

Item 1

Proposed Minutes

COMMISSION ON STATE MANDATES

Location of Meeting: Room 447
State Capitol, Sacramento, California
January 23, 2015

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 Richard Chivaro
Representative of the State Controller
Member Ken Alex
Director of the Office of Planning and Research
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 10:01 a.m. Executive Director Heather Halsey called the roll.

ELECTION OF OFFICERS

Chairperson Ortega stated that the annual election of officers is the first order of business and asked for nominations for the chairperson.

Member Chivaro nominated the Director of Finance. Member Alex seconded. Director of Finance Michael Cohen was elected chairperson by a vote of 7-0.

Chairperson Ortega asked for nominations for vice chairperson. Member Rivera nominated the State Controller. With a second by Member Alex, the State Controller Betty Yee was elected vice chairperson by a vote of 7-0.

APPROVAL OF MINUTES

Member Chivaro made a motion to adopt the minutes. With a second by Member Rivera, the December 5, 2014 hearing minutes were adopted by a vote of 6-0, with Member Saylor abstaining.

PUBLIC COMMENT FOR MATTERS NOT ON THE AGENDA

The Chairperson asked if there was any public comment. There was no response.

CONSENT CALENDAR

HEARINGS AND DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (GOV. CODE, § 17551, 17557, 17559, and 17570) (action)

PARAMETERS AND GUIDELINES

- Item 6 *Firearm Hearings for Discharged Inpatients*, 99-TC-11 (07-RRM-01)
Welfare and Institutions Code Section 8103(f) and (g)
Statutes 1990, Chapters 9 and 177; Statutes 1991, Chapter 955; Statutes 1992, Chapter 1326; Statutes 1993, Chapters 610 and 611; Statutes 1994, Chapter 224; Statutes 1996, Chapter 1075; Statutes 1999, Chapter 578
County of Los Angeles, Test Claimant, and Department of Finance

INCORRECT REDUCTION CLAIMS

- Item 8 *Collective Bargaining and Collective Bargaining Agreement Disclosure*, 08-4425-I-16
Government Code Sections 3540-3549.9
Statutes 1975, Chapter 961; Statutes 1991, Chapter 1213
Los Rios Community College District, Claimant

INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8 (action)

STATEWIDE COST ESTIMATES

- Item 10 *State Authorized Risk Assessment Tool for Sex Offenders*, 08-TC-03
Penal Code Sections 290.05, 290.06, 290.07, 1202.8, 1203, 1203c, and 1203e
Statutes 2006, Chapter 336; Statutes 2006, Chapter 337; Statutes 2006, Chapter 886; Statutes 2007, Chapter 579
California Department of Mental Health's Executive Order, State Authorized Risk Assessment Tool for Sex Offenders Review Committee Notification, issued on February 1, 2008
County of Los Angeles, Claimant
- Item 11 *Medi-Cal Eligibility of Juvenile Offenders*, 08-TC-04
Welfare and Institutions Code Section 14029.5; Statutes 2006, Chapter 657
County of Alameda, Claimant

ADOPTION OF PROPOSED RULEMAKING CALENDAR

- Item 12 Proposed Rulemaking Calendar, 2015

ADOPTION OF PROPOSED REGULATION AMENDMENTS

- Item 13 Conflict-of-Interest Code

California Code of Regulations, Title 2, Division, 2, Chapter 2.5, Article 9, Section 1189.10 and Appendix

ADOPTION OF COMMISSION ORDER TO INITIATE RULEMAKING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5

- Item 14 General Cleanup Provisions, Authority and Reference

California Code of Regulations, Title 2, Division 2, Chapter 2.5, Articles 1, 2, 3, 4, 5, 6, 7, 8, and 10, Sections 1181.1 through 1188.2 and 1190 through 1190.5

Executive Director Heather Halsey announced that after the agenda for this hearing was released, the parties agreed to place Item 8 on the Consent Calendar. Chairperson Ortega asked if there was any objection to adding Item 8 to the Consent Calendar and if there were any comments from the public. No objection was made and there was no public comment.

Member Olsen made a motion to adopt the Consent Calendar as revised. With a second by Member Saylor, the Consent Calendar was adopted as revised 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 9 was postponed to the March 27, 2015 hearing at the request of the State Controller’s Office. She then swore in the 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 3 Appeal of Executive Director Decisions

There were no appeals to consider.

