

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



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

January 1, 2022 – June 30, 2022

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I. INTRODUCTION

Commission on State Mandates

Test Claim Process

Article XIII B, section 6 of the California Constitution requires the state to provide a subvention of funds to reimburse local government for the costs of new programs or increased levels of service mandated by the state. To implement article XIII B, section 6, the Legislature created the Commission on State Mandates (Commission) to succeed the State Board of Control in making determinations whether new statutes or executive orders are state-mandated programs.¹ The Commission was established to render sound quasi-judicial decisions and to provide an effective means of resolving disputes over the existence of state-mandated local programs. The Commission provides the sole and exclusive procedure for local agencies and school districts (claimants) to resolve disputes over the existence of state-mandated local programs and costs mandated by the state. The Commission is required to hear and decide claims (test claims) filed by local agencies and school districts that they are entitled to be reimbursed by the state for costs mandated by the state.²

Parameters and Guidelines

Government Code section 17557 provides that if the Commission determines that a statute or executive order imposes a mandate upon local agencies and school districts, the Commission is required to determine the amount to be subvended to local agencies and school districts for reimbursement by adopting parameters and guidelines. In adopting parameters and guidelines, the Commission may adopt a reasonable reimbursement methodology (RRM). Once parameters and guidelines are adopted, the Commission is required to adopt a statewide cost estimate of the mandated program (Gov. Code, § 17553).

Alternative Processes

Government Code section 17557.1 and 17557.2 provide an alternate process for determining the amount to be subvended for mandated programs. Under 17557.1, local governments and the Department of Finance may jointly develop reasonable reimbursement methodologies (RRMs) and statewide estimates of costs for mandated programs for approval by the Commission in lieu of parameters and guidelines and statewide cost estimates. Government Code section 17557.2 requires that joint RRMs have broad support and, if approved, they remain in effect for five years unless otherwise specified. Jointly developed RRMs and statewide estimates of costs that are approved by the Commission are included in the Commission's Annual Reports to the Legislature. To date, only one jointly developed RRM has ever been approved and it expired and was not extended by the parties so the Commission adopted parameters and guidelines for that program.

Government Code sections 17572 and 17573 provide another alternative process where the Department of Finance and local agencies, school districts, or statewide associations may jointly request that the Legislature determine that a statute or executive order imposes a state-mandated program, establish a reimbursement methodology, and appropriate funds for reimbursement of costs. This process is intended to bypass the Commission's test claim process, thus providing the Commission with more time to complete the caseload backlog. To date, this process has not been successfully utilized.

¹ Statutes 1984, chapter 1459, Government Code section 17500, et seq.

² Government Code section 17551.

Report to the Legislature

The Commission is required to report to the Legislature at least twice each calendar year on the number of mandates it has found, the estimated statewide costs of each mandate, and the reasons for recommending reimbursement.³ In 2010, SB 894 (Stats. 2010, ch. 699) was enacted to require the Commission to expand its Report to the Legislature to include:

- The status of pending parameters and guidelines that include proposed reimbursement methodologies.
- The status of pending joint proposals between the Department of Finance and local governments to develop reasonable reimbursement methodologies in lieu of parameters and guidelines.
- The status of joint proposals between the Department of Finance and local governments to develop legislatively-determined mandates.
- Any delays in the process for completion of reasonable reimbursement methodologies.

This report fulfills these requirements.

Legislative Analyst

After the Commission submits its report to the Legislature, the Legislative Analyst is required to submit a report to the Joint Legislative Budget Committee and legislative fiscal committees on the mandates included in the Commission's reports. The Legislative Analyst's report shall make recommendations as to whether each mandate should be repealed, funded, suspended, or modified.

The Legislature

Upon receipt of the report submitted by the Commission pursuant to Government Code Section 17600, funding shall be provided in the subsequent Budget Act for costs incurred in prior years. No funding shall be provided for years in which a mandate is suspended.⁴

The Legislature may amend, modify, or supplement the parameters and guidelines, reasonable reimbursement methodologies, and adopted statewide estimates of costs for the initial claiming period and budget year for mandates contained in the annual Budget Act. If the Legislature amends, modifies, or supplements the parameters and guidelines, reasonable reimbursement methodologies, or adopted statewide estimates of costs for the initial claiming period and budget year, it shall make a declaration in separate legislation specifying the basis for the amendment, modification, or supplement.⁵

Mandate Funding Provisions

If the Legislature deletes from the annual Budget Act funding for a mandate, the local agency or school district may file in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement for that fiscal year.⁶ Under Proposition 1A, which amended article XIII B, section 6 of the California Constitution, city, county, city and county, or special district mandate claims for costs incurred

³ Government Code section 17600.

⁴ Government Code section 17612(a).

⁵ Government Code section 17612(b).

⁶ Government Code section 17612(c).

prior to the 2004-2005 fiscal year that have not been paid prior to the 2005-2006 fiscal year may be paid over a term of years, as prescribed by law. However, for the 2005-2006 fiscal year and every subsequent fiscal year, the Constitution now requires the Legislature to either appropriate in the annual Budget Act the full payable amount that has not been previously paid or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable.

If payment for an initial reimbursement claim is being made more than 365 days after adoption of the statewide cost estimate, the State Controller’s Office (Controller) shall include accrued interest at the Pooled Money Investment Account rate.⁷

If the amount the Legislature appropriates is insufficient to pay all of the reimbursement claims filed and approved for reimbursement, the Controller will prorate the claims.⁸ If the funds to cover the remaining deficiency are not appropriated in the Budget Act, the Controller shall report this information to the legislative budget committees and the Commission.

II. NEW MANDATES

The following table shows the Statewide Cost Estimates that were adopted during the period of January 1, 2022 through June 30, 2022.

**Statewide Cost Estimates (SCE) Adopted
During the Period of January 1, 2022 through June 30, 2022**

<i>Adoption Date, Claim Name and Number, and Initial Claiming Period</i>			<i>Estimated Costs for Initial Claiming Period</i>			<i>Estimated Future Annual Costs</i>
Date	Test Claim Name and Number	Initial Claiming Period	Education (K-14)	Local Agency	Totals	Estimated Totals
1/28/22	<i>Vote by Mail Ballots: Prepaid Postage, 19-TC-01</i>	Second Half of Fiscal Year 2018-2019 through Fiscal Year 2019-2020	-	\$0 - \$5,790,442	\$0 - \$5,790,442	\$0 - \$5,942,188
TOTAL			-	\$0 - \$5,790,442	\$0 - \$5,790,442	

⁷ Government Code section 17561.5(a).

⁸ Government Code section 17567.

III. PENDING PARAMETERS AND GUIDELINES, REQUESTS TO AMEND PARAMETERS AND GUIDELINES, AND STATEWIDE COST ESTIMATES CASELOAD

Following are tables showing parameters and guidelines, requests to amend parameters and guidelines, and statewide cost estimates that are pending Commission determination. A request to include an RRM in parameters and guidelines or amendments thereto is a request made by a local entity claimant, an interested party, Finance, the Controller, or an affected state agency, pursuant to Government Code section 17557 and 17518.5 – which is distinct from the jointly proposed RRM, discussed above under “Alternative Processes.” These requests are often disputed by one or more of the parties and interested parties. There are no pending RRMs.

A. Pending Parameters and Guidelines

	Program	Status
1.	<i>Discharge of Stormwater Runoff, 07-TC-09*</i>	Inactive pending court action.

* Local agency programs

† School district or community college district programs

B. Pending Requests for Parameters and Guidelines Amendments

	Program	Status
1.	<i>Racial and Identity Profiling, 21-PGA-01 (18-TC-02)*</i>	Tentatively scheduled for hearing on 9/23/22

* Local agency programs

† School district or community college district programs

C. Pending Statewide Cost Estimates

	Program	Status
1.	<i>Racial and Identity Profiling, 18-TC-02*</i>	Tentatively scheduled for hearing on 7/22/22
2.	<i>County of Los Angeles Citizens Redistricting Commission, 19-TC-04*</i>	Estimated date that claims data will be received from the Controller: 7/31/22. Tentatively scheduled for hearing on 9/23/22.
3.	<i>Sexual Assault Evidence Kits: Testing, 20-TC-01*</i>	Claims data was received from the Controller on 5/27/22. Tentatively scheduled for hearing on 9/23/22.

* Local agency programs

† School district or community college district programs

IV. THERE ARE NO PENDING JOINT REASONABLE REIMBURSEMENT METHODOLOGIES OR LEGISLATIVELY-DETERMINED MANDATES AND HENCE, NO DELAYS IN THE PROCESS

There are no currently pending joint reasonable reimbursement methodologies or legislatively determined mandates.

Government Code section 17600 requires the Commission to report any delays in the process for joint RRMs or LDMs being developed by Department of Finance and local entities and for RRMs proposed by any party pursuant to Government Code section 17518.5. There are

currently no pending joint RRM, LDM or RRM proposed by any party. Therefore, there are no delays in these processes.

With regard to RRM included in parameters and guidelines amendments pursuant to Government Code sections 17557 and 17518.5, there are currently no pending parameters and guidelines or amendments thereto containing RRM and therefore no delays in this process.

V. ADOPTED STATEWIDE COST ESTIMATES

Vote by Mail Ballots: Prepaid Postage, 19-TC-01

Adopted January 28, 2022

STATEWIDE COST ESTIMATE

\$0 - \$5,790,442

**(For the Initial Claiming Period of the Second Half of Fiscal Year 2018-2019,⁹
and all of Fiscal Year 2019-2020)**

(Estimated Annual Costs for Fiscal Year 2020-2021 and Following Is

\$0¹⁰ - \$5,942,188

Plus the Implicit Price Deflator

Elections Code Section 3010 as Added or Amended by Statutes 2018, Chapter 120 (AB 216)

Vote By Mail Ballots: Prepaid Postage

19-TC-01

The Commission on State Mandates (Commission) adopted this Statewide Cost Estimate on consent by a vote of 6-0 during a regularly scheduled hearing on January 28, 2022 as follows:

Member	Vote
Lee Adams, County Supervisor	Yes
Sam Assefa, Director of the Office of Planning and Research	Absent
Renee Nash, School District Board Member	Yes
Keely Bosler, Director of the Department of Finance, Chairperson	Yes
Sarah Olsen, Public Member	Yes
Spencer Walker, Representative of the State Treasurer	Yes
Yvette Stowers, Representative of the State Controller, Vice Chairperson	Yes

STAFF ANALYSIS

Background and Summary of the Mandate

This Statewide Cost Estimate (SCE) addresses the State's liability for the subvention of costs for the mandated activities arising from Elections Code section 3010, as amended by Statutes 2018, chapter 120 (AB 216) (test claim statute). The Commission found that the test claim statute imposes a reimbursable state-mandated program under article XIII B, section 6 of the California

⁹ The test claim statute was operative beginning January 1, 2019.

¹⁰ The \$0 estimate is due to potentially offsetting revenue of \$108,746,000 - \$36.5 million in state funds and \$72,246,000 in federal funds appropriated for local election assistance in the 2020 State Budget Act (Statutes 2020, chapter 6 (SB 74) Item 0890-101-0001, schedule (1), and Item 0890-101-0890, schedule (1)).

Constitution, beginning January 1, 2019, for counties and cities that conduct elections to provide prepaid postage on identification envelopes delivered to voters with their vote-by-mail (VBM) ballots for the following elections: 1) Statewide general elections, statewide direct primary elections, and the presidential primary elections conducted by counties; 2) Regular local elections compelled by state law; 3) Special elections called by the Governor or required by state law, including recall elections of local officers, special elections forced by a petition of the voters to issue school bonds or replace an appointee and fill a vacant school board position, and elections required by state law that are conducted by charter cities and counties; 4) School district and community college district discretionary elections required by state law to be conducted by counties and cities when the election is consolidated with non-educational issues or elective offices.¹¹

The Commission further found that Elections Code section 3010, as amended by Statutes 2018, chapter 120, does *not* impose a reimbursable state-mandated program when: 1) a county or city conducts its own discretionary local elections or holds a required special election that could have been consolidated with a regular election within statutory deadlines; or 2) counties conduct elections for cities or special districts; or when cities and counties conduct an election solely on behalf of a school district or community college district (with no other non-educational issues or elective offices on the ballot). In these latter elections, there is fee authority sufficient to cover the costs of the mandate pursuant to Government Code section 17556(d), so there are no costs mandated by the state.¹²

The Decision and Parameters and Guidelines were adopted on December 4, 2020, with a period of reimbursement beginning January 1, 2019.¹³

The State Controller's Office (Controller) issued claiming instructions on March 9, 2021.¹⁴ Eligible claimants were required to file initial reimbursement claims with the Controller for costs incurred in 2018-2019 (beginning Jan. 1, 2019) and 2019-2020 by July 7, 2021.¹⁵ Late initial claims may be filed by July 7, 2022, but will incur a 10-percent late-filing penalty of the total amount of the initial claim without limitation.¹⁶ Annual reimbursement claims for subsequent fiscal years, starting with fiscal year 2020-2021, must be filed with the Controller by February 15 following the fiscal year in which costs were incurred.¹⁷ Annual claims filed more than one year after the deadline will not be accepted, and late claims filed within one year of the deadline will incur a 10 percent late filing penalty not to exceed \$10,000.¹⁸

¹¹ Exhibit A, Test Claim Decision, adopted July 24, 2020.

¹² Exhibit A, Test Claim Decision, adopted July 24, 2020, pages 45-46.

¹³ Exhibit B, Decision and Parameters and Guidelines, adopted December 4, 2020, page 1.

¹⁴ Exhibit C, Controller's Claiming Instructions Program No. 377, issued March 9, 2021, page 1; Government Code section 17558(b).

