

# CDCAN REPORT

## CALIFORNIA DISABILITY COMMUNITY ACTION NETWORK

### ADVOCACY WITHOUT BORDERS: ONE COMMUNITY

REPORT #245-2009 AUGUST 11, 2009 – TUESDAY

*California Disability Community Action Network Disability Rights News goes out to over 50,000 people with disabilities, mental health needs, seniors, traumatic brain & other injuries, veterans with disabilities and mental health needs, their families, workers, community organizations, including those in Asian/Pacific Islander, Latino, African American communities, policy makers and others across California.*

### REMEMBERING THE LIFE OF EUNICE KENNEDY SHRIVER, JOAN B. LEE, DONALD ROBERTS & BILL YOUNG.

To reply to this report write: **MARTY OMOTO** at [martyomoto@rcip.com](mailto:martyomoto@rcip.com)

WEBSITE: [www.cdcan.us](http://www.cdcan.us) TWITTER: [www.twitter.com](http://www.twitter.com) - "MartyOmoto"

### California Budget Crisis

## State Senate President Darrell Steinberg Files Lawsuit To Block Governor's Line Item Vetoes

SACRAMENTO, CALIF (CDCAN) [Updated 08/11/09 10:50 AM (Pacific Time) - Attorneys for State Senate President Darrell Steinberg (Democrat – Sacramento) filed a lawsuit against Governor Arnold Schwarzenegger today (August 11) in San Francisco Superior Court that says the governor exceeded his authority under the State Constitution in making additional reductions using his line item veto power, to ABx4 1, [the "x4" stands for the fourth special or extraordinary session] the revised budget bill passed by the Legislature on July 24<sup>th</sup> and signed by the Governor on July 28<sup>th</sup>. [copy of the 31 page lawsuit filed by Steinberg is on the CDCAN website at [www.cdcan.us](http://www.cdcan.us)]. Steinberg's action comes as a private citizen and not as an official action by the State Senate.

The lawsuit asks the state court to:

- Issue a writ of mandate (a court order) "*prohibiting defendants/respondents [the Governor and other appropriate State officials] from giving any force or effect to the line-item vetoes purportedly issued by defendant/respondent Schwarzenegger on July 28, 2009 as set forth in paragraphs 13 and 19 [in the lawsuit which lists out the budget items and control sections that were impacted by the Governor's line item vetoes]*"
- That the court issue its "*declaratory judgment*" that the line item vetoes listed in paragraphs 13 and 19 in the lawsuit are "*null and void and can be given no force or effect.*"

The lawsuit – if successful – would have tremendous impact in reversing major cuts to

several health and human service programs, especially to senior programs under the Department of Aging and the Caregiver Resource Centers under the Department of Mental Health.

However the lawsuit would not reverse the cuts in the revised budget plan (ABx4 1) or the cuts in the original 2009-2010 budget passed in February that were both passed by the Legislature and approved by the Governor. The revised budget bill passed in mid-July and the earlier budget plan passed in February both contained major sweeping cuts to health and human services, education and other programs that impact children and adults with disabilities, mental health needs, seniors and low income families and others.

And while the lawsuit would seek to reverse the line item veto reduction for In-Home Supportive Services, it does not appear it would seek to block the Governor's action that waived the three exemptions (persons under protective supervision, persons who receive more than 120 hours of IHSS per month and persons who receive paramedical services under IHSS) to two of the major cuts because the Legislature – in budget trailer bill language, gave the Governor specific authority to do so.

### **Legislature's Lawyer Says Governor Exceeded His Authority – But Governor's Counsel Disagrees**

Last week the California Legislature's legal counsel in an opinion requested by Assembly Speaker Karen Bass (Democrat – Los Angeles) said that Governor Arnold Schwarzenegger exceeded his authority under the State Constitution with most of the line item vetoes he made to the revised budget bill, because the revised budget simply reduced an already previously approved appropriation. [copy of the 4 page opinion is available on the CDCAN website at [www.cdcan.us](http://www.cdcan.us)]. However the opinion of the Legislative Counsel Bureau – as it is formally known – is not binding on anyone and the Governor's staff and legal counsel have disputed that legal interpretation saying that Schwarzenegger's actions were legal.

