

Item 1

Proposed Minutes

COMMISSION ON STATE MANDATES

Location of Meeting: via Zoom
January 22, 2021

Present: Member Gayle Miller, Chairperson
Representative of the Director of the Department of Finance
Member Spencer Walker
Representative of the State Treasurer, Vice Chairperson
Member Lee Adams
County Supervisor
Member Jeannie Lee
Representative of the Director of the Office of Planning and Research
Member Sarah Olsen
Public Member
Member Jacqueline Wong-Hernandez
Representative of the State Controller

NOTE: The transcript for this hearing is attached. These minutes are designed to be read in conjunction with the transcript.

CALL TO ORDER AND ROLL CALL

Chairperson Miller called the meeting to order at 10:01 a.m., and, with deep sadness, announced the passing of Commission Member Mark Hariri, designee of the State Treasurer since 2015. Chairperson Miller then welcomed Member Spencer Walker, general counsel and designee of the State Treasurer. Executive Director Heather Halsey called the roll and Members Adams, Lee, Miller, Olsen, Walker, and Wong-Hernandez all indicated that they were present. Chairperson Miller invited additional words for Mr. Hariri and Member Wong-Hernandez and Member Lee offered condolences and sympathies to his family and stated that he will be deeply missed.

ELECTION OF OFFICERS AND SUBCOMMITTEE APPOINTMENTS

Executive Director Halsey presented the first portion of this item, for the election of the chair and vice chair of the Commission. Chairperson Miller asked for nominations for chairperson. Member Wong-Hernandez nominated the Director of Finance, as chairperson. With a second by Member Adams, the Director of Finance was elected chairperson by unanimous voice vote of members present.

Chairperson Miller then nominated the State Controller for vice-chairperson. With a second by Member Olsen, the State Controller was elected vice chairperson by unanimous voice vote of members present.

Executive Director Halsey introduced the second portion of this item, for the appointment of

members to the Personnel, Legislation, and Litigation subcommittees. Member Wong-Hernandez withdrew herself from the Personnel Subcommittee and nominated the chair of the Commission. Chairperson Miller stated that the Keely Bosler, Director of Finance and current subcommittee member Member Olsen have been nominated to the Personnel Subcommittee and they were appointed by unanimous voice vote of members present.

Chairperson Miller nominated Member Wong-Hernandez, designee of the State Controller and Member Adams to the Legislation Subcommittee with Member Olsen as the alternate and they were appointed by unanimous voice vote of members present.

Member Olsen withdrew herself as the alternate to the Litigation Subcommittee. Chairperson Miller asked if Member Walker would be willing to serve on this subcommittee and, after discussion of the role of the subcommittee, Member Walker nominated himself. Chairperson Miller nominated Member Lee, designee to the Director of the Office of Planning and Research and Member Wong-Hernandez, designee of the State Controller as the alternate to the Litigation Subcommittee. They were appointed by unanimous voice vote of members present.

APPROVAL OF MINUTES

Chairperson Miller asked if there were any objections or corrections to the December 4, 2020 minutes. Member Adams made a motion to adopt the minutes. With a second by Member Olsen, the December 4, 2020 hearing minutes were adopted by a unanimous voice vote of members present with Member Walker abstaining.

PUBLIC COMMENT FOR MATTERS NOT ON THE AGENDA

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

CONSENT CALENDAR

INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLES 7 AND 8 (action)

ADOPTION OF RULEMAKING CALENDAR

Item 6* Proposed Rulemaking Calendar, 2021

ADOPTION OF ORDER TO INITIATE RULEMAKING

Item 7* Amendment of Conflict of Interest Code, Proposed Amendments to California Code of Regulations, Title 2, Division 2, Chapter 2.5, Article 9

ADOPTION OF ORDER TO INITIATE RULEMAKING

Item 8* General Cleanup, Proposed Amendments to California Code of Regulations, Title 2, Division 2, Chapter 2.5, Articles 1, 3, 5, and 7

Executive Director Halsey stated that Items 6, 7, and 8 were proposed for consent. Chairperson Miller asked if there were any objections to the Consent Calendar. There was no response.

Member Olsen made a motion to adopt the Consent Calendar. Member Walker seconded the motion. The Consent Calendar was adopted by a unanimous voice vote of members present.

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

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

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

Item 3 Appeal of Executive Director Decisions

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

INCORRECT REDUCTION CLAIM

Item 4 *Crime Statistics Reports for the Department of Justice, 17-0240-I-01*
Penal Code Sections 12025(h)(1) and (h)(3); 12031(m)(1) and (m)(3); 13014; 13023; 13730(a);
Statutes 1989, Chapter 1172 (SB 202); Statutes 1992, Chapter 1338 (SB 1184); Statutes 1993, Chapter 1230 (AB 2250); Statutes 1998, Chapter 933 (AB 1999); Statutes 1999, Chapter 571 (AB 491); Statutes 2000, Chapter 626 (AB 715); and Statutes 2004, Chapter 700 (SB 1234)
Fiscal Years 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012
City of San Marcos, Claimant

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

The following appearances were made: Annette Chinn appeared on behalf of the claimant; and Lisa Kurokawa appeared on behalf of the State Controller's Office.

Following the parties stating their positions and discussion between Member Adams, Member Wong-Hernandez, Chairperson Miller and Commission staff, Member Olsen made a motion to adopt the staff recommendation. With a second by Chairperson Miller, the motion to adopt the staff recommendation was adopted by a vote of 6-0.

HEARINGS ON COUNTY APPLICATIONS FOR FINDINGS OF SIGNIFICANT FINANCIAL DISTRESS PURSUANT TO WELFARE AND INSTITUTIONS CODE SECTION 17000.6 AND CALIFORNIA CODE OF REGULATIONS, TITLE 2, ARTICLE 2 (info/action)

Item 5 Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commission, or to a Hearing Officer

Executive Director Heather Halsey stated that no SB 1033 applications have been filed.

REPORTS

Item 9 Legislative Update (info)

Program Analyst Kerry Ortman presented this item.

Item 10 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar (info)

Chief Legal Counsel Camille Shelton presented this item.

Item 11 Executive Director: Workload Update and Tentative Agenda Items for the March and May 2021 Meetings (info)

Executive Director Halsey described the Commission's pending caseload.

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

A. PENDING LITIGATION

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matters pursuant to Government Code section 11126(e)(1):

Trial Courts:

1. ***On Remand from the California Supreme Court, Case No. S247266, and the First District Court of Appeal, Case No. A148606***
California School Board Association (CSBA) v. State of California et al.
Alameda County Superior Court, Case No. RG11554698
[Multiple Causes of Action on the Mandates Process]

Courts of Appeal:

1. ***On Remand from California Supreme Court, Case No. S214855, State of California Department of Finance, State Water Resources Control Board, and California Regional Water Quality Control Board, Los Angeles Region v. Commission on State Mandates and County of Los Angeles, et al*** (petition and cross-petition)
Second District Court of Appeal Case No. B292446
[Los Angeles County Superior Court, Case No. BS130730, Related Appeal from Second District Court of Appeal, Case No. B237153 [*Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04, 03-TC-19, 03-TC-20, and 03-TC-21, Los Angeles Regional Quality Control Board Order No. 01-182, Permit CAS004001, Parts 4C2a., 4C2b, 4E & 4Fc3]
2. ***On Remand from the Third District Court of Appeal, Case No. C070357***
State of California Department of Finance, State Water Resources Control Board, and California Regional Water Quality Board, San Diego Region v. Commission on State Mandates and County of San Diego, et al. (petition and cross-petition)
Third District Court of Appeal, Case No. C092139
Sacramento County Superior Court Case No. 34-2010-80000604
[*Discharge of Stormwater Runoff*, Order No. R9-207-000 (07-TC-09), California Regional Water Control Board, San Diego Region Order No. R9-2007-001, NPDES No. CAS0108758, Parts D.1.d.(7)-(8), D.1.g., D.3.a.(3), D.3.a.(5), D.5, E.2.f, E.2.g, F.1, F.2, F.3, I.1, I.2, I.5, J.3.a.(3)(c) iv-vii & x-xv, and L]
3. ***City of San Diego v. Commission on State Mandates, State Water Resources Control Board, Department of Finance***
Third District Court of Appeal, Case No. C092800
Sacramento County Superior Court, Case No. 2019-80003169
(*Lead Sampling in Schools: Public Water System No. 3710020 (17-TC-03)*)

California Supreme Court:

