	17
2-3	8
3-4	6
4-5	4
5-10	7
10+	0
Total --	75

Information from the State Personnel Board indicates that as of June 30, 1984, Filipinos comprised 1.6 percent of the labor force within California, and 2.6 percent of the state civil service work force. Among county employees, Filipinos comprised 1.8 percent of the work force (based on a survey of county welfare department employees).

3. We are unable to identify any benefit resulting from the mandate. We are unable to determine the value of requiring all cities and counties, regardless of whether they have large Filipino populations, to survey and maintain statistical information on Filipino employees.

RECOMMENDATIONS

We recommend that legislation be enacted to make this mandate permissive, rather than mandatory. Our review failed to substantiate the need for the state to require the collection, on an ongoing basis, of statistical information covering an ethnic population that in 83 percent of counties and 67 percent of the cities we surveyed comprises less than 1 percent of the population. Further, we are unable to determine the existence of a problem that the collection of this information would help correct. As noted above, Filipinos constitute a higher percentage of the total and governmental labor forces than of the state's population as a whole.

Making this mandate permissive would not preclude local agencies from continuing to collect this information. Cities and counties with substantial Filipino populations would have the option to identify Filipinos (or any other minority ethnic group) separately in any employee surveys they might conduct. At the same time, cities and counties with minimal Filipino populations would not be required, at state expense, to separately categorize Filipino employees.

CHAPTER XI

POLLING PLACE ACCESSIBILITY

DESCRIPTION

Chapter 494, Statutes of 1979, requires local elections clerks to include in the notice of polling place location that is sent to each voter, a statement as to whether the voter's polling place is accessible to the physically handicapped. The measure also requires the clerks to notify each voter of his/her right, under Section 14234 of the Elections Code, to assistance in marking the ballot.

At the time Ch 494/79 was enacted, the Legislature disclaimed any obligation to reimburse counties for the costs they incurred as a result of the measure, on the basis that the duties imposed were minor and would not place any financial burden on local government. The Legislature, however, acknowledged that counties could seek reimbursement of these costs through the Board of Control. Our analysis of the measure identified the mandate and indicated that counties could incur minor costs as a result of the mandate.

BOARD OF CONTROL ACTION

Alameda County filed a test claim on February 28, 1980, alleging that Chapter 494 mandated an increased level of service by requiring counties to conduct a survey of all polling places to determine which were accessible to the physically handicapped. No reimbursement was sought for the other requirements of the statute (for example, the requirement that counties provide the results of the survey to the voters).

The Board of Control determined on June 18, 1980 that a reimbursable mandate existed, and on January 20, 1982 it adopted parameters and guidelines allowing reimbursement for (1) the one-time cost of conducting a survey of polling places, and (2) the ongoing costs of updating the survey and handling complaints.

FUNDING HISTORY

Chapter 96, Statutes of 1984 (AB 504), provided $82,560 to reimburse the counties for costs they incurred under Chapter 494 during the period 1979-80 through 1983-84, as indicated in Table 12.

Table 12

Funding for Polling Place Accessibility

Funding Authority	Year for Which Funding Was Provided				
	1979-80	1980-81	1981-82	1982-83	1983-84
Ch 96/84	$41,518	$13,062	$12,950	$7,268	$7,762

Our office recommended approval of the funding requested in AB 504.

FINDINGS AND CONCLUSIONS

1. Chapter 494, Statutes of 1979, created a mandated local program by requiring local elections clerks to include specified information in the notice of polling place sent to each voter. Specifically, the notice must contain information regarding: (a) whether a voter's polling place is accessible to the handicapped, and (b) a voter's right to assistance when marking the ballot. This amounts to an increase in the level of services that the counties are required to provide.

2. This mandate appears to serve a statewide interest. The state has an interest in protecting each qualified elector's right to vote. Thus, this mandate serves a statewide interest by informing all voters that they will not be excluded from the electoral process because of a physical handicap or the need for special assistance when voting.

3. We have no analytical basis to measure the benefits that result from this mandate or to compare them with the costs incurred by counties to produce these benefits. We question, however, the need for the notification required by Chapter 494, given that the state uses other means to assist handicapped persons to exercise their right to vote. Under current law (Elections Code Section 14324), every polling place in California must permit handicapped persons to vote, regardless of whether the polling place itself is accessible to handicapped persons. This is because each polling place must provide "curbside voting," allowing voters requiring special assistance to vote outside the polling place. In addition, Section 10017 of the Elections Code requires that a notice be printed on the envelope containing the sample ballot advising all voters of their right to vote absentee. Thus, it appears that the mandated notification requirement adds little to what the state is already doing in order to assist handicapped persons to exercise their right to vote.

RECOMMENDATION

We recommend that legislation be enacted to make this mandate optional, rather than mandatory. It does little to assist handicapped persons in exercising their right to vote. Implementation of this recommendation would result in minor (less than $25,000) annual savings to the state's General Fund.

CHAPTER XII

SCHOOL CROSSING GUARDS

DESCRIPTION

Chapters 282, 1035, and 1039, Statutes of 1979, provided, among other things, for the phasing out of the California Highway Patrol's (CHP) role in the school crossing guard program and required all counties to provide funding for these programs.

Prior to the enactment of these three laws, counties had the option of choosing not to provide crossing guard services, thereby leaving the decision up to individual cities and school districts. Nevertheless, all counties except Santa Cruz either contracted with the CHP for crossing guard services or provided such services themselves. Santa Cruz County was the only county that did not provide any crossing guard services.

Chapter 282/79 (AB 8) provided that if a city or county fails to adopt a school crossing guard program, a school district can, itself, adopt such a program and receive reimbursement for its costs from specified fines and forfeitures deposited in the county road fund. This measure also enacted a long-term program of fiscal relief to replace property tax revenues lost by local governments as a result of Proposition 13 (1978). The measure disclaimed the Legislature's obligation to provide reimbursement for any mandated costs resulting from the bill, declaring that "...no local agency or school district shall have standing to make a claim to the State Board of Control for any costs incurred by it under this act...."

Chapter 1035/79 (SB 186), the AB 8 "clean-up" bill, provided that the standards, terms, and conditions under which school crossing guards are provided by school districts shall be set forth in a written agreement between the district and the city or county. The bill digest for SB 186 failed to identify that it contained a mandated local program, and we identified no mandate in our analysis of the measure. Accordingly, the bill contained neither a disclaimer of, nor funding for, any mandated local costs.

Finally, Chapter 1039/79 (SB 399) provided that a county board of supervisors may adopt standards for the provision of crossing guards, and shall have final authority over the total amount of costs to be reimbursed. This measure disclaimed reimbursement for any mandated costs on the grounds that it provided self-financing authority. Specifically, the bill declared that specified fines and forfeitures deposited in the county road fund were sufficient to cover any additional costs imposed. The measure, however, did not authorize an increase in the amount of such fines and forfeitures collected, in order to offset the additional costs.

BOARD OF CONTROL ACTION

On December 24, 1980, Santa Cruz County filed a claim of "first impression" with the Board of Control seeking reimbursement for mandated costs resulting from Chapters 282, 1035, and 1039. On December 16, 1981, the board ruled that these chapters contained an unfunded mandate which resulted in increased costs to Santa Cruz County for school crossing guard services.

The Board of Control adopted parameters and guidelines on March 25, 1982. These parameters and guidelines define Santa Cruz County as the only local entity eligible for reimbursement, as this county was the only one which was required to provide an increased level of service as a result of the mandate. The parameters and guidelines further specify that Santa Cruz County will be reimbursed for the following activities associated with the operation of its school crossing guard program:

- Salaries and employee benefits for school crossing guards.
- Necessary and reasonable travel and related expenses for school crossing guards.
- Specialized clothing and equipment.

