

Introduced by Senator Liu

February 21, 2012

An act to amend Section 17553 of the Government Code, relating to state mandates.

LEGISLATIVE COUNSEL'S DIGEST

SB 1147, as introduced, Liu. State mandates: procedure.

The California Constitution requires the state to reimburse a local government whenever the Legislature or a state agency mandates a new program or higher level of service on the local government, with specified exceptions. Existing law establishes a procedure for local governments to file claims for reimbursement of these costs with the Commission on State Mandates. Existing law requires these procedures to include, among other things, a statewide cost estimate that is adopted within 12 months after receipt of a test claim, as specified. Existing law permits a claimant or the commission to request an extension of the deadline for the statewide cost estimate for up to 6 months.

This bill would instead allow a statewide cost estimate to be extended for up to 4 months.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17553 of the Government Code is
- 2 amended to read:
- 3 17553. (a) The commission shall adopt procedures for
- 4 receiving claims filed pursuant to this article and Section 17574

1 and for providing a hearing on those claims. The procedures shall
2 do all of the following:

3 (1) Provide for presentation of evidence by the claimant, the
4 Department of Finance, and any other affected department or
5 agency, and any other interested person.

6 (2) Ensure that a statewide cost estimate is adopted within 12
7 months after receipt of a test claim, when a determination is made
8 by the commission that a mandate exists. This deadline may be
9 extended for up to ~~six~~ *four* months upon the request of either the
10 claimant or the commission.

11 (3) Permit the hearing of a claim to be postponed at the request
12 of the claimant, without prejudice, until the next scheduled hearing.

13 (b) All test claims shall be filed on a form prescribed by the
14 commission and shall contain at least the following elements and
15 documents:

16 (1) A written narrative that identifies the specific sections of
17 statutes or executive orders and the effective date and register
18 number of regulations alleged to contain a mandate and shall
19 include all of the following:

20 (A) A detailed description of the new activities and costs that
21 arise from the mandate.

22 (B) A detailed description of existing activities and costs that
23 are modified by the mandate.

24 (C) The actual increased costs incurred by the claimant during
25 the fiscal year for which the claim was filed to implement the
26 alleged mandate.

27 (D) The actual or estimated annual costs that will be incurred
28 by the claimant to implement the alleged mandate during the fiscal
29 year immediately following the fiscal year for which the claim
30 was filed.

31 (E) A statewide cost estimate of increased costs that all local
32 agencies or school districts will incur to implement the alleged
33 mandate during the fiscal year immediately following the fiscal
34 year for which the claim was filed.

35 (F) Identification of all of the following:

36 (i) Dedicated state funds appropriated for this program.

37 (ii) Dedicated federal funds appropriated for this program.

38 (iii) Other nonlocal agency funds dedicated for this program.

39 (iv) The local agency's general purpose funds for this program.

40 (v) Fee authority to offset the costs of this program.

1 (G) Identification of prior mandate determinations made by the
2 Commission on State Mandates or a predecessor agency that may
3 be related to the alleged mandate.

4 (H) Identification of a legislatively determined mandate pursuant
5 to Section 17573 that is on the same statute or executive order.

6 (2) The written narrative shall be supported with declarations
7 under penalty of perjury, based on the declarant's personal
8 knowledge, information, or belief, and signed by persons who are
9 authorized and competent to do so, as follows:

10 (A) Declarations of actual or estimated increased costs that will
11 be incurred by the claimant to implement the alleged mandate.

12 (B) Declarations identifying all local, state, or federal funds, or
13 fee authority that may be used to offset the increased costs that
14 will be incurred by the claimant to implement the alleged mandate,
15 including direct and indirect costs.

16 (C) Declarations describing new activities performed to
17 implement specified provisions of the new statute or executive
18 order alleged to impose a reimbursable state-mandated program.
19 Specific references shall be made to chapters, articles, sections,
20 or page numbers alleged to impose a reimbursable state-mandated
21 program.

22 (D) If applicable, declarations describing the period of
23 reimbursement and payments received for full reimbursement of
24 costs for a legislatively determined mandate pursuant to Section
25 17573, and the authority to file a test claim pursuant to paragraph
26 (1) of subdivision (c) of Section 17574.

27 (3) (A) The written narrative shall be supported with copies of
28 all of the following:

29 (i) The test claim statute that includes the bill number or
30 executive order, alleged to impose or impact a mandate.

31 (ii) Relevant portions of state constitutional provisions, federal
32 statutes, and executive orders that may impact the alleged mandate.

33 (iii) Administrative decisions and court decisions cited in the
34 narrative.

35 (B) State mandate determinations made by the Commission on
36 State Mandates or a predecessor agency and published court
37 decisions on state mandate determinations made by the
38 Commission on State Mandates are exempt from this requirement.

39 (4) A test claim shall be signed at the end of the document,
40 under penalty of perjury by the claimant or its authorized

1 representative, with the declaration that the test claim is true and
2 complete to the best of the declarant's personal knowledge,
3 information, or belief. The date of signing, the declarant's title,
4 address, telephone number, facsimile machine telephone number,
5 and electronic mail address shall be included.

6 (c) If a completed test claim is not received by the commission
7 within 30 calendar days from the date that an incomplete test claim
8 was returned by the commission, the original test claim filing date
9 may be disallowed, and a new test claim may be accepted on the
10 same statute or executive order.

11 (d) In addition, the commission shall determine whether an
12 incorrect reduction claim is complete within 10 days after the date
13 that the incorrect reduction claim is filed. If the commission
14 determines that an incorrect reduction claim is not complete, the
15 commission shall notify the local agency and school district that
16 filed the claim stating the reasons that the claim is not complete.
17 The local agency or school district shall have 30 days to complete
18 the claim. The commission shall serve a copy of the complete
19 incorrect reduction claim on the Controller. The Controller shall
20 have no more than 90 days after the date the claim is delivered or
21 mailed to file any rebuttal to an incorrect reduction claim. The
22 failure of the Controller to file a rebuttal to an incorrect reduction
23 claim shall not serve to delay the consideration of the claim by the
24 commission.