1. *Coast Community College District, et al. v. Commission on State Mandates*, California Supreme Court, Case No. S262663 (Petition for Review Filed June 10, 2010)
Third District Court of Appeal, Case No. C080349
Sacramento County Superior Court, Case No. 34-2014-80001842
[*Minimum Conditions for State Aid*, 02-TC-25/02-TC-31 (Education Code Sections 66721, 66721.5, 66722, 66722.5, 66731, 66732, 66736, 66737, 66738, 66740, 66741, 66742, 66743, 70901, 70901.5, 70902, 71027, 78015, 78016, 78211.5, 78212, 78213, 78214, 78215, 78216, 87482.6, and 87482.7; Statutes 1975, Chapter 802; Statutes 1976, Chapters 275, 783, 1010, and 1176; Statutes 1977, Chapters 36 and 967; Statutes 1979, Chapters 797 and 977; Statutes 1980, Chapter 910; Statutes 1981, Chapters 470 and 891; Statutes 1982, Chapters 1117 and 1329; Statutes 1983, Chapters 143 and 537; Statutes 1984, Chapter 1371; Statutes 1986, Chapter 1467; Statutes 1988, Chapters 973 and 1514; Statutes 1990, Chapters 1372 and 1667; Statutes 1991, Chapters 1038, 1188, and 1198; Statutes 1995, Chapters 493 and 758; Statutes 1998, Chapter 365, 914, and 1023; Statutes 1999, Chapter 587; Statutes 2000, Chapter 187; and Statutes 2002, Chapter 1169; California Code of Regulations, Title 5, Sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, 51027, 51100, 51102, 53200, 53202, 53203, 53204, 53207, 53300, 53301, 53302, 53308, 53309, 53310, 53311, 53312, 53314, 54626, 54805, 55000, 55000.5, 55001, 55002, 55002.5, 55004, 55005, 55006, 55100, 55130, 55150, 55160, 55170, 55182, 55200, 55201, 55202, 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320, 55321, 55322, 55340, 55350, 55401, 55402, 55403, 55404, 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520, 55521, 55522, 55523, 55524, 55525, 55526, 55530, 55532, 55534, 55600, 55601, 55602, 55602.5, 55603, 55605, 55607, 55620, 55630, 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, 55765, 55800, 55800.5, 55801, 55805, 55805.5, 55806, 55807, 55808, 55809, 55825, 55827, 55828, 55829, 55830, 55831, 58102, 58104, 58106, 58107, 58108, 59404, and 59410; Handbook of Accreditation and Policy Manual, Accrediting Commission for Community and Junior Colleges (Summer 2002); and “Program and Course Approval Handbook” Chancellor’s Office California Community Colleges (September 2001).]

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matter pursuant to Government Code section 11126(e)(2):

Based on existing facts and circumstances, there is a specific matter which presents a significant exposure to litigation against the Commission on State Mandates, its members or staff.

B. PERSONNEL

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

The Commission adjourned into closed executive session at 11:04 a.m., 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 to confer on personnel matters pursuant to Government Code section 11126(a)(1).

RECONVENE IN PUBLIC SESSION

REPORT FROM CLOSED EXECUTIVE SESSION

At 11:16 a.m., the Commission reconvened in open session. Chairperson Miller reported that the Commission met in closed executive session pursuant to Government Code section 11126(e)(2) to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the public notice and agenda, and to confer with and receive advice from legal counsel regarding potential litigation, and, pursuant to Government Code section 11126(a)(1) to confer on personnel matters.

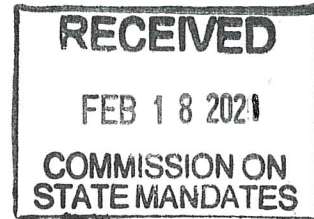
ADJOURNMENT

Hearing no further business, Chairperson Miller requested a motion to adjourn the meeting. Member Walker made a motion to adjourn the meeting. The January 22, 2021 meeting was adjourned by a unanimous voice vote of the members present at 11:17 a.m.

Heather Halsey
Executive Director

STATE OF CALIFORNIA
COMMISSION ON STATE MANDATES

PUBLIC MEETING



FRIDAY, JANUARY 22, 2021

10:01 A.M.

MEETING HELD

VIA ZOOM

A VIDEO COMMUNICATIONS PLATFORM

REPORTER'S TRANSCRIPT OF PROCEEDINGS

ORIGINAL

REPORTED BY:

KATHRYN S. SWANK

Certified Shorthand Reporter No. 13061

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A P P E A R A N C E S

(All attendees appeared remotely, via Zoom.)

COMMISSIONERS PRESENT

GAYLE MILLER
Representative for KEELY BOSLER, Director
Department of Finance
(Chair of the Commission)

JACQUELINE WONG-HERNANDEZ
Representative for BETTY T. YEE
State Controller
(Vice Chair of the Commission)

SPENCER WALKER
Representative for FIONA MA
State Treasurer

JEANNIE LEE
Representative for KATE GORDON, Director
Office of Planning & Research

LEE ADAMS III
Sierra County Supervisor
Local Agency Member

SARAH OLSEN
Public Member

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COMMISSION STAFF

ERIC FELLER
Senior Commission Counsel

HEATHER A. HALSEY
Executive Director

KERRY ORTMAN
Program Analyst

HEIDI PALCHIK
Assistant Executive Director

CAMILLE N. SHELTON
Chief Legal Counsel

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A P P E A R A N C E S C O N T I N U E D

PUBLIC PARTICIPANTS

ANNETTE CHINN
City of San Marcos, Claimant

LISA KUROKAWA
State Controller's Office

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<u>20</u>	<u>9</u>	<u>Sarah<u>u</u> Olsen</u>
<u>20</u>	<u>16</u>	<u>Sarah<u>u</u> Olsen</u>
<u>20</u>	<u>17</u>	<u>Sarah<u>u</u> Olsen</u>
<u>22</u>	<u>22</u>	<u>Sarah<u>u</u> Olsen</u>
<u>29</u>	<u>17</u>	<u>calls for assistance, with a</u>
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1 FRIDAY, JANUARY 22, 2021, 10:01 A.M.

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3 CHAIRPERSON MILLER: Good morning, everyone. The
4 meeting of the Commission on State Mandates will come to
5 order. Welcome, and thank you to everyone for
6 participating via Zoom.

7 Please note, in response to COVID-19 and its impact
8 on public meetings under the Bagley-Keene Open Meeting
9 Act, Governor Newsom's Executive Order N-2920 suspends,
10 on an emergency basis, pursuant to Government Code
11 section 8571, certain requirements for public meetings.

12 Accordingly, requiring the physical presence of
13 board members at public meetings and providing a
14 physical space for members of the public to observe and
15 participate have been suspended until further notice, so
16 long as the agency makes it possible for members of the
17 public to observe and address the meeting remotely; for
18 example, via web or audio conferencing, such as we are
19 doing on Zoom.

20 The Commission is committed to ensuring that our
21 public meetings are accessible to the public and that
22 the public has the opportunity to observe the meeting
23 and participate by providing written and verbal comment
24 on any Commission matters.

25 During this extraordinary time and as we explore

1 new ways of doing business with new technologies, we ask
2 that you remain patient with us, as you have. Thank
3 you.

4 Please note that the materials for today's meeting,
5 including the notice, agenda, witness list, are all
6 available on the Commission's website www.csm.ca.gov
7 under the "Hearings" tab.

8 It is with deep, deep, deep sadness that we
9 announce the passing of our Commission member, Mark
10 Hariri, designee of the State Treasurer since 2015.
11 Member Hariri, a committed, thoughtful, kind,
12 considerate, amazing man will truly be missed. And we
13 certainly appreciate and acknowledge his commitment to
14 public service, his commitment to really making our
15 state a better place. We send our condolences to his
16 family. Donations can be made to the SPCA, and we can
17 certainly provide his family's information if anyone
18 would like to send condolences to them.

19 So deep, deep sympathies to his family, and, truly,
20 his memory and his legacy of service will be a blessing
21 for all of us.

22 And we also do welcome our member Spencer Walker
23 from the Treasurer's Office. But Mr. Walker is the
24 general counsel of the State Treasurer's Office. I have
25 had the pleasure of working with him for over a year

1 now. He will be the designee of the State Treasurer.

2 So thank you for joining us, Mr. Walker, and I know
3 that you join us in your sympathies for Mr. Hariri.

4 But we'll call the roll and I'd love if any board
5 members just want to, maybe, say anything about
6 Mr. Hariri. We could even take a moment, if that's
7 okay, Ms. Halsey, to do that at this time.

8 MS. HALSEY: Absolutely.

9 Do you want me to call the roll first?

10 CHAIRPERSON MILLER: Why don't we call the roll
11 just to establish a quorum, please. Thank you.

12 MS. HALSEY: Sure.

13 Mr. Adams.

14 MEMBER ADAMS: Here.

15 MS. HALSEY: Ms. Lee.

16 MEMBER LEE: Here.

17 MS. HALSEY: Ms. Olsen.

18 MEMBER OLSEN: Here.

19 MS. HALSEY: Ms. Miller.

20 CHAIRPERSON MILLER: Here.

21 MS. HALSEY: Mr. Walker.

22 MEMBER WALKER: Here.

23 MS. HALSEY: Ms. Wong-Hernandez.

24 MEMBER WONG-HERNANDEZ: Here.

25 CHAIRPERSON MILLER: Great. Thank you. We have a

1 quorum.

2 So before we continue, if anyone would like to add
3 some words for Mr. Hariri, we would love to do that at
4 this time. And I have written a note to his family.
5 Thank you, Mr. Adams, for that information and happy to
6 write a little bit more. I will take notes right now
7 and just let folks know what you have said about him, so
8 we can share that with his family.

9 MEMBER WONG-HERNANDEZ: I would like to, Madam
10 Chair.

11 I just wanted to say how much I enjoyed working
12 with Mr. Hariri on the Commission. And when I was a new
13 chair in 2018, he just was so kind and patient. And he
14 even had to chair what I understand to be a difficult
15 meeting, at the last minute. And he just had good a
16 sense of humor about it and the work that we do, while,
17 at the same time, being so committed to the public trust
18 that we ensure and work toward every day. And I really
19 enjoyed him and I was so saddened and so shocked to
20 hear. I had no idea.

