

Item 1

Proposed Minutes

COMMISSION ON STATE MANDATES

Location of Meeting: Room 447
State Capitol, Sacramento, California
May 24, 2019

Present: Member Gayle Miller, Chairperson
Representative of the Director of the Department of Finance
Member Yvette Stowers
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 Carmen Ramirez
City Council Member
Member Andre Rivera
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 10:15 a.m. Executive Director Heather Halsey called the roll and introduced the new Chairperson Ms. Gayle Miller.

APPROVAL OF MINUTES

Chairperson Miller asked if there were any objections or corrections to the March 22, 2019 minutes. Member Olsen made a motion to adopt the minutes. With a second by Member Stowers, the March 22, 2019 hearing minutes were adopted by a vote of 7-0.

PUBLIC COMMENT FOR MATTERS NOT ON THE AGENDA

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

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

Executive Director 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 3 *Peace Officer Training: Mental Health/Crisis Intervention, 17-TC-06*
Penal Code Sections 13515.26, 13515.27, 13515.28, 13515.29, and 13515.295; Statutes 2015, Chapter 468 (SB 11); and Statutes 2015, Chapter 469 (SB 29)

Cities of Claremont and South Lake Tahoe, Claimants

Executive Director Halsey stated that the claimants’ representative informed Commission staff that the claimants agree with the Proposed Decision, thanked staff for their time and work on this matter, and that they would not be attending the hearing. Senior Commission Counsel Matt Jones presented this item and recommended that the Commission partially approve this Test Claim.

Parties were represented as follows: Susan Geanacou appeared on behalf of the Department of Finance.

Following discussion among the Commission members, staff, and parties, Member Ramirez made a motion to adopt the staff recommendation. With a second by Member Rivera, the motion to partially approve this Test Claim was adopted by a vote of 7-0.

TEST CLAIM

Item 4 *Public School Restrooms: Feminine Hygiene Products, 18-TC-01*
Education Code Section 35292.6; Statutes 2017, Chapter 687 (AB 10)

Desert Sands Unified School District, Claimant

Commission Counsel Elena Wilson presented this item and recommended that the Commission approve this Test Claim.

Parties were represented as follows: Arthur Palkowitz appeared on behalf of the claimant. Susan Geanacou appeared on behalf of the Department of Finance.

Following discussion among the Commission members, staff, and parties, Member Olsen made a motion to adopt the staff recommendation. With a second by Member Stowers, the motion to approve this Test Claim was adopted by a vote of 7-0.

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

Item 5 Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commission, or to a Hearing Officer

No applications were filed.

STAFF REPORTS

Item 6 Legislative Update (info)

Assistant Executive Director Heidi Palchik presented this item and described three bills that the Commission is tracking: SB 287, AB 400, and AB 1471.

Item 7 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar (info)

Chief Legal Counsel Camille Shelton presented this item.

Item 8 Executive Director: Budget, Workload Update and Tentative Agenda Items for the July and September 2019 Meetings (info)

Executive Director Halsey presented this item and reported that the Commission's operating budget had been approved as proposed, described notable provisions for the the local agency subvention portion of the budget, and described the Commission's pending caseload. Executive Director Halsey noted that parties and interested parties planning to participate in upcoming hearings must notify Commission staff not later than the Wednesday prior to a hearing of the names of the people who will be speaking for inclusion on the witness list and that staff will no longer be sending reminder emails.

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

A. PENDING LITIGATION

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matters pursuant to Government Code section 11126(e)(1):

Trial Courts:

1. ***On Remand from the Third District Court of Appeal, Case No. C070357***
State of California Department of Finance, State Water Resources Control Board, and California Regional Water Quality Board, San Diego Region v. Commission on State Mandates and County of San Diego, et al. (petition and cross-petition)
Sacramento County Superior Court Case No. 34-2010-80000604
[Discharge of Stormwater Runoff, Order No. R9-207-000 (07-TC-09), California Regional Water Control Board, San Diego Region Order No. R9-2007-001, NPDES No. CAS0108758, Parts D.1.d.(7)-(8), D.1.g., D.3.a.(3), D.3.a.(5), D.5, E.2.f, E.2.g,F.1, F.2, F.3, I.1, I.2, I.5, J.3.a.(3)(c) iv-vii & x-xv, and L]
2. ***On Remand from the California Supreme Court, Case No. S239907***
Counties of San Diego, Los Angeles, San Bernardino, Orange, and Sacramento v. Commission on State Mandates, et al.
San Diego County Superior Court, Case No. 37-2014-00005050-CU-WM-CTL
Fourth District Court of Appeal, Division One, Case No. D068657
[Mandate Redetermination, *Sexually Violent Predators*, (12-MR-01, CSM-4509); Welfare and Institutions Code Sections 6601, 6602, 6603, 6604, 6605, and 6608; Statutes 1995, Chapter 762 (SB 1143); Statutes 1995, Chapter 763 (AB 888); Statutes 1996, Chapter 4 (AB 1496) As modified by Proposition 83, General Election, November 7, 2006]

