

Item 2

Proposed Minutes

COMMISSION ON STATE MANDATES

Location of Meeting: Room 447
State Capitol, Sacramento, California
November 22, 2019

Present: Member Gayle Miller, Chairperson
Representative of the Director of the Department of Finance
Member Jacqueline Wong-Hernandez
Representative of the State Controller, Vice Chairperson
Member Lee Adams
County Supervisor
Member Mark Hariri
Representative of the State Treasurer
Member Jeannie Lee
Representative of the Director of the Office of Planning and Research
Member Sarah Olsen
Public Member
Member Carmen Ramirez
City Council Member

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 Miller called the meeting to order at 10:00 a.m. Executive Director Heather Halsey called the roll.

APPROVAL OF MINUTES

Chairperson Miller asked if there were any objections or corrections to the September 27, 2019 minutes. Member Olsen made a motion to adopt the minutes. With a second by Member Ramirez, the September 27, 2019 hearing minutes were adopted by a unanimous voice vote.

PUBLIC COMMENT FOR MATTERS NOT ON THE AGENDA

Chairperson Miller asked if there was any public comment. There was no response.

CONSENT CALENDAR

INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS,
TITLE 2, CHAPTER 2.5, ARTICLES 7 AND 8 (action)

ADOPTION OF ORDER TO ADOPT RULEMAKING

- Item 7* General Cleanup Provisions, Proposed Amendments to California Code of Regulations, Title 2, Division 2, Chapter 2.5, Articles 1, 3, 4, 5, 6, 7, 8, and 10

STATEWIDE COST ESTIMATE

- Item 8* *U Visa 918 Form, Victims of Crime: Nonimmigrant Status*, 17-TC-01
Penal Code Section 679.10; Statutes 2015, Chapter 721 9SB 674)
City of Claremont, Claimant

Executive Director Halsey stated that Items 7 and 8 were proposed for consent. Chairperson Miller asked if there was any public comment regarding the Consent Calendar. There was no response.

Member Olsen made a motion to adopt the Consent Calendar. Member Ramirez seconded the motion. The Consent Calendar was adopted by a unanimous voice vote.

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

Executive Director Halsey swore in the parties and witnesses participating in the Article 7 portion of the hearing.

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

- Item 2 Appeal of Executive Director Decisions

Executive Director Halsey stated that there were no appeals to consider for this hearing.

MANDATE REDETERMINATION

- Item 3 *Academic Performance Index (01-TC-22)*, 18-MR-01
Second Hearing: New Test Claim Decision
Education Code Section 52056(c); Statutes 1999 1st Extraordinary Session, Chapter 3; Statutes 2000, Chapter 695; as alleged to be modified by Statutes 2013, Chapter 47 (AB 97)
Department of Finance, Requester

Commission Counsel Elena Wilson presented this item and stated that the Department of Finance requests that a new test claim decision be adopted to replace the Commission's prior Decision on this program based on a subsequent change in law and that this is the second hearing in the mandate redetermination process. Ms. Wilson recommended that the Commission adopt the Proposed Decision as the new Test Claim Decision ending reimbursement for the mandated program beginning July 1, 2017.

Parties were represented as follows: Dan Hanower appeared on behalf of the Department of Finance.

Mr. Hanower stated that the Department of Finance had no additional comment. There was no further comment from parties, interested parties, or the public on this matter. Member Olsen made a motion to adopt the staff recommendation. With a second by Member Adams, the motion to adopt the staff recommendation was adopted by a vote of 7-0.

PARAMETERS AND GUIDELINES AND PARAMETERS AND GUIDELINES AMENDMENTS

- Item 4 *Academic Performance Index*, 01-TC-22 (18-MR-01)
Education Code Section 52056(c); Statutes 1999 1st Extraordinary Session, Chapter 3; Statutes 2000, Chapter 695; as modified by Statutes 2013, Chapter 47 (AB 97)
Department of Finance, Requester

Commission Counsel Elena Wilson presented this item and recommended that the Commission adopt the Proposed Decision and Parameters and Guidelines Amendment ending reimbursement for the activities related to this program beginning July 1, 2017.

Parties were represented as follows: Dan Hanower appeared on behalf of the Department of Finance.

Mr. Hanower stated that the Department of Finance had no additional comment. There was no further comment from parties, interested parties, or the public on this matter. Member Ramirez made a motion to adopt the staff recommendation. With a second by Member Hariri, the motion to adopt the staff recommendation was adopted by a vote of 7-0.

- Item 5 *Public School Restrooms: Feminine Hygiene Products*, 18-TC-01
Education Code Section 35292.6; Statutes 2017, Chapter 687 (AB 10)
Desert Sands Unified School District, Claimant

Commission Counsel Elena Wilson presented this item and recommended that the Commission adopt the Revised Proposed Decision and Parameters and Guidelines.

Parties were represented as follows: Arthur Palkowitz appeared on behalf of the claimant; Dan Hanower appeared on behalf of the Department of Finance.

Following discussion among the Commission members, staff, and parties, Member Olsen made a motion to adopt the staff recommendation with the recommended amendment by Member Adams of “whichever is most cost effective” between a new or retrofitted dispenser. With a second by Member Adams, the motion to adopt the staff recommendation with the proposed amendment 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 2 (info/action)

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

Executive Director Heather Halsey stated that no SB 1033 applications have been filed and that Items 7 and 8 were on consent.

REPORTS

- Item 9 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar (info)

Chief Legal Counsel Camille Shelton presented this item.

- Item 10 Executive Director: Strategic Plan, Workload Update, and Tentative Agenda Items for the January and March 2020 Meetings (info/action)

Executive Director Heather Halsey presented the proposed 2020-2021 strategic plan.

Chairperson Miller congratulated Commission staff for their work on the strategic plan and on the significant reduction in the backlog. Member Olsen made a motion to adopt the proposed 2020-2021 strategic plan. With a second by Member Ramirez and no public comment, the 2020-2021 strategic plan was adopted by a vote of 7-0.

Executive Director Halsey described the Commission's pending caseload and reminded everyone to notify Commission staff not later than the Wednesday prior to a hearing of the names of the people who will be speaking for inclusion on the witness list.

CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 AND 11126.2 (info/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):

Trial Courts:

1. ***On Remand from the Third District Court of Appeal, Case No. C070357***
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)
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]
2. *City of San Diego v. Commission on State Mandates, State Water Resources Control Board, Department of Finance*,
Sacramento County Superior Court, Case No. 2019-80003169
(*Lead Sampling in Schools: Public Water System No. 3710020* (17-TC-03))

Courts of Appeal:

1. *Coast Community College District, et al. v. Commission on State Mandates*,
Third District Court of Appeal, Case No. C080349
Sacramento County Superior Court, Case No. 34-2014-80001842
[*Minimum Conditions for State Aid*, 02-TC-25/02-TC-31
(Education Code Sections 66721, 66721.5, 66722, 66722.5, 66731, 66732, 66736, 66737, 66738, 66740, 66741, 66742, 66743, 70901, 70901.5, 70902, 71027, 78015, 78016,

78211.5, 78212, 78213, 78214, 78215, 78216, 87482.6, and 87482.7; Statutes 1975, Chapter 802; Statutes 1976, Chapters 275, 783, 1010, and 1176; Statutes 1977, Chapters 36 and 967; Statutes 1979, Chapters 797 and 977; Statutes 1980, Chapter 910; Statutes 1981, Chapters 470 and 891; Statutes 1982, Chapters 1117 and 1329; Statutes 1983, Chapters 143 and 537; Statutes 1984, Chapter 1371; Statutes 1986, Chapter 1467; Statutes 1988, Chapters 973 and 1514; Statutes 1990, Chapters 1372 and 1667; Statutes 1991, Chapters 1038, 1188, and 1198; Statutes 1995, Chapters 493 and 758; Statutes 1998, Chapter 365, 914, and 1023; Statutes 1999, Chapter 587; Statutes 2000, Chapter 187; and Statutes 2002, Chapter 1169; California Code of Regulations, Title 5, Sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, 51027, 51100, 51102, 53200, 53202, 53203, 53204, 53207, 53300, 53301, 53302, 53308, 53309, 53310, 53311, 53312, 53314, 54626, 54805, 55000, 55000.5, 55001, 55002, 55002.5, 55004, 55005, 55006, 55100, 55130, 55150, 55160, 55170, 55182, 55200, 55201, 55202, 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320, 55321, 55322, 55340, 55350, 55401, 55402, 55403, 55404, 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520, 55521, 55522, 55523, 55524, 55525, 55526, 55530, 55532, 55534, 55600, 55601, 55602, 55602.5, 55603, 55605, 55607, 55620, 55630, 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, 55765, 55800, 55800.5, 55801, 55805, 55805.5, 55806, 55807, 55808, 55809, 55825, 55827, 55828, 55829, 55830, 55831, 58102, 58104, 58106, 58107, 58108, 59404, and 59410; Handbook of Accreditation and Policy Manual, Accrediting Commission for Community and Junior Colleges (Summer 2002); and “Program and Course Approval Handbook” Chancellor’s Office California Community Colleges (September 2001).]

2. ***On Remand from California Supreme Court, Case No. S214855, 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. B292446
[Los Angeles County Superior Court, Case No. BS130730, Related Appeal from Second District Court of Appeal, Case No. B237153 [*Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04, 03-TC-19, 03-TC-20, and 03-TC-21, Los Angeles Regional Quality Control Board Order No. 01-182, Permit CAS004001, Parts 4C2a., 4C2b, 4E & 4Fc3]

California Supreme Court:

1. *California School Board Association (CSBA) v. State of California et al.*
California Supreme Court, Case No S247266
First District Court of Appeal, Case No. A148606
Alameda County Superior Court, Case No. RG11554698
[2010-2011 Budget Trailer Bills; Education Code sections 42238.24 and 56523]

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

Based on existing facts and circumstances, there is a specific matter which presents a significant exposure to litigation against the Commission on State Mandates, its members or staff.

B. PERSONNEL

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

The Commission adjourned into closed executive session at 10:32 a.m., pursuant to Government Code section 11126(e)(2), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda; and to confer with and receive advice from legal counsel regarding potential litigation; and to confer on personnel matters pursuant to Government Code section 11126(a)(1).

RECOVENE IN PUBLIC SESSION

REPORT FROM CLOSED EXECUTIVE SESSION

At 10:42 a.m., the Commission reconvened in open session. Chairperson Miller reported that the Commission met in closed executive session pursuant to Government Code section 11126(e)(2) to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the public notice and agenda, and to confer with and receive advice from legal counsel regarding potential litigation, and, pursuant to Government Code section 11126(a)(1) to confer on personnel matters.

ADJOURNMENT

Hearing no further business, Chairperson Miller requested a motion to adjourn the meeting. Member Olsen made a motion to adjourn the meeting. Member Wong-Hernandez seconded the motion.

The November 22, 2019 meeting was adjourned by a unanimous voice vote at 10:53 a.m.

Heather Halsey
Executive Director

STATE OF CALIFORNIA
COMMISSION ON STATE MANDATES

RECEIVED

PUBLIC MEETING

DEC 11 2019
**COMMISSION ON
STATE MANDATES**

FRIDAY, NOVEMBER 22, 2019

10:00 A.M.

STATE CAPITOL BUILDING

ROOM 447

SACRAMENTO, CALIFORNIA

REPORTER'S TRANSCRIPT OF PROCEEDINGS

ORIGINAL

REPORTED BY:

KATHRYN S. SWANK

Certified Shorthand Reporter No. 13061

Registered Professional Reporter

KATHRYN S. SWANK, CSR
303 Paddock Court
Roseville, California 95661
Telephone (916) 390-7731
KathrynSwankCSR@sbcglobal.net

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

COMMISSIONERS PRESENT

GAYLE MILLER
Representative for KEELY BOSLER, Director
Department of Finance
(Chair of the Commission)

JACQUELINE WONG-HERNANDEZ
Representative for BETTY T. YEE
State Controller
(Vice Chair of the Commission)

MARK HARIRI
Representative for FIONA MA
State Treasurer

JEANNIE LEE
Representative for KATE GORDON, Director
Office of Planning & Research

LEE ADAMS III
Sierra County Supervisor
Local Agency Member

SARAH OLSEN
Public Member

M. CARMEN RAMIREZ
Oxnard City Council Member
Local Agency Member

---o0o---

COMMISSION STAFF

HEATHER A. HALSEY
Executive Director

HEIDI PALCHIK
Assistant Executive Director

CAMILLE N. SHELTON
Chief Legal Counsel

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S C O N T I N U E D

COMMISSION STAFF CONTINUED

ELENA WILSON
Commission Counsel

---o0o---

PUBLIC PARTICIPANTS

DAN HANOWER
California Department of Finance

ARTHUR PALKOWITZ
Desert Sands Unified School District, Claimant

---o0o---

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Correction

~~PALCHIK:~~ MR. PALKOWITZ:

