

CALIFORNIA CITIZENS COMPENSATION COMMISSION

ORIGINAL

TRANSCRIPTION OF RECORDED
CALIFORNIA CITIZENS COMPENSATION COMMISSION
HELD AT CITY HALL
SACRAMENTO, CALIFORNIA
MAY 31, 2012

TRANSCRIBED BY: DONNA K. NICHOLS, RPR, CSR NO. 5660



1 CHAIRMAN DALZELL: All right. I hereby call the
2 California Citizens Compensation Commission to order. Our
3 first order of business, as always, is the roll call.

4 Madame clerk.

5 MADAME CLERK: Tom Dalzell.

6 CHAIRMAN DALZELL: Present.

7 MADAME CLERK: Kathy Sands.

8 COMMISSIONER SANDS: Present.

9 MADAME CLERK: Ruth Lopez-Novodor.

10 COMMISSIONER LOPEZ-NOVODOR: Present.

11 MADAME CLERK: John Stites.

12 COMMISSIONER STITES: Present.

13 MADAME CLERK: Scott Somers.

14 COMMISSIONER SOMERS: Present.

15 MADAME CLERK: Charles Murray.

16 COMMISSIONER MURRAY: Here.

17 MADAME CLERK: Wilma Wallace.

18 COMMISSIONER WALLACE: Present.

19 MADAME CLERK: We have a quorum.

20 CHAIRMAN DALZELL: Thank you. Our next order of
21 business, as always, will be review and approval of the
22 Minutes from our meeting of March 29th, 2012.

23 Do any commissioners offer any corrections or
24 additions to the transcribed record of the meeting?

25 Hearing none, is there a motion to approve the

1 Minutes?

2 COMMISSIONER: So moved.

3 CHAIRMAN DALZELL: Second?

4 COMMISSIONER: Second.

5 CHAIRMAN DALZELL: Those in favor?

6 (Multiple voices saying aye)

7 CHAIRMAN DALZELL: Those opposed?

8 COMMISSIONER LOPEZ-NAVODOR: I abstain. I wasn't
9 present.

10 CHAIRMAN DALZELL: All right. The motion carries.
11 The Minutes from March 29, 2012, meeting stand.

12 We now come to the opening comments by commissioners.
13 And rather than going left to right or right to left I would
14 like to recognize the two commissioners who are probably
15 attending their final meeting of this Commission and who
16 have served us well for five years.

17 Commissioner Sands, would you like to go first.

18 COMMISSIONER SANDS: Okay. Thank you. Well, I'll
19 have to tell you it's really been an honor and quite a
20 privilege to be on this Commission for what -- what -- has
21 it been six years? Is that it? Six years? Yeah, six-year
22 term. It's really gone quickly. I think we've made some
23 progress. We've had some difficult decisions to make, but
24 I've enjoyed it, and I've enjoyed the interaction with my
25 community and -- and how they've felt about what we've done

1 and the actually public at large. And I've enjoyed so much
2 working with the -- all the commissioners and meeting all of
3 you. So I'll probably miss you, but I'll be keeping in
4 track with -- on track with the newspaper. Thank you.

5 CHAIRMAN DALZELL: Would you like to make any opening
6 comments about the -- the -- the substance of our business
7 today, or do you want to wait until we discuss?

8 COMMISSIONER SANDS: I'll wait. I'll wait.

9 CHAIRMAN DALZELL: All right. Commissioner Lopez.

10 COMMISSIONER LOPEZ-NOVODOR: Well, I just want to --

11 COMMISSIONER: You need to turn your --

12 COMMISSIONER SANDS: Turn your mic on.

13 COMMISSIONER LOPEZ-NOVODOR: Oh, that's a good idea.

14 COMMISSIONER: Yeah.

15 COMMISSIONER LOPEZ-NOVODOR: Just want to thank
16 the -- particularly Debbie for all the work she's done in
17 keeping us all posted and so forth, but the pleasure of
18 working with the panel.

19 And we've gone through some challenging times. But
20 most importantly is standing back and taking a look at all
21 of the factors that contribute to the salaries for our
22 legislators. It is a serious matter, and I think we've
23 taken it that way. I think everyone on the panel has been
24 very selective in the way that they have approached coming
25 up with these conclusions. And I just want to say that I'm

1 very glad that I was able to experience it and be a part of
2 it. Thank you very much.

3 CHAIRMAN DALZELL: Commissioner Murray, I --
4 Commissioner Murray, I believe I'm -- not out of lack of
5 respect. Because of some sense of what may come up in your
6 opening remarks I'm going to save you for last.

7 COMMISSIONER MURRAY: So, yeah.

8 CHAIRMAN DALZELL: Commissioner Wallace.

9 COMMISSIONER WALLACE: I have no comments at this
10 time.

11 CHAIRMAN DALZELL: Commissioner Somers.

12 COMMISSIONER SOMERS: I have no comments at this
13 time.

14 CHAIRMAN DALZELL: Commissioner Stites.

15 COMMISSIONER STITES: Nothing at this time,
16 Mr. Chairman.

17 CHAIRMAN DALZELL: Well, that was easy.

18 Commissioner Murray.

19 COMMISSIONER MURRAY: And it comes back to me. The
20 first off I'd like to say to Kathy and Ruth, you're -- the
21 contribution that you made here has been outstanding. There
22 is no other word for it, and appreciate all your help and
23 your being available to us when -- and I'm sure Tom feels
24 this way -- when I had his role, you've just done a great
25 job, and I personally want to say thank you.

1 Part two is we have on the floor a legal opinion to
2 be given to us by the counsel, our counsel and -- and in
3 thought and afterthought and speaking to others I would ask
4 that she be allowed to recuse herself from making that
5 opinion available to us only because there appears to be an
6 in-built -- shall we say, a conflict of interest. And I
7 would rather defer and have us retain a counsel outside to
8 give an opinion on the scope of what various -- the
9 compensation levels we can -- we can rule on.

10 Now, I don't know if that becomes a motion at this
11 time or -- it -- it is up to Counsel what -- what -- what
12 she'd like to do.

13 CHAIRMAN DALZELL: Well, I think that -- that there
14 are several matters contained in your remarks. One might be
15 appropriate as a -- as a motion. But the -- the first issue
16 is the request by Commissioner Murray to Counsel to recuse
17 herself from offering an opinion on this subject, or are you
18 asking that she be recused from all -- giving any advice on
19 any issue to this Commission?

20 COMMISSIONER MURRAY: No, I'd -- I'd say the former
21 only because she is always retained by the State, and she's
22 also receiving -- receiving pay by the State as a retired
23 State employee. So on the outset I'm not accusatory in any
24 way, but from -- from -- from the outset she has a perceived
25 vested interest in staying in the favor of the Attorney

1 General's office and the State. Whether that is valid or
2 not, I'd feel better if we could get an outside firm to rule
3 on what the scope is and what we can rule on.

4 CHAIRMAN DALZELL: Well, with -- without commenting
5 on that, let me -- let me make sure I understand.

6 You are not suggesting any personal bias by
7 Ms. Meith --

8 COMMISSIONER MURRAY: Absolutely not.

9 CHAIRMAN DALZELL: -- you are asserting that there is
10 a -- an inherent conflict of interest in her providing this
11 opinion --

12 COMMISSIONER MURRAY: On this one issue.

13 CHAIRMAN DALZELL: And that assumes that there's a
14 desired outcome from the Attorney General's office on this
15 issue and that she would be trying to determine what that is
16 and would then tailor her opinion to fit that desired
17 outcome or perception?

18 COMMISSIONER MURRAY: As -- as I recall, there
19 already has been -- been a letter given by the Attorney
20 General's office defining in their eyes what our scope is.
21 And I'd say for her to go against that would create --
22 create a semi conflict of interest.

23 CHAIRMAN DALZELL: And you understand that that was
24 a -- a different Attorney General?

25 COMMISSIONER MURRAY: True.

1 CHAIRMAN DALZELL: All right. Understanding your
2 request to Ms. Meith, would you like to respond, Counsel?

3 MS. MEITH: My assignment to work with the Commission
4 came from the Department of Personal Administration. I'm
5 employed with the -- by the Department of Personnel
6 Administration. I have no association with the Attorney
7 General's office, and in the course of my practice have --
8 have opposed the Attorney General's office on more than one
9 occasion.

10 But in any case, I think if the Commission as a whole
11 wants to ask -- I mean the role of Department of Personnel
12 Administration is to provide administrative support to the
13 Commission. So if the Commission as a whole wants to ask
14 that an additional counsel be retained, then I think as has
15 happened in the past, I believe, there have been requests
16 for outside contractors. You -- the -- that request is
17 processed. And some decision will be made around such
18 things as whether I have a conflict.

19 I -- I don't feel I have a conflict or I'm -- I'm
20 biased in any way with regards to the subject matter. And I
21 want that to be on the record.

22 But if the Commission as a whole wants to ask DPA to
23 retain independent counsel, then I think that would be a
24 motion of the Commission, and it would precede the DPA and
25 there would be some analysis.

