

# PUBLIC EMPLOYMENT RELATIONS BOARD

## Short-Term & Long-Term Goals

March 5, 2015

Prepared by the Administrative Committee of the Board:

Anita I. Martinez, Board Chair

Eugene Huguenin, Board Member

Wendi Ross, Deputy General Counsel, Office of the General Counsel

Shawn Cloughesy, Chief, Division of Administrative Law

Loretta van der Pol, Chief, Division of State Mediation and Conciliation

Mary Ann Aguayo, Chief, Division of Administration

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# CONTENTS

Overview . . . . .	1
Office of the General Counsel . . . . .	2
Division of Administrative Law . . . . .	8
Division of State Mediation and Conciliation . . . . .	11
Division of Administration . . . . .	13

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## Overview

The Public Employment Relations Board (PERB) is a quasi-judicial administrative agency charged with administering eight collective bargaining statutes covering California public employees. This includes employees working in the State of California, public schools, colleges and universities, local public agencies (cities, counties and special districts); trial court employees and trial court interpreters; and supervisory employees of the Los Angeles County Metropolitan Transportation Authority and in-home supportive services employees.

PERB's mission is to provide a fair, timely, and cost-effective process to resolve public sector labor disputes. The major functions of PERB involve:

- 1) investigation and resolution of unfair practice charges (UPCs);
- 2) administration of the representation process through which public employees freely select employee organizations to represent them in their labor relations with their employer;
- 3) adjudication of Board agent determinations by the Board itself;
- 4) mediation of labor disputes between employers and employee organizations, and
- 5) legal functions performed by the Office of the General Counsel.

Since 2001, PERB's jurisdiction has expanded with various legislative efforts, including the In-Home Supportive Services Employer-Employee Relations Act (IHSSEERA), Ch. 45, Statutes of 2014; the Meyers-Milias-Brown Act (MMBA), Ch. 680, Statutes of 2012; and the transfer of the Division of State Mediation and Conciliation Service (SMCS) from the Department of Industrial Relations (DIR) to PERB (Ch. 46, Statutes of 2012). Workload associated with the IHSSEERA and MMBA have expanded PERB's jurisdiction to approximately 880,000 additional public sector employees and caused an unprecedented growth in the filing of complex unfair practice charges, requests for injunctive relief, and protracted court litigation. However, between 2002 and 2011 PERB lost a total of 13.0 positions.

With the strained California budget during the recession resulting in the inability to augment staffing, in fiscal year 2013-14 PERB converted \$360,000 general overhead operation funds transferred with the SMCS merger to four positions to help support program areas that were affected by the loss of positions. The positions were directed at filling these voids and to mitigate increased workloads and a backlog of cases<sup>1</sup>.

PERB staffing has not kept pace with workload increases and due to an inability to obtain resources, vacant positions have been reassessed and reallocated as necessary in order to meet the greatest need. These reallocations have allowed PERB to stay afloat, yet there are significant deficiencies that must be addressed in order to improve PERB's ability to provide critical support to the labor management community

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<sup>1</sup> 1.0 Administrative Law Judge, 1.0 Attorney, and 2.0 Support Staff.

## OFFICE OF THE GENERAL COUNSEL

### Short-Term Goals:

PERB's Office of the General Counsel (OGC) *urgently* needs to address the following two critical issues:

- A reorganization of the OGC to provide leadership and direction to attorneys and administrative staff; and
- An increase in the number and levels of positions in the OGC to meet the increasing complexity and demands of litigation, new statutory authority, and unfair practice charge backloads.

### A. Background for the OGC Reorganization

Other than the Governor-appointed General Counsel, there is zero supervisory staff in the OGC.

- While the current Attorney IV (also referred to by the working title of Deputy General Counsel), has been supervising lower-level attorneys and administrative staff since April 2007, the job specification for Attorney IV specifies that "An Attorney IV does not supervise lower level attorney staff, but may act in a lead capacity over the work of other attorneys and staff."<sup>2</sup>
- The current Attorney IIIs are limited by their classifications to act as "leads" in each of PERB's respective three offices. (The Attorney III classification similarly contains a prohibition against the performance of supervisory duties.) In addition, PERB's Attorney IIIs have a full workload with litigation, UPC caseloads, representation cases, informal conferences, document review, and various other duties.<sup>3</sup>
- The Deputy General Counsel performs the following supervisory duties, including: evaluating OGC staff members once a year; developing and implementing performance improvement plans; working with employees regarding requests for reasonable accommodation; approving leave time and timesheets when the General Counsel is out of the office; and reviewing a variety of personnel-related documents.

