

Item 1

Proposed Minutes

COMMISSION ON STATE MANDATES

Location of Meeting: Room 447
State Capitol, Sacramento, California
July 26, 2019

Present: Member Keely Bosler, Chairperson
Director of the Department of Finance
Member Jacqueline Wong-Hernandez
Representative of the State Controller, Vice Chairperson
Member Lee Adams
County Supervisor
Member Mark Hariri
Representative of the State Treasurer
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

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 Bosler called the meeting to order at 10:02 a.m., introduced returning Commission Member and new Vice Chairperson Ms. Jacqueline Wong-Hernandez, the designee for the State Controller, and noted that Ms. Gayle Miller was out on vacation. Executive Director Heather Halsey called the roll.

APPROVAL OF MINUTES

Chairperson Bosler asked if there were any objections or corrections to the May 24, 2019 minutes. Member Olsen made a motion to adopt the minutes. With a second by Member Ramirez, the May 24, 2019 hearing minutes were adopted by a unanimous voice vote.

PUBLIC COMMENT FOR MATTERS NOT ON THE AGENDA

The Chairperson 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)

ORDER TO SET ASIDE DECISIONS

- Item 3* *Sexually Violent Predators (CSM-4509)*, 12-MR-01-R
- ORDER TO SET ASIDE THE STATEMENT OF DECISION ADOPTED DECEMBER 6, 2013; THE STATEMENT OF DECISION AND AMENDED PARAMETERS AND GUIDELINES ADOPTED MAY 30, 2014; AND THE STATEWIDE COST ESTIMATE ADOPTED MARCH 27, 2015, PURSUANT TO COURT'S JUDGMENT AND WRIT, *COUNTY OF SAN DIEGO V. COMMISSION ON STATE MANDATES* (2018) 6 CAL.5TH 196; JUDGMENT AND WRIT OF MANDATE ISSUED BY SAN DIEGO COUNTY SUPERIOR COURT, CASE NO.: 37-2014-00005050-CU-WM-CTL

ADOPTION OF ORDER TO INITIATE RULEMAKING

- Item 7* General Cleanup Provisions, Proposed Amendments to California Code of Regulations, Title 2, Division 2, Chapter 2.5, Articles 1, 3, 4, 5, 6, 7, 8, and 10

STATEWIDE COST ESTIMATE

- Item 8* *Local Agency Employee Organizations: Impasse Procedures II*, 16-TC-04
- Government Code Sections 3505.4(a-d) and 3505.5(a-d);
Statutes 2012, Chapter 314 (AB 1606)
- City of Oxnard, Claimant

Executive Director Halsey stated that Items 3, 7, and 8 were proposed for consent. Member Ramirez made a motion to adopt the Consent Calendar. Member Wong-Hernandez seconded the motion.

Chairperson Bosler asked if there was any public comment regarding the Consent Calendar. There was no response. The Consent Calendar was adopted by a unanimous voice vote.

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

Executive Director Halsey stated that Item 4, a Test Claim on *Youth Offender Parole Hearings*, had been postponed to the September hearing at the request of the claimant and 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.

MANDATE REDETERMINATION

Item 5 *High School Exit Examination (00-TC-06), 17-MR-01*

First Hearing: Adequate Showing

Education Code Sections 60850, 60851, 60853, 60855; Statutes 1999x, Chapter 1 and Statutes 1999, Chapter 135; California Code of Regulations Title 5, Sections 1200-1225 (regulations effective July 20, 2001 [Register 01, No. 25] and regulations effective May 1, 2003 [Register 03, No. 18]); as alleged to be modified by Statutes 2015, Chapter 572 (SB 172); and Statutes 2017, Chapter 641 (AB 830)

Department of Finance, Requester

Senior Commission Counsel Raj Dixit presented this item and stated that this is the first of two hearings in the mandate redetermination process. This first hearing is limited to determining whether the requester made an adequate showing that the State's liability has been modified based on a subsequent change in law. Mr. Dixit recommended that the Commission adopt the Decision finding that Finance had made an adequate showing and direct staff to notice the second hearing to determine if a new test claim decision shall be adopted to supersede the previously adopted Test Claim Decision.

Parties were represented as follows: Amber Alexander appeared on behalf of the Department of Finance.