MANDATE REDERMINATIONS

- Item 4 CPR Pocket Masks (CSM-4291), 14-MR-01

Penal Code Section 13518.1; Statutes 1987, Chapter 1334
As Alleged to be Modified by: Statutes 2013, Chapter 28 (SB 71)

Department of Finance, Requestor

FIRST HEARING: ADEQUATE SHOWING

The hearing of this matter is to determine whether the Department of Finance had made an adequate showing that identifies a subsequent change in law that may modify the State’s liability for this program.

Senior Legal Analyst Carla Shelton presented this item and recommended that the Commission adopt the decision and direct 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.

Parties were represented as follows: Donna Ferebee and Lee Scott, Department of Finance.

Following Department of Finance's concurrence with staff, Member Alex made a motion to adopt the staff recommendation. With a second by Member Chivaro, the motion to adopt the staff recommendation was adopted by a vote of 7-0.

- Item 5 *Open Meetings Act/Brown Act Reform (CSM-4257/4469)*, 13-MR-02
Government Code Sections 54952, 54954.2, 54954.3, 54957.1, 54957.7;
Statutes 1986, Chapter 641; Statutes 1993, Chapters 1136;
1137; 1138
As Alleged to be Modified by: Proposition 30, General Election,
November 6, 2012

SECOND HEARING: NEW TEST CLAIM DECISION

The second hearing for this matter is to determine whether to adopt a new test claim decision to supersede the previously adopted decision reflecting the State's modified liability.

Commission Counsel Matt Jones presented this item and recommended that the Commission adopt the proposed decision as its new test claim decision.

Parties were represented as follows: Donna Ferebee and Lee Scott, Department of Finance.

Following Department of Finance's concurrence with staff, Member Olsen made a motion to adopt the staff recommendation. With a second by Member Saylor, the motion to adopt the staff recommendation was adopted by a vote of 7-0.

INCORRECT REDUCTION CLAIMS

- Item 7 *Emergency Procedures, Earthquake, and Disasters*, 05-4241-I-06
Education Code Sections 35295, 35296, 35297, 40041.5 and 40042
Statutes 1984, Chapter 1659
Poway Unified School District, Claimant

This incorrect reduction claim challenges the State Controller's reduction to reimbursement claims for fiscal years 2000 through 2003.

Senior Commission Counsel Eric Feller presented this item and recommended that the Commission adopt the proposed decision to partially approve the incorrect reduction claim.

Parties were represented as follows: Keith Petersen, representing the claimant; Jim Spano and Ken Howell, representing the State Controller's Office.

Executive Director Heather Halsey swore in Keith Peterson, who arrived late to the meeting.

Following State Controller's concurrence with staff, Member Chivaro made a motion to adopt the proposed decision to partially approve the incorrect reduction claim. With a second by

Member Ramirez, the motion to adopt the staff recommendation to partially approve the incorrect reduction claim was adopted by a vote of 7-0.

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

No applications were filed.

STAFF REPORTS

- Item 16 Legislative Update (info)

No update was provided.

- Item 17 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar (info)

Chief Legal Counsel Camille Shelton presented this item reporting that the Los Angeles Superior Court upheld the Commission's decision in the *Upper Santa Clara River Chloride* test claim.

- Item 18 Executive Director: Workload Update, Strategic Plan, Budget, and Tentative Agenda Items for the March and May Meetings (info/action)

Executive Director Heather Halsey presented this item and reported on the Commission's backlog reduction and the Governor's proposed budget. Ms. Halsey recommended the Commission adopt the proposed strategic plan.

Member Olsen made a motion to adopt the proposed strategic plan. With a second by Member Rivera, the motion to adopt the proposed strategic plan was adopted by a vote of 7-0.

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

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*
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); and “Program and Course Approval Handbook” Chancellor’s Office California Community Colleges (September 2001).)
8. *Clovis Unified School Dist. v. Commission on State Mandates, State Controller’s Office*
Sacramento County Superior Court, Case No. 34-2014-80001931
Graduation Requirements IRC, 05-4435-I-50 and 08-4435-I-52

A. PERSONNEL

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

The Commission adjourned into closed executive session at 10:18 a.m., 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 10:26 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).

