

CAPSule

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CAPS' Legislative Priorities for 2014

Lack of Competitive Salaries Threaten State Environmental Programs. For years, state scientist salaries have lagged far behind the federal government, local agencies and other state employee classifications performing similar work. In fact, according to the state's own salary survey, state scientists make 15 to 40 percent less than their California public sector counterparts. As a result, the state is no longer the employer of choice for scientific and related professionals. The lack of competitive wages threatens state environmental and public health programs because state agencies can't recruit and retain scientific professionals. CAPS has been without a new contract since July 1, 2013, and is working to correct these wage inequities through collective bargaining.



Unfortunately, the California Department of Human Resources – the state's bargaining arm – has failed to provide a reasonable proposal to address state scientist salary inequities. CAPS is urging state lawmakers to support SALARY EQUITY NOW!

Marijuana Cultivation Threatens Water Supplies and Endangered Species. Irresponsible marijuana cultivation in California is threatening our water supply, water quality and the lives and habitat of endangered and other species. The Governor's budget proposes seven new positions (and \$1.5 million from various special funds) at the Department of Fish and Wildlife (DFW) to investigate and enforce violations of illegal streambed alterations and enforce protections for endangered species threatened by widespread proliferation of marijuana cultivation, particularly in the North State. CAPS is urging lawmakers to support this budget item. It is just the first step needed to begin mitigating the threat unregulated marijuana growing poses to our environment and natural resources.



Strong Oil Spill Response Protects Inland Communities. Current law provides funds for marine oil spill preparedness and response led by the state Office of Spill Prevention and Response (OSPR). The Brown Administration is proposing to expand the existing program to address the increased risk posed by inland oil spills. Inland rail shipments of domestic oil, including North



Dakota Bakken oil, are expected to skyrocket from 3 million barrels to approximately 150 million barrels per year by 2016. This oil is extremely flammable.

Transporting it via rail greatly increases the threat of serious accidents and spills, similar to the accident in Lac-Mégantic, Quebec in July 2013. That derailment and explosion killed 47 people and ignited a fire ball that destroyed much of the town. According to the federal government, more crude oil was spilled in U.S rail incidents last year than was spilled in the previous 40 years combined.

To help prevent inland oil spill disasters in California, CAPS is supporting the Administration's proposal to augment the budget of OSPR by \$6.7 million and 38 positions to provide enhanced inland spill prevention, preparedness, and response capabilities. The proposal also includes increased funding for the Oiled Wildlife Care Network, which rescues and rehabilitates oiled wildlife in California. The additional funding for OSPR and OWCN will be supported by expanding the existing 6.5 cent per barrel fee, which is currently collected at marine ports, to all crude oil sent to refineries.

State Scientist Day Resolution Recognizes the Crucial Role of State Scientists. CAPS is sponsoring a resolution to recognize the 26th Annual State Scientist Day on May 14, 2014. For a quarter of a century, CAPS has sponsored State Scientist Day on the grounds of the State Capitol to increase public awareness of the significant contributions made by scientists while entertaining and educating nearly 3,000 elementary school students with fun, hands-on science exhibits sponsored by state agencies and their scientists. State Scientist Day has sparked an interest in science for thousands of California school children, legislators, state employees and many others who participate in this special annual event. Please join us on May 14 on the West steps of the Capitol for the 26th Annual State Scientist Day.

26th Annual

state scientist day 

May 14, 2014

California State Scientists ... Knowledge, Innovation, Protection

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CAPS Fights for Promotions



When a state scientist is asked to perform the duties of a higher paid classification for a prolonged period, additional compensation may be due. Often a promotion to the higher paid classification follows, especially if the work assignment continues. If the promotion doesn't come, and the additional work continues anyway, a grievance may be appropriate under the Out-of-Class Grievance process outlined in Section 17.2 of the CAPS MOU.

Several recent cases stem from work performed by CAPS members at several state departments. The out-of-class work occurred over many months and wasn't compensated, with no promotion in sight. So rather than just stew over it, some members contacted CAPS and grievances were filed.

