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6 IN THE FACTFINDING PROCEEDINGS
7 PURSUANT TO THE MEYERS-MILIAS-BROWN ACT

8 UDW, AFSCME LOCAL 3930

Case No.: LA-IM-292-M

9 Union,

10 &

11 KERN COUNTY PUBLIC AUTHORITY,

FACTFINDING REPORT AND
RECOMMENDATIONS FOR
SETTLEMENT

12 Employer
13

14 Chairperson: Najeeb N. Khoury
15 Employer Panel Member: Devin Brown, Kern County
16 Union Panel Member: Matthew Maldonado, UDW, AFSCME LOCAL 3930
17 Lead Advocate For the Union: Yesenia DeCausas, UDW, AFSCME LOCAL 3930
18 Lead Advocate For the Employer: Shelline K. Bennet, Liebert Cassidy Whitmore
19 Hearing Date: August 20, 2020
20
21

22 BACKGROUND

23 United Domestic Workers, AFSCME Local 3930 (UDW or Union) represents
24 approximately 7,100 in-home supportive services (IHSS) providers in Kern County. These
25 workers provide essential in-home care services to low-income seniors and people with
26 disabilities. These providers have a unique employment status. They are hired and can be fired
27
28

1 by the clients to whom they provide care. However, the Kern County Public Authority
2 (Employer, County or Kern) is the employer for purposes of negotiating wages and benefits with
3 UDW. The Kern County Public Authority is technically distinct from Kern County, but the Kern
4 County Board of Supervisors is the decision maker when it comes to wages and benefits for Kern
5 County Public Authority providers.
6

7 The parties have been bargaining for a new contract for a lengthy period –of time. The
8 parties engaged in mediation but were unable to reach an agreement. On March 28, 2020, the
9 Union made a demand for factfinding with the Public Employment Relations Board (PERB).
10 The parties selected me to serve as the factfinding panel chair. The factfinding hearing occurred
11 on August 20, 2020 via Zoom. Both parties presented through their designated advocates and
12 provided additional testimony and documents.
13

14 ANALYTICAL FRAMEWORK

15 Unlike interest arbitration, where a third-party neutral sets the terms of a new contract, a
16 third-party neutral in a Meyers-Miliias-Brown Act (MMBA) factfinding simply provides
17 recommendations. In essence, this makes factfinding an extension of bargaining. Ultimately,
18 the parties must persuade one another of their positions, and the neutral factfinder simply
19 provides an outside perspective to help the parties along.
20

21 The only issues before the panel are the economic terms of a new contract. The parties
22 appear in agreement that the contract should last until June 30, 2023. As set forth in California
23 Government Code Section 3505.4(d), the MMBA requires factfinders to “consider, weigh, and
24 be guided” by the following criteria:
25

- 26 1. State and federal laws that are applicable to the employer.
- 27 2. Local rules, regulations, or ordinances.
- 28

- 1 3. Stipulation of the parties.
- 2 4. The interests and welfare of the public and the financial ability of the public agency.
- 3 5. Comparison of the wages, hours, and conditions of employment of the employees
- 4 involved in the factfinding proceeding with the wages, hours, and conditions of
- 5 employment of other employees performing similar services and with other
- 6 employees performing similar services in comparable public agencies.
- 7
- 8 6. The consumer price index for goods and services, commonly known as the cost of
- 9 living.
- 10
- 11 7. The overall compensation presently received by the employees, including direct wage
- 12 compensation, vacations, holidays, and other excused time, insurance and pensions,
- 13 medical and hospitalization benefits, the continuity and stability of employment, and
- 14 all other benefits received.
- 15
- 16 8. Any other facts, not confined to those specified in paragraphs (1) to (7), inclusive,
- 17 which are normally and traditionally taken into consideration in making the findings
- 18 and recommendations.

19 POSITIONS OF THE PARTIES

20 The Employer proposes that IHSS providers in Kern County should be paid the minimum
21 wage through the term of the contract, noting that the minimum wage has been increasing and is
22 set to further increase to fifteen dollars; the Union proposes that Kern County IHSS providers
23 should receive a \$.60 per hour wage supplement above the minimum wage plus \$.20 per hour of
24 work for vision and dental benefits.