Courts of Appeal:

1. *Coast Community College District, et al. v. Commission on State Mandates*, Third District Court of Appeal, Case No. C080349
Sacramento County Superior Court, Case No. 34-2014-80001842
[*Minimum Conditions for State Aid*, 02-TC-25/02-TC-31
(Education Code Sections 66721, 66721.5, 66722, 66722.5, 66731, 66732, 66736, 66737, 66738, 66740, 66741, 66742, 66743, 70901, 70901.5, 70902, 71027, 78015, 78016, 78211.5, 78212, 78213, 78214, 78215, 78216, 87482.6, and 87482.7; Statutes 1975, Chapter 802; Statutes 1976, Chapters 275, 783, 1010, and 1176; Statutes 1977, Chapters 36 and 967; Statutes 1979, Chapters 797 and 977; Statutes 1980, Chapter 910; Statutes 1981, Chapters 470 and 891; Statutes 1982, Chapters 1117 and 1329; Statutes 1983, Chapters 143 and 537; Statutes 1984, Chapter 1371; Statutes 1986, Chapter 1467; Statutes 1988, Chapters 973 and 1514; Statutes 1990, Chapters 1372 and 1667; Statutes 1991, Chapters 1038, 1188, and 1198; Statutes 1995, Chapters 493 and 758; Statutes 1998, Chapter 365, 914, and 1023; Statutes 1999, Chapter 587; Statutes 2000, Chapter 187; and Statutes 2002, Chapter 1169; California Code of Regulations, Title 5, Sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, 51027, 51100, 51102, 53200, 53202, 53203, 53204, 53207, 53300, 53301, 53302, 53308, 53309, 53310, 53311, 53312, 53314, 54626, 54805, 55000, 55000.5, 55001, 55002, 55002.5, 55004, 55005, 55006, 55100, 55130, 55150, 55160, 55170, 55182, 55200, 55201, 55202, 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320, 55321, 55322, 55340, 55350, 55401, 55402, 55403, 55404, 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520, 55521, 55522, 55523, 55524, 55525, 55526, 55530, 55532, 55534, 55600, 55601, 55602, 55602.5, 55603, 55605, 55607, 55620, 55630, 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, 55765, 55800, 55800.5, 55801, 55805, 55805.5, 55806, 55807, 55808, 55809, 55825, 55827, 55828, 55829, 55830, 55831, 58102, 58104, 58106, 58107, 58108, 59404, and 59410; Handbook of Accreditation and Policy Manual, Accrediting Commission for Community and Junior Colleges (Summer 2002); and “Program and Course Approval Handbook” Chancellor’s Office California Community Colleges (September 2001).]
2. *Paradise Irrigation District, et al. v. Commission on State Mandates, Department of Finance, and Department of Water Resources*
Third District Court of Appeal, Case No. C081929
Sacramento County Superior Court, Case No. 34-2015-80002016
[*Water Conservation* (10-TC-12/12-TC-01, adopted December 5, 2014), Water Code Division 6, Part 2.55 [sections 10608-10608.64] and Part 2.8 [sections 10800-10853] as added by Statutes 2009-2010, 7th Extraordinary Session, Chapter 4 California Code of Regulations, Title 23, Division 2, Chapter 5.1, Article 2, Sections 597-597.4; Register 2012, No. 28.]
3. ***On Remand from California Supreme Court, Case No. S214855, State of California Department of Finance, State Water Resources Control Board, and California Regional Water Quality Control Board, Los Angeles Region v. Commission on State Mandates and County of Los Angeles, et al*** (petition and cross-petition)

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

California Supreme Court:

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

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

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

B. PERSONNEL

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

The Commission adjourned into closed executive session at 10:35 a.m., pursuant to Government Code section 11126(e), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda; and to confer with and receive advice from legal counsel regarding potential litigation; and to confer on personnel matters pursuant to Government Code section 11126(a)(1).

