

ITEM 20
EXECUTIVE DIRECTOR’S REPORT - REVISED
Workload, Budget, and
Upcoming Tentative Agendas

I. WORKLOAD

A. PENDING COMMISSION CASELOAD (Info) (Revised)

Type of Action	<u>March 13, 2009</u>
Test Claims ¹ to be Heard and Determined	63
Test Claims to be Reconsidered	0
Test Claims to be Reconsidered Based on Court Action	0
Test Claims to be Reconsidered, as Directed by the Legislature	1
Incorrect Reduction Claims to be Heard and Determined	144
Incorrect Reduction Claims to be Reconsidered Based on Court Action	0
Reasonable Reimbursement Methodologies/Statewide Estimate of Costs	3
Proposed Parameters and Guidelines, and Amendments	19
Parameters and Guidelines to be Amended or Set Aside, as Directed by the Legislature or Court Action	0
Statewide Cost Estimates to be Adopted	10
New Test Claim Filings to be Reviewed	0
New Incorrect Reduction Claim Filings to be Reviewed	0
Appeals of Executive Director’s Decision	0
Regulatory Actions Pending	0

B. PENDING REQUESTS TO JOINTLY DEVELOP LEGISLATIVELY DETERMINED MANDATES

Type of Action	
Notice of Intent to Pursue Legislatively Determined Mandates	2

C. APPLICATIONS FOR FINDINGS OF SIGNIFICANT FINANCIAL DISTRESS

Type of Action	
Applications for Findings of Significant Financial Distress Pending	0

Although no applications have been filed, four counties have inquired about the process (Sacramento, Los Angeles, San Diego, and Alameda).

¹ This includes 40 test claims filed by school districts and 23 filed by local agencies.

II. BUDGET

A. Commission Budget - 2008-2009

The Commission continues to have one vacant staff counsel III position.

On October 9, 2008, the Administration directed state agencies to make \$190 million in additional General Fund savings for 2008-2009. The Commission's portion of these additional required savings is \$17,000, which was achieved through salary savings and terminating student assistant contracts.

B. Commission Budget - 2009-2010

The budget includes \$1.59 million for 12 positions and operating expenses for the Commission.

At the request of Department of Personnel Administration (DPA), Commission staff completed drills to determine General Fund savings if we are required to make 5% or 10% reductions in our budget. The Commission's budget would face a \$77,950 reduction in budget at 5%, and \$140,150.00 at 10%. Please note that to date, we have received no notice that these reductions will take place.

C. Furlough of State Employees (Revised)

Commission staff continues to participate in the Governor's furlough program. On March 5, 2009, the Governor ended the requirement that all employees take furlough days on the first and third Fridays of the month, and instead, implemented a self-directed program where employees select their own furlough days. Based on a new MOU, employees (Associate Governmental Program Analysts, Staff Services Analysts, Office Technician, and Senior Information Systems Analyst) represented by the Service Employees International Union (SEIU) changed to a one day furlough program. Commission attorneys, management, and exempt staff are on a two day furlough program.

D. Lay Off of State Employees

On December 19, 2008, the Governor also warned of possible layoff notices being sent to 20,000 state employees. On February 17, 2009, at the direction of DPA, lay off notices were issued to state employees, including staff with the Commission. The Governor indicates that lay offs will occur based on future budget shortages.

E. Mandate Reimbursements – 2009-2010 (Revised)

1. K-12 School Districts

For the past several years, reimbursement for K-12 mandates has been deferred. This means that the programs were funded at \$1,000 each and school districts were required to carry out the programs. Although a recent court decision in the case of *California School Boards Association v. State of California*,² held that the State may not defer mandated programs, the 2009-2010 budget appropriates \$38,000 to school districts and continues to defer mandated programs.

2. Community College Districts

The 2009-2010 budget includes \$3,000 and continues to defer mandated programs.

3. Cities and Counties

The budget includes \$145.626 million for reimbursement of local agency mandates.

² San Diego County Superior Court, Case No. 37-2007-00082249-CU-WM-CTL

4. Other Issues

Government Code section 17561 was amended by Statutes 2009, chapter 4, effective February 20, 2009 (SB 3X 8), to delay the payment of mandate reimbursement claims by two months, from August 15 to October 15.

The budget defers the 2009-2010 payment (\$91 million) of the mandates obligation for costs incurred prior to 2004-2005, which are statutorily required to be completely paid by 2020-2021. The balance will be refinanced over the remaining payment period.

The May Revision will be issued after the May 19 statewide election.

III. LEGISLATIVE ANALYST'S OFFICE (Added)

Since the recent court decision on AB 138, the Legislative Analyst's Office is exploring what the State could do to revisit Commission decisions. Here's an excerpt from an informational memorandum provided to legislative staff:

What Could the State Do?

Reconsideration Process. The State has significant fiscal interest in having a process to reconsider mandate decisions that no longer appear valid (given changes in facts or case law). The court acknowledged this and the opinion leaves open the possibility for the Legislature to create a new process. In drafting a new process, however, we would need to carefully address the separation of powers concerns.