26 I will start with providing some background information on how IHSS funding generally
27 works with respect to wages and benefits. The state requires each county to pay a Maintenance
28

1 of Effort (MOE) cost for IHSS services. The base MOE is only periodically reset. During years
2 when the MOE is not reset, a county's base MOE increases by an annual 4% a year. This 4%
3 yearly increase was set to increase to 7%; however, the state (due in part to efforts by UDW)
4 decided to maintain the yearly increase at 4%. When the MOE was last reset in 2019, Kern
5 County's base MOE decreased.
6

7 A county's MOE may also increase if it agrees to higher negotiated wages for IHSS
8 providers. When counties and unions negotiate wages for IHSS providers, they normally
9 negotiate for hourly wage supplements above minimum wage. Any negotiated wage supplement
10 above minimum wage is only partially paid for by the counties. Up to a certain limit based on a
11 formula, the federal government will pay for 50% of the wage supplement and the state will pay
12 for 65% of the non-federal share of the remaining wage supplement,¹ with the counties paying
13 the remaining 35% of the 50%. Moreover, once the MOE is recalculated due to a negotiated
14 wage supplement, the MOE is not recalculated due to an increase in the minimum wage.
15
16

17 For counties like Kern that are currently paying minimum wage, the state will honor the
18 65%/35% formula up to a negotiated rate of \$1.10 above minimum wage. In 2022, however, the
19 formula will be reversed, with counties having to pay 65% negotiated wage supplements after
20 that date. Any wage supplements negotiated before 2022 will still be paid under the old formula.
21 In fiscal year 2020-2021, Kern County's MOE was \$800,255.² Because Kern County does not
22
23
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25

26 ¹ I adopted the clarifying language from the County's dissent.

27 ² In the County's dissent, it states its projected MOE for 2020-21 is approximately \$11 million. I had the lower
28 figure in my notes (and I have no doubt the error was on my part). I do not dispute the County's \$11 million figure.
The higher MOE, however, does not change my analysis. If the County were to adopt my recommendation, the
increase in the County's MOE will represent a smaller percentage increase in its total MOE cost.

1 have a negotiated settlement with UDW, the state can³ impose a penalty on Kern County that is
2 calculated at 1% of its MOE. Kern County has a budget of approximately \$3 billion dollars and
3 the Department of Aging and Adult Services (which administers the IHSS program in the
4 County) has a budget of approximately \$16 million.⁴

5
6 I will now provide a summary of each side's argument.

7 a) Employer's Position

8 Kern County notes that the state minimum wage increased to \$13 per hour on January 1,
9 2020; will increase again to \$14.00 per hour on January 1, 2021; and will increase again to
10 \$15.00 per hour on January 1, 2022. Further, and while 2024 is outside the timeframe of the new
11 contract, Kern County notes that starting on January 1, 2024, the state minimum wage will
12 increase based on a formula tied to CPI. An increase from \$13 to \$14 represents a 7.69%
13 increase and an increase from \$14 to \$15 represents a 7.14% increase. Further, the wages of
14 these providers will have increased by 36.5% from 2018 (when the minimum wage was \$11 per
15 hour) to 2022 (when the minimum wage will be \$15 per hour). This clearly outpaces inflation
16 and any CPI increases.

17
18
19 Moreover, the County argues that the factfinding panel should look to see how other
20 Kern County employees have fared. Kern County notes that it has not given across-the-board
21 wage increases since 2013, that giving further wage increases to IHSS providers will create
22 compaction issues with other County employees, and that other County employees will then
23 demand wage increases that the County cannot afford.
24

25
26
27 ³ In my initial draft, I incorrectly stated that a penalty had been imposed.

28 ⁴ In the County's dissent, it notes that this Department has a budget of approximately \$21 million. Again, I had the \$16 million figure in my notes, but do not dispute the Department's figure.

