



PAYROLL BULLETIN

From: Steven L. Valasek, Director of State Accounting

Date: August 10, 2007

Subject: Issuance of Warrants in Absence of Appropriations

Number: 6-07

The Comptroller has received authority per the attached court order, in the absence of appropriations, to issue payroll warrants or electronic payments sufficient to comply with Fair Labor Standards Act 29 U.S.C. § 201, et seq. ("FLSA") to state employees. Accordingly, each agency is directed to submit payroll vouchers on their scheduled submittal date for payment of employees subject to and in such amounts as are required by the FLSA.

Agencies are reminded that each payroll voucher must contain the certification required by Section 9.03 of the State Finance Act (30 ILCS 105/9.03).

Agencies may access this and other Payroll, SAMS and Accounting Bulletins on the Comptroller's website at www.ioc.state.il.us under Resource Library. If you have any questions regarding this bulletin, please contact our payroll office at (217)782-4758.

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
CHRISTIAN COUNTY, ILLINOIS

THE AMERICAN FEDERATION OF STATE,)
COUNTY and MUNICIPAL EMPLOYEES,)
AFL-CIO, COUNCIL 31,)

and)

MARCIA HEITZ, DONALD WAREHAM,)
RONALD ENGLAND, MELODIE SYKES,)
SUSAN L. SMITH, MARNITA M. HARRIS,)
BRUCE CURTAIN, SUSAN C. MASTEN,)
and GARY BECKMAN, in their individual)
capacities as)

Plaintiffs,)

vs.)

STATE OF ILLINOIS and DANIEL W. HYNES,)
in his official capacity as Comptroller for the)
State of Illinois,)

Defendants.)

FILED

AUG 10 2007

Donna M. Castelli
Circuit Clerk
Christian County

No. 07 MR 52

AGREED ORDER

THIS MATTER, coming on for hearing on the Motion for Temporary Restraining Order or, in the alternative, Preliminary Injunction;

THE PARTIES, the American Federation of State, County, and Municipal Employees, AFL-CIO, Council 31; Marcia Heitz; Donald Wareham; Ronald England; Melodie Sykes; Susan L. Smith; Marnita M. Harris; Bruce Curtain; Susan C. Masten; and Gary Beckman, plaintiffs, having appeared by and through their counsel, Cornfield and Feldman; and the defendants, State of Illinois and Daniel W. Hynes, Comptroller of the State of Illinois, having appeared by and through their counsel, Lisa Madigan, Attorney General of the State of Illinois; and

THE PARTIES having agreed, solely for purposes of this Agreed Order, as follows:

- a. The Comptroller of the State of Illinois has no authority to issue warrants or otherwise pay employees of the State of Illinois without an appropriation (*AFSCME v. Netsch*, 216 Ill. App. 3d 566, 567 (1991)) or a court order (*Jorgensen v. Blagojevich*, 211 Ill.2d 286, 315 (2004));
- b. Pursuant to §2(a) of the State Officers and Employees Money Disposition Act, "[n]o money belonging to or left for the use of the State shall be expended or applied except in consequence of an appropriation made by law and upon the warrant of the State Comptroller" (30 ILCS 230/2(a));
- c. Pursuant to §9(c) of the State Comptroller Act, the Comptroller shall refuse to draw a warrant, "[i]f he determines that unencumbered appropriations or other obligational or expenditure authority are not available from which to incur the obligation or make the expenditure" (15 ILCS 405/9(c));
- d. The 95th General Assembly has not passed a budget for the 2008 fiscal year;
- e. The Governor of the State of Illinois has not signed the 2008 fiscal year budget into law;
- f. The State of Illinois is an "employer" as defined by the Fair Labor Standards Act (FLSA) (29 U.S.C. §201 *et seq.*);
- g. The FLSA requires that the State of Illinois comply with the minimum wage and overtime obligations contained in that Act;
- h. Without a court order authorizing payment, the State of Illinois may be subject to liquidated damages and interest for a violation of the FLSA;
- i. It is in the best interest of the parties and the People of the State of Illinois to avoid the need to pay liquidated damages and interest due to a violation of the FLSA;
- j. All parties shall bear their own attorney's fees, costs, and expenses. This Agreed Order or the provisions contained herein shall not be used as a basis for a petition or other claim for attorneys' fees; and
- k. Plaintiffs agree that they will not pursue a claim for liquidated damages and/or for interest under the FLSA for the time period encompassed by this Agreed Order.

IT IS HEREBY ORDERED that Comptroller, Daniel W. Hynes, to the extent feasible,

shall issue warrants or electronic payments sufficient to comply with the FLSA (29 U.S.C. §201 *et seq.*) to State employees. To the extent it is not feasible to limit the issuance of warrants or electronic payments only to those State employees and in such amounts necessary to comply with the FLSA, the Comptroller shall issue such other additional payroll warrants or electronic payments to ensure that the requirements of the FLSA have been satisfied, including payroll warrants or electronic payments to State employees that may not be covered by the FLSA. This Agreed Order will expire at 11:59 p.m. on August 31, 2007.

This order shall not prejudice any other claim or defense in this matter. This Order also shall not be a precedent for any other lawsuit, issue, or claim.

SO ORDERED.

8/10/07
Date


Judge