

COMMISSION ON STATE MANDATES
NOTICE AND AGENDA¹

State Capitol, Room 126
Sacramento, California

July 28, 2006
9:30 A.M.

(Please Note Time Change)

[NOTE: The Commission may take a lunch break during this hearing.]

- I. CALL TO ORDER AND ROLL CALL
- II. CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 and 17526. (Closed Executive Session may begin at this time and reconvene at the end of the meeting.)
 - A. PERSONNEL
Report from Personnel Subcommittee and to confer on personnel matters pursuant to Government Code sections 11126, subdivision (a) and 17526.
 - B. 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, subdivision (e)(1):
 1. *State of California, Department of Finance v. Commission on State Mandates, et al.*, Sacramento Superior Court Case No. 03CS01069, CSM Case No. 03-L-01, consolidated with *County of Los Angeles v. Commission on State Mandates, et al.*, Los Angeles Superior Court Case No. BS087959, transferred to Sacramento Superior Court, Case No. 05CS00865, CSM Case No. 03-L-11 [*Animal Adoption*]
 2. *State of California, Department of Finance v. Commission on State Mandates, et al.*, Sacramento Superior Court Case No. 03CS01432, CSM Case No. 03-L-02 [*Behavioral Intervention Plans*]
 3. *CSAC Excess Insurance Authority v. Commission on State Mandates, et al.*, Second District Court of Appeal, Case Number B188169, on appeal from Los Angeles Superior Court Case No. BS092146, CSM Case No. 04-L-01 [*Cancer Presumption for Law Enforcement and Firefighters and Lower Back Injury Presumption for Law Enforcement*], consolidated with *City of Newport Beach v. Commission on State Mandates, et al.*, Los Angeles Superior Court Case No. BS095456, CSM Case No. 04-L-02 [*Skin Cancer Presumption for Lifeguards*]

¹. This public meeting notice is available on the Internet at <http://www.csm.ca.gov>.

4. *County of Los Angeles, et al. v. Commission on State Mandates, et al.*, Second District Court of Appeal [Los Angeles] Case Number B183981, CSM Case No. 04-L-03, (Los Angeles Superior Court Nos. BS089769, BS089785) [*Transit Trash Receptacles, et al./Waste Discharge Requirements*]
5. *County of San Bernardino v. Commission on State Mandates, et al.*, San Bernardino County Superior Court, Case No. SCVSS 138622 [*Standardized Emergency Management Systems (SEMs)*]

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, subdivision (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 and/or staff (Gov. Code, § 11126, subd. (e)(2)(B)(i).)

III. REPORT FROM CLOSED EXECUTIVE SESSION, RECONVENE IN PUBLIC SESSION

SPECIAL ORDER OF BUSINESS: HEARING AND DECISION PURSUANT TO REMAND OF THE COURT (Gov. Code, § 17559, subd. (b).) (action)
 Item 19 –State Controller’s Reevaluation of Reimbursement Claims
Graduation Requirements on Remand from the Sacramento County Superior Court, *San Diego Unified School District, et al. v. Commission on State Mandates, et al.*, Case Nos. 03CS01401 (Consolidated with Nos 03CS01568, 03CS01569, 03CS01570, 03CS 01702, 04CS00028 (As described below on page 5.)

IV. APPROVAL OF MINUTES (action)

Item 1 May 25, 2006

V. PROPOSED CONSENT CALENDAR (action)

Item 2 If there are no objections to any of the following action items designated by an asterisk (*), the Executive Director will include it on the Proposed Consent Calendar that will be presented at the hearing. The Commission will determine which items will remain on the Consent Calendar.

VI. APPEAL OF EXECUTIVE DIRECTOR DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 1181, SUBDIVISION (c). (action)

(Note: This item is limited to appeals regarding this month’s agenda items.)

Item 3 Staff Report (if necessary)

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

(Note: Items 5, 7, 9, 11, 13, 15, and 17 will not be voted on unless the staff recommendation for Items 6, 8, 10, 12, 14, 16m and 18 are adopted.)

