PUBLIC MEETING MINUTES

APRIL 10, 2025
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
MARK KRAUSSE, Member

Quorum Present? Yes

Executive Staff Present

SUSAN DAVEY, Executive Director
FELIX DE LA TORRE, General Counsel
ERIC CU, Chief Administrative Law Judge
GERALD FECHER, Director, SMCS

Proceedings:

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

Since February 13th, 2025, 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 Krantz to close the February 13th, 2025 Public Meeting.

Assents: Banks, Krantz, Paulson, Krausse

Motion Adopted - 4 to 0

Chair Banks officially opened the Public Meeting of April 10th, 2025. Chair Banks thanked Henry Stevens, Rachel Morgan, and Jay Hernandez for their work behind the scenes.

Adoption of Minutes:

Chair Banks asked the Board Members if they wished to discuss any potential corrections or move to approve the minutes of the February 13th, 2025 meeting. Member Krausse and Chair Banks each had an edit for the minutes.

On behalf of the Board, Chair Banks recognized Joseph Seisa, PERB's Appeals Assistant, who was promoted to SSM1 and will be leading the Board Administrative Team.

Motion: Motion by Member Krausse and seconded by Member Krantz to approve the minutes of the February 13th, 2025, Public Meeting.

Assents: Banks, Krantz, Paulson, Krausse

Motion Adopted - 4 to 0

Public Comment

There were no public comments.

Executive Staff Reports:

Report – Executive Director

Susan Davey, Executive Director, recognized staff milestones with PERB. Nicafel Nguyen, Anna Robinson, and Lily Tri have been with PERB for one year. Deborah Garabedian, Rachel Morgan, and Susan Davey have been with PERB for five years. Felix De La Torre has been with PERB for 10 years. Susan Davey also celebrated 20 years of state service.

Ms. Davey spoke regarding the on-going case processing efficiency initiative. She stated that while it was originally planned to give the final report at the April meeting, it was pushed back to the June meeting.

Ms. Davey thanked Felix De La Torre for filling in for legislative work during this time and looks forward to working closely with him in the future.

Report - Division of Administration

Susan Davey, Executive Director, reported a total of 77 filled positions plus two part-time retired annuitants and five vacancies.

Ms. Davey announced PERB is advertising for the Deputy Executive Director and Assistant Chief Counsel position. Ms. Davey welcomed Cheryl Shelly back as a retired annuitant who is assisting with vacancy work.

Ms. Davey stated Human Resources has completed the State Personnel Board Audit and is waiting on the final draft of the results and exit interview. Ms. Davey thanked PERB staff as the annual Form 700 process was completed on April 1 with 100% on time filing.

Regarding facilities, Ms. Davey gave an update for the PERB San Francisco Regional Office. The new suite is located in the Harris Building in Oakland, CA and the scheduled move in date is slated for April 24 and 25. During the move, all staff will be working from home and full services will be available online and at the other two regional offices. Ms. Davey thanked the Department of Industrial Relations (DIR) for their hospitality.

Ms. Davey stated for the budget, there is a projected balance of $132,965.

Lastly, Ms. Davey stated IT has completed a phishing awareness exercise, with a 100% pass rate. IT is also working on an Information Security Audit.

Chair Banks mentioned he was very grateful for the amount of work that went into this new office and he is happy that PERB is going to finally have a permanent home for its staff in Oakland. Chair Banks thanked Director Katie Hagen of DIR for allowing PERB to use some of its space.

Report - Office of the General Counsel

Felix De La Torre, General Counsel, reported that from February to March, the Office of the General Counsel received 113 new unfair practice charges. While from December to January, the Office of the General Counsel received 102 new unfair practice charges.

From February to March, the General Counsel's Office completed 77 case investigations compared to 98 case investigations completed in the December to January period.

From February to March, the General Counsel's Office issued 38 complaints and dismissed 20 charges compared to 55 complaints issued and 20 dismissed in the December to January period.

