

## **Item 1**

### **Proposed Minutes**

#### **COMMISSION ON STATE MANDATES**

Location of Meeting: via Zoom  
May 28, 2021

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 Jeannie Lee  
Representative of the Director of the Office of Planning and Research  
Member Sarah Olsen  
Public Member  
Member Spencer Walker  
Representative of the State Treasurer

*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 10:02 a.m. Executive Director Heather Halsey called the roll and Members Adams, Lee, Miller, Olsen, Walker, and Wong-Hernandez all indicated that they were present.

#### **APPROVAL OF MINUTES**

Chairperson Miller asked if there were any objections or corrections to the March 26, 2021 minutes. Member Olsen made a motion to adopt the minutes. With a second by Member Adams, the Commission voted to adopt the March 26, 2021 hearing minutes by a vote of 6-0.

#### **PUBLIC COMMENT FOR MATTERS NOT ON THE AGENDA**

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

#### **CONSENT CALENDAR**

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

#### **TEST CLAIMS**

Item 3\* Dismissal: *Waste Discharge Requirements and Water Quality Certification for: Santa Clara Valley Water District and U.S. Army Corps of Engineers, Upper Berryessa Creek Flood Risk Management Project, 17-TC-04*

San Francisco Bay Regional Water Quality Control Board Order No. R2-2017-0014, Provision B. 19, effective April 12, 2017

Santa Clara Valley Water District, Claimant

**INFORMATIONAL HEARINGS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, ARTICLE 8 (action)**

**ADOPTION OF ORDER TO ADOPT RULEMAKING**

Item 7\*      General Cleanup, Proposed Amendments to California Code of Regulations, Title 2, Division 2, Chapter 2.5, Articles 1, 3, 5, and 7

Executive Director Halsey stated that Items 3 and 7 were proposed for consent. Chairperson Miller asked if there were any objections to the Consent Calendar. There was no response.

Member Olsen made a motion to adopt the Consent Calendar. Member Wong-Hernandez seconded the motion. The Commission voted to adopt the Consent Calendar by a vote of 6-0.

**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.

**TEST CLAIM**

Item 4      *County of Los Angeles Citizens Redistricting Commission*, 19-TC-04  
Elections Code Sections 21530, 21531, 21532, 21533, 21534, and 21535 as added by Statutes 2016, Chapter 781 (SB 958)

County of Los Angeles, Claimant

Senior Commission Counsel Juliana Gmur presented this item and recommended that the Commission adopt the Proposed Decision to partially approve this Test Claim.

Lucia Gonzalez and Fernando Lemus appeared on behalf of the County of Los Angeles. Chris Hill appeared on behalf of the Department of Finance.

Following discussion between Member Adams, Member Wong-Hernandez, parties, and staff, Member Wong-Hernandez made a motion to adopt the staff recommendation. With a second by Member Adams, the Commission voted to adopt the staff recommendation by a vote of 6-0.

## INCORRECT REDUCTION CLAIM

Item 5      *Municipal Storm Water and Urban Runoff Discharges*, 19-0304-I-04, 20-0304-I-06, 20-0304-I-08, 20-0304-I-09, 20-0304-I-10, 20-0304-I-11, and 20-0304-I-13

Los Angeles Regional Water Quality Control Board Order No. 01-182, Permit CAS004001, Part 4F5c3

Fiscal Years: 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012

City of Claremont, Claimant

Fiscal Years: 2002-2003, 2003-2004, 2004-2005, 2005-2006

City of Downey, Claimant

Fiscal Years: 2008-2009, 2009-2010, 2010-2011, 2011-2012

City of Glendora, Claimant

Fiscal Years: 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012

City of Pomona, Claimant

Fiscal Years: 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009

City of Santa Clarita, Claimant

Fiscal Years: 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012, 2012-2013

City of Signal Hill, Claimant

Fiscal Years: 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012, 2012-2013

County of Los Angeles, Claimant

Commission Counsel Elizabeth McGinnis presented this item and recommended that the Commission adopt the Proposed Decision to deny this Consolidated Incorrect Reduction Claim.

Howard Gest appeared on behalf of the County of Los Angeles and the City of Downey and William Winter appeared on behalf of the County of Los Angeles Public Works. Lisa Kurokawa appeared on behalf of the State Controller's Office. Annette Chinn appeared on behalf of Cost Recovery Systems.

Following discussion between Member Wong-Hernandez, Member Adams, Chairperson Miller, parties, an interested person, and staff, Member Wong-Hernandez made a motion to adopt the staff recommendation. With a second by Member Olsen, the Commission voted to adopt the staff recommendation by a vote of 6-0.

**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.

**REPORTS**

- Item 8 Legislative Update (info)

Assistant Executive Director Heidi Palchik presented this item.

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

Chief Legal Counsel Camille Shelton presented this item.

- Item 10 Executive Director: Budget, Workload Update, and Tentative Agenda Items for the July and September 2021 Meetings (info)

Executive Director Halsey presented this item and described the Commission's pending caseload.

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

The Commission adjourned into closed executive session at 11:26 a.m., pursuant to Government Code section 11126(e)(2). The Commission met in closed session 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; 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).

**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. *County of San Diego v. Commission on State Mandates, Department of Finance, State Controller*  
San Diego County Superior Court, Case No. 37-2020-00009631-CU-WM-CTL  
(*Youth Offender Parole Hearings* (17-TC-09))
2. *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)  
Los Angeles County Superior Court, Case No. BS130730  
Second District Court of Appeal Case No. B292446  
California Supreme Court, Case No. S214855  
[*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]

Courts of Appeal:

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)  
Third District Court of Appeal, Case No. C092139  
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*  
Third District Court of Appeal, Case No. C092800  
Sacramento County Superior Court, Case No. 2019-80003169  
(*Lead Sampling in Schools: Public Water System No. 3710020 (17-TC-03)*)

California Supreme Court:

1. *Coast Community College District, et al. v. Commission on State Mandates*, California Supreme Court, Case No. S262663  
(Petition for Review Filed June 10, 2010)  
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,

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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).

**RECONVENE IN PUBLIC SESSION**

At 11:43 a.m., the Commission reconvened in open session.

**REPORT FROM CLOSED EXECUTIVE SESSION**

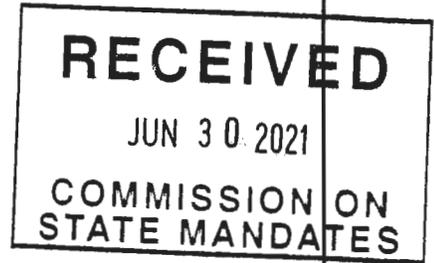
Chairperson Miller reported that the Commission met in closed executive session pursuant to Government Code section 11126(e)(2). The Commission conferred with and received advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the public notice and agenda, and conferred with and received 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 Walker made a motion to adjourn the meeting. Member Adams seconded the motion. The Commission adopted the motion to adjourn the May 28, 2021 meeting by a vote of 5-0 at 11:45 a.m., with Member Wong-Hernandez not present for the vote.

Heather Halsey  
Executive Director

STATE OF CALIFORNIA  
COMMISSION ON STATE MANDATES



PUBLIC MEETING

FRIDAY, MAY 28, 2021

10:02 A.M.

MEETING HELD

VIA ZOOM

A VIDEO COMMUNICATIONS PLATFORM

REPORTER'S TRANSCRIPT OF PROCEEDINGS

**ORIGINAL**

REPORTED BY:

KATHRYN S. SWANK

Certified Shorthand Reporter No. 13061

Registered Professional Reporter

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Roseville, California 95661  
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KathrynSwankCSR@sbcglobal.net

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**A P P E A R A N C E S**

(All attendees appeared remotely, via Zoom.)

**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)

SPENCER WALKER  
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

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**COMMISSION STAFF**

JULIANA GMUR  
Senior Commission Counsel

HEATHER A. HALSEY  
Executive Director

ELIZABETH MCGINNIS  
Commission Counsel

HEIDI PALCHIK  
Assistant Executive Director

CAMILLE N. SHELTON  
Chief Legal Counsel

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

2

3                    *PUBLIC PARTICIPANTS*

4                    ANNETTE CHINN  
5                    Cost Recovery Systems

6                    HOWARD GEST  
7                    County of Los Angeles and City of Downey

8                    LUCIA GONZALEZ  
9                    County of Los Angeles

10                    CHRIS HILL  
11                    Department of Finance

12                    FERNANDO LEMUS  
13                    County of Los Angeles

14                    LISA KUROKAWA  
15                    State Controller's Office

16                    WILLIAM WINTER  
17                    County of Los Angeles Public Works

18                    ---oOo---



**I N D E X**

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| I.       | Call to Order and Roll Call                                                                                                                                                                                                                     | 9  |
| II.      | Approval of Minutes                                                                                                                                                                                                                             |    |
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| III.     | Public Comment for Matters Not<br>on the Agenda (none)                                                                                                                                                                                          | 12 |
| IV.      | Proposed Consent Calendar for Items<br>Proposed for Adoption on Consent<br>Pursuant to California Code of<br>Regulations, Title 2, Articles 7<br>and 8 (none)                                                                                   | 13 |
| V.       | Hearings and Decisions Pursuant to<br>California Code of Regulations,<br>Title 2, Article 7                                                                                                                                                     |    |
| A.       | Appeals of Executive Director Decisions<br>Pursuant to California Code of<br>Regulations, Title 2, Section 1181.1(c)                                                                                                                            |    |
|          | Item 2      Appeal of Executive<br>Director Decisions (none)                                                                                                                                                                                    | 14 |
| B.       | Test Claims                                                                                                                                                                                                                                     |    |
|          | Item 3      Dismissal: Waste Discharge<br>Requirements and Water Quality<br>Certification for: Santa Clara<br>Valley Water District and<br>U.S. Army Corps of Engineers,<br>Upper Berryessa Creek Flood<br>Risk Management Project,<br>17-TC-04 | 13 |
|          | San Francisco Bay Regional<br>Water Quality Control Board<br>Order No. R2-2017-0014,<br>Provision B. 19, effective<br>April 12, 2017                                                                                                            |    |
|          | Santa Clara Valley Water<br>District, Claimant                                                                                                                                                                                                  |    |

**I N D E X   C O N T I N U E D**

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| ITEM NO. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | PAGE |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|
| Item 4   | County of Los Angeles Citizens Redistricting Commission, 19-TC-04<br><br>Elections Code Sections 21530, 21531, 21532, 21533, 21534, and 21535 as added by Statutes 2016, Chapter 781 (SB 958)<br><br>County of Los Angeles, Claimant                                                                                                                                                                                                                                                                                                                                                                                                  | 14   |
| C.       | Incorrect Reduction Claims                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |      |
| Item 5   | Municipal Storm Water and Urban Runoff Discharges, 19-0304-I-04, 20-0304-I-06, 20-0304-I-08, 20-0304-I-09, 20-0304-I-10, 20-0304-I-11, and 20-0304-I-13<br><br>Los Angeles Regional Water Quality Control Board Order No. 01-182, Permit CAS004001, Part 4F5c3<br><br>Fiscal Years: 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012<br><br>City of Claremont, Claimant<br><br>Fiscal Years: 2002-2003, 2003-2004, 2004-2005, 2005-2006<br><br>City of Downey, Claimant<br><br>Fiscal Years: 2008-2009, 2009-2010, 2010-2011, 2011-2012<br><br>City of Glendora, Claimant | 30   |

