



COUNTY OF LOS ANGELES  
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**RECEIVED**  
May 27, 2020  
**Commission on  
State Mandates**

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May 27, 2019

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Via Drop Box

Heather Halsey  
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Commission on State Mandates  
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**RE: Comment and Legal Argument Relating to Draft Proposed  
Decision**  
***Vote by Mail Ballots: Prepaid Postage 19-MT-01,***

Dear Ms. Halsey:

The County of Los Angeles, on behalf of the Los Angeles Office of Auditor-Controller and the Los Angeles Registrar-Recorder, (collectively referred to as the "County"), hereby submits the following in response to your request for comments as set forth in your letter dated May 6, 2020.

The County agrees with the Commission staff's conclusion to approve the Test Claim and find that Elections Code section 3010 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 for state and local elections.

However, the County respectfully disagrees with the Commission staff's conclusion to deny reimbursement for prepaid postage used in special local elections. In its Draft Proposed Decision, the Commission staff cites to the *Kern High School District* case as its legal authority for denying reimbursement to special elections. (*Department of Finance v. Commission on State Mandates; Kern High School District, 30 Cal.4<sup>th</sup> 727 (2003)*). In *Kern*, the school district received state funding if they voluntarily participated in certain educational

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programs. The test claim statute in the Kern case required school site councils and advisory committees to provide notice of meetings and to post agendas for meetings related those programs. The CA Supreme court determined that there was no reimbursable state mandate for the notice and agenda requirements since the district was not legally compelled to participate in those programs. Moreover, the District was not compelled to incur costs associated with providing agenda and notice requirements for committee meetings that were optional and not compulsory. In the present Test Claim, the activity of providing pre-paid postage with VBM ballots is itself a mandate. The legislature did not specify what types of VBM elections required pre-paid postage on envelopes, because the nature of the election itself was not relevant. The objective of this statute is to ensure that voting itself was made easier and accessible to more Californians.

The County agrees with the Commission Staff's reliance on Kern for the proposition that "activities undertaken at the option or discretion of local government, without legal compulsion or compulsion as a practical matter, do not impose a state mandated program within the meaning of article XIII B, section 6." (See page 7 of Draft Proposed Decision, dated May 6, 2020.) However, the County respectfully disagrees with the Commission staff's application of Kern to extra elections conducted by the County. Here, the Los Angeles County Registrar is compelled to provide elections services to cities and districts because those cities and districts are not equipped to do so. If the Registrar were to decide not to provide election services, those cities and districts would face certain draconian consequences such as disenfranchisement.

I, Lucia Gonzalez, declare under penalty of perjury that the foregoing, signed on May 27, 2020, is true and correct to the best of my personal knowledge, information or belief.

Very truly yours,

MARY C. WICKHAM  
County Counsel

By *Lucia Gonzalez*  
LUCIA GONZALEZ  
Senior Deputy County Counsel  
Government Services Division

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LG:lal

Attachments

**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 28, 2020, I served the:

- **Claimant's Comments on the Draft Proposed Decision filed May 27, 2020**
- **County of San Diego's Comments on the Draft Proposed Decision filed May 27, 2020**

*Vote by Mail Ballots: Prepaid Postage, 19-TC-01*  
Elections Code Section 3010; Statutes 2018, Chapter 120 (AB 216)  
County of Los Angeles, 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 28, 2020 at Sacramento, California.

*Lorenzo Duran*

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# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 5/6/20

**Claim Number:** 19-TC-01

**Matter:** Vote by Mail Ballots: Prepaid Postage

**Claimant:** County of Los Angeles

### 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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