

CALIFORNIA CORRECTIONAL SUPERVISORS ORGANIZATION

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“Supervisors Representing Supervisors”

WEEKLY UPDATE FOR NOVEMBER 6, 2008

Governor’s Proposals – Cuts to State Workers

November 6, 2008 the Governor announced his Budget Emergency Stimulus Plan to correct the \$11.2 billion revenue deficit California is facing. The Governor is proposing to legislators a \$4.6 billion in cuts and \$4.4 billion in new revenues for the current-year budget, which will ensure the state, can protect services. Proposals include a temporary increase in the state sales tax, from 5% to 6.5%, broadening the sales and use tax to include certain services, imposing an oil severance tax upon any oil producer that extracts oil from the earth or water in California, and increasing the alcohol excise tax by 5 cents a drink.

Employee Compensation Changes. Requiring state employees take a one day furlough each month, eliminating two state holidays (combining Lincoln and Washington days into Presidents Day, and Columbus Day) and premium pay for hours worked on all remaining holidays, as well as eliminating the ability to count leave time as hours worked when computing overtime will result in General Fund savings of \$320 million in the current fiscal year. Additionally, the Governor proposes changes that would give state agencies the ability to establish a ten-hours per day, four day workweek.

Department of Corrections and Rehabilitation (CDCR): To realize saving in corrections, the administration proposes implementing parole reforms that protects public safety while cutting costs. This will be done mostly through parole reforms where high-risk offenders who have committed serious, violent, or sexual crimes receive full supervision on parole while low-risk non-serious offenders receive no parole supervision after their release from prison. These reforms will save \$78.1 million in 2008-09 and \$677.6 million in 2009-2010.

Note: Go to the Governor’s web page at <http://gov.ca.gov> and view the entire budget adjustments that are being proposed.

Meetings: CCSO has been involved in numerous meetings with the Governor’s Office and DPA last week and this week. DPA Director Gilb informed CCSO that proposals for general state departments are to implement a mandatory furlough program. State Departments such as DMV etc. would select one day a month and close. Employees would not be paid for that day. 24-hour state departments such as CDCR cannot close 1 day a month, so a self-directed furlough mandate will be imposed. The furlough program would be similar to PLP, but according to DPA Deputy Director Julie Chapman not exactly like PLP. CDCR staff will be encouraged to take a furlough day each month. This day off will not increase in value or be cashed out. However, it will accumulate. This **1-day furlough is roughly a 5 % salary reduction.** Director Gilb informed CCSO that staff will see a 1-day or 5 % reduction in pay that can be used as a day off down the road.

Employees near retirement will not be affected. Retirement will still be based on the highest pay with the full amount of workdays. The 1-day reduction will not be calculated.

Two State holidays will be eliminated (Columbus Day and they will combine Lincoln and Washington’s Birthday and observe them on Presidents Day), **no longer will time and a half be paid to employees**

working holidays, instead if an employee works a holiday they will **receive holiday credit** for use at another time, and the State will **no longer count leave time, including sick leave and vacation time as time worked for overtime purposes**. Instead employees will only receive overtime pay once they actually work exceeds the required threshold. **The four-day week law will be amended to make it easier for departments to allow employees to work ten hours a day, four days a week**. These proposals will go into effect December 1, 2008 through June 31, 2010 if and when legislators approve them.

Director Gilb did say that health benefits are going up, but employee costs should **not** be affected. He said the state has some money in reserve to take care of the increase in health costs.

Le Sage asked Gilb if layoffs or hiring freezes were on the table. Gilb responded that the Governor believes agency's need to manage; therefore, jobs hopefully will not be lost. Le Sage asked Gilb if the state was considering cutting benefits to inmates such as rehabilitation programs in order to redirect monies towards the safety of staff. Gilb answered that CDCR Secretary Cate would need to respond. Braden asked Gilb if cross coverage and redirects would stop or continue, as it is a safety issue. Gilb said that needed to be answered by Secretary Cate.

