

Item 1

Proposed Minutes

COMMISSION ON STATE MANDATES

Location of Meeting: Room 447
State Capitol, Sacramento, California
May 23, 2018

- Present:** Member Jacqueline Wong-Hernandez, Chairperson
Representative of the Director of the Department of Finance
Member Mark Hariri, Vice Chairperson
Representative of the State Treasurer
Member Lee Adams
County Supervisor
Member Richard Chivaro
Representative of the State Controller
Member Sarah Olsen
Public Member
Member Carmen Ramirez
City Council Member
- Absent:** Member Ken Alex
Director of the Office of Planning and Research

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 Wong-Hernandez called the meeting to order at 10:00 a.m. and requested that a moment be taken to acknowledge the death of Nancy McFadden, the Governor's Chief of Staff, after a long battle with cancer. Member Ramirez stated that she did not know her but wanted to acknowledge her years of service to the State. Member Adams agreed and noted that it was a terrible loss at age 59. Chairperson Wong-Hernandez explained that this was the reason that the flags were at half-staff and that the best way to honor Nancy was to do the best we can at all of our jobs.

Executive Director Heather Halsey called the roll and stated that Member Alex notified her that he was unable to attend the hearing.

APPROVAL OF MINUTES

Member Olsen made a motion to adopt the minutes. With a second by Member Adams, the January 26, 2018 hearing minutes were adopted by a vote of 5-0 with Members Alex and Chivaro absent.

PUBLIC COMMENT FOR MATTERS NOT ON THE AGENDA

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

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 Halsey swore in the parties and witnesses participating in the Article 7 portion of the hearing.

APPEAL OF EXECUTIVE DIRECTOR DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 1181.1(c) (info/action)

Item 2 Appeal of Executive Director Decisions

Executive Director Halsey stated that there were no appeals to consider for this hearing.

INCORRECT REDUCTION CLAIM

Item 3 *Integrated Waste Management*, 14-0007-I-08

Public Resources Code Sections 40148, 40196.3, 42920-42928; Public Contract Code Sections 12167 and 12167.1; Statutes 1992, Chapter 1116 (AB 3521); Statutes 1999, Chapter 764 (AB 75); State Agency Model Integrated Waste Management Plan (February 2000)

Fiscal Years: 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, and 2010-2011

North Orange County Community College District, Claimant

Executive Director Heather Halsey stated that Commission staff were notified that the claimant would not be sending representation to the hearing.

Senior Commission Counsel Eric Feller presented this item and recommended that the Commission deny this Incorrect Reduction Claim.

Parties were represented as follows: Lisa Kurokawa, representing the State Controller's Office.

Ms. Kurokawa stated that the State Controller's Office agrees with the staff's conclusion and recommendation. Without further discussion among the Commission members, staff, and parties, Member Ramirez made a motion to adopt the staff recommendation. With a second by Member Hariri, the motion to deny this Incorrect Reduction Claim was adopted by a vote of 5-0 with Members Alex and Chivaro absent.

INCORRECT REDUCTION CLAIM

Item 4 *Integrated Waste Management*, 14-0007-I-09

Public Resources Code Sections 40148, 40196.3, 42920-42928; Public Contract Code Sections 12167 and 12167.1; Statutes 1992, Chapter 1116 (AB 3521); Statutes 1999, Chapter 764 (AB 75); State Agency Model Integrated Waste Management Plan (February 2000)

Fiscal Years: 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, and 2010-2011

Long Beach Community College District, Claimant

Executive Director Heather Halsey stated that Commission staff were notified that the claimant would not be sending representation to the hearing.

Senior Commission Counsel Eric Feller presented this item and recommended that the Commission partially approve this Incorrect Reduction Claim and request that the State Controller reinstate \$5,107 to the claimant.

Parties were represented as follows: Lisa Kurokawa, representing the State Controller's Office.

Ms. Kurokawa stated that the State Controller's Office agrees with the staff's conclusion and recommendation. Without further discussion among the Commission members, staff, and parties, Member Olsen made a motion to adopt the staff recommendation. With a second by Member Adams, the motion to partially approve this Incorrect Reduction Claim was adopted by a vote of 5-0 with Members Alex and Chivaro 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 6.5 (info/action)

- Item 5 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 6 Legislative Update (info)

Program Analyst Kerry Ortman presented this item.

