

MINUTES

COMMISSION ON STATE MANDATES

State Capitol, Room 126
Sacramento, California
June 26, 2008

Present: Member Anne Sheehan, Chairperson
Representative of the Director of the Department of Finance
Member Francisco Lujano, Vice Chairperson
Representative of the State Treasurer
Member Richard Chivaro
Representative of the State Controller
Member Cynthia Bryant
Director of the Office of Planning and Research
Member J. Steven Worthley
County Supervisor
Member Sarah Olsen
Public Member
Member Paul Glaab
City Council Member

CALL TO ORDER AND ROLL CALL

Chairperson Sheehan called the meeting to order at 9:38 a.m. Member Chivaro was absent.

CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTION 11126

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, subdivision (e)(1):

1. *State of California, Department of Finance v. Commission on State Mandates, et al.*, Sacramento Superior Court Case No. 03CS01432, [Behavioral Intervention Plans]
2. *California School Boards Association, Education Legal Alliance; County of Fresno; City of Newport Beach; Sweetwater Union High School District and County of Los Angeles v. State of California, Commission on State Mandates and Steve Westly, in his capacity as State Controller*, Third District Court of Appeal, Case No. C055700; [AB 138; Open Meetings Act, Brown Act Reform, Mandate Reimbursement Process I and II; and School Accountability Report Cards (SARC) I and II]
3. *Department of Finance v. Commission on State Mandates*, Third District Court of Appeal, Case No. C056833, [Peace Officer Procedural Bill of Rights]

4. *Department of Finance and California Integrated Waste Management Board v. Commission on State Mandates, Santa Monica Community College District, and Lake Tahoe Community College District*, Sacramento County Superior Court, Case No. 07CS00355, [Integrated Waste Management]
5. *San Diego Unified School District v. Commission on State Mandates and California Department of Finance*, San Diego County Superior Court, Case No. 37-2007-00064077-CU-PT-CTL, [Emergency Procedures: Earthquake Procedures and Disasters]
6. *California School Boards Association, Education Legal Alliance, and Sweetwater Union High School Dist. v. State of California, Commission on State Mandates, and John Chiang, in his capacity as State Controller*, Sacramento County Superior Court, Case No. 07CS01399, [School Accountability Report Cards, SARC]

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

Based on existing facts and circumstances, there is a specific matter which presents a significant exposure to litigation against the Commission on State Mandates, its members and/or staff (Gov. Code, § 11126, subd. (e)(2)(B)(i).)

PERSONNEL

To confer on personnel matters pursuant to Government Code sections 11126, subdivision (a) and 17526.

(Member Chivaro arrived.)

Hearing no further comments, Chairperson Sheehan adjourned into closed executive session pursuant to Government Code section 11126, subdivision (e), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda, and Government Code sections 11126, subdivision (a), and 17526, to confer on personnel matters listed on the published notice and agenda.

RECONVENE IN OPEN SESSION

At 10:00 a.m., Chairperson Sheehan reconvened the meeting in open session.

REPORT FROM CLOSED EXECUTIVE SESSION

Chairperson Sheehan reported that the Commission met in closed executive session pursuant to Government Code section 11126, subdivision (e), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda, and potential litigation; and pursuant to Government Code section 11126, subdivision (a), and 17526, to confer on personnel matters listed on the published notice and agenda.

APPROVAL OF MINUTES

Item 1 March 28, 2008

The March 28, 2008 hearing minutes were adopted by a vote of 7-0.

PROPOSED CONSENT CALENDAR

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

A. PARAMETERS AND GUIDELINES

Item 6 *Binding Arbitration (01-TC-07)*

Code of Civil Procedure, Sections 1281.1, 1299, 1299.2, 1299.3, 1299.4, 1299.5, 1299.6, 1299.7, 1299.8, and 1299.9 Statutes of 2000, Chapter 906 County of Napa, Claimant

Item 7 *Local Recreational Area, Background Screenings (01-TC-11)*

Statutes 2001, Chapter 777 Public Resources Code, Section 5164; Subdivision (b)(1) and (b)(2).
City of Los Angeles - Department of Recreation and Parks, Claimant

Item 8 *CalSTRS Service Credit (02-TC-19)*

Statutes 1993, Chapter 893 (AB 1796) Statutes 1994, Chapters 20 (SB 858), 507 (AB 2647), 603 (AB 2554), and 933 (AB 3171) Statutes 1995, Chapters 390 (AB 1122), 394 (AB 948), and 592 (AB 1298) Statutes 1996, Chapters 383 (AB 3221), 608 (AB 2673), 634 (SB 2041), 680 (SB 1877), and 1165 (AB 3032) Statutes 1997, Chapters 482 (SB 471) and 838 (SB 227) Statutes 1998, Chapters 965 (AB 2765), 967 (AB 2804), 1006 (AB 1102), 1048 (SB 2085), and 1076 (SB 2126) Statutes 1999, Chapter 939 (SB 1074) Statutes 2000, Chapters 402 (AB 649), 880 (SB 1694), 1020 (AB 820), 1021 (AB 2700), 1025 (AB 816), and 1032 (SB 1435) Statutes 2001, Chapters 77 (SB 165), 159 (SB 662), 802 (SB 499), and 803 (SB 501) Statutes 2002, Chapter 375 (AB 2982) Educations Code Section 22000, et al.
Santa Monica Community College District, Claimant

B. PROPOSED STATEWIDE COST ESTIMATE

Item 10 *Handicapped and Disabled Students II (02-TC-40/02-TC-49)*

Government Code Sections 7570, 7572, 7579, 7585, 7586.6, 7587, as added or amended by Statutes 1996, Chapter 654; Statutes 1998, Chapter 691; Statutes 1992, Chapter 759; Statutes 2001, Chapter 745; Statutes 2002; Chapter 585; Section 41 of Statutes 2002, Chapter 1167, and Title 2, California Code of Regulations, Sections 60000-60600
Counties of Los Angeles and Stanislaus, Claimants

- Item 11 *Binding Arbitration* (01-TC-07)
Code of Civil Procedure, Sections 1281.1, 1299, 1299.2, 1299.3, 1299.4,
1299.5, 1299.6, 1299.7, 1299.8, and 1299.9 Statutes of 2000, Chapter 906
County of Napa, Claimant

Member Worthley made a motion to adopt items 6, 7, 8, 10 and 11 on the consent calendar. With a second by Member Glaab, the items were unanimously adopted (7-0).

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

- Item 2 Staff Report (if necessary)

There were no appeals to consider.

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

Paula Higashi, Executive Director, swore in the parties and witnesses participating in the hearing.

A. TEST CLAIMS

- Item 3A *Crime Statistic Reports for the Department of Justice*, (02-TC-04), (02-TC-11)
Statutes 1980, Chapter 1340 (SB 1447); Statutes 1982, Chapter 147 (SCR 64);
Statutes 1984, Chapter 1609 (SB 1472); Statutes 1989, Chapter 1172 (SB 202);
Statutes 1992, Chapter 1338 (SB 1184); Statutes 1993, Chapter 1230 (AB
2250); Statutes 1995, Chapters 803 and 965 (AB 488 and SB 132); Statutes
1998, Chapter 933 (AB 1999); Statutes 1999, Chapter 571 (AB 491); Statutes
2000, Chapter 626 (AB 715); Statutes 2001, Chapters 468 and 483 (SB 314 and
AB 469); and California Department of Justice, Criminal Justice Statistics
Center, Criminal Statistics Reporting Requirements and Requirements
Spreadsheet, March 2000
City of Newport Beach and County of Sacramento, Claimants

Eric Feller, Senior Commission Counsel presented this item. Mr. Feller explained that this test claim alleges reimbursable state-mandated activities for local agencies to report various crime statistics to the California Department of Justice. Staff found that the test claim legislation imposes a reimbursable state mandate for submitting the statistics on the following crimes to the Department of Justice: homicide, hate-crime, concealed firearm, and carrying a loaded firearm in a public place. Staff also found that supporting all domestic violence-related calls for assistance with a written incident report is reimbursable.

