



EDMUND G. BROWN JR. ■ GOVERNOR

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June 13, 2011

Mr. Drew Bohan
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Test Claim 10-TC-08 "Post Election Manual Tally—County of Santa Barbara."

Dear Mr. Bohan:

The Department of Finance (Finance) has reviewed the test claim on the Post Election Manual Tally submitted by the County of Santa Barbara (claimant). The claimant alleges the emergency regulations approved by the Office of Administrative Law (OAL File No. 2008-1009-02 E) on October 20, 2008 is a reimbursable state mandate because its requirements exceed that of current law and, therefore, impose a new program or higher level of service on local elections officials.

The emergency regulations require an elections official, in election contests where the margin of victory is less than half of one percent (0.5%), to conduct a manual tally of ten percent of randomly-selected precincts of the contested race. However, we request that the Commission on State Mandates (CSM) staff consider whether the regulations merely adopt the already-promulgated post election manual tally requirements in close contests pursuant to *County of San Diego v. Debra Bowen* (2008) 166 Cal.App.4th 501.



Should the CSM staff find that to be the case, the emergency regulations would then not impose a reimbursable state mandate on local elections officials within the meaning of Article XIII B, section 6 of the California Constitution because the requirements of the emergency regulations would already be required by the above court case. As such, the claim would then be denied pursuant to the court decision exception in Government Code section 17556, subdivision (b) which states that the Commission shall not find costs mandated by the state if, "The statute or executive order affirmed for the state a mandate that has been declared existing law or regulation by action of the courts."

Pursuant to section 1181.2, subdivision (c)(1)(E) of the California Code of Regulations, "documents e-filed with the Commission need not be otherwise served on persons that have provided an e-mail address for the mailing list."

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If you have any questions regarding this letter, please contact Jeff Carosone, Principal Program Budget Analyst at (916) 445-8913.

Sincerely,

NONA MARTINEZ
Assistant Program Budget Manager

Enclosure

Enclosure A

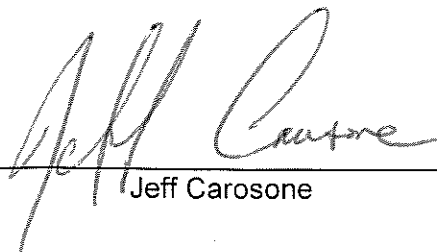
DECLARATION OF JEFF CAROSONE
DEPARTMENT OF FINANCE
CLAIM NO. CSM-10-TC-08

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

6-13-11

at Sacramento, CA



Jeff Carosone