

Item 1

Proposed Minutes

COMMISSION ON STATE MANDATES

Location of Meeting: via Zoom
July 24, 2020

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

NOTE: The transcript for this hearing is attached. These minutes are designed to be read in conjunction with the transcript.

CALL TO ORDER AND ROLL CALL

Chairperson Miller called the meeting to order at 10:05 a.m. Executive Director Heather Halsey called the roll and Members Miller, Adams, Lee, Olsen, Ramirez and Wong-Hernandez were present and responded with “here.” Ms. Halsey stated that Member Hariri let Commission staff know that he is unable to attend the hearing.

APPROVAL OF MINUTES

Chairperson Miller asked if there were any objections or corrections to the May 22, 2020 minutes. Member Olsen made a motion to adopt the minutes. With a second by Member Wong-Hernandez, the May 22, 2020 hearing minutes were adopted by a unanimous voice vote of members present.

PUBLIC COMMENT FOR MATTERS NOT ON THE AGENDA

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

CONSENT CALENDAR

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

STATEWIDE COST ESTIMATE

Item 6* *Peace Officer Training: Mental Health/Crisis Intervention, 17-TC-06*
Penal Code Section 13515.28; Statutes 2015, Chapter 469 (SB 29)

Executive Director Halsey stated that Item 6 was proposed for consent. Chairperson Miller asked if there was any public comment regarding the Consent Calendar. There was no response.

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

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

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

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

Item 2 Appeal of Executive Director Decisions

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

TEST CLAIM

Item 3 *Vote by Mail Ballots: Prepaid Postage, 19-TC-01*
Elections Code Section 3010; Statutes 2018, Chapter 120 (AB 216)
County of Los Angeles, Claimant

Executive Director Halsey stated that the County of Los Angeles notified staff that they would not be appearing at the hearing and submit on the record, which includes their comments.

Commission Counsel Eric Feller presented this item and recommended that the Commission adopt the Proposed Decision to partially approve this Test Claim.

Parties were represented as follows: Chris Hill appeared on behalf of the Department of Finance via audio only; Christina Snider appeared on behalf of interested party County of San Diego via video and audio.

Ms. Snider stated that the County of San Diego would rest on the comments but appeared in the event a response was needed or if there were any questions. Mr. Hill stated that the Department of Finance has no comments to make. Member Wong-Hernandez made a motion to adopt the staff recommendation. With a second by Member Adams, the motion to adopt the staff recommendation was adopted by a vote of 6-0.

INCORRECT REDUCTION CLAIM

- Item 4 *Animal Adoption, 17-9811-I-04*
Civil Code Sections 1834 and 1846; Food and Agriculture Code
Sections 31108, 31752, 31752.5, 31753, 32001, and 32003;
As Added or Amended by Statutes 1998, Chapter 752 (SB 1785)
Fiscal Years: 2007-2008 and 2008-2009
Town of Apple Valley, Claimant

Chief Legal Counsel Camille Shelton presented this item and recommended that the Commission either adopt the Proposed Decision to partially approve the Incorrect Reduction Claim or direct staff to address the new information in a revised analysis and set the matter for the next hearing.

Parties were represented as follows: Adrianna Atteberry and Annette Chinn appeared on behalf of the claimant via audio and video; Jim Venneman appeared on behalf of the State Controller's Office via audio only.

After Chief Legal Counsel Camille Shelton introduced the item, Member Rivera joined the meeting for the State Treasurer's Office.

Following discussion between Chairperson Miller, Member Wong-Hernandez, Member Ramirez, Member Adams, Chief Legal Counsel Shelton, Ms. Atteberry, Ms. Chinn, and Mr. Venneman, Member Adams made a motion to adopt the staff recommendation. With a second by Member Lee, the motion to adopt the staff recommendation was adopted by a vote of 6-0 with Member Rivera not called upon to cast a vote.

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

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

Executive Director Heather Halsey stated that no SB 1033 applications have been filed.

REPORTS

- Item 7 Legislative Update (info)

Ms. Ortman presented this item and described five bills that the Commission is tracking: SB 287, AB 2395, SB 1371, SB 98, and AB 77.

- Item 8 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar (info)

Chief Legal Counsel Camille Shelton presented this item.

- Item 9 Executive Director: Budget, Workload Update and Tentative Agenda Items for the September and December 2020 Meetings (info)

Executive Director Halsey stated that the governor signed the Budget Act on June 29, 2020, although there were multiple bills due to COVID, that the Commission's operating budget was approved as proposed, less the approved BCP, which was withdrawn due to shortfalls due to the

COVID-19 response, provided the appropriations for local agencies and schools, described the Commission's pending caseload, and explained the reopening of the Commission's office on July 1, 2020, and staffing levels. Chairperson Miller congratulated Commission staff for being so nimble during unprecedented times and Member Ramirez echoed her comments.

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

A. PENDING LITIGATION

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

Trial Courts:

1. ***On Remand from the Third District Court of Appeal, Case No. C070357***
State of California Department of Finance, State Water Resources Control Board, and California Regional Water Quality Board, San Diego Region v. Commission on State Mandates and County of San Diego, et al. (petition and cross-petition)
Sacramento County Superior Court Case No. 34-2010-80000604
[Discharge of Stormwater Runoff, Order No. R9-207-000 (07-TC-09), California Regional Water Control Board, San Diego Region Order No. R9-2007-001, NPDES No. CAS0108758, Parts D.1.d.(7)-(8), D.1.g., D.3.a.(3), D.3.a.(5), D.5, E.2.f, E.2.g, F.1, F.2, F.3, I.1, I.2, I.5, J.3.a.(3)(c) iv-vii & x-xv, and L]
2. *City of San Diego v. Commission on State Mandates, State Water Resources Control Board, Department of Finance,*
Sacramento County Superior Court, Case No. 2019-80003169
(Lead Sampling in Schools: Public Water System No. 3710020 (17-TC-03))
3. ***On Remand from the California Supreme Court, Case No. S247266, and the First District Court of Appeal, Case No. A148606***
California School Board Association (CSBA) v. State of California et al.
Alameda County Superior Court, Case No. RG11554698
[Multiple Causes of Action on the Mandates Process]

Courts of Appeal:

1. ***On Remand from California Supreme Court, Case No. S214855, State of California Department of Finance, State Water Resources Control Board, and California Regional Water Quality Control Board, Los Angeles Region v. Commission on State Mandates and County of Los Angeles, et al*** (petition and cross-petition)
Second District Court of Appeal Case No. B292446
[Los Angeles County Superior Court, Case No. BS130730, Related Appeal from Second District Court of Appeal, Case No. B237153 [Municipal Storm Water and Urban Runoff Discharges, 03-TC-04, 03-TC-19, 03-TC-20, and 03-TC-21, Los Angeles Regional Quality Control Board Order No. 01-182, Permit CAS004001, Parts 4C2a., 4C2b, 4E & 4Fc3]

