

ITEM 3
TEST CLAIM
PROPOSED DECISION
Elections Code Section 2170 as Amended by
Statutes 2019, Chapter 565 (SB 72)
Extended Conditional Voter Registration
20-TC-02
County of San Diego, Claimant

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STATE of CALIFORNIA
COMMISSION ON STATE
MANDATES



TEST CLAIM FORM

Section 1

Proposed Test Claim Title:

Extended Conditional Voter Registration

Section 2

Local Government (Local Agency/School District) Name:

County of San Diego

Name and Title of Claimant's Authorized Official pursuant to [CCR, tit.2, § 1183.1\(a\)\(1-5\)](#):

Tracy Drager, Auditor and Controller

Street Address, City, State, and Zip:

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Fax Number

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Section 3

Claimant Representative: Christina Snider Title Senior Deputy County Counsel

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<i>For CSM Use Only</i>	
Filing Date:	<div style="border: 2px solid blue; border-radius: 15px; padding: 5px; color: blue;"> RECEIVED December 23, 2020 <i>Commission on State Mandates</i> </div>
Test Claim #:	20-TC-02

Section 4 – Please identify all code sections (include statutes, chapters, and bill numbers; e.g., Penal Code section 2045, Statutes 2004, Chapter 54 [AB 290]), regulatory sections (include register number and effective date; e.g., California Code of Regulations, title 5, section 60100 (Register 1998, No. 44, effective 10/29/98), and other executive orders (include effective date) that impose the alleged mandate pursuant to [Government Code section 17553](#) and don't forget to check whether the code section has since been amended or a regulation adopted to implement it (refer to your completed WORKSHEET on page 7 of this form):

Elections Code Section 2170, as amended by Senate Bill 72 § 1.5, Chapter 565, Statutes of 2019 <hr/> <hr/>

- Test Claim is Timely Filed on [Insert Filing Date] [select either A or B]: 12 / 23 / 20
- A: Which is not later than 12 months following [insert the effective date of the test claim statute(s) or executive order(s)] 1 / 1 / 20, the effective date of the statute(s) or executive order(s) pled; or
- B: Which is within 12 months of [insert the date costs were *first* incurred to implement the alleged mandate] / / , which is the date of first incurring costs as a result of the statute(s) or executive order(s) pled. *This filing includes evidence which would be admissible over an objection in a civil proceeding to support the assertion of fact regarding the date that costs were first incurred.*

([Gov. Code § 17551\(c\)](#); [Cal. Code Regs., tit. 2, §§ 1183.1\(c\)](#) and [1187.5.](#))

Section 5 – Written Narrative:

- Includes a statement that actual and/or estimated costs exceed one thousand dollars (\$1,000). ([Gov. Code § 17564.](#))
- Includes all of the following elements for each statute or executive order alleged **pursuant to [Government Code section 17553\(b\)\(1\)](#) (refer to your completed WORKSHEET on page 7 of this form):**
- Identifies all sections of statutes or executive orders and the effective date and register number of regulations alleged to contain a mandate, including a detailed description of the *new* activities and costs that arise from the alleged mandate and the existing activities and costs that are *modified* by the alleged mandate;
- Identifies *actual* increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate;
- Identifies *actual or estimated* annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed;

- Contains a statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed; Following FY: 20 - 21 Total Costs: \$331,153-722,934
- Identifies all dedicated funding sources for this program; State: AB1824-epoll books only Federal: HAVA Local agency's general purpose funds: N/A Other nonlocal agency funds: N/A Fee authority to offset costs: Reimbursement from local agencies (consolidated elections)
- Identifies prior mandate determinations made by the Board of Control or the Commission on State Mandates that may be related to the alleged mandate: CSM-3713; 00-TC-08; 01-TC-15; CSM-4358; 03-TC-11; 03-TC-23; 10-TC-08; 19-TC-01; 04-LM-04.
- Identifies a legislatively determined mandate that is on the same statute or executive order: N/A

Section 6 – The Written Narrative Shall be Supported with Declarations Under Penalty of Perjury Pursuant to [Government Code Section 17553\(b\)\(2\)](#) and [California Code of Regulations, title 2, section 1187.5](#), as follows (refer to your completed WORKSHEET on page 7 of this form):

- Declarations of actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate.
- Declarations identifying all local, state, or federal funds, and fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs.
- Declarations describing new activities performed to implement specified provisions of the new statute or executive order alleged to impose a reimbursable state-mandated program (specific references shall be made to chapters, articles, sections, or page numbers alleged to impose a reimbursable state-mandated program).
- If applicable, declarations describing the period of reimbursement and payments received for full reimbursement of costs for a legislatively determined mandate pursuant to [Government Code section 17573](#), and the authority to file a test claim pursuant to paragraph (1) of subdivision (c) of [Government Code section 17574](#).
- The declarations are signed under penalty of perjury, based on the declarant's personal knowledge, information, or belief, by persons who are authorized and competent to do so.

Section 7 – The Written Narrative Shall be Supported with Copies of the Following Documentation Pursuant to [Government Code section 17553\(b\)\(3\)](#) and [California Code of Regulations, title 2, § 1187.5](#) (refer to your completed WORKSHEET on page 7 of this form):

- The test claim statute that includes the bill number, and/or executive order identified by its effective date and register number (if a regulation), alleged to impose or impact a mandate. Pages 7-39 to 7-44 (Section 7).

- Relevant portions of state constitutional provisions, federal statutes, and executive orders that may impact the alleged mandate. Pages N/A to _____.
- Administrative decisions and court decisions cited in the narrative. (Published court decisions arising from a state mandate determination by the Board of Control or the Commission are exempt from this requirement.) Pages N/A to _____.
- Evidence to support any written representation of fact. *Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5).* Pages 20 to 42 (Sec. 6).

Section 8 –TEST CLAIM CERTIFICATION Pursuant to Government Code section 17553

- The test claim form is signed and dated at the end of the document, under penalty of perjury by the eligible claimant, with the declaration that the test claim is true and complete to the best of the declarant's personal knowledge, information, or belief.

Read, sign, and date this section. Test claims that are not signed by authorized claimant officials pursuant to California Code of Regulations, title 2, section 1183.1(a)(1-5) will be returned as incomplete. In addition, please note that this form also serves to designate a claimant representative for the matter (if desired) and for that reason may only be signed by an authorized local government official as defined in section 1183.1(a)(1-5) of the Commission's regulations, and not by the representative.

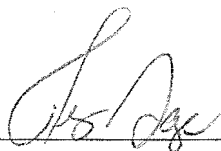
This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim is true and complete to the best of my own personal knowledge, information, or belief. All representations of fact are supported by documentary or testimonial evidence and are submitted in accordance with the Commission's regulations. (Cal. Code Regs., tit.2, §§ 1183.1 and 1187.5.)

Tracy Drager

Auditor and Controller

Name of Authorized Local Government Official
pursuant to Cal. Code Regs., tit.2, § 1183.1(a)(1-5)

Print or Type Title



2/26/21

Signature of Authorized Local Government Official
pursuant to Cal. Code Regs., tit.2, § 1183.1(a)(1-5)

Date

Test Claim Form Sections 4-7 WORKSHEET

Complete Worksheets for Each New Activity and Modified Existing Activity Alleged to Be Mandated by the State, and Include the Completed Worksheets With Your Filing.

Statute, Chapter and Code Section/Executive Order Section, Effective Date, and Register Number: Elections Code 2170(d)(1) as amended by Senate Bill 72 § 1.5, Ch. 565, Stats. of 2019

Activity: Additional Registrar of Voters staffing to plan, prepare, and design envelopes

Initial FY: 19 - 20 Cost: \$29,019 Following FY: 20 - 21 Cost: N/A

Evidence (if required): Declarations of L. Michael Vu and Liliana Lau

All dedicated funding sources; State: N/A Federal: N/A

Local agency's general purpose funds: N/A

Other nonlocal agency funds: N/A

Fee authority to offset costs: N/A

Statute, Chapter and Code Section/Executive Order Section, Effective Date, and Register Number: Elections Code 2170(d)(1) as amended by Senate Bill 72 § 1.5, Ch. 565, Stats. of 2019

Activity: Additional Registrar of Voters staffing to conduct additional data entry and process CVR ballots

Initial FY: 19 - 20 Cost: \$123,965 Following FY: 20 - 21 Cost: estimated \$199,715

Evidence (if required): Declarations of L. Michael Vu, Liliana Lau, and Cynthia Paes

All dedicated funding sources; State: N/A Federal: N/A

Local agency's general purpose funds: N/A

Other nonlocal agency funds: N/A

Fee authority to offset costs: reimbursement(consolidated elections) FY 19/20: \$27,648.

FY 20/21 possible reimbursement from consolidated elections or HAVA-unknown amount.

Statute, Chapter and Code Section/Executive Order Section, Effective Date, and Register Number: Elections Code 2170(d)(1) as amended by Senate Bill 72 § 1.5, Ch. 565, Stats. of 2019

Activity: Training—create new training materials for poll workers to offer conditional voter registration at every polling place in the county and train poll workers

Initial FY: 19 - 20 Cost: \$32,166 Following FY: 20 - 21 Cost: estimated \$51,793

Evidence (if required): Declarations of L. Michael Vu, Liliana Lau, and Cynthia Paes

All dedicated funding sources; State: N/A Federal: N/A

Local agency's general purpose funds: N/A

Other nonlocal agency funds: N/A

Fee authority to offset costs: reimbursement(consolidated elections)19/20 \$7,174;20/21 unknown

Test Claim Form Sections 4-7 WORKSHEET

Complete Worksheets for Each New Activity and Modified Existing Activity Alleged to Be Mandated by the State, and Include the Completed Worksheets With Your Filing.

Statute, Chapter and Code Section/Executive Order Section, Effective Date, and Register Number: Elections Code 2170(d)(1) as amended by Senate Bill 72 § 1.5, Ch. 565, Stats. of 2019

Activity: Election Staffing--recruit and hire additional temporary staff and poll workers in order to handle the anticipated increase in voters due to the new availability of CVR

Initial FY: 19 - 20 Cost: \$96,608 Following FY: 20 - 21 Cost: N/A

Evidence (if required): Declarations of L. Michael Vu, Liliana Lau, and Cynthia Paes

All dedicated funding sources; State: N/A Federal: N/A

Local agency's general purpose funds: N/A

Other nonlocal agency funds: N/A

Fee authority to offset costs: reimbursement (consolidated elections)-FY 19/20 \$21,546

Statute, Chapter and Code Section/Executive Order Section, Effective Date, and Register Number: Elections Code 2170(d)(1) as amended by Senate Bill 72 § 1.5, Ch. 565, Stats. of 2019

Activity: Additional CVR ballot processing due to availability of CVR at all satellite offices of the local elections official as well as at every polling place in the county

Initial FY: 19 - 20 Cost: \$10,773 Following FY: 20 - 21 Cost: N/A

Evidence (if required): Declarations of L. Michael Vu, Liliana Lau, and Cynthia Paes

All dedicated funding sources; State: N/A Federal: N/A

Local agency's general purpose funds: N/A

Other nonlocal agency funds: N/A

Fee authority to offset costs: reimbursement (consolidated elections)-FY 19/20 \$2,403

Statute, Chapter and Code Section/Executive Order Section, Effective Date, and Register Number: Elections Code 2170(d)(1) as amended by Senate Bill 72 § 1.5, Ch. 565, Stats. of 2019

Activity: Supplies - purchase new CVR envelopes for satellite offices and polling places

Initial FY: 19 - 20 Cost: \$91,476 Following FY: 20 - 21 Cost: N/A

Evidence (if required): Declarations of L. Michael Vu, Liliana Lau, and Cynthia Paes

All dedicated funding sources; State: N/A Federal: N/A

Local agency's general purpose funds: N/A

Other nonlocal agency funds: N/A

Fee authority to offset costs: reimbursement (consolidated elections)-FY 19/20 \$20,402

Test Claim Form Sections 4-7 WORKSHEET

Complete Worksheets for Each New Activity and Modified Existing Activity Alleged to Be Mandated by the State, and Include the Completed Worksheets With Your Filing.

Statute, Chapter and Code Section/Executive Order Section, Effective Date, and Register Number: Elections Code 2170(d)(1) as amended by Senate Bill 72 § 1.5, Ch. 565, Stats. of 2019

Activity: Establish 4 new satellite locations for March 2020 election

Initial FY: 19 - 20 Cost: \$236,287 Following FY: 20 - 21 Cost: N/A

Evidence (if required): Declarations of L. Michael Vu and Liliana Lau

All dedicated funding sources; State: AB1824-epoll books Federal: HAVA-epoll books only

Local agency's general purpose funds: N/A

Other nonlocal agency funds: N/A

Fee authority to offset costs: reimbursement (consolidated elections)-FY 19/20 \$52,698

Statute, Chapter and Code Section/Executive Order Section, Effective Date, and Register Number: _____

Activity: _____

Initial FY: _____ - _____ Cost: _____ Following FY: _____ - _____ Cost: _____

Evidence (if required): _____

All dedicated funding sources; State: _____ Federal: _____

Local agency's general purpose funds: _____

Other nonlocal agency funds: _____

Fee authority to offset costs: _____

Statute, Chapter and Code Section/Executive Order Section, Effective Date, and Register Number: _____

Activity: _____

Initial FY: _____ - _____ Cost: _____ Following FY: _____ - _____ Cost: _____

Evidence (if required): _____

All dedicated funding sources; State: _____ Federal: _____

Local agency's general purpose funds: _____

Other nonlocal agency funds: _____

Fee authority to offset costs: _____

SECTION 5

COUNTY OF SAN DIEGO TEST CLAIM

EXTENDED CONDITIONAL VOTER REGISTRATION

Elections Code section 2170, as amended by
Senate Bill 72, Chapter 565, Statutes of 2019

SECTION 5. WRITTEN NARRATIVE
COUNTY OF SAN DIEGO TEST CLAIM
EXTENDED CONDITIONAL VOTER REGISTRATION

Elections Code section 2170, as amended by
Senate Bill 72, Chapter 565, Statutes of 2019

I. STATEMENT OF THE TEST CLAIM

Until recent years, the general rule in California was that a potential voter had to register to vote at least 15 days prior to an election. *See* Cal. Elec. Code 2102(a).

In 2012, the Legislature enacted Section 2170 of the Elections Code, which provided for a conditional voter registration (“CVR”) process also known as “same day registration.” Stats. 2012, ch. 497 (“AB 1436”), § 2, adding Elec. Code § 2170.^{1 2} This new process allowed (and still allows) potential voters to register conditionally within the 14 days before election day and/or on election day. AB 1436 § 2³; *see generally* Cal. Elec. Code § 2170. That conditional registration is then subject to later validation of the registration by the elections official. *Id.*; *see gen.* Cal Elec. Code § 2171. Potential voters who register conditionally can vote provisionally with a “CVR provisional ballot.” Cal. Elec. Code § 2170(b); Cal. Code Regs. tit. 2, § 20021(c); *see also* Cal. Elec. Code §§ 14310, 14311. These voters are known as “CVR voters.” Cal. Code Regs. tit. 2, § 20021(b).

¹ Exhibit A.

² Section 2170 was enacted in 2012 but expressly was not operative until the January 1 following the certification of the statewide voter registration database required to implement CVR processes. *See* AB 1436 § 6. The Secretary of State certified the VoteCal Statewide Voter Registration Database in 2016; therefore, the CVR process was available to elections officials as of January 1, 2017. *See* Exhibit B (Secretary of State News Release, also available at <https://www.sos.ca.gov/administration/news-releases-and-advisories/2016-news-releases-and-advisories/secretary-state-padilla-certifies-votecal-statewide-voter-registration-database>) at 2 (“Beginning in 2017, elections officials will offer Californians the opportunity to register to vote on Election Day in their county office.”) *See also* Exhibit C (County Clerks/Registrar of Voters (CC/ROV) Memorandum #17007, also available at <https://elections.cdn.sos.ca.gov/ccrov/pdf/2017/january/17007jl.pdf>) at p. 1 (“VoteCal was certified on September 26, 2016, therefore CVR became operative January 1, 2017”). Thus the CVR process was not utilized in a statewide election until the next statewide election after VoteCal was certified, which was in 2018.

³ Exhibit A.

CVR allows a potential voter to conduct the following registration activities: (1) register to vote for the first time, (2) re-register to vote in the same county (for example, with a different street address or party affiliation)⁴, or (3) re-register to vote in a different county. *Id.*

Section 2170 is not limited to certain types of elections but applies generally to “an election” that is conducted by the county elections official. Cal. Elec. Code § 2170(a). The definition of “election” in the Elections Code is “any election including a primary that is provided for under this code.” Cal. Elec. Code § 318.

When Section 2170 was enacted in 2012, the elections official was only required to offer CVR at one location: permanent offices of the county elections official. AB 1436, § 2, adding Elec. Code § 2170(d)(1).⁵ Additionally, the elections official was optionally allowed to offer CVR at satellite offices of the county elections office, but only on election day. AB 1436 § 2, adding Elec. Code § 2170(e).⁶ Satellite offices are extensions of the office of the county elections official for voting purposes. Cal. Elec. Code 3018(b); *see also* Cal. Code Regs. tit. 2, § 20021(b)(2), (d).

Section 2170 was amended in 2015 to additionally allow for (but not require) CVR at satellite offices during the 14-day period preceding election day. Stats. 2015, ch. 734, § 2, amending Elec. Code § 2170(e) (SB 439);⁷ *see also* Cal. Code Regs. tit. 2, § 20023(c).

Section 2170 was again amended in 2019. The first amendment, which is not relevant to this test claim, allowed for conditional voter registrants to receive a nonprovisional ballot under specified circumstances. Stats. 2019, ch. 99, § 1 (AB 693).⁸

The second amendment, implemented by Senate Bill 72 (“SB 72”), contained the mandate that is the subject of the test claim. SB 72 amended Section 2170(d)(1) to—for the first time—**require** that CVR be offered at satellite offices of the elections official and polling places in the county. Stats. 2019, ch. 565, § 1.5, amending Elec. Code § 2170(d)(1) (hereinafter, “SB 72”)⁹; *see also* County Clerks/Registrar of Voters

⁴ In February 2020, the Elections Code was amended to add an option for voters to change their address or party affiliation with a different form. Stats. 2020, ch. 1, §§ 1, 2, adding Elec. Code § 2119.5 and amending § 2152.

⁵ Exhibit A.

⁶ *Id.*

⁷ Exhibit D.

⁸ Exhibit E.

⁹ Exhibit F.

(CC/ROV) Memorandum #19125 (“CCROV # 19125”) (summarizing changes to Section 2170 implemented by SB 72).¹⁰

This requirement does not apply to counties that have implemented the Voter’s Choice Act (the “vote center model”) outlined in Section 4005 *et seq.* of the Elections Code. *See* SB 72 § 1.5, adding Elec. Code 2170(e)(4).¹¹

The Legislature made a non-substantive change to Section 2170 in an omnibus maintenance bill, SB 1371, effective January 1, 2021.¹² This amendment only corrected a citation error and does not impact this test claim.

II. NEWLY-MANDATED ACTIVITIES

Prior to SB 72’s amendment to Section 2170(d)(1), CVR was required to be offered only at the county elections office during the 14-day period prior to the election and on election day. It was merely optional at satellite offices during the 14-day period prior to the election and on election day. It was neither optional nor required at polling places during the 14-day period prior to the election and on election day.

SB 72’s amendment to Section 2170(d)(1) required that (1) CVR be offered at any satellite offices of the elections official and (2) CVR be offered at all polling places in the county, during the 14-day period prior to the election and on election day. SB 72¹³; *see* CCROV # 19125.¹⁴

This new mandate is the subject of this test claim. This new mandate was added by Stats. 2019, ch. 565, § 1.5 (SB 72), and codified as Section 2170(d)(1) of the Elections Code, which added the words in bold below:

(d) The county elections official shall offer conditional voter registration and voting pursuant to this article, in accordance with all of the following procedures:

(1) The elections official shall provide conditional voter registration and voting pursuant to this article at all permanent **and satellite**

¹⁰ Exhibit G, also available at <https://elections.cdn.sos.ca.gov/ccrov/pdf/2019/november/19125rd.pdf>

¹¹ Exhibit F.

¹² Exhibit H (relevant excerpts of SB 1327) (adding the word “Sec.” to the citation in Section 2170(f)(1)).

¹³ Exhibit F.

¹⁴ Exhibit G.

offices of the county elections official **and all polling places** in the county.

Cal. Elec. Code § 2170(d)(1) (emphasis added).¹⁵

As a practical matter, because polling places are only open on election day in the County of San Diego, this meant the Registrar had to offer CVR at all satellite offices during the 14-day period prior to the election, and both at all satellite offices and all polling places on election day. (The November 2020 election was unusual because polling places were open for 4 days total due to changes in the election due to the COVID-19 pandemic, as discussed below, and therefore CVR had to be offered at polling places on all four of those days.)

This mandate was new.

A. SB 72 Created a New Program or Higher Level of Service

A statute creates a “program” when it creates: “[1] programs that carry out the governmental function of providing services to the public, or [2] laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.” *County of Los Angeles v. State of California*, 43 Cal. 3d 46, 56 (1987). A program is “new” if the local governmental entity had not previously been required to institute it.” *County of Los Angeles v. Comm’n on State Mandates*, 110 Cal. App. 4th 1176, 1189 (2003).

A “higher level of service” means an “increase[] in the services provided by local agencies in existing ‘programs.’” *County of Los Angeles*, 43 Cal. 3d at 56. A higher level of service exists when: (i) the requirements [in the law] are new in comparison with the preexisting scheme in view of the circumstance that they did not exist prior to the enactment of [the law]; and (ii) the requirements were intended to provide an enhanced service to the public....” *San Diego Unified Sch. Dist. v. Comm’n on State Mandates*, 33 Cal. 4th 859, 878 (2004).

The purpose of the constitutional provision requiring reimbursement to local governments for a new program or higher level of service is to prevent “transferring to [local] agencies the fiscal responsibility for providing services which the state believed should be extended to the public.” *County of Los Angeles*, 43 Cal. 3d at 56-57.

¹⁵ Exhibit I; *see* Exhibit F.

The test claim statute meets both alternate definitions of a “program.” The amendment of Stats. 2019, ch. 565, § 1.5 to Section 2170(d)(1) carries out the governmental function of providing services to the public—i.e., allowing voters to register to vote for the first time or re-register to vote just before (or on) election day so that they can vote in that election.

The author of SB 72 stated that he proposed the bill to provide various public services related to voting, including: 1) increased voter turnout, 2) elimination of arbitrary deadlines to register when voters are most interested in voting, 3) remedying inaccurate voter rolls, 4) assisting geographically mobile, lower-income citizens, young voters, and voters of color, and 5) allowing voters registered as “no party preference” who are unable to vote in the primary election for certain parties to change their registrations shortly before the primary election so that they can vote in those primary elections. Sen. Comm. on Elections and Constitutional Amendments (April 2, 2019), Background to SB 72, pp. 6-7.¹⁶ The author noted that even though CVR was already available on election day at the election officials’ offices, as a practical matter very few potential voters took advantage of that limited option, and “those who were able to make the trip to their county elections office waited hours in line in order to register and cast a ballot.” *Id.* at p. 8.¹⁷ Thus the amendment to Section 2170(d)(1) was proposed and enacted in order to expand voter services and voting, which is a traditional governmental function and service.

The amendment to Section 2170(d)(1) also imposes requirements unique to local governments. Neither the state, private citizens, nor private employers are required to provide conditional voter registration, but only the “county elections official.” *See* Elec. Code § 2170(d)(1).¹⁸

As noted above, the program created by the statute is “new.” Prior to SB 72 amending Section 2170(d)(1), CVR was required only at the county elections office. After the amendment, CVR was required to be offered at any satellite offices of the elections official and all polling places in the county. SB 72¹⁹; *see* CCROV # 19125.²⁰

¹⁶ Exhibit J, also available at http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200SB72.

¹⁷ *Id.*

¹⁸ Exhibit I; *see* Exhibit F.

¹⁹ Exhibit F.

²⁰ Exhibit G.

Alternatively, the statute imposes a “higher level of service” on local governments because elections officials must extend an additional service—CVR at satellite offices and polling places—in addition to offering CVR at the permanent office of the elections official. *See San Diego Unified Sch. Dist.*, 33 Cal. 4th at 878.

B. Mandated Activities and Costs Incurred in FY 19/20

Actual and/or estimated costs to comply with the new mandate in Section 2170(d)(1) (as amended by SB 72) that the elections official offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and to offer CVR at both satellite offices and polling places on election day exceed one thousand dollars (\$1,000). Declaration of Liliana Lau (“Lau Declaration”), ¶¶ 6-8, 11.²¹

1. Background

As background, Claimant’s Registrar of Voters (the “Registrar”) first implemented CVR processes during the June 2018 gubernatorial primary election. *See* n. 1, *supra*, describing timeline for implementation of CVR due to VoteCal certification in 2016; Declaration of L. Michael Vu (“Vu Declaration”), ¶ 7.²² The voter turnout for that election in the County of San Diego was only 39.8%. Vu Declaration ¶ 8. Thus the first election in which CVR was widely utilized by potential voters was the November 6, 2018 gubernatorial general election. *Id.* ¶ 9.

At the November 6, 2018 election, the Registrar only offered CVR at its one permanent office and did not have satellite locations. There was a 66.42% voter turnout for that election. During that election, 2,353 individuals exercised conditional voter registration. Of this number, 1,555 individuals did so on election day. On election day, a line wrapped around the Registrar’s building equal to the length of over 5 football fields. Although the polls closed at 8:00 p.m., the last potential voter who had been standing in line since the polls closed entered the building at around midnight. This potential voter registered by CVR. The last voter left the building at approximately 1:00 a.m. on November 7, 2018. Vu Declaration ¶¶ 9, 10; *id.* Ex. 1.

As of February 2019, there were 2,229,766 individuals eligible to vote in the County of San Diego and only 1,747,383 registered voters. Thus at that time, there were over 480,000 individuals who had not registered to vote but could potentially opt to do so by CVR. This was in addition to voters who needed to or would choose to re-register to vote by CVR. Vu Declaration ¶ 11; *id.* Ex. 2.

²¹ Included within Section 6 of this Test Claim.

²² Included within Section 6 of this Test Claim.

After SB 72’s amendment to Section 2170(d)(1), which mandated that county elections officials offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and to offer CVR at both satellite offices and polling places on election day, there was a very real possibility that polling places would be overwhelmed with the same long lines and wait times experienced at the Registrar’s permanent location in November 2018. Further, the March 2020 election was a presidential primary, and in 2016 the primary had significant voter turnout of 50.94%. Vu Declaration ¶ 12; *id.* Ex. 1.

An additional new complication for the March 2020 election was the many variations of ballots that must be available for the presidential primary (which was not the case for the gubernatorial general election in November 2018, when CVR was first implemented). California has a “modified” closed primary system for presidential elections, meaning each voter is only entitled to vote in the primary for that voter’s party, unless the voter is No Party Preference and a party allows a No Party Preference voter to participate in its primary. Cal. Elec. Code § 2151(c). The Registrar must make available a ballot style for each party, as well as additional variations for No Party Preference if a party allows No Party Preference voters to vote in their primary election. Cal. Elec. Code § 13102(b). Accordingly, the Registrar had to make available at the polls eight different styles of ballots (for eight variations: American Independent, Democratic, Green, Libertarian, No Party Preference, No Party Preference requesting to vote in the Democratic primary, Peace & Freedom, and Republican) in five different languages (English, Spanish, Filipino, Vietnamese, and Chinese, pursuant to Voting Rights Act requirements), for a total of 40 variations of ballots. Vu Declaration ¶ 13.

This requirement made the March 2020 election administratively complex. That complexity was compounded by the new requirement to offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and to offer CVR at both satellite offices and polling places on election day, which was mandated by SB 72’s amendment to Section 2170(d)(1) adding the words “and satellite [offices of the county elections official]” and “all polling places” to the locations where the elections official is required to offer CVR during the 14-day period prior to the election and on election day. The Registrar’s office anticipated this complexity would be particularly acute for poll workers who would actually be interacting with voters on election day. Vu Declaration ¶ 13.

Thus it was reasonably necessary for the Registrar to create additional locations at which potential voters could register through CVR—specifically, satellite offices of the

Registrar’s permanent office.²³ This was necessary to endeavor to avoid even longer lines and wait times than voters experienced in the November 2018 election, and it was necessary to keep that traffic away from the traditional polling places. The Registrar also engaged in an extensive outreach campaign to encourage eligible individuals to register to vote earlier to avoid such lines. Vu Declaration ¶¶ 14-17.

During the March 2020 election, 13,452 individuals registered or re-registered to vote using CVR. Vu Declaration ¶ 18.

2. March 2020 Election

As described above, the Registrar created four satellite locations in March 2020 to address the anticipated CVR traffic in light of SB 72’s amendments to Section 2170(d)(1) requiring CVR to be offered at any satellite offices of the elections official during the 14-day period prior to the election, and to offer CVR at both satellite offices and polling places on election day. These locations were open from February 29, 2020 through March 2, 2020 from 8:00 a.m. through 5:00 p.m., and on March 3, 2020 from 7:00 a.m. through 8:00 p.m. Vu Declaration ¶ 15.

Additionally, there were 1,548 polling places for this election. *Id.*

Elections Code section 2170(d)(1), as amended by Senate Bill 72, Chapter 565, Statutes of 2019, § 1.5, required Claimant to conduct the following new activities and incur the following new costs for the March 2020 election, as set forth in the attached Declaration of L. Michael Vu, paragraph 19, and the attached Declaration of Liliana Lau, paragraphs 6-10:

a. Additional Registrar of Voters Staffing Costs

Elections Code section 2170(d)(1), as amended by Senate Bill 72, Chapter 565, Statutes of 2019, § 1.5, added the requirement that the elections official offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and

²³ Claimant includes this information about the creation of four satellite locations in March 2020 as background and intends to seek corresponding costs should this test claim be approved. The Commission on State Mandates indicated in its January 21, 2021 Notice of Incomplete Test Claim on this matter that: “It is premature to request reasonably necessary activities prior to the finding of a state-mandated program. However, such a request may be included in the test claim filing but could not be approved in the test claim which is restricted to findings of state-mandated programs. Rather, the request would need to be reasserted at the parameters and guidelines phase and supported with substantial evidence in the record at that time, which may include a citation to evidence in the record for the Test Claim.”

to offer CVR at both satellite offices and polling places on election day. This would be impossible to accomplish without planning and preparation. Accordingly, pursuant to this new requirement, staff at the Registrar's office met and collaborated for months to design and develop the necessary envelopes and training and create the necessary workflows. The Registrar was also required to hire additional temporary staff to do data entry and process the anticipated increase in conditional voter registrations and CVR provisional ballots. Vu Declaration ¶ 19(a).

i. Costs Incurred

The County incurred costs of \$29,019 to plan and prepare to offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and to offer CVR at both satellite offices and polling places on election day. These costs included costs for designing and developing necessary envelopes and workflows. Lau Declaration ¶ 6(a).

The County incurred costs of \$123,965 for additional Registrar staff to handle data entry and processing of the additional increase in CVR registrations and ballots. Lau Declaration ¶ 6(a).

ii. Fee Authority

Claimant is unaware of any state, federal or other nonlocal agency funding sources for this newly-mandated activity. However, Claimant can recover some of the costs of administering elections from the jurisdictions whose elections were consolidated with the primary and general elections. Lau Declaration ¶ 9.

The costs of internal planning and preparation, however, could not be recovered from the other jurisdictions.

The additional costs of handling data entry and processing of the additional increase in CVR registrations and ballots could be recovered from other jurisdictions. The County could request \$27,648 of its staffing costs to process the additional increase in CVR registrations and ballots. Lau Declaration ¶ 6(a).

Thus the County's reimbursable cost for additional staffing is **\$125,336**.

b. Training

Statutes 2019, ch. 565, § 1.5, added the requirement to Section 2170(d)(1) of the Elections Code that the elections official offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and to offer CVR at both

satellite offices and polling places on election day. This would be impossible to accomplish without training poll workers to handle CVR and editing the training handbook to describe how to handle CVR. Accordingly, pursuant to this new requirement, the Registrar's Training Department was required to create a new training plan for poll workers to process CVR at polling locations. New CVR processes were required to be included in the poll worker handbook, and poll workers were required to be trained on the new processes. Vu Declaration ¶ 6(b).

i. Costs Incurred

The County incurred costs of **\$32,166** to create a new training plan, and labor costs for the actual training of poll workers to handle CVR voters at poll sites. Lau Declaration ¶ 6(b).

ii. Fee Authority

Claimant is unaware of any state, federal or other nonlocal agency funding sources for this newly-mandated activity. However, Claimant can recover some of the costs of administering elections from the jurisdictions whose elections were consolidated with the primary and general elections. Lau Declaration ¶ 9.

The County recovered \$7,174 from the other jurisdictions for this activity. Thus Claimant's reimbursable cost is **\$24,992**. Lau Declaration ¶ 6(b).

c. Election Staffing

Statutes 2019, ch. 565, § 1.5, added the requirement to Section 2170(d)(1) of the Elections Code that the elections official offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and to offer CVR at both satellite offices and polling places on election day. The author of SB 72 expressly contemplated the bill would increase voter turnout.²⁴ The Registrar thus was required to recruit and hire additional temporary staff and poll workers in order to handle the anticipated increase in voters due to the new availability of CVR and the resulting increase in CVR provisional voting. Vu Declaration ¶ 19(c).

i. Costs Incurred

The County incurred costs of **\$96,608** to recruit and hire additional temporary staff and poll workers in order to handle the anticipated increase in voters due to the new

²⁴ Exhibit J at 4, 6, 8.

availability of CVR at poll sites, and the resulting increase in CVR provisional voting. Lau Declaration ¶ 6(c).

ii. Fee Authority

Claimant is unaware of any state, federal or other nonlocal agency funding sources for this newly-mandated activity. However, Claimant can recover some of the costs of administering elections from the jurisdictions whose elections were consolidated with the primary and general elections. Lau Declaration ¶ 9.

The County recovered \$21,546 from the other jurisdictions for this activity. Thus Claimant's reimbursable cost is **\$75,062**. Lau Declaration ¶ 6(c).

d. CVR Ballot Processing

Statutes 2019, ch. 565, § 1.5, added the requirement to Section 2170(d)(1) of the Elections Code that the elections official offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and to offer CVR at both satellite offices and polling places on election day. As a direct result of this new requirement, the number of CVR voted ballots increased. The Registrar was required to process and sort the CVR ballots using automated processing equipment because CVR was more widely available. Vu Declaration ¶ 10(d).

i. Costs Incurred

The County incurred costs of **\$10,773** to process and sort CVR envelopes by electronic vote processing equipment. Lau Declaration ¶ 6(d).

ii. Fee Authority

Claimant is unaware of any state, federal or other nonlocal agency funding sources for this newly-mandated activity. However, Claimant can recover some of the costs of administering elections from the jurisdictions whose elections were consolidated with the primary and general elections. Lau Declaration ¶ 9.

The County recovered \$2,403 from the other jurisdictions for this activity. Thus Claimant's reimbursable cost is **\$8,370**. Lau Declaration ¶ 6(d).

e. Supplies

Statutes 2019, ch. 565, § 1.5, added the requirement to Section 2170(d)(1) of the Elections Code that the elections official offer CVR at any satellite offices of the

elections official during the 14-day period prior to the election, and to offer CVR at both satellite offices and polling places on election day. As a direct result of this new requirement, the Registrar's office was required to purchase new conditional voter registration envelopes for both polling and satellite locations.

These envelopes were not necessary prior to the March 2020 election because prior to that election, CVR was only required to be offered at the Registrar's office. Once CVR was required to be offered at any satellite offices of the elections official during the 14-day period prior to the election, and at both satellite offices and polling places on election day, pursuant to SB 72's amendment to Section 2170(d)(1), the Registrar's office needed new conditional voter registration envelopes so that CVR provisional ballots could be segregated at the polling places and satellite offices.

This new envelope served as the affidavit of registration for CVR voters at all permanent and satellite offices of the county elections official and all polling places in the County. These separate envelopes allowed the CVR ballots to be processed apart from other ballots at the Registrar's office. The Registrar's office could use the envelopes to create a new voter record in the main voter database, and the Registrar's office could then verify that voter information was accurate and that the CVR voter was allowed to vote. Vu Declaration ¶ 19(e).

i. Costs Incurred

The County incurred costs of **\$91,476** to purchase new conditional voter registration envelopes at polling and satellite locations. Lau Declaration ¶ 6(e).

ii. Fee Authority

Claimant is unaware of any state, federal or other nonlocal agency funding sources for this newly-mandated activity. However, Claimant can recover some of the costs of administering elections from the jurisdictions whose elections were consolidated with the primary and general elections. Lau Declaration ¶ 9.

The County recovered \$20,402 from the other jurisdictions for this activity. Thus Claimant's reimbursable cost is **\$71,074**. Lau Declaration ¶ 6(e).

f. The Creation of Four Satellite Locations

As explained above in Section II.B.1, because Statutes 2019, ch. 565, § 1.5, added the requirement to Section 2170(d)(1) of the Elections Code that the elections official offer CVR at any satellite offices of the elections official during the 14-day period prior

to the election, and to offer CVR at both satellite offices and polling places on election day, it was reasonably necessary for the Registrar to create 4 satellite locations to endeavor to divert potential traffic from the polling places and to decrease the potential of long lines and wait times, which would be daunting to potential voters.²⁵ Vu Declaration ¶¶ 9-15. The Registrar incurred costs for labor to staff the satellite locations and supplies to conduct the election at the satellite locations. The labor costs included staff to set up and manage the satellite locations, as well as costs for training staff to be able to run the satellite locations independently. The services and supplies costs included signage, contracted labor, office supplies, generators to power ballot marking devices and additional lighting. Vu Declaration ¶ 16.

i. Costs Incurred

The costs for opening and operating the four satellite locations in March 2020 was \$236,287, as follows:

Labor (staff to set up and manage the satellite locations, as well as costs for training staff to be able to run the satellite locations independently)	\$169,141
Supplies (signage, contracted labor, office supplies, generators to power ballot marking devices and additional lighting)	\$67,146
Total without Reimbursement	\$236,287
Reimbursement by other jurisdictions whose elections were consolidated with the March 2020 election	\$52,698
Total with Reimbursement	\$183,589

Lau Declaration ¶ 8.

The Registrar also purchased electronic poll books for each satellite location, but the cost of doing so (approximately \$243,740) was fully reimbursed by funds allocated to

²⁵ See n. 23, *supra*.

the County by Help America Vote Act of 2002 (“HAVA”) and AB 1824. Lau Declaration ¶ 8.

ii. Fee Authority

Claimant is unaware of any state, federal or other nonlocal agency funding sources to open the four satellite offices. However, Claimant can recover some of the costs of administering elections from the jurisdictions whose elections were consolidated with the primary and general elections. Lau Declaration ¶ 9.

The County recovered \$52,698 from the other jurisdictions for this activity of opening and operating the satellite locations. Thus Claimant’s reimbursable cost is **\$183,589**. Lau Declaration ¶ 8.

III. ESTIMATE OF COSTS IN FY 20/21 AND FEE AUTHORITY

A. Claimant’s Estimated Costs to be Incurred During FY 2020-2021

This fiscal period encompasses the November 2020 election and any elections in early 2021.

1. November 2020 Election

Due to the COVID-19 pandemic, there were unprecedented changes to the conduct of elections. Pursuant to executive orders and new legislation, during the November 2020 election, elections officials were required to send every registered voter a vote-by-mail ballot. Cal. Elec. Code § 1602; 2019 CA EO 64-20²⁶; *see also* County Clerks/Registrar of Voters (CC/ROV) Memorandum #20232 (“CCROV 20232”).²⁷ Counties also had five different options as to how they would conduct their elections: vote center model, traditional polling place method, consolidated polling places with additional days to vote (with two sub-options of voters being assigned to a polling place or not), or an all-mail ballot election.²⁸ Counties across the state altered their election models.

However, none of these large-scale changes impacted the counties’ obligations set forth in the new language of Section 2170(d)(1), added by Statutes 2019, ch. 565, § 1.5, that the elections official offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and to offer CVR at both satellite offices and

²⁶ Exhibit K.

²⁷ Exhibit L.

²⁸ *Id.*

polling places on election day. Any counties offering voting at traditional polling places, and any counties with satellite offices of the elections official, were still required to meet this new requirement of Section 2170(d)(1).

Claimant conducted the November 2020 election using the “consolidated polling place/voters assigned to specific location” method described in CCROV 20232. Vu Declaration ¶ 20. Accordingly, in-person voting was available at 1 in-person voting location (the election official’s permanent office) for 29 days, as well as at 235 consolidated polling places for 4 full days. Claimant had no satellite offices during the November 2020 election. *Id.* ¶ 21.

Thus while the activities newly mandated by Section 2170(d)(1) (as amended by Statutes 2019, ch. 565, § 1.5) remained the same as the March 2020 election, Claimant’s costs to conduct the mandated activities in November 2020 lessened in some respects from March 2020. Some activities did not need to be undertaken again. For example, the Registrar’s office did not need to write new training materials in order to train poll workers to handle CVR. Additionally, there were no satellite locations and fewer polling places than March 2020 and thus fewer poll workers to train. The Registrar also used electronic polling books during the November 2020 election, which streamlined the CVR process, and more individuals registered prior to the 15-day close of registration, which is typical for presidential general elections. Vu Declaration ¶ 22.

i. Costs Incurred

During the November 2020 election, the County incurred increased costs of \$144,829 in Registrar of Voters staffing costs to handle the anticipated increase in voters due to the availability of CVR at polling places and to process the additional CVR voters. Lau Declaration ¶ 10-11, 16.

The County also incurred increased costs of \$46,325 in increased training costs to train poll workers to handle CVR at polling places. Lau Declaration ¶ 10-11, 16. The total increased costs to the County during the November 2020 election due to the changes to Section 2170(d)(1) (as amended by Statutes 2019, ch. 565, § 1.5) were **\$191,154**.

ii. Fee Authority

Claimant is unaware of any state, federal, or other nonlocal agency funding sources that specifically address the mandate to offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and to offer CVR at both satellite offices and polling places on election day, as set forth in Section 2170(d)(1) (as

amended by Statutes 2019, ch. 565, § 1.5), or that specifically address the costs of offering CVR during the November 2020 election. Lau Declaration ¶ 12.

Claimant anticipates recovering from other jurisdictions some of its increased costs to implement the mandate in November 2020, but Claimant only has estimated amounts available at this time. Lau Declaration ¶ 12.

With regard to additional staffing costs, Claimant estimates that \$51,031 of that might be recoverable from other jurisdictions, with a total of **\$93,798** incurred by the County for additional staffing. With regard to additional training costs, Claimant estimates that \$16,323 of that amount might be recoverable from other jurisdictions, with a total of **\$30,002** incurred by the County for training. This equals an estimated **\$123,800** in total additional costs incurred by the County (after estimated reimbursement) for the November 2020 election due to SB 72's amendment to Section 2170(d)(1). Lau Declaration ¶ 11.

In addition, Claimant will receive federal funds pursuant to HAVA (as administered by the State) to defray the increased costs of conducting the November 2020 election during the COVID-19 pandemic, which will potentially cover some increased labor costs as described above. Claimant does not yet know what amount it will receive for the mandated activities, but Claimant would subtract any reimbursement received from any other sources before submitting a claim to the Controller arising from the mandates process. Lau Declaration ¶ 12.

2. April and June 2021 Special Elections

Claimant will administer one special primary election and one special general election in Fiscal Year 2020-21 to fill the current vacancy in Assembly District 79. These elections are scheduled for April 6, 2021 and June 8, 2021, respectively. Paes Declaration ¶ 4.²⁹

The County will not have satellite locations available for these two elections. Paes Declaration ¶ 6. As of the date of this test claim, the County anticipates having approximately 51 polling places open on election day. *Id.* The Registrar is required to offer CVR at all of the polling places pursuant to Section 2170(d)(1) (as amended by Statutes 2019, ch. 565, § 1.5). In order to do so, the Registrar will incur increased costs that it would not have incurred without SB 72's amendment to Section 2170(d)(1). Specifically, the Registrar will incur: (1) additional Registrar staffing costs to process the

²⁹ Included within Section 6 of this Test Claim.

increase in CVR voters due to the availability of CVR at polling places, and (2) additional costs to train poll workers to offer CVR at polling places. Paes Declaration ¶ 7.

The additional increased cost for this additional labor and training is \$54,886 for labor and \$5,468 for training, or \$60,354 total. Lau Declaration ¶ 14, 16. Because these elections are not consolidated with other jurisdictions' elections, the County cannot request reimbursement from other jurisdictions. *Id.* ¶ 14.

B. Statewide Estimate for FY 2020-2021

A statewide estimate for this fiscal year for this particular test claim is difficult. As of November 2020, 15 counties had begun conducting elections under the Voter's Choice Act (the "vote center model"). See "About California's Voter's Choice Act," available on the Secretary of State website at <https://www.sos.ca.gov/elections/voters-choice-act/about-vca> (last accessed December 21, 2020) at p. 4.³⁰ As noted above, SB 72 does not apply to those counties.

With regard to the remaining 43 counties, each county's costs to implement the requirements of Section 2170(d)(1) (as amended by Statutes 2019, ch. 565, § 1.5) during this fiscal year will vary widely based on factors such as which voting model the counties used in the November 2020 election and the number of eligible unregistered voters in the county (which may impact the amount of supplies purchased and number of additional staff hired).

As seen in the legislative history to SB 72, the Assembly Appropriations Committee (the "Committee") acknowledged that the costs to implement the bill were unknown but proposed this methodology to calculate an estimate:

Actual costs to expand the conditional voter registration program to all non-VCA county satellite offices and polling places are unknown, however, assuming there are nine VCA counties, if every county incurred expenses of only \$3,500, the total costs would be approximately \$150,000 at each election, which would be reimbursed from the General Fund.

Assembly Comm. on Appropriations (August 21, 2019), Fiscal Effect.³¹

Multiplying this \$3,500 figure proposed by the Committee by the 42 counties that did not implement the vote center model in November 2020 (other than Claimant) yields

³⁰ Exhibit M.

³¹ Exhibit N.

\$147,000 for the November 2020 election. This amount plus Claimant’s estimated costs for the November 2020 election after estimated reimbursement from other jurisdictions (\$123,800) equals \$270,800.

Adding to that total Claimant’s estimated costs for the upcoming April and June 2021 special elections described above (\$60,354) equals \$331,154 total estimated costs to the Claimant in FY 2020-21.

In addition, various counties that did not yet implement the vote center model have additional elections scheduled for the spring and summer of 2021: Marin (2 additional elections), Riverside (1 additional election), Santa Cruz (1 additional election), Solana (1 additional election), Sonoma (2 additional elections), Ventura (1 additional election). See “2021 County Administered Elections,” available on the Secretary of State website at <https://www.sos.ca.gov/elections/upcoming-elections/county-administered-elections> (last accessed February 19, 2021).³² Multiplying the \$3,500 figure by these 8 additional elections equals \$28,000.³³ Therefore, using the \$3,500 figure from the Assembly Appropriations Committee, the statewide estimate would be \$331,154 - 359,153.

In reality, the costs incurred by counties other than Claimant appear to be greater than the Committee’s \$3,500 estimate. Claimant received information that the following counties incurred the following costs related to implementation of conditional voter registration:³⁴

County	Election	Amount
Placer County	November 2020	\$14,050.65
Stanislaus County	November 2019 (UDEL)	\$12,853.31
Stanislaus County	March 2020	\$1,080.38

If the 42 counties that did not implement the vote center model incurred similar costs to Claimant and/or the counties above, then the estimate would be higher. Taking the average of the costs incurred by the three counties above (\$9,328.11) and multiplying that by 42 yields \$391,780.62.

Thus Claimant estimates the statewide estimate at \$331,154 – 722,934.

³² Exhibit O.

³³ The full details of these elections are currently unknown to Claimant.

³⁴ Vu Declaration ¶ 22.

C. Fee Authority

Claimant is unaware of any state, federal or other nonlocal agency funding sources that specifically address this mandate.

However, as this Commission discussed in a recently-adjudicated test claim, Claimant can recover some of the costs of administering elections from the jurisdictions whose elections were consolidated with the primary and general elections. Statement of Decision, *Vote by Mail Ballots: Prepaid Postage*, 19-TC-01, page 5 n. 20 (citing Elections Code §§ 10002, 10517, 10520, and Education Code § 5227).

As indicated above, for the March 2020 election, Claimant recovered from other jurisdictions \$104,223 of its increased costs to implement the mandate because Claimant bills other jurisdictions whose elections were consolidated with that election for their percentage share of administering the election. Lau Declaration ¶¶ 7, 8. In addition, Claimant received \$243,740 in reimbursement from the Help America Vote Act of 2002 (“HAVA”), and Assembly Bill 1824, and these funds covered the cost of purchasing electronic poll books for the 4 satellite offices. Lau Declaration ¶ 8. (These costs for the electronic poll books were not included in the figures above.)

As also indicated above, for the November 2020 election, Claimant anticipates recovering from other jurisdictions some of its increased costs to implement the mandate, but Claimant only has estimated amounts available at this time. Lau Declaration ¶ 12. With regard to additional staffing costs, Claimant estimates that \$51,031 of that might be recoverable from other jurisdictions. With regard to additional training costs, Claimant estimates that \$16,323 of that amount might be recoverable from other jurisdictions. Lau Declaration ¶ 11. In addition, Claimant will receive federal funds pursuant to HAVA (as administered by the State) to defray the increased costs of conducting the November 2020 election during the COVID-19 pandemic, which will potentially include some of the increased labor costs as described above. Lau Declaration ¶ 12. Claimant does not yet know what amount it will receive, but Claimant would subtract any reimbursement received from other sources from any claims submitted to the Controller arising from the mandates process. *Id.*

IV. RELEVANT PRIOR MANDATE DETERMINATIONS OR LEGISLATIVELY DETERMINED MANDATE

Although the Commission has not issued prior decisions on Section 2170, the following prior mandates may be related to the alleged mandate because they dealt with elections laws: Absentee Ballots, CSM-3713; Absentee Ballots, Tabulation by Precinct,

00-TC-08; Fifteen Day Close of Voter Registration, 01-TC-15; Permanent Absent Voters I, CSM-4358; Permanent Absent Voters II, 03-TC-11; Voter Identification Procedures, 03-TC-23; Post-Election Manual Tally, 10-TC-08; Vote by Mail Ballots: Prepaid Postage, 19-TC-01; Voter Registration Procedures, 04-LM-04.

Claimant is unaware of any legislatively determined mandate on the same statute. Vu Declaration ¶ 24.

SECTION 6

COUNTY OF SAN DIEGO TEST CLAIM

EXTENDED CONDITIONAL VOTER REGISTRATION

Elections Code section 2170, as amended by
Senate Bill 72, Chapter 565, Statutes of 2019

DECLARATION OF L. MICHAEL VU IN SUPPORT OF
COUNTY OF SAN DIEGO TEST CLAIM
EXTENDED CONDITIONAL VOTER REGISTRATION

Elections Code section 2170, as amended by
Senate Bill 72, Chapter 565, Statutes of 2019

I, L. Michael Vu, declare as follows:

1. I make this declaration based upon my own personal knowledge and based upon my review of the records referenced herein.

2. If called upon to testify, I could and would competently testify to the matters set forth herein.

3. I am the Assistant Chief Administrative Officer for the County of San Diego (“County”) and have held that position since January 8, 2021. I was the Registrar of Voters for the County from December 2012 to January 7, 2021. Prior to that, I was the Assistant Registrar for the County from April 2007 to December 2012. I also served as Director of the Board of Elections for Cuyahoga County, Ohio, from August 2003 to March 2007, and the Elections Manager at the County Clerk’s Office in Salt Lake County, Utah, from 1998 to 2003.

4. In my former capacity as Registrar of Voters, I managed the operations and workflow of the office of the Registrar of Voters. The Registrar’s office is responsible for overseeing all elections administered by the County, including statewide and federal elections, as well as local elections consolidated with statewide and federal elections. I was personally involved in the planning processes for administering the March 2020 and November 2020 elections.

5. Prior to the March 2020 election, I reviewed Senate Bill 72, Chapter 565, Statutes of 2019 (“SB 72”), which made changes to Section 2170(d)(1) of the Elections Code (“Section 2170(d)(1)”). Specifically, the changes to Section 2170(d)(1) added the words “and satellite [offices of the county elections official]” and “all polling places” to the locations where the elections official is required to offer CVR during the 14-day period prior to the election and on election day. As a practical matter, because polling places are only open on election day, this amendment meant the Registrar had to offer CVR at all satellite offices during the 14-day period prior to the election, and both at all

satellite offices and all polling places on election day. The November 2020 election was unusual because polling places were open for 4 days total, as discussed below, and therefore CVR had to be offered at polling places on all four of those days. In my then-capacity as Registrar, I planned extensively in conjunction with staff at the Registrar's office to prepare for the impact and implementation of these changes. I am knowledgeable about the additional duties and costs imposed on the County due to SB 72's changes to Section 2170(d)(1).

6. I have reviewed the exhibits attached hereto, as well as information generated by the Registrar's office regarding voter turnout in November 2018 and the traffic at the Registrar's permanent location during the November 2018 election. I was personally at the Registrar's permanent location during the November 2018 election until after the last voter left the building around 1:00 a.m.

7. Section 2170 of the Elections Code, which first required elections officials to offer CVR, was enacted in 2012 but not effective until the Secretary of State certified the VoteCal Statewide Voter Registration Database in 2016. Therefore, the County of San Diego first implemented CVR during the June 2018 gubernatorial primary election.

8. The voter turnout for the June 2018 election was 39.8%. Attached as Exhibit 1 is a true and correct copy of a report of Registered Voters and Vote by Mail Ballot Voter Turnout maintained by our office and publicly available at https://www.sdvote.com/content/dam/rov/en/reports/voter_turnouts.pdf

9. The first election in which CVR was widely utilized by potential voters in the County was the November 6, 2018 gubernatorial general election. At that election, the County offered CVR at the Registrar's permanent office (located at 5600 Overland Avenue, San Diego, CA 92123). The County did not implement satellite offices.

10. During the November 6, 2018 election, there was a 66.42% voter turnout. (See Exhibit 1.) During that election, 2,353 individuals exercised CVR. Of this number, 1,555 individuals did so on election day. On election day, a line wrapped around the Registrar's building equal to the length of over 5 football fields. Although the polls closed at 8:00 p.m., the last potential voter who had been standing in line since the polls closed entered the building at around midnight. This potential voter registered by CVR. The last voter left the building at approximately 1:00 a.m. on November 7, 2018.

11. Attached as Exhibit 2 is a true and correct copy of the California Secretary of State's Report of Registration as of February 10, 2019, which is publicly available at <https://elections.cdn.sos.ca.gov/ror/ror-odd-year-2019/county.pdf>. According to this

document, as of February 2019, there were 2,229,766 individuals eligible to vote in the County of San Diego and only 1,747,383 registered voters. That meant there were 482,383 individuals who had not registered to vote but could potentially opt to do so by CVR. This was in addition to voters who needed to or would choose to re-register to vote by CVR.

12. After SB 72's amendment to Section 2170(d)(1), which mandated that county elections officials offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and offer CVR at both satellite offices and polling places on election day, there was a very real possibility that polling places would be overwhelmed with the same long lines and wait times experienced at the Registrar's permanent location in November 2018. Further, the March 2020 election was a presidential primary, and in 2016 the primary had significant voter turnout of 50.94%. (See Exhibit 1.)

13. Additionally, for the March 2020 primary election, the Registrar's office was required to make available at satellite offices and polling places a variety of ballot styles pursuant to California law. (Cal. Elec. Code § 13102.) The Registrar's office was required to make available at the polls eight different styles of ballots (for eight variations: American Independent, Democratic, Green, Libertarian, No Party Preference, No Party Preference requesting to vote in the Democratic primary, Peace & Freedom, and Republican) in five different languages (English, Spanish, Filipino, Vietnamese, and Chinese, pursuant to Voting Rights Act requirements), for a total of 40 variations of ballots. This requirement made the March 2020 election administratively complex. That complexity was compounded by SB 72's amendment to Section 2170(d)(1), which mandated that county elections officials offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and offer CVR at both satellite offices and polling places on election day. The Registrar's office anticipated this complexity would be particularly acute for poll workers who would actually be interacting with voters on election day.

14. In my then-capacity as Registrar, I collaborated with staff at the Registrar's office and determined that because of SB 72's amendment to Section 2170(d)(1), it was necessary during the March 2020 election for the County to create satellite offices of the Registrar's permanent office at which potential voters could register through CVR. This was necessary to avoid even longer line and wait times than voters experienced in the November 2018 election, and it was necessary to keep that traffic away from the traditional polling places.

15. Therefore, the County created four satellite offices for the March 2020 election. These locations were open from February 29, 2020 through March 2, 2020 from 8:00 a.m. through 5:00 p.m., and on March 3, 2020 from 7:00 a.m. through 8:00 p.m. Additionally, there were 1,548 polling places at the March 2020 election.

16. The Registrar's office incurred costs for labor to staff the satellite offices and supplies to conduct the election at the satellite offices. The labor costs included staff to set up and manage the satellite offices, as well as costs for training staff to be able to run the satellite offices independently. The services and supplies costs included signage, contracted labor, office supplies, generators to power ballot marking devices and additional lighting.

17. The Registrar's office also engaged in an extensive outreach campaign during the March 2020 election to encourage eligible individuals to register to vote earlier to avoid such lines.

18. During the March 2020 election, 13,452 individuals registered or re-registered to vote using CVR.

19. In addition to creating the four new satellite locations, the following new activities were required of the County during the March 2020 election due to SB 72's amendment to Section 2170(d)(1), which mandated that county elections officials offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and offer CVR at both satellite offices and polling places on election day:

a. Additional Registrar of Voters Staffing Costs

In order to offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and to offer CVR at both satellite offices and polling places on election day, pursuant to SB 72's amendment to Section 2170(d)(1), the Registrar's office had to conduct extensive planning and preparation. Staff at the Registrar's office met and collaborated for months to design and develop the necessary envelopes and training and create the necessary workflows. The Registrar's office was also required to hire additional temporary staff to do data entry and process the anticipated increase in conditional voter registrations and CVR provisional ballots.

b. Training

In order to offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and to offer CVR at both satellite offices and polling places on election day, pursuant to SB 72's amendment to Section 2170(d)(1), the Registrar's Training Department was required to create a new training plan for poll

workers to process CVR at polling places. Poll workers had not been previously trained on this process, and that training was not included in the Registrar's training materials, because prior to SB 72's amendment to Section 2170(d)(1), poll workers did not handle CVR. New CVR processes were required to be included in the poll worker handbook, and poll workers were required to be trained on the new processes.

c. Election Staffing

In order to offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and to offer CVR at both satellite offices and polling places on election day, pursuant to SB 72's amendment to Section 2170(d)(1), the Registrar's office was required to recruit and hire additional temporary staff and poll workers in order to handle the anticipated increase in voters due to the new availability of CVR and the resulting increase in CVR provisional voting.

d. CVR Ballot Processing

Because the Registrar offered CVR at any satellite offices of the elections official during the 14-day period prior to the election, and offered CVR at both satellite offices and polling places on election day, pursuant to the mandate of Section 2170(d)(1) (as amended by SB 72), the number of CVR voted ballots increased. The Registrar was required to process and sort the CVR ballots using automated processing equipment because CVR was more widely available.

e. Supplies

In order to offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and to offer CVR at both satellite offices and polling places on election day, pursuant to SB 72's amendment to Section 2170(d)(1), the Registrar's office was required to purchase new conditional voter registration envelopes. These envelopes were not necessary prior to the March 2020 election because prior to that election, CVR was only required to be offered at the Registrar's office. Once CVR was required to be offered at any satellite offices of the elections official during the 14-day period prior to the election, and at both satellite offices and polling places on election day, pursuant to SB 72's amendment to Section 2170(d)(1), the Registrar's office needed new conditional voter registration envelopes so that CVR provisional ballots could be segregated at the polling places and satellite offices.

