



# County of San Diego

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November 24, 2021  
Commission on  
State Mandates

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November 24, 2021

Via Drop Box

Heather Halsey  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

**RE: Claimant's Comments on Revised Proposed Decision**  
*Extended Conditional Voter Registration, 20-TC-02*

Dear Ms. Halsey:

Although there is limited time prior to the hearing on December 3, 2021, Claimant respectfully requests that the Commissioners consider these brief additional comments.

The Proposed Decision defines "higher level of service" so narrowly that it effectively eliminates that test from the Constitution. The Proposed Decision concludes that "[e]xpanding the locations where the same government services are provided does not, **without requiring counties to perform new activities**, amount to an increase in the level or quality of those services." (Proposed Decision at 50 (emphasis added).)

Thus, according to the Proposed Decision, a higher level of service must also include "new activities." But that is the requirement for a "new program." *See County of Los Angeles v. Comm'n on State Mandates*, 110 Cal. App. 4th 1176, 1189 (2003) ("A program is "new" if the local governmental entity had not previously been required to institute it.")

The test for a "higher level of service" on the other hand, does not require that the law mandate "new activities." According to the California Supreme Court, a "higher level of service" simply means an "**increase[] in the services provided** by local agencies **in existing 'programs.'**" *County of Los Angeles v. State of California*, 43 Cal. 3d 46, 56 (1987) (emphasis added). That is, the program already existed, and the new law just ratcheted up the level of service. That is precisely what SB 72 did.

The Proposed Decision also understates the significance of SB 72's new requirement to offer CVR at the polls. SB 72 added a layer of complexity to the

administration of elections that did not exist before SB 72. If CVR were only offered at Registrar's offices or satellite offices (which were effectively an extension of Registrar's offices), then CVR would still be handled by a relatively small number of individuals, many of them full-time Registrar staff. Extending the requirement to offer CVR at polling places meant that hundreds of temporary poll workers had to be fully trained and knowledgeable about this additional process. CVR voting is not always simple—there are a number of steps in the process. (See Test Claim, Exs. C, G.)

Claimant again respectfully requests the Commission approve the test claim.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my personal knowledge, information or belief.

Very truly yours,

LONNIE J. ELDRIDGE, County Counsel

By 

CHRISTINA SNIDER, Senior Deputy

**DECLARATION OF SERVICE BY EMAIL**

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 980 Ninth Street, Suite 300, Sacramento, California 95814.

On December 1, 2021, I served the:

- **Claimant's Comments on the Proposed Decision filed November 24, 2021**

*Extended Conditional Voter Registration, 20-TC-02*

Elections Code Section 2170 as Amended by Statutes 2019, Chapter 565 (SB 72)

County of San Diego, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

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 on December 1, 2021 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

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# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 9/15/21

**Claim Number:** 20-TC-02

**Matter:** Extended Conditional Voter Registration

**Claimant:** County of San Diego

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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