



CSLEA ALERT

July 7-July 21, 2009

www.cslea.com

POC playing on fears in final act of its farce

-- Group expected to be out of business in six to eight weeks

With California zipping past \$24 billion in debt and the Governor ordering a third furlough day, there has never been a better time to stir panic, create mischief, or simply voice the most bald-faced lies among the ranks of state employees.

This is what POC (Peace Officers of California) has been doing with its most recent email, which claims that “the Barcelona administration bargained away our right to contest furloughs (Section 9.22 of the CSLEA contract).”

An investigation of the facts, however, proves otherwise, which might explain why POC did not put the actual language of the Section in its e-mail.

The language actually protects us against furloughs and gives us grounds to file a grievance. The Unit 7 contract specifically states that it will not be a bar to furloughs imposed by the budget act or other legislation. It does not recognize furloughs issued by executive order of the Governor.

In fact, CSLEA had the foresight to recognize that the legislature would not be the problem with furloughs, which is why it was the only bargaining unit in state government to have language put in its contract specifically addressing furloughs.

The good news is that most everyone is seeing POC's rhetoric for what it is—the last gasps of an entity struggling to stay afloat. In a previous e-mail, POC was begging for money to stay alive—all the while recommending its readers hold on to their CSLEA benefits!

From its very beginning to its soon-to-be end, POC has acted unprofessionally and in ways unbecoming of peace officers. For the entire time CSLEA President Alan Barcelona has been at the helm, pension and benefits have been protected and in the last contract alone, CSLEA-member peace officers received raises of between 17 percent and 25 percent and another 5 percent on January 1 of this year.

Also under his administration, peace officers received the enhanced pension benefit of 3% @50. But to hear POC tell it, the past 15 years things have gone from bad to worse. It's important to remember that POC was founded by a few Fish and Game Wardens upset that their raises didn't increase by 43 percent, even if it meant throwing fellow CSLEA peace officers under the bus in order to get them.



CSLEA has steadfastly resisted the temptation to stoop to POC's level, because when it is all over, CSLEA will still remain the bargaining association for all Unit 7 state employees, and it simply wasn't worth jeopardizing the respect and trust Barcelona and the CSLEA Board of Directors have built up with the legislature, governor's office, and the Department of Personnel Administration over the years.

What remains of POC once it's finished is anyone's guess, but CSLEA will have lost none of its credibility and dignity that have served its members so well for so long in state government.

FAQ Frequently Asked Questions

Furloughs

Q: Does the Governor have the power to furlough state employees?

A: Yes. On Jan. 29 of this year, Sacramento Superior Court Judge Patrick Marlette ruled that he does.

Q: But I work for a separately elected constitutional officer (Lt. Gov., Attorney General, Secretary of State, Controller, Treasurer, Insurance Commissioner, Superintendent of Public Instruction, Board of Equalization) Does the Governor have the right to furlough me?

A: Yes. On March 12, Judge Marlette broadened his decision to include state employees in separately elected constitutional offices as well. That decision has been appealed.

Q: But I work for an agency that gets its operating money from a special fund, not the state's General Fund. Why is the Governor furloughing employees of special-funded agencies?

A: According to the Department of Personnel Administration (DPA), money paying for agencies and departments outside the General Fund can be borrowed for other purposes, which means special-fund agencies have to cut costs as well, which includes using furloughs to do so. The administration argues that with very few exceptions, no departments or agencies are totally self-financing and do receive some General Fund money.

Q: Is CSLEA fighting the Governor's furloughs?

A: Yes. On Feb. 13, CSLEA filed a grievance with the DPA challenging the furloughs.

Q: On what grounds is CSLEA challenging the furloughs?

A: Article 9.22 of the Unit 7 contract, which by law is still in effect, even though it has expired. The Unit 7 contract specifically states that it will not be a bar to furloughs imposed by the *legislature*. It does not recognize furloughs issued by Executive Order of the Governor.

Q: What is the status of the challenge?

A: An arbiter has yet to be assigned.

Q: But still, didn't CSLEA bargain away furlough protection, if not to the Governor, then at least to the legislature?

A: No. Any legislatively imposed furlough is subject to a 30-day period of bargaining over the impact, under the CSLEA contract negotiated. CSLEA is the only bargaining unit in state government with this protective clause.

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Q: I noticed some state employees, such as CSLEA members at the Department of Justice, Department of Insurance, and Cal FIRE have not been furloughed. How come?

A: Because even though the Superior Court ruled the Governor did have the power to furlough the employees of other constitutional offices, some of those constitutional officers appealed that decision and were successful in winning a stay on the furlough order until an appellate court reviews the challenge. As for Cal FIRE employees, the Governor exempted them for help with the fire season.

Contract

Q: How come SEIU 1000 has a contract?

