

Item 3

Proposed Minutes

COMMISSION ON STATE MANDATES

Location of Meeting: Park Tower, 980 9th Street, Suite 300,
Sacramento, CA, 95814 and via Zoom
November 22, 2024

Present: Member William Pahland
Representative of the State Treasurer, Vice Chairperson
Member Lee Adams
County Supervisor
Member Shannon Clark
Representative of the Director of the Office of Land Use and Climate
Innovation
Member Deborah Gallegos
Representative of the State Controller
Member Karen Greene Ross
Public Member

Absent: Member Michele Perrault, Chairperson
Representative of the Director of the Department of Finance
Member Renee Nash
School District Board Member

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

Vice Chairperson Pahland called the meeting to order at 10:14 a.m., and stated that on October 25, 2024, the Commission met in closed executive session, to confer on personnel matters pursuant to Government Code section 11126(a)(1); by a vote of seven to zero, the Commission appointed Ms. Juliana Gmur as the Commission's new executive director with the starting salary of \$18,310 per month; after the meeting, Commission Management sent her the offer and she accepted; and the Governor's Office approved the appointment effective November 12, 2024. Vice Chairperson Pahland welcomed new Executive Director Gmur and described her work history. Executive Director Gmur stated that Ms. Perrault and Ms. Nash informed Commission staff that they were unable to attend the hearing and called the roll. Members Adams, Clark, Gallegos, Greene Ross, and Pahland all indicated that they were present.

APPROVAL OF MINUTES

Vice Chairperson Pahland asked if there were any objections or corrections of the September 27, 2024, minutes. There was no response. Vice Chairperson Pahland

asked if there was any public comment on this item. There was no response. Assistant Executive Director Dennis Supachana stated that he did not see any public comments online. Vice Chairperson Pahland asked if there were any questions from the members. There was no response. Vice Chairperson Pahland asked if there was any further discussion. Member Adams made the motion to adopt the minutes. Member Gallegos seconded the motion. Executive Director Gmur called the roll. The Commission voted to adopt the September 27, 2024 hearing minutes by a vote of 5-0 with Member Perrault and Member Nash absent.

PUBLIC COMMENT FOR MATTERS NOT ON THE AGENDA

Vice Chairperson Pahland asked if there was any public comment. There was no response. Assistant Executive Director Supachana stated that there were no public comments online.

CONSENT CALENDAR

INFORMATIONAL HEARINGS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, ARTICLE 8 (info/action)

STATEWIDE COST ESTIMATES

Item 5* *California Regional Water Quality Control Board, San Diego Region, Order No. R9-2010-0016, 11-TC-03*

California Regional Water Quality Control Board, San Diego Region, Order No. R9-2010-0016, Sections D.2., G.1.d., G.3.-5., K.3.c.1.-4., and Attachment E., Section II.E.2.-5, Adopted November 10, 2010

Executive Director Gmur stated that Item 5 was proposed for consent. Vice Chairperson Pahland asked if there were any objections to the proposed consent calendar from the members or from any members of the public. There was no response. Vice Chairperson Pahland asked for a motion to adopt the consent calendar. Member Greene Ross made the motion to adopt the consent calendar. Member Clark seconded the motion. The court reporter stated that the response was too fast and she could not tell who made the motion or who seconded. Member Greene Ross stated her name and that she had made the motion. Member Clark stated her name and that she had seconded the motion. Vice Chairperson Pahland stated that there was a motion and a second and asked if the members were ready for the vote. There was no response. Vice Chairperson Pahland asked if there was any further discussion needed. There was no response. Executive Director Gmur called the roll. The Commission voted to adopt the consent calendar by a vote of 5-0 with Member Perrault and Member Nash absent.

HEARINGS AND DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, ARTICLE 7 (GOV. CODE, § 17551, 17557, 17559, and 17570) (action)

Executive Director Gmur swore in the parties and witnesses participating in the Article 7 portion of the hearing.

TEST CLAIMS

Item 3 *Heating, Ventilation, and Air Conditioning (HVAC) Program, 23-TC-01*

Statutes 2022, Chapter 777, Sections 1, 2 (AB 2232); Education Code Sections 17660, 17661, Effective January 1, 2023

Hesperia Unified School District, Claimant

Senior Commission Counsel Eric Feller presented this item and recommended that the Commission adopt the Proposed Decision to deny the Test Claim.

Dr. George Landon, Deputy Superintendent, Business Services, Hesperia Unified School District and Arthur Palkowitz appeared on behalf of the claimant. Jessica Deitchman and Alex Anaya appeared on behalf of the Department of Finance.

