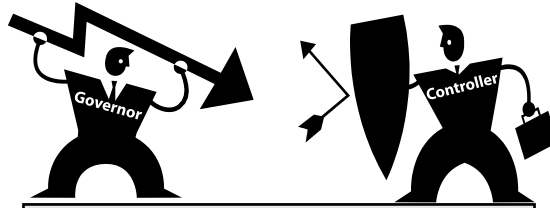


Minimum Wage? No, Thanks!

Governor Schwarzenegger issued an **Executive Order** on July 31 ordering that state employee salaries be reduced to the **federal minimum wage of \$6.55 per hour** for "those non-exempt FLSA employees who did not work any overtime" in August. This would remain in effect until a new State Budget is passed by the Legislature and signed by the Governor. The fiscal year began on July 1 and, thus far, little progress has been made toward adopting a State Budget for the current year.

The rationale for the action is that the State is not authorized to write checks in the absence of a State Budget. One exception would be instances in which federal law might require payments. Under the Federal Fair Labor Standards Act (FLSA), covered employees (typically those who are at the Associate/Range D level or below) are entitled to receive at least the federal minimum wage. Also, the FLSA requires that any employee who works **overtime** is entitled to their full salary plus time and a half, not the minimum wage.

The Executive Order also **froze hiring, transfers, promotions, and overtime**. It ordered **termination** of retired annuitants,



WWG 2 Employees Exempt from the Executive Order:

- California Highway Patrol
- Department of Transportation
- Agriculture Security and Emergency Response
- Department of Veterans Affairs
- Department of Developmental Affairs
- Department of Mental Health
- Military (National Guard)
- Office of Emergency Services
- Department of Water Resources
- Department of Forestry (Cal Fire)
- Department of Parks and Recreation
- California Conservation Corps
- Office of Spill Prevention
- Department of Fish and Game

permanent intermittent employees, seasonal employees, temporary help workers, and student assistants. The Order would **not** apply to services and functions "related to the preservation and protection of human life and safety".

Paychecks are issued by **State Controller John Chiang**. Later that day, Controller Chiang wrote the Governor that "**I will not comply with the Order**," which was consistent with what he had been saying for months. The Controller said that even if the Governor's interpretation of the law is correct, it is "infeasible, if not impossible" to pay some people nothing, others something, and yet others a full salary "due to technical limitations inherent in the payroll system". Controller Chiang said that if he didn't do it correctly, it would expose the state to treble (triple) damages for failing to comply with federal law.

The Governor had said the State is about to run out of money to pay its bills. The Controller said there's plenty of money available, at least through September. After that, there could be external borrowing if needed, whether or not a State budget is in place by then.

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MINIMUM WAGE? NO, THANKS!

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In previous years, in similar situations, Governors have attempted to issue various forms of IOUs, scrip, or registered warrants. The courts have ruled that all of those alternatives are illegal.

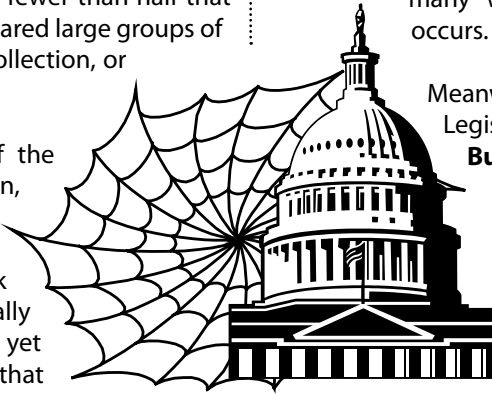
The Governor's order anticipated termination of 22,000 temporary employees. In the final analysis, fewer than half that number lost their jobs, as departments declared large groups of them to be necessary for safety, revenue collection, or other purposes.

On August 5, the Governor's Director of the Department of Personnel Administration, which is responsible for the pay program, sent Controller Chiang a letter authorizing the minimum wage for some, \$455 per week for Work Week Group E employees (typically Senior and above), and nothing at all for yet another group. The newspapers reported that doctors, attorneys, and engineers would receive no pay, but DPA immediately informed PECG that that was incorrect -- it should have said doctors and lawyers, not engineers.

In any event, Controller Chiang reiterated that he does not have to obey the Executive Order, does not intend to do so, and everyone will be paid in full. Meanwhile, the Governor's Office issued a **list of departments whose Work Week Group 2 employees are exempt from his Executive Order.** WWG 2

employees, typically Associate/Range D and below, in those departments would receive full paychecks on time.

All parties have agreed that all state employees will receive their full salary once the Budget is passed; the issue is whether many will receive a lesser amount until that occurs.



Meanwhile, little progress has been made in the Legislature regarding passage of the **State Budget.** The Governor recently entered Budget discussions by proposing a 1% increase in the sales tax, which would raise \$4 billion to \$5 billion per year. However, Republican legislators have signed a pledge to oppose any tax increase and Democrats aren't particularly enamored of the Governor's selection of the sales tax, rather than

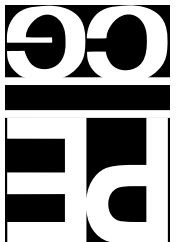
some other revenue generating method. Thus, the Budget impasse continues, as this is written.

PECG has worked closely with the Controller's Office, legislators, and other organizations to ensure that all PECG-represented employees will receive their full paychecks on time in August, September, and every other month. PECG's active involvement will continue until these issues are resolved.

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