California Supreme Court:

1. *Coast Community College District, et al. v. Commission on State Mandates*, California Supreme Court, Case No. S262663 (Petition for Review Filed June 10, 2010)
Third District Court of Appeal, Case No. C080349
Sacramento County Superior Court, Case No. 34-2014-80001842
[*Minimum Conditions for State Aid*, 02-TC-25/02-TC-31
(Education Code Sections 66721, 66721.5, 66722, 66722.5, 66731, 66732, 66736, 66737, 66738, 66740, 66741, 66742, 66743, 70901, 70901.5, 70902, 71027, 78015, 78016, 78211.5, 78212, 78213, 78214, 78215, 78216, 87482.6, and 87482.7; Statutes 1975, Chapter 802; Statutes 1976, Chapters 275, 783, 1010, and 1176; Statutes 1977, Chapters 36 and 967; Statutes 1979, Chapters 797 and 977; Statutes 1980, Chapter 910; Statutes 1981, Chapters 470 and 891; Statutes 1982, Chapters 1117 and 1329; Statutes 1983, Chapters 143 and 537; Statutes 1984, Chapter 1371; Statutes 1986, Chapter 1467; Statutes 1988, Chapters 973 and 1514; Statutes 1990, Chapters 1372 and 1667; Statutes 1991, Chapters 1038, 1188, and 1198; Statutes 1995, Chapters 493 and 758; Statutes 1998, Chapter 365, 914, and 1023; Statutes 1999, Chapter 587; Statutes 2000, Chapter 187; and Statutes 2002, Chapter 1169; California Code of Regulations, Title 5, Sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, 51027, 51100, 51102, 53200, 53202, 53203, 53204, 53207, 53300, 53301, 53302, 53308, 53309, 53310, 53311, 53312, 53314, 54626, 54805, 55000, 55000.5, 55001, 55002, 55002.5, 55004, 55005, 55006, 55100, 55130, 55150, 55160, 55170, 55182, 55200, 55201, 55202, 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320, 55321, 55322, 55340, 55350, 55401, 55402, 55403, 55404, 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520, 55521, 55522, 55523, 55524, 55525, 55526, 55530, 55532, 55534, 55600, 55601, 55602, 55602.5, 55603, 55605, 55607, 55620, 55630, 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, 55765, 55800, 55800.5, 55801, 55805, 55805.5, 55806, 55807, 55808, 55809, 55825, 55827, 55828, 55829, 55830, 55831, 58102, 58104, 58106, 58107, 58108, 59404, and 59410; Handbook of Accreditation and Policy Manual, Accrediting Commission for Community and Junior Colleges (Summer 2002); and “Program and Course Approval Handbook” Chancellor’s Office California Community Colleges (September 2001).]

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

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

B. PERSONNEL

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

The Commission adjourned into closed executive session at 10:46 a.m., pursuant to Government Code section 11126(e)(2), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published

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

RECOVENE IN PUBLIC SESSION

REPORT FROM CLOSED EXECUTIVE SESSION

At 10:55 a.m., the Commission reconvened in open session. Chairperson Miller reported that the Commission met in closed executive session pursuant to Government Code section 11126(e)(2) to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the public notice and agenda, and to confer with and receive advice from legal counsel regarding potential litigation, and, pursuant to Government Code section 11126(a)(1) to confer on personnel matters.

ADJOURNMENT

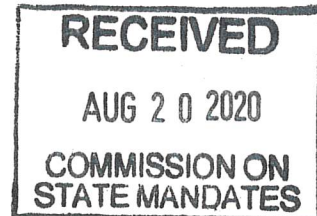
Hearing no further business, Chairperson Miller requested a motion to adjourn the meeting. Member Wong-Hernandez made a motion to adjourn the meeting.

The July 24, 2020 meeting was adjourned by a unanimous voice vote at 10:57 a.m.

Heather Halsey
Executive Director

STATE OF CALIFORNIA
COMMISSION ON STATE MANDATES

PUBLIC MEETING



FRIDAY, JULY 24, 2020

10:05 A.M.

MEETING HELD

VIA ZOOM,

A VIDEO COMMUNICATIONS PLATFORM

REPORTER'S TRANSCRIPT OF PROCEEDINGS

ORIGINAL

REPORTED BY:

KATHRYN S. SWANK

Certified Shorthand Reporter No. 13061

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A P P E A R A N C E S

(All attendees appeared remotely, via Zoom.)

COMMISSIONERS PRESENT

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

ANDRE RIVERA
Representative for FIONA MA
State Treasurer
(Vice Chair of the Commission)

JACQUELINE WONG-HERNANDEZ
Representative for BETTY T. YEE
State Controller

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

LEE ADAMS III
Sierra County Supervisor
Local Agency Member

SARAH OLSEN
Public Member

M. CARMEN RAMIREZ
Oxnard City Council Member
Local Agency Member

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COMMISSION STAFF

ERIC FELLER
Senior Commission Counsel

HEATHER A. HALSEY
Executive Director

KERRY ORTMAN
Program Analyst

HEIDI PALCHIK
Assistant Executive Director

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

CAMILLE N. SHELTON
Chief Legal Counsel

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PUBLIC PARTICIPANTS

ADRIANNA ATTEBERRY
Town of Apple Valley, Claimant

ANNETTE CHINN
Cost Recovery Systems
For Town of Apple Valley, Claimant

CHRIS HILL
Department of Finance

CHRISTINA SNIDER
County of San Diego

JIM VENNEMAN
State Controller's Office

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I N D E X

ITEM NO.		PAGE
I.	Call to Order and Roll Call	8
II.	Approval of Minutes	10
	Item 1 May 22, 2020	
III.	Public Comment for Matters Not on the Agenda (none)	11
IV.	Proposed Consent Calendar for Items Proposed for Adoption on Consent Pursuant to California Code of Regulations, Title 2, Articles 7 and 8	11
V.	Hearings and Decisions Pursuant to California Code of Regulations, Title 2, Article 7	
A.	Appeal of Executive Director Decisions Pursuant to California Code of Regulations, Title 2, Section 1181.1(c)	
	Item 2 Appeal of Executive Director Decisions (none)	13
B.	Test Claim	
	Item 3 Vote by Mail Ballots: Prepaid Postage, 19-TC-01	13
	Elections Code Section 3010; Statutes 2018, Chapter 120 (AB 216)	
	County of Los Angeles, Claimant	

