

# Minutes

## COMMISSION ON STATE MANDATES

Location of Meeting: Room 447  
State Capitol, Sacramento, California  
October 27, 2011

Present: Member Diana Ducay, Chairperson  
Representative of the Director of the Department of Finance  
Member Richard Chivaro, Vice Chairperson  
Representative of the State Controller  
Member Francisco Lujano  
Representative of the State Treasurer  
Member Ken Alex  
Director of the Office of Planning and Research  
Member Sarah Olsen  
Public 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 Ducay called the meeting to order at 9:03 a.m. Executive Director Drew Bohan called the roll.

*NOTE: The Chairman chose to take items out of order to allow for the late arrival of out-of-town witnesses, so the following reflects the order of the items as they were heard by the Commission. The complete transcript of this Commission meeting is attached.*

### APPROVAL OF MINUTES

Item 1 July 28, 2011

With a motion for approval by Member Chivaro and a second by Member Olsen, the July 28, 2011 hearing minutes were adopted by a vote of 5-0.

### CONSENT CALENDAR

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

- STATEWIDE COST ESTIMATE

Item 12\* *Crime Statistic Reports for the Department of Justice and Amendment*  
02-TC-04, 02-TC-22, 07-TC-10  
Penal Code Sections 12025(h)(1) and (h)(3), 12031(m)(1)  
and (m)(3), 13014, 13023, and 13730(a)  
Statutes 1989, Chapter 1172 (SB 202); Statutes 1992, Chapter 1338 (SB 1184); Statutes 1993, Chapter 1230 (AB 2250); Statutes 1998, Chapter 933 (AB 1999); Statutes 1999, Chapter 571 (AB 491); and Statutes 2000, Chapter 626 (AB 715); and Statutes 2004, Chapter 700 (SB 1234)  
City of Newport Beach/County of Sacramento

Member Alex made a motion to adopt item 12 on the consent calendar. With a second by Member Chivaro, the consent calendar was adopted by a vote of 5-0.

**APPEAL OF EXECUTIVE DIRECTOR DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 1181(c)**

Item 2 Staff Report (if necessary)

There were no appeals to consider.

**HEARINGS AND DECISIONS ON TEST CLAIMS, PARAMETERS AND GUIDELINES, AND INCORRECT REDUCTION CLAIMS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (GOV. CODE, § 17551, 17557, and 17559) (action)**

Executive Director Drew Bohan swore in parties and witnesses participating in the hearing.

- **TEST CLAIMS AND STATEMENTS OF DECISION**

Item 4 *Deferred Maintenance (CCD)*  
02-TC-48  
Education Code Section 84660  
Statutes 1981, Chapter 764 (SB 841); Statutes 1990, Chapter 1372 (SB 1874)  
California Code of Regulations, Title 5, Sections 57201, 57202, 57205 Register 82, No. 28 (July 10, 1982), Pages 677-678; Register 91, No. 23 (June 7, 1991) Pages 377-378; Register 95, No. 23 (June 9, 1995) Page 379, and “Preparation Guidelines for Scheduled Maintenance and Hazardous Substances Project Funding Proposals” Chancellor’s Office, California Community Colleges  
Santa Monica Community College District, Claimant

This is a test claim filed by Santa Monica Community College District regarding a grant program to assist community colleges with deferred maintenance and special repair projects for facilities of California Community Colleges.

Senior Commission Counsel Eric Feller presented this item and recommended that the Commission deny the test claim, because the program authorizes, but does not require, districts to apply for funding. Under these circumstances, the activities are not mandated by the state.

Parties were represented as follows: Keith Petersen, SixTen and Associates, representing claimant Santa Monica Community College District, and Susan Geanacou, representing the Department of Finance.

Mr. Petersen stated he would stand on the written record and offered to answer any questions. Ms. Geanacou stated that Department of Finance agreed with the staff recommendation to deny the test claim.

With a motion by Member Chivaro to adopt the staff recommendation, and a second by Member Olsen, the staff recommendation to deny the test claim was adopted by a vote of 5-0.

