



NEW YORK STATE SENATOR

Eric Adams

## Letter to Constituents: Budget Update - Furloughs

ERIC ADAMS May 10, 2010

### Budget Update- May 10, 2010: Furloughs

Dear Constituents:

Governor Paterson has included in his budget extenders a mandatory one-day **furlough** (per week) for all officers and employees in the Executive Branch, including temporary, seasonal, and CUNY employees. Furloughed workers would have their salaries reduced by the same percentage as the reduction in hours worked for that payroll period- 20%. The furlough would impact over 100,000 workers, and each furlough day would save approximately \$30 million in General Fund spending and \$39 million in All Funds spending. (Furloughed employees are barred from using accrued time and/or overtime hours to offset the reduction, but management/confidential employees, fully federally funded employees, and employees whose services are deemed critical to preserving public health and safety are exempt from the furlough.)

As of 2009, there are almost 150,000 Executive Branch employees making less than \$50,000 per annum who would be impacted by the furlough. Their unions have negotiated contracts whose terms run from 2007 to 2011 and have not agreed to any furlough.

A review of cases dealing with impositions of furloughs suggests that New York courts are *unlikely* to find that the Governor has taken the steps necessary to sustain the legitimacy of a furlough. There has *not* been an effort to obtain a furlough or other savings through negotiations, and there has *not* been an independent finding that a fiscal crisis exists that justifies the abrogation of existing labor agreements. Federal and State law recognize the right of employees to enter into collective bargaining agreements. The Contract Clause of the United States Constitution asserts that no state shall pass any law that impairs the obligation of contracts (U.S. Constitution Article 1, Sec. 10). The New York State Constitution (Article 1, Sec. 17) guarantees the right of public employees to organize and bargain collectively. Additionally, the Public Employees Fair Employment Act ("Taylor Law") requires the State, local governments, and other political subdivisions to negotiate with, and enter into written agreements with, employee organizations representing public employees. **Thus, it is likely that a court will find that the Governor lacks the authority to impose the furloughs and that they are unconstitutional pursuant to state and federal law.**

The Senate Majority Conference will not permit a shut-down in government services. We will not jeopardize the health, safety, and livelihood of millions of New Yorkers by stopping government. We will continue to protect the least, last, and lost by maintaining the critical services they need to survive. **The Executive furlough plan is a potentially unlawful breach of contract and we will be supportive of challenges to preserve the rights of hard-working families. Tough times demand tough choices, but it is our job to make sure that the State of New York continues to work for its people.**

Very truly yours,

Eric Adams

**NYS Senator**

**District #20**