

Minutes

COMMISSION ON STATE MANDATES

Location of Meeting: Room 447
State Capitol, Sacramento, California
May 30, 2014

Present: Member Eraina Ortega, Chairperson
Representative of the Director of the Department of Finance
Member Andre Rivera, Vice Chairperson
Representative of the State Treasurer
Member Ken Alex
Director of the Office of Planning and Research
Member Richard Chivaro
Representative of the State Controller
Member Sarah Olsen
Public Member
Member Carmen Ramirez
City Council Member
Member Don Saylor
County Supervisor

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 Ortega called the meeting to order at 10:05 a.m. Executive Director Heather Halsey called the roll. Member Chivaro was absent at roll call, but entered the room after adoption of the consent calendar.

APPROVAL OF MINUTES

Member Olsen made a motion to adopt the minutes. With a second by Member Ramirez, the March 28, 2014 hearing minutes were adopted by a vote of 6-0.

PUBLIC COMMENT FOR MATTERS NOT ON THE AGENDA

The Chairperson asked if there was any public comment. There was no response.

CONSENT CALENDAR

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

PARAMETERS AND GUIDELINES

Item 5* *Race to the Top*, 10-TC-06
Education Code Sections 48354(b)(1), 48356(d), 48357, 53202(a),
53202(b), 53300, and 53301
Statutes 2009-2010, 5th Extraordinary Session, Chapter 2 (SBX5 1)
Statutes 2009-2010, 5th Extraordinary Session, Chapter 3 (SBX5 4)
California Code of Regulations, Title 5, Section 4702(a) (Register 2010,
No. 32)
Twin Rivers Unified School District, Claimant

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

STATEWIDE COST ESTIMATES

- Item 8* *California Public Records Act*, 02-TC-10 and 02-TC-51
Government Code Sections 6253, 6253.1, 6253.9, 6254.3, and 6255
Statutes 1992, Chapters 463 (AB 1040); Statutes 2000, Chapter 982
(AB 2799); and Statutes 2001, Chapter 355 (AB 1014)
County of Los Angeles and Riverside Unified School District, Claimants
- Item 9* *Teacher Credentialing*, 03-TC-09
California Code of Regulations, Title 5, Sections 80556(a),(c),(f) and (j) and
80556.1(e) as added and amended by Register 86, No. 40;
Register 94, No. 19
San Diego County Office of Education, Claimant

Member Saylor made a motion to adopt the Consent Calendar. With a second by Member Olsen, the Consent Calendar was adopted by a vote of 6-0.

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

Executive Director Heather Halsey swore in parties and witnesses participating in the hearing.

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

- Item 2 Appeal of Executive Director Decisions

There were no appeals to consider.

TEST CLAIMS

- Item 3 *Post Election Manual Tally (PEMT)*, 10-TC-08
Former California Code of Regulations, Title 2, Sections 20120, 20121,
20122, 20123, 20124, 20125, 20126 and 20127.
Register 2008, No. 43
County of Santa Barbara, Claimant

This test claim was postponed to July 25, 2014 at the request of the claimant.

- Item 4 *Housing Successor Agency*, 12-TC-03
Health and Safety Code Section 34176
Statutes 2011, First Extraordinary Session, Chapter 5 (ABX1 26);
Statutes 2012, Chapter 26 (AB 1484)
Stanton Housing Authority, Claimant

The Commission members agreed to take this item up at the end of the hearing, since the claimant representative was not yet present.

**PARAMETERS AND GUIDELINES AND PARAMETERS AND GUIDELINES
AMENDMENTS**

Item 6 *Sexually Violent Predators*, CSM-4509 (12-MR-01)

Welfare and Institutions Code Sections ~~6250 and 6600~~ through ~~6608~~ 6602

Statutes 1995, Chapter 762; Statutes 1995, Chapter 763;
Statutes 1996, Chapter 4

As Modified by:

Proposition 83, General Election, November 7, 2006

California Department of Finance, Requestor

These amended parameters and guidelines pertain to the new test claim decision adopted for the *Sexually Violent Predators* program under the mandate redetermination process.

Commission Counsel Matt Jones presented this item and recommended that the Commission adopt the proposed decision and parameters and guidelines.

Parties were represented as follows: Timothy Barry, Office of County Counsel, on behalf of the San Diego County District Attorney's Office, Probation Department, and Sheriff; Ed Jewik on behalf of County of Los Angeles; Lee Scott and Michael Byrne, representing Requestor, Department of Finance.

