

Minutes

COMMISSION ON STATE MANDATES

Location of Meeting: Room 444
State Capitol, Sacramento, California
January 24, 2020

Present: Member Gayle Miller, Chairperson
Representative of the Director of the Department of Finance
Member Jacqueline Wong-Hernandez
Representative of the State Controller, Vice Chairperson
Member Lee Adams
County Supervisor
Member Mark Hariri
Representative of the State Treasurer
Member Jeannie Lee
Representative of the Director of the Office of Planning and Research
Member Carmen Ramirez
City Council Member

Absent: 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 Miller called the meeting to order at 10:00 a.m. Executive Director Heather Halsey stated that Member Olsen let Commission staff know that she was unable to attend the hearing; welcomed and introduced a new Commission employee, Marie Jacques; and called the roll.

ELECTION OF OFFICERS

Chairperson Miller asked for nominations for chairperson. Member Wong-Hernandez nominated the Director of Finance, as chairperson. With a second by Member Hariri, the Director of Finance was elected chairperson by unanimous voice vote with Member Olsen absent.

Chairperson Miller then asked for nominations for vice-chairperson. Member Wong-Hernandez nominated the State Treasurer, as vice chairperson. With a second by Chairperson Miller, the State Treasurer was elected vice chairperson by unanimous voice vote with Member Olsen absent.

APPROVAL OF MINUTES

Chairperson Miller asked if there were any objections or corrections to the November 22, 2019 minutes. Member Adams made a motion to adopt the minutes. With a second by Member Wong-Hernandez, the November 22, 2019 hearing minutes were adopted by a unanimous voice vote with Member Olsen absent.

PUBLIC COMMENT FOR MATTERS NOT ON THE AGENDA

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

CONSENT CALENDAR

INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLES 7 AND 8 (action)

ADOPTION OF PROPOSED RULEMAKING CALENDAR

Item 6* Proposed Rulemaking Calendar, 2020

Executive Director Halsey stated that Item 6 was proposed for consent. Chairperson Miller asked if there were any objections to or public comment regarding the Consent Calendar. There was no response. Member Ramirez made a motion to adopt the Consent Calendar. Member Lee seconded the motion. The Consent Calendar was adopted by a unanimous voice vote with Member Olsen absent.

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

Executive Director Halsey swore in the parties and witnesses participating in the Article 7 portion of the hearing.

APPEAL OF EXECUTIVE DIRECTOR DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 1181.1(c) (info/action)

Item 3 Appeal of Executive Director Decisions

Executive Director Halsey stated that there were no appeals to consider for this hearing.

INCORRECT REDUCTION CLAIM

Item 4 *Graduation Requirements*, 16-4435-I-56
Education Code Section 51225.3; Statutes 1983, Chapter 498
Fiscal Years 2008-2009 and 2009-2010
Grossmont Union High School District, Claimant

Executive Director Halsey stated that the claimant representative for Item 4 had let Commission staff know that they would not be participating in the hearing.

Senior Commission Counsel Eric Feller presented this item and recommended that the Commission adopt the Proposed Decision to deny this Incorrect Reduction Claim.

Parties were represented as follows: Chris Ryan appeared on behalf of the State Controller’s Office.

Mr. Ryan stated that the State Controller’s Office supports staff’s conclusion and recommendation. Following discussion between Member Wong-Hernandez, Member Ramirez, Chief Legal Counsel Shelton, and Mr. Ryan, Member Ramirez made a motion to adopt the staff recommendation. With a second by Member Hariri, the motion to adopt the staff recommendation was adopted by a vote of 6-0.

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 2 (info/action)

- Item 5 Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commission, or to a Hearing Officer

Executive Director Heather Halsey stated that no SB 1033 applications have been filed and that Item 6, the Proposed Rulemaking Calendar, 2020, was on consent.

REPORTS

- Item 7 Legislative Update (info)

Program Analyst Kerry Ortman presented this item and described three bills that the Commission is tracking: SB 287, AB 400, and AB 1471.

- Item 8 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar (info)

Chief Legal Counsel Camille Shelton presented this item.

