

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 08/15)

Fiscal Year 2016-17	Business Unit 7320	Department Public Employment Relations Board	Priority No. 1
Budget Request Name 7320-001-BCP-DP-2016-GB		Program 6070	Subprogram N/A

Budget Request Description
 Augmentation to Reduce Backlogs

Budget Request Summary

The Public Employment Relations Board requests 5.0 positions and \$885,000 General Fund in 2016-17 and \$873,000 in 2017-18 and ongoing to address increased workload, reduce backlogs, and contribute towards meeting statutory requirements.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed	
Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date
For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the Department of Technology, or previously by the Department of Finance. <input type="checkbox"/> FSR <input type="checkbox"/> SPR Project No. Date:		

If proposal affects another department, does other department concur with proposal? Yes No
Attach comments of affected department, signed and dated by the department director or designee.

Prepared By <i>Mary Ann Arroyo</i>	Date 12.16.2015	Reviewed By <i>[Signature]</i>	Date
Department Director <i>James H. Murray</i>	Date 12.16.2015	Agency Secretary <i>[Signature]</i>	Date 1.4.16

Department of Finance Use Only

Additional Review: Capital Outlay ITCU FSCU OSAE CALSTARS Dept. of Technology

BCP Type: Policy Workload Budget per Government Code 13308.05

PPBA <i>[Signature]</i>	Date submitted to the Legislature 1/7/16
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BCP Fiscal Detail Sheet

BCP Title: Augmentation to Reduce Backlogs

DP Name: 7320-001-BCP-DP-2016-GB

Budget Request Summary

	FY16					
	CY	BY	BY+1	BY+2	BY+3	BY+4
Positions - Permanent	0.0	5.0	5.0	5.0	5.0	5.0
Total Positions	0.0	5.0	5.0	5.0	5.0	5.0
Salaries and Wages						
Earnings - Permanent	0	418	418	418	418	418
Total Salaries and Wages	\$0	\$418	\$418	\$418	\$418	\$418
Total Staff Benefits	0	194	194	194	194	194
Total Personal Services	\$0	\$612	\$612	\$612	\$612	\$612
Operating Expenses and Equipment						
5306 - Postage	0	2	2	2	2	2
5320 - Travel: In-State	0	24	24	24	24	24
5340 - Consulting and Professional Services - External	0	134	134	134	134	134
5346 - Information Technology	0	25	25	25	25	25
5368 - Non-Capital Asset Purchases - Equipment	0	15	3	3	3	3
539X - Other	0	7	7	7	7	7
Total Operating Expenses and Equipment	\$0	\$207	\$195	\$195	\$195	\$195
Total Budget Request	\$0	\$819	\$807	\$807	\$807	\$807

Fund Summary

Fund Source - State Operations						
0001 - General Fund	0	885	873	873	873	873
0995 - Reimbursements	0	-66	-66	-66	-66	-66
Total State Operations Expenditures	\$0	\$819	\$807	\$807	\$807	\$807
Total All Funds	\$0	\$819	\$807	\$807	\$807	\$807

Program Summary

Program Funding						
6070 - Public Employment Relations Board	0	819	807	807	807	807
Total All Programs	\$0	\$819	\$807	\$807	\$807	\$807

Personal Services Details

Salary Information

Positions	Min	Mid	Max	<u>CY</u>	<u>BY</u>	<u>BY+1</u>	<u>BY+2</u>	<u>BY+3</u>	<u>BY+4</u>
4800 - Staff Svcs Mgr I (Eff. 07-01-2016)				0.0	1.0	1.0	1.0	1.0	1.0
5815 - Supvng Atty (Eff. 07-01-2016)				0.0	2.0	2.0	2.0	2.0	2.0
6126 - Administrative Law Judge II (Eff. 07-01-2016)				0.0	1.0	1.0	1.0	1.0	1.0
9525 - Conciliator (Eff. 07-01-2016)				0.0	1.0	1.0	1.0	1.0	1.0
Total Positions				0.0	5.0	5.0	5.0	5.0	5.0

Salaries and Wages	<u>CY</u>	<u>BY</u>	<u>BY+1</u>	<u>BY+2</u>	<u>BY+3</u>	<u>BY+4</u>
4800 - Staff Svcs Mgr I (Eff. 07-01-2016)	0	0	0	0	0	0
5815 - Supvng Atty (Eff. 07-01-2016)	0	218	218	218	218	218
6126 - Administrative Law Judge II (Eff. 07-01-2016)	0	111	111	111	111	111
9525 - Conciliator (Eff. 07-01-2016)	0	89	89	89	89	89
Total Salaries and Wages	\$0	\$418	\$418	\$418	\$418	\$418

Staff Benefits	<u>CY</u>	<u>BY</u>	<u>BY+1</u>	<u>BY+2</u>	<u>BY+3</u>	<u>BY+4</u>
5150900 - Staff Benefits - Other	0	194	194	194	194	194
Total Staff Benefits	\$0	\$194	\$194	\$194	\$194	\$194
Total Personal Services	\$0	\$612	\$612	\$612	\$612	\$612

A. Budget Request Summary

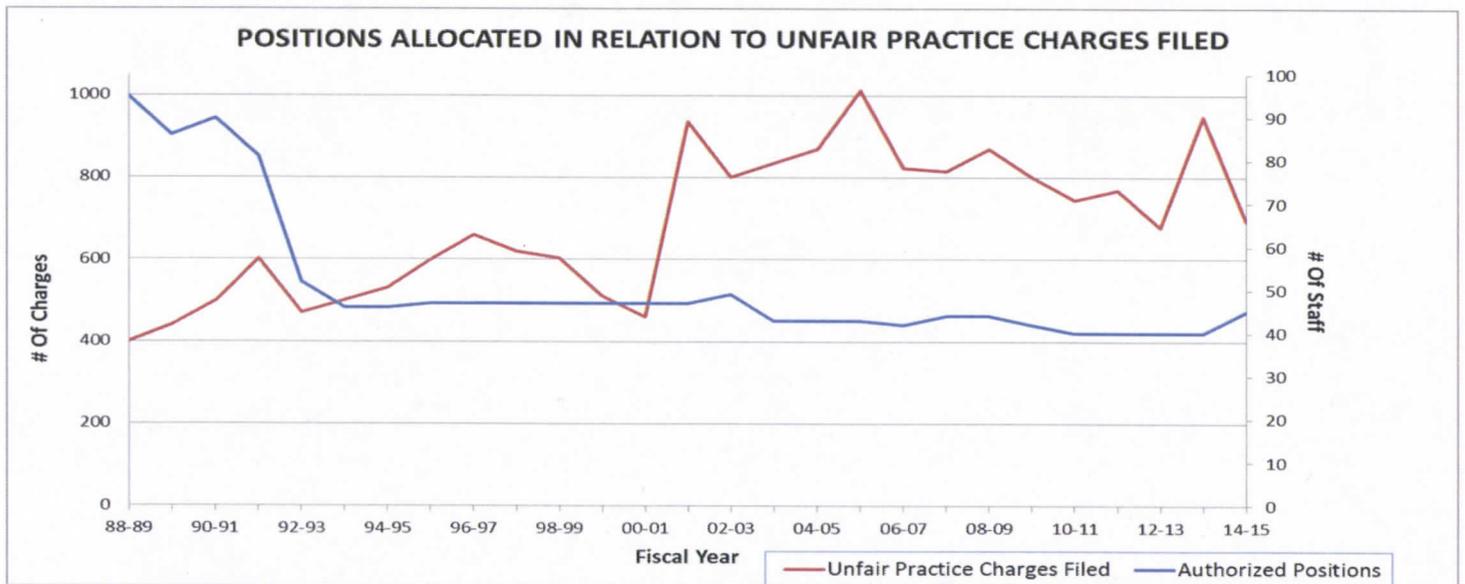
The Public Employment Relations Board requests 5.0 positions and \$885,000 General Fund in 2016-17 and \$873,000 in 2017-18 and ongoing to address increased workload, reduce backlogs, and contribute towards meeting statutory requirements.

