



California Public Utilities Commission

Special Salary Adjustment for Administrative Law Judges:
Additional Information Following First Round of Bargaining
Between CASE and CalHR



September 25, 2019





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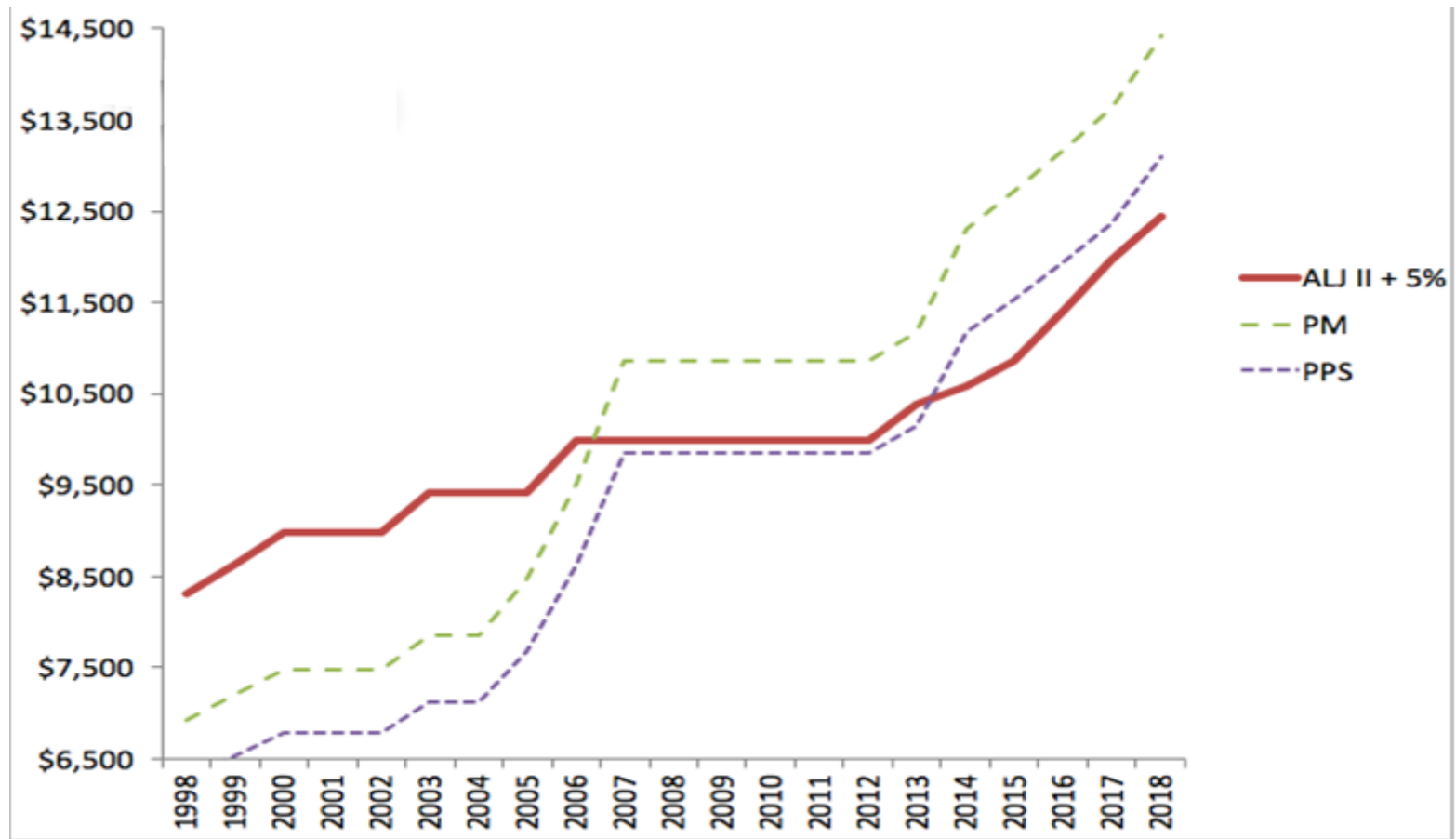
I. BACKGROUND

