

# SCHOOL BUS SAFETY II

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## ***State Law Intended to Make School Bus Transportation Safer Is Costing More Than Expected***

REPORT NUMBER 2001-120, MARCH 2002

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### *Audit Highlights . . .*

*Our review of the School Bus Safety II mandate found that:*

- The costs for the mandate are substantially higher than what was initially expected.*
  - The costs claimed by seven school districts varied significantly depending upon the approach taken by their consultants.*
  - The different approaches appear to result from the lack of clarity in the guidelines adopted by the Commission on State Mandates (commission).*
  - Most of the school districts we reviewed lacked sufficient support for the amounts they claimed.*
  - The commission could have avoided delays totaling more than 14 months when determining whether a state mandate existed and in developing a cost estimate.*
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The Commission on State Mandates response, State Controller's Office response, and most school district responses as of March 2003<sup>1</sup>

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits examine the claims under the School Bus Safety II mandate. Specifically, we were asked to review the Commission on State Mandates' (commission) guidelines to determine if they adequately define the mandate's reimbursable activities and provide sufficient guidance for claiming reimbursable costs. In addition to examining any prior reviews of the claims, we were asked to examine a sample of claims to determine if the costs met the criteria for reimbursement. Finally, the audit committee asked us to evaluate the commission's methodology for estimating the future costs of this mandate.

### **Finding #1: The commission's guidance regarding claims reimbursement lacks clarity.**

The guidance issued by the commission does not provide sufficient clarity to ensure that school districts claim reimbursement for mandated activities in an accurate and consistent manner. Instead, the guidance established a broad standard that has allowed a variety of interpretations by school districts as to what costs to claim. The lack of clarity in the guidance appears to be the result of several factors, including the broad language in the statutes from which the guidelines were developed. In addition, the test claim process does not require the claimant to be specific when identifying activities to be reimbursed. Further, the commission's executive director states that the commission, as a quasi-judicial body, is limited in making changes to the guidelines. Finally,

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<sup>1</sup> School districts responding to the audit were Ceres Unified School District, Dinuba Unified School District, Elk Grove Unified School District (Elk Grove), Fresno Unified School District, and San Dieguito Union High School District. Elk Grove's response was as of October 2002.

the fact that the school districts' interests appear to have been better represented in the process than the State's also may have contributed to the ambiguity on this issue.

We recommended the Legislature amend the parameters and guidelines through legislation to more clearly define activities that are reimbursable and to ensure that those activities reflect what the Legislature intended. The guidelines should clearly delineate between activities that are required under prior law and those that are required under the mandate. To ensure that the State's interests are fully represented in the future, we recommended the commission ensure that all relevant state departments and legislative fiscal committees be provided with the opportunity to provide input on test claims and parameters and guidelines. Further, we recommended the commission follow up with entities that have indicated they would comment, but did not. Finally, we recommended that the commission notify all relevant parties, including legislative fiscal committees, of the decisions made at critical points in the process, such as the test claim statement of decision, the adoption of the parameters and guidelines, and the adoption of the statewide cost estimate.

***Legislative Action: Legislation passed.***

On September 30, 2002, the governor approved Assembly Bill 2781 (Chapter 1167, Statutes of 2002). This new law requires the commission to specify that costs associated with implementation of transportation plans are not reimbursable claims and requires the amended parameters and guidelines to be applied retroactively as well as prospectively.

***Commission Action: Corrective action taken.***

In January 2003, the commission amended the parameters and guidelines as outlined in Chapter 1167, Statutes of 2002. Additionally, commission staff implemented new procedures to increase the opportunity for state agencies and legislative staff to participate in the mandates process; notify relevant parties of proposed statements of decision, parameters and guidelines, and statewide cost estimates; and follow up with entities that are late in commenting on claims. For example, in addition to a letter initially inviting state agency participation, commission staff now send a letter notifying all parties of the tentative hearing dates for each test claim. Additionally, they send e-mail notices of release of analyses of test claims, proposed parameters and guidelines, statewide

cost estimates, and proposed statements of decision to fiscal and policy committee staff. Further, commission staff contact state agencies, claimants, and other relevant parties when comments are late.

