

SUPREME COURT COPY

**KRONICK
MOSKOVITZ
TIEDEMANN
& GIRARD**
A LAW CORPORATION

(916) 321-4500
dtyra@kmtg.com

JUN 23 2010
June 23, 2010

Clerk

**RECEIVED
JUN 23 2010
CLERK SUPREME COURT**

The Honorable Ronald M. George, Chief Justice,
and the Associate Justices of the California Supreme Court
Earl Warren Building
350 McAllister Street
San Francisco, CA 94102

**Re: S183411 – *Professional Engineers in California
Government v. Schwarzenegger, et al.*: Response to
June 15, 2010 Letter.**

To The Honorable Ronald M. George, Chief Justice, and to the Associate
Justices of the California Supreme Court:

On June 15, 2010, this Court directed the parties to explain the
nature of the documents in the Joint Appendix in *California Attorneys, etc.
v. Schwarzenegger, et al.*, Vol. II, Tab GG, pp. 311-324. This letter
provides that explanation.

When the severity of the national economic downturn and the
resulting dramatic shortfall in state revenues became apparent in the fall of
2008, the Governor, pursuant to his authority under California Constitution
Article IV, section 3, subdivision (b), called the Legislature into special
session on November 6, 2008. (Joint Appendix in *California Attorneys,
etc. v. Schwarzenegger, et al.*, Vol. I, Tab P, p. JA000229.) The

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The Honorable Ronald M. George, Chief Justice
June 23, 2010
Page 2

Governor's Special Session Proclamation directed the Legislature to consider and act upon legislation in four different areas: fiscal and budget-related matters; the economy, including but not limited to efforts to stimulate California's economy and create and retain jobs; the housing mortgage crisis; and the solvency of the Unemployment Insurance Fund. (*Id.*)

The Governor submitted proposed legislation for the Legislature's consideration addressing the four subjects set forth in his Special Session Proclamation. On November 6, 2008, the proposed bills, along with a spreadsheet listing all of the proposed legislation to implement the Governor's special session budget proposals, were transmitted by Ana Matosantos, Chief Deputy Director of the Department of Finance, to the Honorable Denise Moreno Ducheny, Chair of the Senate Budget and Fiscal Review Committee. A true and correct copy of Ms. Matosantos' November 6, 2008 letter to Sen. Ducheny, and a spreadsheet entitled "2008-09 Special Session Trailer Bill List," are attached to this letter as Exhibit 1. On that same day, the proposed legislation was sent electronically by the Department of Finance to key legislative staff. A true and correct copy of the November 6, 2008 e-mail from Nancy Masterson of

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the Department of Finance transmitting the proposed legislation to key legislative staff is attached to this letter as Exhibit 2.

As indicated in the spreadsheet attached as Exhibit 1 to this letter, RN 08 29145¹ and RN 08 29146 are proposed legislation making changes in state employee compensation. These RNs are listed as items 22 through 25 on the spreadsheet.² These RNs are the documents included in the record before the Court as Joint Appendix pages 311-324 and are the documents about which the Court inquired in its June 15, 2010 letter. For the Court's convenience, a true and correct copy of the two RNs that are currently a part of the record in this action and are contained in the Joint Appendix in *California Attorneys, etc. v. Schwarzenegger, et al.*, Vol. II, Tab GG, pp. 311-324 are attached as Exhibit 3.

The proposed changes in state employee compensation proposed by RN 08 29145 and RN 08 29146 consisted of a mandatory one-day a month furlough; the elimination of two paid holidays as well as premium pay for

¹ RN stands for "Request Number." The Office of the Legislative Counsel provides every request for draft legislation with a unique RN identifier.

² The numbering and subject matter of RN 08 29145 and RN 08 29146 as indicated on the spreadsheet prepared by the Department of Finance and attached as Exhibit 1 correspond with the handwritten notation appearing at the top of page 311 of the Joint Appendix, "# 22, 23, 24, and 25 – Employee Compensation Changes."

state employees who work on those holidays; the calculation of overtime pay based on actual hours worked without consideration of vacation, sick leave, or other leave hours taken by the employee during the relevant pay period; and a change in state operations to workweeks consisting of four ten-hour days when deemed to be in the State's best interests.

These two RNs do not have bill numbers and were not included in any bills that were formally introduced in the Legislature.³ However, the subjects of holidays and overtime calculation were ultimately addressed in bills enacted by the Legislature and signed into law by the Governor. On February 20, 2009, as part of the December 19, 2008 Proposition 58 Fiscal Emergency, the Legislature passed SBX3 8 (Ducheny). Among other things, this bill added Government Code section 19844.1, which provides at subdivision (a) that “[n]otwithstanding vacation, bereavement leave, holiday leave, and any other paid or unpaid leave, shall not be considered as time worked by the employee for the purpose of computing cash

