

Minutes

COMMISSION ON STATE MANDATES

Location of Meeting: Room 447
State Capitol, Sacramento, California
May 29, 2015

Present: Member Eraina Ortega, Chairperson
Representative of the Director of the Department of Finance
Member Richard Chivaro, Vice Chairperson
Representative of the State Controller
Member Scott Morgan
Representative of Director of the Office of Planning and Research
Member Sarah Olsen
Public Member
Member Carmen Ramirez
City Council Member
Member Andre Rivera
Representative of the State Treasurer
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 10:02 a.m. Executive Director Heather Halsey called the roll.

APPROVAL OF MINUTES

Member Olsen made a motion to adopt the minutes. With a second by Member Rivera, the March 27, 2015 hearing minutes were adopted by a vote of 7-0.

PUBLIC COMMENT FOR MATTERS NOT ON THE AGENDA

The Chairperson asked if there was any public comment. Mr. Dennis Evans, a member of the public, introduced himself and asked the Commission to hold an informal conference to consider utilizing his company to reduce work-related accidents and injuries. Member Olsen informed Mr. Evans that the Commission has no jurisdiction to hear his concerns unless a case is brought before the Commission by a local government or state agency. Mr. Evans concluded his remarks by urging the Commission to help eliminate workers' compensation and disability claims.

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)

INCORRECT REDUCTION CLAIMS

Item 4* *Collective Bargaining and Collective Bargaining Agreement Disclosure, 05-4425-I-10*

Government Code Sections 3540-3549.9

Statutes 1975, Chapter 961 ; Statutes 1991, Chapter 1213

Foothill-De Anza Community College District, Claimant

Executive Director Heather Halsey announced that after the agenda for this hearing was issued, the parties agreed to place Item 4 on the Consent Calendar. Chairperson Ortega asked if there was any objection to adding Item 4 to the Consent Calendar and if there were any comments from the public. No objection was made and there was no public comment.

Member Olsen made a motion to adopt the Consent Calendar as revised. With a second by Member Saylor, the Consent Calendar was adopted as revised by a vote of 7-0.

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.

MANDATE REDERMINATIONS

Item 3 *California Public Records Act (02-TC-10 and 02-TC-51), 14-MR-02*

Government Code Sections 6253, 6253.1, 6253.9, 6254.3, and 6255

Statutes 1992, Chapters 463 (AB 1040); Statutes 2000, Chapter 982 (AB 2799); and Statutes 2001, Chapter 355 (AB 1014)

As Alleged to be Modified by: Proposition 42, Primary Election, June 3, 2014

Department of Finance, Requester

FIRST HEARING: ADEQUATE SHOWING

The first hearing for this matter is to determine whether the Department of Finance made an adequate showing that a subsequent change in law may modify the State's liability for this program.

Student Assistant Imran Majid presented this item and recommended that the Commission adopt the decision and direct staff to provide notice of the second hearing to determine if a new test claim decision shall be adopted to supersede the previously adopted test claim decision.

Parties were represented as follows: Susan Geanacou, 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 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.

INCORRECT REDUCTION CLAIMS

Item 5 *Health Fee Elimination, 07-4206-I-15*

Former Education Code Section 72246 (Renumbered as section 76355)
Statutes 1984, Chapter 1 (1983-1984 2nd Ex. Sess.) (AB2X 1) and
Statutes 1987, Chapter 1118

Rancho Santiago Community College District, Claimant

This incorrect reduction claim addresses reductions made by the State Controller based on overstated indirect costs claimed and authorized offsetting health fees.

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

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

Member Ramirez questioned why the claimant is not present. Assistant Executive Director Heidi Palchik explained that the claimant left a telephone message stating that they will not be appearing at the hearing.

The State Controller's Office concurred with the staff recommendation and there was no comment from interested parties or the public on this matter. Member Ramirez made a motion to adopt the proposed decision to deny the incorrect reduction claim. With a second by Member Chivaro, the motion to adopt the staff recommendation to deny 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 6 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 7 Legislative Update (info)

Assistant Executive Director Heidi Palchik presented this item and the Governor's proposed budget.