**Finding #2: Most school districts we reviewed lacked sufficient documentation for their costs.**

We found that many school districts did not maintain sufficient documentation to support their claims. In fact, of the more than \$2.3 million total direct costs the seven districts we reviewed submitted for reimbursement in fiscal year 1999–2000, only \$606,000 (26 percent) was traceable to documents that sufficiently quantified the costs. To support the remaining \$1.7 million (74 percent), these school districts relied substantially upon incomplete supporting data. School districts are to follow the parameters and guidelines issued by the State Controller’s Office (Controller) when claiming reimbursement under the mandate. The districts asserted they had sufficient support, yet the documentation we reviewed lacked crucial elements, such as corroborating data, and failed to substantiate the amounts claimed for reimbursement in many instances. In addition, some school districts claimed amounts for time increases to complete school bus routes, yet they failed to maintain corroborating evidence to support these increases. Further, one district based much of the costs it claimed on questionable assumptions and even claimed for activities that appear to be beyond the scope of the mandate. Only San Diego City Unified School District had support for all the \$5,171 in direct costs it claimed. Additionally, San Jose Unified School District had sufficient documentation to support nearly all the \$590,000 in direct costs that it claimed.

School districts should ensure that they have sufficient support for the costs they have claimed. In addition, the commission should work with the Controller, other affected state agencies, and interested parties to make sure the language in the guidelines and the claiming instructions reflects the commission’s intentions as well as the Controller’s expectations regarding supporting documentation.

***School District Action: Partial corrective action taken.***

Ceres Unified School District, Dinuba Unified School District, and Fresno Unified School District conducted time studies to support costs associated with the mandate. San Dieguito Union High School District has taken steps to ensure that its claimed activities are supported by sufficient documentation, including ensuring that it properly maintains training records in its computer system. Elk Grove Unified School District previously stated that when the commission came out with new rules, regulations, and guidelines regarding the mandate, it would follow them.

***Commission Action: Corrective action taken.***

Commission staff worked with the Controller and others to amend existing parameters and guidelines and adopt new parameters and guidelines that reflected its intention and the Controller's expectations regarding supporting documentation. In January 2003, the commission adopted the Controller's proposed language, as modified by commission staff, that requires claimants to maintain documentation developed at or near the time actual costs were incurred in order to support their reimbursement claims. The commission intends to address the language in all future parameters and guidelines, and in existing parameters and guidelines as they are amended.

**Finding #3: The commission did not identify the true fiscal impact of the mandate until three years after the law was passed.**

The Legislature was not aware of the magnitude of the fiscal impact of its action when it passed the 1997 law that comprises the majority of the School Bus Safety II mandate. Three different entities that analyzed the 1997 law before its passage believed that it would not be a state mandate and thus the State would not have to reimburse the districts' costs. Further, these entities advised the Legislature that annual costs would be no more than \$1 million, considerably less than the \$67 million in annual costs that the commission is now estimating. This misperception of the likely costs prevailed until January 2001, when the commission finally released a statewide cost estimate. Although the commission is required to follow a deliberate and often time-consuming process when determining whether a test claim is a

state mandate and adopting a statewide cost estimate, it appears that it could have avoided a delay of more than 14 months. Consequently, the Legislature did not have the information necessary to act promptly to resolve the issues of possible concern previously discussed in this report. Finally, commission staff believe that waiting for actual reimbursement claims reported to the Controller and using this data to estimate statewide costs for the mandate results in more accurate estimates. However, commission staff have not sought changes to the regulations to include sufficient time for waiting for the claim data.

We recommended the commission ensure that it carries out its process for deciding test claims, approving parameters and guidelines, and developing the statewide cost estimate for mandates in as timely a manner as possible. If the commission believes it necessary to use actual claims data when developing the statewide cost estimate, it should consider seeking regulatory changes to the timeline to include the time necessary to obtain the data from the Controller.

***Commission Action: Corrective action taken.***

Commission staff implemented new procedures to ensure that it carries out its process in as timely a manner as possible. Specifically, they now propose statewide cost estimates for adoption approximately one month after they receive initial reimbursement claims data from the Controller. They also close the record of the claim and start their staff analysis if claimant responses are not submitted timely. Claimants who choose to rebut state agency positions at a later time may provide rebuttal comments to the draft staff analysis. Further, the commission initiated a rulemaking package in February 2003 to incorporate the current methodology for developing statewide cost estimates into the commission's regulations.

