

ITEM 11

EXECUTIVE DIRECTOR'S REPORT

Budget, Workload Update, and Tentative Agenda Items for the September and November 2019 Meetings (info)

I. 2019-20 BUDGET

On June 27, 2019, the Governor signed AB 74, the Budget Act of 2019 which included the following changes to state-mandated program funding:

A one-time payment of \$15.1 million General Fund to repay local agencies for costs incurred for four mandates that have been identified by the legislature as expired or repealed. The repayment amount represents the retirement of state obligations to local agencies for costs incurred between 2004 and 2011 for the following programs:

- Binding Arbitration (Ch. 906, Stats. 2000) (01-TC-07)
- Fire Safety Inspections of Care Facilities (Ch. 993, Stats. 1989) (01-TC-16 and 13-MR-01)
- Local Recreational Areas: Background Screenings (Ch. 777, Stats. 2001) (01-TC-11 and 12-MR-02)
- Racial Profiling: Law Enforcement Training (Ch. 684, Stats. 2000) (01-TC-01)

The Budget also provides, from the budget for the Department of Social Services, “up to \$4,000,000 for a county-optional block grant program, for allocation to local agencies to fund activities the Commission on State Mandates identified as reimbursable state mandates in the Interagency Child Abuse and Neglect Investigation Reports (CSM-00-TC-22) mandate.”

The Commission’s operating budget was approved as proposed for \$ 2,459,000 to include \$2,106,000 in Personal Services (which reflects the addition of .5 PY for a Human Resources Program Analyst) and \$353,000 in Operating Expenses and Equipment.

II. WORKLOAD¹ (info)

A. COMPLETED WORKLOAD SUMMARY

Type of Caseload	Completed in 2017/2018	Completed in 2018/2019
Test Claims	4	5
Parameters & Guidelines	1	2
Parameters & Guidelines Amendments	0	0
Requests for Reconsideration	0	0
Statewide Cost Estimates	0	1
Request to Review Claiming Instructions	0	0
Requests for Mandate Redetermination	0	0
Incorrect Reduction Claims	10	4
Appeal of Executive Director Decisions	0	0

B. COMMISSION WORKLOAD REPORT

Type of Action	Pending on 7/1/2018	Filed Since 7/1/2018	Completed Since 7/1/2018	Pending on 7/1/2019
Test Claims	44 ²	1	5	40 ³
Parameters and Guidelines	2	3 ⁴	2	3 ⁵
Joint Reasonable Reimbursement Methodologies	0	0	0	0
Pending Requests To Jointly Develop Legislatively Determined Mandates	0	0	0	0
Requests for Reconsideration	0	0	0	0
Requests to Review Claiming Instructions	0	0	0	0

¹ As of July 1, 2019.

² 25 of these claims were filed in June 2018 but were not deemed complete until November and December 2018, after being returned as incomplete and cured by the claimants, and were not included in pending caseload until after they were cured and deemed complete.

³ 39 of the 40 pending local agency claims are regarding National Pollutant Discharge Elimination System (NPDES) permits. There are no school district test claims currently pending.

⁴ Proposed parameters and guidelines may be filed by the test claimant or expedited and issued by Commission staff upon the adoption of an approved test claim or upon the expiration of a joint reasonable reimbursement methodology.

⁵ One of these Parameters and Guidelines is on inactive status pending the outcome of litigation on the underlying Test Claim Decision.

Type of Action	Pending on 7/1/2018	Filed Since 7/1/2018	Completed Since 7/1/2018	Pending on 7/1/2019
Statewide Cost Estimates	3	1 ⁶	1	3 ⁷
Test Claim Reconsiderations or Reinstatements Based on Court Action	0	0	0	0
Parameters and Guidelines to be Amended, Set Aside, or Reinstated, as Directed by the Legislature or Court Action	0	0	0	0
Proposed Amendments to Parameters and Guidelines	1	0 ⁸	0	1 ⁹
Requests for Mandate Redetermination	1	1	0	2
Requests for Mandate Redetermination to be Amended, Set Aside, or Reinstated, as Directed by the Legislature or Court Action	0	1	0	1
Incorrect Reduction Claims	8	1	4	5
Incorrect Reduction Claims to be Reconsidered Based on Court Action	0	0	0	0
Appeals of Executive Director's Decisions	0	0	0	0
Regulatory Actions Pending	0	0	0	0
Applications for Findings of Significant Financial Distress	0	0	0	0

⁶ Statewide cost estimates are not filed, but are issued by the Commission after claiming instructions have been issued and initial claims have been received by the State Controller's Office.

⁷ One of these Statewide Cost Estimates is on inactive status pending the outcome of litigation on the underlying Test Claim Decision.

⁸ Proposed parameters and guidelines amendments may be filed by an affected local or state agency for any of the reasons specified by section 1183.17 of the Commission's regulations or they may be expedited and issued by Commission staff upon the adoption of new test claim decision under the redetermination process.

⁹ This Proposed Amendment to Parameters and Guidelines is on inactive status pending the outcome of litigation.