Following statements by Mr. Palkowitz, Mr. Anaya, and Ms. Deitchman, Vice Chairperson Pahland asked if there was any public comment. There was no response. Assistant Executive Director Supachana stated that there was no public comment online. Following discussion between Member Gallegos, Senior Commission Counsel Feller, Vice Chairperson Pahland, Mr. Palkowitz, and Dr. Landon, Vice Chairperson Pahland asked if Ms. Deitchman or Mr. Anaya had any follow-up comments. There were none. Following discussion between Member Greene Ross, Chief Legal Counsel Camille Shelton, Senior Commission Counsel Feller, Mr. Palkowitz, Member Gallegos, and Dr. Landon, Vice Chairperson Pahland asked if there were any comments or questions from the members. There was no response. Vice Chairperson Pahland asked if there was any further discussion. There was no response. Vice Chairperson Pahland asked if there was a motion. Member Clark made the motion to adopt the staff recommendation. Member Greene Ross seconded the motion. Executive Director Gmur called the roll. The Commission voted to adopt the Proposed Decision by a vote of 5-0 with Member Perrault and Member Nash absent.

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 2 (info/action)

Item 4 Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commission, or to a Hearing Officer

Executive Director Gmur presented this item, stating that Item 4 is reserved for county applications for a finding of significant financial distress, or SB 1033 applications, and that no SB 1033 applications have been filed.

INFORMATIONAL HEARINGS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, ARTICLE 8 (info/action)

REPORTS

Item 6 Legislative Update (info)

Executive Director Gmur stated that there was nothing new to report.

Item 7 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar (info)

Chief Legal Counsel Shelton presented this item.

Item 8 Executive Director: Workload Update, and Tentative Agenda Items for the January 2025 and March 2025 Meetings (info)

Executive Director Gmur introduced Steve Garcia, Associate Governmental Program Analyst – Procurement and described his work history; then continued presenting this item and described the Commission’s workload.

CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 AND 11126.2 (info/action)

The Commission adjourned into closed executive session at 10:43 a.m., pursuant to Government Code section 11126(e). The Commission met in closed session to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda; to confer with and receive advice from legal counsel regarding potential litigation; and to confer on personnel matters pursuant to Government Code section 11126(a)(1).

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):

B. POTENTIAL LITIGATION

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):

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.

C. PERSONNEL

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

RECONVENE IN PUBLIC SESSION

At 10:56 a.m., the Commission reconvened in open session.

REPORT FROM CLOSED EXECUTIVE SESSION

Vice Chairperson Pahland reported that the Commission met in closed executive session pursuant to Government Code section 11126(e). The Commission conferred with and received advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the public notice and agenda, and conferred with and received advice from legal counsel regarding potential litigation, and, pursuant to Government Code section 11126(a)(1) to confer on personnel matters.

ADJOURNMENT

Vice Chairperson Pahland asked for a motion to adjourn. Member Gallegos made the motion to adjourn the meeting. Member Clark seconded the motion. The November 22, 2024, meeting was adjourned at 10:57 a.m., by a vote of 5-0 with Member Perrault and Member Nash absent.

Juliana F. Gmur
Executive Director

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STATE OF CALIFORNIA
COMMISSION ON STATE MANDATES

RECEIVED
DEC 26 2024
COMMISSION ON
STATE MANDATES

PUBLIC MEETING

FRIDAY, NOVEMBER 22, 2024

10:00 A.M.

ORIGINAL

MEETING HELD

AT 980 9TH STREET

SUITE 300

SACRAMENTO, CALIFORNIA

AND

VIA ZOOM

VIDEO COMMUNICATIONS PLATFORM

REPORTER'S TRANSCRIPT OF PROCEEDINGS

STENOGRAPHICALLY REPORTED BY:

KATHRYN S. SWANK

Certified Shorthand Reporter No. 13061

Registered Professional Reporter

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A P P E A R A N C E S

COMMISSIONERS PRESENT

WILLIAM PAHLAND
Representative for FIONA MA
State Treasurer
(Vice Chairperson of the Commission)

LEE ADAMS III
Sierra County Supervisor
Local Agency Member

SHANNON CLARK
Representative for SAMUEL ASSEFA, Director
Office of Planning & Research

DEBORAH GALLEGOS
Representative for MALIA COHEN
State Controller

KAREN GREENE ROSS
Public Member

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COMMISSION STAFF

JULIANA GMUR
Executive Director

DENNIS SUPACHANA
Assistant Executive Director

CAMILLE N. SHELTON
Chief Legal Counsel

ERIC FELLER
Senior Commission Counsel

STEVE GARCIA
Associate Governmental Program Analyst

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A P P E A R A N C E S C O N T I N U E D

PUBLIC PARTICIPANTS

ALEX ANAYA
Department of Finance
(Item 3)

JESSICA DEITCHMAN
Department of Finance
(Item 3)

DR. GEORGE LANDON
Claimant Hesperia Unified School District
(Item 3)

ARTHUR PALKOWITZ
Law Offices of Arthur M. Palkowitz
(Item 3)

