

**ITEM 2**  
**Amendment to 2015 Hearing Transcripts**

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*RECEIVED*  
August 26, 2015  
*Commission on*  
*State Mandates*

**CORRECTED**

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:  
Daniel P. Feldhaus  
California Certified Shorthand Reporter #6949  
Registered Diplomat Reporter, Certified Realtime Reporter

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*[Corrected Appearance Page]*

**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 T. 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 JOHN CHIANG  
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)



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 23<sup>rd</sup>  
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 5<sup>th</sup> 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.)*

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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?

Commission on State Mandates – January 23, 2015

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*(No response)*

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

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

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

*(No response)*

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

MEMBER OLSEN: So moved.

MEMBER SAYLOR: Second.

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

All in favor?

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

CHAIR ORTEGA: Any opposed or abstentions?

*(No response)*

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

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

Please note that Item 9 has been postponed to the March 27<sup>th</sup>, 2015, hearing, at the request of the State Controller's Office.

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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 7<sup>th</sup>, 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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1 MS. HALSEY: Mr. Chivaro?

2 MEMBER CHIVARO: Aye.

3 MS. HALSEY: Ms. Olsen?

4 MEMBER OLSEN: Aye.

5 MS. HALSEY: Ms. Ortega?

6 CHAIR ORTEGA: Aye.

7 MS. HALSEY: Ms. Ramirez?

8 MEMBER RAMIREZ: Aye.

9 MS. HALSEY: Mr. Rivera?

10 MEMBER RIVERA: Aye.

11 MS. HALSEY: Mr. Saylor?

12 MEMBER SAYLOR: Aye.

13 CHAIR ORTEGA: Okay, the motion is adopted.

14 MR. PETERSEN: Thank you.

15 CHAIR ORTEGA: Thank you.

16 MS. HALSEY: Item 8 was on the consent

17 calendar.

18 Item 9 was postponed at the request of the

19 State Controller's Office.

20 And Items 10 through 14 were also on the

21 consent calendar.

22 Item 15 is reserved for county applications for

23 a finding of significant financial distress or SB 1033

24 applications.

25 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 15<sup>th</sup>.

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 7<sup>th</sup>, 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 28<sup>th</sup>, 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

Commission on State Mandates – January 23, 2015

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)

**Commission on State Mandates – January 23, 2015**

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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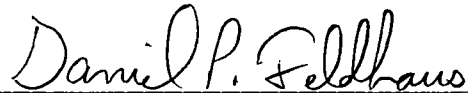
**REPORTER'S CERTIFICATE**

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 15<sup>th</sup> February 2015.



---

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



*RECEIVED*  
August 26, 2015  
*Commission on*  
*State Mandates*

**CORRECTED**

PUBLIC MEETING  
COMMISSION ON STATE MANDATES



TIME: 10:00 a.m.  
DATE: Friday, March 27, 2015  
PLACE: State Capitol, Room 447  
Sacramento, California



REPORTER'S TRANSCRIPT OF PROCEEDINGS



Reported by:  
Daniel P. Feldhaus  
California Certified Shorthand Reporter #6949  
Registered Diplomat Reporter, Certified Realtime Reporter

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*[Corrected Appearance Page]*

**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 T. 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 JOHN CHIANG  
State Treasurer

DON SAYLOR  
Yolo County Supervisor  
Local Agency Member



**COMMISSION STAFF PRESENT**

HEATHER A. HALSEY  
Executive Director  
*(Items 3, 15, and 18)*

JASON HONE  
Assistant Executive Director  
*(Items 16, 19, and 20)*

A P P E A R A N C E S

PARTICIPATING COMMISSION STAFF

*continued*

CAMILLE N. SHELTON  
Chief Legal Counsel  
*(Item 7 and Item 17)*

CARLA SHELTON  
Senior Legal Analyst  
*(Item 3 and Item 4)*

GINNY CHANDLER  
Senior Commission Counsel  
*(Item 8 and Item 9)*

MATTHEW B. JONES  
Commission Counsel  
*(Item 5 and 11)*

JULIA E. BLAIR  
Senior Commission Counsel



PUBLIC TESTIMONY

**Appearing Re Item 3:**

For Department of Finance:

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

DANIELLE BRANDON  
Budget Analyst  
Department of Finance  
915 L Street  
Sacramento, California 95814

A P P E A R A N C E S

PUBLIC TESTIMONY

**Appearing Re Item 4:**

For Department of Finance:

DONNA FEREBEE  
Legal Department  
Department of Finance

DANIELLE BRANDON  
Budget Analyst  
Department of Finance

**Appearing Re Item 5:**

For Department of Finance:

DONNA FEREBEE  
Legal Department  
Department of Finance

DANIELLE BRANDON  
Budget Analyst  
Department of Finance

**Appearing Re Item 7:**

For Claimant Los Rios Community College District:

SIGRID K. ASMUNDSON  
Best, Best & Krieger, LLP  
500 Capitol Mall, Suite 1700  
Sacramento, California 95814

A P P E A R A N C E S

PUBLIC TESTIMONY

**Appearing Re Item 7:**

For State Controller's Office:

SHAWN D. SILVA  
Staff Counsel  
State Controller's Office  
300 Capitol Mall, Suite 1850  
Sacramento, California 95815

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

**Appearing Re Item 8:**

For Claimant Foothill-De Anza Community College 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

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

A P P E A R A N C E S

PUBLIC TESTIMONY

**Appearing re Item 9:**

For Claimant Pasadena Area Community College District:

KEITH B. PETERSEN  
SixTen and Associates

For State Controller's Office:

JIM L. SPANO  
Chief, Mandated Cost Audits Bureau  
State Controller's Office

JIM VENNEMAN  
Audit Manager, Division of Audits  
State Controller's Office

**Appearing re Item 11:**

For Claimant Sierra Joint Community College District:

KEITH B. PETERSEN  
SixTen and Associates

For State Controller's Office:

JIM L. SPANO  
Chief, Mandated Cost Audits Bureau  
State Controller's Office

JIM VENNEMAN  
Audit Manager, Division of Audits  
State Controller's Office

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Commission on State Mandates – March 27, 2015

ERRATA SHEET

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**Commission on State Mandates – March 27, 2015**

1 BE IT REMEMBERED that on Friday, March 27,  
2 2015, commencing at the hour of 10:03 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 March 27<sup>th</sup>  
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 *(No response)*

15 MS. HALSEY: Ms. Olsen?

16 MEMBER OLSEN: Here.

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 – March 27, 2015**

1 CHAIR ORTEGA: Thank you.

2 And I think our first order of business is  
3 the minutes from the January 23<sup>rd</sup> meeting.

4 Are there any objections or corrections?

5 *(No response)*

6 CHAIR ORTEGA: Seeing none, do we have a motion  
7 on the minutes?

8 MEMBER OLSEN: So moved.

9 CHAIR ORTEGA: Moved by Ms. Olsen.

10 MEMBER RIVERA: I have the second.

11 CHAIR ORTEGA: Mr. Rivera seconds.

12 All in favor?

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

14 CHAIR ORTEGA: Any abstentions?

15 *(No response)*

16 CHAIR ORTEGA: The minutes are adopted  
17 unanimously.

18 MS. HALSEY: And now we can take up public  
19 comment for matters not on the agenda.

20 Please note the Commission cannot take action  
21 on items not on the agenda. However, it can schedule  
22 issues raised by the public for consideration at future  
23 meetings.

24 CHAIR ORTEGA: Okay, any general public  
25 comment?

Commission on State Mandates – March 27, 2015

1 (No response)

2 CHAIR ORTEGA: Seeing none, we'll move to the  
3 consent calendar.

4 MS. HALSEY: Next, we have a proposal to add  
5 Item 10, an incorrect reduction claim on *Health Fee*  
6 *Elimination* to the consent calendar. After the agenda  
7 for this hearing was issued, the parties agreed to place  
8 Item 10 on consent.

9 CHAIR ORTEGA: Any objections to adding Item 10  
10 to the consent calendar?

11 (No response)

12 CHAIR ORTEGA: Seeing none.

13 MS. HALSEY: The consent calendar consists of  
14 Items 6, 10, 12, 13, and 14.

15 CHAIR ORTEGA: Okay, any comments on any of the  
16 other consent items from the board?

17 (No response)

18 CHAIR ORTEGA: No?

19 Any public comment on any of the consent items?

20 (No response)

21 CHAIR ORTEGA: Okay, do we have a motion on the  
22 consent calendar?

23 MEMBER RAMIREZ: So moved.

24 MEMBER OLSEN: So moved -- second it.

25 CHAIR ORTEGA: Moved by Ms. Ramirez, second by

Commission on State Mandates – March 27, 2015

1 Ms. Olsen.

2 All in favor?

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

4 CHAIR ORTEGA: Any abstentions, objections?

5 *(No response)*

6 CHAIR ORTEGA: No?

7 The consent calendar is adopted unanimously.

8 MS. HALSEY: Okay, let's move to the Article 7  
9 portion of the hearing.

10 Will the parties and witnesses for Items 2, 3,  
11 4, 5, 7, 8, 9, and 11 please rise?

12 *(Parties and witnesses stood to be sworn  
13 or affirmed.)*

14 MS. HALSEY: Do you solemnly swear or affirm  
15 that the testimony which you are about to give is true  
16 and correct, based on your personal information,  
17 knowledge, or belief?

18 *(A chorus of affirmative responses was  
19 heard.)*

20 MS. HALSEY: Thank you.

21 Item 2 is reserved for appeals of Executive  
22 Director decisions. There are no appeals to consider  
23 under Item 2.