Mr. Feller indicated that this test claim was originally scheduled for the March 28, 2008 hearing but was postponed when claimants submitted a test claim amendment the day before the hearing. The amendment was deemed incomplete and returned to the claimant. Claimants did not file a complete amendment prior to the 30-day deadline. However, they filed a new test claim amendment yesterday (June 25, 2008) adding statutes not pled in the original test claim. The Executive Director severed the amendment from the test claim before the Commission.

Parties were represented as follows: Juliana Gmur and Glenn Everroad for the City of Newport Beach, and Carla Castañeda and Donna Ferebee for the Department of Finance.

Ms. Gmur commented that they were encouraged that the language staff used in the staff analysis specifically talks of the actual gathering, compiling and recording of information. However, she notes that in the conclusion, staff speaks only of the reporting of information. Ms. Gmur continued that, in the parameters and guidelines phase, they will be providing evidence and arguments supporting the fact that gathering, compiling and recording are necessary parts of reporting information to the Department of Justice. Ms. Gmur then concurred with the staff analysis.

Mr. Everroad had no additional comments except to thank staff for the analysis. Ms. Castañeda remarked that the Department of Finance had nothing to add.

Member Bryant asked counsel to clarify if the language raised by Ms. Gmur will be addressed in parameters and guidelines. Mr. Feller indicated that the Statement of Decision tracks the language of the statutes. Staff will take evidence during the parameters and guidelines phase to decide what is within the scope of the mandate.

Member Bryant then questioned the process of test claim amendments coming in the day before the hearing. Ms. Higashi responded that there are two versions of the law that pertain to amendments. She explained that the old version allows for an amendment to be filed any time before the hearing. The new version requires an amendment to be filed prior to the test claim being "set for hearing" which is defined as when the draft staff analysis is issued. Draft staff analyses are issued eight to ten weeks prior to the hearing. This particular test claim, however, was filed under the old rules. Ms. Higashi stated that she will send information to the members regarding the total number of test claims that still fall under the old rules and may be amended any time prior to the hearing.

Member Glaab made a motion to adopt the staff recommendation. With a second by Member Bryant, the staff recommendation to partially approve the test claim was adopted by a vote of 7-0.

Item 3B Proposed Statement of Decision: *Crime Statistic Reports for the Department of Justice*, (02-TC-04), (02-TC-11)

[See description of statutes and executive orders in Item 3A above.]

Mr. Feller also presented this item. He stated that the sole issue before the Commission was whether the proposed Statement of Decision accurately reflected the Commission's decision on the *Crime Statistic Reports for the Department of Justice* test claim. Staff recommended that the Commission adopt the proposed Statement of Decision including minor changes.

Member Worthley made a motion to adopt the proposed Statement of Decision. With a second by Member Olsen, the Statement of Decision was adopted by a vote of 7-0.

- Item 4 *Comprehensive School Safety Plans II*, (02-TC-33)
Education Code Sections 35294.1, 35294.2, 35294.6, and 35294.8, as
added and amended by Statutes 2001, Chapters 646 and 890 (AB 79 and
SB 257); and Statutes 2002, Chapters 91, 506, and 735 (AB 2708, SB
1667, and AB 2198)
Sweetwater Union High School District and Bakersfield City School
District, Claimants

Senior Commission Counsel Deborah Borzelleri presented this item. Ms. Borzelleri stated the purpose for this program is to ensure that all K-12 schools, in cooperation with local law enforcement agencies and community leaders, parents, pupils, teachers, administrators, and other interested parties, develop a comprehensive school safety plan that addresses safety concerns identified through a systematic planning process.

Ms. Borzelleri cited a prior test claim that found a reimbursable state-mandated program for the activities of writing, developing and adopting comprehensive school safety plans. The statutes for the test claim before you today add two new elements to the safety plan, address the timing for adopting plans for new schools, specify particular parties that must be notified of the public meeting adopting the safety plan and provide procedures for notice of violent crimes committed at schools.

Ms. Borzelleri stated that any funds or grant funds available to school site councils for the newly mandated activities must be identified as offsetting revenues at the parameters and guidelines stage. She explained that San Diego Unified School District was added as a co-claimant to this test claim. Also, a proposed amendment was filed yesterday (June 26, 2008). The Executive Director severed the amendment and staff is reviewing the amendment for completion.

Staff recommended the Commission adopt the staff analysis to partially approve the test claim.

Parties were represented as follows: Donna Ferebee and Ryan Storm for the Department of Finance, Keith Petersen for the claimants.

Mr. Petersen stated that he had nothing to add. Ms. Ferebee remarked that the Department of Finance had nothing to add.

Member Olsen made a motion to adopt the staff recommendation. With a second by Member Glaab, the staff recommendation to partially approve the test claim was adopted by a vote of 7-0.

- Item 5 Proposed Statement of Decision: *Comprehensive School Safety Plans II*,
(02-TC-33)
[See description of statutes and executive orders in Item 4 above.]

Member Worthley made a motion to adopt the proposed Statement of Decision. With a second by Member Bryant, the motion carried unanimously (7-0).

B. JOINT REQUEST FOR REASONABLE REIMBURSEMENT
METHODOLOGY AND STATEWIDE ESTIMATE OF COSTS PURSUANT
TO GOVERNMENT CODE SECTIONS 17557.1 AND 17557.2

- Item 9 *Firearm Hearings for Discharged Inpatients, (99-TC-11)*
Welfare and Institutions Code Sections 8103(f) and 8103(g)
Statutes of 1990, Chapter 9, et al.
County of Los Angeles and Department of Finance, Joint Requestors

Assistant Executive Director Nancy Patton introduced this item. Ms. Patton summarized AB 1222, which was enacted to establish an alternative to adopting parameters and guidelines and statewide cost estimates. Under AB 1222, the Department of Finance and local governments can jointly develop reasonable reimbursement methodologies (RRMs) and statewide estimates of costs and submit the proposals to the Commission for approval and adoption.

Ms. Patton stated that the County of Los Angeles and the Department of Finance filed a joint request for a reasonable reimbursement methodology (RRM) and statewide estimate of costs (SEC) for this program. Staff found that the joint proposal met the following statutory criteria required to adopt the RRM: It is based on cost information from a representative sample of eligible claimants and considers the variation in costs among local agencies to implement the mandate in a cost-efficient manner; it shows that the County and Finance took steps to determine the level of claimant support for the RRM; it includes a two-year term and that they will consider jointly whether amendments to the RRM are necessary. Ms. Patton added that Department of Finance had requested additional technical amendments which staff supported.

