

## **Minutes**

### **COMMISSION ON STATE MANDATES**

Location of Meeting: Room 447  
State Capitol, Sacramento, California  
March 27, 2015

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 Richard Chivaro  
Representative of the State Controller  
Member Ken Alex  
Director of the Office of Planning and Research  
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 10:03 a.m. Executive Director Heather Halsey called the roll. Member Chivaro was absent at roll call but entered the room after approval of the minutes and adoption of the consent calendar.

#### **APPROVAL OF MINUTES**

Member Olsen made a motion to adopt the minutes. With a second by Member Rivera, the January 23, 2015 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 6\* *Sheriff Court-Security Services*, 09-TC-02  
Government Code Section 69926(b)  
Statutes 2009-2010 (4th Ex. Sess.), Chapter 22 (SB 13)  
County of Los Angeles, Claimant

INCORRECT REDUCTION CLAIMS

- Item 10\* *Health Fee Elimination*, 08-4206-I-18  
Education Code Section 72246 (Renumbered as section 76355)  
Statutes 1984, Chapter 1 (1983-1984 2nd Ex. Sess.); Statutes 1987, Chapter 1118  
Los Rios Community College District, Claimant

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

STATEWIDE COST ESTIMATES

- Item 12\* *Sexually Violent Predators*, CSM-4509 (12-MR-01)  
Welfare and Institutions Code Section 6602  
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  
Department of Finance, Requester

- Item 13\* *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 (Register 2010, No. 32)  
Twin Rivers School District, Claimant

ADOPTION OF PROPOSED REGULATION AMENDMENTS

- Item 14\* General Cleanup Provisions, Authority and Reference  
California Code of Regulations, Title 2, Division 2, Chapter 2.5, Articles 1, 2, 3, 4, 5, 6, 7, 8, and 10,  
Sections 1181.1 through 1188.2 and 1190 through 1190.5

Executive Director Heather Halsey announced that after the agenda for this hearing was issued, the parties agreed to place Item 10 on the Consent Calendar. Chairperson Ortega asked if there was any objection to adding Item 10 to the Consent Calendar and if there were any comments from the public. No objection was made and there was no public comment.

Member Ramirez made a motion to adopt the Consent Calendar as revised. With a second by Member Olsen, the Consent Calendar was adopted as revised 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, 17559, and 17570) (action)**

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

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

Item 2 Appeal of Executive Director Decisions

There were no appeals to consider.

Member Chivaro joined the meeting.

**MANDATE REDERTERMINATIONS**

Item 3 *CPR Pocket Masks (CSM-4291)*, 14-MR-01

Penal Code Section 13518.1

Statutes 1987, Chapter 1334

As Alleged to be Modified by: Statutes 2013, Chapter 28 (SB 71)

Department of Finance, Requester

**SECOND HEARING: NEW TEST CLAIM DECISION**

The second hearing for this matter is to determine whether the State's liability has been modified by a subsequent change in law and whether the Commission shall adopt a new test claim decision to supersede the previously adopted decision reflecting the State's modified liability.

Senior Legal Analyst Carla Shelton presented this item stating that staff finds that the state's liability has been modified based on a subsequent change in law that removed the legal requirement for law enforcement agencies to provide portable manual masks and recommended that the Commission adopt the proposed decision as its new test claim decision.

Parties were represented as follows: Donna Ferebee and Danielle Brandon, Department of Finance.

Department of Finance concurred with the staff recommendation and there was no comment from interested parties or the public on this matter. Member Chivaro made a motion to adopt the staff recommendation. With a second by Member Alex, the motion to adopt the staff recommendation was adopted by a vote of 7-0.

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

- Item 4      *CPR Pocket Masks*, CSM-4291 (14-MR-01)  
Penal Code Section 13518.1  
Statutes 1987, Chapter 1334  
As Modified by: Statutes 2013, Chapter 28 (SB 71)  
Department of Finance, Requester

This proposed parameters and guidelines amendment ends reimbursement for this program beginning July 1, 2013.

Senior Legal Analyst Carla Shelton presented this item and recommended that the Commission adopt the proposed decision and amendment to the parameters and guidelines.

Parties were represented as follows: Donna Ferebee and Danielle Brandon, Department of Finance.

Department of Finance concurred with the staff recommendation and there was no public comment from interested parties or the public on this matter. Member Olsen made a motion to adopt the staff recommendation. With a second by Member Chivaro, the motion to adopt the staff recommendation was adopted by a vote of 7-0.

- Item 5      *Open Meetings Act/Brown Act Reform*, CSM-4257/4469 (13-MR-02)  
Government Code Sections 54952, 54954.2, 54954.3, 54957.1, 54957.7  
Statutes 1986, Chapter 641; Statutes 1993, Chapters 1136; 1137; 1138  
As Modified by: Proposition 30, General Election, November 6, 2012  
Department of Finance, Requester

This parameters and guidelines amendment ends reimbursement for this program based on a mandate redetermination which found that a subsequent change in law, Proposition 30, changed the program from a state-mandated program to a constitutionally required program imposed by a ballot measure approved by the voters in a state-wide election.

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

Parties were represented as follows: Donna Ferebee and Danielle Brandon, Department of Finance.

Department of Finance concurred with the staff recommendation and there was no comment from interested parties or the public on this matter. Member Chivaro made a motion to adopt the staff recommendation. With a second by Member Alex, the motion to adopt the staff recommendation was adopted by a vote of 7-0.

**INCORRECT REDUCTION CLAIMS**

- Item 7      *Health Fee Elimination*, 05-4206-I-06  
Education Code Section 72246 (Renumbered as section 76355)

Statutes 1984, Chapter 1 (1983-1984 2nd Ex. Sess.);  
Statutes 1987, Chapter 1118  
Los Rios Community College District, Claimant

This incorrect reduction claim addresses the State Controller's reduction of costs for fiscal years 1997-1998 through 2001-2002.

Chief Commission Counsel Camille Shelton presented this item and recommended that the Commission adopt the proposed decision to deny the incorrect reduction claim.

Parties were represented as follows: Sigrid Asmundson, representing the claimant; Jim Spano and Shawn Silva, representing the State Controller's Office.

Following discussion among the Commission members, staff, and parties, Member Chivaro made a motion to adopt the proposed decision to deny the incorrect reduction claim. With a second by Member Olsen, the motion to adopt the staff recommendation to deny the incorrect reduction claim was adopted by a vote of 6-1, with Member Ramirez voting no.

Item 8      *Health Fee Elimination, 05-4206-I-10*  
Education Code Section 72246 (Renumbered as section 76355)  
Statutes 1984, Chapter 1 (1983-1984 2nd Ex. Sess.);  
Statutes 1987, Chapter 1118  
Foothill-De Anza Community College District, Claimant

This incorrect reduction claim addresses the statutory deadlines applicable to the audit of the 1999-2000 and 2000-2001 reimbursement claims, the reduction in salary and benefit costs, the reduction in service and supply costs, reduction in costs claimed based upon claimant's development and application of its indirect cost rates, and the amount of offsetting revenue to be applied from the health service fee authority.

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

Parties were represented as follows: Keith Petersen, representing the claimant; Jim Spano and Jim Venneman, representing the State Controller's Office.

Following discussion among the Commission members, staff, and parties, Member Ramirez made a motion to adopt the proposed decision to partially approve the incorrect reduction claim. With a second by Member Rivera, the motion to adopt the staff recommendation to partially approve the incorrect reduction claim was adopted by a vote of 7-0.

Item 9      *Health Fee Elimination, 06-4206-I-13*  
Education Code Section 72246 (Renumbered as section 76355)  
Statutes 1984, Chapter 1 (1983-1984 2nd Ex. Sess.);  
Statutes 1987, Chapter 1118  
Pasadena Area Community College District, Claimant

This incorrect reduction claim addresses the statutory deadlines applicable to the audit of the 1999-2000 and 2000-2001 reimbursement claims, reduction in costs claimed based on claimant's development and application of its indirect cost rates, and the amount of offsetting revenue to be applied from the health service fee authority.

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

Parties were represented as follows: Keith Petersen, representing the claimant; Jim Spano and Jim Venneman, representing the State Controller's Office.

Following discussion among the Commission members, staff, and parties, Member Chivaro made a motion to adopt the proposed decision to deny the incorrect reduction claim. With a second by Member Olsen, the motion to adopt the staff recommendation to deny the incorrect reduction claim was adopted by a vote of 7-0.

- Item 11      *Collective Bargaining and Collective Bargaining Agreement Disclosure, 09-4425-I-17 and 10-4425-I-18*  
Government Code Sections 3540-3549.9  
Statutes 1975, Chapter 961; Statutes 1991, Chapter 1213  
Sierra Joint Community College District, Claimant

The proposed decision for this incorrect reduction claim finds that the audit was timely initiated but not timely completed in accordance with section 17558.5. Because the audit was not timely completed, it is void and the Commission need not consider the remaining incorrect reductions alleged. Therefore, the proposed decision concludes that all reductions should be reinstated.

Commission Counsel Matt Jones presented this item and recommended that the Commission adopt the proposed decision to approve the incorrect reduction claim.

Parties were represented as follows: Keith Petersen, representing the claimant; Jim Spano and Shawn Silva, representing the State Controller's Office.