I N D E X

| ITEM NO. | | PAGE |
|----------|---|------|
| I. | Call to Order and Roll Call | 9 |
| II. | Approval of Minutes | 10 |
| | Item 1 September 27, 2019 | |
| III. | Public Comment for Matters Not on the Agenda (none) | 10 |
| IV. | Proposed Consent Calendar for Items Proposed for Adoption on Consent Pursuant to California Code of Regulations, Title 2, Articles 7 and 8 | 11 |
| V. | Hearings and Decisions Pursuant to California Code of Regulations, Title 2, Article 7 | |
| A. | Appeal of Executive Director Decisions Pursuant to California Code of Regulations, Title 2, Section 1181.1(c) | |
| | Item 2 Appeal of Executive Director Decisions (none) | 11 |
| B. | Mandate Redetermination | |
| | Item 3 Academic Performance Index (01-TC-22), 18-MR-01 Second Hearing: New Test Claim Decision | 12 |
| | Education Code Section 52056(c); Statutes 1999 1st Extraordinary Session, Chapter 3; Statutes 2000, Chapter 695; as alleged to be modified by Statutes 2013, Chapter 47 (AB 97) | |
| | Department of Finance, Requester | |

I N D E X C O N T I N U E D

| ITEM NO. | | PAGE |
|----------|--|------|
| C. | Parameters and Guidelines and Parameters and Guidelines Amendment | |
| Item 4 | Academic Performance Index, 01-TC-22 (18-MR-01) | 14 |
| | Education Code Section 52056(c); Statutes 1999 1st Extraordinary Session, Chapter 3; Statutes 2000, Chapter 695; as modified by Statutes 2013, Chapter 47 (AB 97) | |
| | Department of Finance, Requester | |
| Item 5 | Public School Restrooms: Feminine Hygiene Products, 18-TC-01 | 16 |
| | Education Code Section 35292.6; Statutes 2017, Chapter 687 (AB 10) | |
| | Desert Sands Unified School District, Claimant | |
| VI. | 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 2 | |
| Item 6 | Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commission, or to a Hearing Officer (none) | 33 |

I N D E X C O N T I N U E D

| ITEM NO. | | PAGE |
|----------|---|------|
| VII. | Informational Hearing Pursuant to California Code of Regulations, Title 2, Article 8 | |
| A. | Adoption of Order to Adopt Rulemaking | |
| Item 7 | General Cleanup Provisions, Proposed Amendments to California Code of Regulations, Title 2, Division 2, Chapter 2.5, Articles 1, 3, 4, 5, 6, 7, 8, and 10 | 34 |
| B. | Statewide Cost Estimate | |
| Item 8 | U Visa 918 Form, Victims of Crime: Nonimmigrant Status, 17-TC-01 Penal Code Section 679.10; Statutes 2015, Chapter 721 (SB 674) City of Claremont, Claimant | 34 |
| VIII. | Reports | |
| Item 9 | Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar | 34 |
| Item 10 | Executive Director: Strategic Plan, Workload Update, and Tentative Agenda Items for the January and March 2020 Meetings | 34 |
| IX. | Closed Executive Session Pursuant to Government Code Sections 11126 and 11126.2 | 39 |
| A. | Pending Litigation | |
| B. | Personnel | |

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X C O N T I N U E D

| ITEM NO. | PAGE |
|--|------|
| X. Report from Closed Executive Session | 40 |
| Adjournment | 41 |
| Reporter's Certificate | 42 |

---o0o---

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SACRAMENTO, CALIFORNIA

FRIDAY, NOVEMBER 22, 2019, 10:00 A.M.

---o0o---

CHAIRPERSON MILLER: Good morning. The meeting of the Commission on State Mandates will come to order.

First I have some housekeeping information. On the table, near the end of the dais, are copies of meeting notice, agenda, new filings, witness lists, and the electronic public hearing binder. It is also located there on the laptop.

At the witness table, the claimant and local agency interested parties sit facing the center of the dais, and state agency parties and interested parties sit to the claimant's right.

The restrooms are located down the hall, near the elevators. Finally, please take note of the emergency exits in this room.

Heather, would you please call the roll.

MS. HALSEY: Sure.

Mr. Adams.

MEMBER ADAMS: Here.

MS. HALSEY: Mr. Hariri.

MEMBER HARIRI: Here.

MS. HALSEY: Ms. Lee.

MEMBER LEE: Here.

1 MS. HALSEY: Ms. Miller.
2 CHAIRPERSON MILLER: Here.
3 MS. HALSEY: Ms. Olsen.
4 MEMBER OLSEN: Here.
5 MS. HALSEY: Ms. Ramirez.
6 MEMBER RAMIREZ: Here.
7 MS. HALSEY: Ms. Wong-Hernandez.
8 MEMBER WONG-HERNANDEZ: Here.
9 CHAIRPERSON MILLER: Are there any objections or
10 corrections to our minutes from September 27th?
11 (No response)
12 MEMBER OLSEN: Move adoption.
13 MEMBER RAMIREZ: Second.
14 CHAIRPERSON MILLER: It's been moved and seconded.
15 Is there any objection to a unanimous adoption of
16 the minutes?
17 (No response)
18 CHAIRPERSON MILLER: It's unanimously adopted.
19 Thank you.
20 MS. HALSEY: And now we will take up public comment
21 for matters not on the agenda. Please note that the
22 Commission cannot take action on items not on the
23 agenda. However, it can schedule issues raised by the
24 public for consideration at future meetings.
25 CHAIRPERSON MILLER: Is there any public comment at

1 this time?

2 (No response)

3 CHAIRPERSON MILLER: Hearing no public comment, I
4 will move to the next item.

5 MS. HALSEY: Item 7 and 8 are proposed for consent.

6 CHAIRPERSON MILLER: Are there any -- is there any
7 objection to the proposed consent calendar?

8 (No response)

9 MEMBER OLSEN: Move adoption.

10 MEMBER RAMIREZ: Second.

11 CHAIRPERSON MILLER: It's been moved and seconded.

12 The motion to adopt the proposed consent calendar has
13 been moved and seconded.

14 All those in favor, signify by saying "aye."

15 (Ayes)

16 CHAIRPERSON MILLER: Anyone opposed?

17 (No response)

18 CHAIRPERSON MILLER: Any abstentions?

19 (No response)

20 CHAIRPERSON MILLER: The motion carries.

21 MS. HALSEY: Now will the parties and witnesses for
22 Items 3, 4 and 5 please rise.

23 (Parties/witnesses stood to be sworn or
24 affirmed.)

25 MS. HALSEY: There are no appeals to consider for

1 this hearing.

2 Next is Item 3. Commission Counsel Elena Wilson
3 will present a proposed decision on the request for
4 mandate redetermination on Academic Performance Index.
5 At this time, we invite the parties and witnesses for
6 Item 3 to please come to the table.

