

COMMISSION ON STATE MANDATES

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October 24, 2011

TO: ALL INTERESTED PERSONS
FROM: Drew Bohan, Executive Director *DLB*
RE: Revised Notice and Agenda

The Commission is revising its agenda to add an item within the 10-day notice period, pursuant to Government Code section 11125.3(a)(2).

On Thursday, October 27, 2011, the Commission will conduct its next regular meeting and hearing. The hearing will be conducted at 9:00 a.m., at the State Capitol, Room 447, Sacramento, California.

Testimony at the Commission Hearings. If you plan to address the Commission on an agenda item please notify the Commission Office by noon, two days before the hearing. When calling or emailing, identify the item you want to testify on and the entity you represent. The Chairperson reserves the right to impose time limits on presentations as may be necessary to complete the agenda. If you plan to testify and would like Commission members to review any document other than those prepared by Commission staff, please bring 12 double-sided copies of the document or section of the document you would like the members to review.

Agenda Materials. All back-up material and supporting documentation for public meetings are available for public inspection at the Commission Office, 980 Ninth Street, Suite 300, Sacramento, California 95814; (916) 323-3562. In addition, a complete copy of the above-described materials will be available for public inspection at the meetings.

Final Staff Analyses and Statements of Decision. Beginning with the October 27, 2011 Commission meeting, staff plans to combine final staff analyses and statements of decisions into one document. Agendas will no longer have one agenda item for a staff analysis followed by another agenda item for the statement of decision. Instead, we will have one agenda item with only one document styled as a statement of decision and a separate document with all exhibits to the statement of decision. A cover sheet will explain that the attached documents represent the final staff analysis.

Website. Agenda items are available on the Commission's website (<http://www.csm.ca.gov/>). After reaching the site's home page, click on the words "Current Hearing" on the left side of the page for the hearing agenda. Generally, the short agenda will be uploaded two weeks prior to the hearing. Items will be uploaded approximately one week before the hearing and may be accessed from the agenda. If an item is postponed prior to the hearing, notice will be posted on the agenda. Following the hearing, Commission actions will be posted on the Commission's website, and revised items will be posted upon completion.

Special Accommodations. If you need any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

TO RECEIVE NOTICES AND AGENDAS FOR COMMISSION MEETINGS AND HEARINGS ELECTRONICALLY, SUBSCRIBE BY VISITING THE COMMISSION'S WEBSITE AT [HTTP://WWW.CSM.CA.GOV](http://www.csm.ca.gov) AND CLICKING ON THE "AGENDA MAILING LIST" LINK ON THE RIGHT SIDE OF THE PAGE.

REVISED NOTICE AND AGENDA¹
(Revised Items are in Bold)

Meeting of the Commission on State Mandates

State Capitol
Room 447
Sacramento, California

Thursday, October 27, 2011

9:00 a.m.

Reminder: If you plan to testify and would like Commission members to review any document other than those prepared by Commission staff, please bring 12 double-sided copies of the document or section of the document you would like the members to review.

I. CALL TO ORDER AND ROLL CALL

II. APPROVAL OF MINUTES (action)

Item 1 July 28, 2011

III. PROPOSED CONSENT CALENDAR (action)

If there are no objections to any of the following action items designated by an asterisk (*), the Executive Director will include each one on the Proposed Consent Calendar that will be presented at the hearing. The Commission will determine which items will remain on the Consent Calendar.

IV. APPEAL OF EXECUTIVE DIRECTOR DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 1181(c) (action)

Item 2 Appeal of Executive Director Decisions

(Note: This item is limited to appeals regarding this month's agenda items.)

