

## COMMISSION ON STATE MANDATES

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September 8, 2015

Mr. Michael Cohen, Director  
Department of Finance  
State Capitol  
Sacramento, CA 95814

Re: Commission on State Mandates: Report to the Director of Finance on Workload Levels and Backlog Reduction Plan

Dear Mr. Cohen:

Enclosed is the Commission on State Mandates' *2015 Report to the Director of Finance on Workload Levels and Backlog Reduction Plan*. This report satisfies the statutory requirement to submit an annual *Report to the Director of the Department of Finance*, in accordance with Provision 2 of Item 8885-001-0001 of Statutes 2015, chapter 10.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Halsey".

Heather Halsey  
Executive Director

Edmund G. Brown Jr.  
Governor



# STATE OF CALIFORNIA COMMISSION ON STATE MANDATES

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## DIRECTOR OF FINANCE: 2015 REPORT ON WORKLOAD LEVELS AND BACKLOG REDUCTION PLAN

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## Executive Summary

This report includes information on the Commission on State Mandates' (Commission) workload levels and backlog reduction plan. The information herein is reported on a fiscal year basis (i.e. from July 1-June 30).

### A. Statutory Reporting Requirement

The 2015 Budget Act requires the Commission to report to the Director of Finance on workload levels and backlog. Specifically, it states:

The Commission on State Mandates shall, on or before September 15, 2015, and annually thereafter, submit to the Director of Finance a report identifying the workload levels and any backlog for the staff of the Commission.<sup>1</sup>

This report satisfies that statutory reporting requirement.

### B. Historic Reasons for the Backlog

The backlog exists for several reasons:

- 1984 – When the Commission was created, the statutes allowed the filing of test claims on statutes and regulations going back to 1975, with no statute of limitations.
- 2002 – AB 3000 imposed a three-year statute of limitations for the filing of test claims. It also provided a one-year grandfather clause to file test claims on statutes and executive orders going back to 1975, resulting in 51 new test claims filed in 2002-2003, and 23 test claims filed in 2003-2004.
- From fiscal year 2002-2003 to 2008-2009 the Commission's position authority was reduced from 17 PYs to 10.5 PYs.<sup>2</sup>
- 2004 – AB 2856 imposed a new statute of limitations of one year from the effective date of a statute or executive order, or the date of first incurring costs.
- 2004-2006 – Through AB 2851, 2855, 138, and 1805 and SB 512 and 1895, the Legislature directed the Commission to reconsider 14 test claims. In 2009, the Third District Court of Appeal found the reconsideration statutes unconstitutional and directed the Commission to set several reconsideration decisions aside.
- *National Pollutant Discharge Elimination System (NPDES) Permit Claims.* Prior to 2010, Government Code section 17516(c) defined 'executive orders' to exclude any order, plan, or regulation issued by the State Water Resources Control Board or any regional water quality control board. Therefore, local governments were not authorized to file test claims on NPDES permits. Government Code section 17516(c) was ruled unconstitutional by the courts. As a result, local agencies have filed 18 NPDES permit test claims. The Commission decided five of these claims, but litigation on those decisions is currently pending in the

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<sup>1</sup> Statutes 2015, chapter 10, (AB 93), Item 8885-001-0001, Provision 2.

<sup>2</sup> Beginning fiscal year 2013-2014 the Commission's staff was increased by two PYs to 12.5.

Third District Court of Appeal and the California Supreme Court. There are 13 remaining NPDES test claims, which are inactive pending the outcome of the litigation.

### **C. Workload**

As of July 1, 2015, the Commission has a pending caseload of 16 test claims,<sup>3</sup> one parameters and guidelines (Ps&Gs), and 3 statewide cost estimates (SCEs)<sup>4</sup>. These items have statutory deadlines for completion and are prioritized over other items.

Also currently pending are 56 incorrect reduction claims (IRCs), three parameters and guidelines amendments (PGAs), and three and a half mandate redeterminations (MRs)<sup>5</sup>. Unlike test claims, Ps&Gs, and SCEs, these matters do not have a statutory deadline for completion, but must be heard within a reasonable amount of time from the date of filing.<sup>6</sup>

For the 2014-2015 fiscal year, the Commission had 12.5 positions. In 2014-2015, the Commission completed 5 test claims, 3 Ps&Gs, 6 PGAs, 30 IRCs, 9 SCEs, and 3.5 MRs. The Commission also had nine cases pending in the courts, many of which required significant staff time to brief and argue.<sup>7</sup> Many of the matters completed in 2014-2015 addressed complex issues regarding constitutional law, federal law and issues of procedure and many were issues of first impression. Additionally, there were more IRCs heard and decided than in recent years.

### **D. Backlog Reduction Plan**

There are currently 16 test claims pending. Of those, four were filed in 2014-2015, one of which is tentatively set for hearing in December 2015, and two of which have been consolidated and tentatively set for January 2016. The remaining 13 claims are filed on stormwater permits, and are on inactive status pending the outcome of litigation which is currently pending in the California Supreme Court. Therefore, the test claim caseload is no longer backlogged.

Likewise, all parameters and guidelines, except one on inactive status pending court action, have been heard and all SCEs have been set for hearing at the earliest possible date after the Commission receives claims data from the State Controller. Therefore the parameters and guidelines and SCE caseloads are no longer backlogged.

Additionally, there are three PGAs pending and all but one were newly filed in 2014-2015: one is set for hearing on July 24, 2015; one for September 25, 2015; and one (the oldest one) is inactive pending court action. Therefore, there is no longer a PGA backlog.

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<sup>3</sup> This includes 13 stormwater permit test claims (two of which were filed in 2013-2014 and one in 2014-2015) that are on inactive status pending the outcome of litigation pending in the California Supreme Court.

<sup>4</sup> This includes one SCE that is on inactive status pending the outcome of litigation pending in the California Supreme Court.

<sup>5</sup> Mandate Redeterminations require a two hearing process.

<sup>6</sup> *Horner v. Board of Trustees of Excelsior Union High School District of Los Angeles* (1964) 61 Cal.2d 79, 86.

<sup>7</sup> The Courts have ruled to uphold Commission decisions in all five of the cases decided in 2014-2015.

With regard to MRs, there are three and a half pending, three of which were filed in 2014-2015. One MR is set for its second hearing on July 24, 2015 and the other three are tentatively set for their first and second hearings on December 3, 2015 and January 22, 2016, respectively.

Based on the above, the only backlogged matters remaining are the 56 currently pending IRCs, nine of which were filed in the 2013-2014 fiscal year and 12 of which were filed in 2014-2015.

Because there is a statutory duty to adopt an SCE within 12-18 months of the filing of a test claim, test claims, parameters and guidelines, and SCEs take priority over all other matters. The next priority for the Commission is resolution of PGAs and MRs, as these have a material effect on all eligible claimants for the program and for the state. IRCs have the lowest priority, since they affect only one local agency and have no statutory deadline by which they must be heard.

Hearing IRCs with cross-cutting issues first is one way that the Commission has been helping to spur informal resolution of these claims between the claimants and the State Controller's Office (SCO). Staff reviewed all of the IRCs filed through 2014-2015 and has determined that most are not suitable for consolidation, since each has unique facts or issues of law, and so must be analyzed individually. However, to the extent that there are cross-cutting issues, staff is analyzing and presenting them together for hearing, as much as is feasible, for purposes of efficiency and consistency.

Of the 56 pending IRCs, almost half of them were filed in the last two fiscal years and all of them are tentatively scheduled for hearing by the middle of the 2016-2017 fiscal year. Based on their tentatively scheduled hearing dates, IRCs filed in 2013-2014 and 2014-2015 should be heard within two to three years of their filing date. This would represent a significant improvement in speediness over prior years. However, because IRCs have the lowest priority for hearing out of all Commission matters, their scheduling may be pushed to a later date if other items with higher priority, such as test claims, PGAs, and MRs, are filed.

Whether elimination of the IRC backlog takes less time or more time than the staff expectation of mid 2016-2017 will depend on a variety of factors, including the outcome and timing of the stormwater test claim litigation, discussed further in this report.

Eliminating the test claim backlog has enabled staff time to be redirected to analyzing the pending IRCs and has allowed new test claim filings to be immediately analyzed and set for hearing upon closure of the record. Beginning in the 2013-2014 fiscal year, Commission staff started tracking how long it takes to complete each test claim from the filing date to the adoption of the SCE. Pursuant to the Commission's regulations, extensions of time, postponements, continuances, and time for preparing joint reasonable reimbursement methodologies (joint RRM) requested by the parties do not count against the statutory deadline.<sup>8</sup> Additionally, test claims that are amended, severed, or consolidated restart the clock for the statutory deadline.<sup>9</sup> Therefore, to improve transparency with regard to how the mandates process is working, Commission staff has also begun tracking the time for delays requested by the parties and deducting that time from the time it takes to adopt an SCE once a test claim is filed.<sup>10</sup>

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<sup>8</sup> Title 2. California Code of Regulations, Section 1183.18.

<sup>9</sup> Title 2. California Code of Regulations, Section 1183.18.

<sup>10</sup> See Exhibit A.

# 2015 REPORT TO FINANCE AND BACKLOG REDUCTION PLAN

## I. Background

### A. Constitutional and Statutory Requirements for the Mandate Process

Article XIII B, section 6 of the California Constitution requires the state to provide a subvention of funds to reimburse local government for the costs of new programs or increased levels of service mandated by the state. Because the Legislature found that the State Board of Control had failed to “adequately and consistently resolve complex legal questions involved in the determination of state-mandated costs” it created the Commission to succeed the Board of Control in making determinations on whether new statutes or executive orders are state-mandated programs within the meaning of article XIII B, section 6.<sup>11</sup> Specifically, the Commission was established to “relieve unnecessary congestion of the judicial system . . .,” render sound quasi-judicial decisions, and provide an effective means of resolving disputes over the existence of state-mandated local programs.<sup>12</sup>

The Commission’s process provides the sole and exclusive procedure for local agencies and school districts (claimants) to seek reimbursement for costs mandated by the state as required by article XIII B, section 6 of the California Constitution.<sup>13</sup> The Commission is required to hear and decide claims filed by local agencies and school districts that they are entitled to be reimbursed by the state for costs mandated by the state.<sup>14</sup>

State law requires the Commission to adopt procedures to ensure that a statewide cost estimate (SCE) is adopted within 12 to 18 months after receipt of a test claim, when the Commission determines that a reimbursable mandate exists.<sup>15</sup> Prior to adopting an SCE for a mandated program, the Commission must first hear and decide the test claim and the parameters and guidelines (Ps&Gs), which may include reasonable reimbursement methodologies (RRMs) pursuant to Government Code sections 17557 (RRMs in proposed Ps&Gs or parameters and guidelines amendments (PGAs)) or 17557.1 (joint RRM). The Ps&Gs is the document that specifies the activities that are reimbursable, including the scope of the activities and how reimbursement may be claimed. Without specific understanding of the nature and scope of the reimbursable activities, any cost estimate would be highly speculative. Based on the above, the test claim decision, Ps&Gs, and SCE are required by statute to be adopted within 12 to 18 months of a test claim filing.

