

ITEM 2
Amendment to 2015 Hearing Transcripts

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RECEIVED
August 26, 2015
*Commission on
State Mandates*

CORRECTED

PUBLIC MEETING
COMMISSION ON STATE MANDATES



TIME: 10:00 a.m.
DATE: Friday, January 23, 2015
PLACE: State Capitol, Room 447
Sacramento, California



REPORTER'S TRANSCRIPT OF PROCEEDINGS



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

Daniel P. Feldhaus, C.S.R., Inc.
Certified Shorthand Reporters
8414 Yermo Way, Sacramento, California 95828
Telephone 916.682.9482 Fax 916.688.0723
FeldhausDepo@aol.com

[Corrected Appearance Page]

A P P E A R A N C E S

COMMISSIONERS PRESENT

ERAINA ORTEGA
Representative for MICHAEL COHEN, Director
Department of Finance
(Chair of the Commission)

RICHARD CHIVARO
Representative for BETTY T. YEE
State Controller
(Vice Chair of the Commission)

KEN ALEX
Director
Office of Planning & Research

SARAH OLSEN
Public Member

M. CARMEN RAMIREZ
Oxnard City Council Member

ANDRÉ RIVERA
Representative for JOHN CHIANG
State Treasurer

DON SAYLOR
Yolo County Supervisor
Local Agency Member



COMMISSION STAFF PRESENT

HEATHER A. HALSEY
Executive Director
(Items 3 and 18)

JASON HONE
Assistant Executive Director

CAMILLE N. SHELTON
Chief Legal Counsel
(Item 17)

A P P E A R A N C E S

PARTICIPATING COMMISSION STAFF

continued

CARLA SHELTON
Senior Legal Analyst
(Item 4)

ERIC FELLER
Senior Commission Counsel
(Item 7)

MATTHEW B. JONES
Commission Counsel
(Item 5)



PUBLIC TESTIMONY

Appearing Re Item 4:

For Department of Finance:

LEE SCOTT
Mandates Unit
Department of Finance
915 L Street, Eighth Floor
Sacramento, California 95814

DONNA FEREBEE
Legal Department
Department of Finance
915 L Street, Suite 1280
Sacramento, California 95814

Appearing Re Item 5:

For Department of Finance:

LEE SCOTT
Mandates Unit
Department of Finance

A P P E A R A N C E S

PUBLIC TESTIMONY

Appearing Re Item 7:

For Claimant Poway Unified School District:

KEITH B. PETERSEN
SixTen and Associates
5252 Balboa Avenue, Suite 900
San Diego, California

For State Controller's Office:

JIM L. SPANO
Chief, Mandated Cost Audits Bureau
State Controller's Office
3301 C Street, Suite 725
Sacramento, California 95816

KEN HOWELL
Auditor, Division of Audits
State Controller's Office
3301 C Street, Suite 725
Sacramento, California 95816



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ERRATA SHEET

[illegible]

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1 BE IT REMEMBERED that on Friday, December 5,
2 2014, commencing at the hour of 10:01 a.m., thereof, at
3 the State Capitol, Room 447, Sacramento, California,
4 before me, DANIEL P. FELDHAUS, CSR #6949, RDR and CRR,
5 the following proceedings were held:



7 CHAIR ORTEGA: Good morning, everyone.

8 I'd like to call to order the January 23rd
9 meeting of the Commission on State Mandates.

10 If you could call the roll.

11 MS. HALSEY: Mr. Alex?

12 MEMBER ALEX: Here.

13 MS. HALSEY: Mr. Chivaro?

14 MEMBER CHIVARO: Here.

15 MS. HALSEY: Ms. Olsen?

16 MEMBER OLSEN: Present.

17 MS. HALSEY: Ms. Ortega?

18 CHAIR ORTEGA: Here.

19 MS. HALSEY: Ms. Ramirez?

20 MEMBER RAMIREZ: Here.

21 MS. HALSEY: Mr. Rivera?

22 MEMBER RIVERA: Here.

23 MS. HALSEY: Mr. Saylor?

24 MEMBER SAYLOR: Here.

25 MS. HALSEY: Thank you.

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1 CHAIR ORTEGA: Thank you.

2 The first order of business today will be to
3 conduct the annual election of the officers.

4 Are there any nominations for chairperson?

5 MEMBER CHIVARO: Move the Director of Finance
6 as chairperson.

7 MEMBER ALEX: Second.

8 CHAIR ORTEGA: Okay, there's been a motion and
9 a second for the Director of Finance as the chairperson.

10 All in favor?

11 Well, let me ask if there are any other
12 nominations?

13 *(No response)*

14 CHAIR ORTEGA: Seeing none, I will close the
15 nominations.

16 All in favor?

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

18 CHAIR ORTEGA: Any opposed or abstained?

19 *(No response)*

20 CHAIR ORTEGA: No?

21 Are there any nominations for vice chair?

22 MEMBER RIVERA: I nominate the State
23 Controller.

24 CHAIR ORTEGA: Okay, Mr. Rivera has nominated
25 the State Controller.

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1 MEMBER ALEX: Second.

2 CHAIR ORTEGA: Second by Mr. Alex.

3 Are there any other nominations?

4 *(No response)*

5 CHAIR ORTEGA: Seeing none, I will close the
6 nominations.

7 All in favor?

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

9 CHAIR ORTEGA: Any abstentions or opposed?

10 *(No response)*

11 CHAIR ORTEGA: Okay, the State Controller shall
12 be the vice chair.

13 And we will move on to the minutes.

14 Are there any objections or corrections to the
15 December 5th meeting minutes?

16 MEMBER CHIVARO: I move approval of the
17 minutes.

18 CHAIR ORTEGA: Okay, moved by Mr. Chivaro.

19 Is there a second?

20 MEMBER RIVERA: Second.

21 CHAIR ORTEGA: Second by Mr. Rivera.

22 All in favor?

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

24 CHAIR ORTEGA: Any abstentions?

25 MEMBER SAYLOR: *(Indicating.)*

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1 CHAIR ORTEGA: Mr. Saylor abstains.

2 Seeing no other abstentions, the minutes are
3 approved.

4 MS. HALSEY: And now we'll take up public
5 comment for matters not on the agenda.

6 Please note the Commission cannot take action
7 on items not on the agenda. However, it can schedule
8 issues raised by the public for consideration at future
9 meetings.

10 CHAIR ORTEGA: Okay, any general public
11 comment?

12 (No response)

13 CHAIR ORTEGA: Seeing none, we'll move on to
14 the consent calendar.

15 MS. HALSEY: Next, we have a proposal to add
16 Item 8, an incorrect reduction claim on *Collective*
17 *Bargaining and Collective Bargaining Agreement Disclosure*
18 to the consent calendar.

19 After the agenda for this hearing was issued,
20 the parties agreed to place Item 8 on consent.

21 CHAIR ORTEGA: Okay, any objections to adding
22 Item 8 to the consent calendar?

23 (No response)

24 CHAIR ORTEGA: Anything from the public on
25 Item 8?

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1 (No response)

2 CHAIR ORTEGA: Seeing none, it will be added to
3 the consent calendar.

4 MS. HALSEY: The consent calendar consists of
5 Items 6, 8, and 10 through 14.

6 CHAIR ORTEGA: Okay, any comments from members
7 or the public on any of the consent items?

8 (No response)

9 CHAIR ORTEGA: Okay, seeing none, is there a
10 motion?

11 MEMBER OLSEN: So moved.

12 MEMBER SAYLOR: Second.

13 CHAIR ORTEGA: Moved by Ms. Olsen, and second
14 by Mr. Saylor.

15 All in favor?

16 (A chorus of "ayes" was heard.)

17 CHAIR ORTEGA: Any opposed or abstentions?

18 (No response)

19 CHAIR ORTEGA: Seeing none, the consent
20 calendar is adopted.

21 MS. HALSEY: Moving on to the Article 7 portion
22 of the hearing.

23 Please note that Item 9 has been postponed to
24 the March 27th, 2015, hearing, at the request of the
25 State Controller's Office.

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1 Will the parties and witnesses for Items 4, 5,
2 and 7 please rise?

3 *(Parties and witnesses stood to be sworn*
4 *or affirmed.)*

5 MS. HALSEY: Do you solemnly swear or affirm
6 that the testimony which you are about to give is true
7 and correct, based on your personal information,
8 knowledge, or belief?

9 *(A chorus of affirmative responses was*
10 *heard.)*

11 MS. HALSEY: Thank you.

12 Item 3 is reserved for appeals of Executive
13 Director decisions. There are no appeals to consider
14 under Item 3.

15 Senior Legal Analyst Carla Shelton will present
16 Item 4, the adequate showing hearing for a mandate
17 redetermination on *CPR Pocket Masks*.

18 CARLA SHELTON: This is the first hearing of a
19 mandate redetermination request filed by the Department
20 of Finance to end the State's liability for the *CPR*
21 *Pocket Masks* program based on a subsequent change in law
22 that removes the legal requirement for law-enforcement
23 agencies to provide the portable manual mask and airway
24 assembly.

25 Government Code section 17570 provides a

1 two-hearing process, whereby the Commission may
2 redetermine a previous mandate finding based on a
3 subsequent change in law and adopt a new decision to
4 supersede the original decision.

5 This first hearing is limited to whether
6 Finance has made an adequate showing which identifies a
7 subsequent change in law that may modify the State's
8 liability pursuant to Article XIII B, section 6(a) of the
9 California Constitution.

10 Staff finds that the Department of Finance has
11 made an adequate showing that the State's liability has
12 been modified.

13 Staff recommends the Commission adopt this
14 decision and direct staff to provide notice of the
15 second hearing to determine if a new test-claim decision
16 shall be adopted, to supersede the previously adopted
17 test-claim decision.

18 Will the parties and witnesses please state
19 your names for the record?

20 MR. SCOTT: Lee Scott, Department of Finance.

21 MS. FEREBEE: Donna Ferebee, Department of
22 Finance.

23 CHAIR ORTEGA: Okay, Mr. Scott or Ms. Ferebee,
24 any additional comments?

25 MR. SCOTT: No. Finance concurs with staff.

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1 CHAIR ORTEGA: Okay, are there any comments or
2 questions from the members on this item?

3 *(No response)*

4 CHAIR ORTEGA: Any public comment on this item?

5 *(No response)*

6 CHAIR ORTEGA: Seeing none, is there a motion?

7 MEMBER ALEX: I will move the staff
8 recommendation.

9 MEMBER CHIVARO: Second.

10 CHAIR ORTEGA: Okay, moved by Mr. Alex, and
11 second by Mr. Chivaro.

12 Do we need to call roll on these?

13 Yes?

14 Please call the roll.

15 MS. HALSEY: Mr. Alex?

16 MEMBER ALEX: Aye.

17 MS. HALSEY: Mr. Chivaro?

18 MEMBER CHIVARO: Aye.

19 MS. HALSEY: Ms. Olsen?

20 MEMBER OLSEN: Aye.

21 MS. HALSEY: Ms. Ortega?

22 CHAIR ORTEGA: Aye.

23 MS. HALSEY: Ms. Ramirez?

24 MEMBER RAMIREZ: Aye.

25 MS. HALSEY: Mr. Rivera?

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1 MEMBER RIVERA: Aye.

2 MS. HALSEY: Mr. Saylor?

3 MEMBER SAYLOR: Aye.

4 MS. HALSEY: Thank you.

5 CHAIR ORTEGA: Okay, the motion carries.

6 Thank you.

7 MS. HALSEY: Commission Counsel Matt Jones will
8 present Item 5, the mandate redetermination hearing on
9 *Open Meetings Act/Brown Act Reform*.

10 MR. JONES: Good morning. This is the second
11 hearing on the redetermination request pertaining to the
12 *Open Meeting Act/Brown Act Reform* mandates.

13 The request alleges that Proposition 30 adopted
14 by the voters in November 2012 constitutes a subsequent
15 change in law as defined in Section 17570 which modifies
16 the State's liability under the test-claim statute.

17 At the last hearing, the Commission found that
18 the requestor had made an adequate showing that the
19 request had a substantial possibility of prevailing.

20 At this hearing, the Commission must determine
21 whether to adopt a new test-claim decision to supersede
22 the previously adopted decisions reflecting the State's
23 modified liability.

24 Staff recommends that the Commission adopt the
25 proposed decision as its new test-claim decision, ending

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1 reimbursement liability for the test-claim statutes as of
2 November 7th, 2012, the effective date of Proposition 30.