The current organization of the OGC leaves the agency as a whole in a vulnerable position. In order to strengthen and stabilize the OGC leadership and managerial oversight, and appropriately respond to workload demands, the OGC proposes taking all of the following measures:

- Resurrecting the "Deputy General Counsel, Public Employment Relations Board, CEA" classification; and
- Adding three (3) Supervising Attorney positions. The three Supervising Attorneys would report directly to the Deputy General Counsel and General Counsel, and supervise personnel in each of PERB's three regional offices.

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<sup>2</sup> From May 2014-February 2015, the current Deputy General Counsel was designated by the Board as Acting General Counsel, and therefore had the capability to supervise lower-level attorneys and administrative staff during that period of time.

<sup>3</sup> By way of comparison, the legal office in the Public Utilities Commission has approximately 35 funded positions, and seven (7) Assistant Chief Counsels, and the General Counsel for the Agricultural Labor Relations Board (ALRB) currently has 28 funded positions and five (5) Assistant General Counsels I & II.

## B. Increasing Work Duties Requires Additional Positions as well as Increasing the Number of Higher-Level Attorneys in the OGC

Utilizing *existing* but unallocated resources (i.e., no new funds were allocated/received), the OGC was able to obtain the following two new positions during the 2013-14 fiscal year: one (1) Attorney and one (1) Legal Secretary in the Los Angeles Regional Office (LARO). Those two positions however, do not fully address the large workload that exists in the OGC. Statewide, in all three PERB offices (Sacramento, Oakland, and Glendale), the following listing constitutes the total number of funded positions working in the OGC, in addition to the General Counsel:

1 Attorney IV;  
3 Attorney IIIs;  
10 Attorneys<sup>4</sup> ;  
1 Legal Analyst (Sacramento);  
1 Legal Secretary (Glendale); and  
1 Office Technician/Typing (Oakland)  
  
Total = 17 Funded Positions Statewide in the OGC

Between 2001 and the present, PERB's jurisdiction has been steadily expanded to encompass almost **900,000 additional public sector employees**. Since 2001, while there have been no significant **new agency resources**, there have been substantial budget reductions, elimination of existing positions, and furloughs. All of the following should also be taken into consideration:

- In 2012, PERB's jurisdiction was expanded by Senate Bill 1036 (Chapter 45, Statutes of 2012), effective June 27, 2012, which, in relevant part, enacted the In-Home Supportive Services Employer-Employee Relations Act (IHSSEERA). Under IHSSEERA as originally enacted, PERB acquired new responsibilities with respect to negotiations over terms and conditions of employment for eight (8) county-wide bargaining units and the resolution of representation disputes for more than 260,000 workers in the Counties of Alameda, Orange, Riverside, San Mateo, Santa Clara, San Bernardino, San Diego, and Los Angeles.<sup>5</sup> In addition to the new PERB caseload that is likely to result once IHSSEERA is fully implemented to the

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<sup>4</sup> One of the Attorney positions has been temporarily upgraded to a Limited-Term Attorney III position. Further, there is an additional Attorney (Limited-Term 9 months), whose position is set to expire in June 2015, upon the return of another Attorney from an extended leave of absence.

<sup>5</sup> In-home supportive services providers in California's counties were previously covered under the Meyers-Millias-Brown Act (MMBA); except that PERB did not have jurisdiction over any of the 142,980 in-home supportive services providers of Los Angeles County. Rather, such employees were covered by the Los Angeles County Employee Relations Commission (ERCOM), an independent body that manages relations between the County and its employees under the MMBA. (Gov. Code, §§ 3507, 3509, subd. (d); see also *County of Los Angeles v. Los Angeles County Employee Relations Comm'n* (2013) 56 Cal.4th 905, 916.) However, once Los Angeles County comes under the Statewide Authority, all of the 143,000 Los Angeles County in-home supportive services providers will be within PERB's jurisdiction for the first time.

