

FILE COPY

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Representative for Charging Party

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BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

California Attorneys, Administrative)	STATEMENT OF FACTS AND REQUESTED REMEDY FOR AN UNFAIR LABOR PRACTICE
Law Judges and Hearing Officers)	
In State Employment)	
)	
v.)	
)	
Arnold Schwarzenegger, the State of)	
California and the Department of)	
Personnel Administration)	
_____)	

COMES NOW, the charging party, CALIFORNIA ATTORNEYS,
ADMINISTRATIVE LAW JUDGES AND HEARING OFFICERS IN STATE
EMPLOYMENT ("CASE"), and states as follows the allegations of an Unfair Labor
Practice by the Governor Arnold Schwarzenegger, the State of California, and the
Department of Personnel Administration ("DPA"):

FACTUAL BACKGROUND

1. CASE is the exclusive representative of Bargaining Unit 2 employees in the State of California. CASE and the State of California have a Memorandum of Understanding ("MOU") with an effective date from July 1, 2005 to July 30,

2007. Pursuant to Government Code section 3517.8, subdivision (a), the terms of the MOU continue to have effect. (Exhibit A, ¶ 7.)

2. On June 4, 2010, Governor Schwarzenegger sent an open letter to Senate President pro Tempore Darrell Steinberg. In that letter, Governor Schwarzenegger stated unequivocally, "I will not sign a budget this year without budget reform and pension reform." (Exhibit B, p. 1.) He also identified "four elements that must be done legislatively separate and apart from any memorandums of understanding." (*Ibid.*) Those four elements were:

1. Roll back the expansion of pension benefits adopted in Senate Bill 400 (Chapter 555, Statutes of 1999) for all new hires upon adoption by the Legislature.
2. Permanent five percent increase in employee pre-tax contribution toward retirement benefits.
3. Calculate the retirement rate based on the highest three years of wages during employment instead of the highest single year.
4. Require the CalPERS chief actuary to submit a report to the Legislature on investment return assumptions based on both lower and higher estimates than the actuarial return assumption and have this report evaluated by a qualified third party.

(Exhibit B, pp. 1-2.)

3. On June 16, 2010, Governor Arnold Schwarzenegger announced via press release that his administration had reached tentative agreements with four employee organizations, including CAHP (Unit 5), CDFP (Unit 8), CAPT (Unit 18) and AFSCME (Unit 19.) The agreements included all of the elements previously identified by Governor Schwarzenegger in his June 4, 2010 letter to Senator Steinberg. (Exhibit C.)

4. On June 28, 2010, Governor Arnold Schwarzenegger announced via press release that his administration had reached tentative agreements with two additional employee organizations, including UAPD (Unit 16) and IUOE (Unit 12). The agreements included all of the elements previously identified by Governor Schwarzenegger in his June 4, 2010 letter to Senator Steinberg. (Exhibit D.)
5. On July 28, 2010, Governor Arnold Schwarzenegger issued Executive Order S-12-10 which instituted three days of furloughs per month on most state employees. (Exhibit E.) The order specifically stated that “furloughs are necessary to immediately begin saving cash.” (*Ibid.*)¹ The order exempted from its effect the six bargaining units that had reached tentative agreements with the administration. (*Ibid.*)
6. The furloughs would result in a pay reduction of approximately 14% per month. (Exhibit A, ¶ 6.)
7. On the morning of July 28, 2010, prior to the issuance of the executive order, CASE received email notification of a conference call for representatives of all of the State’s 21 Bargaining Units. The call was scheduled to begin at 10:45 a.m. that same day, and the chairperson listed was Julie Chapman, the Chief Deputy Director of the Department of Personnel Administration. (Exhibit A, ¶3, Exhibit F, ¶3.)

¹ It is worth noting that the question of whether the Governor has the legal authority to unilaterally implement furloughs is currently pending before the California Supreme Court. See *California Attorneys, etc. v. Schwarzenegger*, case # S182581 and *Professional Engineers in California Government. v. Schwarzenegger*, case # S183411.