For RRM proposed for inclusion in the Ps&Gs pursuant to Government Code sections 17557 and 17518.5, the Commission is required to make additional factual determinations, based on substantial evidence in the record, that the proposed formula or unit cost reasonably reimburses all eligible claimants’ actual costs mandated by the state. The proposed RRM must be based on cost information from a representative sample of eligible claimants, information provided by

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<sup>11</sup> Government Code section 17500.

<sup>12</sup> *Id.*

<sup>13</sup> Government Code section 17552.

<sup>14</sup> Government Code section 17551.

<sup>15</sup> Government Code section 17553.



associations of local agencies and school districts, or other projections of local costs; and shall consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner. If these findings are made and an RRM is adopted by the Commission in the Ps&Gs, then the claiming is based on the adopted formula or unit cost, in lieu of requiring detailed documentation of actual costs incurred.

The Commission is also required to hear and decide other claims that affect the workload of the Commission. These include: 1) incorrect reduction claims (IRCs) filed by local agencies and school districts alleging that the SCO has incorrectly reduced reimbursements; 2) proposed amendments to previously adopted Ps&Gs (PGAs); 3) review of the SCO's claiming instructions; and 4) mandate redeterminations (MRs). There is no statutory timeframe for completing IRCs, PGAs, review of claiming instructions, or MRs. However, an administrative agency is required to hold a hearing within a reasonable time when the statutes governing the process do not fix a time limit to conduct the hearing.<sup>16</sup> The ability of the Commission to hear and decide these matters within a reasonable timeframe is affected by the number of pending matters in the initial mandate determination process, as well as pending litigation and current staffing levels.

The adoption of an RRM in either Ps&Gs or a PGA pursuant to Government Code sections 17557 or 17518.5 streamlines the claiming process and reduces or eliminates auditing issues on reimbursement claims filed with the SCO and was proposed by the Legislative Analyst's Office (LAO) for that reason. However, the process of adopting an RRM pursuant to Government Code 17557 increases the workload of the Commission when adopting or amending Ps&Gs, by requiring the additional factual finding that the proposal reasonably reimburses all eligible claimants' actual costs mandated by the state as required by article XIII B, section 6 of the California Constitution. Analyzing such proposals requires significant staff time, in some instances more time than was required for the underlying test claim analysis. However, as of July 1, 2015, the Commission has adopted three, denied six, and dismissed four withdrawn RRM proposals submitted pursuant to 17557- most in the last two fiscal years. Additionally, there is currently one pending PGA which includes a proposed RRM which is tentatively set for hearing on September 25, 2015.

To date, only one joint RRM, and one extension of that joint RRM, under Government Code sections 17557.1 and 17557.2, has ever been approved. The joint RRM process allows the test claimant and the Department of Finance (Finance), with broad support from a wide range of local agencies and school districts, to jointly develop an RRM and Statewide Estimate of Costs<sup>17</sup> for adoption by the Commission. The parties are required to notify the Commission of their intent to proceed under the joint RRM process within 30 days of the adoption of the decision on a test claim.

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<sup>16</sup> *Horner v. Board of Trustees of Excelsior Union High School District of Los Angeles* (1964) 61 Cal.2d 79, 86.

<sup>17</sup> Not to be confused with a statewide cost estimate (SCE).

## **B. Historic Reasons for the Backlog**

The backlog exists for several reasons:

- 1984 – When the Commission was created, the statutes allowed the filing of test claims on statutes and regulations going back to 1975, with no statute of limitations.
- 2002 – AB 3000 imposed a three-year statute of limitations for the filing of test claims. It also provided a one-year grandfather clause to file test claims on statutes and executive orders going back to 1975, resulting in 51 new test claims filed in 2002-2003, and 23 test claims filed in 2003-2004.
- From fiscal year 2002-2003 to 2008-2009 the Commission’s position authority was reduced from 17 PYs to 10.5 PYs.<sup>18</sup>
- 2004 – AB 2856 imposed a new statute of limitations of one year from the effective date of a statute or executive order, or the date of first incurring costs.
- 2004-2006 – Through AB 2851, 2855, 138, and 1805 and SB 512 and 1895, the Legislature directed the Commission to reconsider 14 test claims. In 2009, the Third District Court of Appeal found the reconsideration statutes unconstitutional and directed the Commission to set several reconsideration decisions aside.
- *National Pollutant Discharge Elimination System (NPDES) Permit Claims.* Prior to 2010, Government Code section 17516(c) defined ‘executive orders’ to exclude any order, plan, or regulation issued by the State Water Resources Control Board or any regional water quality control board. Therefore, local governments were not authorized to file test claims on NPDES permits. Government Code section 17516(c) was ruled unconstitutional by the courts. As a result, local agencies have filed 18<sup>19</sup> NPDES permit test claims. The Commission decided five of these claims, but litigation on those decisions is currently pending in the Third District Court of Appeal and the California Supreme Court. There are 13 remaining NPDES test claims, which are inactive pending the outcome of the litigation.

## **II. Commission Workload Considerations**

### **A. Workload Completed in 2014-2015**

In 2014-2015, the Commission completed 5 test claims, 3 PsGs, 6 PGAs, 30 IRCs, 9 SCEs, and 3.5 MRs. The Commission also had nine cases pending in the courts during 2014-2015, many of which required staff time to brief and argue.<sup>20</sup> Many of the claims completed in 2014-2015 addressed complex issues regarding constitutional law, federal law, and issues of procedure and many of these issues were issues of first impression. Additionally, there were more IRCs heard and decided than in recent years.

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<sup>18</sup> Beginning fiscal year 2013-2014 the Commission’s staff has increased by two PYs to 12.5.

<sup>19</sup> Two of these were filed in 2013-2014 and one in 2014-2015.

<sup>20</sup> The courts have upheld Commission decisions in all five of the cases decided in 2014-2015.

## **B. Position Authority**

Like many state agencies, during the long-term budget crisis of 2001-2002 through 2012-2013, Commission staffing levels decreased significantly. This was a significant contributor to the Commission's backlog. In the 2001-2002 to 2003-2004 budget years, Commission staff was drastically reduced from a high of 17 positions to a low of 9.7 positions, as a result of the energy crisis and budget crisis that followed. Around the same time, in 2002, AB 3000 imposed a statute of limitation for filing a test claim and included a grandfather clause, allowing the filing of claims on statutes, regulations and executive orders dating back to 1975 until September 30, 2003. Thus, a great number of large and complex test claims were filed without sufficient staff to analyze them resulting in a significant backlog of claims. In 2006, the Legislature provided the Commission with three limited-term positions to eliminate the backlog. Since those positions were very difficult to fill, they were made permanent in 2007. However, as a result of budget cuts in 2008 and 2009, two positions were eliminated. Finally, for most of the time from 2008-2009 to 2012-2013, Commission staff, like most state employees, were subject to furlough and personal leave programs, which effectively reduced personnel hours by an additional five to fifteen percent throughout those years.

According to the Bureau of State Audits (BSA): “despite the State’s budget issues, cutting staff who determine state mandates has been shortsighted. Specifically, such actions over the last few years have contributed to delays related to stalled test claims that allow the buildup of millions of dollars of potential claims that the State is constitutionally required to reimburse.”<sup>21</sup>

Based on these facts, the Commission submitted a budget change proposal for 2013-2014, which was approved and established two new positions: an attorney III and a senior legal analyst. As of July 1, 2014, the Commission has 12.5 positions: one executive director (exempt), one chief legal counsel (CEA IV), one assistant executive director (SSM II), three attorney IIIs, one attorney I, one senior information systems analyst, one senior legal analyst, two and a half associate governmental program analysts, and one office technician. Table A. shows completed workload and position authority for the past 5 fiscal years.

Table A. includes matters heard by the Commission as well as matters withdrawn or dismissed prior to a hearing. While staff resources are also committed to matters that are withdrawn or dismissed, the impact of the newly added staff is most clearly reflected in the number of items that can be heard and decided by the Commission as this requires the highest commitment of staff resources. In its justification for the budget change proposal, staff projected a 20% increase in productivity with the addition of the two new positions. In fiscal year 2012-2013, the Commission heard and decided 34.5 items. In fiscal year 2013-2014, the Commission heard and decided 45.5 items, exceeding the projection in the budget change proposal. In fiscal year 2014-2015, the Commission heard and decided 44.5 matters including 3.5 MRs, which require two hearings for the mandate redetermination phase.

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<sup>21</sup> California State Auditor Report 2009-501, page 22.

**Table A. Commission Decision Making and Position Authority 2010-2011 to 2014-2015<sup>22</sup>**

<b>Matters Completed</b>	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015
Test Claims	11	14 <sup>23</sup>	11	13	5
Parameters and Guidelines	6	8	12	8	3
Statewide Cost Estimates	6	6	8	12	9
Parameters and Guidelines Amendments	2	8	3	10 <sup>24</sup>	6
Requests for Reconsideration	0	0	.5 <sup>25</sup>	.5	0
Requests to Review Claiming Instructions	0	1	0	0	0
Incorrect Reduction Claims	15	35 <sup>26</sup>	42 <sup>27</sup>	22 <sup>28</sup>	30 <sup>29</sup>
Mandate Redeterminations	0	0	0	2	3.5
<b>Positions</b>	10.5	10.5	10.5	12.5	12.5

**C. Pending Caseload**

The Commission's caseload consists of: test claims; Ps&Gs, and PGAs, which may include a RRM pursuant to Government Code sections 17557 or 17557.1; SCEs; IRCs; MRs, and requests to review claiming instructions. Caseload may also consist of regulatory actions, litigation, inquiries from state agencies, and joint proposals for an RRM.

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<sup>22</sup> This table does not reflect work completed for litigation, regulations, and special projects.

