

ITEM 13
EXECUTIVE DIRECTOR’S REPORT
Workload, Budget, and
Upcoming Tentative Agendas

I. WORKLOAD

A. PENDING COMMISSION CASELOAD (Info)

Type of Action	January 7, 2009
Test Claims ¹ to be Heard and Determined	63
Test Claims to be Reconsidered	0
Test Claims to be Reconsidered Based on Court Action	0
Test Claims to be Reconsidered, as Directed by the Legislature	1
Incorrect Reduction Claims to be Heard and Determined	141
Incorrect Reduction Claims to be Reconsidered Based on Court Action	0
Reasonable Reimbursement Methodologies/Statewide Estimate of Costs	4
Proposed Parameters and Guidelines, and Amendments	19
Parameters and Guidelines to be Amended or Set Aside, as Directed by the Legislature or Court Action	0
Statewide Cost Estimates to be Adopted	11
New Test Claim Filings to be Reviewed	0
New Incorrect Reduction Claim Filings to be Reviewed	0
Appeals of Executive Director’s Decision	0
Regulatory Actions Pending	0

B. PENDING REQUESTS TO JOINTLY DEVELOP LEGISLATIVELY DETERMINED MANDATES

Type of Action	
Notice of Intent to Pursue Legislatively Determined Mandates	2

C. APPLICATIONS FOR FINDINGS OF SIGNIFICANT FINANCIAL DISTRESS

Type of Action	
Applications for Findings of Significant Financial Distress Pending	0

¹ This includes 40 test claims filed by school districts and 23 filed by local agencies.

Applications for Findings of Significant Financial Distress

On December 18, 2008, San Diego County requested instruction regarding submitting an application for a finding of significant financial distress. According to San Diego County staff, the county has not yet decided whether to file an application. Staff will keep the Commission informed as more inquiries are received or if an application is filed. Following is background information on the application process.

Welfare and Institutions Code section 17000.6 authorizes counties to apply to the Commission for a finding of significant financial distress, and if the counties receive this finding, they may reduce their general assistance payments below the federal official poverty line. A finding of significant financial distress shall not be made by the Commission unless the county has made a compelling case that basic county services, including public safety, cannot be maintained.

Once a county applies to the Commission for the finding, the Commission is required to:

1. Hold a public hearing in the applicant county within 30 days of receipt of the application.
2. Notify the applicant of its preliminary decision within 60 days of receipt of the application.
3. Notify the applicant of its final decision within 90 days of receipt of the application.

Since 1995, 15 applications have been filed with the Commission. The last application was filed in 2005 by Butte County.

This is a complex and expensive process that requires the Commission to review several years of the applicant county's budgets; provide a thorough fiscal, program, and legal analysis, travel to the applicant county, and provide a final determination. The Commission typically contracts with Department of Finance's Office of Audits and Evaluations to conduct the fiscal analysis. The Commission is not budgeted for this process, so when an application is submitted, staff must submit a request for deficiency funding with the Department of Finance. In 2005, it cost approximately \$120,000 to complete one application.

II. REPORTS TO THE LEGISLATURE

A. Commission on State Mandates

On December 16, 2008, the Commission issued its Report to the Legislature on Approved Mandates for the period January 1, 2008 through June 30, 2008, reporting the cost for four new mandates, totaling \$177,653,634 in estimated statewide costs.

The Commission's Report on Denied Mandates reports one denied mandate and is pending approval in the Governor's Office.

B. State Controller

On October 31, 2008, the State Controller's Office issued the State Mandated Cost Report required pursuant to Government Code section 17562, subdivision (b).

This report summarizes data by state mandate and fiscal year, the total amount of claims paid, and appropriation deficiencies or surpluses for each program. The report includes program costs and payments for reimbursement claims filed with the State Controller's Office for the fiscal years 1995-96 through 2007-2008.

Here is a summary of total costs, appropriations, payments, and appropriation deficiency. This information is excerpted from pages 28, 55, and 63 of the electronic version of the report which is available on the State Controller's website.

	Total Program Costs	Appropriation	Total Program Payments	Appropriation Deficiency	Estimate of Accrued Interest due to All Claimants, as of June 30, 2008
Local Agencies	\$2,569,103,893	\$ 714,139,188	\$1,649,986,790	(1,069,091,784)	
School Districts	2,932,317,850	853,790,000	2,131,197,925	(1,049,029,447)	
Colleges	349,444,547	19,775,000	105,259,170	(254,467,516)	
Grand Total	5,850,866,290	1,587,704,188	3,886,443,885	(2,372,588,747)	\$ 284,000,000

III. STATE BUDGET (Info/Action)

A. Commission Budget - 2008-2009

Effective November 5, 2008, the Commission has one vacant staff counsel III position.