1 CHAIRMAN DALZELL: So you decline the -- you decline
2 the request by Commissioner Murray to recuse yourself?

3 MS. MEITH: Had -- had I thought I had any
4 inappropriate relationships or feelings or thoughts
5 regarding the subject matter, I would not have agreed to --
6 to prepare the document that, as I understand, I was
7 requested to prepare at the last meeting.

8 So, no, I -- I don't think I have any bias. And
9 recusal I think of as something that a decision-maker does
10 when presented with a conflict of interest. So I -- I
11 struggle with that term a little bit.

12 But in lawyer speak, you don't take on clients who
13 have opposing interests or adverse interests. And I have no
14 clients with an adverse interest to the Commission.

15 CHAIRMAN DALZELL: Do you represent, as our previous
16 counsel did, the office of the Governor?

17 MS. MEITH: No. And there's a -- actually, there's a
18 wall within the DPA legal office that says when it comes to
19 matters of the Commission I am entirely independent. And
20 I -- that was provided to all of you I believe last year.
21 And don't consult with any of their attorneys, and their
22 attorneys have been instructed not to talk to me.

23 CHAIRMAN DALZELL: Commissioner Murray, I -- I think
24 that that settles the first part of your comments.

25 As for the possibility of an outside law firm

1 rendering an opinion on the legal authority of the
2 Commission over travel and living expenses, as I read the
3 enabling language from the initiative in the Constitution,
4 it is the intent of the Legislature that a creation of the
5 Commission should not generate new State costs. So I think
6 that Counsel correctly suggests that if we, as a whole,
7 would like an outside firm's opinion on that issue, that the
8 request be framed as it was in the past for outside
9 consultant services as a motion requesting the -- that the
10 Commission -- that the DPA retain outside counsel to review
11 the legal authority of our commission over travel and living
12 expenses. And if you would like to move so, I believe that
13 that is an appropriate motion.

14 COMMISSIONER MURRAY: I -- I will move so. So moved.

15 CHAIRMAN DALZELL: Is there a second?

16 COMMISSIONER SANDS: I'll second. Second.

17 CHAIRMAN DALZELL: Those in favor of the motion?

18 COMMISSIONER SOMERS: (Unintelligible).

19 CHAIRMAN DALZELL: Oh, I'm sorry. I'm sorry,
20 Commissioner Somers.

21 COMMISSIONER SOMERS: Could we have a clarification
22 as to what opinion specifically she is being asked to recuse
23 herself on or -- or that we will actually -- sorry. What
24 specific opinion are we asking outside legal counsel to help
25 us with?

1 CHAIRMAN DALZELL: As I understand Commissioner
2 Murray's request, it is to have outside counsel review
3 exactly the issues that Counsel has reviewed, and that would
4 be coming out of our March 29th meeting where we asked for
5 the legal authority of the Commission to establish per diem
6 and travel expense rates for members of the legislature.
7 And so that's slightly more specific than the -- the broader
8 subject of travel and living expenses.

9 COMMISSIONER SOMERS: But my comment I guess on this
10 is that, you know, I think in the four years that I've been
11 on this Commission I think the Commission generally takes a
12 pretty aggressive approach to our responsibility, and I'm
13 fine with that. And specifically in the absence of very
14 direct language that says it shouldn't be our
15 responsibility, I -- I think it's perfectly fine for us
16 to -- to take that position.

17 I am -- at the same time I guess I -- I just as soon
18 not either spend money or fight battles that either seem to
19 be spelled out that it is not our responsibility, or
20 secondly, that may not have the kind of financial impact
21 that make it worth spending a lot of time on. And I have --
22 you brought up last time the specific language of Prop. 112
23 which is now part of the Constitution, which is section
24 four, part B, travel and living expenses for members of the
25 Legislature in connection with their official duties shall

1 be prescribed by statute, passed by roll call, voted -- vote
2 entered in the Journal, two-thirds of the membership of each
3 house concurring.

4 That would seem to indicate that it's the
5 responsibility of the Legislature to establish policies for
6 travel. What I'm -- part of my -- one, that's a comment.
7 But then I also have a question that -- that if it seems to
8 be indicated in that direction, what has the Legislature
9 been doing? Why hasn't the Legislature been voting on this,
10 presumably on an annual basis, or has it, in which case are
11 we really just talking about two different interpretations
12 of what the -- of what the policy should be. That's --
13 maybe you have a thought on that or a comment on that.

14 MR. DEMAS: Thank you. Gus Demas for the record.
15 I'm the fiscal officer for the Assembly.

16 And the per diem and travel sections that you
17 referred to were established by statute, and they don't have
18 to be reestablished every year.

19 So take per diem, for example. The statute directs
20 the Victims Compensation and Claims Board to set the rate,
21 and they do set the rate every year. They have tied it to
22 the federal rate in Sacramento. So that Board officially
23 adopts the per diem rate every year.

24 And going back a few years now they no longer meet to
25 actually take that action. But they've connected it to the

1 federal rate. So whenever the federal rate changes in
2 Sacramento, then the per diem rate changes. And the travel
3 statute was put in place many years ago, and that has not
4 changed.

5 COMMISSIONER SOMERS: Well, then if I may ask, why
6 hasn't the legislature challenged the decisions -- the
7 decisions that this Commission has made?

8 MR. DEMAS: The per diem -- let's take them one at a
9 time. The per diem issue, when this Commission adopted a
10 lower per diem rate, the Legislature continued to submit
11 claims at the legally-adopted per diem rate, and the State
12 Controller reduced that to what the Commission had set. So
13 the -- the Legislature was simply claiming the
14 legally-adopted rate, and the State Controller paid a lower
15 rate.

16 COMMISSIONER SOMERS: In that case I guess I would be
17 very interested in -- in supporting the -- the measure to
18 have an outside counsel give an opinion on this and in some
19 respects so we can kind of settle it once and for all.

20 CHAIRMAN DALZELL: Commissioner Stites.

21 COMMISSIONER STITES: Mr. Chairman, even if the
22 Legislature -- which I find it astounding that a body would
23 be able to reward itself basically by determining what their
24 travel rates would be or what per diem would be. I still
25 believe it is still a benefit, and that does not preclude us

1 from reducing it, if necessary. So I stand with it.

2 As far as a motion to take it to an outside, I'd be
3 a -- our counsel does a fantastic job, and I like her, but I
4 also view this body as a protector of her. And even if
5 she's working for the DPA, that doesn't mean there's not
6 other people out there that can maneuver and try to --
7 basically to harm her or have her removed from her position.

8 And so I'm very comfortable, with some issues we may
9 have, to go to an outside. And that's not only just to --
10 the term recusal, I -- I don't think is good. I just think
11 we need to provide some level of protection for our counsel
12 because there's some nefarious people out there.

13 That's all I have, Mr. Chair.

14 CHAIRMAN DALZELL: Do any other commissioners have --
15 have comments on Commissioner Murray's motion to request the
16 DPA to provide outside counsel?

17 COMMISSIONER LOPEZ-NOVODOR: I just have a question.
18 Did it also include for her not to give her report? I -- I
19 thought I heard that in the --

20 CHAIRMAN DALZELL: The motion?

21 COMMISSIONER LOPEZ-NOVODOR: Yeah.

22 CHAIRMAN DALZELL: I -- I don't think that -- we
23 are -- that we could be or should be in the business of
24 suppressing a public document.

25 COMMISSIONER LOPEZ-NOVODOR: Yeah, I -- I -- I --

1 that's the only piece that I wanted to comment on. I don't
2 think it hurts for us to hear what she's got to -- what she
3 has. But I also think that in a situation where the
4 Commission is a little uncomfortable that we go get a third
5 party. And I -- I -- I do concur with that. But I just
6 wanted to clarify that it would be good to hear what she has
7 to say as well. That's my only comment.

8 CHAIRMAN DALZELL: Yeah, I -- I believe that the --
9 her opinion has been provided to the Commission members by
10 e-mail. It's not yet on the --

11 COMMISSIONER SANDS: I didn't get it.

12 COMMISSIONER LOPEZ-NOVODOR: I didn't get it.

13 COMMISSIONER: No one got it.

14 CHAIRMAN DALZELL: Oh, yeah.

15 MADAME CLERK: I did send it out to each member.

16 COMMISSIONER SANDS: Really?

17 MADAME CLERK: Mm-hmm. In -- (unintelligible) all
18 together information that I sent out.

19 (Speaking over each other)

20 COMMISSIONER LOPEZ-NOVODOR: Did you get it?

21 COMMISSIONER: Yes.

22 COMMISSIONER SANDS: I didn't get it.

23 CHAIRMAN DALZELL: I -- I got it I think at the same
24 time as the judge -- the judge salary data. There were a
25 number of PDFs attached in there, and maybe we overlooked.

1 COMMISSIONER SANDS: Oh.

2 COMMISSIONER WALLACE: I'd like to just make a
3 comment which is that, if not now, I think it is important,
4 and I would caution us to clearly define the perceived
5 conflict given this next charge and the roll of DPA. I
6 would not want to be in a position where we're setting
7 precedent to seek outside counsel or outside consultants
8 without a very clear understanding as to the rationale and
9 the distinctions from situation to situation that -- where
10 we believe a conflict might arise.

