

ITEM 4

PROPOSED DECISION AND PARAMETERS AND GUIDELINES

Elections Code Sections 21532(a) and (e)-(h) and
21534(c)(2), (c)(3)(A)-(B), (c)(4)(A), (c)(5)-(8) and (d)(4) as added by

Statutes 2016, Chapter 781 (SB 958)

County of Los Angeles Citizens Redistricting Commission

19-TC-04

Period of reimbursement begins July 1, 2018

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June 8, 2021

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Department of Finance
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Sacramento, CA 95814

Mr. Fernando Lemus
County of Los Angeles
Auditor-Controller's Office
500 West Temple Street
Los Angeles, CA 90012

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Decision

County of Los Angeles Citizens Redistricting Commission, 19-TC-04
Elections Code Sections 21530, 21531, 21532, 21533, 21534, and 21535 as added by
Statutes 2016, Chapter 781 (SB 958)
County of Los Angeles, Claimant

Dear Mr. Cook and Mr. Lemus:

On May 28, 2021, the Commission on State Mandates adopted the Decision partially approving the Test Claim on the above-captioned matter.

Sincerely,

Heather Halsey
Executive Director

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM

Elections Code Sections 21530, 21531,
21532, 21533, 21534, and 21535 as added by
Statutes 2016, Chapter 781 (SB 958)

Filed on June 26, 2020

County of Los Angeles, Claimant

Case No.: 19-TC-04

*County of Los Angeles Citizens Redistricting
Commission*

DECISION PURSUANT TO
GOVERNMENT CODE SECTION 17500 ET
SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7.

(Adopted May 28, 2021)

(Served June 8, 2021)

TEST CLAIM

The Commission on State Mandates adopted the attached Decision on May 28, 2021.



Heather Halsey, Executive Director

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM

Elections Code Sections 21530, 21531,
21532, 21533, 21534, and 21535 as added by

Statutes 2016, Chapter 781 (SB 958)

Filed on June 26, 2020

County of Los Angeles, Claimant

Case No.: 19-TC-04

*County of Los Angeles Citizens Redistricting
Commission*

DECISION PURSUANT TO
GOVERNMENT CODE SECTION 17500
ET SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7.

(Adopted May 28, 2021)

(Served June 8, 2021)

DECISION

The Commission on State Mandates (Commission) heard and decided this Test Claim during a regularly scheduled hearing on May 28, 2021. Fernando Lemus appeared as the representative of and Lucia Gonzalez appeared as a witness for the County of Los Angeles (claimant). Chris Hill appeared on behalf of the Department of Finance (Finance).

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission adopted the Proposed Decision to partially approve the Test Claim by a vote of 6-0, as follows:

Member	Vote
Lee Adams, County Supervisor	Yes
Jeannie Lee, Representative of the Director of the Office of Planning and Research	Yes
Gayle Miller, Representative of the Director of the Department of Finance, Chairperson	Yes
Sarah Olsen, Public Member	Yes
Spencer Walker, Representative of the State Treasurer	Yes
Jacqueline Wong-Hernandez, Representative of the State Controller, Vice-Chairperson	Yes

Summary of the Findings

This Test Claim, which was timely filed by the County of Los Angeles (claimant), addresses Statutes 2016, Chapter 781, which added Elections Code sections 21530 through 21535 to require the claimant to create, staff, and fund the independent County of Los Angeles Citizens Redistricting Committee (CRC) to adjust the boundary lines of the supervisorial districts in the County of Los Angeles in the year following the year of the decennial federal census.

Under prior law, the claimant's board of supervisors were required to perform the supervisorial redistricting.¹ Before adjusting the boundaries, the board was required to hold at least one public hearing on the proposed district lines prior to the public hearing at which the board votes to approve or deny the proposal.²

The Commission finds that the following activities required by Elections Code sections 21532 and 21534, as added by the test claim statute, mandate a new program or higher level of service on the claimant:

- The county shall create a CRC in each year ending in the number zero.³
- The elections official shall review the applications, select 60 applicants, publish the list of the 60 applicants, and create a subpool for each supervisorial district.⁴
- The Auditor-Controller randomly draws eight commissioners.⁵
- The board shall take all steps necessary to ensure a complete and accurate computerized database is available for redistricting and to provide access to the public.⁶

In addition, based on Elections Code section 21534(c)(8), which requires the claimant to provide reasonable funding and staffing to the CRC, the following activities required by Elections Code sections 21532 and 21534 to be performed by the CRC mandate a new program or higher level of service on the claimant:

- The eight commissioners shall appoint six applicants to the CRC.⁷
- Conduct at least seven public hearings before drafting a map.⁸

¹ Elections Code section 21500 as added by Statutes 1994, chapter 920 and amended by Statutes 2015, chapter 732, section 36; Elections Code sections 21501-21506 as added by Statutes 1994, chapter 920; and Elections Code section 21507 as added by Statutes 2014, chapter 873.

² Elections Code section 21507 as added by Statutes 2014, chapter 873.

³ Elections Code section 21532(a).

⁴ Elections Code section 21532(e)-(g).

⁵ Elections Code section 21532(g).

⁶ Elections Code section 21534(c)(7).

⁷ Elections Code section 21532(h).

⁸ Elections Code section 21534(c)(2).

- Post the draft map for public comment on the County website and conduct one public hearing on the draft map.⁹
- Comply with the Ralph M. Brown Act.¹⁰
- Make available to the public a calendar of all public hearings.¹¹
- Arrange for the live translation of a hearing in an applicable language upon timely request.¹²
- Encourage county residents to participate in the redistricting.¹³
- Issue a report that explains the basis on which the CRC made its decisions.¹⁴

However, Elections Code sections 21530, 21533, and 21535 do not impose any state-mandated requirements on the claimant, but rather generally define terms and limit the hiring of consultants by the CRC to help with the adjustment of district boundaries. Although the claimant is required by Elections Code section 21534(c)(8) to provide reasonable funding to the CRC, which may include paying for a consultant hired by the CRC, the courts have made it clear that “[n]othing in article XIII B prohibits the shifting of costs between local governmental entities.”¹⁵

Moreover, the requirements imposed by Elections Code sections 21531 and 21534(a), (c)(9), and (d)(1)-(3) to adjust supervisorial boundary lines, adopt a redistricting plan every ten years; and to comply with the Public Records Act are not new and do not impose a new program or higher level of service on the claimant.¹⁶

The Commission also finds that all of the new state-mandated activities impose costs mandated by the state pursuant to Government Code section 17514, *except* for the activities required by Elections Code section 21534(c)(1) and (c)(4)(B) to comply with the Ralph M. Brown Act for the public hearings conducted by the CRC. These activities are expressly exempted from the reimbursement requirement by article XIII B, section 6(a)(4). Article XIII B, section 6(a)(4) states that “the Legislature may, but need not, provide a subvention of funds for the following

⁹ Elections Code section 21534(c)(3)(A)-(B).

¹⁰ Elections Code sections 21534(c)(1); 21534(c)(4)(B).

¹¹ Elections Code section 21534(c)(4)(A).

¹² Elections Code section 21534(c)(5).

¹³ Elections Code section 21534(c)(6).

¹⁴ Elections Code section 21534(d)(4).

¹⁵ *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1815.

¹⁶ California Constitution, article I, sections 3(b) and 7; California Constitution, article II, section 2.5; California Constitution, article XIII B, section 6(a); Elections Code sections 14025-14032 as added by Statutes 2002, chapter 129; Elections Code section 21500 as added by Statutes 1994, chapter 920 and amended by Statutes 2015, chapter 732, section 36; Elections Code section 21507 as added by Statutes 2014, chapter 873; Government Code section 6252 as last amended by Statutes 2015, chapter 537; and *Reynolds v. Sims* (1964) 377 U.S. 533, 566.

mandates: . . . Legislative mandates contained in statutes within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I.” Article I, section 3(b) of the California Constitution requires local agencies to comply with the Ralph M. Brown Act, beginning with Government Code section 54950. The Brown Act applies to all local agencies and “any other local body created by state statute,” and therefore applies to the CRC.¹⁷ Accordingly, the activities required by Elections Code section 21534(c)(1) and (c)(4)(B) to comply with the Ralph M. Brown Act do not impose costs mandated by the state pursuant to article XIII B, section 6(a)(4) of the California Constitution.

In conclusion, the Commission partially approves this Test Claim and finds that Elections Code sections 21532 and 21534 as added by the test claim statute impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution for the following activities:

- The county shall create a CRC no later than December 31, 2020, and in each year ending in the number zero thereafter.¹⁸
- The elections official shall review the applications and eliminate applicants who do not meet the specified qualifications, select 60 of the most qualified applicants, publish the list of qualified applicants for 30 days, and create a subpool for each of the five existing supervisorial districts of the board.¹⁹
- At a regularly scheduled meeting of the board, the Auditor-Controller conducts a random drawing to select one commissioner from each of the five subpools, then another random drawing from all of the remaining applicants to select three additional commissioners.²⁰
- The board shall take all steps necessary to ensure a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide to the public ready access to redistricting data and computer software equivalent to what is available to the CRC.²¹

In addition, based on Elections Code section 21534(c)(8), which requires the claimant to provide reasonable funding and staffing to the CRC, the following activities mandated by Elections Code sections 21532 and 21534 impose a reimbursable state mandated program within the meaning of article XIII B, section 6 of the California Constitution on the claimant:

- The eight selected commissioners shall review the remaining names in the subpools of applicants and shall appoint six additional applicants to the CRC.²²

¹⁷ Government Code section 54952(a).

¹⁸ Elections Code section 21532(a).

¹⁹ Elections Code section 21532(e)-(g).

²⁰ Elections Code section 21532(g).

²¹ Elections Code section 21534(c)(7).

²² Elections Code section 21532(h).

- Conduct at least seven public hearings before drafting a map, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district.²³
- Post the draft map for public comment on the website of the County of Los Angeles and conduct one public hearing on the draft map (in addition to the one hearing required under prior law, which is not reimbursable).²⁴
- Establish and make available to the public a calendar of all public hearings.²⁵
- Arrange for the live translation of a hearing in an applicable language (defined as “a language for which the number of residents of the County of Los Angeles who are members of a language minority is greater than or equal to 3 percent of the total voting age residents of the county”) if a request for translation is made at least 24 hours before the hearing.²⁶
- Take steps to encourage county residents to participate in the redistricting public review process.²⁷
- Issue a report that explains the basis on which the CRC made its decisions in achieving compliance with the redistricting criteria required to comply with the Voting Rights Act.²⁸

All other code sections added by the test claim statute and activities alleged to be mandated in the Test Claim are denied.

COMMISSION FINDINGS

I. Chronology

01/01/2017 The effective date of the test claim statute.²⁹

06/26/2020 The claimant filed the Test Claim.³⁰

12/28/2020 The Department of Finance (Finance) filed comments on the Test Claim.³¹

²³ Elections Code section 21534(c)(2).

²⁴ Elections Code section 21534(c)(3)(A)-(B).

²⁵ Elections Code section 21534(c)(4)(A).

²⁶ Elections Code section 21534(c)(5).

²⁷ Elections Code section 21534(c)(6).

²⁸ Elections Code section 21534(d)(4).

²⁹ Statutes 2016, chapter 781.

³⁰ Exhibit A, Test Claim, filed June 26, 2020, page 1.

³¹ Exhibit B, Finance’s Comments on the Test Claim, filed December 28, 2020, page 1.

02/26/2021 The claimant filed late rebuttal comments.³²

03/15/2021 Commission staff issued the Draft Proposed Decision.³³

04/05/2021 The claimant filed comments on the Draft Proposed Decision.³⁴

II. Background

A. A History of Redistricting in California

1. The Creation of the California Citizens Redistricting Commission to Adjust District Lines for the State Assembly, Senate, and Board of Equalization, and for Congress.

Redistricting is the apportionment of legislative representation based on population.³⁵ The right to vote, guaranteed by the Fourteenth and Fifteenth Amendments of the United States Constitution, requires equal legislative representation through periodic redistricting.³⁶ Each state has the discretion to choose a specific methodology to use for redistricting,³⁷ however, the Fourteenth Amendment restricts the use of race as the predominant criterion in drawing district lines.³⁸

The Voting Rights Act of 1965 was enacted by Congress to further protect the right to vote.³⁹ The Act prohibits states and their political subdivisions from using voting qualifications, prerequisites to voting, standards, practices, or procedures that result in the denial or abridgment of a citizen's right to vote on account of race, color, or membership in a "language minority group."⁴⁰ After the Supreme Court held that this provision prohibited only intentional discrimination,⁴¹ Congress amended the Act to forbid any act having a disparate impact on minority voting strength. "Thus, after the 1982 amendment, the Voting Rights Act can be violated by both intentional discrimination in the drawing of district lines and facially neutral apportionment schemes that have the effect of diluting minority votes."⁴²

³² Exhibit C, Claimant's Late Rebuttal Comments, filed February 26, 2021.

³³ Exhibit D, Draft Proposed Decision, issued March 15, 2021.

³⁴ Exhibit E, Claimant's Comments on the Draft Proposed Decision, filed April 5, 2021.

³⁵ United States Constitution, article I, sections 2 and 4.

³⁶ *Reynolds v. Sims* (1964) 377 U.S. 533 [state legislative districts]; *Kirkpatrick v. Preisler* (1969) 394 U.S. 526 [congressional districts].

³⁷ *Reynolds v. Sims* (1964) 377 U.S. 533, 583.

³⁸ *Shaw v. Reno* (1993) 509 U.S. 630.

³⁹ 52 U.S. Codes section 10101 et seq. formerly 42 U.S. Codes section 1971.

⁴⁰ 52 U.S. Codes sections 10101(a), 10103(f)(2).

⁴¹ *City of Mobile v. Bolden* (1980) 446 U.S. 55.

⁴² *Garza v. County of Los Angeles* (9th Cir. 1990) 918 F.2d 763, 766.

California enacted its own Voting Rights Act⁴³ in 2002 which implements the equal protection⁴⁴ and the right to vote⁴⁵ guarantees in the California Constitution by proscribing “the dilution or the abridgment of the rights of voters who are members of a protected class.”⁴⁶

California required the Legislature to adjust district lines for the Assembly, Senate, and Board of Equalization in the year following the federal census.⁴⁷ This process was fraught with partisan issues and gerrymandering for decades, however, solutions were slow in coming.⁴⁸ In the 1980s alone, California voters defeated four redistricting reform initiatives.⁴⁹ Finally, on November 4, 2008, California voters approved Proposition 11, the Voters FIRST Act, which amended Article XXI of the California Constitution taking the authority for the creation of district lines away from the Legislature and instead created the California Citizens Redistricting Commission to establish district lines for the Assembly, Senate, and Board of Equalization.⁵⁰ The 14 Commission members, chosen randomly by the State Auditor, are made up of five Democrats, five Republicans, and four members who are registered with neither of those political parties.⁵¹ This entirely independent commission redistricting system was the first in the nation.⁵² In 2010, the voters approved Proposition 20, the Voters FIRST Act for Congress, which further amended Article XXI giving the California Citizens Redistricting Commission the authority to establish district lines for U.S. congressional districts.⁵³

⁴³ Statutes 2002, chapter 129 codified at Elections Code sections 14025-14032.

⁴⁴ California Constitution, article I, section 7.

⁴⁵ California Constitution, article II, section 2.5.

⁴⁶ Elections Code sections 14027 and 14031.

⁴⁷ California Constitution, article XXI.

⁴⁸ Exhibit F, Quinn, *Carving Up California: A History of Redistricting, 1951-1984* (Ph.D. diss.), Rose Institute of State and Local Government, Claremont McKenna College, <https://s10294.pcdn.co/wp-content/uploads/2014/02/Carving-Up-California.pdf> (accessed on December 22, 2020).

⁴⁹ Exhibit F, Heslop, *Governing California in the 21st Century - Redistricting Reform in California*, pages 1-5, <http://roseinstitute.org/wp-content/uploads/2014/02/Redistricting-Reform-in-CA.pdf> (accessed on December 24, 2020).

⁵⁰ Government Code sections 8251-8253.6.

⁵¹ *Vandermost v. Bowen* (2012) 53 Cal.4th 421, 442-448.

⁵² Exhibit F, Rose Institute of State and Local Government, *Redistricting in America, A State-by-State Analysis*, pages 44-46, <https://s10294.pcdn.co/wp-content/uploads/2016/05/Redistricting-in-America-for-Print.pdf> (accessed on December 24, 2020).

⁵³ Government Code sections 8251-8253.6.

2. Supervisorial Redistricting for the County of Los Angeles Under Prior Law.

Under the California Constitution, charter counties are not free to establish their own redistricting process.⁵⁴ As the County of Los Angeles is a charter county, it was obligated to follow the existing statutes regarding redistricting. Similar to the initial state system, supervisorial redistricting is performed by the legislative body of each county, the board of supervisors.⁵⁵

In 2016, at the time that the test claim legislation was being considered, the process began after each decennial federal census. A county board of supervisors was required to adjust its supervisorial boundaries in compliance with the Voting Rights Act of 1965 so that the districts were nearly equal in population. The board was required to use the census data as a basis for the adjustment. The board had the option to consider the factors of topography; geography; cohesiveness, contiguity, integrity, and compactness of territory; and communities of interest.⁵⁶ The board also had the option to appoint an advisory committee of residents to study changing the boundaries. This committee would report its findings on the need for change of boundaries and the recommended changes to the board. These recommendations were advisory only.⁵⁷ Before adjusting the boundaries, the board was required to hold at least one public hearing on the proposed district lines prior to the public hearing at which the board votes to approve or deny the proposal.⁵⁸ If the board failed to complete the redistricting before the first day of November, a supervisorial redistricting commission, consisting of the county district attorney, the county assessor, and an elected county elections official, an elected county superintendent of schools, or the sheriff, was assembled to complete the redistricting.⁵⁹ Once established, the new district boundaries would take effect at the next election.⁶⁰ Between federal censuses, the board could redistrict based on a county census or use population estimates by the State Department of Finance, the county planning department, or county planning commission.⁶¹ However, any person could bring suit claiming that the estimates did not reflect the current population more accurately than the most recent census data and seek declaratory relief from a court.⁶²

⁵⁴ California Constitution, article XI, section 4(a).

⁵⁵ Elections Code section 21500 as added by Statutes 1994, chapter 920 and amended by Statutes 2015, chapter 732, section 36; Elections Code sections 21501-21506 as added by Statutes 1994, chapter 920; and Elections Code section 21507 as added by Statutes 2014, chapter 873.

⁵⁶ Elections Code section 21500 as added by Statutes 1994, chapter 920 and amended by Statutes 2015, chapter 732, section 36.

⁵⁷ Elections Code section 21505 as added by Statutes 1994, chapter 920.

⁵⁸ Elections Code section 21507 as added by Statutes 2014, chapter 873.

⁵⁹ Elections Code sections 21501 and 21502 as added by Statutes 1994, chapter 920.

⁶⁰ Elections Code section 21506 as added by Statutes 1994, chapter 920.

⁶¹ Elections Code section 21503 as added by Statutes 1994, chapter 920.

⁶² Elections Code section 21504 as added by Statutes 1994, chapter 920.

The claimant has had a history of racial discrimination in its supervisorial redistricting process.⁶³ In 1988, Hispanic groups in Los Angeles County, joined by the United States of America, filed a voting rights action seeking a redrawing of the districts for the Los Angeles County Board of Supervisors.⁶⁴ They alleged that the existing boundaries, which had been drawn after the 1980 census, were intentionally gerrymandered boundaries that diluted Hispanic voting strength. They sought redistricting in order to create a district with a Hispanic majority for the 1990 Board of Supervisors election.⁶⁵ The federal district court found “that the Board [of Supervisors] had engaged in intentional discrimination in redistrictings that it undertook in 1959, 1965 and 1971” and “the 1981 redistricting was calculated at least in part to keep the effects of those prior discriminatory reapportionments in place, as well as to prevent Hispanics from attaining a majority in any district in the future.”⁶⁶ The district court determined that the county’s district boundaries violated the federal Voting Rights Act of 1965.⁶⁷ The Ninth Circuit Court of Appeal affirmed the lower court’s decision and further found that the county had violated both the Voting Rights Act of 1965 and the equal protection guarantee of the 14th Amendment when drawing supervisorial districts.⁶⁸ The U.S. Supreme Court did not take up the county’s appeal.⁶⁹ The parties settled the matter by entering into a stipulation requiring the county to submit future redistricting plans to the U.S. Department of Justice for review. The stipulation terminated on December 31, 2002.⁷⁰ As a result of the court’s decision, a special election for supervisor was held in 1991 for the newly redrawn First Supervisorial District.⁷¹ The 2010 redistricting plan, the first not to require review under the stipulation, was not challenged in court.⁷²

⁶³ *Garza v. County of Los Angeles* (9th Cir. 1990) 918 F.2d 763, 765-766.

⁶⁴ *Garza v. County of Los Angeles* (9th Cir. 1990) 918 F.2d 763, 765.

⁶⁵ *Garza v. County of Los Angeles* (9th Cir. 1990) 918 F.2d 763, 765-766.

⁶⁶ *Garza v. County of Los Angeles* (9th Cir. 1990) 918 F.2d 763, 767.

⁶⁷ *Garza v. County of Los Angeles* (Cal. 1990) 756 F.Supp. 1298, 1303-1304.

⁶⁸ *Garza v. County of Los Angeles* (9th Cir. 1990) 918 F.2d 763, 771.

⁶⁹ *County of Los Angeles v. Garza* (1991) 498 U.S. 1028.

⁷⁰ *County of Los Angeles v. State of California* (Jan. 14, 2020, B290091) [nonpub. opn.], page 6.

⁷¹ Exhibit F, Farrell, *Vote Marks New Era for 1st District: County Board: For the Plaintiffs Who Sued Over Bias Against Latinos, the Balloting is the Real Victory*, L.A. Times (Feb. 20, 1991), <https://www.latimes.com/archives/la-xpm-1991-02-20-me-1513-story.html> (accessed on March 9, 2021).

⁷² *County of Los Angeles v. State of California* (Jan. 14, 2020, B290091) [nonpub. opn.], pages 6-10.

B. The Test Claim Statute, Statute 2016, Chapter 781, Added Sections 21530 through 21535 to the Elections Code to Establish an Independent Citizens Redistricting Commission for the County of Los Angeles.

The test claim statute was characterized by the author as “a good government proposal for the citizens of Los Angeles County” which would “align the Los Angeles County Board of Supervisors’ redistricting policy with the statewide movement toward independent redistricting.”⁷³ Legislative history of the statute noted that the state of California has a redistricting commission as does the County of San Diego through legislation requested by the county.⁷⁴ Without such statutory authority, counties are powerless to create commissions on their own.⁷⁵ The legislative history concluded that the successful establishment of an independent redistricting commission in San Diego County, the second most populous county in California, boded well for the success of an independent commission in Los Angeles County, the state’s most populous county and “one of the most geographically and ethnically diverse counties in the state.”⁷⁶

The test claim statute provides that the CRC will adjust the boundary lines of the supervisorial districts in the County of Los Angeles in the year following the year of the decennial federal census.⁷⁷ The 14-member CRC must be created no later than December 31, 2020, and in each year ending in the number zero thereafter.⁷⁸ The process for the selection of members is designed to produce a CRC that is independent from the influence of the board and is reasonably representative of the county’s diversity.⁷⁹ The members’ political party preferences must be as proportional as possible to the total number of voters who are registered with each political party in the county. At least one member must reside in each of the five existing supervisorial districts.⁸⁰ Members are required to meet all of the following qualifications:

- Be a resident of the county,
- Be a voter who has been continuously registered in the county who has not changed their political party affiliation for five or more years,
- Have voted in at least one of the last three statewide elections,

⁷³ Exhibit F, Senate Rules Committee, Office of the Senate Floor Analyses, Third Reading of Senate Bill 958 (2015-2016 Reg. Sess.), August 30, 2016, page 5.

⁷⁴ Exhibit F, Senate Rules Committee, Office of the Senate Floor Analyses, Third Reading of Senate Bill 958 (2015-2016 Reg. Sess.), August 30, 2016, page 5.

⁷⁵ California Constitution, article XI, section 4.

⁷⁶ Exhibit F, Senate Rules Committee, Office of the Senate Floor Analyses, Third Reading of Senate Bill 958 (2015-2016 Reg. Sess.) August 30, 2016, pages 5 and 8.

⁷⁷ Elections Code section 21531.

⁷⁸ Elections Code section 21532(a) and (c).

⁷⁹ Elections Code section 21532(b).

⁸⁰ Elections Code section 21532(c).

- Within the last 10 years, neither the applicant nor an immediate family member, has been appointed to, elected to, or have been a candidate for office; served as an employee of, or paid consultant for, an elected representative, candidate, or political party; or been a registered state or local lobbyist,
- Possess experience that demonstrates relevant analytical skills and an ability to comprehend and apply legal requirements,
- Possess experience that demonstrates an ability to be impartial, and
- Possess experience that demonstrates an appreciation for the diverse demographics and geography of the county.⁸¹

Those individuals who meet the qualifications may submit an application to the county elections official who is required to review the applications and eliminate applicants who do not meet the qualifications.⁸² During the selection process, the official is barred from communicating with a member of the board, or an agent for a member of the board, about any matter related to the nomination process or applicants. The official selects 60 of the most qualified applicants and makes public a list of their names for at least 30 days.⁸³ During this time, the official may eliminate any of the previously selected applicants if the official becomes aware that the applicant does not meet the qualifications.⁸⁴ After the 30 days, the official creates a subpool for each of the five existing supervisorial districts.⁸⁵ At a regularly scheduled meeting of the board, the Auditor-Controller of the county randomly draws to select one commissioner from each of the five subpools and then, randomly draws from all of the remaining applicants, without respect to subpools, to select three additional commissioners.⁸⁶ The eight selected commissioners review the remaining applicants and appoint six commissioners based on relevant experience, analytical skills, ability to be impartial, political party preference, and to ensure that the CRC reflects the county's diversity.⁸⁷

The commissioners' terms expire upon the appointment of the first member of the succeeding CRC.⁸⁸ Nine commissioners are a quorum.⁸⁹ Each commissioner is a designated employee for purposes of conflicts of interest and is required to apply these statutes impartially to reinforce public confidence in the integrity of the process.⁹⁰ The CRC cannot retain a consultant — a

⁸¹ Elections Code section 21532(d).

