

Minutes

COMMISSION ON STATE MANDATES

Location of Meeting: Room 447
State Capitol, Sacramento, California
May 29, 2015

Present: Member Eraina Ortega, Chairperson
Representative of the Director of the Department of Finance
Member Richard Chivaro, Vice Chairperson
Representative of the State Controller
Member Scott Morgan
Representative of Director of the Office of Planning and Research
Member Sarah Olsen
Public Member
Member Carmen Ramirez
City Council Member
Member Andre Rivera
Representative of the State Treasurer
Member Don Saylor
County Supervisor

NOTE: The transcript for this hearing is attached. These minutes are designed to be read in conjunction with the transcript.

CALL TO ORDER AND ROLL CALL

Chairperson Ortega called the meeting to order at 10:02 a.m. Executive Director Heather Halsey called the roll.

APPROVAL OF MINUTES

Member Olsen made a motion to adopt the minutes. With a second by Member Rivera, the March 27, 2015 hearing minutes were adopted by a vote of 7-0.

PUBLIC COMMENT FOR MATTERS NOT ON THE AGENDA

The Chairperson asked if there was any public comment. Mr. Dennis Evans, a member of the public, introduced himself and asked the Commission to hold an informal conference to consider utilizing his company to reduce work-related accidents and injuries. Member Olsen informed Mr. Evans that the Commission has no jurisdiction to hear his concerns unless a case is brought before the Commission by a local government or state agency. Mr. Evans concluded his remarks by urging the Commission to help eliminate workers' compensation and disability claims.

CONSENT CALENDAR

HEARINGS AND DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (GOV. CODE, § 17551, 17557, 17559, and 17570) (action)

INCORRECT REDUCTION CLAIMS

Item 4* *Collective Bargaining and Collective Bargaining Agreement Disclosure, 05-4425-I-10*

Government Code Sections 3540-3549.9

Statutes 1975, Chapter 961 ; Statutes 1991, Chapter 1213

Foothill-De Anza Community College District, Claimant

Executive Director Heather Halsey announced that after the agenda for this hearing was issued, the parties agreed to place Item 4 on the Consent Calendar. Chairperson Ortega asked if there was any objection to adding Item 4 to the Consent Calendar and if there were any comments from the public. No objection was made and there was no public comment.

Member Olsen made a motion to adopt the Consent Calendar as revised. With a second by Member Saylor, the Consent Calendar was adopted as revised by a vote of 7-0.

HEARINGS AND DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (GOV. CODE, § 17551, 17557, 17559, and 17570) (action)

Executive Director Heather Halsey swore in the parties and witnesses participating in the hearing.

APPEAL OF EXECUTIVE DIRECTOR DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 1181.1(c) (info/action)

Item 2 Appeal of Executive Director Decisions

There were no appeals to consider.

MANDATE REDERMINATIONS

Item 3 *California Public Records Act (02-TC-10 and 02-TC-51), 14-MR-02*

Government Code Sections 6253, 6253.1, 6253.9, 6254.3, and 6255

Statutes 1992, Chapters 463 (AB 1040); Statutes 2000, Chapter 982 (AB 2799); and Statutes 2001, Chapter 355 (AB 1014)

As Alleged to be Modified by: Proposition 42, Primary Election, June 3, 2014

Department of Finance, Requester

FIRST HEARING: ADEQUATE SHOWING

The first hearing for this matter is to determine whether the Department of Finance made an adequate showing that a subsequent change in law may modify the State's liability for this program.

Student Assistant Imran Majid presented this item and recommended that the Commission adopt the decision and direct staff to provide notice of the second hearing to determine if a new test claim decision shall be adopted to supersede the previously adopted test claim decision.

Parties were represented as follows: Susan Geanacou, Department of Finance.

Department of Finance concurred with the staff recommendation and there was no comment from interested parties or the public on this matter. Member Olsen made a motion to adopt the staff recommendation. With a second by Member Chivaro, the motion to adopt the staff recommendation was adopted by a vote of 7-0.