B. Background/History

The Public Employment Relations Board (PERB) is responsible for maintaining labor harmony between the state's public employers and its approximate 2.3 million employees. It does this by administering and enforcing the state's eight labor-relations statutes. In enacting these statutes, the Legislature sought to "promote full communication between public employers and their employees by providing a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment between public employers and public employee organizations." (Cal. Gov. Code § 3500.)

In performing its mission, PERB functions as an administrative quasi-judicial body. It investigates violations of state labor law, conducts informal settlement conferences and formal hearings (akin to civil trials), and issues written decisions that adjudicate disputes between public employers and their exclusive representatives. On July 1, 2012, State Mediation and Conciliation Service transferred, along with its 13.0 positions, to PERB from the Department of Industrial Relations to complement the promotion of harmonious labor/management relations. PERB's functions are integral to maintaining labor harmony throughout California's state and local agencies, schools, colleges and universities, courts, and other publicly-funded programs.

PERB's capacity to timely resolve labor disputes has slowly eroded as staffing levels and resources have failed to keep pace with increasing caseloads. The chart below depicts growth in workload in comparison to historical staffing appropriations¹:



Since PERB's origin in 1976, PERB's jurisdiction has grown from overseeing one labor relations statute covering approximately 470,000 employees to eight statutes covering approximately 2.3 million employees. Additionally, PERB's authorized positions fluctuated from a high of 92.0 in 1988 to a low of 40 in 2010. Therefore, this Budget Change Proposal seeks funding to provide PERB resources to improve service levels and contribute towards enforcing its legislative mandates.

¹ For historical accuracy, the chart excludes 12.0 State Mediation and Conciliation Services positions and functions transferred from the Department of Industrial Relations July 2012 in a statewide reorganization effort.

Resource History
(Dollars in thousands)

Program Budget	PY - 4	PY - 3	PY - 2 ²	PY - 1	PY
Authorized Expenditures	5,971	6,233	8,312	8,749	9,049
Actual Expenditures	5,775	6,102	7,680	8,230	8,767
Authorized Positions	40.0	40.0	53.1	55.1	57.1
Filled Positions	35.6	35.0	45.7	45.7	51.5
Vacancies	4.4	5.0	7.4	9.4	5.5

Workload History

Workload Measure	PY - 4	PY - 3	PY - 2	PY - 1	PY	CY
Board Decisions Issued	79	100	51	92	79	NA
Cases Filed w/General Counsel	1,243	1,440	1,435	1,788	1,351	1,451
Cases closed w/General Counsel	1,137	1,179	1,082	1,111	865	1,188
Administrative Law cases assigned	192	180	193	156	209	209
Administrative Law cases closed	103	184	164	180	163	186
State Mediation cases filed	964	997	1,087	858	887	875

C. State Level Considerations

This proposal impacts labor-management relationships throughout the State, and in labor relations, delay is costly. The objective is to provide both a reasonable and effective method of resolving disputes regarding wages, hours, and other terms and conditions of employment between public employers and public employee organizations.

This proposal, if approved, will allow effective and efficient delivery of services required to carry out PERB's statutory mandates.

D. Justification

Public sector labor disputes are costly to California's taxpayers. Often, labor disputes begin as minor disagreements but—without prompt and proper intervention—can escalate quickly. Labor disputes frequently cause disruptions to critical public services and increase taxpayer costs. Thus, PERB's ability to promptly and effectively resolve labor disputes is crucial. As one example, economists estimated that the first day of the BART strike cost the region \$73 million in lost worker productivity alone.³ PERB plays a crucial role in diffusing labor disputes and achieving constructive labor-management relations throughout California's public sector. But PERB's ability to prevent minor labor disputes from escalating into a crisis situation requires that it have the resources to act promptly. At present, PERB lacks the necessary resources to effectively enforce the state's labor relations statutes. In recent years, PERB has utilized salary savings from vacant Board member positions and redirected resources to meet workload demands; however, this is inefficient and carries significant implications, particularly when the Governor appoints a full Board, thus a permanent solution is essential.

² Effective July 1, 2012, Senate Bill 1038 moved SMCS within PERB, which increased PERB's staffing levels by 13.0 positions (one vacancy was reclassified to an Administrative Law Judge).

³ The Bay Area Council Economic Institute's Website "... conservatively put the daily economic cost to the Bay Area of the BART union strike at \$73 million a day."

The following paragraphs depict the divisions of PERB, where funds and positions are requested.

Office of the General Counsel and Division of Administrative Law

PERB requests the following adjustments to contribute towards meeting workload needs and addressing unfair practice charges and formal hearing backlogs:

- 1) 2.0 Supervising Attorney III's – To reduce the long delays in deciding cases, assist with litigation, and provide supervision for staff attorneys in the Los Angeles and San Francisco Regional Offices.
- 2) 1.0 Administrative Law Judge II – To keep up with correlating workload and increased output resulting from the addition of attorney positions.
- 3) An increase of \$100,000 per year to support Factfinders.

Office of the General Counsel

The principal work of the Office of the General Counsel includes: (1) the investigation and legal evaluation of unfair practice cases ; (2) the administration of representation processes such as elections; (3) defending final Board decisions where the parties challenge those decisions in the state appellate or trial courts; (4) evaluating requests for injunctive relief and preparing court documents where the Board determines an injunction is warranted; and (5) conducting informal settlement conferences before cases are heard by the Division of Administrative Law.

PERB has determined that an effective timeline to complete investigations and issue determinations is within 60 days of the filing of an unfair practice case or representation matter. The Office of the General Counsel, however, currently takes more than five months to investigate and issue a determination in these matters and there remains a large backlog of cases.

Further hindering this timeline is litigation, occurring predominately before the state's appellate courts. Starting in 2010-2011, the number of litigation matters has dramatically increased over PERB's historical levels. Litigation can quickly consume the time of several Regional Attorneys for weeks (and even months) leaving fewer attorneys to address unfair practice charges and representation matters.

