

Minutes

COMMISSION ON STATE MANDATES

Location of Meeting: Room 447
State Capitol, Sacramento, California
January 25, 2013

Present: Member Pedro Reyes, Chairperson
Representative of the Director of the Department of Finance
Member Andre Rivera, Vice Chairperson
Representative of the State Treasurer
Member Richard Chivaro
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 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 Reyes called the meeting to order at 10:00 a.m.

Executive Director Heather Halsey called the roll.

ELECTION OF OFFICERS

Item 1 Staff Report

Chairperson Reyes stated that the annual election of officers is the first order of business.

Member Chivaro nominated the Director of Finance. Member Morgan seconded. Director of Finance Ana Matosantos was elected chairperson by a vote of 7-0.

Chairperson Reyes asked for nominations for vice-chairperson. Member Rivera nominated the State Controller. With a second by Member Morgan, State Controller John Chiang was elected vice-chairperson by a vote of 7-0.

APPROVAL OF MINUTES

Item 2 December 7, 2012

Member Ramirez made a motion to adopt the minutes. With a second by Member Saylor, the December 7, 2012 hearing minutes were adopted by a vote of 5-0, Members Rivera and Morgan abstained from voting.

CONSENT CALENDAR

If there are no objections to any of the following action items designated by an asterisk (*), the Executive Director will include each one on the Proposed Consent Calendar that will be presented at the hearing. The Commission will determine which items will remain on the Consent Calendar.

VI. HEARINGS AND DECISIONS ON TEST CLAIMS AND PARAMETERS AND GUIDELINES PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (GOV. CODE, § 17551, 17557, and 17559) (action)

PARAMETERS AND GUIDELINES AND PARAMETERS AND GUIDELINES AMENDMENTS

Item 6* *Uniform Complaint Procedures (K-12), 03-TC-02*

Education Code Sections 250, 251, 262.3
Statutes 1982, Chapter 1117; Statutes 1988,
Chapter 1514; Statutes 1998, Chapter 914
California Code of Regulations, Title 5, Sections 4611, 4621, 4622, 4631,
and 4632 Register 92, Number 3; Register 93, Number 51
Solana Beach School District, Claimant

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

A. STATEWIDE COST ESTIMATE

Item 7* *Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan for Expelled Pupils, 96-358-03 et al.*

Education Code Sections 48900.8, 48915, 48915.2, 48916, 48916.1,
48918, 48918.5, 48923, 48926
As Amended by Statutes 1995, Chapters 972 and 974;
Statutes 1996, Chapters 915, 937, and 1052; Statutes 1997, Chapter 637;
Statutes 1998, Chapter 489; Statutes 1999, Chapter 332; Statutes 2000,
Chapter 147; Statutes 2001, Chapter 116
San Juan Unified School District, Kern County Superintendent of Schools,
Claimants
Beginning Fiscal Year 2012-2013 Consolidated with
PUPIL SUSPENSIONS FROM SCHOOL (CSM-4456)
Education Code Section 48911, Subdivisions (b) and (e)
Statutes 1977, Chapter 965; Statutes 1978, Chapter 668; Statutes 1980,
Chapter 73;
Statutes 1983, Chapter 498; Statutes 1985, Chapter 856; Statutes 1987,
Chapter 134
PUPIL EXPULSIONS FROM SCHOOL (CSM-4455)
Education Code Sections 48915, Subdivisions (a) and (b),
48915.1, 48915.2, 48916, and 48918
Statutes 1975, Chapter 1253; Statutes 1977, Chapter 965; Statutes 1978,
Chapter 668; Statutes 1982, Chapter 318; Statutes 1983, Chapter 498;
Statutes 1984, Chapter 622; Statutes 1987, Chapter 942; Statutes 1990,
Chapter 1231; Statutes 1992, Chapter 152; Statutes 1993, Chapters 1255,
1256, and 1257; Statutes 1994, Chapter 146
PUPIL EXPULSION APPEALS (CSM-4463)

Education Code Sections 48919, 48921, 48924
Statutes 1975, Chapter 1253; Statutes 1977, Chapter 965; Statutes 1978,
Chapter 668;
Statutes 1983, Chapter 498

Item 8* *Voter Identification Procedures*, 03-TC-23

Elections Code Section 14310
Statutes 2000, Chapter 260 (SB 414)

County of San Bernardino, Claimant

B. ADOPTION OF PROPOSED RULEMAKING CALENDAR

Item 9* Proposed Rulemaking Calendar, 2013

Member Olsen made a motion to adopt the consent calendar. With a second by Member Rivera, the consent calendar was adopted by a vote of 7-0.

