

CALIFORNIA CORRECTIONAL SUPERVISORS ORGANIZATION

1481 Ullrey Avenue, Escalon, CA 95320 PH: 1-800-449-2940 FAX: (209) 838-6759 INFO. LINE: 888-906-6100

“Supervisors Representing Supervisors”

WEEKLY UPDATE – JANUARY 23, 2009

DPA Says Yes on Furlough/Controller Chiang Says No: CCSO met with DPA, on Tuesday January 20th, regarding the state employee furlough per the Governor’s Executive Order S-16-08. CCSO’s opposition to the furlough days was made loud and clear at this meeting. Arguments were brought forth on the grounds of safety, disparate treatment, and the legality of this Executive Order being implemented without legislative approval (vote). CCSO Chief Operations & Financial Officer Le Sage questioned Kristine Rodrigues, DPA Labor Relations Officer on the position of DPA’s stand regarding excluded employees if the SEIU and CCPOA rank and file lawsuits were successful. Ms. Rodrigues replied that even if the rank and file won their lawsuits, DPA planned on continuing with the furlough mandates for excluded employees. Le Sage questioned Rodrigues on DPA’s position on some constitutional agencies such as the Controller’s Office, Treasurer’s Office etc refusing to have their staff follow the two-day furlough based on legality. Rodrigues replied that the state (Governor/DPA) believes the Dills Act gives the Executive Branch, under emergency conditions, the power to bypass a legislative vote.

CCSO Administrative Liaison Canutt focused on the wording in the executive order citing “two furlough days per month to be taken when feasible.” Canutt argued that language needed to be added which provides the hiring authority mandate to allow furlough days is taken each month. He said there may never be “feasible” days. Rodrigues replied that employees in 24/7 facilities do take vacation time; therefore, instead of burning their vacation days they could use their accumulated furlough days. Le Sage said that these employees should be allowed to use their vacation plus furlough days, the same as other state employees in other agencies. Other state employees will be allowed to take 24 furlough days and 15 vacations days per year. Posted positions would only be allowed the 15 days for vacation.

Rodrigues said she would move the proposed amended language and CCSO’s opposition to the furlough days up the chain of command.

DPA Labor Relations Officer Dana Manning said that some agencies, such as CDCR, may incorporate all 3 furlough plans: Close first and third Fridays of each month, take 2 furlough days chosen by employee and approved by supervisor, and furlough days that cannot be used within the same month would be taken within two years following the end of the furlough program when feasible.

In summary, the various rank and file groups that have sued will determine the position of CCSO. If CCPOA wins their rank and file (R06) court action then CCSO would push the parity law to move for an exemption of S06. If SEIU as well as other rank and file groups win, again CCSO would consider suing on behalf of excluded employees in other units based on disparate treatment.

Controller Chiang Says Furlough Is Illegal: The day after, CCSO met with DPA, the State Controller John Chiang said he would refuse to reduce state workers pay as demanded by Governor Schwarzenegger via the Executive Order. Chiang’s refusal would spare more than 200,00 public employees from furlough pay cuts.

Since State Controller Chiang is responsible for issuing state payroll, the Governor may need to obtain a court order to implement the furlough plan.

Controller Chiang filed court action in Sacramento Superior Court arguing that this Executive Order pertaining to pay cuts via the 2-day mandated furlough day is illegal.

The Executive Branch (Governor/DPA) counters Chiang's argument that under the Dills Act, the Executive Branch can bypass a legislative vote during an emergency.

A Sacramento Superior Court Judge will hear this case next week and make the decision.

Even if Schwarzenegger wins the court battle, many questions remain about how furloughs, scheduled to start Feb. 6, will work. No one yet knows how the state would run with a sweeping, shortened schedule. How, for example, will prison and hospital workers be furloughed, since their facilities never close and staffing is tied to safety and health? Will a 24/7 facility employee work a full monthly schedule, receive two days less pay for the month, then later take two days off with pay? Or would that employee get full pay now and take off two unpaid days later? And what if that employee gets a promotion? Would the deferred furlough be calculated at the lower wage? Or would it be calculated at the higher pay rate? What if covering that furloughed employee means paying overtime to another one?

CCSO will keep you posted on the Controllers court hearing that is set for January 29th.

Transfer Sick Inmates: Receiver Clark Kelso said, physically and mentally ill inmates cannot get proper care at four isolated prisons in the Central Valley. Those prisons are Avenal State Prison, California State Prison in Corcoran, the California Substance Abuse Treatment Facility and State Prison in Corcoran, and Pleasant Valley State Prison in Coalinga. The receiver's office wants the inmates to be shifted to prisons closer to urban areas, including those in Vacaville and Soledad. Tens of thousands of healthy inmates at those prisons would be displaced to make room.

The transfer demand is the latest development in the long-running legal battle over inmate health care in California's adult prisons. Receiver Kelso's solution is for the state to sell \$8 billion in bonds to build seven medical facilities to treat some 10,000 inmates. The repayment would be spread over 25 years and cost California taxpayers \$14 billion by the time the bonds are repaid. Gov. Arnold Schwarzenegger and state lawmakers, particularly Republicans, have recoiled at the cost, especially as the state faces a \$42 billion deficit through June 2010. The 9th U.S. Circuit Court of Appeals has set a Feb. 12 hearing to consider letting a federal court judge hold Schwarzenegger in contempt for refusing to turn over the money. The receiver has sought an immediate \$250 million for a down payment.

Take Care and As Always Be Safe!