other fifty (50) counties<sup>6</sup>, we anticipate that there may be resulting litigation, and substantial new costs for staff training and travel to acquire the expertise that may be required for handling matters emerging from a complex new type of collective bargaining relationship, in a specialized segment of the healthcare system for low-income, elderly, and disabled Californians whose care is provided in their own homes, with oversight by numerous state and federal agencies.<sup>7</sup>

- PERB has experienced and will continue to experience a high level of complex litigation for the foreseeable future. For instance, four separate lawsuits were filed against PERB between 2012 and 2014 by the IBEW, Local 18, San Diego Housing Commission, the County of Riverside, and the County of Fresno challenging factfinding determinations made pursuant to Assembly Bill (AB) 646.<sup>8</sup> There are currently two cases at the court of appeal and one in the superior court.<sup>9</sup> These three cases are likely to be appealed to the California Supreme Court for final determination. In addition, substantial additional MMBA caseload (approximately 55 new cases per year) was generated with the passage of AB 646.

In addition to our efforts to reduce backlog in our routine UPC and Representation cases, the OGC has also experienced a surge in complex UPC matters, requests for injunctive relief (IR Requests) and protracted court litigation in the past few years<sup>10</sup>, notably including:

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<sup>6</sup> Once IHSSEERA is fully implemented for all 58 counties, PERB will have jurisdiction over a total of 400,000 in-home supportive services providers. It is possible that all 58 counties will come under the Statewide Authority by January 1, 2016.

<sup>7</sup> By way of comparison, the California Department of Human Resources (CalHR) was allocated approximately fourteen (14) new positions to administer the department's obligations as the Statewide Authority. To date, PERB has received [no new resources to administer this Act](#), and our preliminary estimates are that the workload associated with the legal challenges to IHSSEERA will necessitate, at a minimum, three additional higher-level attorneys (at the III/IV/V level) discussed in greater detail below.

<sup>8</sup> PERB's 2011 budgetary request (referred to as a BCP) for the addition of one new position, "Administrative Assistant"—who could have assisted with the processing of the MMBA factfinding requests—was denied.

<sup>9</sup> The three current cases are as follows: (1) *San Diego Housing Commission v. PERB; SEIU Local 221*, California Court of Appeal, Fourth Appellate District, Division One, Case No. D066237; San Diego County Superior Court, Case No. 37-2012-00087278-CU-MC-CTL; Factfinding [PERB Case No. LA-IM-116-M]; (2) *County of Fresno v. PERB; SEIU Local 521*, Fresno County Superior Court, Case No. 14 CE CG 02042, PERB Order No. Ad-414-M [UPC No. SA-IM-136-M]; and (3) *County of Riverside v. PERB; SEIU Local 721*, California Court of Appeal, Fourth Appellate District, Division Two, Case No. E060047; Riverside Superior Court Case No. RIC 1305661 [UPC No. LA-IM-127-M]. The fourth case, *IBEW v. PERB; City of Glendale*; Los Angeles Superior Court, Case No. S141968 [PERB Case Nos. LA-IM-119-M and LA-IM-120-M], was not appealed after the Superior Court's ruling dismissing IBEW's writ petition.

<sup>10</sup> See Exhibit "A" for a comparison chart of cases filed and processed since 2010-11 fiscal year; Informal Conferences conducted; injunctive relief actions filed; and court appearances, litigation documents and injunctive relief investigations/memos produced by the OGC staff.

- Multiple ballot measure and/or pension cases currently pending in the appellate court or before the Board. There is a very high probability that all of these cases will likely be appealed to the Court of Appeal and California Supreme Court by the respective losing parties<sup>11</sup>;
- Injunction actions brought against “essential employee” strikes including: San Bernardino County nurses in 2014-2015; City of Vacaville engineers 2014; University of California healthcare workers employed at the five UC Medical Centers in 2013-2014; various City of Hayward employees in 2013; and numerous County of Riverside nurses and other healthcare workers in 2012;
- Injunction action in May 2013 against the City of Fremont, based on its alleged unilateral withdrawal of recognition from SEIU Local 1021 that is currently pending in the appellate court<sup>12</sup>;
- Participation as intervenor in Doe v. Deasy mandamus action regarding teacher evaluations in Los Angeles Unified School District;
- Amicus efforts in El Dorado County Deputy Sheriff’s Association v. County of El Dorado; El Dorado County Employees’ Association, UPE Local 1, Court of Appeal, Third Appellate District, Case No. C075615; El Dorado County Sup. Ct., Case No. PC20120637 and County of Los Angeles v. LA County ERCOM (2013) 56 Cal. 4th 905.