24 *(Mr. Chivaro entered the meeting room.)*

25 MS. HALSEY: Senior Legal Analyst Carla Shelton



Commission on State Mandates – March 27, 2015

1 will present Item 3, the mandate redetermination hearing  
2 on *CPR Pocket Masks*.

3 CHAIR ORTEGA: Thank you.

4 And for the record, Mr. Chivaro has joined us.  
5 Go ahead.

6 CARLA SHELTON: This is the second hearing of  
7 a mandate redetermination request to end the State's  
8 liability for the CPR Pocket Mask Program based on a  
9 subsequent change in law that removes the legal  
10 requirement for law-enforcement agencies to provide the  
11 portable manual masks and airway assembly.

12 Staff finds that the State's liability pursuant  
13 to Article XIII B, Section 6, of the California  
14 Constitution for the CPR Pocket Mask Program ends  
15 beginning July 1<sup>st</sup>, 2013; and recommends the Commission  
16 adopt this proposed decision as its new test-claim  
17 decision, ending reimbursement for the program beginning  
18 July 1<sup>st</sup>, 2013.

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

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

23 MS. BRANDON: Danielle Brandon, Department of  
24 Finance.

25 CHAIR ORTEGA: Any comments from Ms. Ferebee or

Commission on State Mandates – March 27, 2015

1 Ms. Brandon?

2 MS. BRANDON: No.

3 Finance concurs with staff.

4 Thank you.

5 CHAIR ORTEGA: Okay.

6 Any public comment on this item?

7 *(No response)*

8 CHAIR ORTEGA: Any questions or comments from  
9 the board members?

10 *(No response)*

11 CHAIR ORTEGA: Seeing none, is there a motion  
12 on Item 3?

13 MEMBER CHIVARO: I'll move staff  
14 recommendation.

15 CHAIR ORTEGA: Moved by Mr. Chivaro.

16 MEMBER ALEX: Second.

17 CHAIR ORTEGA: Second by Mr. Alex.

18 Would you call the roll?

19 MS. HALSEY: Mr. Alex?

20 MEMBER ALEX: Aye.

21 MS. HALSEY: Mr. Chivaro?

22 MEMBER CHIVARO: Aye.

23 MS. HALSEY: Ms. Olsen?

24 MEMBER OLSEN: Aye.

25 MS. HALSEY: Ms. Ortega?

Commission on State Mandates – March 27, 2015

1 CHAIR ORTEGA: Aye.

2 MS. HALSEY: Ms. Ramirez?

3 MEMBER RAMIREZ: Aye.

4 MS. HALSEY: Mr. Rivera?

5 MEMBER RIVERA: Aye.

6 MS. HALSEY: Mr. Saylor?

7 MEMBER SAYLOR: Aye.

8 MS. HALSEY: Thank you.

9 CHAIR ORTEGA: Okay, the motion is adopted.  
10 Number 4?

11 MS. HALSEY: Senior Legal Analyst Carla Shelton  
12 will present Item 4, the parameters and guidelines  
13 amendment on *CPR Pocket Masks*.

14 CARLA SHELTON: This is the proposed amendment  
15 to the parameters and guidelines for the CPR Pocket Mask  
16 Program to end reimbursement beginning July 1<sup>st</sup>, 2013.  
17 Staff recommends that the Commission adopt this proposed  
18 decision and amendment to the parameters and guidelines.

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

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

23 MS. BRANDON: Danielle Brandon, Department of  
24 Finance.

25 CHAIR ORTEGA: Go ahead.

Commission on State Mandates – March 27, 2015

1 MS. BRANDON: Finance concurs with staff on  
2 this item.

3 Thank you.

4 CHAIR ORTEGA: Okay, any questions or comments  
5 from the Commission?

6 *(No response)*

7 CHAIR ORTEGA: Any public comment on this item?

8 *(No response)*

9 CHAIR ORTEGA: Do we have a motion?

10 MEMBER OLSEN: So moved.

11 MEMBER CHIVARO: Second.

12 CHAIR ORTEGA: Moved by Ms. Olsen, second by  
13 Mr. Chivaro.

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?

Commission on State Mandates – March 27, 2015

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MEMBER RIVERA: Aye.

MS. HALSEY: Mr. Saylor?

MEMBER SAYLOR: Aye.

CHAIR ORTEGA: Motion carries.

MS. HALSEY: Moving on to Item 5, Commission Counsel Matt Jones will present the parameters and guidelines amendment on *Open Meetings Act, Brown Act Reform*.

MR. JONES: Good morning.

This amendment to parameters and guidelines ends reimbursement for the *Open Meetings Act, Brown Act Reform* mandates in accordance with the Commission's new test-claim decision. The Commission found at the last hearing, that they are no longer costs mandated by the state under the test-claim statutes pursuant to the adoption of Proposition 30 at the November 6<sup>th</sup>, 2012, General Election.

Staff recommends that the Commission adopt the proposed decision and amended parameters and guidelines, ending reimbursement liability for test-claim statutes as of November 7<sup>th</sup>, 2012, the effective date of Proposition 30.

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

MS. FEREBEE: Donna Ferebee, Department of

Commission on State Mandates – March 27, 2015

1 Finance.

2 MS. BRANDON: Danielle Brandon, Department of  
3 Finance.

4 And Finance concurs with staff on this item.

5 CHAIR ORTEGA: Okay. Any questions from the  
6 Commission?

7 *(No response)*

8 CHAIR ORTEGA: Any public comment on this item?

9 *(No response)*

10 MEMBER CHIVARO: Move staff recommendation.

11 CHAIR ORTEGA: Moved by Mr. Chivaro.

12 MEMBER RIVERA: I second.

13 MEMBER RAMIREZ: Second.

14 CHAIR ORTEGA: Seconded by Mr. Rivera.

15 Please call the roll.

16 MS. HALSEY: Mr. Alex?

17 MEMBER ALEX: Aye.

18 MS. HALSEY: Mr. Chivaro?

19 MEMBER CHIVARO: Aye.

20 MS. HALSEY: Ms. Olsen?

21 MEMBER OLSEN: Aye.

22 MS. HALSEY: Ms. Ortega?

23 CHAIR ORTEGA: Aye.

24 MS. HALSEY: Ms. Ramirez?

25 MEMBER RAMIREZ: Aye.

Commission on State Mandates – March 27, 2015

1 MS. HALSEY: Mr. Rivera?

2 MEMBER RIVERA: Aye.

3 MS. HALSEY: Mr. Saylor?

4 MEMBER SAYLOR: Aye.

5 CHAIR ORTEGA: Motion carries.

6 Item 6 was on the consent calendar, so we'll

7 move to Item 7.

8 MS. HALSEY: Chief Commission Counsel Camille  
9 Shelton will present Item 7, an incorrect reduction claim  
10 on *Health Fee Elimination*.

11 CAMILLE SHELTON: Good morning.

12 This incorrect reduction claim addresses the  
13 Controller's reduction of costs in fiscal years 1997-1998  
14 through 2001-2002.

15 Staff finds that the Controller timely  
16 conducted the audit within the deadlines imposed by  
17 Government Code section 17558.5.

18 Staff further finds that the Controller's  
19 reduction of costs, based on fee revenue authorized to be  
20 charged for the program, is correct, as a matter of law,  
21 and is not arbitrary, capricious, or entirely lacking in  
22 evidentiary support.

23 Since the authorized fee revenue exceeds the  
24 total amount claimed during the audit period, the  
25 proposed decision does not address the other substantive

Commission on State Mandates – March 27, 2015

1 issues raised by the claimant.

2 Staff recommends that the Commission adopt the  
3 proposed decision to deny this IRC.

4 Will the parties please state your names for  
5 the record?

6 MS. ASMUNDSON: Sigrid Asmundson on behalf of  
7 claimant, Los Rios Community College District.

8 MR. SILVA: Shawn Silva on behalf of the State  
9 Controller's Office.

10 MR. SPANO: Jim Spano, State Controller's  
11 Office.

12 CHAIR ORTEGA: Okay, go ahead.

13 MS. ASMUNDSON: The main question here is what  
14 exactly is the initiation date of the audit. What  
15 constitutes the initiation or commencement of an audit is  
16 incredibly subjective, as you can see from the proposed  
17 decision. Even across the state, different agencies have  
18 found that the initiation or commencement of an audit  
19 varies.

20 For example, the Division of Industrial  
21 Relations has adopted a regulation -- and for the record,  
22 that's 8 CCR, section 212.3, and 8 CCR, section 10107,  
23 which both state that the Division will provide notice  
24 14 days prior to the commencement of audit.

25 The Franchise Tax Board has a different



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1 interpretation of the initiation of an audit. They find  
2 that the initial audit contact for a field audit is  
3 defined as the date of the first meeting between the  
4 taxpayer and the Franchise Tax Board. For a desk audit,  
5 the initial audit contact is the date of the first letter  
6 to the taxpayer regarding the audit.

7 Additionally, as noted in the proposed  
8 decision, there's another interpretation of what the  
9 initiation of an audit is.

10 The Board of Equalization determines that the  
11 initiation from an audit is the audit engagement letter,  
12 which is used by the Board to confirm the initiation date  
13 of the audit.

14 So as you can see, there is no clear definition  
15 of what the initiation or commencement of an audit is.

16 Because the State Controller's Office has not  
17 adopted regulations as these other three agencies have,  
18 we can only look to the evidence in the record.

19 The evidence in the record, and specifically  
20 the December 23<sup>rd</sup>, 2002, letter reads "*As discussed  
21 during a telephone conversation on December 19th, 2002,  
22 SCO Auditor Mary Khoshmashrab will commence the audit of  
23 the subject programs on Thursday, January 16<sup>th</sup>, 2003,  
24 beginning with an entrance conference at 9:30 a.m.*"

25 The letter clearly states the initiation date

1 of this audit.