In addition, PERB operates from three regional offices located throughout California. With the exception of the Governor-appointed General Counsel, who is headquartered in Sacramento, the Office of the General Counsel has no supervisors to manage, train and mentor staff attorneys in its Los Angeles Regional Office or San Francisco Regional Office.

To reduce investigation and determination times for unfair practice cases, it is necessary for the Office of the General Counsel to increase the number of staff attorneys assigned to unfair practice cases and other PERB matters. In the prior three fiscal years, the Office of the General Counsel has been allocated between 12 and 13 Regional Attorneys. On average, this allocation resulted in the disposition (i.e. completion of investigations and issuance of determinations) of approximately 4.9 unfair practice cases each month as shown below:

Office of the General Counsel Unfair Practice Case Disposition History

Workload Measure	2012-13	2013-14	2014-15	3-Year Average
Total Disposed Unfair Practice Cases	685	727	781 ⁴	731
Regional Attorneys (Attorneys and Attorney IIIs)	12.0	12.0	13.0	12.33
Average Monthly Unfair Practice Case Dispositions	57	61	65	61
Average Monthly Unfair Practice Case Dispositions per Attorney	4.75	5.05	5.00	4.93 cases per month per attorney

⁴ 173 similar Unfair Practice Charges were filed by the same individual on behalf of himself and/or other University of California employees regarding agency fee issues, which resulted in the disposition of 954 charges.

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In addition to unfair practice cases, workload for the 13.0 positions includes settlement conferences, determinations of impasse between employers and their exclusive representatives, investigation of injunctive relief requests, complex appellate litigation, and court appearances.

PERB currently has about 244 cases that are over 60 days old and receives about 85 new cases each month (i.e., unfair practice charges, litigation, etc.). To remain within PERB's 60-day goal with current staffing levels, each attorney should have no more than 10 to 11 active cases on their docket each month. In 2014-15, however, each attorney averaged 38 cases on their docket.

Office of the General Counsel Case Specific Workload History

Workload Measure	2010-11	2011-12	2012-13	2013-14	2014-15	5-Year Average
Unfair Practice Charges	744	768	678	949	695	767
Representation	230	294	347	350	361	316
Injunctive Relief	16	21	17	25	19	20
Litigation Matters	93	139	146	254	83	143
Mediation	111	149	134	116	120	126
Factfinding	40	50	81	65	41	55
Compliance	9	19	32	29	32	24
Total	1,243	1,440	1,435	1,788	1,351	1,451

Division of Administrative Law

The Division of Administrative Law's workload directly correlates with the Office of the General Counsel. Cases where complaints are issued but not resolved at an informal settlement conference are sent to the Division of Administrative Law for an evidentiary hearing before an Administrative Law Judge (ALJ). Currently the Division has 8.0 ALJ authorized positions to conduct hearings and write proposed decisions.

The number of cases assigned to ALJs has nearly doubled from FY 2007-08 to FY 2014-15. As a result, the increase in *Proposed Decisions to Write* has been dramatic and resulted in a substantial backlog. This increased backlog of pending proposed decisions has also increased the *Average Proposed Decision Issuance Time* because some of the longer and more complex cases take additional time to research and write. With ALJs having to conduct more days of hearing, there is less time for decision writing and issuance. Only recently with the increase of one ALJ position (as shown in the table below) has the Division of Administrative Law been able to make a concerted effort toward reducing the backlog of *Proposed Decisions to Write* and eliminate a number of the backlogged cases:

Administrative Law Workload History

Workload Measure	07-08	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16
Total Cases Assigned	108	135	133	192	180	193	156	209	209
Formal Hearings Completed	56	50	49	43	89	86	70	69	87
Proposed Decisions Issued	44	52	57	38	61	76	76	70	76
Proposed Decision Backlog	30	25	16	27	50	57	47	42	47
Average Issuance Time (in Days)	94	93	86	122	102	128	132	236	180
Administrative Law Judge Positions	7	7	7	6	6	6	6	8	8

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Due to the Division's direct workload correlation with the Office of the General Counsel, increased staffing in the Office of the General Counsel will result in more cases assigned to ALJs, and the continued backlog of cases awaiting proposed decisions. In order to handle the increased workload, data calculations reviewed over the past two years demonstrate a proportional rate needed of one Attorney to .6 or .7 ALJs. This equates to 1.0 ALJ position, in order to offset the addition of 2.0 supervising attorneys.

Factfinding

Factfinding, like mediation, is an effective and constructive method of resolving workplace disputes, and when handled promptly, the effectiveness of dispute resolution dramatically increases. On the contrary, delays cause disruption and are costly. PERB is required to assist parties in reaching negotiated agreements through the factfinding process provided under the Educational Employment Relations Act (EERA) (Gov. Code, § 3540 et seq.), Higher Education Employer-Employee Relations Act (HEERA) (Gov. Code, § 3560 et seq.), and the Meyers-Milias-Brown Act (MMBA) (Gov. Code, § 3590 et seq.). These laws require PERB to appoint a chairperson to a factfinding panel within five days of the request, and this effort is facilitated through the Office of the General Counsel.

PERB is obligated by statute to pay for the chair of each factfinding panel; however, during the recession of 2008-09 the funding for this purpose was eliminated. Due to these budget constraints, in October 2008, the Board voted to lower the cost of compensation for the factfinding chair to \$100/day and apply a three day maximum. Locating factfinders at \$100 per day is difficult as typical costs for these services range from \$1,200 to \$1,800 per day (Attachment B - SMCS Panel of Arbitrators Fee Schedule). Consequently, PERB is unable to meet its five day statutory requirement. In one example from June 2015, the Office of the General Counsel received three requests for a factfinding chairperson; it took nearly six weeks to secure chairpersons for two of the cases and eight weeks for the third request.

Early intervention by mediators and factfinders plays a central and crucial role in PERB's ability to resolve labor disputes. Unless the State invests in attracting qualified and effective factfinders by increasing the amount paid for the service, PERB's ability to provide the benefits of factfinding will remain hampered.

Division of State Mediation and Conciliation Service

PERB requests funding for 1.0 Conciliator in order assist in compliance with EERA, HEERA, and MMBA statutory timelines. Should this proposed augmentation be approved, PERB anticipates the ability to reduce delays in the Division of State Mediation and Conciliation Service's workload.

Under the EERA and HEERA, a mediator is expected to "meet forthwith" with the parties to try and resolve a dispute. The mediator is further expected to try and resolve the dispute within fifteen days after being appointed, either by way of settlement or release to factfinding. Both statutes allow for the mediator to continue to work with the parties beyond the 15 days if, in his/her judgment, there is sufficient progress being made toward settlement.