- Item 9 Executive Director: Workload Update and Tentative Agenda Items for the March and May 2020 Meetings (info))

Executive Director Halsey described the Commission's pending caseload; reminded everyone to notify Commission staff not later than the Wednesday prior to a hearing of the names of the people who will be speaking for inclusion on the witness list; and asked Senior Commission Counsel Eric Feller and Chief Legal Counsel Camille Shelton to come to the table so that she could present him with an award in recognition of his 25 years of state service. Chief Legal Counsel Shelton congratulated Senior Commission Counsel Feller; presented him with his certificate of public service and a watch; and Chairperson Miller and Member Ramirez congratulated him and thanked him for his 25 years of state service.

CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 AND 11126.2 (info/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):

Trial Courts:

1. ***On Remand from the Third District Court of Appeal, Case No. C070357***
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)
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. *City of San Diego v. Commission on State Mandates, State Water Resources Control Board, Department of Finance*,
Sacramento County Superior Court, Case No. 2019-80003169
(*Lead Sampling in Schools: Public Water System No. 3710020 (17-TC-03)*)

Courts of Appeal:

1. *Coast Community College District, et al. v. Commission on State Mandates*,
Third District Court of Appeal, Case No. C080349
Sacramento County Superior Court, Case No. 34-2014-80001842
[*Minimum Conditions for State Aid, 02-TC-25/02-TC-31*
(Education Code Sections 66721, 66721.5, 66722, 66722.5, 66731, 66732, 66736, 66737, 66738, 66740, 66741, 66742, 66743, 70901, 70901.5, 70902, 71027, 78015, 78016, 78211.5, 78212, 78213, 78214, 78215, 78216, 87482.6, and 87482.7; Statutes 1975, Chapter 802; Statutes 1976, Chapters 275, 783, 1010, and 1176; Statutes 1977, Chapters 36 and 967; Statutes 1979, Chapters 797 and 977; Statutes 1980, Chapter 910; Statutes 1981, Chapters 470 and 891; Statutes 1982, Chapters 1117 and 1329; Statutes 1983, Chapters 143 and 537; Statutes 1984, Chapter 1371; Statutes 1986, Chapter 1467; Statutes 1988, Chapters 973 and 1514; Statutes 1990, Chapters 1372 and 1667; Statutes 1991, Chapters 1038, 1188, and 1198; Statutes 1995, Chapters 493 and 758; Statutes 1998, Chapter 365, 914, and 1023; Statutes 1999, Chapter 587; Statutes 2000, Chapter 187; and Statutes 2002, Chapter 1169; California Code of Regulations, Title 5, Sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, 51027, 51100, 51102, 53200, 53202, 53203, 53204, 53207, 53300, 53301, 53302, 53308, 53309, 53310, 53311, 53312, 53314, 54626, 54805, 55000, 55000.5, 55001, 55002, 55002.5, 55004, 55005, 55006, 55100, 55130, 55150, 55160, 55170, 55182, 55200, 55201, 55202, 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320, 55321, 55322, 55340, 55350, 55401, 55402, 55403, 55404, 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520, 55521, 55522, 55523, 55524, 55525, 55526, 55530, 55532, 55534, 55600, 55601, 55602, 55602.5, 55603, 55605, 55607, 55620, 55630, 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, 55765, 55800, 55800.5, 55801, 55805, 55805.5, 55806, 55807, 55808, 55809, 55825, 55827, 55828, 55829, 55830, 55831, 58102, 58104, 58106, 58107, 58108, 59404, and 59410; Handbook of Accreditation and Policy Manual, Accrediting Commission for Community and Junior Colleges (Summer 2002); and “Program and Course Approval Handbook” Chancellor’s Office California Community Colleges (September 2001).]
2. ***On Remand from California Supreme Court, Case No. S214855, 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. B292446
[Los Angeles County Superior Court, Case No. BS130730, Related Appeal from 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]

California Supreme Court:

1. *California School Board Association (CSBA) v. State of California et al.*
California Supreme Court, Case No S247266
First District Court of Appeal, Case No. A148606
Alameda County Superior Court, Case No. RG11554698
[2010-2011 Budget Trailer Bills; Education Code sections 42238.24 and 56523]

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matter pursuant to Government Code section 11126(e)(2):

Based on existing facts and circumstances, there is a specific matter which presents a significant exposure to litigation against the Commission on State Mandates, its members or staff.

