



May 9, 2025

Mr. Chris Hill  
Department of Finance  
915 L Street, 8th Floor  
Sacramento, CA 95814

Mr. Fernando Lemus  
County of Los Angeles  
500 West Temple Street, Room 603  
Los Angeles, CA 90012

*And Parties, Interested Parties, and Interested Persons (See Mailing List)*

**Re: Draft Proposed Decision, Schedule for Comments, and Notice of Hearing**  
*Elections: Ballot Label, 24-TC-01*  
Statutes 2022, Chapter 751, Section 5 (AB 1416); Elections Code Section 9051  
County of Los Angeles, Claimant

Dear Mr. Hill and Mr. Lemus:

The Draft Proposed Decision for the above-captioned matter is enclosed for your review and comment.

**Written Comments:** Written comments may be filed on the Draft Proposed Decision no later than **5:00 pm on May 30, 2025**. Please note that all representations of fact submitted to the Commission must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge, information, or belief. (Cal. Code Regs., tit. 2, § 1187.5.) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.<sup>1</sup>

You are advised that comments filed with the Commission are required to be electronically filed (e-filed) in an unlocked legible and searchable PDF file, using the Commission's Dropbox. (Cal. Code Regs., tit. 2, § 1181.3(c)(1).) Refer to <https://www.csm.ca.gov/dropbox.shtml> on the Commission's website for electronic filing instructions. If e-filing would cause the filer undue hardship or significant prejudice, filing may occur by first class mail, overnight delivery or personal service only upon approval of a written request to the executive director. (Cal. Code Regs., tit. 2, § 1181.3(c)(2).)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

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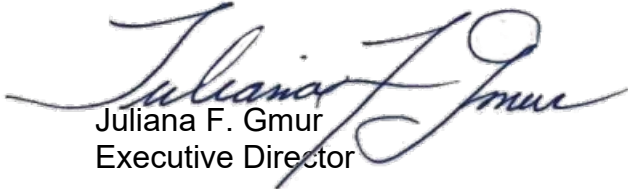
<sup>1</sup> Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

**Hearing:** This matter is set for hearing on **Friday, July 25, 2025** at 10:00 a.m. The Proposed Decision will be issued on or about July 9, 2025.

If you plan to address the Commission on this item, please notify the Commission Office not later than noon on the Tuesday prior to the hearing, **July 22, 2025**. Please also include the names of the people who will be speaking for inclusion on the witness list and the names and emails addresses of the people who will be speaking both in person and remotely to receive a hearing panelist link in Zoom. When calling or emailing, please identify the item you want to testify on and the entity you represent. The Commission Chairperson reserves the right to impose time limits on presentations as may be necessary to complete the agenda.

If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Very truly yours,



Juliana F. Gmur  
Executive Director

**ITEM \_\_\_\_**  
**TEST CLAIM**  
**DRAFT PROPOSED DECISION**

Election Code Section 9051

Statutes 2022, Chapter 751, Section 5 (AB 1416), effective January 1, 2023

*Elections: Ballot Label*

24-TC-01

County of Los Angeles, Claimant

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**EXECUTIVE SUMMARY**

**Overview**

The Test Claim alleges new state-mandated activities and costs resulting from Elections Code section 9051 as amended by Statutes 2022, chapter 751, (the test claim statute, also known as the “Ballot DISCLOSE Act”), effective January 1, 2023. The test claim statute requires that “Supporter” and “Opponent” lists be printed on ballot labels for statewide measures.

For reasons stated in the analysis, staff finds the test claim statute imposes a reimbursable state-mandated program within the meaning of Article XIII B, section 6 of the California Constitution and Government Code section 17514 and recommends the Commission approve this Test Claim.

**Procedural History**

The County of Los Angeles (claimant) filed the original Test Claim on September 23, 2024, and an amended Test Claim to correct a citation on February 10, 2025.<sup>1</sup> The Department of Finance (Finance) filed comments on the amended Test Claim on March 25, 2025.<sup>2</sup>

Commission staff issued the Draft Proposed Decision on May 9, 2025.<sup>3</sup>

**Commission Responsibilities**

Under article XIII B, section 6 of the California Constitution, local agencies and school districts are entitled to reimbursement for the costs of state-mandated new programs or higher levels of service. In order for local government to be eligible for reimbursement,

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<sup>1</sup> Exhibit A, Amended Test Claim.

<sup>2</sup> Exhibit B, Finance’s Comments on the Amended Test Claim.

<sup>3</sup> Exhibit C, Draft Proposed Decision.

one or more similarly situated local agencies or school districts must file a test claim with the Commission. “Test claim” means the first claim filed with the Commission alleging that a particular statute or executive order imposes costs mandated by the state. Test claims function similarly to class actions and all members of the class have the opportunity to participate in the test claim process and all are bound by the final decision of the Commission for purposes of that test claim.

The Commission is the quasi-judicial body vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”<sup>4</sup>

### **Claims**

The following chart provides a brief summary of the claims and issues raised and staff’s recommendation.

<b>Issue</b>	<b>Description</b>	<b>Staff Recommendation</b>
Was the Test Claim timely filed?	Government Code section 17551(c) requires test claims “be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.” Section 1183.1(c) of the Commission’s regulations defines “12 months” as 365 days.  Government Code section 17557(e) requires: “A test claim shall be submitted on or before June 30 following a fiscal year in order to establish eligibility for	<i>Yes, timely filed –</i>  The test claim statute became effective on January 1, 2023.  The test claim was filed originally on September 23, 2024, and amended on February 10, 2025. The filing date remains September 23, 2024, because the amendment “substantially relates to the test claim.” <sup>5</sup>  September 23, 2024, was within 12 months of the date of first incurring costs, December 15, 2023, as supported by the evidence. <sup>6</sup>

<sup>4</sup> *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1281, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

<sup>5</sup> Government Code section 17557(e).

<sup>6</sup> Exhibit A, Amended Test Claim, page 18 (Declaration of Audilia Lozada, Division Manager, Office of the Registrar-Recorder/County Clerk, County of Los Angeles, paragraph 4).

Issue	Description	Staff Recommendation
	reimbursement for that year.”	The Test Claim is timely filed.  Because the Test Claim was filed on September 23, 2024, the potential period of reimbursement begins on July 1, 2023.
Does Elections Code 9051, as amended by Statutes 2022, chapter 751, impose a reimbursable state-mandated program?	Elections Code 9051(c)(1), as amended by the test claim statute, requires the inclusion of two lists, one of supporters and one of opponents, each representing the groups who contributed to the arguments supporting or opposing the statewide ballot measure, in the ballot label for statewide ballot measures only. <sup>7</sup> If there are no qualifying supporters or no qualifying opponents, the text must read, as applicable, “Supporters: None submitted” or “Opponents: None submitted.” <sup>8</sup>	<i>Approve</i> – The test claim statute imposes a reimbursable state-mandated program, beginning July 1, 2023. The program requires counties to print the supporter and opponent lists in the ballot label for statewide ballot measures, including in other languages when required by state or federal law and instructed to do so by the Secretary of State, <sup>9</sup> following the Attorney General’s condensed ballot title and summary, as provided in the test claim statute. <sup>10</sup>

### **Staff Analysis**

This Test Claim addresses Elections Code section 9051, as amended by the test claim statute (as part of the “Ballot DISCLOSE Act”) to require the inclusion of two lists, one of supporters and one of opponents, each representing the groups who contributed to the arguments supporting or opposing the measure, in the ballot label for statewide ballot measures only.<sup>11</sup> If there are no qualifying supporters or no qualifying opponents, the

<sup>7</sup> Elections Code section 9051(c).

<sup>8</sup> Elections Code section 9051(c)(1)(G).

<sup>9</sup> United States Code, title 52, sections 10503(b)(2)(A) and 10503(b)(4); Elections Code section 14201.

<sup>10</sup> Elections Code section 9051(c)(1)(A), (B), and (G).

