

## MINUTES

### COMMISSION ON STATE MANDATES

State Capitol, Room 126  
Sacramento, California  
January 26, 2006

Present: Member Anne Sheehan, Chairperson  
Representative of the Director of the Department of Finance  
Member Nicholas Smith, Vice Chairperson  
Representative of the State Controller  
Member Francisco Lujano  
Representative of the State Treasurer  
Member Jan Boel  
Representative of the Director of the Office of Planning and Research  
Member J. Steven Worthley  
County Supervisor  
Member Paul Glaab  
City Council Member  
Member Sarah Olsen  
Public Member

#### CALL TO ORDER AND ROLL CALL

Vice Chairperson Smith called the meeting to order at 9:36 a.m.

#### ELECTION OF OFFICERS

Item 1 Election of Chairperson and Vice Chairperson

Paula Higashi, Executive Director, stated that the Commission's regulations authorized the executive director to conduct the annual election of officers. She opened the floor to nominations.

Member Boel nominated Michael Genest, Director of the Department of Finance. With a second by Member Worthley, Mr. Genest was unanimously elected.

Member Boel nominated Mr. Steve Westly, State Controller, as Vice Chairperson. With a second by Member Olsen, Mr. Westly was unanimously elected.

#### APPROVAL OF MINUTES

Item 2 December 9, 2005

Upon motion by Member Boel and second by Member Lujano, the minutes were unanimously adopted.

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

Item 4 Staff Report (if necessary)

No appeals were filed.

Paula Higashi, Executive Director, swore in the parties and witnesses participating in the hearing on agenda items 5, 6, and 7.

**RECONSIDERATION OF PRIOR STATEMENTS OF DECISION AND PARAMETERS AND GUIDELINES, AS DIRECTED BY THE LEGISLATURE IN STATUTES 2004, CHAPTER 895 (AB 2855) AS AMENDED BY STATUTES 2005, CHAPTER 677 (SB 512) (action)**

Item 5      *School Accountability Report Cards*, 04-RL-9721-11, 05-RL-9721-03  
Education Code Sections 33126, 35256, 35256.1, 35258, 41409, and 41409.3  
Statutes 1989, Chapter 1463 (SB 280); Statutes 1992, Chapter 759 (AB 1248);  
Statutes 1993, Chapter 1031 (AB 198); Statutes 1994, Chapter 824 (SB 1665);  
Statutes 1997, Chapters 912 (AB 572) and 918 (AB 568)  
Reconsideration Directed By Statutes 2004, Chapter 895, Section 18  
(AB 2855) as amended by Statutes 2005, Chapter 677, Section 53 (SB 512)

Camille Shelton, Chief Legal Counsel, presented this item. She noted that this reconsideration was directed by Senate Bill 512.

Ms. Shelton reported that in July 2005, the Commission reconsidered the *School Accountability Report Cards* test claim as directed by Assembly Bill 2855. However, Assembly Bill 2855 did not include Statutes 1997, chapter 912, which amended Education Code section 33126; thus, the Commission determined that it did not have jurisdiction to reconsider the 1997 test claim statute. Ms. Shelton stated that in October 2005, Senate Bill 512 was enacted to amend Assembly Bill 2855, requiring the Commission to reconsider the test claim with respect to the 1997 test claim statute. It also specified that the Commission's decisions on both reconsiderations of the *School Accountability Report Cards* test claim apply retroactively to January 1, 2005.

Staff found that Statutes 1997, chapter 912 does not constitute a reimbursable state-mandated program within the meaning of Article XIII B, section 6 of the California Constitution because it does not impose a new program, a higher level of service, or a cost mandated by the state. Therefore, staff recommended that the Commission adopt the staff analysis to deny as a reimbursable state-mandate program Statutes 1997, chapter 912, as it amended Education Code section 33126. Based on the plain language of Senate Bill 512, staff also recommended that the Commission apply retroactively to January 1, 2005, the July 28, 2005 Statement of Decision adopted pursuant to Assembly Bill 2855 and the decision adopted pursuant to this reconsideration.

Parties were represented as follows: Lenin Del Castillo, with the Department of Finance.

Mr. Del Castillo supported the conclusions in the staff analysis.