Item 5 *Tuberculosis Control*  
03-TC-14  
Health and Safety Code Sections 121361, 121362, 121363, 121364, 121365, 121366, 121367, 121368, and 121369, as added or amended by Statutes 1993, Chapter 676 (AB 803); Statutes 1994, Chapter 685 (AB 804); Statutes 1997, Chapters 116 (SB 362) and 294 (SB 391); and Statutes 2002, Chapter 763 (SB 843)  
County of Santa Clara, Claimant

This test claim addresses the activities required of local detention facilities and local health officers relating to tuberculosis control.

Senior Commission Counsel Heather Halsey presented this item and recommended that the Commission partially approve the test claim.

Parties were represented as follows: Juliana Gmur, MAXIMUS, representing claimant County of Santa Clara, Lehoa Nguyen and Jan Young with the Department of Public Health, and Donna Ferebee and Jeff Carosone, representing Department of Finance.

Ms. Gmur stated that the claimant concurred with the staff analysis. Ms. Ferebee stated that Department of Finance agreed with the staff analysis.

Member Olsen made a motion to adopt the staff recommendation. With a second by Member Chivaro, the staff recommendation to partially approve the test claim was adopted by a vote of 5-0.

- Item 6      *Community College Construction*  
02-TC-47  
Education Code Sections 70902(b)(1), 81663, 81800, 81805, 81807, 81808, 81820, 81821, 81822, 81823, 81836, 81837, 81839  
Statutes 1980, Chapter 910 (AB 1171); Statutes 1981, Chapter 470 (AB 1726); Statutes 1981, Chapter 891 (SB 936); Statutes 1988, Chapter 973 (AB 1720); Statutes 1990, Chapter 1372 (SB 1854); Statutes 1991, Chapter 1038 (SB 9); Statutes 1995, Chapter 758 (AB 446)  
California Code of Regulations, Title 5, Sections 57001, 57001.5, 57001.7, 57002, 57010, 57011, 57013, 57014, 57015, 57016, 57033.1, 57050, 57051, 57052, 57053, 57054, 57055, 57060, 57061, 57062, 57063, 57150, 57152, 57154, 57156, 57158  
Register 75, No. 40 (Oct. 4, 1975) page 673; Register 77, No. 45 (Nov. 6, 1977) pages 673-674; Register 80, No. 39 (Sept. 27, 1980) page 675-676.1; Register 80, No. 44 (Nov. 1, 1980) pages 676.5-676.6; Register 81, No. 3 (Jan. 17, 1981) pages 673-676.6; Register 83, No. 18 (April 30, 1983) pages 666.27 – 666.36; Register 91, No. 23 (June 7, 1991) pages 371 – 377; Register 91, No. 43 (Oct. 25, 1991) pages 371-372; Register 94, No. 38 (Sept. 23, 1994) page 371; Register 95, No. 23 (June 9, 1995) pages 371 – 389  
Santa Monica Community College District, Claimant

This test claim addresses capital construction plans of community college districts; capital outlay projects of community college districts funded with or without the assistance of the state; and state-supported energy conservation projects of community college districts.

Senior Commission Counsel Eric Feller presented this item and recommended that the Commission partially approve this test claim.

Parties were represented as follows: Keith Petersen, SixTen and Associates, representing claimant Santa Monica Community College District, and Donna Ferebee, representing Department of Finance.

Mr. Petersen stated that he would stand on the written record and would respond to questions. Ms. Ferebee stated that Department of Finance agreed with the staff recommendation.

With a motion by Member Chivaro to adopt the staff recommendation, and a second by Member Olsen, the staff recommendation to partially approve the test claim was adopted by a vote of 5-0.

- PARAMETERS AND GUIDELINES AND STATEMENT OF DECISION

- Item 8 *Modified Primary Election*  
01-TC-13  
Elections Code Sections 2151 and 13102(b)  
Statutes 2000, Chapter 898 (SB 28)  
County of Orange, Claimant

This program allowed decline-to-state voters who do not declare a political party affiliation to choose any political party to vote at a primary election if so authorized by that political party.

