

ITEM 10

CHIEF LEGAL COUNSEL'S REPORT New Filings, Recent Decisions, Litigation Calendar

This public session report is intended only as an information item for the public.¹ Commission communications with legal counsel about pending litigation or potential litigation are reserved for Closed Executive Session, per the Notice and Agenda.

New Filings

None.

Recent Decisions

- **Court of Appeal Affirms Commission Decision Partially Approving Test Claim (Opinion Certified for Publication on January 4, 2021)**

REMAND OF State of California Department of Finance, State Water Resources Control Board, and California Regional Water Quality Control Board, Los Angeles Region v. Commission on State Mandates and County of Los Angeles Second District Court of Appeal, Case No. B292446 Municipal Storm Water and Urban Runoff Discharges, 03-TC-04, 03-TC-19, 03-TC-20, and 03-TC-21 (Los Angeles Regional Quality Control Board Order No. 01-182, Permit CAS004001, Parts 4C2a., 4C2b, 4E & 4Fc3)

The Court found that the permit provisions requiring inspections of commercial, industrial, and construction sites and installing and maintaining trash receptacles at transit stops impose a new program or higher level of service since the requirements are unique to government and provide a governmental service to the public. The court also agreed that the claimants have fee authority within the meaning of Government Code section 17556(d) for the inspection activities and, thus, those activities are denied. However, claimants (the County of Los Angeles and cities within the County) do not have fee authority to impose charges, fees, or assessments on transit districts or adjacent property owners to cover the cost to install and maintain trash receptacles at transit stops based on the authority cited by the State (Health and Safety Code section 5471; Government Code section 54999.7; police power under article XI, section 7 and article XIII D, section 6 of the California Constitution, and Government Code sections 53750 et seq.; and Public Resources Code section 40059). Therefore, the activities to install and maintain trash receptacles at transit stops constitute reimbursable state-mandated activities.

¹ Based on information available as of January 7, 2021. Release of this litigation report shall not be deemed to be a waiver of any privileged communication or act, including, but not limited to, the attorney-client privilege and the attorney work product doctrine.

Litigation Calendar

<u>Cases</u>	<u>Date of Hearing</u>
<p><i>California School Boards Assoc., et al. v. State of California, Commission on State Mandates, John Chiang, as State Controller, and Ana Matosantos, as Director of the Department of Finance</i> Alameda County Superior Court, Case No. RG11554698, On Remand from California Supreme Court, Case No. S247266 and First District Court of Appeal, Case No. A148606 (Mandates process for K-12 school districts, redetermination statutes, budget trailer bills (Education Code sections 42238.24 and 56523))</p>	<p>Case management conference scheduled for January 29, 2021.</p>