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E R R A T A S H E E T

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Page	Line	Correction
2	9	Planning and Research <u>Land Use and Climate Innovation</u>
12	11	Ms. Greene <u> Ross</u>
12	12	MEMBER GREENE <u> ROSS</u>
13	15	MEMBER GREENE <u> ROSS</u>
13	21	MEMBER GREENE <u> ROSS</u> : Karen Greene <u> Ross</u>
13	24	MEMBER GREENE <u> ROSS</u> : Karen Greene <u> Ross</u>
14	2	MEMBER GREENE <u> ROSS</u> : Oh. Karen Greene <u> Ross</u>
14	22	Ms. Greene <u> Ross</u>
14	23	MEMBER GREENE <u> ROSS</u>
16	12	<u>The S</u> tatute
17	14	, and <u>when</u> the
25	2	MEMBER GREENE <u> ROSS</u>
25	4	MEMBER GREENE <u> ROSS</u>
28	8	MEMBER GREENE <u> ROSS</u>
28	11	Ms. Greene <u> Ross</u>
28	12	MEMBER GREENE <u> ROSS</u>
28	17	Ms. Greene <u> Ross</u>
29	3	Ms. Greene <u> Ross</u>
29	4	MEMBER GREENE <u> ROSS</u>
33	19	Ms. Greene <u> Ross</u>
33	20	MEMBER GREENE <u> ROSS</u>

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1 FRIDAY, NOVEMBER 22, 2024, 10:14 A.M.

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3 CHAIRPERSON PAHLAND: The meeting of the Commission
4 on State Mandates -- welcome to our hybrid meeting.

5 For those participating in person, I have some
6 housekeeping information: On the table near the wall
7 are paper copies of the meeting notice and agenda, new
8 filings, and proposed consent calendar, and witness
9 list. The electronic public hearing binder is also
10 located there on a laptop.

11 When called up for an item, the parties and
12 witnesses will please sit at the witness table.

13 The restrooms are located out the door and down the
14 hallway to the right. The women's room is across the
15 open atrium. The key for both restrooms is on the table
16 as you exit the conference room.

17 Finally, please take note of the emergency exits in
18 the room.

19 For those participating remotely, the materials for
20 today's meeting, including the notice, agenda, proposed
21 consent calendar, and witness list, are all available on
22 the Commission's website, www.csm.ca.gov, under the
23 "Hearings" tab.

24 When being sworn in at the beginning of the
25 hearing, and when called for an item, the parties and

1 witnesses will please turn on their video and unmute
2 their microphone. At the conclusion of the item, please
3 turn off the video and mute the microphone.

4 In the event we experience technical difficulties
5 or the meeting is bumped offline, we will restart and
6 allow time for people to rejoin before recommencing the
7 meeting.

8 Finally, please remember to speak slowly and
9 accurately for the benefit of the court reporter and an
10 accurate transcript of the hearing.

11 On October 25th, 2024, the Commission met in closed
12 executive session, to confer on personnel matters
13 pursuant to Government Code section 11126(a)(1). By a
14 vote of seven to zero, the Commission voted to appoint
15 Ms. Juliana Gmur as the Commission's new executive
16 director with a starting salary of \$18,310 per month.

17 After the meeting, Commission Management sent her
18 the offer and she accepted.

19 And then the Governor's Office approved the
20 appointment effective November 12th, 2024.

21 Please join me in welcoming our new Executive
22 Director, Juliana Gmur.

23 Ms. Gmur has been an attorney for 32 years and has
24 been in public service for approximately 19 years,
25 practicing public law. She has served as an acting

1 executive director and senior commission counsel here at
2 the Commission. And deputy assistant county counsel at
3 the County of Kings. She has approximately 16 years of
4 State Mandate law experience when representing local
5 governments before the Commission and working here at
6 the Commission for the past nearly five years. In her
7 prior State Mandate experience, representing local
8 government, she filed test claims, proposed parameters
9 and guidelines, and incorrect reduction claims on
10 approximately 21 state-mandated local programs.

11 Welcome, Executive Director Gmur.

12 Juliana, will you please call the roll.

13 MS. GMUR: My pleasure.

14 Ms. Perrault and Ms. Nash informed the Commission
15 staff that they are unable to attend this hearing.

16 Mr. Adams.

17 MEMBER ADAMS: Here.

18 MS. GMUR: Ms. Clark.

19 MEMBER CLARK: Here.

20 MS. GMUR: Ms. Gallegos.

21 MEMBER GALLEGOS: Here.

22 MS. GMUR: Ms. Green Ross.

23 MEMBER GREEN ROSS: Here.

24 MS. GMUR: Mr. Pahlund.

25 CHAIRPERSON PAHLAND: William Pahlund here as

1 designee of Vice Chair/State Treasurer Fiona Ma.

2 Present.

3 Present. Here.

4 MS. GMUR: Thank you.

5 CHAIRPERSON PAHLAND: Next is Item 1.

6 Are there any objections to or additional
7 corrections of the September 27, 2024, minutes?

8 (No response.)

9 CHAIRPERSON PAHLAND: Hearing none from members of
10 the Board, is there any public comment on this item?

11 (No response.)

12 CHAIRPERSON PAHLAND: Hearing none.

13 MR. SUPACHANA: Mr. Vice Chair, I do not see any
14 public comments. Sorry.

15 CHAIRPERSON PAHLAND: Thank you.

16 Any questions from the members?

17 (No response.)

