

STATE *of* CALIFORNIA
**COMMISSION ON STATE
MANDATES**



**REPORT TO THE LEGISLATURE:
DENIED MANDATE CLAIMS**

January 1, 2022 – December 31, 2022

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County of Sierra

Renee Nash
School District Board Member
Eureka Union School District

Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814
(916) 323-3562
www.csm.ca.gov

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INTRODUCTION

The Commission on State Mandates (Commission) is required to annually report to the Legislature on the number of claims it denied during the preceding calendar year and the basis on which each of the claims was denied.¹

This report includes a summary of two test claims that the Commission denied during the period from January 1, 2022 through December 31, 2022. The complete text of the decisions for the denied claims may be found on the Commission's website at https://www.csm.ca.gov/denied_mandates.php.

The decisions are based on the administrative record of the claims and include findings and conclusions of the Commission as required by the California Code of Regulations, Title 2, section 1187.11.

¹ Government Code section 17601.

SUMMARY OF DENIED CLAIMS

Floodplain Restoration Condition (no. 12) of Water Quality Certification for Turlock Irrigation District and Modesto Irrigation District – Don Pedro Hydroelectric and La Grange Hydroelectric Project, 21-TC-02

Water Quality Certification for Federal Permit or License, Turlock Irrigation District and Modesto Irrigation District Don Pedro Hydroelectric Project and La Grange Hydroelectric Project, Federal Energy Regulatory Commission Project Nos. 2299 and 14581, Condition 12, Riparian, Spawning, and Floodplain Management, Adopted by the State Water Resources Control Board on January 15, 2021.

Turlock Irrigation District and Modesto Irrigation District, Claimants

Test Claim Filed: January 14, 2022

Decision Adopted: July 22, 2022

This Test Claim was dismissed pursuant to California Code of Regulations, title 2, sections 1183.1(g) and 1187.14, on the ground that Turlock Irrigation District and Modesto Irrigation District (claimants) are not subject to the taxing and spending limitations of article XIII A and B of the California Constitution, and are therefore not eligible to claim reimbursement under article XIII B, section 6.

Article XIII B, section 6 was specifically designed to protect the tax revenues of local governments from state mandates that would require the expenditure of such revenues. The purpose is to prevent “the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill-equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”²

Article XIII B does not reach beyond taxation and does not restrict the growth in appropriations financed from nontax sources, such as bond funds, user fees based on reasonable costs, or revenues from local assessments, fees, and charges.³ Local agencies funded by revenues other than “proceeds of taxes” cannot accept the benefits of an exemption from article XIII B’s spending limit while asserting an entitlement to reimbursement under article XIII B, section 6.⁴

² *Department of Finance v. Commission on State Mandates* (2016) 1 Cal.5th 749, 763, quoting *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81; *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283; *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1185, holding that reimbursement under article XIII B, section 6 is only required when a mandated new program or higher level of service forces local government to incur “increased actual expenditures of limited tax proceeds that are counted against the local government’s spending limit.”

³ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; and *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 451, finding that revenues from a local special assessment for the construction of public improvements are not “proceeds of taxes” subject to the appropriations limit.)

⁴ *City of El Monte v. Commission on State Mandates* (2000) 83 Cal.App.4th 266, 281-282; *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 986.

Therefore, the Commission’s regulations make it clear that a test claim filed by local agency that is not eligible to seek reimbursement because it is not subject to the taxing and spending limitations of article XIII A and B of the California Constitution shall be proposed for dismissal.⁵

The claimant Districts were established in 1887 and are currently governed by Division 11 of the Water Code (The Irrigation District Law, codified at Water Code sections 20500 et seq.). The Irrigation District Law was enacted in 1943 and authorizes irrigation districts to levy annual assessments;⁶ issue bonds;⁷ charge fees or tolls for specified services, such as water and electricity;⁸ and (as of 1991) levy special taxes for specific purposes in accordance with article XIII A of the California Constitution, which must be approved by a two-thirds vote of the local electors.⁹ But the Irrigation District Law, as enacted in 1943¹⁰ and as it currently exists, does not authorize irrigation districts to levy property taxes or other taxes that raise general revenues. In addition, published court cases dating back to 1895 discuss the authority of irrigation districts to impose charges, fees, and assessments, but not taxes.¹¹

Moreover, there is no evidence in the record that the claimants ever collected property taxes, special taxes, or other “proceeds of taxes.” Although the 2020 and 2019 Turlock Irrigation District Financial Audit mentions “TID levies ad valorem property taxes on property located in the counties of Stanislaus and Merced,”¹² the law does not authorize the District to levy property taxes. And Turlock Irrigation District’s budget documents show that it is fully funded with bond revenue, assessments, fees and charges, which are *not* “proceeds of taxes” subject to the appropriations limit of article XIII B.¹³

⁵ California Code of Regulations, title 2, sections 1183.1(g) and 1187.14.