21 And so please do extend -- and I will reach out to
22 figure out his family's contact information myself. But
23 just wanted the record to, I guess, echo the other
24 sentiments, because he will truly be missed.

25 CHAIRPERSON MILLER: Yeah. Completely agree.

1 Thank you, Ms. Wong-Hernandez.

2 Anyone else want to say a couple words?

3 MEMBER LEE: I would like to say a few things.

4 I was also very deeply saddened and completely
5 shocked to hear the news about Mr. Hariri.

6 After the meetings, on occasion, we would walk out
7 of the building together, and our offices were actually
8 across the street from each other, so we were able to
9 share a few moments before jumping back into our
10 workdays.

11 So I would also like to just offer condolences and
12 sympathies to his family. He will be deeply missed.

13 CHAIRPERSON MILLER: Thank you, Ms. Lee.

14 Anybody else?

15 (No response)

16 CHAIRPERSON MILLER: Thank you for this. We will
17 certainly share it with his family.

18 And really, really, again, just appreciate his
19 service, and, as always, the work of the Commission
20 staff to make sure that we honor each member and really
21 make their valuable input known.

22 So certainly a sad day, but I appreciate those
23 really kind words. Thank you.

24 Ms. Halsey, do you want to present the first
25 portion of the staff report, please.

1 MS. HALSEY: Yes.

2 At the January 24th, 2020, meeting, the Commission
3 on State Mandates elected Keely Bosler, Director of
4 Finance, as the chairperson of the Commission; and Fiona
5 Ma, State Treasurer, as the vice chairperson.

6 Commission members, as defined by Government Code
7 section 17525 are eligible to be officers. The
8 Commission's regulations do not describe an election
9 procedure. However, the regulations specify that
10 Roberts Rules of Order are the Commission's default
11 rules. Under Robert's Rules, there are two ways to hold
12 an election: First, nominations may be made and a vote
13 taken, and a nomination does not require a second; or,
14 alternatively, a motion may be made to elect a member --
15 a member chairperson or vice chairperson, and if a
16 motion is made, the motion requires a second.

17 Staff recommends that the current chairperson
18 conduct the elections of the chairperson and the vice
19 chairperson.

20 CHAIRPERSON MILLER: Great. Thank you, Ms. Halsey.

21 Any questions on the process before we ask for
22 nominations for the chairperson?

23 (No response)

24 CHAIRPERSON MILLER: No? Great.

25 Is there -- are there nominations for chairperson

1 or a motion for election of a new chairperson?

2 Ms. Wong-Hernandez?

3 MEMBER WONG-HERNANDEZ: I nominate Ms. Miller to
4 continue as chairperson.

5 Do we need a nomination for continuing?

6 MS. HALSEY: So it would be a nomination of Keely
7 Bosler.

8 MEMBER WONG-HERNANDEZ: Right. Of course. I'm
9 sorry.

10 MS. HALSEY: Yes. I'm sorry. I should have said
11 that at the outset. Yes, every year, these positions
12 are appointed or elected by the Commission at the first
13 meeting every year, so that's what we're doing now.

14 MEMBER WONG-HERNANDEZ: Then I nominate Ms. Keely
15 Bosler to continue as chair.

16 MEMBER ADAMS: Madam Chair, I would second that
17 motion.

18 CHAIRPERSON MILLER: Thank you.

19 We appreciate that, and I hope that we can keep
20 Mr. Hariri's legacy as well as this Commission's.

21 Okay. So then this is a little bit awkward, but
22 Keely Bosler has been nominated for chairperson.

23 Are there any other nominations?

24 (No response)

25 CHAIRPERSON MILLER: Seeing none, without

1 objection, the nominations are closed.

2 Any objections to closing the nominations?

3 (No response)

4 CHAIRPERSON MILLER: No? Okay.

5 So all those in favor of electing the Director of
6 Finance Keely Bosler as chairperson, please indicate by
7 saying aye.

8 (Ayes)

9 CHAIRPERSON MILLER: Great.

10 And all those opposed?

11 (No response)

12 CHAIRPERSON MILLER: Seeing none, Keely Bosler will
13 be elected as chairperson. Thank you very much for
14 trusting the Department of Finance with that.

15 Are there -- I would like to -- if I may,
16 Ms. Halsey, I would like to make a nomination for the
17 vice chair.

18 Is that appropriate?

19 MS. HALSEY: Absolutely.

20 CHAIRPERSON MILLER: So, traditionally, I would
21 like to nominate the Controller for the vice chair. The
22 Commission is generally switched between the Controller
23 and then the Treasurer, and as the Treasurer served last
24 year, I would like to nominate the Controller this year.

25 Is there a second for that motion?

1 MEMBER OLSEN: I second the motion.

2 CHAIRPERSON MILLER: Great. Thank you, Ms. Olsen.

3 Are there any other -- no. So Jacqueline -- or,
4 excuse me, the State Controller Betty T. Yee has been
5 nominated for vice chairperson.

6 Are there any nominations -- other nominations?

7 (No response)

8 CHAIRPERSON MILLER: Seeing none, without
9 objection, the nominations are closed. All those in
10 favor of electing the State Controller Betty T. Yee as
11 vice chairperson, please indicate by saying "aye."

12 (Ayes)

13 CHAIRPERSON MILLER: Any opposed?

14 (No response)

15 CHAIRPERSON MILLER: Great. Thank you.

16 State Controller Betty Yee has been elected vice
17 chairperson.

18 And now Ms. Halsey will present the second portion
19 of the staff report, please.

20 MS. HALSEY: This is for subcommittee appointments.

21 Due to the departure of Member Ramirez, a position
22 on the Legislation Subcommittee and a position on the
23 Litigation Subcommittee of the Commission are currently
24 vacant.

25 In addition, Member Wong-Hernandez now serves as

1 the designee of the State Controller, and no longer of
2 the Department of Finance.

3 So it is unclear whether she wishes and the
4 Commission wishes for her to remain in her current
5 capacities or if she wants to move to others.

6 So this is also an opportunity for all of the
7 members who are interested to nominate themselves, if
8 they like, for any of the subcommittees and also switch
9 or discontinue roles if they like.

10 So this is a pretty informal process and the
11 members may handle it how they like. Similarly, to the
12 election of the officers, nominations may be made and a
13 vote taken, and people may nominate themselves in this
14 case, or a motion may be made to elect a member, and a
15 motion requires a second.

16 Generally, two members may serve on a subcommittee
17 and meet together without violating Bagley-Keene. We
18 often do have also an alternate appointee, who does not
19 meet with the main members, but who can sub in for one
20 of those main members if that member is not available.

21 So with that, we can start with the first
22 subcommittee which is the Personnel Subcommittee. As of
23 2020, Jacqueline Wong-Hernandez and Sara Olsen were the
24 members of that committee.

25 CHAIRPERSON MILLER: Great. Thank you very much.

1 MEMBER WONG-HERNANDEZ: I -- so I became a member
2 of the Personnel Subcommittee when I was chair,
3 representing the Department of Finance. And I think
4 it's really appropriate that the Department of Finance,
5 and, specifically, the chair of this Commission, be on
6 the Personnel Subcommittee.

7 So if it -- unless you object, I would like to
8 withdraw from that subcommittee and to nominate the
9 chair on that Personnel Subcommittee. I don't mean to
10 volunteer you for more things.

11 CHAIRPERSON MILLER: No. I think -- great. I
12 think that does make sense.

13 And would everyone like just really brief
14 descriptions of what each subcommittee does? They don't
15 necessarily meet all the time. Each of them meet kind
16 of on an as-needed basis. So just so you know, that
17 most of our work is done here, as a full committee, and
18 the subcommittee, which can be no more than two people.
19 They each meet to deal with specific instances. So,
20 hopefully, Ms. Halsey will not be going anywhere for a
21 very, very, very long time.

22 But, for example, the Personnel Subcommittee would
23 be the subcommittee that finds and seeks an executive
24 director, for example, or deals with another personnel
25 matter.

1 So that's the -- so just, hopefully, Ms. Olsen, if
2 you are willing to stay, that would be great. If
3 everyone -- if anyone else is interested. Yeah.

4 So that -- so each subcommittee has a little bit of
5 a different flavor and it just -- they are there to
6 support the Commission should something arise, not
7 necessarily to meet regularly, in any way.

8 Of course, if anyone was interested in a different
9 format, we could discuss that, but that seems to have
10 worked well up until now.

11 MS. HALSEY: And I also just wanted to mention that
12 all of the -- all of the subcommittees are advisory to
13 the Commission, so they don't take Commission actions
14 without bringing it first to the Commission, but they
15 often can vet issues and bring them to the Commission
16 with recommendations, if needed.

17 CHAIRPERSON MILLER: Great. Thank you for that
18 clarification.

19 So without objection, I am going to say that the
20 Director of Finance and her designee and Sara Olsen have
21 been nominated for appointment to the Personnel
22 Subcommittee.

23 Are there any other nominations?

24 (No response)

25 CHAIRPERSON MILLER: Seeing none, without

1 objection, nominations are closed.

