

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 4 STATE ADMINISTRATION

ASSEMBLYMEMBER JOAN BUCHANAN, CHAIR

**TUESDAY, MARCH 13, 2012
1:30 P.M. - STATE CAPITOL ROOM 4202**

VOTE ONLY CALENDAR

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VOTE-ONLY

8885 COMMISSION ON STATE MANDATES

The Commission on State Mandates (COSM) is charged with the duties of examining claims and determining if local agencies and school districts are entitled to reimbursement for increased costs for carrying out activities mandated by the State. The Legislature created the seven-member commission in 1984 as a quasi-judicial body and instructed it to act deliberatively in resolving the complex legal questions associated with determinations of state mandated costs. COSM is made up of the Director of Finance, the State Controller, the State Treasurer, the Director of the Office of Planning and Research, a public member with experience in public finance, and two additional members of local public bodies appointed by the Governor and approved by the Senate. This budget item appropriates the funding for staff and operations costs of COSM and appropriates non-education mandate payments to local governments. The Governors' Budget calls for expenditures of \$52.9 million, representing a slight increase from \$52.3 million from the current year. State operations and administrative costs are approximately \$1.6 million and the number of personnel years would remain stable, compared to the current year, at 11.0.

2012-13 Governor's Budget

Fund Source (000s)	2010-11 Actual	2011-12 Projected	2012-13 Proposed	BY to CY Change	% Change
General Fund	\$48.9	\$49.3	\$50.4	\$1.1	2.2
Motor Vehicle Account	1.0	2.9	2.5	-0.4	-14.9
Other Funds	0	0.1	0	0	0
Total Expenditure	\$49.9	\$52.3	\$52.9	0.6	1.1
Positions	10.8	11.0	11.0	0	0.0

VOTE-ONLY ISSUE 1: OPERATING EXPENSES AUGMENTATION—COMPUTERS

COSM has requested an augmentation for the 2012-13 fiscal year for the funding of law library updates, other OE&E items, increases in rent, and the purchase of 11 computers. The request is for an increase of \$52,000 in the baseline budget and \$7,000 one time for the computer purchase.

ITEMS TO BE HEARD

LOCAL GOVERNMENT MANDATES

ISSUE 1: MANDATE OVERVIEW

Process of Mandate Determination

Since the passage of Proposition 4 in 1979, the California Constitution generally requires the State to reimburse local governments when it mandates that they provide a new program or higher level of service. Activities or services required by the Constitution are not considered reimbursable mandates. State law assigns to COSM the authority to resolve disputes over the existence of state mandates and develop methodologies called parameters and guidelines (Ps&Gs) that local governments follow to calculate the amount they may claim as reimbursement.

Determining whether a particular requirement is a state mandated local program and the process by which the reimbursable cost is determined is an extensive, time-consuming, and multi-stage process. State and local officials have expressed significant concerns about the mandate determination process, especially its length and the complexity of the reimbursement claiming methodologies. Once the determination is made that an activity is a reimbursable mandate, the local government submits a mandate claim to the State Controller's Office.

Time Delays and Issues

According to an LAO review a few years ago, it took the Commission over five years to complete the mandate determination process for a successful local government test claimant. A review of new mandates claims by the LAO found that the Commission took almost three years from the date a test claim was filed to render a decision as to the existence of a state-reimbursable mandate. The Commission took more than another year to adopt the mandate's claiming methodology, or Ps&Gs, and almost another year to estimate its costs and report the mandate to the Legislature. Efforts to streamline the process since this report was conducted may have led to some reduction in the duration of the process.

This lengthy period presents several difficulties, among the most important are:

- Local governments must carry out the mandated requirements without reimbursements for a period of some years, plus any additional time associated with development of the mandate test claim, appropriation of reimbursement funds and the issuance of checks.
- State mandate liabilities accumulate during the determination period and make the amount of state costs reported to the Legislature higher than they would be with an expedited process. Policy review of mandates is hindered because the Legislature receives cost information years after the debate regarding its imposition.