⁶ Water Code sections 25650 et seq., added by Statutes 1943, chapter 372.

⁷ Water Code sections 24950 et seq., added by Statutes 1943, chapter 372.

⁸ Water Code sections 22280 et seq., added by Statutes 1943, chapter 372.

⁹ Water Code section 22078.5 (Stats. 1991, ch. 70), which is in Article 1, states: “A district may impose a special tax pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code. The special taxes shall be applied uniformly to all taxpayers or all real property within the district, except that unimproved property may be taxed at a lower rate than improved property.”

Government Code section 50075 states: “It is the intent of the Legislature to provide all cities, counties, and districts with the authority to impose special taxes, pursuant to the provisions of Article XIII A of the California Constitution.”

¹⁰ Exhibit G (1), 1943 Irrigation District Act (Stats. 1943, chs. 368, 372).

¹¹ *City of San Diego v. Linda Vista Irrigation Dist.* (1895) 108 Cal.189, 192-193; *Mitchell v. Patterson* (1898) 120 Cal.286, 288-289; *Bolton v. Terra Bella Irr. Dist.* (1930) 106 Cal.App. 313, 317; *Thompson v. Board of Directors of Turlock Irrigation Dist.* (1967) 247 Cal.App.2d 587, 593; see also, 84 Opinions of the California Attorney General 81 (Cal.A.G.), 2001.

¹² Exhibit G (17), Turlock Irrigation District Report of Independent Auditors 2020 2019, https://issuu.com/turlockirrigationdistrict/docs/tid_final_fs?fr=sYzNhZTE5NTkxNTU (accessed April 20, 2022), page 14.

¹³ Exhibit G (14), Turlock Irrigation District 2019 Proposed Operations and Capital Budget, <https://www.tid.org/download/2019-budget/> (accessed on April 20, 2022), page 1; Exhibit G (16) Turlock Irrigation District 2022 Budget, <https://www.tid.org/download/current-tid-budget/>

Similarly, although the Modesto Irrigation District’s website mentions an “irrigation tax” that was last imposed in 1959,¹⁴ the Irrigation District Law did not provide the authority to levy property taxes. The claimants only had the authority to levy an assessment on the property, and other fees and charges.¹⁵ In addition, Modesto Irrigation District’s budget for 2018 through 2021 shows water revenues, electric revenues, and other revenues, but no tax revenues - and no appropriations limit is identified.¹⁶ Moreover, Modesto Irrigation District’s website states: “Today the district remains tax free, although in 1976 an irrigation water user charge was adopted.”¹⁷

Therefore, the claimants are not eligible to claim reimbursement under article XIII B, section 6. Accordingly, this Test Claim is dismissed.

(accessed on April 20, 2022), page 3; Exhibit G (6) Modesto Irrigation District, *The Greening of Paradise Valley, The First 100 Years of the Modesto Irrigation District*, chapter 4, https://www.mid.org/about/history/chpt_14.html (accessed on April 20, 2022); and Exhibit G (5) Modesto Irrigation District 2020 Detailed Budget, <https://www.mid.org/about/budget/documents/2020Budget.pdf> (accessed April 20, 2022), page 3.

¹⁴ Exhibit G (6), Modesto Irrigation District, *The Greening of Paradise Valley, The First 100 Years of the Modesto Irrigation District*, chapter 4, https://www.mid.org/about/history/chpt_04.html (accessed on April 20, 2022).

¹⁵ Exhibit G (1), 1943 Irrigation District Act (Stats. 1943, chs. 368, 372).

¹⁶ Exhibit G (5), Modesto Irrigation District 2020 Detailed Budget, <https://www.mid.org/about/budget/documents/2020Budget.pdf> (accessed on April 20, 2022), page 3.

¹⁷ Exhibit G (6), Modesto Irrigation District, *The Greening of Paradise Valley, The First 100 Years of the Modesto Irrigation District*, page 2, https://www.mid.org/about/history/chpt_04.html (accessed on April 20, 2022).