Following discussion among the Commission members, staff, and parties, Member Ramirez made a motion to adopt the proposed decision to approve the incorrect reduction claim. With a second by Member Rivera, the motion to adopt the staff recommendation to approve the incorrect reduction claim was adopted by a vote of 7-0.

**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 6.5 (info/action)**

- Item 15      Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commission, or to a Hearing Officer

No applications were filed.

**STAFF REPORTS**

- Item 16      Legislative Update (info)

Assistant Executive Director Jason Hone presented this item.

- Item 17 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar (info)

Chief Legal Counsel Camille Shelton presented this item.

- Item 18 Executive Director: Workload Update and Tentative Agenda Items for the May and July Meetings (info)

Executive Director Heather Halsey presented this item, reported on the Commission's backlog reduction, and introduced new Senior Commission Counsel Julia Blair. Ms. Halsey also presented Jason Hone with a resolution commemorating his achievements as Assistant Executive Director and congratulated him on his new position at the Department of Motor Vehicles.

**CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 (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 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]
2. *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]
3. *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]
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)
6. *County of Los Angeles v. Commission on State Mandates, Department of Finance*  
Los Angeles County Superior Court, Case No. BS148845  
*Public Guardianship Omnibus Conservatorship Reform*,  
07-TC-05(Probate Code Sections 1850(a), 1851(a), 2113,  
2250(a)-(c), 2250.4(a)-(d); 2352(a)-(f), 2352.5(a)-(e), 2410,  
2540(a)-(b), 2543(a)-(d), 2610(a), 2620(a)-(e), 2620.2(a)-(d),  
2590, 2591(a)-(q), 2591.5(a)-(d), 2623(a)-(b), 2640(a)-(c),  
2640.1(a)-(c), 2641(a)-(b), 2653(a)-(c), 2920(a)-(c), and  
2923 Statutes 2006; Chapter 490 (SB 1116), Statutes 2006,  
Chapter 492 (SB 1716), and Statutes 2006, Chapter 493 (AB  
1363))
7. *Coast Community College District, et al. v. Commission on State Mandates*  
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.)

8. *Clovis Unified School Dist. v. Commission on State Mandates, State Controller’s Office*  
Sacramento County Superior Court, Case No. 34-2014-80001931
9. *Paradise Irrigation District, et al. v. Commission on State Mandates, Department of Finance, and Department of Water Resources*  
Sacramento County Superior Court, Case No. 34-2015-80002016  
[Water Conservation (10-TC-12/12-TC-01, adopted December 5, 2014), Water Code Division 6, Part 2.55 [sections 10608-10608.64] and Part 2.8 [sections 10800-10853] as added by Statutes 2009-2010, 7th Extraordinary Session, Chapter 4 California Code of Regulations, Title 23, Division 2, Chapter 5.1, Article 2, Sections 597-597.4; Register 2012, No. 28.]

## **B. PERSONNEL**

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

The Commission adjourned into closed executive session at 10:41 a.m., 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).

### **RECOVENE IN PUBLIC SESSION REPORT FROM CLOSED EXECUTIVE SESSION**

At 11:03 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).

Item 19      Salary Adjustment: Attorney to the Commission/Chief Legal Counsel  
(CEA B), pursuant to Government Code Section 17529

Assistant Executive Director Jason Hone presented this item and notified the Commission it may propose a salary increase up to 2.5 percent for the Chief Legal Counsel based on her experience and current salary. Member Chivaro made a motion to adjust the Chief Legal Counsel's salary by 2.5 percent. With a second by Member Olsen, the motion to propose to Cal HR an increase of the Chief Legal Counsel's salary by 2.5 percent was adopted by a vote of 7-0.

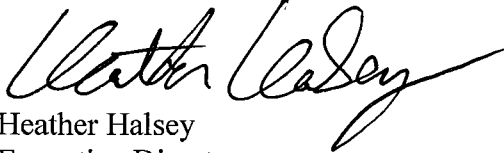
Item 20      Salary Adjustment: Executive Director, pursuant to Government Code  
Section 17530

Assistant Executive Director Jason Hone presented this item and notified the Commission it may increase the Executive Director's salary by approximately 2.49 percent, to the maximum Exempt level D salary, based on her experience and current salary. Member Chivaro made a motion to adjust the Executive Director's salary by 2.49 percent. With a second by Member Olsen, the motion to increase the Executive Director's salary by 2.49 percent was adopted by a vote of 7-0.

Member Ramirez thanked and congratulated members of the Commission staff in appreciation for their sacrifice and effort. Member Olsen and Chairperson Ortega concurred.

**ADJOURNMENT**

Hearing no further business, Chairperson Ortega adjourned the meeting at 11:08 a.m.



Heather Halsey  
Executive Director

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

**CORRECTED**

**PUBLIC MEETING**  
**COMMISSION ON STATE MANDATES**



**TIME:** 10:00 a.m.  
**DATE:** Friday, March 27, 2015  
**PLACE:** State Capitol, Room 447  
Sacramento, California



**REPORTER'S TRANSCRIPT OF PROCEEDINGS**



Reported by:  
Daniel P. Feldhaus  
California Certified Shorthand Reporter #6949  
Registered Diplomat Reporter, Certified Realtime Reporter

---

---

**Daniel P. Feldhaus, C.S.R., Inc.**  
Certified Shorthand Reporters  
8414 Yermo Way, Sacramento, California 95828  
Telephone 916.682.9482 Fax 916.688.0723  
FeldhausDepo@aol.com

*[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)*

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, 15, and 18)*

JASON HONE  
Assistant Executive Director  
*(Items 16, 19, and 20)*

A P P E A R A N C E S

PARTICIPATING COMMISSION STAFF

*continued*

CAMILLE N. SHELTON  
Chief Legal Counsel  
*(Item 7 and Item 17)*

CARLA SHELTON  
Senior Legal Analyst  
*(Item 3 and Item 4)*

GINNY CHANDLER  
Senior Commission Counsel  
*(Item 8 and Item 9)*

MATTHEW B. JONES  
Commission Counsel  
*(Item 5 and 11)*

JULIA E. BLAIR  
Senior Commission Counsel



PUBLIC TESTIMONY

**Appearing Re Item 3:**

For Department of Finance:

DONNA FEREBEE  
Legal Department  
Department of Finance  
915 L Street, Suite 1280  
Sacramento, California 95814

DANIELLE BRANDON  
Budget Analyst  
Department of Finance  
915 L Street  
Sacramento, California 95814

A P P E A R A N C E S

PUBLIC TESTIMONY

**Appearing Re Item 4:**

For Department of Finance:

DONNA FEREBEE  
Legal Department  
Department of Finance

DANIELLE BRANDON  
Budget Analyst  
Department of Finance

**Appearing Re Item 5:**

For Department of Finance:

DONNA FEREBEE  
Legal Department  
Department of Finance

DANIELLE BRANDON  
Budget Analyst  
Department of Finance

**Appearing Re Item 7:**

For Claimant Los Rios Community College District:

SIGRID K. ASMUNDSON  
Best, Best & Krieger, LLP  
500 Capitol Mall, Suite 1700  
Sacramento, California 95814

A P P E A R A N C E S

PUBLIC TESTIMONY

**Appearing Re Item 7:**

For State Controller's Office:

SHAWN D. SILVA  
Staff Counsel  
State Controller's Office  
300 Capitol Mall, Suite 1850  
Sacramento, California 95815

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

**Appearing Re Item 8:**

For Claimant Foothill-De Anza Community College District:

KEITH B. PETERSEN  
SixTen and Associates  
5252 Balboa Avenue, Suite 900  
San Diego, California

For State Controller's Office:

JIM L. SPANO  
Chief, Mandated Cost Audits Bureau  
State Controller's Office

JIM VENNEMAN  
Audit Manager, Division of Audits  
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 9:**

For Claimant Pasadena Area Community College District:

KEITH B. PETERSEN  
SixTen and Associates

For State Controller's Office:

JIM L. SPANO  
Chief, Mandated Cost Audits Bureau  
State Controller's Office

JIM VENNEMAN  
Audit Manager, Division of Audits  
State Controller's Office

**Appearing re Item 11:**

For Claimant Sierra Joint Community College District:

KEITH B. PETERSEN  
SixTen and Associates

For State Controller's Office:

JIM L. SPANO  
Chief, Mandated Cost Audits Bureau  
State Controller's Office

JIM VENNEMAN  
Audit Manager, Division of Audits  
State Controller's Office

•••••



ERRATA SHEET

<u>Page</u>	<u>Line</u>	<u>Correction</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I N D E X

<u>Proceedings</u>	<u>Page</u>
I. Call to Order and Roll Call . . . . .	13
II. Approval of Minutes	
Item 1 January 23, 2015 . . . . .	14
III. Public Comment for Matters Not on the Agenda . . . . .	14
IV. Proposed Consent Calendar	
Items 6, 10, 12, 13, and 14 . . . . .	15
V. Hearings and Decisions on Test Claims and Parameters and Guidelines Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 7	
A. Item 2 Appeal of Executive Director Pursuant to California Code of Regulations, Title 2, Section 1181(c) ( <i>None</i> ) . . . . .	16
B. Mandate Redeterminations	
Item 3 <i>CPR Pocket Masks (CSM 4291)</i> 14-MR-01 Department of Finance . . . . .	17
C. Parameters and Guidelines	
Item 4 <i>CPR Pocket Masks (CSM 4291)</i> 14-MR-01 Department of Finance . . . . .	19