The Division of State Mediation and Conciliation Service's cases are prioritized in the following order: 1) ending or averting strikes; 2) settling contract impasses; 3) supervising consent elections; 4) settling grievances and discipline disputes arising from disputed provisions in collective bargaining agreements; 5) providing training and facilitation in interest-based bargaining; and 6) workplace conflict resolution training and/or intervention.⁵

⁵ The Division of State Mediation and Conciliation Service provides mediation support to all of the public sector in California, not just those under PERB's jurisdiction. The largest non-PERB segment of the Division of State Mediation work comes from the City and County of Los Angeles, which are under the Los Angeles Employment Relations Board and the Los Angeles Employee Relations Commission, respectively.

State Mediation and Conciliation Service Workload per Conciliator History

Workload Measure	10-11	11-12	12-13	13-14	14-15	15-16
Total Cases	964	997	1,087	858	887	875
Conciliator Positions	11	11	9	9	9	9
Average caseload per Conciliator	88	91	121	95	99	97

State Mediation and Conciliation Service Case Specific Workload History

Cases by Statute:	10-11	11-12	12-13	13-14	14-15	15-16
EERA K-12	109	81	97	79	78	75
Average # Days to 1st Meeting	43	44	39	43	36	35
EERA Community Colleges	8	6	18	11	9	10
Average # Days to 1st Meeting	62	88	47	40	45	45
HEERA	5	6	3	2	1	2
Average # Days to 1st Meeting	38	27	43	37	19	20
MMBA	N/A	32	67	76	69	65
Average # Days to 1st Meeting	N/A	21	32	33	30	30
IHSSEERA	N/A	N/A	N/A	N/A	N/A	0
Average # Days to 1st Meeting	N/A	N/A	N/A	N/A	N/A	0

During FY 2008-09 through FY 2013-14, the Division of State Mediation eliminated 7.0 Conciliator positions; most were eliminated while State Mediation and Conciliation Service was under the Department of Industrial Relations. After transferring to PERB on July 1, 2012, one Presiding Conciliator position was converted to an Administrative Law Judge position when it became vacant (May 2013) in order to meet critical case backlog needs.⁶ The Division of State Mediation workload then peaked in 2013-14 FY at 1,087 cases.

The high workload, reduced number of positions, and growth of time between declared impasses to first mediation meetings from twice the statutory requirement of 15 days under EERA and HEERA to more than three times the minimum number, have created a situation where the Division of State Mediation is unable to comply with statutory mandates and is providing poor service levels to PERB's constituents. For example, in 2011 most mediators were able to offer dates within 30 days during peak workload, and within 15 to 21 days during slower times of the year. This length of delay causes elevated frustration between the parties. In 2012 and 2013, that gap stretched to an average of 47 days throughout the year, which is far beyond the statutory obligations.

The same gaps applied to non EERA and HEERA impasses, creating a new set of difficulties under the MMBA's AB 646 passage in 2012. AB 646 provides no statutory flexibility in its parameters for requesting factfinding not sooner than 30 days and not later than 45 days after failed attempts to mediate towards settlement. A very few well-funded agencies and unions are able to hire private mediators to expedite the scheduling, but a majority cannot. This led unions to request factfinding prior to mediating, just to protect the timelines, which provides the appearance of bad faith and indirectly harms mediation efforts for those cases for which the labor management relations were poor.

⁶ A 2013-14 fiscal year (FY) budget change proposal converted \$360,000 general overhead operation funds, which had transferred with the State Mediation and Conciliation Service merger, to four positions for support of severely deficient program areas.

Both the Division of State Mediation and Office of the General Counsel's resources were unnecessarily expended to manage this process: mediators tried to explain the reasons for the unions' early factfinding requests to employers as necessary to protecting the inflexible statutory timeline, and the Office of the General Counsel's office had to initiate the process of locating factfinders even before the parties had been able to meet in mediation.

The availability of qualified candidates to work as mediators tends to be limited to large urban/suburban areas, resulting in the need to travel long distances for many assignments. The nature of the work, especially in mediating complex contract impasses and/or averting or ending labor strikes, also requires working long and irregular hours, which can include weekends, holidays, and around-the-clock meetings. Heavy workload periods always involve extensive travel by automobile, often for several days at a time, leading to fatigue and burnout. The assignments involving long hours of driving, especially when they involve severe weather and/or late nights, are a serious safety concern. Additional resources will alleviate these workload demands.

Division of Administration

Should this request be approved, a total of 62.0 positions will need to be supported. To assist with this effort PERB requests \$100,000 in contracted services funds to perform accounting, budget, technology, and clerical support or reception duties.

Further, PERB has cancelled a contract for personnel services and requests position authority for 1.0 Staff Services Manager I (specialist) to coordinate and perform a majority of those functions in-house.⁷ The main duties would be to establish and maintain a permanent human resources operation within PERB and include: development and administration of examinations; job analysis; consult to managers and employees on a variety of hiring or transactional needs; position audits; manage service contracts; develop justifications; development and application of requisite processes such as hiring, separations, leave control, reasonable accommodation requests; CalOSHA requirements, employee performance. Duties would also include maintenance of the CalHR delegation, data tracking, development and submittal of monthly and annual reporting.

The Division of Administration provides a full component of services to maintain PERB operations. Staffing is comprised of four positions: a CEA, Staff Services Manager I, Accounting Administrator I (specialist), and a Staff Services Analyst. Contracted services provide assistance with technology maintenance functions; however the remaining functions are carried out by the four positions. These same staffing levels were in place when PERB reached a low of 35 filled positions in FY 2011-12 and remain at that same level today with 57 budgeted positions.

With the transfer of the State Mediation Services and its 13.0 positions in July 2012 and the 4.0 positions added midway through FY 2013-14, PERB staffing grew from 40.0 to 57.0 positions, or 42.5 percent, in a two-year period. While PERB has prioritized resources for the program staff, administrative support services have been strained, leading to difficulty keeping pace with required duties and overtime. Salary savings have also been used when available in the past as a temporary solution to hire retired annuitants and contracted staff; however, a more permanent solution is needed.

E. Outcomes and Accountability

The 2.0 Supervising Attorney III's requested are projected to dedicate 30 percent of their time to supervision responsibilities and 70 percent to case load. These positions, along with the 1.0 Administrative Law Judge II, would slow the growing backlog and reduce the overall time to dispose of cases. The Division of State Mediation, with 1.0 Conciliator position, anticipates the ability to initiate mediation services quicker. Factfinding and Administrative funding of \$200,000 will contribute towards the ability to locate qualified individuals to provide the mandated service and perform administrative functions.

⁷ A contract for partial personnel services with the Department of General Services was cancelled effective 7/31/2015.