2           However, in the proposed decision, it states,  
3 on page 31, that the Commission has found that -- and I  
4 quote -- "That letter provides verification to a claimant  
5 that an audit is in progress."

6           That letter does not state that in any way. In  
7 fact, that letter states contrary to that finding.

8           Additionally, the January 16<sup>th</sup>, 2003, date was  
9 reiterated, and this is also noted in the proposed  
10 decision -- I'm sorry, let me find the page number --  
11 on page 22, on April 14<sup>th</sup>, 2006, in an affidavit of the  
12 Controller's Chief of the Compliance Audit Bureau, that  
13 the audit commenced on January 16<sup>th</sup>, 2003, and ended on  
14 March 11<sup>th</sup>, 2004.

15           So it has been stated twice by the State  
16 Controller's Office.

17           Without regulations by the State Controller's  
18 Office, there is no way to have a consistent policy. We  
19 can only look to the evidence in the record. However,  
20 in this case, the State Controller's Office, who  
21 unilaterally had the ability to state the initiation date  
22 of the audit, clearly did so in a letter to the claimant.

23           Not only that, as you can see on page 2 of the  
24 letter to the claimant, they cc'ed three members of the  
25 State Controller's Office.

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1           The letter was written by the audit manager,  
2 Chris Prasad. He cc'ed Mr. Spano; Ginny Brummels; and  
3 the auditor, Mary Khoshmashrab. This letter was dated  
4 December 23<sup>rd</sup>. Even with the holidays, even with  
5 weekends, those four members of the State Controller's  
6 Office had the ability to change their mind at any time  
7 prior to December 23<sup>rd</sup> as to the initiation date of the  
8 audit. They all received this letter prior to  
9 December 31<sup>st</sup>. None of them did so.

10           In fact, the State Controller's Office  
11 reiterated the January date in April of 2006.

12           The evidence in the record clearly shows that  
13 the State Controller's Office set the initiation of the  
14 audit as January 16<sup>th</sup>, 2003, after the statutory deadline  
15 of December 31<sup>st</sup>, 2002.

16           Therefore, we disagree with the proposed  
17 decision, and we find that the audit was not commenced  
18 in a timely manner.

19           CHAIR ORTEGA: Thank you.

20           Any questions at this point? Or do you want to  
21 go ahead and move on to the Controller's representative?

22           *(No response)*

23           CHAIR ORTEGA: Shall we move on?

24           Mr. Silva?

25           MR. SILVA: We believe that the question here

1 is a question of law and not a question of fact.

2 We're interpreting 17558.5, which sets forth  
3 the statutory limitations for when the Controller can  
4 initiate an audit, how long past a certain given  
5 condition, whether it's a claim filed or whether it's  
6 initial payment. That doesn't vary based on the facts of  
7 each situation.

8 We agree with the Commission staff on their  
9 conclusions that not only does the initiation letter  
10 from the Controller's Office provide a clear bright-line  
11 date that is verifiable by all participants, but it is  
12 also consistent with the general application of  
13 statute-of-limitations procedures in other fields of  
14 law -- civil, criminal, and administrative -- as we  
15 pointed out in our comments.

16 We believe that the arguments by opposing  
17 party, the claimant, are focusing on the procedural  
18 question for auditors of setting up a date when they're  
19 going to show up at the claimant's offices.

20 For the Controller -- for the auditors to focus  
21 back on a date that's already occurred, when the real  
22 question for them is, when are we going to be there?  
23 When are we going to show up at your offices? They're  
24 talking about the commencement of the field portion of  
25 the audit, which is when they actually show up, conduct

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1 the entrance examination, and then proceed with looking  
2 at the documents.

3 So we don't believe that that factual  
4 distinction should alter the question-of-law analysis  
5 that the staff did, which I reiterate, we agree with.  
6 It should be the audit entrance letter.

7 CHAIR ORTEGA: Anything else, Mr. Spano? No?

8 MR. SPANO: No further comments.

9 CHAIR ORTEGA: Okay, any questions or comments  
10 from Commission Members?

11 Go ahead.

12 MEMBER SAYLOR: So I am sensitive to the kind  
13 of continued jeopardy that exists for local governments  
14 when there is a requirement that there is a statement of  
15 the time required for an audit to be commenced, and the  
16 uncertainty about what the initiating action for the  
17 audit is. I think that's a valid concern, and it would  
18 be helpful to have some clarity on that.

19 So what's your assessment of that?

20 CAMILLE SHELTON: Well, we had a tough time on  
21 this issue, and we did switch positions between the  
22 draft analysis that went out and the final proposed  
23 statement of decision.

24 Let me first say that I don't think it's  
25 strictly a question of law, as Mr. Silva is suggesting.

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1 Because the Legislature has not defined what the event is  
2 that initiates the audit, they've left it up to the  
3 Controller to make that decision. And other State  
4 agencies, as the claimant has identified, have adopted  
5 regulations to identify for local government when that  
6 action actually occurs. So here, we don't have  
7 regulations.

8 In the record itself, we've got, like, three  
9 or four different positions from the State Controller's  
10 Office, with different arguments and different positions.

11 Initially, when the draft went out, we agreed  
12 with the claimant's position that the letter does say,  
13 "We will commence the audit on January 16<sup>th</sup>, 2003."

14 Coming back from that and looking at the  
15 statute, 17558.5, a little closer, its purpose, is to --  
16 it made us change our mind, in looking at the law on the  
17 statute of limitations and the statutes of repose. And  
18 in that case, the limitation is imposed only on the one  
19 entity, which is the State Controller's Office.

20 So typically, with those types of statutes, you  
21 need some sort of verifiable event from the one entity  
22 that does show when the review or when the audit does  
23 begin.

24 In this particular case, the Controller did  
25 file a declaration from the audit manager, indicating

1 that the review of the file actually occurred before that  
2 date. You still need a verifiable notice provided to the  
3 claimant.

4 Here, we do have in this case the letter dated  
5 December 23<sup>rd</sup>. It was received January 2<sup>nd</sup>, which is  
6 after the deadline, technically; but using the official  
7 notice, you can see that it was mailed before that date  
8 based on the evidence in the record.

9 And the fact that the claimant here had actual  
10 notice of the audit on December 19<sup>th</sup>, through phone  
11 calls, through her notes, all of which are in this  
12 record.

13 So under a statute-of-repose theory, which  
14 suggests that, you know, the Controller has a deadline  
15 to do something after which, if they don't meet that  
16 deadline, the claimant can get rid of the records, can  
17 make these defenses, would not have occurred because they  
18 did have actual notice that an audit was going to occur  
19 before the deadline occurred.

20 So in this particular case, based on the  
21 evidence in this particular case, the letter is a  
22 verifiable event. That does, in our opinion, start the  
23 initiation of the audit.

24 But it is a close call. And we have both  
25 positions in this analysis.

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1 MEMBER SAYLOR: Follow-up?

2 CHAIR ORTEGA: Yes.

3 MEMBER SAYLOR: So are there different  
4 interpretations of when the commencement of an audit --  
5 there are?

6 CAMILLE SHELTON: Well, in this analysis, we  
7 say it's reasonable to say that an initiation could be a  
8 phone call, which is not verifiable, but a letter or an  
9 entrance conference.

10 And as Ms. Asmundson suggested, there are  
11 different agencies that perform audits and they do adopt  
12 regulations to say, through the regulatory process, this  
13 is the event that initiates the audit.

14 And here, we don't have anything, so --

15 MEMBER SAYLOR: The Controller doesn't have a  
16 regulation of that sort?

17 CAMILLE SHELTON: No, no.

18 And, again, in this record alone, there are  
19 three or four different positions from the Controller's  
20 office on when the audit was initiated.

21 So, you know, the current position is the  
22 position Mr. Silva is articulating.

23 And it is, we believe, a defensible, most  
24 reasonable analysis based on what statutes of limitation  
25 and statutes of repose generally require.



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1 But it's a tough call.

2 MEMBER OLSEN: So I have a question for  
3 Mr. Spano; and that is, why doesn't the Controller's  
4 office have regulations on this issue? Is it that you'd  
5 have to have so many different regulations, or you want  
6 the wiggle room of not having regulations?

7 It seems like this would be the kind of thing  
8 that you would have a regulation on.

9 MR. SPANO: You know, the issue of adopting  
10 regulation for the initiating had not really come up  
11 until recently right now. So it hasn't really been an  
12 issue in our office right now. But I'm hoping that the  
13 decision made of the Commission will set forth decision  
14 from this point on.

15 CAMILLE SHELTON: Well, let me just clarify  
16 that it can't, because we don't have any regulations or  
17 anything in the parameters and guidelines or any statute  
18 that identifies the triggering event.

19 So from here -- if the facts remain the same  
20 throughout, it's going to be based on a case-by-case  
21 basis. You have no idea what it's going to be until you  
22 see the file.

23 CHAIR ORTEGA: Ms. Ramirez had a question.

24 MEMBER RAMIREZ: I have a question about, if  
25 we were to accept the claimant's position, what would be

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1 the precedential value? It's just the facts are all over  
2 the place here, it seems.

3 CAMILLE SHELTON: I think each IRC has its own  
4 record.

5 You know, we do have another item on the agenda  
6 which presents similar facts.

7 I'm not sure -- and Matt can articulate this  
8 more when that item comes up -- but I do think that  
9 letter also said, "We will commence the audit," right, at  
10 the entrance conference?

11 So far, we know of only two cases that we have  
12 with this issue.

13 So the Commission has to not be arbitrary in  
14 its decision-making. So you do have to -- the same  
15 thought process and reasoning has to be applied each time  
16 out.