<sup>23</sup> 12 decided, two withdrawn and dismissed.

<sup>24</sup> Six decided, four dismissed.

<sup>25</sup> Requests for reconsideration require two hearings.

<sup>26</sup> 11 decided, 24 withdrawn.

<sup>27</sup> Zero decided, 42 withdrawn.

<sup>28</sup> Four decided, 18 withdrawn.

<sup>29</sup> 18 decided, 10 withdrawn, two dismissed for failure to prosecute.

**Table B. Pending Caseload as of June 30, 2015**

Type of Action	Number Pending
Test Claims <sup>30</sup>	16
Incorrect Reduction Claims <sup>31</sup>	56
Proposed Parameters and Guidelines <sup>32</sup>	1
Proposed Parameters and Guidelines Amendments <sup>33</sup>	3
Statewide Cost Estimates <sup>34</sup>	3
Requests for Mandate Redetermination <sup>35</sup>	3.5
New Test Claim Filings to be Reviewed	0
Litigation Matters Pending	7
Regulatory Actions	1
Responding to inquiries from the Legislature, LAO, BSA, and other state agencies	Ongoing <sup>36</sup>

**Test Claims**

The Commission’s test claim caseload is no longer backlogged. There are 16 test claims pending. Three of them, which were filed in 2014-2015 are tentatively set for hearing in December 2015 and January 2016, and the remaining 13 are inactive pending outcome of litigation pending in the California Supreme Court. Test claims filed with the Commission are now analyzed as soon as the comment and rebuttal periods are complete and the record is closed and are set for hearing as soon as possible thereafter. Table C. shows the pending test claim filings by fiscal year and claimant type.

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<sup>30</sup> Two are filed by school districts and 14 are filed by local agencies. See Exhibit B.

<sup>31</sup> See Exhibit E.

<sup>32</sup> See Exhibit C.

<sup>33</sup> See Exhibit F.

<sup>34</sup> See Exhibit D.

<sup>35</sup> See Exhibit G.

<sup>36</sup> The Commission regularly responds to inquiries from the Legislature, LAO, and other state agencies regarding mandates. Since the Commission obtained additional staff, it is now fully in compliance with BSA’s recommendations.

**Table C. Pending Test Claims by Fiscal Year of Filing and Claimant Type**

<b>Filing Date by Fiscal Year</b>	<b>Pending School District Test Claims (K-14)</b>	<b>Pending Local Agency Test Claims</b>	<b>Total Pending Test Claims</b>
2009-2010 <sup>37</sup>	0	1	1
2010-2011	0	7	7
2011-2012	0	2	2
2012-2013	0	0	0
2013-2014	0	2	2
2014-2015	3	1	4
<b>Totals</b>	<b>3</b>	<b>13*</b>	<b>16</b>

\* The 13 local agency test claims are claims regarding National Pollutant Discharge Elimination System (NPDES) permits which are on inactive status until pending litigation is complete.

**Parameters and Guidelines**

Currently, there is one pending Ps&Gs which is inactive pending court action. As noted above, Ps&Gs are a high priority for the Commission since an SCE cannot be adopted until after claims have been filed following adoption of the Ps&Gs and issuance of the State Controller’s claiming instructions. Generally, the most common reasons for delay of these items include litigation relating to the test claim decision, disputes regarding the activities claimed to be reasonably necessary to comply with the mandate, pending agreements between the parties on a RRM, or pending requests by one of the parties to include an RRM in the Ps&Gs. Table D shows the pending Ps&Gs. Commission staff, following the backlog reduction plan, has been expediting Ps&Gs immediately upon an approved or partially approved test claim. Therefore, Ps&Gs can be heard as soon as the next Commission hearing thus preventing a backlog in Ps&Gs.

**Table D. Pending Parameters and Guidelines by Fiscal Year of Filing and Claimant Type**

<b>Fiscal Year Test Claim Decision Was Adopted</b>	<b>Pending School District Ps&amp;Gs (K-14)</b>	<b>Pending Local Agency Ps&amp;Gs</b>	<b>Total Pending Ps&amp;Gs</b>
2007-2008	0	1	1 <sup>38</sup>
<b>Totals</b>	<b>0</b>	<b>1</b>	<b>1</b>

<sup>37</sup> All test claims filed prior to 2009-2010 have been decided; however, there are still outstanding SCEs pending for some of those test claims due to the deadlines by which initial claims are due.

<sup>38</sup> Pending Action of the Third District Court of Appeal - Discharge of Stormwater Runoff, 07-TC-09.

## Statewide Cost Estimates

Existing law requires the Commission to adopt a SCE within 12 to 18 months of a test claim filing, when the Commission determines that a state mandate exists. Generally, the Commission’s practice is to use actual reimbursement claims filed by the claimants to develop the SCE, because prior attempts to prepare SCEs using other data provided no useful information. Though not perfect, using actual claims data does provide useful information which brings the estimate much closer to the actual costs than in past SCEs which did not rely on actual claims. Moreover, staff is able to include assumptions in the SCEs, based upon issues that are addressed in the test claim or Ps&Gs decisions, or that arise in the claiming process which can help provide a context for the numbers and may be useful in the decision making process. The SCO develops claiming instructions within 90 days after the adoption of Ps&Gs. Claimants have 120 days from the release of the claiming instructions to file claims for the initial period of reimbursement. However, if reimbursement is based on a uniform cost, it may be possible to prepare the SCE before reimbursement claims have been filed, since costs can be more accurately predicted using the formula. Commission staff typically sets SCEs for the first hearing after the claims data is received from the Controller which is typically 7 to 9 months after the adoption of Ps&Gs. Table E. shows the current SCE caseload pending before the Commission.

**Table E. Pending Statewide Cost Estimates by Fiscal Year and Claimant Type**

<b>Fiscal Year Parameters and Guidelines Adopted</b>	<b>Pending School District (K-14) SCEs</b>	<b>Pending Local Agency SCEs</b>	<b>Total Pending SCEs</b>
2010-2011	0	1 <sup>39</sup>	1
2014-2015	0	2	2
<b>Totals</b>	<b>0</b>	<b>3</b>	<b>3</b>

## Incorrect Reduction Claims (IRCs)

The IRC caseload is backlogged. As of June 30, 2015, there are 56 IRCs pending that allege a total of \$98,181,766 in incorrect reductions to mandate reimbursement claims. Table F. shows the pending IRC caseload by fiscal year that the claim was filed and claimant type.

**Table F. Pending Incorrect Reduction Claims by Fiscal Year of Filing and Claimant Type**

<b>Filing Date by Fiscal Year</b>	<b>Pending School District Claims</b>	<b>Pending Local Agency Claims</b>	<b>Total Pending Claims by Fiscal Year</b>
2002-2003	0	1	1
2005-2006	2	1	3
2007-2008	1	3	4
2008-2009	1	1	2
2009-2010	5	1	6

<sup>39</sup> Inactive pending action of the California Supreme Court – Municipal Storm Water and Urban Runoff Discharges, 03-TC-04, 03-TC-19, 03-TC-20, and 03-TC-21.

2010-2011	9	2	11
2011-2012	1	2	3
2012-2013	0	5	5
2013-2014	6	3	9
2014-2015	11	1	12
<b>Totals</b>	<b>36</b>	<b>18</b>	<b>56</b>

IRCs are filed with the Commission based on actions taken by the SCO. Unlike test claims, where one claimant represents all potential claimants statewide, individual claimants file IRCs with the Commission on individual reimbursement claims filed by the individual claimant.<sup>40</sup> Though the Commission may combine IRCs on the same program and similar issues for purposes of analysis, oftentimes IRCs do not lend themselves to consolidation because issues unique to each claim must be addressed.

The process for resolving IRCs can be complex, and differs with each claim. For some claims, once the claimant files an IRC, an informal conference may be conducted where Commission staff mediates the issues in dispute between the claimant and the SCO. If the issues are resolved in the informal conference, the IRC is settled. When the issues cannot be resolved, Commission attorneys prepare a detailed analysis of the legal and fiscal issues, the Commission approves, partially approves, or denies the IRC, and adopts a decision. Whether or not the issues are resolved at an informal conference, staff must spend time to prepare and review the record (including the records for the test claim decision, parameters and guidelines, and claiming instructions), review detailed reimbursement claims, and determine the legal and audit issues. This process can be lengthy. There are currently 19 state-mandated programs with pending IRCs. Table G. shows the number of IRCs listed by program, claimant type, and total reduction amount per program.

**Table G. Pending IRCs and Amount of Alleged Incorrect Reductions by Program**

<b>Program</b>	<b>Number of IRCs Pending Local Agency Claims</b>	<b>Reduction Amount</b>
<i>Absentee Ballots</i>	1	\$19,284
<i>Animal Adoption</i>	3	\$8,321,698
<i>Child Abduction and Recovery</i>	2	\$1,564,942
<i>Domestic Violence Treatment Services</i>	1	\$748,675
<i>Firefighters' Cancer Presumption</i>	1	\$516,132
<i>Handicapped and Disabled Students</i>	2	\$21,413,252
<i>Handicapped and Disabled Students II</i>	1	\$448,202

<sup>40</sup> California has 58 counties so county claims are limited to 58 potential IRCs per program, per year. However, mandates involving cities, school districts, and special districts create thousands of potential IRCs.



<i>Handicapped and Disabled Students and Seriously Emotionally Disturbed (SED) Pupils</i>	1	\$3,738,045
<i>Investment Reports</i>	1	\$30,048
<i>Peace Officers Bill of Rights</i>	2	\$29,968,698
<i>Seriously Emotionally Disturbed Pupils (SEDS): Out-of-State Mental Health Services</i>	4	\$11,346,570
<i>Sexually Violent Predators</i>	1	\$203,363
<b><i>Subtotal</i></b>	<b>20</b>	<b>\$78,318,909</b>
	<b>School District Claims</b>	
<i>Notification of Truancy</i>	8	\$2,917,719
<i>School District of Choice: Transfer and Appeals</i>	1	\$25,081
<i>The Stull Act</i>	2	\$1,544,521
<b><i>Subtotal</i></b>	<b>11</b>	<b>\$4,487,321</b>
	<b>Community College District Claims</b>	
<i>Collective Bargaining</i>	1	\$735,450
<i>Enrollment Fee Collection and Waivers</i>	1	\$3,766,932
<i>Health Fee Elimination</i>	12	\$6,606,489
<i>Integrated Waste Management</i>	11	\$4,266,665
<b><i>Subtotal</i></b>	<b>25</b>	<b>\$15,375,536</b>
<b><i>TOTAL</i></b>	<b>56</b>	<b>\$98,181,766</b>

#### **Parameters and Guidelines Amendments (PGAs)**

Currently, there are three PGAs pending, including one that includes a proposed RRM. As with IRCs, there is no statutory deadline for completing PGAs, but PGAs are generally prioritized over IRCs because, like test claims, they affect all eligible claimants as well as the state.

