

Hearing: December 2, 2010

**ITEM 7**

**CHIEF LEGAL COUNSEL'S REPORT  
New Filings, Recent Decisions, Litigation Calendar**

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This public session report is intended only as an information item for the public.<sup>1</sup> Commission communications with legal counsel about pending litigation or potential litigation are reserved for Closed Executive Session, per the Notice and Agenda.

**New Filings**

None.

**Recent Decisions**

- *County of Santa Clara v. Commission on State Mandates, State Controller's Office, et al.*, Sacramento County Superior Court, Case No. 34-2010-80000592 [Incorrect Reduction Claim, *Handicapped and Disabled Students*]

On November 18, 2010, the Court sustained the demurrer of the Commission and the State Controller's Office, with leave to amend the petition on or before December 17, 2010.

**Litigation Calendar**

<b><u>Case</u></b>	<b><u>Hearing Date</u></b>
<i>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.</i> Sacramento County Superior Court, Case No. 34-2010-80000605 [ <i>Municipal Storm Water and Urban Runoff Discharges</i> , 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]	December 3, 2010 - Hearing on County and Cities motion to change venue to Los Angeles Superior Court

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<sup>1</sup> Based on information available as of November 22, 2010. Release of this litigation report shall not be deemed to be a waiver of any privileged communication or act, including, but not limited to, the attorney-client privilege and the attorney work product doctrine.

## **Cases of Interest**

- a. ***California School Boards Association v. State of California***  
Fourth District Court of Appeal, Case No. D055659

This case involves a challenge by school districts to the practice of deferring mandate reimbursement payments. Since 2001-2002, the State has been nominally funding certain state mandated school programs and deferring payment of the balance. The trial court found that the State's practice of deferring payment for state-mandated programs is an unreasonable and unconstitutional restriction on the school districts and county offices of education's constitutional rights under article XIII B, section 6 of the California Constitution. The case is now fully briefed and waiting to be calendared for oral argument.

- b. ***San Diego Unified School District v. John Chiang, as State Controller***  
San Diego Superior Court, Case No. 37-2010-00098493-CU-WM-CTL

This lawsuit challenges reductions made by the State Controller's Office on reimbursement claims for fiscal years 1997-1998 through 2003-2004 for the STAR (Standardized Testing and Reporting) program. The Commission is not a party to this lawsuit.

The complaint alleges that the Controller's Office commenced an audit of the reimbursement claims after the audit period expired and that the Controller has no authority to audit these claims. The Controller's Office has filed a motion for a judgment on the pleadings, requesting the court to dismiss the lawsuit, on the ground that the school district has not exhausted administrative remedies with the Commission. The motion is scheduled to be heard on January 21, 2011.

- c. ***Fenton Avenue Charter School, Granada Hills Charter High School, Palisades Charter High School, and Vaughn Next Century Learning Center v. John Chiang, as State Controller***, Sacramento County Superior Court,  
Case No. 34-2010-00088619

This case challenges the Controller's return of reimbursement claims filed by the charter schools on 21 reimbursable state-mandated programs. The Commission is not a party to this action.

The charter schools allege that they are "school districts" within the meaning of Government Code section 17519 and, thus, are eligible to claim reimbursement for state-mandated local programs under article XIII B, section 6 of the California Constitution. The charter schools request that the court declare charter schools to be school districts within the meaning of Government Code section 17519, that the Controller is obligated to accept and fully reimburse charter schools on their claims for reimbursement, and that the Controller's actions are unconstitutional. The charter schools also request a petition for writ of mandate directing the Controller to make full payment on the claims, and an injunction against the Controller to prevent the Controller from returning reimbursement claims filed by charter schools. The Controller has not yet responded to the complaint.

- d. ***County of Sacramento, et al. v. State of California***, Sacramento County Superior Court, Case No. 34-2010-0090983

This case seeks clarification of the Governor's reduction of funds appropriated by the Legislature in the 2010-2011 Budget Act (Item 8885-295-0001) for the *Handicapped and Disabled Students I and II* and *Seriously Emotionally Disturbed Pupils: Out of State Mental Health Services* programs and veto message indicating that the program is suspended. The Commission is not a party to this action.

The counties seek declaratory and injunctive relief and request an order relieving counties from the mandate.

- e. ***California School Boards Association, et al. v. Arnold Schwarzenegger, et al.***, Second District Court of Appeal, Case No. B228680

This case is a challenge by school district on the Governor's reduction of funds for the *Handicapped and Disabled Students programs* and *Seriously Emotionally Disturbed Pupils: Out of State Mental Health Services* and veto message indicating that the program is suspended. The Commission is not a party to this action.

The schools seek a petition for writ of mandate, alleging that the Governor's suspension of the program is unconstitutional.