**I N D E X   C O N T I N U E D**

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| 5        | 2003-2004, 2004-2005, 2005-2006,             |      |
| 6        | 2006-2007, 2007-2008, 2008-2009,             |      |
| 7        | 2009-2010, 2010-2011, 2011-2012              |      |
| 8        | City of Pomona, Claimant                     |      |
| 9        | Fiscal Years: 2002-2003,                     |      |
| 10       | 2003-2004, 2004-2005, 2005-2006,             |      |
| 11       | 2006-2007, 2007-2008, 2008-2009,             |      |
| 12       | 2009-2010, 2010-2011, 2011-2012,             |      |
| 13       | 2012-2013                                    |      |
| 14       | City of Santa Clarita, Claimant              |      |
| 15       | Fiscal Years: 2002-2003,                     |      |
| 16       | 2003-2004, 2004-2005, 2005-2006,             |      |
| 17       | 2006-2007, 2007-2008, 2008-2009,             |      |
| 18       | 2009-2010, 2010-2011, 2011-2012,             |      |
| 19       | 2012-2013                                    |      |
| 20       | City of Signal Hill, Claimant                |      |
| 21       | Fiscal Years: 2002-2003,                     |      |
| 22       | 2003-2004, 2004-2005, 2005-2006,             |      |
| 23       | 2006-2007, 2007-2008, 2008-2009,             |      |
| 24       | 2009-2010, 2010-2011, 2011-2012,             |      |
| 25       | 2012-2013                                    |      |
| 26       | County of Los Angeles, Claimant              |      |
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| 29       | Distress Pursuant to Welfare and             |      |
| 30       | Institutions Code Section 17000.6            |      |
| 31       | and California Code of Regulations,          |      |
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| 35       | a Hearing Panel of One or                    |      |
| 36       | More Members of the Commission,              |      |
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| 38       | VII.      Informational Hearings Pursuant to |      |
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*I N D E X C O N T I N U E D*

| ITEM NO. |                                                                                                                                   | PAGE |
|----------|-----------------------------------------------------------------------------------------------------------------------------------|------|
| A.       | Adoption of Order to Adopt Rulemaking                                                                                             |      |
| Item 7   | General Cleanup, Proposed Amendments to California Code of Regulations, Title 2, Division 2, Chapter 2.5, Articles 1, 3, 5, and 7 | 13   |
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1 FRIDAY, MAY 28, 2021, 10:02 A.M.

2 ---o0o---

3 CHAIRPERSON MILLER: Good morning, everyone, again.  
4 It's 10:00 o'clock and the meeting of the Commission on  
5 State Mandates will come to order.

6 Welcome and thank you to everyone participating via  
7 zoom.

8 Please note that in response to COVID-19 and its  
9 impact on public meetings, under the Bagley-Keene Open  
10 Meeting Act, Governor Newsom's Executive Order N-29-20  
11 suspends, on an emergency basis, pursuant to California  
12 Government Code section 8571, certain requirements for  
13 public meetings.

14 Accordingly, requiring the physical presence of  
15 board members at public meetings and providing a  
16 physical space for members of the public to observe and  
17 participate have been suspended until further notice, so  
18 long as the agency makes it possible for members of the  
19 public to observe and address the meeting remotely; for  
20 example, via web or audio conferencing, such as we are  
21 on Zoom.

22 The Commission is committed to ensuring that our  
23 public meetings are accessible to the public and that  
24 the public has the opportunity to observe the meeting  
25 and to participate by providing written and verbal

1 comment on Commission matters.

2 During these extraordinary times and as we explore  
3 new ways of doing business with new technologies, we ask  
4 that you remain patient with us.

5 Please note that materials for today's meeting,  
6 including the notice, agenda, and witness list, are all  
7 available on the Commission's website at [www.csm.ca.gov](http://www.csm.ca.gov)  
8 under the "Hearings" tab.

9 So with that, Ms. Halsey, will you please call the  
10 roll.

11 MS. HALSEY: Sure. Mr. Adams.

12 MEMBER ADAMS: Here.

13 MS. HALSEY: Ms. Lee.

14 MEMBER LEE: Here.

15 MS. HALSEY: Ms. Miller.

16 CHAIRPERSON MILLER: Here.

17 MS. HALSEY: Ms. Olsen.

18 CHAIRPERSON MILLER: Ms. Olsen, can you unmute  
19 yourself, please, and say "here." Thank you.

20 MEMBER OLSEN: Here.

21 CHAIRPERSON MILLER: Thank you.

22 MS. HALSEY: Mr. Walker.

23 MEMBER WALKER: Here.

24 MS. HALSEY: Ms. Wong-Hernandez.

25 MEMBER WONG-HERNANDEZ: Here.

1 CHAIRPERSON MILLER: Thank you. We have a quorum.  
2 Next is Item Number 1.

3 Are there any objections to or corrections of the  
4 minutes from March 26, 2021?

5 MEMBER OLSEN: Move adoption.

6 CHAIRPERSON MILLER: Thank you, Ms. Olsen.  
7 Do we have a second?

8 MEMBER ADAMS: Second.

9 CHAIRPERSON MILLER: Second by Mr. Adams. Thank  
10 you.

11 We are going to take a roll call vote just in  
12 case someone -- we can't hear everything on Zoom.

13 So may we please have a roll call vote of the  
14 minutes, moved by Ms. Olsen, seconded by Mr. Adams. And  
15 I see no public comment for the minutes.

16 Ms. Halsey.

17 MS. HALSEY: Sure.

18 Mr. Adams.

19 MEMBER ADAMS: Aye.

20 MS. HALSEY: Ms. Lee.

21 MEMBER LEE: Aye.

22 MS. HALSEY: Ms. Miller.

23 CHAIRPERSON MILLER: Aye.

24 MS. HALSEY: Ms. Olsen.

25 MEMBER OLSEN: Aye.

1 MS. HALSEY: Mr. Walker.

2 MEMBER WALKER: Aye.

3 MS. HALSEY: Ms. Wong-Hernandez.

4 MEMBER WONG-HERNANDEZ: Aye.

5 CHAIRPERSON MILLER: The minutes are approved.

6 Thank you.

7 MS. HALSEY: And now we will take -- sorry.

8 CHAIRPERSON MILLER: Oh, no. Go ahead.

9 MS. HALSEY: Now we can take public comment for  
10 matters not on the agenda. Please note that the  
11 Commission cannot take action on items not on the  
12 agenda. However, it can schedule issues raised by the  
13 public for consideration at future meetings.

14 We invite the public to please comment on matters  
15 that are on the agenda as they are taken up.

16 CHAIRPERSON MILLER: Thank you.

17 Is there any public comment?

18 MS. PALCHIK: I'm seeing none, Madam Chair.

19 CHAIRPERSON MILLER: Great. Thank you,

20 Ms. Palchik.

21 Hearing no public comment, we'll move to the next  
22 item, please. Ms. Halsey.

23 MS. HALSEY: Items 3 and 7 are proposed for  
24 consent.

25 Are there any objections to the proposed -- sorry.

1 That's you. Sorry.

2 CHAIRPERSON MILLER: No worries. It's all good.

3 Are there any objections to the proposed consent  
4 calendar?

5 (No response)

6 CHAIRPERSON MILLER: Seeing none, may we have a  
7 motion and a second to adopt the consent calendar,  
8 please.

9 MEMBER OLSEN: So moved.

10 CHAIRPERSON MILLER: Moved my Ms. Olsen.

11 MEMBER WONG-HERNANDEZ: Second.

12 CHAIRPERSON MILLER: Seconded by

13 Ms. Wong-Hernandez. Thank you.

14 We have a motion and a second.

15 Any public comment on the consent calendar?

16 (No response)

17 MS. PALCHIK: Seeing none.

18 CHAIRPERSON MILLER: Great. Thank you very much.

19 Ms. Halsey, will you call the roll for the consent  
20 calendar, please.

21 MS. HALSEY: Mr. Adams.

22 MEMBER ADAMS: Aye.

23 MS. HALSEY: Ms. Lee.

24 MEMBER LEE: Aye.

25 MS. HALSEY: Ms. Miller.

1 CHAIRPERSON MILLER: Aye.

2 MS. HALSEY: Ms. Olsen.

3 MEMBER OLSEN: Aye.

4 MS. HALSEY: Mr. Walker.

5 MEMBER WALKER: Aye.

6 MS. HALSEY: Ms. Wong-Hernandez.

7 MEMBER WONG-HERNANDEZ: Aye.

8 CHAIRPERSON MILLER: Great. The consent calendar  
9 is approved.

10 Ms. Halsey, let's move to Article 7, please.

11 MS. HALSEY: Now will the parties and witnesses for  
12 Items 4 and 5 please turn on your video and unmute your  
13 microphones and please rise.

14 (Parties/witnesses stood to be sworn or  
15 affirmed.)

16 MS. HALSEY: Thank you. Please be seated and turn  
17 off your video and mute your microphone.

18 Item 2 is reserved for appeals of executive  
19 director decisions. There are no appeals to consider  
20 for this hearing.

21 Next is Item 4. Senior Commission Counsel Juliana  
22 Gmur will please turn on her video and unmute her  
23 microphone and present a proposed decision on a test  
24 claim on County of Los Angeles Citizens Redistricting  
25 Commission.

1           At this time, we invite the parties and witnesses  
2 for Item 4 to turn on their video and unmute their  
3 microphones.

4           CHAIRPERSON MILLER: Thank you, Ms. Gmur. Please  
5 go ahead.

6           MS. GMUR: Madam Chair, Commissioners, good  
7 morning.

8           This test claim addresses changes to the Elections  
9 Code, which created the Los Angeles County Citizens  
10 Redistricting Commission, or CRC, to perform the  
11 supervisorial redistricting required after each federal  
12 sentence [sic].

13           Under prior law, the Los Angeles County -- I beg  
14 your pardon.

15           Under prior law, the Los Angeles County Board of  
16 Supervisors performed the redistricting and had to  
17 comply with only a few requirements. Now the County is  
18 required to create, staff, and fund the 14-member CRC  
19 and the CRC must comply with several requirements in  
20 performing the redistricting.

21           The claimant seeks reimbursement for the costs  
22 associated with the creation, staffing, and funding of  
23 the CRC, as well as costs associated with the CRC's  
24 redistricting, including the costs of retaining a  
25 consultant to assist the CRC.

1 Staff finds that the test claim statute imposes a  
2 reimbursable state-mandated program on Los Angeles  
3 County within the meaning of Article XIII B, section 6,  
4 for the activities listed in the proposed decision.

5 However, the requirements to adjust supervisorial  
6 boundary lines, adopt a redistricting plan every ten  
7 years, and comply with the Public Records Act are not  
8 new, and do not impose a new program or higher level of  
9 service on the claimant.

10 In addition, the retention of a consultant is not  
11 mandated by the plain language of the test claim statute  
12 but it is authorized by law, and that authority is not  
13 new.

14 Finally, the compliance with the Brown Act for  
15 public hearings conducted by the CRC is expressly  
16 excluded from the subvention requirement by Article XIII  
17 B, section 6(a)(4) of the California Constitution, and,  
18 therefore, those costs are not eligible for  
19 reimbursement.

20 Accordingly, staff recommends that the Commission  
21 adopt the proposed decision to partially approve the  
22 test claim and authorize staff to make any technical,  
23 nonsubstantive changes to the proposed decision  
24 following the hearing.

25 CHAIRPERSON MILLER: Thank you, Ms. Gmur. That was

1 great.

2 So now, please, would the parties and witnesses  
3 state your names for the record, one at a time, please.  
4 And Mr. Lemus and Ms. Gonzalez for the County of Los  
5 Angeles, please state your names, and then we'll ask  
6 Mr. Hill to begin after -- to state his position after  
7 that.

8 Mr. Lemus, we can't hear you.

9 MS. GONZALEZ: Can you hear me?

10 CHAIRPERSON MILLER: I can hear you, Ms. Gonzalez.  
11 Why don't you state your name for the record.

12 I will have Mr. Hill do the same, and we'll see if  
13 Mr. Lemus can figure out his audio.

14 Go ahead, Ms. Gonzalez, please.

15 MS. GONZALEZ: Good morning. My name is Lucia  
16 Gonzalez. I'm with the Office of the County Counsel for  
17 Los Angeles County.

