

## **Item 2**

### **Proposed Minutes**

#### **COMMISSION ON STATE MANDATES**

Location of Meeting: Room 447  
State Capitol, Sacramento, California  
December 3, 2015

Present: Member Eraina Ortega, Chairperson  
Representative of the Director of the Department of Finance  
Member Richard Chivaro, Vice Chairperson  
Representative of the State Controller  
Member Scott Morgan  
Representative of the Director of the Office of Planning and Research  
Member Mark Hariri  
Representative of the State Treasurer

Absent: Member Sarah Olsen  
Public Member  
Member Carmen Ramirez  
City Council Member  
Member Don Saylor  
County Supervisor

*NOTE: The transcript for this hearing is attached. These minutes are designed to be read in conjunction with the transcript.*

#### **CALL TO ORDER AND ROLL CALL**

Chairperson Ortega called the meeting to order at 10:01 a.m. Executive Director Heather Halsey called the roll. Executive Director Heather Halsey noted that Member Olsen, Member Ramirez, and Member Saylor were unavailable to attend the hearing.

#### **APPROVAL OF MINUTES**

Member Chivaro made a motion to adopt the minutes. With a second by Member Morgan, the September 25, 2015 hearing minutes were adopted by a vote of 4-0.

#### **PUBLIC COMMENT FOR MATTERS NOT ON THE AGENDA**

The Chairperson asked if there was any public comment. There was no response.

## CONSENT CALENDAR

HEARINGS AND DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (GOV. CODE, § 17551, 17557, 17559, and 17570) (action)

### INCORRECT REDUCTION CLAIMS

- Item 6\*      *Notification of Truancy*, 07-904133-I-05 and 10-904133-I-07  
Education Code Section 48260.5; Statutes 1983, Chapter 498  
Fiscal Years 1999-2000, 2000-2001, and 2001-2002  
San Juan Unified School District, Claimant
- Item 7\*      *Notification of Truancy*, 10-904133-I-09  
Education Code Section 48260.5; Statutes 1983, Chapter 498  
Fiscal Years 2002-2003, 2003-2004, 2004-2005, and 2005-2006  
San Juan Unified School District, Claimant
- Item 8\*      *Notification of Truancy*, 10-904133-I-10 and 13-904133-I-12  
Education Code Section 48260.5; Statutes 1983, Chapter 498  
Fiscal Years 2003-2004, 2004-2005, 2005-2006, and 2006-2007  
Riverside Unified School District, Claimant
- Item 9\*      *Notification of Truancy*, 13-904133-I-11  
Education Code Section 48260.5; Statutes 1983, Chapter 498;  
Statutes 1994, Chapter 1023; and Statutes 1995, Chapter 19  
Fiscal Years 2006-2007, 2007-2008, 2008-2009, and 2009-2010  
San Juan Unified School District, Claimant
- Item 10\*     *Health Fee Elimination*, 08-4206-I-17  
Former Education Code Section 72246 (Renumbered as Section 76355)  
Statutes 1984, Chapter 1 (1983-1984 2nd Ex. Sess.) (AB2X 1);  
Statutes 1987, Chapter 1118 (AB 2336)  
Fiscal Years 2003-2004, 2004-2005, and 2005-2006  
Santa Monica Community College District, Claimant

Executive Director Heather Halsey announced that after the agenda for this hearing was issued, the parties agreed to place Items 6, 7, 8, 9, and 10 on the Consent Calendar. Chairperson Ortega asked if there was any objection to adding the items to the Consent Calendar and if there were any comments from the public. No objection was made and there was no public comment.

Member Chivaro made a motion to adopt the Consent Calendar as revised. With a second by Member Morgan, the Consent Calendar was adopted as revised by a vote of 4-0.

**HEARINGS AND DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (GOV. CODE, § 17551, 17557, 17559, and 17570) (action)**

Executive Director Heather Halsey swore in the parties and witnesses participating in the hearing.

**APPEAL OF EXECUTIVE DIRECTOR DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 1181.1(c) (info/action)**

Item 2 Appeal of Executive Director Decisions

There were no appeals to consider.

**TEST CLAIMS**

Item 3 *Training for School Employee Mandated Reporters*, 14-TC-02  
Education Code Section 44690 and 44691; and Penal Code Section 11165.7;  
As Added or Amended by Statutes 2014, Chapter 797 (AB 1432)  
Lake Elsinore Unified School District, Claimant

This test claim alleges a reimbursable state-mandated program arising from a 2014 statute that requires school districts to provide child-abuse mandated reporter training to employees and persons working on their behalf who are identified as mandated reporters.

Senior Commission Counsel Julia Blair presented this item, stating that the test claim statute imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, and recommended that the Commission adopt the proposed decision to approve the test claim.