In addition to the delays that characterize the review and determination process, there are other significant issues. On the cost determination side, since most mandates relate to expanding existing programs (rather than instituting completely new ones), local governments have difficulty in measuring the marginal costs. The complexity of the claiming methodologies means that local governments'

claimed costs frequently are not supported by source documents showing the validity of such costs or are not allowable under the mandate's reimbursement methodology. Accordingly, State Controller's Office has disallowed a significant number of all reimbursement claims over the last few years, leading to frequent appeals and more uncertainty and mounting bills.

The problems identified above are not new and the Legislature has taken steps to address them over the last few years. However, simply because the mandate process is currently unwieldy, results in delays, and can pose unexpected costs for the budget, does not alter the underlying principle of imposing and paying for required activities that serve important public policy purposes. Legislative priorities should continue to inform the process of proposing, evaluating, and taking action regarding requirements imposed on local governments.

Mandate Status and Options

Once a required activity or expanded activity imposed on local governments has been determined to be a mandate, the State still has some options regarding the actual funding of this mandate.

- **Fund the Mandate.** If the State chooses to fund the mandate, it is required to pay for all unpaid bills submitted since 2003 up through the most current year of cost approval.
- **Suspend the Mandate.** Suspension of a mandate through the budget process keeps the mandate on the books, but absolves the local government of responsibility of providing the service and relieves the State of paying the cost of the service.

Proposition 1A adopted by the voters in 2004, requires the Legislature to either fund mandates and appropriate funds for payment, or suspend or repeal the mandate. Two mandates were exempt from this requirement, allowing them to remain in place even without funding. These two mandates are Peace officer Procedural Bill of Rights (POBAR) and Local Government Employee Relations mandate. These mandates have continued and reimbursable costs due local governments are continuing to accrue. Proposition 1A also requires the legislature to pay all pre-2004 mandate claims over a period of time. The State owes local agencies in excess of \$1 billion in unpaid mandate costs. A portion of these costs is scheduled to be paid by 2021, while other costs have no payment schedule in place.

In the recent decades, the Legislature has suspended numerous mandates as a form of budget relief. In the current year, some 60 mandates have been suspended. A large number of the suspensions occurred during the current period of budget difficulties, although some suspensions go back to 1990. Some have been suspended immediately after COSM reported their costs to the Legislature.

ISSUE 2: ADMINISTRATION'S PROPOSAL—FUND OR SUSPEND MANDATES
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The Governor's Budget achieves substantial savings by the continued suspension of various mandates that are not associated with law enforcement or property taxes. Of the \$4.2 billion in expenditure reductions identified as budget balancing solutions, cost reductions related to mandates account for \$828 million. This \$828 million is comprised of the following:

- **Suspended Mandates.** 56 mandates are slated for suspension, resulting in a savings in the budget year of \$375.7 million.
- **Expired Mandates.** 10 expired mandates will not be funded in the budget plan resulting in a savings of \$295.1 million.
- **Deferred Payment Mandates.** 2 mandates noted above are still in place but the payment has deferred, resulting in a savings of \$57.9 million.
- **Pre-2004 Mandates.** Payment for mandate costs incurred prior to 2004 is deferred resulting in a budget year savings of \$99.5 million. These costs must eventually be paid by 2021.

Funded Mandates

The Governor's proposal includes the continued funding of mandates related to public safety and property taxes. The policy reason behind the decision to fund the public safety mandates is apparent given the focus of these requirements. For property tax-related mandates, the policy motivation for funding these is based on the statewide interest in property tax compliance, given the interrelationship of education funding from local property taxes and General Fund obligation to backfill education costs for purposes of the Prop 98 guarantee.