ADJOURNMENT

Hearing no further business, Chairperson Ortega adjourned the meeting at 10:26 a.m.

Heather Halsey
Executive Director



ORIGINAL

PUBLIC MEETING

COMMISSION ON STATE MANDATES



TIME: 10:00 a.m.

DATE: Friday, January 23, 2015

**PLACE: State Capitol, Room 447
Sacramento, California**



REPORTER'S TRANSCRIPT OF PROCEEDINGS



Reported by:

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A P P E A R A N C E S

COMMISSIONERS PRESENT

ERAINA ORTEGA
Representative for MICHAEL COHEN, Director
Department of Finance
(Chair of the Commission)

RICHARD CHIVARO
Representative for Betty Yee
State Controller
(Vice Chair of the Commission)

KEN ALEX
Director
Office of Planning & Research

SARAH OLSEN
Public Member

M. CARMEN RAMIREZ
Oxnard City Council Member

ANDRÉ RIVERA
Representative for BILL LOCKYER
State Treasurer

DON SAYLOR
Yolo County Supervisor
Local Agency Member



COMMISSION STAFF PRESENT

HEATHER A. HALSEY
Executive Director
(Items 3 and 18)

JASON HONE
Assistant Executive Director

CAMILLE N. SHELTON
Chief Legal Counsel
(Item 17)

A P P E A R A N C E S

PARTICIPATING COMMISSION STAFF

continued

CARLA SHELTON
Senior Legal Analyst
(Item 4)

ERIC FELLER
Senior Commission Counsel
(Item 7)

MATTHEW B. JONES
Commission Counsel
(Item 5)

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PUBLIC TESTIMONY

Appearing Re Item 4:

For Department of Finance:

LEE SCOTT
Mandates Unit
Department of Finance
915 L Street, Eighth Floor
Sacramento, California 95814

DONNA FEREBEE
Legal Department
Department of Finance
915 L Street, Suite 1280
Sacramento, California 95814

Appearing Re Item 5:

For Department of Finance:

LEE SCOTT
Mandates Unit
Department of Finance

A P P E A R A N C E S

PUBLIC TESTIMONY

Appearing Re Item 7:

For Claimant Poway Unified School District:

KEITH B. PETERSEN
SixTen and Associates
5252 Balboa Avenue, Suite 900
San Diego, California

For State Controller's Office:

JIM L. SPANO
Chief, Mandated Cost Audits Bureau
State Controller's Office
3301 C Street, Suite 725
Sacramento, California 95816

KEN HOWELL
Auditor, Division of Audits
State Controller's Office
3301 C Street, Suite 725
Sacramento, California 95816

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Commission on State Mandates – January 23, 2015

1 BE IT REMEMBERED that on Friday, December 5,
2 2014, commencing at the hour of 10:01 a.m., thereof, at
3 the State Capitol, Room 447, Sacramento, California,
4 before me, DANIEL P. FELDHAUS, CSR #6949, RDR and CRR,
5 the following proceedings were held:



7 CHAIR ORTEGA: Good morning, everyone.
8 I'd like to call to order the January 23rd
9 meeting of the Commission on State Mandates.

