

# Memo

To: Capitol Correspondents, editors and news reporters

From: Rep. Glen Grell (R- Cumberland County)  
Rep. Jerry Nailor (R-Cumberland County)  
Rep. Ron Marsico (R-Dauphin County)  
Sen. Jeff Piccola (R-Dauphin County)  
Sen. Pat Vance (R-Cumberland County)

Date: 6/26/2008

Re: Governor's Furloughing of workers is a leverage tool not mandated by law

As many writers and editorialists blame the legislature for the wave of late state budgets, please note, it is our belief that late budgets are part of a planned effort by Governor Rendell and his Administration.

Each year since 2004, the governor has publically explained that his staff and lawyers have reviewed and studied the law and relevant court cases. Each year they have come to different conclusions, and each year they send their scary letters to state workers on different dates (sometime as early as May).

We cannot recall any previous governor sending furlough warning letters to employees.

A number of legislators have been trying to fix this situation since last year's debacle of a one-day furlough, but House Democrat leadership has kept those bills bottled up, forcing AFSCME to file a lawsuit last week to determine once and for all if the governor has the authority to furlough workers or if, as he and his administration claim, he is required by federal law to furlough workers if a budget is not enacted by July 1.

Yesterday, June 25, 2008, Pennsylvania Treasurer Robin Wiessmann's office officially responded to the lawsuit. A copy in its entirety is attached in a PDF format. The treasurer's position states that there is no basis in law mandating furloughs, and that the decision is purely one of the discretion by the governor.

**What the Governor's Office has said:**

*"Our only real option under the law is to furlough state employees..." Gov. Rendell said.*  
Governor's Office press release, July 7, 2007

*Naomi Wyatt, Rendell's secretary for administration, said in a letter to 90,000 state workers that without a signed budget by June 30, "we are required by law to begin budget impasse furloughs."*  
Tribune Review, June 7, 2008.

**Official response from the Pennsylvania Treasurer:**

*"The crux of Petitioner's brief is ultimately correct. The interaction of the FLSA with the provisions of the Pennsylvania Constitution does not mandate that a furlough of employees occur. However, as Petitioners correctly concede, the decision to furlough is one that is ultimately to be made by the Executive Branch in furtherance of the execution of their duties."*

Page 7, Respondent Treasurer's Brief

It is our position to ensure that state workers can no longer be used for budget leverage by any governor, of any party. There are various pieces of legislation aimed at protecting Pennsylvania's workers and ensuring important state services will continue.