

STATE OF CALIFORNIA
COMMISSION ON
PEACE OFFICER STANDARDS AND TRAINING
LEGISLATIVE REVIEW COMMITTEE MEETING



TIME: 8:30 a.m.
DATE: Thursday, June 27, 2013
PLACE: Courtyard by Marriott - Cal Expo
1782 Tribute Road
Sacramento, California 95815



REPORTER'S TRANSCRIPT OF PROCEEDINGS



Reported by:
Daniel P. Feldhaus
California Certified Shorthand Reporter #6949
Registered Diplomate Reporter, Certified Realtime Reporter

Daniel P. Feldhaus, C.S.R., Inc.
Certified Shorthand Reporters
8414 Yermo Way, Sacramento, California 95828
Telephone 916.682.9482 Fax 916.688.0723
FeldhausDepo@aol.com

A P P E A R A N C E S

POST LEGISLATIVE COMMITTEE MEMBERS PRESENT

PETER KURYLOWICZ, JR.
(Committee Chair)
Deputy Sheriff
Riverside County Sheriff's Department

LAI LAI BUI
Sergeant
Sacramento Police Department

MICHAEL SOBEK
Sergeant
San Leandro Police Department

LARRY J. WALLACE
for KAMALA HARRIS
Attorney General's Office



POST STAFF PRESENT

BOB STRESAK
Executive Director
Executive Office

FRANK DECKER
Bureau Chief
Basic Training Bureau

CHARLES EVANS
Legislative Liaison
Executive Office

RICHARD REED
Assistant Executive Director
Executive Office
Administrative Services Division



A P P E A R A N C E S

POST ADVISORY COMMITTEE MEMBERS PRESENT

ALEX BERNARD
Public Member

RICHARD J. LINDSTROM
California Academy Directors' Association



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POST Legislative Review Committee Meeting, June 27, 2013

Thursday, June 27, 2013, 8:30 a.m.

Sacramento, California



(Gavel was sounded.)

CHAIR KURYLOWICZ: Call to order the Legislative Review Committee meeting.

And members present: Mike Sobek; Lai Lai Bui; Larry Wallace; myself, Pete Kurylowicz; Charles Evans; and Robert Stresak.

Gentlemen, if you could announce your names.

MR. DEAL: Alan Deal, POST staff.

MR. DECKER: Frank Decker, POST staff.

MR. DARDEN: William Darden, Attorney General's office.

MR. LINDSTROM: Richard Lindstrom from the Advisory Committee.

MR. BERNARD: Alex Bernard, Advisory Committee.

CHAIR KURYLOWICZ: Great. Thank you.

At this point, we have a quorum of four.

And the first item up is the approval of the February 28th, 2013, Committee meeting minutes.

MEMBER SOBEK: Motion to approve.

CHAIR KURYLOWICZ: Motion by Sobek.

MEMBER BUI: Second.

CHAIR KURYLOWICZ: Second by Bui.

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1 Thank you.

2 Any questions, comments, or concerns?

3 *(No response)*

4 CHAIR KURYLOWICZ: All in favor?

5 *(A chorus of "ayes" was heard.)*

6 CHAIR KURYLOWICZ: Unanimous.

7 And second, we have the report on legislation to
8 recognize part-time or volunteer personnel for the
9 coroner's offices as peace officers.

10 MR. EVANS: Yes.

11 CHAIR KURYLOWICZ: Charles?

12 MR. EVANS: Yes. Good morning.

13 That bill is Assembly Bill 739 by Assembly Member
14 Solis. And the objective of the bill is to get
15 recognition of part-time and volunteers in Kern County to
16 be peace officers.

17 The sponsor of this bill is also the sheriff and the
18 coroner of Kern County, a very large county, very remote
19 areas, very difficult to access in a timely manner by
20 investigative personnel. So the Sheriff is attempting to
21 get legislation in order to use volunteers and part-time
22 personnel in order to act in the capacity of deputy
23 coroners.

24 That's in opposition to current law, Penal Code, and
25 also to POST administrative regulations.

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1 We're opposing that. We're recommending that the
2 Commission empower the director to oppose that bill.

3 We've been working in concert with both the sponsor
4 and the author on this bill. And as a result, they
5 canceled the hearing that was scheduled, due to our
6 inquiry. And so it's in a canceled state right now.