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

Chief Legal Counsel Camille Shelton presented this item.

- Item 8 Executive Director: Workload Update and Tentative Agenda Items for the May and July 2018 Meetings (info)

Executive Director Heather Halsey presented this item.

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

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)(1):

Trial Courts:

1. *County of Los Angeles v. Commission on State Mandates, State Controller's Office*
Los Angeles County Superior Court, Case No. BS166734
[Handicapped and Disabled Students IRC, 13-4282-I-06]

2. *County of Los Angeles v. Commission on State Mandates, State Controller's Office*
Los Angeles County Superior Court, Case No. BS166735
[*Handicapped and Disabled Students II IRC*, 12-0240-I-01]
3. *County of Los Angeles v. Commission on State Mandates, State Controller's Office*
Los Angeles County Superior Court, Case No. BS167447
[*Seriously Emotionally Disturbed Pupils IRC*, 12-9705-I-04]
4. ***On Remand from California Supreme Court, Case No. S214855, 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)
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]
5. *Fresno Unified School Dist. v. Commission on State Mandates*
Sacramento County Superior Court, Case No. 34-2017-80002768
[*Certificated School Employees – Parental Leave*, 16-TC-01]

Courts of Appeal:

1. *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]
2. *Coast Community College District, et al. v. Commission on State Mandates*,
Third District Court of Appeal, Case No. C080349
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).]

3. *Paradise Irrigation District, et al. v. Commission on State Mandates, Department of Finance, and Department of Water Resources*
Third District Court of Appeal, Case No. C081929
Sacramento County Superior Court, Case No. 34-2015-80002016
[*Water Conservation* (10-TC-12/12-TC-01, adopted December 5, 2014), Water Code Division 6, Part 2.55 [sections 10608-10608.64] and Part 2.8 [sections 10800-10853] as added by Statutes 2009-2010, 7th Extraordinary Session, Chapter 4 California Code of Regulations, Title 23, Division 2, Chapter 5.1, Article 2, Sections 597-597.4; Register 2012, No. 28.]
4. *California School Board Association (CSBA) v. State of California et al.*
First District Court of Appeal, Case No. A148606
Alameda County Superior Court, Case No. RG11554698
[2010-2011 Budget Trailer Bills; Education Code sections 42238.24 and 56523]

California Supreme Court:

1. *Counties of San Diego, Los Angeles, San Bernardino, Orange, and Sacramento v. Commission on State Mandates, et al.*
California Supreme Court, Case No. S239907
Fourth District Court of Appeal, Division One, Case No. D068657
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]

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)(2):

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.

B. PERSONNEL

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

The Commission adjourned into closed executive session at 10:12 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 listed on the published notice and agenda; and 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).

Member Chivaro joined the meeting.

RECOVENE IN PUBLIC SESSION REPORT FROM CLOSED EXECUTIVE SESSION

At 10:29 a.m., the Commission reconvened in open session, and Chairperson Wong-Hernandez reported that the Commission met in closed executive session pursuant to Government Code section 11126(e)(2) 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 to confer with and receive advice from legal counsel regarding potential litigation, and, pursuant to Government Code section 11126(a)(1) to confer on personnel matters.

ADJOURNMENT

Hearing no further business, Chairperson Wong-Hernandez adjourned the meeting at 10:30 a.m.

Heather Halsey
Executive Director

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**COMMISSION ON
STATE MANDATES MEETING OF THE**

STATE OF CALIFORNIA

COMMISSION ON STATE MANDATES



TIME: 10:00 a.m.

DATE: Friday, March 23, 2018

**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

JACQUELINE WONG-HERNANDEZ
Representative for MICHAEL COHEN, Director
Department of Finance
(Chair of the Commission)

MARK HARIRI
Representative for JOHN CHIANG
State Treasurer
(Vice Chair of the Commission)

LEE ADAMS III
Sierra County Supervisor
Local Agency Member

RICHARD CHIVARO
Representative for BETTY T. YEE
State Controller

SARAH OLSEN
Public Member

M. CARMEN RAMIREZ
Oxnard City Council Member
Local Agency Member



PARTICIPATING COMMISSION STAFF PRESENT

HEATHER A. HALSEY
Executive Director
(Item 8)