17 MS. HALSEY: But it's not precedential.

18 CAMILLE SHELTON: But it's not precedential;  
19 but, yes, you're subjecting yourself to litigation if you  
20 switch legal positions.

21 MEMBER RAMIREZ: Because it just seems -- I  
22 just have kind of the sensation, it seems unfair, so..

23 CHAIR ORTEGA: Mr. Alex?

24 MEMBER ALEX: So the parties have laid out the  
25 issue well, and as did the staff opinion.

1           And as you say, it's a close question.

2           I guess my observation is that this is about  
3 protection of two concepts here. And one is that the  
4 audit go forward in a given time frame, and it gives some  
5 certainty to the party being potentially audited. But  
6 it is also the case that the letter was sent in a timely  
7 fashion. And the whole point is to give notice to the  
8 potential auditee so they know not to destroy records.

9           And, to me, there's an arbitrariness to  
10 statutes of limitations as well. We understand why they  
11 exist. And I think that the purpose of it is served here  
12 by the letter having gone out before the time ran.

13           CHAIR ORTEGA: I want to just ask a question,  
14 Camille.

15           Could a district, after having received the  
16 letter and the entrance conference not being until after  
17 the two-year period, say, "We're not going to provide the  
18 records? We think you're..."?

19           So rather than wait until the findings, to  
20 challenge the findings and the time-bar issue, could they  
21 reject the audit at the beginning?

22           CAMILLE SHELTON: You know, they can try to do  
23 that. That would be a little bit dangerous.

24           If I were them, I would probably raise the  
25 issue and just say, "This is void because it's too late;

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1 but we'll go ahead with the process," and maybe you  
2 challenge it at the same time.

3 But it is a close call.

4 CHAIR ORTEGA: Yes.

5 CAMILLE SHELTON: I mean -- like I said, they  
6 have been put on notice. They had actual notice based  
7 on the declaration of the claimant's finance manager and  
8 based on her own records, they had actual notice.

9 So, yes, it's tough.

10 And during that time period, you know, the  
11 statutes were a little -- you know, you had the  
12 end-of-the-calendar-year requirement to start the audit.  
13 So that was always at the end of December, which is a  
14 difficult period for any local government entity, right,  
15 where a lot of people are out of office. So if phone  
16 calls and letters are being issued during that time, it's  
17 a hard time to get things going.

18 You know, those rules have changed now based  
19 on actual filing date of reimbursement claims. So it's  
20 not the same anymore. It's not always at the end of  
21 December anymore.

22 CHAIR ORTEGA: Right.

23 Ms. Olsen, did you have another comment?

24 MEMBER OLSEN: I'm fine.

25 CHAIR ORTEGA: Any other comments from

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1 commissioners?

2 (No response)

3 CHAIR ORTEGA: Is there any additional public  
4 comment on this item?

5 (No response)

6 CHAIR ORTEGA: Okay, seeing none.

7 MEMBER CHIVARO: I'll move staff  
8 recommendation.

9 CHAIR ORTEGA: Okay, moved by Mr. Chivaro.

10 MEMBER ALEX: Second.

11 CHAIR ORTEGA: Second by Mr. Alex.

12 Please call the roll.

13 MEMBER SAYLOR: May I --

14 MS. HALSEY: Mr. Alex?

15 MR. SAYLOR: Wait --

16 CHAIR ORTEGA: Yes? Go ahead.

17 MEMBER SAYLOR: I think Ken did a -- Mr. Alex  
18 did a really good job of describing how the issues come  
19 to bear. And I think there is a value in fairness and a  
20 value in predictability for local governments in this  
21 kind of a case.

22 I'm a representative of local government; and  
23 I will tell you that it is very challenging to not know  
24 when the next audit might happen, and to hold records for  
25 long periods of time. People leave employment. We don't

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1 know if it's -- so just in reality, in practical terms,  
2 it's very challenging to have this. And to have  
3 different state agencies -- multiple state agencies have  
4 different interpretations of when these things start,  
5 makes it even more challenging.

6 So I'm real -- I'm swayed by that.

7 But the notices that happened between the phone  
8 call and the letter did come in time for a reasonable  
9 expectation that the District would have understood that  
10 an audit was going to take place.

11 I really hope that before another issue of this  
12 sort comes along, the Controller does have a more clear  
13 regulation or policy on what initiates an audit.

14 So I'm not happy about having to vote for the  
15 staff recommendation, but I think that's the right course  
16 of action here.

17 CHAIR ORTEGA: Any further comments?

18 *(No response)*

19 CHAIR ORTEGA: Okay, please call the roll.

20 MS. HALSEY: Mr. Alex?

21 MEMBER ALEX: Aye.

22 MS. HALSEY: Mr. Chivaro?

23 MEMBER CHIVARO: Aye.

24 MS. HALSEY: Ms. Olsen?

25 MEMBER OLSEN: Aye.

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1 MS. HALSEY: Ms. Ortega?

2 CHAIR ORTEGA: Aye.

3 MS. HALSEY: Ms. Ramirez?

4 MEMBER RAMIREZ: No.

5 MS. HALSEY: Mr. Rivera?

6 MEMBER RIVERA: Aye.

7 MS. HALSEY: Mr. Saylor?

8 MEMBER SAYLOR: Aye.

9 CHAIR ORTEGA: The motion carries.

10 Item 8?

11 MS. HALSEY: Senior Commission Counsel Ginny  
12 Chandler will present Item 8, an incorrect reduction  
13 claim on *Health Fee Elimination*.

14 MS. CHANDLER: I just killed my microphone.

15 This incorrect reduction claim addresses the  
16 following issues: The statutory deadlines applicable to  
17 the audit of the 1999-2000 and 2000-2001 reimbursement  
18 claims. The reduction in salary and benefit costs, the  
19 reduction in service and supply costs, reduction in costs  
20 claimed based upon claimant's development and application  
21 of its indirect cost rates, and the amount of offsetting  
22 revenue to be applied from the health service fee  
23 authority.

24 Staff recommends that the Commission partially  
25 approve this IRC. The Controller's reduction of costs

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1 by \$30,527 for student accident insurance in fiscal year  
2 1999-2000 is incorrect since the costs are adequately  
3 supported by source documents for that fiscal year.

4 Staff recommends that the Commission request  
5 that the Controller reinstate this amount. However, the  
6 remaining reductions are correct as a matter of law, and  
7 are not arbitrary, capricious, or entirely lacking in  
8 evidentiary support.

9 Therefore, staff recommends that the Commission  
10 adopt the proposed decision, partially approving this  
11 IRC.

12 Will the parties and witnesses please state  
13 your names for the record?

14 MR. PETERSEN: Keith Petersen, representing the  
15 District.

16 MR. VENNEMAN: Jim Venneman, State Controller's  
17 Office.

18 MR. SPANO: Jim Spano, State Controller's  
19 Office.

20 CHAIR ORTEGA: Thank you.

21 Mr. Petersen?

22 MR. PETERSEN: No additional comments at this  
23 time. Thank you.

24 CHAIR ORTEGA: Okay, Mr. Venneman or Mr. Spano?

25 MR. VENNEMAN: The Controller's Office concurs



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1 with staff's finding and recommendation.

2 CHAIR ORTEGA: Okay, any questions or comments  
3 from the Commission?

4 *(No response)*

5 CHAIR ORTEGA: Seeing none, is there any public  
6 comment on this item?

7 *(No response)*

8 CHAIR ORTEGA: Okay, we'll take a motion.

9 MEMBER RAMIREZ: Move to approve.

10 CHAIR ORTEGA: Moved by Ms. Ramirez.

11 MEMBER RIVERA: Second.

12 CHAIR ORTEGA: Second by Mr. Rivera.

13 Please call the roll.

14 MS. HALSEY: Mr. Alex?

15 MEMBER ALEX: Aye.

16 MS. HALSEY: Mr. Chivaro?

17 MEMBER CHIVARO: Aye.

18 MS. HALSEY: Ms. Olsen?

19 MEMBER OLSEN: Aye.

20 MS. HALSEY: Ms. Ortega?

21 CHAIR ORTEGA: Aye.

22 MS. HALSEY: Ms. Ramirez?

23 MEMBER RAMIREZ: Aye.

24 MS. HALSEY: Mr. Rivera?

25 MEMBER RIVERA: Aye.

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1 MS. HALSEY: Mr. Saylor?

2 MEMBER SAYLOR: Aye.

3 CHAIR ORTEGA: The motion carries.

4 Thank you.

5 Item 9?

6 MS. HALSEY: Senior Commission Counsel Ginny  
7 Chandler will present Item 9, an incorrect reduction  
8 claim on *Health Fee Elimination*.

9 MS. CHANDLER: This incorrect reduction claim  
10 addresses the following issues: The statutory deadlines  
11 applicable to the audit of the 1999-2000 and 2000-2001  
12 reimbursement claims. Reduction in costs claimed based  
13 upon claimant's development and application of its  
14 indirect cost rates, and the amount of offsetting revenue  
15 to be applied from the health service fee authority.

16 Staff finds that the Controller timely audited  
17 claimant's reimbursement claims. Staff further finds  
18 that the Controller's reduction of costs is correct as a  
19 matter of law and not arbitrary, capricious, or entirely  
20 lacking in evidentiary support.

21 Staff recommends that the Commission adopt the  
22 proposed decision denying this IRC.

23 Will the parties and witnesses please state  
24 your names for the record?

25 MR. PETERSEN: Keith Petersen for the District.

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1 MR. VENNEMAN: Jim Venneman, State Controller's  
2 Office.

