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COMMISSION ON
STATE MANDATES

PUBLIC HEARING

COMMISSION ON STATE MANDATES

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TIME: 9:30 a.m.

DATE: Thursday, October 26, 2006

**PLACE: State Capitol, Room 126
Sacramento, California**

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

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ORIGINAL

Reported by:
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A P P E A R A N C E S

COMMISSIONERS PRESENT

ANNE SHEEHAN
(Commission Chair)
Representative for MICHAEL GENEST
Director, State Department of Finance

PAUL GLAAB
City Council Member
City of Laguna Niguel

FRANCISCO LUJANO
Representative for PHILIP ANGELIDES
State Treasurer

AMY HAIR
Representative for STEVE WESTLY
State Controller

J. STEVEN WORTHLEY
Supervisor and Chairman of the Board
County of Tulare

SARAH OLSEN
Public Member

JOHN FILLMORE
Representative for SEAN WALSH
Director, Office of Planning & Research

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A P P E A R A N C E S

COMMISSION STAFF PRESENT

PAULA HIGASHI
Executive Director

CAMILLE SHELTON
Chief Legal Counsel

DEBORAH BORZELLERI
Senior Commission Counsel

ERIC FELLER
Commission Counsel

NANCY PATTON
Deputy Executive Director

CATHY CRUZ JEFFERSON
Senior Program Analyst

---oOo---

PUBLIC TESTIMONY

Appearing Re Item 4:

For Sacramento County Sheriff's Department:

NANCY GUEST
Sacramento County Sheriff's Department

For Department of Finance:

SUSAN S. GEANACOU, Senior Staff Attorney
Department of Finance

DONNA FEREBEE, Senior Staff Attorney
Department of Finance

CARLA CASTAÑEDA, Principal Program Budget Analyst
Department of Finance

PUBLIC TESTIMONY

Appearing Re Item 6:

For San Diego Unified School District:

ARTHUR M. PALKOWITZ
Director, Resource Development
San Diego Unified School District
4100 Normal Street, Room 3209
San Diego, California 92103-2682

For Department of Finance:

SUSAN S. GEANACOU, Senior Staff Attorney
Department of Finance

CARLA CASTAÑEDA, Principal Program Budget Analyst
Department of Finance

Appearing Re Item 18:

For California Integrated Waste Management Board:

ELLIOT BLOCK, Acting Chief Counsel
California Integrated Waste Management Board

TREVOR O'SHAUGHNESSY, Program Staff
California Integrated Waste Management Board
1001 I Street
Sacramento, California 95812

For Department of Finance:

SUSAN S. GEANACOU, Senior Staff Attorney
Department of Finance

CARLA CASTAÑEDA, Principal Program Budget Analyst
Department of Finance

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ERRATA SHEET

<u>Page</u>	<u>Line</u>	<u>Correction</u>
<u>3</u>	<u>19</u>	Correct the name "Naney Guest" to "Nancy Guest"
<u>10</u>	<u>18</u>	The two "Guest" words on this line should be corrected and should say "Guest"
<u>11</u>	<u>1</u>	Correct "Guest" by changing it to "Guest"
<u>11</u>	<u>3</u>	Correct "Guest" by changing it to "Guest"
<u>12</u>	<u>6</u>	Should read "claim" & not "claims"
<u>14</u>	<u>2</u>	Cross off "Geanacou" and replace it with "Patton"
<u>26</u>	<u>10</u>	Cross off and "and" & replace it with "through"
<u>42</u>	<u>4</u>	Cross off "that" and replace it with "what"
<u>48</u>	<u>7</u>	Cross off "setting" & replace it with "offsetting"

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1 BE IT REMEMBERED that on Thursday, October 26,
2 2006, commencing at the hour of 9:30 a.m., thereof, at
3 the State Capitol, Room 126, Sacramento, California,
4 before me, CAROLE W. BROWNE, CSR #7351, the following
5 proceedings were held:

6 ---oOo---

7 CHAIR SHEEHAN: The time of 9:30 having
8 arrived, I would like to call the October 26th meeting of
9 the Commission on State Mandates to order.

10 Can the clerk call the roll, please?

11 MS. HIGASHI: Mr. Fillmore?

12 MEMBER FILLMORE: Here.

13 MS. HIGASHI: Mr. Glaab?

14 MEMBER GLAAB: Present.

15 MS. HIGASHI: Ms. Hair?

16 MEMBER HAIR: Present.

17 MS. HIGASHI: Mr. Lujano?

18 MEMBER LUJANO: Present.

19 MS. HIGASHI: Ms. Olsen?

20 MEMBER OLSEN: Present.

21 MS. HIGASHI: Mr. Worthley?

22 MEMBER WORTHLEY: Here.

23 MS. HIGASHI: And Ms. Sheehan?

24 CHAIR SHEEHAN: Here.

25 We have a quorum. We have a full contingent

1 today.

2 First item of business.

3 MS. HIGASHI: First item on the agenda is
4 approval of the minutes for the October 4th meeting.
5 We have a late delivery on the transcript -- I should say
6 it's routine delivery -- and we will be having those
7 minutes on the next agenda.

8 CHAIR SHEEHAN: Okay. All right. Very good.

9 MS. HIGASHI: Then the next item is the
10 proposed Consent Calendar. And this should be before
11 you. It is blue. And I'll read through the items: Item
12 10, item 11, item 12, item 13, item 15, item 16, item 17,
13 and item 19.

14 CHAIR SHEEHAN: Very good. And then we have
15 some postponements, also.

16 MS. HIGASHI: Yes. We have postponement of
17 items 8, 9 and 14.

18 CHAIR SHEEHAN: Okay. All right. So any
19 changes to the consent that anyone -- hopefully no one --
20 there are no issues to be pulled off of consent?

21 *(No audible response.)*

22 UNIDENTIFIED SPEAKER: So move.

23 CHAIR SHEEHAN: All right. So we have a motion
24 to adopt the Consent Calendar. Do we have a second?

25 MEMBER GLAAB: Second.

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1 CHAIR SHEEHAN: All right. A motion and
2 second. All those in favor say "aye."

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

4 CHAIR SHEEHAN: Opposed?

5 *(No audible response.)*

6 CHAIR SHEEHAN: That is adopted.

7 MS. HIGASHI: Thank you very much.

8 This brings us to the hearing portion of our
9 meeting. And I'd like to ask all of the parties and
10 witnesses who will be involved in items -- hold on -- 4,
11 5, 6 --

12 CHAIR SHEEHAN: 7.

13 MS. HIGASHI: -- and 7 to please stand.

14 This should be quick.

15 Do you solemnly swear or affirm that the
16 testimony which you're about to give is true and correct
17 based upon your personal knowledge, information or
18 belief?