2 All those in favor of electing the Director of
3 Finance and Ms. Olsen to the Personnel Subcommittee,
4 please indicate by saying "aye."

5 (Ayes)

6 CHAIRPERSON MILLER: Are there any opposed?

7 (No response)

8 CHAIRPERSON MILLER: Great. Then Keely Bosler, the
9 Director of Finance, and Sara Olsen have been appointed
10 to the Personnel Subcommittee.

11 Now we will go to the next subcommittee. And,
12 again, there's three. The next is the Legislation
13 Subcommittee.

14 And Ms. Halsey?

15 MS. HALSEY: So in 2020, the members were Carmen
16 Ramirez, Lee Olsen, and Sara Olsen was -- I mean, sorry.
17 Lee Adams. And Sara Olsen was the alternate for that
18 committee. And now Carmen has gone.

19 This committee meets on legislation affecting the
20 Commission. A few years ago, a number of bills were
21 introduced affecting Commission processes. None of them
22 actually progressed, and so this committee didn't
23 actually end up meeting on it, but that is the main
24 purpose of the committee.

25 CHAIRPERSON MILLER: Great. Thank you very much.

1 Are any of our Commission members interested in
2 serving on the Legislation Subcommittee?

3 MEMBER ADAMS: Madam Chair, I'm willing to continue
4 unless others would like to do it, but I'm certainly
5 willing to continue.

6 CHAIRPERSON MILLER: Great. Thank you.

7 MEMBER ADAMS: It's been an exhausting effort, but
8 I'm willing to continue.

9 CHAIRPERSON MILLER: I appreciate that. Thank you
10 very much.

11 Anyone else interested on being on the Legislation
12 Subcommittee?

13 MEMBER OLSEN: I'm willing to continue as
14 alternate. I have no problem with that.

15 CHAIRPERSON MILLER: Great. Thank you.

16 Ms. Wong-Hernandez, did you want to take the
17 Legislation Subcommittee?

18 MEMBER WONG-HERNANDEZ: Sure. I'm happy to.

19 CHAIRPERSON MILLER: Unless, Ms. Lee or Mr. Walker,
20 you are interested. There's one more, the Litigation.
21 So I'm actually hoping, Mr. Walker, you will serve on
22 that one because it's generally for -- we appreciate
23 having attorneys on that subcommittee.

24 Great. Then I think I will go ahead and nominate
25 Jacqueline Wong-Hernandez, the designee of the State

1 Controller's Office, Mr. Adams, and Ms. Olsen as the
2 alternate for appointment to the Legislation
3 Subcommittee.

4 Are there any other nominations?

5 (No response)

6 CHAIRPERSON MILLER: No? Without objection, the
7 nominations are closed.

8 All those in favor of nominating the State
9 Controller, Mr. Adams, and Ms. Olsen as the alternate,
10 please indicate by saying "aye."

11 (Ayes)

12 CHAIRPERSON MILLER: Any opposed?

13 (No response)

14 CHAIRPERSON MILLER: Great. Then
15 Ms. Wong-Hernandez, Mr. Adams, and Ms. Olsen as an
16 alternate have been appointed to the Legislation
17 Subcommittee.

18 Okay. Now, our final committee, the Litigation
19 Subcommittee.

20 MS. HALSEY: And the Litigation Subcommittee in
21 2020: Carmen Ramirez; Jeannie Lee served as the main
22 members; and then Sara Olsen, our public member, served
23 as the alternate.

24 CHAIRPERSON MILLER: Great.

25 So we are seeking nominations, then, for the

1 Litigation Subcommittee, please.

2 MEMBER OLSEN: Madam Chair, I would actually like
3 to remove myself as alternate. I have no legal
4 background, so I think there are others on the committee
5 who are better able to do this one.

6 CHAIRPERSON MILLER: Great. Thank you for that.

7 MEMBER OLSEN: Yep.

8 CHAIRPERSON MILLER: Ms. Lee and Mr. Walker, is
9 this a subcommittee you would be willing to serve on?

10 MEMBER LEE: Yes.

11 MEMBER WALKER: Madam Chairperson?

12 CHAIRPERSON MILLER: Yes, please.

13 MEMBER WALKER: Can someone provide me some
14 background on what exactly this subcommittee does and
15 how much time is needed?

16 CHAIRPERSON MILLER: Yes. Of course.

17 Ms. Shelton, I don't know if you would be willing
18 to use some of the examples you did previously, please.
19 Thank you.

20 MS. SHELTON: Yes. Thank you.

21 Actually, the Litigation Subcommittee has not had
22 to meet for a really long time. It is advisory only,
23 and the only time that we've had to meet with the
24 Litigation Subcommittee if something comes up in an
25 emergency fashion, in between Commission hearings.

1 Because of the basis of our litigation, which is all by
2 petition for writ of mandate, there's very rarely an
3 emergency, so it is very rare.

4 The other instance is, at the Commission's will,
5 sometimes the Commission wants the Litigation
6 Subcommittee to read our briefs, primarily if we are
7 briefing before the California Supreme Court. Again,
8 that's up to the Commission as a whole if they want to
9 use the Litigation Subcommittee that way.

10 MEMBER WALKER: Thank you for that Ms. Shelton.

11 I nominate myself to serve on that subcommittee.

12 CHAIRPERSON MILLER: Great. Thank you, Mr. Walker.
13 And Ms. Lee, may I nominate you?

14 MEMBER LEE: Yes. I think it's appropriate for
15 Director Gordon to continue -- or, I guess, is it
16 officially me, or do you --

17 CHAIRPERSON MILLER: I think it is Director Gordon.
18 You are right. Thank you.

19 MEMBER LEE: Okay.

20 CHAIRPERSON MILLER: Great.

21 And then, Ms. Wong-Hernandez, would you want to
22 serve as the alternate on that committee?

23 MEMBER WONG-HERNANDEZ: Sure. I'm happy to.

24 CHAIRPERSON MILLER: Great. Thank you very much.
25 Then I -- then we'll nominate -- the Commission's

1 nominated the State Treasurer, with Mr. Walker as the
2 designee; and Director Gordon, with Ms. Lee as the
3 designee; and the State Controller, with
4 Ms. Wong-Hernandez as the designee, as the alternate.

5 Are there any other nominations?

6 (No response)

7 CHAIRPERSON MILLER: Nope? Without objection,
8 then, the nominations are closed.

9 All those in favor of nominating the State
10 Controller, Director Gordon, and the -- excuse me, the
11 State Treasurer, Director Gordon, and the State
12 Controller as the alternate for the Litigation
13 Subcommittee, please indicate by saying "aye."

14 (Ayes)

15 CHAIRPERSON MILLER: Any objections?

16 (No response)

17 CHAIRPERSON MILLER: Great. Then our Litigation
18 Subcommittee nominations are completed.

19 Thank you very much.

20 We will now move on to Item Number 2. And are
21 there any objections or corrections of the December 4th,
22 2020, minutes?

23 (No response)

24 CHAIRPERSON MILLER: Seeing none, is there a motion
25 and a second, then, to adopt the minutes, please?

1 MEMBER ADAMS: Madam Chair, I move the minutes.

2 MEMBER OLSEN: Second that.

3 CHAIRPERSON MILLER: Moved by Mr. Adams. Seconded
4 by Ms. Olsen.

5 All those in favor of adopting the minutes, please
6 signify by saying "aye."

7 (Ayes)

8 CHAIRPERSON MILLER: Any opposed?

9 MEMBER WALKER: Madam Chairperson --

10 CHAIRPERSON MILLER: Yes, please.

11 MEMBER WALKER: -- I abstain.

12 CHAIRPERSON MILLER: You are abstaining. Great.

13 MEMBER WALKER: I abstain.

14 CHAIRPERSON MILLER: No one is opposed. And
15 Mr. Walker is abstaining.

16 Any other abstentions?

17 (No response)

18 CHAIRPERSON MILLER: Seeing none, we will now move
19 to public comment. The minutes are adopted and we will
20 move to public comment.

21 MS. HALSEY: And now we will take up public comment
22 for matters not on the agenda. Please note that the
23 Commission cannot take action on items not on the
24 agenda. However, it can schedule issues raised by the
25 public for consideration at future meetings.

1 CHAIRPERSON MILLER: Thank you.

2 Is there any public comment? Ms. Palchik, do you
3 see anyone waiting to speak?

4 MS. PALCHIK: I see none, Madam Chair.

5 CHAIRPERSON MILLER: Great. Thank you very much.
6 Hearing no public comment, we'll move to the next
7 item.

8 Ms. Halsey.

9 MS. HALSEY: The next item is the consent calendar.
10 Item 6, 7, and 8 are proposed for consent.

11 CHAIRPERSON MILLER: Thank you.

12 Are there any objections or corrections to --
13 excuse me. Just any objections to the proposed consent
14 calendar?

15 (No response)

16 CHAIRPERSON MILLER: Ms. Olsen, are you just
17 raising your hand or is that a --

18 MEMBER OLSEN: No.

19 CHAIRPERSON MILLER: Great. Thank you for that.
20 No worries. Thank you.

21 May we have a motion and a second, then, to adopt
22 the consent calendar?

23 MEMBER OLSEN: So moved.

24 CHAIRPERSON MILLER: Thank you.

25 MEMBER WALKER: Second.

1 CHAIRPERSON MILLER: Thank you, Ms. Olsen.

2 Seconded by -- was that Mr. Walker?

3 MEMBER WALKER: Yes.

4 CHAIRPERSON MILLER: Thank you very much.

5 The motion to adopt the proposed consent calendar
6 has been moved and seconded.

7 All those in favor, please signify by saying "aye."

8 (Ayes)

9 CHAIRPERSON MILLER: All those opposed, signify by
10 saying "no."

11 (No response)

12 CHAIRPERSON MILLER: Any abstentions?

13 (No response)

14 CHAIRPERSON MILLER: Great. The motion to adopt
15 the consent calendar is carried.

16 We will now move to Article 7 portion of the
17 hearing.

18 MS. HALSEY: Now will the parties and witnesses for
19 Item 4 please turn on your video, unmute your
20 microphones, and please rise.