7 CHAIRPERSON MILLER: Ms. Wilson.

8 MS. WILSON: Good morning. This mandate
9 redetermination requests that the Commission adopt the
10 new test claim decision to end the state's liability for
11 the Academic Performance Index Program based on a
12 subsequent change in law resulting from the repeal of
13 the statute which imposed the mandate. This is the
14 second hearing on the mandate redetermination process.

15 Staff finds that the state's liability has been
16 modified with a subsequent change in law, specifically
17 with the repeal of the statute that was found to impose
18 the mandate. School districts are no longer incurring
19 costs mandated by the state under this program.

20 Staff recommends that the Commission adopt the
21 proposed decision as its new test claim decision, ending
22 reimbursement for the mandated program beginning
23 July 1st, 2017.

24 Further, staff recommends authorization to make any
25 technical, nonsubstantive changes to the proposed

1 decision following the hearing.

2 CHAIRPERSON MILLER: Great. Thank you very much.
3 Please state your name for the record.

4 MR. HANOWER: Dan Hanower, Department of Finance.

5 CHAIRPERSON MILLER: Thank you very much.

6 Is there any public comment on this item? Would
7 you like to comment?

8 MR. HANOWER: No additional comment at this time.

9 CHAIRPERSON MILLER: Thank you very much.

10 Any additional public comment on this item?

11 (No response)

12 CHAIRPERSON MILLER: Any questions from members?

13 (No response)

14 MEMBER OLSEN: Move adoption of the staff
15 recommendation.

16 CHAIRPERSON MILLER: Moved by Ms. Olsen.

17 MEMBER ADAMS: Second.

18 CHAIRPERSON MILLER: Seconded by Mr. Adams.

19 Seeing no further discussion, Heather, please call
20 the roll.

21 MS. HALSEY: Sure.

22 Mr. Adams.

23 MEMBER ADAMS: Aye.

24 MS. HALSEY: Mr. Hariri.

25 MEMBER HARIRI: Aye.

1 MS. HALSEY: Ms. Lee.

2 MEMBER LEE: Aye.

3 MS. HALSEY: Ms. Miller.

4 CHAIRPERSON MILLER: Aye.

5 MS. HALSEY: Ms. Olsen.

6 MEMBER OLSEN: Aye.

7 MS. HALSEY: Ms. Ramirez.

8 MEMBER RAMIREZ: Aye.

9 MS. HALSEY: Ms. Wong-Hernandez.

10 MEMBER WONG-HERNANDEZ: Aye.

11 CHAIRPERSON MILLER: That motion carries. Thank
12 you very much.

13 Next item, Heather.

14 MS. HALSEY: Next is Item 4. Commission Counsel
15 Elena Wilson will present a proposed decision on
16 parameters and guidelines on Academic Performance Index.

17 At this time, we invite the parties and witnesses
18 for Item 4 to please come to the table -- remain at the
19 table.

20 MS. WILSON: This proposed decision and amendment
21 to parameters and guidelines is consistent with the new
22 test claim decision adopted by the Commission earlier,
23 in Item 3, finding that the State's liability of
24 Academic Performance Index Program has been modified
25 based on the subsequent change in law.

1 Staff recommends that the Commission adopt this
2 proposed decision and amendment to parameters and
3 guidelines ending reimbursement beginning July 1st,
4 2017.

5 Staff also requests authorization to make any
6 nonsubstantive changes to the proposed decision and
7 amendment to parameters and guidelines following the
8 hearing.

9 CHAIRPERSON MILLER: Thank you very much.

10 Mr. Hanower, would you introduce yourself one more
11 time for the record.

12 MR. HANOWER: Sure. Dan Hanower, Department of
13 Finance.

14 CHAIRPERSON MILLER: Any comment?

15 MR. HANOWER: No additional comment at this time.

16 CHAIRPERSON MILLER: Thank you.

17 Is there any public comment?

18 (No response)

19 CHAIRPERSON MILLER: Seeing none, are there any
20 questions from members?

21 (No response)

22 MEMBER RAMIREZ: I will move the recommendations
23 action.

24 CHAIRPERSON MILLER: Thank you, Ms. Ramirez.

25 Is there a second?

1 MEMBER HARIRI: Second.

2 CHAIRPERSON MILLER: Seconded. Thank you very
3 much.

4 It has been moved and seconded.

5 Seeing no further discussion, Heather, please call
6 the roll.

7 MS. HALSEY: Mr. Adams.

8 MEMBER ADAMS: Aye.

9 MS. HALSEY: Mr. Hariri.

10 MEMBER HARIRI: Aye.

11 MS. HALSEY: Ms. Lee.

12 MEMBER LEE: Aye.

13 MS. HALSEY: Ms. Miller.

14 CHAIRPERSON MILLER: Aye.

15 MS. HALSEY: Ms. Olsen.

16 MEMBER OLSEN: Aye.

17 MS. HALSEY: Ms. Ramirez.

18 MEMBER RAMIREZ: Aye.

19 MS. HALSEY: Ms. Wong-Hernandez.

20 MEMBER WONG-HERNANDEZ: Aye.

21 CHAIRPERSON MILLER: Thank you very much. That
22 motion carries.

23 Next is Item 5.

24 MS. HALSEY: Commission Counsel Elena Wilson will
25 present a proposed decision on parameters and guidelines

1 on Public School Restrooms: Feminine Hygiene Products.

2 At this time, we invite the parties and witnesses
3 for Item 5 to please come to the table.

4 CHAIRPERSON MILLER: Thank you very much.

5 Elena, do you want to introduce --

6 MS. WILSON: This parameters and guidelines, under
7 the State-mandated program which requires school
8 districts with certain Title I-eligible schools, that
9 maintain any combination of classes from grades 6 to 12,
10 inclusive, to stock, at all times, and at no cost to
11 pupils, at least 50 percent of the school's restrooms
12 with feminine hygiene products, defined as tampons and
13 sanitary napkins.

14 Staff recommends the Commission adopt the revised
15 proposed decision and parameters and guidelines which
16 authorizes reimbursement beginning January 1st, 2019,
17 for the mandated activity, and, based on the evidence in
18 the record, to purchase for installation or repair or
19 retrofit a sufficient number of dispensers, as described
20 in the proposed parameters and guidelines as reasonably
21 necessary to comply with the mandate.

22 Staff further requests that the Commission
23 authorize staff to make any technical, nonsubstantive
24 changes to the documents following the hearing.

25 CHAIRPERSON MILLER: Thank you very much.

1 Parties and witnesses, would you please state your
2 names for the record.

3 PALCHIK: Good morning. Arthur Palkowitz on behalf
4 of the claimant.

5 CHAIRPERSON MILLER: Great. Thank you.

6 MR. HANOWER: Dan Hanower, Department of Finance.

7 CHAIRPERSON MILLER: Thank you very much.

8 Would you like to make your public comments now,
9 please.

10 MR. PALKOWITZ: Yes. Thank you very much. Good
11 morning, everyone.

12 The main issue before us today is the reimbursement
13 of -- for the purchase and installation of dispensers
14 that will be used to deliver the hygiene products in the
15 restrooms.