1 The County also argues that the public interest weighs against providing a wage
2 supplement. The County notes that any increase spending on IHSS providers means less funds
3 for other County services. Kern believes that there is not a retention problem, as the majority of
4 IHSS providers are family members. For the sake of the public interest, the County argues that
5 any wage increases should be focused on positions with recruitment and retention problems.
6

7 The County further argues that it faces unique financial pressures. Kern derives revenues
8 from oil production and the price of oil is at historic lows; Kern also points to declining property
9 tax revenues to support its economically cautious position.
10

11 When it comes to comparing Kern County IHSS providers to other IHSS providers in
12 other counties, Kern acknowledges that other agencies in the Route 99 corridor have recently
13 agreed to \$.60 per hour wage supplements. However, Kern notes that those agreements were
14 entered into before the COVID-19 crisis and economic downturn. Kern believes that any
15 economic increases in these uncertain times would be imprudent.
16

17 Further, Kern notes that any increases to its MOE by wage supplements are amplified
18 over time due to the effects of compound interest. Kern also notes that the state did not provide
19 extra funds to counties in maintaining the 4% MOE annual increases (instead of moving to a 7%
20 annual increase); rather, counties simply avoided additional expenses.
21

22 Finally, Kern believes that its costs for the first fiscal year would increase by
23 approximately one million dollars if it agreed to a \$.60 wage supplement and that the cost for the
24 second fiscal year would be approximately \$1.1 million. If Kern agreed to a \$.40 wage
25 supplement, its costs would increase by approximately \$668,000 in the first fiscal year and
26 \$760,000 in the second fiscal year. While these costs could potentially come back to it in
27 realignment funds, Kern worries that decreases in state revenue mean it will not be made whole
28

1 through realignment. In the face of the worldwide pandemic and accompanying economic
2 downturn, the County anticipates severe revenue shortfalls and seeks to maintain the same level
3 of services without increasing costs.

4
5 b) Union's Position

6 The Union argues that the interest of the public welfare strongly supports its position that
7 IHSS providers should receive a \$.60 wage supplemental plus an additional \$.20 per hour for
8 vision and dental. First, it points out that allowing IHSS clients to stay at home, instead of being
9 placed in nursing homes or other institutions, saves society a good deal of money and is ethically
10 the right thing to do. The Union had Curtis Childs, the Director of Legislation in the Sacramento
11 office of Disability Rights California, testify as to the importance of keeping IHSS clients
12 integrated in society. He pointed out that the COVID-19 pandemic has accentuated the
13 importance of this, as seen by the high death rates in nursing homes. Sarah Thomason from U.C.
14 Berkeley's Center for Labor Research and Education testified that her research shows that there
15 is a home health care crisis looming and that one of the most effective ways to deal with the
16 crisis is to increase wages for providers. The County acknowledges that it forecasts the need for
17 an increased number of IHSS providers, but it does not believe it has a shortage or is facing a
18 shortage of providers.

19
20
21 The Union argues that the crisis in home health care has already hit Kern, as exhibited by
22 the high number of authorized, but unpaid hours. These are hours which a trained social worker
23 has deemed appropriate for an IHSS client but that were not worked. Kern had approximately
24 one million authorized but unworked hours. The County counters that there are many reasons
25 for authorized, unpaid hours, including onboarding time, vacation time, and other variables that
26 make a claim about a provider shortage based on unauthorized time unpersuasive.
27
28

1 The Union believes that the County is in a much better financial situation than it admits.
2 UDW points to the County's stellar credit rating, its unrestricted fund balance, which had been
3 growing before the pandemic and is three times the size of the recommended amount, and its
4 stable revenue growth between fiscal year 2017 and 2019. UDW also notes that the County
5 received over \$150,000,000 in CARES Act stimulus money. The County counters that the
6 economic data pre COVID-19 does not account for the unprecedented downturn in the economy
7 and that CARE Act money can only be used for COVID-19 related expenses.
8

9 The Union also argues that the County is not just an employer seeking to balance its
10 budget but a governing agency that should seek to promote economic activity in its jurisdiction.
11 It notes that the County, by refusing to pay a wage supplement, is leaving federal and state
12 dollars on the table—dollars that can be used to stimulate the local economy. By way of
13 example, an \$.80 per hour increase in provider wages (the combined total of the Union's
14 economic proposal) would only cost the County \$.14 per hour ($$.8 / 2 * .35 = $.14$). And if the
15 County were to spend an extra \$760,000, it would mean an additional \$4.34 million in wages for
16 Kern County providers, who would turn around and spend much of those wages locally. UDW
17 also notes that the County should agree to wage supplements before the formula changes, as
18 counties will have to cover larger percentages of any future increased wages. The Union also
19 argues that the impact of its proposal on the County's base MOE is minimized by the fact that
20 the base MOE will only be adjusted once and would not readjust when the minimum wage
21 increases further. The Union argues that even with the increases in minimum wage, the majority
22 of IHSS providers remain under the federal poverty line, and the public welfare would be
23 advanced by supplementing their wages.
24
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28

