

## CAPS Challenges Illegal State Contracts

It has been the stated policy of every California governor in the last generation to prevent growth in the size of the state work force. Governor after governor gives this lip service in spite of the unrelenting increase in workload that results from a seemingly endless stream of new laws passed by the legislature and signed into law by the Governor. These new laws often require more work but provide no new positions or funding.

When state departments request the personnel and money to get the work done, they are more often than not shut down by the "control" agencies, meaning the Departments of Finance and/or Personnel Administration. Do the work with existing staff, they are told. So they often turn to contract the work out to the private sector or another public agency. Often the cost of contracting is greater than having state employees do the work.

It is also possibly illegal. Under Government Code Section 19130(b), work CAN be legally contracted if the work can be done by contractors, but only if it costs less, or there is some special expertise or legitimate emergency that prevents the state work force from doing it.

In spite of Governor Schwarzenegger's cancellation of outside contracting, state departments continue to contract for goods and

services in a big way. When it comes to contracting for personal services, like scientific work, CAPS has a real interest, because such contracting moves work that should be performed by state scientists to others who may lack qualifications. Contractors might pay substandard wages (even LESS than the state), have poor working conditions and provide few or no benefits. Worse

yet, having contractors do essential work prevents the state from learning from the experience and owning any new technology or processes which may result.

There is an administrative process to challenge illegal contracting, and CAPS is not afraid to use it. In fact, in past years CAPS has challenged illegal state contracting administratively and in court, with great success. CAPS is again looking closely at all suspicious contracts, and YOU can help.

If you notice contracting for scientific services that hasn't been done before—work that could or should be done

by state scientists—please contact CAPS. We will get a copy of the contract and review it to ensure it meets legal requirements and does not illegally displace work that could or should be done by state scientists. And if CAPS members DON'T let us know, we may never hear about it, so please don't hesitate. You won't have to get directly involved, but you can help protect YOUR job, and that of your colleagues!

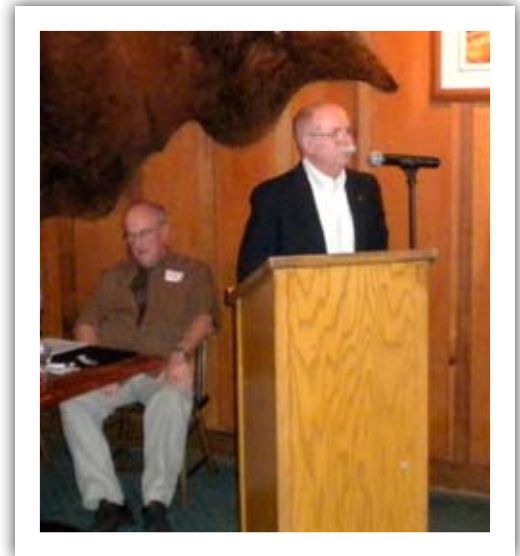


**Brown Candidacy Not Official Yet.** Attorney General Jerry Brown is pictured here with the CAPS leaders (l-r): Director David Miller, President Patty Velez, Treasurer Wes Carr and Secretary Ryan Kinsella. CAPS leaders heard more about the Attorney General's bid for governor and his views on several issues important to state scientists: unpaid furloughs, managing the state budget, salary equity and many others. CAPS expects to ask Mr. Brown and all candidates for governor to complete a written questionnaire if they ask for CAPS' endorsement. Brown has not yet formally announced his candidacy.

# Retiring Soon?

## Submit Your Picture to CAPS

Pictured here is long time Fish and Game Scientist John Turner, retiring after 34 years with the Department. John is a former manager of the Department's Environmental Services Division, and most recently ran the department's highly respected labs. He is known for pioneering effective ways to get things done, both within the rules and at time skirting them. About 60 colleagues turned out for his retirement party on December 3 in Sacramento. In commemoration of hundreds of looming retirements, CAPS has created a place on it's web page devoted to retirement pictures. Given what we expect to be a large number of retirements in the coming month and years, we want EVERYONE to be able to share a memory of a valued colleague who has or soon will leave our ranks. Send CAPS a digital picture of your favorite soon to be retiree, and we will post it. Be sure to include correct spelling and a little about what made your colleague special.



