



STATE OF WASHINGTON

PUBLIC EMPLOYMENT RELATIONS COMMISSION

MICHAEL P. SELLARS, EXECUTIVE DIRECTOR

112 Henry Street NE, Suite 300 • Post Office Box 40919 • Olympia, Washington 98504-0919
(360) 570-7300 • Fax: (360) 570-7334 • Email Filings: filing@perc.wa.gov • Website: www.perc.wa.gov

MINUTES

January 14, 2020

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

PERC Conference Room
112 Henry Street NE, Suite 300
Olympia, Washington 98506

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

Also present:

Herb Harris, Washington Federation of State Employees
Mark Lyon, Office of the Attorney General
Michael Snyder, PERC, Labor Relations Adjudicator/Mediator
Katie Sypher, PERC, Labor Relations Adjudicator/Mediator

Minutes of the Previous Meeting

The minutes of the previous meeting held on November 12, 2019, were adopted as presented.

Report of the Executive Director

1. PERC continues to see K-12 mediation and strike activity outside of the usual late July through September time frame. Teachers in Willapa Valley went on strike for 10 days in December. Sean Leonard was the primary mediator, and Michael Snyder joined him to help the parties settle. Sean and Michael were both commended for their work.
2. Erin Slone-Gomez is mediating with Clark College, where faculty also went on strike.
3. The year-end statistics showed an increase in the overall caseload toward the end of the year. The caseload was down until the last few months of 2019. Unfair labor practice and representation caseloads were up compared to the previous five years' average. Mediation activity was down. When we develop the annual report for 2019, we will consider whether 2018 was an aberration with regard to mediation activity, and we will continue to watch caseloads. If K-12 mediation work moves outside its traditional window, there will be an impact on other cases.

4. The legislative session started on January 13. This will be a short session, ending on March 12. There is a bill to give bargaining rights to Administrative Law Judges at the Office of Administrative Hearings. There is also a bill to grant interest arbitration rights to officers at the Department of Fish and Wildlife.

Legislative Update

Charity Atchison gave an overview of legislation that PERC has been monitoring.

Compliance Docket

Seattle School District, Case 128823-U-17. Dario de la Rosa presented this case for compliance on behalf of Compliance Officer Emily Whitney. After summarizing the case, the Examiner's Decision, and the Commission's decision, which was subsequently affirmed by the superior court, Dario recommended that the Commission accept compliance in this matter. The Commission accepted compliance, and the case will be closed.

Court Docket

Charity reviewed the pending court cases and provided updated information where available. Pending Commission cases that have been appealed to court are available on the agency website.

Other Business

The Commission reviewed and unanimously accepted Audrey Eide's application for membership on the Dispute Resolution Panel. Ms. Eide will be on the grievance arbitration list.

Adjournment

There being nothing further to come before the Commission, the public meeting was adjourned.


Marilyn Glenn Sayan, Mark Busto, Kenneth Pedersen, Mike Sellars, and Charity Atchison went into Executive Session for deliberation on cases pending before the Commission.

APPROVED at Olympia, Washington, this 11th day of February, 2020.


PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARILYN GLENN SAYAN, Chairperson



MARK R. BUSTO, Commissioner



KENNETH J. PEDERSEN, Commissioner



STATE OF WASHINGTON

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MINUTES

February 11, 2020

The regular meeting of the Public Employment Relations Commission was held at:

10:00 a.m.

PERC Conference Room
112 Henry Street NE, Suite 300
Olympia, Washington 98506

Those present and participating:

Marilyn Glenn Sayan, Chairperson
Mark R. Busto, Commissioner
Kenneth J. Pedersen, Commissioner
Mike Sellars, Executive Director
Charity Atchison, Appeals Administrator
Vanessa Smith, Confidential Secretary

Also present:

Peggy Pulse, Department of Social and Health Services
Jamie Siegel, PERC, Labor Relations Adjudicator/Mediator
Daniel Comeau, PERC, Labor Relations Adjudicator/Mediator
Amy Riggs, PERC, Legal Assistant

Minutes of the Previous Meeting

The minutes of the previous meeting held on January 14, 2020, were adopted as presented.

