

## **MINUTES**

### **COMMISSION ON STATE MANDATES**

State Capitol, Room 447  
Sacramento, California  
July 29, 2010

Present: Member Cynthia Bryant, Chairperson  
Representative of the Director of the Department of Finance  
Member Francisco Lujano, Vice Chairperson  
Representative of the State Treasurer  
Member Richard Chivaro  
Representative of the State Controller  
Kirstin Kolpitzke for Member Cathleen Cox  
Acting Director of the Office of Planning and Research  
Member J. Steven Worthley  
County Supervisor  
Member Sarah Olsen  
Public Member  
Member Paul Glaab  
City Council Member

### **CALL TO ORDER AND ROLL CALL**

Chairperson Bryant called the meeting to order at 10:55 a.m. Executive Director Paula Higashi called the roll.

Chairperson Bryant reported that Senator Dave Cox, a former Commission member, passed away on July 13, 2010. Senator Cox was appointed to the Commission by Governor Wilson in 1997 and left the Commission when elected to the Assembly in 1998. Senator Cox, father of current Commission member Cathleen Cox, was a good friend to this Commission and to local government.

Chairperson Bryant stated that a public memorial will be held on August 5, 2010 at the Cathedral of the Blessed Sacrament and called for a moment of silence in honor of Senator Cox.

Chairperson Bryant made the light-hearted comment that Senator Cox would not have been pleased with today's hearing starting late.

Ms. Higashi added that Senator Cox was always early for meetings.

### **APPROVAL OF MINUTES**

Item 1            May 27, 2010

The May 27, 2010 hearing minutes were adopted by a vote of 6-0. Member Olsen abstained.

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

Item 2            Staff Report (if necessary)

There were no appeals to consider.

## PROPOSED CONSENT CALENDAR

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

### DISMISSAL OF WITHDRAWN TEST CLAIM

- Item 5\*      *Open Meetings Act II*, 06-TC-01  
Government Code Sections 54954.2 and 54957.1  
Statutes 2005, Chapter 72 (AB 138)  
City of Newport Beach, Claimant

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

### PROPOSED PARAMETERS AND GUIDELINES (GOV. CODE, § 17557)

- Item 6\*      *Student Records*, 02-TC-34  
Education Code Sections 49069.3, 49069.5, 49076.5, 76234  
Statutes 1989, Chapter 593 (SB 1546); Statutes 1993, Chapter 561  
(AB 1531); Statutes 1998, Chapter 311 (SB 933); Statutes 2005,  
Chapter 67 (AB 2453);  
Riverside Unified School District and Palomar Community College District,  
Co-Claimants
- Item 7\*      *Child Abuse and Neglect Reporting*, 01-TC-21  
Penal Code Sections 11165.7, Subdivision (d) and 11174.3, Subdivision (a)  
Statutes 1987, Chapters 640 (AB 285) and 1459 (SB 1219), Statutes 1991,  
Chapter 132 (AB 1133); Statutes 1992, Chapter 459 (SB 1695); Statutes  
1998, Chapter 311 (SB 933); Statutes 2000, Chapters 916 (AB 1241);  
Statutes 2001, Chapters 133 (AB 102) and 754 (AB 1697)  
San Bernardino Community College District, Claimant

### PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES

- Item 8\*      *Crime Victim's Rights*, 09-PGA-04 (05-PGA-28, CSM-96-358-01)  
Department of Finance, Requestor  
Penal Code Section 679.02, Subdivision (a)(12)  
Statutes 1995, Chapter 411 (SB 221)
- Item 9\*      *Consolidated Handicapped and Disabled Students*, 09-PGA-03,  
(04-RL-4282-10); *Handicapped and Disabled Students II* (02-TC-40/  
02-TC-49); and  
*Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health  
Services* (97-TC-05)  
Government Code Sections 7570-7588  
Statutes 1984, Chapter 1747 (AB 3632)  
Statutes 1985, Chapter 1274 (AB 882)  
Statutes 1994, Chapter 1128 (AB 1892)  
Statutes 1996, Chapter 654 (AB 2726)  
California Code of Regulations, Title 2, Sections 60000-60610  
(Emergency Regulations Effective January 1, 1986 [Register 86, No. 1],  
and Re-filed June 30, 1986, Designated Effective July 12, 1986 [Register  
86, No. 28]; and Emergency Regulations Effective July 1, 1998 [Register

98, No. 26], Final Regulations Effective August 9, 1999  
[Register 99, No. 33])  
State Controller's Office, Requestor

Member Olsen made a motion to adopt items 5, 6, 7, 8, and 9 on the consent calendar. With a second by Member Glaab, the consent calendar was adopted by a vote of 7-0.

HEARING AND DECISION ON INCORRECT REDUCTION CLAIM, PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (Gov. Code, § 17551) (action)

Ms. Higashi swore in parties and witnesses participating in the hearing.

Item 3            *Investment Reports*, 02-9635802-I-47  
Government Code Section 53646, Subdivisions (a), (b) and (e)  
Statutes 1995, Chapter 783 (SB 564) As Amended by Statutes 1996,  
Chapters 156 (SB 864) and 749 (SB 109)  
(Fiscal Years 1995-1996 through 1998-1999)  
City of Tustin, Claimant

Camille Shelton, Chief Legal Counsel, presented this item. Ms. Shelton stated that this incorrect reduction claim was filed by the City of Tustin on reimbursement claims for costs incurred in fiscal years 1995-96 through 1998-99 on the *Investment Reports* program.

The issues in dispute involved the State Controller's reduction of costs claimed following a desk audit of the salaries and benefits of county employees preparing and submitting the annual statement of investment policy, and the activities required to accumulate and compile data necessary to render the quarterly report of investments.

For the reasons stated in the analysis, staff concluded that the State Controller's Office incorrectly reduced the costs claimed by the City of Tustin. However, the reimbursement claims filed by the County for salaries and benefits include activities and costs that are not reimbursable.

Staff recommended that the Commission adopt the analysis and remand the reimbursement claims back to the State Controller's Office for further review and reinstatement of those costs that are eligible for reimbursement in accordance with the Commission's decision on this incorrect reduction claim.

Parties were represented as follows: Annette Chinn, Cost Recovery Systems; Alan Burdick, CSAC SB-90 Service and the California Cities SB-90 Service; Shawn Silva, State Controller's Office; and Carla Shelton, Department of Finance.

Annette Chinn, Cost Recovery Systems, stated that she had two concerns with the staff analysis.

Ms. Chinn stated that her first concern was the disallowance of the activity of entering, tracking, balancing, and auditing every investment transaction. Staff confused the wording "entering transactions" with "ascertaining whether every transaction is in compliance with their investment policy." Ms. Chinn offered expert witness Connie Jamison's report prepared for the Commission and then pointed out that the Commission has repeatedly relied upon the report. Ms. Chinn stated that the report missed the critical difference that the reimbursable activity is not the entering of every transaction, but reviewing whether every transaction is in compliance with the policy requirements.

Ms. Chinn continued that recording each investment transaction is exactly what is meant by the language "accumulating and compiling data." In their claims, the City requested an average of ten hours per month of staff time to compile quarterly reports, which worked out to be about

\$5000 per year for the cost of staff salaries and benefits. Ms. Chinn did not believe that to be an excessive amount. By disallowing the costs of entering all investment transactions, the report becomes a meaningless and potentially inaccurate document which was not the intent of the implementing legislation.

Ms. Chinn added that the denial of the use of subsidiary reports or ledgers, and all those activities pertaining to balancing ledgers, accumulating investment data and entering information for reviewing was a concern. The City of Tustin is a small city and uses an Excel spreadsheet to track investment reports. By disallowing “subsidiary ledgers,” the Commission is effectively denying their entire investment report. Therefore, the staff analysis should be modified to indicate that subsidiary ledgers are reimbursable.

Mr. Alan Burdick, CSAC SB-90 Service and California Cities SB-90 Service, thanked the Commission for recognizing Senator Dave Cox. Mr. Burdick concurred with the concerns voiced by Ms. Chinn.

Shawn Silva, State Controller’s Office, asserted that the State Controller was in support of the staff analysis. Mr. Silva reminded the Commission that there was more than one expert present and testifying during the hearings many years ago. Among them was Dr. Tootelian, an expert in business and accounting, whose opinion was that a treasurer, in operating his office, was obligated to do a certain minimum level of accounting, whether or not there was a reporting requirement in existence.

Mr. Silva stated that the question is not what they have to do now but, rather, what is beyond what they had to do before the law in question was enacted. The State Controller’s position then, and now, was that a treasurer cannot avoid entering transactions into ledgers to maintain the books because that would be beyond ordinary business care and prudence. He urged the Commission to adopt the staff analysis.

Carla Shelton, Department of Finance, added that Finance had no concerns with the staff recommendation.

Ms. Chinn stated that she did not believe that the position regarding disallowing the subsidiary ledger made logical sense because it would mean that some transactions would never get entered despite the potential of investment money coming in and out.

Mr. Burdick disagreed with the Controller’s position that the activity is a “good practice,” because you cannot stop doing it.

Ms. Chinn argued that the instructions in the mandate clearly say “accumulate and compile data necessary to complete your investment report,” which requires that all of the data be put into the investment report.

Ms. Shelton noted that the mandate required a quarterly report of investment transactions for investments that are held at the end of the quarter. The mandate did not require an implementation of their investment policies on a quarterly basis, unlike the 1984 statute that required a detailed monthly report. Furthermore, when the Commission adopted the original parameters and guidelines, it denied the original claimant’s request for reimbursement to prepare the subsidiary ledger of investments, and to input all transactions at various times. However, the subsidiary ledger could be used if it was necessary to gather information for the quarterly reports.

Ms. Shelton added that the Commission adopted clarifying parameters and guidelines in 2003 and clearly found that inputting every transaction during the quarter was not reimbursable, and that the only activity that is reimbursable is the one-time data entry of every investment that is held on the last day of the quarter into an investment reporting application or software. The

Commission already decided that those investments that are held at the end of the quarter are eligible for reimbursement for data entry. Those investments that are not held at the end of the quarter are not eligible for reimbursement and thus, this current recommendation is consistent with prior decisions on this program.