Parties were represented as follows: Arthur Palkowitz, representing the claimant; George Landon, Lake Elsinore Unified School District; Kimberly Leahy and Donna Ferebee, representing the Department of Finance.

Following discussion among the Commission members, staff, and parties, Member Chivaro made a motion to adopt the staff recommendation. With a second by Member Morgan, the motion to adopt the staff recommendation was adopted by a vote of 4-0.

**MANDATE REDETERMINATIONS**

Item 4 *Community College Construction (02-TC-47)*, 14-MR-03  
Education Code Sections 81820, 81821(a), (b), (e), and (f);  
Statutes 1980, Chapter 910; Statutes 1981, Chapter 470;  
Statutes 1981, Chapter 891; Statutes 1995, Chapter 758  
As Alleged to be Modified by Statutes 2014, Chapter 34 (SB 860)  
Department of Finance, Requester  
FIRST HEARING: ADEQUATE SHOWING

The first hearing for this matter is to determine whether the Department of Finance made an adequate showing that a subsequent change in law may modify the State's liability for this program.

Senior Commission Counsel Eric Feller presented this item and recommended that the Commission adopt the decision finding that Finance had made an adequate showing and direct staff to provide notice of the second hearing to determine if the state's liability has been modified, thus requiring that a new test claim decision be adopted to supersede the previously adopted test claim decision.

Parties were represented as follows: Keith Nezaam and Donna Ferebee, representing the Department of Finance.

Department of Finance concurred with the staff recommendation and there was no comment from interested parties or the public on this matter. Member Chivaro made a motion to adopt the staff recommendation. With a second by Member Morgan, the motion to adopt the staff recommendation was adopted by a vote of 4-0.

Item 5      *Behavioral Intervention Plans (CSM-4464), 14-MR-05*

California Code of Regulations, Title 5, Sections 3001 and 3052; As Added or Amended by Register 93, No. 17; Register 96, No. 8; Register 96, No. 32

As Alleged to be Modified by Statutes 2013, Chapter 48 (AB 86)

Department of Finance, Requester

FIRST HEARING: ADEQUATE SHOWING

The first hearing for this matter is to determine whether the Department of Finance made an adequate showing that a subsequent change in law may modify the State's liability for this program.

Commission Counsel Matt Jones presented this item and recommended that the Commission adopt the decision and direct staff to provide notice of the second hearing to determine if a new test claim decision shall be adopted to supersede the previously adopted test claim decision.

Parties were represented as follows: Mollie Quasebarth and Donna Ferebee, representing the Department of Finance.

Department of Finance concurred with the staff recommendation and there was no comment from interested parties or the public on this matter. Member Chivaro made a motion to adopt the staff recommendation. With a second by Member Morgan, the motion to adopt the staff recommendation was adopted by a vote of 4-0.

**HEARINGS ON COUNTY APPLICATIONS FOR FINDINGS OF SIGNIFICANT FINANCIAL DISTRESS PURSUANT TO WELFARE AND INSTITUTIONS CODE SECTION 17000.6 AND CALIFORNIA CODE OF REGULATIONS, TITLE 2, ARTICLE 6.5 (info/action)**

Item 11      Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commission, or to a Hearing Officer

No applications were filed.

**STAFF REPORTS**

Item 12      Legislative Update (info)

Program Analyst Kerry Ortman presented this item.

- Item 13 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar (info)

Chief Legal Counsel Camille Shelton presented this item.

- Item 14 Executive Director: Workload Update and Tentative Agenda Items for the January and March 2016 Meetings (info)

Executive Director Heather Halsey presented this item and reported on the Commission's pending caseload.

## **CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 (action)**

### **A. PENDING LITIGATION**

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matters pursuant to Government Code section 11126(e)(1):

#### Trial Courts:

1. *California School Board Association (CSBA) v. State of California et al.*  
Alameda County Superior Court, Case No. RG11554698  
[2010-2011 Budget Trailer Bills, Mandates Process for K-12 Schools, Redetermination Process]
2. *Paradise Irrigation District, et al. v. Commission on State Mandates, Department of Finance, and Department of Water Resources*  
Sacramento County Superior Court, Case No. 34-2015-80002016  
[*Water Conservation* (10-TC-12/12-TC-01, adopted December 5, 2014), Water Code Division 6, Part 2.55 [sections 10608-10608.64] and Part 2.8 [sections 10800-10853] as added by Statutes 2009-2010, 7th Extraordinary Session, Chapter 4 California Code of Regulations, Title 23, Division 2, Chapter 5.1, Article 2, Sections 597-597.4; Register 2012, No. 28.]