FUNDING HISTORY

Assembly Bill 504 (Chapter 96, Statutes of 1984), appropriated $8,476 to reimburse Santa Cruz County for costs incurred in fiscal years 1980-81 through 1983-84, as indicated in Table 13. This amount appears to reflect accurately the actual costs incurred by Santa Cruz County in complying with this mandate, and our office recommended approval of the full amount. This amount reflects the cost of hiring two part-time crossing guards in 1983-84 and one part-time crossing guard in prior years.

Table 13

Funding for School Crossing Guards

Funding Authority	Year for Which Funding was Provided			
	1980-81	1981-82	1982-83	1983-84
Ch 96/84	$1,878	$2,040	$2,213	$2,345

The Governor's 1985 budget proposal includes $3,000 to reimburse Santa Cruz County for Chapter 282-related costs during 1985-86.

FINDINGS AND CONCLUSIONS

1. Chapter 282, Statutes of 1979, has required Santa Cruz County to increase the level of services it provides thereby imposing a mandate on the county. These measures eliminated an option which, under prior law, Santa Cruz County had--the option not to pay for school crossing guards--without authorizing the county to raise additional revenues sufficient to offset its costs. Accordingly, our analysis indicates that this statute imposes mandated costs on Santa Cruz County.

2. With respect to the obligation to pay for crossing guard services, Chapters 1035 and 1039, Statutes of 1979, imposed no additional mandate on counties beyond that imposed by Chapter 282. As noted, Chapters 1035 and 1039 merely clarify the procedures under which crossing guard services should be provided and the associated costs reimbursed. The counties' obligation to provide such services, however, flows solely from Chapter 282.

3. Chapter 282 treated Santa Cruz County no differently than it treated the state's other 57 counties. Each of these other counties also lost the option not to pay for school crossing guards. The extent of the mandated costs imposed by this statute is, therefore, not limited to the amount claimed by Santa Cruz County, but potentially includes the costs of all school crossing guard programs statewide. The total amount of these costs is unknown, but potentially major (several million dollars annually).

4. The mandate imposed by Chapter 282 is not state-reimbursable. Section 2253.2 of the Revenue and Taxation Code provides that, if a statute results in no net costs to local agencies, the Board of Control shall find that it imposes no reimbursable mandate. Because the long-term program of fiscal relief enacted by Chapter 282 provided counties with revenues far in excess of the costs of the school crossing guard programs, our review indicates that Chapter 282 resulted in no "net costs." As a result, reimbursement of these mandated costs is not required. Furthermore, the Legislature's declaration in Chapter 282 that "...no local agency or school district shall have standing to make a claim" for reimbursement of mandated costs imposed by the measure provides additional evidence that the Legislature never intended to provide reimbursement for the school crossing guard mandate.

5. The requirement imposed by Chapter 282, (as clarified by Chapters 1035 and 1039) serves both a local and statewide interest. The primary benefits resulting from the provision of school crossing guards are the reduced incidence of injuries and death to pupils while crossing streets and highways en route to and from school. Although the state has an obvious interest in ensuring the safety of all school children, the local interest in doing so is equally compelling. That this is the case is reflected in the fact that, prior to the enactment of this mandate, 57 of the state's 58 counties voluntarily determined that the expenditure of county funds for the provision of crossing guards was warranted. Thus, we conclude that the interest served by the mandate is not unique to the state.

6. The Legislature's objective in establishing the mandate appears to have been achieved. As a result of this mandate, all 58 counties either provide or pay for some level of school crossing guard services.

7. The requested appropriation for Chapter 282 in the Governor's 1985-86 Budget is not needed. The 1985-86 Governor's Budget includes a request for $3,000 to reimburse Santa Cruz County for mandated costs that will be incurred during 1985-86 as a result of Chapter 282. Because Chapter 282 provided revenues far in excess of the costs associated with the mandate, the costs incurred by Santa Cruz County are not "net costs" and, therefore, should not be funded as a "reimbursable mandate."

RECOMMENDATION

We recommend that the Legislature appropriate no additional funds to reimburse Santa Cruz County for the costs resulting from the school crossing guard mandate on the basis that (a) the long-term program of fiscal relief enacted by Chapter 282 provided the county with revenues far in excess of the mandated costs attributable to that act, and (b) the Revenue and Taxation Code does not recognize mandates of this type as reimbursable.

CHAPTER XIII

REGIONAL HOUSING NEEDS

DESCRIPTION

Since 1971, state law has required each city and county to include a housing element as part of its local General Plan. This housing element must address the adequacy of housing available to each of the various income groups within the community.

Chapter 1143, Statutes of 1980, imposed additional requirements on local entities by: (1) broadening the scope and detail of the required housing element, (2) requiring cities and counties to provide adequately for their share of the regional demand for housing, and (3) requiring each local government to adopt a housing element by October 1, 1981, and to update its element at least once every five years, with the first review to be completed by July 1, 1984. (Chapter 208, Statutes of 1984, subsequently extended through 1992 the deadlines for the first two revisions.)

At the time Chapter 1143 was considered by the Legislature, the Legislative Counsel's Digest stated that the measure would establish a state-mandated local program. The act did not appropriate funds for these costs, but recognized local agencies' right to seek reimbursement through other means.

BOARD OF CONTROL ACTION

Acting on test claims filed by the City of El Monte, the County of Los Angeles, and the City and County of San Francisco, the Board of Control

concluded on August 19, 1981 that Chapter 1143 constituted a mandate requiring "an increased level of service" by cities and counties. This finding was based on the fact that, prior to the enactment of Chapter 1143, localities, in developing their housing elements, needed to comply only with the requirements of the 1971 Housing Element Guidelines published by the Department of Housing and Community Development (HCD). The board concluded that the requirements of Chapter 1143 went beyond these guidelines and, therefore, imposed mandated costs on local agencies.

Accordingly, the board established parameters and guidelines for local claimants on March 25, 1982, limiting reimbursement to: (1) those "additional costs" incurred by local agencies that are directly attributable to Chapter 1143, and (2) those jurisdictions that satisfied the deadlines stipulated in Chapter 1143, (as later modified by Ch 208/84). Only costs incurred on or after January 1, 1981 for the following activities would be eligible for reimbursement:

- Documentation of the relationship between zoning and public facilities, on the one hand, and land suitable for residential development on the other (as long as this information was not previously secured in complying with HCD's 1971 Housing Element Guidelines).
- Collection of employment data and the projected impact of area employment trends on regional housing needs.
- Review of regional housing need allocations provided by a council of government, as based on statewide HCD housing projections.

- Revisions to a locality's housing element, due to the changes in the data relating to regional housing needs.
- Collection and analysis of data regarding the housing needs of special populations within the local agencies' boundaries (for example, disabled persons and farmworkers).
- Collection and analysis of data affecting local energy conservation practices in residential developments.
- Verification of public participation in the preparation and amendment of local housing elements.

The Department of Finance and HCD initially estimated that the statewide costs of complying with this mandate during the period 1980-81 through 1983-84 would be $188,000. The board, however, estimated these costs at $1.5 million, as proposed by the County Supervisors' Association of California (CSAC). Consequently, AB 504 (Ch 96/84), as introduced, sought an appropriation of $1.5 million to reimburse Chapter 1143-related costs. Following a series of negotiations between the Department of Finance, HCD, the League of California Cities and CSAC, the level of reimbursement was recalculated at $340,000. This amount was appropriated in Chapter 96.

In the course of considering AB 504, the Legislature took two actions which affect the costs that are eligible for reimbursement. First, it removed the requirement in the parameters and guidelines that restricted reimbursement only to those jurisdictions that complied with the deadlines of Chapter 1143. Second, the Legislature specified that no local agency could receive reimbursement both for the costs incurred in adopting its

housing element and for costs incurred in making its first revision to the element. This limitation, which was imposed at the same time deadlines for compliance were eliminated, apparently was intended to reduce the number of claims that could be filed by local jurisdictions that failed to meet either of the deadlines established by Chapter 1143.

