

PUBLIC MEETING MINUTES

October 13, 2022

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, Director, SMCS

Proceedings:

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

Since August 11th, 2022, 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 August 11th, 2022 Public Meeting.

Ayes: Banks, Krantz, Paulson, Shiners

Motion Adopted - 4 to 0

Chair Banks officially opened the Public Meeting of October 13th, 2022.

Adoption of Minutes

Chair Banks asked the Board if they had any questions, comments, or corrections to the minutes of August 11th, 2022, or move to approve it.

Motion: Motion by Member Krantz and seconded by Member Paulson to approve the minutes of the August 11th, 2022 Public Meeting.

Ayes: Banks, Krantz, Paulson, Shiners

Motion Adopted - 4 to 0

Public Comment

Mr. Okobi, a clinician at UCLA, asked if the Board had any plans to return to a five Member Board. Chair Banks then explained that Members are appointed through the Governor's office.

Executive Staff Reports:

Joshua Golka, Executive Director, reported that Senate Bill 931, which would subject a public employer to civil penalties and attorney's fees for violating Government Code Section 3550 -- the prohibition on public employers deterring or discouraging public employees from becoming or remaining members of an employee organization -- was signed into law.

Also signed into law were Senate Bill 957 and Assembly Bill 2524, giving PERB jurisdiction over the Santa Cruz Metropolitan Transit District and the Santa Clara Valley Transportation Authority.

Additionally, the Governor signed Senate Bill 2556, which permits unions to charge an employee, covered by the Firefighters Procedural Bill of Rights, who is a conscientious objector or who declined membership in the union, for reasonable costs of representation if the employee requests representation in a discipline, grievance, arbitration or administrative hearing from the organization.

Assembly Bill 1577, another bill PERB was tracking, did not make it through the legislative process.

Regarding rulemaking, Mr. Golka reported that the expedited case processing package has been submitted to the Office of Administrative Law. He expects the notice of proposed rulemaking to be published on October 21st, which would then begin the 45-day public comment period.

Lastly, Mr. Golka stated that at the noon hour on December 15th, PERB will be hosting a yearend virtual wrap-up where the staff will talk about the effects of the recently passed laws, will provide an update on the rulemaking packages, and will discuss the activities of PERB's divisions.

Report - Division of Administration

Susan Davey, Deputy Executive Director, reported a total of 71 filled permanent positions and six vacancies.

She congratulated Jessica Kim on her promotion to Administrative Law Judge and welcomed newly hired Staff Services Analyst Aryana Kazimi and IT intern David Huynh.

Ms. Davey reported 100 percent completion on the performance evaluation and training periods for the first quarter of the '22-23 fiscal year.

In a budget update, Ms. Davey stated that the current projection for the remaining balance in the '22-23 fiscal year is \$138,480.

For IT, Ms. Davey reported that the inventory control process has been completed. She then officially announced the transition to Launch, PERB's new IT service provider.

Report - Office of the General Counsel

Felix De La Torre, General Counsel, reported that the Office of the General Counsel had received 106 new unfair practice charges in August and September, which is an increase from the 102 charges received in June and July.

In August and September, the General Counsel's Office completed 113 case investigations; an increase from the 90 investigations completed in the prior two-month period.

In August and September, the General Counsel's Office issued 64 complaints and dismissed 28 charges. This is compared to the 63 complaints issued and 11 charges dismissed in June and July.

The number of factfinding requests has increased. In August and September, the General Counsel's Office received nine factfinding requests compared to seven received in June and July.

The number of representation petitions decreased from 18 in June and July to 8 in August and September.

Since the last Board meeting, the General Counsel's Office has received two new requests for injunctive relief, one new litigation matter filed against PERB, and two final case determinations. Mr. De La Torre reported the details and status on each case.

Report - Division of Administrative Law

Shawn Cloughesy, Chief Administrative Law Judge, reiterated Ms. Davey's congratulations to Jessica Kim on her promotion to Administrative Law Judge.

Chief Judge Cloughesy reported that cases are currently being set four months out from the informal. Although the number of cases being assigned is about

the same number as the prior year, the number of pending written decisions is much lower than the year before.

Of significance, the total days of hearing for the first quarter in the fiscal year is 42 percent higher than in the prior year. Chief Judge Cloughesy stated that it is the same numbers as PERB experienced two years earlier when the days of hearing were at its highest.

Exceptions ratio has returned to 44 percent.

Report - State Mediation & Conciliation Service (SMCS)

Gerald Fecher, SMCS Director, reported that caseloads continue to increase; SMCS having 123 open cases at the end of September.

Requests for in-person mediation and representation have increased, likely attributable to a reduction in the COVID-19 cases statewide.

In August, SMCS had five representation and election cases. In September, SMCS had ten representation and election cases. Mr. Fecher reported the details and status on each case.

Mr. Fecher further reported that in August, SMCS received a total of \$3,401.50 for chargeable services, the entirety resulting from the Arbitration Panel Program.

Similarly, In September, SMCS received a total of \$2,500 for chargeable services, the entirety resulting from the Arbitration Panel Program.

Currently, SMCS is in the process of filling a vacant conciliator/mediator position.

Additionally, SMCS is working with a vendor on the development of a new PASS arbitrator list and panel computer program designed to be more efficient and better able to handle constituent needs with regard to the Panel of Arbitrators.

SMCS continues their outreach efforts to the labor and employment relations community through organizations, conferences, and classrooms.

Motion: Motion by Member Paulson and seconded by Member Shiners that the Executive Director, Division of Administration, Office of the General Counsel, Division of Administrative Law, and State Mediation and Conciliation Services reports be received.

Ayes: Banks, Krantz, Paulson, Shiners

Motion Adopted - 4 to 0

Old Business

Mr. Golka stated that there are two outstanding priorities from the Case Processing Efficiency Initiative: One, the expedited case processing regulation, which is being submitted to the Office of Administrative Law, and two, the ongoing work to make PERB's process easier to navigate. To the latter, PERB's constituents can give their suggestions and comments by filling out a survey accessible on PERB's website.

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 December 8th, 2022.

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 Paulson to recess the meeting to continuous closed session.

Ayes: Krantz, Banks, Shiners, Paulson

Motion Adopted - 4 to 0

APPROVED AT THE PUBLIC MEETING OF: **December 8, 2022**