#### Courts of Appeal:

1. *State of California Department of Finance, State Water Resources Control Board, and California Regional Water Quality Board, San Diego Region v. Commission on State Mandates and County of San Diego, et al.* (petition and cross-petition)  
Third District Court of Appeal, Case No. C070357  
Sacramento County Superior Court Case No. 34-2010-80000604  
[*Discharge of Stormwater Runoff*, Order No. R9-207-000 (07-TC-09), California Regional Water Control Board, San Diego Region Order No. R9-2007-001, NPDES No. CAS0108758, Parts D.1.d.(7)-(8), D.1.g., D.3.a.(3), D.3.a.(5), D.5, E.2.f, E.2.g.F.1, F.2, F.3, I.1, I.2, I.5, J.3.a.(3)(c) iv-vii & x-xv, and L]

2. *Counties of San Diego, Los Angeles, San Bernardino, Orange, and Sacramento v. Commission on State Mandates, et al.*  
 Fourth District Court of Appeal, Division One, Case No. D068657  
 San Diego County Superior Court, Case No. 37-2014-00005050-CU-WM-CTL  
 [Mandate Redetermination, *Sexually Violent Predators*, (12-MR-01, CSM-4509); Welfare and Institutions Code Sections 6601, 6602, 6603, 6604, 6605, and 6608; Statutes 1995, Chapter 762 (SB 1143); Statutes 1995, Chapter 763 (AB 888); Statutes 1996, Chapter 4 (AB 1496) As modified by Proposition 83, General Election, November 7, 2006]
  
3. *Coast Community College District, et al. v. Commission on State Mandates*,  
 Third District Court of Appeal, Case No. C080349  
 Sacramento County Superior Court, Case No. 34-2014-80001842  
 [*Minimum Conditions for State Aid*, 02-TC-25/02-TC-31  
 (Education Code Sections 66721, 66721.5, 66722, 66722.5, 66731, 66732, 66736, 66737, 66738, 66740, 66741, 66742, 66743, 70901, 70901.5, 70902, 71027, 78015, 78016, 78211.5, 78212, 78213, 78214, 78215, 78216, 87482.6, and 87482.7; Statutes 1975, Chapter 802; Statutes 1976, Chapters 275, 783, 1010, and 1176; Statutes 1977, Chapters 36 and 967; Statutes 1979, Chapters 797 and 977; Statutes 1980, Chapter 910; Statutes 1981, Chapters 470 and 891; Statutes 1982, Chapters 1117 and 1329; Statutes 1983, Chapters 143 and 537; Statutes 1984, Chapter 1371; Statutes 1986, Chapter 1467; Statutes 1988, Chapters 973 and 1514; Statutes 1990, Chapters 1372 and 1667; Statutes 1991, Chapters 1038, 1188, and 1198; Statutes 1995, Chapters 493 and 758; Statutes 1998, Chapter 365, 914, and 1023; Statutes 1999, Chapter 587; Statutes 2000, Chapter 187; and Statutes 2002, Chapter 1169; California Code of Regulations, Title 5, Sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, 51027, 51100, 51102, 53200, 53202, 53203, 53204, 53207, 53300, 53301, 53302, 53308, 53309, 53310, 53311, 53312, 53314, 54626, 54805, 55000, 55000.5, 55001, 55002, 55002.5, 55004, 55005, 55006, 55100, 55130, 55150, 55160, 55170, 55182, 55200, 55201, 55202, 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320, 55321, 55322, 55340, 55350, 55401, 55402, 55403, 55404, 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520, 55521, 55522, 55523, 55524, 55525, 55526, 55530, 55532, 55534, 55600, 55601, 55602, 55602.5, 55603, 55605, 55607, 55620, 55630, 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, 55765, 55800, 55800.5, 55801, 55805, 55805.5, 55806, 55807, 55808, 55809, 55825, 55827, 55828, 55829, 55830, 55831, 58102, 58104, 58106, 58107, 58108,

59404, and 59410; Handbook of Accreditation and Policy Manual, Accrediting Commission for Community and Junior Colleges (Summer 2002); and “Program and Course Approval Handbook” Chancellor’s Office California Community Colleges (September 2001).]

California Supreme Court:

1. *State of California Department of Finance, State Water Resources Control Board, and California Regional Water Quality Control Board, Los Angeles Region v. Commission on State Mandates and County of Los Angeles, et al*  
(petition and cross-petition)  
California Supreme Court, Case No. S214855  
Second District Court of Appeal, Case No. B237153  
Los Angeles County Superior Court, Case No. BS130730  
[*Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04, 03-TC-19, 03-TC-20, and 03-TC-21, Los Angeles Regional Quality Control Board Order  
No. 01-182, Permit CAS004001, Parts 4C2a., 4C2b, 4E & 4Fc3]

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matter pursuant to Government Code section 11126(e)(2):

Based on existing facts and circumstances, there is a specific matter which presents a significant exposure to litigation against the Commission on State Mandates, its members or staff.

