

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 Rierson, 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 2923Statutes 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

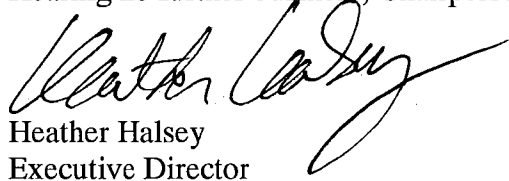
At 10:31 a.m., Chairperson Ortega reconvened in open session, and reported that the Commission met in closed executive session pursuant to Government Code section 11126(e) to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending 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