11 CHAIRMAN DALZELL: So I think -- that's -- that's a
12 fair request, and so I'll -- I'll ask Commissioner Murray to
13 state for the record as clearly and thoroughly as he may
14 his -- the reasons that he believes that there's a conflict
15 of interest with Counsel providing this opinion to us.

16 COMMISSIONER MURRAY: Surely. There is an -- not to
17 say this is the case or there's anything to prove the case,
18 but there is a initially, oh, conflict of interest that
19 might be looked at on our -- the counsel since she is an
20 annuitant of the State and she is being brought back from a
21 retired status to help us and also being paid by the State.
22 Now the salary and the annuity might not come from other
23 areas, but the overall, shall we say -- the funding of her
24 livelihood is from the State of California. So this would
25 be a conflict of interest when we're asking her to

1 develop -- develop a legal opinion that she has to go
2 against an opinion offered by the State of California.

3 CHAIRMAN DALZELL: And could you state for the record
4 why you believe that outside counsel paid by the State of
5 California would not have a conflict of interest?

6 COMMISSIONER MURRAY: Just to do an add on to -- oh,
7 to the motion I would say outside counsel, if we decide to
8 go that route, should be approved -- approved all by our
9 Commission, not -- not just a -- a friend to the court, if
10 you will. As -- as far as I'm concerned, what -- excuse me,
11 Tom, what -- what was your specific question?

12 CHAIRMAN DALZELL: Your concern that our counsel is
13 paid by the State and that helps -- that's one of the
14 factors that creates a conflict of interest, do you believe
15 that a law firm paid by the State of California would not
16 have that same perceived or real conflict of interest?

17 COMMISSIONER MURRAY: I would think it would be --
18 there would be some concern, but if we have the right law
19 firm that has -- has a background of issues of this type, I
20 don't think you'd have that in-built conflict.

21 CHAIRMAN DALZELL: All right, I -- I -- are there any
22 other comments by commissioners?

23 COMMISSIONER STITES: Sure.

24 CHAIRMAN DALZELL: Commissioner Stites.

25 COMMISSIONER STITES: Just very quickly. Now, if

1 we're going to look at outside counsel, is this body going
2 to identify and approve who that is?

3 CHAIRMAN DALZELL: Well --

4 COMMISSIONER STITES: Or is it going to -- well --
5 you know, I mean there's just so many questions that follow
6 up with this particular motion. I got to know.

7 CHAIRMAN DALZELL: The -- the -- the motion is to ask
8 DPA to provide it. And I think that there may have been
9 a -- a self -- an author amendment to then have if DPA is
10 willing to provide it, to then have this Commission approve
11 that firm. Is that an author amendment to it?

12 COMMISSIONER MURRAY: That's correct.

13 CHAIRMAN DALZELL: Remembering that the enabling
14 statute states that the in -- intent of the Legislature,
15 that we should not generate new State costs.

16 I think we've -- I think we have bigger fish to fry
17 today than talking about this much longer.

18 Did you have a comment, Commissioner Sands?

19 COMMISSIONER SANDS: Yeah, I -- I just agree with --
20 with Chairman Murray. But I did wonder -- you mentioned the
21 cost. I do -- did wonder about the cost and whether we
22 actually have the money. I guess -- you know, I do. That
23 is something that I'd like to know. I guess we'll get that
24 when we get the proposals.

25 COMMISSIONER MURRAY: I am -- I'm -- I'm -- excuse

1 me, I'm sorry.

2 CHAIRMAN DALZELL: Commissioner Murray.

3 COMMISSIONER MURRAY: Yes. When -- when we get -- I
4 have a -- a few law firms in mind that I've worked with in
5 the past that would really be glad to do it. So whether it
6 be pro bono or not, I don't know, but -- but I'm sure the
7 cost would be in line with our budget.

8 COMMISSIONER WALLACE: Okay, may I make --

9 COMMISSIONER SANDS: That's good.

10 COMMISSIONER WALLACE: -- just two small comments?

11 CHAIRMAN DALZELL: Sure.

12 COMMISSIONER WALLACE: One is I'm troubled and
13 concerned by the timing. If we are to re -- if we need to
14 state our information in order to make a final decision with
15 respect to compensation, I understand there's a deadline
16 that we're facing, so that's the first concern that I want
17 to make sure we're considering.

18 And then the second is I am still not comfortable
19 with the distinction that's being drawn with respect to
20 Ms. Meith's perceived conflict of interest. I can't imagine
21 understanding the scope of this Commission, that there are
22 many decisions that Ms. Meith would be able to opine on in
23 support of the Commission if the con -- perceived conflict
24 arises because she is receiving or has received annuities or
25 compensation in the past from the State.

1 CHAIRMAN DALZELL: Are there any further comments by
2 commissioners?

3 COMMISSIONER SANDS: Well, I -- I guess I would just
4 say that we don't have a problem to make a decision on
5 salary and -- oh --

6 COMMISSIONER: Insurance.

7 COMMISSIONER SANDS: -- medical and dental, that type
8 of thing. We don't have -- we -- we are completely -- we
9 know we're okay with that. But it's the similar benefits or
10 something that -- that we're trying to get the correct
11 definition of our scope of authority on that. So we can
12 make a decision on salary and -- and medical and dental.
13 That's all I have to say.

14 CHAIRMAN DALZELL: Any further comment on -- on the
15 proposal, on the motion?

16 The motion is to request DPA to provide outside
17 counsel to render an opinion on the Commission's legal
18 authority over travel and living expenses. If the --
19 furthermore, if the DPA agrees to provide outside counsel
20 opinion, to submit to this Commission for its approval, the
21 law firm, and the projected cost of that item. And I think
22 that given the -- given the date, this is probably not
23 something that we will receive in time for action before
24 June 30th of this year.

25 It is an issue that one way or another needs to be

1 settled. We need to stop asking for opinions and then
2 asking for another opinion when we don't like what the
3 opinion says. And we have bigger fish to fry today.

4 So that is the motion. And I believe there's a
5 second. If there's not, let's -- yes, there is a second.
6 We got to discussion.

7 Those in favor say aye, please.

8 (Multiple voices saying aye).

9 CHAIRMAN DALZELL: Those opposed?

10 COMMISSIONER WALLACE: Opposed.

11 CHAIRMAN DALZELL: Abstaining?

12 I abstain.

13 The motion carries.

14 The next item on our agenda is discussion from our
15 March 29th meeting. We were provided with data requested at
16 that meeting. We were provided with information concerning
17 department heads, heads of State agencies. We were provided
18 with information on judicial salaries.

19 After public testimony we will discuss and adopt a
20 Resolution setting the compensation.

21 Is there any discussion at this point from the
22 Commission on the March 29th Commission meeting? If not,
23 we'll go to the public comment, and then we'll go to our --
24 our discussion, motions and -- and vote.

25 Hearing none, is there anybody here from the public

1 who would like to make a statement on -- on -- on the
2 issues?

3 MADAME CLERK: We have one on the sign-up sheet, Ron
4 Cottingham.

5 CHAIRMAN DALZELL: Sir.

6 MR. COTTINGHAM: Good morning. My name is Ron
7 Cottingham. I'm from the Peace Officers Research
8 Association of California. And I should probably start by
9 saying I'm not here at anybody's request or any body's
10 request. I'm here on my own to speak to you about what this
11 Commission is probably going to consider today.

12 I know you mentioned Prop. 112 passing in 1990 and
13 gave you the authority to set salaries. It also gave
14 direction that you would consider when setting these
15 salaries for other State legislators, other State offices
16 and judicial salaries. Judicial salaries in California for
17 the lowest of superior court is currently at approximately
18 \$179,000 a year, which is far and above what any current
19 State constitutional officer or legislator is getting.

20 My main concern is as an employee organization we are
21 watching city councils of which technically you kind of
22 represent a city council or board of supervisors as they go
23 through their -- their employees' contracts, they slash
24 salaries, they slash benefits, and they are trying to set --
25 or they are setting new tiers of pensions throughout

1 California. And you appear to be doing the same thing to
2 the State Legislature.

3 We have a State Legislature that is supposed to be
4 made up of citizen legislators that can be able to come up
5 here and be able to be comfortable while they are serving
6 the citizens of this State. You are setting it to a point
7 where in -- very -- in the near -- very near future only the
8 wealthy can afford to run for office and hold office because
9 the others won't be able to afford to keep up two
10 households, wherever they live and then in -- especially in
11 Central and Southern California, the father regions of
12 Northern California, and come to Sacramento and practice
13 law -- I'm sorry, to practice their -- to take their job to
14 the Legislature.

15 You have previously indicated that in considering
16 the -- the salary and benefit cuts to the Legislature you
17 would consider what was going on with State employees.
18 State employees, the last time you cut salaries were -- they
19 were cut approximately 9.23 percent, and then they went
20 through a -- a furlough that equaled approximately that
21 amount, actually -- so their total is 9.23 percent.