A: SEIU 1000 does NOT have a contract. It failed to get enough votes in the legislature and when voters rejected five of the six May ballot initiatives, it made certain it would not have a contract sooner than any one else.

Q: How come the Highway Patrol has a contract?

A: As reported by the *Sacramento Bee*, "Highway Patrolmen are the only state employee union under contract. Any furlough would have required reopening that deal and getting lawmakers to sign off on it. Every other union has been without a contract for at least a year, some far longer. Several unions are suing to overturn the furlough order, citing their contracts' 'evergreen' clauses that keep expired terms in place until they reach a new agreement with the state."

Q: So is CSLEA one of the unions with an evergreen clause?

A: Yes. Our last contract is in effect until a new one is negotiated.

Q: Does the Governor have the power to force every state employee to work for the minimum wage?

A: Yes. On Feb. 27, Sacramento Superior Judge Timothy Frawley ruled that the Governor can cut the pay of state workers to the federal minimum-wage rate when the legislature misses its budget deadline. Fortunately, prior to the issuance of Frawley's decision, CSLEA intervened in the litigation and removed it to federal court, which prevented the Governor from implementing the change when the state was last out of budget. CSLEA remains a party to the appeal of the Superior Court decision.

Q: So the Governor could bust us down to the minimum wage?

A: No. The Governor cannot implement minimum wages, because he and the legislature have signed a budget for Fiscal Year 2009-2010 appropriating funds for salaries. Though the budget is out of balance, a budget bill has been passed and funds for salaries have been appropriated.

Q: But couldn't the Governor make good on his promise to chop 5 percent of our salaries?

A: Highly unlikely. That would take the legislature to do, and in a one-on-one meeting with Senate President Pro Tem Darrell Steinberg, CSLEA President Alan Barcelona negotiated assurances from him that it would not happen.

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Retirement

Q: Does the Governor want to change the 3@50 retirement formula for sworn peace officers and firefighters?

A: No. For currently employed peace officers and firefighters. Yes. For those hired after July 1, 2009. According to his *Reforming State Employee Retirement Compensation* memo, “Promises made to existing employees cannot and should not be changed,” but for those hired after July 1, 2009, he would change the formula to 2.5@55

Q Does the Governor want to change the 2.5@55 retirement formula for non-sworn employees?

A: No. For currently employed state employees. Yes. For those hired after July 1, 2009. He proposes changing the formula to 2@55

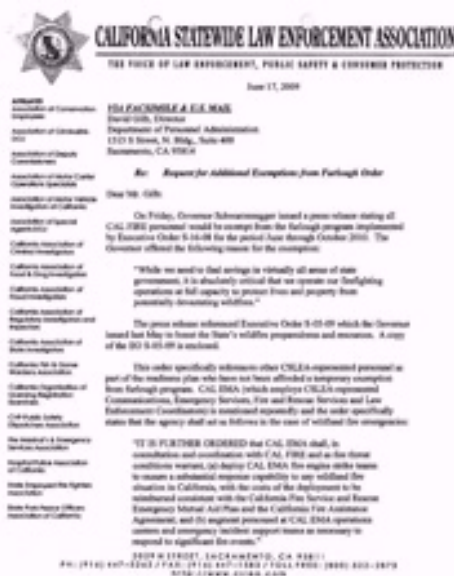
Q: Will CSLEA fight this?

A: Absolutely. Our members do not have typical state employee jobs, but instead put their lives on the line, are in constant danger from a hostile public, and have high-stress positions that take a physical and mental toll on their bodies.

Q: Why doesn't CSLEA get tougher with the Governor?

A: Because the Governor has enormous power over state employees, a power that has actually increased during this budget crisis. Even in the best of times, his DPA could make it difficult to get a fairer contract, he can veto any contract agreement the legislature hands him, and even if he likes the contract agreement, he can still strike parts of it he doesn't like. And – as we have seen this year – he can furlough as often as he likes. It would not pay to strike a defiant posture. CSLEA's firm but professional conduct is the reason it was farther along the negotiation process with DPA than other unions, before the crisis hit.

CSLEA seeks to have additional furloughs exempted



On June 12, Gov. Arnold Schwarzenegger issued a press release announcing that all CAL FIRE employees would be exempt from the furlough program implemented by his Executive Order. The stated purpose of the exemption, which runs through October 2010, was to allocate sufficient resources to combat fires during the upcoming fire season. The scope of the exemption presently includes only Unit 7 CAL FIRE Communications Operators. In light of the fact, however, that a number of other Unit 7 classifications also provide vital services in combating fires, CSLEA President Alan Barcelona wrote a June 17 letter to Department of Personnel Director David Gilb reminding him of the significant contributions of CSLEA-represented:

- CAL EMA Fire and Emergency Services Coordinators
- Department of Military and Veterans Affairs Firefighters/Security Officers
- California Conservation Corps Conservationists
- and California Highway Patrol Public Safety Dispatchers.