7 MEMBER SOBEK: Yes, so we're not worried about it.
8 It's going to die, right?

9 MR. STRESAK: I'm not sure of the current health of
10 the bill. But our primary focus is that this -- we see
11 this as a diversion of training funds to part-time
12 personnel and non-peace officers. And we have
13 historically opposed that, protect the funds.

14 MR. EVANS: Yes, one of the challenges there, over
15 the years, the Governor has taken money from the POTF --
16 peace officer Penalty Assessment Fund, POST training
17 fund, and diverted it to the General Fund. In 2008,
18 \$5 million was taken from the Peace Officer Training Fund
19 and sent to the General Fund. They had a sunset of five
20 years on it, and so it was supposedly to have been repaid
21 by 2013. That sunset was extended to 2014. So in 2013,
22 this year, \$4 million is supposed to be returned; and
23 then in 2014, we're supposed to get the last million
24 dollars.

25 Well, that hasn't happened yet, but it's supposed to

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1 be in process.

2 MEMBER SOBEK: It's on the budget.

3 MR. STRESAK: Yes, but I think the question is,
4 what's the health of the bill? What's the current
5 status?

6 MR. EVANS: The current status, it's canceled right
7 now, which means it's in a hold state. It may go to a
8 two-year bill.

9 CHAIR KURYLOWICZ: Thank you.

10 MR. EVANS: You're welcome.

11 CHAIR KURYLOWICZ: And next is on the report on a
12 proposal to amend Government Code section 19130 relating
13 to personal service contracts.

14 MR. EVANS: Yes. That's Assembly Bill 906 by
15 Assembly Member Pan. The objective of the bill is to
16 limit all personal service contracts in the state to
17 two years. That would negatively impact POST because we
18 have an ongoing concern.

19 We've been working closely with the sponsor and the
20 author and the lobbyist regarding this bill. And the
21 bill has been withdrawn as of the day before yesterday.

22 MEMBER BUI: Okay.

23 MR. EVANS: It's going to become a two-year bill.
24 So we did -- prior to the withdrawal, we had gotten the
25 sponsor -- at least the author -- to add in language

1 which would exempt 13500 of the Penal Code, which is
2 POST's authority. They had agreed to exempt POST from
3 that legislation.

4 The reason that the bill was withdrawn had to do
5 with some ongoing concerns with AFSCME and SEIU,
6 attempting to negotiate additional disability claims in
7 the bill for employees. But as it pertained to POST, we
8 had actually gotten our language in to exempt or to
9 exclude POST.

10 There had been a meeting last week with several of
11 the lobbyists from the Legislative Advocates Committee.
12 They met with the Governor, and the Governor was
13 supportive of exempting POST from this bill.

14 MEMBER BUI: That's great.

15 MEMBER SOBEK: But because of the extra language
16 that's in there, it's not going to get passed as written.

17 MR. EVANS: Correct.

18 MEMBER SOBEK: So what do we need to do?

19 MR. STRESAK: Well, we'll continue to maintain a
20 position of "oppose unless amended" in the event that
21 this rekindles the bill.

22 And Charles will continue to make efforts to
23 draft carve-out language. We have curried the support of
24 Cal Chiefs. And I will be meeting the Governor's Office
25 this afternoon and discuss the issue again.

1 So I think our formal position would be "oppose
2 unless amended," to maintain a consistency in our
3 position; and we'll see how everything shakes out at the
4 Capitol.

5 MEMBER SOBEK: Do we have to piggyback on a bill, or
6 can we write our own bill or get somebody to write a bill
7 and talk about this type of language?

8 MR. STRESAK: That's a fair question.

9 I think the option does exist for a gut-and-amend.
10 However, that's a two-edge sword to a certain extent.

11 The issue is, we're sort of a -- POST is a sparrow
12 in a hurricane on this one. And so the winds of force
13 deal with the labor issues with groups much, much greater
14 and much more impactful than POST is, and so we are in
15 the cross-hairs of these unintended consequences.

16 So to answer your question, by way of it's a complex
17 situation, Charles has been working hard to negotiate
18 bringing people to the table, and see if there's a way
19 where we can successfully obtain carve-out language
20 without currying a whole reaction of "Me, too. Me, too.
21 If them, why not me? Why not me?" So it's this
22 tightrope that we're walking.

