

COMMISSION ON STATE MANDATES

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July 16, 2008

Mr. Allan Burdick
MAXIMUS
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95841

And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

RE: Final Staff Analysis, Proposed Parameters and Guidelines, and Hearing Date
Fifteen Day Close of Voter Registration, (01-TC-15)
Elections Code Sections 13303
Statutes 2000, Chapter 899 (AB 1094)
Orange County, Claimant

Dear Mr. Burdick:

The final staff analysis and proposed parameters and guidelines, as modified by staff are enclosed.

Hearing

This test claim is set for hearing on Friday, August 1, 2008 at 9:30 a.m. in Room 447, State Capitol, Sacramento, CA. This matter is proposed for the Consent Calendar. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c)(2), of the Commission's regulations.

Special Accommodations

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

Please contact Nancy Patton at (916) 323-8217 with any questions regarding this matter.

Sincerely,

Handwritten signature of Paula Higashi in cursive script.
PAULA HIGASHI
Executive Director

Enclosures

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ITEM 10
FINAL STAFF ANALYSIS
PROPOSED PARAMETERS AND GUIDELINES

Elections Code 13303

Statutes 2000, Chapter 899

Fifteen Day Close of Voter Registration

01-TC-15

County of Orange, Claimant

EXECUTIVE SUMMARY

Claimant, County of Orange, filed this test claim on changes to the deadline for voter registration prior to an election. Prior law allowed voters to newly register to vote, reregister, or change their address with county elections officials, until the 29th day before an election. After that date, voter registration closed until the conclusion of the upcoming election. Statutes 2000, chapter 899 allow new registrations or changes to voter registrations through the 15th day prior to an election.

The Commission adopted a Statement of Decision on October 4, 2006,¹ concluding that Statutes 2000, chapter 899, as it amended Elections Code section 13303, subdivision (c), mandates a new program or higher level of service on counties within the meaning of article XIII B, section 6 of the California Constitution, and imposes costs mandated by the state pursuant to Government Code section 17514, for the following one-time activity:

- Amend the polling place notice sent to each voter who registered after the 29th day prior to the election, to include the following: information as to where the voter can obtain a sample ballot and a ballot pamphlet prior to the election, a statement indicating that those documents will be available at the polling place at the time of the election, and the address of the Secretary of State's website and, if applicable, of the county website where a sample ballot may be viewed. (Elec. Code, § 13303, subd. (c).)

The Commission denied the other amendments by Statutes 2000, chapter 899, concluding that they were not subject to article XIII B, section 6 of the California Constitution, or did not mandate a new program or higher level of service.

Discussion

The claimant submitted proposed parameters and guidelines on November 28, 2006, and amended proposed parameters and guidelines on January 18, 2007.² No comments were filed on

¹ Exhibit A.

² Exhibit B.

either version of the claimant's proposed parameters and guidelines. On July 1, 2008, Commission staff issued the draft staff analysis and proposed parameters and guidelines, as modified by staff. Staff proposed modifications to the proposed parameters and guidelines as described below.

1. Revise the period of reimbursement to correctly reflect that reimbursement begins on January 1, 2001.
2. Delete the following activities because the Commission found that they were not mandated by the state under this test claim statute:
 - Redesign and republish the sample ballot and absentee voter application.
 - Notify every voter who registered from 28 days prior to the election through 15 days prior to the election via post card, the location of their polling place and where they can obtain a sample ballot.
 - Provide all sample ballots for each ballot type and the poll site locations.
 - Hire additional staff to process registration forms and absentee ballot requests due to the fact that the time period for close of registration was reduced by fourteen days and increased overtime to process all registration forms between the original cut off of 28 days prior to the election to 15 days prior to the election.
 - Provide an increased amount of official and sample ballots.
3. Add the one activity of amending the polling place notice sent to each voter who registered after the 29th day prior to the election to include specific information as it was approved in the Statement of Decision.
4. Retain the following activities because staff finds that pursuant to section 1183.1 of the Commission regulations, they are necessary to carry out the mandate, and modify them to limit reimbursement to the scope of the mandated program:
 - Redesign new election software used to amend the polling place notice sent to each voter who registered between the 29th and 15th day prior to the election pursuant to Elections Code section 13303, subdivision (c), as amended by Statutes 2000, chapter 899.
 - Modify the Registrar of Voters website to reflect the amendment to Elections Code section 13303, subdivision (c), by Statutes 2000, chapter 899 that allows voters to register through the 15th day prior to an election.

