

## ITEM 8

### CHIEF LEGAL COUNSEL'S REPORT New Filings, Recent Decisions, Litigation Calendar

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This public session report is intended only as an information item for the public.<sup>1</sup> Commission communications with legal counsel about pending litigation or potential litigation are reserved for Closed Executive Session, per the Notice and Agenda.

#### New Filings

**1. California Supreme Court Accepts Petition for Review and Orders the Court of Appeal Opinion De-Published**

*Coast Community College District, et al. v. Commission on State Mandates, Department of Finance*

California Supreme Court, Case No. S262663

Third District Court of Appeal, Case No. C080349

(*Minimum Conditions for State Aid*, 02-TC-25/02-TC-31)

Review is granted on the following issues:

- a) Whether regulations that establish minimum conditions entitling California community college districts to receive state aid constitute a reimbursable state mandate within the meaning of article XIII B, section 6 of the California Constitution.
- b) Whether a court lacks jurisdiction under article XIII B, section 6 of the California Constitution to make subvention findings on statutes that were not specifically identified in an initial test claim.
- c) Whether a court lacks jurisdiction to remand a test claim based on a statute that was the subject of a prior final decision by the Commission on State Mandates.

**2. Sacramento County Superior Court Upholds Commission Decision**

*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))

On July 30, 2020, the court issued its ruling agreeing with the Commission's decision finding that the requirement to test for lead in the drinking water of every K-12 school that a public water system (PWS) serves and that requests testing at no charge to the school does not constitute a new program or higher level of service since the requirement is not uniquely imposed on government, and the provision of water service does not constitute a peculiarly governmental service to the public.

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<sup>1</sup> Based on information available as of September 10, 2020. Release of this litigation report shall not be deemed to be a waiver of any privileged communication or act, including, but not limited to, the attorney-client privilege and the attorney work product doctrine.

## **Recent Decisions**

None.

## **Litigation Calendar**

<b><u>Cases</u></b>	<b><u>Date of Hearing</u></b>
<b><i>California School Boards Assoc., et al. v. State of California, Commission on State Mandates, John Chiang, as State Controller, and Ana Matosantos, as Director of the Department of Finance</i></b> Alameda County Superior Court, Case No. RG11554698, On Remand from California Supreme Court, Case No. S247266 and First District Court of Appeal, Case No. A148606 (Mandates process for K-12 school districts, redetermination statutes, budget trailer bills (Education Code sections 42238.24 and 56523))	November 13, 2020 (Continued from September 18, 2020).
<b><i>REMAND OF 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</i></b> Second District Court of Appeal, Case No. B292446 <i>Municipal Storm Water and Urban Runoff Discharges</i> , 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)	Heard June 23, 2020, and continued by the court to October 20, 2020