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

Chief Legal Counsel Camille Shelton presented this item. Member Ramirez asked if there is a possibility of appeal in the *Public Guardianship* case. Ms. Shelton explained that parties have 60 days to appeal after notice of entry of judgment is served and that she anticipates appeals in both this and the San Diego (*Sexually Violent Predators*) case.

Item 9 Executive Director: Workload Update and Tentative Agenda Items for the July and September Meetings (info)

Executive Director Heather Halsey presented this item and reported on the Commission's backlog reduction.

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. *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
2923Statutes 2006; Chapter 490 (SB 1116), Statutes 2006,
Chapter 492 (SB 1716), and Statutes 2006, Chapter 493 (AB
1363)]

6. *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).]

7. *Clovis Unified School Dist. v. Commission on State Mandates, State Controller’s Office*
Sacramento County Superior Court, Case No. 34-2014-80001931
[*Graduation Requirements IRC*, 05-4435-I-50 and 08-4435-I-52, adopted May 30, 2014]
8. *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 10:21 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 10:27 a.m., Chairperson Ortega reconvened in open session, and reported that the Commission met in closed executive session pursuant to Government Code section 11126(e) to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the public notice and agenda, and potential litigation, and to confer on personnel matters pursuant to Government Code section 11126(a)(1).

ADJOURNMENT

Hearing no further business, Chairperson Ortega adjourned the meeting at 10:28 a.m.

A handwritten signature in black ink, appearing to read "Heather Halsey". The signature is written in a cursive style with a large, sweeping flourish at the end.

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, May 29, 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)

SCOTT MORGAN
Representative for 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, 6, and 9)

HEIDI PALCHIK
Assistant Executive Director
(Item 7)

A P P E A R A N C E S

PARTICIPATING COMMISSION STAFF

continued

CAMILLE N. SHELTON
Chief Legal Counsel
(Item 8)

ERIC FELLER
Senior Commission Counsel
(Item 5)

IMRAN MAJID
Student Assistant
(Item 3)



PUBLIC TESTIMONY

Appearing re Public Comment

DENNIS EVANS

Appearing Re Item 3:

For Department of Finance:

SUSAN GEANACOU
Senior Staff Attorney
Department of Finance
915 L Street, Suite 1280
Sacramento, California 95814

Appearing Re Item 5:

For State Controller's Office:

JIM L. SPANO
Chief, Mandated Cost Audits Bureau
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 5: *continued*

For State Controller's Office:

JIM VENNEMAN
Audit Manager, Division of Audits
State Controller's Office
3301 C Street, Suite 725
Sacramento, California 95816



I N D E X

<u>Proceedings</u>	<u>Page</u>
I. Call to Order and Roll Call	9
II. Approval of Minutes	
Item 1 March 27, 2015	10
III. Public Comment for Matters Not on the Agenda	10
IV. Proposed Consent Calendar	
Consent Item - Item 4	17
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>)	19
B. Mandate Redeterminations	
Item 3 <i>California Public Records Act</i> 02-TC-10 and 02-TC-51, 14-MR-02 Department of Finance	19
C. Incorrect Reduction Claims	
Item 4 <i>Collective Bargaining and</i> <i>Collective Bargaining</i> <i>Agreement Disclosure</i> 05-4425-I-10 Foothill-DeAnza Community College District (<i>Consent item</i>)	17

I N D E X

<u>Proceedings</u>	<u>Page</u>
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. Incorrect Reduction Claims <i>continued</i>	
Item 5 <i>Health Fee Elimination</i> 05-4206-I-16 Rancho Santiago Community College District	21
D. 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 6 <i>Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commissions, or to a Hearing Officer (None)</i>	23
VI. Reports	
Item 7 <i>Legislative Update</i>	23
Item 8 <i>Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar</i>	25
Item 9 <i>Executive Director: Workload Update and Tentative Agenda Items for July and September Meetings</i>	26

I N D E X

<u>Proceedings</u>	<u>Page</u>
VII. Closed Executive Session Pursuant to Government Code Sections 11126 and 11126.2	28
A. Pending Litigation	
B. Personnel	
VIII. Report from Closed Executive Session	28
Adjournment	28
Reporter's Certificate	29



Commission on State Mandates – May 29, 2015

1 BE IT REMEMBERED that on Friday, May 29, 2015,
2 commencing at the hour of 10:02 a.m., thereof, at the
3 State Capitol, Room 447, Sacramento, California, before
4 me, DANIEL P. FELDHAUS, CSR #6949, RDR and CRR, the
5 following proceedings were held:



7 CHAIR ORTEGA: Good morning, everyone.
8 I'd like to call to order the May 29th meeting
9 of the Commission on State Mandates.