16 On May 24th, 2019, this Commission adopted the test
17 claim that provides for reimbursement for those
18 products. At that time, we discussed the cost and
19 purchase and installation of the dispensers, but it was
20 decided it would be best we handle that in a parameters
21 and guidelines phase, which we are here today.

22 When the Commission adopted this test claim, it
23 agreed with the legislature that these products are
24 essential for young ladies to avoid or create an
25 additional barrier to their education. At that time,

1 one of the commissioners mentioned that they were
2 looking forward to discuss the reasonableness of the
3 dispensers as a delivery method.

4 The legislative analysis did include dispensers as
5 a delivery method, and we believe that's the most
6 efficient and cost -- most efficient and cost reduction
7 that would be used to distribute the dispensers. There
8 really hasn't been any other discussion of what other
9 method to distribute the dispensers.

10 Initially, the parameters and guidelines did not
11 include the cost and purchase of installation of
12 dispensers, and we provided additional evidence, and
13 we're thankful for the Commission staff to recommend, at
14 this time, that the purchase and installation of the
15 dispensers be reimbursed.

16 Included in the staff recommendation is a caveat
17 that if the dispensers are already existing, and they
18 could be repaired or retrofitted, those dispensers
19 should be used in lieu of purchasing new dispensers and
20 installing them. On its surface, that seems reasonable.
21 However, in speaking to several districts, we're
22 concerned on how that would carry out. If a district
23 would claim a cost for repairing or retrofitting an
24 existing dispenser, how are they going to prove that
25 that dispenser needed repair? Is this going to require

1 a video or pictures? Or retrofitting: Are they
2 required to take the dispenser out, video the recording
3 of how it's retrofitted, and then put it back up?

4 So we feel this is not really a workable solution,
5 and that, really, any existing dispensers are there for
6 other reasons. Many of these dispensers are
7 coin-operated, and we're concerned that this could
8 create shaming for females that will need to go get a
9 coin in order to use the feminine hygiene products.

10 So based on the record not really having any other
11 alternative as an efficient and cost way to deliver
12 these products, we recommend that the districts feel
13 out -- to a full reimbursement for the purchase and the
14 installation of dispensers for the feminine products.

15 CHAIRPERSON MILLER: Ms. Shelton? Or -- I'm sorry
16 Mr. Hanower. Could you please -- any comments?

17 MR. HANOWER: I have no additional comment at this
18 time.

19 CHAIRPERSON MILLER: Thank you. I apologize for
20 that.

21 MS. SHELTON: Let me let Elena address, and I will
22 follow up.

23 CHAIRPERSON MILLER: Okay. Thank you very much.

24 MS. WILSON: Thank you.

25 The Commission decision did not approve

1 installation or purchase and installation of dispensers
2 because they are not required by the -- by the language
3 of the statute. So the request was for the
4 reasonable -- reasonably necessary activity to implement
5 the mandate. For this reason -- for this reason, we
6 have to have evidence that the purchase and installation
7 of dispensers is necessary, which we received from --
8 from the claimant.

9 However, since the mandated activity is to stock,
10 at all times, 50 percent of the school's restrooms with
11 feminine hygiene products, and not the purchase of the
12 dispensers, if the school already has -- already has
13 something that it can use to stock the restrooms, then
14 it would be not necessary to purchase additional
15 dispensers. This is the reason why there's a caveat.

16 And I'm not sure how this school needs to prove
17 that it did not have the dispensers, but maybe this is
18 the question for the controller, if they have the audit
19 of the school. But otherwise, this is not -- this would
20 not be reasonably necessary for a school to purchase
21 dispensers, so -- if it already have the ability to
22 stock the school's restroom.

23 And if they're coin-operated dispensers, then they
24 could be retrofitted because there's evidence in
25 public -- there's public -- publicly available

1 information that many schools or universities that did
2 follow this -- they did -- they were able to retrofit.

3 CHAIRPERSON MILLER: Thank you for that.

4 MS. SHELTON: Let me clarify just a couple of
5 things. One, everybody is correct that the mandate is
6 to provide these products at no cost to the students, so
7 the information that Elena was discussing was, that,
8 certainly, you would have to retrofit existing
9 dispensers, if they currently are coin-operated, to be
10 non-coin-operated, and that's provided in the language.

11 The reasonably necessary standard is something that
12 is a standard that the controller would also have to
13 look at on an audit. They would determine, based on the
14 facts, whether the district had a reason to purchase new
15 ones or whether they had -- had the ability to not do
16 that. The controller's, you know, decision on that
17 audit decision is viewed on that aspect on whether that
18 would be arbitrary and capricious or whether they
19 accepted the reasonable explanation of the district, so
20 it just becomes an audit issue.

21 We have had many programs where we have had this
22 type of standard: One of them was passed and, in
23 technology, where many districts had the computer
24 technology already in existence and could only
25 purchase -- to the extent they already didn't have it,

1 they would need to explain that to the controller on an
2 audit. This is the same.

3 So the standard is different. It's not whether
4 they are mandated but whether they are reasonably
5 necessary to comply and to purchase these dispensers.

6 CHAIRPERSON MILLER: And for every -- Ms. Shelton,
7 just two follow-up questions for that. Everyone is
8 always required to submit evidence in these cases,
9 without exception, because that's how we prove the
10 reasonably necessary standard.

11 MS. HALSEY: Actually, the claiming instructions
12 indicate what needs to be submitted with the
13 reimbursement claim, and, often, it's not a lot. And
14 then -- so you have to retain that evidence in case you
15 are ever audited.

16 CHAIRPERSON MILLER: Okay. Thank you for
17 clarifying that.

18 MS. HALSEY: The other thing is, there is evidence
19 in this record, just to be clear, of the retrofitting
20 and what is involved in that and the products that are
21 available for that and how they work with those
22 coin-operated and how to switch them over. So we
23 actually have evidence in the record for that --

24 CHAIRPERSON MILLER: Great.

25 MS. HALSEY: -- and how to do that.

1 CHAIRPERSON MILLER: Thank you.

2 Ms. Shelton and then Ms. Wong-Hernandez.

3 MS. SHELTON: Just to clarify. The decisions
4 before the commission, yes, do require evidence in
5 accordance with our regulations and with any
6 quasi-judicial decision. The evidence needs to be under
7 penalty of perjury by somebody who has personal
8 knowledge, information, and belief. The Commission is
9 also allowed to take official notice of publicly
10 available documents, and those items are in this record.

