

Item 1

Proposed Minutes

COMMISSION ON STATE MANDATES

Location of Meeting: Room 447
State Capitol, Sacramento, California
July 25, 2014

Present: Member Eraina Ortega, Chairperson
Representative of the Director of the Department of Finance
Member Andre Rivera, Vice Chairperson
Representative of the State Treasurer
Member Ken Alex
Director of the Office of Planning and Research
Member Richard Chivaro
Representative of the State Controller
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 10:00 a.m. Executive Director Heather Halsey called the roll.

APPROVAL OF MINUTES

Member Chivaro made a motion to adopt the minutes. With a second by Member Ramirez, the May 30, 2014 hearing minutes were adopted by a vote of 7-0.

PUBLIC COMMENT FOR MATTERS NOT ON THE AGENDA

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

CONSENT CALENDAR

INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8 (action)

A. STATEWIDE COST ESTIMATES

Item 7* *Local Agency Ethics (AB 1234), 07-TC-04*

Amended Statewide Cost Estimate

Government Code Sections 53232.2(b), 53232.3(a) and (b), 53235(f) and 53235.2(a); Statutes 2005, Chapter 700

State Controller's Office, Requester

B. ADOPTION OF COMMISSION ORDER TO INITIATE RULEMAKING
PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2,
DIVISION 2, CHAPTER 2.5

- Item 8* Conflict-of-Interest Code
California Code of Regulations, Title 2, Division, 2, Chapter 2.5, Article 9,
Section 1189.10 and Appendix

Member Olsen made a motion to adopt the Consent Calendar. With a second by Member Chivaro, the Consent Calendar was adopted by a vote of 7-0.

**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 noted that Item 6 was postponed to the September 26, 2014 hearing at the request of the claimant. She then swore in 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 *Post Election Manual Tally (PEMT)*, 10-TC-08
Former California Code of Regulations, Title 2, Sections 20120, 20121,
20122, 20123, 20124, 20125, 20126 and 20127.
Register 2008, No. 43
County of Santa Barbara, Claimant

This test claim seeks reimbursement for emergency regulations that require new standards and procedures to conduct post election manual tallies of votes for races with very narrow margins of victory during elections conducted in whole or in part on a voting system.

Senior Commission Counsel Eric Feller presented this item and recommended that the Commission adopt the proposed decision to partially approve the test claim.

Parties were represented as follows: Renee Bischof and Anne Rierison, Senior Deputy County Counsel, County of Santa Barbara representing the claimant; Lee Scott and Susan Geanacou, 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 Rivera, the motion to adopt the staff recommendation to partially approve the test claim was adopted by a vote of 7-0.

**PARAMETERS AND GUIDELINES AND PARAMETERS AND GUIDELINES
AMENDMENTS**

- Item 4 *Enrollment Fee Collection and Waivers*, 08-PGA-02 (99-TC-13 and
00-TC-15)
Education Code Section 76300 as added or amended by Statutes 1984 2nd
Ex. Sess., Chapter 1; Statutes 1984, Chapters 274 and 1401; Statutes 1985,

Chapters 920 and 1454; Statutes 1986, Chapters 46 and 394; Statutes 1987, Chapter 1118; Statutes 1989, Chapter 136; Statutes 1991, Chapter 114; Statutes 1992, Chapter 703; Statutes 1993, Chapters 8, 66, 67, and 1124; Statutes 1994, Chapters 153 and 422; Statutes 1995, Chapter 308; Statutes 1996, Chapter 63; and Statutes 1999, Chapter 72
California Code of Regulations, Title 5, Sections 58501, 58502, 58503
(Register 2006, No. 17, 58611, 58612, 58613, 58620, and 58630 (Register 2006, No. 17))

Los Rios Community College District, Cerritos Community College District, Citrus Community College District, El Camino Community College District, Gavilan Community College District, Kern Community College District, Long Beach Community College District, Mt. San Jacinto Community College District, Palomar Community College District, Pasadena Area Community College District, San Bernardino Community College District, Santa Monica Community College District, State Center Community College District, Sierra Joint Community College District, Victor Valley Community College District, West Kern Community College District, and Yosemite Community College District,
Requestors

This parameters and guidelines amendment request seeks to adopt a reasonable reimbursement methodology in lieu of filing detailed documentation of actual costs associated with calculating and collecting the student enrollment fee.

Senior Commission Counsel Giny Chandler presented this item and recommended that the Commission adopt the proposed decision to deny the request to amend the parameters and guidelines.

Parties were represented as follows: Keith Petersen, representing the claimant; Jim Spano, Audit Bureau Chief, Division of Audits, State Controller's Office, and Jim Venneman, Audit Manager, State Controller's Office; Donna Ferebee, Department of Finance.