Proposed Funded Mandates

<u>Mandate</u>	<u>2012-13 Cost (\$000s)</u>
Threats Against Peace Officers	26
Custody of Minors: Child Abduction and Recovery	12,999
Medi-Cal Beneficiary Death Notices	10
Sexually Violent Predators	20,963
Domestic Violence Treatment Services	1,944
Domestic Violence Arrest Policies	7,608
Unitary Countywide Tax Rates	267
Allocation of Property Tax Revenues	727
Rape Victim Counseling	349
Health Benefits for Survivors of Peace Officers and Firefighters	1,695
Crime Victims' Domestic Violence Incident Reports	167
Peace Officer Personnel Records: Unfounded Complaints & Discovery	657
Domestic Violence Arrests and Victims Assistance	1,374
Total Funded Costs	48,786

Suspended Mandates

The mandates slated for suspension under the Governor's proposal are listed in the table below. Many of these have been suspended for several years, usually as part of the budget process. In general, the suspension of many of the mandates has not been subject to a thorough policy review that would result in an evaluation of the costs and benefits of the mandate, but rather have been suspended solely for the purpose of budgetary savings. The policy decision to establish the mandate in the first place has not generally been a substantial component of the discussion.

In addition to the suspension, the Administration has proposed that certain mandates be repealed. These are denoted by italics and an asterisk in the list below and discussed further in the next section. The budget year savings associated with suspension and repeal are identical. With suspension, the mandate remains in statute but is simply not funded. As a result, in order to determine whether a mandate is actually in effect, confirmation of both the statutory reference and the budget bill is required. With repeal, the statute requirement is repealed by Legislative action.

Proposed Suspended Mandates

Mandate	2012-13 Savings (\$000s)
<i>Adult Felony Restitution*</i>	0
<i>AIDS/Search Warrant*</i>	1,596
<i>Airport Land Use Commission/Plans*</i>	1,595
<i>Animal Adoption*</i>	46,296
<i>Conservatorship: Developmentally Disabled Adults*</i>	349
Coroners Costs	222
<i>Crime Victims' Domestic Violence Incident Reports II*</i>	1,959
<i>Deaf Teletype Equipment*</i>	0
Developmentally Disabled Attorneys' Services	1,198
DNA Database & Amendments to Postmortem Examinations: Unidentified Bodies	310
<i>Domestic Violence Information*</i>	0
<i>Elder Abuse, Law Enforcement Training*</i>	0
<i>Extended Commitment, Youth Authority*</i>	0
<i>False Reports of Police Misconduct*</i>	10
<i>Filipino Employee Surveys*</i>	0
<i>Firearm Hearings for Discharged Inpatients*</i>	157
<i>Grand Jury Proceedings*</i>	0
Handicapped Voter Access Information	0
<i>Inmate AIDS Testing*</i>	0
<i>Judiciary Proceedings*</i>	274
<i>Law Enforcement Sexual Harassment Training*</i>	0
<i>Local Coastal Plans*</i>	0
Mandate Reimbursement Process	6,419
Mandate Reimbursement Process II (includes suspension of consolidation of the two)	0
Mentally Disordered Offenders: Treatment as a Condition of Parole	4,910
Mentally Disordered Offenders: Extended Commitments Proceedings	7,232
Mentally Disordered Sex Offenders: Recommitments	340

Mandate	2012-13 Savings (\$000s)
<i>Mentally Retarded Defendants Representation*</i>	36
<i>Missing Persons Report*</i>	0
<i>Not Guilty by Reason of Insanity*</i>	5,214
Open Meetings Act/Brown Act Reform	96,090
Pacific Beach Safety: Water Quality and Closures	344
<i>Perinatal Services*</i>	2,338
<i>Personal Safety Alarm Devices*</i>	0
<i>Photographic Record of Evidence*</i>	291
<i>Pocket Masks*</i>	0
Post-Conviction: DNA Court Proceedings	410
Postmortem Examinations: Unidentified Bodies and Human Remains	1,180
<i>Prisoner Parental Rights*</i>	0
Senior Citizens Property Tax Postponement	481
Sex Crime Confidentiality	0
Sex Offenders: Disclosure by Law Enforcement Officers	0
<i>SIDS Autopsies*</i>	0
<i>SIDS Contacts by Local Health Officers*</i>	0
<i>SIDS Training for Firefighters*</i>	0
<i>Stolen Vehicle Notification*</i>	1,117
Very High Fire Hazard Severity Zones	0
<i>Victims' Statements-Minors*</i>	0
Fifteen-Day Close of Voter Registration	0
Absentee Ballots	50,924
Permanent Absent Voters	2,686
Absentee Ballots-Tabulation by Precinct	68
Brendon Maguire Act	0
Voter Registration Procedures	2,452
In-Home Supportive Services II	449
<i>Crime Statistics Reports for the DOJ and CSR for the DOJ Amended*</i>	138,722
Total Suspended Savings	375,669