23 MEMBER SOBEK: I think, without hurting anybody's
24 feelings here, but if we continue to use Cal Chiefs or
25 whomever, there might be -- and I'm not saying PORAC or

1 whatever labor agency is stronger in lobbying for these
2 type of things -- but I think if we get some other forces
3 in there to deal with this and say -- because I know
4 Lai Lai brought up to me before, we have to be careful
5 because it's a labor issue, with AFSCME and the labor
6 folks in the state, and SEIU and whomever is involved.
7 But this really has nothing to do with labor. This has
8 to do with the health of police officers in the state of
9 California.

10 So I think it's important for us to look at this
11 from a different angle, and maybe say, "We write our own
12 bill. We get somebody to write our own bill and deal
13 with it in that form." And I think we have a better
14 chance of getting it taken -- getting it signed, than we
15 have dealing with these labor groups, and then wanting a
16 piece of this, saying, "Me, too," as you say. But I just
17 think there is a better way to go about it than trying to
18 get a bill written with them involved, with AFSCME
19 involved.

20 MR. STRESAK: You know, I appreciate that. Thanks.

21 One of the consistent recommendations is to bring a
22 sponsor with a stronger voice to curry attention on this
23 issue. So I don't disagree with that.

24 MR. EVANS: One of the interesting points is that we
25 actually brought AFSCME over to POST, and we met with

1 their representatives, and they are on board, with AFSCME
2 supporting us in our effort to not be subject to their
3 bill, because they recognize our special Penalty
4 Assessment Fund, and they recognize the significance of
5 it. So they're actually in support of us. Janus Norman
6 from AFSCME.

7 MEMBER SOBEK: So they're going to take out all
8 their language so we can get this bill passed?

9 MR. EVANS: Well, the only -- they didn't want to
10 exclude everyone, but they recognized that law
11 enforcement should be excluded, and they're on record
12 stating it.

13 MR. STRESAK: So with the permission of this
14 committee, we can pursue seeking stronger sponsorship on
15 this bill, if that's the recommendation.

16 MEMBER SOBEK: Yes.

17 CHAIR KURYLOWICZ: I believe so.

18 MR. STRESAK: We'll do that.

19 MEMBER SOBEK: Yes, yes, sure.

20 CHAIR KURYLOWICZ: Thank you.

21 MR. EVANS: The other items of interest on the
22 right-hand side of your folder, just a status update:

23 Assembly Bill 25, it's been ordered to the Senate
24 for a third reading. That bill is going to pass, which
25 essentially states that public-service employees are not

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1 excluded from AB 25, Social Media bill. So our
2 background investigators cannot request access to a
3 potential employee's --

4 MR. STRESAK: Charles, if I can interrupt you for a
5 second.

6 MR. EVANS: Yes.

7 MR. STRESAK: I think we need committee action on
8 the last issue. I think we need a motion on a
9 recommendation.

10 MR. EVANS: Okay.

11 MEMBER SOBEK: Well, since I talked about it, I'll
12 make a motion to give POST the authority to look at other
13 resources, to --

14 MEMBER BUI: Sponsorship.

15 MR. STRESAK: Resources or sponsorships.

16 MEMBER SOBEK: -- sponsorships for that, for AB 906.

17 MEMBER WALLACE: I'll second it.

18 CHAIR KURYLOWICZ: Motion by Sobek, second by
19 Wallace.

20 Any discussion?

21 MR. STRESAK: Can we carve out the reference to
22 AB 906, and just say sponsorship to legislation to seek
23 appropriate language for contractual relief?

24 MEMBER SOBEK: Yes, that makes sense. Right.

25 CHAIR KURYLOWICZ: Okay, all in favor?

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1 *(A chorus of "ayes" was heard.)*

2 CHAIR KURYLOWICZ: Any opposed?

3 *(No response)*

4 CHAIR KURYLOWICZ: The "ayes" have it.

5 Okay, thank you.

6 Charles?

7 MR. EVANS: AB 25 is the Social Media bill. It
8 prevents public employers from asking employees for
9 access to the social media accounts. That prevents
10 background investigators from doing pre- -- as far as a
11 preinterview, preemployment interviews, the power to ask
12 the person to take a look at the social media.

13 MEMBER SOBEK: So you can't ask?

14 MR. EVANS: You cannot ask them for their access
15 code to take a look at their Facebook accounts, to see
16 what conversations have been going on.

