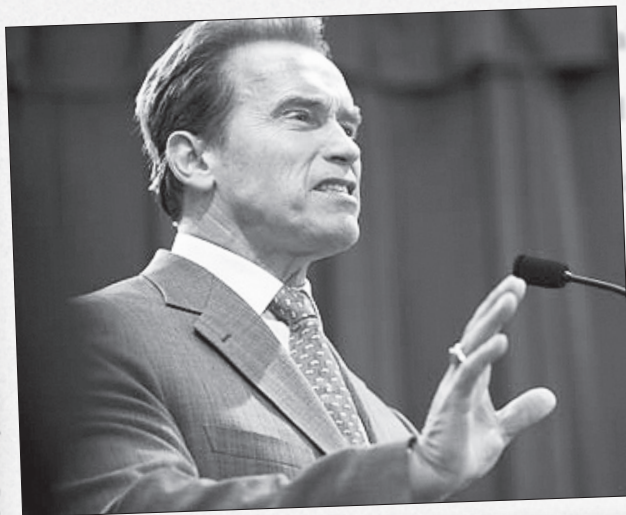


JANUARY 13, 2010

# UNION UPDATE

LOCAL 1000  
**SEIU**  
Stronger Together

Each State agency has differing needs relating to its functions and to the



**“... when furloughs are implemented to save money, yet their implementation in some agencies saves nothing and increases costs, such a policy is arbitrary, capricious and unlawful.”**

—Superior Court Judge Frank Roesch

## Furloughs ruled illegal

### Judge's order may impact 50,000 'special fund' workers

Agreeing with Local 1000's attorneys, a judge determined that Gov. Arnold Schwarzenegger acted illegally by placing tens of thousands of state employees on unpaid furloughs. Schwarzenegger's use of furloughs was an “abuse of discretion” that ignored legal restrictions on furloughs, interfered with operations of state agencies, and achieved questionable savings, stated Alameda County Superior Court Judge Frank Roesch in a Dec. 31 ruling.

***“We said all along that the governor's actions are illegal.”***

—Yvonne Walker  
Local 1000 president

At a minimum, the judge ordered the governor to “cease and desist” the furlough of Local 1000-represented employees whose salaries are not paid with money from the General Fund. Additional litigation may be necessary to clarify whether the order extends to state employees whose salaries are paid from the General Fund. “We said all along that the governor's actions are illegal,” said Local 1000 President Yvonne Walker.

The ruling is the second consecutive legal victory for Local 1000 on the furlough issue. In November, a San Francisco Superior Court judge ruled that the governor violated the state insurance code

when he included State Fund employees in his unilateral furlough orders.

“I am glad that this judge stood up to Arnold Schwarzenegger and followed the law,” said Renee Lee, a Franchise Tax Board employee who is in foreclosure because of the furloughs.

An administration spokesperson said the governor would appeal and that an automatic suspension of Roesch's order will result—leaving furloughs in effect and halting consideration of back pay—while an appellate panel considers the case. But Local 1000 attorneys said they would ask Roesch to put the ruling into immediate effect and stop the furloughs during the appeal. In the State Fund case, the judge ordered an immediate end to furloughs and reinstatement of back pay.

“It remains to be seen whether the governor will continue to waste scarce state resources litigating this issue rather than simply complying with the court's order,” said Walker.

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**Local 1000 President Yvonne Walker will be answering your questions live.**

**6 p.m. Mon., Jan. 25**

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## Walker calls for performance-based budgeting

Gov. Arnold Schwarzenegger's plan to replace furloughs with a pay cut and an increase in mandatory pension contributions amount to an illegal permanent 10 percent pay cut.

"Any changes to our contract must be bargained," Local 1000 President Yvonne Walker said. "We have a contract that is currently in effect – one that specifies salary and retirement contributions – and that can't be amended by the state unless they negotiate with Local 1000."

***"Any changes to our contract must be bargained."***

—Yvonne Walker  
Local 1000 president

State law requires any change in Local 1000's contract, including any change in pay or pension contributions, must be bargained. Under the U.S. Constitution, an employer cannot unilaterally cut the pay of workers who are represented under a union contract.

"The governor wants to impose a permanent pay cut for what is a short-

term problem," Local 1000 President Yvonne Walker said. "What we need are long-term solutions."

Walker called on the governor and the Legislature to implement performance-based standards in budgeting, tax reform and private vendor contracts.

She said that any reform plan should include "performance-based budgeting with input from workers to ensure overall goals, quality standards and accountability."

Walker said that providing tax credits to create jobs in green technology is a good idea, but that all tax breaks need to be tied directly to performance. "If you don't create jobs, you don't get the tax break," Walker said.

Walker also called on the governor and legislators to apply performance standards to end waste in private vendor contracts. "Our research shows that the state can save more than \$350 million annually by shifting work to state service that is being done by private vendors at up to double the cost."

## Know Your Rights

### Governor's proposed pay cut must be bargained

The governor's proposed 2010-11 budget includes a 10 percent reduction in state employee compensation. Our Local 1000 contract, California Government Code, California state law (the Dills Act), the state constitution, and the United States Constitution all preclude a unilateral pay cut of union-represented employees.

Any changes to our contract must be bargained. Local 1000 has a contract that is currently in effect – one that specifies salary, working hours and retirement contributions made on behalf of state employees – and that contract can't be amended by the governor or the state unless they negotiate with Local 1000.

### The Dills Act

The Dills Act – landmark legislation that allowed collective bargaining for state employees – requires the state to negotiate with Local 1000 over the terms of our contract, which includes the salary of our 95,000 represented employees.

### Government Code

Two key sections of California's Government Code stipulate that our current contract is in effect. Section 3517.8 says "all terms and conditions of the MOU (Memorandum of Understanding) remain in full force and effect until a successor MOU is negotiated, or impasse procedures are exhausted and the employer implements its last, best and final offer."

Section 3516.5 says that the government must return to the bargaining table to make changes: "... (the) employer must give (Local 1000) notice on matters relating to any matter within the scope of representation ... and must meet and confer over those matters."

Additional language in other state statutes and the state constitution delegates to the Legislature the exclusive authority to change salary and work hours for represented state employees.