C. ADMINISTRATIVE WORKLOAD (info)

This section of the Executive Director's Report highlights major issues, challenges, and achievements with regard to the administrative workload of Commission staff.

The size and complexity of the records filed with the Commission have increased exponentially in recent years. In particular, test claim filings, comments, and administrative records relating to matters involving the State Water Resources Control Board can range from 100,000 to 200,000 pages. The size of these records require between 10-20 cases of paper per single copy and cost approximately \$1,200 to copy in black and white or \$9,000 to copy in color, and increase staff time and storage costs. In addition, these administrative records have included many color maps and diagrams, which vary in paper size and become illegible if printed on 8 x 11-inch paper in black and white. These colored exhibits are often located in the middle of thousands of pages of black and white text and can be very difficult to identify. To include these oversized and colored maps and diagrams in the correct size and color, they need to be folded and inserted manually into the printed paper copy. This process is extremely labor intensive, costly, and subject to human error. In addition, the electronic files are so large and often are not searchable (or not completely searchable) such that they are difficult or impossible to download on many devices, or to find relevant information in, making them inaccessible and of limited use to the parties and the public.

The proposed amendments to the Commission's regulations, which are contained in the proposed Rulemaking package, are consistent with court rules, which are moving in the direction of e-filing. Several of the Commission's Decisions (in particular those on the most complex and contentious claims with the largest records) are eventually litigated and the records for them must be filed with the courts. Code of Civil Procedure section 1010.6(c) authorizes courts to require filing electronically unless doing so would cause undue hardship or significant prejudice to a party; and California Rules of Court, Rule 2.253 authorizes trial courts to require electronically filed documents if the courts "have a process for parties or other persons, including represented parties or other represented persons, to apply for relief and a procedure for parties or other persons excused from filing documents electronically to file them by conventional means." It is anticipated that these proposed changes will streamline and make more efficient the mandate determination process and will enable staff to more easily review, analyze, post, serve, and store large, complex legal documents. These changes will also increase accessibility and ease of participation in the mandates process for parties, interested parties, and interested persons who will be able to more easily download and search supporting documents.

As discussed at earlier Commission meetings, staff is in the process of looking at changes to support an electronic-only record maintenance approach using a "Trusted System" to ensure permanent retention. This is the direction that the courts are moving in, though admittedly courts do not have a general duty to maintain *permanent* records of civil actions. The first step in implementing such a plan is to ensure that documents filed with the Commission are in the correct format for this purpose and this is being addressed in the proposed rulemaking package.

III. TENTATIVE AGENDA ITEMS (info)

The tentative agenda items are subject to change based on, among other things, Commission workload, staffing, litigation, requests for extensions of time to file comments on draft proposed decisions, hearing postponements, informal conferences, and the complexity of the matters.

September or November Meetings

A. TEST CLAIMS

1. *California Regional Water Quality Control Board, San Diego Region, Order No. R9-2009-0002*, 10-TC-11
County of Orange, Orange County Flood Control District, Cities of Dana Point, Laguna Hills, Laguna Niguel, Lake Forest, Mission Viejo, and San Juan Capistrano, Claimants

B. PARAMETERS AND GUIDELINES

1. *Peace Officer Training: Mental Health/Crisis Intervention*, 17-TC-06
Cities of Claremont and South Lake Tahoe, Claimants
2. *Public School Restrooms: Feminine Hygiene Products*, 18-TC-01
Desert Sands Unified School District, Claimant

C. STATEWIDE COST ESTIMATES

1. *U Visa 918 Form, Victims of Crime: Nonimmigrant Status*, 17-TC-01
City of Claremont, Claimant

D. MANDATE REDETERMINATIONS

1. [Tentative] *High School Exit Examination (00-TC-06)*, 17-MR-01
Second Hearing – New Test Claim Decision
Department of Finance, Requester
2. *Academic Performance Index (01-TC-22)*, 18-MR-01
First Hearing – Adequate Showing
Department of Finance, Requester
3. [Tentative] *Academic Performance Index (01-TC-22)*, 18-MR-01
Second Hearing – New Test Claim Decision
Department of Finance, Requester
4. *Sexually Violent Predators (CSM-4509)*, 12-MR-01-R
PURSUANT TO COURT'S JUDGMENT AND WRIT COUNTY OF SAN DIEGO V. COMMISSION ON STATE MANDATES (2018) 6 CAL.5TH 196; JUDGMENT AND WRIT OF MANDATE ISSUED BY SAN DIEGO COUNTY SUPERIOR COURT, CASE NO.: 37-2014-00005050-CU-WM-CTL
Department of Finance, Requester

E. PARAMETERS AND GUIDELINES AMENDMENTS

1. [Tentative] *High School Exit Examination (00-TC-06)*, 17-MR-01
Department of Finance, Requester
2. [Tentative] *Academic Performance Index (01-TC-22)*, 18-MR-01
Department of Finance, Requester

F. INCORRECT REDUCTION CLAIMS

1. *Graduation Requirements*, 16-4435-I-56
Grossmont Union High School District, Claimant