CCSO will continue to fight for excluded employees in corrections to maintain existing benefits, wages and safeguards in the workplace. All labor groups including collective bargaining groups will be faced with a fight to maintain existing benefits and wages for their members. CCSO has been in touch with other labor groups and will be meeting next week, to determine a plan of action.

We ask CCSO members to keep in mind that these are initial proposals and all labor groups will work together as one to lessen the blow to state employees.

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Litigation Status on Priority Cases (Overview by Attorney G. Goyette)

Department of Mental Health Race and Age Discrimination Case: CCSO is in the preliminary stages of a civil rights case against the State of California and the Department of Mental Health (DMH) for discrimination based on race and age. CCSO has filed extensive grievances on behalf of CCSO supervisors for what appears to be clear evidence of adverse scheduling assignments. The motive behind the adverse scheduling assignments appears to be age and race (African-American). Attorney Paul Goyette is assisting the CCSO supervisors affected in the preparation and filing of Complaints with the Equal Employment Opportunity Commission (EEOC). Those complaints should be filed with the EEOC within approximately one week. Thereafter, the EEOC will issue "Right to Sue Letters". Once the Right to Sue Letters are received, CCSO will be able to file formal legal action. CCSO intends to file this case in Federal Court.

Managers Pay or M06 litigation: This lawsuit concerns managerial employees who are being paid less than their counterparts or who are not receiving benefits commensurate with those they supervise. CCSO filed a Second Amended Complaint on June 6, 2008 and Defendants filed their Answer collectively on July 7, 2008. There is no trial date set and the court has not yet established a pre-trial calendar.

CCSO and Chris Gold v. DPA ("3.125% retro pay" litigation): Following the issuance of the Statement of Decision by the San Francisco County Superior Court, denying CCPOA's lawsuit, CCPOA filed an objection to the decision, and DPA in turn filed response arguments to CCPOA's objection. The Court has yet to rule on CCPOA's objection, and until the Court does so, the bench trial decision for the CCPOA lawsuit is not considered a "final" judgment.

In the meantime, CCSO's attorney have been researching and preparing our motion to lift the 'stay' on the CCSO lawsuit seeking the 3.125% retro pay, to be filed with Judge Loren McMaster in the Sacramento County Superior Court. This motion, however, should not be filed until the San Francisco County

Superior Court has issued the final Order on the CCPOA lawsuit. Once the CCPOA case is final, CCSO will file our motion to lift the ‘stay’, and expect to receive a concurrent motion for dismissal from DPA.

In both the motion to lift the stay and in response to any motion to dismiss by DPA, we will argue that CCSO has not yet been afforded the due process to engage in discovery, to depose key individuals at DPA, and to be provided the jury trial requested in the complaint. These points should be persuasive since CCSO’s motion to intervene in the CCPOA suit was denied, and since CCPOA engaged in little or no discovery, did not depose key DPA individuals, and did not have a trial before a jury.

CCSO attorneys will keep you updated on the motion to lift the ‘stay’ and on the overall status of the suit and the related CCPOA final judgment.

POBOR Tape Recording Violation: Recently it has come to the attention of CCSO labor representatives and lawyers that CDCR is interpreting a section of the DOM such that CCSO representatives may not keep or retain control over their own tape recording devices or tape recording records following the representation of a CCSO subject member in an Internal Affairs interrogation. We believe this is in violation of the Peace Officers’ Procedural Bill of Rights Act, Government Code § 3304, that gives the peace officer the right to tape record his or her interrogation. Implicit in this right, is the right to keep and maintain those tape recording records. Otherwise, that right under POBOR would be absolutely meaningless. Paul Goyette has prepared a draft Complaint that will include as Plaintiffs, CCSO and two CCSO members. The Complaint should be ready for filing and service in approximately 30 days.

Take Care and Be Safe