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

ITEM NO.		PAGE
C.	Incorrect Reduction Claim	17
Item 4	Animal Adoption, 17-9811-I-04	
	Civil Code Sections 1834 and 1846; Food and Agriculture Code Sections 31108, 31752, 31752.5, 31753, 32001, and 32003; As Added or Amended by Statutes 1998, Chapter 752 (SB 1785)	
	Fiscal Years: 2007-2008 and 2008-2009	
	Town of Apple Valley, Claimant	
VI.	Hearings on County Applications for Findings of Significant Financial Distress Pursuant to Welfare and Institutions Code Section 17000.6 and California Code of Regulations, Title 2, Article 2	
Item 5	Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commission, or to a Hearing Officer (none)	33
VII.	Informational Hearing Pursuant to California Code of Regulations, Title 2, Article 8	--
VIII.	Statewide Cost Estimate	
Item 6	Peace Officer Training: Mental Health/Crisis Intervention, 17-TC-06	11
	Penal Code Section 13515.28, Statutes 2015, Chapter 469 (SB 29)	

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12
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I N D E X C O N T I N U E D

ITEM NO.		PAGE
XI.	Reports	
	Item 7 Legislative Update	34
	Item 8 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar	36
	Item 9 Executive Director: Budget, Workload Update and Tentative Agenda Items for the September and December 2020 Meetings	37
X.	Closed Executive Session Pursuant to Government Code Sections 11126 and 11126.2	43
	A. Pending Litigation	
	B. Personnel	
IX.	Report from Closed Executive Session	43
	Adjournment	44
	Reporter's Certificate	45

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1 FRIDAY, JULY 24, 2020, 10:05 A.M.

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3 CHAIRPERSON MILLER: Thank you for your patience as
4 we begin in our new normal.

5 Good morning again. The meeting of the Commission
6 on State Mandates will come to order. Welcome and thank
7 you to everyone for participating via Zoom.

8 Please note that a response to COVID-19 and its
9 impact on public meetings, under the Bagley-Keene Open
10 Meeting Act, Governor Newsom's Executive Order N-2920
11 suspends, on an emergency basis, pursuant to California
12 Government Code section 8571, certain requirements for
13 public meetings.

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

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

1 During this extraordinary time, and as we explore
2 new ways of doing business with the technologies, we ask
3 that you remain patient with us.

4 Please note that the materials for today's meeting,
5 including the notice, agenda, and witness list, are all
6 available on the Commission's website,
7 www.csm.california.gov, under the hearings tab.

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

9 MS. HALSEY: Yes. And I would ask all the parties
10 and witnesses and also staff who are -- who are not
11 currently presenting to please mute your microphones and
12 stop your videos so that everyone can see the people
13 that are speaking.

14 Mr. Adams.

15 MEMBER ADAMS: Here.

16 MS. HALSEY: Ms. Lee.

17 MEMBER LEE: Here.

18 MS. HALSEY: Ms. Miller.

19 CHAIRPERSON MILLER: Here.

20 MS. HALSEY: Ms. Olsen.

21 MEMBER OLSEN: Here.

22 MS. HALSEY: Ms. Ramirez.

23 MEMBER RAMIREZ: Here.

24 MS. HALSEY: Ms. Wong-Hernandez.

25 MEMBER WONG-HERNANDEZ: Here.

1 MS. HALSEY: And Mr. Hariri let us know that he is
2 unable to attend today's hearing.

3 CHAIRPERSON MILLER: Great. Thank you, Ms. Halsey.
4 And we have a quorum.

5 The next item is Item 1. Are there any objections
6 to or corrections of the May 22nd, 2020, minutes?

7 MEMBER OLSEN: Move adoption.

8 CHAIRPERSON MILLER: Thank you, Ms. Olsen.
9 May we get a second?

10 MEMBER WONG-HERNANDEZ: Second.

11 CHAIRPERSON MILLER: Thank you, Ms. Wong-Hernandez.
12 So we have a motion and a second for the adoption
13 of May 22, 2020, minutes.

14 All of those in favor of adopting the minutes,
15 please signify by saying "aye."

16 (Ayes)

17 CHAIRPERSON MILLER: Great.

18 Any abstentions? Anyone opposed?

19 (No response)

20 CHAIRPERSON MILLER: Seeing none, the minutes are
21 adopted. Thank you.

22 Now we will move -- oh, Ms. Halsey, you are next on
23 our --

24 MS. HALSEY: Now we will take up public comment for
25 matters not on the agenda. Please note that the

1 Commission cannot take action on items not on the
2 agenda. However, it can schedule issues raised by the
3 public for consideration at future meetings.

4 CHAIRPERSON MILLER: Great. Thank you very much.

5 Is there any public comment?

6 (No response)

7 CHAIRPERSON MILLER: Ms. Palchik, I just want to
8 confirm with you, you don't see anyone waiting to
9 comment.

10 MS. PALCHIK: That's correct. Nobody. Thank you.

11 CHAIRPERSON MILLER: Great. Thank you very much.

12 So seeing no further public comment, I will move to
13 the next item.

14 MS. HALSEY: Item 6 is proposed for consent.

15 CHAIRPERSON MILLER: Great. Are there any
16 objections to the proposed consent calendar?

17 (No response)

18 CHAIRPERSON MILLER: Seeing none, is there a motion
19 to adopt the consent calendar?

20 MEMBER RAMIREZ: So moved. So moved.

21 CHAIRPERSON MILLER: Thank you, Ms. Ramirez.

22 Is there a second?

23 MEMBER OLSEN: Second.

24 CHAIRPERSON MILLER: Thank you.

25 Moved by Ms. Ramirez. Seconded by Ms. Olsen.

1 Is there any public comment?

2 (No response)

3 CHAIRPERSON MILLER: Seeing none.

4 MS. PALCHIK: I see none.

5 CHAIRPERSON MILLER: Great. Thank you.

6 The motion to adopt the proposed consent calendar
7 has been moved by Ms. Ramirez, seconded by Ms. Olsen.

8 All those in favor, please signify by saying "aye."

9 (Ayes)

10 CHAIRPERSON MILLER: Great. Thanks,
11 Ms. Wong-Hernandez.

12 Any opposed, please signify by saying "no."

13 (No response)

14 CHAIRPERSON MILLER: Seeing none.

15 Please signify if you would like to abstain.

16 (No response)

17 CHAIRPERSON MILLER: Seeing none, the consent
18 calendar is approved.

19 MS. HALSEY: Thank you.

20 Now let's move to the Article 7 portion of the
21 hearing. Will the parties and witnesses for Items 3 and
22 4 please turn on your video, unmute your microphones,
23 and please rise.

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

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

3 Item 2 is reserved for appeals of Executive
4 Director decisions, and there are no appeals to consider
5 for this hearing.