⁸² Elections Code section 21532(e).

⁸³ Elections Code section 21532(f)(1).

⁸⁴ Elections Code section 21532(f)(2).

⁸⁵ Elections Code section 21532(g)(1).

⁸⁶ Elections Code section 21532(g)(2).

⁸⁷ Elections Code section 21532(h).

⁸⁸ Elections Code section 21533(b).

⁸⁹ Elections Code section 21533(c).

⁹⁰ Elections Code section 21533(a) and (e).

person retained, paid or unpaid, to advise the CRC or a commissioner regarding any aspect of the redistricting process — who would not be qualified as an applicant.⁹¹ After appointment, a commissioner is ineligible to hold elective public office for five years and ineligible to hold appointive office, to serve as paid staff or paid consultant to, the Board of Equalization, the Congress, the Legislature, or any legislator, or to register as a lobbyist in the state for three years.⁹²

The CRC shall use the following criteria, in the order of priority, in its mapping process:

- (1) Districts shall comply with the United States Constitution and each district shall have a reasonably equal population with the other districts, except where deviation is required to comply with the federal Voting Rights Act of 1965⁹³ or allowable by law.
- (2) Districts shall comply with the federal Voting Rights Act of 1965.
- (3) Districts shall be geographically contiguous.
- (4) The geographic integrity of any city, local neighborhood, or local community of interest shall be respected in a manner that minimizes its division to the extent possible. A community of interest is defined as a contiguous population that shares common social and economic interests that should be included within a single district for effective and fair representation, but does not include political parties or candidates.
- (5) To the extent practicable, districts shall be drawn to encourage geographical compactness.⁹⁴

The CRC shall not consider the place of residence of any incumbent or political candidate in the creation of a map; nor shall districts be drawn to favor or discriminate against an incumbent, political candidate, or political party.⁹⁵

The CRC is required to comply with the Ralph M. Brown Act.⁹⁶ The CRC must establish a calendar of all public hearings and make it available to the public. The hearings are to be scheduled at various times and days of the week to accommodate a variety of work schedules and to reach as large an audience as possible. The CRC shall post the hearing agenda at least seven days before the hearing dates.⁹⁷ The CRC shall arrange for the live translation of a hearing if a request for translation is made at least 24 hours before the hearing.⁹⁸ This applies to any language for which the number of county residents who are members of a language minority is

⁹¹ Elections Code section 21533(d).

⁹² Elections Code section 21535.

⁹³ United States Code, title 52, section 10101 et seq.

⁹⁴ Elections Code section 21534(a).

⁹⁵ Elections Code section 21534(b).

⁹⁶ Elections Code section 21534(c)(1).

⁹⁷ Elections Code section 21534(c)(4).

⁹⁸ Elections Code section 21534(c)(5).

greater than or equal to three percent of the total voting age residents of the county.⁹⁹ Before drawing a draft map, the CRC shall conduct at least seven public hearings, over no fewer than 30 days, with at least one public hearing held in each supervisorial district.¹⁰⁰ After drawing a draft map, the CRC shall post the map for public comment on the county website,¹⁰¹ include the map with the posted agenda,¹⁰² and conduct at least two public hearings over no fewer than 30 days before adoption of the final plan and map.¹⁰³

The CRC shall take steps to encourage residents to participate in the redistricting public review process. These steps may include:

- Providing information through media, social media, and public service announcements.
- Coordinating with community organizations.
- Posting information on the county website explaining the redistricting process, including a notice of each public hearing and the procedures for testifying during a hearing or submitting written testimony directly to the CRC.¹⁰⁴

The board of supervisors shall take all steps necessary to ensure that a complete and accurate computerized database is available for redistricting and that procedures are in place to provide the public with ready access to redistricting data and computer software equivalent to what is available to the CRC.¹⁰⁵ The board shall provide reasonable funding and staffing for the CRC.¹⁰⁶ All records of the CRC relating to redistricting are public records.¹⁰⁷

The CRC is required to adopt a redistricting plan adjusting the boundaries of the supervisorial districts and file the plan with the county elections official before August 15 of the year after the census.¹⁰⁸ The plan shall be effective 30 days after filing and shall be subject to referendum in the same manner as ordinances.¹⁰⁹ The CRC shall issue, with the final map, a report that explains the basis on which the CRC made its decisions.¹¹⁰

⁹⁹ Elections Code section 21534(c)(5)(B).

¹⁰⁰ Elections Code section 21534(c)(2).

¹⁰¹ Elections Code section 21534 (c)(3)(A).

¹⁰² Elections Code section 21534 (c)(4)(B).

¹⁰³ Elections Code section 21534(c)(3).

¹⁰⁴ Elections Code section 21534(c)(6).

¹⁰⁵ Elections Code section 21534(c)(7).

¹⁰⁶ Elections Code section 21534(c)(8).

¹⁰⁷ Elections Code section 21534(c)(9).

¹⁰⁸ Elections Code section 21534(d)(1).

¹⁰⁹ Elections Code section 21534(d)(2)-(3).

¹¹⁰ Elections Code section 21534(d)(4).

III. Positions of the Parties

A. County of Los Angeles

The claimant alleges that the test claim statute results in state-mandated reimbursable costs incurred by two departments: the Registrar-Recorder/County Clerk (RR/CC) and the Commission Services Division of the Executive Office of the Board. Specifically, the claimant alleges that the following activities are imposed on the RR/CC:

- To educate and inform the public, through digital, print, radio, social, and earned media outreach on the importance of the Commission and how the public can apply and become a commission member¹¹¹
- To create an application process, receive and review applications, and select the 60 most-qualified applicants.¹¹² The county Auditor-Controller is required to randomly select eight commissioners from those 60. Those eight commissioner choose the remaining six commissioners.¹¹³

And, once the CRC is formed, the claimant asserts that the county is mandated to:

- Provide reasonable funding and staffing for the Commission, so that the Commission may fulfill its obligations to redraw supervisorial districts, conduct public hearings, and encourage public participation in the process.¹¹⁴
- Take all reasonable steps to ensure that a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide the public with ready access to redistricting data and computer software equivalent to what is available to the Commission.¹¹⁵

Additionally, the claimant alleges that “Elections Code section 21533, enables the County to retain a consultant in order to advise the newly formed Commission on issues related to redistricting, provided that the consultant meets all of the qualification requirements of the Commission members.”¹¹⁶

The claimant alleges costs were first incurred on July 1, 2019.¹¹⁷ The claimant incurred \$35,533.18 for the RR/CC staff meeting to create the application process and \$1,268.91 to design

¹¹¹ Exhibit A, Test Claim, filed June 26, 2020, page 20.

¹¹² Exhibit A, Test Claim, filed June 26, 2020, pages 9-10.

¹¹³ Exhibit A, Test Claim, filed June 26, 2020, page 10.

¹¹⁴ Exhibit A, Test Claim, filed June 26, 2020, page 13.

¹¹⁵ Exhibit A, Test Claim, filed June 26, 2020, page 10.

¹¹⁶ Exhibit A, Test Claim, filed June 26, 2020, page 20.

¹¹⁷ Exhibit A, Test Claim, filed June 26, 2020, page 28 (Declaration of Albert Navas, Departmental Finance Manager, Registrar-Recorder/County Clerk).

and develop the application process, create internal working documents, and design and set up a website for the CRC.¹¹⁸

The claimant projects costs of \$100,000 for the RR/CC to review and track applications, answer phone calls, send emails, and direct the application process pursuant to Elections Code sections 21532(f)(1)(2) and 21532(e); \$250,000 to run a media campaign “to promote the application process and educate the public on the redistricting process” pursuant to Elections Code section 21532(b); \$5,000 to staff redistricting workshops pursuant to Elections Code sections 21532(a)-(e); and \$50,000 for County Counsel advice and miscellaneous expenses.¹¹⁹

The claimant also projects costs to the Commission Services Division of \$184,000 to find and reserve CRC meeting locations, schedule meetings, and prepare agendas, minutes, and supporting documents pursuant to Elections Code section 21534(c)(8); \$439,000 for a computerized database for CRC and public use pursuant to Elections Code section 21534(c)(7); and \$250,000 to launch and engage in a media campaign to encourage residents to participate in the redistricting public review process pursuant to Elections Code section 21534(c)(6).¹²⁰

The claimant projects additional costs of \$4,620 to secure public address systems, audio equipment, translation services, and assisted-hearing devices at public hearings pursuant to Elections Code section 21534(c); and \$250,000 to “procure a consultant to guide the CRC and ensure it meets timelines for final map submission” pursuant to Elections Code section 21534(d)(1)(2).¹²¹ The claimant projects a total of \$1,127,620 in costs for FY 2020-21.¹²²

In its rebuttal to Finance’s comments, the claimant reasserts that the test claim statute mandates compliance with a new program.¹²³ The claimant also argues that the two cases relied upon by Finance are not applicable to defeat the Test Claim. Both *City of Anaheim v. State of California*¹²⁴ and *San Diego Unified School District v. Commission on State Mandates*¹²⁵ involve

¹¹⁸ Exhibit A, Test Claim, filed June 26, 2020, pages 28-30 (Declaration of Albert Navas, Departmental Finance Manager, Registrar-Recorder/County Clerk).

¹¹⁹ Exhibit A, Test Claim, filed June 26, 2020, pages 20-21 and pages 28-30 (Declaration of Albert Navas, Departmental Finance Manager, Registrar-Recorder/County Clerk).

¹²⁰ Exhibit A, Test Claim, filed June 26, 2020, page 21 and pages 32-34 (Declaration of Twila Kerr, Chief of the Commission Services Division at the Executive Office of the Board of Supervisors).

¹²¹ Exhibit A, Test Claim, filed June 26, 2020, page 21 and pages 32-34 (Declaration of Twila Kerr, Chief of the Commission Services Division at the Executive Office of the Board of Supervisors).

¹²² Exhibit A, Test Claim, filed June 26, 2020, pages 32-34 (Declaration of Twila Kerr, Chief of the Commission Services Division at the Executive Office of the Board of Supervisors).

¹²³ Exhibit C, Claimant’s Late Rebuttal Comments, filed February 26, 2021, page 2.

¹²⁴ *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.

¹²⁵ *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859.

increased costs in an existing program whereas, the test claim statute creates a new program with activities that were not required of the claimant prior to the enactment of the test claim statute.¹²⁶

Finally, although the claimant agrees with the conclusion of the Draft Proposed Decision to approve the Test Claim, the claimant disagrees with the denial of reimbursement for the hiring of consultants. The claimant argues that the hiring of consultants is part of the requirement under Elections Code section 21534(c)(8) for the county to provide reasonable funding for the CRC. The claimant notes that Elections Code section 21533, which places a limit on who can be a consultant, demonstrates that the law “contemplates the engagement of consultants to support the CRC.”¹²⁷ Further, the claimant points to Elections Code section 21534(a), (b), and (d)(4), which requires the CRC to issue a report that explains the basis for the CRC’s decisions to ensure that the mapping process achieves compliance with the designated criteria, which are: the United States Constitution; the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.); geographic contiguity; geographic integrity of cities, neighborhoods, or communities of interest; and geographical compactness without regard to any incumbent, political candidate, or political party. As the claimant explains, “Each of the criteria set forth in (a) and (b) of Elections Code section 21534 requires an understanding of applicable law, legal and geographical concepts and practical applications, and subject matter expertise that compels the engagement of consultants in order to comply with the reporting requirements of Elections Code section 21534(d)(4).”¹²⁸ Moreover, the claimant states that the current CRC has already approved a solicitation for one consultant and is considering retaining another to perform the state-mandated activities. Thus the county must provide funding pursuant to Elections Code section 21534(c)(8) for consultants who are essential to the CRC in performing its work, which has been complicated by the delay in acquiring data due to the COVID-19 pandemic. To not provide reimbursement for such funding, places the CRC at risk not completing its redistricting and will leave the process open to legal challenge.¹²⁹

B. Department of Finance

Finance asserts that the test claim statute is not a reimbursable state mandate as the costs are not the result of a new program or higher level of service, but rather are merely increased costs for redistricting; an activity for which the claimant has always been responsible. Finance requests that reimbursement should be denied under *City of Anaheim v. State of California*,¹³⁰ holding increased costs alone do not result in a reimbursable state mandate and *San Diego Unified School*

¹²⁶ Exhibit C, Claimant’s Late Rebuttal Comments, filed February 26, 2021, pages 2-3.

¹²⁷ Exhibit E, Claimant’s Comments on the Draft Proposed Decision, filed April 5, 2021, page 2.

¹²⁸ Exhibit E, Claimant’s Comments on the Draft Proposed Decision, filed April 5, 2021, page 2.

¹²⁹ Exhibit E, Claimant’s Comments on the Draft Proposed Decision, filed April 5, 2021, pages 2-3.

¹³⁰ *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.

District v. Commission on State Mandates,¹³¹ holding reimbursement is not required if a statute merely implements a change that increases costs.¹³²

Finance argues that certain costs alleged by the claimant are not mandated by the test claim statute. The claimant’s projected costs of \$250,000 for a media campaign by the RR/CC and \$250,000 for a media campaign by the board are not required by the text of the test claim statute. Rather, Elections Code section 21534(c)(6)(A)-(C) addresses the steps the claimant may take to inform the public including “(p)roviding information through media, social media, and public service announcements.”¹³³ Also, Elections Code section 21533(d)(1) and (2) sets forth the qualifications for a consultant, but the test claim statute does not require the claimant to retain a consultant and the claimed cost of \$250,000 for the consultant should be denied.¹³⁴

IV. Discussion

Article XIII B, section 6 of the California Constitution provides in relevant part the following:

Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such programs or increased level of service....

The purpose of article XIII B, section 6 is to “preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”¹³⁵ Thus, the subvention requirement of section 6 is “directed to state-mandated increases in the services provided by [local government]”¹³⁶

Reimbursement under article XIII B, section 6 is required when the following elements are met:

1. A state statute or executive order requires or “mandates” local agencies or school districts to perform an activity.¹³⁷
2. The mandated activity constitutes a “program” that either:
 - a. Carries out the governmental function of providing a service to the public; or

¹³¹ *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859.

¹³² Exhibit B, Finance’s Comments on the Test Claim, filed December 28, 2020, pages 1-2.

¹³³ Exhibit B, Finance’s Comments on the Test Claim, filed December 28, 2020, page 2.

¹³⁴ Exhibit B, Finance’s Comments on the Test Claim, filed December 28, 2020, pages 2-3.

¹³⁵ *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

¹³⁶ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

¹³⁷ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874.

- b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.¹³⁸
- 3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.¹³⁹
- 4. The mandated activity results in the local agency or school district incurring increased costs, within the meaning of section 17514. Increased costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.¹⁴⁰

The Commission is vested with the exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution.¹⁴¹ The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.¹⁴² In making its decisions, the Commission must strictly construe article XIII B, section 6 of the California Constitution, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”¹⁴³

A. The Test Claim Was Timely Filed Pursuant to Government Code Section 17551 and Section 1183.1(c) of the Commission’s Regulations Because the Test Claim Was Filed Within Twelve Months of the Claimant First Incurring Costs to Comply with the Test Claim Statute.

Government Code section 17551(c) states: “test claims shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring costs as a result of a statute or executive order, whichever is later.” Section 1183.1(c) of the Commission’s regulations, effective April 1, 2020, clarifies that

any test claim or amendment filed with the Commission must be filed not later than 12 months (365 days) following the effective date of a statute or executive

¹³⁸ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875 (reaffirming the test set out in *County of Los Angeles* (1987) 43 Cal.3d 46, 56).

¹³⁹ *San Diego Unified School Dist.* (2004) 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835.

¹⁴⁰ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

¹⁴¹ *Kinlaw v. State of California* (1991) 53 Cal.3d 482, 487.

¹⁴² *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 109.

¹⁴³ *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1280 (citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817).

order, or within 12 months (365 days) of first incurring increased costs as a result of a statute or executive order, whichever is later.¹⁴⁴

The test claim statute became effective on January 1, 2017.¹⁴⁵ The claimant filed a declaration under penalty of perjury from the Finance Manager of the County Clerk's Office stating that the county first incurred costs to comply with the test claim statute on July 1, 2019.¹⁴⁶ The claimant filed this Test Claim on June 26, 2020, within 12 months of first incurring costs to comply with the test claim statute.¹⁴⁷

Accordingly, this Test Claim was timely filed pursuant to Government Code section 17551.

B. The Test Claim Statute Imposes a Reimbursable State-Mandated Program on the County of Los Angeles.

1. Elections Code Sections 21531, 21532, and 21534, as Added by the Test Claim Statute, Impose State-Mandated Requirements on the County of Los Angeles.

The test claim statute divests the claimant's board of supervisors of the authority to adjust supervisorial district lines and establishes and vests the authority with the CRC. The claimant is required by the test claim statute to create the CRC as follows:

- The CRC shall be created no later than December 31, 2020, and in each year ending in the number zero thereafter.¹⁴⁸
- The county elections official shall review the applications and eliminate applicants who do not meet the specified qualifications.¹⁴⁹
- From the pool of qualified applicants, the county elections official shall select 60 of the most qualified applicants, taking into account the requirements described in Elections Code section 21532(c) — that the political party preferences of the CRC members shall be as proportional as possible to the total number of voters who are registered with each political party in the county. The county elections official shall make public the names of the 60 most qualified applicants for at least 30 days.
- Thereafter, the county elections official shall create a subpool for each of the five existing supervisorial districts of the board.¹⁵⁰

¹⁴⁴ California Code of Regulations, title 2, section 1183.1(c), Register 2020, No. 4 (eff. April 1, 2020).

¹⁴⁵ Statutes 2016, chapter 781.

¹⁴⁶ Exhibit A, Test Claim, filed June 26, 2020, page 28 (Declaration of Albert Navas, Departmental Finance Manager, Registrar-Recorder/County Clerk).

¹⁴⁷ Exhibit A, Test Claim, filed June 26, 2020, page 1.

¹⁴⁸ Elections Code section 21532(a).

¹⁴⁹ Elections Code section 21532(e).

¹⁵⁰ Elections Code section 21532(f).

- At a regularly scheduled meeting of the board, the Auditor-Controller of the County of Los Angeles shall conduct a random drawing to select one commissioner from each of the five subpools established by the county elections official.
- After completing the random drawing of commissioners from each of the five subpools as set forth above, the Auditor-Controller, at the same meeting of the board, shall conduct a random drawing from all of the remaining applicants, without respect to subpools, to select three additional commissioners.¹⁵¹
- The board shall take all steps necessary to ensure that a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide to the public ready access to redistricting data and computer software equivalent to what is available to the CRC members.¹⁵²

In addition, the claimant is required to “provide for reasonable funding and staffing for the commission,”¹⁵³ and, thus, the requirements imposed on the CRC must be met at the expense of the claimant. These are as follows:

- The eight selected commissioners shall review the remaining names in the subpools of applicants and shall appoint six additional applicants to the CRC.¹⁵⁴
- In the year following the year in which the decennial federal census is taken, the CRC shall adjust the boundary lines of the supervisorial districts of the board in accordance with this chapter.¹⁵⁵ The CRC shall establish single-member supervisorial districts for the board pursuant to a mapping process using the following criteria as set forth in the following order of priority:
 - (1) Districts shall comply with the United States Constitution and each district shall have a reasonably equal population with other districts for the board, except where deviation is required to comply with the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.) or allowable by law.
 - (2) Districts shall comply with the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.).
 - (3) Districts shall be geographically contiguous.
 - (4) The geographic integrity of any city, local neighborhood, or local community of interest shall be respected in a manner that minimizes its division to the extent possible without violating the requirements of paragraphs (1) to (3), inclusive. A community of interest is a contiguous population that shares common social and economic interests that should be included within a single district for purposes of

¹⁵¹ Elections Code section 21532(g).

¹⁵² Elections Code section 21534(c)(7).

¹⁵³ Elections Code section 21534(c)(8).

¹⁵⁴ Elections Code section 21532(h).

¹⁵⁵ Elections Code section 21531.

its effective and fair representation. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.

(5) To the extent practicable, and where this does not conflict with paragraphs (1) to (4), inclusive, districts shall be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant areas of population.¹⁵⁶ The CRC shall adopt a redistricting plan adjusting the boundaries of the supervisorial districts and shall file the plan with the county elections official before August 15 of the year following the year in which each decennial federal census is taken.¹⁵⁷

- Before the CRC draws a map, the CRC shall conduct at least seven public hearings, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district.¹⁵⁸
- After the CRC draws a draft map, the CRC shall do both of the following:
 - Post the map for public comment on the website of the County of Los Angeles.
 - Conduct at least two public hearings to take place over a period of no fewer than 30 days.¹⁵⁹
- The CRC shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) when conducting these public hearings.¹⁶⁰
- The CRC shall establish and make available to the public a calendar of all public hearings described in Elections Code section 21534(c)(2) and (3).¹⁶¹
- Notwithstanding section 54954.2 of the Government Code — which requires the posting of an agenda 72 hours before a public meeting — the CRC shall post the agenda for the public hearings described in Elections Code section 21534(c)(2) and (3) at least seven days before the hearings. The agenda for a meeting required by Elections Code section 21534(c)(3) shall include a copy of the draft map.¹⁶²
- The CRC shall arrange for the live translation of a hearing held pursuant to this chapter in an applicable language if a request for translation is made at least 24 hours before the hearing. An “applicable language” means a language for which the number of residents

¹⁵⁶ Elections Code section 21534(a).

¹⁵⁷ Elections Code section 21534(d)(1).

¹⁵⁸ Elections Code section 21534(c)(2).

¹⁵⁹ Elections Code section 21534(c)(3).

¹⁶⁰ Elections Code section 21534(c)(1).

¹⁶¹ Elections Code section 21534(c)(4)(A).

¹⁶² Elections Code section 21534(c)(4)(B).

of the County of Los Angeles who are members of a language minority is greater than or equal to three percent of the total voting age residents of the county.¹⁶³

- The CRC shall take steps to encourage county residents to participate in the redistricting public review process.¹⁶⁴
- The CRC shall issue a report that explains the basis on which the CRC made its decisions in achieving compliance with the criteria described in Elections Code section 21534(a) and (b).¹⁶⁵ Section 21534(a) is the criteria for the mapping process, listed above. Section 21534(b) states: “The place of residence of any incumbent or political candidate shall not be considered in the creation of a map. Districts shall not be drawn for purposes of favoring or discriminating against an incumbent, political candidate, or political party.”

In addition, Elections Code section 21534(c)(9) states that “All records of the commission relating to redistricting, and all data considered by the commission in drawing a draft map or the final map, are public records.” Thus, the CRC, at the claimant’s expense pursuant to Elections Code section 21534(c)(8), is required to comply with the Public Records Act pursuant to Government Code section 6250 et seq., upon receipt of a public records request for these documents.

These requirements are mandated by the state. The county has no discretion and is forced to comply with these requirements.¹⁶⁶

Finance argues, however, that certain costs alleged by the claimant to encourage county residents to participate in the redistricting public review process are not mandated by the state. In particular, Finance questions the claimant’s projected costs of \$250,000 for a media campaign by the Registrar-Recorder/County Clerk and \$250,000 for a media campaign by the board, and asserts that these costs are not mandated by the test claim statute.¹⁶⁷ Finance’s interpretation of the statute is wrong. The statute states the following:

The commission shall take steps to encourage county residents to participate in the redistricting public review process. These steps may include:

(A) Providing information through media, social media, and public service announcements.

(B) Coordinating with community organizations.

(C) Posting information on the Internet Web site of the County of Los Angeles that explains the redistricting process and includes a notice of each public

¹⁶³ Elections Code section 21534(c)(5).

¹⁶⁴ Elections Code section 21534(c)(6).

¹⁶⁵ Elections Code section 21534(d)(4).

¹⁶⁶ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874.

¹⁶⁷ Exhibit B, Finance’s Comments on the Test Claim, filed December 28, 2020, page 2.

hearing and the procedures for testifying during a hearing or submitting written testimony directly to the commission.¹⁶⁸

The statute uses the term “may” regarding the types of steps that the CRC can take, but uses the word “shall” regarding the requirement for the CRC to take steps. So, while the CRC has the option of which steps to take, it has no choice but to take steps to encourage participation as mandated by the state.

Accordingly, Elections Code sections 21531, 21532, and 21534 impose state-mandated requirements on the claimant.

2. Elections Code Sections 21530, 21533, and 21535 Do Not Impose Any Requirements or State-Mandated Costs on the Citizens Redistricting Commission or the Claimant and Thus the Costs Incurred to Comply with These Code Sections Are Not Eligible for Reimbursement.