<sup>11</sup> Elections Code section 9051(c).

text must read, as applicable, “Supporters: None submitted” or “Opponents: None submitted.”<sup>12</sup> This language is to be added following the Attorney General’s condensed version of the title and summary.<sup>13</sup> The Secretary of State, rather than the Attorney General, now certifies the two-part ballot label.<sup>14</sup> The Secretary of State then provides the ballot label to the counties for printing and providing to voters in accordance with Elections Code sections 13000 and 13001.<sup>15</sup> The purpose of the test claim statute is to provide “extremely important information that helps voters better evaluate and understand the value of the measure and to make more informed decisions on how to vote.”<sup>16</sup> The first implementation of the test claim statute occurred with Proposition 1, a statewide ballot measure that appeared on the March 5, 2024, primary election ballot.<sup>17</sup> As a result, the claimant alleges that “to comply with the mandate, the additional information resulted in an additional 250 characters (approximately 27 words) being printed on the ballot, resulting in an additional 258,716 ballot cards being printed for the election” and “[t]he vendor cost to print these additional 258,716 cards was \$62,091.84 for FY 2023-24.”<sup>18</sup>

Staff finds that the Test Claim was timely filed based on the date that costs were first incurred, which was more than 12 months from the test claim statute’s effective date of January 1, 2023.<sup>19</sup> According to a declaration signed under penalty of perjury by Jennifer Storm, Departmental Finance Manager II for the Los Angeles County Office of the Registrar-Recorder/County Clerk, claimant first incurred costs on

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<sup>12</sup> Elections Code section 9051(c)(1)(G).

<sup>13</sup> Elections Code section 9051(c)(1).

<sup>14</sup> Elections Code section 9053, as amended by Statutes 2022, chapter 751.

<sup>15</sup> Elections Code sections 9050(b), as amended by Statutes 2022, chapter 751. See also, section 13000, as added by Statutes 1994, chapter 920 [“The person in charge of elections for any county . . . shall provide ballots for any elections within his or her jurisdiction, and shall cause to be printed on them the name of every candidate whose name has been certified to or filed with the proper officer pursuant to law and who, therefore, is entitled to a place on the appropriate ballot.”]; and section 13001, as last amended by Statutes 2008, chapter 179 [“All expenses authorized and necessarily incurred in the preparation for, and conduct of, elections as provided in this code shall be paid from the county treasuries.”].

<sup>16</sup> Statutes 2022, chapter 751, section 2(a).

<sup>17</sup> Exhibit X (1), Primary Election State Voter Information Guide, March 5, 2024, page 5.

<sup>18</sup> Exhibit A, Amended Test Claim, page 18 (Declaration of Audilia Lozada, Division Manager, Office of the Registrar-Recorder/County Clerk, County of Los Angeles], paragraph 4).

<sup>19</sup> Government Code section 17551(c); California Code of Regulations, title 2, section 1183.1(c).

December 15, 2023.<sup>20</sup> This date coincides with the notice from the Secretary of State informing the counties that it would advise of any final court-ordered changes in the ballot label to be printed for Proposition 1.<sup>21</sup>

In addition, staff finds that Elections Code section 9051, as amended by the test claim statute, imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, beginning July 1, 2023, requiring counties to print the supporter and opponent lists in the ballot label for statewide ballot measures, including in other languages when required by state or federal law and instructed to do so by the Secretary of State,<sup>22</sup> following the Attorney General's condensed ballot title and summary, as provided in the test claim statute.<sup>23</sup>

Finally, staff finds that the test claim statute's addition of section 9051(c)(1)(I), which offers counties the option of using font as small as 8-point for the supporter and opponent lists to the extent that doing so would save the printing of a ballot card, is not required or mandated by the state. Because the condition of this permission is "the minimal amount needed" to avoid an extra ballot card, a county choosing this option would need to determine at each election what the minimum font size is to save a ballot card. If 8-point or greater, they may break from the Election Code's otherwise applicable formatting rules and use that least minimal font size for the supporter and opponent lists. However, because this section nowhere states that counties "shall" print in any reduced font size to save costs, and instead says the counties "may" use this option, the process to determine whether an 8-point font should be used is not required or mandated by the state.<sup>24</sup>

### **Conclusion**

Staff concludes that Elections Code section 9051, as amended by the test claim statute, imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, beginning July 1, 2023, requiring counties to perform the following new state-mandated activity for statewide ballot measures only:

- Print the supporter and opponent lists in the ballot label for statewide ballot measures, including in other languages when required by state or federal law

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<sup>20</sup> Exhibit A, Amended Test Claim, page 21 (Declaration of Jennifer Storm, Departmental Finance Manager II, Office of the Registrar-Recorder/County Clerk, County of Los Angeles, paragraph 6).

<sup>21</sup> Exhibit X (4), Secretary of State Memorandum #23124, Ballot Labels and Titles and Summaries, November 21, 2023.

<sup>22</sup> United States Code, title 52, sections 10503(b)(2)(A) and 10503(b)(4); Elections Code section 14201.

<sup>23</sup> Elections Code section 9051(c)(1)(A), (B), and (G).

<sup>24</sup> Under Elections Code section 354, "may" is "permissive."

and instructed to do so by the Secretary of State,<sup>25</sup> following the Attorney General's condensed ballot title and summary, as follows:

- After the text "Supporters:" a listing of nonprofit organizations, businesses, or individuals taken from the signers or the text of the argument in favor of the ballot measure printed in the state voter information guide. The list of supporters shall not exceed 125 characters in length. Each supporter shall be separated by a semicolon. A nonprofit organization, business, or individual shall not be listed unless they support the ballot measure.<sup>26</sup>
- After the text "Opponents:" a listing of nonprofit organizations, businesses, or individuals taken from the signers or the text of the argument against the ballot measure printed in the state voter information guide. The list of opponents shall not exceed 125 characters in length. Each opponent shall be separated by a semicolon. A nonprofit organization, business, or individual shall not be listed unless they oppose the ballot measure.<sup>27</sup>
- If no list of supporters is provided by the proponents or there are none that meet the requirements of this section, then "Supporters:" shall be followed by "None submitted." If no list of opponents is provided by the opponents or there are none that meet the requirements of this section, then "Opponents:" shall be followed by "None submitted."<sup>28</sup>

### **Staff Recommendation**

Staff recommends that the Commission adopt the Proposed Decision to approve the Test Claim and authorize staff to make any technical, non-substantive changes to the Proposed Decision following the hearing.

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<sup>25</sup> United States Code, title 52, sections 10503(b)(2)(A) and 10503(b)(4); Elections Code section 14201.

<sup>26</sup> Elections Code section 9051(c)(1)(A).

<sup>27</sup> Elections Code section 9051(c)(1)(B).

<sup>28</sup> Elections Code section 9051(c)(1)(G).



BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM	Case No.: 24-TC-01
Elections Code Section 9051	<i>Elections: Ballot Label</i>
Statutes 2022, Chapter 751, Section 5, effective January 1, 2023	DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7.
Filed on September 23, 2024	(Adopted July 25, 2025)
County of Los Angeles, Claimant	

**DECISION**

The Commission on State Mandates (Commission) heard and decided this Test Claim during a regularly scheduled hearing on July 25, 2025. [Witness list will be included in the adopted Decision.]

The law applicable to the Commission’s determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission [adopted/modified] the Proposed Decision to [approve/partially approve/deny] the Test Claim by a vote of [vote will be included in the adopted Decision], as follows:

Member	Vote
Lee Adams, County Supervisor	
Deborah Gallegos, Representative of the State Controller, Vice Chairperson	
Karen Greene Ross, Public Member	
Renee Nash, School District Board Member	
William Pahland, Representative of the State Treasurer	
Michele Perrault, Representative of the Director of the Department of Finance, Chairperson	
Matt Read, Representative of the Director of the Office of Land Use and Climate Innovation	

**Summary of the Findings**

This Test Claim addresses Elections Code section 9051, as amended by the test claim statute (as part of the “Ballot DISCLOSE Act”) to require the inclusion of two lists, one of

supporters and one of opponents, each representing the groups who contributed to the arguments supporting or opposing the measure, in the ballot label for statewide ballot measures only.<sup>29</sup> If there are no qualifying supporters or no qualifying opponents, the text must read, as applicable, “Supporters: None submitted” or “Opponents: None submitted.”<sup>30</sup> This language is to be added following the Attorney General’s condensed version of the title and summary.<sup>31</sup> The Secretary of State, rather than the Attorney General, now certifies the two-part ballot label.<sup>32</sup> The Secretary of State then provides the ballot label to the counties for printing and providing to voters in accordance with Elections Code sections 13000 and 13001.<sup>33</sup> The purpose of the test claim statute is to provide “extremely important information that helps voters better evaluate and understand the value of the measure and to make more informed decisions on how to vote.”<sup>34</sup> The first implementation of the test claim statute occurred with Proposition 1, a statewide ballot measure on the March 5, 2024, primary election ballot.<sup>35</sup> As a result, the claimant alleges that “to comply with the mandate, the additional information resulted in an additional 250 characters (approximately 27 words) being printed on the ballot, resulting in an additional 258,716 ballot cards being printed for the election” and “[t]he vendor cost to print these additional 258,716 cards was \$62,091.84 for FY 2023-24.”<sup>36</sup>

The Commission finds that the Test Claim was timely filed based on the date that costs were first incurred, which was more than 12 months from the test claim statute’s effective date of January 1, 2023.<sup>37</sup> According to a declaration signed under penalty of

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<sup>29</sup> Elections Code section 9051(c), as amended by Statutes 2022, chapter 751.