3 MR. SPANO: Jim Spano, State Controller's  
4 Office.

5 CHAIR ORTEGA: Thank you.

6 Mr. Petersen?

7 MR. PETERSEN: No additional comments at this  
8 time.

9 MR. VENNEMAN: Controller's office concurs with  
10 staff's finding and recommendation.

11 CHAIR ORTEGA: Okay. Any comments from the  
12 Commissioners on this one?

13 *(No response)*

14 MEMBER CHIVARO: Move staff recommendation.

15 MEMBER OLSEN: I'll second.

16 CHAIR ORTEGA: Motion by Mr. Chivaro; second by  
17 Mr. Olsen.

18 Any public comment on this item?

19 *(No response)*

20 CHAIR ORTEGA: Seeing none, please call the  
21 roll.

22 MS. HALSEY: Mr. Alex?

23 MEMBER ALEX: Aye.

24 MS. HALSEY: Mr. Chivaro?

25 MEMBER CHIVARO: Aye.

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1 MS. HALSEY: Ms. Olsen?

2 MEMBER OLSEN: Aye.

3 MS. HALSEY: Ms. Ortega?

4 CHAIR ORTEGA: Aye.

5 MS. HALSEY: Ms. Ramirez?

6 MEMBER RAMIREZ: Aye.

7 MS. HALSEY: Mr. Rivera?

8 MEMBER RIVERA: Aye.

9 MS. HALSEY: Mr. Saylor?

10 MEMBER SAYLOR: Aye.

11 MS. HALSEY: Thank you.

12 CHAIR ORTEGA: The motion carries.

13 Item 10 was on the Consent Calendar.

14 So Item 11?

15 MS. HALSEY: Commission Counsel Matt Jones  
16 will present Item 11, an incorrect reduction claim on  
17 *Collective Bargaining and Collective Bargaining Agreement*  
18 *Disclosure*.

19 MR. JONES: The proposed decision for this  
20 incorrect reduction claim finds that the audit was timely  
21 initiated but not timely completed in accordance with  
22 section 17558.5.

23 Because the audit was not timely completed,  
24 it is void and the Commission need not consider the  
25 remaining incorrect reductions alleged. Therefore, staff

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1 recommends that the Commission adopt the decision to  
2 approve the incorrect reduction claim.

3 Will the parties and witnesses please state  
4 your names for the record?

5 MR. PETERSEN: Keith Petersen, representing the  
6 District.

7 MR. SILVA: Shawn Silva, State Controller's  
8 Office.

9 MR. SPANO: Jim Spano, State Controller's  
10 Office.

11 CHAIR ORTEGA: Okay, Mr. Petersen?

12 MR. PETERSEN: We won. No additional comments  
13 at this time.

14 CHAIR ORTEGA: Mr. Silva?

15 MR. SILVA: The State Controller's Office  
16 concurs with the staff's recommendation.

17 CHAIR ORTEGA: Okay, any comments from the  
18 Commission?

19 *(No response)*

20 CHAIR ORTEGA: Okay, any public comment on this  
21 item?

22 *(No response)*

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

24 MEMBER RAMIREZ: I'll move to approve.

25 CHAIR ORTEGA: Moved by Ms. Ramirez.

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1 MEMBER RIVERA: Second.

2 CHAIR ORTEGA: Second by Mr. Rivera.

3 Please call the roll.

4 MS. HALSEY: Mr. Alex?

5 MEMBER ALEX: Aye.

6 MS. HALSEY: Mr. Chivaro?

7 MEMBER CHIVARO: Aye.

8 MS. HALSEY: Ms. Olsen?

9 MEMBER OLSEN: Aye.

10 MS. HALSEY: Ms. Ortega?

11 CHAIR ORTEGA: Aye.

12 MS. HALSEY: Ms. Ramirez?

13 MEMBER RAMIREZ: Aye.

14 MS. HALSEY: Mr. Rivera?

15 MEMBER RIVERA: Aye.

16 MS. HALSEY: Mr. Saylor?

17 MEMBER SAYLOR: Aye.

18 CHAIR ORTEGA: Okay, that motion carries.

19 Items 12, 13, 14 were consent.

20 MS. HALSEY: Item 15 is reserved for county

21 applications for a finding of significant financial

22 distress or SB-1033 applications. No SB-1033

23 applications have been filed.

24 Assistant Executive Director Jason Hone will

25 present Item 16, the Legislative Update.

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MR. HONE: Good morning.

Commission staff is monitoring two new bills that include language to amend Government Code section 17581.6, which is the Education Mandate Block Grant.

The first of those bills, AB 575, was introduced by Assembly Member O'Donnell on February 24<sup>th</sup>, and has been referred to the Education Committee.

This bill proposes, as of July 1, 2018, to add the best-practices teacher evaluation system to the state-mandated local programs supported by the block grant. Thus, if enacted, this bill would create a legislatively determined mandate funded through the education block grant.

The second new bill, AB 731, was introduced by Assembly Member Gallagher on February 25<sup>th</sup>. It proposes amendments to many different code sections and is described as the Legislative Counsel's digest as relating to the maintenance of the codes. The bill proposes a minor change under the education block grant, but may be amended in the future to propose substantive changes to this code section.

The bill is currently in the Assembly Judiciary Committee, and staff will continue to monitor the legislation.

CHAIR ORTEGA: Any questions on the legislative

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1 update?

2 (No response)

3 CHAIR ORTEGA: No?

4 MS. HALSEY: Chief Legal Counsel Camille  
5 Shelton will present Item 17, the Chief Legal Counsel  
6 report.

7 CAMILLE SHELTON: Since the last Commission  
8 meeting, we do have one new filing, filed by Paradise  
9 Irrigation District, challenging the Commission's test  
10 claim decision on *Water Conservation*. And that's pending  
11 in the Sacramento County Superior Court.

12 We do have a decision issued by Sacramento  
13 Superior Court on the *Clovis Unified School District*  
14 case, which challenged the Commission's decision on the  
15 IRCs for *Graduation Requirements*. And the Court denied  
16 the petition for writ of mandate there, agreeing with the  
17 Commission's interpretation of 17558.5, that "subject to  
18 audit" means initiation of the audit.

19 You can see a whole host of calendaring of  
20 hearing dates in April and June.

21 There has been a switch of the calendar date  
22 for the *Public Guardian* case, which is now April 30<sup>th</sup>  
23 instead of April 16<sup>th</sup>. This is hearing number two on  
24 that matter.

25 And in addition, if you recall the Santa



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1 Clarita Valley Sanitation District had challenged the  
2 Commission's decision on Upper Chloride. They lost their  
3 petition -- denied petition for writ of mandate, and they  
4 never did file an appeal, so that is a final decision.

5 CHAIR ORTEGA: Okay.

6 MS. HALSEY: Item 18 is the Executive  
7 Director's report.

8 So, so far this year, we've completed five test  
9 claims, two parameters and guidelines, four parameters  
10 and guidelines amendments, seven statewide cost  
11 estimates, two-and-a-half mandate redeterminations, and  
12 19 incorrect reduction claims.

13 We are working pretty well through our backlog  
14 reduction. We only have 59 remaining IRCs. And we have,  
15 of our test claims remaining, we have 13, and one of  
16 those is tentatively set for July because it was just  
17 amended. Otherwise, it would have been set for next  
18 hearing. And all the others are on hold, pending the  
19 outcome of the Supreme Court case on *NPDES Permits*.

20 CHAIR ORTEGA: Okay, any questions?

21 MS. HALSEY: And also, I wanted to mention --  
22 Julia, I wasn't going to put you on the spot -- but we  
23 have a new Senior Commission Counsel, Julia Blair, who  
24 is here in the audience today. She'll be starting next  
25 week with us.

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1           And Ms. Blair has significant experience in  
2 higher-education law and policy, and environmental law  
3 and policy. And she comes to the Commission from the  
4 Community Colleges Chancellor's office. And prior to  
5 that, she served as senior staff counsel at the  
6 California Energy Commission, and as staff counsel and  
7 legislative director for the California Postsecondary  
8 Education Commission. And she also worked at Kronick,  
9 where she worked on CEQA and water-law issues.

10           I think she's going to be a wonderful asset to  
11 our office.

12           CHAIR ORTEGA: Great. Welcome.

13           MEMBER RAMIREZ: Welcome.

14           MEMBER OLSEN: Welcome.

15           MS. BLAIR: Thank you.

16           MS. HALSEY: Also, before we adjourn for  
17 closed-session, I'd like to present Jason Hone with a  
18 resolution, commemorating his contributions and efforts  
19 as Assistant Executive Director for the Commission on  
20 State Mandates.

21           Jason has accepted a senior management position  
22 at the DMV headquarters, in their Field Operations  
23 Division; and his last day with the Commission will be on  
24 April 3<sup>rd</sup>.

25           All of us here are grateful to work with such

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1 a hard-working and dedicated individual, and we will  
2 surely miss him.