Workload and Position Projections

Workload Measure	CY	BY	BY+1	BY+2	BY+3	BY+4
OFFICE OF THE GENERAL COUNSEL						
Beginning Case Load/Carryover	425	425	720	952	1,122	1,219
Cases Completed	1,188	1,160	1,233	1,305	1,378	1,450
Attorney Positions	13	14.5	14.5	14.5	14.5	14.5
Cases Completed per Staff	91	80	85	90	95	100
Total Cases Received	1,451	1,455	1,465	1,475	1,475	1,475
ADMINISTRATIVE LAW DIVISION						
Carryover	47	40	38	36	34	34
Total Cases Assigned	209	241	241	241	241	241
Formal Hearings Completed	87	98	98	98	98	98
Proposed Decisions Issued	76	81	81	81	81	81
Ave PD Issuance Time (Days)	180	160	140	120	100	100
Total Cases Closed	186	200	200	200	200	200
Admin Law Judge Positions	8	9	9	9	9	9
Cases Closed per ALJ	23	22	22	22	22	22
STATE MEDIATION & CONCILIATION SVS						
Total Cases	875	900	900	900	900	900
Conciliator Positions	9	10	10	10	10	10
Ave caseload per Conciliator	97	90	90	90	90	90

F. Analysis of All Feasible Alternatives

1. Recommended Alternative

5.0 positions

\$885,000 GF in 2016-17 and \$873,000 ongoing

A. An increase in the number of positions in the Office of the General Counsel and the Division of Administrative Law in order to meet workload needs created by new statutory authority; unfair practice charge and formal hearing backlogs, increase pay for Factfinding services; and reorganization to provide supervision to attorneys located within two of the three Regional Offices.

- a) 2.0 Supervising Attorney III's – To both reduce the long delays in deciding cases and provide supervision for staff attorneys in each of the regional offices.
- b) 1.0 Administrative Law Judge II – To keep up with workload and increased output caused by the addition of attorney positions.
- c) Factfinding – \$100,000 operating expense augmentation for PERB to contribute towards its statutory requirement and address workplace disputes in a timely manner.

B. 1.0 Conciliator position for the Division of State Mediation and Conciliation Services to assist with EERA, HEERA, and MMBA statutory timeline compliance.

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- C. An increase in staffing for the Division of Administration to carry out increasing workload.
 - a) \$100,000 contracted services funds to perform increasing workloads in accounting, budget, technology, and clerical support or reception duties.
 - b) Position authority for 1.0 Staff Services Manager I (specialist) – To establish a permanent human resources operation within PERB due to cancellation of contracted services.
- D. A corresponding increase in operating expenses for the 5.0 positions of \$73,000 in 2016-17 and \$61,000 ongoing. This will support increased Conciliator travel of \$20,000 and specific operational and equipment costs.
- E. A decrease in reimbursement authority of \$61,000 to reflect historic reimbursement levels.

PROS

- Will allow PERB to meet the most critical workload needs at this time to include addressing an existing workload backlog and funding Factfinder services. It will contribute towards meeting PERB's statutory obligations.

CONS

- Increases General Fund expenditures and state personnel.

2. Alternative Two

Status quo.

PROS

- No impact to the General Fund.

CONS

- Continue with current staffing levels that are inadequate to keep up with statutory deadlines.
- Case backlog will continue to increase and contribute towards an inability to meet statutory requirements.

3. Alternative Three

13.5 positions

\$2,600,000 General Fund in 2016-17 and ongoing.

PROS

This alternative would enable PERB to provide for delivery of statutorily mandated services to constituents within statutorily required timeframes.

CONS

A significant draw on the General Fund in comparison to the overall PERB budget.

G. Implementation Plan

An organizational plan for workload and to carry out the impact of this request has been formulated. Recruitment of all 5.0 positions would begin in Spring 2016. Actual hiring will occur upon approval of this request.

Concurrently, in the Spring of 2016 a detailed cost assessment will take place to determine a new formula for payment of Factfinding services, as well as an assessment of the largest gaps within the Division of Administration to contract out services. Documents and contracts will then be implemented upon approval of this request.

H. Supplemental Information (*Describe special resources and provide details to support costs including appropriate back up.*)

Attachment A – State Mediation and Conciliation - Panel of Arbitrators Fee Schedule

Attachment B – Current organizational chart

Attachment C – Proposed organizational chart

Attachment D – Workload matrix for each new position

I. Recommendation

The most efficient action would be to provide PERB with the requested funding. This would contribute toward compliance with statutory requirements and improved service levels to PERB's constituents. As PERB ramps up to effectively fulfill its duties and mandates, confidence in the established processes will begin to grow as processing times diminish. PERB is at the forefront of labor issues, and it is critical that California's system of resolving labor-management disputes be repaired in order to minimize escalation of crisis situations that are costly in terms of work productivity, impact to organizations and their employees, and citizens who are on the receiving end of those services.

With approval of this request, case resolutions will issue faster and capture minor disputes before escalation to crisis situations. It will further improve the loss of constituent confidence and reduce costs incurred when the parties engage in self-help tactics that disrupt public services and increase government costs.

SMCS Panel of Arbitrators, Fee Schedules
Daily Rates, Except as Noted

Arbitrator Name	Arbitration Fee	Interest Arbitration Fee	Mediation Fee
Sara Adler	\$ 1,600.00		
Daniel Altemus	\$ 1,600.00		
Claude Dawson Ames	\$ 1,800.00		
Karen Andres	\$ 1,500.00		
Richard Anthony	\$ 1,400.00		
Patricia Barrett	\$ 1,500.00		
David Beauvais	\$ 1,040.00		
Robert Bergeson	\$ 2,000.00		
Bryon Berry	\$ 1,500.00		
Stephon Biersmith	\$ 1,500.00		
Norman Brand	\$ 2,500.00		
William Brown	\$ 1,000.00		
Christopher Burdick	\$ 1,600.00	\$ 2,000.00	\$ 2,000.00
Grant Burton	\$ 250.00 Per Hour		
Tony Butka	\$ 1,200.00		
Fred Butler	\$ 1,500.00		
Christopher Cameron	\$ 2,000.00		
John Caraway	\$ 1,900.00		
Bonnie Castrey	\$ 1,700.00		
Alexander Cohn	\$ 2,400.00		
Lisa Copeland	\$ 1,200.00		
Paul Crost	\$ 1,200.00		
Walter Daugherty	\$ 1,600.00		
Morris Davis	\$ 1,700.00		\$ 2,000.00
Fredrick Day	\$ 200.00 per hour		
Andrea Dooley	\$ 1,800.00		
Joseph Duffy	\$ 1,600.00		
Alan Elnick	\$ 960.00		
William Engler	\$ 900.00		
Michael Fischetti	\$ 1,500.00	\$ 2,000.00	
William Floyd	\$ 2,000.00		
Kathy Fragnoli	\$ 1,850.00		
Edna Francis	\$ 2,100.00		
David Gaba	\$ 1,500.00		
Sandra Smith Gangle	\$ 1,600.00		
Jean Gaskill	\$ 3,000.00		
Joseph Gentile	\$ 1,800.00		
Harry Gibbons	\$ 2,000.00		
Ruth Glick	\$ 2,000.00		
Matthew Goldberg	\$ 1,200.00	\$ 2,000.00	
Juan Carlos Gonzalez	\$ 1,600.00		
Amedeo Greco	\$ 1,400.00		
Edward Gutman	\$ 1,800.00		
Patrick Halter	\$ 2,000.00		

