

## ITEM 17

### 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

1. ***Southern California Association of Governments, et al. v. Commission on State Mandates***  
Sacramento County Superior Court, Case No. 05CS00956  
CSM Case No. 04-L-04 [*Regional Housing Needs Determination-Councils of Government*]

On December 13, 2005, the Sacramento County Superior Court issued a judgment denying the petition for writ of mandate and upholding the Commission's decision on reconsideration. The court concluded that the Commission's decision was valid on procedural grounds, finding that the supermajority voting requirements attached to reconsiderations requested by a party or member do not apply to a statutory order to reconsider. The court further concluded that the Commission's decision denying the test claim was correct as a matter of law, finding that joint powers agencies are no longer statutorily authorized to be reimbursed for the costs of state mandates.

2. ***Long Beach Unified School District v. State of California, et al.,***  
Second District Court of Appeal, Case No. B179038; on appeal from  
Los Angeles Superior Court, Case No. BC220153

This case was brought by Long Beach Unified School District, claiming that the state provided insufficient funds in the state budget acts for fiscal years 1995-1996 through 2000-2001 to pay all of the claims of Long Beach for the voluntary desegregation mandate. (*Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155 (*Long Beach I.*)) In *Long Beach I*, the court determined that reimbursement was required. The judgment in *Long Beach I* provided that funds appropriated in various line items in the Budget Acts for fiscal years 1984-1985 through 1987-1988, including the Commission's budget, were reasonably available to reimburse Long Beach. Thus, in this case, Long Beach

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<sup>1</sup> Based on information available as of January 13, 2006. 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.

sought to have the court compel the state to pay the deficiencies for the mandate out of the same budget line item accounts that were held available for payment in *Long Beach I*.

On December 28, 2005, the Second District Court of Appeal issued an unpublished decision, denying Long Beach's claims. The court held, in part, that Long Beach's petition for writ of mandate was barred by the separation of powers doctrine. Although there were insufficient funds appropriated in the state budget acts, the Budget Act contained a restriction that directed the State Controller to reimburse claims only from funds appropriated "specifically for that purpose." The court held that Long Beach did not demonstrate that this restriction was unconstitutional or invalid and, thus, it cannot seek recompense from other line item accounts.

A copy of the unpublished decision is attached.

### **Litigation Calendar**

<b>Case Reference</b>	<b>Hearing Date</b>
There are no hearing dates scheduled for the pending cases.	N/A