Member Glaab asked Ms. Chinn if the claimants must input every transaction so that there is accurate information. Ms. Chinn confirmed that that was correct. Member Glaab commented that the Commission's decisions on the matter so far seemingly meant that only some of the entries were eligible for reimbursement. Ms. Chinn confirmed that was also her understanding.

Ms. Shelton clarified that there are actually two separate activities. One activity is for purposes of reporting the type of investment and issuer, the date of maturity and the par dollar amount invested at the end of the quarter, and that reimbursement is allowed for the one-time data entry of those investments held at the end of the quarter. The second activity is to compile cash-flow information to provide a statement to the agency on the ability of the agency to meet their expenditures. Ms. Chinn argued that the ledger should be included under that activity because all investment transactions must be recorded to know how much cash is on hand. Ms. Shelton conceded that that was possible but it was not evident, based on the way the reimbursement claims were filed, what was being claimed.

Mr. Burdick stated that despite the amendment to the parameters and guidelines, the controlling parameters and guidelines should still be the original ones under which all of the claims were filed. He acknowledged that the Commission has historically taken the position that later parameters and guidelines supersede earlier parameters and guidelines, but he disagrees with that position.

Ms. Shelton stated that the intent of the 2003 amendment was to clarify what the original parameters and guidelines allowed as reimbursable. Under the law, every time a statute or regulation or any document which governs the Commission's parameters and guidelines are amended and that amendment is for purposes of clarification only, the subsequent amendments can apply to the original version.

Member Worthley added his understanding that if a claimant is entering every piece of data, then the Commission is saying that is not reimbursable; but if they have to enter the data for the final day of the quarter, then that would be reimbursable. Ms. Shelton said that would depend on what is going on in that particular jurisdiction and whether a transaction is acquired at the beginning of the month and held on to until the end, at which point they would get reimbursement for entering it into whatever software or spreadsheet that they use, or if it was acquired and not held until the end of the quarter, then they would not get reimbursement.

Member Worthley observed that refusing to reimburse claimants for all data entry pertaining to investments would seemingly create more work and more of a financial burden on claimants than to just allow all data recording activities especially since the claimants are not asserting high costs for the data entry function.

Ms. Shelton responded that the issue was a jurisdictional issue and that the Commission determined the activity that is reimbursable is the one-time data entry of any investment that is held on the last day of the quarter.

Member Glaab commented that if the language of the parameters and guidelines needs to be fine tuned to clarify the Commission's intent, then that should be entertained. He also commented that the entry of all information should be encouraged because transparency in government work, especially as it pertains to investments, is very important.

Member Glaab noted that the reductions listed in the staff report were significant and asked Ms. Chinn if the original amounts claimed were justified. Ms. Chinn clarified that she is only contesting \$5,000 of the reduction, which was the amount claimed for the data entry activity.

Mr. Burdick observed that the law in question had been repealed so these are the only claims and they date back to 1998-1999. He stated the locals were in initial agreement with the expert for the State Controller and the points relative to subsidiary ledgers and the entering of transactions were minor, but now it seems those were changed by the clarifying amendments. He also pointed out that the total amount being claimed by all 18 counties, with the exception of Los Angeles County, is less than \$40,000.

Chairperson Bryant stated that, although she appreciates Mr. Burdick's comments regarding the amount of the claims, she believes that the issue is a precedential Commission decision that clearly states the reimbursable activity is "the one-time data entry in the investment reporting system for investments held on the last day of each quarter."

Ms. Higashi added that the clarifying amendments described what activities were not reimbursable based on what was in the decision, what was not in the decision, and what was not claimed in the original test claim filing.

Chairperson Bryant asked if the 2003 amendments were clarifying and if they were not, could they be revisited here. Ms. Shelton responded that the Commission did not have jurisdiction to revisit the parameters and guideline, and there was no evidence to suggest that the parameters and guidelines were not clarifying.

Ms. Shelton cited Exhibit N. The Task Force on Local and State Investment Practices, that was created by the Governor, put forth the idea that requiring an annual policy investment and a quarterly report to tell the board what the state of the investments were at the end of the quarter would put the board on notice. It also clearly provided that they were not mandating the implementation of the investments, or the treasurer's role of the investment policies. The inputting of every transaction and auditing are likely activities in every local investment policy; however those activities are not reimbursable. What is reimbursable is just enough to get the report before the board.

Member Glaab asked if the item before the Commission includes only the City of Tustin and not the County of Los Angeles or any other counties. Ms. Shelton confirmed that it is currently only the City of Tustin at issue, and that Los Angeles County's claim was already decided and that decision was consistent on this point.

With a motion by Member Chivaro and a second by Member Lujano, the staff recommendation was adopted by a vote of 5-2 with Member Glaab and Member Worthley voting no.

Item 4            Proposed Statement of Decision: *Investment Reports*, 02-9635802-I-47  
[See Item 3 above.]

Ms. Shelton presented this item and stated that staff recommends that the Commission adopt the proposed Statement of Decision.

Member Chivaro made a motion to adopt the proposed Statement of Decision. Member Lujano, seconded the motion and the Statement of Decision was adopted by a vote of 5-2, with Member Glaab and Member Worthley voting no.

- Item 11 Update on Implementation of Recommendations from Bureau of State Audits October 15, 2009 Report 2009-501  
*State Mandates: Operational and Structural Changes Have Yielded Limited Improvements in Expediting Processes and Controlling Costs and Liabilities*

Ms. Patton reported that the Commission will be submitting a budget change proposal to the Department of Finance in September.

- Item 12 Legislative Update

Ms. Patton reported that AB 2082 was held in committee but that it could end up in a budget trailer bill. Ms. Patton will update the Commission if anything becomes of the bill.

- Item 13 Trailer Bill Language and Working Group Proposal: Mandate Redetermination Process

Ms. Higashi reported that Commission staff continues to work with the Legislature, state agencies and local governments on the proposed Mandate Redetermination Process. She noted that this was also a recommendation of the Bureau of State Audits.

## **STAFF REPORTS**

- Item 14 Chief Legal Counsel's Report (info)

Ms. Shelton reported that there are three new filings against the Commission.

The first, which was filed and served before the Agenda was issued was the *County of Santa Clara vs. the Commission on State Mandates and State Controller's Office*. That case deals with an incorrect reduction claim on the *Handicapped and Disabled Students* Program.

The next two claims were filed last week. The first is the *State of California Department of Finance, State Water Resources Control Board, and California Regional Water Quality Board, Los Angeles Region v. Commission on State Mandates and County of Los Angeles*, et. al. That case deals with the water board permit that was issued by the Los Angeles Regional Water Board and the Commission's adoption and approval of that program.

The third case is very similar and deals with the San Diego water permit and the decision made on that for the County of San Diego and the cities of San Diego in that case. Both cases are pending in Sacramento Superior Court.

The other case of interest to note is the Clovis case (*Clovis Unified School District et. al. v. State Controller*), which is dealing with a challenge to the Controller's reduction based on contemporaneous source documents. That case is set to be heard on August 17, 2010, before the Third District Court of Appeal.

- Item 15 Executive Director's Report (info)

## Pending Workload

Ms. Higashi pointed out that both test claim and incorrect reduction claim filings have increased.

## Budget

Ms. Higashi reported that there is nothing new with the budget. AB 3632 is an outstanding mandate issue concerning the *Handicapped and Disabled Students* Program. Ms. Higashi also pointed out that the LAO proposal concerning the *Open Meetings Act* and *Brown Act Reform* was adopted by the conference committee and that that statute will be redrafted to eliminate the state mandate and, instead, tie it into implementation of an initiative (Proposition 59).

Ms. Higashi noted that the changes would be substantial in terms of the dollar amount previously budgeted for the *Open Meetings Act*.

#### New Practices

Ms. Higashi reported that the Commission continues to move toward more electronic record keeping including an increased use of PDF documents with the ultimate goal of an upswing in e-filing and e-distribution of documents. This new practice will be implemented when the proposed regulatory package is adopted.

#### Meeting Dates

After discussion, the Commission agreed on the following 2010 meeting/hearing dates: September 30, October 28 (tentative), and December 2.

#### Future Agenda Items

Ms. Higashi reported that the Commission is currently working on several complex and difficult claims and that the Commissioners should keep all of the currently scheduled meetings on the calendar.

Member Worthley pointed out that when the Commission mails out the hearing items in binders, they have to be sent in boxes. Member Worthley asked for the items to be sent without the binders thus saving the Commission money in postage. Ms. Higashi agreed to send only documents for the next hearing.

Member Glaab explained that his late arrival was due to mechanical problems on his airplane.

### **PUBLIC COMMENT**

Alan Burdick commented on his interest in having the Commission staff discuss the potential ramifications of the proposal to suspend the *Mandate Reimbursement Process* program and the legal ramifications if that were to occur.

Ms. Shelton pointed out that when the Legislature suspends a program, it becomes voluntary for that fiscal year. The Commission has no authority to issue a decision on the validity of the suspension; it becomes a constitutional issue that must go before the court.

Ms. Higashi said that if the *Mandate Reimbursement Process* program is suspended, items could be scheduled for hearing but staff at the local level may not have the budget to respond, file comments, or appear at a hearing. In those circumstances, postponements or extensions of time for filing comments could be granted based on good cause.

Next Mr. Burdick raised two additional concerns regarding the potential suspension of the *Mandate Reimbursement Process* program. The first was what will happen to the existing workload and claims before the Commission, and the second was what the rights of the local agencies would be after the suspension.

Ms. Shelton reiterated that if the *Mandate Reimbursement Process* program is suspended in the budget, the Commission would no longer have jurisdiction to review the program unless a party wants to amend the parameters and guidelines or a claimant files an incorrect reduction claim.

Ms. Higashi reminded Mr. Burdick and the Commission that if the mandate is suspended, the reimbursable activities are suspended so then it becomes a question of duty and whether there is still a duty to perform the activity.

Chairperson Bryant requested an update on mandate suspensions at the next meeting and acknowledged that we may not be able to weigh in on the legal issues.



**ADJOURNMENT**

Hearing no further business, Chairperson Bryant adjourned the meeting at 12:35 p.m.

A handwritten signature in cursive script, appearing to read "Paula Higashi".