Member Smith questioned whether the additions to the report card were intended by the voters. He was concerned about the piecemeal additions of statutes because if it continues thirty years from now, the report card could look completely different than what the voters intended.

Ms. Shelton explained that Proposition 98 required school accountability report cards and also added statutes that listed the conditions that had to be in the report card. She noted that this legislation only clarified some of the elements that needed to be included; there were no additional activities. She maintained that staff applied the plain language of Government Code section 17556, subdivision (f), which says that the additional language has to be necessary to implement a voter initiative, or it has to be reasonably within the scope of the voter initiative. Staff found both parts to apply here.

Member Smith stated that in looking at what was added, school districts would incur additional costs. Ms. Shelton responded that additional costs alone do not equate to a reimbursable state-mandated program, as there has to be a finding of a new program and a higher level of service. She noted that the language of Government Code section 17556 changed and the Commission cannot determine that the language is inappropriate or unconstitutional. She stated that the Commission has to follow the plain language of the statute.

Member Smith indicated that at the end of the analysis, staff notes that the schools have not demonstrated that local property tax revenues were used versus Proposition 98 funding, which he believed implied that even if a state-mandated program were found, it still would not be reimbursable.

Ms. Shelton explained that this particular mandate results from Proposition 98, which has a funding formula and required audits and a school accountability report card. She maintained that the finding is tied with the mandate directly; thus, the argument would not apply generally to every education claim.

Member Worthley noted a reference in the analysis to Proposition 98, section 13, that: "No provision of this Act may be changed except to further its purposes by bill." It occurred to him that this should not be a mandate. He asked Ms. Shelton if it would be incumbent upon the parties to actually appeal the decision in court as being unconstitutional, as opposed to seeking mandate reimbursement.

Ms. Shelton responded that there are specific requirements in the Constitution, but it was one possible legal strategy. In response to another question by Member Worthley, Ms. Shelton stated that school districts do not have to exhaust the administrative remedies by challenging the legislation in court before coming to the Commission.

Member Boel made a motion to adopt the staff analysis and recommendation, which was seconded by Member Olsen. The motion carried 5-2, with Member Smith and Member Lujano voting "No."

Item 6      Proposed Statement of Decision  
*School Accountability Report Cards*, 04-RL-9721-11, 05-RL-9721-03  
See Above

Camille Shelton, Chief Legal Counsel, presented this item. Staff recommended that the Commission adopt the proposed Statement of Decision, which accurately reflects the staff analysis and decision on the reconsideration. She stated that minor changes for the vote count and hearing testimony would be included in the final Statement of Decision.

Ms. Shelton added that legislative staff requested that the Statements of Decision now include a summary of the Commission's findings on the first page. Thus, Ms. Shelton requested authority to insert a summary of the decision, to be taken from the executive summary on the test claim analysis, before the background section.

Member Glaab made a motion to adopt the proposed Statement of Decision, which was seconded by Member Boel. The motion carried 5-2, with Member Smith and Member Lujano voting "No."

- Item 7 Proposed Order to Set Aside Parameters and Guidelines,  
*School Accountability Report Cards*, 97-TC-21  
Education Code Sections 33126, 35256, 35256.1, 35258, 41409, 41409.3  
Statutes of 1989, Chapter 1463 (SB 280); Statutes of 1992, Chapter 759  
(AB 1248); Statutes of 1993, Chapter 1031 (AB 198); Statutes of 1994,  
Chapter 824 (SB 1665); Statutes of 1997, Chapters 912 (AB 572) and 918  
(AB 568)  
As directed by Statutes 2004, Chapter 895, Section 18 (AB 2855) as amended  
by Statutes 2005, Chapter 677, Section 53 (SB 512)

Camille Shelton, Chief Legal Counsel, presented this item. She stated that the Commission reconsidered the *School Accountability Report Cards* test claim as directed by Assembly Bill 2855 and Senate Bill 512, finding that the test claim legislation in its entirety does not constitute a reimbursable state-mandated program. Pursuant to the express language of Senate Bill 512, Ms. Shelton indicated that the proposed order to set aside the Parameters and Guidelines is operative January 1, 2005.

Staff recommended that the Commission adopt the proposed order to set aside the Parameters and Guidelines.

