

## **PUBLIC MEETING MINUTES**

April 14, 2011

PUBLIC EMPLOYMENT RELATIONS BOARD  
1031 18th Street  
Sacramento, CA 95811

Chair Dowdin Calvillo called the informational meeting to order at 10:05 a.m.

### **Members Present – No Quorum**

Alice Dowdin Calvillo, Chair  
Sally M. McKeag, Member

### **Staff Present**

Wendi L. Ross, Interim General Counsel  
Les Chisholm, Division Chief, Office of General Counsel  
Christine Bologna, Acting Chief Administrative Law Judge  
Eileen Potter, Chief Administrative Officer

### **Call to Order**

After establishing that there is no quorum present, Chair Dowdin Calvillo explained that the Board moved forward with its public meeting today in anticipation of, or in preparation for, Governor Brown appointments to the Public Employment Relations Board (PERB or Board). Chair Dowdin Calvillo called the PERB to order for a return to the open session of the February 10, 2011 Board meeting. She stated that no official business will be conducted at today's meeting but instead the Board will serve in an informational capacity for the purposes of the meeting. She reported that the Board met in continuous closed session to deliberate on pending cases on the Board's docket, pending requests for injunctive relief, and pending litigation, as appropriate.

Chair Dowdin Calvillo read into the record the decisions that issued since the open session in February. Those were PERB Decision Nos. 2162-S, 2163-M, 2164-M, 2101a-H, 2165-M, 2166-M, 2167-M, 2168-M, 2169-M, 2170-M, 2171, 2172-M, 2173-M, 2106a-S, 2174-M, 2175-H, 2176-M, 2177-H; and Administrative Appeal No. Ad-388a. In request for injunctive relief (I.R.) No. 597 (*Transport Workers Union, Local 200 v. City & County of San Francisco*), the request was denied and I.R. No. 598 (*SEIU Local 521 v. City of Tulare*), the request was withdrawn. A document containing a listing of the aforementioned decisions was made available at the meeting.

## Comments From Public Participants

None.

## Staff Reports

The following staff reports were received with the caveat that any matter requiring action by the Board and not included as an item in today's agenda would be scheduled for consideration at a subsequent meeting.

### a. Administrative Report

Chief Administrative Officer Eileen Potter reported on the status of the State Budget. The Governor's Budget which was released on January 10, 2011 budgeted PERB at 6.2 million dollars and 40 positions (which is the same as it has been for the past few years). PERB's budget remains as submitted. Ms. Potter also reported that Senate Bill 69, the Budget Bill, passed out of both houses and was enrolled but has not yet been sent to the Governor.

Ms. Potter reported that the leases for PERB's Oakland and Sacramento Regional offices will expire in July and September 2012, respectively. She has begun the process with Real Estate and Design Services to seek lease extensions for both offices and also a rent reduction for the Sacramento Office.

### b. Legal Reports

Wendi Ross, Interim General Counsel, reported that the monthly activity and litigation reports had been distributed to the Board for its review. From those reports Ms. Ross recapped, since the Board's last public meeting in February, the following information. With respect to unfair practice charges during the months of February and March, Ms. Ross reported that 159 new cases were filed with the General Counsel's office; 221 case investigations were completed; and a total of 62 informal settlement conferences were conducted by staff. As Chair Dowdin Calvillo mentioned earlier, during the same two-month period, two requests for injunctive relief were filed; one was denied and one was withdrawn.

In terms of litigation, since the last Board's meeting in February, six new litigation matters have been filed against PERB. As to case determinations during that same period of time, PERB received the following four court determinations:

1. *Amalgamated Transit Union Local 1704 v. PERB; Omnitrans* (PERB Decision No. 2121-M [LA-CE-358-M]) - the Fourth District Court of Appeal summarily denied ATU's writ petition in this case.
2. *County of Riverside v. PERB; Brewington* (PERB Decision No. 2090-M) - the Fourth District Court of Appeal summarily denied the County's writ petition in this case.

3. *PERB v. SEIU Local 521* (Case No. H035006) - the Sixth District Court of Appeal ruled in favor of PERB and “affirmed in full” the Santa Clara County Superior Court’s order granting a preliminary injunction.