B. PERSONNEL

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

The Commission adjourned into closed executive session at 10:17 a.m., 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 to confer on personnel matters pursuant to Government Code section 11126(a)(1).

RECOVENE IN PUBLIC SESSION

REPORT FROM CLOSED EXECUTIVE SESSION

At 10:42 a.m., the Commission reconvened in open session. Chairperson Miller reported that the Commission met in closed executive 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 public 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.

ADJOURNMENT

Hearing no further business, Chairperson Miller requested a motion to adjourn the meeting. Member Ramirez made a motion to adjourn the meeting. Member Hariri seconded the motion.

The January 24, 2020 meeting was adjourned by a unanimous voice vote at 10:42 a.m. with Member Olsen absent.



Heather Halsey
Executive Director

STATE OF CALIFORNIA
COMMISSION ON STATE MANDATES

PUBLIC MEETING



FRIDAY, JANUARY 24, 2020

10:00 A.M.

STATE CAPITOL BUILDING

ROOM 444

SACRAMENTO, CALIFORNIA

REPORTER'S TRANSCRIPT OF PROCEEDINGS

ORIGINAL

REPORTED BY:

KATHRYN S. SWANK

Certified Shorthand Reporter No. 13061

Registered Professional Reporter

KATHRYN S. SWANK, CSR
303 Paddock Court
Roseville, California 95661
Telephone (916) 390-7731
KathrynSwankCSR@sbcglobal.net

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

COMMISSIONERS PRESENT

GAYLE MILLER
Representative for KEELY BOSLER, Director
Department of Finance
(Chair of the Commission)

JACQUELINE WONG-HERNANDEZ
Representative for BETTY T. YEE
State Controller
(Vice Chair of the Commission)

MARK HARIRI
Representative for FIONA MA
State Treasurer

JEANNIE LEE
Representative for KATE GORDON, Director
Office of Planning & Research

LEE ADAMS III
Sierra County Supervisor
Local Agency Member

M. CARMEN RAMIREZ
Oxnard City Council Member
Local Agency Member

---o0o---

COMMISSION STAFF

ERIC FELLER
Senior Commission Counsel

HEATHER A. HALSEY
Executive Director

KERRY ORTMAN
Program Analyst

HEIDI PALCHIK
Assistant Executive Director

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S C O N T I N U E D

CAMILLE N. SHELTON
Chief Legal Counsel

---o0o---

PUBLIC PARTICIPANTS

CHRIS RYAN
California State Controller's Office

---o0o---

I N D E X

ITEM NO.	PAGE
I. Call to Order and Roll Call	8
II. Election of Officers	10
Item 1 Staff Report (none)	
III. Approval of Minutes	
Item 2 November 22, 2019	11
IV. Public Comment for Matters Not on the Agenda (none)	11
V. Proposed Consent Calendar for Items Proposed for Adoption on Consent Pursuant to California Code of Regulations, Title 2, Articles 7 and 8	12
VI. Hearings and Decisions Pursuant to California Code of Regulations, Title 2, Article 7	
A. Appeal of Executive Director Decisions Pursuant to California Code of Regulations, Title 2, Section 1181.1(c)	
Item 3 Appeal of Executive Director Decisions (none)	13
B. Incorrect Reduction Claim	
Item 4 Graduation Requirements, 16-4435-I-56	13
	Education Code Section 51225.3; Statutes 1983, Chapter 498 Fiscal Years 2008-2009 and 2009-2010
	Grossmont Union High School District, Claimant

I N D E X C O N T I N U E D

ITEM NO.		PAGE
VII.	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 2	
	Item 5 Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commission, or to a Hearing Officer (none)	18
VIII.	Informational Hearing Pursuant to California Code of Regulations, Title 2, Article 8	
	A. Adoption of Proposed Rule Making Calendar	
	Item 6 Proposed Rulemaking Calendar, 2020	18
IX.	Reports	
	Item 7 Legislative Update	18
	Item 8 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar	20
	Item 9 Executive Director: Workload Update and Tentative Agenda Items for the March 2019 and May 2020 Meetings	22
X.	Closed Executive Session Pursuant to Government Code Sections 11126 and 11126.2	25
	A. Pending Litigation	
	B. Personnel	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X C O N T I N U E D