HEIDI PALCHIK
Assistant Executive Director

ERIC FELLER
Senior Legal Counsel
(Item 3 and Item 4)

A P P E A R A N C E S

PARTICIPATING COMMISSION STAFF PRESENT

(continued)

KERRY ORTMAN
Program Analyst
(Item 6)

CAMILLE N. SHELTON
Chief Legal Counsel
(Item 7)



PUBLIC TESTIMONY

Appearing Re Item 3 and Item 4:

For the State Controller's Office:

LISA KUOKAWA
Audit Manager, Division of Audits
State Controller's Office
3301 C Street, Suite 725
Sacramento, California 95816



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ERRATA SHEET

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1 BE IT REMEMBERED that on Friday, March 23, 2018,
2 commencing at the hour of 10:00 a.m., thereof, at the
3 State Capitol, Room 447, Sacramento, California, before
4 me, DANIEL P. FELDHAUS, CSR #6949, RDR and CRR, the
5 following proceedings were held:

6 --oOo--

7 CHAIR WONG-HERNANDEZ: The hour of 10:00 having
8 arrived, we are going to call the meeting of the
9 Commission on State Mandates to order.

10 Before we call the roll, actually, I want to take
11 a moment to acknowledge that this is a sad day in the
12 Capitol and for the Administration.

13 Last night, the Governor's Chief of Staff, Nancy
14 McFadden, passed away after a long battle with cancer.
15 And we -- you know, we were informed - "we," kind of the
16 broader Administration -- this morning, and we're all
17 pretty devastated. And this was a loss for everybody,
18 we feel like for all of California; and we just want to
19 take a minute to say that.

20 And if there's anything else anyone wanted to say or
21 offer, we can take a minute to do that.

22 MEMBER RAMIREZ: I did not know her; but I would
23 just say in general, people work -- civil servants, by
24 and large, really sacrifice a lot. So I want to
25 acknowledge her years and years of service to the State.

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1 CHAIR WONG-HERNANDEZ: Thank you.

2 MEMBER ADAMS: I would just add, what a terrible
3 loss at age 59.

4 CHAIR WONG-HERNANDEZ: Yes, definitely.

5 So the flags are at half staff today in recognition
6 of that.

7 And that was all. I don't have a point in this. I
8 just wanted to take a minute.

9 So as we have been told, the best way to honor Nancy
10 was to do the best we can at all of our jobs; and we'll
11 continue on.

12 Heather, can you please call the roll?

13 MS. HALSEY: Mr. Adams.

14 MEMBER ADAMS: Here.

15 MS. HALSEY: Mr. Chivaro.

16 *(No response)*

17 MS. HALSEY: Ms. Olsen.

18 MEMBER OLSEN: Here.

19 MS. HALSEY: Ms. Ramirez.

20 MEMBER RAMIREZ: Here.

21 MS. HALSEY: Mr. Hariri.

22 VICE CHAIR HARIRI: Here.

23 MS. HALSEY: Ms. Wong-Hernandez.

24 CHAIR WONG-HERNANDEZ: Here.

25 MS. HALSEY: Thank you.

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1 Sorry, I forgot to mention, Mr. Alex did contact me
2 to let me know that he will be unable to attend today's
3 hearing.

4 CHAIR WONG-HERNANDEZ: Okay, thank you.

5 We do have a quorum.

6 The first item on the agenda is the minutes.

7 Are there any objections to or corrections for the
8 January 26th minutes?

9 MEMBER RAMIREZ: No.

10 MEMBER OLSEN: I'll move adoption.

11 CHAIR WONG-HERNANDEZ: Okay, great. Motion by
12 Ms. Olsen.

13 MEMBER ADAMS: Second.

14 CHAIR WONG-HERNANDEZ: And a second by Mr. Adams.

15 Do we need to do a roll --

16 MS. HALSEY: You can do a voice vote.

17 CHAIR WONG-HERNANDEZ: Can we do a voice vote on
18 this?

19 MS. HALSEY: Sure.

20 CHAIR WONG-HERNANDEZ: Okay, great.

21 All those in favor of adoption of the minutes,
22 please say "aye."

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

24 CHAIR WONG-HERNANDEZ: All those opposed?

25 *(No response)*

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1 CHAIR WONG-HERNANDEZ: Great.

