

Item 8
Final Staff Analysis
Proposed Statewide Cost Estimate

\$6,435,706

Elections Code Section 14310
Statutes 2000, Chapter 260 (SB 414)

Voter Identification Procedures

03-TC-23

County of San Bernardino, Claimant

STAFF ANALYSIS

Background and Summary of the Mandate

This test claim, filed on October 1, 2003, addressed an amendment to Elections Code section 14310, regarding counting “provisional ballots.” A provisional ballot is a regular ballot that has been sealed in a special envelope, signed by the voter, and then deposited in the ballot box. Provisional ballots can be required for several reasons, generally to prevent unregistered individuals from voting, or to prevent registered voters from voting twice. For example, provisional ballots may be required when poll workers cannot immediately verify an individual’s name on the official roster, or if a voter requested an absentee ballot, but instead comes to the polling place without bringing the absentee ballot.

The test claim statute, Statutes 2000, chapter 260, amended Elections Code section 14310, subdivision (c)(1), to add a requirement that elections officials “compare the signature on each provisional ballot envelope with the signature on the voter’s affidavit of registration.”

The Commission found that although prior law required that “the elections official shall examine the records with respect to all provisional ballots cast,” the law did not require that each signature on a provisional ballot be directly compared to the signature on the voter’s registration affidavit. This is akin to the analysis by the court in *Long Beach*,¹ which found a higher level of service was mandated when general law on an existing program is changed to require performance of activities in a very specific manner.

The Commission adopted the test claim statement of decision on October 4, 2006, concluding that Elections Code section 14310 (c)(1), as amended by Statutes 2000, chapter 260, mandates a new program or higher level of service on local agencies within the meaning of article XIII B, section 6 of the California Constitution, and imposes costs mandated by the state pursuant to Government Code section 17514, for performing the following specific new activity as part of statutorily-required elections:

- Using the procedures that apply to the comparison of signatures on absentee ballots, the elections official shall compare the signature on each provisional ballot envelope with the

¹*Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 173.

signature on the voter's affidavit of registration. If the signatures do not compare, the ballot shall be rejected. (Elec. Code, § 14310, subd. (c)(1).)

The Commission further concluded that in a case where a local government calls a special election that could have otherwise been legally consolidated with the next local or statewide election, holding the special election is a voluntary decision on the part of the local government, and the downstream costs for checking signatures on provisional ballots are not reimbursable.

Parameters and guidelines were adopted on March 23, 2012.²

Eligible claimants were required to file initial reimbursement claims (for costs incurred between July 1, 2002, and June 30, 2011) with the State Controller's Office (SCO) by October 23, 2012. Reimbursement claims for fiscal year 2011-2012 are due by February 15, 2013.

Eligible Claimants and Period of Reimbursement

Any city, county, or city and county that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim 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 test claim was filed on October 1, 2003, establishing eligibility for reimbursement for the 2002-2003 fiscal year. Therefore, the costs incurred for compliance with the mandated activities are reimbursable on or after July 1, 2002.

Reimbursable Activities

The parameters and guidelines authorize reimbursement of each eligible claimant for the following activity:

- Using the procedures that apply to the comparison of signatures on absentee ballots, the elections official shall compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration. If the signatures do not compare, the ballot shall be rejected. (Elec. Code, § 14310(c)(1).)

Statewide Cost Estimate

Assumptions

Staff reviewed the reimbursement claims data submitted by 17 counties and 2 cities and compiled by the SCO. The actual claims data showed that 115 claims were filed by those 19 claimants for fiscal years 2002-2003 through 2010-2011 for a total of \$6,435,706.³ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*
 - There are currently 58 counties and 482 cities in California. Of those, only 17 counties and 2 cities filed initial reimbursement claims totaling \$6,435,706 for this program for fiscal years 2002-2003 through 2010-2011. If other eligible claimants file late or amended initial claims, the amount of reimbursement claims may exceed

² Exhibit A.

³ Claims data reported as of November 1, 2012.

the statewide cost estimate. Late initial claims for this program for fiscal years 2002-2003 through 2010-2011 may be filed until October 23, 2013.

- *The number of reimbursement claims filed will vary from year to year.*
 - This program requires an elections official to compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration. Therefore, the total number of reimbursement claims filed with the SCO will increase or decrease based on the election year cycle and the number of provisional ballots that are filed.
 - There will be spikes in the number of claims filed, and in the costs claimed, based on whether or not it is a high profile election year. For example, there were 15 claims filed for a total of \$1,297,114 for the fiscal year 2008-2009. While in fiscal year 2009-2012 there were only 14 claims filed for a total of \$436,753. This is likely due to the fact that there was a presidential election in fiscal year 2008-2009 and, thus, higher voter turnout. It is reasonable to assume that the current fiscal year (2012-2013) and future fiscal years which coincide with presidential elections will result in higher claim amounts. Similarly, in years where there is a gubernatorial or primary election or where there are particularly controversial initiatives on the ballot, higher claim amounts can reasonably be expected.
- *The total amount of reimbursement for this program may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.*

The SCO may conduct audits and reduce any claims it deems to be excessive or unreasonable.

Methodology

Fiscal Years 2002-2003 through 2010-2011

The statewide cost estimate for fiscal years 2002-2003 through 2010-2011 was developed by totaling the 115 reimbursement claims filed with the SCO for these years, for a total of \$6,435,706. This averages to \$715,078 annually in costs for the state over this nine-year period: \$446,007 in lower profile election years and \$1,253,220 in higher profile election years (such as presidential or gubernatorial elections). Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
2002-2003	8	\$440,281
2003-2004	12	\$432,198
2004-2005	12	\$1,048,938
2005-2006	11	\$387,325
2006-2007	14	\$667,797
2007-2008	14	\$311,691
2008-2009	15	\$1,297,114
2009-2010	14	\$436,753
2010-2011	15	\$1,413,609
TOTAL	115	\$6,435,706

Comments on the Draft Staff Analysis and Proposed Statewide Cost Estimate

On December 19, 2012, Commission staff issued the draft staff analysis and proposed statewide cost estimate for comment.⁴ On December 31, 2012, The Department of Finance submitted comments stating that they had no concerns with the Commission's recommendation to adopt the statewide cost estimate.⁵

Staff Recommendation

Staff recommends the Commission adopt the proposed statewide cost estimate of **\$6,435,706** for costs incurred in complying with the *Voter Identification Procedures* program.

⁴ Exhibit B.

⁵ Exhibit C.