

## ITEM 7

### **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. REMAND *Department of Finance, State Water Resources Control Board, and California Regional Water Quality Control Board, San Diego Region v. Commission on State Mandates and County of San Diego, et al.***  
**Sacramento County Superior Court, Case No. 34-2010-80000604**  
**Third District Court of Appeal, Case No. C070357**  
*Discharge of Stormwater Runoff, 07-TC-09 (California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-001)*

On February 6, 2020, the Sacramento County Superior Court issued an Order denying the petition and cross-petition, and affirming the Commission's decision, finding that the sections of the permit pled imposed a new program or higher level of service, and except for the activities related to the Hydromodification Management Plan (in Part D.1.g. of Order No. R9-2007-001) and Low Impact Development (parts D.1.d.(7) & D.1.d.(8) of Order No. R9-2007-001), the activities resulted in increased costs mandated by the state. A Proposed Judgment has been filed with the court.

- 2. *Coast Community College District, et al. v. Commission on State Mandates, Department of Finance***  
Third District Court of Appeal, Case No. C080349  
*(Minimum Conditions for State Aid,*  
*02-TC-25/02-TC-31)*

On April 3, 2020, the Third District Court of Appeal issued a published opinion partially approving the petition for writ of mandate. A significant portion of the Court's decision finds that the minimum condition regulations impose state-mandated requirements on community college districts to meet their underlying duty to operate. A petition for rehearing was filed by the Commission, and joined by the Department of Finance, to address a couple of pleading and jurisdictional issues raised in the Court's decision. On May 1, 2020, the court issued a modified opinion, correcting one of the issues raised, but denied the rehearing on the

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<sup>1</sup> Based on information available as of May 8, 2020. 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.

remaining issues.

**Litigation Calendar**

<u>Cases</u>	<u>Date of Hearing</u>
<p><b><i>City of San Diego v. Commission on State Mandates, State Water Resources Control Board, Department of Finance</i></b> Sacramento County Superior Court, Case No. 2019-80003169 <b><i>Lead Sampling in Schools: Public Water System No. 3710020</i></b> (17-TC-03)</p>	<p>The hearing was scheduled for May 8, 2020; however due to the Coronavirus crisis and the Court's closure, the hearing will be rescheduled for a future date.</p>
<p><b><i>California School Boards Assoc., et al. v. State of California, Commission on State Mandates, John Chiang, as State Controller, and Ana Matosantos, as Director of the Department of Finance</i></b> Alameda County Superior Court, Case No. RG11554698, On Remand from California Supreme Court, Case No. S247266 and First District Court of Appeal, Case No. A148606 (Mandates process for K-12 school districts, redetermination statutes, budget trailer bills (Education Code sections 42238.24 and 56523))</p>	<p>June 19, 2020 Status Conference</p>