Elections Code sections 21530, 21533, and 21535 impose no requirements on the claimant. Elections Code section 21530 contains only definitions of “Board,” “Commission,” and “Immediate family member.”

Elections Code section 21533 sets forth the terms of office, rules for establishing a quorum, designates CRC members as employees for purposes of the conflict of interest code adopted by the County of Los Angeles, and imposes limits on the hiring of consultants by the CRC (by stating that “[t]he commission shall not retain a consultant who would not be qualified as an applicant pursuant to paragraph (4) of subdivision (d) of Section 21532.”) The claimant requests reimbursement for the costs incurred for consultants retained by the CRC and argues that having consultants is essential to the CRC completing its work timely, accurately, and in compliance with the requirements of Elections Code section 21534(a), (b), and (d)(4).¹⁶⁹ Elections Code section 21534(a) requires the CRC to establish single-member supervisorial districts every ten years for the board pursuant to a mapping process, which complies with the U.S. Constitution, the federal Voting Rights Act, and other requirements to ensure that the geographic compactness and the integrity of any city be respected. Elections Code section 21534(b) states the following: “The place of residence of any incumbent or political candidate shall not be considered in the creation of a map.” Districts shall not be drawn for purposes of favoring or discriminating against an incumbent, political candidate, or political party.” And section 21524(d)(4) requires the CRC to “issue a report that explains the basis on which the CRC made its decisions in achieving compliance with the redistricting criteria required to comply with the Voting Rights Act.”

Elections Code section 21533, however, does not require the CRC to hire consultants and leaves that decision to the discretion of the CRC. Although the claimant is required by Elections Code section 21534(c)(8) to provide reasonable funding to the CRC, which may include paying for a consultant hired by the CRC to help with the adjustment of district boundaries, the courts have made it clear that “[n]othing in article XIII B prohibits the shifting of costs between local

¹⁶⁸ Elections Code section 21534(c)(6).

¹⁶⁹ Exhibit A, Test Claim, filed June 26, 2020, pages 20-21; Exhibit E, Claimant’s Comments on the Draft Proposed Decision, filed April 5, 2021, pages 2-3.

governmental entities.”¹⁷⁰ In this respect, the *City of San Jose* case is instructive. *City of San Jose* involved the City’s request for reimbursement to comply with Government Code section 29550. Section 29550 states in relevant part: “Notwithstanding any other provision of law, a county may impose a fee upon a city, [or other local entity], for reimbursement of county expenses incurred with respect to the booking or other processing of persons arrested by an employee of that city, ... where the arrested persons are brought to the county jail for booking or detention.”¹⁷¹ The court found that although the city may be required to incur costs it did not formerly incur if the county exercised its authority, the court could not read a mandate into language which is plainly discretionary.¹⁷² The court also found that the financial and administrative responsibility associated with the operation of county jails and detention of prisoners was historically borne entirely by the county and not by the state and, therefore, the shift of costs to the city was from the county and not the state.¹⁷³

Similarly, Elections Code section 21533 and the remaining test claim code sections do not mandate the CRC to hire consultants. If the CRC does hire consultants, it is required to comply with the limitation in Elections Code section 21533 to make sure the consultant would be qualified as a commission member of the CRC (“The commission shall not retain a consultant who would not be qualified as an applicant pursuant to paragraph (4) of subdivision (d) of Section 21532.”). And as explained in the next section, the requirements to adopt a redistricting proposal and adjust the supervisorial boundaries in accordance with the law every ten years, even with the help of consultants, are not new. Local agencies have long been required to perform these activities.¹⁷⁴

Therefore, hiring consultants is not mandated by the state. The claimant, however, may request consultant costs for inclusion in the Parameters and Guidelines. If such a request is supported by substantial evidence in the record showing the activity to hire consultants is “reasonably necessary for the performance of the state-mandated program,” in accordance with Government Code section 17557(a), and California Code of Regulations, title 2, sections 1183.7(d) and 1187.5, the activity may be considered and approved.

Elections Code section 21535 provides for a period of ineligibility to hold elected or appointed public offices after their term on the CRC has ended and imposes no requirements on the claimant or the CRC.

Accordingly, Elections Code sections 21530, 21533, and 21535 do not impose any requirements or state-mandated costs on the CRC or the claimant and, thus, any costs incurred to comply with these code sections are not eligible for reimbursement.

¹⁷⁰ *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1815.

¹⁷¹ *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1808.

¹⁷² *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1815-1816.

¹⁷³ *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1812-1813.

¹⁷⁴ Elections Code section 21500 as added by Statutes 1994, chapter 920 and amended by Statutes 2015, chapter 732, section 36; Elections Code section 21507 as added by Statutes 2014, chapter 873.

3. Many State-Mandated Activities Imposed by Elections Code Sections 21532 and 21534 Constitute a New Program or Higher Level of Service. However, the Requirements and Costs Imposed by Elections Code Sections 21531 and 21534(a), (c)(9), and (d)(1)-(3) to Adjust the Supervisorial Boundaries and Adopt a Redistricting Plan Every Ten Years, and Comply with the Public Records Act Are Not New and Do Not Impose a New Program or Higher Level of Service.

For a statute to be subject to subvention, the mandated activity must constitute a “program” that either a) carries out the governmental function of providing a service to the public; or b) imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.¹⁷⁵ A mandated activity is new when the statute in question is compared with the legal requirements in effect immediately before the enactment of the statute and the activity increases the level of service provided to the public.¹⁷⁶

- a. Elections Code Sections 21532 and 21534 Impose New Mandated Activities on the Claimant. However, the Requirements Imposed by Elections Code Sections 21531 and 21534(a), (c)(9), and (d)(1)-(3) to Adjust the Supervisorial Boundaries, Adopt a Redistricting Plan, and Comply with the Public Records Act Are Not New.

Under prior law, the claimant’s board of supervisors adjusted the district boundary lines every ten years.¹⁷⁷ As a result of the test claim statute, the claimant is now required to create the CRC to perform the supervisorial redistricting. The new mandated activities imposed on the claimant in forming the CRC are as follows:

- The county shall create a CRC no later than December 31, 2020, and in each year ending in the number zero thereafter.¹⁷⁸
- The elections official shall review the applications and eliminate applicants who do not meet the specified qualifications, select 60 of the most qualified applicants, publish the list of qualified applicants for 30 days, and create a subpool for each of the five existing supervisorial districts of the board.¹⁷⁹

¹⁷⁵ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875 [reaffirming *County of Los Angeles* (1987) 43 Cal.3d 46, 56]; *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537-538.

¹⁷⁶ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835.

¹⁷⁷ Elections Code section 21500 as added by Statutes 1994, chapter 920 and amended by Statutes 2015, chapter 732, section 36.

¹⁷⁸ Elections Code section 21532(a).

¹⁷⁹ Elections Code section 21532(e)-(g).

- At a regularly scheduled meeting of the board, the Auditor-Controller conducts a random drawing to select one commissioner from each of the five subpools, then another random drawing from all of the remaining applicants to select three additional commissioners.¹⁸⁰
- The board shall take all steps necessary to ensure a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide to the public ready access to redistricting data and computer software equivalent to what is available to the CRC.¹⁸¹
- The eight selected commissioners shall review the remaining names in the subpools of applicants and shall appoint six additional applicants to the CRC.¹⁸²

These requirements mandated by Elections Code sections 21532 and 21534(c)(7) to create the CRC, to ensure a computerized database is available for redistricting, and to provide the public ready access to the redistricting data and computer software equivalent to what is available to the CRC, were not required by prior law and are newly imposed on the claimant itself and through the CRC since the county board of supervisors is required by Elections Code section 21534(c)(8) to fund and provide staff for the CRC.

However, some of the activities required to adopt a plan and adjust boundary lines of the supervisorial districts every ten years are the same as prior law and are *not* new. The test claim statute requires:

- In the year following the year in which the decennial federal census is taken, the CRC shall adjust the boundary lines of the supervisorial districts of the board in accordance with this chapter.¹⁸³
- The CRC shall establish single-member supervisorial districts for the board pursuant to a mapping process using the following criteria as set forth in the following order of priority:
 - (1) Districts shall comply with the United States Constitution and each district shall have a reasonably equal population with other districts for the board, except where deviation is required to comply with the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.) or allowable by law.
 - (2) Districts shall comply with the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.).
 - (3) Districts shall be geographically contiguous.
 - (4) The geographic integrity of any city, local neighborhood, or local community of interest shall be respected in a manner that minimizes its division to the extent possible without violating the requirements of paragraphs (1) to (3), inclusive.

¹⁸⁰ Elections Code section 21532(g).

¹⁸¹ Elections Code section 21534(c)(7).

¹⁸² Elections Code section 21532(h).

¹⁸³ Elections Code section 21531.

(5) To the extent practicable, and where this does not conflict with paragraphs (1) to (4), inclusive, districts shall be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant areas of population.¹⁸⁴

- The CRC shall adopt a redistricting plan adjusting the boundaries of the supervisorial districts and shall file the plan with the county elections official before August 15 of the year following the year in which each decennial federal census is taken.¹⁸⁵
- All records of the CRC relating to redistricting, and all data considered by the CRC in drawing a draft map or the final map, are public records and subject to the Public Records Act.¹⁸⁶

Under prior law, the claimant was also required to adopt a redistricting proposal and adjust the district boundaries every ten years. Prior law required the following:

- Following each decennial federal census, and using that census as a basis, the board shall adjust the boundaries of any or all of the supervisorial districts of the county so that the supervisorial districts shall be as nearly equal in population as may be and shall comply with the applicable provisions of Section 10301 of Title 52 of the United States Code, as amended. In establishing the boundaries of the supervisorial districts the board may give consideration to the following factors: (a) topography, (b) geography, (c) cohesiveness, contiguity, integrity, and compactness of territory, and (d) community of interests of the supervisorial districts.¹⁸⁷
- Before adjusting the boundaries of a district pursuant to Section 21500, 21503, or 21504, or for any other reason, the board shall hold at least one public hearing on the proposal to adjust the boundaries of the district prior to the public hearing at which the board votes to approve or defeat the proposal.¹⁸⁸

Both prior law and the test claim statute require adjustment of the boundaries of the supervisorial districts in the year following the federal census. Both set forth criteria that must be met, but the stated criteria are somewhat different. In comparing them, the first requirement under prior law and the test claim statute is equality of population in each district which is required by *Reynolds v. Sims*¹⁸⁹ where the U.S. Supreme Court held that “the Equal Protection Clause guarantees the opportunity for equal participation by all voters in the election of state legislators” and dilution of the vote “impairs basic constitutional rights under the Fourteenth Amendment.”¹⁹⁰ The

¹⁸⁴ Elections Code section 21534(a).

¹⁸⁵ Elections Code section 21534(d).

¹⁸⁶ Elections Code section 21534(c)(9).

¹⁸⁷ Elections Code section 21500 as added by Statutes 1994, chapter 920 and amended by Statutes 2015, chapter 732, section 36.

¹⁸⁸ Elections Code section 21507 as added by Statutes 2014, chapter 873.

¹⁸⁹ *Reynolds v. Sims* (1964) 377 U.S. 533.

¹⁹⁰ *Reynolds v. Sims* (1964) 377 U.S. 533, 566.

second requirement under prior law and the test claim statute is the same for both: compliance with the Voting Rights Act of 1965. The test claim statute includes three requirements — geographically contiguous districts; districting that respects the geographic integrity of cities, local neighborhoods, or local communities of interest; and geographically compact districts — similar to the prior law’s considerations of topography, geography, cohesiveness, contiguity, integrity, and compactness of territory, and communities of interest. Each of these, whether requirements or considerations, is a step toward ensuring compliance with the Voting Rights Act of 1965 and away from gerrymandering. Despite the small variance in language, both the prior law and the test claim statute set forth the process of redistricting using the mapping process to ensure compliance with the Voting Rights Act.

Thus, the requirements imposed by Elections Code sections 21531 and 21534(a) and (d)(1)-(3) to adjust the supervisorial boundaries and adopt a redistricting plan are not new.

In addition, the claimant was subject to the Public Records Act under prior law and, thus, the activity and costs to comply with the Public Records Act for the records of the CRC relating to redistricting, and all data considered by the CRC in drawing a draft map or the final map pursuant to Elections Code section 21534(c)(9), are not new. The Public Records Act defines “public records” broadly to include “any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.”¹⁹¹ Moreover, even if the Public Records Act requirements were found to be new, on June 3, 2014, before the test claim statute was enacted, voters approved Proposition 42, which added paragraph 7 to article I, section 3(b) to the California Constitution to require local agencies “to comply with the California Public Records Act (Chapter 3.5 (commencing with Section 6250).” Proposition 42 also amended section 6(a) of article XIII B of the California Constitution, by adding paragraph 4 to provide “that the Legislature may, but need not, provide a subvention of funds for . . . legislative mandates contained in statutes within the scope of paragraph (7) of subdivision (b) of section 3 of article I.” Thus, the costs would not be eligible for reimbursement in any event.

Nevertheless, the test claim statute mandates the CRC to conduct more hearings before adopting a redistricting plan than were required under prior law, and mandates some additional activities as part of the redistricting process.

Under prior law, the board of supervisors was required to have one public hearing before the hearing in which the board was scheduled to vote and adopt the proposal:

Before adjusting the boundaries of a district pursuant to Section 21601, 21603, or 21604, or for any other reason, the council shall hold at least one public hearing on the proposal to adjust the boundaries of the district prior to the public hearing at which the council votes to approve or defeat the proposal.¹⁹²

The test claim statute mandates the CRC, at the expense of the claimant, to conduct at least eight more hearings before adopting the final plan and map, and mandates the CRC to perform the following additional activities as part of the redistricting process:

¹⁹¹ Government Code section 6252 as last amended by Statutes 2015, chapter 537.

¹⁹² Elections Code section 21507 as added by Statutes 2014, chapter 873.

- Conduct at least seven public hearings before drafting a map, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district.¹⁹³
- Post the draft map for public comment on the website of the County of Los Angeles and conduct at least two more public hearings on the draft map (one more than prior law).¹⁹⁴
- Comply with the Ralph M. Brown Act for these public hearings¹⁹⁵ and yet, notwithstanding the Ralph M. Brown Act, the CRC shall post the agenda for the public hearings at least seven days before the hearing.¹⁹⁶
- Establish and make available to the public a calendar of all public hearings.¹⁹⁷
- Arrange for the live translation of a hearing in an applicable language (defined as “a language for which the number of residents of the County of Los Angeles who are members of a language minority is greater than or equal to 3 percent of the total voting age residents of the county”) if a request for translation is made at least 24 hours before the hearing.¹⁹⁸
- Take steps to encourage county residents to participate in the redistricting public review process.¹⁹⁹
- Issue a report that explains the basis on which the CRC made its decisions in achieving compliance with the redistricting criteria required to comply with the Voting Rights Act.²⁰⁰

As indicated above, the hearings conducted by the CRC are subject to the Ralph M. Brown Act. The Ralph M. Brown Act requires local government to ensure that their meetings are noticed and open to the public. The Act requires that an agenda be posted 72 hours prior to the meeting in a location that is freely accessible to members of the public and on the local agency’s website, and which includes a brief general description of each item of business to be transacted or discussed.²⁰¹

At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including

¹⁹³ Elections Code section 21534(c)(2).

¹⁹⁴ Elections Code section 21534(c)(3)(A)-(B).

¹⁹⁵ Elections Code section 21534(c)(1).

¹⁹⁶ Elections Code section 21534(c)(4)(B).

¹⁹⁷ Elections Code section 21534(c)(4)(A).

¹⁹⁸ Elections Code section 21534(c)(5).

¹⁹⁹ Elections Code section 21534(c)(6).

²⁰⁰ Elections Code section 21534(d)(4).

²⁰¹ Government Code section 54954.2.

items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's Internet Web site, if the local agency has one. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.²⁰²

The Ralph M. Brown Act applies to "legislative bodies" which includes "[t]he governing body of a local agency or *any other local body created by state or federal statute*."²⁰³ Thus, the Ralph M. Brown Act would have applied to the CRC whether or not the test claim statute stated as such. The Ralph M. Brown Act applied to all meetings held by the board of supervisors under prior law, including the public hearings on redistricting. But under prior law, the board of supervisors was only required to have one public hearing before the adoption of the redistricting plan.²⁰⁴ Although the requirements of the Ralph M. Brown Act are not new on their face, the test claim statute mandates at least eight more hearings than were required under prior law. The Ralph M. Brown Act requirements associated with those additional required hearings are new and are newly imposed on the claimant by the state since the county board of supervisors is required by Elections Code section 21534(c)(8) to fund and provide staff for the CRC.

Similarly, the CRC is required by the test claim statute to arrange for the live translation of a hearing in an applicable language if a request for translation is made at least 24 hours before the hearing. Under existing law, the Dymally-Alatorre Bilingual Services Act places requirements on state and local government to provide services in languages other than English.²⁰⁵ Specifically, local public agencies, "serving a substantial number of non-English-speaking people" are required to employ "qualified bilingual persons in public contact positions or as interpreters to assist those in such positions."²⁰⁶ Local public agency is defined to include "a county, . . . or any board, commission or agency thereof, or any other local public agency."²⁰⁷ Although the CRC is a separate entity from the claimant, it would still fall under the catch-all "any other local public agency" of the Dymally-Alatorre Bilingual Services Act. The Act does not specifically require translation services as set forth in the test claim statute for public hearings. Assuming, however, that the requirement to employ bilingual persons to act as

²⁰² Government Code section 54954.2(a)(1).

²⁰³ Government Code section 54952(a). Emphasis added.

²⁰⁴ Elections Code section 21507 as added by Statutes 2014, chapter 873.

²⁰⁵ Government Code section 7290 et seq.

²⁰⁶ Government Code section 7293.

²⁰⁷ Government Code section 54951.

interpreters indirectly requires translation services at public hearings, the CRC is only required to provide such services to the extent that the CRC serves a “substantial number” of non-English speakers. The Act does not quantify a “substantial number” for local public agencies, but instead leaves the agency to make that determination.²⁰⁸ The Act does provide that state agencies must provide services in languages other than English when the non-English speakers comprise five per cent or more of the population being served.²⁰⁹ Even if this were applicable to the CRC, the test claim statute requires “the live translation of a hearing held pursuant to this chapter in an applicable language if a request for translation is made at least 24 hours before the hearing” where “an ‘applicable language’ means a language for which the number of residents of the County of Los Angeles who are members of a language minority is greater than or equal to 3 percent of the total voting age residents of the county.”²¹⁰ Although the requirements of the Dymally-Alatorre Bilingual Services Act are not new on their face, the test claim statute requires at least eight more hearings than were required under prior law and as part of those additional hearings, the CRC is required to arrange for the live translation of a hearing in an applicable language if a request for translation is made at least 24 hours before the hearing. These requirements are new and are newly mandated on the claimant since the county board of supervisors is required by Elections Code section 21534(c)(8) to fund and provide staff for the CRC.

Accordingly, Elections Code sections 21532 and 21534, as added by the test claim statute, impose the following new mandated activities on the claimant:

- The county shall create a CRC no later than December 31, 2020, and in each year ending in the number zero thereafter.²¹¹
- The elections official shall review the applications and eliminate applicants who do not meet the specified qualifications, select 60 of the most qualified applicants, publish the list of qualified applicants for 30 days, and create a subpool for each of the five existing supervisorial districts of the board.²¹²
- At a regularly scheduled meeting of the board, the Auditor-Controller conducts a random drawing to select one commissioner from each of the five subpools, then another random drawing from all of the remaining applicants to select three additional commissioners.²¹³
- The board shall take all steps necessary to ensure a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide to the

²⁰⁸ Government Code sections 7293 and 7295.

²⁰⁹ Government Code section 7596.2.

²¹⁰ Government Code section 21534(c)(5).

²¹¹ Elections Code section 21532(a).

²¹² Elections Code section 21532(e)-(g).

²¹³ Elections Code section 21532(g).

public ready access to redistricting data and computer software equivalent to what is available to the CRC.²¹⁴

In addition, based on Elections Code section 21534(c)(8), which requires the claimant to provide reasonable funding and staffing to the CRC, the following activities mandated by Elections Code sections 21532 and 21534 are newly imposed on the claimant:

- The eight selected commissioners shall review the remaining names in the subpools of applicants and shall appoint six additional applicants to the CRC.²¹⁵
- Conduct at least seven public hearings before drafting a map, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district.²¹⁶
- Post the draft map for public comment on the website of the County of Los Angeles and conduct one public hearing on the draft map (in addition to the one hearing required under prior law, which is not reimbursable).²¹⁷
- Comply with the Ralph M. Brown Act for these public hearings.²¹⁸ This includes posting an agenda seven days prior to the hearing in a location that is freely accessible to members of the public and on the website, and which includes a brief general description of each item of business to be transacted or discussed in accordance with Government Code section 54954.2.
- Establish and make available to the public a calendar of all public hearings.²¹⁹
- Arrange for the live translation of a hearing in an applicable language (defined as “a language for which the number of residents of the County of Los Angeles who are members of a language minority is greater than or equal to three percent of the total voting age residents of the county”) if a request for translation is made at least 24 hours before the hearing.²²⁰
- Take steps to encourage county residents to participate in the redistricting public review process.²²¹

²¹⁴ Elections Code section 21534(c)(7).

²¹⁵ Elections Code section 21532(h).

²¹⁶ Elections Code section 21534(c)(2).

²¹⁷ Elections Code section 21534(c)(3)(A)-(B).

²¹⁸ Elections Code sections 21534(c)(1); 21534(c)(4)(B).

²¹⁹ Elections Code section 21534(c)(4)(A).

²²⁰ Elections Code section 21534(c)(5).

²²¹ Elections Code section 21534(c)(6).

- Issue a report that explains the basis on which the CRC made its decisions in achieving compliance with the redistricting criteria required to comply with the Voting Rights Act.²²²

b. The New Mandated Activities Imposed by Elections Code Sections 21532 and 21534 Are Unique to Government and Provide a Service to the Public and Therefore Impose a New Program or Higher Level of Service.

As set forth above, the test claim statute imposes new activities on the claimant necessary to create, staff, and fund the CRC. For the test claim statute to constitute a new program or higher level of service, it must either a) carry out the governmental function of providing a service to the public; or b) or impose unique requirements on local government that do not apply generally to all residents and entities in the state.²²³ The term “program,” therefore, has “two alternative meanings,” and “only one of these [alternatives] is necessary to trigger reimbursement.”²²⁴

In this case, the test claim statute meets both alternative tests. The test claim statute carries out the government function of redistricting and requires an independent redistricting commission. The purpose of redistricting is protection of the voters’ rights under the U.S. Constitution, the California Constitution, and the federal and state Voting Rights Acts. Redistricting by the CRC serves the county residents by ensuring fair representation and that their vote is not diluted to favor any particular group or political party.²²⁵ Further, the test claim statute only applies to the County of Los Angeles, a political subdivision of the State of California. It does not apply to any other residents or entities in the state. Thus, the test claim statute satisfies the requirement of being a new program or higher level of service.

Finance asserts that the test claim statute does not impose a new program or higher level of service, but rather merely increased costs for redistricting, an activity for which the claimant has always been responsible. Finance relies on *City of Anaheim v. State of California*,²²⁶ holding increased costs alone do not result in a reimbursable state mandate and *San Diego Unified School District v. Commission on State Mandates*,²²⁷ holding reimbursement is not required if a statute merely implements a change that increases costs.²²⁸ Finance’s reliance on these cases is misplaced.

In *City of Anaheim v. State of California*, the city sought to obtain reimbursement from a change in law that required the Public Employees’ Retirement System (PERS) to increase pension

²²² Elections Code section 21534(d)(4).

²²³ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875 [reaffirming the test set forth in *County of Los Angeles* (1987) 43 Cal.3d 46, 56].

²²⁴ *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537.

²²⁵ Exhibit F, Senate Rules Committee, Office of the Senate Floor Analyses, Third Reading of Senate Bill 958 (2015-2016 Reg. Sess.), August 30, 2016, page 5.

²²⁶ *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.

²²⁷ *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859.

²²⁸ Exhibit B, Finance’s Comments on the Test Claim, filed December 28, 2020, pages 1-2.

payments to retired public employees. The city claimed that it had to contribute to the fund at a higher rate as a result of PERS' compliance with the new law. The city's case failed because the change in law did not impose any mandated activities upon the city and the city experienced only increased costs in the absence of having to provide a new program or higher level of service.²²⁹ Here, the test claim statute imposes a number of new mandated activities on the claimant as set forth above. There was no requirement in prior law that the claimant create the CRC charged with redistricting.

In *San Diego Unified School District v. Commission on State Mandates*, the school district sought to obtain reimbursement for the increased costs to comply with the requirements for mandatory and discretionary expulsion of students.²³⁰ The court explained "that simply because a state law or order may *increase the costs* borne by local government *in providing services*, this does not necessarily establish that the law or order constitutes an *increased or higher level* of the resulting 'service to the public' under article XIII B, section 6, and Government Code section 17514."²³¹ With regard to discretionary expulsions, the court held that the statutes merely implemented federal law and, to the extent that the state added requirements, the costs to comply with them were de minimis and should be considered part of the underlying federal mandate.²³² *San Diego Unified* does not apply here. The test claim statute imposes a new state mandated program on the claimant to establish and fund an independent redistricting commission, which provides a service to the public, as explained above, by ensuring fair representation and that a vote is not diluted to favor any particular group or political party.

Accordingly, the new activities mandated by Elections Code Sections 21532 and 21534 constitute a new program or higher level of service.

