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Governor set to slash state workers' pay

Employees would get money back when budget's settled

By Kevin Yamamura and Jon Ortiz - kyamamura@sacbee.com

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Gov. Arnold Schwarzenegger plans to sign an executive order next week intended to temporarily reduce pay for 200,000 state workers to the federal minimum wage of \$6.55 per hour to preserve cash until lawmakers reach a budget deal, according to a draft copy of the order obtained by The Bee.

The governor's order also would terminate about 22,000 retired annuitants, temporary workers and seasonal employees, as well as impose a hard freeze that blocks the hiring of roughly 1,700 new employees per month.

Administration officials said the Republican governor expects to take the action Monday, when the budget will be four weeks late as Democrats and Republicans continue to spar over how to resolve a \$15.2 billion shortfall.

"The administration is looking into many different options to preserve cash to ensure we have enough to cover our costs," said Matt David, Schwarzenegger's communications director.

But a spokeswoman for Democratic state Controller John Chiang, who pays the state's bills, said he would ignore the governor's order and continue paying full salary, likely forcing a court battle.

"He will pay state workers the salaries that they have earned, and that's full salary," Deputy Controller Hallye Jordan said of Chiang.

The order would take effect for the August pay period and envisions that state workers would receive their back pay in full when a budget is signed. State workers who get paid once at the end of the month still will receive their July paychecks next week.

The move would save roughly \$1 billion in cash per month, depending on how many employees are exempt under federal law because they work in health and safety fields, according to Schwarzenegger officials. Each state department head will be responsible for determining which employees are exempt under federal law.

Available cash in dispute

Word of Schwarzenegger's pending order had circulated through the vast state Corrections

and Rehabilitation offices on S Street by the time workers headed home Wednesday afternoon. Several gathered at the nearby 16th Street light-rail station, shaking their heads.

Corrections employee Vicki Rhodes said the governor is "crazy" to think about cutting workers' wages and predicted that the strategy could backfire.

"I guess people will start working on Monday like they're making \$6.55 an hour," she said.

Janis Rose, another corrections worker, said Schwarzenegger is posturing and ultimately won't be able to legally cut her pay. "It's utterly ridiculous," she said. "He's acting – and not very well."

The governor believes that without a budget the state could run out of money by mid-September because of a soft economy and low reserves, officials said. Given the state's low credit rating, borrowing from Wall Street without a budget could cost the state hundreds of millions of dollars in interest.

But Chiang, in a statement, questioned Schwarzenegger's calculation. He said he believes the state still has enough cash to make it through September without cutting salaries.

Democrats and state employee groups immediately denounced the governor's plan as a political ploy designed to pressure lawmakers into passing a budget.

"The governor is turning the budget crisis into a budget catastrophe," said Yvonne Walker, president of Service Employees International Union Local 1000, which represents 94,000 state workers. "If it's political pressure by the governor, shame on him, because he is causing harm to the workers who run the state of California. We're not game pieces. We're real people with real lives."

Parties jockey for position

Democrats and Republicans remain sharply divided over how to bridge a \$15.2 billion gap in the \$101 billion general fund. Democrats have proposed a series of tax increases, largely on the wealthy, while Republicans want program cuts and a promise of long-term budget reform that would make spending reductions easier in bad years.

Both houses of the Legislature adjourned until Aug. 4, but on Wednesday the Senate summoned its members for a vote next Tuesday.

Senate Republican leader Dave Cogdill of Modesto and Assembly Republican leader Mike Villines of Clovis issued a joint statement Wednesday: "Republicans understand the urgency of getting the budget done as soon as possible, which is our main focus right now. We are working very hard to avoid drastic measures like the one that is being proposed."

Assemblyman Dave Jones, D-Sacramento, and Sen. Darrell Steinberg, D-Sacramento, criticized the governor's plan and blamed Republicans for the standoff.

"I have no idea why this would be proposed, but I think it unfairly puts at risk the ability of people who work for the state to pay their bills and pay their rent and pay their mortgages and otherwise maintain their families," Jones said.

Schwarzenegger's order says his action complies with a 2003 ruling by the California

Supreme Court that deemed federal labor laws require the state to pay most workers "either federal minimum wage or, for those employees that work overtime, their full salaries" when the state has no budget. The order would require state agencies to stop authorizing overtime for most employees.