Chief Legal Counsel Camille Shelton presented this item. She stated that the claimant proposed reimbursement for redesigning the sample ballot. Staff recommended that this activity be denied. The claimant submitted a late filing urging the Commission to approve this activity. Ms. Shelton recommended that the Commission adopt the proposed parameters and guidelines, as modified by staff.

The parties were represented as follows: Juliana Gmur, MAXIMUS, representing claimant County of Orange, and Donna Ferebee and Jeff Carosone representing Department of Finance. Ms. Gmur urged the Commission to approve the activity of redesigning and republishing the sample ballots so that voters can be properly notified of the changes in law regarding primary elections. Mr. Carosone stated that Department of Finance had no significant concerns with the staff analysis.

Member Olsen stated that the voter information should be included in the sample ballot, to assist voters, particularly when there are numerous elections being held during a short period of time.

Ms. Shelton responded that the law requires new voters or voters that change parties to be notified of the Modified Primary program by including the notice on the voter registration card. The proposed parameters and guidelines include that activity. The law also requires that the application for an absentee ballot, which is sent with the sample ballots for each election, also provide notice to existing voters. The claimant, however, did not plead the statute requiring notice to existing voters in the test claim and, thus, the activity cannot be included in the parameters and guidelines. . Ms. Gmur disagreed.

Allan Burdick, CSAC-SB 90 Service, discussed the general process for implementing this legislation.

With a motion by Member Chivaro to adopt the staff recommendation, and a second by Member Lujano, the staff recommendation to adopt the parameters and guidelines was adopted by a vote of 4-1, with Member Olsen voting no.

- PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES

- Item 9 *Peace Officer Procedural Bill of Rights*  
09-PGA-05 (CSM-4499)  
Government Code Sections 3300 through 3310  
Statutes 1976, Chapter 465 (AB 301); Statutes 1978, Chapters 775 (AB 2916), 1173 (AB 2443), 1174 (AB 2696), and 1178 (SB 1726); Statutes of 1979, Chapter 405 (AB 1807); Statutes of 1980, Chapter 1367 (AB 2977); Statutes of 1982, Chapter 994 (AB 2397); Statutes of 1983, Chapter 964 (AB 1216); Statutes of 1989, Chapter 1165 (SB 353); and Statutes of 1990, Chapter 675 (AB 389)  
City of Los Angeles, Requestor

This item addresses a request to amend the parameters and guidelines for the *Peace Officers Procedural Bill of Rights* (also known as POBOR) program to add a reasonable reimbursement

methodology (RRM) of \$452.53 per officer “to apply only and solely” to the City of Los Angeles.

Chief Legal Counsel Camille Shelton presented this item, and recommended the Commission deny this request to amend the parameters and guidelines because: (1) the RRM proposed by the City is not based on cost information from a representative sample of eligible claimants, and does not consider the variation in costs among other local agencies as required by Government Code section 17518.5(b) and (c); and (2) adopting an RRM for only one local agency contradicts the purpose of the mandates process established by the Legislature.

Parties were represented as follows: Allan Burdick, CSAC-SB 90 Service, representing Claimant City of Los Angeles, and Susan Geanacou and Jeff Carosone, representing Department of Finance.

Mr. Burdick requested that this item be postponed to the March 2012 hearing when other similar RRMs are being scheduled. Mr. Carosone stated that Department of Finance concurred with the staff analysis, and stated that no postponement was necessary.

Ms. Shelton responded that under the Commission’s regulations, postponement may be granted at the discretion of the Commission upon a showing of good cause. Member Alex asked Department of Finance if there would be any prejudice to postponement. Ms. Geanacou responded that there could be prejudice, and that it is unnecessary to postpone the item.

With a motion by Member Lujano and a second by Member Alex, the item was postponed by a vote of 4-1, with Chairperson Ducay voting no.