# CAPS Supports Relief For Retirement Buy Backs



CalPERS will pursue legislation that will allow CalPERS members making after-tax installment payments to purchase additional CalPERS service credits to suspend or prospectively cancel the service credit purchase election. CAPS urged CalPERS to pursue this legislation and will actively supports its passage.

An increasing number of state scientists have taken advantage of a CalPERS program which allows members to purchase up to five years of retirement service credit (known as "air time"), in order to increase retirement benefits. This is time which is credited toward the employee's retirement, but which is funded entirely through employee contributions. Service credit is funded traditionally via both employee and employer contributions, and the subsequent investment returns realized by CalPERS. There is no "discount" on the time, meaning employees must pay for the time at a price that

represents true "market value." That value is priced based on a number of factors, including the age of the employee. The result is usually a payment plan of several hundred dollars a month over many years to pay for this benefit.

Financial hardship caused by the poor economy, unpaid furloughs and personal circumstances have necessitated members to withdraw from the program. Unfortunately, there are limited and restrictive rules that apply for withdrawal, CalPERS is considering a change in its rules that would loosen the rules under which CalPERS members can withdraw from the buy-back program, or to suspend payments for up to one year. CAPS is in solid support of the change and told the CalPERS board and staff that when the matter was taken up in mid December. Details can be found on the CalPERS web page: <http://www.calpers.ca.gov/eip-docs/about/board-cal-agenda/agendas/bpac/>.

# Goodbye 2009

*By Patty Velez, President*

I never thought I would be so happy to see a year disappear.

This past year has been difficult in so many ways—unpaid furloughs, unrelenting workload, unprecedented and ongoing attacks to the compensation structure for state scientists and all state employees.

We have a boss, Governor Schwarzenegger, who leads with a stick instead of a carrot. He seems to have listened to the haters in his administration who see the state work force as an easy target on which to heap blame for many of the state's fiscal problems. Starting last February, he abandoned his obligation to negotiate with CAPS. Instead, he abruptly and without notice implemented a two-day mandatory unpaid furlough program, claiming a "fiscal emergency" which he said gives him the legal right to act without even the approval of the state legislature. A Sacramento judge inexplicably agreed with him. Then in July he added a third day.

There were TWO budget deals done in 2009, both of them painful for state scientists. Although we suffered no significant layoffs, our programs have suffered immeasurably. Important work piles up and we are expected to get the job done with three Fridays off each month. The legislature teamed up with the governor to abolish two of our 13 state holidays, and to revise overtime rules to our detriment. These collective actions did little to "save" the General Fund.

He bashed the retirement and health plan programs for state employees. He made retirement "reform" a priority of this Administration, and he proposed shifting administration of the state's health plans from CalPERS to his own Department of Personnel Administration.

His budget cut billions from state operations, undercutting the important work scientists perform in critical areas. Some

might say this was unavoidable given the lack of money, but he has shut CAPS and many stakeholders out of the process. He abandoned early productive ways to address structural issues in state government, like the California Performance Review and more recently the Human Resources Modernization Project.

Absent productive dialogue with the Governor or his appointees, CAPS was left to swallow the bad medicine or respond with lawyers blazing. We took the latter course, filing or joining lawsuits challenging the governor's authority to implement furloughs, to abolish holidays, and to pay employees with minimum wage in the event of another budget delay. We wait for the outcome of those lawsuits, which the Governor continues to whittle away at the very fabric of state government.

The state budget remains in the tank, with an estimated deficit of approximately \$21 billion over 19 months. Addressing that in 2010 will be a huge challenge, but for now, I want to take a moment to look back. It's not a pretty sight!

In spite of it all, there IS much to be thankful for during this holiday season: family, friends, good health and the many blessings bestowed on us that we often take for granted. Now is a good time to reflect on the totality of our circumstances, which, in a relative way, are pretty positive for the most part. During times of unparalleled economic uncertainty, we have the

assurance of continued employment into the foreseeable future, a defined benefit, and a health benefits program. There aren't many such guarantees these days. Be assured that CAPS will continue to be there for all state scientists, fighting HARD and SMART for your very considerable economic stake in your job!

In the meantime, on behalf of all of us associated with CAPS, I want to wish you and yours a fulfilling and peaceful holiday season!!



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*On behalf of all of us at **CAPS**,  
we wish you a Happy Holiday  
Season and a healthy  
and successful 2010!*



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