There was no comment from parties, interested parties, or the public on this matter. Member Olsen made a motion to adopt the staff recommendation. With a second by Member Hariri, the motion to adopt the staff recommendation was adopted by a vote of 7-0.

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

Item 6 Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commission, or to a Hearing Officer

No applications were filed.

STAFF REPORTS

Item 9 Legislative Update (info)

Program Analyst Kerry Ortman presented this item and described three bills that the Commission is tracking: SB 287, AB 400, and AB 1471.

Item 10 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar (info)

Chief Legal Counsel Camille Shelton presented this item.

Item 11 Executive Director: Budget, Workload Update and Tentative Agenda Items for the September and November 2019 Meetings (info)

Executive Director Halsey presented this item and reported that the Governor signed the 2019 Budget Act which included a one-time payment of \$15.1 million to repay local agencies for four

mandated programs as well as \$4 million for a county-optional block grant program, that Commission's operating budget had been approved as proposed including an additional one-half PY for a human resources program analyst, and described the Commission's pending caseload.

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

A. PENDING LITIGATION

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

Trial Courts:

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

Courts of Appeal:

1. ***Coast Community College District, et al. v. Commission on State Mandates***,
Third District Court of Appeal, Case No. C080349
Sacramento County Superior Court, Case No. 34-2014-80001842
[*Minimum Conditions for State Aid*, 02-TC-25/02-TC-31
(Education Code Sections 66721, 66721.5, 66722, 66722.5, 66731, 66732, 66736, 66737, 66738, 66740, 66741, 66742, 66743, 70901, 70901.5, 70902, 71027, 78015, 78016, 78211.5, 78212, 78213, 78214, 78215, 78216, 87482.6, and 87482.7; Statutes 1975, Chapter 802; Statutes 1976, Chapters 275, 783, 1010, and 1176; Statutes 1977, Chapters 36 and 967; Statutes 1979, Chapters 797 and 977; Statutes 1980, Chapter 910; Statutes 1981, Chapters 470 and 891; Statutes 1982, Chapters 1117 and 1329; Statutes 1983, Chapters 143 and 537; Statutes 1984, Chapter 1371; Statutes 1986, Chapter 1467; Statutes 1988, Chapters 973 and 1514; Statutes 1990, Chapters 1372 and 1667; Statutes 1991, Chapters 1038, 1188, and 1198; Statutes 1995, Chapters 493 and 758; Statutes

1998, Chapter 365, 914, and 1023; Statutes 1999, Chapter 587; Statutes 2000, Chapter 187; and Statutes 2002, Chapter 1169; California Code of Regulations, Title 5, Sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, 51027, 51100, 51102, 53200, 53202, 53203, 53204, 53207, 53300, 53301, 53302, 53308, 53309, 53310, 53311, 53312, 53314, 54626, 54805, 55000, 55000.5, 55001, 55002, 55002.5, 55004, 55005, 55006, 55100, 55130, 55150, 55160, 55170, 55182, 55200, 55201, 55202, 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320, 55321, 55322, 55340, 55350, 55401, 55402, 55403, 55404, 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520, 55521, 55522, 55523, 55524, 55525, 55526, 55530, 55532, 55534, 55600, 55601, 55602, 55602.5, 55603, 55605, 55607, 55620, 55630, 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, 55765, 55800, 55800.5, 55801, 55805, 55805.5, 55806, 55807, 55808, 55809, 55825, 55827, 55828, 55829, 55830, 55831, 58102, 58104, 58106, 58107, 58108, 59404, and 59410; Handbook of Accreditation and Policy Manual, Accrediting Commission for Community and Junior Colleges (Summer 2002); and “Program and Course Approval Handbook” Chancellor’s Office California Community Colleges (September 2001).]