1 In looking at other agencies, UDW points out that agencies outside the Route 99 corridor
2 are paying even higher wages, with San Luis Obispo County paying a \$1.11 wage supplement
3 and \$.20 for dental and vision, Santa Barbara County paying a \$.77 wage supplement and \$.20
4 for dental and vision, San Bernardino County paying a \$.50 wage supplement and \$.35 for health
5 care, Ventura County paying a \$.64 wage supplement, and Los Angeles County paying a \$1
6 wage supplement and \$.92 for healthcare. UDW also notes that during the pandemic crisis,
7 Placer County has agreed to a \$.40 wage supplement increase plus the equivalent of increasing
8 its benefit contribution by \$.05 per hour.
9

10 RECOMMENDATION

11
12 I believe that a reasonable settlement in this matter would be for the parties to agree to a
13 wage supplement within a range of \$.40-\$.60 per hour above the minimum wage. To be clear,
14 there are compelling reasons for a county to agree to the maximum wage supplement that would
15 allow the state to cover the majority of increased costs not covered by the federal government.
16 Other counties that see a benefit in maximizing outside dollars should not be dissuaded from
17 doing so by this report.
18

19 Of the factors that I must consider under the MMBA, I find the comparison to other local
20 agencies to be the most compelling in this case. IHSS providers are not county employees except
21 for the fact that the County sets their wages. IHSS workers across the state face similar working
22 conditions, obstacles and challenges, which supports the conclusion that their wages should be
23 similar across comparable jurisdictions. There are, of course, wide differences in the state when
24 it comes to cost-of-living and regional wages. This is why looking at what other counties in the
25 Route 99 corridor have done is so instructive. Were it not for the pandemic, I would have
26 recommended a \$.60 wage supplement, as that seems to be what other counties in the Route 99
27
28

1 corridor have negotiated. For this reason, a \$.60 per hour wage supplement serves as the upper
2 limit of my range.

3 But I cannot ignore the pandemic and its effects on state and local budgets. There is no
4 doubt that budgets have taken a hit and will continue to fall short in the near term. Yet, even in
5 the pandemic, all revenues have not dried up. A \$.20 reduction of the \$.60 wage supplement that
6 other Route 99 corridor counties are paying represents a discount of a third, which is significant.
7 Additionally, during the COVID-19 crisis, Placer County has agreed to a \$.40 wage supplement
8 with another additional increase of \$.05 per hour for benefits. This is why I believe a \$.40 per
9 hour wage supplement makes sense as the lower end of the recommended range.
10

11 Additionally, I recommend that the parties agree to a reopener. This would allow the
12 parties to reassess the economic situation at the time of the reopener and would potentially allow
13 for a further wage enhancement before the County's share of covering any additional wage
14 supplement increases.
15

16 While I appreciate the County's argument that it wants to maintain the same level of
17 services without increasing costs during the COVID-19 pandemic, and I acknowledge that the
18 County is facing serious future revenue concerns, the absolute cost increase of a wage
19 supplement should not drastically impact County provided services given that its budget is
20 approximately \$3 billion. It is true that the County's base MOE will increase appreciably if it
21 agrees to a wage supplement; but it is equally true that base MOE will only increase one time,
22 and that the increase costs should be partially offset by the increase economic activity that the
23 added federal and state dollars will generate in the County.
24

25 I am unpersuaded that the recent increases in the minimum wage should mean that IHSS
26 providers should not receive a wage supplement. The legislature decided to increase the
27

1 minimum wage because it found that the minimum wage had not historically kept up with
2 inflation and that the wage floor set by the minimum wage was simply too low before the recent
3 increases. The rising minimum wage, therefore, should not be held against IHSS providers
4 trying to negotiate wage supplements similar to what similarly situated providers receive in
5 comparable jurisdictions.
6

