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June 23, 2010

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The Honorable Ronald M. George, Chief Justice,
and the Associate Justices of the California Supreme Court
Earl Warren Building
350 McAllister Street
San Francisco, CA 94102

Re: S183411 – *Professional Engineers in California Government v. Schwarzenegger, et al.*: Supplemental Letter Brief in Response to Court's June 9, 2010 Order

To The Honorable Ronald M. George, Chief Justice, and to the Associate Justices of the California Supreme Court:

Respondents Governor Arnold Schwarzenegger and Department of Personnel Administration ("DPA") (collectively, "State Respondents") submit this supplemental letter brief in response to the questions posed in this Court's June 9, 2010 Order.

QUESTION 1: What effect, if any, does Government Code section 19996.22 – which provides in part that "[a]ny employee . . . who has been required, by the appointing power, . . . to involuntarily reduce his or her worktime contrary to the intent of this article . . . may file a grievance with the department" – have on the validity of the Governor's executive order instituting a mandatory furlough on state employees?

SHORT ANSWER: Government Code section 19996.22, subdivision (a), which is a part of the Reduced Worktime Act, is inapposite to the issues before this Court and has no effect on the validity of the Governor's furlough Executive Orders.

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ANALYSIS:

Government Code section 19996.22, subdivision (a),[1] is a part of the Reduced Worktime Act. (§§ 19996.19-19996.29.) The Reduced Worktime Act was enacted in 1980 (Stats. 1980, c. 817, §1, SB 1859 (1979-80 Reg. Sess.).) and was originally codified at former Government Code section 18041, *et seq.* The act contains several provisions encouraging state departments and agencies to allow employees to choose to work less than 40-hour workweeks. It provides that when the DPA "determines that a reduction in the personnel of departments and agencies of state government equivalent to one percent (1%) or more or full-time equivalent jobs is contemplated in a single fiscal year," the DPA may conduct or direct surveys of affected employees to determine their willingness to voluntarily reduce their worktime. (§ 19996.21, subd. (b).) It also gives employees who have voluntarily reduced their worktime first priority to return to full-time work and provides that part-time employees "shall not routinely be subject to the layoff ahead of full-time employees." (§ 19996.24.) The act authorizes the DPA to adopt rules and guidelines for implementation, and also provides that a Memorandum of Understanding with a union is

[1] All statutory references are to the Government Code unless otherwise indicated.

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generally controlling over conflicting provisions of the act. (§ 19996.25.)

Finally, section 19996.22, subdivision (a), reads in full as follows:

> Any employee who is being coerced, or who has been required, by the appointing power, a supervisor, or another employee, to involuntarily reduce his or her worktime *contrary to the intent of this article*, or who has been unreasonably denied the right to participate in this program, may file a grievance with the department.

(Emphasis added.)[2]

In originally enacting the Reduced Worktime Act, the Legislature declared a state policy that, "to the extent feasible, reduced worktime be

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[2] The antecedent to section 19996.22, subdivision (a), was section 18043, subdivision (a), which read as follows:

> Any employee who is being coerced, or who has been required, by the appointing power, a supervisor, or another employee, to involuntarily reduce his or worktime contrary to the intent of this article, or who has been unreasonably denied the right to participate in this program, may file a grievance with the State Personnel Board pursuant to the provisions of Section 18714.

The change in the statute to reflect its current language permitting grievances to be filed with DPA was made in 1981 as part of the "Governor's Reorganization Plan No. 1." (Stats. 1981, c. 230, p. 1168, § 55, SB 668 (1981-82 Reg. Sess.).) Section 19996.22, subdivision (a), has not been amended since 1981.