<sup>30</sup> Elections Code section 9051(c)(1)(G), as amended by Statutes 2022, chapter 751.

<sup>31</sup> Elections Code section 9051(c)(1), as amended by Statutes 2022, chapter 751.

<sup>32</sup> Elections Code section 9053, as amended by Statutes 2022, chapter 751.

<sup>33</sup> Elections Code sections 9050(b), as amended by Statutes 2022, chapter 751. See also, section 13000, as added by Statutes 1994, chapter 920 [“The person in charge of elections for any county . . . shall provide ballots for any elections within his or her jurisdiction, and shall cause to be printed on them the name of every candidate whose name has been certified to or filed with the proper officer pursuant to law and who, therefore, is entitled to a place on the appropriate ballot.”]; and section 13001, as last amended by Statutes 2008, chapter 179 [“All expenses authorized and necessarily incurred in the preparation for, and conduct of, elections as provided in this code shall be paid from the county treasuries.”].

<sup>34</sup> Statutes 2022, chapter 751, section 2(a).

<sup>35</sup> Exhibit X (1), Primary Election State Voter Information Guide, March 5, 2024, page 5.

<sup>36</sup> Exhibit A, Amended Test Claim, page 18 (Declaration of Audilia Lozada, Division Manager, Office of the Registrar-Recorder/County Clerk, County of Los Angeles, paragraph 4).

<sup>37</sup> Government Code section 17551(c); California Code of Regulations, title 2, section 1183.1(c).

perjury by Jennifer Storm, Departmental Finance Manager II for the Los Angeles County Office of the Registrar-Recorder/County Clerk, claimant first incurred costs on December 15, 2023.<sup>38</sup> This date coincides with the notice from the Secretary of State informing the counties that it would advise of any final court-ordered changes in the ballot label to be printed for Proposition 1, the first statewide ballot measure after the effective date of the test claim statute.<sup>39</sup>

In addition, the Commission finds that Elections Code section 9051, as amended by the test claim statute, imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, beginning July 1, 2023, requiring counties to perform the following new state-mandated activity for statewide ballot measures only:

- Print the supporter and opponent lists in the ballot label for statewide ballot measures, including in other languages when required by state or federal law and instructed to do so by the Secretary of State,<sup>40</sup> following the Attorney General's condensed ballot title and summary, as follows:
  - After the text "Supporters:" a listing of nonprofit organizations, businesses, or individuals taken from the signers or the text of the argument in favor of the ballot measure printed in the state voter information guide. The list of supporters shall not exceed 125 characters in length. Each supporter shall be separated by a semicolon. A nonprofit organization, business, or individual shall not be listed unless they support the ballot measure.<sup>41</sup>
  - After the text "Opponents:" a listing of nonprofit organizations, businesses, or individuals taken from the signers or the text of the argument against the ballot measure printed in the state voter information guide. The list of opponents shall not exceed 125 characters in length. Each opponent shall be separated by a semicolon. A nonprofit organization, business, or individual shall not be listed unless they oppose the ballot measure.<sup>42</sup>
  - If no list of supporters is provided by the proponents or there are none that meet the requirements of this section, then "Supporters:" shall be followed by "None submitted." If no list of opponents is provided by the opponents or

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<sup>38</sup> Exhibit A, Amended Test Claim, page 21 (Declaration of Jennifer Storm, Departmental Finance Manager II, Office of the Registrar-Recorder/County Clerk, County of Los Angeles, paragraph 6).

<sup>39</sup> Exhibit X (4), Secretary of State Memorandum #23124, Ballot Labels and Titles and Summaries, November 21, 2023.

<sup>40</sup> United States Code, title 52, sections 10503(b)(2)(A) and 10503(b)(4); Elections Code section 14201.

<sup>41</sup> Elections Code section 9051(c)(1)(A).

<sup>42</sup> Elections Code section 9051(c)(1)(B).

there are none that meet the requirements of this section, then “Opponents:” shall be followed by “None submitted.”<sup>43</sup>

The Commission also finds that the test claim statute’s addition of section 9051(c)(1)(I), which offers counties the option of using font as small as 8-point for the supporter and opponent lists to the extent that doing so would save the printing of a ballot card, is not required or mandated by the state. Because the condition of this permission is “the minimal amount needed” to avoid an extra ballot card, a county choosing this option would need to determine at each election what the minimum font size is to save a ballot card. If 8-point or greater, they may break from the Election Code’s otherwise applicable formatting rules and use that least minimal font size for the supporter and opponent lists. However, because this section nowhere states that counties “shall” print in any reduced font size to save costs, and instead says the counties “may” use this option, the process to determine whether an 8-point font should be used is not required or mandated by the state.<sup>44</sup>

The Commission therefore approves this Test Claim.

## **COMMISSION FINDINGS**

### **I. Chronology**

01/01/2023	Elections Code section 9051, as amended by Statutes 2022, chapter 751 became effective.
09/23/2024	Claimant filed the Test Claim.
12/27/2024	Department of Finance (Finance) filed comments on the Test Claim.
02/10/2025	Claimant filed an Amended Test Claim. <sup>45</sup>
03/25/2025	Finance filed comments on the Amended Test Claim. <sup>46</sup>
05/09/2025	Commission staff issued the Draft Proposed Decision. <sup>47</sup>

### **II. Background**

#### **A. Prior Law Requires Counties to Print Ballot Labels for Statewide Measures.**

The term “ballot label” refers to that portion of the ballot containing the names of the candidates or a statement of a measure.<sup>48</sup> In contrast to the lengthier text a voter may read in a voter information guide, the ballot label is the limited text a voter reads on their ballot when they vote. This Test Claim concerns listing supporters and opponents on the ballot labels for “statewide measures” only and, thus, it affects counties as explained

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<sup>43</sup> Elections Code section 9051(c)(1)(G).

<sup>44</sup> Under Elections Code section 354, “may” is “permissive.”

<sup>45</sup> Exhibit A, Amended Test Claim.

<sup>46</sup> Exhibit B, Finance’s Comments on the Amended Test Claim.

<sup>47</sup> Exhibit C, Draft Proposed Decision.

<sup>48</sup> See Elections Code sections 303, 9051, and 13247.

below. The term “statewide measure” under this test claim statute includes statewide measures proposed by both the Legislature and by voter initiative<sup>49</sup> but excludes statewide referenda, which is the subject of a separate statute that is not at issue in this Test Claim.<sup>50</sup>

County “elections officials” such as the county recorder-registrar of voters and county clerk<sup>51</sup> administer statewide elections and such election expenses are paid from county treasuries.<sup>52</sup> This includes the expense of printing ballots for voters. Elections Code section 13000 states “[t]he person in charge of elections for any county . . . shall provide ballots for any elections within his or her jurisdiction, and shall cause to be printed on them the name of every candidate whose name has been certified to or filed with the proper officer pursuant to law and who, therefore, is entitled to a place on the appropriate ballot.”<sup>53</sup>

Counties provide ballots with statewide measures at the direction of the Secretary of State. Formerly, “for statewide measures, the ballot label shall contain no more than 75 words and shall be a condensed version of the ballot title and summary including the fiscal impact summary prepared pursuant to Section 9087 of this code and Section 88003 of the Government Code.”<sup>54</sup> This text was, and continues to be, drafted by the Attorney General.<sup>55</sup> Formerly, because the ballot label was comprised *only* of the “condensed version of the ballot title and summary,” the Attorney General certified the ballot label<sup>56</sup> and provided it to the Secretary of State. The Secretary of State then facilitated receipt of supporting and opposing arguments<sup>57</sup> and provided a public examination period<sup>58</sup> and then relayed the finalized ballot label to counties for

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<sup>49</sup> Elections Code section 9050(b)(1), as amended by Statutes 2023, chapter 162 [clarifying that a statewide measure includes both those proposed by voter initiative and by the Legislature].