7 The County's concerns regarding compaction and other employees demanding increased
8 wages based on this contract are understood, but there are countervailing arguments. As the
9 County acknowledges, IHSS providers are not traditional employees of the County. The
10 providers are not in a traditional reporting structure with other County employees, and this limits
11 any concerns regarding compaction. Moreover, the County would have a strong counter
12 argument to any County employee demanding a raise based on this contract—namely, the federal
13 and state governments bear the majority of costs for these wage increases.
14

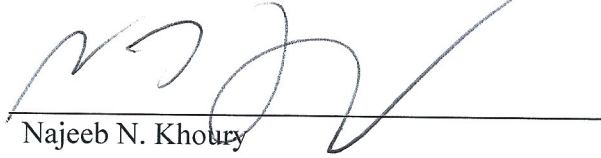
15 I note that any agreement will most likely go into effect no earlier than the beginning of
16 2021, and that the UDW is not asking for retroactive implementation. This means the agreement
17 will only impact costs for half the 2020-2021 fiscal year.
18

19 I do not recommend UDW's proposal of a combined \$.80 per hour increase (\$.60 in wage
20 supplements and \$.20 in vision and dental) because it is not in keeping with what similar
21 counties negotiated before COVID-19. It also does not take into account the economic impacts
22 of the pandemic.
23

24 For all these reasons, I recommend that the parties settle this contract by agreeing to a
25 wage supplement within the \$.40 and \$.60 per hour range and that they agree to a reopener to
26 discuss the economic environment before the formula changes with respect to who bears the
27 costs of future increases.
28

1 I sincerely hope that this recommendation assists the parties in reaching a negotiated
2 settlement.

3 Date: September 10, 2020
4

5 
Najeeb N. Khoury



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September 10, 2020

First and foremost, UDW/AFSCME Local 3930 concurs with the report from fact-finding panel chairperson, Najeeb Khoury, and urges the Kern County Board of Supervisors to do the right thing by immediately implementing an across the board wage increase for all of their In Home Supportive Services (IHSS) workers. Second, we want to echo the sentiments of the expert witnesses that spoke to the issues of race, gender and class that permeate every fabric of the homecare industry. As current events are showing us, silence is no longer an option. Kern has for the past 7 years continued to inadequately fund the IHSS program therein turn providing poor wages for IHSS Caregivers. The County has the power to change the narrative of how they treat local care providers by prioritizing the enhanced funding of this program and agreeing to terms on a new contract that reflects the advice of the neutral chairperson, Mr. Khoury.

IHSS is a Medi-Cal based program that is funded by county, state, and federal dollars. The goal of the IHSS program is to allow low income aged, blind, and disabled persons, including children, who are at risk for out-of-home placement, to remain safely at home by providing payment for care provider services. IHSS is considered an alternative to out-of-home care, such as nursing homes or board and care facilities.

We applaud the fact that a neutral factfinder, authorized by the state of California, has now seen what UDW has been fighting for over five years, a living wage that allows our essential workers to perform their duties with dignity, respect and protection. Kern has cried broke for years, but their shenanigans have now been revealed.

As was stated by the neutral and can be confirmed by the lifestyle of IHSS Providers, they are not trying to break the bank. But at the same time, we will not stand idly by as Kern County repeatedly spins their financial condition with gloom and doom and now uses Covid-19 as yet another excuse for not paying IHSS Providers a living wage. As the report states, even in these times the County can afford to pay an increase in wages. We will address their arguments one by one.

Kern County argues that since minimum wage outpaces inflation IHSS Providers should be satisfied with the bare minimum. The minimum wage increase is not born by the County thus, on its face, this is a bad faith argument. Further, as was stated in our oral presentation, IHSS providers should not have to settle for the



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minimum while numerous entry-level jobs in the area—at CVS, In-n-Out, McDonalds and a plethora of others—make \$16 or more. Let us be clear, we are not saying that other workers should be paid less, but rather that the work of IHSS workers, especially during these times, is essential and should be treated as such. In our society, capital is still considered king and thus we show support and appreciation for our workers by the wages we pay them. The lower the pay, the less we value them and vice-versa. Kern county IHSS workers deserve more than the minimum.