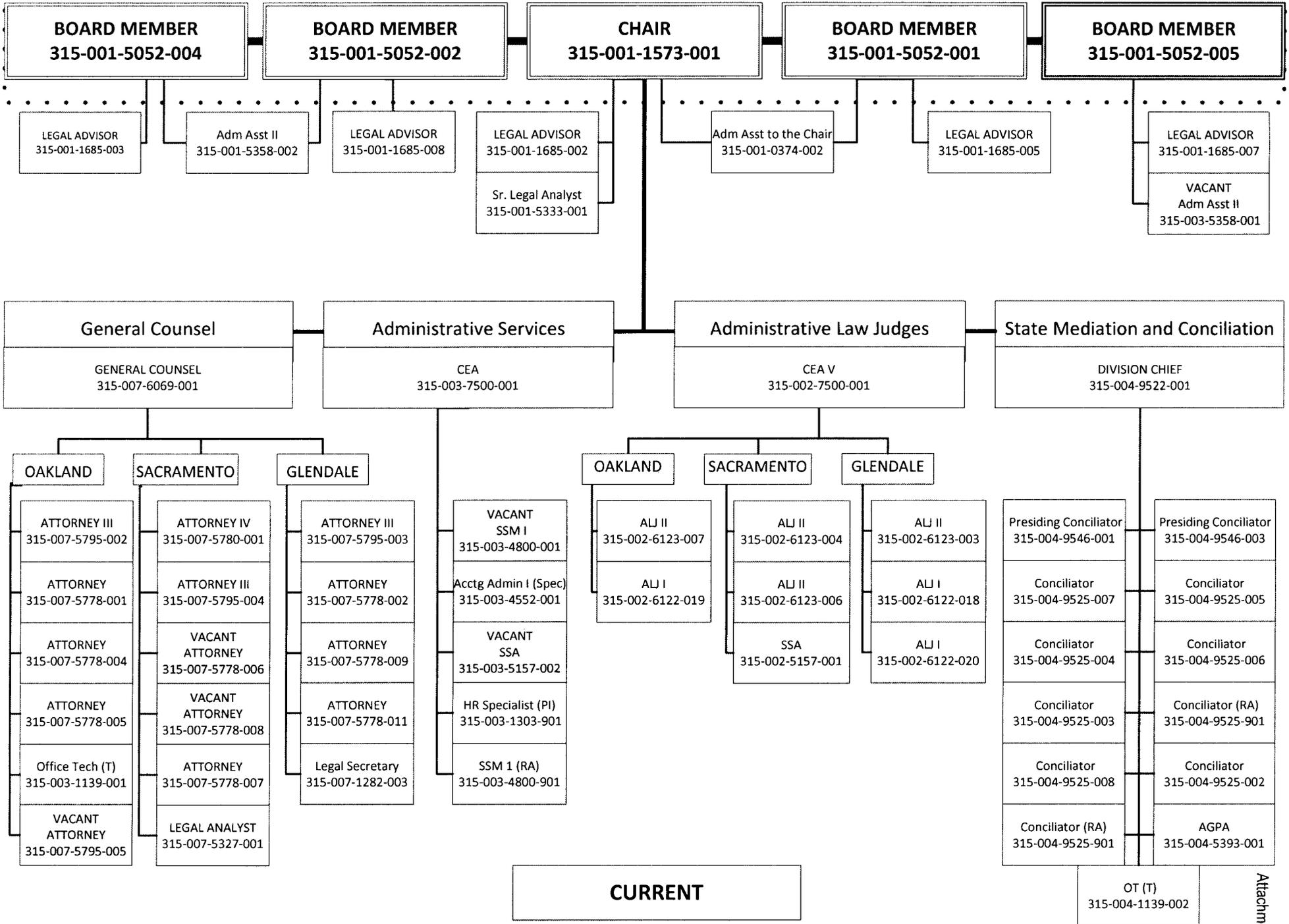
**SMCS Panel of Arbitrators, Fee Schedules
Daily Rates, Except as Noted**

Catherine Harris	\$ 1,950.00	\$ 2,150.00	
David Hart	\$ 1,200.00		
Joe Henderson	\$ 2,200.00		\$ 500.00 Per Hour
Bob Hirsch	\$ 2400.00 Collective Bargaining, \$200.00 Per Hour Grievance		
Richard Hobin	\$ 1,800.00		
Steven Hoffmeyer	\$ 1,200.00		
Ron Hoh	\$ 1,350.00		
Fredrick Horowitz	\$ 2,400.00	\$ 3,000.00	\$ 2,800.00
Richard Humphreys	\$ 1,650.00	\$ 1,400.00	\$ 1,400.00
Nancy Hutt	\$ 2,000.00		
Dennis Isenburg	\$ 1,000.00		
John Kagel	\$ 2,700.00	\$ 3,400.00	\$ 3,400.00
Walter Kaufman	\$ 2,000.00		
Walter Kawecki	\$ 1,200.00		
Mark Keppler	\$ 1,750.00		
Jill Klein	\$ 2,000.00		
Linda Klibanow	\$ 1,500.00		
Andria Knapp	\$ 700.00		
Barbara Kong-Brown	\$ 1,500.00		
Robert Landau	\$ 1,800.00		
George Larney	\$ 1,000.00	\$ 1,200.00	\$ 1,200.00
John LaRocco	\$ 1,900.00		
Kenneth Latsch	\$ 980.00		
Sandra Lindoerfer	\$ 1,200.00		
Lawrence Littler	\$ 1,200.00		
Charles Loughran	\$ 1,800.00		
James Margolin	\$ 1,800.00		
Robin Matt	\$ 1,500.00		
Frank Mellon	\$ 1,000.00		
James Merrill	\$ 1,250.00	\$ 1,500.00	\$ 1,500.00
Barbara Miller	\$ 1,100.00		
David Miller	\$ 1,000.00		
Richard Miller	\$ 1,600.00		
Jeff Minckler	\$ 1,200.00	\$ 1,400.00	
Jonathan Monat	\$ 1,500.00		
Arturo Morales	\$ 1,500.00		
Elinor Nelson	\$ 1,200.00		
Luella Nelson	\$ 2,400.00	\$500.00 Per Hour	\$500.00 Per Hour
Dale Nowicki	\$ 1,400.00		
Marilyn O'Rourke	\$ 1,800.00		
Kenneth Perea	\$ 1,500.00		
John Perone	\$ 1,900.00		
C. Allen Pool	\$ 2,400.00		

