

SUPREME COURT OF CALIFORNIA

Professional Engineers in California Government v. Schwarzenegger

50 Cal. 4th 989 (Cal. 2010) · No. S183411 · Decided October 4, 2010

SUMMARY

The California Supreme Court considered whether the Governor could unilaterally impose mandatory unpaid furloughs that reduced the compensation of represented state employees during a fiscal emergency. The court concluded that the Governor had authority to impose such a furlough only if authorized by an applicable memorandum of understanding, but held that subsequent legislation revising the 2008 Budget Act ratified and validated the challenged two-day-per-month furlough program. The court therefore rejected the plaintiffs’ challenge.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of California                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| WRITING FOR THE COURT | George, C. J.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| JURISDICTION          | California                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| DECIDED               | October 4, 2010                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| DOCKET                | S183411                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| PROCEDURAL POSTURE    | Employee organizations filed petitions for writ of mandate and declaratory relief in the Sacramento Superior Court challenging the Governor's executive order imposing a two-day-per-month unpaid furlough on represented state employees. The superior court denied the petitions and ordered the State Controller to comply with the order. The employee organizations and the Controller appealed; the California Supreme Court transferred the consolidated matter from the Court of Appeal for argument and decision. |
| STANDARD OF REVIEW    | Independent review of statutory and constitutional interpretation and the validity of the executive order; review of writ proceedings based on the applicable law and undisputed chronology.                                                                                                                                                                                                                                                                                                                               |
| PRECEDENTIAL VALUE    | published and precedential                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| PARTIES               | Professional Engineers in California Government, California Association of Professional Scientists, California Attorneys, Administrative Law Judges and Hearing Officers in State                                                                                                                                                                                                                                                                                                                                          |

Employment, Service Employees International Union Local 1000,  
John Chiang, as State Controller v. Arnold Schwarzenegger, as  
Governor, Department of Personnel Administration, State of California

## TOPICS

employment law labor law statutory interpretation administrative law civil procedure

## PRACTICE AREAS

employment law labor law administrative law constitutional law

## QUESTIONS PRESENTED

1. Whether the Governor possessed constitutional or statutory authority to impose unilaterally a mandatory unpaid furlough reducing the wages and hours of represented state employees.
2. Whether Government Code sections 19851, 19849, or 3516.5 authorized the Governor or Department of Personnel Administration to impose the furlough.
3. Whether applicable memoranda of understanding authorized the unilateral furlough.
4. Whether the Legislature's February 2009 revisions to the 2008 Budget Act ratified and validated the furlough program despite any lack of initial executive authority.

## HOLDINGS

1. The Governor and Department of Personnel Administration lacked authority to impose unilaterally a mandatory unpaid furlough reducing the wages and worktime of represented state employees unless an applicable memorandum of understanding specifically granted that authority.
2. Government Code sections 19851, 19849, and 3516.5 did not independently authorize the Governor or Department of Personnel Administration to impose the challenged mandatory unpaid furlough.
3. The February 2009 budget legislation authorized the reduction in employee compensation to be achieved through the then-existing two-day-per-month furlough plan and thereby validated the program.

## KEY QUOTATIONS

*“Accordingly, we conclude that the 2009 budget legislation validated the Governor's furlough program here at issue, and reject plaintiffs' challenge to that program.”* (1000)

*“Accordingly, we conclude that under the Dills Act a state employer's unilateral authority to impose such a furlough on represented employees (in the absence of an impasse) is governed by the terms of the applicable MOU, rather than by any general statutory provision that applies in the absence of an MOU.”* (1041)

*“By enacting this provision, the Legislature, through the exercise of its own legislative prerogative, authorized the substantial reduction in the appropriations for employee compensation, mandated in the revised budget legislation, to be achieved through the two-day-a-month furlough plan.”* (1047-1048)

## FACTUAL BACKGROUND

California faced a severe fiscal emergency, including a projected deficit exceeding \$40 billion and the prospect of running out of cash to meet ordinary expenses. On December 19, 2008, the Governor issued an executive order directing a two-day-per-month unpaid furlough for most represented executive-branch employees, reducing their earnings by approximately 10 percent. The affected employee organizations challenged the order, while the Legislature subsequently enacted budget legislation reducing appropriations for employee compensation by amounts reflecting the furlough savings.

## PROCEDURAL HISTORY

The three related petitions were filed in December 2008 and January 2009. After an expedited joint hearing, the Sacramento Superior Court denied all petitions on the merits and entered judgment on February 11, 2009. The Court of Appeal denied a petition for supersedeas, and the Supreme Court transferred the consolidated appeals before Court of Appeal argument or decision. The Supreme Court held that the Governor initially lacked unilateral authority absent authorization in an applicable memorandum of understanding, but that subsequent budget legislation ratified and validated the furlough program.

## DISPOSITION

affirmed

## CASES CITED

- White v. Davis, 30 Cal. 4th 528, 533, 572-573 (2003)
- Pacific Legal Foundation v. Brown, 29 Cal. 3d 168, 181-196, 188-192 (1981)
- State Trial Attorneys' Assn. v. State of California, 63 Cal. App. 3d 298, 303 (1976)
- Marine Forests Society v. California Coastal Commission, 36 Cal. 4th 1, 31-42 (2005)
- Department of Personnel Administration v. Superior Court (Greene), 5 Cal. App. 4th 155 (1992)
- Tirapelle v. Davis, 20 Cal. App. 4th 1317 (1993)
- Shirk v. Vista Unified School District, 42 Cal. 4th 201, 211 (2007)
- Coalition of Concerned Communities, Inc. v. City of Los Angeles, 34 Cal. 4th 733, 737 (2004)