On October 9, 2008, the Administration directed state agencies to make \$190 million in additional General Fund savings for 2008-2009. The Commission's portion of these additional required savings is \$17,000, which was achieved through salary savings and terminating student assistant contracts.

B. Commission Budget - 2009-2010

The proposed budget includes \$1.59 million for 12 positions and operating expenses for the Commission.

At the request of Department of Personnel Administration, Commission staff completed drills to determine General Fund savings if we are required to take a 5% or 10% reduction in personal services (salaries and benefits) and operating expenses. The Commission's budget would face a \$77,950 reduction in budget at 5%, and \$140,150.00 at 10%. To achieve these reductions, the Commission would be required to eliminate the vacant staff counsel III position, eliminate funding for temporary help, and reduce operating expenses. Please note that to date, we have received no notice that these reductions will take place.

C. Proposed Furlough of State Employees

On December 19, 2008, Commission staff received the Governor's letter regarding proposed furlough of state employees two days each month beginning February 2009, and potential layoff of 20% of state employees. On January 9, 2009, the Commission staff received the DPA memorandum requiring participating state agencies to conduct furlough days on the first and third Fridays of each month. Therefore, the Commission's offices will be closed beginning February 6, 2009 on these dates. However, if court hearings on mandate issues occur on furlough dates, Commission attorneys will appear in court and complete furlough requirements on other dates. The proposed furlough of state employees is being challenged by state employee organizations. The Sacramento County Superior Court will hear this matter on January 29, 2009. Staff will update the Commission on the outcome of this hearing at the Commission meeting.

D. Mandate Reimbursements – 2009-2010

1. K-12 School Districts

For the past several years, reimbursement for K-12 mandates has been deferred. This means that the programs were funded at \$1,000 each and school districts were required to carry out the programs. For 2009-2010, 37 of the 38 programs have been suspended, due to the case of *California School Boards Association v. State of California*,² which held that the State may not defer mandated programs. \$6.3 million is included to fund the *Interdistrict/Intradistrict Transfer* program. In addition, the Governor's proposed budget includes \$65 million in first-time funding for the *Behavioral Intervention Plans* program and \$7.1 million in first-time funding for the *High School Exit Exam* program.

2. Community College Districts

The proposed budget reduces funding by \$4 million by suspending mandated programs for community college districts.

3. Cities and Counties

The proposed budget includes \$145.626 million for reimbursement of local agency mandates. The proposal also defers the 2009-2010 payment (\$91 million) of the mandates obligation for costs incurred prior to 2004-2005, which are statutorily required to be completely paid by 2020-2021. The balance will be refinanced over the remaining payment period.

E. Legislative Analyst's Report

On January 8, 2009, the Legislative Analyst released a report on the Governor's Proposed Budget. Here are relevant excerpts:

Governor's Proposition 98 Approach Is a Mixed Bag. The Legislature can improve on the Governor's approach to building the Proposition 98 budget by implementing categorical program³ and mandate reforms—rather than adopting across-the-board reductions, disregarding existing state priorities, and

² San Diego County Superior Court, Case No. 37-2007-00082249-CU-WM-CTL

³ In another report to the Legislature, the Legislative Analyst recommended that the Legislature create a mandate block grant that would (1) improve local incentives to reduce mandate costs and (2) allocate mandate funds more equitably. According to LAO:

The state currently spends roughly \$160 million a year to reimburse school districts and county offices of education (COE) for carrying out about 45 state-mandated K-12 education programs. To receive reimbursement for these mandated activities, each school district and COE must submit a claim for the expenses incurred in the previous year. Using mandates to achieve state policy goals creates several problems, including loss of state control over local implementation costs, significant administrative/claiming costs, and little accountability for results.

We recommend consolidating existing funding for K-12 mandates into a single grant allocated on a per pupil basis. This approach would strengthen local incentives for efficient program implementation and create more certainty and equity in funding levels. It also would simplify the mandate claiming process by avoiding the need for districts and COEs to file individual mandate claims each year.

eliminating state mandate requirements on a wholesale basis. In addition, deferring costs into future years should only be used as a last resort.