- **INCORRECT REDUCTION CLAIMS AND STATEMENT OF DECISION**

- Item 10 *Health Fee Elimination*  
09-4206-I-19, 09-4206-I-20, 09-4206-I-23, 09-4206-I-26, 09-4206-I-27,  
09-4206-I-28, 09-4206-I-30  
Fiscal Years 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007,  
2007-2008, 2008-2009  
Education Code Section 76355  
Statutes 1984, Chapter 1 (1983-1984 2<sup>nd</sup> Ex. Sess.) (AB 1);  
Statutes 1987, Chapter 1118 (AB 2336)  
Citrus Community College District, Cerritos Community College  
District, Los Rios Community College District, Redwoods Community  
College District, Allan Hancock Joint Community College District,  
Rancho Santiago Community College District, and Pasadena Community  
College District, Claimants

Under this program, community college districts, which previously had fee authority to provide health services, had to maintain health services provided in the 1983-1984 fiscal year without any fee authority for this purpose.

This analysis looks at seven consolidated incorrect reduction claims filed by seven community college districts (Districts) regarding reductions made by the State Controller’s Office (Controller) to reimbursement claims for costs incurred during fiscal years 2002-2003 through 2008-2009 for providing health services to all community college students under the *Health Fee Elimination* program.

Commission Counsel Kenny Louie presented this item, and recommended that the Commission partially approve these incorrect reductions claims.

The parties were represented as follows: Keith Petersen, SixTen and Associates, representing claimants, and Shawn Silva and Steve Vanzee, representing the State Controller’s Office.

Mr. Petersen stated he would stand on the written record, and Mr. Silva stated the State Controller's office concurred with the staff recommendation.

With a motion by Member Chivaro to adopt the staff recommendation, and a second by Member Lujano, the staff recommendation to partially approve the incorrect reduction claim was adopted by a vote of 5-0.

- REQUEST TO REVIEW CLAIMING INSTRUCTIONS AND STATEMENT OF DECISION

- Item 11     *Request to Add Boilerplate Language,*  
09-RCI-01  
Five Amended Parameters and Guidelines Adopted January 29, 2010  
*Collective Bargaining, 05-PGA-48*  
*Habitual Truant, 05-PGA-51*  
*Intradistrict Attendance, 05-PGA-53*  
*Juvenile Court Notices, 05-PGA-54*  
*Health Fee Elimination, 05-PGA-69*  
And  
Twelve Amended Parameters and Guidelines Adopted March 26, 2010  
*Caregiver Affidavits, 05-PGA-46*  
*County Office of Education, Fiscal Accountability, 05-PGA-47*  
*Financial Compliance Audits, 05-PGA-49*  
*Graduation Requirements, 05-PGA-50*  
*Law Enforcement Agency Notices, 05-PGA-55*  
*Physical Education Reports, 05-PGA-60*  
*Physical Performance Tests, 05-PGA-61*  
*Pupil Health Screenings, 05-PGA-63*  
*Pupil Residency Verification and Appeal, 05-PGA-64*  
*Removal of Chemicals, 05-PGA-66*  
*School District Fiscal Accountability Reporting, 05-PGA-67*  
*Law Enforcement Jurisdiction Agreements, 05-PGA-70*  
And  
Three Amended Parameters and Guidelines Adopted May 27, 2010  
*Notification of Truancy, 05-PGA-56*  
*Notification to Teachers: Pupils Subject to Suspension or Expulsion,*  
*05-PGA-57*  
*Pupil Suspensions, Expulsions, and Expulsion Appeals, 05-PGA-65*  
Castro Valley Unified School District, Grossmont Union High School District, San Jose Unified School District, San Diego County Office of Education, Gavilan Joint Community College District, San Mateo County Community College District, State Center Community College District, Requestors

This is a request to review claiming instructions for 20 sets of parameters and guidelines that were amended by the Commission on State Mandates (Commission) in 2010.

Executive Director Drew Bohan presented this item, and recommended that the Commission continue this item to the December 1, 2011, so staff may make amendments to the staff analysis. The item was continued.