PAULA HIGASHI  
Executive Director

**PUBLIC HEARING**  
**COMMISSION ON STATE MANDATES**



TIME: 10:30 a.m.  
DATE: Thursday, July 29, 2010  
PLACE: State Capitol, Room 447  
Sacramento, California



**REPORTER'S TRANSCRIPT OF PROCEEDINGS**



Reported by:  
Daniel P. Feldhaus  
California Certified Shorthand Reporter #6949  
Registered Diplomate Reporter, Certified Realtime Reporter

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A P P E A R A N C E S

COMMISSIONERS PRESENT

CYNTHIA BRYANT  
*(Commission Chair)*  
Representative for ANA MATOSANTOS  
Director, State Department of Finance

RICHARD CHIVARO  
Representative for JOHN CHIANG  
State Controller

PAUL GLAAB  
City Council Member  
City of Laguna Niguel

KIRSTIN KOLPITCKE  
Representative for Cathleen Cox  
Acting Director, Office of Planning & Research

FRANCISCO LUJANO  
Representative for BILL LOCKYER  
State Treasurer

SARAH OLSEN  
Public Member

J. STEVEN WORTHLEY  
Supervisor and Chairman of the Board  
County of Tulare



COMMISSION STAFF PRESENT

PAULA HIGASHI  
Executive Director  
*(Item 13 and 15)*

NANCY PATTON  
Assistant Executive Director  
*(Items 11 and 12)*

CAMILLE SHELTON  
Chief Legal Counsel  
*(Items 3, 4, and 14)*

A P P E A R A N C E S

PUBLIC TESTIMONY

**Appearing Re Items 3 & 4 (Investment Reports):**

For Claimant City of Tustin:

ANNETTE S. CHINN  
Cost Recovery Systems, Inc.  
705-2 East Bidwell Street, #294  
Folsom, California 95630

For California State Association of Counties SB-90  
Service and California Cities SB-90 Service:

ALLAN BURDICK  
California State Association of Counties  
SB-90 Service  
4320 Auburn Boulevard, Suite 2000  
Sacramento, California 95841

For Department of Finance:

CARLA SHELTON  
Department of Finance  
915 L Street  
Sacramento, California 95814

For Controller's Office:

SHAWN D. SILVA  
Staff Counsel  
State Controller's Office  
300 Capitol Mall, Suite 1850  
Sacramento, California 95814

**Appearing Re Public Comment**

For California State Association of Counties SB-90  
Service and California Cities SB-90 Service:

ALLAN BURDICK  
California State Association of Counties  
SB-90 Service  
4320 Auburn Boulevard, Suite 2000  
Sacramento, California 95841

ERRATA SHEET

Page      Line      Correction


I N D E X

<u>Proceedings</u>	<u>Page</u>
I. Roll Call . . . . .	9
Moment of Silence re Dave Cox	
II. Approval of Minutes	
Item 1 May 27, 2010 . . . . .	11
III. Proposed Consent Calendar	
( <i>Items 5, 6, 7, 8, and 9</i> ) . . . . .	12
IV. Appeal of Executive Director Decisions Pursuant to California Code of Regulations Title 2, Section 1181(c)	
Item 2 Appeal of Executive Director's Decision ( <i>None</i> ) . . . . .	12
V. Hearings and Decisions on Test Claim and Statement of Decision, Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 7	
A. Test Claims	
Item 3 <i>Investment Reports:</i> 01-9635802-1-47 City of Tustin . . . . .	13
Item 4 Proposed Statement of Decision: <i>Investment Reports,</i> 01-9635802-1-47 (See Item 4 above) . . . . .	42

I N D E X

Proceedings

Page

VI. Hearings and Decisions on Test Claim and Statement of Decision, Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 7

A. Dismissal of Withdrawn Test Claim

Item 5\* *Open Meetings Act II*,  
06-TC-01  
City of Newport  
(Consent calendar item) . . . . 12

VII. Informational Hearing Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 8

A. Proposed Parameters and Guidelines

Item 6\* *Student Records*  
02-TC-34  
Riverside Unified School  
District and Palomar Community  
College District  
(Consent calendar item) . . . . 12

Item 7\* *Child Abuse and Neglect  
Reporting*  
01-TC-21  
San Bernardino Community  
College District  
(Consent calendar item) . . . . 12

B. Proposed Amendments to Parameters and Guidelines

Item 8\* *Crime Victim's Rights*  
09-PGA-04 (05-PGA-28,  
CSM-96-358-011)  
Department of Finance  
(Consent calendar item) . . . . 12

I N D E X

Proceedings

Page

VII. Informational Hearing Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 8

B. Proposed Amendments to Parameters and Guidelines *continued*

Item 9\* *Consolidated Handicapped and Disabled Students*  
09-PGA-03 (04-RL-4282-10),  
*Handicapped & Disabled Students II*  
(02-TC-40/02-TC-49), and  
*Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services*  
(97-TC-05)  
State Controller's Office  
(Consent calendar item) . . . . 12

VIII. 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

Item 10 Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commissions or to a Hearing Officer (*None*) . . . . . --

IX. Reports

Item 11 Update on Implementation of Recommendations from Bureau of State Audits October 15, 2009, Report 2009-501 . . . . . 43

Item 12 Legislative Update . . . . . 44



I N D E X

<u>Proceedings</u>	<u>Page</u>
IX. Reports <i>continued</i>	
Item 13 Trailer-Bill Language & Working Group Proposal: Mandate Redetermination Process . . . . .	44
Item 14 Chief Legal Counsel: Recent Decisions, Litigation Calendar .	45
Item 15 Executive Director: Workload, Budget, New Practices, and Next Meeting . . . . .	46
X. Public Comment ( <i>None</i> ) . . . . .	50
XI. Closed Executive Session . . . . .	53
XII. Reconvene in Public Session . . . . .	54
XIII. Report from Closed Executive Session . . . . .	54
Adjournment . . . . .	56
Reporter's Certificate . . . . .	57

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**Commission on State Mandates – July 29, 2010**

1 BE IT REMEMBERED that on Thursday, July 29,  
2 2010, commencing at the hour of 10:55 a.m., thereof, at  
3 the State Capitol, Room 447, Sacramento, California,  
4 before me, DANIEL P. FELDHAUS, CSR #6949, RDR and CRR,  
5 the following proceedings were held:

6 --oOo--

7 CHAIR BRYANT: I will call this meeting of the  
8 Commission on State Mandates to order.

9 Thanks for your patience. We really only have  
10 one item to take up. And since it was related to a city,  
11 we thought we would wait for a city representative that  
12 we knew was coming.

13 So Paula, will you call roll?

14 MS. HIGASHI: Chivaro?

15 MEMBER CHIVARO: Present.

16 MS. HIGASHI: Glaab?

17 MEMBER GLAAB: Present.

18 MS. HIGASHI: Kolpitzke?

19 MEMBER KOLPITCKE: Present.

20 MS. HIGASHI: Lujano?

21 MEMBER LUJANO: Here.

22 MS. HIGASHI: Olsen?

23 MEMBER OLSEN: Here.

24 MS. HIGASHI: Worthley?

25 MEMBER WORTHLEY: Here.

**Commission on State Mandates – July 29, 2010**

1 MS. HIGASHI: Bryant?

2 CHAIR BRYANT: Here.

3 MS. HIGASHI: Thank you.

4 CHAIR BRYANT: Thank you.

5 As most of you know, Senator Dave Cox passed  
6 away on July 13<sup>th</sup>. He was a former member of this  
7 commission, having been appointed by Governor Wilson in  
8 1997, and leaving the Commission in 1998, when he was  
9 elected to the Assembly. And as probably most of you  
10 know, he's also the father of our Commission member,  
11 Cathleen Cox, and also just a good friend to this  
12 commission and to local government.

13 There will be a public memorial service on  
14 August 5<sup>th</sup> at the Cathedral of the Blessed Sacrament at  
15 10:00 a.m. And I would like to call for a moment of  
16 silence in honor of Senator Cox.

17 *(A moment of silence was observed.)*

18 CHAIR BRYANT: Okay, thank you.

19 And I also want to apologize to Senator Cox  
20 that this meeting got started late. If he was actually  
21 still a member of the Commission, he would have all of  
22 our heads, and he would have said, "Forget Mr. Glaab.  
23 We're not waiting."

24 MS. HIGASHI: He would have directed me.

25 CHAIR BRYANT: He would have directed us to

Commission on State Mandates – July 29, 2010

1 start.

2 MS. HIGASHI: He absolutely would. Because  
3 when our chair at that time, Terri Parker, was running a  
4 few minutes late, he would still say, "Let's get the  
5 meeting started," and the vice-chair wouldn't want to  
6 start the meeting without the chair present.

7 And so anyway, he was 15 minutes early for  
8 every meeting.

9 Our first item is Item 1, *Approval of*  
10 *the Minutes* of May 27<sup>th</sup>.

11 CHAIR BRYANT: Are there any objections or  
12 corrections to the minutes?

13 *(No response)*

14 CHAIR BRYANT: Is there a motion?

15 MEMBER WORTHLEY: Motion to approve.

16 MEMBER CHIVARO: Second.

17 CHAIR BRYANT: We have a motion and a second  
18 for adoption of the minutes.

19 All those in favor?

20 *(A chorus of "ayes" was heard.)*

21 CHAIR BRYANT: Any opposed or abstentions?

22 MEMBER OLSEN: I'm an abstention.

23 CHAIR BRYANT: Okay, duly noted. Ms. Olsen is  
24 abstaining.

25 The minutes are adopted.

**Commission on State Mandates – July 29, 2010**

1 MS. HIGASHI: Our next item is the *Proposed*  
2 *Consent Calendar*, Items 5, 6, 7, 8, and 9. They are  
3 printed on a yellow sheet that is before you.

4 CHAIR BRYANT: Are there any objections to the  
5 proposed consent calendar?

6 *(No response)*

7 CHAIR BRYANT: Is there a motion to adopt the  
8 calendar?

9 MEMBER OLSEN: So moved.

10 MEMBER GLAAB: Second.

11 CHAIR BRYANT: We have a motion and a second.

12 All those in favor?

13 *(A chorus of "ayes" was heard.)*

14 CHAIR BRYANT: Any opposed or abstentions?

15 *(No response)*

16 CHAIR BRYANT: Okay, motion carries.

17 MS. HIGASHI: There are no appeals to consider  
18 under Item 2.

19 And this brings us to the hearing portion of  
20 our meeting, Item 3, the incorrect reduction claim on  
21 *Investment Reports*.