Under AB 1222, if the Commission adopts the proposed RRM, it is then required to adopt the proposed statewide estimate of costs for the initial claiming period and budget year. Ms. Patton noted that the County and Finance proposed a statewide estimate of costs of \$154,675 for nine fiscal years, which averages to \$17,186 per year. Staff recommended that the Commission approve the RRM with Finance's proposed technical amendment, and adopt the statewide estimate of costs.

Ms. Patton explained that since there were no objections to this proposal, it would normally have been placed on the consent calendar. However, because this is the first RRM proposal, staff thought the Commission might want to hear it. She also recognized the hard work performed by the County of Los Angeles and the Department of Finance to develop this proposal. They worked very closely with the Executive Director to refine it.

Parties were represented as follows: Leonard Kaye for the County of Los Angeles, Carla Castañeda and Donna Ferebee for the Department of Finance.

Mr. Kaye commented on all the hard work and effort put into this proposal by Paula Higashi, and Carla Castañeda and others with the Department of Finance, and expressed honor and appreciation to be here to support it.

Ms. Castañeda stated that they would be happy to answer any questions concerning the details of the numbers and analysis. She also commented on the fact that they are continuing to work on other mandates that may have RRM's in revising them.

Chairperson Sheehan commented that this was a historic item and the first of what we hope will be many that come before the Commission.

Member Olsen expressed discomfort with being asked to vote on the proposed technical amendments without seeing them. Ms. Patton provided the technical amendments to the members. Ms. Higashi reassured Member Olsen and the Commission that the changes are purely technical. She explained that the intent of the technical amendments is to precisely mirror statutory language on what happens at the time the agreement expires and not to change the substance of how the methodology will be applied or any of its provisions. Ms. Higashi added that staff would review the proposal if it is adopted and send it out for final comment from the parties before it is issued. Ms. Higashi concluded that the final product will serve as a template for future proposals.

Member Bryant discussed her review of the record, the process for development of the final agreement, and concern that the process was overcomplicated. Ms. Higashi explained that this was the first time for all parties. This required meetings with the parties, including Department of Finance and State Controller's Office, to develop regulations, to review the proposal, and develop a simplified model document that was different from parameters and guidelines. She agreed with Member Bryant that future claimants and the Department of Finance have a template to build from.

Allan Burdick, SCAC-SB 90 Service, commented that Department of Finance and the County of Los Angeles worked closely with CSAC and its members in completing the proposal, and thanked the parties.

Chairperson Sheehan stated her appreciation of the time and efforts put into the RRM, and hope that it will serve as a model and template for facilitating future claims.

Member Bryant moved to adopt the proposed RRM as revised by staff and adopt the statewide estimate of costs, and then authorize staff to make the technical corrections. With a second by Member Olsen, the proposed RRM and statewide estimate of costs was approved and adopted by a vote of 7-0.

STAFF REPORTS

Item 12 Chief Legal Counsel's Report (info)

Camille Shelton, Chief Legal Counsel, reported receiving a ruling from the trial court on the *Integrated Waste Management* case which will require the Commission to amend the Parameters and Guidelines requiring community college districts to identify offsetting cost savings and revenues. Also, there is an upcoming hearing in San Diego on the *Emergency Procedures Act* claim.

Item 13 Executive Director's Report (info)

Ms. Higashi noted that the regulations the Commission previously adopted on AB 1222 are now final and copies of the regulation package are available for any parties in the audience. Ms. Higashi also reported that the State Controller's Office issued their 2008 Deficiency Report showing a deficiency of \$2.6 billion.

The next Commission hearing is set for Friday, August 1, 2008, with three test claims on the agenda: *Expulsions and Suspensions II*, *Disabled Student Programs and Services*, and *Prevailing Wage Rates*, and proposed parameters and guidelines. Ms. Higashi noted that she expects some changes as some claimants reprioritize their pending test claims.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

Hearing no further business, and with a motion by Member Glaab and second by Member Chivaro, Chairperson Sheehan adjourned the meeting at 10:32 a.m.


PAULA HIGASHI
Executive Director

PUBLIC HEARING
COMMISSION ON STATE MANDATES



TIME: 9:38 a.m.
DATE: Thursday, June 26, 2008
PLACE: State Capitol, Room 126
Sacramento, California



REPORTER'S TRANSCRIPT OF PROCEEDINGS



Reported by:
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A P P E A R A N C E S

COMMISSIONERS PRESENT

ANNE SHEEHAN
(*Commission Chair*)
Representative for MICHAEL C. GENEST
Director, State Department of Finance

CYNTHIA BRYANT
Director
Office of Planning & Research

RICHARD CHIVARO
Representative for JOHN CHIANG
State Controller

PAUL GLAAB
City Council Member
City of Laguna Niguel

FRANCISCO LUJANO
Representative for BILL LOCKYER
State Treasurer

SARAH OLSEN
Public Member

J. STEVEN WORTHLEY
Supervisor and Chairman of the Board
County of Tulare



A P P E A R A N C E S

COMMISSION STAFF PRESENT

PAULA HIGASHI
Executive Director
(Item 13)

NANCY PATTON
Assistant Executive Director
(Item 9)

CAMILLE SHELTON
Chief Legal Counsel
(Item 12)

DEBORAH BORZELLERI
Commission Counsel
(Items 4 and 5)

ERIC FELLER
Senior Commission Counsel
(Items 3A and 3B)



A P P E A R A N C E S

PUBLIC TESTIMONY

Appearing re Item 3A and Item 3B:

For Claimant City of Newport Beach:

JULIANA F. GMUR
Manager, Cost Services
MAXIMUS
4320 Auburn Boulevard, Suite 2000
Sacramento, California 95841

GLEN EVERROAD
Revenue Manager
City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92658-8915

For the Department of Finance:

CARLA CASTAÑEDA
Principal Program Budget Analyst
Department of Finance
915 L Street
Sacramento, California 95814

DONNA FEREBEE
Staff Counsel III
Department of Finance
915 L Street
Sacramento, California 95814

Appearing re Item 4 and Item 5:

For Claimants Bakersfield City School District and
Sweetwater Union High School District:

KEITH B. PETERSEN, MPA, JD
President
SixTen and Associates
5252 Balboa Avenue, Suite 900
San Diego, California 92117

A P P E A R A N C E S

PUBLIC TESTIMONY

Appearing re Item 4 and Item 5: *continued*

For the Department of Finance:

RYAN STORM
Principal Program Budget Analyst
Department of Finance
915 L Street
Sacramento, California 95814

DONNA FEREBEE
Staff Counsel III
Department of Finance

Appearing Re Item 9:

For County of Los Angeles:

LEONARD KAYE, ESQ.
County of Los Angeles
Department of Auditor-Controller
500 West Temple Street, Suite 603
Los Angeles, California 90012

For the Department of Finance:

CARLA CASTAÑEDA
Principal Program Budget Analyst
Department of Finance

DONNA FEREBEE
Staff Counsel III
Department of Finance

For CSAC SB 90 Service:

ALLAN BURDICK
California State Association of Counties
SB 90 Service
4320 Auburn Boulevard, Suite 2000
Sacramento, California 95841

ERRATA SHEET

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02-TC-19
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Commission on State Mandates – June 26, 2008

1 BE IT REMEMBERED that on Thursday, June 26,
2 2008, commencing at the hour of 9:38 a.m., thereof, at
3 the State Capitol, Room 126, Sacramento, California,
4 before me, DANIEL P. FELDHAUS, CSR #6949, RDR and CRR,
5 the following proceedings were held:

6 --oOo--

7 *(The following proceedings commenced with*
8 *Member Chivaro absent from the hearing room.)*

9 CHAIR SHEEHAN: I'm going to call the June 26th
10 meeting of the Commission on State Mandates to order.

11 We are now going to go into closed session.

12 MS. HIGASHI: Excuse me, Ms. Sheehan. I need
13 to call the roll.

14 CHAIR SHEEHAN: Yes.

15 Does it say "closed" on the doors?

16 MS. SHELTON: I think he's got it now.

17 CHAIR SHEEHAN: Okay, go ahead and call the
18 roll.

19 MS. HIGASHI: That's our staff. That's okay.

20 CHAIR SHEEHAN: Go ahead.

21 MS. HIGASHI: Ms. Bryant?

22 MEMBER BRYANT: Here.

23 MS. HIGASHI: Mr. Chivaro is absent.

24 Mr. Glaab?

25 MEMBER GLAAB: Present.

Commission on State Mandates – June 26, 2008

1 MS. HIGASHI: Mr. Lujano?

2 MEMBER LUJANO: Present.

3 MS. HIGASHI: Ms. Olsen?

4 MEMBER OLSEN: Here.

5 MS. HIGASHI: Mr. Worthley?

6 MEMBER WORTHLEY: Here.

7 MS. HIGASHI: And Ms. Sheehan?

8 CHAIR SHEEHAN: Here.

9 MS. HIGASHI: We do have a quorum.

10 CHAIR SHEEHAN: All right, the Commission will
11 meet in closed executive session pursuant to Government
12 Code section 11126, subdivision (e), to confer with and
13 receive advice from legal counsel for consideration and
14 action, as necessary and appropriate, upon the pending
15 litigation listed on the published notice and agenda; and
16 to confer with and receive advice from legal counsel
17 regarding potential litigation.

18 The Commission will also confer on personnel
19 matters listed on the published notice and agenda.

20 *(Closed executive session commenced*
21 *at 9:38 a.m.)*

22 *(Member Chivaro entered the hearing room)*

23 *(Open session resumed at 10:00 a.m.)*

24 CHAIR SHEEHAN: The time of ten o'clock having
25 arrived, I would like to call the June 26th meeting of

Commission on State Mandates – June 26, 2008

1 the Commission on State Mandates to order.

2 We did call the roll in closed session. We
3 have a full contingent of the Commission.

4 And the Commission did meet in closed executive
5 session pursuant to Government Code section 11126,
6 subdivision (e), to confer with and receive advice from
7 legal counsel, for consideration and action, as necessary
8 and appropriate, upon the pending litigation listed on
9 the published notice and agenda, and potential
10 litigation; and pursuant to Government Code section
11 11126, subdivision (a), and 17526, to confer on personnel
12 matters listed on the published notice and agenda.

13 We will now reconvene in open session.

14 Okay, the first item of business are
15 the minutes for the March 28th meeting.

16 Paula, any changes or --

17 MS. HIGASHI: We recommend adoption of
18 the minutes.

19 CHAIR SHEEHAN: Okay, did any of the Commission
20 members have any edits or changes to the minutes?

21 *(No response)*

22 CHAIR SHEEHAN: If not, we will entertain a
23 motion.

24 MEMBER WORTHLEY: So moved.

25 MEMBER OLSEN: Second.

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1 CHAIR SHEEHAN: We have a motion and second to
2 approve the minutes from March 28th.

3 All those in favor, say "aye."

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

5 CHAIR SHEEHAN: Any opposed?

6 *(No response)*

7 CHAIR SHEEHAN: The minutes are approved.

8 MS. HIGASHI: Our next item is the Proposed
9 Consent Calendar. You should have a yellow sheet
10 somewhere in front of you.

11 CHAIR SHEEHAN: Yes.

12 MS. HIGASHI: I'll just read through the
13 numbers on the *Proposed Consent Calendar*.

14 Item 6, Item 7, Item 8, Item 10, and Item 11.

15 CHAIR SHEEHAN: Okay.

16 MS. HIGASHI: We've heard no objections, and so
17 we should see if there are any objections here in the
18 audience.

19 CHAIR SHEEHAN: Okay, do any of the Commission
20 members have any objection to anything on the consent
21 calendar?

22 *(No response)*

23 CHAIR SHEEHAN: Are there any members of the
24 audience who have any objections to the Proposed Consent
25 Calendar?

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(No response)

CHAIR SHEEHAN: If not, then we will entertain a motion to adopt the Proposed Consent Calendar.

MEMBER WORTHLEY: So moved.

MEMBER GLAAB: Second.

CHAIR SHEEHAN: We have a motion and a second.

All those in favor, say "aye."

(A chorus of "ayes" was heard.)

CHAIR SHEEHAN: Any opposed?

(No response)

CHAIR SHEEHAN: The Consent Calendar is adopted.

MS. HIGASHI: Thank you very much.

CHAIR SHEEHAN: All right, do we need to swear in anybody?

MS. HIGASHI: Yes.

CHAIR SHEEHAN: That's better than swearing at everyone.

MS. HIGASHI: This brings us to the hearing portion of our meeting.

I'd like to ask all of the parties and witnesses and representatives to please stand.

(Parties and witnesses were sworn.)

MS. HIGASHI: Thank you.

CHAIR SHEEHAN: Okay, so Item 3A is our

1 first --

2 MS. HIGASHI: Our first item will be presented
3 by Senior Commission Counsel Eric Feller.

4 CHAIR SHEEHAN: Right.

5 And would all those individuals who would like
6 to testify on this item come on forward and have a seat
7 at the table?

8 Okay, Eric, take it away.

9 MR. FELLER: Good morning.

10 The test claim consists of statutes in the leg.
11 executive order that address reporting various crime
12 statistics by local agencies to the California Department
13 of Justice. The statistics involved citizen complaints,
14 juvenile justice, homicide, hate crimes, carrying loaded
15 and concealed firearms, domestic violence, and the number
16 of victims of violent crime who are age 60 or older.

17 Staff found that the test claim statutes impose
18 a reimbursable state-mandated program within the meaning
19 of Article XIII B, section 6, and Government Code section
20 17514, for submitting the following reports to DOJ:

21 Homicide reports, hate-crime reports, concealed firearm
22 reports, and carrying a loaded firearm in a public place.

23 Staff also found that supporting all domestic
24 violence-related calls for assistance with a written
25 incident report was a reimbursable mandate.

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1 A test claim was originally scheduled for the
2 March 28th hearing but was postponed when claimants
3 submitted a test claim amendment on March 27th. The
4 Commission staff notified claimants that it was
5 incomplete. Claimants did not file a complete amendment
6 within 30 days as required by the Commission's
7 regulations.

8 Claimants filed a new test claim yesterday,
9 adding statutes not pled in the original, which the
10 executive director is severing from the test claim.

11 Would the parties and witnesses please state
12 your names for the record?

13 MS. GMUR: Juliana Gmur on behalf of the City
14 of Newport Beach.

15 MR. EVERROAD: Glenn Everroad, City of Newport
16 Beach.

17 MS. CASTAÑEDA: Carl Castañeda, Department of
18 Finance.

19 MS. FEREBEE: Donna Ferebee, Department of
20 Finance.

21 CHAIR SHEEHAN: Ms. Gmur, do you want to start?

22 MS. GMUR: Yes, I would. Thank you very much.
23 Good morning, Commissioners.

24 Just a point of clarification. In looking at
25 the language used in the staff analysis, staff

1 specifically talks about the gathering and compiling of
2 information. And we were very encouraged by that
3 language. However, in the conclusion, staff speaks only
4 of the reporting that is done to the Department of
5 Justice.