The state would pay only the federal minimum wage, which is \$1.45 per hour lower than California's minimum wage of \$8 per hour. The governor believes the 2003 court decision, *White v. Davis*, allows the state to pay the federal wage and meet its legal obligations by issuing back pay once the budget is signed.

Walker said SEIU lawyers are reviewing the draft executive order and the 2003 case.

Credit unions offer help

More than 75,000 state employees work in Sacramento County alone, according to the Controller's Office.

Terry Halleck, president and chief executive of Golden 1, said the credit union likely will float loans to members if the governor cuts their pay. The Sacramento-based firm, founded by California state workers 75 years ago, has a history of offering such deals to direct-deposit members during budget delays.

Golden 1 is the nation's sixth-largest credit union, with \$6 billion in assets. About 100,000 of its 686,000 members – roughly 15 percent – are employed by the state.

"Certainly, as a credit union started by state workers, we would immediately give consideration to what we could do to help our members," Halleck said in a cell phone interview.

While the Golden 1 has branded itself as the dominant state worker credit union, others have similar loan programs.

Sacramento-based Schools Financial Credit Union, for example, started a "budget impasse" loan program July 1 that made zero-interest loans available to members crunched by the budget delay. It also offers loan payment extensions for state employee members who have lost income.

Court decisions over the years have given the state authority to pay many bills, including employee salaries, without a budget. The state began withholding pay and \$162-a-day per diem July 1 for lawmakers, though they recover all money once the budget is signed.

Under the order, employees of the California Public Utilities Commission, University of California, California State University, California community colleges and legislative and judicial branches are exempt because they are not under the governor's direct authority, though Schwarzenegger encourages such employers to impose similar measures on their own.

1992 IOUs declared illegal

The state has not imposed a comparable across-the-board pay cut since it paid 93,000 workers with IOUs in 1992, a practice later deemed illegal by a federal judge.

That year, the budget impasse lasted a then-record 64 days, as California was deep in a recession and Democrats and Republicans fought over spending cuts and taxes.

The IOUs became an embarrassing milestone for California, as they marked the first time since the Great Depression that the state paid bills in scrip.

Banks initially cashed the IOUs for employees when the state began issuing them that summer. But as the budget stalemate persisted, some banks refused to accept them, sparking legal action against the state by public employees.

In 1995, U.S. District Judge Garland E. Burrell Jr. found that the IOUs violated the federal Fair Labor Standards Act. The state reached a settlement in 1996 in which it granted state workers as many as seven additional days of paid leave.

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SFGate.com

Governor plans to slash state workers' pay

John Wildermuth, Matthew Yi, Chronicle Staff Writers

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Gov. Arnold Schwarzenegger plans next week to slash the pay of more than 200,000 state workers to the federal minimum of \$6.55 per hour to help ease the state's budget crisis, according to a draft executive order obtained by The Chronicle on Wednesday.

The governor also will order an end to overtime pay for all but critical services, a freeze on state hiring and the immediate layoff of nearly 22,000 temporary, seasonal and student workers.

"As a result of the late state budget, there is a real and substantial risk that the state will have insufficient cash to pay for state expenditures," the executive order states.

Schwarzenegger's staff would neither confirm nor deny that the governor plans to issue the executive order, but sources said he could take action as early as Monday. The state, facing a projected \$17.2 billion budget deficit for the fiscal year that began July 1, has not approved a budget.

"The governor is looking at a number of different options to ensure that the state does not run out of cash," said Aaron McLear, a spokesman for the governor.

But administration officials, who asked to remain anonymous, said that about 200,000 of the state's 245,000 workers, both hourly and salaried, will see their pay trimmed back to the federal minimum wage of \$6.55 an hour, saving the state up to \$1.2 billion a month. Dropping the temporary and short-time workers will save an additional \$28.5 million each month.

While the layoffs could be made immediately, the pay cuts might not be completed until mid- or late August.

The proposed pay cut for hourly employees would take their wages well below the state minimum wage of \$8 an hour. But a 2003 California Supreme Court decision allows the state to chop workers' pay to the federal minimum when a state budget has not been enacted.