22 At this time, I'd like all the parties and  
23 witnesses who will come up here to please stand.

24 *(Parties and witnesses stood.)*

25 MS. HIGASHI: Do you solemnly swear or affirm

1 that the testimony which you are about the give is true  
2 and correct, based upon your personal knowledge,  
3 information, or belief?

4 (A chorus of "I do's" was heard.)

5 MS. HIGASHI: Thank you very much.

6 Chief Counsel Camille Shelton will present this  
7 item.

8 CAMILLE SHELTON: Item 3 is an incorrect  
9 reduction claim filed by the City of Tustin on  
10 reimbursement claims for costs incurred in fiscal years  
11 1995-96 through 1988-99 on the *Investment Reports*  
12 program.

13 The issues in dispute involve the State  
14 Controller's reduction of costs claimed following a desk  
15 audit for the salaries and benefits of City employees  
16 preparing and submitting the annual statement of  
17 investment policy and the activities required to  
18 accumulate and compile the quarterly report of  
19 investments.

20 For the reasons stated in the analysis, staff  
21 concludes that the State Controller's office incorrectly  
22 reduced the costs claimed by the City of Tustin.  
23 However, the reimbursement claims filed by the City for  
24 salaries and benefits include activities and costs that  
25 are not reimbursable.

**Commission on State Mandates – July 29, 2010**

1           Staff recommends that the Commission adopt the  
2           analysis and remand the reimbursement claims back to the  
3           State Controller's office for further review and  
4           reinstatement of those costs that are eligible for  
5           reimbursement in accordance with the Commission's  
6           decision on this incorrect reduction claim.

7           Will the parties and their witnesses please  
8           state your names for the record?

9           MS. CHINN:   Annette Chinn, Cost Recovery  
10          Systems, on behalf of the City of Tustin.

11          MR. BURDICK:   Allan Burdick on behalf of the  
12          CSAC SB-90 Service and the California Cities SB-90  
13          Service.

14          MR. SILVA:   Shawn Silva with the State  
15          Controller's office.

16          CARLA SHELTON:   Carla Shelton with the  
17          Department of Finance.

18          CHAIR BRYANT:   Ms. Chinn, did you want to  
19          start?

20          MS. CHINN:   Yes.   Thank you.

21          Again, my name is Annette Chinn, and I'm a  
22          consultant with the firm Cost Recovery Systems.   And our  
23          firm submitted the claims in question for the City of  
24          Tustin.   And, again, we filed these claims about ten  
25          years ago, so I apologize if my memory isn't completely

1 fresh on all of the details, but I'll do my best.

2 First, I wanted to thank staff for their  
3 assistance in this matter. They've always been very  
4 helpful to us, and we just wanted to commend them.

5 And in terms of our comments on this draft  
6 staff analysis, we only have two main concerns. And I  
7 provided a copy. I don't know if you have that in front  
8 of you. Instead of going through 400 pages, I thought it  
9 would be easier to focus on the few pages that I just  
10 made a copy of.

11 So the first point that we have a concern over  
12 is Item 3 on page 4, which would be the top page of the  
13 information that I submitted. And in that staff  
14 analysis, it states that "Reimbursement is not required  
15 for entering, tracking, balancing, and auditing every  
16 investment transaction." And I wanted to highlight the  
17 word "transaction" because I think the words here are  
18 very meaningful.

19 And it continues, it says, "Thus, the following  
20 activities are not reimbursable."

21 And this is bullet point 1, "Enter data into  
22 investment tracking system for every transaction."

23 We disagree that this activity should be  
24 disallowed, and we believe that perhaps staff confused  
25 the wording of "entering transactions" with "ascertaining



1 whether every transaction is in compliance with their  
2 investment policy," which is what your expert witness,  
3 Connie Jamison, noted and expressed in her 2001 report to  
4 the Commission.

5 And as evidence in support of our  
6 interpretation, I made copies of that report. And that's  
7 on the second and third pages of that document that I  
8 provided.

9 And if I could be allowed, I'd just like to  
10 read a quote from, first, the State Controller's  
11 instructions themselves. In the instructions, it clearly  
12 states that "An eligible activity is to accumulate,  
13 compile data necessary to prepare the quarterly reports  
14 of investment as required in the Government Code section  
15 53646."

16 And within this staff analysis, we just wanted  
17 to note that staff has repeatedly relied upon this report  
18 that Connie Jamison prepared for staff. And, again, I'm  
19 just reading from her report directly. And in that  
20 little -- I kind of bracketed over that area -- it says,  
21 at the top of the page, "LA County should be reimbursed  
22 for the costs of the following investment-related  
23 activities because these are also necessary to produce  
24 quarterly investment reports."

25 Bullet point 1, "Input all investment

1 activities into ADS, the investment-tracking software.”

2 Bullet point 2, “Running required reports from  
3 ADS.”

4 Bullet point 3, “Reconciling the reports  
5 generated by ADS.”

6 And then finally, “Compiling data as necessary  
7 to produce the investment reports for the Board of  
8 Supervisors.”

9 And then on page 4 of that report, she  
10 continues, because the State Controller’s staff had a  
11 debate on that point; and she clarified again -- and I  
12 read the quotation again, that “Controller’s staff  
13 reduced or eliminated the County’s claims for  
14 reimbursement based on their assertion that daily input  
15 was not a mandated requirement.”

16 “This misses the point. All investment  
17 transactions must be entered into the software system in  
18 order to produce timely and accurate investment reports  
19 as required under section 53646. Whether these  
20 investment transactions are entered daily, once a week or  
21 once a month, should not be the issue. Less frequent  
22 input of transactions would not require any more staff  
23 time or costs. All transactions must be input regardless  
24 of when the agency chooses to do so. In fact, it would  
25 be imprudent for an agency with a portfolio as large as

1 that of Los Angeles County to skip more than one or two  
2 days of entering such data because they would be unable  
3 to accurately determine their cash position each day.”

4 In the final staff analysis, they use the  
5 following quotation on page 28 to support their  
6 conclusion. And her discussion here, however, refers to,  
7 if you look closely to statement of compliance and not  
8 entering of the investment data or transactions.

9 The quote that staff uses to support their  
10 position is on page 3. And I have that highlighted, too,  
11 where it says, “Staff evidences,” just at the bottom of  
12 the page.

13 “The County should be reimbursed for the costs  
14 of ascertaining whether their portfolio is in compliance  
15 with its investment policy which the treasurer is  
16 required to affirm under section 53646. I do not  
17 believe, however, that they should be reimbursed for the  
18 costs of ascertaining whether every transaction is in  
19 compliance with their policy.”

20 And I think that’s the critical difference.  
21 It’s not entering every transaction, but reviewing  
22 whether every transaction is in compliance with the  
23 state’s -- or within the policy requirements.

24 And I submit that these are two completely  
25 different activities and that staff is misapplying the

1 testimony erroneously. They are using the statement  
2 regarding "compliance of every transaction" with "entry  
3 of every transaction," and these two are not the same  
4 activity.

5 It's our opinion that recording each investment  
6 transaction is exactly what is meant by "accumulating and  
7 compiling data." Mathematically and logically, you  
8 cannot have a complete picture if you don't have all of  
9 the variables entered.

10 In our claims, we requested an average of ten  
11 hours per month of staff time to compile quarterly  
12 reports. This translates into, roughly, \$5,000 per year  
13 of staff salary and benefit costs. We don't believe this  
14 is excessive or unreasonable.

15 By disallowing the costs of entering all  
16 investment transactions, such as when you purchase, sell  
17 an investment, record interest, the report becomes a  
18 meaningless, potentially inaccurate document.

19 We do not believe that this was the intent of  
20 the legislation. The treasurer of each jurisdiction must  
21 certify the accuracy of the investment report and the  
22 data it contains, and provide this to his or her  
23 governing body. Entering all data is critical to  
24 providing an accurate document.

25 We would request that the Commission allow

1 agencies to include the cost of this data accumulation  
2 and compilation, and is specifically included in the  
3 claiming instructions, as well as it acknowledged as a  
4 reasonable activity by your expert witness.

5 I have one other issue, but I don't know if you  
6 want to discuss this one first or continue.

7 CHAIR BRYANT: Just go ahead and just get them  
8 all on the table.

9 MS. CHINN: All right.

10 The second issue is the bullet point in that  
11 same number 3, 2 through 6. So staff also denied the  
12 following activities related to the use of subsidiary  
13 reports or ledgers, and all those activities pertained to  
14 balancing ledgers, accumulating investment data, entering  
15 information, et cetera, reviewing.

16 And I just want to point out that the City of  
17 Tustin is a relatively small city. It's not at all  
18 similar to L.A. County. Their system apparently uses a  
19 proprietary software system, this ADS, where they enter  
20 all of their data into a software package. Tustin does  
21 not have that. They do something more simple, probably  
22 like we do at home. They just have an Excel spreadsheet,  
23 and they track their investments on that spreadsheet.

24 So when we referred to entering data into our  
25 subsidiary ledgers, basically we're just saying, we're

1 entering it into our spreadsheet. So that, in fact, is  
2 their investment report.

3 So by denying subsidiary ledgers, you're  
4 denying the whole investment report, which doesn't seem  
5 to be logical. Maybe we need to change terminology or  
6 something to clarify that.

7 Within the Commission staff's own analysis, on  
8 page 27 of the final staff analysis, paragraph 2, the  
9 final sentence states, "However, staff concludes that if  
10 'subsidiary ledgers' are necessary to 'accumulate and  
11 compile data necessary to prepare the quarterly report of  
12 investments,' under section" -- blah, blah, blah - "it is  
13 reimbursable."

14 We believe the staff analysis should be  
15 modified to indicate that subsidiary ledgers are  
16 reimbursable. We just basically request that these two  
17 wording changes be made to clarify the eligible  
18 activities. And that ends our request.