4. The Activities Mandated by Elections Code Section 21534(c)(1) and (c)(4)(B) to Comply with the Brown Act Do Not Impose Costs Mandated by the State Pursuant to Article XIII B, Section 6(a)(4) of the California Constitution. The Remaining New Activities Mandated by Elections Code Section 21532 and 21534 Impose Increased Costs Mandated by the State Pursuant to Article XIII B, Section 6, and Government Code Section 17514.

Government Code section 17514 defines "costs mandated by the state" as any increased cost that a local agency or school district incurs as a result of any statute or executive order that mandates a new program or higher level of service. Government Code section 17564(a) further requires that no claim shall be made nor shall any payment be made unless the claim exceeds \$1,000.

²²⁹ *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478, 1482.

²³⁰ *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 866.

²³¹ *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 877. Emphasis in the original.

²³² *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 889-890.

The claimant claims costs of \$35,533.18 “related to planning the CRC’s application and selection process” and \$1,268.91 for having “designed and developed the CRC application process, created internal working documents, and designed and set up a CRC website.”²³³

The application and selection process of the CRC is a requirement mandated on the claimant by the test claim statute. The costs incurred by this requirement far exceed the required \$1,000, and are supported by substantial evidence in the record.

Article XIII B, section 6(a)(4) of the California Constitution states, however, that:

Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates:

[¶]

(4) Legislative mandates contained in statutes within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I.

And, Article I, section 3(b)(7) provides:

(7) In order to ensure public access to the meetings of public bodies and the writings of public officials and agencies, as specified in paragraph (1), each local agency is hereby required to comply with the *California Public Records Act* (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the *Ralph M. Brown Act* (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), and with any subsequent statutory enactment amending either act, enacting a successor act, or amending any successor act that contains findings demonstrating that the statutory enactment furthers the purposes of this section.²³⁴

The Ralph M. Brown Act applies to all local agencies and “any other local body created by state statute,” and therefore applies to the CRC.²³⁵ Therefore, costs incurred to comply with the California Public Records Act and the Brown Act are specifically exempted from the subvention requirement by the California Constitution.

Therefore, there are *no* costs mandated by the state pursuant to article XIII B, section 6(a)(4), and reimbursement is not required for the following activities required by Elections Code sections 21534(c)(1); 21534(c)(4)(B):

²³³ Exhibit A, Test Claim, filed June 26, 2020, page 20 and pages 28-30 (Declaration of Albert Navas, Departmental Finance Manager, Registrar-Recorder/County Clerk).

²³⁴ Emphasis added.

²³⁵ Government Code section 54952(a).

- Comply with the Ralph M. Brown Act when conducting the additional public hearings.²³⁶ This includes posting an agenda seven days prior to the hearing in a location that is freely accessible to members of the public and on the website, and which includes a brief general description of each item of business to be transacted or discussed in accordance with Government Code section 54954.2.

Accordingly, the Commission finds that the following new state-mandated activities required by Elections Code sections 21532 and 21534 impose increased costs mandated by the state pursuant to article XIII B, section 6 and Government Code section 17514:

- The county shall create a CRC no later than December 31, 2020, and in each year ending in the number zero thereafter.²³⁷
- The elections official shall review the applications and eliminate applicants who do not meet the specified qualifications, select 60 of the most qualified applicants, publish the list of qualified applicants for 30 days, and create a subpool for each of the five existing supervisorial districts of the board.²³⁸
- At a regularly scheduled meeting of the board, the Auditor-Controller conducts a random drawing to select one commissioner from each of the five subpools, then another random drawing from all of the remaining applicants to select three additional commissioners.²³⁹
- The board shall take all steps necessary to ensure a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide to the public ready access to redistricting data and computer software equivalent to what is available to the CRC.²⁴⁰

In addition, based on Elections Code section 21534(c)(8), which requires the claimant to provide reasonable funding and staffing to the CRC, the following activities mandated by Elections Code sections 21532 and 21534 impose increased costs mandated by the state on the claimant:

- The eight selected commissioners shall review the remaining names in the subpools of applicants and shall appoint six additional applicants to the CRC.²⁴¹
- Conduct at least seven public hearings before drafting a map, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district.²⁴²

²³⁶ Elections Code sections 21534(c)(1); 21534(c)(4)(B).

²³⁷ Elections Code section 21532(a).

²³⁸ Elections Code section 21532(e)-(g).

²³⁹ Elections Code section 21532(g).

²⁴⁰ Elections Code section 21534(c)(7).

²⁴¹ Elections Code section 21532(h).

²⁴² Elections Code section 21534(c)(2).

- Post the draft map for public comment on the website of the County of Los Angeles²⁴³ and conduct one public hearing on the draft map (in addition to the one hearing required under prior law, which is not reimbursable).²⁴⁴
- Establish and make available to the public a calendar of all public hearings.²⁴⁵
- Arrange for the live translation of a hearing in an applicable language (defined as “a language for which the number of residents of the County of Los Angeles who are members of a language minority is greater than or equal to 3 percent of the total voting age residents of the county”) if a request for translation is made at least 24 hours before the hearing.²⁴⁶
- Take steps to encourage county residents to participate in the redistricting public review process.²⁴⁷
- Issue a report that explains the basis on which the CRC made its decisions in achieving compliance with the redistricting criteria required to comply with the Voting Rights Act.²⁴⁸

V. Conclusion

Based on the foregoing analysis, the Commission partially approves this Test Claim and finds that Elections Code sections 21532 and 21534 as added by the test claim statute impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution for the following activities:

- The county shall create a CRC no later than December 31, 2020, and in each year ending in the number zero thereafter.²⁴⁹
- The elections official shall review the applications and eliminate applicants who do not meet the specified qualifications, select 60 of the most qualified applicants, publish the list of qualified applicants for 30 days, and create a subpool for each of the five existing supervisorial districts of the board.²⁵⁰

²⁴³ Elections Code section 21534(c)(3)(A).

²⁴⁴ Elections Code section 21534(c)(3)(B).

²⁴⁵ Elections Code section 21534(c)(4)(A).

²⁴⁶ Elections Code section 21534(c)(5).

²⁴⁷ Elections Code section 21534(c)(6).

²⁴⁸ Elections Code section 21534(d)(4).

²⁴⁹ Elections Code section 21532(a).

²⁵⁰ Elections Code section 21532(e)-(g).

- At a regularly scheduled meeting of the board, the Auditor-Controller conducts a random drawing to select one commissioner from each of the five subpools, then another random drawing from all of the remaining applicants to select three additional commissioners.²⁵¹
- The board shall take all steps necessary to ensure a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide to the public ready access to redistricting data and computer software equivalent to what is available to the CRC.²⁵²

In addition, based on Elections Code section 21534(c)(8), which requires the claimant to provide reasonable funding and staffing to the CRC, the following activities mandated by Elections Code sections 21532 and 21534 impose increased costs mandated by the state on the claimant:

- The eight selected commissioners shall review the remaining names in the subpools of applicants and shall appoint six additional applicants to the CRC.²⁵³
- Conduct at least seven public hearings before drafting a map, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district.²⁵⁴
- Post the draft map for public comment on the website of the County of Los Angeles and conduct one public hearing on the draft map (in addition to the one hearing required under prior law, which is not reimbursable).²⁵⁵
- Establish and make available to the public a calendar of all public hearings.²⁵⁶
- Arrange for the live translation of a hearing in an applicable language (defined as “a language for which the number of residents of the County of Los Angeles who are members of a language minority is greater than or equal to 3 percent of the total voting age residents of the county”) if a request for translation is made at least 24 hours before the hearing.²⁵⁷
- Take steps to encourage county residents to participate in the redistricting public review process.²⁵⁸

²⁵¹ Elections Code section 21532(g).

²⁵² Elections Code section 21534(c)(7).

²⁵³ Elections Code section 21532(h).

²⁵⁴ Elections Code section 21534(c)(2).

²⁵⁵ Elections Code section 21534(c)(3)(A)-(B).

²⁵⁶ Elections Code section 21534(c)(4)(A).

²⁵⁷ Elections Code section 21534(c)(5).

²⁵⁸ Elections Code section 21534(c)(6).

- Issue a report that explains the basis on which the CRC made its decisions in achieving compliance with the redistricting criteria required to comply with the Voting Rights Act.²⁵⁹

All other code sections added by the test claim statute and activities alleged to be mandated in the Test Claim are denied.

²⁵⁹ Elections Code section 21534(d)(4).

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On June 8, 2021, I served the:

- **Decision adopted May 28, 2021**

County of Los Angeles Citizens Redistricting Commission, 19-TC-04
Elections Code Sections 21530, 21531, 21532, 21533, 21534, and 21535 as added by
Statutes 2016, Chapter 781 (SB 958)
County of Los Angeles, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on June 8, 2021 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 6/8/21

Claim Number: 19-TC-04

Matter: County of Los Angeles Citizens Redistricting Commission

Claimant: County of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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June 8, 2021

Mr. Fernando Lemus
 County of Los Angeles
 Auditor-Controller's Office
 500 West Temple Street
 Los Angeles, CA 90012

Ms. Natalie Sidarous
 State Controller's Office
 Local Government Programs and
 Services Division
 3301 C Street, Suite 740
 Sacramento, CA 95816

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Draft Expedited Parameters and Guidelines, Schedule for Comments, and Notice of Hearing

County of Los Angeles Citizens Redistricting Commission, 19-TC-04
 Elections Code Sections 21532(a) and (e)-(h) and
 21534(c)(2), (c)(3)(A)-(B), (c)(4)(A), (c)(5)-(8) and (d)(4)
 Statutes 2016, Chapter 781 (SB 958)
 County of Los Angeles, Claimant

Dear Mr. Lemus and Ms. Sidarous:

On May 28, 2021, the Commission on State Mandates (Commission) adopted the Decision partially approving the Test Claim on the above-entitled matter.

State law provides that reimbursement, if any, is subject to Commission approval of parameters and guidelines for reimbursement of the mandated program, approval of a statewide cost estimate, a specific legislative appropriation for such purpose, a timely-filed claim for reimbursement, and subsequent review of the reimbursement claim by the State Controller's Office.

Following is a description of the responsibilities of all parties and of the Commission during the parameters and guidelines phase.

Draft Expedited Parameters and Guidelines

Pursuant to California Code of Regulations, title 2, section 1183.9, Commission staff has expedited the parameters and guidelines process by preparing Draft Expedited Parameters and Guidelines to assist the claimant. The proposed reimbursable activities have been limited to those approved in the Decision by the Commission. Reasonably necessary activities to perform the mandated activities may be proposed by the parties. (Cal. Code Regs., tit. 2, §1183.7(d).) "Reasonably necessary activities" are those activities necessary to comply with the statutes, regulations and other executive orders found to impose a state-mandated program (Cal. Code Regs., tit. 2, §1183.7(d).) Whether an activity is reasonably necessary is a mixed question of law and fact. All representations of fact to support any proposed reasonably necessary activities shall be supported by documentary evidence submitted in accordance with section 1187.5 of the Commission's regulations.

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 Commission\Correspondence\Draft Expedited Ps&Gstrans.docx

Review of Draft Expedited Parameters and Guidelines

Proposed modifications and comments may be filed on the Draft Expedited Parameters and Guidelines no later than **5:00 pm on June 29, 2021**. (Cal. Code Regs., tit. 2, §1183.9(b).) Please note that all representations of fact submitted to the Commission must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge, information, or belief. (Cal. Code Regs., tit. 2, §1187.5.) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.¹

Rebuttals

Written rebuttals may be filed within 15 days of service of comments. (Cal. Code Regs., tit. 2, § 1183.9(c).)

Draft Proposed Decision and Parameters and Guidelines

If there are no substantive comments filed by the comment deadline, then no Draft Proposed Decision will be prepared or issued for comment and the matter will be set for the next regularly scheduled hearing, pursuant to section 1183.9(d) of the Commission's regulations. If substantive comments are filed, Commission staff will review the Draft Expedited Parameters and Guidelines, comments, and any rebuttals and will prepare a Draft Proposed Decision and Parameters and Guidelines, which will be issued for comment.

Alternative Process: Joint Reasonable Reimbursement Methodology and Statewide Estimate of Costs

Test Claimant and Department of Finance Submission of Letter of Intent

Within 30 days of the Commission's adoption of a decision on a test claim, the test claimant and the Department of Finance may notify the executive director of the Commission in writing of their intent to follow the process described in Government Code sections 17557.1–17557.2 and section 1183.11 of the Commission's regulations to develop a *joint reasonable reimbursement methodology* and *statewide estimate of costs* for the initial claiming period and budget year for reimbursement of costs mandated by the state. The written notification shall provide all information and filing dates as specified in Government Code section 17557.1(a).

Test Claimant and Department of Finance Submission of Draft Reasonable Reimbursement Methodology and Statewide Estimate of Costs

Pursuant to the plan, the test claimant and the Department of Finance shall submit the *Draft Reasonable Reimbursement Methodology and Statewide Estimate of Costs* to the Commission. See Government Code section 17557.1 for guidance in preparing and filing a timely submission.

Review of Proposed Reasonable Reimbursement Methodology and Statewide Estimate of Costs

Upon receipt of the jointly developed proposals, Commission staff shall notify all recipients that they shall have the opportunity to review and provide written comments concerning the draft

¹ Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

reasonable reimbursement methodology and proposed statewide estimate of costs within 15 days of service. The test claimant and Department of Finance may submit written rebuttals to Commission staff.

Adoption of Reasonable Reimbursement Methodology and Statewide Estimate of Costs

At least 10 days prior to the next hearing, Commission staff shall review comments and rebuttals and issue a staff recommendation on whether the Commission should approve the draft reasonable reimbursement methodology and adopt the proposed statewide estimate of costs pursuant to Government Code section 17557.2.

Alternative Process: Reasonable Reimbursement Methodology Proposed for Inclusion in Parameters and Guidelines

Government Code section 17518.5 provides a process for a reasonable reimbursement methodology to be proposed by the Department of Finance, the State Controller, an affected state agency, the claimant, or an interested party for inclusion in the parameters and guidelines of an amendment to parameters and guidelines. In this context, Government Code section 17518.5 defines “reasonable reimbursement methodology” as a formula for reimbursing local agencies and school districts for costs mandated by the state, as defined in Section 17514 which shall:

- Be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies and school districts, or other projections of local costs.
- Consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner, and
- Whenever possible, be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.

You are advised that comments filed with the Commission are required to be electronically filed (e-filed) in an unlocked legible and searchable PDF file, using the Commission’s Dropbox. (Cal. Code Regs., tit. 2, § 1181.3(c)(1).) Refer to http://www.csm.ca.gov/dropbox_procedures.php on the Commission’s website for electronic filing instructions. If e-filing would cause the filer undue hardship or significant prejudice, filing may occur by first class mail, overnight delivery or personal service only upon prior approval of a written request to the executive director. (Cal. Code Regs., tit. 2, § 1181.3(c)(2).)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission’s regulations.

Mr. Lemus and Ms. Sidarous
June 8, 2021
Page 4

Hearing

The Proposed Decision and Parameters and Guidelines for this matter are tentatively set for hearing on **Friday, September 24, 2021**, but may be heard on July 23, 2021 at 10:00 a.m. if no substantive comments are filed by the comment deadline.

Sincerely,

A handwritten signature in blue ink, appearing to read "Heather Halsey", with a stylized flourish extending to the right.

Heather Halsey
Executive Director

DRAFT EXPEDITED PARAMETERS AND GUIDELINES

Elections Code Sections 21532(a) and (e)-(h) and
21534(c)(2), (c)(3)(A)-(B), (c)(4)(A), (c)(5)-(8) and (d)(4)

Statutes 2016, Chapter 781 (SB 958)

County of Los Angeles Citizens Redistricting Commission

19-TC-04

Period of reimbursement begins July 1, 2018

I. SUMMARY OF THE MANDATE

These Parameters and Guidelines address Statutes 2016, Chapter 781, which added Elections Code sections 21530 through 21535 to require the claimant to create, staff, and fund the independent County of Los Angeles Citizens Redistricting Committee (CRC) to adjust the boundary lines of the supervisorial districts in the County of Los Angeles in the year following the year of the decennial federal census.

On May 28, 2021, the Commission on State Mandates (Commission) adopted the Test Claim Decision finding that the test claim statute imposes a partially reimbursable state-mandated program upon the County of Los Angeles within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities:

- The county shall create a CRC no later than December 31, 2020, and in each year ending in the number zero thereafter.¹
- The elections official shall review the applications and eliminate applicants who do not meet the specified qualifications, select 60 of the most qualified applicants, publish the list of qualified applicants for 30 days, and create a subpool for each of the five existing supervisorial districts of the board.²
- At a regularly scheduled meeting of the board, the Auditor-Controller conducts a random drawing to select one commissioner from each of the five subpools, then another random drawing from all of the remaining applicants to select three additional commissioners.³
- The board shall take all steps necessary to ensure a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide to the

¹ Elections Code section 21532(a).

² Elections Code section 21532(e)-(g).

³ Elections Code section 21532(g).

public ready access to redistricting data and computer software equivalent to what is available to the CRC.⁴

In addition, based on Elections Code section 21534(c)(8), which requires the claimant to provide reasonable funding and staffing to the CRC, the following activities mandated by Elections Code sections 21532 and 21534 and performed by the CRC impose a reimbursable state-mandated program on the claimant:

- The eight selected commissioners shall review the remaining names in the subpools of applicants and shall appoint six additional applicants to the CRC.⁵
- Conduct at least seven public hearings before drafting a map, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district.⁶
- Post the draft map for public comment on the website of the County of Los Angeles and conduct one public hearing on the draft map (in addition to the one hearing required under prior law, which is not reimbursable).⁷
- Establish and make available to the public a calendar of all public hearings.⁸
- Arrange for the live translation of a hearing in an applicable language (defined as “a language for which the number of residents of the County of Los Angeles who are members of a language minority is greater than or equal to three percent of the total voting age residents of the county”) if a request for translation is made at least 24 hours before the hearing.⁹
- Take steps to encourage county residents to participate in the redistricting public review process.¹⁰
- Issue a report that explains the basis on which the CRC made its decisions in achieving compliance with the redistricting criteria required to comply with the Voting Rights Act.¹¹

The Commission denied all other code sections added by the test claim statute and activities alleged to be mandated in the Test Claim. Specifically, the Commission found that Elections Code sections 21530, 21533, and 21535 do *not* impose any state-mandated requirements on the claimant, but rather generally define terms and limit the hiring of consultants by the CRC to help

⁴ Elections Code section 21534(c)(7).

⁵ Elections Code section 21532(h).

⁶ Elections Code section 21534(c)(2).

⁷ Elections Code section 21534(c)(3)(A)-(B).

⁸ Elections Code section 21534(c)(4)(A).

⁹ Elections Code section 21534(c)(5).

¹⁰ Elections Code section 21534(c)(6).

¹¹ Elections Code section 21534(d)(4).

with the adjustment of district boundaries. Although the claimant is required by Elections Code section 21534(c)(8) to provide reasonable funding to the CRC, which may include paying for a consultant hired by the CRC, the courts have made it clear that “[n]othing in article XIII B prohibits the shifting of costs between local governmental entities.”¹²

In addition, the requirements imposed by Elections Code sections 21531 and 21534(a), (c)(9), and (d)(1)-(3) to adjust supervisorial boundary lines, adopt a redistricting plan every ten years; and to comply with the Public Records Act are *not* new and do not impose a new program or higher level of service on the claimant.¹³

Finally, the Commission found that the activities required by Elections Code section 21534(c)(1) and (c)(4)(B) to comply with the Ralph M. Brown Act for the public hearings conducted by the CRC are *not* eligible for reimbursement pursuant to article XIII B, section 6(a)(4). Article XIII B, section 6(a)(4) states that “the Legislature may, but need not, provide a subvention of funds for the following mandates: . . . Legislative mandates contained in statutes within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I.” Article I, section 3(b) of the California Constitution requires local agencies to comply with the Ralph M. Brown Act, beginning with Government Code section 54950. The Brown Act applies to all local agencies and “any other local body created by state statute,” and therefore applies to the CRC.¹⁴

II. ELIGIBLE CLAIMANTS

Only the County of Los Angeles is eligible to claim reimbursement.

III. PERIOD OF 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 claimant filed the Test Claim on June 26, 2020, establishing eligibility for reimbursement for the 2018-2019 fiscal year. Therefore, costs incurred are reimbursable on or after July 1, 2018.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller (Controller) within 120 days of the issuance date for the claiming instructions.

¹² *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1815.

¹³ California Constitution, article I, sections 3(b) and 7; California Constitution, article II, section 2.5; California Constitution, article XIII B, section 6(a); Elections Code sections 14025-14032 as added by Statutes 2002, chapter 129; Elections Code section 21500 as added by Statutes 1994, chapter 920 and amended by Statutes 2015, chapter 732, section 36; Elections Code section 21507 as added by Statutes 2014, chapter 873; Government Code section 6252 as last amended by Statutes 2015, chapter 537; and *Reynolds v. Sims* (1964) 377 U.S. 533, 566.

¹⁴ Government Code section 54952(a).

3. Pursuant to Government Code section 17560(a), a local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code §17560(b).)
5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564(a).
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event, or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, “I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct,” and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

A. Creation of the Citizens Redistricting Commission (CRC).¹⁵

1. The county shall create a CRC no later than December 31, 2020, and in each year ending in the number zero thereafter.¹⁶

¹⁵ The county is required to form a CRC every ten years. (Elections Code section 21532(a).) The terms of the prior CRC members terminate with the appointment of the first member of the succeeding CRC. (Elections Code section 21533(b).) Therefore, the activities must be repeated with each new CRC.

¹⁶ Elections Code section 21532(a).

2. The elections official shall review the applications and eliminate applicants who do not meet the specified qualifications, select 60 of the most qualified applicants, publish the list of qualified applicants for 30 days, and create a subpool for each of the five existing supervisorial districts of the board.¹⁷
 3. At a regularly scheduled meeting of the board, the Auditor-Controller conducts a random drawing to select one commissioner from each of the five subpools, then another random drawing from all of the remaining applicants to select three additional commissioners.¹⁸
 4. The board shall take all steps necessary to ensure a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide to the public ready access to redistricting data and computer software equivalent to what is available to the CRC.¹⁹
- B. Activities Performed by the CRC.²⁰ Based on Elections Code section 21534(c)(8), which requires the County of Los Angeles to provide reasonable funding and staffing to the CRC, the following activities mandated by the test claim statute and performed by the CRC are eligible for reimbursement:
1. The eight selected commissioners shall review the remaining names in the subpools of applicants and shall appoint six additional applicants to the CRC.²¹
 2. Conduct at least seven public hearings before drafting a map, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district.²²
- Reimbursement is **not** required to comply with the Ralph M. Brown Act when conducting these hearings pursuant to article XIII B, section 6(a)(4) of the California Constitution. Thus, the following activities are not eligible for reimbursement: posting a notice and agenda (Government Code section 54954.2), mailing agenda items to the public (Government Code section 54954.1), and complying with the Americans with Disabilities Act for the hearing (54953.2).*

¹⁷ Elections Code section 21532(e)-(g).

¹⁸ Elections Code section 21532(g).

¹⁹ Elections Code section 21534(c)(7).

²⁰ Boundary lines of the supervisorial districts in the County of Los Angeles must be drawn in the year following the year of the decennial federal census. (Elections Code section 21531.) In addition, the county is required to form a CRC every ten years. (Elections Code section 21532(a).) The terms of the prior CRC members terminate with the appointment of the first member of the succeeding CRC. (Elections Code section 21533(b).) Therefore, the activities must be repeated by each new CRC.

²¹ Elections Code section 21532(h).

²² Elections Code section 21534(c)(2).

3. Post the draft map for public comment on the website of the County of Los Angeles and conduct one public hearing on the draft map (in addition to the one hearing required under prior law, which is not reimbursable).²³

*Reimbursement is **not** required to comply with the Ralph M. Brown Act when conducting the hearing on the draft map pursuant to article XIII B, section 6(a)(4) of the California Constitution. Thus, the following activities are not eligible for reimbursement: posting a notice and agenda (Government Code section 54954.2), mailing agenda items to the public (Government Code section 54954.1), and complying with the Americans with Disabilities Act for the hearing (54953.2).*

4. Establish and make available to the public a calendar of all public hearings.²⁴
5. Arrange for the live translation of a hearing in an applicable language (defined as “a language for which the number of residents of the County of Los Angeles who are members of a language minority is greater than or equal to three percent of the total voting age residents of the county”) if a request for translation is made at least 24 hours before the hearing.²⁵
6. Take steps to encourage county residents to participate in the redistricting public review process.²⁶
7. Issue a report that explains the basis on which the CRC made its decisions in achieving compliance with the redistricting criteria required to comply with the Voting Rights Act.²⁷

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV., Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by

²³ Elections Code section 21534(c)(3)(A)-(B).

²⁴ Elections Code section 21534(c)(4)(A).

²⁵ Elections Code section 21534(c)(5).

²⁶ Elections Code section 21534(c)(6).

²⁷ Elections Code section 21534(d)(4).

productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

B. Indirect Cost Rates

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) 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.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed pursuant to this chapter²⁸ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV., must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

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, other state funds, and other funds that are not the claimant's proceeds of taxes shall be identified and deducted from this claim.