22 Those furloughs have ended. Your 18-percent salary
23 cut has not ended. Your 20-percent cut in health benefits
24 has not ended. Your 18-percent cut in other benefits has
25 not ended. And your 18-percent cut to the per diem has not

1 ended. Those are still in place even though the federal
2 government has set a guideline for what they consider an
3 appropriate per diem in Sacramento.

4 I would ask you to consider these things when you are
5 considering your Resolution to cut salaries even further as
6 to what you may be doing not just to the State Legislature,
7 but to the citizens of California in what they believe
8 should be appropriately-compensated citizen legislators that
9 come up here to handle the business of this State.

10 It has also been previously indicated that this is
11 one of the highest compensated states in the nation. And it
12 is actually not, because there are other states that get
13 higher compensation, plus they get pensions. Which if you
14 recall back in the 1990s, pensions were eliminated for State
15 legislators, so they don't get that benefit either.

16 Thank you for allowing me to address you. And I hope
17 you'll consider these when you take up your Resolution to
18 consider their pay and benefits for the State Legislature
19 and Constitutional officers.

20 CHAIRMAN DALZELL: Thank you for -- for taking the
21 time to come today and for reminding us of history. Thank
22 you.

23 MR. COTTINGHAM: Thank you.

24 CHAIRMAN DALZELL: I neglected to mention that one
25 other piece of correspondence that we have received since

1 our March meeting was a certification of the negative
2 balance in the Special Fund for economic uncertainties which
3 makes the raising of any salary prohibited by our enabling
4 statute.

5 So moving on to the discussion and adoption of
6 Resolution setting compensation. Before we open that
7 discussion, or in opening it, I would like to just state my
8 understanding of -- of a few facts upon which we can base
9 this discussion.

10 I -- I care a great deal about process. I care about
11 how decisions are made. And I don't have any pre-set notion
12 of what the decision should be, and, in fact, will not vote
13 on a motion on salaries unless there's a tie.

14 As I understand it, in . . .

15 (Unintelligible discussion)

16 CHAIRMAN DALZELL: We have -- what -- what the clerk
17 has just delivered to me is a -- a letter from Jerome Horton
18 who is the Chairman of the California State Board of
19 Equalization. And the request was that this letter be read
20 into the record and as part, I guess, of the -- the public
21 comment. And in -- I -- I'm perfectly willing -- I'm
22 perfectly willing to do that. I think that we should
23 consider every -- consider everything and -- and err on the
24 side of including rather than excluding. And in -- in fact,
25 this letter, which I have not seen until this very moment,

1 appears to have some of the factual background that I was
2 referring to.

3 So it's addressed to the Commission. As you consider
4 options to address the current budget deficit, I urge you to
5 focus on efficiencies that -- that can achieve savings
6 rather than a furlough or reduction to State employees'
7 compensation.

8 The May revision of the Governor's budget proposes
9 savings of \$839 million in employee compensation equal to a
10 five percent reduction in pay per month. The administration
11 intends to avoid furlough programs and mitigate layoffs,
12 instead it is suggesting a four-day, 9.5 hour per day,
13 38-hour work week. If enacted, BOE will experience an
14 estimated annual revenue loss delay of \$88 million plus an
15 estimated annual interest forfeiture of \$3.5 million
16 impacting our operations as outlined below.

17 And then there are -- are a number of bullet points
18 in terms of the reduced ability of Board of Equalization to
19 collect revenue due the State. And -- and despite saying
20 that I was going to read this into the record, I'm not going
21 to any further. Because I think this is under the mistake
22 and assumption that we affect all State employees, and we do
23 not. We affect 80 -- 80 members of the Assembly, 40 members
24 the State Senate, and a handful of Constitutional officers.
25 So there might be an indirect -- indirect effect.

1 I have no objection to this being entered into the
2 record, but I don't -- I don't think I'm going to read it.
3 I -- I think there's some mistake and assumption here.

4 So back to where we were.

5 COMMISSIONER STITES: Mr. Chairman?

6 CHAIRMAN DALZELL: Yes, sir.

7 COMMISSIONER STITES: Doesn't Mr. Horton also sit on
8 the State Franchise Tax Board?

9 CHAIRMAN DALZELL: Don't know.

10 COMMISSIONER STITES: I -- I think so.

11 CHAIRMAN DALZELL: In 2009 we, speaking of the
12 Commission, although some of us were not on the Commission
13 at the time, reduced salaries of the Legislature by 18
14 percent. This was a negotiated compromise between a
15 proposal to reduce by ten percent and a proposal to reduce
16 by 25 percent. I believe the -- the difference was split
17 and rounded up.

18 At the time that number had no real relation to the
19 compensation of State employees. The State employees were
20 furloughed two days a month that produced a 9.23 percent
21 reduction in salary. And if I understand my reading of the
22 record correctly, that is where the proposal to reduce by
23 ten percent came from as approximately the 9.23.

24 The furloughs have gone -- the State workers did not
25 have their salaries reduced. The -- they have been restored

1 to full-time status. And, yet, the Legislature still has
2 the 18 percent reduction in salary and the reduction in
3 benefits.

4 The proposal by the Governor now, which I emphasize
5 is only a proposal, it's not been negotiated with any of the
6 affected unions, is to maintain the salaries of State
7 employees as they are, yet work a reduced work week, four
8 days, 9.5 hours, each producing a loss of two hours of pay
9 per week, one-twentieth, five percent -- a five percent
10 reduction in costs without a reduction in the salaries. And
11 again, that is only proposed, has not been negotiated,
12 certainly has not been implemented.

13 That said, let's start what we're really here for and
14 I think what the people in the audience are probably here to
15 hear is a discussion of salary and -- and benefits for the
16 Constitutional officers and legislators.

17 Who would like to go first?

18 Commissioner Murray.

19 COMMISSIONER MURRAY: Excuse me.

20 CHAIRMAN DALZELL: Mr. Murray.

21 COMMISSIONER MURRAY: Mr. Chairman.

22 CHAIRMAN DALZELL: Sir.

23 COMMISSIONER MURRAY: Do we have a motion out here
24 yet?

25 CHAIRMAN DALZELL: No.

1 COMMISSIONER MURRAY: So we're talking first?

2 CHAIRMAN DALZELL: Well, we're going for a motion. I
3 think we've got a motion coming.

4 COMMISSIONER MURRAY: Should I make a motion,
5 or . . . Mr. Chairman?

6 CHAIRMAN DALZELL: Well, discussion can happen before
7 or after a motion. And . . .

8 COMMISSIONER STITES: We don't know what the motion
9 is.

10 COMMISSIONER MURRAY: Why don't we put a motion on
11 the table then have discussion.

12 CHAIRMAN DALZELL: Commissioner -- does anybody
13 besides Commissioner Murray have a motion prepared? I know
14 that there is a -- there is a motion prepared which would
15 maintain the status quo if -- if that's what we choose.

16 Commissioner Murray, did you prepare a motion?

17 COMMISSIONER MURRAY: Strange you should ask.

18 May I give that to you to pass around. And here's an
19 attachment to go with that.

20 CHAIRMAN DALZELL: Did you send some on that way?

21 COMMISSIONER MURRAY: No. I -- I'm giving them all
22 to you, and you can disburse those.

23 CHAIRMAN DALZELL: I thought you said something about
24 moving to the left. Okay.

25 COMMISSIONER MURRAY: I would never move to the left.

1 I need one.

2 CHAIRMAN DALZELL: Commissioner Murray.

3 COMMISSIONER MURRAY: Okay, could I have one back.
4 Okay. Thank you.

5 I have just -- just given the Chair the written
6 motion that we move that all salaries be reduced by a term
7 of the five percent effective December 3rd of this year.

8 Just to address where we come with this, the first
9 off is the Governor is imposing upon all the public
10 employees, oh, the same -- oh, the -- the same salary
11 reduction. I would like to go back on some of the history
12 that has been given here and -- and I don't have notes, and
13 maybe some of the commissioners up here would recall.

14 But when we -- when the history was given that it was
15 a nine percent cost of the furloughs, and we increased it to
16 18, that was not the case, as my recollection. My
17 recollection was it was a nine percent the salary reduction,
18 and then the layoffs incorporated another nine percent, and
19 that's how we got at the 18 percent loss for the public
20 employees and the 18 percent loss that we propose for all
21 of -- all of the employees under our control.

22 Part two is under -- and again, getting back, oh,
23 to -- to the history. The nine percent and the nine percent
24 which equated to 18 wasn't the sole reason that we reduced
25 the salaries. We reduced the salaries because the

1 Legislatures in the State of California were, by far, the
2 highest paid in any other state. And the -- the equivalent
3 that we have to look at is that -- the number being thrown
4 around by the press is -- the average salary is \$95,000 a
5 year.

6 This is not the case, because they conveniently don't
7 include in there the -- the -- the per diem that every
8 Legislature gets, almost 100 percent the Legislature gets
9 tax free. So if you look at the -- the tax-free, oh, per
10 diem, which would probably on a pre-tax basis be equal to
11 \$45,000 a year, plus the 90, okay, you're talking about a
12 pre-tax salary by my calculation of 140,000 and a year.