Following discussion among the Commission members, staff, and parties, Member Chivaro made a motion to adopt the staff recommendation to deny the request to amend the parameters and guidelines. With a second by Member Olsen, the motion to adopt the staff recommendation to deny the request to amend the parameters and guidelines was adopted by a vote of 7-0.

MANDATE REDETERMINATION

Item 5 *Fire Safety Inspections of Care Facilities (01-TC-16)*, 13-MR-01
Health and Safety Code Section 13235(a); Statutes 1989,
Chapter 993

As Alleged to be Modified by: Statutes 2009-2010, Chapter 12
(ABX 4 12)

Department of Finance, Requestor

FIRST HEARING: ADEQUATE SHOWING

This hearing was to determine whether the Department of Finance had made an adequate showing that a subsequent change in law had occurred that may modify the State's liability for the program.

Senior Commission Counsel Giny Chandler presented this item and recommended that the Commission adopt the decision and direct staff to provide notice of the second hearing to

determine if the a new test claim decision shall be adopted to supersede the previously adopted test claim decision.

Parties were represented as follows: Lee Scott and Susan Geanacou, Department of Finance.

Following discussion among the Commission members, staff, and parties, Member Saylor made a motion to adopt the staff recommendation. With a second by Member Chivaro, the motion to adopt the staff recommendation, finding that the Department of Finance has made an adequate showing that the state's liability may have been modified and directing 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, was adopted by a vote of 7-0.

INCORRECT REDUCTION CLAIMS

Item 6 *Notification to Teachers: Pupils Subject to Suspension or Expulsion, 05-4452-I-01*

Education Code Section 49079; Statutes 1993, Chapter 1257

San Diego Unified School District, Claimant

This item was postponed to the September 26, 2014 hearing, at the request of claimant.

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 9 Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commission, or to a Hearing Officer
Note: This item will only be taken up if an application is filed.

No applications were filed.

STAFF REPORTS

Item 10 Legislative Update (info)

Commission staff member Kerry Ortman presented this item.

Item 11 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar (info)

Chief Legal Counsel Camille Shelton presented this item.

Item 12 Executive Director: Workload Update, 2014 Budget, and Tentative Agenda Items for Next Meeting (info)

Executive Director Heather Halsey presented this item and reported on the Commission's backlog reduction. She also reported on the Commission's operating budget, as well as mandate funding in the 2014 budget.

CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 AND 11126.2 (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):

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

(Los Angeles County Superior Court, Case No. BS130730, Second District Court of Appeal, Case No. B237153)

[*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]

2. *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]
3. *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]
4. *Counties of San Diego, Los Angeles, San Bernardino, Orange, and Sacramento v. Commission on State Mandates, et al.*
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
5. *Santa Clarita Valley Sanitation District v. Commission on State Mandates, California Regional Water Quality Control Board, Department of Finance*
Los Angeles County Superior Court, Case No. BS148024
Upper Santa Clara River Chloride Requirements, 10-TC-09
(Los Angeles Regional Water Quality Control Board Resolution No. R4-2008-012, adopted December 11, 2008; approved by United States Environmental Protection Agency April 6, 2010)
6. *County of Los Angeles v. Commission on State Mandates, Department of Finance*
Los Angeles County Superior Court, Case No. BS148845
Public Guardianship Omnibus Conservatorship Reform,
07-TC-05(Probate Code Sections 1850(a), 1851(a), 2113, 2250(a)-(c), 2250.4(a)-(d); 2352(a)-(f), 2352.5(a)-(e), 2410, 2540(a)-(b), 2543(a)-(d), 2610(a), 2620(a)-(e), 2620.2(a)-(d), 2590, 2591(a)-(q), 2591.5(a)-(d),

2623(a)-(b), 2640(a)-(c), 2640.1(a)-(c), 2641(a)-(b), 2653(a)-(c), 2920(a)-(c), and 2923 Statutes 2006; Chapter 490 (SB 1116), Statutes 2006, Chapter 492 (SB 1716), and Statutes 2006, Chapter 493 (AB 1363))

7. *Coast Community College District, et al. v. Commission on State Mandates, et al.*
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); “Program and Course Approval Handbook” Chancellor’s Office California Community Colleges (September 2001).)

B. PERSONNEL

To confer on personnel matters pursuant to Government Code section 11126(a)(1):

The Commission adjourned into closed executive session 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 published in the notice and agenda; to confer 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 10:31 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) 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 potential litigation, and to confer on personnel matters pursuant to Government Code section 11126(a)(1).

OTHER DISCUSSION

Member Ramirez asked for an update on the status of the digitization of the Commission's records. Assistant Executive Director Jason Hone reported that all pending items are fully digitized and that staff is now working on getting past decisions digitized. He also reported that the Commission just hired a student assistant to help put together complicated histories of old Commission decisions which will then also be digitized.