ITEM NO.	PAGE
XI. Report from Closed Executive Session	25
Adjournment	26
Reporter's Certificate	27

---o0o---

1 SACRAMENTO, CALIFORNIA

2 FRIDAY, JANUARY 24, 2020, 10:00 A.M.

3 ---o0o---

4 CHAIRPERSON MILLER: Good morning, everyone.

5 The meeting of the Commission on State Mandates
6 will come to order.

7 And first I have some housekeeping information: On
8 the table near the end of the dais are copies of the
9 meeting notice, agenda, new filings, witness list; and
10 the electronic public hearing binder is also located
11 there on a laptop.

12 At the witness table, the claimant and local agency
13 interested parties sit facing the center of the dais,
14 and state agency parties and interested parties sit to
15 the claimant's right.

16 The restrooms are down the hall near the elevators.
17 And, finally, please take note of the emergency exits in
18 the room.

19 And Ms. Halsey, will you please take the roll.

20 MS. HALSEY: Sure. And I have a couple of
21 announcements first. First, Ms. Olsen let us know that
22 she's unable to attend today's hearing. And, secondly,
23 I wanted to welcome our new employee, Marie Jacques.
24 Marie graduated from California State University
25 Sacramento, with a degree in human resources. And she's

1 worked in several state agencies over the years
2 including Parks and Recreation, Health Care Services,
3 the Department of State Hospitals, the Department of
4 Education, and the California Health Benefits Exchange.
5 And she's worked on a wide variety of human resource
6 issues over the years and will be a great resource for
7 our office. We're delighted to have her join us.

8 CHAIRPERSON MILLER: Oh, congratulations. We're
9 very excited to have you.

10 MS. HALSEY: And for the roll, Mr. Adams.

11 MEMBER ADAMS: Here.

12 MS. HALSEY: Mr. Hariri.

13 MEMBER HARIRI: Here.

14 MS. HALSEY: Ms. Lee.

15 MEMBER LEE: Here.

16 MS. HALSEY: Ms. Miller.

17 CHAIRPERSON MILLER: Here.

18 MS. HALSEY: Ms. Ramirez.

19 MEMBER RAMIREZ: Here.

20 MS. HALSEY: Ms. Wong-Hernandez.

21 MEMBER WONG-HERNANDEZ: Here.

22 CHAIRPERSON MILLER: Great. Thank you.

23 We have a quorum. And we will now -- are you going
24 to -- that was the staff report that you just did?

25 MS. HALSEY: No. Now --

1 CHAIRPERSON MILLER: Now we're moving to Item 1.
2 Sorry.

3 The -- are there nominations for a Chairperson?

4 MEMBER WONG-HERNANDEZ: Nominate the Director of
5 Finance.

6 MEMBER HARIRI: Second that.

7 CHAIRPERSON MILLER: Thank you very much.

8 That nomination for the Director of Finance has
9 been moved and seconded.

10 May we please indicate by saying "aye."

11 (Ayes)

12 CHAIRPERSON MILLER: Any abstentions? Any "no"
13 votes?

14 (No response)

15 CHAIRPERSON MILLER: Great. The Director of
16 Finance has been elected the Chairperson.

17 And now may we have a nomination for the Vice
18 Chairperson, please.

19 MEMBER WONG-HERNANDEZ: Nominate the State
20 Treasurer.

21 CHAIRPERSON MILLER: And I will second that.

22 Mr. -- or, Treasurer Ma has been nominated for the
23 Vice Chairperson.

24 Are there any other nominations?

25 (No response)

1 CHAIRPERSON MILLER: Any objection to a unanimous
2 roll call?

3 (No response)

4 CHAIRPERSON MILLER: Great. Thank you very much.
5 Treasurer Ma has been elected Vice Chairperson.

6 Next is Item Number 2.

7 Are there any objections or corrections to the
8 minutes of November 22nd?

9 MEMBER ADAMS: I will make a motion to approve.

10 CHAIRPERSON MILLER: Great. Thank you very much.
11 It's been moved by Mr. Adams.

12 MEMBER WONG-HERNANDEZ: Second.

13 CHAIRPERSON MILLER: Seconded by
14 Ms. Wong-Hernandez.

15 Is there any objection to using unanimous roll call
16 to approve the minutes?

17 (No response)

18 CHAIRPERSON MILLER: Great. The minutes are
19 approved.

20 Ms. Halsey.

21 MS. HALSEY: And now we would take up public
22 comment for matters not on the agenda. Please note that
23 the Commission cannot take action on items not on the
24 agenda. However, it can schedule issues raised by the
25 public for consideration at future meetings.