INCORRECT REDUCTION CLAIMS

Item 5 *Health Fee Elimination, 07-4206-I-15*

Former Education Code Section 72246 (Renumbered as section 76355)
Statutes 1984, Chapter 1 (1983-1984 2nd Ex. Sess.) (AB2X 1) and
Statutes 1987, Chapter 1118

Rancho Santiago Community College District, Claimant

This incorrect reduction claim addresses reductions made by the State Controller based on overstated indirect costs claimed and authorized offsetting health fees.

Senior Commission Counsel Eric Feller presented this item and recommended that the Commission adopt the proposed decision to deny the incorrect reduction claim.

Parties were represented as follows: Jim Spano and Jim Venneman, representing the State Controller's Office.

Member Ramirez questioned why the claimant is not present. Assistant Executive Director Heidi Palchik explained that the claimant left a telephone message stating that they will not be appearing at the hearing.

The State Controller's Office concurred with the staff recommendation and there was no comment from interested parties or the public on this matter. Member Ramirez made a motion to adopt the proposed decision to deny the incorrect reduction claim. With a second by Member Chivaro, the motion to adopt the staff recommendation to deny the incorrect reduction claim was adopted by a vote of 7-0.

HEARINGS ON COUNTY APPLICATIONS FOR FINDINGS OF SIGNIFICANT FINANCIAL DISTRESS PURSUANT TO WELFARE AND INSTITUTIONS CODE SECTION 17000.6 AND CALIFORNIA CODE OF REGULATIONS, TITLE 2, ARTICLE 6.5 (info/action)

Item 6 Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commission, or to a Hearing Officer

No applications were filed.

STAFF REPORTS

Item 7 Legislative Update (info)

Assistant Executive Director Heidi Palchik presented this item and the Governor's proposed budget.

Item 8 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar (info)

Chief Legal Counsel Camille Shelton presented this item. Member Ramirez asked if there is a possibility of appeal in the *Public Guardianship* case. Ms. Shelton explained that parties have 60 days to appeal after notice of entry of judgment is served and that she anticipates appeals in both this and the San Diego (*Sexually Violent Predators*) case.

Item 9 Executive Director: Workload Update and Tentative Agenda Items for the July and September Meetings (info)

Executive Director Heather Halsey presented this item and reported on the Commission's backlog reduction.

CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 (action)

A. 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(e)(1):

1. *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, et al* (petition and cross-petition).
California Supreme Court, Case No. S214855
(Los Angeles County Superior Court, Case No. BS130730, Second District Court of Appeal, Case No. B237153)
[*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]
2. *State of California Department of Finance, State Water Resources Control Board, and California Regional Water Quality Board, San Diego Region v. Commission on State Mandates and County of San Diego, et al.* (petition and cross-petition)
Third District Court of Appeal, Case No. C070357 (Sacramento County Superior Court Case No. 34-2010-80000604)
[*Discharge of Stormwater Runoff, Order No. R9-207-000, 07-TC-09*
California Regional Water Control Board, San Diego Region Order No. R9-2007-001, NPDES No. CAS0108758, Parts D.1.d.(7)-(8), D.1.g., D.3.a.(3), D.3.a.(5), D.5, E.2.f, E.2.g,F.1, F.2, F.3, I.1, I.2, I.5, J.3.a.(3)(c) iv-vii & x-xv, and L]

3. *California School Board Association (CSBA) v. State of California et al.*
Alameda County Superior Court, Case No. RG11554698
[2010-2011 Budget Trailer Bills, Mandates Process for K-12 Schools,
Redetermination Process]

4. *Counties of San Diego, Los Angeles, San Bernardino, Orange, and
Sacramento v. Commission on State Mandates, et al.*
San Diego County Superior Court,
Case No. 37-2014-00005050-CU-WM-CTL
[Mandate Redetermination, *Sexually Violent Predators*,
(12-MR-01, CSM-4509); Welfare and Institutions Code Sections 6601,
6602, 6603, 6604, 6605, and 6608; Statutes 1995, Chapter 762 (SB 1143);
Statutes 1995, Chapter 763 (AB 888); Statutes 1996, Chapter 4 (AB 1496)
As modified by Proposition 83, General Election, November 7, 2006]