RECOVENE IN PUBLIC SESSION

REPORT FROM CLOSED EXECUTIVE SESSION

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

ADJOURNMENT

Hearing no further business, Chairperson Miller requested a motion to adjourn the meeting. Member Ramirez made a motion to adjourn the meeting. With a second by Member Olsen the May 24, 2019 meeting was adjourned by a vote of 7-0 at 10:43 a.m.

Heather Halsey
Executive Director

STATE OF CALIFORNIA
COMMISSION ON STATE MANDATES

PUBLIC MEETING

RECEIVED

JUN 24 2019

**COMMISSION ON
STATE MANDATES**

FRIDAY, MAY 24, 2019

10:15 A.M.

STATE CAPITOL BUILDING

ROOM 447

SACRAMENTO, CALIFORNIA

REPORTER'S TRANSCRIPT OF PROCEEDINGS

ORIGINAL

REPORTED BY:

KATHRYN S. SWANK

Certified Shorthand Reporter No. 13061

Registered Professional Reporter

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

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

A P P E A R A N C E S

COMMISSIONERS PRESENT

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

YVETTE STOWERS
Representative for BETTY T. YEE
State Controller
(Vice Chair of the Commission)

ANDRE RIVERA
Representative for FIONA MA
State Treasurer

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

LEE ADAMS III
Sierra County Supervisor
Local Agency Member

SARAH OLSEN
Public Member

M. CARMEN RAMIREZ
Oxnard City Council Member
Local Agency Member

---o0o---

COMMISSION STAFF

HEATHER A. HALSEY
Executive Director

HEIDI PALCHIK
Assistant Executive Director

MATTHEW B. JONES
Senior Commission Counsel

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

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

ELENA WILSON
Commission Counsel

CAMILLE N. SHELTON
Chief Legal Counsel

---o0o---

PUBLIC PARTICIPANTS

SUSAN GEANACOU
California Department of Finance

ARTHUR PALKOWITZ
Claimant Desert Sands Unified School District

---o0o---

I N D E X

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

ITEM NO.		PAGE
I.	Call to Order and Roll Call	8
II.	Approval of Minutes	10
	Item 1 March 22, 2019	
III.	Public Comment for Matters Not on the Agenda (none)	11
IV.	Proposed Consent Calendar for Items Proposed for Adoption on Consent Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Articles 7 and 8 (none)	11
V.	Hearings and Decisions Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 7	
A.	Appeal of Executive Director Decisions Pursuant to California Code of Regulations, Title 2, Section 1181.1(c)	
	Item 2 Appeal of Executive Director Decisions (none)	11
B.	Test Claims	
	Item 3 Peace Officer Training: Mental Health/Crisis Intervention, 17-TC-06	11
	Penal Code Sections 13515.26, 13515.27, 13515.28, 13515.29, and 13515.295; Statutes 2015, Chapter 468 (SB 11); and Statutes 2015, Chapter 469 (SB 29)	
	Cities of Claremont and South Lake Tahoe, Claimants	

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

ITEM NO.		PAGE	
3	Item 4	Public School Restrooms: Feminine Hygiene Products, 18-TC-01	15
5		Education Code Section 35292.6; Statutes 2017, Chapter 687 (AB 10)	
7		Desert Sands Unified School District, Claimant	
9	VI.	Hearings on County Applications for Findings of Significant Financial Distress Pursuant to Welfare and Institutions Code Section 17000.6 and California Code of Regulations, Title 2, Article 2	
12	Item 5	Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commission, or to a Hearing Officer (none)	22
15	VII.	Reports	
16	Item 6	Legislative Update	23
17	Item 7	Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar	24
19	Item 8	Executive Director: Workload Update and Tentative Agenda Items for the July and September 2019 Meetings	24
22	VIII.	Closed Executive Session Pursuant to Government Code Sections 11126 and 11126.2	27
24	A.	Pending Litigation	
25	B.	Personnel	

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

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

ITEM NO.		PAGE
IX.	Report from Closed Executive Session	27
	Adjournment	28
	Reporter's Certificate	29

---o0o---

1 SACRAMENTO, CALIFORNIA

2 FRIDAY, MAY 24, 2019, 10:15 A.M.

3 ---o0o---

4 CHAIRPERSON MILLER: So we will call the meeting on
5 the Commission on State Mandates and call it to order.

6 I have a couple housekeeping notes. Obviously,
7 this is my first time so go easy on me, and I will do my
8 best.

9 So at the table near the end of the dais, over
10 there, are the copies of the meeting notice, the agenda,
11 new filings, witness lists, and the electronic public
12 hearing binder. It is also over there, on the laptop,
13 if anyone wants access to it.