¹⁵ Government Code section 17561(d)(1)(A).

¹⁶ Government Code sections 17561(d)(3), 17568.

¹⁷ Government Code section 17560(a). Fiscal year 2020-2021 or late 2018-2019 or 2019-2020 claims are due by February 15, 2022.

¹⁸ Government Code section 17568. Late fiscal year 2020-2021 claims due by February 15, 2023, subject to a 10 percent penalty.

During the test claim phase, the claimant (County of Los Angeles) filed evidence to support its alleged increased costs of \$688,639 for fiscal year 2018-2019, although the Commission’s Decision noted that \$584,908.55 would not be eligible for reimbursement because it was incurred before January 1, 2019, the effective date of the test claim statute. The claimant estimated alleged costs of \$620,791 in fiscal year 2019-2020 by multiplying the number of VBM applicants in the 2018 election plus five percent, by the percentage of VBM responses for the November 2018 election, by the average cost of postage per ballot (\$.605).¹⁹

The Senate Appropriations Committee estimated statewide costs for the test claim statute at \$5.5 million per statewide election by multiplying \$0.65 per mailed ballot times all 8.4 million ballots cast in the November 2016 election.²⁰ The Assembly Appropriations Committee estimated statewide costs at \$3.8 million per election. The Assembly Committee also estimated costs at \$0.65 per mailed ballot, but multiplied it by the 5.8 million ballots cast by mail in the November 2016 election.²¹

Eligible Claimants and Period of Reimbursement

“Any city, county, or city and county that incurs increased costs as a result of this mandate is eligible to claim reimbursement.”²²

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a fiscal year to establish eligibility for reimbursement for that fiscal year. The claimant filed the test claim on October 15, 2019, establishing eligibility for reimbursement for the 2018-2019 fiscal year, beginning July 1, 2018. However, Statutes 2018, chapter 120 became effective on January 1, 2019, establishing the period of reimbursement for costs incurred beginning January 1, 2019.

Reimbursable Activities

The Parameters and Guidelines authorize reimbursement as follows:²³

For each eligible claimant that incurs increased costs, the following activity is reimbursable:

Provide prepaid postage on identification envelopes delivered to voters with their vote-by-mail ballots for the following elections:

- Statewide general elections, statewide direct primary elections, and the presidential primary elections conducted by counties.²⁴

¹⁹ Exhibit A, Test Claim Decision, adopted July 24, 2020, pages 41-43.

²⁰ Exhibit K(33), Senate Committee on Appropriations, Analysis of AB 216 (2017-2018 Reg. Sess.) as introduced January 24, 2017, page 1.

²¹ Exhibit K(1), Assembly Committee on Appropriations, Analysis of AB 216 (2017-2018 Reg. Sess.) as introduced January 24, 2017, page 1.

²² Exhibit B, Decision and Parameters and Guidelines, adopted December 4, 2020, pages 11, 22.

²³ Exhibit B, Decision and Parameters and Guidelines, adopted December 4, 2020, pages 23-25.

²⁴ Elections Code sections 1200-1202, 13001.

- Regular local elections compelled by state law.²⁵
- Special elections called by the Governor or required by state law, including recall elections of local officers, special elections forced by a petition of the voters to issue school bonds or replace an appointee and fill a vacant school board position, and elections required by state law that are conducted by charter cities and counties.²⁶
- School district and community college district discretionary elections required by state law to be conducted by counties and cities when the election is consolidated with non-educational issues or elective offices.²⁷

Reimbursement for this activity includes the cost of labor and postage, including only the pro rata postage subscription costs incurred to provide prepaid postage for the vote-by-mail identification envelopes delivered to voters for the elections required by state law bulleted above.

In their reimbursement claims, claimants shall identify:

- 1) the election(s) required by state law for which costs are claimed;
- 2) the prepaid postage method used to comply with the mandate;

A. If utilizing stamps or metered mail (other than business reply mail (BRM)), include the number of prepaid vote-by-mail return identification envelopes provided and the actual labor and postage costs to provide the prepaid postage.

B. If utilizing a BRM subscription, include 1) the pro-rata cost of BRM subscription fees attributable to the mandate, 2) the number of prepaid vote-by-mail return identification envelopes provided for the elections required by state law and the actual labor and costs to format (e.g., include the indicia of prepaid postage or barcode on) the return identification envelope (not including the postage costs), and, 3) the number of vote-by-mail ballots returned by mail and the actual costs incurred for the return postage.

Reimbursement is not required in the following circumstances:

- When a county or city conducts its own discretionary local elections or holds a required special election that could have been consolidated with a regular election within statutory deadlines; or

²⁵ For example, California Constitution, article 6, section 16(b), and article 11, section 1, Elections Code sections 1300 et seq., 10517, Education Code sections 5300, 5303, Government Code sections 24200, 25304.5.

²⁶ For example, Elections Code section 10700 (vacancy in a congressional or legislative office), 11110 (recall of state elected officers), 11200 et seq. (recall of local officers), Education Code section 15100 (voter petition for school bonds), Education Code section 5091(c) (voter petition to replace an appointee and fill a vacant board position), Elections Code section 8026 (death of incumbent or challenger for a nonpartisan statewide, countywide, or citywide office, or for a nonpartisan office that is elected by division, area, or district, before an election), Education Code section 5093 (special elections consolidated with the next regular election when the vacancy occurs during the period between six months and 130 days prior to a regularly scheduled governing board election).

²⁷ Education Code sections 5300 and 5303. Elections Code sections 3024, 10517.

- When counties conduct elections for cities or special districts;²⁸ or when cities and counties conduct an election solely on behalf of a school district or community college district (with no other non-educational issues or elective offices on the ballot).²⁹ In these elections, there is fee authority sufficient to cover the costs of the mandate pursuant to Government Code section 17556(d) so there are no costs mandated by the state.

Offsetting Revenues and Reimbursements

The Parameters and Guidelines also identify the following available offsetting revenue:

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, funds appropriated in the State Budget or any Budget Trailer bill for elections that are used to fund this mandate, and other state funds, shall be identified and deducted from the claim. This includes, but is not limited to, federal funds appropriated for elections in the 2018 State Budget Act (Stats. 2018, ch. 29, SB 840, Item 0890-101-0890) and the 2019 State Budget Act (Stats. 2019, ch. 23, AB 74, Item 0890-101-0890) and state and federal funds appropriated for elections in the 2020 State Budget Act and Trailer Bills (Stats. 2020, ch. 6, SB 74, Items 0890-101-0001 & 0890-101-0890; Stats. 2020, ch. 7 (AB 89), Item 0890-101-0001; & Elec. Code, § 19402, as amended by Stats. 2020, ch. 20 (AB 100)) that are used to fund this mandate.³⁰

Offsetting revenues identified in the initial reimbursement claims amounted to \$0 for fiscal year 2018-2019, \$372,807 for fiscal year 2019-2020, and \$0 for fiscal year 2020-2021. Of the 42 claims for 2019-2020, 16 identified offsetting revenue in their claims. Of the 16 county claimants that identified the offsets in 2019-2020, 10 indicated that the offsetting revenue was from local agency reimbursement for election services, and six counties did not indicate the source of their offsetting revenue.³¹

Statewide Cost Estimate

Commission staff reviewed the 49 unaudited reimbursement claims filed for the initial reimbursement period by one city, 47 counties, and one city and county, and data compiled by

²⁸ Elections Code sections 10002, 10520.

²⁹ Elections Code section 10520, Education Code sections 5227, 5420, and 3024; *County of Yolo v. Los Rios Community College District* (1992) 5 Cal.App.4th 1242, 1252.

³⁰ Exhibit B, Decision and Parameters and Guidelines, adopted December 4, 2020, page 27.

³¹ Exhibit K(36), Spreadsheet of Initial Claims. Exhibit F, Reimbursement Claims FY 2019-2020, reported as of July 30, 2021. The 10 claimants that indicated their offsetting revenue was from local agency reimbursements were Lake, Marin, Merced, Monterey, Napa, Nevada, Orange, Sonoma, Ventura, Yuba. Claimants that did not indicate the source(s) of their offsetting revenue were Kings, Mendocino, San Luis Obispo, San Mateo, Santa Clara, and Tehama.

the Controller.³² All claims were filed under Activities B.1.-B.3 in the Parameters and Guidelines (BRM subscription) and none were filed under Activity A (non-BRM postage). The claims request reimbursement for a total of \$117,713 for the second half of fiscal year 2018-2019,³³ and \$2,759,268 for all of fiscal year 2019-2020,³⁴ totaling \$2,876,981 for the initial period of reimbursement as follows:³⁵

\$3,248,873	Reimbursable Activity: Provide prepaid postage on identification envelopes delivered to voters with their VBM ballots for elections subject to the mandate, including:
	\$10,202 for B.1., pro rata BRM postage subscription costs;
	\$75,381 for B.2., formatting identification envelopes; and
	\$3,163,290 for B.3., return postage costs.
\$865	Indirect Costs
(\$372,807)	Less Offsetting Revenues or Other Reimbursements
\$0	Less 10 Percent Late Filing Penalty ³⁶
\$50	Single 2019-2020 claim addition error ³⁷
\$2,876,981	Total Costs Claimed

Initial Reimbursement Period, Fiscal Years 2018-2019, 2019-2020

The statewide cost for the initial reimbursement period is estimated to range from \$0, the total amount of unaudited filed reimbursement claims less all potential offsetting revenues of \$23,092,000, to \$5,790,442, to the total estimated cost for all counties and cities that conducted

³² Exhibit E, Reimbursement Claims FY 2018-2019, reported as of July 30, 2021. Exhibit F, Reimbursement Claims FY 2019-2020, reported as of July 30, 2021. Exhibit I, Reimbursement Claim FY 2019-2020 (Fresno late claim), reported as of September 9, 2021.

³³ This total does not include the City of Santa Cruz’s 2018-2019 claim for \$3,988 in B.1., costs because it was for costs billed by the County. Exhibit E, Reimbursement Claims FY 2018-2019, reported as of July 30, 2021, page 3. For this reason, the total of 2018-2019 claims does not match the \$121,701 in the Controller’s Summary of Claims in Exhibit D.

³⁴ This total includes the County of Fresno’s \$65,832 late claim. See Exhibit I, Reimbursement Claim FY 2019-2020 (Fresno late claim), reported as of September 9, 2021.

³⁵ Exhibit K(36), Spreadsheet of Initial Claims; Exhibit E, Reimbursement Claims FY 2018-2019, reported as of July 30, 2021; Exhibit F, Reimbursement Claims FY 2019-2020, reported as of July 30, 2021. Exhibit G, Reimbursement Claim FY 2019-2020 (Lake County); Exhibit I, Reimbursement Claim FY 2019-2020 (Fresno late claim), reported as of September 9, 2021.

³⁶ Although Fresno County’s claim was late, no penalty was subtracted from its claim so the applicable \$6,583 late penalty is not reflected here. Exhibit I, Reimbursement Claim FY 2019-2020 (Fresno late claim), reported as of September 9, 2021.

³⁷ Colusa County totaled its 2019-2020 claim at \$2,662, but the costs of the activities claimed (B.1., \$945, B.3., \$1667) only total \$2,612, a \$50 difference. Exhibit F, Reimbursement Claims FY 2019-2020, reported as of July 30, 2021, pages 49-50. The Controller’s summary shows Colusa’s total claim at \$2,662. Exhibit D, Controller’s Summary of Claims Data, filed July 30, 2021, page 1.

elections subject to the mandate for the second half of fiscal year 2018-2019 and all of fiscal year 2019-2020, less a 10 percent late filing penalty, based on the assumptions outlined in the analysis, as follows:

\$3,248,873 - \$6,499,348	Reimbursable Activity. Provide prepaid postage on identification envelopes delivered to voters with their VBM ballots for elections subject to the mandate, including B.1., pro rata postage subscription costs, B.2., formatting identification envelopes, and B.3., return postage costs ³⁸
\$865 - \$33,543	Indirect Costs ³⁹
(\$23,092,000 - \$372,807)	Less Potential Offsetting Revenues ⁴⁰
(\$6,583 – \$369,642)	Less 10 Percent Late Filing Penalty ⁴¹
\$0 - \$5,790,442	Total Estimated Costs⁴²

³⁸ The low estimate represents costs actually claimed for the three reimbursable activities (B.1., B.2., B.3.) in the Parameters and Guidelines of \$3,248,873. The high estimate represents all potential costs that could be claimed for the three reimbursable activities, including in late or amended claims filed by cities and counties, for a total of \$6,499,348.

³⁹ The low estimate represents the indirect costs actually claimed. The high estimate is the mean average direct costs claimed of \$67,685 multiplied by the indirect cost rate of .71 percent multiplied by all potential county claimants that did not file, (52 counties in 2018-2019 and 16 counties in 2019-2020) but may still file late or amended claims (68 entities x \$67,685 x .71% = \$32,678), plus the \$865 of claimed indirect costs, totaling \$33,543.

⁴⁰ The lower number (\$372,807) represents offsetting revenues actually identified in the reimbursement claims. The higher number (\$23,092,000) represents all potential offsetting revenues that could be identified for the reimbursable activities, including in late or amended claims filed by cities and counties. This consists of \$3.128 million appropriated for elections in the 2018 State Budget Act and \$19.945 million appropriated for elections in the 2019 State Budget Act. (Statutes 2018, chapter 29 (SB 840), Item 0890-101-0890; Statutes 2019, chapter 23 (AB 74), Item 0890-101-0890, schedule (1)).