**Table H. Pending Parameters and Guidelines Amendments  
by Fiscal Year of Filing and Claimant Type**

<b>Fiscal Year Filed</b>	<b>K-14</b>	<b>Local Agency</b>	<b>State Controller</b>	<b>Department of Finance</b>	<b>Totals</b>
2011-2012	0	0	0	1	1
2014-2015	1	0	0	1 <sup>41</sup>	2
<b>Totals</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>3</b>

### **III. Challenges to Reducing the Backlog**

As of July 1, 2015, the Commission has 16 test claims and 56 IRCs pending.<sup>42</sup> Additionally, the current caseload of the Commission includes the preparation of SCEs, Ps&Gs, PGAs, and MRs, which are included in the plan to provide a fuller understanding of the Commission’s caseload and priorities. The Commission faces a wide range of challenges and factors that may delay completion of the caseload, as discussed below.

#### **A. Multiple Statutory Requirements**

The Commission is charged by law with multiple responsibilities in addition to hearing test claims and IRCs. Government Code section 17500 et seq. also requires the Commission to adopt Ps&Gs, hear requests to amend Ps&Gs, prepare SCEs, hear requests to review the Controller’s claiming instructions, hear mandate redetermination requests, and review county applications for a finding of severe financial distress. Each matter must proceed in accordance with the due process procedures outlined in the Government Code and the Commission’s regulations, which allow for party and interested party participation.

While the Commission has not received a county application for a finding of significant financial distress since 2005, state law is clear that when these applications are filed, the county is entitled to a final decision by the Commission within 90 days. If the Commission receives an application, substantial staff resources will need to be shifted to conduct the required investigation, hearing, and determination.

Parties are authorized to request an extension of time for filing comments and postponement of items set for hearing. Under specified conditions, when good cause is shown, the executive director is required by statute to grant the request. The Commission frequently receives requests for extensions and postponements that result in items on the agenda being postponed.

The Commission also periodically amends its regulations. In 2011, Commission staff prepared two regulatory packages. In 2013-2014, staff prepared a major clean up and streamlining regulation package to clarify the mandates process. In 2014-2015 staff prepared a general clean up package.

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<sup>41</sup> This PGA is tentative, pending the outcome of a mandate redetermination request filed by Finance.

<sup>42</sup> These numbers include new filings received in the 2014-2015 fiscal year.

## **B. Litigation**

The Commission was involved in nine significant litigation matters in 2014-2015 and one of those (*Clovis Unified School District v. Commission on State Mandates, State Controller's Office*, Sacramento County Superior Court, Case No. 34-2014-80001931) was completely resolved and the time to appeal that decision has passed. Four additional matters were decided by the trial court, but they are either being appealed or are still subject to appeal as of June 30, 2015.

Commission staff is involved in two litigation matters that address NPDES permits issued by the Regional Water Quality Control Boards under the Porter-Cologne Act with complaints and cross-complaints filed by the state and the local agencies subject to the permits. These cases present many issues of first impression relating to whether a state-mandated program exists and whether local agencies can collect fees for the services provided. While Commission staff is not briefing these matters, staff has filed responses and is actively monitoring the cases and answering questions from the court and the parties. These cases are currently pending in the Third District Court of Appeal and the California Supreme Court.

In addition, another seven matters were filed, which have required the commitment of substantial staff time. These cases included the following:

- *California School Board Association (CSBA) v. State of California et al.*, Alameda County Superior Court, Case No. RG11554698 (Regarding 2010-2011 Budget Trailer Bills, Mandates Process for K-12 Schools, and the Redetermination Process.)
- *County of San Diego v. Commission on State Mandates, et al.*, San Diego County Superior Court, Case No. 37-2014-00005050-CU-WM-CTL (Regarding Mandate Redetermination, Sexually Violent Predators, As modified by Proposition 83, General Election, November 7, 2006.)
- *Santa Clarita Valley Sanitation District v. Commission on State Mandates, California Regional Water Quality Control Board, Department of Finance*, Los Angeles County Superior Court, Case No. BS148024 (Regarding Test Claim Decision for 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.)
- *County of Los Angeles v. Commission on State Mandates, Department of Finance*, Los Angeles County Superior Court, Case No. BS148845, (Regarding Test Claim Decision for Public Guardianship Omnibus Conservatorship Reform, 07-TC-05(Specified Probate Code Sections as added or amended by Statutes 2006; Chapter 490 (SB 1116), Statutes 2006, Chapter 492 (SB 1716), and Statutes 2006, Chapter 493 (AB 1363).)
- *Coast Community College District, et al. v. Commission on State Mandates, et al.*, Sacramento County Superior Court, Case No. 34-2014-80001842 (Regarding Test Claim Decision for Minimum Conditions for State Aid, 02-TC-25/02-TC-31(Specified Education Code Sections as added or amended by 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; specified California Code of Regulations, Title 5, Sections, Handbook of Accreditation and Policy Manual, Accrediting Commission for Community and Junior Colleges (Summer 2002); “Program and Course Approval Handbook” Chancellor’s Office California Community Colleges (September 2001).)

- *Clovis Unified School District v. Commission on State Mandates, State Controller’s Office*, Sacramento County Superior Court, Case No. 34-2014-80001931, (Graduation Requirements IRC, 05-4435-I-50 and 08-4435-I-52)
- *Paradise Irrigation District v. Commission on State Mandates, Department of Finance, and Department of Water Resources*, Sacramento County Superior Court, Case No. 34-2015-80002016 (*Water Conservation*, 10-TC-12/12-TC-01)

### **C. Number and Complexity of Filings**

As previously noted, the most labor-intensive activity for Commission staff is preparing proposed decisions for test claims, Ps&Gs, MRs, and IRCs.

#### *1. Test Claims*

Prior to 2002, test claim filings averaged approximately 24 per year. As discussed above, in 2002, AB 3000 imposed a three-year statute of limitations for filing a test claim,<sup>43</sup> and provided a one-year grandfather clause (to September 30, 2003) to file test claims on statutes and executive orders going back to 1975, resulting in 51 new test claims filed in fiscal year 2002-2003 and 23 test claims filed in 2003-2004. However, test claim filings have since decreased. This may be because of the short statute of limitations (now twelve months from the effective date of the statute or executive order or from first incurring costs), or it may be, as some local governments and local government associations have stated in comments on matters and in litigation filings, attributable to frustration at the time and effort required to process a test claim, or because the Legislature rarely enacts or funds mandates anymore. It may also be that over the course of the last several years, local governments have not had the resources to monitor legislation and prepare claims, due to the economic crisis and resultant budget cuts.

Nonetheless, the 13 pending NPDES permit claims and the five claims currently pending in the Third District Court of Appeal and the California Supreme Court may significantly impact workload. The time that these claims will require to analyze, hear, and decide will depend on the courts’ interpretation of the state-mandate issue and its direction to the Commission on any remand of the pending claims being litigated. In the case pending in the Third District Court of Appeal, the trial court found that the Commission needs to make a factual determination of whether the permit requirements exceed the federal maximum extent practicable (MEP) standard, applying an eight part test. If the trial court’s ruling is upheld, the factual determinations will require the analysis of substantial evidence in the record (including a review of all of the facts relied upon by the regional board) in accordance with Government Code section 17559, which will have significant implications for Commission workload. Commission

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<sup>43</sup> Note that the definition of executive order includes regulations.

staff expects that such an analysis of the 18 NPDES claims would take approximately fourteen months, with nearly all Commission staff time dedicated to completion of these items only.

Finally, test claims are often thought to be filed on one individual statute or code section. This is not correct. Test claims can be filed on numerous statutes (each containing numerous code sections), regulations, and executive orders. For example, the 51 test claims filed in 2002 alleged that nearly 500 statutes, and 400 regulatory sections and executive orders were mandated programs. By law, each statute, code section, regulation, and executive order pled requires a finding by the Commission. Moreover, even when a test claim is only on one statute, that statute may raise complex issues of law or an issue of first impression and so may require substantial staff time despite its apparently small size. As a result, the time it may take to hear and decide any particular test claim is variable.

### *2. Reasonable Reimbursement Methodologies and Parameters and Guidelines*

A request to include a reasonable reimbursement methodology (RRM) in parameters and guidelines (Ps&Gs) is a request made by a local entity claimant, Finance, the Controller, or an affected state agency, pursuant to Government Code section 17557 and 17518.5. Under article XIII B, section 6 of the California Constitution and 17550 et seq. of the Government Code, the Commission is required to make the factual determination, based on substantial evidence in the record, of whether the proposed formula or unit cost reasonably represents the costs mandated by the state for all eligible claimants in the state. The proposed RRM must be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies and school districts, or other projections of local costs; and shall consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner. If these findings are made and an RRM is adopted by the Commission in the Ps&Gs, then the claiming is based on the adopted formula or unit cost, in lieu of requiring detailed documentation of actual costs incurred.

The adoption of an RRM pursuant to Government Code sections 17557 or 17518.1 streamlines the claiming process and reduces or eliminates auditing issues on reimbursement claims filed with the Controller and was proposed by the LAO for that reason. However, the process increases the responsibility of the Commission when adopting or amending Ps&Gs, by requiring the additional factual finding that the proposal reasonably represents the mandated costs incurred by all eligible claimants in the state pursuant to article XIII B, section 6 of the California Constitution. Analyzing such proposals requires significant staff time, in some instances longer than the time required for a test claim analysis. There is currently one proposed RRM in a PGA pending before the Commission.

### *3. Incorrect Reduction Claims*

Unlike test claims, where one claimant represents all potential claimants statewide in a manner analogous to a class action lawsuit, individual claimants file IRCs with the Commission and seek redress for reductions that apply only to that one claimant.<sup>44</sup> The process for resolving IRCs can be complex and differs with each claim. Most IRCs involve issues of law and fact. Thus,

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<sup>44</sup> California has 58 counties, so county claims are limited to 58 potential IRCs per test claim. Mandates involving cities or school districts, however, create the potential for over 1,600 IRCs per test claim.

analysis of each IRC requires legal and fiscal consideration, as well as a technical review of the Controller's audit. For some claims, once the claimant files an IRC, an informal conference is conducted where Commission staff mediates the issues in dispute between the claimant and the Controller. If the issues are resolved in the informal conference, the IRC may be settled.