ADJOURNMENT

Hearing no further business, Chairperson Ortega adjourned the meeting at 10:31 a.m.

Heather Halsey
Executive Director

PUBLIC MEETING
COMMISSION ON STATE MANDATES



TIME: 10:00 a.m.
DATE: Friday, July 25, 2014
PLACE: State Capitol, Room 447
Sacramento, California



REPORTER'S TRANSCRIPT OF PROCEEDINGS



Reported by:
Daniel P. Feldhaus
California Certified Shorthand Reporter #6949
Registered Diplomat 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
(*Commission Chair*)
Representative for MICHAEL COHEN, Director
Department of Finance

KEN ALEX
Director
Office of Planning & Research

RICHARD CHIVARO
Representative for JOHN CHIANG
State Controller

SARAH OLSEN
Public Member

M. CARMEN RAMIREZ
Oxnard City Council Member

ANDRÉ RIVERA
Representative for BILL LOCKYER
State Treasurer

DON SAYLOR
Yolo County Supervisor
Local Agency Member



COMMISSION STAFF PRESENT

HEATHER A. HALSEY
Executive Director
(*Items 2, 9, and 12*)

JASON HONE
Assistant Executive Director

CAMILLE N. SHELTON
Chief Legal Counsel
(*Item 11*)

A P P E A R A N C E S

PARTICIPATING COMMISSION STAFF

continued

GINY CHANDLER
Senior Commission Counsel
(Item 4 and Item 5)

ERIC FELLER
Senior Commission Counsel
(Item 3)

KERRY ORTMAN
Program Analyst
(Item 10)



PUBLIC TESTIMONY

Appearing Re Item 3:

For Claimant County of Santa Barbara:

ANNE M. RIERSON
Senior Deputy County Counsel
Office of County Counsel
County of Santa Barbara
105 E. Anapamu Street, Suite 201
Santa Barbara, California 93101

RENEE BISCHOF
Chief Deputy Registrar of Voters
County of Santa Barbara
4440-A Calle Real
Santa Barbara, California 93110

A P P E A R A N C E S

PUBLIC TESTIMONY

Appearing Re Item 3: *continued*

For Department of Finance:

SUSAN GEANACOU
Senior Staff Attorney
Department of Finance
915 L Street, Suite 1280
Sacramento, California 95814

LEE SCOTT
Department of Finance
915 L Street, Eighth Floor
Sacramento, California 95814

Appearing Re Item 4:

For Claimants Los Rios Community College District,
et al.:

KEITH B. PETERSEN
SixTen and Associates
5252 Balboa Avenue, Suite 900
San Diego, California 92117

For State Controller's Office

JIM L. SPANO
Chief, Mandated Cost Audits Bureau
State Controller's Office
3301 C Street, Suite 700
Sacramento, California 95816

JIM VENNEMAN
Audit Manager
Division of Audits
State Controller's Office
3301 C Street, Suite 700
Sacramento, California 95816

A P P E A R A N C E S

PUBLIC TESTIMONY

Appearing Re Item 4: *continued*

For Department of Finance:

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

Appearing Re Item 5:

For Department of Finance:

SUSAN GEANACOU
Department of Finance

LEE SCOTT
Department of Finance



I N D E X

<u>Proceedings</u>	<u>Page</u>
I. Call to Order and Roll Call	11
II. Approval of Minutes	
Item 1 May 30, 2014	12
III. Public Comment for Matters Not on the Agenda	12
IV. Proposed Consent Calendar	
Item 7 and Item 8	13
V. Hearings and Decisions on Test Claims and Parameters and Guidelines Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 7	
A. Item 2 Appeal of Executive Director Pursuant to California Code of Regulations, Title 2, Section 1181(c) (<i>None</i>)	14
B. Test Claim	
Item 3 <i>Post Election Manual Tally</i> (<i>PEMT</i>) 10-TC-08 County of Santa Barbara	14
C. Parameters and Guidelines and Parameters and Guidelines Amendments	
Item 4 <i>Enrollment Fee Collection and</i> <i>Waivers</i> 08-PGA-02 Los Rios Community College District, et al.	18

I N D E X

Proceedings

Page

V. Hearings and Decisions on Test Claims and Parameters and Guidelines Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 7

D. Mandate Redeterminations

Item 5 *Fire Safety Inspections of Care Facilities*
01-TC-16, 13-MR-01
Department of Finance 21

E. Incorrect Reduction Claims

Item 6 *Notification to Teachers: Pupils Subject to Suspension or Expulsion*
05-4452-I-01
San Diego Unified School District
(postponed to September 26) . . . 13