18 And I believe Mr. Lemus is the claim  
19 representative, and he was going to introduce me,  
20 following his intro.

21 CHAIRPERSON MILLER: Great. We'll give him one  
22 more second.

23 And then, Mr. Hill, can you introduce yourself,  
24 please, for the record.

25 MR. HILL: Certainly. Good morning.

1 Chris Hill with the California Department of  
2 Finance.

3 CHAIRPERSON MILLER: Thank you for that.

4 Mr. Lemus, are you still having audio issues? Why  
5 don't we -- there's a number that you can actually call  
6 in. And so if you can call in by phone, since we can't  
7 hear you on audio, and then we can -- you hopefully will  
8 be able to sync your audio and video. So do you want to  
9 try that? And we will just give you a couple minutes to  
10 do that and then -- before we say anything more. So  
11 we're just going to pause for two minutes while  
12 Mr. Lemus gets his audio working. Thank you, Mr. Lemus.  
13 We have all been there, so no worries at all. It seems  
14 like you can hear us, which is good.

15 Ms. Halsey, are you or someone from your team able  
16 to give the number for Mr. Lemus to call? Do you have  
17 that, Mr. Lemus? You do? Okay.

18 MR. LEMUS: Okay. Can you hear me now?

19 CHAIRPERSON MILLER: We can hear you now. Great.  
20 Great news.

21 MR. LEMUS: I apologize. I just -- I just had my  
22 little web cam and microphone replaced because the  
23 previous one made it sound like I was -- like I was  
24 dying. It made it sound like I was really, really sick.  
25 And I apologize. This one, for some reason, is not

1 working.

2 CHAIRPERSON MILLER: No worries.

3 MR. LEMUS: So my name is Fernando Lemus. I am the  
4 claimant representative. And as Lucia stated, I was --  
5 this was the extent of what I was going to say was just,  
6 I was going introduce her because she will be presenting  
7 the County's comments before this Commission.

8 CHAIRPERSON MILLER: Great. Thank you very much.  
9 We appreciate that.

10 Ms. Gonzalez, please go ahead.

11 MS. GONZALEZ: Thank you.

12 Good morning again, Madam Chair and Commissioners,  
13 and everybody else that's listening right now.

14 Claimant County of Los Angeles requests that this  
15 Commission adopt the staff's proposed decision findings  
16 at Election Code section 21532 and 21534, as added by  
17 the test claim statute, imposes a reimbursable  
18 state-mandated program on the County of Los Angeles. As  
19 the test claim imposes increased costs mandated by the  
20 State pursuant to Article section -- I'm sorry,  
21 Article -- yeah. Article XIII B, section 6, of the  
22 California Constitution and Government Code section  
23 17514.

24 The County -- the claimant, however, urges the  
25 Commission to reject the staff's analysis that

1 consultant costs are not mandated by the test claim  
2 statute. The test claim statute requires that the  
3 Citizens Redistricting Commission, also known as the  
4 CRC, be staffed and that the claimant provide reasonable  
5 funding.

6 The costs associated with retaining a consultant  
7 are reasonable and, in fact, contemplated in the test  
8 claim statute as the legislature set forth the criteria  
9 on who can be a consultant.

10 Further, the test claim statute requires that the  
11 CRC issue a report and explains its decisions to ensure  
12 the mapping process achieves compliance with the  
13 designated criteria in the U.S. Constitution; the  
14 Federal Voting Rights Act of 1965; geographic  
15 contiguity; geographic integrity of the cities,  
16 neighborhoods, or communities of interest; geographical  
17 compactness without regard to any incumbent, political  
18 candidate, or political party.

19 This criteria necessarily requires an understanding  
20 of the applicable law, legal, and geographical concepts  
21 and practical applications and subject matter expertise  
22 that compels engagement of a consultant in order to  
23 comply with the reporting requirements in Election Code  
24 section 21534(d)(4).

25 The staff, in its decision, suggests -- in its

1 proposed decision suggests that the County may be able  
2 to shift their costs, since nothing in Article XIII B,  
3 section 6, prohibits shifting of costs between local  
4 government agencies. However, it is the claimant's  
5 belief that the staff's reliance on the case they cited,  
6 City of San Jose versus California, is not applicable to  
7 this test claim statute. There, the City of San Jose  
8 filed a writ after its test claim was denied. Their  
9 test claim claimed that Government Code section 29550,  
10 which authorized counties to charge cities for the costs  
11 of booking persons into county jails -- which resulted  
12 in a significant cost to the City of San Jose.

13 In that case, the court of appeals agreed with the  
14 Commission and found that the statute did not create a  
15 mandate, because it was discretionary for the County to  
16 shift those costs to the cities. But in this case,  
17 there is no discretion for the County. The County must  
18 create the independent Citizens Redistricting  
19 Commission. This is mandatory.

20 In addition, the test claim does not allow for cost  
21 shifting among local governments. In the case cited by  
22 staff in the proposed decision, City of San Jose, the  
23 statute itself allowed for counties that they may shift  
24 these costs to the cities. There's nothing in this test  
25 claim statute that authorizes the County to shift these

1 costs to any other local municipality.

2 Finally, the claimant does agree with the staff's  
3 proposed decision to recommend approval of the test  
4 claim. However, we would ask, again, that the  
5 Commission revisit its position on the consultants.

6 In addition, if the Commission were to find that  
7 the consultant costs are not mandated under this test  
8 claim statute, it is the intent of the Claimant to  
9 follow the staff's advice, as listed on page 33 of its  
10 draft proposed decision. There, it directs that a  
11 request for consultant costs be included in the  
12 parameters and guidelines, so long as a request is  
13 supported by substantial evidence in the record, showing  
14 that the activity to hire consultants is reasonably  
15 necessary for the performance of the state-mandated  
16 program in accordance with the Government Code sections.

17 Thank you.

18 CHAIRPERSON MILLER: Thank you very much,  
19 Ms. Gonzalez.

20 Mr. Hill, would you like to speak now, please?

21 MR. HILL: Yes, thank you. Again, Chris Hill for  
22 the Department of Finance.

23 We do acknowledge that the Commission staff did  
24 limit somewhat the scope of the claimed reimbursable  
25 activities that were claimed by the claimant.

1           However, just for the record, we would like to  
2 reiterate our contention as stated in our letter of  
3 December 28th, 2020, that the statutes at issue, we do  
4 not believe that they impose a new program or a higher  
5 level of service. Instead, we believe that the costs  
6 that are incurred by the claimant are to create and  
7 support the Citizens Redistricting Commission and the  
8 fulfillment of districting for the board of supervisors,  
9 which is an existing activity; and that the statute at  
10 issue merely increased the costs for the county clerk or  
11 registrar and for the board of supervisors to -- costs  
12 associated with an existing activity.

13           And we would just note for the record as well that  
14 pursuant to a ruling in the case City of Anaheim versus  
15 the State of California, from 1987, the Third District  
16 Court of Appeal ruled that increased costs alone do not  
17 result in a reimbursable state mandate.

18           And the second course -- excuse me. The second  
19 case we would cite is San Diego Unified School District  
20 versus the Commission on State Mandates, from 2004, when  
21 the Fourth District Court of Appeal ruled that  
22 reimbursement is not required if a statute merely  
23 implements a change and increases the costs of providing  
24 a service.

25           Thank you.

1 CHAIRPERSON MILLER: Thank you very much.  
2 Are there any questions or discussion from members?  
3 Mr. Adams, please.  
4 MEMBER ADAMS: Thank you.  
5 Actually, I have two questions.  
6 One for Mr. Hill: Is the Department's position,  
7 then, if this has no higher level of service, that  
8 nothing should be reimbursed in this matter?  
9 MR. HILL: Yes, sir. That is our contention.  
10 MEMBER ADAMS: Okay. So you folks disagree with  
11 the staff's recommendation partially then.  
12 MR. HILL: Yes, sir.  
13 CHAIRPERSON MILLER: Okay. Thank you.  
14 MEMBER ADAMS: And then I guess my other question,  
15 for anybody who wants to answer it is, if the work of  
16 the consultant was done in-house by the County of Los  
17 Angeles, would we feel as though that is reimbursable?  
18 Is the issue is that a consultant is doing the work?  
19 And I guess I would like the answer to that  
20 question, and then I will have a follow-up question.  
21 CHAIRPERSON MILLER: Thank you, Mr. Adams. And  
22 then I will get to you, Ms. Wong-Hernandez.  
23 Ms. Gmur or Ms. Shelton, do you want to answer  
24 that?  
25 MS. GMUR: Yeah, I will if that's all right,

1 Camille.

2 MS. SHELTON: Please.

3 MS. GMUR: So when we're looking at reimbursement,  
4 we're speaking in terms of the consultant, but the  
5 reality of the reimbursement is, we're actually looking  
6 at the activities.

7 So, yes, if somebody in-house was performing the  
8 approved reimbursable activities, then that would be  
9 reimbursable. If the consultant is performing those  
10 activities, that's reimbursable. It depends on what  
11 they are doing.

12 But I must say that Mr. Hill is quite correct, that  
13 increased costs do not a mandate make, but that's not  
14 what we have.

15 Before the prior law was, the board of supervisors  
16 was required to handle the redistricting. There was no  
17 requirement to form the CRC at all. This is a new  
18 program, it is a higher level of service, and it has its  
19 reimbursable components. Redistricting is not new.  
20 Drawing a map, not new.

21 So those portions that were required to be done  
22 before, including having one of the meetings before the  
23 adoption of the map, all not new. We're only  
24 concentrating on that which has been added as a result  
25 of the program, which requires the County to create

1 staff and fund the CRC.

2 CHAIRPERSON MILLER: Thank you for that.

3 Mr. Adams, do you have a follow-up to that?

4 And then we'll go the Ms. Wong-Hernandez.

5 MEMBER ADAMS: I don't. I will listen to others  
6 before I ask anything else. Thank you.

7 CHAIRPERSON MILLER: Thank you.

8 Ms. Wong-Hernandez.

9 MEMBER WONG-HERNANDEZ: So this is partially adding  
10 on or responding to Mr. Adams, but also partially making  
11 sure I understand. So please, I'm asking Commission  
12 staff to correct me if I'm not understanding.

13 I think that the point that you are all making is  
14 that the mandate is not for consultants. Like, the  
15 mandate itself; it actually only limits the number --  
16 you know, it limits kind of the ability to hire  
17 consultants. It does not say you need to hire a  
18 consultant.

19 But the Ps&Gs, to me, seem like the appropriate  
20 place to make that a reimbursable activity. That it was  
21 like if you -- that you would sort of make the case in  
22 the parameters and guidelines that what you are going to  
23 need is that consultant that's allowable in that  
24 statute. Is that correct?

25 Because I don't think you guys are saying you can't

1 ever have a consultant that's reimbursable. It's just  
2 that you are not mandated to, but that there would be  
3 like an opportunity to figure that out later. Is that  
4 correct or not correct?

5 MS. GMUR: That is correct, Commissioner.

6 So the test claim statute is silent as to the  
7 hiring of a consultant. There's just nothing there,  
8 except that if you are going to hire a consultant, there  
9 is a limitation on who you can hire. They have to meet  
10 the qualifications of an individual who would be  
11 qualified for the CRC itself. So that's the only  
12 direction that we have coming out of the statute on its  
13 face.

14 Ms. Gonzalez is arguing that, you know, how could  
15 you possibly do this without a consultant? And in that,  
16 she may be correct. But it's still not mandated on the  
17 plain language, on the face of the statute.

18 MEMBER WONG-HERNANDEZ: So my follow-up is, but  
19 we're not saying it may never be reimbursable. We're  
20 saying, it's not -- in and of itself is not a mandate,  
21 but as we're figuring out what the parameters and  
22 guidelines of the mandate are, we may find that that is  
23 an allowable expense at a future time; is that right?