Member Boel made a motion to adopt the staff recommendation, which was seconded by Member Worthley. The motion carried 5-2, with Member Smith and Member Lujano voting "No."

#### **REVISED CONSENT CALENDAR**

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

##### ADOPTION OF PROPOSED PARAMETERS AND GUIDELINES

- Item 8 *DNA Database and Amendment to Postmortem Examinations: Unidentified Bodies*, 00-TC-27 and 02-TC-39  
Penal Code Section 14250  
Statutes 2000, Chapter 822 (SB 1818); Statutes 2001, Chapter 467 (SB 297)  
Counties of San Bernardino and Los Angeles, Claimants

##### ADOPTION OF PROPOSED PARAMETERS AND GUIDELINES AND PROPOSED ORDER TO SET ASIDE PARAMETERS AND GUIDELINES BASED ON STATUTES 2004, CHAPTER 493 (SB 1895)

- Item 10 PROPOSED PARAMETERS AND GUIDELINES  
*Reconsideration of Handicapped and Disabled Students* (04-RL-4282-10)  
Government Code Sections 7570-7588  
Statutes 1984, Chapter 1747 (AB 3632); Statutes 1985, Chapter 1274 (AB 882)  
California Code of Regulations,<sup>1</sup> Title 2, Sections 60000-60610 (Emergency Regulations filed December 31, 1985, designated effective January 1, 1986 (Register 86, No. 1) and re-filed June 30, 1986, designated effective July 12, 1986 (Register 86, No. 28))

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<sup>1</sup> When the test claim was originally filed, the California Code of Regulations was known as the California Administrative Code.

and

PROPOSED AMENDMENT TO PARAMETERS AND GUIDELINES  
*Handicapped and Disabled Students* (CSM 4282)

Government Code Sections 7570-7588

Statutes 1984, Chapter 1747 (AB 3632); Statutes 1985, Chapter 1274  
(AB 882)

California Code of Regulations,<sup>2</sup> Title 2, Sections 60000-60610 (Emergency  
Regulations filed December 31, 1985, designated effective January 1, 1986  
(Register 86, No. 1) and re-filed June 30, 1986, designated effective  
July 12, 1986 (Register 86, No. 28))

AMEND PARAMETERS AND GUIDLEINES BASED ON STATUTES 2004,  
CHAPTER 313(AB 2224)

Item 11 *Animal Adoption*, 04-PGA-01 and 04-PGA-02 (98-TC-11)

State Controller's Office, Requestor

Civil Code Sections 1834, 1846; Food and Agriculture Code Sections 31108,  
31752, 31752.5, 31753, 32001, and 32003

Statutes 1998, Chapter 752 (SB 1785)

AMEND PARAMETERS AND GUIDELINES BASED ON STATUTES 2004,  
CHAPTER 895 (AB 2855) AND/OR STATUTES 2005, CHAPTER 677  
(SB 512) AND REQUEST OF THE STATE CONTROLLER'S OFFICE

Item 12 *Physically Handicapped Voter Accessibility*, 05-PGA-14 (4363)

Statutes 1979, Chapter 494 (AB 745)

ADOPTION OF PROPOSED STATEWIDE COST ESTIMATES (action)

Item 14 *False Reports of Police Misconduct*, 00-TC-26

County of San Bernardino, Claimant

Penal Code Section 148.6, Subdivisions (a)(2) and (a)(3)

Statutes 1995, Chapter 590 (AB 1732)

Statutes 2000, Chapter 289 (SB 2133)

STAFF REPORTS (action/info)

Item 15 Adoption of 2006 Rulemaking Calendar (action)

Member Boel moved for adoption of the revised consent calendar, which consisted of items 8, 10, 11, 12, 14, and 15. With a second by Member Olsen, the revised consent calendar was unanimously adopted.

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<sup>2</sup> When the test claim was originally filed, the California Code of Regulations was known as the California Administrative Code.