3 Please join me in congratulating Jason, and  
4 wishing him the best of luck in the future.

5 (Applause)

6 MS. HALSEY: *Whereas, Jason Hone has*  
7 *distinguished himself as Assistant Executive*  
8 *Director of the Commission on State Mandates;*  
9 *and*

10 *Whereas, he has provided expert assistance*  
11 *to cities, counties, school districts, and*  
12 *state agencies, to navigate the mandates*  
13 *process; and*

14 *Whereas, he has efficiently managed the*  
15 *development and implementation of an Internet*  
16 *system for storing and retrieving contact*  
17 *records and caseload data; and*

18 *Whereas, Mr. Hone has successfully and*  
19 *effectively directed the overhaul of the*  
20 *Commission's Web site to produce a*  
21 *user-friendly, comprehensive directory;*  
22 *and*

23 *Whereas, he has directed his staff in*  
24 *updating the electric filing process of all*  
25 *mandate-related documents, and in preparing,*

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1           *uploading, and downloading all Commission*  
2           *hearing binders electronically, thereby*  
3           *saving the state and local governments money*  
4           *and reducing the effect on the environment;*  
5           *and*

6           *Whereas, Jason Hone is being honored by*  
7           *the members and staff of the Commission on*  
8           *State Mandates in appreciation of his*  
9           *outstanding dedication, leadership, and*  
10          *service to the state of California.*

11          *Now, therefore, be it resolved, that*  
12          *the Commission on State Mandates warmly*  
13          *congratulates Jason Hone upon his new*  
14          *position in the Field Operations Division*  
15          *of the Department of Motor Vehicles, where*  
16          *he will transition from mandates to license*  
17          *plates, and parameters and guidelines to*  
18          *notoriously long lines.*

19          *This 27<sup>th</sup> day of March, 2015, County of*  
20          *Sacramento, State of California, in witness*  
21          *thereof, by the Commission on State Mandates.*

22                    *(Applause)*

23            MR. HONE: I just want to thank my colleagues  
24            and the Members. It's been a really terrific couple  
25            years; and I've learned quite a bit. And I think I've

**Commission on State Mandates – March 27, 2015**

1 made some lasting relationships. And it's been a  
2 pleasure. It's been challenging at times, certainly.  
3 I think that we've all accomplished a lot. I'm very  
4 proud of my time here.

5 And thank you to everybody who helped make our  
6 success happen. Thank you.

7 MS. HALSEY: Thank you.

8 CHAIR ORTEGA: Thank you.

9 MEMBER RAMIREZ: Best wishes.

10 CHAIR ORTEGA: All right, seeing no other items  
11 to come before us in open session, we will now adjourn to  
12 closed session.

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

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

22 We will reconvene in about 15 minutes.

23 Thank you, everyone.

24 *(The Commission met in closed executive*  
25 *session from 10:41 a.m. to 11:03 a.m.)*

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1 CHAIR ORTEGA: Okay, we will reconvene in open  
2 session.

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

12 Mr. Hone will present Item 19 to us.

13 MR. HONE: Thank you.

14 The Chief Legal Counsel position is established  
15 at a CEA level B. Ms. Shelton was appointed to her  
16 current position on December 9, 2005. Ms. Shelton's  
17 current monthly salary is below the maximum salary for  
18 incumbents whose duties require membership in the State  
19 Bar of California.

20 State policy provides that the annual salary  
21 movement for CEAs shall not exceed 5 percent in any  
22 12 months. Because the statewide salary increase of  
23 2.5 percent is proposed for July 1, 2015, the Commission  
24 may increase Ms. Shelton's salary by up to 2.5 percent.

25 The Commission may take action to adjust the

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1 Chief Legal Counsel's salary by designating an adjustment  
2 amount and effective date. Staff would then submit the  
3 request to Cal HR.

4 CHAIR ORTEGA: Any comments from the board  
5 members?

6 *(No response)*

7 CHAIR ORTEGA: Any public comment on this item?

8 *(No response)*

9 CHAIR ORTEGA: Seeing no public, I'll take a  
10 motion.

11 MEMBER CHIVARO: I'll move to adjust the chief  
12 counsel's salary by 2.5 percent effective July 1, 2015.

13 MEMBER OLSEN: Second it.

14 CHAIR ORTEGA: Moved by Mr. Chivaro, second by  
15 Ms. Olsen.

16 I think we can just say --

17 MR. HONE: I can call the roll.

18 CHAIR ORTEGA: Okay, go ahead.

19 MR. HONE: Mr. Alex?

20 MEMBER ALEX: Aye.

21 MR. HONE: Mr. Chivaro?

22 MEMBER CHIVARO: Aye.

23 MR. HONE: Ms. Ramirez?

24 MEMBER RAMIREZ: Aye.

25 MR. HONE: Mr. Rivera?

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1 MEMBER RIVERA: Aye.

2 MR. HONE: Ms. Ortega?

3 CHAIR ORTEGA: Aye.

4 MR. HONE: Ms. Olsen?

5 MEMBER OLSEN: Aye.

6 MR. HONE: Mr. Saylor?

7 MEMBER SAYLOR: Aye.

8 CHAIR ORTEGA: Okay, motion carries.

9 Item 20.

10 MR. HONE: The Executive Director position is  
11 established at level D of the exempt salary schedule.

12 Ms. Halsey was appointed on March 23<sup>rd</sup>, 2012.  
13 Since Ms. Halsey's salary level is below the maximum  
14 salary of exempt level D, she is eligible for a salary  
15 adjustment effective on her appointment anniversary date  
16 upon the approval of the Commission.

17 The Commission may approve an increase of  
18 approximately 2.49 percent to the maximum exempt level D  
19 salary effective on her anniversary date of March 23<sup>rd</sup>,  
20 2015.

21 CHAIR ORTEGA: Any comments from the  
22 Commission?

23 *(No response)*

24 CHAIR ORTEGA: Any public comment?

25 *(No response)*



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CHAIR ORTEGA: Is there a motion?

MEMBER CHIVARO: I'll move that the salary be adjusted by 2.49 percent effective March 23<sup>rd</sup>, 2015.

MS. OLSEN: I'll second.

CHAIR ORTEGA: Seconded by Ms. Olsen.

MR. HONE: I'll call roll.

Mr. Alex?

MEMBER ALEX: Aye.

MR. HONE: Mr. Chivaro?

MEMBER CHIVARO: Aye.

MR. HONE: Ms. Ramirez?

MEMBER RAMIREZ: Aye.

MR. HONE: Mr. Rivera?

MEMBER RIVERA: Aye.

MR. HONE: Ms. Ortega?

CHAIR ORTEGA: Aye.

MR. HONE: Ms. Olsen?

MEMBER OLSEN: Aye.

MR. HONE: Mr. Saylor?

MEMBER SAYLOR: Aye.

*(Applause)*

MEMBER RAMIREZ: I have a comment.

CHAIR ORTEGA: Sure. Ms. Ramirez?

MEMBER RAMIREZ: In this time when many members of the public like to bemoan public service, I want to

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1 congratulate you and thank you two, as well as Mr. Hone,  
2 Ms. Palchik here, and really, everybody here. It's just  
3 people don't really perhaps know what sacrifice and  
4 effort it really is; and I appreciate it on behalf of the  
5 people of the state of California.

6 MS. OLSEN: Hear, hear.

7 MR. HONE: Thank you.

8 CHAIR ORTEGA: Absolutely.

9 Thank you.

10 Okay, any other comments and any public  
11 comment?

12 *(No response)*

13 CHAIR ORTEGA: No?

14 With that, we'll be adjourned.

15 MEMBER RAMIREZ: Thank you.

16 MR. HONE: Thank you.

17 *(The meeting concluded at 11:08 a.m.)*

18 --oOo--

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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 19<sup>th</sup> April 2015.



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

**RECEIVED**  
August 26, 2015  
*Commission on  
State Mandates*

**CORRECTED**

PUBLIC MEETING  
COMMISSION ON STATE MANDATES



TIME: 10:00 a.m.  
DATE: Friday, May 29, 2015  
PLACE: State Capitol, Room 447  
Sacramento, California



REPORTER'S TRANSCRIPT OF PROCEEDINGS



Reported by:  
Daniel P. Feldhaus  
California Certified Shorthand Reporter #6949  
Registered Diplomat Reporter, Certified Realtime Reporter

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*[Corrected Appearance Page]*

**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 T. YEE  
State Controller  
*(Vice Chair of the Commission)*

SCOTT MORGAN  
Representative for KEN ALEX  
Director  
Office of Planning & Research

SARAH OLSEN  
Public Member

M. CARMEN RAMIREZ  
Oxnard City Council Member

ANDRÉ RIVERA  
Representative for JOHN CHIANG  
State Treasurer

DON SAYLOR  
Yolo County Supervisor  
Local Agency Member



**COMMISSION STAFF PRESENT**

HEATHER A. HALSEY  
Executive Director  
*(Items 3, 6, and 9)*

HEIDI PALCHIK  
Assistant Executive Director  
*(Item 7)*

A P P E A R A N C E S

PARTICIPATING COMMISSION STAFF

*continued*

CAMILLE N. SHELTON  
Chief Legal Counsel  
(Item 8)

ERIC FELLER  
Senior Commission Counsel  
(Item 5)

IMRAN MAJID  
Student Assistant  
(Item 3)



PUBLIC TESTIMONY

**Appearing re Public Comment**

DENNIS EVANS

**Appearing Re Item 3:**

For Department of Finance:

SUSAN GEANACOU  
Senior Staff Attorney  
Department of Finance  
915 L Street, Suite 1280  
Sacramento, California 95814

**Appearing Re Item 5:**

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

A P P E A R A N C E S

PUBLIC TESTIMONY

**Appearing Re Item 5:** *continued*

For State Controller's Office:

JIM VENNEMAN  
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, May 29, 2015,  
2 commencing at the hour of 10:02 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:



7 CHAIR ORTEGA: Good morning, everyone.

8 I'd like to call to order the May 29<sup>th</sup> meeting  
9 of the Commission on State Mandates.

10 Please, call the roll.

11 MS. HALSEY: Mr. Chivaro?

12 MEMBER CHIVARO: Present.

13 MS. HALSEY: Mr. Morgan?

14 MEMBER MORGAN: 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 CHAIR ORTEGA: Okay, thank you.

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1 We have a quorum.