When the issues cannot be resolved, Commission attorneys prepare a detailed analysis of the legal and audit issues in the proposed decision. The Commission approves, partially approves, or denies the IRC, and adopts a decision. Whether or not the issues are resolved at the informal conference, Commission staff must spend time to prepare and review the record (including the original test claim record, Ps&Gs, and claiming instructions), review detailed reimbursement claims, and determine the legal and fiscal issues. This process can be lengthy.

As stated above, there are 56 IRCs pending as of July 1, 2015. However, since the beginning of the 2012-2013 fiscal year, the Controller has issued approximately 265 audit reports on 22 mandated programs.<sup>45</sup> Commission staff has been informed by claimant representatives that, in response to recent SCO audits, numerous IRCs will likely be filed in the near future.

#### **D. Number and Level of Positions**

As discussed above, the Commission's position authority was reduced nearly half between 2002 and 2009 and the reductions were compounded by the furlough and personal leave programs that followed. The continual decrease in staff and staff hours is one of the primary factors that caused or exacerbated the backlog. The number of matters completed is based on the number of positions and staff hours and on the classification and level of those positions. However, with the two new positions beginning and the personal leave program ending in July 2013, the Commission has been better able to expeditiously resolve the backlogged matters and newly filed matters. A reduction in staff would likely result in a permanent reduction in productivity. Additionally, staff turnover would result in a temporary reduction in productivity.

#### **E. Delays Caused by Litigation and Requests for Extensions or Postponements**

Commission decisions on test claims are sometimes delayed because of request for extensions and postponements or because they are litigated. When that occurs, Commission proceedings on Ps&Gs and SCEs are delayed, sometimes for several years. An extreme example of this was in *Behavioral Intervention Plans (BIPs)*, CSM 4464, where there were 27 extension requests granted while the Ps&Gs were pending, followed by seven years of litigation resulting in a nearly 13-year delay in the adoption of Ps&Gs. Though this matter was an outlier, other claims are also sometimes significantly delayed because of extensions, postponements, and litigation.

Hearing postponements, by definition, delay the completion of pending matters. Currently, there is no limit to the number of extensions and postponements that may be requested by the parties. For some claims, more than 10 requests for 60 day extensions and postponements have been requested and granted. For every six requests granted, a year or more is added to the time to complete the claim. Under specified conditions, when good cause is shown, the executive director is required by statute to grant the request. The Commission frequently receives requests for extensions and postponements that result in items on the proposed agenda being postponed. The handling of these requests and revision and reissuance of the agenda also takes staff time

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<sup>45</sup> The statute of limitations to file an IRC is three years (2 CCR 1185.1).

away from the processing of other pending matters.

Additionally, handling litigation on one matter draws staff time away from other pending matters.

#### **F. Other Pending Work Contributes to the Test Claim Backlog**

Litigation, Ps&Gs, and PGAs that include complex RRM requests pursuant to 17557, IRCs, and past requests to reconsider existing test claims, have all contributed to the delay in eliminating the test claim backlog in the past. In particular, the RRM process was not considered when the statutory 12 to 18 month timeline for completing the test claim process through the adoption of the SCE was established. RRMs require significant additional staff time for the Ps&Gs and PGAs adoption process. Additionally, mandate redetermination requests have been and will likely continue to be filed and they require a two-hearing process which increases necessary staff work to double that of a one-hearing process.

#### **G. Unique Issues Related to the IRC Backlog**

The filing of an IRC is an appeal of a SCO decision. The same factors that contributed to the test claim backlog also contribute to the IRC backlog, including the number and complexity of the filings, number, classification, and level of positions, and other pending matters. Additionally, unlike for test claims, Ps&Gs, and SCEs, there is no statutory deadline for completing IRCs. Therefore, IRCs have lower priority when setting matters for hearing, though the Commission makes every effort to hear all matters filed within a reasonable time.

#### **H. Number of Commission Meetings**

The Commission is required by statute to conduct at least six public meetings per year, and tentatively schedules two additional meetings each year. Preparation for each Commission meeting consumes a significant amount of staff time, regardless of the number of items set for hearing. Though it may seem counterintuitive, the more meetings the Commission holds, the fewer items it can complete for hearing. This is attributable to timing of the release of drafts for public comment, the requirement to provide service and public notice on all matters, and the time required to prepare hearing materials for Commission members and the public.

### **IV. Backlog Reduction Strategy**

The Commission has had a long-standing practice of prioritizing test claims, Ps&Gs, and SCEs because of the statutory deadline attached to those matters and otherwise generally hears matters in the order filed with the Commission. This first-in-time approach is a core policy that has served the Commission well. Over the years, however, the Commission has made exceptions to this policy in certain circumstances. For example, when a court has ruled on a matter before the Commission, the Commission has consistently responded by moving that matter ahead in the queue, whether or not the courts have ordered the Commission to do so.

Commission staff has taken matters out of order for staff development purposes and has also, on occasion, assigned less-complicated matters out of order to a staff person who has just completed a particularly difficult assignment. This increases the opportunities for staff to gain experience in a wide variety of legal matters and prevents staff burnout.

The Commission remains committed to continuing to eliminate the backlog by adhering to the first-in-time policy, unless circumstances justify an exception. The following are strategies the Commission is employing to more efficiently decide matters, with a goal of eliminating the

backlog as soon as possible: (1) claim consolidation; (2) common issues; (3) simple test claims and single-issue IRCs; (4) stakeholder requests; and (5) joint RRMs.

#### **A. Claim Consolidation**

Pursuant to California Code of Regulations, title 2, section 1183.5, the executive director may, subject to appeal, “consolidate part or all of any test claim with another test claim or sever a test claim, if necessary to ensure the complete, fair, or timely consideration of any test claim.” Similarly, Government Code section 17558.8 and section 1185.3 of the Commission’s regulations allow the executive director to consolidate IRCs. To date, the Commission has consolidated numerous test claims. However, consolidation has been used sparingly for IRCs because it only works if the issues of law and fact are the same, the claimants filed their reimbursement claims in the same manner and for the same costs, and the SCO auditors were consistent in making claim reductions based on similar documentation. Commission staff has reviewed all currently pending IRCs and has determined that almost none of them are suitable for consolidation and will require individual analyses. For future IRCs though, it may be appropriate to consolidate claims filed by different claimants so that one decision may be adopted by the Commission to resolve multiple claims.

In addition, if the Commission decides an issue in one matter that is contested in other matters, the time required to complete those other matters may be reduced. The shorthand for this concept is “cross cutting issues.” For example, in 2010, the Commission adopted decisions on the County of Los Angeles and the City of Tustin *Investment Reports* IRCs. In doing so, the Commission resolved certain crosscutting issues common to nearly all of these IRCs. At that time, there were 72 pending IRCs on this program. Since that time, Commission staff has worked to ensure that the remaining *Investment Reports* IRCs were resolved informally through negotiations between claimants and SCO staff. In fiscal year 2012-2013, thirty-eight *Investment Reports* IRCs were settled and withdrawn and in fiscal year 2013-2014, eleven were settled and withdrawn, in 2015-2016, all but one of the remaining IRCs on this program were either settled and withdrawn or dismissed for lack of prosecution. As of July 1, 2015, only one IRC remained pending on this program.

#### **B. Requests to Expedite**

Commission staff occasionally receives requests from a party to expedite certain matters. Naturally, all parties would like their claims decided as quickly as possible. Though generally such requests are disfavored in the interest of fairness to other parties who have been waiting for a longer time to have their matters heard, on occasion certain matters may be expedited, particularly where consolidation with an earlier filed claim is appropriate or where the request has broad support or because of the importance of the speedy resolution of a particular matter to both state and local agencies.

#### **C. Joint Reasonable Reimbursement Methodologies (Joint RRMs)**

A joint RRM and statewide estimate of cost (SEC, not to be confused with an SCE) is based on a settlement agreement between Finance and the local governments pursuant to Government Code section 17557.1 and 17557.2. The RRM and SEC remain in effect for five years, unless another term is provided in the agreement or the agreement is jointly terminated by the parties. The Commission can approve a joint RRM and proposed SEC simply with a showing that an agreement between Finance and a local entity has been reached, and that the joint methodology



is broadly supported by a wide range of local agencies or school districts. If more joint RRM and SECs are negotiated by the parties, as was recommended in the 2009 BSA Report and by others, the agreements may result in less work required of Commission staff and would likely reduce auditing issues on reimbursement claims, since the claim would not need to be supported with documentation of actual costs incurred. To date, the Commission has adopted only one joint RRM and SEC, which took approximately three years for the parties to negotiate. The joint RRM and SEC were in effect for three fiscal years before the program was suspended by the Legislature. That joint RRM was extended through 2015 after which the parties let it lapse and Commission staff adopted parameters and guidelines for the program which require that, if the program is ever taken off suspension, claimants submit claims based on their actual costs incurred. Currently, there are no pending joint RRMs.

## **V. Plan of Action**

Despite the uncertainty caused by the many factors discussed in this report, only some of which are within the Commission's control, Commission staff believes that the following updated plan to reduce the backlog can be achieved.

### **A. Support the Continued Informal Resolution of IRCs and Hear and Decide All Currently Pending IRCs, Which Are Not Settled, by December 2, 2016 or December 1, 2017.**

The BSA 2009 Report shed light on the negative impacts both to the state and local governments posed by delays in deciding IRCs. From 2011 to present, Commission staff has redoubled its efforts to complete staff analyses for IRCs and to work with the parties to resolve IRCs. Commission staff will continue to work with the Controller and claimants to resolve these IRCs and currently has all pending IRCs tentatively scheduled for hearing by the middle of 2016-2017. However, whether the IRCs will actually be heard by December 2016 depends on a variety of factors, discussed below, especially the litigation pending in the California Supreme Court and whether new test claims, PGAs, or MRs are filed in the interim.

Commission staff is continuing to work to complete the pending IRCs by encouraging the informal resolution of these claims, in addition to analyzing them for hearing and decision. Though this process may take longer than anticipated in the Commission's prior backlog reduction plans, positive strides toward resolving these claims are being made. Specifically, staff has been focusing on the completion of IRCs with cross cutting issues and is actively encouraging and facilitating meetings between the claimants and the SCO to resolve the remaining claims.