V. HEARINGS AND DECISIONS ON TEST CLAIMS, PARAMETERS AND GUIDELINES, PARAMETERS AND GUIDELINES AMENDMENTS, INCORRECT REDUCTION CLAIMS, AND REVIEWS OF CLAIMING INSTRUCTIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (GOV. CODE, § 17551, 17557, and 17559) (action)

A. TEST CLAIMS AND STATEMENTS OF DECISION

Item 3 *Deferred Maintenance*

02-TC-44

Education Code Sections 17582, 17583, 17584, 17584.1, 17584.2, 17585, 17586, 17587, 17588, 17589, 17590, 17591, 17592, 49410, 49410.2, 49410.5 and 49410.7 as added or amended by Statutes 1979, Chapter 282 (AB 8); Statutes 1980, Chapters 40 (SB 88) and 1354 (AB2196); Statutes 1981, Chapters 371 (SB 22), 649 (AB 62) and 1093 (AB 61); Statutes 1982, Chapter 525 (AB 2417); Statutes 1983, Chapters 753 (SB 1198) and 800 (AB 1931); Statutes 1984, Chapters 1234 (AB 2948) and 1751 (AB 2377); Statutes 1985, Chapter 759 (AB 1255) and 1587 (AB 2040); Statutes 1986, Chapters 886 (SB 327), 1258 (AB 3158), and 1451 (SB 2572); Statutes 1987, Chapters 917 (AB 93) and 1254 (AB 2509); Statutes 1989, Chapter 83 (AB 198) and 711 (SB 759); Statutes 1990, Chapter 1263 (AB 2875); Statutes 1996,

¹ This public meeting notice is available on the Internet at <http://www.csm.ca.gov>.

Chapter 277 (SB 1562); Statutes 1999, Chapter 390

(AB 939); and Statutes 2002, Chapters 1075 (SB 21) and 1084 (SB 1915)

Title 2, California Code of Regulations Sections 1866, 1866.1, 1866.2, 1866.3, 1866.4, 1866.4.1, 1866.4.2, 1866.4.3, 1866.4.4, 1866.4.6, 1866.4.7, 1866.5, 1866.5.1, 1866.5.2, 1866.5.3, 1866.5.4, 1866.5.5, 1866.5.6, 1866.5.7, 1866.5.8, 1866.5.9, 1866.7, 1866.8, 1866.9, 1866.9.1, 1866.10, 1866.12, 1866.13, 1866.14 and 1867.2 as added or amended by Registers 80-16, 80-26, 81.18, 82-31, 86-9, 86-45, 86-49, 86-52, 87-17, 87-46 and 03-03

Deferred Maintenance Program Handbook of 2003

Clovis Unified School District, Claimant

Item 4 *Deferred Maintenance (CCD)*

02-TC-48

Education Code Section 84660

Statutes 1981, Chapter 764 (SB 841); Statutes 1990, Chapter 1372 (SB 1874)

California Code of Regulations, Title 5, Sections 57201, 57202, 57205 Register 82, No. 28 (July 10, 1982), Pages 677-678; Register 91, No. 23 (June 7, 1991) Pages 377-378; Register 95, No. 23 (June 9, 1995) Page 379, and

“Preparation Guidelines for Scheduled Maintenance and Hazardous Substances Project Funding Proposals” Chancellor’s Office, California Community Colleges

Santa Monica Community College District, Claimant

Item 5 *Tuberculosis Control*

03-TC-14

Health and Safety Code Sections 121361, 121362, 121363, 121364, 121365, 121366, 121367, 121368, and 121369, as added or amended by Statutes 1993, Chapter 676 (AB 803); Statutes 1994, Chapter 685 (AB 804); Statutes 1997, Chapters 116 (SB 362) and 294 (SB 391); and Statutes 2002, Chapter 763 (SB 843)

County of Santa Clara, Claimant

Item 6 *Community College Construction*

02-TC-47

Education Code Sections 70902(b)(1), 81663, 81800, 81805, 81807, 81808, 81820, 81821, 81822, 81823, 81836, 81837, 81839

Statutes 1980, Chapter 910 (AB 1171); Statutes 1981, Chapter 470 (AB 1726); Statutes 1981, Chapter 891 (SB 936); Statutes 1988, Chapter 973 (AB 1720); Statutes 1990, Chapter 1372 (SB 1854); Statutes 1991, Chapter 1038 (SB 9); Statutes 1995, Chapter 758 (AB 446)

California Code of Regulations, Title 5, Sections 57001, 57001.5, 57001.7, 57002, 57010, 57011, 57013, 57014, 57015, 57016, 57033.1, 57050, 57051, 57052, 57053, 57054, 57055, 57060, 57061, 57062, 57063, 57150, 57152, 57154, 57156, 57158