⁴¹ The low estimate represents \$6,583 penalties already recognized by the Controller's Office (Exhibit I, Reimbursement Claim FY 2019-2020 (Fresno late claim), reported as of September 9, 2021). The high estimate includes the penalty based on the estimated costs that may still be claimed in late or amended claims for the initial claiming period (\$6,507,569 in total estimated statewide direct and indirect costs that may yet be claimed minus \$2,876,981 in costs actually claimed to date = \$3,630,588 x 10 percent = \$363,059 + (\$6,583 penalties imposed on costs actually claimed) = \$369,642).

⁴² The high estimate assumes all potential costs claimed (\$6,499,348 + \$8,870) and penalties (\$369,642) and actual offsets claimed (\$372,807). Exhibit K(36), Spreadsheet of Initial Claims. Exhibit E, Reimbursement Claims FY 2018-2019, reported as of July 30, 2021. Exhibit F, Reimbursement Claims FY 2019-2020, reported as of July 30, 2021. Exhibit G, Reimbursement Claim FY 2019-2020 (Lake County), reported as of July 30, 2021. Exhibit I, Reimbursement Claim FY 2019-2020 (Fresno late claim), reported as of September 9, 2021.

Fiscal Year 2020-2021 and Following

Future statewide annual costs beginning fiscal year 2020-2021 are estimated to range from \$0 – \$5,942,188, plus the implicit price deflator, based on the assumptions outlined in the analysis, with the range of costs estimated as follows:

\$4,343,973 - \$5,914,316	Reimbursable Activity. Provide prepaid postage on identification envelopes delivered to voters with their VBM ballots for elections subject to the mandate.
\$865 - \$27,872	Indirect Costs
(\$108,746,000) - \$0	Less Potential Offsetting Revenues ⁴³
\$0 - \$5,942,188	Total Estimated Future Costs

Assumptions

Based on the unaudited claims data and other publically available information, the Commission makes the following assumptions and uses the following methodology to develop the SCE for this program.

- *The total amount claimed for the initial reimbursement period may increase as a result of late or amended initial claims.*

There are 57 counties, one city and county, and 482 cities in California.⁴⁴ Of these, 41 counties (71 percent of eligible counties), one city and county, and one city (0.02 percent) filed claims for the initial reimbursement period: 7 claims for 2018-2019, and 42 for 2019-2020 (not double counting the six counties that claimed for both 2018-2019 and 2019-2020).⁴⁵

The remaining eligible claimants may still file late claims. And there may be more late claims due to claimants compiling and submitting cost data for special election(s) held during the fiscal year, especially if the special election(s) are held close to the deadline for submitting claims.

⁴³ The 2020 State Budget Act appropriates \$36.5 million in state funds and \$72,246,000 in federal funds for local election assistance. (Statutes 2020, chapter 6 (SB 74) Item 0890-101-0001, schedule (1), and Item 0890-101-0890, schedule (1).) Also, a Budget Trailer Bill was enacted in 2020 to specify that the \$36.5 million budget appropriation is for counties to conduct the November 2020 election consistent with state requirements put in place to reduce the spread of COVID-19, and to conduct voter education and outreach, and that these costs include “mailing and postage.” (Statutes 2020, chapter 7 (AB 89), Item 0890-101-0001, schedule (1), provisions (4) and (5).)

⁴⁴ Exhibit K(34), Senate Government and Finance Committee, County Fact Sheet (April 2016) https://sgf.senate.ca.gov/sites/sgf.senate.ca.gov/files/county_facts_2016.pdf (accessed on January 4, 2021), page 1.

⁴⁵ Exhibit K(36), Spreadsheet of Initial Claims. Exhibit E, Reimbursement Claims FY 2018-2019, reported as of July 30, 2021. Exhibit F, Reimbursement Claims FY 2019-2020, reported as of July 30, 2021. Exhibit G, Reimbursement Claim FY 2019-2020 (Lake County), reported as of July 30, 2021. Exhibit I, Reimbursement Claim FY 2019-2020 (Fresno late claim), reported as of September 9, 2021.

In addition, the 41 claimants that have already filed timely initial claims⁴⁶ may file amended claims for additional costs not included in their timely-filed claims.

There could also be an unusually high number of late initial claims for this program due to the challenges of filing timely reimbursement claims during the COVID-19 pandemic, due to employees taking sick or family leave or who are primarily teleworking and without access to paper documentation that may have been maintained for claiming purposes, or those with other higher priority duties.

Late and amended initial claims may be filed until July 7, 2022, but they will be reduced by 10 percent of the amount that would have been allowed had the claim been timely filed.⁴⁷

- *Most elections subject to the mandate will likely be consolidated with statewide elections and be conducted by counties. Although city claimants are eligible for reimbursement, this analysis assumes that only counties will file eligible claims.*

The Parameters and Guidelines for this mandate define eligible claimants as: “Any city, county, or city and county that incurs increased costs as a result of this mandate is eligible to claim reimbursement.”⁴⁸ However, since most elections will likely be consolidated with statewide elections, most or all claimants that submit reimbursement claims are expected to be counties.

As explained in the Test Claim Decision, counties are responsible for all statewide elections (statewide general election, statewide direct primary election, and the presidential primary election)⁴⁹ and they administer local elections that are subject to the mandate for cities, special districts, and school and community college districts in the county.⁵⁰ Cities may also conduct their own municipal elections⁵¹ and if a school district is located within the boundaries of a chartered city, the board of education is elected under the laws governing the city.⁵²

Beginning January 1, 2018, the Voter Participation Rights Act (Elec. Code, §§ 14052-14057) requires that all local elections (except special elections) be held on a *statewide* election date if prior elections resulted in a significant decrease in voter turnout.⁵³ The legislative history states that this Act will result in almost all local jurisdictions holding their regularly scheduled elections at the same time as a statewide election.⁵⁴ Elections for general law cities (which are 361 out of 482 total cities, or 75 percent), as well as school districts, community college districts

⁴⁶ This does not include Fresno County’s late 2019-2020 claim. Exhibit K(36), Spreadsheet of Initial Claims. Exhibit E, Reimbursement Claims FY 2018-2019, reported as of July 30, 2021. Exhibit F, Reimbursement Claims FY 2019-2020, reported as of July 30, 2021. Exhibit G, Reimbursement Claim FY 2019-2020 (Lake County), reported as of July 30, 2021.

⁴⁷ Government Code section 17561(d)(3).

⁴⁸ Exhibit B, Decision and Parameters and Guidelines, adopted December 4, 2020, page 20.

⁴⁹ Elections Code sections 1200-1202.

⁵⁰ Exhibit A, Test Claim Decision, adopted July 24, 2020, pages 24-25; Elections Code sections 10200 et seq., 10240, 10401, 10517, 10518, 13001; Education Code sections 5300 and 5303.

⁵¹ Elections Code sections 10200 et seq., 10240, 13001.

⁵² Education Code sections 5200 et seq., 5220.

⁵³ Elections Code sections 14052–14057 (Stats. 2015, ch. 235, sec. 1. (SB 415)).

⁵⁴ Exhibit K(3), Assembly Committee on Elections and Redistricting, Analysis of SB 415 (2015-2016 Reg. Sess.), as amended June 23, 2015, page 5.

and special districts are required to conform to the Act.⁵⁵ Although not required to do so, some charter cities have also consolidated their elections on statewide election dates.⁵⁶

The court that decided the Voter Participation Act's inapplicability to charter cities found that local elections consolidated with statewide elections cost considerably less than separate city elections.⁵⁷

These are the likely reasons that only one city filed for reimbursement for the initial claiming period. The City of Santa Cruz claimed "Santa Cruz County Clerk/Elections Department Mailing Expenses."⁵⁸ However if the city did not perform the mandate, but rather claimed expenses billed by the county, the city is not eligible for reimbursement. As the Commission found in its Decision and Parameters and Guidelines:

Although cities that do not conduct elections, as well as school districts and special districts, may incur costs for a county or city to conduct their elections for them, these local governments are not required to perform the mandated activity to provide prepaid postage on vote-by-mail identification envelopes. Reimbursement under article XIII B, section 6 is required only when all of the mandate elements are found, including that the test claim statute imposes a state-mandated activity on the local agency or school district.⁵⁹ Increased costs alone do not result in a reimbursable state-mandated program.^{60,61}

Although it is possible that cities may file eligible reimbursement claims in the future, the claims data (showing only one city filing for what are likely ineligible costs)⁶² indicates that it is unlikely. Thus, most local elections subject to the mandate will probably be consolidated with a

⁵⁵ Elections Code section 14051(a) et seq. Charter cities (121 of 482 total cities in California) are not bound by SB 415. See *City of Redondo Beach v. Padilla* (2020) 46 Cal.App.5th 902.

⁵⁶ See e.g., cities of Glendale and Signal Hill. Exhibit K(29), Landa, Jeff, *Glendale City Council Moves to Consolidate Local Elections with Statewide Primaries* (November 10, 2017) Los Angeles Times, <https://www.latimes.com/socal/glendale-news-press/news/tn-gnp-me-consolidated-election-20171109-story.html> (accessed on January 4, 2021). Exhibit K(43), Voter's Edge California, City of Signal Hill Measure M <https://votersedge.org/ca/en/election/2019-03-05/los-angeles-county/city-of-signal-hill/measure/measure-m> (accessed on January 4, 2021).

⁵⁷ As the court noted: "A memorandum from the office of the Los Angeles County Registrar-Recorder/County Clerk to Redondo Beach's City Clerk compared the estimated costs to the City for on-cycle and off-cycle municipal elections: The costs for on-cycle general municipal elections (that is, elections consolidated with statewide general elections) ranged between \$97,000 and \$111,000, while the projected costs for stand alone, off-cycle elections ranged between \$588,000 and \$593,000." *City of Redondo Beach v. Padilla* (2020) 46 Cal.App.5th 902, 907.

⁵⁸ Exhibit E, Reimbursement Claims FY 2018-2019, reported as of July 30, 2021, pages 3-4.

⁵⁹ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-882.

⁶⁰ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 877.

⁶¹ Exhibit B, Decision and Parameters and Guidelines, adopted December 4, 2020, page 7.

⁶² Exhibit E, Reimbursement Claims FY 2018-2019, reported as of July 30, 2021, pages 3-4.

statewide election and be conducted by a county. This analysis assumes that only the 58 counties (including the City and County of San Francisco) will file claims.

- *The claimed number of returned VBM ballots requiring postage during the initial reimbursement period (January 1, 2019 - June 30, 2019 and fiscal year 2019-2020) was 4,633,221 which could increase by at least 720,325 ballots (to total 5,353,546) with amended or late claims.*

Based on submitted claims, 4,633,221 VBM ballots were returned during the initial claiming period.⁶³ Because the mandate was effective on January 1, 2019, there was no statewide election (which was held in November 2018) eligible for reimbursement in fiscal year 2018-2019. Of the 4,401,644 VBM ballots claimed for fiscal year 2019-2020,⁶⁴ 3,453,508 ballots (78 percent) were cast in the March 2020 Statewide Primary election.⁶⁵

As indicated above, the number of VBM ballots that are eligible for reimbursement could increase due to amended claims or late claims filed by the 16 counties that did not file for fiscal year 2019-2020, or the 52 counties that did not file claims for the second half of fiscal year 2018-2019 (including the City and County of San Francisco). For example, the following 16 counties that did not file claims for fiscal year 2019-2020 received 720,325 VBM ballots by mail for the March 2020 Statewide Primary election. Return postage for these ballots may be eligible for reimbursement.⁶⁶

County	VBM Ballots
Alpine	385
Contra Costa	175,662
Del Norte	3,356
El Dorado	44,457
Humboldt	25,463
Mariposa	4,412
Modoc	1,689
Mono	2,883
Plumas	6,539
San Bernardino	185,297
San Joaquin	81,711
Santa Cruz	41,434
Shasta	29,894
Sierra	1,246
Solano	112,060
Trinity	3,837
Total	720,325

⁶³ Exhibit K(36), Spreadsheet of Initial Claims.

⁶⁴ Exhibit K(36), Spreadsheet of Initial Claims. Exhibit F, Reimbursement Claims FY 2019-2020, reported as of July 30, 2021. Exhibit G, Reimbursement Claim FY 2019-2020 (Lake County), reported as of July 30, 2021. Exhibit I, Reimbursement Claim FY 2019-2020 (Fresno late claim), reported as of September 9, 2021.

⁶⁵ Exhibit K(13), California Secretary of State, VBM Statistics March 2020 Primary Election.

⁶⁶ These data come from Exhibit K(13), California Secretary of State, VBM Statistics March 2020 Primary Election.

Thus, the number of VBM ballots eligible for reimbursement could increase by at least 720,325 ballots to total over 5,353,546 VBM ballots (4,633,221 claimed + 720,325 unclaimed) for the initial period of reimbursement.

- *The estimated number of VBM ballots returned by mail in fiscal year 2020-2021 is 5,961,338 ballots.*

For the November 2020 General Presidential Election, AB 860 (Stats. 2020, ch 4) required that all registered voters in California receive a VBM ballot, regardless of their county of residence.⁶⁷ According to VBM statistics from the Secretary of State, there were 5,879,191 VBM ballots returned by mail for the November 2020 election, which is 38 percent of the 15,478,670 VBM ballots returned for this election.⁶⁸

Recently, the Legislature enacted SB 29 (Stats. 2021, ch. 3), which ensures that all California voters will receive a VBM ballot for elections proclaimed or conducted before January 1, 2022, although voters may still return ballots to polling places or by means other than mail. Then in September 2021, AB 37 was enacted to make voting by mail permanent by amending Elections Code section 3000.5(a) to state:

(a) Notwithstanding any other law, for each election, the elections official shall, no later than 29 days before the day of the election, begin mailing the materials specified in Section 3010 to every registered voter. The elections official shall have five days to mail a ballot to each person who is registered to vote on the 29th day before the day of the election and five days to mail a ballot to each person who is subsequently registered to vote. The elections official shall not discriminate against any region or precinct in choosing which ballots to mail first within the prescribed five-day mailing period.