3 CHAIR ORTEGA: Thank you.

4 MR. SCOTT: Lee Scott.

5 Finance Department concurs with staff.

6 CHAIR ORTEGA: All right, any questions or
7 comments from the members?

8 *(No response)*

9 CHAIR ORTEGA: No?

10 Any public comment on this item?

11 *(No response)*

12 CHAIR ORTEGA: Seeing none, is there a motion?

13 MEMBER OLSEN: Move adoption.

14 MEMBER SAYLOR: Second.

15 CHAIR ORTEGA: Moved by Ms. Olsen, second by
16 Mr. Saylor.

17 Please call the roll.

18 MS. HALSEY: Mr. Alex?

19 MEMBER ALEX: Aye.

20 MS. HALSEY: Mr. Chivaro?

21 MEMBER CHIVARO: Aye.

22 MS. HALSEY: Ms. Olsen?

23 MEMBER OLSEN: Aye.

24 MS. HALSEY: Ms. Ortega?

25 CHAIR ORTEGA: Aye.

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1 MS. HALSEY: Ms. Ramirez?

2 MEMBER RAMIREZ: Aye.

3 MS. HALSEY: Mr. Rivera?

4 MEMBER RIVERA: Aye.

5 MS. HALSEY: Mr. Saylor?

6 MEMBER SAYLOR: Aye.

7 CHAIR ORTEGA: Okay, thank you.

8 The motion is adopted.

9 MS. HALSEY: Item 6 was on the consent
10 calendar.

11 Senior Commission Counsel Eric Feller will
12 present Item 7, an incorrect reduction claim on *Emergency*
13 *Procedures, Earthquake and Disasters*.

14 MR. FELLER: Good morning.

15 This IRC challenges the Controller's reduction
16 to reimbursement claims for fiscal years 2000 through
17 2003. The Controller found that \$738,364 was unallowable
18 because claimant did not provide documentation or
19 contemporaneous source documentation to justify the cost
20 of updating the emergency management system and provide
21 training.

22 Staff found that the reductions for claimant's
23 consultant to update the emergency procedures and for
24 employees to update the emergency earthquake system were
25 correct as a matter of law, and the reduction for

1 in-classroom teachers to provide instruction on
2 earthquake emergency procedures was also correct as a
3 matter of law.

4 Staff further found that the reductions for
5 salaries and benefits to update the earthquake emergency
6 procedure system and for training that is not
7 attributable to in-classroom teacher time spent on the
8 instruction of students in the earthquake emergency
9 procedure systems were incorrect as a matter of law,
10 because the Controller relied on the contemporaneous
11 source document rule that was ruled invalid by the Court
12 in the *Clovis Unified* decision.

13 Staff recommends the Commission adopt the
14 analysis to partially approve the IRC.

15 Would the parties and witnesses please state
16 your names for the record?

17 MR. PETERSEN: Keith Petersen, representing the
18 school district.

19 MR. SPANO: Jim Spano, State Controller's
20 Office, Division of Audits.

21 MR. HOWELL: Ken Howell, State Controller's
22 Office, Division of Audits.

23 MS. HALSEY: If I could swear in Mr. Petersen
24 real quick here.

25 CHAIR ORTEGA: Yes.

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1 MS. HALSEY: Do you solemnly swear or affirm
2 that the testimony which you are about to give is true
3 and correct, based on your personal knowledge,
4 information, or belief?

5 MR. PETERSEN: Yes.

6 MS. HALSEY: Thank you.

7 MR. PETERSEN: Thank you.

8 CHAIR ORTEGA: Mr. Petersen?

9 MR. PETERSEN: I'll stand on the written
10 submissions.

11 CHAIR ORTEGA: Okay, Mr. Spano or Mr. Howell?

12 MR. HOWELL: We agree with the staff conclusion
13 and recommendation.

14 CHAIR ORTEGA: Okay, any comments from the
15 members?

16 MEMBER CHIVARO: Move approval.

17 MEMBER RAMIREZ: Second.

18 CHAIR ORTEGA: Okay, is there any public
19 comment on this item?

20 *(No response)*

21 CHAIR ORTEGA: Moved by Mr. Chivaro, second by
22 Ms. Ramirez.

23 Please call the roll.

24 MS. HALSEY: Mr. Alex?

25 MEMBER ALEX: Aye.

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1 MS. HALSEY: Mr. Chivaro?

2 MEMBER CHIVARO: Aye.

3 MS. HALSEY: Ms. Olsen?

4 MEMBER OLSEN: Aye.

5 MS. HALSEY: Ms. Ortega?

6 CHAIR ORTEGA: Aye.

7 MS. HALSEY: Ms. Ramirez?

8 MEMBER RAMIREZ: Aye.

9 MS. HALSEY: Mr. Rivera?

10 MEMBER RIVERA: Aye.

11 MS. HALSEY: Mr. Saylor?

12 MEMBER SAYLOR: Aye.

13 CHAIR ORTEGA: Okay, the motion is adopted.

14 MR. PETERSEN: Thank you.

15 CHAIR ORTEGA: Thank you.

16 MS. HALSEY: Item 8 was on the consent

17 calendar.

18 Item 9 was postponed at the request of the

19 State Controller's Office.

20 And Items 10 through 14 were also on the

21 consent calendar.

22 Item 15 is reserved for county applications for

23 a finding of significant financial distress or SB 1033

24 applications.

25 No SB 1033 applications have been filed.

1 And there will be no presentation on Item 16,
2 the legislative update, since there is nothing new to
3 report at this time.

4 Chief Legal Counsel Camille Shelton will
5 present Item 17, the Chief Legal Counsel report.

6 CAMILLE SHELTON: Good morning. The L.A.
7 County Superior Court has upheld the Commission's
8 decision on the *Upper Santa Clara River Chloride* test
9 claim and entered judgment on January 15th.

10 I've also listed the upcoming hearing dates for
11 other cases that are pending.

12 CHAIR ORTEGA: Okay, any questions for Camille?

13 (No response)

14 CHAIR ORTEGA: Seeing none.

15 MS. HALSEY: Item 18 is the Executive
16 Director's report. And this is our midyear workload
17 update.

18 So after today's hearing, the Commission has
19 completed five test claims, two parameters and
20 guidelines, four parameters and guidelines amendments,
21 19 IRCs, seven statewide cost estimates, and 2.5 mandate
22 redeterminations this year. And that's because there's
23 the two-hearing process there.

24 Regarding remaining caseload, we have 13 test
25 claims pending, one of which is a new claim filed by

1 school districts, which is expected to be heard in either
2 May or July of this year. The other 12 are regarding
3 *NPDES Permits* and are on inactive status pending the
4 resolution of the pending litigation in the Supreme
5 Court.

6 In addition, there are two parameters and
7 guidelines, two parameters and guidelines amendments,
8 five statewide cost estimates, 64 IRCs, and .5 -- or
9 actually, we had a new filing yesterday, so 1.5 mandate
10 redeterminations to be heard after this hearing.

11 Commission staff expects to present all
12 currently pending parameters and guidelines, parameters
13 and guidelines amendments, and mandate redeterminations
14 within this calendar year, and to complete the IRC
15 backlog by the end of end of 2015-16 or 2016-17. And
16 that will just depend on what happens in the Supreme
17 Court, primarily.

18 We have also here an information and action
19 item, which is the Proposed Strategic Plan.

20 And on December 7th, 2012, the Commission
21 adopted a strategic plan for January 2013 through
22 December 2015. And the majority of the goals in the
23 recently expired plan have been met or required updating.
24 Therefore, Commission staff has developed and updated
25 the strategic plan for January 28th, 2015, through

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1 December 2017. And it is attached here to this report.

2 Staff recommends that the Commission adopt the
3 proposed strategic plan.

4 CHAIR ORTEGA: Okay, any questions or comments
5 on the strategic plan?

6 *(No response)*

7 CHAIR ORTEGA: Any public comment on the
8 strategic plan?

9 *(No response)*

10 CHAIR ORTEGA: Seeing none, is there a motion?

11 MEMBER OLSEN: I'll move adoption.

12 CHAIR ORTEGA: Moved by Ms. Olsen.

13 MR. RIVERA: Second.

14 CHAIR ORTEGA: Second by Mr. Rivera.

15 All in favor?

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

17 CHAIR ORTEGA: The strategic plan is adopted.

18 MS. HALSEY: Thank you.

19 And then I have a little report on the proposed
20 budget. The Governor's proposed 2014-15 budget includes
21 \$1,997,000 to fund the Commission's operations. And
22 this is essentially the same as the current year, with a
23 slight increase to reflect the increased personnel costs.

24 And then with regard to mandate funding, the
25 Governor proposed the following significant changes.

1 And one is the status of the trigger mechanism.
2 And that's for the remaining \$800 million of the pre-2004
3 debt that the 2014 budget included a trigger mechanism
4 that will be used if, at this year's May revision, the
5 General Fund revenues for 2013-14 and 2014-15 exceed the
6 2014 May revision for those revenues. Based on current
7 data, it appears that that will result in about
8 \$533 million payment towards the pre-2004 debt to local
9 government. These funds will provide counties, cities,
10 and special districts with general-purpose revenue.

11 For newly funded mandates, the budget makes a
12 one-time payment of \$9.6 million for a local agency cost
13 for 2001 through 2013, under the *Public Records Act*
14 mandate. And the proposed budget also provides \$218,000
15 to fund the Accounting for Local Revenue Alignments
16 mandate or Triple Flip.

17 For "ICAN," *Interagency Child Abuse and Neglect*
18 *Investigation and Reports* mandate, which requires certain
19 local agencies to conduct activities related to
20 child-abuse investigations and to provide child abusers
21 due-process protections, the Commission adopted a
22 \$90.3 million statewide cost estimate. And this
23 reflected the Agency's cost to comply with the mandate
24 from 1999 to 2011.

25 And this mandate is proposed for suspension

1 because, according to the proposed budget, these
2 activities are long established and involve the Agency's
3 core missions.

4 The proposed budget creates a \$4 million
5 optional grant program administered by the Department of
6 Social Services as a substitute funding mechanism for
7 these activities.

8 That's all I have on the budget right now.

9 And we'll have more detail next time on all of
10 the mandates.

11 For tentative agenda items, please check the
12 Executive Director's report to see if your item is coming
13 up in the next few hearings.

14 The test claim on *California Assessment of*
15 *Student Performance and Progress* is tentatively set for
16 a hearing in May.

17 In addition, the parameters and guidelines for
18 *Sheriff Court Security* and parameters and guidelines
19 amendment for the two mandate redeterminations that were
20 heard today are tentatively set for March.

21 Finally, there's a number of IRCs listed on my
22 report which are tentatively set for March or May.

23 Please expect to receive draft decisions on
24 these for review and comment about eight to ten weeks
25 prior to the hearing date, and a proposed decision

1 approximately two weeks before the hearing.

2 And that's all I have today.

3 CHAIR ORTEGA: Okay, any questions of
4 Ms. Halsey?

5 *(No response)*

6 CHAIR ORTEGA: Seeing none, are we ready to
7 move into closed session?

8 *(No response)*

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

17 The Commission will also confer on personnel
18 matters pursuant to Government Code section 11126(a)(1).

19 We will reconvene in open session in
20 approximately 15 minutes.

21 Thank you.

22 *(The Commission met in closed executive
23 session from 10:18 a.m. to 10:26 a.m.)*

24 CHAIR ORTEGA: The Commission met in closed
25 session pursuant to Government Code section 11126(e)(2)

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1 to confer with and receive advice from legal counsel for
2 consideration and action, as necessary and appropriate,
3 upon the pending litigation listed on the published
4 notice and agenda; and to confer with and receive advice
5 from legal counsel regarding potential litigation, and
6 pursuant to Government Code section 11126(a)(1) to confer
7 on personnel matters.

8 Seeing nothing else to come before the
9 Commission, the meeting is adjourned.

10 Thank you.

11 MEMBER RAMIREZ: Thank you.

12 *(The meeting concluded at 10:26 a.m.)*

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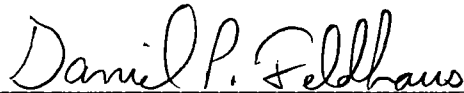
REPORTER'S CERTIFICATE

I hereby certify:

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

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

In witness whereof, I have hereunto set my hand
on the 15th February 2015.