VI. Informational Hearing Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 8

A. Statewide Cost Estimates

Item 7 *Local Agency Ethics (AB 1234)*
07-TC-04
State Controller's Office
(Consent calendar item) . . . 13, 23

I N D E X

Proceedings

Page

VI. Informational Hearing Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 8

B. Adoption of Commission Order to Initiate Rulemaking Pursuant to California Code of Regulations, Title 2, Division 2, Chapter 2.5

Item 8 *Conflict of Interest Code*
California Code of Regulations,
Title 2, Div 2, Chapter 2.5,
Article 9, Section 1189.10
and Appendix
(Consent calendar item) . . . 13, 23

VII. 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

Item 9 Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commissions, or to a Hearing Officer *(None)* 23

VIII. Reports

Item 10 Legislative Update 24

Item 11 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar 25

Item 12 Executive Director: Workload Update and Tentative Agenda Items for Next Meeting 26

I N D E X

<u>Proceedings</u>	<u>Page</u>
IX. Closed Executive Session Pursuant to Government Code Sections 11126 and 11126.2	29
A. Pending Litigation	
B. Personnel	
X. Report from Closed Executive Session	29
Adjournment	30
Reporter's Certificate	31



Commission on State Mandates – July 25, 2014

1 BE IT REMEMBERED that on Friday, July 25, 2014,
2 commencing at the hour of 10:00 a.m., thereof, at the
3 State Capitol, Room 447, Sacramento, California, before
4 me, DANIEL P. FELDHAUS, CSR #6949, RDR and CRR, the
5 following proceedings were held:

6 --oOo--

7 CHAIR ORTEGA: Good morning, everyone. It is
8 ten o'clock. So I will call to order the July 25th
9 meeting of the Commission on State Mandates.

10 If you could call the roll?

11 MS. HALSEY: Mr. Alex?

12 MEMBER ALEX: Here.

13 MS. HALSEY: Mr. Chivaro?

14 MEMBER CHIVARO: Here.

15 MS. HALSEY: Ms. Olsen?

16 MEMBER OLSEN: Present.

17 MS. HALSEY: Ms. Ortega?

18 MEMBER ORTEGA: Here.

19 MS. HALSEY: Ms. Ramirez?

20 MEMBER RAMIREZ: Here.

21 MS. HALSEY: Mr. Rivera?

22 MEMBER RIVERA: Here.

23 MS. HALSEY: Mr. Saylor?

24 MEMBER SAYLOR: Here.

25 CHAIR ORTEGA: Thank you.

Commission on State Mandates – July 25, 2014

1 The first item is the minutes from the May 30th
2 meeting.

3 Are there any corrections or objections to
4 the minutes?

5 *(No response)*

6 CHAIR ORTEGA: Any public comment on the
7 minutes?

8 *(No response)*

9 MEMBER CHIVARO: Move approval.

10 CHAIR ORTEGA: Okay.

11 MEMBER RAMIREZ: Second.

12 CHAIR ORTEGA: Motion by Mr. Chivaro, second by
13 Mr. Ramirez.

14 All in favor of the adoption of the minutes?

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

16 CHAIR ORTEGA: No objections or abstentions?

17 *(No response)*

18 CHAIR ORTEGA: The next item.

19 MS. HALSEY: Is public comment for items -- for
20 matters not on the agenda.

21 Please note the Commission cannot take action
22 on items not on the agenda; however, it can schedule
23 issues raised by the public for consideration at future
24 meetings.

25 CHAIR ORTEGA: Okay, any public comment

Commission on State Mandates – July 25, 2014

1 generally?

2 (No response)

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

4 MS. HALSEY: The next item is the proposed
5 consent calendar, which consists of Items 7 and 8.

6 CHAIR ORTEGA: Okay, any objections to the
7 proposed consent calendar?

8 MEMBER OLSEN: I'll move the consent calendar.

9 MEMBER CHIVARO: Second.

10 CHAIR ORTEGA: Okay. Is there any public
11 comment on the consent calendar?

12 (No response)

13 CHAIR ORTEGA: Okay, all in favor of the
14 adoption of the consent calendar?

15 (A chorus of "ayes" was heard.)

16 CHAIR ORTEGA: Any objections or abstentions?

17 (No response)

18 CHAIR ORTEGA: None.

19 The consent calendar is adopted.

20 MS. HALSEY: Moving on to the Article 7 portion
21 of the hearing.

22 First, to note that Item 6 has been postponed
23 to the September 26th, 2014, hearing, at the request of
24 the claimant.

25 Will the parties and witnesses for Items 2, 3,

Commission on State Mandates – July 25, 2014

1 4, and 5 please rise?

2 *(Parties and witnesses stood to be sworn*
3 *or affirmed.)*

4 MS. HALSEY: Do you solemnly swear or affirm
5 that the testimony which you are about to give is true
6 and correct, based on your personal knowledge,
7 information, or belief?