I N D E X

Proceedings

Page

V. Hearings and Decisions on Test Claims and Parameters and Guidelines Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 7

C. Parameters and Guidelines

Item 5 *Open Meetings Act/Brown Act Reform*  
 (CSM 4257/4469) 13-MR/02  
 Department of Finance . . . . 21

Item 6\* *Sheriff Court-Security Services*  
 09-TC-02  
 County of Los Angeles  
*(Consent calendar item)* . . . 15

D. Incorrect Reduction Claims

Item 7 *Health Fee Elimination*  
 05-4206-I-06  
 Los Rios Community College  
 District . . . . . 23

Item 8 *Health Fee Elimination*  
 05-4206-I-10  
 Foothill De Anza Community  
 College District . . . . . 39

Item 9 *Health Fee Elimination*  
 05-4206-I-13  
 Pasadena Area Community College  
 District . . . . . 42

Item 10\* *Health Fee Elimination*  
 05-4206-I-18  
 Los Rios Community College  
 District  
*(Consent calendar item)* . . . 15

I N D E X

Proceedings

Page

V. Hearings and Decisions on Test Claims and Parameters and Guidelines Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 7

Item 11 *Collective Bargaining and Collective Bargaining Agreement Disclosure*  
09-4425-I-17 and 10-4425-I-18  
Sierra Joint Community College District . . . . . 44

VI. Informational Hearing Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 8

A. Statewide Cost Estimates

Item 12\* *Sexually Violent Predators*  
CSM-4509 (12-MR-01)  
Department of Finance  
*(Consent calendar item)* . . . 15

Item 13\* *Race to the Top*  
10-TC-06  
Twin Rivers School District  
*(Consent calendar item)* . . . 15

B. Adoption of Proposed Regulations

Item 14\* *General Cleanup Provisions, Authority and Reference*  
CCR, Title 2, Division 2,  
Chapter 2.5, Articles 1, 2,  
3, 4, 5, 6, 7, 8 and 10  
*(Consent calendar item)* . . . 15

I N D E X

<u>Proceedings</u>	<u>Page</u>
VI. Informational Hearing Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 8	
C. 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 15 Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commissions, or to a Hearing Officer ( <i>None</i> ) . . . . .	46
VII. Reports	
Item 16 Legislative Update . . . . .	47
Item 17 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar . . . . .	48
Item 18 Executive Director: Workload Update and Tentative Agenda Items for Next Meeting . . . . .	49
VIII. Closed Executive Session Pursuant to Government Code Sections 11126 and 11126.2 . . . . .	53
A. Pending Litigation	
B. Personnel	

I N D E X

<u>Proceedings</u>	<u>Page</u>
IX. Report from Closed Executive Session . . . .	54
X. Personnel	
Item 19 Salary Adjustment Attorney to the Commission/Chief Legal Counsel (CEA B), pursuant to Government Code Section 17529 .	54
Item 20 Salary Adjustment Executive Director, pursuant to Government Code Section 17530 .	56
Adjournment . . . . .	58
Reporter's Certificate . . . . .	59



**Commission on State Mandates – March 27, 2015**

1 BE IT REMEMBERED that on Friday, March 27,  
2 2015, commencing at the hour of 10:03 a.m., thereof, at  
3 the State Capitol, Room 447, Sacramento, California,  
4 before me, DANIEL P. FELDHAUS, CSR #6949, RDR and CRR,  
5 the following proceedings were held:



7 CHAIR ORTEGA: Good morning, everyone.

8 I'd like to call to order the March 27<sup>th</sup>  
9 meeting of the Commission on State Mandates.

10 If you could call the roll.

11 MS. HALSEY: Mr. Alex?

12 MEMBER ALEX: Here.

13 MS. HALSEY: Mr. Chivaro?

14 *(No response)*

15 MS. HALSEY: Ms. Olsen?

16 MEMBER OLSEN: Here.

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 MS. HALSEY: Thank you.

**Commission on State Mandates – March 27, 2015**

1 CHAIR ORTEGA: Thank you.

2 And I think our first order of business is  
3 the minutes from the January 23<sup>rd</sup> meeting.

4 Are there any objections or corrections?

5 *(No response)*

6 CHAIR ORTEGA: Seeing none, do we have a motion  
7 on the minutes?

8 MEMBER OLSEN: So moved.

9 CHAIR ORTEGA: Moved by Ms. Olsen.

10 MEMBER RIVERA: I have the second.

11 CHAIR ORTEGA: Mr. Rivera seconds.

12 All in favor?

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

14 CHAIR ORTEGA: Any abstentions?

15 *(No response)*

16 CHAIR ORTEGA: The minutes are adopted  
17 unanimately.

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

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

24 CHAIR ORTEGA: Okay, any general public  
25 comment?



Commission on State Mandates – March 27, 2015

1 (No response)

2 CHAIR ORTEGA: Seeing none, we'll move to the  
3 consent calendar.

4 MS. HALSEY: Next, we have a proposal to add  
5 Item 10, an incorrect reduction claim on *Health Fee*  
6 *Elimination* to the consent calendar. After the agenda  
7 for this hearing was issued, the parties agreed to place  
8 Item 10 on consent.

9 CHAIR ORTEGA: Any objections to adding Item 10  
10 to the consent calendar?

11 (No response)

12 CHAIR ORTEGA: Seeing none.

13 MS. HALSEY: The consent calendar consists of  
14 Items 6, 10, 12, 13, and 14.

15 CHAIR ORTEGA: Okay, any comments on any of the  
16 other consent items from the board?

17 (No response)

18 CHAIR ORTEGA: No?

19 Any public comment on any of the consent items?

20 (No response)

21 CHAIR ORTEGA: Okay, do we have a motion on the  
22 consent calendar?

23 MEMBER RAMIREZ: So moved.

24 MEMBER OLSEN: So moved -- second it.

25 CHAIR ORTEGA: Moved by Ms. Ramirez, second by

Commission on State Mandates – March 27, 2015

1 Ms. Olsen.

2 All in favor?

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

4 CHAIR ORTEGA: Any abstentions, objections?

5 *(No response)*

6 CHAIR ORTEGA: No?

7 The consent calendar is adopted unanimously.

8 MS. HALSEY: Okay, let's move to the Article 7  
9 portion of the hearing.

10 Will the parties and witnesses for Items 2, 3,  
11 4, 5, 7, 8, 9, and 11 please rise?

12 *(Parties and witnesses stood to be sworn  
13 or affirmed.)*

14 MS. HALSEY: Do you solemnly swear or affirm  
15 that the testimony which you are about to give is true  
16 and correct, based on your personal information,  
17 knowledge, or belief?

18 *(A chorus of affirmative responses was  
19 heard.)*

20 MS. HALSEY: Thank you.

21 Item 2 is reserved for appeals of Executive  
22 Director decisions. There are no appeals to consider  
23 under Item 2.

24 *(Mr. Chivaro entered the meeting room.)*

25 MS. HALSEY: Senior Legal Analyst Carla Shelton

**Commission on State Mandates – March 27, 2015**

1 will present Item 3, the mandate redetermination hearing  
2 on *CPR Pocket Masks*.

3 CHAIR ORTEGA: Thank you.

4 And for the record, Mr. Chivaro has joined us.  
5 Go ahead.

6 CARLA SHELTON: This is the second hearing of  
7 a mandate redetermination request to end the State's  
8 liability for the CPR Pocket Mask Program based on a  
9 subsequent change in law that removes the legal  
10 requirement for law-enforcement agencies to provide the  
11 portable manual masks and airway assembly.

12 Staff finds that the State's liability pursuant  
13 to Article XIII B, Section 6, of the California  
14 Constitution for the CPR Pocket Mask Program ends  
15 beginning July 1<sup>st</sup>, 2013; and recommends the Commission  
16 adopt this proposed decision as its new test-claim  
17 decision, ending reimbursement for the program beginning  
18 July 1<sup>st</sup>, 2013.

19 Will the parties and witnesses please state  
20 your names for the record?

21 MS. FEREBEE: Donna Ferebee, Department of  
22 Finance.

23 MS. BRANDON: Danielle Brandon, Department of  
24 Finance.

25 CHAIR ORTEGA: Any comments from Ms. Ferebee or

Commission on State Mandates – March 27, 2015

1 Ms. Brandon?

2 MS. BRANDON: No.

3 Finance concurs with staff.

4 Thank you.

5 CHAIR ORTEGA: Okay.

6 Any public comment on this item?

7 *(No response)*

8 CHAIR ORTEGA: Any questions or comments from  
9 the board members?

10 *(No response)*

11 CHAIR ORTEGA: Seeing none, is there a motion  
12 on Item 3?

13 MEMBER CHIVARO: I'll move staff  
14 recommendation.

15 CHAIR ORTEGA: Moved by Mr. Chivaro.

16 MEMBER ALEX: Second.

17 CHAIR ORTEGA: Second by Mr. Alex.

18 Would you call the roll?

19 MS. HALSEY: Mr. Alex?

20 MEMBER ALEX: Aye.

21 MS. HALSEY: Mr. Chivaro?

22 MEMBER CHIVARO: Aye.

23 MS. HALSEY: Ms. Olsen?

24 MEMBER OLSEN: Aye.

25 MS. HALSEY: Ms. Ortega?

Commission on State Mandates – March 27, 2015

1 CHAIR ORTEGA: Aye.

2 MS. HALSEY: Ms. Ramirez?

3 MEMBER RAMIREZ: Aye.

4 MS. HALSEY: Mr. Rivera?

5 MEMBER RIVERA: Aye.

6 MS. HALSEY: Mr. Saylor?

7 MEMBER SAYLOR: Aye.

8 MS. HALSEY: Thank you.

9 CHAIR ORTEGA: Okay, the motion is adopted.  
10 Number 4?

11 MS. HALSEY: Senior Legal Analyst Carla Shelton  
12 will present Item 4, the parameters and guidelines  
13 amendment on *CPR Pocket Masks*.