8. During the call, Julie Chapman announced that the Governor would be issuing an executive order later that same day announcing the implementation of three furlough days per month for many state employees, including many CASE members. The purported justification for the furloughs was a cash shortage resulting from the absence of a budget for Fiscal Year 2010-2011. (Exhibit A, ¶ 4, Exhibit F, ¶ 4.)
9. After discussing some of the specifics of the executive order, Ms. Chapman identified various exemptions to the furlough order, which included those six bargaining units that have already reached a tentative agreement with the Administration. Ms. Chapman solicited questions from those representatives on the call. When asked directly if, assuming other units reached a tentative agreement with the administration, they too would be exempted from furloughs, Ms. Chapman stated “there is room for other units to be out of furloughs.” In response to similar follow up questions, she repeated this statement several times using slightly different verbiage, but the clear import of her responses was that if other units reached tentative agreements, they could be exempted from the furloughs. (Exhibit A, ¶ 5, Exhibit F, ¶ 5.)

ALLEGATIONS OF DILLS ACT VIOLATIONS

10. The Governor and DPA are in violation of Government Code section 3519, subdivision (a), which makes it unlawful to impose reprisals on employees, to discriminate against employees, or to coerce employees because of their exercise of rights. Specifically, DPA and the Governor have imposed

reprisals on CASE members by ordering that they suffer furloughs and a 14% salary reduction simply because CASE has refused to agree to the Governor's and DPA's proposals during bargaining. In addition, DPA and the Governor have discriminated against CASE members by ordering that they suffer furloughs simply because they have refused to agree to the bargaining proposals. There is no logical reason to exempt those bargaining units who have reached tentative agreements because the purpose of the furloughs is to "immediately begin saving cash" and exempting employees in those six bargaining units achieves the opposite result. Moreover, DPA and the Governor have coerced CASE members by stating that they could achieve an exemption to the most recent furloughs if they agreed to the bargaining proposals.

11. The Governor and DPA are in violation of Government Code section 3519, subdivision (c), which makes it unlawful to refuse or fail to meet and confer in good faith with a recognized employee organization. The Executive Order directs that the furloughs begin in the month of August, 2010, but DPA has refused to meet and confer in good faith prior to the imposition of the furloughs.
12. If an employer breaches or alters the parties' written agreement or its own established, negotiable practice, that employer violates its duty to meet and confer in good faith. (*NLRV v. Katz* (1962) 369 U.S. 736) Such unilateral changes are inherently destructive of employee rights and are a failure per se of the duty to negotiate in good faith. (*Davis Unified School District, et al.*

(1980) PERB Decision No. 116) The furloughs represent a change in the work hours and compensation of CASE members that is subject to the meet and confer process.

13. The Governor and DPA are in violation of Government Code section 3517, which imposes a duty to meet and confer in good faith regarding wages, hours, and other conditions of employment. Specifically, they have failed to negotiate in good faith over a successor MOU by insisting that CASE accept their proposals or face the specter of furloughs. When that coercion failed, they actually imposed furloughs and informed CASE that they could be exempted from the furloughs if CASE agreed to accept their proposals.

CONCLUSION

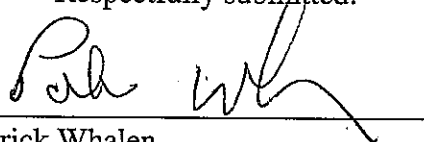
CASE respectfully requests the following remedies:

1. CASE requests that the Board find that Governor Schwarzenegger and DPA have violated the prohibitions of Government Code section 3519, subdivision (a) by imposing reprisals on, discriminating against, and coercing CASE members by imposing furloughs on CASE members as a result of their failure to agree to the State's bargaining proposals.
2. CASE requests that the Board find that Governor Schwarzenegger and DPA have violated the prohibitions of Government Code section 3519, subdivision (c) by failing to meet and confer with CASE prior to implementing significant changes to the hours of work and compensation of CASE members.

