

PUBLIC MEETING MINUTES

February 9, 2023

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

SHAWN CLOUGHESY, Chief Administrative Law Judge

GERALD FECHER, Director, SMCS

Other Staff Present

WENDI ROSS, Deputy General Counsel

Proceedings:

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

Since December 8, 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 December 8th, 2022 Public Meeting.

Ayes: Banks, Krantz, Paulson, Shiners

Motion Adopted - 4 to 0

Chair Banks officially opened the Public Meeting of February 9th, 2023.

Adoption of Minutes

Chair Banks asked the Board if they had any questions, comments, or corrections to the minutes of December 8th, 2022, or move to approve it.

Motion: Motion by Member Krantz and seconded by Member Shiners to approve the minutes of the December 8th, 2022 Public Meeting.

Ayes: Banks, Krantz, Paulson, Shiners

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, congratulated Chair Banks for achieving ten years serving as a Board Member, making him the longest serving Board Member in PERB history.

For legislative updates, Mr. Golka stated that two bills, recently introduced, may be of interest to PERB; Assembly Bill 1, which reintroduces the Legislative Employer-Employee Relations Act, and Senate Bill 334, which would authorize the Board to conduct employer-employee relations studies concerning the impact on public employees of net zero carbon emissions initiatives.

Mr. Golka also reported that the Judicial Council Employer-Employee Relations Rulemaking Package is now in a 15-day public comment period, which ends on February 16th; the Expedited Case Processing Regulation is currently awaiting approval from the Department of Finance; and the Transit Regulations Package has been submitted to the Office of Administrative Law to begin the formal rulemaking process.

Staff is currently preparing documents regarding the Request for Accommodations Package and the Proposed Regulations for Special Remedies -- both under the Public Employee Communications Chapter -- and the Prohibition on Public Employers Deterring or Discouraging Union Membership.

Mr. Golka concluded his report by thanking staff and constituents who participated in the year-end wrap up that highlighted recently passed laws, staff accomplishments, and provided insight into future things coming down the road.

Report - Division of Administration

Susan Davey, Deputy Executive Director, reported a total of 71 filled permanent positions. Vacancies include an attorney-III for the Office of the General Counsel, and an Administrative Law Judge for the Oakland Office, ALJ Karl Seligman having transferred to another State agency.

Ms. Davey reminded staff that the leave reduction plans are due by February 28th, and the Form 700 is due by March 15th.

Regarding Fiscal Services, Ms. Davey stated that, after some adjustments, they are now projecting a balance of \$382,849, which does include some salary savings. She stated that the plans are to deposit the monies into an Architecture Revolving Fund to help with the Oakland construction project.

Ms. Davey reported that staff is completing the move of the Oakland Regional Office into the Harris Building in Oakland. PERB's website will be updated to reflect the new address and suite number.

Lastly, Ms. Davey reported that Security Awareness Training has been completed, increased security has been added to the mobile devices, and two additional virtual hearing rooms have been set up in PERB's headquarters.

Report - Office of the General Counsel

Wendi Ross, Deputy General Counsel, reported that the Office of the General Counsel had received 90 new unfair practice charges in December of 2022 and January 2023, which is a decrease from the prior two-month period where 121 charges were filed.

In December and January, the General Counsel's Office completed 99 case investigations; a decrease from the prior two-month period in which 101 case investigations were completed.

In the past two months, the General Counsel's Office issued 41 complaints and dismissed 23 charges, compared to 64 complaints issued and 14 charges dismissed in October and November.

The number of factfinding requests decreased. In October and November, the General Counsel's Office had six factfinding requests compared to one request received in December and January.

The number of representation petitions increased from 12 petitions filed in October and November to 13 filed in December and January.

Since the last Board meeting, the General Counsel's Office has received two requests for injunctive relief, two new litigation matters filed against PERB, and zero final case determinations. Ms. Ross reported the details and status on each case.

Report - Division of Administrative Law

Shawn Cloughesy, Chief Administrative Law Judge, reported that cases continue to be set three to four months out from the informal. The number of assigned cases is higher than the prior year, and the number of active cases is significantly higher than the previous year.

Total days of hearing has increased by 33 percent from the prior year, and issuance of proposed decisions is also higher than the prior year.

Lastly, Judge Cloughesy reported the exceptions ratio is 36 percent.

Report - State Mediation & Conciliation Service (SMCS)

Gerald Fecher, SMCS Director, Mr. Fecher stated that the caseload continues its trend of increasing; currently, SMCS has 114 open and active cases.

During December and January, SMCS received a total of nine representation and election matters. Mr. Fecher provided the details and status on each.

For Program Administration, Mr. Fecher reported that, in December, SMCS received a total of \$1,050. for chargeable services, the entirety resulting from the Arbitration Panel Program. In January, SMCS received a total of \$1,350. for chargeable services, the entirety from the Arbitration Panel Program.

Mr. Fecher further stated that SMCS has been working on deploying portable devices for mediators and staff to use in the field. The devices will work with the newly developed, proprietary MATS and PASS software system and allow mediators to more quickly access information and provide updates.

Lastly, SMCS continues outreach efforts in the labor relations community, which has resulted in increased requests for SMCS's services.

Motion: Motion by Member Paulson and seconded by Member Shiners to accept the Executive Director, Division of Administration, Office of the General Counsel, Division of Administrative Law, and State Mediation and Conciliation Service reports.

Ayes: Banks, Krantz, Paulson, Shiners

Motion Adopted - 4 to 0

Old Business

Mr. Golka provided an update regarding the work on making PERB's process easier to navigate for those who are new to PERB or appearing in pro per in front of PERB. Mr. Golka then detailed the anticipated changes to update and simplify PERB's website.

Ms. Golka thanked that staff and the committee for their continued hard work on the project.

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 April 13th, 2023.

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: **April 13, 2023**