

1 K. WILLIAM CURTIS
Chief Counsel, Bar No. 095753
2 WARREN C. STRACENER
Deputy Chief Counsel, Bar No. 127921
3 LINDA A. MAYHEW
Assistant Chief Counsel, Bar No. 155049
4 CHRISTOPHER E. THOMAS
Labor Relations Counsel, Bar No. 186075
5 Department of Personnel Administration
State of California
6 1515 S Street, North Building, Suite 400
Sacramento, CA 95811-7258
7 Telephone: (916) 324-0512
Facsimile: (916) 323-4723

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9 Attorneys for Plaintiff, DAVE GILB, as Director of the California Department of Personnel
Administration

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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SACRAMENTO

13 DAVE GILB, as Director of the California
Department of Personnel Administration,

14 Plaintiff,

15 v.

16 JOHN CHIANG, as California State Controller,

17 Defendant.

) Case No.

) **DECLARATION OF MICHAEL C.
GENEST**

) Date:
Time:
Dept:
Trial Date:

) **Exempt from Fees
(Gov. Code § 6103)**

20
21 I, Michael C. Genest, hereby declare:

22 1. I am the Director of the Department of Finance for the State of California.

23 2. The Director of the Department of Finance acts as the Governor's chief advisor on
24 fiscal policy matters.

25 3. I make this declaration in support of this action.

26 4. I have personal knowledge of the facts stated in this declaration, and if called as a
27 witness I could and would competently testify to them.

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1 **Budget**

2 5. The California Legislature has not adopted a budget for Fiscal Year 2008-2009.

3 6. When no fiscal year budget is in place, the state government has no authority to
4 make a wide variety of public-purpose payments, including payments to vendors and contractors
5 for goods and services chargeable to Fiscal Year 2008-2009; apportionments of highway user
6 taxes to the state, cities and counties for highway and road improvement projects; grants to
7 higher education students; funds for the operation of the trial courts, the University of
8 California, California State University system, and the California Community Colleges system;
9 payments for non-federally mandated social services programs such as Community Care
10 Licensing, Adult Protective Services, State Only Foster Care, State Only Adoptions Assistance,
11 and Cash Assistance Program for Immigrants; and tax relief payments to low income seniors and
12 disabled persons.

13 7. In addition to the operational effects of a budget impasse described above, when
14 no fiscal year budget is in place, other payments required by law continue without consideration
15 of, or adjustments to address the state's fiscal condition. This has resulted in the commitment of
16 approximately \$487 million above the expenditure adjustments proposed by the Governor in his
17 May Revision of the proposed Fiscal Year 2008-09 budget.

18 **Cash**

19 8. The Department of Finance works with the State Controller's Office and the State
20 Treasurer's Office every year to determine whether, on a monthly basis, the state will have
21 sufficient cash attributable to the General Fund to meet the state's obligations, including its
22 obligations to its bondholders. The Department of Finance currently projects that it is likely that
23 the State will have insufficient cash to meet those needs in either September or October.

24 9. It is routinely necessary to borrow cash on a short-term basis in order to meet the
25 state's obligations between periods that tax revenues are scheduled to be received. That
26 borrowing process is the issuance of Revenue Anticipation Notes (RANs). However, when a
27 budget is not in place, this cash flow borrowing cannot take place. Instead, in order to meet cash
28 flow needs, borrowing must be done through the issuance of Revenue Anticipation Warrants

1 (RAWs). RAWs are more expensive to issue than RANs. It is anticipated that RAWs will bear
2 interest at a rate at least one percent higher than RANs, and that the security for this type of
3 borrowing, which is not required for RANs, will cost approximately \$215 million.

4 10. If a budget is not passed in time to assure that RANs can be issued to meet this
5 cash flow need, it may be necessary to issue the much more expensive RAWs. It is prudent
6 fiscal policy to reduce spending in order to reduce the size of any issuance of RAWs.

7 **Effect of the Executive Order**

8 11. To reduce the effects of the continued spending resulting from the Legislature's
9 failure to pass a budget, to preserve cash and to reduce the amount of any RAWs issuance that
10 might be required as a result of the Legislature's failure to pass a budget, Governor Arnold
11 Schwarzenegger took the steps available to him pursuant to law, and issued Executive Order
12 S-09-08 on July 31, 2008.

13 12. Pursuant to Executive Order S-09-08, the following actions have commenced and
14 are continuing. The Department of Finance has estimated that these actions will result in cash
15 savings to the state as follows:

16 a. The services of approximately 10,300 temporary state employees, including
17 retired annuitants, permanent intermittent employees, seasonal workers, temporary help, and student
18 assistants, have been terminated, which is estimated to result in a savings of \$19.7 million per
19 month.

20 b. A hiring freeze has been implemented, which is estimated to result in a
21 savings of \$6.7 million for the month of August 2008.

22 c. Overtime has been prohibited except for certain programs and departments
23 deemed to be critical to the preservation and protection of human life and safety, including but
24 not limited to emergency and disaster response activities and the provision of 24-hour medical
25 care, which is estimated to result in a savings of \$21.9 million for the month of August 2008.

26 d. The services of non-exempt contract consultant services have been
27 suspended, which is estimated to result in a savings of \$41 million for the month of

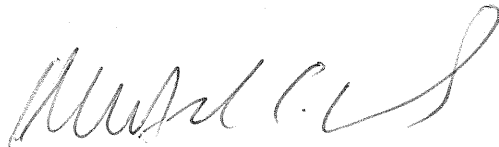
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1 August 2008.

2 13. Pursuant to the terms of Executive Order S-09-08, the actions described in
3 Paragraph 12 above will remain in effect until such time as a budget is passed and until I
4 confirm an adequate cash balance exists to meet the State's fiscal obligations.

5 14. Executive Order S-09-08 also instructs me and Director of Personnel
6 Administration, David Gilb to work with the Controller to develop and implement the necessary
7 mechanisms to comply with the California Supreme Court's *White v. Davis* opinion. In response
8 to that instruction, I am working with the Director of Personnel Administration and the State
9 Controller by (a) establishing processes that identify those employees who will be authorized to
10 work overtime; (b) identifying the continuous appropriations that are available to pay employees
11 during a budget impasse; (c) identifying administrative processes which are available to
12 facilitate the payment of minimum wage to those employees who are not reasonably expected
13 to work overtime; and (d) identifying administrative processes which are available to facilitate
14 the required immediate repayment of full salary once a budget is enacted.
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16 This declaration was executed this 8th day of August, 2008, in Sacramento, California.
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21 MICHAEL C. GENEST
22 Director of the Department of Finance
23 for the State of California
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