8 *(A chorus of affirmative responses was*
9 *heard.)*

10 MS. HALSEY: Thank you.

11 Item 2 is reserved for appeals of executive-
12 director decisions. There are no appeals to consider
13 under Item 2 for this hearing.

14 Item 3 is a test claim on *Post Election Manual*
15 *Tally*, which will be presented by Commission Counsel Eric
16 Feller.

17 MR. FELLER: Good morning.

18 This test claim seeks reimbursement for
19 emergency regulations that require new standards and
20 procedures to conduct post election manual tallies of
21 votes for races with very narrow margins of victory
22 during elections conducted in whole or in part on a
23 voting system.

24 The emergency regulations were effective for
25 about six months in 2008 and 2009, coinciding with the

1 November 2008 presidential election, but claimant alleged
2 costs for only about a two-week period in November of
3 2008.

4 Staff finds that the new requirements imposed
5 by the test-claim regulations are mandated by the State.
6 Although having a voting system is discretionary under
7 state law, counties are required by the Federal Help
8 America Vote Act to have at least one voting system at
9 each polling place during federal elections to be
10 accessible for individuals with disabilities.

11 In addition, the regulations became effective
12 only 16 days before the November 2008 presidential
13 election so counties could not, as a practical matter,
14 stop using their approved voting systems to avoid
15 test-claim regulations because there was not time to
16 obtain approval for a different voting system before the
17 election.

18 So staff finds that the test-claim regulations
19 impose a reimbursable state mandate for a manual tally
20 as specified in the analysis.

21 Would the parties and witnesses please state
22 your names for the record?

23 MS. RIERSON: Good morning. I'm Anne Rierson.
24 I'm a senior deputy county counsel for the County of
25 Santa Barbara.

Commission on State Mandates – July 25, 2014

1 MS. BISCHOF: Good morning. My name is Renee
2 Bischof. I am the Chief Deputy Registrar of Voters and
3 the claimant representative for the County of
4 Santa Barbara.

5 MR. SCOTT: Lee Scott, Department of Finance.

6 MS. GEANACOU: Susan Geanacou, Department of
7 Finance.

8 CHAIR ORTEGA: Ms. Rierson or Ms. Bischof,
9 whoever is going to start, go ahead.

10 MS. RIERSON: I'll start.

11 We want to thank Commission staff for their
12 analysis and work on this test claim; and we do not have
13 additional comments at this time, but Renee is here in
14 case the Commission has any questions.

15 CHAIR ORTEGA: Okay. Department of Finance?

16 MS. GEANACOU: Thank you.

17 Susan Geanacou.

18 We appreciate the Commission staff reviewing
19 and responding to our most recently filed comments; and
20 we have nothing further to offer at this time.

21 CHAIR ORTEGA: Okay, are there any questions
22 from Board members?

23 *(No response)*

24 CHAIR ORTEGA: Ms. Ramirez?

25 MEMBER RAMIREZ: More like a comment.

Commission on State Mandates – July 25, 2014

1 This is some of the most complicated stuff I
2 have ever read in my life. So congratulations,
3 everybody.

4 MEMBER CHIVARO: I'll move approval of the
5 staff recommendation.

6 MEMBER RIVERA: Second.

7 CHAIR ORTEGA: Okay, Mr. Chivaro moves approval
8 of the staff recommendation, and Mr. Rivera seconds.

9 Is there any additional comment?

10 Mr. Saylor?

11 MEMBER SAYLOR: I appreciate the playing out of
12 the concept of practical compulsion in this case; and I
13 think that makes good sense here.

14 CHAIR ORTEGA: Any other public comment on this
15 item?

16 Heather?

17 MS. HALSEY: Do we have a motion and a second?
18 I wasn't sure.

19 CHAIR ORTEGA: Yes. Motion by Mr. Chivaro,
20 second by Mr. Rivera.

21 Please call the roll.

22 MS. HALSEY: Mr. Alex?

23 MEMBER ALEX: Aye.

24 MS. HALSEY: Mr. Chivaro?

25 MEMBER CHIVARO: Aye.

Commission on State Mandates – July 25, 2014

1 MS. HALSEY: Ms. Olsen?

2 MEMBER OLSEN: Aye.

3 MS. HALSEY: Ms. Ortega?

4 MEMBER ORTEGA: Aye.

5 MS. HALSEY: Ms. Ramirez?

6 MEMBER RAMIREZ: Aye.

7 MS. HALSEY: Mr. Rivera?

8 MEMBER RIVERA: Aye.

9 MS. HALSEY: Mr. Saylor?

10 MEMBER SAYLOR: Aye.

11 MS. HALSEY: The motion carries.

12 CHAIR ORTEGA: Okay, Item 4.

13 MS. HALSEY: Senior Commission Counsel Giny
14 Chandler will present Item 4, a parameters and guidelines
15 amendment on *Enrollment Fee Collection and Waivers*.