**B. PERSONNEL**

To confer on personnel matters pursuant to Government Code section 11126(a):

The Commission adjourned into closed executive session at 10:17 a.m., pursuant to Government Code section 11126(e), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda; and to confer with and receive advice from legal counsel regarding potential litigation; and to confer on personnel matters pursuant to Government Code section 11126(a)(1).

**RECOVENE IN PUBLIC SESSION  
REPORT FROM CLOSED EXECUTIVE SESSION**

At 10:33 a.m., Chairperson Ortega reconvened in open session, and reported that the Commission met in closed executive session pursuant to Government Code section 11126(e)(2) to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the public notice and agenda, and to confer with and receive advice from legal counsel regarding potential litigation, and, pursuant to Government Code section 11126(a)(1) to confer on personnel matters.

**ADJOURNMENT**

Hearing no further business, Chairperson Ortega adjourned the meeting at 10:33 a.m.

Heather Halsey  
Executive Director



**ORIGINAL**

**RECEIVED**  
DEC 11 2015  
COMMISSION ON  
STATE MANDATES

**PUBLIC MEETING**  
**COMMISSION ON STATE MANDATES**



**TIME:** 10:00 a.m.  
**DATE:** Thursday, December 3, 2015  
**PLACE:** State Capitol, Room 447  
Sacramento, California



**REPORTER'S TRANSCRIPT OF PROCEEDINGS**



Reported by:  
Daniel P. Feldhaus  
California Certified Shorthand Reporter #6949  
Registered Diplomate Reporter, Certified Realtime Reporter



**Daniel P. Feldhaus, C.S.R., Inc.**  
Certified Shorthand Reporters  
8414 Yermo Way, Sacramento, California 95828  
Telephone 916.682.9482 Fax 916.688.0723  
FeldhausDepo@aol.com

**A P P E A R A N C E S**

**COMMISSIONERS PRESENT**

ERAINA ORTEGA  
Representative for MICHAEL COHEN, Director  
Department of Finance  
*(Chair of the Commission)*

RICHARD CHIVARO  
Representative for BETTY T. YEE  
State Controller  
*(Vice Chair of the Commission)*

SCOTT MORGAN  
Representative for KEN ALEX  
Director  
Office of Planning & Research

MARK HARIRI  
Representative for JOHN CHIANG  
State Treasurer



**COMMISSION STAFF PRESENT**

HEATHER A. HALSEY  
Executive Director  
*(Items 2 and 14)*

HEIDI PALCHIK  
Assistant Executive Director

CAMILLE N. SHELTON  
Chief Legal Counsel  
*(Item 13)*

JULIA BLAIR  
Senior Commission Counsel  
*(Item 3)*

ERIC FELLER  
Senior Commission Counsel  
*(Item 4)*

A P P E A R A N C E S

PARTICIPATING COMMISSION STAFF

*continued*

MATTHEW B. JONES  
Commission Counsel  
(Item 5)

KERRY ORTMAN  
Program Analyst  
(Item 12)



PUBLIC TESTIMONY

**Appearing Re Item 3:**

For Lake Elsinore Unified School District:

ARTHUR PALKOWITZ  
Stutz, Artiano, Shinoff & Holtz  
2488 Historic Decatur Road, Suite 200  
San Diego, California 92106

GEORGE LANDON  
Deputy Superintendent  
Lake Elsinore Unified School District  
545 Chaney Street  
Lake Elsinore, California 92530

For Department of Finance:

KIMBERLY LEAHY  
Finance Budget Analyst  
Department of Finance  
915 L Street, 7<sup>th</sup> Floor  
Sacramento, California 95814

DONNA FEREBEE  
Legal Department  
Department of Finance  
915 L Street, Suite 1280  
Sacramento, California 95814

A P P E A R A N C E S

PUBLIC TESTIMONY

**Appearing Re Item 4:**

For Department of Finance:

KEITH NEZAAM  
Finance Budget Analyst  
Department of Finance  
915 L Street, 7<sup>th</sup> Floor  
Sacramento, California 95814

DONNA FEREBEE  
Legal Department  
Department of Finance

**Appearing Re Item 5:**

For Department of Finance:

MOLLIE QUASEBARTH  
Staff Budget Analyst  
Department of Finance  
915 L Street, 7<sup>th</sup> Floor  
Sacramento, California 95814

DONNA FEREBEE  
Legal Department  
Department of Finance



**ERRATA SHEET**

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**Commission on State Mandates – December 3, 2015**