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

**ADOPTION OF PROPOSED PARAMETERS AND GUIDELINES**

- Item 9 *Enrollment Fee Collection and Enrollment Fee Waivers*, 99-TC-13, 00-TC-15  
Los Rios and Glendale Community College Districts, Claimants  
Education Code Section 76300;  
California Code of Regulations, Title 5, Sections 58500-58508; 58600, 58601, 58610 – 58613, 58620, 58630  
Statutes 1984xx, Chapter 1 (AB 1xx); Statutes 1984, Chapters 274 (AB 207) and 1401 (AB 3776); Statutes 1985, Chapters 920 (AB 602) and 1454 (AB 2262); Statutes 1986, Chapters 46 (AB 2352) and 394 (SB 993); Statutes 1987, Chapter 1118 (AB 2336); Statutes 1989, Chapter 136 (SB 653); Statutes 1991, Chapter 114 (SB 381); Statutes 1992, Chapter 703 (SB 766); Statutes 1993, Chapters 8 (AB 46), 66 (SB 399), 67 (SB 1012), and 1124 (AB 1561); Statutes 1994, Chapters 153 (AB 2480) and 422 (AB 2589); Statutes 1995, Chapter 308 (AB 825); Statutes 1996, Chapter 63 (AB 3031); and Statutes 1999, Chapter 72 (AB 1118)

Tina Poole, Program Analyst, presented this item. She noted that on April 24, 2003, the Commission adopted its Statement of Decision finding the following reimbursable activities for the *Enrollment Fee Collection and Waivers* program:

1. calculating and collecting student enrollment fees,
2. waiving certain student fees,
3. reporting to the Community Colleges Chancellor the number of and amounts provided for fee waivers, and
4. adopting procedures that document all financial assistance provided to students.

Ms. Poole stated that there was one outstanding issue related to training. She noted that training was currently offered by the Chancellor's office and the manual states that directors, managers, coordinators, and officers are required to attend the Chancellor's training while other management and professional staff are encouraged to attend. Staff found that due to the complexity of the program, reimbursement for training is warranted. On the other hand, the Department of Finance recommended that training be limited as specified in the Chancellor's manual. Because other personnel may also be implementing the mandate, staff proposed that training be reimbursable for all employees who implement the mandate.

Parties were represented as follows: Keith Petersen, representing the claimants; and Thomas Todd, with the Department of Finance.

Mr. Todd opposed staff's proposed language because it broadened the provision of training to "all employees." He explained that Finance's proposal assumed that directors, managers, coordinators, and officers had substantial day-to-day involvement in the operations of the financial aid programs, and thus, they are the only ones that need the training.

Mr. Petersen commented that there was nothing in statute or the Statement of Decision, and no facts to support limiting training to supervisors and directors.

Member Worthley felt it was appropriate to train people implementing the program.

Member Boel asked Mr. Todd if training was limited in other programs. Mr. Todd responded that he could only speak to this particular claim. He added that their proposed language came specifically from the Chancellor's office administrative manual, and thus, it was an appropriate limitation.

Chairperson Sheehan clarified that staff's proposed language covers those involved in implementing the mandate, which may include supervisors and directors. She maintained that anyone involved in the implementation should be covered and the costs should be reimbursed.

Mr. Todd stated that the language "all employees who would implement the mandate" does not ensure that only those intimately involved in financial aid operations would be trained.

Chairperson Sheehan responded that in filing claims, districts must demonstrate why an employee is being trained. Thus, she noted that there was still a mechanism in place to make sure that only those that should be trained receive training.

Member Worthley made a motion to adopt the staff recommendation. With a second by Member Glaab, the motion carried unanimously.

AMEND PARAMETERS AND GUIDELINES BASED ON STATUTES 2004,  
CHAPTER 895 (AB 2855) AND/OR STATUTES 2005, CHAPTER 677  
(SB 512) AND REQUEST OF THE STATE CONTROLLER'S OFFICE

- Item 13     *Emergency Procedures, Earthquake Procedures, and Disasters and Comprehensive School Safety*, 04-PGA-24 (CSM-4241, 98-TC-01, 99-TC-10) Education Code Sections 35294.1, 35294.2, 35294.6, and 35294.8, 35295, 35296, 35297, 40041.5 and 40042, Statutes 1984, Chapter 1659 (AB 2786), Statutes 1997, Chapter 736 (SB 187), Statutes 1999, Chapter 996 (SB 408)

Item 13 was postponed.