FINDINGS AND CONCLUSIONS

1. Chapter 1143 imposes a mandate on cities and counties because its provisions requiring housing elements are significantly more detailed, and thus require an increased level of service by those subject to the requirements, than the requirements contained in prior law. Under the 1971 Housing Element Guidelines, localities primarily were required to prepare information relating to the local jurisdiction's housing needs. Chapter 1143, however, directs cities and counties to: (1) incorporate HCD-determined statewide estimates of regional housing needs, (2) consider employment data and their impact on housing needs, (3) provide for the housing needs of special groups (for example, disabled persons, and farmworkers), and (4) comply with certain prescribed deadlines for the adoption and revisions of the local housing element. It is these requirements that necessitate an increased level of service by local governments.

2. This mandate serves a statewide interest. Chapter 1143 requires local governments to provide housing plans which are not only more comprehensive and current, but which also take into account the entity's "fair share" of projected regional housing needs. These requirements are intended to assure that, collectively, the state's localities plan and

provide for a sufficient amount of safe, decent and affordable housing to meet the needs of all Californians. To the extent that this mandate helps achieve those goals, a statewide interest is served.

3. The claiming guidelines issued by the State Controller do not accurately reflect legislative action appropriating funds for Chapter 1143-related claims. Our analysis indicates that the "claiming instructions" issued by the State Controller relative to Chapter 1143 include the restriction on eligibility that was deleted by the Legislature in acting on AB 504. Consequently, the claims of some jurisdictions that otherwise should be eligible for reimbursement may be denied.

4. We are unable to assess the effectiveness of the mandate because the necessary information on Chapter 1143-related costs and benefits is not available. As noted above, the ultimate benefit that Chapter 1143 seeks to produce is an increase in the supply and/or availability of affordable housing for all income groups. While the improved planning required by Chapter 1143 would appear to be a logical first step toward this end, it does not guarantee that an adequate supply of affordable housing will be forthcoming. No data are available on the changes in housing supply that can reasonably be attributed to the expanded housing element requirement established by Chapter 1143. Furthermore, it is unlikely that quantitative information of this type will ever be available, given the myriad of factors affecting the development of housing.

The actual costs incurred by cities and counties in complying with Chapter 1143 are also unknown at this time. Although $340,000 has been appropriated to reimburse these costs, this amount may not be a good

indication of what compliance ultimately costs, for two reasons. First, the $340,000 appropriation assumed that only agencies meeting the established deadlines would be eligible for reimbursement of mandated costs. Since the Legislature deleted this restriction, however, the appropriation may not be sufficient to satisfy local claims for the period 1980-81 to 1983-84.

Second, Chapter 1143 (as amended by Chapter 208/84) requires all housing elements to be updated and revised by local governments at least twice between July 1984 and July 1992. After 1992, the elements are to be "revised as appropriate" but at least once every five years. The HCD estimates that the total costs for the reviews required between 1984 and 1992 could reach $1 million. Compliance costs beyond 1992 cannot be estimated. These costs will depend on how local agencies choose to comply with the mandate.

RECOMMENDATION

1. We recommend that the Legislature direct the Department of Housing and Community Development to prepare a report evaluating the effectiveness of Chapter 1143 in helping the state achieve its housing goals. By January 1, 1986, all jurisdictions are required to have (1) completed a housing element, and (2) conducted at least one review and revision of that housing element. Consequently, it should be possible after this date to assess the impact of the required housing elements on housing development within the state.

Accordingly, we recommend that the Legislature direct HCD to report by September 1, 1986, on the costs and benefits of the Chapter 1143

mandate. The report should address such topics as: (1) the success of the mandate in getting local jurisdictions to accept and plan for their allocated "fair shares" of regional housing demand, and (2) the degree and nature of changes in the first revisions to the housing elements that originally were adopted.

Only after the effectiveness of the housing element requirement has been assessed will the Legislature have the minimum amount of information it needs to determine whether this mandate should be continued.

2. We recommend that the Legislature direct the Controller to amend the claiming instructions for this mandate to reflect legislative action. The State Controller's Office reports that its claiming instructions were based on the parameters and guidelines adopted by the Board of Control. Since the board did not modify these parameters and guidelines after the Legislature removed the eligibility restriction, the Controller's guidelines are not consistent with action taken by the Legislature. To correct this problem, we recommend that the Legislature direct the Controller to modify its claiming guidelines accordingly.

CHAPTER XIV

NOTIFICATION OF INVOLUNTARY LIENS

DESCRIPTION

Chapter 1281, Statutes of 1980, requires county recorders to notify judgment debtors by mail when an involuntary lien on their real property is recorded. Judgment debtors are individuals found by a court to owe money for an outstanding debt to either an individual or a governmental agency. (Generally speaking, local governments will ask to have a lien recorded against an individual's property when that individual has failed to pay a local tax or utility bill.) Chapter 1281 allows a county to charge a fee for the costs of providing the notice, except in cases where the lienholder is a local governmental entity.

Prior to the enactment of Chapter 1281, counties were not required to notify judgment debtors when an involuntary lien was recorded on their property.

At the time Chapter 1281 was being considered by the Legislature, the Legislative Counsel's Digest stated that the bill would establish a state-mandated local program. Chapter 1281, however, disclaimed the Legislature's obligation to reimburse local governments for their cost of complying with the mandate on the basis that the bill was "self-financing," insofar as counties have the authority to levy fees sufficient to offset their costs. Unfortunately, neither the Counsel's Digest nor the analysis of the bill prepared by our office recognized that many of the liens would

be placed by local government entities, and that counties were prohibited from collecting fees from such governmental entities.

BOARD OF CONTROL ACTION

A test claim for reimbursement of Chapter 1281-mandated costs was filed by San Bernardino County on June 12, 1981. The claim alleged that the measure resulted in additional costs to the counties because they are required to mail notices to tax debtors about liens placed by local governments and that these costs could not be offset by revenue generated from fees.

On October 21, 1981, the Board of Control determined that a reimbursable mandate existed under Chapter 1281. Subsequently, on May 27, 1982, the board adopted parameters and guidelines which specified that counties would be reimbursed for (1) the one-time administrative costs of implementing the notification program, and (2) the ongoing costs of sending notices to judgment debtors in cases where the lienholder is a governmental entity. The parameters and guidelines limit the amount of reimbursement that may be claimed for sending the notices to the normal fee charged to nongovernmental lienholders for this same service.

FUNDING HISTORY

Assembly Bill 504 (Ch 96/84) appropriated $2,783,000 to reimburse counties for costs incurred under Chapter 1281 in fiscal years 1980-81 through 1983-84, as indicated in Table 14.

Table 14

Funding for Notification of Involuntary Liens

Funding Authority	Year for Which Funding is Provided			
	1980-81	1981-82	1982-83	1983-84
Ch 96/84	$310,000	$720,000	$820,000	$933,000

Our office recommended approval of the $2,783,000 requested in AB 504, which was based on an estimate developed by the Department of Finance in 1982. A recent survey of the seven largest counties conducted by our office indicates, however, that the cost to the state General Fund may be overstated by approximately $500,000.

FINDINGS AND CONCLUSIONS

1. Chapter 1281 created a reimbursable mandate because it requires counties to provide an increased level of service--notification to certain judgment debtors--the costs of which they are unable to finance by imposing fees. Chapter 1281 requires counties to process and mail involuntary lien notices recorded at the request of local government entities and prohibits them from charging a fee for this service.

2. The mandate appears to serve a statewide interest. An "involuntary lien," as used in Chapter 1281, is a lien which the person (or persons) against whom such lien is being recorded has not consented to by contract. Liens on a piece of property--either voluntary or involuntary--cloud the title to the property. This makes it difficult or impossible for the property owner to sell or transfer ownership of the property until the lien is cleared. By requiring that all judgment debtors

receive notice of involuntary liens placed against their property, the state is ensuring that property owners throughout the state are treated in a fair and uniform manner.

3. The benefits resulting from the mandate do not justify the costs incurred by the state. The beneficiaries of the requirement set forth in Chapter 1281 are the judgment debtors who receive notice that a lien has been placed against their property. There is no benefit to the local government lienor which, in many cases, has already sent numerous notices to the debtor advising of the delinquency. There is also no benefit to the state or the taxpayers in general who ultimately bear the cost of reimbursing counties for mailing these notices to judgment debtors.