24 MS. GMUR: That is correct, Commissioner. Yes.

25 You know, it ties back to the reimbursable

1 components, the activities. And if the County is able  
2 to produce sufficient evidence, substantial evidence, to  
3 prove that the consultant is necessary for this  
4 activity, then that is what we will cover in the Ps&Gs.

5 MEMBER WONG-HERNANDEZ: Thank you.

6 MS. HALSEY: I would like to add one thing to that.  
7 I mean, we will consider that with evidence submitted in  
8 the record. But, generally speaking, who performs the  
9 mandate is not a mandate itself. That is just a  
10 reimbursable -- that's neither here nor there. There's  
11 nothing in the plain language of the statute that  
12 requires the hiring of consultant, and even if they need  
13 to hire a consultant, it's still not an activity.

14 MEMBER WONG-HERNANDEZ: Right.

15 MS. HALSEY: So --

16 MEMBER WONG-HERNANDEZ: The focus on activities is  
17 the right one, but I just wanted to get back to kind of  
18 what Mr. Adams was talking about, which is that we're  
19 not saying, "L.A. County, you can absorb this." That's  
20 not what we're saying in this. We're saying that there  
21 are activities, and we'll figure out who is performing  
22 them and how they are going to get reimbursed. But  
23 we're not saying you absolutely can do this with no  
24 additional resource.

25 MS. HALSEY: That's correct.

1 MEMBER WONG-HERNANDEZ: I mean, we're figuring out  
2 who is going to do them and how.

3 MS. HALSEY: That's correct.

4 Camille has something to add.

5 MS. SHELTON: Just to be clear, though, this  
6 analysis is finding that the activity to actually draw  
7 the lines, redistricting activities, and the activity to  
8 draw the map, are not new and would not be included in  
9 the reimbursable state-mandated activities.

10 MEMBER WONG-HERNANDEZ: Thank you.

11 CHAIRPERSON MILLER: Right. And some of these  
12 discussions will be ongoing when we get to P&Gs later.

13 Any further questions on this matter?

14 (No response)

15 CHAIRPERSON MILLER: Any public comment?

16 MS. PALCHIK: I see no public comment.

17 CHAIRPERSON MILLER: Thank you, Ms. Palchik.

18 With that, is there a motion and a second, please?

19 MEMBER WONG-HERNANDEZ: I will move the staff  
20 recommendation.

21 MEMBER ADAMS: And I would second.

22 CHAIRPERSON MILLER: Thank you, Ms. Wong-Hernandez  
23 and Mr. Adams.

24 There have been a motion and a second, and there's  
25 no further public discussion.

1 Ms. Halsey, will you please call the roll.

2 MS. HALSEY: Mr. Adams.

3 MEMBER ADAMS: Aye.

4 MS. HALSEY: Ms. Lee.

5 MEMBER LEE: Aye.

6 MS. HALSEY: Ms. Miller.

7 CHAIRPERSON MILLER: Aye.

8 MS. HALSEY: Ms. Olsen.

9 MEMBER OLSEN: Aye.

10 MS. HALSEY: Mr. Walker.

11 MEMBER WALKER: Aye.

12 MS. HALSEY: Ms. Wong-Hernandez.

13 MEMBER WONG-HERNANDEZ: Aye.

14 CHAIRPERSON MILLER: Thank you. The staff  
15 recommendation is approved.

16 We will now move to item our next item, Number 5.

17 MS. HALSEY: We now ask presenters for Item 4 to  
18 please turn off their videos and mute their microphones.  
19 And next is Item 5.

20 Commission Counsel Elizabeth McGinnis will please  
21 turn on her video and unmute her microphone and present  
22 a proposed decision on a consolidated indirect reduction  
23 claim on Municipal Storm Water and Urban Runoff  
24 Discharges.

25 At this time, we invite the parties and witnesses

1 for Item 5 to please turn on their video and unmute  
2 their microphones.

3 CHAIRPERSON MILLER: Thank you.

4 Welcome, Ms. McGinnis. Do you want to introduce  
5 the item, please?

6 MS. MCGINNIS: Yes. Hello. Good morning.

7 CHAIRPERSON MILLER: Good morning.

8 MS. MCGINNIS: This consolidated incorrect  
9 reduction claim alleges that the State Controller's  
10 Office incorrectly reduced reimbursement claims filed by  
11 the Cities of Claremont, Downey, Glendora, Pomona, Santa  
12 Clarita, and Signal Hill, and the County of Los Angeles  
13 for costs claimed to implement the Municipal Storm Water  
14 and Urban Runoff Discharges Program.

15 The Controller found that the claimants failed to  
16 identify and deduct as offsetting revenues Proposition A  
17 and Proposition C Local Return Funds which the claimants  
18 received from the Los Angeles County Metropolitan  
19 Transportation Authority, and used to pay for the  
20 installation and maintenance of trash receptacles at  
21 traffic stops required by the mandated program.

22 Staff finds that the Controller's reduction is  
23 correct as a matter of law. Under Article XIII B,  
24 section 6, of the California Constitution, the State is  
25 required to provide reimbursement only when a local

1 government is mandated by the State to spend its own  
2 proceeds of taxes subject to the appropriations limit of  
3 Article XIII B.

4 Proposition A and Proposition C are transactions  
5 and use taxes levied used by the Los Angeles County  
6 Metropolitan Transportation Authority. A portion of the  
7 Proposition A and Proposition C tax revenues are  
8 distributed to the claimant cities and county through  
9 the Proposition A and Proposition C local return  
10 programs for use on eligible transportation projects.

11 These taxes, however, are not levied by or for the  
12 cities and county as that constitutional phrase is  
13 interpreted by the courts, because the claimants do not  
14 have the authority to levy Proposition A and Proposition  
15 C taxes.

16 Therefore, these taxes are not the claimant's local  
17 proceeds of taxes, nor are the proceeds subject to the  
18 cities or county's respective appropriations limit.  
19 Therefore, where as here, a local government funds  
20 mandated activities with other than its own proceeds of  
21 taxes, those amounts are not eligible for reimbursement,  
22 and the funds must be identified as offsetting revenues  
23 against its reimbursement claims.

24 Accordingly, staff recommends that the Commission  
25 adopt the proposed decision and deny this consolidated

1 IRC.

2 CHAIRPERSON MILLER: Thank you very much,  
3 Ms. McGinnis.

4 Now we will ask the parties and witnesses to please  
5 state your name for the record.

6 Mr. Gest and Mr. Winter for the County of Los  
7 Angeles, if you would like to begin, please; if you  
8 could please state your names for the record.

9 MR. GEST: Yes. Howard Gest, of Burhenn & Gest, on  
10 behalf of the County of Los Angeles and also the City of  
11 Downey.

12 CHAIRPERSON MILLER: Great. Thank you very much.

13 MR. WINTER: And William Winter with Los Angeles  
14 County Public Works.

15 CHAIRPERSON MILLER: Thank you very much.

16 And Ms. Kurokawa for the State Controller's Office,  
17 will you please state your name for the record.

18 MS. KUROKAWA: My name is Lisa Kurokawa, and I work  
19 for the State Controller's Office.

20 CHAIRPERSON MILLER: Great. Thank you and welcome.

21 So Mr. Gest and Mr. Winter, if you would like to  
22 begin, please.

23 MR. GEST: Yes. Thank you very much.

24 I will have Mr. Winter go first.

25 MR. WINTER: Again, my name is William Winter. I'm

1 an assistant deputy director with Los Angeles County,  
2 Public Works. The operational title is division head,  
3 and I currently manage the Sewer Maintenance Division,  
4 about 200 employees, with a \$75 million budget for our  
5 sewer system, our sanitary sewer system in the region.  
6 I'm a registered civil engineer, and I've been here for  
7 35 years in a very -- you know, responsibly progressive  
8 jobs at the Department of Public Works.

9 I'm here to testify in support of the claim for  
10 reimbursement for the trash receptacles that were  
11 installed pursuant to the Municipal Storm Water Permit.

12 From 1995 to 2000, my assignment was in the  
13 Programs Development Division. I was first a unit head  
14 and a section head, where I coordinated the  
15 transportation projects of the department with the  
16 various federal, state, railroad, and local authorities.  
17 That involved extensive involvement with the Los Angeles  
18 County Metropolitan Transportation Authority. It often  
19 involved seeking grant funding, securing necessary  
20 agreements, and ensuring that all the applicable laws  
21 and regulations were communicated to the operational  
22 parts of my department.

23 But for 2000 to 2003, I served in an even greater  
24 role of responsibility as the assistant division head of  
25 the Programs Development Division. I oversaw my

1 previous job that I held. But I also was now involved  
2 with transit operations, with project budgeting, and  
3 flood control management as well.

4 So in that time frame, I was directly involved in  
5 the management decisions associated with trash  
6 receptacles at bus shelters. We had a very limited  
7 success in securing grant funding from the MTA, LA  
8 County MTA.

9 The source of that was federal funds, federal  
10 transportation enhancement activity funds. And those  
11 funds were really just for the purchase of the  
12 receptacles. It didn't provide any maintenance dollars.  
13 And these were limited, as I said.

14 The Proposition A Local Return Funds is a source of  
15 revenue that's relied on as a bridge source of funds.  
16 And as a member of the L.A. County MTA Technical  
17 Advisory Committee, I was also in a position to know  
18 that the MTA was desirous of ensuring that the  
19 Proposition A transit dollars went to advancing mobility  
20 goals of the region.

21 And so while a bus stop and associated amenities  
22 are important for the transit users, the use of the Prop  
23 A funds for trash receptacles wouldn't directly advance  
24 the mobility or increased transit usage.

25 So I was involved in the decision making and,

1 personally, to file an SB 90 claim, and when the County  
2 identified the Prop A funds as a source of the front  
3 funding, the County was also aware that it had an SB 90  
4 claim for reimbursement that was pending or would be  
5 filed.

6 So use of our Prop A local return was intended to  
7 meet the cash flow needs to address the trash TMDL while  
8 seeking reimbursement of the expense. That would allow  
9 us to also meet our local transit needs once that  
10 reimbursement was received. So, in other words, the  
11 Proposition A Local Return Funds was a bridge for cash  
12 flow purpose.

13 And the return funds were generated from local  
14 sales tax, but I or no one else within the  
15 administration of Public Works had any reason at that  
16 time to believe that the County could not use the Prop A  
17 fund and then seek reimbursement under the SB 90  
18 program. Had I known that in 2002/2003, that making  
19 that decision could ultimately jeopardize reimbursement,  
20 I was in a position of authority and decision making to  
21 have charted a different course.

22 Thank you.

23 CHAIRPERSON MILLER: Thank you very much,  
24 Mr. Winter.

25 Mr. Gest, do you want to comment?

1 MR. GEST: Yes.

2 Again, Howard Gest on behalf of the County of Los  
3 Angeles and City of Downey.

4 As has been indicated, this is a consolidated  
5 incorrect reduction claim seeking reimbursement for the  
6 installation and maintenance of trash receptacles which  
7 were imposed by the Los Angeles County Municipal Storm  
8 Water Permit starting in 2002.

9 And Mr. Winter just addressed the thought processes  
10 of the County when they were looking for funds to pay  
11 for this. And as he indicated, we had an SB 90 -- he  
12 refers to SB 90. Of course it's now a claim under  
13 Article XIII B, section 6, that we would be looking for,  
14 for reimbursement, and there was no intent, by using  
15 these other funds, to preclude us from that.

16 It's undisputed in this case that this is a  
17 reimbursable state mandate, and it's undisputed that the  
18 county and the cities incurred these costs in accordance  
19 with the mandate.

20 It's also undisputed that the county and the cities  
21 used local sales tax revenue. You have heard reference  
22 to Proposition A and Proposition C. These are  
23 propositions that were adopted -- one in 1980 and one in  
24 1990 -- which impose a half cent sales tax on the local  
25 citizens in the County of Los Angeles, or a half cent

1 use tax on the citizens in the County of Los Angeles.