21 (Parties/witnesses stood to be sworn or
22 affirmed.)

23 MS. HALSEY: Thank you. Be seated.

24 Item 3 is reserved for appeals of executive
25 director decisions, and there are no appeals to consider

1 for this hearing.

2 Next is Item 4. Senior Commission Counsel Eric
3 Feller will please turn on his video and unmute his
4 microphone and present a proposed decision on an
5 incorrect reduction claim on *Crime Statistics Reports*
6 *for the Department of Justice*.

7 At this time we invite the parties and witnesses to
8 turn on their videos and unmute their microphones.

9 MR. FELLER: Good morning.

10 This IRC challenges the State Controller's
11 reduction to reimbursement claims filed by the City of
12 San Marcos under the Crime Statistics Reports for the
13 Department of Justice Program, for fiscal years 2001/2
14 through 2011/2012.

15 Parameters and guidelines authorize reimbursement
16 for local law enforcement agencies to support all
17 domestic violence-related calls for assistance, with a
18 written incident report, and to review and edit the
19 report.

20 Claimant contracts for law enforcement services
21 with the San Diego Sheriff's Office. Claimant
22 calculated the cost to perform the reimbursable activity
23 by multiplying the number of domestic violence calls for
24 assistance by the estimated time to write the incident
25 report by the sheriff's hourly rates.

1 The Controller found the claimant misstated all
2 three of these variables, but the claimant disputes only
3 the reduction is to:

4 First, the number of domestic violence incident
5 reports in fiscal years 2001/2 through 2006/7, although
6 the Commission's jurisdiction extends only to 2002/3 to
7 2006/7.

8 Second, the contract productive hourly rates in
9 fiscal years 2001/2 through 2006/7;

10 And, third, the reduction of incorrect -- indirect
11 costs claimed where Commission jurisdiction extends only
12 to 2007/8 to 2011/12.

13 Based on this record, staff finds the Controller's
14 audit findings are correct as a matter of law and not
15 arbitrary, capricious, or entirely lacking in
16 evidentiary support.

17 Staff recommends the Commission adopt the proposed
18 decision to deny this IRC and authorize staff to make
19 any technical, nonsubstantive changes to the proposed
20 decision following the hearing.

21 CHAIRPERSON MILLER: Great. Thank you, Mr. Feller.

22 Will the parties and witnesses please state your
23 names for the record.

24 Annette Chinn for the City of San Marcos, would you
25 like to begin?

1 MS. HALSEY: Ms. Chinn, you are muted.

2 CHAIRPERSON MILLER: Ms. Chinn.

3 MS. CHINN: Annette Chinn, client representative
4 for City of San Marcos.

5 CHAIRPERSON MILLER: Great. Thank you very much.
6 Ms. Kurokawa for the State Controller. If you
7 could --

8 MS. KUROKAWA: Yeah. My name is Lisa Kurokawa.
9 I'm the bureau chief of the Compliance Audits Bureau at
10 the State Controller's Office.

11 CHAIRPERSON MILLER: Great. Thank you very much.
12 Would you like to offer your comments at this time,
13 please.

14 MS. KUROKAWA: Sure. The State Controller's Office
15 agrees with the Commission staff's proposed decision.

16 CHAIRPERSON MILLER: Great. Thank you very much
17 for that, Ms. Kurokawa.

18 Ms. Chinn, would you like to make any comments on
19 this now or -- and at this time, it would be appropriate
20 for other public comment as well.

21 MS. CHINN: Yes. I have a written statement to
22 read.

23 CHAIRPERSON MILLER: Please.

24 MS. CHINN: Okay. Anyone who has ever hired a
25 contractor, be it a plumber or an attorney, realizes

1 that the high rates that they are being charged includes
2 overhead and not just the salaries and benefits of that
3 employee performing their service. In that overhead,
4 the contractor is billing for their support staff, such
5 as receptionists, clerks, as well as administrative
6 staff, such as senior managers and other supervisors.

7 The same is true for contract law enforcement
8 services. In my over close to 30 years of experience
9 preparing claims for state reimbursement for local
10 agencies, about 30 percent of which contract for law
11 enforcement services, the contracts are typically
12 structured so that a City is billed a full, fully loaded
13 contract amount, which includes departmental overhead.

14 There is really no difference in any other type of
15 contract services. Everyone knows that the contract
16 rate includes overhead and other positions in that rate.

17 In the case of San Diego Sheriff's Office, in their
18 hourly rates, for their patrol unit, they included a
19 portion of the sergeant positions, which they deemed to
20 be an overhead cost.

21 However, in this audit, the State Controller's
22 Office circumvented the contract and went directly to
23 the contractor, the County Sheriff's Office, and asked
24 them for information regarding how much they paid for a
25 deputy, and then reduced our claims to reflect that

1 rate.

2 Therefore, instead of the City obtaining
3 reimbursement for their full, actual rate that they were
4 billed contractually for a patrol unit performing the
5 mandated activities, they were allowed only the stripped
6 down rate that the County paid the employee.

7 While the State Controller did try to make some
8 adjustments and add some overhead based on averages
9 computed for more recent years, those rates were not
10 met, based on actual contract amounts.

11 In addition, the overhead rates did not include
12 sergeant staff. They only allowed one of eight sergeant
13 positions in the computation of their later overhead
14 rates.

15 Neither you nor I could do that with any bill from
16 your plumber or for your attorney. You couldn't ask
17 them to just strip down their rate and pay -- you just
18 want to pay the actual salary of that plumber.

19 Commission staff supports the State Controller
20 approach. In their analysis, they state, on page 21 of
21 the proposed decision, that the claimant included the
22 cost of various classifications in overhead so the
23 hourly rates do not comply with parameters and
24 guidelines.

25 However, if you read the parameters and guidelines,

1 there is nothing in them or in the claiming instructions
2 that allows for this State Controller approach.

3 On page 506 of the indirect reduction claim, in the
4 claiming instructions under "Contract Services," it
5 states that the -- the necessary information is to
6 report the name of the contractor and services being
7 performed. And if the contractor bills for time and
8 materials, report the number of hours spent on the
9 activity and all costs charged.

10 So that's exactly what we did. We extracted the
11 billing rate that the contractor charged the City of San
12 Marcos, and we determined the number of hours, which was
13 approved by the State Controller, and that's how we
14 derived the cost. So we were in full compliance of
15 parameters and guidelines.

16 There is nothing in the instructions that state
17 that when you have a contract, you are supposed to go
18 directly to the vendor and ask to extract out salaries
19 and benefits for just that specific person. By nature,
20 contracts are commingled with various other overhead and
21 positions, so that's just completely normal.

22 Further, the state auditor stated that they were
23 unable to compute actual overhead rates for the years in
24 question for those first 2001 to 2006/2007. So our
25 question is that if the State Controller's Office was

1 unable to compute overhead rates, how, then, are local
2 agencies supposed to do so in that same circumstance?

3 So, in summary, the vendor believed the sergeant
4 position was necessary overhead, and they included it in
5 their charge to the City. Then the State Controller
6 took out the sergeant positions from the rate and all
7 other overhead to compute their costs.

8 The California Constitution and state guidelines
9 require reimbursement of actual costs incurred for the
10 performance of mandated programs, and these reductions
11 were incorrect and in violation of state law.

12 I have prepared these claims for other agencies
13 that also contract for sheriff services, and I can tell
14 you that their total hourly billing rates are all very
15 similar. So if you look at, like, the total cost on an
16 hourly basis, they are very comparable. There is no
17 determination by the State Controller's Office that
18 there were excessively high rates being charged in this
19 claim.

20 So we ask that the Commission correct this
21 reduction that do not comply with the instructions nor
22 the spirit of the law. By supporting the State
23 Controller audit methodology, the message is that claims
24 for contract services are not being prepared correctly,
25 and if this is the case, then local agencies should be

1 given clear instructions on how exactly to claim for
2 contract costs.

3 Since this is a new methodology that doesn't
4 address how and when local agencies are supposed to
5 duplicate the State Controller approach, we would
6 request that instructions explain how and when these
7 methods should be employed.

8 Further, if the Commission determines that this
9 deconstructed methodology of contract rates is
10 allowable, then it also should be allowable for local
11 agencies, in turn, to employ the same methods to compute
12 their claims.

