

**MINUTES
FOR THE SPECIAL MEETING
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
Docket No. 5512**

1. Opening of Meeting:

The Appeals Board convened at 1:00 p.m., July 30, 2009 in Sacramento, with Chairwoman Bonnie Garcia presiding.

2. Roll Call: Members

Present

Absent

Bonnie Garcia, Chair

x

George Plescia, Vice Chair

x (by phone)

Ann Richardson

x

Liz Figueroa

x (by phone)

Cindy Montañez

x (by phone)

Sharon Runner

x (by phone)

3. Finding of Necessity for Emergency Meeting:

The Chief Counsel made a statement of emergency, setting forth that the Board voted at the July 6, 2009 meeting to require that employees use their furlough days on an ongoing basis, i.e., monthly; and that the Board has convened this meeting to reconsider that decision in view of the Governor's emergency proclamation regarding the economy and the rate of unemployment, and the Governor's letter of July 28, 2009 to the CUIAB, wherein he asked that the Board act immediately to provide maximum resources to the public to avoid impending harm to the public health and safety. The Board members voted unanimously, by roll call vote, to adopt this statement of emergency.

4. Agenda Item: Reconsideration of action taken at the July 6, 2009 Board meeting regarding furlough days.

Chair Garcia stated that there was concern over the amount of unused or banked furlough hours, in addition to unused vacation and personal leave time. Approximately 43% of CUIAB employees have more than 300 hours of unused vacation and personal leave time, and over 100 of those, or 1 in 7 employees, have already reached the maximum accrual allowed under state rules, or 640 hours. The concern is obviously the health and welfare of the employees, and the fact that CUIAB is one of the few agencies working under a self-directed program. The Board's action today will be to rescind or return us to the self-directed furlough, which would not require CUIAB employees to use hours that they have banked under the furlough program. We have been in contact with the Department of Personnel Administration (DPA) to ensure that the banked hours that the employees will be utilizing in the future are preserved in a manner that makes it

safe for them to use. The DPA will be working on any possible extensions needed to ensure that if CUIAB continues under the workload conditions that exist now, maximum flexibility will be allowed for the employees either through separation of service or at the time when CUIAB is approaching the deadline for the use of those furlough hours. As a reminder, in February employees were accruing 16 hours/month, and with the 3 day furlough issued under the new Executive Order, effective July 1, 2009, they would be accruing 24 hours a month that they would be banking. Under the self directed program CUIAB employees and its doors will still be open 5 days a week to serve general public and will still be operating under a self-directed furlough. The only change that the Board's action today would effect is that they would not require CUIAB employees to use their banked time. It would be banked with the assurance that DPA would be working to, and will be sending the Board a letter to that effect, ensure that they have maximum flexibility.

Member Plescia asked if the employees can accrue the furlough days and DPA will be drafting something so that the employees will not lose their time off.

Chair Garcia clarified that the employees will not be deprived of the use of those days. Under the current furlough program and the entire state employees system, everybody is subject to it through June 2010, the end of the budget year. However, for the self-directed employees they would be accruing the time and it could be used through June 2012. Based on the workload that CUIAB currently has, as they are projecting it out over the next year and a half, it does not appear as if the workload will be reduced to the point where they could give people all this time off. It may happen that the employees accrue 600 or more hours over the next year or so in addition to their regular personal leave days and vacation days. Under the current furlough program if they do not use those days by the deadline they lose those them.

Member Richardson questioned if the deadline was June 2010.

Chair Garcia clarified that the deadline being June 2012.

Member Richardson asked if the deadline was extended from 2010 to 2012.

Chair Garcia replied that it is under the Executive Order for the self directed furloughs. The workload is projected to be high or remain high through 2012. So the probability of employees being able to take off a huge chunks of time does not look likely, and that is why if they get close to that 2012 deadline, one of the operational issues that needs to be discussed is will they have to give employees 6, 8, 10 weeks off, 4 months off, because they have accrued that much time. The second problem would be if an employee separated from state service would the agency be able to fill behind them while they are still not technically separated. CUIAB has received assurance from DPA that they will work with our agency to do two things, (a) preserve that time; and, (b) help the agency in the event employees separate from state service so that CUIAB can immediately fill behind them so that the agency does not end up with a slot that is unavailable to fill and an employee

no longer there because they are burning off time.