18 CHAIRPERSON PAHLAND: Hearing none, is there any
19 further discussion?

20 MEMBER ADAMS: Mr. Chairman, I would move approval.

21 CHAIRPERSON PAHLAND: Okay. So hearing no further
22 discussion, we have a motion for approval -- (Zoom
23 malfunction) --

24 MEMBER GALLEGOS: I will second.

25 CHAIRPERSON PAHLAND: And a second from

1 Ms. Gallegos.

2 Okay. Please take the vote.

3 MS. GMUR: Mr. Adams.

4 MEMBER ADAMS: Aye.

5 MS. GMUR: Ms. Clark.

6 MEMBER CLARK: Aye.

7 MS. GMUR: Ms. Gallegos.

8 MEMBER GALLEGOS: Do I unmute or just say --

9 MS. GMUR: Just say it.

10 MEMBER GALLEGOS: Aye.

11 MS. GMUR: Ms. Green Ross.

12 MEMBER GREEN ROSS: Aye.

13 MS. GMUR: Mr. Pahlund.

14 CHAIRPERSON PAHLAND: Aye. The motion carried.

15 Thank you.

16 MS. GMUR: And now we will take up public comment
17 for matters not on the agenda. Please note that the
18 Commission may not take action on items not on the
19 agenda.

20 However, it may schedule issues raised by the
21 public for consideration at future meetings. We invite
22 the public to comment on the matters that are on the
23 agenda as they are taken up.

24 CHAIRPERSON PAHLAND: Is there any public comment?

25 MR. SUPACHANA: There are no public comments

1 online, Mr. Chair.

2 CHAIRPERSON PAHLAND: Thank you.

3 And I'm seeing none in the room.

4 So with no public comment, we will move to the next
5 item.

6 MS. GMUR: Next is the proposed consent calendar.

7 Item 5 is proposed for consent.

8 CHAIRPERSON PAHLAND: Are there any objections to
9 the proposed consent calendar from the members or from
10 any members of the public?

11 (No response.)

12 CHAIRPERSON PAHLAND: Hearing nothing from any
13 members or members of the public, is there a motion to
14 adopt the proposed consent calendar?

15 MEMBER GREEN ROSS: Move to adopt.

16 CHAIRPERSON PAHLAND: Thank you.

17 MEMBER CLARK: Second.

18 THE COURT REPORTER: This is the court reporter.
19 That was too fast and I could not tell who made the
20 motion or who seconded.

21 MEMBER GREEN ROSS: Karen Green Ross -- (Zoom
22 malfunction) --

23 THE COURT REPORTER: And there's an echo now.

24 MEMBER GREEN ROSS: Karen Green Ross -- (Zoom
25 malfunction) --

1 MS. GMUR: Don't unmute when you speak.

2 MEMBER GREEN ROSS: Oh. Karen Green Ross made the
3 motion.

4 MEMBER CLARK: Shannon Clark made the second.

5 THE COURT REPORTER: Thank you.

6 CHAIRPERSON PAHLAND: So we have a motion and a
7 second.

8 Are you ready for the vote?

9 (No response.)

10 CHAIRPERSON PAHLAND: Is there any further
11 discussion needed?

12 (No response.)

13 CHAIRPERSON PAHLAND: Hearing none -- I see no
14 further discussion.

15 Juliana, please take the vote.

16 MS. GMUR: Mr. Adams.

17 MEMBER ADAMS: Aye.

18 MS. GMUR: Ms. Clark.

19 MEMBER CLARK: Aye.

20 MS. GMUR: Ms. Gallegos.

21 MEMBER GALLEGOS: Aye.

22 MS. GMUR: Ms. Green Ross.

23 MEMBER GREEN ROSS: Aye.

24 MS. GMUR: Mr. Pahlund.

25 CHAIRPERSON PAHLAND: Aye.

1 MS. GMUR: And that motion carried.

2 Let's move to the swearing in.

3 Will the parties and witnesses for Item 3
4 participating remotely please be sure that both your
5 first and last names are listed on your Zoom window for
6 the benefit of the court reporter. Turn on your video
7 and unmute your microphone.

8 And all parties and witnesses, please rise.

9 Will the parties and witnesses for Item 3 please
10 state your names for the record.

11 DR. LANDON: George Landon, Deputy Superintendent,
12 Business Services for Hesperia Unified.

13 MR. PALKOWITZ: Arthur Palkowitz, attorney for the
14 claimant.

15 MS. DEITCHMAN: Jessica Deitchman for Department of
16 Finance.

17 MR. ANAYA: Alex Anaya with the Department of
18 Finance.

19 MS. GMUR: Thank you.

20 (Parties/witnesses stood to be sworn or
21 affirmed.)

22 MS. GMUR: Do you solemnly swear or affirm that the
23 testimony which you are about to give is true and
24 correct, based on your personal knowledge, information,
25 or belief?

1 (Affirmative responses.)

2 MS. GMUR: Thank you.

3 Next is Item 3. Senior Commission Counsel Eric
4 Feller will please present a proposed decision on
5 Heating, Ventilation, and Air-Conditioning (HVAC)
6 Program, 23-TC-01.

7 At this time, we invite the parties and witnesses
8 for Item 3 participating remotely to please turn on your
9 video and unmute your microphone.