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

California Supreme Court:

1. *California School Board Association (CSBA) v. State of California et al.*
California Supreme Court, Case No S247266
First District Court of Appeal, Case No. A148606
Alameda County Superior Court, Case No. RG11554698
[2010-2011 Budget Trailer Bills; Education Code sections 42238.24 and 56523]
2. *Paradise Irrigation District, et al. v. Commission on State Mandates, Department of Finance, and Department of Water Resources*
California Supreme Court, Case No. S255512
Third District Court of Appeal, Case No. C081929
Sacramento County Superior Court, Case No. 34-2015-80002016
[*Water Conservation* (10-TC-12/12-TC-01, adopted December 5, 2014), Water Code Division 6, Part 2.55 [sections 10608-10608.64] and Part 2.8 [sections 10800-10853] as added by Statutes 2009-2010, 7th Extraordinary Session, Chapter 4 California Code of Regulations, Title 23, Division 2, Chapter 5.1, Article 2, Sections 597-597.4; Register 2012, No. 28.]

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 10:15 a.m., pursuant to Government Code section 11126(e), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda; and to confer with and receive advice from legal counsel regarding potential litigation; and to confer on personnel matters pursuant to Government Code section 11126(a)(1).

RECOVENE IN PUBLIC SESSION

REPORT FROM CLOSED EXECUTIVE SESSION

At 10:24 a.m., the Commission reconvened in open session.

ADJOURNMENT

Hearing no further business, Chairperson Bosler requested a motion to adjourn the meeting. Member Olsen made a motion to adjourn the meeting. Member Ramirez seconded the motion.

Chairperson Bosler 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.

The July 26, 2019 meeting was adjourned by a unanimous voice vote at 10:26 a.m.

Heather Halsey
Executive Director

STATE OF CALIFORNIA
COMMISSION ON STATE MANDATES

PUBLIC MEETING

RECEIVED

AUG 22 2019

**COMMISSION ON
STATE MANDATES**

FRIDAY, JULY 26, 2019

10:02 A.M.

STATE CAPITOL BUILDING

ROOM 447

SACRAMENTO, CALIFORNIA

REPORTER'S TRANSCRIPT OF PROCEEDINGS

ORIGINAL

REPORTED BY:

KATHRYN S. SWANK

Certified Shorthand Reporter No. 13061

Registered Professional Reporter

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

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

A P P E A R A N C E S

COMMISSIONERS PRESENT

KEELY BOSLER
Department of Finance, Director
(Chair of the Commission)

JACQUELINE WONG-HERNANDEZ
Representative for BETTY T. YEE
State Controller
(Vice Chair of the Commission)

MARK HARIRI
Representative for FIONA MA
State Treasurer

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

LEE ADAMS III
Sierra County Supervisor
Local Agency Member

SARAH OLSEN
Public Member

M. CARMEN RAMIREZ
Oxnard City Council Member
Local Agency Member

---o0o---

COMMISSION STAFF

RAJ DIXIT
Senior Commission Counsel

HEATHER A. HALSEY
Executive Director

KERRY ORTMAN
Program Analyst

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

HEIDI PALCHIK
Assistant Executive Director

CAMILLE N. SHELTON
Chief Legal Counsel

---o0o---

PUBLIC PARTICIPANTS

AMBER ALEXANDER
Department of Finance

---o0o---

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

[illegible]

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

I N D E X

ITEM NO.		PAGE
I.	Call to Order and Roll Call	10
II.	Approval of Minutes	11
	Item 1 May 24, 2019	
III.	Public Comment for Matters Not on the Agenda (none)	12
IV.	Proposed Consent Calendar for Items Proposed for Adoption on Consent Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Articles 7 and 8	12
V.	Hearings and Decisions Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 7	
A.	Appeal of Executive Director Decisions Pursuant to California Code of Regulations, Title 2, Section 1181.1(c)	
	Item 2 Appeal of Executive Director Decisions (none)	14
B.	Order to Set Aside Decisions	
	Item 3 Sexually Violent Predators (CSM-4509), 12-MR-01-R	12

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

ITEM NO.		PAGE
----------	--	------

	Item 3 (Continued)	12
--	-------------------------	----

Order to Set Aside the
Statement of Decision Adopted
December 6, 2013; The
Statement of Decision and
Amended Parameters and
Guidelines Adopted May 30, 2014;
and the Statewide Cost Estimate
Adopted March 27, 2015,
Pursuant to Court's Judgment
and Writ, County of San
Diego v. Commission on State
Mandates (2018) 6 Cal.5th 196;
Judgment and Writ of Mandate
Issued by San Diego County
Superior Court, Case No.
37-2014-00005050-CU-WM-CTL