10 If you could call the roll.

11 MS. HALSEY: Mr. Alex?

12 MEMBER ALEX: Here.

13 MS. HALSEY: Mr. Chivaro?

14 MEMBER CHIVARO: Here.

15 MS. HALSEY: Ms. Olsen?

16 MEMBER OLSEN: Present.

17 MS. HALSEY: Ms. Ortega?

18 CHAIR ORTEGA: Here.

19 MS. HALSEY: Ms. Ramirez?

20 MEMBER RAMIREZ: Here.

21 MS. HALSEY: Mr. Rivera?

22 MEMBER RIVERA: Here.

23 MS. HALSEY: Mr. Saylor?

24 MEMBER SAYLOR: Here.

25 MS. HALSEY: Thank you.

Commission on State Mandates – January 23, 2015

1 CHAIR ORTEGA: Thank you.

2 The first order of business today will be to
3 conduct the annual election of the officers.

4 Are there any nominations for chairperson?

5 MEMBER CHIVARO: Move the Director of Finance
6 as chairperson.

7 MEMBER ALEX: Second.

8 CHAIR ORTEGA: Okay, there's been a motion and
9 a second for the Director of Finance as the chairperson.

10 All in favor?

11 Well, let me ask if there are any other
12 nominations?

13 *(No response)*

14 CHAIR ORTEGA: Seeing none, I will close the
15 nominations.

16 All in favor?

17 *(A chorus of "ayes" was heard.)*

18 CHAIR ORTEGA: Any opposed or abstained?

19 *(No response)*

20 CHAIR ORTEGA: No?

21 Are there any nominations for vice chair?

22 MEMBER RIVERA: I nominate the State
23 Controller.

24 CHAIR ORTEGA: Okay, Mr. Rivera has nominated
25 the State Controller.

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MEMBER ALEX: Second.

CHAIR ORTEGA: Second by Mr. Alex.

Are there any other nominations?

(No response)

CHAIR ORTEGA: Seeing none, I will close the nominations.

All in favor?

(A chorus of "ayes" was heard.)

CHAIR ORTEGA: Any abstentions or opposed?

(No response)

CHAIR ORTEGA: Okay, the State Controller shall be the vice chair.

And we will move on to the minutes.

Are there any objections or corrections to the December 5th meeting minutes?

MEMBER CHIVARO: I move approval of the minutes.

CHAIR ORTEGA: Okay, moved by Mr. Chivaro.

Is there a second?

MEMBER RIVERA: Second.

CHAIR ORTEGA: Second by Mr. Rivera.

All in favor?

(A chorus of "ayes" was heard.)

CHAIR ORTEGA: Any abstentions?

MEMBER SAYLOR: *(Indicating.)*

Commission on State Mandates – January 23, 2015

1 CHAIR ORTEGA: Mr. Saylor abstains.

2 Seeing no other abstentions, the minutes are
3 approved.

4 MS. HALSEY: And now we'll take up public
5 comment for matters not on the agenda.

6 Please note the Commission cannot take action
7 on items not on the agenda. However, it can schedule
8 issues raised by the public for consideration at future
9 meetings.

10 CHAIR ORTEGA: Okay, any general public
11 comment?

12 *(No response)*

13 CHAIR ORTEGA: Seeing none, we'll move on to
14 the consent calendar.

15 MS. HALSEY: Next, we have a proposal to add
16 Item 8, an incorrect reduction claim on *Collective*
17 *Bargaining and Collective Bargaining Agreement Disclosure*
18 to the consent calendar.

19 After the agenda for this hearing was issued,
20 the parties agreed to place Item 8 on consent.

21 CHAIR ORTEGA: Okay, any objections to adding
22 Item 8 to the consent calendar?

23 *(No response)*

24 CHAIR ORTEGA: Anything from the public on
25 Item 8?

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1 (No response)

2 CHAIR ORTEGA: Seeing none, it will be added to
3 the consent calendar.

4 MS. HALSEY: The consent calendar consists of
5 Items 6, 8, and 10 through 14.

6 CHAIR ORTEGA: Okay, any comments from members
7 or the public on any of the consent items?

8 (No response)

9 CHAIR ORTEGA: Okay, seeing none, is there a
10 motion?

11 MEMBER OLSEN: So moved.

12 MEMBER SAYLOR: Second.

13 CHAIR ORTEGA: Moved by Ms. Olsen, and second
14 by Mr. Saylor.

15 All in favor?

16 (A chorus of "ayes" was heard.)

17 CHAIR ORTEGA: Any opposed or abstentions?

18 (No response)

19 CHAIR ORTEGA: Seeing none, the consent
20 calendar is adopted.

21 MS. HALSEY: Moving on to the Article 7 portion
22 of the hearing.

23 Please note that Item 9 has been postponed to
24 the March 27th, 2015, hearing, at the request of the
25 State Controller's Office.

Commission on State Mandates – January 23, 2015

1 Will the parties and witnesses for Items 4, 5,
2 and 7 please rise?

3 *(Parties and witnesses stood to be sworn*
4 *or affirmed.)*

5 MS. HALSEY: Do you solemnly swear or affirm
6 that the testimony which you are about to give is true
7 and correct, based on your personal information,
8 knowledge, or belief?