The 56 mandates proposed to be suspended for 2012-13 generally include the same mandates that were suspended last year. In addition, some mandates suspended during the current year have expired. The suspension of these mandates would result in budget savings of almost \$376 million.

- **Open Meetings Act/Brown Act.** One of the mandates listed above is the Open Meetings Act/Brown Act Reform. The core provisions of the act are not mandates subject to reimbursement by the State, since their adoption occurred in 1953 as part of the Brown Act, and prior to mandate law. These core provisions require that all meetings of a legislative body of a local agency be open and public and all persons be permitted to attend any meeting of the legislative body. Because this act preceded mandate law, its provisions are not state-reimbursable mandates. In 1986, the Brown Act was modified to require local agencies to prepare and post agendas for public meetings. In 1993, the Legislature added provisions regarding closed sessions. These more recent provisions are referred to as Open Meetings/Brown Act Reform reimbursable mandate.

Last year, the Open Meetings Act/Brown Act Modifications mandate was not funded in the budget, nor was it expressly suspended in the budget. The issue was referred to the constitutional amendment process, but this did not become part of the Legislative agenda. As a result, the reimbursable mandate portion of the Open Meetings Act was not funded for the current year. As noted in the figure above, this mandate has been proposed for suspension in the budget year. In addition, the Governor has included in his proposed constitutional amendment related to local government and temporary taxes (to be put before the voters in the fall) language that specifies that the Brown Act Modifications would be continue to be required but not eligible for cost reimbursement from the State.

Because the mandate was not funded as part of the 2011-12 Budget Act, DOF's view is that the mandate has essentially been suspended. Thus, their view is that the proposed suspensions for 2012-13 are a continuation of policy. The SCO's view, citing Government Code section 17581(a)(2) is that because the mandate was not explicitly suspended in the Budget Act, the mandate remains in effect, and as a result the SCO will continue to accept claims. The actual funding of the mandate will not occur, however, since the Legislature did not make an appropriation.

ISSUE 3: ADMINISTRATION'S PROPOSAL—REPEAL CERTAIN MANDATES

As part of its budget proposal, the Administration has indicated that some local government mandates be repealed, as noted above. The Administration indicates that consistent with its approach to streamline government and add local discretion and flexibility, mandates were looked at individually to determine the best candidates for repeal. Generally, those slated for repeal are mandates that have been suspended for two years or more and might be considered to be common practice. In addition, the cost of the mandate was also a selection factor. The Administration has put forth a trailer bill that would result in repealing the identified mandates. Unlike the suspension process, where the requirement stays in place, but its application is suspended, repealing a mandate is a policy choice. The table below provides additional information, by category:

Mandates Proposed for Repeal

Mandate	Description and DOF Rationale	Initial Year of Suspense	Cost (\$000)	
Public Safety				
Adult Felony Restitution	Requires local probation officers to include a determination of probation fines and restitution to the victim in a report to the court. Repeal because the inclusion of this data to the courts has been in place for many years and is likely a best practice, and what is provided to the courts in probation reports regarding restitution should be a local decision rather than a statutory requirement.	1990		S
Crime Victims' Domestic Violence Incident Reports II	Requires local law enforcement agencies to take weapons discovered at a domestic violence scene. Repeal because this should be standard operating procedure for local law enforcement.	2010	1,959	S
Domestic Violence Information	Requires local law enforcement agencies to develop and implement written policies, standards, and incident report forms for officers' response to domestic violence calls as well as maintain records of all protection orders associated with those incidents. Repeal since the activities should be standard operating procedure for local law enforcement.	1990	0	S
Elder Abuse, Law Enforcement Training	Requires local law enforcement officers to complete training on elder and dependent adult abuse certified by the Commission on Peace Officers Standards and Training. Repeal because this should be best practices for local law enforcement.	2003	0	S
Extended Commitment, Youth Authority	Requires prosecuting attorneys to extend commitment of specified youths. Repeal because sentencing laws already allow flexibility for district attorneys to seek varying durations of commitment, on a case-by-case basis.	2003	0	L

Mandate	Description and DOF Rationale	Initial Year of Suspense		
AIDS/Search Warrant	Requires crime victims be notified of rights associated with requesting, preparation of, and service of a search warrant for HIV testing of victim and assailant, as well as administration of the test, confidentiality of test results, and receipt of professional counseling. Repeal because the activities should be standard operating procedures for District Attorneys and local health officers, and other statutes require similar information.	2009	1,596	S
Law Enforcement Sexual Harassment Training	Requires local law enforcement agencies to follow sexual harassment complaint guidelines developed by the Commission on Peace Officer Standards and Training and for peace officers to receive sexual harassment training. Repeal because it should be local law enforcement discretion to avail itself of the available course.	2003	0	L
Missing Persons Report	Requires local law enforcement agencies to take a report of a missing person and submit the report to the Department of Justice. Repeal because this should be standard operating procedure by local law enforcement, although guidelines could be provided.	2005	0	S
Personal Safety Alarm Devices	Requires local fire departments to have a personal alarm device for each of its firefighters to be used in conjunction with a self-contained breathing apparatus. Repeal because this should now be standard operating procedure.	1990	0	S
Public Health and Welfare				
Animal Adoption	Increases the holding period for stray and abandoned dogs, cats, and other specified animals from three days to four to six days. Repeal because local governments should determine how long to care for certain animals.	2009	46,296	L
Photographic Record of Evidence	Requires local agencies to provide exhibits, such as photographs, in criminal trials in lieu of actual items that are of a toxic nature and pose a health hazard to humans. Repeal, as this should be standard operating procedure for local agencies for health and safety reasons. Cost savings as a result of keeping a copy of evidence.	2009	291	S
Pocket Masks	Require every law enforcement agency employing peace officers to provide them with a portable manual mask and airway assembly designed to prevent the spread of communicable diseases when applying CPR. Repeal, as this should now be standard operating procedure.	1990	0	S
Perinatal Services	Requires local health county practitioners to establish protocols between county health departments, county welfare departments, and all hospitals in the county, regarding a substance-exposed infant to a county welfare department, and to submit an assessment of needs. Repeal because counties have broad authority to establish protocols for the provision of services to substance-exposed infants.	2009	2,338	L