C. Test Claims

	Item 4 Youth Offender Parole Hearings, 17-TC-29 (postponed)	13
--	---	----

Penal Code Section 3041,
3046, 3051, and 4801;
Statutes 2013, Chapter 312
(AB 260); Statutes 2015,
Chapter 471 (SB 261);
Statutes 2017, Chapter
675 (AB 1308); Statutes
2017, Chapter 684 (SB 394)

City of San Diego, Claimant

D. Mandate Redeterminations

	Item 5 High School Exit Examination (00-TC-06), 17-MR-01 First Hearing: Adequate Showing	14
--	--	----

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

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

ITEM NO. PAGE

Item 5 (Continued) 14

Education Code Sections
60850, 60851, 60853, 60855;
Statutes 1999X, Chapter 1
and Statutes 1999, Chapter 135;
California Code of
Regulations Title 5, Sections
1200-1225 (regulations
effective July 20, 2001
[Register 01, No. 25] and
regulations effective May 1, 2003
[Register 03, No. 18]); as
alleged to be modified by
Statutes 2015, Chapter 572
(SB 172); and Statutes 2017,
Chapter 641 (AB 830)

Department of Finance, Requester

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 6 Assignment of County 17
Application to Commission,
a Hearing Panel of One or
More Members of the Commission,
or to a Hearing Officer (none)

VII. Informational Hearing Pursuant to
California Code of Regulations, Title 2,
Chapter 2.5, Article 8

A. Adoption of Order to Initiate Rulemaking

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

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

ITEM NO.		PAGE
	Item 7 General Cleanup Provisions, Proposed Amendments to California Code of Regulations, Title 2, Division 2, Chapter 2.5, Articles 1, 3, 4, 5, 6, 7, 8, and 10	12
B.	Statewide Cost Estimate	
	Item 8 Local Agency Employee Organizations: Impasse Procedures II, 16-TC-04 Government Code Sections 3505.4(a-d) and 3505.5(a-d); Statutes 2012, Chapter 314 (AB 1606) City of Oxnard, Claimant	12
VIII.	Reports	
	Item 9 Legislative Update	17
	Item 10 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar	18
	Item 11 Executive Director: Workload Update and Tentative Agenda Items for the September and November 2019 Meetings	19
IX.	Closed Executive Session Pursuant to Government Code Sections 11126 and 11126.2	22
	A. Pending Litigation	
	B. Personnel	

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

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

ITEM NO.	PAGE
X. Report from Closed Executive Session	22
Adjournment	23
Reporter's Certificate	24

---o0o---

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

SACRAMENTO, CALIFORNIA

FRIDAY, JULY 26, 2019, 10:02 A.M.

---o0o---

CHAIRPERSON BOSLER: We will go ahead and get started. Good morning. Good morning, everyone.

Welcome to the hearing on the Commission on State Mandates. We will come to -- and so this meeting will come to order, and I have some housekeeping information. So on the table here near the end of the dais -- where is that? Right over here, there are copies of the meeting notice agenda, new filings, witness list, and the electronic public hearing binder is also located there on -- here on the laptops over there.

At the witness table, the claimant and local agency interested parties sit facing the center of the dais, and then the state agency parties will sit to the claimant's right.

The restrooms are located down the hall, near the elevators. Probably you came up that way. And then please take note of the emergency exits in this room. There are -- oh, there are three. That's good. Okay. Never been out that door.

Please join me in welcoming back to the commission -- this is an exciting moment -- Commissioner Jacqueline Wong-Hernandez. She's the designee for the

1 Controller. So we're happy to see her back in her
2 capacity. Of course, I'm still mourning her loss,
3 because she -- it's a big loss for me to fill.

