

Minutes

COMMISSION ON STATE MANDATES

Location of Meeting: Room 447
State Capitol, Sacramento, California
March 23, 2012

Present: Member Diana Ducay, Chairperson
Representative of the Director of the Department of Finance
Member Francisco Lujano, Vice Chairperson
Representative of the State Treasurer
Member Richard Chivaro
Representative of the State Controller
Member Ken Alex
Director of the Office of Planning and Research
Member Sarah Olsen
Public 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 Ducay called the meeting to order at 11:00 a.m. Acting Executive Director Nancy Patton introduced and welcomed new commission member, and Yolo County Supervisor Don Saylor, and then called the roll.

APPROVAL OF MINUTES

Item 1 January 27, 2012

With a motion for approval by Member Olsen and a second by Member Alex, the January 27, 2012 hearing minutes were adopted by a vote of 6-0.

CONSENT CALENDAR

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

PARAMETERS AND GUIDELINES, PARAMETERS AND GUIDELINES AMENDMENTS, AND STATEMENTS OF DECISION

Item 4* *Community College Construction, 02-TC-47*
Education Code Sections 81820, 81821(a), (b), (e), and (f)
Statutes 1980, Chapter 910, Statutes 1981, Chapter 470, Statutes 1981, Chapter 891, Statutes 1995, Chapter 758
Santa Monica Community College District, Claimant

Item 7* *School Accountability Report Cards*
10-PGA-02 (97-TC-21)
Education Code Sections 33126, 35256, 35256.1, 35258, 41409, and 41409.3,
Statutes 1997, Chapter s 918 and 912; Statutes 1994, Chapter 824;

Statutes 1993, Chapter 1031, Statutes 1992, Chapter 759; Statutes 1989, Chapter 1463

State Controller's Office, Requestor

Item 8* *Physical Education Reports*
11-PGA-04 (05-PGA-60, 98-TC-08)
Education Code Section 51223.1
Statutes 1997, Chapter 640
State Controller's Office, Requestor

Item 9* AIDS Instruction (CSM 4422)
Education Code Sections 51201.5 and 51229.8
Chapter 818. Statutes 199t1
And
Aids Prevention Instruction (99-TC-07, 00-TC-01)
Education Code Sections 51201.5. 51554 and 51553(b)(1)(A)
Chapter 403. Statutes 1998
State Controller's Office, Requestor

Member Olsen made a motion to adopt the consent calendar. With a second by Member Chivaro, the consent calendar was adopted by a vote of 6-0.

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

Item 2 Staff Report (if necessary)

There were no appeals to consider.

HEARINGS AND DECISIONS ON TEST CLAIMS, PARAMETERS AND GUIDELINES, AND INCORRECT REDUCTION CLAIMS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (GOV. CODE, § 17551, 17557, and 17559) (action)

Acting Executive Director Nancy Patton swore in parties and witnesses participating in the hearing.

A. TEST CLAIM AND STATEMENT OF DECISION

Item 3 *Juvenile Offender Treatment Program Court Proceedings*
04-TC-02
Welfare and Institutions Code Sections 779, 1731.8, 1719, and 1720
Statutes 2003, Chapter 4
County of Los Angeles, Claimant

This item was postponed upon request of the claimant.

B. PARAMETERS AND GUIDELINES AND AMENDMENTS

Item 5 *Voter Identification Procedures*, 03-TC-23
Elections Code Section 14310
Statutes 2000, Chapter 260
County of San Bernardino, Claimant

This item proposes parameters and guidelines filed by the County of San Bernardino on the *Voter Identification Procedures* program that requires local agencies to compare the signature on

each provisional ballot envelope with the signature on the voter's affidavit of registration using the same procedures that apply to the comparison of signatures on absentee ballots. If the signature's do not compare, the ballot is rejected.

Chief Legal Counsel Camille Shelton presented this item and recommended that the Commission adopt the parameters and guidelines, but deny claimant's request to adopt a reasonable reimbursement methodology in the form of a unit cost for this program. Ms. Shelton stated that there is no evidence in the record that the proposed methodology reasonably represents the costs incurred by a county to comply with the mandate during the period of reimbursement, which begins July 1, 2002, and for the fiscal years in the future. Ms. Shelton recommended that the Commission adopt the parameters and guidelines using actual costs for reimbursement.

