

COMMISSION ON STATE MANDATES

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November 6, 2013

Ms. Renee Bischof
Elections Division Manager
County of Santa Barbara
4440 Calle Real - A
Santa Barbara, CA 93110

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: **Notice Rescinding Dismissal of Test Claim and Notice of Hearing**
Post Election Manual Tally (PEMT), 10-TC-08
Office of Administrative Law File No. 2008-2009-002E, effective October 20, 2008;
California Code of Regulations, Title 2, Division 7, Chapter 3, Post Election Manual
Tallies Sections 20120, 20121, 20122, 20123, 20124, 20125, 20126 and 20127
County of Santa Barbara, Claimant

Dear Ms. Bischof:

On November 5, 2013, a notice of dismissal was issued for the above-entitled matter on the ground that the test claim was not filed within the statute of limitations provided in Government Code section 17551(c). The finding was based on the fact that the notice of intent to develop a legislatively determined mandate was filed October 22, 2009, two days after the statute of limitations would have expired if based on the effective date of the regulations pled in the claim (October 20, 2009).

Upon further review of the test claim, the claimant is alleging that it first incurred costs on November 10, 2008, one month after the regulations became effective, and requests that the statute of limitations be determined based on the second provision in Government Code section 17551(c), which allows test claims to be filed within 12 months of incurring increased costs. Under the section 1183(c) of the Commission's regulations, "within 12 months of incurring increased costs" means that the test claim can be filed by "June 30 of the fiscal year *following* the fiscal year in which increased costs were first incurred by the test claimant," thus increasing the time to file a test claim by another fiscal year.

In this case, using the second provision of section 17551(c) extends the statute of limitations from October 20, 2009, to June 30, 2010. Based on the assertion that the claim was timely filed within 12 months of incurring costs, the tolling provision in Government Code section 17573(b) was not correctly applied. Since the notice of intent to develop a legislatively determined mandate was filed on October 22, 2009, *before* the June 30, 2010 deadline for filing the test claim, the notice was timely filed and the statute of limitations was properly tolled until March 11, 2011, when the parties decided to not submit a joint request for a legislatively determined mandate to the Legislature and the tolling period ended. Under the law, whatever period of time that remained when the clock was stopped was available when the clock was restarted after the tolling period ended. The test claim here was filed on March 28, 2011, just two weeks after the tolling period ended.

Ms. Renee Bischof

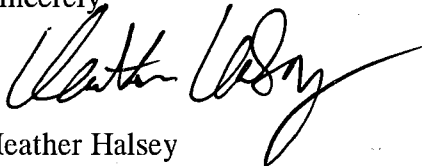
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Therefore, the notice of dismissal is hereby rescinded and this matter is tentatively scheduled for hearing on **January 24, 2014**, at 10:00 a.m., at the State Capitol, Room 447, Sacramento, California.

Please contact Heidi Palchik at (916) 323-3562 if you have any questions.

Sincerely

A handwritten signature in black ink, appearing to read "Heather Halsey", written in a cursive style.

Heather Halsey
Executive Director