10 Please, call the roll.

11 MS. HALSEY: Mr. Chivaro?

12 MEMBER CHIVARO: Present.

13 MS. HALSEY: Mr. Morgan?

14 MEMBER MORGAN: Here.

15 MS. HALSEY: Ms. Olsen?

16 MEMBER OLSEN: Present.

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 CHAIR ORTEGA: Okay, thank you.

Commission on State Mandates – May 29, 2015

1 We have a quorum.

2 Item 2 are the minutes from the March 27th
3 meeting.

4 Are there any objections, corrections,
5 comments?

6 MEMBER OLSEN: I'll move the adoption.

7 CHAIR ORTEGA: Okay, Ms. Olsen moves.

8 MEMBER RIVERA: Second.

9 CHAIR ORTEGA: Mr. Rivera seconds.

10 Any public comment on that?

11 *(No response)*

12 CHAIR ORTEGA: Seeing none, all in favor?

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

14 CHAIR ORTEGA: Any abstentions?

15 *(No response)*

16 CHAIR ORTEGA: The minutes are passed.

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

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

23 CHAIR ORTEGA: Okay, is there any public
24 comment?

25 *(No response)*

Commission on State Mandates – May 29, 2015

1 CHAIR ORTEGA: All right.

2 Did you want to speak?

3 MR. EVANS: Yes. Just real quick.

4 CHAIR ORTEGA: Sure.

5 Have a seat right here.

6 MR. EVANS: Okay, thank you.

7 This public comment is a -- and I wrote this
8 very great speech that you guys would all love, but I
9 want to get right to the point.

10 I want to talk about --

11 CHAIR ORTEGA: Excuse me, please identify
12 yourself for the record.

13 MR. EVANS: My name is Dennis Evans.

14 CHAIR ORTEGA: Dennis Evans?

15 MR. EVANS: Sorry about that.

16 CHAIR ORTEGA: That's okay.

17 Go ahead.

18 MR. EVANS: Today, I want to talk about
19 transition areas and accidents.

20 I would like to show you guys -- I would like
21 to tell you guys how great I am and what a great job I
22 have done, and how long I've been in business and what I
23 do.

24 I'm a safety pundit. And that's just a fancy
25 way of saying: I'm a safety expert.

Commission on State Mandates – May 29, 2015

1 My job was writing safety protocols for plant
2 processes and dealing with calamity controls.

3 So upon my reading SB 863, I developed a safety
4 manifest system called, "The Occupational Health and
5 Safety Pundits' Safety Management System." It identifies
6 contributory negligence, known to be the cause of
7 work-related accidents and injuries.

8 By just simply -- and nobody is doing this on
9 purpose, this is just something that's been taught over
10 the years, and we're stuck with it. Just over the years,
11 you just keep doing the same unsafe acts. But if I
12 could, I would like to show you real quick an area, a
13 transition area accident -- or how to prevent one from
14 ever happening.

15 Do you mind?

16 *(No response)*

17 MR. EVANS: When you look at the way the
18 employee is transitioning the area, he is putting himself
19 at risk.

20 CHAIR ORTEGA: Mr. Evans? Mr. Evans, I'm going
21 to ask you if you have something that's a photograph,
22 that perhaps you could send us a copy because it's not
23 really a --

24 MR. EVANS: Oh, I'm sorry, you guys already
25 have a copy.

Commission on State Mandates – May 29, 2015

1 CHAIR ORTEGA: From the letter?

2 MR. EVANS: Yes.

3 CHAIR ORTEGA: Okay, great.

4 MR. EVANS: And that would be on page 9.

5 CHAIR ORTEGA: Okay, great.

6 MR. EVANS: The idea is by working in this way,
7 using the safety management system, we can eliminate
8 work-related accidents and injuries.