²⁸ This refers to title 2, division 4, part 7, chapter 4 of the Government Code.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local governments in claiming costs to be reimbursed. The claiming instructions shall be derived from these parameters and guidelines and the decisions on the test claim and parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561(d)(1), issuance of the claiming instructions shall constitute a notice of the right of the eligible claimants to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of an eligible claimant, the Commission shall review the claiming instructions issued by the Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557(d), and California Code of Regulations, title 2, section 1183.17.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The decisions adopted for the test claim and parameters and guidelines are legally binding on all parties and interested parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On June 8, 2021, I served the:

- **Draft Expedited Parameters and Guidelines, Schedule for Comments, and Notice of Hearing issued June 8, 2021**

County of Los Angeles Citizens Redistricting Commission, 19-TC-04
Elections Code Sections 21532(a) and (e)-(h) and
21534(c)(2), (c)(3)(A)-(B), (c)(4)(A), (c)(5)-(8) and (d)(4)
Statutes 2016, Chapter 781 (SB 958)
County of Los Angeles, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on June 8, 2021 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 6/8/21

Claim Number: 19-TC-04

Matter: County of Los Angeles Citizens Redistricting Commission

Claimant: County of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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**COUNTY OF LOS ANGELES
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EXHIBIT C

RECEIVED
July 29, 2021
**Commission on
State Mandates**

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July 29, 2021

Via Drop Box

Ms. Heather Halsey
Executive Director
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980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms. Halsey:

**COMMENTS ON THE DRAFT EXPEDITED PARAMETERS
AND GUIDELINES TO THE COUNTY'S
SB 958 TEST CLAIM 19-TC-04**

The County of Los Angeles ("Claimant") submits the attached Comments on the Draft Expedited Parameters and Guidelines to our *SB 958, Citizens Redistricting Commission* Test Claim.

If you have any questions please call me, or your staff may contact Fernando Lemus at (213) 974-0324 or via e-mail at flemus@auditor.lacounty.gov.

Very truly yours,

Arlene Barrera
Auditor-Controller

AB:OV:CY:EB:EW:FL

Attachments

**COMMENTS ON THE DRAFT EXPEDITED PARAMETERS AND GUIDELINES TO
THE COUNTY'S SB 958 TEST CLAIM 19-TC-04**

On May 28, 2021, the Commission on State Mandates (Commission) adopted the Decision partially approving the Test Claim (TC) on Senate Bill (SB) 958, *County of Los Angeles Citizens Redistricting Commission* (CRC). The County of Los Angeles (Claimant or County) has reviewed the Commission's Draft Expedited Parameters and Guidelines and presents the following Comment for your review and consideration.

A. The 14-member CRC Could Not Exist Without Reasonable Staffing and Support

The Commission determined that Elections Code (EC) § 21534(c)(8) requires Claimant to provide reasonable funding and staffing to the CRC. Further, the Commission stated that the following activities mandated by EC §§ 21532 and 21534 and performed by the CRC impose a reimbursable state-mandated program on Claimant:

- The eight elected commissioners shall review the remaining names in the subpools of applicants and shall appoint six additional applicants to the CRC.
- Conduct at least seven public hearings before drafting a map, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district.
- Post a draft map for public comment on the website of the County and conduct one public hearing on the draft map (in addition to the one hearing required under prior law, which was not reimbursable).
- Establish and make available to the public a calendar of all public hearings.
- Arrange for the live translation of a hearing in an applicable language for which the number of residents of the County who are members of a language minority is greater than or equal to three percent of the total voting-age residents of the County if a request for translation is made at least 24 hours before the hearing.
- Take steps to encourage County residents to participate in the redistricting public review process.
- Issue a report that explains the basis on which the CRC made its decisions in achieving compliance with the criteria described in EC § 21534 (a) and (b).

SB 958 requires that the CRC be wholly independent from the County from the initial selection of the commissioners to the actual performance of their redistricting responsibilities. Accordingly, Claimant contracted with Gayla Kraetsch Hartsough of KH Consulting Group (KH) to serve as an independent Executive Director (ED) to guide and support the CRC's redistricting responsibilities without supervision by County personnel or the Board of Supervisors. (See Declaration of Gayla Kraetsch Hartsough.)

The necessity of an ED for implementation of the mandates stated in EC §§ 21532 and 21534 cannot be overstated. The ED is responsible for guiding and supporting the CRC

in establishing five single-member supervisorial districts consistent with extensive requirements set forth in SB 958. The ED works with the CRC's Independent Legal Counsel to establish a comprehensive work plan of deliverables and activities with target dates to meet the delivery of the final redistricting report referenced in EC § 21532(d)(3). (See Declaration of Gayla Kraetsch Hartsough.) In order to guide and support the CRC, the ED is charged with understanding all legal mandates and requirements that the CRC must accomplish and also determine what specific staff and technical support the CRC needs in order to successfully complete the mandated activities as set forth in SB 958 and have been deemed reimbursable by the Commission. (See Declaration of Gayla Kraetsch Hartsough.) Further, the ED provides oversight, guidance, staffing, and technical resources to support the CRC's mandate of meeting the redistricting guideline requirements in producing a final map and redistricting report by December 15, 2021.

The ED's activities are reasonably necessary to perform the requirements of the CRC pursuant to California Code of Regulations Section 1183.7(d). The mandated activities under EC § 21534 require the CRC to establish single-member supervisorial districts that comply with the United States Constitution, adhere to population equality as determined by the 2020 census, comply with the federal Voting Rights Act of 1965, assure geographic integrity of any city or local neighborhood and, to the extent practical, districts must be drawn to encourage geographical compactness. The ED's activities allow the CRC to receive training on topics necessary for compliance with EC § 23154. (See Declaration of Gayla Kraetsch Hartsough.)

The mandatory requirements and responsibilities of the CRC pursuant to SB 958 far exceeded what was required of the advisory commission in 2011 to prepare redistricting maps. (See Declaration of Gayla Kraetsch Hartsough, Table 1.) Upon consultation with the CRC, and in recognition of the need to engage necessary sub-consultants and subject matter experts to fulfill the requirements of SB 958, the ED proposed processes, procedures, and facilitated retention of the necessary consultants, including data and mapping analysis, technical assistance, administrative support, global information system (GIS) expertise, media strategy, and other contingency support services. (See Declaration of Gayla Kraetsch Hartsough.) The mandates in SB 958 substantially raised the redistricting bar in the County and placed significant responsibilities on the shoulders of the 14 unpaid citizen commissioners serving on the CRC, and it would be unreasonable for the CRC to not seek assistance of consultants, and unreasonable if the County refused to provide funding for consultants.

The costs associated with hiring the ED are reasonable in order for Claimant to perform its mandated duties under SB 958. The Commission contends that, while Claimant is obligated to provide reasonable funding to the CRC, "the courts have made it clear that '[n]othing in article XIII B prohibits the shifting of costs between local government entities.'" The Court merely states that Article XIII B does not establish any affirmative limitations on local entity cost-sharing without any corroboration or authority. The case cited by the Commission, *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, does not apply to the facts and law related to SB 958. The facts in *City of San Jose*

involve shifting costs between State and local entities, not on shifting costs between local entities. Furthermore, drawing County supervisorial district boundaries is an activity unique to the County and involves costs that cannot be shifted to other municipalities.

Claimant respectfully requests that the Commission find the activities performed by the ED and sub-consultants are reasonably necessary to perform the mandated activities in EC §§ 21532(a) and (e) -(h) and 21534(c)(2), (c)(3)(A)-(B), (c)(4)(A), (c)(5)-(8), and (d)(4), and find that these costs should be included under the Parameters and Guidelines.

County of Los Angeles Citizens Redistricting Commission, 19-TC-04
Draft Expedited Parameters & Guidelines
Declaration of Gayla Kraetsch Hartsough

I, Gayla Kraetsch Hartsough, declare under the penalty of perjury under the laws of the State of California that the following is true and correct based on my personal knowledge, information, and belief:

1. My firm, KH Consulting Group (KH), is under contract with the County of Los Angeles Executive Office. As part of the contract, I have held the title of Executive Director of the Los Angeles County Citizens Redistricting Commission (LA County CRC) since December 2020.
2. As the LA County CRC Executive Director and consultant to the LA County CRC, Elections Code section 21533(d) requires that I meet the same conflict of interest requirements as Commissioners in Elections Code section 21532(d)(4), and the County required that I meet all of the other qualifications in Elections Code section 21532(d) (see Attachment A).
3. My duties include guiding the LA County CRC in establishing five single-member supervisorial districts consistent with the requirements set forth in Senate Bill 958, which added Elections Code Sections 21530 to 21535.
4. I work with the LA County CRC's Independent Legal Counsel to establish with and for the LA County CRC, self-regulatory guidelines, including the Bylaws and structure of the LA County CRC, as well as roles such as Co-Chairs and Ad Hoc Working Groups and their respective Leaders or Co-Leaders. To date, the Commissioners have established five Ad Hoc Working Groups (discussed further in Table 1).
5. I work with the LA County CRC and Independent Legal Counsel to establish a comprehensive work plan of deliverables and timeline of activities with target dates to meet the delivery of the final redistricting report referenced in Elections Code Section 21534(d)(3).
6. With the guidance of our Independent Legal Counsel, I am charged with understanding all legal mandates and requirements to be met by the LA County CRC to meet its goals and objectives and determining specific staff and technical supports to be provided to the LA County CRC.
7. I provide oversight, guidance, and needed support staffing and technical resources to support the LA County CRC goals to meet the redistricting

guideline requirements in producing a final map and redistricting report by December 15, 2021.¹

8. At the LA County CRC's request, I hired demographer consultants on behalf of the LA County CRC and am assisting the Commissioners in evaluating the potential to hire a Racially Polarized Voting (RPV) Subject Matter Expert (SME). I will work with these resources to help the Commissioners prepare redistricting maps that comply with Elections Code section 21534(a) and (b).
9. In addition, I developed and executed an orientation and training plan, in coordination with the LA County CRC's Independent Legal Counsel, for the LA County CRC to meet their legal redistricting mandates.
10. The LA County CRC's Independent Legal Counsel has focused on training regarding the Brown Act, Rosenberg Rules of Order, ethics, the California Public Records Act, etc.
11. The Executive Director's focus is on training, by identifying SMEs to speak on topics of importance to the Commissioners (e.g., Voting Rights Act), as well as providing guidance on the format for the regular meeting and public hearings, mapping tools, logistics, etc. (see Elections Code Section 21534).
12. Upon consultation with the LA County CRC and in recognition of the need to engage necessary sub-consultants and SMEs to fulfill the requirements of SB 958, I proposed processes, procedures, and facilitated retention of the necessary consultants, including data and mapping analysis, technical assistance, administrative support, global information system (GIS) expertise, media strategy, and other contingency support services.
13. The LA County CRC is a first in the County's history, requiring that new protocols be established. We are working to design an approach that can be built upon in future decades.
14. Due to the State's mandate that the LA County CRC be independent from the Los Angeles County Board of Supervisors, I function as an independent Executive Director and take direction from the LA County CRC. I am not subject to direction or supervision from County personnel or the Board of Supervisors on matters related to the redistricting process. See Elections Code Section 21532.
15. The mandatory requirements and responsibilities of the LA County CRC pursuant to Senate Bill 958 far exceed what was required in 2011 to prepare

¹ Elections Code § 21534(d)(3) states, "the commission shall issue, with the final map, a report that explains the basis on which the commission made its decisions in achieving compliance with the criteria described in subdivisions (a) and (b)."

redistricting maps. Table 1 delineates these differences in the work requirements in 2011 versus 2021 with an independent LA County CRC:

Table 1: Differences in 2011 BRC and 2021 LA County CRC Mandated Requirements

2011 Boundary Review Committee	2021 LA County CRC (Independent)
Board of Supervisors appointed 10 members and 10 alternates to the Boundary Review Committee (BRC).²	<p>The Executive Director worked with the initial 8 randomly selected Commissioners to select the other 6 Commissioners. The Executive Director:</p> <ul style="list-style-type: none"> ▪ Designed a selection process for the additional 6 commissioners, building on input from the Commissioners ▪ Conducted and tabulated surveys of Commission evaluations of applicants ▪ Facilitated the 4 CRC meetings to select the final Commissioners
BRC framework was already established.	<p>The Executive Director worked with the Independent Legal Counsel to develop the Bylaws for the newly formed LA County CRC:</p> <ul style="list-style-type: none"> ▪ Facilitated the CRC meetings into late January 2021 until Bylaws were written, and Co-Chairs were selected
LA County provided the Esri software mapping tool free of charge and built the data sets. LA County's GIS County staff worked directly with the BRC. The County retained David Ely of Compass Demographics as its demographer.	<p>Again, LA County is providing the Esri software mapping tool free of charge and building the data sets. The Executive Director and KH staff and subcontractors serve as the liaisons with the involved LA County departments. KH and our staff and subcontractors will work directly with the Commissioners to build the maps they want.</p> <ul style="list-style-type: none"> ▪ The County again retained David Ely of Compass Demographics as its demographer to build data sets. ▪ The LA County CRC (through KH) has retained ARCBridge as its demographer to assist in fulfilling the mandatory requirements and responsibilities of SB 958.

² Two members and two alternates are nominated by each Supervisor and appointed by the full Board of Supervisors.

2011 Boundary Review Committee	2021 LA County CRC (Independent)
BRC members were not replaced in the event of a vacancy.	To ensure a quorum, the LA County CRC has maintained 14 Commissioners. When one resigned, the Executive Director had to verify that target highly qualified applicants were still available, residents of LA County, and continued to have no conflicts of interest. Once the replacement Commissioner was sworn in, the Executive Director provided individualized onboarding training. (This process will reoccur if other Commissioners resign in the coming months.)
No social media used; relied on website for information dissemination.	<p>The LA County CRC is aggressively promoting meetings and public hearings to reach Los Angeles County's diverse populations. In addition to the LA County CRC website, the Executive Director:</p> <ul style="list-style-type: none"> ▪ Has established a LA County CRC Facebook page and Twitter account ▪ Sends routine bulletins through GovDelivery to more than 7,000 e-mails ▪ Built an outreach toolkit for community-based organizations, cities, and other governmental agencies to use ▪ Works with community-based organizations to solicit input on methods to promote meetings and public hearings and help spread the word
Established a public calendar of meetings, released mapping software, and conducted a public hearing.	Senate Bill 958 also requires that the LA County CRC establish and make available to the public a calendar. It delineates further that the calendar should include all public hearings scheduled at various times and days of the week to accommodate a variety of work schedules and to reach as large an audience as possible. In addition, the Executive Director coordinates our calendar for public hearings with the California CRC and other CRCs to avoid conflicting schedules for the public.

2011 Boundary Review Committee	2021 LA County CRC (Independent)
Developed and implemented Promotional Plan to encourage county residents to participate in the redistricting public review process.	The Executive Director developed and implemented a Public Outreach Plan to increase participation, focusing on community-based organizations, cities, and governmental agencies to help spread the word; conducts ongoing meetings with such groups to engage them in the outreach process; and coordinates speaking engagements for the Commissioners.
Time period of involvement was approximately 6 months.	Time period of involvement is at least 12 months.
The BRC met approximately monthly for about 2 hours – a total about 6 to 8 meetings (total of 12 to 16 hours).	The LA County CRC meets at least twice monthly, frequently more often – most meetings are 2 to 3 hours in length. Over a 12-month period, this totals more than 108 hours. In addition, each meeting requires between 4 to 6 hours of preparation time (equating to an additional 216 and 324 hours).
County staff conducted 10 community meetings on behalf of the BRC. 1-2 public hearings were held before the Board of Supervisors regarding the proposed BRC mapping option(s).	Senate Bill 958 requires a minimum of 9 public hearings: 7 public hearings before the Commission draws map options and 2 public hearings to solicit input once the Commission prepares map options. The LA County CRC will hold 12 or more public hearings to be responsive, combined with ongoing input from Communities of Interest (COI). With each public hearing comes additional costs for: <ul style="list-style-type: none"> ▪ Preparing agenda, minutes, recordings, etc. ▪ Summarizing public input ▪ Translation services ▪ Technical and administrative support for each hearing
Director was a County employee who devoted approximately 50% of his time to this effort.	The Executive Director (KH) dedicates close to 100% of her time to the LA County CRC effort.
County personnel handled the meeting logistics.	KH handles the meeting logistics. In the LA County CRC Bylaws, the Commissioners selected KH's consultant, Thai V. Le, to be their Clerk, in addition to his other assignments to provide GIS and

2011 Boundary Review Committee	2021 LA County CRC (Independent)
No Racially Polarized Voting Analysis was done.	<p>technical support, including coordination of the LA County mapping software, training plan, and roll out of the software.</p> <p>The Commissioners identified the need to retain SMEs to perform Racially Polarized Voting (RPV) Analysis prior to developing map options and the final map.</p>
County Counsel provided legal advice.	<p>County Counsel retained an Independent Legal Lawyer and firm to preserve the LA County CRC's independence. The Executive Director reviews and approves the Independent Legal Counsel's unredacted invoices and submits redacted invoices to LA County for payment.</p>
The BRC had no working committees or working groups.	<p>The LA County CRC has multiple Ad Hoc Working Groups which the Executive Director and KH staff and consultants support, including:</p> <ul style="list-style-type: none"> ▪ Demography ▪ Outreach ▪ Education (Speakers' Series) for Commissioners ▪ Values ▪ Selection of Replacement Commissioners
The County handled the IT issues.	<p>KH staff has had to coordinate on behalf of the Commissioners their IT issues with LA County systems (e.g., emails, mapping tools, website).</p>
All BRC meetings and public hearings were held at the Kenneth Hahn Hall of Administration.	<p>Because of the pandemic, the meetings from December 2020 through July 2021 have been virtual.</p> <p>Beginning in August 2021, more meetings will be a hybrid meeting model, which combines Webinar formats with in-person meeting and public hearing sites. This hybrid meeting model is more time-consuming and complex to administer since both the Webinar and in-person requirements must be met.</p>

16. Based on the above, the mandatory requirements and responsibilities of the LA County CRC necessitated the hiring of an Executive Director for the 14 unpaid citizen commissioners of the LA County CRC.

I have personal knowledge of the foregoing facts and information presented in this Test Claim and, if so required, I could and would testify to the statements made herein.

Executed this 27th day of July 2021, in Los Angeles, CA.



Gayla Kraetsch Hartsough, Ph.D.
Executive Director
County of Los Angeles Citizens Redistricting Commission

Attachment A

Elections Code Section 21532(d) Qualification Requirements

1. Be a resident of the County of Los Angeles.
2. Be a voter who has been continuously registered in the County of Los Angeles with the same political party or no party preference and who has not changed their political party or no party preference for five or more years.
3. Have voted in at least one of the last three statewide elections.
4. Within the 10 years, neither the applicant nor an immediate family member of the applicant has:
 - a. Been appointed to, elected to, or have been a candidate for office at the local, state, or federal level representing the County of Los Angeles, including as a member of the board;
 - b. Served as an employee of, or paid consultant for, an elected representative at the local, state, or federal level representing the County of Los Angeles;
 - c. Served as an employee of, or paid consultant for, a candidate for office at the local, state, or federal level representing the County of Los Angeles;
 - d. Served as an officer, employee, or paid consultant of a political party or as an appointed member of a political party central committee; or
 - e. Been a registered state or local lobbyist.
5. Possess experience that demonstrates analytical skills relevant to the redistricting process and voting rights, and possess an ability to comprehend and apply the applicable state and federal legal requirements.
6. Possess experience that demonstrates an ability to be impartial.
7. Possess experience that demonstrates an appreciation for the diverse demographics and geography of the County of Los Angeles.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On July 30, 2021, I served the:

- **Claimant's Comments on the Draft Expedited Parameters and Guidelines filed July 29, 2021**

County of Los Angeles Citizens Redistricting Commission, 19-TC-04
Elections Code Sections 21530, 21531, 21532, 21533, 21534, and 21535 as added by
Statutes 2016, Chapter 781 (SB 958)
County of Los Angeles, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on July 30, 2021 at Sacramento, California.



Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 7/26/21

Claim Number: 19-TC-04

Matter: County of Los Angeles Citizens Redistricting Commission

Claimant: County of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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September 22, 2021

Mr. Fernando Lemus
County of Los Angeles
Auditor-Controller's Office
500 West Temple Street, Room 603
Los Angeles, CA 90012

Ms. Natalie Sidarous
State Controller's Office
Local Government Programs and
Services Division
3301 C Street, Suite 740
Sacramento, CA 95816

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Draft Proposed Decision and Parameters and Guidelines, Schedule for Comments, and Notice of Hearing

County of Los Angeles Citizens Redistricting Commission, 19-TC-04
Elections Code Sections 21532(a) and (e)-(h) and
21534(c)(2), (c)(3)(A)-(B), (c)(4)(A), (c)(5)-(8) and (d)(4)
Statutes 2016, Chapter 781 (SB 958)
County of Los Angeles, Claimant

Dear Mr. Lemus and Ms. Sidarous:

The Draft Proposed Decision and Proposed Parameters and Guidelines for the above-captioned matter is enclosed for your review and comment.

Written Comments

Written comments may be filed on the Draft Proposed Decision and Proposed Parameters and Guidelines by **October 13, 2021**. Please note that all representations of fact submitted to the Commission must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge, information, or belief. (Cal. Code Regs., tit. 2, § 1187.5.) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.¹

You are advised that comments filed with the Commission are required to be electronically filed (e-filed) in an unlocked legible and searchable PDF file, using the Commission's Dropbox. (Cal. Code Regs., tit. 2, § 1181.3(c)(1).) Refer to http://www.csm.ca.gov/dropbox_procedures.php on the Commission's website for electronic filing instructions. If e-filing would cause the filer undue hardship or significant prejudice, filing may occur by first class mail, overnight delivery or personal service only upon approval of a written request to the executive director. (Cal. Code Regs., tit. 2, § 1181.3(c)(2).)

¹ Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

Hearing

This matter is set for hearing on **Friday, December 3, 2021** at 10:00 a.m., via Zoom. The Proposed Decision will be issued on or about November 19, 2021.

Please notify Commission staff not later than the Wednesday prior to the hearing that you or a witness you are bringing plan to testify and please specify the names of the people who will be speaking for inclusion on the witness list and so that detailed instructions regarding how to participate as a witness in this meeting on Zoom can be provided to them. When calling or emailing, please identify the item you want to testify on and the entity you represent. The Commission Chairperson reserves the right to impose time limits on presentations as may be necessary to complete the agenda.

If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Sincerely,

A handwritten signature in blue ink, appearing to read "Heather Halsey", written in a cursive style.

Heather Halsey
Executive Director

ITEM ____

DRAFT PROPOSED DECISION AND PARAMETERS AND GUIDELINES

Elections Code Sections 21532(a) and (e)-(h) and
21534(c)(2), (c)(3)(A)-(B), (c)(4)(A), (c)(5)-(8) and (d)(4)

Statutes 2016, Chapter 781 (SB 958)

County of Los Angeles Citizens Redistricting Commission

19-TC-04

Period of reimbursement begins July 1, 2018

EXECUTIVE SUMMARY

I. Summary of the Mandate

These Parameters and Guidelines address Statutes 2016, chapter 781, which added Elections Code sections 21530 through 21535 to require the County of Los Angeles (claimant) to create, staff, and fund the independent County of Los Angeles Citizens Redistricting Committee (CRC) to adjust the boundary lines of the supervisorial districts in the County of Los Angeles in the year following the year of the decennial federal census.

On May 28, 2021, the Commission on State Mandates (Commission) adopted the Test Claim Decision finding that Elections Code sections 21532 and 21534, as added by the test claim statute, impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution.¹ The Commission denied all other code sections added by the test claim statute and activities alleged to be mandated in the Test Claim. Specifically, the Commission found that the requirements to adjust supervisorial boundary lines, adopt a redistricting plan every ten years, and to comply with the Public Records Act are *not* new and do not impose a new program or higher level of service on the claimant.² Finally, the Commission found that costs incurred to comply with the Ralph M. Brown Act and the Public Records Act are exempt from the reimbursement requirement and are *not* eligible for reimbursement.³

¹ Exhibit A, Test Claim Decision, adopted May 28, 2021.

² Exhibit A, Test Claim Decision, adopted May 28, 2021, page 4.

³ Exhibit A, Test Claim Decision, adopted May 28, 2021, pages 4-5.

II. Procedural History

On May 28, 2021, the Commission adopted the Test Claim Decision.⁴ On June 8, 2021, the Commission issued the Draft Expedited Parameters and Guidelines.⁵ The claimant filed Comments on the Draft Expedited Parameters and Guidelines on July 29, 2021.⁶ Commission staff issued the Draft Proposed Decision and Parameters and Guidelines on September 22, 2021.⁷

III. Discussion

A. Eligible Claimants (Section II. of the Parameters and Guidelines)

The test claim statute imposes reimbursable state-mandated activities only on the County of Los Angeles. Therefore, Section II. of the Parameters and Guidelines states as follows: “Only the County of Los Angeles is eligible to claim reimbursement.”

B. Period of Reimbursement (Section III. of the Parameters and Guidelines)

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 claimant filed the Test Claim on June 26, 2020, establishing eligibility for reimbursement for the 2018-2019 fiscal year. Therefore, costs incurred are reimbursable on or after July 1, 2018.

C. Reimbursable Activities (Section IV. of the Parameters and Guidelines)

The claimant requests reimbursement for the cost of contracting with the Executive Director of the CRC, who “dedicates close to 100% of her time to the LA County CRC effort,”⁸ and the consultants hired to help with the redistricting process. The claimant alleges the activities performed by the Executive Director and the consultants are either “mandated” by the state or reasonably necessary to comply with “SB 958,” the bill that enacted the test claim statute; Statutes 2016, chapter 781.⁹

The Commission, however, did *not* approve the Test Claim on Statutes 2016, chapter 781 in its entirety. The requirements to adjust supervisorial boundary lines, adopt a redistricting plan every ten years, and to comply with the Brown Act and Public Records Act are not eligible for

⁴ Exhibit A, Test Claim Decision, adopted May 28, 2021.