**STAFF REPORTS**

- Item 16     Staff Proposal for Conducting Mandate Reform Discussions (discussion and action)

Nancy Patton, Assistant Executive Director, presented this item. She noted that at the last Commission hearing, members agreed that large-scale mandate reform should be pursued in 2006. She reported that following the hearing, Chairperson Sheehan discussed mandate reform with Assembly Budget Committee Chair John Laird, Legislative Analyst Elizabeth Hill, and key policy and budget legislative staff and officials from the Administration, and determined that there is significant interest in pursuing mandate reform in 2006.

Ms. Patton also noted that members agreed that hiring a facilitator may be helpful in mandate reform discussions, and requested that staff develop a proposal for using a facilitator. She reported that staff is contracting with the Center for Collaborative Policy at Sacramento State University to conduct an initial assessment to determine the feasibility of using a collaborative process for addressing mandate reform. The Center will interview 25 to 30 individuals with expertise in the mandates process to make the determination, which will also include the scope of reform issues to be discussed. The Center will issue a report on its findings for presentation at the March hearing.

Ms. Patton introduced Susan Sherry, Executive Director of the Center for Collaborative Policy.

Ms. Sherry provided background information about the Center and its staff, noting that it was founded in 1992. She stated that the Center has worked with federal, state, and local governments on a wide range of public policy problems, and its consultants and mediators have grounded public policy experience and understand the political dynamics.

Member Smith thanked staff, noting that this was a good way to proceed. He stated that the Controller was very interested in working with staff and all the stakeholders to look at all the issues. He added that the State needs to work better with its government partners and treat them as partners.

Member Boel also commended staff for moving on the process, and felt there were possibilities. She asked Ms. Sherry for more information about how the process would be carried out.

Ms. Sherry explained that the first leg of the journey was to conduct an assessment. The Center will conduct individual, private interviews using a standardized interview protocol.

Member Smith asked how the interviewees are selected because he wanted to make sure that all stakeholders were included. Ms. Sherry responded that they worked very closely with Commission staff in developing the list of interviewees.

Member Glaab commented that partnership with other levels of government could not be emphasized too heavily. He was supportive of the process.

Art Palkowitz, on behalf of the San Diego Unified School District, welcomed the opportunity. He suggested that staff set meetings close to the Commission hearings to allow people from out-of-town to travel to Sacramento for a dual purpose.

Robert Miyashiro, with the Education Mandated Cost Network, appreciated the effort being undertaken.

Allan Burdick, on behalf of the League of California Cities and the California State Association of Counties' advisory committee on state mandates, was pleased that the process was being driven by a non-stakeholder, but was concerned that cities and counties were not represented at the first workshop conducted by the Commission. He also invited the Center for Collaborative Policy to one of their meetings.

Ms. Higashi clarified that the first discussions occurred at one legislative subcommittee workshop where all cities and counties were represented.

Chairperson Sheehan noted the importance of making sure people were aware of future meetings and workshops.

Item 17 Chief Legal Counsel's Report (info)  
Recent Decisions, Litigation Calendar

Camille Shelton, Chief Legal Counsel, stated that her report included two recent decisions that had been issued by the courts. She noted that the second decision, *Long Beach Unified School District*, was included for information only. She explained that the Commission was not a party to the action, but in this case, Long Beach Unified School District attempted to get reimbursed from the Commission's budget directly, which the Court denied, finding a problem with the Separation of Powers Doctrine.



Item 18 Executive Director's Report (info/action)  
Workload, Budget and Staffing, Legislation

Ms. Higashi reported the following:

- *Workload.* There are still two legislatively-directed reconsiderations pending.
- *Budget.* The Governor's proposed budget includes significant proposals for appropriations to repay the mandate debt. The Department of Finance has a budget change proposal to set up a mandates unit with four positions.

Chairperson Sheehan invited Jesse McGuinn from the Department of Finance to explain the budget change proposal. Ms. McGuinn explained that the mandates unit would develop processes necessary to help streamline the process, develop policy issue papers, and participate in reform. More importantly, the unit would develop a method to estimate mandated costs at the time a bill is going through the legislative process, rather than afterwards. Ms. Guinn also identified a few policy and procedural issues for the mandates unit.

