

**COMMISSION ON STATE MANDATES**

980 NINTH STREET, SUITE 300  
SACRAMENTO, CA 95814  
PHONE: (916) 323-3562  
FAX: (916) 445-0278  
E-mail: csminfo@csm.ca.gov



November 4, 2013

Ms. Julie Valverde

Director of Finance

County of Sacramento

700 H Street, Room 3650

Sacramento, CA 95814

Ms. Alice Jarboe

Assistant Registrar of Voters

County of Sacramento

7000 65<sup>th</sup> Street, Suite A

Sacramento, CA 95823-2315

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

Re: **Rejection of Proposed Test Claim Amendment**

*Top Two Candidates Open Primary Act, 12-TC-02*

Statutes 2009, Chapter 2 (SCA 4); Statutes 2009, Chapter 1 (SB 6);

Statutes 2012, Chapter 3 (AB 1413)

Secretary of State's CC/ROV Memorandums #11005, #11125, #11126, and #12059

County of Sacramento, Claimant

Dear Ms. Valverde and Ms. Jarboe:

On October 28, 2013, the Commission on State Mandates (Commission) received your proposed test claim amendment filing on the above-named matter.

As required by Government Code section 17553(b), the original test claim filing identified "the specific sections of statutes or executive orders and the effective date" alleged to contain the mandate. Test claims must be pled with particularity since the basis of a valid mandate claim is a requirement imposed by a particular code section as amended by a particular statute and chapter (or a specific regulatory section, as amended by a specific register) which imposes a new program or higher level of service and increased costs mandated by the state.

Here, the original test claim filing specifically lists statutes, chapters, articles and code sections. The declaration of alleged mandated activities in support of the test claim filing also specifically tags the statutes, chapters, articles and code sections. The proposed amendment alleges that the activities identified remain the same and that the amendment is intended to clarify. However, the code sections as amended by the statutes included in the proposed amendment were never identified in the original test claim filing. Thus, the proposed amendment is not merely a clarification, but is an addition of code sections as amended by statutes not previously pled in the original filing.

Section 1183(c) of the Commission's regulations requires that all test claims or amendments be filed within the statute of limitations. Both the test claim and amendment allege that costs were first incurred in the 2011/2012 fiscal year, putting the deadline for filing the amendment at June 30, 2013. However, the amendment was filed on October 28, 2013. Unlike a court, the Commission does not have any equitable authority to approve amendments past the point that the statute of limitations has expired.

Ms. Valverde and Ms. Jarboe

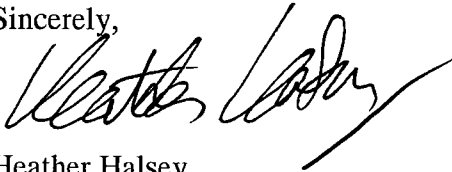
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Therefore, because the amendment newly identifies specific sections of statutes not pled in the initial test claim filing, and the statute of limitations has passed, the amendment is hereby rejected.

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