2 The motion carries.

3 MS. HALSEY: And now we will take up public comment
4 for matters not on the agenda. Please note, the
5 Commission cannot take action on items not on the agenda;
6 however, it can schedule issues raised by the public for
7 consideration at future meetings.

8 CHAIR WONG-HERNANDEZ: Is there any public comment?

9 *(No response)*

10 CHAIR WONG-HERNANDEZ: Okay, hearing no public
11 comment, we'll move to the next item.

12 MS. HALSEY: Since there are no items on consent
13 today, let's move to the Article 7 portion of the
14 hearing.

15 Will the parties and witnesses for Items 3 and 4
16 please rise?

17 *(Parties/witnesses stood to be sworn or affirmed.)*

18 MS. HALSEY: Do you solemnly swear or affirm that
19 the testimony which you are about to give is true and
20 correct, based on your personal knowledge, information,
21 or belief?

22 *(A chorus of affirmative responses was heard.)*

23 MS. HALSEY: Thank you.

24 Item 2 is reserved for appeals of Executive Director
25 decisions; and there are no appeals to consider for this

1 hearing.

2 Senior Commission Counsel Eric Feller will present
3 Item 3, an incorrect reduction claim on *Integrated Waste*
4 *Management*.

5 And we have been notified that the District is not
6 sending representation to this hearing.

7 MR. FELLER: Good morning.

8 So the Controller's audit reductions on this claim
9 were taken because the claimant did not deduct offsetting
10 savings from its diversion of solid waste and the
11 associated reduction of disposal costs in accordance with
12 the test-claim statutes.

13 Staff finds the Controller's reduction of costs
14 claimed for all years in the audit period is correct as a
15 matter of law and not arbitrary, capricious, or without
16 evidentiary support.

17 Accordingly, staff recommends that the Commission
18 deny this IRC, and also requests the Commission authorize
19 staff to make any technical, non-substantive changes to
20 the proposed decision following the hearing.

21 Will the party or witness please state your name for
22 the record?

23 MS. KUROKAWA: My name is Lisa Kurokawa. I'm a
24 bureau chief at the State Controller's Office.

25 And as Mr. Feller just stated, we agree with the

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1 Commission staff's decision and recommendation.

2 CHAIR WONG-HERNANDEZ: Okay, any questions from
3 members?

4 *(No response)*

5 CHAIR WONG-HERNANDEZ: Any public comment on this
6 item?

7 *(No response)*

8 CHAIR WONG-HERNANDEZ: Okay, well, seeing no further
9 discussion, is there a motion?

10 MEMBER RAMIREZ: I will move the recommended action.

11 CHAIR WONG-HERNANDEZ: Thank you, Ms. Ramirez.

12 VICE CHAIR HARIRI: Second.

13 CHAIR WONG-HERNANDEZ: And we have a second.

14 Heather, will you please call the roll?

15 MS. HALSEY: Sure.

16 Mr. Adams.

17 MEMBER ADAMS: Aye.

18 MS. HALSEY: Mr. Chivaro.

19 *(No response)*

20 MS. HALSEY: Ms. Olsen.

21 MEMBER OLSEN: Aye.

22 MS. HALSEY: Ms. Ramirez.

23 MEMBER RAMIREZ: Aye.

24 MS. HALSEY: Mr. Hariri.

25 VICE CHAIR HARIRI: Aye.

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1 MS. HALSEY: Ms. Wong-Hernandez.

2 CHAIR WONG-HERNANDEZ: Aye.

3 MS. HALSEY: The motion carries.

4 Senior Commission Counsel Eric Feller will present
5 Item 4, an incorrect reduction claim on *Integrated Waste*
6 *Management*.

7 We've also been notified that the District will not
8 have a representative present for this item.

9 MR. FELLER: Good morning again.

10 The audit reductions were taken because the claimant
11 did not deduct offsetting savings from its diversion of
12 solid waste and the associated reduction of disposal
13 costs in accordance with the test-claim statutes.

14 Staff finds the Controller's reduction of costs
15 claimed for all years in the audit period except calendar
16 years 2002 and 2003 is correct as a matter of law, and
17 not arbitrary, capricious, or without evidentiary
18 support.

19 However, the Controller's finding that the claimant
20 did not exceed the minimum required diversion in calendar
21 years 2002 and 2003 is incorrect as a matter of law
22 because the requirement to divert 50 percent of solid
23 waste did not become operative until January 1, 2004.