Of further note:

- During the 2013-14 fiscal year, PERB worked on 21 litigation cases filed at the California Supreme Court, Appellate Courts and Superior Courts, and completed 254 litigation-related assignments including court appearances, briefs, motions, and an assortment of other litigation-associated documents, and injunctive relief memos.
- Further, on average, the charge carry-over each year has been approximately 380 charges. It is currently taking the OGC staff on average five months to process a charge. However, our goal has always been to process a charge within three months or less. In order to process more of the charge backload in a timely manner, we need at least two more Attorneys.

In total, in order to meet all of these demands, PERB needs at least four new positions (Assistant General Counsel (Litigation), two (2) Attorneys, and a Staff Services Analyst (SSA)), and an increase in funding to create higher-level attorney positions, including more Attorneys IIIs, IVs, and Vs to perform the high-level litigation and injunctive relief work that is routinely presented to this agency.

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<sup>11</sup> Those cases include but are not limited to the following: (1) *County of San Luis Obispo v. San Luis Obispo Government Attorneys’ Union*, PERB Case No. LA-CO-123-M; (2) *San Diego Municipal Employees Association v. City of San Diego*, PERB Case No. LA-CE-746-M; and (3) *City of Palo Alto v. Public Employment Relations Board; International Association of Firefighters, Local 1319, AFL-CIO*, California Court of Appeal, Sixth Appellate District, Case No. H041407; PERB Decision No. 2388-M [PERB Case No. SF-CE-869-M].

<sup>12</sup> *PERB v. City of Fremont (SEIU Local 1021)*, California Court of Appeal, First Appellate District, Division Four, Case No. A139991; Alameda Sup. Ct. Case No. RG 13677821; IR Request No. 633 [PERB Case No. SF-CE-1028-M].

- An Assistant Chief Counsel (Litigation) would be the initial point person for all litigation conducted by PERB, including managing complex litigation matters, and the initial editing of all court-filed documents. This position would also be a huge asset in legislative affairs, rulemaking, special legal research projects, consulting with the Board, communications with LWDA, and participating in complex or confidential projects, that cannot be performed by lower level attorneys.
- At least two additional Attorneys are needed to assist in the processing of charges at the Regional Offices, handling representation cases, conducting Informal Conferences and working on litigation assignments.
- An allocation to fund at least three higher-level Attorneys (Attorney III, IV, V). Such an allocation will enable the existing staff the ability to take on greater responsibility, more complex litigation, including the expected litigation arising from the implementation of IHSSEERA, and become better prepared to take on their next role hopefully, in the supervising ranks. It will also offer the existing staff internal promotional opportunities to decrease the likelihood of turnover in the future, maintain valuable resources, and keep PERB's institutional knowledge/history.
- A Staff Services Analyst is needed to assist with representation cases, including the preparation of election materials, ballots and conducting elections, drafting routine correspondence about defective unfair practice charges, procuring a Chair of a factfinding panel and drafting factfinding contracts, handling undisputed mediation requests, and assisting with special assignments.<sup>13</sup>

### Long-Term Goals:

- We need to have a professional copy service scan all of our representation files and rulemaking files for electronic safekeeping in the future. PERB is often asked for copies of the original documents regarding a representation matter. If these documents should be lost in a fire or deteriorate any further, there would be no way to replicate all of them.
- We need to establish and increase our factfinding budget to pay the Chair of the factfinding panel in EERA and HEERA cases, more than \$100.00/day, three-day maximum. The Legislature deleted all funding for this cost item to zero, while maintaining the statutory requirement for PERB to provide a Chair in those cases where the parties are unable to agree on the selection of a Chair. The list of individuals willing to take such an assignment for such a small amount of money has dwindled to just a small handful, and could be non-existent in the near future.
- The OGC would like to develop and implement an outreach program for orientation and training of interested party representatives regarding PERB's processes, procedures and precedents. The goal of such a training program would be to assist our constituents use PERB's services more effectively and improve party submissions to PERB, such that processing of cases might be more efficiently undertaken by PERB staff.
- The OGC staff could greatly benefit from more training opportunities, including advanced mediation techniques, advanced legal writing, and litigation process/procedures.

