

PUBLIC MEETING MINUTES

April 13, 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

ADRIN NAZARIAN, 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 February 9th, 2023, 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 Krantz and seconded by Member Nazarian to close the February 9th, 2023, Public Meeting.

Ayes: Banks, Krantz, Nazarian

Motion Adopted - 3 to 0

Chair Banks officially opened the Public Meeting of April 13th, 2023.

Chair Banks announced the Governor's appointment of Adrin Nazarian to the Board. Member Nazarian assumed office in early March.

Additionally, Chair Banks congratulated Erich Shiners on his new appointment as the Assistant Director and Chief Counsel to the Employment Training Panel.

Lastly, Chair Banks stated that his legal advisor, Sheena Farro, has accepted the position of attorney-III in the Office of the General Counsel. He thanked Ms. Farro for her hard work and dedication.

Adoption of Minutes

Chair Banks asked the Board Members if they had any questions, comments, or corrections to the minutes of February 9th, 2023, or move to approve it.

Motion: Motion by Member Krantz and seconded by Member Nazarian to approve the minutes of the February 9th, 2022, Public Meeting.

Ayes: Banks, Krantz, Nazarian

Motion Adopted - 3 to 0

Public Comment

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

Executive Staff Reports:

Joshua Golka, Executive Director, congratulated Member Krantz for achieving five years serving as a Board Member. Further, he congratulated PERB's Procurement Team for achieving a contract participation rate of 60.21% Small Business and 15.45% Disabled Veteran Business Enterprise. Mr. Golka gave special thanks to Chouang Chang, Jay Hernandez, and their supervisor, Oanh Tu.

For legislative updates, Mr. Golka highlighted a few of the Bills of interest to PERB: Assembly Bill 1, which will have its first committee hearing at the end of the month; Assembly Bill 96, which deals with notice and bargaining requirements for Local Transit Agencies; Assembly Bill 504, which amends the Dills Act and the Meyers-Milias-Brown Act (MMBA); Assembly Bill 1484, which amends the MMBA to require the inclusion of temporary employees into the same bargaining unit as permanent employees; Assembly Bill 1530, which amends the Public Employees Communications Chapter (PECC); Assembly Bill 1672, which establishes the In-Home Supportive Services Employer-Employee Relations Act, and Senate Bill 344, which would authorize the Board to conduct employer-employee relations studies regarding the impact on public employees of net zero carbon emissions initiatives.

Report - Division of Administration

Susan Davey, Deputy Executive Director, reported a total of 71 filled positions and five vacancies. Leave reduction plans have been completed for 2023, and per the FPPC guidelines, HR staff are randomly auditing the completed Form 700 for the 2022 year.

For Fiscal Services, Ms. Davey stated that the 2022-2023 fiscal yearend processing is underway. She reminded all staff to stay current in their travel claim submissions. Ms. Davey further reported that, as of the close of February 2023, the eighth month in the fiscal year, PERB shows a balance of roughly 350 thousand dollars.

For Information Technology, Ms. Davey stated that California Military Department's confidential report assessing PERB's cybersecurity program is expected within a month. Indicators suggest PERB has made significant progress over the past assessment in 2021.

Report - Office of the General Counsel

Felix De La Torre, General Counsel, reported that the Office of the General Counsel had received 111 new unfair practice charges in February and March 2023, which is an increase from the prior two-month period where 90 charges were received.

In February and March, the General Counsel's Office completed 116 case investigations; an increase from the prior two-month period in which 99 case investigations were completed.

In the past two months, the General Counsel's Office issued 69 complaints and dismissed 29 charges, compared to 41 complaints issued and 23 charges dismissed in December and January.

The number of factfinding requests increased. In December and January, the General Counsel's Office had received two requests for factfinding; whereas, in February and March, the General Counsel's Office had received three.

The number of representation petitions increased from 13 petitions filed in December and January to 25 petitions filed in February and March.

Since the last Board meeting, the General Counsel's Office has received five requests for injunctive relief, two new litigation matters filed against PERB, and zero 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, reported that cases continue to be set three to four months out from the informal. The number of assigned cases is slightly higher than the prior year. Total number of active cases have been reduced by about ten or so.

Total days of hearing is approximately 27% higher than the prior year. Formal hearings completed is approximately 42% higher than the prior years. Total number of cases closed is about the same as the year before.

Lastly, Judge Cloughesy reported that the exceptions ratio is 39 percent.

Report - State Mediation & Conciliation Service (SMCS)

Gerald Fecher, SMCS Director, stated that there are currently 115 active cases. He thanked the staff for working long hours, nights and weekends when strikes were threatened or occurred.

During February and March, SMCS had ten representation and election matters. Mr. Fecher provided the details and status on each.

For Program Administration, Mr. Fecher reported that, in February, SMCS received a total of \$1,775 for chargeable services, the entirety resulting from the Arbitration Panel Program.

In March, SMCS received a total of \$2,891.25 for chargeable services; \$2000 resulting from the Arbitration Panel Program and \$891.25 from the Conflict Resolution for the Workplace Program.

Mr. Fecher stated that SMCS continues to work on deploying portable devices for mediators and staff to use in the field and continues outreach efforts to the labor and employment relations community.

Chair Banks then acknowledged Rachel Morgan, Joe Seisa, Henry Stevens, Jay Hernandez, and Ed Lee for their diligence in ensuring the video and audio recording of the meeting.

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

Ayes: Banks, Krantz, Nazarian

Motion Adopted - 3 to 0

New Business

In recognition of Erich Shiners, Chair Banks summarized Mr. Shiners' background and his multiple contributions working with PERB. Member Krantz and Member Nazarian echoed the same praises.

The following members of the public shared their congratulations and accolades to Mr. Shiners: Priscilla Winslow, retired Board Member; Janet Cory Sommer, CEO of CALPELRA; Kerianne Steele, Partner with the Weinberg, Roger, and Rosenfeld Law Firm; and Genevieve Ng, Attorney with Sloan, Sakai, Yeung and Wong.

Mr. Shiners then expressed his appreciation and personal sentiments to the Board Members, the PERB staff, and the public speakers.

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 8th, 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 Nazarian to recess the meeting to continuous closed session.

Ayes: Banks, Krantz, Nazarian

Motion Adopted - 3 to 0

APPROVED AT THE PUBLIC MEETING OF:

June 8, 2023