

Paychecks Should Be Paid in Full and On Time



State law requires all employees, public and private, to be paid in full and in a timely manner. For most, this is twice a month; for State employees, once per month.

In July, even though you do your job and provide the public services that go with it, there is a serious danger that your paycheck could be delayed by one or two months or even more. Instead, you would receive federal minimum wage for a while, ultimately getting the rest of your paycheck sometime later.



Why would that occur? It wouldn't be because you don't do your job. It wouldn't be because the State runs out of money. The reason for delaying your paycheck would be

because the Legislature and the Governor don't do their job, violating their Constitutional obligation to have a State Budget in place by June 30.

Under the Constitution, the State cannot spend money without a Budget authorization, or other

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Furloughs - Phasing Out?

The briefs (written legal arguments) on PECG's challenge to the Governor's furlough program have been completed. The next step is oral argument before a three judge panel at the Court of Appeal. After that, a decision is expected later this spring. Ultimately, a final ruling on the legality of the furlough program could come from the California Supreme Court.



PECG's lawsuit, which was the first one filed, is also the first to reach the Court of Appeal. PECG argues that State law, along with the Unit 9 Memorandum of Understanding, prohibits the Governor from either reducing work hours or cutting pay, rendering his furlough program illegal. If PECG prevails, the requested remedy would be retroactive payment of the 14% pay cuts back to February 2009.

Meanwhile, nearly two dozen lawsuits have been filed by other State employee organizations throughout California. In most cases, the Superior Court (the first trial court level) has ruled in favor of the Governor's authority to impose furloughs.



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Where's He Headed Next?

As the Governor enters his final year in office, he faces a \$20 billion State Budget deficit, a slowly recovering economy with high unemployment, voter dissatisfaction (with a 27% approval rating), and a view by most Californians that state government is in worse condition (59%), rather than better (7%), compared to when he took office. (The Legislature fares even worse, with a 16% approval rating.)

Based on his State of the State speech, Budget proposal, and recent Sacramento Press Club presentation, he will again seek to balance the State Budget in the face of a huge deficit and create jobs. Other priorities are an upcoming water bond, environmental issues, and cutting pension and prison costs.

Public employee pensions have been an on-and-off target during his tenure. He has talked about the excessive costs to taxpayers, even though over the years employees pay as much into the system as the State and the average pension (\$2000 per month) is hardly excessive.

During his State of the State speech, he said "for current employees these pensions cannot be

changed -- either legally or morally. We cannot break the promises we already made. It is a done deal." Two days later, his Budget proposed to double the cost that employees pay to the pension plans. Last year, he sought to reduce pension benefits for future hires; now, instead, he proposes to increase the employee contribution for all employees.

Currently, he's continuing with furloughs, losing some court challenges while winning others, all without final rulings. He plans to end furloughs on June 30, but would cut salaries instead. He said he would not negotiate salary cuts; within minutes, his spokesman said he would; and DPA announced that they are ready to go to the bargaining table.

In his Budget proposal, he seeks an additional \$7 billion in federal funds, saying he would increase employee pay cuts if that did not materialize. The Legislative Analyst said there are numerous unrealistic elements in the Governor's State Budget proposal; the likelihood of increased federal funding is almost "non-existent". The Governor proposed cutting funding for transportation; the Legislative Analyst recommends an increase.

Stay tuned.



PAYCHECKS SHOULD BE PAID IN FULL AND ON TIME

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appropriate Legislative authority. Also under the Constitution, the Legislature and Governor are required to adopt that Budget for the fiscal year beginning on July 1, no later than June 30. Virtually every year, the Legislature and Governor violate that obligation, sometimes not passing a Budget until August or September.

The Courts have ruled that when that occurs, the Constitution prohibits spending money on employee paychecks, bills from vendors, or many other obligations. There is no penalty for the Legislature and Governor for failing to do their job. It is the employees and others who bear the burden for that failure. Although until now the consequences have been avoided -- State Controller John Chiang and his predecessors have simply issued the paychecks, with or without a Budget -- recent Court rulings indicate that may no longer be possible.

