

MOU Fiscal Analysis: Bargaining Unit 5 (California Highway Patrol)

LEGISLATIVE ANALYST'S OFFICE

Presented To:

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





Summary

- ☑ **Four-Year Agreement.** The proposed memorandum of understanding (MOU) with the union representing California Highway Patrol (CHP) officers runs from July 3, 2006 to July 2, 2010.
- ☑ **Statutory Annual Pay Increases.** Under existing state law, CHP officers receive annual pay increases unless otherwise specified by a negotiated agreement. The law provides increases pursuant to a formula that considers pay of specified urban police officers in the state.
- ☑ **Major Provisions of the MOU.** Significant provisions include:
 - Continuation of statutory pay increases for four years.
 - Stipend of 3.5 percent of base pay for time spent donning protective gear and inspecting weapons and vehicles.
 - A requirement for officers to make retirement contributions to the California Public Employees' Retirement System (CalPERS) at a rate gradually increasing to about 8 percent of pay. Base pay would increase by 8 percent to offset the new contribution requirements.
- ☑ **DPA Cost Projections.** The Department of Personnel Administration (DPA) cost estimate includes expenses resulting from the statutory formula, the MOU, and comparable raises for CHP supervisory personnel. The estimate indicates that costs would increase by \$34 million in 2006-07, and additional amounts each year of \$57 million in 2007-08, \$37 million in 2008-09, \$39 million in 2009-10, and \$40 million in 2010-11. The MOU would have almost no effect on the General Fund because CHP is funded primarily from the Motor Vehicle Account (MVA), which receives vehicle registration and driver license fees.



Summary

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- ☑ **LAO Bottom Line.** The DPA's estimate of additional 2006-07 costs appears reasonable. We estimate, however, that the annual fiscal impact after 2006-07 will be substantially more than shown in DPA's estimate because the administration assumes (1) a relatively low rate of growth in the statutory pay formula, (2) no increases in state costs for health premiums after 2007-08, and (3) no change in the state's required retirement contribution rates. By 2010-11, annual state costs could be \$100 million higher than suggested by the administration's estimate. Over the term of the MOU, various factors including compensation costs for Unit 5 and funding demands related to the Department of Motor Vehicles (DMV) are likely to put stress on the financial condition of the MVA.



Bargaining Unit at a Glance

- What Is Unit 5?*** Unit 5 consists of about 5,700 full-time equivalent CHP officers. Officer candidates must first complete 27 weeks of training as cadets at the CHP Training Academy in West Sacramento. (The Unit 5 MOU also addresses certain aspects of cadet pay and benefits.)

- What Are the Principal Duties of Officers?*** Duties of officers include:
 - Patrolling over 104,000 miles of highways and enforcing motor vehicle laws.
 - Protecting state officials, visiting dignitaries, and state property.
 - Other law enforcement operations.

- What Union Represents Unit 5?*** The California Association of Highway Patrolmen (CAHP) represents Unit 5.



Previous MOU

- Term.** The term of the prior Unit 5 MOU was July 3, 2001 to July 2, 2006. A renegotiation in 2003 provided CHP officers some compensation increases on a delayed basis in order to provide the state with short-term budgetary savings.
- Health Benefits.** As a result of the 2003 renegotiation, the 2001 MOU was amended to provide for state contributions equal to (1) 80 percent of average premiums of the largest state employee health plans in 2004 and 2005 and (2) 85 percent of average statewide premiums for employees plus 80 percent of additional premium costs to enroll eligible dependents (the "85/80 formula") in 2006.
- Retirement.** Chapter 555, Statutes of 1999 (SB 400, Ortiz), provided for sworn CHP officers employed after January 1, 2000, to receive "3 percent at 50" retirement benefits. The statutory formula provides a maximum benefit of 90 percent. (Public safety officers generally do not participate in Social Security.) The previous MOU provided that Unit 5 members contribute no portion of their pay to CalPERS for future retirement benefits.