2 A citizen in Orange County doesn't pay the tax; a  
3 citizen in San Diego County doesn't pay the tax; in  
4 Ventura County doesn't pay the tax. Only the citizen in  
5 Los Angeles pays -- or a resident in L.A. County pays  
6 the tax. So there's no dispute that this is a local  
7 sales tax.

8 And these are generally the elements that are  
9 required for reimbursement of a mandate under  
10 Article XIII B, section 6: A reimbursable state  
11 mandate, use of a local tax.

12 Nevertheless, the Controller's Office and the  
13 Commission staff and the proposed decision intend to add  
14 a requirement that's not present in the language of  
15 Article XIII B, 6, and is inconsistent with the voters'  
16 intent and inconsistent with the structure of  
17 Article XIII B. And that requirement is that the tax  
18 also has to be part of the "appropriations subject to  
19 limitation" under section 1. Not section 6, but section  
20 1 of Article XIII B.

21 And this is wrong and erroneous, and it's wrong and  
22 erroneous for several reasons:

23 One, it's not consistent with the plain language of  
24 Article XIII B, section 6;

25 Two, it's not consistent with the structure of

1 Article XIII B, section 6 -- Article XIII B in its  
2 entirety;

3 Three, it's contrary to the intent of the voters  
4 who adopted Article XIII B, under Proposition 4;

5 And, five [sic], it's an unlawful retroactive  
6 application of the parameters and guidelines that never  
7 had this requirement in it.

8 And, now -- and as mentioned, Mr. Winter testified,  
9 if we knew that it was going to be interpreted this way,  
10 we would have gone a different route. There was nothing  
11 that stopped the county or cities from just using the  
12 general sales tax or other general funds. They believe  
13 that they had a claim for reimbursement because they  
14 were using a local sales tax.

15 Now, let me just give you a brief history so we can  
16 set the scene: In 2002 -- or effective as of 2002 -- it  
17 was adopted in December of 2001 -- the Regional Water  
18 Quality Control Board adopted this storm water permit  
19 which imposed this mandate. And starting 2002, the  
20 county and the cities began to incur expenses to comply  
21 with it.

22 The parameter -- and they used what we call -- what  
23 we are referring to as this Proposition A and  
24 Proposition C funds, which were for local transit  
25 purposes but specifically had a provision where there

1 would be a local return fund. So under Proposition A,  
2 25 percent of the sales tax went back to the county or  
3 the cities for their local use; and under Proposition C,  
4 20 percent of the sales tax went back to the local  
5 municipalities for their use.

6 The parameters and guidelines in this case  
7 was adopted -- were adopted in 2011. As is pertinent  
8 here, they specifically had a provision that said  
9 reimbursement for this mandate received from any  
10 federal, state, or nonlocal source shall be identified  
11 and deducted from this claim.

12 At the time the parameters and guidelines were  
13 adopted, the Departments of Finance, the State  
14 Controller's Office had an opportunity to comment on  
15 these parameters and guidelines and asked for changes if  
16 they wanted. They didn't change the word "nonlocal  
17 source" to -- and, in addition, taxes subject to the  
18 appropriations limit. There was no request to change  
19 the provisions or parameters and guidelines that says  
20 that what will be the -- identified and deducted are  
21 federal, state, or nonlocal sources.

22 So we believe that the proposed decision and the  
23 Controller's actions, which now include a new element,  
24 which is that it has to be a local sales tax -- local  
25 tax that's not subject to the -- that is subject to the

1 appropriations limitations is an -- is adding something  
2 to the parameters and guidelines and, even more  
3 importantly, not consistent with the statute and the  
4 Constitution itself.

5 So let me address those two points:

6 First of all, Article XIII B was adopted by the  
7 initiative Proposition 4, and it has two main purposes:

8 One is to limit the appropriations -- the  
9 expenditures of the municipalities, and it does that by  
10 adopting Section 1, which limits the expenditures of  
11 what's defined to be "appropriations subject to  
12 limitation";

13 Its second purpose is to provide mandates,  
14 reimbursement for state mandates. And that's reflected  
15 in section 6. Section 6 is independent of section 1.  
16 There's nothing in the language of section 6 that ties  
17 it to section 1 or appropriations subject to limitation.

18 As the Commission is familiar, Article XIII B,  
19 section 6, says that whenever the legislature or any  
20 state agency mandates a new program or higher level of  
21 service on any local government, the State shall provide  
22 a subvention of funds. There's nothing in that section  
23 that references the other sections.

24 The courts have construed that section to make  
25 clear that this applies when there's an expenditure of

1 tax revenue, and that it was to be directed to the local  
2 municipalities' tax revenues. But the courts have never  
3 said that this section was a tie -- tied to the  
4 limitation on the expenditures of appropriations.

5 In fact, you know, they always speak in terms of  
6 taxes. And the reason why there's a reimbursement is  
7 because the State is mandating the county or city to use  
8 their tax revenues for a purpose that the State believes  
9 is important but is not something to do with it.

10 So, first of all, there's nothing in section 6 that  
11 ties it. There was nothing in the voter pamphlet that  
12 advised the people who were voting on the initiative  
13 that section 6 would be tied to a requirement that the  
14 local tax be subject to the payment limitation. So  
15 there was nothing to indicate that the voters intended  
16 to do that.

17 Third, if you look at Article XIII B, in the  
18 definition of "appropriations subject to limitation,"  
19 they explicitly exclude subventions pursuant to section  
20 6. And in the definition of "proceeds of taxes," they  
21 specifically exclude subventions pursuant to article --  
22 section 6.

23 So what they have done is they said that the  
24 appropriate -- the definition of "appropriations subject  
25 to limitation," which is in section 1, should not --

1 those -- those appropriations should not include any  
2 subventions that the city or a county would receive.

3 But the Commission's proposed -- the staff's  
4 proposed decision turns that on its head. They are  
5 saying that unless the money was under the  
6 appropriations limit, you can't get reimbursed; whereas,  
7 Article XIII B's definitions in A and C specifically say  
8 you should not be including it. Because the result of  
9 the proposed decision is, unless we had spent money that  
10 was subject to the appropriations, we couldn't get  
11 subvention. But section 8(a) and section 8(c) say  
12 subvention should not be included within those  
13 definitions of "appropriations" or "proceeds of taxes."

14 In the initial presentation, there was also a  
15 reference to, we're not using what's defined to be  
16 "proceeds of taxes" under Article XIII B.

17 But, again, there's nothing in section 6 that talks  
18 about proceeds of taxes. That all relates to the  
19 definition of what ultimately will be included under  
20 Article XIII B, section 1, which -- it's our position --  
21 is independent of section 6.

22 Now, in the proposed decision, there are -- there  
23 is some citation to cases, but all the cases provide  
24 along the following two lines: When the cases are  
25 dealing with the appropriations subject to limitation,

1 the court emphasizes the policy of trying to restrict  
2 expenditures. But when the courts are dealing with  
3 mandates under section 6, they always emphasize that it  
4 is meant to protect the taxes that would -- are  
5 available for the county or the city to spend.

6 So, thus, like in the County of Fresno case, which  
7 upheld the facial validity of Government Code section  
8 1156, the court, you know, specifically says that the  
9 purpose is to preserve the taxes, which are -- which the  
10 county and the cities have limited ability to raise.  
11 They don't talk about the appropriations limits.

12 There's another very significant reason why the  
13 Commission's proposed decision is incorrect. And this  
14 is the retroactive application of this interpretation.  
15 This money was -- started to be spent in 2002. The  
16 claim here deals with money spent between 2002 and 2012.

17 The parameters and guidelines were adopted in 2011.  
18 The parameters and guidelines specifically provided that  
19 the reimbursement from any federal, state, or nonlocal  
20 source shall be deducted.

21 Now, the Controller's Office is coming in saying,  
22 well, wait a minute, "nonlocal" doesn't mean "nonlocal."  
23 Even though this is a local sales tax, that should fall  
24 within the definition of "nonlocal." But, you know, the  
25 plain meaning of "nonlocal" is "nonlocal." And not only

1 that, they are coming in and saying, well, you really  
2 should read this as, well, nonlocal or local taxes that  
3 are not subject to the appropriations limit.

4 That's -- as Mr. Winters testified, if the county  
5 or the cities knew that "nonlocal" was not going to mean  
6 "nonlocal," they could have done something different.  
7 But now, in 2001, which is 19 years after the money  
8 began to be spent, and eight years -- or nine years  
9 after the parameters and guidelines, they are coming in  
10 with a new interpretation of what "nonlocal" means.

11 There was never any notice. The Controller's  
12 Office or the Department of Finance could have put that  
13 in the parameters and guidelines when they were adopted,  
14 but they didn't.

15 And it's fundamentally unfair to go back to the  
16 counties and the cities, which have now spent the money,  
17 and say, "You know what? Eight years later, 18 years  
18 later, we're going to change what we meant," because we  
19 could -- had the right to assume that "nonlocal" meant  
20 "nonlocal."

21 Retroactivity, which is what this interpretation  
22 would be, it would be a retroactive interpretation, is  
23 disfavored in the law. It's unlawful to impose a  
24 different interpretation that would change,  
25 fundamentally change, the rights of parties with respect

1 to conduct at the time they performed it.

2 And it's fundamentally unfair, but not only is it  
3 unfair, but it's inconsistent with Article XIII B for  
4 the reasons I previously said before, to say that merely  
5 because they use these -- these Prop A or Prop C funds,  
6 they are not entitled to reimbursement. Prop A and Prop  
7 C allowed the use of these local return funds, allowed  
8 the use for their advancement, and then allowed them to  
9 be reimbursed.

10 And upon reimbursement, the county and the cities  
11 would take those funds, would put it back in the  
12 appropriate Prop A or Prop C account, and would use that  
13 money for other local transit purposes.

14 But what we have here is, if we're not reimbursed,  
15 is that we have got a mandate and the State is directing  
16 the use of those local sales tax for its own priorities  
17 over what the city and county's priorities and use of  
18 those funds would be.

19 And for that reason, we ask you not to accept the  
20 proposed decision, but to overturn the Controller's  
21 decision and find that the county and the cities are  
22 entitled to reimbursement.

23 Thank you very much.

24 CHAIRPERSON MILLER: Thank you, Mr. Gest.

25 I'm going to open it up to questions in a moment.

1 I'm going to let Ms. Kurokawa please speak on  
2 behalf of the Controller, and then turn it to  
3 Ms. McGinnis and Ms. Shelton, just to speak about the  
4 specific questions about proceeds of tax. I think there  
5 was some conflating of issues on that, so I just wanted  
6 to make sure we're clear on those pieces. And then  
7 we'll open it up to questions and turn it back to you,  
8 Mr. Guest and Mr. Winter.

9 Completely hear in your voices the frustration on  
10 how long this has been, but the question here is -- is  
11 really one of the law and what we are able to do and,  
12 obviously, the Constitution.

13 So with that, Ms. Kurakowa, can you please speak.  
14 And then we'll open it up for Ms. McGinnis and  
15 Ms. Shelton and then Board questions.

16 MS. KUROKAWA: Yeah. Sure.

17 CHAIRPERSON MILLER: Thank you.

18 MS. KUROKAWA: Sure. Yeah.

19 The State Controller's Office agrees with the  
20 Commission's proposed decision.

21 CHAIRPERSON MILLER: Great. Thank you.

22 Ms. McGinnis and Ms. Shelton, any preference as  
23 to -- can we open it up to questions, and then I will  
24 have you respond.

25 I specifically though, before we open it up to

1 questions, want to speak to this idea of the proceeds of  
2 tax and whether or not the claimant actually had --  
3 was -- had the authority under state law to have those  
4 proceeds of tax. I think there was some confusion on  
5 that issue. Ms. McGinnis, if you could respond to that  
6 and then we'll open it up to questions.

