

**COMMISSION ON STATE MANDATES**

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September 12, 2012

Ms. Juliana Gmur  
1865 Hernden Avenue, Suite K-44  
Clovis, CA 93611  
*And Interested Parties and Affected State Agencies (See Mailing List)*

**RE: Final Staff Analysis, Proposed Statewide Cost Estimate, and Notice of Hearing**  
*Permanent Absent Voters II, 03-TC-11*  
Elections Code Sections 3201 and 3203(b)(2)  
Statutes 2001, Chapters 922; Statutes 2002, Chapter 664;  
and Statutes 2003, Chapter 347  
County of Sacramento, Claimant

Dear Ms. Gmur:

The final staff analysis and proposed statewide cost estimate for this matter are enclosed.

**Hearing**

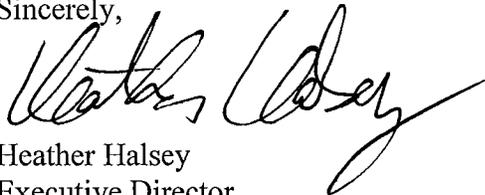
This matter is set for hearing on **Friday, September 28, 2012** at 9:30 a.m. in Room 447, State Capitol, Sacramento, CA. This matter is proposed for the Consent Calendar. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01(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 Kerry Ortman at (916) 323-3562 if you have questions.

Sincerely,



Heather Halsey  
Executive Director

**Item 16**  
**Final Staff Analysis**  
**Proposed Statewide Cost Estimate**  
**\$2,265,372**

Elections Code Sections 3201 and 3203(b)(2)  
Statutes 2001, Chapter 922  
Statutes 2002, Chapter 664  
Statutes 2003, Chapter 347

*Permanent Absent Voters II*  
03-TC-11

County of Sacramento, Claimant

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**STAFF ANALYSIS**

**Background and Summary of the Mandate**

The test claim statutes amended the Elections Code, including substantive changes in 2001, to allow *all* registered voters to apply for permanent absent voter status, rather than limiting eligibility to those voters with specific disabilities or conditions, as was the case under prior law.

The claimant filed the test claim on September 25, 2003. The Commission on State Mandates (Commission) adopted a statement of decision on the test claim on July 28, 2006, and parameters and guidelines on December 1, 2011.<sup>1</sup> The Commission found that the test claim statutes impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

Eligible claimants were required to file initial reimbursement claims (for costs incurred between July 1, 2002 and June 30, 2011) with the State Controller's Office (SCO) by June 5, 2012. Reimbursement claims for fiscal year 2011-2012 are due by February 15, 2013.

Eligible Claimants and Period of Reimbursement

Any county, or city and county, that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement.

Government Code section 17557(e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The County of Sacramento filed the test claim on September 26, 2003, establishing eligibility for reimbursement for the 2002-2003 fiscal year. Therefore, the costs incurred for compliance with the mandated activities are reimbursable on or after July 1, 2002.

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<sup>1</sup> Exhibit A.

## Reimbursable Activities

The Commission approved the following activities for reimbursement:

- A. One-Time Activity – add information to all absentee ballot mailings explaining the absentee voting procedure in Elections Code sections 3200 et seq. and the requirements of Elections Code section 3206 when a voter fails to return an executed absent voter ballot for any statewide direct primary or general election.
- B. Ongoing Activities
  1. Make an application for permanent absent voter status available to any voter.
  2. Upon receipt of an application or request for permanent absent voter status:
    - a. Determine (1) whether the applicant is a registered voter and, (2) whether the signature of the applicant and residence address on the application or request appears to be the same as that on the original affidavit of registration.
    - b. Mark the permanent absent voter affidavit for identification.
  3. For each application or request for permanent absent voter status received and verified for registration, place the voter's name on a list of those whom an absentee ballot is sent each time there is an election within the voter's precinct.
  4. Maintain a copy of the list on file open to public inspection for election and governmental purposes.
  5. Send a copy of the list of all voters who qualify as permanent absent voters to each city elections official or district elections official charged with the duty of conducting an election within the county on the sixth day before an election.
  6. Process and count ballots received from voters on the permanent absent voter list in the same manner as all other absent voter ballots.
  7. If the permanent absent voter fails to return an executed absent voter ballot for any statewide direct primary or general election, delete the voter's name from the list of permanent absent voters.

