

Supreme Court to Rule on Furloughs



When the Governor issued the Executive Order in December 2008 mandating furloughs for State employees, PECG was the first organization to file lawsuits challenging the Governor's authority to unilaterally reduce salaries. Several other organizations filed lawsuits shortly thereafter. PECG's case remained the lead action as several cases were consolidated at the Court of Appeal. All legal briefs had been filed, the Court's additional questions had been answered, and PECG was ready to proceed to oral argument.

In the meantime, the Governor and PECG each asked the State Supreme Court to accept jurisdiction of the case, along with several other lawsuits which had been filed by other groups. Rather than drag the process out for several years while Courts of Appeal issue conflicting rulings, PECG wanted the Supreme Court to resolve the matter.

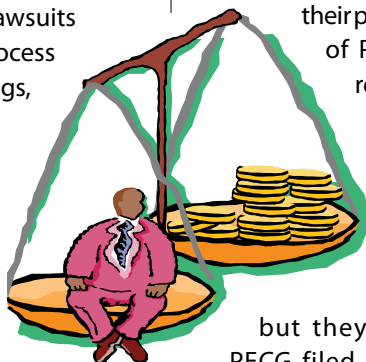
At first, the Supreme Court refused to accept the case. Then, on June 9, the Court agreed to take jurisdiction. It asked each of the parties to answer a couple of questions regarding the State Budget and current State law authorizing voluntary furloughs. The Court will then schedule oral argument and any other proceedings it wishes, after which it will issue a ruling on the lawsuit filed by PECG and others. If the court ruling is favorable, PECG's requested remedy is back pay for the reduced salary amounts for PECG-represented employees, beginning in February 2009 when the furlough program was initiated.

Meanwhile, the Governor has asked the Legislature to unilaterally cut employees' salaries through a continuing furlough or other similar program and increase the employee contribution to the retirement plan. If the Legislature refuses to do so as part of the Budget process, the Governor may seek to continue the furlough program.

The Supervisory Pay Issue

All PECG-represented employees, Unit 9, supervisory, and managerial, received pay raises in 2005, 2006, and 2007, based on provisions of the Unit 9 Memorandum of Understanding (MOU). The raises were based on a salary survey of local public agencies in California conducted by DPA and PECG each year.

However, in July 2008, Unit 9 employees received pay raises, but supervisors and managers did not. Technically, the MOU doesn't cover supervisors and their pay is determined by the Department of Personnel Administration (DPA), representing the Governor.



Several State department heads, as well as the then-director of DPA, urged the Governor's office to authorize the pay raises for PECG-represented supervisors, but they refused to do so. Ultimately, PECG filed a claim to require DPA to base the pay for supervisors on the principle of like pay for comparable duties, as established in the Government Code. DPA's response was to appoint an Administrative Law Judge (ALJ) to conduct a hearing and to make a recommendation to the DPA Director.

That process has turned out to be very slow. There were four days of hearing last fall. PECG

continued on page 2»

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THE SUPERVISORY PAY ISSUE

continued from page 1



presented testimony and evidence on several of the larger classes which showed that, in essence, supervisory Seniors have comparable duties to their counterpart Seniors in the Bargaining Units who received raises. However, there are dozens of supervisory classifications represented by PEGC and it became evident that scheduling days of hearing over an extended period of time would mean the process could drag on for months, or conceivably years.

Thus, PEGC decided to submit declarations, or sworn written statements, from representative employees in each of the supervisory classifications represented by PEGC. At first the ALJ agreed to accept declarations, but later she indicated that wouldn't be sufficient. However, she did not schedule any further days of hearing since last November.

In June, PEGC submitted all the declarations to DPA, along with PEGC's written closing arguments. Our request is that the ALJ consider the hearing to be closed, look at the evidence PEGC has submitted, and present a recommendation to the DPA Director that all of the PEGC-represented supervisory employees should receive raises retroactive to July 2008 equal to the 10.1% raises received by Bargaining Unit Seniors. (Technically, managerial employees represented by PEGC are not covered by the hearing process, but would certainly be impacted by any salary increases at lower levels).



The ALJ responded by asking for some additional information, which will be provided.

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