<sup>50</sup> See Elections Code sections 9050(b) and 9051(d), as amended by Statutes 2023, chapter 162.

<sup>51</sup> Elections Code section 320 (a)-(b).

<sup>52</sup> Elections Code section 13001, as last amended by Statutes 2008, chapter 179, which states in relevant part the following: “All expenses authorized and necessarily incurred in the preparation for, and conduct of, elections as provided in this code shall be paid from the county treasuries, except that when an election is called by the governing body of a city the expenses shall be paid from the treasury of the city.”

<sup>53</sup> Elections Code section 13000, as added by Statutes 1994, chapter 920.

<sup>54</sup> Elections Code section 303, as amended by Statutes 2009, chapter 373.

<sup>55</sup> Elections Code section 9050(a).

<sup>56</sup> Elections Code section 9053, as amended by Statutes 2009, chapter 373.

<sup>57</sup> Elections Code sections 9060, 9064, and 9067.

<sup>58</sup> Elections Code section 9092.

incorporation in the ballots under their general duties to administer the Elections Code.<sup>59</sup>

Prior state and federal law also require the translation of election materials into other languages under specified circumstances. The Secretary of State explains on its website: “Language requirements for election materials are governed under the federal Voting Rights Act and the state Elections Code.”<sup>60</sup>

Federal law requires states or political subdivisions of the state to provide language assistance if, according to data from the most recent census, more than five percent of the citizens of voting age of the political subdivision, or more than 10,000 citizens of voting age of the political subdivision, are members of a single language minority and are limited English proficient, or in the case of a political subdivision that contains all or any part of an Indian reservation, more than five percent of the American Indian or Alaska Native citizens of voting age within the reservation are members of a single language minority and are limited English proficient; and the illiteracy rate of the citizens in the language minority as a group is higher than the national illiteracy rate.<sup>61</sup> The U.S. Census Bureau makes the federal language determinations, which are final and non-reviewable.<sup>62</sup> Accordingly, “[states and counties] that are listed as covered by Section 203 have a legal obligation to provide the minority language assistance prescribed in Section 203 of the Act.”<sup>63</sup> Under these circumstances, the ballots, including ballot labels, are required to be provided in the language of the applicable minority group as well as in the English language.<sup>64</sup> The Census Bureau last made these determinations on December 8, 2021, covering California and most of its counties individually, requiring the ballot to be provided in minority languages in addition to English.<sup>65</sup>

Under state law, Elections Code section 14201 requires county elections officials to provide a translated “facsimile ballot” and related instructions in a conspicuous location in precincts where the Secretary of State determines that three percent or more of the voting-age residents are members of a single language minority and lack sufficient skills

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<sup>59</sup> Elections Code sections 9050, 13000, and 13001.

<sup>60</sup> Exhibit X (6), Secretary of State, Language Requirements for Election Materials, for elections on June 7, 2022 and thereafter.

<sup>61</sup> United States Code, title 52, sections 10503(b)(2)(A) and 10503(b)(4); *Asian Americans Advancing Justice Los Angeles v. Padilla* (2019) 41 Cal.App.5th 850, 855-856.

<sup>62</sup> United States Code, title 52, sections 10503(b)(2)(A) and 10503(b)(4).

<sup>63</sup> 86 Federal Register, 69611-69618, page 1 [Voting Rights Act Amendments of 2006, Determinations Under Section 203].

<sup>64</sup> United States Code, title 52, section 10503(c).

<sup>65</sup> 86 Federal Register, 69611-69618, pages 1-8 [Voting Rights Act Amendments of 2006, Determinations Under Section 203].

in English to vote without assistance.<sup>66</sup> A “facsimile ballot” is not an official ballot but is a copy of the ballot, including the ballot label, that identifies the ballot measures and ballot instructions in the applicable language and a few copies are made available at the affected polling place for reference and upon request by voters.<sup>67</sup> The Secretary of State is required to make these section 14201 determinations by January 1 of each year in which the governor is elected.<sup>68</sup> However, “[a] county elections official shall not be required to provide facsimile copies of the ballot in a particular language if the county elections official is required to provide translated official ballots in that language pursuant to Section 203 of the federal Voting Rights Act of 1965.”<sup>69</sup>

As needed periodically, the Secretary of State combines the federal and state language requirements into a memorandum to the county clerks and registrars of voters. The most recent example is Memorandum #22039,<sup>70</sup> which provided the lists of federal and state language requirements applicable to the election at which costs were first incurred as testified under this Test Claim.<sup>71</sup>

The Secretary of State provides the ballot label translations required by federal law.<sup>72</sup> When the counties receive these translations, they must use them without change and print them in their translated ballots.<sup>73</sup> However, there is no requirement for the Secretary of State to provide ballot label translations required only by state law to the counties. Rather, Elections Code section 14201(a) states that counties shall print and make available to voters, facsimile ballots in languages determined by the Secretary of State.

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<sup>66</sup> Elections Code section 14201, as last amended by Statutes 2019, chapter 497.

<sup>67</sup> Election Code section 14201(b).

<sup>68</sup> Election Code section 14201(f).

<sup>69</sup> Elections Code 14201(g).

<sup>70</sup> Exhibit X (3), Secretary of State Memorandum #22039, Language Determinations, March 1, 2022.

<sup>71</sup> Exhibit A, Amended Test Claim, page 18 (Declaration of Audilia Lozada, Division Manager, Office of the Registrar-Recorder/County Clerk, County of Los Angeles, paragraph 4; Declaration of Jennifer Storm, Departmental Finance Manager II, Office of the Registrar-Recorder/County Clerk, County of Los Angeles, paragraphs 4-7).

<sup>72</sup> Elections Code section 9054(a) [“Whenever a . . . county . . . is required by Section 203 (52 U.S.C. Sec. 10503) or Section 4(f)(4) (52 U.S.C. Sec. 10303(f)(4)) of the federal Voting Rights Act of 1965 to provide a translation of ballot materials in a language other than English, the Secretary of State shall provide a translation of the ballot title and summary prepared pursuant to Sections 9050 and 9051 and of the ballot label prepared pursuant to Section 13247 in that language to the . . . county . . . for each state measure submitted to the voters in a statewide election not later than 68 days before that election.”].

<sup>73</sup> Elections Code section 9054(d).

**B. The Test Claim Statute Requires Additional “Supporter” and “Opponent” Information in Ballot Labels for Statewide Ballot Measures.**

Effective January 1, 2023, Elections Code section 9051 was amended by the test claim statute (as part of the “Ballot DISCLOSE Act”<sup>74</sup>) to require additional text in the ballot label for statewide ballot measures.<sup>75</sup> In making this requirement, the Legislature intended to provide “extremely important information that helps voters better evaluate and understand the value of the measure and to make more informed decisions on how to vote.”<sup>76</sup>

The newly required text is two lists, one of supporters and one of opponents,<sup>77</sup> each representing the groups who contributed to the arguments supporting or opposing the measure.<sup>78</sup> If there are no qualifying supporters or no qualifying opponents, the text must read, as applicable, “Supporters: None submitted” or “Opponents: None submitted.”<sup>79</sup>

This newly required text extends the ballot label for statewide ballot measures. It is to be added following the Attorney General’s condensed version of the title and summary.<sup>80</sup> Therefore, the ballot label is no longer the Attorney General’s condensed title and summary *alone* but rather it has two parts. As amended by the test claim statute, “[t]he ballot label shall include the condensed ballot title and summary described in subdivision (b), followed by” the supporter and opponent lists described in subdivision (c).<sup>81</sup> The Secretary of State, rather than the Attorney General, now certifies the two-part ballot label.<sup>82</sup> The Secretary of State then provides the ballot label to the counties for printing and providing to voters.<sup>83</sup>

The process for adding the supporter and opponent lists is defined and has its limits. The proponents of the measure submitting arguments must submit to the Secretary of State the list of supporters and the opponents submitting arguments must do the

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<sup>74</sup> Statutes 2022, chapter 751, section 1.

<sup>75</sup> Elections Code section 9051(c)(1)(A) and (B).

<sup>76</sup> Statutes 2022, chapter 751, section 2(a).