The average time from filing to disposition of UPCs is 151 days in the February to March period compared to 174 days from December to January. The current active caseload has ticked up to 333 from 294.

Regarding factfinding requests, the General Counsel's Office had received three requests in the February to March period compared to five in the December to January period.

Representation petitions have remained the same at 15 during both the February to March period and the December to January period.

Mr. De La Torre reported on seven requests for injunctive relief, three new litigation matters, and three final case determinations. He provided the details and status of each case.

Report - Division of Administrative Law

Eric Cu, Chief Administrative Law Judge, gave a staffing update and reported that Jana Ellingson-Kegel and Bernhard Rohrbacher were selected as the two Senior Administrative Law Judges. Mr. Cu also reported Dexter Rappleye was made a permanent Administrative Law Judge.

For Case Processing, Mr. Cu stated there were 18 new cases assigned during February to March compared to 21 cases assigned during December and January. The number of cases pending issuance of a written proposed decision was reported at 41 compared to 33 during December and January. From February to March there were 32 total active hearings compared to 52 during December and January. There were two expedited cases during both periods.

For Formal Hearings, Mr. Cu stated that from the February to March period there were 57 days of hearings, and 16 formal hearings completed, while in the December and January period there were 75 days of hearings, and 11 formal hearings completed.

Regarding Case Dispositions, Mr. Cu stated that from the February to March period, 24 cases were closed, eight of those cases were Proposed Decisions. During the December to January period 24 cases were closed, five of those cases were Proposed Decisions.

Mr. Cu reported the average number of days to issue a Proposed Decision is 100 days.

Lastly, Mr. Cu. provided data regarding the 2024-2025 Fiscal Year Exceptions Rate, which is currently 29%. In addition, Mr. Cu provided data in a 6-month interval going back three years to show a longer-term trend. In the past 6 months the exceptions rate was 30%, the past 12 months the exceptions rate was 40%, the past 18 months the exceptions rate was 37%, the past 24 months the exceptions rate was 38%, and lastly in the past 36 months the exceptions rate was 39%.

Chair Banks stated he was excited that Mr. Cu filled the senior positions in the Division of Administrative Law and welcomed Jana and Bernhard.

Report - State Mediation & Conciliation Service (SMCS)

Gerald Fecher, Director of SMCS, provided a Case Processing update to the Board. Mr. Fecher stated that from February to March, SMCS had 128 active cases compared to the 141 active cases from December to January. SMCS opened 71 cases from February to March and 62 cases during December to January. From February to March SMCS closed 93 cases, while during December to January it closed 52 cases.

For Representation and Election, there are 4 current matters.

For Program Administration, Mr. Fecher reported that, in February to March, SMCS received a total of $3,877.50 in chargeable services from the Arbitration Panel Program and $977.50 from the Conflict Resolution in the Workplace program, totaling to $4,855. In December to January, SMCS received $2,625 in chargeable services from the Arbitration Panel Program and $2,731.25 from the Conflict Resolution in the Workplace program, totaling to $5,356.25.

Regarding Personnel Administration, Mr. Fecher reported SMCS has begun to take on significantly more work due to the elimination of services from the Federal Mediation & Conciliation Service (FMCS). Mr. Fecher stated that on March 14, FMCS ceased providing grievance mediation services for the private sector, so SMCS has begun taking private sector grievance mediation cases and due to the staff reductions in FMCS, SMCS is investigating the possibility of taking on other mediation and arbitration services for private sector constituents. Mr. Fecher also stated SMCS has been involved in mediating a number of recent cases where a strike was threatened or was occurring. He thanked SMCS staff for their efforts and hard work which included late nights and weekends.