6 Next is Item 3. Commission Counsel Eric Feller
7 will please turn on his video and unmute his microphone
8 to present a proposed decision on a test claim on Vote
9 By Mail Ballots: Prepaid Postage.

10 The County of Los Angeles has informed us that they
11 will not be appearing at today's hearing and are
12 submitting on the record, which includes their comments:
13 At this time, we invite the parties and witnesses for
14 Item 3 to turn on their video and unmute their
15 microphones.

16 MR. FELLER: Good morning.

17 This test claim involves a statute that requires
18 elections officials to include prepaid postage on
19 identification envelopes delivered to vote-by-mail
20 voters for returning their ballots.

21 Staff finds the test claim statute imposes a
22 reimbursable state-mandated program on cities and
23 counties for statewide elections, regular local
24 elections, special elections called by the governor or
25 required by state law, and school district and community

1 college district elections required by state law, to be
2 conducted by counties and cities when the election is
3 consolidated with noneducational issues or elected
4 offices.

5 Staff also finds that the test claim statute is not
6 reimbursable for city or county elections that are
7 discretionary or for required special elections that
8 could have been consolidated with a regular election
9 within the statutory deadline.

10 The mandate is also not reimbursable when counties
11 conduct elections for cities or special districts for
12 which the county may collect fees, or when cities and
13 counties conduct elections solely on behalf of a school
14 district or a community college district, with no other
15 noneducational issues or elective offices on the ballot,
16 because the county or city may collect fees for those
17 elections also.

18 Staff recommends the Commission adopt the proposed
19 decision to approve the test claim and authorize staff
20 to make any technical, nonsubstantive changes to the
21 proposed decision following the hearing.

22 That's all I have.

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

25 So parties and witnesses, will you please state

1 your name for the record:

2 Ms. Snider, for the County of San Diego, would you
3 like to begin. Please state your name one more time.

4 MS. SNIDER: Sure. This is Christina Snider for
5 interested party County of San Diego. And we also would
6 rest on the comments, but I did want to appear as a
7 panelist in the event the State or Department of Finance
8 had anything to say that I needed to respond to or if
9 the commissioners have any questions.

10 CHAIRPERSON MILLER: Thank you, Ms. Snider. I
11 appreciate it.

12 Mr. Hill, for the Department of Finance, do you
13 have any comments?

14 MR. HILL: Yes. Chris Hill for the Department of
15 Finance.

16 We do have no comments to make.

17 CHAIRPERSON MILLER: Great. Thank you, Mr. Hill.
18 Is there any public comment on this item?

19 (No response)

20 MS. PALCHIK: No hands.

21 CHAIRPERSON MILLER: Thank you, Ms. Palchik.
22 Are there any questions from members?

23 (No response)

24 CHAIRPERSON MILLER: Seeing none, is there any
25 further discussion?

1 (No response)

2 CHAIRPERSON MILLER: Seeing none, may we have a
3 motion, please.

4 MEMBER WONG-HERNANDEZ: Move approval.

5 MEMBER ADAMS: Madam Chair, I would move the staff
6 recommendation.

7 CHAIRPERSON MILLER: Great. Thank you.

8 Moved by Ms. Wong-Hernandez. Seconded by
9 Mr. Adams.

10 And seeing no further discussion, confirming --
11 Ms. Olsen, was that a question?

12 MEMBER OLSEN: Nope.

13 CHAIRPERSON MILLER: Great. Thank you.

14 Ms. Halsey, will you please call the roll?

15 MS. HALSEY: Mr. Adams.

16 MEMBER ADAMS: Aye.

17 MS. HALSEY: Ms. Lee.

18 MEMBER LEE: Aye.

19 MS. HALSEY: Ms. Miller.

20 CHAIRPERSON MILLER: Aye.

21 MS. HALSEY: Ms. Olsen.

22 MEMBER OLSEN: Aye.

23 MS. HALSEY: Ms. Ramirez.

24 MEMBER RAMIREZ: Aye.

25 MS. HALSEY: Ms. Wong-Hernandez.

1 MEMBER WONG-HERNANDEZ: Aye.

2 MS. HALSEY: Thank you.

3 Next is Item 4. We would please ask that
4 presenters for Item 3 to please turn off their video and
5 mute their microphones at this time.

6 Chief Legal Counsel Camille Shelton will please
7 turn on her video and unmute her microphone and present
8 a proposed decision on an incorrect reduction claim on
9 animal adoption.

10 At this time, we invite the parties and witnesses
11 for Item 4 to please turn on their video and unmute
12 their microphones.

13 MS. SHELTON: Good morning, all.

14 This incorrect reduction claim challenges the
15 following audit findings: The reduction of all costs
16 claimed for the construction of a new animal shelter
17 facility; the controller's recalculation of labor costs
18 related to the care and maintenance activities mandated
19 by the State; and the allowable amount of indirect
20 costs.

21 The claimant also alleges that reimbursement for
22 necessary and prompt veterinary costs, which were not
23 separately claimed, but included in the claim for care
24 for animals, should have been allowed by the controller.

25 Staff finds that the controller's reductions are

1 correct as a matter of law, except that the
2 recalculation of annual labor costs of employees
3 providing care and maintenance services related to the
4 mandate is arbitrary, capricious, or entirely lacking in
5 evidentiary support.

6 To recalculate these costs, the controller reduced
7 the percentages of daily care and maintenance workload
8 identified by the claimants' employees so that the sum
9 of all percentages equaled 100 percent. The controller
10 has not explained the reasoning for reducing the times
11 spent on the mandate by the claimants' employees, or why
12 the percentages of time across all classifications has
13 to equal 100 percent.

14 After the proposed decision and the binders were
15 issued for this hearing, the parties filed comments
16 raising new issues that were not identified in the audit
17 report, as required by Government Code section 17558.5,
18 or in the incorrect reduction claim, or in the comments
19 on the incorrect reduction claim and the draft proposed
20 decision.

21 The controller's late comments now argue, for the
22 first time, that the reduction to the percentage of time
23 spent by the veterinary technician on care and
24 maintenance activities, from 85 percent to 20 percent,
25 was based on the duty statement of that classification

1 and on the controller's findings in other audits, and,
2 therefore, not arbitrary.

3 The claims late comments, in declarations filed on
4 Tuesday, explain why the veterinary technicians spent 85
5 percent of the time on care and maintenance in fiscal
6 year 2008 and 2009, and assert that in fiscal year
7 2007/2008, that percentage should be reduced to
8 60 percent.

9 There has been no further explanation of why the
10 percentages of times spent on care and maintenance was
11 reduced to 100 percent across all classifications.