19 And we thank you for the opportunity.

20 CHAIR BRYANT: Thank you.

21 Did you have anything to add, Mr. Burdick?

22 MR. BURDICK: Yes. Madam Chair and Members,  
23 first, I want to thank you very much for recognizing  
24 then-County Supervisor -- Sacramento County Supervisor  
25 Dave Cox, who was a wonderful member.

**Commission on State Mandates – July 29, 2010**

1 I'd just probably want to add that Supervisor  
2 Cox probably would not insist that Paula start the  
3 meeting before a fellow local elected official arrived.  
4 Whether or not you're going to wait for one of the State  
5 agency people from Sacramento to show up on time or not  
6 is another issue.

7 CHAIR BRYANT: Excellent point.

8 MR. BURDICK: But we have a wonderful  
9 relationship between our locally elected members.

10 Yes, I'm just basically here because I went  
11 through this process, and I know we were -- CSAC was at  
12 that time, and the League, were very appreciative of the  
13 fact that the Commission staff actually went out and  
14 retained an expert to assist us in going through and  
15 defining what is eligible and what is not eligible. And  
16 that was Connie Jamison was the expert who prepared the  
17 report and we went through that. And I thought at that  
18 time we did have agreement that those were eligible and  
19 reimbursable activities that she had presented.

20 The history of this very quickly is, as you  
21 know, a large number of cities and counties had filed  
22 this. Los Angeles County was one of those. And because  
23 they had the most complicated claim and experts, it was  
24 the request of the Executive Director to hear that claim  
25 first, even though it wasn't the first one filed, because

1 it had the issues. And so we heard that claim and we  
2 thought, you know, that we had argued and presented those  
3 issues. And then, now subsequently, several years later,  
4 we're back, revisiting this issue, and we find that they  
5 aren't. So we're here basically in support of, I think,  
6 a very clear outline of the tasks presented by Ms. Chinn;  
7 and if there are any questions or things that I could  
8 provide.

9 I think this is important because I know there  
10 are a number of cities. I know Mr. Glaab was here  
11 because of the number of cities that are involved. Also,  
12 there's a number of counties as well out there who are  
13 waiting to have their incorrect reduction claims heard.

14 Thank you very much.

15 CHAIR BRYANT: Okay. Mr. Silva?

16 MR. SILVA: Thank you, Chairman.

17 The Controller's office supports the staff  
18 analysis and the conclusions contained therein. Although  
19 they raise some evidence from an expert, there were more  
20 than one expert present and testifying during these  
21 processes and hearings many years ago.

22 We retained Dr. Tootelian who was, if I recall  
23 correctly, was an expert in business and accounting. And  
24 his opinion was that a treasurer, in operating his  
25 office, was obligated to do a certain minimum level of



1 accounting whether or not there was in existence a  
2 reporting requirement.

3 And so the question, as in all mandates, is not  
4 what they have to do, but what is new beyond what they  
5 had to do before the law in question was enacted.

6 And our position then, and supported by  
7 Dr. Tootelian, was that a treasurer's office cannot  
8 simply avoid entering transactions into their ledgers to  
9 maintain their books. That would just be beyond ordinary  
10 business care and prudence. How could you manage such a  
11 large amount of money and safeguard the public's funds  
12 without at least doing a basic accounting?

13 So I think the Commission staff had before them  
14 not simply Dr. Jamison's testimony, but testimony from  
15 Dr. Tootelian and a lot of other individuals who came  
16 forward. So we would agree with the staff that their  
17 analysis is correct and that the language used is proper;  
18 and would urge the Commission to adopt.

19 CHAIR BRYANT: Ms. Carla Shelton?

20 CARLA SHELTON: Finance has no concerns with  
21 the Commission staff's recommendations.

22 CHAIR BRYANT: Did you want to respond,  
23 Ms. Chinn?

24 MS. CHINN: Well, I guess I just look at it  
25 from a logical perspective. I mean, let's say you buy a

1 CD a day after the quarter has concluded and then you  
2 sell it two months later. So you're saying, under your  
3 scenario, we don't enter that at all. So there's money  
4 coming in and out. But your total -- you're saying that  
5 transaction doesn't need to be entered, so the total  
6 amount isn't going to balance your total investment  
7 portfolio.

8 So to me, from a logical point of view, like,  
9 if you're accumulating your own investment portfolios at  
10 home, you don't say, "Well, I don't care about the ones  
11 that don't appear on this quarter so I'm not going to  
12 bother inputting those." It just makes no logical sense.

13 And as a consultant, when I go out to my  
14 clients and I'm trying to explain to them what's eligible  
15 for reimbursement, how do you tell a person that, "Oh,  
16 well, track your time for this entry. Oh, but don't  
17 track your time for this entry. This entry. That  
18 entry." I mean, it doesn't make logical sense.

19 MR. BURDICK: If I could just make one quick  
20 comment, too.

21 I think this issue -- this was a key issue that  
22 the Controller raised. You know, we had this during the  
23 discussions that we had, is that the Commission held open  
24 discussions with their consultant. And the issue really  
25 gets back to, you know, what are the kinds of things that

1 you, as a financial person for a city or county, if there  
2 are very difficult times or if your City Council, your  
3 Board of Supervisors said to you, "We only want you to do  
4 the absolute minimum because of the staff's work we have,  
5 not necessarily the practices that you think are best,"  
6 because I think there are a lot of things people would  
7 like to do, but may not go back and say, you know, "What  
8 are you mandated to do?"

9 And I think that's kind of the issue that gets  
10 back where we disagree with the State Controller's  
11 question is, obviously, that is a good practice, it's  
12 something you'd like to do. But the question is, is that  
13 something that you have to do and you could not stop  
14 doing?" Because if you can stop doing it, then  
15 obviously -- then it should be a reimbursable mandate if  
16 you're then required to do something that you can no  
17 longer stop doing.

18 MS. CHINN: And the instructions clearly  
19 state "accumulate and compile data necessary to complete  
20 your investment report." And that -- I mean, you have to  
21 put all of your data into your investment report. You  
22 can't put pieces of it. Then the numbers don't match.  
23 It doesn't makes sense.

24 CHAIR BRYANT: I'd like to ask, Camille, if you  
25 could respond to some of the comments made.

**Commission on State Mandates – July 29, 2010**

1 CAMILLE SHELTON: Sure. A lot of my comments  
2 are going to be based upon the analysis beginning on  
3 page 26 of the final staff analysis. And, you know,  
4 basically the Commission's dealt with these issues  
5 several times before and has come to the same basic  
6 conclusion.

7 The mandate required is a quarterly report of  
8 investment transactions that are held at the end of the  
9 quarter.

10 The test-claim statute clearly did not require  
11 an implementation of their investment policies on a  
12 quarterly basis. In fact, the test-claim statute, when  
13 you compare it to the old statute that was the original  
14 one enacted in '84, required a detailed monthly report of  
15 transactions. And the one that was enacted -- the  
16 statute enacted in 1995 just required a quarterly report  
17 of transactions held at the end of a quarter.

18 When the Commission originally adopted the  
19 parameters and guidelines, the claimant at that time,  
20 which I believe was the County of Los Angeles, did  
21 request reimbursement to prepare and to handle the  
22 subsidiary ledger of investments and to input all  
23 transactions at various times. And the Commission denied  
24 that.

25 Here is a quote on page 27. It said that that

1 is not a reimbursable or not a mandated activity, but you  
2 could use a subsidiary report if it's necessary to gather  
3 enough information for your quarterly report.

4 MS. CHINN: Excuse me, Camille, where are you  
5 reading?

6 CAMILLE SHELTON: On the top of page 27, the  
7 second paragraph, "The Commission denied these activities  
8 and adopted the following finding." At the top.

9 MS. CHINN: But then it says, "However, staff  
10 concludes that if it's necessary, then it is eligible."

11 CAMILLE SHELTON: Except that also the  
12 Commission adopted a clarification of these P's & G's in  
13 2003, and clearly found that inputting every transaction  
14 during the quarter was not reimbursable. That was a  
15 clarifying amendment.

16 The only thing -- in fact, if you go to  
17 page 29, "The only activities that are reimbursable, for  
18 each investment that is held on the last day of the  
19 quarter, there is reimbursement for the one-time data  
20 entry into investment reporting application or software."

21 So if those investments are held at the end of  
22 the quarter, those investments, that the reimbursement is  
23 allowed to input the data on that particular investment.  
24 If it's not held at the end of the quarter, reimbursement  
25 is not allowable. And the Commission's already made

1 those decisions.

2 So this recommendation is consistent with prior  
3 Commission decisions made on this program.

4 CHAIR BRYANT: Are there any questions or  
5 comments from -- Mr. Glaab?

6 MEMBER GLAAB: Yes, thank you, Madam Chair and  
7 Members.

8 A couple things resonate with me on this  
9 particular item. Number one is, I understand that you  
10 must input every transaction so that you have accurate  
11 information.

12 Is that -- do I understand that correctly?

13 MS. CHINN: Correct.

14 MEMBER GLAAB: But then the Commission is  
15 basically saying that only some of them are eligible for  
16 reimbursement.

17 Is that also correct?

18 MS. CHINN: It appears so.

19 CAMILLE SHELTON: Well, there are two separate  
20 activities. I mean, look at pages 29 and 30. One  
21 activity is to -- for purposes of reporting the type of  
22 investment and issuer, the date of maturity and the par  
23 and dollar amount invested at the end of the quarter,  
24 reimbursement is allowed for the one-time data entry of  
25 those investments held at the end of the quarter.

1           And you turn the page, and "b.," you have to  
2           also compile cash-flow information to provide a statement  
3           to the agency on the ability of the agency to meet their  
4           expenditures.

5           So that's a different -- whatever you have to  
6           do to come up with that cash-flow statement, and whether  
7           you have enough money to meet your expenditures is sort  
8           of a different issue.

9           MS. CHINN: Well, then it would be includable  
10          under that component because you have to record all of  
11          your investment transactions to know how much cash you  
12          have.

13          CAMILLE SHELTON: And that's possible. But I  
14          couldn't tell based on the way the reimbursement claims  
15          were filed what was being claimed.