<sup>77</sup> Elections Code section 9051(c)(1)(A) and (B).

<sup>78</sup> Elections Code section 9051(c)(2)(A) and (B).

<sup>79</sup> Elections Code section 9051(c)(1)(G).

<sup>80</sup> Elections Code section 9051(c)(1).

<sup>81</sup> Elections Code section 9051(c)(1).

<sup>82</sup> Elections Code section 9053, as amended by Statutes 2022, chapter 751.

<sup>83</sup> Elections Code sections 9050(b), as amended by Statutes 2022, chapter 751; section 13000, as added by Statutes 1994, chapter 920.



same.<sup>84</sup> There can be no more than three each.<sup>85</sup> Each list can be no more than 125 characters long, with each supporter and opponent separated by a semicolon.<sup>86</sup> Semicolons (along with spaces and commas) count as characters<sup>87</sup> and the supporters and opponents may use abbreviations and acronyms when drafting their lists, so long as any shortened name will not confuse voters with any other well-known organization or business that did not take the same position as to the measure.<sup>88</sup>

There are also requirements for supporters and opponents to qualify to be listed. Political parties or representatives of political parties may not be listed.<sup>89</sup> A nonprofit organization must not have been created as a campaign subcommittee under Government Code section 82013, must have existed for at least four years, and must have received contributions from at least 500 donors or had one full-time employee within the last four years.<sup>90</sup> A business must have existed at least four years and must have had at least one full-time employee during the last four years.<sup>91</sup> Attestation of support or opposition and certification of satisfying the preceding requirements must also be made to and confirmed by the Secretary of State.<sup>92</sup>

Finally, there are formatting requirements. If bold type, underlining, or other emphasis is used to emphasize the word “Supporters” or “Opponents,” then only the first letter of those words may be capitalized, but if bold type, underlining, or other emphasis is not used, then the word “Supporters” or “Opponents” must be in all capitals.<sup>93</sup> If reduction of font size to no less than 8-point would prevent the need for an additional ballot card to be printed, the font size may be so reduced, so long as it is similarly reduced for the other ballot measures.<sup>94</sup>

The first statewide ballot measure affected by the test claim statute was Proposition 1, known as the “Behavioral Health Services Program and Bond Measure,” which appeared on the March 5, 2024, ballot.<sup>95</sup> Initially, the Secretary of State transmitted the

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<sup>84</sup> Elections Code section 9051(c)(2).

<sup>85</sup> Elections Code section 9068(a).

<sup>86</sup> Elections Code section 9051(c)(1)(A) and (B).

<sup>87</sup> Elections Code section 9051(c)(1)(D).

<sup>88</sup> Elections Code section 9051(c)(1)(F).

<sup>89</sup> Elections Code section 9051(c)(1)(E).

<sup>90</sup> Elections Code section 9051(c)(1)(C)(i).

<sup>91</sup> Elections Code section 9051(c)(1)(C)(ii).

<sup>92</sup> Elections Code section 9051(c)(2)(A)-(D).

<sup>93</sup> Elections Code section 9051(c)(1)(H).

<sup>94</sup> Elections Code section 9051(c)(1)(I).

<sup>95</sup> Exhibit X (1), Primary Election State Voter Information Guide, March 5, 2024, page 5.

ballot label, in English and Spanish, to all county clerks and registrars of voters via letter dated November 21, 2023, as follows:

**AUTHORIZES \$6.38 BILLION IN BONDS TO BUILD MENTAL HEALTH TREATMENT FACILITIES FOR THOSE WITH MENTAL HEALTH AND SUBSTANCE USE CHALLENGES; PROVIDES HOUSING FOR THE HOMELESS. LEGISLATIVE STATUTE.** Amends Mental Health Services Act to provide additional behavioral health services. **Fiscal Impact:** Shift roughly \$140 million annually of existing tax revenue for mental health, drug, and alcohol treatment from counties to the state. Increased state bond repayment costs of \$310 million annually for 30 years. **Supporters:** California Professional Firefighters; CA Assoc. of Veteran Service Agencies; National Alliance on Mental Illness – CA **Opponents:** Mental Health America of California; Howard Jarvis Taxpayers Association; CalVoices<sup>96</sup>

The November 21, 2023, letter further informed counties that court-ordered changes following the 20-day public examination period<sup>97</sup> could take place until December 11, 2023, that the Secretary would advise of any such changes by December 13, 2023, and that further translations would be provided by that same date.<sup>98</sup>

Following up via letter dated November 27, 2023, the Secretary of State sent to counties translated ballot labels, including the translated lists of supporters and opponents, for Proposition 1 for the March 5, 2024, Presidential Primary Election, in Spanish, Chinese, Hindi, Japanese, Khmer, Korean, Tagalog, Thai, and Vietnamese.<sup>99</sup>

### **III. Positions of the Parties**

#### **A. County of Los Angeles**

The claimant, County of Los Angeles alleges that Elections Code section 9051, as amended by the test claim statute, imposes a reimbursable state-mandated program by requiring the counties to perform new activities. Through its narrative and written testimony, the claimant asserts that the test claim statute subjects the county to increased vendor costs because it now must include additional characters on the ballot

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<sup>96</sup> Exhibit X (4), Secretary of State Memorandum #23124, Ballot Labels and Titles and Summaries, November 21, 2023.

<sup>97</sup> Elections Code section 13282, as amended by Statutes 2022, chapter 751; Elections Code section 9092.

<sup>98</sup> Exhibit X (4), Secretary of State Memorandum #23124, Ballot Labels and Titles and Summaries, November 21, 2023.

<sup>99</sup> Exhibit X (5), Secretary of State Memorandum #23130, Translated Ballot Labels, November 27, 2023.

label, which further necessitates additional ballot cards.<sup>100</sup> The claimant's declarant states the following:

The RR/CC first incurred costs on December 15, 2023, from implementing the mandates in AB 1416 pursuant to EC § 9051(c)(1)(A) and (B). To comply with the mandate, the additional information resulted in an additional 250 characters (approximately 27 words) being printed on the ballot, resulting in an additional 258,716 ballot cards being printed for the election. The vendor cost to print these additional 258,716 cards was \$62,091.84 for FY 2023-24.<sup>101</sup>

For fiscal year 2024-2025, the claimant estimates costs of \$383,842.<sup>102</sup> It further estimates statewide costs of \$1,423,210 for fiscal year 2024-2025, using statewide election statistics from November 2022 and March 2024.<sup>103</sup> The claimant states that it has received no other funding, and that increased costs will be paid from the claimant's general funds.<sup>104</sup> The claimant is not aware of any related decisions or mandates.<sup>105</sup>

The claimant asserts that the test claim mandate is unique to local government and carries out state policy. It is unique to local government, the claimant states, because the activities are among those provided by local government agencies. It carries out state policy, the claimant states, by requiring a higher level of service in the new activities.<sup>106</sup>

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<sup>100</sup> Exhibit A, Amended Test Claim, pages 1-2, 18 (Declaration of Audilia Lozada, Division Manager, Office of the Registrar-Recorder/County Clerk, County of Los Angeles, paragraph 2).

<sup>101</sup> Exhibit A, Amended Test Claim, page 18 (Declaration of Audilia Lozada, Division Manager, Office of the Registrar-Recorder/County Clerk, County of Los Angeles, paragraph 4).

<sup>102</sup> Exhibit A, Amended Test Claim, pages 2, 21 (Declaration of Jennifer Storm, Departmental Finance Manager II, Office of the Registrar-Recorder/County Clerk, County of Los Angeles, paragraphs 8;10).

<sup>103</sup> Exhibit A, Amended Test Claim, pages 2, 21 (Declaration of Jennifer Storm, Departmental Finance Manager II, Office of the Registrar-Recorder/County Clerk, County of Los Angeles, paragraph 9).

<sup>104</sup> Exhibit A, Amended Test Claim, pages 3, 21 (Declaration of Jennifer Storm, Departmental Finance Manager II, Office of the Registrar-Recorder/County Clerk, County of Los Angeles, paragraph 10).

<sup>105</sup> Exhibit A, Amended Test Claim, pages 3, 18 (Declaration of Audilia Lozada, Division Manager, Office of the Registrar-Recorder/County Clerk, County of Los Angeles, paragraph 5), and 21 (Declaration of Jennifer Storm, Departmental Finance Manager II, Office of the Registrar-Recorder/County Clerk, County of Los Angeles paragraph 11).