17 *(Mr. Reed entered the meeting room.)*

18 MR. EVANS: If you take a look in your binder,
19 you'll see the list of supporters of this bill, several
20 law-enforcement agencies have been very, very active in
21 supporting the bill. In fact, they testified on behalf
22 of Assembly Member Campos on that.

23 MEMBER BUI: I think they can ask, right, but they
24 just can't take any action against them if they refuse?

25 MR. EVANS: They can't ask. No.

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1 MEMBER BUI: They can't even ask?

2 MR. EVANS: No. This is a continuation of last
3 year's two social media bills that prevented private
4 employers and educators from asking for social media.
5 And this is clarification to show that those laws also
6 applied to public employers, including us, including law
7 enforcement.

8 MEMBER BUI: Now, does it apply just to current
9 employees or --

10 MR. EVANS: All employees.

11 MEMBER BUI: Does it apply to applicants also?

12 MR. EVANS: Applicants also, yes.

13 MEMBER SOBEK: That makes no sense to me.

14 MEMBER BUI: I don't know.

15 MR. EVANS: Yes, I talked to the background
16 investigators, Tracy Veraldi, vice president of
17 Investigators Association.

18 And last year -- this is an old story -- last year,
19 we had a very passionate meeting with Campos, she
20 promised to exclude all law enforcement. She did not --
21 she came back with AB 25 just to affirm her position that
22 it applied to public employers. So we cannot ask those
23 preemployment applicants for access to their social-media
24 accounts.

25 MEMBER BUI: I don't know if I necessarily agree

1 with that.

2 MEMBER WALLACE: What's the list of the associations
3 of law enforcement that --

4 MR. EVANS: It's in your packet.

5 If you go all the way to the rear, it looks like --

6 MEMBER WALLACE: This?

7 MR. EVANS: Yes, under "Analysis." There's a list
8 of the agencies.

9 And the Los Angeles Police Protective League was one
10 of the ones who was very passionate about supporting
11 Campos in her bill. And so even though you had some
12 people opposing from different entities, they didn't show
13 up. The only ones who were showing up at these hearings
14 to testify was actually POST, opposing the bill.

15 Next --

16 MEMBER BUI: I'm sorry. So we have a position of
17 "opposed" on this one?

18 MR. EVANS: Yes. And the letter is included also.

19 MEMBER BUI: Okay.

20 MR. EVANS: And that was approved at the last
21 commission meeting.

22 Okay, taking a look at Assembly Bill 125, it has to
23 do with the world police wanting to go from 830.33 to
24 830.1 and have statewide peace-officer authority.

25 MEMBER WALLACE: You mean "128."

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1 MR. EVANS: Yes, 128, Assembly Bill 128. And that
2 bill would effectively have the world police who are now
3 authorized under 830.33 to go to 830.1 and have statewide
4 peace-officer authority.

5 That bill is currently in Appropriations.

6 MEMBER SOBEK: So that bill is very interesting
7 because of the politics that went on in L.A.

8 MR. EVANS: It's a local issue.

9 MEMBER SOBEK: Yes, it's a local issue.
10 Very interesting. So we have no standing on this,
11 right?

12 MR. EVANS: No. No standing. We're neutral on that
13 one.

14 MR. STRESAK: Yes, that's been a --

15 MEMBER SOBEK: It's been a fight between the police,
16 the airport police and the L.A.P.P. police.

17 MR. STRESAK: -- Hatfields and McCoys.

18 MEMBER SOBEK: Hatfields and McCoys, exactly.

19 MR. EVANS: Assembly Bill 602 by Assembly Member
20 Yamada. In this bill, she wanted all peace officers
21 to actually do a site visit at a mental -- or a
22 developmentally disabled center. And that was
23 problematic, in that it would be very, very costly, we
24 submitted to Appropriations.

25 And so as a result, they narrowed their focus, and

1 officers will not have to, as part of this bill, visit a
2 mental-health facility.

3 Additionally, the bill required that we provide
4 ongoing training regarding disability of mentally
5 challenged individuals. But POST currently produced that
6 curriculum. We were successful in getting the author to
7 accept our recommendation that we provide that curriculum
8 by a DVD, which we're currently doing now.

9 So classroom training is no longer going to be
10 required.

11 MEMBER BUI: It seems kind of silly. You have some
12 privacy issues where people want to be there and have
13 some peace while they try to recover.

