State	Union
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6/23/20	06/23/2020

STATE COUNTER PROPOSAL

Date: June 22, 2020

Time: 5:25 PM

SIDE LETTER #2 – COVID-19 PANDEMIC RECESSION

This Agreement is necessitated by the unanticipated budget shortfalls arising from the COVID-19 Pandemic. This Agreement is a Side Letter of the current Memorandum of Understanding (MOU) effective July 1, 2016 through July 1, 2020, between the American Federation of State, County and Municipal Employees (AFSCME) Bargaining Unit 19 (BU 19) and the State of California (State). This Side Letter will be incorporated into any successor Agreement reached between AFSCME, BU 19 and the State prior to July 2, 2022.

I. Personal Leave Program 2020

Effective with the pay period following ratification by both parties through the June 2022 pay period, employees will be subject to the Personal Leave Program 2020 (PLP 2020) for two (2) days or sixteen (16) hours per month in the manner outlined below. PLP 2020 shall have no cash value and may not be cashed out, except as permitted in the very limited circumstance described in subsection E below.

A. Each full-time employee shall continue to work their assigned work schedule and shall have a reduction in pay equal to 9.23%.

B. Each full-time employee shall be credited with sixteen (16) hours of PLP 2020 on the first day of each pay period for the duration of the PLP 2020 program.

C. Salary rates and salary ranges shall remain unchanged.

D. Employees will be given discretion to use PLP 2020 subject to operational considerations.

1. PLP 2020 time must be used before any other accrued leave with the exception of Professional Development Days and approved sick leave.
2. Employees may elect to use PLP 2020 in lieu of approved sick leave.
3. PLP 2020 shall be requested and used by the employee in the same manner as vacation/annual leave.
4. Subject to the above, requests for use of PLP 2020 leave must be submitted in accordance with departmental policies on vacation/annual leave.

E. All leave earned under PLP 2020 must be used prior to voluntary separation. Appointing powers may schedule employees to take PLP 2020 time off to meet the intent of this section. If an employee's separation is not voluntary and the separation date cannot be extended, PLP 2020 shall be cashed out. Employees have until June 30, 2027, to use all leave time earned under PLP 2020. Any unused PLP 2020 time shall be void after June 30, 2027.

F. Time during which an employee is excused from work because of PLP 2020 leave shall not be considered as "time worked" for purposes of determining the number of hours worked in a work week.

G. A State employee shall be entitled to the same level of State employer contributions for health, vision, dental, flex-elect cash option, and enhanced survivor's benefits they would have received had the PLP 2020 not occurred.

H. PLP 2020 shall not cause a break in State service, nor a reduction in the employee's accumulation of service credit for the purposes of seniority and retirement. PLP 2020 does not affect other leave accumulations, or service towards a merit salary adjustment.

I. PLP 2020 shall neither affect the employee's final compensation used in calculating State retirement benefits nor reduce the level of State death or disability benefits to supplement those benefits with paid leave.

J. The PLP 2020 reductions shall not affect transfer determinations between state civil service classifications.

K. Part-time employees shall be subject to the same conditions as stated above, on a pro-rated basis. Pro-ration shall be determined based on the employee's time base consistent with the chart below:

Part-time Time Base	PLP 2020 Credit Hours
1/10	1.60
1/8	2.00
1/5	3.20
1/4	4.00
3/10	4.80
3/8	6.00
2/5	6.40
1/2	8.00
3/5	9.60
5/8	10.00
7/10	11.20
3/4	12.00
4/5	12.80
7/8	14.00
9/10	14.40

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L. PLP 2020 for permanent intermittent employees shall be pro-rated based upon the number of hours worked in the monthly pay period, pursuant to the chart in Section P below.

M. PLP 2020 shall be administered consistent with the existing payroll system and the policies and practices of the State Controller's Office.

N. Employees on SDI, NDI, ENDI, IDL, EIDL, or Workers' Compensation for the entire monthly pay period shall be excluded from PLP 2020 for that month.

O. Seasonal and temporary employees are not subject to PLP 2020.

P. All Permanent Intermittent employees shall be subject to the pro-ration of salary and PLP 2020 credits pursuant to the chart below:

Hours Worked During Credit Pay Period	**PLP 2020**
0-10.9	1
11-30.9	2
31-50.9	4
51-70.9	6
71-90.9	8
91-110.9	10
111-130.9	12
131-150.9	14
151 or over	16

Q. Continuation of the Voluntary PLP (VPLP) during the duration of PLP 2020 shall be at the discretion of the employee. If the employee elects to discontinue participation in VPLP, they shall be allowed to opt out at any time during the PLP 2020 program.

R. The maximum carry over balance of 640 hours in BU 19 Article 9.1 and 9.3 shall be increased for the term of this Side Letter, by the equivalent number of PLP 2020 hours BU 19 employees have been subject to during the PLP 2020 program.

S. The State shall not seek additional employee compensation reductions from AFSCME, Local 2620 represented employees during the 2020-21 and 2021-22 fiscal years.

T. Disputes regarding the denial of the use of PLP 2020 time may be appealed through the grievance procedure. The decision by the Department of Human Resources shall be final and there may be no further appeals.

II. Contract Reopener Language – Elimination of Pay Decreases

A. The remainder of the MOU, such as the amount necessary for the payment of compensation and employee benefits that were in effect prior to the 2020-21 fiscal year, shall continue in full effect, subject to the reductions agreed to in this Side Letter. Notwithstanding any other provisions of law, this Side Letter and the MOU represents the only entitlement to payment of compensation and employee benefits.

B. The determination of sufficient funding to restore the reductions relative to this Side Letter shall be at the sole discretion of the Director of the Department of Finance if either of the following circumstances occur:

1. If the Director of the Department of Finance, as a result of appropriate federal legislation providing additional funding to the state to address the impacts of the COVID-19 Recession, elects to restore, at their sole discretion, some or all of the pay that has been reduced.

2. If the Director of the Department of Finance, as a result of state revenue becoming sufficient to fully fund existing statutory and constitutional obligations, existing fiscal policy, and the cost of providing the pay that has been reduced as a result of the COVID-19 Recession, elects to restore, at their sole discretion, some or all of the pay that has been reduced.

C. In the event the Director of the Department of Finance elects to restore, at their sole discretion, some or all of the pay that has been reduced by operation of this Side Letter, the State shall provide notice to the Union and shall meet and confer with the Union upon request regarding the impact of that determination.

D. Determination of funding availability relative to this section shall be at the sole discretion of the Director of the Department of Finance

E. No provision of Section II shall be subject to the grievance and arbitration procedure; Section II is specifically not subject to arbitration.

III. Suspension of Employee Portion of OPEB

Notwithstanding Government Code Sections 22940, 22942, 22943, 22944, 22944.2, 22944.3, and 22944.5, the employees' monthly contribution of three percent (3%) for prefunding other post-employment benefits for the 2020-21 and 2021-22 fiscal years, as described in BU 19, Article 11.11, paragraph A, is suspended and shall not be withheld from employees' salaries beginning on the first day of the pay period following ratification, and ending on June 30, 2022. The employer's monthly contribution for prefunding other post-employment benefits will continue in the 2020-21 and 2021-22 fiscal years, as described in BU 19, Article 11.11, paragraph A.