6 So in light of that, we would like to say that
7 in the next step -- that is, the P's & G's step -- we
8 will be bringing evidence and arguments to support the
9 fact that the compiling, the gathering, the recordation
10 of information is a necessary part of providing the
11 information to the Department of Justice. And to the
12 extent that we will be able to do so, and this Statement
13 of Decision and final staff analysis does not preclude us
14 from doing so, we support the analysis.

15 CHAIR SHEEHAN: Thank you.

16 Mr. Everroad?

17 MR. EVERROAD: No additional comments to offer,
18 other than thank staff for the analysis.

19 CHAIR SHEEHAN: Okay. The Department of
20 Finance?

21 MS. CASTAÑEDA: We have nothing to add.

22 CHAIR SHEEHAN: Okay, comments or questions
23 from the Commissioners on this item?

24 If not, then if there's no further -- oh,
25 Ms. Bryant?

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1 MEMBER BRYANT: I just wanted to ask counsel,
2 is that appropriate in what she just said in the
3 P's & G's? Will it come up again?

4 MR. FELLER: Yes, the standard for the
5 parameters and guidelines is what's reasonably necessary
6 to implement the mandate.

7 So in the Statement of Decision, we track the
8 language of the statutes as closely as possible, and then
9 we take evidence during the parameters and guidelines
10 phase to decide what is within the scope of the mandate
11 at that point.

12 MEMBER BRYANT: And I want to ask you, is there
13 anything we can do about this coming in on the day
14 before? I know we've talked about it before, and I was
15 going to try to figure out what we said but I don't
16 remember. And the fact that we had this on the agenda
17 and I looked at it two months ago, and then it was pulled
18 and then it's back, and then apparently there was
19 additional stuff brought in yesterday. I'm just curious
20 if there's anything we can do about our process to
21 prevent that from happening.

22 MS. HIGASHI: There are two versions of the law
23 that pertains to amendments of test claims.

24 This test claim was filed under one version,
25 which allowed claimants to amend the test claim prior to

1 the hearing.

2 The new version now is prior to being set for
3 hearing, and "set for hearing" is defined as when the
4 draft staff analysis is issued.

5 So there will be some change. But because of
6 that requirement and statute at the time these test
7 claims were filed, we're stuck with it.

8 MEMBER BRYANT: Okay, because I just couldn't
9 remember.

10 CHAIR SHEEHAN: Okay, then I have a follow-up.

11 How many of those are in the pipeline that are
12 under the old --

13 MS. HIGASHI: I don't have the actual counts,
14 but I will get that information and send it --

15 CHAIR SHEEHAN: I think it would be helpful,
16 just so that, you know --

17 MS. HIGASHI: Certainly. I will send it out to
18 you.

19 To the extent we can, the draft staff analyses
20 are issued eight to ten weeks before a hearing.

21 CHAIR SHEEHAN: But it also does not preclude
22 us from -- while the old statute is still in existence
23 for those claims, that it certainly is helpful to the
24 Commission if -- the sooner we have amendments filed, the
25 better.

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1 So I would certainly -- at least this member of
2 the Commission feels that that would be helpful.

3 MS. HIGASHI: Certainly.

4 And if they're identified in the draft staff
5 analysis, you know, at that time, we could receive
6 letters requesting postponements so that actions could
7 occur. A lot of things could happen.

8 CHAIR SHEEHAN: So did that help clarify?

9 MEMBER BRYANT: Yes, thank you.

10 CHAIR SHEEHAN: Okay, then what is the will of
11 the Commission?

12 MEMBER GLAAB: Move it.

13 MEMBER BRYANT: Second.

14 CHAIR SHEEHAN: We have a motion and second to
15 adopt the staff recommendation.

16 All those in favor, say "aye."

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

18 CHAIR SHEEHAN: Any opposed?

19 *(No response)*

20 CHAIR SHEEHAN: That is unanimous.

21 MR. EVERROAD: Thank you very much.

22 MS. HIGASHI: Item 3B, the Proposed Statement
23 of Decision.

24 CHAIR SHEEHAN: 3B is the Proposed Statement of
25 Decision.

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1 MR. FELLER: Staff recommends the Commission
2 adopt the Statement of Decision that accurately reflects
3 the staff recommendation to partially approve the test
4 claim including minor changes.

5 MEMBER WORTHLEY: Move adoption.

6 CHAIR SHEEHAN: We have a motion --

7 MEMBER OLSEN: Second.

8 CHAIR SHEEHAN: -- and a second to adopt the
9 staff recommendation on the Proposed Statement of
10 Decision for this test claim.

11 If there are no further comments, all those in
12 favor, say "aye."

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

14 CHAIR SHEEHAN: Any opposed?

15 *(No response)*

16 CHAIR SHEEHAN: The motion carries.

17 MS. HIGASHI: Ms. Sheehan, could you repeat who
18 made the motion and who seconded it?

19 CHAIR SHEEHAN: Mr. Worthley made the motion
20 and Ms. Olsen seconded it.

21 MS. HIGASHI: Okay, thank you.

22 CHAIR SHEEHAN: Thank you. Okay.

23 MS. HIGASHI: This brings us to Item 4,
24 *Comprehensive School Safety Plans II* test claim.

25 CHAIR SHEEHAN: And all those wishing to

1 testify, come on down. Come on down.

2 Is that what he says on "The Price is Right"?

3 MEMBER BRYANT: Yes.

4 MS. HIGASHI: Senior Commission Counsel Deborah
5 Borzelleri will present this item.

6 CHAIR SHEEHAN: Thank you.

7 Once she finds it in her book.

8 MS. BORZELLERI: Thank you, Paula.

9 This is the *Comprehensive School Safety*
10 *Plans II* test claim.

11 The purpose for this program is to ensure that
12 all K-12 schools, in cooperation with local law
13 enforcement agencies and community leaders, parents,
14 pupils, teachers, administrators, and other interested
15 parties, develop a comprehensive school safety plan that
16 addresses the safety concerns identified through a
17 systematic planning process.

18 We had a prior test claim on this, which found
19 a reimbursable state-mandated program for the activities
20 of writing, developing, and adopting comprehensive school
21 safety plans. And the test claim statutes for this claim
22 add two new elements to the safety plan, address the
23 timing for adopting school safety plans for new schools,
24 specify particular parties or entities that must be
25 notified of the public meeting adopting the safety plan,

1 and provide procedures for notice of violent crimes
2 committed at schools.

3 Staff recommends the Commission adopt the staff
4 analysis to partially approve the test claim.

5 Should the Commission adopt the staff analysis,
6 any funds available to school site councils or any other
7 grant funds for the newly mandated activities in this
8 test claim must be identified at the parameters-and-
9 guidelines stage as possible offsetting revenues.

10 Earlier this week, San Diego Unified School
11 District was added as a co-claimant for the test claim.
12 And yesterday, a proposed amendment was filed on the test
13 claim. The executive director has severed the proposed
14 amendment, and staff is reviewing the proposed amendment
15 for completeness, and the completeness determination will
16 be made within ten days.