10 MR. FELLER: Good morning. The test claim statute
11 generally requires school districts to ensure their HVAC
12 systems provide healthy indoor air quality. Statute
13 requires schools to either ensure that their HVAC
14 systems meet the current minimum ventilation rates in
15 the Energy Code or ensure they meet the minimum rates in
16 effect when the permit to install the system was issued,
17 and document the system's inability to meet the current
18 minimum rates.

19 This requirement is new, only for schools with HVAC
20 systems approved for installation before January 1,
21 2020.

22 The claimant has not requested reimbursement for
23 this and has provided no evidence of cost mandated by
24 the State to comply. This test claim also requires
25 schools to install MERV 13 or higher filters, if

1 feasible, or install the highest filtration the school
2 deems feasible without reducing the lifespan or the
3 performance of the system.

4 Claimant requests reimbursement to install MERV 13
5 filters in all of its schools' HVAC systems since
6 January 1, 2023.

7 However, installing MERV 13 filters is not a new
8 program or a higher level of service to the extent a
9 school received a permit to install a new system after
10 January 1, 2020, because the Energy Code already
11 required MERV 13 for those systems.

12 Also, the MERV 13 requirement is not new if there
13 was a COVID-19 outbreak in the school, because they were
14 already required to have MERV 13 filtration, and the
15 test claim statute became effective January 1st, 2023.

16 There's no evidence in the record of any cost
17 mandated by the State to perform the one-time activity
18 to install MERV 13 or higher filtration, or install
19 filters that achieve the highest feasible MERV level
20 without significantly reducing the lifespan or
21 performance of the existing system, in schools that have
22 HVAC systems approved for installation before January 1,
23 2020.

24 Staff recommends the Commission adopt the proposed
25 decision to deny the test claim and authorize staff to

1 make any technical, nonsubstantive changes to the
2 proposed decision following the hearing.

3 CHAIRPERSON PAHLAND: Thank you.

4 Parties and witnesses, please state your names for
5 the record.

6 MR. PALKOWITZ: Good morning. Arthur Palkowitz on
7 behalf of the claimant.

8 DR. LANDON: George Landon, Deputy Superintendent
9 for Hesperia Unified.

10 MS. DEITCHMAN: Jessica Deitchman for Department of
11 Finance.

12 MR. ANAYA: Alex Anaya for the Department of
13 Finance.

14 CHAIRPERSON PAHLAND: Thank you.

15 Dr. Landon and Mr. Palkowitz for the claimant,
16 would you like to begin?

17 MR. PALKOWITZ: Would it be okay if I start as a
18 claimant representative?

19 CHAIRPERSON PAHLAND: I have no objection.

20 MR. PALKOWITZ: Thank you.

21 Thank you for the opportunity to address the
22 Commission. This test claim was filed based on the new
23 Education Code, section 17661(c). We are not in
24 disagreement -- or, rather, we are in agreement with the
25 Commission's analysis of the other sections regarding

1 17661.

2 However, 17661(c) to the Education Code is a new
3 requirement. It is a new statute. That statute
4 requires that school districts install MERV 13
5 infiltration systems. These are high-level infiltration
6 systems that really came about due to the fires and the
7 lack of clean air throughout the school -- schools
8 throughout California.

9 This is a new section. This is not an old section
10 or a previous section of the Ed Code. So there is a
11 presumption that this is a new law, as the legislature
12 doesn't pass bills that are already in effect.

13 As a result of this new law, the MERV 13 air
14 filters were installed in the school system for the
15 claimant. These filters are more intense filters than
16 the previous. They require more labor, more manpower,
17 and they are more costly. We submitted these costs with
18 our test claim, substantiating the increased costs that
19 came about as a result of this statute.

20 In our comments that we filed, we support -- it
21 supported that this test claim statute, AB 2232,
22 effective January 1st, 2023, was -- that included the Ed
23 Code section 17661(c) -- was a new statute.

24 Though there were a previous assembly bill, they
25 did not -- Assembly Bill 841 passed in 2020 -- though

1 they encouraged MERV 13 filters, it wasn't mandated to
2 that.

3 We believe that this -- as a result, these are new
4 costs and this is a reimbursable activity.

5 If there are -- at this point, we're ready to
6 respond to any questions you may have, including
7 Dr. Landon is present as a representative of the
8 district.

9 CHAIRPERSON PAHLAND: Unless the board members have
10 questions now, I would propose we listen to Mr. Anaya
11 and Ms. Deitchman and take questions for both at the
12 same time.

13 Is that cool?

14 (No response.)

15 CHAIRPERSON PAHLAND: Okay. So nothing further,
16 Mr. Palkowitz or Dr. Landon?

17 MR. PALKOWITZ: We would just like an opportunity
18 to respond, if that's appropriate.

19 CHAIRPERSON PAHLAND: Okay. All right. So Mr.
20 Anaya and Ms. Deitchman for the Department of Finance,
21 do you have any questions?

22 MR. ANAYA: Alex Anaya for Department of Finance.

23 No additional comments to add besides those
24 submitted in February and support of the staff
25 recommendation -- (unreportable cross-talk) -- here to

1 answer any questions as well.

2 THE COURT REPORTER: This is the court reporter.
3 There was some cross-talk there. I did not understand
4 Ms. Deitchman.