19 *(A chorus of "I do's" was heard.)*

20 MS. HIGASHI: Thank you.

21 Item 4 will be presented by Commission Counsel
22 Deborah Borzelleri.

23 MS. BORZELLERI: Thank you, Paula.

24 This is racial profiling, law enforcement
25 training. This test claim deals with statutes that

1 prohibit law enforcement officers from engaging in racial
2 profiling and establishes racial profiling training
3 requirements for law enforcement officers with the
4 curriculum developed by the Commission on Peace Officer
5 Standards and Training, which is POST.

6 The test claim statutes as interpreted by POST
7 required a one-time, five-hour initial racial profiling
8 training course and a two-hour refresher course every
9 five years.

10 Both courses can be certified by POST to allow
11 local agencies to apply the training hours towards their
12 24-hour continuing professional training courses.

13 Staff recommends the Commission partially approve this
14 test claim for the initial five-hour training under the
15 limited circumstances as specified in the analysis and
16 deny reimbursement for the two-hour refresher course.

17 Will the parties please state your name for the record?

18 MS. GUEST: Nancy Guest, Sacramento County
19 Sheriff's Department.

20 MS. CASTAÑEDA: Carla Castañeda, Department of
21 Finance.

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

24 MS. GEANACOU: Susan Geanacou, Department of
25 Finance.

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1 CHAIR SHEEHAN: Okay. Ms. Guest, would you
2 like to start?

3 MS. GUEST: We have no objection to the staff
4 analysis.

5 CHAIR SHEEHAN: Okay. Finance? Whichever one?

6 MS. GEANACOU: We also concur with staff
7 analysis, limiting it to the period before adoption in
8 POST's basic course.

9 CHAIR SHEEHAN: Okay. Any questions from the
10 members?

11 *(No audible response.)*

12 CHAIR SHEEHAN: That's amazing. All right.
13 Then if there's no further discussion, no other comments
14 from members of the public on this one? All right. Then
15 we'll entertain a motion.

16 MEMBER GLAAB: So moved.

17 MEMBER WORTHLEY: Second.

18 CHAIR SHEEHAN: All right. We have a motion to
19 adopt the staff recommendation. All those in favor say
20 "aye."

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

22 CHAIR SHEEHAN: Any opposed?

23 *(No audible response.)*

24 CHAIR SHEEHAN: That is adopted.

25 Thank you, ladies.

1 Item 5.

2 MS. BORZELLERI: Item 5. The only issue before
3 the Commission is whether the proposed statement of
4 decision accurately reflects the Commission's decision on
5 the racial profiling, law enforcement training test
6 claims.

7 Staff will make minor changes in the final
8 statement of decision reflecting the witnesses testifying
9 and vote count.

10 CHAIR SHEEHAN: Their input that they -- right?

11 MS. BORZELLERI: Yes. Yes.

12 CHAIR SHEEHAN: Okay. Any questions on this?

13 If not, we'll entertain a motion.

14 MEMBER OLSEN: Move it.

15 UNIDENTIFIED SPEAKER: Second.

16 CHAIR SHEEHAN: There's a motion and a second
17 to adopt the proposed statement of decision. All those
18 in favor say "aye."

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

20 CHAIR SHEEHAN: Any opposed?

21 MEMBER WORTHLEY: Madam Chairman, I just want
22 to make one comment.

23 CHAIR SHEEHAN: Mm-hmm.

24 MEMBER WORTHLEY: It's not really before us
25 today, but it seems relevant to the issue, and that is,

1 we find that where we have a mandated action but it could
2 be absorbed into an existing program, it does not create
3 a reimbursement claim, which I fully appreciate.

4 My concern is that at some point we get to the
5 point where we say, well, these people have to be medical
6 doctors, don't worry, we'll take care of it in a 24-hour
7 period. You know, we get to the point where it becomes
8 almost ludicrous in terms of trying to actually perform
9 these responsibilities in these allocated time
10 allotments. And someone's going to come forward and
11 say --

12 CHAIR SHEEHAN: We've reached our limit.

13 MEMBER WORTHLEY: Yeah. And I think that I've
14 heard some anecdotal information which might indicate
15 that we're approaching that now.

16 CHAIR SHEEHAN: Okay.

17 MEMBER WORTHLEY: In other words, in order to
18 accomplish this, we really aren't teaching people things.
19 We're just kind of throwing it out there, moving on to
20 the next subject, because there isn't time to do it
21 properly.

22 And I just think that, you know, at some point
23 in time somebody's going to rise up and say the Emperor
24 has no clothes. And in order to do this job properly, we
25 don't do that in 24 hours. We have to take 26 hours,

1 28 hours. That's when the claims come before us. I just
2 think it's a reality that will show its face here at some
3 point.

4 CHAIR SHEEHAN: Well, and I think it -- I think
5 you're exactly right in terms of raising it. And I think
6 some of the people who are affected by this, having this
7 discussion, this, you know -- possibly not before this
8 Commission but in a policy forum in terms of, okay, what
9 is the totality of all this that you're requiring and are
10 we providing sufficient time to do it.

11 What happens sometimes on these is, you know,
12 we get stuck as the forum who has to resolve some of this
13 when really it should be a discussion, you know, upstairs
14 in terms of looking at the whole totality, bringing some
15 of the law enforcement groups in and saying, okay, what
16 are the requirements we're placing on you? Do they make
17 sense? Do they need to be adjusted? Do we still need so
18 many hours in this? And maybe we need something on this.

19 So for those who have that concern, I would
20 encourage them to have some discussions with some of the
21 folks upstairs so that we can have a thoughtful,
22 deliberate discussion of those issues.

23 What happens at times, as I know many of you in
24 the audience know, it gets stuck here after the fact,
25 when really we need to sort of push it back to where it

1 belongs in terms of that discussion. So I think it's a
2 point well taken. Okay. Next item. Same issue.

3 MS. HIGASHI: Item 6.

4 MS. BORZELLERI: This is racial profiling, law
5 enforcement training K-14. This test claim also deals
6 with statutes that prohibit law enforcement officers from
7 engaging in racial profiling, establishes the same
8 training as the previous test claim with the curriculum
9 established by POST. And we still have a one-time,
10 five-hour course and a continuing education of a two-hour
11 refresher every five years.

12 Staff recommends the Commission deny this test
13 claim because it does not mandate any activities on K-14
14 school districts.

15 There's no legal requirement on K-14 school
16 districts to establish police departments and there is no
17 other evidence to support a finding that reimbursement
18 should be allowed for this test claim when triggered by
19 the K-14 school districts' discretionary decision to
20 establish a police department.