12 There is no comment period provided in law after a
13 final proposed decision is issued since all issues are
14 to be raised during the audit, in comments on the
15 incorrect reduction claim and in comments on the draft
16 proposed decision.

17 The Commission's regulations in section 1185.7
18 further states that the Commission does not need to rely
19 on comments filed after the comment period expires.
20 Thus, the late comments have been provided to you, but
21 they are not addressed in this proposed decision.

22 Accordingly, the Commission can adopt the proposed
23 decision, which partially proves this incorrect
24 reduction claim, and not consider the new facts raised
25 pursuant to section 1185.7 of the Commission's

1 regulations; or, if the Commission wants to consider
2 this new information from the controller and the
3 claimant, staff recommends that the Commission direct
4 staff to address the new information in a revised
5 analysis and set the matter for the next September
6 hearing.

7 MS. PALCHIK: This is Heidi Palchik, Madam
8 Chairman.

9 I see that we have a hand raised by Mr. Jim
10 Venneman.

11 And before I unmute him, I also would like to note
12 that Mr. Andre Rivera is now in the meeting, and he is
13 here representing the treasurer, on behalf of Mr. Mark
14 Hariri. So I -- as a -- he's an alternate designee --

15 CHAIRPERSON MILLER: Oh, great.

16 MS. PALCHIK: -- from the treasurer. Sorry.

17 So I will now unmute Mr. Venneman.

18 CHAIRPERSON MILLER: Although are we hearing first
19 from the other parties? We need to hear from -- we need
20 to hear from Ms. Chinn or Ms. -- so Ms. Atteberry is --
21 will be commenting instead of Ms. Chinn. Is Ms. Chinn
22 on as well?

23 MS. HALSEY: Ms. Chinn is here and will be
24 presented on her IRC, yes.

25 CHAIRPERSON MILLER: All right. Thank you. I

1 appreciate that. Thanks, Ms. Palchik.

2 Ms. Chinn or Ms. Atteberry, for the town of Apple
3 Valley, would you like to begin and please state your
4 names again for the record.

5 MS. CHINN: Ms. Annette Chinn, Cost Recovery
6 Systems, consultant for the Town of Apple Valley and the
7 preparation of their claims for state reimbursement.

8 And we just wish to thank Commission staff for
9 their time spent on the analysis and that we partially
10 agree with their findings.

11 And regarding -- Ms. Atteberry is here today too,
12 to provide additional information if the Commission
13 determines that they would like to inquire further into
14 the additional matter.

15 We are content with the Commission's finding that
16 the percentage allocations should have been -- as the
17 city staff indicated, was the actual time spent. When
18 we were going through the details with the State
19 Controller's Office, after the proposed decision was
20 adopted, we noticed that there was a difference in the
21 dollar amounts that we were computing, and it became
22 apparent that we were not including all of the staff.
23 So we just requested that all of the staff that were
24 actually involved in the care and maintenance be
25 included and originally the State Controller's Office

1 were only going to allow two of the staff.

2 Commission responded back and said that that was
3 not correct, and that all of the staff should have been
4 corrected to the correct percentages and that we believe
5 that that's the correct and fair approach.

6 And if you have any questions specifically,
7 Ms. Atteberry is here from the town to answer those
8 questions.

9 CHAIRPERSON MILLER: Thank you, Ms. Chinn. I
10 appreciate this.

11 Ms. Atteberry.

12 MS. ATTEBERRY: Yes. Adrianna Atteberry, animal
13 services supervisor.

14 CHAIRPERSON MILLER: Great. Thank you.

15 Would you like to provide additional comments?

16 MS. ATTEBERRY: No, not at this time. I agree with
17 Ms. Chinn's comments at this time.

18 CHAIRPERSON MILLER: Great. Thank you very much.

19 Is there any further public comment on this item?

20 MS. PALCHIK: Mr. Venneman had his hand raised.

21 Mr. Venneman, you are now unmuted if you had
22 something to say.

23 MR. VENNEMAN: Yes, Madam Chair and Commission
24 Members.

25 This is Jim Venneman, State Controller's Office.

1 Sorry that we have some technical issues involving our
2 camera here, so I'm glad that at least you recognize
3 that we're here.

4 We don't have any particular issues at all with the
5 comments filed by the claimant, based on our comments
6 that we filed last week.

7 If the commission so decides that you want to go
8 ahead and -- we don't have any issues if you want to go
9 ahead and decide and adopt the proposed decision as it
10 is. If we raise the percentage for the registered
11 veterinarian technician to 85 percent for both years, we
12 don't have a particular problem with that. Yeah. From
13 60 to 85 for both years.

14 CHAIRPERSON MILLER: Ms. Shelton, could you comment
15 on that, please?

16 MS. SHELTON: It sounds like the controller is
17 agreeing with the proposed decision that is before you.
18 So it is the Commission's choice whether to not consider
19 the new information brought forward this last week, and
20 adopt the proposed decision as is, which, apparently
21 that's what the controller is saying is agreeable to
22 them at this point.

23 Otherwise, I would request that you send it back to
24 staff to have us do a whole new analysis on that issue,
25 which would include, even before getting to the merits,

1 that the information was not identified in the final
2 audit report. So there's a due process issue.

3 CHAIRPERSON MILLER: Great. Thank you very much.

4 I'm going to open it up for questions.

5 The Chair's recommendation is to approve the staff
6 recommendation today, and I do appreciate the
7 controller's support of that comment.

8 But, Ms. Wong-Hernandez, I see you have a question.

9 And we --

10 MEMBER WONG-HERNANDEZ: Great. For some reason, I
11 can't find the hand raising function today. My screen
12 is having -- so thank you.

13 I had a question of Mr. Venneman.

14 I just want to confirm, you are saying that from
15 your perspective -- that -- like, was that essentially
16 supporting the staff recommendation? I am trying to
17 better understand why there were late comments filed
18 about the staff proposed decision if now we're saying --
19 I mean, this is a tight time frame between the time that
20 the proposed draft decision came out, then late comments
21 were filed raising new issues that were not previously
22 brought up in the audit or the incorrect reduction
23 claim, but now we're saying that that is not a concern
24 anymore.

25 Can you just clarify that that's what I'm hearing?

1 MR. VENNEMAN: Absolutely.

2 Yes. Well, when the proposed decision came out, it
3 seemed like just that we had the percentages for all the
4 different classifications at the animal shelter, as
5 presented in the e-mail and provided by the animal
6 shelter manager. And we didn't have any particular
7 issues with those after we looked at it for a second
8 time, except for that we had an issue with the
9 Registered Veterinary Technician, and we were
10 questioning why a person in that classification would be
11 spending 85 percent of their time on routine care and
12 maintenance when their primary responsibility is to
13 perform veterinary service -- services. So that's why
14 we issued our comments last week questioning that.