The following elections were held in the 2020-2021 fiscal year and may be eligible for reimbursement. The November 2020 General Presidential election is estimated to account for 99 percent of the VBM ballots cast by mail this year (5,879,191 of 5,961,338 estimated ballots returned by mail).⁶⁹ The following chart calculates 5,961,338 estimated ballots returned by mail, and assumes 38 percent of the total VBM ballots were returned by mail in the initial reimbursement period based on return data indicating that 38 percent of VBM ballots were returned by mail in the November 2020 Statewide General Presidential Election:⁷⁰

⁶⁷ Elections Code section 3000.5, as added by Statutes 2020, chapter 4.

⁶⁸ Exhibit K(14), California Secretary of State, VBM Statistics November 2020 General Election. Of the 15,478,670 VBM ballots returned, 38 percent were returned by mail (5,879,191 ballots), 43 percent were returned to a drop box (6,648,112), eight percent were returned at a drop-off location (1,296,335), 10 percent were returned to a vote center (1,611,452), and 0.3 percent were returned by fax or “other” (43,580).

⁶⁹ Exhibit K(14), California Secretary of State, VBM Statistics November 2020 General Election.

⁷⁰ Exhibit K(14), California Secretary of State, VBM Statistics November 2020 General Election. Some elections during this period (including city elections on the chart) may not be eligible for reimbursement because, for example, they are special elections that could have been consolidated with a non-special election, or counties may be able to collect fees from the local government(s) for which the election is held. See Exhibit B, Decision and Parameters and Guidelines, adopted December 4, 2020, page 22.

Jurisdiction/election (2020-2021)	VBM ballots counted or estimated	Date	VBM ballots received	VBM ballots rec'd by mail (est. 38% of VBM ballots)
General Presidential Election	VBM counted	11/3/2020	5,879,191	5,879,191
Fresno (Municipal & Special) ⁷¹	VBM counted	3/2/2021	11,823	4,493
Los Angeles (City of Industry) ⁷²	All VBM	7/21/2020	41	16
Los Angeles (Special Elections) ⁷³	VBM counted	3/2/2021	74,638	28,362
Los Angeles (Assem. Dist. 54 Special) ⁷⁴	VBM counted	5/18/2021	41,246	15,673
Marin (Special Election) ⁷⁵	VBM counted	3/2/2021	671	255
San Joaquin (Tracy Village) ⁷⁶	All VBM	8/28/2020	22	8
Stanislaus (City of Newman) ⁷⁷	All VBM	8/25/2020	24	9
Riverside (Special Municipal election) ⁷⁸	VBM est.	3/2/2021	13,414	5,097

⁷¹ Exhibit K(16), County of Fresno, USPS Log March 2, 2021 Consolidated Municipal and Special Election
<https://www2.co.fresno.ca.us/2850/post/2021march02/20210302BallotTransferLog.pdf>
 (accessed on April 14, 2021).

⁷² Exhibit K(17), County of Los Angeles, City of Industry Special Municipal Election July 21, 2020 <https://results.lavote.net/#year=2020&election=4207> (accessed on January 3, 2022).

⁷³ Exhibit K(18), County of Los Angeles, Special Elections March 2, 2021
<https://results.lavote.net/#year=2021&election=4256> (accessed on January 3, 2022).

⁷⁴ Exhibit K(19), County of Los Angeles, Assembly District 54 Special Primary Election May 18, 2021 <https://results.lavote.net/#year=2021&election=4267> (accessed on January 3, 2022).

⁷⁵ Exhibit K(20), County of Marin, Official Final Results Special Election March 2, 2021
<https://results.enr.clarityelections.com/CA/Marin/108579/web.275533/#/detail/1>
<https://results.enr.clarityelections.com/CA/Marin/108579/web.275533/#/detail/2> (accessed on January 3, 2022).

⁷⁶ Exhibit K(24), County of San Joaquin, Certification of the Statement of Votes Cast August 25, 2020 <https://www.sjgov.org/WorkArea/DownloadAsset.aspx?id=33155> (accessed on January 3, 2022).

⁷⁷ Exhibit K(26), County of Stanislaus, City of Newman Special Election August 5, 2020
<https://www.stanvote.com/past-results/08-25-2020-results.htm> (accessed on January 3, 2022).

⁷⁸ Exhibit K(22), County of Riverside, Official Semi-Final Election Results, Special Municipal Measure Election March 2, 2021
https://www.voteinfo.net/Elections/20210302/docs/ElectionSummaryReportRPT_mhtml.htm
 (accessed on January 3, 2022). There was no information about the number of VBM ballots returned for this election, so the estimate is 38 percent of all 13,414 ballots returned.

Jurisdiction/election (2020-2021)	VBM ballots counted or estimated	Date	VBM ballots received	VBM ballots rec'd by mail (est. 38% of VBM ballots)
San Diego County (Asm. Dist. 79) ⁷⁹	VBM	4/6/21	62,531	23,762
Sonoma (Special Election) ⁸⁰	VBM counted	3/2/2021	11,769	4,472
2020-2021 Total VBM Ballots			6,095,370	5,961,338

Thus, the number of VBM ballots returned by mail in fiscal year 2020-2021 is estimated at 5,961,338 ballots.

- *During the initial reimbursement period all claimants that filed claims used business reply mail (BRM), and the average pro-rata cost per ballot (determined by averaging the costs per ballot for all claims except for the three claimants that combined their B.1., subscription costs with their return postage costs in B.3.) is \$0.7289 per ballot.*

The test claim statute does not specify how claimants provide the prepaid postage on vote-by-mail identification envelopes. A claimant may choose to affix postage on the identification envelope before mailing the ballots, thereby incurring costs for all ballots mailed to voters (some of whom may not return their ballots by mail or at all). Alternatively, claimants may choose a BRM postage subscription and pay only for the ballots returned. The claims data reveal that all claimants that filed for reimbursement used a BRM subscription rather than affixing outgoing postage, so this analysis assumes that all claimants (including those that did not claim reimbursement during the initial claiming period) will use BRM.

In estimating costs for prepaid postage on vote-by-mail ballots, the Assembly and Senate Appropriations Committees 2018 analyses used \$0.65 per ballot to estimate costs.⁸¹ The claimant alleged \$0.605 per envelope in its Test Claim filing.⁸²

⁷⁹ Exhibit K(23), County of San Diego, Registrar of Voters, Special Primary 79th State Assembly Election, Official Final Election Results https://www.livevoteturnout.com/SanDiego/LiveResults/en/Index_11.html (accessed on January 3, 2022).

⁸⁰ Exhibit K(25), County of Sonoma, Special Election Results March 2, 2021 <https://results.enr.clarityelections.com/CA/Sonoma/108411/web.275533/#/detail/1> <https://results.enr.clarityelections.com/CA/Sonoma/108411/web.275533/#/detail/2> (accessed on January 3, 2022).

⁸¹ According to the Senate Appropriations Committee: “If 8.4 million voters (the number of VBM voters in the 2016 General Election) voted by mail at an average cost of \$.65 per envelope, the cost of prepaid postage would be about \$5.5 million.” According to the Assembly Appropriations Committee “. . . if 5.8 million voters (the same that voted by mail in the November 2016 election) returned a ballot by mail at an average cost of \$0.65 per envelope, the cost for prepaid postage would be almost \$3.8 million per election.” Exhibit K(33), Senate Committee on Appropriations, Analysis of AB 216 (2017-2018 Reg. Sess.) as introduced January 24, 2017, page 1. Exhibit K(1), Assembly Committee on Appropriations, Analysis of AB 216 (2017-2018 Reg. Sess.) as introduced January 24, 2017, page 1.

⁸² Exhibit A, Test Claim Decision, adopted July 24, 2020, page 42.

Effective January 27, 2019, first-class postage rates increased by \$.05 to \$.55 for one-ounce letters and by \$0.15 for each additional ounce (a decrease of \$.06). Metered mail increased to \$.50 for the first ounce (up from \$.47 per ounce) and \$.15 for each additional ounce.⁸³ These rates remain constant in 2020 and 2021.⁸⁴ Thereafter, federal law requires that market-dominant postage rates (including for first-class and BRM) rise no faster than the Consumer Price Index.⁸⁵ Although the ballot weight depends on the number of candidates and measures, statewide ballots with many state candidates and measures typically weigh more than one ounce, especially if they are consolidated with local candidates and measures.⁸⁶ A ballot weight of 1.5 ounces at a first-class rate yields a cost of \$0.65 per ballot for metered mail, and \$0.70 for first-class postage stamps.

The initial claims show that all claimants use business reply mail, which was an option discussed in the legislative history of the test claim statute,⁸⁷ as well as the Commission’s Decision and Parameters and Guidelines.⁸⁸ BRM is used for preprinted first-class and priority mail.⁸⁹ As shown in the chart below, there are different BRM subscriptions that provide prepaid postage, each with features and requirements that depend on the amount of mail expected to be returned or services desired. The main feature of BRM is that subscribers do not prepay postage for the mail distributed. Rather, they agree to pay a subscription fee and a First-Class Mail or Priority

⁸³ Exhibit K(37), Stamps.com, *USPS Announces Postage Rate Increase – Starts January 27, 2019* <https://blog.stamps.com/2018/10/19/usps-announces-postage-rate-increase-starts-january-27-2019/#:~:text=USPS%20Announces%20Postage%20Rate%20Increase%20%E2%80%93%20Starts%20January%2027%2C%202019&text=The%20First%20Class%20Mail%20letter,decrease%20from%20%240.21%20in%202018> (accessed on January 4, 2021).

⁸⁴ Exhibit K(42), U.S. Postal Service, Price List, effective January 26, 2020 <https://pe.usps.com/resources/PriceChange/January%202020%20-%20Notice123.pdf> (accessed on January 4, 2021).

⁸⁵ 39 USC section 3622(d)(1)(A) states: “The system for regulating rates and classes for market-dominant products shall — (A) include an annual limitation on the percentage changes in rates to be set by the Postal Regulatory Commission that will be equal to the change in the Consumer Price Index for All Urban Consumers unadjusted for seasonal variation over the most recent available 12-month period preceding the date the Postal Service files notice of its intention to increase rates.”

⁸⁶ For example, see Exhibit K(21), County of Orange, Registrar of Voters, \$0.71 Required for Vote-By-Mail Ballot Returns <https://www.ocvote.com/press-releases/071-required-for-vote-by-mail-ballot-returns> (accessed on January 4, 2021).

⁸⁷ Exhibit K(2), Assembly Committee on Elections and Redistricting, Analysis of AB 216 (2017-2018 Reg. Sess.), as introduced January 24, 2017, page 2.

⁸⁸ Exhibit B, Decision and Parameters and Guidelines, adopted December 4, 2020, pages 13-14.

⁸⁹ Exhibit K(41), U.S. Postal Service Postal Explorer, Business Reply Mail <https://pe.usps.com/MailpieceDesign/Index?ViewName=BRMIntroduction#:~:text=Business%20Reply%20Mail-,Introduction,optical%20CDs%2C%20or%20label%20pieces> (accessed on January 4, 2021).

Mail per-piece charge only on *returned* mail.⁹⁰ Thus, claimants with BRM subscriptions only incur postage costs for the ballots actually returned by mail, plus the pro rata subscription or account maintenance fee.⁹¹ There are also formatting elements required on BRM envelopes (such as a BRM indicia or barcode) so claimants may incur pro rata printing costs to comply with the formatting elements for postage on the identification envelope.⁹² The BRM options available to claimants include:⁹³

Business Reply Mail Options	Best For	Features	Fees (current as of 1/26/20)⁹⁴
Basic business reply mail	Fewer than 925 returned pieces expected annually.	<ul style="list-style-type: none"> Postage-paid, pre-printed First-Class Mail® and Priority Mail® materials. Pay only for responses received. 	Annual permit fee of \$240 plus first-class rate of \$0.55 + \$0.85=\$1.40 per piece per ounce
High Volume Business Reply Mail (BRM)	More than 925 returned pieces expected annually.	<ul style="list-style-type: none"> Discounted postage rates. Postage-paid, pre-printed First-Class Mail and Priority Mail materials. Pay only for responses received. 	Annual permit fee of \$240 plus an annual account maintenance fee of \$725 plus first-class rate of \$0.55 + \$0.093=\$0.643 per piece per ounce.

⁹⁰ Exhibit K(39), U.S. Postal Service, Business Reply Mail Frequently Asked Questions <https://faq.usps.com/s/article/Business-Reply-Mail> (accessed January 4, 2021). Metered reply mail does not require a permit or annual fee, but postage is paid on unreturned mail.

⁹¹ Payment for BRM can be made either through 1) a postage due account, from which charges for incoming mail will be automatically deducted prior to delivery; 2) a dedicated BRM advance deposit account that requires an additional annual fee to establish and maintain (and is required for a qualified business reply mail subscription); and 3) payment upon delivery, which only requires the BRM permit. See Exhibit K(40), U.S. Postal Service, Payment Options for Returned Business Reply Mail <https://pe.usps.com/MailpieceDesign/Index?ViewName=BRMPaymentOptions> (accessed on January 4, 2021).

⁹² Exhibit K(38), U.S. Postal Service, 505 Return Services <https://pe.usps.com/text/dmm300/505.htm> (accessed on January 4, 2021).

⁹³ Exhibit K(39), U.S. Postal Service, “Business Reply Mail Frequently Asked Questions” <https://faq.usps.com/s/article/Business-Reply-Mail> (accessed on January 4, 2021). The website provides the chart without the fee amounts. Although “courtesy reply mail” is on the original chart, it is not included here because it requires the customer (or voter) to pay the postage.