14 Thank you for that.

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

19 The restrooms are down the hall, near the
20 elevators. And please take note of the emergency exits
21 in this room, which I don't know that I have, but it
22 looks like it's right there and back here.

23 And, finally, Heather, will you please call the
24 roll.

25 MS. HALSEY: Mr. Adams.

1 MEMBER ADAMS: Here.

2 MS. HALSEY: Ms. Lee.

3 MEMBER LEE: Here.

4 MS. HALSEY: Ms. Miller.

5 CHAIRPERSON MILLER: Here.

6 MS. HALSEY: Ms. Olsen.

7 MEMBER OLSEN: Here.

8 MS. HALSEY: Ms. Ramirez.

9 MEMBER RAMIREZ: Here.

10 MS. HALSEY: Mr. Rivera.

11 MEMBER RIVERA: Here.

12 MS. HALSEY: And Ms. Stowers.

13 MEMBER STOWERS: Here.

14 MS. HALSEY: And before we get going, I did want to
15 introduce our new Commission person, Ms. Gayle Miller.
16 Ms. Miller is the chief deputy director of policy for
17 the Department of Finance.

18 Prior to her work at Finance, Ms. Miller was the
19 senior policy advisor for the California Department of
20 Tax and Fee Administration.

21 And prior to that, she was deputy
22 controller/director of policy in the Office of the State
23 Controller. She served as principal consultant in the
24 Office of the California State Senate, of President Pro
25 Tem, and held several other positions in the California

1 State Senate, including consultant in the Office of
2 Research, staff director for the Government and Finance
3 Committee, and principle consultant at the Revenue and
4 Taxation Committee.

5 She was director of Government Affairs at Anthem
6 Blue Cross; legislative director in the office of
7 Assemblyman Alan Lowenthal; and legislative aide and
8 assembly fellow in the office of Assemblymember Tom
9 Torlakson. All experience that will serve the
10 Commission well.

11 Welcome, Gayle.

12 CHAIRPERSON MILLER: Thank you.

13 Now that I feel incredibly old.

14 (Laughter)

15 CHAIRPERSON MILLER: Are there -- on Item 1, the
16 minutes, are there any objections to or corrections of
17 the minutes from March 22nd, 2019?

18 MEMBER OLSEN: I will move adoption.

19 MEMBER STOWERS: Second.

20 CHAIRPERSON MILLER: Great.

21 Moved by Ms. Olsen; second by Ms. Stowers.

22 We are -- all those in favor of adopting the
23 minutes, signify by saying "aye."

24 (Ayes)

25 CHAIRPERSON MILLER: Any opposed? Abstentions?

1 (No response)

2 CHAIRPERSON MILLER: The minutes are adopted.

3 Thank you.

4 MS. HALSEY: And now we will take up public comment
5 for matters not on the agenda. Please note that the
6 Commission cannot take action on items not on the
7 agenda. However, it can schedule issues raised by the
8 public for consideration at future meetings.

9 CHAIRPERSON MILLER: Is there any public comment?

10 (No response)

11 CHAIRPERSON MILLER: Hearing no public comment,
12 we'll move to the next item.

13 Since there are no items proposed for consent,
14 let's move to the Article 7 portion of the hearing.

15 Will the parties and witnesses for Items 3 and 4
16 please rise.

17 (Parties/witnesses stood to be sworn or
18 affirmed.)

19 MS. HALSEY: Item 2 is reserved for appeals of
20 Executive Director decisions, and there are no appeals
21 to consider for this hearing.

22 Senior Commission Counsel Matt Jones will present
23 Item 3, a test claim on Peace Officer Training: Mental
24 Health/Crisis Intervention.

25 At this time, we would invite the parties and

1 witnesses for Item 3 to please come to the table. Also,
2 the claimant representative please let us know -- sorry.
3 Also, the claimant representative let us know that the
4 claimants agree with the proposed decision and would
5 like to thank staff for their time and work on this
6 matter; and also let the members know that they will not
7 be attending today's hearing.

8 MR. JONES: Good morning.

9 This test claim addresses law enforcement training
10 courses developed by the Commission on Peace Officer
11 Standards and Training, POST, regarding law enforcement
12 interaction with persons with mental illness or
13 intellectual disability.