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

Item 3 Appeal of Executive Director Decisions

There were no appeals to consider.

**HEARINGS AND DECISIONS ON TEST CLAIMS, PARAMETERS AND
GUIDELINES, AND INCORRECT REDUCTION CLAIMS PURSUANT TO
CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7
(GOV. CODE, § 17551, 17557, and 17559) (action)**

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

A. TEST CLAIMS

Item 4 *Minimum Conditions for State Aid*, 02-TC-25 and 02-TC-31

Education Code Sections 66010.2, 66010.7, 66721.5, 66731, 66732,
66736, 66738, 66740, 66742, 70902, 78015, and 78016

Statutes 1988, Chapter 973; Statutes 1991, Chapter 1188; Statutes 1998,
Chapter 365; and Statutes 2000, Chapter 187

California Code of Regulations, Title 5, Sections 53203, 53207, 55001,
55002, 55005, 55006, 55150, 55201, 55202, 55750, 55751, 55753,
55753.5, 55753.7, 55754, 55755, 55756, 55756.5, 55757, 55758, 55759,
55760, 55761, 55764, 55800, 55805, 55805.5, 55806, 58102, 58104,
and 58106

Register 91, Number 23; Register 93, Number 25; Register 93, Number
42; Register 94, Number 38; Register 98, Number 7; Register 2000,
Number 50; Register 2002, Number 8; and Register 2003, Number 18.

Los Rios Community College District, Santa Monica Community
College District, and West Kern Community College District, Co-
Claimants

Item 4 was postponed to the April hearing.

Item 5 *Behavioral Intervention Plans (BIPs)*, CSM 4464

Title 5, California Code of Regulations,
Sections 3001 and 3052
(Register 93, No. 17; Register 96, No. 8; Register 96, No. 32.)

Butte County Office of Education, San Diego Unified School District,
San Joaquin County Office of Education, Claimants

These parameters and guidelines address the implementing regulations involved in special education services for children with disabilities. The regulations require an Individualized Education Program (IEP) team to develop a behavioral intervention plan whenever an individual exhibits a serious behavior problem that significantly interferes with the implementation of the goals and objectives of the individual's IEP.

Commission Counsel Matt Jones presented this item. He proposed two possible options and recommended that the Commission adopt the proposed statement of decision and the parameters and guidelines approving Option A which included a Reasonable Reimbursement Methodology (RRM) for reimbursement for mandated costs.

Parties were represented as follows: Diana McDonough, representing the claimants; Dr. Sandy Kludt, Mr. Mike Lenahan, and Ms. Mary Bevernick, witnesses for the claimants; Susan Geanacou and Jillian Kisse representing the Department of Finance.

There was considerable discussion among the Commission members, staff, and interested parties. Following that discussion and clarification from Chief Counsel Camille Shelton, Member Saylor made a motion directing staff to bring a modified statement of decision and parameters and guidelines before the Commission on April 19, 2013 that would: 1) include the RRM proposed in Option A but applying only to the initial filing period through the current fiscal year ; and 2) apply parameters and guidelines for claiming actual costs going forward. With a second by Member Olsen, the motion 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 10 Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commission, or to a Hearing Officer
Note: This item will only be taken up if an application is filed.

No applications were filed.

STAFF REPORTS

- Item 11 Chief Legal Counsel: Recent Decisions, Litigation Calendar
Chief Legal Counsel Camille Shelton presented this item.

- Item 12 Executive Director's Report

Executive Director Heather Halsey presented this item.

PUBLIC COMMENT

CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 AND 11126.2 (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 v. Commission on State Mandates*, Sacramento County Superior Court Case No. 34-2010-80000529 [Graduation Requirements, Parameters and Guidelines Amendments, Nov. 2008]
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. *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). Second District Court of Appeal, Case No. B237153 (Los Angeles County Superior Court, Case No. BS130730) [*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*]

B. PERSONNEL

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

The Commission adjourned into 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 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).