

FUNDING FOR REIMBURSABLE LOCAL COSTS

6606

(Revised and renumbered from 6621 on 03/09)

Pursuant to Government Code Section 17561(b)(1) (B), when a regulation involves reimbursable costs, it "...shall be accompanied by a bill appropriating the funds therefore, or alternatively, an appropriation for these costs shall be included in the Budget Bill for the next succeeding fiscal year." Use of the second alternative must receive prior approval of DOF. If the state agency fails to provide appropriate funding, then affected local agencies are authorized to file claims for reimbursement with the Commission on State Mandates.

In order to prepare the local mandate determination required by Government Code Section 11346.5; i.e., a determination as to whether the proposed regulation imposes a mandate on local agencies or school districts, it is necessary to first answer the following question:

Will the regulation require local entities to undertake a new program or to provide an increased level of service in an existing program?

If the answer to this question is "No," then check box 4, 5, or 6 in Section A of STD. 399. If the answer is "Yes," it is then necessary to determine if the costs resulting from the mandate are not state reimbursable based on one or more of the statutory exceptions in subdivisions (a) through (g) of the Government Code Section 17556 as follows:

1. Implements a federal mandate.
2. Implements a court mandate.
3. Implements a mandate in a ballot measure approved by the voters.
4. Results from a documented request from the only local governments affected.
5. Provides (or fall within the purview of existing) revenue sources or other financing mechanisms.
6. Results in savings that are equal to or exceed any costs.
7. Creates, eliminates, or changes the penalty for a new crime or infraction.

In addition to these statutory exclusions, the courts have held that costs of statutes and regulations are not reimbursable if they:

1. Result from an action undertaken at the option of a local government (County of Contra Costa vs. State of California, 177 Cal App 3d 62.79 (1986).
2. Are not unique to local government, e.g., affect both the private sector and the public sector (County of Los Angeles vs. State of California et al, 43 Cal App 3d 46 (1987)).

If it is determined that the regulation does not impose a reimbursable mandate on local government, it is still necessary to include a specific statement reflecting that determination in the notice and to develop estimates of any nonreimbursable local costs. If it is determined that the regulation does impose a reimbursable mandate on local government, then it is important to state the mandate precisely. This is normally best accomplished by employing a statement, expressed in mandatory terms, which identifies both the affected local governments by group and the activity that will be required of them, e.g., "county clerks shall provide each polling precinct worker with an American flag," "school districts shall provide each student with a lunch box at no cost to the student," "all local governments shall record on videotape all meetings of their governing bodies." With the mandate so stated, it is then possible to proceed to develop an estimate of its cost to local government.