Register 75, No. 40 (Oct. 4, 1975) page 673; Register 77, No. 45 (Nov. 6, 1977) pages 673-674; Register 80, No. 39 (Sept. 27, 1980) page

675-676.1; Register 80, No. 44 (Nov. 1, 1980) pages 676.5-676.6; Register 81, No. 3 (Jan. 17, 1981) pages 673-676.6; Register 83, No. 18 (April 30, 1983) pages 666.27 – 666.36; Register 91, No. 23 (June 7, 1991) pages 371 – 377; Register 91, No. 43 (Oct. 25, 1991) pages 371-372; Register 94, No. 38 (Sept. 23, 1994) page 371; Register 95, No. 23 (June 9, 1995) pages 371 – 389

Santa Monica Community College District, Claimant

B. PARAMETERS AND GUIDELINES, PARAMETERS AND GUIDELINES AMENDMENTS, AND STATEMENTS OF DECISION

Item 7 PROPOSED PARAMETERS AND GUIDELINES

Pupil Suspensions II, Expulsions II, Educational Services Plans for Expelled Pupils

96-358-03, 03A, 97-TC-09, 98-TC-22, 98-TC-23, 01-TC-18
Education Code Sections 48900.8, 48915, 48915.2, 48916, 48916.1, 48918, 48918.5, 48923, and 48926

As Amended by Statutes 1995, Chapters 972 (SB 966) and 974 (AB 922); Statutes 1996, Chapters 915 (AB 692), 937 (AB 2834), and 1052 (AB 2720); Statutes 1997, Chapter 637 (AB 412); Statutes 1998, Chapter 489 (SB 1427); Statutes 1999, Chapter 332 (AB 588); Statutes 2000, Chapter 147 (AB 1721); Statutes 2001, Chapter 116 (SB 166)

Consolidated With

PUPIL SUSPENSIONS FROM SCHOOL (CSM-4456)

Education Code Section 48911(b) and (e)

Statutes 1977, Chapter 965 (AB 530); Statutes 1978, Chapter 668 (AB 2191); Statutes 1980, Chapter 73 (SB 1247); Statutes 1983, Chapter 498 (SB 813); Statutes 1985, Chapter 856 (AB 1758); Statutes 1987, Chapter 134 (AB 439)

PUPIL EXPULSIONS FROM SCHOOL (CSM-4455)

Education Code Sections 48915(a) and (b), 48915.1, 48915.2, 48916, and 48918

Statutes 1975, Chapter 1253 (AB 1770); Statutes 1977, Chapter 965 (AB 530); Statutes 1978, Chapter 668 (AB 2191); Statutes 1982, Chapter 318 (SB 1385); Statutes 1983, Chapter 498 (SB 813); Statutes 1984, Chapter 622 (SB 1685); Statutes 1987, Chapter 942 (AB 2590); Statutes 1990, Chapter 1231 (AB 3794); Statutes 1992, Chapter 152 (AB 3362); Statutes 1993, Chapters 1255 (AB 342), 1256 (SB 1198), and 1257 (SB 1130); Statutes 1994, Chapter 146 (AB 3601)

PUPIL EXPULSION APPEALS (CSM-4463)

Education Code Sections 48919, 48921, 48924

Statutes 1975, Chapter 1253 (AB 1770); Statutes 1977, Chapter 965 (AB 530); Statutes 1978, Chapter 668 (AB 2191); Statutes 1983, Chapter 498 (SB 813)

PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES

PUPIL SUSPENSIONS FROM SCHOOL (CSM-4456)

Education Code Section 48911(b) and (e)

Statutes 1977, Chapter 965 (AB 530); Statutes 1978, Chapter 668 (AB 2191); Statutes 1980, Chapter 73 (SB 1247); Statutes 1983, Chapter

498 (SB 813); Statutes 1985, Chapter 856 (AB 1758); Statutes 1987, Chapter 134 (AB 439)

PUPIL EXPULSIONS FROM SCHOOL (CSM-4455)