21 So will the parties state your name for the
22 record?

23 MS. GEANACOU: Susan Geanacou, Department of
24 Finance.

25 MS. CASTAÑEDA: Carla Castañeda, Department of

1 Finance.

2 MS. GEANACOU: Madam Chair, Mr. Peterson, the
3 claimant representative, notified us last night that he
4 is ill, and he apologizes. He asked us to continue with
5 this -- to go on with this one, but that if anything new
6 came up, then to continue it. But he said he's noted his
7 objections in the record.

8 CHAIR SHEEHAN: All right.

9 MS. GEANACOU: I guess I should proceed then.
10 Susan Geanacou, Finance.

11 We support the final staff analysis in this
12 matter, specifically because the thought forming of a
13 police department by K-14 school districts is optional
14 per statute and they have the discretionary choice to be
15 able to do so or not. And for that reason this is not a
16 reimbursable mandate.

17 CHAIR SHEEHAN: Any questions from . . .

18 MEMBER GLAAB: Yes. Madam Chairman and
19 Members, I just have a couple of questions with regards
20 to the constitutional provision requiring safe schools do
21 not apply to community colleges. Why not? Is that in
22 legislative intent or -- do we know why?

23 MS. GEANACOU: Are you asking me or --

24 MEMBER GLAAB: Yes, I am.

25 MS. GEANACOU: -- the staff?

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1 MEMBER GLAAB: I'm sorry. Excuse me. Let me
2 redirect the question then. Thank you very much.

3 MS. GEANACOU: Oh, that's okay.

4 CHAIR SHEEHAN: I'm going to let Deborah go
5 ahead and . . .

6 MS. BORZELLERI: Just -- well, actually, there
7 is -- the specific constitutional provision only covers
8 K-12. So it's right in the constitution.

9 MS. SHELTON: It was an initiative adopted by
10 the voters.

11 MEMBER GLAAB: Okay. Another question in
12 follow-up, if I may.

13 If a school district K through 14 or K through
14 12 decides to have a police department, are they required
15 to do this training if they decide to?

16 MS. BORZELLERI: Yes.

17 MEMBER GLAAB: So having a police department at
18 the school district is a discretionary item, obviously,
19 if it would be warranted by need, supposedly?

20 MS. BORZELLERI: Well, yes. That is, it would
21 be based on the decision of the school district, what
22 they think they need or how they think they can best
23 carry out what they need to do to provide police
24 protection or security.

25 MEMBER GLAAB: How many of these school

1 districts have elected to do so? Do we have a number at
2 all?

3 MS. SHELTON: We do not.

4 MEMBER GLAAB: Okay. No further questions.

5 Thank you.

6 MEMBER WORTHLEY: Madam Chair, if I might just
7 follow up on that?

8 I think -- I think many school districts use a
9 contract with policing agencies. And that really is a
10 way around this particular problem is, if you contract
11 for police services with your local jurisdiction, then
12 you really get around this problem, because, obviously,
13 you're just hiring them to perform the services rather
14 than having your own police department.

15 MEMBER GLAAB: Thank you.

16 MR. PALKOWITZ: I'd like to comment.

17 CHAIR SHEEHAN: Absolutely.

18 MR. PALKOWITZ: Hi. Good morning. My name is
19 Art Palkowitz from San Diego Unified.

20 Though, as correctly stated, there are many
21 districts that do contract, you will find larger
22 districts in urban areas -- San Diego, LA are ones that
23 do have their own police agency. The main reason for
24 that is, there's just a lack of response time from a
25 local agency to deal with problems at K through 12,

1 mainly high school level, middle school level.

2 This, as the gentleman pointed out -- and this
3 is really one of the tougher issues in mandate law, is
4 that though you cannot find anything in the Code that
5 says that a school district has to have an agency, once
6 they decide to have an agency, there will be various laws
7 that they have to follow once they have that. And to me
8 that makes it a challenge when we hear these cases.

9 I mean, really, if you look at the Ed Code, there really
10 are no requirements other than I think the superintendent
11 and maybe -- I don't think there's a requirement to have
12 a teacher in a school district.

13 So I think you need to often look beyond that
14 specific job title, whether it be teacher or police
15 officer, and really look at the activity.

16 So if there are numerous activities required,
17 and in this instance there's some education that's
18 required or POST training, which seems totally
19 appropriate since we're going to have all officers
20 throughout the state have it, it seems logical that that
21 is something required.

22 If we look at some cases that we had that dealt
23 with suspension and expulsion, sometimes those were
24 discretionary, but yet if you did expel or suspend some
25 students, you were required to have hearings. Well,

1 those hearings turned out to be reimbursable even though
2 the actual suspension might have been discretionary. And
3 we refer to those as downstream related costs.

4 So I realize I'm not the claimant in this and
5 Mr. Peterson isn't here. To me it seems that this should
6 have been a reimbursable mandate that we are required to
7 give this training, and the fact that there is no law
8 requiring us to have a police agency seems to me to be
9 focusing on not that but really the extra event that we
10 are required to have.

11 Thank you.

12 MEMBER WORTHLEY: Just real quickly, I
13 appreciate what you were saying, except that I know that
14 in Fresno, for instance, there are police officers who
15 are stationed at the school, so they're not -- it's not,
16 like, a response time. They're not relying upon police
17 to show up from the local precinct. They actually hire
18 people to be on the campus and they're there -- and
19 really, it's no different than if they had their own
20 police department. It's just they contract with the city
21 to provide that service.

22 And I think maybe what the district should do,
23 if that's a problem for them, some of these costs, they
24 may want to look at contracting like that, because they
25 get the same service but they can make sure those costs

1 are reimbursed at the municipality level.

2 MR. PALKOWITZ: In San Diego County many do
3 that, but I've also heard that some have had to stop that
4 because of the cost. So I guess that is the issue. Can
5 you afford the cost? Do you start your own -- basically
6 your own police force? Obviously, you need a large
7 district to do that.

8 But yes, if they are contracting out, then it
9 would be the obligation of the other agency to assure
10 that they did have that POST training.

11 CHAIR SHEEHAN: Camille, did you want to . . .

12 MS. SHELTON: Unfortunately, this issue is not
13 going to resolve very easily. I think it does for this
14 claimant in terms of we're going to still be frustrated
15 by the whole issue as we continue on because of the way
16 the Supreme Court took up the issue but did not answer it
17 and left it questionable, you know, in the San Diego
18 Unified School District case. In that case they did find
19 that certain discretionary expulsions were mandatory but
20 they did not reimburse them because they found that they
21 were not a problem of higher level service but did not
22 rule on the mandate issue and left it for another day.
23 They did question higher case law that did say anytime
24 you have a discretionary decision, your downstream
25 requirements were automatically discretionary. So you

1 have dicta in the Supreme Court case, and case law does
2 say that the Supreme Court dicta is good dicta.
3 What we've done in the past is look at the reasoning that
4 the Court -- the Supreme Court used in questioning this
5 earlier -- or some of the earlier case law decisions and
6 we've tried to apply that reasoning and it's been
7 difficult.