9 It's costing California over a billion dollars
10 a year. And that's a really light estimate, to be
11 honest. But that can be eliminated because when you're
12 talking workers' comp, it's just cause and effect.

13 If you really break it down: We know what's
14 the cause of our workers' compensation, accidents and
15 injuries.

16 And what causes accidents and injuries?
17 Contributory negligence does. And what page 9 does,
18 is it shows an example of this type of contributory
19 negligence that is raising the rate people are getting
20 hurt. And even once they get hurt, also now you're
21 dealing with the cost and effect.

22 They have the cost, the medical cost of their
23 arm; and if you have your business, now you're losing
24 your productivity. And I'm just being blunt. I'm not
25 trying to say, you know, they're working for us or in any

1 type of way; but I'm saying that if we're looking at it
2 on a product scale, the productivity that is being lost
3 is more than even the worker's injury. But the worker's
4 injury is the important issue.

5 So you can eliminate contributory negligence
6 just by simply retraining each ind- -- each employee.

7 I wanted to ask you guys for a -- and I forget
8 the terminology for it because I'm brain-dead, but I do
9 have some cheat notes. But I would like to -- oh, an
10 informal conference. I would like to have an informal
11 conference so I could just give you more information.
12 And I hope that you guys will look at page 9, and see
13 that by eliminating this type of contributory negligence,
14 we could save lots of lives, lots of money.

15 And also, I've done about three years'
16 investigation into what they call "megavitamin therapy."
17 It's orthomolecular medicine.

18 By using evidence of base medicine at a lower
19 cost --

20 MS. OLSEN: Madam Chair?

21 CHAIR ORTEGA: Yes.

22 I think we have a question.

23 MR. EVANS: Yes?

24 MEMBER OLSEN: Mr. Evans, I'm a little bit
25 confused.

Commission on State Mandates – May 29, 2015

1 Do you represent a particular local government?

2 MR. EVANS: No, no, no. I'm a company that is
3 introducing my services that were mandated by SB 863,
4 as well as California's Constitution, Article IV,
5 section 14 --

6 MEMBER OLSEN: And why are you here in front of
7 the Commission on State Mandates, which --

8 MR. EVANS: Because the company that I've
9 developed, falls under a state-mandated process or a
10 category. And I would like to utilize it to decrease
11 work-related accidents and injuries. And I can prove
12 that I can decrease work-related accidents and injuries
13 65 percent. But it's not going to happen overnight, but
14 it will happen; and that will save the State a lot of
15 money. And also, it will keep our employees from being
16 hurt on the job.

17 MEMBER OLSEN: And you understand that the
18 Commission has nothing to do with this until --

19 MR. EVANS: Of course.

20 MEMBER OLSEN: -- a case is brought by a local
21 government or a state agency to us?

22 MR. EVANS: So you wouldn't be willing to say,
23 "Let's reduce work-related injuries"?

24 MEMBER OLSEN: We can't. We're not the body to
25 do that. That's not what we do.

Commission on State Mandates – May 29, 2015

1 MR. EVANS: Uh-huh. So who does that? Because
2 I understood that if it was a state-mandated local
3 program, that the State -- the Commission would decide
4 if a program is a state-mandated program.

5 CHAIR ORTEGA: I think, Mr. Evans, the issue
6 is only a local government as defined can appear here
7 with that sort of request.

8 So I'm going to --

9 MR. EVANS: I understand.

10 CHAIR ORTEGA: I'm going to give you a minute
11 to -- I'm going to try to limit the comments to about
12 five minutes, so I'm going to give you a minute to wrap
13 up your comments.

14 MR. EVANS: Okay.

15 CHAIR ORTEGA: And, of course, we have your
16 letter, so we can review that as well.

17 MR. EVANS: I'm saying: Let's eliminate
18 work-related accidents. Let's eliminate workers'
19 compensation and disability case claims. Let's reduce
20 it. Let's not only think about the employee, but also
21 the increase in profitability. If you have a healthier
22 employee, you have more productivity.

