

Governor Threatens Layoffs



Governor Schwarzenegger ordered issuance of "surplus" notices to hundreds of state scientists and thousands of state employees. Although this step starts the layoff process, it does not mean that even one state scientist ultimately will receive a layoff notice.

The threatened layoffs were the result of the state legislature failing to pass a state budget within the timeframes demanded by Governor Schwarzenegger. Now that a budget has been passed and signed by the Governor, some expect him to drastically scale back any plans for layoffs, and to withdraw surplus notices to many of those to whom they were issued. CAPS isn't counting on that.

The initial statement from the Administration was that surplus notices would go only to employees who were paid out of the General Fund. In reality, General and Special Fund employees received surplus notices in roughly equal numbers. Departments seemed unable to distinguish between the two categories and instead issued notices to everyone with the least amount of seniority.

This action served to increase the stress on a state workforce under attack and increasingly demoralized.

CAPS continues to support measures that will reduce state personnel costs but spare the pain of pay cuts and benefit reductions. Principal among these is a retirement incentive in the form of either a service or age credit, or some combination. Either would be highly effective in prompting the retirement of large numbers of state employees. Other steps proposed by CAPS include cutting outside contracting, offering voluntary reduced work schedules and a voluntary personal leave program. These proposals have been ignored by the Governor's negotiators who instead have embarked on a more provocative course.

continued on page 4»

Velez Responds to LA Times



CAPS President Patty Velez responded in January to a column in the *Los Angeles Times* written by well known columnist George Skelton who supported Governor Schwarzenegger's call for fewer holidays and less overtime protections for state employees. Skelton disagreed with the Governor on mandatory furloughs, saying: "For starters, Schwarzenegger keeps talking about "economic stimulus," but it's anti-stimulus to be removing \$1.3 billion from the purchasing potential of any Californians. State workers, after all, shop at local groceries, buy tickets at local movie theaters and purchase cars from local dealers."

You can read Skelton's entire article at this link: <http://www.latimes.com/news/columnists/la-me-cap15-2009jan15,0,2897377.column?track=rss>

January 15, 2009

TO: The *Los Angeles Times*, Letters Editor
FROM: Patty Velez, President Calif. Assn. of Professional Scientists
SUBJECT: Skelton Mostly Misses the Mark - Response to George Skelton's January 15, 2009 Column: State Workers' Holidays are Perks Worth Cutting

Dear Editor,

Mr. Skelton apparently agrees with Governor Schwarzenegger on unilaterally cancelling some state employee holidays and certain overtime rules while disagreeing with the Governor's plan to impose mandatory furloughs. CAPS disagrees with the Governor on all three points. Here's why.

Whether you agree or disagree with the number of state employee holidays or the rules regarding overtime, these have long been addressed through the collective bargaining process. Governor Schwarzenegger is the first governor ever to propose unilaterally changing the holiday schedule or modifying overtime rules without any consultation with the unions representing rank-and-file state employees. The last governor, Gray Davis, thought it wise to add another holiday, the Cesar Chavez holiday. CAPS, the union representing state scientists, did not ask for this additional holiday, but we took it in lieu of badly needed salary increases because then, as now, the state was short of cash. The state always seems to be short of cash when it comes to paying state scientists a competitive salary.

continued on page 3»

Lawsuits, Lawsuits, Lawsuits

There are several lawsuits currently pending to which CAPS is a party.

Mandatory Unpaid Furloughs. CAPS is a principal appellant in the case challenging Governor Schwarzenegger's authority to unilaterally impose unpaid furloughs on state scientists and all state employees. Sacramento Superior Court Judge Patrick Marlette on January 29 ruled in favor of the Governor's authority to impose these furloughs, and they have proceeded for the second day during February. CAPS and several other employee groups have appealed Marlette's decision to the Third District Court of Appeal, which is expected to take several months to hear and decide the case.

Like Pay Like Work. This case is also at the Sacramento Superior Court, where another hearing is scheduled before Judge Lloyd Connelly on April 24. Briefing is now underway, and CAPS expects to present a very strong case. Depositions went well, with much of the testimony from the state's representatives in support of the CAPS position. CAPS is seeking funding to implement the April 28, 2008 decision of DPA Director David Gilb, who ruled that there is a historical salary relationship between 14 supervising scientist classifications and the equivalent supervising engineering classifications. Although DPA agrees with CAPS in principle, it claims it has no money to implement its decision, and that the state's fiscal condition prevents implementation any time soon.

Minimum Wage Case. Governor Schwarzenegger's lawsuit against State Controller John Chiang to force implementation of federal wage minimums on state employees during a period of a budget deadlock will be heard in Sacramento Superior Court on Friday, February 27. CAPS is supporting Controller Chiang just as the Controller was in court supporting CAPS in the furlough lawsuit. The Controller insists that he be permitted to pay full wages to state employees during a period of budget deadlock.

Unfair Practice Charge. Last summer, CAPS filed a charge with the state Public Employment Relations Board requesting the state be ordered to halt its illegal practices and prevent violations related to moving positions of scientists in state Bargaining Unit 10, professional scientific, to Bargaining Unit 9, professional engineering, without notice to or permission from CAPS. Unit 10 positions have been shifted to Unit 9 while the positions were filled. In other instances, vacant Unit 10 positions have been reclassified to become engineering positions assigned to Unit 9, then filled. In still other instances, new positions have been created that would normally be assigned to Unit 10 and instead assigned to Unit 9. Examples include the transfer of dozens of industrial hygienists at

the Department of Industrial Relations from Unit 10 to Unit 9 without any change in job duties. Another has been the reclassification of positions throughout state government from scientific to engineering classifications. CAPS expects the results of the PERB investigation this spring. All of these actions help protect the employment and professional interests of state employed scientists.



