

COMMISSION ON STATE MANDATES

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August 2, 2007

Mr. Keith B. Petersen
SixTen & Associates
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

RE: Removal of Test Claim From Calendar

California Public Records Act (K-14)

(02-TC-51)

Riverside Unified School District, Claimant

Government Code sections 6253, 6253.1, 6253.5, 6253.9, 6254.3, 6255, and 6259

Statutes 2001, Chapter 355 (AB 1014), et al.

Dear Mr. Petersen:

The above-named test claim filed by the Riverside Unified School District is being removed from the 2007 Hearing Calendar and will be rescheduled at a later date.

An analysis of this test claim would require consideration of Government Code section 17556, subdivision (f), which was held to be unconstitutional in the Sacramento County Superior Court's March 13, 2007 decision in *California School Boards Association (CSBA), et al. v. Commission on State Mandates, et al.* [No. 06CS01335]. The court's judgment enjoins the Commission from taking any action to implement the AB 138 amendment to Government Code section 17556, subdivision (f). Since this case is on appeal to the Third District Court of Appeal, Case Number C055700, the Commission is unable to schedule this test claim for hearing until there is a final court decision in the *California School Boards Association, et al. v. Commission on State Mandates, et al.*

If you have questions on the above, please contact Kenny Louie at (916) 323-2611.

Sincerely,

A handwritten signature in cursive script that reads "Paula Higashi".

PAULA HIGASHI
Executive Director

cc: Mailing list (enclosed)
enc.: Judgment by the Court, Case No. 06CS01335, *California School Boards Association v. Commission on State Mandates.*

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By M. JEREMIAH
DEPUTY CLERK

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7 *Attorneys for Petitioners/Plaintiffs*

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SACRAMENTO

10 CALIFORNIA SCHOOL BOARDS
 11 ASSOCIATION, EDUCATION LEGAL
 12 ALLIANCE; COUNTY OF FRESNO; CITY OF
 13 NEWPORT BEACH; SWEETWATER UNION
 14 HIGH SCHOOL DISTRICT; and COUNTY OF
 15 LOS ANGELES,

16 Petitioner/Plaintiffs,

17 v.

18
 19 STATE OF CALIFORNIA; COMMISSION ON
 20 STATE MANDATES; JOHN CHIANG, in his
 official capacity as Controller of the State of
 California; and DOES 1-5,

21 Respondent/Defendants.

22
 23 DEPARTMENT OF FINANCE, Intervenor.
 24

CASE NO.: 06 CS 01335

25 ~~[proposed]~~
 26 JUDGMENT BY THE COURT PURSUANT
 TO CALIFORNIA CODE OF CIV. PROC.
 §§ 526, 1060, 1085 & 1094.5

DATE: January 5, 2007
 TIME: 10:30 a.m.
 DEPT: 11 (Hon. Gail D. Ohanesian)

25 This matter came regularly before this court on January 5, 2007, the Honorable Gail D.

26 Ohanesian presiding. N. Eugene Hill, Olson Hagel & Fishburn, appeared as attorney for Petitioners.

27 Deputy Attorney General Steven M. Gevercer appeared as attorney for Respondent State of California,

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1 Respondent John Chiang, Controller of the State of California, and Intervenor, Department of Finance.
2 Camille Shelton appeared as counsel for Respondent Commission on State Mandates.

3 The Court having issued its order substituting John Chiang, in his capacity as Controller of the
4 State of California for Respondent Steve Westly, in his former capacity as Controller of the State of
5 California, and having taken judicial notice of documents provided by the parties, the record of the
6 administrative proceedings having been received and examined by the court, and additional evidence
7 having been received and considered by the court, arguments having been presented, and the court
8 having issued its ruling on March 13, 2007,

9

10 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that:

11 1. It is necessary and proper under the facts of this case for the Court to declare the rights
12 and duties of Petitioners/Plaintiffs California Schools Boards Association, Education Legal Alliance,
13 County of Fresno, City of Newport Beach, Sweetwater Union High School District and County of Los
14 Angeles and Respondents State of California, Commission on State Mandates and John Chiang, in his
15 official capacity as Controller of the State of California, and Intervenor Department of Finance
16 concerning the application to each of them of article I, section 9, article III, section 3, article IV, section
17 16, and article XIII B section 6 of the California Constitution, subdivision (f) of section 17556 of the
18 Government Code, sections 7, 11, 12, 13, 14, 16 and 17 of Statutes 2005, chapter 72 (AB 138), section
19 18 of Statutes 2004, chapter 895 (AB 2855) and section 53 of Statutes 2005, chapter 677 (SB 512).

