

TESTIMONY BEFORE THE LITTLE HOOVER COMMISSION
REGARDING GOVERNOR'S REORGANIZATION PLAN OF MARCH 30, 2012

April 24, 2012

Public Employment Relations Board
Les Chisholm, Division Chief
Office of the General Counsel

Background and Overview

The Public Employment Relations Board (PERB or Board) is a quasi-judicial agency created by the Legislature to oversee public sector collective bargaining in California. The Board administers seven collective bargaining statutes, ensures their consistent implementation and application, and adjudicates disputes between the parties.

Initially known as the Educational Employment Relations Board, PERB was established through the enactment of the Educational Employment Relations Act (EERA) of 1976 (Gov. Code, § 3540 et seq.), authored by State Senator Albert S. Rodda, establishing collective bargaining in California's public schools (K-12) and community colleges. Consistent with recommendations made earlier by the "Report and Proposed Statute of the California Assembly Advisory Council on Public Employee Relations" (March 15, 1973), EERA section 3541 states that the Board "shall be independent of any state agency."

The Board itself is composed of up to five Members appointed by the Governor and subject to confirmation by the State Senate. Board Members are appointed to five-year terms, with the term of one Member expiring at the end of each calendar year.

The jurisdiction of the Board was extended shortly after the enactment of EERA to include all State civil service employees (the State Employer-Employee Relations Act of 1978, known as the Ralph C. Dills Act (Dills Act) (Gov. Code, § 3512 et seq.), as well as employees of the California State University and University of California systems and Hastings College of Law (the Higher Education Employer-Employee Relations Act (HEERA) of 1979) (Gov. Code, § 3560 et seq.).

As of July 1, 2001, PERB acquired jurisdiction over the Meyers-Milias-Brown Act (MMBA) of 1968 (Gov. Code, § 3500 et seq.), which established collective bargaining for California's city, county, and local special district employers and employees. PERB's jurisdiction over the MMBA excludes specified peace officers, management employees, and the City and County of Los Angeles.

On January 1, 2004, PERB's jurisdiction was expanded to include the supervisory employees of the Los Angeles County Metropolitan Transportation Authority, pursuant to the Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA). (Pub. Util. Code, § 99560 et seq.) Effective August 16, 2004, PERB also acquired jurisdiction over the Trial Court Employment Protection and Governance Act (Trial Court Act) of 2000 (Gov. Code, § 71600 et seq.) and the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) of 2002 (Gov. Code, § 71800 et seq.).

In sum, PERB's jurisdiction presently includes some two million public employees, their employers, and employee organizations which represent these employees (or are attempting to secure representation rights for them).

PERB Functions

The investigation and resolution of unfair practice charges (UPC) is the major function performed by PERB. UPCs may be filed with PERB by an employer, employee organization, or employee. A UPC alleges that an employer or employee organization engaged in conduct that is unlawful under one of the statutory schemes administered by PERB. Examples of unlawful employer conduct are: refusing to negotiate in good faith with an employee organization; disciplining or threatening employees for participating in union activities; and promising benefits to employees if they refuse to participate in union activity. Examples of unlawful employee organization conduct are: threatening employees if they refuse to join the union; disciplining a member for filing an unfair practice charge against the union; and failing to represent bargaining unit members fairly with the employer.

Unfair practice charges, along with any position statement the respondent chooses to file, are initially reviewed by a regional attorney in the Office of the General Counsel. If the UPC is not dismissed or withdrawn, a complaint issues and a Board agent meets with the parties for purposes of settlement negotiations. If the case is not resolved, the case is heard and initially decided by a PERB administrative law judge (ALJ). The proposed decision issued by an ALJ, as well as a dismissal issued by a Board agent during the initial investigation, may be appealed to the Board itself.

The Office of General Counsel also enforces final orders of the Board; defends decisions of the Board when challenged in all State and Federal courts; and seeks injunctive relief when directed to do so by the Board.

PERB also determines appropriate bargaining units, when disputed; administers representation procedures, including the conduct of elections where appropriate; makes determinations under EERA, HEERA and the Dills Act whether a mediator should be appointed to assist the parties in negotiations; and under EERA, HEERA, and the MMBA maintains a panel of neutrals who may be selected by the parties, or appointed by PERB, to serve as factfinders.

PERB Staff and Budget

Including the Members of the Board, PERB is budgeted for 40 positions, located in three offices. PERB maintains a headquarters and regional office in Sacramento, and regional offices located in Glendale and Oakland. The annual budget of the agency is presently \$6,235,000.