13 I appreciate the comments that have been made we
14 might not be able to get the qualified employees, and we
15 won't get people to run for office. I'm in the private
16 sector. \$140,000 a year is a lot of money. And I don't
17 know how that equates to the average employee on the street
18 in -- in the private area.

19 But as far as I'm concerned, if you look at the
20 unemployment stats and specifically those for the State of
21 California, I believe the term is U-6, we're at 25 percent
22 unemployment on a real basis. This includes the part
23 timers, this includes those that have gone off the payrolls,
24 off the unemployment because they're all -- all -- all of
25 the benefits have expired.

1 So when you're looking at a State with 25 percent
2 unemployment on a U-6 basis and you're saying \$140,000 a
3 year isn't enough money, I think someone has to go back to
4 reality. So that's why I made the motion to have at least a
5 five percent cut in all -- all the salaries on top of the 18
6 that we did last year and a half.

7 COMMISSIONER: Two years ago. Two years ago.

8 COMMISSIONER MURRAY: Two years ago.

9 CHAIRMAN DALZELL: Three.

10 COMMISSIONER: Three years ago.

11 CHAIRMAN DALZELL: Oh, 2009.

12 COMMISSIONER: 2009.

13 COMMISSIONER MURRAY: Oh, that concludes my
14 comment --

15 CHAIRMAN DALZELL: Yeah.

16 COMMISSIONER MURRAY: -- for now.

17 CHAIRMAN DALZELL: If -- if you said -- and I -- I
18 don't want to misquote you. If you said that the Governor
19 is imposing a five percent reduction in salary on State
20 employees, that is incorrect. The Governor has proposed a
21 reduced work week that would produce for one year a five
22 percent reduction in earnings. He has not proposed any
23 reduction in salary. And there still is the matter of
24 negotiating with the union. So, yes, there have been
25 newspaper reports and -- and -- of what he proposed. It is

1 not a reduction in salary, and it is not yet a reality.

2 And you were here in 2009, I was not. I've read the
3 record, and there's nothing in the record that suggests that
4 what the Commission did was add nine plus nine and get 18.
5 What the record suggests is the -- there was a proposal for
6 ten, and then a -- and then a commissioner proposed on the
7 extreme 25 percent, there was a compromise that came to 18.
8 So there -- there may have been discussions not in the
9 record about nine plus nine equals 18, but what the record
10 shows was ten percent, 25 percent, a compromise.

11 COMMISSIONER MURRAY: If I could respond just -- just
12 on that. You're absolutely right, Tom, that it is not in
13 law, it's what -- what the Governor has asked. And the
14 problem is we have a window, they have a window. What I
15 would propose that -- the motion that I made be passed. And
16 if -- I believe the Governor has a cut-off date the middle
17 part of next month, June 15th, he is to make a decision.
18 If -- if he makes a decision by that time and he doesn't do
19 the five percent pay cut, even though it isn't a pay cut,
20 it's less hours, it's lessened the paycheck, whatever it is.

21 The bottom line for the person on the street, the --
22 the State employee on the street is a five-percent
23 reduction. And if the Governor has a change or any change,
24 you have the right to call another meeting at the end of
25 June, and we can vote on -- on to reverse the cut. But I

1 would rather, for the sake of time and expense, maybe vote
2 on it now. The option, we can come back and, oh, cancel the
3 pay cut if necessary.

4 CHAIRMAN DALZELL: I'm -- I'm not responding to that
5 suggestion other than I'm concerned that that might be
6 construed as raising salaries, which we can't do. If we cut
7 it by -- if we were to cut it by five percent today then
8 come back in three weeks and rescind that, it might be
9 construed as raising. But --

10 COMMISSIONER MURRAY: My -- my -- I would -- I would
11 ask -- ask our counsel who I have a lot of respect for.
12 It's -- the recollection is pay cuts don't go into effect
13 until the end of the year.

14 CHAIRMAN DALZELL: They don't. But December 4th --

15 COMMISSIONER MURRAY: And we have -- and we have
16 until July 1 to make a change. So nothing is cast in
17 concrete until --

18 COMMISSIONER SANDS: June -- June 30th.

19 COMMISSIONER MURRAY: -- July 1 until we adjourn.

20 COMMISSIONER SANDS: June 30th is your --

21 COMMISSIONER MURRAY: Yeah, up to July 1, yeah,
22 right.

23 COMMISSIONER SANDS: Yeah, yeah.

24 CHAIRMAN DALZELL: So is -- is -- is your motion --
25 are you modifying -- are you amending your motion to say

1 if --

2 COMMISSIONER SANDS: No.

3 CHAIRMAN DALZELL: -- there are cuts to State
4 employees, that this motion would go through, or that if
5 they're -- are you -- are you -- are you author -- offering
6 an author amendment to this, or are you -- are you simply
7 suggesting a procedural way to address this if there's a
8 change between now and June 30th?

9 COMMISSIONER MURRAY: What I'm saying is let's pass
10 the motion as it is. If there is a change, would you, as
11 the chairman, feel we should revisit the issue before our
12 cut-off date, we should have another meeting?

13 CHAIRMAN DALZELL: But that -- that's my question. A
14 change from what? There's nothing to change from right now.
15 There is -- there are no cuts imposed or negotiated or
16 agreed to or implemented. So what would -- what possible
17 change could there be that would trigger that?

18 COMMISSIONER MURRAY: I thought -- I thought, from
19 what I read in the press, oh, the government -- or the
20 Governor's office has -- has proposed a work -- the furlough
21 reduction, lack of salaries, which would equate to a
22 five-percent reduction. I thought that was on the table.

23 CHAIRMAN DALZELL: That is a -- a proposal in the
24 budget, but that requires negotiation with all the -- all
25 the union representatives and associations representing

1 State employees.

2 COMMISSIONER MURRAY: So -- so it has -- so you're
3 saying it -- oh, it is on the table, it is proposed, but it
4 hasn't been approved? Is that correct?

5 CHAIRMAN DALZELL: It has not been negotiated,
6 imposed, implemented, approved, anything. It's a proposal.
7 It's one of several concepts being kicked around.

8 I -- I think I understand your proposal --

9 COMMISSIONER MURRAY: Okay.

10 CHAIRMAN DALZELL: -- your proposed procedure.
11 Although I did promise this would be our -- our last
12 meeting --

13 COMMISSIONER SANDS: Yeah.

14 CHAIRMAN DALZELL: -- this year.

15 COMMISSIONER SANDS: I think we need more --

16 CHAIRMAN DALZELL: You're trying to get me to break
17 my promise.

18 (Speaking over each other)

19 COMMISSIONER SANDS: I think we need more discussion.

20 COMMISSIONER: Modify them.

21 COMMISSIONER SANDS: Yeah. I'd like to say --

22 CHAIRMAN DALZELL: Commissioner Sands.

23 COMMISSIONER SANDS: You know, I -- I care also. You
24 said you care. And I think that was very good comments. I
25 care also about California, I have since I've been on this

1 Commission. I think we've all anguished over decisions
2 we've made.

3 But I do really feel that California has a real
4 problem. We have a terrible deficit, over \$15 billion.
5 Businesses are suffering, unemployment. There's lots of
6 vacant businesses and vacant store fronts, our property
7 values are going down. California just has a real problem.
8 And I think sitting here and thinking about how we as a
9 board can save some money for California -- even though it's
10 not a lot of money considering the \$15 billion deficit.

11 But I do feel that reducing the salaries -- really,
12 to me, it doesn't have a lot to do with what the Governor's
13 doing with the State employees. To me that's kind of
14 another subject. I feel that we should reduce the salaries
15 by at least ten percent, maybe -- or I mean -- yeah, by --
16 not by more than five percent, maybe ten percent, and not
17 tie that to what the Governor's actually doing with State
18 employees' benefits and -- or their salaries.

19 So I support your -- your motion for five percent,
20 but I would really -- before we vote on it I would think
21 about amending it to more. So those are my comments.

22 CHAIRMAN DALZELL: Other commissioners?

23 Commissioner Stites.

24 COMMISSIONER STITES: Thank you, Mr. Chairman.

25 Again, just to beat a dead horse, someone out there believes

1 that political office here are determined by the people.
2 They're not. This State is very selective. Political
3 parties controls who runs for a specific office at State
4 level. Seen it happen 150,000 times -- well, maybe that's
5 a -- maybe that's a little bit of an exaggeration.

6 So I'm not worried about them saying that we're not
7 going to get quality people, because the quality is
8 determined by those who control the districts. And the
9 districts are controlled by whoever makes them up. And
10 generally even with this new one that they're trying to
11 devise, and I don't know exactly where that is, once it's
12 determined each party will have a certain number of
13 districts, they will determine who's going to run. It's
14 just the way it works.

15 Just like when the freshmen Assembly person or State
16 senator assumes office, they're the ones that are supposed
17 to raise the money. And how far they go is determined by
18 how much money they raise. So let's not try to act like
19 there's some kind of big democracy happening in this state.
20 That changed years ago from a once vibrant State that I
21 remember to what it is today. And it's basically based upon
22 politics.