This new envelope served as the affidavit of registration for CVR voters at all permanent and satellite offices of the county elections official and all polling places in the County. These separate envelopes allowed the CVR ballots to be processed apart from other ballots at the Registrar's office. The Registrar's office could use the envelopes to

create a new voter record in the main voter database, and the Registrar’s office could then verify that voter information was accurate and that the CVR voter was allowed to vote.

20. The County conducted the November 2020 election using the “consolidated polling place/voters assigned to specific location” method.

21. During the November 2020 election, in-person voting was available at 1 in-person voting location (the Registrar’s permanent office) for 29 days, as well as at 235 consolidated polling places for 4 full days. The County had no satellite offices during the November 2020 election.

22. During the November 2020 election, the Registrar’s office did not need to conduct the same activities as it did during the March 2020 election in order to fulfill the requirements of SB 72’s amendment to Section 2170(d)(1). For example, the Registrar’s office did not need to plan or revise the training materials. Further, the County’s costs to hire staff and temporary poll workers to handle CVR applications and ballots were less than March 2020 because there were no satellite offices and fewer polling places and thus fewer poll workers. The Registrar also used electronic poll books during the November 2020 election, which streamlined the CVR process, and more individuals registered prior to the 15-day close of registration, which is typical for presidential general elections.

23. I requested information from other Registrars’ offices throughout the State regarding their costs to implement SB 72’s amendment to Section 2170(d)(1). I received the following responses:

County	Election	Amount
Placer County	November 2020	\$14,050.65
Stanislaus County	November 2019 (UDEL)	\$12,853.31
Stanislaus County	March 2020	\$1,080.38

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24. I am unaware of any previous Commission decisions on SB 72. I am unaware of any legislatively determined mandate on SB 72.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my personal knowledge, information and belief.

Executed this 25th day of February, 2021, in San Diego County.

Signed:

A handwritten signature in blue ink, appearing to read "L. Michael Vu", written over a horizontal line.

L. Michael Vu

EXHIBIT 1

County of San Diego Registered Voters and
Vote by Mail Ballot Voter Turnout

Date	Election Title	Registered Voters	Total Voted Election	% of Turnout	Absentee Issued	Absentee Voted*	% of AV Voted	Absentee % of Total Votes Cast	Requested Absentee Issued*	Requested Absentee Voted*	% of AV Voted*	Declared Absentee Issued	Declared Absentee Voted	% of AV Voted	Perm Absentee Issued	Perm Absentee Voted	% of Perm AV Voted
	* Mail Ballot Election (no polls)																
3-Mar-20	Presidential Primary	1,825,237	907,602	49.73%	1,384,521	653,629	47.21%	72.02%	22,222	10,544	47.45%	31,711	15,235	48.04%	1,330,588	618,675	46.50%
19-Nov-19	* County Retirement Board Safety (7th)	3,522	1,071	30.41%	3,522	1,071	30.41%	100.00%									
7-May-19	* County Retirement Board (3rd)	14,489	3,660	25.26%	14,489	3,660	25.26%	100.00%									
7-May-19	* City of Solana Beach Special Municipal Mail Ballot Election	9,120	3,352	36.75%	9,120	3,356	36.80%	100.12%									
19-Mar-19	* Julian-Cuyamaca Fire Protection Dist. Special Elect.	2,496	1,435	57.49%	2,560	1,435	56.05%	100.00%									
6-Nov-18	Gubernatorial General Election	1,767,300	1,173,924	66.42%	1,297,557	804,269	61.98%	68.51%	36,591	22,888	62.55%	42,866	26,638	62.14%	1,218,100	733,280	60.20%
5-Jun-18	Gubernatorial Primary Election	1,693,774	673,640	39.77%	1,143,276	476,173	41.65%	70.69%	23,557	8,728	37.05%	45,609	19,109	41.90%	1,074,110	447,763	41.69%
24-Apr-18	* Rancho Santa Fe School Dist. Special Vacancy	4,321	1,139	26.36%	4,354	1,139	26.16%	100.00%									
7-Nov-17	City of Poway Special Municipal Election	29,318	12,104	41.29%	19,517	9,121	46.73%	75.36%	389	151	38.82%	103	37	35.92%	19,025	8,931	46.94%
30-Jun-17	* Permanent Rd Div. Zone No. 117-Legend Rock	103	77	74.76%	103	77	74.76%	100.00%									
2-May-17	* County Retirement Board (2nd Seat General Member)	11,489	4,473	38.93%	11,489	4,473	38.93%	100.00%									
15-Nov-16	* County Retirement Board Safety (7th & Alternate)	3,541	1,281	36.18%	3,541	1,281	36.18%	100.00%									
8-Nov-16	Presidential General	1,652,875	1,346,513	81.46%	1,118,788	856,937	76.60%	63.64%	51,787	43,438	83.88%	50,811	40,023	78.77%	1,016,190	772,363	76.01%
7-Jun-16	Presidential Primary	1,523,251	775,930	50.94%	972,021	490,560	50.47%	63.22%	21,590	12,690	58.78%	47,142	22,404	47.52%	903,289	454,915	50.36%
3-May-16	* County Retirement Board (3rd)	14,186	4,569	32.21%	14,186	4,569	32.21%	100.00%									
23-Feb-16	City of Carlsbad Special Municipal Election	63,265	39,465	62.38%	42,038	27,632	65.73%	70.02%	947	634	66.95%	10	5	50.00%	41,081	26,989	65.70%
26-Jan-16	* Yuima Municipal Water Dist. - No. 2	128	62	48.44%	128	62	48.44%	100.00%									
4-Nov-14	Governor General	1,546,924	692,434	44.76%	869,455	449,796	51.73%	64.96%	16,164	8,636	53.43%	40,678	19,386	47.66%	812,613	421,574	51.88%
3-Jun-14	Governor Primary	1,544,841	420,700	27.23%	858,745	306,986	35.75%	72.97%	12,750	4,259	33.40%	38,869	11,647	29.96%	807,126	291,033	36.06%
6-May-14	* County Retirement Board (2nd Seat General Member)	13,896	4,845	34.87%	13,896	4,845	34.87%	100.00%									
11-Feb-14	Special Consolidated-City of San Diego/Solana Beach	675,793	294,491	43.58%	356,225	195,616	54.91%	66.43%	9,418	4,341	46.09%	5,787	2,491	43.04%	341,020	188,677	55.33%
19-Nov-13	* County Retirement Board Safety (7th)	3,459	1,013	29.29%	3,459	1,013	29.29%	100.00%									
19-Nov-13	City of San Diego Special Municipal Election	683,370	242,747	35.52%	367,766	165,273	44.94%	68.08%	3,355	2,978	88.76%	6,223	2,088	33.55%	353,084	159,441	45.16%
18-Jun-13	City of Encinitas Special Municipal Election	39,858	12,888	32.33%	22,684	9,558	42.14%	74.16%	529	213	40.26%	154	58	37.66%	22,001	9,287	42.21%
21-May-13	Special Cons. - 80th Assembly Dist/SD City Council #4	225,675	35,486	15.72%	114,297	28,930	25.31%	81.53%	1,656	293	17.69%	591	64	10.83%	112,050	28,577	25.50%
21-May-13	* County Retirement Board (3rd)	13,338	4,116	30.86%	13,338	4,116	30.86%	100.00%									
26-Mar-13	Municipal Special Election - SD City Council District 4	66,497	13,406	20.16%	34,595	9,817	28.38%	73.23%	574	121	21.08%	685	90	13.14%	33,336	9,606	28.82%
12-Mar-13	Special Primary Election - State Senate 40th District	244,150	36,664	15.02%	125,857	31,026	24.65%	84.62%	2,107	314	14.90%	1,267	259	20.44%	122,483	30,453	24.86%
6-Nov-12	Presidential General	1,563,093	1,203,265	76.98%	882,758	675,007	76.47%	56.10%	32,807	29,001	88.40%	41,958	30,945	73.75%	798,020	607,145	76.08%
5-Jun-12	Presidential Primary	1,465,269	548,462	37.43%	751,330	360,523	47.98%	65.73%	16,942	10,767	63.55%	44,108	17,776	40.30%	690,280	331,877	48.08%
24-Apr-12	* County Retirement Board (3rd)	13,073	2,290	17.52%	13,073	2,290	17.52%	100.00%									
17-May-11	* County Retirement Board (2nd & 8th Alternate)	26,147	9,156	35.02%	26,149	9,156	35.01%	100.00%									
23-Nov-10	* County Retirement Board Safety (7th)	3,273	1,047	31.99%	3,273	1,047	31.99%	100.00%									
2-Nov-10	Governor General	1,442,161	926,363	64.23%	727,577	510,175	70.12%	55.07%	34,017	25,046	73.63%	40,042	25,680	64.13%	653,518	458,951	70.23%
8-Jun-10	Governor Primary	1,416,273	538,551	38.03%	685,873	349,925	51.02%	64.98%	17,222	8,331	48.37%	34,725	14,365	41.37%	633,926	327,097	51.60%
18-May-10	* County Retirement Board (3rd)	13,809	5,036	36.47%	13,809	5,036	36.47%	100.00%									
8-Dec-09	City of Oceanside Special Municipal Recall	75,017	25,194	33.58%	34,125	18,390	53.89%	72.99%	1,312	862	65.70%	882	334	37.87%	31,931	17,196	53.85%
25-Aug-09	* Rainbow Municipal Water Dist. Special Mail Ballot Election	11,604	4,773	41.13%	11,635	4,773	41.02%	100.00%									
19-May-09	Statewide Special Election	1,474,331	463,863	31.46%	628,303	308,146	49.04%	66.43%	21,214	11,387	53.68%	32,200	11,740	36.46%	574,889	285,122	49.60%
5-May-09	* City of Chula Vista Special Mail Ballot Election	104,717	29,704	28.37%	105,060	29,704	28.27%	100.00%									
4-Nov-08	Presidential General	1,488,157	1,245,947	83.72%	668,377	573,169	85.76%	46.00%	66,093	57,103	86.40%	35,834	27,938	77.97%	566,450	486,422	85.87%
26-Aug-08	* Special/Tri-City Healthcare District	141,001	52,965	37.56%	142,350	52,965	37.21%	100.00%									
3-Jun-08	Direct Primary	1,369,496	465,489	33.99%	516,738	281,513	54.48%	60.48%	19,891	12,215	61.41%	31,521	10,965	34.79%	465,326	258,028	55.45%
20-May-08	* County Retirement Board (2nd & 8th Alternate)	27,453	9,704	35.35%	27,453	9,704	35.35%	100.00%									
6-May-08	* Special/ County Service Area No.112-Campo	842	314	37.29%	869	314	36.13%	100.00%									

EXHIBIT 1

County of San Diego Registered Voters and
Vote by Mail Ballot Voter Turnout

Date	Election Title	Registered Voters	Total Voted Election	% of Turnout	Absentee Issued	Absentee Voted*	% of AV Voted	Absentee % of Total Votes Cast	Requested Absentee Issued*	Requested Absentee Voted*	% of AV Voted*	Declared Absentee Issued	Declared Absentee Voted	% of Declared AV Voted	Perm Absentee Issued	Perm Absentee Voted	% of Perm AV Voted			
	* Mail Ballot Election (no polls)																			
									*includes Failsafe/provisional-absentee											
									*includes permanent absentee voters prior to November 2, 2004											
5-Feb-08	Presidential Primary	1,313,725	797,043	60.67%	509,722	360,371	70.70%	45.21%	36,406	26,190	71.94%	30,386	17,522	57.66%	442,930	315,748	71.29%			
11-Dec-07	* Potrero Com. Planning Area Mail Ballot Recall	507	299	58.97%	528	299	56.63%	100.00%												
25-Sep-07	* Special / East County/Pine Valley FPD's	6,023	2,310	38.35%	6,062	2,310	38.11%	100.00%												
5-Jun-07	City of Vista Special Municipal	31,752	6,847	21.56%	8,930	4,424	49.54%	64.61%	511	329	64.38%	408	155	37.99%	8,011	3,941	49.19%			
7-Mar-07	Special / City of SB/Rainbow MWD Div 1	10,653	4,822	45.26%	4,463	2,725	61.06%	56.51%	356	311	87.36%	1,106	412	37.25%	2,979	1,997	67.04%			
7-Nov-06	Governor General	1,381,835	789,676	57.15%	432,683	323,464	74.76%	40.96%	76,435	57,798	75.62%	29,219	17,148	58.69%	327,029	247,278	75.61%			
15-Aug-06	* County Retirement Board (8th Alternate)	10,733	4,397	40.97%	10,733	4,397	40.97%	100.00%												
6-Jun-06	Governor Primary	1,356,018	505,715	37.29%	382,932	230,076	60.08%	45.50%	35,378	25,561	72.25%	28,878	11,274	39.04%	313,993	192,810	61.41%			
11-Apr-06	50th Congressional Dist. Special Election	353,866	137,529	38.86%	111,746	73,110	65.43%	53.16%	17,569	13,657	77.73%	6,822	2,979	43.67%	86,403	56,462	65.35%			
10-Jan-06	City- SD Special Run-off Cncil Dist. 2&8	142,561	38,538	27.03%	30,626	18,172	59.34%	47.15%	3,227	2,536	78.59%	506	91	17.98%	26,272	15,490	58.96%			
8-Nov-05	Special Statewide Election	1,383,513	730,122	52.77%	387,353	287,273	74.16%	39.35%	88,612	76,993	86.89%	30,587	15,530	50.77%	262,285	192,871	73.53%			
26-Jul-05	City of San Diego Special Municipal	600,505	266,227	44.33%	143,088	102,410	71.57%	38.47%	27,432	24,272	88.48%	3,120	1,042	33.40%	110,277	76,101	69.01%			
7-Jun-05	City of Oceanside Special Municipal	71,640	21,551	30.08%	18,598	11,407	61.33%	52.93%	2,735	2,059	75.28%	4	1	25.00%	15,859	9,345	58.93%			
17-May-05	* County Retirement Board (2, 8 & Alternate)	23,607	9,332	39.53%	23,607	9,332	39.53%	100.00%												
3-May-05	* Ramona Municipal Water District	18,009	6,713	37.28%	18,097	6,713	37.09%	100.00%												
8-Mar-05	Rainbow MWD Division #4 Recall	1,967	640	32.54%	520	355	68.27%	55.47%	66	51	77.27%	0	0	0.00%	454	303	66.74%			
15-Feb-05	City of Santee Special Municipal	30,376	14,833	48.83%	8,884	6,669	75.07%	44.96%	3,488	2,566	73.57%	6	4	66.67%	5,390	4,099	76.05%			
4-Jan-05	City of SD Special Run-off Coucil Dist. 4	64,205	12,422	19.35%	9,341	4,367	46.75%	35.16%	885	568	64.18%	3	1	33.33%	8,453	3,798	44.93%			
23-Nov-04	* County Retirement Board Safety (7th)																			
2-Nov-04	Presidential General	1,513,300	1,145,035	75.66%	400,709	345,449	86.21%	30.17%	146,345	130,165	88.94%	32,992	24,388	73.92%	212,361	182,758	86.06%			
1-Jun-04	* County Retirement Board (3)	14,509	6,018	41.48%	14,509	6,018	41.48%	100.00%												
2-Mar-04	Presidential Primary	1,336,353	621,429	46.50%	282,148	208,446	73.88%	33.54%	251,796	189,393	75.22%	30,352	14,763	48.64%						
7-Oct-03	Special Statewide Election/Recall Election	1,296,313	864,071	66.66%	286,809	245,040	85.44%	28.36%	265,189	230,414	86.89%	21,620	14,626	67.65%						
5-Nov-02	Governor General	1,399,628	684,285	48.89%	239,345	188,582	78.79%	27.56%	206,189	171,383	83.12%	33,156	17,199	51.87%						
5-May-02	* County Retirement Board (2)&(8)	23,723	9,955	41.96%	23,723	9,955	41.96%	100.00%												
5-Mar-02	Governor Primary	1,355,756	452,741	33.39%	160,146	116,187	72.55%	25.66%	134,788	107,341	79.64%	25,358	8,846	34.88%						
6-Nov-01	Special Election/Alpine Fire Protection Dist.	8,446	2,166	25.65%	885	710	80.23%	32.78%	883	708	80.18%	2	2	100.00%						
24-Jul-01	* County Service Area No.107 -Elfin Forest	543	349	64.27%	543	349	64.27%	100.00%												
5-Jun-01	Special/SDCityCncil6thDist/FallbrookUnionElmSch	98,419	29,044	29.51%	13,005	10,010	76.97%	34.46%	11,454	9,849	85.99%	1,551	161	10.38%						
15-May-01	* County Retirement Board (3)	13,798	5,924	42.93%	13,798	5,924	42.93%	100.00%												
17-Apr-01	Special Election/SD City Council-6th Dist	79,775	19,119	23.97%	8,339	6,701	80.36%	35.05%	8,202	6,682	81.47%	137	19	13.87%						
27-Feb-01	Special Election/SD City Council-8th Dist	44,748	7,802	17.44%	2,192	1,698	77.46%	21.76%	2,031	1,643	80.90%	161	55	34.16%						
7-Nov-00	Presidential General	1,411,672	978,569	69.32%	327,459	286,666	87.54%	29.29%	293,919	261,259	88.89%	33,540	25,407	75.75%						
7-Mar-00	Presidential Primary	1,304,311	693,088	53.14%	246,176	201,825	81.98%	29.12%	222,294	187,946	84.55%	23,882	13,879	58.11%						
9-Nov-99	Santee Special Municipal Election	27,599	12,150	44.02%	4,704	3,751	79.74%	30.87%	4,702	3,750	79.75%	2	0	0.00%						
2-Nov-99	Special Election/Poway Unif Facilities Improvement Dist	67,839	23,798	35.08%	10,046	7,864	78.28%	33.04%	9,362	7,617	81.36%	684	247	36.11%						
17-Aug-99	City of Encondido Special Municipal	48,070	14,405	29.97%	5,852	4,928	84.21%	34.21%	5,849	4,925	84.20%	3	2	66.67%						
8-Jun-99	ConsSpec-LaMesaSpgValleySch/VistaUnif.Sch	123,894	32,066	25.88%	19,239	15,067	78.31%	46.99%	18,703	14,940	79.88%	536	134	25.00%						
18-May-99	* County Retirement Board (2,8)	13,567	5,672	41.81%	13,567	5,672	41.81%	100.00%												
2-Mar-99	ConsSpec-Library Prop/Valley Ctr School	1,335,164	336,052	25.17%	157,172	125,503	79.85%	37.35%	142,709	119,793	83.94%	14,463	5,710	39.48%						
3-Nov-98	Governor General	1,324,482	769,911	58.13%	279,718	236,828	84.67%	30.76%	249,165	217,508	87.29%	30,553	19,320	63.23%						
1-Sep-98	* Fallbrook Hospital Dist	20,752	8,296	39.98%	20,752	8,296	39.98%	100.00%												
2-Jun-98	Governor Primary	1,273,975	519,025	40.74%	202,849	154,842	76.33%	29.83%	180,582	144,951	80.27%	22,267	9,891	44.42%						
19-May-98	* County Retirement Board (3)	14,275	6,170	43.22%	14,275	6,170	43.22%	100.00%												
14-Apr-98	ConsSpec-Cardiff Sch Dist/Borrego Unified School	8,334	2,508	30.09%	1,296	1,037	80.02%	41.35%	1,295	1,037	80.08%	1	0	0.00%						
13-Jan-98	Dehesa School District Recall	1,077	327	30.36%	117	65	55.56%	19.88%	71	59	83.10%	46	6	13.04%						

EXHIBIT 1

County of San Diego Registered Voters and
Vote by Mail Ballot Voter Turnout

Date	Election Title	Registered Voters	Total Voted Election	% of Turnout	Absentee Issued	Absentee Voted*	% of AV Voted	Absentee % of Total Votes Cast	Requested Absentee Issued*	Requested Absentee Voted*	% of AV Voted*	Declared Absentee Issued	Declared Absentee Voted	% of AV Voted	Perm Absentee Issued	Perm Absentee Voted	% of Perm AV Voted
	* Mail Ballot Election (no polls)																
16-Dec-97	Rainbow MWD Division #3 Recall	2,126	491	23.10%	289	241	83.39%	49.08%	289	241	83.39%	0	0	0.00%			
4-Nov-97	ConsSpec-LSUnf/RamUnf/RamMW/CorUnf/SolBh/SDRFPD/Jar	56,794	23,065	40.61%	8,734	6,905	79.06%	29.94%	7,662	6,433	83.96%	1,072	472	44.03%			
3-Jun-97	Cons Spec-Pwy/CarlsSch/AlpSch/ECoFPD/CSA17/69	190,012	39,954	21.03%	19,130	14,245	74.46%	35.65%	17,175	13,677	79.63%	1,955	568	29.05%			
15-Apr-97	* Borrego Water Dist Annex	1,376	715	51.96%	1,376	715	51.96%	100.00%									
4-Mar-97	Cons Spec-SY/SB/Sweetwater	135,494	19,284	14.23%	8,994	6,780	75.38%	35.16%	8,732	6,707	76.81%	262	73	27.86%			
28-Jan-97	* Pauma Valley Comm Serv Dist	321	250	77.88%	321	250	77.88%	100.00%									
5-Nov-96	Presidential General	1,387,525	907,228	65.38%	277,548	242,869	87.51%	26.77%	247,787	222,154	89.66%	29,761	20,715	69.60%			
4-Jun-96	SM Sch/Esc Sch Spec Consolidated	102,617	31,643	30.84%	17,543	12,748	72.67%	40.29%	12,413	763	6.15%	5,130	2,289	44.62%			
21-May-96	* County Retirement Board (2,8)	21,806	10,378	47.59%	21,806	10,378	47.59%	100.00%									
9-Apr-96	Del Mar Municipal	3,605	1,642	45.55%	675	575	85.19%	35.02%	675	575	85.19%	0	0	0.00%			
26-Mar-96	Presidential Primary	1,258,756	536,810	42.65%	192,617	153,952	79.93%	28.68%	172,647	144,211	83.53%	19,970	9,741	48.78%			
27-Feb-96	Sweetwater Recall	127,431	17,988	14.12%	9,516	6,847	71.95%	38.06%	9,177	6,748	73.53%	339	99	29.20%			
28-Nov-95	* County Retirement Board (7)	2,029	772	38.05%	2,029	772	38.05%	100.00%									
7-Nov-95	SD General & District Consolidation	77,633	17,460	22.49%	7,134	5,546	77.74%	31.76%	6,419	5,163	80.43%	715	383	53.57%			
19-Sep-95	San Diego Primary (2,4,6,8)	246,171	49,007	19.91%	22,150	16,352	73.82%	33.37%	20,841	16,354	78.47%	1,309	194	14.82%			
25-Jul-95	* Borrego Water-District Conducted	216	203	93.98%	216	203	93.98%	100.00%									
6-Jun-95	San Marcos Vac-Vendor Conducted	17,795	6,495	36.50%	4,544	3,318	73.02%	51.09%	3,113	N/A	N/A	1,431	N/A	N/A			
16-May-95	* County Retirement Board (3)	14,466	6,339	43.82%	14,466	6,339	43.82%	100.00%									
7-Mar-95	Mt Emp Sch/Esc Sch/Jam-Dul CPA	74,318	20,913	28.14%	10,143	7,114	70.14%	34.02%	7,605	6,161	81.01%	2,538	953	37.55%			
8-Nov-94	Governor General	1,344,733	776,379	57.73%	257,711	220,932	85.73%	28.46%	229,256	202,083	88.15%	28,455	18,849	66.24%			
7-Jun-94	Governor Primary	1,289,608	473,441	36.71%	161,200	126,173	78.27%	26.65%	146,371	119,595	81.71%	14,829	6,578	44.36%			
12-Apr-94	Cons-79thAssm/DelMar/Oceanside	173,744	27,749	15.97%	12,035	9,191	76.37%	33.12%	11,795	9,132	77.42%	240	59	24.58%			
15-Feb-94	City of Encinitas Special	35,050	15,430	44.02%	7,535	6,312	83.77%	40.91%	7,532	6,311	83.79%	3	1	33.33%			
28-Dec-93	Special Election/40th State Senate	315,108	65,457	20.77%	53,545	33,812	63.15%	51.66%	52,773	33,557	63.59%	772	255	33.03%			
2-Nov-93	Special Consolidated-Statewide	1,342,494	480,439	35.79%	165,491	124,981	75.52%	26.01%	153,381	119,735	78.06%	12,110	5,246	43.32%			
21-Sep-93	San Diego City Primary	378,367	77,406	20.46%	34,435	25,280	73.41%	32.66%	31,160	24,442	78.44%	3,275	838	25.59%			
8-Jun-93	Oceanside Unified/Santee School	79,224	14,037	17.72%	5,536	4,207	75.99%	29.97%	5,323	4,144	77.85%	213	63	29.58%			
16-Feb-93	San Diego Special Election #8	42,200	9,262	21.95%	3,664	2,315	63.18%	24.99%	3,247	2,285	70.37%	417	30	7.19%			
3-Nov-92	Presidential General	1,382,383	1,002,914	72.55%	275,563	244,506	88.73%	24.38%	246,739	222,799	90.30%	28,824	21,707	75.31%			
19-Oct-92	* County Retirement Board (2) Run-off	14,215	3,718	26.16%	14,215	3,718	26.16%	100.00%									
18-Sep-92	* County Retirement Board (2)	14,193	3,448	24.29%	14,193	3,448	24.29%	100.00%									
10-Jul-92	* County Retirement Board (3) Run-off	14,336	3,589	25.03%	14,336	3,589	25.03%	100.00%									
23-Jun-92	Ramona Water District Recall	2,164	399	18.44%	125	88	70.40%	22.06%	125	88	70.40%	0	0				
10-Jun-92	* County Retirement Bd Make-Up (3)	14,405	3,675	25.51%	14,405	3,675	25.51%	100.00%									
2-Jun-92	Presidential Primary	1,254,269	564,394	45.00%	172,357	132,501	76.88%	23.48%	156,156	124,894	79.98%	16,201	7,607	46.95%			
12-May-92	* County Retirement Board (3)	17,129	3,041	17.75%	17,129	3,041	17.75%	100.00%									
14-Apr-92	Special & C106Municipal	8,095	2,727	33.69%	1,643	829	50.46%	30.40%	1,017	725	71.29%	626	292	46.65%			
28-Jan-92	Del Mar Special Municipal	3,673	1,461	39.78%	416	373	89.66%	25.53%	416	373	89.66%	0	0				
5-Nov-91	SD General & Dist Consolidation	93,472	32,408	34.67%	11,829	9,904	83.73%	30.56%	11,376	9,764	85.83%	453	140	30.91%			
29-Oct-91	O'Side Recall-Vendor Conducted	58,200	22,775	39.13%	9,942	8,415	84.64%	36.95%	9,927	8,411	84.73%	15	4	26.67%			
17-Sep-91	San Diego Primary (2,4,6,8)	251,231	57,991	23.08%	23,734	17,941	75.59%	30.94%	21,906	17,527	80.01%	1,828	414	22.65%			
4-Jun-91	S.Bay,S.Dieguito,CV Cty,VC MWD	157,784	37,617	23.84%	13,710	10,521	76.74%	27.97%	12,153	9,891	81.39%	1,557	630	40.46%			
9-Apr-91	San Diego 5th District Recall	72,424	22,024	30.41%	9,902	6,952	70.21%	31.57%	9,025	6,772	75.04%	877	180	20.52%			
5-Mar-91	Ramona/Rancho Santa Fe	7,810	2,190	28.04%	795	568	71.45%	25.94%	655	507	77.40%	140	61	43.57%			
26-Feb-91	* Fallbrook Hospital	17,661	7,473	42.31%	17,661	7,473	42.31%	100.00%									
6-Nov-90	Governor General	1,200,120	689,522	57.45%	230,194	188,036	81.69%	27.27%	204,924	173,151	84.50%	25,270	14,885	58.90%			

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County of San Diego Registered Voters and
Vote by Mail Ballot Voter Turnout

Date	Election Title	Registered Voters	Total Voted Election	% of Turnout	Absentee Issued	Absentee Voted*	% of AV Voted	Absentee % of Total Votes Cast	Requested Absentee Issued*	Requested Absentee Voted*	% of AV Voted*	Declared Absentee Issued	Declared Absentee Voted	% of AV Voted	Perm Absentee Issued	Perm Absentee Voted	% of Perm AV Voted
	* Mail Ballot Election (no polls)																
19-Jun-90	* N. County Fire (De Luz area)	337	214	63.50%	337	214	63.50%	100.00%									
12-Jun-90	* De Luz MWD Reorganization	291	182	62.54%	291	182	62.54%	100.00%									
8-Jun-90	* County Retirement Board	13,618	3,369	24.74%	13,618	3,369	24.74%	100.00%									
5-Jun-90	Governor Primary	1,145,927	451,770	39.42%	144,521	105,965	73.32%	23.46%	127,796	99,394	77.78%	16,725	6,571	39.29%			
8-May-90	* County Retirement 2nd Member	13,645	3,149	23.08%	13,645	3,149	23.08%	100.00%									
10-Apr-90	78th Assembly Spec Consolidated	200,936	44,257	22.03%	27,204	18,887	69.43%	42.68%	25,961	18,582	71.58%	1,243	305	24.54%			
5-Dec-89	39th Senate Spec Consolidated	459,850	135,386	29.44%	51,983	35,915	69.09%	26.53%	46,046	33,711	73.21%	5,937	2,204	37.12%			
4-Dec-89	* County Retirement Board Safety	1,500	458	30.53%	1,500	458	30.53%	100.00%									
7-Nov-89	SD General & District Consolidation	283,438	82,773	29.20%	22,565	17,875	79.22%	21.60%	20,069	16,997	84.69%	2,496	878	35.18%			
3-Oct-89	76th Assembly Special General	175,771	41,094	23.38%	17,974	12,908	71.81%	31.41%	13,748	11,291	82.13%	4,226	1,617	38.26%			
19-Sep-89	San Diego Primary (1,3,5,7)	316,582	75,447	23.83%	23,583	18,478	78.35%	24.49%	21,949	18,067	82.31%	1,634	411	25.15%			
8-Aug-89	76th Assembly Special Primary	174,015	38,533	22.14%	14,541	9,549	65.67%	24.78%	10,136	8,047	79.39%	4,405	1,502	34.10%			
9-Jun-89	* County Retirement Board Run Off	12,535	2,507	20.00%	12,535	2,507	20.00%	100.00%									
6-Jun-89	RM MWD, ES Sch, CB City	103,988	24,418	23.48%	6,770	4,842	71.52%	19.83%	5,563	4,442	79.85%	1,207	400	33.14%			
9-May-89	* County Retirement Board	12,526	2,374	18.95%	12,526	2,374	18.95%	100.00%									
26-Apr-89	* SDI - County Employees	248	119	47.98%	248	119	47.98%	100.00%									
7-Mar-89	Coronado/Ramona Special	23,009	6,867	29.84%	2,553	1,527	59.81%	22.24%	1,631	1,360	83.38%	922	167	18.11%			
8-Nov-88	Presidential General	1,258,868	890,783	70.76%	257,676	225,393	87.47%	25.30%	236,593	211,758	89.50%	21,083	13,635	64.67%			
7-Jun-88	Presidential Primary	1,101,285	480,710	43.65%	73,634	51,267	69.62%	10.66%	59,972	45,763	76.31%	13,662	5,504	40.29%			
12-Apr-88	Crest,Poway	56,605	18,219	32.19%	2,123	1,577	74.28%	8.66%	1,798	1,431	79.59%	325	146	44.92%			
22-Mar-88	Valley Center MWD	8,814	5,140	58.32%	729	563	77.23%	10.95%	456	397	87.06%	273	166	60.81%			
3-Nov-87	SD General & Dist Consolidation	1,071,225	340,457	31.78%	43,451	27,926	64.27%	8.20%	33,573	24,906	74.18%	9,878	3,020	30.57%			
15-Sep-87	San Diego Primary (2,4,6,8)	225,557	53,763	23.84%	9,714	6,017	61.94%	11.19%	8,561	5,848	68.31%	1,153	169	14.66%			
2-Jun-87	RSF Inc, VS City, RM Sch	34,476	8,225	23.86%	1,542	1,045	67.77%	12.71%	1,264	941	74.45%	284	107	37.68%			
12-May-87	* County Retirement Board	11,168	2,603	23.31%	11,168	2,603	23.31%	100.00%									
28-Apr-87	Vista City Special	21,286	6,079	28.56%	799	564	70.59%	9.28%	799	564	70.59%	0	0				
3-Mar-87	Municipal (CB,SM,IB)	37,595	12,931	34.40%	1,317	1,009	76.61%	7.80%	1,144	905	79.11%	173	104	60.12%			
16-Dec-86	* Chula Vista Special	57,544	20,288	35.26%	57,544	20,288	35.26%	100.00%									
4-Nov-86	Governor General	1,122,637	597,701	53.24%	76,366	54,668	71.59%	9.15%	56,647	44,868	79.21%	19,719	9,800	49.70%			
13-Jun-86	* County Retirement Board - Runoff	10,698	2,648	24.75%	10,698	2,648	24.75%	100.00%									
3-Jun-86	Governor Primary	1,050,519	416,523	39.65%	52,529	36,389	69.27%	8.74%	43,750	33,258	76.02%	8,779	3,131	35.66%			
13-May-86	* County Retirement Board	10,698	2,636	24.64%	10,698	2,636	24.64%	100.00%									
25-Feb-86	San Diego Spec Mayor Primary	488,426	179,105	36.67%	19,499	13,469	69.08%	7.52%	16,805	12,951	77.07%	2,694	518	19.23%			
28-Jan-86	San Marcos Special	10,425	3,138	30.10%	535	331	61.87%	10.55%	420	303	72.14%	115	28	24.35%			
14-Jan-86	Ramona MWD (Recall)	1,880	383	20.37%	31	23	74.19%	6.01%	31	23	74.19%	0	0				
5-Nov-85	SD General & Dist Consolidation	636,979	173,661	27.26%	21,285	14,094	66.22%	8.12%	18,371	13,553	73.77%	2,914	541	18.57%			
17-Sep-85	San Diego Primary (1,3,5,7)	269,625	43,118	15.99%	10,914	6,979	63.95%	16.19%	10,041	6,860	68.32%	873	119	13.63%			
27-Aug-85	San Ysidro School(Recall)	3,456	869	25.14%	313	161	51.44%	18.53%	209	128	61.24%	104	33	31.73%			
4-Jun-85	Padre Dam MWD/Crest PUD	1,022	504	49.32%	21	17	80.95%	3.37%	21	17	80.95%	0	0				
14-May-85	* CSA #7 (Rainbow Valley)	791	477	60.30%	791	477	60.30%	100.00%									
6-Nov-84	Presidential General	1,082,450	788,227	72.82%	93,069	76,705	82.42%	9.73%	82,942	69,987	84.38%	10,127	6,718	66.34%			
5-Jun-84	Presidential Primary	961,479	427,400	44.45%	53,606	38,133	71.14%	8.92%	47,261	35,797	75.74%	6,345	2,336	36.82%			
8-Nov-83	San Diego General & UDEL	929,462	267,939	28.83%	31,842	20,866	65.53%	7.79%	26,187	19,488	74.42%	5,655	1,378	24.37%			
20-Sep-83	San Diego Primary (2,4,6,8)	401,112	75,941	18.93%	9,487	6,562	69.17%	8.64%	8,552	6,357	74.33%	935	205	21.93%			
3-May-83	San Diego Spec Mayor General	421,182	210,674	50.02%	21,270	17,501	82.28%	8.31%	20,427	17,170	84.06%	843	331	39.25%			
26-Apr-83	* Fallbrook Public Utility	7,107	3,497	49.21%	7,107	3,497	49.21%	100.00%									

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County of San Diego Registered Voters and
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	* Mail Ballot Election (no polls)																
									*includes Failsafe/provisional-absentee			*includes permanent absentee voters prior to November 2, 2004					
15-Mar-83	San Diego Spec Mayor Primary	418,589	187,484	44.79%	15,817	12,809	80.98%	6.83%	14,596	12,517	85.76%	1,221	292	23.91%			
2-Nov-82	Governor General	952,214	644,291	67.66%	59,829	48,870	81.68%	7.59%	51,245	43,510	84.91%	8,584	5,360	62.44%			
8-Jun-82	Governor Primary	879,749	453,011	51.49%	37,435	28,977	77.41%	6.40%	31,094	25,860	83.17%	6,341	3,117	49.16%			
3-Nov-81	San Diego General & UDEL	878,531	274,245	31.22%	19,761	12,476	63.13%	4.55%	14,053	10,889	77.49%	5,708	1,587	27.80%			
15-Sep-81	San Diego Primary (1,3,5,7)	364,141	75,723	20.79%	5,103	3,455	67.71%	4.56%	4,252	3,338	78.50%	851	117	13.75%			
2-Jun-81	Fallbrook Inc	10,341	6,407	61.96%	425	385	90.59%	6.01%	425	385	90.59%	0	0				
5-May-81	Coronado City	9,759	4,386	44.94%	317	277	87.38%	6.32%	317	277	87.38%	0	0				
5-May-81	* San Diego Convention Center	430,356	261,433	60.75%	430,356	261,433	60.75%	100.00%				Mail Ballot Election					
3-Mar-81	Spring Valley Fire	25,724	5,561	21.62%	305	262	85.90%	4.71%	305	262	85.90%	0	0				
4-Nov-80	Presidential General	948,705	736,246	77.61%	62,001	46,401	74.84%	6.30%	53,948	43,237	80.15%	8,053	3,164	39.29%			
3-Jun-80	Presidential Primary	909,820	542,817	59.66%	41,612	28,207	67.79%	5.20%	37,340	26,594	71.22%	4,272	1,613	37.76%			
8-Apr-80	Community Planning & Fire District	131,828	24,817	18.83%	2,627	1,599	60.87%	6.44%	2,074	1,448	69.82%	553	151	27.31%			

EXHIBIT 2

**Report of Registration as of February 10, 2019
Registration by County**

County	Eligible	Total Registered	Democratic	Republican	American Independent	Green
Alameda	1,091,939	883,942	489,759	95,587	17,000	6,530
Percent		80.95%	55.41%	10.81%	1.92%	0.74%
Alpine	939	773	319	200	28	6
Percent		82.32%	41.27%	25.87%	3.62%	0.78%
Amador	27,193	22,439	6,347	9,809	966	100
Percent		82.52%	28.29%	43.71%	4.31%	0.45%
Butte	172,054	122,350	42,093	41,330	4,261	913
Percent		71.11%	34.40%	33.78%	3.48%	0.75%
Calaveras	36,091	29,497	7,935	12,200	1,359	187
Percent		81.73%	26.90%	41.36%	4.61%	0.63%
Colusa	12,560	8,825	2,710	3,475	256	17
Percent		70.26%	30.71%	39.38%	2.90%	0.19%
Contra Costa	761,672	631,040	305,850	122,364	16,200	2,891
Percent		82.85%	48.47%	19.39%	2.57%	0.46%
Del Norte	18,099	13,771	4,172	4,918	615	103
Percent		76.09%	30.30%	35.71%	4.47%	0.75%
El Dorado	141,759	121,901	34,739	48,494	4,921	670
Percent		85.99%	28.50%	39.78%	4.04%	0.55%
Fresno	599,766	461,008	172,730	150,470	12,814	1,432
Percent		76.86%	37.47%	32.64%	2.78%	0.31%
Glenn	18,536	12,825	3,547	5,375	480	33
Percent		69.19%	27.66%	41.91%	3.74%	0.26%
Humboldt	105,415	78,158	34,027	17,670	2,496	1,775
Percent		74.14%	43.54%	22.61%	3.19%	2.27%
Imperial	101,666	69,937	32,941	12,738	1,547	170
Percent		68.79%	47.10%	18.21%	2.21%	0.24%
Inyo	13,673	10,171	3,068	3,968	414	57
Percent		74.39%	30.16%	39.01%	4.07%	0.56%
Kern	519,934	379,448	125,717	132,298	12,547	971
Percent		72.98%	33.13%	34.87%	3.31%	0.26%
Kings	81,094	52,601	16,995	20,991	1,388	108
Percent		64.86%	32.31%	39.91%	2.64%	0.21%

**Report of Registration as of February 10, 2019
Registration by County**

County	Libertarian	Peace and Freedom	Unknown	Other	No Party Preference
Alameda	4,728	2,736	76	5,579	261,947
Percent	0.53%	0.31%	0.01%	0.63%	29.63%
Alpine	6	2	0	3	209
Percent	0.78%	0.26%	0.00%	0.39%	27.04%
Amador	306	58	9	53	4,791
Percent	1.36%	0.26%	0.04%	0.24%	21.35%
Butte	1,436	394	394	1,152	30,377
Percent	1.17%	0.32%	0.32%	0.94%	24.83%
Calaveras	437	94	96	233	6,956
Percent	1.48%	0.32%	0.33%	0.79%	23.58%
Colusa	73	20	1	5	2,268
Percent	0.83%	0.23%	0.01%	0.06%	25.70%
Contra Costa	4,309	1,699	2,045	996	174,686
Percent	0.68%	0.27%	0.32%	0.16%	27.68%
Del Norte	145	79	1	106	3,632
Percent	1.05%	0.57%	0.01%	0.77%	26.37%
El Dorado	1,744	297	95	875	30,066
Percent	1.43%	0.24%	0.08%	0.72%	24.66%
Fresno	3,219	1,647	81	4,338	114,277
Percent	0.70%	0.36%	0.02%	0.94%	24.79%
Glenn	131	37	1	24	3,197
Percent	1.02%	0.29%	0.01%	0.19%	24.93%
Humboldt	837	346	248	249	20,510
Percent	1.07%	0.44%	0.32%	0.32%	26.24%
Imperial	370	366	406	381	21,018
Percent	0.53%	0.52%	0.58%	0.54%	30.05%
Inyo	104	30	2	46	2,482
Percent	1.02%	0.29%	0.02%	0.45%	24.40%
Kern	3,354	1,462	1,904	587	100,608
Percent	0.88%	0.39%	0.50%	0.15%	26.51%
Kings	431	145	284	156	12,103
Percent	0.82%	0.28%	0.54%	0.30%	23.01%

**Report of Registration as of February 10, 2019
Registration by County**

County	Eligible	Total Registered	Democratic	Republican	American Independent	Green
Lake	49,550	32,883	12,270	8,685	1,317	319
Percent		66.36%	37.31%	26.41%	4.01%	0.97%
Lassen	17,090	14,460	2,817	7,035	770	48
Percent		84.61%	19.48%	48.65%	5.33%	0.33%
Los Angeles	6,239,345	5,396,890	2,682,019	899,159	114,161	22,194
Percent		86.50%	49.70%	16.66%	2.12%	0.41%
Madera	90,574	58,085	18,152	22,011	1,844	156
Percent		64.13%	31.25%	37.89%	3.17%	0.27%
Marin	182,393	161,870	89,526	23,380	3,648	1,295
Percent		88.75%	55.31%	14.44%	2.25%	0.80%
Mariposa	14,932	10,886	3,010	4,623	423	84
Percent		72.90%	27.65%	42.47%	3.89%	0.77%
Mendocino	64,436	49,821	23,284	9,739	1,682	1,045
Percent		77.32%	46.74%	19.55%	3.38%	2.10%
Merced	161,723	98,381	41,741	26,607	3,016	313
Percent		60.83%	42.43%	27.04%	3.07%	0.32%
Modoc	7,405	4,945	1,048	2,425	240	19
Percent		66.78%	21.19%	49.04%	4.85%	0.38%
Mono	9,555	6,707	2,289	2,026	257	55
Percent		70.19%	34.13%	30.21%	3.83%	0.82%
Monterey	245,206	189,607	92,437	38,251	4,514	950
Percent		77.33%	48.75%	20.17%	2.38%	0.50%
Napa	92,280	78,182	35,404	16,939	2,351	540
Percent		84.72%	45.28%	21.67%	3.01%	0.69%
Nevada	78,736	68,517	24,677	22,252	2,450	778
Percent		87.02%	36.02%	32.48%	3.58%	1.14%
Orange	2,032,569	1,591,543	529,651	541,711	40,231	4,823
Percent		78.30%	33.28%	34.04%	2.53%	0.30%
Placer	277,942	238,052	66,540	97,801	7,304	890
Percent		85.65%	27.95%	41.08%	3.07%	0.37%
Plumas	15,921	12,376	3,432	5,194	611	51
Percent		77.73%	27.73%	41.97%	4.94%	0.41%

**Report of Registration as of February 10, 2019
Registration by County**

County	Libertarian	Peace and Freedom	Unknown	Other	No Party Preference
Lake	357	170	2	50	9,713
Percent	1.09%	0.52%	0.01%	0.15%	29.54%
Lassen	155	42	9	84	3,500
Percent	1.07%	0.29%	0.06%	0.58%	24.20%
Los Angeles	32,896	29,485	23,349	39,653	1,553,974
Percent	0.61%	0.55%	0.43%	0.73%	28.79%
Madera	469	216	237	236	14,764
Percent	0.81%	0.37%	0.41%	0.41%	25.42%
Marin	1,059	261	308	485	41,908
Percent	0.65%	0.16%	0.19%	0.30%	25.89%
Mariposa	124	30	13	129	2,450
Percent	1.14%	0.28%	0.12%	1.19%	22.51%
Mendocino	511	220	421	142	12,777
Percent	1.03%	0.44%	0.85%	0.29%	25.65%
Merced	736	285	27	110	25,546
Percent	0.75%	0.29%	0.03%	0.11%	25.97%
Modoc	44	16	5	15	1,133
Percent	0.89%	0.32%	0.10%	0.30%	22.91%
Mono	67	29	3	8	1,973
Percent	1.00%	0.43%	0.04%	0.12%	29.42%
Monterey	1,321	638	833	177	50,486
Percent	0.70%	0.34%	0.44%	0.09%	26.63%
Napa	703	210	270	307	21,458
Percent	0.90%	0.27%	0.35%	0.39%	27.45%
Nevada	892	182	15	9,426	7,845
Percent	1.30%	0.27%	0.02%	13.76%	11.45%
Orange	14,039	4,095	421	3,229	453,343
Percent	0.88%	0.26%	0.03%	0.20%	28.48%
Placer	3,872	459	717	973	59,496
Percent	1.63%	0.19%	0.30%	0.41%	24.99%
Plumas	151	32	1	4	2,900
Percent	1.22%	0.26%	0.01%	0.03%	23.43%

**Report of Registration as of February 10, 2019
Registration by County**

County	Eligible	Total Registered	Democratic	Republican	American Independent	Green
Riverside	1,487,776	1,060,375	390,315	340,503	32,805	2,887
Percent		71.27%	36.81%	32.11%	3.09%	0.27%
Sacramento	1,016,166	780,667	328,290	196,804	23,880	3,512
Percent		76.82%	42.05%	25.21%	3.06%	0.45%
San Benito	34,291	31,022	13,834	7,874	828	109
Percent		90.47%	44.59%	25.38%	2.67%	0.35%
San Bernardino	1,334,000	963,616	373,846	278,145	32,950	3,055
Percent		72.24%	38.80%	28.86%	3.42%	0.32%
San Diego	2,229,766	1,747,383	623,925	475,149	55,800	6,887
Percent		78.37%	35.71%	27.19%	3.19%	0.39%
San Francisco	662,489	493,455	280,182	31,823	7,878	3,849
Percent		74.49%	56.78%	6.45%	1.60%	0.78%
San Joaquin	460,428	349,707	143,400	99,566	9,324	1,015
Percent		75.95%	41.01%	28.47%	2.67%	0.29%
San Luis Obispo	209,497	170,612	58,493	58,641	5,278	1,054
Percent		81.44%	34.28%	34.37%	3.09%	0.62%
San Mateo	508,316	404,958	202,341	60,045	8,252	1,909
Percent		79.67%	49.97%	14.83%	2.04%	0.47%
Santa Barbara	294,880	218,413	91,696	55,251	5,614	1,125
Percent		74.07%	41.98%	25.30%	2.57%	0.52%
Santa Clara	1,212,034	895,965	405,470	151,213	17,775	3,404
Percent		73.92%	45.26%	16.88%	1.98%	0.38%
Santa Cruz	189,924	161,199	87,412	22,129	3,503	1,725
Percent		84.88%	54.23%	13.73%	2.17%	1.07%
Shasta	134,143	101,357	23,139	46,382	4,104	380
Percent		75.56%	22.83%	45.76%	4.05%	0.37%
Sierra	2,622	2,186	596	872	127	19
Percent		83.37%	27.26%	39.89%	5.81%	0.87%
Siskiyou	34,504	27,553	8,152	10,466	1,282	193
Percent		79.85%	29.59%	37.98%	4.65%	0.70%
Solano	294,649	236,028	106,452	50,006	6,746	882
Percent		80.10%	45.10%	21.19%	2.86%	0.37%

**Report of Registration as of February 10, 2019
Registration by County**

County	Libertarian	Peace and Freedom	Unknown	Other	No Party Preference
Riverside	8,221	3,857	4,287	4,643	272,857
Percent	0.78%	0.36%	0.40%	0.44%	25.73%
Sacramento	7,573	4,413	2,893	1,736	211,566
Percent	0.97%	0.57%	0.37%	0.22%	27.10%
San Benito	247	103	13	37	7,977
Percent	0.80%	0.33%	0.04%	0.12%	25.71%
San Bernardino	7,583	4,390	4,090	4,779	254,778
Percent	0.79%	0.46%	0.42%	0.50%	26.44%
San Diego	16,355	5,255	6,888	4,586	552,538
Percent	0.94%	0.30%	0.39%	0.26%	31.62%
San Francisco	2,920	1,340	2,327	917	162,219
Percent	0.59%	0.27%	0.47%	0.19%	32.87%
San Joaquin	2,475	1,380	1,460	1,057	90,030
Percent	0.71%	0.39%	0.42%	0.30%	25.74%
San Luis Obispo	1,786	371	559	1,555	42,875
Percent	1.05%	0.22%	0.33%	0.91%	25.13%
San Mateo	2,453	959	1,302	959	126,738
Percent	0.61%	0.24%	0.32%	0.24%	31.30%
Santa Barbara	1,756	571	860	1,302	60,238
Percent	0.80%	0.26%	0.39%	0.60%	27.58%
Santa Clara	6,148	2,360	56	770	308,769
Percent	0.69%	0.26%	0.01%	0.09%	34.46%
Santa Cruz	1,467	538	35	910	43,480
Percent	0.91%	0.33%	0.02%	0.56%	26.97%
Shasta	1,140	317	25	241	25,629
Percent	1.12%	0.31%	0.02%	0.24%	25.29%
Sierra	28	4	1	37	502
Percent	1.28%	0.18%	0.05%	1.69%	22.96%
Siskiyou	338	126	118	72	6,806
Percent	1.23%	0.46%	0.43%	0.26%	24.70%
Solano	1,851	760	1,268	1,505	66,558
Percent	0.78%	0.32%	0.54%	0.64%	28.20%

**Report of Registration as of February 10, 2019
Registration by County**

County	Eligible	Total Registered	Democratic	Republican	American Independent	Green
Sonoma	348,819	277,665	143,054	49,386	6,866	2,919
Percent		79.60%	51.52%	17.79%	2.47%	1.05%
Stanislaus	347,498	251,760	92,669	86,375	7,427	688
Percent		72.45%	36.81%	34.31%	2.95%	0.27%
Sutter	60,699	46,787	13,715	18,102	1,534	101
Percent		77.08%	29.31%	38.69%	3.28%	0.22%
Tehama	43,849	33,329	8,277	14,138	1,605	97
Percent		76.01%	24.83%	42.42%	4.82%	0.29%
Trinity	11,301	7,521	2,351	2,409	346	88
Percent		66.55%	31.26%	32.03%	4.60%	1.17%
Tulare	267,195	170,399	52,751	65,388	5,326	462
Percent		63.77%	30.96%	38.37%	3.13%	0.27%
Tuolumne	41,070	32,128	9,208	13,125	1,209	169
Percent		78.23%	28.66%	40.85%	3.76%	0.53%
Ventura	551,340	455,730	179,483	132,378	10,609	1,798
Percent		82.66%	39.38%	29.05%	2.33%	0.39%
Yolo	152,159	112,802	52,995	21,798	3,046	786
Percent		74.13%	46.98%	19.32%	2.70%	0.70%
Yuba	48,403	33,941	9,076	12,158	1,647	135
Percent		70.12%	26.74%	35.82%	4.85%	0.40%
State Total	25,259,865	19,978,449	8,612,368	4,709,851	517,872	88,771
Percent		79.09%	43.11%	23.57%	2.59%	0.44%

**Report of Registration as of February 10, 2019
Registration by County**

County	Libertarian	Peace and Freedom	Unknown	Other	No Party Preference
Sonoma	2,371	702	957	1,166	70,244
Percent	0.85%	0.25%	0.34%	0.42%	25.30%
Stanislaus	1,981	861	1,263	2,237	58,259
Percent	0.79%	0.34%	0.50%	0.89%	23.14%
Sutter	408	150	299	608	11,870
Percent	0.87%	0.32%	0.64%	1.30%	25.37%
Tehama	390	112	5	79	8,626
Percent	1.17%	0.34%	0.02%	0.24%	25.88%
Trinity	102	45	193	549	1,438
Percent	1.36%	0.60%	2.57%	7.30%	19.12%
Tulare	1,343	482	846	313	43,488
Percent	0.79%	0.28%	0.50%	0.18%	25.52%
Tuolumne	364	95	3	40	7,915
Percent	1.13%	0.30%	0.01%	0.12%	24.64%
Ventura	3,656	1,201	4,843	5,641	116,121
Percent	0.80%	0.26%	1.06%	1.24%	25.48%
Yolo	959	417	522	527	31,752
Percent	0.85%	0.37%	0.46%	0.47%	28.15%
Yuba	407	193	209	117	9,999
Percent	1.20%	0.57%	0.62%	0.34%	29.46%
State Total	153,348	76,784	67,596	106,194	5,645,665
Percent	0.77%	0.38%	0.34%	0.53%	28.26%

DECLARATION OF LILIANA LAU IN SUPPORT OF
COUNTY OF SAN DIEGO TEST CLAIM
EXTENDED CONDITIONAL VOTER REGISTRATION

Elections Code section 2170, as amended by
Senate Bill 72, Chapter 565, Statutes of 2019

I, Liliana Lau, declare as follows:

1. I make this declaration based upon my own personal knowledge and based upon my review of the records referenced herein.

2. If called upon to testify, I could and would competently testify to the matters set forth herein.

3. I am the Administrative Services Manager for the Registrar of Voters for San Diego County (the “Registrar”). In that capacity, I am responsible for calculating costs incurred for the elections administered by the County and applying funding sources to those costs as applicable, including billing other jurisdictions whose elections are consolidated with elections administered by the County, as well as applying for federal and state funding, if applicable.

4. In order to calculate costs incurred for the elections, I have access to the timekeeping financial reports for staff of the Registrar (both permanent and temporary staff, including poll workers). I also manage the acquisition of services and goods, as well as processing invoices, for the Registrar. This includes acquiring supplies for administration of the elections, including CVR envelopes.

5. Prior to the March 2020 election, I reviewed SB 72, which made changes to Section 2170(d)(1) of the Elections Code (“Section 2170(d)(1)”). Specifically, the changes to Section 2170(d)(1) added the words “and satellite [offices of the county elections official]” and “all polling places” to the listed locations where the elections official is required to offer CVR during the 14-day period prior to the election and on election day. As a practical matter, this meant the Registrar had to offer CVR at all satellite offices during the 14-day period prior to the election, and both at all satellite offices and all polling places on election day. Due to my position and duties described above, I was and am aware of the increased costs the County incurred due to the County’s implementation of SB 72’s amendment to Section 2170(d)(1). Additionally, I participated in many of the planning meetings among staff at the Registrar’s office to

discuss how to implement these changes to Section 2170(d)(1), and therefore I am aware of the increased activities the Registrar was required to conduct in order to offer CVR pursuant to SB 72's amendment to Section 2170(d)(1).

6. Based on my review of timekeeping records and invoices for supplies, the additional increased costs during the March 2020 election for meeting the requirements imposed by SB 72's amendment to Section 2170(d)(1) (specifically, the new requirement that (1) CVR be offered at any satellite offices of the elections official and (2) CVR be offered at all polling places in the county during the 14-day period prior to the election and on election day) were as follows:

a. Additional Registrar of Voters Staffing Costs

In order to offer CVR at any satellite offices of the elections official during the 14-day period prior to the election to offer CVR at both satellite offices and polling places on election day pursuant to SB 72's amendment to Section 2170(d)(1), the Registrar staff had to plan and prepare. The cost of labor dating on or after January 1, 2020 for the Registrar's office to plan and prepare to offer CVR at satellite offices and polling places, including designing and developing necessary envelopes and workflows was \$29,019. The County cannot request reimbursement from other jurisdictions for its internal planning costs.

The cost of additional Registrar of Voters staffing to handle data entry and processing of the additional increase in CVR registrations and ballots was \$123,965. The County has reimbursement authority from other jurisdictions for \$27,648 of its staffing costs to process the additional increase in CVR registrations and ballots.

Thus the County's reimbursable cost for additional Registrar of Voters staffing is **\$125,336**.

b. Training

In order to offer CVR at all polling places in the county on election day pursuant to SB 72's amendment to Section 2170(d)(1), the Registrar staff had to train poll workers to handle CVR and edit the training handbook to describe how to handle CVR.

The cost for this activity was \$32,166. The County can recover some of the costs of administering elections from the jurisdictions whose elections were consolidated with the primary and general elections. The County recovered \$7,174 from the other jurisdictions for this activity. Thus the County's reimbursable cost is **\$24,992**.

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c. Election Staffing

In order to offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and to offer CVR at both satellite offices and polling places on election day pursuant to SB 72's amendment to Section 2170(d)(1), the Registrar was required to recruit and hire additional temporary staff and poll workers in order to handle the anticipated increase in voters due to the new availability of CVR and the resulting increase in CVR provisional voting.