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<sup>13</sup> By way of comparison, the ALRB's General Counsel's Office appears to have at least 9-11 Field Examiners, as well as both Administrative Governmental Program Analysts, and Staff Services Analysts.

## EXHIBIT “A”

### **Cases filed and processed by the OGC:**<sup>14</sup>

Workload Measure	2010-11	2011-12	2012-13	2013-14	2014-15 (8 months)
Beginning Case Load	554	390	288	325	567
New Cases Filed	973	1077	1119	1353	591
Cases Completed	1137	1179	1082	1111	807
Year End Carry Over	390	288	325	567	351
Number of Staff Processing Cases	9.8	10.5	11.7	11	12.3

### **Informal Conferences Conducted by the OGC:**

Informal Conferences Conducted by the OGC	2010-11	2011-12	2012-13	2013-14	2014-15 (8 months)
	317	288	317	307	258

### **Injunctive Relief Requests Filed:**

Injunctive Relief Requests Filed	2010-11	2011-12	2012-13	2013-14	2014-15 (8 months)
	16	21	17	25	15

### **Court Appearances/Litigation Documents/ Injunctive Relief Memos/Legal Research Memos:**

Court Appearances/ Litigation Documents/IR Memos/Legal Research Memos	2010-11	2011-12	2012-13	2013-14	2014-15 (8 months)
	93	139	146	254	74

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<sup>14</sup> Cases includes: Unfair Practice Charges, Representation cases, Mediation requests, Factfinding matters, and Compliance matters.

## DIVISION OF ADMINISTRATIVE LAW

### Goals of the Division

The Division's goals can be summarized as follows: to set formal hearings within three months from the informal conference date and to issue proposed decisions on a Division average of approximately 60 days from the date that closing briefs are submitted. These goals are especially important in that issuing proposed decisions concerning labor-management disputes assist the parties to resolve similar issues, move on to other pressing issues, improve relationships, and foster healthy labor-management relations.

Due to PERB's limited resources, the Division has especially fallen short in the area of issuing proposed decisions on a Division average of approximately 60 days from the date the matter is submitted. Adding administrative law judges to the division would assist the division to aspire to reach this goal once again.

### A. Background

When the MMBA was added to PERB's jurisdiction in 2001, PERB staffed approximately six administrative law judges (ALJs). Because of this jurisdictional inclusion, there was an immediate bump in the number of formal hearings completed and the number of days of hearing. Fortunately, the division was able to maintain its 60 day Division average issuance goal through the 2004-2005 budget year. Beginning in budget year 2005-2006, the average number of days that it took for an ALJ to issue a proposed decision extended to 100 days. By the end of the 2013-2014 budget year, the issuance day average had grown to 132 days.

PERB did not receive an ALJ augmentation for the addition of MMBA work until budget year 2007-2008, when one ALJ was added.<sup>15</sup> PERB has averaged approximately 48 formal hearings completed and 138 days of hearing completed during the first 10 years after obtaining jurisdiction over the MMBA. In fiscal years 2011-2012, 2012-2013, and 2013-2014, the number of formal hearings completed, on average, increased approximately 71 percent and the number of days of hearing increased approximately 50 percent. Finally, in budget year 2014-2015, an additional ALJ was added, but this was not enough to reduce the pending proposed decision backlog or to manage the increase of cases heard by ALJs since budget year 2011-2012. (See Exhibit A.) According to the Division's statistics for budget year 2014-2015 and the anticipated hearing calendar, the current budget year is on pace with the last three budget years in the area of number of formal hearings completed and number of days of hearing held.

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<sup>15</sup> The additional ALJ was removed in budget year 2008-2009 due to budget cuts. That ALJ position was not reinstated until budget year 2013-2014, but only after a sizable backlog of pending proposed decisions had already developed.

## **B. Need for Additional ALJ Positions and Justification of that Need**

As a result of the 71 percent sustained increase in formal hearings completed and 50 percent sustained increase in the number of days of hearing completed, the division needs an additional two ALJs.<sup>16</sup>

Additionally, PERB currently has three ALJ I's who decide disputes concerning eight different labor relations statutes. PERB's cases are extremely complex when compared to the subject matter of cases determined by other state agencies. In order to retain these talented ALJ I's, it is imperative that the agency invest in their future by offering more ALJ II positions. Finally, the new ALJ III classification has recently been approved by the State Personnel Board and an exam for the new classification is pending. Such a classification would be welcomed by PERB's seasoned and skilled ALJs.

