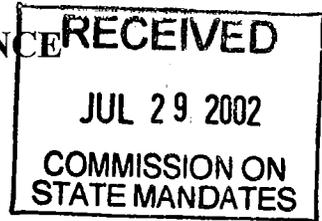


RESPONSE TO DEPARTMENT OF FINANCE



*Modified Primary Election*

01-TC-13

County of Orange, Claimant

Chapter 898, Statutes of 2000 (SB 28)

The County of Orange is in receipt of the comments issued by the Department of Finance, by its letter to Paula Higashi dated June 28, 2002. The County of Orange disagrees with each and every point made by the Department of Finance. This response will address each point by the Department of Finance in turn.

**1, 2 and 3 – Planning meetings in order to obtain information from the Secretary of State (SOS) as to which political parties allow voters who have not designated their political party to vote in primary elections.** There was a toll free number to obtain information from the Secretary of State. However, it took substantial effort from local elections staff and the Secretary of State’s Office to arrive at the point to know what each political party was planning, and what information should be included in the Secretary of State’s toll free number.

Due to the fact that there are 58 counties doing elections in 58 different ways with 58 varying interpretations of statute, the California Association of Clerks and Election Officials (hereinafter “CACEO”) designated several members of the legislative subcommittee of the association to meet and develop procedures which were to be used statewide. I was the chair of that committee, and I believe the only meeting which I was unable to attend was one held on September 11, 2001, as I could not get my flight to Redding, California, where that meeting was held.

The committee held several meetings, often monthly, which were open to all counties and vendors in order to figure out the details as to how this matter was to proceed. Present at all meetings was legal staff from the Secretary of State’s Office, Steve Trout. When changing the way in which the voters were to be able to cast their ballots, it was important to make certain that no laws or constitutional rights were violated while implementing the test claim legislation properly.

Once all of the procedures were finalized as a result of these meetings, we developed a training manual. Two Registrars of Voters, two Assistant Registrars and a legal counsel from the Secretary of State’s Office held five training sessions throughout the state in an order to train election staff from each county on the requirements of the test claim legislation. As the test claim legislation was confusing, it was necessary to make sure that all staff throughout the state were trained. My staff attended the Southern California training session, and I participated in all but the September 11<sup>th</sup> training.

Thus, whereas a toll free number was available to call the Secretary of State’s Office, much planning was conducted prior to the institution of that number, and training

on the confusing requirements of the test claim legislation was held in order to obviate problems which could affect the conduct of the election.

**4 – Redesign and republication of the sample ballot and absentee voter application.**

Given the change wrought by the test claim legislation, it was necessary to review and redesign the sample ballot and absentee voter application once it was determined who gets to vote in what primary. Perhaps some redesign would have been necessary once the Supreme Court found that Proposition 198 was unconstitutional, but the ramifications of the test claim legislation were such that everything had to be reviewed and some redesign was necessary.

**5 – Redesign and implement election software.** This is not a one-time activity, as refinements continued on through the election. The County of Orange is fortunate in that its software vendor includes redesign to take into account changes in statute as part of their annual lease cost; however, as this is a test claim which affects all counties, other vendors may not accommodate legislative changes without cost.

**6 – Additional trained poll workers.** While the test claim legislation did not require an additional poll worker, several counties found it necessary to hire additional poll workers due to the complication of the ballot issue. If the voter was registered with a party, they received one type of ballot. If the voter was registered non-partisan and requested a partisan ballot, they were provided one as long as the requested party had agreed to allow non-partisans to vote in their election. However, the Republicans and Democrats still did not allow non-partisans to vote for their central committee candidates. Thus, as a result, there were many more decisions for poll workers to make, and some counties found it necessary to hire one extra poll worker to become an expert in this issue and take care of questions which arose at the poll.

**7 – Additional staff to process the absent voter requests manually.** As complicated as the ballot processing was at the polling place, it was even more complicated with absentee ballots. Prior to this legislation, when a voter's application for an absentee ballot was keyed, a mailing label came out which indicated the voter's party affiliation and ballot style. Under the test claim legislation, we had to take time to review the application to determine if the voter was a non-partisan voter who wanted a partisan ballot. Thus, we had to take additional time to determine if the voter was in fact registered non-partisan, and therefore entitled to a partisan ballot, and then make the final determination if the party the voter had requested allowed non-partisan voters to vote their party's ballot. Many voters who were already registered with a party requested another party's ballot, and this required much staff time and explanation.