⁵ Exhibit B, Draft Expedited Parameters and Guidelines, issued June 8, 2021.

⁶ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021.

⁷ Exhibit D, Draft Proposed Decision and Parameters and Guidelines, issued September 22, 2021.

⁸ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, page 9.

⁹ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, page 3.

reimbursement.¹⁰ In addition, the Commission found that hiring consultants was not mandated by the state.¹¹

Parameters and Guidelines are required to be consistent with the Test Claim Decision. Pursuant to Government Code section 17557 and section 1183.7 of the Commission’s regulations, the Parameters and Guidelines must identify the activities mandated by the state and “may include proposed reimbursable activities that are reasonably necessary *for the performance of the state-mandated program*.”¹² Any proposed reasonably necessary activity must be supported by substantial evidence in the record explaining why the proposed activity is necessary for the performance of the state-mandated program.¹³

Therefore, the Proposed Decision reviews the activities identified by the claimant and the evidence in the record to determine if the activities are consistent with the Commission’s Test Claim Decision or are reasonably necessary to comply with the activities the Commission found to be reimbursable state-mandated activities. If an activity is approved as mandated by the state or reasonably necessary to comply with the mandated program, then the claimant may be reimbursed for the direct costs to perform that activity, including any contract costs incurred, pursuant to Section V. of the Parameters and Guidelines.

1. Several activities proposed by the claimant go beyond the scope of the mandate and, therefore, staff recommends that the Commission deny these activities.

The claimant requests reimbursement for the following activities related to the redistricting process:

- The Executive Director served, along with staff and subcontractors, as liaisons with county departments and will work directly with commissioners to build maps.
- The county:
 - Provided the Esri software mapping tool, free of charge.
 - Retained David Ely of Compass Demographics as its demographer to build data sets.
- The CRC:
 - Retained ARCBridge as its demographer to assist in fulfilling the CRC’s mandatory requirements.
 - Meets at least twice monthly for two to three hours totaling 108 hours in the last 12 months and each meeting requires four to six hours of preparation time for an additional 216 and 324 hours.

¹⁰ Exhibit A, Test Claim Decision, adopted May 28, 2021, pages 4-5.

¹¹ Exhibit A, Test Claim Decision, adopted May 28, 2021, pages 24-25.

¹² Government Code section 17557(a) (Emphasis added).

¹³ Government Code sections 17557(a), 17559, and California Code of Regulations, title 2, sections 1183.7(d) and 1187.5.

- Identified the need to retain subject matter experts to perform Racially Polarized Voting Analysis prior to developing map options.¹⁴

The claimant also filed a Declaration by the Executive Director of the CRC, which further states:

- The Executive Director, along with staff and consultants, supports the Demography Ad Hoc Working Group.
- The Commissioners selected consultant, Thai V. Le, to be its Clerk, in addition to his other assignments to provide GIS and technical support, including coordination of the LA County mapping software.
- The Commissioners identified the need to retain SMEs [subject matter experts] to perform Racially Polarized Voting (RPV) Analysis prior to developing map options and the final map.¹⁵

As explained in the Test Claim Decision, the process of redistricting using the mapping process to ensure compliance with the Voting Rights Act is not new and does not constitute a new program or higher level of service.¹⁶ Therefore, these activities go beyond the scope of the mandate and staff recommends that the Commission deny them.

The Executive Director also declares that “[t]he LA County CRC will hold 12 or more public hearings to be responsive, combined with ongoing input from Communities of Interest (COI). With each public hearing comes additional costs for:

- Preparing agenda, minutes, recordings, etc.
- Summarizing public input
- Translation services
- Technical and administrative support for each hearing.”¹⁷

However, the test claim statute mandates only eight new hearings, not twelve or more. The CRC is required to “conduct at least seven public hearings before drafting a map, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district.”¹⁸ Also, the CRC is required to post the draft map and “conduct at least two public hearings to take place over a period of no fewer than 30 days.”¹⁹ Under prior law, the Board of

¹⁴ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 7, 9-10 (Declaration of Gayla Kraetsch Hartsough).

¹⁵ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 9-10 (Declaration of Gayla Kraetsch Hartsough).

¹⁶ Exhibit A, Test Claim Decision, adopted May 28, 2021, page 29.

¹⁷ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, page 9.

¹⁸ Elections Code section 21534(c)(2).

¹⁹ Elections Code section 21534(c)(3)(A)-(B).

Supervisors was required to conduct one hearing prior to adopting the map.²⁰ Therefore, the Commission found that the CRC conducting eight new hearings, where seven occur before drafting a map and one occurs after the draft map is posted, is eligible for reimbursement as a state-mandated new program or higher level of service.²¹ Any additional hearing conducted by the CRC goes beyond the scope of the mandate by the state and is not eligible for reimbursement.

In addition, the claimant requests reimbursement for training commissioners on compliance with the Brown Act and the California Public Records Act. Compliance with the Brown Act and the California Public Records Act would be reasonably necessary for any mandate that requires holding a public meeting of a governmental body or the creation of public records. However, as explained in the Commission's Test Claim Decision, the California Constitution *specifically exempts* costs incurred to comply with the California Public Records Act and the Brown Act from the subvention requirement.²² Thus, training on these activities is not reimbursable.²³

2. The claimant has not supported several proposed activities with substantial evidence in the record showing why they are reasonably necessary to comply with the limited state-mandated program and, therefore, staff recommends that the Commission deny these activities.

The claimant has not supported several proposed activities with substantial evidence in the record showing why they are reasonably necessary to comply with the limited state-mandated program. These include retaining independent legal counsel to develop bylaws and facilitate meetings, and the time of the Executive Director to review and approve legal counsel's invoices and submit them to the County; providing training on the Voting Rights Act; CRC meetings in addition to the public hearings required by the test claim statute (except for the meetings analyzed below to select CRC members), and coordinating the calendar for public hearings.²⁴ Accordingly, staff recommends that the Commission deny these activities.

²⁰ Exhibit A, Test Claim Decision, adopted May 28, 2021, pages 29-30.

²¹ Exhibit A, Test Claim Decision, adopted May 28, 2021, page 39.

²² California Constitution, article I, sections 3(b) and 7; California Constitution, article II, section 2.5; California Constitution, article XIII B, section 6(a); see Exhibit A, Test Claim Decision, adopted May 28, 2021, pages 28 and 35 for discussion.

²³ California Constitution, article I, sections 3(b) and 7; California Constitution, article II, section 2.5; California Constitution, article XIII B, section 6(a).

²⁴ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 7-10 (Declaration of Gayla Kraetsch Hartsough).

3. Staff recommends that the Commission approve activities relating to establishing the CRC; replacing members who resign; providing one-time training for each CRC member on the Rules of Order for public hearings, and the ethics requirements of CRC members; and the activities to encourage county residents to participate in the redistricting public review process because they are reasonably necessary to comply with the state-mandated program.

The claimant also seeks reimbursement for activities related to selecting the six commissioners, replacing commissioners who resign, public outreach, and providing limited training.²⁵

The claimant filed a Declaration by the Executive Director of the CRC, which declares that the following activities are reasonably necessary for the CRC to select the six members of the commission:

- Designed a selection process for the additional six commissioners, building on input from the Commissioners, and supported the Selection of Replacement Commissioners Ad Hoc Working Group.
- Conducted and tabulated surveys of Commission evaluations of applicants.
- Facilitated four CRC meetings to select the final Commissioners.²⁶

The Executive Director also declares that she was required to replace CRC members that have resigned to ensure a quorum, and the claimant requests reimbursement as follows:

To ensure a quorum, the LA County CRC has maintained 14 Commissioners. When one resigned, the Executive Director had to verify that target highly qualified applicants were still available, residents of LA County, and continued to have no conflicts of interest.²⁷

Staff finds that the Executive Director's Declaration, signed under penalty of perjury, is sufficient to support a finding that the activities identified to select the six remaining members of the CRC and replace members that resign are reasonably necessary to comply with the state-mandated program. The test claim statute mandated the creation of a 14-member CRC in each year ending in the number zero.²⁸ The claimant is mandated to select eight commissioners.²⁹ The eight commissioners are then mandated to appoint six additional applicants to the CRC, so that the CRC has 14 members.³⁰ The Test Claim Decision approved reimbursement for the

²⁵ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 7-8 (Declaration of Gayla Kraetsch Hartsough).

²⁶ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 7, 10 (Declaration of Gayla Kraetsch Hartsough).

²⁷ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 5, 8 (Declaration of Gayla Kraetsch Hartsough).

²⁸ Elections Code section 21532(c).

²⁹ Elections Code section 21532(a), (g).

³⁰ Elections Code section 21532(h).

claimant and CRC to select the commissioners. Elections Code section 21533(c) states that nine members of the CRC shall constitute a quorum, and nine or more affirmative votes shall be required for any official action.

The Executive Director further declares under penalty of perjury that providing the CRC members with training on the Rosenberg Rules of Order for hearings, ethics, supporting the Education for Commissioners (Speakers' Series) and Values Ad Hoc Working Groups, and providing guidance on the format for the regular public hearings, are reasonably necessary to comply with the mandate.³¹ Staff finds that the Declaration supports the finding that providing *one-time* training on the Rosenberg Rules of Order and format of public hearings, and ethics requirements of CRC members, which pursuant to Elections Code section 21532, requires the member to be impartial and apply legal requirements, is reasonably necessary for the mandate to create the CRC and for the CRC to conduct the new mandated public hearings.

However, as indicated in the analysis, reimbursement is not required for the redistricting process itself, or for training on the Brown Act and the Public Records Act. Moreover, the activity of supporting the Education for Commissioners (Speakers' Series) and Values Ad Hoc Working Groups is overly broad and not supported by evidence in the record that it is reasonably related to the mandated activities and, thus, is denied.

Finally, the Commission's Test Claim Decision found that the test claim statute imposes a reimbursable state-mandated activity to "take steps to encourage county residents to participate in the redistricting public review process."³² The Executive Director declares under penalty of perjury that the following activities were performed:

- Established a website, a Facebook page, and a Twitter account for the CRC and sent email bulletins through GovDelivery to more than 7,000 email accounts.
- Built an outreach toolkit for use by community-based organizations, cities, and other governmental entities and conducted ongoing meetings to engage them in the outreach process.
- Worked with community-based organizations to obtain input on methods to promote meetings and public hearings.
- Developed and implemented a Public Outreach Plan to increase public participation and supported the Outreach Ad Hoc Working Group.³³

Staff finds that the first three bulleted activities are consistent with the plain language of Elections Code section 21534(c)(6). Staff further finds that the Executive Director's Declaration supports the finding that the last bullet (to develop a public outreach plan) is reasonably

³¹ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 5-6, 8, 10 (Declaration of Gayla Kraetsch Hartsough).

³² Elections Code section 21534(c)(6).

³³ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 5, 8-10 (Declaration of Gayla Kraetsch Hartsough).

necessary to comply with the mandate to “take steps to encourage county residents to participate in the redistricting public review process.”³⁴

Accordingly, Section IV. of the Parameters and Guidelines identifies the following reimbursable activities:

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

- A. One time training for each CRC member on the Rosenberg Rules of Order and format of public hearings, and the ethics requirements of CRC members, which pursuant to Elections Code section 21532, requires the member to be impartial and apply legal requirements.³⁵

*Reimbursement is **not** required to adjust supervisorial boundary lines and adopt a redistricting plan in accordance with the Voting Rights Act, or for training regarding the Ralph M. Brown Act, the California Public Records Act, or any other activities not identified in Section IV.B. of these Parameters and Guidelines.*

B. Ongoing Activities

1. Creation of the Citizens Redistricting Commission (CRC).³⁶
 - a. The county shall create a CRC no later than December 31, 2020, and in each year ending in the number zero thereafter.³⁷
 - b. The elections official shall review the applications and eliminate applicants who do not meet the specified qualifications, select 60 of the most qualified applicants, publish the list of qualified applicants for 30 days, and create a subpool for each of the five existing supervisorial districts of the board.³⁸
 - c. At a regularly scheduled meeting of the board, the Auditor-Controller conducts a random drawing to select one commissioner from each of the five subpools, then another random drawing from all of the remaining applicants to select three additional commissioners.³⁹
 - d. The board shall take all steps necessary to ensure a complete and accurate computerized database is available for redistricting, and that procedures are in place

³⁴ Elections Code section 21534(c)(6).

³⁵ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 5-6, 8 (Declaration of Gayla Kraetsch Hartsough).

³⁶ The county is required to form a CRC every ten years. (Elections Code section 21532(a).) The terms of the prior CRC members terminate with the appointment of the first member of the succeeding CRC. (Elections Code section 21533(b).) Therefore, the activities must be repeated with each new CRC.

³⁷ Elections Code section 21532(a).

³⁸ Elections Code section 21532(e)-(g).

³⁹ Elections Code section 21532(g).

to provide to the public ready access to redistricting data and computer software equivalent to what is available to the CRC.⁴⁰

2. Activities Performed by the CRC.⁴¹ Based on Elections Code section 21534(c)(8), which requires the County of Los Angeles to provide reasonable funding and staffing to the CRC, the following activities mandated by the test claim statute and performed by the CRC are eligible for reimbursement:

a. The eight selected commissioners shall review the remaining names in the subpools of applicants and shall appoint six additional applicants to the CRC.⁴²

Reimbursement for this activity includes the following:

- Design a selection process to appoint the six CRC members.
- Conduct and tabulate surveys of CRC member evaluations of the applicants for the six remaining seats.
- Facilitate CRC meetings to select the final six CRC members.
- Select replacement commissioners in accordance with Elections Code 21532 for CRC members that resign to ensure a 14-member commission and a quorum are maintained.⁴³

b. Conduct ~~at least~~ seven public hearings before drafting a map, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district.⁴⁴

*Reimbursement is **not** required to comply with the Ralph M. Brown Act when conducting these hearings pursuant to article XIII B, section 6(a)(4) of the California Constitution. Thus, the following activities are not eligible for reimbursement: posting a notice and agenda (Government Code section 54954.2), mailing agenda items to the public (Government Code section 54954.1), and complying with the Americans with Disabilities Act for the hearing (54953.2).*

⁴⁰ Elections Code section 21534(c)(7).

⁴¹ Boundary lines of the supervisorial districts in the County of Los Angeles must be drawn in the year following the year of the decennial federal census. (Elections Code section 21531.) In addition, the county is required to form a CRC every ten years. (Elections Code section 21532(a).) The terms of the prior CRC members terminate with the appointment of the first member of the succeeding CRC. (Elections Code section 21533(b).) Therefore, the activities must be repeated by each new CRC.

⁴² Elections Code section 21532(h).

⁴³ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 5, 7-8 (Declaration of Gayla Kraetsch Hartsough).

⁴⁴ Elections Code section 21534(c)(2).

- c. Post the draft map for public comment on the website of the County of Los Angeles and conduct one public hearing on the draft map (in addition to the one hearing required under prior law, which is not reimbursable).⁴⁵

*Reimbursement is **not** required to comply with the Ralph M. Brown Act when conducting the hearing on the draft map pursuant to article XIII B, section 6(a)(4) of the California Constitution. Thus, the following activities are not eligible for reimbursement: posting a notice and agenda (Government Code section 54954.2), mailing agenda items to the public (Government Code section 54954.1), and complying with the Americans with Disabilities Act for the hearing (54953.2).*

- d. Establish and make available to the public a calendar of the all eight public hearings identified in Section IV.B.2.b. and c. of these Parameters and Guidelines.⁴⁶
- e. Arrange for the live translation of a hearing in an applicable language (defined as “a language for which the number of residents of the County of Los Angeles who are members of a language minority is greater than or equal to three percent of the total voting age residents of the county”) if a request for translation is made at least 24 hours before the hearing.⁴⁷
- f. Take steps to encourage county residents to participate in the redistricting public review process. Reimbursement for this activity includes the following:
- Develop and implement a Public Outreach Plan to increase public participation.
 - Provide information through media, social media, and public service announcements.
 - Coordinate with community organizations.
 - Post information on the Internet Web site of the County of Los Angeles that explains the redistricting process and includes a notice of each public hearing and the procedures for testifying during a hearing or submitting written testimony directly to the CRC.⁴⁸
- g. Issue a report that explains the basis on which the CRC made its decisions in achieving compliance with the redistricting criteria required to comply with the Voting Rights Act.⁴⁹

⁴⁵ Elections Code section 21534(c)(3)(A)-(B).

⁴⁶ Elections Code section 21534(c)(4)(A).

⁴⁷ Elections Code section 21534(c)(5).

⁴⁸ Elections Code section 21534(c)(6); Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 5, 8-9 (Declaration of Gayla Kraetsch Hartsough).

⁴⁹ Elections Code section 21534(d)(4).

D. Claim Preparation and Submission (Section V. of the Parameters and Guidelines)

Section V. of the Parameters and Guidelines (Claim Preparation and Submission) identifies the direct costs that are eligible for reimbursement. Travel costs are not included in the Parameters and Guidelines because this activity was not approved in the Test Claim Decision and the claimant neither requested these costs nor submitted evidence to support such a request. The paragraph on Training has been modified for consistency with the findings for one-time reimbursement for CRC member training.

IV. Staff Recommendation

Staff recommends that the Commission adopt the Proposed Decision and Parameters and Guidelines and authorize staff to make any technical, non-substantive changes to the Proposed Decision following the hearing.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES

Elections Code Sections 21532(a) and (e)-(h) and 21534(c)(2), (c)(3)(A)-(B), (c)(4)(A), (c)(5)-(8) and (d)(4)

Statutes 2016, Chapter 781 (SB 958)

The period of reimbursement begins July 1, 2018.

Case No.: 19-TC-04

County of Los Angeles Citizens Redistricting Commission

DECISION PURSUANT TO
GOVERNMENT CODE SECTION 17500
ET SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7.

(Adopted December 3, 2021)

DECISION

The Commission on State Mandates (Commission) heard and decided this Test Claim during a regularly scheduled hearing on December 3, 2021. [Witness list will be included in the adopted Decision.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission [adopted/modified] the Proposed Decision and Parameters and Guidelines by a vote of [vote will be included in the adopted Decision], as follows:

Member	Vote
Lee Adams, County Supervisor	
Natalie Kuffel, Representative of the Director of the Office of Planning and Research	
Gayle Miller, Representative of the Director of the Department of Finance, Chairperson	
Sarah Olsen, Public Member	
Yvette Stowers, Representative of the State Controller, Vice-Chairperson	
Spencer Walker, Representative of the State Treasurer	

I. Summary of the Mandate

These Parameters and Guidelines address Statutes 2016, chapter 781, which added Elections Code sections 21530 through 21535 to require the County of Los Angeles (claimant) to create, staff, and fund the independent County of Los Angeles Citizens Redistricting Committee (CRC) to adjust the boundary lines of the supervisorial districts in the County of Los Angeles in the year following the year of the decennial federal census.

On May 28, 2021, the Commission on State Mandates (Commission) adopted the Test Claim Decision finding that Elections Code sections 21532 and 21534, as added by Statutes 2016, chapter 781, impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution for the following activities:

- The county shall create a CRC no later than December 31, 2020, and in each year ending in the number zero thereafter.⁵⁰
- The elections official shall review the applications and eliminate applicants who do not meet the specified qualifications, select 60 of the most qualified applicants, publish the list of qualified applicants for 30 days, and create a subpool for each of the five existing supervisorial districts of the board.⁵¹
- At a regularly scheduled meeting of the board, the Auditor-Controller conducts a random drawing to select one commissioner from each of the five subpools, then another random drawing from all of the remaining applicants to select three additional commissioners.⁵²
- The board shall take all steps necessary to ensure a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide to the public ready access to redistricting data and computer software equivalent to what is available to the CRC.⁵³

In addition, based on Elections Code section 21534(c)(8), which requires the claimant to provide reasonable funding and staffing to the CRC, the following activities mandated by Elections Code sections 21532 and 21534 impose a reimbursable state mandated program within the meaning of article XIII B, section 6 of the California Constitution on the County of Los Angeles:

- The eight selected commissioners shall review the remaining names in the subpools of applicants and shall appoint six additional applicants to the CRC.⁵⁴

⁵⁰ Elections Code section 21532(a).

⁵¹ Elections Code section 21532(e)-(g).

⁵² Elections Code section 21532(g).

⁵³ Elections Code section 21534(c)(7).

⁵⁴ Elections Code section 21532(h).

- Conduct at least seven public hearings before drafting a map, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district.⁵⁵
- Post the draft map for public comment on the website of the County of Los Angeles and conduct one public hearing on the draft map (in addition to the one hearing required under prior law, which is not reimbursable).⁵⁶
- Establish and make available to the public a calendar of all public hearings.⁵⁷
- Arrange for the live translation of a hearing in an applicable language (defined as “a language for which the number of residents of the County of Los Angeles who are members of a language minority is greater than or equal to 3 percent of the total voting age residents of the county”) if a request for translation is made at least 24 hours before the hearing.⁵⁸
- Take steps to encourage county residents to participate in the redistricting public review process.⁵⁹
- Issue a report that explains the basis on which the CRC made its decisions in achieving compliance with the redistricting criteria required to comply with the Voting Rights Act.⁶⁰

The Commission denied all other code sections added by the test claim statute and activities alleged to be mandated in the Test Claim. Specifically, the Commission found that Elections Code sections 21530, 21533, and 21535 do *not* impose any state-mandated requirements on the claimant, but rather generally define terms and limit the hiring of consultants by the CRC to help with the adjustment of district boundaries. Although the claimant is required by Elections Code section 21534(c)(8) to provide reasonable funding to the CRC, which may include paying for a consultant hired by the CRC, the courts have made it clear that “[n]othing in article XIII B prohibits the shifting of costs between local governmental entities.”⁶¹

In addition, the requirements imposed by Elections Code sections 21531 and 21534(a), (c)(9), and (d)(1)-(3) to adjust supervisorial boundary lines, adopt a redistricting plan every ten years; and to comply with the Public Records Act are *not* new and do not impose a new program or higher level of service on the claimant.⁶²

⁵⁵ Elections Code section 21534(c)(2).

⁵⁶ Elections Code section 21534(c)(3)(A)-(B).

⁵⁷ Elections Code section 21534(c)(4)(A).

⁵⁸ Elections Code section 21534(c)(5).

⁵⁹ Elections Code section 21534(c)(6).

⁶⁰ Elections Code section 21534(d)(4).

⁶¹ *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1815.

⁶² California Constitution, article I, sections 3(b) and 7; California Constitution, article II, section 2.5; California Constitution, article XIII B, section 6(a); Elections Code sections 14025-14032 as

Finally, the Commission found that the activities required by Elections Code section 21534(c)(1) and (c)(4)(B) to comply with the Ralph M. Brown Act for the public hearings conducted by the CRC are *not* eligible for reimbursement pursuant to article XIII B, section 6(a)(4). Article XIII B, section 6(a)(4) states that “the Legislature may, but need not, provide a subvention of funds for the following mandates: . . . Legislative mandates contained in statutes within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I.” Article I, section 3(b) of the California Constitution requires local agencies to comply with the Ralph M. Brown Act, beginning with Government Code section 54950. The Brown Act applies to all local agencies and “any other local body created by state statute,” and therefore applies to the CRC.⁶³

II. Procedural History

On May 28, 2021, the Commission adopted the Test Claim Decision.⁶⁴ On June 8, 2021, the Commission issued the Draft Expedited Parameters and Guidelines.⁶⁵ The claimant filed Comments on the Draft Expedited Parameters and Guidelines on July 29, 2021.⁶⁶ Commission staff issued the Draft Proposed Decision and Parameters and Guidelines on September 22, 2021.⁶⁷

III. Positions of the Parties

A. County of Los Angeles

The claimant filed comments on the Draft Expedited Parameters and Guidelines, requesting reimbursement for additional activities conducted by the CRC’s executive director and consultants. The claimant explains that the CRC needs to be independent of the county and, therefore, the claimant contracted with an Executive Director, Gayla Kraetsch Hartsough of KH Consulting Group, “to guide and support the CRC’s redistricting responsibilities without supervision by County personnel or the Board of Supervisors.”⁶⁸

The claimant argues that the Executive Director’s activities are reasonably necessary as defined in California Code of Regulations, title 2, section 1183.7(d) to establish supervisorial districts

added by Statutes 2002, chapter 129; Elections Code section 21500 as added by Statutes 1994, chapter 920 and amended by Statutes 2015, chapter 732, section 36; Elections Code section 21507 as added by Statutes 2014, chapter 873; Government Code section 6252 as last amended by Statutes 2015, chapter 537; and *Reynolds v. Sims* (1964) 377 U.S. 533, 566.

⁶³ Government Code section 54952(a).

⁶⁴ Exhibit A, Test Claim Decision, adopted May 28, 2021.

⁶⁵ Exhibit B, Draft Expedited Parameters and Guidelines, issued June 8, 2021.

⁶⁶ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021.

⁶⁷ Exhibit D, Draft Proposed Decision and Parameters and Guidelines, issued September 22, 2021.