³ In conjunction with his December 1, 2008 Proposition 58 Fiscal Emergency Proclamation, the Governor submitted to the Legislature proposed bills addressing similar changes to state employee compensation as those contained in the proposed legislation submitted on November 6, 2008. The proposed legislation submitted on December 1, 2008 included proposed bills consisting of handwritten modifications to RN 08 29145 and RN 08 29146. These two modified RNs do not have bill numbers and were not included in any bills that were formally introduced in the Legislature.

compensation for overtime or compensating time off for overtime.” This same bill amended section Government Code section 19853 by eliminating two paid holidays for state employees and further providing that any employee who works on a paid holiday “shall be entitled to receive straight-time pay and eight hours of holiday credit.” The other two subjects contained in RN 08 29145 and RN 08 29146 – a one-day mandatory furlough day and a change in state operations to workweeks consisting of four ten-hour days when deemed to be in the State’s best interests – were not adopted by the Legislature.

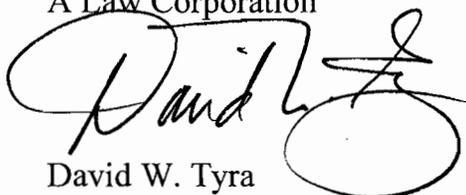
The RNs submitted to the Legislature as part of the November 2008 Special Session constituted an effort by the Governor to work with the Legislature to address the State’s looming fiscal and cash crisis. It would be incorrect to assume that the proposed legislation expressly authorizing a mandatory one-day a month furlough for state employees constituted an implicit admission the Governor lacked the inherent executive authority to order furloughs of state employees. It did not. Rather, it was an effort by the Governor to engage the Legislature, as a co-equal branch of state government, to seek solutions to the imminent financial and economic emergency facing the State. Ultimately, the Legislature chose to enact budget bills for fiscal year 2008-09 and 2009-10 that validated the

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Governor's use of furloughs to achieve employee compensation savings.
(See SBX3 1 (Stats. 2009, 3d Ex. Sess. 2009-10, ch. 1, § 3.90; SBX3 2
(Stats. 2009, 3d Ex. Sess. 2009-10, ch. 2, § 36.)

Sincerely,

KRONICK, MOSKOVITZ,
TIEDEMANN & GIRARD
A Law Corporation



David W. Tyra

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November 6, 2008

Honorable Denise Moreno Ducheny, Chair
Senate Budget and Fiscal Review Committee

Attention: Mr. Danny Alvarez, Staff Director (2)

Honorable John Laird, Chair
Assembly Budget Committee

Attention: Mr. Christopher W. Woods, Chief Consultant (2)

SPECIAL SESSION TRAILER BILLS

This letter transmits Budget Trailer Bill (TB) information necessary to implement the proposals in the 2008-09 Special Session. Attachment 1 is the list of the TB issues.

As in the past with TBs, we will electronically transmit the documents to the appropriate fiscal offices today. As we continue to review the language, we may find areas that need changing. Any revised drafts will be forwarded electronically to the appropriate fiscal offices immediately.

If you have any questions or need additional information regarding this matter, please contact the Program Budget Manager for that area.

Sincerely,

ANA MATOSANTOS
Chief Deputy Director

Attachment

cc: Honorable Tom Torlakson, Chair, Senate Appropriations Committee
Attention: Mr. Bob Franzoia, Staff Director
Honorable Dennis Hollingsworth, Vice Chair, Senate Budget and Fiscal Review Committee
Attention: Mr. Seren Taylor, Staff Director
Honorable Mark Leno, Chair, Assembly Appropriations Committee
Attention: Mr. Geoff Long, Chief Consultant
Honorable Roger Niello, Vice Chair, Assembly Budget Committee
Attention: Mr. Peter Schaafsma, Staff Director
Mr. Mac Taylor, Legislative Analyst (4)
Ms. Diane Cummins, Senate President pro Tempore's Office
Mr. Craig Cornett, Assembly Speaker's Office (2)
Mr. Ivan Altamura, Chief of Staff, Assembly Republican Leader's Office

icc: BRADSHAW, KAHN, CHUNG-NG, FINN, MANGAT, HILL, JERUE, OROPEZA, DUCAY,
MCGUINN, SCHLADALE, ROGERS, TAYLOR, LLOYD, LANDINGHAM, MARTINEZ,
THEODOROVIC, PODESTO, SCHWEIZER, LYNN, AGUILERA, BUCHEN, STEFFENHAGEN,
CHAVES, MASTERSON, C/F, SUSPENSE, FILE

J:\Unit_Defined\TBL\2009-10\GB\Spec TB Letter GB 09-10.doc

DEPARTMENT OF FINANCE
PROGRAM BUDGET MANAGERS

ADMINISTRATION (Admin)

Diana Ducay: 445-3274

Assistant: Kelly Montelongo

BUSINESS, TRANSPORTATION AND HOUSING (BT&H)

Mark Hill: 322-2263

Assistant: Meredith Campbell

BUDGET OPERATIONS SUPPORT (BOS)

Veronica Chung-Ng: 445-5332

Assistant: Letty Zamora

CORRECTIONS/GENERAL GOVERNMENT (Cor/Gen)