14 CARLA SHELTON: This is the proposed amendment  
15 to the parameters and guidelines for the CPR Pocket Mask  
16 Program to end reimbursement beginning July 1<sup>st</sup>, 2013.  
17 Staff recommends that the Commission adopt this proposed  
18 decision and amendment to the parameters and guidelines.

19 Will the parties and witnesses please state  
20 your names for the record?

21 MS. FEREBEE: Donna Ferebee, Department of  
22 Finance.

23 MS. BRANDON: Danielle Brandon, Department of  
24 Finance.

25 CHAIR ORTEGA: Go ahead.

Commission on State Mandates – March 27, 2015

1 MS. BRANDON: Finance concurs with staff on  
2 this item.

3 Thank you.

4 CHAIR ORTEGA: Okay, any questions or comments  
5 from the Commission?

6 *(No response)*

7 CHAIR ORTEGA: Any public comment on this item?

8 *(No response)*

9 CHAIR ORTEGA: Do we have a motion?

10 MEMBER OLSEN: So moved.

11 MEMBER CHIVARO: Second.

12 CHAIR ORTEGA: Moved by Ms. Olsen, second by  
13 Mr. Chivaro.

14 Please call the roll.

15 MS. HALSEY: Mr. Alex?

16 MEMBER ALEX: Aye.

17 MS. HALSEY: Mr. Chivaro?

18 MEMBER CHIVARO: Aye.

19 MS. HALSEY: Ms. Olsen?

20 MEMBER OLSEN: Aye.

21 MS. HALSEY: Ms. Ortega?

22 CHAIR ORTEGA: Aye.

23 MS. HALSEY: Ms. Ramirez?

24 MEMBER RAMIREZ: Aye.

25 MS. HALSEY: Mr. Rivera?

Commission on State Mandates – March 27, 2015

1 MEMBER RIVERA: Aye.

2 MS. HALSEY: Mr. Saylor?

3 MEMBER SAYLOR: Aye.

4 CHAIR ORTEGA: Motion carries.

5 MS. HALSEY: Moving on to Item 5, Commission  
6 Counsel Matt Jones will present the parameters and  
7 guidelines amendment on *Open Meetings Act, Brown Act*  
8 *Reform*.

9 MR. JONES: Good morning.

10 This amendment to parameters and guidelines  
11 ends reimbursement for the *Open Meetings Act, Brown Act*  
12 *Reform* mandates in accordance with the Commission's new  
13 test-claim decision. The Commission found at the last  
14 hearing, that they are no longer costs mandated by the  
15 state under the test-claim statutes pursuant to the  
16 adoption of Proposition 30 at the November 6<sup>th</sup>, 2012,  
17 General Election.

18 Staff recommends that the Commission adopt the  
19 proposed decision and amended parameters and guidelines,  
20 ending reimbursement liability for test-claim statutes  
21 as of November 7<sup>th</sup>, 2012, the effective date of  
22 Proposition 30.

23 Will the parties and witnesses please state  
24 your names for the record?

25 MS. FEREBEE: Donna Ferebee, Department of

Commission on State Mandates – March 27, 2015

1 Finance.

2 MS. BRANDON: Danielle Brandon, Department of  
3 Finance.

4 And Finance concurs with staff on this item.

5 CHAIR ORTEGA: Okay. Any questions from the  
6 Commission?

7 *(No response)*

8 CHAIR ORTEGA: Any public comment on this item?

9 *(No response)*

10 MEMBER CHIVARO: Move staff recommendation.

11 CHAIR ORTEGA: Moved by Mr. Chivaro.

12 MEMBER RIVERA: I second.

13 MEMBER RAMIREZ: Second.

14 CHAIR ORTEGA: Seconded by Mr. Rivera.

15 Please call the roll.

16 MS. HALSEY: Mr. Alex?

17 MEMBER ALEX: Aye.

18 MS. HALSEY: Mr. Chivaro?

19 MEMBER CHIVARO: Aye.

20 MS. HALSEY: Ms. Olsen?

21 MEMBER OLSEN: Aye.

22 MS. HALSEY: Ms. Ortega?

23 CHAIR ORTEGA: Aye.

24 MS. HALSEY: Ms. Ramirez?

25 MEMBER RAMIREZ: Aye.



Commission on State Mandates – March 27, 2015

1 MS. HALSEY: Mr. Rivera?

2 MEMBER RIVERA: Aye.

3 MS. HALSEY: Mr. Saylor?

4 MEMBER SAYLOR: Aye.

5 CHAIR ORTEGA: Motion carries.

6 Item 6 was on the consent calendar, so we'll

7 move to Item 7.

8 MS. HALSEY: Chief Commission Counsel Camille  
9 Shelton will present Item 7, an incorrect reduction claim  
10 on *Health Fee Elimination*.

11 CAMILLE SHELTON: Good morning.

12 This incorrect reduction claim addresses the  
13 Controller's reduction of costs in fiscal years 1997-1998  
14 through 2001-2002.

15 Staff finds that the Controller timely  
16 conducted the audit within the deadlines imposed by  
17 Government Code section 17558.5.

18 Staff further finds that the Controller's  
19 reduction of costs, based on fee revenue authorized to be  
20 charged for the program, is correct, as a matter of law,  
21 and is not arbitrary, capricious, or entirely lacking in  
22 evidentiary support.

23 Since the authorized fee revenue exceeds the  
24 total amount claimed during the audit period, the  
25 proposed decision does not address the other substantive

**Commission on State Mandates – March 27, 2015**

1 issues raised by the claimant.

2 Staff recommends that the Commission adopt the  
3 proposed decision to deny this IRC.

4 Will the parties please state your names for  
5 the record?

6 MS. ASMUNDSON: Sigrid Asmundson on behalf of  
7 claimant, Los Rios Community College District.

8 MR. SILVA: Shawn Silva on behalf of the State  
9 Controller's Office.

10 MR. SPANO: Jim Spano, State Controller's  
11 Office.

12 CHAIR ORTEGA: Okay, go ahead.

13 MS. ASMUNDSON: The main question here is what  
14 exactly is the initiation date of the audit. What  
15 constitutes the initiation or commencement of an audit is  
16 incredibly subjective, as you can see from the proposed  
17 decision. Even across the state, different agencies have  
18 found that the initiation or commencement of an audit  
19 varies.

20 For example, the Division of Industrial  
21 Relations has adopted a regulation -- and for the record,  
22 that's 8 CCR, section 212.3, and 8 CCR, section 10107,  
23 which both state that the Division will provide notice  
24 14 days prior to the commencement of audit.

25 The Franchise Tax Board has a different

Commission on State Mandates – March 27, 2015

1 interpretation of the initiation of an audit. They find  
2 that the initial audit contact for a field audit is  
3 defined as the date of the first meeting between the  
4 taxpayer and the Franchise Tax Board. For a desk audit,  
5 the initial audit contact is the date of the first letter  
6 to the taxpayer regarding the audit.

7 Additionally, as noted in the proposed  
8 decision, there's another interpretation of what the  
9 initiation of an audit is.

10 The Board of Equalization determines that the  
11 initiation from an audit is the audit engagement letter,  
12 which is used by the Board to confirm the initiation date  
13 of the audit.

14 So as you can see, there is no clear definition  
15 of what the initiation or commencement of an audit is.

16 Because the State Controller's Office has not  
17 adopted regulations as these other three agencies have,  
18 we can only look to the evidence in the record.

19 The evidence in the record, and specifically  
20 the December 23<sup>rd</sup>, 2002, letter reads "*As discussed*  
21 *during a telephone conversation on December 19th, 2002,*  
22 *SCO Auditor Mary Khoshmashrab will commence the audit of*  
23 *the subject programs on Thursday, January 16<sup>th</sup>, 2003,*  
24 *beginning with an entrance conference at 9:30 a.m."*

25 The letter clearly states the initiation date

1 of this audit.

2           However, in the proposed decision, it states,  
3 on page 31, that the Commission has found that -- and I  
4 quote -- "That letter provides verification to a claimant  
5 that an audit is in progress."

6           That letter does not state that in any way. In  
7 fact, that letter states contrary to that finding.

8           Additionally, the January 16<sup>th</sup>, 2003, date was  
9 reiterated, and this is also noted in the proposed  
10 decision -- I'm sorry, let me find the page number --  
11 on page 22, on April 14<sup>th</sup>, 2006, in an affidavit of the  
12 Controller's Chief of the Compliance Audit Bureau, that  
13 the audit commenced on January 16<sup>th</sup>, 2003, and ended on  
14 March 11<sup>th</sup>, 2004.