- Item 4 *Post Conviction: DNA Court Proceedings*, 00-TC21/01-TC-08
Penal Code Sections 1405 and 1417.9
Statutes 2000, Chapter 821 (SB 1342), Statutes 2001, Chapter 943 (SB 83)
County of Los Angeles, Claimant
- Item 5 Proposed Statement of Decision
Post Conviction: DNA Court Proceedings, 00-TC-21/01-TC-08
See Above
- Item 6 *Charter School Collective Bargaining*, 99-TC-05
Education Code Sections 47605, Subdivision (b)(5)(O) and 47611.5,
Government Code Section 3540, et seq., Statutes 1999, Chapter 828
(AB 631)
Western Placer Unified School District, Claimant
- Item 7 Proposed Statement of Decision
Charter School Collective Bargaining, 99-TC-05
See Above
- Item 8 *Mentally Disordered Offenders: Treatment as a Condition of Parole*,
00-TC-28/05-TC-06
Statutes 1985, Chapter 1419 (SB 1296); Statutes 1986, Chapter 858
(SB 1845); Statutes 1987, Chapter 687 (SB 425); Statutes 1988,
Chapter 658 (SB 538); Statutes 1989, Chapter 228 (SB 1625);
Statutes 1994, Chapter 706 (SB 1918)
County of San Bernardino, Claimant
- Item 9 Proposed Statement of Decision
Mentally Disordered Offenders: Treatment as a Condition of Parole,
00-TC-28/05-TC-06
See Above
- Item 10 *Binding Arbitration*, 01-TC-07
Code of Civil Procedure, Sections 1281.1, 1299, 1299.2, 1299.3
1299.4, 1299.5, 1299.6, 1299.7, 1299.8, and 1299.9
Statutes 2000, Chapter 906 (SB 402)
City of Palos Verdes Estates, Claimant
- Item 11 Proposed Statement of Decision
Binding Arbitration, 01-TC-07

See Above

- Item 12 *Worker's Compensation Disability Benefits for Government Employees*,
00-TC-20/02-TC-02
Labor Code Section 4850; Statutes 2000, Chapter 920 (AB 1883) & 929
(SB 2081); Statutes 1999, Chapters 270 (AB 224) & 970 (AB 1387);
Statutes 1989, Chapter 1464 (SB 1172); Statutes 1977, Chapter 981
(SB 989)
County of Los Angeles, Claimant
San Diego Unified School District, Co-Claimant

- Item 13 Proposed Statement of Decision
Worker's Compensation Disability Benefits for Government Employees,
00-TC-20/02-TC-02
See Above

- Item 14 *Modified Primary Election*, 01-TC-13
Statutes of 2000, Chapter 898 (SB 28)
County of Orange, Claimant

- Item 15 Proposed Statement of Decision
Modified Primary Election, 01-TC-13
See Above

- Item 16 *Permanent Absent Voter II*, 03-TC-11
Elections Code Sections 3100, 3101, 3103, 3104, 3106, 3108, 3110, 3200,
3201, 3202, 3203, 3204, 3205, and 3206; Statutes 1994, Chapter 920
(SB 1547); Statutes 1996, Chapter 724 (AB 1700); Statutes 2001,
Chapters 918 (AB 719) and 922 (AB 1520); Statutes 2002, Chapter 664
(AB 3034); and Statutes 2003, Chapter 347 (SB 445)
County of Sacramento, Claimant

- Item 17 Proposed Statement of Decision
Permanent Absent Voter II, 03-TC-11
See Above

VIII. HEARING AND DECISION PURSUANT TO REMAND OF THE COURT (Gov. Code, § 17559, subd. (b).) (action)

Item 18* Proposed Orders to Set Aside Statements of Decision on Incorrect Reduction Claims on *Graduation Requirements*, CSM 4435-I-02, 14-21, 25, 27, 28, 30, 32-34,
Education Code Section 51225.3, Statutes 1983, Chapter 498 (SB 813)
Pursuant to Order of the Sacramento County Superior Court Dated May 24, 2006, Case No. 05CS01253 (Consolidated with Case Nos. 05CS01262, 05CS01237, 05CS01256, 05CS01401):
Claimants: Yuba City, Vallejo City, West Contra Costs, John Swett, Stockton, Novato, Center, Lake Tahoe, Ojai, Lincoln, San Juan and Linden Unified School Districts, and Placer Union, East Side Union, Anderson Union, and Woodland Joint Union High School Districts.

Item 19 State Controller's Reevaluation of Reimbursement Claims
Education Code Section 51225.3; Statutes 1982, Chapter 498
Graduation Requirements On Remand from the Sacramento County Superior Court, San Diego Unified School District, et al. v. Commission on State Mandates, et al., Case Nos. 03CS01401 (Consolidated with Nos. 03CS01568, 03CS01569, 03CS01570, 03CS 01702, 04CS00028)
Claimants:
San Diego Unified School District, Claimant, CSM 4435-I-01, 37
San Jose Unified School District, Claimant, CSM 4435-I-04
Sweetwater Union High School District, CSM 4435-I-05
Castro Valley Unified School District, CSM 4435-I-13, 39
Grossmont Union High School District, CSM 4435-I-35
Clovis Unified School District, CSM-4435-I-06, 38

