



## [Analysis of the 2008-09 Budget Bill: General Government](#)

# Commission on State Mandates (8885)

The Commission on State Mandates is responsible for determining whether local government claims for reimbursement of state-mandated local costs should be paid by the state. If the commission determines that a statute, executive order, or regulation contains a reimbursable mandate, it develops an estimate of the statewide cost of the mandated program and includes this estimate in a semiannual report.

Under Proposition 1A, approved by the state's voters in 2004, the Legislature must appropriate funds in the annual budget to pay a mandate's outstanding claims, "suspend" the mandate (render it inoperative for one year), or "repeal" the mandate (permanently eliminate it or make it optional). Two categories of mandates—those relating to K-14 education and employee rights—are exempt from this payment requirement. Proposition 1A also authorizes the state to pay over a period of years outstanding noneducation mandate claims incurred prior to 2004-05. The state's backlog of these claims totals over \$900 million.

The budget bill provides funding for most noneducation mandates under this item. Funding for one major mental health mandate (Mental Health Services for Special Education Pupils, or the "AB 3632" mandate) is provided under the Department of Mental Health budget. Funding for K-12 and community colleges mandates is provided under their budget items.

## Overview

The Governor's budget proposes few policy changes to the list of noneducation mandates local governments must implement. Except for two minor mandates previously scheduled to end, mandates in force in 2007-08 remain in force in 2008-09. Mandates suspended in the current year remain suspended in the budget year.

In terms of mandate funding, the administration proposes two delays. Specifically, the budget bill provides \$65.9 million to pay mandate claims from 2005-06 and 2006-07, but no funds to pay claims (1) from 2007-08 or (2) for the Peace Officer Procedural Bill of Rights (POBOR) mandate. The administration indicates that it will pay 2007-08 mandates in 2009-10 (an issue discussed below) and POBOR claims (an employee relations mandate) at an unspecified future date. In terms of the backlog of pre-2004 mandate claims, the budget includes \$75 million to make a payment (including interest) towards retiring this debt.

## No Funds to Pay 2007-08 Mandate Costs

Under current law (as modified by 2007 trailer legislation), every February local governments estimate their full year's cost to carry out each mandate and submit "estimated cost claims" for reimbursement to the State Controller's Office (SCO). The SCO reviews these estimated claims and reports them to the Legislature and administration in the spring. Funding for estimated claims is included in the annual budget and local governments receive reimbursement shortly after the budget is adopted. The next February, local governments review their prior year estimates and file "actual costs claims." Actual cost claims either (1) verify the amount previously claimed as an estimate, (2) request reimbursement for additional costs, or (3) refund money to the state if the locality's earlier claim was high.

The administration proposes special session legislation to eliminate local government (including K-14 agencies) authority to submit estimated cost claims. Instead, local governments would submit actual cost claims as allowed under current law. The SCO would review these actual cost claims and report them to the administration and Legislature for inclusion in the upcoming budget. Under this schedule, therefore, local governments would receive mandate reimbursements one year later than is currently the case. (For example, local governments would receive payments for mandated activities undertaken in 2007-08 in 2009-10, rather than 2008-09). In terms of noneducation mandates, the state fiscal effect of this proposed change would be a one-time cost shift of \$75 million (General Fund) from 2008-09 to 2009-10. In terms of K-14 districts, the state fiscal effect is less clear because the budget bill does not propose resources for K-14 mandates in the budget year.

**Analysis.** This office has long recommended that the Legislature fund all programs (including mandated programs) in the year in which they are operational. Otherwise, the state may be less likely to consider the fiscal consequences of its actions when making decisions whether to maintain, repeal, or suspend a program. While statutes previously provided for such a funding time line, for a variety of reasons the Legislature modified the time line last year so that the state pays mandates in the fiscal year after local governments implement them. Thus, the current funding cycle does not have the policy advantage of closely linking policy choices and funding responsibility.