4. *Melanie Williams and Demosthenes Halcoussis v. PERB; CA Faculty Assoc.* (PERB Decision Nos. 2116-H, 2117-H [LA-CO-501-H, LA-CO-502-H]) – the Los Angeles County Superior Court judge affirmed the Board’s decisions in these two dismissal cases.

Acting Chief Administrative Law Judge Christine Bologna reported on the activities of the Division of Administrative Law and stated that the administrative law judge (ALJ) report had been distributed to the Board for its review. Ms. Bologna reported that in March, 30 cases were assigned to ALJs for formal hearing. Currently, there are 74 hearings assigned to the 5 PERB ALJs, including herself and one regional attorney. She also reported that 26 cases are pending proposed decision and during the month of March the ALJs held 18 days of hearing, completed 6 formal hearings, 6 cases were withdrawn, and 2 proposed decisions issued. She reported that fiscal year-to-date there have been 25 proposed decisions issued by the ALJs, all were unfair practice cases with the exception of 2 representation cases involving severance petitions. She also reported that there were a total of 28 proposed decisions issued fiscal year-to-date, including 3 representation cases issued by General Counsel/Hearing Officers. Ms. Bologna stated that her division has been very aggressive in closing cases. Fiscal year to date, 84 cases have been closed; for the entire 2009-2010 fiscal year, 111 cases were closed.

Ms. Bologna also reported that ALJ Ann Weinman has concluded her retired annuitant status, thus, the Los Angeles Regional Office with nearly 40 percent of total PERB cases is down to one ALJ. She also reported that she has been very aggressive in reassigning cases from the L.A. and S.F. Regional offices (housing 1 ALJ each) to the Sacramento Regional office where there are 3 ALJs. One to two day L.A. cases and cases with stipulated records are being assigned to Sacramento ALJs to try in L.A. and/or write the proposed decisions in Sacramento. Multiple day S.F. hearings are being reassigned to Sacramento ALJs to hold hearings in Sacramento as appropriate, or in Oakland on dates in 2011 instead of 2012 as currently scheduled.

c. Legislative Report

Les Chisholm, Division Chief, Office of the General Counsel, reported that an updated Legislative Report was circulated to the Board this morning for its review. Mr. Chisholm reported on the following pending legislation that may directly affect or impact PERB and/or its jurisdiction:

Assembly Bill 501 (Campos) would amend the EERA by broadening the definition of “public school employer” covered by the Act and also expressly including joint powers agencies that are formed by other educational agencies, school districts or county offices as employers under the EERA. This bill was approved in the Assembly Policy Committee but is currently on the Appropriation Suspense File based on the projected associated cost of the bill.

Assembly Bill 646 (Akins) would amend MMBA to mandate mediation and factfinding under that statute. While it would allow the parties to, by mutual agreement, provide otherwise for mediation and/or factfinding, in any instances where they did not so agree, PERB would be responsible for approving impasse requests as well as appointing the chair of a factfinding panel in those cases that went to factfinding. This bill would potentially have the most significant effect on PERB's workload and budget. Currently, the bill is pending in the policy committee.

Assembly Bill 1318 (Davis) would address civil damages as a result of an unlawful strike.

Senate Bill 259 (Hancock) would broaden the definition of employee covered by the Act by eliminating the current balancing test with respect to student employees of the University of California and California State University and thus would include all of the research and teaching assistants. SB 259 was approved in the policy committee and is pending on the suspense file in Senate appropriations.

Senate Bill 609 (McLeod) would require the Board to act on any appeal of a ruling in a representation case by an administrative law judge within 180 days or else the decision will become final. SB 609 is set for hearing in Senate Appropriations on May 2 and has been approved by the policy committee.

Mr. Chisholm will continue to monitor the aforementioned legislation and keep the Board apprised of future developments.

Chair Dowdin Calvillo stated that this would conclude the Board's informational meeting and the Board continued their closed session which began on February 10, 2011.

Respectfully submitted,

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Chris Wong, Administrative Assistant

APPROVED AT THE PUBLIC MEETING OF:

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Anita I. Martinez, Chair