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February 27, 2020
*Commission on
State Mandates*

LATE FILING

March 3, 2020

Via Drop Box

Ms. Heather Halsey
Executive Director
Commission on State Mandates
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Dear Ms. Halsey:

**RESPONSE TO THE DEPARTMENT OF FINANCE'S COMMENTS ON
AB 216 TEST CLAIM FILED ON JANUARY 2, 2020
19-TC-01**

The County of Los Angeles ("Claimant") submits its response to the Department of Finance's comments on the *AB 216, Vote by Mail Ballots: Prepaid Postage Test Claim*.

If you have any questions please contact me, or our staff may call Hasmik Yaghobyan at (213) 974-9653 or via e-mail at hyaghobyan@auditor.lacounty.gov.

Very truly yours,

Arlene Barrera
Auditor-Controller

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Attachment

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**RESPONSE TO THE DEPARTMENT OF FINANCE’S COMMENTS ON
AB 216 TEST CLAIM FILED ON JANUARY 2, 2020
19-TC-01**

The Claimant disagrees with the Department of Finance’s comments (“DOF”)¹ on *Vote by Mail Ballots (“VBM”): Prepaid Postage (AB 216)* on the following grounds:

THE REQUIREMENTS OF AB 216 CREATE A NEW PROGRAM, HIGHER LEVEL OF SERVICE, AND AN INCREASED COST FOR THE CLAIMANT

Relying on two cases: *City of Anaheim v. State*² (“*Anaheim*”) and *San Diego Unified School District v. Commission on State Mandates*³ (“*San Diego*”), DOF contends that the *AB 216* requirement of providing prepaid postage does not amount to a new program or higher level of service.

First, *AB 216* contains a reimbursable mandate. It imposes a requirement unique to local governments and requires the local governments to provide a specific service to the public, that is, to provide prepaid postage on *VBM* ballots. This is not a mere incidental effect of a law of general application.

Second, both cases cited by the DOF are distinguishable from *AB 216*. In *Anaheim*, the statute at issue required a state agency to increase pension payments to retired public employees. Local governments had no control over the pension payments, and the statute did not require them to do anything. The Appeal Court held that appellant could not recover its costs because the pension fund legislation at issue did not compel appellant to do anything and the pension payments made did not constitute a new program or higher level of service under the California Constitution.

Further, in the *San Diego*, at issue was whether the hearing costs incurred as a result of the mandatory expulsions that were compelled by the California Education Code § 48915, were reimbursable. The Supreme Court of California affirmed the judgment as it provided reimbursement for costs related to the hearings triggered by the mandatory expulsion recommendation. However, the Court reversed the judgment for reimbursement of costs related to hearings triggered by the discretionary expulsion recommendations.

Lastly, *AB 216* contains a reimbursable mandate. It imposes a requirement unique to local governments, and it requires the local governments to provide a specific service to the public, that is, paying postage on *VBM* ballots. This is not a mere incidental effect of a law of general application. Rather, it falls squarely within the definition of a new program and higher level of service.

¹ Department of Finance-Respond to Test Claim 19-TC-01, *Vote by Mail Ballots: Prepaid Postage*, dated January 3, 2020, ¶ 3.

² 189 Cal. App. 3d. 1478 (1987).

³ 33 Cal. 4th 859 (2044).

**RESPONSE TO THE DEPARTMENT OF FINANCE'S COMMENTS ON
AB 216 TEST CLAIM FILED ON JANUARY 2, 2020
19-TC-01**

**CLAIMANT IS SEEKING REIMBURSEMENT FOR COST INCURRED AFTER
JANUARY 1, 2019**

The Claimant is seeking reimbursement for costs incurred after January 1, 2019⁴, pursuant to Government Code §17551 (c); Cal. Code regs., tit. 2, §§ 1183.1 (c) and 1187.5. Therefore, the Claimant is claiming *actual* increased costs during the fiscal year for which the Test Claim was filed for implementing the alleged mandate.

CONCLUSION

AB 216 imposes state mandated activity and costs on the Claimant. This state mandated cost is not exempted from subvention requirements of § 6, there are no other funding sources, and the Claimant lacks authority to develop and impose fees to fund this new state mandated activity.

⁴ Department of Finance-Respond to Test Claim 19-TC-01, Vote by Mail Ballots: Prepaid Postage, dated January 3, 2020, ¶ 4.

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.

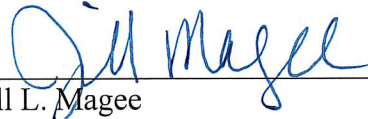
On March 11, 2020, I served the:

- **Claimant's Late Rebuttal Comments filed February 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 March 11, 2020 at Sacramento, California.



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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 3/4/20

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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