**8 – Training, including training for trainers as well as new and existing staff.** This is clearly not a one-time issue. Election departments typically use much extra-help staff for an election. These are employees who do not have civil service status with the county, and are hired just for the period of the election. Additionally, temporary agency staff are also hired for the elections. These individuals are not vested in their employment, and as a result, their employment is not stable, and there is high turnover, and new staff must be

trained. During a primary election, Orange County employs up to 40 extra help staff just to handle absentee ballots alone. Generally, with every election, the extra help employees have never worked an election previously. These individuals need training. Additionally, other units within the elections department hire extra help employees that must be trained, as they are giving out information to the public and are handling critical processing. This training occurs only during primary elections, but occurs for every primary election on the requirements of this test claim legislation because the political parties that choose to allow participation by non-partisan voters can change for each primary election. Additionally, permanent employees needed training on the requirements of this legislation, and will need refresher training prior to the next primary, as this is a function which is not performed on a daily basis, which would reinforce the new requirements and processes.

**9 – Update training programs and manuals.** The County of Orange concurs that only the incremental costs associated with this test claim legislation should be claimed. However, this may not be a one-time activity. Each political party has the option of changing their decision as to whether to allow non-partisan voters to participate in the modified primary. Thus, the training materials will be needed to be updated each time any political party, or a new political party, makes or changes their determination as to whether a non-partisan voter may vote in that party's primary.

**10 – Costs to put out a press release to inform the public of the changes.** The County of Orange concurs that there is no mandate within the test claim legislation to inform the public of changes. However, the education of the public is imperative for the conduct of elections. The more educated the voter, the fewer questions and problems which elections staff must address. Confused voters often become angry, and consume more staff time. As it is generally less costly to get public information out on confusing issues such as the test claim legislation than answering each person's telephone call, this item constitutes the most reasonable method to comply with the mandate, pursuant to Title 2, California Code of Regulations, Section 1183.1.

**11 – Staff time to answer an increase in the number of telephone calls and inquiries from voters and the media.** The Department of Finance merely states that there is no justification for this activity. However, it is not saddled with the requirement of heavy public contact. This activity was a major issue in March. Voters received their sample ballot pamphlets and/or absentee ballots and became incensed that they were not being allowed to vote for whomever they chose, particularly after the passage of Proposition 198. These individuals were insistent that they had been issued the incorrect ballot at the polling place. These individuals were also upset when the person in front of them was able to obtain the ballot of whatever party that person chose. Some individuals who received a non-partisan sample ballot pamphlet, as they had never registered as a member of a political party were insistent that they had not registered as non-partisan, and were upset that they had no candidates on their sample ballot. All of these issues had to be addressed, both when the sample ballots were mailed, as well as at the polling place. This confusion was not caused by the claimant, but by the problems created by the test

claim legislation and the court decision finding that Proposition 198 was unconstitutional. Thus, there is substantial justification for this activity.

**12 – Update the sample ballot and absentee voter education materials.** The County of Orange agrees that the information is updated each election. However, more work was required because of the changes caused by the test claim legislation. We believe that only the incremental increase in these efforts should be reimbursable.

**13 – Increase in the number of ballot types and the number of overall ballots.** With both the Republican and Democratic parties not allowing non-partisan voters to vote on their central committee candidates, counties were required to print a separate ballot without any central committee candidates solely for the non-partisan voters. As we had no way of knowing how many non-partisan voters were going to opt to vote a partisan ballot, we had to order additional ballots to prepare for non-partisan voters so they could either vote a party or the non-partisan ballot. This increase in ballot types and number of overall ballots applied both to polling places as well as to absentee voters. This additional cost would not have been incurred but for the test claim legislation. The contention of the Department of Finance is misplaced and demonstrates a lack of knowledge of election process.

**14 – Increase in postage cost for mailing permanent and absentee voter information.** The contention of the Department of Finance that there is no justification for this activity is misplaced. This legislation required that we mail a notice to each permanent absentee voter and each mailed ballot precinct voter who registered as non-partisan. The notice advised these voters of their option to vote a party's ballot. In addition to the postage cost, we had to print the postcards as well that were mailed to the non-partisan voters.

In conclusion, the County of Orange respectfully disagrees with the Department of Finance, and suggests that the Commission consult with the Secretary of State's Office regarding the implementation of the test claim legislation.

#### CERTIFICATION

I, Rosalyn Lever, state:

I am the Registrar of Voters of the County of Orange. In my capacity as Registrar, I have personal knowledge of the facts stated herein, and those facts are true and correct. I declare, under penalty of perjury, that the foregoing is true and correct, and that this declaration is executed this 24<sup>th</sup> day of July, 2002 at Santa Ana, California.

  
Rosalyn Lever

PROOF 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 is 4320 Auburn Blvd., Suite 2000, Sacramento, CA 95841.

On July 29, 2002 I served the Response to Department of Finance, *Modified Primary Election*, 01-TC-13, Chapter 898, Statutes of 2000, by placing a true copy thereof in an envelope addressed to each of the persons listed on the mailing list attached hereto, and by sealing and depositing said envelope in the United State mail at Sacramento, California, with postage thereon fully prepaid.

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 this 29<sup>th</sup> day of July, 2002 at Sacramento, California.

  
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