Mandate	Description and DOF Rationale	Initial Year of Suspense		
SIDS Autopsies	Requires counties to conduct autopsies on infants who die suddenly and unexpectedly and to use Department of Health Services' protocols and forms related to Sudden Infant Death Syndrome. Repeal because this should be standard operating procedure.	2003	0	S
SIDS Contacts by Local Health Officers	Requires local health officers to provide information on counseling and support services to the guardian of an infant who has died from Sudden Infant Death Syndrome. Repeal because this should be standard operating procedure.	2003	0	S
Inmate AIDS Testing	Requires local agencies to test specified inmates and report the incidents where the individuals came into contact with the Human Immunodeficiency Virus (HIV). Repeal since this should be provided at local discretion.	2003	0	L
Deaf Teletype Equipment	Requires counties to provide 911 deaf teletype equipment at central locations throughout the State. Repeal because this should be standard operating procedure.	1990	0	S
SIDS Training for Firefighters	Requires local agencies to provide training and instruction to new and veteran firefighters on Sudden Infant Death Syndrome. Repeal because this should be standard operating procedure.	2003	0	S
Judicial				
Firearm Hearings for Discharged Inpatients	Requires the district attorney to represent the people of the State of California in civil proceedings. Repeal because the Department of Justice should be able to represent the people in these infrequent circumstances.	2009	157	N
Grand Jury Proceedings	Requires local agencies to perform certain activities for grand jury proceedings such as developing a training program for grand jurors, and providing meeting rooms and reports. Repeal since guidelines and best practices could be provided to assist in the operation of grand jury proceedings as opposed to mandating specific methods.	2005	0	L
Prisoner Parental Rights	Requires local governments to transport prisoners to and from the court and house them, so they can attend proceedings to terminate their parental rights or establish legal guardianship over their children. Repeal since most of these offenders now serve their sentences locally, making the cost of transportation, and housing minimal.	2005	0	L
Stolen Vehicle Notification	Requires local law enforcement agencies that recover stolen vehicles to notify the individual who reported the vehicle stolen within 48 hours. Repeal as this is a responsibility of local law enforcement and timing should be locally determined.	2009	1,117	S

Mandate	Description and DOF Rationale	Initial Year of Suspense		
Victims' Statements- Minors	Requires a probation officer to obtain a statement from a victim of a crime committed by a minor, that would be a felony if committed by an adult, and to include that statement in the social study submitted to the court. Repeal because this is a basic responsibility of law enforcement.	1990	0	S
Crime Statistics Reports for the Department of Justice Amended	Requires local law enforcement agencies to report specified demographic data on victims and suspects of specified crimes to the Department of Justice. Repeal since this information is used in part for the receipt and provision of federal funds to local entities.	2012	138,722	S
Judiciary Proceedings	Requires the county to investigate, prepare for, and conduct a proceeding for commitment, placement, or release of a mentally retarded person who is a danger to himself or others and resides in a state hospital's treatment program. Repeal because the courts have the authority to commit mentally retarded individuals that are a danger to themselves or others to a state developmental center.	2009	274	L
False Reports of Police Misconduct	Requires law enforcement agencies that receive an allegation of misconduct against a peace officer to have the complainant read and sign an advisory. Repeal because this should be standard operating procedure.	2009	10	S
Mentally Retarded Defendants Representation	Requires the district attorney, probation department and regional center for the developmentally disabled to submit a report to the court, which contains a recommendation on the defendant's avoidance of jail and provide procedures for having specified charges dropped. Repeal because it should be a local discretion to determine whether to divert from incarceration.	2009	36	L
Not Guilty by Reason of Insanity	Requires the district attorney to petition a court to extend commitments in mental health hospitals for individuals who have been found not guilty by reason of insanity and committed to specified state institutions. Repeal since the Department of State Hospitals is drafting statute to provide standards for committing individuals as Not Guilty By Reason of Insanity.	2009	5,214	N
Conservatorship Developmentally Disabled Adults	Requires legal counsel be provided to a developmentally-disabled person in certain conservatorship proceedings and specifies the requirements for conservatorships for an individual that is a patient of or on leave of absence from an institution under the Department of Mental Health or Department of Developmental Services. Repeal, as this should be standard operating procedure.	2009	349	S

Mandate	Description and DOF Rationale	Initial Year of Suspense		
Other Various				
Filipino Employee Surveys	Requires local agencies to categorize Filipino employees as a separate ethnic calculation in employee ethnicity survey and tabulations. Repeal, because other laws require similar information.	1990	0	N
Airport Land Use Commission/ Plans	Requires counties with an airport to establish an airport land use commission or designate alternative procedures to accomplish airport land use planning. Repeal because this should be determined by local government priorities.	2005	1,595	L
Local Coastal Plans	Requires local agencies that have land within the coastal zone to prepare a local coastal plan that outlines how the 1976 California Coastal Act is implemented on a local level. Repeal because most local agencies have already prepared plans or must prepare a plan in order to issue permits.	1993	0	N

STAFF COMMENT/QUESTIONS

The Administration has provided brief rationales for the repeal of certain selected mandates currently suspended. In many cases, the rationale provided by the Administration for the repeal of the mandate is because the mandate should be standard operating procedure, represents best practices, or similar arguments. Mandates with this type of rationale are denoted by "S" in the table above.