⁹⁴ Exhibit K(42), U.S. Postal Service, “Price List, effective January 26, 2020” <https://pe.usps.com/resources/PriceChange/January%202020%20-%20Notice123.pdf> (accessed on January 4, 2021), page 34.

Business Reply Mail Options	Best For	Features	Fees (current as of 1/26/20) ⁹⁴
		<ul style="list-style-type: none"> Advanced Deposit Account prepays postage. 	
Basic Qualified Business Reply Mail (QBRM)	More than 875 responses expected a year with automation-compatible mailpieces.	<ul style="list-style-type: none"> Discounted postage rates. ZIP + 4® Code and barcode for efficient sorting. Postage-paid, pre-printed First-Class Mail materials. Advanced Deposit Account prepays postage. 	Annual account maintenance fee of \$725 plus a per piece fee of \$0.534 + \$.072=\$0.606
High-Volume Qualified Business Reply Mail (QBRM)	More than 42,981 replies expected in a quarter with automation-compatible mailpieces.	<ul style="list-style-type: none"> One of the lowest per-piece fees available. Discounted postage rates. ZIP + 4 Code and barcode for efficient sorting. Postage-paid, pre-printed First-Class Mail materials. Advanced Deposit Account prepays postage. 	Annual account maintenance fee of \$725 plus a quarterly processing fee of \$2,640 plus a per piece fee of \$0.534 + \$0.015=\$0.549
Metered Reply Mail	Small businesses with limited reply needs can prepay return postage on single pieces.	<ul style="list-style-type: none"> Use your own reply materials. Valid on Priority Mail Express®, Priority Mail®, and First-Class Mail services, as well as Media Mail® and Library Mail. Apply stamp to labels or envelopes. Facing Identification Marks and barcodes provided at no charge. 	None.

For the initial claiming period all claimants filed under option B (the BRM subscription) of the Parameters and Guidelines⁹⁵ and claiming instructions.⁹⁶ For this option, claimants are required to separately claim costs for BRM subscription costs (B.1.), envelope formatting (B.2.) and BRM postage (B.3.). Of the 48 claims submitted by counties for the initial claiming period, 13 claimed separate BRM subscription costs (B.1.). Of the 13 claims that separated BRM subscription costs, 10 of the claimants correctly claimed their subscription costs under activity B.1., and three of the claimants combined their subscription costs with their VBM postage costs under B.3.⁹⁷ Therefore, the average pro-rata cost per ballot was determined by calculating the average mean cost for all claims (except the three claimants that claimed their postage subscription costs under B.3.) filed during the initial claiming period, yielding an average cost of \$0.7289 per VBM ballot returned by mail.

- *Future costs will likely increase because the prevalence of voting by mail has increased in recent years partly due to the requirement for all registered voters to receive a VBM ballot, population growth, and the increase in the number of registered voters due to online voter registration enacted in 2012, the “motor voter” law enacted in 2015, and Proposition 17, approved in 2020, allowing persons on parole to vote.*

According to the Secretary of State’s website, a growing percentage of ballots in statewide elections are cast by mail.⁹⁸ This trend was summarized in the 2018 legislative history of the test claim statute.

Rates of Vote by Mail Voting: AB 1520 (Shelley, Ch. 922, Statutes of 2001), allowed any voter to become a permanent VBM voter. Since that time, the percentage of voters in California who choose to receive a VBM ballot has increased significantly. A majority of California voters now choose to vote using a VBM ballot, either by returning that ballot through the mail or by dropping off their VBM ballot in person. In 2016, about 58% of votes in the primary election and about 59% of votes in the general election were cast using VBM ballots. In 2014, when voter turnout was lower, an even larger percentage of votes were cast on VBM ballots: over 60% of the general election votes and nearly 70% of the votes in the primary election were cast using VBM ballots.⁹⁹

More recently, the California Secretary of State reported that in the March 2020 Statewide Primary Election (in fiscal year 2019-2020), 72 percent of ballots returned were VBM (6,982,750 of 9,687,076 total ballots), and 29 percent of those (4,800,230) were returned by

⁹⁵ Exhibit B, Decision and Parameters and Guidelines, adopted December 4, 2020, page 24.

⁹⁶ Exhibit C, Controller’s Claiming Instructions Program No. 377, issued March 9, 2021, page 7.

⁹⁷ The three claimants that combined their subscription costs in B.1., with postage costs in B.3., were Calaveras, Glenn, and Lassen. Lassen did so in both 2019-2019 and 2019-2020. Exhibit K(36), Spreadsheet of Initial Claims. Exhibit E, Reimbursement Claims FY 2018-2019, reported as of July 30, 2021. Exhibit F, Reimbursement Claims FY 2019-2020, reported as of July 30, 2021. Exhibit G, Reimbursement Claim FY 2019-2020 (Lake County), reported as of July 30, 2021.

⁹⁸ Exhibit K(8), California Secretary of State, Historical Vote-by-Mail (Absentee) Ballot Use in California <https://www.sos.ca.gov/elections/historical-absentee> (accessed on January 4, 2021).

⁹⁹ Exhibit K(2), Assembly Committee on Elections and Redistricting, Analysis of AB 216 (2017-2018 Reg. Sess.) as introduced January 24, 2017, page 2.

mail.¹⁰⁰ And for the November 2020 election, AB 860 (Stats. 2020, ch 4) required that all registered voters in California receive a VBM ballot, regardless of their county of residence.¹⁰¹ Voters had the option of returning their ballots by mail (using a prepaid postage return identification envelope) or in-person at any official ballot drop box or voting location. This contributed to the portion of VBM ballots cast reaching 86.72 percent (15,423,301 of 17,785,151 total ballots) in the November 2020 election, the highest percentage on record.¹⁰² And recently enacted AB 37 (Stats. 2021, ch.312) makes VBM ballots permanently available to all voters. In addition, other factors contribute to the growing prevalence and popularity of voting by mail. According to the Department of Finance’s demographic projections, the official population estimate for 2019 is 39,959,095, and is estimated to grow by about 1 million residents every five years. Starting in 2034-2039, the population is estimated to grow more slowly, by about 800,000 statewide to a total of 43,812,425.¹⁰³ Accompanying this population growth is an increase in persons who are eligible to vote, defined under the California Constitution as United States citizens and residents of California who are 18 years or older and not imprisoned for a felony conviction or declared mentally incompetent.¹⁰⁴

Along with population growth are recent increases in voter registration, due in part to on-line voter registration available since 2012,¹⁰⁵ as well as the 2015 “Motor-Voter” law,¹⁰⁶ which requires the Department of Motor Vehicles (DMV) to electronically transmit information about

¹⁰⁰ Exhibit K(8), California Secretary of State, Historical Vote-by-Mail (Absentee) Ballot Use in California <https://www.sos.ca.gov/elections/historical-absentee> (accessed on January 4, 2021). See also Exhibit K(13), California Secretary of State, VBM Statistics March 2020 Primary Election, which indicates that of the 16,372,985 VBM ballots issued, 29 percent were returned by mail (4,800,230 ballots), five percent were returned to a drop box (830,470), five percent were returned at a drop off location (825,734), four percent were returned to a vote center (647,176), .8 percent were returned by fax (6,488) or “other,” (126,998) and 56 percent (9,135,889) were not returned.

¹⁰¹ Elections Code section 3000.5, as added by Statutes 2020, chapter 4.

¹⁰² Exhibit K(12), California Secretary of State, Secretary of State Alex Padilla Certifies Record Setting General Election Results (December 11, 2020) <https://www.sos.ca.gov/administration/news-releases-and-advisories/2020-news-releases-and-advisories/ap20116> (accessed January 4, 2021). See also Exhibit K(14), California Secretary of State, VBM Statistics November 2020 General Election. This indicates that of the VBM ballots issued, 26 percent were returned by mail (5,879,191 ballots), 30 percent were returned to a drop box (6,648,112), six percent were returned at a drop off location (1,296,335), seven percent were returned to a vote center (1,611,452) and .2 percent were returned by fax or “other,” and 31 percent (6,914,461) were not returned.

¹⁰³ Exhibit K(5), California Department of Finance, Projections, P-1 State Population Projections (2010-2060) <http://www.dof.ca.gov/Forecasting/Demographics/projections/> (accessed on January 4, 2021)

¹⁰⁴ California Constitution, article II, sections 2 and 4. Prior to Proposition 17 approved at the November 2020 General Election, persons on parole were ineligible to vote.

¹⁰⁵ Statutes 2011, chapter 561 (SB 397); Elections Code section 2196.

¹⁰⁶ Statutes 2015, chapter 729 (AB 1461).

its customers who are eligible to vote to the Secretary of State (SOS).¹⁰⁷ The SOS adds the customers to voter rolls as “no party preference” unless they opt out or choose a political party.¹⁰⁸ The DMV must also notify the SOS of whether the person elects to become a permanent vote-by-mail voter.¹⁰⁹ According to the legislative history of AB 1461, the SOS estimated that it would need to mail 1.95 million new voter guides to newly registered voters.¹¹⁰ The actual number of registered voters, from October 2016 to October 2020, increased by 2,635,677 (from 19,411,771 to 22,047,448), and the percentage of registered voters of those eligible to vote increased to 87.87 (from 78 percent in 2016).¹¹¹ Given that nearly all Californians who are eligible to vote will obtain a California driver’s license or State Identification,¹¹² increases in the adult population will lead to an increase in the number of registered voters, which in turn will lead to more mailed ballots and higher VBM costs for return postage, assuming these new voters exercise their right to vote by mail.

Finally, Proposition 17, which was approved at the November 2020 election, allows people on parole for felony convictions to vote. According to the voter guide, Proposition 17 would restore voting rights to “nearly 50,000” parolees.¹¹³ To the extent that parolees register to vote and choose to vote by mail, it will contribute to increased postage costs for returning VBM ballots.

Thus, future costs will likely increase due to increased population, voter registration, and increased rates of VBM voting.

¹⁰⁷ Under Statutes 2013, chapter 524 (AB 60), noncitizens (persons who are “unable to submit satisfactory proof of legal residence”) may also obtain a driver licenses, but the DMV is expressly prohibited from sending their information to the Secretary of State as eligible voters.

¹⁰⁸ Elections Code section 2265(b).

¹⁰⁹ Elections Code section 2263(b)(1)(I).

¹¹⁰ Exhibit K(35), Senate Rules Committee, Senate Floor Analysis of AB 1461 (2015-2016 Reg. Sess.), as amended September 4, 2015, page 7.

¹¹¹ Exhibit K(6), California Secretary of State, 15-Day Report of Registration (October 19, 2020) <https://elections.cdn.sos.ca.gov/ror/15day-gen-2020/historical-reg-stats.pdf> (accessed on January 4, 2021).

¹¹² Exhibit K(30), McGhee, Eric and Romero, Mindy, What to Expect from California’s New Motor Voter Law (June 2016) Public Policy Institute of California <https://www.ppic.org/publication/what-to-expect-from-californias-new-motor-voter-law/> (accessed on January 4, 2021). “Our calculations suggest that virtually all residents who are eligible to vote eventually obtain either a driver’s license or an ID.”

¹¹³ Exhibit K(11), California Secretary of State, Official Voter Information Guide, California General Election, Proposition 17 Arguments and Rebuttals (November 3, 2020) <https://vigarchive.sos.ca.gov/2020/general/propositions/17/arguments-rebuttals.htm> (accessed on January 3, 2022). According to the Public Policy Institute of California, “as of December 2017 the [parolee] population was 46,000.” Exhibit K(27), Gross, Justin and Hayes, Joseph, California’s Changing Parole Population (February 2018) Public Policy Institute of California <https://www.ppic.org/publication/californias-changing-parole-population/#:~:text=In%202012%2C%20the%20California%20Department,it%20fell%20to%20approximately%2045%2C500> (accessed on January 4, 2021).

- *Future costs will likely increase due in part to the California Voter's Choice Act (Stats. 2016, ch. 832), under which participating counties mail ballots to all registered voters.*

Another factor contributing to the growing prevalence of voting by mail is the California Voter's Choice Act, a 2016 law that allows counties to opt into a vote-center model in which all the county's registered voters are mailed a VBM ballot.¹¹⁴ The legislative history of the test claim statute discussed this Act:

Impact of SB 450 Vote Center Model: SB 450 (Allen), Chapter 832, Statutes of 2016, permits specified counties beginning in 2018, and all other counties beginning in 2020, to conduct elections in which every voter is mailed a ballot and vote centers and ballot drop-off locations are available prior to and on election day, in lieu of operating polling places for the election, subject to certain conditions. Counties in California that opt to conduct elections in accordance with SB 450 generally will be required to send VBM ballots to all registered AB 216 [VBM] voters 28 days before election day. As counties implement SB 450, the number of voters who receive a ballot in the mail will increase, which may also increase the number of VBM ballots that are returned by mail. On the other hand, because SB 450 requires participating counties to make ballot drop-off locations available, an increasing number of voters may choose to return VBM ballots in person, rather than through the mail. In any case, SB 450 likely will increase the involvement of the postal system in elections conducted in the state, but SB 450 did not require the return postage on VBM ballots to be prepaid. [The test claim statute] AB 216 will help address this by providing prepaid envelopes to voters so they can return their ballots.¹¹⁵

As of February 2020, there were 15 counties that opted into the SB 450 vote-center model, including the counties of Sacramento, Madera, Napa, Nevada, and San Mateo, which piloted the new system in the 2018 midterm election and all continued it in 2020.¹¹⁶ All these counties had increased turnout in 2018 compared with 2014.¹¹⁷

Ten more counties chose to implement the SB 450 model in 2020, including some of the most populous: Butte, El Dorado, Amador, Calaveras, Tuolumne, Mariposa, Fresno, Santa Clara,

¹¹⁴ Exhibit K(7), California Secretary of State, California Voter's Choice Act <https://www.sos.ca.gov/elections/voters-choice-act> (accessed on January 4, 2021).