13 Currently, there are many claims that local
14 agencies are not filing for, specifically because we've
15 been abiding to the structure of the contracts. If,
16 however, the Commission finds that this is an allowable
17 approach, then I will, with my clients, employ the same
18 approach to seek reimbursement. So claims that we have
19 not pursued in the past, because the costs were not
20 transparent in the contract, can also be dissected in a
21 similar manner. For example, we can also ask for the
22 counties to provide salaries and benefits for
23 administrative and support positions, such as sergeants,
24 lieutenants, captains, work on internal affairs cases,
25 and are now not being submitted for those costs. So

1 this -- if this deconstruction methodology is found
2 acceptable, then it should also be acceptable for local
3 agencies to employ the same method in computing their
4 claims.

5 So I just want to note that, in the future, if we
6 come back to this point and we have another incorrect
7 reduction claim because the State Controller's disagrees
8 with our deconstruction of contract rates, then I will,
9 you know, bring this up to the Commission and point out
10 that, you know, the ruling was made that this is a fair
11 and legitimate approach, so it should also be applicable
12 for local agencies to use as well.

13 Our second issue with this incorrect reduction
14 claim involves the inconsistent treatment of sergeant
15 positions in the overhead rate. The sergeant position
16 is a first line supervisor of the patrol officer
17 classification of employees. The job and
18 responsibilities of these positions is uniform, not only
19 within San Diego County, but statewide.

20 I prepared thousands of claims and overhead rates
21 and gone through dozens of audits, and, in all cases,
22 the sergeant classification has been deemed to be more
23 than 50 percent administrative or supervisory in nature
24 and allowable in the incorrect -- or in the ICRP or
25 overhead rate.

1 In this audit, however, all but one sergeant was
2 cut out of our ICRP rates. We had job descriptions,
3 command staff declarations. We can show that, in other
4 audits, this classification has always been found to be
5 partially allowable in the overhead rates. However, in
6 this case, the State Controller's Office did not treat
7 the sergeant positions consistently. By allowing only
8 one out of eight, we argued that they all perform the
9 same duties, and it would have been impossible for only
10 one sergeant to supervise 32 field deputies to work 24
11 hours a day.

12 The City may purchase, through their contracts,
13 positions like captains, lieutenants, that will serve as
14 a police chief. However, even though they purchase
15 those costs and -- directly in their contract, it
16 doesn't mean that those positions are not supervisory or
17 necessary overhead that would be allowable in the
18 computation of the ICRP rate.

19 Audit and guide -- guide -- audit guidelines and
20 principles emphasize the necessity of treating like
21 costs consistently. There are clear guidelines on how a
22 cost is found to be a direct cost. If the cost benefits
23 the function of the department and the costs of the
24 program, then it is an allowable overhead cost. And it
25 is clear that, as a first line supervisory position,

1 that a portion of all sergeants should have been allowed
2 in the computation of the overhead rates.

3 Disallowance of all but one position erroneously
4 reduces the City's claim for state reimbursement. The
5 SCO decision to exclude all but one sergeant ignores the
6 evidence and shows that they lacked a clear and
7 reasonable basis for their findings.

8 I have worked as a cost consultant for many years
9 now and prepared thousands of ICRPs and claims and have
10 gone through many audits. And, again, in almost all
11 cases, usually 50 to 65 percent of a sergeant position
12 has been deemed to be administrative and eligible for
13 inclusion in the overhead rates. So why now would that
14 same rule not apply in our case? The San Diego sheriff
15 and the San Marcos Police Department function in exactly
16 the same way as any other law enforcement agency in the
17 state. There's no reason why some portion of all the
18 sergeant positions should not have been included in the
19 overhead rate.

20 The final issue that we had in this audit was what
21 exactly constitutes a contemporaneous source document?
22 Commission staff agreed that it's not reasonable to
23 request the level of documentation for those early
24 fiscal years. However, they still supported the State
25 Controller's use of average numbers over actual,

1 contemporaneously, and published numbers that we
2 provided through our claim.

3 Given the records retention rules, local agencies
4 have legal requirements on how long a law enforcement
5 agency can keep crime reports, and the practical
6 barriers of just technology over that length of time,
7 we'll always have this issue of providing the level of
8 documentation that's being asked for by the State
9 Controller's Office.

10 Currently, I'm asking all of my clients to provide
11 me with not just a number, to substantiate the number of
12 cases for the claim, but also a report that shows date,
13 case number. But this, too, would probably not be
14 helpful in an audit because, in a number of years, those
15 physical crime reports will again not be accessible or
16 available for State Controller review.

17 Since this is not practical, there needs to be some
18 fair resolution to this issue, and I believe that it
19 should err in favor of local agencies and not in favor
20 of the State, because the State controls their timing of
21 when they conduct the audits. And the longer they wait,
22 the longer these records can disappear, and it just
23 makes it more difficult for local agencies to support
24 their costs.

25 Commission staff notes that this body is the only

1 recourse available for local agencies to file their
2 complaints and seek remedy for erroneous State
3 Controller audit findings. As such, the responsibility
4 of this agency to hear and rectify these issues is
5 critical to the fair adjudication of issues that arise.

6 Commission staff recommends deferring to the
7 expertise of the State Controller's office. However,
8 when there are inconsistencies, as we have noted, we
9 believe that it would be appropriate and would request
10 that this body consult with an independent auditor to
11 obtain a second opinion to enact a more fair and just
12 decision.

13 Local agencies rely on this body to deliver fair
14 rulings and to ensure that the State constitutional
15 obligation to reimburse local agencies for their full,
16 actual costs incurred to implement these state mandates
17 be protected and ensured.

18 I thank you for your time and consideration.

19 CHAIRPERSON MILLER: Thank you very much,
20 Ms. Chinn.

21 Mr. Feller or Ms. Shelton, do you want to respond
22 to anything? Or are there any questions from the
23 Commission?

24 MR. FELLER: I will defer audit questions to
25 Ms. Kurokawa.

1 But as far as the Commission's role here, with the
2 exception of the calculated hourly rates, which the
3 parameters and guidelines say have to be based on the
4 reimbursable activities, the Controller's finding that
5 multiple classifications were commingled -- meaning that
6 certain sheriff's personnel that were included in those
7 rates did not perform the reimbursement activities --
8 the Commission found, as a question of law, that that
9 violated the parameters and guidelines because only the
10 portion of personnel who are actually performing the
11 activities are reimbursable.

12 With regards to the other findings, the
13 Commission's role is limited to determine whether the
14 Controller adequately considered the claimant's
15 documentation and all relevant factors and made a
16 rational connection between those factors and the
17 adjustments that it made.

18 The Commission's role is not to reweigh the
19 evidence. And so based on that standard, the Commission
20 found that the Controller's actions were not arbitrary,
21 capricious, or entirely lacking in evidentiary support.
22 That is the Commission's finding, and its role is
23 limited to that.

24 CHAIRPERSON MILLER: Great. Thank you.

25 MR. FELLER: That's all I have on it.

1 CHAIRPERSON MILLER: Thank you, Mr. Feller.

2 I think the point you are making, that the
3 Commission's role is limited, and that new evidence
4 would have to be newly considered, are really important
5 factors here.

6 Ms. Kurokawa or Ms. Shelton, do you want to add
7 anything to that?

8 MS. SHELTON: Just on that point.

9 So that -- the Commission does not have the
10 authority to hire an independent auditor for auditing
11 decisions of the Controller. We have no authority under
12 the law to do that. So it is a very limited standard of
13 review for the Controller's audit decisions.

14 MS. CHINN: So perhaps someone can explain --

15 CHAIRPERSON MILLER: Could you go through the
16 Chair, Ms. Chinn.

17 And I'm going to -- before we do that, any other
18 questions from the Commission or any other public
19 comment at this time? And then we'll go to you,
20 Ms. Chinn.

21 Yes, Mr. Adams.

22 MEMBER ADAMS: Thank you, Chairperson.

23 Ms. Chinn, you mentioned comparing this to, you
24 know, electricians or plumbers. Other than medical
25 doctors, is there any industry that the indirect rate

1 would be somewhere at a 80, 90 percent, versus where
2 it's been pulled down to about 45 to 50 percent? An
3 indirect rate that's almost double the direct cost seems
4 pretty extensive to me.

5 MS. CHINN: I would point to attorney billings,
6 that their overhead rates are probably equally, if not
7 even higher, than law enforcement rates. So, you know,
8 I have never seen the State Controller go and request,
9 like, for an attorney billing for one of the mandates,
10 like, for the PERB costs to say, oh, we're not going to
11 pay you for your contractual hourly rate for the
12 attorney, but we're going to ask that firm to tell us
13 what exactly they pay that senior attorney or that
14 junior attorney, and then just reimburse you for those
15 rates. I have never seen that done before in any other
16 scenario.

17 So, you know, again, there are high rates out
18 there. And, you know, if you compare those rates to
19 other law enforcement claimed rates, those are, you
20 know, standard 80 -- you know, 70, 80 percent rates are
21 typically what you see for law enforcement ICRP claims.
22 It's just a very cost-intensive line of work.

23 MEMBER ADAMS: I thank you for that.

24 I had 28 years in local law enforcement, and I
25 would just say that these seem pretty high rates to me,

1 but that's just my experience.