Report of the Executive Director

1. The number of requests for contract mediations continues to trend low. However, there has been an uptick in requests for grievance mediation. Representation case traffic continues to be active.
2. The draft 2020–2022 Strategic Plan was sent to the Commissioners for review prior to this meeting. The final report on the 2017–2019 Strategic Plan will be included in the Annual Report for 2019.
3. Page Garcia left her Labor Relations Adjudicator/Mediator position and began working for the University of Washington Labor Relations last week. Page's departure is a big loss for the agency, but we are excited for her. Marilyn added that she will miss Page and appreciates all of Page's contributions. Her vacancy will not be filled immediately.
4. The e-filing system is currently in an internal testing phase, which is going well. The next testing phase will encompass more staff within the agency before extending to external users.

5. The new decision style guide went out to staff in late January. Mike thanked Vanessa for her work on the project.
6. Mike recently met with the Sno-King negotiators.
7. Mike met with the Clientele Consultation Committee in December. They discussed the Strategic Plan and the rules revision project. The next meeting is scheduled in June.

Legislative Update

Charity Atchison reported that Commissioner Sayan was confirmed this session. Charity also provided updated information on legislation that PERC has been monitoring. Mike added that it has been a light session with respect to collective bargaining.

Court Docket

Charity reviewed the pending court cases and provided updated information where available. Pending Commission cases that have been appealed to court are available on the agency website.

Other Business

Others in attendance were invited to give updates on their work. Peggy Pulse praised the training her agency has received from PERC. She reported that employees at the Department of Social and Health Services continue to use the tools from the affinity model training provided to over 100 of the department's employees in 2019. There will be a panel discussion about this training experience at LERA.

Adjournment


There being nothing further to come before the Commission, the public meeting was adjourned.

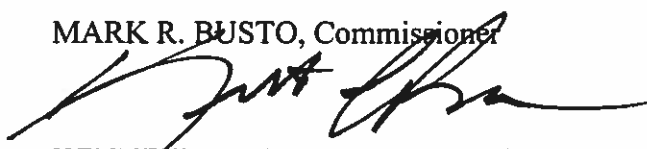
Marilyn Glenn Sayan, Mark Busto, Kenneth Pedersen, Mike Sellars, and Charity Atchison went into Executive Session for deliberation on cases pending before the Commission.

APPROVED at Olympia, Washington, this 10th day of March, 2020.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARILYN GLENN SAYAN, Chairperson


MARK R. BUSTO, Commissioner


KENNETH J. PEDERSEN, Commissioner



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MINUTES

March 10, 2020

The regular meeting of the Public Employment Relations Commission was held at:

10:00 a.m.

PERC Conference Room

112 Henry Street NE, Suite 300

Olympia, Washington 98506

Those present and participating:

Marilyn Glenn Sayan, Chairperson

Mark R. Busto, Commissioner

Kenneth J. Pedersen, Commissioner

Mike Sellars, Executive Director

Charity Atchison, Appeals Administrator

Debbie Bates, Legal Assistant

Also present:

- Daniel Comeau, PERC, Labor Relations Adjudicator/Mediator
- Michael Snyder, PERC, Labor Relations Adjudicator/Mediator
- Katelyn Sypher, PERC, Labor Relations Adjudicator/Mediator
- Sean Leonard, PERC, Labor Relations Adjudicator/Mediator
- Herb Harris, Washington Federation of State Employees
- Mike McCarthy, Reid, McCarthy, Ballew & Leahy, L.L.P. for the Marine Engineers' Beneficial Association
- Jeff Duncan, Marine Engineers' Beneficial Association
- Eric Winge, Marine Engineers' Beneficial Association
- Thomas Knoll, Jr., Office of the Attorney General

Minutes of the Previous Meeting

The minutes of the previous meeting held on February 11, 2020, were adopted as presented.