5 MS. DEITCHMAN: I said no additional comments from
6 me either.

7 Thank you.

8 THE COURT REPORTER: Thank you.

9 CHAIRPERSON PAHLAND: Okay. Next we will take any
10 public comment there may be.

11 We will go to the Board after the public.

12 MR. SUPACHANA: There are no online public
13 comments, Mr. Chair.

14 CHAIRPERSON PAHLAND: Hearing no public comment.
15 Ms. Gallegos.

16 MEMBER GALLEGOS: I would just like to hear staff's
17 response to, was it Mr. Palkowitz's claim that there was
18 a -- not a mandate, but only an encouragement of the
19 former AB1 -- 841, and that this is a new code that
20 should be submitted under the test claim?

21 MR. FELLER: So sure.

22 When we looked at the -- all the prior law,
23 including the Energy Code, which is part of the Building
24 Code, Builds Standards Code, the -- the Energy Code for
25 HVAC systems required MERV 13 already for nonresidential

1 buildings, including schools. They actually have a --
2 and they -- and the Table 120-A that's in the Energy
3 Code lists classrooms and schools. So that it is --
4 it's applied to schools at least since 2016 Energy Code,
5 which was effective January 1, 2020.

6 So the analysis says that for the systems that were
7 approved after January 1, 2020, this is not a new
8 program or higher level of service for -- for any HVAC
9 systems that were approved after that day.

10 Same with the COVID outbreaks. There was a --
11 there was a regulation passed in 2020. And those
12 schools were also required to have MERV 13 filtration or
13 as high as their systems could handle without shortening
14 the lifespan of the system.

15 So it's -- it is not new for systems for
16 installation after January 1, 2020.

17 MEMBER GALLEGOS: Thank you.

18 CHAIRPERSON PAHLAND: Any other members of the
19 Board have questions?

20 (No response.)

21 CHAIRPERSON PAHLAND: Okay. I do have some
22 follow-up.

23 So Mr. Palkowitz, can you describe the
24 circumstances under which these filters were installed?

25 MR. PALKOWITZ: Well, I think it would be best that

1 Dr. Landon describe that.

2 And what we are pertaining to is January 1, 2023,
3 after the statute was enacted. Rather, in effect.

4 CHAIRPERSON PAHLAND: Were -- were the filters,
5 though, installed in connection with a permit obtained
6 for an HVAC system upgrade? Or were the filters simply
7 installed just as part of regular maintenance and
8 changing filters?

9 MR. PALKOWITZ: No.

10 CHAIRPERSON MILLER: Or something else?

11 MR. PALKOWITZ: No. It wasn't part of regular
12 maintenance.

13 DR. LANDON: Mr. Palkowitz, would you mind if I
14 interjected there?

15 MR. PALKOWITZ: Of course. Of course. Thank you.

16 DR. LANDON: Mr. Chair, what our district chose to
17 do that -- upon receiving what I call the second phase
18 of extra dollars and knowing that we were in the midst
19 of the COVID pandemic situation, we did a district-wide
20 replacement of our HVAC systems.

21 And we received an architect because our schools
22 range in age 15 years to 60-plus years of age. And
23 structurally, some of our schools wouldn't be able to
24 maintain the weight of the rooftops and that -- and
25 knowing that the pandemic kind of escalated the

1 situation, we did go through the DSA process, Division
2 of the State Architect, and received that permitting
3 process and went out to bid to find those contractors to
4 remove and replace with new systems that did carry the
5 MERV 13 filter. As we're well aware, that it's a much
6 denser-type filter, which captures the particulate
7 matter much quicker and needs to be replaced more often
8 than a MERV 8-type filter.

9 CHAIRPERSON PAHLAND: So then, Mr. Feller, does
10 that information change your analysis at all?

11 MR. FELLER: Well, the reason that we -- we wrote
12 the analysis the way we did is we didn't have any
13 evidence of HVAC systems installed prior to January 1,
14 2020.

15 So to the extent that the school puts evidence in
16 the record that they have those, that would change the
17 analysis.

18 CHAIRPERSON PAHLAND: Did I understand either
19 Mr. Palkowitz or Mr. Landon correctly, that this work
20 was all done sometime after 1/1/2020?

21 MR. PALKOWITZ: Yes.

22 CHAIRPERSON PAHLAND: Ms. Deitchman or Mr. Anaya,
23 do you have any follow-up comments?

24 MR. ANAYA: Alex Anaya. No comments at this time.

25 CHAIRPERSON PAHLAND: Members of the Board, any

1 comments?

2 MEMBER GREEN ROSS: I have a question.

3 CHAIRPERSON PAHLAND: Please.

4 MEMBER GREEN ROSS: The evidence of increased
5 costs -- or was -- was it expected that the school
6 district had to have a finding of a COVID outbreak?

7 MS. SHELTON: Let me respond to that.

8 Under the COVID regulations, if there was a COVID
9 outbreak, meaning that three or more employees tested
10 positive for COVID, then under the law, they had to
11 replace the filtering systems with MERV 13 or the
12 highest filtering system available. And so those
13 schools were already required by law to do that, which
14 is the same requirement imposed by 17661(c).