Comments on the Draft Staff Analysis

On July 15, 2008, the Department of Finance submitted comments on the draft staff analysis, recommending that the activity of modifying the Registrar of Voters website to reflect the test claim statute be deleted because it was not approved in the Statement of Decision.³ Staff did not make this change. While the Statement of Decision does not include modifying the website as a reimbursable activity, it mandates reimbursement for amending the polling place notice to include the address of "the county website where a sample ballot may be viewed." Therefore, staff finds that, pursuant to section 1183.1 of the Commission's regulations, authorizing reimbursement for counties to modify their websites to conform to the mandate is necessary to carry out the mandated program.

³ Exhibit D.

Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines, as modified by staff, beginning on page 7. Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

Claimant

County of Orange

Chronology

05/17/02 Claimant files test claim

10/04/06 Commission on State Mandates (Commission) adopted Statement of Decision

11/28/06 Claimant submits Draft Parameters and Guidelines

01/18/07 Claimant submits Amended Proposed Parameters and Guidelines

07/01/08 Staff issues draft staff analysis and proposed parameters and guidelines, as modified by staff

07/15/08 Department of Finance submits comments on draft staff analysis and modified proposed parameters and guidelines

07/16/08 Commission staff issues final staff analysis and modified proposed parameters and guidelines

Summary of Findings

Claimant, County of Orange, filed this test claim on changes to the deadline for voter registration prior to an election. Prior law allowed voters to newly register to vote, reregister, or change their address with county elections officials, until the 29th day before an election. After that date, voter registration closed until the conclusion of the upcoming election. Statutes 2000, chapter 899 allow new registrations or changes to voter registrations through the 15th day prior to an election.

The Commission adopted a Statement of Decision on October 4, 2006,⁴ concluding that Statutes 2000, chapter 899, as it amended Elections Code section 13303, subdivision (c), mandates a new program or higher level of service on counties within the meaning of article XIII B, section 6 of the California Constitution, and imposes costs mandated by the state pursuant to Government Code section 17514, for the following one-time activity:

- Amend the polling place notice sent to each voter who registered after the 29th day prior to the election, to include the following: information as to where the voter can obtain a sample ballot and a ballot pamphlet prior to the election, a statement indicating that those documents will be available at the polling place at the time of the election, and the address of the Secretary of State's website and, if applicable, of the county website where a sample ballot may be viewed. (Elec. Code, § 13303, subd. (c).)

The Commission denied the other amendments by Statutes 2000, chapter 899, concluding that they were not subject to article XIII B, section 6 of the California Constitution, or did not mandate a new program or higher level of service.

⁴ Exhibit A.

Discussion

The claimant submitted proposed parameters and guidelines on November 28, 2006, and amended proposed parameters and guidelines on January 18, 2007.⁵ No comments were filed on either version of the claimant's proposed parameters and guidelines. On July 1, 2008, Commission staff issued the draft staff analysis and proposed parameters and guidelines, as modified by staff. Staff proposed modifications to the proposed parameters and guidelines as described below.

Staff made non-substantive, technical changes for purposes of clarification, consistency with language in recently adopted parameters and guidelines, and conformity to the Statement of Decision and statutory language. Staff also made the following substantive changes:

II. Eligible Claimants

Claimant proposed that reimbursement begin on the effective date of the test claim statute – September 29, 2000. However, the test claim statute does not contain an urgency clause, so it does not become effective until January 1, 2001. Therefore, staff revised this section to clarify that reimbursement begins on January 1, 2001.