11 CHAIRPERSON MILLER: Great. Thank you for that
12 clarification.

13 Ms. Wong-Hernandez and then Mr. Adams.

14 MEMBER WONG-HERNANDEZ: I actually wanted to --
15 thank you for bringing up the idea that the evidence is
16 in the public record.

17 That was news to me, that they could be really
18 easily retrofitted and made from coin-op dispensers,
19 that exist now, into ones that dispense things freely.
20 And so I appreciated the links in there and spent some
21 time on the internet going through those links and
22 learning a lot about dispensers. So thank you all for
23 the additional information.

24 CHAIRPERSON MILLER: Great. Thank you very much.

25 Mr. Adams.

1 MEMBER ADAMS: I just wanted to make a comment with
2 regard to reimbursement only if the school is not
3 already equipped or if they cannot retrofit. I wonder
4 if we want to add discussion, whatever is more cost
5 effective. Sometimes playing with something that's old,
6 and whatever, I hate to see the retrofit cost more than
7 if you just throw the old ones away and bought new ones.
8 Just a suggestion, to add language in there, "whatever
9 is more cost effective."

10 CHAIRPERSON MILLER: Comments on that?

11 Oh, please, Ms. Olsen.

12 MEMBER OLSEN: Doesn't that come under the
13 reasonably necessary standard?

14 MS. SHELTON: Well, the language -- let me just
15 read the language that's proposed, and then you all can
16 decide what you want to do with it.

17 The language that's proposed says, "Reimbursement
18 to purchase and install new dispensers is required only
19 to the extent that a school is not already equipped with
20 a sufficient number of dispensers in the restrooms to
21 comply with the mandate, or cannot repair or retrofit a
22 sufficient number of existing dispensers to comply with
23 the mandate."

24 MEMBER ADAMS: My point is, they might be able to
25 retrofit maybe three times what it would cost to supply

1 a new one.

2 MS. HALSEY: So you are proposing to add, at the
3 end of that comma, "whichever is more cost effective"?

4 MEMBER ADAMS: Exactly.

5 MEMBER RAMIREZ: Second, if that's your motion.

6 CHAIRPERSON MILLER: So would you like to -- I am
7 going to keep discussion -- perhaps when we move this,
8 we would move it with the amendment to include
9 "whichever is most cost effective," or would you like to
10 take the motion to amend it first, and then adopt it in
11 its entirety?

12 MS. SHELTON: Your motion can be, move to adopt the
13 staff recommendation with the additional language at the
14 end of that provision that says whatever -- or
15 "whichever is more cost effective."

16 CHAIRPERSON MILLER: "Whichever is most cost
17 effective." Okay. I will continue discussion and look
18 to you for that motion, Mr. Adams.

19 MEMBER ADAMS: Thank you.

20 CHAIRPERSON MILLER: Was there another question?

21 MEMBER RAMIREZ: I just always want to talk about
22 this. Probably not appropriate except to say just
23 brings back memories of being in high school.

24 MEMBER OLSEN: Oh, gosh, yes.

25 MEMBER RAMIREZ: Just -- I'm glad we have almost

1 progressed to a state of where it's equality and we
2 don't have to be ashamed of discussing human life here.
3 That's all.

4 MEMBER ADAMS: I would like my blush reflected in
5 that.

6 (Laughter)

7 CHAIRPERSON MILLER: So noted.

8 MEMBER RAMIREZ: The next generation will not be
9 blushing.

10 MEMBER OLSEN: I would like to build on
11 Ms. Ramirez's comments by saying, when we talk about
12 feminine hygiene products, we're talking about sanitary
13 pads and tampons, and I think that should be reflected
14 on the record.

15 CHAIRPERSON MILLER: I appreciate that. Thank you.

16 MEMBER RAMIREZ: We're talking about where we all
17 came from. How we got here, friends. Okay.

18 CHAIRPERSON MILLER: Thank you for that discussion.
19 Any other comments or questions from the --

20 MR. PALKOWITZ: I would just like to follow-up.

21 CHAIRPERSON MILLER: Mr. Palkowitz, did you have a
22 comment before? Or do you want to wait until after.

23 Okay. Mr. Palkowitz.

24 MR. PALKOWITZ: Thank you. Thank you for your
25 suggestion. I think that's very reasonable.

1 CHAIRPERSON MILLER: Mr. Palkowitz, do you want to
2 move the mike closer?

3 MR. PALKOWITZ: Sure.

4 CHAIRPERSON MILLER: Thank you.

5 MR. PALKOWITZ: Also, was not approved were board
6 policies that have to be changed to do this and also was
7 not approved -- was training. The training aspect, to
8 me, gets a little more issue if they are going to have
9 to learn how to retrofit. This could be more timely
10 than it would take to install one.

11 So, to me, you know, this type of alternative,
12 reasonable cost method, could incur additional time and
13 effort for the district. So I think that's something
14 that should be equally addressed, that if something is
15 going to be retrofitted or repaired, that could be
16 additional labor costs that should be reasonably
17 compensated as an activity related to the -- the
18 approved mandate.

19 CHAIRPERSON MILLER: Ms. Shelton, do you want to
20 respond to that?

21 MS. SHELTON: Yes. I know that evidentiary
22 standard, with a reasonably necessary proposed activity,
23 there has to be evidence in the record explaining why
24 that is reasonably necessary. Testimony from a
25 representative of a claimant is not testimony from

1 someone who has information, knowledge, and belief from
2 the district.

3 Right now, the record only contains a declaration
4 of how much they spent on training. There's no
5 information on why it's necessary from the claimant, and
6 there's no information from any state agency that they
7 provided training, like we have had in other test
8 claims, where we could get that information and show
9 that it's necessary.

10 So this record is devoid of any information related
11 to training or policies and procedures to explain why
12 it's reasonably necessary to comply with this mandate.

13 I will say just one last thing: There's a lot of
14 court cases on quasi-judicial evidentiary issues, and
15 they direct any member of a quasi-judicial board not to
16 use their common sense or their internal knowledge about
17 a topic; you have to base your decision on the record
18 before you.

19 CHAIRPERSON MILLER: Okay. I appreciate that and
20 agree with that because -- because what we do here can
21 so often not necessarily rely on our personal comments
22 then. I do think that's a really important standard and
23 certainly a good reminder to me as I learn more.

24 So any other comments or questions?

25 MEMBER LEE: I just also want to reiterate, that

1 when I look at the plain language of the statute, it
2 doesn't seem to support the policy or the ask that you
3 are here for today.

