

**RECEIVED**  
August 26, 2015  
*Commission on  
State Mandates*

**CORRECTED**

**PUBLIC MEETING  
COMMISSION ON STATE MANDATES**



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



**REPORTER'S TRANSCRIPT OF PROCEEDINGS**



Reported by:  
Daniel P. Feldhaus  
California Certified Shorthand Reporter #6949  
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*[Corrected Appearance Page]*

**A P P E A R A N C E S**

**COMMISSIONERS PRESENT**

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

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

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

SARAH OLSEN  
Public Member

M. CARMEN RAMIREZ  
Oxnard City Council Member

ANDRÉ RIVERA  
Representative for JOHN CHIANG  
State Treasurer

DON SAYLOR  
Yolo County Supervisor  
Local Agency Member



**COMMISSION STAFF PRESENT**

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

HEIDI PALCHIK  
Assistant Executive Director  
*(Item 7)*

A P P E A R A N C E S

PARTICIPATING COMMISSION STAFF

*continued*

CAMILLE N. SHELTON  
Chief Legal Counsel  
(Item 8)

ERIC FELLER  
Senior Commission Counsel  
(Item 5)

IMRAN MAJID  
Student Assistant  
(Item 3)



PUBLIC TESTIMONY

**Appearing re Public Comment**

DENNIS EVANS

**Appearing Re Item 3:**

For Department of Finance:

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

**Appearing Re Item 5:**

For State Controller's Office:

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

A P P E A R A N C E S

PUBLIC TESTIMONY

**Appearing Re Item 5:** *continued*

For State Controller's Office:

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





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**Commission on State Mandates – May 29, 2015**

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



7 CHAIR ORTEGA: Good morning, everyone.  
8 I'd like to call to order the May 29<sup>th</sup> meeting  
9 of the Commission on State Mandates.

10 Please, call the roll.

11 MS. HALSEY: Mr. Chivaro?

12 MEMBER CHIVARO: Present.

13 MS. HALSEY: Mr. Morgan?

14 MEMBER MORGAN: Here.

15 MS. HALSEY: Ms. Olsen?

16 MEMBER OLSEN: Present.

17 MS. HALSEY: Ms. Ortega?

18 CHAIR ORTEGA: Here.

19 MS. HALSEY: Ms. Ramirez?

20 MEMBER RAMIREZ: Here.

21 MS. HALSEY: Mr. Rivera?

22 MEMBER RIVERA: Here.

23 MS. HALSEY: Mr. Saylor?

24 MEMBER SAYLOR: Here.

25 CHAIR ORTEGA: Okay, thank you.

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1 We have a quorum.

2 Item 2 are the minutes from the March 27<sup>th</sup>  
3 meeting.

4 Are there any objections, corrections,  
5 comments?

6 MEMBER OLSEN: I'll move the adoption.

7 CHAIR ORTEGA: Okay, Ms. Olsen moves.

8 MEMBER RIVERA: Second.

9 CHAIR ORTEGA: Mr. Rivera seconds.

10 Any public comment on that?

11 *(No response)*

12 CHAIR ORTEGA: Seeing none, all in favor?

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

14 CHAIR ORTEGA: Any abstentions?

15 *(No response)*

16 CHAIR ORTEGA: The minutes are passed.

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

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

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

25 *(No response)*

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1 CHAIR ORTEGA: All right.

2 Did you want to speak?

3 MR. EVANS: Yes. Just real quick.

4 CHAIR ORTEGA: Sure.

5 Have a seat right here.

6 MR. EVANS: Okay, thank you.

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

10 I want to talk about --

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

13 MR. EVANS: My name is Dennis Evans.

14 CHAIR ORTEGA: Dennis Evans?

15 MR. EVANS: Sorry about that.

16 CHAIR ORTEGA: That's okay.

17 Go ahead.

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

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

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

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

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

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

15           Do you mind?

16           *(No response)*

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

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

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

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1 CHAIR ORTEGA: From the letter?