The current salary disparities between ALJs and PMs and how did this happen



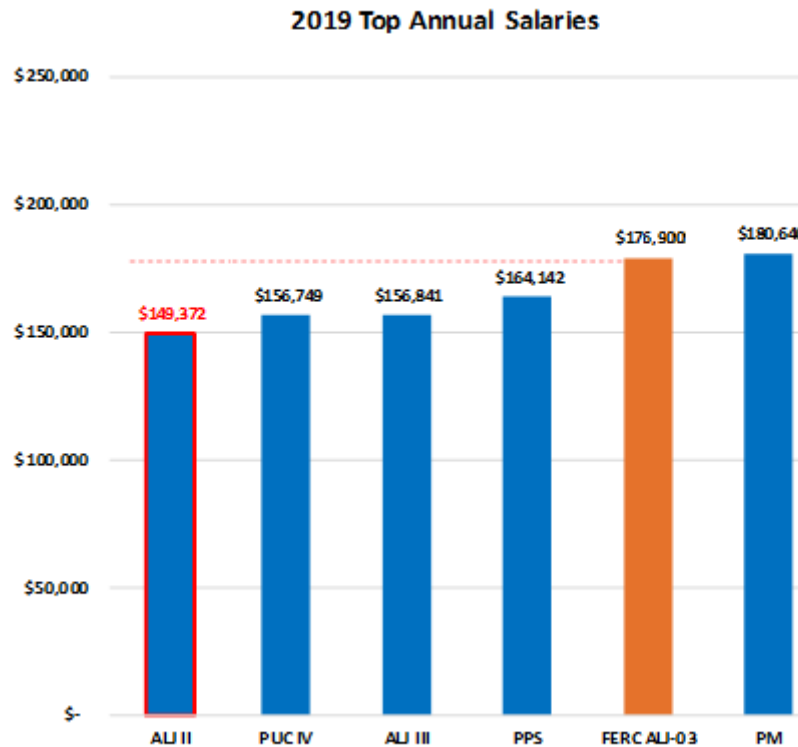


PM Salaries Have Significantly Outpaced ALJ II Salaries - 1998 to 2018 Monthly Salary Comparison





PMs Earn Significantly More Than ALJ IIs on An Annual Basis



PUC – Public Utilities Counsel
PPS – Program and Project Supervisor
PM – Program Manager





How Did It Happen?

- ALJ II and PM job descriptions and responsibilities have not changed since 1984.
- The disparity is the sole result of ALJs and PMs being in different unions.
 - ALJs belong to CASE ^{1/}
 - PMs belong to PECG ^{2/}
- Contrary to CalHR's belief, the disparity cannot be fixed internally by the Commission.

1/ California Attorneys, Administrative Law Judges and Hearing Officers in State Employment

2/ Professional Engineers in California Government





II. CalHR Errs by Devaluing CPUC ALJ IIs because Our ALJs consist of Attorneys and Non-Attorneys.

In fact, non-attorney ALJs bring much needed value and experience to the position.





Both Attorney and Non-Attorney ALJs Must Complete the Same Application Process

- **Qualifications**
 - Attorneys and Non-Attorneys must satisfy one of the 3 minimum qualifications.
- **Written Examination**
 - Attorneys and Non-Attorneys must pass the same written examination.
- **Oral Examination**
 - Attorneys and Non-Attorneys must pass the same oral examination.
- **Final Interview with Chief ALJ and Assistant Chief ALJ**
 - Attorneys and Non-Attorneys must submit to final interview.





Non-Attorney ALJs Have Valuable Educational and Regulatory Experience

- Profile of ALJs
 - Of the 46 Rank and File ALJs, 30 are attorneys and 16 are non-attorneys.
- Education
 - Of the 16 non-attorneys, 13 have Master's degrees (including MBAs, Master's in Public Administration, and Master's in Public Policy).
 - Of the 13 with Master's degrees, 2 have Doctorates.
 - Because of their varied educational backgrounds, non-attorney ALJs have advanced expertise in public policy, finance, economics, accounting, engineering, and business operations.
- Experience
 - Collectively, non-attorney ALJs bring decades of experience in the Commission's regulation of privately owned electric, natural gas, telecommunications, water, rail transit, and passenger transportation companies.
 - The seven non-attorney ALJs who left to take PM or Deputy Director positions had an average of 25 years experience at the Commission.





Attorneys and Non-Attorneys Perform the Same Job Functions

- Presiding officer in ratesetting, quasi-legislative, and adjudicatory matters.
- Instruct parties to their rights, administers oaths, examines witnesses, and receive documentary evidence.
- Rule on exceptions, motions, and admissibility of evidence.
- Hear argument, directs or permits the filing of briefs, and makes rulings.
- Consult with staff on technical subjects.
- Analyze pleadings in preparation for hearings.
- Hold prehearing conferences.
- Exercise independent judgment in evaluating facts and law.
- Prepare proposed decisions.





Examples of Non-Attorney ALJs Handling Legislatively Driven Complex CPUC Proceedings

TOPIC AREA	APPLICABLE SENATE/ASSEMBLY BILL	DECISION
Affordability (Energy)	SB 598	Decision adopting interim rules to reduce residential customer disconnections for California jurisdictional energy utilities
Engaging Disadvantaged Communities (Energy)	AB 2672	Decision approving San Joaquin Valley disadvantaged communities pilot project
Safety (Safety and Enforcement and Energy)	SB 705	Phase Two Decision adopting safety model assessment settlement agreement
Clean Energy Policy	AB 1070	Decision adopting net metering consumer protection measures
Storage (Energy)	AB 2514	Decision approving energy storage agreements and associated cost recovery mechanisms
Wildfire Related Issues (Energy)	SB 901	OIR to examine electric utility de-energization of power lines in dangerous conditions
Electrifying Transportation	SB 1082/SB 1083; AB 2127; SB 1000; AB 1082 and 1083	OIR to continue development of roles and infrastructure for vehicle electrification





Examples of Complex & Influential CPUC Proceedings handled by Non-Attorney ALJs

- Power Charge Indifference Adjustment for CCAs/departing load customers
- Integrated Resource Planning
- Demand Response
- Energy Efficiency
- Energy GRCs
 - SCE 2015 GRC
 - PG&E 2017 GRC





III. CalHR Errs by Not Following Established Protocols for Comparing the Salaries and Job Functions of Comparable Government and Private Sector Positions

CalHR's positions taken in the bargaining process lead to the erroneous conclusion that ALJs are overpaid.