2 Item 2 are the minutes from the March 27<sup>th</sup>  
3 meeting.

4 Are there any objections, corrections,  
5 comments?

6 MEMBER OLSEN: I'll move the adoption.

7 CHAIR ORTEGA: Okay, Ms. Olsen moves.

8 MEMBER RIVERA: Second.

9 CHAIR ORTEGA: Mr. Rivera seconds.

10 Any public comment on that?

11 *(No response)*

12 CHAIR ORTEGA: Seeing none, all in favor?

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

14 CHAIR ORTEGA: Any abstentions?

15 *(No response)*

16 CHAIR ORTEGA: The minutes are passed.

17 MS. HALSEY: And now we will take up public  
18 comment for matters not on the agenda.

19 Please note that the Commission cannot take  
20 action on items not on the agenda. However, it can  
21 schedule issues raised by the public for consideration  
22 at future meetings.

23 CHAIR ORTEGA: Okay, is there any public  
24 comment?

25 *(No response)*

Commission on State Mandates – May 29, 2015

1 CHAIR ORTEGA: All right.

2 Did you want to speak?

3 MR. EVANS: Yes. Just real quick.

4 CHAIR ORTEGA: Sure.

5 Have a seat right here.

6 MR. EVANS: Okay, thank you.

7 This public comment is a -- and I wrote this  
8 very great speech that you guys would all love, but I  
9 want to get right to the point.

10 I want to talk about --

11 CHAIR ORTEGA: Excuse me, please identify  
12 yourself for the record.

13 MR. EVANS: My name is Dennis Evans.

14 CHAIR ORTEGA: Dennis Evans?

15 MR. EVANS: Sorry about that.

16 CHAIR ORTEGA: That's okay.

17 Go ahead.

18 MR. EVANS: Today, I want to talk about  
19 transition areas and accidents.

20 I would like to show you guys -- I would like  
21 to tell you guys how great I am and what a great job I  
22 have done, and how long I've been in business and what I  
23 do.

24 I'm a safety pundit. And that's just a fancy  
25 way of saying: I'm a safety expert.

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1 My job was writing safety protocols for plant  
2 processes and dealing with calamity controls.

3 So upon my reading SB 863, I developed a safety  
4 manifest system called, "The Occupational Health and  
5 Safety Pundits' Safety Management System." It identifies  
6 contributory negligence, known to be the cause of  
7 work-related accidents and injuries.

8 By just simply -- and nobody is doing this on  
9 purpose, this is just something that's been taught over  
10 the years, and we're stuck with it. Just over the years,  
11 you just keep doing the same unsafe acts. But if I  
12 could, I would like to show you real quick an area, a  
13 transition area accident -- or how to prevent one from  
14 ever happening.

15 Do you mind?

16 *(No response)*

17 MR. EVANS: When you look at the way the  
18 employee is transitioning the area, he is putting himself  
19 at risk.

20 CHAIR ORTEGA: Mr. Evans? Mr. Evans, I'm going  
21 to ask you if you have something that's a photograph,  
22 that perhaps you could send us a copy because it's not  
23 really a --

24 MR. EVANS: Oh, I'm sorry, you guys already  
25 have a copy.

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1 CHAIR ORTEGA: From the letter?

2 MR. EVANS: Yes.

3 CHAIR ORTEGA: Okay, great.

4 MR. EVANS: And that would be on page 9.

5 CHAIR ORTEGA: Okay, great.

6 MR. EVANS: The idea is by working in this way,  
7 using the safety management system, we can eliminate  
8 work-related accidents and injuries.

9 It's costing California over a billion dollars  
10 a year. And that's a really light estimate, to be  
11 honest. But that can be eliminated because when you're  
12 talking workers' comp, it's just cause and effect.

13 If you really break it down: We know what's  
14 the cause of our workers' compensation, accidents and  
15 injuries.

16 And what causes accidents and injuries?  
17 Contributory negligence does. And what page 9 does,  
18 is it shows an example of this type of contributory  
19 negligence that is raising the rate people are getting  
20 hurt. And even once they get hurt, also now you're  
21 dealing with the cost and effect.

22 They have the cost, the medical cost of their  
23 arm; and if you have your business, now you're losing  
24 your productivity. And I'm just being blunt. I'm not  
25 trying to say, you know, they're working for us or in any



1 type of way; but I'm saying that if we're looking at it  
2 on a product scale, the productivity that is being lost  
3 is more than even the worker's injury. But the worker's  
4 injury is the important issue.

5 So you can eliminate contributory negligence  
6 just by simply retraining each ind- -- each employee.

7 I wanted to ask you guys for a -- and I forget  
8 the terminology for it because I'm brain-dead, but I do  
9 have some cheat notes. But I would like to -- oh, an  
10 informal conference. I would like to have an informal  
11 conference so I could just give you more information.  
12 And I hope that you guys will look at page 9, and see  
13 that by eliminating this type of contributory negligence,  
14 we could save lots of lives, lots of money.

15 And also, I've done about three years'  
16 investigation into what they call "megavitamin therapy."  
17 It's orthomolecular medicine.

18 By using evidence of base medicine at a lower  
19 cost --

20 MS. OLSEN: Madam Chair?

21 CHAIR ORTEGA: Yes.

22 I think we have a question.

23 MR. EVANS: Yes?

24 MEMBER OLSEN: Mr. Evans, I'm a little bit  
25 confused.

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1 Do you represent a particular local government?

2 MR. EVANS: No, no, no. I'm a company that is  
3 introducing my services that were mandated by SB 863,  
4 as well as California's Constitution, Article IV,  
5 section 14 --

6 MEMBER OLSEN: And why are you here in front of  
7 the Commission on State Mandates, which --

8 MR. EVANS: Because the company that I've  
9 developed, falls under a state-mandated process or a  
10 category. And I would like to utilize it to decrease  
11 work-related accidents and injuries. And I can prove  
12 that I can decrease work-related accidents and injuries  
13 65 percent. But it's not going to happen overnight, but  
14 it will happen; and that will save the State a lot of  
15 money. And also, it will keep our employees from being  
16 hurt on the job.

17 MEMBER OLSEN: And you understand that the  
18 Commission has nothing to do with this until --

19 MR. EVANS: Of course.

20 MEMBER OLSEN: -- a case is brought by a local  
21 government or a state agency to us?

22 MR. EVANS: So you wouldn't be willing to say,  
23 "Let's reduce work-related injuries"?

24 MEMBER OLSEN: We can't. We're not the body to  
25 do that. That's not what we do.

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1 MR. EVANS: Uh-huh. So who does that? Because  
2 I understood that if it was a state-mandated local  
3 program, that the State -- the Commission would decide  
4 if a program is a state-mandated program.

5 CHAIR ORTEGA: I think, Mr. Evans, the issue  
6 is only a local government as defined can appear here  
7 with that sort of request.

8 So I'm going to --

9 MR. EVANS: I understand.

10 CHAIR ORTEGA: I'm going to give you a minute  
11 to -- I'm going to try to limit the comments to about  
12 five minutes, so I'm going to give you a minute to wrap  
13 up your comments.

14 MR. EVANS: Okay.

15 CHAIR ORTEGA: And, of course, we have your  
16 letter, so we can review that as well.

17 MR. EVANS: I'm saying: Let's eliminate  
18 work-related accidents. Let's eliminate workers'  
19 compensation and disability case claims. Let's reduce  
20 it. Let's not only think about the employee, but also  
21 the increase in profitability. If you have a healthier  
22 employee, you have more productivity.

23 This is the basis behind this report. And I  
24 hope that at least we could have an informal conference  
25 that we might be able to speak about it.

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1           And again, this is about not only saying I can  
2 do it, but proving to you that it can be done. And it's  
3 totally inexpensive. It's not anything that's going to  
4 break the government or cost too much. It could be  
5 implemented like that. And we could begin eliminating  
6 work-related accidents today. It doesn't have to wait  
7 until tomorrow.

8           CHAIR ORTEGA: Okay, thank you.

9           MR. EVANS: And you know what I mean? It  
10 doesn't have to wait.

11          CHAIR ORTEGA: Yes. Thank you for your  
12 comments. I appreciate it.

13          MR. EVANS: All right.

14          CHAIR ORTEGA: Okay, next, we have the Consent  
15 Calendar.

16          MS. HALSEY: So, we have a proposal now to  
17 place Item 4, an incorrect reduction claim on *Collective*  
18 *Bargaining and Collective Bargaining Agreement Disclosure*  
19 on consent.

20                After the agenda and hearing binder were  
21 issued, the parties agreed to place Item 4 on consent.

22          CHAIR ORTEGA: Okay, any comments or objections  
23 to that?

24                (No response)

25          MEMBER OLSEN: I'll move it.

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1 MR. SAYLOR: Second.

2 CHAIR ORTEGA: No? Seeing none, there's a  
3 motion by Ms. Olsen, second by Mr. Saylor.

4 Any public comments on the consent calendar?  
5 *(No response)*

6 CHAIR ORTEGA: Okay, seeing none, all in favor?  
7 *(A chorus of "ayes" was heard.)*

8 CHAIR ORTEGA: Any objections, abstentions?  
9 *(No response)*

10 CHAIR ORTEGA: Nope?

11 Item 4 is approved on the consent calendar.

12 MS. HALSEY: Let's move to the Article 7  
13 portion of the hearing.

14 Will the witnesses for Items 2, 3, and 5 please  
15 rise?

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

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

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

24 MS. HALSEY: Thank you.

25 Item 2 is reserved for appeals of Executive

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1 Director decisions; and there are no appeals to consider  
2 under Item 2 this morning.

3 Item 3, student assistant Imran Majid will  
4 present the adequate showing hearing for a mandate  
5 redetermination on the *California Public Records Act*.

6 MR. MAJID: Good morning.

7 This is the first hearing of a mandate  
8 redetermination request filed by the Department of  
9 Finance, to end the State's liability for the *California*  
10 *Public Records Act* program.