Statutory Formula for Pay Increases

- Background.** Since 1974, state law has included a statement of the Legislature's intent that CHP officer pay be linked to the average compensation of officers employed by Los Angeles County and the Cities of Los Angeles, San Diego, San Francisco, and Oakland. The statute declares that its purpose is "to recruit and retain the highest qualified employees." Chapter 1, Statutes of 2002 (SB 65, Burton), provides that failure of DPA and CAHP to agree to an MOU "shall not relieve the state of the duty" to provide the pay increases specified by the formula.
- Formula Considers Various Forms of Officer Compensation.** The statute provides that the annual survey of compensation provided to officers in the five urban departments and CHP will consider not only base salary, but also educational incentive pay, physical performance pay, longevity pay, and retirement contributions made by the employer on behalf of the employee.
- Pay Increases.** Under the statutory formula and the renegotiated MOU, Unit 5 members became eligible for pay increases of 7.7 percent in 2003-04, 6.8 percent in 2004-05, 5.6 percent in 2005-06, and 5.7 percent in 2006-07. As a result of the MOU renegotiation, officers received additional leave time in 2003-04 in exchange for deferring receipt of about two-thirds of that year's 7.7 percent increase until January 1, 2005.
- Proposed MOU.** Under the MOU, officers would receive the pay increases required under the statutory formula through 2010-11.



Proposed MOU— New 3.5 Percent Stipend

- Additional Pay for Pre- and Post-Shift Activities.*** Federal law establishes rules for the minimum rate of hourly pay and how the number of hours worked by an employee is determined. Grievances and arbitration requests recently have asserted that Unit 5 members are not paid the required amount under federal law for certain pre- and post-shift activities, including applying and removing safety equipment, the maintenance of weapons, and vehicle safety inspections. According to the text of the MOU, CAHP has filed a tort claim notice in contemplation of a lawsuit against the state related to these issues. This MOU would resolve this dispute by providing Unit 5 members with a 3.5 percent “salary stipend as full compensation” for pre- and post-shift activities that are compensable under federal law.



Proposed MOU— Retirement and Survivor Benefits

- No Change to Basic Retirement Formula.** The MOU includes no changes to the 3 percent at 50 formula that generally applies to CHP officers.
- Retirement Contributions.** In general, state employees contribute a percentage of their salary (specified in statute and labor agreements) to CalPERS to cover a portion of the actuarially estimated cost of future retirement benefits. Typically, state employees contribute about 5 percent or 6 percent of their pay for this purpose through a deduction from each pay check. Separate from these employee contributions, the state makes additional contributions (adjusted each year by CalPERS) necessary to maintain an actuarially sound retirement system. For CHP members of CalPERS, the state's contributions for retirement benefits equals 31.5 percent of payroll in 2006-07.

 - **Previous MOU.** Under the previous MOU, Unit 5 members made no employee contributions to CalPERS. The state paid the approximately 8 percent normal rate of contribution that otherwise would have been paid by Unit 5 members under law. For purposes of calculating annual retirement benefits, this 8 percent paid by the state has been considered part of the salary of CHP officers since July 1, 2004.
 - **Proposal.** Beginning July 1, 2007, Unit 5 members would resume making employee retirement contributions to CalPERS. Member contributions would start at approximately 2 percent of pay and increase by roughly 2 percent annually until the full employee share of approximately 8 percent is paid by the officers beginning in 2010-11. To ensure that no Unit 5 employee sees a "net loss of compensation" as a result of this change, employee salaries would be increased by a like amount each year (in addition to other changes of salaries required under state law and the MOU) to offset the effect of the increased employee retirement contributions. Calculations of employee pay for purposes of determining retirement benefits would continue to include the amount of any state payment of the employee's contribution.