3. CASE requests that the Board find that Governor Schwarzenegger and DPA have violated the prohibitions of Government Code section 3517, by failing to meet and confer in good faith over the terms and conditions of employment by unfairly using the threat and implementation of furloughs to obtain an unfair advantage at the bargaining table.
4. CASE further requests that the Board, pursuant to its remedial powers, issue an order directing the Governor to cease and desist from the unfair practice and that the Governor be ordered to meet and confer in good faith pursuant to section 3519, subdivision (c) of the Dills Act.
5. CASE further requests that the Board seek an immediate injunction to prevent the unilateral implementation of the change in working conditions.
6. CASE further requests that the Board seek an immediate injunction to prevent the unilateral implementation of any other punitive changes in wages, hours, or working conditions of CASE members.
7. CASE further requests that the State of California be responsible for payment of all attorney fees associated with arguing and enforcing the charges and findings of these facts and requests.
8. Any and all applicable remedies.

Dated: August 2, 2010

Respectfully submitted:



Patrick Whalen
CASE General Counsel

PROOF OF SERVICE

I am a citizen of the United States and a resident of the County of Sacramento, California. I am over the age of eighteen (18) years and not a party to the above-entitled action. My business address is 1231 I Street, Suite 300, Sacramento, California 95814.

I am familiar with the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment (CASE)'s practice whereby the mail is sealed, given the appropriate postage and placed in a designated mail collection area. Each day's mail is collected and deposited in a United States mailbox at the close of each day's business.

On *August 2, 2010*, I served the following:

UNFAIR PRACTICE CHARGE AND REQUEST FOR INJUNCTIVE RELIEF

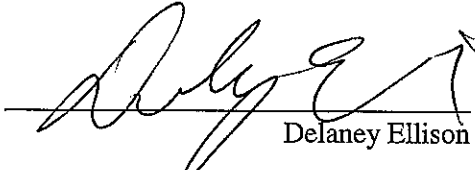
(BY FACSIMILE & HAND DELIVERY) placing a true copy thereof into a facsimile machine addressed to the person and address set forth below in accordance with the requirements of PERB Regulations 32090 and 32135(d), and delivering an original and 6 copies to the address below.

Public Employment Relations Board
1031 18th Street
Sacramento, CA 95811-4124
(916) 327-6377

(BY HAND DELIVERY) placing a true copy thereof enclosed in a sealed envelope and delivering it to a person authorized to accept service at the address below.

Labor Relations
Department of Personnel Administration
1515 S Street, North Building, Suite 400
Sacramento, California 95811

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Declaration was executed on *August 2, 2010*, at Sacramento, California.



Delaney Ellison

EXHIBIT A

DECLARATION OF PETER FLORES, JR.

I, Peter Flores, Jr., declare as follows:

1. I am President of Petitioner/Plaintiff California Attorneys, Administrative Law Judges and Hearing Officers in State Employment ("CASE"). CASE is, and at all times herein mentioned was, a nonprofit corporation organized and existing under the laws of the state of California, with its principal place of business in the County of Sacramento, State of California. CASE is the exclusive collective bargaining representative of legal professionals in State Bargaining Unit 2 pursuant to Government Code section 3520.5.

2. CASE represents approximately 3500 legal professionals in more than 80 different state departments, boards, and commissions. The vast majority of CASE members are attorneys employed in Work Week Group ("WWG") SE. Approximately 600 CASE members are administrative law judges or hearing officers employed in WWG E. Approximately 150 CASE members are employed in WWG 2.

3. On July 28, 2010, at approximately 8:43 a.m., CASE received email notification of a conference call for representatives of all of the State's 21 Bargaining Units. The call was scheduled to begin at 10:45 a.m. that same day, and the chairperson listed was Julie Chapman, the Chief Deputy Director of the Department of Personnel Administration. I called in to the conference call at 10:45 a.m. that day.

4. I have met personally with Ms. Chapman on prior occasions and I recognized her voice when she identified herself as Julie Chapman at the beginning of the conference call. Ms. Chapman announced that the Governor would be issuing an executive order later that same day announcing the implementation of three furlough days per month for many state employees, including many CASE members. The purported justification for the furloughs was a cash shortage resulting from the absence of a budget for Fiscal Year 2010-2011.