4 CHAIRPERSON MILLER: Thank you very much.

5 Any other questions or comments from the board?

6 Ms. Wong-Hernandez?

7 MEMBER WONG-HERNANDEZ: I have a comment sort of on
8 these parameters and guidelines, generally.

9 So I appreciate the discussion about sort of the
10 plain language of the statute and also things that are
11 reasonably necessary. You know, the dispensers are not
12 part of the plain language of the statute, but we -- we
13 did say, you know, this is reasonable and it was assumed
14 in the legislative history, and I have heard the words
15 "legislative history" come up a couple of times.

16 I want to note, for the record, that I'm
17 uncomfortable with looking at the legislative history
18 for this. I support the dispenser piece. But -- and
19 not looking at it for the fact that this was always
20 supposed to apply to pupil restrooms. Like, I
21 understand that that's plain language and we have to
22 adopt the statute, but the statute says 50 percent of
23 restrooms. But I believe that if the claimant had come
24 before us with a claim only for 50 percent of pupil
25 restrooms, we also would have read it that way.

1 And I think the fact that you all are coming to
2 say, well, it says 50 percent of restrooms, so we want
3 it reimbursed for 50 percent of restrooms, even though a
4 number of schools are going to have staff-only
5 restrooms, it feels wrong to me. And it feels not, in
6 any way, consistent with what the legislature intended,
7 what the bill author intended, and I would like to see
8 the Department of Finance or the legislature pursue
9 trailer bill to clean that up.

10 I understand that this isn't the forum to do that
11 and why you have made the recommendation, and I am
12 prepared to vote for that, but I do not think it was
13 ever anybody's intention. And you can see that
14 reflected in the committee analysis, that that was
15 always the case, and every floor speech was about giving
16 access to girls, not about using Prop 98 money to
17 provide them, potentially, To staff and adult guests and
18 the public at schools.

19 And so, you know, I don't know, obviously the
20 administration will make the call on that, but I can't
21 imagine why that would be controversial to make that
22 amendment in the future.

23 CHAIRPERSON MILLER: Thank you. I appreciate that
24 thought, Ms. Wong-Hernandez.

25 And Mr. Hanower, if you could perhaps take that up

1 through the Department of Finance trailer bill process
2 for clarification of that law, as a suggestion.

3 MR. HANOWER: I will make sure to take that back.

4 CHAIRPERSON MILLER: Thank you very much, sir.

5 With that, is there any further discussion?

6 MEMBER OLSEN: I will move the staff recommendation
7 with the recommended amendment by my colleague
8 Mr. Adams.

9 CHAIRPERSON MILLER: I am just going to clarify
10 that the amendment -- that the staff recommendation has
11 been approved with the amendment, that we will provide
12 that it is "whichever is most cost effective" between a
13 new dispenser or a retrofitted dispenser, correct?

14 MS. SHELTON: And that's added to page 33 of this
15 item --

16 CHAIRPERSON MILLER: So added to page 33.

17 MS. SHELTON: -- which is the proposed parameters
18 and guidelines in section IV.

19 CHAIRPERSON MILLER: Great. Thank you.

20 MEMBER ADAMS: I would second the motion.

21 CHAIRPERSON MILLER: So the motion. It has been
22 moved and seconded as amended.

23 Are you ready for the question, or is there any
24 further discussion?

25 (No response)

1 CHAIRPERSON MILLER: No? Seeing none, may you
2 please call the roll, Heather.

3 MS. HALSEY: Mr. Adams.

4 MEMBER ADAMS: Aye.

5 MS. HALSEY: Mr. Hariri.

6 MEMBER HARIRI: Aye.

7 MS. HALSEY: Ms. Lee.

8 MEMBER LEE: Aye.

9 MS. HALSEY: Ms. Miller.

10 CHAIRPERSON MILLER: Aye.

11 MS. HALSEY: Ms. Olsen.

12 MEMBER OLSEN: Aye.

13 MS. HALSEY: Ms. Ramirez.

14 MEMBER RAMIREZ: Yes.

15 MS. HALSEY: Ms. Wong-Hernandez.

16 MEMBER WONG-HERNANDEZ: Aye.

17 CHAIRPERSON MILLER: Thank you. That motion
18 carries.

19 Item 6, please.

20 MR. PALKOWITZ: Thank you.

21 CHAIRPERSON MILLER: Thank you, sir.

22 Item 6 is reserved for county applications for a
23 finding of significant financial distress, or SB 1033
24 applications. No SB 1033 applications have been filed.

25 Item 7 and 8 were on consent.

1 Chief Legal Counsel Camille Shelton will present
2 Item 9, the Chief Legal Counsel Report.

3 MS. SHELTON: Good morning.

4 Since the last Commission meeting, we have had no
5 new filings, and there's been no recent decisions. The
6 California Supreme Court did hear oral argument in the
7 California School Board Association case on October 2nd,
8 and we expect the decision before December 31st.

9 We also have a couple of hearings that have been
10 scheduled on two litigation matters: The first one is
11 dealing with a challenge due to Commission's decision on
12 discharge and stormwater runoff, which is dealing with a
13 stormwater permit issued by the San Diego Regional Water
14 Quality Control Board. That is on remand from the
15 California Supreme Court, and the remaining issues
16 primarily deal with a new program higher level of
17 service and whether there are any costs mandated by the
18 State. That hearing is scheduled for December 6th.

19 We also have a hearing scheduled for the challenge
20 to the Commission's decision on lead sampling in
21 schools. That hearing is set for May 8th.

22 CHAIRPERSON MILLER: Thank you very much.

23 We will now move to Item 10.

24 MS. HALSEY: Item 10 is the Executive Director's
25 Report.

1 On December 1st, 2017, the Commission adopted its
2 strategic plan for January 2018 through December 2019.
3 The majority of the goals in the current plan have been
4 met or require updating.

5 Also, I would note, over the last several years,
6 using our backlog reduction plan and the strategic plan
7 of the Commission, the Commission staff has eliminated a
8 backlog of 189 IRCs and 55 test claims. Therefore,
9 Commission staff have developed new -- a new proposed
10 strategic plan for January 2020 ending December 2021
11 with several new goals proposed for adoption by the
12 commission. Please see Exhibit A of the proposed
13 strategic plan.

14 Staff recommends that the Commission adopt the
15 attached proposed strategic plan.

16 CHAIRPERSON MILLER: Thank you very much.

17 And I just -- two comments on this one:

18 The incredible amount of work it takes to put
19 together a strategic plan and how much happens behind
20 the scenes before this happens. So congratulations to
21 you and your staff.

22 And then, also, the really significant reduction in
23 the backlog. Obviously there's new claims all the time,
24 but just your ability to work through them and,
25 obviously, each of these is incredibly involved. So we

1 are really grateful to all of you for that.

