

**MOU Fiscal Analysis: Bargaining Unit 2  
(Attorneys and Hearing Officers),  
Amended**

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L E G I S L A T I V E   A N A L Y S T ' S   O F F I C E

Presented To:

The Legislature, Pursuant to Chapter 499,  
Statutes of 2005 (SB 621, Speier)





## Side Letter Changes MOU's Retirement Provisions

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- Amendment.** This analysis amends our previous report of December 14, 2005.
- New Side Letter.** On January 20, 2006, the administration informed the Legislature that the Department of Personnel Administration (DPA) and the union representing Bargaining Unit 2 attorneys had agreed to change the retirement provisions of the previously negotiated memorandum of understanding (MOU), now awaiting legislative consideration.
- Retirement “Opt-Out” Provisions Deleted From MOU.** The side letter provides that “in the interest of promoting and maintaining harmonious labor relations,” DPA and Unit 2 agree not to develop or offer a program for attorneys to opt out of retirement benefits offered by the California Public Employees’ Retirement System (CalPERS). The prior version of the MOU allowed such a program. In exchange for opting out, an attorney would have received a salary stipend equal to one-half of the state’s current “normal cost” for retirement benefits—approximately 5 percent.
- Fiscal Effect of the Side Letter.** The side letter reduces the amount of savings the MOU otherwise would have produced for the state. Under the opt-out plan, the state would have paid less to participating Unit 2 employees in a salary stipend than it otherwise would have contributed to CalPERS each year. The magnitude of the foregone savings is unknown since it would have depended on future decisions of Unit 2 employees.
- Amended Analysis.** Following is an amended version of our earlier analysis, reflecting the effects of the new side letter.



## MOU Fiscal Analysis: An Introduction

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- Required by Chapter 499, Statutes of 2005 (SB 621, Speier).** Chapter 499 (effective January 1, 2006) requires the Legislative Analyst's Office (LAO) "to issue a fiscal analysis to the Legislature" concerning MOUs reached between the administration and a recognized employee bargaining unit.
- Other Requirements of Chapter 499.** The statute also includes requirements concerning disclosure of MOU provisions and amendments by DPA to the Legislature and on the Internet.
- Deadlines for Fiscal Analyses.** Chapter 499 requires the LAO to provide fiscal analyses within ten calendar days from the receipt from DPA of a tentative agreement and the administration's analysis of costs and savings. Given this short length of time, we will not be able to generate independent cost estimates to check some of DPA's basic figures. The law also allows the LAO to prioritize preparation of one or more MOU fiscal analyses among other workload items, including submission of multiple MOUs.
- Legislative Action.** Chapter 499 provides that MOUs "shall not be subject to legislative determination until either the Legislative Analyst has presented a fiscal analysis...or until ten calendar days has elapsed since the memorandum was received by the Legislative Analyst."



## Bargaining Unit 2 at a Glance

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- What Is Unit 2?*** This unit consists of state employees who are attorneys, administrative law judges, and hearing officers. The unit has about 3,200 full-time equivalent employees, or 2 percent of the state's unionized workforce.
- Where Do Unit 2 Employees Work?*** Nearly 30 percent work at the Department of Justice (DOJ). Other agencies with significant numbers of Unit 2 employees are the State Compensation Insurance Fund, Department of Industrial Relations, Employment Development Department, Department of Social Services, and Department of Transportation.
- Which Union Represents Unit 2?*** California Attorneys, Administrative Law Judges and Hearing Officers in State Employment (CASE).
- How Does Unit 2 Compensation Compare to Other Units?*** Average annual salary and salary-related costs (such as retirement) for a Unit 2 member currently are about 75 percent above the average for rank-and-file state employees. This is the second highest average of any state bargaining unit—behind only Unit 16 (physicians, dentists, and podiatrists).



## Previous MOU

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- Term.** July 1, 2001 to July 2, 2003.
- Last Salary Increase.** General salary increase of 5 percent on July 1, 2003.
- Health Benefits.** Since 2003, the state consolidated contribution for health, dental, and vision services has been:
  - **Single Employee**—\$266 per month.
  - **Employee and One Dependent**—\$515 per month.
  - **Employee and Two or More Dependents**—\$679 per month.
- Retirement.** Generally, “2 percent at 55” retirement formula, with employees now contributing 5 percent of salary (over \$513 per month).