Todd Jerue: 445-8913

Assistant: Paula Pimentel

EDUCATION SYSTEMS UNIT (ESU)

Jeannie Oropeza: 445-0328

Assistant: Annette Waite

HEALTH AND HUMAN SERVICES (HHS)

Lisa Mangat: 445-6423

Assistant: Eric Lueras/Blia Vang

RESOURCES AND CAPITAL OUTLAY (RECO)

Karen Finn: 324-0043

Assistant: Cynthia Munoz

2008-09 Special Session Trailer Bill List

(Dollars in millions)

Org	Department	Program/ Issue Title	2008-09 Fiscal Impact ^{1/}		2009-10 Fiscal Impact ^{1/}		TBL Status/ RN Number
			GF	OF	GF	OF	
			1	2640	State Transit Assistance	229.9	
2	4260	Health Care Services	98.1	45.1	510.9	180.4	RN 08 29163
3	4260	Health Care Services	43.8	43.8	203.7	203.7	RN 08 29163
4	4300	Developmental Services	34.2	21.8	59.8	37.6	RN 08 29163
5	5180	Social Services	390.7	0.0	1,176.0	0.0	RN 08 29093
6	5180	Social Services	273.9	0.0	846.7	0.0	RN 08 29093, with amendments
7	5180	Social Services	35.5	48.5	108.3	148.7	RN 08 29093
8	5180	Social Services	82.9	0.0	248.8	0.0	RN 08 29093
9	5180	Social Services	0.0	0.0	30.3	0.0	RN 08 29093

2008-09 Special Session Trailer Bill List

(Dollars in millions)

Org	Department	Program/ Issue Title	2008-09		2009-10		TBL Status/ RN Number
			Fiscal Impact ^{1/}		Fiscal Impact ^{1/}		
			GF	OF	GF	OF	
10	5225	Corrections and Rehabilitation	78.1		677.6		LCB
		Correction Reforms - Enhanced credit earnings for inmates, including day for day credits for time served in jail and credits for program completion; limit parole to serious, violent, and sex offenders; and adjust the threshold value for property crimes to reflect inflation since 1982					
11	6110	SDE	244.3		244.3		RN 08 28869
		Deficit Factor Adjustment - Eliminate the .68 percent COLA provided to School Districts and County Offices of Education					
12	6110	SDE	\$7.8 million in cost avoidance		\$7.8 million in cost avoidance		RN 08 28869
		Technical - Clean-up to clarify that no categoricals are to be provided a COLA in 2008-09.					
13	6110	SDE	unknown cost avoidance		unknown cost avoidance		RN 08 28964
		Child Care Fee Cleanup - Clean-up HHS trailer bill provision for Child Care to clarify that restrictions on charging fees for families receiving cash assistance does not apply in certain cases (Absent cleanup, Stage 2 and 3 caseload costs will go up because offsetting fee income would be reduced--Insufficient data to determine fiscal impact).					
14	6110	SDE	0.0		0.0		RN 08 28963
		Various K-12 Flexibility Proposals - (1) Increase Funding Flexibility for AB 825 Block Grants; (2) Reduce Routine Maintenance; (3) Reduce Budget Reserve Requirement; (4) Mitigate COLA for Revenue Limits; (5) Suspend Deferred Maintenance Local Match Requirement; and (6) Categorical Flexibility - Access to Restricted Prior Year Fund Balances (7) Suspend Reporting Requirement for the Deferred Maintenance Program					
15	6110	SDE	0.0		0.0		RN 08 28980
		Categorical Flexibility - Access to Restricted Prior Year Fund Balances.					
16	6110	SDE	1,790.9		1,790.9		LCB
		Reduce Revenue Limits and Provide Flexibility to Transfer Categorical Funds --provides maximum flexibility to K-12 LEAs to backfill reductions in revenue limits from categorical allocations. Includes sunshine and reporting provisions.					

2008-09 Special Session Trailer Bill List

(Dollars in millions)