Member Paulson thanked Mr. Fecher, the SMCS team, and Mr. De La Torre for their hard work on the Injunctive Reliefs and strikes. Member Paulson stated that it is great when PERB can put its team in the field to work towards a resolution for harmonious labor and management relations. Member Paulson asked Mr. Fecher about the history of FMCS and SMCS and why SMCS is taking on the work. Mr. Fecher stated both SMCS and FMCS were founded in 1947 as part of the Taft-Hartley Act. SMCS initially took on private sector mediation because it fell under the Department of Industrial Relations and there were no public sector statutes for collective bargaining at the time in the State of California. Mr. Fecher stated FMCS concentrated on interstate commerce while SMCS focused on intrastate commerce. Mr. Fecher said that SMCS has a long history of private sector mediation and there is not a statutory bar prohibiting SMCS from providing their work to both labor and management in the private sector.

Member Krantz stated he is glad SMCS staff can take on more work from FMCS.

Chair Banks asked for clarification from Mr. Fecher regarding his statement of there being no statutory bar for SMCS to take on this work, compared to the NLRB where PERB is preempted from taking on their work. Mr. Fecher said that is correct. Chair Banks asked Mr. Fecher how many mediations SMCS has taken on. Mr. Fecher answered five, but he has received inquiries from unions indicating more soon to come. Mr. Fecher stated SMCS will keep a close track of these regarding resource allocation and will report back to the Board.

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

Assents: Banks, Krantz, Paulson, Krausse

Motion Adopted - 4 to 0

<u>Old Business</u>

General Counsel, Felix De La Torre stated the subcommittee accepted comments and edits on the regulations and provided a new version for the Board to approve the submission of a rulemaking package to the Office of Administrative Law to promulgate regulations applicable to the Legislature Employer-Employee Relations Act (LEERA).

Mr. De La Torre highlighted new additions to the rulemaking package such as a universal definition of the term “exclusive representative”. This is an amendment that helps consolidate and remove repetitive definitions throughout the regulations. Mr. De La Torre stated there is an amendment adding a new definition to the term “intervenor”, as well as the definition of “workday” based on a comment from the Legislative Counsel’s Office. Mr. De La Torre asked the Board to accept the changes proposed by the subcommittee and the Legislative Counsel.

Madeline Miller, Senior Counsel from Sloan Sakai, spoke before the Board representing the California State Senate and Assembly. Ms. Miller thanked the subcommittee for its work on the revisions to the regulations and that the Assembly and Senate are ready for PERB to move forward with the process of submitting the rulemaking package to the Office of Administrative Law.

Member Krantz thanked Ms. Miller and Tim Yeung for their helpful comments.

Chair Banks thanked Ms. Miller and everyone who participated in the process.

Motion: Motion by Member Krausse and seconded by Member Paulson to approve submitting the proposed text of the regulations with the aforementioned changes to the Office of Administrative Law in order to initiate the formal rulemaking process regarding the Legislature Employer-Employee Relations Act including approving the proposed text of the regulations; authorizing the committee to continue rulemaking based on the approved text of the proposed regulations; and authorizing the committee to review, evaluate, and respond to public comments after the future comment periods, and to adopt changes, including any suggested changes from the Office of Administrative Law, without further Board approval, unless the committee wants to make substantive changes from the previously approved text. In that case, the committee must bring the proposed changes to the full Board for approval.

Assents: Banks, Krantz, Paulson, Krausse

Motion Adopted - 4 to 0

Member Krantz spoke before the Board regarding the Injunctive Relief Committee. Member Krantz stated the committee only had preliminary discussions so far but as a result of those discussions there is a request to add an item on the October Board meeting agenda which will be a formal invitation to members of the public, constituents, and stakeholders to give any comments they may have on PERB’s injunctive relief regulations or practices.

New Business

There was no new business.

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 12, 2025, in the San Francisco Regional Office.

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

Motion: Motion by Member Paulson and seconded by Member Krausse to recess the meeting to continuous closed session.

Assents: Banks, Krantz, Paulson, Krausse

Motion Adopted - 4 to 0

APPROVED AT THE PUBLIC MEETING OF:

June 12, 2025