1 BE IT REMEMBERED that on Thursday, December 3,  
2 2015, commencing at the hour of 10:01 a.m., thereof, at  
3 the State Capitol, Room 447, Sacramento, California,  
4 before me, DANIEL P. FELDHAUS, CSR #6949, RDR and CRR,  
5 the following proceedings were held:



7 CHAIR ORTEGA: Good morning, everyone.

8 I'll call to order the December 3<sup>rd</sup> meeting of  
9 the Commission on State Mandates.

10 Please call the roll.

11 MS. HALSEY: Mr. Chivaro?

12 MEMBER CHIVARO: Here.

13 MS. HALSEY: Mr. Hariri?

14 MEMBER HARIRI: Here.

15 MS. HALSEY: Mr. Morgan?

16 MEMBER MORGAN: Here.

17 MS. HALSEY: Ms. Ortega?

18 CHAIR ORTEGA: Here.

19 MS. HALSEY: Ms. Olsen, Ms. Ramirez, and  
20 Mr. Saylor notified us they would not be at today's  
21 hearing.

22 CHAIR ORTEGA: Okay, are there any objections  
23 or corrections to the September 25<sup>th</sup>, 2015, meeting  
24 minutes?

25 *(No response)*

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1 CHAIR ORTEGA: No?

2 MEMBER CHIVARO: Move approval.

3 MEMBER MORGAN: Second.

4 CHAIR ORTEGA: Mr. Chivaro moves. Mr. Morgan  
5 seconds.

6 Any comments on the minutes?

7 *(No response)*

8 CHAIR ORTEGA: Seeing none, all in favor?

9 *(A chorus of "ayes" was heard.)*

10 CHAIR ORTEGA: Approved unanimously.

11 MS. HALSEY: And now, we will take up public  
12 comment for matters not on the agenda.

13 Please note that the Commission cannot take  
14 action on items not on the agenda. However, it can  
15 schedule issues raised by the public for consideration at  
16 future meetings.

17 CHAIR ORTEGA: Okay, is there any public  
18 comment on items not on the agenda?

19 *(No response)*

20 CHAIR ORTEGA: Seeing none, we'll move on.

21 MS. HALSEY: Next, we have a proposal to add  
22 Items 6, 7, 8, and 9, incorrect reduction claims on  
23 *Notification of Truancy*, and Item 10, an incorrect  
24 reduction claim on *Health Fee Elimination* to the consent  
25 calendar.

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1           After the agenda for this hearing was issued,  
2 the parties agreed to place Items 6, 7, 8, 9, and 10 on  
3 consent.

4           CHAIR ORTEGA: Okay, any objections to moving  
5 those items to the consent calendar?

6           MEMBER MORGAN: No.

7           CHAIR ORTEGA: Any comments from the public on  
8 that change?

9           *(No response)*

10          CHAIR ORTEGA: Seeing none, we will take up the  
11 consent calendar.

12          MS. HALSEY: The consent calendar consists of  
13 Item 6, 7, 8, 9, and 10.

14          MEMBER CHIVARO: Move approval.

15          CHAIR ORTEGA: Moved by Mr. Chivaro.

16          MEMBER MORGAN: Second.

17          CHAIR ORTEGA: Second by Mr. Morgan.

18          Any public comment on the consent items?

19          *(No response)*

20          CHAIR ORTEGA: Seeing none, all in favor, say  
21 "aye."

22          *(A chorus of "ayes" was heard.)*

23          CHAIR ORTEGA: Any objections or abstentions?

24          *(No response)*

25          CHAIR ORTEGA: No?

1 It passes unanimously.

2 MS. HALSEY: Let's move to the Article 7  
3 portion of the hearing.

4 Will the parties and witnesses for Items 3, 4,  
5 and 5 please rise?

6 *(Parties/witnesses stood to be sworn*  
7 *or affirmed.)*

8 MS. HALSEY: Do you solemnly swear or affirm  
9 that the testimony which you are about to give is true  
10 and correct, based on your personal knowledge,  
11 information, or belief?

12 *(A chorus of affirmative responses was*  
13 *heard.)*

14 MS. HALSEY: Thank you.  
15 Please be seated.

16 Item 2 is reserved for appeals of the Executive  
17 Director decisions.

18 There are no appeals to consider under Item 2  
19 today.

20 Senior Commission Counsel Julia Blair will  
21 present Item 3, a test claim on *Training for School*  
22 *Employee Mandated Reporters.*

23 MS. BLAIR: Good morning.

24 This test claim is filed on a 2014 statute that  
25 requires school districts to provide child-abuse mandated

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1 reporter training to employees and persons working on  
2 their behalf who are identified as mandated reporters.

3 Before the test-claim statute was enacted,  
4 existing law encouraged but did not require school  
5 districts to provide child-abuse mandated reporter  
6 training.