14 As explained in the proposed decision, staff
15 recommends that the Commission partially approve this
16 test claim with respect to Penal Code section 13515.28,
17 which mandates local law enforcement agencies to ensure
18 their field training officers attend one-time training
19 on crisis intervention and behavioral health, unless
20 they received similar training in the last 24 months.

21 Reimbursement is not required for local law
22 enforcement employers to develop or present the training
23 since these activities are not mandated by the State.

24 Staff further recommends that the Commission deny
25 all other statutes and code sections pled in the claim.

1 Accordingly, staff recommends that the Commission
2 adopt the proposed decision to partially approve this
3 test claim and authorize staff to make any technical,
4 nonsubstantive changes to the proposed decision
5 following the hearing.

6 CHAIRPERSON MILLER: Great.

7 Would the parties and witnesses please state your
8 full name for the record, please.

9 MS. GEANACOU: Good morning. Susan Geanacou,
10 Department of Finance.

11 CHAIRPERSON MILLER: Thank you.

12 Is there any public comment on this item?

13 And I understand, the claimant is not here today.

14 Are there any questions from members on this claim?

15 MEMBER RAMIREZ: I do have a comment.

16 CHAIRPERSON MILLER: Ms. Ramirez.

17 MEMBER RAMIREZ: As a representative of a city
18 with, you know, our own police department, Oxnard Police
19 Department, I just want to take an opportunity to say
20 what an important issue this is, because our law
21 enforcement now, more and more, is being asked to
22 interact with folks with mental issues, and it's so
23 critical. So just a little comment here, because it's
24 near and dear to my heart.

25 So I would like to move the recommended action.

1 CHAIRPERSON MILLER: Thank you. I appreciate that.

2 MEMBER RIVERA: I will second.

3 CHAIRPERSON MILLER: Thank you, Mr. Rivera.

4 Moved by Ms. Ramirez; second by Mr. Rivera.

5 Is there any further discussion?

6 MEMBER OLSEN: Does Finance have any comments?

7 MS. GEANACOU: No, we don't.

8 Thank you. I was going to speak up if there was
9 any concerns.

10 We support the --

11 MEMBER OLSEN: We should ask.

12 MS. GEANACOU: That's fine. I appreciate that.

13 We support the staff analysis on this matter.

14 CHAIRPERSON MILLER: Great. I appreciate that.

15 Thank you very much.

16 There has been a motion and a second.

17 It has been moved.

18 I think I already did all of this, right?

19 So Heather, please call the roll.

20 MS. HALSEY: Mr. Adams.

21 MEMBER ADAMS: Aye.

22 MS. HALSEY: Ms. Lee.

23 MEMBER LEE: Aye.

24 MS. HALSEY: Ms. Miller.

25 CHAIRPERSON MILLER: Aye.

1 MS. HALSEY: Ms. Olsen.

2 MEMBER OLSEN: Aye.

3 MS. HALSEY: Ms. Ramirez.

4 MEMBER RAMIREZ: Aye.

5 MS. HALSEY: Mr. Rivera.

6 MEMBER RIVERA: Aye.

7 MS. HALSEY: Ms. Stowers.

8 MEMBER STOWERS: Aye.

9 CHAIRPERSON MILLER: Great. Thank you. Motion
10 carries. Thank you very much.

11 Thank you, Ms. Geanacou.

12 MS. HALSEY: Item 4 is a test claim on Public
13 School Restrooms. Elena Wilson will present the -- I'm
14 sorry. Public Restrooms: Feminine Hygiene Products.
15 Elena Wilson will present this item.

16 And, at this time, we invite the parties and
17 witnesses for Item 4 to come to the table.

18 Thank you.

19 CHAIRPERSON MILLER: Thank you. Parties and
20 witnesses, please state your names for the record.

21 MR. PALKOWITZ: Good morning. Art Palkowitz on
22 behalf of the claimant, Desert Sands Unified School
23 District.

24 MS. GEANACOU: Susan Geanacou, Department of
25 Finance.

1 CHAIRPERSON MILLER: Are there -- is there any
2 public comment on this item?

3 (No response)

4 MR. PALKOWITZ: If that includes the claimant, then
5 I do have some comments.

6 MS. HALSEY: We'll have the attorney introduce the
7 item first.

8 CHAIRPERSON MILLER: Introduce the item?

9 MS. HALSEY: Yeah.

10 CHAIRPERSON MILLER: Thank you.

11 MS. WILSON: Good morning. This test claim, for
12 the first time, requires certain public schools to
13 stock, at all times, at least 50 percent of the school's
14 restrooms with feminine hygiene products, which are
15 defined as tampons and sanitary napkins.