16 MS. CHANDLER: Good morning, Chair and
17 Commission Members.

18 This is a request to amend the parameters and
19 guidelines for the *Enrollment Fee Collection and Waiver*
20 *Program* to adopt a reasonable reimbursement methodology
21 in lieu of filing detailed documentation of actual costs.

22 The proposed RRM is in the form of two proposed
23 unit costs associated with calculating and collecting the
24 student enrollment fee and for waiving student fees.

25 Staff finds that the evidence in the record is

Commission on State Mandates – July 25, 2014

1 not sufficient to support a finding that the proposed
2 unit cost RRM reasonably represents the costs mandated by
3 the State for this program. Thus, staff recommends that
4 the Commission adopt the decision to deny the request to
5 amend the parameters and guidelines.

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

8 MR. PETERSEN: Keith Petersen, representing the
9 requesting 16 districts.

10 MR. SPANO: Jim Spano, Audit Bureau Chief,
11 Division of Audits, State Controller's Office.

12 MR. VENNEMAN: Jim Venneman, Audit Manager,
13 State Controller's Office.

14 MS. FEREBEE: Donna Ferebee, Department of
15 Finance.

16 CHAIR ORTEGA: Okay, Mr. Petersen?

17 MR. PETERSEN: We'll stand on the written
18 submissions.

19 CHAIR ORTEGA: Okay. Mr. Spano or -- go ahead.

20 MR. VENNEMAN: Jim Venneman, State Controller's
21 Office.

22 The Controller's office supports staff's
23 conclusion and recommendation.

24 CHAIR ORTEGA: Okay. Any questions or comments
25 from the Commission?

Commission on State Mandates – July 25, 2014

1 Yes, go ahead.

2 MS. FEREBEE: Yes, thank you.

3 The Department of Finance also concurs with the
4 staff recommendation.

5 Thank you.

6 CHAIR ORTEGA: Thank you.

7 Any comments from the public on this item?

8 *(No response)*

9 CHAIR ORTEGA: Okay.

10 MEMBER CHIVARO: Move approval of staff
11 recommendation.

12 MEMBER OLSEN: Second.

13 CHAIR ORTEGA: Motion by Mr. Chivaro, second by
14 Ms. Olsen.

15 Call the roll.

16 MS. HALSEY: Mr. Alex?

17 MEMBER ALEX: Aye.

18 MS. HALSEY: Mr. Chivaro?

19 MEMBER CHIVARO: Aye.

20 MS. HALSEY: Ms. Olsen?

21 MEMBER OLSEN: Aye.

22 MS. HALSEY: Ms. Ortega?

23 MEMBER ORTEGA: Aye.

24 MS. HALSEY: Ms. Ramirez?

25 MEMBER RAMIREZ: Aye.

Commission on State Mandates – July 25, 2014

1 MS. HALSEY: Mr. Rivera?

2 MEMBER RIVERA: Aye.

3 MS. HALSEY: Mr. Saylor?

4 MEMBER SAYLOR: Aye.

5 MS. HALSEY: The motion carries.

6 Thank you.

7 MS. HALSEY: Item 5, Senior Commission Counsel
8 Giny Chandler will present Item 5, the adequate showing
9 hearing for mandate redetermination on *Fire Safety*
10 *Inspections of Care Facilities*.

11 MS. CHANDLER: This is a request by the
12 Department of Finance to redetermine the Commission's
13 statement of decision on the *Fire Safety Inspections of*
14 *Care Facilities Program* on the basis that a subsequent
15 change in law authorize sufficient fee authority to cover
16 the full costs of the mandated activities, thus,
17 modifying the State's liability.

18 This first hearing is to determine whether the
19 Department of Finance has made an adequate showing that a
20 subsequent change in law has occurred that modifies the
21 State's liability for the program.

22 Staff finds that the Department of Finance has
23 made an adequate showing that a subsequent change in law
24 has modified the State's liability, thus, requiring the
25 adoption of a new test-claim decision.

Commission on State Mandates – July 25, 2014

1 Staff recommends that the Commission adopt the
2 decision and direct staff to provide notice of the second
3 hearing to determine if a new test-claim decision shall
4 be adopted to supersede the previously adopted test-claim
5 decision.

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

8 MR. SCOTT: Lee Scott, Department of Finance.

9 MS. GEANACOU: Susan Geanacou, Department of
10 Finance.

11 CHAIR ORTEGA: Okay, Department of Finance?

12 MS. GEANACOU: Thank you.

13 We are the requester here. We appreciate the
14 staff's time and effort in analyzing our request. And
15 we agree with the outcome of the staff recommendation to
16 proceed to the second phase of the request for a new
17 test-claim decision.