<sup>106</sup> Exhibit A, Amended Test Claim, page 4.

Lastly, the claimant asserts that no exception in Government Code section 17556 is applicable, and therefore it is entitled to reimbursement.<sup>107</sup>

#### **B. Department of Finance**

Finance does not oppose the Test Claim but asserts that if reimbursable state-mandated costs are found, they must be confined to costs for statewide ballot measures and not local measures. Finance asserts: “AB 1416 also amended Elections Code section 9170(a)(1) and (2) as it pertains to county, city, district, or school measures. These provisions reference the same list of supporters and opponents as required for statewide ballot measures but provide local jurisdictions with discretion to exclude this list. Therefore, costs related to the county, city, district, or school measures are not state-reimbursable per subdivision (d) of Elections Code section 9170 . . . .”<sup>108</sup>

#### **IV. Discussion**

Article XIII B, section 6 of the California Constitution provides in relevant part the following:

Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such programs or increased level of service...

The purpose of article XIII B, section 6 is to “preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”<sup>109</sup> Thus, the subvention requirement of section 6 is “directed to state-mandated increases in the services provided by [local government] ...”<sup>110</sup>

Reimbursement under article XIII B, section 6 is required when the following elements are met:

1. A state statute or executive order requires or “mandates” local agencies or school districts to perform an activity.<sup>111</sup>
2. The mandated activity constitutes a “program” that either:
  - a. Carries out the governmental function of providing a service to the public; or

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<sup>107</sup> Exhibit A, Amended Test Claim, pages 4-5.

<sup>108</sup> Exhibit B, Finance’s Comments on the Amended Test Claim, page 1.

<sup>109</sup> *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

<sup>110</sup> *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

<sup>111</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874.

- b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.<sup>112</sup>
3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.<sup>113</sup>
4. The mandated activity results in the local agency or school district incurring increased costs, within the meaning of section 17514. Increased costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.<sup>114</sup>

The Commission is vested with the exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution.<sup>115</sup> The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.<sup>116</sup> In making its decisions, the Commission must strictly construe article XIII B, section 6 of the California Constitution, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”<sup>117</sup>

**A. The Test Claim Is Timely Filed with a Potential Period of Reimbursement Beginning July 1, 2023.**

A test claim must be filed within 12 months of the effective date of an executive order or statute, or within 12 months of incurring increased costs as a result of the executive order or statute, whichever is later.<sup>118</sup> The Commission’s regulations clarify that “within 12 months of incurring costs” means “within 12 months (365 days) of *first* incurring costs as a result of a statute or executive order, whichever is later.”<sup>119</sup>

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<sup>112</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875 (reaffirming the test set out in *County of Los Angeles* (1987) 43 Cal.3d 46, 56).

<sup>113</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal3d 830, 835.

<sup>114</sup> *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

<sup>115</sup> *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 335.

<sup>116</sup> *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 109.

<sup>117</sup> *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

<sup>118</sup> Government Code section 17551(c).

<sup>119</sup> California Code of Regulations, title 2, section 1183.1(c), emphasis added.

The test claim statute's effective date is January 1, 2023, because it was enacted in 2022 during a regular legislative session and was not an urgency statute.<sup>120</sup> The claimant filed the Test Claim on September 23, 2024, amending it February 10, 2025.<sup>121</sup> The Test Claim's filing date remains September 23, 2024, because the amendment substantially relates to the original filing by referring to the same legislation, the Ballot DISCLOSE Act, AB 1416 (2022), and the same subject matter therein, which is the addition of supporter and opponent lists to ballot labels.<sup>122</sup> The alleged mandated activities are generally the same; the clarification in the amended filing is the correction of the code section addressing supporter and opponent lists for *statewide* ballot measures, not local ballot measures.

The timely filing of the Test Claim on September 23, 2024, is based on the date that costs were first incurred, which was more than 12 months from the test claim statute's effective date of January 1, 2023. According to a declaration signed under penalty of perjury by Jennifer Storm, Departmental Finance Manager II for the Los Angeles County Office of the Registrar-Recorder/County Clerk, the claimant first incurred costs on December 15, 2023.<sup>123</sup> This declaration satisfies the standards of section 1183.1(e) of title 2 of the California Code of Regulations as testimonial evidence, in accordance with section 1187.5(b) of the Commission's regulations because it is signed under penalty of perjury by a person authorized and competent to do so and is based on the declarant's personal knowledge, information, or belief. December 15, 2023, is also two days after December 13, 2023, the date by which the Secretary of State informed the counties that it would advise of any final court-ordered changes in the ballot label to be printed for Proposition 1.<sup>124</sup> The Commission takes official notice that there were no California statewide measures in 2023, and that Proposition 1 was the first statewide measure since the test claim statute's effective date.<sup>125</sup> Since the Secretary of State made clear to the counties that the ballot label would be final and ready to use by December 13, 2023, that is the earliest possible date any county could have first incurred costs under the test claim statute. Thus, the claimant's date of first incurring

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<sup>120</sup> California Constitution, article IV, section 8(c)(1); Government Code section 9600.

<sup>121</sup> Exhibit A, Amended Test Claim, page 1.

<sup>122</sup> Government Code section 17557(e).

<sup>123</sup> Exhibit A, Amended Test Claim, page 21 (Declaration of Jennifer Storm, Departmental Finance Manager II, Office of the Registrar-Recorder/County Clerk, County of Los Angeles, paragraph 6).

<sup>124</sup> Exhibit X (4), Secretary of State Memorandum #23124, Ballot Labels and Titles and Summaries, November 21, 2023.

<sup>125</sup> California Code of Regulations, title 2, section 1187.5(c), Government Code section 11515, and Evidence Code section 452(c) [official act, here by Secretary of State certifying statewide measures], (g) [fact of common knowledge within jurisdiction, not reasonable subject to dispute], and (h) [fact not reasonably subject to dispute and capable of immediate and accurate determination with reasonably indisputable accuracy].

costs, December 15, 2023, is supported by the evidence. By filing within 12 months of December 15, 2023, the claimant timely filed the Test Claim.

While costs were first incurred by the claimant on December 15, 2023, the potential period of reimbursement formally begins on July 1, 2023. Government Code section 17557(e) provides that a test claim “shall be submitted on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year.” Because the claimant filed the Test Claim on September 23, 2024 (fiscal year 2024-2025), the potential period of reimbursement begins at the start of the prior fiscal year, July 1, 2023.

**B. The Test Claim Statute Imposes a Reimbursable State-Mandated Program on County Elections Officials.**

**1. Elections Code Section 9051, as Amended by the Test Claim Statute, Imposes a State-Mandated New Requirement on Counties to Print Lists of Supporters and Opponents on Ballot Labels for Statewide Ballot Measures.**

Article XIII B, section 6 was adopted to prevent the state from forcing extra programs on local government each year in a manner that negates their careful budgeting of increased expenditures counted against the local government’s annual spending limit and, thus, article XIII B, section 6 requires a showing that the test claim statute or executive order mandates *new* activities and associated costs compared to the prior year.<sup>126</sup> Article XIII B, section 6 requires “reimbursement whenever the state freely chooses to impose on local agencies *any* peculiarly governmental cost which they were not previously required to absorb.”<sup>127</sup>

As indicated in the Background, prior law required counties to print ballot labels, including translated ballot labels when required by state or federal law, for statewide measures and to provide the ballot labels to the voters.<sup>128</sup>

The test claim statute creates new activities culminating in the printing of supporter and opponent lists for statewide measures as part of the newly defined ballot label. The test claim statute added the provisions in Elections Code section 9051(c)(1)(A) and (B) to require the ballot labels to include supporter and opponent lists for statewide measures, as follows:

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<sup>126</sup> California Constitution, articles XIII B, sections 1, 8(a) and (b); *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835; *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1595; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283; *Department of Finance v. Commission on State Mandates* (2016) 1 Cal.5th 749, 763.

<sup>127</sup> *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 70.

<sup>128</sup> Elections Code sections 9050, 9054(a), 13000, 13001, and 14201.

(c)(1) The ballot label *shall include* the condensed ballot title and summary described in subdivision (b), followed by the following:

(A) After the text “Supporters:” a listing of nonprofit organizations, businesses, or individuals taken from the signers or the text of the argument in favor of the ballot measure printed in the state voter information guide. The list of supporters shall not exceed 125 characters in length. Each supporter shall be separated by a semicolon. A nonprofit organization, business, or individual shall not be listed unless they support the ballot measure.

