

Statewide Cost Estimate

\$6,435,706

Elections Code Section 14310
Statutes 2000, Chapter 260 (SB 414)

Voter Identification Procedures

03-TC-23

County of San Bernardino, Claimant

STAFF ANALYSIS

Background and Summary of the Mandate

This test claim, filed on October 1, 2003, addressed an amendment to Elections Code section 14310, regarding counting “provisional ballots.” A provisional ballot is a regular ballot that has been sealed in a special envelope, signed by the voter, and then deposited in the ballot box. Provisional ballots can be required for several reasons, generally to prevent unregistered individuals from voting, or to prevent registered voters from voting twice. For example, provisional ballots may be required when poll workers cannot immediately verify an individual’s name on the official roster, or if a voter requested an absentee ballot, but instead comes to the polling place without bringing the absentee ballot.

The test claim statute, Statutes 2000, chapter 260, amended Elections Code section 14310, subdivision (c)(1), to add a requirement that elections officials “compare the signature on each provisional ballot envelope with the signature on the voter’s affidavit of registration.”

The Commission found that although prior law required that “the elections official shall examine the records with respect to all provisional ballots cast,” the law did not require that each signature on a provisional ballot be directly compared to the signature on the voter’s registration affidavit. This is akin to the analysis by the court in *Long Beach*,¹ which found a higher level of service was mandated when general law on an existing program is changed to require performance of activities in a very specific manner.

The Commission adopted the test claim statement of decision on October 4, 2006, concluding that Elections Code section 14310 (c)(1), as amended by Statutes 2000, chapter 260, mandates a new program or higher level of service on local agencies 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 performing the following specific new activity as part of statutorily-required elections:

- Using the procedures that apply to the comparison of signatures on absentee 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, the ballot shall be rejected. (Elec. Code, § 14310, subd. (c)(1).)

¹*Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 173.

The Commission further concluded that in a case where a local government calls a special election that could have otherwise been legally consolidated with the next local or statewide election, holding the special election is a voluntary decision on the part of the local government, and the downstream costs for checking signatures on provisional ballots are not reimbursable.

Parameters and guidelines were adopted on March 23, 2012.²

Eligible claimants were required to file initial reimbursement claims (for costs incurred between July 1, 2002, and June 30, 2011) with the State Controller's Office (SCO) by October 23, 2012. Reimbursement claims for fiscal year 2011-2012 are due by February 15, 2013.

Eligible Claimants and Period of Reimbursement

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

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The test claim was filed on October 1, 2003, establishing eligibility for reimbursement for the 2002-2003 fiscal year.

Therefore, the costs incurred for compliance with the mandated activities are reimbursable on or after July 1, 2002.

Reimbursable Activities

The parameters and guidelines authorize reimbursement of each eligible claimant for the following activity:

- Using the procedures that apply to the comparison of signatures on absentee 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, the ballot shall be rejected. (Elec. Code, § 14310(c)(1).)

Statewide Cost Estimate

Assumptions

Staff reviewed the reimbursement claims data submitted by 17 counties and 2 cities and compiled by the SCO. The actual claims data showed that 115 claims were filed by those 19 claimants for fiscal years 2002-2003 through 2010-2011 for a total of \$6,435,706.³ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*
 - There are currently 58 counties and 482 cities in California. Of those, only 17 counties and 2 cities filed initial reimbursement claims totaling \$6,435,706 for this program for fiscal years 2002-2003 through 2010-2011. If other eligible claimants file late or amended initial claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late initial claims for this program for fiscal years 2002-2003 through 2010-2011 may be filed until October 23, 2013.

² Exhibit A.

³ Claims data reported as of November 1, 2012.

