

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

PROPOSED AMENDMENT AND SET-ASIDE
OF PARAMETERS AND GUIDELINES

As Directed or Required by:

Statutes 2004, Chapter 316 (Assem. Bill No. 2851, effective August 25, 2004);

Statutes 2004, Chapter 895, (Assem. Bill No. 2855, eff. January 1, 2005); and

Statutes 2005, Chapter 72 (Assem. Bill No. 138, eff. July 19, 2005)

And Requested by the State Controller's Office

Nos.: 04-PGA-12, 23, 26, and 05-PGA-02, 11

Residential Care Services

*Pupil Classroom Suspensions: Counseling
Caregiver Affidavits*

Presidential Primaries 2000

*School Crimes Reporting, Statistics and
Validation and School Crimes Reporting II*

NOTICE OF HEARING

HEARING DATE: December 9, 2005

Room 126, State Capitol

Sacramento, California

10:30 a.m.

TO: Department of Finance
State Controller's Office
Legislative Analyst's Office
Interested Parties
Legislative Committees

**Notice of Hearing on Proposed Amendments and Set-Aside
of Parameters and Guidelines**

In 2004 and 2005, the Legislature enacted statutes to repeal or modify numerous state-mandated reimbursable programs. On November 8, 2004, the State Controller's Office requested the Commission on State Mandates (Commission) to amend the parameters and guidelines for these mandated programs. The parameters and guidelines for five of the programs are proposed for amendment or set-aside.

The staff analyses and proposed modifications to the parameters and guidelines on the five matters named above are being posted to the Commission's website:

[http://www.csm.ca.gov/Hearing_Agendas/July 28, 2005/Items 13, 15, 16, 17, and 21](http://www.csm.ca.gov/Hearing_Agendas/July_28,_2005/Items_13,_15,_16,_17,_and_21)

Commission Hearing – December 9, 2005

The Commission will hear and determine these items on December 9, 2005.

These items are proposed for the consent calendar unless any party objects. Please let us know in advance of the hearing if you or a representative of your agency will testify at the hearing, and if other witnesses will also appear.

Special Accommodations

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

If you have any questions regarding this matter, please contact Nancy Patton, Assistant Executive Director at (916) 323-8217.

Dated: November 22, 2005

PAULA HIGASHI, Executive Director

ITEM 21

PROPOSED ORDER TO SET ASIDE PARAMETERS AND GUIDELINES

Election Code Sections 151512 and 15375

Statutes 1999, Chapter 18

Repealed by Statutes 2005, Chapter 72

(Assem. Bill No. 138, § 15, eff. July 19, 2005)

Presidential Primaries 2000

05-PGA-02 (99-TC-04)

EXECUTIVE SUMMARY

Prior to the test claim legislation, Elections Code section 15151 required local elections officials to transmit to the Secretary of State in two hour intervals, the semifinal official vote count for all:

- Candidates for Statewide Office
- State Assembly Candidates
- State Senate Candidates,
- Members of the U.S. House of Representatives,
- Members of the State Board of Equalization
- Justices of the Court of Appeals
- All persons voted for at a presidential primary or for electors of President and Vice President of the United States
- Ballot Measures

Election Code section 15375 required local elections officials to transmit to the Secretary of State the final results of the vote count for the above-named candidates and measures within 35 days of the election. Section 15375 also requires the local elections officials to transmit to the Secretary of State the final count of all persons voted for at the presidential primary for delegates to national conventions within 28 days of the election.

The test claim legislation amended Elections Code sections 15151 and 15375 to require local election officials to transmit both semi-final and final election results for presidential primaries

in two separate tallies to the Secretary of State. On October 25, 2001, the Commission on State Mandates (Commission) adopted its Statement of Decision that the test claim constituted a reimbursable state-mandated program pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514.

The portions of Elections Code sections 15151 and 15375 that constituted this mandated program (i.e., requiring elections officials to transmit election results for presidential primaries in two separate tallies) were repealed by Statutes 2005, chapter 72 (Assem. Bill No. 138, eff. July 19, 2005). The activities required in Elections Code sections 15151 and 15375 by prior law remain unchanged.

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.¹ 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 portions of the test claim statutes, Elections Code sections 15151 and 15375 that constituted the *Presidential Primaries 2000* program were repealed by Statutes 2005, chapter 72, in effect repealing this program.. Without these portions of the test claim statute, no reimbursement is required pursuant to article XIII B, section 6 of the Constitution and Government Code section 17514 because there is no *Presidential Primaries 2000* program.

Conclusion

Therefore, staff concludes that the parameters and guidelines for this program should be set aside, effective July 19, 2005.

Staff Recommendation

Staff recommends the Commission adopt the proposed Order to Set Aside the Parameters and Guidelines for the *Presidential Primaries 2000* program.

¹ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Los Angeles V. State of California* (1987) 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 15151 and 15375, as amended by Statutes 1999, Chapter 18;

Filed on October 25, 1999;

By the County of Tuolumne, Claimant

No. 05-PGA-02 (99-TC-04)

Presidential Primaries 2000

SET ASIDE OF PARAMETERS AND GUIDELINES

(Proposed for Adoption on December 9, 2005)

PROPOSED ORDER TO SET ASIDE PARAMETERS AND GUIDELINES

Prior to the test claim legislation, Elections Code section 15151 required local elections officials to transmit to the Secretary of State in two hour intervals, the semifinal official vote count for all:

- Candidates for Statewide Office
- State Assembly Candidates
- State Senate Candidates,
- Members of the U.S. House of Representatives,
- Members of the State Board of Equalization
- Justices of the Court of Appeals
- All persons voted for at a presidential primary or for electors of President and Vice President of the United States
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The test claim legislation amended Elections Code sections 15151 and 15375 to require local election officials to transmit both semi-final and final election results for presidential primaries in two separate tallies to the Secretary of State. On October 25, 2001, the Commission on State Mandates (Commission) adopted its Statement of Decision that the test claim constituted a

reimbursable state-mandated program pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514.

The portions of Elections Code sections 15151 and 15375 that constituted this mandated program (i.e., requiring elections officials to transmit election results for presidential primaries in two separate tallies) were repealed by Statutes 2005, chapter 72 (Assem. Bill No. 138, eff. July 19, 2005). The activities required in Elections Code sections 15151 and 15375 by prior law remain unchanged.

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.¹ 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.)

The Commission finds that the portions of the test claim statutes, Elections Code sections 15151 and 15375 that constituted the *Presidential Primaries 2000* program were repealed by Statutes 2005, chapter 72, in effect repealing the mandated program. Without the these portions of the test claim statute, no reimbursement is required pursuant to article XIII B, section 6 of the Constitution and Government Code section 17514 because there is no *Presidential Primaries 2000* program.

Therefore, the Commission sets aside the parameters and guidelines for the *Presidential Primaries 2000* program, effective July 19, 2005.

PAULA HIGASHI, Executive Director

Date

Attachment

¹ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283-1284.