¹¹⁵ Exhibit K(2), Assembly Committee on Elections and Redistricting, Analysis of AB 216 (2017-2018 Reg. Sess.), as introduced January 24, 2017, pages 2-3. The Act also authorizes counties to conduct special elections as vote-by-mail elections (Elec. Code, § 4005(b)).

¹¹⁶ Exhibit K(31), Nichols, Chris, Goodbye Polling Place, Hello Vote Center. More California Counties Moving To Voter's Choice Model. (February 26, 2020) Capradio.org <https://www.capradio.org/articles/2020/02/26/goodbye-polling-place-hello-vote-center-more-california-counties-moving-to-voters-choice-model/> (accessed on January 4, 2021). According to Elections Code section 4005, last amended by Statutes 2019, chapter 554, the following counties may conduct all VBM elections: Calaveras, Inyo, Madera, Napa, Nevada, Orange, Sacramento, San Luis Obispo, San Mateo, Santa Clara, Shasta, Sierra, Sutter, and Tuolumne. Los Angeles County is authorized to conduct all VBM elections by Elections Code section 4007.

¹¹⁷ Exhibit K(4), Bollag, Sophia, *California 2018 Midterm Primary Turnout Highest in 2 Decades* (July 13, 2018) AP News <https://apnews.com/article/3b0ab5de3f3f450f9d96c08a524e713f> (accessed on January 4, 2021).

Orange, and Los Angeles.¹¹⁸ SB 450 authorized the County of Los Angeles to phase in implementation because it historically has a lower VBM rate compared to other counties.¹¹⁹

Prior to SB 450, voters in Alpine, Plumas and Sierra Counties already received only VBM ballots, as authorized by Elections Code section 3005, because their precincts have fewer than 250 voters.¹²⁰ To the extent more counties opt into the SB 450 model and expand opportunities for voting by mail, it is likely to increase VBM postage costs.

- *Future costs per election will likely increase and the number of elections will decrease due in part to the increase in voter turnout resulting from the growing incidence of consolidating local elections with statewide elections.*

In 2020, the Legislature altered statewide election dates for primary elections by enacting SB 970 (Stats. 2020, ch. 111), which requires holding statewide primary elections in March (in years when there is a direct presidential primary) or June (in years when there is no direct presidential primary) of even-numbered calendar years.¹²¹ Statewide general election dates remain in November in even-numbered calendar years. Except for the first half-year of the test claim statute's implementation (January 1, 2019 - July 1, 2019), there is at least one reimbursable statewide election every fiscal year,¹²² and potentially more if the Governor calls a statewide special election.¹²³

Traditionally, local government (school district, community college district, and special district) elections have been held on established election dates in odd-numbered calendar years.¹²⁴ However, at least since the 1990s many local governments have been consolidating their elections with statewide elections in even-numbered calendar years.¹²⁵

¹¹⁸ Exhibit K(31), Nichols, Chris, Goodbye Polling Place, Hello Vote Center. More California Counties Moving To Voter's Choice Model. (February 26, 2020) Capradio.org <https://www.capradio.org/articles/2020/02/26/goodbye-polling-place-hello-vote-center-more-california-counties-moving-to-voters-choice-model/> (accessed on January 4, 2021).

¹¹⁹ Elections Code sections 4007.

¹²⁰ Exhibit K(31), Nichols, Chris, Goodbye Polling Place, Hello Vote Center. More California Counties Moving To Voter's Choice Model. (February 26, 2020) Capradio.org <https://www.capradio.org/articles/2020/02/26/goodbye-polling-place-hello-vote-center-more-california-counties-moving-to-voters-choice-model/> (accessed on January 4, 2021).

¹²¹ SB 970 (Stats. 2020, ch. 111).

¹²² Statewide elections were held in March 2020 (FY 2019-2020) and November 2020 (FY 2020-2021) and will be held in June 2022 (FY 2021-2022), November 2022 (FY 2022-2023), March 2024 (FY 2023-2024), and November 2024 (FY 2024-2025).

¹²³ Statewide special elections are authorized by Elections Code section 1003(a).

¹²⁴ Elections Code sections 1302, 1303. *Holdbrook v. Board of Directors of Imperial Irrigation Dist.* (1937) 8 Cal.2d 158, 160.

¹²⁵ Exhibit K(28), Hajnal, Zoltan, Lewis, Paul, and Louch, Hugh, Municipal Elections in California: Turnout, Timing and Competition (2002) Public Policy Institute of California https://www.ppic.org/content/pubs/report/R_302ZHR.pdf (accessed January 4, 2021), pages ix – x.

In 2002, the Legislature enacted Education Code section 3024, which gives an incentive for school districts and community college districts to consolidate elections by prohibiting election officials from charging the districts for VBM ballots except when only district issues and candidates appear on the ballot:

The cost to administer vote by mail ballots where issues and elective offices related to school districts, as defined by Section 17519 of the Government Code, are included on a ballot election with noneducation issues and elective offices shall not be fully or partially prorated to a school district. The Commission on State Mandates shall delete school districts, county boards of education, and community college districts from the list of eligible claimants in the Parameters and Guidelines for the Absentee Ballot Mandates.¹²⁶

In 2015, the Legislature accelerated the trend towards consolidation by enacting the Voter Participation Rights Act (Elec. Code, §§14052–14057, Stats. 2015, ch. 235, SB 415), which requires most local governments to consolidate their local elections with a statewide election. Operative on January 1, 2018, the Act prohibits a local government from holding an election (except for a special election)¹²⁷ on other than a statewide election date “if holding an election on a nonconcurrent date has previously resulted in a significant decrease in voter turnout.”¹²⁸ “‘Significant decrease in voter turnout’ means the voter turnout for a regularly scheduled election in a political subdivision is at least 25 percent less than the average voter turnout within that political subdivision for the previous four statewide general elections.”¹²⁹ Elections for general law cities (which are 361 out of 482 total cities, or 75 percent), as well as school districts, community college districts and special districts are required to conform to the Act.¹³⁰ Some charter cities have consolidated their elections on statewide election dates as well.¹³¹ One analysis found that election consolidation under the Voter Participation Rights Act increased voter turnout in midterm elections by three to five percent over cities that held separate elections.¹³²

¹²⁶ Elections Code section 3024, added by Statutes 2002, chapter 1032.

¹²⁷ Elections Code section 14056. Elections Code section 356 defines a special election as “an election, the specific time for the holding of which is not prescribed by law.”

¹²⁸ Elections Code section 14052(a).

¹²⁹ Elections Code section 14051(b).

¹³⁰ Elections Code section 14051(a) et seq. Charter cities (121 of 482 total cities in California) are not bound by SB 415. See *City of Redondo Beach v. Padilla* (2020) 46 Cal.App.5th 902.

¹³¹ See e.g., cities of Glendale and Signal Hill. Exhibit K(29), Landa, Jeff, *Glendale City Council Moves to Consolidate Local Elections with Statewide Primaries* (November 10, 2017) Los Angeles Times, <https://www.latimes.com/socal/glendale-news-press/news/tn-gnp-me-consolidated-election-20171109-story.html> (accessed on January 4, 2021). Exhibit K(43), Voter’s Edge California, *City of Signal Hill Measure M* <https://votersedge.org/ca/en/election/2019-03-05/los-angeles-county/city-of-signal-hill/measure/measure-m> (accessed on January 4, 2021).

¹³² Exhibit K(32), Phillips, Connor, *The Effect of Election Consolidation in California: Evidence from California* (July 12, 2019) <https://cpb-us-w2.wpmucdn.com/web.sas.upenn.edu/dist/7/538/files/2019/07/Connor-Phillips-ESRA-Paper.pdf> (accessed on January 4, 2021), pages 3, 10.

To the extent that consolidating local elections with statewide elections increases voter participation overall (including voting by mail), costs will likely increase to comply with the mandate to provide prepaid postage on VBM ballots.

- *Future costs will likely be higher in years when general elections are held and lower in years when primary elections are held. Future costs will be markedly higher in years when there is a presidential election than in midterm election years.*

As indicated above, all statewide elections are held in even calendar years.¹³³ As discussed above, SB 970 (Stats. 2020, ch. 111)¹³⁴ requires holding future statewide elections in June 2022 (FY 2021-2022), November 2022 (FY 2022-2023), March 2024 (FY 2023-2024), and November 2024 (FY 2024-2025), and future even-numbered years in March (in years when there is a direct presidential primary) or June (in years when there is no direct presidential primary). Based on historical data, midterm elections have lower voter turnout than Presidential elections, and primary elections have lower turnout than general elections.¹³⁵ This is demonstrated by the following data since 2009:¹³⁶

Fiscal Year	Statewide Election (Presidential elections in bold)	Total Ballots	VBM Ballots	% VBM	% increase in VBM ballots for general over primary
2009-2010	June 2010 Midterm Primary	5,654,993	3,278,224	57.97%	
2010-2011	Nov. 2010 Midterm General	10,300,392	4,989,852	48.44%	52.21%
2011-2012	June 2012 Presidential Primary	5,328,296	3,471,570	65.15%	
2012-2013	Nov. 2012 Presidential General	13,202,158	6,753,688	51.16%	94.54%
2013-2014	June 2014 Midterm Primary	4,461,346	3,096,104	69.40%	
2014-2015	Nov. 2014 Midterm General	7,513,972	4,547,705	60.52%	46.88%
2015-2016	June 2016 Presidential Primary	8,548,301	5,036,262	58.92%	
2016-2017	Nov. 2016 Presidential General	14,610,509	8,443,594	57.79%	67.66%

¹³³ Elections Code section 1001.

¹³⁴ SB 970 (Stats. 2020, ch. 111) amended the statewide election dates defined in Elections Code section 1001 as follows:

The following are statewide elections and their dates are statewide election dates:

- An election held in November of an even-numbered year.
- An election held in ~~June~~ March of an even-numbered year that is not evenly divisible by four and in March of each even-numbered year that is evenly divisible by four.

¹³⁵ Exhibit K(4), Bollag, Sophia, California 2018 Midterm Primary Turnout Highest in 2 Decades (July 13, 2018) AP News <https://apnews.com/article/3b0ab5de3f3f450f9d96c08a524e713f> (accessed on January 4, 2021).

¹³⁶ Exhibit K(8), California Secretary of State, Historical Vote-by-Mail (Absentee) Ballot Use in California <https://www.sos.ca.gov/elections/historical-absentee> (accessed on January 4, 2021).

Fiscal Year	Statewide Election (Presidential elections in bold)	Total Ballots	VBM Ballots	% VBM	% increase in VBM ballots for general over primary
2017-2018	June 2018 Midterm Primary	7,141,987	4,834,975	67.70%	
2018-2019	Nov. 2018 Midterm General	12,712,542	8,302,488	65.31%	71.72%
2019-2020	March 2020 Presidential Primary	9,687,076	6,982,750	72.08%	
2020-2021	Nov. 2020 Presidential General	17,785,151	15,423,301	86.72%	120.88%

As shown in this chart, there are 52.21 to 120.88 percent more VBM ballots returned (triggering higher costs) in elections held in fiscal years that begin in an even calendar year because statewide general elections are held in those years, and fewer mailed ballots (triggering lower costs) in fiscal years that begin in an odd calendar year when statewide primary elections are held. And according to this historical data, there is markedly higher voter turnout in years when presidential general elections are held (i.e., 2012, 2016, 2020) that lead to higher costs than in midterm election years.

Thus, future costs will likely be higher in years when statewide general elections are held and lower in years when statewide primary elections are held, and costs will be markedly higher in years when there is a statewide presidential election than in midterm election years.

- *Future costs may decrease if state or federal funds are appropriated for election costs or for postage on VBM ballots in future State Budget Acts, which would then be deducted as offsetting revenue.*

The Parameters and Guidelines for this program identify state and federal funds appropriated for local election costs in the 2018, 2019, and 2020 State Budget Acts as potential offsetting revenues as follows:

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, funds appropriated in the State Budget or any Budget Trailer bill for elections that are used to fund this mandate, and other state funds, shall be identified and deducted from the claim. This includes, but is not limited to, federal funds appropriated for elections in the 2018 State Budget Act (Stats. 2018, ch. 29, SB 840, Item 0890-101-0890) and the 2019 State Budget Act (Stats. 2019, ch. 23, AB 74, Item 0890-101-0890) and state and federal funds appropriated for elections in the 2020 State Budget Act and Trailer Bills (Stats. 2020, ch. 6, SB 74, Items 0890-101-0001 & 0890-101-0890; Stats. 2020, ch. 7 (AB 89), Item 0890-101-0001; & Elec. Code, § 19402, as amended by Stats. 2020, ch. 20 (AB 100)) that are used to fund this mandate.¹³⁷

¹³⁷ Exhibit B, Decision and Parameters and Guidelines, adopted December 4, 2020.

The 2018 State Budget Act appropriated \$3,128,000 for local assistance for elections from the Federal Trust Fund that could be used to pay for the mandate from January 1, 2019 to June 30, 2019.¹³⁸ The 2019 State Budget Act appropriated \$19.964 million in federal funds for local assistance for elections that could be used to pay for the mandate in fiscal year 2019-2020.¹³⁹

The 2020 State Budget Act appropriates \$36.5 million in state funds and \$72,246,000 in federal funds for local election assistance.¹⁴⁰ Also, a Budget Trailer Bill was enacted in 2020 to specify that the \$36.5 million budget appropriation is for counties to conduct the November 2020 election consistent with state requirements put in place to reduce the spread of COVID-19, and to conduct voter education and outreach, and that these costs include “mailing and postage.”¹⁴¹

In addition, Elections Code section 19402 was amended by Statutes 2020, chapter 20 (AB 100) to add subdivision (d)(5) (eff. June 29, 2020), which states that the funds appropriated to counties by the 2019 State Budget Act for voting system replacement costs can now be used for “Costs reasonably related to the administration of an election during the COVID-19 pandemic.”