23 This is the basis behind this report. And I
24 hope that at least we could have an informal conference
25 that we might be able to speak about it.

Commission on State Mandates – May 29, 2015

1 And again, this is about not only saying I can
2 do it, but proving to you that it can be done. And it's
3 totally inexpensive. It's not anything that's going to
4 break the government or cost too much. It could be
5 implemented like that. And we could begin eliminating
6 work-related accidents today. It doesn't have to wait
7 until tomorrow.

8 CHAIR ORTEGA: Okay, thank you.

9 MR. EVANS: And you know what I mean? It
10 doesn't have to wait.

11 CHAIR ORTEGA: Yes. Thank you for your
12 comments. I appreciate it.

13 MR. EVANS: All right.

14 CHAIR ORTEGA: Okay, next, we have the Consent
15 Calendar.

16 MS. HALSEY: So, we have a proposal now to
17 place Item 4, an incorrect reduction claim on *Collective*
18 *Bargaining and Collective Bargaining Agreement Disclosure*
19 on consent.

20 After the agenda and hearing binder were
21 issued, the parties agreed to place Item 4 on consent.

22 CHAIR ORTEGA: Okay, any comments or objections
23 to that?

24 *(No response)*

25 MEMBER OLSEN: I'll move it.

Commission on State Mandates – May 29, 2015

1 MR. SAYLOR: Second.

2 CHAIR ORTEGA: No? Seeing none, there's a
3 motion by Ms. Olsen, second by Mr. Saylor.

4 Any public comments on the consent calendar?
5 *(No response)*

6 CHAIR ORTEGA: Okay, seeing none, all in favor?
7 *(A chorus of "ayes" was heard.)*

8 CHAIR ORTEGA: Any objections, abstentions?
9 *(No response)*

10 CHAIR ORTEGA: Nope?

11 Item 4 is approved on the consent calendar.

12 MS. HALSEY: Let's move to the Article 7
13 portion of the hearing.

14 Will the witnesses for Items 2, 3, and 5 please
15 rise?

16 *(Parties and witnesses stood to be sworn
17 or affirmed.)*

18 MS. HALSEY: Do you solemnly swear or affirm
19 that the testimony which you are about to give is true
20 and correct, based on your personal knowledge,
21 information, or belief?

22 *(A chorus of affirmative responses was
23 heard.)*

24 MS. HALSEY: Thank you.

25 Item 2 is reserved for appeals of Executive

Commission on State Mandates – May 29, 2015

1 Director decisions; and there are no appeals to consider
2 under Item 2 this morning.

3 Item 3, student assistant Imran Majid will
4 present the adequate showing hearing for a mandate
5 redetermination on the *California Public Records Act*.

6 MR. MAJID: Good morning.

7 This is the first hearing of a mandate
8 redetermination request filed by the Department of
9 Finance, to end the State's liability for the *California*
10 *Public Records Act* program.

11 Based on a subsequent change in law,
12 specifically Proposition 42, adopted by voters in
13 June 2014 requires local agencies to comply with the
14 California Public Records Act and removes the State's
15 obligation to reimburse the program.

16 This first hearing is limited to whether
17 Finance has made an adequate showing which identifies a
18 subsequent change in law that may modify the State's
19 liability.

20 Staff finds that the Department of Finance has
21 made an adequate showing that the State's liability has
22 been modified.

23 Staff recommends the Commission adopt this
24 decision and direct staff to provide notice of the second
25 hearing to determine if a new test-claim decision shall

Commission on State Mandates – May 29, 2015

1 be adopted to supersede the previously adopted test-claim
2 decision.

3 Would the parties and witnesses please state
4 your name for the record?

5 MS. GEANACOU: Good morning. Susan Geanacou
6 for the Department of Finance.

7 CHAIR ORTEGA: Any comments, Ms. Geanacou?

8 MS. GEANACOU: I would just like to, on behalf
9 of Finance, thank the staff for their work on our
10 request, and say that we support their recommendation
11 that the matter proceed to a second hearing.