Member Richardson questioned, since the employees are working really hard and they are getting the 15% reduction in pay, why is CUIAB reverting back to letting the employees bank the days.

Chair Garcia responded that the real issue here is that because of the workload the Board has to revisit a policy that makes it clear the agency is operating under a self-directed furlough, and in spite of all of the concerns that the Board has previously raised in terms of the number of hours that have already been accrued and how hard it is for the employees to use that time, that CUIAB has received assurances that no employee will be penalized if they accrue those hours. That does not mean that the employees will not be able to take furlough days if they need to use furlough days or want some time off. The employees will still be working with their supervisors, accruing that time, and they would be able to use their furlough days if they want to. However there is no requirement that is going to force them to use it and no obstacle in continuing to bank it.

Member Figueroa asked that the Board vote on this one issue and then they can discuss the particulars.

Chair Garcia called for a motion to return to the self-directed furlough, allowing the employees to continue banking their time under the self-directed furlough program with the understanding that DPA is going to work with the employees to ensure that their time is protected and can be utilized.

Member Richardson asked if that would be at some later date beyond 2012 or up to and including that date.

Chair Garcia stated that the current deadline is 2012, but with the assurance from DPA that they will be drafting a policy, working with CUIAB so that as we are approaching the deadline or upon looking at the impact to the agency, CUIAB has some criteria established that clarifies.

Member Richardson asked if that would be something that the Board would receive in writing just to CUIAB.

Chair Garcia responded that is correct, and that it should be arriving sometime today. Her concern was that because the current policy was that if you did not use it by the deadline you lose it, and also the second concern that the Board discussed at the July 6 board meeting was that CUIAB could not fill behind someone who had an extended leave period. Those are the two specific areas that DPA will work on with CUIAB. So that we can continue to operate and we can assure our employees that they are in no danger.

Member Plescia moved.

Member Figueroa second.

Roll call vote:

Member Richardson – aye.

Member Montañez – aye.

Member Plescia – aye.

Member Figueroa – aye.

Member Runner – aye.

Chair Garcia – aye.

Motion carried 6 to 0.

Chair Garcia asked if there were any other issues that the Board would like to address regarding that issue.

Member Figueroa commented that she understands that the Board has had its various committees working around the furlough and one of the questions was regarding the 4-10-40 week. She questioned if that was affected in any way with the decision just made and how are they getting the word out to the employees. She also wanted to know if this would affect the employees' 15% reduction in pay.

Chair Garcia responded that they took two different issues up previously. One was putting the schedule back on a 5 day week / 8 hour a day schedule, and this does not change that. The second issue regarding the furlough committee, the committee met at about 11:00 a.m. that morning so that they could alert staff, because under the 30 day notice they had for the changes in scheduling the necessity of this meeting was that it will kick in on August 10th. In the field offices around the state they were already looking at how to calendar and how to schedule their staff over the next month. They alerted them to it and until the Board took action today they could not make the necessary changes on their schedules. The Department of Personnel, Director Pam Boston, has a meeting scheduled this afternoon with the timekeepers and the management supervisory staff around the state at 2:30 p.m., and that information will be distributed back to them then.

Member Figueroa asked about pay.

Chair Garcia responded that the pay under the furlough program is still impacted. That is not an issue that the Board can control.

Member Richardson commented that a lot of the scheduling and a lot of the problems that the furlough presents for CUIAB were unique in that we have this large backlog and when we are looking at efficiencies, one of efficiencies that would assist CUIAB in handling this backlog is to allow us to at least accrue it and save our furlough as opposed to the use it or lose it pressure the agency was under. She stated she thinks that might alleviate some of the concerns of the staff who cannot decide whether to use it now or use it later and if 25% of our workforce is about to ready to retire we are still going to have the impact problems. She

thinks the use it or lose it issue is something that the Board might look at.

Chair Garcia responded that exactly what needs to come from DPA and that is why that maximum flexibility is important.

- 4. Public Comment:**
There was no public comment.

The special board meeting was concluded at 1:24 p.m.

Adjournment