After the 2020 Budget Act and trailer bills were enacted, the California Secretary of State issued two memoranda to counties. The first, dated July 17, 2020 (Memorandum #20153), explains that AB 89 and AB 100 appropriated funding for the November 2020 election consistent with the requirements to reduce the spread of COVID-19. According to the memo, these bills:

- Appropriated \$65 million in federal funds for state and county support;
- Appropriated \$35 million in state funds for state and county support for communication and outreach efforts;
- Removed the county match requirement for state voting system replacement contracts from July 1, 2020, through June 30, 2021; and
- Modified the allowable expenses for the state voting system replacement funds specified in Elections Code section 19402 to include “costs reasonably related to the administration of an election during the COVID-19 pandemic.”

Additionally, by the state appropriating the \$35 million in state funds, the 20% match requirement for the federal CARES [Coronavirus Aid, Relief, and Economic Security] Act funding is satisfied. Therefore, counties no longer need to establish the county 20% match requirement for the federal COVID-19 funds.¹⁴²

The memorandum further explains the direction in AB 89 requiring the Secretary of State to compile the remaining amounts from the state’s voting system funding provided in the 2019 Budget Act by county, calculate the difference between the costs related to conducting the

¹³⁸ Statutes 2018, chapter 29 (SB 840), Item 0890-101-0890.

¹³⁹ Statutes 2019, chapter 23 (AB 74), Item 0890-101-0890, schedule (1).

¹⁴⁰ Statutes 2020, chapter 6 (SB 74) Item 0890-101-0001, schedule (1), and Item 0890-101-0890, schedule (1).

¹⁴¹ Statutes 2020, chapter 7 (AB 89), Item 0890-101-0001, schedule (1), provisions (4) and (5).

¹⁴² Exhibit K(9), California Secretary of State, Memorandum #20153 (July 17, 2020) <https://elections.cdn.sos.ca.gov/ccrov/pdf/2020/july/20153sl.pdf> (accessed on October 5, 2020), page 1.

November 2020 election and remaining state voting system funding by county, and then reimburse counties for the difference in costs.¹⁴³

The second Secretary of State memo, dated July 27, 2020 (Memorandum #20160), identifies the allocation of state and federal funding to each county pursuant to the 2020 Budget Bills, and clarifies that the portion allocated for COVID-19 prevention can be used for the increased costs related to voting by mail, and the other portion is to be used for outreach and communication as follows:

As set forth below, a portion of the funding can be used to conduct the November 2020 election in the face of the COVID-19 pandemic, which can include increased costs related to all aspects of voting by mail, equipment needs for processing increased vote-by-mail ballots and meeting the in-person voting requirements, permanent and temporary staffing, additional security, specialized training of staff and election workers, cleaning and disinfection, personal protective equipment, and polling locations and election facilities. Another portion is to be used for outreach and communication.¹⁴⁴

Of the 42 counties that filed claims for 2019-2020, 16 identified offsetting revenue in their claims.¹⁴⁵ Of the 16 claimants that offset their claims, 10 indicated that the revenue was from billing local agencies for election services, and six counties did not indicate the source of offsetting revenue.¹⁴⁶ No claimants identified offsetting revenue in their 2018-2019¹⁴⁷ or 2020-2021 claims.¹⁴⁸ The only fiscal year 2020-2021 claimant to date, the County of Tulare, did not claim any offsetting revenue.¹⁴⁹ If other 2020-2021 and future claimants, like most prior-year claimants, do not offset their claims with election funds appropriated in the State budget acts, the explanation may be found in a report from the California Association of Counties (CSAC),

¹⁴³ Exhibit K(9), California Secretary of State, Memorandum #20153 (July 17, 2020) <https://elections.cdn.sos.ca.gov/ccrov/pdf/2020/july/20153sl.pdf> (accessed on October 5, 2020), page 2.

¹⁴⁴ Exhibit K(10), California Secretary of State, Memorandum #20160 (July 27, 2020) <https://elections.cdn.sos.ca.gov/ccrov/pdf/2020/july/20160sl.pdf> (accessed on October 5, 2020), page 1.

¹⁴⁵ The counties that identified offsetting revenue are Kings, Lake, Marin, Mendocino, Merced, Monterey, Napa, Nevada, Orange, San Luis Obispo, San Mateo, Santa Clara, Sonoma, Tehama, Ventura, and Yuba. Exhibit K(36), Spreadsheet of Initial Claims. Exhibit F, Reimbursement Claims FY 2019-2020, reported as of July 30, 2021. Exhibit G, Reimbursement Claim FY 2019-2020 (Lake County), reported as of July 30, 2021.

¹⁴⁶ Exhibit K(36), Spreadsheet of Initial Claims. Exhibit F, Reimbursement Claims FY 2019-2020, reported as of July 30, 2021. Exhibit G, Reimbursement Claim FY 2019-2020 (Lake County), reported as of July 30, 2021. The 10 claimants that indicated their offsetting revenue was from local agency reimbursements were Lake, Marin, Merced, Monterey, Napa, Nevada, Orange, Sonoma, Ventura, and Yuba. Claimants that did not indicate the source(s) of offsetting revenue were Kings, Mendocino, San Mateo, San Luis Obispo, Santa Clara, and Tehama.

¹⁴⁷ Exhibit E, Reimbursement Claims FY 2018-2019, reported as of July 30, 2021.

¹⁴⁸ Exhibit H, Reimbursement Claims FY 2020-2021, reported as of July 30, 2021. Exhibit E, Reimbursement Claims FY 2018-2019, reported as of July 30, 2021.

¹⁴⁹ Exhibit H, Reimbursement Claims FY 2020-2021, reported as of July 30, 2021.

which indicates that the election funds appropriated in the 2020-2021 State Budget Act may not provide sufficient postage funds for returned ballots. According to the CSAC:

The [2020-2021] Budget Act includes just over \$100 million for the increased costs of the November election. The Governor has signed two executive orders, one of which requires counties to mail ballots to all active registered voters and the other of which allows counties to establish fewer in-person polling places, but only if they have those locations open for three days of early voting, along with other requirements to increase access. Last week Governor Newsom signed AB 860 (Berman), which would largely codify the Executive Order requiring county elections officials to mail ballots to all active registered voters.

The increased cost of these requirements is estimated at about \$130 million, so the funding in the budget should go a long way toward meeting the need. It marks the first time the state has provided funding for election operations in about a decade, though they have provided much-needed funds in recent years to replace voting equipment.¹⁵⁰

If the costs of mailing ballots to voters and opening polling places for early voting is estimated at \$130 million and the Legislature made \$100 million available, there may not be any funds left from those appropriated in the 2020-2021 State Budget Act for *return* postage for vote-by-mail ballots.

Moreover, the Secretary of State is required to reimburse counties for postage that is unrelated to this mandate. According to Elections Code section 2164:

(a) The Secretary of State shall pay all postage for all of the following:

- (1) Mailing of the voter notification and the address correction service pursuant to Section 2153.
- (2) Return to the county elections official of the affidavits of registration pursuant to Section 2157.
- (3) Mailing of blank voter registration cards pursuant to subdivision (c) of Section 2158.
- (4) Any mailing of blank voter registration cards pursuant to programs adopted under Section 2105.

(b) All payments made pursuant to this section shall be made directly from funds appropriated to the Secretary of State for this purpose.

Future claimed costs, however, could decrease if funds continue to be appropriated in future State budget acts for this program or for election costs generally. And fewer claimants may file claims if available funding in future State budget acts fully offsets their costs.

- *The total amount for this program may be lower than the Statewide Cost Estimate based on the Controller's audit findings.*

¹⁵⁰ Exhibit K(15), California State Association of Counties, Governor and Legislature Reach Budget Agreement (June 25, 2020) <https://www.counties.org/csac-bulletin-article/governor-and-legislature-reach-budget-agreement> (accessed on December 20, 2021).

The Controller may conduct audits and reduce any claim it deems to be excessive or unreasonable.¹⁵¹ Therefore, costs may be lower than the Statewide Cost Estimate based on the audit findings.

Estimated Costs and Cost Factors of the Reimbursable Activity

For the purpose of estimating statewide costs incurred for this program during the initial reimbursement period and the following years, the annual cost of the reimbursable activity has been estimated based on the assumptions discussed above.

A. Provide Prepaid Postage on Identification Envelopes Delivered to Voters with their Vote-By-Mail Ballots for the Elections Eligible for Reimbursement.

Based on the assumptions and methodology discussed herein, the estimated direct costs to provide BRM postage (activities B.1., B.2., and B.3.) for the initial reimbursement period is between \$3,248,873 (the amount claimed) and \$6,499,348 (the amount claimed plus the amount that could potentially be claimed in late or amended claims).

FY 2018-2019 and 2019-2020:

Activity B.1., – 2018-2019 and 2019-2020 Pro Rata Postage Subscription Costs \$53,042.

Of the 48 unaudited county claims filed during the initial reimbursement period,¹⁵² two claimed reimbursement for costs under B.1., for 2018-2019 and eight claimed for B.1., costs for 2019-2020, for a combined total of \$10,202.41.¹⁵³ This calculates to an average mean cost of \$1,020 per claimant (\$10,202 divided by 10 claimants).

For 2018-2019, we multiply the average mean (\$1,020) by the 52 counties that did not file claims (including the City and County of San Francisco), totaling \$53,040. However, the mandate became effective on January 1, 2019, so only half of the year is eligible for reimbursement of the pro rata postage subscription costs. Half of the \$53,040 estimate is \$26,520.

For 2019-2020, we multiply the average mean (\$1,020) by the 16 counties that did not file claims, totaling \$16,320.

Thus, the total cost estimate for the initial reimbursement period is the sum of:

\$2,798 for the two 2018-2019 filed claims

\$26,520 estimated for 52 unfiled 2018-2019 claims

\$7,404 for the eight 2019-2020 filed claims

\$16,320 estimated for 16 unfiled 2019-2020 claims

\$53,042 estimated pro rata postage subscription costs total for the initial claiming period

Activity B.2., – 2018-2019 and 2019-2020 Identification Envelopes and Formatting \$1,130,692

Zero counties claimed costs for activity B.2., for 2018-2019.

¹⁵¹ Government Code section 17561(d)(1)(C)(ii) & (d)(2)(B).

¹⁵² The City of Santa Cruz's 2018-2019 claim for B.1., costs is not included because it was for costs billed by the County. Exhibit E, Reimbursement Claims FY 2018-2019, reported as of July 30, 2021, page 3.

¹⁵³ Exhibit E, Reimbursement Claims FY 2018-2019, reported as of July 30, 2021. Exhibit F, Reimbursement Claims FY 2019-2020, reported as of July 30, 2021.

Three counties claimed \$75,381 for activity B.2., for 2019-2020, for an average mean cost of \$25,126.46 per county.

Applying the mean average \$25,126.46 to the 52 counties that did not file reimbursement claims for fiscal year 2018-2019 equals an estimate of \$1,306,576. But since only the latter half of the fiscal year is eligible for reimbursement, we divide the estimate in half, totaling \$653,288.

For 2019-2020, we multiply the average mean cost by the 16 counties that did not file claims, totaling \$402,023 ($\$25,126.46 \times 16$).

Thus, the total cost estimate for identification envelopes and formatting for the initial reimbursement period is the sum of:

\$0 for 2018-2019
\$653,288 estimated for 52 unfiled 2018-2019 claims
\$75,381 for 2019-2020 filed claims
\$402,023 estimated for 16 unfiled 2019-2020 claims
\$1,130,692 total for the initial claiming period

Activity B.3., – Return Postage Costs of \$5,315,914

For 2018-2019, there are six unaudited county claims, all of which seek return postage costs for VBM ballots, totaling \$114,357.¹⁵⁴ This calculates to a mean average of \$19,060 per county. Applying this average to the 52 counties that did not file for reimbursement for 2018-2019 totals \$991,120 ($\$19,060 \times 52$).

For 2019-2020, all 42 unaudited claims seek return postage costs, totaling \$3,048,933.¹⁵⁵ This averages to \$72,594 per claimant. Applying this average to the 16 counties that did not file for 2019-2020 totals \$1,161,504 ($\$72,594 \times 16$).

Thus, the total cost estimate for return postage for the initial reimbursement period is the sum of:

\$114,357 for filed 2018-2019 claims
\$991,120 estimated for 52 unfiled 2018-2019 claims
\$3,048,933 for filed 2019-2020 claims
\$1,161,504 estimated for 16 unfiled 2019-2020 claims
\$5,315,914 total for the initial claiming period

The high estimate for all three activities (B.1., B.2., B.3.) during the initial claiming period totals \$6,499,648.

FY 2020-2021 and Following:

Only the County of Tulare has filed for fiscal year 2020-2021, claiming \$36,784 in (B.3.) postage costs.¹⁵⁶ However, the deadline to claim 2020-2021 costs is not until February 15, 2022.

Based on the fact that during the initial claiming period no claimants filed under option A of the Parameters and Guidelines (prepaid postage affixed) and all claimants filed option B (BRM), this analysis assumes that future claimants will claim only under option B.

For claimants using business reply mail (BRM) future costs are estimated by taking the estimated number of vote-by-mail ballots cast by mail, for the election(s) eligible for reimbursement, and

¹⁵⁴ Exhibit K(36), Spreadsheet of Initial Claims.