Proposed MOU— Retirement and Survivor Benefits *(Continued)*

- Disability Retirement Benefits.** Under state law, California public employees with a disability that prevents them from working may be eligible for disability retirement benefits. Between 2001 and 2005, 41 percent of retiring CHP members of CalPERS entered disability retirement. The remainder took a normal service retirement.
- **Current Law.** Current law provides that when a CHP officer retires for a work-related disability, he or she is eligible for a retirement benefit equal to at least 50 percent of highest annual pay plus an annuity purchased with his or her accumulated additional CalPERS contributions, if any.
 - **Proposal.** The proposed MOU would create a new traumatic disability retirement benefit for CHP officers under age 50. This benefit would apply only to “serious physical injuries” sustained while working and would not be applied to disabilities that are the result of cumulative injuries, stress-related disabilities, or mental disabilities. Officers eligible for this benefit would receive the *higher* of (1) the benefit provided under current law or (2) a benefit equal to 3 percent of highest annual pay multiplied by the number of years of patrol service plus an annuity purchased with his or her accumulated additional CalPERS contributions.
- Survivor Benefits.** Under state law, survivors of some public employees who die during their period of state or local service may be eligible to receive benefits. This MOU would change one of these benefits without affecting other survivor benefits.
- **Current Law.** According to DPA, the basic death benefit in current law for officers who die before age 50 typically provides for a lump sum payment.
 - **Proposal.** Certain survivors of Unit 5 members who die before age 50 with at least 20 years of state service would be able to choose a lifetime monthly allowance of 3 percent of salary for each year of service in lieu of a lump sum benefit. The DPA



Proposed MOU— Retirement and Survivor Benefits *(Continued)*

summary of the MOU states that this provision would be retroactive to December 30, 2005. (The text of the proposed MOU transmitted to the Legislature, however, does not specify the effective date of this provision.) According to CAHP, this proposal would provide “improved benefits for survivors of members with at least 20 years of service who die before reaching minimum retirement age.”



Proposed MOU— Other Provisions

- No Change to Current State Payment Formula.*** Unit 5 members would continue to receive 85/80 formula health benefits under the proposed MOU.

- Uniform Allowances.*** The state requires CHP officers to purchase uniforms. Under the previous MOU, the state provides an allowance not to exceed \$570 per year for uniform replacement. The proposed MOU would increase this allowance to amounts not exceeding: \$770 per year in 2006-07, \$870 per year in 2007-08, and \$920 per year in 2008-09 and thereafter. In addition, under the proposed MOU, officers would receive \$25 per month as a new allowance for uniform cleaning. The proposed MOU also includes a new requirement for the state to provide a reimbursement to cadets not exceeding \$570 for purchase of uniform items upon graduation from the CHP Academy.

- Swing and Night Shift Pay.*** Swing shifts occur when a Unit 5 member's regularly scheduled shift includes four or more hours between 6 p.m. and 1 a.m. Night shifts occur when a regularly scheduled shift includes four or more hours between 11 p.m. and 6 a.m. Effective July 3, 2006, the extra pay for working swing shifts would double from 40 cents per hour to 80 cents per hour, and the extra pay for working night shifts would double from 65 cents per hour to \$1.30 per hour. Effective July 1, 2008, these pay differentials would increase again: to \$1 per hour for swing shifts and \$1.50 per hour for night shifts. In an average month, about 3,500 Unit 5 members currently receive one or both of these pay differentials.

- Cadet Overtime and Compensating Time Off (CTO).*** The prior MOU included provisions reflecting a 24-week period of CHP Academy training (although training now lasts 27 weeks). To reflect the three additional weeks cadets now spend in training, the proposed MOU would increase the minimum number of hours of paid overtime cadets receive from 42 to 49 and the minimum number of hours resulting in CTO from 49 to 103. If cadets exceed the 152 hours, the additional hours will result in CTO.



Proposed MOU— Other Provisions

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- Recruitment Incentive.** The proposed MOU would establish a pilot program called the CHP Officer Recruitment Incentive Program. Employees would receive 40 hours of recruitment time off (RTO) when they recruit a candidate who successfully graduates from the CHP Academy. Accumulation of RTO would be limited to 120 hours per year. Requests to use RTO would be made in accordance with the existing process related to vacation leave. The pilot program would be subject to termination at CHP's discretion.