5. Ms. Chapman discussed some of the specifics of the executive order, including the fact that the furloughs would take place on the second, third, and fourth Fridays of each month. Ms. Chapman then identified various exemptions to the furlough order, which included those six bargaining units that have already reached a tentative agreement with the Administration. Ms. Chapman solicited questions from those representatives on the call. When asked directly if, assuming other units reached a tentative agreement with the administration, they too would be exempted from furloughs, Ms. Chapman stated "there is room for other units to be out of furloughs." In response to similar follow up questions, she repeated this statement several times

using slightly different verbiage, but the clear import of her responses was that if other units reached tentative agreements, they could be exempted from the furloughs.

6. The three-day per month furloughs will result in a pay reduction of approximately 14% per month for all impacted CASE members for the duration of the furloughs.

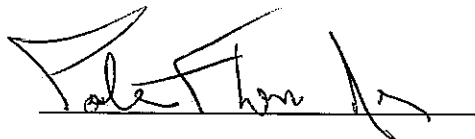
7. CASE is currently in the process of negotiating a successor Memorandum of Understanding (MOU) to the MOU which expired on June 30, 2007. Pursuant to Government Code section 3517.8, the previous MOU remains in effect until a successor MOU is negotiated, or until impasse is reached. Bargaining has been ongoing for more than three years.

8. In my capacity as President of CASE, I have had an opportunity to meet hundreds of CASE members, and I have discussed with them the impact the wage reductions resulting from the furloughs would have on their workplaces and their lives. I am familiar with the precarious financial situation many CASE members are presently enduring. The salaries for the State's legal professionals lag far behind those of other public sector legal employers by as much 50%. Many members have over \$100,000 in educational debt including both undergraduate college and law school, and a wage reduction will be financially ruinous.

9. Many CASE members have had their wages reduced for the last 17 months as a result of the Governor's previous unilateral imposition of three furlough days per month, resulting in a monthly pay reduction of approximately 14%. Because of the furloughs, most members have exhausted their personal savings and have reached the limit of their available lines of credit. Many CASE members are the sole source of income for their families. Reducing the pay of CASE members again through furloughs would put many members at risk of losing their homes, cars, and other necessities.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and based on my personal knowledge, and if called to testify to these facts, I would do so competently and truthfully.

Executed this 2 day of August, 2010, in San Francisco, California.

A handwritten signature in black ink, appearing to read "Peter Flores, Jr.", written over a horizontal line.

Peter Flores, Jr.

EXHIBIT B

Governor Schwarzenegger Sends Letter to Senator Steinberg Regarding Negotiations with Public Employee Unions

Governor Arnold Schwarzenegger today sent the following letter to Senator Steinberg expressing his support of good faith negotiations with California's public employee unions regarding employment contracts and pension reform:

June 4, 2010

The Honorable Darrell Steinberg
President pro Tempore
California State Senate
State Capitol
Room 205
Sacramento, California 95814

Dear Senator Steinberg,

Thank you for your letter on the status of contract negotiations with California's public employee unions regarding employment contracts and pension reform.

We are, in fact, in active negotiations with 19 of the 21 bargaining units at this time. Of the two units not yet in active negotiations with us, one has requested delay until its new head of bargaining is in place, and a formal meeting is scheduled for next week. The last remaining bargaining unit, Unit 6 (CCPOA), has made it clear that it is not interested in negotiating this year.

I believe all our negotiations to date, both informal and formal, have been in good faith, and you are correct that most of the unions do understand that the state continues to face an extremely difficult fiscal situation as well as unsustainable and unfunded pension and retiree health care costs.

The CalPERS transparency legislation you referenced in your letter is most definitely among the issues being raised in negotiations with the unions. As I have made clear since my State of the State address in January, our unsustainable pension costs must be addressed this year. I have tried to be as up front about this as I possibly can: I will not sign a budget this year without budget reform and pension reform.

While my administration is negotiating in good faith with the unions on all aspects of the pension reform measures we are proposing, there are four elements that must be done legislatively separate and apart from any memorandums of understanding:

1. Roll back the expansion of pension benefits adopted in Senate Bill 400 (Chapter 555, Statutes of 1999) for all new hires upon adoption by the Legislature.
2. Permanent five percent increase in employee pre-tax contribution toward retirement benefits.
3. Calculate the retirement rate based on the highest three years of wages during employment

instead of the highest single year.