The solution to this problem is fairly simple; it is called a continuous appropriations bill. If approved by the Legislature and the Governor, the bill would authorize payment of full salaries and benefits to State employees on time every month, regardless of the status of the State Budget.

PECG has sponsored Assembly Bill 1125 (Hernandez) to achieve that result. However, that bill has been locked up in an Assembly Committee while deadlines for approval of the bill this year have passed. Even though nearly 7000 faxes were sent by PECG members to their legislators, urging approval of the bill, no action was taken.

It is still possible for the Legislature to place the continuous appropriations wording in another bill to authorize full paychecks for State employees, regardless of the status of the Budget. However, that action must occur soon.

There is no excuse for the Legislature's failure to take action on this important issue. State employees do their job. They should be paid in full and on time.

If you have not already contacted your legislator to demand that they support a continuous appropriations bill, now is the time to do so. If you have already contacted them, contact them again. No State employee should have to live on \$7.25 per hour minimum wage for a month or two, or longer, because the Legislature and the Governor fail to do their job.

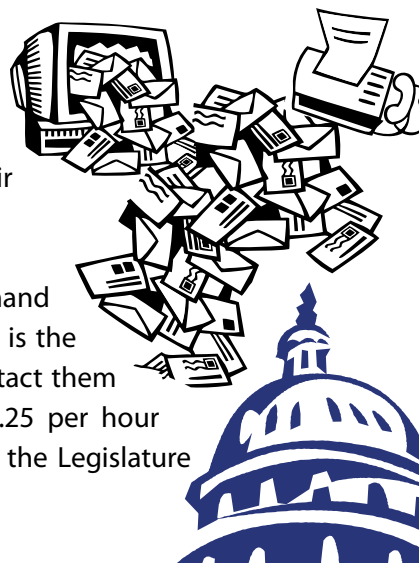


FURLOUGHS - PHASING OUT?

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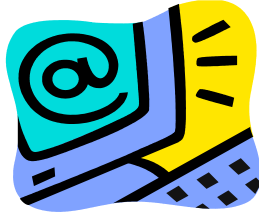
However, there have been a few exceptions. In one case, the Court ruled that State Compensation Insurance Fund employees cannot be furloughed because the Insurance Code which covers them prohibits furloughs. Another Judge ruled that prison guards couldn't be furloughed because they were not able to take the time off in the foreseeable future. An Alameda Judge ruled that, in some cases, special fund employees cannot be furloughed, while a San Francisco Judge ruled they could. (In order to ensure that any favorable special fund ruling applies to the PECG membership, PECG has also filed a suit on that issue.) All of these rulings could wind up in the Court of Appeal, perhaps affected by the ultimate ruling in PECG's lawsuit.

Meanwhile, the Governor is now seeking to end furloughs on June 30, as originally scheduled, if the Legislature approves pay cuts and increases in pension contributions by State employees instead. If that doesn't occur, whether or not he will seek to continue the furloughs into the next fiscal year (beginning in July) remains to be seen.



Have You Been Getting Our Emails?

Because some issues move quickly, PECG has been increasingly emailing information to the members and fee payers to supplement issues of the Informer. Informers are mailed to homes, while emails are typically sent to work email addresses, unless the member requests otherwise.



that we have your current mailing address and preferred email address so that you can receive the latest information on issues that concern you.

PECG also has a telephone Hotline at (800) 403-2845, or (916) 446-PECG in Sacramento, and a website at www.pecg.org. Many PECG Sections also have websites. PECG has a Twitter page at www.twitter.com/pecg, which you can access from the PECG website.



If you have not been receiving PECG emails -- in January, there were two regarding continuous appropriation legislation and one summarizing the status of furloughs -- please contact the PECG office at (916) 446-0400, or pecg@pecg.org. It is important



All of these communication devices have one goal -- to provide you, the member, with the latest information and to receive any feedback, comments, or questions you may have.

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