

evidence of physical disability, to apply for permanent absent voter status. The county clerk shall establish and maintain a list of permanent absent voters and mail absent voter ballots to such voters for each election in which they are eligible to vote. Moreover, these statutes provide that a person on the permanent voter list shall be deleted from the list if that person fails to return an executed absent voter ballot for any statewide direct primary or general election.

Prior to the enactment of Chapter 1422/82, an absent voter ballot was not mailed to a voter unless a written request for an absent voter ballot was received before each election.

Both the Department of Finance and the Office of the Secretary of State noted that Chapter 1422/82 contains a legislative statement that the chapter provides both costs and savings, and therefore no appropriation is required.

The Department of Finance recommended that the permanent absent voter program, as enacted by Chapter 1422/82, is a reimbursable state mandated program, and that the issue of potential cost savings should be addressed during the preparation of parameters and guidelines.

The Office of the Secretary of State recommended that Chapter 1422/82 results in a new program as defined in Government Code section 17514 and section 6 of article XIII B of the California Constitution. However, without specific data, it is not possible to determine whether savings have been realized in an amount sufficient to offset any costs.

APPLICABLE LAW

Government Code section 17551, subdivision (a) provides:

"The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled to be reimbursed by the state for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution."

Government Code section 17514 provides:

"'Costs mandated by the state' means any increased costs which a local agency or school district is required to incur after July 7, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

Section 6, article XIII6 of the California Constitution reads:

"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 program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates:

- (a) Legislative mandates requested by the local agency affected;
- (b) Legislation defining a new crime or changing an existing definition of a crime; or
- (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975."

CONCLUSION

The Commission determines that it has the authority to decide this claim under the provisions of Government Code section 17551, subdivision (a).

The Commission concludes that sections 1450 through 1456, as added by Chapter 1422/82, require counties to implement a new program because the county clerk must now: (1) establish and maintain a list of permanent absent voters who provide evidence of physical disability, (2) mail absent voter ballots to such voters for each election in which they are eligible to vote, and (3) delete from the permanent absent voter list any person who fails to return an executed absent voter ballot for any statewide direct primary or general election.

Furthermore, the Commission directs staff and the involved parties to consider any offsetting savings during the development of the parameters and guidelines.

Accordingly, such costs related to the aforementioned new program are costs mandated by the state and are subject to reimbursement within the meaning of section 6, article XIII B of the California Constitution. Therefore, the claimant is directed to submit parameters and guidelines, pursuant to Government Code section 17557 and Title 2, California Code of Regulations section 1183.1, to the Commission for its consideration.

The foregoing is subject to the following conditions:

The determination of a reimbursable state mandate does not mean that all increased costs claimed will be reimbursed. 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 claim by the State Controller's Office.

DECLARATION OF SERVICE BY MAIL

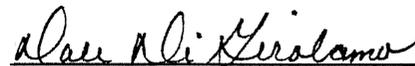
I, the undersigned, declare as follows:

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 and business address is 1414 K Street, Suite 315, Sacramento, California 95814.

On September 29, 1989, I served the attached Statement of Decision by placing a true copy thereof in an envelope addressed to the person named below at the address set out immediately below her name, and by sealing and depositing said envelope in the United States mail at Sacramento, California, with postage thereon fully prepaid.

Ms. Karen Mathews
County of Stanislaus
1100 I Street, Room 300
Modesto, CA 95354

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on September 29, 1989, at Sacramento, California.



Dale DiGirolamo

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