20 2. Section 341.5 of the Code of Civil Procedure is not applicable to challenges brought
21 against decisions of the Commission on State Mandates, including those brought under section 17559 of
22 the Code of Civil Procedure. All claims in this proceeding asserted by Petitioners/Plaintiffs California
23 Schools Boards Association, Education Legal Alliance, County of Fresno, City of Newport Beach,
24 Sweetwater Union High School District and County of Los Angeles are not barred by the statute of
25 limitations set forth Code of Civil Procedure 341.5.

26 3. Petitioners/Plaintiffs California Schools Boards Association and Education Legal
27 Alliance have both associational and organizational standing to challenge the constitutionality of
28 subdivision (f) of section 17556 of the Government Code; sections 7, 11, 12, 13, 14, 16 and 17 of

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1 Statutes 2005, chapter 72 (AB 138); section 18 of Statutes 2004, chapter 895 (AB 2855); and section 53
2 of Statutes 2005, chapter 677 (SB 512).

3 4. Section 7 of Statutes of 2005, chapter 72, is invalid and of no force and effect as it
4 conflicts with the provisions of the California Constitution set forth in section 6 of article XIII B.

5 5. Subdivision (c) of section 12, Statutes 2005, chapter 72, and Section 16 of Statutes 2005,
6 chapter 72, are irrelevant to any decision of the Commission as to whether a state mandate exists and if
7 the Commission determines to rehear its decisions on the Open Meetings Act (CSM-4257), and Brown
8 Act Reform (CSM-4469), these provisions may not be considered by the Commission in any decision it
9 makes as to whether the claim is reimbursable pursuant to article XIII B; subdivision (6).

10 6. Subdivision (f) of section 14 of Statutes 2005, chapter 72 is invalid and of no force and
11 effect as it conflicts with the provisions of the California Constitution set forth in section 3 of article III.

12 7. Insofar as Subdivision (a) of section 17 of Statutes 2005, chapter 72, requires the
13 Commission to reconsider its decision in the Mandate Reimbursement Process (CSM-4204) in the light
14 of statutory changes and court decisions, it is procedural only, and operates, or can be construed to
15 operate prospectively only and does not dictate the result; and therefore, does not violate section 3 of
16 article III of the California Constitution.

17 8. Section 18 of Statutes 2004, chapter 895, is procedural only and operates, or can be
18 construed to operate, prospectively only and does not dictate the result, and therefore does not violate
19 the provisions of section 3 of article III of the California Constitution.

20 9. Section 53 of Statutes 2005, chapter 677, is procedural only and operates, or can be
21 construed to operate, prospectively only and does not dictate the result, and therefore does not violate
22 the provisions of section 3 of article III of the California Constitution.

23 10. Subdivision (b) of section 17 of Statutes 2005, chapter 72, is invalid and of no force and
24 effect as it conflicts with the provisions of the California Constitution set forth in section 3 of article III
25 of the California Constitution.

26 11. Subdivision (f) of Government Code section 17756, as it existed prior to amendment by
27 section 7 of Statutes of 2005, chapter 72, does not conflict with the provisions of section 6, article XIII B
28 of the California Constitution.

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1 12. Statutes 2005, chapter 72; section 18 of Statutes 2004, chapter 895; and section 53 of
2 Statutes 2005, chapter 677 do not violate the provisions of article 1, section 9, of the California
3 Constitution.

4 13. Respondents State of California, Commission on State Mandates, and John Chiang, in his
5 capacity as Controller of the State of California, and Intervenor Department of Finance, and those public
6 officers and employees acting by and through their authority, are permanently enjoined and estopped
7 ~~from denying reimbursement for claims made by local governments, including school districts, for~~
8 ~~reimbursement pursuant to section 6, article XIII B, of the California Constitution, before July 19, 2005,~~
9 ~~the effective date of Chapter 72, Statutes 2005 (AB 138), pursuant to decisions of the Commission on~~
10 ~~State Mandates on test claims CSM 4204 [05 RL 4204] (Mandate Reimbursement Process), GAIL D. OHANESIAN~~
11 ~~(Mandate Reimbursement Process II), CSM 4469 (Brown Act Reform), and 97-TC-21 [04 RL 9721-~~
12 ~~11, 05 RL 9721-03] (School Accountability Report Card). Respondent State of California is not~~
13 ~~estopped from enacting new legislation that results in the denial of reimbursement for programs and~~
14 ~~services that were previously deemed reimbursable as state mandates, so long as that legislation is~~
15 otherwise constitutional. GDU
GAIL D. OHANESIAN

16 14. Respondent State of California, Respondent Commission on State Mandates, Respondent
17 John Chiang, as Controller of the State of California, and Intervenor Department of Finance, and those
18 public officers and employees acting by and through their authority are permanently enjoined from
19 taking any and all action to implement, apply, or enforce in any way, the following:

- 20 Section 7 of Statutes 2005, chapter 72;
- 21 Subdivision (f) of section 14 of Statutes 2005, chapter 72;
- 22 Subdivision (b) of section 17 of Statutes 2005, chapter 72.