"While we've had late budgets in the past, the critical difference this year is cash," an administration official said. "We have not had a situation in recent years that's the same as the

cash-starved situation that we may face in September if we don't have a budget in place."

While California needs to have about \$2.5 billion in cash on hand at any given moment to cover the state's ongoing expenses, the Golden State is projected to have just \$1.8 billion at the end of September, the official said.

But the governor's plan could face an immediate challenge from Democratic state Controller John Chiang, who will continue to pay state workers their full salaries, even in the face of Schwarzenegger's executive order, said Hallye Jordan, a spokeswoman for the controller. The governor will have to take Chiang to court if he wants to stop him, she said.

"The controller hasn't seen any executive order, but he would urge the governor to rethink his proposal," she said. "This hasn't been addressed by the courts and if it's ruled illegal, it could cost the state a tremendous amount in damages."

Chiang said the state has enough cash to make all payments, including the regular payroll, through September.

"Cutting workers' salaries will do nothing meaningful to improve our cash position," he said in a statement. The executive order is "nothing more than a poorly devised strategy to put pressure on the Legislature to enact a budget."

The state has been without a budget for nearly a month.

Although Republicans and Democrats in the Legislature remain at odds over how to close the state's anticipated budget deficit, Senate President Pro Tem Don Perata, D-Oakland, has called for a vote Tuesday on the Democrats' budget proposal.

"The senator is committed to moving a budget to the governor's desk so that it can be signed by Aug. 1, the date when the state will face more fiscal problems," said Lynda Gledhill, a spokeswoman for Perata. "Unfortunately, the time frame is dictated by the state's fiscal condition."

While Perata had no comment on Schwarzenegger's anticipated action, Republican leaders pledged to work to avoid any wage cuts.

"Republicans understand the urgency of getting the budget done as soon as possible, which is our main focus right now," according to a joint statement issued by Assembly Minority Leader Mike Villines, R-Clovis (Fresno County) and Senate Minority Leader Dave Cogdill, R-Modesto. "We are working very hard to avoid drastic measures like the one that is being proposed."

That is not likely to include reaching any agreement in time for Tuesday's planned budget vote, however.

"The budget right now is not a result of any negotiations," said Jennifer McDaniel, a spokeswoman for Villines. "The vote is just a drill."

But Schwarzenegger's planned pay cut for state employees is guaranteed to anger the workers and put even more pressure on Democrats and Republicans in the Legislature to quickly agree to a plan for closing the budget gap.

Some of the state's lowest-paid workers will have to pay the price for the deadlock in the Legislature, labor officials said.

"We are the victims of the incompetence of the Legislature and Gov. Schwarzenegger," said Jim Zamora, a spokesman for SEIU Local 1000, which represents 95,000 state workers. "Because they can't sit down and pass a balanced budget, state workers must live in fear of having their wages slashed as much as 90 percent. We are not chess pieces, we are real people."

Emily Clayton, policy coordinator for the California Labor Federation, added: "Holding state workers hostage is not a fair way to get to a budget agreement."

What they make

Database: Find out how much state workers are getting paid at www.sfgate.com/ZDZE.

State budget update

The problem: Today is Day 24 of the state budget impasse over California's \$17.2 billion budget shortfall. Gov. Arnold Schwarzenegger wants to help close the gap by borrowing against future state lottery sales, while Democrats and Republicans in the Legislature say the plan won't fix this year's budget woes.

Dispute: Democrats, who hold the majority in the Legislature, two weeks ago announced a \$10 billion tax package, while Republicans said they will not support raising taxes.

What's next: Senate President Pro Tem Don Perata, D-Oakland, has called a floor session for the Senate on Tuesday to vote on the budget even though a compromise is not within sight.

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<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/07/24/MNFJ11UH46.DTL>

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<http://www.latimes.com/news/local/la-me-budget24-2008jul24,0,7487129.story>

From the Los Angeles Times

Schwarzenegger seeks to slash state workers' pay till budget passes

About 200,000 would get the federal minimum wage, then receive back pay after a spending plan was enacted. But the state controller vows not to sign the order, and the matter could end up in court.

By Evan Halper

Los Angeles Times Staff Writer

July 24, 2008

SACRAMENTO -- — Gov. Arnold Schwarzenegger has prepared an order to cut the pay of about 200,000 state workers to the federal minimum wage of \$6.55 an hour until a budget is signed.

