

# CONTROLLER JOHN CHIANG

## STATE OF CALIFORNIA

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## Chiang Files Briefs Arguing Governor's Attempt to Furlough State Employees is Illegal

**SACRAMENTO** – State Controller John Chiang late Tuesday filed [court documents](#) arguing the Governor's attempt to furlough state workers for two days each month is unlawful.

“For more than 15 years, state employees have stepped up in times of budget crisis to bear a fair share of the sacrifice necessary to sustain the fiscal health of the State. Past Governors – Republican and Democrat – have succeeded in working with organizations representing public servants to forge tough compromises. Rather than using an unlawful executive fiat, they did so in accordance with the law by negotiating at the bargaining table and through the legislative process,” Chiang said. “I urge the Governor and organized labor to follow that path to help the State through this fiscal crisis. I am confident that state employees, like all Californians, will find ways to tighten their belts.”

As State Controller, Chiang is the State's chief fiscal officer and is charged with issuing all State payments and administering the payroll for 301,000 state employees, including 59,400 employees of the California State University. Although he is named as a defendant in the lawsuit filed against the Governor by the Professional Engineers in California Government and the California Associations of Professional Scientists, Chiang's court filings agree with the plaintiffs'. The Controller argues that “the Governor is without authority to unilaterally furlough state employees,” and that absent a court order, the Controller will not implement a reduction in pay as ordered by the Governor.

“California law is clear that only the Legislature has ultimate authority over setting state employee salaries,” Chiang said. “While I agree with the Governor that State employees – like all Californians – must tighten their belts, it must be done so in a manner that is consistent with the rule of law.”

In his legal filing, the Controller noted Government Code Section 19826(b) prohibits the executive branch from establishing, adjusting or recommending a salary for represented employees. Sections 19851 and 19852 establish the 40-hour week for all employees while providing for the possibility of a four-day, 40-hour week. Unlawfully furloughing employees would violate these statutes and cost taxpayers tens of millions of dollars by having to pay employees full wages for the days in which no work was performed.

In 1992, state employees agreed to a Personal Leave Program in which they accepted reductions in pay, ranging from 5% to 7%, in exchange for leave credits. That agreement abided by both the Constitution and state law in that it was collectively bargained and then ratified by the Legislature. In 2003, a similar leave program resulting in salary reductions ranging from 4.62% to 4.75% was created through negotiations, and then approved by the Legislature.

(More)

In 2004, legislation was enacted to mandate that new employees serve at least 24 months before receiving traditional retirement rights. In 2006, changes were made to increase the contributions that newly-hired state employees pay toward their dependents' health benefit coverage. That change also was negotiated and approved by the Legislature.

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