

Minutes

COMMISSION ON STATE MANDATES

Location of Meeting: Room 447
State Capitol, Sacramento, California
January 24, 2014

Present: Member Eraina Ortega, Chairperson
Representative of the Director of the Department of Finance
Member Richard Chivaro, Vice Chairperson
Representative of the State Controller
Member Andre Rivera
Representative of the State Treasurer
Member Ken Alex
Director of the Office of Planning and Research
Member Sarah Olsen
Public Member
Member Carmen Ramirez
City Council Member
Member Don Saylor
County Supervisor

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 Ortega called the meeting to order at 10:03 a.m.

Executive Director Heather Halsey called the roll.

ELECTION OF OFFICERS

Executive Director Heather Halsey stated that the annual election of officers is the first order of business.

Chairperson Ortega asked for nominations for the chairperson.

Member Alex nominated the Director of Finance. Member Chivaro seconded. Director of Finance Michael Cohen was elected chairperson by a vote of 7-0.

Chairperson Ortega asked for nominations for vice-chairperson. Member Alex nominated the Treasurer. With a second by Member Chivaro, the California State Treasurer Bill Lockyer was elected vice-chairperson by a vote of 7-0.

APPROVAL OF MINUTES

Member Olsen made a motion to adopt the minutes. With a second by Member Chivaro, the December 6, 2013 hearing minutes were adopted by a vote of 7-0.

PUBLIC COMMENT FOR MATTERS NOT ON THE AGENDA

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

CONSENT CALENDAR

HEARINGS AND DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (GOV. CODE, § 17551, 17557, and 17559) (action)

PARAMETERS AND GUIDELINES AND PARAMETERS AND GUIDELINES AMENDMENTS

- Item 9 *Accounting for Local Revenue Realignments*, 05-TC-01
Health & Safety Code Sections 33681.12, 33681.13, 33681.14, 33681.15;
Revenue & Taxation Code Sections 97.68, 97.70, 97.71, 97.72, 97.73
Statutes 2003, Chapter 162; Statutes 2004, Chapter 211; Statutes 2004,
Chapter 610
County of Los Angeles, Claimant

- Item 10 *Crime Statistic Reports for Department of Justice*, 12-PGA-01 (02-TC-04
and 02-TC-11 and 07-TC-10)
Penal Code Sections 12025(h)(1) and (h)(3), 12031(m)(1) and (m)(3),
13014, 13023, and 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); and Statutes 2000,
Chapter 626 (AB 715)
and
Penal Code Section 13023
Statutes 2004, Chapter 700 (SB 1234)
Crime Statistics Reports for the Department of Justice Amended
State Controller's Office, Requestor

INCORRECT REDUCTION CLAIMS

- Item 11 Adoption of Statement of Decision for *Health Fee Elimination*, 05-4206-I-04
and 05-4206-I-08
Education Code Section 76355
Statutes 1984, Chapter 1 (1983-1984 2nd Ex. Sess.);
Statutes 1987, Chapter 1118
Fiscal Years 1999-2000, 2000-2001, 2001-2002 and 2002-2003
San Mateo Community College District and San Bernardino Community
College, Claimants

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

STATEWIDE COST ESTIMATES

- Item 12* *Minimum Conditions for State Aid*, 02-TC-25 and 02-TC-31
Education Code Sections 66010.2, 66010.7, 66721.5, 66731, 66732, 66736, 66738, 66740, 66742, 70902, 78015, and 78016
Statutes 1988, Chapter 973; Statutes 1991, Chapter 1188; Statutes 1991, Chapter 1198; Statutes 1998, Chapter 365; and Statutes 2000, Chapter 187
California Code of Regulations, Title 5, Sections 53203, 53207, 55001, 55002, 55005, 55006, 55150, 55201, 55202, 55750, 55751, 55753, 55753.5, 55753.7, 55754, 55755, 55756, 55756.5, 55757, 55758, 55759, 55760, 55761, 55764, 55800, 55805, 55805.5, 55806, 58102, 58104, and 58106
Register 91, Number 23; Register 93, Number 25; Register 93, Number 42; Register 94, Number 38; Register 98, Number 7; Register 2000, Number 50; Register 2002, Number 8; and Register 2003, Number 18
Los Rios Community College District, Santa Monica Community College District, and West Kern Community College District, Claimants
- Item 13* *Parental Involvement Programs*, 03-TC-16
Education Code Sections 11504, 49091.10, 51101, 51101.1
Statutes 1990, Chapter 1400; Statutes 1998, Chapter 864; Statutes 1998, Chapter 1031; and Statutes 2002, Chapter 1037
San Jose Unified School District, Claimant
- Item 14* *Williams Case Implementation I, II, and III*, 05-TC-04, 07-TC-06, and 08-TC-01
Education Code Sections 14501, 33126(b), 35186, 41020, and 42127.6 as Added or Amended by
Statutes 2004, Chapter 900 (SB 550); Statutes 2004, Chapter 902 (AB 3001); Statutes 2004, Chapter 903 (AB 2727); Statutes 2005, Chapter 118 (AB 831); Statutes 2006, Chapter 704 (AB 607); and Statutes 2007, Chapter 526 (AB 347)
San Diego County Office of Education, and Sweetwater Union High School District, Claimants