The CAPS MOU defines out-of-class work as performing the full range of duties of another classification more than 50 percent of the time. This contract provision allows state departments to recognize the extraordinary effort being made, and to pay for it. But when there is a dispute, CAPS gets involved. Such disputes are usually settled at a low level. When they can't be, these grievances may eventually be decided by an arbitrator.

These cases cost CAPS several thousand dollars to litigate. But there is a point at which state management must be held accountable. The resulting decision may set a helpful precedent for other members required to do work at a higher level. The best thing would be for state departments to award back pay AND promote the scientist. CAPS will fight for the back pay, for starters.

EnCAPSulations...



CAPS Media Campaign. One of the most effective means of influencing the public is to advertise. One major impediment to using paid advertising as a means of persuasion is its expense. For example, a 30 second ad during the Super Bowl reportedly cost \$3 million!

So CAPS promotes the important work of state scientists using free media whenever possible. Nevertheless, CAPS has employed paid media in the past, and is going to do it again. During March, CAPS is underwriting public radio programming in the Los Angeles, Bay Area and Sacramento markets with this tag line: "Local underwriting is provided by California Association of Professional Scientists. Three thousand state scientists serving taxpayers everyday by working to protect public health and California's natural resources. Information at calscientists.org. Listen for it on your local public radio station!

Become A CAPS Local Rep. Not sure who to contact at your worksite regarding an employment question? Need help with a counselling memorandum? The best single route to professional help is via email: caps@capsscscientists.org. However, many times a simple employment related question can be evaluated by your Local CAPS Representative, but not every worksite has one. If yours doesn't, or you're not sure, perhaps YOU should consider becoming a CAPS Local Rep. It's simple and easy. An application can be found on the CAPS webpage: <http://capsscscientists.org>. Click on the "For Members Only" tab.



Scientific Services Contracts Under Review. Thanks to 2013 legislation carried by Assembly Member Richard Pan (D – Sacramento), state agencies are now prohibited from executing a personal services contract situation until it has certified that all employee organizations that perform the type of work being contracted out have been notified, except in an emergency. The result has been a flood of contracts for a variety of services being sent to CAPS for review. While many of these contracts are for goods and services necessary for the continued operation of essential state programs, some involve personal services that could be performed by state scientists. These are the contracts that CAPS carefully reviews, usually with the assistance of state scientists who might otherwise do the work. Questionable contracts may be challenged under certain provisions of the State Constitution. Thanks to all state scientists who may be asked to participate in these reviews. For more information on **Assembly Bill 906**, go to www.leginfo.ca.gov.

A CAPS Legislative Reception was held February 12 at the State Capitol. The reception allows state lawmakers, the Governor and other important members of state government to meet with CAPS representatives. This year's event drew dozens of lawmakers and gubernatorial appointees. Pictured here is California Labor and Workforce Development Agency Secretary David Lanier, PCEG President Cathrina Barros, California Governmental Operations Agency Secretary Marybel Batjer, and CAPS President David Miller.



Sacramento Assembly Member Richard Pan (D – Sacramento) discusses water policy with CAPS At-Large Director Stormer Feiler (Santa Rosa Water Board Environmental Scientist).

Retirement “Reform” Dormant But Not Dead

By David Miller, President

After your monthly salary, there is NOTHING more important than protecting promised retirement benefits. As your CAPS President, I will ensure that CAPS continues to keep this focus.

California public employees dodged a bullet when San Jose Mayor Chuck Reed recently acknowledged that his pension reform measure would likely not appear on the November 2014 ballot. If passed, it would enable public employers throughout California to unilaterally reduce retirement earnings for their employees. Such action, if taken, would apply to future service; past service would be calculated at the current earnings rate. With a billionaire driving this “reform”, don’t expect the threat to your retirement security to go away any time soon.