8 In this particular case we don't have some of
9 the same facts that may have been presented in earlier
10 cases that would suggest that the school districts are
11 practically compelled to -- for this to create a mandate.
12 But it is true, I mean, a lot of these statutes are going
13 to impose a requirement on school districts to have the
14 training if they have peace officers employed. But
15 simply because they have a requirement does not
16 necessarily mean that it's a reimbursable, state-mandated
17 program.

18 MR. PALKOWITZ: I think we'll have similar
19 challenges to transportation. I think there's now a new
20 legislation or already passed requiring certain
21 seat belts on new buses, so we need to go out and buy a
22 lot of new buses. Well, transportation is really not
23 required anywhere in the Code.

24 So, you know, I think that is a similar type of
25 challenge, where, once again, there's very few things

1 that say "required" in the Education, but here we are
2 needing to take these steps and then file legislation.

3 CHAIR SHEEHAN: Okay. Thanks.

4 Any other comments on this one? Or questions?

5 If not, we'll entertain a motion on item 6.

6 MEMBER WORTHLEY: Move approval of staff's
7 recommendation.

8 MEMBER OLSEN: Second.

9 CHAIR SHEEHAN: Okay. We have a motion and a
10 second to adopt staff recommendation.

11 All those in favor say "aye."

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

13 CHAIR SHEEHAN: Any opposed?

14 MR. GLAAB: No.

15 CHAIR SHEEHAN: All right. Mr. Glaab is
16 reflected as voting "No" on this one.

17 All right. Item 7.

18 MS. BORZELLERI: The only issue before the
19 Commission is whether the proposed statement of decision
20 accurately reflects the Commission's decision on the
21 racial profiling, law enforcement training K-14 test
22 claim. Staff will make minor changes to the final
23 statement of decision.

24 CHAIR SHEEHAN: Okay. Any questions? Do I
25 have motion on this?

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1 MEMBER OLSEN: So moved.

2 MEMBER WORTHLEY: Second.

3 CHAIR SHEEHAN: All right. We have a motion
4 and a second to adopt the staff recommendation. All
5 those in favor say "aye."

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

7 CHAIR SHEEHAN: Opposed?

8 *(No audible response.)*

9 CHAIR SHEEHAN: Motion carries.

10 All right. Now we skip over a lot of stuff.
11 8 and 9 are postponed and we come to 18?

12 MS. HIGASHI: Yes.

13 MEMBER OLSEN: Madam Chair, I believe that when
14 we swore the witnesses in we did not ask those who were
15 related to item 18 to stand. Do we need to do that?

16 CHAIR SHEEHAN: That is correct. We've already
17 done the swearing-in part of the testimony. This is the
18 "after" part. Right. And we just got a -- today --

19 MS. HIGASHI: We were just handed a letter. Do
20 you want to take about five minutes so everybody can read
21 this?

22 CHAIR SHEEHAN: Yes. We just got a letter
23 today from the California Integrated Waste Management
24 Board.

25 Is there someone here from the Board?

1 You know, we've actually posted this item for a while.
2 I'm sure you're aware that this was going to be on our
3 agenda today.

4 MR. BLOCK: We received a letter about ten days
5 ago. We were attempting to postpone this hearing, got
6 together information as soon as we could, but the final
7 analysis was different than the draft analysis from a few
8 months ago, so . . .

9 CHAIR SHEEHAN: All right. Well, it's just --
10 as my colleagues in the Department of Finance know, I'm
11 not one to like getting stuff the day of. I just . . .

12 MR. BLOCK: I understand.

13 CHAIR SHEEHAN: Maybe I'm channeling people in
14 this building when you show up at a hearing as opposed
15 to -- in the future we would appreciate getting a little
16 more heads-up.

17 So we'll take a couple minutes to go through
18 this.

19 *(Pause, 9:54 to 9:58 a.m.)*

20 CHAIR SHEEHAN: Okay. Why don't we go ahead
21 and get started.

22 MS. HIGASHI: Item 18, program analyst Cathy
23 Cruz Jefferson will present this item.

24 MS. JEFFERSON: Good morning.

25 On March 25, 2004, the Commission adopted its

1 Statement of Decision finding that the Integrated Waste
2 Management program constitutes a new program or higher
3 level of service for community college districts within
4 the meaning of article XIII B, section 6, of the
5 California Constitution and imposes costs mandated by the
6 state pursuant to Government Code section 17514.

7 Staff reviewed the claims data submitted by the claimants
8 and compiled by the Controller's Office. The data showed
9 that 27 community college districts filed 142 claims for
10 fiscal years 1999-2000 and 2004-2005 for a total of over
11 \$6 million.

12 On January 9th, 2006, staff issued its draft
13 analysis and requested additional information regarding
14 the costs associated with diversion of solid waste and
15 complying with the program that may assist in the
16 development of a more accurate statewide cost estimate.
17 The California Integrated Waste Management Board and the
18 Department of Finance submitted comments.

19 On July 27 staff conducted a prehearing
20 conference so the parties could assist in identifying
21 offsets and, again, to assist in developing a more
22 accurate statewide cost estimate.

23 Staff notes that the additional comments did
24 not provide enough evidence to help staff reduce the
25 proposed estimate by deducting offsets that should have

1 been realized but were not reported in claims.

2 In general, the Board's comments focused on its
3 request to amend the Parameters and Guidelines. However,
4 because the reimbursement claims for fiscal years
5 '99-2000 through '04-05 have already been submitted, the
6 Board's suggestion to add additional information to the
7 P's & G's regarding offsetting savings will not affect
8 these claims. Staff was unable to improve the proposed
9 estimate for the initial years based on the Board's
10 comments.

11 The proposed estimate includes nine fiscal
12 years for a total of \$10,785,532. This averages to
13 almost \$1.2 million annually in costs for the state.
14 Staff recommends that the Commission adopt the proposed
15 estimate. If adopted, it will be reported to the
16 legislature.