2 Thank you.

3 CHAIRPERSON MILLER: Thank you, Mr. Adams.

4 Ms. Wong-Hernandez.

5 MEMBER WONG-HERNANDEZ: Yeah. That also seems like
6 a very different scenario, because what -- my
7 understanding -- and, Mr. Feller, correct me if I'm --
8 if I'm wrong -- my understanding is, we're saying that
9 those rates, the overhead rates, would make sense if you
10 are talking about a totality of law enforcement
11 services.

12 We're talking about what's an indirect rate that
13 is -- that is related specifically to the mandated
14 activities. So I think it's very different from, sort
15 of, an attorney situation.

16 Because they are not saying that those rates are
17 necessarily unreasonable -- although I have no
18 experience and trust Mr. Adams. But that they are
19 necessarily unreasonable when you are talking about
20 whatever the indirect rate is for providing all of your
21 police services.

22 And so that, to me, is an important distinction.

23 MS. CHINN: You know, I just want to point out that
24 we really have no dispute on the overhead rate
25 computation, other than the inclusion of those sergeant

1 positions.

2 So everything else in the computation of those
3 rates, we agree to, again, with the exception of the
4 sergeants. You know, we still believe that all the
5 sergeants are performing the same job classification.
6 They are doing the same function, primarily -- I mean,
7 there could be little differences between individuals.
8 But on average, you know, 50 to 65 percent of the
9 sergeant position has always been considered to be an
10 appropriate overhead cost. You know what I'm saying?

11 This is based on my 30 years of experience and also
12 with other state audits, that it's always been an
13 allowable cost. But in this case, we got reduced, you
14 know, from eight sergeants down to one position.

15 So that's -- that's our only dispute in the
16 overhead rates at all. So, you know, if that was
17 corrected, we would be in agreement with everything --
18 with everything else.

19 CHAIRPERSON MILLER: Any other questions from the
20 board?

21 (No response)

22 CHAIRPERSON MILLER: Ms. Kurokawa, do you want an
23 opportunity to respond to anything before we go to
24 Ms. Chinn's last question?

25 MS. KUROKAWA: No.

1 CHAIRPERSON MILLER: No? Great. Thank you.

2 Ms. Chinn, did you have one more question?

3 MS. CHINN: Well, I mean, I think that it's telling
4 that there is no -- there is no logical answer that, you
5 know, we've been given. That there is no consistency;
6 there is no uniform treatment. And, you know, this is
7 just like a clear -- a clear departure from what's
8 expected in an audit.

9 In an audit, you are expected to have consistent
10 treatment of costs, that those costs are, you know,
11 governed by certain rules and dictates. And when it's
12 not followed, we're going to have these incorrect
13 reduction claims, and I'm going to keep bringing them
14 forward whether, you know, we win or not. I just think
15 that there needs to be light shed on these -- these
16 issues.

17 They are problematic, and I don't really understand
18 why, you know, the Commission is saying that their hands
19 are so tied that they can't correct, like, a blatant
20 error. You know -- and if you can't hire an independent
21 auditor, like, what -- what recourse is there for local
22 agencies to get fair treatment and fair decisions? It
23 just seems like a very -- a very unfair process.

24 CHAIRPERSON MILLER: So, I mean, I'm going to turn
25 it over to Ms. Kurokawa, but it's a matter of law as to

1 what the Commission can actually review. So -- and then
2 I'm going to -- Ms. Shelton, do you want to go before
3 Ms. Kurokawa?

4 MS. SHELTON: No. Go right ahead.

5 MS. KUROKAWA: I just want to just clarify.

6 I -- my -- I do support, entirely, the audit. I
7 think all the findings that we took, the adjustments
8 that we made, were a hundred percent supported by
9 records that we received during the audit.

10 Regarding the indirect costs, the district -- I
11 think we were more than fair. I'm sorry. The City of
12 San Marcos claimed 10 percent for the years of 01/02
13 through 06/07. And we actually gave them 47.7 percent
14 indirect cost rates for the years that they did not
15 claim that rate. So we have given them above what was
16 actually claimed, and that's entirely something that we
17 did because we thought that that was entitled to them,
18 47 percent.

19 The position of sergeant that we did allow was
20 classified as a sergeant administrative employee. And
21 it was definitely identified in their contract that that
22 was an administrative position.

23 In terms of the commingled rate, the City was
24 claiming reimbursement for positions that actually do
25 not perform the mandated activities.

1 So we reviewed all the records during the audit,
2 and based on information that we obtained, we adjusted
3 the claims. So it was based on facts that we had, not
4 just things that we know to be true, because we filed --
5 we audit these records. It was based on information
6 given to us during the audit.

7 CHAIRPERSON MILLER: Thank you for that.

8 Ms. Shelton and then Mr. Feller.

9 MS. SHELTON: One thing that I was just going to
10 mention is that during the parameters and guidelines
11 phase, we really do encourage local government and the
12 State Controller's Office to have these discussions
13 during parameters and guidelines, because these
14 parameters and guidelines don't even allow an indirect
15 cost rate for contract costs.

16 And in this case, the claimant claimed indirect
17 costs based on the labor rate as if they -- their own
18 employees were performing the function. So the fact
19 that the Controller is allowing some indirect costs,
20 when that's not even authorized by the parameters and
21 guidelines, that is the reason for the standard we have
22 to apply instead of an independent review.

23 So if you want clarity, we need participation in
24 the parameters and guidelines phase.

25 Secondly, I just wanted to mention, if you look on

1 page 52 of the proposed decision, it does point out,
2 when we're talking about the productive hourly rate,
3 that the claimant actually did segregate the amounts and
4 the calculation for the later years, but did not do that
5 for the earlier years.

6 So there's a difference in how they presented the
7 information to the State Controller's Office, and the
8 State Controller's Office agreed with how they did it in
9 the later years.

10 So it's not pulling the wool over their eyes, and
11 it's based on the information that they had before them.
12 And it's pretty clear that was true based on this
13 record.

14 CHAIRPERSON MILLER: Great. Thank you.

15 Mr. Feller and then Ms. Chinn.

16 MR. FELLER: Yeah. No. That's what I was going to
17 say, what Ms. Shelton said. So --

18 CHAIRPERSON MILLER: Great.

19 MR. FELLER: -- nothing further.

20 CHAIRPERSON MILLER: Thank you.

21 Ms. Chinn.

22 MS. CHINN: Well, I just want to point out that the
23 reason why that there was a difference in how the rates
24 were shown and computed is because, in the contracts,
25 the County billed for services in a different manner.

1 So in the early years, they billed for a complete patrol
2 deputy rate, and then, in later years, they separated it
3 out by more refined detail. So we simply followed the
4 same method that was employed by the contracting party,
5 so it's all based on how San Diego County structured
6 their rates.

7 And when you say that the State Controller's Office
8 was benevolent in allowing overhead rates, well, it's
9 because they deconstructed the actual billing rate. So
10 if you were to look at an attorney's \$500-an-hour rate,
11 and you reduced that, then, to \$100 an hour, well, you
12 know, yes, we didn't include overhead in the \$500 rate
13 because we didn't need to; it was already included in
14 that rate.

15 So you are giving us, like, apples and oranges in
16 this discussion, when you are saying, oh, well, we gave
17 you incorrect -- an overhead rate, when you didn't ask
18 for one. Well, we didn't need to ask for one because in
19 that fully loaded \$100 hourly rate that we were asking
20 for, that was reduced to, like, \$58 an hour, there was
21 already overhead built into it. So to say that we're
22 now getting -- oh, we're getting overhead we didn't ask
23 for, that's completely false, because that overhead was
24 already included.

25 So in the San Diego's billing rate, they included a

1 share of sergeants, but then when the Controller did
2 their computation, they took out the sergeants.

3 So how -- I mean, if the San Diego County is
4 considering a sergeant an overhead position, then how
5 can the State Controller then come back and say, oh,
6 we're taking out your sergeant positions from your
7 overhead rate? It just makes -- it makes no sense and
8 it's unfair, because you are reducing something that we
9 didn't ask for because we didn't have to ask for it. In
10 that high rate included overhead rates. It was already
11 built in, in those early years.

12 And, you know, again, you can't do apples and
13 oranges because the County billed in different ways. So
14 in the early years, it was a different method of
15 billing, and we just followed that same method of
16 billing.

17 So, you know, if you are saying that -- and when
18 you say, Camille, that we're not, you know, following
19 the instructions, but here, it says, clearly, under
20 "Contract Services," that all you have to do is show the
21 hourly billing rate that the County, or the billing
22 entity, is charging you and multiply it by the numbers
23 of hours, which is exactly what we did.

24 So there's nothing in here that says, oh, contracts
25 now have been dissected. So does that mean for an

1 attorney, you have to go to them and say, well, we're
2 not allowed to bill for your attorney billing rates; we
3 want to find out how much do you actually pay that
4 attorney, and what is the benefit rate?

5 I mean, you are going doing down a slippery slope
6 here, where, now, are you saying that local agencies can
7 go and dissect their contracts and say, oh, well, in the
8 contract, they are billing you for a patrol deputy, but
9 in that patrol deputy, there's a captain, there's a
10 lieutenant, there's a secretary. And if those rates
11 aren't transparent, why, then, can local agencies not do
12 the same exact thing, and go through and pick out all
13 the little pieces?

14 If you are saying that, you know, that's fair for
15 the State Controller, then that also should be fair for
16 local agencies, and that is basically what you are
17 saying in this decision, that --

18 CHAIRPERSON MILLER: Ms. Chinn, I'm going to -- you
19 know, let's not talk about other decisions because this
20 one -- the law is very clear on what we can and can't
21 look at.