23 15. Respondent Commission on State Mandates, and those public officers and employees
24 acting by and through its authority, are permanently enjoined from considering subdivision (c) of section
25 12, Statutes 2005, chapter 72, and Section 16 of Statutes 2005, chapter 72, in any decision of the
26 Commission in proceedings to determine whether claims pending in proceedings CSM-4257 and CSM-
27 4469 are reimbursable pursuant to subdivision 6, article XIII B, of the California Constitution.

28 16. Respondent Commission on State Mandates has abused that discretion vested in it by law

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1 in that it adopted decisions or orders in proceedings 05-TC-05, 97-TC-21, CSM-4204, CSM-4257,
2 CSM-4469 and CSM-4485 that are not in accord with the law as found by this court.

3 17. A peremptory writ of mandate shall issue from this court pursuant to Code of Civil
4 Procedure section 1094.5 directing Respondent Commission on State Mandates to set aside as null and
5 void the order adopted on September 27, 2005, to set aside the Statement of Decision in Proceeding
6 CSM-4257 (Open Meeting Act); the order to set aside the Statement of Decision in Proceeding CSM-
7 4469 (Brown Act Reform); the order to set aside the consolidated parameters and guidelines pertaining
8 to Proceeding CSM-4257 and CSM-4469; and in taking further actions in proceedings CSM-4257 and
9 -4469 as may be otherwise required by law, and which are consistent with the ruling of this court, it
10 shall not take into consideration the provisions of section 7, Chapter 72, Statutes 2005 or the provisions
11 of subdivision (f) of Government Code section 17556, as amended by section 7.

12 18. A peremptory writ of mandate shall issue from this court pursuant to Code of Civil
13 Procedure section 1094.5 directing Respondent Commission on State Mandates to set aside as null and
14 void the Statements of Decisions adopted in Proceeding 97-TC-21, on July 28, 2005 and January 26,
15 2006, in their entirety, including any modifications made to parameters and guidelines as a result of the
16 July 28, 2005 and January 26, 2006, decisions; and in taking further actions in proceeding 97-TC-21 as
17 may be otherwise required by law, and which are consistent with the ruling of this court, it shall not take
18 into consideration the provisions of section 7, Chapter 72, Statutes 2005 or the provisions of subdivision
19 (f) of Government Code section 17556, as amended by section 7.

20 19. A peremptory writ of mandate shall issue from this court pursuant to Code of Civil
21 Procedure section 1094.5 directing Respondent Commission on State Mandates to set aside as null and
22 void the Statement of Decision adopted on May 25, 2006, to reconsider its prior decisions in
23 proceedings CSM-4204 and CSM-4485 in their entirety, including any modifications made to
24 parameters and guidelines as a result of the May 25, 2006 decision; and in taking further actions in
25 proceedings CSM-4204 and -4485 as may be otherwise required by law, and which are consistent with
26 the ruling of this court, it shall not take into consideration the provisions of section 7, Chapter 72,
27 Statutes 2005 or the provisions of subdivision (f) of Government Code section 17556, as amended by
28 section 7.

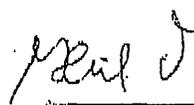
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1 20. A peremptory writ of mandate shall issue from this court pursuant to Code of Civil
 2 Procedure section 1094.5 directing Respondent Commission on State Mandates to set aside as null and
 3 void the Statement of Decision adopted October 4, 2006 in Proceeding 05-TC-05 in its entirety; and in
 4 taking further actions in proceeding 05-TC-05 as may be otherwise required by law, and which are
 5 consistent with the ruling of this court, it shall not take into consideration the provisions of section 7,
 6 Chapter 72, Statutes 2005 or the provisions of subdivision (f) of Government Code section 17556, as
 7 amended by section 7.

8 21. Respondent Commission on State Mandates shall file a return to the Peremptory Writ of
 9 Mandate within sixty days of service of the Writ or show cause why you have not complied.

10 22. ^{GDO} The Petitioner^s for Writ Mandate as set forth in the Seventh Cause of Action is duplicative
 11 to the relief set forth above and on that basis is denied.

12 23. Petitioners are entitled to recover their costs from Respondent State of California;
 13 Respondent John Chiang, as Controller of the State of California, Respondent Commission on State
 14 Mandates and Intervenor Department of Finance, upon appropriate application, including a
 15 memorandum of costs, in the sum of \$ _____

16
 17  **GAIL D. OHANESIAN**
 18 _____
 Judge of the Superior Court

Commission on State Mandates

Original List Date: 7/14/2003
Last Updated: 4/26/2007
List Print Date: 08/02/2007
Claim Number: 02-TC-51
Issue: California Public Records Act (K-14)

Mailing Information: Other

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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