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made available to employees who are unable, or who do not desire, to work standard working hours on a full-time basis." (§ 19996.21, subd. (a).) In 1988, the Legislature enacted a series of additional legislative findings and declarations with respect to the Reduced Worktime Act, which were codified at section 19996.19. (Stats. 1988, c. 256, § 1, SB 1408 (1987-88 Reg. Sess.).) This code section sets forth eight legislative findings and declarations regarding the Reduced Worktime Act at subdivision (a) and nine statements of legislative intent at subdivision (b).[3] Among other things, the findings contained at section 19996.19 explain that reduced working hours allow individuals who cannot work a 40-hour workweek due to responsibilities as caregivers to children or dependent adults, or due to disabilities, to contribute to their full potential. (§ 19996.19, subd. (a).)

Based upon these findings, the Legislature's declared intent underlying the Reduced Worktime Act includes providing "maximum employment opportunities" and the "realization of individual potential" through voluntary reduced worktime opportunities. (§ 19996.19, subds. (b)(1), (2).) Such opportunities are intended by the Legislature to "support the creation of a healthy balance between work and family needs" by encouraging "voluntary reduced worktime opportunities within the private

[3] The full text of section 19996.19 is set forth at the end of this letter brief.

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as well as the public sector." (§ 19996.19, subds. (b)(4), (5).) This goal is to be accomplished by "increas[ing] the numbers and kinds of public and private sector voluntary reduced worktime options." (§ 19996.19, subd. (b)(3).) The benefits from such increased opportunities through the "develop[ment] of policies and procedures which support the growth of voluntary reduced worktime positions," include "promot[ing] job stability," "strengthen[ing] the family," "promot[ing] domestic tranquility," and "benefit[ing] the family and society by promoting a balance between work and home." (§ 19996.19, subds. (b)(6), (7), (8).)

The legislative declarations, findings, and statements of legislative intent demonstrate the inapplicability of section 19996.22, subdivision (a), to the question of the validity of the Governor's Executive Orders mandating temporary furloughs of state employees to address a fiscal emergency. Section 19996.22, subdivision (a), provides employees a mechanism to grieve coerced or involuntary reductions in work hours "*contrary to the intent*" of the Reduced Worktime Act, which is to provide a means by which working parents and other caregivers can continue to provide service to the State while balancing the demands of their home life. Nowhere in the Legislature's statements of its intent regarding the Reduced Worktime Act is there any indication the Legislature intended it to

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constitute a restriction on the Governor's authority to furlough state employees temporarily to address a fiscal emergency.

The Governor's authority to furlough state employees by Executive Order in response to a fiscal emergency is derived from his constitutional role as the chief executive officer of the State of California (Cal. Const. Art. V, § 1), and the authority that role confers upon him to manage the State's finances and workforce. In addition, the Governor's authority to furlough state employees to address a fiscal emergency is derived from various statutes recognizing the Governor's inherent executive authority over the State's finances and resources. (See, e.g., Gov. Code §§ 1001, 12010, and 19851, subd. (b), which are discussed in briefing already before this Court.) The express legislative intent underlying the Reduced Worktime Act does not implicate, much less infringe upon, this inherent executive authority. The furloughs ordered by the Governor to address a fiscal and cash crisis are not, therefore, the type of coerced or involuntary reduction in work hours that are contrary to the intent of the Reduced Worktime Act so as to fall within the ambit of section 19996.22, subdivision (a).

Assuming for the sake of argument, section 19996.22, subdivision (a), applied to the Governor's furlough Executive Orders, such application would not invalidate them. Rather, application of section 19996.22,

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subdivision (a), to state employee furloughs would invalidate the numerous lawsuits challenging the Governor's furlough Executive Orders on the grounds of lack of subject matter jurisdiction.