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

RECEIVED
August 26, 2015
Commission on
State Mandates

CORRECTED

PUBLIC MEETING
COMMISSION ON STATE MANDATES



TIME: 10:00 a.m.
DATE: Friday, March 27, 2015
PLACE: State Capitol, Room 447
Sacramento, California



REPORTER'S TRANSCRIPT OF PROCEEDINGS



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

Daniel P. Feldhaus, C.S.R., Inc.
Certified Shorthand Reporters
8414 Yermo Way, Sacramento, California 95828
Telephone 916.682.9482 Fax 916.688.0723
FeldhausDepo@aol.com

[Corrected Appearance Page]

A P P E A R A N C E S

COMMISSIONERS PRESENT

ERAINA ORTEGA
Representative for MICHAEL COHEN, Director
Department of Finance
(*Chair of the Commission*)

RICHARD CHIVARO
Representative for BETTY T. YEE
State Controller
(*Vice Chair of the Commission*)

KEN ALEX
Director
Office of Planning & Research

SARAH OLSEN
Public Member

M. CARMEN RAMIREZ
Oxnard City Council Member

ANDRÉ RIVERA
Representative for JOHN CHIANG
State Treasurer

DON SAYLOR
Yolo County Supervisor
Local Agency Member



COMMISSION STAFF PRESENT

HEATHER A. HALSEY
Executive Director
(*Items 3, 15, and 18*)

JASON HONE
Assistant Executive Director
(*Items 16, 19, and 20*)

A P P E A R A N C E S

PARTICIPATING COMMISSION STAFF

continued

CAMILLE N. SHELTON
Chief Legal Counsel
(Item 7 and Item 17)

CARLA SHELTON
Senior Legal Analyst
(Item 3 and Item 4)

GINNY CHANDLER
Senior Commission Counsel
(Item 8 and Item 9)

MATTHEW B. JONES
Commission Counsel
(Item 5 and 11)

JULIA E. BLAIR
Senior Commission Counsel



PUBLIC TESTIMONY

Appearing Re Item 3:

For Department of Finance:

DONNA FEREBEE
Legal Department
Department of Finance
915 L Street, Suite 1280
Sacramento, California 95814

DANIELLE BRANDON
Budget Analyst
Department of Finance
915 L Street
Sacramento, California 95814

A P P E A R A N C E S

PUBLIC TESTIMONY

Appearing Re Item 4:

For Department of Finance:

DONNA FEREBEE
Legal Department
Department of Finance

DANIELLE BRANDON
Budget Analyst
Department of Finance

Appearing Re Item 5:

For Department of Finance:

DONNA FEREBEE
Legal Department
Department of Finance

DANIELLE BRANDON
Budget Analyst
Department of Finance

Appearing Re Item 7:

For Claimant Los Rios Community College District:

SIGRID K. ASMUNDSON
Best, Best & Krieger, LLP
500 Capitol Mall, Suite 1700
Sacramento, California 95814

A P P E A R A N C E S

PUBLIC TESTIMONY

Appearing Re Item 7:

For State Controller's Office:

SHAWN D. SILVA
Staff Counsel
State Controller's Office
300 Capitol Mall, Suite 1850
Sacramento, California 95815

JIM L. SPANO
Chief, Mandated Cost Audits Bureau
State Controller's Office
3301 C Street, Suite 725
Sacramento, California 95816

Appearing Re Item 8:

For Claimant Foothill-De Anza Community College District:

KEITH B. PETERSEN
SixTen and Associates
5252 Balboa Avenue, Suite 900
San Diego, California

For State Controller's Office:

JIM L. SPANO
Chief, Mandated Cost Audits Bureau
State Controller's Office

JIM VENNEMAN
Audit Manager, Division of Audits
State Controller's Office
3301 C Street, Suite 725
Sacramento, California 95816

A P P E A R A N C E S

PUBLIC TESTIMONY

Appearing re Item 9:

For Claimant Pasadena Area Community College District:

KEITH B. PETERSEN
SixTen and Associates

For State Controller's Office:

JIM L. SPANO
Chief, Mandated Cost Audits Bureau
State Controller's Office

JIM VENNEMAN
Audit Manager, Division of Audits
State Controller's Office

Appearing re Item 11:

For Claimant Sierra Joint Community College District:

KEITH B. PETERSEN
SixTen and Associates

For State Controller's Office:

JIM L. SPANO
Chief, Mandated Cost Audits Bureau
State Controller's Office

JIM VENNEMAN
Audit Manager, Division of Audits
State Controller's Office

•••••

ERRATA SHEET

[illegible]

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Commission on State Mandates – March 27, 2015

1 BE IT REMEMBERED that on Friday, March 27,
2 2015, commencing at the hour of 10:03 a.m., thereof, at
3 the State Capitol, Room 447, Sacramento, California,
4 before me, DANIEL P. FELDHAUS, CSR #6949, RDR and CRR,
5 the following proceedings were held:



7 CHAIR ORTEGA: Good morning, everyone.

8 I'd like to call to order the March 27th
9 meeting of the Commission on State Mandates.

10 If you could call the roll.

11 MS. HALSEY: Mr. Alex?

12 MEMBER ALEX: Here.

13 MS. HALSEY: Mr. Chivaro?

14 *(No response)*

15 MS. HALSEY: Ms. Olsen?

16 MEMBER OLSEN: Here.

17 MS. HALSEY: Ms. Ortega?

18 CHAIR ORTEGA: Here.

19 MS. HALSEY: Ms. Ramirez?

20 MEMBER RAMIREZ: Here.

21 MS. HALSEY: Mr. Rivera?

22 MEMBER RIVERA: Here.

23 MS. HALSEY: Mr. Saylor?

24 MEMBER SAYLOR: Here.

25 MS. HALSEY: Thank you.

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1 CHAIR ORTEGA: Thank you.

2 And I think our first order of business is
3 the minutes from the January 23rd meeting.

4 Are there any objections or corrections?

5 *(No response)*

6 CHAIR ORTEGA: Seeing none, do we have a motion
7 on the minutes?

8 MEMBER OLSEN: So moved.

9 CHAIR ORTEGA: Moved by Ms. Olsen.

10 MEMBER RIVERA: I have the second.

11 CHAIR ORTEGA: Mr. Rivera seconds.

12 All in favor?

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

14 CHAIR ORTEGA: Any abstentions?

15 *(No response)*

16 CHAIR ORTEGA: The minutes are adopted
17 unanimously.

18 MS. HALSEY: And now we can take up public
19 comment for matters not on the agenda.

20 Please note the Commission cannot take action
21 on items not on the agenda. However, it can schedule
22 issues raised by the public for consideration at future
23 meetings.

24 CHAIR ORTEGA: Okay, any general public
25 comment?

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1 (No response)

2 CHAIR ORTEGA: Seeing none, we'll move to the
3 consent calendar.

4 MS. HALSEY: Next, we have a proposal to add
5 Item 10, an incorrect reduction claim on *Health Fee*
6 *Elimination* to the consent calendar. After the agenda
7 for this hearing was issued, the parties agreed to place
8 Item 10 on consent.

9 CHAIR ORTEGA: Any objections to adding Item 10
10 to the consent calendar?

11 (No response)

12 CHAIR ORTEGA: Seeing none.

13 MS. HALSEY: The consent calendar consists of
14 Items 6, 10, 12, 13, and 14.

15 CHAIR ORTEGA: Okay, any comments on any of the
16 other consent items from the board?

17 (No response)

18 CHAIR ORTEGA: No?

19 Any public comment on any of the consent items?

20 (No response)

21 CHAIR ORTEGA: Okay, do we have a motion on the
22 consent calendar?

23 MEMBER RAMIREZ: So moved.

24 MEMBER OLSEN: So moved -- second it.

25 CHAIR ORTEGA: Moved by Ms. Ramirez, second by

1 Ms. Olsen.

2 All in favor?

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

4 CHAIR ORTEGA: Any abstentions, objections?

5 *(No response)*

6 CHAIR ORTEGA: No?

7 The consent calendar is adopted unanimously.

8 MS. HALSEY: Okay, let's move to the Article 7
9 portion of the hearing.

10 Will the parties and witnesses for Items 2, 3,
11 4, 5, 7, 8, 9, and 11 please rise?

12 *(Parties and witnesses stood to be sworn*
13 *or affirmed.)*

14 MS. HALSEY: Do you solemnly swear or affirm
15 that the testimony which you are about to give is true
16 and correct, based on your personal information,
17 knowledge, or belief?

18 *(A chorus of affirmative responses was*
19 *heard.)*

20 MS. HALSEY: Thank you.

21 Item 2 is reserved for appeals of Executive
22 Director decisions. There are no appeals to consider
23 under Item 2.

24 *(Mr. Chivaro entered the meeting room.)*

25 MS. HALSEY: Senior Legal Analyst Carla Shelton

1 will present Item 3, the mandate redetermination hearing
2 on *CPR Pocket Masks*.

3 CHAIR ORTEGA: Thank you.

4 And for the record, Mr. Chivaro has joined us.
5 Go ahead.

6 CARLA SHELTON: This is the second hearing of
7 a mandate redetermination request to end the State's
8 liability for the CPR Pocket Mask Program based on a
9 subsequent change in law that removes the legal
10 requirement for law-enforcement agencies to provide the
11 portable manual masks and airway assembly.

12 Staff finds that the State's liability pursuant
13 to Article XIII B, Section 6, of the California
14 Constitution for the CPR Pocket Mask Program ends
15 beginning July 1st, 2013; and recommends the Commission
16 adopt this proposed decision as its new test-claim
17 decision, ending reimbursement for the program beginning
18 July 1st, 2013.

19 Will the parties and witnesses please state
20 your names for the record?

21 MS. FEREBEE: Donna Ferebee, Department of
22 Finance.

23 MS. BRANDON: Danielle Brandon, Department of
24 Finance.

25 CHAIR ORTEGA: Any comments from Ms. Ferebee or

Commission on State Mandates – March 27, 2015

1 Ms. Brandon?

2 MS. BRANDON: No.

3 Finance concurs with staff.

4 Thank you.

5 CHAIR ORTEGA: Okay.

6 Any public comment on this item?

7 *(No response)*

8 CHAIR ORTEGA: Any questions or comments from
9 the board members?

10 *(No response)*

11 CHAIR ORTEGA: Seeing none, is there a motion
12 on Item 3?

13 MEMBER CHIVARO: I'll move staff
14 recommendation.

15 CHAIR ORTEGA: Moved by Mr. Chivaro.

16 MEMBER ALEX: Second.

17 CHAIR ORTEGA: Second by Mr. Alex.

18 Would you call the roll?

19 MS. HALSEY: Mr. Alex?

20 MEMBER ALEX: Aye.

21 MS. HALSEY: Mr. Chivaro?

22 MEMBER CHIVARO: Aye.

23 MS. HALSEY: Ms. Olsen?

24 MEMBER OLSEN: Aye.

25 MS. HALSEY: Ms. Ortega?

Commission on State Mandates – March 27, 2015

1 CHAIR ORTEGA: Aye.

2 MS. HALSEY: Ms. Ramirez?

3 MEMBER RAMIREZ: Aye.

4 MS. HALSEY: Mr. Rivera?

5 MEMBER RIVERA: Aye.

6 MS. HALSEY: Mr. Saylor?

7 MEMBER SAYLOR: Aye.

8 MS. HALSEY: Thank you.

9 CHAIR ORTEGA: Okay, the motion is adopted.

10 Number 4?

11 MS. HALSEY: Senior Legal Analyst Carla Shelton
12 will present Item 4, the parameters and guidelines
13 amendment on *CPR Pocket Masks*.

14 CARLA SHELTON: This is the proposed amendment
15 to the parameters and guidelines for the CPR Pocket Mask
16 Program to end reimbursement beginning July 1st, 2013.
17 Staff recommends that the Commission adopt this proposed
18 decision and amendment to the parameters and guidelines.

19 Will the parties and witnesses please state
20 your names for the record?

21 MS. FEREBEE: Donna Ferebee, Department of
22 Finance.

23 MS. BRANDON: Danielle Brandon, Department of
24 Finance.

25 CHAIR ORTEGA: Go ahead.

Commission on State Mandates – March 27, 2015

1 MS. BRANDON: Finance concurs with staff on
2 this item.

3 Thank you.

4 CHAIR ORTEGA: Okay, any questions or comments
5 from the Commission?

6 *(No response)*

7 CHAIR ORTEGA: Any public comment on this item?

8 *(No response)*

9 CHAIR ORTEGA: Do we have a motion?

10 MEMBER OLSEN: So moved.

11 MEMBER CHIVARO: Second.

12 CHAIR ORTEGA: Moved by Ms. Olsen, second by
13 Mr. Chivaro.

14 Please call the roll.

15 MS. HALSEY: Mr. Alex?

16 MEMBER ALEX: Aye.

17 MS. HALSEY: Mr. Chivaro?

18 MEMBER CHIVARO: Aye.

19 MS. HALSEY: Ms. Olsen?

20 MEMBER OLSEN: Aye.

21 MS. HALSEY: Ms. Ortega?

22 CHAIR ORTEGA: Aye.

23 MS. HALSEY: Ms. Ramirez?

24 MEMBER RAMIREZ: Aye.

25 MS. HALSEY: Mr. Rivera?

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1 MEMBER RIVERA: Aye.

2 MS. HALSEY: Mr. Saylor?

3 MEMBER SAYLOR: Aye.

4 CHAIR ORTEGA: Motion carries.

5 MS. HALSEY: Moving on to Item 5, Commission
6 Counsel Matt Jones will present the parameters and
7 guidelines amendment on *Open Meetings Act, Brown Act*
8 *Reform*.