12 CHAIR ORTEGA: Okay. Any questions from
13 commissioners?

14 *(No response)*

15 CHAIR ORTEGA: Any public comment on this item?

16 *(No response)*

17 CHAIR ORTEGA: Okay, seeing none, is there a
18 motion?

19 MEMBER OLSEN: I'll move it.

20 CHAIR ORTEGA: Moved by Ms. Olsen.

21 MEMBER CHIVARO: Second.

22 CHAIR ORTEGA: Second by Mr. Chivaro.

23 All in favor?

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

25 CHAIR ORTEGA: Any objections or abstentions?

Commission on State Mandates – May 29, 2015

1 (No response)

2 CHAIR ORTEGA: No? Thank you.

3 Item 5.

4 MS. HALSEY: Senior Commission Counsel Eric
5 Feller will present Item 5, an incorrect reduction claim
6 on *Health Fee Elimination*.

7 MR. FELLER: Good morning.

8 In this IRC, staff finds that the Controller's
9 reductions for indirect costs claimed and for authorized
10 offsetting health fees are correct as a matter of law,
11 and not arbitrary, capricious, or entirely lacking in
12 evidentiary support.

13 Staff recommends that the Commission adopt the
14 proposed decision to deny the IRC, and authorize staff
15 to make technical non-substantive changes following the
16 hearing.

17 Staff has heard from the claimant that they
18 will not be appearing today.

19 So would the remaining parties and witnesses
20 please state your names for the record?

21 MR. SPANO: Jim Spano, State Controller's
22 Office.

23 MR. VENNEMAN: Jim Venneman, State Controller's
24 Office.

25 CHAIR ORTEGA: Okay, any comments?

Commission on State Mandates – May 29, 2015

1 MR. VENNEMAN: Yes, the Controller's Office
2 supports staff's finding and recommendation.

3 CHAIR ORTEGA: Okay, any questions or comments
4 from the members?

5 Yes, Ms. Ramirez?

6 MEMBER RAMIREZ: Do we know why they're not
7 appearing, the other party? Are they conceding? Can't
8 make it?

9 MR. FELLER: I see that Ms. Palchik, who spoke
10 to the claimant representing, is shaking her head "No."
11 So I don't believe we know.

12 MS. PALCHIK: So I actually did not speak with
13 them. We played phone tag, and they just left a message,
14 saying they will not be appearing at the hearing.

15 CHAIR ORTEGA: Okay, any other questions?

16 *(No response)*

17 CHAIR ORTEGA: Any other public comment on this
18 item?

19 *(No response)*

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

21 MEMBER RAMIREZ: So moved.

22 CHAIR ORTEGA: Moved by Ms. Ramirez.

23 MEMBER CHIVARO: Second.

24 CHAIR ORTEGA: Second by Mr. Chivaro.

25 All in favor?

Commission on State Mandates – May 29, 2015

1 (A chorus of "ayes" was heard.)

2 CHAIR ORTEGA: Any abstentions, objections?

3 (No response)

4 CHAIR ORTEGA: No?

5 The staff recommendation is adopted.

6 MS. HALSEY: Item 6 is reserved for county
7 applications for a finding of significant financial
8 distress or SB 1033 applications.

9 No SB 1033 applications have been filed.

10 Assistant Executive Director Heidi Palchik will
11 present Item 7, the Legislative Update.

12 MS. PALCHIK: Good morning.

13 We are currently following two bills, AB 575,
14 which is entitled, "Teachers: Best Practices Teacher
15 Evaluation System," would replace the Stull Act. And
16 the Stull Act was found to be a reimbursable mandate by
17 the Commission, with the addition of sections to the
18 Education Code relating to teacher evaluation.

19 This bill was referred to the Assembly
20 Committee on Appropriations on May 5th, and is currently
21 being held on suspense.

22 The other bill that we're following is AB 731,
23 which is entitled "Maintenance of the Codes." This bill
24 proposes amendments to many different code sections,
25 including those sections containing the education

Commission on State Mandates – May 29, 2015

1 mandates block grant and the teacher evaluation best
2 practices.

3 This bill passed Assembly on consent, and
4 it has not been amended; and is now pending in the Senate
5 Judiciary Committee.

6 We'll continue to monitor these through the
7 legislative session.

8 And as you may know, on May 14th, 2015, the
9 Governor issued the 2015-16 May Revision to his budget,
10 which included significant changes to the mandated
11 local program funding.