RECOMMENDATION

We recommend that legislation be enacted authorizing counties to charge judgment debtors (the beneficiaries of the required notice) a fee sufficient to cover the cost of providing the notice, for a General Fund savings of $500,000 to $1 million annually. Under Chapter 1281, judgment debtors clearly are the beneficiaries of the notice that must be sent. Yet, it is the state, not the debtors, that bears the cost of providing this notice. Although the cost of providing this notice on a case-by-case basis is minimal (approximately $3.00), on a statewide basis we estimate that the General Fund will incur substantial costs (between $500,000 and $1 million to reimburse counties in 1985-86. These costs do not reflect the administrative costs incurred by either the counties or the state to prepare and process the reimbursement claims.

There are two fairly simple administrative procedures currently available by which the cost of providing the lien notice can be collected from the debtor, rather than from the state. First, the cost can be added onto and collected along with the debtor's annual property tax bill. Alternatively, debtors could be required to pay a "lien notice fee" at the same time they present evidence to the county that the debt has been paid and the lien should be released and removed from the county's records. Under existing law, a debtor must pay the county a "lien release fee" in order to have the record of the lien removed from the county's records. Under this proposal, the lien would not qualify to be released until both the "lien release fee" and a "lien notice fee" had been paid. Under both of these systems, the burden of paying for the notice is shifted from the state to the debtors. Consequently, the Legislature may wish to authorize counties to use either of the two systems.

CHAPTER XV

REASSESSMENT ON TRANSFER OF OWNERSHIP

DESCRIPTION

Chapter 1349, Statutes of 1980, made several changes in the definition of "changes of ownership" for purposes of property tax assessments. For example, under Chapter 1349, transfers between an individual and a legal entity that did not result in a proportional change of interest are not considered a change in ownership for purposes of reassessment; under prior law they were. Consequently, beginning in 1981-82, this type of a transfer would not trigger a reassessment of the affected property.

Chapter 1349 required county assessors to utilize the new definitions for purposes of valuing real property on the 1981-82 property tax roll. In cases where property has been reappraised as a result of transfers no longer deemed to be a "change of ownership," the county assessor was required to enroll the properties' value for the 1981-82 tax roll as though no transfer had occurred. This required the assessors to review all changes in ownership which occurred between 1975 and 1980, in order to determine whether they met the new definition of a change in ownership.

Chapter 1349 also included provisions which required county assessors to revise the assessed value of certain property under specified circumstances. Specifically, in cases where the co-owners of real property

eligible for the homeowners' exemption legally undertook to change the method by which they held title to the property, but this change resulted in no change in the proportional interests of the co-owners, the act permitted the owners to request that the assessor revalue the property for the 1980-81 roll as though no change in ownership had occurred. Such property would have been revalued for the 1981-82 roll, so the effect of this provision was to advance the revaluation by one year in cases where the property owner submitted an application for revaluation prior to February 28, 1981.

At the time Chapter 1349 was being considered by the Legislature, the Legislative Counsel's Digest indicated that the measure did not result in a state-mandated local program. Consequently, the bill contained neither an appropriation nor a reimbursement disclaimer. Because the measure was not heard by the fiscal committees, our office did not have an opportunity to review or comment on its potential fiscal implications.

BOARD OF CONTROL ACTION

Shasta County filed a test claim on May 19, 1981 alleging that Chapter 1349 imposed a mandate which resulted in increased local costs for county assessors' offices. On August 19, 1981, the Board of Control determined that counties had incurred increased costs as a result of the measure's requirement that they identify properties eligible for reassessment and perform those reassessments pursuant to Chapter 1349.

Parameters and guidelines for Chapter 1349 were adopted on May 27, 1982. They specified that counties which reassessed properties according to the provisions of Chapter 1349 would be eligible for reimbursement of those costs associated with the following activities:

- Identification of eligible changes-of-ownership property transactions.
- Evaluation of such changes to determine if a revision of the assessed valuation was necessary.
- Recomputation of affected properties' assessed value.
- Revision of the 1980-81 and 1981-82 tax rolls.

FUNDING HISTORY

Chapter 96, Statutes of 1984, provided $98,335 to reimburse counties for costs incurred under Chapter 1349 in 1980-81 and 1981-82, as displayed in Table 15.

Table 15

Funding for Reassessment On Transfer of Ownership

Funding Authority	Year for Which Funding was Provided	
	1980-81	1981-82
Ch 96/84	$59,425	$38,910

Our office recommended approval of the $98,335 requested in Chapter 96. A review of the estimate prepared by the Department of Finance indicates that the appropriation should be sufficient to pay for all actual costs incurred pursuant to this mandate.

FINDINGS AND CONCLUSIONS

1. Chapter 1349 imposed a mandate because it required counties to provide an increased level of service in connection with the assessment and valuation of real property and thereby caused them to incur increased

costs. Chapter 1349 required county assessors to (1) revise previously enrolled assessments, and (2) reevaluate certain types of property transfers and, where applicable, reassess the value of such properties.

2. The mandate appears to have served a statewide interest. As noted earlier, Proposition 13 requires that properties be reappraised upon a "change in ownership." Proposition 13, however, provided no guidance as to the definition of this term. The Legislature, in enacting Chapter 1349, provided a statutory limitation on the extent to which changes in the names recorded on official title documents would trigger reassessment. That is, the Legislature clarified the law to ensure that changes in the manner in which the ownership of property is evidenced, but not changed, would not result in revaluation. As the state benefits from increased levels of economic activity, and as the prior interpretation of Proposition 13's change of ownership rules may have acted as a disincentive to the greater economic utilization of property, the clarifications enacted in Chapter 1349 appear to serve a statewide interest.

3. The mandated costs associated with this measure were "one-time" costs (incurred over two fiscal years) and are no longer being incurred by counties.

RECOMMENDATION

Because the mandated costs associated with Chapter 1095 are no longer being incurred by local agencies, no recommendation on this program is warranted.

CHAPTER XVI

LIS PENDENS

DESCRIPTION

Background. State law establishes various procedures to be followed by persons who initiate court actions concerning real property, or affecting the title or right of possession of real property. Generally after filing a lawsuit, an individual must file a "lis pendens" (a formal notice of a pending court action), as specified by the Code of Civil Procedure (CCP) or other provision of state law, and then serve a summons and complaint on the defendants in the suit, requiring the defendants to appear in court and summarizing the allegations.

Local governments are affected by lis pendens requirements to the extent that they initiate actions such as (1) condemnation proceedings to acquire real property, (2) quiet title actions to resolve competing claims for title to real property, and (3) efforts to enforce zoning or health and safety code regulations. The lis pendens requirements of the CCP relate primarily to condemnation proceedings. Quiet title actions are also affected, but such actions are rare. The Health and Safety and Government Codes contain separate, less-stringent procedures for filing lis pendens in health and safety or zoning actions.

Prior to January 1982, the CCP required those initiating lawsuits involving real property to (1) prepare a lis pendens, and (2) record it in an office of a county recorder.

Mandate. Chapter 889, Statutes of 1981, which became operative on January 1, 1982, expands the lis pendens notification requirements contained in the CCP. Specifically, Chapter 889 specifies that, in addition to preparing and recording the lis pendens as required by prior law, individuals must (1) prepare and mail copies of the lis pendens to contesting parties, affected property owners, and the court, and (2) prepare a declaration that the lis pendens could not be mailed when the addresses of affected parties could not be found. In addition, Chapter 889 requires that the lis pendens be mailed to all specified recipients separately from the summons and complaint. (The summons and complaint is delivered only to contesting parties.)

At the time Chapter 889 was considered by the Legislature, the Legislative Counsel's Digest indicated that the bill would not establish a state-mandated local program. Our office did not prepare an analysis of Chapter 889 because it was not heard by the fiscal committees.