The Commission heard and decided one IRC in 2009-2010, one IRC in 2010-2011, 11 IRCs in 2011-2012, four IRCs in 2013-2014, and 18 IRCs in 2014-2015. An additional 24 IRCs were informally resolved and withdrawn in 2011-2012 totaling 35 IRCs completed in that fiscal year. In 2012-2013, 42 IRCs were withdrawn, in 2013-2014, 18 were withdrawn and in 2014-2015, 10 were withdrawn as a result of this strategic approach. Following the 2011 Commission decision on the single *Health Fee Elimination* IRC, Commission staff met with SCO staff and the claimants' representative to discuss how to proceed with the remaining *Health Fee Elimination* IRCs. Staff consolidated an additional two of these IRCs and they were heard and decided on January 31, 2014. These two particular *Health Fee Elimination* IRCs contained issues that were included in many of the remaining *Health Fee Elimination* IRCs. Completion of these two

claims has spurred resolution of many of the *Health Fee Elimination* IRCs, and could result in speedier resolution of the remaining *Health Fee Elimination* IRCs.

Similarly, Commission decisions on some single-issue IRCs may clarify the Commission's interpretation of certain issues of law so that claimants can evaluate and consider the merits of potential future claims prior to filing and the SCO can consider that interpretation when conducting future audits or settlement negotiations. Therefore, staff may strategically select some of these IRCs for hearing in the near future where the issue is likely to recur. As stated above, all pending IRCs are tentatively set for hearing through the middle of 2016-2017. However, as new test claims, PGAs, or MRs are filed, those matters will be prioritized, potentially pushing the hearing on tentatively-set IRCs to later dates.

The Commission has many options for addressing IRCs. For example, it may be appropriate to consolidate IRCs filed by different claimants so that one analysis and decision are adopted by the Commission as discussed earlier under IV. Backlog Reduction Strategy. However, this only works if the issues are the same, and the Controller's auditors were consistent in making claim reductions, based on similar documentation. It is possible that once the Commission determines one IRC, other claims on the same program will be settled and withdrawn based on that decision. But, it may also be necessary for the Commission to adopt individual decisions on IRCs filed on the same program because documentation and the way reimbursement claims were filed may differ. Most IRCs involve issues of law and fact. Thus, the analysis of each IRC requires legal, analytical, and audit review.

## **VI. Conclusion**

Over the years, a significant backlog of test claims and IRCs accumulated in the Commissions pending caseload. The Commission has completed its test claim backlog and is now focused on ensuring the speedy resolution of newly filed test claims as well as the completion of the IRC backlog. This plan represents Commission staff's approach to reducing and ultimately eliminating that backlog as quickly as possible. It is important to note, however, that this ambitious plan is only an *estimate* of what can be completed in the coming years based on what staff knows as of July 1, 2015. Many factors beyond the control of Commission staff could increase the time it takes to eliminate the backlog.

## Exhibits – Pending Workload

### A. Test Claim to Statewide Cost Estimate Tracking as of July 1, 2015

	<b>Program Name</b>	<b>Matter Number</b>	<b>TC Filed</b>	<b>TC Ext. DOF</b>	<b>TC Hearings Postponed DOF</b>	<b>TC Ext. Claimant</b>	<b>TC Hearings Postponed Claimant</b>	<b>Date TC Decision Adopted, Set, or Tentatively Set for Hearing</b>	<b>Date Ps&amp;Gs Adopted, Set, or Tentatively Set for Hearing</b>	<b>Date SCE Adopted, Set, or Tentatively Set for Hearing</b>
1.	Los Angeles Region Water Permit – Cities of Los Angeles County*	13-TC-01*	6/30/14	0	0	0	0			
2.	Los Angeles Region Water Permit – County of Los Angeles*	13-TC-02*	6/30/14	0	0	0	0			
3.	California Assessment of Student Performance and Progress (CAASPP)	14-TC-01 and 14-TC-04	Filed 12/23/2014 Consolidated 8/14/15**	42	63	0	119	1/22/16	3/25/16 or 5/27/16	9/23/16 or 12/2/16
4.	Training for School Employee Mandated Reporters	14-TC-02	6/1/15	0	0	0	0	12/2/15	1/22/16 or 3/25/16	9/23/16 or 12/2/16

	<b>Program Name</b>	<b>Matter Number</b>	<b>TC Filed</b>	<b>TC Ext. DOF</b>	<b>TC Hearings Postponed DOF</b>	<b>TC Ext. Claimant</b>	<b>TC Hearings Postponed Claimant</b>	<b>Date TC Decision Adopted, Set, or Tentatively Set for Hearing</b>	<b>Date Ps&amp;Gs Adopted, Set, or Tentatively Set for Hearing</b>	<b>Date SCE Adopted, Set, or Tentatively Set for Hearing</b>
5.	California Assessment of Student Performance and Progress (CAASPP) II	14-TC-04	Filed 6/26/15 Consolidated 8/14/15**	0	0	0	0	1/22/16	3/25/16 or 5/27/16	9/23/16 or 12/2/16
6.	San Diego Region Water Permit – San Diego County*	14-TC-03*	6/29/15	0	0	0	0			

\*On inactive status due to litigation.

\*\*These claims were consolidated for hearing on 8/14/15 which restarts the statutory clock for adopting an SCE.

(2 CCR 1183.18(a)(7).)

**B. Test Claims as of July 1, 2015**

#	Matter Number	Filed	Claimant	Name of Claim	Tentative Hearing Date
1.	09-TC-03	6/30/10	County of Orange, Orange County Flood Control District, & Cities of Anaheim, Brea, Buena park, Costa Mesa, Cypress, Fountain Valley, Fullerton, Huntington Beach, Irvine, Lake Forest, Newport Beach, Placentia, Seal Beach, Villa Park	<i>Santa Ana Regional Water Permit – Orange County</i> California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2009-0030	Inactive pending outcome of litigation
2.	10-TC-01	10/11/10	City of Brisbane	<i>Municipal Regional Stormwater Permit – San Mateo County</i> Municipal Regional Stormwater Permit Number CAS612008, issued by the Regional Water Quality Control Board, San Francisco Region as Order No. R2-2009-0074, October 14, 2009	Inactive pending outcome of litigation
3.	10-TC-02	10/13/10	City of Alameda	<i>Municipal Regional Stormwater Permit – Alameda County</i> Municipal Regional Stormwater Permit Number CAS612008, issued by the Regional Water Quality Control Board, San Francisco Region as Order No. R2-2009-0074, October 14, 2009	Inactive pending outcome of litigation

#	Matter Number	Filed	Claimant	Name of Claim	Tentative Hearing Date
4.	10-TC-03	10/14/10	County of Santa Clara	<b><i>Municipal Regional Stormwater Permit – Santa Clara County</i></b> Municipal Regional Stormwater Permit Number CAS612008, issued by the Regional Water Quality Control Board, San Francisco Region as Order No. R2-2009-0074, October 14, 2009	Inactive pending outcome of litigation
5.	10-TC-05	11/30/10	City of San Jose	<b><i>Municipal Regional Stormwater Permit –Municipal Operations (C.2) - City of San Jose</i></b> Municipal Regional Stormwater Permit Number CAS612008, issued by the Regional Water Quality Control Board, San Francisco Region as Order No. R2-2009-0074, October 14, 2009	Inactive pending outcome of litigation
6.	10-TC-07	1/31/11	Riverside County Flood Control & Water Conservation District, the County of Riverside, and the Cities of Beaumont, Corona, Hemet, Lake Elsinore, Moreno Valley, Perris and San Jacinto	<b><i>Santa Ana Regional Water Permit – Riverside County</i></b> California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2010-0033, effective January 29, 2010	Inactive Status Per Claimant Request

#	Matter Number	Filed	Claimant	Name of Claim	Tentative Hearing Date
7.	10-TC-10	6/30/11	San Bernardino County Flood Control District, County of San Bernardino, Cities of Big Bear Lake, Chino, Chino Hills, Colton, Fontana, Highland, Montclair, Ontario and Rancho Cucamonga	<b><i>Santa Ana Region Water Permit – San Bernardino County</i></b> California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2010-0036, effective January 29, 2010	Inactive pending outcome of litigation
8.	10-TC-11	6/30/11	County of Orange, Orange County Flood Control, District, Cities of Dana Point, Laguna Hills, Laguna Niguel, Lake Forest, Mission Viejo and San Juan Capistrano	<b><i>San Diego Region Water Permit – Orange County</i></b> California Regional Water Quality Control Board, San Diego Region, Order No. R9-2010-0016, NPDES No. CAS 0108766, Adopted November 10, 2010	Inactive pending outcome of litigation
9.	11-TC-01	8/26/11	County of Ventura and Ventura County Watershed Protection District	<b><i>Los Angeles Region Water Permit – Ventura County</i></b> California Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2010-0108, NPDES Permit No. CAS00-4002, Adopted July 8, 2010	Inactive pending outcome of litigation
10.	11-TC-03	11/10/11	County of Riverside, Riverside County Flood Control & Water Conservation District and the Cities of Murrieta, Temecula and Wildomar	<b><i>San Diego Region Water Permit – Riverside County</i></b> California Regional Water Quality Control Board, San Diego Region, Order No. R9-2010-0016, NPDES No. CAS 0108766, Adopted November 10, 2010	Inactive pending outcome of litigation

#	Matter Number	Filed	Claimant	Name of Claim	Tentative Hearing Date
11.	13-TC-01	6/30/14	Cities of Agoura Hills, Bellflower, Beverly Hills, Carson, Cerritos, Commerce, Covina, Downey, Huntington Park, Lakewood, Manhattan Beach, Norwalk, Pico Rivera, Rancho Palos Verdes, Redondo Beach, San Marino, Santa Clarita, Santa Fe Springs, Signal Hill, South El Monte, Vernon, Westlake Village, and Whittier	<i>Los Angeles Region Water Permit – Cities of Los Angeles</i> California Regional Water Quality Control Board Los Angeles Region, Order No. R4-2012-0175	Inactive pending outcome of litigation
12.	13-TC-02	6/30/14	County of Los Angeles and Los Angeles County Flood Control District	<i>Los Angeles Region Water Permit – County of Los Angeles</i> California Regional Water Quality Control Board Los Angeles Region, Order No. R4-2012-0175	Inactive pending outcome of litigation