Org	Department	Program/ Issue Title	2008-09		2009-10		TBL Status/ RN Number
			Fiscal Impact ^U		Fiscal Impact ^V		
			GF	OF	GF	OF	
17	CCC	Reduce CCC Apportionments and Provide Flexibility to Transfer from Categoricals -- Amends 2008 budget bill item to reflect reduction and adds flexibility to backfill reductions in revenue limits from categorical allocations.	292.4		292.4		LCB
18	CCC	Eliminate COLA - Repeal language that appropriated a COLA for Community Colleges	39.8		39.8		RN 08 28869
19	Tax Relief	Eliminate funding for the Williamson Act - Agricultural Land Preservation	34.7		34.7		LCB
20	Local Government, Corrections, OES	Eliminate GF support for Public Safety Grant Programs	326.9		500.8		LCB
21	Local Government Financing	Funding Realignment - \$360 Million of Public Safety Programs with VLF - Shift VLF used to fund DMV to local subventions for COPS/JJ and Juvenile Probation programs. Backfill DMV with \$12 increased annual vehicle registration fees.	(150.0)	(-150)	(360)	(-360)	LCB
22	Statewide	Employee Compensation Changes - Establish a Mandatory State Employee Furlough (1 day/month).	263.0	197.7	450.9	338.9	RN 08 29145 RN 08 29146
23	Statewide	Employee Compensation Changes - Eliminate 2 holidays & premium pay for hours worked on all remaining holidays	39.4	1.1	74.5	2.1	RN 08 29145
24	Statewide	Employee Compensation Changes - Calculate over-time based on actual time worked (exclude all leave from OT calculation).	17.5		30.0		RN 08 29145
25	Statewide	Employee Compensation Changes - Change state operations to ten hours per day, four days a week if it is determined to be in the best interest of the state	unknown		unknown		RN 08 29145
26	Statewide Cash	Various issues to improve cash management --Increase borrowable resources, RANs repayment	NA		NA		LCB
27	Statewide	Various Changes to the Budget Act -- Amend and add various Budget Bill items to the 2008 Budget Act					RN 08 29151 with amendments

2008-09 Special Session Trailer Bill List

(Dollars in millions)

	Org	Department	Program/ Issue Title	2008-09 Fiscal Impact ^{1/}		2009-10 Fiscal Impact ^{1/}		TBL Status/ RN Number
				GF	OF	GF	OF	
28	Revenues		Temporary (3-year) 1.5 cent increase in the Sales Tax - Special fund revenue goes to Prop 42	3,219.0	322.0	6,606.0	713.0	LCB
29	Revenues		Oil severance tax (9.9% tax rate; exception for stripper wells)	530.0		1,201.0		LCB
30	Revenues		Expand Sales Tax on Selected Services	357.0	151.0	1,156.0	487.0	LCB
31	Revenues		Funding Realignment - Increase Alcohol excise taxes by 5 cents a drink to fund drug and alcohol prevention and treatment services	293.0		585.0		LCB
ECONOMIC STIMULUS ISSUES:								
1		OSHPD	Streamline Regulations to Expedite Hospital Construction					Draft
2			Meal and Rest Period					Draft
3			Clarify Overtime Laws - \$100,000 and Above Exemption					Draft
4			Additional Flexibility for Employees and Employers to have alternative work schedules					Draft
5		DGS	Expedite the Sale of Surplus Property by Simplifying the Application of CEQA					Draft
6			Runaway Production Film Credit					
7		BTH	Mortgage Reforms and Proposals to reduce foreclosures					Draft
8			Public Private Partnership Legislation					Draft
9		Caltrans	Expedite Construction of Transportation Projects by Waiving or Expediting Certain Environmental Requirements					Draft

2008-09 Special Session Trailer Bill List

(Dollars in millions)

Org	Department	Program/ Issue Title	2008-09 Fiscal Impact ^{1/}		2009-10 Fiscal Impact ^{1/}		TBL Status/ RN Number
			GF	OF	GF	OF	
10	DWR	Expedite DWR projects					LCB
11	CDCR	AB 900 Fixes to move forward with prison construction		0			RN 08 21520
12	CTC/Caltrans	Design Build Legislation - Transportation					Draft
13	Various	Design Build Legislation - All infrastructure, except transportation					Draft
14	EDD	Changes to Address Insolvency of the Unemployment Insurance Fund					Draft
		Total Fiscal Impact	\$8,192.1	\$831.0	\$16,283.4	\$2,111.4	

^{1/} Positive numbers are a gain to the reserve.

TBD=Language to be drafted

Draft=Draft not yet at LCB

LCB=Language at Legislative Counsel Bureau

From: Masterson, Nancy [mailto:Nancy.Masterson@dof.ca.gov]
Sent: Thursday, November 06, 2008 3:45 PM
To: Altamura, Ivan; Bob.Franzoia@sen.ca.gov; Carol.Baker@asm.ca.gov;
Christopher.Woods@asm.ca.gov; Cohen, Michael@LAO; craig.cornett@asm.ca.gov;
danny.alvarez@sen.ca.gov; Deborah Gonzalez; diane.cummins@sen.ca.gov; Erin Guerrero;
Geoff.Long@asm.ca.gov; Jennifer.Galehouse@asm.ca.gov; peter.schaafsma@asm.ca.gov; Taylor, Seren
Cc: Ducay, Diana; Hill, Mark; Finn, Karen; Chaves, Oscar; Jayne Finkbohner-DOF; Ana Matosantos-DOF;
McGuinn, Jesse; Michael Pro시오; Jacque Roberts; Steffenhagen, Bill
Subject: FW: Trailer Bill Language and List transmission for Special Session (1 of 6)

Resending the first email. Local Government scan has been corrected. Thanks.