7 Staff finds the test-claim statute imposes a  
8 reimbursable state-mandated program within the meaning of  
9 Article XIII B, Section 6 of the California Constitution,  
10 as specified in the proposed decision.

11 Staff recommends that the Commission adopt the  
12 proposed decision approving this test claim.

13 Will the parties and witnesses please state  
14 your names for the record?

15 MR. PALKOWITZ: Good morning. Arthur Palkowitz  
16 on behalf of the claimant, Lake Elsinore School District.

17 MR. LANDON: George Landon, Deputy  
18 Superintendent, Lake Elsinore Unified School District.

19 MS. LEAHY: Kimberly Leahy, Department of  
20 Finance.

21 MS. FEREBEE: Donna Ferebee, Department of  
22 Finance.

23 CHAIR ORTEGA: Thank you.

24 Mr. Palkowitz?

25 MR. PALKOWITZ: Yes, good morning. Thank you

1 very much.

2 As was mentioned by Ms. Blair, this test claim  
3 reflects activities that now require training for all  
4 school-district and county-of-education employees.  
5 Prior to the statute, there was no such requirement.

6 The requirement is for all employees and even  
7 individuals who are mandated reporters.

8 The requirement is for this training. And what  
9 has been developed is the California Department of Social  
10 Services has developed an online training module that has  
11 been used. And Mr. Landon will explain how that has  
12 worked in his district.

13 The requirement of the training that involves  
14 bullying type of conduct came about after numerous  
15 complaints throughout the state. This requirement is  
16 also for new employees that work for school districts or  
17 counties. They must complete the training within six  
18 weeks of being hired. The training is annual for all  
19 employees.

20 The purpose of the training is for the  
21 detection of child-abuse and neglect, and so that school  
22 personnel shall take proper action in suspected cases of  
23 child abuse and neglect.

24 We agree with the staff that concluded that  
25 these are new activities and are reimbursable.

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1           What the activities that are being requested  
2           and staff recommends, is the time spent by the employees  
3           to perform the actual test training.

4           Mr. Landon will comment on that.

5           MR. LANDON: Thank you.

6           Currently, in our district, the requirement  
7           of the statute was implemented. We have now our  
8           employees -- all permanent employees and those are  
9           mandated to be mandated reporters, along with any new  
10          hires complete this training, which we have online in  
11          Lake Elsinore Unified, that takes anywhere from 30 to  
12          an hour and a half, depending on someone's comprehension  
13          of the online training. Upon their information received  
14          from the online training, they do take a test to show  
15          that they've understood the information. We get a  
16          certificate from them; and that's submitted to our risk  
17          department for tracking, to make sure that we're in  
18          compliance with all of our mandated reporters, along  
19          with, then upon their completion, we do provide one hour  
20          of time payment for their completion of that training  
21          that they've received, which was not in consideration  
22          from before the statute was in place.

23          MR. PALKOWITZ: Just to make sure it's covered,  
24          that the list of school district employees is considered  
25          very broad, and includes teachers, teachers' aides,



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1 teachers' assistants, classified employees,  
2 administrative officers, and also employees of the county  
3 offices of education. All the employees are informed  
4 that the failure to complete this training could result  
5 in a misdemeanor or a fine.

6 Thank you very much.

7 CHAIR ORTEGA: Thank you.

8 Ms. Leahy or Ms. Ferebee, anything you want to  
9 add?

10 MS. LEAHY: Kimberly Leahy, again, from the  
11 Department of Finance.

12 We have no concerns with the staff draft  
13 analysis, and we have no comments to add at this time,  
14 beyond those we submitted in response to the test claim.

15 CHAIR ORTEGA: Okay, thank you.

16 Is there any other public comment on this item?

17 *(No response)*

18 CHAIR ORTEGA: Any commissioner comments?

19 MEMBER CHIVARO: Move staff recommendation.

20 CHAIR ORTEGA: Okay.

21 MEMBER MORGAN: Second.

22 CHAIR ORTEGA: Moved by Mr. Chivaro and  
23 seconded by Mr. Morgan.

24 Please call the roll.

25 MS. HALSEY: Mr. Chivaro?

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1 MEMBER CHIVARO: Aye.

2 MS. HALSEY: Mr. Hariri?

3 MEMBER HARIRI: Aye.

4 MS. HALSEY: Mr. Morgan?

5 MEMBER MORGAN: Aye.

6 MS. HALSEY: Ms. Ortega?

7 CHAIR ORTEGA: Aye.

8 MS. HALSEY: Thank you.

9 CHAIR ORTEGA: Thank you, everyone.

10 MR. PALKOWITZ: Thank you very much.

11 MR. LANDON: Thank you.

12 MS. HALSEY: Senior Commission Counsel Eric  
13 Feller will present Item 4, the adequate showing hearing  
14 for a mandate redetermination on *Community College*  
15 *Construction*.