Administration officials said Schwarzenegger was expected to sign the order, a draft of which was obtained Wednesday by The Times, early next week as part of an effort to avert a cash crisis. The deadline for passing a budget was July 1, and without one soon, the officials said, California may be unable to borrow billions of dollars needed to keep the state solvent.

State Controller John Chiang, asserting that the state has enough money on hand, said through a spokesman that he would not implement such an order. Chiang's office handles payroll for government workers.

The Republican governor's controversial plan, likely to be challenged in court by public-employee unions if carried out, would allow the state to defer paying about \$1 billion a month, administration officials said. Workers would be repaid their lost earnings once a budget was in place.

As drafted, the order also calls for the state to immediately lay off 21,855 part-time workers, stop overtime payments for almost all employees and cease all hiring until a budget is enacted.

"Because the Legislature has failed to pass a budget and our state does not have a rainy-day fund, this is one of a number of options we are considering to make sure we have sufficient cash to cover our costs," said administration spokesman Matt David.

Until recently, the governor had played a relatively minor role in budget negotiations since offering his revised spending plan in May. As public frustration over Sacramento's handling of the budget has mounted, much of the blame has fallen on him. His approval rating among voters is 40%, according to a Field Poll released this week, down from 60% in December.

The executive order appears intended to show that Schwarzenegger is taking action and to pressure lawmakers to finish work on the budget. Democrats rely on the major public employee unions to help bankroll their political campaigns, and the public-safety unions that Republicans often look to for support could be affected by his order.

Once the order took effect, most state employees, who are paid once a month, would not see another paycheck until the end of August. If the budget was passed late in that month, their full salaries would still be reflected in that paycheck.

The response to Schwarzenegger's plan from unions was immediate and angry.

"The governor is turning a budget crisis into a catastrophe," said Yvonne Walker, president of Service Employees International Union Local 1000, which represents 95,000 state workers. "How can you tell people, 'We will just pay you this amount and you can catch up later?'"

"We are in the middle of a housing crisis, and people are losing their mortgages," she said. "Are they going to issue a notice to mortgage companies that employees will just catch up later?"

Walker said she believed the governor's plan was illegal, and union attorneys are already drafting a lawsuit to file if the order is signed.

Chiang, a Democrat, said in a statement that the governor's order would be unnecessary because the state will have sufficient funds available to cover all its financial obligations through September -- a point on which the administration does not agree.

Officials in Chiang's office said the controller would not comply with Schwarzenegger's order.

"I will urge the governor to rethink his proposal," Chiang's statement said.

"Cutting workers' salaries will do nothing meaningful to improve our cash position or help us make our priority payments," the statement said. He called the order a "poorly devised strategy to put pressure on the Legislature to enact a budget."

Administration officials contend that state law would require the controller to carry out the governor's order. A court battle could ensue if Chiang refused.

Lawmakers so far have shown no sign of agreeing on a budget. Democrats continue to rally around their plan to close a \$15.2-billion deficit with new taxes on the wealthy and corporations, and Republican lawmakers say they will stick to the pledge almost every one of them has signed to vote against tax hikes.

Democratic lawmakers urged Schwarzenegger not to sign the order.

"I don't believe the governor would put public servants in the crossfire of this budget battle," said Assembly Speaker Karen Bass (D-Los Angeles).

Republican legislative leaders issued a statement saying they were working hard to get a budget passed "to avoid drastic measures like the one that is being proposed" by the governor.

The state Supreme Court has declared it legal to drop the pay of even union workers down to the federal minimum wage in the event there is no budget, but not if they work overtime. It is unclear whether the state's electronic payroll systems are sophisticated enough to sort out which employees would be eligible to have their pay suspended.

Administration officials say they hope to avoid that problem by suspending almost all overtime. Only workers whose jobs are vital to public safety would be exempt from the governor's order.

Meanwhile, officials at the state treasurer's office have said California will need to borrow \$10 billion sometime in September to have enough cash to make it until the usual flood of tax receipts arrives in the spring.

Securing such a loan takes at least four weeks, they say, and it can't be done until the budget is enacted.

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