17 Will the parties and representatives please
18 state their names for the record?

19 MR. BLOCK: Elliot Block, acting chief counsel
20 for the Integrated Waste Management Board.

21 MR. O'SHAUGHNESSY: Trevor O'Shaughnessy,
22 program staff.

23 MS. GEANACOU: Susan Geanacou, Department of
24 Finance.

25 MS. CASTAÑEDA: Carla Castañeda, Department of

1 Finance.

2 MR. BLOCK: Well, since you've all actually
3 taken a few minutes to read the letter, I'm not sure that
4 it makes much sense for me to make my speech, which was a
5 summary of the letter, other than to reiterate that --

6 CHAIR SHEEHAN: Well, actually, it would be
7 helpful, you know, so you can briefly go through --

8 MR. BLOCK: Sure.

9 CHAIR SHEEHAN: -- why you feel that . . .

10 MR. BLOCK: Okay. Well, fairly simply, as was
11 noted, the draft -- there was a draft analysis quite a
12 few months ago that was submitted requesting assistance
13 from the Board based on the Commission staff's note that
14 the claims appeared, on their face, to be inaccurate.
15 We did provide some information at that prehearing
16 conference. As we have now recently found out, that's
17 not the kind of information apparently that's useful in
18 adjusting those claims.

19 And so what we have compiled here in the last
20 few days is some other information that specifically does
21 connect to the P's & G's that were adopted, which does
22 allow offsets for revenues generated from the sale of
23 recycled materials.

24 Again, we have not had -- we don't have the
25 claims in front of us. In fact, we didn't actually even

1 know the name of all -- the names of all the claimants
2 until about ten days ago. The original analysis had a
3 selection of eight that were analyzed.

4 And as noted in the information provided, the
5 dollar amount attributable to the revenues that could be
6 generated from recyclable materials, given the amounts
7 that had been reported by community college districts as
8 being diverted, is about \$22 million for a five-year
9 period. And, of course, the claim is for an eight-year
10 period. And we believe that essentially wipes out that
11 \$10 million estimate.

12 Alternatively as well we provided some
13 additional detailed information on the avoided disposal
14 cost as well. We understand that staff's analysis is
15 that that's not appropriate as an offset, although for
16 reasons we've outlined in the letter we believe that's a
17 fairly narrow reading of the P's & G's since avoided
18 disposal costs occur automatically from the diversion of
19 these materials.

20 And again, based on the tonnage amounts that
21 we're looking at for a five-year period, that's around
22 \$21, \$22 million in avoided disposal costs. So again,
23 more than accounts for -- accommodates the claimed
24 \$10 million in additional cost to implement these
25 programs.

1 So for that reason, as strange as it sounds, we
2 are actually requesting that the estimate be zero for the
3 statewide cost.

4 CHAIR SHEEHAN: Based on the offset. Okay.

5 Finance, did you want to -- I know you just got
6 the letter, also.

7 MS. GEANACOU: I did. Susan Geanacou,
8 Department of Finance. In fact, I'm just reading it now.

9 I don't know that I'm in a position to provide
10 any official testimony regarding the assertion of the
11 value of recyclables and how it may or may not completely
12 negate the estimated cost of the claim. I'd like to be
13 able to do so. I haven't had the opportunity to speak to
14 what those revenues are, how they can be used, if there's
15 statutory authority for how they're used and/or
16 appropriated. I really don't know. I'm sorry.

17 CHAIR SHEEHAN: That's okay.

18 Camille, did you want to address some of the --
19 before we open it up?

20 MS. SHELTON: Yes. First, it would not be
21 appropriate for the Commission to adopt a statewide cost
22 estimate of zero because that would contradict the
23 statement of decision which found that there are
24 increased costs mandated by the state as a matter of law.
25 So you cannot, you know, come up with a statewide cost

1 estimate of zero.

2 A lot of the arguments that the Board is making
3 were made before the Commission when the Commission
4 adopted the Parameters and Guidelines. They do have a
5 request on file to amend the P's & G's which is not
6 before you today.

7 Anything that has to do with these issues are
8 questions of law that have to be dealt with at another
9 hearing and don't reflect the amount claimed for purposes
10 of the statewide cost estimate.

11 The purpose of the statewide cost estimate is
12 just to notify the legislature of the amount claimed
13 currently. We are questioning the amount claimed and it
14 does appear to be high, but we don't have any solid data
15 to be able to reduce that figure. But notice still needs
16 to be provided to the legislature.

17 MEMBER WORTHLEY: I just have a question,
18 Camille.

19 As I understood it, there's sort of a statute
20 of limitations issue here, and the older claims are fixed
21 and cannot be altered, even whatever we do today.

22 And my question really is: Relative -- this is
23 a notice -- we're talking about notice to the state
24 legislature. Does that then fix these costs for these
25 other years after the statute of limitations does not

1 apply?

2 MS. HIGASHI: Not necessarily. And I say that
3 just based on recent experience with the legislature.
4 Once our report is made to the legislature, the leg.
5 analyst has a duty to evaluate our report, look at the
6 statement of decision and the P's & G's.

7 What may occur at that point is a
8 recommendation is required to be made during the budget
9 process, and that recommendation might be: Fund it, it's
10 fine; two, amend the statute; three, request
11 reconsideration by the legislature.

12 MEMBER WORTHLEY: So there's an opportunity for
13 a second shot at this?

14 MS. HIGASHI: There is an opportunity.

15 MEMBER WORTHLEY: This is not the proper forum
16 to do that.

17 MS. HIGASHI: That's correct. It's not within
18 our jurisdiction at this time.

19 The other point that I just wanted to make is
20 that the issue that's raised here has to do with offsets
21 and offsetting savings.

22 And I want to ask the Board, from their
23 correspondence it says that the revenues -- the income
24 derived from the resale "can be" used, but it does not
25 say it's "required" to be used by the jurisdictions to go

1 right back into the same program. It says "can be" used.
2 But is there a statutory requirement that says they are
3 required to use these funds solely for the purpose of
4 paying for this program?

5 MR. BLOCK: And you're talking about the
6 revenues generated now or the avoided disposal costs?

7 MEMBER WORTHLEY: Revenues.

8 MS. HIGASHI: I'm just reading from your
9 letter. Because it was my understanding -- and
10 Mr. Feller and Ms. Jefferson can correct me -- that some
11 of these issues were addressed in the previous hearing,
12 and because there was not a statutory requirement for
13 these revenues to be used exclusively for the cost of
14 this program, that it's not what we would term as staff
15 as a mandatory offset.

16 MEMBER WORTHLEY: In other words, it could go
17 into their general fund? It could be used to fund other
18 things?

19 MS. HIGASHI: Right. However, if a program did
20 use those revenues for the cost of this program, then
21 they would reduce their claim.

22 Another point just to note is that there's
23 72 community college districts, and the SCE represents
24 about a third of them, so the number is low from that
25 respect as well.

1 CHAIR SHEEHAN: Did you want to address the
2 issue of whether they -- what they can use those revenues
3 for? I mean, is it specifically for this or can it just
4 go into the general fund and . . .

5 MR. O'SHAUGHNESSY: I think, in part, if I may
6 answer, within the statute of AB 75 it states that the
7 revenues generated are to be used to enhance the
8 recycling programs. That's not a direct quote. I
9 apologize for not having it in front of me.

