

President's Report

State Economic Decline, Political Stalemate Require District Action

by Richard Hansen, FA President

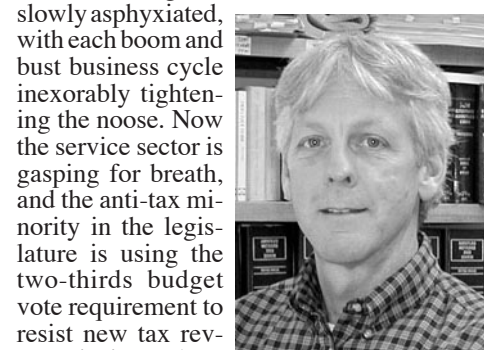
This year's state budget quandary: is it *dejà vu* or something completely different? Given the level of national and worldwide alarm in both business and government circles, it may very well be something completely different. Unlike past state budget impasses that more or less self-corrected, this one may require a more sophisticated strategy than simply battening down the hatches and riding out the storm.

With Sacramento's passage of a budget last week, making corrections to the current year and setting a course for 2009-10, the state breathed a collective sigh of relief. But, this doesn't mean that California can breathe easy. Quite the contrary, much of the current budget provisions are contingent on voter approval in a May 19 election. And there is still the traditional May Revision, expected to be postponed until after the election, when we should anticipate a realignment of the budget in light of the polls and state revenue numbers. We could be in for another confrontation over cuts and tax adjustments.

In addition, there's no widespread agreement among economic "experts," let alone Republicans and Democrats, about the impact of Washington's evolving economic stimulus package. Maybe the U.S. economy, and California's along with it, will bounce back rapidly – then again, maybe not. What does seem clear, however, is that in the wake of thirty plus years of Proposition 13 and the super majority required to pass State budgets in Sacramento, California's day of reckoning is at hand.

At the end of the 1970s, a decade that began in a national and worldwide economic decline not unlike our current one, California was doing well. The state enjoyed a revenue surplus built on post-World War II optimism and a collective can-do attitude that was the envy of other states. Freeways, public education—from kindergarten through the university—and water projects that turned deserts into fertile farms were but a few of the achievements that created the California dream.

But now, regardless of the condition of the national and global economy, California is caught in a trap of its own design. Denied a stable revenue stream by Proposition 13, state and local government services have been slowly asphyxiated, with each boom and bust business cycle inexorably tightening the noose. Now the service sector is gasping for breath, and the anti-tax minority in the legislature is using the two-thirds budget vote requirement to resist new tax revenue, insist on deep cuts in services, and



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achieve some of their own political agenda as the price for their vote. With furloughs, IOUs, and threats of massive state worker layoffs, California appears on the verge of grinding, or being ground, to a halt.

Now that a budget is in place, district faculty may hear that, compared to other public service agencies, California community colleges have fared well. Don't be fooled. This is an ideological budget battle pitting a majority that supports public service, including the community colleges, against a minority that has held the budget hostage to further their agenda of dismantling the public sector. The support we do have will only slow the descent of the community colleges into the same hole that's been dug for other public service providers.

Unfortunately, the so-called "good" budget offered to community colleges represents merely a new twist in the old strangulation process. By providing growth funding and denying cost-of-living increases, the state is demanding that community colleges do more for less. We will likely see a higher student-to-faculty ratio with fewer full-time instructors, reduced student services with classified staff layoffs, and eventually higher fees for students when the state can no longer resist

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Negotiations Update

Preserving Health Benefits Requires A Long-Range View

by Anne Paye, FA Chief Negotiator

By now, most faculty have heard that, at this point, no health benefit changes—other than the \$25,000 cap on private duty nursing and the elimination of dual coverage for spouses who are both employed by the District—will occur in the new benefit plan year (July 1, 2009 to June 30, 2010). Many probably greeted this news with rejoicing and a great sigh of relief. In classified ranks, SEIU—the only bargaining unit among the employee groups to rebuff the proposal—is trumpeting itself as the defender of health benefits for all employees.

But, from FA's perspective, rejection of the modest health benefit cost containment measures may prove to be penny wise and pound foolish. "How so?" faculty might ask. The history, facts, and figures that follow may help to answer that question.

1. Periodically, changes have been made to the District health benefit plans to preserve the philosophy, tradition, and integrity of medical coverage in this District. From its inception, FHDACCD has offered free, or relatively "free," health care insurance to District employees and their eligible dependents. The 1979 District-FA Agreement states that benefits will be provided "without cost to the employee." However, new technologies, surgical procedures, miracle drugs and their associated development and promotion costs, and the great inflationary cycle of the 1980s all drove costs relentlessly upward.