4. Require the CalPERS chief actuary to submit a report to the Legislature on investment return assumptions based on both lower and higher estimates than the actuarial return assumption and have this report evaluated by a qualified third party.

I believe the CalPERS transparency legislation, while causing some anxiety at first, is not something that CalPERS and the unions will oppose. In fact, CalPERS has told my staff that it will support this legislation and is working with us on the exact language. The unions have told us that if CalPERS supports the legislation, they will likely also support.

The most difficult aspect of negotiations so far has been the employee compensation elements in the context of addressing California's \$19.1 billion budget gap. We have very little negotiating room in terms of capturing the savings proposed in my May revision of the budget, especially in the absence of the Legislature making some progress on a workable alternative framework to close the gap.

Nonetheless, we continue to negotiate in good faith and, if I can conclude new contracts with any bargaining units in a way that achieves the necessary budget savings and pension reform we need, I will sign those agreements and present them to the Legislature. But the budget will not be signed without legislation on budget reform and pension reform as outlined above regardless of how successful we are in negotiations with the unions.

I will do my best, and I know that you will, too. I look forward to working together to get through this difficult period.

Sincerely,

Arnold Schwarzenegger

/la

Rachel (Cameron) Arrezola
Chief Deputy Press Secretary
Office of Gov. Arnold Schwarzenegger
E: Rachel.Arrezola@gov.ca.gov
O: 916-445-4571
C: 916-873-6010

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EXHIBIT C



Office of the Governor

ARNOLD SCHWARZENEGGER
THE PEOPLE'S GOVERNOR

PRESS RELEASE

06/16/2010 GAAS:367:10 FOR IMMEDIATE RELEASE

Gov. Schwarzenegger Announces Contract Agreements with Four State Employee Unions

Significant Reforms Include Rolling Back 1999 Pension Increases and Requiring At Least 10 Percent Employee Pension Contributions

Governor Arnold Schwarzenegger today announced tentative contract agreements with four state employee unions that include significant first steps toward pension reform and reining in the state's growing pension costs. The agreements roll back the expansion of pension benefits adopted in SB 400 in 1999 and will move pension contributions for all employees in the four unions to a minimum of 10 percent, among the highest employee contribution levels in the nation.

"I am absolutely committed to getting pension reform done because we cannot continue down this unsustainable path that has taxpayers on the hook for \$500 billion in debt," said Governor Schwarzenegger. "I applaud these four unions for stepping up and taking these first steps in helping to reform our state's out-of-balance pensions and I encourage other public employee unions to negotiate on behalf of their members and California taxpayers. I will continue to fight for taxpayers and work with any union that comes forward and is ready to negotiate reforms."

The four union agreements include a major step towards pension reform in rolling back retirement formulas used to calculate pension payments for new employees by:

- Requiring new employees to work additional years to receive full benefits
- Basing final retirement compensation on the highest three years of wages instead of the highest year, ending pension "spiking" in the last year of work
- Increasing the amount employees must contribute toward their retirement to a minimum of 10 percent

The current formulas, negotiated under the prior administration and enacted into law by the legislature in 1999, have been responsible for driving up the state's unfunded pension liability and creating unsustainable pension benefits. Just today, California Public Employees' Retirement System (CalPERS) voted to increase the state's required contributions towards pensions by an estimated \$600 million in fiscal year 2010-11.

In addition to the pension changes, unions agreed to the Governor's proposed employee compensation savings for next year in his January budget proposal. On top of agreeing to increased employee pension contributions, unions agreed to one day of unpaid personal leave per month during fiscal year (FY) 2010-11, the equivalent of just under a 5 percent pay cut. The Administration is already moving forward with the remaining five percent reduction in the cost of the state workforce payroll through Executive Order S-01-10, which requires all department directors to reduce their payrolls by 5 percent. These agreements are projected to save the state \$72 million in FY 2010-11. If similar agreements are reached with the state's eight other employee unions, state savings in FY 2010-11 would total \$2.2 billion, \$1.2 billion General Fund.