The next argument the County employs is extremely troubling. It's essentially a "race to the bottom" argument. They state that since they have not increased the wages in their other bargaining units for over 7 years, we should be happy. Furthermore, if they give us a raise then other county employees will demand a raise. Kern County would love to have us buy into their divide and conquer mentality. In addition, the fact that Kern has not given across the board wage increases since 2013 is beyond the pale. The County's refusal to bargain in good faith is obvious. Finally, Kern's argument is fraught with misinformation and misdirection. They would have you believe that the financial condition of all Kern County workers is on a level playing field. That is false. IHSS workers are the only workers in Kern County government who do not have any vacation time, healthcare benefits, 401k, pension benefits and many IHSS providers do not qualify for unemployment insurance. Thus, our demand for a raise, even if "granted" will still *not* put us on par with other county employees.

Next, the County argues that because the majority of IHSS providers are family members there is not a recruitment/retention problem and the County should therefore focus any wage increases on positions with recruitment and retention issues. Really? Have any of the Kern County Board of Supervisors tried doing the backbreaking work of in-home care? It takes just a moment to realize how insensitive this argument is. Kern's County Board of Supervisors makes it seem as if IHSS providers are expendable. They are not. IHSS providers care for their family members out of sheer necessity, not greed. The cost of in-homecare is miniscule to that of out-of-home institutionalization. Further, just because an elderly, sick or blind family member has a compassionate, loving and selfless sibling/parent, etc., to provide in home care does not mean there is an endless pipeline of siblings available, and able, to drop everything to provide the essential care needed.

Financial pressures are the County's next argument. To be completely frank, but for better management of oil production and tax revenues, Kern County would



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likely not be in its current predicament. UDW did not start bargaining for a contract during the Covid-19 pandemic. We have been bargaining with the County for over 5 years. At every turn, the County has resisted doing the right thing and now blames Covid-19 in its latest iteration of excuses. At some point, Kern must take responsibility for its actions and stop deflecting. As a petulant child wants to blame others for their condition, Kern too, refuses to accept responsibility for its current predicament while casting aspersions.

The County's final argument is, well, embarrassing. They state that if they "gave into" the Union and agreed to a \$0.60 increase it would cost them approximately \$1.1m while if they increased wages by \$0.40 it would cost them approximately \$668k in the first year and \$760k in the second year. Mind you, this is out of a total budget of \$3,000,000,000. They also argue that although they would recoup most of their monies spent through realignment, that program can't be trusted. Which one is it? Are they broke or is the system broke? They can't have it both ways. Their deflections must cease. For every \$.15 the county puts into this program, the State and Federal Government match it with \$.85. The County must maintain the \$.15 they commit for 18-24 months until the State takes over the payments using 1991 Realignment money. It's like leasing a car for 2 years but instead of returning the car when the lease is up, you get to keep the car.

Thus, in conclusion, while we agree with the neutral advocate's reasoning in his overall analysis of the situation, i.e., regarding Kern's ability to increase the wages of IHSS employees, we beg to differ that a scale is needed. Our ask of \$0.60 in wages and \$0.20 in benefits is well within the financial means of Kern County. Over the years Kern has made poor financial decisions and then passed the buck on to the County's most vulnerable population, those who can't speak for themselves.

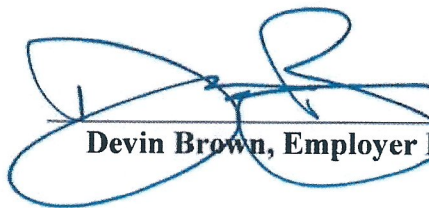
Seniors and people with disabilities are being harmed by Covid-19 in disproportionate numbers and caregivers are putting themselves at risk for minimum wage and no healthcare. In addition, Kern County has received \$157,000,000 for Covid-19 related shortfalls. They could reinvest these monies in IHSS but choose not to.

Today, the passing of the buck must stop.