It is well established that the failure to pursue a grievance procedure before filing a civil action is analogous to a failure to exhaust administrative remedies. (See *Service Employees International Union, Local 1000 v. Department of Personnel Administration* (2006) 142 Cal.App.4th 866, 869-870, 872.) "In general, a party must exhaust its available administrative remedies before resorting to the courts." (*County of Sacramento v. AFSCME Local 146* (2008) 165 Cal.App.4th 401, 409.) The rule of exhaustion "is not a matter of judicial discretion," but rather a fundamental rule establishing a "jurisdictional prerequisite to resort to the courts." (*Sierra Club v. San Joaquin Local Agency Formation Commission* (1999) 21 Cal.4th 489, 496.) "Absent such exhaustion, the courts have no subject matter jurisdiction to proceed." (*County of Sacramento, supra*, 165 Cal.App.4th at p. 409.) If the Governor's furlough Executive Orders are subject to the grievance process established by section 19996.22, subdivision (a), then the members of the various unions that have filed suits challenging those Executive Orders have failed to exhaust their administrative remedies, and the various courts that have adjudicated

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furlough challenges have lacked subject matter jurisdiction over those actions. Section 19996.22, subdivision (a), however, does not apply here either as a restriction upon the Governor's authority to institute temporary furloughs in response to a fiscal and cash crisis or to invalidate the numerous suits filed challenging that authority.

Accordingly, Section 19996.22, subdivision (a), is inapplicable to the issue before this Court and does not serve to invalidate the Governor's furlough Executive Orders.

QUESTION 2: What effect, if any, does the provision of the revised 2008 Budget Act, which reduced the appropriation for employee compensation for the 2008-09 fiscal year in an amount comparable to the savings sought to be achieved by the Governor's furlough order (Stats. 2009, 3d Ex. Sess. 2009-2010, ch. 2 § 36 (SB X3 2, § 36), passed by the Legislature and approved by the Governor on Feb. 20, 2009), have on (1) the validity of the Governor's executive order, and/or (2) the remedy, if any, to which the petitioning labor organizations may be entitled in these actions?

SHORT ANSWER: Section 3.90 of the revised Budget Act of 2008, as well as Section 3.90 of the Budget Act of 2009, validate the Governor's use of furloughs to achieve personnel cost savings. The separation of powers doctrine preclude the Court from ordering appropriations to provide monetary relief even if the Governor's Executive Orders furloughing state employees are invalidated.

ANALYSIS:

On February 19, 2009, the Legislature passed two budget bills: SBX3 1, the Budget Act of 2009, establishing budget appropriations for

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fiscal year 2009-2010, and SBX3 2, the revised Budget Act of 2008, amending budget appropriations for the remainder of fiscal year 2008-2009. The Governor signed them into law on February 20, 2009.

Section 36 of SBX3 2 added Section 3.90 to the Budget Act of 2008. It mandated that overall budget appropriations for fiscal year 2008-2009 be reduced in the total amount of $670,958,000 to reflect reductions in state employee compensation for that fiscal year. Of this total, $385,762,000 was to be reduced from General Fund items and $285,196,000 from items relating to other funds. In addition, Section 3.90 of the revised Budget Act of 2008 declared the Legislature's intent that additional reductions in state employee compensation in the total amount of $1,712,701,000 were to be achieved in the 2009-2010 fiscal year: $1,024,326,000 from General Fund items and $688,375,000 from items relating to other funds. Thus, Section 3.90 of the revised Budget Act of 2008 mandated $2,383,650,000 in total reductions in state employee compensation for fiscal years 2008-2009 and 2009-2010.

Pursuant to Section 3.90 of the revised Budget Act of 2008, the reductions in state employee compensation were to be achieved "through the collective bargaining process for represented employees *or through existing administration authority,*" with a proportionate reduction for

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nonrepresented employees. (SBX3 2, § 36 (emphasis added).) At the time SBX3 2 was passed, "existing administration authority" included the authority to furlough state employees pursuant to Executive Order S-16-08 and DPA's furlough plan as validated by the Sacramento County Superior Court's ruling on January 30, 2009. (Joint Appendix in *Professional Engineers in California Government, et al. v. Schwarzenegger, et al.*, Vol. III, Tab XX, pp. JA 660 – JA 672.)

Consistent with the expression of legislative intent in SBX3 2, Section 3.90 of SBX3 1 mandated reductions in overall budget appropriations of $1,024,326,000 from General Fund items and $688,375,000 from items relating to other funds, the same figures as used in Section 3.90 of the revised Budget Act of 2008. These savings were "to reflect a reduction in employee compensation achieved through the collective bargaining process for represented employees *or through existing administration authority* and a proportionate reduction for nonrepresented employees," the same language used in the revised Budget Act of 2008. (SBX3 1, § 3.90 (emphasis added).)

