



CAPS To File Another Lawsuit

In CAPS' view, Governor Schwarzenegger got "lucky" when Sacramento Superior Court Judge Patrick Marlette ruled that a mandatory unpaid furlough ISN'T really a pay cut. Instead, he found that an unpaid furlough is really a proper and legal response when it's imposed during a "fiscal emergency." This allowed Governor Schwarzenegger to bypass collective bargaining and implement his pay cut unilaterally.

The appeal by CAPS is pending. CAPS reckons that the governor won't get as lucky at the conclusion of the appeals process. In the meantime, he is wreaking havoc with state government and all who depend on it to pay their bills. With a third furlough day, and talk of a fourth, state scientists—and all state employees subject to it—are being forced to dig deep. Add to that the threat of layoffs, and state scientists with less seniority are being threatened with fiscal calamity. Financial commitments that can't be changed or undone are putting scientists closer to the financial abyss than ever before.

CAPS believes that an unpaid furlough IS a pay cut and cannot be imposed unilaterally by calling a fiscal emergency, which has never been defined, and end-running the collective bargaining process.



Governor Schwarzenegger imposed a third furlough day, saying the failure of the legislature to adopt his budget proposals forced him to further tighten the financial screw on the state work force. He also continues to draw NO distinction between the positions and programs that are paid for by the General Fund, and those paid for out of Special Funds which are designated by law for specific purposes. Nearly 80 percent of state scientists are paid for out of Special Funds.

The CAPS lawsuit, to be filed in San Francisco Superior Court, challenges this latest furlough day in part because it is clearly a pay cut, and is being applied to Special Fund positions where there is no savings to the General Fund. CAPS hopes to get a more favorable reception in San Francisco Superior Court because San Francisco is the headquarters of the State Compensation Insurance Fund, where furloughs of any kind have already been found to be illegal. CAPS has 17 scientist members at SCIF. It is the independent legal status of SCIF, as well as the Special funds from which its employees are paid, that makes it a leading candidate with which to challenge the latest furlough day.

The CAPS lawsuit will be posted on the CAPS web page when filed.

J. J. Jelincic for CalPERS Board



CAPS has enthusiastically endorsed J. J. Jelincic for a seat on the CalPERS Board of Administration. J.J., as he is known, will fill the "open seat" vacancy left by the retirement of Chuck Valdez, who served state employees and all CalPERS members faithfully for over 20 years. Valdez was a staunch supporter of CalPERS programs and its members against those who would have reduced benefits and increased costs to employees. His seat MUST be filled by a like-minded successor.

J.J. more than fits the bill. He has worked as an investment officer at CalPERS for 23 years. Educated in California, J.J. has a BA in Economics and an MBA in Finance. He also has earned the Chartered Financial Analyst® designation. (The CFA® is to investments what the CPA is to accounting.) At CalPERS, he has worked in the stock, fixed income, real estate and corporate governance units.

More importantly, J.J. has invested more than 20 years of his career in CalPERS. He has defended it from public attack. J.J. will continue to maximize investments, protect pensions and health care and improve the long-term care plan in which tens of thousands of CalPERS members subscribe. He WILL use CalPERS as his bully pulpit to hold big companies and insurance carriers accountable.

J.J. has an extensive union background, and he understands the importance of preserving CalPERS for the benefit of current and future members. J.J. also brings something unique to the CalPERS Board. He

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CAPS Awards Scholarships to Members' Dependents

Twenty lucky dependents of CAPS members will each receive a \$500 scholarship to support his or her college education this year. Listed below are ten of them. The complete list can be found on the CAPS web page, and the remaining ten will be published in the August *CAPSule*. Congratulations to ALL of the fine applicants who applied. CAPS selected as many applicants as there were funds available. This is a benefit available ONLY to CAPS members, and is made possible by a self-sustaining endowment made to CAPS many years ago. There will be another chance for a college scholarship next year!



Kyle Vlach, son of Diane Vlach (CIWMB), is majoring in Civil Engineering at UC Davis and will graduate in 2013.



Kathryn Koller, daughter of Scott Koller (DFG), is majoring in Math and Business Administration at Saint Mary's College of California and will graduate in 2012.

Sundeep Thind, daughter of Pritam Thind (DWR), is majoring in History at UCLA and will graduate in 2011.



Rachel Frame, daughter of Kent Frame (DWR), is majoring in Biology at UC Santa Barbara and will graduate in 2011.



Ilan Rubin, son of Andrew Rubin (CDPR), is majoring in Physics at Cornell University and will graduate in 2013.



Sasha Dubrousky, daughter of Farla Kaufman (OEHHA), is majoring in Life Science at UC Davis and will graduate in 2013.

Jason Repucci, husband of Carla Repucci (CIWMB), is majoring in Social Science at CSU Sacramento and will graduate in 2010.



Alexander Albin, son of Doug Albin (DFG), is majoring in Environmental Resources Engineering at Humboldt State University and will graduate in 2013.

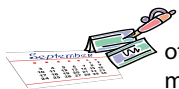


Victor Oshita, son of Cindy Oshita (OEHHA), is majoring in Chemical Engineering at UCLA and will graduate in 2013.



Benjamin Amon, son of Ricardo Amon (CEC), is majoring in Geography at UC Berkeley and will graduate in 2011.

EnCAPSulations...



Paychecks through September. The State Controller's office announced that the state should have enough money to issue paychecks to state workers over the next few months. The Controller's office tells CAPS that current cash projections show enough cash on hand to make protected payments, including payroll, through September. That projection, however, is contingent on no drops in state revenue.