ADOPTION OF PROPOSED RULEMAKING CALENDAR

- Item 15* Proposed Rulemaking Calendar, 2014

Executive Director Halsey announced that the parties agreed to add Items 9, 10, and 11 to the Consent Calendar. Chairperson Ortega asked if there was any objection to adding Items 9, 10, and 11 to the Consent Calendar and if there were any comments from the public. No objection was made and there was no public comment. Member Alex made a motion to adopt the consent calendar. With a second by Member Saylor, the consent calendar was unanimously adopted.

HEARINGS AND DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (GOV. CODE, § 17551, 17557, and 17559) (action)

Executive Director Heather Halsey swore in parties and witnesses participating in the hearing.

APPEAL OF EXECUTIVE DIRECTOR DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 1181(c)

Item 3 Appeal of Executive Director Decisions

There were no appeals to consider.

TEST CLAIMS

Item 4 *Public Guardianship Omnibus Conservatorship Reform, 07-TC-05*

Probate Code Sections 1850(a), 1851(a), 2113, 2250(a)-(c), 2250.4(a)-(d); 2352(a)-(f), 2352.5(a)-(e), 2410, 2540(a)-(b), 2543(a)-(d), 2610(a), 2620(a)-(e), 2620.2(a)-(d), 2590, 2591(a)-(q), 2591.5(a)-(d), 2623(a)-(b), 2640(a)-(c), 2640.1(a)-(c), 2641(a)-(b), 2653(a)-(c), 2920(a)-(c), and 2923

Statutes 2006; Chapter 490 (SB 1116), Statutes 2006, Chapter 492 (SB 1716), and Statutes 2006, Chapter 493 (AB 1363)

County of Los Angeles, Claimant

This test claim seeks reimbursement for costs incurred by counties who comply with the Omnibus Conservatorship and Guardianship Reform Act of 2006, which made comprehensive reforms to California's probate conservatorship program.

Senior commission Counsel Tyler Asmundson presented this item and recommended that the Commission adopt the proposed statement of decision to deny the test claim.

Parties were represented as follows: Hasmik Yaghobyan, representing the claimant; Connie Draxler, deputy director, Los Angeles County Public Guardian, Lee Scott, Michael Byrne, and Susan Geanacou, representing the Department of Finance.

Following discussion among the Commission members, staff, and parties, Member Alex made a motion to adopt the staff recommendation. With a second by Member Ramirez, the motion to adopt the staff recommendation to deny the test claim was adopted by a vote of 6-1. Member Saylor dissented.

Item 5 *State Authorized Risk Assessment Tool for Sex Offenders (SARATSO), 08-TC-03*

Statutes 2006, Chapter 336 (SB 1178), amending Section 1202.8 and adding Sections 290.04, 290.05, and 290.06 of the Penal Code;

Statutes 2006, Chapter 337 (SB 1128) amending Sections 290, 290.3, 290.46, 1203, 1203c, 1203.6, 1203.075, and adding Sections 290.03, 290.04, 290.05, 290.06, 290.07, 290.08, 1203e, 1203f of the Penal Code;

Statutes 2006, Chapter 886 (SB 1849), amending Sections 290.46, 1202.8; repealing Sections 290.04, 290.05, and 290.06 of the Penal Code;

Statutes 2007, Chapter 579 (SB 172) amending Sections 290.04, 290.05, 290.3, and 1202.7; adding Sections 290.011, 290.012; and repealing and adding Section 290 to the Penal Code; and

California Department of Mental Health's Executive Order, SARATSO
(State Authorized Risk Assessment Tool for Sex Offenders) Review
Committee Notification, issued on February 1, 2008

County of Los Angeles, Claimant

This test claim alleges reimbursable state-mandated costs related to the Sex Offender Punishment and Control Act, the Sex Offender Registration Act, and an alleged executive order from the SARATSO review committee.

