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STATE MANDATES - CALIFORNIA

County of San Diego v. Commission on State Mandates

Court of Appeal, Fourth District, Division 1, California - December 28, 2016 - Cal.Rptr.3d - 2016 WL 7448783

Counties filed a petition for writ of administrative mandamus and complaint for declaratory relief challenging Commission on State Mandates decision that costs associated with eight activities required of local governments by the Sexually Violent Predator Act (SVPA) under the Sexual Predator Punishment and Control Act (Jessica's Law) were not eligible for reimbursement.

The Superior Court, San Diego County, denied petition. Counties appealed.

The Court of Appeal held that spending mandates in SVPA provisions amended by Jessica's Law were reimbursable state mandates.

The issue of whether the Sexual Predator Punishment and Control Act (Jessica's Law) negated part of the state mandate to carry out activities required of local governments by the Sexually Violent Predator Act (SVPA), under the state constitutional provision precluding a shift of financial responsibility for carrying out state mandates to local agencies, was a legal question subject to independent review by the Court of Appeal, since it required no reliance on disputed facts.

A ballot initiative that modifies statutes previously found by the Commission on State Mandates to impose a state mandate only changes the source of the mandate, as required to exclude the mandate from the coverage of the state constitutional provision precluding a shift of financial responsibility for carrying out state mandates to local agencies, if the initiative changes the duties imposed by the statutes.

The Sexually Violent Predator Act (SVPA) provisions that imposed on counties the costs of providing legal representation, mental health expertise, housing, and transportation in sexually violent predator (SVP) commitment proceedings were reimbursable state mandates, even though the provisions had been amended by ballot initiative in the Sexual Predator Punishment and Control Act (Jessica's Law), and even though Jessica's Law expanded the definition of "SVP," since Jessica's Law did not change the duties that had been imposed on counties by the Legislature prior to Jessica's Law.