Following discussion among the Commission members, staff, and parties, Member Chivaro made a motion to adopt the staff recommendation. With a second by Member Ramirez, the motion to adopt the staff recommendation was adopted by a vote of 7-0.

INCORRECT REDUCTION CLAIMS

Item 7 *Graduation Requirements*, 05-4435-I-50 and 08-4435-I-52

Education Code Section 51225.3

Statutes 1983, Chapter 498

Fiscal Years: 1998-1999, 1999-2000, 2000-2001, and 2001-2002

Clovis Unified School District, Claimant

This incorrect reduction claim (IRC) challenges reductions made by the State Controller's Office (SCO) to reimbursement claims filed by Claimant, Clovis Unified School District for the *Graduation Requirements* program for fiscal years 1998-1999, 1999-2000, 2000-2001, and 2001-2002.

Senior Commission Counsel Giny Chandler presented this item and recommended that the Commission adopt the proposed statement of decision to deny the incorrect reduction claim.

Parties were represented as follows: Arthur Palkowitz, representing the claimant; Michael Clear, Assistant Superintendent of Business Services, Clovis Unified School District; Chris Ryan and Jim Spano, representing the State Controller's Office.

Following discussion among the Commission members, staff, and parties, Member Chivaro made a motion to adopt the staff recommendation. With a second by Member Alex, the motion to adopt the staff recommendation to deny the incorrect reduction claim was adopted by a vote of 6-1, with Member Saylor dissenting.

TEST CLAIMS

Item 4 *Housing Successor Agency*, 12-TC-03

Health and Safety Code Section 34176

Statutes 2011, First Extraordinary Session, Chapter 5 (ABX1 26);
Statutes 2012, Chapter 26 (AB 1484)

Stanton Housing Authority, Claimant

This item was taken up at the end of the hearing, since the claimant representative was not present at the beginning of the hearing.

Chairperson Ortega confirmed that the claimant representative, Ms. Sigrid Asmundson, was present and recalled the item.

Ms. Halsey swore in Ms. Asmundson.

Parties were represented as follows: Sigrid Asmundson, representing the claimant; Michael Byrne, Kathleen Lynch, and Lee Scott, representing the Department of Finance.

Following discussion among the Commission members, staff, and parties, Member Chivaro made a motion to adopt the staff recommendation. With a second by Member Alex, the motion to adopt the staff recommendation to deny the test claim was adopted by a vote of 5-0, Members Ramirez and Saylor abstained from voting.

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 10 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 11 Legislative Update (info)

Assistant Executive Director Jason Hone presented this item.

- Item 12 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar (info)

Chief Legal Counsel Camille Shelton presented this item.

- Item 13 Executive Director: Workload Update and Tentative Agenda Items for Next Meeting (info)

Executive Director Heather Halsey presented this item and reported on the Commission's backlog. She also made note of the upswing in litigation and the fact that it could impact how quickly staff is able to deal with the backlog.

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, 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)
Third District Court of Appeal, Case No. C070357 (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. *California School Board Association (CSBA) v. State of California et al.*
Alameda County Superior Court, Case No. RG11554698
[2010-2011 Budget Trailer Bills, Mandates Process for K-12 Schools, Redetermination Process]
3. *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).
California Supreme Court, Case No. S214855
(Los Angeles County Superior Court, Case No. BS130730, 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*]
4. *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
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
5. *Santa Clarita Valley Sanitation District v. Commission on State Mandates, California Regional Water Quality Control Board, Department of Finance*
Los Angeles County Superior Court, Case No. BS148024
Upper Santa Clara River Chloride Requirements, 10-TC-09
(Los Angeles Regional Water Quality Control Board Resolution No. R4-2008-012, adopted December 11, 2008; approved by United States Environmental Protection Agency April 6, 2010)

B. PERSONNEL

To confer on personnel matters pursuant to Government Code section 11126(a)(1):

The Commission 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(a)(1).

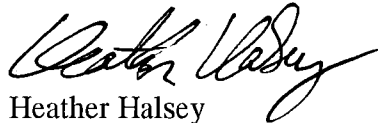
REPORT FROM CLOSED EXECUTIVE SESSION

At 11:11 a.m., Chairperson Ortega 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, and to confer on personnel matters pursuant to Government Code section 11126(a)(1).

Chairperson Ortega also reported an action that was taken in closed session: The Commission acted to delegate to the Personnel Subcommittee the ability to appoint an interim chief legal counsel in the event that the current legal counsel could not continue his or her duties.

ADJOURNMENT

Hearing no further business, Chairperson Ortega adjourned the meeting at 11:11 a.m.



Heather Halsey
Executive Director