16 In addition, the test claim statute prohibits
17 schools from charging for any menstrual products,
18 including feminine hygiene products, provided to pupils.

19 Staff finds that the test claim statute imposes a
20 reimbursable state mandated program, beginning
21 January 1st, 2019, to stock 50 percent of the school's
22 restrooms with feminine hygiene products at all times at
23 no cost to pupils. The mandate applies only to certain
24 Title 1 eligible public schools that maintain any
25 combination of classes from grade 6 to grade 12, as

1 specified in the proposed decision.

2 Accordingly, staff recommends the Commission adopt
3 the proposed decision approving the test claim and
4 authorize staff to make any technical, nonsubstantive
5 changes following the hearing.

6 CHAIRPERSON MILLER: Thank you very much.

7 Now, sir, you may proceed.

8 Thank you.

9 MR. PALKOWITZ: Thank you.

10 We thank staff for their analysis and appreciate
11 their recommendation to have this a reimbursable
12 mandate.

13 We are -- I would like to comment on one item, is
14 that the costs relating to dispensers was not included
15 as a reimbursable mandate, but what was included were
16 the feminine products.

17 We believe it was the legislator's intent that the
18 dispensers' one-time cost to install and purchase should
19 also be a cost that's reimbursable. It was foreseen by
20 the legislator that there would be dispensers installed
21 in the restrooms.

22 CHAIRPERSON MILLER: Mr. Palkowitz --

23 MR. PALKOWITZ: Yes.

24 CHAIRPERSON MILLER: -- we appreciate these
25 comments, but this will be a matter in Parameters and

1 Guidelines.

2 MR. PALKOWITZ: I appreciate that, Madam
3 Chairperson.

4 I thought that this is an opportunity for me to
5 address that issue. We provided evidence to support
6 that. I really feel this would be an appropriate time
7 to deal with that, versus coming back at another hearing
8 and have my client incur additional costs.

9 But if that's the preference, then I will reserve
10 my opportunity, at that time, to make our presentation
11 regarding the dispensers.

12 CHAIRPERSON MILLER: Absolutely. I appreciate
13 that.

14 Just because of the -- Ms. Shelton, would you like
15 to comment on that?

16 MS. SHELTON: It was just the staff position that
17 the purchase and cost of dispensers is not written in
18 the plain language of the test claim statute, so that is
19 something that would be addressed during Parameters and
20 Guidelines.

21 When we do Parameters and Guidelines, you know, you
22 have an opportunity to respond to the expedited
23 Parameters and Guidelines. We also review the record
24 for the test claim.

25 So if you want to make your testimony today, you

1 can.

2 MS. HALSEY: And, I'm sorry. I just wanted to
3 clarify a little bit further, that this hearing is on
4 whether the test claim statute mandates a new program
5 higher level of service, and, based on that language, we
6 find, yes, it does.

7 Then the Government Code allows for a claimant or
8 even a state agency to propose reasonably necessary
9 activities as a result of those mandated activities, but
10 that's -- that's in the Parameters and Guidelines
11 provision and not in the test claim provision, and
12 that's the reason for the distinction between when it
13 should be done and how it should be done.

14 MR. PALKOWITZ: I estimate another minute or two.

15 CHAIRPERSON MILLER: Absolutely.

16 MR. PALKOWITZ: I would just like to put on the
17 record --

18 CHAIRPERSON MILLER: Please.

19 MR. PALKOWITZ: Thank you.

20 CHAIRPERSON MILLER: Thank you.

21 MR. PALKOWITZ: It's our position that the -- the
22 dispensers should have been included in this analysis.
23 Otherwise, Article XIII B is violated in that there was
24 a shifting of the financial responsibility to the local
25 agencies.

1 We believe that it is intended to be part of it,
2 based on the legislative history, and also the Senate
3 Appropriation looking at that issue.

4 The code section that was amended states the
5 feminine hygiene products shall be stocked in the
6 restrooms. We believe that the dispensers are a
7 reasonable method of doing that. The code section, on
8 its face, does not say the feminine products will be
9 placed there or laid down there or someone will
10 personally distribute them. So we feel that it is
11 appropriate that the dispensers be reimbursed.