23 I concur with my fellow Commission member here that
24 what happens to the State worker is going to be determined
25 by a different body. And again, that's going to be a union,

1 they'll determine. The numbers that -- everybody throws out
2 their numbers. I'll find some other numbers. I remember
3 there were three days of furlough each month. But numbers
4 are just that.

5 Our responsibility here is to determine the worth of
6 our elected and Constitutional officers, elected Legislature
7 and Constitutional officers. And we determine what that
8 salary should -- should be, whether we increase it or
9 decrease it. And that, of course, depends. This year we
10 can't increase it.

11 I would think that if the Governor had come out and
12 said five percent is what he's considering doing to the
13 State workers, that the Legislature and the Constitutional
14 officers would immediately step forward and say we're going
15 to show some leadership here and we're going to ask for a
16 reduction ourselves, take it, put it back in the General
17 Fund. Five percent, as I read in a couple of newspaper
18 articles, it's really not a big -- big jump in the pot, but
19 it's a jump. And that's what leadership is. Have the guts
20 to do it.

21 But -- and I've seen that happen with individual
22 legislators out there, I've seen it happen time and time
23 again. A raise would be -- over the years since 1990 a
24 raise would be implemented, and this body until three years
25 ago never asked for a reduction. So I think they've had it

1 pretty good.

2 And I believe it's what's happening in the market out
3 here and the economy out here. It's their responsibility to
4 take care of the economy. It's failing. The State is going
5 under. There's going to be significant reductions. It's
6 going to have to come from public employees regardless of
7 where they are. We start here.

8 That's all I got to say on that.

9 CHAIRMAN DALZELL: Commissioner Somers, do you have
10 any -- any comments?

11 COMMISSIONER SOMERS: I do. First of all, a comment
12 on -- on specific things that we are supposed to be looking
13 at, and there are three. And I think -- including salaries
14 of other State officials in various different rolls. One of
15 the issues in compensation generally is what are the
16 requirements, what are the educational requirements, et
17 cetera, for -- for any particular job, what is the market
18 demand for a particular job. And that often times -- it
19 frames compensation.

20 Clearly, if someone -- judges, for instance, they
21 have to have law degrees and they have to have lots of
22 experience in the legal field, et cetera, and that tends to
23 drive up compensation for judges. And I'm not saying --
24 other than if you look at the -- the political system,
25 it's -- it's people who are talented people and clearly who

1 want to contribute to the State, but they come with all
2 kinds of different backgrounds.

3 Two other factors. And -- and by the way, the three
4 factors that are mentioned are three that we do consider. I
5 certainly do consider them. But there's nothing in the
6 Constitution that prevents us from looking at other relevant
7 elements of compensation. One of those is what do other
8 states pay the same people.

9 And secondly, the financial condition of the State.
10 The financial condition of any organization is always a
11 relevant factor in the compensation of -- particularly
12 senior people in those organizations. So in my opinion
13 financial condition of the State has to be taken into
14 account.

15 I support the motion to reduce salaries with --
16 actually, with great reluctance, and not for some of the
17 same reasons as my colleagues. The Constitutional officers
18 and the legislators are doing their job by reducing costs
19 and shouldn't be penalized for it. Indeed, we certainly
20 don't want to incent elected officials to only raise taxes
21 or their pay will be cut. Indeed, if the -- if the officers
22 of the State were reducing costs even more while raising
23 revenue at the same time to close the budget gap, I might
24 not be voting to reduce salaries at all.

25 But along with some of the other comments, the

1 State's financial picture is at a crisis state. Structural
2 costs, including retirement benefits, welfare costs and
3 other ongoing costs continue to rise. Pension obligations
4 are heavily under funded. These costs were undertaken
5 during happier revenue times. But then the revenue fell off
6 and the cost didn't. As everyone knows, but no one does
7 anything about, the cyclicity of revenue is greatly caused
8 by the cyclical income tax levels.

9 The financial condition of any enterprise, as I
10 mentioned, is always a factor in compensation, and it is
11 clearly important in my decision. Cutting costs alone is
12 not the answer, and raising taxes alone is not the answer.
13 We need our State officers to compromise with each other to
14 find a permanent solution to this major problem.

15 Relative to other states in terms of salaries our
16 State officers are still in the upper rungs. In fact, our
17 legislators are actually still the highest paid on strictly
18 a cash basis or a salary basis, not including, of course,
19 the pension benefits that they don't get, and pension
20 benefits are an important part of compensation. If you
21 factor all of that in, they are not the highest paid in the
22 country. But on a cash basis they still are.

23 The people of California have recently voted to
24 disallow any increase in State officer salaries without a
25 balanced budget. I look forward to a situation next year

1 where we can seriously consider raising salaries.

2 CHAIRMAN DALZELL: Comments from any other
3 commissioners?

4 COMMISSIONER SANDS: I have nothing more to add.

5 CHAIRMAN DALZELL: Commissioner.

6 COMMISSIONER LOPEZ-NOVODOR: Thank you. I just
7 wanted to mention that I do understand that if there is
8 going to be a direction given by the Governor that this
9 Commission should consider it. So my amendment -- or my
10 proposed amendment is that this change be reflective of the
11 change that is finally negotiated by the Governor as opposed
12 to an arbitrary cut. And my reason for that is because of
13 the lack of pension funds. When -- I've done the math. I
14 believe that there is currently an equilibrium, and relative
15 to the income versus the income plus pension.

16 So I am not at this time prepared to make a motion
17 for a cut. I think there are changes happening at the
18 State, and I think it would behoove this Commission to
19 consider them and create an equivalent -- an equivalent cut,
20 if that's what gets passed. I would definitely support
21 that. But at this time I cannot support further cuts.

22 CHAIRMAN DALZELL: Thank you. I -- a couple
23 comments, and I'll return to the author for final comments
24 before we vote on his -- on his motion.

25 As Commissioner Somers points out, we are directed by

1 the statute to look at several factors. And -- and we do
2 have information on several. We certainly know about the
3 State budget. And I agree with Commissioner Sands --
4 Somers' concerns about that.

5 We are directed to look at the judiciary, and -- and
6 we've received information on the salaries of the judiciary,
7 and we've learned that a superior court judge makes more
8 than the Governor as things stand now. There are over 1,000
9 superior court judges. They are talented people. They
10 have -- they are trained. But there's something in my mind
11 that's a little mind boggling about talking about reducing
12 the salary of the Governor of the State, which if it were a
13 country would be the eighth largest economy in the world
14 from an already fairly low standard compared to at least the
15 judiciary in this state. And that's not looking at the
16 court of appeal or the supreme court.

17 We're also directed to look at elected and appointed
18 officers and officials in this State with comparable
19 responsibilities. And we see that the county executive in
20 Los Angeles, Santa Clara, San Diego, San Bernardino, Orange,
21 Alameda and Yolo Counties all make more than the Governor
22 now. So those -- those are -- those are data points.

23 I think that Commissioner Somers and -- and I think
24 Commissioner Stites said the same thing. I don't want to
25 speak for people. But I think that the notion that anything

1 we do today is going to have a significant -- statistically
2 significant effect on the budget is -- is -- is wrong.

3 A clever headline writer somewhere this week said
4 that what we were talking about is a pinky finger in a
5 leaking dam. That is not to say that there are not other
6 reasons to act. And I don't -- I don't think I've heard
7 anybody here say we need to do this to save money for the
8 State. It -- it is -- it is a gesture.

9 But I -- I do have a concern that we are, in some
10 ways by doing this, placing the cart before the horse in
11 affecting the salaries of very few people while negotiations
12 continue on the salaries of very many. And I -- I would
13 not -- I would not choose to -- to do that, to be the -- the
14 tail wagging the dog.

15 And, you know, I -- I'm troubled by the notion of
16 making a decision based on a proposal, although I've heard a
17 lot of comment from -- from all commissioners saying that we
18 are not merely acting on the basis of a proposal, we're --
19 we're looking at the state of the economy and the state of
20 the State.

21 So again, I will not be voting unless it's a tie.
22 But I think that we are -- we are tasked with doing the
23 right thing for the people of California, eighth largest
24 economy in the world. And the Legislature salaries right
25 now are roughly equivalent to a skilled construction worker.

1 And to cut them further boggles my mind. And take the
2 Governor who's already making less than a superior court
3 trial judge down -- although I know that he has stated
4 publicly that he is willing to cut his to -- to cut his own
5 salary by more than what happens with State employees.

6 Lastly, on -- on the idea of sacrifice. And
7 sacrifice is largely a religious concept. My religious
8 tradition is the Episcopal church. And we're taught that
9 sacrifice is voluntarily embraced by the person, it's not
10 imposed from the outside. So we're not really talking about
11 sacrifice here. If the leaders were to step forward and say
12 because of everything that's happening we are willing to
13 take less, that is sacrifice. For us to tell them that they
14 should take less is not sacrifice.

15 Commissioner Murray, do you have any closing comments
16 before we vote?

17 COMMISSIONER MURRAY: Oh, no, you -- you have raised
18 very valid points. My -- my only concern is that, as you
19 said, and I'll -- I'll reiterate what you said, this is our
20 job. This is what we're here to do. And it's -- it's no
21 bells and whistles, no -- no fluff. This is why we have the
22 job that we waive our salary every year, every meeting to --
23 oh, to be here. So all of us serve for free because we love
24 the State of California. And what we have now is
25 disastrous, and we have to get us out of the hole.