1 CHAIRPERSON MILLER: Great. Thank you very much.
2 Is there any public comment this morning?
3 (No response)
4 CHAIRPERSON MILLER: Hearing no public comment, we
5 will move to the next item, the consent calendar.
6 Item 6 is proposed for consent.
7 MS. HALSEY: Item 6 proposed for consent.
8 CHAIRPERSON MILLER: Is that correct?
9 MS. HALSEY: Yeah.
10 CHAIRPERSON MILLER: Okay. Great. Thank you very
11 much.
12 Are there any objections to the proposed consent
13 calendar?
14 (No response)
15 CHAIRPERSON MILLER: Any public comment on the
16 consent calendar?
17 (No response)
18 CHAIRPERSON MILLER: Great. May we have a motion,
19 please.
20 MEMBER RAMIREZ: So moved.
21 CHAIRPERSON MILLER: Moved by Ms. Ramirez.
22 MEMBER LEE: Second.
23 CHAIRPERSON MILLER: Second by Ms. Lee.
24 May we -- any objection to a unanimous roll call?
25 (No response)

1 CHAIRPERSON MILLER: Great. Thank you very much.
2 The consent calendar is approved.

3 We will now move to Item 4, Ms. Halsey.

4 MS. HALSEY: Will the parties and witnesses for
5 Item 4 please rise.

6 (Parties/witnesses stood to be sworn or
7 affirmed.)

8 MS. HALSEY: Thank you.

9 Item 3 is reserved for appeals of Executive
10 Director decisions, and there are no appeals to consider
11 for this hearing.

12 Senior Commission Counsel Eric Feller will present
13 a proposed decision on an incorrect reduction claim on
14 graduation requirement, Item 4.

15 At this time, we invite the parties and witnesses
16 for Item 4 to please come to the table.

17 Also, the claimant representative has let us know
18 that they will not be participating in today's hearing.

19 CHAIRPERSON MILLER: Great. Thank you very much.

20 MR. FELLER: Good morning.

21 This incorrect reduction claim challenges the
22 Controller's reduction of cost claims to require
23 additional space for science classrooms and related
24 materials and supplies for fiscal years 2008/9 and
25 2009/10.

1 Staff finds the IRC was timely filed and that the
2 audit of the 09/10 amended claim was timely initiated.
3 Staff also finds that the Controller's reductions are
4 correct as a matter of law because the cost claims were
5 not supported with the documentation required by the
6 parameters and guidelines and the claim had failed to
7 identify and deduct as offsetting revenue the local
8 school construction bond funds.

9 The Controller agrees with the proposed decision,
10 but the claimant does not.

11 Accordingly, staff recommends the Commission adopt
12 the proposed decision to deny this IRC and authorize
13 staff to make any technical, nonsubstantive changes to
14 the proposed decision following the hearing.

15 CHAIRPERSON MILLER: Great. Thank you very much.

16 Could you please state your full name, sir.

17 MR. RYAN: Chris Ryan, audit manager at the State
18 Controller's Office.

19 CHAIRPERSON MILLER: Any comments on this item?

20 MR. RYAN: The State Controller's Office supports
21 the staff's conclusion and recommendation.

22 CHAIRPERSON MILLER: Thank you very much, Mr. Ryan.

23 Is there any further public comment on this item?

24 (No response)

25 CHAIRPERSON MILLER: No? Are there any questions

1 from board members?