16          MR. BURDICK: If I could make a quick comment,  
17          and that is that what Ms. Shelton is referring to is the  
18          clarification or amendment to the parameters and  
19          guidelines. I think those were proposed either by the  
20          Controller or by the Commission staff after our hearings  
21          and meetings and initial hearing on this, and the report  
22          from their expert went back and did that. And I think  
23          that it would seem like the controlling P's & G's are  
24          still the original ones under which the claims were  
25          filed.

**Commission on State Mandates – July 29, 2010**

1           And I know the Commission has very often taken  
2           the position, and maybe always, that the later P's & G's  
3           should supersede those, I believe. But it seems to me  
4           that the P's & G's are in place and the statement of  
5           decision which Ms. Chinn referred to should be the ones  
6           that should be used in making a determination as to the  
7           eligibility of these costs.

8           CAMILLE SHELTON: May I respond to that?

9           CHAIR BRYANT: Please.

10          CAMILLE SHELTON: That would certainly be true  
11          if, when the Commission added the P's & G's, they added  
12          new activities or deleted activities from the parameters  
13          and guidelines. The 2003 amendment were clarifying  
14          amendments. The intent of the amendment was to clarify  
15          what the original P's & G's were supposed to allow  
16          reimbursement for.

17          Under the law, every time a statute or a  
18          regulation or any document by law which the Commission's  
19          P's & G's are governed by are amended, if it's simply for  
20          purposes of clarifying that it is to show what the  
21          original document was intended to do, and you can apply  
22          the subsequent amendment to the original version.

23          CHAIR BRYANT: Any other questions or comments?

24          MEMBER WORTHLEY: Just a point of  
25          clarification, if I understand what you're saying. If



1 they're entering every piece of data, we're saying that's  
2 not reimbursable; but if they have to enter the data,  
3 that's for the final day of the quarter, that would be  
4 reimbursable.

5 Is that what you were saying?

6 CAMILLE SHELTON: It depends on what is going  
7 on in that particular jurisdiction.

8 If, at the beginning of the month, if they have  
9 a transaction, and that investment is still held at the  
10 end of the quarter, you get reimbursed for entering that  
11 transaction into whatever software or Excel spreadsheet.  
12 But clearly -- but you're not getting reimbursed for that  
13 particular activity if you had an investment transaction  
14 at the beginning and then it sold and it's not held at  
15 the end of the quarter.

16 And it's based on actually information and  
17 expert testimony from Ms. Jamison that we have on  
18 page 28. She also said, "I do not believe that they  
19 should be reimbursed for the cost of ascertaining whether  
20 every transaction is in compliance with their policy."

21 MS. CHINN: Yes, exactly, in compliance with  
22 the policy. I agree with that, that you don't have to  
23 go through and, you know, justify whether every  
24 investment --

25 MEMBER WORTHLEY: The investment analysis that

1 you would be doing.

2 MS. CHINN: Yes, it's the analysis.

3 MEMBER WORTHLEY: Just entering data is what  
4 you're talking about.

5 MS. CHINN: But, yes, I'm just saying, data  
6 entry, it's just a logical part of this process, of  
7 accumulating and compiling data. And there's no way of  
8 getting it --

9 MEMBER WORTHLEY: Well, I was going to say, it  
10 seems to me like it actually creates more work to say  
11 that you're going to go back and analyze all this data  
12 that we entered -- okay, so, I mean, from a practical  
13 standpoint, I don't know if these smaller counties or  
14 cities are out there transacting daily, kind of  
15 transactions. So in other words, when you purchase  
16 something, yes, it might be sold within that quarter, but  
17 the chances are very good that it would not be sold  
18 within that quarter. So you're going to have to go back  
19 and then ascertain through all of your transactions,  
20 which ones have you held to the end, which ones have you  
21 sold, and then separate out those two.

22 That doesn't make sense to me. I mean, you  
23 know, you're buying -- these are the kind of  
24 transactions, investment-type things that are normally  
25 held for periods of time. I mean, LIBOR-type might be

1 an exception. But usually when you're purchasing  
2 something that's for a period of time that would extend  
3 beyond the quarter, to have to go back and then  
4 distinguish between those two is an additional burden,  
5 it seems to me, on the city or the county that do that,  
6 and to what end? Because, I mean, data entry -- like I  
7 said, it's not that expensive. They're not charging that  
8 much to say, "This is what it costs us to enter the  
9 information." It's a nominal amount.

10 And to go back and try to distinguish it, that  
11 actually would raise that -- make that cost far greater,  
12 probably, to go back and to say, "Okay, this part would  
13 qualify, this one doesn't qualify." I don't think that  
14 makes a lot of sense.

15 CAMILLE SHELTON: Well, and those are good  
16 points. I think this is jurisdictional, though.

17 The Commission adopted amendments to  
18 parameters and guidelines specifically finding that the  
19 following activities are not reimbursable --- and it's on  
20 page 28:

21 The duplicate entry of investment transaction  
22 into custodian bank records or other databases.

23 Producing and presenting reports of  
24 transactions related to securities not held at the end of  
25 the quarter.

**Commission on State Mandates – July 29, 2010**

1           Determining if investment transactions related  
2 to securities not held at the end of the quarter comply  
3 with the investment policy.

4           Those activities are not reimbursable. And  
5 what is reimbursable is just what the Commission adopted,  
6 was for each investment that is held on the last day of  
7 the quarter, you have reimbursement for the one-time data  
8 entry of that particular investment.

9           MS. CHINN: Well, I agree with those points,  
10 A, B, and C. And we're not asking for any of those.

11           CAMILLE SHELTON: But it sounds like you're  
12 asking for inputting of investment transactions that are  
13 not held at the end of the quarter, right?

14           MS. CHINN: I'm just asking for the input of  
15 all investment transactions as a logical person would do  
16 in a logical situation.

17           CAMILLE SHELTON: And that might be true.

18           To come to that finding, you're going to have  
19 to find that the amendments to the P's & G's in 2003 were  
20 not clarifying, that they were a change in the program.

21           CHAIR BRYANT: Mr. Glaab?

22           MEMBER GLAAB: Yes, thank you, Madam Chair, and  
23 Members. Just a couple comments with regards to the  
24 language, some clarifying language.

25           I think it's important that if, in fact, the

1 language needs to be tweaked a little bit so the  
2 interpretation is what we want to arrive at, I think we  
3 should probably entertain that at some point.

4 The other comment that I have is that I think  
5 that all the information, if it's being entered into,  
6 should be encouraged because transparency in government  
7 work is very important, especially as it pertains to  
8 investments.

9 My question, Ms. Chinn: The reductions that  
10 are listed on page 1 of the staff report, are fairly  
11 significant.

12 Is it your position that the original amounts  
13 are justified, or are you suggesting that --

14 MS. CHINN: No, no, we're not contesting those  
15 reductions. Much of that was in specific training, which  
16 we agree exceeded the requirements of the statute. So  
17 those reductions we are not questioning.

18 As I said, it's only \$5,000. It's a very minor  
19 amount of time that we're claiming for this activity.  
20 It's more the principle of the matter. And I know when  
21 we go to meet with the State Controller's office and now  
22 we have to iron out these details as, you know,  
23 Commission Worthley mentioned, we have to go through now  
24 and figure out, "Well, how do you extract those little  
25 pieces of data that maybe didn't come in at the end of

1 the quarter?"

2 And like he said, it's just more trouble than  
3 it's worth, and it doesn't seem to flow with the logic of  
4 the intent of the claim.

5 MEMBER GLAAB: So I understand that what you're  
6 asking for is about \$5,000?

7 MS. CHINN: That's all.

8 MEMBER GLAAB: Thank you.

9 MR. BURDICK: Can I just comment that this law  
10 has been repealed, so it's no longer in place so it does  
11 no longer apply. These are claims -- these are the only  
12 ones. They're not going to be any more. They're going  
13 back all the way to, what is it, '97-98?

14 MS. CHINN: '98-99.

15 MR. BURDICK: '98-99. They're very old.  
16 They're over a decade old. The law is gone. It's all  
17 done. It's just the question now of going back and  
18 finally settling these.

19 And from our standpoint, I think from locals,  
20 we thought when we had the initial hearing on that and  
21 the report that was prepared for the expert for the State  
22 Controller, we were in agreement. And these were minor  
23 relative points relative to subsidiary ledgers, and the  
24 entering of the transactions seem to be the ones that now  
25 were changed by the then subsequent so-called clarifying

1 amendments by the Commission.

2 So it's a really small matter. I think the  
3 total dollar amount for all the counties under this, with  
4 the exception of LA, I'm not sure of the dollar amount,  
5 but there's about, I think, 18 counties that have them.  
6 I think there are, like, 40 or so cities. But the total  
7 County amount is less than \$40,000. We're talking about  
8 a relatively small amount.

9 CHAIR BRYANT: I appreciate what you're saying  
10 about the size of the claim in front of us right now, but  
11 I don't think that's what we're deciding this based on.  
12 I think we have a precedential Commission decision. And  
13 it's pretty clear when you read that, I get -- great  
14 presentation, and I appreciate your appeal for logic.  
15 But a lot of things in mandates isn't that logical.

16 But what is, to me, is when we have a clear,  
17 you know, P's & G's claiming, you know, we have it here,  
18 what it is --

19 MS. CHINN: I don't see that. I guess I don't  
20 see that it's so clear. The only thing --

21 CHAIR BRYANT: It says, "The one-time data  
22 entry in the investment reporting system for investments  
23 held on the last day of each quarter."

24 I mean -- it's on page 29.

25 MS. CHINN: I mean, isn't that what staff is

**Commission on State Mandates – July 29, 2010**

1 proposing? Are you just reading what their proposal is,  
2 or...

3 CHAIR BRYANT: No. I mean, this was in our --  
4 right, is that from --

5 CAMILLE SHELTON: What page are you reading  
6 from?

7 CHAIR BRYANT: I was reading from page 29.

8 CAMILLE SHELTON: Yes, those were the  
9 parameters and guidelines adopted by the Commission in  
10 2003.

11 MS. HIGASHI: Those are not the original  
12 P's & G's. Those are the amended P's & G's --

13 CHAIR BRYANT: The ones that were clarified in  
14 2003.

15 MS. HIGASHI: -- that were clarified after,  
16 based on the State Controller's request, and the  
17 clarification had to be made before the Commission dealt  
18 with the L.A. County claim.