CSLEA is awaiting the response from DPA and the Governor.

President's Mid-Year Report

This Fourth of July was like none other, and if you're an employee for the state of California, you can only hope there will never be another like it.

- The budget deficit is now speeding past its original \$24 billion estimate
- As of this report, Gov. Arnold Schwarzenegger and the legislature still cannot agree on a new spending plan, with state employees caught in the crossfire
- On July 1, the Governor ordered a third furlough day (first three Fridays of every month) for all non-emergency state employees, a power he was granted by a Superior Court decision
- State Controller John Chiang will start issuing \$3.36 billion in IOUs this month to companies doing business with the state and to taxpayers owed refunds
- Cities up and down California have canceled their fireworks shows, while others contemplate bankruptcy.

There is no positive spin to put on the dire condition California is in, especially not for the public servants who work for it.

It's time, instead, to check on the foundations, anchors, moorings, and ropes holding us securely down long enough to weather the storm. For CSLEA members, this means looking at three key issues

Pension Reform

As a result of CSLEA's successful lobbying in the past, a thin silver lining in the budget crisis can be seen in the fact that absolutely no one with any influence in the matter is talking seriously about taking away the current 3 percent at 50 for sworn and 2.5 percent at 55 for non-sworn retirement formulas.

What the Governor and others are considering, however, is trimming the formulas to 2.5 percent at 55 for sworn and 2 percent at 55 for non-sworn members hired after July 1, 2009. CSLEA will lobby against these changes by reminding lawmakers of three important things:



CSLEA President Alan Barcelona, left, meets with Senate President Pro Tem Darrell Steinberg.

- the nature of the jobs our members do and the increasing dangers they face have not changed, so the next generation of CSLEA members are not less worthy of full benefits than the previous generation
- long before the budget crisis, the state of California was already at a competitive disadvantage against local and federal agencies in recruiting and retaining qualified public safety professionals. The security of a fair retirement was the only negotiating leverage the state had. Depriving a newer generation of this benefit would only exacerbate and already bad recruiting and retention problem
- and, it's very unfortunate, but many CSLEA members, especially in the ranks of our sworn officers, never get to fully enjoy their retirement, hobbled, as many of them are, by injuries incurred from a lifetime of chasing and apprehending the most violent criminals in society or – even worse – by a death much too soon.

Salaries

Bargaining with all state employee unions has come to halt during the budget crisis, but CSLEA had
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moved farther along than most in forging a new contract with the Department of Personnel Administration. Once the green light is given to re-start talks, CSLEA will be much farther down the road than other bargaining units.

Security

My proudest accomplishment as CSLEA president has been to construct the most respected legal and labor commitment to represent our members before any agency or department of state government.

The CSLEA Board of Directors and I wanted to spend our members' money wisely by not using outside counsel that might have only a vague familiarity with the issues our members encounter. This is why we built a legal team -- now of seven attorneys -- who work full-time for CSLEA and who are more expert in their areas than any of the attorneys the state sends to challenge them.

Add to this team one labor representative and three field representatives who have provided a fantastic member services.

The Big Questions

There are those who wonder if union representation matters much anymore. I believe this state budget crisis shows its importance better than anything else:

- Do you think you could have ever negotiated a better salary and benefits plan for yourself than as a member of a larger group?
- Do you think you would be safer from a layoff or a furlough as an independent contractor?
- Do you think every supervisor or manager you will ever have will love you so much that playing with your schedule or vacation time would never occur to them?

I believe you know the right answer to each of these questions. Being part of a well-respected 7,000-member association means—at its most fundamental level—that:

- a Department of Personnel Administration can never under-compensate your sweat and toil

- a Governor and legislature can never easily dismiss you
- and a nasty supervisor can never get away with treating you poorly.

I encourage every CSLEA member to price the cost of an attorney these days, (\$175 to \$300 an hour) and then multiply that times the days, months, and even years it takes to reach an agreement. You, on the other hand, have legal representation at your disposal from part of your dues money. Just as in our country's first name, United we will emerge victorious.



CSLEA Barbeque

The CSLEA Board of Directors invites all CSLEA members to a barbeque on Saturday, October 10, between 11:30 a.m. and 4 p.m.

The BBQ will be held at CSLEA headquarters, 2029 H St., in Sacramento and takes the place of this year's CSLEA Conference.

This is an opportunity to hear from top policymakers and meet your fellow CSLEA members. There will be free food, beverages, and a gift bag.

Reservations are required and can be made between August 1 and September 25 with Richard Cota, rmc08@verizon.net, or Tina Brazil, spittvkitty@sbcglobal.net.