- *The number of reimbursement claims filed will vary from year to year.*
 - This program requires an elections official to compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration. Therefore, the total number of reimbursement claims filed with the SCO will increase or decrease based on the election year cycle and the number of provisional ballots that are filed.
 - There will be spikes in the number of claims filed, and in the costs claimed, based on whether or not it is a high profile election year. For example, there were 15 claims filed for a total of \$1,297,114 for the fiscal year 2008-2009. While in fiscal year 2009-2012 there were only 14 claims filed for a total of \$436,753. This is likely due to the fact that there was a presidential election in fiscal year 2008-2009 and, thus, higher voter turnout. It is reasonable to assume that the current fiscal year (2012-2013) and future fiscal years which coincide with presidential elections will result in higher claim amounts. Similarly, in years where there is a gubernatorial or primary election or where there are particularly controversial initiatives on the ballot, higher claim amounts can reasonably be expected.
- *The total amount of reimbursement for this program may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.*

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

Methodology

Fiscal Years 2002-2003 through 2010-2011

The statewide cost estimate for fiscal years 2002-2003 through 2010-2011 was developed by totaling the 115 reimbursement claims filed with the SCO for these years, for a total of \$6,435,706. This averages to \$715,078 annually in costs for the state over this nine-year period: \$446,007 in lower profile election years and \$1,253,220 in higher profile election years (such as presidential or gubernatorial elections). Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
2002-2003	8	\$440,281
2003-2004	12	\$432,198
2004-2005	12	\$1,048,938
2005-2006	11	\$387,325
2006-2007	14	\$667,797
2007-2008	14	\$311,691
2008-2009	15	\$1,297,114
2009-2010	14	\$436,753
2010-2011	15	\$1,413,609
TOTAL	115	\$6,435,706

Comments on the Draft Staff Analysis and Proposed Statewide Cost Estimate

On December 19, 2012, Commission staff issued the draft staff analysis and proposed statewide cost estimate for comment.⁴ On December 31, 2012, The Department of Finance submitted comments stating that they had no concerns with the Commission's recommendation to adopt the statewide cost estimate.⁵

Conclusion

On January 25, 2013, the Commission adopted the statewide cost estimate of **\$6,435,706** for costs incurred in complying with the *Voter Identification Procedures* program.

⁴ Exhibit B.

⁵ Exhibit C.

Adopted: March 23, 2012

Parameters and Guidelines

Elections Code Section 14310

Statutes 2000, Chapter 260 (SB 414)

Voter Identification Procedures
(03-TC-23)

I. SUMMARY OF THE MANDATE

The test claim statute requires that elections officials compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration using the procedures that apply to the comparison of signatures on absentee ballots. On October 4, 2006, the Commission on State Mandates (Commission) adopted a statement of decision finding that the test claim statute mandates a new program or higher level of service on local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for performing the following specific new activity as part of statutorily-required elections:

- Using the procedures that apply to the comparison of signatures on absentee 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, the ballot shall be rejected. (Elec. Code, § 14310(c)(1)).

The Commission further concluded that in a case where a local government calls a special election that could have otherwise been legally consolidated with the next local or statewide election, holding the special election is a voluntary decision on the part of the local government, and the downstream costs for checking signatures on provisional ballots are not reimbursable.

II. ELIGIBLE CLAIMANTS

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

III. PERIOD OF REIMBURSEMENT

Government Code section 17557(e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The County of San Bernardino filed the test claim on October 1, 2003, establishing eligibility for reimbursement for the 2002-2003 fiscal year. Therefore, costs incurred pursuant to Elections Code section 14310 are reimbursable on or after July 1, 2002.

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

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.

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

IV. REIMBURSABLE ACTIVITIES

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

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

Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Activities that require varying levels of effort are not appropriate for time studies. Claimants wishing to use time studies to support salary and benefit costs are required to comply with the State Controller's Time-Study Guidelines before a time study is conducted. Time study usage is subject to the review and audit conducted by the State Controller's Office.

For each eligible claimant, the following ongoing activity is reimbursable:

- Using the procedures that apply to the comparison of signatures on absentee 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, the ballot shall be rejected. (Elec. Code, § 14310(c)(1).)

When a local government calls a special election that could have otherwise been legally consolidated with the next local or statewide election, holding the special election is a voluntary decision on the part of the local government, and the downstream costs for checking signatures on provisional ballots are not reimbursable.

