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Controller Files Opposition Papers Against Minimum Wage Order

SACRAMENTO – State Controller John Chiang today filed papers in opposition to the Governor's attempt to force him to pay the federal minimum wage during a budget impasse.

“Without legislative action or amendments to the Constitution, the documents filed today are further proof that the State cannot pay minimum wage without violating federal wage protections and exposing taxpayers to great financial risk,” said Controller Chiang.

Included are declarations from the current and two former payroll chiefs who have overseen the State's payroll operations for four different State Controllers since the early 1970's.

Also included are two independent reports by Crowe Horwath that assess feasibility and alternative solutions in reducing salaries to minimum wage. The independent feasibility assessment report concludes that the State's payroll structure and technology cannot comply with the Fair Labor Standards Act and constitutional requirements if forced to pay minimum wage.

The report refers to any attempt by the State to reduce salaries and simultaneously comply with federal wage protections, constitutional requirements and payroll statutes during a budget impasse as being mutually exclusive and an “unsolvable puzzle.” The three-month study determined that the process of reducing salaries to minimum wage and subsequent payroll recovery would be infeasible without the following:

- 1 Legislative action to change the current payroll process which calculates wages 10 days before the pay period concludes, without the benefit of any actual attendance data; and
- 1 Significant modifications to a payroll system that is scheduled to be decommissioned in 2012.

The assessment on alternative solutions report takes into account the State's current payroll system, and concluded that the solutions identified “are only partial solutions” that will take at least two years to complete and likely cost the State \$8.6 million.

Last week, the Controller filed his cross-complaint against the Governor's Department of Personnel Administration based on a ruling by the Third District Court of Appeal ruling in *Gilb v. Chiang*, in which the appellate panel declined to rule on either the legality of a similar pay letter issued in 2008 or the feasibility of implementing such a pay letter in light of the State's outdated payroll system. However, the court noted that “unfeasibility would arguably excuse the Controller from the declaratory judgment to comply with (the California Supreme Court's ruling in) *White v. Davis*.”

Today's documents were filed in opposition to another legal maneuver by the Governor to have the Sacramento Superior Court force the Controller into paying minimum wage and violating the Fair Labor Standards Act. The brief also states that the pay letter would cause a failure to comply with the overtime provisions of the Federal Fair Labor Standards Act which, in turn, could lead to large liabilities for the violations.

Copies of the [independent feasibility assessment report](#) and the [alternative solutions assessment report](#) by Crowe Horwath, the [Controller's brief](#) and [other declarations](#) can be found at www.sco.ca.gov.

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