By 1984, Article 22.8 of the Agreement contained the following language:

"The Board and FA reaffirm that providing outstanding paid benefits to District employees is an important element of the District commitment to recruiting and retaining a highly qualified staff. At the same time, the Board and FA recognize that the rapidly escalating costs of health care and the economic consequences of that escalation are threatening the continued viability of the District's self-insured medical plan. As a result, the Board and FA agree in principle to effect cost containment and service quality measures that will maintain the soundness of the medical plan no later than January, 1985."

By 1991, the District self-insured plan had morphed from an indemnity plan (with deductibles) to one that offered coverage through a preferred provider organization (the 1990s panacea for spiraling health care costs). Co-pays were instituted: \$10 for office visits and \$5 for prescriptions. In 2004, in response to increasing costs and mid-year cuts in State funding, the office visit co-pay was increased to \$20, a \$15 co-pay for brand drugs was added, and the Kaiser plan also began to require co-pays: \$10 office visit; \$5 generic drugs; \$10 brand drugs. Another cost containment measure at this time split the District Self-Insured

Plan into two options: PPO-Network Only and PPO+ Combined Coverage. Because the PPO+ plan—due to out-of-network coverage—costs



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might put the issue to a reality check: Has any cost in the "outside" world remained exactly the same over the last five years?

2. Medical benefit costs consume an ever-increasing share of the General Fund. Data from District budget documents reveals that in the last twenty years, benefits for all employees have risen from 13 percent (1987-88) to 15 percent (1999-2000) to 23 percent (2008-09) of the General Fund. These percentages include both regulatory benefits (STRS, PERS, FICA, etc.) and discretionary (health) benefits, but, since regulatory benefits have remained relatively flat over time, the increased percentages are predominately due to rising health care costs.

Not incidental to this discussion is the fact that the General Fund is used to pay both salary and benefits. If—at a time like now—no new funds are coming into the District and, even worse, current State funding may be reduced, little imagination is required to figure out what has to happen: something's gotta give.

For the diehards who ascribe every problem to District malevolence and whose every solution is "let them pay for it," one might pose two queries: Who is "them" and where will "they" get the money to pay the bills?

Ignoring the need to counter rising health care costs with reasonable containment measures doesn't hurt just "them"—it hurts all of us. Eventually, and especially in tight fiscal straits like these, salaries will be at stake. And, since over 85 percent of the General Fund goes towards salaries and benefits, telling them to find the money somewhere in the other 15 percent (that pays for utilities and other operating costs) is the proverbial head-in-the-sand approach to problem-solving.

3. The benefit changes recommended by the District Health Benefits Committee (detailed in last month's issue) were designed to contain costs by offsetting the \$3.2 million projected increase in health benefits for next year. While the District presented a number of scenarios that would dramatically decrease

significantly more than coverage under Kaiser or Network-Only, a monthly contribution for dependents on this plan was added.

No plan changes have occurred in the intervening five years between 2004 and the present. Those who feel outraged by the prospect of an increase in co-pays

costs—and dramatically change the nature of the health plans—the committee deliberately proposed a set of modest changes, primarily to co-pays. While some have suggested covering the \$3.2 million increase by transferring one-time money from the \$6 million Health Benefits Reserve, doing so would cut that reserve in half, severely limiting future use of this fund to cushion benefit inflation (as the District has done in the past few years).

Given that health benefit costs are expected to increase \$2.7 million in 2010-11 and another \$3 million in 2011-12, a yawning \$10 million gap between the District's ongoing money for health benefits and their actual cost will soon emerge. One-time money can be tapped only once; after the \$6 million Reserve is spent, it will leave a gaping hole in the health benefits budget. And how will that hole be filled? You probably guessed: by drastic benefit plan changes when the District claims that it can no longer afford the kind of comprehensive plan it has provided in the past.

Veterans of prior benefit wars will remember that the

District successfully used a similar argument in legally divesting itself of the obligation to provide lifetime benefits for employees hired after July 1, 1997.

4. Reducing salary to pay for health benefit increases is a bad idea. Some faculty have suggested this approach, but the numbers just don't add up. If, instead of making plan design changes, employees took a 2 percent pay reduction (the amount necessary to offset the \$3.2 million in benefits inflation), an employee earning \$80,000 would lose about \$1,600 annually.

