



STATE OF WASHINGTON
PUBLIC EMPLOYMENT RELATIONS COMMISSION

MICHAEL P. SELLARS, EXECUTIVE DIRECTOR

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MINUTES

October 13, 2020

The regular meeting of the Public Employment Relations Commission was held
at 10:00 a.m. via Zoom

Those present and participating:
Marilyn Glenn Sayan, Chairperson
Mark R. Busto, Commissioner
Kenneth J. Pedersen, Commissioner
Mike Sellars, Executive Director
Charity Atchison, Appeals Administrator
Emily Whitney, Compliance Officer
Vanessa Smith, Confidential Secretary

Also present:

Peggy Pulse, Department of Social and Health Services

Minutes of the Previous Meeting

The minutes of the previous meeting held on September 10, 2020, were adopted as presented.

Report of the Executive Director

1. The overall number of cases filed continues to be down. The volume of grievance mediation cases is up compared to the 5-year average. Unfair labor practice complaint filings are steady but somewhat down, and representation petitions are somewhat over the 5-year average.
2. PERC staff will continue to work remotely at least through the end of February 2021. Hearings, mediations, and meetings will continue to be held virtually until further notice.
3. The next field staff meeting is scheduled for Monday, October 19. Staff from the Oregon Employment Relations Board will be joining. They will share how they are accomplishing their work and what their caseload is like.

4. We don't expect to hear more about the budget until after the election. However, the previously forecasted deficit has been cut in half and is now a \$4.5 billion deficit over the next 3 years.

Compliance Docket

Snohomish County, Case 128885-U-17. Compliance Officer Emily Whitney provided a summary of the allegations, the Commission's decision and subsequent affirmation by the Superior Court, and the parties' compliance efforts. Both parties agreed that compliance had been met, and Emily recommended that compliance be accepted. The Commission accepted compliance, and the case will be closed.

Court Docket¹

Charity Atchison notified the Commission that court appeals had been filed for *King County (King County Corrections Guild)*, Decisions 12943-B and 13178-A (PECB, 2020). Additionally, oral argument had taken place in the Lincoln County and Benton County appeals. Charity provided a summary of the oral argument sessions and, in response to a question raised by Kenneth Pedersen, confirmed that PERC's assigned Assistant Attorney General had not attended.

A discussion ensued regarding the limited defense of Commission decisions by the Attorney General's Office and the role of the agency in litigation on appeal. Charity and Mike explained that the agency's participation in cases on appeal is limited by the Supreme Court's decision in *Kaiser Aluminum & Chemical Corporation v. Department of Labor & Industries*, 121 Wn.2d 776 (1993). A copy of this decision will be provided to the Commission. Commissioner Pedersen asked that the Attorney General's Office confirm in writing its limitations regarding participation in appeals of agency decisions. Commissioner Busto and Chairperson Sayan agreed to Commissioner Pedersen's request.

Other Business

The Commission was asked to review the proposed 2021 Commission meeting dates within the next two weeks.

Adjournment

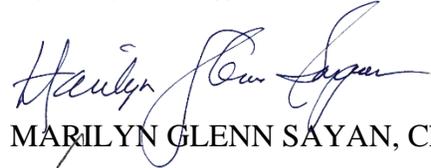
In accordance with RCW 42.30.110(2), Chairperson Marilyn Glenn Sayan stated the purpose of the Executive Session was to deliberate over the appeal in *Cowlitz County*, Case 132433-C-19. The Executive Director would not be present for this deliberation due to his involvement in the *Cowlitz County* case. The Commission would also discuss advice it received from the Attorney General's Office on another matter.

¹ Pending Commission cases that have been appealed to court are available on the agency website.

There being nothing further to come before the Commission, the public meeting was adjourned. Marilyn Glenn Sayan, Mark Busto, Kenneth Pedersen, and Charity Atchison went into Executive Session.

APPROVED this 10th day of November, 2020.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARILYN GLENN SAYAN, Chairperson



MARK R. BUSTO, Commissioner



KENNETH J. PEDERSEN, Commissioner