Chapter 78, Statutes of 1983, subsequently modified the notification procedures of Chapter 889, but only as they apply to condemnation proceedings. Specifically, Chapter 78 eliminated the requirement in condemnation cases (1) that a lis pendens be mailed to all parties of interest, and (2) that it be mailed separately from a summons and complaint. Instead, Chapter 78 requires that a lis pendens be delivered at the same time as a summons and complaint or, in other words, only to contesting parties.

The effect of Chapter 78 on local governments has been to reduce the number of parties to whom notices in condemnation proceedings must be

provided ("affected property owners" and "the court" no longer receive such notices). Condemnation proceedings are the most common type of real property actions subject to the notification requirements of the CCP in which local agencies are involved.

BOARD OF CONTROL ACTION

The Board of Control received a test claim from San Bernardino County on May 6, 1982 alleging that Chapter 889 resulted in state-mandated local costs by requiring local governments to prepare and mail copies, as specified, of any lis pendens they were otherwise required to prepare and record. On August 12, 1982, the board determined that a reimbursable mandate was created by Chapter 889, and parameters and guidelines were adopted by the board on September 30, 1982. The parameters and guidelines identify eligible claimants as any local governmental entity required to prepare and record a notice of the pendency of action pursuant to Section 409 of the Code of Civil Procedure (the code section containing the requirements of Chapter 889).

Under the parameters and guidelines, all costs incurred on or after January 1, 1982 (the effective date of Chapter 889) for the following activities are eligible for reimbursement:

- Serving the lis pendens to adverse parties and owners of record, including delivering a copy to the court.
- Preparing and recording the required proof of service.
- Documenting, when applicable, that there is no known address for delivery of the notice.

- Related administrative activities, including researching addresses, responding to inquiries, and maintaining specified files and records.

FUNDING HISTORY

Chapter 96, Statutes of 1984 (AB 504), provided $40,000 to reimburse eligible local entities for costs incurred under Chapter 889 for the three year period 1981-82 through 1983-84. Table 16 identifies the amount of funds provided for each year.

Table 16

Funding for Lis Pendens

Funding Authority	Year for Which Funding was Provided		
	1981-82	1982-83	1983-84
Ch 96/84	$7,650	$15,840	$16,830

Our office recommended approval of funding as provided in AB 504.

The 1984 Budget Act includes $17,000 to reimburse local entities for Chapter 889-related costs incurred in 1984-85.

FINDINGS AND CONCLUSIONS

1. Chapter 889 results in a reimbursable mandate because it requires local governments to provide an increased level of service. Specifically, it requires local governments to make copies of a lis pendens, mail them to various parties, and secure verification of delivery. Prior to Chapter 889, local governments were required only to prepare and record a lis pendens in the office of a county recorder.

2. The mandate appears to serve a statewide interest by providing some property owners more time to exercise their legal rights to protect their property interests. The California Constitution provides that persons may not be deprived of property without due process of law. The state's interest in ensuring that all property owners receive due process in property litigation is served by Chapter 889 because it ensures that persons across the state receive more time than prior law provided to exercise legal options to protect their property interests.

3. Local costs associated with Chapter 889 have been eliminated. Chapter 78, Statutes of 1983, which became operative on January 1, 1984, changed the notification procedures of Chapter 889 in real property actions resulting from condemnation proceedings. The change appears to have effectively eliminated the possibility that any mandated local costs will be incurred under Chapter 889 after January 1, 1984, because so far all costs associated with this mandate have related to condemnation proceedings.

4. The 1984 Budget Act appropriation for Chapter 889 is not needed. The 1984 Budget Act appropriated $17,000 for mandated costs incurred by local governments in 1984-85 as a result of Chapter 889. Because Chapter 78 effectively eliminated the possibility that additional local mandated costs will be incurred under Chapter 889, these funds are not needed in 1984-85 and should revert to the General Fund. The Department of Finance concurs, and advises the appropriation was included in the budget in error.

RECOMMENDATION

We recommend that the mandate contained in Chapter 889, as modified by Chapter 78, be continued in its present form.

CHAPTER XVII

BART--UNIFORMED SAFETY ATTENDANTS

DESCRIPTION

On January 17, 1979, a fire occurred in a Bay Area Rapid Transit (BART) transbay tube train and caused the death of an Oakland fireman. The Public Utilities Commission (PUC), which has jurisdiction over safety matters involving rapid transit systems, suspended BART's operations immediately thereafter, pending review of the incident. Following an investigation of the fire, the PUC issued a decision on April 4, 1979 (Decision No. 90144) authorizing BART to resume passenger train service through the transbay tube between Oakland and San Francisco. This authorization, however, was conditioned on BART agreeing to place a second uniformed attendant, trained in emergency response procedures, on every transbay tube train.

The PUC believed that, in addition to providing increased security and passenger assistance, a second train attendant could also serve to: (1) reduce the incidence of arson, (2) provide first-response to fire suppression, (3) provide first aid to stricken passengers, (4) perform walkthrough inspections and police services, and (5) render assistance and instructions during emergencies, including limited train operation and decoupling of cars.

In addition to requiring a second train attendant, the PUC decision (1) set time schedules for implementation by BART of additional fire

prevention measures to reduce the likelihood of fire on trains and to improve BART's ability to protect passengers in the event that fires occur, and (2) required BART to report to the commission, within 90 days, on the desirability of providing a second attendant on all trains operating through the Berkeley Hills Tunnel.

Decision No. 90144 was modified by PUC Decision No. 91091 in November 1979. This decision (1) extended the second safety attendant requirement to the Berkeley Hills Tunnel service, and (2) limited the application of the second attendant requirement to peak hours in the peak direction. Because the PUC recognized that the requirement for a second attendant represents only an interim effort to mitigate the severe hazard posed by the presence of extremely flammable materials in BART transit cars, Decision No. 91091 specified that the requirement for a second attendant would remain in effect only until the combustibility of BART cars is reduced through materials replacement and firehardening.

According to BART, the first phase of a program to remove flammable materials, in which train seats were replaced, was completed in late 1981. BART has also improved its fire detection system, and has completed firehardening for 80 of its 449 cars. Firehardening is being completed at the rate of six to eight cars per week. BART anticipates that the firehardening program will be completed by December 1985.

BOARD OF CONTROL ACTION

BART submitted a test claim to the Board of Control on March 12, 1980, alleging that PUC Decisions 90144 and 91091 imposed a mandate by requiring an increased level of service. On July 16, 1980, the board found

that a mandate existed and it adopted parameters and guidelines on November 18, 1981. These guidelines allow reimbursement of all costs relating to the additional uniformed safety attendants (called Emergency Procedures Advisors or EPA's by BART) in the manner prescribed by the PUC. The parameters and guidelines specify that, although the PUC's initial decision was in effect in April 1979, only costs incurred in 1979-80 and subsequent years will be reimbursed because BART's initial claim was not filed until 1980. BART is the only entity eligible for reimbursement of costs imposed by this mandate.

FUNDING HISTORY

Legislative Action. As approved by the Legislature, AB 504 (a local government claims bill introduced in 1983) contained $686,817 to reimburse BART for costs incurred in complying with PUC decisions 90144 and 91091 during the period 1980-81 through 1983-84. (Although the parameters and guidelines allow BART to be reimbursed for costs incurred in 1979-80, BART has not filed a claim for this year.) Table 17 displays the funding approved by the Legislature, by fiscal year.

Table 17

Legislative Funding for Uniformed Safety Attendants

	1980-81	1981-82	1982-83	1983-84
Proposed Allocation	$157,531	$163,686	$177,600	$188,000

Governor's Veto. Before signing AB 504 into law (Ch 96/84), the Governor vetoed the funds approved by the Legislature for this mandate. In

his veto message, the Governor stated that the costs incurred were "essentially costs of operations and, as such, are more appropriately recoverable through the fees which the District is authorized to charge."

FINDINGS AND CONCLUSIONS

1. The PUC decision has resulted in a mandate by requiring BART to increase the level of services provided. These additional services take the form of a second uniformed attendant that must be placed on certain BART trains.