And what would he get in return? Since the proposed co-pay increases average \$10, the salary reduction would be equivalent to 160 co-pays (for office visits and prescriptions) during the year. That's a lot of co-pays and a much bigger concession than a benefit change.

One way to look at co-pays is as a "user's fee." All employees and their eligible dependents are protected by the District's health plans; but those who use them share a part of that cost. In addition and to some extent, co-pays serve as a disincentive for unnecessary use. A salary cut to keep co-pays low means that employees who use the plans moderately are subsidizing those who use them frequently.

Those who recommend a salary reduction instead of making benefit changes clearly are choosing the greater of two evils.

5. Employees can pay for allowable medical expenses (including co-pays and monthly contributions) on a pre-tax basis through a Flexible Spending Account (FSA). Employees can contribute from \$120 dollars up to a maximum of \$6,000 in 2009 to cover eligible medical health care expenses for self and/or family. No employment or federal income taxes are deducted from the contributions. This means that, for someone in the 25 percent IRS tax bracket (\$67,900 for a married couple filing jointly, in 2009), an "FSA dollar" is worth 100 cents while a "salary dollar" is worth 75 cents.

6. If benefit changes have to be made they must impact both the Kaiser and the PPO Plans. Some faculty quite legitimately argue that Kaiser enrollees should be exempt from co-pay increases because Kaiser coverage costs the District less than the self-insured plans. But keeping Kaiser costs flat while increasing PPO costs could potentially

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result in significant migration to Kaiser. What's so bad about that? Typically, healthier employees would mi-

grate, negatively impacting the PPO pool and, thereby, increasing the cost of PPO coverage.

7. Absent benefit changes, PPO+ contributions will rise considerably for the 2009-10 plan year. Employees who enroll dependents in the PPO+ plan pay the difference in the premium cost between the Network-Only (PPO) and the Combined Coverage (PPO+) plans. Since the inception of the two plans in 2004, the District has been subsidizing the PPO+ monthly contributions but, with the budget crisis, it will no longer do so. This increase will be compounded by the failure to achieve benefit cost containment. Faculty with dependents on the PPO+ plan should brace themselves for sticker shock in the 2009-10 Plan Year beginning July 1: the projected monthly contribution for one dependent is \$142 (up from \$122 this year) and for two or more dependents \$266 (up from \$199).

Health benefits are no longer on the negotiating table, and, as explained in this lengthy article, that's both a good and a bad thing. The increased benefit costs for next year will be added to the \$7.5 million internal operating deficit, making the District's ball and chain even weightier.

For more information about the District budget—and FA's approach to reducing the deficit—faculty are encouraged to read the President's Report in this FA News issue.

What Is Class Size and How Was It Established?

by Linda Lane, FA News Editor

First, a review of the relevant terms in *Article 9—Load and Class Size*:

- “Load” is defined as “class size, load factor, number of preparations per quarter, number of classes per year, and other such assignments as they pertain to hours of employment.”
- “Class size” refers officially to the number of students actually attending a class the first meeting (including students who have made a legitimate, written request to begin attending on the second meeting). Informally, the term is used as the number of students attending/enrolled at any particular time in a quarter/summer session.
- “Minimum class size” is the smallest number of students actually attending (usually 20) that will allow a class to continue for the length of the term; a class enrollment below this number is subject to cancellation.
- “Maximum class size” is the largest number of students the Board may enroll in a class as stipulated by the Official Course Outline. Faculty may exceed this number by choosing to add students after the class begins (or for distance learning classes, during the registration period in accordance with the MOU on Distance Learning (dated March 24, 2008 and contained in the *Agreement*)).

Note that “seat count” is not an official or approved term anywhere in the *Agreement* and its use as an informal synonym for “maximum class size” leads to confusion. Depending on the context, “seat count” can also refer to the

number of seats in a classroom (chair count) or the number of students sitting in classroom seats (more properly, class size).

In 1977, a year after the Faculty Association came into being, the maximum class size and the load factor for the course were “frozen.” These two components represented—and were intended to preserve—agreement at each college on the pedagogically appropriate number of students and the faculty workload (including contact hours, type of contact—lecture, lab, lecture-lab, preparation, and amount of required student assessment) for the course. No more of the wild, wild, West approach to working conditions, with no rules in place and faculty likely to teach a course one quarter with thirty students and the next with fifty (or however many students showed up or the room could seat).