## Proposed MOU—Major Provisions

- ☑ **Term.** July 1, 2005 to June 30, 2007.
- ☑ **Salary.** A 2.5 percent cost-of-living adjustment (COLA) retroactive to July 1, 2005, an inflation-based COLA effective July 1, 2006, and several adjustments of pay ranges.
- ☑ **Health.** Higher state contributions for health benefits—equal to 85 percent of 2006 average premiums for employees and 80 percent for dependents. As shown in Figure 1, contributions increase roughly 35 percent compared to existing contributions.

**Figure 1**  
**Monthly State Employer Contributions**  
**For Unit 2 Health, Dental, and Vision Benefits**

	2003 Through 2005	2006 Through 2007 (Proposed MOU)
Employee	\$266	\$365
Employee and one dependent	515	696
Employee and two or more dependents	679	906

- ☑ **Recruitment and Retention.**
  - **New Attorneys.** A 15 percent increase in starting salaries for new attorneys in some job classes to address reported recruitment and retention issues.
  - **Attorney III/IV.** Increase pay range for Attorney III and Attorney IV job classes (about half of Unit 2 members, predominantly DOJ deputy attorneys general) by one step, effective July 1, 2006. The DPA reports that the goal of this provision is to prevent the loss of seasoned litigators to other job opportunities.



## Proposed MOU—Major Provisions *(Continued)*

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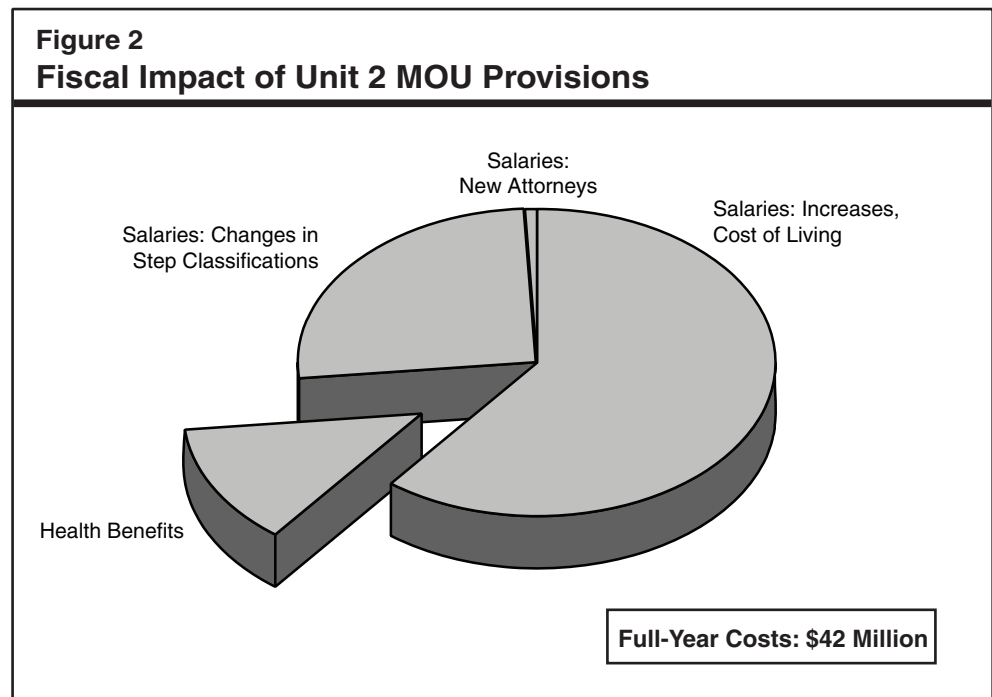
**Retirement.** Significant changes in Unit 2 retirement benefits, including:

- **Employee Contributions Increased.** Increased employee retirement contributions—beginning July 1, 2006—of an additional 1 percent of salary, typically to about 6 percent of salary.
- **Benefit Formula for New Hires.** Changed the benefit calculation formula for employees hired beginning July 1, 2006 who join CalPERS. Benefits for these employees would be based on the average of the highest consecutive three years of salary (as opposed to the highest single year, the provision for current state employees).