The Governor on July 28<sup>th</sup> signed the main revised budget bill and several budget trailer bills but used his line item veto power to cut an additional \$489 million in spending which in normal budget years would not face legal questions. What is different this year is that ABx4 1 (the “x4” stands for the fourth special or extraordinary session of the Legislature) revised a previously approved budget – not enacted a totally new one. Legislators and some advocacy groups questioned whether the Governor had the authority under the State Constitution to use his line item veto power for legislation that simply reduced an already existing appropriation.

The Assembly and State Senate passed the main revised budget bill (ABx4 1) [the “x4” means 4<sup>th</sup> special or extraordinary session) and a package of additional budget “trailer bills” [called that because it follows or trails the main budget bill, making necessary changes to state law to implement the cuts or other policy changes] after a grueling all night session that began July 23 and ended Friday on July 24<sup>th</sup>. Both houses adjourned for their summer recess and will return back to the State Capitol on August 17 at 12 noon.

Those bills revised the 2009-2010 State Budget that the Legislature passed in February – four months early. That budget passed in February included billions of dollars of spending

cuts, including major cuts to regional centers, In-Home Supportive Services, SSI/SSP and other programs and also temporary tax increases. The revised budget was needed to close most of the shortfall of over \$26 billion that grew since February. The spending plan makes deep cuts to education, health and human services, local government, state employees, the state's prison system and also includes no new tax increases beyond the temporary tax increases that were included last February.

### **What Does This Mean**

- The Governor's line item vetoes remain in effect unless the Legislature overrides it or passes new legislation that rescinds the cuts – or if a court blocks it. To override the Governor's veto – or any veto by a governor, requires 2/3rds vote to do so in both the Assembly and State Senate, meaning Republican votes would be needed. It is extremely rare for any California governor to their vetoes overturned by the Legislature.
- The lawsuit filed by Steinberg would not reverse cuts that were included in ABx1 4 and related budget trailer bills that were passed by the Legislature. The Governor's additional cuts made using his line item veto power was in addition to what is in the 2009-2010 Revised Budget (as contained in ABx4 1) approved by the Legislature on July 23<sup>rd</sup> and 24<sup>th</sup> and implemented through changes in state law in the package of trailer bills (also passed by the Legislature on July 23<sup>rd</sup> and 24<sup>th</sup>).
- It is possible that legislative leaders and the Governor could work out a deal when the Legislature returns to Sacramento on August 17<sup>th</sup> that reverses some or all of his line item vetoes in exchange for passing parts of the budget agreement – the borrowing of highway funds and authorizing oil drilling off Santa Barbara – that stalled in the Assembly, or coming up with new proposals.

### **PLEASE HELP CDCAN CONTINUE ITS WORK!!!**

I am back. And I will not go away. And neither will the work of CDCAN and the thousands connected to it through their work and advocacy. But we need your help.

CDCAN Townhall Telemeetings, reports and alerts and other activities cannot continue without your help.

To continue the CDCAN website, the CDCAN News Reports. sent out and read by over 45,000 people and organizations, policy makers and media across California and to continue the CDCAN Townhall Telemeetings which since December 2003 have connected thousands of people with disabilities, seniors, mental health needs, people with MS and other disorders, people with traumatic brain and other injuries to public policy makers, legislators, and issues.

Please send your contribution/donation (make payable to "CDCAN" or "California Disability Community Action Network):

### **CDCAN**

**1225 8th Street Suite 480 - Sacramento, CA 95814**

paypal on the CDCAN site is not yet working – will be soon.

MANY, MANY THANKS to **SAN FRANCISCO BAY AREA AUTISM SOCIETY OF AMERICA**, Hope Services in San Jose, FEAT of Sacramento (Families for Early Autism Treatment), RESCoalition, Sacramento Gray Panthers, Easter Seals of Southern California, Tri-Counties Regional Center, Westside Regional Center, Regional Center of the East Bay, Friends of Children with Special Needs, UCP of Orange County, UCP of Los Angeles and Ventura Counties, Alta California Regional Center, Life Steps, Parents Helping Parents, Work Training, Foothill Autism Alliance, Arc Contra Costa, Pause4Kids, Manteca CAPS, Training Toward Self Reliance, UCP, California NAELA, Californians for Disability Rights, Inc (CDR) including CDR chapters, CHANCE Inc, , Strategies To Empower People (STEP), Harbor Regional Center, Asian American parents groups, Resources for Independent Living and many other Independent Living Centers, several regional centers, People First chapters, IHSS workers, other self advocacy and family support groups, developmental center families, adoption assistance program families and children, and others across California