

PUBLIC MEETING MINUTES

June 8, 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 PAULSON, 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 April 13th, 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 Paulson and seconded by Member Krantz to close the April 13th, 2023 Public Meeting.

Ayes: Banks, Krantz, Paulson

Motion Adopted - 3 to 0

Chair Banks officially opened the Public Meeting of June 8th, 2023.

Adoption of Minutes:

Chair Banks asked the Board Members if they had any questions, comments, or corrections to the minutes of April 13th, 2023 or move to approve it.

Motion: Motion by Member Krantz and seconded by Member Paulson to approve the minutes of the April 13th, 2023 Public Meeting.

Ayes: Banks, Krantz, Paulson

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, announced that Joe Seisa, from the Appeals Office, and Kimberly Procida, from the Office of the General Counsel, have both celebrated their five-year anniversaries with PERB. Additionally, Administrative Law Judge Scott Miller has celebrated his ten-year anniversary with PERB.

In legislative matters, Mr. Golka stated that PERB has been tracking Senate Bill 334, which is held in the Appropriations Committee. It would authorize the Board to conduct Employer-Employee Relations studies concerning the impact on public employees of net zero carbon emissions. Other bills of interest to PERB will be heard in the Policy Committees in the coming weeks.

PERB is also tracking two items that impact PERB's budget; one dealing with additional IT funding and one providing funding for a new supervisory ALJ.

Regarding rulemaking updates, Mr. Golka reported that Judicial Council Employer-Employees Relations Act Rulemaking and Regulations have been approved by the Office of Administrative Law and will take effect July 1, 2023.

On May 22nd, 2023, the 15-day public comment period on the Expedited Case Processing package closed; that final package will be submitted to the Office of Administrative Law for their review.

Lastly, PERB is preparing background documents and information related to a number of other rulemaking efforts.

Report - Division of Administration

Susan Davey, Deputy Executive Director, reported a total of 71 filled positions and five vacancies; however, PERB has one attorney and one Administrative Law Judge that have pending start dates.

Ms. Davey also stated that the only change to PERB staffing is the out-of-class assignment approved for Seth Williams, who is now the Board advisor for the newly appointed Member Nazarian.

For Fiscal Services updates, Ms. Davey stated that 150 thousand dollars has been approved for the Architectural Revolving Fund, which is funding the Oakland move.

Lastly, Ms. Davey reported that the IT Disaster Recovery Plan and Incident Response Strategy has been completed.

Report - Office of the General Counsel

Felix De La Torre, General Counsel, reported that the Office of the General Counsel had received 102 unfair practice charges in April and May, which is a decrease from 111 charges received in February and March.

In April and May, the General Counsel's Office completed 99 case investigations, which is a decrease from the 116 investigations completed in the prior two-month period.

In the past two months, the General Counsel's Office issued 48 complaints and dismissed 28 charges. This is compared to 69 complaints issued and 29 charges dismissed in February and March.

The number of factfinding requests increased. In February and March, the General Counsel had received three factfinding requests; whereas, in April and May, the General Counsel's Office had received four.

The number of representation petitions decreased from 25 petitions filed in February and March to 15 petitions filed in April and May.

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

Report - Division of Administrative Law

Shawn Cloughesy, Chief Administrative Law Judge, announced the rehire of Administrative Law Judge Racho, who would be returning to PERB's Glendale Office on June 19th.

Judge Cloughesy stated that cases continue to be set three to four months out from the informal. The number of case assignments is about the same as the previous year. The total number of active cases in the queue have been reduced and he expects it to reduce even further.

Total days of hearing is approximately 18% higher than the prior year. Formal hearings completed is approximately 38% higher than the prior year, as well as an increase in the number of proposed decisions issued.

Lastly, Judge Cloughesy reported that the exceptions ratio is 35 percent.

Report - State Mediation & Conciliation Service (SMCS)

Gerald Fecher, SMCS Director, stated that there are currently 109 active cases. During April and May, SMCS received six representation and election matters. Mr. Fecher provided the details and status on each.

For Program Administration, Mr. Fecher reported that, in April, SMCS received a total of \$1,770 for chargeable services; \$1,425 resulting from the Arbitration Panel Program and \$345 resulting from the Conflict Resolution for the Workplace Program.

In May, SMCS received a total of \$1,790 for chargeable services; \$1,100 resulting from the Arbitration Panel Program and \$690 from the Conflict Resolution for the Workplace Program.

Lastly, Mr. Fecher stated that interest-based bargaining continues to be one of SMCS's most popular programs, enabling the mediator to get involved early on in the process as well as to facilitate the earlier stages of negotiations in the hopes of avoiding the cases going to impasse.

Motion: Motion by Member Paulson and seconded by Member Krantz to accept 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, Paulson

Motion Adopted - 3 to 0

New Business

After a review of the last three years of factfinding contracts, Ms. Davey recommended to keep the current factfinder chair daily rate of \$1300, but with an increase in the maximum number of days from five to seven. No change in travel costs.

Member Krantz expressed his appreciation for all those who worked on developing the proposal and his support for implementing the changes. Member Paulson and Chair Banks concurred.

Motion: Motion by Chair Banks and seconded by Member Krantz to accept the staff recommendations.

Ayes: Banks, Krantz, Paulson

Motion Adopted - 3 to 0

Mr. De La Torre reported that attached to the public notice and Board agenda was the first draft of the proposed rules for implementation of SB 597, which brought the Santa Cruz Metropolitan Transit District under the Board's authority for the investigation and adjudication of unfair practice charges, as well as AB 2524, which also gave the Board jurisdiction over Santa Clara Valley Transportation Authority, VTA, for unfair practice charge processing.

Mr. De La Torre requested that the Board delegate two Board Members to review and amend the draft for presentation at a future Board meeting.

Motion: Motion by Member Paulson and seconded by Member Krantz to continue this item and to refer it to the currently existing Transportation Regulation Committee consisting of Chair Banks and Member Krantz.

Ayes: Banks, Krantz, Paulson

Motion Adopted - 3 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 in August 2023, the date and location to be announced.

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: Banks, Krantz, Paulson

Motion Adopted - 3 to 0

APPROVED AT THE PUBLIC MEETING OF: **August 10, 2023**