- TEST CLAIM AND STATEMENT OF DECISION

- Item 3      *Deferred Maintenance, 02-TC-44*  
Education Code Sections 17582, 17583, 17584, 17584.1, 17584.2, 17585, 17586, 17587, 17588, 17589, 17590, 17591, 17592, 49410, 49410.2, 49410.5 and 49410.7 as added or amended by Statutes 1979, Chapter 282 (AB 8); Statutes 1980, Chapters 40 (SB 88) and 1354 (AB 2196); Statutes 1981, Chapters 371 (SB 22), 649 (AB 62) and 1093 (AB 61); Statutes 1982, Chapter 525 (AB 2417); Statutes 1983, Chapters 753 (SB 1198) and 800 (AB 1931); Statutes 1984, Chapters 1234 (AB 2948) and 1751 (AB 2377); Statutes 1985, Chapter 759 (AB 1255) and 1587 (AB 2040); Statutes 1986, Chapters 886 (SB 327), 1258 (AB 3158), and 1451 (SB 2572); Statutes 1987, Chapters 917 (AB 93) and 1254 (AB 2509); Statutes 1989, Chapter 83 (AB 198) and 711 (SB 759); Statutes 1990, Chapter 1263 (AB 2875); Statutes 1996, Chapter 277 (SB 1562); Statutes 1999, Chapter 390 (AB 939); and Statutes 2002, Chapters 1075 (SB 21) and 1084 (SB 1915)  
Title 2, California Code of Regulations Sections 1866, 1866.1, 1866.2, 1866.3, 1866.4, 1866.4.1, 1866.4.2, 1866.4.3, 1866.4.4, 1866.4.6, 1866.4.7, 1866.5, 1866.5.1, 1866.5.2, 1866.5.3, 1866.5.4, 1866.5.5, 1866.5.6, 1866.5.7, 1866.5.8, 1866.5.9, 1866.7, 1866.8, 1866.9, 1866.9.1, 1866.10, 1866.12, 1866.13, 1866.14 and 1867.2 as added or amended by Registers 80-16, 80-26, 81.18, 82-31, 86-9, 86-45, 86-49, 86-52, 87-17, 87-46 and 03-03  
*Deferred Maintenance Program Handbook of 2003*  
Clovis Unified School District, Claimant

This test claim addresses activities required as a condition of participation in a state grant program: the Deferred Maintenance Program (DMP).

Senior Commission Counsel Heather Halsey presented this item, and recommended that the Commission deny this test claim.

The parties were represented as follows: Art Palkowitz, Stutz Artiano Shinoff & Holtz, representing claimant Clovis Unified School District, and Susan Geanacou, representing Department of Finance.

Mr. Palkowitz argued that school districts are compelled to meet the requirements of the program once they decide to provide funds to the maintenance fund. Ms. Geanacou stated that Department of Finance supported the staff analysis.

With a motion by Member Olsen to adopt the staff recommendation, and a second by Member Chivaro, the Commission adopted the staff recommendation to deny the test claim by a vote of 5-0.

- PARAMETERS AND GUIDELINES, AMENDMENTS TO PARAMETERS AND GUIDELINES, AND STATEMENT OF DECISION

- Item 7      PROPOSED PARAMETERS AND GUIDELINES  
*Pupil Suspensions II, Expulsions II, Educational Services Plans for Expelled Pupils*  
96-358-03, 03A, 97-TC-09, 98-TC-22, 98-TC-23, 01-TC-18  
Education Code Sections 48900.8, 48915, 48915.2, 48916, 48916.1, 48918, 48918.5, 48923, and 48926

As Amended by Statutes 1995, Chapters 972 (SB 966) and 974 (AB 922); Statutes 1996, Chapters 915 (AB 692), 937 (AB 2834), and 1052 (AB 2720); Statutes 1997, Chapter 637 (AB 412); Statutes 1998, Chapter 489 (SB 1427); Statutes 1999, Chapter 332 (AB 588); Statutes 2000, Chapter 147 (AB 1721); Statutes 2001, Chapter 116 (SB 166)

Consolidated With

*PUPIL SUSPENSIONS FROM SCHOOL (CSM-4456)*

Education Code Section 48911(b) and (e)

