



# CEMAGRAM

county & court

## County Employees Management Association

### Arnie's Agenda

By Randy Johnese  
Business Representative

While running for governor against Gray Davis, Arnold Schwarzenegger presented himself as a moderate, free of influence from special interests. Now Governor Schwarzenegger seems to spend most of his time raising money from special interests to promote a ballot initiative agenda that is anything but moderate.

At a time when the state is in the midst of a fiscal crisis, little of Arnie's focus is on budgetary matters. He proposes to take tenure away from school teachers and institute merit pay. No fiscal impact there. He proposes to change the way that legislative districts are drawn. A possible boon to the Republican Party but no fiscal advantage for the state.

He claims that his proposal to outlaw public employee pensions will save the state money but an analysis of the impact indicates that it will cost the state an additional \$1.52 billion over the next ten years (see: <http://www.calpers.com/eip-docs/about/press/news/>

defined plans / item%203\_aca5\_bpac\_feb05.pdf). It would, however, significantly benefit the money managers and investment funds that have contributed heavily to both Arnie's campaign and his initiative war chest.

The final piece of the governor's program is related to the budget. Schwarzenegger, who has already ignored voter mandates by diverting prop. 98 (Education) and Prop 42 (Highway) funds from their intended purposes, wants the authority to make mid-year cuts in the state budget as well as to permanently get rid of Proposition 98 mandates.

None of this bodes well for public employees. Even though Governor Schwarzenegger sees himself as another Hiram Johnson, he sounds more and more like Richard Nixon as he lists "enemies"; teachers, nurses, unions...

We should all be prepared for a very intense political struggle this year.

### a look inside

President's Message  
PAGE 2

CEMA In Pictures  
PAGE 3

Business Representative's Report  
PAGE 4

A Word from Superior Court  
~  
FLSA Changes Affect Some CEMA Members  
PAGE 5

CEMA Members Sworn As OE 3 Members  
PAGE 6

Political Action Report  
~  
Know Your Rights  
PAGE 7

CEMA Legal Services  
Page 8

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# President's Message



by **Edna Esguerra**  
President

I want to share with you about TAG, the Transition Assistance Group.

TAG is designed to look at assisting employees, managers and staff, with the multifaceted issues surrounding lay off. It is co-chaired by Leode Franklin, Deputy County Executive and myself as President of CEMA. It is attended by Labor Relations staff, County Staff Development, and representatives of different bargaining units.

At the last meeting, Leode Franklin outlined the \$116 – 135 million budget deficit the county is facing for fiscal year 2005-2006. The lower number is the deficit at the local level while the higher number is a projected deficit based on the state budget. To meet the \$116 shortfall, the County has taken some innovative steps such as re-amortizing their PERS liability. Vacated and frozen positions from the early retirement are planned for deletion. Though it is expected that there will be a lay off, how many positions are targeted per bargaining unit is still a question. The County will attempt to in-place incumbents of any targeted position.

What assistance do managers have to help their staff? Staff Development will be working with each agency and its respective manager/director on career training, resume development, interviewing skills, retirement, etc. Last

year, Staff Development passed out a “Survival Kit” with valuable information and resources. The Employee Assistance Program (EAP) will provide the psychological and mental support as necessary.

CEMA requested that the county look at staff with disciplinary issues or who are on leave for along time that are getting in-placed. In the past, receiving managers ended up having a problem dealing with either the performance or leave issues of the in-placed staff. It is doubly hard for managers, after getting their previously frozen positions finally filled to realize that the in-placed staff is either on leave or is having discipline issues.

There is a follow up meeting in April. We believe that we will have some idea as to the extent of the lay off by bargaining unit. In the meantime, I am asking each of the CEMA managers to call the office when you see workload overload in your areas as a result of positions getting deleted without an equal reduction in expectations. The budget deficit is real and we must do our best to work with the county to mitigate, as much as possible, the negative and deleterious effects this has on our staff as well as the programs we support.

Stay tuned.....

# CEMA In Pictures



**CEMA Executive Board gets training on CEMA's Budget**



**County CEO, Pete Kutras meets with the CEMA Board**



**CEMA Members Helen Norman and Amando Cablas phone for library Measures A and B**



**CEMA Officers, Mark Hand, Edna Esguerra and Richard Rapacchietta with Board of Supervisor's Chair, Liz Kniss**

**The CEMA Executive Board's annual farewell to last year's members**



**Retired Board Members and special honorees, Richard Simon and Delia Ho**

**Past Board Member, Greg Monteverde and current 2nd Vice President, Mark Hand**



**I. to r. Richard Simon, Sheila Stevens, past Board Member Barbara Lang and CEMA Sr. Representative, Tom Starkey**

# Business Representative's Report



by Tom Starkey

Senior Business Representative

In the past two months we have begun building the foundation to get a strong contract for CEMA members when we negotiate a full agreement in the summer of 2006. As you know we have not addressed changes to the contract language since 1999. A plan for renewal of the 2006 contract will be adopted by the CEMA Executive Board in July and will be based on the following elements:

The Executive Board will receive some training on the Negotiations Process and on interest based negotiation processes versus traditional positional based negotiations. CEMA used interest based negotiations in 1999 to resolve all non economic issues and will have to decide if we want to use a similar approach for 2006 negotiations. In Interest based negotiations both parties explore each others issues and mutually develop solutions that address identified interests. Contract language is then developed from mutually agreeable solutions that come from addressing each party's needs. Positional negotiations involve each party taking a position and then modifying that position until there is an agreement or a work action or no agreement.