Mandate Costs. For 2009-10 and onwards, the Legislature could fund the newly re-established mandates (the Open Meetings Act, Mandate Reimbursement Process, and School Accountability Report Cards), or modify, repeal or suspend them. The State is on the hook, however, for prior year costs of these mandates.

Mandate Definition. Deciding which state laws/regulations are "necessary to implement" (rather than "reasonably related") to a voter approved measure may be a difficult task for the commission. To that end, [LAO staff] suggest that new legislation regarding voter-approved measures carefully address this issue to avoid unintentionally creating a reimbursable mandate.

These issues may be raised during the Commission's budget hearings.

IV. TENTATIVE AGENDAS (Revised)

The tentative agendas are subject to change based on Commission staff's litigation workload, requests for extensions of time to file comments on draft staff analyses, hearing postponements, pre-hearing conferences, and the complexity of the statutes and executive orders that are pled.

Friday, May 29, 2009

A. Test Claims (6)

1. *Student Records*, 02-TC-34
Riverside Unified School District and Palomar Community College Districts, Claimants
2. *Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04, 03-TC-19, 03-TC-20, and 03-TC-21
County of Los Angeles, Cities of Artesia, Beverly Hills, Carson, Norwalk, Rancho Palos Verdes, Westlake Village, Azusa, Commerce, Vernon, Bellflower, Covina, Downey, Monterey Park, Signal Hill, Co-Claimants
3. *Airport Land Use Commission/Plans II*, 03-TC-12
County of Santa Clara, Claimant

- B. Proposed Parameters and Guidelines (4)
 - 1. *Expulsions II and Suspensions II*, 96-358-03, 03A-03B, 04, 04A-04B, 98-TC-22, 23, 01-TC-17, and 18 consolidated with *Education Services Plan*, 97-TC-09
San Juan Unified School District, Claimant
 - 2. *Modified Primary Election*, 01-TC-13
County of Orange, Claimant
 - 3. *Permanent Absent Voter II*, 03-TC-11
County of Sacramento, Claimant
 - 4. *Local Government Employment Relations*, 01-TC-30
County of Sacramento, Claimant
- C. Proposed Parameters and Guidelines Amendments (1)
 - 1. *Pesticide Use Reports*, 06-PGA-02
Department of Pesticide Regulation, Requestor
- D. Statewide Cost Estimates (2)
 - 1. *Local Recreational Areas: Background Screenings*, 01-TC-11
City of Los Angeles, Claimant
 - 2. *CalSTRS Service Credit*, 02-TC-19
Santa Monica Community College District, Claimant

Friday, July 31, 2009

- A. Test Claims (8)
 - 1. *Child Abuse & Neglect Reporting*, 01-TC-21
San Bernardino Community College District, Claimant
 - 2. *Comprehensive School Safety Plans II*, 07-TC-11
San Diego Unified School District, Claimant
 - 3. *Notice to Students and Minimum Conditions for State Aid*, 02-TC-25 and 02-TC-31
Los Rios and Santa Monica Community College Districts, Claimants
 - 4. *Discrimination Complaint Procedures*, 02-TC-46
Santa Monica Community College District, Claimant
 - 5. *Uniform Complaint Procedures*, 03-TC-02
Solana Beach School District
 - 6. *Employment of College Faculty and Instructors*, 02-TC-27
Santa Monica Community College District, Claimant
 - 7. *Extended Opportunity Programs and Services*, 02-TC-29
West Kern Community College District
- B. Proposed Parameters and Guidelines (3)
 - 1. *Crime Statistic Reports for Department of Justice*, 02-TC-04, 02-TC-11
City of Newport Beach and County of Sacramento, Co-Claimants
 - 2. *Crime Victims' Domestic Violence Incident Reports II*, 02-TC-18, County of Los Angeles, Claimant

3. *Local Agency Formation Commissions (LAFCO)*, 02-TC-23
Sacramento Metropolitan Fire District, Claimant
- C. Proposed Joint Reasonable Reimbursement Methodology (2)
1. *Domestic Violence Background Checks*, 01-TC-29
County of Alameda, Claimant
 2. *Interagency Child Abuse and Neglect (ICAN) Investigation Reports*,
00-TC-22
County of Los Angeles, Claimant
- D. Statewide Cost Estimates (4)
1. *Pupil Discipline Records and Notification to Teachers: Pupils Subject to
Expulsion/Suspension II*, 00-TC-10 and 01-TC-11
Sweetwater Union High School District, Carpinteria Unified School District and
Grant Joint union High School District, Co-Claimants
 2. *California Fire Incident Reports (CFIRS)*, CSM-4419
City of Newport Beach, Claimant
 3. *Fifteen-Day Close of Voter Registration*, 01-TC-15
County of Orange, Claimant
 4. *In-Home Supportive Services II*, 00-TC-23
County of San Bernardino, Claimant