2. The mandate imposed by the PUC's decision is not state-reimbursable. Existing law provides BART with the authority to fix rates and charges at levels sufficient to cover the expenses it incurs in providing transit service. Section 2253.2 of the Revenue and Taxation Code states that the Board of Control shall not find that a reimbursable mandate exists if the local agency has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or level of service. In light of this provision, our office recommended that funding support for this mandate be denied during legislative review of AB 504. We further recommended that the Legislature adopt language specifying that PUC Decisions 90144 and 91091 contain a state-mandated local program, but that it is not reimbursable. The Legislature had previously denied funding for this mandate in SB 1261 in 1981 on the basis that the Public Utilities Code allows BART to fix reasonable rates and charges for its rapid transit service in order to pay for operating expenses of the district.

3. The order appears to serve a statewide interest in that it has probably resulted in an enhanced level of safety for BART passengers. BART

has identified eight primary ways in which a second attendant on certain of its trains could reduce the hazards to passengers: (a) by providing the first response fire suppression, (b) by determining the location of the fire to permit optimum utilization of the ventilation system, (c) by uncoupling cars, (d) by facilitating the train operator's ability to traverse the train to the opposite end of the train in order to back the train out of the tunnel or tube, (e) by providing evacuation instructions to passengers in the rear of the train if the train's public address system fails to operate, (f) by opening car doors if they cannot be opened automatically by the train operator, (g) by expediting the evacuation of the train's passengers by aiding the train operator in establishing evacuation routes and reducing bottlenecks, and (h) by aiding the train operator in performing a sweep of the train to ensure all passengers have been evacuated.

RECOMMENDATION

1. We recommend that the Legislature not appropriate funds to reimburse BART for the costs resulting from the PUC's safety-attendant requirement, on the basis that: (a) BART has the authority to recoup these costs through fees, and (b) the Revenue and Taxation Code does not recognize mandates of this type as reimbursable.

2. We further recommend that language be adopted specifying that PUC Decisions 90144 and 91091 contain a state-mandated local program, but that it is not reimbursable.

CHAPTER XVIII

SOLID WASTE MANAGEMENT PLANS

DESCRIPTION

Chapter 342, Statutes of 1972, created the Solid Waste Management Board, since renamed the California Waste Management Board (CWMB), and generally established a planning process for solid waste management within California. During 1974, the CWMB promulgated regulations (Title 14, Article 7, Chapter 2, of the California Administrative Code) which specified guidelines and procedures for the preparation, submittal, and review of county solid waste management plans.

Chapter 1309, Statutes of 1976, required counties to review these plans at least every three years and to revise them if necessary. Chapter 1309 also required the first plan revision to include an enforcement program. In addition, Chapter 1397, Statutes of 1978, required that the hazardous waste portions of the county plans be submitted to the Department of Health Services, and that they comply with standards set by the department. During 1978, Title 14, Section 17141, was added to the regulations to implement the provisions of Chapters 1309 and 1397.

During the consideration of Chapter 1309 by the Legislature, the Legislative Counsel indicated that the bill would impose a state-mandated local program. Our analysis of the bill indicated that these local costs could not be determined, but that they would be offset by local revenues from permit fees and fines authorized by the bill. Chapter 1309 disclaimed

the Legislature's obligation to reimburse local governments for their costs under the measure on the basis that the "duties, obligations, and responsibilities imposed on local governmental entities...are such that related costs are incurred as part of their normal operating procedures." In 1981, however, the Attorney General opined that the permit fees authorized by Chapter 1309 could be used to pay costs of enforcement activities but could not be used to finance the preparation and revision of plans.

The Legislative Counsel's Digest for Chapter 1397 stated that the measure would establish a state-mandated local program. The Legislature's obligation to provide reimbursement, however, was disclaimed on the basis that there were "no new duties, obligations, or responsibilities imposed on local government by this act."

Chapter 1488, Statutes of 1982, authorized each county to adopt a schedule of fees to be collected from each operator of a solid waste disposal facility in amounts sufficient to pay county costs incurred in the preparation, maintenance, and administration of the solid waste management plan. This authorization became effective January 1, 1983.

BOARD OF CONTROL ACTION

San Bernardino County filed a claim of first impression on August 18, 1978, alleging that Title 14, Chapter 2, of the CAC imposed a mandate on counties by requiring them to prepare specific comprehensive solid waste management plans. On December 2, 1980, Stanislaus County filed a test claim alleging that Title 14, Section 17141, imposed an additional mandate on counties by requiring them to revise these plans every three years. On

June 17, 1981, the Board of Control determined that these two parts of the code did impose mandates on local governments as the claims filed by San Bernardino and Stanislaus Counties alleged. Subsequently, on March 25, 1982, the board adopted a single set of parameters and guidelines for both of the mandates. The parameters and guidelines for the two mandates were consolidated in order to ease filing and reimbursement procedures for both the counties and the state.

The parameters and guidelines allow reimbursement of the initial costs incurred by counties in preparing the original plans and for the subsequent costs of revising the plans. Specifically, the following costs are identified as reimbursable:

- Planning costs.
- Public hearing costs.
- The costs of reports and drafts.
- Employee salaries, as defined.
- The cost of consultant services.
- Travel service and supply costs.

Because Ch 1488/82 authorized counties to collect fees in amounts sufficient to cover the costs of preparing, maintaining and administering the solid waste plans, the parameters and guidelines were amended on May 26, 1983, to limit reimbursement to those costs incurred prior to January 1, 1983--the effective date of Chapter 1488.

FUNDING HISTORY

Chapter 96, Statutes of 1984 (AB 504), provided $1,643,000 to reimburse counties for the costs they incurred in preparing and revising solid waste management plans, as displayed in Table 18.

Table 18

Funding for Solid Waste Management Plans

Funding Authority	Year for Which Funding Was Provided			
	1979-80	1980-81	1981-82	1982-83
Ch 96/84	$51,000	$385,000	$768,000	$439,000

As introduced, AB 504 proposed an appropriation of $1,748,000 for these costs. This included $45,300 for costs incurred prior to 1977-78. These costs were not authorized for reimbursement because they predated the period for which the first claim was filed. The original request also assumed that all 58 counties would file claims to recover the costs of preparing and revising their plans. The CWMB, however, had determined that the plans for Del Norte, Glenn and Tulare Counties were adequate in their existing form and did not need to be revised as a result of the 1976 and 1978 regulations. Consequently, funding was needed to reimburse only 55 of the 58 counties. With this in mind, we recommended and the Legislature approved a funding level of $1,643,000 for the two mandates.

Since the enactment of Chapter 96, the CWMB has also determined that the plans for Lake, Nevada, and Placer Counties do not require revision. Since the average cost per county plan (except in Los Angeles) is estimated at $20,000, the amount of funding presently needed to reimburse counties should be reduced by $60,000, for a total of $1,583,000.

FINDINGS AND CONCLUSIONS

1. The Title 14 regulations enacted pursuant to Chapters 342, 1309, and 1397 result in a mandate because they require counties to increase the level of service they provide by developing solid waste plans for their jurisdictions and revising the plans, as necessary, every three years. Prior law did not require either the development or the revision of solid waste management plans. The Title 14 regulations require all counties to develop the plans and to revise them as needed, every three years.

2. The mandate serves a statewide interest. The state has an interest in locating new solid waste landfill sites, developing alternatives to landfills, and reducing the total volume of solid waste deposited in landfills. The Title 14 regulations seek to establish a consistent planning effort capable of providing a comprehensive data base for analyzing solid waste issues in each county. Therefore, the actions mandated by these regulations may result in alternatives to solid waste landfills or an expansion of landfill capacity consistent with protection of public health. To the extent they do so, a statewide interest is served.