17 Will the parties please state your name for the
18 record?

19 MS. FEREBEE: Donna Ferebee, Department of
20 Finance.

21 MR. STORM: Ryan Storm, Department of Finance.

22 MR. PETERSEN: Keith Petersen, representing the
23 test claimant.

24 CHAIR SHEEHAN: Mr. Petersen, anything you want
25 to --

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1 MR. PETERSEN: No. Nothing to add.

2 As she indicated, this is a supplemental test
3 claim adding just a few activities to the major portion,
4 which was considered and adopted three or four years ago.
5 And it appears to me it was decided consistent with the
6 previous test claim and the current interpretation of the
7 court cases by Commission staff.

8 CHAIR SHEEHAN: Thanks.

9 Department of Finance?

10 MS. FEREBEE: The Department of Finance also
11 concurs with this final staff analysis.

12 CHAIR SHEEHAN: Questions or comments from the
13 Commission members on this one?

14 *(No response)*

15 CHAIR SHEEHAN: If not, what's the will of the
16 Commission?

17 MEMBER OLSEN: I'll move adoption of the staff
18 recommendation.

19 MEMBER GLAAB: Second.

20 CHAIR SHEEHAN: Got that, Paula? That was
21 Ms. Olsen and Mr. Glaab.

22 MS. HIGASHI: Yes.

23 CHAIR SHEEHAN: All right, if there are no
24 further comments, all those in favor of the motion?

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

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1 CHAIR SHEEHAN: Any opposed?

2 (No response)

3 CHAIR SHEEHAN: The motion carries.

4 Thank you.

5 MR. PETERSEN: Thank you.

6 CHAIR SHEEHAN: Item 5 is the --

7 MS. HIGASHI: Proposed Statement of Decision.

8 CHAIR SHEEHAN: -- Proposed Statement of
9 Decision on 4.

10 So how come some are 3A and 3B, and this is 4
11 and 5?

12 MS. HIGASHI: That's because that is how it was
13 on the prior agenda.

14 CHAIR SHEEHAN: Oh, I see. We wanted it
15 consistent.

16 MS. HIGASHI: We just left it that way. It
17 saved us a bit of work.

18 CHAIR SHEEHAN: You were testing us to see if
19 we were awake over here.

20 MS. HIGASHI: Yes, just to add some mystery to
21 the agenda. Sometimes we have numbers missing, you know.

22 CHAIR SHEEHAN: Yes, exactly. Skip over them.
23 Any comments on the Proposed Statement of
24 Decision?

25 (No response)

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1 CHAIR SHEEHAN: If not, do I have a motion?

2 MEMBER WORTHLEY: Move adoption.

3 MEMBER BRYANT: Second.

4 CHAIR SHEEHAN: We have a motion by

5 Mr. Worthley, second by Ms. Bryant to adopt the Proposed
6 Statement of Decision.

7 If there's no further discussion, all those in
8 favor, say "aye."

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

10 CHAIR SHEEHAN: Any opposed?

11 *(No response)*

12 CHAIR SHEEHAN: That motion carries.

13 Thank you, ladies and gentlemen.

14 MR. PETERSEN: Thank you.

15 MS. HIGASHI: This brings us to Item 9. Item 9
16 is a new kind of agenda item. It's the first time we
17 have ever had one of these on our agenda. It's a joint
18 request for reasonable reimbursement methodology and
19 statewide estimate of costs.

20 Assistant Executive Director Nancy Patton will
21 introduce this item.

22 CHAIR SHEEHAN: Yes, Ms. Patton?

23 MS. PATTON: Good morning.

24 CHAIR SHEEHAN: Good morning.

25 MS. PATTON: As you know, AB 1222 was enacted

1 last year to establish an alternative to the Commission
2 adopting parameters and guidelines and statewide cost
3 estimates. Under AB 1222, the Department of Finance and
4 local governments may jointly develop reasonable
5 reimbursement methodologies, or "RRMs," and statewide
6 estimates of costs and submit the joint proposals to the
7 Commission for approval and adoption.

8 AB 1222 requires the Commission to approve the
9 draft RRM and adopt the statewide estimate of costs if
10 review of the submitted information demonstrates that the
11 methodology and estimate were developed in accordance
12 with certain statutory criteria.

13 In 2006, the Commission adopted its statement
14 of decision for the *Firearm Hearings for Discharged*
15 *Inpatients* program. Under firearms prohibition law,
16 detained patients shall not own, possess, control,
17 receive or purchase a firearm for five years, except as
18 permitted by law. The test-claim statutes established
19 hearing procedures for those persons to challenge the
20 firearm prohibition law through a civil hearing in
21 superior court.

22 The County of Los Angeles and the Department of
23 Finance filed a joint request for an RRM and statewide
24 estimate of costs on this mandate.

25 Staff finds that the joint proposal does meet

1 the following statutory criteria:

2 It is based on cost information from a
3 representative sample of eligible claimants and considers
4 the variation in costs among local agencies to implement
5 the mandate in a cost-efficient manner.

6 It shows that the County and the Department of
7 Finance took steps to determine the level of claimant
8 support for the draft RRM.

9 It includes a proposed term of two years or
10 upon submission to the Commission a letter indicating
11 their joint interest in early termination of the RRM.

12 It states that the Department of Finance and
13 the test claimant will consider jointly whether
14 amendments to the RRM are necessary.

15 And this morning, the Department of Finance
16 recommended minor clarifying amendments to the amendment
17 section. And staff supports those proposed amendments.

18 And it also shows that there's broad support
19 for the proposed reasonable reimbursement methodology.

20 If the Commission adopts the proposed RRM, you
21 are then required to adopt the proposed statewide
22 estimate of costs for the initial claiming period and
23 budget year.

24 The County and the Department submitted a
25 proposed statewide estimate of costs of \$154,675 for nine

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1 fiscal years. This averages to \$17,186 per year.

2 Staff recommends that the Commission approve
3 the proposed reasonable reimbursement methodology as
4 revised by staff and including Finance's proposed
5 amendment, adopt the statewide estimate of costs,
6 authorize staff to make technical corrections before the
7 methodology is sent to the State Controller for inclusion
8 in you claiming instructions.

9 I wanted to note that since there are no
10 objections to this proposal, normally we would have put
11 it on the Consent Calendar. But since it was the first
12 RRM proposed, we thought you might want to hear it.

13 And I also wanted to let you know that the
14 Department of Finance and the County of LA worked
15 incredibly hard on this proposal and they worked really
16 closely with Paula to refine it.

17 Will the parties please state their names for
18 the record?

19 MR. KAYE: Leonard Kaye, County of Los Angeles.

20 MS. CASTAÑEDA: Carla Castañeda, Department of
21 Finance.

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

24 CHAIR SHEEHAN: Great.

25 Did you want to add anything to Nancy's

1 statement?

2 MR. KAYE: Yes. I just want to say thank you.

3 I think Nancy did an outstanding job of
4 summarizing it.

5 Paula and Carla, the Department of Finance, and
6 so forth, we all worked very, very closely on this. It
7 was quite an experience dealing with the people in local
8 government, the District Attorney's Office and so forth,
9 to clarify exactly what we were talking about, and to
10 follow up, to get the very precise information that is
11 the basis for this RRM.

