

Hi, this is Chris Micheli, with the Sacramento governmental relations firm of Aprea & Micheli, and an adjunct professor at McGeorge School of Law.

Today's podcast concerns state mandated local programs in California legislation. Now, those who look at California bills, they might notice at the end of a Legislative Counsel's Digest, right there on the front page of the bill, that there are four keys.

We call those Digest Keys, that are specified by the Legislative Counsel, to help us identify what vote is required for passing the bill, whether the bill contains an appropriation, third, whether the bill will be referred to the fiscal committee, fourth, and of interest here, is whether the bill contains a mandated local program.

Again, this last four of the digest keys will say either local program colon no, or local program colon yes. Which leads us to what is a mandated local program?

Both the California Constitution and the California Government Code describe in detail these state mandated local programs. As a result of the constitution and the statutes in the Government Code, a California bill is identified as mandating or not mandating a local program.

If a mandated local program is going to be required, then the Legislature helps determine whether or not a local agency will be reimbursed for costs by the state. The constitution requires the state to reimburse local agencies and school districts for certain costs that are mandated by the state.

In fact, in Article XIII (b) that was added to the constitution by Proposition 4 on the November 6th, 1970-statewide ballot, it contains 15 different sections, including Section 6.

Section 6 of Article XIII (b) deals with state mandated local programs. Basically, Section 6 provides that whenever the Legislature or a state agency mandates a new program or a higher level of service upon any local government, then the state has to provide a subvention of funds to reimburse the local government for the cost of this program or the increased level of service.

Now, there's an important caveat contained in Article XII (b) Section 6. That's this. The Legislature is granted discretion because Section 6 uses the term "may". The Legislature may, but doesn't have to, provide a subvention of funds for these mandates.

This applies to mandates affecting a city, a county, the city and county of San Francisco, or any special district.

Section 6(a) in Article XIII (b) of the state constitution specifically provides that the Legislature can, but doesn't have to provide a subvention of funds for the following four types of mandates.

First, legislative mandates that are requested by the local agency that's affected. In other words, if the local agency asks for it, then that mandate doesn't have to be reimbursed by the state.

The second is for legislation that defines a new crime or changes an existing definition of a crime. The Legislature doesn't have to reimburse for that.

Third, any legislative mandates enacted prior to January 1, 1975. That's out of place today, of course.

Fourth, legislative mandates that are contained in the statute within the scope of certain provisions that are in Article IV Section 3.

Note that there are also some statutory provisions that establish procedures for making this reimbursement. Those are found in Part 7 that starts with Section 17.500. That's in Division 4 Title II of the Government Code. Here, the Commission on State Mandates actually determines if the bill contains costs mandated by the state.

Returning to the Legislative Counsel's Digest, in crafting the language for new laws, the Legislature states explicitly whether or not a requirement proposed in the legislation is a state mandated local program. Again, that's a phrase that proposes new or increased requirements on a local agency.

Now, what's of interest is that the Legislature does not have the final word on the subject. In other words, the actually don't decide which mandates are reimbursable. Instead, that task falls upon the Commission on State Mandates.

The most common example of a state mandated local program is when a bill expands the definition of a crime. A bill key will actually specify yes after local program, which again means that the bill would result in a state mandated local program. Of course, no means that the bill wouldn't result in a state mandated local program.

Now, there are instances and some standardized language that Legislative Counsel places into bills where either reimbursement is required or where the state can disclaim any reimbursement. Then, there are some that language is specific to crimes or infractions.

In most instances, the Legislature declared that no reimbursement is required by a piece of legislation. The general rule is that a local agency or a school district has the authority to levy service charges through fees or some sort of an assessment that the Legislature deems is sufficient to pay for a program, or a program expansion, or when a higher level of service is mandated by a new state law.

In many instances when you read a bill, you end up finding that the digest key says no after the local program. With that, that's a look at the state mandated local program that are of interest to those who are reading California bills.

Thanks for joining.