9 *(A chorus of affirmative responses was*
10 *heard.)*

11 MS. HALSEY: Thank you.

12 Item 3 is reserved for appeals of Executive
13 Director decisions. There are no appeals to consider
14 under Item 3.

15 Senior Legal Analyst Carla Shelton will present
16 Item 4, the adequate showing hearing for a mandate
17 redetermination on *CPR Pocket Masks*.

18 CARLA SHELTON: This is the first hearing of a
19 mandate redetermination request filed by the Department
20 of Finance to end the State's liability for the *CPR*
21 *Pocket Masks* program based on a subsequent change in law
22 that removes the legal requirement for law-enforcement
23 agencies to provide the portable manual mask and airway
24 assembly.

25 Government Code section 17570 provides a

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1 two-hearing process, whereby the Commission may
2 redetermine a previous mandate finding based on a
3 subsequent change in law and adopt a new decision to
4 supersede the original decision.

5 This first hearing is limited to whether
6 Finance has made an adequate showing which identifies a
7 subsequent change in law that may modify the State's
8 liability pursuant to Article XIII B, section 6(a) of the
9 California Constitution.

10 Staff finds that the Department of Finance has
11 made an adequate showing that the State's liability has
12 been modified.

13 Staff recommends the Commission adopt this
14 decision and direct staff to provide notice of the
15 second hearing to determine if a new test-claim decision
16 shall be adopted, to supersede the previously adopted
17 test-claim decision.

18 Will the parties and witnesses please state
19 your names for the record?

20 MR. SCOTT: Lee Scott, Department of Finance.

21 MS. FEREBEE: Donna Ferebee, Department of
22 Finance.

23 CHAIR ORTEGA: Okay, Mr. Scott or Ms. Ferebee,
24 any additional comments?

25 MR. SCOTT: No. Finance concurs with staff.

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1 CHAIR ORTEGA: Okay, are there any comments or
2 questions from the members on this item?

3 *(No response)*

4 CHAIR ORTEGA: Any public comment on this item?

5 *(No response)*

6 CHAIR ORTEGA: Seeing none, is there a motion?

7 MEMBER ALEX: I will move the staff
8 recommendation.

9 MEMBER CHIVARO: Second.

10 CHAIR ORTEGA: Okay, moved by Mr. Alex, and
11 second by Mr. Chivaro.

12 Do we need to call roll on these?

13 Yes?

14 Please call the roll.

15 MS. HALSEY: Mr. Alex?

16 MEMBER ALEX: Aye.

17 MS. HALSEY: Mr. Chivaro?

18 MEMBER CHIVARO: Aye.

19 MS. HALSEY: Ms. Olsen?

20 MEMBER OLSEN: Aye.

21 MS. HALSEY: Ms. Ortega?

22 CHAIR ORTEGA: Aye.

23 MS. HALSEY: Ms. Ramirez?

24 MEMBER RAMIREZ: Aye.

25 MS. HALSEY: Mr. Rivera?

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1 MEMBER RIVERA: Aye.

2 MS. HALSEY: Mr. Saylor?

3 MEMBER SAYLOR: Aye.

4 MS. HALSEY: Thank you.

5 CHAIR ORTEGA: Okay, the motion carries.

6 Thank you.

7 MS. HALSEY: Commission Counsel Matt Jones will
8 present Item 5, the mandate redetermination hearing on
9 *Open Meetings Act/Brown Act Reform*.

10 MR. JONES: Good morning. This is the second
11 hearing on the redetermination request pertaining to the
12 *Open Meeting Act/Brown Act Reform* mandates.

13 The request alleges that Proposition 30 adopted
14 by the voters in November 2012 constitutes a subsequent
15 change in law as defined in Section 17570 which modifies
16 the State's liability under the test-claim statute.

17 At the last hearing, the Commission found that
18 the requestor had made an adequate showing that the
19 request had a substantial possibility of prevailing.

20 At this hearing, the Commission must determine
21 whether to adopt a new test-claim decision to supersede
22 the previously adopted decisions reflecting the State's
23 modified liability.

24 Staff recommends that the Commission adopt the
25 proposed decision as its new test-claim decision, ending

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1 reimbursement liability for the test-claim statutes as of
2 November 7th, 2012, the effective date of Proposition 30.