Parties were represented as follows: Allan Burdick, California State Association of Counties and the League of California Cities Advisory Committee on State Mandates, and Donna Ferebee and Randall Ward representing the Department of Finance.

Mr. Burdick welcomed new member Saylor. He then provided background on this program. Mr. Burdick stated that this program was a good candidate for a reasonable reimbursement methodology. However, the staff analysis points out that claimant is lacking proper evidence to support its proposed methodology, and Mr. Burdick opposed the evidence requirements, indicating that the evidence requirements were overreaching.

Ms. Ferebee stated that Department of Finance has no objection to the staff's recommendation for approval of the actual cost associated with the mandate.

Member Chivaro made a motion to adopt the staff recommendation. With a second by Member Olsen, the staff recommendation to approve the parameters and guidelines without the proposed reasonable reimbursement methodology was adopted by a vote of 6-0.

Item 6 *Peace Officer Procedural Bill of Rights (POBOR)*
09-PGA-05 [05-RL-4499-01 (4499), 06-PGA-06]
Government Code Sections 3301, 3303, 3304, 3305, 3306
Statutes 1976, Chapter 465; Statutes 1978, Chapters 775, 1173, 1174, and
1178; Statutes 1979, Chapter 405; Statutes 1980, Chapter 1367;
Statutes 1982, Chapter 994; Statutes 1983, Chapter 964; Statutes 1989,
Chapter 1165; and Statutes 1990, Chapter 675
City of Los Angeles, Requestor

This is a request by the City of Los Angeles to amend the parameters and guidelines to revise the reasonable reimbursement methodology unit cost for the *Peace Officer Procedural Bill of Rights* (POBOR) program for the City of Los Angeles only. The POBOR program provides a series of rights and procedural safeguards to peace officers employed by local agencies that are subject to investigation and discipline.

Ms. Shelton presented this item and recommended that the Commission deny the City of Los Angeles' request to amend the parameters and guidelines because the proposed unit cost does not comply with Government Code section 17518.5. It is not based on cost information from a representative sample of eligible claimants, and does not consider the variation in costs among other local agencies to comply with the program.

Parties were represented as follows: Allan Burdick, CSAC SB 90 Service, representing the Los Angeles Police Department and the City of Los Angeles; and Susan Geanacou and Randall Ward, representing the Department of Finance.

Mr. Burdick explained that the proposal would raise the unit cost for the City of Los Angeles from \$37.25 per officer to \$426.00 per officer. All other local agencies would continue to

reimbursed at the rate of \$37.25 per officer. Mr. Burdick presented a handout and discussed why he believed a variation in costs was considered, and why it was acceptable to provide a different reimbursement methodology for one entity.

Ms. Geanacou indicated that Department of Finance supported staff's recommendation to deny this matter.

Member Olsen asked if there were instances when the Commission could adopt multiple methodologies for one program based on the size of the counties or cities. Ms. Shelton responded that there is nothing to preclude the Commission from doing so.

Member Saylor added that it is acceptable to have multiple methodologies for a single mandate. Ms. Shelton agreed. There was discussion by Mr. Burdick and Ms. Shelton about another pending request to amend the POBOR parameters and guidelines filed by the California State Association of Counties. Ms. Shelton recommended that this matter not be consolidated with the other pending request.

Member Chivaro made a motion to adopt the staff recommendation. With a second by Member Olsen, the staff recommendation to deny the request to amend the parameters and guidelines and adopt the statement of decision was adopted by a vote of 5-1, with Member Saylor voting no.

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 10 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 11 Legislative Update

Ms. Patton presented this item.

- Item 12 Chief Legal Counsel: Recent Decisions, Litigation Calendar

Ms. Shelton presented this item.

- Item 13 Acting Executive Director's Report

Ms. Patton presented this item.

PUBLIC COMMENT

There was no public comment.

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 v. Commission on State Mandates*, Sacramento County Superior Court Case No. 34-2010-80000529 [Graduation Requirements, Parameters and Guidelines Amendments, Nov. 2008]