12 And if the process is to have that done during the
13 Parameters and Guidelines, we look forward to that
14 opportunity.

15 CHAIRPERSON MILLER: I appreciate that. Thank you,
16 sir.

17 With that, are there questions from members?

18 MEMBER OLSEN: I will move the staff
19 recommendation.

20 CHAIRPERSON MILLER: Ms. Stowers, did you have a
21 question?

22 MEMBER STOWERS: I will second that motion. But I
23 want to make a comment as well. I just want to -- I
24 appreciate the analysis, providing that these products
25 are a part of the test claim. And I look forward to

1 reading the P&G and having, you know, a reasonableness
2 to include the dispensers. Also looking forward, the
3 overall cost should be decreased as we are looking to
4 have these items to be excluded from sales tax. So
5 thank you to everyone.

6 CHAIRPERSON MILLER: Great. Thank you,
7 Ms. Stowers.

8 Any other questions?

9 MEMBER RAMIREZ: I just want to say --

10 CHAIRPERSON MILLER: Oh -- please.

11 MEMBER RAMIREZ: I just want to say, it's about
12 time, as well.

13 (Laughter)

14 CHAIRPERSON MILLER: I appreciate that.

15 MS. GEANACOU: Yes, thank you from Finance.

16 We support the staff analysis, and we'll address
17 any cost or reimbursable activities at the Parameters
18 and Guidelines phase.

19 CHAIRPERSON MILLER: Great. I appreciate that.
20 Thank you.

21 Ms. Olsen, did you have a comment?

22 MEMBER OLSEN: I am moving the recommendation with
23 great pleasure.

24 MEMBER STOWERS: Second.

25 CHAIRPERSON MILLER: Moved by Ms. Olsen; seconded

1 by Ms. Stowers.

2 If there's no further questions, will you please
3 call the roll, Ms. Halsey.

4 MS. HALSEY: Mr. Adams.

5 MEMBER ADAMS: Aye.

6 MS. HALSEY: Ms. Lee.

7 MEMBER LEE: Aye.

8 MS. HALSEY: Ms. Miller.

9 CHAIRPERSON MILLER: Aye.

10 MS. HALSEY: Ms. Olsen.

11 MEMBER OLSEN: Aye.

12 MS. HALSEY: Ms. Ramirez.

13 MEMBER RAMIREZ: Aye.

14 MS. HALSEY: Mr. Rivera.

15 MEMBER RIVERA: Aye.

16 MS. HALSEY: Ms. Stowers.

17 MEMBER STOWERS: Aye.

18 CHAIRPERSON MILLER: And the motion carries, with
19 great pleasure as well, I might add.

20 MR. PALKOWITZ: Thank you very much.

21 CHAIRPERSON MILLER: Thank you, sir. We look
22 forward to seeing you again.

23 MS. HALSEY: Item 5 is reserved for county
24 applications for a finding of significant financial
25 distress, or SB 1033 applications. No SB 1033

1 applications have been filed.

2 Assistant Executive Director Heidi Palchik will
3 present Item 6, the Legislative Update.

4 MS. PALCHIK: Good morning.

5 We have three bills to discuss:

6 First, SB 287, Commission on State Mandates test
7 claims filing date. We first saw the language of this
8 bill in the education omnibus bill last session. This
9 bill is specified that, for purposes of filing a test
10 claim based on the date of incurring increased costs,
11 the phrase "within 12 months" means by June 30 of the
12 fiscal year following the fiscal year in which increased
13 costs were first incurred by the claimant. This bill
14 was heard on April 8th and placed on the Senate
15 Appropriations Committee Suspense File and may be heard
16 at a later date.

17 Next, AB 400, State Mandates. It is a spot bill,
18 according to the author's office.

19 Finally, AB 1471, State-mandated local costs
20 notification, proposes language that would specify that
21 reimbursement of lost revenue be provided to certain
22 local agencies as a result of delayed state action,
23 pursuant to the same procedures as filing a test claim
24 with the Commission.

25 Also, the provisions of this bill would be exempt

1 from the exceptions under Government Code 17556, and
2 this bill is now in Assembly Appropriations, and staff
3 will continue to monitor legislation for bills that
4 impact the mandates process.

5 CHAIRPERSON MILLER: Thank you.

6 MS. HALSEY: Thank you.

7 Chief Legal Counsel Camille Shelton will present
8 Item 7, the Chief Legal Counsel Report.

9 MS. SHELTON: Good morning.

10 Paradise Irrigation District, and the other
11 claimants on the Water Conservation Test Claim, have
12 filed a petition for review in the California Supreme
13 Court to challenge the Court of Appeals decision, which
14 affirmed the denial of the test claim.