### **Augmentation of ALJs Needed if the Office of General Counsel Request is Granted**

In the OGC short-term and long-term goals, it requests an augmentation of an Assistant Chief Counsel and two additional attorneys to competently handle the caseload that has grown in its office. Obviously, such an increase in staffing will cause the issuance of more complaints and the scheduling of more formal hearings. In order to be able to manage such an increased workload, the Division will need an augmentation of two additional ALJs over and above the two additional ALJs needed to keep current with the Division's caseload.

### **Total Augmentation**

Based upon the needs set forth in this short memo, the division needs four ALJ positions (two ALJs to handle its current caseload and two ALJs to handle its anticipated workload from the OGC augmentation), including ALJ II and III upgrades.

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<sup>16</sup> Ordinarily, a 50% sustained increase would lead to a proposed request for three additional ALJs, but since the division received one additional ALJ in the 2014-2015 budget year, only two additional ALJs are needed to address the sustained and increased workload.

## EXHIBIT "A"

### FORMAL HEARINGS COMPLETED/DAYS OF HEARING BY BUDGET YEAR

Budget Year	Formal Hearings Completed	Days of Hearing	Number of ALJs	Comments
2013-2014	70	199	7 ALJs	
2012-2013	86	217	6 ALJs	
2011-2012	89	204	6 ALJs	
2010-2011	43	138	5-6 ALJs	Hiring Freeze-Could not fill Vacant Position
2009-2010	49	150	6 ALJs	
2008-2009	50	163	6-7 ALJs	Loss of 7 <sup>th</sup> ALJ-Cuts
2007-2008	56	166	7 ALJs	MMBA Augmentation
2006-2007	35	119	6 ALJs	
2005-2006	52	116	6 ALJs	
2004-2005	55	123	6 ALJs	
2003-2004	51	127	6 ALJs	
2002-2003	46	147	6 ALJs	
2001-2002	47	132	6 ALJs	MMBA under PERB
2000-2001	35	98	6 ALJs	

## **DIVISION OF STATE MEDIATION AND CONCILIATION SERVICE**

### **Short-Term Goals**

SMCS has three critical issues that need to be addressed in the short-term:

- 1) Vacant positions need to be filled;
- 2) Staffing levels need to be adjusted to best manage the most critical work; and
- 3) Recruiting problems need to be addressed.

### **Background:**

SMCS lost six Conciliator and one Presiding Conciliator positions during the recession and delayed public sector economic recovery between the years of 2008 and 2012. The reduction in staffing was effected through attrition. The current mediation staff consists of a division chief (.5 mediation), two presiding conciliators (.75 mediation each), and seven conciliators, two of which are vacant. An effort to hire to fill the two vacancies is underway.

During 2008 through 2014, mediation requests remained constant, if not slightly higher. Fewer mediators were available, causing delays that averaged 30 days to the first meeting in 2010, a number that grew to 47 days by 2012 and 2013. The amount of long distance travel to mediate in remote locations added to the problem by making fewer mediation days available. Peak workload periods that occur during the months of March through mid-July, and mid-September through mid-December, require so much travel and overtime that fatigue and burnout become common, and increase potential health and safety risks.

In fiscal year 2012/2013, SMCS suspended all non-critical services due to staffing problems exacerbated by two emergency leaves of absence that reduced the available staffing to just 6.5 mediators.

Delays in beginning a mediation process in contract negotiations' disputes can include any of the following:

- The parties can become angry and entrenched, making settlement more difficult;
- The long-term working relationships between the parties can become damaged and adversarial;
- Financial difficulties for the parties on either side can become more critical;
- The potential for formal complaints, charges and other legal actions, can increase; and
- Bargaining unit members and governing bodies can become frustrated with their respective negotiating teams and/or leadership, complicating settlement efforts.