The Governor's Administration will continue to negotiate in good faith with the unions on all aspects of the pension reform measures. However, Governor Schwarzenegger has indicated he will not sign a budget without four elements of pension reform that must be done legislatively separate and apart from any memorandums of understanding:

1. Roll back the expansion of pension benefits adopted in Senate Bill 400 (Chapter 555, Statutes of 1999) for all

2. Permanent five percent increase in employee pre-tax contribution toward retirement benefits.
3. Calculate the retirement rate based on the highest three years of wages during employment instead of the highest single year.
4. Require CalPERS's chief actuary to submit a report to the legislature describing how contributions would change if a lower investment return was assumed and the impact on future state budgets if CalPERS fails to achieve its assumed investment return, and have that report evaluated by a qualified third party.

The tentative agreements announced today cover 23,000 employees represented by the California Association of Highway Patrolmen (CAHP), California Department of Forestry Firefighters (CDFF), California Association of Psychiatric Technicians (CAPT) and American Federation of State, County and Municipal Employees (AFSCME).

All four agreements would require current and future employees to pay more of their own money into the pension plan, which reduces the state's costs. For the Miscellaneous category, employees' contribution would increase from 5 to 10 percent of pay; for the Safety category, it would increase from 6 to 11 percent; for the Firefighters, it would increase from 6 to 10 percent; and for the CHP officers, it would increase from 8 to 10 percent. In addition, the CHP officers agreed that in 2013 they will resume pre-funding their members' retiree health benefits in an amount equal to 2 percent of their pay. Their union was the first to begin pre-funding retiree health benefits in an amendment to their contract last year.

The CAHP agreement is for July 3, 2010 to July 3, 2013. The CDFF agreement is for July 1, 2010 to July 1, 2013. The agreements with CAPT and AFSCME would run from July 1, 2010 to June 30, 2012. The agreements are subject to ratification by union members and the legislature.

EXHIBIT D



Office of the Governor

ARNOLD SCHWARZENEGGER
THE PEOPLE'S GOVERNOR

PRESS RELEASE

06/28/2010 GAAS:390:10 FOR IMMEDIATE RELEASE

Gov. Schwarzenegger Announces Two More Unions Agree to Contracts with Pension Reform and Reduced Retiree Health Benefit Costs

Significant Reforms Include Rolling Back 1999 Pension Increases, Increasing Employee Pension Contributions & Lowering Unfunded Liability for Retiree Health Benefits

Governor Arnold Schwarzenegger today announced tentative agreements with two additional state employee unions that include significant pension reform and salary reductions. In addition to rolling back the expansion of pension benefits adopted in 1999, the new agreements include one day of unpaid personal leave per month and a 5 percent increase in employee contributions toward pension benefits. Both union contracts already contain provisions that base final retirement compensation on the highest three years of wages, instead of the highest year, to end "spiking" in the last year of work. In addition, these agreements contain reforms to reduce the unfunded liability for retiree health care costs, including pre-funding retiree health benefits and increasing the number of years new employees will have to work before qualifying for retiree health benefits.

"These agreements continue the progress toward critically needed pension reform in California," said Governor Schwarzenegger. "I commend these two unions for stepping up to help bring our unsustainable pension and health benefits under control. These agreements, along with the four agreements announced last week, will bring much-needed relief to California taxpayers and our state budget."

These two agreements cover 14,000 employees represented by the Union of American Physicians and Dentists (UAPD) and the International Union of Operating Engineers (IUOE), and include:

- Rolling back retirement formulas used to calculate pension payments by requiring new employees to work additional years to receive full benefits.
- Requiring current and new employees to contribute at least 5 percent more of their pre-tax pay toward retirement.
- Pre-funding retiree health benefits.