14 MR. EVANS: So the bill is currently in
15 Appropriations Committee with a recommendation to the
16 consent calendar.

17 MR. STRESAK: We have historically offered a pretty
18 broad smorgasbord of training on this topic. And we
19 continue to emphasize that, from time to time, there is
20 always a wave of opinion that we should train officers to
21 be able to diagnose. And, you know, our stand has
22 consistently, classically, and historically been: We
23 will train officers to recognize behavioral indicators
24 but not to diagnose; and officer safety will be the
25 priority.

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1 MR. EVANS: Assembly Bill 685 is said to be a silly
2 bill; but you had thought that the spouses of the peace
3 officers could purchase maybe a weapon of their spouse,
4 if they become deceased. Well, this has been chaptered,
5 by the way. And so the Governor signed off on it. So
6 the spouse of a deceased officer killed in the line of
7 duty can purchase that officer's weapon, should he or she
8 choose to do that. So that's been chaptered by the
9 Governor. And that was chaptered on the 24th.

10 Assembly Bill 703 by Hall essentially attempts to
11 get Level I reserve officers the ability to have CCWs.
12 And that bill is currently in Appropriations.

13 MR. STRESAK: But that's if they meet the
14 appropriate time and service --

15 MR. EVANS: Right, at least time and service of ten
16 years.

17 MR. STRESAK: -- and has to be retired honorably?

18 MR. EVANS: It has to be honorable, yes.

19 MR. STRESAK: So it's a minimum of ten years?

20 MR. EVANS: Ten years. Maximum of 20.

21 So it's moving forward, and it's currently in
22 Appropriations.

23 MR. STRESAK: And the level of reserve is a Level 1?

24 MR. EVANS: Level 1 reserve.

25 Assembly Bill 979 by Weber, Peace Officers Maritime

1 Peace Officer Standards bill. Another issue that came up
2 with this particular bill is that it is tied to federal
3 funding. But in the original legislation, it would
4 indicate that POST would certify FLETC training, although
5 we have no oversight of the training. It would subject
6 itself -- the state -- to much liability and no benefits.

7 And so we were written out of that bill all together.

8 MEMBER SOBEK: Good.

9 MR. STRESAK: We requested to be written out of the
10 bill.

11 But as it was originally written, it was really
12 foggy public policy, and it put two entities in charge of
13 one training obligation. And so it pitted federal
14 guidelines against state guidelines, certification,
15 federal funding stream. And the simplest solution was
16 to just excise POST out of it, let the federal funding
17 stream go ahead, and let the feds maintain a training
18 standard that, if an agency wants to request maritime
19 training through FLETC, they can. And so they're very
20 cooperative, and so they excised that out.

21 And this is part of an effort of one of the sponsors
22 to kind of strengthen their mark on the training, the
23 maritime training.

24 MR. EVANS: Right. Okay.

25 Senate Bill 340 by Jackson has to do with the law

1 enforcement anti-reproductive rights bill.

2 We've been producing curriculum with this one since
3 2002. And all this bill essentially really does is
4 removes the sunset date. So we'll be producing that
5 curriculum that we provide forever.

6 So no action is required by us.

7 And that's it, there is no more review.

8 MEMBER BUI: That's it?

9 MR. EVANS: That's it.

10 MR. STRESAK: So basically, we had two bills.

11 MR. EVANS: Two bills.

12 MR. STRESAK: We'll continue to "oppose" on AB 25,
13 and then "oppose, unless amended" on AB 906. And then
14 we will pursue the recommended motion to pursue other
15 resources/sponsorship for appropriate language for
16 contractual relief.

17 Does that work?

18 MEMBER SOBEK: Yes.

19 MR. STRESAK: Thank you so much.

20 CHAIR KURYLOWICZ: Nothing else?

21 MR. EVANS: No, nothing.

22 CHAIR KURYLOWICZ: We are adjourned.

23 *(The Legislative Committee meeting concluded*
24 *at 8:50 a.m.)*



REPORTER'S CERTIFICATE

I hereby certify:

That the foregoing proceedings were duly reported by me at the time and place herein specified; and

That the proceedings were reported by me, a duly certified shorthand reporter and a disinterested person, and was thereafter transcribed into typewriting.

In witness whereof, I have hereunto set my hand on July 18th, 2013.

Daniel P. Feldhaus
California CSR #6949
Registered Diplomat Reporter
Certified Realtime Reporter