

Item 16
Final Staff Analysis
Proposed Statewide Cost Estimate
\$2,265,372

Elections Code Sections 3201 and 3203(b)(2)

Statutes 2001, Chapter 922

Statutes 2002, Chapter 664

Statutes 2003, Chapter 347

Permanent Absent Voters II
03-TC-11

County of Sacramento, Claimant

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Adopted: December 1, 2011

PARAMETERS AND GUIDELINES

Elections Code Sections 3201 and 3203(b)(2)

Statutes 2001, Chapter 922

Statutes 2002, Chapter 664

Statutes 2003, Chapter 347

Permanent Absent Voters II

03-TC-11

I. SUMMARY OF THE MANDATE

The test claim on *Permanent Absent Voters II* (03-TC-11) was filed to reflect changes in the election law pertaining to Permanent Absent Voters. In 1989, the Commission originally determined that Elections Code sections 1450 through 1456 imposed a reimbursable state-mandated program in *Permanent Absent Voters* (CSM-4358). Elections Code sections 1450 through 1456 provided that only voters with specified disabilities could apply for permanent absent voter status.

Statutes 1994, chapter 920 reorganized the entire Elections Code, including the repeal of Elections Code sections 1450 through 1456, and reenactment of those provisions as Elections Code sections 3200 through 3206. The other statutes claimed in *Permanent Absent Voters II*, further amended the Elections Code, including substantive changes in 2001 allowing *all* registered voters to apply for permanent absent voter status, rather than limiting eligibility to those voters with specific disabilities or conditions, as was the case under prior law.

In *Permanent Absent Voters II*, the Commission concluded that Elections Code sections 3201 and 3203(b)(2) mandate a new program or higher level of service on counties within the meaning of article XIII B, section 6 of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514, for the following specific new activities:

- County elections officials shall make an application for permanent absent voter status available to any voter. (Elec. Code, § 3201, as amended by Stats. 2001, ch. 922, Stats. 2002, ch. 664, and Stats. 2003, ch. 347.)

The above activity replaces the activity in *Permanent Absent Voters I* which was limited to those voters who provided evidence of certain physical disabilities.

- Include in all absentee ballot mailings to the voter an explanation of the absentee voting procedure and an explanation of Elections Code section 3206. (Elec. Code, § 3203(b)(2), as amended by Stats. 2001, ch. 922.)

The Commission further concluded that Elections Code sections 3200, 3202, 3203(a) and (b)(1) and (b)(3), 3204, 3205(a) and 3206, as renumbered and reenacted by Statutes 1994, chapter 920 do not mandate *new* reimbursable state-mandated programs within the meaning of article XIII B, section 6, and Government Code section 17514, but remain a part of the Permanent Absent Voter program as it now exists.

II. ELIGIBLE CLAIMANTS

Any county, or city and county, that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557(e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The County of Sacramento filed the test claim on September 26, 2003, establishing eligibility for reimbursement beginning July 1, 2002.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560(a), a local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. In the event revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code §17560(b).)
5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564(a).
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any given fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable to and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, time sheets, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, calendars, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise reported in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for the increased costs of the reimbursable activities identified below.

- A. One-Time Activity – add information to all absentee ballot mailings explaining the absentee voting procedure in Elections Code sections 3200 et seq. and the requirements of Elections Code section 3206 when a voter fails to return an executed absent voter ballot for any statewide direct primary or general election.
- B. Ongoing Activities
 1. Make an application for permanent absent voter status available to any voter.
 2. Upon receipt of an application or request for permanent absent voter status:
 - a. Determine (1) whether the applicant is a registered voter and, (2) whether the signature of the applicant and residence address on the application or request appears to be the same as that on the original affidavit of registration.
 - b. Mark the permanent absent voter affidavit for identification.
 3. For each application or request for permanent absent voter status received and verified for registration, place the voter's name on a list of those whom an absentee ballot is sent each time there is an election within the voter's precinct.
 4. Maintain a copy of the list on file open to public inspection for election and governmental purposes.
 5. Send a copy of the list of all voters who qualify as permanent absent voters to each city elections official or district elections official charged with the duty of conducting an election within the county on the sixth day before an election.
 6. Process and count ballots received from voters on the permanent absent voter list in the same manner as all other absent voter ballots.
 7. If the permanent absent voter fails to return an executed absent voter ballot for any statewide direct primary or general election, delete the voter's name from the list of permanent absent voters.