9 MR. JONES: Good morning.

10 This amendment to parameters and guidelines
11 ends reimbursement for the *Open Meetings Act, Brown Act*
12 *Reform* mandates in accordance with the Commission's new
13 test-claim decision. The Commission found at the last
14 hearing, that they are no longer costs mandated by the
15 state under the test-claim statutes pursuant to the
16 adoption of Proposition 30 at the November 6th, 2012,
17 General Election.

18 Staff recommends that the Commission adopt the
19 proposed decision and amended parameters and guidelines,
20 ending reimbursement liability for test-claim statutes
21 as of November 7th, 2012, the effective date of
22 Proposition 30.

23 Will the parties and witnesses please state
24 your names for the record?

25 MS. FEREBEE: Donna Ferebee, Department of

Commission on State Mandates – March 27, 2015

1 Finance.

2 MS. BRANDON: Danielle Brandon, Department of
3 Finance.

4 And Finance concurs with staff on this item.

5 CHAIR ORTEGA: Okay. Any questions from the
6 Commission?

7 *(No response)*

8 CHAIR ORTEGA: Any public comment on this item?

9 *(No response)*

10 MEMBER CHIVARO: Move staff recommendation.

11 CHAIR ORTEGA: Moved by Mr. Chivaro.

12 MEMBER RIVERA: I second.

13 MEMBER RAMIREZ: Second.

14 CHAIR ORTEGA: Seconded by Mr. Rivera.

15 Please call the roll.

16 MS. HALSEY: Mr. Alex?

17 MEMBER ALEX: Aye.

18 MS. HALSEY: Mr. Chivaro?

19 MEMBER CHIVARO: Aye.

20 MS. HALEY: Ms. Olsen?

21 MEMBER OLSEN: Aye.

22 MS. HALSEY: Ms. Ortega?

23 CHAIR ORTEGA: Aye.

24 MS. HALSEY: Ms. Ramirez?

25 MEMBER RAMIREZ: Aye.

Commission on State Mandates – March 27, 2015

1 MS. HALSEY: Mr. Rivera?

2 MEMBER RIVERA: Aye.

3 MS. HALSEY: Mr. Saylor?

4 MEMBER SAYLOR: Aye.

5 CHAIR ORTEGA: Motion carries.

6 Item 6 was on the consent calendar, so we'll

7 move to Item 7.

8 MS. HALSEY: Chief Commission Counsel Camille
9 Shelton will present Item 7, an incorrect reduction claim
10 on *Health Fee Elimination*.

11 CAMILLE SHELTON: Good morning.

12 This incorrect reduction claim addresses the
13 Controller's reduction of costs in fiscal years 1997-1998
14 through 2001-2002.

15 Staff finds that the Controller timely
16 conducted the audit within the deadlines imposed by
17 Government Code section 17558.5.

18 Staff further finds that the Controller's
19 reduction of costs, based on fee revenue authorized to be
20 charged for the program, is correct, as a matter of law,
21 and is not arbitrary, capricious, or entirely lacking in
22 evidentiary support.

23 Since the authorized fee revenue exceeds the
24 total amount claimed during the audit period, the
25 proposed decision does not address the other substantive

1 issues raised by the claimant.

2 Staff recommends that the Commission adopt the
3 proposed decision to deny this IRC.

4 Will the parties please state your names for
5 the record?

6 MS. ASMUNDSON: Sigrid Asmundson on behalf of
7 claimant, Los Rios Community College District.

8 MR. SILVA: Shawn Silva on behalf of the State
9 Controller's Office.

10 MR. SPANO: Jim Spano, State Controller's
11 Office.

12 CHAIR ORTEGA: Okay, go ahead.

13 MS. ASMUNDSON: The main question here is what
14 exactly is the initiation date of the audit. What
15 constitutes the initiation or commencement of an audit is
16 incredibly subjective, as you can see from the proposed
17 decision. Even across the state, different agencies have
18 found that the initiation or commencement of an audit
19 varies.

20 For example, the Division of Industrial
21 Relations has adopted a regulation -- and for the record,
22 that's 8 CCR, section 212.3, and 8 CCR, section 10107,
23 which both state that the Division will provide notice
24 14 days prior to the commencement of audit.

25 The Franchise Tax Board has a different

1 interpretation of the initiation of an audit. They find
2 that the initial audit contact for a field audit is
3 defined as the date of the first meeting between the
4 taxpayer and the Franchise Tax Board. For a desk audit,
5 the initial audit contact is the date of the first letter
6 to the taxpayer regarding the audit.

7 Additionally, as noted in the proposed
8 decision, there's another interpretation of what the
9 initiation of an audit is.

10 The Board of Equalization determines that the
11 initiation from an audit is the audit engagement letter,
12 which is used by the Board to confirm the initiation date
13 of the audit.

14 So as you can see, there is no clear definition
15 of what the initiation or commencement of an audit is.

16 Because the State Controller's Office has not
17 adopted regulations as these other three agencies have,
18 we can only look to the evidence in the record.

19 The evidence in the record, and specifically
20 the December 23rd, 2002, letter reads *"As discussed*
21 *during a telephone conversation on December 19th, 2002,*
22 *SCO Auditor Mary Khoshmashrab will commence the audit of*
23 *the subject programs on Thursday, January 16th, 2003,*
24 *beginning with an entrance conference at 9:30 a.m."*

25 The letter clearly states the initiation date

1 of this audit.

2 However, in the proposed decision, it states,
3 on page 31, that the Commission has found that -- and I
4 quote -- "That letter provides verification to a claimant
5 that an audit is in progress."

6 That letter does not state that in any way. In
7 fact, that letter states contrary to that finding.

8 Additionally, the January 16th, 2003, date was
9 reiterated, and this is also noted in the proposed
10 decision -- I'm sorry, let me find the page number --
11 on page 22, on April 14th, 2006, in an affidavit of the
12 Controller's Chief of the Compliance Audit Bureau, that
13 the audit commenced on January 16th, 2003, and ended on
14 March 11th, 2004.

15 So it has been stated twice by the State
16 Controller's Office.

17 Without regulations by the State Controller's
18 Office, there is no way to have a consistent policy. We
19 can only look to the evidence in the record. However,
20 in this case, the State Controller's Office, who
21 unilaterally had the ability to state the initiation date
22 of the audit, clearly did so in a letter to the claimant.

23 Not only that, as you can see on page 2 of the
24 letter to the claimant, they cc'ed three members of the
25 State Controller's Office.

1 The letter was written by the audit manager,
2 Chris Prasad. He cc'ed Mr. Spano; Ginny Brummels; and
3 the auditor, Mary Khoshmashrab. This letter was dated
4 December 23rd. Even with the holidays, even with
5 weekends, those four members of the State Controller's
6 Office had the ability to change their mind at any time
7 prior to December 23rd as to the initiation date of the
8 audit. They all received this letter prior to
9 December 31st. None of them did so.

10 In fact, the State Controller's Office
11 reiterated the January date in April of 2006.

12 The evidence in the record clearly shows that
13 the State Controller's Office set the initiation of the
14 audit as January 16th, 2003, after the statutory deadline
15 of December 31st, 2002.

16 Therefore, we disagree with the proposed
17 decision, and we find that the audit was not commenced
18 in a timely manner.

19 CHAIR ORTEGA: Thank you.

20 Any questions at this point? Or do you want to
21 go ahead and move on to the Controller's representative?

22 *(No response)*

23 CHAIR ORTEGA: Shall we move on?

24 Mr. Silva?

25 MR. SILVA: We believe that the question here

1 is a question of law and not a question of fact.

2 We're interpreting 17558.5, which sets forth
3 the statutory limitations for when the Controller can
4 initiate an audit, how long past a certain given
5 condition, whether it's a claim filed or whether it's
6 initial payment. That doesn't vary based on the facts of
7 each situation.

8 We agree with the Commission staff on their
9 conclusions that not only does the initiation letter
10 from the Controller's Office provide a clear bright-line
11 date that is verifiable by all participants, but it is
12 also consistent with the general application of
13 statute-of-limitations procedures in other fields of
14 law -- civil, criminal, and administrative -- as we
15 pointed out in our comments.

16 We believe that the arguments by opposing
17 party, the claimant, are focusing on the procedural
18 question for auditors of setting up a date when they're
19 going to show up at the claimant's offices.

20 For the Controller -- for the auditors to focus
21 back on a date that's already occurred, when the real
22 question for them is, when are we going to be there?
23 When are we going to show up at your offices? They're
24 talking about the commencement of the field portion of
25 the audit, which is when they actually show up, conduct

1 the entrance examination, and then proceed with looking
2 at the documents.

3 So we don't believe that that factual
4 distinction should alter the question-of-law analysis
5 that the staff did, which I reiterate, we agree with.
6 It should be the audit entrance letter.

7 CHAIR ORTEGA: Anything else, Mr. Spano? No?

8 MR. SPANO: No further comments.

9 CHAIR ORTEGA: Okay, any questions or comments
10 from Commission Members?

11 Go ahead.

12 MEMBER SAYLOR: So I am sensitive to the kind
13 of continued jeopardy that exists for local governments
14 when there is a requirement that there is a statement of
15 the time required for an audit to be commenced, and the
16 uncertainty about what the initiating action for the
17 audit is. I think that's a valid concern, and it would
18 be helpful to have some clarity on that.

19 So what's your assessment of that?

20 CAMILLE SHELTON: Well, we had a tough time on
21 this issue, and we did switch positions between the
22 draft analysis that went out and the final proposed
23 statement of decision.

24 Let me first say that I don't think it's
25 strictly a question of law, as Mr. Silva is suggesting.

1 Because the Legislature has not defined what the event is
2 that initiates the audit, they've left it up to the
3 Controller to make that decision. And other State
4 agencies, as the claimant has identified, have adopted
5 regulations to identify for local government when that
6 action actually occurs. So here, we don't have
7 regulations.

8 In the record itself, we've got, like, three
9 or four different positions from the State Controller's
10 Office, with different arguments and different positions.

11 Initially, when the draft went out, we agreed
12 with the claimant's position that the letter does say,
13 "We will commence the audit on January 16th, 2003."

14 Coming back from that and looking at the
15 statute, 17558.5, a little closer, its purpose, is to --
16 it made us change our mind, in looking at the law on the
17 statute of limitations and the statutes of repose. And
18 in that case, the limitation is imposed only on the one
19 entity, which is the State Controller's Office.

20 So typically, with those types of statutes, you
21 need some sort of verifiable event from the one entity
22 that does show when the review or when the audit does
23 begin.

24 In this particular case, the Controller did
25 file a declaration from the audit manager, indicating

1 that the review of the file actually occurred before that
2 date. You still need a verifiable notice provided to the
3 claimant.

4 Here, we do have in this case the letter dated
5 December 23rd. It was received January 2nd, which is
6 after the deadline, technically; but using the official
7 notice, you can see that it was mailed before that date
8 based on the evidence in the record.

9 And the fact that the claimant here had actual
10 notice of the audit on December 19th, through phone
11 calls, through her notes, all of which are in this
12 record.

13 So under a statute-of-repose theory, which
14 suggests that, you know, the Controller has a deadline
15 to do something after which, if they don't meet that
16 deadline, the claimant can get rid of the records, can
17 make these defenses, would not have occurred because they
18 did have actual notice that an audit was going to occur
19 before the deadline occurred.

20 So in this particular case, based on the
21 evidence in this particular case, the letter is a
22 verifiable event. That does, in our opinion, start the
23 initiation of the audit.

24 But it is a close call. And we have both
25 positions in this analysis.

1 MEMBER SAYLOR: Follow-up?

2 CHAIR ORTEGA: Yes.

3 MEMBER SAYLOR: So are there different
4 interpretations of when the commencement of an audit --
5 there are?

6 CAMILLE SHELTON: Well, in this analysis, we
7 say it's reasonable to say that an initiation could be a
8 phone call, which is not verifiable, but a letter or an
9 entrance conference.

10 And as Ms. Asmundson suggested, there are
11 different agencies that perform audits and they do adopt
12 regulations to say, through the regulatory process, this
13 is the event that initiates the audit.

14 And here, we don't have anything, so --

15 MEMBER SAYLOR: The Controller doesn't have a
16 regulation of that sort?

17 CAMILLE SHELTON: No, no.

18 And, again, in this record alone, there are
19 three or four different positions from the Controller's
20 office on when the audit was initiated.

21 So, you know, the current position is the
22 position Mr. Silva is articulating.

23 And it is, we believe, a defensible, most
24 reasonable analysis based on what statutes of limitation
25 and statutes of repose generally require.

1 But it's a tough call.

2 MEMBER OLSEN: So I have a question for
3 Mr. Spano; and that is, why doesn't the Controller's
4 office have regulations on this issue? Is it that you'd
5 have to have so many different regulations, or you want
6 the wiggle room of not having regulations?