- Mileage Reimbursement.** The prior MOU provided for employees to be reimbursed for use of their privately owned vehicles while on state business, generally at a rate of 34 cents per mile. This rate has not been increased for several years, despite significant increases in gasoline prices. The proposed MOU would instead provide reimbursement at the Federal Standard Mileage Rate (FSMR), which is set by the Internal Revenue Service and typically rises or falls based on changes in fuel prices. Currently, the FSMR is 44.5 cents per mile.

- Canine Handler Pay.** Effective July 3, 2006, the pay differential for the 45 officers assigned to full-time duties as a canine handler would increase from \$130 to \$157 per month.



Proposed MOU— DPA Cost Estimates

- 2006-07.** The *2006-07 Budget Act* includes about \$70 million for increased pay and benefits for CHP officers, supervisors, and managers. Of this amount, over 80 percent relates to rank-and-file Unit 5 members. Most of this increase results from (1) the 5.7 percent statutory pay increase of July 1, 2006, and (2) the increased rate of state retirement contributions mandated by CalPERS. The budget also includes more than \$20 million to increase CHP officer staffing by 240 beginning in 2006-07. The DPA cost estimate of the MOU includes only the funds required in addition to those already in the budget. The DPA estimates the MOU would increase state costs by \$31 million for Unit 5 members and \$4 million for their CHP supervisors and managers in 2006-07. Most of this increase results from the proposed 3.5 percent stipend.

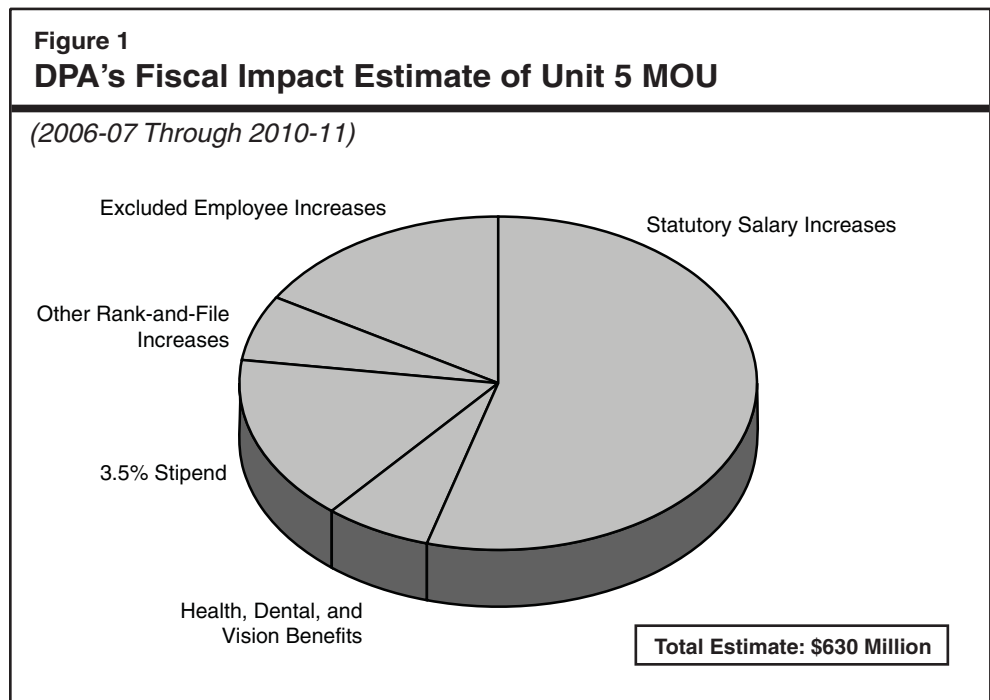
- 2007-08 Through 2010-11.** The DPA estimates that costs would increase by an additional \$47 million for Unit 5 members and \$10 million for CHP excluded personnel in 2007-08, \$30 million for Unit 5 members and \$7 million for excluded personnel in 2008-09, \$32 million for Unit 5 members and \$8 million for excluded personnel in 2009-10, and \$33 million for Unit 5 members and \$8 million for excluded personnel in 2010-11.