16 MR. FELLER: Good morning.

17 This is the first hearing on the mandate  
18 redetermination request, based on the change in law made  
19 by Statutes 2014, Chapter 34, that amended the test-claim  
20 statute, to provide that the new information of community  
21 college district's five-year plan for capital  
22 construction "*may also*" rather than "*shall be*" included  
23 in the plan and reviewed on a continuing basis.

24 Staff finds that Finance has made an adequate  
25 showing that the State's liability may be modified based

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1 on the subsequent change in law, and has a substantial  
2 probability of prevailing at the second hearing.

3 Staff recommends noticing the second hearing to  
4 determine whether to adopt a new test-claim decision to  
5 supersede the Commission's previously adopted decision.

6 Would the parties and witnesses please state  
7 your names for the record?

8 MR. NEZAAM: Keith Nezaam, Department of  
9 Finance.

10 MS. FEREBEE: Donna Ferebee, Department of  
11 Finance.

12 CHAIR ORTEGA: Okay. Anything to add,  
13 Mr. Nezaam?

14 MR. NEZAAM: We concur with the staff  
15 recommendation.

16 CHAIR ORTEGA: Okay. Any questions from  
17 commissioners?

18 *(No response)*

19 CHAIR ORTEGA: Any public comment on this item?

20 *(No response)*

21 CHAIR ORTEGA: Okay. Seeing none, is there a  
22 motion?

23 MEMBER CHIVARO: Move approval.

24 CHAIR ORTEGA: Moved by Mr. Chivaro.

25 MEMBER MORGAN: Second.

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1 CHAIR ORTEGA: Second by Mr. Morgan.

2 Please call the roll.

3 MS. HALSEY: Mr. Chivaro?

4 MEMBER CHIVARO: Aye.

5 MS. HALSEY: Mr. Hariri?

6 MEMBER HARIRI: Aye.

7 MS. HALSEY: Mr. Morgan?

8 MEMBER MORGAN: Aye.

9 MS. HALSEY: Ms. Ortega?

10 CHAIR ORTEGA Aye.

11 Thank you.

12 MS. HALSEY: Moving on to Item 5, Commission

13 Counsel Matt Jones will present the adequate showing

14 hearing for a mandate redetermination on *Behavioral*

15 *Intervention Plans*, or *BIPs*.

16 MR. JONES: Good morning.

17 This is the first hearing on this

18 redetermination request seeking a finding from the

19 Commission that the *Behavioral Intervention Plans* mandate

20 is no longer reimbursable pursuant to Statutes 2013,

21 Chapter 48, which directed the repeal of the regulations

22 that make up the mandate.

23 At this hearing, the analysis and discussion

24 are limited to whether the requester had made an adequate

25 showing which identifies the subsequent change in law

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1 that may modify the State's liability for the test-claim  
2 regulations.

3 Staff finds that the requester has made such a  
4 showing and recommends that the Commission adopt the  
5 proposed decision.

6 The proposed decision recommends also that the  
7 Commission direct staff to notice the second hearing.

8 Will the parties and witnesses please state  
9 your names for the record?

10 MS. QUASEBARTH: Mollie Quasebarth, Department  
11 of Finance.

12 MS. FEREBEE: Donna Ferebee, Department of  
13 Finance.

14 CHAIR ORTEGA: Okay, anything to add?

15 MS. QUASEBARTH: Finance concurs with the staff  
16 recommendation, and we have no further comments at this  
17 time.

18 CHAIR ORTEGA: Okay, any questions or comments  
19 from the Commission?

20 *(No response)*

21 CHAIR ORTEGA: Any public comment on this item?

22 *(No response)*

23 CHAIR ORTEGA: Okay. Seeing none, is there a  
24 motion?

25 MEMBER CHIVARO: I'll move adoption of the

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1 proposed decision.

2 CHAIR ORTEGA: Moved by Mr. Chivaro.

3 MEMBER MORGAN: Second.

4 CHAIR ORTEGA: Seconded by Mr. Morgan.

5 Please call the roll.

6 MS. HALSEY: Mr. Chivaro?

7 MEMBER CHIVARO: Yes.

8 MS. HALSEY: Mr. Hariri?

9 MEMBER HARIRI: Yes.

10 MS. HALSEY: Mr. Morgan?

11 MEMBER MORGAN: Aye.

12 MS. HALSEY: Ms. Ortega?

13 CHAIR ORTEGA: Aye.

14 Okay, Items 6 through 10. We're on the consent  
15 calendar.

16 MS. HALSEY: And Item 11 is reserved for county  
17 applications for a finding of significant financial  
18 distress or SB 1033 applications.