CalHR Fails to Follow Own Guidelines and Controlling Statutory Authority

- From the executive summary of CalHR's 2017 market analysis:
 - *“California's state government competes for its workforce with local government agencies, as well as with the private sector and the federal government. This makes it critical that the state understands how its compensation compares with other employers.”*
- Government Code Section 19826(a):
 - *“The salary range shall be based on the principle that like salaries shall be paid for comparable duties and responsibilities.”*





CalHR Fails to Follow Own Guidelines and Controlling Statutory Authority (Cont.)

- Yet CalHR decided not to consider private sector attorney salaries even though 30 out of 32 ALJ classes require attorney backgrounds. Had it done so, CalHR would have found, as it did for state attorneys, that ALJs were underpaid.
- CalHR would not consider FERC ALJ salaries (which top out at \$176,900 in Sacramento, Bay Area, Los Angeles, and San Diego) even though CPUC and FERC ALJs perform the same job functions.



IV. Impact of CalHR's Errors on the Commission and the ALJ Division



Impact on Recruitment and Retention

- Recruitment

- Current vacancies
 - 6.5 limited-term positions funded during FY 2019/2020 budget process are vacant.
 - 1 authorized permanent position vacant.
- Pending requests
 - 8 permanent ALJ IIs have been requested for wildfire-related work required as a result of AB 1054 and SB 901. CPUC has established these positions pending state budget action.

- Retention

- ALJs are experiencing a 53% turnover rate in past 5 years.
- Per the CPUC's auditor, 5 years of ALJ experience needed on average to handle the most complex proceedings. But experienced ALJs continue to leave.
- Currently, 2 out of 3 ALJs have less than 5 years experience.



V. CLOSING REMARKS





Conclusions and Next Steps

- The bargaining between CalHR and the two unions (CASE and PECG) in the past resulted in the salary disparity between the ALJs and PMs today.
- Your support for a 30% Special Salary Adjustment for the CPUC ALJs is crucial.
- The upcoming bargaining between CalHR and CASE is the only window of opportunity to solve the CPUC ALJs' underpaid issue.
- We respectfully request a letter from the CPUC management to CalHR supporting the ALJs SSA.



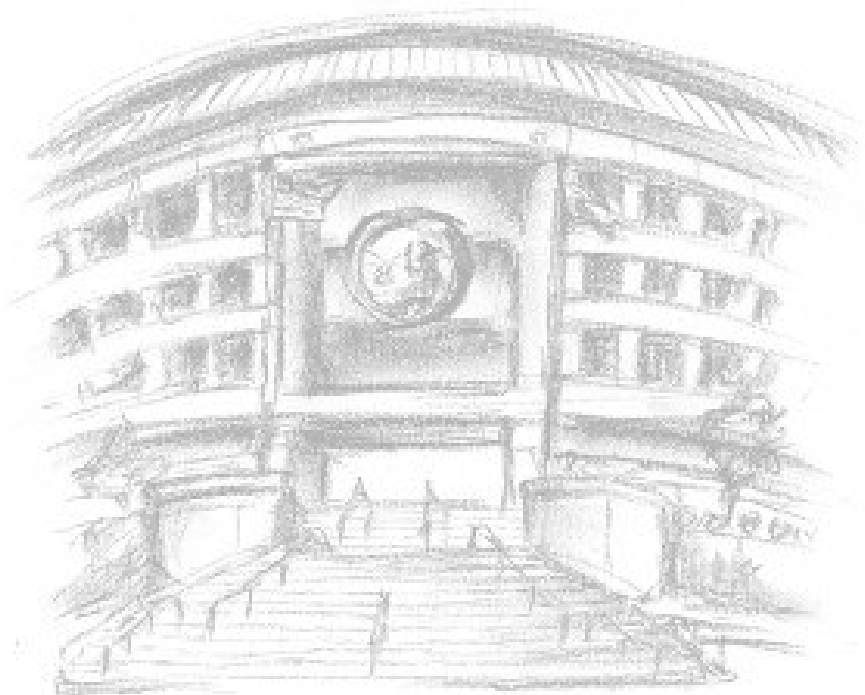
Remember the Remarks from the Commission's 2015 Audit Report

- From the 2015 Audit Report:
 - *“ALJs need to be among the agency’s most capable and experienced staff, and the pay and status of those positions should be consistent with that expectation.”*
- Audit Report also found that the compensation disparity makes ALJ positions unattractive to some well qualified candidates and gives an incentive to experienced ALJs to leave the ALJ Division.





Thank you!



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