5. *County of Los Angeles v. Commission on State Mandates,
Department of Finance*
Los Angeles County Superior Court, Case No. BS148845
[*Public Guardianship Omnibus Conservatorship Reform*,
07-TC-05(Probate Code Sections 1850(a), 1851(a), 2113,
2250(a)-(c), 2250.4(a)-(d); 2352(a)-(f), 2352.5(a)-(e), 2410,
2540(a)-(b), 2543(a)-(d), 2610(a), 2620(a)-(e), 2620.2(a)-(d),
2590, 2591(a)-(q), 2591.5(a)-(d), 2623(a)-(b), 2640(a)-(c),
2640.1(a)-(c), 2641(a)-(b), 2653(a)-(c), 2920(a)-(c), and
2923Statutes 2006; Chapter 490 (SB 1116), Statutes 2006,
Chapter 492 (SB 1716), and Statutes 2006, Chapter 493 (AB
1363)]

6. *Coast Community College District, et al. v. Commission on
State Mandates*
Sacramento County Superior Court, Case No. 34-2014-80001842
[*Minimum Conditions for State Aid*, 02-TC-25/02-TC-31 (Education Code
Sections 66721, 66721.5, 66722, 66722.5, 66731, 66732, 66736, 66737,
66738, 66740, 66741, 66742, 66743, 70901, 70901.5, 70902, 71027, 78015,
78016, 78211.5, 78212, 78213, 78214, 78215, 78216, 87482.6, and
87482.7; 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; California Code of Regulations, Title 5, Sections 51000, 51002,
51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022,
51023, 51023.5, 51023.7, 51024, 51025, 51027, 51100, 51102, 53200,
53202, 53203, 53204, 53207, 53300, 53301, 53302, 53308, 53309, 53310,

53311, 53312, 53314, 54626, 54805, 55000, 55000.5, 55001, 55002, 55002.5, 55004, 55005, 55006, 55100, 55130, 55150, 55160, 55170, 55182, 55200, 55201, 55202, 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320, 55321, 55322, 55340, 55350, 55401, 55402, 55403, 55404, 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520, 55521, 55522, 55523, 55524, 55525, 55526, 55530, 55532, 55534, 55600, 55601, 55602, 55602.5, 55603, 55605, 55607, 55620, 55630, 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, 55765, 55800, 55800.5, 55801, 55805, 55805.5, 55806, 55807, 55808, 55809, 55825, 55827, 55828, 55829, 55830, 55831, 58102, 58104, 58106, 58107, 58108, 59404, and 59410; Handbook of Accreditation and Policy Manual, Accrediting Commission for Community and Junior Colleges (Summer 2002); and “Program and Course Approval Handbook” Chancellor’s Office California Community Colleges (September 2001).]

7. *Clovis Unified School Dist. 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, adopted May 30, 2014]
8. *Paradise Irrigation District, et al. 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, adopted December 5, 2014), Water Code Division 6, Part 2.55 [sections 10608-10608.64] and Part 2.8 [sections 10800-10853] as added by Statutes 2009-2010, 7th Extraordinary Session, Chapter 4 California Code of Regulations, Title 23, Division 2, Chapter 5.1, Article 2, Sections 597-597.4; Register 2012, No. 28.]

B. PERSONNEL

To confer on personnel matters pursuant to Government Code section 11126(a)(1):

The Commission adjourned into closed executive session at 10:21 a.m., pursuant to Government Code section 11126(e), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation published in the notice and agenda; to confer and receive advice from legal counsel regarding potential litigation, and to confer on personnel matters pursuant to Government Code section 11126(a)(1).

RECOVENE IN PUBLIC SESSION

REPORT FROM CLOSED EXECUTIVE SESSION

At 10:27 a.m., Chairperson Ortega reconvened in open session, and reported that the Commission met in closed executive session pursuant to Government Code section 11126(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 public notice and agenda, and potential litigation, and to confer on personnel matters pursuant to Government Code section 11126(a)(1).

ADJOURNMENT

Hearing no further business, Chairperson Ortega adjourned the meeting at 10:28 a.m.

A handwritten signature in black ink, appearing to read "Heather Halsey". The signature is fluid and cursive, with the first name being more prominent than the last.

Heather Halsey
Executive Director