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

20 *(No response)*

21 CHAIR ORTEGA: No?

22 Any public comment on this item?

23 *(No response)*

24 CHAIR ORTEGA: Seeing none...

25 MEMBER SAYLOR: Move approval.

Commission on State Mandates – July 25, 2014

1 MEMBER CHIVARO: Second.

2 CHAIR ORTEGA: Moved by Mr. Saylor, seconded by
3 Mr. Chivaro.

4 MS. HALSEY: Mr. Alex?

5 MEMBER ALEX: Aye.

6 MS. HALSEY: Mr. Chivaro?

7 MEMBER CHIVARO: Aye.

8 MS. HALSEY: Ms. Olsen?

9 MEMBER OLSEN: Aye.

10 MS. HALSEY: Ms. Ortega?

11 MEMBER ORTEGA: Aye.

12 MS. HALSEY: Ms. Ramirez?

13 MEMBER RAMIREZ: Aye.

14 MS. HALSEY: Mr. Rivera?

15 MEMBER RIVERA: Aye.

16 MS. HALSEY: Mr. Saylor?

17 MEMBER SAYLOR: Aye.

18 MS. HALSEY: Thank you.

19 The motion carries.

20 As previously noted, Item 6 has been postponed
21 to the September 26th, 2014, hearing, at the request of
22 claimant.

23 Item 7 and Item 8 were on the consent calendar.

24 Item 9 is reserved for county applications for
25 a finding of significant financial distress, or SB 1033

Commission on State Mandates – July 25, 2014

1 applications. No SB 1033 applications have been filed.

2 Now, Commission Staff Member Kerry Ortman will
3 present Item 10, the Legislative Update.

4 MS. ORTMAN: Good morning.

5 Commission staff continues to monitor
6 legislation for bills that might affect the mandates
7 process. There are no new bills to report on at this
8 time.

9 MS. HALSEY: And also, the bills that we were
10 monitoring all died. We were monitoring bills, but now
11 there are none.

12 MEMBER RAMIREZ: Can I ask?

13 CHAIR ORTEGA: Yes.

14 MEMBER RAMIREZ: We, in the last hearing or
15 before that, discussed some communication with the
16 legislators about the whole process and maybe
17 fine-tuning.

18 Has anything happened with that?

19 MS. HALSEY: No. I didn't really interpret
20 that as direction to go to the Legislature. If it is,
21 then we can do that. But I just interpreted it more as...

22 MEMBER RAMIREZ: Just general complaining?

23 MS. HALSEY: Yes.

24 Well, maybe hoping it would get to the right
25 ears, but...

Commission on State Mandates – July 25, 2014

1 MEMBER RAMIREZ: Yes, I think my concern was
2 that people -- claimants, perhaps, didn't seem to -- some
3 folks didn't seem to get what our role was in terms of
4 changing the results. And a lot of the answer lies with
5 the Legislature providing the funding that the different
6 agencies and jurisdictions need to conduct their work.
7 And we're not here to make the law; just to interpret it,
8 so...

9 Anyway, I'll leave it there. See what other
10 folks want to say or do -- or not.

11 MS. HALSEY: Thank you.

12 Item 11, Chief Legal Counsel Camille Shelton
13 will present the Chief Legal Counsel report.

14 MS. SHELTON: Good morning.

15 Since our last Commission hearing, there have
16 been two new lawsuits filed. The first one is County of
17 Los Angeles challenging the Commission's test-claim
18 decision on *Public Guardianship* claim.

19 The second one is Coast Community College
20 District challenging the Commission's test-claim decision
21 and parameters and guidelines in the *Minimum Conditions*
22 *for State Aid Claim*.

23 The Court has set two hearings:

24 The first one on the *Upper Santa Clarita River*
25 *Chloride Requirements*. That writ hearing is scheduled

1 for December 16th.

2 And a hearing on a motion for summary
3 adjudication in the *California School Board Association*
4 case is scheduled for November 4th.

5 CHAIR ORTEGA: Okay, any questions or comments
6 on the counsel report?

7 (No response)

8 CHAIR ORTEGA: Okay.

9 MS. HALSEY: Item 12 is the Executive
10 Director's report. And this is my first report for this
11 fiscal year, so I wanted to just recap our prior fiscal
12 year.

13 In the 2013-14 year, the Commission completed:
14 13 test claims; eight parameters and guidelines; ten
15 parameter-and-guideline amendments; .5 request for
16 reconsideration, since those requests require two
17 hearings; 12 statewide cost estimates; 12 mandate
18 redeterminations; and 22 incorrect-reduction claims.