Member Meetings



Deputy Commissioners discuss real estate and state budget meltdown

Deputy Commissioners from throughout California met June 30 in Los Angeles to discuss the dramatic downturn in the real estate market and to adapt their investigative techniques to new market conditions.

The Association of Deputy Commissioners (ADC) hosted a reception for attendees at the Buena Vista Lounge in the Westin Bonaventure Hotel, following the first day of the two-day Department of Real Estate seminar.

The reception included a presentation by CSLEA Legislative Liaison Coby Pizzotti on employment issues related to California's budget crisis.

Mr. Pizzotti's presentation covered a wide range of issues and was eagerly anticipated by Deputies who learned late Friday that they were due to suffer a third unpaid furlough day.

CSLEA Legal Counsel Jim Vitko provided each member with information necessary to secure staff assistance.

The spectacular venue and informative speakers drew a large audience that showed their appreciation for recent CSLEA efforts to defend workers and keep ADC members informed.

*-- Submitted by Marcus Nenn,
President, Association of Deputy Commissioners*

CSLEA and ASH police chief join forces for better officer safety

At a recent meeting at Atascadero State Hospital, CSLEA Legislative Advocate Coby Pizzotti and HPAC board members Lorenzo Indick, Lisa Lander, Luis Jimenez, and Thomas Pica met with police Chief Larry Holt to discuss the issue of gassing.

Currently, the crime of gassing a hospital police officer can only be prosecuted as misdemeanor battery. But it is a felony to gas a correctional officer and/or other custodial officers, such as youth authority and county sheriffs.

The terror of being gassed lives with each of our HPO's on a daily basis. Last month, a patient at ASH, knowing he had HIV and HEP C, gassed two officers in a premeditated assault. Officers who are assaulted with gas not only have the worry if the patient has transmitted the disease to them, but also have to worry about potentially transmitting the disease to their family members. Chief Holt called CSLEA and HPAC President Lorenzo Indick to discuss pushing legislation next year to fully protect officers under the law.

After the meeting with Chief Holt, the HPAC Board members and the CSLEA representative had a very productive conversation on a wide variety of issue ranging from making the R&R PERS-able to relations between ASH and CSLEA/HPAC.



ASA-DOJ, CSLEA team up for awareness campaign on cuts to Bureau of Narcotic Enforcement

Come what may from any final budget agreement, Californians have a new appreciation – and for some, a new acquaintance – with the Bureau of Narcotic Enforcement (BNE) at the state’s Department of Justice, thanks to an awareness campaign launched by ASA-DOJ and CSLEA in June.

Legislators had thought they could quietly chop \$20 million from BNE without a peep of protest. They were wrong. By the time 50 BNE special agents visited lawmakers in the capitol on June 24, all 120 senators and assembly members were painfully aware of the noise ASA-DOJ and CSLEA made with the public at large.

While all the state’s media received the information, special emphasis was placed on San Diego and Imperial counties where lawmakers represent districts bordering or nearby Mexico.

The paid media component included:

- A full-page ad in *Capitol Weekly* on June 19, 26, and July 3
- A full-page ad in the *San Diego Union-Tribune* on June 22
- A week-long flight of radio ads on San Diego stations KOGO-AM and KFMB-AM

The earned media component included:

- Four statewide press release on June 18, 22, 23, and 24
- In-person interview with the capitol bureau of the *Sacramento Bee*

- Phone interviews with the capitol bureau of the *Associated Press*
- Call-in interviews with radio stations throughout California
- In-studio interviews with Loyd and fellow BNE Special Agent Ernie Limon on San Diego channels NBC 7 and San Diego 6 News



The Bee ran three articles, one in its Capitol Alert, two on its State Worker blog, but the biggest media bang came from the *Associated Press* story, which by Sunday morning, June 28, was in print or on the Web sites of the *San Francisco Chronicle*, *San Diego Union-Tribune*, *San Jose Mercury*, *Contra Costa Times*, *Oakland Tribune*, *Torrance Daily Breeze*, and numerous other dailies up and down the state. It also appeared on dozens of Web sites of ABC, CBS, NBC, Fox, and CW affiliates throughout the Golden State, as well as on the sites of many all-news radio stations.

In his lengthy dispatch, *AP* reporter Don Thompson quotes Attorney General Jerry Brown calling the cuts a “terrible budgetary decision. The Bureau of

Narcotic Enforcement has some of the best-trained agents in the world that are going after drug cartels, that are providing assistance to local law enforcement agencies.”

The \$20 million cut will shutter 51 task forces throughout the state and eliminate 70 special agent positions. “What happens if these task forces close? There’s really nobody to fill the void,” the *AP* quotes ASA-DOJ President Mike Loyd, who is also a commander of the Imperial County Narcotic Task Force.