

Adopted: 1/25/90
Amended: 8/23/90
Amended: 1/29/10

AMENDMENT TO PARAMETERS AND GUIDELINES

Elections Code Sections 6490.3, 6490.4, 14205.5, and 14005.4

Statutes 1988, Chapter 391

Brendon Maguire Act
05-PGA-25 (CSM-4357)

This amendment is effective beginning with claims filed for the July 1, 2005 through June 30, 2006 period of reimbursement.

I. SUMMARY OF MANDATE

Statutes 1988, chapter 391, added section 6490.3 to the Elections Code requiring for the first time that a special election be held if a candidate or incumbent dies after the hour of 12:01 a.m. of the 68th day before the election.

Statutes 1988, chapter 391 added section 6490.4 to the Elections Code requiring that the filing of the nomination papers shall be reopened when the candidate or incumbent dies after the 88th day but before the 68th day before the election.

Statutes 1988, chapter 391 added section 14005.4 to the Elections Code requiring that the clerk provide signs or materials to make signs, advising voters that an election has been cancelled pursuant to section 6490.3 due to the death of the candidate-incumbent and that a special election will be held to fill the vacancy. Statutes 1988, chapter 391 added section 14205.5 to the Elections Code requiring that the precinct officers shall post signs required by section 14005.4 of the Elections Code in plain view of each voting booth or compartment whenever an election has been cancelled pursuant to Elections Code section 6490.3.

II. COMMISSION ON STATE MANDATE DECISION

The Commission on State Mandates did not hear a test claim on Statutes 1988, chapter 391, known as the Brendon Maguire Act, because Section 9 of the chaptered legislation contained a legislative acknowledgment that the Brendon Maguire Act imposes a state mandated local program by requiring that a special election be called and conducted to fill the vacancy caused by the death of either the challenger or the candidate-incumbent and would specify certain timelines applicable to that election. It further requires that the filing of nomination papers be reopened when either the challenger or incumbent dies after the 88th day but before the 68th day before the election. It also requires the County Clerk to provide Notification that the election has been cancelled and that a special election shall be held.

III. ELIGIBLE CLAIMANTS

All Local agencies that conduct elections, and which incur costs mandated by the Brendon Maguire Act are eligible for reimbursement.

IV. PERIOD OF CLAIM

This amendment is effective beginning with claims filed for the July 1, 2005 through June 30, 2006 period of reimbursement.

Statutes 1988, chapter 391 became effective August 11, 1988. Section 17557 of the Government Code States that a test claim shall be submitted on or before December 31 following 2 fiscal year in order to establish eligibility for reimbursement for that fiscal year. The claim for this mandate was filed with the Commission on March 10, 1989. Therefore, all costs directly related to the mandated requirements, incurred on or after August 11, 1988, are reimbursable.

V. REIMBURSABLE COSTS

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

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon personal knowledge." Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

ALL LOCAL AGENCIES SHALL BE REIMBURSED FOR THE INCREASED COSTS ASSOCIATED WITH COMPLYING WITH THE MANDATE IN THE FOLLOWING CATEGORIES:

- A. Notification of Cancellation of Election
 - 1. Preparation and posting of signs advising voters that an election has been cancelled.
 - 2. Voter notification of cancellation of election
 - a. printing costs
 - b. postage costs, if a separate mailing was needed.

B. Reopening of Nomination Period

1. Increased costs resulting from the filing of nomination papers due to a reopening of the nomination period.

IF THE REGULARLY SCHEDULED ELECTION WAS HELD AND, THE RESULTS THEREOF WERE SUBSEQUENTLY NULLIFIED DUE TO THE PROVISIONS OF SECTION 6490.3 OF THE ELECTIONS CODE, THE FOLLOWING COSTS ASSOCIATED WITH ANY SUBSEQUENT SPECIAL ELECTION WILL BE REIMBURSABLE.

NOTE: Under the provisions of Elections Code section 6490.3, special elections costs are only reimbursable when a candidate or incumbent dies and there is only one other candidate on the ballot.

C. Staff time expended on activities of preparation and planning for the special elections.

1. Consultation with the Secretary of State, county counsel, vendors and others.
2. Calendar preparation
3. Mapping, setting up precincts and consolidating.
4. Planning for staff and space.
5. Other staff time directly attributable to the special election.

D. Non-reusable supplies purchased for the election.

1. Stationary
2. Postage
3. Customized precinct envelopes
4. Form letters
5. Precinct maps
6. Computer costs
7. Other non-reusable supplies

VI. CLAIM PREPARATION

Reimbursement Claim

Attach a statement showing the actual costs incurred to comply with the mandate. Monies received by the claimant from federal, state or other non-local sources must be applied toward the reimbursement claim.

A. Employee Salaries and Benefits

Show the classification of the employee involved, mandated functions performed, number of hours devoted to the function, productive hourly rate and benefits.

B. Services and Supplies

Only expenditures which can be identified as a direct cost as a result of the mandate can be claimed. List cost of materials acquired which have been consumed or expended specifically for the purposes of this mandate.

C. Allowable Overhead Costs

Indirect costs may be claimed in the manner prescribed by the State Controller in his claiming instructions.

D. Supporting Data

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section V, must be retained during the period subject to audit. If the Controller has initiated an audit during the period subject to audit, the retention period is extended until the ultimate resolution of any audits findings.

VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENT

Any offsetting savings the claimants experience as a direct result of this statute must be deducted from the costs claims. In addition, reimbursement for this mandate received from any source, e.g. federal,, state, etc., shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S OFFICE REQUIRED CERTIFICATION

An authorized representative of the claimant will be required to provide a certification of claim, as specified in the State Controller's claiming instructions, for those costs mandated by the state contained herein.

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