7 It seems like this would be the kind of thing
8 that you would have a regulation on.

9 MR. SPANO: You know, the issue of adopting
10 regulation for the initiating had not really come up
11 until recently right now. So it hasn't really been an
12 issue in our office right now. But I'm hoping that the
13 decision made of the Commission will set forth decision
14 from this point on.

15 CAMILLE SHELTON: Well, let me just clarify
16 that it can't, because we don't have any regulations or
17 anything in the parameters and guidelines or any statute
18 that identifies the triggering event.

19 So from here -- if the facts remain the same
20 throughout, it's going to be based on a case-by-case
21 basis. You have no idea what it's going to be until you
22 see the file.

23 CHAIR ORTEGA: Ms. Ramirez had a question.

24 MEMBER RAMIREZ: I have a question about, if
25 we were to accept the claimant's position, what would be

1 the precedential value? It's just the facts are all over
2 the place here, it seems.

3 CAMILLE SHELTON: I think each IRC has its own
4 record.

5 You know, we do have another item on the agenda
6 which presents similar facts.

7 I'm not sure -- and Matt can articulate this
8 more when that item comes up -- but I do think that
9 letter also said, "We will commence the audit," right, at
10 the entrance conference?

11 So far, we know of only two cases that we have
12 with this issue.

13 So the Commission has to not be arbitrary in
14 its decision-making. So you do have to -- the same
15 thought process and reasoning has to be applied each time
16 out.

17 MS. HALSEY: But it's not precedential.

18 CAMILLE SHELTON: But it's not precedential;
19 but, yes, you're subjecting yourself to litigation if you
20 switch legal positions.

21 MEMBER RAMIREZ: Because it just seems -- I
22 just have kind of the sensation, it seems unfair, so...

23 CHAIR ORTEGA: Mr. Alex?

24 MEMBER ALEX: So the parties have laid out the
25 issue well, and as did the staff opinion.

1 And as you say, it's a close question.

2 I guess my observation is that this is about
3 protection of two concepts here. And one is that the
4 audit go forward in a given time frame, and it gives some
5 certainty to the party being potentially audited. But
6 it is also the case that the letter was sent in a timely
7 fashion. And the whole point is to give notice to the
8 potential auditee so they know not to destroy records.

9 And, to me, there's an arbitrariness to
10 statutes of limitations as well. We understand why they
11 exist. And I think that the purpose of it is served here
12 by the letter having gone out before the time ran.

13 CHAIR ORTEGA: I want to just ask a question,
14 Camille.

15 Could a district, after having received the
16 letter and the entrance conference not being until after
17 the two-year period, say, "We're not going to provide the
18 records? We think you're..."?

19 So rather than wait until the findings, to
20 challenge the findings and the time-bar issue, could they
21 reject the audit at the beginning?

22 CAMILLE SHELTON: You know, they can try to do
23 that. That would be a little bit dangerous.

24 If I were them, I would probably raise the
25 issue and just say, "This is void because it's too late;

1 but we'll go ahead with the process," and maybe you
2 challenge it at the same time.

3 But it is a close call.

4 CHAIR ORTEGA: Yes.

5 CAMILLE SHELTON: I mean -- like I said, they
6 have been put on notice. They had actual notice based
7 on the declaration of the claimant's finance manager and
8 based on her own records, they had actual notice.

9 So, yes, it's tough.

10 And during that time period, you know, the
11 statutes were a little -- you know, you had the
12 end-of-the-calendar-year requirement to start the audit.
13 So that was always at the end of December, which is a
14 difficult period for any local government entity, right,
15 where a lot of people are out of office. So if phone
16 calls and letters are being issued during that time, it's
17 a hard time to get things going.

18 You know, those rules have changed now based
19 on actual filing date of reimbursement claims. So it's
20 not the same anymore. It's not always at the end of
21 December anymore.

22 CHAIR ORTEGA: Right.

23 Ms. Olsen, did you have another comment?

24 MEMBER OLSEN: I'm fine.

25 CHAIR ORTEGA: Any other comments from

1 commissioners?

2 (No response)

3 CHAIR ORTEGA: Is there any additional public
4 comment on this item?

5 (No response)

6 CHAIR ORTEGA: Okay, seeing none.

7 MEMBER CHIVARO: I'll move staff
8 recommendation.

9 CHAIR ORTEGA: Okay, moved by Mr. Chivaro.

10 MEMBER ALEX: Second.

11 CHAIR ORTEGA: Second by Mr. Alex.

12 Please call the roll.

13 MEMBER SAYLOR: May I --

14 MS. HALSEY: Mr. Alex?

15 MR. SAYLOR: Wait --

16 CHAIR ORTEGA: Yes? Go ahead.

17 MEMBER SAYLOR: I think Ken did a -- Mr. Alex
18 did a really good job of describing how the issues come
19 to bear. And I think there is a value in fairness and a
20 value in predictability for local governments in this
21 kind of a case.

22 I'm a representative of local government; and
23 I will tell you that it is very challenging to not know
24 when the next audit might happen, and to hold records for
25 long periods of time. People leave employment. We don't

1 know if it's -- so just in reality, in practical terms,
2 it's very challenging to have this. And to have
3 different state agencies -- multiple state agencies have
4 different interpretations of when these things start,
5 makes it even more challenging.

6 So I'm real -- I'm swayed by that.

7 But the notices that happened between the phone
8 call and the letter did come in time for a reasonable
9 expectation that the District would have understood that
10 an audit was going to take place.

11 I really hope that before another issue of this
12 sort comes along, the Controller does have a more clear
13 regulation or policy on what initiates an audit.

14 So I'm not happy about having to vote for the
15 staff recommendation, but I think that's the right course
16 of action here.

17 CHAIR ORTEGA: Any further comments?

18 *(No response)*

19 CHAIR ORTEGA: Okay, please call the roll.

20 MS. HALSEY: Mr. Alex?

21 MEMBER ALEX: Aye.

22 MS. HALSEY: Mr. Chivaro?

23 MEMBER CHIVARO: Aye.

24 MS. HALSEY: Ms. Olsen?

25 MEMBER OLSEN: Aye.

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1 MS. HALSEY: Ms. Ortega?

2 CHAIR ORTEGA: Aye.

3 MS. HALSEY: Ms. Ramirez?

4 MEMBER RAMIREZ: No.

5 MS. HALSEY: Mr. Rivera?

6 MEMBER RIVERA: Aye.

7 MS. HALSEY: Mr. Saylor?

8 MEMBER SAYLOR: Aye.

9 CHAIR ORTEGA: The motion carries.

10 Item 8?

11 MS. HALSEY: Senior Commission Counsel Ginny
12 Chandler will present Item 8, an incorrect reduction
13 claim on *Health Fee Elimination*.

14 MS. CHANDLER: I just killed my microphone.

15 This incorrect reduction claim addresses the
16 following issues: The statutory deadlines applicable to
17 the audit of the 1999-2000 and 2000-2001 reimbursement
18 claims. The reduction in salary and benefit costs, the
19 reduction in service and supply costs, reduction in costs
20 claimed based upon claimant's development and application
21 of its indirect cost rates, and the amount of offsetting
22 revenue to be applied from the health service fee
23 authority.

24 Staff recommends that the Commission partially
25 approve this IRC. The Controller's reduction of costs

1 by \$30,527 for student accident insurance in fiscal year
2 1999-2000 is incorrect since the costs are adequately
3 supported by source documents for that fiscal year.

4 Staff recommends that the Commission request
5 that the Controller reinstate this amount. However, the
6 remaining reductions are correct as a matter of law, and
7 are not arbitrary, capricious, or entirely lacking in
8 evidentiary support.

9 Therefore, staff recommends that the Commission
10 adopt the proposed decision, partially approving this
11 IRC.

12 Will the parties and witnesses please state
13 your names for the record?

14 MR. PETERSEN: Keith Petersen, representing the
15 District.

16 MR. VENNEMAN: Jim Venneman, State Controller's
17 Office.

18 MR. SPANO: Jim Spano, State Controller's
19 Office.

20 CHAIR ORTEGA: Thank you.

21 Mr. Petersen?

22 MR. PETERSEN: No additional comments at this
23 time. Thank you.

24 CHAIR ORTEGA: Okay, Mr. Venneman or Mr. Spano?

25 MR. VENNEMAN: The Controller's Office concurs

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1 with staff's finding and recommendation.

2 CHAIR ORTEGA: Okay, any questions or comments
3 from the Commission?

4 *(No response)*

5 CHAIR ORTEGA: Seeing none, is there any public
6 comment on this item?

7 *(No response)*

8 CHAIR ORTEGA: Okay, we'll take a motion.

9 MEMBER RAMIREZ: Move to approve.

10 CHAIR ORTEGA: Moved by Ms. Ramirez.

11 MEMBER RIVERA: Second.

12 CHAIR ORTEGA: Second by Mr. Rivera.

13 Please call the roll.

14 MS. HALSEY: Mr. Alex?

15 MEMBER ALEX: Aye.

16 MS. HALSEY: Mr. Chivaro?

17 MEMBER CHIVARO: Aye.

18 MS. HALSEY: Ms. Olsen?

19 MEMBER OLSEN: Aye.

20 MS. HALSEY: Ms. Ortega?

21 CHAIR ORTEGA: Aye.

22 MS. HALSEY: Ms. Ramirez?

23 MEMBER RAMIREZ: Aye.

24 MS. HALSEY: Mr. Rivera?

25 MEMBER RIVERA: Aye.

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1 MS. HALSEY: Mr. Saylor?

2 MEMBER SAYLOR: Aye.

3 CHAIR ORTEGA: The motion carries.

4 Thank you.

5 Item 9?

6 MS. HALSEY: Senior Commission Counsel Ginny
7 Chandler will present Item 9, an incorrect reduction
8 claim on *Health Fee Elimination*.

9 MS. CHANDLER: This incorrect reduction claim
10 addresses the following issues: The statutory deadlines
11 applicable to the audit of the 1999-2000 and 2000-2001
12 reimbursement claims. Reduction in costs claimed based
13 upon claimant's development and application of its
14 indirect cost rates, and the amount of offsetting revenue
15 to be applied from the health service fee authority.

16 Staff finds that the Controller timely audited
17 claimant's reimbursement claims. Staff further finds
18 that the Controller's reduction of costs is correct as a
19 matter of law and not arbitrary, capricious, or entirely
20 lacking in evidentiary support.

21 Staff recommends that the Commission adopt the
22 proposed decision denying this IRC.

23 Will the parties and witnesses please state
24 your names for the record?

25 MR. PETERSEN: Keith Petersen for the District.

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1 MR. VENNEMAN: Jim Venneman, State Controller's
2 Office.

3 MR. SPANO: Jim Spano, State Controller's
4 Office.

5 CHAIR ORTEGA: Thank you.

6 Mr. Petersen?

7 MR. PETERSEN: No additional comments at this
8 time.

9 MR. VENNEMAN: Controller's office concurs with
10 staff's finding and recommendation.

11 CHAIR ORTEGA: Okay. Any comments from the
12 Commissioners on this one?

13 *(No response)*

14 MEMBER CHIVARO: Move staff recommendation.

15 MEMBER OLSEN: I'll second.

16 CHAIR ORTEGA: Motion by Mr. Chivaro; second by
17 Mr. Olsen.

18 Any public comment on this item?

19 *(No response)*

20 CHAIR ORTEGA: Seeing none, please call the
21 roll.

22 MS. HALSEY: Mr. Alex?

23 MEMBER ALEX: Aye.

24 MS. HALSEY: Mr. Chivaro?

25 MEMBER CHIVARO: Aye.

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1 MS. HALSEY: Ms. Olsen?

2 MEMBER OLSEN: Aye.

3 MS. HALSEY: Ms. Ortega?

4 CHAIR ORTEGA: Aye.

5 MS. HALSEY: Ms. Ramirez?

6 MEMBER RAMIREZ: Aye.

7 MS. HALSEY: Mr. Rivera?

8 MEMBER RIVERA: Aye.

9 MS. HALSEY: Mr. Saylor?

10 MEMBER SAYLOR: Aye.

11 MS. HALSEY: Thank you.

12 CHAIR ORTEGA: The motion carries.

13 Item 10 was on the Consent Calendar.

14 So Item 11?

15 MS. HALSEY: Commission Counsel Matt Jones
16 will present Item 11, an incorrect reduction claim on
17 *Collective Bargaining and Collective Bargaining Agreement*
18 *Disclosure*.

19 MR. JONES: The proposed decision for this
20 incorrect reduction claim finds that the audit was timely
21 initiated but not timely completed in accordance with
22 section 17558.5.

23 Because the audit was not timely completed,
24 it is void and the Commission need not consider the
25 remaining incorrect reductions alleged. Therefore, staff

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1 recommends that the Commission adopt the decision to
2 approve the incorrect reduction claim.