IV. Reimbursable Activities

Denied Activities

The claimant proposed the following one-time activities in the parameters and guidelines:

- Redesign and republish the sample ballot and absentee voter application.
- Notify every voter who registered from 28 days prior to the election through 15 days prior to the election via post card, the location of their polling place and where they can obtain a sample ballot.
- Provide all sample ballots for each ballot type and the poll site locations.
- Hire additional staff to process registration forms and absentee ballot requests due to the fact that the time period for close of registration was reduced by fourteen days and increased overtime to process all registration forms between the original cut off of 28 days prior to the election to 15 days prior to the election.
- Provide an increased amount of official and sample ballots.

Staff deleted the above activities regarding sample ballots, polling place notices, absentee ballots and processing registration forms because the Commission found that they were not mandated by the state under this test claim statute. The Statement of Decision states that these activities have long been performed by county elections officials.⁶ The Commission did not dispute claimant's allegations that the test claim statute imposed a burden on the way business is conducted during the weeks before an election and there are likely associated costs, but the test claim statute itself did not require the post-voter registration and pre-election activities alleged by claimant. Thus, staff finds that these activities go beyond the scope of the one-time reimbursable activity to amend the existing notice.

⁵ Exhibit B.

⁶ Exhibit A., Statement of Decision, page 9.

Approved Activities

The claimant did not include the one activity approved in the Statement of Decision. Therefore, staff added the one activity of amending the polling place notice sent to each voter who registered after the 29th day prior to the election to include specific information as it was approved in the Statement of Decision.

The claimant also proposed the following one-time activities:

- Redesign and implement new election software.
- Modification of Registrar of Voters website.

Section 1183.1, subdivision (a)(4), of the Commission's regulations authorizes the Commission to include the "most reasonable methods of complying with the mandate" in the parameters and guidelines. The "most reasonable methods of complying with the mandate" are "those methods not specified in statute or executive order that are necessary to carry out the mandated program."

Staff finds that redesigning the election software used to amend the notice, and modifying the website to reflect the amended notices sent to voters who register between the 29th and 15th day are necessary one-time activities to carry out the mandated program. Staff deleted the activity to implement the new software since it implies that the activity is ongoing. The Commission's decision limits reimbursement to one-time activities. Staff further added the following underlined language to limit reimbursement to the scope of the mandated program:

- Redesign and implement new election software used to amend the polling place notice sent to each voter who registered between the 29th and 15th day prior to the election pursuant to Elections Code section 13303, subdivision (c), as amended by Statutes 2000, chapter 899.
- Modification of the Registrar of Voters website to reflect the amendment to Elections Code section 13303, subdivision (c), by Statutes 2000, chapter 899 that allows voters to register through the 15th day prior to an election.

Comments on the Draft Staff Analysis

On July 15, 2008, the Department of Finance submitted comments on the draft staff analysis, recommending that the activity of modifying the Registrar of Voters website to reflect the test claim statute be deleted because it was not approved in the Statement of Decision.⁷ Staff did not make this change.

As stated above, Section 1183.1, subdivision (a)(4), of the Commission's regulations authorizes the Commission to include the "most reasonable methods of complying with the mandate" in the parameters and guidelines. The "most reasonable methods of complying with the mandate" are "those methods not specified in statute or executive order that are necessary to carry out the mandated program." While the Statement of Decision does not include modifying the website as a reimbursable activity, it mandates reimbursement for amending the polling place notice to include the address of "the county website where a sample ballot may be viewed." Therefore, staff finds that authorizing reimbursement for counties to modify their websites to conform to the mandate is necessary to carry out the mandated program.

⁷ Exhibit C.

Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines, as modified by staff, beginning on page 9.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

Commission on State Mandates

Original List Date: 5/31/2002 Mailing Information: Final Staff Analysis
Last Updated: 9/19/2006
List Print Date: 07/14/2008 **Mailing List**
Claim Number: 01-TC-15
Issue: Fifteen Day Close of Voter Registration

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 11812.)