From: Masterson, Nancy
Sent: Thursday, November 06, 2008 3:01 PM
To: Altamura, Ivan; 'Bob.Franzoia@sen.ca.gov'; 'Carol.Baker@asm.ca.gov'; Christopher.Woods@asm.ca.gov; Cohen, Michael@LAO;
craig.cornett@asm.ca.gov; danny.alvarez@sen.ca.gov; diane.cummins@sen.ca.gov; 'Geoff.Long@asm.ca.gov';
'Jennifer.Galehouse@asm.ca.gov'; Peter Schaafsma (peter.schaafsma@asm.ca.gov); Taylor, Seren

Cc: Ducay, Diana; Hill, Mark; Finn, Karen; Chaves, Oscar; Finkbohner, Jayne; Matosantos, Ana; McGuinn, Jesse; Pro시오, Mike; Roberts, Jacque; Steffenhagen, Bill

Subject: Trailer Bill Language and List transmission for Special Session (1 of 6)

This is the first email in a series of six. This series of emails contains Trailer Bill language for the Special Session from all units, except Education, which will be distributed directly by the Education Unit. Attached is the Special Session Trailer Bill tracking spreadsheet for your convenience. This list contains a section from units and a section titled Economic Stimulus. TBL for these issues will be transmitted in a separate email note.

This email contains the trailer bill language from the following five units: Administration, Business, Transportation and Housing, Financial Resources, Local Government, and Resources.

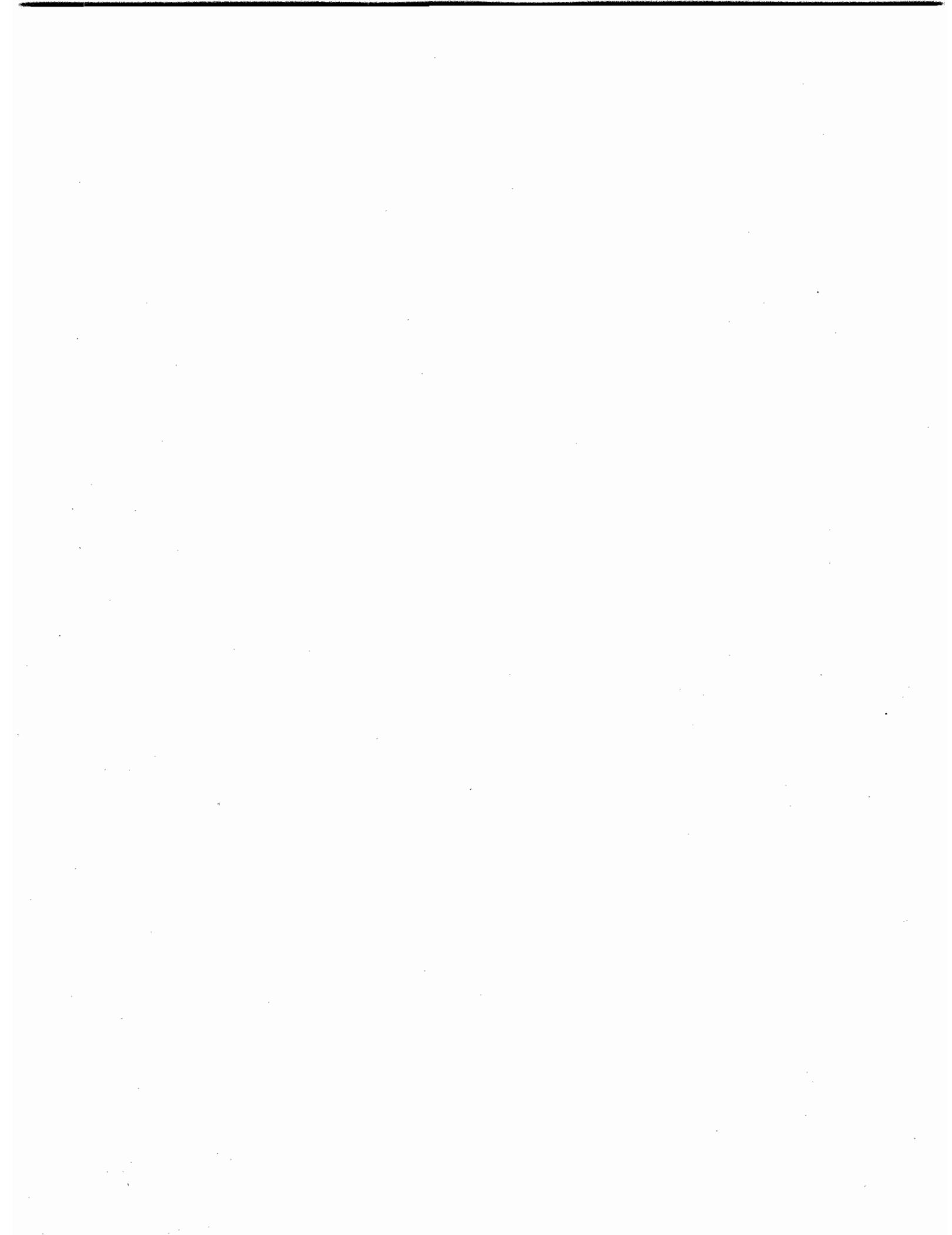
Pursuant to Government Code Section 13308, the specific trailer bill RN or draft language is being transmitted to your office electronically.

