

The 2022-23 Budget:

Vote by Mail Ballots: Prepaid Postage

MAY 2022

Summary. In April, the administration proposed an adjustment to the Governor's proposed 2022-23 budget to reimburse counties for their costs related to the prepaid postage mandate for Vote by Mail (VBM) ballots. Specifically, the administration proposes \$5.8 million in one-time General Fund and \$5.9 million ongoing General Fund to reimburse counties for the cost of providing prepaid postage on VBM ballots in qualifying elections, which the Commission on State Mandates (commission) found to be a state-reimbursable mandate. Given the state's interest in uniform elections across the state, we recommend funding this mandate to reimburse counties for the associated costs.

Background

California Constitution Requires the State to Reimburse Local Governments for Mandated Activities. State law tasks the commission with determining whether new state laws or regulations affecting local agencies create state-reimbursable mandates. If the commission determines that a statute or regulation contains a reimbursable mandate, it develops an estimate of the statewide cost of the mandated activity. Typically, the process for determining whether a law or regulation is a state-reimbursable mandate takes several years. State law further requires our office to analyze any new mandates identified by the commission as a part of our annual analysis of the state budget. In particular, state law directs our office to report on the annual state costs for new mandates and make recommendations to the Legislature as to whether a new mandate should be repealed (permanently eliminating it or making it optional), suspended (rendering it inoperative for one year), modified, or funded. Generally, reimbursable mandates are created when the state requires local governments to provide new or higher levels of service.

Counties Administer Most Elections and Pay Elections Costs. As historically has been the case across the United States, counties in California administer most local, state, and federal elections pursuant to state and federal law. Cities, special districts, and schools pay for a share of elections costs, often as a reimbursement to their county based on the proportion of the ballot dedicated to the local governments' candidates and issues. Neither the state nor the federal government provides regular payments for county elections administration.

Californians Can Vote in Person or by Mail. Under state law, a voter has two ways to cast a ballot. Voters can use a VBM ballot and return it to elections officials using either (1) the United States Postal Service (USPS) or (2) a ballot drop off location. Alternatively, voters can vote in person at a voting location.

State Law Requires Elections Officials to Provide Prepaid Postage for VBM Ballot Return Envelope. A VBM ballot consists of the ballot itself and an envelope for the voter to sign and use to return the ballot to their elections official. [Chapter 120 of 2018](#) (AB 216, Gonzalez Fletcher) requires elections officials to include on the return envelope prepaid postage so that the voter does not pay for USPS to deliver the ballot to the elections official. At the time of the legislation, voters had to request a VBM ballot from their county elections official. Elections officials did not proactively provide a VBM ballot to all registered voters.

Commission Determined Requirement to Provide Prepaid Postage for VBM Ballot Return Envelope Created Reimbursable State Mandate. The commission found that, for most elections, Chapter 120 creates a reimbursable state mandate and that the state has a constitutional requirement to reimburse counties for the cost of

the prepaid postage on the return envelope and any related labor costs. The commission found that Chapter 120 *does not* impose a reimbursable state mandate in a few instances, such as when the election could have been consolidated with a regular election under state law (for which state funding for postage is required under this new mandate).

Governor’s Proposal

Funds Mandate Reimbursement Costs.

The administration proposes an adjustment to the Governor’s 2022-23 budget to reimburse counties for their costs related to the prepaid postage mandate for VBM ballots. Specifically, the administration proposes \$5.8 million in one-time General Fund to reimburse eligible counties for the costs they incurred complying with the statute while it was under review by the commission. Additionally, the administration proposes \$5.9 million ongoing General Fund to reimburse counties for the cost of providing prepaid postage on VBM ballots in qualifying elections moving forward.

LAO Comments

Since Enactment of Chapter 120, State Law Now Requires Elections Officials to Mail VBM Ballot to All Registered Voters... A subsequent state law, [*Chapter 312 of 2021*](#) (AB 37, Berman), now requires elections officials to send every registered voter a VBM ballot, rather than only upon the request of a voter. (Due to public health concerns arising from the COVID-19 pandemic, state law temporarily required elections officials to send all registered voters a VBM ballot in 2020.)

...Likely Increasing Use of VBM Ballots and Postage Costs. Voting by mail has been an increasingly popular method for Californians to cast their ballots. With all voters receiving a VBM ballot under Chapter 312, we think the share of votes cast using a VBM ballot likely will be higher going forward. That being said, not all VBM ballots are returned by USPS—many are dropped off at voting locations or in drop boxes. (In the November 2020 General Presidential Election, 38 percent of the 15.5 million VBM ballots cast were sent to elections officials via USPS.) The \$5.9 million identified ongoing cost for the mandate seems reasonable; however, actual costs could grow over time and depend on (1) the number of voters who return a VBM ballot using USPS, (2) the length of the ballot (longer ballots will be heavier and require more postage), and (3) USPS postage rates. The state’s costs to reimburse local governments for these costs will depend on the claims filed.

LAO Recommendation

Fund the Mandate. The intent of Chapter 120 was to ensure uniformity of elections administration across the state and to prevent postage costs from being an impediment to voters exercising their right to vote. The commission has found that requiring prepaid postage for VBM ballots is a reimbursable state mandate. Given the state’s interest in uniform elections across the state, we recommend funding this mandate to ensure counties are reimbursed for the costs associated with the mandate.

LAO PUBLICATIONS

This post was prepared by Nick Schroeder, and reviewed by Ginni Bella Navarre and Carolyn Chu. The Legislative Analyst's Office (LAO) is a nonpartisan office that provides fiscal and policy information and advice to the Legislature.