

**PUBLIC MEETING MINUTES**

**Virtual Meeting**

April 8, 2021

10:00 a.m.

**PUBLIC EMPLOYMENT RELATIONS BOARD**

Headquarters Office

1031 18th Street

Sacramento, California

**Members Present**

ERIC R. BANKS, Chair

ARTHUR A. KRANTZ, Member

LOU E. PAULSON, Member

ERICH W. SHINERS, Member

*Quorum Present? Yes*

**Executive Staff Present**

JOSHUA GOLKA, Executive Director

SUSAN DAVEY, Deputy Executive Director

FELIX DE LA TORRE, General Counsel

SHAWN CLOUGHESY, Chief Administrative Law Judge

GERALD FECHER, Interim Director, SMCS

**Proceedings:**

Meeting called to order at 10 a.m. by Chair Banks.

Since February 11, 2021, the Board has been in continuous closed session to deliberate on cases pending on the Board's docket. A list of those Board decisions, determinations, and resolutions can be viewed on PERB's website.

**Motion:** Motion by Member Paulson and seconded by Member Shiners to close the February 11, 2021 Public Meeting.

**Ayes:** Krantz, Banks, Shiners, Paulson

**Motion Adopted - 4 to 0**

Chair Banks officially opened the Public Meeting of April 8, 2021.

**Adoption of Minutes**

Chair Banks asked the Board if they would like to discuss potential corrections to the minutes of February 11, 2021, or move to approve it.

**Motion:** Motion by Member Krantz and seconded by Member Paulson to approve the minutes of the February 11, 2021 Public Meeting.

**Ayes:** Krantz, Banks, Shiners, Paulson

**Motion Adopted - 4 to 0**

**Public Comment**

No public participants requested to comment on issues outside of the agenda.

**Executive Staff Reports:**

Joshua Golka, Executive Director, stated that the Legislature has introduced a little over 2400 bills this session, which is down a bit from previous years. PERB continues to track Senate Bill 270, Assembly Bill 314, Assembly Bill 237, and Senate Bill 598.

On the rulemaking side, Mr. Golka stated that the final filings regulations went into effect on February 15th. The FAQs regarding those regulations are continually being updated and can be viewed on PERB's website.

All divisions are in the process of planning for the post-COVID return to office based work for staff and a return of constituents to the offices.

## **Report - Division of Administration**

Susan Davey, Deputy Executive Director, reported that PERB currently has 79-1/2 filled permanent positions and 6-1/2 vacancies.

Ms. Davey welcomed newly hired Inna Gudumac, a budget analyst, and retired annuitant Loretta van der Pol, returning as a subject-matter expert to assist PERB with the CEA exam.

For Human Resources, Ms. Davey stated that they are working out some kinks with CalHR regarding Senate Bill 95, which provides employees up to 80 hours of leave for COVID-related illnesses and is retroactive back to January 1st of 2021.

Additionally, Ms. Davey gave a shout out to Andrea Duarte, Human Resource analyst, for ensuring the timely completion and filing of Form 700.

A contract for remediation has been secured; PERB recently received it's first batch of documents back. Staff is working on finalizing those documents to post on the website. Ms. Davey now expects to be compliant with AB 434 a month ahead of schedule.

For Fiscal Services, Ms. Davey, having anticipated year-end expenditures, projects having \$48,000 leftover.

On the IT front, Ms. Davey stated that they are continuing to upgrade security to migrate to cloud-based storage. Password requirements have been strengthened and mapped drives have been cleaned up as well. She reminded everyone not to click unknown links contained in e-mails.

Providing an update on Facilities, Ms. Davey stated that they are still working with DGS and the current landlord for a short-term lease in the smaller Oakland building, which provides a hybrid space plan that emphasizes telework versus individual private offices.

One staff member continues to work in contact tracing, which has been extended until June of 2021. Expenditures in response to COVID is just above \$100,000 for the current fiscal year, which brings the total cost to \$185,000 for the two years since the pandemic began.

## **Report - Office of the General Counsel**

Felix De La Torre, General Counsel, reported that the Office of the General Counsel had received 90 new unfair practice charges in February and March 2021; a slight increase from the prior two-month period of 81.

In February and March, the General Counsel's Office completed 136 case investigations; an increase from the 105 investigations completed in the prior two-month period.

In February and March, the General Counsel's Office issued 69 complaints and dismissed 21 charges. This compares to the 68 complaints issued and 16 charges dismissed in December and January.