3 CHAIR ORTEGA: Thank you.

4 MR. SCOTT: Lee Scott.

5 Finance Department concurs with staff.

6 CHAIR ORTEGA: All right, any questions or
7 comments from the members?

8 *(No response)*

9 CHAIR ORTEGA: No?

10 Any public comment on this item?

11 *(No response)*

12 CHAIR ORTEGA: Seeing none, is there a motion?

13 MEMBER OLSEN: Move adoption.

14 MEMBER SAYLOR: Second.

15 CHAIR ORTEGA: Moved by Ms. Olsen, second by
16 Mr. Saylor.

17 Please call the roll.

18 MS. HALSEY: Mr. Alex?

19 MEMBER ALEX: Aye.

20 MS. HALSEY: Mr. Chivarro?

21 MEMBER CHIVARO: Aye.

22 MS. HALSEY: Ms. Olsen?

23 MEMBER OLSEN: Aye.

24 MS. HALSEY: Ms. Ortega?

25 CHAIR ORTEGA: Aye.

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1 MS. HALSEY: Ms. Ramirez?

2 MEMBER RAMIREZ: Aye.

3 MS. HALSEY: Mr. Rivera?

4 MEMBER RIVERA: Aye.

5 MS. HALSEY: Mr. Saylor?

6 MEMBER SAYLOR: Aye.

7 CHAIR ORTEGA: Okay, thank you.

8 The motion is adopted.

9 MS. HALSEY: Item 6 was on the consent
10 calendar.

11 Senior Commission Counsel Eric Feller will
12 present Item 7, an incorrect reduction claim on *Emergency*
13 *Procedures, Earthquake and Disasters*.

14 MR. FELLER: Good morning.

15 This IRC challenges the Controller's reduction
16 to reimbursement claims for fiscal years 2000 through
17 2003. The Controller found that \$738,364 was unallowable
18 because claimant did not provide documentation or
19 contemporaneous source documentation to justify the cost
20 of updating the emergency management system and provide
21 training.

22 Staff found that the reductions for claimant's
23 consultant to update the emergency procedures and for
24 employees to update the emergency earthquake system were
25 correct as a matter of law, and the reduction for

1 in-classroom teachers to provide instruction on
2 earthquake emergency procedures was also correct as a
3 matter of law.

4 Staff further found that the reductions for
5 salaries and benefits to update the earthquake emergency
6 procedure system and for training that is not
7 attributable to in-classroom teacher time spent on the
8 instruction of students in the earthquake emergency
9 procedure systems were incorrect as a matter of law,
10 because the Controller relied on the contemporaneous
11 source document rule that was ruled invalid by the Court
12 in the *Clovis Unified* decision.

13 Staff recommends the Commission adopt the
14 analysis to partially approve the IRC.

15 Would the parties and witnesses please state
16 your names for the record?

17 MR. PETERSEN: Keith Petersen, representing the
18 school district.

19 MR. SPANO: Jim Spano, State Controller's
20 Office, Division of Audits.

21 MR. HOWELL: Ken Howell, State Controller's
22 Office, Division of Audits.

23 MS. HALSEY: If I could swear in Mr. Petersen
24 real quick here.

25 CHAIR ORTEGA: Yes.

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1 MS. HALSEY: Do you solemnly swear or affirm
2 that the testimony which you are about to give is true
3 and correct, based on your personal knowledge,
4 information, or belief?

5 MR. PETERSEN: Yes.

6 MS. HALSEY: Thank you.

7 MR. PETERSEN: Thank you.

8 CHAIR ORTEGA: Mr. Petersen?

9 MR. PETERSEN: I'll stand on the written
10 submissions.

11 CHAIR ORTEGA: Okay, Mr. Spano or Mr. Howell?

12 MR. HOWELL: We agree with the staff conclusion
13 and recommendation.

14 CHAIR ORTEGA: Okay, any comments from the
15 members?

16 MEMBER CHIVARO: Move approval.

17 MEMBER RAMIREZ: Second.

18 CHAIR ORTEGA: Okay, is there any public
19 comment on this item?

20 *(No response)*

21 CHAIR ORTEGA: Moved by Mr. Chivaro, second by
22 Ms. Ramirez.

23 Please call the roll.

24 MS. HALSEY: Mr. Alex?

25 MEMBER ALEX: Aye.

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MS. HALSEY: Mr. Chivaro?

MEMBER CHIVARO: Aye.

MS. HALSEY: Ms. Olsen?