15           So it has been stated twice by the State  
16 Controller's Office.

17           Without regulations by the State Controller's  
18 Office, there is no way to have a consistent policy. We  
19 can only look to the evidence in the record. However,  
20 in this case, the State Controller's Office, who  
21 unilaterally had the ability to state the initiation date  
22 of the audit, clearly did so in a letter to the claimant.

23           Not only that, as you can see on page 2 of the  
24 letter to the claimant, they cc'ed three members of the  
25 State Controller's Office.

**Commission on State Mandates – March 27, 2015**

1           The letter was written by the audit manager,  
2 Chris Prasad. He cc'ed Mr. Spano; Ginny Brummels; and  
3 the auditor, Mary Khoshmashrab. This letter was dated  
4 December 23<sup>rd</sup>. Even with the holidays, even with  
5 weekends, those four members of the State Controller's  
6 Office had the ability to change their mind at any time  
7 prior to December 23<sup>rd</sup> as to the initiation date of the  
8 audit. They all received this letter prior to  
9 December 31<sup>st</sup>. None of them did so.

10           In fact, the State Controller's Office  
11 reiterated the January date in April of 2006.

12           The evidence in the record clearly shows that  
13 the State Controller's Office set the initiation of the  
14 audit as January 16<sup>th</sup>, 2003, after the statutory deadline  
15 of December 31<sup>st</sup>, 2002.

16           Therefore, we disagree with the proposed  
17 decision, and we find that the audit was not commenced  
18 in a timely manner.

19           CHAIR ORTEGA: Thank you.

20           Any questions at this point? Or do you want to  
21 go ahead and move on to the Controller's representative?

22           *(No response)*

23           CHAIR ORTEGA: Shall we move on?

24           Mr. Silva?

25           MR. SILVA: We believe that the question here

1 is a question of law and not a question of fact.

2 We're interpreting 17558.5, which sets forth  
3 the statutory limitations for when the Controller can  
4 initiate an audit, how long past a certain given  
5 condition, whether it's a claim filed or whether it's  
6 initial payment. That doesn't vary based on the facts of  
7 each situation.

8 We agree with the Commission staff on their  
9 conclusions that not only does the initiation letter  
10 from the Controller's Office provide a clear bright-line  
11 date that is verifiable by all participants, but it is  
12 also consistent with the general application of  
13 statute-of-limitations procedures in other fields of  
14 law -- civil, criminal, and administrative -- as we  
15 pointed out in our comments.

16 We believe that the arguments by opposing  
17 party, the claimant, are focusing on the procedural  
18 question for auditors of setting up a date when they're  
19 going to show up at the claimant's offices.

20 For the Controller -- for the auditors to focus  
21 back on a date that's already occurred, when the real  
22 question for them is, when are we going to be there?  
23 When are we going to show up at your offices? They're  
24 talking about the commencement of the field portion of  
25 the audit, which is when they actually show up, conduct

**Commission on State Mandates – March 27, 2015**

1 the entrance examination, and then proceed with looking  
2 at the documents.

3 So we don't believe that that factual  
4 distinction should alter the question-of-law analysis  
5 that the staff did, which I reiterate, we agree with.  
6 It should be the audit entrance letter.

7 CHAIR ORTEGA: Anything else, Mr. Spano? No?

8 MR. SPANO: No further comments.

9 CHAIR ORTEGA: Okay, any questions or comments  
10 from Commission Members?

11 Go ahead.

12 MEMBER SAYLOR: So I am sensitive to the kind  
13 of continued jeopardy that exists for local governments  
14 when there is a requirement that there is a statement of  
15 the time required for an audit to be commenced, and the  
16 uncertainty about what the initiating action for the  
17 audit is. I think that's a valid concern, and it would  
18 be helpful to have some clarity on that.

19 So what's your assessment of that?

20 CAMILLE SHELTON: Well, we had a tough time on  
21 this issue, and we did switch positions between the  
22 draft analysis that went out and the final proposed  
23 statement of decision.

24 Let me first say that I don't think it's  
25 strictly a question of law, as Mr. Silva is suggesting.

1 Because the Legislature has not defined what the event is  
2 that initiates the audit, they've left it up to the  
3 Controller to make that decision. And other State  
4 agencies, as the claimant has identified, have adopted  
5 regulations to identify for local government when that  
6 action actually occurs. So here, we don't have  
7 regulations.

8 In the record itself, we've got, like, three  
9 or four different positions from the State Controller's  
10 Office, with different arguments and different positions.

11 Initially, when the draft went out, we agreed  
12 with the claimant's position that the letter does say,  
13 "We will commence the audit on January 16<sup>th</sup>, 2003."

14 Coming back from that and looking at the  
15 statute, 17558.5, a little closer, its purpose, is to --  
16 it made us change our mind, in looking at the law on the  
17 statute of limitations and the statutes of repose. And  
18 in that case, the limitation is imposed only on the one  
19 entity, which is the State Controller's Office.

20 So typically, with those types of statutes, you  
21 need some sort of verifiable event from the one entity  
22 that does show when the review or when the audit does  
23 begin.

24 In this particular case, the Controller did  
25 file a declaration from the audit manager, indicating



1 that the review of the file actually occurred before that  
2 date. You still need a verifiable notice provided to the  
3 claimant.

4 Here, we do have in this case the letter dated  
5 December 23<sup>rd</sup>. It was received January 2<sup>nd</sup>, which is  
6 after the deadline, technically; but using the official  
7 notice, you can see that it was mailed before that date  
8 based on the evidence in the record.

9 And the fact that the claimant here had actual  
10 notice of the audit on December 19<sup>th</sup>, through phone  
11 calls, through her notes, all of which are in this  
12 record.

13 So under a statute-of-repose theory, which  
14 suggests that, you know, the Controller has a deadline  
15 to do something after which, if they don't meet that  
16 deadline, the claimant can get rid of the records, can  
17 make these defenses, would not have occurred because they  
18 did have actual notice that an audit was going to occur  
19 before the deadline occurred.

20 So in this particular case, based on the  
21 evidence in this particular case, the letter is a  
22 verifiable event. That does, in our opinion, start the  
23 initiation of the audit.

24 But it is a close call. And we have both  
25 positions in this analysis.

Commission on State Mandates – March 27, 2015

1 MEMBER SAYLOR: Follow-up?

2 CHAIR ORTEGA: Yes.

3 MEMBER SAYLOR: So are there different  
4 interpretations of when the commencement of an audit --  
5 there are?

6 CAMILLE SHELTON: Well, in this analysis, we  
7 say it's reasonable to say that an initiation could be a  
8 phone call, which is not verifiable, but a letter or an  
9 entrance conference.

10 And as Ms. Asmundson suggested, there are  
11 different agencies that perform audits and they do adopt  
12 regulations to say, through the regulatory process, this  
13 is the event that initiates the audit.

14 And here, we don't have anything, so --

15 MEMBER SAYLOR: The Controller doesn't have a  
16 regulation of that sort?

17 CAMILLE SHELTON: No, no.

18 And, again, in this record alone, there are  
19 three or four different positions from the Controller's  
20 office on when the audit was initiated.

21 So, you know, the current position is the  
22 position Mr. Silva is articulating.

23 And it is, we believe, a defensible, most  
24 reasonable analysis based on what statutes of limitation  
25 and statutes of repose generally require.

**Commission on State Mandates – March 27, 2015**

1                   But it's a tough call.

2                   MEMBER OLSEN:   So I have a question for  
3                   Mr. Spano; and that is, why doesn't the Controller's  
4                   office have regulations on this issue?  Is it that you'd  
5                   have to have so many different regulations, or you want  
6                   the wiggle room of not having regulations?

7                   It seems like this would be the kind of thing  
8                   that you would have a regulation on.

9                   MR. SPANO:  You know, the issue of adopting  
10                  regulation for the initiating had not really come up  
11                  until recently right now.  So it hasn't really been an  
12                  issue in our office right now.  But I'm hoping that the  
13                  decision made of the Commission will set forth decision  
14                  from this point on.

15                  CAMILLE SHELTON:  Well, let me just clarify  
16                  that it can't, because we don't have any regulations or  
17                  anything in the parameters and guidelines or any statute  
18                  that identifies the triggering event.

19                  So from here -- if the facts remain the same  
20                  throughout, it's going to be based on a case-by-case  
21                  basis.  You have no idea what it's going to be until you  
22                  see the file.

23                  CHAIR ORTEGA:  Ms. Ramirez had a question.

24                  MEMBER RAMIREZ:  I have a question about, if  
25                  we were to accept the claimant's position, what would be

Commission on State Mandates – March 27, 2015

1 the precedential value? It's just the facts are all over  
2 the place here, it seems.

3 CAMILLE SHELTON: I think each IRC has its own  
4 record.

5 You know, we do have another item on the agenda  
6 which presents similar facts.

7 I'm not sure -- and Matt can articulate this  
8 more when that item comes up -- but I do think that  
9 letter also said, "We will commence the audit," right, at  
10 the entrance conference?

11 So far, we know of only two cases that we have  
12 with this issue.

13 So the Commission has to not be arbitrary in  
14 its decision-making. So you do have to -- the same  
15 thought process and reasoning has to be applied each time  
16 out.