10 Additionally, within the Public Contract Code
11 it does state that the revenues generated by the sale of
12 the materials and the keeping of those revenues need to
13 be approved by the Integrated Waste Management Board up
14 to \$2,000. Anything above and beyond \$2,000 must not
15 only be approved by the Board but also appropriated by
16 the legislature.

17 So the funds cannot roll back into an agency's
18 fund of operations. It either needs to go back into the
19 recycling program and the efforts of that program or it
20 goes to the state's general fund for then allocation
21 through that process.

22 But if you -- so if you generated and/or sold a
23 commodity, the cardboard or anything else listed in our
24 letter here, those revenues would have to either be --
25 they have to be recognized. They can't just go back into

1 the general funding for that facility or in this case
2 campus.

3 CHAIR SHEEHAN: Okay. So it could go back into
4 the recycling activity?

5 MR. O'SHAUGHNESSY: The program and activities
6 to offset the cost. Yes, ma'am.

7 CHAIR SHEEHAN: Okay. Oh, did you want to. . .

8 MS. SHELTON: Just a clarification. You're
9 talking about two separate things. One is offsetting
10 revenue and -- which are identified in the Parameters and
11 Guidelines, and the other is an alleged offsetting
12 savings argument, which has been denied before but is the
13 subject of a request to amend the P's & G's. So I just
14 want to make sure that we're not confusing the issues.

15 CHAIR SHEEHAN: Okay.

16 MEMBER WORTHLEY: Well, Madam Chairman, it just
17 seems to me they just defeated their argument, because if
18 the money that's generated has to go back to the state
19 general fund, then there's no benefit to this college --
20 community college district, so how do they -- how do they
21 benefit?

22 CHAIR SHEEHAN: I think the --

23 MR. O'SHAUGHNESSY: They do benefit from it
24 because they're allowed to use those funds per the
25 statute. And the direction, they just need to go to the

1 legislature and ask for that to be allocated, because
2 it's revenue that they generated. It's revenue they
3 generated.

4 MEMBER WORTHLEY: Okay. But isn't that a
5 discretionary act on the legislature? They don't have to
6 do that.

7 MR. O'SHAUGHNESSY: In part, yes.

8 MEMBER WORTHLEY: So if they didn't -- if they
9 elected not to, to put it back into the community
10 colleges, then they're out the money.

11 MEMBER OLSEN: I think that what we really need
12 to talk about is the avoided cost part of this, the
13 savings part rather than the revenue part, because it
14 seems to me that the fact that the legislature has to
15 approve the use of the revenues means that it's not --
16 the linkage is not complete for the local. So can you
17 speak to the savings issue in your letter?

18 MR. BLOCK: Certainly. Although, I mean, in
19 all fairness, as has been noted, it -- certainly that was
20 an argument we did make previously and was rejected.
21 But just to keep this as short and sweet as possible, I
22 think that analysis, as indicated in the final analysis,
23 is based on a clause in our statute that says the
24 offsetting savings, it must be applied to the program to
25 the extent feasible. And that language Claude just

1 reviewed in the abstract is viewed as making that
2 discretionary.

3 The argument that we are making is, in the
4 context of avoided disposal costs there's no discretion
5 involved. The very fact that those materials are
6 diverted avoids the disposal cost. There's no decision
7 that needs to be made to move that money around, to
8 request permission. It happens automatically. That's
9 the substance.

10 Obviously, as has been mentioned, you know,
11 this is something that you've looked at before, but --
12 and we understand that your process is set out a certain
13 way.

14 We felt an obligation to at the very least get
15 this information into the record because, again, this
16 information is then getting forwarded to the legislature
17 to decide what to do about this.

18 Certainly, the Waste Board's feeling is that
19 these programs not only don't in the long run cost
20 community colleges, they, in fact, result in -- they're
21 revenue-generating for community colleges.

22 CHAIR SHEEHAN: Did that address your --
23 because that issue -- as I understand, that is the issue
24 that you have filed to amend the P's & G's, and that will
25 be discussed as part of that process.

1 Am I correct, Camille?

2 MS. SHELTON: Yes. It was already discussed
3 and the Commission already adopted the Parameters and
4 Guidelines.

5 CHAIR SHEEHAN: Right.

6 MS. HIGASHI: They've renewed it.

7 MS. SHELTON: They're bringing it up again.

8 CHAIR SHEEHAN: And you have that filed,
9 bringing it up again, if there's information that, you
10 know, we can go back with new information.

11 MEMBER OLSEN: So this Board will get a chance
12 to discuss it?

13 CHAIR SHEEHAN: Well, they -- yes. Well, go
14 ahead.

15 MS. SHELTON: Yes. They have filed a request
16 to amend the P's & G's. That request goes in line behind
17 all the other Parameters and Guidelines amendments. So
18 when we get to it, it will definitely be noticed for
19 hearing.

20 CHAIR SHEEHAN: So that issue on the one that
21 you had discussed, there is a forum to discuss that if
22 they feel they have new, compelling arguments, evidence,
23 whatever, to do that. So then the issue -- go ahead.

24 MR. BLOCK: Well, I was just going to say, just
25 for clarification, but my understanding is that any

1 change to the P's & G's would only be effective from 2005
2 forward. They would not change the ones that have
3 already been claimed.

4 MS. SHELTON: That is correct. 17557 governs
5 the timing of a request to amend P's & G's. If they had
6 filed it earlier, within the claim -- the initial claims
7 filing, then it would have impacted possibly the entire
8 population of claims, but they filed it after that date,
9 so they get it back to the previous fiscal year.

10 So we do have -- you know, we're still bound by
11 the Parameters and Guidelines that have been adopted, and
12 that's what this statewide cost estimate and the claims
13 that have been filed under this set of Parameters and
14 Guidelines reflect.

15 CHAIR SHEEHAN: Any other -- and with regard to
16 the -- on the revenue issue, that is, they go through the
17 claiming and the Controller's Office can recognize
18 offsets as part of the claims if they use those.

19 MS. SHELTON: Yes. The Controller can deny if
20 they find -- or reduce costs if they find that it's
21 unreasonable or excessive.

22 CHAIR SHEEHAN: So there is a mechanism on the
23 revenue side to address the issue, because we do have two
24 separate issues here. And there is a mechanism, even if
25 we adopt this, to recognize those revenues and reduce the

1 cost of the claimed amount from that. Okay.

2 MS. HIGASHI: And essentially what's in the
3 staff analysis is what ends up being reported to the
4 legislature.

5 CHAIR SHEEHAN: Mm-hmm. Okay. Any other
6 questions or . . .

7 MEMBER WORTHLEY: Well, I guess I did have one
8 question for staff. Given the fact that this is a
9 reporting requirement only and the opportunity to
10 actually review the -- when you had this hearing before
11 and you invited Waste Management, what was the purpose of
12 that hearing? Was that for the consideration of the
13 modification of the Parameters and Guidelines separate
14 and apart from this or . . .