EMPLOYER FACT-FINDING PANEL MEMBER'S DISSENT

I, Devin Brown, served as the Employer Fact-finding Panel Member on August 20, 2020 in the matter of *UDW, AFSCME Local 3930 (UDW) and Kern County Public Authority (Kern or County)*, PERB Impasse, Case #LA-IM-292-M. I agree ☐ disagree ☒ with Fact-finding Panel Chairperson Najeeb Khoury's foregoing Fact-finding Report and Recommendations (Recommendations).

Dated: September 10, 2020



Devin Brown, Employer Panel Member

DISSENT

The County thanks Fact-finding Panel Chairperson Najeeb Khoury and UDW Fact-finding Panel Member Matthew Maldonado for their respective time at the fact-finding session and attempts at trying to reach agreement on the negotiations related to a successor MOU between UDW and the County. I dissent with the Chair's Recommendations based upon the County's evidence presented at the hearing and on the following:

1. Page 4, Line 3 – UDW's "efforts" were the opposite of what is set forth in the Recommendations. UDW lobbied to *increase* all counties' MOE cost inflator to 7% rather than what the State ultimately proposed, which was a cost inflator of 4%. Ultimately, the State decided rather than looking at the cost inflator, to utilize a 1% of the respective county's MOE as a penalty for not having a locally negotiated wage. During this time, UDW was seeking to have all counties' cost inflators increased to 7% of their MOE.
2. Page 4, Line 19 – For clarification, it should read 65% "of the non-federal share of the" negotiated wage supplements.
3. Page 4 Line 21 – In FY 20-21 Kern's MOE is projected to be \$11,259,263, not \$800,255.

4. Page 4, line 23-24 – The State has not imposed a 1% penalty on Kern.
5. Page 4, Line 26 – The Department’s budget is \$21 million not \$16 million, which is strictly all operating costs.
6. Page 6, Line 17 – There are no additional realignment funds for wage negotiations. The statement “costs could potentially come back to it in realignment funds” is not accurate. Realignment dollars could increase if the economy gets better, but it would not be based upon Kern negotiating a wage increase and the State trying to pay back the County.
7. To the extent the Recommendations rely on evidence UDW presented after the hearing, including but not limited to UDW’s August 21, 2020, 11:13 email with attachments, which the County objected to on August 24, 2020, the County has been denied due process by not being able to examine witnesses, ask follow up questions, or having the opportunity to meaningfully review and respond.

The Recommendations are based significantly on what other local agencies agreed to pre-pandemic and holds Kern to a comparison that ignores the likely catastrophic fiscal impacts of COVID. There was discussion at the session of the significant financial uncertainties facing California public employers, which is now coming to fruition, i.e. September 2, 2020, City of Los Angeles declares a fiscal emergency and furloughing 15,000 employees, which equates to about 10% of an employee’s annual salary, and is consistent with the State announcement of cutting State employee wages by 10%. One outlier of a County (Placer) also does not qualify as multiple “public agencies” under Government Code section 3505.4(d) (5).

While comparing other public agencies is important, not all are similarly situated. Kern is uniquely uncertain because of the impact that oil and gas property tax assessments have on its discretionary revenue. Kern is projecting that the property tax revenue from oil and gas will reduce its overall discretionary revenue and lead to further cuts in Fiscal Year 2021-2022, which is less than a year away. Observing such additional uncertainty on the horizon, Kern must be cautious and prudent with discretionary wage enhancements.

A negotiated wage supplement for UDW will come at the expense of other community priorities, namely public safety. The funding for these wage supplements, albeit smaller in impact, are not trivial. The increase in cost to the County of the supplement is borne by the General Fund. That cost increase of approximately \$700,000 - \$1,000,000 will result in reductions to other County operations funded by the General Fund. These include the Kern County Sheriff's Office, the Probation Department, the District Attorney's Office, libraries, animal services, and parks. It is also anticipated that the COVID and emergency expenditures uncertainty will likely grow in the near future due not only to the flu season but yet another intervening emergency that has occurred since the fact-finding session - the unprecedented state-wide fires. The County must as a result maintain solid reserve levels and fiscal prudence to prepare for these potential additional expenses. Agreement with the Recommendation of the Chair cannot be considered at a time of such economic uncertainty, and certainly at a time when other County employees are asked to make concessions and forgo similar increases in wages.

For these reasons, I respectfully dissent.