The cost for this activity was \$96,608. The County can recover some of the costs of administering elections from the jurisdictions whose elections were consolidated with the primary and general elections. The County recovered \$21,546 from the other jurisdictions for this activity. Thus the County's reimbursable cost is **\$75,062**.

d. CVR Ballot Processing

Because the Registrar was newly required to offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and to offer CVR at both satellite offices and polling places on election day pursuant to SB 72's amendment to Section 2170(d)(1), the number of CVR voted ballots increased. The Registrar was required to process and sort the CVR ballots using automated processing equipment because CVR was more widely available.

The cost to process and sort CVR envelopes by electronic vote processing equipment was \$10,773. The County can recover some of the costs of administering elections from the jurisdictions whose elections were consolidated with the primary and general elections. The County recovered \$2,403 from the other jurisdictions for this activity. Thus the County's reimbursable cost is **\$8,370**.

e. Supplies

In order to offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and to offer CVR at both satellite offices and polling places on election day pursuant to SB 72's amendment to Section 2170(d)(1), the Registrar was required to purchase new conditional voter registration envelopes for both polling and satellite locations.

The cost to purchase these envelopes was \$91,476. The County can recover some of the costs of administering elections from the jurisdictions whose elections were consolidated with the primary and general elections. The County recovered \$20,402 from the other jurisdictions for this activity. Thus the County's reimbursable cost is **\$71,074**.

7. A summary table of the County's costs and reimbursement is below.

Activity	Cost	Reimbursement from other jurisdictions whose elections were consolidated with the March 2020 election	County Total
Additional Registrar of Voters staffing dating on or after January 1, 2020 for the Registrar's office to plan and prepare for changes due to SB 72, including designing and developing necessary envelopes and workflows	\$29,019	\$0	\$29,019
The cost of additional Registrar of Voters staffing to handle data entry and processing of the additional increase in CVR registrations and ballots was \$123,965.	\$123,965	\$27,648	\$96,317
Training Costs (creation of a new training plan and labor costs for the actual training of poll workers to handle CVR voters at poll sites)	\$32,166	\$7,174	\$24,992
Staffing Costs (recruiting and hiring additional temporary staff and poll workers in order to handle the anticipated increase in voters due to the new availability of CVR at poll sites and the resulting increase in CVR provisional voting)	\$96,608	\$21,546	\$75,062
Cost of labor to process and sort envelopes by electronic vote processing equipment (CVR percentage only)	\$10,773	\$2,403	\$8,370
Supplies Costs (new conditional voter registration envelope at polling and satellite locations)	\$91,476	\$20,402	\$71,074
Total	\$384,007	\$79,173	\$304,834

8. Based on my review of timekeeping records and invoices for supplies, the costs for opening and operating four new satellite locations in March 2020 was as follows:

Labor (staff to set up and manage the satellite locations, as well as costs for training staff to be able to run the satellite locations independently)	\$169,141
Supplies (signage, contracted labor, office supplies, generators to power ballot marking devices and additional lighting)	\$67,146
Total without Reimbursement	\$236,287
Reimbursement by other jurisdictions whose elections were consolidated with the March 2020 election	\$52,698
Total with Reimbursement	\$183,589

The Registrar also purchased electronic poll books for each satellite location, but the cost of doing so (approximately \$243,740) was fully reimbursed by funds allocated to the County by Help America Vote Act of 2002 (“HAVA”) and AB 1824.

9. I am unaware of any state, federal or other nonlocal agency funding sources that specifically address the mandate to offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and to offer CVR at both satellite offices and polling places on election day pursuant to SB 72’s amendment to Section 2170(d)(1), or that specifically address the costs set out in paragraphs 6-8 above. The County can recover some of the costs of administering elections from the jurisdictions whose elections were consolidated with the primary and general elections, as also set out in paragraphs 6-8 above.

10. With regard to the November 2020 election, the Registrar’s additional increased costs for offering CVR at polling places on election day pursuant to SB 72’s amendment to Section 2170(d)(1) were (1) additional Registrar of Voters staffing costs to handle the anticipated increase in voters due to the availability of CVR at polling places and to process the additional CVR voters, and (2) costs incurred to train poll workers to offer CVR at polling places.

11. Based on my review of timekeeping records, the cost of this additional labor in November 2020 was \$144,829. I estimate that \$51,031 of that might be recoverable from other jurisdictions, with a total of \$93,798 incurred by the County for additional labor. The cost of the additional training was \$46,325. I estimate that \$16,323

of that amount might be recoverable from other jurisdictions, with a total of \$30,002 incurred by the County for training. This equals \$123,800 in total additional costs incurred by the County for the November 2020 election due to SB 72's amendment to Section 2170(d)(1).¹

12. I am unaware of any state, federal or other nonlocal agency funding sources that specifically address the mandate to offer CVR at any satellite offices of the elections official during the 14-day period prior to the election, and to offer CVR at both satellite offices and polling places on election day pursuant to SB 72's amendment to Section 2170(d)(1), or that specifically address the costs of offering CVR during the November 2020 election. The County anticipates recovering from other jurisdictions some of its increased costs in November 2020 as set forth in paragraph 11, but as of the date of this declaration, I only have estimated amounts available. In addition, the County will receive federal funds pursuant to HAVA (as administered by the State) to defray the increased costs of conducting the November 2020 election during the COVID-19 pandemic, which will potentially cover some increased labor costs as described above. As of the date of this declaration, I do not yet know what amount the County will receive for the mandated activities, but my office would subtract any reimbursement received from any other sources before providing information for the County to submit a claim to the Controller arising from the mandates process.

13. With regard to additional costs anticipated to be incurred in FY 20/21 pursuant to SB 72's amendment to Section 2170(d)(1), the Registrar will also need to offer CVR at all polling places during the special primary and general elections scheduled in Fiscal Year 2020-21 to fill the current vacancy in Assembly District 79. As of the signing of this declaration, the County anticipates having approximately 51 polling locations open on election day only and no satellite locations.

14. During these special elections, the Registrar will incur (1) additional Registrar staffing costs to process the increase in CVR voters due to the availability of CVR at polling places, and (2) additional costs to train poll workers to offer CVR at polling places. I have estimated the costs of this additional labor and training to be \$54,886 for labor and \$5,468 for training, or \$60,354 total.

¹ This amount was adjusted downward from my December 23, 2020 declaration. The number in my December 23, 2020 declaration included a percentage of labor costs for poll workers. But unlike in March 2020, in November 2020 the Registrar did not hire *additional* poll workers solely to handle CVR at the polls. Thus the County is not including the labor costs of poll workers in its November 2020 costs.

15. Because these elections are not consolidated with other jurisdictions, the County cannot request reimbursement from other jurisdictions.

16. For Fiscal Year 20-21, the County's estimated costs incurred due to the requirement in SB 72's amendment to Section 2170(d)(1) that the County offer CVR at polling places on election day are:

- a. Additional Registrar of Voters staffing costs to handle the anticipated increase in voters due to the availability of CVR at polling places and to process the additional CVR voters:
November 2020 election (\$144,829)
Upcoming special elections (\$54,886)
Total \$199,715

- b. Additional costs incurred to train poll workers to offer CVR at polling places:
November 2020 election (\$46,325)
Upcoming special elections (\$5,468)
Total \$51,793

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my personal knowledge, information and belief.

Executed this 26th day of February, 2021, in San Diego County.

Signed: _____  _____

Liliana Lau

DECLARATION OF CYNTHIA L. PAES IN SUPPORT OF
COUNTY OF SAN DIEGO TEST CLAIM
EXTENDED CONDITIONAL VOTER REGISTRATION

Elections Code section 2170, as amended by
Senate Bill 72, Chapter 565, Statutes of 2019

I, Cynthia L. Paes, declare as follows:

1. I make this declaration based upon my own personal knowledge.
2. If called upon to testify, I could and would competently testify to the matters set forth herein.
3. I am the Acting Registrar of Voters for the County of San Diego (“County”). I have been the Acting Registrar since January 8, 2021. Prior to that, I was the Assistant Registrar for the County from June 14, 2013 to January 8, 2021.
4. In my capacity as Acting Registrar of Voters, I manage the operations and workflow of the office of the Registrar of Voters. The Registrar is responsible for overseeing all elections administered by the County, including statewide and federal elections, as well as local elections consolidated with statewide and federal elections. I am personally involved in the planning processes for administering the special primary and general elections scheduled in Fiscal Year 2020-21 to fill the current vacancy in Assembly District 79. These elections are scheduled for April 6, 2021 and June 8, 2021, respectively.
5. I have reviewed Senate Bill 72, § 1.5, Chapter 565, Statutes of 2019 (“SB 72”), which made changes to Section 2170(d)(1) of the Elections Code (“Section 2170(d)(1)”). Specifically, the changes to Section 2170(d)(1) added the words “and satellite [offices of the county elections official]” and “all polling places” to the locations where the elections official is required to offer CVR during the 14-day period prior to the election and on election day. Due to my position and duties described above, I am aware of the additional activities the County will need to undertake during the upcoming special elections to implement SB 72’s amendment to Section 2170(d)(1).
6. For both special elections scheduled during the 2020-21 fiscal year, the County will not have satellite locations available. As of the signing of this declaration,

the County anticipates having approximately 51 polling locations open on election day only.

7. Pursuant to SB 72's amendment to Section 2170(d)(1), the Registrar is required to offer CVR at all of the polling places on election day. In order to do so, the Registrar will incur increased costs that it would not have incurred without SB 72's amendment to Section 2170(d)(1). Specifically, the Registrar will incur (1) additional Registrar staffing costs to process the increase in CVR voters due to the availability of CVR at polling places, and (2) additional costs to train poll workers to offer CVR at polling places.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my personal knowledge, information and belief.

Executed this 26th day of February, 2021, in San Diego County.

Signed: Paes, Cynthia L. Digitally signed by Paes, Cynthia L.
Date: 2021.02.26 13:07:12 -08'00'

Cynthia L. Paes

SECTION 7

COUNTY OF SAN DIEGO TEST CLAIM

EXTENDED CONDITIONAL VOTER REGISTRATION

Elections Code section 2170, as amended by
Senate Bill 72, Chapter 565, Statutes of 2019

EXHIBIT A



California

LEGISLATIVE INFORMATION

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AB-1436 Voter registration. (2011-2012)

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Assembly Bill No. 1436

CHAPTER 497

An act to amend Sections 2107, 14310, and 18001 of, and to add Article 4.5 (commencing with Section 2170) to Chapter 2 of Division 2 of, the Elections Code, relating to elections.

[Approved by Governor September 24, 2012. Filed with Secretary of State September 24, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1436, Feuer. Voter registration.

Existing law establishes procedures regarding the registration of voters. Under existing law, a person may not be registered to vote except by affidavit of registration, and a voter may not vote in an election unless his or her affidavit of registration is executed and received by the county elections official on or before the 15th day prior to

the election. Existing law permits any registered voter to vote by a vote by mail ballot, and further permits any voter using a vote by mail ballot to vote the ballot at the office of the elections official beginning 29 days before the election. Existing law requires that the affidavit of registration show facts necessary to establish the affiant as an elector, as specified, and provides that if the affiant has not been issued a current and valid driver's license or social security number, he or she shall be provided a unique identification number for voter registration purposes.

This bill would establish conditional voter registration, using an affidavit of registration, whereby a person would be permitted to register to vote after the 15th day prior to an election or on election day, and cast a provisional ballot to be counted if the conditional voter registration is deemed effective. This bill would provide that a conditional voter registration shall be deemed effective if the county elections official is able to determine before or during the canvass period for the election that the registrant is eligible to register to vote and that the registrant has provided information that matches specified state or federal databases. The bill would provide that if the information provided by the registrant cannot be verified by matching the information to those specified state or federal databases and the registrant is otherwise eligible to vote, the registrant shall be issued a unique identification number pursuant to the above-referenced provisions and the conditional voter registration shall be deemed effective. The bill would establish specific criminal and civil penalties for the commission of fraud in the execution of a conditional voter registration pursuant to these provisions.

The bill would require the county elections official to offer conditional voter registration and provisional voting at its permanent offices, and would permit the official to offer this registration and voting at satellite offices on election day, in accordance with specified procedures. The bill would also require the county elections official to cancel, as specified, duplicate voter registrations that may arise due to conditional voter registration.

The above provisions of the bill would become operative on January 1 of the year following the year in which the Secretary of State certifies that the state has a statewide voter registration database that complies with the requirements of the federal Help America Vote Act of 2002.

Existing law provides that upon conviction for a crime pertaining to an election for which no fine is prescribed, the court may impose, in addition to any prescribed imprisonment, a fine on the offender of not more than \$1,000 for a misdemeanor or \$10,000 for a felony.

This bill would increase the amount of that fine for a felony to \$25,000.

By creating a new crime and new duties for local elections officials, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2107 of the Elections Code is amended to read:

2107. (a) Except as provided in subdivision (b) and Article 4.5 (commencing with Section 2170), the county elections official shall accept affidavits of registration at all times except during the 14 days immediately preceding any election, when registration shall cease for that election as to electors residing in the territory within which the election is held. Transfers of registration for an election may be made from one precinct to another precinct in the same county at any time registration is in progress in the precinct to which the elector seeks to transfer.

(b) The county elections official shall accept an affidavit of registration executed as part of a voter registration card in the forthcoming election if the affidavit is executed on or before the 15th day prior to the election, and if any of the following apply:

(1) A mailed affidavit is postmarked on or before the 15th day prior to the election and received by mail by the county elections official before the close of the polls on election day.

(2) The affidavit is submitted to the Department of Motor Vehicles or accepted by any other public agency designated as a voter registration agency pursuant to the federal National Voter Registration Act of 1993 (42 U.S.C. Sec. 1973gg) on or before the 15th day prior to the election.

(3) The affidavit is delivered to the county elections official by means other than those described in paragraphs (1) and (2) on or before the 15th day prior to the election.

SEC. 2. Article 4.5 (commencing with Section 2170) is added to Chapter 2 of Division 2 of the Elections Code, to read:

Article 4.5. Conditional Voter Registration

2170. (a) "Conditional voter registration" means a properly executed affidavit of registration, which is delivered by the registrant to a county elections official during the 14 days immediately preceding an election or on election day and which may be deemed effective pursuant to this article after the elections official processes the affidavit, determines the registrant's eligibility to register, and validates the registrant's information, as specified in subdivision (c).

(b) In addition to other methods of voter registration provided by this code, an elector who is otherwise qualified to register to vote under this code and Section 2 of Article II of the California Constitution may complete a conditional voter registration and cast a provisional ballot during the 14 days immediately preceding an election or on election day pursuant to this article.

(c) (1) A conditional voter registration shall be deemed effective if the county elections official is able to determine before or during the canvass period for the election that the registrant is eligible to register to vote and that the information provided by the registrant on the registration affidavit matches information contained in a database maintained by the California Department of Motor Vehicles or the federal Social Security Administration.

(2) If the information provided by the registrant on the registration affidavit cannot be verified pursuant to paragraph (1) but the registrant is otherwise eligible to vote, the registrant shall be issued a unique identification number pursuant to Section 2150 and the conditional voter registration shall be deemed effective.

(d) The county elections official shall offer conditional voter registration and provisional voting pursuant to this article, in accordance with the following procedures:

(1) The elections official shall provide conditional voter registration and provisional voting pursuant to this article at all permanent offices of the county elections official in the county.

(2) The elections official shall advise registrants that a conditional voter registration will be effective only if the registrant is determined to be eligible to register to vote for the election and the information provided by the registrant on the registration affidavit is verified pursuant to subdivision (c).

(3) The elections official shall conduct the receipt and handling of each conditional voter registration and offer and receive a corresponding provisional ballot in a manner that protects the secrecy of the ballot and allows the elections official to process the registration, to determine the registrant's eligibility to register, and to validate the registrant's information before counting or rejecting the corresponding provisional ballot.

(4) After receiving a conditional voter registration, the elections official shall process the registration, determine the registrant's eligibility to register, and attempt to validate the information.

(5) If a conditional registration is deemed effective, the elections official shall include the corresponding provisional ballot in the official canvass.

(e) The county elections official may offer conditional voter registration and provisional voting pursuant to this article on election day at satellite offices of the county elections office, in accordance with the procedures specified in paragraphs (2) to (5), inclusive, of subdivision (d).

2171. (a) A conditional voter registration accepted under this article shall include the information required by Article 4 (commencing with Section 2150).

(b) A conditional voter registration accepted under this article shall be processed in accordance with general voter registration procedures provided in this chapter and established by regulations adopted by the Secretary of State.

(c) A provisional ballot cast under this article shall be subject to the requirements for provisional voting in Article 5 (commencing with Section 14310) of Chapter 3 of Division 14.

2172. (a) The elections official shall cancel any duplicate voter registrations that may exist as a result of a conditional registration deemed effective and shall cancel the duplicate registrations in accordance with Chapter 3 (commencing with Section 2200).

(b) If it appears that a registrant may have committed fraud within the meaning of Section 18560, the elections official shall immediately notify in writing both the district attorney and the Secretary of State.

2173. (a) Notwithstanding any other law, a person who commits fraud in the execution of a conditional voter registration pursuant to this article shall be punishable by imprisonment in the county jail for up to one year, or a fine up to twenty-five thousand dollars (\$25,000), or by both that fine and imprisonment.

(b) In addition to the criminal penalties prescribed in subdivision (a), a person who commits fraud in the execution of a conditional voter registration pursuant to this article shall be subject to a civil fine of an amount up to twenty-five thousand dollars (\$25,000). An action for a civil penalty under this subdivision may be brought by the Secretary of State or any public prosecutor with jurisdiction.

(c) Nothing in this section shall preclude the prosecution of a person under any other applicable provision of law.

SEC. 3. Section 14310 of the Elections Code is amended to read:

14310. (a) At all elections, a voter claiming to be properly registered, but whose qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county elections official, shall be entitled to vote a provisional ballot as follows:

(1) An elections official shall advise the voter of the voter's right to cast a provisional ballot.

(2) The voter shall be provided a provisional ballot, written instructions regarding the process and procedures for casting the ballot, and a written affirmation regarding the voter's registration and eligibility to vote. The written instructions shall include the information set forth in subdivisions (c) and (d).

(3) The voter shall be required to execute, in the presence of an elections official, the written affirmation stating that the voter is eligible to vote and registered in the county where the voter desires to vote.

(b) Once voted, the voter's ballot shall be sealed in a provisional ballot envelope, and the ballot in its envelope shall be deposited in the ballot box. All provisional ballots voted shall remain sealed in their envelopes for return to the elections official in accordance with the elections official's instructions. The provisional ballot envelopes specified in this subdivision shall be of a color different than the color of, but printed substantially similar to, the envelopes used for vote by mail ballots, and shall be completed in the same manner as vote by mail envelopes.

(c) (1) During the official canvass, the elections official shall examine the records with respect to all provisional ballots cast. Using the procedures that apply to the comparison of signatures on vote by mail ballots, the elections official shall compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration. If the signatures do not compare or the provisional ballot envelope is not signed, the ballot shall be rejected. A variation of the signature caused by the substitution of initials for the first or middle name, or both, shall not invalidate the ballot.

- (2) (A) Provisional ballots shall not be included in any semiofficial or official canvass, except under one or more of the following conditions:
- (i) The elections official establishes prior to the completion of the official canvass, from the records in his or her office, the claimant's right to vote.
 - (ii) The provisional ballot has been cast and included in the canvass pursuant to Article 4.5 (commencing with Section 2170) of Chapter 2 of Division 2.
 - (iii) Upon the order of a superior court in the county of the voter's residence.
- (B) A voter may seek the court order specified in this paragraph regarding his or her own ballot at any time prior to completion of the official canvass. Any judicial action or appeal shall have priority over all other civil matters. No fee shall be charged to the claimant by the clerk of the court for services rendered in an action under this section.
- (3) The provisional ballot of a voter who is otherwise entitled to vote shall not be rejected because the voter did not cast his or her ballot in the precinct to which he or she was assigned by the elections official.
- (A) If the ballot cast by the voter contains the same candidates and measures on which the voter would have been entitled to vote in his or her assigned precinct, the elections official shall count the votes for the entire ballot.
- (B) If the ballot cast by the voter contains candidates or measures on which the voter would not have been entitled to vote in his or her assigned precinct, the elections official shall count only the votes for the candidates and measures on which the voter was entitled to vote in his or her assigned precinct.
- (d) The Secretary of State shall establish a free access system that any voter who casts a provisional ballot may access to discover whether the voter's provisional ballot was counted and, if not, the reason why it was not counted.
- (e) The Secretary of State may adopt appropriate regulations for purposes of ensuring the uniform application of this section.
- (f) This section shall apply to any vote by mail voter described by Section 3015 who is unable to surrender his or her unvoted vote by mail voter's ballot.

(g) Any existing supply of envelopes marked "special challenged ballot" may be used until the supply is exhausted.

SEC. 4. Section 18001 of the Elections Code is amended to read:

18001. Upon a conviction for any crime punishable by imprisonment in any jail or prison, in relation to which no fine is herein prescribed, the court may impose a fine on the offender not exceeding one thousand dollars (\$1,000) in cases of misdemeanors or up to twenty-five thousand dollars (\$25,000) in cases of felonies, in addition to the imprisonment prescribed.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 6. Sections 1 to 3, inclusive, of this bill shall become operative on January 1 of the year following the year in which the Secretary of State certifies that the state has a statewide voter registration database that complies with the requirements of the federal Help America Vote Act of 2002 (42 U.S.C. Sec. 15301 et seq.).

EXHIBIT B



NEWS RELEASE

CALIFORNIA SECRETARY OF STATE ALEX PADILLA

AP16:127

FOR IMMEDIATE RELEASE

September 26, 2016

CONTACT: Sam Mahood

(916) 653-6575

Secretary of State Padilla Certifies VoteCal Statewide Voter Registration Database

SACRAMENTO – Secretary of State Alex Padilla has certified VoteCal as the system of record for voter registration in California. VoteCal is California’s statewide, centralized voter registration database, connecting all 58 counties with the Secretary of State’s office. The statewide database will improve the voter registration process.

“VoteCal modernizes the California voter experience,” Secretary of State Padilla said. “Through VoteCal, California citizens can now visit one website to verify the status of their voter registration, find their polling place, and beginning this November check if their vote-by-mail or provisional ballot was counted. VoteCal allows elections officials to continue improving the voter experience in future elections.”

“I will continue working with county elections officials to ensure that the security and performance of VoteCal is working as designed. Connecting all 58 counties through VoteCal will help elections officials throughout the state accurately and efficiently maintain voter rolls,” Padilla added.

“This project is over a decade in the making, but it will pay dividends for California voters for years to come,” Padilla added. “VoteCal will enable many improvements in future elections, including Election Day voter registration and the New Motor Voter Act.”

The Help America Vote Act (HAVA) of 2002 has required all states to implement a single, uniform, centralized, computerized statewide voter registration system. VoteCal finally fulfills that requirement.

“My Voter Status” Website

Californians now have access to a one-stop online hub allowing them to:

- Register to vote
- Check their voter registration status
- Find their polling place
- Beginning with the November 8, 2016 General Election, check if their vote-by-mail or provisional ballot was counted by their county elections official and, if it was not, why not
- Opt-out of being mailed the state Voter Information Guide

The “My Voter Status” website is available at: <https://voterstatus.sos.ca.gov/>

Same Day Voter Registration

Beginning in 2017, elections officials will offer Californians the opportunity to register to vote on Election Day in their county office.

Security & Testing

VoteCal underwent lengthy exercises and testing—including security audits, accuracy testing, and a performance review of the system in simulated-election environments.

VoteCal employs multilayer security measures at both the state and county levels. To access voter registration data through VoteCal, county elections officials and staff must meet security protocols put in place by the state.

Pre-Registration of 16- and 17-year-olds

Previously, only 17-year-olds who would be 18 on or before the next Election Day could pre-register to vote.

The certification of VoteCal will allow 16- and 17-year-olds to “pre-register” to vote. These voter registrations will become active once the citizen has turned 18.

Sixteen- and 17-year-olds seeking to pre-register will initially be limited to using paper forms. Online pre-registration will be enabled after the November 8, 2016 General Election.

Opting Out of the Paper Version of the State Voter Information Guide

Through the “My Voter Status” portal on the Secretary of State’s website, Californians will now be able to opt-out of receiving the state Voter Information Guide in the mail. Californians who opt-out of the paper guide, will instead receive an electronic notification when the guide is available online. Please note that the Voter Information Guide is mailed by household. If a household has more than one registered voter, and only one voter opts out of receiving the guide, the household will still be mailed a Voter Information Guide.

###

Follow the California Secretary of State on [Twitter](#) and [Facebook](#).

EXHIBIT C



ALEX PADILLA | SECRETARY OF STATE | STATE OF CALIFORNIA
ELECTIONS DIVISION

1500 11th Street, 5th Floor, Sacramento, CA 95814 | Tel 916.657.2166 | Fax 916.653.3214 | www.sos.ca.gov

January 17, 2017

County Clerks/Registrar of Voters (CC/ROV) Memorandum #17007

TO: All County Clerks/Registrars of Voters

FROM: /s/ Jana M. Lean
Chief, Elections Division

RE: Voter Registration: Conditional Voter Registration

Conditional Voter Registration (CVR) was enacted in 2012, to be operative on January 1 following the certification of VoteCal. (Assembly Bill 1436 (Feuer), Chapter 497, Statutes of 2012.) VoteCal was certified on September 26, 2016, therefore CVR became operative January 1, 2017. CVR is found in Elections Code sections 2170 through 2173.

What is CVR?

CVR allows for a registrant to cast a conditional provisional ballot when the registrant delivers to the county elections office a properly executed affidavit of registration during the period of E-14 through and including Election Day. The conditional voter registration must include all of the information required for "regular" registrations. (Elections Code sections 2170(a), 2171(a).)

The registration is deemed effective once the county elections official processes the affidavit, determines the registrant's eligibility to register, and validates the registrant's information before or during the canvass period.

How does CVR Work?

A conditional voter registration shall be processed in the same manner as "regular" registrations. (Elections Code section 2171(b).) For a conditional voter registration to be deemed effective, the information provided by the registrant on the registration affidavit must match information maintained by the Department of Motor Vehicles or the federal Social Security Administration, otherwise the registrant is issued a unique identification number. (Elections Code section 2170(a), (c).)

A person can register to vote and cast a conditional provisional ballot during the period of E-14 through and including Election Day. (Elections Code section 2170(b).) These “CVR provisional ballots” are subject to the same requirements as other provisional ballots. (Elections Code section 2171(c).)

Aside from CVR, only certain military and overseas voters, new residents, and new citizens can register to vote and vote after the 15-day close of registration deadline. (Elections Code sections 3108, 3400, 3500.) And only new citizens and certain military and overseas voters can register and vote up through Election Day. (Elections Code sections 3108, 3500.) The only difference is that these voters are given a regular ballot (i.e., non-provisional ballot) to vote.

Does CVR Apply to All Elections?

Conditional voter registration is available for all statewide elections, and any local elections that are administered by a county elections official. Conditional voter registration is not available in local elections that are administered by a local elections official.

County Duties under the Elections Code

In addition to processing affidavits, determining the registrant’s eligibility to register, and attempting to validate the registrant’s information before or during the canvass period, county elections officials must provide conditional voter registration and conditional provisional voting at all permanent offices of the county elections official. (Elections Code section 2170(d).) Moreover, the county elections official may offer conditional voter registration and conditional provisional voting at satellite offices of the county elections office. (Elections Code section 2170(e).)

The elections official must advise registrants that a conditional voter registration will be effective only if the registrant is determined to be eligible to register to vote for the election and the information provided by the registrant on the registration affidavit is verified. (Elections Code section 2170(d)(2).)

Additionally, the elections official must handle conditional voter registrations and resulting conditional provisional ballots as they do other registrations and provisional ballots: in a manner that protects the secrecy of the ballot and allows the elections official to process the registration, determine the registrant’s eligibility to register, and validate the registrant’s information before counting or rejecting the corresponding provisional ballot. If a conditional registration is deemed effective, the elections official shall include the corresponding conditional provisional ballot in the official canvass. (Elections Code section 2170(d).)

If there are duplicate voter registrations that exist as a result of a conditional registration deemed effective, the county elections official shall cancel the previous registration(s) according to normal procedures. (Elections Code section 2172(a).)

Fraud

If it appears that a registrant may have committed fraud within the meaning of Elections Code section 18560, the elections official shall immediately notify in writing both the district attorney and the Secretary of State. (Elections Code section 2172(b).)

Notwithstanding any other law, a person who commits fraud in the execution of a conditional voter registration shall be punishable by imprisonment in the county jail for up to one year, or a fine up to twenty-five thousand dollars (\$25,000), or both. Additionally, a person who commits fraud in the execution of a conditional voter registration shall be subject to a civil fine of an amount up to twenty-five thousand dollars (\$25,000). An action for a civil penalty may be brought by the Secretary of State or any public prosecutor with jurisdiction. (Elections Code section 2173(a), (b).)

CVR Guidance Document

The VoteCal team, with the assistance of the CACEO Business Process Committee, created and finalized a CVR guidance document, which outlines the business processes associated with VoteCal and CVR. The CVR guidance document is attached to this CCROV.

CACEO CVR Committee's FAQs

The CACEO CVR Committee gathered together to work through the Elections Code and numerous scenarios under CVR. The end result was a deeper understanding of how CVR will work in a single county election (i.e., a municipal election conducted by a county) in comparison to an election covering more than one county (i.e., a multi-jurisdictional municipal election conducted by more than one county and a statewide election). This committee created Frequently Asked Questions (FAQs) that are attached to this CCROV.

Other Issues

Some issues that were not addressed in the FAQs are set forth below:

- **Q:** Will CVR voters use the same Voter Registration Form as other voters?

A: Yes.

- **Q:** Will the CVR provisional ballot envelopes look different than other provisional ballot envelopes?

A: The CVR provisional ballot envelopes should look visibly different from other provisional ballot envelopes. Ideally, the CVR provisional ballot envelope would be a different colored envelope, however, a stamp or other marking mechanism would work in the short-term.

- **Q:** If there are satellite locations, would there need to be print-on-demand ballots and precincting abilities/access to the county's local Election Management System (EMS)?

A: Yes, otherwise, the satellite location must have all ballot styles available in addition to the county EMS to conditionally register a voter.

If a county intends to use a satellite office(s) for CVR, the county should notify the Secretary of State no later than 14 days prior to the election. The Secretary of State will post that information on the Secretary of State website.

If you have any questions regarding implementation, please contact Rachelle Delucchi at Rachelle.Delucchi@sos.ca.gov or Robbie Anderson at Robbie.Anderson@sos.ca.gov.

If you have any technical questions, please contact the VoteCal Help Desk at (888) 868-3225 or via email at VoteCalHelp@sos.ca.gov.

Frequently Asked Questions CACEO CVR Committee

General

1. What is the definition of a CVR voter?

Answer: A CVR voter is someone who registers and is issued a CVR provisional ballot E-14 through Election Day in the office of the county elections official or at a satellite location designated by the county elections official.

2. Can a polling place be a satellite location designated by the county elections official for CVR?

Answer: No.

3. Is CVR allowed at a polling place?

Answer: No. CVR voters must register and vote a CVR provisional ballot at the permanent office of the county elections official or a designated satellite office. However, pursuant to Elections Code section 14311(a), a voter who has moved from one address to another within the same county and who has not reregistered to vote at that new address may cast a vote (i.e., polling place provisional) at the polling place at which he or she is entitled to vote.

4. Should a CVR voter ever be added to the polling place official roster?

Answer: No. The CVR voter must vote a CVR provisional ballot in the office of the county elections official or at a satellite location designated by the county elections official.

5. The voter registration for a CVR voter has not been verified through VoteCal/EMS. Should the CVR voter be issued a CVR provisional ballot without verification?

Answer: Yes. The CVR provisional ballot will not be counted until the verification process is complete and all voter eligibility requirements are met.

6. Is a person allowed to take the voter registration form with them to complete and return at a later date?

Answer: Yes. If the person returns the voter registration form in person by Election Day, it will be processed and a CVR provisional ballot will be issued at that time. If the person returns the voter registration form after Election Day, the registration will be processed for future elections.

7. Can a person register by any means, including online, E-14 through Election Day at home and then come into the county elections office and request a CVR provisional ballot?

Answer: Yes. Elections Code section 2170(a) requires the CVR registrant to deliver a properly executed affidavit of registration to the county elections official. A registrant who registers online is effectively delivering the affidavit to the county elections official. As long as the county elections official has the properly executed affidavit of registration, a CVR provisional ballot can be issued.

If the person submitted the application online and it has not been processed, is pending a signature, or is otherwise not readily accessible to the county elections official when the person goes into the county elections office, the elections official may ask the person to complete a paper application in the office.

8. Can a person register online E-14 through Election Day and request a CVR provisional ballot be sent to them in the mail (similar to a voter already registered requesting a VBM ballot)?

Answer: No. The CVR voter must be issued a CVR provisional ballot in the office of the county elections official or designated satellite location on or before Election Day.

9. A person submits a registration containing a residence address that can't be immediately precincted. This scenario could include voters who do not have a permanent residence (e.g., homeless). How does the county elections official determine the correct ballot type to issue?

Answer: This scenario could occur now for a voter registering and requesting a VBM ballot at E-29 through E-15. County elections officials should already have an internal procedure established to cover this scenario. If the correct precinct can't be immediately established, the county elections official may determine the ballot type based on the

general location within the county of the voter's residence address (this assumes the voter is at the counter to question). Prior to the CVR provisional ballot being counted, the county elections official must determine the correct precinct and the CVR provisional ballot verified pursuant to Elections Code section 14310.

10. A CVR voter is currently registered at a different address in the same county or in another county. Is this a failsafe voter under the provisions of Elections Code section 14311, which allow provisional voting at a polling place or the county elections office on Election Day?

Answer: No. Any voter that registers E-14 through Election Day in the office of the elections official or satellite location is a CVR voter. A CVR voter that registers for any reason is given a CVR provisional ballot at the office of the county elections official or designated satellite location.

11. A CVR voter's record is identified in VoteCal/EMS and the record has been appropriately canceled. Should a CVR provisional ballot be issued?

Answer: Yes. If the only record on the voter is a canceled record, it is as if the voter was not registered. Any voter who has a registration in canceled status may register E-14 through Election Day at the office of the county elections official or a designated satellite location and receive a CVR provisional ballot.

12. With voter registration now being continuous E-14 through Election Day – what is the need for the 15-day cutoff for regular registrations?

Answer: The 15-day cutoff is still important for determining which voters are to be included on polling place rosters. Voters who register by the 15-day close of registration will be included on the official roster and are allowed to vote at the polls. Voters who register at the county elections office or a designated satellite location E-14 through Election Day are CVR voters and must vote a CVR provisional ballot.

13. A voter is issued a Democratic party VBM ballot at E-29 days and that ballot has an "Accepted"¹ ballot return status in VoteCal/EMS. At E-14 the voter completes a CVR changing their party to Republican in the same

¹ For purposes of this memo, when indicating that a ballot has been accepted, the term "accepted" is when a ballot is returned and is essentially ready to be opened and counted. A vote-by-mail ballot/provisional ballot is considered "accepted" when it is returned in a signed envelope and the signature is deemed valid/good. As a rule, the first ballot in and "accepted" will be counted; all subsequent ballots will be rejected.

county. This scenario could also occur when a CVR voter changes their party registration in another county. Should the elections officials retrieve the "Accepted" Democratic ballot and clear/void the "Accepted" ballot return status in VoteCal/EMS?

Answer: No. Once the voter has an "Accepted" ballot return status in any county, that ballot has been cast and cannot be retrieved. This process is consistent with voters processed at the polling place. Once the ballot has been dropped in the ballot box - the ballot cannot be retrieved.

14. A CVR voter completes a voter registration and the VoteCal/EMS indicates that the voter has been issued a Vote-by-Mail (VBM) ballot in County A. Should County B issue a CVR provisional ballot to the voter?

Answer: Yes. Many voters have permanent VBM status and these ballots are mailed as early as E-29.

15. A CVR voter has a VBM ballot return status of "Accepted" in VoteCal/EMS from County A. Should County B issue the voter a CVR provisional ballot?

Answer: County B should tell the voter that they have already voted in County A. If the voter insists – County B may issue a provisional ballot to the voter – but it will not be counted.

Elections Code section 14312 states, "this article shall be liberally construed in favor of the voter." County election officials have relied on this section to lean in favor of the voter by providing a provisional ballot and making the final determination during the official canvass. This eliminates unnecessary confrontation and reduces the potential for disenfranchising a voter. This is how poll workers have been instructed. This practice should be extended to the voters at county elections office counters or designated satellite locations for CVR provisional ballots.

16. A CVR voter has multiple CVR registrations across different counties at E-14 through Election Day. When will the older registrations be canceled?

Answer: Previous registrations are cancelled in VoteCal/EMS immediately. VoteCal/EMS only allows a single record per voter and records are updated in real time.

CVR Provisional Ballot Return

17. When should CVR provisional ballot returns be entered into VoteCal/EMS?

Answer: CVR provisional ballots should be entered into VoteCal/EMS immediately upon return by the voter.

18. A voter returns a VBM ballot from County A and a CVR provisional ballot from County B. Which ballot should be counted?

Answer: The first county with the ballot return status of "Accepted" in VoteCal/EMS will count that ballot.

Scenario 1: If the VBM ballot is returned before the voter's registration has moved from County A to B, then the VBM ballot will be marked accepted in the County A's EMS and its status sent to VoteCal. This accepted ballot then causes the CVR provisional ballot to be challenged when it is received in County B.

Scenario 2: If the VBM ballot is returned after the voter's registration has moved from County A to County B, then the VBM will be flagged by the EMS when it is processed because the voter's registration in County A is now cancelled. County A can then investigate whether the voter has already cast a ballot in County B. If not, County A can accept the VBM ballot; if a ballot has already been accepted in County B, then the VBM ballot in County A is voided and cannot be accepted in County A.

Scenario 3: Once the voter's registration has moved to County B, then County B will have all of the voter participation history and will be able to make a determination of whether or not to accept the CVR provisional ballot when it is received.

19. A voter in County A is issued and votes a VBM ballot. The voter moves to County B at E-14 and registers as a CVR voter and is issued a CVR provisional ballot. The voter insists that his/her ballot in County B be counted (wants to vote on the issues in his/her new county). Can the CVR provisional ballot in County B be counted instead of the VBM ballot in County A?

Answer: Yes - if the CVR provisional ballot in County B is entered with an "Accepted" ballot return status in VoteCal/EMS prior to the VBM ballot in County A being entered with an "Accepted" ballot return status. These ballots follow the same scenarios detailed in Question/Answer 18.

20. A voter is registered in County A and is not a VBM voter. County A generates the official roster for their polling places. The voter's name is included on the roster for County A. Subsequently the same voter registers in County B at E-6 and is issued a CVR provisional ballot. The CVR provisional ballot is returned by the voter and entered into VoteCal/EMS in County B. How will election officials ensure that the voter does not return to County A and cast a second ballot by voting at the polls?

Answer: When the voter returns the CVR provisional ballot in County B, and the return information is entered into the county's EMS, the EMS in County B will flag the returned CVR provisional ballot as challenged (red light) with a possible duplicate voting status. County A will receive a report of all poll based voters (non-VBM) who have reregistered in another county and had their registrations cancelled in County A. In this scenario, County A should establish internal procedures to remove the voter's name from the roster index at the polls whenever possible. The frequency and timing of this procedure should be determined by the county elections official.

During the canvass, County B will need to research voter activity in County A to confirm that a ballot was not cast at the polls and make the determination of whether to count the CVR provisional ballot. Once voter history is final statewide, VoteCal/EMS will identify the voters who have voted twice.

21. Under what scenarios will a county elections official be required to conduct further research in order to accept a CVR provisional ballot?

Answer:

- The voter is listed on an official roster in the same or other counties.
- The CVR provisional ballot envelope is not signed.
- The voter is not a high confident match in VoteCal.

22. Under what scenarios will a county elections official not accept a CVR provisional ballot?

Answer:

- The voter has already returned an "Accepted" VBM or CVR provisional ballot in the same or other counties.
- The voter voted at a poll in the same or other county.
- The signature on the CVR provisional envelope does not match the signature on the registration affidavit.

- The voter's record is in a pending status pursuant to California Administrative Code section 20108.25 (Deficient Registration Records) and Elections Code section 2150, which means that the registration does not contain the facts necessary to determine eligibility to vote, including name, place of residence and date of birth.
 - A provisional ballot was processed and accepted in the same or another county.
23. A voter is issued a VBM ballot in County A. This voter then registers as a CVR voter in County B and votes the CVR provisional ballot. The CVR provisional ballot in County B is accepted and counted as the registration in County A is cancelled and the unreturned VBM ballot is voided. The voter then returns to County A on Election Day, goes to the polls, surrenders the VBM ballot and votes a live ballot. What should be done in this situation?
- Answer: The voter should be referred to the District Attorney for voting twice.
24. If a CVR voter attempts to vote twice, does County A or County B make the referral for prosecution?
- Answer: The County in which the voter cast the second ballot would make the referral.
25. After the close of registration, the elections official continues to process timely registrations that are received in the office of the county elections official on or before E-15 or that are postmarked by E-15. The county elections official generates official rosters for polling places sometime between E-14 and Election Day. If the registrations for CVR voters are being processed E-14 through Election Day, how does VoteCal/EMS ensure that the names of the CVR voters are not included in the official rosters for polling places?
- Answer: The EMS can then provide a list of cancelled registrations to be removed from the official poll rosters prior to Election Day. Voters who re-register on Election Day may still be on the official roster for the poll on Election Day. These voters' CVR provisional ballots will need to be researched as indicated directly above.
26. Can a county begin processing and counting CVR provisional ballots prior to Election Day in a manner similar to how VBM ballots are processed prior to Election Day?

Answer: Yes. Current law allows for CVR provisional ballots to be processed and counted in accordance with the vote-by-mail provisions of the Elections Code commencing with section 15100, which allows for vote-by-mail ballots to be processed beginning on the 10th business day prior to the election.

27. Can cities/municipalities who conduct their own election do CVR?

Answer: No. Elections Code section 2170 specifically refers to the county elections official.

28. A permanent VBM voter is issued a VBM ballot at E-29 in a presidential primary election. The voter returns the VBM ballot and it is entered into VoteCal/EMS with an "accepted" ballot return status at E-20. The voter then reregisters (in the same county) at E-14 under a different political party and insists that he/she be allowed to cast a ballot with the new political party status. Should the county elections official attempt to retrieve the previously voted and accepted VBM ballot and have it voided so that the E-14 CVR provisional ballot can be counted?

Answer: No. The VBM ballot received at E-20 has already been cast and should not be removed from the population of received ballots. The voter may be issued a CVR provisional upon registering at E-14, but the ballot will not be counted as the voter has already cast a ballot in this election.



Guidance: Conditional Voter Registration

Issuance Date: December 16, 2016

Revision Date: January 17, 2017

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On January 1, 2017, Assembly Bill (AB) 1436, the conditional voter registration (CVR) law, goes into effect. CVR allows a person to register to vote between E-14 through Election Day and to cast a CVR provisional ballot that will only be counted if the conditional voter registration is deemed effective. Registrants may visit a county election official's permanent office through (and including) Election Day to conditionally register to vote, obtain, and cast a CVR provisional ballot. Additionally, on Election Day county election officials may also offer conditional voter registration and voting at satellite offices (a polling place is not considered a satellite office).

The California Association of Clerks and Elections Officials (CACEO) developed a CVR FAQ (frequently asked questions) document providing additional information and highlighting specific scenarios for processing conditional voter registrations and provisional ballots. Please reference the FAQ document for additional information on CVR processing.

CVR Implementation Schedule

The CACEO CVR subcommittee, VoteCal Business Process Committee (BPC), VoteCal project team, and Election Management System (EMS) vendors have collaborated on an implementation plan for CVR. The proposed approach and schedule for implementing CVR occurs over three phases:

- Phase I – January 1, 2017. Phase I includes the minimum requirements to comply with AB 1436.
- Phase II – estimated completion by June 2017. It is anticipated Phase II will include a method of determining ballot adjudication status for other counties and a validation check from the EMS to VoteCal to determine if a CVR provisional ballot should be accepted.
- Phase III – estimated completion by December 2017. It is anticipated that Phase III will include:
 - A validation check to VoteCal to determine if a ballot has been issued/accepted for a voter.
 - Preventing a ballot from being issued should a ballot already been issued/accepted for a voter.
 - Modifying the EMSs to display a message indicating a ballot has been issued/accepted for the voter.

Phase I Implementation

This document provides guidance on Phase I. Additional guidance documents for Phases II and III will be provided closer to their completion dates.

Phase I CVR VoteCal system updates include:

- Addition of a new voting method, "Conditional Voter Registration (CVR)"
- Implementation of standard CVR ballot reject reasons:
 - Voter already voted
 - No voter signature



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- Non-matching signature
 - Ballot missing from envelope
 - Envelope was incomplete and/or illegible
 - Please contact your county for further information
 - (Other codes with multiple reasons)
 - In Review
- Addition of a new message on the online registration confirmation page of the VoteCal public access website advising voters registering between E-14 and E to visit their local county elections office to obtain a CVR provisional ballot.
 - Addition of CVR provisional ballots as a voting method on the Secretary of State's My Voter Status Page
 - Addition of CVR provisional ballot status and reasons on the provisional ballot page of the VoteCal public access website.

Phase I CVR EMS updates include:

- Addition of a report that identifies all CVR voters moving in or out of the county during the CVR timeframe. This report provides a list of voters who were registered in one county on E-15; then between E-14 and E they registered and cast a CVR provisional ballot in another county. Counties should generate and provide this list to the polling places as close to the election as possible so CVR provisional ballot voters are crossed off the rosters.
- The ability to send ballot processing status information to VoteCal in near real time (immediately)
- Addition of conditional voter registration voting method for EMS users for ballot status and voter participation
- Immediately store and send to VoteCal accepted and rejected status for CVR provisional ballots
- Immediately store and send to VoteCal reject reasons for rejected CVR provisional ballots
- The ability to view ballot status, for a voter, when conducting a statewide search (DIMS)
- The ability to store ballot status information for a voter, for an election (DFM)

Guidance

Voters requesting to register and vote beginning E-14 through E can register online and walk into the county elections office or they can complete a hardcopy affidavit and bring it into the county elections office or a designated satellite location. Staff enters/reviews the conditional voter registration and determines if the voter is eligible to receive a CVR provisional ballot. If the registrant is provided with and returns the CVR provisional ballot, the CVR provisional ballot should be entered into VoteCal/EMS immediately upon its return by the voter. If the ballot is returned on Election Day, the CVR provisional ballot should be held and not processed until all counties have posted poll book history.



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Before providing a CVR provisional ballot, county staff should perform the following assessment:

	Yes	No
Is the registrant known to the local EMS?	Advise registrant of current voter status and follow local procedures	Determine if the registrant exists in VoteCal
Is the registrant known to VoteCal?	Perform list maintenance activities as necessary and verify the voter has not already returned a vote-by-mail ballot and/or does not have voter participation history prior to processing a CVR ballot (see chart below)	Provide CVR ballot.

(Review the CVR FAQ for specific scenarios documenting when it is appropriate to provide a CVR provisional ballot)

VoteCal provides an opportunity to prevent the processing of a second ballot by researching the voter’s participation history before processing the ballot. If the research reveals an accepted ballot or voter participation history, for the current election, the ballot being researched should NOT be counted. In other words, the first ballot sent up to VoteCal for a particular voter should count (“First-in wins”).

In order to facilitate accurate and timely processing of CVR provisional ballots, the BPC and the SOS recommend county elections officials:

1. Immediately process and send vote-by-mail (VBM) ballot history to VoteCal
2. Complete processing poll book history on or before E+14

Before processing and accepting a CVR provisional ballot that was cast on Election Day, verify that polling place history for any county the voter was previously registered in has been processed. County elections officials should perform the following assessment prior to processing a CVR provisional ballot:

Assessment	Yes	No
1. Are there any VoteCal messages for the voter? (Potential deceased, felon, or duplicate match or merge voter determine survivor)	Perform list maintenance activities, when complete go to #2.	Go to #2



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Assessment	Yes	No
2. Is there voter participation history? (A polling place ballot, accepted or counted vote-by-mail ballot, accepted CVR provisional ballot in another county, or accepted provisional ballot in another county for this election)	Reject the CVR provisional ballot and identify reason in EMS.	As long as the county has verified there is not polling place history, accept the CVR provisional ballot and identify CVR as the voting method.

VoteCal Contact Information

For questions or to report issues contact the SOS VoteCal Help Desk at 888-868-3225 or email VoteCalHelp@sos.ca.gov.

EXHIBIT D

Senate Bill No. 439

CHAPTER 734

An act to amend Sections 2170 and 13004 of, and to add Sections 303.4, 2550, and 13004.5 to, the Elections Code, relating to elections.

[Approved by Governor October 10, 2015. Filed with
Secretary of State October 10, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 439, Allen. Election procedures.

(1) Existing law permits a county elections official to offer conditional voter registration and provisional voting on election day at satellite offices of the county elections office, as specified.

This bill would also allow a county elections official to offer conditional voter registration and provisional voting at satellite offices other than on election day.

(2) Existing law requires each precinct board to keep a roster of voters who voted at the precinct, as specified. Existing law also requires an elections official to furnish to the precinct officers, among other things, printed copies of the index to the affidavits of registration for that precinct.

This bill would require the Secretary of State to adopt and publish electronic poll book standards and regulations governing the certification and use of electronic poll books, as defined. The bill would require that the electronic poll book include specified voter registration data. The bill would prohibit the use of an electronic poll book unless it has been certified by the secretary.

(3) Existing law requires the secretary to adopt regulations (A) governing the manufacture, finishing, quality standards, distribution, and inventory control of ballot cards and (B) requiring the biennial inspection of the manufacturing, finishing, and storage facilities involving ballot cards. Existing law requires the secretary to also approve each ballot card manufacturer or finisher before a manufacturer or finisher provides ballot cards for use in California elections.

This bill would require the secretary to adopt regulations (A) governing ballot on demand systems, as defined, and (B) for purposes of certifying ballot on demand systems. The bill, for commercial ballot manufacturers and finishers, would require the secretary to require a biennial inspection of the certified manufacturing, finishing, and storage facilities. The bill would also require the secretary to approve each ballot on demand system before the system is deployed for use in California elections. The bill would prohibit a jurisdiction from purchasing, leasing, or contracting for, and a vendor, company, or person from selling, leasing, or contracting with a

jurisdiction for, a ballot on demand system unless the ballot on demand system has been certified by the secretary.

The people of the State of California do enact as follows:

SECTION 1. Section 303.4 is added to the Elections Code, to read:

303.4. “Ballot on demand system” means a self-contained system that allows users to do both of the following on an as-needed basis:

- (a) Manufacture and finish card stock.
- (b) Finish unfinished ballot cards into ballot cards.

SEC. 2. Section 2170 of the Elections Code is amended to read:

2170. (a) “Conditional voter registration” means a properly executed affidavit of registration that is delivered by the registrant to the county elections official during the 14 days immediately preceding an election or on election day and which may be deemed effective pursuant to this article after the elections official processes the affidavit, determines the registrant’s eligibility to register, and validates the registrant’s information, as specified in subdivision (c).

(b) In addition to other methods of voter registration provided by this code, an elector who is otherwise qualified to register to vote under this code and Section 2 of Article II of the California Constitution may complete a conditional voter registration and cast a provisional ballot during the 14 days immediately preceding an election or on election day pursuant to this article.

(c) (1) A conditional voter registration shall be deemed effective if the county elections official is able to determine before or during the canvass period for the election that the registrant is eligible to register to vote and that the information provided by the registrant on the registration affidavit matches information contained in a database maintained by the Department of Motor Vehicles or the federal Social Security Administration.

(2) If the information provided by the registrant on the registration affidavit cannot be verified pursuant to paragraph (1) but the registrant is otherwise eligible to vote, the registrant shall be issued a unique identification number pursuant to Section 2150 and the conditional voter registration shall be deemed effective.

(d) The county elections official shall offer conditional voter registration and provisional voting pursuant to this article, in accordance with all of the following procedures:

(1) The elections official shall provide conditional voter registration and provisional voting pursuant to this article at all permanent offices of the county elections official in the county.

(2) The elections official shall advise registrants that a conditional voter registration will be effective only if the registrant is determined to be eligible to register to vote for the election and the information provided by the registrant on the registration affidavit is verified pursuant to subdivision (c).

(3) The elections official shall conduct the receipt and handling of each conditional voter registration and offer and receive a corresponding provisional ballot in a manner that protects the secrecy of the ballot and allows the elections official to process the registration, determine the registrant's eligibility to register, and validate the registrant's information before counting or rejecting the corresponding provisional ballot.

(4) After receiving a conditional voter registration, the elections official shall process the registration, determine the registrant's eligibility to register, and attempt to validate the registrant's information.

(5) If a conditional registration is deemed effective, the elections official shall include the corresponding provisional ballot in the official canvass.

(e) The county elections official may offer conditional voter registration and provisional voting pursuant to this article at satellite offices of the county elections office, in accordance with the procedures specified in paragraphs (2) to (5), inclusive, of subdivision (d).

SEC. 3. Section 2550 is added to the Elections Code, to read:

2550. (a) For purposes of this section, "electronic poll book" means an electronic list of registered voters that may be transported to the polling location. An electronic poll book shall contain all of the following voter registration data:

(1) Name.

(2) Address.

(3) Precinct.

(4) Party preference.

(5) Whether or not the voter has been issued a vote by mail ballot.

(6) Whether or not the vote by mail ballot has been recorded as received by the elections official.

(b) An electronic poll book shall not be used unless it has been certified by the Secretary of State.

(c) The Secretary of State shall adopt and publish electronic poll book standards and regulations governing the certification and use of electronic poll books.

(d) The Secretary of State shall not certify an electronic poll book unless it fulfills the requirements of this section and the Secretary of State's standards and regulations.

SEC. 4. Section 13004 of the Elections Code is amended to read:

13004. (a) The Secretary of State shall adopt regulations governing the manufacture, finishing, quality standards, distribution, and inventory control of ballot cards and ballot on demand systems. For commercial ballot manufacturers and finishers, the Secretary of State shall require a biennial inspection of the certified manufacturing, finishing, and storage facilities. The Secretary of State shall also approve each ballot card manufacturer, finisher, and ballot on demand system before manufacturing or finishing ballot cards, or deploying a ballot on demand system, for use in California elections.

(b) Not later than five working days before the Secretary of State begins his or her initial inspection, the ballot card manufacturer, finisher, or ballot

on demand system vendor shall disclose to the Secretary of State in writing any known flaw or defect in its ballot card manufacturing or finishing process, manufactured or finished ballot cards, or ballot on demand system that could adversely affect the future casting or tallying of votes. Once approved by the Secretary of State, the ballot card manufacturer, finisher, or ballot on demand system vendor shall notify the Secretary of State and the affected local elections officials in writing within two business days after it discovers any flaw or defect in its ballot card manufacturing or finishing process, manufactured or finished ballot cards, or ballot on demand system that could adversely affect the future casting or tallying of votes.

SEC. 5. Section 13004.5 is added to the Elections Code, to read:

13004.5. (a) A jurisdiction shall not purchase, lease, or contract for a ballot on demand system unless the ballot on demand system has been certified by the Secretary of State.

(b) A vendor, company, or person shall not sell, lease, or contract with a jurisdiction for the use of a ballot on demand system unless the ballot on demand system has been certified by the Secretary of State.

(c) This section does not preclude a jurisdiction from conducting research and development of a ballot on demand system. A ballot on demand system that is used for purposes of this subdivision shall not be used in an election conducted pursuant to this code unless the system has been certified by the Secretary of State.

(d) The Secretary of State shall promulgate regulations for purposes of certifying ballot on demand systems.

O

EXHIBIT E

Assembly Bill No. 693

CHAPTER 99

An act to amend Section 2170 of the Elections Code, relating to elections.

[Approved by Governor July 12, 2019. Filed with Secretary of
State July 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 693, Berman. Conditional voter registration: voting.

Existing law authorizes an elector who is otherwise qualified to register to vote to complete a conditional voter registration and cast a provisional ballot during the 14 days immediately preceding an election, as prescribed.

This bill would authorize an elections official to offer a nonprovisional ballot to a conditional voter registrant if the official uses the statewide voter registration database developed in compliance with the requirements of the federal Help America Vote Act of 2002 to make certain verifications before issuing the nonprovisional ballot and, if the registrant has been included on a roster for that election in that county, the official updates that roster to indicate that the voter has voted and shall not be issued another nonprovisional ballot for that election.

The people of the State of California do enact as follows:

SECTION 1. Section 2170 of the Elections Code is amended to read:

2170. (a) "Conditional voter registration" means a properly executed affidavit of registration that is delivered by the registrant to the county elections official during the 14 days immediately preceding an election or on election day and which may be deemed effective pursuant to this article after the elections official processes the affidavit, determines the registrant's eligibility to register, and validates the registrant's information, as specified in subdivision (c).

(b) In addition to other methods of voter registration provided by this code, an elector who is otherwise qualified to register to vote under this code and Section 2 of Article II of the California Constitution may complete a conditional voter registration and cast a provisional ballot, or nonprovisional ballot under subdivision (f), during the 14 days immediately preceding an election or on election day pursuant to this article.

(c) (1) A conditional voter registration shall be deemed effective if the county elections official is able to determine before or during the canvass period for the election that the registrant is eligible to register to vote and that the information provided by the registrant on the registration affidavit

matches information contained in a database maintained by the Department of Motor Vehicles or the federal Social Security Administration.

(2) If the information provided by the registrant on the registration affidavit cannot be verified pursuant to paragraph (1) but the registrant is otherwise eligible to vote, the registrant shall be issued a unique identification number pursuant to Section 2150 and the conditional voter registration shall be deemed effective.

(d) The county elections official shall offer conditional voter registration and voting pursuant to this article, in accordance with all of the following procedures:

(1) The elections official shall provide conditional voter registration and voting pursuant to this article at all permanent offices of the county elections official in the county.

(2) The elections official shall advise registrants that a conditional voter registration will be effective only if the registrant is determined to be eligible to register to vote for the election and the information provided by the registrant on the registration affidavit is verified pursuant to subdivision (c).

(3) The elections official shall conduct the receipt and handling of each conditional voter registration and offer and receive a corresponding ballot in a manner that protects the secrecy of the ballot and allows the elections official to process the registration, determine the registrant's eligibility to register, and validate the registrant's information before counting or rejecting the corresponding ballot.

(4) After receiving a conditional voter registration, the elections official shall process the registration, determine the registrant's eligibility to register, and attempt to validate the registrant's information.

(5) If a conditional registration is deemed effective, the elections official shall include the corresponding ballot in the official canvass.

(e) The county elections official may offer conditional voter registration and voting pursuant to this article at satellite offices of the county elections office, in accordance with the procedures specified in paragraphs (2) to (5), inclusive, of subdivision (d).