12 So for local government, the current estimates
13 indicate that the trigger mechanism calculation, the
14 revenues that exceed the 2014 Budget Act estimate, will
15 result in a total of \$765 million, which will fully
16 satisfy all the remaining pre-2004 mandate debt.

17 And then for school districts and community
18 colleges, there were changes made to the block grant
19 funding. And those specific details can be found in your
20 legislative update.

21 CHAIR ORTEGA: Thank you.

22 Any questions on the Legislative Report?

23 *(No response)*

24 CHAIR ORTEGA: Okay, thank you.

25 MS. HALSEY: Chief Legal Counsel Camille

Commission on State Mandates – May 29, 2015

1 Shelton will present Item 8, Chief Legal Counsel Report.

2 MS. SHELTON: Good morning.

3 Two decisions have been issued by the trial
4 courts on matters that are currently in litigation.

5 The first is, in *County of San Diego versus*
6 *Commission on State Mandates*, the Court did uphold the
7 Commission's decision, and deny the complaint for dec.
8 relief and the petition for writ of mandate.

9 In addition, the *County of Los Angeles versus*
10 *the Commission on the Public Guardianship Program*, there,
11 the Court denied the petition and complaint for
12 declaratory relief as well, and upheld the Commission's
13 decision.

14 We do have one case pending and set for a
15 hearing on June 12th. That is *Coast Community College*
16 *District*, which challenges the test-claim decision on
17 *Minimum Conditions for State Aid*.

18 CHAIR ORTEGA: Ms. Ramirez?

19 MEMBER RAMIREZ: Is there a possibility of
20 appeal in the *Public Guardianship*, or is it finished?

21 MS. SHELTON: No. Both of those cases that
22 I mentioned, they have 60 days after notice of entry of
23 judgment is served. And so far, those notices have not
24 been served yet.

25 So judgment has been entered in the San Diego

Commission on State Mandates – May 29, 2015

1 matter. A proposed judgment has been sent in the L.A.
2 matter. So it will still be a few weeks. They have
3 60 days after that to appeal. And I do anticipate
4 appeals in both cases.

5 MEMBER RAMIREZ: Thank you.

6 CHAIR ORTEGA: Any other questions?

7 *(No response)*

8 CHAIR ORTEGA: Okay.

9 MS. HALSEY: Item 9 is the Executive Director's
10 Report.

11 As you can see, this year, we did hear quite
12 a few more incorrect reduction claims over last year,
13 especially considering several of the ones completed
14 last year were withdrawn; and this year, most of them
15 were heard. And so that's been the balance of our work
16 this year, primarily.

17 Also, as you know, we've been very busy with
18 litigation; and that has slowed down the hearing of
19 some of the matters. But we hope to have a bit more of
20 a robust hearing next hearing, and then bigger after that
21 as litigation slows down a little bit.

22 And would you please take a look at the
23 Executive Director's Report, to see if you have any items
24 coming up for hearing?

25 We do expect to be hearing CAASPP, which is

Commission on State Mandates – May 29, 2015

1 the test claim on *California Assessment of Student*
2 *Performance and Progress*.

3 And also, we have an amendment to parameters
4 and guidelines on *Immunization Records - Pertussis*,
5 coming up.

6 And then we are going to be hearing all the
7 *Notification of Truancy* IRCs together as a batch coming.

8 And that's all I have, unless there's
9 questions.

10 CHAIR ORTEGA: Okay, any questions for Heather?

11 *(No response)*

12 CHAIR ORTEGA: Nope? Okay.

13 Seeing none, we will move into closed session.

14 So we'll ask everyone to leave the room.

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

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

24 We will reconvene in open session in
25 approximately 15 minutes.

Commission on State Mandates – May 29, 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

Thank you.

(The Commission met in closed executive session from 10:21 a.m. to 10:27 a.m.)

CHAIR ORTEGA: The Commission met in closed execution 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 published 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.

We have nothing to report.

And without any other business to come before the Commission, we will be adjourned.

Thank you.

(The meeting concluded at 10:28 a.m.)

--oOo--

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 15th June 2015.



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