This Court has posed two questions regarding the revised Budget Act of 2008: (1) whether Section 3.90 of the revised 2008-2009 fiscal-year budget affects the validity of the Governor's Executive Order furloughing

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state employees and (2) whether the that same section of the revised Budget Act of 2008 affects the remedy, if any, to which the state employee unions may be entitled.

1. Sections 3.90 of the Revised Budget Act of 2008 and the Budget Act of 2009 Validate the Governor's Executive Orders Temporarily Furloughing State Employees.

Sections 3.90 of the revised Budget Act of 2008 and the Budget Act of 2009 provide legal authority for the Governor's Executive Orders furloughing state employees because they show that the Legislature validated the Governor's actions. In February 2009, when the legislators passed an amended budget and a budget for the upcoming fiscal year, they were performing a mandatory constitutional duty imposed upon them by the people of California. Unlike Congress, the California Legislature must pass a balanced budget. The voters have repeatedly confirmed this requirement. They placed a debt limit in the 1879 Constitution that prevents the State from incurring debts over $300,000 without voter approval. (Cal. Const., Art. XVI, § 1.) They gave the Governor the power to veto appropriations in the 1879 Constitution and then expanded that power in 1922 to allow the Governor to act to reduce appropriations in addition to vetoing them altogether. (Cal. Const., Art. IV, § 10, subd. (e).)

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In 2004, the voters made the balanced budget requirement explicit when they adopted Proposition 58. It states, in relevant part,

> "*[T]he Legislature may not send to the Governor for consideration, nor may the Governor sign into law*, a budget bill that would appropriate from the General Fund, for that fiscal year, a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the budget bill's passage, and the amount of any General Fund moneys transferred to the Budget Stabilization Account for that fiscal year pursuant to Section 20 of Article XVI, exceeds General Fund revenues for that fiscal year estimated as of the date of the budget bill's passage, …"

(Cal. Const., Art. IV, § 12, subd. (f) (emphasis added).)

In enacting the revised Budget Act of 2008 and the Budget Act of 2009, the Legislature was attempting to repair a budget for the existing fiscal year that had fallen far out of balance and, at the same time, enact a balanced budget for the upcoming fiscal year. Given the depth of the crisis, the Legislature supported, and indeed counted on, the furloughs as one of the necessary solutions to the fiscal and cash crisis. In "budget-speak," the Legislature "scored," or relied upon, the fiscal savings that would be achieved from furloughs. The fiscal assumptions underlying the personnel costs savings to be achieved by Sections 3.90 of the revised Budget Act of

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2008 and the Budget Act of 2009 included the assumption that state employees would be furloughed twice monthly pursuant to the Governor's Executive Order S-16-08. (See Request for Judicial Notice, Exhibit 1, Declaration of Diana Ducay filed in *Schwarzenegger v. Chiang*, Sacramento County Superior Court Case No. 34-2009-80000158-CU-WM-GDS, Third District Court of Appeal Case No. C061648, at ¶ 5.)

The Legislature's reliance upon the Governor's furloughs is shown by the language of the budget bills. Sections 3.90 of both budgets declared that reductions in state employee compensation were to be achieved either through the collective bargaining process or through "*existing administration authority.*" The Administration's authority that had been recognized at the time the revised Budget Act of 2008 and the Budget Act of 2009 were passed in February 2009 included the authority to furlough state employees on a temporary basis to address a fiscal and cash crisis. This authority had been confirmed by the Sacramento County Superior Court three weeks earlier in its January 30, 2009 ruling. (Joint Appendix in *Professional Engineers in California Government, et al. v. Schwarzenegger, et al.*, Vol. III, Tab XX, pp. JA 660 – JA 672.) Thus, "existing administration authority" included the authority to furlough state employees by executive order.

