

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Legislative Policy: State-Mandated Local Program Costs

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Purpose

To establish the Board of Supervisors' legislative policy regarding mandated local program costs, and to provide guidance to the County's legislative representatives when providing input to legislators, other elected officials and policy makers.

Background

Counties have long struggled with the burden of under-funded or unfunded state and federal mandates. This issue has not been satisfactorily resolved.

State Mandates

In 1972, the Legislature enacted SB 90, a bill that was supposed to require the state to reimburse local governments for the cost of unfunded state mandates. In 1975, the state created by statute a process for reviewing unfunded mandate claims utilizing the State Board of Control. In 1979, voters adopted Proposition 4, which added Article XIII B to the State Constitution. Proposition 4, among other things, sought to provide constitutional support for the prohibition of unfunded mandates, and an improved claims process. The State Board of Control process was replaced in 1984 by establishment of the Commission on State Mandates, which continues to review claims by local governments to determine if an action by the Legislature or a state agency is a reimbursable state mandate.

In 2004, voters adopted Proposition 1A, which, among other things amended the State Constitution to require the state to suspend certain state laws creating mandates in any year that the state does not fully reimburse local governments for their costs to comply with the mandates. Beginning on July 1, 2005, the state was required to either appropriate the full payable amount that has not been previously paid or suspend the mandate's requirements for that fiscal year. In addition, Proposition 1A provided that amounts owed on claims for costs incurred prior to the 2004-05 fiscal year that had not been paid prior to the 2005-06 fiscal year were to be paid over a term of years. The legislation enacted to implement the payback provisions of Proposition 1A initially provided that the amounts owed were to be paid over a term of five years. This provision was later amended to further defer reimbursement of the amounts owed to a term not to exceed fifteen years. The State paid off the remaining amounts owed on the pre 2005 mandates in 2015. Mandates for schools, community colleges, or relating to employee rights are exempted. In addition, Proposition 1A added to the definition of a mandate the transfer of financial responsibility for a specific program in whole or in part from the state to a local government.

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Notwithstanding this legislative activity, counties continue to be burdened with underfunded or unfunded mandates for a number of reasons. First, Proposition 4 does not cover pre-existing mandates (i.e., those enacted prior to 1975). Second, Proposition 4 exempted various categories of laws, notably those increasing penalties for crimes, from its prohibitions. Thus, counties are unable to seek reimbursement for the most expensive state-required programs which include jails, felony prosecution, indigent defense, and probation. Finally, the state has continuously underfunded its obligations to pay for many previously recognized state mandated programs and activities including, indigent and public healthcare programs, general assistance, services to students with disabilities, out of state mental health services for seriously emotionally disturbed students, tax administration, and voter registration, to name a few.

The State continues to suspend a number of program requirements each year that have been determined by the Commission on State Mandates to require reimbursement to local government. In some cases local governments have continued to perform certain state mandates that have been suspended due to public expectations. In 2014, the State put Proposition 42 on the ballot through the passage of State Constitutional Amendment 3 (SCA 3). Proposition 42, as passed by California voters, reinstated existing State requirements for local governments relating to noticing of public meetings. By reinstating these requirements through a public vote, Proposition 42 made these duties a local responsibility that is no longer reimbursable.

Federal Mandates

In 1995 Congress passed, and the President signed, mandate relief legislation. Like state legislation, federal mandate relief does not address existing mandates, which must be addressed on a program-by-program basis. In addition, federal mandates are not reviewed in later years to determine if payments to local governments for implementing programs are adequate to cover the costs of the program.

Policy

The legislative policy of the Board of Supervisors regarding state and federal mandated local program costs and revenue limitations is as follows:

1. Oppose legislation that would negatively impact the mandate provisions approved by the voters in Proposition 1A.
2. Oppose state or federal administrative regulations which would result in increased local program costs without providing reimbursement to local agencies for the total of all such costs.

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3. Oppose legislation which would result in revenue losses to local agencies without simultaneously appropriating sufficient funds to fully reimburse local agencies for the total of all such revenue losses or commensurately reducing program costs.
4. Support legislation which would provide an appeal procedure regarding state mandate claims that is more favorable to local agencies.
5. Oppose state legislative proposals that ignore the constitutional provisions regarding state mandates passed by the voters in Proposition 1A.
6. Support legislation that would eliminate statutory automatic cost-of-living adjustments in locally administered mandated programs.
7. Oppose legislation reducing subventions to local agencies providing mandated services, without a concomitant reduction in service requirements.
8. Support legislation which would repeal mandated programs and services which are unfunded.
9. Oppose legislation which would reduce the ability of local governments to effectively pursue reimbursement through the claims process.
10. Support legislation which would expand local government representation on the existing Commission on State Mandates.
11. Support legislation which would prohibit the state from mandating that a county participate in a specific demonstration or pilot project without the express consent of the board of supervisors of that county.
12. Oppose a "super mandate" which would set as the first priority of local government one type of service or services, such as law enforcement or fire services, without regard for other mandated services.
13. Oppose legislation which would impose on counties a mandated service for which the county is required to raise a local fee or tax to generate monies to fund the services.
14. Support a constitutional amendment or legislation which would permit a local agency to abstain from providing a program or service until adequate funds have been appropriated by the Legislature, and to discontinue a program or service after all state and federal funds provided have been exhausted.

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15. Support legislation which would protect residents of the unincorporated area from the costs which may result from region-wide mandates.

16. Support a constitutional amendment which would repeal the current exemption for legislation defining a new crime or change the existing definition of a crime.

17. Oppose legislation which "discounts" the cost, and thus decreases offsetting revenue, of realigned programs transferred by the state to counties.

18. Support legislation which would require that no statute, executive order, or regulation that mandates a new program or higher level of service on local government shall become effective until 90 days after the Commission on State Mandates determines that sufficient funds have been appropriated for the changes.

19. Support federal legislative provisions that would require periodic retrospective analysis of mandate results, costs and effects, for all new federal mandates.

20. Support periodic review of federal legislative mandates to determine that revenue provided to local jurisdictions continues to fully cover costs of the mandated programs.

21. Support legislation that would require the state to fully reimburse the County for its costs to administer state mandated programs and activities.

Responsible Departments

County Counsel

Office of Strategy and Intergovernmental Affairs

Sunset Date

This policy will be reviewed for continuance by 12-31-24.

References

Board Action 1-12-77 (26)

Board Action 11-14-17 (27)

Board Action 8-3-77 (13)

Board Action 2-18-81 (5)

Board Action 12-11-84 (27)

Board Action 2-9-88 (4a)

Board Action 6-16-98 (2)

Board Action 10-31-06 (14)

Chapter 1406, Statutes of 1972

Article XIII B, Section 6 of Constitution

Board Action 12-09-08 (33)

Board Action 12-07-10 (27)