***If costs to perform the activities identified above have been claimed under the Absentee Ballots program (CSM 3713), the Permanent Absent Voters I program (CSM 4358), or any other program, the costs are not eligible for reimbursement under these parameters and guidelines.***

### Assumptions

Staff reviewed the claims data submitted by counties and a city and county and compiled by the SCO. The actual claims data showed that 36 claims were filed for fiscal years 2002-2003 through 2010-2011 for a total of \$2,265,372.<sup>2</sup> Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

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<sup>2</sup> Claims data reported as of June 13, 2012.

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*

There are currently 58 counties in California. Of those, only 23 counties filed reimbursement claims for this program for fiscal years 2002-2003 through 2010-2011. If other eligible claimants file late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims for this program for fiscal years 2002-2003 through 2010-2011 may be filed until June 5, 2013. Late claims for fiscal year 2011-2012 may be filed until February 15, 2014.

- *There may be several reasons that non-claiming counties did not file for reimbursement, including but not limited to:*
  1. Some counties cannot reach the \$1,000 threshold for filing reimbursement claims.
  2. Counties did not have supporting documentation to file a reimbursement claim.
- *The number of reimbursement claims filed will vary from year to year.*

This program requires county elections officials to make an application for permanent absent voter status available to any voter. Therefore, the total number of reimbursement claims filed with the SCO could increase based on the number of permanent absent voter applications filed with the county.

- *It appears as though some local governments may be claiming activities under this program that should be claimed under either the Permanent Absent Voters I program or under the Absentee Ballots program.*

For example, the City and County of San Francisco stated in their claim that they use an electronic management system and they claimed costs for the “ongoing maintenance of the absentee voter list for San Francisco. The annual share of maintenance cost for 2010-2011 owing to absentee voters is \$25,057.72.” Therefore, it is possible that this activity is not one of the limited approved activities under the *Permanent Absent Voters II* program.

- *The total amount of reimbursement for this program may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.*

The SCO may conduct audits, and reduce any claims it deems to be excessive or unreasonable.

## Methodology

### *Fiscal Years 2002-2003 through 2010-2011*

The statewide cost estimate for fiscal years 2002-2003 through 2010-2011 was developed by totaling the 36 actual reimbursement claims filed with the SCO for these years.

The statewide cost estimate includes nine fiscal years for a total of \$2,265,372. This averages to \$251,708 annually in costs for the state for this nine year period. Following is a breakdown of estimated total costs per fiscal year:

<b>Fiscal Year</b>	<b>Number of Claims Filed with SCO</b>	<b>Estimated Cost</b>
2002-2003	1	\$9,310
2003-2004	1	\$14,834
2004-2005	1	\$24,382
2005-2006	1	\$21,868
2006-2007	1	\$24,807
2007-2008	2	\$18,688
2008-2009	3	\$191,573
2009-2010	3	\$121,578
2010-2011	23	\$1,838,332
<b>TOTAL</b>	<b>36</b>	<b>\$2,265,372</b>

### **Comments on Draft Staff Analysis and Proposed Statewide Cost Estimate**

On August 30, 2012, Commission staff issued the draft staff analysis and proposed statewide cost estimate for comment.<sup>3</sup> On September 10, 2012, the Department of Finance submitted comments stating that they have no concerns with the Commission's recommendation to adopt the proposed statewide cost estimate.<sup>4</sup>

### **Staff Recommendation**

Staff recommends the Commission adopt the proposed statewide cost estimate of \$2,265,372 for costs incurred in complying with the *Permanent Absent Voters II* program.

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<sup>3</sup> Exhibit B.

<sup>4</sup> Exhibit C.

## Commission on State Mandates

Original List Date: 10/1/2003  
Last Updated: 9/10/2012  
List Print Date: 09/10/2012  
Claim Number: 03-TC-11  
Issue: Permanent Absent Voters II

### Mailing List

#### 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, § 1181.2.)

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