

CAPSule

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San Diego Shelves Bargaining

Good faith bargaining apparently isn't worth the effort in San Diego. That's where the mayor and a city councilman decided to skip bargaining and take a major pension change directly to the voters via a local initiative process.

In response, the state Public Employment Relations Board determined that city management unlawfully failed to meet and confer with the unions which represent affected workers. This ruling may precipitate litigation seeking to prevent the measure from going to the ballot. A hearing on the matter is scheduled for February 23.



City officials want to require all new employees to enroll in a 401(k) style retirement savings plan, rather than the existing defined benefit plan. If this sounds unpleasantly similarly to Governor Brown's 12-point retirement "reform" plan, it is — with a few significant differences. Under Brown's, he has submitted it to the State Legislature for adoption.

Portions of the proposal if adopted by the State Legislature would still require approval by the voters. The part that smells unpleasantly familiar is that which skips the bargaining process. CAPS and other groups have negotiated significant changes in retirement that both provide savings to taxpayers and preserve the long-term health of CalPERS retirement plan. Apparently that's not enough for Governor Brown because he too seeks implementation of a mandatory "hybrid" which would replace a good portion of the current guaranteed payment with a 401(k) style contributory plan.

A contributory plan in any form does not guarantee a fixed benefit after retirement but rather provides only what contributions and their earnings represent. In other words, the risk and burden for sustaining income throughout the balance of one's life rests solely on the employee. This fundamental shift of risk from employer to employee is at the very heart of the debate in the public sector. In the private sector, the shift from defined benefit to contributory type savings plans was further underscored just last month when Shell Oil became the last FTSE 100 company to close its defined benefit plan to new employees. The FTSE is comprised of the 100 most highly capitalized companies listed on the London Stock Exchange.



Meanwhile, here in California, Governor Brown proposes to follow the Shell Oil example. He would do away with a good portion of the retirement guarantee provided to public employees. Rather, his proposal would force future hires to rely on the uncertainty of the market and Social Security to provide the lion's share of retirement security. CAPS contends that as for future hires, it's fiscally irresponsible and bad policy. CAPS will do everything possible to ensure that future retirements are based on a defined benefit formula.

CalPERS Analyzes Hybrid Option



A key element of Governor Brown's pension "reform" plan is a mandatory hybrid component for all future California public employees. The idea is to mandate that public retirements

for new hires should consist of 75% of final compensation. One third of that would come from a defined benefit plan, one third from a defined contribution (hybrid), and one third from Social Security. Governor Brown thinks that doing this will reduce costs overall and shift the burden of retirement significantly from employer to employee.

A CalPERS analysis of the hybrid component suggests that the Governor's plan to save big money may involve wishful thinking. There are significant additional costs associated with establishing a hybrid plan for new hires, but those numbers are dependent upon the actual structure of the hybrid plan. Specifics of the Governor's hybrid proposal weren't fully known during the course of the analysis—and still aren't.



A big problem with the Governor's plan — which CalPERS points out — is that contributions by active employees help sustain the retirement plan for retirees. If the system is closed, and all new hires begin contributing instead to a 401(k)-style plan exclusively, it is left to the employer (taxpayers) to make up the difference. That gets expensive.

Not considered in the CalPERS evaluation were other key elements of the Governor's plan. Several of these are of great concern to CAPS. One would require that all public workers pay at least half the "normal" cost of their pensions. Another would increase the retirement age for most new public workers from 55 to 67.

Governor Brown first released his 12-point pension proposal in late October 2011. His actual legislative language was released in early February following three legislative hearings. If enacted, Governor Brown's proposal would fundamentally change public employee pensions in California.

A copy of the analysis can be found on the CAPS webpage under "Fighting Back on Retirement Benefits."

California State Scientists ... Knowledge, Innovation, Protection

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EnCAPsulations . . .

Four State Unions Face Bargaining. The CAPS Memorandum of Understanding (labor contract) that covers state scientists expires on July 1, 2013, the same day a 3% top step salary increase is effective. That's about 16 months from now.