CEMA will expand member involvement with all aspects of the renewal of the contract. The recently adopted by-laws allow for a process of members selecting the negotiations committee which will allow for wider participation from the various departments and classifications within CEMA. Also, the new by-laws provided for open negotiations meetings between the County and CEMA so that any member can follow the process if they wish. There will also be increased communications that will come from CEMA Liaisons, the use of e-mail and continued use of the CEMA website, which will all be new vehicles to keep members better informed of the process of negotiations.

The plan that will be adopted by the Executive Board will include the involvement of the CEMA Political Action Committee. There are two seats up for election on the Board of Supervisors in 2006 and CEMA plans to link our involvement in those races to support for the issues we want address in the contract renewal.

The last component to the plan is to increase the membership through a

CEMA Liaison and Member to Member recruitment campaign. CEMAs' voice in negotiations will only be strong if we have 85 to 90 percent membership in CEMA. It is then that we will be the strong voice to achieve our membership bargaining goals. The member recruitment campaign will be centered around getting members to seek out other non members to get them join.

CEMA clearly is becoming stronger in many ways. We are building our Political Action Program and involvement with the South Bay Labor Council. We need your help by volunteering to be a CEMA Liaison and getting members to join CEMA. Together, in the next year we can put in place the elements necessary to get a strong contract for the membership in 2006.



## A WORD FROM THE SUPERIOR COURT MEMBER-AT- LARGE



by Mary Mitchell

I know that many of you are thinking about transferring to another facility so that you can gain more career growth and experience. Did you know that the Courts do not follow the procedures for Lateral Transfer procedure that the County has set up? In my research, I found language in Article 11, page 12 of the County CEMA contract that deals with lateral transfer.

*“When making a lateral transfer or demotion to another class, an application review by the Personnel Director shall be deemed an appropriate qualifying examination for CEMA employees in instances where a qualifying examination is required. If otherwise qualified under this provision and the only prohibition to lateral transfer is the salary of the new class, it shall be deemed to be a lateral transfer if the move from one classification to another does not exceed ten percent (10%) upward range movement.”*

The County also has the Transfer Hot Line where you could look up any

available positions open for lateral transfer.

The CEMA contract with the Court has no written language concerning lateral transfer. I will make sure that it is inserted in our next contract. There are no concrete, written policies on lateral transfer, that I can find.

According to our Human Resources, if there is a transfer availability notice posted, you may put in your request for transfer. Transfer candidates will be treated no different than outside applicants. Transfer candidates will interview with all other candidates. Another method of applying for transfer is to do a written request for transfer to the Manager of the facility that you wish to be transferred to and they will retain your application in their file.

If you know of some other way to achieve Lateral Transfer at Courts, please let me know because I am still researching this.

## Changes to Fair Labor Standards Act will Affect Some CEMA Members

By Randy Johnese  
Business Representative

Changes made to the Fair Labor Standards Act (FLSA) by the Bush Administration have been opposed by most labor organizations because they were intended to reduce the number of workers who were eligible for premium overtime. When applied to CEMA, however, the new regulations have had the opposite effect. Previously all CEMA members were exempt from the premium overtime provisions, but with the recent changes some CEMA members will be eligible for premium overtime after forty hours in a work week.

Two changes in the overtime regulations have had the impact of making some CEMA members eligible. First the regulations no longer exempt workers who's function is purely 'administrative' without supervisory or managerial functions. Second, workers who are 'first responders' can no longer be exempted. Based on these changes Santa Clara County has proposed that the following classes should no longer be exempt from premium overtime compensation: Associate Management Analyst A,

# CEMA MEMBERS SWORN AS OE3 MEMBERS

**By Tom Starkey**  
**Senior Business Representative**

Three members of the CEMA Executive Board attended the Operating Engineers Local 3, District 90 Quarterly meeting held on March 31 at the new Morgan Hill OE3 office and were sworn in as new members of the Operating Engineers Union. Edna Esguerra President, Richard Rapacchietta First Vice President and Consuelo Collard Secretary participated in the brief ceremony with several other new members. They also got a tour of the new office.

CEMA Executive Board members made a point to attend the District meeting to meet the Business Manger and Officers of Local 3. Now that CEMA is fully affiliated with Local 3 the CEMA Executive Board plans to build a mutually beneficial relationship the helps build the political strength of CEMA and helps to build more political clout for all District 90 Operating Engineer members.