3. The benefits realized as a result of these mandates appear to be commensurate with the costs of complying with them. Having all counties prepare and review solid waste management plans ensures that local governments and the Waste Management Board (1) evaluate solid waste management problems and potential solutions to those problems, and (2) compile data needed to make decisions regarding future solid waste facilities. The cost of reviewing and revising the plans has averaged

$411,000 per year for the four-year period 1979-80 through 1982-83. This cost does not appear an excessive price to pay for a comprehensive analysis and data base which can be used to make important waste disposal decisions. Planning in itself, however, does not guarantee that additional landfill sites will be approved or that alternatives to landfills will be developed. Existing law does not require the construction or siting of new facilities identified in the plans. Also, it is not possible to determine how much planning local governments would have done in the absence of this mandate.

RECOMMENDATIONS

1. We recommend that this program be continued in its present form. The planning effort mandated by these laws and regulations appears to be warranted, and the mandated costs can be recovered through fees without additional cost to the state.

2. We further recommend that the Legislature direct the Waste Management Board to report on the effectiveness of the current planning process and recommend any needed changes. The planning effort mandated by these laws and regulations appears to be warranted, and the mandated costs now can be recovered through fees. Ultimately, the effectiveness of the planning process will depend on the degree to which the plans are implemented. We believe therefore, that the Board should report to the Legislature by January 1, 1986, on (1) the effectiveness of the mandated local planning effort in identifying the need for solid waste disposal facilities which meet local disposal needs and achieve state goals, (2) the extent to which these plans are implemented, and (3) whether the existing mandate should be continued, revised, or replaced by a more effective process.

CHAPTER XIX

BEDS FOR JUVENILE DETAINEES

DESCRIPTION

State law requires the Department of the Youth Authority to adopt and prescribe minimum standards for county-run juvenile homes, ranches, camps, and forestry camps. The department also is required to inspect each county juvenile facility annually to determine if it is in compliance with the minimum standards. A facility which is not in compliance may not be used to confine any minor, after a specified notification period, until the department reinspects the facility and determines that the conditions have been remedied and the facility is suitable for confinement.

In 1979, the department adopted Title 15, Division 4, Chapter 2, Subchapter 4 of the California Administrative Code which contains the minimum standards for juvenile homes, ranches, camps, and forestry camps. Section 4323(c) of the regulations requires that each minor housed in one of these facilities be provided with an individual bed and mattress which is no less than 30 inches wide and 76 inches long, and constructed of nonallergenic and fire retardant materials. The regulations also provide, however, that a facility which was built in accordance with the standards in effect at the time of construction need not conform to the new standards.

Prior to the adoption of these regulations, the department had promulgated minimum standards for county facilities. The prior standards,

however, had not been adopted as regulations and did not specify a minimum bed and mattress size.

BOARD OF CONTROL ACTION

Alameda County filed a test claim on February 2, 1981, alleging that, as a result of the Youth Authority's regulation, it incurred increased costs to provide mattresses of a specified minimum size for detained youths. The Board of Control determined that a mandate existed on March 25, 1982, and began to develop parameters and guidelines.

During the development of the parameters and guidelines, however, the board discovered that the regulations did not require immediate replacement of beds and mattresses in existing facilities, such as Alameda County's. The board determined, however, that Alameda County had been advised by a CYA employee that it was required to replace undersized mattresses in existing facilities immediately. This advice was in error.

In light of this, the board adopted parameters and guidelines on May 27, 1982, which limit reimbursement to those counties which received incorrect instructions. Since no other county received incorrect information, only Alameda County is eligible for reimbursement.

FUNDING HISTORY

Chapter 96, Statutes of 1984 (AB 504), provided $7,923 to reimburse Alameda County for the costs it incurred in replacing the mattresses of detained youths, as displayed in Table 18.

Table 18

Funding for Beds for Juvenile Detainees

Funding Authority	Year for Which Funding Was Provided 1980-81
Ch 96/84	$7,923

Our office recommended approval of the $7,923 requested in Chapter 96. This appropriation should be sufficient to cover Alameda County's actual costs, and according to the department, no other county presently intends to file a claim for reimbursement under this provision.

FINDINGS AND CONCLUSIONS

1. Title 15, Section 4323(c) of the California Administrative Code, results in a mandate by specifying a minimum-size bed and mattress for certain county-run juvenile facilities where no minimum was specified previously. Thus, the provision requires counties to increase the level of services they provide. The regulations, however, limit the mandate to newly constructed facilities, and do not apply to facilities which were constructed in accordance with the standards in effect at the time of construction.

2. The costs approved by the Board of Control for reimbursement were "one-time only" and were incurred by only one county. Alameda County is the only local government entity eligible for reimbursement pursuant to the parameters and guidelines adopted by the Board of Control.

3. Although counties constructing new facilities ultimately may be deemed eligible to submit claims for reimbursement of costs incurred as a

result of the mandate in Title 15, they are not eligible to submit such claims under the existing parameters and guidelines. The parameters and guidelines restrict reimbursement to those counties that received incorrect information from the California Youth Authority regarding the application of the standards to existing facilities. Counties wishing to receive reimbursement for the increased costs of purchasing standardized beds for newly constructed facilities would have to file a new claim with the Commission on State Mandates. Two counties have built juvenile detention facilities since the new minimum standards became effective, but to date, neither county has filed a reimbursement claim.

RECOMMENDATION

Only one claim has been submitted for reimbursement of mandated costs associated with Title 15. This claim, submitted by Alameda County, is for one-time costs as a result of a unique situation. The parameters and guidelines adopted by the Board of Control presently limit reimbursement for Title 15-related costs to the situation unique to Alameda County. Because reimbursement provided by the Legislature to date is restricted to this one-time situation, no recommendation is warranted.

There may be other state-mandated costs associated with Title 15. However, no local agency has submitted a test claim seeking reimbursement for any such costs. To the extent that claims are filed in the future for reimbursement of mandated costs incurred as a result of other provisions of Title 15, the validity of the claims and the potential for reimbursement will have to be evaluated separately by the Commission on State Mandates.

CHAPTER XX

VICTIMS' STATEMENTS

DESCRIPTION

Chapter 1262, Statutes of 1978, provides that when a court orders the probation department to submit a report in a felony case, the probation officer shall include in the report a statement from the victim concerning the offense. Under prior law, probation officers were not required to obtain statements from the victims nor were they required to include such statements in their reports.

The Legislative Counsel's Digest of the bill that became Chapter 1262 indicated that it contained a mandated local program. Chapter 1262, however, disclaimed any state obligation to reimburse county offices for mandated local costs on the basis that "the duties imposed...are such that related costs are incurred as part of (their) normal operating procedures."

BOARD OF CONTROL ACTION

The City and County of San Francisco filed a test claim on March 3, 1982, claiming that Chapter 1262 required it to provide an increased level of service. It did so, the city and county maintained, by requiring probation officers to attempt to contact crime victims for the purpose of securing a statement for inclusion in a specified court-ordered report. On August 12, 1982, the Board of Control unanimously determined that Chapter 1262 created a mandate, and on July 28, 1983, the board 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:

- Contacting the victim by the most economical method to obtain the required statement.
- Including the statement in the probation report.
- The supervising probation officer's review of the statement.

The parameters and guidelines specifically exclude costs associated with probation reports that contain restitution determinations because such costs are reimbursed pursuant to Chapter 1123, Statutes of 1977, Victims of Violent Crimes. The parameters and guidelines also limit reimbursement only to costs incurred on or after July 1, 1981, because the first test claim was not filed until fiscal year 1981-82.

FUNDING HISTORY

Chapter 1436, Statutes of 1984 (AB 2961), provided $985,000 to fund the costs incurred by counties in complying with the provisions of Chapter 1262. Table 19 displays the funding, by fiscal year.

Table 19

Funding for Victims' Statements

Funding Authority	Year for Which Funding was Provided		
	1981-82	1982-83	1983-84
Ch 1436/84	$321,608	$329,285	$334,238

Our office recommended approval of the $985,000 provided in Chapter 1436.