4 And Gayle Miller, who is usually sitting in for me,
5 will be, I'm sure, back next month. She's on vacation.

6 Heather, why don't you go ahead and call the roll.

7 MS. HALSEY: Sure. Mr. Adams.

8 MEMBER ADAMS: Here.

9 MS. HALSEY: Ms. Bosler.

10 CHAIRPERSON BOSLER: Here.

11 MS. HALSEY: Mr. Hariri.

12 MEMBER HARIRI: Here.

13 MS. HALSEY: Ms. Lee.

14 MEMBER LEE: Here.

15 MS. HALSEY: Ms. Olsen.

16 MEMBER OLSEN: Here.

17 MS. HALSEY: Ms. Ramirez.

18 MEMBER RAMIREZ: Here.

19 MS. HALSEY: Ms. Wong-Hernandez.

20 MEMBER WONG-HERNANDEZ: Here.

21 CHAIRPERSON BOSLER: All right. We'll start with
22 the minutes.

23 Are there any objections or corrections to the
24 May 24th minutes?

25 MEMBER OLSEN: Move adoption.

1 MEMBER RAMIREZ: Second.

2 CHAIRPERSON BOSLER: It's been moved and seconded.

3 So we have a motion and a second to adopt the
4 May 24th minutes. All those in favor of adopting the
5 minutes, please signify by saying "aye."

6 (Ayes)

7 CHAIRPERSON BOSLER: The minutes are adopted.

8 MS. HALSEY: Now we will take up -- my microphone
9 is not working. These microphones are not on. I should
10 say, this panel. Sorry. I am just going to speak up.
11 Thank you.

12 And now we will take up public comment for matters
13 not on the agenda. Please note that the Commission
14 cannot take action on items not on the agenda. However,
15 it can schedule issues raised by the public for
16 consideration at future meetings.

17 CHAIRPERSON BOSLER: Is there anyone who wants to
18 bring any public comment forward that's not related to
19 the agenda?

20 (No response)

21 CHAIRPERSON BOSLER: All right. It looks like
22 there is none.

23 MS. HALSEY: Moving on, Items 3, 7, and 8 are
24 proposed for consent.

25 MEMBER RAMIREZ: I move the recommended action.

1 CHAIRPERSON BOSLER: All right. We have a motion
2 to move the proposed consent calendar.

3 Is there a --

4 MEMBER WONG-HERNANDEZ: Second.

5 CHAIRPERSON BOSLER: There's a second.

6 The motion has been moved and seconded.

7 All those in favor, signify by saying "aye."

8 (Ayes)

9 MS. HALSEY: Public comment?

10 CHAIRPERSON BOSLER: Oh, sorry.

11 Is there any public comment on the consent
12 calendar?

13 (No response)

14 CHAIRPERSON BOSLER: No. Okay. A lot of
15 procedural things today.

16 So those -- those in favor, signify by saying
17 "aye."

18 (Ayes)

19 CHAIRPERSON BOSLER: Motion is carried.

20 MS. HALSEY: Thank you.

21 Let's move to the Article 7 portion of the hearing.
22 Item 4, Test Claim on Youth Offender Parole Hearings,
23 has been postponed to the September hearing at the
24 request of the claimant.

25 Will the parties and witnesses for Item 5 please

1 rise.

2 (Parties/witnesses stood to be sworn or
3 affirmed.)

4 MS. HALSEY: Thank you.

5 Item 2 is reserved for appeals of Executive
6 Director decisions. There are no appeals to consider
7 for this hearing.

8 Next is Item 5. Senior Commission Counsel Raj
9 Dixit will present a request for mandate redetermination
10 on high school exit examination. At this time, we
11 invite the parties and witnesses for Item 5 to please
12 come to the table.

13 MR. DIXIT: Good morning, ladies and gentlemen.

14 This mandate redetermination requests that the
15 Commission adopt a new test claim decision to end the
16 State's liability for the high school exit examination,
17 or the "exam" -- I will call that here on out -- based
18 on a subsequent change in law. The subsequent change in
19 law arises from statutes that first suspended the
20 administration of the exam and the requirement that
21 every student pass the exam to receive a diploma. That
22 repealed the statutes that impose the mandate.

23 After the request for redetermination was filed,
24 the regulations that implemented the mandated program
25 were repealed.

1 Pursuant to the Government Code and the
2 Commission's regulations, this is the first of two
3 hearings in the mandate redetermination process. This
4 first hearing is limited to determining only whether the
5 requester has made an adequate showing that the State's
6 liability has been modified based on a subsequent change
7 in law.