FA’s “Load Bible” is the original green-bar schedule from November 23, 1977 that lists the maximum class size for every then-existing course. Since more than thirty years have passed since that date, faculty today often ask how or why is this old document relevant to today? Two answers to that question: 1) it serves as a protection against load creep and arbitrary changes in maximum class size; and, 2) it provides a touchstone for setting maximum class size for courses developed subsequent to 1977.

Another oft-asked question is can the maximum class size and/or load factor be changed? The answer is “yes,” but the process is somewhat opaque. If curriculum changes demand—for example, the development of new technologies or pedagogical techniques, or the needs of new student populations—adjustments in load can be negotiated at the table or through a division process: “no policy, procedure or practice pertaining to load shall prohibit changes in load within a division as long as the changes are required by curriculum adjustments that have been approved by the faculty of the division and the appropriate college curriculum committee” (*Article 9.6*).

Unfortunately over the past thirty years, some maximum class sizes have been changed but few, if any, records (for example, minutes or curriculum logs) exist: no one knows now who changed the course, when it was changed, why it was changed, or whether faculty agreed to the change.

Faculty and managers in some areas have the erroneous idea that maximum class size is arbitrary and open to individual negotiation, a proscribed practice known as “direct dealing”. In a few cases, faculty have seen their maximum class size vary from 50-100 percent without explanation, especially when the course is coded the dreaded “999” in the scheduling office, meaning that students can be enrolled until the administrator opens up another section.

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Know Your Contract

Re-Employment Preference: What It Is, How It Works

by Linda Lane, FA Grievance Officer

Re-employment preference (REP), rarely given outside of the Foothill-De Anza District, is in a very real sense an agreement between part-time faculty and management that benefits both parties. Part-time faculty with REP agree to accept an assignment when offered (with certain exceptions outlined in *Article 7.8*) so gain a reliable employment; managers agree to offer assignments to faculty with REP before giving them to others with lower/no REP so gain a reliable pool of faculty.

Additionally, in assigning classes to part-time faculty with REP, managers factor in *Article 7.2.4*, which states that part-time faculty must be qualified for the assignment. “Qualified” is defined as (1) meeting the state minimum qualification for the particular discipline, (2) having adequate preparation for the specific course or assignment through appropriate education or experience, and (3) possessing effective skills relevant to the specific course or assignment.

Part-time faculty earn REP within one division at one college after five quarters of employment (consecutive or not) if within the first three quarters both a satisfactory administrative evaluation (J1) and a student evaluation (J2) are completed, the latter according to *Article 7.2.3* “to the extent practicable based on the faculty employee’s assignment.” If either evaluation indicates improvements are needed or raises concerns, follow-up evaluations can be done before the end of the fifth quarter. Thereafter, part-time faculty are evaluated once every nine quarters of employment.

REP can be terminated in four ways: (1) a break in service occurs, which is defined as not having an assignment for six or more consecutive quarters for any reason; (2) an assignment is refused for a reason other than the exceptions in *Article 7.8*; (3) unsatisfactory performance is documented as outlined in *Article 7.9*; and (4) failure to perform the normal and reasonable duties or misconduct as defined by Education Code Section 87732 is documented as outlined in *Article 7.10*.

Part-time faculty with REP can be bumped before the beginning of the quarter, but only if the assignment is needed to fill the load of a full-time faculty employee. After Notification of Assignment letters have been issued, the seniority of part-time faculty members is considered as a relevant but not controlling factor in deciding which



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particular assignments are needed to fill full-time loads.

The REPlist is used as follows: the senior most part-time faculty member, determined by date of first quarter of employment, is first offered “an assignment” (see *Article 7.6.2*); then assignments are offered to others by their seniority order on the list. When the end of the list is reached, if classes remain, the senior most faculty is offered a second assignment and so on. Only after all part-time faculty with REP are fully loaded can the scheduler offer assignments to part-time faculty without REP.

To ensure the REP “agreement” is being honored, part-time faculty need to be aware of their REP status; to this end, *Article 7.3* mandates that “each division shall post its reemployment preference list in the division office, and the list shall be updated quarterly.” So that part-time faculty can more easily check their status, the REP list should be posted by department/program, not by division as it is initially formatted.