## Proposed MOU—DPA Cost Estimates

- ☑ **DPA Methodology.** The DPA's MOU cost estimates relate to the rank-and-file employees only. The administration determines separately whether to approve increased pay and benefits for supervisors and managers.
- ☑ **DPA Cost Estimate.** The DPA estimates that the MOU would increase total state costs by \$13 million in 2005-06 (above costs already budgeted) and by an additional \$29 million in 2006-07. Approximately 36 percent of these costs would be paid from the General Fund.
- ☑ **Cost Increases by Category.** As shown in Figure 2, general salary increases and COLAs account for 60 percent of estimated new costs associated with the MOU.

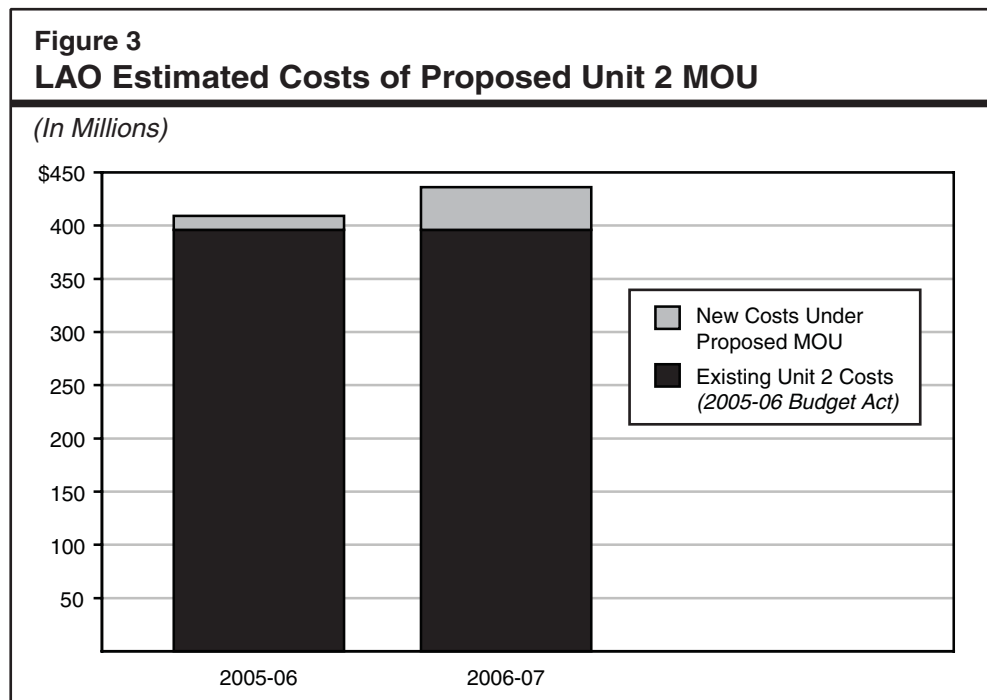






## LAO Comments

- DPA Cost Estimates Appear Reasonable.** Generally, DPA's cost estimates for 2005-06 and 2006-07 appear reasonable. The DPA assumes that the inflation measure to be utilized for Unit 2's 2006-07 general salary increase will be 4 percent—the maximum increase allowable under the MOU. We currently estimate that the actual inflation rate will be slightly lower than the 4 percent maximum, resulting in up to \$2 million less in 2006-07 costs.
- LAO Estimates.** We estimate that current annual costs for salaries, salary-related costs, and health benefits for Unit 2 members total \$396 million (\$144 million General Fund). As shown in Figure 3, the proposed MOU would require 2005-06 expenditures of about \$409 million (an increase of \$13 million, or 3.3 percent). The MOU would require 2006-07 expenditures of about \$436 million (an additional increase of \$27 million, or 6.7 percent).





## LAO Comments

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*(Continued)*

- Some Retirement Savings...But Only After 2006-07.*** The retirement provisions of the proposed MOU—particularly the increased employee contributions—should result in a small reduction in the state’s annual CalPERS contribution requirements. Due to CalPERS’ actuarial methods, however, such savings likely would not be reflected in state contribution rates until one or two years from now.
  
- Managers and Supervisors Could Increase Overall Costs.*** Supervisors and managers often receive—at DPA’s discretion—increased salaries and benefits in line with associated rank-and-file members. The administration estimates that providing comparable salary and benefit increases to these personnel would increase state costs by another \$6 million annually once fully implemented. This estimate appears reasonable.