19 No SB 1033 applications have been filed.

20 Program Analyst Kerry Ortman will present  
21 Item 12, the Legislative Update.

22 MS. ORTMAN: Good morning.

23 We've been tracking AB 731 this legislative  
24 session. The bill was signed by the Governor and  
25 chaptered on September 21<sup>st</sup>, 2015. And it deletes the

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1     *Race to the Top* and *Immunization Records - Pertussis*,  
2     from the programs listed in the education block grant.  
3     It remains unclear what effect this bill will have on  
4     mandate reimbursement for these two programs for this  
5     2015-16 fiscal year since the bill was enacted and will  
6     become effective well after August 30<sup>th</sup>, the deadline  
7     school districts had to submit the request to receive  
8     block grant funding.

9             CHAIR ORTEGA: Okay, thank you.

10            Any questions?

11            *(No response)*

12            CHAIR ORTEGA: All right.

13            MS. HALSEY: Item 13 is the Chief Legal Counsel  
14     Report, which will be presented by our Chief Legal  
15     Counsel, Camille Shelton.

16            MS. SHELTON: Good morning.

17            Since our last hearing, there have been no new  
18     litigation filings or decisions; and then we do have one  
19     hearing scheduled in *Paradise Irrigation District*, which  
20     challenges the Commission's determination on the *Water*  
21     *Conservation* claim.

22            CHAIR ORTEGA: Okay, thank you.

23            Any questions?

24            *(No response)*

25            CHAIR ORTEGA: All right, Heather?

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1 MS. HALSEY: Item 14 is the Executive  
2 Director's Report.

3 Of note, after this hearing, we have 15 test  
4 claims remaining. Two of those have been consolidated  
5 and are tentatively set for hearing -- or, I'm sorry, are  
6 set for hearing for next meeting. And the other 13 are  
7 on inactive, pending the outcome of a Supreme Court  
8 decision.

9 Also to note, that we've been expediting our  
10 parameters and guidelines test claims and statewide cost  
11 estimates. And, for example, the test claim that was  
12 just heard today was filed this June. And we expect to  
13 possibly be able to hear the parameters and guidelines  
14 at our next hearing. So we may actually begin to meet  
15 the statutory guidelines for test claims. And that's  
16 been a long time coming that staff has been working to  
17 streamline the process to make that a reality.

18 CHAIR ORTEGA: Great.

19 MS. HALSEY: A lot of work on behalf of staff,  
20 and also the parties in terms of their commenting timely  
21 and those things to speed things up.

22 CHAIR ORTEGA: Thank you.

23 Anything else?

24 *(No response)*

25 CHAIR ORTEGA: And we are doing a closed



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1 session?

2 MS. HALSEY: Yes.

3 CHAIR ORTEGA: Okay, so with that, we will  
4 recess to closed session.

5 The Commission will meet in closed executive  
6 session pursuant to Government Code section 11126(e) to  
7 confer with and receive advice from legal counsel for  
8 consideration and action, as necessary and appropriate,  
9 upon the pending litigation listed on the published  
10 notice and agenda, to confer with and receive advice from  
11 legal counsel regarding potential litigation.

12 The Commission will also confer on personnel  
13 matters pursuant to Government Code section 11126(a)(1).

14 We will reconvene in open session in  
15 approximately 15 minutes.

16 Thank you, everyone.

17 *(The Commission met in closed executive*  
18 *session from 10:17 a.m. to 10:33 a.m.)*

19 CHAIR ORTEGA: The Commission met in closed  
20 executive session pursuant to Government Code section  
21 11126(e)(2), to confer with and receive advice from legal  
22 counsel for consideration and action, as necessary and  
23 appropriate, upon the pending litigation listed on the  
24 published notice and agenda; and to confer with and  
25 receive advice from legal counsel regarding potential

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1 litigation; and pursuant to Government Code section  
2 11126(a)(1), to confer on personnel matters.

3 With no further business to come before the  
4 Commission, we will stand adjourned.

5 Thank you.

6 *(The meeting concluded at 10:33 a.m.)*

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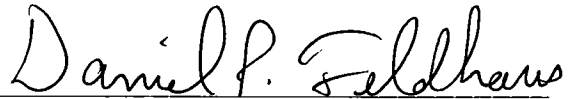
REPORTER'S CERTIFICATE

I hereby certify:

That the foregoing proceedings were duly reported by me at the time and place herein specified; and

That the proceedings were reported by me, a duly certified shorthand reporter and a disinterested person, and was thereafter transcribed into typewriting by computer-aided transcription.

*In witness whereof*, I have hereunto set my hand on the 14<sup>th</sup> December 2015.



Daniel P. Feldhaus  
California CSR #6949  
Registered Diplomate Reporter  
Certified Realtime Reporter