(f) An elections official may offer a nonprovisional ballot to a registrant if the official does both of the following:

(1) Uses the statewide voter registration database developed in compliance with the requirements of the federal Help America Vote Act of 2002 (52 U.S.C. 20901 et seq.) to do all of the following before issuing the nonprovisional ballot:

(A) Verify that the registrant is deemed eligible to register to vote.

(B) Verify that the registrant has not voted in the state in that election.

(C) Verify that the registrant has not been included on a roster for that election in another county in the state that is not conducting elections pursuant to Section 4005.

(D) Update the voter's record to indicate that the voter has voted in that election.

(2) If the registrant has been included on a roster for that election in that county, the official updates that roster to indicate that the voter has voted and shall not be issued another nonprovisional ballot for that election.

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EXHIBIT F

Senate Bill No. 72

CHAPTER 565

An act to amend Section 2170 of the Elections Code, relating to elections.

[Approved by Governor October 8, 2019. Filed with Secretary
of State October 8, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 72, Umberg. Conditional voter registration: provisional ballots.

Existing law authorizes an elector who is otherwise qualified to register to vote to complete a conditional voter registration and cast a provisional ballot during the 14 days immediately preceding an election or on election day, as prescribed. A county elections official is required to offer conditional voter registration and provisional voting at all permanent offices of the county elections official in the county in accordance with specified procedures. Existing law also permits the county elections official to offer conditional voter registration and provisional voting at satellite offices of the county elections office.

This bill would specifically require, rather than permit, the county elections official to offer conditional voter registration and provisional voting at all satellite offices of the county elections official and all polling places in the county. If the elections official is able to determine a conditionally registered voter's precinct, and the ballot for that precinct is available, the bill would require the elections official to provide the voter with a ballot for the voter's precinct. If the elections official is unable to determine the conditionally registered voter's precinct, or a ballot for the precinct is unavailable, the bill would require the elections official to provide the voter with a ballot and inform the voter that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted.

By requiring county elections officials to offer conditional voter registration and provisional voting at all satellite offices and all polling places, and by imposing additional duties on elections officials with respect to provisional ballots, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would incorporate additional changes to Section 2170 of the Elections Code proposed by AB 693 to be operative only if this bill and AB 693 are enacted and this bill is enacted last.

The people of the State of California do enact as follows:

SECTION 1. Section 2170 of the Elections Code is amended to read:

2170. (a) “Conditional voter registration” means a properly executed affidavit of registration that is delivered by the registrant to the county elections official during the 14 days immediately preceding an election or on election day and which may be deemed effective pursuant to this article after the elections official processes the affidavit, determines the registrant’s eligibility to register, and validates the registrant’s information, as specified in subdivision (c).

(b) In addition to other methods of voter registration provided by this code, an elector who is otherwise qualified to register to vote under this code and Section 2 of Article II of the California Constitution may complete a conditional voter registration and cast a provisional ballot during the 14 days immediately preceding an election or on election day pursuant to this article.

(c) (1) A conditional voter registration shall be deemed effective if the county elections official is able to determine before or during the canvass period for the election that the registrant is eligible to register to vote and that the information provided by the registrant on the registration affidavit matches information contained in a database maintained by the Department of Motor Vehicles or the federal Social Security Administration.

(2) If the information provided by the registrant on the registration affidavit cannot be verified pursuant to paragraph (1) but the registrant is otherwise eligible to vote, the registrant shall be issued a unique identification number pursuant to Section 2150 and the conditional voter registration shall be deemed effective.

(d) The county elections official shall offer conditional voter registration and provisional voting pursuant to this article, in accordance with all of the following procedures:

(1) The elections official shall provide conditional voter registration and provisional voting pursuant to this article at all permanent and satellite offices of the county elections official and all polling places in the county.

(2) The elections official shall advise registrants that a conditional voter registration will be effective only if the registrant is determined to be eligible to register to vote for the election and the information provided by the registrant on the registration affidavit is verified pursuant to subdivision (c).

(3) The elections official shall conduct the receipt and handling of each conditional voter registration and offer and receive a corresponding provisional ballot in a manner that protects the secrecy of the ballot and allows the elections official to process the registration, determine the

registrant's eligibility to register, and validate the registrant's information before counting or rejecting the corresponding provisional ballot.

(4) After receiving a conditional voter registration, the elections official shall process the registration, determine the registrant's eligibility to register, and attempt to validate the registrant's information.

(5) If a conditional registration is deemed effective, the elections official shall include the corresponding provisional ballot in the official canvass.

(e) After receiving a conditional voter registration, the elections official shall provide the voter a provisional ballot in accordance with the following procedures:

(1) If the elections office, satellite office, or polling place is equipped with an electronic poll book, or other means to determine the voter's precinct, the elections official shall provide the voter with a ballot for the voter's precinct if the ballot is available. The ballot may be cast by any means available at the elections office, satellite office, or polling place.

(2) If the elections official is unable to determine the voter's precinct, or a ballot for the voter's precinct is unavailable, the elections official shall provide the voter with a ballot and inform the voter that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted pursuant to paragraph (3) of subdivision (c) of Section 14310. The ballot may be cast by any means available at the elections office, satellite office, or polling place.

(3) Notwithstanding paragraph (2), if the elections official is able to determine the voter's precinct, but a ballot for the voter's precinct is unavailable, the elections official may inform the voter of the location of the voter's polling place. A voter described in this paragraph shall not be required to vote at the voter's polling place and may instead, at the voter's choosing, cast a ballot pursuant to paragraph (2).

(4) This subdivision does not apply to elections conducted pursuant to Section 4005 or 4007.

SEC. 1.5 Section 2170 of the Elections Code is amended to read:

2170. (a) "Conditional voter registration" means a properly executed affidavit of registration that is delivered by the registrant to the county elections official during the 14 days immediately preceding an election or on election day and which may be deemed effective pursuant to this article after the elections official processes the affidavit, determines the registrant's eligibility to register, and validates the registrant's information, as specified in subdivision (c).

(b) In addition to other methods of voter registration provided by this code, an elector who is otherwise qualified to register to vote under this code and Section 2 of Article II of the California Constitution may complete a conditional voter registration and cast a provisional ballot, or nonprovisional ballot under subdivision (f), during the 14 days immediately preceding an election or on election day pursuant to this article.

(c) (1) A conditional voter registration shall be deemed effective if the county elections official is able to determine before or during the canvass period for the election that the registrant is eligible to register to vote and

that the information provided by the registrant on the registration affidavit matches information contained in a database maintained by the Department of Motor Vehicles or the federal Social Security Administration.

(2) If the information provided by the registrant on the registration affidavit cannot be verified pursuant to paragraph (1) but the registrant is otherwise eligible to vote, the registrant shall be issued a unique identification number pursuant to Section 2150 and the conditional voter registration shall be deemed effective.

(d) The county elections official shall offer conditional voter registration and voting pursuant to this article, in accordance with all of the following procedures:

(1) The elections official shall provide conditional voter registration and voting pursuant to this article at all permanent and satellite offices of the county elections official and all polling places in the county.

(2) The elections official shall advise registrants that a conditional voter registration will be effective only if the registrant is determined to be eligible to register to vote for the election and the information provided by the registrant on the registration affidavit is verified pursuant to subdivision (c).

(3) The elections official shall conduct the receipt and handling of each conditional voter registration and offer and receive a corresponding ballot in a manner that protects the secrecy of the ballot and allows the elections official to process the registration, determine the registrant's eligibility to register, and validate the registrant's information before counting or rejecting the corresponding ballot.

(4) After receiving a conditional voter registration, the elections official shall process the registration, determine the registrant's eligibility to register, and attempt to validate the registrant's information.

(5) If a conditional registration is deemed effective, the elections official shall include the corresponding ballot in the official canvass.

(e) After receiving a conditional voter registration, the elections official shall provide a provisional ballot in accordance with the following procedures:

(1) If the elections office, satellite office, or polling place is equipped with an electronic poll book, or other means to determine the voter's precinct, the elections official shall provide the voter with a ballot for the voter's precinct if the ballot is available. The ballot may be cast by any means available at the elections office, satellite office, or polling place.

(2) If the elections official is unable to determine the voter's precinct, or a ballot for the voter's precinct is unavailable, the elections official shall provide the voter with a ballot and inform the voter that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted pursuant to paragraph (3) of subdivision (c) of Section 14310. The ballot may be cast by any means available at the elections office, satellite office, or polling place.

(3) Notwithstanding paragraph (2), if the elections official is able to determine the voter's precinct, but a ballot for the voter's precinct is

unavailable, the elections official may inform the voter of the location of the voter’s polling place. A voter described in this paragraph shall not be required to vote at the voter’s polling place and may instead, at the voter’s choosing, cast a ballot pursuant to paragraph (2).

(4) This subdivision does not apply to elections conducted pursuant to Section 4005 or 4007.

(f) An elections official may offer a nonprovisional ballot to a registrant if the official does both of the following:

(1) Uses the statewide voter registration database developed in compliance with the requirements of the federal Help America Vote Act of 2002 (52 U.S.C. 20901 et seq.) to do all of the following before issuing the nonprovisional ballot:

- (A) Verify that the registrant is deemed eligible to register to vote.
- (B) Verify that the registrant has not voted in the state in that election.
- (C) Verify that the registrant has not been included on a roster for that election in another county in the state that is not conducting elections pursuant to Section 4005.

(D) Update the voter’s record to indicate that the voter has voted in that election.

(2) If the registrant has been included on a roster for that election in that county, the official updates that roster to indicate that the voter has voted and shall not be issued another nonprovisional ballot for that election.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 2170 of the Elections Code proposed by both this bill and AB 693. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 2170 of the Elections Code, and (3) this bill is enacted after AB 693, in which case Section 1 of this bill shall not become operative.

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EXHIBIT G



ALEX PADILLA | SECRETARY OF STATE | STATE OF CALIFORNIA
ELECTIONS DIVISION

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November 20, 2019

County Clerk/Registrar of Voters (CC/ROV) Memorandum #19125

TO: All County Clerks/Registrars of Voters

FROM: /s/ Rachelle C. Delucchi
Elections Counsel

RE: Voter Registration: Conditional Voter Registration Statutory Changes

This memorandum will summarize the Senate Bill 72 changes to Conditional Voter Registration (CVR) and Elections Code section 2170, as well as offer information that can be used throughout the CVR period at permanent and satellite offices and polling locations, touch on “best practices,” and provide important reminders regarding ballot and provisional ballot envelope supplies.

Changes to Elections Code Section 2170

Senate Bill (SB) 72 (Chapter 565, Statutes of 2019) takes effect on January 1, 2020, and amends Elections Code section 2170 to require county elections officials to offer CVR and CVR provisional voting at all permanent and satellite county elections offices and all polling places in the county. (Elec. Code, § 2170(d)(1).)

SB 72 also amends the current process of CVR provisional voting, as follows:

- If the county elections official **can** determine a CVR voter’s precinct, and the ballot for that precinct is:
 - Available - the county elections official shall provide the voter with a ballot for the voter’s precinct. (Elec. Code, § 2170(e)(1).)
 - Not available - the county elections official may inform the voter of the location of their polling place. (Elec. Code, § 2170(e)(3).)
- If the county elections official **cannot** determine the CVR voter’s precinct -OR- the ballot for the voter’s precinct is unavailable, the county elections official shall:
 - Provide the CVR voter with the ballot that is available at the precinct, and
 - Inform the voter that only the votes for the candidates and measures on which

the voter would be entitled to vote in the voter's assigned precinct may be counted. (Elec. Code, § 2170(e)(2).)

SB 72 also allows county elections officials to offer nonprovisional voting, known as "Instant CVR," at polling locations if the county elections official:

- uses the statewide voter registration system and
 - can verify that the CVR voter is 1) eligible to register, 2) has not voted in that election, and 3) has not been included on a roster for that election in a non-Voter's Choice Act county, and
 - can update the voter's record to indicate that the voter has voted in that election; and
- updates the roster to indicate that the voter has voted and shall not be issued another nonprovisional ballot for that election, if the CVR voter appears on county's roster for that election. (Elec. Code, § 2170(f).)

The text of SB 72 can be found at:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB72.

E-14 through E-1: CVR required at all permanent and satellite offices and all vote centers

During this time period, CVR must be offered at all permanent and satellite county elections offices and all vote centers.

Each of these locations must have: 1) the capability to determine a CVR voter's precinct and 2) access to all the precinct ballots in the county.

CVR provisional voting implementation process at these locations:

- Provide the individual a voter registration application.
- Once the voter completes the application, the county elections official determines the CVR voter's precinct.
- Provide the CVR voter a ballot for the voter's precinct.
- Voter places the voted ballot in a CVR provisional ballot envelope.

"Instant CVR"/nonprovisional voting implementation process at these locations:

- Provide the individual a voter registration application.
- Once the voter completes the application, the county elections official must verify that the CVR voter:
 - is eligible to register,
 - has not voted in that election, and
 - has not been included on a roster for that election in a non-Voter's Choice Act county.
- Determine the CVR voter's precinct.
- Provide the CVR voter a ballot for the voter's precinct, unless there is a red or yellow light for issuing and/or counting ballots as described in [VoteCal Guidance: Ballot Processing](#) (issued May 7, 2018).
 - If a red or yellow light is indicated, the CVR voter must vote provisionally/ place their voted ballot in a CVR provisional ballot envelope.
- Voter to place voted ballot into ballot box (CVR provisional ballot envelope is not used).
- Immediately upon ballot issuance, update the voter's record to indicate that the voter has voted in that election; ensure this information is sent to VoteCal in near real time.
- If the CVR voter appears on the county's roster for that election (in a non-Voter's Choice Act county), update the roster to indicate that the voter has voted and shall not be issued another nonprovisional ballot for that election.

Election Day: CVR required at all permanent and satellite offices, all vote centers, and all polling places

In addition to CVR being offered at all permanent and satellite county elections offices and all vote centers, CVR must be offered at all polling locations on Election Day.

Election Day CVR at all permanent and satellite county elections offices and all vote centers: see the above guidance.

Election Day "Instant CVR" at a polling location: see the above guidance.

For all other polling locations on Election Day, CVR can be implemented as follows:

If the polling location has technology to determine the CVR voter's precinct and:

Ballot for that precinct is available:

- Provide the individual a voter registration application.
- Once the voter completes the application, the county elections official determines the CVR voter's precinct.
 - The Secretary of State recommends having a minimum of two workers at the polling place who have credentials to access the technology that can determine a CVR voter's precinct in order to ensure adequate coverage.
- Provide the CVR voter a ballot for the voter's precinct.
 - The Secretary of State recommends having a minimum of two workers at the polling place who have access to the ballots for all the precincts in the county to ensure adequate coverage.
 - If access to all precinct ballots within the county is through the use of an electronic ballot marking device, poll workers should be made aware that a voter might refuse to use that voting option. If so, the CVR voter should be:
 - informed of the location of their correct polling place where the ballot for their precinct is available, or
 - given a ballot that is available at the precinct with information that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted.
- Voter places the voted ballot in a CVR provisional ballot envelope.

Ballot for that precinct is NOT available:

- Inform the voter of the location of their correct polling place and their option to vote at the correct polling place or at their current location.
- If the individual does not wish to go to their polling place, provide the individual a voter registration application.

- Once the voter completes the application, the county elections official determines the CVR voter's precinct.
 - The Secretary of State recommends having a minimum of two workers at the polling place who have credentials to access the technology that can determine a CVR voter's precinct.
- Give the CVR voter:
 - a ballot that is available at the precinct, and
 - inform the voter that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted.
- Voter places the voted ballot in a CVR provisional ballot envelope.

If polling location does NOT have technology to determine the CVR voter's precinct -OR- the ballot for the voter's precinct is NOT available:

- If possible, inform the individual of the location of their correct polling place where the ballot for their precinct is available, and their option to vote at the correct polling place or at their current location.
- If the individual does not wish to go to their polling place (or if the polling location does not have the technology to determine the CVR's precinct), provide the individual a voter registration application.
 - Give the CVR voter:
 - a ballot that is available at the precinct, and
 - information that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted.
 - Voter places the voted ballot in a CVR provisional ballot envelope.

Possible Messaging at Polling Locations to Explain CVR

If your county is unable to provide a CVR voter with the ballot for their precinct and/or cannot determine the voter's precinct, the Secretary of State recommends the following be used as messaging and/or signage at your polling locations:

FORGOT TO REGISTER TO VOTE OR UPDATE YOUR REGISTRATION?

No problem! If you are not registered to vote or if you need to update your voter registration, you can register to vote and vote a ballot that is available at this polling location. This is known as conditional voter registration.

The ballot you will be given might not be the exact ballot that you are entitled to vote. It may have different candidates and ballot measures that you are not eligible to vote on.

Once it is determined that you are eligible to register to vote, our office will count only the votes for the candidates and measures that you were entitled to vote on.

Your other option is to visit your assigned polling place for a ballot that will include all the candidates and ballot measures you are eligible to vote on.

In order to find out if your ballot was counted, call (____) ____ or visit our website at: _____ or the Secretary of State's website at: www.vote.ca.gov.

Poll Worker Training Standards

The Secretary of State's office is in the process of updating the Poll Worker Training Standards to reflect, among other things, the SB 72 changes to CVR. When that publication has been fully updated, a memorandum will be issued.

Best Practices

The Secretary of State's office worked in conjunction with CACEO's Line Busting Committee (LBC), which described their purpose as: creating best practices, findings, and workflow to help mitigate voter lines on Election Day.

In general, the LBC suggests three strategies in order to address long lines at vote centers and polling places:

- Uniform messaging throughout the state and county on flyers, direct contact mailings, social media, advertising campaigns, and at trainings and outreach events;
- Line monitors/greeters with established roles and expectations to determine the voters' needs upon entering the polling location and addressing those needs as early as possible; and
- Workflows for voters with different needs (see attached flowchart as an example of a

possible workflow).

We anticipate that the LBC will be finalizing their findings and make them available on the CACEO's website. Our office encourages all counties to review the committee's findings and use them to create and implement messaging and workflows that will best suit each individual county and their voters.

Survey

In the next few weeks, the Secretary of State's office will issue a survey to all county elections officials inquiring as to how each county plans to implement the SB 72/Elections Code section 2170 changes to CVR at their permanent and satellite offices and all polling locations.

Future Presentations/Webinars

Once counties have contemplated their implementation of SB 72/Elections Code section 2170 changes to CVR, and responded to the survey, the Secretary of State's office will evaluate and determine where additional training may be needed. Our office anticipates conducting presentations and/or webinars to provide targeted support for the different varieties of CVR implementation.

Reminder: Ballot and Provisional Ballot Envelope Supplies

The increased public interest surrounding the March 3, 2020, Presidential Primary Election coupled with the availability of CVR at every polling location will significantly increase voter turnout throughout the state.

The Secretary of State's office urges counties to plan accordingly to ensure that each polling location has a sufficient number of ballots, including any required multilingual ballots and other voting materials available on Election Day. Elections Code section 14102 requires counties to provide ballots equal in number to at least 75 percent of registered voters in the precinct. However, with CVR to be offered at every polling location, we encourage counties to provide more than the minimum 75 percent in order to ensure each polling location has a sufficient number of ballots on hand to manage the anticipated increase in turnout.

Additionally, the Secretary of State's office recommends that counties provide each satellite office and polling location with a sufficient supply of provisional ballot envelopes, CVR provisional ballot envelopes, and voter registration cards.

If you have any questions, please contact me at rdelucch@sos.ca.gov or at (916) 695-1565.

Attachment

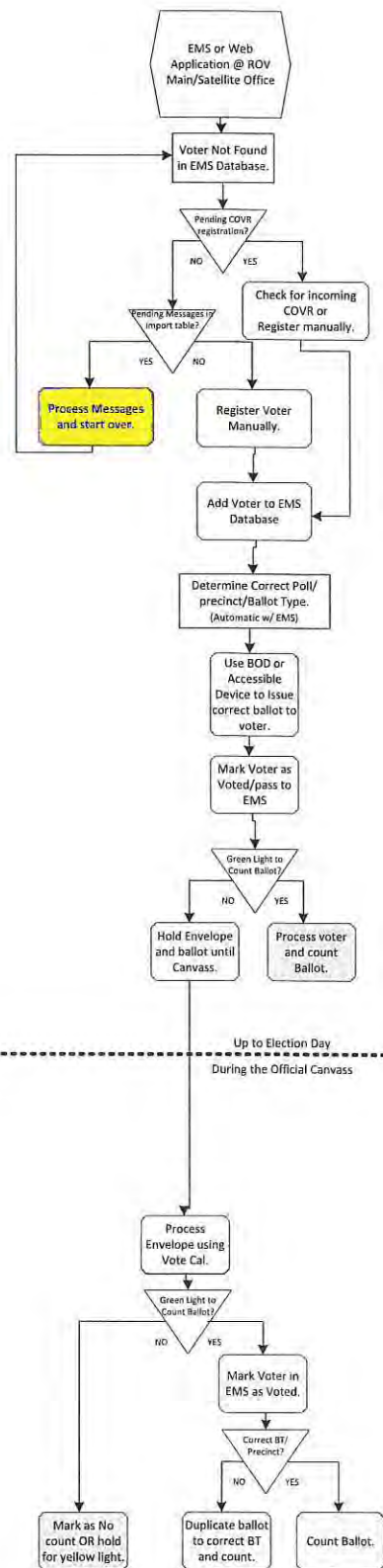
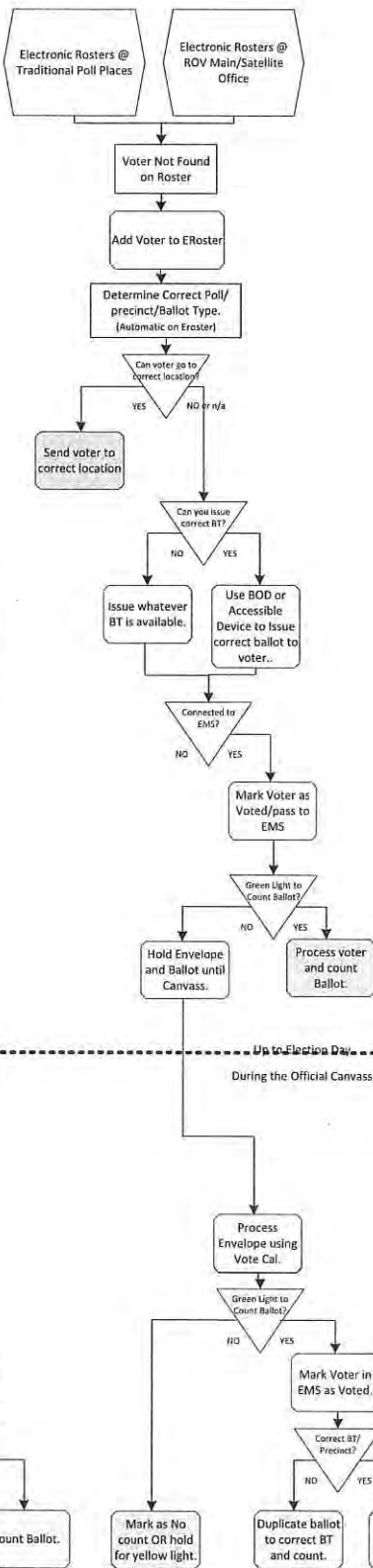
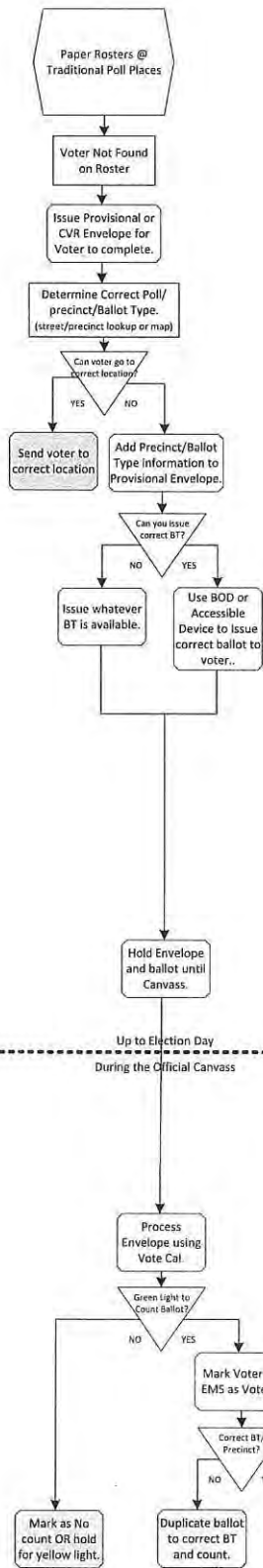


EXHIBIT H



California

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SB-1371 Maintenance of the codes. (2019-2020)

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Date Published: 10/05/2020 09:00 PM

Senate Bill No. 1371

CHAPTER 370

An act to amend Sections 107, 152, 740, 805.8, 4052.02, 5552.1, 5616, 6400, 6787, 7071.17, 7169, 8030.6, 9882.6, 11267, 19912, 19914, 24045.78, 25503.32, 25622, 25668, and 26001 of the Business and Professions Code, to amend Sections 52.6, 53.5, 1102.2, 1102.6, 1102.6f, 1103.1, 1459.5, 1798.82, 1798.140, 1798.145, and 1946.2 of the Civil Code, to amend Sections 336a, 430.10, 699.520, and 1002.5 of, and to amend and renumber Section 349³/₄ of, the Code of Civil Procedure, to amend Sections 7211, 9211, 12351, and 15911.21 of the Corporations Code, to amend Sections 212.1, 215.5, 231.6, 8280, 8280.1, 8430.5, 8434.6, 8439.5, 8801, 14002, 17070.15, 17070.51, 17219, 38134, 41207.47, 41580, 42238.02, 44212, 44253.10, 44328, 44468, 45113, 45500, 46600, 47604.33, 47605, 47605.1, 47605.3, 47605.7, 47606, 47606.5, 47607, 47607.3, 47607.8, 47611.5, 47612.7, 48600, 48850, 49414.1, 51220, 51226.7, 51747.3, 52064, 52064.5 52065, 56836.40, 56477, 60630, 60641, 66014.2, 66022.5, 66025.9, 66281.7, 68120, 69617, 76004, 78042, 78300, 78401, 79020, 84750.4,

EXHIBIT H

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87489, and 94801.5 of the Education Code, to amend Sections 2170, 3019, 3019.5, 6000.2, 6360, 6581, 6781, and 15620 of the Elections Code, to amend Sections 1010.5 and 1038.2 of the Evidence Code, to amend Sections 3011 and 17306.1 of the Family Code, to amend Section 18027 of the Financial Code, to amend Section 2210 of the Fish and Game Code, to amend Sections 4101.3, 6046, 9221, and 29302 of the Food and Agricultural Code, to amend Sections 6253.21, 6254.35, 6259, 7603, 8586.7, 8592.20, 8654.2, 8654.3, 8654.5, 8654.7, 8654.9, 8654.10, 8669.3, 12832, 12835, 12926, 12950.1, 13070.5, 13293.5, 13957, 14463, 15600, 15820.926, 15820.946, 17581.6, 17581.7, 20683.9, 20683.91, 20825.15, 22874.9, 22944.5, 27361.4, 31631.5, 54221, 54230.5, 54237, 64502, 64623, 64625, 64626, 64636, 64650, 64652, 65039, 65302, 65583.1, 65583.2, 65584.08, 65585, 65651, 65852.2, 65913.4, 66000.5, 66013, 66300, 66452.26, 66452.27, 68085, 68651, 69614.3, 100002, 100046, 100509, and to amend the heading of Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of, and to amend and renumber the heading of Article 12 (commencing with Section 53170) of Chapter 1 of Part 1 of Division 2 of Title 5, and to amend and renumber the heading of Title 7.9 (commencing with Section 68055) of, the Government Code, to amend Sections 1206, 1348.95, 1358.92, 1368.015, 1385.045, 1502.35, 1596.86, 1797.223, 25160, 25205.15, 39037.5, 39960, 40100.6.5, 50406, 50515.02, 50675.14, 50952, 53594, 116378, 116765, 116770, 120372, 120372.05, and 124241 of the Health and Safety Code, to amend Sections 1067.11, 1192, 10127.19, 10176.11, 10181.3, 10192.92, and 10235.45 of the Insurance Code, to amend Sections 220, 1197.1, 2750.3, 6709, and 9040 of the Labor Code, to amend Sections 55 and 412.5 of the Military and Veterans Code, to amend Sections 647, 4011.3, and 6102 of the Penal Code, to amend Section 15004 of the Probate Code, to amend Section 3502 of the Public Contract Code, to amend Sections 3201, 3202, 3205.7, 4592.5, 4630.1, 21080.27, 25402, 26011.8, 42971, 71205.3, and 75241 of the Public Resources Code, to amend Sections 216, 365.3, 387, 399.13, 399.19, 454.5, 714, 783, 854, 2892.1, 2898, 8386, 8386.3, and 105020 of the Public Utilities Code, to amend Sections 214, 4675, and 41137 of, and to amend and renumber the heading of Article 25 (commencing with Section 18910) of Chapter 3 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, to amend Section 1095 of the Unemployment Insurance Code, to amend Sections 2810.1, 3065.2, 11202, and 34500 of the Vehicle Code, to amend Section 13177.5 of the Water Code, to amend Sections 148.2, 5555, 5886, 11004,

11374, 11450, 11462.015, 11462.04, 11463, 12304.4, 12306.1, 12306.16, 12309.1, 13279, 13280, 14005.18, 14182.17, 14197.7, 14413, 15204.35, 16521.8, 17600.50, 18285, and 18951 of the Welfare and Institutions Code, to amend Section 5.7 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), to amend Section 8 of the Santa Clarita Valley Water Agency Act (Chapter 833 of the Statutes of 2017), to amend Section 69 of Chapter 51 of the Statutes of 2019, to amend Section 2 of Chapter 193 of the Statutes of 2019, to amend Section 2 of Chapter 194 of the Statutes of 2019, to amend Sections 5, 7, 8, 9, and 11 of Chapter 752 of the Statutes of 2019, and to amend Section 1 of Chapter 819 of the Statutes of 2019, relating to the maintenance of the codes.

[Approved by Governor September 30, 2020. Filed with Secretary of State
September 30, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1371, Committee on Judiciary. Maintenance of the codes.

Existing law directs the Legislative Counsel to advise the Legislature from time to time as to legislation necessary to maintain the codes.

This bill would make nonsubstantive changes in various provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 107 of the Business and Professions Code is amended to read:

107. Pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution, each board may appoint a person exempt from civil service, who shall be designated as an executive officer unless the licensing act of the particular board designates the person as a registrar, and may fix that person's salary, with the approval of the Department of Human Resources pursuant to Section 19825 of the Government Code.

(4) This subdivision shall not be construed as preventing the bureau from revoking an institution's registration on any other grounds specified in this chapter. This section shall not be construed as prohibiting or impairing the ability of an institution registered pursuant to this section or eligible to register pursuant to this section from applying to be an approved institution pursuant to this chapter.

(c) This section does not apply to nonpublic higher education institutions that grant undergraduate degrees, graduate degrees, or both, that are formed as nonprofit corporations, and that are accredited by an agency recognized by the United States Department of Education.

(d) An institution described in subdivision (a) that fails to comply with this section is not authorized to operate in this state. Any institution whose registration is denied or revoked is authorized to reapply for registration after 12 months have elapsed from the date of the denial or revocation of registration.

(e) A registration with the bureau pursuant to this section is valid for five years.

(f) The bureau shall develop through emergency regulations effective on and after July 1, 2021, a registration form. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code. These emergency regulations shall become law through the regular rulemaking process by January 1, 2022.

(g) The bureau shall disclose on its internet website a list of institutions registered pursuant to this section through reasonable means and disclose a designated email address for California residents to send a complaint to the bureau about an institution registered pursuant to this section. Complaints received through this email address shall be investigated in the same manner as complaints received by the bureau for institutions approved to operate pursuant to this chapter, but bureau enforcement in response to such complaints against institutions registered pursuant to this section shall be governed by subdivision (b).

(h) This section shall become operative on July 1, 2022.

SEC. 105. Section 2170 of the Elections Code is amended to read:

2170. (a) "Conditional voter registration" means a properly executed affidavit of registration that is delivered by the registrant to the county elections official during the 14 days immediately preceding an election or on election day and which may be deemed effective pursuant to this article after the elections official processes the affidavit,

determines the registrant's eligibility to register, and validates the registrant's information, as specified in subdivision (c).

(b) In addition to other methods of voter registration provided by this code, an elector who is otherwise qualified to register to vote under this code and Section 2 of Article II of the California Constitution may complete a conditional voter registration and cast a provisional ballot, or nonprovisional ballot under subdivision (f), during the 14 days immediately preceding an election or on election day pursuant to this article.

(c) (1) A conditional voter registration shall be deemed effective if the county elections official is able to determine before or during the canvass period for the election that the registrant is eligible to register to vote and that the information provided by the registrant on the registration affidavit matches information contained in a database maintained by the Department of Motor Vehicles or the federal Social Security Administration.

(2) If the information provided by the registrant on the registration affidavit cannot be verified pursuant to paragraph (1) but the registrant is otherwise eligible to vote, the registrant shall be issued a unique identification number pursuant to Section 2150 and the conditional voter registration shall be deemed effective.

(d) The county elections official shall offer conditional voter registration and voting pursuant to this article, in accordance with all of the following procedures:

(1) The elections official shall provide conditional voter registration and voting pursuant to this article at all permanent and satellite offices of the county elections official and all polling places in the county.

(2) The elections official shall advise registrants that a conditional voter registration will be effective only if the registrant is determined to be eligible to register to vote for the election and the information provided by the registrant on the registration affidavit is verified pursuant to subdivision (c).

(3) The elections official shall conduct the receipt and handling of each conditional voter registration and offer and receive a corresponding ballot in a manner that protects the secrecy of the ballot and allows the elections official to process the registration, determine the registrant's eligibility to register, and validate the registrant's information before counting or rejecting the corresponding ballot.

(4) After receiving a conditional voter registration, the elections official shall process the registration, determine the registrant's eligibility to register, and attempt to validate the registrant's information.

(5) If a conditional registration is deemed effective, the elections official shall include the corresponding ballot in the official canvass.

(e) After receiving a conditional voter registration, the elections official shall provide a provisional ballot in accordance with the following procedures:

(1) If the elections office, satellite office, or polling place is equipped with an electronic poll book, or other means to determine the voter's precinct, the elections official shall provide the voter with a ballot for the voter's precinct if the ballot is available. The ballot may be cast by any means available at the elections office, satellite office, or polling place.

(2) If the elections official is unable to determine the voter's precinct, or a ballot for the voter's precinct is unavailable, the elections official shall provide the voter with a ballot and inform the voter that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted pursuant to paragraph (3) of subdivision (c) of Section 14310. The ballot may be cast by any means available at the elections office, satellite office, or polling place.

(3) Notwithstanding paragraph (2), if the elections official is able to determine the voter's precinct, but a ballot for the voter's precinct is unavailable, the elections official may inform the voter of the location of the voter's polling place. A voter described in this paragraph shall not be required to vote at the voter's polling place and may instead, at the voter's choosing, cast a ballot pursuant to paragraph (2).

(4) This subdivision does not apply to elections conducted pursuant to Section 4005 or 4007.

(f) An elections official may offer a nonprovisional ballot to a registrant if the official does both of the following:

(1) Uses the statewide voter registration database developed in compliance with the requirements of the federal Help America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.) to do all of the following before issuing the nonprovisional ballot:

(A) Verify that the registrant is deemed eligible to register to vote.

(B) Verify that the registrant has not voted in the state in that election.

(C) Verify that the registrant has not been included on a roster for that election in another county in the state that is not conducting elections pursuant to Section 4005.

(D) Update the voter's record to indicate that the voter has voted in that election.

(2) If the registrant has been included on a roster for that election in that county, the official updates that roster to indicate that the voter has voted and shall not be issued another nonprovisional ballot for that election.

SEC. 106. Section 3019 of the Elections Code is amended to read:

3019. (a) (1) Upon receiving a vote by mail ballot, the elections official shall compare the signature on the identification envelope with either of the following to determine if the signatures compare:

(A) The signature appearing on the voter's affidavit of registration or any previous affidavit of registration of the voter.

(B) The signature appearing on a form issued by an elections official that contains the voter's signature and that is part of the voter's registration record.

(2) In comparing signatures pursuant to this section, the elections official may use facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with the law.

(3) In comparing signatures pursuant to this section, an elections official may use signature verification technology. If signature verification technology determines that the signatures do not compare, the elections official shall visually examine the signatures and verify that the signatures do not compare.

(4) The variation of a signature caused by the substitution of initials for the first or middle name, or both, is not grounds for the elections official to determine that the signatures do not compare.

(b) If upon conducting the comparison of signatures pursuant to subdivision (a) the elections official determines that the signatures compare, the elections official shall deposit the ballot, still in the identification envelope, in a ballot container in the elections official's office.

(c) If upon conducting the comparison of signatures pursuant to subdivision (a) the elections official determines that the signatures do not compare, the identification envelope shall not be opened and the ballot shall not be counted. The elections official shall write the cause of the rejection on the face of the identification envelope only after completing the procedures described in subdivision (d).

(d) (1) A minimum of eight days prior to the certification of the election, the elections official shall provide notice to all voters identified pursuant to subdivision (c) of the opportunity to verify their signatures no later than 5 p.m. two days prior to the certification of the election.

EXHIBIT I

[West's Annotated California Codes](#)

[Elections Code \(Refs & Annos\)](#)

[Division 2. Voters \(Refs & Annos\)](#)

[Chapter 2. Registration \(Refs & Annos\)](#)

[Article 4.5. Conditional Voter Registration \(Refs & Annos\)](#)

West's Ann.Cal.Elec.Code § 2170

§ 2170. Conditional voter registration; procedures; nonprovisional ballots

Effective: January 1, 2021

[Currentness](#)

(a) "Conditional voter registration" means a properly executed affidavit of registration that is delivered by the registrant to the county elections official during the 14 days immediately preceding an election or on election day and which may be deemed effective pursuant to this article after the elections official processes the affidavit, determines the registrant's eligibility to register, and validates the registrant's information, as specified in subdivision (c).

(b) In addition to other methods of voter registration provided by this code, an elector who is otherwise qualified to register to vote under this code and [Section 2 of Article II of the California Constitution](#) may complete a conditional voter registration and cast a provisional ballot, or nonprovisional ballot under subdivision (f), during the 14 days immediately preceding an election or on election day pursuant to this article.

(c)(1) A conditional voter registration shall be deemed effective if the county elections official is able to determine before or during the canvass period for the election that the registrant is eligible to register to vote and that the information provided by the registrant on the registration affidavit matches information contained in a database maintained by the Department of Motor Vehicles or the federal Social Security Administration.

(2) If the information provided by the registrant on the registration affidavit cannot be verified pursuant to paragraph (1) but the registrant is otherwise eligible to vote, the registrant shall be issued a unique identification number pursuant to [Section 2150](#) and the conditional voter registration shall be deemed effective.

(d) The county elections official shall offer conditional voter registration and voting pursuant to this article, in accordance with all of the following procedures:

(1) The elections official shall provide conditional voter registration and voting pursuant to this article at all permanent and satellite offices of the county elections official and all polling places in the county.

(2) The elections official shall advise registrants that a conditional voter registration will be effective only if the registrant is determined to be eligible to register to vote for the election and the information provided by the registrant on the registration affidavit is verified pursuant to subdivision (c).

(3) The elections official shall conduct the receipt and handling of each conditional voter registration and offer and receive a corresponding ballot in a manner that protects the secrecy of the ballot and allows the elections official to process the registration, determine the registrant's eligibility to register, and validate the registrant's information before counting or rejecting the corresponding ballot.

(4) After receiving a conditional voter registration, the elections official shall process the registration, determine the registrant's eligibility to register, and attempt to validate the registrant's information.

(5) If a conditional registration is deemed effective, the elections official shall include the corresponding ballot in the official canvass.

(e) After receiving a conditional voter registration, the elections official shall provide a provisional ballot in accordance with the following procedures:

(1) If the elections office, satellite office, or polling place is equipped with an electronic poll book, or other means to determine the voter's precinct, the elections official shall provide the voter with a ballot for the voter's precinct if the ballot is available. The ballot may be cast by any means available at the elections office, satellite office, or polling place.

(2) If the elections official is unable to determine the voter's precinct, or a ballot for the voter's precinct is unavailable, the elections official shall provide the voter with a ballot and inform the voter that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted pursuant to [paragraph \(3\) of subdivision \(c\) of Section 14310](#). The ballot may be cast by any means available at the elections office, satellite office, or polling place.

(3) Notwithstanding paragraph (2), if the elections official is able to determine the voter's precinct, but a ballot for the voter's precinct is unavailable, the elections official may inform the voter of the location of the voter's polling place. A voter described in this paragraph shall not be required to vote at the voter's polling place and may instead, at the voter's choosing, cast a ballot pursuant to paragraph (2).

(4) This subdivision does not apply to elections conducted pursuant to [Section 4005](#) or [4007](#).

(f) An elections official may offer a nonprovisional ballot to a registrant if the official does both of the following:

(1) Uses the statewide voter registration database developed in compliance with the requirements of the federal Help America Vote Act of 2002 ([52 U.S.C. Sec. 20901 et seq.](#)) to do all of the following before issuing the nonprovisional ballot:

(A) Verify that the registrant is deemed eligible to register to vote.

(B) Verify that the registrant has not voted in the state in that election.

(C) Verify that the registrant has not been included on a roster for that election in another county in the state that is not conducting elections pursuant to [Section 4005](#).

(D) Update the voter's record to indicate that the voter has voted in that election.

(2) If the registrant has been included on a roster for that election in that county, the official updates that roster to indicate that the voter has voted and shall not be issued another nonprovisional ballot for that election.

Credits

(Added by [Stats.2012, c. 497 \(A.B.1436\)](#), § 2, operative Jan. 1, 2017. Amended by [Stats.2015, c. 734 \(S.B.439\)](#), § 2, eff. Jan. 1, 2016, operative Jan. 1, 2017; [Stats.2019, c. 99 \(A.B.693\)](#), § 1, eff. Jan. 1, 2020; [Stats.2019, c. 565 \(S.B.72\)](#), § 1.5, eff. Jan. 1, 2020; [Stats.2020, c. 370 \(S.B.1371\)](#), § 105, eff. Jan. 1, 2021.)

West's Ann. Cal. Elec. Code § 2170, CA ELEC § 2170
Current with urgency legislation through Ch. 2 of 2021 Reg.Sess

End of Document

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EXHIBIT J

**SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**
Senator Thomas Umberg, Chair
2019 - 2020 Regular

Bill No:	SB 72	Hearing Date:	4/2/19
Author:	Umberg		
Version:	3/25/19		
Urgency:	No	Fiscal:	Yes
Consultant:	Darren Chesin		

Subject: Conditional voter registration: provisional ballots

DIGEST

This bill requires county elections officials to offer conditional voter registration and provisional voting (same day registration) at all polling places

ANALYSIS

Existing law:

- 1) Provides that a properly executed affidavit of voter registration shall be deemed effective upon receipt by the elections official if postmarked or received on or before the 15th day prior to an election to be held in the registrant's precinct.
- 2) Permits a county elections official to use a provisional ballot envelope as an affidavit of registration if the envelope sets forth the facts necessary to establish the voter as an elector and contains all of the information required to be on an affidavit of registration pursuant to existing law.
- 3) Provides for conditional voter registration whereby a qualified person may register to vote after the 15th day prior to an election or on Election Day, and cast a provisional ballot which will be counted if the conditional voter registration is deemed effective.
- 4) Requires county elections officials to offer conditional voter registration and provisional voting at its permanent offices, and permits them to offer this type of registration and voting at satellite offices.
- 5) Provides that a conditional voter registration shall be deemed effective if the county elections official is able to determine before or during the canvass period for the election that the registrant is eligible to register to vote and that the information provided by the registrant on the registration affidavit matches information contained in a database maintained by the Department of Motor Vehicles or the federal Social Security Administration. If the information provided by the registrant on the registration affidavit cannot be verified this way, but the registrant is otherwise eligible to vote, the registrant shall be issued a unique identification number, as specified, and the conditional voter registration shall be deemed effective.

- 6) Establishes the Voter's Choice Act, which permits counties a new way to administer elections whereby they must send every registered voter a ballot, establish vote centers open before Election Day, and provide ballot drop-off locations, as specified. Counties participating in the Voter's Choice Act must offer conditional voter registration and provisional voting at all vote centers.
- 7) Provides, pursuant to Secretary of State (SOS) regulations, that conditional voter registration and conditional provisional voting may be offered at a polling place only if the county elections official has designated that specific polling place as a satellite office. Those locations must have the means to provide the voter with the ballot for the proper precinct in which the voter is entitled to vote.
- 8) Provides that the provisional ballot of a voter who is otherwise entitled to vote shall not be rejected because the voter did not cast his or her ballot in the precinct to which they were assigned by the elections official. If the ballot cast by the voter contains the same candidates and measures on which the voter would have been entitled to vote in their assigned precinct, the elections official shall count the votes for the entire ballot. If the ballot cast by the voter contains candidates or measures on which the voter would not have been entitled to vote in their assigned precinct, the elections official shall count only the votes for the candidates and measures on which the voter was entitled to vote in their assigned precinct.
- 9) Requires elections officials to cancel any duplicate voter registrations that may exist as a result of a conditional registration and requires them to immediately notify both the district attorney and the SOS if it appears the registrant may have committed fraud.
- 10) Establishes criteria for the certification and use of ballot on demand printing systems and electronic poll books.
- 11) Defines "ballot on demand system" as a self-contained system that allows users to finish unfinished ballot cards into ballot cards.
- 12) Defines an "electronic poll book" to mean an electronic list of registered voters that may be transported to the polling location. Requires an electronic poll book to contain the following information for each voter: name; address; precinct; party preference; whether or not the voter has been issued a vote by mail ballot; and, whether or not the vote by mail ballot has been recorded as received by the elections official.

This bill:

- 1) Requires elections officials to provide conditional voter registration and provisional voting at all polling places in the county and at all satellite offices of the county elections official.
- 2) Provides that after receiving a conditional voter registration, the elections official shall provide the voter a provisional ballot in accordance with one of the following procedures:

- a) If the elections office, satellite office, or polling place is equipped with an electronic poll book, or other means to determine the voter's precinct, the elections official shall provide the voter with a ballot for the voter's precinct if that ballot is available. The provisional ballot may be cast by any means available at the elections office, satellite office, or polling place.
 - b) If the elections official is unable to determine the voter's precinct, or a ballot for the voter's precinct is unavailable, the elections official shall provide the voter with a ballot and inform the voter that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted. The provisional ballot may be cast by any means available at the elections office, satellite office, or polling place.
 - c) If the elections official is able to determine the voter's precinct, but a ballot for the voter's precinct is unavailable, the elections official may also inform the voter of the location of the voter's polling place. These voters shall not be required to vote at their polling place and may instead, at their choosing, cast a ballot pursuant to (b) above.
- 3) Provides that this bill does not apply to elections conducted pursuant to the Voter's Choice Act.

BACKGROUND

California CVR in 2018. In 2018, five California counties (Madera, Napa, Nevada, Sacramento, and San Mateo) conducting elections under the Voters Choice Act or VCA. The VCA was enacted pursuant to SB 450 (Allen and Hertzberg), Chapter 832 of 2016 to permit specified counties beginning in 2018, and all other counties beginning in 2020, to conduct elections in which every voter is mailed a ballot and vote centers and ballot drop-off locations are available prior to and on Election Day, in lieu of operating polling places for the election, subject to certain conditions. Under the VCA, any voter may use any vote center in their county. As stated above, counties participating in the VCA must offer conditional voter registration and provisional voting at all vote centers.

According to the SOS, 57,276 valid conditional voter registration provisional ballots were cast in the November, 2018 General Election statewide. The five VCA counties accounted for 18,407, or 32% of those ballots even though those counties accounted for less than 7% of the total number of the state's registered voters at the time. Over twice as many valid CVR ballots were cast in Sacramento County than Los Angeles County.

In addition to the five 2018 counties, the following counties, and possibly others, are expected to conduct elections under the VCA model beginning in 2020: Los Angeles, Orange, Fresno, and Mariposa. As stated above, counties participating in the VCA must offer conditional voter registration and provisional voting at all vote centers.

In 2018, only five non-VCA counties provided conditional voter registration on Election Day beyond their permanent offices. According to information previously available on the SOS website, the following non-VCA counties offered conditional voter registration at satellite offices on Election Day in 2018:

- El Dorado: one satellite location.
- Merced: two satellite locations.
- San Bernardino: five satellite locations.
- Santa Barbara: two satellite locations.
- Santa Cruz: two satellite locations.

Other States. According to the National Association of State Legislatures (NCSL):

As of January 2019, 17 states plus the District of Columbia offer same day registration (SDR), which allows any qualified resident of the state to go to register to vote and cast a ballot all in that day.

Sixteen states plus the District of Columbia make same day registration available on Election Day; this is sometimes called Election Day registration (EDR). In addition, North Carolina makes same day registration possible for a portion of their early voting period but not on Election Day.

On November 6, 2018, Michigan voters approved a ballot proposal that provided a constitutional right to simultaneously register and vote during the early voting period and on Election Day. In that same election Maryland voters extended registration to include Election Day (previously same day registration was available during the early voting period). Additionally, Washington has enacted same day registration, to be implemented in 2019.

In most other states, voters must register by a given deadline prior to Election Day. The deadline varies by state, with most falling between eight and 30 days before the election.

There is strong evidence that same day and Election Day registration increases voter turnout, but the extent of the impact is difficult to conclude. Immediately following the implementation of SDR, states usually see a boost in voter numbers. Same day registration states also tend to outperform other states in terms of turnout percentages. Many states that have implemented SDR have historically produced higher voter numbers, making changes hard to gauge. Multiple studies place the effect between an increase of 3 to 7 percent, with an average of a 5 percent increase. Finally, studies reveal no conclusive evidence of whether SDR shapes partisan outcomes or whether certain populations are more likely to benefit.

All states employ various measures to ensure the security of same day voter registration. Many of the processes listed below are used in conjunction with one another. Common security measures include:

- Proof of identity and residency. All states require prospective voters to show ID. Some states will allow a provisional ballot to be cast if the prospective voter cannot provide identification at the time of registration, but ID must be provided before it is counted in the election.

- Casting of provisional ballots. Several states will count a ballot as provisional until proper ID is supplied or until the voter's application is fully checked.
- Statewide voter systems. These are used to check if the voter has already voted and to check ID. Such systems can provide real-time checks, while others are utilized after registration and voting. E-poll books often accompany this type of security measure.
- Oaths and sworn affidavits. Several states require same day registrants to sign an affidavit or swear an oath that they are eligible to vote and have not already voted in the election.
- Criminal penalties for fraudulent voting. Some states classify voting fraud as a felony, while others will refer suspected voting fraud to proper authorities to investigate.
- In-person registration. States require the SDR voter to register and vote in person.
- Non-forwardable mailings. If it is returned as non-deliverable or is not returned signed by the voter, a second notice is sent. The case may be forwarded to proper authorities for investigation after a second unsuccessful attempt to confirm the voter's residency.
- Restriction of location. Several states limit the locations where individuals can participate in SDR.
- Cross-agency and interstate verification. Some states verify an applicant's information with numerous other state agencies and even with interstate organizations.

Note: California employs several of these security measures for conditional voter registration, including: use of provisional ballots dependent on registration validation, cross-checks through the statewide voter database, felony penalties for fraudulent voting, in-person registration, and cross-agency verification.

ACLU Research. In a recent memorandum addressed to legislative staff, the American Civil Liberties Union (ACLU) Center for Advocacy and Policy stated that Same Day Registration (SDR) allows eligible voters to register to vote and cast their ballots on the same day. Eligible voters can also use SDR to correct an outdated voter registration record and cast a ballot that will be counted. Pioneered by Maine, Minnesota, and Wisconsin in the early-to-mid-1970s, seventeen states (California, Colorado, Connecticut, Hawaii, Idaho, Illinois, Iowa, Maine, Michigan, Minnesota, Montana, New Hampshire, Utah, Vermont, Washington, Wisconsin, and Wyoming) and the District of Columbia have now enacted the reform, and two states (Maryland and North Carolina) make SDR available during the early voting period but not on Election Day.

The following nine states as well as the District of Columbia offer SDR at all polling places on Election Day: Hawaii, Idaho, Iowa, Maine, Minnesota, New Hampshire, Utah, Vermont, and Wisconsin.

Research has shown SDR to have the following benefits for voters:

Increases voter turnout. States that allow SDR consistently lead the nation in voter participation. Four of the top five states for voter turnout in the 2012 presidential election all offered SDR. Average voter turnout was over 10 percentage points higher in SDR states than in other states.

Eliminates arbitrary deadlines that cut off registration when voters are most interested. Many citizens become most interested and engaged with elections in the last few weeks before Election Day, when candidate debates and campaigns reach their peak. But registration deadlines may already have passed at that point.

Remedies inaccurate voter rolls. Many previously-registered voters lose their eligibility merely because they have moved. Others are never added to the voter rolls because of bureaucratic errors. Failure to discover these problems prior to Election Day, when registration deadlines have passed, results in eligible citizens losing their vote. With SDR, these voters can simply update registration records or register anew at the polling place and vote a ballot that will be counted.

Assists geographically mobile, lower-income citizens, young voters and voters of color. Keeping voter registration records current is a big challenge under current systems, which place the onus of updating records on the individual. Census data show that over 36 million people in America moved between 2011 and 2012, and nearly half of those moving had low-incomes. Young adults of all income levels also move more frequently—for school, for jobs, for family. SDR offers those who have recently moved but failed to update registration records another opportunity to register and vote. Research indicates that allowing young people to register to vote on Election Day could increase youth turnout in presidential elections by as much as 14 percentage points.

Presidential Primary Elections and CVR. Under California's presidential primary system, voters who are registered with a political party receive a ballot for that party's presidential primary election. For example, voters who are registered with the Democratic, Republican, American Independent, Green, Libertarian, or Peace and Freedom parties receive the primary election ballot for their respective parties. At the same time, voters who decline to disclose a political party preference (also known as no party preference or NPP voters) receive a nonpartisan ballot that does not list the candidates for president. Under current law, however, NPP voters may request the ballot of any political party that has notified the SOS that it will allow those voters to participate in its presidential primary election. These are commonly referred to as "crossover" ballots.

For the 2016 presidential primary election, the American Independent Party, Democratic Party, and Libertarian Party all permitted NPP voters who to participate in their presidential primary elections. Voters wishing to change their political party preference in order to vote in a particular party's presidential primary can do so either in advance of the registration deadline or by availing themselves of conditional voter registration at a

location where it is offered. If those locations are more numerous, as this bill would require, some of the related voter confusion and frustration as expressed in media articles and complaints from voters that occurred during the 2016 presidential primary election in California could be mitigated.

Electronic Poll Books. An electronic poll book is an electronic version of the traditional paper poll book which contains a list of the registered voters in each precinct or district. An electronic poll book typically looks like a tablet or laptop computer and is used to more quickly and accurately check in a voter at his or her precinct or voting sites. Many electronic poll books have a variety of other functionalities. For example, many electronic poll books have the capability to allow a poll worker to look up voters from the entire county or state, connect to a county or state voter registration database, notify a poll worker if a voter has already voted, allow a voter to sign in electronically, produce turnout numbers and lists of those who have voted, and receive immediate updates on who has voted in other voting jurisdictions.

Ballot on Demand Systems. Ballot on demand printing systems are used in elections official's offices, satellite offices, vote centers and other locations, often in conjunction with an electronic poll book, in order to provide any voter with their proper ballot regardless of the precinct to which the voter is assigned.

COMMENTS

- 1) According to the author: Starting in 2020, Senate Bill 72 will require all counties to permit eligible voters to register and vote on Election Day at every polling site.

While California has made huge strides over the last several years to expand access to voter registration, we still have millions of eligible unregistered voters. Studies have continually revealed that these voters tend to be disproportionately younger, poorer, people with disabilities, people with limited English proficiency, and people of color.

Meanwhile, numerous states across the country have offered Same Day Registration at polling sites, some treating them the way we treat voters who may have to vote provisionally.

In 2012, the California legislature passed Assembly Bill 1436 (Feuer), establishing conditional voter registration, our version of Same Day Registration. Counties were required to provide conditional voter registration at all permanent offices of the county elections official and were permitted to provide it at satellite offices. Under conditional voter registration, the ballot cast is provisional and not counted until the registration is verified.

While implementation was delayed for several years, in 2018, for the first time during statewide elections, eligible unregistered voters were theoretically offered the opportunity to register and vote on Election Day in California under conditional voter registration.

In reality however, only a small percentage of California voters had access to CVR on Election Day because in most counties it was only available at the county

elections office. As a result, relatively few voters in those counties actually took advantage of conditional voter registration, and those who were able to make the trip to their county elections office waited hours in line in order to register and cast a ballot.

Senate Bill 72 will expand access to same day voter registration and voting to all eligible voters in California. The solution is simple: starting in 2020, any county not participating in the Voter's Choice Act (where vote centers offer conditional voter registration at multiple sites in a county) will be required to provide conditional voter registration at all polling places in their county.

- 2) Argument in Support. In a letter supporting SB 72, the League of Women Voters of California stated, in part, the following:

Despite the fact that California is a majority-minority state, voting participation gaps for people of color, people with disabilities, youth, and those with limited English proficiency or low-income, mean that critical issues of local and statewide importance are being made by a predominantly whiter, older, wealthier, unrepresentative electorate. While many impediments have been eradicated over the last few years, and registration rates are increasing, we still have 5.5 million eligible, unregistered Californians – a disproportionate number of whom are from underrepresented populations.

In 2018, for the first time in our statewide elections, eligible California voters had the opportunity to register and vote up through Election Day. In reality, only a tiny percentage could access that option because in most counties across the state – including populous ones like Los Angeles, San Diego, and Orange – it was only available at a single site: the county elections office. In fact, 21.3 million (85%) of the state's 25.2 million eligible voters live in a county that provided only a single registration site on Election Day in November 2018. As a result, few voters in those counties were able to take advantage of the opportunity, and those who were able to make the trip to their county elections office waited in lines of up to four hours to register and cast ballots.

SB 72 would align California with nine states, as well as the District of Columbia, that provide Election Day registration options at all polling places: Hawaii, Idaho, Iowa, Maine, Minnesota, New Hampshire, Utah, Vermont, and Wisconsin. Research has shown that Election Day registration benefits both voters and elections officials. It increases voter turnout, eliminates arbitrary deadlines that turn away voters at the moment of highest interest, improves the accuracy of voter rolls, and assists the registration of geographically mobile, lower-income citizens, young voters, and voters of color.

The League of Women Voters of California strives to increase voter participation and ensure that our electorate reflects California's diversity. Expanding Election Day registration, to allow eligible people to register to

vote and cast ballots all the way up through Election Day at any polling location, is a key strategy to achieve those goals.