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In deciding to score furlough savings in its budget bills, the Legislature did not pass its responsibility off to the Governor. Since a balanced budget is constitutionally required, the Legislature was not free to enact a budget with insufficient revenue. Rather, the Legislature impliedly authorized the Governor to continue the furloughs in order to achieve needed budgetary savings. The Legislature's action supports the validity of the Executive Orders. As the Attorney General has observed, an executive order "need not be predicated upon some express statutory provision, but may be properly employed to effectuate a right, duty, or obligation which emanates from or may be implied from the Constitution or to enforce public policy embodied within the Constitution and laws." (63 Ops. Cal. Atty. Gen. 583 (1980) [opining that Governor's executive order barring discrimination based on sexual preference did not improperly infringe upon the Legislature with regard to civil service].) The duty to maintain a balanced budget is a duty and obligation created by the Constitution.

The Governor was entitled to use his authority as chief executive of the State to effectuate the Legislature's intent to realize the fiscal and cash savings from the furloughs. In an early case, *Spear v. Reeves* (1906) 148 Cal. 501, the Legislature passed a bill authorizing the sale of bonds to erect a sea-wall in the city and county of San Francisco, but failed to authorize

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any officer of the State to provide for publication of the bill in newspapers, as was required by the Constitution. (*Id.* at pp. 502-503.) This Court held that, although the Legislature could have directed a specific constitutional officer to provide for publication, the Governor nevertheless acted in accordance with his duty as chief executive officer responsible for the execution of the laws to direct the Secretary of State to arrange for publication. (*Id.* at p. 505.) *Spear* stands for the proposition that the Governor, as chief executive, may step into the breach and make sure that the laws are fully executed. Here, the Governor's Executive Orders allowed the state government to obey the constitutional requirement of maintaining a balanced budget.

Even absent the constitutional duty to maintain a balanced budget, the Legislature's action validates the Executive Orders. In one of the seminal cases on executive order authority, *Youngstown Sheet & Tube Co. v. Sawyer* (1952) 343 U.S. 579, the United States Supreme Court held that President Truman had exceeded his authority by exercising an authority Congress had specifically denied to him, *i.e.,* seizing steel mills to avoid a work stoppage. (*Id.* at p. 582, 587.) Concurring in this decision, Justice Robert Jackson observed that when the executive acts "pursuant to an express or implied authorization from Congress, his authority is at its

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maximum, for it includes all that he possesses in his own right plus all that Congress can delegate." (*Id.* at p. 635 (Jackson, J., concurring).) Such executive action "would be supported by the strongest of presumptions and the widest latitude of judicial interpretation, and the burden of persuasion would rest heavily upon any who might attack it." (*Id.* at pp. 636-637 (Jackson, J., concurring); *see also Dames & Moore v. Regan* (1981) 453 U.S. 654, 668 [noting that Justice Jackson's general summarization of the consequences resulting from various types of interactions between the President and Congress may be "analytically useful" but does not state an absolute rule].)

Here, the budget acts in question can be considered either an express or an implied approval by the Legislature of the furloughs. Thus, the Governor's Executive Orders are entitled to a strong presumption of validity.

2. The Separation of Powers Doctrine Precludes the Court from Ordering Appropriations to Provide a Monetary Remedy.

None of the state employee organizations that are parties to the present consolidated actions are entitled to any remedy stemming from the Governor's Executive Orders temporarily furloughing state employees. The Governor possesses the inherent constitutional, as well as statutory,

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authority to furlough state employees and, therefore, the trial court's judgment dismissing the unions' claims should therefore be affirmed. Assuming for the sake of argument the unions are entitled to relief in these actions in the form of an order invalidating the Governor's furlough Executive Order, a monetary award, such as a back pay remedy would be inappropriate because Sections 3.90 of the revised Budget Act of 2008 and the Budget Act of 2009 mandated reductions in appropriations for employee compensation that were achieved, in part, through personnel cost savings achieved by furloughing state employees.