¹⁵⁵ Exhibit K(36), Spreadsheet of Initial Claims.

¹⁵⁶ Exhibit H, Reimbursement Claims FY 2020-2021, reported as of July 30, 2021.

multiplying them by the pro rata postage cost for returned ballots. To that we add the median pro rata BRM subscription and/or account maintenance fees and median envelope formatting costs for postage, *including the pro rata costs to format and print the postage indicia and barcode, if applicable* and pro rata labor (salaries and benefits) to procure the BRM subscription to determine the potential costs.

For the low estimate, we assume only the 42 claimants that claimed for fiscal year 2019-2020 would continue to claim for 2020-2021 and beyond, and that they would claim the same number of VBM ballots returned by mail as in 2019-2020. We add the pro rata BRM subscription and/or account maintenance fees (B.1.) totaling \$42,840 (\$1,020 per claimant x 42 claimants) and envelope formatting costs for postage, *including the pro rata costs to format and print the postage indicia and barcode, if applicable* (B.2.) of \$1,055,311 (\$25,126.46 per claimant x 42 claimants). To this we add the (B.3.) costs for 4,401,644 VBM ballots cast by mail in elections claimed for 2019-2020¹⁵⁷ x \$0.7289 in pro rata postage per returned VBM ballot (see assumptions above) = \$3,208,358.

\$42,840 (B.1.)
\$1,055,311 (B.2.)
\$3,208,358 (B.3.)
\$4,306,509 subtotal

For the high estimate of \$5,914,610, we assume that all 58 counties will file claims for 2020-2021 and beyond. We add the pro rata BRM subscription or account maintenance fees totaling \$59,160 (\$1,020 per claimant x 58 claimants) and pro rata labor (salaries and benefits) to procure the BRM subscription totaling \$51,736 (\$892 x 58)¹⁵⁸ for a total of \$110, 896 for (B.1.); and envelope formatting costs for postage, *including the pro rata costs to format and print the postage indicia and barcode, if applicable* (B.2.) of \$1,458,495 (\$25,126.46 per claimant x 58 claimants). To this we add the (B.3.) costs for 5,961,338 estimated VBM ballots cast by mail in elections claimed for 2020-2021 x \$0.7289 in pro rata postage per returned VBM ballot (see assumptions above) = \$4,345,219.

\$110,896 (B.1.)
\$1,458,495 (B.2.)
\$4,345,219 (B.3.)
\$5,914,610 subtotal

B. Indirect Costs

The Parameters and Guidelines authorize reimbursement for indirect costs as follows:

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both: (1) overhead costs of the unit performing the mandate; and (2)

¹⁵⁷ Exhibit K(36), Spreadsheet of Initial Claims. Exhibit F, Reimbursement Claims FY 2019-2020, reported as of July 30, 2021. Exhibit G, Reimbursement Claim FY 2019-2020 (Lake County), reported as of July 30, 2021.

¹⁵⁸ Only the County of Los Angeles filed for reimbursement of salaries and benefits of \$892 to procure a BRM subscription. See Exhibit E, Reimbursement Claims, FY 2018-2019. Exhibit K(36), Spreadsheet of Initial Claims.

the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in 2 Code of Federal Regulations (CFR) part 225 (Office of Management and Budget (OMB) Circular A-87). Claimants have the option of using 10 percent of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10 percent.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR part 225, appendices A and B (OMB Circular A-87 attachments A & B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR part 225, appendices A and B (OMB Circular A-87 attachments A & B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be: (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.); (2) direct salaries and wages; or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 attachments A & B) shall be accomplished by: (1) classifying a department's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage that the total amount of allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 attachments A & B) shall be accomplished by: (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount of allowable indirect costs bears to the base selected.¹⁵⁹

Based on the assumptions and methodology discussed herein, the estimated indirect costs for the initial reimbursement period is between \$0 and \$33,543 based on an average indirect cost rate of 0.71 percent.

¹⁵⁹ Exhibit B, Decision and Parameters and Guidelines, adopted December 4, 2020, page 24.

FY 2018-2019 and 2019-2020:

According to the initial claims, two of the six counties that claimed for fiscal year 2018-2019 filed for indirect costs (Los Angeles \$537.41 and Kern \$21).¹⁶⁰ Of the 42 counties that claimed reimbursement for fiscal year 2019-2020, six filed for indirect costs (Calaveras \$48, Madera \$20, Nevada \$31, Sutter \$6, Tehama \$197, and Yolo \$5) for a total of \$307.¹⁶¹ For the low estimate, we assume that only these counties would continue to claim the same amount. Adding these costs together totals \$865.

The average indirect cost rate for the eight counties that filed such costs is 0.71 percent.¹⁶² For the high estimate, we multiply the mean average direct costs claimed \$67,685 for all claimants by the indirect cost rate of .71 percent by all potential county claimants that did not file, (52 counties in 2018-2019 and 16 counties in 2019-2020) but may still file late or amended claims (68 entities x \$67,685 x .71 percent = \$32,678), plus the \$865 of claimed indirect costs, totaling \$33,543.

FY 2020-2021 and Following:

The only claimant to file costs for 2020-2021 did not file indirect costs.¹⁶³

For the low estimate, we assume only the eight counties that claimed reimbursement for fiscal years 2018-2019 and 2019-2020 will continue to claim reimbursement for 2020-2021 and beyond at the same rate they claimed for fiscal years 2018-2019 and 2019-2020, for a total of \$865 annually. For the high estimate, we multiply the mean average direct costs claimed (\$67,685) by the indirect cost rate of 0.71 percent by all potential claimants (58), totaling \$27,872.

The estimated future annual statewide indirect costs beginning fiscal year 2020-2021 are estimated to be between \$865 and \$27,872.

C. Offsetting Revenues and Reimbursements

The Parameters and Guidelines for this program identify funds appropriated for local election costs as potential offsetting revenue that are required to be identified and deducted from the claim as follows:

This [potential offsetting funds] includes, but is not limited to, federal funds appropriated for elections in the 2018 State Budget Act (Stats. 2018, ch. 29, SB 840, Item 0890-101-0890) and the 2019 State Budget Act (Stats. 2019, ch. 23, AB 74, Item 0890-101-0890) and state and federal funds appropriated for elections in the 2020 State Budget Act and Trailer Bills (Stats. 2020, ch. 6, SB 74, Items 0890-101-0001 & 0890-101-0890; Stats. 2020, ch. 7 (AB 89), Item 0890-

¹⁶⁰ Exhibit K(36), Spreadsheet of Initial Claims. Exhibit E, Reimbursement Claims FY 2018-2019, reported as of July 30, 2021.

¹⁶¹ Exhibit K(36), Spreadsheet of Initial Claims. Exhibit F, Reimbursement Claims FY 2019-2020, reported as of July 30, 2021. Exhibit G, Reimbursement Claim FY 2019-2020 (Lake County), reported as of July 30, 2021.

¹⁶² The eight counties that claimed indirect costs were Calaveras (0.24% rate), Madera (0.21% rate), Nevada 2019-2020 (0.06% rate), Sutter (0.14% rate), Tehama (3.2% rate), Yolo (0.02% rate), Los Angeles (1.74% rate) and Nevada 2018-2019 (0.10% rate), for a mean average of 0.71 percent.

¹⁶³ Exhibit H, Reimbursement Claims FY 2020-2021, reported as of July 30, 2021.

101-0001; & Elec. Code, § 19402, as amended by Stats. 2020, ch. 20 (AB 100)) that are used to fund this mandate.¹⁶⁴

As indicated above, of the 41 counties that filed claims for 2019-2020, 16 identified offsetting revenue in their claims. Of the 16 claimants, 10 indicated that the revenue was from billing local agencies for election services, and six counties did not indicate the source of their offsetting revenue.¹⁶⁵

Based on the assumptions and methodology discussed herein, the estimated offsetting revenues for the initial reimbursement period is between \$372,807 and \$23,073,000.

FY 2018-2019 and 2019-2020:

Offsetting revenue for the initial claiming period ranges from \$372,807 (the amount claimed in the initial reimbursement claims) to \$23,092,000 (consisting of \$3.128 million appropriated for elections in the 2018 State Budget Act and \$19.945 million appropriated for elections in the 2019 State Budget Act, all of which are potentially offsetting if used to fund the costs of the mandate).¹⁶⁶

It is noteworthy that of the 16 claimants that claimed offsetting revenue, 10 claimed both costs and corresponding “offsetting revenue” from elections conducted and fees collected from local agencies for election services.¹⁶⁷ However, elections performed for local agencies are not eligible for mandate reimbursement in the first place and the authorized fees collected for this service are not “offsetting revenues” for any *reimbursable* mandated costs but rather pay for these non-reimbursable costs. In the Decision and Parameters and Guidelines, the Commission concluded that elections are not eligible for reimbursement when local agencies have fee authority.

The Commission further concluded that Elections Code section 3010, as amended by Statutes 2018, chapter 120, does *not* impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution:

¶ . . . ¶

When counties conduct elections for cities or special districts; or when cities and counties conduct an election solely on behalf of a school district or community college district (with no other non-educational issues or elective offices on the

¹⁶⁴ Exhibit B, Decision and Parameters and Guidelines, adopted December 4, 2020, page 27.

¹⁶⁵ Exhibit K(36), Spreadsheet of Initial Claims. Exhibit F, Reimbursement Claims FY 2019-2020, reported as of July 30, 2021. Exhibit G, Reimbursement Claim FY 2019-2020 (Lake County), reported as of July 30, 2021. The 10 claimants that indicated their offsetting revenue was from local agency reimbursements were Lake, Marin, Merced, Monterey, Napa, Nevada, Orange, Sonoma, Ventura, and Yuba. Claimants that did not indicate the source(s) of offsetting revenue were Kings, Mendocino, San Luis Obispo, San Mateo, Santa Clara, and Tehama.

¹⁶⁶ Statutes 2018, chapter 29 (SB 840), Item 0890-101-0890; Statutes 2019, chapter 23 (AB 74), Item 0890-101-0890, schedule (1).

¹⁶⁷ Exhibit K(36), Spreadsheet of Initial Claims. Exhibit F, Reimbursement Claims FY 2019-2020, reported as of July 30, 2021. Counties that offset their claims from “fee” revenue were Lake, Marin, Merced, Monterey, Napa, Nevada, Orange, Sonoma, Ventura, and Yuba. Counties that did not indicate the source(s) of offsetting revenue were Kings, Mendocino, San Luis Obispo, San Mateo, Santa Clara, and Tehama.

ballot). In these elections, there is fee authority sufficient to cover the costs of the mandate pursuant to Government Code section 17556(d) so there are no costs mandated by the state.¹⁶⁸

FY 2020-2021 and Following:

Offsetting revenue for fiscal year 2020-2021 and following could range from \$0 to \$108,746,000, but will likely be somewhere in between. The 2020 State Budget Act appropriates \$36.5 million in state funds and \$72,246,000 in federal funds for local election assistance.¹⁶⁹ Also, a Budget Trailer Bill was enacted in 2020 to specify that the \$36.5 million budget appropriation is for counties to conduct the November 2020 election consistent with state requirements put in place to reduce the spread of COVID-19, and to conduct voter education and outreach, and that these costs include “mailing and postage.”¹⁷⁰ Though these funds are only potential offsets, since they may be used for other authorized election costs, they are likely to result in minimal reimbursable state-mandated costs for the 2020-2021 fiscal year.

D. Late Claims Penalties for the Last Half of Fiscal Year 2018-2019 and all of Fiscal Year 2019-2020 Are Estimated To Be Between \$6,583 and \$369,642.

Government Code section 17561(C)(3) states that “Any claim for initial reimbursement filed after the filing deadline shall be reduced by 10 percent of the amount that would have been allowed had the claim been timely filed.” In the second half of fiscal year 2018-2019 and all of fiscal year 2019-2020, the Controller’s claims data identifies one late claim subject to a late penalty amounting to \$6,583.¹⁷¹ This is the low estimate.

Estimated late claim penalties are based on the estimated statewide direct and indirect costs for those eligible claimants that may still file late or amended claims for the initial claiming period, less the costs that have been claimed, multiplied by ten percent. Thus, the penalty based on the estimated costs that may still be claimed in late or amended claims for the initial claiming period (\$6,507,569 in total estimated statewide direct and indirect costs that may yet be claimed minus \$2,876,981 in costs actually claimed to date = \$3,630,588 x 10 percent = \$363,059 + (\$6,583 penalties imposed on costs actually claimed) = \$369,642.

Draft Proposed Statewide Cost Estimate

On December 28, 2021, Commission staff issued the Draft Proposed Statewide Cost Estimate.¹⁷² No comments were filed on the Draft Proposed Statewide Cost Estimate.

Conclusion

On January 28, 2022, the Commission adopted this Statewide Cost Estimate of \$0 - \$5,790,442 for the initial reimbursement period of the second half of fiscal year 2018-2019 and all of fiscal year 2019-2020, and the estimated cost for fiscal year 2020-2021 and following of \$0 - \$5,942,188, plus the implicit price deflator.

¹⁶⁸ Exhibit B, Decision and Parameters and Guidelines, adopted December 4, 2020, page 22.

¹⁶⁹ Statutes 2020, chapter 6 (SB 74) Item 0890-101-0001, schedule (1), and Item 0890-101-0890, schedule (1).

¹⁷⁰ Statutes 2020, chapter 7 (AB 89), Item 0890-101-0001, schedule (1), provisions (4) and (5).

¹⁷¹ Exhibit I, Reimbursement Claim FY 2019-2020 (Fresno late claim), reported as of September 9, 2021.

¹⁷² Exhibit J, Draft Proposed Statewide Cost Estimate, issued December 28, 2021.