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable costs must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

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

1. Salaries and Benefits

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

2. Materials and Supplies

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

3. Contracted Services

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

4. Fixed Assets

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

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1., Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

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

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

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

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

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

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

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, 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 State Controller's Office 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 State Controller's Office 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 IV, must be retained during the period subject to audit. If an audit has been initiated by the State Controller's Office during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsetting revenues the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S OFFICE CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the State Controller's Office shall issue claiming instructions, for each mandate that requires state reimbursement, not later than 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

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

IX. REMEDIES BEFORE THE COMMISSION

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

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

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

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

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

Item ____
Draft Staff Analysis
Proposed Statewide Cost Estimate

\$6,435,706

Elections Code Section 14310
 Statutes 2000, Chapter 260 (SB 414)

Voter Identification Procedures

03-TC-23

County of San Bernardino, Claimant

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Reimbursable Activities

The parameters and guidelines authorize reimbursement of each eligible claimant for the following activity:

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Statewide Cost Estimate

Assumptions

Staff reviewed the reimbursement claims data submitted by 17 counties and 2 cities and compiled by the SCO. The actual claims data showed that 115 claims were filed by those 19 claimants for fiscal years 2002-2003 through 2010-2011 for a total of \$6,435,706.² Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*
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² Claims data reported as of November 1, 2012.

- *The number of reimbursement claims filed will vary from year to year.*
 - This program requires an elections official to compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration. Therefore, the total number of reimbursement claims filed with the SCO will increase or decrease based on the election year cycle and the number of provisional ballots that are filed.
 - There will be spikes in the number of claims filed, and in the costs claimed, based on whether or not it is a high profile election year. For example, there were 15 claims filed for a total of \$1,297,114 for the fiscal year 2008-2009. While in fiscal year 2009-2012 there were only 14 claims filed for a total of \$436,753. This is likely due to the fact that there was a presidential election in fiscal year 2008-2009 and, thus, higher voter turnout. It is reasonable to assume that the current fiscal year (2012-2013) and future fiscal years which coincide with presidential elections will result in higher claim amounts.
- *The total amount of reimbursement for this program may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.*

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

Methodology

Fiscal Years 2002-2003 through 2010-2011

The statewide cost estimate for fiscal years 2002-2003 through 2010-2011 was developed by totaling the 115 reimbursement claims filed with the SCO for these years, for a total of \$6,435,706. This averages to \$715,078 annually in costs for the state over this nine-year period: \$446,007 in lower profile election years and \$1,253,220 in higher profile election years (such as presidential or gubernatorial elections). Following is a breakdown of estimated total costs per fiscal year:

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2008-2009	15	\$1,297,114
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2010-2011	15	\$1,413,609
TOTAL	115	\$6,435,706

Staff Recommendation

Staff recommends the Commission adopt the proposed statewide cost estimate of **\$6,435,706** for costs incurred in complying with the *Voter Identification Procedures* program.

December 31, 2012

Commission on
State Mandates

EDMUND G. BROWN JR. ■ GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

December 31, 2012

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

Dear Ms. Halsey:

The Department of Finance (Finance) has reviewed the Commission on State Mandates (Commission) draft staff analysis of the proposed statewide cost estimate (SCE) for the Voter Identification Procedures (03-TC-23) test claim submitted by the County of San Bernardino.

Finance has no concerns with the Commission's recommendation to adopt the SCE of \$6,435,706 for fiscal years 2002-03 through 2010-11. We also agree that the total costs for this period may be higher or lower based on the actual number of eligible claimants, amended or late claims, election year, and/or audit findings.

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

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

Sincerely,

TOM DYER
Assistant Program Budget Manager

Enclosure

Enclosure A

DECLARATION OF CARLA SHELTON
DEPARTMENT OF FINANCE
CLAIM NO. CSM-03-TC-23

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

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

December 31, 2012

at Sacramento, CA

Carla Shelton

Carla Shelton