2 With that, is there a motion and a second to adopt
3 the strategic plan?

4 MEMBER OLSEN: So moved.

5 MEMBER RAMIREZ: Second.

6 CHAIRPERSON MILLER: Moved by Ms. Olsen; second by
7 Ms. Ramirez.

8 MEMBER RAMIREZ: I would like to actually add on to
9 your comments about the staff's work, and I see the
10 backlog is 39 or 40, all about pretty much the same
11 thing. So it looks like a big number, but maybe the
12 work is not that different.

13 CHAIRPERSON MILLER: Thank you very much. I
14 appreciate that.

15 Is there any public comment on the strategic plan?

16 (No response)

17 CHAIRPERSON MILLER: Seeing none, it has been moved
18 and seconded.

19 Any further discussion or any other questions?

20 Did you want to --

21 MS. SHELTON: No, no. I was just going to respond
22 to Ms. Ramirez indicating that those are stormwater
23 claims, and, yes, they all deal with stormwater, but
24 they are all very different.

25 CHAIRPERSON MILLER: Thank you. I appreciate that.

1 With that, Heather, will you please call the roll.
2 MS. HALSEY: Mr. Adams.
3 MEMBER ADAMS: Aye.
4 MS. HALSEY: Mr. Hariri.
5 MEMBER HARIRI: Aye.
6 MS. HALSEY: Ms. Lee.
7 MEMBER LEE: Aye.
8 MS. HALSEY: Ms. Miller.
9 CHAIRPERSON MILLER: Aye.
10 MS. HALSEY: Ms. Olsen.
11 MEMBER OLSEN: Aye.
12 MS. HALSEY: Ms. Ramirez.
13 MEMBER RAMIREZ: Aye.
14 MS. HALSEY: Ms. Wong-Hernandez.
15 MEMBER WONG-HERNANDEZ: Aye.
16 CHAIRPERSON MILLER: Thank you very much. That
17 motion carries.
18 MS. HALSEY: And as we were saying, after this
19 hearing, there are 40 pending test claims, 39 of which
20 are regarding stormwater NPDES permits. We have also
21 two statewide cost estimates pending inactive, and there
22 is one additional parameters and guidelines and one
23 additional statewide cost estimate regarding stormwater
24 NPDES permits, and those are on inactive status pending
25 the outcome of litigation regarding the test claims

1 decisions underlying those matters.

2 In addition, there is one parameters and guidelines
3 amendment on inactive status pending the outcome of
4 litigation in the CSBA case, which is currently pending
5 before the California Supreme Court.

6 And we have one request for mandate redetermination
7 currently pending, which is on remand from the court.

8 And, finally, we have five IRCs.

9 Commission staff currently expects to complete all
10 currently pending test claims and IRCs by approximately
11 the December 2022 Commission meeting, depending on
12 staffing and other workload. However, two of the
13 Commission senior staff attorneys have separated from
14 the Commission and that is half of our staff counsel
15 positions, so there may be some reduction in matters
16 heard over the next several hearings, which could result
17 in a later completion date for currently pending
18 matters. Additionally, some of the test claims may be
19 heard and decided earlier than indicated if they are
20 consolidated for hearing.

21 Regarding tentative agenda items, please check the
22 tentative agenda items on the Executive Director's
23 Report to see if an item you are interested in is coming
24 up, and you can also use our pending case load
25 documents, which are on the Commission's website and are

1 updated at least bimonthly, to see when something is
2 tentatively expected to be heard.

3 And please expect to receive draft proposed
4 decisions of all test claims and IRC matters for your
5 review and comment at least eight weeks prior to the
6 hearing date and a proposed decision approximately two
7 weeks before the hearing.

8 And finally, a reminder to please notify Commission
9 staff not later than the Wednesday prior to a hearing
10 that you or a witness you are bringing plan to testify,
11 and please include the names of the people who will be
12 speaking, for inclusion on the witness list.

13 And that is all I have. Thank you.

14 CHAIRPERSON MILLER: Thank you very much.

15 Any questions on the Executive Director's Report?

16 (No response)

17 CHAIRPERSON MILLER: No?

18 Any public comment?

19 (No response)

20 CHAIRPERSON MILLER: Great.

21 So now the Commission will meet in closed executive
22 session pursuant to Government Code section 11126(e) to
23 confer with and receive advice from legal counsel for
24 consideration and action, as necessary and appropriate,
25 upon the pending litigation listed on the published

1 notice and agenda; and to confer with and receive advice
2 from legal counsel regarding potential litigation. The
3 Commission will also confer on personnel matters
4 pursuant to Government Code section 11126(a)(1).

5 We will reconvene in open session in approximately
6 15 minutes. Thank you, all.

7 (Closed session was held from
8 10:32 a.m. to 10:42 a.m.)

9 CHAIRPERSON MILLER: The Commission met in closed
10 executive session pursuant to Government Code section
11 11126(e)(2) to confer with and receive advice from legal
12 counsel for consideration and action, as necessary and
13 appropriate, upon the pending litigation listed on the
14 published notice and agenda; and to confer with and
15 receive advice from legal counsel regarding potential
16 litigation and pursuant to Government Code section
17 11126(a)(1) to confer on personnel matters.

18 With no further business to discuss, I will
19 entertain a motion to adjourn.

20 MEMBER OLSEN: So moved.

21 MEMBER WONG-HERNANDEZ: Second.

22 CHAIRPERSON MILLER: No one wants to leave.

23 Moved by Ms. Olsen. A second by
24 Ms. Wong-Hernandez.

25 All those in favor of adjourning, say "aye."

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Ayes)

CHAIRPERSON MILLER: Anyone opposed, say "no."

(No response)

CHAIRPERSON MILLER: Any abstentions?

(No response)

CHAIRPERSON MILLER: The meeting is adjourned.

(Proceedings concluded at 10:53 a.m.)

---o0o---

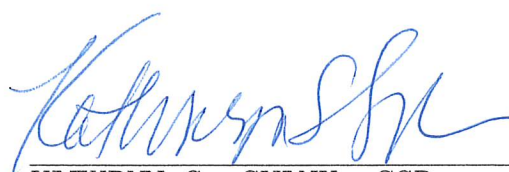
CERTIFICATE OF REPORTER

I, KATHRYN S. SWANK, a Certified Shorthand Reporter
of the State of California, do hereby certify:

That I am a disinterested person herein; that the
foregoing proceedings was reported in shorthand by me,
Kathryn S. Swank, a Certified Shorthand Reporter of the
State of California, and thereafter transcribed into
typewriting.

I further certify that I am not of counsel or
attorney for any of the parties to said proceedings nor
in any way interested in the outcome of said
proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand
this 10th day of December 2019.



KATHRYN S. SWANK, CSR
Certified Shorthand Reporter
License No. 13061