19 And a lot of what happened in these clarifying  
20 amendments was a description of what activities were not  
21 reimbursable based on what was in the decision, what was  
22 not in the decision, and what was not claimed in the  
23 original test-claim filing.

24 CHAIR BRYANT: Well, I mean, so is it your view  
25 then that 2003 were clarifying? Because I think if they



1 were clarifying, then we're stuck with them.

2 If they weren't clarifying -- I don't even know  
3 if we can revisit that here.

4 CAMILLE SHELTON: Well, you don't have  
5 jurisdiction to revisit those parameters and guidelines  
6 here, no. And there is no evidence to suggest that they  
7 were not clarifying.

8 I just have the record that's in Exhibit N  
9 which has the whole staff analysis to that.

10 The other thing I was going to mention also in  
11 Exhibit N is the Task Force on Local and State Investment  
12 Practices that was put together by the Governor at the  
13 time after the Orange County bankruptcy, I believe. And  
14 if you read the task force report, the whole idea was  
15 just to mandate a report: An annual policy investment  
16 and a quarterly report just to tell the board what is the  
17 state of our investments at the end of the quarter, so  
18 that they were on notice.

19 And it clearly provided, in a couple of places,  
20 that they were not mandating the implementation of the  
21 investments, of the treasurer's role of the investment  
22 policies.

23 And so certainly all of those activities about  
24 inputting every transaction, auditing -- all those issues  
25 are in every local investment policy, I would imagine.

**Commission on State Mandates – July 29, 2010**

1 But those items are not reimbursable. So that what is  
2 reimbursable is enough to just get the report before the  
3 board.

4 CHAIR BRYANT: Did you -- I thought I detected  
5 you --

6 MEMBER OLSEN: No.

7 CHAIR BRYANT: You're good?

8 MEMBER OLSEN: I actually got my question  
9 answered.

10 CHAIR BRYANT: Okay. Are there any other  
11 comments or a motion on this item?

12 MEMBER GLAAB: Just a quick question, Madam  
13 Chair.

14 This item before us includes only the City of  
15 Tustin and not the County of Los Angeles or any other  
16 counties?

17 CAMILLE SHELTON: The County of Los Angeles  
18 decision was issued last May.

19 MEMBER GLAAB: Okay.

20 CAMILLE SHELTON: The Commission already  
21 determined that in May. And it's, on this portion,  
22 consistent with this analysis.

23 MR. BURDICK: Now, you go back, more for the  
24 Controller, right?

25 CAMILLE SHELTON: Yes.

**Commission on State Mandates – July 29, 2010**

1 MEMBER CHIVARO: Are you waiting for a motion?  
2 CHAIR BRYANT: Yes, please.  
3 MEMBER CHIVARO: I'll move staff  
4 recommendation.  
5 CHAIR BRYANT: Is there a second?  
6 MEMBER LUJANO: Second.  
7 CHAIR BRYANT: We have a motion and a second  
8 for the staff recommendation.  
9 Do we need roll call?  
10 All those in favor?  
11 *(A chorus of "ayes" was heard.)*  
12 CHAIR BRYANT: Any opposed?  
13 MEMBER GLAAB: No.  
14 MEMBER WORTHLEY: No.  
15 CHAIR BRYANT: Mr. Glaab and Mr. Worthley are  
16 opposed.  
17 Any abstentions?  
18 *(No response)*  
19 CHAIR BRYANT: Okay, staff recommendation is  
20 approved.  
21 Item 4?  
22 MR. BURDICK: Thank you very much.  
23 MS. HIGASHI: Item 4 will be presented by  
24 Ms. Shelton, the proposed statement of decision.  
25 CAMILLE SHELTON: This is a statement of

**Commission on State Mandates – July 29, 2010**

1 decision on the *Investment Reports*, Item 3. The sole  
2 issue is whether the proposed statement of decision  
3 accurately reflects the decision made by the Commission.  
4 Staff recommends that you adopt the proposed statement of  
5 decision.

6 CHAIR BRYANT: Are there any questions or  
7 comments?

8 *(No response)*

9 CHAIR BRYANT: Is there a motion?

10 MEMBER CHIVARO: Move adoption.

11 MEMBER LUJANO: Second.

12 CHAIR BRYANT: A motion and a second.

13 All those in favor?

14 *(A chorus of "ayes" was heard.)*

15 CHAIR BRYANT: Those opposed?

16 *(No response)*

17 CHAIR BRYANT: Any abstentions?

18 *(No response)*

19 CHAIR BRYANT: Motion carries.

20 MS. HIGASHI: The next item for presentation is  
21 Item 11, the staff report on the recommendations from the  
22 BSA audit. Assistant Executive Director Nancy Patton  
23 will present this report.

24 MS. PATTON: This is our item where we update  
25 you on where we are on implementing the BSA report. And

1 so the only thing I have to add to the written report is  
2 that we will be submitting a BCP to the Department of  
3 Finance in September. And that's it.

4 MS. HIGASHI: Item 12, Legislative Update.

5 Ms. Patton?

6 MS. PATTON: On this one, we've reported that  
7 AB 2082 was held in Committee, but we're hearing  
8 rumblings out there about this language may be landing in  
9 a budget trailer bill somewhere. So this is the bill  
10 that would have transferred part of our IRC duties for  
11 school districts over to the EAA panel. So we will keep  
12 you posted on that.

13 MS. HIGASHI: Item 13 is the report on the  
14 trailer-bill language, on the working group proposal for  
15 the mandate redetermination process.

16 Well, we're at a point now where I think the  
17 final language has been drafted by Leg. Counsel. We have  
18 met with the working group, and we have submitted our  
19 last batch of amendments. We've not seen anything back  
20 again. So I think the whole thing is done. And we'll  
21 not be asking for any further input.

22 It's not a conference issue because the trailer  
23 bill was already -- trailer-bill language was already  
24 approved as placeholder language.

25 So once we have a budget, it's quite likely we

**Commission on State Mandates – July 29, 2010**

1 will have this new process. And if that's the case, then  
2 we would go through the normal procedures that we would  
3 whenever there's new legislation, we would have a very  
4 short period of time to determine if a BCP would need to  
5 be drafted. And we'll be talking to potential requesters  
6 to find out. And if so, then we would be submitting  
7 another BCP on this issue.

8 CHAIR BRYANT: Okay, thank you.

9 MS. HIGASHI: Item 14.

10 CAMILLE SHELTON: We have three new filings,  
11 actually. One that was filed and served before the  
12 agenda went out, and that's listed here as the *County of*  
13 *Santa Clara vs. the Commission on State Mandates and*  
14 *State Controller's Office*. That case deals with an  
15 incorrect reduction claim on the *Handicapped and Disabled*  
16 *Students* program.

17 The next two were filed just this last week.  
18 And the first one is the *Department of Finance, State*  
19 *Water Resources Control Board, and the L.A. County*  
20 *Regional Water Quality Control Board vs. the Commission*  
21 and also versus the County of Los Angeles and all the  
22 cities in Los Angeles, dealing with the water-board  
23 permit that was at issue and the Commission's adoption  
24 and approval of that program.

25 The third case is very similar. It's dealing

1 with the San Diego water permit and the decision made on  
2 that for the County of San Diego and the cities of  
3 San Diego in that case.

4 And both those cases are pending in Sacramento  
5 Superior Court.

6 Other cases of interest to note is the *Clovis*  
7 case, which is dealing with a challenge to the  
8 Controller's reduction based on contemporaneous source  
9 documents. That case is set to be heard on August 17<sup>th</sup>  
10 before the Third District Court of Appeal. So we'll  
11 maybe have a decision on that to report back in  
12 September.

13 And that's all I've got.

14 CHAIR BRYANT: Okay.

15 MS. HIGASHI: Item 15, the pending workload.

16 You might want to take note that our test-claim  
17 filings have increased as well as our incorrect reduction  
18 claims. You may have noticed it from the notice and  
19 agenda when we issued it that there were new filings  
20 identified.

21 As far as budget, I think we all know the story  
22 on the budget. There's nothing new to report.

23 There is at least one outstanding mandate issue  
24 that we're aware of, and that's concerning the  
25 *Handicapped and Disabled Students* program, which is known

**Commission on State Mandates – July 29, 2010**

1 as AB 3632. I believe that's still an open item.

2 And the conference committee did adopt what is  
3 described as the LAO proposal concerning the Open  
4 Meetings Act and Brown Act Reform. And that statute will  
5 be redrafted in such a way that it's believed that it  
6 will no longer be a reimbursable state-mandated program,  
7 but it will be tied into implementation of an initiative.

8 MEMBER WORTHLEY: I'm sorry, what was the last  
9 point you said, Paula? Tied to what?

10 MS. HIGASHI: Tied to implementation of the  
11 initiative, the open-government initiative.

12 What was it called?

13 CAMILLE SHELTON: Prop. 59.

14 MS. HIGASHI: Prop. 59.

15 So that would be a substantial change in terms  
16 of the dollar amount that had been budgeted for Open  
17 Meetings Act.

18 In terms of new practices, we continue to do  
19 more in the way of electronic record-keeping within the  
20 Commission in terms of setting up logs for incoming and  
21 outgoing mail, and where we're much more proactive in  
22 terms of using PDF documents and whatnot, which makes it  
23 simpler for all of us.

24 Hopefully, this will all build -- I should say,  
25 will all culminate once the Commission's rulemaking



1 package is adopted and actually implemented, where we'll  
2 be in a system where there will be much more e-filing and  
3 e-distribution of documents.

4 In terms of our next meetings and agendas,  
5 everything that we're working on right now is very  
6 complex and difficult. And so what I'm recommending --  
7 and I'm talking lots of pages -- so I'm recommending  
8 that we schedule the October hearing, we keep the  
9 September hearing on calendar, and look to the  
10 December meeting as well, as staying on calendar.

11 And there's a long list of what we are  
12 contemplating for those agendas.

13 Are there any questions?

14 MEMBER WORTHLEY: You know, just something I  
15 was thinking about in terms of like this last time, where  
16 you used a box to send us this agenda. And given the  
17 amount of paper, if it hadn't been in this type of a  
18 folder, it could have just been slipped into an envelope  
19 and sent to us. It's not a big deal, but I mean, it  
20 could have saved us a few dollars, I think -- I mean,  
21 looking at opportunities like that. I mean, there's  
22 really no purpose in my mind to have to send this large  
23 binder.