To ensure the REP agreement is being honored, faculty also need to know who is being assigned classes under *Article 7*. But that information seems no longer available due to “improved” technology. The old green-bar paper schedule, available for all to see, showed each assignment’s course type, for example, “0” signaled a full-timer’s load class or “2” signaled an overload class. Faculty could easily check whether anyone below them in REP received an assignment. But electronic or Excel draft schedules in use today, according to faculty, do not show the course type. Faculty can assume that the REP list is being used correctly, but if they want assurance, they would need to ask the scheduler for such information or call the FA Conciliator (who does have access to course type).

Faculty with questions about re-employment preference are encouraged to contact their campus Conciliator (Spera Georgiou De Anza 408.864.8803, Kim Wolterbeek Foothill 650.949.7316) or the FA Office 650.949.7544.

FACCC’s Advocacy and Policy Conference

Faculty are urged to attend FACCC’s Advocacy and Policy Conference March 1-2 in Sacramento. Topics will include how faculty should lobby the 2009-10 budget, how community colleges must politically position themselves in the midst of an economic decline, and how faculty can successfully advocate for faculty priorities. Go to www.faccc.org for details.

District Action Required . . .

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this tempting source of additional revenue. Down the road, if the minority has its way, benefit and compensation reductions will inevitably afflict the entire community college system.

This is the context in which FA views the District budget. The general economic decline and the current minority stranglehold indicate that community colleges had better prepare for a protracted budget constriction. Therefore, FA is calling for an aggressive plan to resolve the District’s \$11 million structural imbalance. Taking care of its own problem will prepare the District for what may be coming from the state. This should be done with a priority given to maintaining staff and faculty already working in the District, and therefore should include a hiring freeze. To minimize the impact on services, the freeze should be coupled with a reorganization to increase operations efficiency and contain costs.

Further, FA advocates reserving one-time savings as a hedge against long-term state funding deterioration. This includes the \$6 million in health benefits savings currently held in the District’s Fund 61. And finally, we should make benefit and compensation adjustments only in response to state-imposed cuts. In short, we need to make smart reforms that maintain both the quality of what we do and the quality of our lives.

This won’t be easy, and none of it contributes to a healthier California educational system. The legislative remedy to our current situation will likely be not only a bitter pill, but a useless placebo that doesn’t touch the underlying systemic disease. Locally, FA is working hard to minimize the pain imposed by the state’s ideological stalemate. Statewide, the Association is engaged in the effort to revive the commitment to public service that once made California great.

PT Faculty: Get Office Hour Form in Early

Just like full-time faculty are urged to submit their Professional Growth Activity forms before the contractual deadline in case any units or hours are denied, part-time faculty are encouraged to submit their Paid Office Hour form before the contractual deadline (the end of the second week of each quarter) to allow for “edits.”

FA has learned recently that some Paid Office Hour forms turned in on time were not signed by the deans so returned to faculty mailboxes for correction. But, by the time the faculty member found the returned form, the deadline had passed and the forms were not accepted. Note that this form, like all other FHDA forms, requires an EIN number (the 8-digit “Employee ID” located on paystubs in the upper left corner, rather than a social security number).

PAA Workshops

Professional Achievement Award (PAA) workshops will be held on both campuses Winter Quarter:

- **De Anza:** February 26, 12:30-2:00 Admin 109.
- **Foothill:** March 4, 12:00-1:00 Toyon conference room.

Faculty should look for MeetingMaker proposals for each workshop.

Class Size . . .

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Faculty with this experience should bring their complaints directly to the Faculty Association.

In the past several years, faculty have increasingly expressed frustration to FA regarding “unfair” load. And they report that when a particular course’s load factor or units or maximum seat count is at odds with that of similar courses, they aren’t “allowed” to change it. This is called the Great Mystery of 9.6. While the *Agreement* provides for a division to change load when appropriate for legitimate curriculum needs, somehow such attempts are always foiled. After being approved by a division, they are blocked at the campus level whenever proposed changes—either increased units/load factor or reduced maximum class size—threaten to decrease productivity.

It is alleged that some administrators (admittedly they are now retired, so maybe things will change in the future) assigned to provide oversight to the curriculum committee reasoned that, regardless of reason, such changes would not be in the interest of the District because then faculty would be working *less* for the same pay. Such illogic shows a profound misunderstanding of faculty work and a disregard for the contract. In this new era of optimism in national leadership, let’s hope that new District managers see things in a clearer light.

Although course outlines are now housed in cyberspace (C3MS), the 1977 Load Bible is still not obsolete—but it depends on faculty to record and archive any and all curriculum changes regarding load.

NEWS

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