8 Staff finds that Finance has made an adequate
9 showing that the State's liability has been modified
10 based on a subsequent change in law, and that there is a
11 substantial possibility that the request will prevail at
12 the second hearing. Accordingly, staff recommends that
13 the Commission adopt the proposed decision and direct
14 staff to notice the second hearing for September 27th,
15 2019, to determine if a new test claim decision shall be
16 adopted to supercede the previously adopted test claim
17 decision.

18 Further, staff requests authorization to make any
19 technical, nonsubstantive changes to the proposed
20 decision following the hearing.

21 Thank you.

22 CHAIRPERSON BOSLER: We will go with the parties
23 and witnesses stating their names for the record.

24 MS. ALEXANDER: Amber Alexander with Department of
25 Finance.

1 CHAIRPERSON BOSLER: And then we will go to public
2 comment.

3 Is there any public comment on this item?

4 (No response)

5 CHAIRPERSON BOSLER: Do any of the commission
6 members have any questions about this item?

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

9 CHAIRPERSON BOSLER: Thank you.
10 We have a motion.

11 MEMBER HARIRI: Second.

12 CHAIRPERSON BOSLER: There's been a motion and a
13 second.

14 Heather, please call the roll.

15 MS. HALSEY: Mr. Adams.

16 MEMBER ADAMS: Aye.

17 MS. HALSEY: Ms. Bosler.

18 CHAIRPERSON BOSLER: Aye.

19 MS. HALSEY: Mr. Hariri.

20 MEMBER HARIRI: Aye.

21 MS. HALSEY: Ms. Lee.

22 MEMBER LEE: Aye.

23 MS. HALSEY: Ms. Olsen.

24 MEMBER OLSEN: Aye.

25 MS. HALSEY: Ms. Ramirez.

1 MEMBER RAMIREZ: Aye.

2 MS. HALSEY: Ms. Wong-Hernandez.

3 MEMBER WONG-HERNANDEZ: Aye.

4 MS. HALSEY: Motion carries.

5 CHAIRPERSON BOSLER: Motion has carried.

6 Thank you.

7 MS. HALSEY: Item 6 is reserved for county
8 applications for a finding of significant financial
9 distress, or SB 1033 applications. No SB1033
10 applications have been filed.

11 Item 7 and 8 were on the consent calendar.

12 Item 9 is next. Program Analyst Kerry Ortman will
13 present this item, the legislative update.

14 MS. ORTMAN: Good morning.

15 We've been monitoring three bills:

16 First, SB 287, Commission on State Mandates, Test
17 Claims Filing Date, which proposes language that would
18 specify that for purposes of filing a test claim based
19 on the date of incurring increased costs, the phrase
20 "within 12 months" means by June 30 of the fiscal year
21 following the fiscal year in which increased costs were
22 first incurred by the test claimant. On June 26 the
23 bill was placed on the Assembly Appropriations Suspense
24 File.

25 Next, AB 400, State Mandates, is a spot bill,

1 according to the author's office.

2 And, finally, AB 1471, State-Mandated Local Costs
3 Notification. This proposes language that would specify
4 that reimbursement of lost revenue be provided to
5 certain level agencies as a result of delayed State
6 action pursuant to the same procedures as filing a test
7 claim with the Commission.

8 Also, the provisions of this bill would exempt from
9 the exceptions under Government Code 17556. This bill
10 did not make it out of the house -- of its house of
11 origin by the deadline, and, as a result, it may become
12 a two-year bill and could be acted on when the
13 Legislature reconvenes in 2020. And staff will continue
14 to monitor legislation for bills that impact the
15 mandates process.

16 Thank you.

17 CHAIRPERSON BOSLER: Thank you.

18 MS. HALSEY: Item 10, Chief Legal Counsel Report.
19 Camille Shelton will present this item.

20 MS. SHELTON: Good morning.

21 We do have one new petition for writ of mandate
22 filed by the City of San Diego that challenges the
23 Commission's decision in lead sampling in schools'
24 public water system. That petition was served July 10,
25 2019.

1 We also have a recent decision by the California
2 Supreme Court denying the petition for rereview in
3 Paradise Irrigation District. With that denial, that
4 means that the Court of Appeals's decision is now final,
5 and that decision holds that claimants continue to have
6 the legal authority to levy fees even if that authority
7 is subject to the majority protest provisions of
8 Proposition 218.