⁶⁸ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, page 2.

within statutory constraints and to provide training to the CRC on topics necessary to comply with Elections Code section 21534.⁶⁹ The claimant states the following:

The necessity of an ED for implementation of the mandates stated in EC §§ 21532 and 21534 cannot be overstated. The ED is responsible for guiding and supporting the CRC in establishing five single-member supervisorial districts consistent with extensive requirements set forth in SB 958. The ED works with the CRC's Independent Legal Counsel to establish a comprehensive work plan of deliverables and activities with target dates to meet the delivery of the final redistricting report referenced in EC§ 21532(d)(3). (See Declaration of Gayla Kraetsch Hartsough.) In order to guide and support the CRC, the ED is charged with understanding all legal mandates and requirements that the CRC must accomplish and also determine what specific staff and technical support the CRC needs in order to successfully complete the mandated activities as set forth in SB 958 and have been deemed reimbursable by the Commission. (See Declaration of Gayla Kraetsch Hartsough.) Further, the ED provides oversight, guidance, staffing, and technical resources to support the CRC's mandate of meeting the redistricting guideline requirements in producing a final map and redistricting report by December 15, 2021.

The ED's activities are reasonably necessary to perform the requirements of the CRC pursuant to California Code of Regulations Section 1183. 7(d). The mandated activities under EC§ 21534 require the CRC to establish single-member supervisorial districts that comply with the United States Constitution, adhere to population equality as determined by the 2020 census, comply with the federal Voting Rights Act of 1965, assure geographic integrity of any city or local neighborhood and, to the extent practical, districts must be drawn to encourage geographical compactness. The ED's activities allow the CRC to receive training on topics necessary for compliance with EC§ 23154. (See Declaration of Gayla Kraetsch Hartsough.)⁷⁰

Asserting that the requirements on the CRC far exceed the requirements on the board of supervisors under prior law, the claimant further argues that seeking the assistance of consultants is reasonable as follows:

The mandatory requirements and responsibilities of the CRC pursuant to SB 958 far exceeded what was required of the advisory commission in 2011 to prepare redistricting maps. (See Declaration of Gayla Kraetsch Hartsough, Table 1.) Upon consultation with the CRC, and in recognition of the need to engage necessary sub-consultants and subject matter experts to fulfill the requirements of SB 958, the ED proposed processes, procedures, and facilitated retention of the necessary consultants, including data and mapping analysis, technical assistance,

⁶⁹ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, at page 3.

⁷⁰ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, at pages 2-3.

administrative support, global information system (GIS) expertise, media strategy, and other contingency support services. (See Declaration of Gayla Kraetsch Hartsough.) The mandates in SB 958 substantially raised the redistricting bar in the County and placed significant responsibilities on the shoulders of the 14 unpaid citizen commissioners serving on the CRC, and it would be unreasonable for the CRC to not seek assistance of consultants, and unreasonable if the County refused to provide funding for consultants.⁷¹

The claimant asserts that *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, as cited by the Commission in its Decision, “does not apply to the facts and law related to SB 958.”⁷² The claimant explains that the case involved a shifting of costs between the state and local government. The case did not address a shifting of costs between local entities. The claimant concludes that the creation of supervisorial districts is unique to counties and the costs cannot be shifted to other local entities.⁷³

The claimant’s comments conclude by requesting “that the Commission find the activities performed by the ED and sub-consultants are reasonably necessary to perform the mandated activities in EC §§ 21532(a) and (e) -(h) and 21534(c)(2), (c)(3)(A)-(B), (c)(4)(A), (c)(5)-(8), and (d)(4), and find that these costs should be included under the Parameters and Guidelines.”⁷⁴

The Declaration of Executive Director Gayla Kraetsch Hartsough declares that her duties include: guiding the CRC in establishing supervisorial districts in compliance with law; working with independent legal counsel to establish a work plan of deliverables, guidelines, by-laws, Ad Hoc Working Groups, to delineate leadership roles; understanding all legal mandates and requirements that the CRC must meet; determining staffing and technical support for the CRC; and providing oversight, guidance, support staffing, and technical resources to meet the requirement of producing a final map and redistricting report by December 15, 2021. She also declares that she hired demographer consultants to assist the CRC in evaluating the need for a Racially Polarized Voting Subject Matter Expert to meet the requirements of Elections Code section 21534(a) and (b). She, in coordination with legal counsel, have developed and executed an orientation and training plan for the CRC to meet its legal redistricting mandates where counsel provides training on the Brown Act, Rosenberg Rules of Order, ethics, and the California Public Records Act; and she focuses on training by identifying subject matter experts to speak on relevant topics (e.g. Voting Rights Act), guidance on meeting and hearing formats, mapping tools, and logistics. She further declares that she has proposed processes, procedures,

⁷¹ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, page 3.

⁷² Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, page 3.

⁷³ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 3-4.

⁷⁴ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, at page 4.

and has facilitated the retention of necessary consultants. She is working with the CRC to design an approach to redistricting that can be built upon by future CRCs.⁷⁵

The Declaration includes a table comparing the requirements under prior law with what Executive Director Hartsough describes as the “mandated requirements” under the test claim statute as follows:

- The Executive Director:
 - Designed a selection process for the additional six commissioners which included conducting and tabulating surveys of the applicants and facilitating the meetings to make the selection;
 - Worked with legal counsel to develop the CRC by-laws and facilitated the meetings until the by-laws were written and co-chairs were selected;
 - Served, along with staff and subcontractors, as liaisons with county departments and will work directly with commissioners to build maps;
 - Verified that applicants were still available and qualified to replace commissioners who have resigned;
 - Provided individualized onboarding training to replacement commissioners;
 - Established a website, a Facebook page, and a Twitter account for the CRC and sent email bulletins through GovDelivery to more than 7,000 email accounts;
 - Built an outreach toolkit for use by community-based organizations, cities, and other governmental entities and conducts ongoing meetings to engage them in the outreach process;
 - Works with community-based organizations to obtain input on methods to promote meetings and public hearings;
 - Coordinates the public hearing calendar;
 - Developed and implemented a Public Outreach Plan to increase public participation;
 - Coordinates speaking engagements for the commissioners;
 - Dedicates close to 100% of her time to the LA County CRC effort;
 - Reviews and approves legal counsel’s unredacted invoices and submits redacted invoices to the county for payment; and
 - Supports, along with staff and consultants, the Ad Hoc Working Groups including: Demography, Outreach, Education for Commissioners (Speakers’ Series), Values, and Selection of Replacement Commissioners.

⁷⁵ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 5-6 (Declaration of Gayla Kraetsch Hartsough).

- The county:
 - Provided the Esri software mapping tool, free of charge; and
 - Retained David Ely of Compass Demographics as its demographer to build data sets.
- The CRC:
 - Retained ARCBridge as its demographer to assist in fulfilling the CRC’s mandatory requirements;
 - Meets at least twice monthly for two to three hours totaling 108 hours in the last 12 months and each meeting requires four to six hours of preparation time for an additional 216 and 324 hours;
 - Will hold 12 or more public hearings with costs at each hearing for:
 - Preparing agenda, minutes, recordings, etc.,
 - Summarizing public input,
 - Translation services, and
 - Technical and administrative support;
 - Selected consultant, Thai V. Le, to be its Clerk, in addition to his other assignments to provide GIS and technical support, including coordination of the LA County mapping software, training plan, and roll out of the software;
 - Identified the need to retain subject matter experts to perform Racially Polarized Voting Analysis prior to developing map options;
- KH Consulting Group staff:
 - Handle the meeting logistics; and
 - Coordinate the commissioners’ IT issues with county systems (e.g., emails, mapping tools, website.)
- County Counsel retained independent legal counsel for the CRC.⁷⁶

The table also includes an explanation that due to the pandemic, the meetings from December 2020 through July 2021 were virtual. Beginning in August 2021, meetings will be a hybrid of Webinars and in-person meetings and public hearings. The table in Ms. Hartsough’s Declaration states that the “hybrid meeting model is more time consuming and complex to administer, as both the Webinar and in-person requirements must be met.”⁷⁷

⁷⁶ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 7-10 (Declaration of Gayla Kraetsch Hartsough).

⁷⁷ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, page 10 (Declaration of Gayla Kraetsch Hartsough).

The Declaration concludes by stating that “the mandatory requirements and responsibilities of the LA County CRC necessitated the hiring of an Executive Director for the 14 unpaid citizen commissioners of the LA County CRC.”⁷⁸

B. Department of Finance

No comments were filed by the Department of Finance on the Draft Expedited Parameters and Guidelines.

IV. Discussion

A. Eligible Claimants (Section II. of the Parameters and Guidelines)

The test claim statute imposes reimbursable state-mandated activities only on the County of Los Angeles. Therefore, Section II. of the Parameters and Guidelines states as follows: “Only the County of Los Angeles is eligible to claim reimbursement.”

B. Period of Reimbursement (Section III. of the Parameters and Guidelines)

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 claimant filed the Test Claim on June 26, 2020, establishing eligibility for reimbursement for the 2018-2019 fiscal year. Therefore, costs incurred are reimbursable on or after July 1, 2018.

C. Reimbursable Activities (Section IV. of the Parameters and Guidelines)

Section IV. of the Parameters and Guidelines identifies the activities found by the Commission to impose reimbursable state-mandated activities.

The claimant also requests reimbursement for the cost of contracting with the Executive Director of the CRC, who “dedicates close to 100% of her time to the LA County CRC effort,”⁷⁹ and the consultants hired to help with the redistricting process. The claimant alleges the activities performed by the Executive Director and the consultants are either “mandated” by the state or reasonably necessary to comply with “SB 958,” the bill that enacted the test claim statute; Statutes 2016, chapter 781.⁸⁰

The Commission, however, did *not* approve the Test Claim on Statutes 2016, chapter 781 in its entirety. For example, the Commission found that the process of redistricting using the mapping process to ensure compliance with the Voting Rights Act was not new and did not impose a new program or higher level of service.⁸¹ The Commission also found that hiring consultants was not mandated by the state.⁸² Other activities such as compliance with the Brown Act and the Public

⁷⁸ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, page 11 (Declaration of Gayla Kraetsch Hartsough).

⁷⁹ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, page 9.

⁸⁰ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, page 3.

⁸¹ Exhibit A, Test Claim Decision, adopted May 28, 2021, page 29.

⁸² Exhibit A, Test Claim Decision, adopted May 28, 2021, pages 24-25.

Records Act were also denied as not imposing a new program or higher level of service, or costs mandated by the state.⁸³ Costs incurred to comply with the California Public Records Act and the Brown Act are specifically exempted from the subvention requirement by the California Constitution.⁸⁴ Commission decisions on test claims, including the Decision issued in this case, are final and binding.⁸⁵

Parameters and Guidelines are required to be consistent with the Test Claim Decision. Pursuant to Government Code section 17557 and section 1183.7 of the Commission's regulations, the Parameters and Guidelines must identify the activities mandated by the state and "may include proposed reimbursable activities that are reasonably necessary *for the performance of the state-mandated program*."⁸⁶ According to the Commission's regulations:

"Reasonably necessary activities" are those activities necessary to comply with the statutes, regulations and other executive orders found to impose a state-mandated program. Activities required by statutes, regulations and other executive orders that were not pled in the test claim may only be used to define reasonably necessary activities to the extent that compliance with the approved state-mandated activities would not otherwise be possible. Whether an activity is reasonably necessary is a mixed question of law and fact. All representations of fact to support any proposed reasonably necessary activities shall be supported by documentary evidence in accordance with section 1187.5 of these regulations.⁸⁷

Any proposed reasonably necessary activity must be supported by substantial evidence in the record explaining why the proposed activity is necessary for the performance of the state-mandated program in accordance with Government Code sections 17557(a), 17559, and California Code of Regulations, title 2, sections 1183.7(d) and 1187.5. Section 1187.5 of the Commission's regulations requires that oral or written representations of fact shall be under oath or affirmation; and that all written representations of fact must be signed under penalty of perjury by persons who are authorized and competent to do so.

Therefore, the analysis below reviews the activities identified by the claimant and the evidence in the record to determine if they are consistent with the Commission's Test Claim Decision or are reasonably necessary to comply with the activities the Commission determined to be reimbursable state-mandated activities. If an activity is approved as mandated by the state or reasonably necessary to comply with the mandated program, then the claimant may be reimbursed for the direct costs to perform that activity, including any contract costs incurred, pursuant to Section V. of the Parameters and Guidelines.

⁸³ Exhibit A, Test Claim Decision, adopted May 28, 2021, pages 29, 36.

⁸⁴ California Constitution, article XIII B, section 6(a)(4); see Exhibit A, Test Claim Decision, adopted May 28, 2021, page 35 for discussion.

⁸⁵ Government Code section 17559; *California School Boards Assoc. v. State of California* (2009) 171 Cal.App.4th 1183, 1200-1201.

⁸⁶ Government Code section 17557(a). (Emphasis added.)

⁸⁷ California Code of Regulations, title 2, section 1183.7(d).

1. Several activities proposed by the claimant go beyond the scope of the mandate and are, therefore, denied.

The claimant requests reimbursement for the following activities to build redistricting maps:

- The Executive Director served, along with staff and subcontractors, as liaisons with county departments and will work directly with commissioners to build maps.
- The county:
 - Provided the Esri software mapping tool, free of charge.
 - Retained David Ely of Compass Demographics as its demographer to build data sets.
- The CRC:
 - Retained ARCBridge as its demographer to assist in fulfilling the CRC's mandatory requirements.
 - Meets at least twice monthly for two to three hours totaling 108 hours in the last 12 months and each meeting requires four to six hours of preparation time for an additional 216 and 324 hours.
 - Identified the need to retain subject matter experts to perform Racially Polarized Voting Analysis prior to developing map options.⁸⁸

The table in the Declaration of the Executive Director further states that:

- The Executive Director, along with staff and consultants, supports the Demography Ad Hoc Working Group.
- The Commissioners selected consultant, Thai V. Le, to be its Clerk, in addition to his other assignments to provide GIS and technical support, including coordination of the LA County mapping software.
- The Commissioners identified the need to retain SMEs [subject matter experts] to perform Racially Polarized Voting (RPV) Analysis prior to developing map options and the final map.⁸⁹

As explained in the Test Claim Decision, the process of redistricting using the mapping process to ensure compliance with the Voting Rights Act is not new and does not constitute a new program or higher level of service:

Despite the small variance in language, both the prior law and the test claim statute set forth the process of redistricting using the mapping process to ensure compliance with the Voting Rights Act.

⁸⁸ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 7, 9-10 (Declaration of Gayla Kraetsch Hartsough).

⁸⁹ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 9-10 (Declaration of Gayla Kraetsch Hartsough).

¶

Thus, the requirements imposed by Elections Code sections 21531 and 21534(a) and (d)(1)-(3) to adjust the supervisorial boundaries and adopt a redistricting plan are not new.⁹⁰

Thus, the coordination with county departments for map building, the use of a mapping tool, retaining demographers, meetings of the CRC for the redistricting process, supporting the Demography Ad Hoc Working Group, and analyses for mapping go beyond the scope of the mandated program and are not eligible for reimbursement.

In addition, the Executive Director declares that “[t]he LA County CRC will hold 12 or more public hearings to be responsive, combined with ongoing input from Communities of Interest (COI). With each public hearing comes additional costs for:

- Preparing agenda, minutes, recordings, etc.
- Summarizing public input
- Translation services
- Technical and administrative support for each hearing.”⁹¹

However, the test claim statute mandates only eight new hearings, not twelve or more. The CRC is required to “conduct at least seven public hearings before drafting a map, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district.”⁹² Also, the CRC is required to post the draft map and “conduct at least two public hearings to take place over a period of no fewer than 30 days.”⁹³ The number of hearings set forth in the test claim statute is nine. The phrase “at least” is synonymous with “at a minimum,” and therefore the state has mandated that the CRC conduct nine public hearings.⁹⁴ Under prior law, the Board of Supervisors was required to conduct one hearing prior to adopting the map.⁹⁵ Therefore, the Commission found that the CRC conducting eight new hearings, where seven occur before drafting a map and one occurs after the draft map is posted, is eligible for reimbursement as a state-mandated new program or higher level of service.⁹⁶ Any additional

⁹⁰ Exhibit A, Test Claim Decision, adopted May 28, 2021, page 29.

⁹¹ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, page 9.

⁹² Elections Code section 21534(c)(2).

⁹³ Elections Code section 21534(c)(3)(A)-(B).

⁹⁴ <https://www.merriam-webster.com/dictionary/least> (accessed August 13, 2021); Elections Code section 21534 (c)(2), (3); Exhibit A, Test Claim Decision, adopted May 28, 2021, page 22.

⁹⁵ Exhibit A, Test Claim Decision, adopted May 28, 2021, pages 29-30.

⁹⁶ Exhibit A, Test Claim Decision, adopted May 28, 2021, page 39.

hearing conducted by the CRC goes beyond the scope of the mandate by the state and is not eligible for reimbursement.

In addition, preparing the agenda is required by the Brown Act and was denied by the Commission and, therefore this activity goes beyond the scope of the mandate.⁹⁷ Thus, Section IV.B.2. of the Parameters and Guidelines has been clarified to clarify the mandate as follows:

- b. Conduct ~~at least~~ seven public hearings before drafting a map, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district.⁹⁸

*Reimbursement is **not** required to comply with the Ralph M. Brown Act when conducting these hearings pursuant to article XIII B, section 6(a)(4) of the California Constitution. Thus, the following activities are not eligible for reimbursement: posting a notice and agenda (Government Code section 54954.2), mailing agenda items to the public (Government Code section 54954.1), and complying with the Americans with Disabilities Act for the hearing (54953.2).*

- c. Post the draft map for public comment on the website of the County of Los Angeles and conduct one public hearing on the draft map (in addition to the one hearing required under prior law, which is not reimbursable).⁹⁹

*Reimbursement is **not** required to comply with the Ralph M. Brown Act when conducting the hearing on the draft map pursuant to article XIII B, section 6(a)(4) of the California Constitution. Thus, the following activities are not eligible for reimbursement: posting a notice and agenda (Government Code section 54954.2), mailing agenda items to the public (Government Code section 54954.1), and complying with the Americans with Disabilities Act for the hearing (54953.2).*

- d. Establish and make available to the public a calendar of the ~~at~~ eight public hearings identified in Section IV.B.2.b. and c. of these Parameters and Guidelines.¹⁰⁰

The Declaration of the Executive Director also states that training has been provided to CRC members on the Brown Act and the California Public Records Act.¹⁰¹ Compliance with the Brown Act would be reasonably necessary for any mandate that requires holding a public meeting of a governmental body. So, too, compliance with the California Public Records Act would be reasonably necessary for any mandate that requires the creation of public records. However, as explained in the Commission's Decision, the California Constitution *specifically*

⁹⁷ Exhibit A, Test Claim Decision, adopted May 28, 2021, page 36.

⁹⁸ Elections Code section 21534(c)(2).

⁹⁹ Elections Code section 21534(c)(3)(A)-(B).

¹⁰⁰ Elections Code section 21534(c)(4)(A).

¹⁰¹ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, page 6 (Declaration of Gayla Kraetsch Hartsough).

exempts from the subvention requirement costs incurred to comply with the California Public Records Act and the Brown Act, which the Commission therefore denies.¹⁰²

2. The claimant has not supported several proposed activities with substantial evidence in the record showing why they are reasonably necessary to comply with the limited state-mandated program and, therefore, staff recommends that the Commission deny these activities

The claimant did not support several activities listed in the table in the Executive Director's Declaration with substantial evidence in the record showing why they are reasonably necessary to comply with the limited state-mandated program. These include the following activities relating to the retention of independent legal counsel for the CRC:

- County Counsel retained an Independent Legal Lawyer and firm to preserve the LA County CRC's independence. The Executive Director reviews and approves the Independent Legal Counsel's unredacted invoices and submits redacted invoices to LA County for payment.
- The Executive Director worked with legal counsel to develop the CRC by-laws and facilitated the meetings until the by-laws were written and co-chairs were selected.¹⁰³

The state-mandated activities performed by the CRC are limited to the following: conducting seven public hearings before drafting a map; posting the draft map for public comment and conducting one public hearing on the draft map; making a calendar available to the public of all public hearings; arranging for the live translation of a hearing in an applicable language if a request for translation is made at least 24 hours before the hearing; taking steps to encourage county residents to participate in the redistricting public review process; and issuing a report explaining the basis on which the CRC made its decision in achieving compliance with redistricting.¹⁰⁴ As explained in the Test Claim Decision, reimbursement under article XIII B, section 6 is not required for the process of redistricting using the mapping process to ensure compliance with the Voting Rights Act.¹⁰⁵ Thus, if legal counsel is used to consult with the CRC or to create by-laws for the redistricting process itself, those costs are not eligible for reimbursement.

The Executive Director declares that providing the members with training on the Voting Rights Act is reasonably necessary to comply with the mandate. Executive Director's Declaration, however, only states that her "focus is on training, by identifying SMEs [Subject Matter Experts]

¹⁰² California Constitution, article I, sections 3(b) and 7; California Constitution, article II, section 2.5; California Constitution, article XIII B, section 6(a); see Exhibit A, Test Claim Decision, adopted May 28, 2021, pages 28 and 35 for discussion.

¹⁰³ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 7, 10.

¹⁰⁴ Exhibit A, Test Claim Decision, adopted May 28, 2021, pages 39-40.

¹⁰⁵ Exhibit A, Test Claim Decision, adopted May 28, 2021, page 29.

to speak on topics of importance to the Commissioners (e.g., Voting Rights Act)....”¹⁰⁶ While the CRC is a new body and an understanding of the Voting Rights Act may be reasonably necessary to carry out the CRC members’ mandated duties, there is no evidence in the record that the training was conducted for that purpose nor does the Declaration tie the training to the mandated activities or say why it is necessary for the performance of the mandate activities. The Executive Director’s Declaration also states that she “coordinates our calendar for public hearings with the California CRC and other CRCs to avoid conflicting schedules for the public.”¹⁰⁷ The Test Claim Decision approved reimbursement for the CRC to “establish and make available to the public a calendar of all public hearings” in accordance with Elections Code section 21534(c)(4)(A).¹⁰⁸ The evidence does not explain whether the activity of coordinating the calendar is the same as or associated with the reimbursable state-mandated activity of establishing the calendar and making it available to the public, and there is no explanation of what is meant by coordinating the calendar with “other CRCs” to avoid conflicting schedules.

Accordingly, the Commission finds that the claimant has not supported these proposed activities with substantial evidence in the record and therefore denies them.

3. The Commission approves activities relating to establishing the CRC; replacing members who resign; providing one-time training for each CRC member on the Rules of Order for public hearings, and the ethics requirements of CRC members; and the activities to encourage county residents to participate in the redistricting public review process, finding them reasonably necessary to comply with the state-mandated program.

The test claim statute mandates the creation of a 14-member CRC in each year ending in the number zero.¹⁰⁹ The claimant is mandated to select eight commissioners.¹¹⁰ The eight commissioners are then mandated to appoint six additional applicants to the CRC, so that the CRC has 14 members.¹¹¹ The Test Claim Decision approved reimbursement for the claimant and CRC to select the commissioners. Elections Code section 21533(c) states that nine members of the CRC shall constitute a quorum, and nine or more affirmative votes shall be required for any official action.

The Executive Director declares that the following activities are reasonably necessary for the CRC to select the six members of the commission:

¹⁰⁶ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, page 6 (Declaration of Gayla Kraetsch Hartsough).

¹⁰⁷ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, page 8 (Declaration of Gayla Kraetsch Hartsough).

¹⁰⁸ Exhibit A, Test Claim Decision, adopted May 28, 2021, page 39.

¹⁰⁹ Elections Code section 21532(c).

¹¹⁰ Elections Code section 21532(a), (g).

¹¹¹ Elections Code section 21532(h).

- Designed a selection process for the additional six commissioners, building on input from the Commissioners, and supported the Selection of Replacement Commissioners Ad Hoc Working Group.
- Conducted and tabulated surveys of Commission evaluations of applicants.
- Facilitated four CRC meetings to select the final Commissioners.¹¹²

The Executive Director also declares that she was required to replace CRC members that have resigned to ensure a quorum, and the claimant requests reimbursement as follows:

To ensure a quorum, the LA County CRC has maintained 14 Commissioners. When one resigned, the Executive Director had to verify that target highly qualified applicants were still available, residents of LA County, and continued to have no conflicts of interest.¹¹³

The Commission finds that the Executive Director's Declaration, signed under penalty of perjury, is sufficient to support a finding that the activities identified to select the six members of the CRC and replace members that resign are reasonably necessary to comply with the state-mandated program to have a 14-member CRC.¹¹⁴ The Test Claim Decision explains what is required by Elections Code 21532 to appoint a member:

The 14-member CRC must be created no later than December 31, 2020, and in each year ending in the number zero thereafter. [Citation omitted.] The process for the selection of members is designed to produce a CRC that is independent from the influence of the board and is reasonably representative of the county's diversity. [Citation omitted.] The members' political party preferences must be as proportional as possible to the total number of voters who are registered with each political party in the county. At least one member must reside in each of the five existing supervisorial districts. [Citation omitted.] Members are required to meet all of the following qualifications:

- Be a resident of the county,
- Be a voter who has been continuously registered in the county who has not changed their political party affiliation for five or more years,
- Have voted in at least one of the last three statewide elections,
- Within the last 10 years, neither the applicant nor an immediate family member, has been appointed to, elected to, or have been a candidate for office;

¹¹² Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 7, 10 (Declaration of Gayla Kraetsch Hartsough).

¹¹³ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 5, 8 (Declaration of Gayla Kraetsch Hartsough).

