

Tough questions for DPA lawyers in special fund furlough challenge

Expected ruling may end furloughs for more than 53,000 workers

In response to a Local 1000 lawsuit, a judge has sharply questioned the legal basis for furloughing an estimated 53,860 state workers in agencies independent of the state's General Fund, demanding to know why an "emergency" executive order needs to remain in place for 17 months.

During a Nov. 16 hearing in Oakland, Alameda County Superior Court Judge Frank Roesch expressed frustration with Schwarzenegger's lawyers and their efforts to argue the legality of furloughing employees in non-General Fund departments.

Still an emergency?

During the hearing, Roesch repeatedly questioned Schwarzenegger's private attorney David Tyra and Department of Personnel Administration (DPA) lawyer Will Yamada why the state needs to rely on an "emergency" order that began in February 2009 and expires in June 2010.

"How can you have an emergency that's 17 months long?" Roesch asked. He then

asked the governor's lawyers to define "emergency." Tyra responded by comparing the state's financial problems to Hurricane Katrina. Local 1000 Senior Attorney Felix De La Torre and other union lawyers pointed out that the governor had other ways to balance the budget besides furloughs, noting that the constitutional officers all balanced their budgets without implementing the emergency furlough order.

Furlough orders illegal

De La Torre argued that Schwarzenegger violated state law when he failed to consider the operational needs of those "special fund" departments before he ordered furloughs. Cutting employee pay in these departments did not



SEIU Local 1000 members join other state workers to protest the illegal furloughs on a pedestrian bridge above Interstate 80 in Berkeley on Nov. 20.

meet the operational needs of those special funded agencies which were unaffected by the General Fund deficit, De La Torre said. "California law only allows furloughs to meet the specific needs of the different state departments," De La Torre argued. "The governor's executive orders mandating furloughs exceed the scope of his legal authority."

Using the Employment Development Department (EDD) as an example, De La Torre showed that the state made no effort to see what staffing levels were appropriate. In February, the state began furloughing EDD employees. Then, two months later, Schwarzenegger announced he was increasing

resources at EDD because of increased unemployment insurance applications.

Gov. admits mistakes

Schwarzenegger's attorneys conceded that in some departments worker furloughs were costing the state federal money or leading to uncollected revenues. Their main defense was a concept of spreading the pain or parity – which the judge found very vague.

"Is there any other rational basis for furloughs beyond this issue of labor parity?" Roesch asked the government attorneys.

Roesch said he planned to issue a written decision. But as of press time, it was unclear when he would release it.

KNOW YOUR RIGHTS

YOUR UNION CONTRACT PROTECTIONS

As our bargaining teams work to secure a fair contract, your rights to take action in support of Local 1000 are protected by California state law and provisions in our union contract. If you are ever prevented from exercising your right to participate in any way, contact your Local 1000 job steward.

Your protected rights to support your union

Express your union beliefs	Your right to support the union and to express pro-union opinions to other employees and to management. (Government Code section 3512 et seq. – “Dills Act”)
Wear your union colors	Your right to wear buttons and stickers, and to wear union clothing. (Dills Act)
Display union materials	Your right to post and display union materials inside your workspace. (Dills Act)
Distribute union materials	Your right to distribute union materials during non-work time. (Contract Article 2.4)
Post union materials	Your right to display union materials on appropriate bulletin boards. (Contract Article 2.4)
Attend union meetings	Your right to attend union meetings on non-work time. (Contract Article 2.5 and Dills Act)
Picket and demonstrate	Your right to picket or demonstrate in support of the union during non-work time. (Dills Act)

Connect with Local 1000 through social networking

Local 1000 members can now keep track of breaking union news via Twitter and Facebook.

The new SEIU Local 1000 Facebook page provides members a place to gather, share opinions and get relevant information about the union. Find us on Facebook by searching for “SEIU Local 1000” at facebook.com. (Note: The SEIU Local 1000 fan page is replacing the Channel 1000 fan page, which will be deleted on Jan. 4, 2010. Current fans of Channel 1000 should become fans of the new SEIU Local 1000 page.)

Local 1000 uses Twitter to update members with relevant union news and information. Twitter is a free service enabling users to send and receive short text-based messages from a computer, mobile phone or other Internet-enabled device. Visit twitter.com/seiu1000 to start following Local 1000 news in real time.



Local 1000 Resource Center

STATS

In addition to Columbus Day Grievances, the Local 1000 Union Resource Center is processing:

- More than 1700 grievances
- More than 100 DPA Appeals
- More than 30 unfair labor practices
- More than 900 SPB appeals

The departments with the most filings are:

1. Department of Corrections and Rehabilitation (CDCR)
2. Employment Development Department (EDD)
3. Caltrans
4. Department of Motor Vehicles (DMV)

Since its opening, the Local 1000 Call Center has received more than 4,800 calls. The week of Nov. 16 had more than 1,700 calls processed; and more than 56 percent of members had their issue resolved by the first Member Resource Representative on the first call.



Local 1000 Resource Center

visit our website seiu1000.org

866-471-SEIU (7348)

Monday – Friday, 7 a.m – 7 p.m.

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