15 We haven't received any recent decisions, and we do
16 have one court hearing date, set for June 7th, to hear
17 the remand of discharge of stormwater runoff.

18 And that's all I have.

19 CHAIRPERSON MILLER: Thank you.

20 MS. HALSEY: And Item 8 is Executive Director's
21 Report.

22 For our budget, the Commission's operating budget
23 was approved by both subject subcommittees and is
24 expected to be enacted as proposed.

25 And on March 26th, the Assembly Budget Subcommittee

1 4 voted to approve the local agencies subvention portion
2 of the Commission's budget, as proposed in the
3 Governor's budget, as did Senate Budget Subcommittee 4
4 on May 9th, 2019.

5 The Assembly Subcommittee inadvertently described
6 this item as 8885 -- or 8855 instead of 8885, so that
7 would be to the Controller's budget instead of to the
8 Commission's, but that was inadvertent and will be
9 corrected going forward.

10 The governor released his May revision of the
11 proposed budget on Thursday, May 9th, 2019, with no
12 changes to the Commission's budget, as originally
13 proposed.

14 Workload update. After this hearing, there are 40
15 pending test claims, 39 of which are regarding
16 stormwater NPDES permits. And there are also two active
17 Parameters and Guidelines. Two statewide cost estimates
18 are pending inactive, and also there is one additional
19 Parameters and Guidelines and one additional statewide
20 cost estimate, both regarding stormwater NPDES permits
21 that are on inactive status pending the outcome of
22 litigation regarding the test claim decisions underlying
23 those matters.

24 In addition, there is one Parameters and Guidelines
25 amendment on inactive status pending the outcome of

1 litigation in the CSBA case, which is currently pending
2 before the California Supreme Court.

3 And we also have two requests for mandate
4 redetermination that are pending.

5 And, finally, there are five incorrect reduction
6 claims pending.

7 Commission staff currently expects to complete all
8 currently pending test claims and IRCs by approximately
9 the January 2024 Commission hearing, depending on
10 staffing and other workload. And some of those test
11 claims may be heard and decided earlier than currently
12 indicated if they are consolidated for hearing, which
13 will be determined at a later time.

14 Please check the Executive Director's Report to see
15 if an item you are interested in is coming up, and you
16 can also use our pending case load documents on our
17 website, which are updated at least bimonthly, to see
18 when something is tentatively set for hearing.

19 Please expect to receive draft proposed decisions
20 on all test claims and incorrect reduction matters for
21 review and comment at least eight weeks prior to the
22 hearing date, and a proposed decision approximately two
23 weeks before the hearing.

24 And, finally, a reminder to all parties and
25 interested parties to please notify Commission staff not

1 later than the Wednesday prior to the hearing that you,
2 or a witness you are bringing, plan to testify, and
3 please include the names of the people who will be
4 speaking for inclusion on the witness list, as staff is
5 no longer sending reminder e-mails.

6 And that is all I have.

7 CHAIRPERSON MILLER: Thank you, Heather.

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

17 We will reconvene in open session in approximately
18 15 minutes.

19 (Closed session was held from
20 10:35 a.m. to 10:42 a.m.)

21 CHAIRPERSON MILLER: The Commission met in closed
22 executive session pursuant to Government Code section
23 11126(e)(2) to confer with and receive advice from legal
24 counsel for consideration and action, as necessary and
25 appropriate, upon the pending litigation listed on the

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

5 Thank you.

6 With no further business to discuss, I will
7 entertain a motion to adjourn.

8 MEMBER RAMIREZ: So moved.

9 CHAIRPERSON MILLER: Moved by Ms. Ramirez.

10 Do we need a second for that motion?

11 MEMBER OLSEN: I will second it.

12 CHAIRPERSON MILLER: Thank you. Great.

13 MEMBER OLSEN: We will all second it.

14 CHAIRPERSON MILLER: Yes. Exactly.

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

16 (Ayes)

17 CHAIRPERSON MILLER: All those opposed?

18 (No response)

19 CHAIRPERSON MILLER: Meeting is adjourned.

20 Thank you.

21 (Proceedings concluded at 10:43 a.m.)

22 ---o0o---

23

24

25

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

CERTIFICATE OF REPORTER

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of June 2019.



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