Commission Counsel Matt Jones presented this item and recommended that the Commission adopt the proposed statement of decision to partially approve the test claim.

Parties were represented as follows: Hasmik Yaghobyan, representing the claimant; Michael Byrne and Susan Geanacou, representing the Department of Finance.

Following discussion among the Commission members, staff, and parties, Member Chivaro made a motion to adopt the staff recommendation. With a second by Member Olsen, the motion to adopt the staff recommendation to partially approve the test claim was adopted by a vote of 7-0.

Item 6 *Upper Santa Clara River Chloride Requirements, 10-TC-09*

Los Angeles Regional Water Quality Control Board Resolution No. R4-2008-012, adopted December 11, 2008, approved by United States Environmental Protection Agency April 6, 2010

Santa Clarita Valley Sanitation District of Los Angeles County, Claimant

The test claim alleges reimbursable state-mandated increased costs resulting from a resolution which amended the Basin Plan for the Santa Clara River adopted December 11, 2008, by the California Regional Water Quality Control Board for the Los Angeles region.

Commission Counsel Matt Jones presented this item and recommended that the Commission adopt the staff analysis and proposed statement of decision denying the test claim.

Parties and interested parties were represented as follows: Claire Collins, District Counsel for the Santa Clarita Valley Sanitation District and Paul Beck, District Counsel for the Santa Clarita Valley Sanitation District, representing the claimant; Jennifer Fordyce, Los Angeles Regional Water Quality Control Board; Michael Lauffer, State Water Resources Control Board; Michael Byrne and Susan Geanacou, representing the Department of Finance. Public testimony was given by Scott Wilk, California Assembly Member, 38th Assembly District; Laurene Weste, Mayor of the City of Santa Clarita; and TimBen Boydston, Councilmember of the City of Santa Clarita.

Following discussion among the Commission members, staff, and parties and public testimony by interested persons, Member Olsen made a motion to adopt the staff recommendation. With a second by Member Saylor, the motion to adopt the staff recommendation to deny the test claim was adopted by a vote of 6-0 with Member Ramirez abstaining.

MANDATE REDETERMINATION

- Item 7 *Local Recreational Areas: Background Screenings (01-TC-11), 12-MR-02*
Public Resources Code Section 5164
Statutes 2001, Chapter 777
As Alleged to be Modified by: Statutes 2010, Chapter 719 (SB 856)
California Department of Finance, Requestor

This was the second hearing in the mandate redetermination process and the issue before the Commission was whether to adopt a new test claim decision to supersede the previously adopted test claim decision. At the first hearing on this redetermination request, on December 6, 2013, the Department of Finance made an adequate showing that the state's liability under Public Resource Code section 5164 had been modified by a subsequent change in law to now provide fee authority sufficient to cover the costs of the mandated activities.

Commission Counsel Matt Jones presented this item and recommended that the Commission adopt the proposed statement of decision as its new test claim decision, ending reimbursement for the activities under the test claim statute, beginning July 1, 2011.

Parties and interested parties were represented as follows: Lee Scott, Michael Byrne and Susan Geanacou, representing Requestor, the Department of Finance.

Department of Finance indicated concurrence with the staff recommendation and there was no further discussion. Member Alex made a motion to adopt the staff recommendation. With a second by Member Chivaro, the motion to adopt the proposed statement of decision as its new test claim decision, ending reimbursement for the activities under the test claim statute, beginning July 1, 2011, was adopted by a vote of 7-0.

PARAMETERS AND GUIDELINES AND PARAMETERS AND GUIDELINES AMENDMENTS

- Item 8 *Local Recreational Areas: Background Screenings (01-TC-11), 12-MR-02*
Public Resources Code Section 5164
Statutes 2001, Chapter 777
As Alleged to be Modified by: Statutes 2010, Chapter 719 (SB 856)
California Department of Finance, Requestor

These parameters and guidelines pertain to the new test claim decision adopted for the *Local Recreation Areas: Background Screenings* mandate under the mandate redetermination process, reflecting the end of reimbursement for the program.

Commission Counsel Matt Jones presented this item and recommended that the Commission adopt the proposed statement of decision and parameters and guidelines.

Parties were represented as follows: Lee Scott, Michael Byrne and Susan Geanacou, representing Requestor, the Department of Finance.

Department of Finance indicated concurrence with staff and there was no further discussion. Member Olsen made a motion to adopt the staff recommendation. With a second by Member Rivera, the motion to adopt the staff recommendation adopting the proposed statement of decision and parameters and guidelines was adopted by a vote of 7-0.

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 6.5 (info/action)

- Item 16 Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commission, or to a Hearing Officer
Note: This item will only be taken up if an application is filed.

