

COMMISSION ON STATE MANDATES

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June 22, 2009

Mr. Allan Burdick
MAXIMUS Financial Services
3130 Kilgore Road, Suite 400
Rancho Cordova, CA 95670

And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

RE: Draft Staff Analysis, Proposed Statewide Cost Estimate, and Hearing Date
Fifteen Day Close of Voter Registration, 01-TC-15
Elections Code Sections 13303
Statutes 2000, Chapter 899 (AB 1094)
Orange County, Claimant

Dear Mr. Burdick:

The draft staff analysis and proposed statewide cost estimate are enclosed for your review and comment.

Written Comments

Any party or interested person may file written comments on the draft staff analysis and proposed statewide cost estimate by **July 13, 2009**. You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. (Cal. Code Regs., tit. 2, § 1181.2.) If you would like to request an extension of time to file comments, please refer to section 1183.01, subdivision (c)(1), of the Commission's regulations.

Hearing

This matter is set for hearing on **Friday, July 31, 2009**, at 9:30 a.m. in Room 447, State Capitol, Sacramento, California. The final staff analysis will be issued on or about July 17, 2009. This matter is proposed for the Consent Calendar. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c)(2), of the Commission's regulations.

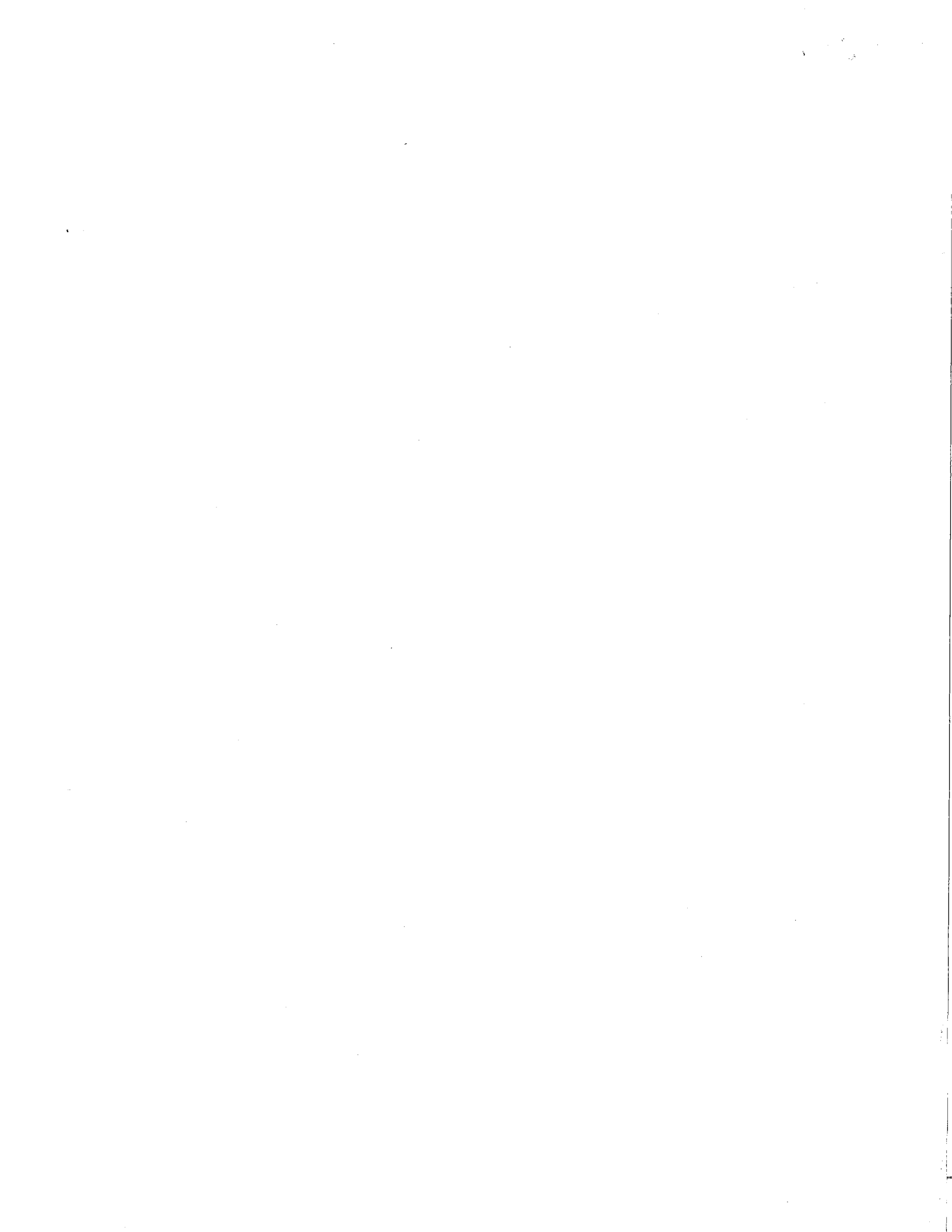
Please contact Nancy Patton at (916) 323-8217 if you have questions.

