

Minutes

COMMISSION ON STATE MANDATES

Location of Meeting: Room 447
State Capitol, Sacramento, California
September 27, 2013

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

Absent: 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 10:00 a.m.

Executive Director Heather Halsey called the roll. Member Saylor was absent.

APPROVAL OF MINUTES

Item 1 July 26, 2013

Member Chivaro made a motion to adopt the minutes. With a second by Member Ramirez, the July 26, 2013 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

If there are no objections to any of the following action items designated by an asterisk (), the Executive Director will include each one on the Proposed Consent Calendar that will be presented at the hearing. The Commission will determine which items will remain on the Consent Calendar.*

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

PARAMETERS AND GUIDELINES AND PARAMETERS AND GUIDELINES AMENDMENTS

Item 6* *Habitual Truants*, 01-PGA-06 and 09-PGA-01

Education Code Section 48262 and 48264.5

Statutes 1975, Chapter 1184; Statutes 1994, Chapter 1023;
Statutes 2001, Chapter 734

Clovis Unified School District and San Jose Unified School District,
Requestors

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

STATEWIDE COST ESTIMATE

Item 7* *Tuberculosis Control, 03-TC-14*

Health and Safety Code sections 121361, 121362 and 121366

Statutes 1993, Chapter 676; Statutes 1994, Chapter 685;
Statutes 1997, Chapter 116; and Statutes 2002, Chapter 763

County of Santa Clara, Claimant

Executive Director Halsey announced that after the agenda for this hearing was released, the parties agreed to place Item 6 on the Consent Calendar. Chairperson Ortega asked if there was any objection to adding Item 6 to the Consent Calendar and if there were any comments from the public. No objection was made and there was no public comment. Member Olsen made a motion to adopt the consent calendar. With a second by Member Chivaro, 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 *Accounting for Local Revenue Realignments, 05-TC-01*

Health & Safety Code Sections 33681.12, 33681.13, 33681.14, 33681.15;
Revenue & Taxation Code Sections 96.81, 97.75, 97.76, 97.77, 97.31,
98.02, 97.68, 97.70, 97.71, 97.72, 97.73

Statutes 2003, Chapter 162; Statutes 2004, Chapter 211; Statutes 2004,
Chapter 610

County of Los Angeles, Claimant

This test claim pertains to the administrative activities required to implement three revenue-shifting programs instituted by the Legislature: the Educational Revenue Augmentation Fund (ERAF III) shift; the Vehicle License Fee (VLF) Swap; and the Triple Flip.

Commission Counsel Matt Jones presented this item and recommended that the Commission adopt the staff analysis and proposed statement of decision, approving reimbursement for counties for the costs of administrative activities required by the test claim statutes for two years, and approving reimbursement for the city and county of San Francisco on an ongoing basis.

Parties were represented as follows: Hasmik Yaghobyan, representing the claimant; Geoffrey Neill on behalf of the California State Association of Counties; Michael Byrne and Susan Geanacou, 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 partially approving the test claim was adopted by a vote of 5-0, with Member Ramirez abstaining.

Item 4 *General Health Care Services for Inmates, 07-TC-12*
Penal Code Section 4011.10
Statutes 2005, Chapter 481 (SB 159) and Statutes 2006,
Chapter 303 (SB 896)
County of Orange, Claimant

This test claim pertains to a 2005 test claim statute and 2006 amendment thereto that allows local law enforcement agencies, including county sheriffs, chiefs of police, and directors or administrators of local detention facilities, to contract with hospitals providing emergency health care services for local law enforcement patients.

Senior Commission Counsel Tyler Asmundson presented this item and recommended that the Commission adopt the staff recommendation to deny the test claim.

Parties were represented as follows: James Harman, representing the claimant; Kim Pearson, Division Director, Orange County Health Care Agency's Correctional Health Services Division; Michael Byrne and Susan Geanacou, representing the Department of Finance.

Following discussion among the Commission members, staff, and parties, Member Olsen made a motion to adopt the staff recommendation to deny the test claim. With a second by Member Chivaro, the motion to adopt the staff recommendation denying the test claim was adopted by a vote of 6-0.

REQUEST FOR MANDATE REDETERMINATION

Item 5 *Sexually Violent Predators (CSM-4509), 12-MR-01*
Welfare and Institutions Code Sections 6601 through 6605, and 6608
Statutes 1995, Chapter 762 (SB 1143); Statutes 1995, Chapter 763
(AB 888); Statutes 1996, Chapter 4 (AB 1496)
As Alleged to be Modified by: Proposition 83,
General Election, November 7, 2006
California Department of Finance, Requestor

This redetermination request alleges that the state's liability under a previously determined test claim has been modified based on a subsequent change in law as defined in Government Code section 17570.

Commission Counsel Matt Jones presented this item and recommended that the Commission adopt the new test claim decision to supersede the previously adopted test claim decision based on a subsequent change in law.

Parties and interested parties were represented as follows: Susan Geanacou and Michael Byrne, representing Requester, the Department of Finance; Hasmik Yaghobyan, on behalf of County of Los Angeles; Todd Spitzer, Orange County Supervisor; Craig Osaki, on behalf of the Los Angeles County Public Defender's Office; Timothy Barry, on behalf of the San Diego County Sheriff's Office, District Attorney's Office, and Public Defender's Office; Geoffrey Neill, on behalf of the California State Association of Counties.

Following discussion among the Commission members, staff, parties, and a member of the public, Member Ramirez made a motion to adopt the findings in the proposed statement of decision, all except for the period of reimbursement and the issue of retroactivity with respect to the County of Los Angeles or any other county that has a binding order. With a second by Member Alex, the findings in the proposed statement of decision, except for the period of reimbursement and the issue of retroactivity were adopted by a vote of 4-1, with Member Rivera abstaining and Member Olsen voting nay.

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 8 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 9 Legislative Update (info)

Program Analyst Kerry Ortman presented this item.

- Item 10 Chief Legal Counsel: Chief Legal Counsel: Recent Decisions, Litigation Calendar

Chief Legal Counsel Camille Shelton presented this item.

- Item 11 Executive Director: Workload, 2014 Meeting Calendar, and Tentative Agenda Items for Next Meeting (info/action)

Executive Director Heather Halsey presented this item. Member Olsen made a motion to adopt the proposed 2014 meeting calendar. With a second from Member Chivaro, the 2014 meeting calendar was unanimously adopted.

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

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). Second District Court of Appeal, Case No. B237153 (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]*

PERSONNEL

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

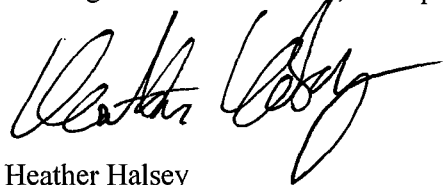
The Commission adjourned into closed executive session pursuant to Government Code section 11126(e) to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation published in the notice and agenda; to confer and receive advice 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 11:52 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).

ADJOURNMENT

Hearing no further business, Chairperson Ortega adjourned the meeting at 11:53 a.m.



Heather Halsey
Executive Director