Statutes 1977, Chapter 965 (AB 530); Statutes 1978, Chapter 668 (AB 2191); Statutes 1980, Chapter 73 (SB 1247); Statutes 1983, Chapter 498 (SB 813); Statutes 1985, Chapter 856 (AB 1758); Statutes 1987, Chapter 134 (AB 439)

*PUPIL EXPULSIONS FROM SCHOOL (CSM-4455)*

Education Code Sections 48915(a) and (b),

48915.1, 48915.2, 48916, and 48918

Statutes 1975, Chapter 1253 (AB 1770); Statutes 1977, Chapter 965 (AB 530); Statutes 1978, Chapter 668 (AB 2191); Statutes 1982, Chapter 318 (SB 1385); Statutes 1983, Chapter 498 (SB 813); Statutes 1984, Chapter 622 (SB 1685); Statutes 1987, Chapter 942 (AB 2590); Statutes 1990, Chapter 1231 (AB 3794); Statutes 1992, Chapter 152 (AB 3362); Statutes 1993, Chapters 1255 (AB 342), 1256 (SB 1198), and 1257 (SB 1130); Statutes 1994, Chapter 146 (AB 3601)

*PUPIL EXPULSION APPEALS (CSM-4463)*

Education Code Sections 48919, 48921, 48924

Statutes 1975, Chapter 1253 (AB 1770); Statutes 1977, Chapter 965 (AB 530); Statutes 1978, Chapter 668 (AB 2191); Statutes 1983, Chapter 498 (SB 813)

PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES

*PUPIL SUSPENSIONS FROM SCHOOL (CSM-4456)*

Education Code Section 48911(b) and (e)

Statutes 1977, Chapter 965 (AB 530); Statutes 1978, Chapter 668 (AB 2191); Statutes 1980, Chapter 73 (SB 1247); Statutes 1983, Chapter 498 (SB 813); Statutes 1985, Chapter 856 (AB 1758); Statutes 1987, Chapter 134 (AB 439)

*PUPIL EXPULSIONS FROM SCHOOL (CSM-4455)*

Education Code Sections 48915(a) and (b),

48915.1, 48915.2, 48916, and 48918

Statutes 1975, Chapter 1253 (AB 1770); Statutes 1977, Chapter 965 (AB 530); Statutes 1978, Chapter 668 (AB 2191); Statutes 1982, Chapter 318 (SB 1385); Statutes 1983, Chapter 498 (SB 813); Statutes 1984, Chapter 622 (SB 1685); Statutes 1987, Chapter 942 (AB 2590); Statutes 1990, Chapter 1231 (AB 3794); Statutes 1992, Chapter 152 (AB 3362); Statutes 1993, Chapters 1255 (AB 342), 1256 (SB 1198), and 1257 (SB 1130); Statutes 1994, Chapter 146 (AB 3601)

*PUPIL EXPULSION APPEALS (CSM-4463)*

Education Code Sections 48919, 48921, 48924

Statutes 1975, Chapter 1253 (AB 1770); Statutes 1977, Chapter 965 (AB 530); Statutes 1978, Chapter 668 (AB 2191); Statutes 1983, Chapter



This item proposes the adoption of six new sets of parameters and guidelines for the reimbursement of the *Pupil Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* programs, which require school districts to perform various activities related to suspending and expelling pupils from school who have committed specified offenses. The Commission found that the costs incurred to perform new activities mandated by the test claim statutes (enacted from 1995 to 2002) constitute a reimbursable state-mandated program beginning in fiscal year 1995-1996. The sixth, and last, set of parameters and guidelines consolidates the Commission's decision in *Pupil Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* with *Pupil Suspensions from School*, *Pupil Expulsion from School*, and *Pupil Expulsion Appeals* (CSM-4456, 4455, 4463) beginning in fiscal year 2012-2013.

Senior Commission Counsel Eric Feller presented this item, and recommended that the Commission adopt the five sets of new parameters and guidelines, and the sixth set that consolidates the new parameters and guidelines with the existing parameters and guidelines.