The $985,000 appropriation was based on a Department of Finance estimate derived from information submitted by four counties representing 13 percent of the statewide population. Although this estimate appears reasonable, actual cost data are not yet available. Based on information available to date, however, we believe the appropriation is sufficient to cover actual costs.

FINDINGS AND CONCLUSIONS

1. Chapter 1262 has resulted in a mandate by requiring local governments to provide an increased level of service. Chapter 1262 requires probation officers to include in the probation report a statement from the victim of a felony. As a result, probation departments must incur additional costs in the course of contacting the victims, including statements in the reports, and submitting the statements to supervising personnel for review. Although it could be argued that probation officers, as a matter of course, should always obtain a victim's comments, there was no such statutory requirement prior to the enactment of Chapter 1262.

2. This mandate appears to serve neither a state nor a local interest. We cannot identify any particular benefit to either the state or local agencies resulting from the requirement that comments from victims be included in probation reports. Prior to the enactment of Chapter 1262, probation officers had general authority to contact victims, but were not mandated to do so. Thus, if a probation officer determined that a victim's

viewpoint was adequately represented from a review of police reports or court documents, it was not necessary to make any further contact with the victim. We see no benefit to requiring contact with the victim, particularly in those cases where the probation officer has already determined that such contact would provide little, if any, new information to the court.

3. We have no analytical basis for comparing any benefits resulting from the mandate with the costs incurred by counties in complying with it. The primary benefit resulting from this mandate is the opportunity it provides to victims of crimes to influence a defendant's sentence. We have no way of valuing this benefit or comparing it to the associated costs. The Judicial Council advises that although judges do read the victims' comments in the probation reports, there is no way to measure the effect that these comments have on the final sentence as compared to what the sentence would have been if these comments had not been included.

4. The cost of implementing the mandate is greater than originally anticipated. When Chapter 1262 was being considered by the Legislature, the Department of Finance advised the Legislature that any additional duties could be accomplished in the normal course of events without an increase in local costs. The analysis prepared by our office also indicated that the mandate would result in no additional costs to local agencies. As a result, the Legislature disclaimed any state obligation to reimburse mandated costs under the bill. Preliminary estimates prepared by the Department of Finance, however, indicate that statewide costs will be $334,000 for 1983-84, alone.

RECOMMENDATIONS

We recommend that the Legislature make the inclusion of victim's comments in probation reports optional rather than mandatory. This would allow probation departments to contact victims and include their comments in the probation reports when warranted. At the same time, local agencies would have the option not to contact victims in those cases where little, if any, new information would result from doing so. We estimate that implementation of this recommendation would result in an annual General Fund savings of approximately $340,000.

CHAPTER XXI

WILLIAMSON ACT NOTIFICATION

DESCRIPTION

Background. Under the California Land Conservation Act of 1965 (familiarly known as the Williamson Act), cities and counties may enter into contracts with landowners to restrict the use of property to open-space and agricultural purposes. In return for the restriction, the land is assessed at less-than-market value, thereby lowering the landowner's costs for holding the property as open space or agricultural land. For purposes of this act, "agricultural use" is defined to mean use of land for the purpose of producing an agricultural commodity for commercial purposes.

Each Williamson Act contract runs for a period of 10 years, and is automatically renewed each year unless either the landowner or local government files for "nonrenewal." Once a contract is nonrenewed, taxes on the property gradually return over a 10-year period to the level at which comparable nonrestricted property is taxed. Rather than file for nonrenewal, a landowner wishing to eliminate the restrictions on his or her land may, under limited conditions, petition the local government for cancellation of the contract. If cancellation is granted, the landowner must (1) pay a substantial cancellation fee to the state, generally about 12.5 percent of the open space valuation, and (2) pay a specified charge to the local government to enable it to recapture a portion of the tax benefits enjoyed by the landowner during the term of the contract.

Mandate. Chapter 1095, Statutes of 1981, provided a one-time "window" through which existing Williamson Act contracts could be cancelled. During the "window" period--January 1 through May 30, 1982--landowners were authorized to petition local governments for cancellation, subject to specified conditions and payment of the required fees. The criteria that a landowner had to meet in order to qualify for cancellation were much broader than those that were otherwise in effect.

Chapter 1095 specifically required each city and county to provide, on a one-time basis, a specified notice by first-class mail to all landowners with a Williamson Act contract, informing them of this window. In addition, Chapter 1095 authorized local agencies to deduct from the state's portion of the cancellation fee revenue, the cost of preparing and mailing the required notice.

At the time this measure was being considered by the Legislature, the Legislative Counsel's Digest stated that the bill would establish a state-mandated local program. Although no appropriation was provided in the bill to reimburse cities and counties for the costs of complying with the measure, the bill stated that local agencies could pursue any remedies available under existing provisions of the Revenue and Taxation Code in order to obtain reimbursement.

BOARD OF CONTROL ACTION

The Nevada County Planning Department filed a test claim on September 2, 1982, alleging that Chapter 1095 mandated an increased level of service by requiring cities and counties to notify landowners of changes in the Williamson Act's contract cancellation provisions. The Nevada

County Planning Department alleged that it had incurred a cost of $732 in 1981-82, without being able to collect any fee revenue.

On December 2, 1982, the Board of Control determined that a reimbursable mandate existed. The board's determination was based on the fact that Chapter 1095 did require an increased level of service on the part of cities and counties by requiring them to prepare and mail a specified notice. In some cases, the board concluded, the number of cancellations might not be sufficient to generate the revenue needed to offset the cost of preparing and mailing the notices. This is because fee revenue materializes only if cancellation is granted. Thus, although a city or county could send out several hundred notices, these notices might generate only a dozen applications for contract cancellation, of which only two or three might ultimately be approved and generate fee revenue. In fact, a city or county might not receive any cancellation applications at all.

The board adopted parameters and guidelines on September 9, 1983 which identified the eligible claimants as those cities and counties that sent out notices but did not receive sufficient cancellation fees to cover their reimbursable costs. The parameters and guidelines allowed reimbursement for the following specified activities:

- Pre-notice preparation: activities necessary to research, analyze and establish the process for notifying Williamson Act contractors.
- Notice preparation and mailing: activities associated with the preparation, handling and mailing of the required notice.

- Response to public request: activities associated with responding to telephone or written requests concerning Chapter 1095 and/or the agency's procedures for processing cancellation requests.

Although Chapter 1095 did not become operative until January 1, 1982, the parameters and guidelines allow cities and counties to be reimbursed for costs incurred from October 1, 1981, through June 30, 1982. The board allowed local agencies to receive reimbursement for activities conducted prior to the effective date of the measure, in part, because Chapter 1095 required that the notice be provided within 60 days of the measure's operative date. In addition, on December 1, 1981 the State Office of Planning and Research circulated to cities and counties information packets intended to be duplicated and mailed to affected landowners. Receipt of this packet encouraged local agencies to begin preparatory activities in advance of the measure's operative date.

FUNDING HISTORY

As Table 19 shows, Chapter 1436, Statutes of 1984 (AB 2961), provided $26,100 for the one-time costs incurred by cities and counties during fiscal year 1981-82 in preparing and mailing a specified notice to Williamson Act contractors.

Table 19

Funding for Williamson Act Contract Cancellation Notification

Funding Authority	Year for Which Funding Was Provided 1981-82
Ch 1436/84	$26,100

Our office recommended approval of the $26,100 provided in Chapter 1436. We believe the appropriation is sufficient to cover actual costs.

FINDINGS AND CONCLUSIONS

1. Chapter 1095 resulted in a mandate because it required cities and counties to provide an increase level of service. Chapter 1095 required cities and counties to prepare and mail a specified notice to each landowner within their jurisdiction that held a Williamson Act contract.

2. The mandate served a statewide interest by ensuring that all landowners participating in the Williamson Act program received timely and uniform notice about specified changes in the program.

3. The mandated costs associated with this chapter were "one-time only" costs and are no longer incurred by cities and counties.

RECOMMENDATION

Because the mandated costs associated with Chapter 1095 are no longer incurred by local agencies, no recommendation on this program is warranted.