2 MEMBER WONG-HERNANDEZ: I have a question.

3 CHAIRPERSON MILLER: Yes, Ms. Wong-Hernandez.

4 MEMBER WONG-HERNANDEZ: I noticed, obviously, that
5 this is dealing with the same mandate that the CSBA case
6 that was decided was recently dealing with. I know it's
7 different years. But I was -- I was hoping, at some
8 point, whether it's here or in closed session to sort of
9 hear about any potential interaction with this. I'm
10 trying to figure sort of, if the claimant doesn't agree,
11 why they are not here, if they are seeing some sort of
12 interaction. And I don't know if you can opine on that.

13 MS. SHELTON: Well, this IRC presents issues that
14 are far different than those issues presented in the
15 CSBA case. The CSBA case is really dealing with
16 offsetting revenues that are particular to statutes that
17 are not at issue at all in this incorrect reduction
18 claim.

19 MEMBER WONG-HERNANDEZ: Okay. But my only other
20 question was, do we typically -- have we, in the past,
21 said that any kind of local bond measures where they are
22 getting school facilities funding locally is not
23 something -- that that is an offsetting revenue?
24 Because I thought I understood that that's one of the
25 audit findings from this.

1 MS. SHELTON: Whether we have done so in the past,
2 I think --

3 MEMBER WONG-HERNANDEZ: Actually, I'm sorry.
4 That's more a question for Mr. Ryan.

5 MR. RYAN: I believe the Commission has dealt with
6 that on other mandates, where it had local bond revenues
7 for buildings.

8 MEMBER WONG-HERNANDEZ: But the Commission in this
9 case is just saying that they don't -- that they think
10 the audit is correct, right? And the audit was the one
11 that said this is offsetting revenue that's not going to
12 be --

13 MS. SHELTON: Well, local bond funds are excluded
14 from the definition of --

15 MEMBER WONG-HERNANDEZ: I see.

16 MS. SHELTON: -- taxes. So if you spend local bond
17 funds --

18 MEMBER WONG-HERNANDEZ: I see. Okay.

19 MS. SHELTON: -- on a state-mandated program, then
20 they wouldn't be entitled to reimbursement. So there
21 are two ways you can deal with this and not even be
22 eligible for reimbursement. And, in this case, it's an
23 offsetting revenue because they used it to pay for this
24 program.

25 MEMBER WONG-HERNANDEZ: I see. Okay. Thank you.

1 Thanks for that clarification.

2 CHAIRPERSON MILLER: Thank you, Mr. Ryan.

3 Any further questions? Any additional public
4 comment?

5 MEMBER RAMIREZ: I do have a question.

6 CHAIRPERSON MILLER: Yes, Ms. Ramirez.

7 MEMBER RAMIREZ: That raises the question to me
8 if -- if, hypothetically, a district used -- knew that
9 the bond funds would not -- if they used them, they
10 would not be reimbursed, would they have that option to
11 not use the bond funds for the item?

12 MS. SHELTON: Well, that's a very interesting
13 issue, and we have not decided that issue yet. So I
14 would like not to comment on that yet.

15 MEMBER RAMIREZ: That's wise. Okay. Thank you.

16 CHAIRPERSON MILLER: That's a very good question.
17 Great.

18 Anything additional?

19 (No response)

20 CHAIRPERSON MILLER: No? Is there a motion and a
21 second?

22 MEMBER RAMIREZ: So moved.

23 CHAIRPERSON MILLER: Moved by Ms. Ramirez.

24 MEMBER HARIRI: Second.

25 CHAIRPERSON MILLER: Second by Mr. Hariri.

1 And may we please call the roll, Ms. Halsey.
2 MS. HALSEY: Mr. Adams.
3 MEMBER ADAMS: Aye.
4 MS. HALSEY: Mr. Hariri.
5 MEMBER HARIRI: Aye.
6 MS. HALSEY: Ms. Lee.
7 MEMBER LEE: Aye.
8 MS. HALSEY: Ms. Miller.
9 CHAIRPERSON MILLER: Aye.
10 MS. HALSEY: Ms. Ramirez.
11 MEMBER RAMIREZ: Aye.
12 MS. HALSEY: Ms. Wong-Hernandez.
13 MEMBER WONG-HERNANDEZ: Aye.
14 CHAIRPERSON MILLER: Great. That motion carries.
15 Thank you very much.
16 Item Number 5.
17 MS. HALSEY: Item 5 is reserved for county
18 applications for a finding of significant financial
19 distress, or SB 1033 applications. No SB 1033
20 applications have been filed.
21 Item 6 was on the consent calendar.
22 Program Analyst Kerry Ortman will present Item 7,
23 the Legislative Update.
24 MS. ORTMAN: Good morning.
25 The Legislature reconvened into session on