1 I agree that this is going to make a dent, but I
2 think it will send a message that we have to move on, we
3 have to get out of this hole. Everybody has -- has -- has
4 to sacrifice. And a lot have done so much more than others.

5 Thank you, Mr. Chairman.

6 CHAIRMAN DALZELL: All right. We're now ready to
7 vote on Commissioner Murray's motion. It's been seconded.
8 That all salaries be reduced for a five percent effective
9 December 3, 2012.

10 Madame clerk, would you conduct a roll vote, please.

11 MADAME CLERK: Wilma Wallace.

12 COMMISSIONER WALLACE: I vote in favor of the motion.

13 MADAME CLERK: Scott Somers.

14 COMMISSIONER SOMERS: Aye.

15 MADAME CLERK: Ruth Lopez-Novodor?

16 COMMISSIONER LOPEZ-NOVODOR: I'm opposed.

17 MADAME CLERK: John Stites.

18 COMMISSIONER STITES: Yes.

19 MADAME CLERK: Kathy Sands.

20 COMMISSIONER SANDS: Yes.

21 MADAME CLERK: Charles Murray.

22 COMMISSIONER MURRAY: Yes.

23 MADAME CLERK: Five for, one opposed.

24 CHAIRMAN DALZELL: And I abstain.

25 Let's make sure for the record, Commissioner Stites

1 does not remember a second. I don't think we would have
2 gotten to -- to -- to --

3 COMMISSIONER STITES: Did you hear a second?

4 COMMISSIONER SANDS: Who? Who seconded it?

5 MADAME CLERK: I don't have (unintelligible).

6 COMMISSIONER SANDS: That was the other --

7 CHAIRMAN DALZELL: Commissioner Sands --

8 (Speaking over each other)

9 COMMISSIONER SANDS: That was the other one.

10 COMMISSIONER STITES: She seconded the other one.

11 CHAIRMAN DALZELL: All right. Is there a second to
12 the motion?

13 COMMISSIONER STITES: I second it, go ahead.

14 CHAIRMAN DALZELL: All those in favor say aye.

15 (Multiple voices saying aye)

16 CHAIRMAN DALZELL: Anybody change their vote?

17 COMMISSIONER STITES: Don't think so.

18 CHAIRMAN DALZELL: Okay.

19 COMMISSIONER SANDS: You know, I'd just like to make
20 a comment, Chairman. You mentioned that the Governor's
21 salary, it was so low in comparison to other -- oh, I think
22 you mentioned the L.A., San Francisco, San Jose City
23 managers and some of those people. But I see in the
24 information we have that the -- the Governor appoints people
25 with a lot bigger salaries than that and then -- than his.

1 I mean we have \$225,000 and 175,000. We have a lot of
2 people that he appoints himself that he pays a lot more
3 money to. So I don't feel bad about that at all. I just
4 wanted to make that comment. Thank you.

5 CHAIRMAN DALZELL: All right. Is there any further
6 discussion from Commission members?

7 COMMISSIONER SOMERS: On that topic?

8 CHAIRMAN DALZELL: On any topic. We're done with
9 that topic, I think.

10 COMMISSIONER SOMERS: Yes. I -- I think we are also
11 obligated to -- to have a Resolution with regard to all of
12 the benefits.

13 CHAIRMAN DALZELL: Yes. Do you have a motion with
14 that respect?

15 COMMISSIONER SOMERS: I -- I do have a motion to
16 that. But before I make the motion I would like -- I think
17 we have some information I think that was given to us. And,
18 Ralph, this may have been something that you provided.
19 There's a lot of information. And this was regard to the
20 request from -- at the last meeting when we were talking
21 about contributions to health care benefits in particular.

22 Ralph, maybe you could comment on this. And I think
23 one of the questions that I had at the time is where are we
24 in terms of the -- the amount paid by -- by the legislators
25 and the Constitutional officers in terms of contributions to

1 their health care benefits? Roughly what kind of
2 percentages are they paying?

3 MR. COBB: The -- before the Commission did the
4 reductions in 2009 they were paying roughly -- between 15
5 and 18 percent of the premium depending on whether you had
6 single, two-party or family coverage. With the -- with the
7 reductions the percent of premium is about 34 percent is
8 what it's been for the health and a little bit higher, 37 to
9 39 percent for the dental.

10 And that's because with the health -- the Commission
11 in 2010 made the health -- the reduction off of a formula
12 basis so that each year the members get an increase,
13 although it's always -- their rate stays at 20 percent below
14 that of the State managers; whereas, with the dental and
15 vision it's been fixed as an 18-percent reduction off the
16 2009 contribution level, and premiums have gone up a little
17 bit in these intervening years.

18 COMMISSIONER SOMERS: Right. And health makes up
19 what -- what, 85 percent, roughly of --

20 MR. COBB: Oh, yeah. It makes up the lion's share
21 is --

22 COMMISSIONER SOMERS: Right.

23 MR. COBB: -- is health. For 2013 the -- the -- for
24 the Constitutional officers the dental and vision premiums
25 will not increase. Those premiums are already locked in.

1 The legislative officers, they have their own dental
2 and vision benefits, and DPA doesn't oversee, you know, what
3 those premium and -- premiums are or premium increases are.
4 But everybody's under the same health.

5 COMMISSIONER SOMERS: Okay, thank you. That's very
6 helpful.

7 My motion is that -- to essentially continue doing
8 what we've done the last two years, which is make no change
9 in their benefits but allow the benefits to rise along with
10 everyone else's that rise. In other words, they -- they
11 remain below where they would have been had we not made the
12 change three years ago, but they are allowed to float with
13 increased costs, just like everyone else allow -- is allowed
14 to.

15 So the language -- and I'm going to pass this out.
16 And maybe we could -- Ralph, you should look at this too.

17 This is basically exactly the same language as was
18 taken from the Resolution adopted last year. So, in other
19 words, my motion is not to alter the benefits in any of the
20 insurance-related categories that this refers to by
21 keeping -- doing exactly what we've done the last two years.
22 The language is exactly the same as it was in the -- the
23 last two.

24 Is that clear?

25 CHAIRMAN DALZELL: Yes.

1 COMMISSIONER SOMERS: Ralph, do you have any comment
2 on that?

3 MR. COBB: Um, I mean I think it's -- it's fine. The
4 premium -- the percent of premium that the -- the
5 Constitutional officers with respect to all health, dental,
6 and vision and the legislative officers at least with
7 respect to health should stay about the same if we just --
8 under this Resolution. I don't see their percent of premium
9 going up in any significant way.

10 COMMISSIONER SOMERS: That's -- that's my motion.

11 CHAIRMAN DALZELL: Is there a second?

12 COMMISSIONER MURRAY: Second.

13 COMMISSIONER WALLACE: I'm sorry, before we go there,
14 I -- I'd like to just understand the second sentence in item
15 number one which calls for a 20-percent reduction from the
16 amounts that are made for State employees. Can you help --
17 can you interpret that for me? Twenty percent reduced from
18 what number?

19 COMMISSIONER SOMERS: What we did three years ago --
20 Ralph, help me out on this a little bit. But what we did
21 three years ago basically was -- was make a reduction in
22 both compensation at 18 percent and benefits. The way it
23 really kind of worked out, it sort of worked out to 20
24 percent on that particular item and 18 percent on the other
25 item. And I think that was more of a mathematical actuarial

1 kind of a thing than it was an actual.

2 So -- so, in other words, rather than -- rather than
3 having the affected group here be get -- get as much support
4 from the State we're sort of, unless we changed it,
5 permanently pegging them below by 20 percent and 18 percent
6 what they would otherwise get.

7 COMMISSIONER WALLACE: Okay. I just want to confirm
8 that it's not an additional 20 percent.

9 COMMISSIONER SOMERS: No.

10 COMMISSIONER SANDS: No.

11 COMMISSIONER SOMERS: In fact, it remains -- it --
12 it's -- it's just sort of like, okay, that first 20 percent
13 they pay. But -- but any -- any increase that -- if there
14 are increased costs, they get the benefit from the increased
15 costs just like everyone else does.

16 COMMISSIONER WALLACE: Understood.

17 COMMISSIONER SOMERS: They're not penalized further.

18 COMMISSIONER WALLACE: Okay. All right, as long as
19 it's clear -- the language doesn't read that way to me in
20 this Resolution, but as long as that's the intent and how it
21 is read by others, then I'm comfortable with that.

22 MR. COBB: Yeah, the -- the health contribution for
23 the State managerial employees is set based on a formula
24 that takes the weighted average premium of the four largest
25 State employee health plans. So all this is saying is, you

1 know, for 2013, once the 2013 premiums are set, we'll have
2 the contribution for the managerial employees and we will
3 take 20 percent off of whatever that number is.

4 COMMISSIONER WALLACE: Thank you. Understood.

5 CHAIRMAN DALZELL: Any further discussion? We have a
6 motion and -- and a -- a second by Commissioner Murray. Any
7 further discussion?