Proposed trailer bill language is being submitted to the Legislative Counsel on a flow basis. Some of the language is not in Legislative Counsel format yet. As soon as we receive the RN from the Legislative Counsel Bureau, we will separately transmit the language to you.

If you have questions regarding any Trailer Bill issue, please contact the Program Budget Manager for that area.

If you have questions regarding this e-mail or its attachments, please contact Nancy Masterson or Oscar Chaves at 445-5332.

Thanks



22, 23, 24 & 25 - Employee Compensation Changes

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11/05/08 04:07 PM
RN 08 29145 PAGE 1

An act to amend Section 19852 of, to amend, repeal, and add Section 19853 of, to add Section 19844.1 to, and to add and repeal Section 19826.4 of, the Government Code, relating to state employment, and declaring the urgency thereof, to take effect immediately.



082914565815BILL

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 19826.4 is added to the Government Code, to read:

19826.4. (a) Notwithstanding the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1) or any other provision of law, the Department of Finance and the Department of Personnel Administration shall, commencing on December 1, 2008, and ending on July 1, 2010, implement a program for the furlough of state employees. The furloughs shall be for a period or periods not to exceed a total of 19 workdays, as defined in Section 19851, during the period the program is in effect.

(1) For purposes of this subdivision, "furlough" means the placement of employees on temporary, nonduty status to reduce payroll costs. An employee subject to furlough shall not receive compensation for any furlough period.

(2) The state may reduce employees' salaries, as defined in paragraph (1) of subdivision (c) of Section 19827.2, to accomplish the purposes of the furlough. A furlough shall not adversely affect an employee's retirement service credit or service anniversary date, create a break in service or constitute an absence from state service as described in Section 20960, impact the accrual of leave credits or payment of health, dental, or vision benefits; impact the calculation of final compensation, impact the calculation of death, disability, or survivor benefits, or adversely affect any other benefit or payment an employee would otherwise receive or be entitled to receive.

(b) The Department of Personnel Administration and the Department of Finance shall jointly administer this section. The Department of Personnel Administration may adopt policies and procedures as needed to implement this section. The adoption,



amendment, or repeal of those policies and procedures is hereby exempted from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 commencing with Section 11340) of Part 1 of Division 3 of Title 2) and the Ralph C. Dills Act and shall become effective immediately upon that adoption, amendment, or repeal.

(c) For purposes of this section, "state employee" includes both of the following:

(1) All civil service employees of the state, including those persons exempted from the definition of "state employee" in subdivision (c) of Section 3513.

(2) Those persons exempted from the civil service pursuant to subdivisions (e) and (g) of Section 4 of Article VII of the California Constitution.

(d) This section shall not apply to employees subject to an operative memorandum of understanding, effective July 3, 2006, to July 2, 2010, inclusive, between the state and State Bargaining Unit 5.

(e) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 19844.1 is added to the Government Code, to read:

19844.1. (a) Notwithstanding any other provision of law, personal leave, sick leave, annual leave, vacation, bereavement leave, holiday leave, and any other paid or unpaid leave, shall not be considered as time worked by the employee for the purpose of computing cash compensation for overtime or compensating time off for overtime.

(b) If subdivision (a) is in conflict with the provisions of a memorandum of understanding reached or amended on or after December 1, 2008, pursuant to Section



3517.5, that memorandum of understanding shall be controlling without further legislative action, except that if those provisions of the memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 3. Section 19852 of the Government Code is amended to read:

19852. ~~When Notwithstanding any other provision of law, if the Governor~~ determines that the best interests of the state would be served thereby, the Governor may require that the 40-hour workweek established as the state policy in Section 19851 shall be worked in four days in any state agency or part thereof.

SEC. 4. Section 19853 of the Government Code is amended to read:

19853. (a) Except as provided in subdivision (c), all employees shall be entitled to the following holidays: January 1, the third Monday in January, February 12, the third Monday in February, March 31, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, the day after Thanksgiving, December 25, the day chosen by an employee pursuant to Section 19854, and every day appointed by the Governor of this state for a public fast, thanksgiving, or holiday.

If a day listed in this subdivision falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. If November 11th falls upon a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. Any employee who may be required to work on any of the holidays included in this subdivision, and who does work on any of these holidays, shall be entitled to be paid compensation or given compensating time off for that work in accordance with their classification's assigned workweek group. For the purpose of computing the



number of hours worked, time when an employee is excused from work because of holidays, sick leave, vacation, annual leave, or compensating time off, shall be considered as time worked by the employee.

(b) If the provisions of subdivision (a) are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(c) Any employee, who is either excluded from the definition of state employee in subdivision (c) of Section 3513, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service, shall be entitled to the following holidays, with pay, in addition to any official state holiday appointed by the Governor:

(1) January 1, the third Monday in January, February 12, the third Monday in February, March 31, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, Thanksgiving Day, the day after Thanksgiving, December 25, and any personal holiday chosen pursuant to Section 19854. The department head or designee may require an employee to provide five working days' advance notice before a personal holiday is taken, and may deny use subject to operational needs.