Viewed from this perspective, the question posed by the administration's proposal is whether the benefits associated with an additional year's funding delay outweighs the cost of the funding delay imposed on local governments. In our view, the answer to this question is close, but positive. Deferring mandate payments one additional year would allow SCO to avoid the cumbersome work of reviewing, paying, and filing each local government's annual mandate claim *twice* (as an estimated cost claim and actual cost claim). Because the state has thousands of local governments and dozens of mandates, the SCO annually reviews about 60,000 claims (all submitted in paper files). This workload interferes with other SCO mandate activities, including providing technical assistance, reviewing claims, and developing an automated system for mandate filing. On balance, we believe these benefits outweigh the loss to local governments from less timely reimbursement payments.

## Animal Adoption mandate

### Background

Chapter 752, Statutes of 1998 (SB 1785, Hayden), changed state policy regarding shelter care for stray and abandoned animals. Most notably, Chapter 752 (1) declared, "It is the policy of the state that no adoptable animal should be euthanized if it can be adopted into a suitable home," and (2) lengthened the time (generally from three days to six) that shelters must care for animals before euthanizing them.

When the Legislature considered Chapter 752, it was advised that the measure would not impose a state-reimbursable mandate because shelters would receive increased adoption and owner-redemption fees. These fees would offset shelter costs to care for the animals for the longer period.

Shortly after Chapter 752 was enacted, local governments filed a mandate test claim with the commission. The commission found that the cost of caring for the animals that were adopted or reunited with their owners was not a reimbursable mandate (because owners paid fees to offset these costs). In the case of animals that were euthanized, however, the commission found that local government shelters' cost to care for them for three additional days was a state-reimbursable mandate.

Whenever the commission finds a mandate, its next task is to adopt a methodology that local governments use to file reimbursement claims. While mandate law gives the commission flexibility as to the form this methodology takes, the focus must be on reimbursing the specific elements of legislation found to be a mandate, not promoting the legislation's policy objectives.

In the case of this mandate, the commission created a methodology that reimburses local government shelters for (1) their increased cost of caring for the animals that they euthanize and (2) certain minor costs, such as maintaining lost and found lists. In 2008-09, local governments are expected to claim \$23 million for this mandate. Almost all of the cost is for the food, medical care, and space needed to keep animals alive for the longer period. Private shelters are not eligible for the mandate reimbursements.

### Analysis

Given the state's interest in promoting animal adoptions, we examined whether Chapter 752's longer holding period results in increased adoptions—either directly due to its requirement or indirectly through the mandate funding provided. Our review indicates that there is little reason to believe it does.

**Direct Impact of Longer Holding Period.** Throughout the United States, there are many more animals in shelters than there are households looking to adopt pets. Partly because of this imbalance between supply and demand, roughly one-half of the animals entering shelters are euthanized. Chapter 752's requirement that shelters keep animals alive longer increases the supply of animals in shelters on any specific day. It also gives animal rescue organizations more time to transfer animals to their facilities. This increased supply of adoptable animals (at shelters and rescue facilities) can give households greater choice in selecting a pet to adopt. It does not necessarily mean, however, that more households adopt pets. That is, the mandate does nothing to increase the demand for these animals.

**Indirect Effect of Shelter Funding.** To increase the number of pets adopted, more households need to adopt pets rather than buy them from stores or breeders. Especially over the last decade, as concern regarding the treatment of animals has grown, many shelters, animal rescue, and humane groups have taken significant steps towards promoting animal adoption. Does the funding provided under Chapter 752 support these efforts? Our review finds no link between the funding provided under Chapter 752 and programs that encourage animal adoption. Specifically, under the mandate's reimbursement methodology, shelters do not get more state funds if more households adopt animals. Rather, shelters that euthanize the most animals receive the most state funds. Shelters that are the most successful in promoting adoptions receive the least state funds.