Report of the Executive Director

1. The case numbers were reviewed. The increase in contract mediations was due to us opening mediation cases for all the state interest arbitration eligible negotiations. Given the short

timetable to conduct mediation prior to the scheduled arbitration hearing, we proactively open a case and assign a mediator in order to get a mediation date scheduled.

2. Due to the Coronavirus, the Kirkland office is closed and PERC staff stationed there are telecommuting. The Olympia office is prepared to telecommute, if needed.
3. The LERA conference is being monitored for cancellation.

Legislative Update

Charity Atchison provided updated information on legislation that PERC has been monitoring. All collective bargaining bills have passed.

Court Docket

Charity reviewed the pending court cases and provided updated information where available. Pending Commission cases that have been appealed to court are available on the agency website.

Other Business

Oral argument was presented by the parties in *Washington State Ferries*, Case 130879-U-18.

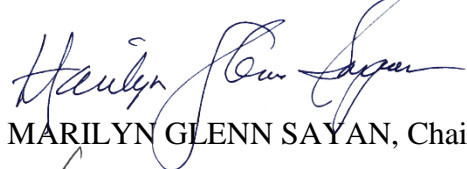
Adjournment

There being nothing further to come before the Commission, the public meeting was adjourned.

Marilyn Glenn Sayan, Mark Busto, Kenneth Pedersen, Mike Sellars, and Charity Atchison went into Executive Session for deliberation on cases pending before the Commission.

APPROVED at Olympia, Washington, this 12th day of May, 2020.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARILYN GLENN SAYAN, Chairperson



MARK R. BUSTO, Commissioner



KENNETH J. PEDERSEN, Commissioner



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MINUTES

May 12, 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
Dario de la Rosa, Compliance Officer
Emily Whitney, Compliance Officer
Vanessa Smith, Confidential Secretary

Also present:

Robbie Duffield, PERC, IT Manager
Lisa Hartrich, PERC, Field Services Manager
Katelyn Sypher, PERC, Labor Relations Adjudicator/Mediator
Kelly Rupert, Department of Social and Health Services
Peggy Pulse, Department of Social and Health Services

Minutes of the Previous Meeting

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

Report of the Executive Director

1. PERC upgraded its Zoom license to include the Webinar feature for up to 100 participants. This feature will be used for the Commission meetings and trainings. Our Zoom meetings can accommodate up to 300 participants. Chris Casillas recently had over 100 participants in a virtual mediation.
2. At the time of this meeting, PERC was conducting a large vote with a bargaining unit of about 370 City of Bellingham employees. The count will take place on May 13.

3. The case volume has been really low. Thirty-one cases were filed in April. This is the lowest number of cases filed in a single month since December 2008, when 35 cases were opened. At the time of this meeting, 7 cases had been filed so far in May. The decrease is most seen in mediations. Some parties have indicated they want to wait out the technology, while parties in other mediations that were stalled are moving forward. If parties are willing to utilize the new technology, we can move forward.
4. PERC has worked remotely for eight weeks, and this will likely continue through June. The Office of Financial Management is encouraging agencies that can work remotely to do so. There hasn't been an actual hearing yet, but PERC staff has had two virtual mock hearings to prepare. Mike noted that PERC staff should be commended, particularly our IT Manager Robbie Duffield, since we have had a huge increase in the use of technology.
5. State agencies have been told to prepare for budget cuts. PERC currently has a 5% positive variance due to vacancies not being filled and travel being discontinued. PERC draws from three fund sources: the general fund, the revolving state personnel fund, and the revolving higher education personnel fund. Between 2008 and 2011, PERC made upwards of 20% in budget cuts, so staff is concerned. However, PERC had a much larger staff then. The revenue forecast normally comes out in June. Many PERC clientele organizations have started making cuts and layoffs.
6. The 2020 ALRA conference has been postponed. It will be held in Vancouver, BC, next year.