24 MS. HIGASHI: I'm sure our staff would be very  
25 happy not to have to put the materials in a binder if all

**Commission on State Mandates – July 29, 2010**

1 three of you who have documents shipped don't need the  
2 binders.

3 MEMBER WORTHLEY: If they want to punch the  
4 holes, we could stick them in when we get here. That's  
5 fine, too.

6 MS. HIGASHI: Okay, that will be implemented.  
7 And I can see at least one happy face in the  
8 back.

9 MEMBER GLAAB: Yes, thank you, Madam Chair and  
10 Members, I wanted to clarify with staff. We do have  
11 members for September and October at this point as well  
12 as December; is that correct?

13 MS. HIGASHI: Yes.

14 MEMBER GLAAB: Okay, very good.

15 And I wanted to thank my fellow commissioners,  
16 and certainly staff and the audience for indulging me  
17 being late. The circumstances are a little different.

18 We had a three-month old airplane, it was  
19 brand-new, but they had to replace the two nose-gear  
20 wheels. And they didn't allow us to move around the  
21 airplane because of the balance and the safety of the  
22 mechanic working on it so I was literally held hostage.

23 I was in communication with Ms. Patton; and she says,  
24 "Hey, if you can't make it, you can't make it, and go  
25 ahead and get off the airplane." And so I started to do

**Commission on State Mandates – July 29, 2010**

1 that. And I was told, "Be seated."

2 And so here I am. So, once again, I want to  
3 thank everybody.

4 MS. PATTON: And don't listen to me if it's  
5 going to cause you to get arrested.

6 CHAIR BRYANT: Is there any public comment?  
7 Any item not on the agenda?

8 MR. BURDICK: Madam Chair, Members of the  
9 Commission, just one thing as reported. I think it may  
10 get in the budget process, the proposal to suspend the  
11 mandate reimbursement process. And I was wondering  
12 whether or not that might be something that you should  
13 have your counsel or other people to look at and report  
14 on at the next meeting. If this whole process has begun,  
15 you know, what effect does this have on the Commission  
16 process if they pass a budget and do, in fact, suspend  
17 the mandate-reimbursement process.

18 So it's -- I'm not sure of the legal  
19 ramifications of that, other than the fact that that is  
20 being proposed. And I'm assuming that by the end of  
21 September, we will have a budget. I think that's a  
22 50-50 chance, anyway.

23 And I was just wondering whether --

24 CHAIR BRYANT: That good?

25 MR. BURDICK: -- if that is something that we

1 could find out what kind of implications that may have on  
2 this particular process.

3 CHAIR BRYANT: I think we can do that.

4 CAMILLE SHELTON: Can I just maybe make a  
5 couple of comments on that? It's a little bit awkward.

6 When the Legislature suspends a program, it  
7 becomes voluntary for that fiscal year. The Commission  
8 has no authority to say one way or the other whether that  
9 suspension is valid. That would be a constitutional  
10 argument that would have to be taken before the Court.

11 MS. HIGASHI: However, from a practical  
12 perspective, what it could do is potentially we could  
13 have items scheduled for the agenda, and staff at the  
14 local level may not have the time budgeted to actually  
15 file comments and respond or a budget to fly up to  
16 Sacramento for a hearing. So if those issues were to  
17 come up, on a case-by-case basis, what we would probably  
18 do then is grant postponements of those items or  
19 extensions of time for filing comments based on good  
20 cause.

21 CHAIR BRYANT: Okay.

22 MR. BURDICK: And I think it raises two issues:  
23 One, existing claims and workload before the Commission;  
24 and then the second one is, you know, what are the rights  
25 of a local agency, as an example, after that. Do they

1 need to go through the administrative process or can they  
2 go directly to court? And so it needs clarification.

3 I think you are going to get assistance in  
4 getting the courts to clarify that if this does happen.  
5 But I just thought this is something that raises a  
6 variety of questions relative to the Commission process.

7 CAMILLE SHELTON: To clarify, the Commission  
8 doesn't have jurisdiction to review that type of an  
9 argument.

10 The Commission's jurisdiction on that program  
11 is over. Unless somebody wants to amend P's & G's or  
12 files an incorrect reduction claim, there's nothing the  
13 Commission can do. There's no jurisdiction.

14 MS. HIGASHI: And if a mandate suspension  
15 occurs, remember what is being suspended are the  
16 activities that are identified as being reimbursable.  
17 So it raises the question, certainly, as to their duty,  
18 whether they have a duty, claimants have a duty to  
19 participate.

20 CHAIR BRYANT: But I still think we can have  
21 a report on it. And then at our next meeting, we'll  
22 kind of, just to let us know what the status is of  
23 everything --

24 MS. HIGASHI: We can do that.

25 CHAIR BRYANT: -- as opposed to weighing in on

**Commission on State Mandates – July 29, 2010**

1 the legal -- we may not be able to answer the legal  
2 questions, but...

3 MR. BURDICK: Thank you very much.

4 CHAIR BRYANT: Thank you.

5 Any other public comment?

6 *(No response)*

7 CHAIR BRYANT: All right, then the Commission  
8 will meet in closed executive session pursuant to  
9 Government Code section 11126, subdivision (e): to  
10 confer with and receive advice from legal counsel, for  
11 consideration and action, as necessary and appropriate,  
12 upon the pending litigation listed on the published  
13 notice and agenda; to confer with and receive advice  
14 from legal counsel for consideration and action, as  
15 necessary and appropriate, on Department of *Finance*,  
16 *State Water Resources Control Board and California*  
17 *Regional Water Quality Control Board, the Los Angeles*  
18 *Region vs. Commission on State Mandates and County of*  
19 *Los Angeles, et al.*, Sacramento County Superior Court  
20 Case No. 34-2010-8000605, filed on July 20<sup>th</sup>, 2010, and  
21 served on July 23<sup>rd</sup>, 2010. Pursuant to Government Code  
22 section 11126.3, subdivision (d) --

23 Hey, can you guys please keep it down back  
24 there? The court reporter can't hear, and I can't think.

25 Thank you.

**Commission on State Mandates – July 29, 2010**

1           -- to confer with and receive advice from legal  
2           counsel for consideration and action, as necessary and  
3           appropriate, on *Department of Finance, State Water*  
4           *Resources Control Board, and California Regional Water*  
5           *Quality Control Board, San Diego Region vs. Commission on*  
6           *State Mandates et al.*, Sacramento County Superior Court  
7           Case No. 34-2010-80000604, filed July 20<sup>th</sup>, 2010,  
8           pursuant to Government Code section 11126.3(d); and to  
9           confer with and receive advice from legal counsel  
10          regarding potential litigation.

11           The Commission will also confer on personnel  
12          matters and a report from the personnel subcommittee  
13          pursuant to sections 11126, subdivision (a).

14           We will reconvene in open session in  
15          approximately 30 minutes.

16           MS. HIGASHI: Or longer.

17           CHAIR BRYANT: Or longer.

18           *(The Commission met in closed executive*  
19           *session from 11:46 a.m. to 12:34 p.m.)*

20           CHAIR BRYANT: The Commission met in closed  
21          session pursuant to Government Code section 11126,  
22          subdivision (e): to confer with and receive advice from  
23          legal counsel and for consideration and action, as  
24          necessary and appropriate, upon the pending litigation  
25          listed on the published notice and agenda; to confer with

**Commission on State Mandates – July 29, 2010**

1 and receive advice from legal counsel for consideration  
2 and action, as necessary and appropriate, on the  
3 *Department of Finance, the State Water Resources Control*  
4 *Board and the California Regional Water Control Board,*  
5 *Los Angeles Region vs. Commission on State Mandates and*  
6 *County of Los Angeles, et al.,* Sacramento County Superior  
7 Court case number 34-2010-80000605 filed July 20<sup>th</sup>, 2010,  
8 and served on July 23<sup>rd</sup>, 2010, pursuant to Government  
9 Code section 11126.3, subdivision (d); to confer with  
10 and receive advice from legal counsel for consideration  
11 and action, as necessary and appropriate, on the  
12 *Department of Finance State Water Resources Control*  
13 *Board and California Regional Water Quality Control*  
14 *Board San Diego Region, vs. Commission on State*  
15 *Mandates et al.,* Sacramento County Superior Court Case  
16 No. 34-2010-80000604, filed July 20, 2010; pursuant to  
17 Government Code section 11126.3, subdivision (d); and to  
18 can receive confer with and receive advice from legal  
19 counsel regarding potential litigation.

20 The Commission also met in closed-session  
21 pursuant to Government Code section 11126, subdivision  
22 (a)(1), to confer on personnel matters and a report from  
23 the personnel subcommittee as listed on the published  
24 notice and agenda.

25 The Commission will now reconvene in open



**Commission on State Mandates – July 29, 2010**

1 session.

2 And with no further business to discuss, I will  
3 entertain a motion to adjourn.

4 MEMBER GLAAB: So moved.

5 MEMBER LUJANO: Second.

6 CHAIR BRYANT: All those any favor of  
7 adjourning, please say "aye."

8 *(A chorus of "ayes" was heard.)*

9 CHAIR BRYANT: Opposed?

10 *(No response)*

11 CHAIR BRYANT: The meeting is adjourned.

12 *(Gavel sounded.)*

13 *(The meeting concluded at 12:35 p.m.)*

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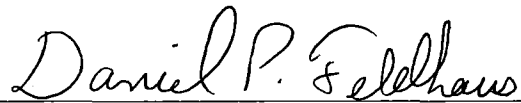
**REPORTER'S CERTIFICATE**

I hereby certify:

That the foregoing proceedings were duly reported by me at the time and place herein specified; and

That the proceedings were reported by me, a duly certified shorthand reporter and a disinterested person, and was thereafter transcribed into typewriting by computer-aided transcription.

In witness whereof, I have hereunto set my hand on August 20<sup>th</sup>, 2010.



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Daniel P. Feldhaus  
California CSR #6949  
Registered Diplomate Reporter  
Certified Realtime Reporter