For numerous other mandates, the rationale given for repeal is based on the interpretation that it is, or should be a matter of local discretion. These mandates are denoted by an "L" in the table above. Four mandates are considered unnecessary for a variety of reasons, including reporting redundancy, potential statutory changes, or the take-over of mandated activities by the State. These mandates are denoted by the letter "N" in the table above.

Are Best Practices Being Practiced?

The repeal rationale that the currently suspended mandate should be standard operating procedure applies to seven of the nine public safety mandates listed in table above, six of the nine public health and welfare mandates, and potentially another five mandates listed in other categories, for a total of 18. However, no additional information has been provided indicating whether local governments in fact, are generally providing the activity, regardless of suspension. Given this, it is difficult to know whether the activity is generally being carried out or not. In addition, if the activity is not carried out, no determination has been made as to whether there is a State interest in conducting such an activity. Many of the mandates that are considered by the Administration to be best practices are in the area of public safety. Some of these may well be considered best practices, but may not be being followed. If this is the case, to assume that these practices are being adhered to, therefore justify repealing the mandate, may work against the very public safety or public health issue the mandate was designed (through the policy process) to address.

- **Example: SIDS Mandates.** In a high-level examination of the SIDS autopsy mandate listed above, almost all counties indicated that they would continue the practice. But not all. So the question arises, if it is considered "best practice," but not all practice it, should the State play a role? Some viewed the mandate as unnecessary but still viewed state established protocols as having value.

Local Discretion or State Interest?

In many other situations, the rationale for repeal is that the activity should be up to the locals to decide. This may well be the case, but no additional background or discussion has been provided making the case-by-case argument. A determination of state interest in a particular activity is often not a simple matter. It can require generating substantial amounts of data and information, weighing costs and benefits of certain activities, and determining the appropriate roles for state and local governments. It is not at all clear that the mandates determined to address matters that should be local discretion should be repealed without careful and full review. Ten of the mandates listed above allude to "local discretion" or a similar rationale as the basis for repeal.

- **Example: Animal Adoption.** A case in point is the proposal to repeal the mandate requiring a certain holding period for animals being held for adoption. SB 1785 (Hayden), Chapter 752, Statutes of 1998, imposed various requirements on cities and counties to prevent the euthanizing of adoptable stray animals, including increasing the holding period for these animals from three days to four to six business days. The Commission found the following local costs to be state reimbursable mandates: (1) holding animals for the longer period; (2) providing veterinary care and verifying the temperament of feral cats; and, (3) posting lost and found lists and maintaining records regarding impounded animals.

It is clear that there is considerable interest in maintaining this mandate and discussions regarding the existence and the extent of state interest. In addition, there are ongoing and active discussions among state legislators, the animal shelter community and other groups regarding steps to address the state concerns but alter the law in a manner that would be more cost effective. Given this, it would seem precipitous to take the affirmative step of repeal without a full vetting through the policy process.

It is clear that with the diversity of mandates and the importance of many of these activities, a careful review should be conducted before repealing these requirements. Some of the mandates are anticipated to be considered as part of the budget subcommittee process. To the extent that this does not occur, the step to repeal the mandate should go through the same policy process that imposed the mandate initially. This is particularly the case, since the decision to repeal (rather than simply suspend) will have no impact on the 2012-13 budget. In general, local government mandates have been approved by the Legislature based on policy choice and have gone through the policy process. An argument can be made that the decision to repeal, and not just suspend, is a policy decision that should go through the same process. These proposals could be referred to policy committee or to the budget subcommittee that considers and addresses the particular subject matter.