(2) When November 11 falls on a Saturday, employees shall be entitled to the preceding Friday as a holiday with pay.



(3) When a holiday, other than a personal holiday or November 11, falls on a Saturday, an employee shall, regardless of whether he or she works on the holiday, only accrue an additional eight hours of personal holiday credit per fiscal year for the holiday. The holiday credit shall be accrued on the actual date of the holiday and shall be used within the same fiscal year.

(4) When a holiday other than a personal holiday falls on Sunday, employees shall be entitled to the following Monday as a holiday with pay.

(5) Employees who are required to work on a holiday shall be entitled to pay or compensating time off for this work in accordance with their classification's assigned workweek group.

(6) Less than full-time employees shall receive holidays in accordance with Department of Personnel Administration rules.

(d) (1) Any employee, as defined in subdivision (c) of Section 3513, may elect to receive eight hours of holiday credit for the fourth Friday in September, known as "Native American Day," in lieu of receiving eight hours of personal holiday credit in accordance with Section 19854.

(2) It is not the intent of the Legislature, by the amendments to this subdivision that add this paragraph, to increase the personal holiday credit that an employee receives pursuant to Section 19854.

(e) This section shall become effective with regard to the March 31 holiday only when the Department of Personnel Administration notifies the Legislature that the language contained in this section has been agreed to by all exclusive representatives, and the Department of Personnel Administration authorizes this holiday to be applied



to employees designated as excluded from the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512), Division 4, Title 1), and the necessary statutes are amended to reflect this change.

(f) This section shall become inoperative on December 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 19853 is added to the Government Code, to read:

19853. (a) All state employees shall be entitled to the following holidays: January 1, the third Monday in January, the third Monday in February, March 31, the last Monday in May, July 4, the first Monday in September, November 11, Thanksgiving Day, the day after Thanksgiving, December 25, the day chosen by an employee pursuant to Section 19854, and every day appointed by the Governor of this state for a public fast, thanksgiving, or holiday.

(b) If a day listed in this subdivision falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. If November 11th falls upon a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed.

(c) Any state employee who may be required to work on any of the holidays included in this section, and who does work on any of these holidays, shall be entitled to receive straight-time pay and eight hours of holiday credit.

(d) For the purpose of computing the number of hours worked, time when an employee is excused from work because of holidays, sick leave, vacation, annual leave,



compensating time off, or any other leave shall not be considered as time worked by the employee for the purpose of computing cash compensation for overtime or compensating time off for overtime.

(e) Any state employee, as defined in subdivision (c) of Section 3513, may elect to receive eight hours of holiday credit for the fourth Friday in September, known as "Native American Day," in lieu of receiving eight hours of personal holiday credit in accordance with Section 19854.

(f) Persons employed on less than a full-time basis shall receive holidays in accordance with the Department of Personnel Administration rules.

(g) If subdivision (a) is in conflict with the provisions of a memorandum of understanding executed or amended on or after December 1, 2008, pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of the memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(h) This section shall become operative on December 1, 2008.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 2008-09 fiscal year, and thereby facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: State employment: furloughs: holidays.

The Ralph C. Dills Act permits state employees to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations, as specified. The act authorizes the Governor and a recognized employee organization to enter into a written memorandum of understanding for presentation to the Legislature. Existing law requires the Department of Personnel Administration to establish and adjust salary ranges for each class of position in the state civil service, subject to specified merit limits. The California Constitution exempts certain persons employed by the state from civil service, including specified deputies or employees selected by boards, commissions, or state officers appointed by the Governor.

This bill would require the Department of Finance and the Department of Personnel Administration, commencing December 1, 2008, and ending on July 1, 2010,



to implement a furlough program for civil service employees of the state and the exempt employees described above, as specified.

Existing law requires the department to provide the extent to which, and establish the method by which, ordered overtime is compensated for state employees.

This bill would prohibit paid or unpaid leave from being considered as time worked by the employee for the purpose of computing cash compensation for overtime or compensating time off for overtime.

Existing law provides that state employees are entitled to specified holidays. Existing law provides that any employee who may be required to work on any of those holidays, and who does work on any of those holidays, shall be entitled to be paid compensation or given compensating time off for that work in accordance with the assigned workweek group of the employee's classification.

This bill, effective December 1, 2008, would reduce the number of holidays to which state employees are entitled by eliminating the holidays commonly known as Lincoln Day and Columbus Day. The bill would provide that any state employee who works on any of those remaining holidays shall be entitled to receive straight-time pay and 8 hours of holiday credit. The bill would add provisions regarding the use of holiday credit and the holidays to which persons employed less than full time are entitled.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



22 - Employee Compensation Changes

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An act to add and repeal Section 19826.45 of the Government Code,
relating to state employment.