#	Matter Number	Filed	Claimant	Name of Claim	Tentative Hearing Date
13.	14-TC-01 Consolidated with 14-TC-04	04/27/15	Plumas County Office of Education, Plumas Unified School District, Porterville Unified School District, Santa Ana Unified School District, and Vallejo City Unified School District	<b><i>California Assessment of Student Performance and Progress (CAASPP)</i></b>  Education Code Sections 60602, 60603, 60604, 60607, 60610, 60611, 60612, 60640, 60641, 60642.6, 60643, 60643.6, 60648, 60648.5, 60649, 60810, 99300, and 99301; Statutes 2013-2014, Chapter 489 (AB 484); Statutes 2014 Chapter 32, (SB 858); Statutes 2014, Chapter 327 (AB 1599); California Code of Regulations, Title 5, Section 850 through 864, inclusive; (Register 2014, No. 30; Effective Date: July 23, 2014)	1/22/16
14.	14-TC-02	06/01/15	Lake Elsinore Unified School District	<b><i>Training For School Employee Mandated Reporters</i></b>  Education Code Section 44690 and 44691; Penal Code Section 11165.7  Statutes 2014, Chapter 797 (AB 1432)	12/03/15
15.	14-TC-03	06/29/15	County of San Diego	<b><i>San Diego Region Water Permit – County of San Diego</i></b> California Regional Water Quality Control Board San Diego Region Order No. R9-2013-001	Inactive pending outcome of litigation

#	Matter Number	Filed	Claimant	Name of Claim	Tentative Hearing Date
16.	14-TC-04 Consolidated with 14-TC-01	06/26/15	Plumas County Office of Education, Plumas Unified School District Porterville Unified School District, and Santa Ana Unified School District	<i>California Assessment of Student Performance and Progress (CAASPP) II</i>  California Code of Regulations, Title 5, Section 850 through 864, inclusive; (Register 2014, No. 6; Effective Date February 3, 2014.)	1/22/16

**C. Parameters and Guidelines as of July 1, 2015**

#	Matter Number	Test Claim Filing Date	Date Test Claim Decision Adopted	Claimant	Name of Test Claim	Tentative Hearing Date
1.	07-TC-09	6/30/08	3/26/10	County of San Diego	<p><b><i>Discharge of Stormwater Runoff</i></b>            California Regional Water Quality Control Board, San Diego Region, Order No. R9-2007-001, (NPDES No. CAS0108758);            Waste Discharge Requirements for Discharges of Urban Runoff From the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority, adopted on January 24, 2007</p>	Inactive pending outcome of litigation

**D. Statewide Cost Estimates as of July 1, 2015**

#	Matter Number	Test Claim Filing Date	Date Test Claim Decision Adopted	Date Ps&Gs Adopted	Date Claims Due from SCO <sup>46</sup>	Claimant	Name of Test Claim	Tentative Hearing Date
1.	03-TC-04, 03-TC-19, 03-TC-20, 03-TC-21	9/5/03, Refiled 10/18/07	7/31/09	3/24/11	9/28/11	County of Los Angeles, Cities of Artesia, Beverly Hills, Carson, Norwalk, Rancho Palos Verdes, Westlake Village, Azusa, Commerce, Vernon, Bellflower, Covina, Downey, Monterey Park, Signal Hill	<i><b>Municipal Storm Water and Urban Runoff Discharges</b></i> Los Angeles Regional Quality Control Board Order No. 01-182, Permit CAS004001, Part 4Fc3	Inactive pending outcome of litigation
2.	10-TC-08	3/28/11		9/29/14	5/22/15	County of Santa Barbara	<i><b>Post Election Manual Tally (PEMT)</b></i> Office of Administrative Law File No. 2008-2009-002E, effective October 20, 2008; California Code of Regulations, Title 2, Division 7, Chapter 3, Post Election Manual Tallies Sections 20120, 20121, 20122, 20123, 20124, 20125, 20126 and 20127	7/24/15

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<sup>46</sup> Estimated date based on the issuance or prospective issuance of SCO claiming instructions.

3.	09-TC-02	6/30/10	12/5/14	3/27/15	11/20/15	County of Los Angeles	<p><b><i>Sheriff Court-Security Services</i></b>  Government Code Section 69926 as amended by Statutes 2009, Chapter 22 (SB 13) and as added by Statutes 2002, Chapter 1010 (SB 1396); and Government Code Sections 69927(a)(6) as amended and renumbered by Statutes 2009, Chapter 22 (SB 13) and as added as 69927(a)(5) by Statutes 2002, Chapter 1010 (SB 1396); and Government Code Sections 69927(b) as amended by Statutes 2009, Chapter 22 (SB 13) and as added by Statutes 2002, Chapter 1010 (SB 1396); and Government Code Sections 69920, 69921, 69921.5, 69922, and 69925 added by Statutes 2002, Chapter 1010 (SB 1396); and, Government Code Section 77212.5 as added by Statutes 1998, Chapter 764 (AB 92) and repealed but replaced and modified by Statutes 2002, Chapter 1010 (SB 1396) under Government Code Section 69926; and Rule 10.810 of the California Rules of Court Sections (a), (b), (c), (d) and Function 8 (Court Security). Rule 10.810 amended and renumbered effective January 1, 2007; adopted as Rule 810 effective July 1, 1988; previously amended effective July 1, 1989, July 1, 1990, July 1, 1991, and July 1, 1995. Subdivision (d) amended effective January 1, 2007 and previously amended and relettered effective July 1, 1995. Rule 10.810 identical to former Rule 810, except for the rule number. All references in statutes or rules to Rule 810 apply to this Rule.</p>	1/22/16
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**E. Incorrect Reduction Claims as of July 1, 2015**

<b>#</b>	<b>Matter Number</b>	<b>Filing Date</b>	<b>Claimant</b>	<b>Fiscal Year</b>	<b>Name</b>	<b>Type</b>	<b>Tentative Hearing Date</b>
1.	05-4282-I-03	5/25/06	County of San Mateo	1996-1997, 1997-1998, 1998-1999	Handicapped and Disabled Students	Local	9/25/15
2.	05-4425-I-09	9/6/05	San Mateo County Community College District	1999-2000, 2000-2001, 2001-2002	Collective Bargaining	CCD	9/25/15
3.	09-4206-I-22	9/25/09	Long Beach Community College District	2003-2004, 2004-2005, 2005-2006	Health Fee Elimination	CCD	7/24/15
4.	02-9635802-I-67	10/16/02	City Of Stockton	1995-1996, 1996-1997, 1998-1999	Investment Reports	Local	9/25/15
5.	05-904133-I-02	12/12/05	Los Angeles Unified School District	1998-1999, 1999-2000, 2000-2001	Notification of Truancy	School	9/25/15
6.	07-904133-I-05 Consolidated with 10-904133-I-07	12/18/07	San Juan Unified School District	1999-2000; 2000-2001; 2001-2002	Notification of Truancy	School	9/25/15
7.	09-4206-I-29	6/15/10	San Diego Community College District	2003-2004, 2004-2005, 2005-2006, 2006-2007	Health Fee Elimination	CCD	9/25/15
8.	10-904133-I-07 Consolidated with 07-904133-I-05	7/16/10	San Juan Unified School District	1999-2000; 2000-2001; 2001-2002	Notification of Truancy	School	9/25/15

#	Matter Number	Filing Date	Claimant	Fiscal Year	Name	Type	Tentative Hearing Date
9.	10-904133-I-09	10/6/10	San Juan Unified School District	2002-2003, 2003-2004, 2004-2005, 2005-2006	Notification of Truancy	School	9/25/15
10.	10-904133-I-10 Consolidated with 13-904133-I-12	11/1/10	Riverside Unified School District	2003-2004, 2004-2005, 2005-2006, 2006-2007	Notification of Truancy	School	9/25/15
11.	13-904133-I-11	10/1/13	San Juan Unified School District	2006-2007, 2007-2008, 2008-2009, 2009-2010	Notification of Truancy	School	9/25/15
12.	13-904133-I-12 Consolidated with 10-904133-I-10	11/15/13	Riverside Unified School District	2003-2004, 2004-2005, 2005-2006, 2006-2007	Notification of Truancy	School	9/25/15
13.	13-904133-I-13	11/15/13	Riverside Unified School District	2007-2008, 2008-2009, 2009-2010	Notification of Truancy	School	9/25/15
14.	07-3713-I-02	7/25/07	County of Santa Clara	2000-2001, 2001-2002, 2002-2003	Absentee Ballots	Local	1/22/16
15.	07-4509-I-02	7/25/07	County of Santa Clara	1998-1999, 1999-2000, 2000-2001	Sexually Violent Predators	Local	1/22/16
16.	07-9628101-I-01	8/15/07	County of Santa Clara	1998-1999, 1999-2000, 2000-2001	Domestic Violence Treatment Services	Local	1/22/16
17.	08-4237-I-02 Consolidated with 12-4237-I-03	1/28/09	County of Santa Clara	1999-2000; 2000-2001; 2001-2002	Child Abduction and Recovery Program	Local	1/22/16

#	Matter Number	Filing Date	Claimant	Fiscal Year	Name	Type	Tentative Hearing Date
18.	10-4499-I-01	9/16/10	County of Santa Clara	2003-2004, 2004-2005, 2005-2006	Peace Officers Bill of Rights (POBOR)	Local	1/22/16
19.	12-4237-I-03 Consolidated with 08-4237-I-02	11/29/12	County of Santa Clara	2003-2004, 2004-2005, 2005-2006, 2006-2007	Child Abduction and Recovery Program	Local	1/22/16
20.	08-4206-I-17	2/5/09	Santa Monica Community College District	2003-2004; 2004-2005; 2005-2006	Health Fee Elimination	CCD	3/25/16
21.	09-4206-I-21 Consolidated with 10-4206-I-36	9/25/09	Kern Community College District	2003-2004, 2004-2005, 2005-2006, 2006-2007	Health Fee Elimination	CCD	3/25/16
22.	09-4206-I-24 Consolidated with 10-4206-I-34	10/5/09	Foothill-De Anza Community College District	2002-2003, 2003-2004, 2004-2005, 2005-2006	Health Fee Elimination	CCD	3/25/16
23.	09-4206-I-25	10/5/09	Yosemite Community College District	2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007	Health Fee Elimination	CCD	3/25/16
24.	10-4206-I-31	7/16/10	San Bernardino Community College District	2003-2004; 2004-2005; 2005-2006; 2006-2007	Health Fee Elimination	CCD	3/25/16