1 January 6, 2020. At this time, there are no new
2 Mandates-related bills to report. However, the
3 Commission continues to monitor the following three
4 bills:

5 First, SB 287, Commission on State Mandates, Test
6 Claims, Filing Date, which proposes language that would
7 specify that for purposes of filing a test claim, based
8 on the date of incurring increased costs, the phrase
9 "within 12 months" means by June 30 of the fiscal year
10 following the fiscal year in which increased costs were
11 first incurred by the test claimant. This bill is still
12 being held in Assembly Committee under submission.

13 Next, AB 400, State Mandates, which according to
14 the author's office, is a spot bill.

15 Finally, AB 1471, State-Mandated Local Costs,
16 Notification, proposes language that would specify that
17 reimbursement of lost revenue be provided to certain
18 local agencies as a result of delayed state action
19 pursuant to the same procedures as filing a test claim
20 with the Commission.

21 Also, the provisions of this bill would be exempt
22 from the exceptions under Government Code section 17556.
23 The bill did not make it out of its house of origin by
24 the deadline, and, as a result, it still could become a
25 two-year bill and be acted on this year. We will

1 continue to monitor for legislation that impacts the
2 mandates process.

3 CHAIRPERSON MILLER: Thank you very much for that.
4 And now we will move to Item Number 8, please.

5 MS. HALSEY: Chief Legal Counsel Camille Shelton
6 will present Item 8, the Chief Legal Counsel Report.

7 MS. SHELTON: Good morning.

8 There are no new filings, and we do have a recent
9 decision, as we indicated, from the California School
10 Board Association matter versus the Commission on State
11 Mandates.

12 On December 19th, 2019, the California Supreme
13 Court issued its opinion denying CSBA's petition. The
14 court found that the state does not violate Article XIII
15 B, section 6, of the California Constitution when it
16 identifies general education funding it already provides
17 to school districts and county offices of education, as
18 offsetting revenue for the purpose of reimbursing State
19 Mandates; and that the State does not violate separation
20 of powers principles when it allows general education
21 funding or special education funding to be identified as
22 offsetting revenues for state-mandated programs.

23 This case will be remanded back to the Alameda
24 County Superior Court to resolve the remaining issues.

25 We do have several cases on the litigation hearing

1 calendar: The first one, on the challenge to the
2 Commission's decision on discharge of stormwater runoff,
3 the superior court did hear that matter on remand on
4 December 6, 2019. But on January 2nd, 2020, the court
5 issued a request for additional briefing to be filed by
6 January 31st, after which the court may schedule a
7 second hearing or issue its final ruling.

8 We -- the Third District Court of Appeal has
9 noticed the parties and set the hearing for minimum
10 conditions for state aid. That one is a challenge by
11 Coast Community College District. It's pending in the
12 Third District Court of Appeal, and the hearing date is
13 March 16, 2020.

14 And, finally, the hearing for City of San Diego
15 versus Commission on State Mandates, which challenges
16 the Commission's decision in lead sampling in schools,
17 has been scheduled for May 8th, 2020, in the Sacramento
18 County Superior Court.

19 CHAIRPERSON MILLER: Thank you. And all of those
20 are streamed now, right? If anybody is interested in
21 watching them.

22 MS. SHELTON: No. The streaming only occurs in the
23 Supreme Court, not in the lower courts yet.

24 CHAIRPERSON MILLER: Okay. Great. Thank you very
25 much.

1 Thank you for that, Ms. Shelton.

2 Ms. Halsey, the Executive Director Report.

3 MS. HALSEY: Yes.

4 After this hearing, there are 41 pending test
5 claims, 39 of which are regarding stormwater NPDES
6 permits, and one parameters and guidelines amendment on
7 graduation requirements, which is now pending inactive.

8 We also have two statewide cost estimates pending
9 inactive, and there's one additional parameters and
10 guidelines and one additional statewide cost estimate,
11 which are both regarding the stormwater NPDES permits,
12 and those are on inactive status pending the outcome of
13 litigation regarding the test claim decisions underlying
14 those matters.