24 Also, the Controller did not allocate the diversion
25 for those years as it had for other years in the audit

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1 period; so the calculation of offsetting savings is
2 arbitrary, capricious, and entirely lacking in
3 evidentiary support.

4 The difference between the reduction and the amount
5 that it should have been reduced is \$5,107, which has
6 been incorrectly offset and should be reinstated to the
7 claimant.

8 The Controller has agreed with the proposed decision
9 and to reinstate this amount. So staff recommends that
10 the Commission adopt this decision to partially approve
11 the IRC and requests authorization to make any technical,
12 non-substantive changes to the proposed decision
13 following the hearing.

14 Would the parties and witness please state your name
15 for the record?

16 MS. KUROKAWA: My name is Lisa Kurokawa. I'm a
17 bureau chief at the State Controller's Office.

18 And as Mr. Feller just said, we agree with the
19 Commission's decision and recommendation.

20 CHAIR WONG-HERNANDEZ: Thank you.

21 Any questions for Ms. Kurokawa from the Board?

22 Was that a hand?

23 MEMBER OLSEN: *(Shaking head.)*

24 CHAIR WONG-HERNANDEZ: No? Okay.

25 Any public comment on this item?

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1 (No response)

2 CHAIR WONG-HERNANDEZ: Seeing none and no further
3 discussion, is there a motion?

4 MEMBER OLSEN: I'll move the staff recommendation.

5 CHAIR WONG-HERNANDEZ: Ms. Olsen moves the staff
6 recommendation.

7 MEMBER ADAMS: Second.

8 CHAIR WONG-HERNANDEZ: And a second from Mr. Adams.
9 You can call the roll.

10 MS. HALSEY: Mr. Adams.

11 MEMBER ADAMS: Aye.

12 MS. HALSEY: Mr. Chivaro.

13 (No response)

14 MS. HALSEY: Ms. Olsen.

15 MEMBER OLSEN: Aye.

16 MS. HALSEY: Ms. Ramirez.

17 MEMBER RAMIREZ: Aye.

18 MS. HALSEY: Mr. Hariri.

19 VICE CHAIR HARIRI: Aye.

20 MS. HALSEY: Ms. Wong-Hernandez.

21 CHAIR WONG-HERNANDEZ: Aye.

22 MS. HALSEY: Thank you.

23 CHAIR WONG-HERNANDEZ: Motion carries. Thank you.

24 MS. HALSEY: Item 5 is reserved for county
25 applications for a finding of significant financial

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1 distress, or SB 1033 applications.

2 No SB 1033 applications have been filed.

3 Program Analyst Kerry Ortman will present Item 6,
4 the Legislative Update.

5 MS. ORTMAN: Good morning.

6 CHAIR WONG-HERNANDEZ: Good morning.

7 MS. ORTMAN: AB 1983, State Mandates, was introduced
8 by Assembly Member Walderon on January 31st, 2018. It
9 proposed changing the date by which a mandates claim must
10 be filed, from February 15th to March 1st, following the
11 fiscal year in which costs were first incurred.

12 On March 15th, the bill was gutted and amended to
13 address school safety. The new title is "School Safety:
14 School District Facilities and Emergency Practices:
15 Security Assessment."

16 This bill was re-referred to the Committee on Local
17 Government on March 19th, 2018, and has yet to be heard.

18 Commission staff can now report that the two bills
19 that we've been monitoring since last year's session,
20 AB 268, State Mandates, and SB 806, Charter Schools:
21 Operation: For-Profit Entities, had until January 31st,
22 2018, to pass out of their houses of origin. Both of
23 those bills failed to meet that deadline, and are now
24 dead.

25 Thank you.

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1 MS. HALSEY: Thank you, Kerry.

2 Chief Legal Counsel Camille Shelton will present
3 Item 7, the Chief Legal Counsel Report.

4 MS. SHELTON: Good morning.

5 There have been petitions for review filed with the
6 California Supreme Court, in the first case by the State
7 of California, dealing with the *Stormwater Permit* issued
8 by the San Diego Regional Water Quality Control Board.
9 That one is on the issue of whether the permit conditions
10 are mandated by state or federal law.