3 Will the parties and witnesses please state
4 your names for the record?

5 MR. PETERSEN: Keith Petersen, representing the
6 District.

7 MR. SILVA: Shawn Silva, State Controller's
8 Office.

9 MR. SPANO: Jim Spano, State Controller's
10 Office.

11 CHAIR ORTEGA: Okay, Mr. Petersen?

12 MR. PETERSEN: We won. No additional comments
13 at this time.

14 CHAIR ORTEGA: Mr. Silva?

15 MR. SILVA: The State Controller's Office
16 concurs with the staff's recommendation.

17 CHAIR ORTEGA: Okay, any comments from the
18 Commission?

19 *(No response)*

20 CHAIR ORTEGA: Okay, any public comment on this
21 item?

22 *(No response)*

23 CHAIR ORTEGA: Seeing none, is there a motion?

24 MEMBER RAMIREZ: I'll move to approve.

25 CHAIR ORTEGA: Moved by Ms. Ramirez.

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1 MEMBER RIVERA: Second.

2 CHAIR ORTEGA: Second by Mr. Rivera.

3 Please call the roll.

4 MS. HALSEY: Mr. Alex?

5 MEMBER ALEX: Aye.

6 MS. HALSEY: Mr. Chivaro?

7 MEMBER CHIVARO: Aye.

8 MS. HALSEY: Ms. Olsen?

9 MEMBER OLSEN: Aye.

10 MS. HALSEY: Ms. Ortega?

11 CHAIR ORTEGA: Aye.

12 MS. HALSEY: Ms. Ramirez?

13 MEMBER RAMIREZ: Aye.

14 MS. HALSEY: Mr. Rivera?

15 MEMBER RIVERA: Aye.

16 MS. HALSEY: Mr. Saylor?

17 MEMBER SAYLOR: Aye.

18 CHAIR ORTEGA: Okay, that motion carries.

19 Items 12, 13, 14 were consent.

20 MS. HALSEY: Item 15 is reserved for county

21 applications for a finding of significant financial

22 distress or SB-1033 applications. No SB-1033

23 applications have been filed.

24 Assistant Executive Director Jason Hone will

25 present Item 16, the Legislative Update.

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1 MR. HONE: Good morning.

2 Commission staff is monitoring two new bills
3 that include language to amend Government Code section
4 17581.6, which is the Education Mandate Block Grant.

5 The first of those bills, AB 575, was
6 introduced by Assembly Member O'Donnell on February 24th,
7 and has been referred to the Education Committee.

8 This bill proposes, as of July 1, 2018, to
9 add the best-practices teacher evaluation system to the
10 state-mandated local programs supported by the block
11 grant. Thus, if enacted, this bill would create a
12 legislatively determined mandate funded through the
13 education block grant.

14 The second new bill, AB 731, was introduced by
15 Assembly Member Gallagher on February 25th. It proposes
16 amendments to many different code sections and is
17 described as the Legislative Counsel's digest as relating
18 to the maintenance of the codes. The bill proposes a
19 minor change under the education block grant, but may be
20 amended in the future to propose substantive changes to
21 this code section.

22 The bill is currently in the Assembly Judiciary
23 Committee, and staff will continue to monitor the
24 legislation.

25 CHAIR ORTEGA: Any questions on the legislative

1 update?

2 (No response)

3 CHAIR ORTEGA: No?

4 MS. HALSEY: Chief Legal Counsel Camille
5 Shelton will present Item 17, the Chief Legal Counsel
6 report.

7 CAMILLE SHELTON: Since the last Commission
8 meeting, we do have one new filing, filed by Paradise
9 Irrigation District, challenging the Commission's test
10 claim decision on *Water Conservation*. And that's pending
11 in the Sacramento County Superior Court.

12 We do have a decision issued by Sacramento
13 Superior Court on the *Clovis Unified School District*
14 case, which challenged the Commission's decision on the
15 IRCs for *Graduation Requirements*. And the Court denied
16 the petition for writ of mandate there, agreeing with the
17 Commission's interpretation of 17558.5, that "subject to
18 audit" means initiation of the audit.

19 You can see a whole host of calendaring of
20 hearing dates in April and June.

21 There has been a switch of the calendar date
22 for the *Public Guardian* case, which is now April 30th
23 instead of April 16th. This is hearing number two on
24 that matter.

25 And in addition, if you recall the Santa

1 Clarita Valley Sanitation District had challenged the
2 Commission's decision on Upper Chloride. They lost their
3 petition -- denied petition for writ of mandate, and they
4 never did file an appeal, so that is a final decision.

5 CHAIR ORTEGA: Okay.

6 MS. HALSEY: Item 18 is the Executive
7 Director's report.

8 So, so far this year, we've completed five test
9 claims, two parameters and guidelines, four parameters
10 and guidelines amendments, seven statewide cost
11 estimates, two-and-a-half mandate redeterminations, and
12 19 incorrect reduction claims.

13 We are working pretty well through our backlog
14 reduction. We only have 59 remaining IRCs. And we have,
15 of our test claims remaining, we have 13, and one of
16 those is tentatively set for July because it was just
17 amended. Otherwise, it would have been set for next
18 hearing. And all the others are on hold, pending the
19 outcome of the Supreme Court case on *NPDES Permits*.

20 CHAIR ORTEGA: Okay, any questions?

21 MS. HALSEY: And also, I wanted to mention --
22 Julia, I wasn't going to put you on the spot -- but we
23 have a new Senior Commission Counsel, Julia Blair, who
24 is here in the audience today. She'll be starting next
25 week with us.

1 And Ms. Blair has significant experience in
2 higher-education law and policy, and environmental law
3 and policy. And she comes to the Commission from the
4 Community Colleges Chancellor's office. And prior to
5 that, she served as senior staff counsel at the
6 California Energy Commission, and as staff counsel and
7 legislative director for the California Postsecondary
8 Education Commission. And she also worked at Kronick,
9 where she worked on CEQA and water-law issues.

10 I think she's going to be a wonderful asset to
11 our office.

12 CHAIR ORTEGA: Great. Welcome.

13 MEMBER RAMIREZ: Welcome.

14 MEMBER OLSEN: Welcome.

15 MS. BLAIR: Thank you.

16 MS. HALSEY: Also, before we adjourn for
17 closed-session, I'd like to present Jason Hone with a
18 resolution, commemorating his contributions and efforts
19 as Assistant Executive Director for the Commission on
20 State Mandates.

21 Jason has accepted a senior management position
22 at the DMV headquarters, in their Field Operations
23 Division; and his last day with the Commission will be on
24 April 3rd.

25 All of us here are grateful to work with such

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1 a hard-working and dedicated individual, and we will
2 surely miss him.

3 Please join me in congratulating Jason, and
4 wishing him the best of luck in the future.

5 (Applause)

6 MS. HALSEY: *Whereas, Jason Hone has*
7 *distinguished himself as Assistant Executive*
8 *Director of the Commission on State Mandates;*
9 *and*

10 *Whereas, he has provided expert assistance*
11 *to cities, counties, school districts, and*
12 *state agencies, to navigate the mandates*
13 *process; and*

14 *Whereas, he has efficiently managed the*
15 *development and implementation of an Internet*
16 *system for storing and retrieving contact*
17 *records and caseload data; and*

18 *Whereas, Mr. Hone has successfully and*
19 *effectively directed the overhaul of the*
20 *Commission's Web site to produce a*
21 *user-friendly, comprehensive directory;*
22 *and*

23 *Whereas, he has directed his staff in*
24 *updating the electric filing process of all*
25 *mandate-related documents, and in preparing,*

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1 uploading, and downloading all Commission
2 hearing binders electronically, thereby
3 saving the state and local governments money
4 and reducing the effect on the environment;
5 and

6 Whereas, Jason Hone is being honored by
7 the members and staff of the Commission on
8 State Mandates in appreciation of his
9 outstanding dedication, leadership, and
10 service to the state of California.

11 Now, therefore, be it resolved, that
12 the Commission on State Mandates warmly
13 congratulates Jason Hone upon his new
14 position in the Field Operations Division
15 of the Department of Motor Vehicles, where
16 he will transition from mandates to license
17 plates, and parameters and guidelines to
18 notoriously long lines.

19 This 27th day of March, 2015, County of
20 Sacramento, State of California, in witness
21 thereof, by the Commission on State Mandates.

22 (Applause)

23 MR. HONE: I just want to thank my colleagues
24 and the Members. It's been a really terrific couple
25 years; and I've learned quite a bit. And I think I've

1 made some lasting relationships. And it's been a
2 pleasure. It's been challenging at times, certainly.
3 I think that we've all accomplished a lot. I'm very
4 proud of my time here.

5 And thank you to everybody who helped make our
6 success happen. Thank you.

7 MS. HALSEY: Thank you.

8 CHAIR ORTEGA: Thank you.

9 MEMBER RAMIREZ: Best wishes.

10 CHAIR ORTEGA: All right, seeing no other items
11 to come before us in open session, we will now adjourn to
12 closed session.

13 The Commission will meet in closed executive
14 session pursuant to Government Code section 11126(e) to
15 confer with and receive advice from legal counsel for
16 consideration and action, as necessary and appropriate,
17 upon the pending litigation listed on the published
18 notice and agenda, and to confer with and receive advice
19 from legal counsel regarding potential litigation.

20 The Commission will also confer on personnel
21 matters pursuant to Government Code section 11126(a)(1).

22 We will reconvene in about 15 minutes.

23 Thank you, everyone.

24 *(The Commission met in closed executive*
25 *session from 10:41 a.m. to 11:03 a.m.)*

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1 CHAIR ORTEGA: Okay, we will reconvene in open
2 session.

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

12 Mr. Hone will present Item 19 to us.

13 MR. HONE: Thank you.

14 The Chief Legal Counsel position is established
15 at a CEA level B. Ms. Shelton was appointed to her
16 current position on December 9, 2005. Ms. Shelton's
17 current monthly salary is below the maximum salary for
18 incumbents whose duties require membership in the State
19 Bar of California.

20 State policy provides that the annual salary
21 movement for CEAs shall not exceed 5 percent in any
22 12 months. Because the statewide salary increase of
23 2.5 percent is proposed for July 1, 2015, the Commission
24 may increase Ms. Shelton's salary by up to 2.5 percent.

25 The Commission may take action to adjust the

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1 Chief Legal Counsel's salary by designating an adjustment
2 amount and effective date. Staff would then submit the
3 request to Cal HR.

4 CHAIR ORTEGA: Any comments from the board
5 members?

6 *(No response)*

7 CHAIR ORTEGA: Any public comment on this item?

8 *(No response)*

9 CHAIR ORTEGA: Seeing no public, I'll take a
10 motion.

11 MEMBER CHIVARO: I'll move to adjust the chief
12 counsel's salary by 2.5 percent effective July 1, 2015.

13 MEMBER OLSEN: Second it.

14 CHAIR ORTEGA: Moved by Mr. Chivaro, second by
15 Ms. Olsen.

16 I think we can just say --

17 MR. HONE: I can call the roll.

18 CHAIR ORTEGA: Okay, go ahead.

19 MR. HONE: Mr. Alex?

20 MEMBER ALEX: Aye.

21 MR. HONE: Mr. Chivaro?

22 MEMBER CHIVARO: Aye.

23 MR. HONE: Ms. Ramirez?

24 MEMBER RAMIREZ: Aye.

25 MR. HONE: Mr. Rivera?

Commission on State Mandates – March 27, 2015

1 MEMBER RIVERA: Aye.

2 MR. HONE: Ms. Ortega?

3 CHAIR ORTEGA: Aye.

4 MR. HONE: Ms. Olsen?

5 MEMBER OLSEN: Aye.

6 MR. HONE: Mr. Saylor?

7 MEMBER SAYLOR: Aye.

8 CHAIR ORTEGA: Okay, motion carries.

9 Item 20.

10 MR. HONE: The Executive Director position is
11 established at level D of the exempt salary schedule.

12 Ms. Halsey was appointed on March 23rd, 2012.
13 Since Ms. Halsey's salary level is below the maximum
14 salary of exempt level D, she is eligible for a salary
15 adjustment effective on her appointment anniversary date
16 upon the approval of the Commission.

17 The Commission may approve an increase of
18 approximately 2.49 percent to the maximum exempt level D
19 salary effective on her anniversary date of March 23rd,
20 2015.