Four unions representing state employees have contracts that expire July 1, 2012, just four months from now. With a budget deficit estimated to be \$9.2 billion, speculation is



already starting as to what, if anything, Governor Brown will offer in order to get agreements. According to one of the affected unions, representing psychiatric technicians, this isn't good year to be bargaining higher pay and benefits. His members don't expect much, he said. Governor Brown remains on a high alert for austerity and cuts in state operations, in large part to maintain support for his temporary tax increases, scheduled for the November election ballot. CAPS will be watching these negotiations carefully, and is already preparing for the next round of contract talks, likely to be during the spring of 2013.

Brown Plan Compared With Initiatives. Anti-union "reformers" had at least two retirement initiatives planned for the 2012 election ballot. Now these likely won't appear due to lack of funding. Governor Jerry Brown has his 12-point plan, which he wants state lawmakers to enact. Senate Pro Tem Darrel Steinberg says he is committed to making retirement changes, but not necessarily in the form Governor Brown has proposed. Now components of Governor Brown's pension reform proposal, the Twelve Point Pension Reform Plan, have been compared with the two other proposals currently in the signature-gathering phase - Government Employee Pension Reform Act of 2012, Options 1 and 2. Plan components such as funding, benefit eligibility limits, and plan design



were compared for those proposals affecting new employees. Funding and plan design were compared for proposals affecting existing members, and other relevant components were compared for proposals affecting all employees and retirement boards. CalPERS identifies where components of the proposals could be in conflict with legal vested rights for employees at: <http://www.calpers.ca.gov/eip-docs/benefit-reform-proposal.pdf>.

CalPERS Returns Get Noticed. For 2011, CalPERS reported an overall investment return of just 1.1%. Last summer, CalPERS reported a return of 19.9% for the fiscal year ending June 30. Why the huge difference? Apparently, the volatility of investments resulted in a very dismal return for December. Since 2002, CalPERS has used a target investment return of 7.75%. That's the rate CalPERS assumes for its actuarial calculations. So when actual returns vary markedly from this amount, it gets noticed. Those arguing for pension "reform" no doubt will see this as further evidence that CalPERS retirement formulas aren't "sustainable." In reality, CalPERS returns are gauged over many years, and have historically met its target goal. There is every reason to believe it will continue to.

Salaries Restored Effective April. The mandatory personal leave program finally expires in March. The result is a 4.62% salary increase for all state scientists to be reflected in the May 1 pay warrant. It is possible but unlikely that Governor Brown will seek to continue unpaid furloughs after that. As attorney general he opposed them for his employees, and negotiated an end them for all state employees after being elected Governor. State scientists who wish to continue unpaid furloughs and accumulate the equivalent time off — up to three days per month — may do so under MOU Section 3.19, Voluntary Personal Leave Program.

Use Your Professional Development Days. MOU Section 15.3 authorizes every state scientist two days per fiscal year "for activities such as continuing education training, professional association activities, professional development seminars, etc., to promote professional growth and to enhance professional goals." These activities are "at the employee's discretion." Time off is requested and approved in same manner as vacation or annual leave. These two days must be used by June 30 or lost. Another two days are awarded July 1, 2012.

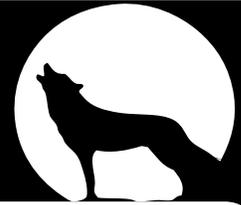


MOU Ensures Paychecks In Full and On Time. The CAPS MOU requires a continuous appropriation for state scientists' pay and benefits (including health, dental and vision) during its term. It also requires that the state devote legal resources to help defend this provision in case it is challenged in court by a third party. This provision will help guarantee that state Controller John Chiang is authorized to pay state scientists full salary rather than federal minimum wage.



The Wolf at the Door

By David Miller, President



I like wolves, especially when they are thriving in their natural habitat.

Unfortunately, there is a very different kind of wolf, and it's at our door — the door of every public employee household in California. This wolf—our wolf—is bigger, meaner, and much more deadly than the real wolf recently found roaming Northern California. Our wolf threatens public retirements and the very future of America's middle class. It is more akin to the unrelenting killers so convincingly if inaccurately portrayed in the Liam Neeson movie hit *"The Grey."*

Unfortunately, our wolf enjoys considerable popular support at a time when public employees are most vulnerable to its attack. California wasn't its first stop. In Wisconsin, our wolf, in the form of Governor Scott Walker, spearheaded a law that revokes collective bargaining rights for most Wisconsin state workers. Walker may be recalled over it, but the damage is done. Most Wisconsin state workers lost their right to bargain collectively.