Proposed MOU— DPA Cost Estimates

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Most Costs Result From Statutes and Prior MOU Provisions. Figure 1 shows the distribution of cost increases under DPA’s estimates through 2010-11. About two-thirds of these costs result from (1) the statutory pay formula or (2) continuation of prior MOU provisions, including health benefits. The state would be liable for these costs (absent an agreement with CAHP to the contrary) even in the absence of the proposed MOU.



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DPA Assumptions for Annual Pay Increases. The DPA points out that cost increases may vary from their estimate due to a number of factors, including the exact pay increases provided by local law enforcement and then required under the statutory formula. These increases cannot be predicted with certainty. The DPA estimate provided to the Legislature assumes that CHP officers will be entitled to statutory pay increases of 5.7 percent in 2007-08, 3.7 percent in 2008-09, 3.9 percent in 2009-10, and 3.8 percent in 2010-11.



LAO Comments

- ☑ **2006-07 Estimate.** The DPA's estimate of additional 2006-07 costs not funded in the budget act appears reasonable.
- ☑ **Out-Year Costs Likely More Than Administration Estimates.** We estimate that the annual fiscal impact of the statutory pay formula and the MOU provisions will be substantially more than shown in the administration's estimate after 2006-07. Several factors may cause costs to be higher, including the following:

 - **Statutory Pay Formula.** The administration estimate assumes that, between 2007-08 and 2010-11, Unit 5 members will receive an average annual pay increase of 4.3 percent. Yet, over the last four years, annual pay increases under the statutory formula and the previous MOU averaged 6.5 percent per year. Salary growth at the rate of 6.5 percent per year would cause each year's incremental increase in Unit 5 compensation expenses to be more than \$20 million above the administration's estimates after 2007-08.
 - **Health Benefits.** The administration estimate includes the costs of increased health, dental, and vision premiums for 2006-07 and 2007-08, but it includes no increases thereafter. Under the 85/80 formula, costs would continue to grow after 2007-08 in line with CalPERS' negotiated premium increases with its health plans. If health costs grow at 8 percent per year after 2007-08 (less than the average annual growth of CalPERS premiums since 2001), each year's incremental increase would be more than \$5 million above the administration's estimates after 2007-08.
 - **Retirement Rates.** Many of the factors that determine the state's annual retirement contribution rates—including CalPERS' annual investment return and demographics of CHP officers—cannot be predicted with certainty over the four-year period of the MOU. Some of these factors may cause state retirement rates to go up or down. Several MOU provisions, however, seem likely to increase state CalPERS contributions above what they would be otherwise. The new



LAO Comments

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3.5 percent salary stipend, for example, will increase wage growth above levels in the statutory pay formula, increasing state retirement costs somewhat. The new survivor and disability benefits also may increase retirement costs by a small amount. The state's retirement contribution rate for CHP officers currently is 31.5 percent of payroll. Each increase of 1 percent in this contribution rate currently results in over \$5 million of additional annual state costs. The DPA did not provide an estimate of the proposed MOU's effect on rates.

☑ **Local Pay Increases May Exceed Recent Averages.** Several provisions of the MOU may affect the statewide labor market for law enforcement officers. In particular, the 3.5 percent stipend and the gradual increases in base pay above the statutory formula (to offset employee retirement contributions) could affect the labor market. Local police departments may be pressured to increase their base pay levels above what they would otherwise in order to keep up with these CHP increases. To the extent this occurs, the statutory formula would further increase CHP officer pay. In addition, under the pay methodology in the previous Unit 6 correctional peace officer MOU (currently expired), CHP pay increases drive increases in pay in the state's prisons.