7 MS. MCGINNIS: Yeah. Sure.

8 I think it might be helpful here to just take even  
9 a step back further from that --

10 CHAIRPERSON MILLER: Please.

11 MS. MCGINNIS: -- and look at, when we're talking  
12 about -- so Mr. Gest has stated that there's no  
13 disagreement here that the funds that are at issue, the  
14 Proposition A and Proposition C Local Return Funds are  
15 funds that are generated from a local sales tax. So  
16 that term of art there, "local sales tax," we have to  
17 unpack that.

18 So we're talking -- yes, we're going to talk about  
19 proceeds of taxes, but we also have to look at, what do  
20 we mean when we say "local sales tax"? Okay? So if we  
21 look at the parameters and guidelines, the basis under  
22 which the Controller's Office determined that these  
23 funds should be offset is if they fell into the category  
24 of nonlocal source revenues. Okay? So the parameters  
25 and guidelines say that offsetting is required for

1 federal, state, or other nonlocal source revenues.

2 So the issue -- the initial issue is whether or not  
3 these local sales tax revenues are a nonlocal source  
4 revenue. And I think what's confusing here is this term  
5 "local." What do we mean when we're saying "local"?  
6 Okay? When we're saying "local," we're -- we are  
7 talking about the specific local agency that has  
8 presented the claim for reimbursement. We're not  
9 talking about a separate local agency's sales taxes.

10 So, here, Proposition A and Proposition C are sales  
11 taxes that are levied by the Los Angeles County  
12 Metropolitan Transportation Authority. They are not  
13 taxes that are levied by the County of Los Angeles or  
14 any of the claimants in this matter. None of these  
15 claimants have the authority to levy these taxes. They  
16 are only receiving a portion of the revenues of these  
17 taxes through a special program that's required under  
18 the Proposition A and Proposition C ordinances.

19 Under Proposition A, 25 percent of the tax revenues  
20 that are generated throughout the County are allocated  
21 to the County of Los Angeles and cities within the  
22 county, based on their per capita populations to use for  
23 specific authorized transportation projects. And one of  
24 those was installation and maintenance of trash  
25 receptacles.

1 Under Proposition C, similarly, they are receiving  
2 20 percent of those -- of all of the revenues that are  
3 generated in the County.

4 So when we're talking about local sales tax  
5 revenues, we're talking about a subset of funds that are  
6 generated by a separate local entity. And so it's  
7 staff's interpretation of this tax, this is not a local  
8 sales tax in the sense of a "local" meaning fee claimant  
9 at issue. It's local in the sense that it's not a state  
10 or federal tax, but it's not local in the sense that  
11 it's not levied by or for the claimants in this matter.

12 CHAIRPERSON MILLER: Thank you very much.

13 Anything to add, Ms. Shelton, or can we go to Board  
14 questions?

15 MS. SHELTON: Let me just kind of bring it --  
16 circle it back just to mandates law, just to make it  
17 really clear.

18 First of all, you know, Article XIII A and XIII B  
19 are budgeting laws that were adopted by the voters.  
20 Budgeting laws for each individual county and city that  
21 restrict their ability to levy taxes and put an  
22 appropriations limit on the amount that they can spend.

23 There's a long line of cases going all the way back  
24 to the beginning of the Supreme Court's interpretation  
25 of Article XIII B, section 6, that said, you have to

1 read Article XIII B, section 6, in light of these taxing  
2 and spending limitations of XIII A and XIII B.

3 We see that in County of Fresno. We see that same  
4 statement in the Department of Finance versus Commission  
5 on State Mandates case; the 2016 case which was dealing  
6 with this very program, the storm water program, where  
7 the court said the reimbursement provision in section 6  
8 included in recognition of the fact that Articles XIII A  
9 and B severely restrict the taxing and spending powers  
10 of local government.

11 We see it in cases from the First District Court of  
12 Appeal and the Second District Court of Appeal in County  
13 of Sonoma and County of Los Angeles versus Commission on  
14 State Mandates, where the courts recognized that  
15 reimbursement under Article XIII B, section 6, is  
16 required only when a mandated new program or higher  
17 level of service forces local government to incur  
18 increased actual expenditures of their limited tax  
19 proceeds that are counted against the local government  
20 spending limit.

21 In County of Fresno, the court went through and  
22 tied the appropriations limit to the reimbursement  
23 requirement of Article XIII B, and said that those funds  
24 that are not defined as "proceeds of taxes," like fee  
25 authority, like federal funds, like bond funds, are not

1 subject to the appropriations limit, and, therefore, are  
2 not, when used, entitled to reimbursement.

3 The cases -- we do have cases cited in this  
4 proposed decision from the Third District Court of  
5 Appeal dealing with redevelopment agencies, and those  
6 really, factually, are directly on point.

7 In those cases -- one is Redevelopment Agency  
8 versus the City of San Marcos. The other is the  
9 redevelopment agency for the City of El Monte both --  
10 who both filed test claims against the Commission. The  
11 Commission denied those test claims. And the Third  
12 District Court of Appeal upheld those denials.

13 In both cases, the redevelopment agencies made the  
14 argument that the money that they were spending were  
15 local proceeds of taxes; they were tax revenue, because  
16 they receive a portion of that tax revenue.

17 And the court said, "Well, no. You do not have the  
18 authority to collect that tax revenue. The city and  
19 county for which your redevelopment agency is located  
20 will have the authority, statutory authority, to collect  
21 the tax revenue. And you just get the tax increment  
22 portion of that revenue for the increased value due to  
23 your redevelopment."

24 The redevelopment agencies have no authority under  
25 law to levy taxes, and, therefore, using the County of

1 Placer case, the court said, "You do not -- the levying  
2 of that money is not by or for you. That was for the  
3 county. And you are just getting, by law, a portion of  
4 it." That's no different than what's going on here.  
5 And the court said there is a direct relationship  
6 between the appropriations limit and Article XIII B,  
7 section 6. Because the money that you spent was not  
8 subject to the limitations of Article XIII A and XIII B,  
9 you are not entitled reimbursement under the California  
10 Constitution.

11 So you have to understand this case in light of  
12 that backdrop.

13 The parameters and guidelines, the language that is  
14 referred to, is boilerplate language. When the Ps&Gs  
15 were adopted back in 2011, we had no knowledge of the  
16 local return programs. In fact, the County never raised  
17 that issue either.

18 That's why we have boilerplate language which is  
19 there to generally tell you about the requirements of  
20 Article XIII B, section 6. So there's no retroactive  
21 application of the law because the law has always been  
22 this. You have to individually look at each claimant;  
23 you have to individually look at their restrictions on  
24 their tax revenue; individually look at their proceeds  
25 of taxes and what is being spent; individually look at

1 their spending limit.

2 Are the money -- is the money that they spent  
3 subject to the appropriations limit and defined as a  
4 proceeds of tax. And here, that's not.

5 And then one other thing, just to mention -- I know  
6 that Liz would mention as well, and it's in the  
7 analysis -- is that the Prop C funds specifically  
8 designate those funds subject -- to being subject to the  
9 appropriations limit of Metro. They are -- under law,  
10 you can't -- the same funds can't be subject to multiple  
11 appropriations limit. So they can only be part of the  
12 appropriations limit of Metro.

13 And, therefore, unfortunately, we have to construe  
14 Article XIII B strictly. We cannot apply it as an  
15 equitable remedy. Certainly, we understand the  
16 frustration of local government in this case. I mean,  
17 this lawsuit -- there's been a lawsuit which was  
18 recently upheld affirming the test claim decision. It's  
19 a frustrating decision. But there's nothing that we can  
20 do to provide equity here.

21 And that's all I have.

22 CHAIRPERSON MILLER: Great. Thank you,  
23 Ms. Shelton.

24 Mr. Gest, I see your hand, but I will turn to you  
25 in a moment.

1 Ms. Olsen has been waiting as well as  
2 Ms. Wong-Hernandez.

3 MEMBER OLSEN: I'm okay. Ms. McGinnis and  
4 Ms. Shelton answered all of my questions.

5 CHAIRPERSON MILLER: Great. I appreciate that.  
6 Thank you.

7 Ms. Wong-Hernandez.

8 MEMBER WONG-HERNANDEZ: I was actually going to  
9 thank Ms. McGinnis and Ms. Shelton for your  
10 explanations. Both of them, in tandem, were extremely  
11 helpful to me, and I appreciate, Ms. Shelton, you  
12 bringing it back to the context of the greater, sort of,  
13 the budget and those statutes as what they -- the  
14 mandate reimbursement process was really designed to do  
15 historically.

16 I want to express some sympathy on the cash flow  
17 issue. Like, I -- I get it. I don't have any problem  
18 with the staff recommendation and you -- I'm prepared to  
19 vote that way. But I do want to say that I'm really  
20 sympathetic to the local government decision making in  
21 those cash-strapped times. Like, we were all there in  
22 the budget. Finance, Controller's Office, you all were  
23 there with me in the legislature, you know, when people  
24 were looking for places to get money. And I get the  
25 idea of making a decision and thinking, well, you know,

1 this is what we are going to use for now, because it's  
2 an allowable use of what is nonlocal-sourced funding.  
3 But it's an allowable use. We'll plug it there. We'll  
4 figure it out later once the mandates process plays out.

5 And, like, this doesn't feel good to me. I don't  
6 like that that's -- I don't know how to do this better  
7 and how to be very explicit going forward with people.  
8 Like, "You can't do that. I know it sounds like a good  
9 idea."

10 But to the extent that we can somehow message that  
11 to prevent something like that from happening, because  
12 it really -- it bothers me, because it seems like such a  
13 logical thing to have done, while I recognize that we  
14 are bound by, you know, the laws and duties that govern  
15 this Commission.

16 So thank you.

17 CHAIRPERSON MILLER: Great. Thank you for that,  
18 Ms. Wong-Hernandez.

19 Mr. Adams.

20 And then if any other board member has a question,  
21 if you could please use the raise hand feature so we can  
22 return to Mr. Gest.

23 Mr. Adams.

24 MEMBER ADAMS: Thank you, Ms. Miller.

25 I too just wanted to voice my great sympathy and

1 frustration for local government. But, like  
2 Ms. Wong-Hernandez, I'm going to vote or leaning to vote  
3 the staff recommendation.

4 I honestly think Article XIII B is all about the  
5 Prop 4 limited money and everything else is everything  
6 else.

7 I am sorry that the term "nonlocal" was used in the  
8 P&Gs. I wished that we could have come up with another  
9 language.

10 And just in case this moves forward to a court  
11 case, I am just curious, on this sales tax that was  
12 assessed by Prop A and C, can somebody answer for me,  
13 are part of these taxes paid by noncounty residents? If  
14 I go into Los Angeles County and buy something, and I'm  
15 a resident of another county, am I paying that tax?

16 CHAIRPERSON MILLER: Please, Ms. McGinnis.

17 MS. MCGINNIS: Are you -- if I'm understanding, you  
18 are just asking if the sales tax is imposed throughout  
19 the county on anyone that would come to the county?

20 MEMBER ADAMS: Yes.

21 MS. MCGINNIS: The ordinance specifies how it's  
22 imposed, but my understanding is, it would be imposed on  
23 specific transactions that take place in the county. So  
24 not specific to a person in the county. I don't know if  
25 there's an issue for how the sales taxes are governed

1 for online purchases or something like that. But I  
2 know, the ordinance does spell that out. And my  
3 understanding -- and perhaps Mr. Gest can comment  
4 further. My understanding is that, yes, it would be on  
5 specific transactions within the county.

6 MEMBER ADAMS: Therefore, I would just -- again, I  
7 have great sympathy, but while it's a tax that's  
8 collected locally, it's not just locals are paying it.  
9 Number one, it's an optional tax that the County of Los  
10 Angeles opted to go for. So, again, not subject to its  
11 Prop 4 limit.

12 So, again, I think if this goes to a court, it will  
13 be an interesting discussion, but I certainly -- again,  
14 frustrated. I wish we could split the baby, but, again,  
15 I believe the staff recommendation has it right.