Earlier this month, Indiana Governor Mitch Daniels signed a bill in making Indiana the 23rd "right to work" state. This means that companies doing business in Indiana can no longer negotiate a labor contract requiring union non-members to pay a fee for representation. While Daniels had earlier opposed such a measure, he said it is necessary for Indiana to attract jobs. Our wolf strikes again.

In Arizona, a series of bills introduced by the Republican majority would severely restrict union activity. They would ban collective bargaining and other policies that support public employee unionism at the state, county and municipal level. The wolf here is the Goldwater Institute, a conservative think tank based in Phoenix. Nick Dranias of the GI recently said Wisconsin Governor Walker is a "hero" but that Wisconsin's laws were "modest" compared to Arizona's. Under those measures, government at every level would be barred from permitting public employees from doing any union work while on the public payroll. Arizona is already a right-to-work state where collective bargaining is limited but legal. All that would change if the new proposals are enacted.

Here in California, a strong Democratic majority in both houses of the legislature would seem to keep our wolf at bay, protecting union households against wholesale

repeal of collective bargaining rights, preserving hard won benefits and work place protections. Ironically, it is that same majority that has repeatedly approved some of the most far reaching roll backs in pay and benefits we have seen: mandatory unpaid furloughs; higher retirement contributions for current employees; reduced formulas for new hire employees; fewer holidays. Some of these changes circumvented the collective bargaining process, making that process essentially irrelevant. So I'm sure we can count on them to fend off our wolf this time around.

We know that collective bargaining works. Where employers and employees negotiate in good faith, positive agreements result. This cultivates long-term positive relationships and benefits taxpayers. In fact, over the last three years, hundreds of millions of dollars in savings have resulted from collective bargaining agreements at the state and local level.

Public employees didn't cause or contribute to the economic meltdown; we were hurt as badly as anyone by the housing crisis and the resulting prolonged recession. The ones who did cause it — greedy financiers — still haven't been held accountable. The irony here is that

they stand to benefit from the privatization of public retirements and the transfer of public funds to private 401(k) savings accounts.

I would like to think that over time society will look back and see this episode as a gross injustice, where powerful forces "piled on" a segment of society so essential to its health: the public sector. As the economy rebounds, I am hopeful that our collective energies will be focused on more positive endeavors, like building a healthy, equitable and sustainable private sector.

Meanwhile, our wolf is relentless and seeks to inflict maximum damage. So CAPS is resolute on protecting pay and benefits, and making gains where possible. It is truly a credit to state scientists and all public employees in California who continue to perform their work with dedication and commitment. It isn't easy, with that wolf just outside the door.



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CAPS Endorses Term Limit Change

The CAPS Board of Directors on Saturday, February 11 voted unanimously to endorse Proposition 28 on the June 2012 ballot. This measure reduces the total amount of time a person may serve in the state Legislature from 14 years to 12 year. It allows the legislator to serve a total of 12 years either in the Assembly, the Senate, or a combination of both. It would apply only to legislators first elected after the measure is passed and provides that legislators elected before the measure is passed continue to be subject to existing term limits. CAPS endorses this measure as a way to allow legislators to continue in the house of origin without being limited to two terms in one house. The entire measure can be found at www.ss.ca.gov.



In other actions, the CAPS Board approved several CAPS members as new CAPS local reps. These included Fish and Game Environmental Scientist Robin Fallscheer, Public Health Associate Health Physicist Alan H. Rook, Water Board Environmental Scientist Stormer Feiler and DWR Environmental Scientist Zoltan Matica. Congratulations to one and all, and thanks for your willingness to serve!

The CAPS Board endorsed candidate Rob Bonta for the Bay Area's 18th Assembly District. CAPS will marshal members to support Bonta on the ground in this open race.

The Board further endorsed several incumbent state lawmakers for election or reelection to either the State Assembly or State Senate.

Finally, committees were established and members selected for the Board's current two-year term.

The next meeting of the CAPS Board of Directors will be Saturday, May 19 at 9 a.m. in Sacramento at a venue to be determined. All members are welcome.

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