17 MS. HALSEY: But it's not precedential.

18 CAMILLE SHELTON: But it's not precedential;  
19 but, yes, you're subjecting yourself to litigation if you  
20 switch legal positions.

21 MEMBER RAMIREZ: Because it just seems -- I  
22 just have kind of the sensation, it seems unfair, so...

23 CHAIR ORTEGA: Mr. Alex?

24 MEMBER ALEX: So the parties have laid out the  
25 issue well, and as did the staff opinion.

1           And as you say, it's a close question.

2           I guess my observation is that this is about  
3 protection of two concepts here. And one is that the  
4 audit go forward in a given time frame, and it gives some  
5 certainty to the party being potentially audited. But  
6 it is also the case that the letter was sent in a timely  
7 fashion. And the whole point is to give notice to the  
8 potential auditee so they know not to destroy records.

9           And, to me, there's an arbitrariness to  
10 statutes of limitations as well. We understand why they  
11 exist. And I think that the purpose of it is served here  
12 by the letter having gone out before the time ran.

13           CHAIR ORTEGA: I want to just ask a question,  
14 Camille.

15           Could a district, after having received the  
16 letter and the entrance conference not being until after  
17 the two-year period, say, "We're not going to provide the  
18 records? We think you're..."?

19           So rather than wait until the findings, to  
20 challenge the findings and the time-bar issue, could they  
21 reject the audit at the beginning?

22           CAMILLE SHELTON: You know, they can try to do  
23 that. That would be a little bit dangerous.

24           If I were them, I would probably raise the  
25 issue and just say, "This is void because it's too late;

**Commission on State Mandates – March 27, 2015**

1 but we'll go ahead with the process," and maybe you  
2 challenge it at the same time.

3 But it is a close call.

4 CHAIR ORTEGA: Yes.

5 CAMILLE SHELTON: I mean -- like I said, they  
6 have been put on notice. They had actual notice based  
7 on the declaration of the claimant's finance manager and  
8 based on her own records, they had actual notice.

9 So, yes, it's tough.

10 And during that time period, you know, the  
11 statutes were a little -- you know, you had the  
12 end-of-the-calendar-year requirement to start the audit.  
13 So that was always at the end of December, which is a  
14 difficult period for any local government entity, right,  
15 where a lot of people are out of office. So if phone  
16 calls and letters are being issued during that time, it's  
17 a hard time to get things going.

18 You know, those rules have changed now based  
19 on actual filing date of reimbursement claims. So it's  
20 not the same anymore. It's not always at the end of  
21 December anymore.

22 CHAIR ORTEGA: Right.

23 Ms. Olsen, did you have another comment?

24 MEMBER OLSEN: I'm fine.

25 CHAIR ORTEGA: Any other comments from

Commission on State Mandates – March 27, 2015

1 commissioners?

2 (No response)

3 CHAIR ORTEGA: Is there any additional public  
4 comment on this item?

5 (No response)

6 CHAIR ORTEGA: Okay, seeing none.

7 MEMBER CHIVARO: I'll move staff  
8 recommendation.

9 CHAIR ORTEGA: Okay, moved by Mr. Chivaro.

10 MEMBER ALEX: Second.

11 CHAIR ORTEGA: Second by Mr. Alex.

12 Please call the roll.

13 MEMBER SAYLOR: May I --

14 MS. HALSEY: Mr. Alex?

15 MR. SAYLOR: Wait --

16 CHAIR ORTEGA: Yes? Go ahead.

17 MEMBER SAYLOR: I think Ken did a -- Mr. Alex  
18 did a really good job of describing how the issues come  
19 to bear. And I think there is a value in fairness and a  
20 value in predictability for local governments in this  
21 kind of a case.

22 I'm a representative of local government; and  
23 I will tell you that it is very challenging to not know  
24 when the next audit might happen, and to hold records for  
25 long periods of time. People leave employment. We don't

Commission on State Mandates – March 27, 2015

1 know if it's -- so just in reality, in practical terms,  
2 it's very challenging to have this. And to have  
3 different state agencies -- multiple state agencies have  
4 different interpretations of when these things start,  
5 makes it even more challenging.

6 So I'm real -- I'm swayed by that.

7 But the notices that happened between the phone  
8 call and the letter did come in time for a reasonable  
9 expectation that the District would have understood that  
10 an audit was going to take place.

11 I really hope that before another issue of this  
12 sort comes along, the Controller does have a more clear  
13 regulation or policy on what initiates an audit.

14 So I'm not happy about having to vote for the  
15 staff recommendation, but I think that's the right course  
16 of action here.

17 CHAIR ORTEGA: Any further comments?

18 *(No response)*

19 CHAIR ORTEGA: Okay, please call the roll.

20 MS. HALSEY: Mr. Alex?

21 MEMBER ALEX: Aye.

22 MS. HALSEY: Mr. Chivaro?

23 MEMBER CHIVARO: Aye.

24 MS. HALSEY: Ms. Olsen?

25 MEMBER OLSEN: Aye.



Commission on State Mandates – March 27, 2015

1 MS. HALSEY: Ms. Ortega?

2 CHAIR ORTEGA: Aye.

3 MS. HALSEY: Ms. Ramirez?

4 MEMBER RAMIREZ: No.

5 MS. HALSEY: Mr. Rivera?

6 MEMBER RIVERA: Aye.

7 MS. HALSEY: Mr. Saylor?

8 MEMBER SAYLOR: Aye.

9 CHAIR ORTEGA: The motion carries.

10 Item 8?

11 MS. HALSEY: Senior Commission Counsel Ginny  
12 Chandler will present Item 8, an incorrect reduction  
13 claim on *Health Fee Elimination*.

14 MS. CHANDLER: I just killed my microphone.

15 This incorrect reduction claim addresses the  
16 following issues: The statutory deadlines applicable to  
17 the audit of the 1999-2000 and 2000-2001 reimbursement  
18 claims. The reduction in salary and benefit costs, the  
19 reduction in service and supply costs, reduction in costs  
20 claimed based upon claimant's development and application  
21 of its indirect cost rates, and the amount of offsetting  
22 revenue to be applied from the health service fee  
23 authority.

24 Staff recommends that the Commission partially  
25 approve this IRC. The Controller's reduction of costs

**Commission on State Mandates – March 27, 2015**

1 by \$30,527 for student accident insurance in fiscal year  
2 1999-2000 is incorrect since the costs are adequately  
3 supported by source documents for that fiscal year.

4 Staff recommends that the Commission request  
5 that the Controller reinstate this amount. However, the  
6 remaining reductions are correct as a matter of law, and  
7 are not arbitrary, capricious, or entirely lacking in  
8 evidentiary support.

9 Therefore, staff recommends that the Commission  
10 adopt the proposed decision, partially approving this  
11 IRC.

12 Will the parties and witnesses please state  
13 your names for the record?

14 MR. PETERSEN: Keith Petersen, representing the  
15 District.

16 MR. VENNEMAN: Jim Venneman, State Controller's  
17 Office.

18 MR. SPANO: Jim Spano, State Controller's  
19 Office.

20 CHAIR ORTEGA: Thank you.

21 Mr. Petersen?

22 MR. PETERSEN: No additional comments at this  
23 time. Thank you.

24 CHAIR ORTEGA: Okay, Mr. Venneman or Mr. Spano?

25 MR. VENNEMAN: The Controller's Office concurs

Commission on State Mandates – March 27, 2015

1 with staff's finding and recommendation.

2 CHAIR ORTEGA: Okay, any questions or comments  
3 from the Commission?

4 *(No response)*

5 CHAIR ORTEGA: Seeing none, is there any public  
6 comment on this item?

7 *(No response)*

8 CHAIR ORTEGA: Okay, we'll take a motion.

9 MEMBER RAMIREZ: Move to approve.

10 CHAIR ORTEGA: Moved by Ms. Ramirez.

11 MEMBER RIVERA: Second.

12 CHAIR ORTEGA: Second by Mr. Rivera.

13 Please call the roll.

14 MS. HALSEY: Mr. Alex?

15 MEMBER ALEX: Aye.

16 MS. HALSEY: Mr. Chivaro?

17 MEMBER CHIVARO: Aye.

18 MS. HALSEY: Ms. Olsen?

19 MEMBER OLSEN: Aye.

20 MS. HALSEY: Ms. Ortega?

21 CHAIR ORTEGA: Aye.

22 MS. HALSEY: Ms. Ramirez?

23 MEMBER RAMIREZ: Aye.

24 MS. HALSEY: Mr. Rivera?

25 MEMBER RIVERA: Aye.

Commission on State Mandates – March 27, 2015

1 MS. HALSEY: Mr. Saylor?

2 MEMBER SAYLOR: Aye.

3 CHAIR ORTEGA: The motion carries.

4 Thank you.

5 Item 9?

6 MS. HALSEY: Senior Commission Counsel Ginny  
7 Chandler will present Item 9, an incorrect reduction  
8 claim on *Health Fee Elimination*.

9 MS. CHANDLER: This incorrect reduction claim  
10 addresses the following issues: The statutory deadlines  
11 applicable to the audit of the 1999-2000 and 2000-2001  
12 reimbursement claims. Reduction in costs claimed based  
13 upon claimant's development and application of its  
14 indirect cost rates, and the amount of offsetting revenue  
15 to be applied from the health service fee authority.