The fiscal assumptions underlying the reductions in state employee compensation to be achieved pursuant to Sections 3.90 of the revised Budget Act of 2008 and the Budget Act of 2009 reflected personnel cost savings from furloughs. (Request for Judicial Notice, Exhibit 1.) Those reductions in state employee compensation constituted a key component of the overall budget package approved by the Legislature and ratified by the Governor. The savings achieved from these legislatively-approved reductions in appropriations for state employee compensation have already been realized by the State. Accordingly, any monetary award, such as a back pay remedy, granted to furloughed employees amounts to an order by the courts to the Legislature requiring it to restore funds to state employees

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contrary to the reduced budget appropriations contained in the revised Budget Act of 2008 and the Budget Act of 2009. Additionally, there is no budget appropriation from which to pay employee salaries for the 2008-09 fiscal year, and all employee salary appropriations for the 2009-10 fiscal year cease to be available after June 30, 2010. (Section 1.80 of the Budget Act of 2009 provides that funds are "appropriated for the use and support of the State of California for the 2009-10 fiscal year beginning July 1, 2009, and ending June 30, 2010." Such a provision exists in every budget.) Such a court order violates the doctrine of the separation of powers because it would involve an impermissible infringement by the courts into the constitutional role and authority possessed by the Legislature and the Governor with respect to the State's budget.

The California Constitution's separation of powers clause precludes any branch of government from usurping or improperly interfering with the essential operations of either of the other two branches. (Cal. Const. Art III, § 3; *County of San Diego v. State of California* (2008) 164 Cal.App.4th 580, 594.) With respect to the state budget, the California Constitution describes the roles played by both the Governor and the Legislature with respect to its formation and adoption. The Governor is constitutionally required to propose a budget for the next fiscal year, which begins on July

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1, by January 10 of the preceding fiscal year. (Cal. Const., Art. IV, § 12, subd. (a).) The budget must be accompanied by a budget bill itemizing proposed expenditures that the Legislature is required to introduce for its consideration. (Cal. Const., Art. IV, § 12, subds. (b) & (c).) Once the Legislature passes a budget, the Governor possesses a line-item veto power he can use to "reduce one or more items of appropriation while approving other portions of a bill." (Cal. Const., Art. IV, § 10, subd. (e).)

Consistent with the fact that the California Constitution vests authority over the state budget in the Governor and the Legislature, the separation of powers doctrine prevents the courts of this State from directly ordering the Legislature to enact a specific appropriation. (*See Sacramento v. California State Legislature* (1986) 187 Cal.App.3d 393, 396.) "The commanding of specific legislative action is beyond the power of the courts for it would violate the principle of division of powers of the three governmental departments." (*City Council v. Superior Court* (1960) 179 Cal.App.2d 389, 395.) Consistent with this constitutional doctrine, courts cannot directly order the Legislature to appropriate funds or order the payment of funds the Legislature has not appropriated. (*County of San Diego, supra,* 164 Cal.App.4th at 594 (internal citations omitted); see also *State Trial Attorneys' Association v. State of California* (1976) 63

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Cal.App.3d 298, 305 [holding that civil service attorneys working in the Department of Transportation were entitled to a writ of mandate directing salary parity with Deputy Attorneys General, but that while the State Personnel Board could make salary adjustments for future fiscal years, a salary adjustment for the fiscal year in which the action was adjudicated could be made only if the Legislature enacted a deficiency appropriation for that fiscal year].)

In this case, any monetary remedy granted to the state employee organizations before this Court effectively would amount to a court-ordered appropriation of funds. Any such remedy would negate legislatively-approved appropriations for state employee compensation set at amounts needed to obtain budgetary savings which were achieved, in part, through furloughs. Therefore, any monetary remedy mandating repayment would impermissibly invade the constitutional provinces of the Governor and the Legislature.

CONCLUSION

Government Code section 19996.22 is inapposite to the issues in this case and does not affect the validity of the Governor's furlough Executive Orders.