Compliance Docket

Mill A School District, Case 129785-U-17. Compliance Officer Emily Whitney provided a summary of the decision, which was previously appealed to and affirmed by the Commission. After detailing the parties' compliance actions, Emily recommended that compliance be accepted. The Commission accepted compliance, and the case will be closed.

Washington State Department of Ecology, Case 130988-U-18. Compliance Officer Emily Whitney gave a brief overview of the case and the parties' compliance actions. Emily recommended that compliance be accepted. The Commission accepted compliance, and the case will be closed.

University of Washington, Case 131056-U-18. Compliance Officer Dario de la Rosa summarized the case and the Examiner's order. Because the parties had taken the required actions to comply with the order and did not object to compliance, Dario recommended that the Commission accept compliance in this matter. The Commission accepted compliance, and the case will be closed.

Court Docket

Charity Atchison reviewed the pending court cases and provided updated information where available. Pending Commission cases that have been appealed to court are available on the agency website.

Other Business

The Commission reviewed and unanimously accepted Dorothy Foley's application for membership on the Dispute Resolution Panel. Ms. Foley will be on the grievance arbitration list.


Adjournment

There being nothing further to come before the Commission, the public meeting was adjourned.

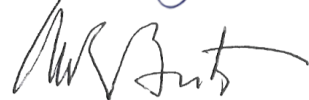
Marilyn Glenn Sayan, Mark Busto, Kenneth Pedersen, Mike Sellars, and Charity Atchison went into Executive Session for deliberation on cases pending before the Commission.

APPROVED at Olympia, Washington, this 9th day of June, 2020.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARILYN GLENN SAYAN, Chairperson



MARK R. BUSTO, Commissioner



KENNETH J. PEDERSEN, Commissioner



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MINUTES

June 9, 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
Vanessa Smith, Confidential Secretary

Minutes of the Previous Meeting

The minutes of the previous meeting held on May 12, 2020, were adopted as presented.

Report of the Executive Director

1. The pace of case filings is still slow. Thirty-one cases were filed in April, and thirty were filed in May. The bulk of the cases comprise unfair labor practice or representation work. We expect case filings to pick back up over the summer. With respect to representation work, three elections were conducted in May. This included a run-off election for a large vote that originally took place in March.
2. A field staff meeting will be held via Zoom next week. Staff will discuss mediating during a recession with those staff who were at PERC during the last recession sharing their experiences.
3. PERC staff is continuing to work remotely and will likely do so through July. State agencies have received guidance to work remotely if possible. No in-person events may be conducted until Phase 3 of the Governor's Safe Start plan. However, even then, any in-person events will need to be approved by Mike.
4. As a result of COVID-19, Washington State is estimating a \$7 billion shortfall over the next three years. State agencies have been asked to engage in a 15% budget reduction exercise for the 2021 fiscal year. Because of vacancies and staff not traveling during the pandemic, we can

make this budget cut and end the fiscal year with a 10% positive variance. The State is also starting to discuss furloughs.

Court Docket

Charity Atchison reviewed the pending court cases and provided updated information where available. Pending Commission cases that have been appealed to court are available on the agency website.

Adjournment

There being nothing further to come before the Commission, the public meeting was adjourned.

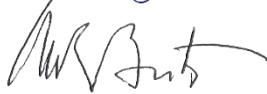
The Commission went into executive session for deliberation on appeals. Mike Sellars and Charity Atchison initially joined the discussion, but were then excused while the Commission continued its deliberations.

APPROVED at Olympia, Washington, this 14th day of July, 2020.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARILYN GLENN SAYAN, Chairperson



MARK R. BUSTO, Commissioner



KENNETH J. PEDERSEN, Commissioner



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MINUTES

July 14, 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
Dario de la Rosa, Compliance Officer
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 June 9, 2020, were adopted as presented.