If costs to perform the activities identified above have been claimed under the Absentee Ballots program (CSM 3713), the Permanent Absent Voter I program (CSM 4358), or any other program, the costs are not eligible for reimbursement under these parameters and guidelines.

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for the reimbursable activities identified in section IV of this document. Each reimbursable cost must be supported by source documentation as described in section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services during the period covered by the reimbursement claim. If the contract services were also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and invoices with the claim and a description of the contract scope of services.

4. Fixed Assets

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include: (1) the overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in 2 CFR Part 225 (Office of Management and Budget (OMB) Circular A-87). Claimants have the option of using 10% of labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B)) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B)). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distributions base may be: (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.); (2) direct salaries and wages; or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. the allocation of allowable indirect costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B)) shall be accomplished by: (1) classifying a department's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount of allowable indirect costs bears to the base selected; or
2. the allocation of allowable indirect costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B)) shall be accomplished by: (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount of allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ is subject to the initiation of an audit by the State Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsetting revenues the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any federal, state or non-local source shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561(d)(1)(A), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon the request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557(d)(1), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The statement of decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the statement of decision, is on file with the Commission.

Hearing: September 28, 2012
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Item ____
Draft Staff Analysis
Proposed Statewide Cost Estimate

\$2,265,372

Elections Code Sections 3201 and 3203(b)(2)
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 Statutes 2002, Chapter 664
 Statutes 2003, Chapter 347

Permanent Absent Voters II
 03-TC-11

County of Sacramento, Claimant

STAFF ANALYSIS

Background and Summary of the Mandate

The test claim statutes amended the Elections Code, including substantive changes in 2001, to allow *all* registered voters to apply for permanent absent voter status, rather than limiting eligibility to those voters with specific disabilities or conditions, as was the case under prior law.

The claimant filed the test claim on September 25, 2003. The Commission on State Mandates (Commission) adopted a statement of decision on the test claim on July 28, 2006, and parameters and guidelines on December 1, 2011.¹ The Commission found that the test claim statutes impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

Eligible claimants were required to file initial reimbursement claims (for costs incurred between July 1, 2002 and June 30, 2011) with the State Controller's Office (SCO) by June 5, 2012. Reimbursement claims for fiscal year 2011-2012 are due by February 15, 2013.

Eligible Claimants and Period of Reimbursement

Any county, or city and county, that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement.

Government Code section 17557(e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The County of Sacramento filed the test claim on September 26, 2003, establishing eligibility for reimbursement for the 2002-2003 fiscal year. Therefore, the costs incurred for compliance with the mandated activities are reimbursable on or after July 1, 2002.

¹ Exhibit A.

Reimbursable Activities

The Commission approved the following activities for reimbursement:

- A. One-Time Activity – add information to all absentee ballot mailings explaining the absentee voting procedure in Elections Code sections 3200 et seq. and the requirements of Elections Code section 3206 when a voter fails to return an executed absent voter ballot for any statewide direct primary or general election.
- B. Ongoing Activities
 1. Make an application for permanent absent voter status available to any voter.
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 - b. Mark the permanent absent voter affidavit for identification.
 3. For each application or request for permanent absent voter status received and verified for registration, place the voter's name on a list of those whom an absentee ballot is sent each time there is an election within the voter's precinct.
 4. Maintain a copy of the list on file open to public inspection for election and governmental purposes.
 5. Send a copy of the list of all voters who qualify as permanent absent voters to each city elections official or district elections official charged with the duty of conducting an election within the county on the sixth day before an election.
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If costs to perform the activities identified above have been claimed under the Absentee Ballots program (CSM 3713), the Permanent Absent Voters I program (CSM 4358), or any other program, the costs are not eligible for reimbursement under these parameters and guidelines.