- 3) Argument in Opposition. In a letter opposing SB 72, Election Integrity Project California stated, in part, the following:

SB 72 is well intentioned, but the unintentional consequences of its implementation would erode election integrity and voter confidence. Legitimate votes would be undermined, and unlawful votes would be cast and counted.

Clearly, the challenges of proper election management are already monumental. Moving Conditional Voter Registration to local polling sites will guarantee substantial numbers of votes will be mishandled.

Every mishandled vote dilutes or cancels out the vote of a legitimate voter. Even one occurrence is unacceptable.

In voting locations currently tasked with Conditional Voter Registration, workers are better trained and better supervised. They have access to materials and ballots needed to correctly and accurately process each voter. They should remain the only locations to offer same-day services.

- 4) Any Fraud? According to the SOS, there were no reported incidents of fraud related to conditional voter registration in California in 2018.

RELATED/PRIOR LEGISLATION

AB 1436 (Feuer), Chapter 497, Statutes of 2012, enacted conditional voter registration but the program was not implemented until 2017.

AB 681 (Gonzalez) of 2019, which makes a technical, nonsubstantive change to the CVR statute, is pending in the Assembly Elections and Redistricting Committee.

AB 693 (Berman) of 2019, authorizes an elections official to offer a regular ballot to a conditional voter registrant if the registrant is deemed eligible to register to vote and the elections official verifies that the registrant has not already voted in the state, as specified. AB 693 is pending in the Assembly Elections and Redistricting Committee.

POSITIONS

Sponsor: American Civil Liberties Union of California
California Common Cause
League of Women Voters of California

Support: Black Women Organized for Political Action PAC
Californians United for a Responsible Budget
California Public Interest Research Group

California Calls
California Labor Federation
California League of Conservation Voters
California Native Vote Project
California Voter Foundation
Consumer Attorneys of California
Courage Campaign
Ella Baker Center for Human Rights
Equal Justice Society
Initiate Justice
Los Angeles LGBT Center
Legal Services for Prisoners with Children
NARAL Pro-Choice California
Riverside Temple Beth El
Rock the Vote
Rubicon Programs
Student Senate for California Community Colleges
University of California Student Association
Western Center on Law and Poverty
W. Haywood Burns Institute
The Women's Foundation of California
Numerous University of California students

Oppose: Election Integrity Project California

-- END --

EXHIBIT K

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-64-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS on November 3, 2020, California—like the other states of the United States—will hold a General Election, and Californians throughout the state will exercise their right to vote; and

WHEREAS it is unknown to what degree COVID-19 will pose a threat to public health in November, and California and its counties must begin taking action now—to procure supplies, secure polling places, enlist volunteers, and draw up plans, among other steps—to ensure that the November 3, 2020 General Election is held in a manner that is accessible, secure, and safe; and

WHEREAS to preserve public health in the face of the threat of COVID-19, and to ensure that the November election is accessible, secure, and safe, all Californians must be empowered to vote by mail, from the safety of their own homes; and

WHEREAS it is also essential to ensure that all Californians who may need access to in-person voting opportunities—including individuals with disabilities, individuals who speak languages other than English, individuals experiencing homelessness, and others who may find vote-by-mail less accessible than in-person voting—are able to access such opportunities and exercise their right to vote; and

WHEREAS the Secretary of State has been working with California elections officials, voting rights advocates, and other stakeholders to explore how best to implement procedures for the November election that will make in-person voting opportunities available, give county elections officials needed flexibility, and preserve public health; and

WHEREAS discussions concerning the November election have been informed, and should continue to be informed, by the ways in which existing California law—including, in particular, the California Voter's Choice Act—provide standards to ensure that, even in the context of an "all-mail ballot" election, voters are able to access in-person voting opportunities; and

WHEREAS work in partnership with the Legislature and the Secretary of State, guided by the standards in existing California law and the exigencies of the COVID-19 pandemic, will be essential to ensure that the November election is accessible, secure, and safe; and

WHEREAS confirming that every voter will be able to vote by mail in the November election will allow California and its counties to begin preparing for that election now—even as planning continues to determine how details of that election (including requirements concerning the availability of in-person voting opportunities) will be implemented; and

WHEREAS it is critical that counties have clarity regarding requirements for in-person voting opportunities and other details of the November election by no later than May 30, 2020, which may require a subsequent Executive Order; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes specified in this Order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8571, and 8627, do hereby issue the following Order to become effective immediately:

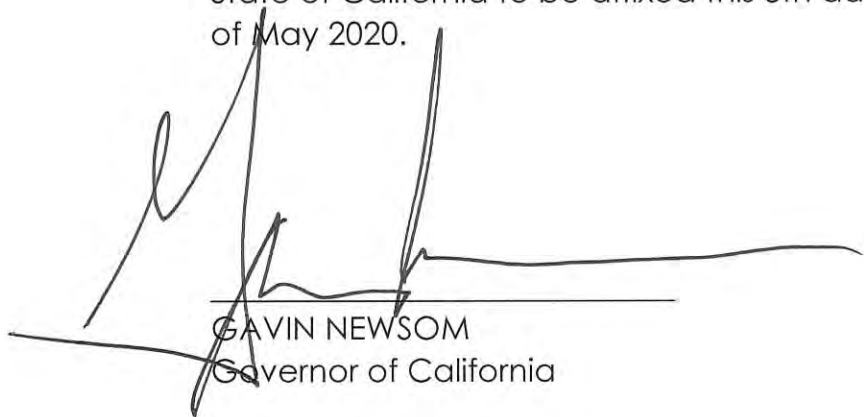
IT IS HEREBY ORDERED THAT:

- 1) Notwithstanding any limitation on the distribution of vote-by-mail ballots in Elections Code sections 1500 and 4000-4007, or any other provision of state law, each county elections officials shall transmit vote-by-mail ballots for the November 3, 2020 General Election to all voters who are, as of the last day on which vote-by-mail ballots may be transmitted to voters in connection with that election, registered to vote in that election. As set forth in this paragraph, every Californian who is eligible to vote in the November 3, 2020 General Election shall receive a vote-by-mail ballot.
- 2) Nothing in this Order shall be construed to limit the extent to which in-person voting opportunities are made available in connection with the November 3, 2020 General Election. It is the intent of this Order that my Administration continue to work with the Legislature and the Secretary of State to determine how requirements for in-person voting opportunities and other details of the November election will be implemented—guided by California's longstanding commitment to making its elections accessible, as enshrined in existing California law, while recognizing the exigencies of the COVID-19 pandemic.
- 3) My Administration continues working in partnership with the Secretary of State and the Legislature on requirements for in-person voting opportunities and on how other details of the November election will be implemented. Nothing in this Order is intended, or shall be construed, to limit the enactment of legislation on that subject.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 8th day of May 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

EXHIBIT L

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October 2, 2020

County Clerk/Registrar of Voters (CC/ROV) Memorandum # 20232

TO: All County Clerks/Registrars of Voters

FROM: /s/ Jana M. Lean
Chief, Elections Division

RE: General Election: Revised Guidance Related to the November Election

The Secretary of State has updated the attached revised guidance document with current information and helpful links to the materials that have been developed for the November 3, 2020, General Election, and which are located on our website.

This revised guidance document is based on the previous versions of the document issued on June 3rd (CCROV [#20104](#)), June 5th (CCROV [#20106](#)), June 30th (CCROV [#20135](#)), and August 20th (CCROV [#20177](#)).

Thank you.

Attachment

- Revised Guidance: Conducting the November 3, 2020, General Election During the COVID-19 Pandemic



ALEX PADILLA | SECRETARY OF STATE | STATE OF CALIFORNIA
ELECTIONS DIVISION

1500 11th Street, 5th Floor, Sacramento, CA 95814 | Tel 916.657.2166 | Fax 916.653.3214 | www.sos.ca.gov

**REVISED GUIDANCE: CONDUCTING
THE NOVEMBER 3, 2020, GENERAL ELECTION
DURING THE COVID-19 PANDEMIC¹**

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¹ Previous versions of this guidance document and visuals reference a number of Executive Orders and legislation; specifically, Assembly Bill 860 and Senate Bill 423 superseded Executive Orders N-64-20 and N-67-20 upon their enactment.

INTRODUCTION

The Secretary of State issues this revised guidance document to ensure the November 3, 2020, General Election is secure and safe for voters and election workers.

I. CONDUCTING THE ELECTION

Based upon the above, there are five different methods by which counties can conduct the November 2020 General Election. The below chart identifies those methods along with a short description. The information contained below the chart provides a fuller description.

November 3, 2020, General Election

Method of Conducting the Election	Election Specifics	Authority
1 Voter's Choice Act (VCA) – Vote Centers	<p>In-Person Voting Locations: VCA counties, at a minimum: must open vote centers E-3 through E-1 for 8 hours a day; on Election Day from 7am - 8pm. (can open vote centers before E-3, if desired)</p> <p>Ballot Drop-off Locations: no change - must have at least 2 OR 1 per 15,000 voters (whichever results in the greater number of locations); E-28 through Election Day open at a minimum during regular business hours (Elections Code sections 4005, 4007)</p> <p>1 Exterior Drop Box: E-28 through Election Day open a minimum of 12 hours.</p>	Election conducted under Elections Code sections 1601, 4005-4007
2 Consolidated Polling Place - Countywide Voting	<p>In-Person Voting Locations: 1 per 10,000 voters; must open consolidated polling places E-3 through E-1 for 8 hours a day; on Election Day from 7am - 8pm; voters can vote anywhere in the county.</p> <p>1 In-Person Voting Location: E-28 though Election Day must offer full services (EC section 1602(d)(1)) and urged to offer appointments at this location.</p> <p>Ballot Drop-off Locations: must have at least 2 OR 1 per 15,000 voters (whichever results in the greater number of locations); E-28 though Election Day open at a minimum during regular business hours.</p> <p>1 Exterior Drop Box: E-28 though Election Day open a minimum of 12 hours.</p>	Election conducted under Elections Code section 1602(b), (c), (d)
3 Consolidated Polling Place - Voters Assigned to Specific Location	<p>In-Person Voting Locations: 1 per 10,000 voters; must open consolidated polling places E-3 through E-1 for 8 hours a day; on Election Day from 7am - 8pm; voters assigned to specific voting location.</p> <p>1 In-Person Voting Location: E-28 though Election Day must offer full services (Elections Code section 1602(d)(1)) and urged to offer appointments at this location.</p> <p>Ballot Drop-off Locations: must have at least 2 OR 1 per 15,000 voters (whichever results in the greater number of locations); E-28 though Election Day open at a minimum during regular business hours.</p> <p>1 Exterior Drop Box: E-28 though Election Day open a minimum of 12 hours.</p>	Election conducted under Elections Code section 1602(b), (c), (d)
4 Traditional Polling Place	<p>In-Person Voting Locations: Counties will provide polling places in the same manner as they had in the March 2020 Primary, open on Election Day from 7am - 8pm.</p> <p>Ballot Drop-off Locations: At County Discretion.</p>	Election conducted under Elections Code section 12223; see also, Elections Code section 1602(a)
5 All Mail Ballot	<p>Counties will continue to run their election as an All Mail Ballot Election.</p> <p>Ballot Drop-off Locations: At County Discretion.</p>	Election conducted under Elections Code section 3005

In-person Voting Opportunities

County elections officials are encouraged to provide as many in-person voting locations in their jurisdiction as were available at the March 2020 Presidential Primary Election. However, at a minimum, for the November 2020 General Election, county elections officials are authorized to provide in-person voting locations as follows:

Method #1: Voter's Choice Act (VCA). VCA counties shall continue to provide at least one in-person voting location per 10,000 registered voters within the county from E-3 through Election Day and are not required to open any vote center prior to E-3. (Elec. Code, § 1601.)

Counties are nevertheless encouraged to open vote centers earlier, where feasible and as conditions warrant, to maximize opportunities for voter participation.

The minimum operating hours set forth in Sections 4005 and 4007 have not been modified and remain as follows:

- a) From E-3 through E-1, for at least eight hours each day; and
- b) On Election Day, from 7 a.m. until 8 p.m.

Additionally, VCA counties are not required to conduct any in-person public meetings or workshops in connection with the preparation of plans for the administration of this election, as provided for in Section 4005(a)(10), as long as a draft of each such plan is posted on the county elections official's website in a manner consistent with Section 4005(a)(10)(E)(iii) and the county elections official accepts public comment on the draft plan for at least 10 days.

VCA counties are encouraged to take additional steps, where feasible, to facilitate and encourage public participation in the development of their plans.

The minimum number of in-person voting locations should be based upon voters registered as of August 7, 2020 (E-88).

Methods #2 and #3: Consolidated Polling Place. Counties to provide at least one "consolidated" polling place per 10,000 registered voters and operate them using:

Method #2 - vote centers (voter is not assigned to a specific polling location in the county)

-OR-

Method #3 - “regular” polling locations (voter is assigned to a specific polling location)

Consolidated polling places must be made available for voting during the following hours:

- a) From E-3 through E-1, for at least eight hours (during regular hours convenient for members of the public) each day; and
- b) On Election Day, from 7 a.m. until 8 p.m.

For purposes of the above:

- Consolidated polling places shall be established pursuant to Section 1602(b)(1), (2), and (3).
- County elections officials shall provide each consolidated polling place with enough ballots, provisional ballots, and provisional ballot envelopes to ensure every voter can be accommodated, as necessary. (Elec. Code, § 1602(b)(5).)
- County elections officials shall provide at least one location, open at least during regular business hours beginning E-28, at which a voter may do any of the following:
 - Return, or vote and return, the voter’s vote-by-mail ballot.
 - Register to vote, update a voter registration, and vote pursuant to Section 2170.
 - Receive and vote a provisional ballot pursuant to Section 3016 or Sections 14310-14313.
 - Receive a replacement ballot upon verification that a ballot for the same election has not been received from the voter by the county elections official. If the county elections official is unable to determine if a ballot for the same election has been received from the voter, the county elections official may issue a provisional ballot.
 - Vote a regular, provisional, or replacement ballot using accessible voting equipment that provides for a private and independent voting experience. (Elec. Code, § 1602 (d)(1).)
- County elections officials are urged to offer voters the ability to schedule an appointment to visit the above-referenced location. (Elec. Code, § 1602(d)(2).)

Method #4: Traditional Polling Place. Non-VCA counties that comply with all existing statutory requirements applicable to in-person voting locations and hours are not required to provide in-person voting locations/hours as set forth in Section 1602(b). (Elec. Code, § 1602(a).)

Method #5: All Mail Ballot. Counties continue to conduct the November 2020 General Election as an All Mail Ballot election.

Vote-by-Mail Ballot Drop-off Opportunities

Methods #1 - #3: Counties using Method #1, #2 or #3 are required to provide:

- At least one ballot drop-off location for every 15,000 registered voters within their jurisdiction, and
- Not less than two ballot drop-off locations within their jurisdiction, regardless of the number of registered voters.

In the event this number of drop-off locations is less than what was available at the March 2020 Presidential Primary Election in their jurisdiction, county elections officials are encouraged to provide at least that same number of drop-off locations.

The minimum number of drop-off locations should be based upon voters registered as of August 7, 2020 (E-88).

Methods #2 and #3: For counties using consolidated polling places, the following applies to ballot drop-off locations (same meaning as in Section 3025):

- A consolidated polling place that includes an exterior ballot drop box counts only as a single ballot drop-off location.
- They must consist of a secure, accessible, and locked ballot box located as near as possible to established public transportation routes and that is able to receive voted ballots.
- All ballot drop-off locations shall be open at least during regular business hours beginning not less than E-28 through the close of voting on Election Day.
- At least one ballot drop-off location shall be an exterior drop box that is fully accessible to the public for a minimum of 12 hours per day from E-28 through the close of voting on Election Day.
- Because health directives to prevent the spread of COVID-19 may result in reduced access to some buildings, counties are encouraged

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to maximize the number of ballot drop-off locations that are exterior drop boxes or that are located in buildings, such as supermarkets or drugstores, that are likely to be considered essential businesses that will remain open to the public notwithstanding any physical distancing measures that are in place during the period beginning E-28 and ending on Election Day.

Method #4: Counties can provide drop-off locations at their discretion.

Method #5: Counties can provide drop-off locations at their discretion.

II. VOTING OPPORTUNITIES

Determination of Locations and Public Notice and Comment Period

In general, county elections officials should, when determining where to locate polling places, vote centers, or early voting locations, consider voter turnout from the March 2020 Presidential Primary Election and all the criteria in Section 4005(a)(10)(B) to determine communities with the greatest need for in-person voting and ballot drop-off needs. Additionally, notwithstanding Section 12288, county elections officials may establish a vote center, polling place, or consolidated polling place in a location whose primary purpose is the sale and dispensation of alcoholic beverages. (Elec. Code, § 1603(c).)

Counties using consolidated polling places, for purposes of determining consolidated polling place and ballot drop-off locations, must consider the following:

- Consolidated polling places shall be established pursuant to Section 1602(b)(1), (2), and (3).
- For both consolidated polling places and ballot drop-off locations: the proximity to communities with historically low vote-by-mail usage and consider other criteria described in Section 4005(a)(B)(10), to the extent data is readily available. (Elec. Code, § 1602(e).)

Prior to finalizing the locations of the above-referenced consolidated polling places and ballot drop-off locations, the county elections official shall publicly notice in all legally required languages for that county the proposed consolidated polling place locations and ballot drop-off locations, shall post a copy of those locations on the elections official's internet website, and shall accept public comments on the proposed locations for at least 10 days after publicly noticing the proposed locations. (Elec. Code, § 1602(f).)

Following the 10-day public comment period, the elections official shall consider any comments the official receives from the public, and shall adjust consolidated polling place and ballot drop-off locations in response to the public comments to the

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extent the official deems appropriate before finalizing the locations to be used as consolidated polling places and ballot drop-off locations. (Elec. Code, § 1602(f).)

SB 423 Waiver Process

In [CC/ROV # 20193](#), the Secretary of State set forth the process to consider requests from counties to adjust or partially waive the minimally required number, location, or operational duration, of vote centers, consolidated polling places, or ballot drop-off locations described in Sections 1602, 4005, and 4007. (Elec. Code, § 1604(a).)

The standalone waiver request form can be found at:

<https://elections.cdn.sos.ca.gov/statewide-elections/2020-general/sb423-waiver.pdf>

Appointments

Counties are encouraged to allow voters to make appointments at the office of the elections official from E-28 up to and including Election Day, in order to receive in-person voting assistance.

In addition, beginning E-28 counties using consolidated polling locations are urged to offer voters the ability to schedule an appointment to visit at least one consolidated precinct location. (Elec. Code, § 1602(d)(2).)

Drive-through Locations

Recognizing the challenge in finding in-person voting locations, all counties are urged to use drive-through/pop-up locations for voters to drop off their voted ballots. If a voter is waiting in a vehicle, the voter is considered “in line” for the purposes of keeping the polls open a sufficient time to enable them to vote pursuant to Section 14401. (Elec. Code, § 1603(b)).

Accessibility at In-person Locations

All county elections officials should ensure all in-person voting locations comply with the Secretary of State’s Polling Place Accessibility Guidelines found at: <https://www.sos.ca.gov/elections/publications-and-resources/polling-place-accessibility-guidelines/polling-place-accessibility-checklist/>.

Counties using consolidated polling places shall have at least three voting machines that are accessible to voters with disabilities in accordance with Section 1602(b)(4)(A). Additionally, the consolidated polling places shall comply with the accessibility requirements described in the federal Americans with Disabilities Act of 1990 (ADA), the federal Help America Vote Act of 2002 (HAVA), and the federal Voting Rights Act of 1965 (VRA). (Elec. Code, § 1602(b)(4)(B).)

County elections officials are encouraged to provide as many opportunities for curbside voting as feasible.

Polling Locations - State and Local Government Facilities

County elections officials are encouraged to consider using all mechanisms provided by existing law to secure voting locations, which may include the use of public buildings (such as school buildings and state office buildings) pursuant to Sections 12283 and 12284.

III. VOTE-BY-MAIL BALLOTS

Mailing

All Californians who are registered (and otherwise eligible) to vote in the November 2020 General Election shall receive vote-by-mail ballots. Consistent with Section 2226, this provision is not intended, and shall not be construed, to mean that voters in an inactive voter registration status shall receive vote-by-mail ballots in connection with the November 2020 General Election.

In accordance with newly enacted Section 3000.5(a), for the November 2020 General Election, **all** county elections officials shall, no later than E-29, begin mailing the materials specified in Section 3010 to every registered voter in the county. The county elections official shall have five days to mail a ballot to each person who is registered to vote on E-29 and five days to mail a ballot to each person who is subsequently registered to vote. The county elections official shall not discriminate against any region or precinct in the county in choosing which ballots to mail first within the prescribed five-day mailing period.

Tracking

Pursuant to the newly enacted subdivision (d) of Section 3019.7, county elections officials are required to use the Secretary of State's vote-by-mail ballot tracking system, BallotTrax (unless the county uses a system that meets or exceeds the level of service provided by BallotTrax).

Counties using BallotTrax are generally required to use Intelligent Mail Barcodes (IMbs), with exceptions as authorized by the Secretary of State. For example, it is the Secretary of State's understanding that not all counties/vote-by-mail ballot printing and/or mailing vendors can place IMbs on inbound vote-by-mail ballot envelopes. The Secretary of State is currently discussing this issue with those county elections officials and vendors for additional guidance.

Remote Accessible Vote-by-Mail (RAVBM)

Pursuant to newly enacted Section 3016.7, for the November 2020 General Election, all county elections officials shall permit any voter to cast a ballot using⁷⁻⁹⁰

a certified RAVBM system, regardless of whether the voter is a voter with disabilities or a military or overseas voter. For more information please visit the Secretary of State website at: <https://www.sos.ca.gov/elections/voting-resources/remote-accessible-vote-mail>.

Identification Envelope

County elections officials are urged, to the extent feasible, to utilize the Secretary of State's best practices, found at CCROV [#20080](#), for the design of vote-by-mail voter identification envelopes.

Utilizing these uniform guidelines can assist in statewide voter education efforts, ensure voters receive their materials timely, and aid voters in understanding the materials that are sent to them. As many voters will experience voting by mail for the first time, the Secretary of State's office encourages counties to utilize the resources provided by the Center for Civic Design to assist in a successful rollout of increased vote-by-mail voting.

Retrieval

Ballots shall be retrieved from vote-by-mail drop boxes pursuant to Section 20136(d) of the California Code of Regulations (CCR). The Secretary of State has adopted emergency regulations by amending CCR Section 20136(d). The changes made to Section 20136 provide greater flexibility to county elections officials by changing the required time for retrieving ballots from unstaffed vote-by-mail ballot drop boxes, after the 10th day before the election, from every 24 hours to every 48 hours. These regulations are in effect as of June 24, 2020, and will expire on February 20, 2021, and can be found at: <https://www.sos.ca.gov/administration/regulations/current-regulations1/>.

Two ballot retrievers are required as is currently set forth in the California Code of Regulations. Counties are encouraged to have their staff adhere to any physical distancing and other safety requirements in place at the time. If two retrievers cannot maintain proper physical distancing in the same vehicle, they can drive separately to each location.

Return (Postmark +17)

In accordance with newly enacted subdivision (d) of Section 3020, for the November 2020 General Election, any vote by mail ballot cast under this division shall be timely cast if it is received by the voter's elections official via the United States Postal Service (USPS) or a bona fide private mail delivery company by the 17th day after election day and either of the following is satisfied:

- (1) The ballot is postmarked on or before Election Day, is time stamped or date stamped by a bona fide private mail delivery company on or before Election Day, or it is otherwise indicated by the USPS or a bona fide private mail delivery company that the ballot was mailed on or before Election Day.

7-91

(2) If the ballot has no postmark, a postmark with no date, or an illegible postmark, and no other information is available from the USPS or the bona fide private mail delivery company to indicate the date on which the ballot was mailed, the vote by mail ballot identification envelope is date stamped by the elections official upon receipt of the vote by mail ballot from the USPS or a bona fide private mail delivery company, and is signed and dated pursuant to Section 3011 on or before Election Day.

Processing

In accordance with newly enacted subpart (2) of subdivision (b) of Section 15101, for the November 2020 General Election, any jurisdiction having the necessary computer capability may start to process vote by mail ballots on E-29. Processing vote by mail ballots includes opening vote by mail ballot return envelopes, removing ballots, duplicating any damaged ballots, and preparing the ballots to be machine read, or machine reading them, including processing write-in votes so that they can be tallied by the machine, but under no circumstances may a vote count be accessed or released until 8 p.m. on the day of the election. All other jurisdictions shall start to process vote by mail ballots at 5 p.m. on the day before the election.

IV. PUBLIC HEALTH AND SAFETY

Secretary of State

The Secretary of State has:

- Consulted state public health and safety offices regarding recommendations for in-person voting, vote-by-mail ballot drop-off locations, and county ballot processing sites for the health and safety of both voters and county election workers.
- Developed guidance and materials based upon the consultation with state public health and safety offices and provide this information to county elections officials as well as on the Secretary of State's website.
- Worked with health officials, elections officials, and other stakeholders to establish guidelines for the use of personal protective equipment by individuals at in-person voting locations, including election workers, precinct board members, and voters. (Elec. Code, § 1604(d)).

A guidance document entitled, "Election Administration Guidance Under COVID-19," along with checklists, posters, and a COVID-19 glossary of terms may be found at <https://www.sos.ca.gov/elections/upcoming-elections/general-election-november-3-2020> under COVID-19 Health and Safety Guidance.

The Election Administration Guidance Under COVID-19 can be found directly at: <https://elections.cdn.sos.ca.gov/statewide-elections/2020-general/election-admin-guidance.pdf>

Counties

County elections officials are encouraged to:

- Utilize guidance and materials developed by the Secretary of State regarding the health and safety protocols for in-person voting, vote-by-mail ballot drop-off locations, and county ballot processing sites such that they are implemented in a manner that will increase public confidence in the process.
- Utilize guidance provided by their respective county's department of public health with respect to all of the above.
- Add a greeter at their in-person voting locations to ensure physical distancing.
- Develop guidelines for line management at their in-person voting locations to ensure physical distancing.

V. POLL WORKERS

Secretary of State

The Secretary of State will continue to:

- Contact public and private entities to determine who is willing to be a poll worker and/or help with other election-related activities.
- Compile information to facilitate the recruitment and referral of poll workers and voting locations and provide this information to county elections officials as well as on the Secretary of State's website.
- Work with the Governor to encourage state employees to be poll workers.
- Through the Democracy at Work program, encourage employers and employees to be poll workers or host a voting location.

Counties

County elections officials are encouraged to:

- Utilize the information compiled by the Secretary of State.
- Message the need for poll workers to other county employees.

- Reach out to non-profits, community-based organizations, and other organizations to recruit poll workers.

Training

Counties should modify their current poll worker training programs to include appropriate state and local health and safety guidelines. Counties have the discretion to provide some poll worker training via online video streaming, but should ensure poll workers have the opportunity to have hands-on training with respect to proper use of personal protective equipment, ensuring physical distancing, and proper cleaning and maintenance of voting equipment.

The Secretary of State has updated the Poll Worker Training Standards and partnered to create a COVID-19 Election Worker Safety Training PowerPoint presentation, both can be found at:

<https://www.sos.ca.gov/elections/voting-resources/voting-california/help-strengthen-our-democracy/poll-worker-info/poll-worker-training-standards>

VI. VOTER EDUCATION AND OUTREACH

Secretary of State

The Secretary of State will continue to:

- Utilize email addresses supplied by voters and maintained in the statewide voter registration database to communicate a public education message related to the November 2020 General Election.
- Create and translate information and materials to educate voters and provide this information to counties and on the Secretary of State's website for distribution and for use at polling locations.
- Include in the Official Voter Information Guide a public education message related to the changes to the November 2020 General Election.
- Conduct a statewide voter education and outreach campaign regarding new procedures in place for the November 2020 General Election, including, but not limited to, procedures relating to voting by mail, newly consolidated polling places and services provided therein, available language assistance, voter registration, conditional voter registration and voting, and accessible vote-by-mail voting. (Elec. Code, § 1604(b).)

Counties

All county elections officials shall conduct a voter education and outreach campaign in all legally required languages for that county notifying voters about

mail ballots, early voting opportunities, accessible voting options, and where and how to remedy any voting related problem. (Elec. Code, § 1603(a).)

In addition, all county elections officials are encouraged to:

- Include information about the changes to the November 2020 General Election in their voter information guides.
- Work with community-based organizations (CBOs) that are familiar with under-represented communities to prepare and disseminate materials with specific information about all aspects of VBM.
- Develop rapid response messaging and a troubleshooting system.

County elections officials who do not conduct elections pursuant to Section 4005 are encouraged to:

- Solicit public input, to the extent feasible, regarding the changes to in-person voting locations; changes related to the November 2020 General Election should be as open and transparent to their voters as possible.
 - This is a requirement, pursuant to Section 1602(f), for counties who are using consolidated polling places.
- Send a mailing prior to the mailing of their county voter information guide, which should include information on how to request in-language VBM materials, how to request an RAVBM ballot, and encouraging voters to update their voter registration signature.
- Use media, including the use of social media, newspaper, radio, and/or television, to conduct outreach similar to what is recommended in Section 4005.

VII. LANGUAGE ACCESS

Secretary of State

The Secretary of State will:

- Develop and provide a glossary of key election and COVID-19 terms translated into over 20 different languages and provide this information on the Secretary of State's website. Currently, there are 18 translated glossaries available for use, which can be found at <https://www.sos.ca.gov/elections/upcoming-elections/general-election-november-3-2020> under COVID-19 Health and Safety Guidance.

- Offer third-party telephonic-based interpreter services to all county elections officials. The Secretary of State has contracted with a certified vendor to offer this service, which features 24-hour access to interpreters available for use by any county elections official, including their support staff and volunteers. For more information, please refer to CCROV [#20194](#) issued on September 3, 2020, available at: <https://elections.cdn.sos.ca.gov/ccrov/pdf/2020/september/20194rm.pdf>

Counties

County elections officials are encouraged to:

- Use the glossaries and translated election materials created by the Secretary of State.
- Offer ballot marking devices for in-person language access.
- Continue engaging local Language Accessibility Advisory Committees (LAACs) to recruit bilingual poll workers.

VIII. REPORTING

The Secretary of State has requested each county elections official to report on, among other items, regarding the number and locations of in-person voting opportunities secured for the November 2020 General Election, progress with respect to the recruitment of poll workers, and total HAVA expenditures encumbered related to the COVID-19 pandemic.

The survey results can be found at this link under the header “Helpful Resources”:

<https://www.sos.ca.gov/elections/upcoming-elections/general-election-november-3-2020>.

Additional reporting templates will be sent out if more information is needed.

IX. SECRETARY OF STATE STRIKE TEAM

The Secretary of State, pursuant to Section 1604(c), shall establish a strike team to assist counties as needed to:

- Acquire suitable locations for vote centers, polling places, and consolidated polling places, and
- Acquire other assets necessary for the safe and successful conduct of the November 2020 General Election.

EXHIBIT M

Alex Padilla

California Secretary of State

[Home](#) [Elections and Voter Information](#) [California Voter's Choice Act](#)

About California Voter's Choice Act






Key elements of Voter's Choice Act Elections Model

Vote-by-Mail Ballots

Every registered voter in participating counties would be delivered a ballot 28 days before Election Day.

Voters will have three ways to return their ballot:

-  1. Mail the ballot;
-  2. Drop the ballot in a secure county ballot drop box; or
-  3. Visit any vote center in the county.

Vote Centers

Traditional polling places will be replaced by vote centers. Voters will have the freedom to cast a ballot in-person at any vote center in their county instead of being tied to a single polling location. Vote centers look and feel like polling places, but provide additional modern features to make voting easy and convenient.

At any vote center in a participating county, a voter may:

- Vote in-person

- Drop off their ballot
- Get a replacement ballot
- Vote using an accessible voting machine
- Get help and voting material in multiple languages
- Register to vote or update their voter registration

Starting 10 days before the Election and through the Friday before Election Day, one vote center is required for every 50,000 registered voters. On Election Day and the Saturday, Sunday, and Monday leading up to Election Day, one vote center is required for every 10,000 registered voters.

Ballot Drop-Off Locations

Ballot drop-off locations provide voters with an additional way to return their ballot postage free.

Starting 28 days before Election Day there would be at least one drop-off location for every 15,000 registered voters.

Drop-off locations must be secure, accessible to voters with disabilities, and located as near as possible to public transportation routes.

Voter Education and Public Process for Adopting Vote Center Plans

Every county that adopts the Voter's Choice Act model is required to draft and adopt a detailed plan through an open, public process.

In addition, counties are required to hold education workshops with community groups, including organizations that assist voters with disabilities and language minority communities.

Timeline for Implementation

Beginning in 2018, 14 counties are allowed to conduct elections under the Voter's Choice Act model: Calaveras, Inyo, Madera, Napa, Nevada, Orange, Sacramento, San Luis Obispo, San Mateo, Santa Clara, Shasta, Sierra, Sutter, and Tuolumne. All other counties would be allowed to conduct Voter's Choice Act elections beginning in 2020.

These counties implemented the Voter's Choice Act for the 2018 Elections: [Madera](#), [Napa](#), [Nevada](#), [Sacramento](#), and [San Mateo](#).

For the 2020 Elections, 10 more counties decided to adopt and will implement the VCA: [Amador](#), [Butte](#), [Calaveras](#), [El Dorado](#), [Fresno](#), [Los Angeles](#), [Mariposa](#), [Orange](#), [Santa Clara](#), and [Tuolumne](#).

Public Partnerships

The Secretary of State is working closely with community groups and election administrators to develop best practices and ensure a smooth transition to the Voter's Choice Act for California voters.

The Secretary of State has convened an [advisory taskforce \(PDF\)](#) of election experts, disability and language experts, and elections administrators to provide direction, input, and advice regarding the implementation of the Voter's Choice Act.

The Secretary of State is also participating in a working group with the California Association of Clerks and Election Officials ([CACEO](#)) to coordinate the technical, logistical, and legal requirements of the Voter's Choice Act.

Additionally, the Secretary of State is working with community partners, like [Voters Choice California](#), a network of civil rights and advocacy groups, to ensure broad public participation and outreach to California voters.

EXHIBIT N

Date of Hearing: August 21, 2019

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
SB 72 (Umberg) – As Amended July 2, 2019

Policy Committee: Elections and Redistricting Vote: 5 - 2

Urgency: No State Mandated Local Program: Yes Reimbursable: Yes

SUMMARY:

This bill requires conditional voter registration (CVR), also referred to as same-day registration, to be available at all polling places. Specifically, this bill:

- 1) Requires a county elections official to offer CVR at all satellite offices of the county elections official and all polling places in the county, in accordance with the following:
 - a) If the elections office, satellite office or polling place is equipped with an electronic poll book or other means to determine the voter's precinct, the elections official shall provide the voter with a ballot for the voter's precinct, if available.
 - b) If the elections official is unable to determine the voter's precinct, or a ballot for the voter's precinct is unavailable, the elections official shall provide the voter with a ballot and inform the voter that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted, as specified.
 - c) If the elections official is able to determine the voter's precinct, but a ballot for the voter's precinct is unavailable, the elections official may inform the voter of the location of the voter's polling place. A voter is not required to vote at the voter's polling place and may instead, at the voter's choosing, cast a ballot pursuant to b) above.
- 2) Provides this bill does not apply to elections conducted pursuant to the Voter's Choice Act (VCA).
- 3) Double-joins this bill to AB 693 (Berman), Chapter 99, Statutes of 2019, relating to conditional voter registration.

FISCAL EFFECT:

- 1) This bill contains a state-mandated local program, the costs of which the state will likely need to reimburse pending a determination by the Commission on State Mandates. Actual costs to expand the conditional voter registration program to all non-VCA county satellite offices and polling places are unknown, however, assuming there are nine VCA counties, if every county incurred expenses of only \$3,500, the total costs would be approximately \$150,000 at each election, which would be reimbursed from the General Fund.

Some of the costs may be offset by the savings resulting from fewer provisional ballots cast due to the ability to conditionally vote instead.

- 2) SOS costs are minor and absorbable.

COMMENTS:

- 1) **Purpose.** This bill expands same-day voter registration opportunities by requiring non-VCA counties to offer the same conditional voter registration at all county satellite offices and polling places similar to what is currently offered at official county elections offices.
- 2) **Background.** AB 1436 (Feuer), Chapter 497, Statutes of 2012, permits a person to register to vote and vote at the office of the county elections official at any time, including election day, if certain requirements are met.

Under VCA, counties are permitted to conduct elections in which every voter is mailed a ballot and vote centers and drop-off locations are available prior to and on election day, instead of polling places.

Generally, CVR is required to be available only at permanent offices of the county elections official, though counties have the option of making CVR available at satellite offices of the county elections official. In counties that conduct elections pursuant to the VCA, CVR is required to be available at every vote center. CVR went into effect in 2017, and was available in statewide elections for the first time in 2018.

In addition to the five VCA counties in 2018, Los Angeles, Orange, Fresno, and Mariposa counties are expected to conduct elections under the VCA model beginning in 2020.

In 2018, five non-VCA counties provided conditional voter registration on election day beyond their permanent offices. According to the SOS, the following non-VCA counties offered conditional voter registration at satellite offices: El Dorado; Merced; San Bernardino; Santa Barbara; and Santa Cruz.

For voters living in non-VCA counties, this bill significantly expand access to CVR.

Analysis Prepared by: Jennifer Galehouse / APPR. / (916) 319-2081

EXHIBIT O

Dr. Shirley N. Weber

California Secretary of State

[Home](#) [Elections and Voter Information](#) [Upcoming Elections](#)

2021 County Administered Elections



Upcoming Local Elections

Alameda

- No elections scheduled at this time

Alpine

- No elections scheduled at this time

Amador

- November 2 - UDEL

Butte

- No elections scheduled at this time

Calaveras

- No elections scheduled at this time

Colusa

- No elections scheduled at this time

Contra Costa

- No elections scheduled at this time

Del Norte

- No elections scheduled at this time

El Dorado

- No elections scheduled at this time

Fresno

- March 2 - **Clovis Municipal Election**
- November 2 - UDEL

Glenn

- No elections scheduled at this time

Humboldt

- November 2 - UDEL

Imperial

- August - Bard Water Landowner Election
- November - Meadows Elementary School District
- November - Salton Community Services District
- November - Winterhaven Water District
- November - Bombay Beach Community Services
- November - Seeley Water District

Inyo

- No elections scheduled at this time

Kern

- No elections scheduled at this time

Kings

- No elections scheduled at this time

Lake

- No elections scheduled at this time

Lassen

- No elections scheduled at this time

Los Angeles

- March 2 - Senate District 30 Special Primary Election
- April 13 - Vernon City General Municipal
- April 20 - Compton City Primary Nominating
- June 1 - Compton City (Runoff)
- June 8 - City of Industry
- November 2 - Local and Municipal Elections

Madera

- No elections scheduled at this time

Marin

- March 2 - Flood Control Zone
- March 2 - Permanent Road Division

Mariposa

- No elections scheduled at this time

Mendocino

- No elections scheduled at this time

Merced

- August 31 - Special Election

Modoc

- No elections scheduled at this time

Mono

- No elections scheduled at this time

Monterey

- No elections scheduled at this time

Napa

- No elections scheduled at this time

Nevada

- No elections scheduled at this time

Orange

- March 9 - Second Supervisorial District Vacancy Election

Placer

- No elections scheduled at this time

Plumas

- No elections scheduled at this time

Riverside

- March 2 - Special Municiple Measure Election
- June 8 - City of Riverside City Council
- August 31 - UDEL Mail Ballot
- November 2 - UDEL

Sacramento

- No elections scheduled at this time

San Benito

- No elections scheduled at this time

San Bernardino

- August 31 - 2021 Consolidated Mail Ballot
- November 2 - 2021 Consolidated

San Diego

- April 6 - **Assembly District 79, Special Primary Election**

San Francisco

- No elections scheduled at this time

San Joaquin

- No elections scheduled at this time

San Luis Obispo

- No elections scheduled at this time

San Mateo

- May 4 - Portola Valley School District

Santa Barbara

- No elections scheduled at this time

Santa Clara

- May 4 - Special Election for a School District Parcel Tax Measure

Santa Cruz

- November 2 - UDEL

Shasta

- No elections scheduled at this time

Sierra

- November 2 - UDEL

Siskiyou

- November 2 - UDEL

Solano

- May 4 - City of Vacaville District 2 - Council Vacancy Election

Sonoma

- March 2 - Special Election
- May 4 - Special Election
- November 2 - UDEL

Stanislaus

- No elections scheduled at this time

Sutter

- No elections scheduled at this time

Tehama

- No elections scheduled at this time

Trinity

- No elections scheduled at this time

Tulare

- No elections scheduled at this time

Tuolumne

- No elections scheduled at this time

Ventura

- May 4 - Landowner
- Oct TBD - VCERA-County Retirement

Yolo

- No elections scheduled at this time

Yuba

- No elections scheduled at this time

*For the most up-to-date information, contact your [county elections official](#) or local elections official as some municipal elections may not be included on this list.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On March 3, 2021, I served the:

- **Notice of Complete Test Claim, Schedule for Comments, and Notice of Tentative Hearing Date issued March 3, 2021**
- **Test Claim filed by the County of San Diego on December 23, 2020**
Extended Conditional Voter Registration, 20-TC-02
Elections Code Section 2170 as amended by Statutes 2019, Chapter 565 (SB 72)
County of San Diego, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on March 3, 2021 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 3/2/21

Claim Number: 20-TC-02

Matter: Extended Conditional Voter Registration

Claimant: County of San Diego

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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April 02, 2021
**Commission on
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Gavin Newsom ■ Governor

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Exhibit B

April 2, 2021

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

Response to Test Claim 20-TC-02, Extended Conditional Voter Registration

Dear Ms. Halsey:

The Department of Finance has reviewed Test Claim 20-TC-02 submitted to the Commission on State Mandates (Commission) by the County of San Diego (Claimant). The Claimant alleges there are state-mandated, reimbursable costs associated with Chapter 565, Statutes of 2019 (SB 72).

SB 72 amended Elections Code section 2170 to require conditional voter registration (CVR) and provisional voting to be available at all permanent and satellite offices and all polling places within a county. The statute also specifies the procedure that must be followed by a county elections official after receiving a conditional voter registration. Prior to SB 72, CVR only had to be available at all permanent offices of the county elections official.

As a result of SB 72 compliance, the Claimant is seeking reimbursement for costs incurred by San Diego County's Registrar of Voters (Registrar). The Claimant reports a cost of \$488,423 for fiscal year 2019-20 and estimates it will incur a cost of \$251,508 in 2020-21 to comply with SB 72. The Claimant alleges that costs were incurred and will be incurred for the March 2020 election, the November 2020 election, and special elections in April and June 2021. Some of these costs were offset by reimbursements from other counties and federal funding received from the Help America Vote Act of 2002 (HAVA). The Claimant anticipates additional HAVA funding will offset 2020-21 costs; however, the amount is unknown and has not been factored in as an offset to the estimate.

Training and Supply Costs

The Claimant alleges the Registrar incurred costs to update their training handbook and train poll workers on the CVR process. As a direct result of SB 72, the Claimant alleges the Registrar's office was required to purchase new conditional voter registration envelopes for both polling and satellite locations, so that provisional ballots could be segregated at the polling places and satellite offices. The total costs for these activities are \$96,066 in 2019-20 and \$51,793 in 2020-21.

Staffing, Equipment, and Satellite Office Costs

This claim includes several costs for activities that are not mandated by the amended statute. The Claimant alleges it incurred costs for staffing, equipment, and satellite offices. However, Elections Code section 2170 does not require local agencies to perform these activities.

The Claimant alleges the Registrar was required to recruit and hire additional temporary staff and poll workers to handle the increase in voters due to the new availability of CVR in all locations and the resulting increase in provisional ballots. The Registrar used automated processing equipment to process and sort ballots as the number of ballots increased. Additionally, the Claimant alleges it was reasonably necessary for the Registrar to create four satellite locations to decrease the potential of long lines and wait times. None of these activities are required by the statute, and the Registrar utilized its own discretion to perform these activities. Therefore, all costs related to staffing, ballot processing equipment, and the creation of satellite offices should not be considered for reimbursement. The total costs for these activities are \$392,357 in 2019-20 and \$199,715 in 2020-21.

In summary, Finance contends that several of the activities the Claimant performed or intends to perform in regard to SB 72 are not required by that statute. The costs in the test claim related to these non-required activities are \$392,357 in 2019-20 and \$199,715 in 2020-21.

Sincerely,

Teresa Calvert

TERESA CALVERT
Program Budget Manager

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On April 5, 2021, I served the:

- **Department of Finance’s Comments on the Test Claim filed April 2, 2021**
Extended Conditional Voter Registration, 20-TC-02
Elections Code Section 2170 as amended by Statutes 2019, Chapter 565 (SB 72)
County of San Diego, Claimant

by making it available on the Commission’s website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on April 5, 2021 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 3/12/21

Claim Number: 20-TC-02

Matter: Extended Conditional Voter Registration

Claimant: County of San Diego

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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May 5, 2021

Via Drop Box

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RE: Claimant’s Rebuttal Comments on Test Claim
Extended Conditional Voter Registration, 20-TC-02

Dear Ms. Halsey:

I represent Claimant with regard to the above-referenced test claim. This letter responds to the comments of the Department of Finance (the “Department”), filed April 2, 2021. This letter also includes supplemental information about Claimant’s estimate of costs for FY 20-21 in Claimant’s test claim. (*See Section IV, below.*)

I. The Department Concedes SB 72 Created an Unfunded Mandate.

The Department does not dispute that SB 72’s amendment to Section 2170(d)(1) (“SB 72”) created an unfunded mandate. The Department thus tacitly concedes that issue.

II. The Department Concedes Claimants’ Training and Supplies Costs Should be Paid by the State.

The Department does not dispute that Claimant incurred training and supplies costs as a result of the mandate, thus tacitly conceding that these categories of costs should be paid by the State.

III. The Department Disputes Claimants’ Other Costs, but These Costs Should also be Paid by the State.

The Department disputes the following categories of costs for which Claimant seeks reimbursement:

1. Additional Registrar of Voters Staffing Costs
2. Election Staffing Costs
3. CVR Ballot Processing (labor costs)
4. Costs for opening and operating four new satellite locations

The first three categories of costs are described in the Declaration of Liliana Lau submitted in support of the test claim (“Lau Decl.”) in paragraphs 6(a), (c), and (d), and the Declaration of Michael Vu submitted in support of the test claim (“Vu Decl.”) in paragraphs 19(a), (c), and (d).

The fourth category of costs—the costs for opening and operating four new satellite locations—is described in the Declaration of Liliana Lau in paragraph 8, and the Declaration of Michael Vu in paragraphs 5 through 18.

The Department argues that the four categories of costs were not mandated by SB 72, but that the Registrar of Voters (“Registrar”) used its own discretion to incur these costs. Claimant respectfully disagrees with the Department.

A. Costs are Mandated if a Statute Requires Claimant to Incur Them.

If a statute mandates that local agencies provide a new program or higher level of service, then the State shall provide reimbursement for *all of* the costs of that program or higher level of service, with limited exceptions not relevant here. This is dictated by the California Constitution. Cal. Const. art. 13B, § 6 (“Section 6”).

Section 6 states in relevant part that “[w]henver 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 to reimburse that local government **for the costs of the program** or increased level of service.” (Emphasis added.) The language in Section 6 is broad, and the directive is mandatory. Section 6 plainly requires subvention for *all of* “the costs” of the program or higher level of service.

Although the language of Section 6 is clear on its face, the voter intent reinforces that the directive to the State to reimburse local agencies should be broadly construed. The voter intent of Section 6 was to provide subvention for all costs that local governments had to incur due to State mandates. In the ballot materials for Proposition 4 (which added Section 6 to the California Constitution), the analysis of the Legislative Analyst stated that Section 6 would “require the state to reimburse local governments for **the costs of complying with ‘state mandates.’** The term ‘state mandates’ was defined as **‘requirements imposed on local governments by legislation....’**” *Long Beach Unified*

Sch. Dist. v. State of California, 225 Cal. App. 3d 155, 175 (1990) (quoting (Ballot Pamp., Proposed Amend. to Cal. Const. with arguments to voters, Special Statewide Elec. (Nov. 6, 1979) p. 16). The argument in favor of Proposition 4 stated that the proposition “WILL NOT allow the state government to force programs on local governments without the state paying for them.” Ballot Pamp., Proposed Amend. to Cal. Const. with arguments to voters, Special Statewide Elec. (Nov. 6, 1979) p. 18.

The Legislature included similarly broad language in the statutes it enacted to implement Section 6. The Government Code states that costs are reimbursable if a claimant is “**required to incur**” them “**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....” Gov’t Code § 17514 (emphasis added).

The State’s reimbursement must include the costs of “reasonably necessary” activities. Gov’t Code § 17557(a). As the regulations clarify, “reasonably necessary activities” are “**activities necessary to comply with the statutes...**found to impose a state-mandated program.” Cal. Code Regs. tit. 2, § 1183.7 (emphasis added). These activities include activities required by statutes not pled in the test claim “**to the extent that compliance with the approved state-mandated activities would not otherwise be possible.**” *Id.* (emphasis added).

Claimant acknowledges that the Commission first adjudicates whether a statute imposes an unfunded mandate and what activities are required by the mandate, and then separately adjudicates what costs are “reasonably necessary” to be included in the Parameters & Guidelines. However, Claimant respectfully suggests these inquiries overlap and intertwine. Most statutes will not on their face expressly set out all of the numerous steps or activities that a local agency must undertake in order to achieve the specific mandate in the statute. But as a practical matter, several steps and activities will be required of the local agency in order for the agency to implement the mandate. All of the costs necessarily incurred by local agencies to implement the mandate should be reimbursed in order to achieve the objective of Section 6. This objective is to provide funding to local agencies to accomplish the mandates the State required them to achieve. An overly-technical approach to determining what activities are “required” by the mandates contravenes the purpose of Section 6.

The Court of Appeal has held that substance should dictate over form when determining what constitutes an unfunded mandate. In context of the Court’s decision that “unfunded mandates” could be issued in executive orders and were not limited to statutes, the Court explained:

The concern which prompted the inclusion of section 6 in article XIII B was the perceived attempt by the state to enact legislation...creating programs to be administered by local agencies, thereby transferring to those agencies the fiscal responsibility for providing services which the state believed should be extended to the public. **It is clear that the primary concern of the voters was the increased financial burdens being shifted to local government, not the form in which those burdens appeared.**

Long Beach Unified Sch. Dist., supra, 225 Cal. App. 3d at 174–75 (internal citation and quotation marks excluded).

With regard to this test claim, the activities that the Department argues were discretionary were not in fact discretionary. They were “required...as a result of” SB 72. Gov’t Code § 17514. At the very least, they were “reasonably necessary” in order to comply with SB 72. Claimant respectfully requests the Commission approve Claimant’s costs to conduct all of the activities set forth in the test claim.

1. Additional Registrar of Voters Staffing Costs Were Required as a Result of SB 72.

This category of costs consists of two sub-categories:

- (a) Additional Registrar of Voters staffing dating on or after January 1, 2020 for the Registrar’s office to plan and prepare for changes due to SB 72, including designing and developing necessary envelopes and workflows[; and]
- (b) The cost of additional Registrar of Voters staffing to handle data entry and processing of the additional increase in CVR registrations and ballots.

Lau Declaration, ¶ 7; *see id.*, ¶ 6(a); *see* Vu Declaration ¶ 19(a).

The first sub-category is costs for planning and preparation to implement the new processes and procedures required of SB 72. SB 72 imposed a new requirement for all *poll workers* to offer CVR to voters *at polling places*. This was a completely new process; poll workers had never been required to do this in the County of San Diego before SB 72 was enacted. It would be impossible to implement the requirements of SB 72 without some staff planning in advance of the election to discuss the new workflows. (*See* Vu Dec., ¶ 19(a), (b), (e).) Further, as a practical matter, this completely new process required new CVR envelopes at the polls and satellite offices so that they could

be processed separately from other ballots at the Registrar's office. (Vu Decl., ¶ 19(e).) Thus Registrar staff had to spend time designing those envelopes as well. (*Id.*) The plain language of the statute may not require the Registrar to spend resources planning to implement its new requirements, but the Registrar necessarily must have done some planning in order to offer CVR as widely as SB 72 mandated. Thus not only were these costs "reasonably necessary" to implement SB 72, but they were "required...as a result of" SB 72.

The second sub-category is increased staffing costs for processing the increase in CVR registrations and ballots. Such costs were "required...as a result of" SB 72. SB 72 increased the number of voters who registered by CVR. In November 2018, 2,353 individuals registered or re-registered to vote using CVR; in March 2020, 13,452 individuals did so. (Vu Decl., ¶¶ 10, 18.) The legislative history of the statute indicates this was an *anticipated and desired* result of SB 72. The author of SB 72 expressly contemplated the bill would increase voter turnout.¹ Thus the increased staffing costs to process increased CVR registrations and ballots were a natural result of SB 72 and were "required...as a result of" SB 72.

2. Additional Election Worker Staffing Costs Were Required as a Result of SB 72.

Due to the anticipated increase in CVR voters as discussed in the preceding section, the Registrar was required to hire additional election workers. (Vu Decl., ¶ 19(c); Lau Decl., ¶¶ 6(c), 7.) Just as the Registrar was required to incur increased staffing costs to process the increased CVR registrations and ballots, the Registrar was also required to hire additional election workers to provide CVR to the additional voters at the polling places and satellite offices of the Registrar. This increase in voter turnout was expressly contemplated by SB 72, as discussed above, and thus these increased costs were "required...as a result of" SB 72.

3. Additional Labor Costs to Process CVR Ballots Were Required as a Result of SB 72.

Due to the increase in CVR voting described above, the Registrar used automated sorting equipment to sort the CVR ballots. (Vu Decl., ¶ 19(d); Lau Decl., ¶6(d).) Previously, the Registrar had sorted CVR ballots by hand. But because there were so many more CVR ballots to sort after SB 72 was enacted, the Registrar used automated

¹ Test Claim, Exhibit J at 6 ("Research has shown [same-day registration, *i.e.*, CVR] to have the following benefits for voters: *Increases voter turnout.*"); *id* at 4, 6, 8.

equipment to do so. Similar to the costs described in the preceding sections, these costs were incurred as a natural result of SB 72 and thus were “required...as a result of” SB 72.

Although the Department deems this to be a discretionary cost, the only discretion involved was to use the automated equipment to *reduce* staffing costs to process the CVR ballots. If the Registrar had not used the automated equipment, its labor costs to sort the CVR ballots would have been higher.

4. The Creation of Four Satellite Locations Was Reasonably Necessary to Implement SB 72.

As discussed above, Claimant respectfully submits that there is not a bright-line distinction between costs that are “required” by a mandate and costs that are “reasonably necessary” to implement a mandate.

Claimant concedes that SB 72 did not directly require that Claimant open additional satellite offices in March 2020. That said, the satellite offices were necessary for the Registrar to mitigate long lines and wait times at the polling places, when such long lines and wait times were a reasonably-anticipated result of SB 72.

In November 2018, CVR was newly available on election day at the Registrar’s one physical location. (*See* Vu Decl., ¶¶ 7-14.) During that election, a line of voters wrapped around the Registrar’s building equal to the length of over 5 football fields. (*Id.*, ¶ 10.) Although the polls closed at 8:00 p.m., the last voter left the Registrar’s building around 1:00 a.m. (*Id.*)

In March 2020, because SB 72 expanded CVR services to all *polling places*, there was a new possibility that voters would experience the long lines and wait times at *polling places* as well. This possibility was compounded by the fact that—not only were poll workers newly required to offer CVR to voters—but there were also 40 different variations of ballots available at the polls. (Vu Decl., ¶¶ 5, 13.)

In light of the new CVR processes and multiple ballot variations that poll workers would be required to manage on election day in March 2020, the Registrar needed to devise a solution so that voters would not face the long lines and wait times at polling places that voters had experienced in November 2018 at the Registrar’s office. (*Id.* ¶ 14.) Thus it was necessary, in light of SB 72, for the Registrar to create the four satellite locations described in the test claim.

IV. The Registrar’s Previous Estimate of FY 20-21 Costs Should be Adjusted Downward because the Registrar will not Conduct a June 2021 Special Election.

Claimant is not aware of any requirement to update estimates of future costs that are contained in an original test claim. However, Claimant will note here that Claimant included estimated costs for conducting a special election on June 8, 2021 to fill the vacancy in Assembly District 79, but the Registrar now will not conduct this election because that vacancy was filled during the April special primary election.²

The Registrar has not finalized its cost calculations for conducting the April 6, 2021 special election. However, because the Registrar will not conduct a June 2021 special election, Claimant’s cost estimate for additional activities required by SB 72 while conducting the special elections in FY 20-21 can be reduced by 50%. That is, while Claimant previously estimated \$60,354 total for both special elections, an appropriate estimate for conducting only one special election would be \$30,177. (See Lau Decl. ¶ 16.)


V. Conclusion

Claimant respectfully requests the Commission approve its test claim in its entirety.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my personal knowledge, information or belief.

Very truly yours,

DAVID J. SMITH, Acting County Counsel

By 
CHRISTINA SNIDER, Senior Deputy

² See <https://www.sos.ca.gov/elections/prior-elections/special-elections/2021-ad79> (“One candidate received a majority (over 50%) of the votes cast in the primary; therefore, no special general election will be held. (Elections Code section 10705).”)

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On May 6, 2021, I served the:

- **Claimant's Rebuttal Comments filed May 5, 2021**

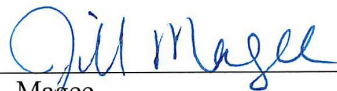
Extended Conditional Voter Registration, 20-TC-02

Elections Code Section 2170 as amended by Statutes 2019, Chapter 565 (SB 72)

County of San Diego, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on May 6, 2021 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 4/13/21

Claim Number: 20-TC-02

Matter: Extended Conditional Voter Registration

Claimant: County of San Diego

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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September 29, 2021

Mr. Kris Cook
Department of Finance
915 L Street, 10th Floor
Sacramento, CA 95814

Ms. Christina Snider
County of San Diego
1600 Pacific Highway,
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San Diego, CA 92101

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Draft Proposed Decision, Schedule for Comments, and Notice of Hearing
Extended Conditional Voter Registration, 20-TC-02
Elections Code Section 2170 as Amended by Statutes 2019, Chapter 565 (SB 72)
County of San Diego, Claimant

Dear Mr. Cook and Ms. Snider:

The Draft Proposed Decision for the above-captioned matter is enclosed for your review and comment.