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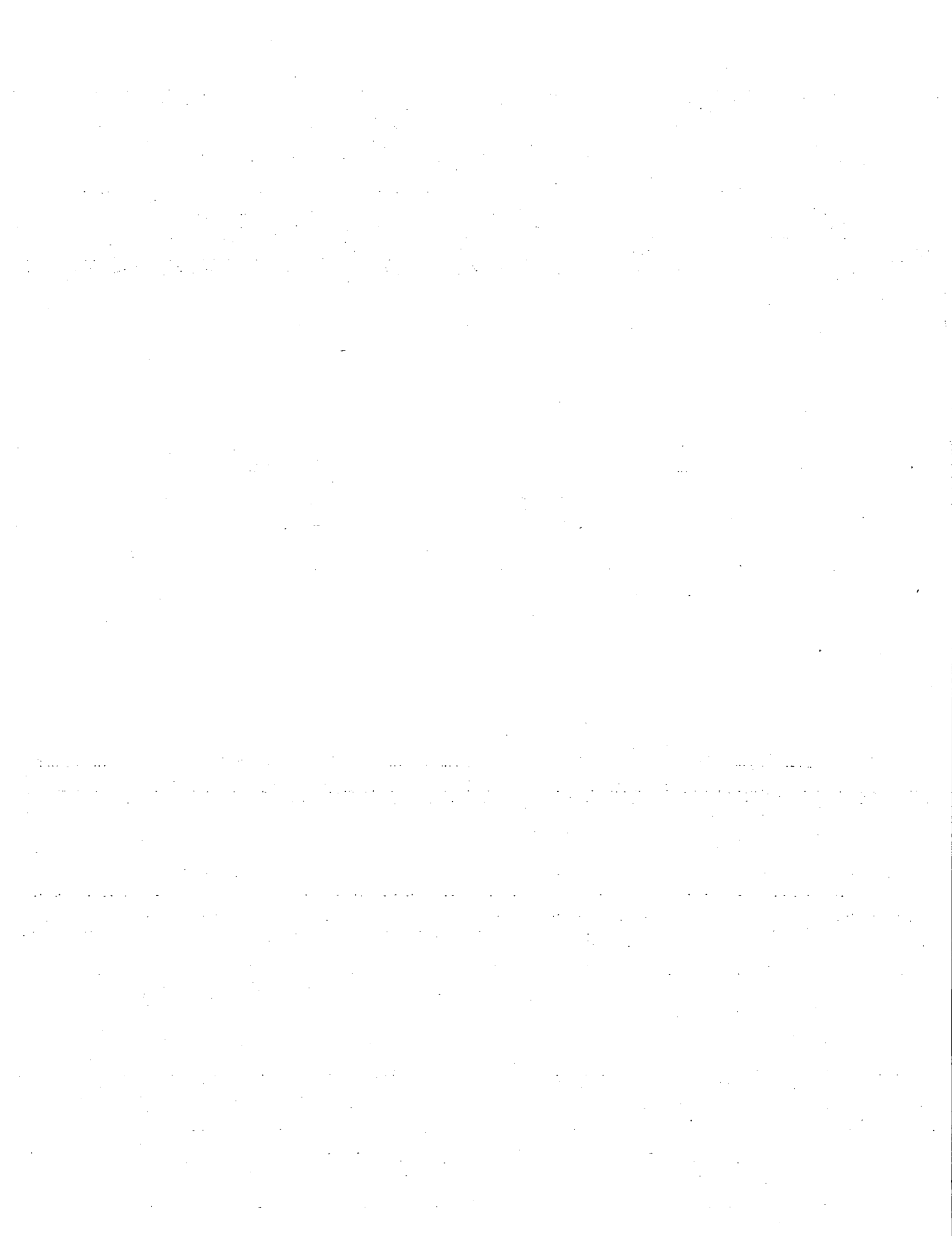
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