11 Based on a subsequent change in law,  
12 specifically Proposition 42, adopted by voters in  
13 June 2014 requires local agencies to comply with the  
14 California Public Records Act and removes the State's  
15 obligation to reimburse the program.

16 This first hearing is limited to whether  
17 Finance has made an adequate showing which identifies a  
18 subsequent change in law that may modify the State's  
19 liability.

20 Staff finds that the Department of Finance has  
21 made an adequate showing that the State's liability has  
22 been modified.

23 Staff recommends the Commission adopt this  
24 decision and direct staff to provide notice of the second  
25 hearing to determine if a new test-claim decision shall

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1 be adopted to supersede the previously adopted test-claim  
2 decision.

3 Would the parties and witnesses please state  
4 your name for the record?

5 MS. GEANACOU: Good morning. Susan Geanacou  
6 for the Department of Finance.

7 CHAIR ORTEGA: Any comments, Ms. Geanacou?

8 MS. GEANACOU: I would just like to, on behalf  
9 of Finance, thank the staff for their work on our  
10 request, and say that we support their recommendation  
11 that the matter proceed to a second hearing.

12 CHAIR ORTEGA: Okay. Any questions from  
13 commissioners?

14 *(No response)*

15 CHAIR ORTEGA: Any public comment on this item?

16 *(No response)*

17 CHAIR ORTEGA: Okay, seeing none, is there a  
18 motion?

19 MEMBER OLSEN: I'll move it.

20 CHAIR ORTEGA: Moved by Ms. Olsen.

21 MEMBER CHIVARO: Second.

22 CHAIR ORTEGA: Second by Mr. Chivaro.

23 All in favor?

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

25 CHAIR ORTEGA: Any objections or abstentions?

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1 (No response)

2 CHAIR ORTEGA: No? Thank you.

3 Item 5.

4 MS. HALSEY: Senior Commission Counsel Eric  
5 Feller will present Item 5, an incorrect reduction claim  
6 on *Health Fee Elimination*.

7 MR. FELLER: Good morning.

8 In this IRC, staff finds that the Controller's  
9 reductions for indirect costs claimed and for authorized  
10 offsetting health fees are correct as a matter of law,  
11 and not arbitrary, capricious, or entirely lacking in  
12 evidentiary support.

13 Staff recommends that the Commission adopt the  
14 proposed decision to deny the IRC, and authorize staff  
15 to make technical non-substantive changes following the  
16 hearing.

17 Staff has heard from the claimant that they  
18 will not be appearing today.

19 So would the remaining parties and witnesses  
20 please state your names for the record?

21 MR. SPANO: Jim Spano, State Controller's  
22 Office.

23 MR. VENNEMAN: Jim Venneman, State Controller's  
24 Office.

25 CHAIR ORTEGA: Okay, any comments?



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1 MR. VENNEMAN: Yes, the Controller's Office  
2 supports staff's finding and recommendation.

3 CHAIR ORTEGA: Okay, any questions or comments  
4 from the members?

5 Yes, Ms. Ramirez?

6 MEMBER RAMIREZ: Do we know why they're not  
7 appearing, the other party? Are they conceding? Can't  
8 make it?

9 MR. FELLER: I see that Ms. Palchik, who spoke  
10 to the claimant representing, is shaking her head "No."  
11 So I don't believe we know.

12 MS. PALCHIK: So I actually did not speak with  
13 them. We played phone tag, and they just left a message,  
14 saying they will not be appearing at the hearing.

15 CHAIR ORTEGA: Okay, any other questions?

16 *(No response)*

17 CHAIR ORTEGA: Any other public comment on this  
18 item?

19 *(No response)*

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

21 MEMBER RAMIREZ: So moved.

22 CHAIR ORTEGA: Moved by Ms. Ramirez.

23 MEMBER CHIVARO: Second.

24 CHAIR ORTEGA: Second by Mr. Chivaro.

25 All in favor?

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

2 CHAIR ORTEGA: Any abstentions, objections?

3 (No response)

4 CHAIR ORTEGA: No?

5 The staff recommendation is adopted.

6 MS. HALSEY: Item 6 is reserved for county  
7 applications for a finding of significant financial  
8 distress or SB 1033 applications.

9 No SB 1033 applications have been filed.

10 Assistant Executive Director Heidi Palchik will  
11 present Item 7, the Legislative Update.

12 MS. PALCHIK: Good morning.

13 We are currently following two bills, AB 575,  
14 which is entitled, "Teachers: Best Practices Teacher  
15 Evaluation System," would replace the Stull Act. And  
16 the Stull Act was found to be a reimbursable mandate by  
17 the Commission, with the addition of sections to the  
18 Education Code relating to teacher evaluation.

19 This bill was referred to the Assembly  
20 Committee on Appropriations on May 5<sup>th</sup>, and is currently  
21 being held on suspense.

22 The other bill that we're following is AB 731,  
23 which is entitled "Maintenance of the Codes." This bill  
24 proposes amendments to many different code sections,  
25 including those sections containing the education

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1 mandates block grant and the teacher evaluation best  
2 practices.

3 This bill passed Assembly on consent, and  
4 it has not been amended; and is now pending in the Senate  
5 Judiciary Committee.

6 We'll continue to monitor these through the  
7 legislative session.

8 And as you may know, on May 14<sup>th</sup>, 2015, the  
9 Governor issued the 2015-16 May Revision to his budget,  
10 which included significant changes to the mandated  
11 local program funding.

12 So for local government, the current estimates  
13 indicate that the trigger mechanism calculation, the  
14 revenues that exceed the 2014 Budget Act estimate, will  
15 result in a total of \$765 million, which will fully  
16 satisfy all the remaining pre-2004 mandate debt.

17 And then for school districts and community  
18 colleges, there were changes made to the block grant  
19 funding. And those specific details can be found in your  
20 legislative update.

21 CHAIR ORTEGA: Thank you.

22 Any questions on the Legislative Report?

23 *(No response)*

24 CHAIR ORTEGA: Okay, thank you.

25 MS. HALSEY: Chief Legal Counsel Camille

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1 Shelton will present Item 8, Chief Legal Counsel Report.

2 MS. SHELTON: Good morning.

3 Two decisions have been issued by the trial  
4 courts on matters that are currently in litigation.

5 The first is, in *County of San Diego versus*  
6 *Commission on State Mandates*, the Court did uphold the  
7 Commission's decision, and deny the complaint for dec.  
8 relief and the petition for writ of mandate.

9 In addition, the *County of Los Angeles versus*  
10 *the Commission on the Public Guardianship Program*, there,  
11 the Court denied the petition and complaint for  
12 declaratory relief as well, and upheld the Commission's  
13 decision.

14 We do have one case pending and set for a  
15 hearing on June 12<sup>th</sup>. That is *Coast Community College*  
16 *District*, which challenges the test-claim decision on  
17 *Minimum Conditions for State Aid*.

18 CHAIR ORTEGA: Ms. Ramirez?

19 MEMBER RAMIREZ: Is there a possibility of  
20 appeal in the *Public Guardianship*, or is it finished?

21 MS. SHELTON: No. Both of those cases that  
22 I mentioned, they have 60 days after notice of entry of  
23 judgment is served. And so far, those notices have not  
24 been served yet.

25 So judgment has been entered in the San Diego

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1 matter. A proposed judgment has been sent in the L.A.  
2 matter. So it will still be a few weeks. They have  
3 60 days after that to appeal. And I do anticipate  
4 appeals in both cases.

5 MEMBER RAMIREZ: Thank you.

6 CHAIR ORTEGA: Any other questions?

7 *(No response)*

8 CHAIR ORTEGA: Okay.

9 MS. HALSEY: Item 9 is the Executive Director's  
10 Report.

11 As you can see, this year, we did hear quite  
12 a few more incorrect reduction claims over last year,  
13 especially considering several of the ones completed  
14 last year were withdrawn; and this year, most of them  
15 were heard. And so that's been the balance of our work  
16 this year, primarily.

17 Also, as you know, we've been very busy with  
18 litigation; and that has slowed down the hearing of  
19 some of the matters. But we hope to have a bit more of  
20 a robust hearing next hearing, and then bigger after that  
21 as litigation slows down a little bit.

22 And would you please take a look at the  
23 Executive Director's Report, to see if you have any items  
24 coming up for hearing?

25 We do expect to be hearing CAASPP, which is

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1 the test claim on *California Assessment of Student*  
2 *Performance and Progress*.

3 And also, we have an amendment to parameters  
4 and guidelines on *Immunization Records - Pertussis*,  
5 coming up.

6 And then we are going to be hearing all the  
7 *Notification of Truancy* IRCs together as a batch coming.

8 And that's all I have, unless there's  
9 questions.

10 CHAIR ORTEGA: Okay, any questions for Heather?

11 *(No response)*

12 CHAIR ORTEGA: Nope? Okay.

13 Seeing none, we will move into closed session.

14 So we'll ask everyone to leave the room.

15 The Commission will meet in closed executive  
16 section pursuant to Government Code section 11126(e) to  
17 confer with and receive advice from legal counsel for  
18 consideration and action, as necessary and appropriate,  
19 upon the pending litigation listed on the published  
20 notice and agenda; and to confer with and receive advice  
21 from legal counsel regarding potential litigation.

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

24 We will reconvene in open session in  
25 approximately 15 minutes.

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Thank you.

*(The Commission met in closed executive session from 10:21 a.m. to 10:27 a.m.)*

CHAIR ORTEGA: The Commission met in closed execution 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 published 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.

We have nothing to report.

And without any other business to come before the Commission, we will be adjourned.

Thank you.

*(The meeting concluded at 10:28 a.m.)*

--oOo--

**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 15<sup>th</sup> June 2015.



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