15 MR. FELLER: That applied to all workplaces across
16 the board.

17 MS. SHELTON: Yeah.

18 MR. FELLER: Yeah. So --

19 MS. SHELTON: No finding was required, but it was
20 required by law.

21 MR. PALKOWITZ: But that was for -- if I may add.
22 But that was for schools that had an outbreak in our
23 case. And the outbreak was defined in the proposed
24 decision as three or more employees exposed at a
25 worksite during any 14-day period. And I don't believe

1 that was the case at the claimant.

2 MS. SHELTON: The other key part, however, as you
3 have already discussed, is that it is not a new
4 requirement to install MERV 13 filters if you received
5 your permit for an HVAC installation after January 1,
6 2020.

7 And Dr. Landon and his declaration both indicate
8 that they replaced their systems beginning 2021. So
9 there's no new requirement there.

10 The school districts have been required to comply
11 with the Energy Code since 1987, actually. So -- and
12 the Energy Code has changed, but it -- definitely
13 beginning January 1, 2020, those same requirements were
14 there.

15 MEMBER GALLEGOS: But it sounds like there were
16 some HVAC systems that could not -- that had to be
17 replaced because of the weight.

18 MS. SHELTON: That might be true, except they have
19 no evidence that they have any old HVAC systems
20 beginning with the effective date of this test claim
21 statute, in the beginning period of reimbursement of
22 January 1, 2023. And you need evidence to show that.

23 MEMBER GALLEGOS: And is that true; there's no
24 evidence, Mr. Palkowitz?

25 MR. PALKOWITZ: We submitted plans, but I don't

1 know if they address what is being raised now.

2 MS. SHELTON: You would need to show that you have
3 HVAC systems with a permit approved before January 1,
4 2020.

5 MR. PALKOWITZ: Okay. So in our claimant's
6 supporting documents, we have before -- we have approval
7 of plans. I'm not sure where that comes from, that
8 requirement.

9 CHAIRPERSON PAHLAND: Mr. Palkowitz or Dr. Landon.

10 MR. PALKOWITZ: Yes.

11 CHAIRPERSON PAHLAND: What -- what is the increased
12 weight of the MERV 13 filters versus the other filters?
13 Because we were talking about additional loads on the
14 roof at some point. Is that additional load due to a
15 new HVAC system or due to these filters themselves?

16 DR. LANDON: No. It's due to the load of the HVAC
17 system on the rooftop.

18 CHAIRPERSON PAHLAND: Any other questions from
19 members of the Board at this point?

20 (No response.)

21 CHAIRPERSON PAHLAND: All right. Anyone have any
22 further discussion?

23 (No response.)

24 CHAIRPERSON PAHLAND: All right. Hearing none, can
25 I have a motion? Anyone?

1 MEMBER CLARK: It would be a motion to approve the
2 recommendation of fact?

3 CHAIRPERSON PAHLAND: Motion to approve staff's
4 recommendation.

5 MEMBER CLARK: I will so move.

6 CHAIRPERSON PAHLAND: And does anyone have a
7 second?

8 MEMBER GREEN ROSS: I will second.

9 THE COURT REPORTER: This is the court reporter. I
10 could not tell who seconded.

11 CHAIRPERSON PAHLAND: Ms. Green Ross.

12 MEMBER GREEN ROSS: I didn't use my voice -- I
13 thought there wouldn't be an echo. Sorry.

14 UNIDENTIFIED SPEAKER: You need to speak up a
15 little bit more, maybe.

16 CHAIRPERSON PAHLAND: So did you get that that was
17 Ms. Green Ross --

18 THE COURT REPORTER: Yes. Thank you.

19 CHAIRPERSON PAHLAND: -- Court Reporter?

20 So we have a motion and a second.

21 Ms. Gmur, please take the roll if you could.

22 MS. GMUR: Mr. Adams.

23 MEMBER ADAMS: Aye.

24 MS. GMUR: Ms. Clark.

25 MEMBER CLARK: Aye.

1 MS. GMUR: Ms. Gallegos.

2 MEMBER GALLEGOS: Aye.

3 MS. GMUR: Ms. Green Ross.

4 MEMBER GREEN ROSS: Aye.

5 MS. GMUR: Mr. Pahland.

6 CHAIRPERSON PAHLAND: Aye.

7 Motion is carried.

8 MS. GMUR: We now ask the presenters participating
9 remotely for Item 3 to please turn off their video and
10 mute their microphones.

11 Item 4 is reserved for county applications for a
12 finding of significant financial distress, or SB 1033
13 applications.

14 No SB 1033 applications have been filed.

15 Item 6 is the Legislative Update. There's nothing
16 new to report.

17 Next, Chief Legal Counsel Camille Shelton, please
18 present Item 7, the Chief Legal Counsel Report.

19 MS. SHELTON: Good morning.

20 We just have one recent decision issued by the
21 Sacramento County Superior Court on the City of San
22 Diego versus Commission on State Mandates case, dealing
23 with the remand of lead sampling and schools.

24 There, the Superior Court found that the City was
25 practically compelled and thus mandated by the State to

1 comply with the test claim permit amendment.