**SMCS Panel of Arbitrators, Fee Schedules
Daily Rates, Except as Noted**

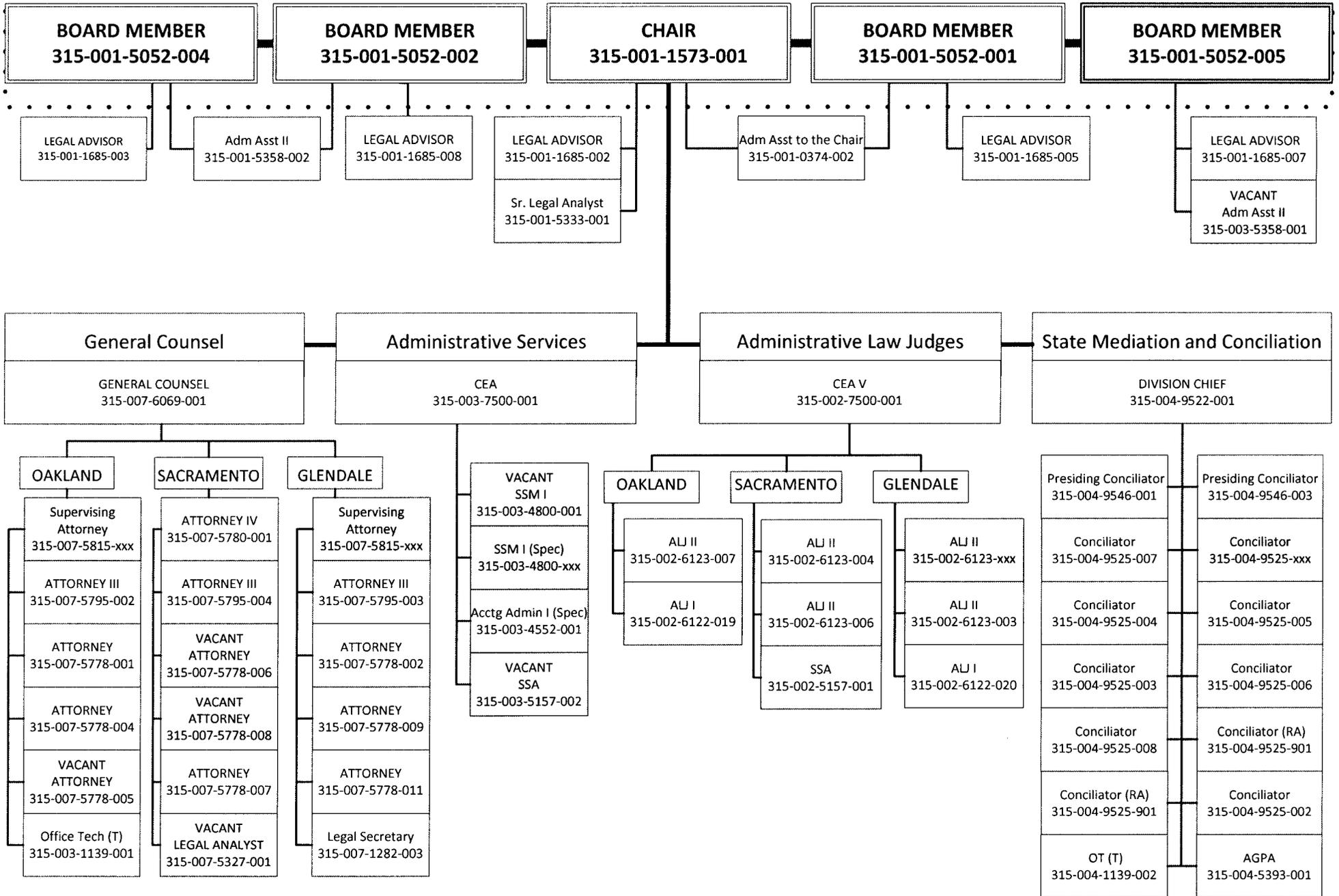
Guy Prihar	\$	1,700.00		
Michael Prihar	\$	2,200.00		\$ 2,200.00
Wilma Rader	\$	2,300.00	\$ 2,600.00	\$600.00 Per Hour
Michael David Rappaport	\$	2,000.00		
George (Robert) Riggs	\$	1,000.00		
William Riker	\$	2,400.00		
Paul Roose	\$	1,200.00		
Sheri Ross	\$	1,000.00		
Philip Salamone	\$	1,600.00		
Daniel Saling	\$	800.00		
William Schilling	\$	1,200.00		
Edward Scholtz	\$	1,400.00		
Dennis Smith	\$	850.00		
Richard Solomon	\$	1,650.00		
Daniel Soreneson	\$	1,000.00		
Paul Staudohar	\$	1,700.00		
Robert Steinberg	\$	1,400.00		
Jan Stiglitz	\$	1,750.00		
David Stiteler	\$	1,200.00		
Philip Tamoush	\$	1,700.00		
Katherine Thomson	\$	1,650.00		
Herman Torosian	\$	1,500.00		
John True	\$	1,500.00		
Terri Tucker	\$	2,000.00		
Pilar Vaile	\$	1,000.00		
Carol Ann Vendrillo	\$	1,800.00		
David Weinberg	\$	1,500.00		
Michael Weinberg	\$	1,500.00		
Kathryn Whalen	\$	1,800.00		
Burton white	\$	1,200.00		
DeWayne Wicks	\$	800.00		
Joseph Woodford	\$	900.00		
John Wormuth	\$	1,400.00		
Louis Zigman	\$	1,800.00		\$ 2,200.00

PERB Board



CURRENT

PERB Board



PROPOSED

**PUBLIC EMPLOYMENT RELATION BOARD
2016-2017 BUDGET YEAR
BUDGET CHANGE PROPOSAL
WORKLOAD MATRIX FOR 5.0 POSITIONS**

OFFICE OF THE GENERAL COUNSEL

Position(s) Requested	Workload	Workload History	Basis for Standard
Supervising Attorney III: 2.0	<p>Supervises, plans, organizes, and directs the work of Attorneys I, Attorneys III, and support staff at PERB's Regional Offices; evaluates the performance of subordinate staff .</p> <p>Responsible for the investigation and disposition of various PERB cases, including, but not limited to, unfair practice charges, representation petitions, requests for injunctive relief, appellate advocacy, superior court litigation, and factfinding. Develops strategies and tactics in complex charges, petitions and litigation; and performs the most difficult and complex litigation, hearings, legal research, and opinion drafting. Conducts hearings in representation matters where appropriate. Presides over informal conferences and assists the parties in resolving their labor disputes. Evaluates and responds to public record act requests. Provides legal analysis on pending legislation. Oversees all aspects of rulemaking.</p>	<p>Hours: 1,066</p> <p>Hours: 2,486</p> <p><u>Subtotal Hours:</u> <u>3,552</u></p>	<p>Workload hours are based on current Attorney I and Attorney III duties as historical information is unavailable.</p> <p>PERB is responsible for maintaining labor harmony between the state's public employers and its approximate 2.2 million employees. It does this by administering and enforcing the state's (8) eight labor-relations statutes. PERB' Office of the General Counsel is allotted about 15 attorneys at three regional offices, which are responsible for investigating and disposing of the approximate 1451 cases filed at PERB each year. In addition, the attorneys must preside over informal conferences (mediations), respond to public record act requests, and oversee rulemaking from start to end.</p>