Parties were represented as follows: Keith Petersen, SixTen and Associates, representing claimants San Juan Unified School District and Kern County Office of Education, and Art Palkowitz, Stutz Artiano Shinoff & Holtz, representing San Diego Unified School District.

Mr. Petersen stated that after 15 years, and numerous prehearings, meetings, and discussions, these parameters and guidelines are ready to go. Mr. Palkowitz concurred. Ms. Ferebee concurred with the staff analysis.

With a motion by Member Chivaro, and a second by Members Lujano and Olsen, the Commission approved the parameters and guidelines by a vote of 5-0.

**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 13 Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commission, or to a Hearing Officer  
*Note: This item will only be taken up if an application is filed.*

No applications were filed.

**STAFF REPORTS**

- Item 14 Legislative Update

Assistant Executive Director Nancy Patton presented this item.

- Item 15 Chief Legal Counsel: Recent Decisions, Litigation Calendar

Ms. Shelton presented this item.

- Item 16 Executive Director's Report

Mr. Bohan presented this item.

## **ACTION PURSUANT TO GOVERNMENT CODE SECTION 11125.3(a) (2)**

- Item 17     Action to Amend the Agenda to Add a Closed Session Item for Personnel to Appoint an Interim Executive Director, and to Discuss Process for Appointing a Permanent Executive Director

Mr. Bohan presented this item, and recommended that the Commission approve this item to go into closed session to appoint an interim executive director, and consider the process for hiring a permanent executive director.

### **PUBLIC COMMENT**

Alan Burdick, CSAC-SB 90 Service, congratulated Mr. Bohan on behalf of cities and counties, on his new appointment to the Energy Commission.

Ms. Patton presented Mr. Bohan with a resolution from the Commission and staff, and thanked him for his service to the Commission.

### **CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 AND 11126.2 (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):

1.     *State of California, Department of Finance v. Commission on State Mandates*, Sacramento, Superior Court Case No. 34-2010-80000529 [Graduation Requirements, Parameters and Guidelines Amendments, Nov. 2008]
2.     *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., 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]
3.     Cross Petition Filed: *County of San Diego, and Cities of Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, San Diego, San Marcos, Santee, Solano Beach, and Vista v. Commission on State Mandates, State of California Department of Finance, State Water Resources Control Board, and California Regional Water Control Board San Diego Region*, 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]
4.     *State of California Department of Finance, State Water Resources Control Board, and California Regional Water Quality Board, Los Angeles Region v. Commission on State Mandates and County of Los Angeles*, et. al., Los Angeles County Superior Court Case No. BS130730 [*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]*

5. *California School Board Association (CSBA) v. State of California et. al., Alameda County Superior Court Case No. RG11554698 [2010-2011 Budget Trailer Bills, Redetermination Process]*
6. *Cross Petition: County of Los Angeles and Cities of Bellflower, Carson, Commerce, Covina, Downey and Signal Hill v. Commission on State Mandates, State of California Department of Finance, State Water Resources Control Board, and California Regional Water Quality Control Board, Los Angeles Region, Los Angeles County Superior Court, Case No. BS130730 [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]*

## B. PERSONNEL

To confer on personnel matters pursuant to Government Code section 11126, subdivision (a):

- Appoint an Interim Executive Director
- Consider the Process for Appointing a Permanent Executive Director

Hearing no further comments, Chairperson Ducay adjourned into closed executive session 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 published in the notice and agenda; to confer and receive advice from legal counsel regarding potential litigation, and to confer on personnel matters pursuant to Government Code section 11126, subdivision (a)(1) to appoint an interim executive director, and select the process for appointing a permanent executive director.

## REPORT FROM CLOSED EXECUTIVE SESSION

At 10:27 a.m., Chairperson Ducay reconvened in open session, and reported that the Commission met in closed executive session 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 public notice and agenda, and potential litigation.

Chairperson Ducay also reported that Assistant Executive Director Nancy Patton was appointed acting executive director until a permanent executive director can be appointed.

## ADJOURNMENT

Hearing no further business, Chairperson Ducay adjourned the meeting at 10:28 am.



Nancy Patton  
Acting Executive Director