Twitter-ing Away. The CAPS Twitter page has been very successful so far! Those following CAPS have received vital information before it hits the media including word that the Governor was still pushing for a 5% pay cut even after ordering a 3rd furlough day and news from the DPA that 2,000 more state positions needed to be cut. You can follow along at www.twitter.com/capsscscientists. Signing up is easy, just create a user name and password!



Hawaii Judge Blocks Mandatory Furloughs. A judge in Hawaii earlier this month blocked Gov. Linda Lingle from forcing thousands of public employees to take three unpaid days off per month. Three state employee unions alleged that Lingle had exceeded her authority based in part on constitutional grounds. The Hawaii state constitution that grants Hawaii public employees the right to collective bargaining bars the governor from altering state worker wages and hours without



negotiating with their representatives, the judge ruled. In California, the law granting state employees bargaining rights is found in statute, not in the state constitution. Nonetheless, CAPS still contends that the Dills Act and related provisions prohibit the governor from implementing unpaid furloughs without either legislative approval or a labor agreement, or both. That issue will be decided in the appeal filed by CAPS that is currently pending.

Annual Age-Related CAPS Group Policy Insurance Premiums Adjustment. Some CAPS members who have insurance through the CAPS group plan with Standard Insurance Company will see an increase in insurance premium deductions effective with their pay warrants received at the end of July (August 1 warrants for retired CAPS members).

Employees who had their 30th, 35th, 40th, 45th, 50th, 55th, or 60th birthday since July 1, 2008 will see an age-related premium increase as specified in plan brochures and other materials. (Please note that Standard Insurance does not send individual letters notifying affected individuals of these increases.)

If you are interested in learning more about reduced rate insurance through the CAPS group plan, or in obtaining a quote on insurance coverage you might be interested in, please visit the CAPS insurance information web page at <http://www.capsscscientists.org/insurance.htm>.



BLOWING UP THINGS

By Patty Velez, President

When Governor Schwarzenegger was first elected in 2003, he promised to “blow up boxes.” At the time, it seemed a rather friendly campaign metaphor about reorganizing state government to make it more efficient and effective. As state scientists, we welcomed that. But now we know what he really meant. The governor doesn’t just want to blow up boxes. He wants us IN those boxes.

It’s hard to understand a guy who is wealthy beyond measure and who seems intent on driving state scientists and all state employees to extreme financial hardship and even bankruptcy. Sacramento Superior Court Judge Patrick Marlette gave him that opportunity when he found that unpaid furloughs aren’t REALLY pay cuts when done during a fiscal emergency. So the Governor is busy adding furlough days to his heart’s content, until a court tells him he can’t. THAT’S why CAPS remains committed to an appeal of Marlette’s flawed decision.

With state government shut down three days a month, state scientists and most state employees on mandatory unpaid leave -- with possibly a fourth on the way -- it’s hard to see how this governor is anything more than a vindictive bully intent on destroying working families. The financial hardship and emotional distress being suffered by state scientists and their families is HUGE. This seems lost on the governor. It’s cruel and inexcusable. My heart goes out to all of you because I too feel your pain. My OWN budget really can’t stand this kind of financial hit.

Bear in mind that it could get worse. The governor wants

even more. He REALLY wants a five percent pay cut, not a fourth furlough day. A straight pay cut has long-lasting and negative consequences for retirement. He wants to shift the administration of health benefits from CalPERS to DPA, thus giving the governor control of the size and shape of our health benefits—AND how much we pay for it. He wants to roll back pension benefits for new state employees. He wants lots of other things that are really bad for current state scientists and the future generations that will carry the torch in protecting the environment, protecting public health and doing the other essential scientific work services for the people of California.

CAPS is fighting these vicious proposals every step of the way: in court, in the legislature and with the media. You are helping us with your letters and phone calls to state lawmakers. Many of us share the public’s low opinion of the state legislature. But keep in mind: their resolve in holding the line against the governor is what keeps the governor from getting the unfettered ability to pile drive us even further into the ground.

Things are very tough right now, but I am an optimist. The economy will eventually get better, and this governor will move on. In the meantime, it’s our job – all of ours – to fight him and prevent his agenda from rolling back things we have worked so hard to achieve over the years.

Among these are the public programs that we remain committed to, not JUST our pay and benefit levels. As state scientists, we chose our profession largely because we love the work. It is an essential form of public service.

Governor Schwarzenegger doesn’t understand this, nor does he respect it. I expected much more from him.

“It’s hard to understand a guy who is wealthy beyond measure and who seems intent on driving state scientists and all state employees to extreme financial hardship . . . “

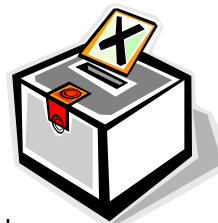
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J. J. JELINCIC FOR CALPERS BOARD

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has been a garbage man, a truck driver, a banker and an investment officer – all careers that provided life experiences that will assist him in being a leader on the CalPERS Board.



J.J. has the skills to advance the CalPERS programs. He WILL stand up to those who attack the pension system. That includes Governor Schwarzenegger and former Assembly Member Keith Richman, who want to destroy continued use of “defined benefit” retirement plans in government. Check out the Tuesday, July 14, 2009 *San Jose Mercury News* opinion column by J.J. Jelincic to learn more about his position.

Ballots will be mailed to the home of EVERY CalPERS member on September 4. CAPS will be reminding you repeatedly to complete and return your ballot, marked for J. J. Jelincic.

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