CAPS President Patty Velez speaks to a reporter



CAPS Vice President Valerie Brown does her part

Escape From Box Canyon

By Patty Velez, President

You have to hand it to Governor Schwarzenegger.

He's managed to make a pay cut look good enough for the "mighty" SEIU to accept it on behalf of 95,000 represented state employees. He hired a very clever and expensive contract lawyer to get him authority from the Sacramento Superior Court that makes mandatory furloughs "legal," at least until the Court of Appeal reviews it months from now.

He convinced the legislature to "end run" the bargaining process by eliminating two state holidays and changing the rules by which overtime is calculated for all hourly state employees.

He's even managed to convince thousands of state employees that their layoff is imminent, through issuance of "surplus" notices.

This governor, in other words, has demonstrated his political acumen at using state employees as hostages in the protracted budget dispute with lawmakers of his own party.

While his hostage-taking was effective, the demands for ransom went unanswered for the longest time. His initial call for a one-day furlough went to two, ostensibly because of the legislature's failure to act. Then 20,000 surplus notices needed to be issued because, again, the legislature failed to act in time. Now state scientists and all state employees are subjected to a two-day a month unpaid furlough, and thousands have been issued those very scary surplus notices.

The problem with all this is that about half of all state employees, and nearly 80 percent of all state scientists, are paid out of Special Funds, not the General Fund. Furloughs don't appreciably rescue the General Fund, and layoffs don't either, unless they're focused on General and not Special Fund positions. As the Legislative Analyst has pointed out, most General Fund positions and costs are in the Department of Corrections and Mental Health, where staffing ratios prevent any significant reduction in the workforce. In

order to layoff THOSE employees, their "workload" would need to be commensurately reduced, and that would mean releasing prisoners or mental patients, and who wants to do that? Even this governor, who has a penchant for drama, has stopped short of that.

Then, ironically, on Valentine's Day, SEIU rides to the rescue, and agrees to the Governor's demands, albeit with a reduction of the monthly furlough from two days to one, among other things. SEIU initially proclaimed victory, because the financial hit has been halved, and they apparently have some assurance that protects against layoff. As I write this, the SEIU deal is in danger of unraveling, with claims by SEIU that the Governor double-crossed them.

Assuming that agreement survives, it sets a precedent that is not lost on CAPS or the other state employee representatives.

Take it or leave it. That is the quandary confronting the CAPS Bargaining Team. We have thus far managed to evade the DPA "posse" ordered to hunt down state scientists and administer a close cropped "haircut." It feels like box canyon. Be assured that the CAPS Bargaining Team will do its job, and do it well. No decision will be made without fully exploring details of the SEIU agreement and getting a good sense of the CAPS membership through worksite meetings and other

communications. But two things are clear. First, state scientists and all state employees have been very badly treated by Governor Schwarzenegger. We are collateral damage.

Second, the SEIU agreement is just plain bad for the future of the state's scientific programs. It cuts pay, reduces overtime and eliminates benefits. There is no pot of gold at the end of this rainbow. Just more prolonged pain. Concessions given to the Governor are lost forever, and the union is back asking for scraps from the table, hat in hand. Until the facts are known, and a clear course established, we will act with patience and purpose, always in the best interests of state scientists.

"This Governor . . . has demonstrated his political acumen at using state employees as hostages..."

VELEZ RESPONDS TO LA TIMES - continued from page 1

Salary surveys conducted jointly by the Governor's appointees and CAPS show that state scientists lag behind scientists in other governmental jurisdictions by an average of over 20 percent. The state simply is no longer competitive when recruiting or retaining scientific talent. This hampers the myriad of programs that protect Californians' health and safety and the environment.

We agree wholeheartedly with Mr. Skelton's rather obvious take on mandatory furloughs. They are a bad idea because they take an essential chunk out of the California economy. What he missed, though, is that in the case of state scientists most of any so called "savings" accrued from mandatory furloughs do nothing to help the General Fund deficit. Nearly eight out of ten state

scientists are funded through Special Funds which have nothing to do with the General Fund.

Mandatory furloughs are nonsensical, harmful to programs that protect Californians and the environment, hinder economic recovery, and they hurt real people. That's why CAPS is taking the lead in suing Governor Schwarzenegger over this unilateral and illegal order.

Sincerely,

Patty Velez, President, CA Assn. of Professional Scientists (CAPS)

In This Issue

- ✉ *Governor Threatens Layoffs*
- ✉ *CAPS President Responds to LA Times*
- ✉ *Pending Lawsuits*
- ✉ *Escape From Box Canyon, by Patty Velez, President*

GOVERNOR THREATENS LAYOFFS

continued from page 1

Layoffs would have limited benefits for the state budget. That's because roughly half of state employees are special funded, and most General Fund employees are in departments requiring firm and substantial staffing ratios such as Corrections and Mental Health. The Governor's authority to implement layoffs is undisputed, yet it seems equally certain that any significant layoff will have minimal financial benefit to the state's General Fund. Moreover, passage of a state budget with substantial revenue increases surely reduces the need for layoffs.

Does all this guarantee that surplus notices will be withdrawn? No. But until they are, those on surplus have preference for accepting positions in other parts of state government. This option should be looked at closely for anyone who is in a position that may be subject to a future layoff. Specific questions should be directed to the nearest CAPS office.

CAPSule (ISSN 10446230) is published monthly by the California Association of Professional Scientists, 660 J Street, Suite 480, Sacramento, CA 95814. Periodicals Postage Paid at Sacramento, CA. POSTMASTER: Send address changes to: 660 J Street, Suite 480, Sacramento, CA 95814-2483.

PRESORTED
FIRST-CLASS MAIL
U.S. Postage
PAID
Permit No. 420
Sacramento, CA