16 Staff finds that the Controller timely audited  
17 claimant's reimbursement claims. Staff further finds  
18 that the Controller's reduction of costs is correct as a  
19 matter of law and not arbitrary, capricious, or entirely  
20 lacking in evidentiary support.

21 Staff recommends that the Commission adopt the  
22 proposed decision denying this IRC.

23 Will the parties and witnesses please state  
24 your names for the record?

25 MR. PETERSEN: Keith Petersen for the District.

Commission on State Mandates – March 27, 2015

1 MR. VENNEMAN: Jim Venneman, State Controller's  
2 Office.

3 MR. SPANO: Jim Spano, State Controller's  
4 Office.

5 CHAIR ORTEGA: Thank you.

6 Mr. Petersen?

7 MR. PETERSEN: No additional comments at this  
8 time.

9 MR. VENNEMAN: Controller's office concurs with  
10 staff's finding and recommendation.

11 CHAIR ORTEGA: Okay. Any comments from the  
12 Commissioners on this one?

13 *(No response)*

14 MEMBER CHIVARO: Move staff recommendation.

15 MEMBER OLSEN: I'll second.

16 CHAIR ORTEGA: Motion by Mr. Chivaro; second by  
17 Mr. Olsen.

18 Any public comment on this item?

19 *(No response)*

20 CHAIR ORTEGA: Seeing none, please call the  
21 roll.

22 MS. HALSEY: Mr. Alex?

23 MEMBER ALEX: Aye.

24 MS. HALSEY: Mr. Chivaro?

25 MEMBER CHIVARO: Aye.

Commission on State Mandates – March 27, 2015

1 MS. HALSEY: Ms. Olsen?

2 MEMBER OLSEN: Aye.

3 MS. HALSEY: Ms. Ortega?

4 CHAIR ORTEGA: Aye.

5 MS. HALSEY: Ms. Ramirez?

6 MEMBER RAMIREZ: Aye.

7 MS. HALSEY: Mr. Rivera?

8 MEMBER RIVERA: Aye.

9 MS. HALSEY: Mr. Saylor?

10 MEMBER SAYLOR: Aye.

11 MS. HALSEY: Thank you.

12 CHAIR ORTEGA: The motion carries.

13 Item 10 was on the Consent Calendar.

14 So Item 11?

15 MS. HALSEY: Commission Counsel Matt Jones  
16 will present Item 11, an incorrect reduction claim on  
17 *Collective Bargaining and Collective Bargaining Agreement*  
18 *Disclosure*.

19 MR. JONES: The proposed decision for this  
20 incorrect reduction claim finds that the audit was timely  
21 initiated but not timely completed in accordance with  
22 section 17558.5.

23 Because the audit was not timely completed,  
24 it is void and the Commission need not consider the  
25 remaining incorrect reductions alleged. Therefore, staff

Commission on State Mandates – March 27, 2015

1 recommends that the Commission adopt the decision to  
2 approve the incorrect reduction claim.

3 Will the parties and witnesses please state  
4 your names for the record?

5 MR. PETERSEN: Keith Petersen, representing the  
6 District.

7 MR. SILVA: Shawn Silva, State Controller's  
8 Office.

9 MR. SPANO: Jim Spano, State Controller's  
10 Office.

11 CHAIR ORTEGA: Okay, Mr. Petersen?

12 MR. PETERSEN: We won. No additional comments  
13 at this time.

14 CHAIR ORTEGA: Mr. Silva?

15 MR. SILVA: The State Controller's Office  
16 concurs with the staff's recommendation.

17 CHAIR ORTEGA: Okay, any comments from the  
18 Commission?

19 *(No response)*

20 CHAIR ORTEGA: Okay, any public comment on this  
21 item?

22 *(No response)*

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

24 MEMBER RAMIREZ: I'll move to approve.

25 CHAIR ORTEGA: Moved by Ms. Ramirez.

**Commission on State Mandates – March 27, 2015**

1 MEMBER RIVERA: Second.

2 CHAIR ORTEGA: Second by Mr. Rivera.

3 Please call the roll.

4 MS. HALSEY: Mr. Alex?

5 MEMBER ALEX: Aye.

6 MS. HALSEY: Mr. Chivaro?

7 MEMBER CHIVARO: Aye.

8 MS. HALSEY: Ms. Olsen?

9 MEMBER OLSEN: Aye.

10 MS. HALSEY: Ms. Ortega?

11 CHAIR ORTEGA: Aye.

12 MS. HALSEY: Ms. Ramirez?

13 MEMBER RAMIREZ: Aye.

14 MS. HALSEY: Mr. Rivera?

15 MEMBER RIVERA: Aye.

16 MS. HALSEY: Mr. Saylor?

17 MEMBER SAYLOR: Aye.

18 CHAIR ORTEGA: Okay, that motion carries.

19 Items 12, 13, 14 were consent.

20 MS. HALSEY: Item 15 is reserved for county

21 applications for a finding of significant financial

22 distress or SB-1033 applications. No SB-1033

23 applications have been filed.

24 Assistant Executive Director Jason Hone will

25 present Item 16, the Legislative Update.



**Commission on State Mandates – March 27, 2015**

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

MR. HONE: Good morning.

Commission staff is monitoring two new bills that include language to amend Government Code section 17581.6, which is the Education Mandate Block Grant.

The first of those bills, AB 575, was introduced by Assembly Member O'Donnell on February 24<sup>th</sup>, and has been referred to the Education Committee.

This bill proposes, as of July 1, 2018, to add the best-practices teacher evaluation system to the state-mandated local programs supported by the block grant. Thus, if enacted, this bill would create a legislatively determined mandate funded through the education block grant.

The second new bill, AB 731, was introduced by Assembly Member Gallagher on February 25<sup>th</sup>. It proposes amendments to many different code sections and is described as the Legislative Counsel's digest as relating to the maintenance of the codes. The bill proposes a minor change under the education block grant, but may be amended in the future to propose substantive changes to this code section.

The bill is currently in the Assembly Judiciary Committee, and staff will continue to monitor the legislation.

CHAIR ORTEGA: Any questions on the legislative

Commission on State Mandates – March 27, 2015

1 update?

2 (No response)

3 CHAIR ORTEGA: No?

4 MS. HALSEY: Chief Legal Counsel Camille  
5 Shelton will present Item 17, the Chief Legal Counsel  
6 report.

7 CAMILLE SHELTON: Since the last Commission  
8 meeting, we do have one new filing, filed by Paradise  
9 Irrigation District, challenging the Commission's test  
10 claim decision on *Water Conservation*. And that's pending  
11 in the Sacramento County Superior Court.

12 We do have a decision issued by Sacramento  
13 Superior Court on the *Clovis Unified School District*  
14 case, which challenged the Commission's decision on the  
15 IRCs for *Graduation Requirements*. And the Court denied  
16 the petition for writ of mandate there, agreeing with the  
17 Commission's interpretation of 17558.5, that "subject to  
18 audit" means initiation of the audit.

19 You can see a whole host of calendaring of  
20 hearing dates in April and June.

21 There has been a switch of the calendar date  
22 for the *Public Guardian* case, which is now April 30<sup>th</sup>  
23 instead of April 16<sup>th</sup>. This is hearing number two on  
24 that matter.

25 And in addition, if you recall the Santa

Commission on State Mandates – March 27, 2015

1 Clarita Valley Sanitation District had challenged the  
2 Commission's decision on Upper Chloride. They lost their  
3 petition -- denied petition for writ of mandate, and they  
4 never did file an appeal, so that is a final decision.

5 CHAIR ORTEGA: Okay.

6 MS. HALSEY: Item 18 is the Executive  
7 Director's report.

8 So, so far this year, we've completed five test  
9 claims, two parameters and guidelines, four parameters  
10 and guidelines amendments, seven statewide cost  
11 estimates, two-and-a-half mandate redeterminations, and  
12 19 incorrect reduction claims.

13 We are working pretty well through our backlog  
14 reduction. We only have 59 remaining IRCs. And we have,  
15 of our test claims remaining, we have 13, and one of  
16 those is tentatively set for July because it was just  
17 amended. Otherwise, it would have been set for next  
18 hearing. And all the others are on hold, pending the  
19 outcome of the Supreme Court case on *NPDES Permits*.

20 CHAIR ORTEGA: Okay, any questions?

21 MS. HALSEY: And also, I wanted to mention --  
22 Julia, I wasn't going to put you on the spot -- but we  
23 have a new Senior Commission Counsel, Julia Blair, who  
24 is here in the audience today. She'll be starting next  
25 week with us.

**Commission on State Mandates – March 27, 2015**

1           And Ms. Blair has significant experience in  
2 higher-education law and policy, and environmental law  
3 and policy. And she comes to the Commission from the  
4 Community Colleges Chancellor's office. And prior to  
5 that, she served as senior staff counsel at the  
6 California Energy Commission, and as staff counsel and  
7 legislative director for the California Postsecondary  
8 Education Commission. And she also worked at Kronick,  
9 where she worked on CEQA and water-law issues.