MEMBER OLSEN: Aye.

MS. HALSEY: Ms. Ortega?

CHAIR ORTEGA: Aye.

MS. HALSEY: Ms. Ramirez?

MEMBER RAMIREZ: Aye.

MS. HALSEY: Mr. Rivera?

MEMBER RIVERA: Aye.

MS. HALSEY: Mr. Saylor?

MEMBER SAYLOR: Aye.

CHAIR ORTEGA: Okay, the motion is adopted.

MR. PETERSEN: Thank you.

CHAIR ORTEGA: Thank you.

MS. HALSEY: Item 8 was on the consent
calendar.

Item 9 was postponed at the request of the
State Controller's Office.

And Items 10 through 14 were also on the
consent calendar.

Item 15 is reserved for county applications for
a finding of significant financial distress or SB 1033
applications.

No SB 1033 applications have been filed.

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1 And there will be no presentation on Item 16,
2 the legislative update, since there is nothing new to
3 report at this time.

4 Chief Legal Counsel Camille Shelton will
5 present Item 17, the Chief Legal Counsel report.

6 CAMILLE SHELTON: Good morning. The L.A.
7 County Superior Court has upheld the Commission's
8 decision on the *Upper Santa Clara River Chloride* test
9 claim and entered judgment on January 15th.

10 I've also listed the upcoming hearing dates for
11 other cases that are pending.

12 CHAIR ORTEGA: Okay, any questions for Camille?

13 *(No response)*

14 CHAIR ORTEGA: Seeing none.

15 MS. HALSEY: Item 18 is the Executive
16 Director's report. And this is our midyear workload
17 update.

18 So after today's hearing, the Commission has
19 completed five test claims, two parameters and
20 guidelines, four parameters and guidelines amendments,
21 19 IRCs, seven statewide cost estimates, and 2.5 mandate
22 redeterminations this year. And that's because there's
23 the two-hearing process there.

24 Regarding remaining caseload, we have 13 test
25 claims pending, one of which is a new claim filed by

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1 school districts, which is expected to be heard in either
2 May or July of this year. The other 12 are regarding
3 *NPDES Permits* and are on inactive status pending the
4 resolution of the pending litigation in the Supreme
5 Court.

6 In addition, there are two parameters and
7 guidelines, two parameters and guidelines amendments,
8 five statewide cost estimates, 64 IRCs, and .5 -- or
9 actually, we had a new filing yesterday, so 1.5 mandate
10 redeterminations to be heard after this hearing.

11 Commission staff expects to present all
12 currently pending parameters and guidelines, parameters
13 and guidelines amendments, and mandate redeterminations
14 within this calendar year, and to complete the IRC
15 backlog by the end of end of 2015-16 or 2016-17. And
16 that will just depend on what happens in the Supreme
17 Court, primarily.

18 We have also here an information and action
19 item, which is the Proposed Strategic Plan.

20 And on December 7th, 2012, the Commission
21 adopted a strategic plan for January 2013 through
22 December 2015. And the majority of the goals in the
23 recently expired plan have been met or required updating.
24 Therefore, Commission staff has developed and updated
25 the strategic plan for January 28th, 2015, through

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1 December 2017. And it is attached here to this report.

2 Staff recommends that the Commission adopt the
3 proposed strategic plan.

4 CHAIR ORTEGA: Okay, any questions or comments
5 on the strategic plan?

6 *(No response)*

7 CHAIR ORTEGA: Any public comment on the
8 strategic plan?

9 *(No response)*

10 CHAIR ORTEGA: Seeing none, is there a motion?

11 MEMBER OLSEN: I'll move adoption.

12 CHAIR ORTEGA: Moved by Ms. Olsen.

13 MR. RIVERA: Second.

14 CHAIR ORTEGA: Second by Mr. Rivera.

15 All in favor?

16 *(A chorus of "ayes" was heard.)*

17 CHAIR ORTEGA: The strategic plan is adopted.

18 MS. HALSEY: Thank you.

19 And then I have a little report on the proposed
20 budget. The Governor's proposed 2014-15 budget includes
21 \$1,997,000 to fund the Commission's operations. And
22 this is essentially the same as the current year, with a
23 slight increase to reflect the increased personnel costs.