In response to Ms. Higashi's questions, Ms. McGuinn stated that at this time the unit would only work on local agency mandates, and that it would be a part of the administration unit at Finance. However, Chairperson Sheehan clarified that they would still call upon experts from other program areas.

- *Legislation.* Two legislative proposals were submitted to the Governor's office, and were approved. At this point they are spot bills – one for mandate reform and the other for SB 1033 reform.
- *Next Hearing.* The March hearing was rescheduled for March 29 instead of March 30. Staff is still looking for a meeting room.

#### **PUBLIC COMMENT**

Sandra Thornton, with the California Teachers Association, stated that she had a difficult time hearing from the back of the room and requested that voices be projected into the microphones.

Robert Miyashiro, with the Education Mandated Cost Network, acknowledged the Commission's pending workload, but expressed his network's interest in the Commission placing a high priority on the *Williams Case Implementation* test claim. He argued that the lag between the legislative effective date and the issuance of reimbursement claiming instructions poses problems for districts as they are incurring costs.

Ruben Rojas, with the Los Angeles Unified School District, echoed Mr. Miyashiro's comments and appealed to the Commission to expedite the hearing of the *Williams Case Implementation* test claim. He added that he would be happy to oblige by any process necessary.

Ms. Higashi indicated that the Commission could not take action on this matter as it was not an agenda item.

Member Smith inquired as to where the test claim was in the queue. Ms. Higashi responded that it was only filed in the previous year so it was near the bottom. She noted that if all the claimants that have other test claims ahead of the *Williams Case* were willing to stipulate that the *Williams Case* would go first, then there would not be as big of a problem.

Keith Petersen, with SixTen & Associates, indicated that he would be willing to stipulate.

Ms. Higashi stated that she would talk with the parties more about the issues.

Mr. Rojas noted that the *Williams* settlement impacts about 90 percent of the school districts throughout the state.

**CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTION 11126.**

**PERSONNEL**

To confer on personnel matters pursuant to Government Code sections 11126, subdivision (a) and 17526.

**PENDING LITIGATION**

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matters pursuant to Government Code section 11126, subdivision (e)(1):

1. *Yuba City Unified School District v. State of California, et al.*, Sacramento Superior Court Case No. 05CS01237, CSM Case No. 05-L-01 [*Graduation Requirements IRC*]
2. *John Swett Unified School District v. State of California, et al.*, Sacramento Superior Court Case No. 05CS01262, CSM Case No. 05-L-02 [*Graduation Requirements, IRC*]
3. *Eastside Unified High School District v. Commission on State Mandates, et al.* Sacramento Superior Court Case No. 05CS01256 CSM Case No. 05-L-03 [*Graduation Requirements, IRC*]
4. *West Contra Costa Unified School District, et al. v. Commission on State Mandates, et al.*, Sacramento Superior Court Case No. 05CS01253 CSM Case No. 05-L-04 [*Graduation Requirements, IRC*]  
[Filed on behalf of 12 school districts: West Contra Costa USD, Anderson Union High School District, Center USD, Lake Tahoe USD, Lincoln USD, Linden USD, Novato USD, Ojai USD, Placer Union High School District, San Juan USD, Stockton USD, Vallejo City USD]
5. *Woodland Joint Unified School District v. Commission on State Mandates, et al.*, Sacramento Superior Court Case No. 05CS01401 CSM 05-L-05 [*Graduation Requirements, IRC*]
6. *California Department of Finance, et al. v. CSAC Excess Insurance Authority, et al.*, Second District Court of Appeal Case No. B188169, CSM Case No. 05-L-06 [*CSAC-EIA Presumptions*]
7. *State of California, Department of Finance v. Commission on State Mandates, et al.*, Sacramento Superior Court Case No. 03CS01069, CSM Case No. 03-L-01, consolidated with *County of Los Angeles v. Commission on State Mandates, et al.*, Los Angeles Superior Court Case No. BS087959, transferred to Sacramento Superior Court, Case No. 05CS00865, CSM Case No. 03-L-11 [*Animal Adoption*]