Governor's 2009–10 Plan Achieves Additional Savings From Shorter School Year and Suspending Education Mandates. ... The Governor's plan also includes a proposal to suspend every CCC mandate and all but two K–12 mandates (in contrast to the state's existing practice of deferring mandate reimbursements while still requiring districts to undertake mandated activities).

For Budget Year, Undertake Education Mandate Reform. Although the Governor's plan to suspend every CCC mandate and all but two K–12 mandates tries to address longstanding problems with the state's mandate reimbursement process, we think the approach is too blunt. Instead, we recommend the state reexamine individual mandates and, on a case-by-case basis, consider whether (1) the mandate serves a compelling purpose or (2) a statutory modification could significantly reduce the cost or improve the incentives of the mandate. As a result of such an analysis, we think the Legislature likely would want to eliminate certain mandates, enact changes to reduce the cost of some mandates, and find more effective policy solutions for promoting other currently mandated, high priority activities

IV. TENTATIVE AGENDAS (Info)

The tentative agendas are subject to change based on Commission staff's litigation workload, requests for extensions of time to file comments on draft staff analyses, hearing postponements, pre-hearing conferences, and the complexity of the statutes and executive orders that are pled.

Friday, March 27, 2009

- A. Test Claims (4)
 - 1. *Tuition Fee Waivers*, 02-TC-21
Contra Costa Community College District, Claimant
 - 2. *Cal Grants*, 02-TC-28,
Long Beach Community College District, Claimant
 - 3. *Student Records*, 02-TC-34
Riverside Unified School District and Palomar Community College Districts, Claimants
 - 4. *Identity Theft*, 03-TC-08
City of Newport Beach, Claimant
- B. Proposed Parameters and Guidelines (4)
 - 1. *Expulsions II and Suspensions II*, 96-358-03, 03A-03B, 04, 04A-04B, 98-TC-22, 23, 01-TC-17, and 18 consolidated with *Education Services Plan*, 97-TC-09
San Juan Unified School District, Claimant
 - 2. *Modified Primary Election*, 01-TC-13
County of Orange, Claimant
 - 3. *Permanent Absent Voter II*, 03-TC-11
County of Sacramento, Claimant
 - 4. *Local Government Employment Relations*, 01-TC-30
County of Sacramento, Claimant

- C. Proposed Parameters and Guidelines Amendments (1)
 - 1. *Pesticide Use Reports*, 06-PGA-02
Department of Pesticide Regulation, Requestor
- D. Statewide Cost Estimates (5)
 - 1. *Domestic Violence Arrests and Victims Assistance*, 98-TC-14
County of Los Angeles, Claimant
 - 2. *Pupil Expulsion Hearing Costs*, (*San Diego Unified School District v. Commission on State Mandates, et al.*, 2004 – 33Cal.4th 859)
 - 3. *Mentally Disordered Offenders: Treatment as a Condition of Parole*, 00-TC-28
County of San Bernardino, Claimant
 - 4. *Racial Profiling: Law Enforcement Training*, 01-TC-01
County of Sacramento, Claimant
 - 5. *National Norm-Referenced Achievement Tests (Formerly STAR)*
04-RL-9723-01

Friday, May 29, 2009

- A. Test Claims (6)
 - 1. *Notice to Students and Minimum Conditions for State Aid*, 02-TC-25 and 02-TC-31
Los Rios and Santa Monica Community College Districts, Claimants
 - 2. *Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04, 03-TC-19, 03-TC-20, and 03-TC-21
County of Los Angeles, Cities of Artesia, Beverly Hills, Carson, Norwalk, Rancho Palos Verdes, Westlake Village, Azusa, Commerce, Vernon, Bellflower, Covina, Downey, Monterey Park, Signal Hill, Co-Claimants
- B. Proposed Parameters and Guidelines (2)
 - 1. *Crime Victims' Domestic Violence Incident Reports II*, 02-TC-18
County of Los Angeles, Claimant
 - 2. *Local Agency Formation Commissions (LAFCO)*, 02-TC-23
Sacramento Metropolitan Fire District, Claimant
- C. Proposed Parameters and Guidelines Amendments (1)
 - 1. *Request to Update Boilerplate Language*, 05-PGA-17
State Controller's Office, Requestor
- D. Statewide Cost Estimates (2)
 - 1. *Local Recreational Areas: Background Screenings*, 01-TC-11
City of Los Angeles, Claimant
 - 2. *CalSTRS Service Credit*, 02-TC-19
Santa Monica Community College District, Claimant