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BILL JONES
Secretary of State
State of California

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(916) 653-3214 FAX
Internet: www.ss.ca.gov

July 24, 2002

Shirley Opie, Assistant Executive Director
Commission on State Mandates
980 9th Street, Suite 300
Sacramento, California 95814

RE: **Modified Primary Election, 01-TC-13**

Dear Ms. Opie:

Thank you for your letter of May 2, 2002 requesting the Secretary of State review of the test claim referenced above.

I apologize for the late response. However, given the importance of this issue to the elections community, I want to be sure that you are aware of the opinions of the Secretary of State's Office on this claim. .

Chapter 898, Statutes of 2000 had a profound affect on the conduct of elections in California. While the language of the bill sounds simple --- permit "decline to state" voters to vote in party primary elections, if the political party allows it -- the actual administration of this requirement added layers of complexity and cost to the conduct of elections.

Specifically, in order to plan for this new requirement, counties met together for months to hammer out the specifics of implementation. These meetings exposed issues of complexity and implementation that were then transmitted to all county election officials via printed implementation manuals as well as on-site visits with virtually every county to ensure uniform implementation throughout the state.

I want to stress that this uniformity is absolutely critical to the State's interest in a fair election, and without the planning undertaken by the counties there could have been serious equal protection and other legal issues arising over this issue. The planning stage was essential.

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Second, once the uniform application of procedures was determined, each county was required to review and adapt printed materials, as well as software and computer processes to count and tabulate votes. This included sample ballots, mailed to every voter, applications for absentee ballots, and other materials voters rely on to receive election information, as well as all the software required to lay out and design ballots, count votes, aggregate vote totals, and produce a written record of vote results.

Third, the new procedure in the bill required specific notice to voters of the new options for "decline to state" voters. These materials had to be prepared and distributed.

Fourth, because voters would be treated differently at the polling place, depending on their political affiliation or lack of it, each county had to adapt its pollworker training programs and polling place procedures.

This is not an insignificant task. On the contrary, it is a very difficult task. No matter what procedures are written down and distributed to implement a new law, they are of no use whatsoever unless the people who implement them understand them and are equipped to apply them on election day.

The universe of pollworkers is made up of many elderly persons and others who have followed a given set of procedures for years, and modifying their behavior is both critical and requires repetition and patience. If this training does not take place, or is not successful, the potential for voters to receive the wrong ballot is unacceptably high and could result in legal exposure and jeopardy for the outcome of the election.

This procedure also had the effect of discouraging people from becoming pollworkers because it added one more level of complexity to an already long and difficult day for a population of largely elderly persons. The result was to make it more difficult to recruit and retain pollworkers, requiring more time, resources, and money to make sure the polls were open on election day and staffed by people who could serve the customers (voters).

Fifth, a part of the training process depends on the office staff in the Elections Department understanding the new law and being able to communicate it to the public and to potential pollworkers who call. Providing accurate information to the public and other customers in the election process is critical to the integrity of the process and the confidence the public feels in the conduct and administration of elections.

In short, it is the belief of the Office of the Secretary of State that Chapter 898, Statutes of 2000 does constitute a mandate that is reimbursable by the State.

If you have any questions, please do not hesitate to contact me directly at 916/653-3228.

Sincerely,

A handwritten signature in black ink that reads "John Mott-Smith". The signature is written in a cursive, flowing style.

JOHN MOTT-SMITH
Chief, Elections Division

CC: MS. Pam Stone
DGS Maximus
4320 Auburn Blvd., Suite 2000
Sacramento, California 95841

Acc/chapter898-dts-072