Chronic short-staffing due to the reduction in positions and the difficulty in filling vacant positions has resulted in the following problems for the parties, and in SMCS' operations:

- Statutory timelines under EERA, HEERA, and MMBA are not being met due to the inability of mediators to offer early dates, and rarely because the parties are not available;
- There is insufficient "slack" in staffing to quickly reallocate resources to strikes, and to critical disputes with high strike potential;

- During the peak workload periods already mentioned, mediators are unable to manage multiple meetings for the same parties, shortening the opportunities for settlement;
- The average experience level in the mediation staff is getting lower because of four new hires occurring over two years (2014 and 2015), increasing the time needed for training and monitoring;
- The average experience problem forces an inequitable workload distribution, with experienced mediators having to carry the most complex cases; and
- Requests for fee-based preventive work, including training and facilitation, have been difficult to accommodate, and SMCS no longer has the ability to ask the Federal Mediation and Conciliation Service to serve as a “back-up” in performing these services.

Additionally, examinations for the Conciliator position in 2013 and again in 2014, resulted in low numbers of qualified applicants being tested (approximately 25 and 18, respectively), with even fewer left for hiring consideration due to failing the exam. For the 2014 recruitment, the exam was advertised in several popular paper and online labor/management media locations, with dismal results.

## Long-Term Goals

SMCS has five long-term goals:

- Stabilize staffing levels and reduce negative attrition (burnout, resignation to accept other employment, retirement);
- Improve the quality and amount of time allotted to the training of new mediators;
- Improve the division’s flexibility in staffing during on- and off-peak workload periods to add greater efficiency;
- Change the examination and hiring mechanisms for the Conciliator (mediator) position; and
- Develop preventive-work training and facilitation materials that are “off-the-shelf-ready” for consistency and better quality.

## Administration

Major administrative functions include budgets, accounting, business services, information technology, telecommunications, procurement, facilities and security, and human resources. Approximately 80 percent of information technology (IT) functions and approximately 60 percent of human resources functions are contracted out.

With the transfer of the SMCS and its 13.0 positions in July 2012 and the 4.0 positions added midway through fiscal year 13-14, PERB staffing grew from 40.0 to 57.0 positions, or 42.5 percent within two years. The SMCS transfer and turnover in leadership as PERB assumed this new responsibility<sup>17</sup> led to a delay in identification of significant workload and support impacts. PERB's Division of Administration is significantly impacted due to the level of administrative services now required to support this new PERB division. Services for SMCS had previously been provided by DIR (i.e., fiscal, information technology support, human resources, contracting and procurement) and now must be provided by PERB's Division of Administration. While PERB contracts out some of the services, many are handled in-house and the Division's staffing at 4.0 positions remains at the same level it has been for the past 20 years. Respectively, the Division of Administrative Services has received a surge of new work and is unable to maintain adequate levels of service with current staffing. In addition, three of the four positions were held by experienced employees who each had over 20 year's tenure in their positions and recently retired. This allowed for a lean operation amid years of budget reductions.

Throughout these lean years applying technology to improve PERB operations has been a struggle. PERB has limited in-house expertise and relies exclusively on contracted staff to build improvements applying technological solutions. One effect this has had is that although some functions have become automated, an overall application of technology has not been possible, also due, in part, to funding limitations. The result is that PERB's internal processes remain mainly paper driven, and opportunities to streamline operations exist.

The State is moving to replace its legacy computer application and is transitioning to a new system. This system, Fi\$CAL, will change the way all administrative services are performed for all agencies. Essentially, administrative operations will require that data be entered into respective Fi\$CAL modules to capture budget, expenditures, personnel, and essentially all aspects of administration. Entering data points required under Fi\$CAL will require *significant* staff training and, on an ongoing basis, capturing the data will be more time consuming than current processes.

## Short-Term Goals

An assessment of services and staffing levels indicate that workload growth in Administration can be adequately supported by the addition of one position per ten budgeted positions. This means that an additional two positions would be necessary to provide adequate service levels at existing staffing levels, and additional positions based on any growth as identified within this report.<sup>18</sup> In addition, operating expenses are also impacted with staff growth in most areas. Additional operating funds for facility, furnishings, equipment, supplies, travel, training, IT support, and other costs would be necessary to support any growth.

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<sup>17</sup> Turnover includes retirements of both the SMCS Division Chief and the Chief Administrative Officer in 2014.

<sup>18</sup> One administrative position per ten positions assumes that the same percentages of IT and Human Resources services continue to be contracted out.

Further, PERB could significantly streamline operations by updating its applications to fully capture technology and move away from paper. This requires increasing connectivity capacity between PERB Offices and updating technological operations in order to maximize opportunities as its constituents automate their work processes.