

PUBLIC NOTICE
OF
PUBLIC EMPLOYMENT RELATIONS BOARD
Regular Business Meeting Agenda
October 27, 2008
10:00 a.m.

LOCATION: Public Employment Relations Board *
1031 18th Street
First Floor, Room 103
Sacramento, CA 95811

1. Roll Call
2. Minutes of October 16, 2008 meeting
3. Public Participation

Members of the public may address the Board during this portion of the agenda. The Board will hear brief presentations on issues not scheduled on this agenda and may refer matters to the staff for a report to be given at the next regular public meeting.

4. Unfinished/New Business
 - a. PERB's Factfinding Policy in Light of Budget Reductions
5. Public Comment

Members of the public may address the Board during this portion of the agenda. The Board will hear brief presentations on the issue(s) scheduled on this agenda and may vote to take action on any such issue(s).

6. Recess to closed session. The Board will meet in a continuous closed session each business day beginning immediately upon recess of the open portion of this meeting through December 11, 2008.

The purpose of these closed sessions will be to deliberate on cases listed on the Board's Docket (Gov. Code sec. 11126(c)(3)), personnel (Gov. Code sec. 11126(a)), pending litigation (Gov. Code sec. 11126(e)(1)), and any pending requests for injunctive relief (Gov. Code sec. 11126(e)(2)(c)).

* This facility is accessible to persons with disabilities. For further information regarding the Board's public meeting, contact Regina Keith at (916) 323-8000. Additional information is also available on the internet at www.perb.ca.gov.

MEMORANDUM

TO: BOARD MEMBERS

FROM: OFFICE OF THE GENERAL COUNSEL
OFFICE OF CHIEF ADMINISTRATIVE OFFICER

DATE: OCTOBER 15, 2008

SUBJECT: FACTFINDING

OVERVIEW

This memorandum is prompted by the outcome of this year's State budget process and is intended to summarize the status of factfinding as it pertains to PERB at this time.

The outcome this year involves the elimination of PERB's funding for factfinding—\$85,000—but does not also involve the corresponding statutory change identified as necessary to accompany the elimination of such funds.¹ In other words, PERB's funding specified for factfinding was eliminated but its statutory obligation to pay for factfinding was not.

Historically, the amount of money spent by PERB for factfinding services (i.e., the daily rate for panel chairpersons) has been set by the Board itself; such action requires a public Board meeting.

¹ PERB is required under EERA and HEERA to select and bear the costs of the services of the panel chairperson, including per diem fees, if any, and actual and necessary travel and subsistence. (Gov. Code, §§ 3548.1 et seq. and 3591 et seq.) EERA expressly provides an exception to the requirement that PERB bear the costs of the factfinding panel chairperson where the parties exercise their right, under EERA section 3548.1(b), to "mutually agree upon a person to serve as chairperson in lieu of the person selected by the [B]oard." HEERA is silent on this subject.

PERB’S FACTFINDING COSTS & DATA

The costs of factfinding are largely beyond PERB’s control. In addition, “costs” include not only the services of the factfinding chairperson (i.e., the daily rate), but also any per diem and necessary travel and subsistence of the chairperson.

Fiscal Year	Daily Rate²	Total Factfinding Costs
2000-01	\$600	\$78,058
2001-02	\$600	\$78,724
2002-03	\$600/100	\$18,772
2003-04	\$100	\$4,607
2004-05	\$100/800	\$60,000
2005-06	\$800	\$82,367
2006-07	\$800	\$55,133
2007-08	\$800	\$97,494

Fiscal Year	Contracts Issued	Total # of Factfinding Days	Average # of Days Per Factfinding
2005-06	26	85	3
2006-07	30	47	2.35
2007-08	24	83 ³	4.3

RECENT & CURRENT BUDGET ACTIONS REGARDING FACTFINDING

For 2007-08, PERB received approval through the State budget process to augment its budget in the amount of \$85,000 specifically for factfinding expenditures. The total costs incurred by PERB through June 30, 2008, however, exceeded the appropriated amount—totaling \$97,494—even though PERB staff took action as of June 11, 2008 to cap each factfinding contract at \$2,000.

² The variations in the daily rate denote changes set by the Board itself. For example, the Board reduced the daily rate for factfinding chairpersons from \$600/day to \$100/day due to mid-year budget cuts in 2002-03.

³ Does not include several cases still open and awaiting completion of work.

For 2008-09, PERB's budget was reduced in part by eliminating the \$85,000 previously specified for factfinding expenditures. Significantly, even though the need was identified during the 2008-09 budget process to eliminate from EERA and HEERA the requirement that PERB bear the costs of panel chairpersons (since PERB's funding for these services was to be eliminated), that piece of the elimination was not approved by the Legislature.