19 Overall, 45 items were heard and decided by the
20 Commission in 2013-14 versus 34 items in 2012-2013.

21 This is a significant increase, which has
22 resulted from our increased staffing as a result of the
23 BCP that we had approved for the 2013-14 fiscal year, and
24 also the fact that we had fewer new staff members this
25 year, and also the many measures Commission staff has

Commission on State Mandates – July 25, 2014

1 been undertaking to increase efficiency in the office.

2 And these measures include, among other things:

3 Combining the staff analysis and proposed
4 statement of decision into a single document, which we're
5 now calling the "proposed decision."

6 Also, our e-filing process, which in addition
7 to reducing the burden on filing parties, makes all of
8 the documents available to the attorneys in an electronic
9 format, and that seizes the analysis process.

10 I would like to thank the Commission staff for
11 their substantial efforts in reducing the backlog this
12 year. It has certainly been a team effort, and every
13 member of staff has played a role in increasing the
14 productivity of the Commission.

15 With regard to the budget, the Commission's
16 operation budget, as adopted, was funded as originally
17 proposed in the Governor's budget. The 2014 budget also
18 includes \$34 million to fund local agency mandates, and
19 nearly \$251 million to fund the costs of K-12 and
20 community-college mandates.

21 In addition, the budget includes \$100 million
22 to pay down the amount owed on pre 2004-2005 local agency
23 mandate claims. So that's kind of a big deal. It's the
24 first such payment we've had in a long time.

25 The following local agency mandates were newly

Commission on State Mandates – July 25, 2014

1 funded in the 2014 budget: *Local Agency Ethics* and
2 *Tuberculosis Control*.

3 There were no newly suspended local agency
4 mandates in the 2014 budget.

5 And while *Behavioral Intervention Plans*, or
6 *BIPs*, was not listed as a funded mandate in the budget,
7 the Budget Act does provide that funds appropriated for
8 special education instruction shall first be considered
9 offsetting revenues for any reimbursable mandated cost
10 claim for *BIPs*.

11 With regard to the remaining eight new
12 education mandates, they are each funded at \$1,000. And
13 that's also known as "*deferred funding*" in the 2014
14 budget. And they are also included, though, in the block
15 grant.

16 In addition, SB 858 added section 17581.8 to
17 the Government Code. And this new section appropriates
18 just over \$287 million and \$49.5 million to K-12 and
19 community colleges in one-time funds, respectively.
20 The new section provides that these funds shall first
21 satisfy outstanding claims for state-mandated program
22 costs for any fiscal year.

23 And then with regard to the tentative agenda
24 items, please see the executive director's report to see
25 if your item is coming up over the course of the next few

Commission on State Mandates – July 25, 2014

1 hearings.

2 CHAIR ORTEGA: Okay, any questions or comments?

3 *(No response)*

4 CHAIR ORTEGA: No?

5 I think that's it. We will now recess into
6 closed session.

7 The Commission will meet in closed executive
8 session pursuant to Government Code section 11126(e), and
9 we will confer also on personnel matters.

10 We will reconvene in about 15 minutes.

11 *(The Commission met in closed executive
12 session from 10:17 a.m. to 10:31 a.m.)*

13 CHAIR ORTEGA: Okay, the Commission met in
14 closed session to confer with and receive advice from
15 legal counsel.

16 We are returning to open session.

17 Do we have anything else from the commissioners
18 on open session?

19 *(No response)*

20 CHAIR ORTEGA: Any other public comments?

21 *(No response)*

22 CHAIR ORTEGA: Seeing no other public, I don't
23 think so.

24 Oh, Ms. Ramirez?

25 MEMBER RAMIREZ: Just real quickly.

Commission on State Mandates – July 25, 2014

1 I know at one point we were talking about
2 digitizing and scanning all of the records of the cases.
3 And I just wondered what the status is of that.

4 MR. HONE: I can speak to that.

5 We have been making a lot of progress. We
6 first started with everything that was pending before the
7 Commission; and that is fully digitized. And we're
8 working our way backwards through past decisions. And,
9 in fact, we had just hired a student assistant to help
10 with that project, because it's not just scanning, it's
11 putting together sometimes really complicated stories and
12 histories of old decisions.

13 And he was here -- he's not in the room now,
14 but he is doing a fantastic job, and he's helping a lot,
15 and so we're moving forward, absolutely.

16 MEMBER RAMIREZ: Thank you for that.

17 I also felt remiss in not also supporting the
18 staff's tremendous work in getting us up to speed here.
19 So unsung heroes, I think.

20 Thank you.

21 CHAIR ORTEGA: Okay, anything else?

22 All right, with that, we'll be adjourned.

23 Thank you.

24 *(The meeting concluded at 10:31 a.m.)*

25 --oOo--

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 18th of August 2014.

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