Written Comments

Written comments may be filed on the Draft Proposed Decision no later than **5:00 pm on October 20, 2021**. Please note that all representations of fact submitted to the Commission must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge, information, or belief. (Cal. Code Regs., tit. 2, § 1187.5.) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.¹

You are advised that comments filed with the Commission are required to be electronically filed (e-filed) in an unlocked legible and searchable PDF file, using the Commission's Dropbox. (Cal. Code Regs., tit. 2, § 1181.3(c)(1).) Refer to http://www.csm.ca.gov/dropbox_procedures.php on the Commission's website for electronic filing instructions. If e-filing would cause the filer undue hardship or significant prejudice, filing may occur by first class mail, overnight delivery or personal service only upon approval of a written request to the executive director. (Cal. Code Regs., tit. 2, § 1181.3(c)(2).)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

¹ Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

Mr. Cook and Ms. Snider
September 29, 2021
Page 2

Hearing

This matter is set for hearing on **Friday, December 3, 2021** at 10:00 a.m. via Zoom. The Proposed Decision will be issued on or about November 19, 2021.

Please notify Commission staff not later than the Wednesday prior to the hearing that you or a witness you are bringing plan to testify and please specify the names of the people who will be speaking for inclusion on the witness list and so that detailed instructions regarding how to participate as a witness in this meeting on Zoom can be provided to them. When calling or emailing, please identify the item you want to testify on and the entity you represent. The Commission Chairperson reserves the right to impose time limits on presentations as may be necessary to complete the agenda.

If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Sincerely,

A handwritten signature in cursive script, appearing to read "Heather Halsey".

Heather Halsey
Executive Director

ITEM ____
TEST CLAIM
DRAFT PROPOSED DECISION
Elections Code Section 2170 as Amended by
Statutes 2019, Chapter 565 (SB 72)
Extended Conditional Voter Registration
20-TC-02
County of San Diego, Claimant

EXECUTIVE SUMMARY

Overview

This Test Claim filed by the County of San Diego (claimant) alleges that reimbursement is required for state-mandated activities arising from Statutes 2019, chapter 565 (SB 72). The test claim statute amended Elections Code section 2170 by expanding the locations at which county elections officials provide conditional voter registration and related provisional voting, (CVR and CVR provisional voting).

As explained below, staff finds that Elections Code section 2170, as amended by the test claim statute, does not mandate a new program or higher level of service on county elections officials and, thus, does not impose a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution.

Procedural History

The claimant filed the Test Claim on December 23, 2020.¹ The Department of Finance (Finance) filed comments on the Test Claim on April 2, 2021.² The claimant filed rebuttal comments on May 5, 2021.³ Commission staff issued the Draft Proposed Decision on September 29, 2021.⁴

Commission Responsibilities

Under article XIII B, section 6 of the California Constitution, local agencies and school districts are entitled to reimbursement for the costs of state-mandated new programs or higher levels of service. In order for local government to be eligible for reimbursement, one or more similarly

¹ Exhibit A, Test Claim, filed December 23, 2020, page 1.

² Exhibit B, Finance’s Comments on the Test Claim, filed April 2, 2021, page 1.

³ Exhibit C, Claimant’s Rebuttal Comments, filed May 5, 2021, page 1.

⁴ Exhibit D, Draft Proposed Decision, issued September 29, 2021.

situated local agencies or school districts must file a test claim with the Commission. “Test claim” means the first claim filed with the Commission alleging that a particular statute or executive order imposes costs mandated by the state. Test claims function similarly to class actions and all members of the class have the opportunity to participate in the test claim process and all are bound by the final decision of the Commission for purposes of that test claim.

The Commission is the quasi-judicial body vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”⁵

Claims

The following chart provides a brief summary of the claims and issues raised and staff’s recommendation.

Issue	Description	Staff Recommendation
Was the Test Claim timely filed pursuant to Government Code section 17551 and California Code of Regulations, title 2, section 1183.1?	Government Code section 17551(c) states: “test claims shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.” Section 1183.1(c) of the Commission’s regulations defines 12 months as 365 days. ⁶	<i>Timely filed</i> – The test claim statute became effective on January 1, 2020 and the Test Claim was filed on December 23, 2020, within 12 months of the effective date of the test claim statute.
Does Elections Code section 2170, as amended by Statutes 2019, chapter 565, impose a reimbursable state-mandated program?	The test claim statute expands the locations where county elections officials are required to provide CVR and CVR provisional voting to now include polling places and satellite election offices. “Providing” CVR and CVR provisional voting requires county elections officials to provide a voter registration	<i>Deny</i> – Elections Code section 2170, as amended by the test claim statute does not impose a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution on county elections officials. The requirement to provide CVR and CVR provisional voting at satellite offices of the

⁵ *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1281, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

⁶ California Code of Regulations, title 2, section 1183.1(c).

Issue	Description	Staff Recommendation
	<p>affidavit pursuant to Elections Code section 2170(d)(1) and perform the activities specified in Elections Code section 2170(d)(2) through (d)(5) to process conditional voter registration and include CVR provisional ballots in the official canvas, and requires county elections officials in non-Voter’s Choice Act counties to follow the procedures specified in Elections Code section 2170(e)(1) through (e)(3) when providing a CVR voter with a provisional ballot. with Elections Code section 2170(d)(4) and (5) are not newly required by the test claim statute.</p>	<p>county elections official is not mandated by the state because county elections officials are not required by state law to create satellite offices.⁷</p> <p>In addition, county elections officials have a preexisting duty to provide CVR and CVR provisional voting. The test claim statute simply expands the locations where these preexisting services must be provided, but does not otherwise change the actual activities that must be performed by a county elections official when offering CVR and CVR provisional voting. Thus, the activities of providing CVR and CVR provisional voting at satellite offices and polling places and processing these ballots does not constitute a new program or higher level of service.</p>

Staff Analysis

A. The Test Claim Was Timely Filed.

Government Code section 17551(c) requires that a test claim be filed “not later than 12 months after the effective date of the statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.” Section 1183.1(c) of the Commission’s regulations defines 12 months as 365 days.⁸ Government Code section 17557(e) requires a test claim to be submitted by June 30 following a fiscal year in order to establish reimbursement eligibility for that fiscal year. The test claim statute became effective on January 1, 2020.⁹ The Test Claim was filed on December 23, 2020, within 365 days of the test claim statute’s effective date. Accordingly, the Test Claim was timely filed.

⁷ Elections Code section 3018(b).

⁸ California Code of Regulations, title 2, section 1183.1(c).

⁹ Statutes 2019, chapter 565.

B. Elections Code Section 2170, as Amended by the Test Claim Statute, Does Not Mandate a New Program or Higher Level of Service on Counties and, Therefore, Does Not Constitute a Reimbursable State-Mandated Program Within the Meaning of Article XIII B, Section 6 of the California Constitution

Prior to the test claim statute, the elections official was required by state law to provide CVR and CVR provisional voting at its permanent offices and, pursuant to Elections Code section 4005, at all vote centers for counties operating under the Voter's Choice Act, during the 14-day period prior to election day and on election day.¹⁰ In addition, counties were permitted to provide CVR and CVR provisional voting at county satellite offices during the 14-day period prior to election day and on election day under prior law, but were not required to do so.¹¹

The test claim statute amended Elections Code section 2170(d) and (e) to extend the requirement for elections officials to provide CVR and CVR provisional voting to all satellite offices and polling places in the county. Providing CVR and CVR provisional ballots requires county elections officials to provide a voter registration affidavit pursuant to Elections Code section 2170(d)(1) and perform the activities specified in Elections Code section 2170(d)(2) through (d)(5) to process conditional voter registration and include CVR provisional ballots in the official canvas, and requires county elections officials in non-Voter's Choice Act counties to follow the procedures specified in Elections Code section 2170(e)(1) through (e)(3) when providing a CVR voter with a provisional ballot.

However, staff finds that Elections Code section 2170, as amended by the test claim statute, does not mandate a new program or higher level of service on county elections officials and, thus, does not impose a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution because:

- The requirement to provide CVR and CVR provisional voting at satellite offices of the county elections official is not mandated by the state because county elections officials are not required by state law to create satellite offices;¹² and
- County elections officials have a preexisting duty to provide CVR and CVR provisional voting. The test claim statute simply expands the locations where these preexisting services must be provided, but does not otherwise change the actual activities that must be performed by a county elections official to provide CVR and CVR provisional voting. Thus, the activities of providing CVR and CVR provisional voting at satellite offices and polling places and processing these ballots does not constitute a new program or higher level of service.

¹⁰ Elections Code section 2170(d)(1), (e) (Stats. 2012, ch. 497, § 2); Elections Code sections 4005(a)(2)(A)(ii), 4007; California Code of Regulations, title 2, section 20023(b).

¹¹ Elections Code section 2170(d)(1), (e) (Stats. 2012, ch. 497, § 2); Statutes 2015, chapter 734, section 2.

¹² Elections Code section 3018(b).

Conclusion

Based on the forgoing analysis, staff finds that the test claim statute does not impose a reimbursable state-mandated program on local agencies within the meaning of article XIII B section 6 of the California Constitution.

Staff Recommendation

Staff recommends that the Commission adopt the Proposed Decision to deny this Test Claim and authorize staff to make any technical, non-substantive changes to the Proposed Decision following the hearing.

BEFORE THE
 COMMISSION ON STATE MANDATES
 STATE OF CALIFORNIA

<p>IN RE TEST CLAIM</p> <p>Elections Code Section 2170 as Amended by Statutes 2019, Chapter 565 (SB 72)</p> <p>Filed on December 23, 2020</p> <p>County of San Diego, Claimant</p>	<p>Case No.: 20-TC-02</p> <p><i>Extended Conditional Voter Registration</i></p> <p>DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7.</p> <p><i>(Adopted December 3, 2021)</i></p>
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DECISION

The Commission on State Mandates (Commission) heard and decided this Test Claim during a regularly scheduled hearing on December 3, 2021. [Witness list will be included in the adopted Decision.]

The law applicable to the Commission’s determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission [adopted/modified] the Proposed Decision to [approve/partially approve/deny] the Test Claim by a vote of [vote will be included in the adopted Decision], as follows:

Member	Vote
Lee Adams, County Supervisor	
Natalie Kuffel, Representative of the Director of the Office of Planning and Research	
Gayle Miller, Representative of the Director of the Department of Finance, Chairperson	
Sarah Olsen, Public Member	
Yvette Stowers, Representative of the State Controller, Vice Chairperson	
Spencer Walker, Representative of the State Treasurer	

Summary of the Findings

This Test Claim filed by the County of San Diego (claimant) alleges that reimbursement is required for state-mandated activities arising from Statutes 2019, chapter 565 (SB 72), which amended Elections Code section 2170 by expanding the locations at which county elections officials provide conditional voter registration and related provisional voting (CVR and CVR provisional voting).

The Commission finds that the Test Claim was timely filed within one year of the effective date of the test claim statute.

The Commission further finds that the test claim statute does not impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution.

Prior to the test claim statute, the elections official was required by state law to provide CVR and CVR provisional voting at its permanent offices and, pursuant to Elections Code section 4005, at all vote centers for counties operating under the Voter's Choice Act, during the 14-day period prior to election day and on election day.¹³ In addition, counties were permitted to provide CVR and CVR provisional voting at county satellite offices during the 14-day period prior to election day and on election day under prior law, but were not required to do so.¹⁴

The test claim statute amended Elections Code section 2170(d) and (e) to extend the requirement for elections officials to provide CVR and CVR provisional voting to all satellite offices and polling places in the county. Providing CVR and CVR provisional ballots requires county elections officials to provide a voter registration affidavit pursuant to Elections Code section 2170(d)(1) and perform the activities specified in Elections Code section 2170(d)(2) through (d)(5) to process conditional voter registration and include CVR provisional ballots in the official canvas, and requires county elections officials in non-Voter's Choice Act counties to follow the procedures specified in Elections Code section 2170(e)(1) through (e)(3) when providing a CVR voter with a provisional ballot.

However, the Commission finds that Elections Code section 2170, as amended by the test claim statute, does not mandate a new program or higher level of service on county elections officials and, thus, does not impose a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution because:

- The requirement to provide CVR and CVR provisional voting at satellite offices of the county elections official is not mandated by the state because county elections officials are not required by state law to create satellite offices;¹⁵ and
- County elections officials have a preexisting duty to provide CVR and CVR provisional voting. The test claim statute simply expands the locations where these preexisting services must be provided, but does not otherwise change the actual activities that must

¹³ Elections Code section 2170(d)(1), (e) (Stats. 2012, ch. 497, § 2); Elections Code sections 4005(a)(2)(A)(ii), 4007; California Code of Regulations, title 2, section 20023(b).

¹⁴ Elections Code section 2170(d)(1), (e) (Stats. 2012, ch. 497, § 2); Statutes 2015, chapter 734, section 2.

¹⁵ Elections Code section 3018(b).

be performed by a county elections official when providing and processing CVR and CVR provisional voting. Thus, the activities of providing CVR and CVR provisional voting at satellite offices and polling places do not constitute a new program or higher level of service.

Accordingly, the Commission denies this Test Claim.

COMMISSION FINDINGS

I. Chronology

01/01/2020 Effective date of Statutes 2019, chapter 565, amending Elections Code section 2170.

12/23/2020 The claimant, County of San Diego, filed the Test Claim.¹⁶

04/02/2021 The Department of Finance (Finance) filed comments on the Test Claim.¹⁷

05/05/2021 The claimant filed rebuttal comments.¹⁸

09/29/2021 Commission staff issued the Draft Proposed Decision.¹⁹

II. Background

This Test Claim alleges reimbursable state-mandated activities and costs arising from Elections Code section 2170, as amended by Statutes 2019, chapter 565 (SB 72), effective January 1, 2020. Elections Code section 2170 was amended by the test claim statute to expand the locations at which county elections officials must provide conditional voter registration and provisional voting to conditional voter registrants from permanent offices of the county elections official and vote centers to also include all satellite county elections offices and all polling places in the county.

A. Conditional Voter Registration

To register to vote in California, an eligible person must properly execute an affidavit of voter registration to be postmarked or received by the county elections official on or before the fifteenth day prior to an election.²⁰ An affidavit of registration may also be submitted to the Department of Motor Vehicles or any other public agency designated as a voter registration agency under the federal National Voter Registration Act of 1993, provided the affidavit is submitted at least 15 days before the election.²¹ Affidavits of registration may be completed in paper form or online through the Secretary of State's website.²²

¹⁶ Exhibit A, Test Claim, filed on December 23, 2020.

¹⁷ Exhibit B, Finance's Comments on the Test Claim, filed April 2, 2021.

¹⁸ Exhibit C, Claimant's Rebuttal Comments, filed May 5, 2021.

¹⁹ Exhibit D, Draft Proposed Decision, issued September 29, 2021.

²⁰ Elections Code section 2102(a).

²¹ Elections Code section 2102(a)(2).

²² Elections Code section 2102(a).

In 2012, the Legislature enacted Elections Code 2170 et seq., establishing conditional voter registration and related provisional voting (CVR and CVR provisional voting).²³ CVR gives eligible persons, who missed the traditional registration deadline, another opportunity to register or reregister to vote. Under Elections Code section 2170(a), a person who is otherwise qualified to vote, but who did not register or reregister by the 15-day registration deadline, is able to conditionally register to vote and provisionally vote during the 14 days prior to and on election day, if certain requirements are met.²⁴

“Conditional voter registration” means a properly executed affidavit of registration that is delivered by the registrant to the county elections official during the 14 days immediately preceding an election or on election day and which may be deemed effective pursuant to this article after the elections official processes the affidavit, determines the registrant’s eligibility to register, and validates the registrant’s information, as specified in subdivision (c).²⁵

While enacted in 2012, CVR and CVR provisional voting did not become operative until January 1, 2017, following the Secretary of State’s certification of a statewide voter registration database (VoteCal).²⁶

CVR and CVR provisional voting was added in order to increase voter participation by providing a mechanism for eligible voters to retain the opportunity to register to vote and to vote, despite missing the 15-day registration deadline, as was seen in other states that adopted a similar process.

Citizen participation in elections is the bedrock of our representative democracy. Yet, in California, voter participation has fallen to troubling levels. In the November 2010 general election just 44.1% of eligible voters cast a vote. Fortunately there is more that we can do to promote increased participation, thus ensuring that election results reflect the will of the people to the greatest extent possible. Currently, individuals who are eligible to vote must submit a voter affidavit at least 15 days prior to an election. Unfortunately, the registration deadline hinders voter participation. This is illustrated by the ten states that allow some form of same-day registration and voting. All but one have higher voter participation rates than California—where only 44.1% of eligible voters participated in the 2010 general election. In comparison, Iowa, Wisconsin and Minnesota had respective rates of 50.0%, 52.1%, and 55.4% in the 2010 general election. Research also shows that same-day registration and voting lead to increased participation. North Carolina implemented same-day voter registration

²³ Statutes 2012, chapter 497 (AB 1436).

²⁴ Elections Code section 2170(a).

²⁵ Elections Code section 2170(a).

²⁶ Statutes 2012, chapter 497; Exhibit A, Test Claim, filed December 23, 2020, page 75.

in 2007 and saw an 8% increase in voter turnout during the 2008 presidential election compared to the 2004 presidential election.²⁷

The statute as originally enacted required county elections officials to provide CVR and CVR voting at all permanent offices of the county elections official during the 14-day period prior to election day and on election day, and permitted county elections officials to provide CVR and CVR voting at satellite offices of the county elections office on election day only.²⁸ In 2015, Elections Code section 2170 was amended to also permit CVR and CVR voting at satellite offices of the county elections office during the 14-day period prior to election day.²⁹ In addition to the test claim statute, Elections Code section 2170 was separately amended in 2019 to permit an elections official to provide a nonprovisional ballot to a conditional voter registrant, if certain requirements are satisfied.³⁰ The statute was also amended in 2020 to make non-substantive changes.³¹

Conditional voter registrants use the same affidavit of registration to register to vote as other voters – either a paper form or online through the Secretary of State’s website.³² The elections official must advise conditional voter registrants that a conditional voter registration is effective only if the registrant is determined to be eligible to register to vote and the information on the registration affidavit is verified.³³

A conditional voter registration is processed in the same manner as a “regular” registration:³⁴ The county elections official must determine the registrant’s eligibility and attempt to validate the registrant’s information.³⁵ For conditional voter registration to be deemed effective, the registrant must be found eligible to register and the information provided by the registrant on the affidavit of registration verified before or during the canvass period for the election.³⁶ If a voter

²⁷ Exhibit X, Assembly Committee on Elections and Redistricting, Analysis of AB 1436 (2011-2012 Reg. Sess.), as amended March 20, 2012, page 3.

²⁸ Elections Code section 2170(d)(1), (e) (Stats. 2012, ch. 497, § 2).

²⁹ Statutes 2015, chapter 734, section 2.

³⁰ Statutes 2019, chapter 99. As a result of this separate 2019 amendment, the language of subdivision (d)(1) was changed as follows:

(d)(1) The elections official shall provide conditional voter registration and ~~provisional~~ voting pursuant to this article at all permanent offices of the county elections official in the county.³⁰

³¹ Statutes 2020, chapter 370.

³² California Code of Regulations, title 2, section 20022; see Elections Code sections 2102, 2150, 2170(a).

³³ Elections Code section 2170(d)(2).

³⁴ Elections Code section 2171(b).

³⁵ Elections Code section 2170(d)(4).

³⁶ Elections Code section 2170(a), (c).

is otherwise eligible to vote but the information provided on the affidavit cannot be verified using a Department of Motor Vehicles or federal Social Security Administration database, the registrant is issued a unique identification number for voter registration identification purposes and the conditional voter registration is deemed effective.³⁷ Upon finding a conditional registration effective, the corresponding provisional ballot is included in the official canvass for the election.³⁸

B. Provisional Voting

Provisional voting has been in effect in California since 1984 and is meant to ensure that “no properly registered voter is denied their right to cast a ballot if that voter’s name is not on the polling place roster due to a clerical, processing, computer, or other error” and “that no voter votes twice, either intentionally or inadvertently, in a given election.”³⁹ Any voter who claims to be properly registered but whose qualifications cannot be immediately determined is entitled to cast a provisional ballot.⁴⁰ Common circumstances when an elections official will require a voter to cast a provisional ballot include: when a person is voting for the first time in a federal election and cannot provide the required proof of identification;⁴¹ when a voter has moved within the same county but has not reregistered to vote;⁴² a vote-by-mail voter voting in person;⁴³ and when a voter is not on the polling place roster for an unknown reason.⁴⁴

An elections official must advise any voter who falls into any of these categories or otherwise claims to be properly registered, but whose voter eligibility cannot be determined, of the voter’s right to cast a provisional ballot, and must provide the voter with a provisional ballot, written instructions regarding the process and procedures for casting the ballot, and a written affirmation regarding the voter’s registration and eligibility to vote.⁴⁵ The written instructions provided to a provisional voter must include the following information in Elections Code section 14310(c) and (d):

- During the official canvass, the elections official shall examine the records with respect to all provisional ballots cast. Using the procedures that apply to the comparison of

³⁷ Elections Code section 2170(c)(2); see Elections Code section 2150(a)(7)(C).

³⁸ Elections Code section 2170(d)(5).

³⁹ Exhibit X, California Secretary of State, Provisional Voting, <https://www.sos.ca.gov/elections/voting-resources/provisional-voting> (accessed on June 2, 2021), page 2.

⁴⁰ Elections Code sections 2300, 14310.

⁴¹ California Code of Regulations, title 2, sections 19075, 20107.

⁴² Elections Code section 14311.

⁴³ Elections Code section 3016.

⁴⁴ Elections Code section 14310(a); see also Exhibit X, California Secretary of State, Provisional Voting, <https://www.sos.ca.gov/elections/voting-resources/provisional-voting> (accessed on June 2, 2021), page 3.

⁴⁵ Elections Code section 14310(a)(1), (a)(2).

signatures on vote by mail ballots pursuant to Section 3019, the elections official shall compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration or other signature in the voter's registration record. If the signatures do not compare or the provisional ballot envelope is not signed, the ballot shall be rejected.

- The elections official establishes prior to the completion of the official canvass, from the records in his or her office, the claimant's right to vote, the provisional ballot has been cast pursuant to Elections Code section 2170 (with CVR and CVR provisional voting), or upon order of the court.
- A voter may seek the court order regarding his or her own ballot at any time prior to completion of the official canvass.
- The provisional ballot of a voter who is otherwise entitled to vote shall not be rejected because the voter did not cast his or her ballot in the precinct to which he or she was assigned by the elections official.

If the ballot cast by the voter contains the same candidates and measures on which the voter would have been entitled to vote in his or her assigned precinct, the elections official shall count the votes for the entire ballot.

If the ballot cast by the voter contains candidates or measures on which the voter would not have been entitled to vote in his or her assigned precinct, the elections official shall count only the votes for the candidates and measures on which the voter was entitled to vote in his or her assigned precinct.

- Any voter who casts a provisional ballot may access a free access system established by the Secretary of State to discover whether the voter's provisional ballot was counted and, if not, the reason why it was not counted.⁴⁶

The voter must then execute the written affirmation in the presence of an elections official, stating that the voter is eligible to vote and is registered in the county.⁴⁷

A provisional ballot is simply a regular ballot that is sealed in an envelope that demarcates it as provisional prior to being placed in the ballot box.⁴⁸ Provisional ballot envelopes must be of a different color than the envelopes used for vote-by-mail ballots, but printed substantially similar to and completed in the same manner.⁴⁹

⁴⁶ Elections Code section 14310(a)(2).

⁴⁷ Elections Code section 14310(a)(3).

⁴⁸ Elections Code section 14310.

⁴⁹ Elections Code section 14310(b).

No provisional ballot is counted or rejected until the elections official goes through a detailed process to determine whether the ballot should be counted.⁵⁰ As explained in the written information provided to the voter, provisional ballots are processed and counted in the same manner as vote-by-mail ballots.⁵¹ During the official canvass period for the election, the elections official compares the signature on the provisional ballot envelope with the signature in the voter’s registration record using the procedures applicable to comparing signatures for vote-by-mail ballots under Elections Code section 3019.⁵²

If the signatures do not compare or the provisional ballot envelope is not signed, the ballot is rejected.⁵³ Provisional ballots are only included in any semiofficial or official canvass if at least one of the following is true: (1) the provisional voter’s right to vote is established; (2) the provisional ballot is cast and included in the canvass under the rules governing CVR and CVR provisional voting; or (3) by order of a superior court in the voter’s county of residence.⁵⁴

A provisional ballot cast by an eligible voter shall not be rejected because it is cast at a location other than the voter’s assigned precinct.⁵⁵ The voter is entitled to have only the votes counted that are cast on the candidates and measures that the voter would have been entitled to vote on at the voter’s assigned precinct.⁵⁶ Additionally, any voter who casts a provisional ballot is entitled to find out whether their ballot was counted and, if not, the reason why it was not counted.⁵⁷ This information is made available on the Secretary of State’s “My Voter Status” page, along with the voter’s participation history.⁵⁸

Provisional ballots cast by conditional voter registrants⁵⁹ are subject to the same requirements as provisional ballots generally.⁶⁰ Thus, a “CVR provisional ballot” is a provisional ballot that is

⁵⁰ Elections Code sections 14310, 15350, and 15100-15112; see also Exhibit X, California Secretary of State, Provisional Voting, <https://www.sos.ca.gov/elections/voting-resources/provisional-voting> (accessed on June 2, 2021), page 3.

⁵¹ Elections Code sections 14310(c)(1), 15350, 15100-15112.

⁵² Elections Code section 14310(c)(1).

⁵³ Elections Code section 14310(c)(1).

⁵⁴ Elections Code section 14310(c)(2)(A).

⁵⁵ Elections Code section 14310(c)(3).

⁵⁶ Elections Code section 14310(c)(3)(A), (c)(3)(B).

⁵⁷ Elections Code section 14310(d); California Code of Regulations, title 2, sections 19093 (provisional ballots generally), 20025(f) (CVR provisional ballots).

⁵⁸ California Code of Regulations, title 2, sections 19093 (provisional ballots generally), 20025(f) (CVR provisional ballots).

⁵⁹ The Secretary of State’s regulations governing the conditional voter registration provisions of the Elections Code use the term “CVR voter” to mean a conditional voter registrant who requests a CVR provisional ballot. (California Code of Regulations, title 2, section 20021(b).)

⁶⁰ Elections Code sections 2171(c), 14310-14314.

issued to a conditional voter registrant.⁶¹ CVR provisional ballot envelopes must look visibly different from all other ballot envelopes, which can include a different envelope color or placing a stamp or mark using a marking mechanism on the ballot envelope.⁶²

If a conditional voter registration is deemed effective under Elections Code section 2170, the corresponding CVR provisional ballot must be processed in accordance with sections 20025 and 20026 of the Secretary of State's regulations.⁶³

C. Voter's Choice Act

In 2016, the Legislature enacted the Voter's Choice Act, which authorized the counties of Calaveras, Inyo, Madera, Napa, Nevada, Orange, Sacramento, San Luis Obispo, San Mateo, Santa Clara, Shasta, Sierra, Sutter, and Tuolumne to conduct any election as an all-mailed ballot election beginning January 1, 2018, if certain conditions are satisfied, including requirements for ballot drop-off locations, vote centers, and election administration plans.⁶⁴ Beginning January 1, 2020, any county may choose to conduct any election under the Voter's Choice Act, if specified requirements are met.⁶⁵ By the 2018 elections, five counties had implemented the Voter's Choice Act: Madera, Napa, Nevada, Sacramento, and San Mateo. By December 2020, 15 of 58 counties had implemented the Voter's Choice Act.⁶⁶

Under the Voter's Choice Act, counties conduct elections in which all registered voters receive a ballot by mail.⁶⁷ Voters may then choose to mail in their ballot, drop off the ballot at a secure drop-off location, or vote in person at a vote center.⁶⁸ Beginning 10 days before the election and continuing through the Friday before election day, at least one vote center is required for every

⁶¹ California Code of Regulations, title 2, section 20021(c).

⁶² California Code of Regulations, title 2, section 20024.

⁶³ California Code of Regulations, title 2, section 19095.

⁶⁴ Statutes 2016, chapter 832 (SB 450).

⁶⁵ Elections Code sections 4005, 4007. Los Angeles County is subject to the same general requirements specified in Elections Code section 4005, with certain exceptions as specified in Elections Code section 4007.

⁶⁶ Exhibit X, California Secretary of State, Voter's Choice Act Participating Counties, <https://www.sos.ca.gov/elections/voters-choice-act/vca-counties> (accessed on June 2, 2021). Voter's Choice Act counties include: Amador, Butte, Calaveras, El Dorado, Fresno, Los Angeles, Madera, Mariposa, Napa, Nevada, Orange, Sacramento, San Mateo, Santa Clara, and Tuolumne.

⁶⁷ Exhibit A, Test Claim, filed December 23, 2020, page 160 (California Secretary of State, About California's Voter's Choice Act).

⁶⁸ Exhibit A, Test Claim, filed December 23, 2020, page 160 (California Secretary of State, About California's Voter's Choice Act).

50,000 registered voters.⁶⁹ On election day and the Saturday, Sunday, and Monday prior, one vote center is required for every 10,000 registered voters.⁷⁰

Under the Voter's Choice Act, vote centers replace traditional polling places and provide the following expanded voter services:

- Vote in-person;
- Secure ballot drop off;
- Get a replacement ballot;
- Vote using an accessible voting machine;
- Get help and voting material in multiple languages; and
- Register to vote or update voter registration, pursuant to Elections Code section 2170.⁷¹

Counties participating in the Voter's Choice Act must offer CVR and CVR voting at all vote centers.⁷²

D. Test Claim Statute

As indicated above, before the test claim statute was enacted, Elections Code 2170 required county elections officials to provide CVR and CVR provisional voting at all permanent offices of the county elections official during the 14-day period prior to election day and on election day, and permitted county elections officials to provide CVR and CVR provisional voting at satellite offices of the county elections office during the 14-day period prior to election day and on election day.⁷³ In addition, Elections Code section 4005(a)(2)(A) required vote centers to provide CVR and CVR provisional voting pursuant to section 2170.

The test claim statute, Statutes 2019, chapter 565 (SB 72) became effective on January 1, 2020, amending Elections Code section 2170(d) and (e) to *require* county elections officials to provide CVR and CVR provisional voting at all satellite offices of the county elections official and all polling places in the county, and to specify the procedures that county elections officials in non-Voter's Choice Act counties must follow in providing a provisional ballot to a conditional voter registrant. Elections Code section 2170 was amended as follows:

⁶⁹ Elections Code section 4005(a)(4)(A); Exhibit A, Test Claim, filed December 23, 2020, page 161 (California Secretary of State, About California's Voter's Choice Act).

⁷⁰ Elections Code section 4005(a)(3)(A); Exhibit A, Test Claim, filed December 23, 2020, page 161 (California Secretary of State, About California's Voter's Choice Act).

⁷¹ Exhibit A, Test Claim, filed December 23, 2020, pages 160-161 (California Secretary of State, About California's Voter's Choice Act); Elections Code section 4005(a)(2)(A).

⁷² Elections Code sections 4005(a)(2)(A)(ii), 4007; California Code of Regulations, title 2, section 20023(b).

⁷³ Elections Code section 2170(d)(1), (e) (Stats. 2012, ch. 497, § 2); Statutes 2015, chapter 734, section 2.

(d) The county elections official shall offer conditional voter registration and provisional voting pursuant to this article, in accordance with all of the following procedures:

- (1) The elections official shall provide conditional voter registration and provisional voting pursuant to this article at all permanent and satellite offices of the county elections official and all polling places in the county.
- (2) The elections official shall advise registrants that a conditional voter registration will be effective only if the registrant is determined to be eligible to register to vote for the election and the information provided by the registrant on the registration affidavit is verified pursuant to subdivision (c).
- (3) The elections official shall conduct the receipt and handling of each conditional voter registration and offer and receive a corresponding provisional ballot in a manner that protects the secrecy of the ballot and allows the elections official to process the registration, determine the registrant's eligibility to register, and validate the registrant's information before counting or rejecting the corresponding provisional ballot.
- (4) After receiving a conditional voter registration, the elections official shall process the registration, determine the registrant's eligibility to register, and attempt to validate the registrant's information.
- (5) If a conditional registration is deemed effective, the elections official shall include the corresponding provisional ballot in the official canvass.

~~(e) The county elections official may offer~~ After receiving a conditional voter registration and provisional voting pursuant to this article at satellite offices of the county elections office, the elections official shall provide the voter a provisional ballot in accordance with the following procedures: specified in paragraphs (2) to (5), inclusive, of subdivision (d).

- (1) If the elections office, satellite office, or polling place is equipped with an electronic poll book, or other means to determine the voter's precinct, the elections official shall provide the voter with a ballot for the voter's precinct if the ballot is available. The ballot may be cast by any means available at the elections office, satellite office, or polling place.
- (2) If the elections official is unable to determine the voter's precinct, or a ballot for the voter's precinct is unavailable, the elections official shall provide the voter with a ballot and inform the voter that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted pursuant to paragraph (3) of subdivision (c) of Section 14310. The ballot may be cast by any means available at the elections office, satellite office, or polling place.
- (3) Notwithstanding paragraph (2), if the elections official is able to determine the voter's precinct, but a ballot for the voter's precinct is unavailable, the elections official may inform the voter of the location of

the voter's polling place. A voter described in this paragraph shall not be required to vote at the voter's polling place and may instead, at the voter's choosing, cast a ballot pursuant to paragraph (2).

(4) This subdivision does not apply to elections conducted pursuant to Section 4005 or 4007 [under the Voter's Choice Act].

1. Secretary of State's Interpretation of the Test Claim Statute.

The Secretary of State is the chief elections officer of the state and is responsible for administering the provisions of the Elections Code.⁷⁴ According to a Secretary of State memorandum issued to county elections officials statewide, the test claim statute “amends Elections Code section 2170 to require county elections officials to offer CVR and CVR provisional voting at all permanent and satellite offices and all polling places in the county.”⁷⁵

The Secretary of State's guidance for providing CVR and CVR provisional voting at all permanent and satellite county elections offices is as follows:

- Provide the individual a voter registration application.
- Once the voter completes the application, the county elections official determines the CVR voter's precinct.
- Provide the CVR voter a ballot for the voter's precinct.
- Voter places the voted ballot in a CVR provisional ballot envelope.⁷⁶

The Secretary of State's guidance for providing CVR and CVR provisional voting at polling locations tracks Elections Code section 2170(e)(1) through (e)(3), which address the various circumstances that may arise at polling places depending on whether the polling place has technology to determine the CVR voter's precinct and whether the ballot for the CVR voter's assigned precinct is available.⁷⁷

If the polling location has technology to determine the CVR voter's precinct and:

Ballot for that precinct is available:

- Provide the individual a voter registration application.

⁷⁴ Government Code section 12172.5(a).

⁷⁵ Exhibit A, Test Claim, filed December 23, 2020, page 107 (California Secretary of State CC/ROV Memorandum #19125, November 20, 2019). The courts will give weight and appropriate deference to the interpretation of a statute by the agency charged with its implementation. (*Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 7.)

⁷⁶ Exhibit A, Test Claim, filed December 23, 2020, page 108 (California Secretary of State CC/ROV Memorandum #19125, November 20, 2019).

⁷⁷ Exhibit A, Test Claim, filed December 23, 2020, pages 110-111 (California Secretary of State CC/ROV Memorandum #19125, November 20, 2019).

- Once the voter completes the application, the county elections official determines the CVR voter's precinct.
 - The Secretary of State recommends having a minimum of two workers at the polling place who have credentials to access the technology that can determine a CVR voter's precinct in order to ensure adequate coverage.
- Provide the CVR voter a ballot for the voter's precinct.
 - The Secretary of State recommends having a minimum of two workers at the polling place who have access to the ballots for all the precincts in the county to ensure adequate coverage.
 - If access to all precinct ballots within the county is through the use of an electronic ballot marking device, poll workers should be made aware that a voter might refuse to use that voting option. If so, the CVR voter should be:
 - informed of the location of their correct polling place where the ballot for their precinct is available, or
 - given a ballot that is available at the precinct with information that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted.
- Voter places the voted ballot in a CVR provisional ballot envelope.

Ballot for that precinct is NOT available:

- Inform the voter of the location of their correct polling place and their option to vote at the correct polling place or at their current location.
- If the individual does not wish to go to their polling place, provide the individual a voter registration application.
 - Once the voter completes the application, the county elections official determines the CVR voter's precinct.
 - The Secretary of State recommends having a minimum of two workers at the polling place who have credentials to access the technology that can determine a CVR voter's precinct.
 - Give the CVR voter:
 - a ballot that is available at the precinct, and
 - inform the voter that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted.
 - Voter places the voted ballot in a CVR provisional ballot envelope.

If polling location does NOT have technology to determine the CVR voter's precinct -OR- the ballot for the voter's precinct is NOT available:

- If possible, inform the individual of the location of their correct polling place where the ballot for their precinct is available, and their option to vote at the correct polling place or at their current location.
- If the individual does not wish to go to their polling place (or if the polling location does not have the technology to determine the CVR's precinct), provide the individual a voter registration application.
 - Give the CVR voter:
 - a ballot that is available at the precinct, and
 - information that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted.
 - Voter places the voted ballot in a CVR provisional ballot envelope.⁷⁸

2. Legislative History of the Test Claim Statute.

According to the legislative history, the purpose of the test claim statute was “to expand access to same day voter registration and voting” by “requir[ing] all counties to permit eligible voters to register and vote on Election Day at every polling site.”⁷⁹

Additionally, the legislative history indicates that because voters who wish to change their political party preference in order to vote in a particular party’s presidential primary may do so either prior to the registration deadline or through the conditional voter registration process, providing CVR and CVR provisional voting at more locations may reduce some of the related voter confusion and frustration that reportedly occurred in California during the 2016 presidential primary election.⁸⁰

E. Past Commission Decisions on Elections Law

The Commission has not received a prior test claim on Elections Code 2170, but has heard and decided a number of test claims on elections law, the following of which are relevant to this Test Claim.

Voter Identification Procedures, 03-TC-23

⁷⁸ Exhibit A, Test Claim, filed December 23, 2020, pages 110-111 (California Secretary of State CC/ROV Memorandum #19125, November 20, 2019), emphasis in original.

⁷⁹ Exhibit A, Test Claim, filed December 23, 2020, pages 134-135 (Senate Committee on Elections and Constitutional Amendments, Analysis of SB 72 (2019-2020 Reg. Sess.), as amended March 25, 2019, pages 7-8).

⁸⁰ Exhibit A, Test Claim, filed December 23, 2020, page 133 (Senate Committee on Elections and Constitutional Amendments, Analysis of SB 72 (2019-2020 Reg. Sess.), as amended March 25, 2019, page 6).

On October 4, 2006, the Commission approved the *Voter Identification Procedures*, 03-TC-23 Test Claim, finding that Elections Code section 14310(c)(1), as amended by Statutes 2000, chapter 260, imposed a reimbursable state-mandated program on city and county elections officials to compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration, and to reject any ballot when the signatures do not compare, for statutorily required elections.

Fifteen Day Close of Voter Registration, 01-TC-15

On October 31, 2006, the Commission partially approved the *Fifteen Day Close of Voter Registration*, 01-TC-15 Test Claim.⁸¹ At issue were changes to the voter registration deadline prior to an election. The test claim statute amended, repealed, and reenacted several Elections Code sections to allow new registrations or changes to voter registrations through the 15th day prior to an election. Under prior law, the registration period closed 29 days before an election. The claimant sought mandate reimbursement for costs incurred to register voters during the 28-day through 15-day period prior to an election, including implementation, planning, revising training programs, conducting an informational media campaign, answering questions about the new law, and hiring additional staff.

In finding that most of the statutory amendments by Statutes 2000, chapter 899, did not impose a new program or higher level of service on county elections officials with the meaning of article XIII B, section 6, the Commission determined that processing and accepting voter registration affidavits and changes of address were not newly required activities because county elections officials had been required to perform those activities since long before the enactment of the test claim statute.⁸² Therefore, because processing and accepting new voter registrations and changes of address constitute an existing program, increases in the cost of that program that result from the changed timeframes do not impose a state-mandated program or higher level of service within the meaning of article XIII B, section 6.⁸³

Vote by Mail Ballots: Prepaid Postage, 19-TC-01

On July 24, 2020, the Commission partially approved the *Vote by Mail Ballots: Prepaid Postage*, 19-TC-01 Test Claim, finding that Elections Code Section 3010, as amended by Statutes 2018, chapter 120, imposes a reimbursable state-mandated program on city and county elections officials to provide prepaid postage on identification envelopes delivered with vote-by-mail ballots for all state and local elections, except for those held at the discretion of the local

⁸¹ Exhibit X, Excerpts from Commission on State Mandates, Statement of Decision for *Fifteen Day Close of Voter Registration*, 01-TC-15, page 1.

⁸² Exhibit X, Excerpts from Commission on State Mandates, Statement of Decision for *Fifteen Day Close of Voter Registration*, 01-TC-15, pages 1-2.

⁸³ Exhibit X, Excerpts from Commission on State Mandates, Statement of Decision for *Fifteen Day Close of Voter Registration*, 01-TC-15, pages 1-2.

governing body, or elections for which counties or cities have fee authority within the meaning of Government Code section 17556(d).⁸⁴

III. Positions of the Parties

A. County of San Diego

The claimant alleges that the test claim statute imposes a reimbursable state-mandated program under article XIII B, section 6 and Government Code section 17514 on counties by requiring county elections officials to offer conditional voter registration (CVR) at satellite offices of the county elections official and polling places in the county during the 14-day period prior to the election and on election day.⁸⁵ The mandate applies to all elections conducted by the county elections official but only in counties that have *not* implemented the Voter's Choice Act (Elections Code section 4005 et seq.).⁸⁶

These requirements are new because under prior law, CVR and CVR provisional voting was only required at the county elections office during the 14-day period prior to the election and on election day, was optional at satellite offices, and was neither optional nor required at polling places.⁸⁷ The claimant states that because polling places in San Diego County are only open on election day, the claimant must now offer CVR and CVR provisional voting at all satellite offices of the county elections official during the 14-day period prior to the election, and at satellite offices and all polling places on election day.⁸⁸

The claimant argues that the test claim statute constitutes a new program or higher level of service.⁸⁹ The new requirements under Elections Code section 2170(d)(1) carry out “the governmental function of providing services to the public – i.e., allowing voters to register to vote for the first time or re-register to vote just before (or on) election day so that they can vote in that election.”⁹⁰ Furthermore, the new requirements are unique to local government: only the county elections official is required to provide conditional voter registration.⁹¹ Alternatively, the claimant argues, the test claim statute imposes a “higher level of service” on local governments because in addition to offering CVR and CVR provisional voting at the permanent office of the county elections official, counties must extend CVR and CVR provisional voting to satellite offices and polling places.⁹²

⁸⁴ Exhibit X, Excerpts from Commission on State Mandates, Statement of Decision for *Vote by Mail Ballots: Prepaid Postage*, 19-TC-01, adopted July 24, 2020, pages 1-5.

⁸⁵ Exhibit A, Test Claim, filed December 23, 2020, page 10.

⁸⁶ Exhibit A, Test Claim, filed December 23, 2020, page 11.

⁸⁷ Exhibit A, Test Claim, filed December 23, 2020, page 11.

⁸⁸ Exhibit A, Test Claim, filed December 23, 2020, page 12.

⁸⁹ Exhibit A, Test Claim, filed December 23, 2020, page 12.

⁹⁰ Exhibit A, Test Claim, filed December 23, 2020, page 13.

⁹¹ Exhibit A, Test Claim, filed December 23, 2020, page 13.

⁹² Exhibit A, Test Claim, filed December 23, 2020, page 14.

The claimant alleges that as a result of the test claim statute, it incurred increased costs during the 2019-2020 fiscal year as follows:⁹³

Activity	Date(s) Performed	Description	Total Cost	Fee Authority	Reimbursable Cost Claimed
1) Staffing costs	FY 2019-2020	Plan, prepare and design envelopes	\$29,019	N/A	\$29,019
2) Staffing costs	FY 2019-2020	Conduct additional data entry and process CVR ballots	\$123,965	\$27,648	\$96,317
3) Training	FY 2019-2020	Create new training materials for poll workers and train poll workers	\$32,166	\$7,174	\$24,992
4) Election staffing	FY 2019-2020	Recruit and hire temporary staff and poll workers	\$96,608	\$21,546	\$75,062
5) Ballot processing	FY 2019-2020	Additional CVR ballot processing	\$10,773	\$2,403	\$8,370
6) Supplies	FY 2019-2020	CVR envelopes for satellite offices and polling places	\$91,476	\$20,402	\$71,074
7) Satellite locations	FY 2019-2020	Open and operate four new satellite locations	\$236,287	\$52,698	\$183,589
TOTAL			\$620,294	\$131,871	\$488,423

The claimant alleges that the activities listed above were performed as part of the March 2020 presidential primary election.⁹⁴ The claimant asserts that, because of the large CVR voter turnout during the November 2018 election, there was concern that polling places would be overwhelmed during the March 2020 election.⁹⁵ As of February 2019, there were over 480,000 eligible electors in San Diego County who could potentially register to vote through the CVR process, not including voters reregistering to vote through CVR.⁹⁶ Therefore, the claimant argues, it was necessary to create four additional satellite offices so that traditional polling places would not be overwhelmed by large numbers of CVR voters, and potential voters would not have to endure long wait times.⁹⁷

⁹³ Exhibit A, Test Claim, filed December 23, 2020, pages 5-7.

⁹⁴ Exhibit A, Test Claim, filed December 23, 2020, pages 16-22.

⁹⁵ Exhibit A, Test Claim, filed December 23, 2020, page 15.

⁹⁶ Exhibit A, Test Claim, filed December 23, 2020, page 14.

⁹⁷ Exhibit A, Test Claim, filed December 23, 2020, pages 15-16, 21-22.

Offering CVR and CVR provisional voting at satellite offices of the elections official during the 14-day period before election day and at satellite offices and polling places on elections day required the claimant, through its Registrar of Voters, to incur planning and preparation costs to “design and develop the necessary envelopes and training and create the necessary workflows” and to hire additional temporary staff to complete data entry and to process the additional CVRs and CVR provisional ballots.⁹⁸ The claimant also alleges that because of the test claim statute, the Registrar of Voters must train poll workers on the new processes for CVR and CVR provisional voting and update the poll worker training handbook to reflect these new processes.⁹⁹ Because of the anticipated increased voter turnout generated by CVR and CVR provisional voting, the claimant states that it was forced to recruit and hire additional temporary staff and poll workers.¹⁰⁰

Because the test claim statute directly resulted in an increased number of CVR provisional ballots, the claimant alleges that it was required to process and sort CVR provisional ballot envelopes using automated processing equipment, for which it incurred additional costs.¹⁰¹ The claimant also argues that the test claim statute directly resulted in the need to purchase new CVR provisional ballot envelopes for satellite locations and polling places.¹⁰² According to the claimant, the new CVR provisional ballot envelope served as the affidavit of registration for CVR voters at all locations.¹⁰³

The claimant cites to the Commission’s recent decision in *Vote by Mail Ballots: Prepaid Postage*, 19-TC-01, for the proposition that it can recover some of the costs of administering elections from the jurisdictions whose elections are consolidated with the primary and general elections.¹⁰⁴ However, the claimant maintains that it cannot recover the additional internal planning and preparation costs it is forced to incur as a result of the test claim statute.¹⁰⁵

The claimant states that for the November 2020 election, it incurred \$191,154 in total additional costs, but anticipates receiving reimbursement from other jurisdictions for additional staffing and training costs, such that the estimated total additional costs after reimbursement are \$123,800.¹⁰⁶ The claimant may also receive federal Help America Vote Act funds to defray some of these costs.¹⁰⁷ The claimant anticipates incurring \$30,177 in additional costs to conduct a special

⁹⁸ Exhibit A, Test Claim, filed December 23, 2020, page 17.

⁹⁹ Exhibit A, Test Claim, filed December 23, 2020, pages 17-18.

¹⁰⁰ Exhibit A, Test Claim, filed December 23, 2020, page 18.

¹⁰¹ Exhibit A, Test Claim, filed December 23, 2020, page 19.

¹⁰² Exhibit A, Test Claim, filed December 23, 2020, pages 19-20.

¹⁰³ Exhibit A, Test Claim, filed December 23, 2020, page 20.

¹⁰⁴ Exhibit A, Test Claim, filed December 23, 2020, page 17.

¹⁰⁵ Exhibit A, Test Claim, filed December 23, 2020, page 17.

¹⁰⁶ Exhibit A, Test Claim, filed December 23, 2020, page 24.

¹⁰⁷ Exhibit A, Test Claim, filed December 23, 2020, page 24.

primary election in April 2021 to fill a vacancy in Assembly District 79.¹⁰⁸ Because this special election is not consolidated with other local elections, the claimant cannot receive reimbursement to offset costs.¹⁰⁹

The claimant estimates the statewide cost of implementing the test claim statute for fiscal year 2020-2021 at \$331,154 – 722,934.¹¹⁰

In rebuttal comments, the claimant asserts that Finance concedes that the test claim statute creates an unfunded mandate and that training and supply costs were necessarily incurred.¹¹¹ The claimant disputes Finance’s challenge to the following four categories of costs: (1) Registrar of Voters staffing; (2) election staffing; (3) CVR ballot processing; and (4) creating new satellite locations.¹¹² The claimant argues that while the Commission first determines in a test claim decision whether a statute imposes reimbursable state-mandated activities, and then, at the parameters and guidelines phase, separately determines whether certain costs are “reasonably necessary” to carry out the mandate, these inquiries overlap and intertwine and should therefore be considered in tandem.¹¹³

The claimant argues that because the test claim statute required for the first time that poll workers offer CVR at polling places, the Registrar of Voters was required to incur additional staffing costs to plan new workflows and develop new CVR envelopes.¹¹⁴ Thus, these planning activities were not only reasonably necessary, but were required.¹¹⁵ Similarly, the expected increase in CVR voters caused the Registrar to hire additional election workers.¹¹⁶ Because the legislative history of the test claim statute expressly anticipated an increase in voter turnout, increased staffing costs were required as a result of the test claim statute.¹¹⁷ The claimant maintains that using automated equipment to sort CVR ballots was a required labor cost, and not discretionary as Finance alleges.¹¹⁸ The claimant was required to use automated equipment to reduce labor costs for CVR ballot processing.¹¹⁹ While the claimant concedes that the test claim statute does not directly require satellite offices, satellite offices were necessary “to mitigate long

¹⁰⁸ Exhibit A, Test Claim, filed December 23, 2020, pages 24-25; Exhibit C, Claimant’s Rebuttal Comments, filed May 5, 2021, page 7.

¹⁰⁹ Exhibit A, Test Claim, filed December 23, 2020, page 25.

¹¹⁰ Exhibit A, Test Claim, filed December 23, 2020, page 26.

¹¹¹ Exhibit C, Claimant’s Rebuttal Comments, filed May 5, 2021, page 1.

¹¹² Exhibit C, Claimant’s Rebuttal Comments, filed May 5, 2021, pages 1-2.

¹¹³ Exhibit C, Claimant’s Rebuttal Comments, filed May 5, 2021, page 3.

¹¹⁴ Exhibit C, Claimant’s Rebuttal Comments, filed May 5, 2021, pages 4-5.

¹¹⁵ Exhibit C, Claimant’s Rebuttal Comments, filed May 5, 2021, pages 4-5.

¹¹⁶ Exhibit C, Claimant’s Rebuttal Comments, filed May 5, 2021, page 5.

¹¹⁷ Exhibit C, Claimant’s Rebuttal Comments, filed May 5, 2021, page 5.

¹¹⁸ Exhibit C, Claimant’s Rebuttal Comments, filed May 5, 2021, page 5.

¹¹⁹ Exhibit C, Claimant’s Rebuttal Comments, filed May 5, 2021, pages 5-6.

lines and wait times at the polling places,” a reasonably anticipated result of expanding CVR services to all polling places.¹²⁰

B. Department of Finance

Finance does not dispute the claimant’s position that as a result of the test claim statute, claimant’s county elections official was required to update its training handbook, train poll workers on the CVR process, and purchase new CVR envelopes for both polling and satellite locations.¹²¹ However, Finance challenges the claimant’s assertion that it was required to incur staffing, equipment, and satellite office expenses, arguing that those activities are not required by the amended statute.¹²² Specifically, Finance asserts that the test claim statute does not require the claimant to recruit and hire additional temporary staff and poll workers, use automated processing equipment to process and sort ballots, or create additional satellite offices, and therefore, the claimant exercised discretion in choosing to perform these activities.¹²³ As such, costs relating to the non-required activities of staffing, ballot processing equipment, and satellite offices are not reimbursable.¹²⁴

IV. Discussion

Article XIII B, section 6 of the California Constitution provides in relevant part the following:

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 to reimburse such local government for the costs of such programs or increased level of service...

The purpose of article XIII B, section 6 is to “preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”¹²⁵ Thus, the subvention requirement of section 6 is “directed to state-mandated increases in the services provided by [local government] ...”¹²⁶

Reimbursement under article XIII B, section 6 is required when the following elements are met:

- A state statute or executive order requires or “mandates” local agencies or school districts to perform an activity.¹²⁷
- The mandated activity constitutes a “program” that either:

¹²⁰ Exhibit C, Claimant’s Rebuttal Comments, filed May 5, 2021, page 6.

¹²¹ Exhibit B, Finance’s Comments on the Test Claim, filed April 2, 2021, page 1.

¹²² Exhibit B, Finance’s Comments on the Test Claim, filed April 2, 2021, page 2.

¹²³ Exhibit B, Finance’s Comments on the Test Claim, filed April 2, 2021, page 2.

¹²⁴ Exhibit B, Finance’s Comments on the Test Claim, filed April 2, 2021, page 2.

¹²⁵ *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

¹²⁶ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

¹²⁷ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874.

- a. Carries out the governmental function of providing a service to the public; or
 - b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.¹²⁸
- The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.¹²⁹
 - The mandated activity results in the local agency or school district incurring increased costs, within the meaning of section 17514. Increased costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.¹³⁰

The Commission is vested with the exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution.¹³¹ The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.¹³² In making its decisions, the Commission must strictly construe article XIII B, section 6 of the California Constitution, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”¹³³

A. The Test Claim Was Timely Filed.

Government Code section 17551(c) requires that a test claim be filed “not later than 12 months after the effective date of the statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.” Section 1183.1(c) of the Commission’s regulations defines 12 months as 365 days.¹³⁴ Government Code section 17557(e) requires a test claim to be submitted by June 30 following a fiscal year in order to establish reimbursement eligibility for that fiscal year.

¹²⁸ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875 (reaffirming the test set out in *County of Los Angeles* (1987) 43 Cal.3d 46, 56).

¹²⁹ *San Diego Unified School Dist.* (2004) 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835.

¹³⁰ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

¹³¹ *Kinlaw v. State of California* (1991) 53 Cal.3d 482, 487.

¹³² *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 109.

¹³³ *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1280 (citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817).

¹³⁴ California Code of Regulations, title 2, section 1183.1(c).

The test claim statute became effective on January 1, 2020.¹³⁵ The Test Claim was filed on December 23, 2020, within 365 days of the test claim statute’s effective date. Accordingly, the Test Claim was timely filed.

B. Elections Code Section 2170, as Amended by the Test Claim Statute, Does Not Mandate a New Program or Higher Level of Service on Counties and, Therefore, Does Not Constitute a Reimbursable State-Mandated Program Within the Meaning of Article XIII B, Section 6 of the California Constitution.

The Commission finds that Elections Code section 2170, as amended by the test claim statute (Stats. 2019, ch. 565), does not impose a reimbursable state-mandated program on county elections officials. County elections officials have a preexisting duty to provide CVR and CVR provisional voting. The test claim statute simply expands the locations where these preexisting services must be provided to satellite offices and polling places, but does not otherwise change the actual activities that must be performed by a county elections official when offering CVR and CVR provisional voting. In addition, providing CVR and CVR provisional voting at satellite offices is not mandated by the state since the decision to have a satellite office is a local discretionary decision.¹³⁶ Thus, the activities of providing CVR and CVR provisional voting at the new locations does not mandate a new program or higher level of service.

1. The Test Claim Statute Requires County Elections Officials to Provide Conditional Voter Registration and Provisional Voting at More Locations; Satellite Election Offices and Polling Places.

Prior to the test claim statute, the elections official was required to provide CVR and CVR provisional voting at its permanent offices and, pursuant to Elections Code section 4005, at all vote centers for counties operating under the Voter’s Choice Act, during the 14-day period prior to election day and on election day.¹³⁷ In addition, counties were permitted to provide CVR and CVR provisional voting at county satellite offices during the 14-day period prior to election day and on election day under prior law, but were not required to do so.¹³⁸

The test claim statute amended Elections Code section 2170(d) and (e) to extend the requirement for elections officials to provide CVR and CVR provisional voting to all satellite offices of the county elections official and all polling places in the county, as follows in underline and strikeout:

(a) “Conditional voter registration” means a properly executed affidavit of registration that is delivered by the registrant to the county elections official during the 14 days immediately preceding an election or on election day and which may be deemed effective pursuant to this article after the elections official processes the affidavit, determines the

¹³⁵ Statutes 2019, chapter 565.

¹³⁶ Elections Code section 3018(b).

¹³⁷ Elections Code section 2170(d)(1), (e) (Stats. 2012, ch. 497, § 2); Elections Code sections 4005(a)(2)(A)(ii), 4007; California Code of Regulations, title 2, section 20023(b).

¹³⁸ Elections Code section 2170(d)(1), (e) (Stats. 2012, ch. 497, § 2); Statutes 2015, chapter 734, section 2.

registrant's eligibility to register, and validates the registrant's information, as specified in subdivision (c).

(b) In addition to other methods of voter registration provided by this code, an elector who is otherwise qualified to register to vote under this code and Section 2 of Article II of the California Constitution may complete a conditional voter registration and cast a provisional ballot, or nonprovisional ballot under subdivision (f), during the 14 days immediately preceding an election or on election day pursuant to this article.

(c)(1) A conditional voter registration shall be deemed effective if the county elections official is able to determine before or during the canvass period for the election that the registrant is eligible to register to vote and that the information provided by the registrant on the registration affidavit matches information contained in a database maintained by the Department of Motor Vehicles or the federal Social Security Administration.

(2) If the information provided by the registrant on the registration affidavit cannot be verified pursuant to paragraph (1) but the registrant is otherwise eligible to vote, the registrant shall be issued a unique identification number pursuant to Section 2150 and the conditional voter registration shall be deemed effective.

(d) The county elections official shall offer conditional voter registration and provisional voting pursuant to this article, in accordance with all of the following procedures:

(1) The elections official shall provide conditional voter registration and provisional voting pursuant to this article at all permanent and satellite offices of the county elections official and all polling places in the county.

(2) The elections official shall advise registrants that a conditional voter registration will be effective only if the registrant is determined to be eligible to register to vote for the election and the information provided by the registrant on the registration affidavit is verified pursuant to subdivision (c).

(3) The elections official shall conduct the receipt and handling of each conditional voter registration and offer and receive a corresponding provisional ballot in a manner that protects the secrecy of the ballot and allows the elections official to process the registration, determine the registrant's eligibility to register, and validate the registrant's information before counting or rejecting the corresponding provisional ballot.