Report of the Executive Director

1. There was an uptick in case filings in June. The increase was evenly spread across all case types, but filings are still down overall.
2. PERC staff will continue to work remotely until further notice. There will be no in-person events unless approved by Mike. The first virtual hearing was held in June. Trainings, hearings, and mediations can all be done virtually.
3. Washington State is now estimating a \$9 billion shortfall over the next three years. Furloughs were imposed for state agencies that report directly to the Governor's office, and other agencies were encouraged to implement furloughs. Because we currently have a very healthy variance, PERC did not impose them, but several staff are taking voluntary furloughs through the SharedWork Program.
4. Mediations for state groups with interest arbitration rights are anticipated to begin this month.

5. Mike met with the Clientele Consultation Committee in June. The meeting focused on rule changes as well as how virtual work is going. Two committee members are very busy bargaining on behalf of K-12 parties. About one-third to one-half of contracts will expire this year. It is uncertain whether we will see a traditional teacher mediation season this year.
6. The Governor's office froze the July 1 scheduled pay increases for exempt staff that make over \$55,000 per year. This freeze would have affected only a few PERC staff members. However, those staff members make less than the Labor Relations Adjudicators/Mediators who will get the pay increases, so Mike ensured the affected staff will also get them. Mike is not taking his scheduled pay increase.
7. The Clientele Consultation Committee has until July 15 to provide rule change comments.

Compliance Docket

Snohomish County, Case 130652-U-18. After giving a brief overview of the decision and noting that the parties did not object, Compliance Officer Dario de la Rosa recommended that compliance be accepted in this case. The Commission accepted compliance, and the case will be closed.

Pierce County, Case 130869-U-18. Compliance Officer Emily Whitney provided a summary of the decision as well as the parties' compliance actions and recommended that compliance be accepted. The Commission accepted compliance, and the case will be closed.

Court Docket

Charity Atchison reviewed the pending court cases and provided updated information where available. Pending Commission cases that have been appealed to court are available on the agency website.

Adjournment

There being nothing further to come before the Commission, the public meeting was adjourned.

Marilyn Glenn Sayan, Mark Busto, Kenneth Pedersen, Mike Sellars, and Charity Atchison went into Executive Session for deliberation on cases pending before the Commission.

APPROVED this 11th day of August, 2020.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARILYN GLENN SAYAN, Chairperson



MARK R. BUSTO, Commissioner



KENNETH J. PEDERSEN, Commissioner



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MINUTES

August 11, 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
Vanessa Smith, Confidential Secretary

Also present:
Herb Harris, Washington Federation of State Employees

Minutes of the Previous Meeting

The minutes of the previous meeting held on July 14, 2020, were adopted as presented.

Report of the Executive Director

1. The number of cases has increased somewhat, but it is still trending down. The volume of grievance mediation cases is well above the 5-year average.
2. PERC staff conducted three hearings via Zoom in the last two weeks, with more scheduled soon. During the hearing, another Labor Relations Adjudicator/Mediator acts as a clerk and assists with the management of exhibits. Hearings are preceded by extensive preparation, including prehearing conferences to prepare the parties and show how the technology works.
3. PERC staff will be working remotely at least through the end of the year. No in-person events will be permitted within the same period.
4. Next Monday would have traditionally started the leave restriction period for teacher mediations. It remains to be seen how active the teacher mediation season will be. We know school district and teacher representatives are busy with bargaining. Contracts in 2018 only covered two years. Impacts bargaining over the reopening of schools is likely.
5. Mike recently spoke with Senator Conway about police reform efforts in other states and followed up in writing with additional information.

- 6. We expect to receive more information regarding the budget within the next week or so. Like all state agencies, PERC is expected to engage in a budget cut exercise.

Court Docket

Mike informed the Commission that its decision in *State – Family Child Care Providers*, Decision 12781-A (PECB, 2017), was affirmed by Division II of the Court of Appeals. Pending Commission cases that have been appealed to court are available on the agency website.