15 Now, in the additional information provided by the
16 claimant, in response to what we submitted, it makes
17 sense that if staffing for the animal shelter attendant
18 was only half of what it would normally be in that
19 second fiscal year, that that's why the technician was
20 spending time filling in.

21 So based on the additional allowable costs, and if
22 we were to go ahead and argue about whether it was
23 60 percent or 85 percent, and having to send this back
24 to Commission staff to have to do another evaluation and
25 have to -- have to have another hearing, and go through

1 all this again, I don't think, for the amount of
2 additional allowable cost, that it's worth all the time
3 and effort.

4 Therefore, I think based on what we're talking
5 about this morning, it makes sense just to go ahead
6 and -- from our standpoint, to go ahead and adopt the
7 proposed decision, and we'll reinstate the additional
8 allowable costs and reissue the audit report.

9 CHAIRPERSON MILLER: Okay. Thank you,
10 Mr. Venneman.

11 And I would just say that timeliness on these
12 decisions is just an important part of making sure that
13 we're all rowing in the same direction. So I do think
14 that it's always -- just as a learning opportunity for
15 all of us to get these done in time.

16 Ms. Shelton.

17 And then any other questions.

18 MS. SHELTON: Just to make clear for the
19 controller's audit report, because we have had this
20 issue a couple of times.

21 So Government Code section 17558.5 requires that
22 all the reasons for the reduction be identified in the
23 final audit report. So if the controller is reducing a
24 claim on multiple grounds, all the grounds need to be
25 stated in that final audit report. Otherwise, you can't

1 raise new -- after the audit period expires, you cannot
2 raise a new ground for reduction. Those are just based
3 on due process reasons.

4 So we do encourage -- because some of these -- this
5 one, in particular, was very difficult. This incorrect
6 reduction claim had many issues. And this one didn't
7 appear to be difficult at first, and there were other
8 issues that were very difficult.

9 So it -- we do -- it needs to be clear to everybody
10 what the reasons for the reduction are, so that the
11 incorrect reduction claim can be filed and identified as
12 specific issues in this view.

13 CHAIRPERSON MILLER: Great. I appreciate that
14 clarification.

15 Thank you. Ms. Halsey.

16 MS. HALSEY: I just -- I just want to.

17 CHAIRPERSON MILLER: Sorry, Ms. Halsey.

18 MS. HALSEY: Oh, I just wanted to say, Member Adams
19 is raising his hands.

20 CHAIRPERSON MILLER: I think it was Ms. Ramirez and
21 then Mr. Adams.

22 Ms. Ramirez, please go ahead.

23 MEMBER RAMIREZ: Well, I want to -- I happen to be
24 the chair of our Ventura County Animal Services
25 Commission. I know what a difficult job it is, and

1 sometimes people don't really get that government has to
2 do the civilized thing and properly take care of the
3 animals that are in need and people that are in need of
4 care for their animals and community. So I appreciate
5 what the city is doing there, the town is doing.

6 And I -- as you have heard me many times before, a
7 lot of times the issue is proper funding, and the
8 Commission can't twist its rules to take care of that.
9 That's sort of a legislative problem that I really
10 sympathize with. But I think we have to follow the
11 rules or we're going to get totally tangled up in
12 perhaps what somebody might think is arbitrary
13 construct.

14 So I will support the staff's recommendation. And
15 congratulate the town for doing the best they could
16 under the circumstances.

17 Thank you.

18 CHAIRPERSON MILLER: Absolutely. Thank you,
19 Ms. Ramirez.

20 Mr. Adams.

21 MEMBER ADAMS: I was just wanting some
22 clarification from Ms. Shelton.

23 Would you prefer that we send this back, or would
24 you prefer we approve the staff recommendation as it is
25 today?

1 MS. SHELTON: I think you can approve the staff
2 recommendation as it is today, because if you send it
3 back, I'm going to write a whole due process analysis to
4 say that these issues were not raised. So I can't
5 consider them anyway.

6 MEMBER ADAMS: Okay. I would certainly -- okay.
7 Thank you. Just wanted to clarify. Thanks.

8 CHAIRPERSON MILLER: Thank you very much.

9 So Ms. Chinn.

10 And then Ms. Olsen, was that a question or was
11 that just -- nope. Okay. Got it.

12 Ms. Chinn, did you want to -- do you have a comment
13 on that?

14 MS. CHINN: I just wanted to add, just for the
15 record, that even though we're not fighting over the
16 other reductions, it doesn't mean we agree with them.

17 We do believe that the overhead rates should have
18 been included in the computations, and we do believe
19 that a percentage of the facility costs should have been
20 considered an allowable cost. You know, we realize that
21 there's nothing specific in writing that says the
22 facility was built solely because of the state-mandated
23 program.

24 Obviously, when people are building facilities, the
25 multifaceted project, there's a lot of moving pieces and

1 a lot of considerations, because there was a large
2 increase in the percentage of animals that they had to
3 care for and those animals came from state law.

4 So, you know, technically, yes, we can't dot every
5 "I" and cross every "T," but I think the intent of the
6 state mandates is to fairly compensate local agencies
7 for the costs that they incur for those programs. And,
8 you know, we did our due diligence in providing all the
9 back-up for the documentation.

10 We didn't include a hundred percent. We did the
11 formula. We came up with a computation of what we
12 thought was eligible animals based on just the
13 state-mandated program. So I just wanted to put that in
14 the record.

15 And, you know, it's disappointing to see that you
16 are not able to get your costs reimbursed that were
17 incurred as a result of the mandate, because, you know,
18 there's a little technicality here or there, that you
19 can't check the box and say, "Oh, we did this exactly
20 correctly."

21 So it's -- it's frustrating, and we think it's
22 unfair, but, you know, I don't -- I'm not sure, at this
23 point, what our recourse is.

24 CHAIRPERSON MILLER: Well, I appreciate you -- I do
25 think that the reason we have these strict due process

1 requirements is for both sides to kind of have a really
2 fair process. So it's -- it is less of a technicality
3 and more about making sure that everybody goes through
4 the same process with these really complicated claims.

5 But I really -- I sincerely appreciate you being
6 here.

7 And any other questions from the board? Any --

8 MS. SHELTON: Can I just address that one last
9 point?

10 The difficulty here is that this is not a new
11 program. This is just an incremental higher level of
12 service. And the legislature required that our
13 parameters and guidelines be very specific with respect
14 to building new facilities, that they had to be tagged
15 precisely to the higher level of service, because animal
16 shelters have always had to hold dogs and cats.

17 And so there was no documentation, as required by
18 the legislature and required by these parameters and
19 guidelines, to show that the building was done as a
20 direct result of this mandate. And it needed a board
21 resolution to make that -- those specific findings.

