

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Government Code Sections 54952, 54954.2, 54957.1, and 54957.7 as amended by Statutes 1993, Chapters 1136, 1137, 1138 and Statutes 1994, Chapter 32;

Filed on December 29, 1994 and amended on August 7, 2000;

By the City of Newport Beach, Claimant.

No. CSM 4469

Brown Act Reform

**ORDER TO REINSTATE STATEMENT
OF DECISION IN CSM 4469**

(Adopted September 25, 2009)

On March 9, 2009, the Third District Court of Appeal in *California School Boards Assoc. v. State of California* (2009) 171 Cal.App.4th 1183, 1198-1203, held that the Legislature's direction to set aside or reconsider prior Commission decisions goes beyond the power of the Legislature and violates the separation of powers doctrine set forth in Article III, section 3 of the California Constitution. The court directed that the Commission set aside its orders setting aside the Statements of Decision and to reinstate the prior decisions. (*Id.* at p. 1218.)

On July 13, 2009, the Sacramento County Superior Court, Case No. 06CS01335, issued a Judgment and Peremptory Writ of Mandate Following Appeal directing the Commission to:

Set aside as null and void the order adopted on September 27, 2005 setting aside the Statement of Decision in Proceeding CSM-4257 (*Open Meeting Act*), the Statement of Decision in Proceeding CSM-4469 (*Brown Act Reform*) and the consolidated parameters and guidelines pertaining to Proceeding CSM-4257 and CSM-4469, in their entirety, and you are further directed to reinstate the previous determinations of the Commission in those proceedings.

In accordance with the Peremptory Writ of Mandate, the Commission hereby REINSTATES the following attached document:

- Statement of Decision in *Brown Act Reform* (CSM 4469), adopted on June 28, 2001

PAULA HIGASHI, Executive Director

Dated: _____