(B) After the text “Opponents:” a listing of nonprofit organizations, businesses, or individuals taken from the signers or the text of the argument against the ballot measure printed in the state voter information guide. The list of opponents shall not exceed 125 characters in length. Each opponent shall be separated by a semicolon. A nonprofit organization, business, or individual shall not be listed unless they oppose the ballot measure.<sup>129</sup>

For times where there may be no qualifying supporters or no qualifying opponents to any given statewide measure, the test claim statute added Elections Code section 9051(c)(1)(G), as follows:

(G) Supporters and opponents listed on the ballot label pursuant to subparagraph (A) or (B) shall be added as text after the condensed ballot title and summary and shall be separated by semicolons. Supporters and opponents need not be displayed on separate horizontal lines on the ballot. If no list of supporters is provided by the proponents or there are none that meet the requirements of this section, then “Supporters:” *shall be* followed by “None submitted.” If no list of opponents is provided by the opponents or there are none that meet the requirements of this section, then “Opponents:” *shall be* followed by “None submitted.”<sup>130</sup>

More than half of the new activities in Elections Code section 9051(c), as amended by the test claim statute, pertain to the Secretary of State’s new duties to receive supporter and opponent information from proponents and opponents with their arguments, to verify whether they are qualified to be listed, and to format the lists.<sup>131</sup> These duties remain the Secretary of State’s alone because the Secretary determines if the supporters and opponents qualify<sup>132</sup> to be listed and because it is the Secretary who must certify the ballot label.<sup>133</sup>

The requirements imposed on counties are then triggered when the Secretary of State provides to county elections officials the ballot label, consisting of the condensed ballot

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<sup>129</sup> Elections Code section 9051(c)(1)(A) and (B), emphasis added.

<sup>130</sup> Elections Code section 9051(c)(1)(G), emphasis added.

<sup>131</sup> Elections Code section 9051(c)(2)(A)-(D).

<sup>132</sup> Elections Code section 9051(c)(2)(C) and (D).

<sup>133</sup> Elections Code section 9053, as amended by Statutes 2022, chapter 751.



title and summary prepared by the Attorney General followed by the list of supporters and opponents, in accordance with Elections Code section 9050(b). Counties are then required to print the ballot labels with the additional information required by the test claim statute in accordance with Elections Code sections 13000 and 13001.

The requirement to include in the ballot label and print the lists of supporters and opponents for statewide measures is new. Before the test claim statute, the ballot label was defined only as the Attorney General's condensed title and summary of no more than 75 words.<sup>134</sup> Elections Code section 303 said that the ballot label "shall be" that text alone.<sup>135</sup> As required by the test claim statute, however, the ballot label "shall *include*" the title and summary with the same maximum length of 75 words, "followed by" the supporter and opponent lists of up to 125 characters each.<sup>136</sup> As they previously were required only to receive and print up to the 75 words written by the Attorney General, the printing of the two additional lists of up to 125 characters each is a newly required activity.

In addition, the requirement to print the two lists of supporters and opponents on ballot labels for statewide measures in accordance with test claim statute is mandated by the state. "Legal compulsion occurs when a statute or executive action uses mandatory language that " 'require[s]' or 'command[s]' " a local entity to participate in a program or service."<sup>137</sup> Elections Code section 354 states that "[s]hall' is mandatory and 'may' is permissive." The plain language of 9051(c)(1)(A), (B) and (G) states that the ballot label for statewide measures "shall" include the list of supporters and opponents and if no list of supporters or opponents is provided or there are none that meet the requirements of the code section, then supporters and opponents "shall" be followed by "None submitted."

Further, there is an optional provision for potentially reducing the number of additional ballot cards that have to be printed by using a font no smaller than 8-point as result of the new requirement to print the list of supporters and opponents on the ballot label. Section 9051(c)(1)(I) provides:

If including the list of Supporters and Opponents in the ballot labels as required by this section would necessitate the printing of an extra ballot card compared to the ballot labels not including them, the type size of the part of all of the ballot labels starting with "Supporters:" *may* be reduced by the minimal amount needed to stop them from necessitating an extra ballot card, as long as the type size is no smaller than 8-point and as long as the type size is reduced by the same amount for all ballot measures.<sup>138</sup>

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<sup>134</sup> Elections Code section 303 as amended by Statutes 2009, chapter 373.

<sup>135</sup> Elections Code section 303 as amended by Statutes 2009, chapter 373.

<sup>136</sup> Elections Code section 9051(c)(1)(A) and (B), emphasis added.

<sup>137</sup> *Coast Community College District v. Commission on State Mandates* (2022) 13 Cal.5th 800, 815.

<sup>138</sup> Emphasis added.

The test claim statute's addition of Elections Code section 9051(c)(1)(I) does not add a required activity but should be briefly addressed. Under Elections Code section 354, "may" is "permissive." Accordingly, the test claim statute's addition of section 9051(c)(1)(I) offers counties the option of using font as small as 8-point for the supporter and opponent lists to the extent that doing so would save the printing of a ballot card. Because the condition of this permission is "the minimal amount needed" to avoid an extra ballot card, a county choosing this option would need to determine at each election what the minimum font size is to save a ballot card. If 8-point or greater, they may break from the Election Code's otherwise applicable formatting rules and use that least minimal font size as to the supporter and opponent lists. However, because this section nowhere states that counties "shall" print in any reduced font size to save costs, the process to determine whether an 8-point font should be used is not required or mandated by the state.

The Commission also finds that printing the list of supporters and opponents in other languages on the ballot label when instructed by the Secretary of State is mandated by the state. As described in the Background, state and federal law require ballots, including ballot labels, to be provided in different languages, as determined by the Secretary of State, when a certain percentage of the voting-age residents are members of a single language minority and lack sufficient skills in English to vote without assistance.<sup>139</sup> The Secretary of State sends memoranda to the county clerks and registrars of voters explaining the translations required under federal and state laws.<sup>140</sup> It is the test claim statute, rather than the existing state and federal law on translation requirements, that causes the counties to incur the costs associated with printing the supporters and opponents of a statewide measure on the ballot label in different languages. This finding is consistent with the Supreme Court's decision in *San Diego Unified School District v. Commission on State Mandates*, where the court determined that the requirement imposed by the state for a principal to immediately suspend and recommend a mandatory expulsion for a student possessing a firearm, and not existing federal due process law requiring notice and hearing procedures under such circumstances, required the school districts to incur notice and hearing costs.<sup>141</sup> The court held that it could not "characterize any of the hearing costs incurred by the District, triggered by the mandatory provision of [the test claim statute], as constituting a federal mandate (and hence being nonreimbursable)."<sup>142</sup> The court summarized its conclusion as follows:

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<sup>139</sup> United States Code, title 52, sections 10503(b)(2)(A) and 10503(b)(4); Elections Code section 14201.

<sup>140</sup> See Exhibit X (3), Secretary of State Memorandum #22039, Language Determinations, March 1, 2022.

<sup>141</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 879-882.

<sup>142</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 881.

In the absence of the operation of Education Code section 48915's mandatory provision (specifically, compulsory immediate suspension and a mandatory expulsion recommendation), a school district would not automatically incur the due process hearing costs that are mandated by federal law pursuant to *Goss, supra*, 419 U.S. 565, 95 S.Ct. 729, 42 L.Ed.2d 725, and related cases, and codified in Education Code section 48918. Instead, a district would incur such hearing costs only if a school principal first were to exercise discretion to recommend expulsion. Accordingly, in its mandatory aspect, Education Code section 48915 appears to constitute a state mandate, in that it establishes conditions under which the state, rather than local officials, has made the decision requiring a school district to incur the costs of an expulsion hearing.<sup>143</sup>

Accordingly, counties are now required by Elections Code section 9051, as amended by the test claim statute, to perform the following state-mandated activity:

- Print the supporter and opponent lists in the ballot label for statewide ballot measures, including in other languages when required by state or federal law and instructed to do so by the Secretary of State,<sup>144</sup> following the Attorney General's condensed ballot title and summary, as follows:
  - After the text "Supporters:" a listing of nonprofit organizations, businesses, or individuals taken from the signers or the text of the argument in favor of the ballot measure printed in the state voter information guide. The list of supporters shall not exceed 125 characters in length. Each supporter shall be separated by a semicolon. A nonprofit organization, business, or individual shall not be listed unless they support the ballot measure.<sup>145</sup>
  - After the text "Opponents:" a listing of nonprofit organizations, businesses, or individuals taken from the signers or the text of the argument against the ballot measure printed in the state voter information guide. The list of opponents shall not exceed 125 characters in length. Each opponent shall be separated by a semicolon. A nonprofit organization, business, or individual shall not be listed unless they oppose the ballot measure.<sup>146</sup>
  - If no list of supporters is provided by the proponents or there are none that meet the requirements of this section, then "Supporters:" shall be followed by "None submitted." If no list of opponents is provided by the opponents or

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<sup>143</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 880.