Sincerely,


PAULA HIGASHI
Executive Director

Enclosures

j:mandates/2001/01tc15/corres/scedsatrans



ITEM ____
DRAFT STAFF ANALYSIS
STATEWIDE COST ESTIMATE

Elections Code Section 13303

Statutes 2000, Chapter 899 (AB 1094)

Fifteen-Day Close of Voter Registration

01-TC-15

County of Orange, Claimant

EXECUTIVE SUMMARY

All costs claimed for the *Fifteen-Day Close of Voter Registration* program should be disallowed because they were filed for activities that are not reimbursable under this program. Therefore, the proposed statewide cost estimate for fiscal years 2000-2001 through 2007-2008, is **\$0**.

Summary of the Mandate

The test claim statute involves changes to the deadline for voter registration prior to an election. The Commission on State Mandates (Commission) found that most of the statutory amendments by Statutes 2000, chapter 899, did not mandate a new program or higher level of service within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514, because county elections officials have been required to perform the alleged activities long before the enactment of Statutes 2000, chapter 899. However, the Commission found that the test claim statute did constitute a new program or higher level of service and imposed a state-mandated program on local agencies within the meaning of article XIII B, section 6, for two one-time activities.

Statewide Cost Estimate

Staff reviewed the claims data submitted by one county (County of Merced), and compiled by the State Controller's Office (SCO). The actual claims data showed that one claim was filed for fiscal year 2007-2008 for a total of \$3,493¹. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed.*
2. *Non-claiming local agencies did not file claims because: (1) they did not incur more than \$1000 in increased costs for this program; or (2) did not have supporting documentation to file a reimbursement claim.*

¹ Claims data reported as of June 9, 2009.

3. *The single claim filed should be audited by the State Controller and reduced, based on the fact that the costs claimed are excessive.*

Methodology

Staff disallowed the total amount claimed (\$3493) by the County of Merced because the 2007-2008 claim is based on activities that are not reimbursable under this program. The proposed statewide cost estimate for fiscal years 2000-2001 through 2007-2008, is \$0 for the *Fifteen-Day Close of Voter Registration* program.

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of **\$0** for costs incurred in complying with the *Fifteen-Day Close of Voter Registration* program.

STAFF ANALYSIS

Summary of the Mandate

The test claim statute involves changes to the deadline for voter registration prior to an election. Prior law allowed voters to newly register to vote, reregister, or change their address, with county elections officials, until the 29th day before an election. After that date, voter registration closed until the conclusion of the upcoming election. The test claim legislation allows new registrations or changes to voter registrations through the 15th day prior to an election.

The test claimant sought mandate reimbursement for costs incurred to register voters from the 28th through the 15th day before elections, such as for: implementation planning meetings; revising training programs; holding an informational media campaign; responding to additional inquiries about the new law; and providing additional personnel to accommodate the increased workload.

The Commission found that most of the statutory amendments by Statutes 2000, chapter 899, did not mandate a new program or higher level of service on county elections officials within the meaning of article XIII B, section 6. Processing and accepting voter registration affidavits and changes of address are not newly required under the Elections Code. County elections officials have been required to perform these activities long before the enactment of Statutes 2000, chapter 899. The test claim allegations generally requested reimbursement for increased staffing expenses, developing and conducting training, and holding planning meetings; these are not new *activities* directly required by the test claim legislation, but instead are *costs* that the claimant is associating with the changed timeframes. Counties are required to perform the same activities they have long performed – accepting new voter registrations and changes of address. The courts have consistently held that increases in the *cost of an existing program*, are not subject to reimbursement as state-mandated programs or higher levels of service within the meaning of article XIII B, section 6.