22 And so it is very specific, but hands are tied here
23 for that. This is not a new program. It's just a very
24 incremental increase in an existing program.

25 MS. CHINN: Yes, I understand that.

1 And I just wanted to mention that we only did
2 include the increment that was related to that cost.
3 But, you know, because we don't have that board
4 certification, we don't have something that says,
5 specifically, it was just because of the mandate. We
6 get -- we lose everything, so it seems unfortunate.

7 CHAIRPERSON MILLER: Thank you again. We really
8 appreciate you participating today.

9 Any other public comment on this matter?

10 Ms. Palchik?

11 MS. PALCHIK: No. I see none.

12 MS. HALSEY: Mr. Adams is raising his hand.

13 CHAIRPERSON MILLER: Oh, Mr. Adams, I apologize.

14 MEMBER ADAMS: No worries.

15 I was just going to make a comment that I own two
16 cats and two dogs, and I would love to see the tests
17 they do to see if a cat is feral or not feral. I
18 haven't figured that out with my own.

19 And with that, I would make a motion to move the
20 staff recommendation.

21 CHAIRPERSON MILLER: I appreciate that, Mr. Adams.
22 Thank you.

23 Do we have a second?

24 MEMBER LEE: Second.

25 CHAIRPERSON MILLER: Seconded by Ms. Lee. Moved by

1 Mr. Adams. Seconded by Ms. Lee.

2 Seeing no further discussion, may -- Ms. Halsey,
3 will you take the roll, please.

4 MS. HALSEY: Mr. Adams.

5 MEMBER ADAMS: Aye.

6 MS. HALSEY: Ms. Lee.

7 MEMBER LEE: Aye.

8 MS. HALSEY: Ms. Miller.

9 CHAIRPERSON MILLER: Aye.

10 MS. HALSEY: Ms. Olsen.

11 MEMBER OLSEN: Aye.

12 MS. HALSEY: Ms. Ramirez.

13 MEMBER RAMIREZ: Aye.

14 MS. HALSEY: Ms. Wong-Hernandez.

15 MEMBER WONG-HERNANDEZ: Aye.

16 CHAIRPERSON MILLER: Great. That motion carries.

17 Thank you very much.

18 We now -- oh, go ahead, Ms. Halsey. Sorry.

19 We now ask the presenters for Item 4 to please turn
20 out of their video and mute their microphones.

21 Item 5 is reserved for county applications for a
22 finding of significant financial distress or SB 1033
23 applications. No SB 1033 applications have been filed.

24 Program Analyst Kerry Ortman, please turn on your
25 video and microphone and present Item 7, the Legislative

1 Update.

2 MS. ORTMAN: Hello. Good morning.

3 So I have five bills to report on today:

4 First is SB 287, Commission on State Mandates:

5 Test claims: Filing date, which proposes language that
6 would specify that for purposes of filing the test
7 claim, based -- based on the date of incurring increased
8 costs, the phrase "within 12 months" means by June 30 of
9 the fiscal year following the fiscal year in which
10 increased costs were first incurred by the test
11 claimant.

12 The bill is currently being held in Assembly
13 Committee under submission.

14 The second bill, AB 2395, State mandates: Claims,
15 proposes reducing the statutorily mandated minimum
16 amount of costs incurred to file a test claim from
17 \$1,000 to \$900.

18 On February 24th, the bill was referred to the
19 Assembly Committee on Local Government, and according to
20 the author's office, this is a spot bill.

21 The third, SB 1371, Maintenance of the codes. This
22 bill makes technical, nonsubstantive changes to clean
23 up, among other codes, Government Code section 17581.7,
24 which addresses the Community College State Mandate
25 Block Grant Fund. On March 12th, 2020, the bill was

1 referred to the Committee on the Judiciary.

2 The fourth bill, SB 98, Education Finance:
3 Education omnibus budget trailer bill. SB 98 was
4 introduced by the Committee on Budget and Fiscal Review
5 on January 10th, 2019.

6 This bill allows the Director of Finance to reduce
7 the inflation or cost of living adjustments in the
8 Education Mandate Block Grant authorized by Government
9 Code section 17581.6, by a percentage equal to or
10 greater than the projected growth rate of the minimum
11 amount necessary to meet the requirements of Section 8
12 of the California Constitution but not less than zero.

13 On June 29th, 2020, the bill was chaptered by the
14 Secretary of State, Chapter 24, Statutes of 2020.

15 The final bill, AB 77, Education finance:
16 Education omnibus budget trailer bill, proposes the same
17 action as SB 98. And on June 24, 2020, this bill passed
18 out of the Senate Committee on Budget and Fiscal Review
19 and was ordered to a third reading.

20 And that's all I have for you today.

21 CHAIRPERSON MILLER: Thank you very much for that
22 report.

23 Any questions for Ms. Ortman?

24 (No response)

25 CHAIRPERSON MILLER: No? Okay. Great.

1 MS. HALSEY: Thank you, Kerry.

2 Item 8 is the Chief Legal Counsel Report. Camille
3 Shelton, please turn on your video and microphone and
4 present Item 8.

5 MS. SHELTON: Yes, good morning.

6 Since our last hearing, the Commission and the
7 Department of Finance have filed petitions for review
8 and requests for de-publication of the Court of Appeal
9 opinion in Coast Community College District versus
10 Commission on State Mandates, and that's dealing with
11 the minimum conditions for state aid test claim.

12 Also, appeals and cross-appeals have been filed in
13 a lawsuit dealing with discharge of stormwater runoff.
14 That case is now pending in the Third District Court of
15 Appeal, and that case will be addressing the new program
16 higher level of service and fee authority issues.

17 We have no recent decisions, but we have a pretty
18 big hearing calendar:

19 We have a hearing next Tuesday, July 28th, in
20 Sacramento County Superior Court, on City of San Diego
21 versus Commission on State Mandates, which deals with
22 the lead sampling in schools test claim.

23 On September 18th, we have a status conference
24 on -- in the case of California School Board Association
25 versus The State of California, which that case is on

1 remand from the California Supreme Court.

2 And then on October 20th, 2020, the Second District
3 Court of Appeal has set a second hearing in the
4 challenge to municipal stormwater and urban runoff
5 discharges, and that hearing will address the new
6 program higher level of service and fee authority issues
7 relating to that stormwater permit.

8 And that's all I have.

9 CHAIRPERSON MILLER: Thank you very much.

10 Any questions for Ms. Shelton from the Commission?

11 (No response)

12 CHAIRPERSON MILLER: Seeing none, moving on to the
13 Executive Director Report.

14 MS. HALSEY: Thank you.

15 For our 2020/2021 budget, the governor signed the
16 Budget Act on June 29th, 2020. The Budget Act this year
17 was made up of both the assembly and the senate bill as
18 well as -- I need -- I didn't count them, but I have
19 them listed in my footnote -- 20 or so additional bills
20 due to COVID. The traditional process wasn't able to be
21 followed this year in the legislature for enacting the
22 budget.