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Sections 3.90 of the revised Budget Act of 2008 and the Budget Act of 2009 validate the Governor's use of his inherent executive authority to furlough state employees. The fiscal assumptions underlying the reduction in appropriations for state employee compensation by that section of the Budget Acts were based on personnel cost savings to be achieved through furloughs. Furthermore, the reference to "existing administrative authority" as a means for achieving the reductions in state employee compensation must be seen as validating the use of furloughs in light of the fact that the budget bills were passed in the immediate aftermath of the Sacramento Superior Court's January 30, 2009 ruling that the Governor had the authority to furlough state employees. Finally, the constitutional doctrine of separation of powers precludes courts from ordering the Legislature to appropriate funds to provide a monetary remedy.

Sincerely,

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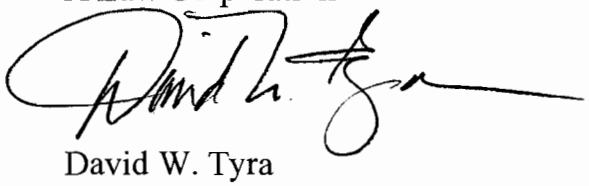

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Full Text of Government Code section 19996.19:

(a) The Legislature finds and declares all of the following:

(1) Many individuals in our society possess great productive potential which goes unused because they cannot meet the requirements of a standard workweek.

(2) An increasing proportion of workers have family responsibilities which include the care of dependent elders and the rearing of children.

(3) There is a lack of adequate, affordable adult or child care to accommodate the growing need for such services.

(4) The state is benefited by exploring and encouraging cost-saving supplements to latchkey programs, out-of-home child care services, and adult dependent care.

(5) Disabled employees or persons with special health needs may benefit from voluntary reduced worktime.

(6) Voluntary reduced worktime benefits both employers and employees, by increasing flexibility and decreasing absenteeism, offering

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management more flexibility in meeting work requirements, and filling shortages in various occupations.

(7) Society is benefited by offering a needed alternative for those individuals who require or prefer shorter hours, despite the reduced income, thus increasing jobs available to reduce unemployment while retaining the skills of individuals who have training and experience.

(8) Employment opportunities are maximized by providing for voluntary reduced worktime options to a standard workweek.

(b) It is the intent of the Legislature in adopting this section to pursue all of the following objectives:

(1) To provide for maximum employment opportunities.

(2) To encourage the realization of individual potential.

(3) To increase the numbers and kinds of public and private sector voluntary reduced worktime options.

(4) To support the creation of a healthy balance between work and family needs, including the need for additional income.

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(5) To encourage voluntary reduced worktime opportunities within the private as well as public sector.

(6) To develop policies and procedures which support the growth of voluntary reduced worktime positions.

(7) To promote job stability.

(8) To strengthen the family and promote domestic tranquility and to benefit the family and society by promoting a balance between work and home.

(9) To provide for alternative solutions to the growing need for adequate child care, care for dependent adults, and care for the disabled.

(c) Nothing in this section shall be construed as superseding Sections 19996.20 and 19996.21 which provide that the reduced worktime option shall be made available only to the extent feasible and as the department finds consistent with maximum employment opportunity.

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PROOF OF SERVICE

I, May Marlowe, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is 400 Capitol Mall, 27th Floor, Sacramento, CA 95814-4416. On June 23, 2010, I served the within documents:

Supplemental Letter Brief in Response to Court's June 9, 2010 Order

☐ by transmitting via facsimile from (916) 321-4555 the above listed document(s) without error to the fax number(s) set forth below on this date before 5:00 p.m. A copy of the transmittal/confirmation sheet is attached.

☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Sacramento, California addressed as set forth below.

☐ by causing personal delivery by Messenger of the document(s) listed above to the person(s) at the address(es) set forth below.

☐ by placing the document(s) listed above in a sealed Federal Express envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a Federal Express agent for delivery.

☐ by causing to be transmitted via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

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I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit. I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 23, 2010, at Sacramento, California.

May Marlowe

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