0829146818BILL

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 19826.45 is added to the Government Code, to read:

19826.45. (a) Notwithstanding the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1) or any other provision of law, the Department of Finance and the Department of Personnel Administration shall, commencing on December 1, 2008, and ending on July 1, 2010, implement a program for the furlough of exempt employees. The furloughs shall be for a period or periods not to exceed a total of 19 workdays, as defined in Section 19851, during the period the program is in effect.

(1) For purposes of this subdivision, "furlough" means the placement of exempt employees on temporary, nonduty status to reduce payroll costs. An employee subject to furlough shall not receive compensation for any furlough period.

(2) The state may reduce exempt employees' salaries, as defined in paragraph (1) of subdivision (c) of Section 19827.2, to accomplish the purposes of the furlough. A furlough shall not adversely affect an employee's retirement service credit or service anniversary date, create a break in service or constitute an absence from state service as described in Section 20960, impact the accrual of leave credits or payment of health, dental, or vision benefits, impact the calculation of final compensation, impact the calculation of death, disability, or survivor benefits, or adversely affect any other benefit or payment an employee would otherwise receive or be entitled to receive.

(b) The Department of Personnel Administration and the Department of Finance shall jointly administer this section. The Department of Personnel Administration may adopt policies and procedures as needed to implement this section. The adoption,



amendment, or repeal of those policies and procedures is hereby exempted from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2) and the Ralph C. Dills Act and shall become effective immediately upon that adoption, amendment, or repeal.

(c) For purposes of this section, "exempt employee" means a person specified in subdivision (d) or (f) of Section 4 of Article VII of the California Constitution.

(d) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Exempt employees of the state: furlough.

Existing law requires the Department of Personnel Administration to establish and adjust salary ranges for each class of position in the state civil service, subject to specified merit limits. The California Constitution exempts certain persons employed by the state from civil service, including members of boards and commissions, state officers directly appointed by the Governor, and employees of the Lieutenant Governor's office directly appointed or employed by the Lieutenant Governor.

This bill would require the Department of Finance and the Department of Personnel Administration, commencing on December 1, 2008, and ending on July 1, 2010, to implement a furlough program, as specified, for the exempt employees described above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



PROOF OF SERVICE

I, May Marlowe, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is 400 Capitol Mall, 27th Floor, Sacramento, CA 95814-4416. On June 23, 2010, I served the within documents:

Response to June 15, 2010 Letter

- by transmitting via facsimile from (916) 321-4555 the above listed document(s) without error to the fax number(s) set forth below on this date before 5:00 p.m. A copy of the transmittal/confirmation sheet is attached.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Sacramento, California addressed as set forth below.
- by causing personal delivery by Messenger of the document(s) listed above to the person(s) at the address(es) set forth below.
- by placing the document(s) listed above in a sealed Federal Express envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a Federal Express agent for delivery.
- by causing to be transmitted via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

Attorneys for Plaintiffs/Appellants
Professional Engineers in
California Government, et al.

Gerald A. James
455 Capitol Mall, Suite 501
Sacramento, CA 95814
Fax: (916) 446-0489
Email: gjames@pecg.org

Attorney for
Defendant/Appellant State
Controller John Chiang

Robin B. Johansen
Remcho, Johansen & Purcell, LLP
201 Dolores Avenue
San Leandro, CA 94577
Fax: (510) 346-6201
Email: rjohansen@rjp.com

**Attorneys for Plaintiff/Appellant
California Attorneys,
Administrative Law Judges and
Hearing Officers in State
Employment**

Patrick Whalen
Law Offices of Brooks Ellison
1725 Capitol Avenue
Sacramento, CA 95811
Fax: (916) 448-5346
Email: lobby@ellisonwilson.com

**Attorneys for
Defendants/Respondents
Governor Arnold
Schwarzenegger
And Department Of Personnel
Administration**

Will M. Yamada
Labor Relations Counsel
Department Of Personnel
Administration
1515 S Street
North Building, Suite 400
Sacramento, CA 95811-7258
Fax: (916) 323-4723
E-mail: WillYamada@dpa.ca.gov

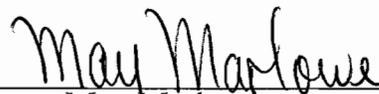
**Attorneys for Plaintiff/Appellant
SEIU, Local 1000**

Paul E. Harris, III
J. Felix De la Torre
Anne Giese
SEIU Local 1000
1808 14th Street
Sacramento, CA 95811
Telephone: 916-554-1279
Facsimile: 916-554-1292
Email: fharris@seiu1000.org
fdelatorre@seiu1000.org
agiese@seiu1000.org

Hon. Patrick Marlette
Sacramento County Superior Court
720 Ninth Street – Dept. 19
Sacramento, CA 95814

California Court of Appeal
Third Appellate District
621 Capitol Mall, 10th Floor
Sacramento, CA 95814

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit. I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 23, 2010, at Sacramento, California.



May Marlowe