23 The Commission's operating budget was approved as
24 proposed, less the approved BCP, which was withdrawn
25 because of budget shortfalls and expenditure increases

1 due to the COVID-19 response.

2 The budget appropriates 41 -- \$41.147 million for
3 local agency mandated programs and also provides up to
4 \$4 million for county-optional block grant programs
5 administered by the Department of Social Services for
6 the Interagency Child Abuse and Neglect Investigation
7 Reports, or ICAN mandate.

8 Additionally, with regard to schools, the budget
9 funds all mandated programs that were not suspended, at
10 \$1,000 each, and then appropriates 242 million for the
11 K-12 Block Grant and 33 million for the Community
12 Colleges Block Grant programs. The budget also
13 appropriated unexpended funds from prior year block
14 grant funding to provide reimbursement for the 2020/2021
15 year.

16 With regard to workload, after this hearing, there
17 are 41 pending test claims, 39 of which are regarding
18 stormwater NPDES permits. There are also two active
19 parameters and guidelines. One statewide cost -- and
20 one statewide cost estimate is pending inactive.

21 Also, there's an additional parameters and
22 guidelines and an additional statewide cost estimate,
23 both of which are regarding NPDES permits that are on
24 inactive status pending the outcome of litigation on the
25 test claims decisions underlying those matters.

1 In addition, there is one parameters and guidelines
2 on inactive status pending the outcome of litigation in
3 the CSBA case, which has been moving up and down in the
4 courts, if you've been following that.

5 And finally we have five -- I'm sorry, seven IRCs
6 pending currently, including three new filings.

7 Commission staff currently expects to complete all
8 currently pending test claims and IRCs by approximately
9 the July 2023 Commission meeting, depending on staffing
10 and other workload. However, some of the test claims
11 may be heard and decided earlier than currently
12 indicated if they are consolidated for a hearing. And
13 that will be determined when those records are complete.

14 For administrative workload, on July 1st, 2020, the
15 Commission reopened its physical office. It had been
16 closed since March 19th, and it's now open Monday
17 through Friday, from 8:00 to 5:00 p.m. Approximately
18 95 percent of the Commission's -- Commission-critical
19 functions can be performed remotely, and probably
20 actually more than that, and they have -- which they
21 have been since March 19th, 2020.

22 Therefore, the critical functions to be performed
23 at the office, to direct members of the public and
24 conduct state business, include answering the telephone
25 and door, processing mail and packages, and filing and

1 serving paper documents, if required. And we have moved
2 pretty much all of that to electronic, even in advance
3 of the COVID crisis.

4 Additionally, to maintain adequate flow of movement
5 with physical distancing and sufficient access to the
6 kitchen for breaks and hand washing to avoid large
7 numbers of staff in elevators and bathrooms, rotational
8 work is required. Staffing in the office during this
9 Phase 3 reopening has been limited to two Commission
10 staff per day until further notice. Commission staff
11 not scheduled to be in the office are teleworking
12 largely as though they were in the office.

13 For tentative agenda items, please see my written
14 ED report to see if an item you are interested in is
15 coming up in the next couple of hearings. You can also
16 use the pending caseload to see all of our pending
17 matters and when they are currently anticipated to be
18 set for hearing.

19 And that is all I have.

20 CHAIRPERSON MILLER: Great. Thank you very much.

21 And congratulations to your whole team on being so
22 nimble during these unprecedented times.

23 Any comments or questions for the Executive
24 Director? No? Any public comment? No?

25 Ms. Ramirez, are you trying to speak?

1 MEMBER RAMIREZ: Yeah.

2 CHAIRPERSON MILLER: Okay. Ms. Ramirez, you are
3 muted again.

4 MEMBER RAMIREZ: It keeps muting me. I don't know
5 why; they want me to shut up.

6 CHAIRPERSON MILLER: That's not true.

7 MEMBER RAMIREZ: No. I just echo those comments.
8 We have all been living through a very difficult time,
9 and I can't imagine what it's like to be in charge of a
10 state agency, Ms. Halsey, and to try to keep it -- keep
11 government functioning.

12 Like we all do, those of us who are elected and
13 everybody working for and caring about our state
14 government, under these circumstances, I'm just so glad
15 we have the technology. Otherwise, we would be in
16 danger or government would grind to a halt. And people
17 need -- people need government, despite what anybody
18 would tell you.

19 Thank you.

20 CHAIRPERSON MILLER: Thank you for that.

21 Okay. I think no public comment, right,
22 Ms. Palchik, on any of that?

23 MS. PALCHIK: That is correct. I see none.

24 CHAIRPERSON MILLER: Great. Thank you very much.

25 So now we will -- the Commission will meet in

1 closed executive session. Ms. Palchik did send a
2 reminder of that Zoom link. So let me just make sure
3 that we read the reason we're going into closed session:

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

12 We will reconvene in open session in approximately
13 15 minutes.

14 So for members of the public, this is your open
15 session Zoom. We will all come back on this. For
16 members of the Commission, if you could please leave
17 this meeting, go to the e-mail that Ms. Palchik sent,
18 and come back into closed session. So we are going to
19 leave this meeting now, and then you will reuse this
20 same Zoom link to come back into open session.

21 Any questions on that? Anyone not receive the
22 e-mail? We can have Ms. Palchik or Ms. Halsey resend
23 it.

24 (No response)

25 CHAIRPERSON MILLER: Okay. Seeing none, we're

1 going to leave now and meet in closed session.

2 Thank you.

3 (Closed session was held from
4 10:46 a.m. to 10:55 a.m.)

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

14 If there's no further business to discuss, I will
15 entertain a motion to adjourn.

16 Ms. Wong-Hernandez, will you move to adjourn.

17 MEMBER WONG-HERNANDEZ: Move to adjourn.

18 CHAIRPERSON MILLER: Thank you very much.

19 All those in favor of adjourning, please say "aye."

20 (Ayes)

21 CHAIRPERSON MILLER: Great. Thank you very much.

22 All those opposed to adjourning, please say "no."

23 (No response)

24 CHAIRPERSON MILLER: Seeing none, this matter is
25 adjourned. Thank you very much, everyone, and take

1 care. Have a great day. Thank you again to Commission
2 staff for all their great work on this hearing. Bye.

3 (Proceedings concluded at 10:57 a.m.)

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CERTIFICATE OF REPORTER

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand
this 18th day of August 2020.


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