9 There is one court hearing date scheduled for the
10 remand of the Department of Finance and -- versus County
11 of San Diego and the Commission on State Mandate case
12 dealing with discharge of stormwater runoff. That
13 hearing is now scheduled for December 6.

14 And that's all I have.

15 CHAIRPERSON BOSLER: Thank you.

16 MS. HALSEY: Next is Item 11, the Executive
17 Director Report.

18 The Governor signed the 2019 Budget Act which
19 included, with regard to mandates, a one-time payment of
20 15.1 million to repay local agencies for costs incurred
21 for four mandates that have been identified by the
22 Legislature as expired or repealed. Repayment
23 represents the retirement of state obligations to local
24 agencies for costs incurred between 2004 and 2011 for
25 the following programs: Binding arbitration, fire

1 safety inspections of care facilities, local
2 recreational areas background screenings, and racial
3 profiling local law -- sorry, law enforcement training.

4 The budget also provides up to \$4 million for a
5 county-optional block grant program administered by the
6 Department of Social Services for the Interagency Child
7 Abuse and Neglect Investigation Reports, or ICAN
8 program.

9 Also, the Commission's operating budget was
10 approved as proposed, and it includes the addition of an
11 additional one half PY for a human resources program
12 analyst.

13 And with regard to our workload, after this
14 hearing, there are four pending -- 40 pending test
15 claims, 39 of which are regarding stormwater NPDES
16 permits. And there are also two active parameters and
17 guidelines, two statewide cost estimates, and two
18 statewide cost estimates that are active and pending.
19 In addition, there's one more parameters and guidelines
20 and another statewide cost estimate, which are both on
21 inactive status pending the outcome of litigation
22 regarding the test claim decisions underlying those
23 matters.

24 There's also one parameters and guidelines
25 amendment on inactive status pending the outcome of

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

3 And we have three requests for mandate
4 redetermination currently pending, one of which is on
5 remand from the court.

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

8 Commission staff currently expects to complete all
9 currently pending test claims and IRCs by approximately
10 the December 2022 Commission meeting depending on
11 staffing and other workload. And some of the test
12 claims may be heard and decided earlier than currently
13 indicated if they are consolidated for hearing.

14 That's what I have.

15 Any questions on any of that?

16 (No response)

17 MS. HALSEY: No? Okay.

18 Moving on then, to closed session.

19 CHAIRPERSON BOSLER: So the Commission will now
20 meet in closed executive session. Pursuant to
21 Government Code section 11126(e) to confer with and
22 receive advice from legal counsel for consideration and
23 action, as necessary and appropriate, upon the pending
24 litigation listed on the published notice and agenda;
25 and to confer with and receive advice from legal counsel

1 regarding potential litigation. The Commission will
2 also confer on personnel matters pursuant to Government
3 Code section 11126(a)(1).

4 We will reconvene in open session in approximately
5 15 minutes, for all of those of you who want to come
6 back.

7 (Closed session was held from
8 10:15 a.m. to 10:24 a.m.)

9 CHAIRPERSON BOSLER: So with no further business to
10 discuss -- I'm looking around -- is there any other
11 further business?

12 (No response)

13 CHAIRPERSON BOSLER: I will entertain a motion to
14 adjourn.

15 MEMBER OLSEN: So moved.

16 MEMBER RAMIREZ: Second.

17 CHAIRPERSON BOSLER: Moved and seconded.

18 All those in favor.

19 (Ayes)

20 MS. PALCHIK: You have to bring us back. It's
21 required to be read.

22 CHAIRPERSON BOSLER: Where is it?

23 MS. HALSEY: Page 6.

24 CHAIRPERSON BOSLER: Okay. The Commission met in
25 closed executive session pursuant to Government Code

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

8 With no further business, I will entertain a motion
9 to adjourn.

10 All those in favor of adjourning.

11 (Ayes)

12 CHAIRPERSON BOSLER: The meeting is adjourned.

13 (Proceedings concluded at 10:26 a.m.)

14 ---o0o---

15

16

17

18

19

20

21

22

23

24

25


CERTIFICATE OF REPORTER

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand
this 20th day of August 2019.


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