

## ITEM 16

### PROPOSED ORDER TO SET ASIDE PARAMETERS AND GUIDELINES

*Democratic Presidential Delegates*  
04-PGA-10 (CSM-4130 and CSM-4131)

Elections Code Section 6305, Subdivision (d)  
Elections Code Section 6329.2

Statutes 1982, Chapter 1603  
Statutes 1983, Chapter 1166

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### EXECUTIVE SUMMARY

#### Background

In 1985, the Commission on State Mandates determined that the *Democratic Presidential Delegates* program (Elec. Code, §§ 6305, subd. (d) and 6329.2, Stats. 1982, ch. 1603 and Stats. 1983, ch. 1166) imposed a reimbursable mandate on counties for the 1984 Democratic Presidential Primary Election. The Commission found that the test claim statutes required for the first time that certain Democratic Presidential delegates be elected by direct vote of the voters on the 1984 primary election ballot. The Commission also adopted parameters and guidelines in 1985.

Last year, the Legislature enacted the following findings and declarations regarding this program in Statutes 2004, chapter 316 (Assem. Bill No. 2851, § 4):

The Legislature hereby finds and declares that the following statutes no longer constitute a reimbursable mandate under Section 6 of Article XIII B of the California Constitution because provisions containing the reimbursable mandate have been repealed:

- (a) Democratic Party presidential delegates (CSM-4131; and Chapter 1603 of the Statutes of 1982 and Chapter 8 of the Statutes of 1988, which enacted statutes that were repealed by Chapter 920 of the Statutes of 1994.)

On November 8, 2004, the State Controller's Office requested that the parameters and guidelines for this program be amended to repeal the mandate program.<sup>1</sup>

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<sup>1</sup> Exhibit A

## **Discussion**

Article XIII B, section 6 of the California Constitution states that “whenever the Legislature or any state agency *mandates* a new program or higher level of service on any local government, the state shall provide a subvention of funds.” (Emphasis added.) This constitutional provision was specifically intended to prevent the state from forcing programs on local government that *require* expenditure by local governments of their tax revenues.<sup>2</sup> To implement article XIII B, section 6, the Legislature enacted Government Code section 17500 et seq. Government Code section 17514 defines “costs mandated by the state” as “any increased costs which a local agency or school district is *required* to incur . . . as a result of any statute. . . which *mandates* a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.” (Emphasis added.)

Staff finds that the test claim statutes, Elections Code sections 6305, subdivision (d) and 6329.2 were repealed by Statutes 1988, Chapter 8. Without the test claim statutes, no reimbursement is required pursuant to article XIII B, section 6 of the Constitution and Government Code section 17514 because there is no 1984 *Democratic Presidential Delegates* program.

## **Conclusion**

Therefore, staff concludes that the parameters and guidelines for this program should be set aside.

## **Recommendation**

Staff recommends that the Commission adopt the attached order setting aside the parameters and guidelines for the *Democratic Presidential Delegates* program.

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<sup>2</sup> *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Los Angeles, supra*, 43 Cal.3d 46, 56; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283-1284.

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Elections Code Sections 6305, Subdivision (d), and 6329.2, as added and amended by

Statutes 1982, Chapter 1603 and Statutes 1983, Chapter 1166;

Filed on August 27, 1984;

By Counties of Contra Costa and San Bernardino, Claimants

Nos. 04-PGA-10 (CSM-4130 and CSM-4131)

*Democratic Presidential Delegates Program*

PROPOSED ORDER TO SET ASIDE  
PARAMETERS AND GUIDELINES

*(Proposed on July 28, 2005)*

**ORDER TO SET-ASIDE PARAMETERS AND GUIDELINES**

In 1985, the Commission on State Mandates determined that the *Democratic Presidential Delegates* program (Elec. Code, §§ 6305, subd. (d) and 6329.2, Stats. 1982, ch. 1603 and Stats. 1983, ch. 1166) imposed a reimbursable mandate on counties for the 1984 Democratic Presidential Primary Election. The Commission found that the test claim statutes required for the first time that certain Democratic Presidential delegates be elected by direct vote of the voters on the 1984 primary election ballot. In 1985, the Commission also adopted parameters and guidelines. On November 8, 2004, the State Controller's Office requested that the parameters and guidelines for this program be amended to repeal the mandate program in accordance with Statutes 2004, chapter 316.

Article XIII B, section 6 of the California Constitution states that "whenever the Legislature or any state agency *mandates* a new program or higher level of service on any local government, the state shall provide a subvention of funds." (Emphasis added.) This constitutional provision was specifically intended to prevent the state from forcing programs on local government that *require* expenditure by local governments of their tax revenues.<sup>3</sup> To implement article XIII B, section 6, the Legislature enacted Government Code section 17500 et seq. Government Code section 17514 defines "costs mandated by the state" as "any increased costs which a local agency or school district is *required* to incur . . . as a result of any statute. . . which *mandates* a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution." (Emphasis added.)

<sup>3</sup> *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Los Angeles, supra*, 43 Cal.3d 46, 56; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283-1284.

The Commission finds that the test claim statutes, Elections Code sections 6305, subdivision (d) and 6329.2 were repealed by Statutes 1988, Chapter 8. Without the test claim statutes, no reimbursement is required pursuant to article XIII B, section 6 of the Constitution and Government Code section 17514 because there is no 1984 *Democratic Presidential Delegates* program.

Therefore, based on the repeal of the test claim statutes, the Commission sets aside the attached parameters and guidelines for the Democratic Presidential Delegates program.

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Paula Higashi, Executive Director

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Date

Attachment: Parameters and Guidelines