

December 22, 2009

President Pro Tem Darrell Steinberg
California State Senate
State Capitol, Room 205
Sacramento, CA 95814

Speaker Karen Bass
California State Assembly
State Capitol, Room 219
Sacramento, CA 95814

Dear Madame Speaker and Pro Tem Steinberg:

On behalf of the AFSCME Local 2620's five thousand members who provide employment services to people with disabilities and social, psychological and spiritual support to California's state prison population, and on behalf of all state-employed public workers, I am writing to urge you to immediately seek approval of a continuous appropriation for state employees. Failure to do so now will likely result in financial catastrophe for all state employees as early as July 1, 2010.

Due to multiple court decisions, if there is no state budget in place, July 1, 2010 is the day that state employees will be subject to being paid the federal minimums required under the Fair Labor Standards Act. For most employees, this will be the federal minimum wage of \$7.25 an hour.

A continuous appropriation for state employees is the only way to prevent economic disaster for employees and maintain the state as a viable employer. CAPS is currently the sponsor of pending continuous appropriation legislation – AB 1125 (Hernandez) – that will ensure our members and other state employees receive their full salary in the event a budget is not passed on-time. This is the fourth legislative session in a row that CAPS and other state employee groups have sponsored similar legislation.

The past few years have been difficult and troubling for state employees. We've been furloughed at a cost of nearly 15 percent of salary, lost overtime and holidays outside of collective bargaining, endured billions of dollars in cuts to essential state programs, and been dismissed at the bargaining table.

Speaker of the Assembly
President Pro Tem of the Senate
December 15, 2009
Page 2

As disturbing as these takeaways might be, they are minor compared to the prospect that state employees could be paid minimum wage for their public service next summer. As you certainly understand, at that pay rate, it will be impossible for employees to meet their housing, healthcare, transportation, food and innumerable other financial obligations and requirements.

As you are certainly aware, in 2003 the State Supreme Court concluded the state can't pay its employees if the budget is not passed and approved by the June 30 constitutional deadline. In July 2008, Governor Schwarzenegger ordered state workers' wages reduced to the federal minimums after he and the Legislature failed to reach agreement on an on-time budget.

State Controller John Chiang refused to comply with the order to pay state employees minimum wage. However, in August 2008, the Governor took the Controller to court arguing the law compelled him to pay federal minimum wage absent an on-time budget. In its ruling siding with the Governor, the Sacramento Superior Court stated: "the Controller is legally prohibited from paying state employees in the absence of a budget or other available appropriation, except as minimally required by the Fair Labor Standards Act (FLSA)." The case is on appeal, but a different result is uncertain and should not be relied upon to solve this problem.

According to the Legislative Analysts' Office (LAO), California faces a \$20.7 billion deficit over the next year and a half. The LAO projects budget deficits in the tens of billions of dollars for years to come. The budget forecasts only increase the likelihood of lengthy, difficult budget impasses this year and down the road. The California state budget has not been approved by the June 30 constitutional deadline in 15 out of the last 20 years. In three of these years, budget deadlocks extended into September. On five other occasions impasses continued into August.

AFSCME Local 2620 members believe, and rightfully so, that if they go to work, they should be paid in full and on-time. We urge you to act quickly to put in place a continuous appropriation for state employees with AB 1125 or through any other means. If you do not, some 230,000 state employees will be unable to meet their basic financial obligations and California's struggling economy will be further damaged.

We would welcome the opportunity to discuss this matter in person. To schedule a meeting, please call me at (510) 333-1146.

Sincerely,

Steve Shanahan, President
AFSCME Local 2620

cc: Members, California State Legislature