16 Thanks.

17 CHAIRPERSON MILLER: Thank you.

18 Mr. Adams, I would love to follow up with you, just  
19 maybe offline, on the imposition of the tax in the  
20 county. I wasn't clear on your question, but I would  
21 like to make sure that we follow up with you and get  
22 that.

23 MEMBER ADAMS: Thank you.

24 CHAIRPERSON MILLER: Thank you for that.

25 Mr. Gest.

1 MR. GEST: Thank you.

2 All right. So, first of all, let me say that  
3 although I do not have a specific answer to Mr. Adams's  
4 question -- and if you want, we could see if we could  
5 get you a specific answer -- you know, it's my  
6 understanding that, you know, of course, you come in,  
7 you buy -- you spend \$10 for a cup of coffee; they are  
8 going to assess the sales tax.

9 But if you are coming in and buying a car, for  
10 example, there might be a way to say, no, I'm not a  
11 citizen of Los Angeles County, and, therefore, you  
12 don't --

13 CHAIRPERSON MILLER: No.

14 MR. GEST: -- have to pay that tax. So I don't  
15 have the precise answer for you.

16 CHAIRPERSON MILLER: This is about sales tax law.  
17 So, for example, your cup of coffee that's to go, it's  
18 because you are there. So sales tax is all based on  
19 nexus and physical presence. And the car, in fact, is  
20 based on where you register. That's how sales tax law  
21 in this state works.

22 And, additionally, you know, the sales tax is  
23 actually -- the retailer pays it as a privilege tax of  
24 doing business in this state. It's collected, but it's  
25 an imposition on the retailer; unlike the use tax, which

1 is an imposition on the taxpayer.

2 So that's -- and I know this isn't the point of  
3 your conversation, Mr. Gest. It's not -- taxes imposed  
4 by a county are not, in fact, optional. So I just want  
5 that to be as a matter of state law. So there's -- I do  
6 think is a different conversation, so I certainly don't  
7 want to go kind of down that rabbit hole.

8 But Mr. Gest -- can we let Mr. Gest -- Ms. Halsey?

9 You are muted, Ms. Halsey. I'm sorry, Mr Gest.  
10 Ms. Halsey?

11 MS. HALSEY: Oh. I just wanted to clarify that  
12 there's not a tax being imposed by the county. It's  
13 being imposed by the Metropolitan Transit District.  
14 That's all.

15 CHAIRPERSON MILLER: Thank you for that.

16 Mr. Adams, do you have a follow-up to that, or can  
17 we let Mr. Gest continue?

18 MEMBER ADAMS: Yeah. I was just going to say, my  
19 whole point was -- is that intermixed in this is taxes  
20 paid from people from everywhere, not just locals, and  
21 that was my only point. So thanks.

22 CHAIRPERSON MILLER: Great. Yes. Thank you for  
23 that.

24 Mr. Gest, apologies. Please continue.

25 MR. GEST: Okay. I want to -- I understand that

1 the members of the Commission, even though they haven't  
2 voted yet, are indicating that although they are  
3 sympathetic, they feel that the law restricts them. And  
4 I want to point out that I don't believe that that's  
5 correct.

6 First of all, although counsel for the Commission  
7 talked about the various case law, those cases, when you  
8 look at those cases, if they are dealing with the  
9 mandates, they are dealing with the use of tax proceeds.  
10 But when you look at those cases, if they are dealing  
11 with other aspects, like whether a special assessment  
12 should be concluded in the appropriations subject to  
13 limitation, they emphasize the propositions and the  
14 article's intent to restrict government spending. So  
15 it's not correct that mandates under Article XIII B,  
16 section 6, have been tied to appropriations limits.

17 In fact, there is no case -- no case -- that has  
18 ever held that a mandate was not reimbursable because it  
19 was -- the taxes that were used were not subject to the  
20 appropriation limitations. This would be a -- and  
21 there's no Commission decision that we found that has  
22 ever held that. This would be a precedent-setting  
23 decision, so there is no case that requires the  
24 Commission to rule in that fashion.

25 Secondly, there is a discussion that because the

1 tax is imposed by Metro, it's a nonlocal source. But  
2 the fact of the matter is, it is a local tax. The  
3 citizens of Los Angeles believe that they are paying  
4 this tax. And I think if you had talked to any person  
5 who voted for Proposition 4, they would have believed  
6 that these kinds of taxes are local taxes, and there's  
7 certainly nothing in the voter pamphlet that indicated  
8 there was something different. And, in fact, when one  
9 interprets the initiative, one presumed that the  
10 electors knew what the law was. And there was an SB 90  
11 program before Proposition 4 was adopted. Proposition 4  
12 simply enshrined that in the Constitution.

13 But before Proposition 4 adopted it under the SB 90  
14 program, there was no requirement that reimbursement for  
15 mandates be only with respect to taxes that were subject  
16 to appropriations, because there was no such subject to  
17 appropriations limit.

18 So what you have here is, if you uphold the  
19 Controller's Office's decision and the proposed  
20 decision, you are ruling that the voters, when they  
21 adopted Proposition 4, intended to limit the SB 90  
22 program, rather than enshrine it in the Constitution,  
23 because it was more -- you are saying it's more limited  
24 than it was before this proposition was adopted, because  
25 there was no requirement with respect to it being part

1 of appropriations.

2 And it's presumed that the voters knew what the law  
3 was when they adopted it, and there's nothing in the  
4 voter pamphlet and nothing to indicate that they  
5 intended to limit it in the way that it's being  
6 proposed.

7 And contrary to argument, you do not construe this  
8 strictly. The cases that talk about construing matters  
9 strictly dealt with appropriations. They did not deal  
10 with Section 6 of the mandate. In fact, this is an  
11 initiative that was adopted by the voters and it's being  
12 construed deliberately to effectuate their intent. And  
13 that is not happening with respect to the proposed  
14 decision.

15 And for those reasons, we again would request that  
16 you reverse the Controller's Office's audits.

17 CHAIRPERSON MILLER: Thank you, Mr. Gest.

18 Ms. Shelton.

19 MS. SHELTON: Yes. Let me just unpack just a  
20 couple of things.

21 And respectfully, Mr. Gest, I do disagree.

22 The courts have repeatedly instructed the  
23 Commission to interpret Article XIII B, section 6,  
24 strictly and not as an equitable remedy. The City of  
25 San Jose case versus State of California is one that

1 comes to mind very quickly.

2 Also, secondly, this is not an issue of first  
3 impression. As I indicated during my earlier testimony,  
4 there have been lots of cases dealing with proceeds of  
5 taxes and appropriations limit. We have cases that we  
6 have found something to be mandated and imposed a new  
7 program higher level of service, but the funds that are  
8 used for the program would not incur -- or be costs  
9 mandated by that state. That happens all the time.

10 The Redevelopment Agency versus City of San Marcos  
11 case, those were requirements imposed on the  
12 redevelopment agency. They probably were new and they  
13 probably imposed a new program or higher level a  
14 service. But the redevelopment agency and the funds  
15 that they used are not entitled to be reimbursed because  
16 they are not triggered. They -- those funds are not  
17 proceeds of taxes and they are not subject to the  
18 appropriations limit.

19 So this is not new, and it's wrong to say that it  
20 is new.

21 Also, lastly, the SB 90 program, the courts have  
22 said, was very different than Article XIII B, section 6.  
23 Just pointing to the County of Los Angeles case, which  
24 is the first Supreme Court 1987 case, the court said,  
25 these are not the same. In fact, many provisions in SB

1 90 are different than what's required by Article XIII B,  
2 section 6.

3 Also, SB 90 was a quasi legislative process, not a  
4 quasi judicial process. So there's many differences,  
5 and we can't equate the two provisions together.

6 And that's all I have, and I'm happy to answer any  
7 questions that you might have.

8 CHAIRPERSON MILLER: Thank you very much for that.

9 Any other questions from the board on this matter?

10 (No response)

11 CHAIRPERSON MILLER: Seeing none, any public -- it  
12 looks like we have one. Is that correct, Ms. Palchik?

13 MS. PALCHIK: Yes, Madam Chair.

14 Ms. Chinn. Ms. Annette Chinn. One moment.

15 CHAIRPERSON MILLER: Thank you.

16 Ms. Chinn, we will -- if you could please state  
17 your name for the record.

18 MS. CHINN: Annette Chinn, Cost Recovery Systems.  
19 I'm a consultant that works directly with cities to help  
20 them prepare these claims for reimbursement.

21 And Ms. Hernandez mentioned that she sympathized  
22 with local agency's perspective and wishes that there  
23 was some communication to local agencies to let them  
24 know the importance of using general fund.

25 And I have. I have done this with many of my --

1 all my clients. And the response that I get unanimously  
2 back from them is that, "We just don't have the general  
3 funds to spend for these things." So what are the  
4 practical implications for local agencies when they are  
5 out of general funds? There is no general fund that's  
6 bottomless that they could use to pay for these state  
7 mandates. And what if the State mandates more than what  
8 local agencies have?

9 So is the implication, that, well, if you don't  
10 have it, like, go get bonds and get other sources of  
11 revenue to pay for state mandates? I mean, I'm not an  
12 expert at law. I'm not an expert at tax revenues. But  
13 the logical conclusion here is that the State can  
14 mandate more than local agencies have, and what is --  
15 what does that mean? That local agencies just have to  
16 go find other people to tax to pay for state mandates?  
17 That seems to defy the purpose of this whole program,  
18 but...

19 CHAIRPERSON MILLER: Thank you, Ms. Chinn, for your  
20 comment.

21 Ms. Wong-Hernandez?

22 And I would like to avoid kind of a debate on  
23 cities' and counties' general funds.

24 MEMBER WONG-HERNANDEZ: I'm sorry, Madam Chair.  
25 It's just because my name --

1 CHAIRPERSON MILLER: Absolutely.

2 MEMBER WONG-HERNANDEZ: I just want to say, yes, I  
3 understand your frustration, Ms. Chinn. And when you  
4 are ready to join a coalition to revamp the mandates  
5 process and do some reforms, we are happy to engage in  
6 that conversation from the vantage point of the  
7 Controller's Office and from the people here on this  
8 Commission. But that, right now, we implement the  
9 process that is part of our Constitution.

10 CHAIRPERSON MILLER: Thank you for that,  
11 Ms. Wong-Hernandez.

12 Ms. Shelton, I just want to make sure this is --  
13 this is actually to the IRC.

14 MS. SHELTON: Just, real quickly, that the mandate  
15 reimbursement is not like a tort. You don't get -- you  
16 are not entitled to reimbursement to make you whole.  
17 It's not -- it's very narrowly tailored to recover only  
18 those funds that are spent from your proceeds of taxes  
19 and subject to the appropriations limit. And that's the  
20 whole point of XIII B, section 6.

21 CHAIRPERSON MILLER: Thank you for that.

22 Okay. Is there any further public comment?

23 (No response)

24 CHAIRPERSON MILLER: Seeing none, any further  
25 questions from the Board on this matter?

1 (No response)

2 CHAIRPERSON MILLER: Seeing none, do we have a  
3 motion and a second?

4 MEMBER WONG-HERNANDEZ: So move the recommendation.

5 CHAIRPERSON MILLER: Thank you.

6 MEMBER OLSEN: Second.

7 CHAIRPERSON MILLER: Thank you.

8 Ms. Wong-Hernandez moves to adopt the staff  
9 recommendation; and Ms. Olsen seconds.

10 And just one more time, I'm going to check on  
11 public comment, just because we're on Zoom.

12 I see none. Ms. Palchik, just confirming.

13 MS. PALCHIK: Yes. That is correct, Madam Chair.

14 CHAIRPERSON MILLER: Great. Thank you very much.

15 We have a motion and a second.

16 Ms. Halsey, will you please call the roll.

17 MS. HALSEY: Mr. Adams.

18 MEMBER ADAMS: Aye.

19 MS. HALSEY: Ms. Lee.

20 MEMBER LEE: Aye.

21 MS. HALSEY: Ms. Miller.

22 CHAIRPERSON MILLER: Aye.

23 MS. HALSEY: Ms. Olsen.

24 MEMBER OLSEN: Aye.

25 MS. HALSEY: Mr. Walker.

1 MEMBER WALKER: Aye.

2 MS. HALSEY: Ms. Wong-Hernandez.

3 MEMBER WONG-HERNANDEZ: Aye.

4 CHAIRPERSON MILLER: Thank you. The staff  
5 recommendation is adopted.

6 Thank you, everyone, for your time and attention to  
7 this matter.

8 Ms. Halsey.

9 MS. HALSEY: Sure. We now ask the presenters for  
10 Item 5 please turn off their videos and mute their  
11 microphones.