24 And then with regard to mandate funding, the
25 Governor proposed the following significant changes.

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1 And one is the status of the trigger mechanism.
2 And that's for the remaining \$800 million of the pre-2004
3 debt that the 2014 budget included a trigger mechanism
4 that will be used if, at this year's May revision, the
5 General Fund revenues for 2013-14 and 2014-15 exceed the
6 2014 May revision for those revenues. Based on current
7 data, it appears that that will result in about
8 \$533 million payment towards the pre-2004 debt to local
9 government. These funds will provide counties, cities,
10 and special districts with general-purpose revenue.

11 For newly funded mandates, the budget makes a
12 one-time payment of \$9.6 million for a local agency cost
13 for 2001 through 2013, under the *Public Records Act*
14 mandate. And the proposed budget also provides \$218,000
15 to fund the Accounting for Local Revenue Alignments
16 mandate or Triple Flip.

17 For "ICAN," *Interagency Child Abuse and Neglect*
18 *Investigation and Reports* mandate, which requires certain
19 local agencies to conduct activities related to
20 child-abuse investigations and to provide child abusers
21 due-process protections, the Commission adopted a
22 \$90.3 million statewide cost estimate. And this
23 reflected the Agency's cost to comply with the mandate
24 from 1999 to 2011.

25 And this mandate is proposed for suspension

1 because, according to the proposed budget, these
2 activities are long established and involve the Agency's
3 core missions.

4 The proposed budget creates a \$4 million
5 optional grant program administered by the Department of
6 Social Services as a substitute funding mechanism for
7 these activities.

8 That's all I have on the budget right now.

9 And we'll have more detail next time on all of
10 the mandates.

11 For tentative agenda items, please check the
12 Executive Director's report to see if your item is coming
13 up in the next few hearings.

14 The test claim on *California Assessment of*
15 *Student Performance and Progress* is tentatively set for
16 a hearing in May.

17 In addition, the parameters and guidelines for
18 *Sheriff Court Security* and parameters and guidelines
19 amendment for the two mandate redeterminations that were
20 heard today are tentatively set for March.

21 Finally, there's a number of IRCs listed on my
22 report which are tentatively set for March or May.

23 Please expect to receive draft decisions on
24 these for review and comment about eight to ten weeks
25 prior to the hearing date, and a proposed decision

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1 approximately two weeks before the hearing.

2 And that's all I have today.

3 CHAIR ORTEGA: Okay, any questions of
4 Ms. Halsey?

5 *(No response)*

6 CHAIR ORTEGA: Seeing none, are we ready to
7 move into closed session?

8 *(No response)*

9 CHAIR ORTEGA: The Commission will meet in
10 closed executive session pursuant to Government Code
11 section 11126(e) to confer with and receive advice from
12 legal counsel for consideration and action, as necessary
13 and appropriate, upon the pending litigation listed on
14 the published notice and agenda; and to confer with and
15 receive advice from legal counsel regarding potential
16 litigation.

17 The Commission will also confer on personnel
18 matters pursuant to Government Code section 11126(a)(1).

19 We will reconvene in open session in
20 approximately 15 minutes.

21 Thank you.

22 *(The Commission met in closed executive
23 session from 10:18 a.m. to 10:26 a.m.)*

24 CHAIR ORTEGA: The Commission met in closed
25 session pursuant to Government Code section 11126(e)(2)

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1 to confer with and receive advice from legal counsel for
2 consideration and action, as necessary and appropriate,
3 upon the pending litigation listed on the published
4 notice and agenda; and to confer with and receive advice
5 from legal counsel regarding potential litigation, and
6 pursuant to Government Code section 11126(a)(1) to confer
7 on personnel matters.

8 Seeing nothing else to come before the
9 Commission, the meeting is adjourned.

10 Thank you.

11 MEMBER RAMIREZ: Thank you.

12 *(The meeting concluded at 10:26 a.m.)*

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REPORTER'S CERTIFICATE

I hereby certify:

That the foregoing proceedings were duly reported by me at the time and place herein specified; and

That the proceedings were reported by me, a duly certified shorthand reporter and a disinterested person, and was thereafter transcribed into typewriting by computer-aided transcription.

In witness whereof, I have hereunto set my hand on the 15th February 2015.



Daniel P. Feldhaus
California CSR #6949
Registered Diplomate Reporter
Certified Realtime Reporter