11 The second petition for review, has been filed by
12 the California School Board Association in the case of
13 *CSBA versus the State of California*.

14 We don't have any recent decisions. And if you turn
15 the page, we do have a pretty busy litigation hearing
16 calendar, with hearings in April and in August on the
17 first two cases, dealing with incorrect reduction claims
18 with the County of Los Angeles, and the last one dealing
19 with the Commission's decision on *Certificated School*
20 *Employees Parental Leave* test claim.

21 CHAIR WONG-HERNANDEZ: Thank you.

22 MS. HALSEY: Item 8 is the Executive Director's
23 report.

24 After this hearing, there are 15 pending test
25 claims, all but one of which are regarding *National*

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1 *Pollutant Discharge Elimination System, or "NPDES,"*
2 *Permits.*

3 The non-NPDES Permits is tentatively set for the
4 May 2018 meeting, and the *NPDES Permits* claims are
5 tentatively set for hearing from July 2018 through
6 September 2019.

7 We also have one parameters and guidelines and one
8 statewide cost estimate regarding *NPDES Permits*; and
9 those are on inactive status pending outcome of
10 litigation regarding the test-claim decisions underlying
11 those matters.

12 In addition, there is one parameters and guidelines
13 amendment on inactive status pending the outcome of
14 litigation in the *CSBA* case. The First District Court of
15 Appeal has issued a decision in this case, but *CSBA* has
16 filed an appeal with the California Supreme Court.

17 Finally, we have ten IRCs pending, four of which
18 were filed this fiscal year.

19 As of today, Commission staff expects to complete
20 all currently pending test claims and IRCs by
21 approximately the September 2019 Commission meeting,
22 depending on staffing and other workload.

23 Please check the tentative agenda items on my report
24 to see if your item or an item you're interested in, is
25 coming up over the next few hearings.

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1 You can also use the "Pending Caseload" document on
2 the Commission's Web site to find this information as we
3 update it regularly and have all items that are filed
4 with us are tentatively set for hearing.

5 Please expect to receive draft proposed decisions
6 on all test claims and IRC matters for your review and
7 comment at least eight weeks prior to the hearing date;
8 and a proposed decision, approximately two weeks before
9 the hearing.

10 And also, just a reminder that today at one o'clock
11 at the Commission's offices, we'll be having a workshop
12 on our new test-claim form. So please come and join us
13 for that if you're available.

14 CHAIR WONG-HERNANDEZ: Thank you.

15 Are there any questions or comments from the Board
16 on any of the informational items that were just
17 presented?

18 *(No response)*

19 CHAIR WONG-HERNANDEZ: Okay, seeing none, is there
20 any public comment on any of the informational items just
21 presented?

22 *(No response)*

23 CHAIR WONG-HERNANDEZ: Okay, seeing none, the next
24 order of business is that the Commission will meet in
25 closed executive session pursuant to Government Code

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

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

9 We will reconvene in open session in approximately
10 15 minutes.

11 Thank you.

12 *(The Commission met in closed executive*
13 *session at 10:12 a.m.)*

14 *(Mr. Chivaro entered the meeting room at 10:14 a.m.)*

15 *(The Commission concluded meeting in closed*
16 *executive session at 10:29 a.m.)*

17 CHAIR WONG-HERNANDEZ: We're reconvening.

18 We just met in closed session pursuant to Government
19 Code section 11126(e)(2), to confer with and receive
20 advice from legal counsel for consideration and action,
21 as necessary and appropriate, upon the pending litigation
22 listed on the published notice and agenda, and to confer
23 with and receive advice from legal counsel regarding
24 potential litigation; and pursuant to Government Code
25 section 11126(a)(1), to confer on personnel matters.

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

3 MEMBER CHIVARO: So moved that.

4 MEMBER RAMIREZ: Second.

5 CHAIR WONG-HERNANDEZ: Thank you, Ms. Ramirez.

6 All in favor of adjourning, please say "aye."

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

8 CHAIR WONG-HERNANDEZ: Aye.

9 And all those opposed?

10 *(No response)*

11 CHAIR WONG-HERNANDEZ: We are adjourned.

12 MEMBER RAMIREZ: Thank you.

13 MS. HALSEY: Thank you.

14 *(The Commission meeting concluded at 10:30 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 30th day of March 2018.



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