(4) After receiving a conditional voter registration, the elections official shall process the registration, determine the registrant's eligibility to register, and attempt to validate the registrant's information.

(5) If a conditional registration is deemed effective, the elections official shall include the corresponding provisional ballot in the official canvass.

~~(e) The county elections official may offer~~ After receiving a conditional voter registration ~~and provisional voting pursuant to this article at satellite offices of the county elections office,~~ the elections official shall provide the voter a provisional

ballot in accordance with the following procedures: specified in paragraphs (2) to (5), inclusive, of subdivision (d).

(1) If the elections office, satellite office, or polling place is equipped with an electronic poll book, or other means to determine the voter's precinct, the elections official shall provide the voter with a ballot for the voter's precinct if the ballot is available. The ballot may be cast by any means available at the elections office, satellite office, or polling place.

(2) If the elections official is unable to determine the voter's precinct, or a ballot for the voter's precinct is unavailable, the elections official shall provide the voter with a ballot and inform the voter that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted pursuant to paragraph (3) of subdivision (c) of Section 14310. The ballot may be cast by any means available at the elections office, satellite office, or polling place.

(3) Notwithstanding paragraph (2), if the elections official is able to determine the voter's precinct, but a ballot for the voter's precinct is unavailable, the elections official may inform the voter of the location of the voter's polling place. A voter described in this paragraph shall not be required to vote at the voter's polling place and may instead, at the voter's choosing, cast a ballot pursuant to paragraph (2).

(4) This subdivision does not apply to elections conducted pursuant to Section 4005 or 4007 [under the Voter's Choice Act].¹³⁹

Polling places are typically open on election day, and not during the 14 days prior to the election.¹⁴⁰ However, the Elections Code defines "polling place" broadly as "a location where a voter casts a ballot, including a vote center."¹⁴¹ "Vote center" is defined as "a location established for holding elections that offers the services described in Sections 2170, 4005, and 4007."¹⁴² Sections 4005 and 4007 address the Voter's Choice Act, where counties that participate in the Voter's Choice Act conduct elections using vote centers, rather than polling

¹³⁹ Statutes 2019, chapter 565.

¹⁴⁰ Elections Code section 14212 provides the following: "The polls shall be open at 7 a.m. of the day of any election, and shall be kept open until 8 p.m. of the same day, when the polls shall be closed, except as provided in Sections 4005, 4007, and 14401." Elections Code section 14401 provides that "if at the hour of closing there are any other voters in the polling place, or in line at the door, who are qualified to vote and have not been able to do so since appearing, the polls shall be kept open a sufficient time to enable them to vote." Elections Code sections 4005 and 4007 address Voter Choice Act counties, where counties agree to open one vote center per 50,000 registered voters ten days before the election and continuing through the Friday before election day, and one voter center per 10,000 registered voters beginning the Saturday before the election and continuing through election day. (Elec. Code, § 4005(a)(3)(A), (a)(4)(A).)

¹⁴¹ Elections Code section 338.5.

¹⁴² Elections Code section 357.5.

places.¹⁴³ Thus, a “polling place,” as used in Elections Code section 2170(d)(1), includes a vote center used by Voter Choice Act counties. Under prior law, counties were not required by state law to provide CVR and CVR provisional voting at polling places. Although counties that chose to participate in the Voter Choice Act were required to provide CVR and CVR provisional voting at vote centers, that requirement was triggered by a local discretionary decision.¹⁴⁴ Elections Code section 2170(d)(1), as amended by the test claim statute, now requires all counties to provide CVR and CVR provisional voting at polling places, including vote centers, and these locations are new.

Elections Code section 2170(d) and (e) identify the procedures for providing CVR and CVR provisional ballots at all satellite offices and polling places. The plain language of Elections Code section 2170(d) states that it is “the county elections official” that shall offer CVR and CVR provisional voting under the procedures set forth in subparts (d)(1) through (d)(5). However, subdivision(d)(1), which contains the specific requirement that CVR and CVR provisional voting be provided at satellite offices and polling places, uses the more general term “elections official,” as do the other four subparts of subdivision (d). Subdivision (e) also uses “elections official” when describing the process for providing the CVR provisional ballot to a voter that conditionally registered.

The Elections Code broadly defines “elections official” as “any of the following: (a) A clerk or any person who is charged with the duty of conducting an election. (b) A county clerk, city clerk, registrar of voters, or elections supervisor having jurisdiction over elections within any county, city, or district within the state.”¹⁴⁵ However, under the Elections Code, county elections officials are the only local elections officials authorized to receive and process affidavits of registration.¹⁴⁶

This limitation as applied to CVR is reflected in the language of Elections Code section 2170(a), which first uses the specific term “*county* elections official” to refer to whom a conditional voter registration must be returned and then uses the more general term “elections official” to refer back to the county elections official. Given that subdivision (d) similarly uses *county* elections official” to specify “who shall offer conditional voter registration and provisional voting pursuant to this article,” the use of the more general “elections official” in subdivisions (d)(1) and (e) also refers back to the *county* elections official.¹⁴⁷ This interpretation is consistent with guidance from the Secretary of State, which expressly states that the test claim statute applies to county elections officials only.¹⁴⁸ Therefore, the requirements under subdivisions (d)(1) and (e)

¹⁴³ Exhibit A, Test Claim, filed December 23, 2020, pages 160-161 (California Secretary of State, About California’s Voter’s Choice Act); Elections Code sections 4005; 4007.

¹⁴⁴ Elections Code sections 4005(a)(2)(A)(ii), 4007; California Code of Regulations, title 2, section 20023(b).

¹⁴⁵ Elections Code section 320.

¹⁴⁶ Elections Code section 2102.

¹⁴⁷ Elections Code section 2170(d)(1), emphasis added.

¹⁴⁸ Exhibit A, Test Claim, filed December 23, 2020, page 107 (California Secretary of State CC/ROV Memorandum #19125, November 20, 2019).

to provide CVR and CVR provisional voting at all satellite offices and polling places in the county applies to county elections officials only.

While the plain language of Elections Code section 2170(d)(1) makes clear that county elections officials must now “provide” CVR and CVR provisional voting at all satellite offices of the county elections official and at all polling places in the county, further interpretation is required to determine what activities a county elections official is required to perform when “providing” CVR and CVR provisional voting at satellite offices and polling places.

- i. Providing CVR and CVR provisional voting at satellite offices and polling places requires county elections officials to provide a voter registration affidavit pursuant to Elections Code section 2170(d)(1).*

Elections Code section 2170(d)(1) states that that the elections official must provide “conditional voter registration.” Subdivision (a) defines a “conditional voter registration” as “a properly executed affidavit of registration that is delivered by the registrant to the county elections official during the 14 days immediately preceding an election or on election day.”¹⁴⁹ The Secretary of State’s existing regulations specify that conditional voter registrants “shall use the same affidavit of registration as other voters—either a paper form or online through the Internet Web site of the Secretary of State.”¹⁵⁰

Therefore, because a “conditional voter registration” means a properly executed affidavit of registration that is delivered by the CVR registrant to the county elections official during the 14-day period before an election or on election day, providing “conditional voter registration” at all satellite offices and polling places must include providing an affidavit of registration. This interpretation is supported by the Secretary of State’s guidance to county elections officials, which states that in providing CVR, county elections officials must “Provide the individual a voter registration application.”¹⁵¹

- ii. Providing CVR and CVR provisional voting at satellite offices and polling places and processing the registrations and ballots requires county elections officials to perform the activities specified in Elections Code section 2170(d)(2) through (d)(5).*

There are specific activities that county elections officials are required to perform as part of offering CVR and CVR provisional voting at satellite offices and polling places. When providing a CVR and CVR provisional ballot at a satellite office and polling place, county elections officials are required to: advise CVR registrants regarding the requirements for a CVR to be deemed effective (section 2170(d)(2)); conduct the receipt and handling of the conditional voter registration (section 2170(d)(3)); and offer and receive a corresponding provisional ballot (section 2170(d)(3)).¹⁵²

¹⁴⁹ Elections Code section 2170(a).

¹⁵⁰ California Code of Regulations, title 2, section 20022 (Register 2018, No. 10).

¹⁵¹ Exhibit A, Test Claim, filed December 23, 2020, pages 109-111 (California Secretary of State CC/ROV Memorandum #19125, November 20, 2019).

¹⁵² Elections Code section 2170(d)(2) through (d)(3).

Elections Code section 2170(d)(4) and (d)(5) then requires the county elections official to:

- process the CVR registration, determine the CVR registrant’s eligibility to register, and validate the registrant’s information before counting or rejecting the CVR voter’s ballot (Elections Code section 2170(d)(4)); and
- if the CVR is deemed effective, include the CVR voter’s ballot in the official canvass. (Elections Code section 2170(d)(5).

iii. *County elections officials in non-Voter’s Choice Act counties are required to follow the procedures specified in Elections Code section 2170(e)(1) through (e)(3) when providing the CVR voter with a provisional ballot.*

The plain language of Elections Code section 2170(e), as amended by Statutes 2019, chapter 565 (the test claim statute), specifies the manner in which county elections officials must provide a CVR voter with a provisional ballot after receiving a conditional voter registration.

Under the plain language of Elections Code section 2170(e), after receiving a conditional voter registration, an elections official must provide the CVR voter with a provisional ballot in the following manner:

- (1) If the permanent or satellite office of the county elections official is equipped with an electronic poll book or other means to determine the CVR voter’s precinct, the elections official must provide the voter with a ballot for the voter’s precinct, if available.¹⁵³
- (2) If the elections official is unable to determine the CVR voter's precinct, or a ballot for the voter's precinct is unavailable, the elections official must provide the voter with a ballot and inform the voter that pursuant to Elections Code section 14310(c)(3), only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted.¹⁵⁴
- (3) Notwithstanding paragraph (2), if the elections official is able to determine the voter's precinct, but a ballot for the voter's precinct is unavailable, the elections official may inform the voter of the location of the voter's polling place.¹⁵⁵

Subdivision (e)(4) specifies that the procedures in subdivision (e) do *not* apply to elections conducted under the Voter’s Choice Act.¹⁵⁶

Prior law required county elections officials at satellite county elections offices to have the means to determine a CVR voter’s precinct and access to all of the precinct ballots in the county,

¹⁵³ Elections Code section 2170(e)(1).

¹⁵⁴ Elections Code section 2170(e)(2).

¹⁵⁵ Elections Code section 2170(e)(3).

¹⁵⁶ Elections Code section 2170(e)(4).

but not at polling places, unless the county elections official has specifically designated a polling place as a satellite county elections office.¹⁵⁷ This is still the case under the test claim statute.

The legislative history indicates that the procedures outlined in subdivision (e) are intended to address the various situations that may uniquely arise when county elections officials provide CVR provisional voting at polling places.

While this bill requires CVR to be available at every polling place, it does not mandate that each CVR location be able to provide the correct ballot for every voter. Instead, this bill anticipates and provides for situations in which a CVR location is unable to provide the correct ballot for a voter.¹⁵⁸

The distinction between the activities county elections officials must perform when providing CVR provisional voting at satellite county elections offices versus at polling places is readily apparent from the Secretary of State's guidance to county elections officials regarding the changes in law following the test claim statute. According to the Secretary of State, providing CVR and CVR provisional voting at satellite county elections offices requires county elections officials to perform the following activities:

- Provide the individual a voter registration application.
- Once the voter completes the application, the county elections official determines the CVR voter's precinct.
- Provide the CVR voter a ballot for the voter's precinct.
- Voter places the voted ballot in a CVR provisional ballot envelope.¹⁵⁹

In comparison, the Secretary of State's guidance for the activities to be performed by county elections officials when providing CVR and CVR provisional voting at polling places depends on whether the polling place has the means to determine the CVR voter's precinct and whether the ballot for the CVR voter's assigned precinct is available.¹⁶⁰ If the polling place has the means to determine the CVR voter's precinct and the ballot for that precinct is available, the Secretary of State advises that that the county elections official must adhere to the following process:

- Provide the individual a voter registration application.

¹⁵⁷ California Code of Regulations, title 2, section 20023.

¹⁵⁸ Exhibit X, Assembly Committee on Elections and Redistricting, Analysis of SB 72 (2019-2020 Reg. Sess.), as amended May 17, 2019, page 5.

¹⁵⁹ Exhibit A, Test Claim, filed December 23, 2020, page 108 (California Secretary of State CC/ROV Memorandum #19125, November 20, 2019). These procedures also apply to vote centers under the Voter's Choice Act. Pursuant to California Code of Regulations, title 2, section 20023, vote centers are also required to have the means to determine a CVR voter's precinct and access to all of the precinct ballots in the county.

¹⁶⁰ Exhibit A, Test Claim, filed December 23, 2020, pages 110-111 (California Secretary of State CC/ROV Memorandum #19125, November 20, 2019).

- Once the CVR voter completes the application, determine the voter's precinct.
- Provide the voter a ballot for the voter's precinct.
- Voter places the voted ballot in a CVR provisional ballot envelope.¹⁶¹

If the polling place has the means to determine the CVR voter's precinct, but the ballot for that precinct is not available, then the county elections official is required to:

- Inform the voter of the location of their correct polling place and their option to vote at the correct polling place or at their current location.
- If the individual does not wish to go to their polling place, provide the individual a voter registration application.
 - Once the CVR voter completes the application, determine the voter's precinct.
 - Give the voter:
 - a ballot that is available at the precinct, and
 - inform the voter that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted.
 - Voter places the voted ballot in a CVR provisional ballot envelope.¹⁶²

Finally, if the polling place does not have the means to determine the CVR voter's precinct, or the ballot for the voter's precinct is not available:

- If possible, inform the individual of the location of their correct polling place where the ballot for their precinct is available, and their option to vote at the correct polling place or at their current location.
- If the individual does not wish to go to their polling place or if the polling place does not have the means to determine the individual's precinct, provide a voter registration application.
 - Give the voter:
 - a ballot that is available at the precinct, and
 - information that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted.

¹⁶¹ Exhibit A, Test Claim, filed December 23, 2020, page 110 (California Secretary of State CC/ROV Memorandum #19125, November 20, 2019).

¹⁶² Exhibit A, Test Claim, filed December 23, 2020, pages 110-111 (California Secretary of State CC/ROV Memorandum #19125, November 20, 2019).

- Voter places the voted ballot in a CVR provisional ballot envelope.¹⁶³

The Secretary of State guidance tracks the requirements under Elections Code section 2170(e)(1) through (e)(3) and is consistent with the plain language of the statute.

Therefore, county elections officials in non-Voter’s Choice Act counties are required to follow the procedures specified in Elections Code section 2170(e)(1) through (e)(3) when providing the CVR voter with a provisional ballot at satellite election offices and polling places.

2. The Requirement to Provide CVR and CVR Provisional Voting at Satellite Offices of the County Elections Official Is Not Mandated by the State Because County Elections Officials Are Not Required to Create Satellite Offices.

The test claim statute requires that county satellite offices provide CVR and CVR provisional voting, and, in this respect, the claimant seeks reimbursement for the cost of creating four satellite county elections offices for the March 2020 election.¹⁶⁴ The claimant concedes that while the test claim statute does not directly require a county elections official to establish satellite locations, it was necessary to do so “to mitigate long lines and wait times at the polling places, when such long lines and wait times were a reasonably-anticipated result” of the test claim statute.¹⁶⁵

However, based on the analysis below, the requirement to provide CVR and CVR provisional voting at satellite offices stems from an *initial discretionary decision* by the county elections official to establish satellite offices and, therefore, the requirements are not mandated by the state for county satellite election offices.

Government Code section 12172.5(d) authorizes the Secretary of State to adopt regulations “to assure the uniform application and administration of state election laws.”¹⁶⁶ Section 20021 of the Secretary of State’s regulations, which provides definitions pertaining to conditional voter registration, defines “satellite office” as follows:

- (d) “Satellite office” has the same meaning as “satellite location,” as used in subdivision (b) of Elections Code section 3018.¹⁶⁷

Elections Code section 3018, which governs the procedures for vote by mail applications and voting, states in pertinent part: “(b) For purposes of this section, the office of an elections official *may* include satellite locations.”¹⁶⁸ Elections Code section 354 states that “‘Shall’ is mandatory and ‘may’ is permissive.” Therefore, a county elections official is permitted, but not required, to create satellite offices.

¹⁶³ Exhibit A, Test Claim, filed December 23, 2020, pages 110-111 (California Secretary of State CC/ROV Memorandum #19125, November 20, 2019), emphasis in original.

¹⁶⁴ Exhibit A, Test Claim, filed December 23, 2020, pages 15-16.

¹⁶⁵ Exhibit C, Claimant’s Rebuttal Comments, filed May 5, 2021, page 6.

¹⁶⁶ Government Code section 12172.5(d).

¹⁶⁷ California Code of Regulations, title 2, section 20021.

¹⁶⁸ Elections Code section 3018(b), emphasis added.

In *Department of Finance v. Commission on State Mandates (Kern High School Dist.)*, the California Supreme Court held “that the proper focus under a legal compulsion inquiry is upon the nature of claimants’ participation in the underlying programs themselves.”¹⁶⁹ The court left open the possibility that where no “legal” compulsion exists, “practical” compulsion may be found if the local agency faces “certain and severe...penalties” such as “double...taxation” or other “draconian” consequences if they fail to comply with the statute.¹⁷⁰

In *Department of Finance v. Commission on State Mandates (POBRA)*, the court emphasized that practical compulsion requires a *concrete* showing in the record that a failure to engage in the activities at issue will result in certain and severe penalties or other draconian consequences, such that the local government entity must comply in order to perform its core essential functions.¹⁷¹ In *Department of Finance (POBRA)*, the court addressed legislation that provided procedural protections to peace officers employed by counties, cities, and school districts, when the officer is subject to investigation or discipline.¹⁷² Because school districts are authorized, but not required, to hire peace officers, the court held that school districts were not legally compelled to comply with the legislation.¹⁷³ In dismissing the argument that local government entities must employ peace officers when necessary to carry out their basic functions, the court said “it is not manifest on the face of the statute cited nor is there any showing in the record that [a school district] hiring its own peace officers, rather than relying upon the county or city in which it is embedded, is the only way as a practical matter to comply.”¹⁷⁴ Thus, the court found that school districts were not mandated by the state to comply with the test claim statute.

Here, a county elections official has no legal compulsion to establish satellite elections offices, but has the discretion to do so. Thus, the requirements imposed by the test claim statute, which are triggered by that discretionary decision, are not legally compelled by state law. Furthermore, there is no evidence in the record to support a finding that county elections officials are practically compelled to have satellite election offices; that they will face certain or severe penalties or other draconian consequences if they fail to establish satellite election offices to carry out their core functions.

¹⁶⁹ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 743 (agreeing with the court’s analysis in *City of Merced v. State of California* (1984) 153 Cal.App.3d 777).

¹⁷⁰ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 754.

¹⁷¹ *Department of Finance v. Commission on State Mandates (POBRA)* (2009) 170 Cal.App.4th 1355, 1367.

¹⁷² *Department of Finance v. Commission on State Mandates (POBRA)* (2009) 170 Cal.App.4th 1355.

¹⁷³ *Department of Finance v. Commission on State Mandates (POBRA)* (2009) 170 Cal.App.4th 1355, 1368.

¹⁷⁴ *Department of Finance v. Commission on State Mandates (POBRA)* (2009) 170 Cal.App.4th 1355, 1367.

Therefore, the requirement to provide CVR and CVR provisional voting at satellite offices of the county elections official is not mandated by the state.

3. Although Counties Are Now Required to Perform CVR and CVR Provisional Voting Activities at Satellite Offices and Polling Places, County Election Officials Have Long Been Required to Perform the Same Activities and, Thus, the Test Claim Statute Does Not Impose a New Program or Higher Level of Service.

Courts have repeatedly held that local government entities are not entitled to reimbursement simply because a state law or order increases the costs of providing mandated services.¹⁷⁵ Rather, reimbursement under article XIII B, section 6 requires that the increased costs result from a new program or an increased level of service mandated by the state.¹⁷⁶ To determine whether a test claim statute mandates a new program or higher level of service, the requirements in the test claim statute are compared with the preexisting scheme.¹⁷⁷ The requirements are new if they did not exist prior to the enactment of the test claim statute.¹⁷⁸ Alternatively, a new program or higher level of service can occur if the state transfers to local agencies complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.¹⁷⁹

Here, the test claim statute requires that CVR and CVR provisional voting *also* be provided at satellite offices and polling places. However, the actual government services provided by county elections officials – CVR and CVR provisional voting – are not new and have not changed as a result of the test claim statute, nor have the activities that county elections officials must carry out in order to provide these services. Expanding the locations where mandated government services are provided does not, without more, amount to an increase in the level or quality of those services. Nor has the test claim statute transferred financial responsibility from the state to local government. Elections have always been conducted by local government, and not by the state.¹⁸⁰ Thus, the test claim statute does not constitute a new program or higher level of service.

As explained in the Background, the Legislature enacted Elections Code 2170 et seq. in 2012, establishing conditional voter registration and voting (CVR and CVR provisional voting).¹⁸¹

¹⁷⁵ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal. 4th 859, 877; *City of Richmond v. Commission on State Mandates* (1998) 64 Cal.App.4th 1190, 1196; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835.

¹⁷⁶ *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835.

¹⁷⁷ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878.

¹⁷⁸ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835.

¹⁷⁹ Article XIII B, section 6(c) of the California Constitution.

¹⁸⁰ Elections Code section 13001 (Stats. 2008, ch. 179) provides that “[a]ll expenses authorized and necessarily incurred in the preparation for, and conduct of, elections as provided in this code shall be paid from the county treasuries, except that when an election is called by the governing body of a city the expenses shall be paid from the treasury of the city.”

¹⁸¹ Statutes 2012, chapter 497.

Under Elections Code section 2170(a), a person who is otherwise qualified to vote, but who did not register or reregister by the 15-day registration deadline, is able to conditionally register to vote and provisionally vote during the 14 days prior to and on election day, if certain requirements were met.¹⁸² While enacted in 2012, CVR and CVR provisional voting did not become operative until January 1, 2017, following the Secretary of State's certification of a statewide voter registration database (VoteCal).¹⁸³

Elections Code section 2170 as originally enacted required county elections officials to provide CVR and CVR voting at all permanent offices of the county elections official during the 14-day period prior to election day and on election day.¹⁸⁴ Conditional voter registrants use the same affidavit of registration to register to vote as other voters – either a paper form or online through the Secretary of State's website.¹⁸⁵ The elections official was required to advise conditional voter registrants that a conditional voter registration is effective only if the registrant is determined to be eligible to register to vote and the information on the registration affidavit is verified.¹⁸⁶

In addition, preexisting law requires county elections officials to provide a CVR voter with a provisional ballot. Under Elections Code section 2170(d)(3):

The elections official shall conduct the receipt and handling of each conditional voter registration *and offer and receive a corresponding provisional ballot* in a manner that protects the secrecy of the ballot and allows the elections official to process the registration, to determine the registrant's eligibility to register, and to validate the registrant's information before counting or rejecting the corresponding provisional ballot.¹⁸⁷

Furthermore, processing conditional voter registrations and CVR provisional ballots pursuant to Elections Code section 2170(d)(4) and (d)(5) are not newly required by the test claim statute. Elections Code section 2170(d)(4) and (d)(5), which were enacted by Statutes 2012, chapter 497, provide that, in offering CVR and CVR provisional voting, county elections officials must:

- process the CVR registration, determine the CVR registrant's eligibility to register, and validate the registrant's information before counting or rejecting the CVR voter's ballot (Elections Code section 2170(d)(4)); and
- if the CVR is deemed effective, include the CVR voter's ballot in the official canvass. (Elections Code section 2170(d)(5).

¹⁸² Elections Code section 2170(a) (Stats. 2012, ch. 497.)

¹⁸³ Statutes 2012, chapter 497; Exhibit A, Test Claim, filed December 23, 2020, page 75.

¹⁸⁴ Elections Code section 2170(d)(1) (Stats. 2012, ch. 497, § 2).

¹⁸⁵ California Code of Regulations, title 2, section 20022; see Elections Code sections 2102 (as last amended by Stats. 2015, ch. 736); 2150, 2170(a).

¹⁸⁶ Elections Code section 2170(d)(2) (Stats. 2012, ch. 497, § 2).

¹⁸⁷ Elections Code section 2170(d)(3) (Stats. 2012, ch. 497, § 2).

Under these provisions, the claimant alleges that as a result of the test claim statute, the county elections official was required to hire additional staff to process CVR registration forms and CVR provisional ballots and to purchase automated vote processing equipment to sort CVR provisional ballot envelopes.¹⁸⁸ The claimant argues that while purchasing the automated equipment to process the additional CVR provisional ballots was not expressly required by the test claim statute, doing so was necessary to avoid the higher labor costs that would have accrued otherwise.¹⁸⁹

However, even though the claimant may have incurred increased costs because more CVRs and CVR provisional ballots are provided and returned, the requirements in Elections Code section 2170(d)(4) and (d)(5) were added by Statutes 2012, chapter 497, are not new, and were not amended by the test claim statute.¹⁹⁰

In addition, counties have long had the duty to process conditional voter registration and include CVR provisional ballots in the official canvas. Preexisting law requires a conditional voter registration to be processed in the same manner as a general voter registration.¹⁹¹ Processing ballots is governed by other code sections that became effective before the enactment of the test claim statute. A provisional ballot cast by a conditional voter registrant is subject to the same requirements as apply to provisional voting generally.¹⁹² Additionally, section 20025 of the Secretary of State's regulations specifies the procedures to be followed when processing a CVR provisional ballot, none of which were changed as a result of the test claim statute.¹⁹³

Because county elections officials have a preexisting duty to process conditional voter registrations and CVR provisional ballots, these activities are not newly required by the test claim statute.

Prior law did not specify the procedures now stated in Elections Code section 2170(e) when providing a CVR provisional ballot. As discussed above, section 2170(e)(1) through (e)(3) address different situations that may arise at CVR locations, including polling places, depending on whether the CVR voter's precinct can be determined and a precinct-specific ballot is available. However, county elections officials have been required to have the means to determine a CVR voter's precinct and access to a precinct-specific ballot at their permanent offices since before the enactment of the test claim statute.¹⁹⁴ Therefore, the requirement under (e)(1) to provide the CVR voter with a ballot for the voter's precinct is not newly required.

¹⁸⁸ Exhibit A, Test Claim, filed December 23, 2020, pages 17-19.

¹⁸⁹ Exhibit C, Claimant's Rebuttal Comments, filed May 5, 2021, page 6.

¹⁹⁰ Elections Code section 2170(d)(4), (d)(5) (as added by Stats. 2012, ch. 497).

¹⁹¹ Elections Code section 2171(b).

¹⁹² Elections Code sections 2171(c), 14310, 15350, and 15100-15112; see also Exhibit X, California Secretary of State, Provisional Voting, <https://www.sos.ca.gov/elections/voting-resources/provisional-voting> (accessed on June 2, 2021), page 3.

¹⁹³ California Code of Regulations, title 2, section 20025.

¹⁹⁴ California Code of Regulations, title 2, section 20023(d), (Register 2018, No. 10).

In addition, providing a CVR voter with a ballot for the voter’s precinct does not require the county elections official to perform any new activities. If the polling place has the capability to determine and produce a ballot for the CVR voter’s precinct, it must do so. If not, then under the language of (e)(2), providing the CVR voter with whatever ballot is available at that polling place is sufficient. Under either scenario, the county elections official is performing the same activity it was already required to perform: providing a provisional ballot.

The activities under (e)(2) are limited to providing the CVR voter with a ballot that is available at that polling place and informing the voter that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter’s assigned precinct may be counted pursuant to Elections Code section 14310(c)(3). Neither of these require a county elections official to perform new activities. As discussed above, providing the CVR voter with “a ballot” does not require the county elections official to perform any new activities.¹⁹⁵ In addition, Elections Code section 14310(c)(3) has long provided the following:

(c)(3) The provisional ballot of a voter who is otherwise entitled to vote shall not be rejected because the voter did not cast his or her ballot in the precinct to which he or she was assigned by the elections official.

(A) If the ballot cast by the voter contains the same candidates and measures on which the voter would have been entitled to vote in his or her assigned precinct, the elections official shall count the votes for the entire ballot.

(B) If the ballot cast by the voter contains candidates or measures on which the voter would not have been entitled to vote in his or her assigned precinct, the elections official shall count only the votes for the candidates and measures on which the voter was entitled to vote in his or her assigned precinct.¹⁹⁶

Furthermore, preexisting law requires that county elections officials provide any voter casting a provisional ballot with written instructions regarding the process and procedures for casting a provisional ballot, which must include, amongst other things, the information set forth in Elections Code section 14310(c)(3).¹⁹⁷ Elections Code section 14310(a)(2) provides as follows:

(a) At all elections, a voter claiming to be properly registered, but whose qualification or entitlement to vote cannot be immediately established upon examination of the roster for the precinct or upon examination of the records on file with the county elections official, shall be entitled to vote a provisional ballot as follows:

[¶]

(2) The voter shall be provided a provisional ballot, written instructions regarding the process and procedures for casting the ballot, and a written

¹⁹⁵ Elections Code section 2170(d)(3) (as amended by Stats. 2015, ch. 734).

¹⁹⁶ Elections Code section 14310(c)(3) (as last amended by Stats. 2017, Ch. 806).

¹⁹⁷ Elections Code section 14310(a)(2) (as last amended by Stats. 2017, Ch. 806).

affirmation regarding the voter's registration and eligibility to vote. The written instructions shall include the information set forth in subdivisions (c) and (d).¹⁹⁸

Therefore, the requirement under Elections Code section 2170(e)(2), to “inform the [CVR] voter that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted pursuant to paragraph (3) of subdivision (c) of Section 14310” is not new.

Elections Code section 2170(e)(3) provides that if the elections official is able to determine the CVR voter's precinct, but a ballot for the voter's precinct is unavailable, then the elections official may inform the voter where the voter's polling place is located. Because county elections offices are required to have the means to determine a CVR voter's precinct and provide a ballot for the voter's precinct, the scenario contemplated under section 2170(e)(3) is limited to polling places, which may or may not have the equipment necessary to determine a CVR voter's assigned precinct.¹⁹⁹ However, under preexisting law, county elections officials have a general duty to ensure that voters are able to locate their assigned polling place.²⁰⁰ The Secretary of State's Poll Worker Training Standards, which are intended to provide elections officials with the necessary information for training poll workers, state as follows:

If voters are in the wrong polling place, poll workers should tell them they can either go to their assigned polling place to vote a polling place ballot or they can stay and cast a provisional ballot. The poll workers should also explain the advantages and disadvantages of each option. For example, the polling place ballot may not contain all of the same candidates and measures as the ballot in a voter's home precinct. If this type of situation occurs late in the day, the poll worker should let the voter know that if the voter arrives at their assigned polling place after 8:00 p.m., the voter will not be allowed to cast a ballot.²⁰¹

The Poll Worker Training Standards further state, consistent with the language of Elections Code section 2170(e)(3), that “[i]f the ballot for the voter's precinct is not available, the poll worker may inform the voter of the location of their polling place.”²⁰²

¹⁹⁸ Elections Code section 14310(a)(2), (as last amended by Stats. 2017, Ch. 806).

¹⁹⁹ California Code of Regulations, title 2, section 20023(d).

²⁰⁰ Elections Code section 12105(a) (“The elections official shall, not less than one week before the election, publish the list of the polling places designated for each election precinct”); Elections Code section 14105(h) (the elections official shall provide a “sufficient number of cards to each polling place containing the telephone number of the office to which a voter may call to obtain information about his or her polling place. The card shall state that the voter may call collect during polling hours”).

²⁰¹ Exhibit X, Excerpt from California Secretary of State, 2021 Poll Worker Training Standards, pages 3-4.

²⁰² Exhibit X, Excerpts from California Secretary of State, 2021 Poll Worker Training Standards, page 1.

Because county elections officials already have a general duty to assist voters in determining their polling place, and polling places are already required to make available to voters a means to obtain information about the voter's polling place, requiring county elections officials to inform CVR voters where their polling place is located, when they have the means to do so, does not require the county elections official to perform any new activities.

This claim is similar to *Fifteen Day Close of Voter Registration*, 01-TC-15. In *Fifteen Day Close of Voter Registration*, 01-TC-15, prior law allowed voters to newly register to vote, reregister, or change their address with county elections officials until the twenty-ninth day before an election. After that date, voter registration closed for that election.²⁰³ The test claim statute allowed new registrations or changes to voter registrations through the fifteenth day before an election.²⁰⁴ The Commission concluded that the majority of the statutory provisions at issue did not constitute a new program or higher level of service because the activities required of the county – processing and accepting voter registration affidavits and changes of address – were not newly required because county elections officials had been required to perform those activities long before the enactment of the test claim statute.²⁰⁵

Similarly, here, expanding the locations where county elections officials are required to provide CVR and CVR provisional voting does not impose any new activities on county elections officials. In providing CVR and CVR provisional voting under the test claim statute, county elections officials are simply performing the same activities that they were already required to perform under preexisting law, except at more locations. That change alone does not fundamentally alter the services that county elections officials must provide when offering CVR and CVR provisional voting. Nor does any increase in costs that result from expanding the locations where CVR and CVR provisional voting must be provided equate to an increased level of service under article XIII B, section 6.²⁰⁶

Accordingly, the Commission finds that providing CVR and CVR provisional voting at all polling places in the county does not constitute a new program or higher level of service.

V. Conclusion

Based on the foregoing analysis, the Commission concludes that Elections Code section 2170, as amended by the test claim statute (Stats. 2019, ch. 565), does not impose a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution and Government Code section 17514.

Accordingly, the Commission denies this Test Claim.

²⁰³ Exhibit X, Excerpts from Commission on State Mandates, Statement of Decision for *Fifteen Day Close of Voter Registration*, 01-TC-15, adopted October 31, 2006, page 2.

²⁰⁴ Exhibit X, Excerpts from Commission on State Mandates, Statement of Decision for *Fifteen Day Close of Voter Registration*, 01-TC-15, adopted October 31, 2006, page 2.

²⁰⁵ Exhibit X, Excerpts from Commission on State Mandates, Statement of Decision for *Fifteen Day Close of Voter Registration*, 01-TC-15, adopted October 31, 2006, page 2.

²⁰⁶ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 877, fn. 12.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On September 29, 2021, I served the:

- **Draft Proposed Decision, Schedule for Comments, and Notice of Hearing issued September 29, 2021**

Extended Conditional Voter Registration, 20-TC-02

Elections Code Section 2170 as Amended by Statutes 2019, Chapter 565 (SB 72)

County of San Diego, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 29, 2021 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 9/15/21

Claim Number: 20-TC-02

Matter: Extended Conditional Voter Registration

Claimant: County of San Diego

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Exhibit E

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Via Drop Box

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RE: Claimant’s Comments on Proposed Decision
Extended Conditional Voter Registration, 20-TC-02

Dear Ms. Halsey:

This letter provides Claimant’s comments on the Commission’s Proposed Decision.

I. SB 72 Did not Merely Increase the Costs of Providing CVR; it Expanded the CVR Program. That Creates a New Program or Higher Level of Service.

The Commission acknowledges that SB 72 expanded county election officials’ preexisting duties. (Proposed Decision, Executive Summary at 4 (SB 72 “extend[ed] the requirement” to provide CVR to all satellite offices and polling places in the county; SB 72 “expands the locations” where these services must be provided); Proposed Decision at 7 (SB 72 “extend[s] the requirement” to provide CVR services and “expands the locations” where these services are required; 42 (county elections officials now must perform CVR duties “at more locations”); *id.* at 8 (SB 72 “expand[ed] the locations where CVR services must be provided); *id.* at 27 (same); *id.* at 37 (same); *id.* at 42 (SB 72 must now provide CVR “at more locations”).)

However, in the Proposed Decision, the Commission concludes that because elections officials were already required to conduct the “actual activities” of providing CVR services prior to SB 72, the fact that elections officials now have to do so in new locations for longer periods of time is *not* a new program or higher level of service. (Proposed Decision at 7-8, 27, 37, 39, 42.) Rather, according to the Commission, the State merely increased the costs of counties providing the same services they previously had to provide. Claimant respectfully disagrees.

A. A New Program or Higher Level of Service Means a New or “Enhanced Service” Unique to Government for the Provision of Public Services.

A statute creates a “program” when it creates: “[1] programs that carry out the governmental function of providing services to the public, or [2] laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.” *County of Los Angeles v. State of California*, 43 Cal. 3d 46, 56 (1987). A program is “new” if the local governmental entity had not previously been required to institute it.” *County of Los Angeles v. Comm’n on State Mandates*, 110 Cal. App. 4th 1176, 1189 (2003).

A “higher level of service” means an “increase[] in the services provided by local agencies in existing ‘programs.’” *County of Los Angeles, supra*, 43 Cal. 3d at 56. A higher level of service exists when: (i) the requirements [in the law] are new in comparison with the preexisting scheme in view of the circumstance that they did not exist prior to the enactment of [the law]; and (ii) the requirements were intended to provide an enhanced service to the public....” *San Diego Unified Sch. Dist. v. Comm’n on State Mandates*, 33 Cal. 4th 859, 878 (2004).

B. A Statute Imposes Only “Higher Costs” when there is no Government Program or Specific Public Service, which is not the Case Here.

The cases in which courts have found that a mandate only resulted in increased costs to the local governments—and not a new program or higher level of service—involved mandates that (1) applied to the private and public sector alike and only incidentally impacted local government, or (2) had the effect of governments paying additional compensation to their government employees. *E.g., City of Richmond v. Commission on State Mandates*, 64 Cal. App. 4th 1190, 1196 (1998); *City of Anaheim v. State*, 189 Cal. App. 3d 1478 (1987); *County of Los Angeles, supra*, 43 Cal. 3d at 46. Critically, the statutes in those cases did *not* require that governments provide expanded services to the public (though SB 72 does).

In *City of Richmond*, the statute at issue required local governments to pay an increased death benefit to local safety officers. 64 Cal. App. 4th at 1194. The court held that this was merely an increased internal cost to the government, not an increased cost to provide a higher level of service to the public. The court explained that: “A higher cost to the local government for compensating its employees is not the same as a higher cost of providing services to the public.” *Id.* at 1196. The former is not an unfunded mandate; the latter is. *Id.* at 119-98.

In *City of Anaheim*, the statute at issue required a state agency (PERS) to increase pension payments to retired public employees. 189 Cal. App. 3d at 1482. Local governments had no control over the pension payments, and the statute did not require them to do anything. *Id.* However, the change had an incidental effect on the City of Anaheim because the resulting transfer of funds between accounts caused the City to increase its contributions to employee salaries. *Id.* at 1482-1483. The Court of Appeal held that the law imposed requirements on the state but only had an incidental effect on local governments. *Id.* at 1483. Further, the Court explained the City's increased contributions to employee salaries were not a service to the public—they were merely a higher cost of the City compensating its own employees. *Id.* at 1484. As later explained by the Supreme Court of California, “[t]he law increased the cost of employing public servants, but it did not in any tangible manner increase the level of service provided by those employees to the public.” *San Diego Unified School Dist.*, 33 Cal. 4th at 875.

In *County of Los Angeles*, the statute at issue required local governments to provide the same level of workers' compensation benefits that private employees received. 43 Cal. 3d at 57-58. The Court held that a statute of general application that had a mere incidental effect on local governments was not a reimbursable mandate. *Id.* at 57 (“The language of section 6 is far too vague to support an inference that it was intended that each time the Legislature passes a law of general application it must discern the likely effect on local governments and provide an appropriation to pay for any incidental increase in local costs.”)

Here, the Commission in its Proposed Decision concludes that SB 72 only imposes higher costs on the counties. To support its conclusion, the Commission cites *City of Richmond* and other cases that repeat the general rule that mere higher costs are not reimbursable. (Proposed Decision at 37, fns. 175-76.) But the rationale behind that rule does not apply to the duties imposed by SB 72. SB 72 does not require that government employees be paid more, and SB 72 is not a law of statewide application that has only an incidental effect on local government.

Rather, SB 72 expressly requires local governments to provide additional services to the public. That was expressly not true in the cases above. *City of Anaheim*, 189 Cal. App. 3d at 1484; *County of Los Angeles*, 43 Cal. 3d at 58 (“Workers' compensation is not a program administered by local agencies to provide service to the public”); *City of Richmond*, 64 Cal. App. 4th at 1196 (paying employees more benefits is not a “peculiarly local government function”; “[a] higher cost to the local government for compensating its employees is not the same as a higher cost of providing services to the public.”)

The *City of Richmond* line of cases and the rationale therein simply does not apply to this test claim.

Further, the Commission cites no case supporting the Commission's broad conclusion that simply because a local government was already providing some services and now has to *expand* those services, that requirement amounts in only "higher costs." Nor does the case law support this conclusion. In fact, the opposite is true, as discussed immediately below.

C. A Statute Imposes a New Program or Higher Level of Service when it Requires Counties to Offer "Expanded" Services, which is the Case Here.

In contrast to merely imposing a "higher costs," when a statute requires that a local government must provide an "expanded" version of a service it is already providing to the public (as is true here), this is a reimbursable mandate. That is because the increased costs are not merely an incidental effect of a law of general application. Rather, the increased costs are borne by the local government in order to provide expanded services to the public.

For example, in *Carmel Valley Fire Protec. Dist. v. State of California*, 190 Cal. App. 3d 521, 537–38 (1987), the Court held that a requirement in an executive order to provide "updated equipment" to firefighters was a reimbursable mandate. The Court emphasized that fire protection is an essential and basic function of local government. *Id.* at 537. Thus the updated equipment was necessary for the government to better provide that service. See *San Diego Unified Sch. Dist.*, *supra*, 33 Cal. 4th at 877 ("Because this increased safety equipment apparently was designed to result in more effective fire protection, the mandate evidently was intended to produce a higher level of service to the public....")

In *Carmel Valley*, the local governments were already providing firefighting services to the public—and certainly were already using some equipment (hence the mandate to provide "updated" equipment). But the Court held that the requirement to *update* the equipment was a "new program" under Section 6.¹ Thus this additional mandated cost that the local governments incurred in order to provide basic government services was reimbursable. *Carmel Valley*, 190 Cal. App. 3d at 537.

¹ Although the court also analyzed the statutory language of the Revenue & Taxation Code—which were the governing statutes at the time of the decision—the court based its decision on Section 6 and the language in *County of Los Angeles* interpreting Section 6. *Carmel Valley Fire Protec. Dist.*, 190 Cal. App. 3d at 537–38.

The Supreme Court of California honed in on the distinction between “higher costs” and a “higher level of service” in *San Diego Unified Sch. Dist.*, *supra*, 33 Cal. 4th at 878. In that case, the statute at issue required schools to expel students under certain circumstances. 33 Cal. 4th at 868-69. The Supreme Court of California held that the schools’ new duties to provide mandatory hearings constituted a higher level of service. *Id.* at 878-89. This was because the requirements did not exist prior to the statute, the mandate applied uniquely to public schools, and because enhancing the safety of the students was a service to the public. *Id.* at 879. In its discussion, the Court distinguished other cases in which Courts of Appeal found that statutes did not impose mandates when the statutes imposed universal requirements on private employers and local governments alike. *Id.* (citing *County of Los Angeles*, *supra*, and *City of Sacramento v. State of California*, 50 Cal. 3d 51 (1990).) The Supreme Court explained that simply because a state law increases the costs borne by local government in providing services, that does not automatically render the law a reimbursable mandate. *Id.* at 876. However, the Supreme Court contrasted such laws with statutes that impose an “increase in the actual level or quality of governmental services provided,” which *do* impose reimbursable mandates. *Id.* at 877.

A recent Court of Appeal decision also highlighted this distinction. *Dep’t. of Fin. v. Comm’n. on State Mandates*, 59 Cal. App. 5th 546 (2021) (*Dep’t of Fin.*). In *Dep’t. of Fin.*, the County of Los Angeles historically provided stormwater drainage and flood control services. A new Regional Board stormwater permit mandated the installation and maintenance of trash receptacles at transit stops, and the inspection of facilities to ensure compliance. *Id.* at 558. The court held that even though the County already provided stormwater drainage and flood control services, the new requirements imposed a “higher level of service” because they reduced pollution and increased compliance. *Id.* at 558. The court held that alternatively, the requirements were a new program because they provided a government service that was not mandated prior to the permit. *Id.* at 559.

Here, SB 72 increased the “actual level or quality” of county election officials’ preexisting CVR duties by expanding the dates and locations on which these services must be offered. *San Diego Unified Sch. Dist.*, *supra*, 33 Cal. 4th at 877. This increased service constitutes a “new program” because the requirements to offer CVR in polling places and at satellite locations during the 14-day period prior to the election and on election day were new and provided a uniquely governmental service.

But certainly, *at the very least*, the counties’ “expanded” duties under SB 72 constitute a “higher level of service” because they were new in comparison to the counties’ prior level of service, and were intended to provide an enhanced service to the public. *San Diego Unified Sch. Dist.*, 33 Cal. 4th at 878.

As Claimant explained in the test claim, the author of SB 72 stated that he proposed the bill to provide various public services related to voting, including: 1) increased voter turnout, 2) elimination of arbitrary deadlines to register when voters are most interested in voting, 3) remedying inaccurate voter rolls, 4) assisting geographically mobile, lower-income citizens, young voters, and voters of color, and 5) allowing voters registered as “no party preference” who are unable to vote in the primary election for certain parties to change their registrations shortly before the primary election so that they can vote in those primary elections. Sen. Comm. on Elections and Constitutional Amendments (April 2, 2019), Background to SB 72, pp. 6-7.² The author noted that even though CVR was already available on election day at the election officials’ offices, as a practical matter very few potential voters took advantage of that limited option, and “those who were able to make the trip to their county elections office waited hours in line in order to register and cast a ballot.” *Id.* at p. 8.³ Thus the amendment to Section 2170(d)(1) was proposed and enacted in order to expand voter services and voting, which is a traditional governmental function and service.

Indeed, the rationale Commission’s Proposed Decision would render meaningless the “higher level of service” category of reimbursable costs articulated in Section 6. The logical conclusion of the Commission’s ruling is that any time a local government has a preexisting duty that was later expanded or increased by statute, that statute does not create a reimbursable mandate but only imposes non-reimbursable increased costs. If such a statute does not create a “higher level of service,” then what would? What does “higher level of service” mean if it does not mean *extended*—albeit *preexisting*—services?

The Supreme Court of California has defined this term as a requirement “to provide an **enhanced service** to the public.” *San Diego Unified Sch. Dist.*, 33 Cal. 4th at 878 (emphasis added). SB 72 meets that definition. SB 72 newly requires counties to provide CVR at expanded times and locations. This is a quintessential higher level of service. It meets the definition of a new program as well. The counties’ costs to implement this mandate should be reimbursed.

II. The Costs of the Satellite Locations Should Be Reimbursed.

Claimant respectfully disagrees with the Commission’s conclusion that if a statute does not expressly mandate the conduct of specific activities, then those activities are not

² Exhibit J, also available at http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200SB72.

³ *Id.*

“mandated” within the meaning of Section 6. Thus Claimant contends the satellite locations were necessitated by SB 72, and the cost to open those locations should be borne by the State.

However, Claimant has already articulated arguments on this point in prior briefing. Accordingly, Claimant will not belabor those arguments here. Claimant reserves the right to seek reimbursement for the satellite locations as “reasonably necessary” at the Parameters & Guidelines stage, if Claimant’s test claim is approved.

II. Conclusion

Claimant respectfully requests the Commission approve its test claim in its entirety.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my personal knowledge, information or belief.

Very truly yours,

LONNIE J. ELDRIDGE, County Counsel

By 
CHRISTINA SNIDER, Senior Deputy

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On October 22, 2021, I served the:

- **Claimant's Comments on the Draft Proposed Decision filed October 20, 2021**

Extended Conditional Voter Registration, 20-TC-02

Elections Code Section 2170 as Amended by Statutes 2019, Chapter 565 (SB 72)

County of San Diego, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 22, 2021 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 9/15/21

Claim Number: 20-TC-02

Matter: Extended Conditional Voter Registration

Claimant: County of San Diego

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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Date of Hearing: March 27, 2012

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 1436 (Feuer) – As Amended: March 20, 2012

SUBJECT: Voter registration.

SUMMARY: Allows a person to register to vote and vote at the office of the county elections official at any time, including on election day, if certain requirements are met. Specifically, this bill:

- 1) Defines "conditional voter registration" as a properly executed affidavit of registration which is delivered by the registrant to the county elections official during the 14 days immediately preceding an election or on election day and which may be deemed effective after the elections official processes the affidavit, determines the registrant's eligibility to register, and validates the registrant's information.
- 2) Permits an elector who is otherwise qualified to register to vote, in addition to existing methods of voter registration, to complete a conditional voter registration and cast a provisional ballot during the 14 days immediately preceding an election or on election day.
- 3) Provides that a conditional voter registration is effective only if the county elections official is able to determine before or during the canvass period for the election that the registrant is eligible to register to vote and that the information provided by the registrant on the registration matches information contained in a database maintained by the California Department of Motor Vehicles (DMV), or other state government agency, or the federal Social Security Administration.
- 4) Provides that if the information provided by the registrant on the registration affidavit cannot be verified by the databases described above, but the registrant is otherwise eligible to vote, the registrant shall be issued a unique identification number in accordance with existing law.
- 5) Provides that conditional voter registration shall be available at all permanent offices of the county elections official.
- 6) Requires an elections official to notify registrants that a conditional voter registration will be effective only if the registrant is determined to be eligible to register to vote for the election as specified by this bill.
- 7) Requires an elections official to conduct the receipt and handling of each conditional voter registration and offer and receive a corresponding provisional ballot in a manner that protects the secrecy of the ballot and allows the elections official to process the registration, determine the registrant's eligibility to register, and validate the registrant's information before counting or rejecting the corresponding provisional ballot.
- 8) Requires an elections official, after receiving a conditional voter registration, to process the registration, determine the registrant's eligibility to register and attempt to validate the

information.

- 9) Requires an elections official, if a conditional registration is deemed effective, to include the corresponding provisional ballot in the official canvass.
- 10) Provides that if a conditional voter registration is not deemed effective, the elections official shall process the affidavit of registration in the same way that an affidavit of voter registration would otherwise be processed pursuant to existing law. Provides that if a registrant meets all other eligibility requirements to register to vote, the registration shall be deemed effective in forthcoming elections.
- 11) Permits the county elections official to offer conditional voter registration and provisional voting, pursuant to this bill, on election day at satellite offices of the county elections office in accordance with the procedures in this bill.
- 12) Requires a conditional registration that is accepted pursuant to this bill to be processed in accordance with the general voter registration procedures established in existing law and by regulations adopted by the Secretary of State (SOS).
- 13) Requires a provisional ballot cast, pursuant to this bill, to be subject to provisional ballot requirements within existing law.
- 14) Requires elections officials to cancel any duplicate voter registrations that may exist as a result of a conditional registration.
- 15) Requires an elections official, if it appears that a registrant may have committed fraud, to notify in writing both the district attorney and the SOS.
- 16) Increases the fine that may be imposed for a felony conviction of an election crime, for which no other penalty is prescribed by law, from \$10,000 to \$25,000.

EXISTING LAW:

- 1) Allows individuals who are eligible to vote to execute an affidavit of voter registration up to 15 days prior to an election.
- 2) Specifies that in order to be eligible to vote, an individual must be a United States citizen, a resident of California, not in prison or on parole for the conviction of a felony, not deemed mentally incompetent, and at least 18 years of age at the time of the next election.
- 3) Provides that a voter claiming to be properly registered but whose qualification or entitlement to vote cannot be immediately established upon review of the index of registration for the precinct or upon examination of the records on file with the county elections official, shall be entitled to vote a provisional ballot.
- 4) Provides that if an applicant for voter registration has not been issued a current and valid driver's license or a social security number, the state shall assign the applicant a number that

will serve to identify the applicant for voter registration purposes.

FISCAL EFFECT: Unknown. State-mandated local program; contains reimbursement direction.

COMMENTS:

1) Purpose of the Bill: According to the author:

Citizen participation in elections is the bedrock of our representative democracy. Yet, in California, voter participation has fallen to troubling levels. In the November 2010 general election just 44.1% of eligible voters cast a vote. Fortunately there is more that we can do to promote increased participation, thus ensuring that election results reflect the will of the people to the greatest extent possible. Currently, individuals who are eligible to vote must submit a voter affidavit at least 15 days prior to an election. Unfortunately, the registration deadline hinders voter participation. This is illustrated by the ten states that allow some form of same-day registration and voting. All but one have higher voter participation rates than California—where only 44.1% of eligible voters participated in the 2010 general election. In comparison, Iowa, Wisconsin and Minnesota had respective rates of 50.0%, 52.1%, and 55.4% in the 2010 general election. Research also shows that same-day registration and voting lead to increased participation. North Carolina implemented same-day voter registration in 2007 and saw an 8% increase in voter turnout during the 2008 presidential election compared to the 2004 presidential election.

AB 1436 addresses California's low voter participation rate through the creation of a conditional voter registration process, which would provide same-day registration and voting. Beginning 14 days prior to an election and including Election Day, a county elections office headquarters would offer conditional voter registration. This should lead to greater voter participation rates, which will provide election results that more fully reflect the will of the people. Aside from benefitting first-time voters, this bill will also benefit those who have outdated registration.

California counties vary greatly in geographic expanse and population. This can have the effect of limiting access to a county elections office headquarters. To increase the accessibility of same-day registration and voting, AB 1436 authorizes counties to offer same-day registration and voting at other sites in addition to the central headquarters.

2) Election Day Registration: The concept of "same day" registration and voting raises a number of issues that the committee may wish to consider. Implementing procedures to direct voters to the elections official's office are important to the success of same day voting. In addition, elections officials will need to make preparations to serve a significantly larger number of voters in their offices on election day. For instance, in Los Angeles County, if even one-half of one percent of the eligible voters in the county attempted to register to vote and vote in the office of the elections official on election day, the office would have to process nearly 30,000 voters. Ensuring that elections officials' offices have sufficient parking, voting equipment, personnel, and ballots to handle the crowds on election day could pose a significant challenge for many counties.

- 3) Delayed Canvass: Under existing law, at all elections, a voter claiming to be properly registered but whose qualifications to vote cannot be immediately established upon review of the precinct voter index or records on file with the county elections official, is entitled to vote a provisional ballot. Current law requires the elections official to compare the signature on the ballot with the signature on the voter's affidavit of registration. If the signatures do not match or the provisional ballot is not signed, the ballot is rejected. This bill, which allows a person to register and vote a provisional ballot on election day, adds a new time-consuming step to an already busy time period for the county elections officials. While this may not delay the canvass for many smaller counties that usually have no difficulty completing the official canvass of ballots by the deadline, larger counties, such as Los Angeles, that frequently take the full amount of time available to certify elections results, will likely be significantly impacted.

Additionally, it is unclear how long it will take to verify a voter's information through the various databases. Does this verification occur in real time? Or does it take 1-2 days? Again, as stated above, this bill could hinder the ability of a number of counties to certify election results by the deadline established under existing law.

- 4) Postal Delays: Earlier this month, this committee held a joint oversight hearing with the Senate Elections and Constitutional Amendments Committee on the recent and proposed United States Postal Service closures and the impact on voters and the upcoming presidential elections. At the hearing, five county elections officials testified as to the impact that recent post office and processing facilities closures were having on them as well as any anticipated challenges they saw ahead with more closures expected. One of the major impacts affecting the counties is mail delivery time delays – some counties experienced delivery times of up to 5-7 days as opposed to usual 1-3 day mail delivery time. The Postal Service has 15 more processing facilities proposed for closure in California. While the Postal Service agreed to a moratorium on closing or consolidating additional post offices or processing facilities until May 15th, the Postal Service declined to participate in the hearing so the committee does not have a timeline for facility closures after the moratorium expires.

The new circumstances surrounding the elections this year present new challenges - particularly for those registering and voting by mail. Current law allows a person to register up until 15 days before an election and allows the affidavit, if it is postmarked on or before the 15th day before the election, to be processed as long as all other eligibility requirements are met. Through no fault of their own, mail delivery delays could significantly impact a voter's ability to register in time to vote for an election.

While this bill has no urgency clause and will not be in place to provide voters with another voting option for this year's elections, the committee may wish to explore whether this bill will be helpful to voters in future elections in light of the proposed Postal Service closures.

- 5) Other Potential Impacts in California: According to a study conducted in 2011 by Dēmos, a public policy research and advocacy organization that often advocates for election day registration, enacting election day registration in California could increase overall turnout by 4.8%, with larger increases in participation by voters aged 18 to 25, by voters who had moved in the last six months, and by Latinos and newly-naturalized citizens. The Dēmos study, however, was based on the assumption that voters would be allowed to register to vote

on election day at the polling place. The study additionally notes that an election day voter registration system that requires voters "to engage in excessive travel on election day is not likely to facilitate as many voters utilizing it as would a system allowing voters to simply register and vote at their local polling place."

- 6) Other States: In all, 10 states and the District of Columbia have some form of election day voter registration. Idaho, Iowa, Maine, Minnesota, Montana, New Hampshire, Wisconsin, Wyoming and Washington DC generally permit election day voter registration at most or all elections, while Connecticut and Rhode Island permit election day voter registration for Presidential elections only. Six of these states (Idaho, Iowa, Minnesota, New Hampshire, Wisconsin, and Wyoming) and Washington DC allow election day voter registration at the polling place, while the other four states (Connecticut, Maine, Montana, and Rhode Island) do not provide election day registration at all polling places, and may require voters to go to another specified location (often the office of the local elections official) to register to vote on election day.

In June of last year, Maine's Governor signed a bill to eliminate election day voter registration in that state. Groups that opposed the bill successfully collected enough signatures to place a referendum on last November's election ballot to overturn the law. The referendum ultimately was successful, and election day registration was restored in Maine.

North Carolina permits "one-stop voting," whereby a person can register to vote and immediately cast a ballot at certain designated locations after the regular voter registration deadline. However, North Carolina technically does not have election day registration, because "one-stop voting" ends three days before the election.

North Dakota has no voter registration requirement at all.

- 7) Proposition 52: In November 2002, voters rejected Proposition 52, which would have allowed any eligible person with proper identification and proof of residency to register to vote at any polling place on election day. The measure failed, garnering 40.9 percent of the vote statewide.
- 8) Arguments in Support: According to the California State Council of the Service Employees International Union (SEIU):

SEIU firmly believes that giving eligible voters the ability to register to vote, and vote on Election Day is fundamental to his or her inherent right of participation in the democratic electoral process. Many otherwise eligible voters have been disenfranchised due to the current cumbersome process of voter registration, as well as understanding the deadlines of when he or she must be registered to vote to participate in a given election. As California is ranked 41st in state voter turnout, Election Day registration can considerably boost voter turnout.