8. *State of California, Department of Finance v. Commission on State Mandates, et al.*, Sacramento Superior Court Case No. 03CS01432, CSM Case No. 03-L-02 [*Behavioral Intervention Plans*]
9. *San Diego Unified School District v. Commission on State Mandates, et al.*, Sacramento Superior Court Case No. 03CS01401, CSM Case No. 03-L-03 [*Graduation Requirements IRC*]
10. *Castro Valley Unified School District v. Commission on State Mandates, et al.*, Sacramento Superior Court Case No. 03CS01568, CSM Case No. 03-L-04 [*Graduation Requirements IRC*]
11. *San Jose Unified School District v. Commission on State Mandates, et al.*, Sacramento Superior Court Case No. 03CS01569, CSM Case No. 03-L-05 [*Graduation Requirements IRC*]
12. *Sweetwater Union High School District v. Commission on State Mandates, et al.*, Sacramento Superior Court Case No. 03CS01570, CSM Case No. 03-L-06 [*Graduation Requirements IRC*]
13. *Clovis Unified School District v. Commission on State Mandates, et al.*, Sacramento Superior Court Case No. 03CS01702, CSM Case No. 03-L-09 [*Graduation Requirements IRC*]
14. *Grossmont Union High School District v. Commission on State Mandates, et al.*, Sacramento Superior Court Case No. 04CS00028, CSM Case No. 03-L-10 [*Graduation Requirements IRC*]
15. *CSAC Excess Insurance Authority v. Commission on State Mandates, et al.*, Los Angeles Superior Court Case No. BS092146, CSM Case No. 04-L-01 [*Cancer Presumption for Law Enforcement and Firefighters and Lower Back Injury Presumption for Law Enforcement*], consolidated with *City of Newport Beach v. Commission on State Mandates, et al.*, Los Angeles Superior Court Case No. BS095456, CSM Case No. 04-L-02 [*Skin Cancer Presumption for Lifeguards*]
16. *County of Los Angeles, et al. v. Commission on State Mandates, et al.*, Second District Court of Appeal [Los Angeles] Case Number B183981, CSM Case No. 04-L-03, (Los Angeles Superior Court Nos. BS089769, BS089785) [*Transit Trash Receptacles, et al./Waste Discharge Requirements*]
17. *Southern California Association of Governments, et al. v. Commission on State Mandates*, Sacramento Superior Court Case No. 05CS00956, CSM Case No. 04-L-04 [*Regional Housing Needs Determination-Councils of Government*]

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matter pursuant to Government Code section 11126, subdivision (e)(2):

- Based on existing facts and circumstances, there is a specific matter which presents a significant exposure to litigation against the Commission on State Mandates, its members and/or staff (Gov. Code, § 11126, subd. (e)(2)(B)(i).)

Hearing no further comments, Chairperson Sheehan adjourned into closed executive session pursuant to Government Code section 11126, subdivision (e), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda; and Government Code sections 11126, subdivision (a), and 17526, to confer on personnel matters listed on the published notice and agenda.

#### **REPORT FROM CLOSED EXECUTIVE SESSION**

Chairperson Sheehan reported that the Commission met in closed executive session pursuant to Government Code section 11126, subdivision (e), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda; and Government Code sections 11126, subdivision (a), and 17526, to confer on personnel matters listed on the published notice and agenda.

#### **CONTINUATION OF PUBLIC COMMENT AND EXECUTIVE DIRECTOR'S REPORT**

The Commission discussed the issue raised during the Public Comment period regarding the *Williams Case Implementation* test claim. Chairperson Sheehan asked about the history of reprioritizing test claims such that one jumps ahead of those filed years before it, or whether the Commission had taken such action before.

Ms. Higashi reported that there had been some test claims expedited due to age, a request by the Department of Finance, and association with a particular Administration. There was great discussion among the members, Ms. Higashi, and Ms. Shelton about the history and consequences of expediting test claims, as well as the possible processes for doing so, and scheduling test claims for hearing. Chairperson Sheehan requested an overview of the issues involved with the *Williams Case Implementation* test claim.

There was also discussion about workload and staffing issues. Based on the Commission's workload, the members supported requesting approval to convert the existing limited-term positions to permanent status.

#### **ADJOURNMENT**

Hearing no further business, Member Sheehan adjourned the meeting at 11:10 a.m.

  
PAULA HIGASHI  
Executive Director