The “Chuck Reed Retirement Initiative” isn’t collecting signatures largely because of the aggressive opposition campaign waged by Californians for Retirement Security, the labor coalition organized to defend the defined-benefit retirement formulas that carry career public servants through their retirement with a living stipend. CAPS is an active member. Significant credit also goes to Attorney General Kamala Harris, who wrote a factual title and summary for the measure that could prove to be very influential with voters. That title and summary is being challenged in court by Mayor Reed. The outcome of that case isn’t due for several weeks, long after the practical deadline for the start of signature gathering has passed.

Mayor Reed may be quiet for now, but this contest is far from over. His principal backer thus far, billionaire John Arnold of Texas, remains committed to ending public sector defined-benefit – based retirements. I was disappointed to see that PBS, long a purveyor of quality and impartial news reporting, was recently forced to return a \$3.5 million grant to Mr. Arnold’s Foundation. That gift was in return for a commitment by PBS to air a series of slanted “documentaries” titled “Pension Peril.” It discusses the costs to cities and states for their public employee retirement obligations. According to the *Los Angeles Times*: “As for the “Pension Peril” series, it’s typical of reporting that treats public employee benefits as though they’re the chief cause of municipal fiscal problems. They’re not; their importance is consistently exaggerated by special interests who have ulterior motives for attacking public employees.”



The appetite for further “reforms” for California state employees by Governor Brown and state lawmakers appears to have abated for now. And for good reason. Earnings by CalPERS are way up, demonstrating that market forces can and will contribute markedly to the sustainability of defined benefit-based retirement plans. The terms “healthy” and “sustainable” aptly describe the CalPERS Miscellaneous Plan in which state scientists are all members. In fact, CalPERS just took the advice of Governor Brown and ordered immediate increases to employer payments to the System. This recognizes the longer life spans of plan participants. The days of deferring retirement payments on behalf of plan members are over, at least for now.

There is a cost to all this, of course. This rate hike is the third in the last two years. It follows a lower earnings forecast, and conservative actuarial calculations. Many local government retirement contribution rates — hundreds of local agencies contract with CalPERS for their retirement plans — could increase roughly 50 percent by 2020. Media outlets are characterizing that cost increase as meaning less money for infrastructure and social services.

Having said all this, CalPERS retirement plans remain “underfunded.” The plan has approximately 70 percent of the assets needed to pay current obligations if the doors were closed tomorrow. But of course CalPERS remains open for business.

Retirement payments are made using a combination of employer and employee contributions, and market returns. If market returns are down, as they were during the Great Recession, then employer contributions go up. Your contribution went up too, from 5% to 8% of payroll, on July 1, 2013. For guys like Chuck Reed and John Arnold, these adjustments aren’t enough. They want to see the defined benefit model eliminated in the public sector. We don’t.

It’s no accident that California has one of the finest public retirement plans for public employees in the world. CAPS has worked hard over the years to keep it that way.

“Mayor Reed may be quiet for now, but this contest is far from over.”



**CALIFORNIA ASSOCIATION OF
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Unfair Charge Filed Against DFW



CAPS recently filed an Unfair Practice Charge with the Public Employment Relations Board (PERB) against the Department of Fish and Wildlife. The complaint alleges that the DFW violated the Ralph C. Dills Act (collective bargaining law) by refusing to provide CAPS with a copy of an investigative report.

The report concerns the DFW's investigation of a complaint by a rank-and-file state scientist against a supervisor alleging harassment. CAPS was familiar with the facts surrounding the complaint and believed that if the DFW conducted a thorough investigation, it would find that the supervisor had violated at least one of the rules intended to protect employees from harassment. However, when the limited findings were released by the DFW, the conclusion was that no wrongdoing had occurred. CAPS therefore asserted its right under the Dills Act to review the report the DFW relied upon to reach its conclusion. The DFW has denied CAPS access to the report.

State departments have a duty under the law — and their own rules — to prevent harassment and retaliation in the workplace. Where it does occur, the state employer has an affirmative obligation to correct the problem. Although it is clearly the responsibility and legal obligation of state departments to act in a timely and thorough manner when a complaint is filed, CAPS will be there when there is a conflict. In this instance, the DFW is withholding critical information that will shed light on whether a thorough investigation was conducted. It is now up to the PERB to order DFW to provide the evidence to support its conclusions.