#	Matter Number	Filing Date	Claimant	Fiscal Year	Name	Type	Tentative Hearing Date
25.	10-4206-I-32	9/1/10	State Center Community College District	2002-2003, 2003-2004, 2005-2006, 2006-2007	Health Fee Elimination	CCD	3/25/16
26.	10-4206-I-33	10/26/10	El Camino Community College District	2003-2004, 2004-2005, 2005-2006, 2006-2007	Health Fee Elimination	CCD	3/25/16
27.	10-4206-I-34 Consolidated with 09-4206-I-24	11/22/10	Foothill-De Anza Community College District	2002-2003, 2003-2004, 2004-2005	Health Fee Elimination	CCD	3/25/16
28.	10-4206-I-35	11/29/10	San Mateo County Community College District	2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007	Health Fee Elimination	CCD	3/25/16
29.	10-4206-I-36 Consolidated with 09-4206-I-21	12/9/10	Kern Community College District	2003-2004, 2004-2005, 2005-2006, 2006-2007	Health Fee Elimination	CCD	3/25/16
30.	09-4081-I-01	1/14/10	City of Los Angeles	2003-2004	Firefighter's Cancer Presumption	Local	5/27/16
31.	10-9705-I-01	11/10/10	County of San Diego	2001-2002, 2002-2003, 2003-2004, 2004-2005	Seriously Emotionally Disturbed Pupils (SEDS): Out-of-State Mental Health Services	Local	5/27/16

#	Matter Number	Filing Date	Claimant	Fiscal Year	Name	Type	Tentative Hearing Date
32.	11-4451-I-05	7/29/11	Chula Vista Elementary School District	1997-1998	School District of Choice: Transfers and Appeals	School	5/27/16
33.	11-9705-I-02	11/9/11	County of Orange	2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006	Seriously Emotionally Disturbed Pupils (SEDS): Out-of-State Mental Health Services	Local	5/27/16
34.	11-9811-I-01	3/8/12	City of Hayward	1998-1999, 1999-2000, 2000-2001, 2001-2002, 2002-2003, 2005-2006, 2006-2007, 2007-2008	Animal Adoption	Local	5/27/16
35.	12-0240-I-01	6/11/13	County of Los Angeles	2002-2003, 2003-2004	Handicapped and Disabled Students II (02-TC-40/02-TC-49)	Local	5/27/16
36.	12-4499-I-02	9/28/12	City of Los Angeles	2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008	Peace Officers Bill of Rights (POBOR)	Local	5/27/16

#	Matter Number	Filing Date	Claimant	Fiscal Year	Name	Type	Tentative Hearing Date
37.	12-9705-I-03	3/8/13	County of Orange	2006-2007, 2007-2008, and 2008-2009	Handicapped and Disabled Students; Handicapped and Disabled Students II; and Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services	Local	5/27/16
38.	12-9705-I-04	5/7/13	County of Los Angeles	2003-2004, 2004-2005, 2005-2006	Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services	Local	7/22/16
39.	13-0007-I-01	3/28/14	Pasadena Area Community College District	1999-2000, 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, and 2007-2008	Integrated Waste Management	CCD	7/22/16

#	Matter Number	Filing Date	Claimant	Fiscal Year	Name	Type	Tentative Hearing Date
40.	13-0007-I-02	6/19/14	Sierra Joint Community College District	1999-2000, 2000-2001, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, and 2009-2010	Integrated Waste Management	CCD	7/22/16
41.	13-4282-I-06	8/2/13	County of Los Angeles	2003-2004, 2004-2005, 2005-2006	Handicapped and Disabled Students	Local	7/22/16
42.	13-9705-I-05	9/9/13	County of San Diego	2005-2006	Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services	Local	7/22/16
43.	13-9811-I-02	4/7/14	City of Los Angeles	1998-1999, 1999-2000, 2000-2001, 2001-2002, 2002-2003, 2005-2006, 2006-2007, and 2007-2008	Animal Adoption	Local	7/22/16

#	Matter Number	Filing Date	Claimant	Fiscal Year	Name	Type	Tentative Hearing Date
44.	14-0007-I-03	7/14/14	Citrus Community College District	1999-2000, 2000-2001, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, and 2010-2011	Integrated Waste Management	CCD	7/22/16
45.	14-0007-I-04	7/14/14	Gavilan Community College District	1999-2000, 2000-2001, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, and 2010-2011	Integrated Waste Management	CCD	7/22/16
46.	13-9913-I-01	3/26/14	Gavilan Community College District	1998-1999, 1999-2000, 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, and 2007-2008	Enrollment Fee Collection and Waivers	CCD	9/23/16

#	Matter Number	Filing Date	Claimant	Fiscal Year	Name	Type	Tentative Hearing Date
47.	14-0007-I-05	7/14/14	State Center Community College District	1999-2000, 2000-2001, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, and 2010-2011	Integrated Waste Management	CCD	9/23/16
48.	14-0007-I-06	7/14/14	Victor Valley Community College District	1999-2000, 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, and 2009-2010	Integrated Waste Management	CCD	9/23/16
49.	14-0007-I-07	7/17/14	El Camino Community College District	2000-2001, 2003-2004, 2004-2005, 2005-2006, 2006-2007, and 2007-2008	Integrated Waste Management	CCD	9/23/16

#	Matter Number	Filing Date	Claimant	Fiscal Year	Name	Type	Tentative Hearing Date
50.	14-0007-I-08	7/31/14	North Orange County Community College District	2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, and 2010-2011	Integrated Waste Management	CCD	9/23/16
51.	14-0007-I-09	8/11/14	Long Beach Community College District	2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, and 2010-2011	Integrated Waste Management	CCD	9/23/16
52.	14-0007-I-10	8/14/14	Redwoods Community College District	1999-2000, 2000-2001, 2003-2004, 2004-2005, and 2005-2006	Integrated Waste Management	CCD	9/23/16
53.	14-9825-I-01	8/20/14	Oceanside Unified School District	1997-1998, 1998-1999, 1999-2000, 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005	The Stull Act	School	12/2/16

#	Matter Number	Filing Date	Claimant	Fiscal Year	Name	Type	Tentative Hearing Date
54.	14-9811-I-03	6/8/15	South East Area Animal Control Authority	2001-2002, 2002-2003, 2006-2007, 2007-2008, 2008-2009	Animal Adoption	Local	12/2/16
55.	14-9825-I-02	6/9/15	Carlsbad Unified School District	2005-2006, 2006-2007, 2007-2008, 2008-2009	The Stull Act	School	12/2/16
56.	14-0007-I-11	6/9/15	San Bernardino Community College District	1999-2000, 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, and 2010-2011	Integrated Waste Management	CCD	9/23/16



**F. Parameters and Guidelines Amendments as of July 1, 2015**

<b>#</b>	<b>Matter Number</b>	<b>Date Filed</b>	<b>Requestor</b>	<b>Program</b>	<b>Tentative Hearing Date</b>
1.	02-TC-10 and 02-TC-51 <sup>47</sup> (14-MR-02)	N/A	Department of Finance	<i>California Public Records Act</i>	7/24/15
2.	14-PGA-01 (11-TC-02)	4/15/15	Desert Sands Unified School District	<i>Immunization Records – Pertussis</i>	9/25/15
3.	11-PGA-03 (CSM-4435)	7/25/11	Department of Finance	<i>Graduation Requirements</i>	Inactive at request of claimant pending court action

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<sup>47</sup> The parameters and guidelines amendment is tentative pending the outcome of the second hearing on the mandate redetermination.

**G. Requests for Mandate Redetermination as of July 1, 2015**

#	MATTER NUMBER	FILED	REQUESTER	NAME OF REQUEST	TENTATIVE HEARING DATE
1.	14-MR-02	1/21/15	Department of Finance	<p><b><i>California Public Records Act (02-TC-10 and 02-TC-51)</i></b></p> <p>Government Code Sections 6253, 6253.1, 6253.9, 6254.3, and 6255</p> <p>Statutes 1992, Chapters 463; Statutes 2000, Chapter 982; and Statutes 2001, Chapter 355</p> <p>As Alleged to be Modified by: Proposition 42, adopted June 3, 2014</p>	<p>Second Hearing</p> <p>7/24/15</p>
2.	14-MR-03	6/19/15	Department of Finance	<p><b><i>Community College Construction (02-TC-47)</i></b></p> <p>Education Code Sections 81820, 81821(a), (b), (e), and (f)</p> <p>Statutes 1980, Chapter 910; Statutes 1981, Chapter 470; Statutes 1981, Chapter 891; and Statutes 1995, Chapter 758</p> <p>As Alleged to be Modified by Statutes 2014, Chapter 34 (SB 860)</p>	<p>First Hearing</p> <p>12/3/15</p> <p>Second Hearing</p> <p>1/22/16</p>

#	MATTER NUMBER	FILED	REQUESTER	NAME OF REQUEST	TENTATIVE HEARING DATE
3.	14-MR-04	6/29/15	Department of Finance	<p><b><i>Immunization Records: Hepatitis B (98-TC-05)</i></b></p> <p>Education Code Section 48216, Health and Safety Code Sections 120325, 120335, 120340, and 120375, as amended by Statutes 1978, Chapter 325; Statutes 1979, Chapter 435; Statutes 1982, Chapter 472; Statutes 1991, Chapter 984; Statutes 1992, Chapter 1300; Statutes 1994, Chapter 1172; Statutes 1995, Chapters 219 and 415; Statutes 1996, Chapter 1023; and Statutes 1997, Chapters 855 and 882</p> <p>California Code of Regulations, Title 17, Sections 6020, 6035, 6040, 6055, 6065, 6070, and 6075</p> <p>As Alleged to be Modified by Statutes 2010, Chapter 434 (AB 354)</p>	<p>First Hearing 12/3/15</p> <p>Second Hearing 1/22/16</p>
4.	14-MR-05	6/30/15	Department of Finance	<p><b><i>Behavioral Intervention Plans (CSM-4464)</i></b></p> <p>California Code of Regulations, Title 5, Sections 3001 and 3052, as added or amended by Register 93, No. 17; Register 96, No. 8; Register 96, No. 32</p> <p>As Alleged to be Modified by Statutes 2013, Chapter 48 (AB 86)</p>	<p>First Hearing 12/3/15</p> <p>Second Hearing 1/22/16</p>