- 9) Arguments in Opposition: The California State Association of Counties (CSAC) has taken an oppose unless amended position on the bill. CSAC proposes the bill be amended to provide an appropriation to pay the costs of election day registration from the beginning or alternatively, make election day registration optional, authorizing counties where it is a local

priority to use their own revenues to fund the service. Additionally, CSAC writes:

The most populous counties in the state already struggle to certify their votes by the end of the 28-day canvass period. AB 1436 would add significantly to that struggle. Not only would election offices need to meet all of the current certification and audit requirements, they would also need to process large number of voter registration forms and provisional ballots. Verifying and county provisional ballots are by far the most time-consuming processes that county registrars undertake during the canvass; AB 1436 would increase the number of provisional ballots by multiples, adding tremendous costs.

The costs counties would incur complying with this requirement are difficult to overstate. The proposed law would increase election departments' workloads by, first, all the provisional ballots from voters that would not otherwise have registered, but, more importantly, by the provisional ballots from all of the voters that would have otherwise met the 14-day deadline but wait longer given the opportunity.

To process the enormous increase in provisional ballots, elections departments in counties that already barely meet the 28-day canvass deadline will have to hire significantly more temporary workers, all of whom must be trained in the minutiae of election law to protect the integrity of the election and to ensure every eligible voter is properly counted. Furthermore, in large counties, the elections office building would prove insufficient to handle the surge of registrants and counting provisional ballots, so they would have to lease large space elsewhere.

10) State Mandates: The 2011-2012 state budget included the suspension of various state mandates as a mechanism for cost savings. Included on the list of suspensions were all six existing elections-related mandates. All the existing elections-related mandates have been proposed for suspension again by the Governor in his budget for the 2012-2013 fiscal year. The Committee may wish to consider whether it is desirable to create new election mandates when current elections-related mandates are suspended.

11) Previous Legislation: SB 641 (Calderon) of 2011, which is substantially similar to this bill, was held on the suspense file of the Assembly Appropriations Committee. SB 641 would have established conditional voter registration, thereby allowing a person to register to vote and voter at the office of a county elections official at any time, including election day, if certain requirements were met.

SB 1140 (Yee) and AB 1531 (Portantino) of 2010 were similar to this bill. Both bills would have created a one-stop mechanism for a person to register to vote and vote at the office of county elections official at any time up to and including election day once the state had deployed a new statewide voter registration database. SB 1140 was held on the Assembly Appropriations Committee's suspense file, and AB 1531 was held on the Senate Appropriations Committee's suspense file.

REGISTERED SUPPORT / OPPOSITION:

Support

AARP

America Civil Liberties Union of California

California Common Cause. In its letter of support, the California Common Cause indicated that the following groups are also in support of this bill:

American Federation of State, County and Municipal Employees

Asian Law Caucus

Backbone Campaign

California Church Impact (c4)

California Civil Rights Coalition

California League of Conservation Voters Education Fund

California League of United Latin American Citizens

California Participation Project

California Partnership

CALPIRG

Causa Justa:: Just Cause

Center for Voting and Democracy DC

CLUE-Los Angeles

Courage Campaign

CREDO

Democracy for America

Democrats of North Orange County

DEMOS

Empower San Diego

Energy Action Coalition

Equal Justice Society

Equal Rights Advocates

Fair Elections Legal Network

Greenlining Institute

GROW | Planetpov.com

Inland Valley Democratic Club

Korean Resource Center

Lawyers Committee for Civil Rights Under the Law

Los Angeles County Federation of Labor

National Center for Lesbian Rights

National Lawyers Guild of San Francisco

PowerPAC

Progressive States Action

Robert F. Kennedy Democratic Club

Rock the Vote

SW Voter Registration Education Project

The Advancement Project

Voto Latino

California Communities United Institute

California National Organization for Women

City of Los Angeles
Friends Committee on Legislation of California
League of Women Voters of California
Service Employees International Union, California State Council
University of California Student Association

Opposition

California State Association of Counties (unless amended)

Analysis Prepared by: Nichole Becker / E. & R. / (916) 319-2094

Date of Hearing: June 19, 2019

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

SB 72 (Umberg) – As Amended May 17, 2019

SENATE VOTE: 30-8

SUBJECT: Conditional voter registration: provisional ballots.

SUMMARY: Requires conditional voter registration (CVR, a.k.a., “same day” registration) to be available at all polling places. Specifically, **this bill:**

- 1) Requires a county elections official to offer CVR at all satellite offices of the county elections official and all polling places in the county, in accordance with the following:
 - a) Provides that if the elections office, satellite office, or polling place is equipped with an electronic poll book or other means to determine the voter’s precinct, the elections official shall provide the voter with a ballot for the voter’s precinct if available. Permits the ballot to be cast by any means available at the elections office, satellite office, or polling place.
 - b) Provides that if the elections official is unable to determine the voter’s precinct, or a ballot for the voter’s precinct is unavailable, the elections official shall provide the voter with a ballot and inform the voter that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter’s assigned precinct may be counted, as specified.
 - c) Provides that if the elections official is able to determine the voter’s precinct, but a ballot for the voter’s precinct is unavailable, the elections official may inform the voter of the location of the voter’s polling place. Provides that such a voter is not required to vote at the voter’s polling place and may instead, at the voter’s choosing, cast a ballot pursuant to b) above.
- 2) Provides that this bill does not apply to elections conducted pursuant to the Voter’s Choice Act (VCA).

EXISTING LAW:

- 1) Provides that a properly executed affidavit of voter registration shall be deemed effective upon receipt by the elections official if postmarked or received on or before the 15th day prior to an election to be held in the registrant’s precinct.
- 2) Provides for CVR, whereby a qualified person may register to vote after the 15th day prior to an election or on election day and cast a provisional ballot, which will be counted if the registration is deemed effective. Requires CVR to be offered at all permanent offices of the county elections official. Permits a county elections official to offer CVR at satellite offices of the elections official, as specified.

- 3) Provides that a CVR shall be deemed effective if the county elections official is able to determine before or during the canvass period for that election that the registrant is eligible to register to vote and that the information provided by the registrant on the registrant affidavit matches information contained in a database maintained by the Department of Motor Vehicles (DMV) or the federal Social Security Administration (SSA). Provides that if the information provided by the registrant cannot be verified against either of these databases, but the registrant is otherwise eligible to vote, the registrant shall be issued a unique identification number, as specified, and the CVR shall be deemed effective.
- 4) Permits a county elections official to use a provisional ballot envelope as an affidavit of registration if the envelope sets forth the facts necessary to establish the voter as an elector and contains all of the information required to be on an affidavit of registration pursuant to existing law.
- 5) Permits counties, pursuant to the VCA, to conduct elections in which every voter is mailed a ballot and vote centers and ballot drop-off locations are available prior to and on election day, in lieu of operating polling places for the election, subject to certain conditions. Counties conducting elections pursuant to the VCA are required to offer CVR at all vote centers.
- 6) Provides, pursuant to Secretary of State (SOS) regulations, that CVR may be offered at a polling place only if the county elections official has designated that specific polling place as a satellite office. Requires each location at which CVR is offered to have the means to provide a voter with the ballot for the proper precinct in which the voter is entitled to vote.
- 7) Provides that the provisional ballot of a voter who is otherwise entitled to vote shall not be rejected because the voter did not cast the ballot in the precinct to which they were assigned by the elections official. Provides that if the ballot contains the same candidates and measures on which the voter would have been entitled to vote in their assigned precinct, the elections official shall count the votes for the entire ballot. Provides that if the ballot contains candidates or measures on which the voter would not have been entitled to vote in their assigned precinct, the elections official shall count only the votes for the candidates and measures on which the voter was entitled to vote.
- 8) Requires elections officials to cancel any duplicate voter registrations that may exist as a result of a CVR. Requires an elections official to notify the district attorney and the SOS immediately if it appears that a registrant may have committed fraud.
- 9) Establishes criteria for the certification and use of ballot on demand printing systems and electronic poll books.
- 10) Defines "ballot on demand system" as a self-contained system that allows users to finish unfinished ballot cards into ballot cards.
- 11) Defines an "electronic poll book" to mean an electronic list of registered voters that may be transported to the polling location. Requires an electronic poll book to contain the following information for each voter: name; address; precinct; party preference; whether or not the voter has been issued a vote by mail ballot; and, whether or not the vote by mail ballot has been recorded as received by the elections official.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) By requiring specified counties' elections officials to provide CVR and provisional voting, as specified, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on counties, they could claim reimbursement of those costs (General Fund). The annual amount is unknown, but potentially over \$50,000.
- 2) This bill would not result in administration costs to the SOS.

COMMENTS:

- 1) **Purpose of the Bill:** According to the author:

Starting in 2020, Senate Bill 72 will require all counties to permit eligible voters to register and vote on Election Day at every polling site. While California has made huge strides over the last several years to expand access to voter registration, we still have millions of eligible unregistered voters. Studies have continually revealed that these voters tend to be disproportionately younger, poorer, people with disabilities, people with limited English proficiency, and people of color.

Meanwhile, numerous states across the country have offered Same Day Registration at polling sites, some treating them the way we treat voters who may have to vote provisionally. In 2012, the California legislature passed Assembly Bill 1436 (Feuer, Chapter 497, Statutes of 2012), establishing conditional voter registration, our version of Same Day Registration. Counties were required to provide conditional voter registration at all permanent offices of the county elections official and were permitted to provide it at satellite offices. Under conditional voter registration, the ballot cast is provisional and not counted until the registration is verified.

While implementation was delayed for several years, in 2018, for the first time during statewide elections, eligible unregistered voters were theoretically offered the opportunity to register and vote on Election Day in California under conditional voter registration. In reality however, only a small percentage of California voters had access to CVR on Election Day because in most counties it was only available at the county elections office. As a result, relatively few voters in those counties actually took advantage of conditional voter registration, and those who were able to make the trip to their county elections office waited hours in line in order to register and cast a ballot.

Senate Bill 72 will expand access to same day voter registration and voting to all eligible voters in California. The solution is simple: starting in 2020, any county not participating in the Voter's Choice Act (where vote centers offer conditional voter registration at multiple sites in a county) will be required to provide conditional voter registration at all polling places in their county.

- 2) **Conditional Voter Registration and Previous Legislation:** AB 1436 (Feuer), Chapter 497, Statutes of 2012, permits CVR, under which a person is allowed to register to vote and vote at the office of the county elections official at any time, including on election day, if certain requirements are met. Generally, CVR is required to be available only at permanent offices of the county elections official, though counties have the option of making CVR available at satellite offices of the county elections official. In counties that conduct elections pursuant to the VCA, CVR is required to be available at every vote center. CVR went into effect in 2017, and was available in statewide elections for the first time last year.

According to information from the SOS, 57,275 voters cast ballots using CVR at the November 2018 general election. In counties where CVR was more widely available, CVR was much more likely to be used successfully by voters. In 2018, five California counties (Madera, Napa, Nevada, Sacramento, and San Mateo) conducted elections pursuant to the VCA, and thus were required to make CVR available at every vote center. Those five VCA counties accounted for 32% of the valid CVR ballots cast at the November 2018 general election, even though those counties accounted for less than 7% of the state's registered voters at the time. The five VCA counties all were among the six counties that had the highest use of CVR at the November 2018 general election as a percentage of the county's registered voters (Santa Cruz County was the only non-VCA county among the six).

In 2018, only four non-VCA counties provided CVR on election day beyond their permanent offices. According to information previously available on the SOS website, the following non-VCA counties offered CVR at satellite offices for the November 6, 2018 General Election:

El Dorado:	one satellite location
Merced:	two satellite locations
San Bernardino:	five satellite locations
Santa Cruz:	two satellite locations

In 2020, at least 13 counties (Amador, Butte, El Dorado, Fresno, Los Angeles, Madera, Mariposa, Napa, Nevada, Orange, Sacramento, San Mateo, and Santa Clara) are expected to conduct elections pursuant to the VCA. Those 13 counties are home to more than half of the state's registered voters. As a result, even in the absence of this bill, CVR is likely to be much more widely available for statewide elections in 2020. For voters living in non-VCA counties, however, this bill would significantly expand access to CVR.

- 3) **Same Day Voter Registration in Other States:** According to the National Conference of State Legislatures:

Sixteen states plus the District of Columbia make same day registration [SDR] available on Election Day; this is sometimes called Election Day registration (EDR). In addition, North Carolina makes same day registration possible for a portion of their early voting period but not on Election Day.

On November 6, 2018, Michigan voters approved a ballot proposal that provided a constitutional right to simultaneously register and vote during the early voting period and on election day. In that same election Maryland voters extended registration to include Election Day (previously same day registration was

available during the early voting period). Additionally, Washington has enacted same day registration, to be implemented in 2019.

In most other states, voters must register by a given deadline prior to Election Day. The deadline varies by state, with most falling between eight and 30 days before the election...

There is strong evidence that same day and Election Day registration increases voter turnout, but the extent of the impact is difficult to conclude. Immediately following the implementation of SDR, states usually see a boost in voter numbers. Same day registration states also tend to outperform other states in terms of turnout percentages. Many states that have implemented SDR have historically produced higher voter numbers, making changes hard to gauge. Multiple studies place the effect between an increase of 3 to 7 percent, with an average of a 5 percent increase. Finally, studies reveal no conclusive evidence of whether SDR shapes partisan outcomes or whether certain populations are more likely to benefit.

- 4) **High-Tech vs. Low-Tech Options:** As detailed above, regulations adopted by the SOS require that each location where an elections official offers CVR has a mechanism for providing each CVR voter with the ballot for the proper precinct in which the voter is entitled to vote. This requirement ensures that voters who take advantage of CVR are able to vote in every contest for which they are eligible to vote. Counties that conduct elections pursuant to the VCA generally satisfy that requirement at vote centers with electronic poll books and ballot on demand printers. Specifically, VCA counties typically use electronic poll books that communicate with county and state voter registration systems in real-time to verify the registration of voters, determine the correct ballot type for each voter, and ensure that a voter has not already cast a ballot in that election. Once a voter's proper ballot type is determined using the electronic poll book, a ballot on demand printer prints the correct ballot for that voter.

Although existing law allows a county elections official to offer CVR at a polling place by designating the polling place as a "satellite office" of the county elections office, the requirement that all CVR locations have a mechanism for providing each CVR voter with the correct ballot likely makes this approach impractical in most situations. A polling place typically has ballots only for the precinct(s) that is (are) designated to vote at that polling place, and elections officials generally do not use ballot on demand printers at polling places due to cost constraints and administrative concerns.

While this bill requires CVR to be available at every polling place, it does not mandate that each CVR location be able to provide the correct ballot for every voter. Instead, this bill anticipates and provides for situations in which a CVR location is unable to provide the correct ballot for a voter. If a CVR location is unable to provide a voter with the correct ballot for the voter's precinct, this bill requires that the voter be informed that only the votes for the candidates and measures on which the voter is entitled to vote will be counted. This policy provides tradeoffs—CVR will be more readily and widely available, making it easier for voters to be able to participate in elections, but it is likely that a larger number of voters will receive ballots that do not contain all the contests on which the voter is eligible to vote, limiting those voters' ability to fully participate in the election. Such a policy is not

unprecedented—as detailed above, existing law already allows a voter’s provisional ballot to be counted even if the ballot contains candidates or measures on which the voter was not entitled to vote. In that situation, the elections official counts only the votes for the candidates and measures on which the voter was entitled to vote.

- 5) **Presidential Primary Elections and CVR:** Under California's presidential primary system, voters who are registered with a political party receive a ballot for that party's presidential primary election. For example, voters who are registered with the Democratic, Republican, American Independent, Green, Libertarian, or Peace and Freedom parties receive the primary election ballot for their respective parties. Voters who decline to disclose a political party preference (also known as no party preference or NPP voters) receive a nonpartisan ballot that does not list the candidates for president. Under current law, however, NPP voters may request the ballot of any political party that has notified the SOS that it will allow those voters to participate in its presidential primary election. These ballots commonly are referred to as "crossover" ballots.

For the 2016 presidential primary election, the American Independent Party, Democratic Party, and Libertarian Party all permitted NPP voters to participate in their presidential primary elections. Voters wishing to change their political party preference in order to vote in a particular party’s presidential primary can do so either in advance of the registration deadline or by availing themselves of CVR at a location where it is offered. Making CVR available at a larger number of locations could also make it easier for voters to change their party preference at a presidential primary election and to vote in the party primary of their choice.

- 6) **Any Fraud?** According to the SOS, at the time that this analysis was prepared, the SOS was not aware of any individuals charged or convicted of fraud related to CVR in California in 2018.
- 7) **Arguments in Support:** One of the co-sponsors of this bill—the League of Women Voters of California—writes in support:

In 2018, for the first time in our statewide elections, eligible California voters had the opportunity to register and vote up through Election Day. The unfortunate reality was that a small percentage could access that option, because in most counties across the state – including populous ones like Los Angeles, San Diego, and Orange – it was only available at a single county elections office site. In fact, 21.3 million (85%) of the state’s 25.2 million eligible voters live in a county that provided only one registration site on Election Day in November 2018. As a result, few voters in those counties were able to take advantage of the opportunity, and those who were able to make the trip to their county elections office waited in lines of up to four hours to register and cast ballots.

SB 72 would align California with nine states, as well as the District of Columbia, that provide Election Day registration options at all polling places: Hawaii, Idaho, Iowa, Maine, Minnesota, New Hampshire, Utah, Vermont, and Wisconsin. Research has shown that Election Day registration benefits both voters and elections officials. It increases voter turnout, eliminates arbitrary deadlines that turn away voters at the moment of highest interest, improves the accuracy of voter

rolls, and assists the registration of geographically mobile, lower-income citizens, young voters, and voters of color.

- 8) **Arguments in Opposition:** In opposition to a prior version of this bill, Election Integrity Project California, Inc. (EIPCa) wrote:

The current job of a poll worker is demanding and exhausting. Expecting thousands of poll workers to add to their responsibilities the proper registration and then proper processing of new voters with consistent correctness, especially under circumstances of high demand and potentially long lines of impatient individuals, is a recipe for disaster... Making the job of poll workers even more complex and expecting acceptable integrity is naïve at best.

In the 2018 election, “Same day” registration (Conditional Voter Registration) was limited by law to Registrars’ Offices and their satellite offices, including Vote Centers. Nevertheless, even in counties where poll worker training was impeccable, EIPCa Observers documented neighborhood precinct poll workers registering voters unlawfully and issuing provisional ballots that by law could not be counted, thus depriving those voters of their franchise. Had they been properly directed to one of the lawful CVR locations, their vote could have counted.

More egregious yet, EIPCa Observers documented neighborhood precinct poll workers “same day” registering voters and issuing them poll ballots. Those ballots could not be recalled or cancelled should the registration be rejected--an unforgivable blow to election integrity and to every person who voted lawfully.

Clearly, the challenges of proper election management are already monumental. Moving Conditional Voter Registration to local polling sites will guarantee substantial numbers of votes will be mishandled.

- 9) **Related Legislation:** AB 693 (Berman), which was scheduled to be heard in the Senate Elections & Constitutional Amendments Committee the day before this committee’s scheduled hearing on this bill, allows the use of nonprovisional ballots for CVR if certain conditions are met.

REGISTERED SUPPORT / OPPOSITION:

Support

American Civil Liberties Union of California (co-sponsor)
Common Cause – California (co-sponsor) (prior version)
League of Women Voters of California (co-sponsor)
Asian Americans Advancing Justice - California
Black Women Organized for Political Action (BWOPA) (prior version)
Cal State Student Association (prior version)
California Calls Action Fund
California Labor Federation, AFL-CIO
California League of Conservation Voters
California Native Vote Project (prior version)
California United for a Responsible Budget (CURB) (prior version)
California Voices for Progress
California Voter Foundation
CALPIRG, California Public Interest Research Group
Coleman Advocates for Children & Youth (prior version)
Consumer Attorneys of California (prior version)
Courage Campaign
Disability Rights California
Ella Baker Center for Human Rights (prior version)
Equal Justice Society (prior version)
Initiate Justice
Jewish Family Service of Los Angeles
Legal Services for Prisoners with Children
Los Angeles LGBT Center
NARAL Pro-Choice California
National Association of Social Workers, California Chapter
Riverside Temple Beth El
Rock the Vote
Rubicon Programs
SEIU State Council (prior version)
Services, Immigrant Rights and Education Network
Student Senate for California Community Colleges
University of California Student Association (prior version)
W. Haywood Burns Institute (prior version)
Western Center on Law & Poverty, Inc. (prior version)
Women's Foundation of California (prior version)
Approximately 200 individuals on a petition (prior version)

Opposition

Election Integrity Project California, Inc. (prior version)

Analysis Prepared by: Ethan Jones / E. & R. / (916) 319-2094

2021 Poll Worker Training Standards



Prepared by the Office of the
Secretary of State

Introduction

Serving as a poll worker is an important and challenging job. There are many rules and regulations that must be followed on Election Day. Given the diversity of the state's population, geography, voting systems and more, training methods will vary by county, but the information provided in these standards will help elections officials train their poll workers on how to best perform their duties.

These standards do not replace county poll worker training materials or resources. They are intended to provide elections officials with the information needed to provide training and written materials to their poll workers.

Moreover, the presentation of these standards is not meant to be prescriptive. Elections officials may present the information in the order or format that works best for their poll worker training sessions.

These 2021 revised standards reflect lessons learned and changes in state law that have taken effect since the original standards were published in 2006. These standards will be improved and supplemented in the future, as every election provides new opportunities to learn and improve everyone's skills as an election official.

Revised August 2021

in the voter's record. If the signatures do not match, the elections officials must notify the voter, who may submit a "Signature Verification Statement" to verify (cure) his or her signature before certification of the election. The "Signature Verification Statement" must be timely returned to the elections official, which includes a polling place and a ballot dropoff box. The elections official should provide "Signature Verification Statement" forms at all polling places for use by voters. (§ 3019)

Provisional Voting for Vote-by-Mail Voters

- Poll workers should be familiar with how to provide a provisional ballot to a vote-by-mail voter who wants to vote but did not bring their vote-by-mail ballot to the polling place and can't be verified not to have already returned their vote-by-mail ballot. (§ 3016)

Conditional Voter Registration (also known as same day registration)

- Conditional voter registration (CVR) allows voters who did not register before the voter registration deadline to register to vote and vote a provisional ballot. County elections officials must offer CVR and CVR provisional voting at all permanent and satellite county elections offices and at all polling places in the county. (§ 2170, 2171, 14310)
- Poll workers must be fully instructed of the process for conditional registration and the use of provisional balloting for conditional registrants. (§§ 2170, 2171, 14310)
 - If the poll worker can determine a CVR voter's precinct, and the ballot for that precinct is available, the poll worker shall provide the voter with a ballot for the voter's precinct. (§ 2170(e)(1))
 - If the ballot for the voter's precinct is not available, the poll worker may inform the voter of the location of their polling place. (§ 2170(e)(3))
 - If the poll worker cannot determine the CVR voter's precinct, or, if the ballot for the voter's precinct is unavailable, the poll worker shall provide the CVR voter with the ballot that is available at the precinct, and inform the voter that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted. (§ 2170(e)(2))
- A voter may be offered a nonprovisional CVR ballot (known as "instant CVR") only if the poll worker can use the statewide voter registration system, to:
 1. Verify that the CVR voter is eligible to register, has not voted in that election, and has not been included on a roster for that election in a non-Voter's Choice Act county,
 2. Update the voter's record to indicate that the voter has voted in that election, and

3. Update the roster to indicate that the voter has voted and shall not be issued another nonprovisional ballot for that election, if the CVR voter appears on the county's roster for that election. (§ 2170(f))
- Conditional voter registration ballot envelopes shall look visibly different from all other ballot envelopes and poll workers should be instructed on the processes and procedures for handling these envelopes. (§§ 2170, 2171, 14310, Cal. Code of Regs., tit. 2 § 20024)

Change of Residence Address Within the County

- Poll workers must be instructed that a voter wishing to update their registration by changing their residence address within the county can submit a written request at a county elections office or polling location. (§ 2119.5)
- Upon submitting this written request, the elections official shall issue the voter either:
 - A nonprovisional ballot if either of the following applies (§ 2119.5(b)(1)):
 1. The voter is at their assigned precinct, the voter's name is found on the roster, and the voter either has not been issued a vote-by-mail ballot or the conditions relating to surrendering their vote-by-mail ballot provided by Section 3015(a) have been met.

- OR -

 2. The voter appears at a location that is equipped with an electronic poll book or other means to determine the voter's precinct, the location can provide the voter with a ballot for the voter's precinct, the entire county has established connectivity between locations, and the location at which the voter appears verifies that the voter has not cast a ballot at another location for the election and notes in the voter's record that the voter cast a ballot.
 - OR -**
 - A provisional ballot if either of the following applies (§ 2119.5(b)(2)):
 1. The voter is at their assigned precinct, the voter's name is found on the roster, the voter has been issued a vote-by-mail ballot, but the conditions relating to surrendering their vote-by-mail ballot provided by Section 3015(a) have not been met.

- OR -

 2. The voter appears at a location, other than their assigned precinct, that is equipped with an electronic poll book or other means to determine the voter's precinct, but the entire county has not established connectivity between locations such that the location is unable to verify that the voter has not cast a ballot at another location for the election.

- Upon receipt of a properly executed written request to change the voter's residence address within the county, the registration of the voter shall be immediately updated, and the written request shall be maintained with the voter's record. (§ 2119.5(c).)

Provisional Voting

- Poll workers should be trained on how a voter can request and cast a provisional ballot if the voter's registration or voting status cannot be confirmed at the polling place. (§ 14310)
- A voter needs to vote a provisional ballot if:
 1. The voter is not voting in their assigned precinct. (§ 14310)
 2. A voter's name is not listed on the roster or any supplemental list of voters. (§ 14217)
 3. The voter is listed as a vote-by-mail voter and did not bring the vote-by-mail ballot to surrender at the polling place or the poll worker cannot verify if the voter has returned their vote-by-mail ballot and mark their voter record. (§ 3016)
 4. In a primary election, the voter list shows the voter is registered to vote in a political party different than the party for which the voter claims to be registered. (§ 14310)
 5. The voter is voting for the first time after mailing in a voter registration form and did not provide a driver license or the last four digits of the social security number on the voter registration form, but did not bring or does not want to show the required identification. (Cal. Code of Regs., tit. 2 § 20107(c))
 6. The voter arrives after 8:00 p.m. and the polling place is still open because of a court order. (§ 14402.5)
 7. The voter moved within the county but did not re-register to vote. (§ 14311)
 8. The voter's eligibility to vote cannot otherwise be determined by the poll worker. (§ 14310(a))
 9. Any other reason why the voter's eligibility to vote cannot be determined.
- If voters are in the wrong polling place, poll workers should tell them they can either go to their assigned polling place to vote a polling place ballot or they can stay and cast a provisional ballot. The poll workers should also explain the advantages and disadvantages of each option. For example, the polling place ballot may not contain all of the same candidates and measures as the ballot in a voter's home precinct. If this type of situation occurs late in the day, the poll worker

should let the voter know that if the voter arrives at their assigned polling place after 8:00 p.m., the voter will not be allowed to cast a ballot.

- Poll workers should be informed how to handle provisional ballots and ensure voters fill out and sign the provisional envelopes. Poll workers should segregate provisional ballots so they can be processed separately. (§ 14310)
- Poll workers should be trained to allow a voter who has moved to a new address within the same county but has not re-registered to vote at the new address to vote a provisional ballot at the new polling place. Poll workers should be instructed to provide these voters with a Voter Registration Card. (§ 14311)
- To ensure voters are not being required to vote provisionally unnecessarily, poll workers should be reminded to check supplemental voter lists before issuing a provisional ballot.
- Poll workers should know how a provisional voter can contact the county's free-access system to determine if their provisional ballot was counted or, if not, why not. (§ 14310(d))

Multiple-Precinct Polling Places

- **Please note: for the September 14, 2021, California Gubernatorial Recall Election non Voter's Choice Act Counties can provide at least one "consolidated" polling place per 10,000 registered voters and operate them using:**

Vote centers (voter is not assigned to a specific polling location in the county). This is Method #3 identified in Section 3.

- OR -

"Regular" polling locations (voter is assigned to a specific polling location). This is Method #4 identified in Section 3.

Consolidated polling places must be made available for voting during the following hours:

- a) From E-3 through E-1, for at least eight hours (during regular hours convenient for members of the public) each day; and
 - b) On Election Day, from 7 a.m. until 8 p.m.
- Sometimes multiple precincts share one polling place, which can be confusing for both poll workers and voters. For example, precincts #123 and #124 may be at a polling place located at 433 Main Street. Poll workers should understand the dynamics of a multiple-precinct polling place to minimize confusion and maximize efficiency for voters. Poll workers should pay especially close attention when issuing ballots for each precinct. Some county elections officials have found assigning one person to serve as a greeter and direct voter traffic helps eliminate

Provisional Voting



If your name is not on the voter list at your polling place, you have the right to vote a provisional ballot.

What Is a Provisional Ballot?

A provisional ballot is a regular ballot that is placed in a special envelope prior to being put in the ballot box.

Who Casts a Provisional Ballot?

Provisional ballots are ballots cast by voters who:

- Believe they are registered to vote even though their names are not on the official voter registration list at the polling place.
- Vote by mail and instead want to vote at their polling place or a vote center, but they did not receive their ballot or do not have their ballot with them (and the elections official is unable to verify that they have not returned their vote-by-mail ballot).

What Happens After You Cast a Provisional Ballot?

Your provisional ballot will be counted after elections officials have confirmed that you are registered to vote in that county and you did not already vote in that election.

You may vote a provisional ballot at any polling place in the county in which you are registered to vote, however, only the elections contests you are eligible to vote for will be counted.

How Can You Check The Status of Your Provisional Ballot?

Every voter who casts a provisional ballot has the right to find out from their county elections official if the ballot was counted and, if not, the reason why it was not counted.



Visit www.sos.ca.gov/elections/ballot-status for a list of county contacts and information on how to check the status of your provisional ballot.

History Behind Provisional Voting in California

While provisional voting may be relatively new in some areas of the country, California's provisional voting statutes have been in effect since 1984.

Provisional voting exists in California for two fundamental reasons:

First, provisional voting ensures that no properly registered voter is denied their right to cast a ballot if that voter's name is not on the polling place roster due to a clerical, processing, computer, or other error.

Second, provisional voting allows elections officials to ensure that no voter votes twice, either intentionally or inadvertently, in a given election.

The most common circumstances when an elections official will ask a voter to cast a provisional ballot are:

First-time voters. Under federal law, a person who is voting for the first time in a federal election is required to provide proof of identification, even if their name is on the polling place roster. If the voter cannot provide proof of identification, the voter will be asked to cast a provisional ballot. The elections official will verify the voter's eligibility by comparing their signature on the provisional ballot envelope with the signature on their voter registration form and if the signatures match, then the ballot will be counted. (Elections Code sections 14310(c), 15350, and 3019.)

Vote-by-mail voters who appear in person. In this instance, the voter's name is on the polling place roster and the roster notes the voter requested a vote-by-mail ballot. However, the voter states they didn't receive the ballot, lost the ballot, or spoiled the ballot and doesn't have it with them. After the voter casts a provisional ballot, the elections official will check the records to ensure that the voter did not cast their vote-by-mail ballot. If this is the case and the voter's signature on the provisional ballot envelope matches the signature on the voter's registration card, then the voter's provisional ballot will be counted. (Elections Code sections 3016, 14310(f), 15350, 15100 et seq.) If the voter did vote and return their vote-by-mail ballot before the close of polls on Election Day, then the vote-by-mail ballot will be counted and the provisional ballot will not be counted. If the voter did vote and return their vote-by-mail ballot but failed to

sign the vote-by-mail ballot envelope, then the voter's provisional ballot will be counted, provided they complied with the instructions associated with the provisional ballot.

Voters who have moved within their county without re-registering to vote. The voter's name is not on the polling place roster because they moved within the county but did not re-register to vote. This also happens when a voter updates their driver's license with the Department of Motor Vehicles (DMV) but the DMV's computer system doesn't update the voter's registration information, as it is required to do by law. In either instance, the voter is entitled to vote a provisional ballot at the polling place based on their current address. The elections official is required to count the ballot if the voter's signature on the provisional ballot envelope matches the signature on the voter's prior registration form. The elections official is then required to re-register the voter at their new address for all future elections. (Elections Code sections 14310, 14311, 15350, 15100 et seq.)

Voters who are not on the polling place roster for an unknown reason. Should this occur, the elections official will check the county's official registration records after Election Day. If the voter was properly registered to vote in the county and in the precinct in which they voted, their provisional ballot will be counted. If the voter was registered to vote at another address in the county, their votes will be counted in the races they voted on as if they were voting in their home precinct (i.e., their votes for U.S. President, statewide, and countywide measures will be counted, but their votes in a city council race may not be counted if the precinct they're registered in is in a different city council district than the one in which they cast a ballot). If the voter is not registered to vote or is registered to vote in another county or state, their ballot will not be counted in part or in whole. (Elections Code section 14310(c)(3).

Both federal and state law permit any voter who cast a provisional ballot to find out if their ballot was counted and Elections Code section 2142 gives voters the right to go to court in order to compel county elections officials to register them to vote and to count their ballot.

No provisional ballot is counted or precluded from being counted until the elections official goes through the detailed process to determine whether a voter's provisional ballot should be counted. (Elections Code sections 14310-14311, 15350, and 15100-15112.)

Equally important, every provisional ballot -- whether it is counted or rejected -- and provisional ballot envelope is kept by the the elections official for a minimum of 22 months for every election in which a candidate for federal office is on the ballot. (Elections Code sections 17300-17506.)

Free Access System

The Help America Vote Act of 2002 (HAVA) requires each state or local elections official to establish a "Free Access System," such as a toll-free telephone number for voters to call or an Internet website that voters can access free of charge, to ascertain if they voted a provisional ballot at the polls, whether or not their vote was counted, and, if it was not counted, the reason why it was not counted.

Each county elections office has established a free access system for voters to determine if their provisional ballot was counted and, if it was not counted, the reason why it was not counted. Information on each county elections official's free access system can be found at [Ballot Status](#).

VCA Participating Counties

The Voter's Choice Act (VCA) requires each participating county to create an Election Administration Plan (EAP) through a process of public input and public hearings. The EAP is required to describe how the county will administer elections under the VCA and include their plans to educate and outreach to the public. Counties are also required to translate their EAP into all languages that have been assigned to them by the California Secretary of State. State law requires the Secretary of State to accept, reject or accept with modifications the education and outreach provisions of the EAP, as well as to post each county's EAP on our website.

All counties that adopted the Voter's Choice Act for the 2020 election cycle are currently working on completing their EAP. This website will be constantly updated as counties start to submit their EAP to the California Secretary of State Office. To see EAP's, click the link of the county of interest.

- | | | | |
|--------------------|----------|--------------------|----------|
| Amador | + | Nevada | + |
| Butte | + | Orange | + |
| Calaveras | + | Sacramento | + |
| El Dorado | + | San Mateo | + |
| Fresno | + | Santa Clara | + |
| Los Angeles | + | Tuolumne | + |
| Madera | + | | |
| Mariposa | + | | |
| Napa | + | | |



BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM:

Elections Code Sections 2035, 2102, 2107, 2119, 2154, 2155, 2187, 9094, 13300, 13303 and 13306;

Statutes 2000, Chapter 899;

Filed on May 17, 2002,

By County of Orange, Claimant.

Case No.: 01-TC-15

Fifteen Day Close of Voter Registration

STATEMENT OF DECISION PURSUANT
TO GOVERNMENT CODE SECTION 17500
ET SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7

(Adopted on October 4, 2006)

STATEMENT OF DECISION

The Commission on State Mandates ("Commission") heard and decided this test claim during a regularly scheduled hearing on October 4, 2006. Juliana Gmur of Maximus appeared, representing the claimant, County of Orange. Also testifying were Neal Kelly, Orange County Registrar of Voters, Deborah Seiler, Solano County Assistant Registrar of Voters, and Allan Burdick, CSAC SB-90 Service. Carla Castañeda and Susan Geanacou appeared on behalf of the Department of Finance (DOF).

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission adopted the staff analysis to partially approve this test claim at the hearing by a vote of 5-1.

Summary of Findings

Claimant, County of Orange, filed this test claim on changes to the deadline for voter registration prior to an election. Prior law allowed voters to newly register to vote, reregister, or change their address with county elections officials, until the 29th day before an election. After that date, voter registration closed until the conclusion of the upcoming election. Statutes 2000, chapter 899 amended Elections Code sections 2035, 2102, 2107, 2119, 2154, 2155, 2187, 9094, 13303 and 13306, and repealed and reenacted Elections Code section 13300, allowing new registrations or changes to voter registrations through the 15th day prior to an election. The claimant seeks mandate reimbursement for costs incurred to register voters from the 28th through the 15th day before elections, such as for: implementation planning meetings; revising training programs; holding an informational media campaign; responding to additional inquiries about the new law; and providing additional personnel to accommodate the increased workload.

Generally, the Commission finds that most of the statutory amendments by Statutes 2000, chapter 899, do not mandate a new program or higher level of service on county elections

officials within the meaning of article XIII B, section 6. Processing and accepting voter registration affidavits and changes of address are not newly required under the Elections Code. County elections officials have been required to perform these activities long before the enactment of Statutes 2000, chapter 899. The test claim allegations generally request reimbursement for increased staffing expenses, developing and conducting training, and holding planning meetings; these are not new *activities* directly required by the test claim legislation, but instead are *costs* that the claimant is associating with the changed timeframes. Counties are required to perform the same activities they have long performed – accepting new voter registrations and changes of address. The courts have consistently held that increases in the *cost of an existing program*, are not subject to reimbursement as state-mandated programs or higher levels of service within the meaning of article XIII B, section 6.

The Commission concludes that Statutes 2000, chapter 899, as it amended Elections Code section 13303, subdivision (c), mandates a new program or higher level of service on counties within the meaning of article XIII B, section 6 of the California Constitution, and imposes costs mandated by the state pursuant to Government Code section 17514, for the following one-time activity:

- Amend the polling place notice sent to each voter who registered after the 29th day prior to the election, to include the following: information as to where the voter can obtain a sample ballot and a ballot pamphlet prior to the election, a statement indicating that those documents will be available at the polling place at the time of the election, and the address of the Secretary of State's website and, if applicable, of the county website where a sample ballot may be viewed. (Elec. Code, § 13303, subd. (c).)

The other amendments by Statutes 2000, chapter 899, are not subject to article XIII B, section 6 of the California Constitution, or do not mandate a new program or higher level of service, and are denied.

BACKGROUND

This test claim deals with changes to the deadline for voter registration prior to an election in California. Prior law allowed voters to newly register to vote, reregister, or change their address with county elections officials, until the 29th day before an election. After that date, voter registration closed until the conclusion of the upcoming election. Statutes 2000, chapter 899 was chaptered on September 29, 2000; it amended Elections Code sections 2035, 2102, 2107, 2119, 2154, 2155, 2187, 9094, 13303 and 13306, and repealed and reenacted Elections Code section 13300. These amendments allow new registrations or changes to voter registrations through the 15th day prior to an election. The claimant is seeking mandate reimbursement for costs incurred to register voters from the 28th through the 15th day before elections.

Claimant's Position

Claimant, County of Orange, filed this test claim on May 17, 2002.¹ Claimant contends that "The specific sections which contain the mandated activities are Elections Code, Sections 2035, 2102, 2107, 2119, 2154, 2155, 2187, 9094, 13300, 13303 and 13306." Claimant asserts that

¹ Potential reimbursement period for this claim begins no earlier than July 1, 2000, based on the filing date of the test claim. (Gov. Code, § 17557, subd. (e).)

BEFORE THE
 COMMISSION ON STATE MANDATES
 STATE OF CALIFORNIA

IN RE TEST CLAIM Elections Code Section 3010 Statutes 2018, Chapter 120 (AB 216) Filed on October 15, 2019 County of Los Angeles, Claimant	Case No.: 19-TC-01 <i>Vote by Mail Ballots: Prepaid Postage</i> DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7. <i>(Adopted July 24, 2020)</i> <i>(Served July 24, 2020)</i>
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DECISION

The Commission in State Mandates (Commission) heard and decided this Test Claim during a regularly scheduled hearing on July 24, 2020. Christina Snider appeared on behalf of interested party County of San Diego. Chris Hill appeared on behalf of the Department of Finance. The claimant submitted on the record, including its written comments, and did not appear.

The law applicable to the Commission’s determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission adopted the Proposed Decision to partially approve the Test Claim by a vote of 6-0, as follows:

Member	Vote
Lee Adams, County Supervisor	Yes
Mark Hariri, Representative of the State Treasurer, Vice-Chairperson	Absent
Jeannie Lee, Representative of the Director of the Office of Planning and Research	Yes
Gayle Miller, Representative of the Director of the Department of Finance, Chairperson	Yes
Sarah Olsen, Public Member	Yes
Carmen Ramirez, City Council Member	Yes
Jacqueline Wong-Hernandez, Representative of the State Controller	Yes

Summary of the Findings

This Test Claim addresses Statutes 2018, chapter 120, which amended Elections Code section 3010 to require elections officials to include prepaid postage on identification envelopes delivered to vote-by-mail voters for returning their ballots.

The Commission finds that the test claim statute was timely filed within one year of the effective date of the statute, and that the reimbursement period begins on January 1, 2019, based on the effective date of the statute.

The Commission also finds that Elections Code Section 3010, as amended by Statutes 2018, chapter 120, imposes a reimbursable state-mandated program on county and city elections officials for state and local elections except for those held at the discretion of the local governing body, or elections for which counties or cities have fee authority within the meaning of Government Code section 17556(d).

Specifically, the Commission finds that the test claim statute imposes a new requirement on city and county elections officials to provide prepaid postage on identification envelopes delivered with vote-by-mail ballots for all state and local elections. Although “elections official” is defined broadly in section 320 of the Elections Code, school districts, community college districts, and special districts do not conduct their own elections. The requirement to provide prepaid postage on identification envelopes is mandated only on counties and on cities that conduct elections.

The Commission further finds that counties and cities are compelled by state law to conduct the following elections: (1) statewide general elections, statewide direct primary elections, and the presidential primary elections conducted by counties;¹ (2) regular local elections compelled by state law;² (3) special elections called by the Governor or required by state law, including recall elections of local officers, special elections forced by a petition of the voters to issue school bonds or to replace an appointee and fill a vacant school board position, and elections required by state law that are conducted by charter cities and counties;³ and, (4) local elections called by a

¹ Elections Code sections 1200-1202, 13001.

² For example, California Constitution, article 6, section 16(b), and article 11, section 1; Elections Code sections 1300 et seq., 10517; Education Code sections 5300, 5303; Government Code section 24200, 25304.5.

³ For example, Elections Code section 10700 (vacancy in a congressional or legislative office), 11110 (recall of state elected officers), 11200 et seq. (recall of local officers); Education Code section 15100 (voter petition for school bonds); Education Code section 5091(c) (voter petition to replace an appointee and fill a vacant board position); Elections Code sections 8026 (death of incumbent or challenger for a nonpartisan statewide, countywide, or citywide office, or for a nonpartisan office that is elected by division, area, or district, before an election); Education Code section 5093 (special elections consolidated with the next regular election when the vacancy occurs during the period between six months and 130 days prior to a regularly scheduled governing board election).

school district, community college district, or special district.⁴ Thus, the requirement to include prepaid postage on identification envelopes delivered to vote-by-mail voters for these required elections is mandated by the state.⁵

However, state law does not compel counties or cities to call their own discretionary local elections, and there is no evidence in the record that cities and counties are practically compelled to call discretionary local elections. As explained in the Decision, these elections generally include those called to raise local taxes or to issue bonds;⁶ advisory special elections;⁷ elections called by local government to repeal, amend, or enact local ordinances;⁸ local elections called to address a petition for an initiative or referendum that was not adopted by the local governing board;⁹ and some local discretionary elections to fill city council or school board vacancies that could have been filled by appointment.¹⁰ Therefore, the requirement to provide prepaid postage on the identification envelopes for the vote-by-mail ballots when a county or city conducts its own discretionary local election is not mandated by the state.¹¹

Additionally, required local special elections that are held at the option of the local agency, if the election could have legally been held for the next regular local or statewide established election date within statutory deadlines, are not compelled by state law. Where a local government calls a special election that could have otherwise been legally consolidated with the next local or statewide election or held on an established election date, holding the special election is a voluntary decision on the part of the local government, and the downstream costs for pre-paid postage in that case, is not reimbursable under the reasoning of the *Kern* decision.

Finally, although the legislative history of the test claim statute indicates that some counties were already providing prepaid postage on the identification envelopes at their own discretion,¹² the requirement is now mandated by the state. Government Code section 17565 states that “[i]f a local agency or a school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate.”

⁴ Education Code sections 5300 and 5303; See also, Elections Code section 10517; *County of Yolo v. Los Rios Community College Dist.* (1992) 5 Cal.App.4th 1242.

⁵ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 743.

⁶ Government Code sections 53723 and 54380.

⁷ Elections Code section 9603. Government Code section 61008(d).

⁸ Elections Code sections 9140 and 9222.

⁹ Elections Code section 1405(b).

¹⁰ Government Code section 36512(b). Education Code section 5091.

¹¹ *Department of Finance v. Commission (POBRA)* (2009) 170 Cal.App.4th 1355, 1367.

¹² Exhibit C, County of San Diego’s Comments on the Test Claim, page 8. (Assembly Committee on Elections and Reapportionment, Analysis of AB 216 (2017-2018 Reg. Sess.) as introduced January 24, 2017.)

The Commission finds that the mandate imposes a new program or higher level of service on cities and counties. The new requirement is imposed uniquely on city and county elections officials, and provides a governmental service to the public. The requirement to provide prepaid postage on the identification envelope was intended to make the vote-by-mail process more equitable and less costly for voters.¹³ The legislative history also indicates that because the required postage can vary depending on the size of the ballot, the prepaid identification envelope may reduce potential confusion for vote-by-mail voters, thereby providing a governmental service to the public.¹⁴

Finally, the Commission finds that the mandated activity imposes costs mandated by the state on cities and counties when counties administer statewide elections and when counties and cities administer their own legally compelled municipal elections or school and community college district elections consolidated with non-educational issues or elective offices.

However, when counties conduct elections for cities or special districts; or when cities and counties conduct an election solely on behalf of a school district or community college district (with no other non-educational issues or elective offices on the ballot), then cities and counties have fee authority sufficient to cover the cost of the mandate and, thus, there are no costs mandated by the state pursuant to Government Code section 17556(d).¹⁵

Therefore, the Commission partially approves this Test Claim and finds that Elections Code section 3010, as amended by Statutes 2018, chapter 120, imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution on county and city elections officials to provide prepaid postage on identification envelopes delivered to voters with their vote-by-mail ballots, beginning January 1, 2019, for the following elections:

- Statewide general elections, statewide direct primary elections, and the presidential primary elections conducted by counties.¹⁶
- Regular local elections compelled by state law.¹⁷
- Special elections called by the Governor or required by state law, including recall elections of local officers, special elections forced by a petition of the voters to issue

¹³ Exhibit C, County of San Diego's Comments on the Test Claim, pages 8-9. (Assembly Committee on Elections and Reapportionment, Analysis of AB 216 (2017-2018 Reg. Sess.), as introduced January 24, 2017.)

¹⁴ Exhibit H, Assembly Floor, Analysis of AB 216 (2017-2018 Reg. Sess.), as amended September 1, 2017, page 1.

¹⁵ Elections Code section 3024, last amended by Statutes 2007, chapter 508.

¹⁶ Elections Code sections 1200-1202, 13001.

¹⁷ For example, California Constitution, article 6, section 16(b), and article 11, section 1; Elections Code sections 1300 et seq., 10517; Education Code sections 5300, 5303; Government Code section 24200, 25304.5.

school bonds or replace an appointee and fill a vacant school board position, and elections required by state law that are conducted by charter cities and counties.¹⁸

- School district and community college district discretionary elections required by state law to be conducted by counties and cities when the election is consolidated with non-educational issues or elective offices.¹⁹

The Commission further finds that Elections Code section 3010, as amended by Statutes 2018, chapter 120, does *not* impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution:

- When a county or city conducts its own discretionary local elections or holds a required special election that could have been consolidated with a regular election within statutory deadlines; or
- When counties conduct elections for cities or special districts; or when cities and counties conduct an election solely on behalf of a school district or community college district (with no other non-educational issues or elective offices on the ballot). In these elections, there is fee authority sufficient to cover the costs of the mandate pursuant to Government Code section 17556(d) so there are no costs mandated by the state.²⁰

COMMISSION FINDINGS

I. Chronology

- 01/01/2019 Effective date of Statutes 2018, chapter 120, amending Elections Code section 3010.
- 10/15/2019 The claimant filed the Test Claim.²¹
- 01/02/2020 The Department of Finance (Finance) filed comments on the Test Claim.²²
- 02/03/2020 The County of San Diego filed comments on the Test Claim.²³

¹⁸ For example, Elections Code section 10700 (vacancy in a congressional or legislative office), 11110 (recall of state elected officers), 11200 et seq. (recall of local officers); Education Code section 15100 (voter petition for school bonds); Education Code section 5091(c) (voter petition to replace an appointee and fill a vacant board position); Elections Code sections 8026 (death of incumbent or challenger for a nonpartisan statewide, countywide, or citywide office, or for a nonpartisan office that is elected by division, area, or district, before an election); Education Code section 5093 (special elections consolidated with the next regular election when the vacancy occurs during the period between six months and 130 days prior to a regularly scheduled governing board election).

¹⁹ Education Code sections 5300 and 5303. Elections Code section 10517.

²⁰ Elections Code sections 10002, 10517, 10520, and Education Code section 5227.

²¹ Exhibit A, Test Claim.

²² Exhibit B, Finance's Comments on the Test Claim.

²³ Exhibit C, County of San Diego's Comments on the Test Claim.

STATEMENT OF PROCEEDINGS
COUNTY OF SAN DIEGO BOARD OF SUPERVISORS
REGULAR MEETING
MEETING AGENDA
TUESDAY, OCTOBER 19, 2021, 9:00 AM
COUNTY ADMINISTRATION CENTER, ROOM 310
1600 PACIFIC HIGHWAY, SAN DIEGO, CALIFORNIA

Order of Business

A. REGULAR SESSION: Meeting was called to order at 9:01 a.m.

PRESENT: Supervisors Nathan Fletcher, Chair; Nora Vargas, Vice-Chair; Joel Anderson; Terra Lawson-Remer; Jim Desmond; also, Andrew Potter, Clerk of the Board of Supervisors.

B. Invocation was led by Rabbi Lauri Coskey, CEO San Diego Continuing Education Foundation.

C. Pledge of Allegiance was led by Rebecca Donovan's first grade class at Myron Green Elementary School an Academic and Athletic Magnet school in the San Carlos community of San Diego.

D. Presentation or Announcement of Proclamations and Awards:

Chair Nathan Fletcher presented a proclamation declaring October 19, 2021, to be Asian American Business Association of San Diego Day throughout the County of San Diego.

Supervisor Terra Lawson-Remer presented a proclamation declaring October 19, 2021, to be Doug Porter Day throughout the County of San Diego.

Chair Nathan Fletcher and Vice-Chair Nora Vargas presented a proclamation declaring October 2021, to be Pharmacy Month throughout the County of San Diego.

Vice-Chair Nora Vargas presented a proclamation declaring October 25, 2021, to be Filipino American History Month and Day throughout the County of San Diego.

E. Non-Agenda Public Communication: Opportunity for members of the public to speak to the Board on any subject matter within the Board's jurisdiction but not an item on today's agenda.

F. Approval of the Statement of Proceedings/Minutes for the meeting of October 5, 2021.

ACTION:

ON MOTION of Supervisor Fletcher, seconded by Supervisor Vargas, the Board of Supervisors approved the Statement of Proceedings/Minutes for the County of San Diego Board of Supervisors, Flood Control District, Housing Authority, In-Home Supportive Services Public Authority, Sanitation District, San Diego County Fire Protection District, and County Successor Agency meeting of October 5, 2021.

AYES: Vargas, Anderson, Lawson-Remer, Fletcher, Desmond

G. Formation of Consent Calendar

inequity by limiting access to families who cannot afford airfare into the United States, and strictly limiting families that rely on their vehicles to travel into the United States.

FISCAL IMPACT

There is no fiscal impact from today’s recommendations. There will be no change in net General Fund cost and no additional staff years. Potential economic relief opportunities will be assessed in terms of County costs and revenues prior to taking further action.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Vargas, seconded by Supervisor Fletcher, the Board of Supervisors took action as recommended, adopting Resolution No. 21-166, entitled: RESOLUTION TO REQUEST THE FEDERAL GOVERNMENT LIFT ALL RESTRICTIONS ON NON-ESSENTIAL TRAVEL AT THE SAN DIEGO/TIJUANA PORTS OF ENTRY.

AYES: Vargas, Anderson, Lawson-Remer, Fletcher, Desmond

21. SUBJECT: IMPLEMENTATION OF VOTER’S CHOICE ACT IN SAN DIEGO COUNTY BEGINNING IN 2022 (DISTRICTS: ALL)

OVERVIEW

San Diego County’s current model to conduct elections is a traditional polling place model, in which voters must cast their ballot in person at an assigned polling place unless they have requested their ballot by mail. Additionally, if a voter chooses to go to a polling place other than their assigned poll or if they wish to vote in-person and do not have their mail-in ballot to deliver to a poll worker they will need to vote provisionally. The processing of provisional ballots during the post-election canvass is extremely labor-intensive and depending on the number of provisional ballots it can take two weeks or more to process, delaying the final results of the election. However, there is a favorable alternative in the law that allows counties to move from the traditional polling place model to a one-stop vote center model under the California Voter’s Choice Act (VCA).

The VCA vote center model provides voters with more flexible and convenient options for casting their ballot and streamlines election day events for election administrators. Vote centers provide a place for voters to cast a ballot in person and provide voters with additional related services. Under the VCA vote center model, all active registered voters are automatically mailed a ballot which they can return by mail or drop off at any designated drop-off location or vote center. Voters who do not want to vote via mail can take their ballot and vote at any vote center established within the county. Because vote centers nearly eliminate the need to cast a provisional ballot, this reduces the post-election administrative tasks required to certify each election. At vote centers, voters have access to replacement ballots, can use language assistance and translated materials, and are able to register to vote. Vote centers are open for multiple days in advance of election day, giving voters additional time to cast a ballot in person.

In 2019, the Registrar of Voters conducted a feasibility study at the Board's direction to consider moving to a VCA vote center model. At that time, the Registrar concluded that adopting the VCA vote center model was not operationally feasible for the 2020 elections but may be feasible with enough lead time for future elections. Since then, due to legislation and emergency orders necessitated by the COVID-19 pandemic, the Registrar conducted the November 3, 2020 presidential general election under a model closer to the VCA vote center model. During that election, over 1.4 million of the 1.6 million county voters chose to cast their mail-in ballot instead of voting at a consolidated polling place. Further, for all future elections, all voters will now be mailed a vote-by-mail ballot regardless of preference, pursuant to Assembly Bill 37 (Berman). Based on data from the past ten years, many of the county's traditional polling places are not being used to capacity as close to eighty percent of voters had signed up to permanently receive their ballots by mail. These changing voter trends are common throughout the State, prompting a number of California counties to move to the VCA vote center model.

Fifteen California counties, representing nearly 50 percent of California voters, including Los Angeles County and Orange County, have already moved to the VCA vote center model. The Secretary of State has confirmed ten additional counties that will transition to VCA in 2022. These include Alameda, Kings, Marin, Merced, San Benito, Santa Cruz, Sonoma, Stanislaus, Ventura, and Yolo counties. These twenty-five counties that have already transitioned or will transition to the VCA in 2022 represent a total of 13,604,289 registered voters, or nearly 62 percent of California voters, as of August 31, 2021.

Today's action, if approved, authorizes the Registrar of Voters to implement the VCA vote center model in San Diego County beginning with the June 2022 gubernatorial primary election cycle and perform all activities required under the VCA. Additionally, it will authorize the Director, Department of Purchasing and Contracting to issue a competitive solicitation for the purchase and installation of secure mail ballot drop boxes throughout the County, which are necessary to facilitate a transition to the VCA vote center model. With today's voter registration numbers, the County would need to have 132 ballot drop-off sites.

RECOMMENDATION(S)
CHAIR NATHAN FLETCHER

1. Authorize the Registrar of Voters to implement the vote center model in San Diego County beginning with the June 2022 gubernatorial primary election cycle and direct the department to perform all activities required under the California Voter's Choice Act.
2. In accordance with Section 401, Article XXIII of the County Administrative Code authorize the Director, Department of Purchasing and Contracting to issue a competitive solicitation for the purchase and installation of secure mail ballot drop boxes, and upon successful negotiations and determination of a fair and reasonable price; award contract for a term of one (1) year, with five (5) option years and up to an additional six months if needed, and to amend the contract as needed to reflect changes to services and funding.

EQUITY IMPACT STATEMENT

A person's vote can influence policy and who represents them in government, which in turn impacts their environment, health, and quality of life. Having the appropriate resources to conduct a fair, accurate, and transparent election allows all eligible citizens to have a part in matters that affect them.

Other counties that have transitioned to the VCA vote center model have documented increased turnout among all types of voters, but in particular, those voters who participate at lower rates including youth, Latinos, and Asian-American voters (McGhee et al 2019).

FISCAL IMPACT

Funds for today's recommendations are included in the Fiscal Year (FY) 2021-22 Operational Plan in the Registrar of Voters. Costs are estimated to be \$22.0 million but are ultimately driven by election requirements such as number of registered voters, number of voting and mail ballot drop off locations, voter outreach and communications and one or two-card ballot. The funding source is unassigned General Fund fund balance, program revenue planned for the June 2022 Gubernatorial Primary Election and savings from conducting the California Gubernatorial Recall Election. Staff will return to the Board if planned funds are not sufficient in Fiscal Year 2021-22. Ongoing costs to implement including General Fund impacts and staff years will be reflected in the FY 2022-23 Operational Plan development.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Fletcher, seconded by Supervisor Vargas, the Board of Supervisors took action as recommended.

AYES: Vargas, Anderson, Lawson-Remer, Fletcher, Desmond

22. SUBJECT: COMMUNITY ENHANCEMENT AND NEIGHBORHOOD REINVESTMENT PROGRAM GRANTS (DISTRICT: 1)

OVERVIEW

The County of San Diego is fortunate to have an opportunity to reinvest taxpayer money into our communities for the benefit of the public. This action will assist the County in meeting the needs of the community.

RECOMMENDATION(S)

VICE CHAIR NORA VARGAS

1. Allocate \$10,000 from the Community Enhancement budget (Org 12900) to Pacific Arts Movement d.b.a. Pac Arts to support the 22nd San Diego Asian Film Festival to help fund the acquisition of facilities, film licensing, equipment, and marketing costs to promote Asian cinema in San Diego.
2. Allocate \$6,000 from the Community Enhancement budget (Org 12900) to Resounding Joy, Inc. to support weekly music therapy to medically resilient children and their parents in Chula Vista, as well as music engagement for local non-profit events to improve medical outcomes through the healing power of music.