15 We also have one request for mandate
16 redetermination currently pending, which is on remand
17 from the court.

18 And, finally, there are five remaining IRCs.

19 Commission staff currently expect to complete all
20 the currently pending test claims and IRCs by
21 approximately the March 2023 Commission meeting
22 depending on staffing and other workload.

23 And as noted last meeting, two of the Commission
24 senior staff attorneys have separated from the
25 Commission, and we are currently working on recruiting

1 to fill those positions, and this is taking some time.

2 Additionally, some of the test claims may be heard
3 and decided earlier than currently indicated if they are
4 consolidated for hearing.

5 Please check the tentative agenda items on my
6 Executive Director's report to see if an item you are
7 interested in is coming up in the next few hearings.

8 And, also, a reminder to please notify Commission
9 staff not later than the Wednesday prior to a hearing
10 that you, or a witness that you are bringing, plan to
11 testify, and please include the names of the people who
12 will be speaking for inclusion on the witness list, as
13 staff is no longer sending reminder e-mails.

14 And finally, I would like to ask Senior Commission
15 Counsel Eric Feller and Chief Legal Counsel Camille
16 Shelton to make their way to the claimant's side of the
17 table so that Ms. Shelton may present Mr. Feller with an
18 award in recognition of his 25 years of state service.

19 (Applause)

20 MS. SHELTON: It's not often that we get to
21 recognize these types of employees, but on behalf of the
22 members of the Commission and the staff of the
23 Commission, we would like to congratulate you on 25
24 years of state service, Eric, and present you with this
25 certificate of public service and your watch.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Applause)

CHAIRPERSON MILLER: Congratulations, Mr. Feller.

In my short time, it's incredibly dense, and the work you do is really phenomenal in helping us understand, and we're really grateful for everything you do. So thank you for doing this. It's a great service to the State of California.

MEMBER RAMIREZ: Madam Chair, I would just like to add my congratulations and admiration.

As a lawyer myself, I'm extremely impressed with your work and the work of all of the Commission, and the people of the State of California owe you a debt. I wish they would have more information about great work that you do and the Commission does. Appreciate it.

MR. FELLER: Thank you.

CHAIRPERSON MILLER: I absolutely agree with that. Any other comments?

(No response)

CHAIRPERSON MILLER: Thank you again, Mr. Feller.

And now we will -- the Commission will meet 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 published notice and agenda; and to confer with and

1 receive advice from legal counsel regarding potential
2 litigation. The Commission will also confer on
3 personnel matters pursuant to Government Code section
4 11126(a) (1).

5 We will reconvene in open session in approximately
6 15 minutes. Thank you very much.

7 (Closed session was held from
8 10:17 a.m. to 10:42 a.m.)

9 CHAIRPERSON MILLER: Welcome back, everyone.

10 The Commission met in closed executive session
11 pursuant to Government Code section 11126(e) (2) to
12 confer with and receive advice from legal counsel for
13 consideration and action, as necessary and appropriate,
14 upon the pending litigation listed on the published
15 notice and agenda; and to confer with and receive advice
16 from legal counsel regarding potential litigation and
17 pursuant to Government Code section 11126(a) (1) to
18 confer on no personnel matters.

19 No further public comment.

20 With no further business to discuss, I will
21 entertain a motion to adjourn.

22 MEMBER RAMIREZ: So moved.

23 CHAIRPERSON MILLER: So moved by Ms. Ramirez.

24 MEMBER HARIRI: Second.

25 CHAIRPERSON MILLER: Second by Mr. Hariri.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

All those in favor, say "aye."

(Ayes)

CHAIRPERSON MILLER: Anyone opposed?

(No response)

CHAIRPERSON MILLER: The meeting is adjourned.

Thank you, everyone.

(Proceedings concluded at 10:42 a.m.)

---o0o---

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

I, KATHRYN S. SWANK, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing proceedings were reported in shorthand by me, Kathryn S. Swank, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said proceedings nor in any way interested in the outcome of said proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of February 2020.



KATHRYN S. SWANK, CSR
Certified Shorthand Reporter
License No. 13061