21 CHAIR ORTEGA: Any comments from the
22 Commission?

23 *(No response)*

24 CHAIR ORTEGA: Any public comment?

25 *(No response)*

Commission on State Mandates – March 27, 2015

1 CHAIR ORTEGA: Is there a motion?

2 MEMBER CHIVARO: I'll move that the salary be
3 adjusted by 2.49 percent effective March 23rd, 2015.

4 MS. OLSEN: I'll second.

5 CHAIR ORTEGA: Seconded by Ms. Olsen.

6 MR. HONE: I'll call roll.

7 Mr. Alex?

8 MEMBER ALEX: Aye.

9 MR. HONE: Mr. Chivaro?

10 MEMBER CHIVARO: Aye.

11 MR. HONE: Ms. Ramirez?

12 MEMBER RAMIREZ: Aye.

13 MR. HONE: Mr. Rivera?

14 MEMBER RIVERA: Aye.

15 MR. HONE: Ms. Ortega?

16 CHAIR ORTEGA: Aye.

17 MR. HONE: Ms. Olsen?

18 MEMBER OLSEN: Aye.

19 MR. HONE: Mr. Saylor?

20 MEMBER SAYLOR: Aye.

21 *(Applause)*

22 MEMBER RAMIREZ: I have a comment.

23 CHAIR ORTEGA: Sure. Ms. Ramirez?

24 MEMBER RAMIREZ: In this time when many members
25 of the public like to bemoan public service, I want to

Commission on State Mandates – March 27, 2015

1 congratulate you and thank you two, as well as Mr. Hone,
2 Ms. Palchik here, and really, everybody here. It's just
3 people don't really perhaps know what sacrifice and
4 effort it really is; and I appreciate it on behalf of the
5 people of the state of California.

6 MS. OLSEN: Hear, hear.

7 MR. HONE: Thank you.

8 CHAIR ORTEGA: Absolutely.

9 Thank you.

10 Okay, any other comments and any public
11 comment?

12 *(No response)*

13 CHAIR ORTEGA: No?

14 With that, we'll be adjourned.

15 MEMBER RAMIREZ: Thank you.

16 MR. HONE: Thank you.

17 *(The meeting concluded at 11:08 a.m.)*

18 --oOo--

REPORTER'S CERTIFICATE

I hereby certify:

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

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

In witness whereof, I have hereunto set my hand
on the 19th April 2015.



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

RECEIVED
August 26, 2015
Commission on
State Mandates

CORRECTED

PUBLIC MEETING
COMMISSION ON STATE MANDATES



TIME: 10:00 a.m.
DATE: Friday, May 29, 2015
PLACE: State Capitol, Room 447
Sacramento, California



REPORTER'S TRANSCRIPT OF PROCEEDINGS



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

Daniel P. Feldhaus, C.S.R., Inc.
Certified Shorthand Reporters
8414 Yermo Way, Sacramento, California 95828
Telephone 916.682.9482 Fax 916.688.0723
FeldhausDepo@aol.com

[Corrected Appearance Page]

A P P E A R A N C E S

COMMISSIONERS PRESENT

ERAINA ORTEGA
Representative for MICHAEL COHEN, Director
Department of Finance
(*Chair of the Commission*)

RICHARD CHIVARO
Representative for BETTY T. YEE
State Controller
(*Vice Chair of the Commission*)

SCOTT MORGAN
Representative for KEN ALEX
Director
Office of Planning & Research

SARAH OLSEN
Public Member

M. CARMEN RAMIREZ
Oxnard City Council Member

ANDRÉ RIVERA
Representative for JOHN CHIANG
State Treasurer

DON SAYLOR
Yolo County Supervisor
Local Agency Member



COMMISSION STAFF PRESENT

HEATHER A. HALSEY
Executive Director
(*Items 3, 6, and 9*)

HEIDI PALCHIK
Assistant Executive Director
(*Item 7*)

A P P E A R A N C E S

PARTICIPATING COMMISSION STAFF

continued

CAMILLE N. SHELTON
Chief Legal Counsel
(Item 8)

ERIC FELLER
Senior Commission Counsel
(Item 5)

IMRAN MAJID
Student Assistant
(Item 3)



PUBLIC TESTIMONY

Appearing re Public Comment

DENNIS EVANS

Appearing Re Item 3:

For Department of Finance:

SUSAN GEANACOU
Senior Staff Attorney
Department of Finance
915 L Street, Suite 1280
Sacramento, California 95814

Appearing Re Item 5:

For State Controller's Office:

JIM L. SPANO
Chief, Mandated Cost Audits Bureau
State Controller's Office
3301 C Street, Suite 725
Sacramento, California 95816

A P P E A R A N C E S

PUBLIC TESTIMONY

Appearing Re Item 5: *continued*

For State Controller's Office:

JIM VENNEMAN
Audit Manager, Division of Audits
State Controller's Office
3301 C Street, Suite 725
Sacramento, California 95816



ERRATA SHEET

[illegible]

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1 BE IT REMEMBERED that on Friday, May 29, 2015,
2 commencing at the hour of 10:02 a.m., thereof, at the
3 State Capitol, Room 447, Sacramento, California, before
4 me, DANIEL P. FELDHAUS, CSR #6949, RDR and CRR, the
5 following proceedings were held:



7 CHAIR ORTEGA: Good morning, everyone.

8 I'd like to call to order the May 29th meeting
9 of the Commission on State Mandates.

10 Please, call the roll.

11 MS. HALSEY: Mr. Chivaro?

12 MEMBER CHIVARO: Present.

13 MS. HALSEY: Mr. Morgan?

14 MEMBER MORGAN: Here.

15 MS. HALSEY: Ms. Olsen?

16 MEMBER OLSEN: Present.

17 MS. HALSEY: Ms. Ortega?

18 CHAIR ORTEGA: Here.

19 MS. HALSEY: Ms. Ramirez?

20 MEMBER RAMIREZ: Here.

21 MS. HALSEY: Mr. Rivera?

22 MEMBER RIVERA: Here.

23 MS. HALSEY: Mr. Saylor?

24 MEMBER SAYLOR: Here.

25 CHAIR ORTEGA: Okay, thank you.

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1 We have a quorum.

2 Item 2 are the minutes from the March 27th
3 meeting.

4 Are there any objections, corrections,
5 comments?

6 MEMBER OLSEN: I'll move the adoption.

7 CHAIR ORTEGA: Okay, Ms. Olsen moves.

8 MEMBER RIVERA: Second.

9 CHAIR ORTEGA: Mr. Rivera seconds.
10 Any public comment on that?

11 *(No response)*

12 CHAIR ORTEGA: Seeing none, all in favor?

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

14 CHAIR ORTEGA: Any abstentions?

15 *(No response)*

16 CHAIR ORTEGA: The minutes are passed.

17 MS. HALSEY: And now we will take up public
18 comment for matters not on the agenda.

19 Please note that the Commission cannot take
20 action on items not on the agenda. However, it can
21 schedule issues raised by the public for consideration
22 at future meetings.

23 CHAIR ORTEGA: Okay, is there any public
24 comment?

25 *(No response)*

1 CHAIR ORTEGA: All right.

2 Did you want to speak?

3 MR. EVANS: Yes. Just real quick.

4 CHAIR ORTEGA: Sure.

5 Have a seat right here.

6 MR. EVANS: Okay, thank you.

7 This public comment is a -- and I wrote this
8 very great speech that you guys would all love, but I
9 want to get right to the point.

10 I want to talk about --

11 CHAIR ORTEGA: Excuse me, please identify
12 yourself for the record.

13 MR. EVANS: My name is Dennis Evans.

14 CHAIR ORTEGA: Dennis Evans?

15 MR. EVANS: Sorry about that.

16 CHAIR ORTEGA: That's okay.

17 Go ahead.

18 MR. EVANS: Today, I want to talk about
19 transition areas and accidents.

20 I would like to show you guys -- I would like
21 to tell you guys how great I am and what a great job I
22 have done, and how long I've been in business and what I
23 do.

24 I'm a safety pundit. And that's just a fancy
25 way of saying: I'm a safety expert.

1 My job was writing safety protocols for plant
2 processes and dealing with calamity controls.

3 So upon my reading SB 863, I developed a safety
4 manifest system called, "The Occupational Health and
5 Safety Pundits' Safety Management System." It identifies
6 contributory negligence, known to be the cause of
7 work-related accidents and injuries.

8 By just simply -- and nobody is doing this on
9 purpose, this is just something that's been taught over
10 the years, and we're stuck with it. Just over the years,
11 you just keep doing the same unsafe acts. But if I
12 could, I would like to show you real quick an area, a
13 transition area accident -- or how to prevent one from
14 ever happening.

15 Do you mind?

16 *(No response)*

17 MR. EVANS: When you look at the way the
18 employee is transitioning the area, he is putting himself
19 at risk.

20 CHAIR ORTEGA: Mr. Evans? Mr. Evans, I'm going
21 to ask you if you have something that's a photograph,
22 that perhaps you could send us a copy because it's not
23 really a --

24 MR. EVANS: Oh, I'm sorry, you guys already
25 have a copy.

1 CHAIR ORTEGA: From the letter?

2 MR. EVANS: Yes.

3 CHAIR ORTEGA: Okay, great.

4 MR. EVANS: And that would be on page 9.

5 CHAIR ORTEGA: Okay, great.

6 MR. EVANS: The idea is by working in this way,
7 using the safety management system, we can eliminate
8 work-related accidents and injuries.

9 It's costing California over a billion dollars
10 a year. And that's a really light estimate, to be
11 honest. But that can be eliminated because when you're
12 talking workers' comp, it's just cause and effect.

13 If you really break it down: We know what's
14 the cause of our workers' compensation, accidents and
15 injuries.

16 And what causes accidents and injuries?
17 Contributory negligence does. And what page 9 does,
18 is it shows an example of this type of contributory
19 negligence that is raising the rate people are getting
20 hurt. And even once they get hurt, also now you're
21 dealing with the cost and effect.

22 They have the cost, the medical cost of their
23 arm; and if you have your business, now you're losing
24 your productivity. And I'm just being blunt. I'm not
25 trying to say, you know, they're working for us or in any

1 type of way; but I'm saying that if we're looking at it
2 on a product scale, the productivity that is being lost
3 is more than even the worker's injury. But the worker's
4 injury is the important issue.

5 So you can eliminate contributory negligence
6 just by simply retraining each ind- -- each employee.

7 I wanted to ask you guys for a -- and I forget
8 the terminology for it because I'm brain-dead, but I do
9 have some cheat notes. But I would like to -- oh, an
10 informal conference. I would like to have an informal
11 conference so I could just give you more information.
12 And I hope that you guys will look at page 9, and see
13 that by eliminating this type of contributory negligence,
14 we could save lots of lives, lots of money.

15 And also, I've done about three years'
16 investigation into what they call "megavitamin therapy."
17 It's orthomolecular medicine.

18 By using evidence of base medicine at a lower
19 cost --

20 MS. OLSEN: Madam Chair?

21 CHAIR ORTEGA: Yes.

22 I think we have a question.

23 MR. EVANS: Yes?

24 MEMBER OLSEN: Mr. Evans, I'm a little bit
25 confused.

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1 Do you represent a particular local government?

2 MR. EVANS: No, no, no. I'm a company that is
3 introducing my services that were mandated by SB 863,
4 as well as California's Constitution, Article IV,
5 section 14 --

6 MEMBER OLSEN: And why are you here in front of
7 the Commission on State Mandates, which --

8 MR. EVANS: Because the company that I've
9 developed, falls under a state-mandated process or a
10 category. And I would like to utilize it to decrease
11 work-related accidents and injuries. And I can prove
12 that I can decrease work-related accidents and injuries
13 65 percent. But it's not going to happen overnight, but
14 it will happen; and that will save the State a lot of
15 money. And also, it will keep our employees from being
16 hurt on the job.

17 MEMBER OLSEN: And you understand that the
18 Commission has nothing to do with this until --

19 MR. EVANS: Of course.

20 MEMBER OLSEN: -- a case is brought by a local
21 government or a state agency to us?

22 MR. EVANS: So you wouldn't be willing to say,
23 "Let's reduce work-related injuries"?

24 MEMBER OLSEN: We can't. We're not the body to
25 do that. That's not what we do.

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1 MR. EVANS: Uh-huh. So who does that? Because
2 I understood that if it was a state-mandated local
3 program, that the State -- the Commission would decide
4 if a program is a state-mandated program.

5 CHAIR ORTEGA: I think, Mr. Evans, the issue
6 is only a local government as defined can appear here
7 with that sort of request.

8 So I'm going to --

9 MR. EVANS: I understand.

10 CHAIR ORTEGA: I'm going to give you a minute
11 to -- I'm going to try to limit the comments to about
12 five minutes, so I'm going to give you a minute to wrap
13 up your comments.

14 MR. EVANS: Okay.

15 CHAIR ORTEGA: And, of course, we have your
16 letter, so we can review that as well.

17 MR. EVANS: I'm saying: Let's eliminate
18 work-related accidents. Let's eliminate workers'
19 compensation and disability case claims. Let's reduce
20 it. Let's not only think about the employee, but also
21 the increase in profitability. If you have a healthier
22 employee, you have more productivity.

23 This is the basis behind this report. And I
24 hope that at least we could have an informal conference
25 that we might be able to speak about it.