2 MR. EVANS: Yes.

3 CHAIR ORTEGA: Okay, great.

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

5 CHAIR ORTEGA: Okay, great.

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

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

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

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

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

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

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

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

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

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

20 MS. OLSEN: Madam Chair?

21 CHAIR ORTEGA: Yes.

22 I think we have a question.

23 MR. EVANS: Yes?

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

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1 Do you represent a particular local government?

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

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

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

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

19 MR. EVANS: Of course.

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

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

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

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

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

8           So I'm going to --

9           MR. EVANS: I understand.

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

14          MR. EVANS: Okay.

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

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

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

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

8           CHAIR ORTEGA: Okay, thank you.

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

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

13          MR. EVANS: All right.

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

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

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

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

24                (No response)

25          MEMBER OLSEN: I'll move it.

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1 MR. SAYLOR: Second.

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

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

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

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

10 CHAIR ORTEGA: Nope?

11 Item 4 is approved on the consent calendar.

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

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

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

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

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

24 MS. HALSEY: Thank you.

25 Item 2 is reserved for appeals of Executive

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

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

6 MR. MAJID: Good morning.

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

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

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

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

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

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

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

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

7 CHAIR ORTEGA: Any comments, Ms. Geanacou?

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

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

14 *(No response)*

15 CHAIR ORTEGA: Any public comment on this item?

16 *(No response)*

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

19 MEMBER OLSEN: I'll move it.

20 CHAIR ORTEGA: Moved by Ms. Olsen.

21 MEMBER CHIVARO: Second.

22 CHAIR ORTEGA: Second by Mr. Chivaro.

23 All in favor?

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

25 CHAIR ORTEGA: Any objections or abstentions?

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1 (No response)

2 CHAIR ORTEGA: No? Thank you.

3 Item 5.

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

7 MR. FELLER: Good morning.

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

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

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

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

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

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

25 CHAIR ORTEGA: Okay, any comments?

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

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

5 Yes, Ms. Ramirez?

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

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

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

15 CHAIR ORTEGA: Okay, any other questions?

16 *(No response)*

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

19 *(No response)*

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

21 MEMBER RAMIREZ: So moved.

22 CHAIR ORTEGA: Moved by Ms. Ramirez.

23 MEMBER CHIVARO: Second.

24 CHAIR ORTEGA: Second by Mr. Chivaro.

25 All in favor?

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

2                   CHAIR ORTEGA: Any abstentions, objections?

3                   *(No response)*

4                   CHAIR ORTEGA: No?

5                   The staff recommendation is adopted.

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

9                   No SB 1033 applications have been filed.

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

12                  MS. PALCHIK: Good morning.

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

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

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

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

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

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

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

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

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

21 CHAIR ORTEGA: Thank you.

22 Any questions on the Legislative Report?

23 *(No response)*

24 CHAIR ORTEGA: Okay, thank you.

25 MS. HALSEY: Chief Legal Counsel Camille

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

2 MS. SHELTON: Good morning.

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

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

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

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

18 CHAIR ORTEGA: Ms. Ramirez?

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

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

25 So judgment has been entered in the San Diego

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

5 MEMBER RAMIREZ: Thank you.

6 CHAIR ORTEGA: Any other questions?

7 *(No response)*

8 CHAIR ORTEGA: Okay.

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

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

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

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

25 We do expect to be hearing CAASPP, which is

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

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

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

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

10 CHAIR ORTEGA: Okay, any questions for Heather?

11 *(No response)*

12 CHAIR ORTEGA: Nope? Okay.

13 Seeing none, we will move into closed session.

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

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

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

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

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Thank you.

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

CHAIR ORTEGA: The Commission met in closed execution 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 published 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.

We have nothing to report.

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

Thank you.

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

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**REPORTER'S CERTIFICATE**

I hereby certify:

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

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

*In witness whereof*, I have hereunto set my hand on the 15<sup>th</sup> June 2015.



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