***California Voting for All Act: Ballot Translations and Posting Requirements,
20-TC-03***

Elections Code Section 14201 as Added and Amended by Statutes 1994, chapter 920 (SB 1547), and Statutes 2017, chapter 845 (AB 918); and Secretary of State, County Clerk/Registrar of Voters (CC/ROV) Memorandum #20096 (May 21, 2020)

County of Los Angeles, Claimant

Test Claim Filed: May 21, 2021

Decision Adopted: September 23, 2022

This Test Claim filed by the County of Los Angeles (claimant) alleged that reimbursement is required for state-mandated activities arising from Elections Code section 14201, as added by Statutes 1994, chapter 920 (SB 1547) and amended by Statutes 2017, chapter 845 (AB 918), and from Secretary of State, County Clerk/Registrar of Voters (CC/ROV) Memorandum #20096 (May 21, 2020) (Memo #20096).¹⁸

The Commission found that the Test Claim was not timely filed with respect to Elections Code section 14201 as added and amended by Statutes 1994, chapter 920 and Statutes 2017, chapter 845 because the Test Claim was neither filed within 365 days following the effective dates of the test claim statutes nor filed within 365 days of incurring increased costs as a result of those statutes as required by Government Code section 17551. The Test Claim was not filed within 365 days following the effective dates of Statutes 1994, chapter 920 and Statutes 2017, chapter 845 because those statutes went into effect more than 26 years¹⁹ and three years,²⁰ respectively, before this Test Claim was filed. The Test Claim was not filed within 365 days of incurring increased costs as a result of those statutes because the claimant was required to – and therefore presumptively did²¹ – provide language assistance pursuant to Elections Code section 14201 as added and amended by the those statutes in connection with elections that occurred in 2018, three years before this Test Claim was filed.²² However, there is substantial evidence in the record that the Test Claim was timely filed with respect to Memo #20096, within one year of incurring increased costs as a result of that memo.²³

¹⁸ Exhibit A, Test Claim, filed May 21, 2021, pages 174-184 (Memo #20096, May 21, 2020).

¹⁹ Statutes 1994, chapter 920 went into effect on January 1, 1995. (Cal. Const., art. IV, § 8(c).)

²⁰ Statutes 2017, chapter 845 went into effect on January 1, 2018. (Cal. Const., art. IV, § 8(c).)

²¹ Evidence Code section 664 (“It is presumed that official duty has been regularly performed.”).

²² See Exhibit A, Test Claim, filed May 21, 2021, page 189 (California Secretary of State, County Clerk/Registrar of Voters (CC/ROV) Memorandum #17148, December 29, 2017) (requiring precincts in the County of Los Angeles to provide Elections Code section 14201 language assistance in Armenian and Persian for elections conducted between January 1, 2018, and December 31, 2021); Elections Code sections 1200 and 1201 (requiring statewide elections to be held in June and November of 2018); see also Exhibit C, Claimant’s Rebuttal Comments, filed March 1, 2022, page 2 (“Indeed, the County was already complying with minority language translations as required in Elections Code section 14201.”).

²³ Exhibit A, Test Claim, filed May 21, 2021, page 23 (Declaration of Albert Navas, Assistant Registrar and County Clerk for the County of Los Angeles, para. 9).

The Commission further found that Memo #20096 does not mandate a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution.

Elections Code section 14201 requires a county elections official to provide translated facsimile ballots and other specified forms of language assistance *if* the Secretary of State determines that there is a need for that assistance in the county or precincts within the county, whether because low-English proficiency members of a single language minority meet a three percent threshold in the county or precincts or because the Secretary has been presented with enough information to believe that a need for that assistance exists. These requirements have been imposed on counties since 2018.²⁴

In Memo #20096, the Secretary of State's office notified counties that Elections Code section 14201 required certain counties and precincts to provide language assistance in additional languages for elections conducted between May 20, 2020 and December 31, 2021. Although Memo #20096 included additional languages for which county elections officials were required to provide language assistance services, it did not itself require or mandate county elections officials to provide those services. Rather, it was Elections Code section 14201 that required those officials to post facsimile ballots, provide specified information on the county elections website, and include translated text in the county voter information guide. All Memo #20096 did was provide notice of these preexisting requirements in Elections Code section 14201.

Accordingly, Memo #20096 does not mandate a new program or higher level of service on county elections officials, and therefore does not impose a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution. The Commission denied this Test Claim.

²⁴ Elections Code section 14201, as amended by Statutes 2017, chapter 845.