

COMMISSION ON STATE MANDATES

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November 2, 2010

Mr. Leonard Kaye
County of Los Angeles
Auditor-Controller's Office
500 W. Temple Street, Room 603
Los Angeles, CA 90012

Mr. Keith Petersen
SixTen and Associates
3270 Arena Blvd., Suite 400-363
Sacramento, CA 95834

And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

Re: NOTICE OF CONSOLIDATION AND REQUEST FOR COMMENTS

California Public Records Act: Disclosure Procedures; 02-TC-10
Government Code Sections 6252, 6253, 6253.1, 6253.9, and 6255
Statutes 2000, Chapter 982; Statutes 2001, Chapter 355; Statutes 2002,
Chapter 945; and Statutes 2002, Chapter 1073.
Los Angeles County, Claimant

California Public Records Act (K-14); 02-TC-51
Government Code Sections 6253, 6253.1, 6253.5, 6253.9, 6254.3, 6255, and 6259;
Statutes 1975, Chapter 678; Statutes 1975, Chapter 1246; Statutes 1977, Chapter 556;
Statutes 1980, Chapter 535; Statutes 1982, Chapter 163; Statutes 1984, Chapter 802;
Statutes 1984, Chapter 1657; Statutes 1985, Chapter 1053; Statutes 1990, Chapter 908;
Statutes 1992, Chapter 463; Statutes 1992, Chapter 970; Statutes 1993, Chapter 926;
Statutes 1994, Chapter 923; Statutes 1998, Chapter 620; Statutes 1999, Chapter 83;
Statutes 2000, Chapter 982; and Statutes 2001, Chapter 355.
Riverside Unified School District, Claimant

Dear Messrs. Kaye and Petersen:

After reviewing the *California Public Records Act: Disclosure Procedures* (02-TC-10) test claim and the *California Public Records Act (K-14)* (02-TC-51) test claim, Commission staff finds that they share common issues, allegations and involve some of the same statutes. Specifically, the test claims both address the California Public Records Act, which provides for the disclosure of public records kept by state and local agencies. For the sake of efficiency, the claims shall be consolidated pursuant to my authority under California Code of Regulations, title 2, section 1183.06, and effective 10 days from the service of this letter.

For future correspondence, the test claims will be designated *California Public Records Act* (02-TC-10 and 02-TC-51). A consolidated mailing list is enclosed.

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As provided in the Commission's regulations this action and decision of the executive director may be appealed to the Commission for review. Please refer to California Code of Regulations, title 2, section 1181, subdivision (c).

Additionally, in 2004, California voters approved Proposition 59, which amended article I, section 3 of the California Constitution to include the right of public access to writings of government officials. In light of Proposition 59, it was determined that the *California Public Records Act: Disclosure Procedures* (02-TC-10) test claim and the *California Public Records Act (K-14)* (02-TC-51) test claim would require consideration of Government Code section 17556, subdivision (f). However, on March 13, 2007, Government Code section 17556, subdivision (f), was found unconstitutional by the superior court in *California School Boards Association (CSBA), et al. v. Commission on State Mandates, et al.* [No. 06CS01335]. The court's judgment enjoined the Commission from taking any action to implement Government Code section 17556, subdivision (f). This decision was appealed, and as a result, the test claims were removed from the Commission's hearing calendar until a final court decision in *California School Boards Association, et al. v. Commission on State Mandates, et al.*

On March 9, 2009, the Third District Court of Appeal issued its decision in the *California School Boards Association* case (171 Cal.App.4th 1183). The court found part of Government Code section 17556, subdivision (f), unconstitutional. Specifically, the court found unconstitutional the part which provides that the Commission shall not find costs mandated by the state if the Commission finds "[t]he statute or executive order imposes duties that are ... *reasonably within the scope of* ... a ballot measure approved by the voters in a statewide election." However, the remaining language of Government Code section 17556, subdivision (f), was upheld as constitutional.

Statutes 2010, chapter 719 (Sen. Bill No. (SB) 856), removed the "reasonably within the scope of" language from Government Code section 17556, subdivision (f). As a result, Government Code section 17556, subdivision (f), provides that the Commission shall not find costs mandated by the state if the Commission finds:

The statute or executive order imposes duties that are necessary to implement, or are expressly included in, a ballot measure approved by voters in a statewide or local election. This subdivision applies regardless of whether the statute or executive order was enacted or adopted before or after the date on which the ballot measure was approved by the voters.

In light of the Third District Court of Appeal's decision in *California School Boards Association* and the amendment made to Government Code section 17556, subdivision (f), the Commission requests comments from the claimants, interested parties, and affected state agencies, on Proposition 59's affect, if any, on the consolidated test claim, *California Public Records Act* (02-TC-10 and 02-TC-51). Please submit comments as soon as possible, but **not later than November 30, 2010.**

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Please contact Kenny Louie at (916) 323-2611 if you have any questions or concerns regarding this matter.

Sincerely,


PAULA HIGASHI
Executive Director

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Commission on State Mandates

Original List Date: 7/14/2003
Last Updated: 10/5/2010
List Print Date: 11/02/2010
Claim Number: 02-TC-10 and 02-TC-51
Issue: California Public Records Act: Disclosure Procedures,
California Public Records Act (K-14)

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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