¹¹⁴ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 5, 7-8 (Declaration of Gayla Kraetsch Hartsough).

served as an employee of, or paid consultant for, an elected representative, candidate, or political party; or been a registered state or local lobbyist,

- Possess experience that demonstrates relevant analytical skills and an ability to comprehend and apply legal requirements,
- Possess experience that demonstrates an ability to be impartial, and
- Possess experience that demonstrates an appreciation for the diverse demographics and geography of the county. [Citation omitted.]

Those individuals who meet the qualifications may submit an application to the county elections official who is required to review the applications and eliminate applicants who do not meet the qualifications. [Citation omitted.]¹¹⁵

Elections Code section 21532(h)(2) then requires that the six appointees shall be chosen by the eight CRC members based on relevant experience, analytical skills, and ability to be impartial, and to ensure that the CRC reflects the county's diversity, including racial, ethnic, geographic, and gender diversity. However, formulas or specific ratios shall not be applied for this purpose. The eight CRC members shall also consider political party preference, selecting applicants so that the political party preference of the members of the CRC complies with section 21532(c), which states the following:

The political party preferences of the commission members, as shown on the members' most recent affidavits of registration, shall be as proportional as possible to the total number of voters who are registered with each political party in the County of Los Angeles or who decline to state or do not indicate a party preference, as determined by registration at the most recent statewide election. However, the political party or no party preferences of the commission members are not required to be exactly the same as the proportion of political party and no party preferences among the registered voters of the county. At least one commission member shall reside in each of the five existing supervisorial districts of the board.

Accordingly, the Parameters and Guidelines include the following reasonably necessary activities under Section IV.B.2. of the Parameters and Guidelines (Ongoing Activities):

- a. The eight selected commissioners shall review the remaining names in the subpools of applicants and shall appoint six additional applicants to the CRC.¹¹⁶
Reimbursement for this activity includes the following:
 - Design a selection process to appoint the six CRC members.
 - Conduct and tabulate surveys of CRC member evaluations of the applicants for the six remaining seats.
 - Facilitate CRC meetings to select the final six CRC members.

¹¹⁵ Exhibit A, Test Claim Decision, adopted May 28, 2021, pages 11-12.

¹¹⁶ Elections Code section 21532(h).

- Select replacement commissioners in accordance with Elections Code 21532 for CRC members that resign to ensure a 14-member commission and a quorum are maintained.¹¹⁷

The Executive Director further declares under penalty of perjury that providing the members with training on the Rosenberg Rules of Order for the CRC hearings, ethics, supporting the Education for Commissioners (Speakers' Series) and Values Ad Hoc Working Groups, and providing guidance on the format for the regular public hearings, are reasonably necessary to comply with the mandate.¹¹⁸ The Commission finds that the Declaration supports the finding that providing *one-time* training on the Rosenberg Rules of Order and format of public hearings, and ethics requirements of CRC members, which pursuant to Elections Code section 21532, requires the member to be impartial and apply legal requirements, is reasonably necessary for the mandate to create the CRC and for the CRC to conduct the new mandated public hearings. However, as indicated in the analysis above, reimbursement is not required for the redistricting process itself, or for training on the Brown Act, the Public Records Act, or the Voting Rights Act. Moreover, the activity of supporting the Education for Commissioners (Speakers' Series) and Values Ad Hoc Working Groups is overly broad and not supported by evidence in the record that it is reasonably related to the mandated activities and, thus, is denied. Finally, the claimant made no request for training of CRC members on the mandated activities contained in the Test Claim statute.

Therefore, the Parameters and Guidelines authorize one-time reimbursement for training as follows:

- A. One time training for each CRC member on the Rosenberg Rules of Order and format of public hearings, and the ethics requirements of CRC members, which pursuant to Elections Code section 21532, requires the member to be impartial and apply legal requirements.¹¹⁹

*Reimbursement is **not** required to adjust supervisorial boundary lines and adopt a redistricting plan in accordance with the Voting Rights Act, or for training regarding the Ralph M. Brown Act, the California Public Records Act, or for any other activities not identified in Section I.V.B. of these Parameters and Guidelines.*

In addition, the Commission found that the test claim statute imposes a reimbursable state-mandated activity to "take steps to encourage county residents to participate in the redistricting public review process."¹²⁰ Elections Code section 21534(c)(6) provides examples of what the steps may include:

¹¹⁷ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 5, 7-8 (Declaration of Gayla Kraetsch Hartsough).

¹¹⁸ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 5-6, 8, 10 (Declaration of Gayla Kraetsch Hartsough).

¹¹⁹ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 5-6, 8 (Declaration of Gayla Kraetsch Hartsough).

¹²⁰ Elections Code section 21534(c)(6).

(A) Providing information through media, social media, and public service announcements.

(B) Coordinating with community organizations.

(C) Posting information on the Internet Web site of the County of Los Angeles that explains the redistricting process and includes a notice of each public hearing and the procedures for testifying during a hearing or submitting written testimony directly to the commission.

In this respect, the Executive Director declares under penalty of perjury that the following activities were performed:

- Established a website, a Facebook page, and a Twitter account for the CRC and sent email bulletins through GovDelivery to more than 7,000 email accounts.
- Built an outreach toolkit for use by community-based organizations, cities, and other governmental entities and conducted ongoing meetings to engage them in the outreach process.
- Worked with community-based organizations to obtain input on methods to promote meetings and public hearings.
- Developed and implemented a Public Outreach Plan to increase public participation and supported the Outreach Ad Hoc Working Group.¹²¹

The Commission finds that the first three bulleted activities are consistent with the plain language of Elections Code section 21534(c)(6) and that the Executive Director's Declaration supports the finding that the last bullet (to develop a public outreach plan) is reasonably necessary to comply with the mandate to "take steps to encourage county residents to participate in the redistricting public review process."¹²² Therefore, Section IV.B.2.f. of the Parameters and Guidelines authorizes reimbursement for the activities outlined in section 21534(c)(6) of the steps that can be taken to encourage county residents to participate in the redistricting public review process, which the CRC performed, and the activity identified by the Executive Director to develop and implement a plan to increase public participation as follows:

- f. Take steps to encourage county residents to participate in the redistricting public review process. Reimbursement for this activity includes the following:
- Develop and implement a Public Outreach Plan to increase public participation.
 - Provide information through media, social media, and public service announcements.
 - Coordinate with community organizations.
 - Post information on the Internet Web site of the County of Los Angeles that explains the redistricting process and includes a notice of each public hearing and

¹²¹ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 5, 8-10 (Declaration of Gayla Kraetsch Hartsough).

¹²² Elections Code section 21534(c)(6).

the procedures for testifying during a hearing or submitting written testimony directly to the CRC.¹²³

D. Claim Preparation and Submission (Section V. of the Parameters and Guidelines)

Section V. of the Parameters and Guidelines (Claim Preparation and Submission) identifies the direct costs that are eligible for reimbursement, including: salaries and benefits, materials and supplies, contracted services, travel, training, and fixed assets. However, travel costs are not included in the Parameters and Guidelines because this activity was not approved in the Test Claim Decision and the claimant neither requested these costs as reasonably necessary to perform the mandated activities nor submitted evidence to support such a request. The paragraph on Training has been modified for consistency with the Commission's findings for this program as follows:

5. Training

Report the cost of training, as specified in Section IV.A. of this document. Report the name and job classification of each employee, consultant, contractor, or CRC member preparing for, attending, or conducting training. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than what is identified in Section IV.A., only the pro-rata portion can be claimed. Report training time according to the rules of cost element A.1., Salaries and Benefits, and A.2., Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3., Contracted Services.

The remaining sections of the Parameters and Guidelines contain standard boilerplate language.

V. Conclusion

Based on the foregoing, the Commission hereby adopts the Proposed Decision and Parameters and Guidelines.

PARAMETERS AND GUIDELINES¹²⁴

Elections Code Sections 21532(a) and (e)-(h) and
21534(c)(2), (c)(3)(A)-(B), (c)(4)(A), (c)(5)-(8) and (d)(4)

Statutes 2016, Chapter 781 (SB 958)

County of Los Angeles Citizens Redistricting Commission

19-TC-04

Reimbursement for this program begins July 1, 2018.

¹²³ Elections Code section 21534(c)(6); Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 5, 8-9 (Declaration of Gayla Kraetsch Hartsough).

¹²⁴ Please note that the Decision and Parameters and Guidelines is a single document and must be read as a whole. It is not intended to be separated and should be posted in its entirety.

I. SUMMARY OF THE MANDATE

These Parameters and Guidelines address Statutes 2016, chapter 781, which added Elections Code sections 21530 through 21535 to require the claimant to create, staff, and fund the independent County of Los Angeles Citizens Redistricting Committee (CRC) to adjust the boundary lines of the supervisorial districts in the County of Los Angeles in the year following the year of the decennial federal census.

On May 28, 2021, the Commission on State Mandates (Commission) adopted the Test Claim Decision finding that the test claim statute imposes a partially reimbursable state-mandated program upon the County of Los Angeles within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities:

- The county shall create a CRC no later than December 31, 2020, and in each year ending in the number zero thereafter.¹²⁵
- The elections official shall review the applications and eliminate applicants who do not meet the specified qualifications, select 60 of the most qualified applicants, publish the list of qualified applicants for 30 days, and create a subpool for each of the five existing supervisorial districts of the board.¹²⁶
- At a regularly scheduled meeting of the board, the Auditor-Controller conducts a random drawing to select one commissioner from each of the five subpools, then another random drawing from all of the remaining applicants to select three additional commissioners.¹²⁷
- The board shall take all steps necessary to ensure a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide to the public ready access to redistricting data and computer software equivalent to what is available to the CRC.¹²⁸

In addition, based on Elections Code section 21534(c)(8), which requires the claimant to provide reasonable funding and staffing to the CRC, the following activities mandated by Elections Code sections 21532 and 21534 and performed by the CRC impose a reimbursable state-mandated program on the claimant:

- The eight selected commissioners shall review the remaining names in the subpools of applicants and shall appoint six additional applicants to the CRC.¹²⁹

¹²⁵ Elections Code section 21532(a).

¹²⁶ Elections Code section 21532(e)-(g).

¹²⁷ Elections Code section 21532(g).

¹²⁸ Elections Code section 21534(c)(7).

¹²⁹ Elections Code section 21532(h).

- Conduct at least seven public hearings before drafting a map, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district.¹³⁰
- Post the draft map for public comment on the website of the County of Los Angeles and conduct one public hearing on the draft map (in addition to the one hearing required under prior law, which is not reimbursable).¹³¹
- Establish and make available to the public a calendar of all public hearings.¹³²
- Arrange for the live translation of a hearing in an applicable language (defined as “a language for which the number of residents of the County of Los Angeles who are members of a language minority is greater than or equal to three percent of the total voting age residents of the county”) if a request for translation is made at least 24 hours before the hearing.¹³³
- Take steps to encourage county residents to participate in the redistricting public review process.¹³⁴
- Issue a report that explains the basis on which the CRC made its decisions in achieving compliance with the redistricting criteria required to comply with the Voting Rights Act.¹³⁵

The Commission denied all other code sections added by the test claim statute and activities alleged to be mandated in the Test Claim. Specifically, the Commission found that Elections Code sections 21530, 21533, and 21535 do *not* impose any state-mandated requirements on the claimant, but rather generally define terms and limit the hiring of consultants by the CRC to help with the adjustment of district boundaries. Although the claimant is required by Elections Code section 21534(c)(8) to provide reasonable funding to the CRC, which may include paying for a consultant hired by the CRC, the courts have made it clear that “[n]othing in article XIII B prohibits the shifting of costs between local governmental entities.”¹³⁶

In addition, the requirements imposed by Elections Code sections 21531 and 21534(a), (c)(9), and (d)(1)-(3) to adjust supervisorial boundary lines, adopt a redistricting plan every ten years; and to comply with the Public Records Act are *not* new and do not impose a reimbursable new program or higher level of service on the claimant.¹³⁷

¹³⁰ Elections Code section 21534(c)(2).

¹³¹ Elections Code section 21534(c)(3)(A)-(B).

¹³² Elections Code section 21534(c)(4)(A).

¹³³ Elections Code section 21534(c)(5).

¹³⁴ Elections Code section 21534(c)(6).

¹³⁵ Elections Code section 21534(d)(4).

¹³⁶ *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1815.

¹³⁷ California Constitution, article I, sections 3(b) and 7; California Constitution, article II, section 2.5; California Constitution, article XIII B, section 6(a); Elections Code sections 14025-

Finally, the Commission found that the activities required by Elections Code section 21534(c)(1) and (c)(4)(B) to comply with the Ralph M. Brown Act for the public hearings conducted by the CRC are *not* eligible for reimbursement pursuant to article XIII B, section 6(a)(4). Article XIII B, section 6(a)(4) states that “the Legislature may, but need not, provide a subvention of funds for the following mandates: . . . Legislative mandates contained in statutes within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I.” Article I, section 3(b) of the California Constitution requires local agencies to comply with the Ralph M. Brown Act, beginning with Government Code section 54950. The Brown Act applies to all local agencies and “any other local body created by state statute,” and therefore applies to the CRC.¹³⁸

II. ELIGIBLE CLAIMANTS

Only the County of Los Angeles is eligible to claim reimbursement.

III. PERIOD OF 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 claimant filed the Test Claim on June 26, 2020, establishing eligibility for reimbursement for the 2018-2019 fiscal year. Therefore, costs incurred are reimbursable on or after July 1, 2018.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller (Controller) within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560(a), a local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code §17560(b).)
5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564(a).
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

14032 as added by Statutes 2002, chapter 129; Elections Code section 21500 as added by Statutes 1994, chapter 920 and amended by Statutes 2015, chapter 732, section 36; Elections Code section 21507 as added by Statutes 2014, chapter 873; Government Code section 6252 as last amended by Statutes 2015, chapter 537; and *Reynolds v. Sims* (1964) 377 U.S. 533, 566.

¹³⁸ Government Code section 54952(a).

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event, or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

- A. One time training for each CRC member on the Rosenberg Rules of Order and format of public hearings, and the ethics requirements of CRC members, which pursuant to Elections Code section 21532, requires the member to be impartial and apply legal requirements.¹³⁹

*Reimbursement is **not** required to adjust supervisorial boundary lines and adopt a redistricting plan in accordance with the Voting Rights Act, or for training regarding the Ralph M. Brown Act, the California Public Records Act, or any other activities not identified in Section IV.B. of these Parameters and Guidelines.*

B. Ongoing Activities

1. Creation of the Citizens Redistricting Commission (CRC).¹⁴⁰
 - a. The county shall create a CRC no later than December 31, 2020, and in each year ending in the number zero thereafter.¹⁴¹

¹³⁹ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 5-6, 8 (Declaration of Gayla Kraetsch Hartsough).

¹⁴⁰ The county is required to form a CRC every ten years. (Elections Code section 21532(a).) The terms of the prior CRC members terminate with the appointment of the first member of the succeeding CRC. (Elections Code section 21533(b).) Therefore, the activities must be repeated with each new CRC.

¹⁴¹ Elections Code section 21532(a).

- b. The elections official shall review the applications and eliminate applicants who do not meet the specified qualifications, select 60 of the most qualified applicants, publish the list of qualified applicants for 30 days, and create a subpool for each of the five existing supervisorial districts of the board.¹⁴²
 - c. At a regularly scheduled meeting of the board, the Auditor-Controller conducts a random drawing to select one commissioner from each of the five subpools, then another random drawing from all of the remaining applicants to select three additional commissioners.¹⁴³
 - d. The board shall take all steps necessary to ensure a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide to the public ready access to redistricting data and computer software equivalent to what is available to the CRC.¹⁴⁴
2. Activities Performed by the CRC.¹⁴⁵ Based on Elections Code section 21534(c)(8), which requires the County of Los Angeles to provide reasonable funding and staffing to the CRC, the following activities mandated by the test claim statute and performed by the CRC are eligible for reimbursement:
- a. The eight selected commissioners shall review the remaining names in the subpools of applicants and shall appoint six additional applicants to the CRC.¹⁴⁶
Reimbursement for this activity includes the following:
 - Design a selection process to appoint the six CRC members.
 - Conduct and tabulate surveys of CRC member evaluations of the applicants for the six remaining seats.
 - Facilitate CRC meetings to select the final six CRC members.
 - Select replacement commissioners in accordance with Elections Code 21532 for CRC members that resign to ensure a 14-member commission and a quorum are maintained.¹⁴⁷

¹⁴² Elections Code section 21532(e)-(g).

¹⁴³ Elections Code section 21532(g).

¹⁴⁴ Elections Code section 21534(c)(7).

¹⁴⁵ Boundary lines of the supervisorial districts in the County of Los Angeles must be drawn in the year following the year of the decennial federal census. (Elections Code section 21531.) In addition, the county is required to form a CRC every ten years. (Elections Code section 21532(a).) The terms of the prior CRC members terminate with the appointment of the first member of the succeeding CRC. (Elections Code section 21533(b).) Therefore, the activities must be repeated by each new CRC.

¹⁴⁶ Elections Code section 21532(h).

¹⁴⁷ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 5, 7-8 (Declaration of Gayla Kraetsch Hartsough).

- b. Conduct ~~at least~~ seven public hearings before drafting a map, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district.¹⁴⁸

*Reimbursement is **not** required to comply with the Ralph M. Brown Act when conducting these hearings pursuant to article XIII B, section 6(a)(4) of the California Constitution. Thus, the following activities are not eligible for reimbursement: posting a notice and agenda (Government Code section 54954.2), mailing agenda items to the public (Government Code section 54954.1), and complying with the Americans with Disabilities Act for the hearing (54953.2).*

- c. Post the draft map for public comment on the website of the County of Los Angeles and conduct one public hearing on the draft map (in addition to the one hearing required under prior law, which is not reimbursable).¹⁴⁹

*Reimbursement is **not** required to comply with the Ralph M. Brown Act when conducting the hearing on the draft map pursuant to article XIII B, section 6(a)(4) of the California Constitution. Thus, the following activities are not eligible for reimbursement: posting a notice and agenda (Government Code section 54954.2), mailing agenda items to the public (Government Code section 54954.1), and complying with the Americans with Disabilities Act for the hearing (54953.2).*

- d. Establish and make available to the public a calendar of the ~~all~~ eight public hearings identified in Section IV.B.2.b. and c. of these Parameters and Guidelines.¹⁵⁰
- e. Arrange for the live translation of a hearing in an applicable language (defined as “a language for which the number of residents of the County of Los Angeles who are members of a language minority is greater than or equal to three percent of the total voting age residents of the county”) if a request for translation is made at least 24 hours before the hearing.¹⁵¹
- f. Take steps to encourage county residents to participate in the redistricting public review process. Reimbursement for this activity includes the following:
- Develop and implement a Public Outreach Plan to increase public participation.
 - Provide information through media, social media, and public service announcements.
 - Coordinate with community organizations.
 - Post information on the Internet Web site of the County of Los Angeles that explains the redistricting process and includes a notice of each public hearing and

¹⁴⁸ Elections Code section 21534(c)(2).

¹⁴⁹ Elections Code section 21534(c)(3)(A)-(B).

¹⁵⁰ Elections Code section 21534(c)(4)(A).

¹⁵¹ Elections Code section 21534(c)(5).

the procedures for testifying during a hearing or submitting written testimony directly to the CRC.¹⁵²

- g. Issue a report that explains the basis on which the CRC made its decisions in achieving compliance with the redistricting criteria required to comply with the Voting Rights Act.¹⁵³

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV., Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets

¹⁵² Elections Code section 21534(c)(6); Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, filed on July 29, 2021, pages 5, 8-9 (Declaration of Gayla Kraetsch Hartsough).

¹⁵³ Elections Code section 21534(d)(4).

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Training

Report the cost of training, as specified in Section IV.A. of this document. Report the name and job classification of each employee, consultant, contractor, or CRC member preparing for, attending, or conducting training. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than what is identified in Section IV.A., only the pro-rata portion can be claimed. Report employee training time according to the rules of cost element A.1., Salaries and Benefits, and A.2., Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3., Contracted Services.

B. Indirect Cost Rates

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) 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.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed pursuant to this chapter¹⁵⁴ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV., must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

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, other state funds, and other funds that are not the claimant's proceeds of taxes shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local governments in claiming costs to be reimbursed. The claiming instructions shall be derived from these parameters and guidelines and the decisions on the test claim and parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561(d)(1), issuance of the claiming instructions shall constitute a notice of the right of the eligible claimants to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

¹⁵⁴ This refers to title 2, division 4, part 7, chapter 4 of the Government Code.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of an eligible claimant, the Commission shall review the claiming instructions issued by the Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557(d), and California Code of Regulations, title 2, section 1183.17.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The decisions adopted for the test claim and parameters and guidelines are legally binding on all parties and interested parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On September 22, 2021, I served the:

- **Draft Proposed Decision and Parameters and Guidelines, Schedule for Comments, and Notice of Hearing issued September 22, 2021**

County of Los Angeles Citizens Redistricting Commission, 19-TC-04
Elections Code Sections 21532(a) and (e)-(h) and
21534(c)(2), (c)(3)(A)-(B), (c)(4)(A), (c)(5)-(8) and (d)(4)
Statutes 2016, Chapter 781 (SB 958)
County of Los Angeles, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 22, 2021 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
980 Ninth Street, Suite 300
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(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 9/15/21

Claim Number: 19-TC-04

Matter: County of Los Angeles Citizens Redistricting Commission

Claimant: County of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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RECEIVED
October 12, 2021
**Commission on
State Mandates**

Exhibit E

BETTY T. YEE
California State Controller

October 12, 2021

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

**SUBJECT: Draft Proposed Decision and Parameters and Guidelines, Schedule for
Comments, and Notice of Hearing**

County of Los Angeles Citizens Redistricting Commission, 19-TC-04
Elections Code Sections 21532(a) and (e)-(h) and
21534(c)(2), (c)(3)(A)-(B), (c)(4)(A), (c)(5)-(8) and (d)(4)
Statutes 2016, Chapter 781 (SB 958)
County of Los Angeles, Claimant

Dear Ms. Halsey:

The State Controller's Office reviewed the Draft Proposed Decision and Parameters and Guidelines for the County of Los Angeles Citizens Redistricting Commission and recommend no changes.

If you have any questions, please contact Helm Zinser-Watkins of the Local Reimbursements Section in the Local Government Programs and Services Division, at HZinser-Watkins@sco.ca.gov or (916) 324-7876.

Sincerely,

Darryl Mar Digitally signed by Darryl Mar
Date: 2021.10.12 11:16:12
-07'00'

DARRYL MAR
Manager
Local Reimbursements Section

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On October 14, 2021, I served the:

- **Controller's Comments on the Draft Proposed Decision and Parameters and Guidelines filed October 12, 2021**

County of Los Angeles Citizens Redistricting Commission, 19-TC-04
Elections Code Sections 21532(a) and (e)-(h) and
21534(c)(2), (c)(3)(A)-(B), (c)(4)(A), (c)(5)-(8) and (d)(4)
Statutes 2016, Chapter 781 (SB 958)
County of Los Angeles, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 14, 2021 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
980 Ninth Street, Suite 300
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 9/15/21

Claim Number: 19-TC-04

Matter: County of Los Angeles Citizens Redistricting Commission

Claimant: County of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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\ 'lēst  \

Definition of *least*

(Entry 1 of 3)

superlative of [little entry 1](#)

1 : lowest in importance or position It's least on my list of worries.

2a : smallest in size or degree The least noise would startle her.

b : being a member of a kind distinguished by diminutive size the least bittern

c : smallest possible : [slightest](#) believed that the least government was the best government— Irving Stone

least

[noun](#)

Definition of *least* (Entry 2 of 3)

: one that is least

at least

1 : at the minimum *at least* once a week2 : in any case *at least* you have a choice

least

[adverb](#)Definition of *least* (Entry 3 of 3)superlative of [little entry 2](#)

: in the smallest or lowest degree

least of all

: especially not no one, *least of all* the children, paid attention**Examples of *least* in a Sentence**Adverb Who was the *least* at fault in the case? He asked me to help him when I *least* expected it.See More  Recent Examples on the Web: Adjective The continuity of recent DC movies is fluid, to say the *least*. — James Grebey, *Vulture*, 6 Aug. 2021 Still, the fact that Apple keeps filing patents on foldable iPhone technology is certainly intriguing, to say the *least*. — Yoni Heisler, *BGR*, 5 Aug. 2021

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Adjective

before the 12th century, in the meaning defined at [sense 1](#)

Noun

12th century, in the meaning defined at [sense 1](#)

Adverb

13th century, in the meaning defined [above](#)**History and Etymology for *least***

Adjective, Noun, and Adverb

Middle English *leest*, from Old English *læst*, superlative of *læssa* less

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Time Traveler for *least*



The first known use of *least* was before the 12th century

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More Definitions for *least*

least

adjective



English Language Learners Definition of *least*

(Entry 1 of 2)

: smallest in amount or degree

least

adverb

English Language Learners Definition of *least* (Entry 2 of 2)

: in or to the smallest degree

[See the full definition for *least* in the English Language Learners Dictionary.](#)

least

adjective

\ 'lēst  \

Kids Definition of *least*

(Entry 1 of 3)

superlative of [little](#)

: smallest in size or degree The *least* noise startles her.

least

noun

Kids Definition of *least* (Entry 2 of 3)

: the smallest or lowest amount or degree I don't mind in the *least*.

at least

1 : not less or fewer than Read *at least* 20 pages.

2 : in any case *At least* you have a choice.

least

adverb

Kids Definition of *least* (Entry 3 of 3)

superlative of [little](#)

: in or to the smallest degree You arrived when I *least* expected you.

least

Medical Definition of *least*

superlative of [little](#)

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