

DEPARTMENT OF PERSONNEL ADMINISTRATION

OFFICE OF THE DIRECTOR
1515 "S" STREET, NORTH BUILDING, SUITE 400
SACRAMENTO, CA 95811-7258



July 1, 2010

The Honorable John Chiang
California State Controller
300 Capitol Mall, Suite 1850
Sacramento, California 95814

Dear Controller Chiang,

Today is July 1, 2010, and there is no state budget. Regrettably, we must take the steps outlined in the attached pay letter to adjust wages and salaries during this budget impasse. The six Bargaining Units with tentative agreements are not included because we are seeking and expect the Legislature to approve a continuous appropriation for these six units. We anticipate passage of a continuous appropriation for these bargaining units before the end of the month.

In May 2003, the California Supreme Court held in *White v. Davis* that in the absence of an approved state budget, the Controller has no legal authority to pay state employee wages and salaries except as required by federal labor law.

In 2008, the Department of the Personnel Administration (DPA) issued a pay letter directing the payment of wages and salaries in compliance with *White v. Davis*. You did not implement that pay letter. You cited your computer system as one of the reasons you could not pay minimum wage for state employees during a budget impasse. Based on your refusal, the DPA sued and won in the trial court. You appealed to the appellate court and we are waiting for a decision.

However, in June 2003, your predecessor, Steve Westly, stated that the "technical tasks involving changing pay for more than 200,000 employees can be accomplished." Based on this statement, it appears that there is a way to implement changes to your computer system to comply with *White v. Davis* and the Fair Labor Standards Act (FLSA).

I urge you to take the necessary steps to make changes to your computer system to comply with state law. My staff is prepared to work with you to develop and implement the necessary mechanisms to comply with the California Constitution, *White v. Davis*, and the Fair Labor Standards Act.

Sincerely,

A handwritten signature in black ink, appearing to read "Debbie Endsley".

Debbie Endsley
Director

PAY LETTER: 10-XX
ISSUE DATE:

**DEPARTMENT OF PERSONNEL ADMINISTRATION
SECTION I**

For questions regarding Section I, call (916) 323-3343
Technical questions will be referred to the Personnel Services Branch

To comply with federal labor law and the California Supreme Court's decision in White v. Davis, in the absence of an approved budget WWG 2, E, and SE classes shall be paid as follows:

All Regular Pay for all employees is delayed until a budget is signed with the exception of the Bargaining Units identified below. Until a Budget is signed employees in Work Week Group 2 and WWG E are eligible for Pay Differential XXX. Employees in WWG SE are not entitled to Regular Pay or the Minimum Wage Pay Differential in the absence of a Budget.

SECTION 14: PAY DIFFERENTIALS

PAY DIFFERENTIAL XXX
WHITE VS. DAVIS NO BUDGET/MINIMUM WAGE PAY DIFFERENTIAL RANK AND
FILE AND EXCLUDED EMPLOYEES is established: (Effective 07/01/10)

Excluded from Minimum Wage Differential:

Bargaining Units 5, 8, 12, 16, 18 and 19

**PAY DIFFERENTIAL XXX
WHITE VS. DAVIS NO BUDGET/MINIMUM WAGE PAY DIFFERENTIAL -
RANK AND FILE AND EXCLUDED EMPLOYEES**

Established: 07/01/10

CLASS TITLE	CB/ID	RATE	DEPARTMENT
All classes with WWG 2 designation with the exception of positions that have a continuous appropriation	R01, R02, R04, R06, R07, R09, R10, R11, R13, R14, R15, R17, R20, R21, S01, S04, S05, S06, S07, S08, S09, S11, S12, S13, S14, S15, S17, S20, U01, U04, U07, U09, U12, U15, U19, E, E97, E98, and confidential employees tied to the above rank-and-file bargaining units.	Rate 1	All Departments
All classes with WWG E designation with the exception of positions that have a continuous appropriation	R01, R02, R03, R07, R09, R10, R11, R17, R21, S01, S02, S03, S04, S06, S07, S08, S09, S10, S12, S11, S14, S15, S17, S18, S19, S20, S21, M01, M02, M05, M06, M07, M08, M09, M10, M11, M12, M13, M14, M15, M16, M17, M18, M19, M20, M21, M21, U01, U02, U09, U10, U19, E97, E98, E99	Rate 2	

RATE	EARNINGS ID
<p><u>RATE 1 -WWG 2</u></p> <p>Full-time employees shall be eligible for:</p> <p style="padding-left: 40px;">\$1,218 for a 21 day pay period \$1,276 for a 22 day pay period</p> <p>Intermittent employees shall be eligible for:</p> <p style="padding-left: 40px;">\$7.25 per hour</p> <p>Daily rate employees shall be eligible for:</p> <p style="padding-left: 40px;">\$58.00 per day</p>	

SECTION 14:

PAY DIFFERENTIALS

RATE	EARNINGS ID
<u>RATE 2 - WWG E</u>	
Full-time employees shall be eligible for:	
\$1,971.66 per pay period	
Intermittent employees shall be eligible for:	
\$11.36 per hour	
Daily rate employees shall be eligible for:	
\$91.00 per day	

CRITERIA
<p>Employees in classes with a Work Week Group designation of 2 and E are eligible for this pay differential with the exception of employees in Bargaining Units 5, 8, 12, 16, 18, and 19. These bargaining units have a continuous appropriation and will receive their regular compensation.</p> <p>All health benefits will not be withheld from this minimum wage pay differential for 90 days.</p> <p>Group legal will be withheld from this minimum wage pay differential.</p> <p>Miscellaneous deductions will be withheld from this minimum wage payment.</p> <p>Employee's lump sum payments will not be based on this minimum wage payment.</p> <p>Disability payments which occurred prior to July 1, 2010 will not be subject to minimum wage.</p> <p>Supplemental payments for disability will be based on minimum wage as of July 1, 2010.</p>

IF APPLICABLE, SHOULD PAY DIFFERENTIAL BE:	
PRO RATED	Yes
SUBJECT TO QUALIFYING PAY PERIOD	No
ALL TIME BASES AND TENURE ELIGIBLE	Yes
SUBJECT TO PERS DEDUCTION	Yes

INCLUSION IN RATE TO CALCULATE THE FOLLOWING BENEFIT PAY	
OVERTIME	No
IDL	No
EIDL	No
NDI	No
LUMP SUM VACATION	No
LUMP SUM SICK	No
LUMP SUM EXTRA	No