Factfinding requests have increased; in February and March, the GC Office received two factfinding requests as compared to one factfinding request in the prior two-month period.

The number of representation petitions increased from 22 petitions in December and January to 36 petitions in February and March.

Since the last Board meeting, the Office of the General Counsel has received two requests for injunctive relief, two litigation matters filed against PERB, and one final case determination. Mr. De La Torre provided the details and status on each case.

## **Report - Division of Administrative Law**

Shawn Cloughesy, Chief Administrative Law Judge, stated that cases continue to be set three to four months out from the informal. Assignment of cases is higher than the previous year, and the total days of hearing has doubled from the prior year.

The number of active cases and writing decisions is unchanged from the prior two months, with the average number of days for issuance of a proposed decision holding at about 87 days. Total cases closed is a little bit more than last year. The exceptions ratio is 60 percent.

## **Report - State Mediation & Conciliation Service (SMCS)**

Gerald Fecher, Interim Director, reported that SMCS continues to have an increase in case requests, most notably requests dealing with collective bargaining issues related to the pandemic. Mediation sessions continue to be conducted remotely via videoconference and Zoom.

SMCS continues to actively monitor and evaluate the pandemic infection rates throughout the State. Because both staff and constituents have expressed a desire to return to in-person mediation, SMCS has prepared and is ready to implement guidelines for personal protective equipment and disinfected rooms to ensure safe, in-person mediation.

In February, SMCS had four representation cases; one for a remote card check election, and three for mail ballot elections for decertification and representation. Two of the cases continue to be stayed pending the outcome of pending litigation.

In March, SMCS had five representation cases, which included one chargeable union contract ratification election and four cases for decertification and certification. Two of the cases continue to be stayed pending the outcome of charges filed with PERB.

For program administration, Mr. Fecher reported that, in February, SMCS received a total of \$1,350 for chargeable services, the entirety resulting from the Arbitration Panel Program.

In March, SMCS received a total of \$5,650.00 for chargeable services; the Arbitration Panel Program yielding \$1,650 and union contract ratification election yielding the balance of \$4,000.

Mr. Fecher stated that the SMCS continues to be very active in training and in the facilitation of programs for constituents. Additionally, SMCS plans to update their webpage to provide more detailed information regarding programs, training, and services that SMCS offers, including information about filing Federal F-7 forms. Also in the works, Mr. Fecher hopes to develop digital brochures, which can eventually turn into hard copy brochures.

SMCS has one employee assigned to the State's contact tracing taskforce, an assignment due to continue through June of 2021.

**Motion:** Motion by Member Paulson and seconded by Member Shiners to accept the staff reports.

**Ayes:** Krantz, Banks, Shiners, Paulson

**Motion Adopted - 4 to 0**

### **Old Business**

Mr. Golka presented a brief update on the Case Processing Efficiencies, stating that they are very close to submitting to the Office of Administrative Law the next bundled package, which will address recusals, exceptions, discovery, motions, continuances as well as a SMCS-related package that the Board had previously approved. The 45-day public comment period regarding that package will be starting in the coming weeks.

A survey, still in development, will ask constituents about their experience with PERB's new portal process as well as with the previously implemented Case Processing Efficiencies Initiatives. Mr. Golka hopes to complete and send out the survey within the coming months.

### **New Business**

Ms. Davey presented a background information on the conflict of interest code, stating that the Political Reform Act requires all State agencies to create, implement, and update a conflict of interest code to ensure that all officials who make governmental decisions are acting in the public's best interest. Ms. Davey provided the details on the changes and updates to the designated classifications contained within PERB's code.

**Motion:** Motion by Member Paulson and seconded by Member Shiners that the Board approve submitting the proposed rulemaking package to the Office of Administrative Law in order to initiate the formal rulemaking process.

**Ayes:** Krantz, Banks, Shiners, Paulson

**Motion Adopted - 4 to 0**

**Meeting Adjourned**

Chair Banks stated that, immediately upon recess, the Board will meet in continuous closed session until the next regularly scheduled public meeting on June 10, 2021, when the Board will reconvene via Zoom.

During closed session, the Board will deliberate on cases listed on the Board's docket, personnel matters, pending litigation, and any pending requests for injunctive relief.

**Motion:** Motion by Member Krantz and seconded by Member Shiners to recess the meeting to continuous closed session.

**Ayes:** Krantz, Banks, Shiners, Paulson

**Motion Adopted - 4 to 0**

APPROVED AT THE PUBLIC MEETING OF: **June 10, 2021**