Education Code Sections 48915(a) and (b),
48915.1, 48915.2, 48916, and 48918

Statutes 1975, Chapter 1253 (AB 1770); Statutes 1977, Chapter 965 (AB 530); Statutes 1978, Chapter 668 (AB 2191); Statutes 1982, Chapter 318 (SB 1385); Statutes 1983, Chapter 498 (SB 813); Statutes 1984, Chapter 622 (SB 1685); Statutes 1987, Chapter 942 (AB 2590); Statutes 1990, Chapter 1231 (AB 3794); Statutes 1992, Chapter 152 (AB 3362); Statutes 1993, Chapters 1255 (AB 342), 1256 (SB 1198), and 1257 (SB 1130); Statutes 1994, Chapter 146 (AB 3601)

PUPIL EXPULSION APPEALS (CSM-4463)

Education Code Sections 48919, 48921, 48924

Statutes 1975, Chapter 1253 (AB 1770); Statutes 1977, Chapter 965 (AB 530), Statutes 1978, Chapter 668 (AB 2191); Statutes 1983, Chapter 498 (SB 813)

San Juan Unified School District and Kern County Office of Education,
Claimants

Item 8* PROPOSED PARAMETERS AND GUIDELINES

Modified Primary Election

01-TC-13

Elections Code Sections 2151 and 13102(b)

Statutes 2000, Chapter 898 (SB 28)

County of Orange, Claimant

Item 9 PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES

Peace Officer Procedural Bill of Rights

09-PGA-05 (CSM-4499)

Government Code Sections 3300 through 3310

Statutes 1976, Chapter 465 (AB 301); Statutes 1978, Chapters 775 (AB 2916), 1173 (AB 2443), 1174 (AB 2696), and 1178 (SB 1726); Statutes of 1979, Chapter 405 (AB 1807); Statutes of 1980, Chapter 1367 (AB 2977); Statutes of 1982, Chapter 994 (AB 2397); Statutes of 1983, Chapter 964 (AB 1216); Statutes of 1989, Chapter 1165 (SB 353); and Statutes of 1990, Chapter 675 (AB 389)

City of Los Angeles, Requestor

C. INCORRECT REDUCTION CLAIM AND STATEMENT OF DECISION

Item 10 *Health Fee Elimination*

09-4206-I-19, 09-4206-I-20, 09-4206-I-23, 09-4206-I-26, 09-4206-I-27,
09-4206-I-28, 09-4206-I-30

Fiscal Years 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-
2007, 2007-2008, 2008-2009

Education Code Section 76355

Statutes 1984, Chapter 1 (1983-1984 2nd Ex. Sess.) (AB 1);

Statutes 1987, Chapter 1118 (AB 2336)

Citrus Community College District, Cerritos Community College
District, Los Rios Community College District, Redwoods Community

College District, Allan Hancock Joint Community College District, Rancho Santiago Community College District, and Pasadena Community College District, Claimants

D. REQUEST TO REVIEW CLAIMING INSTRUCTIONS AND STATEMENT OF DECISION

- Item 11 *Request to Add Boilerplate Language, 09-RCI-01*
Five Amended Parameters and Guidelines Adopted January 29, 2010
Collective Bargaining, 05-PGA-48
Habitual Truant, 05-PGA-51
Intradistrict Attendance, 05-PGA-53
Juvenile Court Notices, 05-PGA-54
Health Fee Elimination, 05-PGA-69
And
Twelve Amended Parameters and Guidelines Adopted March 26, 2010
Caregiver Affidavits, 05-PGA-46
County Office of Education, Fiscal Accountability, 05-PGA-47
Financial Compliance Audits, 05-PGA-49
Graduation Requirements, 05-PGA-50
Law Enforcement Agency Notices, 05-PGA-55
Physical Education Reports, 05-PGA-60
Physical Performance Tests, 05-PGA-61
Pupil Health Screenings, 05-PGA-63
Pupil Residency Verification and Appeal, 05-PGA-64
Removal of Chemicals, 05-PGA-66
School District Fiscal Accountability Reporting, 05-PGA-67
Law Enforcement Jurisdiction Agreements, 05-PGA-70
And
Three Amended Parameters and Guidelines Adopted May 27, 2010
Notification of Truancy, 05-PGA-56
Notification to Teachers: Pupils Subject to Suspension or Expulsion, 05-PGA-57
Pupil Suspensions, Expulsions, and Expulsion Appeals, 05-PGA-65
Castro Valley Unified School District, Grossmont Union High School District, San Jose Unified School District, San Diego County Office of Education, Gavilan Joint Community College District, San Mateo County Community College District, State Center Community College District, Requestors