DIVISION OF ADMINISTRATIVE LAW

Position(s) Requested	Workload	Workload History	Basis for Standard
<p>Administrative Law Judge II: 1.0</p>	<p>Hearing Cases: Conduct quasi-judicial evidentiary hearings in unfair cases, representation matters, and compliance proceedings for state and local agencies, school and community college districts, special districts, and two transit districts. Coordinate transcript requests.</p> <p>Research, Review and Write Proposed Decisions Review post-hearing briefs, review transcripts and exhibits, conduct legal research in PERB decisional database and Westlaw database. Write, edit, and issue proposed decisions.</p> <p>Peer Review, Advisement, and Training Conduct Peer Review on fellow Administrative Law Judges (ALJ) as to their orders, rulings, and proposed decisions. Mentor and advise ALJ I's in performing their duties.</p> <p>Prehearing Matters Review prehearing motions, review and sign subpoenas and subpoena duces tecum. Review and research prehearing motions and issue orders/rulings on disputed prehearing matters. Review hearing file prior to formal hearing.</p> <p>Miscellaneous Administrative Tasks Sending out notices for hearings and continuances. Review correspondence and emails regarding cases. Keep evidentiary record organized. Prepare Administrative Law Judge checklist, if case is appealed to the Board.</p>	<p>Hours: 792</p> <p>Hours: 640</p> <p>Hours: 40</p> <p>Hours: 216</p> <p>Hours: 88</p> <p><u>Subtotal Hours:</u> <u>1,776</u></p>	<p>Data is from PERB's Case Management System as to the number of days ALJ's spent conducting hearings in fiscal year 2014.</p> <p>Other than the time spent in hearings, prehearing, peer review and administrative tasks, all other time is dedicated to issuing proposed decisions and orders.</p> <p>An average of 10 proposed decisions are issued by each ALJ annually. Approximately 2-3 hours per proposed decision to peer review. Approximately one hour per case in consultation to the less senior ALJ's.</p> <p>In fiscal year 2014, ALJ's were assigned approximately 27 cases each. Historically, 8 hours are spent in preparation of each case before hearing.</p> <p>In fiscal year 2014, ALJ's were assigned approximately 27 cases each. Approximately 4 hours historically spent on each case performing administrative tasks from opening to closing.</p>

DIVISION OF STATE MEDIATION AND CONCILIATION SERVICE

Positions Requested	Workload	Workload History	Basis for Standard
<p>Conciliator: 1.0</p>	<p>Perform mediation work related to labor-management contract and workplace disputes, supervise representation and other elections, provide training and facilitation, maintain electronic case files, prepare documents, and perform other duties, as assigned. The above tasks include: conferring with parties as necessary, independently arranging all travel, using advanced mediation and negotiation skills to affect compromises toward settlement, preparing documents to generate formal contracts or a variety of other uses, and performing follow-up actions, such as making referrals to factfinding.</p> <p>Contract dispute mediation: Prioritize workload and scheduling to mediate contract disputes related to the negotiation of new and successor collective bargaining agreements according to urgency and the appropriate statutory requirements.</p> <p>Grievance and other labor-management dispute mediation: Understand the applicability of collective bargaining language and local rules and their applicability to the issues of the grievance or complaint.</p> <p>Supervision of representation-related processes: Understand the differences between different types of representation and decertification processes and applicable statutes and perform related work ranging from basic card checks to supervising elections, both by mail ballot and on-site. Prepare necessary agreements, set schedules, arrange for postings, use secure ballot distribution methods, make judgments related to challenges, and ensure accurate ballot-counting and recordkeeping.</p> <p>Provide training and facilitation, and perform outreach: Train labor and management organizations, jointly or separately, in Interest-Based Bargaining, managing and resolving conflict in the workplace, and the effective use of joint labor-management committees. Promote harmonious labor-management relations</p>	<p>Hours: 710 (40%)</p> <p>Hours: 622 (35%)</p> <p>Hours: 178 (10%)</p> <p>Hours: 89 (5%)</p>	<p>A tracking mechanism that captures travel and miscellaneous hours related to direct hours expended in mediating labor/management disputes does not exist. This allocation of hours is based on percentages of types of tasks, based on an average of cases worked.</p> <p>Conciliators work from home offices and perform most of the work in the offices of the parties to the disputes. A significant amount of the work is performed in very remote locations. Efforts are made to assign work to the mediators closest in proximity, but all staff are required to be available to take assignments in all 58 counties. Emergencies and peak work periods require that assignments be made on availability, not proximity.</p>

	<p>techniques as a speaker or panel member. Maintain an awareness of developing labor-management strife and/or disputes, and proffer services, as appropriate.</p> <p>Create and maintain records and reports: Create and maintain accurate electronic case files, and associated electronic and paper records, and other documents, as needed, including managing retention and destruction dates. Produce accurate periodic and ad hoc reports, as needed.</p> <p>Attend training and staff meetings: Actively participate in SMCS staff meetings, including presenting assigned topics. Attend outside training, including an average of three sessions per year on the Governor's budget as it relates to public schools' funding. Attend advanced mediation skills training for certifications. Participate in other training as required for State employment or the enhancement of skills necessary to perform the work.</p>	<p>Hours: 89 (5%)</p> <p>Hours: 88 (5%)</p> <p><u>Subtotal Hours:</u> <u>1,776</u></p>	
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DIVISION OF ADMINISTRATION

Positions Requested	Workload	Workload History	Basis for Standard
<p>Staff Services Manager I (specialist): 1.0</p>	<p>Serve as the Human Resource Officer and provide services in the areas of: classification and compensation, exams and certification, health and safety, personnel transactions, recruitment and selection, and workers' compensation. Administer changes resulting from CalHR Personnel Management Liaisons Memos (PML) and SCO Pay Letters. Advise and make recommendations to staff and management on varied and difficult human resources issues; approve requests for personnel action documents, and prepare related reports and correspondence; analyze and propose organizational staffing changes; approve job descriptions and revisions, recruitment activities, exam requests and processes. Approve Request for Personnel Action (RPA), hiring above minimum, red circle rates, salary exceptions and special salary adjustments. Develop and update policy and procedures, and establish tracking and record maintenance systems to ensure all human resource processes and records are in compliance with laws and regulations.</p>	<p><u>Subtotal Hours:</u> <u>1,776</u></p>	<p>Various personnel services functions were contracted to the Department of General Services at a rate of \$2,500 per employee. The last contract was for \$135,000 and with additional positions, should contracting have continued, the services would have cost \$154,500.</p> <p>With no history of carrying out an in-house human resources function, hours stated are assumed.</p>
<p>Positions Requested</p>	<p>5.0</p>	<p>Total Hours 8,880</p>	