12 So we certainly are very appreciative and
13 honored to be here today to support this.

14 Thank you.

15 CHAIR SHEEHAN: The Department of Finance, do
16 you want to add anything?

17 MS. CASTAÑEDA: Carla Castañeda, Department of
18 Finance.

19 We'd be happy to answer any questions about how
20 we came about these numbers. It is detailed in the
21 analysis as accurately.

22 It was a lot of work, working with local
23 agencies. We tried to follow the statute as closely as
24 possible because the statute was developed as we were
25 working on this RRM. There may be some future amendments

1 for larger claims, for larger mandates later. But we are
2 continuing to work on other mandates that may have RRM
3 in revising them.

4 CHAIR SHEEHAN: I have to say, I think this is
5 really sort of historic for us. And with the new
6 statute, we are very happy that this is the first of what
7 we hope will be many of these that come before this
8 Commission.

9 I guess the one question I had for Mr. Kaye is,
10 have you seen the technical amendments that Finance --

11 MR. KAYE: Yes.

12 CHAIR SHEEHAN: And are you okay with those?

13 MS. CASTAÑEDA: Carla has been very, very
14 diligent, and Paula and so forth, in making sure that
15 we're all on the same page. And these are very minor,
16 technical changes, which we fully concur.

17 CHAIR SHEEHAN: I just wanted to make sure in
18 terms of the fairness.

19 Any comments from any of the Commissioners?

20 Ms. Olsen?

21 MEMBER OLSEN: I, for one, am sort of
22 uncomfortable, if what's being asked of us is to vote on
23 it without seeing those technical amendments.

24 I understand that they're technical, but I'd
25 sure like to see them.

1 MS. HIGASHI: Let me clarify. What we're
2 trying to do is there's a -- one of the statutory
3 provisions states that certain language needs to be in
4 the agreement. And the language comes close, but it does
5 not exactly mirror what's in the statute. So what we're
6 doing is, initially I had identified a sentence that was
7 missing, and it was right out of statute. And so, of
8 course, we have to add it.

9 And they did a little bit of tinkering, and
10 it's just wordsmithing more than anything to their
11 original proposal. But we're not changing anything in
12 terms of the substance of how the methodology was
13 adopted -- will be applied or any of its other
14 provisions. It's just trying to mirror the statutory
15 provision precisely. And it's what happens at the time
16 of the expiration of the agreement.

17 CHAIR SHEEHAN: Gotcha.

18 MS. HIGASHI: And so what we'll do is we'll go
19 through this, we'll match it up, and we will send it back
20 out before I sign it and issue it in final.

21 CHAIR SHEEHAN: Okay, so this is sort of what
22 would be the macro in the future for the type --

23 MS. HIGASHI: Exactly.

24 CHAIR SHEEHAN: We have to put exactly what's
25 in there.

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1 MS. HIGASHI: And since it's the template,
2 we're trying to be sure that we're all on the same page.

3 And this is way easier than it was to draft
4 those sections that are in the state law, which took many
5 meetings.

6 MEMBER BRYANT: Can I just ask about -- this is
7 really exciting for all the reasons Anne stated -- but
8 I'm just curious about the process a little bit, because
9 I was somewhat confused by the record in front of me,
10 which was Exhibit A was a letter from the County, back to
11 the Commission, that seemed to lay out the RRM; and then
12 there was Finance's version of the RRM, which seemed
13 slightly different. Then it seems like staff rewrote
14 everything that they sent.

15 And I'm just curious, a little bit on the
16 labor -- like, it seemed like there was a lot of
17 redundancy in the record and what everybody was working
18 on. And also I was just trying to understand the
19 process. Are we overcomplicating it? I think I'm on a
20 process kick today. And I wasn't sure, maybe it's just
21 because it's the first time that it just seemed like
22 there was a lot of redundancy.

23 MS. HIGASHI: It was their first time. And
24 when we had meetings, when we were developing
25 regulations, we talked about the fact, can the Department

1 of Finance and the County of Los Angeles actually submit
2 a piece of paper that they both sign on the same page?
3 And after going back to their agencies and conferring,
4 they decided the easier way for them to go would be each
5 to submit a letter saying this is what they're proposing
6 and they're working with each other. And that was
7 because we couldn't get their signature on the same page.

8 Two, what did come in is we thought was way
9 bureaucratic. We thought it was closer to parameters and
10 guidelines. And we told them so. And so it had to
11 change because this was supposed to be a different
12 process, a simplified process.

13 So you are correct in that assessment.

14 MEMBER BRYANT: So in theory then, on future
15 RRM's, there is a model now?

16 MS. HIGASHI: Right.

17 MEMBER BRYANT: So future claimants and the
18 Department of Finance can have something -- a template to
19 build off of?

20 MS. HIGASHI: Exactly. Because we got it, we
21 looked at it, and said, "Oh, my gosh, this looks like
22 P's & G's."

23 But since that's what everyone had been doing
24 previously, there was just a -- we had to get through
25 this process of sitting through it and going through each

1 paragraph and each sentence and deciding what really
2 needs to be in there. And the Controller's staff also
3 sat through these meetings with us and shared their
4 comments.

5 CHAIR SHEEHAN: Unchartered waters. But now at
6 least we're beginning to understand.

7 MS. HIGASHI: But I do have to report, everyone
8 was so cooperative. This was just such a pleasant
9 process to be working on.

10 CHAIR SHEEHAN: That's great.

11 Did you want to add something?

12 MR. BURDICK: Yes. Madam Chair and Members,
13 Allan Burdick on behalf of CSAC SB 90 Service.

14 And I'd just like to comment, because this is
15 the first one, to get into this discussion, is that this
16 varies a little bit from a typical test claim where it's,
17 you know, simply a party, and the state, somebody as a
18 lead agency. This also requires broad support from other
19 agencies.

20 And I'd like to point out that in this
21 particular case, and moving forward on several others,
22 the Department of Finance and the County of Los Angeles
23 worked close with CSAC and its members in reviewing this
24 and going through.

25 They did most of the work. Everybody else

1 got -- but this is an effort that really is a statewide
2 activity, in a sense, of looking at it. The test claim,
3 it needs to have support of the other affected agencies.

4 This particular mandate only affects counties.
5 So they're the only people that were affected by this
6 particular mandate.

7 And on behalf of CSAC, I would like to thank
8 the cooperation of the staff and everybody to say it was
9 the first time, we muddled around a little bit. But I
10 think it has laid good groundwork for the future.

11 CHAIR SHEEHAN: Thank you.

12 MR. BURDICK: Thank you.

13 CHAIR SHEEHAN: Any other comments, either from
14 the Commission members or anyone in the audience who
15 would like to comment on this?

16 *(No response)*

17 CHAIR SHEEHAN: As I think we've said, it is
18 historic. I think you all were sort of the guinea pigs
19 on this one. But we appreciate all the time and effort
20 that you've put into it, and hope that it will serve as a
21 model and as the template for future ones going forward,
22 because I think it really can help our process in terms
23 of really changing and helping facilitate the claimants,
24 the state's side, everyone in terms of this whole thing.