15 MS. SHELTON: That was for the adoption of the
16 Parameters and Guidelines. Are you talking about the
17 hearing before the Commission, the last hearing that
18 we're referring to?

19 MEMBER WORTHLEY: No. You said that you had a
20 meeting, I believe --

21 MS. HIGASHI: We had a prehearing.

22 CHAIR SHEEHAN: It was a prehearing.

23 MEMBER WORTHLEY: Right.

24 MS. HIGASHI: Perhaps Ms. Jefferson can
25 respond.

1 MS. JEFFERSON: Yes, we did have a prehearing
2 in July where the Waste Board was invited as well as
3 other state agencies and interested parties, and we had
4 asked specifically for information for -- to help us
5 identify what offsets could be used and just information
6 to help us develop a more accurate estimate, because we
7 did, in the draft, identify some inaccuracies that we
8 found in looking at the claims, but we didn't get enough
9 information to help us reduce the claims.

10 MEMBER WORTHLEY: Well, if you had gotten the
11 right information from them, would we be having different
12 results here today or would we have the same result?

13 MS. HIGASHI: We don't know.

14 MS. SHELTON: Other than it can't be zero. And
15 it has to fall within the decisions and findings that the
16 Commission has already made. You have to keep in mind
17 that the Board is still making legal arguments that have
18 been previously denied. So depending on what facts they
19 would have presented had there been another situation, we
20 really can't answer.

21 MEMBER WORTHLEY: Well, because it seemed like
22 one option would be for us to continue this matter to
23 give the opportunity for this information to be properly
24 considered by staff, and then you would come back with a
25 different -- perhaps a different recommendation.

1 MS. HIGASHI: The danger in that is that we are
2 not auditors and we are not -- it's not our duty to
3 review the reimbursement claims. That is the duty of the
4 State Controller's Office. And that's that you would, in
5 fact, have us doing.

6 CHAIR SHEEHAN: And that's why I brought up the
7 other issue that there is a mechanism to address or
8 recognize those offsets and what could be used through
9 that claiming process.

10 I think it could be a burden on the staff to
11 have to go through and see this -- you know, go through
12 the numbers and see, okay, could we come up with a
13 different conclusion in terms of that.

14 MS. GEANACOU: May I ask a question here? Is
15 there -- for the Commission staff -- is part of the focus
16 of the concern or confusion or disagreement on offsetting
17 savings the issue of whether or not the savings are in
18 a -- the offsetting savings are in a program that was
19 previously mandated or part of the mandate?

20 I note in the final staff analysis of the
21 statewide cost estimate on pages 8 and 9 there's the
22 issue of -- the boilerplate language says that "Any
23 offsetting savings the claimant experiences in the same
24 program as a result of the same statutes or executive
25 orders found to contain the mandate shall be deducted

1 from the cost claimed." Is that perhaps something that
2 we're not focusing appropriately on or enough on?

3 MS. SHELTON: As I recall the arguments -- and,
4 you know, Eric can correct me if I'm wrong -- that when
5 the Parameters and Guidelines were discussed, they were
6 wanting a requirement for identification of cost savings,
7 you know, recycling fees that they are saving from not
8 having -- or I guess not having to go through certain
9 activities.

10 There was no requirement in law that they keep
11 that data. And it becomes very similar to arguments made
12 in the graduation requirements case where you had the
13 argument of offsetting savings.

14 And so since there's no requirement for those
15 entities to take those savings by law, we couldn't
16 provide specific language in that the Board has requested
17 previously. I believe there's boilerplate language and
18 that's all there is.

19 MS. HIGASHI: Actually, the P's & G's section
20 is on offsetting revenues and reimbursements.

21 MS. SHELTON: Which that language is consistent
22 with the Commission's regulations as they currently
23 state.

24 There was just no legal requirement for them to
25 keep data on offsetting savings or cost savings when the

1 Commission found that the activities were -- constituted
2 a new program or higher level of service.

3 MS. HIGASHI: I was going to say, if you want
4 to see this, it's the last exhibit. It's in the
5 Parameters and Guidelines. It's page 164. And it's
6 where the Parameters and Guidelines identify all of the
7 types of fees or revenues that -- the kinds of revenues
8 we've been talking about here.

9 MEMBER WORTHLEY: So the language is in there
10 that was just referred to --

11 MS. HIGASHI: Exactly.

12 MEMBER WORTHLEY: -- as far as the \$2,000 is
13 already accounted for and it's only the other part, which
14 is appropriate, which goes back to state legislature, so
15 there's really no argument about that, I wouldn't think.

16 MS. HIGASHI: And so these are included as part
17 of the claiming instructions.

18 CHAIR SHEEHAN: I don't think the Waste Board
19 sees it that way.

20 I don't want to put words in your mouth.

21 MR. BLOCK: Well, again -- and I'm sorry,
22 because I don't mean to belabor this. I mean, it's
23 fairly obvious what staff's recommendation is going to
24 be, and we understand how your process is set up, but
25 just to again clarify that, remember, we're talking about

1 two different issues. One is avoided disposal costs, one
2 is revenue generating. So the \$2,000 is related to the
3 revenue generating.

4 In terms of that issue, we've got fairly
5 partial information that we've gotten, but the
6 information in the analysis we've gotten is the claimants
7 don't report that. But based on the numbers that we
8 have, there is, you know, over \$20 million worth of
9 potential revenues there.

10 Again, the prehearing conference that we had
11 two to three months ago, I mean, the request in the draft
12 analysis was requesting assistance from us in helping to
13 figure out how the offset -- how to find offsets.

14 It's difficult to provide that information if
15 we don't have any information given to us nor are we
16 asked any particular questions as to what information is
17 necessary.

18 We have a lot of information that all these
19 community college districts submit to us on tonnages and
20 dollar amounts and the like.

21 The avoided disposal costs, again, there is not
22 specifically in the statute the words that say "Thou
23 shalt report the avoided disposal costs." There are
24 words in the statute that say "Thou shalt report the
25 reduced disposal tonnage." And you can fairly easily

1 figure out how much that cost is.

2 It's not a -- again, it's virtually automatic.

3 I mean, you can see that we pulled this together just on
4 what's been submitted to us. So both of those issues are
5 floating around.

6 Again, as has been stated a couple of times,
7 the Commission has already said "No" to the avoided
8 disposal costs. We understand that. But we felt some
9 obligation to provide that information again because it
10 has continued to be fairly mysterious to us as to what
11 information is or isn't relevant to this process.