Adjournment

Kenneth Pedersen requested to put on the record the purpose of the Executive Session in accordance with RCW 42.30.110(2). After citing RCW 42.30.140(2) and (3) and RCW 34.05.455, which permit a quasi-judicial agency to convene in Executive Session, Chairperson Marilyn Glenn Sayan stated that the Commission planned to (1) deliberate over the appeals in *King County*, Cases 130746-U-18 and 130934-U-18, and *Island County*, Case 131438-U-19; (2) discuss the formatting of Commission decisions; and (3) discuss an issue dealing with a staff subject as a Commission and with Mike.

Kenneth Pedersen objected to the Executive Director being present during deliberation over appeals of decisions issued under his authority without prior notice being given to the parties pursuant to RCW 34.05.455.

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

APPROVED this 10th day of September, 2020.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARILYN GLENN SAYAN, Chairperson


MARK R. BUSTO, Commissioner


KENNETH J. PEDERSEN, Commissioner



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MINUTES

September 10, 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
Dario de la Rosa, Compliance Officer
Vanessa Smith, Confidential Secretary

Also present:
Herb Harris, Washington Federation of State Employees
Kelly Rupert, Department of Social and Health Services
Amy Riggs, PERC, Legal Assistant

Minutes of the Previous Meeting

The minutes of the previous meeting held on August 11, 2020, were adopted as presented.

Report of the Executive Director

1. PERC staff have been working remotely for six months and have successfully conducted all work virtually. Kudos to everyone.
2. The overall volume of cases is still low compared to the 5-year average. Eight interest arbitration cases were opened in August. All of them were opened for state groups that are required to conclude bargaining and receive any arbitration awards by October 1. August is also generally a K-12 month. In August 2018, PERC received over 100 K-12 cases. This August, there were four.
3. We launched updates to the website training pages as well as a new conflict prevention program, the Negotiation Project. The new program was developed by Chris Casillas and Emily Martin and is intended to help negotiators improve their skills. Eventually, it will be offered as an in-person course. Kudos to the Training Team and Joye for completing this work.
4. The budget was submitted last week. As previously reported, all state agencies were asked to engage in a budget cut exercise to show a 15% reduction over the biennium. PERC's submission indicated that the three vacant Labor Relations Adjudicator/Mediator (LRAM)

positions, two filled LRAM positions, and a special project position would need to be eliminated to meet the reduction. PERC also communicated the impact that such cuts would have on the agency's ability to timely provide services. Mike reiterated this was just an exercise and does not mean the cuts will actually occur or occur at that level. We will get a better sense of any required cuts by December.

Compliance Docket

Whatcom County, Case 131286-U-19. Compliance Officer Dario de la Rosa summarized the Commission's decision and reported that the employer has complied with all aspects of the Commission's order. Dario recommended that compliance be accepted in this case. The Commission accepted compliance, and the case will be closed.

Court Docket

Charity Atchison informed the Commission that there have been no changes to court case statuses since last month's meeting. Pending Commission cases that have been appealed to court are available on the agency website.

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 appeals in *Washington State Ferries*, Case 130879-U-18 and *Riverview School District*, Case 132833-U-20.

Kenneth Pedersen objected to the Executive Director being present during deliberation over appeals of decisions issued under his authority without prior notice being given to the parties pursuant to RCW 34.05.455. This will be considered a standing objection.

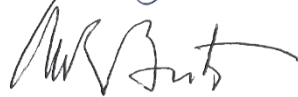
There being nothing further to come before the Commission, the public meeting was adjourned. Marilyn Glenn Sayan, Mark Busto, Kenneth Pedersen, Mike Sellars, and Charity Atchison went into Executive Session.

APPROVED this 13th day of October, 2020.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARILYN GLENN SAYAN, Chairperson



MARK R. BUSTO, Commissioner



KENNETH J. PEDERSEN, Commissioner



STATE OF WASHINGTON
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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

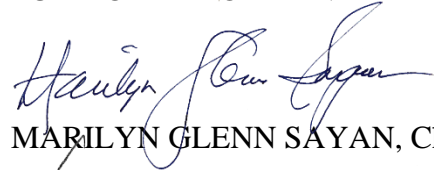
In accordance with RCW 42.30.110(2), Chairperson Marilyn Glenn Sayan stated the purpose of the Executive Session was to deliberate over the appeal in *Cowlitz County*, Case 132433-C-19. The Executive Director would not be present for this deliberation due to his involvement in the *Cowlitz County* case. 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.