Assumptions

Staff reviewed the claims data submitted by counties and a city and county and compiled by the SCO. The actual claims data showed that 36 claims were filed for fiscal years 2002-2003 through 2010-2011 for a total of \$2,265,372.² Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

² Claims data reported as of June 13, 2012.

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*

There are currently 58 counties in California. Of those, only 23 counties filed reimbursement claims for this program for fiscal years 2002-2003 through 2010-2011. If other eligible claimants file late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims for this program for fiscal years 2002-2003 through 2010-2011 may be filed until June 5, 2013. Late claims for fiscal year 2011-2012 may be filed until February 15, 2014.

- *There may be several reasons that non-claiming counties did not file for reimbursement, including but not limited to:*
 1. Some counties cannot reach the \$1,000 threshold for filing reimbursement claims.
 2. Counties did not have supporting documentation to file a reimbursement claim.
- *The number of reimbursement claims filed will vary from year to year.*

This program requires county elections officials to make an application for permanent absent voter status available to any voter. Therefore, the total number of reimbursement claims filed with the SCO could increase based on the number of permanent absent voter applications filed with the county.

- *It appears as though some local governments may be claiming activities under this program that should be claimed under either the Permanent Absent Voters I program or under the Absentee Ballots program.*

For example, the City and County of San Francisco stated in their claim that they use an electronic management system and they claimed costs for the “ongoing maintenance of the absentee voter list for San Francisco. The annual share of maintenance cost for 2010-2011 owing to absentee voters is \$25,057.72.” Therefore, it is possible that this activity is not one of the limited approved activities under the *Permanent Absent Voters II* program.

- *The total amount of reimbursement for this program may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.*

The SCO may conduct audits, and reduce any claims it deems to be excessive or unreasonable.

Methodology

Fiscal Years 2002-2003 through 2010-2011

The statewide cost estimate for fiscal years 2002-2003 through 2010-2011 was developed by totaling the 36 actual reimbursement claims filed with the SCO for these years.

The statewide cost estimate includes nine fiscal years for a total of \$2,265,372. This averages to \$251,708 annually in costs for the state for this nine year period. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
2002-2003	1	\$9,310
2003-2004	1	\$14,834
2004-2005	1	\$24,382
2005-2006	1	\$21,868
2006-2007	1	\$24,807
2007-2008	2	\$18,688
2008-2009	3	\$191,573
2009-2010	3	\$121,578
2010-2011	23	\$1,838,332
TOTAL	36	\$2,265,372

Staff Recommendation

Staff recommends the Commission adopt the proposed statewide cost estimate of \$2,265,372 for costs incurred in complying with the *Permanent Absent Voters II* program.



EDMUND G. BROWN JR. ■ GOVERNOR

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September 10, 2012

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms. Halsey:

The Department of Finance (Finance) has reviewed the Commission on State Mandates (Commission) draft staff analysis of the proposed statewide cost estimate (SCE) for the Permanent Absent Voters II (03-TC-11) test claim submitted by the County of Sacramento.

Finance has no concerns with the Commission's recommendation to adopt the SCE of \$2,265,372 for fiscal years 2002-03 through 2010-11. We also agree that the total costs for this period may be higher or lower based on the actual number of eligible claimants, amended or late claims, and/or audit findings.

Pursuant to section 1181.2, subdivision (c)(1)(E) of the California Code of Regulations, "documents that are e-filed with the Commission on State Mandates need not be otherwise served on persons that have provided an e-mail address for the mailing list."

If you have any questions regarding this letter, please contact Randall Ward, Principal Program Budget Analyst at (916) 445-3274.

Sincerely,

TOM DYER
Assistant Program Budget Manager

Enclosure

Enclosure A

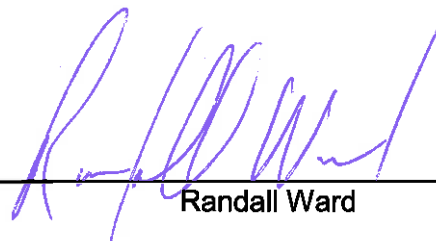
DECLARATION OF RANDALL WARD
DEPARTMENT OF FINANCE
CLAIM NO. CSM-03-TC-11

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

9-10-12

at Sacramento, CA



Randall Ward