No applications were filed.

STAFF REPORTS

- Item 17 Legislative Update (info)

Program Analyst Kerry Ortman presented this item.

- Item 18 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar (info)

Chief Legal Counsel Camille Shelton presented this item.

- Item 19 Executive Director: Mid-year Workload Update and Tentative Agenda Items for Next Meeting (info)

Executive Director Heather Halsey presented this item.

Member Alex thanked Commission staff for dealing with a huge backlog and for continued professional work on all the test claims. Member Ramirez echoed those comments and noted for the record, however, that some claimants and members of the public may get frustrated by the mandates process and that she does too, but that she knows the Commission has to follow the law. Member Ramirez suggested that, perhaps, more energy should be directed at getting programs properly funded and authorized. Member Saylor commended staff on an incredible job and noted, however, that many claims that come before the Commission are clearly not mandates that can be reimbursed through this process and then there are others that are but he wished for greater clarity for the claimants as well as for the process. Ms. Halsey explained that Commission staff participated in the statewide county conference put on by the State Controller to present how the mandates process works. Member Saylor continued that there is growing dismay and concern among local governments around “does this work?” and “what can be done?”.

CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 AND 11126.2 (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):

1. *State of California Department of Finance, State Water Resources Control Board, and California Regional Water Quality Board, San Diego Region v. Commission on State Mandates and County of San Diego, et al.* (petition and cross-petition)
Third District Court of Appeal, Case No. C070357 (Sacramento County Superior Court Case No. 34-2010-80000604)
[*Discharge of Stormwater Runoff, Order No. R9-207-000, 07-TC-09 California Regional Water Control Board, San Diego Region Order No. R9-2007-001, NPDES No. CAS0108758, Parts D.1.d.(7)-(8), D.1.g.,*

D.3.a.(3), D.3.a.(5), D.5, E.2.f, E.2.g,F.1, F.2, F.3, I.1, I.2, I.5, J.3.a.(3)(c) iv-vii & x-xv, and L]

2. *California School Board Association (CSBA) v. State of California et al.*
Alameda County Superior Court, Case No. RG11554698
[2010-2011 Budget Trailer Bills, Mandates Process for K-12 Schools, Redetermination Process]
3. *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).
California Supreme Court, Case No. S214855
(Los Angeles County Superior Court, Case No. BS130730, Second District Court of Appeal, Case No. B237153)
[*Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04, 03-TC-19, 03-TC-20, and 03-TC-21, Los Angeles Regional Quality Control Board Order No. 01-182, Permit CAS004001, Parts 4C2a., 4C2b, 4E & 4Fc3]

B. PERSONNEL

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

The Commission adjourned into closed executive session pursuant to Government Code section 11126(e) to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation published in the notice and agenda; to confer and receive advice from legal counsel regarding potential litigation, and to confer on personnel matters pursuant to Government Code section 11126(a)(1).

REPORT FROM CLOSED EXECUTIVE SESSION

At 12:05 p.m., Chairperson Ortega reconvened in open session, and reported that the Commission met in closed executive session pursuant to Government Code section 11126(e) to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the public notice and agenda, and potential litigation, and to confer on personnel matters pursuant to Government Code section 11126(a)(1) and that no action was taken.

PERSONNEL (action)

- Item 20 [TENTATIVE] Salary Adjustment and Revision of CEA Level: Attorney to the Commission/Chief Legal Counsel (CEA B), pursuant to Government Code Section 17529

Member Olson moved to adjust the Chief Legal Counsel's salary for merit by 5 percent as soon as California Department of Human Resources rules will allow. With a second by Member Ramirez, the motion passed with a unanimous vote.

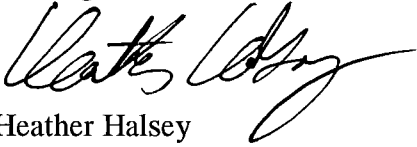
- Item 21 [TENTATIVE] Salary Adjustment: Executive Director, pursuant to Government Code Section 17530

Assistant Executive Director Jason Hone presented this item. He explained that Item 21 is a salary adjustment for the Executive Director.

Member Olson moved to adjust the Executive Director's salary by 5 percent effective on the anniversary of her appointment. With a second by Member Rivera, the motion passed with a unanimous vote.

ADJOURNMENT

Hearing no further business, Chairperson Ortega adjourned the meeting at 12:06 p.m.

A handwritten signature in black ink, appearing to read "Heather Halsey". The signature is fluid and cursive, with the first name being more prominent.

Heather Halsey
Executive Director