As part of comprehensive pension reform, Governor Schwarzenegger has pushed for employee contributions to begin paying for retiree health benefits since his Public Employee Post-Employment Benefits Commission called for that action in its final report, issued in January 2008. To help cover billions of dollars of unfunded liability for retiree health that the state of California has promised its employees, the two unions also agreed that starting in July 2012, current employees will pay 0.5 percent of salary towards pre-funding retiree health benefits. The IUOE also agreed to change the vesting period that new employees must work to qualify for full health benefits in retirement. New employees would be required to work 25 years instead of the current 20 to be eligible for full retiree health benefits.

In addition to the pension changes, both unions agreed to the Governor's proposed employee compensation savings for next year in his January budget proposal. On top of agreeing to increased employee pension contributions, the unions agreed to one day of unpaid personal leave per month during fiscal year (FY) 2010-11, the equivalent of just under a 5 percent pay cut. The Administration is already moving forward with the remaining 5 percent reduction in the cost of the state workforce payroll through Executive Order S-01-10, which requires all department directors to reduce their payrolls by 5 percent. These agreements are projected to save the state \$66 million on top of the \$72

agreements are reached with the state's six other employee unions, state savings in FY 2010-11 would total \$2.2 billion, with \$1.2 billion of that from the General Fund.

The current pension formulas, negotiated under the prior administration and enacted into law by the legislature in 1999, have been responsible for driving up the state's unfunded pension liability and creating unsustainable pension benefits. The Governor's Administration will continue to negotiate in good faith with all of the employee unions on all aspects of the pension reform measures. However, Governor Schwarzenegger has indicated he will not sign a budget without four elements of pension reform that must be done legislatively separate and apart from any memorandums of understanding:

1. Roll back the expansion of pension benefits adopted in Senate Bill 400 (Chapter 555, Statutes of 1999) for all new hires upon adoption by the legislature.
2. Permanent 5 percent increase in employee pre-tax contribution toward retirement benefits.
3. Calculate the retirement rate based on the highest three years of wages during employment instead of the highest single year.
4. Require CalPERS's chief actuary to submit a report to the legislature describing how contributions would change if a lower investment return was assumed and the impact on future state budgets if CalPERS fails to achieve its assumed investment return, and have that report evaluated by a qualified third party.

Both agreements cover the period from July 1, 2010 to July 1, 2012 and are subject to ratification by union members and the legislature.

EXHIBIT E



Office of the Governor

ARNOLD SCHWARZENEGGER
THE PEOPLE'S GOVERNOR

EXECUTIVE ORDER S-12-10

07/28/2010

WHEREAS, due to continuing weak performance in the California economy and other factors, there is an approximately \$19 billion General Fund deficit for the 2010-11 fiscal year; and

WHEREAS the State has already taken extraordinary measures to conserve cash, such as implementing payment deferrals to schools and other local governments; and

WHEREAS there is no state budget for the 2010-11 fiscal year and a lengthy budget delay is likely; and

WHEREAS the longer it takes to adopt state budget measures to implement needed savings, the more the value of those savings erode, meaning that additional savings will be needed to make up for that lost time and money; and

WHEREAS without a budget in place, the latest cash projections show that California's cash will go into the negative no later than October 2010; and

WHEREAS to ensure that the State meets its payment obligations protected by the California Constitution and federal law, the State Controller has stated that he could be forced to begin issuing registered warrants (IOUs) as early as August 2010; and

WHEREAS the State must start preserving cash beginning in August 2010 to improve the State's ability to meet its obligations to pay for debt services and critical and essential services to protect public health and safety and to make payments protected by the California Constitution and federal law; and

WHEREAS furloughs are necessary to immediately begin saving cash until a budget is in place that includes solutions that will ensure there is sufficient cash for the State to meet its obligations to pay for debt service and critical and essential services to protect public health and safety and make payments protected by the California Constitution and federal law; and

WHEREAS as part of the solutions to close the \$19 billion General Fund deficit, the Governor's May Revise budget proposal included a 15 percent reduction in employee compensation costs for fiscal year 2010-11; and

WHEREAS in order to preserve sufficient cash in the 2010-11 fiscal year without a budget in place, three furlough days per month are necessary to achieve savings in employee compensation for the 2010-11 fiscal year; and

WHEREAS immediate action to reduce current spending must be taken to ensure, to the maximum extent possible, that the essential services of the State are not jeopardized and the public health and safety is preserved; and

WHEREAS a furlough will reduce current spending and immediately improve the State's ability to meet its obligations to pay for essential services and make payments protected by the California Constitution and federal law in the 2010-11 fiscal year.

NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby determine that an emergency pursuant to Government Code section 3516.5 exists and issue this Order to become effective immediately:

IT IS ORDERED that effective August 1, 2010, the Department of Personnel Administration (DPA) shall adopt a plan to implement a furlough of represented state employees and supervisors for three days per month consistent with the terms of this Order.

IT IS FURTHER ORDERED that effective August 1, 2010, the DPA shall adopt a plan to implement an equivalent furlough or salary reduction for all non-represented state employees, including supervisors, managers, and exempt state employees, consistent with the terms of this Order.

IT IS ORDERED that the following state agencies and departments are exempt from this furlough executive order:

California Highway Patrol
California Department of Fire and Forestry Protection (CalFIRE)
Franchise Tax Board
Board of Equalization
Employment Development Department
State Compensation Insurance Fund
California Housing Finance Authority
California Earthquake Authority

IT IS FURTHER ORDERED that the represented employees in Bargaining Units 12, 16, 18 and 19 are exempt from this furlough executive order based on the expectation that the tentative Memoranda of Understanding reached with these Bargaining Units will be ratified by the Bargaining Unit membership and the State Legislature by early August 2010, whereby the employee compensation savings in these agreements will result in immediate cash savings beginning in the August 2010 pay period.

IT IS FURTHER ORDERED that DPA shall adopt a furlough plan that will result in the closing of general government operations on the second, third and fourth Fridays of each month, beginning in August 2010.

IT IS FURTHER ORDERED that effective August 1, 2010, and for the duration of the furlough period, all state agencies and departments subject to furloughs shall take all necessary action to require their employees to take three furlough days within the month.

IT IS FURTHER ORDERED that the furlough period shall end when a 2010-11 fiscal year budget is in place and the Director of the Department of Finance determines that there is sufficient cash to allow the State to meet its obligations to pay for critical and essential services to protect public health and safety and to meet its payment obligations protected by the California Constitution and federal law.

IT IS REQUESTED that other entities of State government, including the California Public Utilities Commission, the University of California, Hastings College of Law, the California State University, California Community Colleges, the Bureau of State Audits, the legislative branch (including the Legislative Counsel Bureau), and judicial branch, implement similar or other mitigation measures to achieve budget and cash savings for the 2010-11 fiscal year.

This Order is not intended to create, and does not create, any rights or benefits, whether substantive or procedural, or enforceable at law or in equity, against the State of California or its agencies, departments, entities, officers, employees, or any other person.

IFURTHER ORDER that, as soon as hereafter possible, this Order shall be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this Order.



IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 28th day of July 2010.

ARNOLD SCHWARZENEGGER
Governor of California

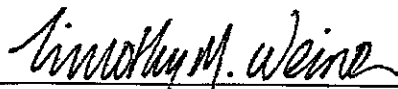
EXHIBIT F

1 was a cash shortage resulting from the absence of a budget for Fiscal Year 2010-
2 2011.

3 5. After discussing some of the specifics of the executive order, Ms.
4 Chapman identified various exemptions to the furlough order, which included
5 those six bargaining units that have already reached a tentative agreement with the
6 Administration. Ms. Chapman solicited questions from those representatives on
7 the call. When asked directly if, assuming other units reached a tentative
8 agreement with the administration, they too would be exempted from furloughs,
9 Ms. Chapman stated "there is room for other units to be out of furloughs." In
10 response to similar follow up questions, she repeated this statement several times
11 using slightly different verbiage, but the clear import of her responses was that if
12 other units reached tentative agreements, they could be exempted from the
13 furloughs.

14 I declare under penalty of perjury under the laws of the State of California
15 that the foregoing is true and correct and based on my personal knowledge, and if
16 called to testify to these facts, I would do so competently and truthfully.

17 Executed this 29th day of July, 2010, in Los Angeles, California.

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20 Timothy M. Weiner
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