12 And then in terms of the revenue generating, as
13 has been stated, none of those were even reported to us,
14 which is a little bit mind-boggling.

15 So in the context of this hearing, which is
16 about coming up with a statewide cost estimate, so it's
17 not specific to each claims, seems to me that there's
18 some value in your having that information to try to
19 adjust that overall statewide claim which to us seems
20 fairly outrageous in terms of dollar amounts.

21 CHAIR SHEEHAN: Camille.

22 MS. SHELTON: Can I just mention that if the
23 Commission adopts the statewide cost estimate this
24 analysis goes to the legislature, and the analysis does
25 say that three out of the eight community college

1 districts reviewed did not report any offsetting
2 revenues. So the legislature is going to be aware that
3 no offsetting revenue was reported to the Controller's
4 Office. They'll have that information.

5 MS. HIGASHI: But ultimately it's the
6 responsibility of the Controller's Office reviewing the
7 claims to determine if they're excessive or unreasonable.

8 CHAIR SHEEHAN: And, you know, the -- oh, go
9 ahead.

10 MEMBER OLSEN: So our action today does not
11 preclude the Controller's Office from taking -- wait, let
12 me get the statement out there, because I want to make
13 sure I'm getting the answer to what I'm asking -- does
14 not preclude the Controller's Office from taking into
15 consideration the kind of information that the Waste
16 Management Board is talking about now when it decides
17 what size check to cut for which community college
18 district. They retain that ability to do that at the
19 Controller's Office.

20 MS. HIGASHI: That is correct.

21 MEMBER WORTHLEY: And if they happen to
22 disagree with it, they would come back and say that that
23 was an inappropriate reduction of claims.

24 MS. HIGASHI: Right. Then it would be an
25 incorrect reduction claim, which you've had a few of

1 those.

2 MEMBER OLSEN: Okay. Thank you.

3 MEMBER WORTHLEY: That deals, I believe, with
4 the issue of --

5 CHAIR SHEEHAN: The revenue.

6 MEMBER WORTHLEY: -- revenue.

7 CHAIR SHEEHAN: Setting revenue.

8 MEMBER WORTHLEY: On the avoided cost issue,
9 we're just basing that on the law, the legal reading of
10 that? Is that our argument there?

11 MS. SHELTON: Well, the Commission already made
12 that finding, and I don't want the Commission to make any
13 findings on a statewide cost estimate hearing, because
14 those are still the subject of another hearing that was
15 not noticed today, first of all.

16 CHAIR SHEEHAN: That will come back before us.

17 I recognize it's in the queue, and the timing
18 in terms of all that, I understand that. But
19 differentiating between the two issues that were raised,
20 one, the offsetting revenue, and I guess, at least for
21 this member, there is a mechanism for the Controller's
22 Office to query the districts, to adjust those claims
23 depending on that. The other issue will come before us
24 in the -- in the claim to, you know, amend the P's & G's
25 on that one.

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1 MR. BLOCK: I understand.

2 CHAIR SHEEHAN: Any other questions? What is
3 the will of the Commission then on this one?

4 MEMBER OLSEN: Sort of grudgingly I will move
5 the staff recommendation.

6 CHAIR SHEEHAN: And do I have a grudging
7 second?

8 MEMBER WORTHLEY: Second.

9 CHAIR SHEEHAN: All right. So the motion is to
10 approve the staff recommendation. All those in favor?

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

12 CHAIR SHEEHAN: Opposed?

13 *(No audible response.)*

14 CHAIR SHEEHAN: Motion carries. Thank you.
15 And the minutes will reflect it was grudgingly.

16 MEMBER OLSEN: Thank you.

17 MEMBER WORTHLEY: Curmudgeonly.

18 MEMBER OLSEN: The cranky public member.

19 CHAIR SHEEHAN: Okay.

20 MS. HIGASHI: We're up to item 20.

21 MS. SHELTON: One minor note, that the hearing
22 that is reflected on the report has been changed from
23 December 15th to January 5th.

24 CHAIR SHEEHAN: Oh, okay. All right. Nothing
25 else?

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1 MS. SHELTON: Nothing else is new.

2 CHAIR SHEEHAN: All right. Paula.

3 MS. HIGASHI: The last item is my report,
4 updated workload. We have a proposed hearing agenda
5 listed here. We have some changes that we expect to be
6 made because we know we have requests for postponements
7 coming in.

8 CHAIR SHEEHAN: Oh, okay.

9 MS. HIGASHI: But I just wanted to remind the
10 Commission members that our next hearing will be
11 December 4th at 1:30, and I also wanted to note that
12 later today I'll be meeting with various organizations to
13 go over future scheduling issues and just to do my annual
14 meetings with them.

15 CHAIR SHEEHAN: Okay. So December 4th.

16 MEMBER WORTHLEY: 1:30, you said?

17 MS. HIGASHI: 1:30. It's the first day of the
18 new legislative session and because of that we expect
19 that we will not be in this room, so we will remind all
20 of you about a changed location.

21 CHAIR SHEEHAN: That's usually me that has to
22 be reminded.

23 MS. HIGASHI: And I'd also like to note that
24 later in November I'll be going to a California League of
25 Cities Conference and participating in a panel discussion

1 that is for a financial management seminar.

2 CHAIR SHEEHAN: Right. Okay.

3 MS. HIGASHI: Are there any other questions?

4 CHAIR SHEEHAN: Any questions?

5 MEMBER WORTHLEY: Be sure to look up avoided
6 costs.

7 MS. HIGASHI: I'm not sure what they'll ask.

8 CHAIR SHEEHAN: All right. Are there any
9 members of the public who would like to address the
10 Commission on an item that was not on the agenda? Or any
11 other issues? No? Okay.

12 Then we will be recessing in closed session. I
13 guess I have to read this statement for you.

14 The Commission will meet in closed executive session
15 pursuant to Government Code sections 11126, subdivision
16 (a), and 17526 to confer on personnel matters listed on
17 the published notice and agenda. We will convene in open
18 session at this location in approximately ten minutes.

19 *(Recess taken, 10:29 to 10:53 a.m.)*

20 CHAIR SHEEHAN: All right. The Commission met
21 in closed executive session pursuant to Government Code
22 section 11126, subdivision (a), and 17526 to confer on
23 personnel matters listed on the published notice and
24 agenda. All required reports from the closed session
25 having been made and with no further business to discuss

1 I will entertain a motion to adjourn.

2 MEMBER HAIR: So move.

3 MEMBER GLAAB: Second.

4 CHAIR SHEEHAN: All those in favor of
5 adjourning?

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

7 CHAIR SHEEHAN: We are adjourned. Thank you.
8 Until December 4th.

9 *(Proceedings concluded at 10:54 a.m.)*

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