8 Those in favor state aye.

9 (Multiple voices saying aye)

10 CHAIRMAN DALZELL: Those opposed?

11 Once again, I abstain.

12 Any further items for discussion?

13 COMMISSIONER STITES: Just one.

14 CHAIRMAN DALZELL: Commissioner Stites.

15 COMMISSIONER STITES: This is a -- just a request
16 basically for some information from our counsel, if I can do
17 that. It's three parts. And I'll provide you with an
18 e-mail if you'd prefer that and kind of sort it out, because
19 I'll start to ramble.

20 Basically what I would like to know is what are the
21 protocols for the appointment, removal or replacement of the
22 chairman of this body? And basically who, what, when,
23 where, how does it occur and the authority.

24 Second portion is the previous appointment of our
25 current chairman. Did that subscribe to those protocols.

1 And lastly, possible responses if it did not from
2 this body.

3 I've gotten two answers. That's the reason I'm
4 concerned. I can't seem to get a proper answer, so I figure
5 you're on the inside, you may be able to come up with
6 something they won't tell me.

7 MS. MEITH: Now, this is a situation where I'm trying
8 to sort through if there's a -- if there are adverse
9 interests. And I think it's important that the Commission
10 as a whole -- because when you're representing an
11 organization, and this is an organization, the Commission,
12 then -- then the client is the Commission, not any
13 individual commissioner.

14 So by the same token, if you called me and said, gee,
15 who do you recommend to -- to defend my nephew in this DUI
16 charge and something or other -- not that that would ever
17 happen -- I can't give that advice.

18 So what you're asking about is the appropriateness of
19 the appointment of one of your members, I think. And I --
20 I'm --

21 COMMISSIONER STITES: Not necessarily. What I'm
22 trying to find out is what are the -- the standing rules for
23 appointments --

24 MS. MEITH: And that --

25 COMMISSIONER STITES: -- for the Chair position.

1 MS. MEITH: -- and that -- and that may be more of
2 a -- of a practical question about the -- the Governor's
3 office of appointments and how they operate.

4 COMMISSIONER STITES: Well, you'll never figure out
5 that puzzle. But I'm just trying to figure out what's
6 happening here.

7 MS. MEITH: Which -- which would be within -- which
8 would be, you know, up to the Executive Branch and -- and
9 outside of -- of our frame of reference here. So I'm
10 struggling with this a little bit.

11 But I guess I'd like to know if the Commission in
12 general would like that information or if you as a citizen
13 want to raise the question about how are appointments made,
14 then that can be -- you know, that can be a -- a public
15 records request to the Governor's office, and they should
16 give you whatever they have.

17 But so that's -- I'm -- I'm just struggling a little
18 bit to try to figure out how to get you information and how
19 that relates to Commission business as opposed to your
20 personal interests.

21 COMMISSIONER STITES: Well, it's my interest as a
22 commissioner.

23 COMMISSIONER WALLACE: If I may interject. I
24 understood the information with respect to how the
25 chairperson is named to be on the Web site for the

1 Commission. And that may not be finally dispositive or
2 provide you with the level of detail you'd like, but I would
3 recommend that you may want to look at the Web site to at
4 least get an initial response to your inquiry.

5 COMMISSIONER STITES: No. I've looked at the Web
6 site. I'm not satisfied. If there's a specific period --
7 I've had -- I've received two answers. One, once there's an
8 appointment they stay. The second one I said the -- the
9 appointment has to be during a specific period at the
10 beginning of the year. But I cannot determine which is
11 right or wrong. I want to determine what is the right
12 answer.

13 Now, as a commissioner -- and I -- again, the guy's
14 sitting there, I don't care. He got appointed. But what
15 I'm afraid of is that actions taken by the Governor
16 politicizes and compromises this body. And if he did that,
17 somebody needs to tell him to stop it. I don't think
18 there's any Resolution to it if it did occur. But somebody
19 needs to tell him stop it. It's pretty simple.

20 Now, if you want me to send a personal letter, it
21 will probably go in the same trash can my last personal
22 letters went up into that office. You don't get a response
23 too often. If I could send it as a commissioner -- I didn't
24 believe I could. But if I could send it as a commissioner
25 of this body, I'll do that. But I -- again, I don't know if

1 that will do it.

2 MS. MEITH: That -- that --

3 COMMISSIONER STITES: If you want me to make a
4 motion --

5 MS. MEITH: -- that gets back to the --

6 COMMISSIONER STITES: -- I'll try that.

7 MS. MEITH: Okay. That -- that gets back to the
8 point about I'm -- I'm sort of -- you've said you've tried
9 to get -- you've tried to get the information --

10 COMMISSIONER STITES: Not this information. I did
11 all this by phone calls. Other information.

12 MS. MEITH: And haven't been able to?

13 COMMISSIONER STITES: Yeah. That's what I thought
14 your role was here --

15 MS. MEITH: To?

16 COMMISSIONER STITES: -- because if we had a question
17 on how we conduct business or how business is conducted with
18 us, we could ask you and --

19 MS. MEITH: If the -- well, the -- the role of -- of
20 DPA is to provide administrative support to the Commission.

21 COMMISSIONER STITES: Right.

22 MS. MEITH: So I'm a lawyer who's here to provide
23 administrative support to the Commission.

24 COMMISSIONER STITES: Is that administrative
25 support? I mean it is in my mind.

1 MS. MEITH: That's the question. Is it administrative
2 support to the Commission.

3 So with that in mind, I mean you can -- you can make
4 the request and -- and we'll respond to it. And I -- I
5 think you can direct it to the clerk, because she knows as
6 much or more about this than I do. So . . . And -- and but
7 I'm just not sure. I guess I'm asking -- I mean any citizen
8 can make a request and -- and you can certainly direct it to
9 us. Or if the Commission in general wants to make a
10 request, that's sort of a -- a different matter.

11 COMMISSIONER STITES: Well, I think we've made
12 requests before -- individual commissioners have made
13 requests for -- that didn't require a motion or anything
14 else as far as I know, and that was the reason I proposed it
15 in this manner.

16 Are you going to do this, Debbie? Okay.

17 MADAME CLERK: If you are -- yeah, wait.. Would you
18 go ahead and --

19 COMMISSIONER STITES: I'll shoot you an e-mail.

20 MADAME CLERK: Okay.

21 COMMISSIONER STITES: I'll share.

22 CHAIRMAN DALZELL: All right, if you're -- I -- I --
23 I did not hear any suggestion that I -- I politicized
24 anything. I haven't voted on anything. I haven't ruled
25 anything out of order.

1 COMMISSIONER STITES: No, not you.

2 CHAIRMAN DALZELL: Not me?

3 COMMISSIONER STITES: No.

4 CHAIRMAN DALZELL: What other chairman?

5 COMMISSIONER STITES: (Unintelligible). I wasn't
6 speaking of the chairman, Mr. Chairman. I was speaking of
7 the Governor.

8 CHAIRMAN DALZELL: All right. Good.

9 Any further matters to discuss from any commissioner?

10 Well, I think one final thank you to the
11 Commissioners who are leaving us unless we come back before
12 June 30th. And this is all volunteer work, and it involves
13 very important issues, and none of us is truly prepared for
14 it. And we come here and do our best. And I know that they
15 have. And I wish you well.

16 COMMISSIONER SANDS: I think we're actually on until
17 December 31st, aren't we?

18 CHAIRMAN DALZELL: Yes.

19 COMMISSIONER STITES: Yeah, you're still good.

20 COMMISSIONER SANDS: Actually. So --

21 CHAIRMAN DALZELL: Yes.

22 COMMISSIONER STITES: You have to do something
23 important.

24 COMMISSIONER SANDS: For you -- yeah.

25 CHAIRMAN DALZELL: Yeah, we have to

1 (unintelligible) --

2 (Speaking over each other)

3 COMMISSIONER SANDS: You never know. You never know.

4 We're --

5 CHAIRMAN DALZELL: All right, I take it back.

6 COMMISSIONER SANDS: We won't be replaced until then

7 I don't think.

8 CHAIRMAN DALZELL: If we -- if we meet before then,

9 I'll just dig out the transcript, but . . .

10 COMMISSIONER SANDS: Yeah.

11 CHAIRMAN DALZELL: I promised we wouldn't meet again

12 because you didn't want to meet again, Commissioner Stites.

13 Now you're getting me for -- oh, geez.

14 COMMISSIONER STITES: You want to meet once a month,

15 go ahead.

16 CHAIRMAN DALZELL: I just can't make you happy, can

17 I? Okay.

18 All right, thank you. We stand adjourned.

19 COMMISSIONER SANDS: Thank you.

20 (End of recording).

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CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

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I, DONNA K. NICHOLS, a Certified Shorthand Reporter in and for the State of California, duly commissioned and a disinterested person, certify;

That the foregoing pages were transcribed from DVD recording;

That the statements of all parties made on the DVD recording were thereafter transcribed into typewriting by me to the best of my ability;

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Dated: JUNE 12, 2012



DONNA K. NICHOLS, RPR
STATE OF CALIFORNIA
CSR NO. 5660