This gap between Chapter 752's policy goals and mandate reimbursements stems from the requirements of mandate law. Specifically, the California Constitution requires the state to reimburse local governments for the cost of required activities—without regard to local success in achieving the desired outcomes

## Recommendation

**Because the goals of Chapter 752 are not suited to implementation as a mandate, we recommend the Legislature repeal the elements of Chapter 752 that impose a mandate. We further recommend that the state pay the outstanding costs for this mandate over time. (Reduce Item 8885–295–0001 by \$13 million and increase Item 8885–299–0001 by \$3 million.)**

Given mandate law's focus on reimbursing local governments for activities, rather than the achievement of policy objectives, few state objectives are suited to implementation as mandates. This is particularly true when the state seeks to encourage local governments to make significant policy changes, such as in the case of Chapter 752.

Because there is no evidence that the longer holding period (or its mandate funding) furthers state policy objectives, we recommend the Legislature repeal this requirement of Chapter 752 (along with the other minor elements of the measure found to be a mandate). This action would eliminate the state's obligation to reimburse local governments for their increased costs of caring for animals that they euthanize. If the Legislature wishes to give shelters more incentives to promote animal adoptions, we recommend the Legislature try a different approach. For example, the Legislature could pilot an incentive program that gives funding to those shelters that increase the number of animals successfully adopted. (As a point of reference, based on information provided by the Department of Public Health, the state could give local government shelters \$30 for every dog or cat adopted for a total annual cost of about \$12 million.)

**Reduce Funding in Budget for Mandates by \$13 Million.** The Constitution generally requires the Legislature to (1) pay all outstanding bills for a mandate in the upcoming budget or (2) suspend or repeal the mandate. Repealing the Animal Adoption mandate, therefore, would allow the Legislature to remove funds for it from the budget bill. While the funds for this mandate were not identified specifically in the budget bill, we estimate it to be about \$13 million. (This amount represents the outstanding costs for this mandate from 2005–06 and 2006–07.)

**Increase Funding in Budget for Prior-Year Mandate Claims by \$3 Million.** Repealing the Animal Adoption mandate would not eliminate the state's long-term obligation to pay outstanding costs incurred before the repeal. If the Legislature repealed this mandate at the time it enacted the 2008–09 budget, we estimate that it would owe local governments about \$36 million for 2005–06 through 2007–08 activities. (That is, \$13 million for outstanding 2005–06 and 2006–07 claims and \$23 million for 2007–08.) The Constitution does not specify a deadline for payment of these outstanding mandate costs. Given the state's fiscal condition, we recommend the Legislature include resources for outstanding 2005–06 through 2007–08 Animal Adoption claims with the state's payment for the mandate backlog. Under this approach, local governments would be reimbursed for their Animal Adoption mandate costs, with interest, over the next 13 years, at a rate of about \$3 million per year.

**Summary of Budget Actions.** We recommend the Legislature:

- Repeal the requirements of Chapter 752 found to be a state-reimbursable mandate.
- Reduce by \$13 million the funds provided in the budget bill for this mandate to pay 2005–06 and 2006–07 mandate claims.
- Increase by \$3 million the funds provided in the budget to make a payment for the mandate backlog and prior year Animal Adoption claims.

## Analysis of Newly Identified Mandates

**We recommend that the Postmortem Examinations: Unidentified Bodies mandate be added to the list of mandates funded in the budget. (Add Examinations: Unidentified Bodies to the list of mandates**

***scheduled under Item 8885-295-0001 [1].)***

Chapter 1123, Statutes of 2002 (AB 3000, Committee on Budget), requires the Legislative Analyst's Office to review each mandate included in the commission's annual report of newly identified mandates. This year, the major new mandates pertain to educational programs. We discuss these mandates under our analysis of K-12 education. The only new noneducation mandate reported by the commission was a small mandate totaling \$494,000: Postmortem Examinations: Unidentified Bodies.

We raise no policy issues with this criminal justice mandate. To clarify that this mandate should be in force in 2008-09 and allow local governments to receive reimbursements in the budget year, we recommend that this mandate be added to the list of mandates funded in the budget. Based on the information available at this time, the cost of this small mandate appears to be absorbable within the resources proposed for this item. We will receive additional mandate cost information in the spring and will update the Legislature at that time.

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