**CEMA Secretary, Consuelo Collard, CEMA President, Edna Esguerra, OE 3 Business Manager, John Bonilla, and CEMA 1st Vice-President, Richard Rapacchietta**

## **FLSA** **Continued from page 5**

Associate Management Analyst A-U, Citizenship Coordinator, Health Care Analyst I, Health Care Analyst I-U, Health Care Program Analyst Associate, Health Care Program Analyst I, Human Relations Coordinator I, Human Relations Coordinator I-U, Management

Aide, Management Aide-U, Park Ranger Supervisor, Scheduler, Senior Cashier, Supervising Carpenter, and Supervising Probation Counselor.

CEMA Representatives Tom Starkey and Randy Johnese will be contacting the incumbants of the classes listed above to invite them

to a meeting to discuss the impact of this change. If you believe that your classification meets the criteria stated above, but was not listed please call the CEMA office and talk to Tom or Randy.

For those classes who are no longer considered exempt, the impact will be retroactive to August of last year. If the County has identified your classification as being eligible for overtime, they have been tracking your hours since the effective date. As soon as all of the provisions are worked out between CEMA and the County, you will receive retroactive compensatory time off (comp time).

Since the CEMA agreement with the County does not provide for overtime, we have had to negotiate these provisions also. The comp time provisions are similar to those covering Local 715 members. Covered employees who work more than 80 hours in a pay period or 8 hours in a day shall accrue comp time at the rate of one and one half hour for each hour of overtime. Comp time may be accrued to a maximum of 240 hours and must be used within twelve months of accrual. Any accrual in excess of 240 hours or any accrual not used within twelve months will be paid in cash.

Comp time is compensation which has been earned and therefore can

**Continued on page 7**



## Political Action Report

By Sheila Stevens

The Political Action Committee has been busy putting together a 'road map' for CEMA political action for the next two years. That 'road map' is in the form of two documents. The first document is the "Political Action Plan" which enunciates a political action philosophy for CEMA. The second document is a practical action work plan which outlines month by month the steps that CEMA should take to build political power for next year's negotiations.

Both documents can be viewed right now on the CEMA website

([www.sccema.org](http://www.sccema.org)). Please take a look at them. These are important documents and I hope all CEMA members will consider them carefully. Please send comments to [tstarkey@sccema.org](mailto:tstarkey@sccema.org).

We have also been busy organizing support for the Library funding measures A and B. Both CEMA and Operating Engineers Local 3 have contributed financial support as well as recruiting members to phonebank in support of the measures. Local 3 has also made their district office in Morgan Hill available for making phone calls in support of Measures A and B.

employees may be suspended without pay for periods of less than one week in certain circumstances. In particular, when an employee is suspended for violation of a policy or regulation which applies to all employees, such a suspension may be for a period of less than one work week (five work days). This does not apply to suspensions based solely on performance or attendance.

If you have any questions about any of the changes to the Fair Labor Standards Act or any of the material above, please call the CEMA office and speak to Tom Starkey or Randy Johnese.

## Know Your Rights

By Randy Johnese  
Business Representative

You have the right to respond to any thing placed in your personnel file. This includes documented counselings, written warnings, written reprimands, etc. If you fail to respond to such documents, you are placing your career at risk.

The reasoning behind this is simple. If you do not put your side of the story on the record in a timely fashion, you will not be able to contest the accuracy of the document later on. Without your rebuttal, the assumption is that you do not contest what has been placed in your file.

So, write a rebuttal! If you need help or, if you just want a second opinion, call CEMA.

Also, you have the right to representation in any meeting with your supervisor or manager which is investigatory and could result in discipline. It is important to have an observer and advocate present at such meetings. Too often CEMA members feel that they can handle it by themselves.

Do not make this mistake! It only takes a moment to say, "Excuse me. I would like my CEMA Representative present."

### FLSA Continued from page 6

not be taken away. Any unused accrual at time of separation from the County must be paid in cash.

Employees who are eligible for premium over time will not be eligible for Administrative Time Off.

One final impact of the FLSA regulation changes could have an impact on CEMA members who are not eligible to premium overtime. Under the new regulations, salaried



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## *Update*

### See 'Arnies Agenda' Page 1

As the CEMAGRAM was going to press, Governor Schwarzenegger announced that he would no longer support or campaign for the Pension Reform Initiative. His stated reason for this change in position was "...confusion regarding the benefits to the families of policemen and firemen killed in the line of duty." He called for the legislature to reform public employee pensions. He threatened that, if they did not pass acceptable legislation, he would be back with a new initiative in 2006.

In the mean time, Governor Schwarzenegger has added a ban on political action by public employee unions to his initiative agenda. He has added his backing to an initiative similar to Proposition 226 which was defeated in June of 1998. Even with his poll numbers slipping, the 'Govinator' will not give up!