Office of the Governor

JIM GIBBONS
GOVERNOR

May 20, 2009

The Honorable Members of the Senate and Assembly
Seventy-Fifth Legislative Session
Legislative Building
401 South Carson Street
Carson City, Nevada 89701

Honorable Members of the Seventy-Fifth Legislative Session:

This letter will address the myriad issues and questions raised by the Executive Department in response to the decision to grant State employees one furlough day per month in lieu of a temporary pay reduction as presented in the Governor's recommended budget. Whereas the concept of furlough days may appear to be a more palatable option to address the salary aspect of the budget, in execution furloughs raise a number of problems as set forth below. The complications that arise with respect to a furlough program are one of the primary reasons I chose to recommend a temporary 6% salary reduction for state employees rather than furloughs. Another reason, of course, was that state employees received a 6% pay increase for a cost of living adjustment in the current biennium.

The following questions must be addressed before the implementation of a furlough program:

1) Is the intent of the legislature that every State employee is required to take one furlough day per month, or could some employees opt instead to take a 4.6 percent pay cut?
2) Can an employee volunteer to take more than twelve furlough days per year?
3) Can an employee take more than twelve furlough days per year and allow another employee to take less than twelve?
4) Must a (non-exempt) employee take the furlough days in increments of eight hours, or can the employee be furloughed for less than a full day more than once per month?
5) Will the furlough statute "sunset" after a certain period of time?
6) Are part-time employees also supposed to take twelve days without pay per year, or will the number of days for them be prorated?
7) If a part-time employee is required to be furloughed, but is at risk of losing health care benefits because he or she will not be working at least the minimum number of hours in the month to be eligible for those benefits, will the employee receive a pay cut instead of a furlough?
8) What about employees who are on a special type of extended leave such as under the Family Medical Leave Act, or catastrophic leave?
9) For agencies in which certain positions are fully federally funded, employees may not be able to take furlough days lest the agency risk losing the funding. Was this considered by the Legislature in its deliberations and will there be language in the bill to address this issue?

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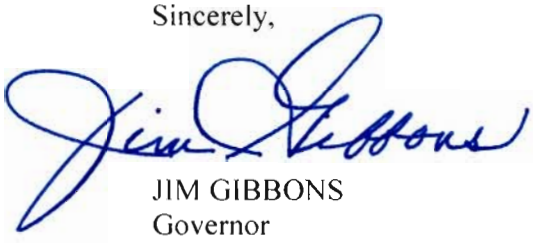
10) Will there be an exception for agencies that employ people in correctional or health care facilities that must be run 24 hours per day all year round? If so, will the statute address the exception or will those agencies be required to ask for an exception?
11) If the classified, non-exempt employees of 24-hour facilities cannot be furloughed, they also will not be able to receive a pay cut according to the Department of Personnel, Central Payroll, due to the programming of the computer system that produces payroll deposits. Will these agencies receive some sort of credit in the budget to make up for the fact that their employees' pay will not be cut?
12) Was it the Legislature's intent that non-exempt employees should receive no overtime pay (or comp time credit) in the week in which they take a furlough day? If so, will language to this effect be in the bill?
13) What effect will the furlough bill have on Nevada Administrative Code 284.580?
14) Are the twelve furlough days per year to be treated as paid status for the purposes of the following: pay progression date, entitlement to holiday pay, entitlement to longevity pay, the employee's probationary period, accrual of sick leave, accrual of annual leave, and seniority (for order of layoff)?
15) Will the bill address the issue of the furlough's effect on an employee in his or her last thirty-six months of State service?
16) Will exempt employees receive a pay cut of 4.6 percent and then be permitted to take the equivalent of one furlough day per month?
17) Will the statute address the particular considerations pertaining to exempt employees, such as the restrictions imposed by the Fair Labor Standards Act?
18) If any of the issues raised above are not specifically covered by the language of the furlough bill, will you be including a provision in the statute to allow the Department of Personnel to promulgate regulations to carry out the Legislature's intent?
19) Finally, will employees of the legislative and judicial branches participate in the furlough program or will the program be borne solely by employees of the executive branch?

Thank you for your attention and consideration to these issues as you draft and consider any legislation pertaining to furloughs.

Sincerely,



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