22 And I am curious, you can -- we can ask this at
23 another time -- how much your client cooperated with the
24 State Controller's Office when the audit was happening?
25 Because it does sound like your concerns are really

1 around the audit.

2 And during the P&Gs, that was the time to really
3 have some of these discussions. Unfortunately -- and I
4 can tell how frustrated you are by it -- it's outside
5 the scope of the decision the Commission can make, based
6 on the law and what we can and can't review.

7 So I'm going to let Ms. Shelton speak, and then I'm
8 going to turn it back to the board.

9 Ms. Shelton, do you have a final comment before we
10 see what the board wants to do?

11 MS. SHELTON: I don't think, really, anything
12 further.

13 Just that the parameters and guidelines contained
14 what that boilerplate language, which is in most of the
15 parameters and guidelines, that require for even
16 contract costs, that they are only allowed to get
17 reimbursed for the actual costs mandated by the State
18 for the employees or contract employees that perform the
19 mandated functions. And so there's never been an intent
20 to allow reimbursement for a bunch of other
21 classifications who don't perform the mandate.

22 And, again, I will repeat, to the extent this is
23 not -- this language is not clear, there are multiple
24 avenues: One is participation in the parameters and
25 guidelines, at the very beginning, because that is the

1 binding document; or any party can request that the
2 parameters and guidelines be amended to clarify language
3 going -- and that would work prospectively.

4 So to the extent that the language is not clear, as
5 you are trying to implement that, we do encourage those
6 processes to be used.

7 CHAIRPERSON MILLER: Thank you for that,
8 Ms. Shelton.

9 Ms. Halsey, do you have --

10 MS. HALSEY: That was what I was going to say. So
11 thank you.

12 CHAIRPERSON MILLER: Great. Thank you.
13 Any other questions from the Commission members?

14 (No response)

15 CHAIRPERSON MILLER: Ms. Palchik, is there any
16 other additional public comment?

17 MS. PALCHIK: There is none.

18 CHAIRPERSON MILLER: Great. Thank you much.

19 I'm going to then turn it back -- Ms. Olsen,
20 please.

21 MEMBER OLSEN: Madam Chair, I move adoption of the
22 staff recommendation.

23 CHAIRPERSON MILLER: Great. Thank you. I will
24 second that adoption of the staff recommendation.

25 Since there were no additional questions or any

1 additional comment, Ms. Halsey, will you take the roll,
2 please.

3 MS. HALSEY: Yes.

4 Mr. Adams.

5 MEMBER ADAMS: Aye.

6 MS. HALSEY: Ms. Lee.

7 MEMBER LEE: Aye.

8 MS. HALSEY: Ms. Miller.

9 CHAIRPERSON MILLER: Aye.

10 MS. HALSEY: Ms. Olsen.

11 MEMBER OLSEN: Aye.

12 MS. HALSEY: Mr. Walker.

13 MEMBER WALKER: Aye.

14 MS. HALSEY: Ms. Wong-Hernandez.

15 MEMBER WONG-HERNANDEZ: Aye.

16 MS. HALSEY: Thank you.

17 CHAIRPERSON MILLER: Thank you very much. That
18 motion carries and the staff recommendation is adopted.

19 We'll now move on the Item Number 5.

20 MS. HALSEY: We now ask the presenters for Item 4
21 to please turn off their videos and mute their
22 microphones.

23 Item 5 is reserved for county applications for a
24 finding of significant financial distress, or SB 1033
25 applications.

1 No SB 1033 applications have been filed.

2 Items 6, 7, and 8 were on the consent calendar.

3 Item 9 is next, and Program Analyst Kerry Ortman
4 will please turn on her video and microphone and present
5 Item 9, the Legislative Report.

6 MS. ORTMAN: Good morning.

7 The 2021/22 regular legislative session convened on
8 December 7th. The legislature was originally scheduled
9 to return from the interim recess on January 4th.
10 However, due to the surge in COVID-19 infections, their
11 return was pushed back to January 11.

12 There are no new bills to mandate -- related to the
13 mandates process to report on at this time. However,
14 the Commission staff will continue to monitor for any
15 legislation that affects the mandates process.

16 Thank you.

17 MS. HALSEY: Thank you, Kerry.

18 CHAIRPERSON MILLER: Thank you very much.

19 MS. HALSEY: Next is Item 10. Chief Legal Counsel
20 Camille Shelton will please turn on her video and
21 microphone and present Item 10, the Chief Legal Counsel
22 Report.

23 MS. SHELTON: Good morning.

24 Since the binders were issued, we do have a new
25 lawsuit to report. This is a lawsuit filed by the

1 County of San Diego, challenging the Commission's
2 decision on the *Youth Offender Parole Hearing* claim, and
3 that matter now is set in the San Diego County Superior
4 Court.

5 We have had a recent decision issued by the Second
6 District Court of Appeal on the *Municipal Stormwater and*
7 *Urban Runoff Discharge* test claim, fully affirming the
8 Commission's decision, finding that the permit imposed a
9 new program or higher level of service, that the
10 claimants do have fee authority for the inspection
11 activities, and, thus, those activities are denied for
12 reimbursement; but that the claimants do not have fee
13 authority to impose charges, fees, or assessments on
14 transit districts or adjacent property owners to cover
15 the costs to install and maintain trash receptacles,
16 based on the authorities raised by the State in that
17 case.

18 We do have one matter set on the hearing calendar
19 for next Friday. It's a case management conference
20 scheduled for the *California School Board Association*
21 case. The parties are attempting settlement of that
22 case, but the case management conference is still
23 scheduled for that date, and it may be removed.

24 And that's all I have.

25 CHAIRPERSON MILLER: Great. Thank you,

1 Ms. Shelton.

2 Any questions of Ms. Shelton? Or we can actually
3 ask questions of Ms. Ortman if there's anything.

4 Obviously, a tough legislative session to predict,
5 however.

6 Any questions from Commission members? No?

7 (No response)

8 MS. HALSEY: Item 11 is Executive Director Report.

9 After this hearing, there are 40 pending test
10 claims, 39 of which are regarding stormwater NPDES
11 permits. We have also had several new claims recently
12 filed that are going through the completeness review
13 process, so those will be on new filings for your next
14 hearing.

15 There are also two statewide cost estimates
16 pending.

17 On inactive status, pending the outcome of
18 litigation, there are one additional parameters and
19 guidelines and one additional statewide cost estimate,
20 and both of those are regarding stormwater permits; and
21 one parameters and guidelines amendment regarding
22 graduation requirements.

23 And finally, there are nine incorrect reduction
24 claims pending.

25 Commission staff currently expects to complete all

1 the currently pending test claims and IRCs by
2 approximately the January 2024 Commission meeting,
3 depending on staffing and other workload. However, some
4 test claims and IRCs may be heard and decided earlier
5 than currently indicated if they are consolidated for
6 hearing.

7 Tentative agenda items: Please check the Executive
8 Director's Report to see if an item you are interested
9 in is coming up over the next two hearings. You can
10 also use the pending caseload on the Commission's
11 website, which lists all of the matters currently
12 pending with the Commission and their estimated hearing
13 dates.

14 And that is all I have.

15 CHAIRPERSON MILLER: Great. Thank you.

16 Any questions for the Executive Director?

17 (No response)

18 CHAIRPERSON MILLER: Any public comment?

19 MS. PALCHIK: There is none, Madam Chair.

20 CHAIRPERSON MILLER: Great. Thanks, Ms. Palchik.

21 The Commission -- and I'm going to ask Ms. Palchik
22 if we can please send to everyone the closed session
23 information on the Commission.

24 And now the Commission will meet in closed
25 executive session, pursuant to Government Code section

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

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

11 So with that, we will recess into closed session.

12 Any instructions, Ms. Halsey? I just want to make
13 sure --

14 MS. HALSEY: Just to let the members know to click
15 on the link for the closed session, and then we will
16 enter back into this meeting to close out the open
17 session, after the closed session.

18 CHAIRPERSON MILLER: Great. Thank you very much.

19 (Closed session was held from
20 11:04 a.m. to 11:16 a.m.)

21 CHAIRPERSON MILLER: We are reconvening in public
22 session.

23 The Commission met in closed executive session
24 pursuant to Government Code section 11126(e)(2) to
25 confer with and receive advice from legal counsel for

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

7 With no further business to discuss, I will
8 entertain a motion to adjourn, please.

9 MEMBER WALKER: So moved.

10 CHAIRPERSON MILLER: Great. Thanks, Mr. Walker.

11 All those in favor of adjourning, please signify by
12 saying "aye."

13 (Ayes)

14 CHAIRPERSON MILLER: Anyone opposed?

15 (No response)

16 CHAIRPERSON MILLER: Seeing none, this meeting and
17 adjourned. Thank you.

18 (Proceedings concluded at 11:17 a.m.)

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CERTIFICATE OF REPORTER

I, KATHRYN S. SWANK, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing proceedings were reported in shorthand by me, Kathryn S. Swank, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said proceedings nor in any way interested in the outcome of said proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of February 2021.


KATHRYN S. SWANK, CSR
Certified Shorthand Reporter
License No. 13061