25 So what is the will of the Commission?

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1 MEMBER BRYANT: I'll move the proposed RRM.
2 CHAIR SHEEHAN: All right, Ms. Bryant moves.
3 Do we have a second?
4 MEMBER OLSEN: Second.
5 CHAIR SHEEHAN: Ms. Olsen seconds.
6 If there's no further comments, all those in
7 favor say "aye."
8 *(A chorus of "ayes" was heard.)*
9 CHAIR SHEEHAN: Any opposed?
10 *(No response)*
11 CHAIR SHEEHAN: That is adopted.
12 So now we need to do the proposed statewide
13 cost estimate.
14 MS. HIGASHI: Right.
15 CHAIR SHEEHAN: Okay, Item 10 on this one, any
16 comments on this?
17 MS. HIGASHI: Actually, it's a three-part
18 motion.
19 CHAIR SHEEHAN: Okay.
20 MS. HIGASHI: Recommendation: It's to approve
21 the RRM as revised by staff and agreed to, adopt the
22 statewide estimate of costs, and then to authorize staff
23 to make those technical corrections.
24 MEMBER BRYANT: That was my motion.
25 MS. HIGASHI: Staff recommendation.

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1 CHAIR SHEEHAN: We move the staff
2 recommendation.

3 Ms. Bryant.

4 MEMBER BRYANT: Second.

5 CHAIR SHEEHAN: Ms. Olsen seconds.

6 MEMBER WORTHLEY: That's what I voted for.

7 CHAIR SHEEHAN: Any further discussion?

8 *(No response)*

9 CHAIR SHEEHAN: All right, all those in favor,
10 say "aye."

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

12 CHAIR SHEEHAN: Any opposed?

13 *(No response)*

14 CHAIR SHEEHAN: The motion carries. Very good.

15 MS. HIGASHI: Thank you very much.

16 CHAIR SHEEHAN: Thank you all.

17 MS. HIGASHI: Item 12, Chief Counsel's Report.

18 MS. SHELTON: Nothing has changed since we
19 issued this open-session public report. On May 29th, we
20 did receive a ruling from the trial court on the
21 *Integrated Waste Management* case which will require that
22 the Commission amend the parameters and guidelines to
23 require the community college districts to identify any
24 offset from their claims, any offsetting cost savings,
25 and 100 percent of their revenues.

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1 There is also a hearing in San Diego tomorrow
2 on the Emergency Procedures Act. And we will report once
3 we receive the decision in that case.

4 CHAIR SHEEHAN: All right, questions of staff?
5 *(No response)*

6 CHAIR SHEEHAN: All right, Paula?

7 MS. HIGASHI: I wanted to note that our
8 regulations that were previously adopted are now final.
9 And we have copies available of that new rule, regulation
10 package, on the table up here for any parties in the
11 audience who would like to pick up a copy. So all of our
12 regulations on RRM's are now fully in effect. And that's
13 why we could finally do this.

14 CHAIR SHEEHAN: Let me ask one question, and I
15 think Finance had made mention of this. That as you're
16 going through this process, there may be some tweaks to
17 this underlying statute, you know, as you sort of develop
18 it. So are we sort of collecting those from the parties,
19 you know, to see possibly going into the legislative year
20 if they're necessary to make some fine-tuning?

21 MS. CASTAÑEDA: Carla Castañeda, the Department
22 of Finance.

23 We have been sort of collecting them -- the
24 language, and most people will recognize it's purposely a
25 little vague, and that was to allow flexibility in

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1 developing RRM's. As we see that things need to be
2 changed or are too vague, we would propose that. But
3 nothing has come about that yet.

4 CHAIR SHEEHAN: Great. Because I did hear you
5 say that. But in terms of making sure and, you know, do
6 we want to recommend that. So we'll sort of monitor that
7 through the fall, as you go through some of these.

8 MS. CASTAÑEDA: Yes.

9 CHAIR SHEEHAN: Okay, thanks.

10 Anything else?

11 MS. HIGASHI: I'm not really going to say very
12 much about the budget, other than it's pending.

13 CHAIR SHEEHAN: Yes, we try not to.

14 MEMBER WORTHLEY: That's the late-breaking
15 news.

16 MS. HIGASHI: And related to the budget, the
17 State Controller's office issued their very timely 2008
18 deficiency report. And the numbers are very high, as all
19 of you know, \$2.6 billion.

20 Depending on where conference committee ends
21 up, we have no idea how much will be in the budget,
22 finally, for mandate reimbursement.

23 CHAIR SHEEHAN: Hope springs eternal.

24 MS. HIGASHI: Yes.

25 Our next Commission hearing is set for

1 August 1st, which is a Friday. It used to be our
2 July hearing, before we moved it up a day. So it's now
3 our August hearing. And so far, for that agenda, we
4 have *Expulsions II, Suspensions II*, which is a very long
5 test claim. And we'll have a fairly large record.

6 We'll also have *Disabled Student Programs and*
7 *Services*. And that, too, is, I think, a decent-sized
8 record.

9 *Prevailing Wage Rates*, we have a pending
10 request for postponement of that test claim pending some
11 issues that need to be resolved. So I'll keep you posted
12 on that.

13 And we are working on parameters and guidelines
14 and statewide cost estimates also for that agenda. But
15 the test claims will be the main focus for that meeting.

16 CHAIR SHEEHAN: Okay. Those two, okay.

17 MS. HIGASHI: Yes.

18 The September hearing, we have yet more test
19 claims coming and more P's & G's coming, whatever doesn't
20 make it.

21 We look at -- September is kind of a benchmark
22 date for trying to get as many parameters and guidelines
23 as we can adopted, especially thinking that maybe we can
24 actually get statewide cost estimates adopted by March of
25 next year.

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1 If we don't make that deadline, then they
2 would obviously carry over to the following year and
3 miss next year's budget. So we're trying to deal with
4 what we can --

5 CHAIR SHEEHAN: We're hopeful.

6 MS. HIGASHI: -- that is on the simpler side of
7 issues and doesn't require as much meeting and discussion
8 and extra analysis.

9 CHAIR SHEEHAN: Right.

10 MS. HIGASHI: So we do expect some changes.

11 There are changes in just -- some of the
12 claimants are reprioritizing which test claims they want
13 to move on. And we expect to hear from the parties on
14 certain school-district claims. So there could be
15 changes.

16 CHAIR SHEEHAN: Right.

17 MS. HIGASHI: Are there any questions?

18 CHAIR SHEEHAN: Any questions of Paula on this
19 or any other issues?

20 *(No response)*

21 CHAIR SHEEHAN: No?

22 All right, are there any comments from the
23 audience on issues not on our regular agenda?

24 *(No response)*

25 CHAIR SHEEHAN: No?

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1 Then if there is no further business, we'll
2 entertain a motion to adjourn.

3 MEMBER GLAAB: So moved.

4 CHAIR SHEEHAN: We have a motion.

5 And a second?

6 MEMBER CHIVARO: Second.

7 CHAIR SHEEHAN: All right, to adjourn.

8 All those in favor, say "aye."

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

10 CHAIR SHEEHAN: Any opposed?

11 *(No response)*

12 CHAIR SHEEHAN: We are adjourned for today.

13 Thank you, all.

14 MS. HIGASHI: Thank you very much.

15 *(Proceedings concluded at 10:32 a.m.)*

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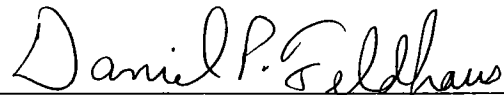
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I hereby certify that the foregoing proceedings were duly reported by me at the time and place herein specified;

That the proceedings were reported by me, a duly certified shorthand reporter and a disinterested person, and was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for either or any of the parties to said deposition, nor in any way interested in the outcome of the cause named in said caption.

In witness whereof, I have hereunto set my hand on July 9, 2008.



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