1 And again, this is about not only saying I can
2 do it, but proving to you that it can be done. And it's
3 totally inexpensive. It's not anything that's going to
4 break the government or cost too much. It could be
5 implemented like that. And we could begin eliminating
6 work-related accidents today. It doesn't have to wait
7 until tomorrow.

8 CHAIR ORTEGA: Okay, thank you.

9 MR. EVANS: And you know what I mean? It
10 doesn't have to wait.

11 CHAIR ORTEGA: Yes. Thank you for your
12 comments. I appreciate it.

13 MR. EVANS: All right.

14 CHAIR ORTEGA: Okay, next, we have the Consent
15 Calendar.

16 MS. HALSEY: So, we have a proposal now to
17 place Item 4, an incorrect reduction claim on *Collective*
18 *Bargaining and Collective Bargaining Agreement Disclosure*
19 on consent.

20 After the agenda and hearing binder were
21 issued, the parties agreed to place Item 4 on consent.

22 CHAIR ORTEGA: Okay, any comments or objections
23 to that?

24 (*No response*)

25 MEMBER OLSEN: I'll move it.

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1 MR. SAYLOR: Second.

2 CHAIR ORTEGA: No? Seeing none, there's a
3 motion by Ms. Olsen, second by Mr. Saylor.

4 Any public comments on the consent calendar?
5 *(No response)*

6 CHAIR ORTEGA: Okay, seeing none, all in favor?
7 *(A chorus of "ayes" was heard.)*

8 CHAIR ORTEGA: Any objections, abstentions?
9 *(No response)*

10 CHAIR ORTEGA: Nope?

11 Item 4 is approved on the consent calendar.

12 MS. HALSEY: Let's move to the Article 7
13 portion of the hearing.

14 Will the witnesses for Items 2, 3, and 5 please
15 rise?

16 *(Parties and witnesses stood to be sworn*
17 *or affirmed.)*

18 MS. HALSEY: Do you solemnly swear or affirm
19 that the testimony which you are about to give is true
20 and correct, based on your personal knowledge,
21 information, or belief?

22 *(A chorus of affirmative responses was*
23 *heard.)*

24 MS. HALSEY: Thank you.

25 Item 2 is reserved for appeals of Executive

1 Director decisions; and there are no appeals to consider
2 under Item 2 this morning.

3 Item 3, student assistant Imran Majid will
4 present the adequate showing hearing for a mandate
5 redetermination on the *California Public Records Act*.

6 MR. MAJID: Good morning.

7 This is the first hearing of a mandate
8 redetermination request filed by the Department of
9 Finance, to end the State's liability for the *California*
10 *Public Records Act* program.

11 Based on a subsequent change in law,
12 specifically Proposition 42, adopted by voters in
13 June 2014 requires local agencies to comply with the
14 California Public Records Act and removes the State's
15 obligation to reimburse the program.

16 This first hearing is limited to whether
17 Finance has made an adequate showing which identifies a
18 subsequent change in law that may modify the State's
19 liability.

20 Staff finds that the Department of Finance has
21 made an adequate showing that the State's liability has
22 been modified.

23 Staff recommends the Commission adopt this
24 decision and direct staff to provide notice of the second
25 hearing to determine if a new test-claim decision shall

1 be adopted to supersede the previously adopted test-claim
2 decision.

3 Would the parties and witnesses please state
4 your name for the record?

5 MS. GEANACOU: Good morning. Susan Geanacou
6 for the Department of Finance.

7 CHAIR ORTEGA: Any comments, Ms. Geanacou?

8 MS. GEANACOU: I would just like to, on behalf
9 of Finance, thank the staff for their work on our
10 request, and say that we support their recommendation
11 that the matter proceed to a second hearing.

12 CHAIR ORTEGA: Okay. Any questions from
13 commissioners?

14 *(No response)*

15 CHAIR ORTEGA: Any public comment on this item?

16 *(No response)*

17 CHAIR ORTEGA: Okay, seeing none, is there a
18 motion?

19 MEMBER OLSEN: I'll move it.

20 CHAIR ORTEGA: Moved by Ms. Olsen.

21 MEMBER CHIVARO: Second.

22 CHAIR ORTEGA: Second by Mr. Chivaro.

23 All in favor?

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

25 CHAIR ORTEGA: Any objections or abstentions?

1 (No response)

2 CHAIR ORTEGA: No? Thank you.

3 Item 5.

4 MS. HALSEY: Senior Commission Counsel Eric
5 Feller will present Item 5, an incorrect reduction claim
6 on *Health Fee Elimination*.

7 MR. FELLER: Good morning.

8 In this IRC, staff finds that the Controller's
9 reductions for indirect costs claimed and for authorized
10 offsetting health fees are correct as a matter of law,
11 and not arbitrary, capricious, or entirely lacking in
12 evidentiary support.

13 Staff recommends that the Commission adopt the
14 proposed decision to deny the IRC, and authorize staff
15 to make technical non-substantive changes following the
16 hearing.

17 Staff has heard from the claimant that they
18 will not be appearing today.

19 So would the remaining parties and witnesses
20 please state your names for the record?

21 MR. SPANO: Jim Spano, State Controller's
22 Office.

23 MR. VENNEMAN: Jim Venneman, State Controller's
24 Office.

25 CHAIR ORTEGA: Okay, any comments?

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1 MR. VENNEMAN: Yes, the Controller's Office
2 supports staff's finding and recommendation.

3 CHAIR ORTEGA: Okay, any questions or comments
4 from the members?

5 Yes, Ms. Ramirez?

6 MEMBER RAMIREZ: Do we know why they're not
7 appearing, the other party? Are they conceding? Can't
8 make it?

9 MR. FELLER: I see that Ms. Palchik, who spoke
10 to the claimant representing, is shaking her head "No."
11 So I don't believe we know.

12 MS. PALCHIK: So I actually did not speak with
13 them. We played phone tag, and they just left a message,
14 saying they will not be appearing at the hearing.

15 CHAIR ORTEGA: Okay, any other questions?

16 *(No response)*

17 CHAIR ORTEGA: Any other public comment on this
18 item?

19 *(No response)*

20 CHAIR ORTEGA: Seeing none, is there a motion?

21 MEMBER RAMIREZ: So moved.

22 CHAIR ORTEGA: Moved by Ms. Ramirez.

23 MEMBER CHIVARO: Second.

24 CHAIR ORTEGA: Second by Mr. Chivaro.

25 All in favor?

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1 (A chorus of "ayes" was heard.)

2 CHAIR ORTEGA: Any abstentions, objections?

3 (No response)

4 CHAIR ORTEGA: No?

5 The staff recommendation is adopted.

6 MS. HALSEY: Item 6 is reserved for county
7 applications for a finding of significant financial
8 distress or SB 1033 applications.

9 No SB 1033 applications have been filed.

10 Assistant Executive Director Heidi Palchik will
11 present Item 7, the Legislative Update.

12 MS. PALCHIK: Good morning.

13 We are currently following two bills, AB 575,
14 which is entitled, "Teachers: Best Practices Teacher
15 Evaluation System," would replace the Stull Act. And
16 the Stull Act was found to be a reimbursable mandate by
17 the Commission, with the addition of sections to the
18 Education Code relating to teacher evaluation.

19 This bill was referred to the Assembly
20 Committee on Appropriations on May 5th, and is currently
21 being held on suspense.

22 The other bill that we're following is AB 731,
23 which is entitled "Maintenance of the Codes." This bill
24 proposes amendments to many different code sections,
25 including those sections containing the education

1 mandates block grant and the teacher evaluation best
2 practices.

3 This bill passed Assembly on consent, and
4 it has not been amended; and is now pending in the Senate
5 Judiciary Committee.

6 We'll continue to monitor these through the
7 legislative session.

8 And as you may know, on May 14th, 2015, the
9 Governor issued the 2015-16 May Revision to his budget,
10 which included significant changes to the mandated
11 local program funding.

12 So for local government, the current estimates
13 indicate that the trigger mechanism calculation, the
14 revenues that exceed the 2014 Budget Act estimate, will
15 result in a total of \$765 million, which will fully
16 satisfy all the remaining pre-2004 mandate debt.

17 And then for school districts and community
18 colleges, there were changes made to the block grant
19 funding. And those specific details can be found in your
20 legislative update.

21 CHAIR ORTEGA: Thank you.

22 Any questions on the Legislative Report?

23 *(No response)*

24 CHAIR ORTEGA: Okay, thank you.

25 MS. HALSEY: Chief Legal Counsel Camille

1 Shelton will present Item 8, Chief Legal Counsel Report.

2 MS. SHELTON: Good morning.

3 Two decisions have been issued by the trial
4 courts on matters that are currently in litigation.

5 The first is, in *County of San Diego versus*
6 *Commission on State Mandates*, the Court did uphold the
7 Commission's decision, and deny the complaint for dec.
8 relief and the petition for writ of mandate.

9 In addition, the *County of Los Angeles versus*
10 *the Commission on the Public Guardianship Program*, there,
11 the Court denied the petition and complaint for
12 declaratory relief as well, and upheld the Commission's
13 decision.

14 We do have one case pending and set for a
15 hearing on June 12th. That is *Coast Community College*
16 *District*, which challenges the test-claim decision on
17 *Minimum Conditions for State Aid*.

18 CHAIR ORTEGA: Ms. Ramirez?

19 MEMBER RAMIREZ: Is there a possibility of
20 appeal in the *Public Guardianship*, or is it finished?

21 MS. SHELTON: No. Both of those cases that
22 I mentioned, they have 60 days after notice of entry of
23 judgment is served. And so far, those notices have not
24 been served yet.

25 So judgment has been entered in the San Diego

1 matter. A proposed judgment has been sent in the L.A.
2 matter. So it will still be a few weeks. They have
3 60 days after that to appeal. And I do anticipate
4 appeals in both cases.

5 MEMBER RAMIREZ: Thank you.

6 CHAIR ORTEGA: Any other questions?

7 *(No response)*

8 CHAIR ORTEGA: Okay.

9 MS. HALSEY: Item 9 is the Executive Director's
10 Report.

11 As you can see, this year, we did hear quite
12 a few more incorrect reduction claims over last year,
13 especially considering several of the ones completed
14 last year were withdrawn; and this year, most of them
15 were heard. And so that's been the balance of our work
16 this year, primarily.

17 Also, as you know, we've been very busy with
18 litigation; and that has slowed down the hearing of
19 some of the matters. But we hope to have a bit more of
20 a robust hearing next hearing, and then bigger after that
21 as litigation slows down a little bit.

22 And would you please take a look at the
23 Executive Director's Report, to see if you have any items
24 coming up for hearing?

25 We do expect to be hearing CAASPP, which is

1 the test claim on *California Assessment of Student*
2 *Performance and Progress*.

3 And also, we have an amendment to parameters
4 and guidelines on *Immunization Records - Pertussis*,
5 coming up.

6 And then we are going to be hearing all the
7 *Notification of Truancy* IRCs together as a batch coming.

8 And that's all I have, unless there's
9 questions.

10 CHAIR ORTEGA: Okay, any questions for Heather?

11 *(No response)*

12 CHAIR ORTEGA: Nope? Okay.

13 Seeing none, we will move into closed session.

14 So we'll ask everyone to leave the room.

15 The Commission will meet in closed executive
16 section pursuant to Government Code section 11126(e) to
17 confer with and receive advice from legal counsel for
18 consideration and action, as necessary and appropriate,
19 upon the pending litigation listed on the published
20 notice and agenda; and to confer with and receive advice
21 from legal counsel regarding potential litigation.

22 The Commission will also confer on personnel
23 matters pursuant to Government Code section 11126(a)(1).

24 We will reconvene in open session in
25 approximately 15 minutes.

Commission on State Mandates – May 29, 2015

1 Thank you.

2 *(The Commission met in closed executive*
3 *session from 10:21 a.m. to 10:27 a.m.)*

4 CHAIR ORTEGA: The Commission met in closed
5 execution session pursuant to Government Code section
6 11126(e)(2), to confer with and receive advice from
7 legal counsel for consideration and action, as necessary
8 and appropriate, upon the pending litigation listed on
9 the published notice and agenda; and to confer with and
10 receive advice from legal counsel regarding potential
11 litigation, and pursuant to Government Code section
12 11126(a)(1) to confer on personnel matters.

13 We have nothing to report.

14 And without any other business to come before
15 the Commission, we will be adjourned.

16 Thank you.

17 *(The meeting concluded at 10:28 a.m.)*

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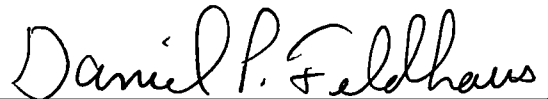
REPORTER'S CERTIFICATE

I hereby certify:

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

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

In witness whereof, I have hereunto set my hand
on the 15th June 2015.



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