<sup>144</sup> United States Code, title 52, sections 10503(b)(2)(A) and 10503(b)(4); Elections Code section 14201.

<sup>145</sup> Elections Code section 9051(c)(1)(A).

<sup>146</sup> Elections Code section 9051(c)(1)(B).

there are none that meet the requirements of this section, then “Opponents:” shall be followed by “None submitted.”<sup>147</sup>

**2. The New Activity Mandated by the Test Claim Statute Imposes a New Program or Higher Level of Service Because It Is Unique to Government and Provides an Increased Level of Service to the Public.**

Article XIII B, section 6 requires reimbursement when “the Legislature or any state agency mandates a new program or higher level of service on any local government.” A new program or higher level of service has been defined as those “that carry out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.”<sup>148</sup> Just one of these conditions need be met.<sup>149</sup>

The new requirement to print ballot labels listing supporters and opponents is a unique county function and therefore satisfies this prong of the definition of “new program or higher level of service.”<sup>150</sup>

The test claim statute also implements the state policy of better informing voters at the polls, which is a governmental service provided to the public. The Assembly Committee on Elections cited the bill author calling the provision of supporter and opponent lists a “common sense solution” similar to how voters “look to party affiliation or occupancy when voting for a candidate.”<sup>151</sup> The uncodified portion of the Ballot DISCLOSE Act formalized the legislative intent to better inform voters as follows:

(a) In addition to a ballot measure’s title, summary, and fiscal analysis, the identity of those who support and oppose a ballot measure provides voters with extremely important information that helps voters better evaluate and understand the value of the measure and to make more informed decisions on how to vote.

(b) Including the names of supporters and opponents in the arguments for and against a measure on the measure’s ballot label serves as a useful condensed summary of those arguments in the state voter information guide in the same way that including the condensed title, summary, and fiscal analysis of the ballot

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<sup>147</sup> Elections Code section 9051(c)(1)(G).

<sup>148</sup> *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal. App. 3d 521, 537, citing *County of Los Angeles v. State of California* (1987) 43 Cal. 3d 46, 56, emphasis in original.

<sup>149</sup> *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal. App. 3d 521, 537; *Department of Finance v. Commission on State Mandates* (2021) 59 Cal. App. 5th 546, 557.

<sup>150</sup> Elections Code sections 320(a) and (b), 13000, 13001, and 13247.

<sup>151</sup> Exhibit X (2), Bill Analysis of AB 1416, as amended April 22, 2021, Assembly Committee on Elections, January 12, 2022, page 5.

measure serves as a useful condensed summary of the Legislative Analyst’s full analysis in the state voter information guide.<sup>152</sup>

Thus, the Commission finds that the mandated activity required by the test claim statute imposes a new program or higher level of service.

**3. The Test Claim Statute Imposes Costs Mandated by the State Within the Meaning of Government Code Sections 17514 and 17556.**

Finally, Government Code section 17514 defines “costs mandated by the state” as any increased costs which a local agency or school district is required to incur as a result of any statute or executive order that mandates a new program or higher level of service. Government Code section 17564(a) specifically requires that no claim or payment shall be made unless the claim exceeds \$1,000. A finding of such costs mandated by the state also means that no exception in Government Code section 17556 applies.

The claimant has filed declarations signed under penalty of perjury identifying the following increased costs exceeding \$1,000 to comply with the test claim statute:

	FY 2023-2024	FY 2024-2025
Registrar-Recorder/County Clerk	\$62,091.84 <sup>153</sup>	\$383,842 estimated <sup>154</sup> \$1,423,210 estimated statewide <sup>155</sup>

There is no evidence rebutting these declarations.

Moreover, none of the exceptions to costs mandated by the state in Government Code section 17556 apply to this Test Claim. The new text is not mandated by a statewide voter initiative even though it may be necessary *for* a statewide voter initiative. Thus, section 17556(f) does not apply to deny the Test Claim. Further, there is no statute providing local government with fee authority for providing ballots. Thus, section 17556(d) does not apply to deny the Test Claim. And none of the other exceptions in Government Code section 17556 apply here.

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<sup>152</sup> Statutes 2022, chapter 751, section 2.

<sup>153</sup> Exhibit A, Amended Test Claim, page 18 (Declaration of Audilia Lozada, Division Manager, Office of the Registrar-Recorder/County Clerk, County of Los Angeles, paragraph 4), pages 20-21 (Declaration of Jennifer Storm, Departmental Finance Manager II, Office of the Registrar-Recorder/County Clerk, County of Los Angeles, paragraphs 4 and 7).

<sup>154</sup> Exhibit A, Amended Test Claim, page 21 (Declaration of Jennifer Storm, Departmental Finance Manager II, Office of the Registrar-Recorder/County Clerk, County of Los Angeles, paragraph 8).

<sup>155</sup> Exhibit A, Amended Test Claim, page 21 (Declaration of Jennifer Storm, Departmental Finance Manager II, Office of the Registrar-Recorder/County Clerk, County of Los Angeles, paragraph 9).

Given the evidence in the record, the Commission finds that the test claim statute imposes increased costs mandated by the state under article XIII B, section 6 and Government Code section 17514.

## **V. Conclusion**

Based on the foregoing analysis, the Commission concludes that Elections Code section 9051, as amended by the test claim statute, imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, beginning July 1, 2023, requiring counties to perform the following new state-mandated activity for statewide ballot measures only:

- Print the supporter and opponent lists in the ballot label for statewide ballot measures, including in other languages when required by state or federal law and instructed to do so by the Secretary of State,<sup>156</sup> following the Attorney General’s condensed ballot title and summary, as follows:
  - After the text “Supporters:” a listing of nonprofit organizations, businesses, or individuals taken from the signers or the text of the argument in favor of the ballot measure printed in the state voter information guide. The list of supporters shall not exceed 125 characters in length. Each supporter shall be separated by a semicolon. A nonprofit organization, business, or individual shall not be listed unless they support the ballot measure.<sup>157</sup>
  - After the text “Opponents:” a listing of nonprofit organizations, businesses, or individuals taken from the signers or the text of the argument against the ballot measure printed in the state voter information guide. The list of opponents shall not exceed 125 characters in length. Each opponent shall be separated by a semicolon. A nonprofit organization, business, or individual shall not be listed unless they oppose the ballot measure.<sup>158</sup>
  - If no list of supporters is provided by the proponents or there are none that meet the requirements of this section, then “Supporters:” shall be followed by “None submitted.” If no list of opponents is provided by the opponents or there are none that meet the requirements of this section, then “Opponents:” shall be followed by “None submitted.”<sup>159</sup>

Accordingly, the Commission approves this Test Claim.

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<sup>156</sup> United States Code, title 52, sections 10503(b)(2)(A) and 10503(b)(4); Elections Code section 14201.

<sup>157</sup> Elections Code section 9051(c)(1)(A).

<sup>158</sup> Elections Code section 9051(c)(1)(B).

<sup>159</sup> Elections Code section 9051(c)(1)(G).

## **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 May 9, 2025, I served the:

- **Current Mailing List dated April 10, 2025**
- **Draft Proposed Decision, Schedule for Comments, and Notice of Hearing issued May 9, 2025**

*Elections: Ballot Label, 24-TC-01*

Statutes 2022, Chapter 751, Section 5 (AB 1416); Elections Code Section 9051  
County of Los Angeles, 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 May 9, 2025 at Sacramento, California.



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Jill Magee  
Commission on State Mandates  
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## Mailing List

**Last Updated:** 4/10/25

**Claim Number:** 24-TC-01

**Matter:** Elections: Ballot Label

**Claimant:** County of Los Angeles

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