2 We have no further litigation cases pending on the
3 calendar. And that's all I have today.

4 MS. GMUR: Thank you, Camille.

5 Item 8 is the Executive Director Report. Associate
6 Governmental Program Analyst Steve Garcia will please
7 turn on his video and unmute his microphone for his
8 introduction to the Commission.

9 It is my pleasure to introduce Steve Garcia, our
10 new AGPA, Procurement. Steve earned his Master of
11 Business Administration and his Bachelor of Business
12 Administration in Supply Chain Systems from the
13 University of Massachusetts Global and his Associate's
14 of Applied Science in Logistics from Community College
15 of the Air Force.

16 Steve comes to us as a purchasing analyst from the
17 California Department of Food and Agriculture. Prior to
18 that, he worked at Caltrans, first as a procurement
19 specialist, and then as a policy analyst.

20 Earlier in his career, Steve served in the Air
21 Force and was stationed at Travis Air Force Base, after
22 which he worked at Raytheon as a contract and warranty
23 associate.

24 Today is Steve's first day at the Commission.

25 Welcome to the Commission, Steve.

1 MR. GARCIA: Thank you very much. Happy to be
2 here. Nice to meet you all.

3 MS. GMUR: Thank you for joining us this morning.
4 Please turn off your video and mute your
5 microphone.

6 I have two information items:

7 Our workload. According to the caseload, there are
8 37 pending test claims, 35 of which are regarding
9 stormwater NPDES permits. There are one parameters and
10 guidelines, six statewide cost estimates, and no IRCs
11 pending.

12 Commission staff expects to complete all currently
13 pending test claims by approximately the December 2027
14 Commission meeting, depending on staffing and other
15 workload.

16 Regarding tentative agenda items, please check the
17 tentative agenda items on the Executive Director's
18 Report for upcoming items or access the pending caseload
19 documents on the Commission's website, which are updated
20 at least bimonthly.

21 Draft proposed decisions on all test claims and IRC
22 matters are served and posted for review and comment at
23 least eight weeks prior to the hearing date, and a
24 proposed decision approximately two weeks before the
25 hearing.

1 And that concludes my report.

2 CHAIRPERSON PAHLAND: All right. Thank you.

3 Next, the Commission will meet in closed executive
4 session pursuant to Government Code section 11126(e), to
5 confer with and receive advice from legal counsel, for
6 consideration and action as necessary and appropriate,
7 upon the pending litigation listed on the published
8 notice and agenda; and to confer with and receive advice
9 from legal counsel regarding potential litigation.

10 The Commission will also confer on personnel
11 matters pursuant to Government Code 11126(a)(1).

12 We will reconvene in open session in approximately
13 15 minutes.

14 (Closed session was held from
15 10:43 a.m. to 10:56 a.m.)

16 CHAIRPERSON PAHLAND: Hello again, everybody.

17 The Commission met in closed session, in closed
18 executive session, pursuant to Government Code section
19 11126(e), to confer with and receive advice from legal
20 counsel for consideration and action, as necessary and
21 appropriate, upon the pending litigation listed in the
22 published notice and agenda; and to confer with and
23 receive advice from legal counsel regarding potential
24 litigation.

25 Commission also conferred on personnel matters

1 pursuant to Government Code section 11126(a)(1).

2 With no further business to discuss, I will
3 entertain a motion to adjourn.

4 MEMBER GALLEGOS: So moved.

5 CHAIRPERSON PAHLAND: So we have a -- I think a
6 motion from Ms. Gallegos.

7 And I will take that as a second, Ms. Clark?

8 MEMBER CLARK: Second.

9 CHAIRPERSON PAHLAND: We have a motion and a
10 second.

11 Juliana, please take the roll call vote.

12 MS. GMUR: My pleasure.

13 Mr. Adams.

14 MEMBER ADAMS: Aye.

15 MS. GMUR: Ms. Clark.

16 MEMBER CLARK: Aye.

17 MS. GMUR: Ms. Gallegos.

18 MEMBER GALLEGOS: Aye.

19 MS. GMUR: Ms. Green Ross.

20 MEMBER GREEN ROSS: Aye.

21 MS. GMUR: Mr. Pahland.

22 CHAIRPERSON PAHLAND: Aye.

23 Motion carries. Meeting is adjourned.

24 Thank you, everybody.

25 (Proceedings concluded at 10:57 a.m.)

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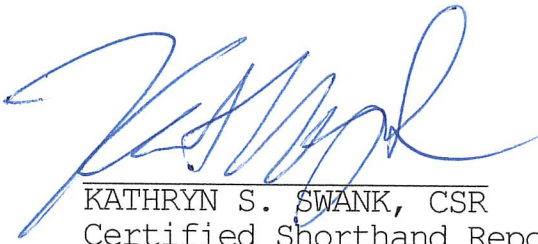
CERTIFICATE OF REPORTER

I, KATHRYN S. SWANK, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing proceedings were reported in shorthand by me, Kathryn S. Swank, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said proceedings nor in any way interested in the outcome of said proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of December 2024.



KATHRYN S. SWANK, CSR
Certified Shorthand Reporter
License No. 13061

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