10           I think she's going to be a wonderful asset to  
11 our office.

12           CHAIR ORTEGA: Great. Welcome.

13           MEMBER RAMIREZ: Welcome.

14           MEMBER OLSEN: Welcome.

15           MS. BLAIR: Thank you.

16           MS. HALSEY: Also, before we adjourn for  
17 closed-session, I'd like to present Jason Hone with a  
18 resolution, commemorating his contributions and efforts  
19 as Assistant Executive Director for the Commission on  
20 State Mandates.

21           Jason has accepted a senior management position  
22 at the DMV headquarters, in their Field Operations  
23 Division; and his last day with the Commission will be on  
24 April 3<sup>rd</sup>.

25           All of us here are grateful to work with such

**Commission on State Mandates – March 27, 2015**

1 a hard-working and dedicated individual, and we will  
2 surely miss him.

3 Please join me in congratulating Jason, and  
4 wishing him the best of luck in the future.

5 *(Applause)*

6 MS. HALSEY: *Whereas, Jason Hone has*  
7 *distinguished himself as Assistant Executive*  
8 *Director of the Commission on State Mandates;*  
9 *and*

10 *Whereas, he has provided expert assistance*  
11 *to cities, counties, school districts, and*  
12 *state agencies, to navigate the mandates*  
13 *process; and*

14 *Whereas, he has efficiently managed the*  
15 *development and implementation of an Internet*  
16 *system for storing and retrieving contact*  
17 *records and caseload data; and*

18 *Whereas, Mr. Hone has successfully and*  
19 *effectively directed the overhaul of the*  
20 *Commission's Web site to produce a*  
21 *user-friendly, comprehensive directory;*  
22 *and*

23 *Whereas, he has directed his staff in*  
24 *updating the electric filing process of all*  
25 *mandate-related documents, and in preparing,*

**Commission on State Mandates – March 27, 2015**

1           *uploading, and downloading all Commission*  
2           *hearing binders electronically, thereby*  
3           *saving the state and local governments money*  
4           *and reducing the effect on the environment;*  
5           *and*

6                     *Whereas, Jason Hone is being honored by*  
7           *the members and staff of the Commission on*  
8           *State Mandates in appreciation of his*  
9           *outstanding dedication, leadership, and*  
10          *service to the state of California.*

11                    *Now, therefore, be it resolved, that*  
12          *the Commission on State Mandates warmly*  
13          *congratulates Jason Hone upon his new*  
14          *position in the Field Operations Division*  
15          *of the Department of Motor Vehicles, where*  
16          *he will transition from mandates to license*  
17          *plates, and parameters and guidelines to*  
18          *notoriously long lines.*

19                    *This 27<sup>th</sup> day of March, 2015, County of*  
20          *Sacramento, State of California, in witness*  
21          *thereof, by the Commission on State Mandates.*

22                    *(Applause)*

23                    MR. HONE: I just want to thank my colleagues  
24          and the Members. It's been a really terrific couple  
25          years; and I've learned quite a bit. And I think I've

**Commission on State Mandates – March 27, 2015**

1 made some lasting relationships. And it's been a  
2 pleasure. It's been challenging at times, certainly.  
3 I think that we've all accomplished a lot. I'm very  
4 proud of my time here.

5 And thank you to everybody who helped make our  
6 success happen. Thank you.

7 MS. HALSEY: Thank you.

8 CHAIR ORTEGA: Thank you.

9 MEMBER RAMIREZ: Best wishes.

10 CHAIR ORTEGA: All right, seeing no other items  
11 to come before us in open session, we will now adjourn to  
12 closed session.

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

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

22 We will reconvene in about 15 minutes.

23 Thank you, everyone.

24 *(The Commission met in closed executive*  
25 *session from 10:41 a.m. to 11:03 a.m.)*

**Commission on State Mandates – March 27, 2015**

1 CHAIR ORTEGA: Okay, we will reconvene in open  
2 session.

3 The Commission met in closed session pursuant  
4 to Government Code section 11126(e)(2) to confer with  
5 and receive advice from legal counsel for consideration  
6 and action, as necessary and appropriate, upon the  
7 pending litigation listed on the published notice and  
8 agenda; and to confer with and receive advice from legal  
9 counsel regarding potential litigation, and pursuant to  
10 Government Code section 11126(a)(1) to confer on  
11 personnel matters.

12 Mr. Hone will present Item 19 to us.

13 MR. HONE: Thank you.

14 The Chief Legal Counsel position is established  
15 at a CEA level B. Ms. Shelton was appointed to her  
16 current position on December 9, 2005. Ms. Shelton's  
17 current monthly salary is below the maximum salary for  
18 incumbents whose duties require membership in the State  
19 Bar of California.

20 State policy provides that the annual salary  
21 movement for CEAs shall not exceed 5 percent in any  
22 12 months. Because the statewide salary increase of  
23 2.5 percent is proposed for July 1, 2015, the Commission  
24 may increase Ms. Shelton's salary by up to 2.5 percent.

25 The Commission may take action to adjust the



Commission on State Mandates – March 27, 2015

1 Chief Legal Counsel's salary by designating an adjustment  
2 amount and effective date. Staff would then submit the  
3 request to Cal HR.

4 CHAIR ORTEGA: Any comments from the board  
5 members?

6 *(No response)*

7 CHAIR ORTEGA: Any public comment on this item?

8 *(No response)*

9 CHAIR ORTEGA: Seeing no public, I'll take a  
10 motion.

11 MEMBER CHIVARO: I'll move to adjust the chief  
12 counsel's salary by 2.5 percent effective July 1, 2015.

13 MEMBER OLSEN: Second it.

14 CHAIR ORTEGA: Moved by Mr. Chivaro, second by  
15 Ms. Olsen.

16 I think we can just say --

17 MR. HONE: I can call the roll.

18 CHAIR ORTEGA: Okay, go ahead.

19 MR. HONE: Mr. Alex?

20 MEMBER ALEX: Aye.

21 MR. HONE: Mr. Chivaro?

22 MEMBER CHIVARO: Aye.

23 MR. HONE: Ms. Ramirez?

24 MEMBER RAMIREZ: Aye.

25 MR. HONE: Mr. Rivera?

Commission on State Mandates – March 27, 2015

1 MEMBER RIVERA: Aye.

2 MR. HONE: Ms. Ortega?

3 CHAIR ORTEGA: Aye.

4 MR. HONE: Ms. Olsen?

5 MEMBER OLSEN: Aye.

6 MR. HONE: Mr. Saylor?

7 MEMBER SAYLOR: Aye.

8 CHAIR ORTEGA: Okay, motion carries.

9 Item 20.

10 MR. HONE: The Executive Director position is  
11 established at level D of the exempt salary schedule.

12 Ms. Halsey was appointed on March 23<sup>rd</sup>, 2012.  
13 Since Ms. Halsey's salary level is below the maximum  
14 salary of exempt level D, she is eligible for a salary  
15 adjustment effective on her appointment anniversary date  
16 upon the approval of the Commission.

17 The Commission may approve an increase of  
18 approximately 2.49 percent to the maximum exempt level D  
19 salary effective on her anniversary date of March 23<sup>rd</sup>,  
20 2015.

21 CHAIR ORTEGA: Any comments from the  
22 Commission?

23 *(No response)*

24 CHAIR ORTEGA: Any public comment?

25 *(No response)*

Commission on State Mandates – March 27, 2015

1 CHAIR ORTEGA: Is there a motion?

2 MEMBER CHIVARO: I'll move that the salary be  
3 adjusted by 2.49 percent effective March 23<sup>rd</sup>, 2015.

4 MS. OLSEN: I'll second.

5 CHAIR ORTEGA: Seconded by Ms. Olsen.

6 MR. HONE: I'll call roll.

7 Mr. Alex?

8 MEMBER ALEX: Aye.

9 MR. HONE: Mr. Chivaro?

10 MEMBER CHIVARO: Aye.

11 MR. HONE: Ms. Ramirez?

12 MEMBER RAMIREZ: Aye.

13 MR. HONE: Mr. Rivera?

14 MEMBER RIVERA: Aye.

15 MR. HONE: Ms. Ortega?

16 CHAIR ORTEGA: Aye.

17 MR. HONE: Ms. Olsen?

18 MEMBER OLSEN: Aye.

19 MR. HONE: Mr. Saylor?

20 MEMBER SAYLOR: Aye.

21 *(Applause)*

22 MEMBER RAMIREZ: I have a comment.

23 CHAIR ORTEGA: Sure. Ms. Ramirez?

24 MEMBER RAMIREZ: In this time when many members  
25 of the public like to bemoan public service, I want to

Commission on State Mandates – March 27, 2015

1 congratulate you and thank you two, as well as Mr. Hone,  
2 Ms. Palchik here, and really, everybody here. It's just  
3 people don't really perhaps know what sacrifice and  
4 effort it really is; and I appreciate it on behalf of the  
5 people of the state of California.

6 MS. OLSEN: Hear, hear.

7 MR. HONE: Thank you.

8 CHAIR ORTEGA: Absolutely.

9 Thank you.

10 Okay, any other comments and any public  
11 comment?

12 *(No response)*

13 CHAIR ORTEGA: No?

14 With that, we'll be adjourned.

15 MEMBER RAMIREZ: Thank you.

16 MR. HONE: Thank you.

17 *(The meeting concluded at 11:08 a.m.)*

18 --oOo--

19

20

21

22

23

24

25

**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 19<sup>th</sup> April 2015.



---

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