However, the Commission found that the test claim statute did constitute a new program or higher level of service and imposed a state-mandated program on local agencies within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514 for the following reimbursable activities:

Reimbursable Activities

One-Time Activities

- Amend the polling place notice sent to each voter who registered after the 29th day prior to the election, to include the following: information as to where the voter can obtain a sample ballot and a ballot pamphlet prior to the election, a statement indicating that those documents will be available at the polling place at the time of the election, and the address of the Secretary of State's website and, if applicable, of the county website where a sample ballot may be viewed. (Elec. Code, § 13303, subd. (c), Stats. 2000, ch. 899.)
- Redesign new election software used to amend the polling place notice sent to each voter who registered between the 29th and 15th day prior to the election pursuant to Elections Code section 13303, subdivision (c), as amended by Statutes 2000, chapter 899. Actually sending the notices is not reimbursable.

The claimant filed the test claim on May 17, 2002. The Commission adopted a Statement of Decision on October 4, 2006, and the parameters and guidelines on August 1, 2008. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office

(SCO) by February 3, 2009, and must file late claims by February 3, 2010. The reimbursement period begins on January 1, 2001.

Statewide Cost Estimate

Staff reviewed the claims data submitted by one county (County of Merced), and compiled by the SCO. The actual claims data showed that one claim was filed for fiscal year 2007-2008 for a total of \$3,493.² Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed.*

There are 58 counties in California. Of those, only one filed a single reimbursement claim for this program. If other counties file reimbursement claims or late or amended claims are filed, the amount of reimbursement claims may exceed the statewide cost estimate. However, claimant representatives report that because only a small portion of the test claim was actually determined to be reimbursable, most counties did not incur \$1,000 in costs to be eligible to claim reimbursement.

2. *Non-claiming local agencies did not file claims because: (1) they did not incur more than \$1000 in increased costs for this program; or (2) did not have supporting documentation to file a reimbursement claim.*

Claimant representatives report that many counties did not file reimbursement claims because they did not incur enough costs to be eligible for reimbursement.

3. *The single claim filed should be audited by the State Controller and reduced, based on the fact that the costs claimed are excessive.*

The parameters and guidelines for this program allow reimbursement for the following one-time activity:

amending the polling place notice sent to each voter who registered after the 29th day prior to the election, to include the following: information as to where the voter can obtain a sample ballot and a ballot pamphlet prior to the election, a statement indicating that those documents will be available at the polling place at the time of the election, and the address of the Secretary of State's website and, if applicable, of the county website where a sample ballot may be viewed. (Elec. Code, § 13303, subd. (c), Stats. 2000, ch. 899.)

The County claimed reimbursement for "entering affidavits, validating voters through CalVoter, and processing voter notification cards," which are not activities eligible for reimbursement. The entire claim consists of the salaries and benefits attributed to these non-reimbursable activities, and is claimed under the one-time activity "Amendment of Notice."

Even if the claimed salaries and benefits had been for the reimbursable activity, it is questionable that the notice was first amended in 2007-2008. Since January 1, 2001, the operative date of the test claim statute, there have been five statewide primary elections (2002, 2004, 2006, 2008), four general elections (2002, 2004, 2006, 2008), and three statewide special elections (2003, 2005, 2009). Only two of these elections occurred during

² Exhibit A, claims data reported as of June 9, 2009.

the 2007-2008 fiscal year. Staff finds that unless the County of Merced did not participate in any of the elections preceding those in 2007-2008 fiscal year, it is excessive and unreasonable to claim one-time costs for amending the notice, seven fiscal years after the operative date of the test claim statute.

Staff also finds that the actual costs claimed by the County of Merced were for activities that are not eligible for reimbursement. Thus, the SCO should audit the costs claims based on the fact that the costs claimed are excessive. Thus, all of the costs claimed should be disallowed and stricken from this statewide cost estimate.

Methodology

The proposed statewide cost estimate is based on the single claim filed by the County of Merced. No projections for future fiscal years were included because funding for 2008-2009 cannot occur until fiscal year 2009-2010, and it is probable that no further claims may be filed.

Staff disallowed the total amount claimed (\$3493) by the County of Merced because the 2007-2008 claim is based on activities that are not reimbursable under this program.

The proposed statewide cost estimate for fiscal years 2000-2001 through 2007-2008, is \$0 for the *Fifteen-Day Close of Voter Registration* program.

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of \$0 for costs incurred in complying with the *Fifteen-Day Close of Voter Registration* program.