12 Item 6 is reserved for county applications for a  
13 finding of significant financial distress or SB 1033  
14 applications. No SB 1033 applications have been filed.

15 Assistant Executive Director Heidi Palchik will  
16 please turn on her video and microphone and present  
17 Item 8, the Legislative Update.

18 MS. PALCHIK: Yes. Thank you. Good morning.

19 AB 1013, State Mandates Claims, proposes reducing  
20 the statutorily required minimum amount of costs  
21 incurred to file a mandate reimbursement claim from  
22 \$1,000 to \$900. On March 4th, this bill was referred to  
23 the Assembly Committee on Local Government. It appears  
24 to be a spot bill, and it contains the same language as  
25 the member's 2020 spot bill, which was AB 2395, and we

1 tracked this last year.

2       Next is AB 885, Bagley-Keene Open Meeting Act:  
3 Teleconferencing, which proposes to add provisions to  
4 the Bagley-Keene Open Meeting Act, including the  
5 requirements that the portion of a meeting or proceeding  
6 conducted by teleconference, that is required to be open  
7 to the public, be both audibly and visibly -- visually  
8 observable; the agenda be posted at the primary physical  
9 location where members of the public may physically  
10 attend; and requiring at least one of the members be  
11 present at that physical location for the meeting.

12       This bill would also delete the requirement for the  
13 agenda to be posted at the location of each public  
14 official participating in the public meeting remotely,  
15 including from the member's private home or hotel room;  
16 and would amend the current language so that members of  
17 the state body participating remotely shall count  
18 towards a quorum.

19       Finally, this bill would make legislative findings  
20 demonstrating the interests protected by limiting the  
21 right of access to meetings of public bodies and the  
22 need for protecting that interest as follows: By  
23 removing the requirement for agendas to be placed at the  
24 location of each public official participating in the  
25 public meeting remotely, including from a member's

1 private home or hotel room. This act protects the  
2 personal, private information of public officials and  
3 their families while preserving the public's right to  
4 access information concerning the conduct of the  
5 people's business.

6 This bill was re-referred to the Committee on  
7 Governmental Organization on March 25th, and we will  
8 continue to monitor legislation for bills that impact  
9 the mandates process.

10 That's all I have, unless there are questions.

11 CHAIRPERSON MILLER: Thank you very much.

12 Any questions for Ms. Palchik?

13 (No response)

14 CHAIRPERSON MILLER: Obviously, we continue to work  
15 on how we can learn from the pandemic and have  
16 successful -- continue to use the technologies in order  
17 to have the public access. So really appreciate the  
18 update on that.

19 I'm happy to answer any questions from the board,  
20 if those things come up as well.

21 Thank you for that.

22 Seeing no questions, Ms. Halsey, are we moving on  
23 to the --

24 MS. HALSEY: Legal Counsel Camille Shelton will  
25 present the Chief Legal Counsel Report.

1 CHAIRPERSON MILLER: Thank you.

2 MS. SHELTON: Good morning.

3 There are no new filings or recent decisions to  
4 report.

5 We do have a hearing set in San Diego County  
6 Superior Court on the challenge to the Youth Offender  
7 Parole Hearing Test Claim for August 6th, 2021.

8 CHAIRPERSON MILLER: Thank you, Ms. Shelton.

9 Ms. Halsey, will you please present the Executive  
10 Director Report.

11 MS. HALSEY: Yes.

12 The Mandate Reimbursement Local Assistance portion  
13 of the Commission's budget was heard in Senate Bill  
14 Subcommittee 4 on February 3rd, 2021, and approved as  
15 proposed. It was also heard in Assembly Budget  
16 Subcommittee 4 on March 9, 2021, but no action was  
17 taken.

18 The Governor has released his May revision and has  
19 indicated that the administration intends to retain the  
20 mandatory across-the-board 5 percent reduction to state  
21 agencies' operating and expenses and equipment budgets.  
22 However, it is anticipated that the personal leave  
23 program will end for all bargaining units. However,  
24 this is still being negotiated with several of the  
25 bargaining units.

1           With regard to local government mandates proposed  
2 for funding and suspension, they are essentially the  
3 same as last fiscal year, and two new mandates --  
4 U Visa and Peace Officer Training Mental Health Crisis  
5 Intervention -- are proposed to be funded at the high  
6 end of the range projected in their respective statewide  
7 cost estimates that were adopted by the Commission.

8           And additionally, staff understands that the Public  
9 School Restrooms Feminine Hygiene Products mandate for  
10 which the Commission adopted the statewide cost estimate  
11 on December 4, 2020, is expected to be added to the  
12 budget before its adoption.

13           With regard to Commission's workload, after this  
14 hearing, there are 40 pending test claims, 38 of which  
15 are regarding storm water NPDES claims, and there is  
16 also one parameters and guidelines, one parameters and  
17 guidelines amendment, and three statewide cost estimates  
18 pending.

19           On inactive status, pending the outcome of  
20 litigation, there is one parameters and guidelines  
21 remaining regarding storm water, which is still pending  
22 in the courts.

23           Finally, there are now six IRCs remaining. The  
24 Commission staff currently expects to complete all  
25 currently pending test claims and IRCs by approximately

1 the March 2024 Commission meeting, depending on staffing  
2 and other workload. However, some of the test claims  
3 and IRCs may be heard at an earlier time than currently  
4 anticipated if they are consolidated for hearing.

5 With regard to administrative developments, the  
6 Commission is in a period of change and transition.  
7 Three of our 14 staff members have taken new jobs with  
8 different agencies this spring. Senior Legal Counsel  
9 Christopher Becker has taken a position with the  
10 Attorney General's Office, Employment Administrative  
11 Mandate section, where he will be focusing on trial  
12 work, which is very different from the detailed  
13 analytical work of preparing mandate analyses and writ  
14 and appellate litigation work that the Commission  
15 attorneys perform. His last day with the Commission was  
16 April 30th.

17 And then Associate Governmental Program Analyst,  
18 HR, Marie Jacques accepted a promotional opportunity  
19 with Covered California where she is serving as Staff  
20 Services Manager HR, and her last day with the  
21 Commission was March 23rd.

22 And then, finally, Associate Governmental Program  
23 Analyst, Purchasing and Legislative, Kerry Ortman is  
24 making a big move from the Commission after 14 years in  
25 a part-time position with us. She has moved over to the

1 Consumer Affairs Medical Board Enforcement Section in a  
2 full-time position, where she will be staffing the  
3 medical board members as a panel analyst, processing  
4 disciplines against physicians and surgeons. And her  
5 last day with the Commission was May 6.

6 The Commission management wishes Chris, Marie, and  
7 Kerry the best in their future endeavors, and we will be  
8 recruiting for their positions.

9 In the meantime, Commission is operating with only  
10 ten of its 14 positions as the Commission's office  
11 technician continues to be redirected as a contact  
12 tracer, where he has been for about a year now.

13 And then for everybody, particularly the claimants  
14 and Finance and State Controller's Office, please see  
15 the rest of my Executive Director's Report to see if an  
16 item you are interested in is coming up in the next  
17 hearing or two. You can expect draft staff analyses on  
18 those to issue at least eight weeks prior to the  
19 hearing.

20 And that's all I have.

21 CHAIRPERSON MILLER: Thank you very much,  
22 Ms. Halsey.

23 And our congratulations to Chris, Marie, and Kerry  
24 as well and with huge gratitude for their public  
25 service. Thank you very much.

1 Any questions for Ms. Halsey or any of the board  
2 members?

3 (No response)

4 CHAIRPERSON MILLER: Any questions or public  
5 comment for either Ms. Halsey or Ms. Shelton? I realize  
6 I did not ask that.

7 (No response)

8 CHAIRPERSON MILLER: Seeing none --

9 MS. PALCHIK: I see none.

10 CHAIRPERSON MILLER: Thank you, Ms. Palchik.

11 Seeing none, the Commission will now meet in closed  
12 executive session, pursuant to Government Code section  
13 11126(e) to confer with and receive advice from legal  
14 counsel for consideration and action, as necessary and  
15 appropriate, upon the pending litigation listed on the  
16 published notice and agenda; and to confer with and  
17 receive advice from legal counsel regarding potential  
18 litigation. The Commission will also confer on  
19 personnel matters pursuant to Government Code section  
20 11126(a)(1). And we will reconvene in open session in  
21 approximately 15 minutes.

22 For the board members, Ms. Halsey did send a  
23 calendar invite for the closed session, and it's also in  
24 an e-mail. If you have any questions, please reach out  
25 to Ms. Halsey.

1 So we will now adjourn into closed session. Thank  
2 you, everyone.

3 (Closed session was held from  
4 11:26 a.m. to 11:43 a.m.)

5 CHAIRPERSON MILLER: Thank you, everyone, for  
6 coming back.

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

16 There was no action taken.

17 With no further business to discuss today, I will  
18 entertain a motion to adjourn, please.

19 MEMBER WALKER: So moved.

20 CHAIRPERSON MILLER: Thank you, Mr. Walker.

21 Ms. Halsey, is it okay to do the adjournment motion  
22 by -- or do I have to do a roll call for that too?  
23 Sorry.

24 MS. HALSEY: So did you have something to say?

25 I guess, technically, we should do everything by

1 roll call.

2 MEMBER ADAMS: If you need a second of that motion,  
3 I will second that.

4 CHAIRPERSON MILLER: Thank you, Mr. Adams. I  
5 appreciate it.

6 So we will take a very quick roll call to adjourn.  
7 I appreciate everyone's patience, but since we can't --  
8 (audio malfunction) -- when they are talking over each  
9 on Zoom, we just want to make sure our voices are  
10 recorded. Thank you.

11 Go ahead, Ms. Halsey.

12 MS. HALSEY: Mr. Adams.

13 MEMBER ADAMS: Aye.

14 MS. HALSEY: Ms. Lee.

15 MEMBER LEE: Aye.

16 MS. HALSEY: Ms. Miller.

17 CHAIRPERSON MILLER: Aye.

18 MS. HALSEY: Ms. Olsen.

19 MEMBER OLSEN: Aye.

20 MS. HALSEY: Mr. Walker.

21 MEMBER WALKER: Aye.

22 MS. HALSEY: And Ms. Wong-Hernandez is not here.

23 CHAIRPERSON MILLER: This meeting is adjourned.

24 //

25 //

1 Thank you for your time and your attention, and we  
2 will see you next month. Take care, everyone.

3 (Proceedings concluded at 11:45 a.m.)

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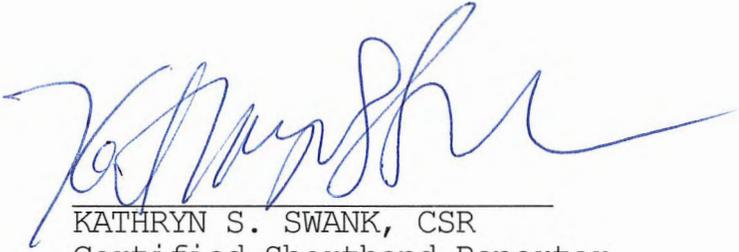
CERTIFICATE OF REPORTER

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 were 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 23rd day of June 2021.



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