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

A. STATEWIDE COST ESTIMATE

- Item 12* *Crime Statistic Reports for the Department of Justice and Amendment 02-TC-04, 02-TC-22, 07-TC-10*
Penal Code Sections 12025(h)(1) and (h)(3), 12031(m)(1) and (m)(3), 13014, 13023, and 13730(a)
Statutes 1989, Chapter 1172 (SB 202); Statutes 1992, Chapter 1338 (SB 1184); Statutes 1993, Chapter 1230 (AB 2250); Statutes 1998, Chapter

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 (info/action)

- Item 13 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.

VIII. REPORTS (info/action)

- Item 14 Legislative Update
Item 15 Chief Legal Counsel: Recent Decisions, Litigation Calendar
Item 16 Executive Director: Workload, Budget, 2012 Meeting Calendar, and Next Meeting/Hearing (info/action)

IX. ACTION PURSUANT TO GOVERNMENT CODE SECTION 11125.3(a)(2)

- Item 17 Action to Amend the Agenda to Add a Closed Session Item for Personnel to Appoint an Interim Executive Director, and to Discuss Process for Appointing a Permanent Executive Director**

X. PUBLIC COMMENT

XI. 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 v. Commission on State Mandates*, Sacramento, Superior Court Case No. 34-2010-80000529 [Graduation Requirements, Parameters and Guidelines Amendments, Nov. 2008]
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., 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. Cross Petition Filed: *County of San Diego, and Cities of Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, San Diego, San Marcos, Santee, Solano Beach, and Vista v. Commission on State Mandates, State of California Department of*

Finance, State Water Resources Control Board, and California Regional Water Control Board San Diego Region, 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]

4. *State of California Department of Finance, State Water Resources Control Board, and California Regional Water Quality Board, Los Angeles Region v. Commission on State Mandates and County of Los Angeles, et al., 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]*
5. *Cross Petition: County of Los Angeles and Cities of Bellflower, Carson, Commerce, Covina, Downey and Signal Hill v. Commission on State Mandates, State of California Department of Finance, State Water Resources Control Board, and California Regional Water Quality Control Board, Los Angeles Region, 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]*
6. *California School Board Association (CSBA) v. State of California et al., Alameda County Superior Court Case No. RG11554698 [2010-2011 Budget Trailer Bills, Redetermination Process]*

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, subdivision (a):

- **Appoint an Interim Executive Director**
- **Consider the Process for Appointing a Permanent Executive Director**

XII. REPORT FROM CLOSED EXECUTIVE SESSION

ADJOURNMENT

For information, contact:

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(916) 445-0278 Fax
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Item 17

Appoint an Interim Executive Director

Pursuant to Government Code Section 11125.3(a)(2)

EXECUTIVE SUMMARY

Government Code section 11125 requires that notice and agendas for Commission meetings be issued at least 10 days prior to the meeting.

Government Code section 11125.3(a)(2) allows an item to be added to the agenda within the 10-day notice period if there is a need for immediate action and the need for action came to the attention of the Commission after the agenda was mailed in accordance with the 10-day notice requirement. Section 11125.3(a)(2) requires this action to be approved by two-thirds of the Commission members. Currently, there are five members appointed to the Commission. Therefore, this item must be approved by four members.

The Commission issued the notice and agenda for its October 27, 2011 meeting on October 3, 2011. At that time, there were no personnel items scheduled for discussion or action on the agenda. Subsequent to issuing the agenda, Executive Director Drew Bohan notified the chairperson that he is leaving the executive director position to take a new position at the California Energy Commission. The Commission must now appoint an interim executive director and begin the process for filling the position with a permanent employee.

This item allows the Commission to amend the agenda to take action in closed session to appoint an interim executive director and to consider the process for appointing a permanent executive director.

Staff Recommendation

Staff recommends that the Commission approve this item so that the Commission may go into closed session to appoint an interim executive director and consider the process for hiring a permanent executive director.