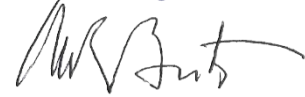
There being nothing further to come before the Commission, the public meeting was adjourned. Marilyn Glenn Sayan, Mark Busto, Kenneth Pedersen, and Charity Atchison went into Executive Session.

APPROVED this 10th day of November, 2020.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARILYN GLENN SAYAN, Chairperson



MARK R. BUSTO, Commissioner



KENNETH J. PEDERSEN, Commissioner



STATE OF WASHINGTON
PUBLIC EMPLOYMENT RELATIONS COMMISSION

MICHAEL P. SELLARS, EXECUTIVE DIRECTOR

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MINUTES

November 10, 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
Vanessa Smith, Confidential Secretary

Also present:

Peggy Pulse, Department of Social and Health Services
Herb Harris, Washington Federation of State Employees
Him Yeung
Michael Snyder, PERC, Labor Relations Adjudicator/Mediator

Minutes of the Previous Meeting

The minutes of the previous meeting held on October 13, 2020, were adopted with the clarification that the Executive Director was not present for that meeting's Executive Session "due to his involvement in the *Cowlitz County* case."

Report of the Executive Director

1. PERC staff continue to work remotely. All events into 2021 will be scheduled virtually. We do not have an end date in mind.
2. Next week, Mike will be giving a presentation about interest arbitration to the legislature's Joint Committee on Employment Relations.
3. Assistant Attorney General Stacia Hollar will be handling representation of PERC while Mark Lyon is out on medical leave.
4. Caseloads have ticked up a little bit, but 2020 will still be a low year in comparison to other years. Representation work continues to be above the 5-year average post-*Janus*. There was a brief discussion regarding the possible causes for the lower caseloads. We expect to see an uptick when there starts to be more economic certainty.

5. We will not hold an all-staff or Commission meeting in December. The all-staff meeting is normally where PERC celebrates its accomplishments and honors staff who have reached certain tenure milestones. We will figure out another way to recognize staff and their adaptability over the last year.
6. October 31 marked the end of the personnel review period. Supervisors will begin to complete evaluations and develop expectations for the next review year.
7. We have not heard anything further regarding the budget.

Court Docket¹

Charity Atchison informed the Commission that the Court of Appeals had requested supplemental briefing after oral argument in the Benton County appeal. The Court of Appeals decision in the Lincoln County appeal had also been issued and sent to the Commission prior to this meeting. If no further appeals are filed, the Lincoln County case will again come before the Commission on remand. Commissioner Busto requested that the Commission discuss the court's decision in Executive Session.

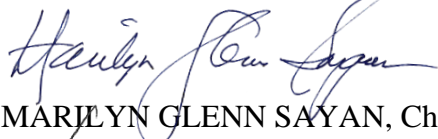
Adjournment

In accordance with RCW 42.30.110(2), Chairperson Marilyn Glenn Sayan stated the purpose of the Executive Session was to deliberate over the appeals in *Cowlitz County*, Case 132433-C-19; *Washington State Individual Providers*, Case 132842-U-20; *King County*, Case 132932-U-20; and *King County (Amalgamated Transit Union Local 587)*, Case 132933-U-20. The Commission would also discuss the court's decision in the Lincoln County appeal, as requested by Commissioner Busto. The Executive Director would not be present for the deliberation regarding *Cowlitz County* due to his involvement in the case.

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

APPROVED this 9th day of February, 2021.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARILYN GLENN SAYAN, Chairperson



MARK R. BUSTO, Commissioner



KENNETH J. PEDERSEN, Commissioner

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