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

A. ADOPTION OF PROPOSED PARAMETERS AND GUIDELINES AND PROPOSED PARAMETERS AND GUIDELINES AMENDMENTS

Item 20* *Agency Fee Arrangements*, 00-TC-17/01-TC-14
Statutes 1980, Chapter 816 (SB 2030); Statutes 2000, Chapter 893 (SB 1960); Statutes 2001, Chapter 805 (SB 614)
Clovis Unified School District, Claimant

Item 21* *Missing Children Reports*, 01-TC-09
Education Code Sections 38139 and 49068.6
Statutes 1986, Chapter 249 (AB 606); Statutes 1996, Chapter 277 (SB 1562); Statutes 1999; Chapter 832(AB 646)
San Jose Unified School District, Claimant
And
Request to Amend All Parameters and Guidelines to Include Time Study Language, 04-PGA-04

State Controller's Office, Requestor

- Item 22* *Pupil Expulsions from School: Additional Hearing Costs for Mandated Recommendations of Expulsion for Specified Offenses*
(*San Diego Unified School District v. Commission on State Mandates*
(2004) 33 Cal.4th 859, 867), 05-PGA-04 (CSM-4455)
Education Code Section 48915, Statutes 1993, Chapters 1255 (AB 342)
and 1256 (SB 1198); Education Code Section 48918, Statutes 1975,
Chapter 1253 (AB 1770); Statutes 1977, Chapter 965
(AB 530); Statutes 1978, Chapter 668 (AB 2191); Statutes 1983,
Chapters 498 (SB 813) and 1302 (AB 70) Statutes 1985, Chapter 856
(AB 1758); Statutes 1987, Chapter 134 (AB 439); Statutes 1990,
Chapter 1231 (SB 2356); Statutes 1994, Chapter 146 (AB 3601)
San Diego Unified School District, Claimant
- Item 23* *Amendment of Pupil Suspensions, Expulsions, and Expulsion Appeals*
05-PGA-04 (CSM-4455, 4456, and 4463)
San Diego Unified School District, Requestor And
Pupil Suspensions from School - CSM-4456
Education Code Section 48911, subdivisions (b) and (e)
Statutes 1977, Chapter 965 (AB 530); Statutes 1978, Chapter 668 (AB
2191); Statutes 1980, Chapter 73 (SB 1247); Statutes 1983, Chapter 498
(SB 813); Statutes 1985, Chapter 856 (AB 1758); Statutes 1987,
Chapter 134 (AB 439) And
Pupil Expulsions from School - CSM-4455
Education Code Sections 48915, subdivisions (a) and (b),
48915.1, 48915.2, 48916 and 48918
Statutes 1975, Chapter 1253 (AB 1770); Statutes 1977, Chapter 965
(AB 530); Statutes 1978, Chapter 668 (AB 2191); Statutes 1982,
Chapter 318 (SB 1385); Statutes 1983, Chapter 498 (SB 813);
(cont.) Statutes 1984, Chapter 622 (SB 1685); Statutes 1987, Chapter 942
(AB 2590); Statutes 1990, Chapter 1231 (AB 3794); Statutes 1992,
Chapter 152 (AB 3362); Statutes 1993, Chapters 1255 (AB 342), 1256
(SB 1198); 1257 (SB 1130); and, Statutes 1994, Chapter 146 (AB 3601)
And
Pupil Expulsion Appeals - CSM-4463
Education Code Sections 48919, 48921-48924
Statutes 1975, Chapter 1253 (AB 1770); Statutes 1977, Chapter 965
(AB 530); Statutes 1978, Chapter 668 (AB 2191); and Statutes 1983,
Chapter 498 (SB 813)
- Item 24* *Mandate Reimbursement Process*, 05-RL-4204-02 (CSM 4204 & 4485)
Statutes 1975, Chapter 486 (AB 1375)
Statutes 1984, Chapter 1459 (SB 2337)

B. PROPOSED AMENDMENTS TO CALIFORNIA CODE OF REGULATIONS,
TITLE 2, DIVISION 2, CHAPTER 2.5 (action)

- Item 25* Adoption of Proposed Regulatory Action: Article I Cleanup
Amendments to California Code of Regulations, Title 2, Chapter 2.5,
Article 1. General, Section 1181.4

C. MEETING AND HEARING CALENDAR

- Item 26 Adoption of 2007 Meeting and Hearing Calendar

X. STAFF REPORTS

- Item 27 Chief Legal Counsel's Report (info)
Recent Decisions, Litigation Calendar

- Item 28 Executive Director's Report (info/action)
Workload, Budget, Legislation, and Next Hearing

XI. PUBLIC COMMENT

XII. ADJOURNMENT

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