☑ **Motor Vehicle Account.** About 90 percent of CHP's \$1.4 billion annual budget is funded from the MVA. The MVA also is the main funding source for DMV and funds a significant portion of the state's air pollution programs under the Air Resources Board. While the MVA is estimated to have a sizable balance by the end of the current year, the account faces significant funding demands over the next few years, including increased CHP compensation costs and costs for anticipated DMV projects. Given these demands, fees may have to be increased or program expenditures scaled back over the next three to five years to avoid a funding shortfall in the account.



LAO Comments

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- Any Additional CHP Hiring Would Add to Costs.** The administration's estimates are based on the number of authorized CHP officer positions as of May 2006. As such, they do not reflect the 240 new officers (beginning with CHP Academy training) in 2006-07 added by the Legislature at a cost of over \$20 million a year once all of the officers are hired. In addition, the estimates do not reflect any potential additional CHP hiring proposed over the next few years.
- Additional Liabilities for Pre- and Post-Shift Work.** In the proposed MOU, the state provides additional compensation for pre- and post-shift activities by Unit 5 members. Thousands of other state employees wear required uniforms and protective equipment, including many correctional peace officers. If a similar 3.5 percent salary stipend were extended to all state personnel with required uniforms, additional costs could exceed \$100 million per year.
- Total Compensation Costs for Unit 5.** We estimate that total compensation costs (including benefits) for Unit 5 rank and file were about \$800 million in 2005-06, as shown in Figure 2 (see next page). We estimate that these costs would increase 14 percent to about \$920 million in 2006-07 under this MOU, with three-fourths of this increase already funded in the budget. After 2006-07, total compensation costs would vary based on several factors, including the pay increases under the statutory formula and state retirement contribution rates.

 - **Administration's Assumptions for Salary Growth.** If the statutory formula produces pay increases in line with the administration's estimates (which average 4.3 percent per year) and state retirement contribution rates remain stable, we estimate that Unit 5 compensation costs would increase to about \$980 million in 2007-08 (up 7 percent), and grow to \$1.1 billion in 2010-11.



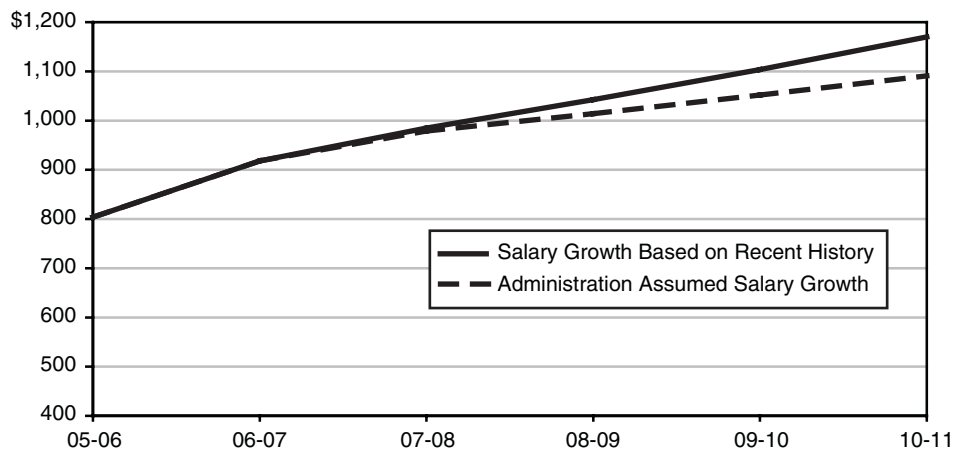
LAO Comments

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- **Assuming 6.5 Percent Annual Salary Growth.** If the statutory formula produces pay increases in line with the average level of the last four years (6.5 percent) and state retirement contribution rates remain stable, we estimate that Unit 5 compensation costs would increase to about \$985 million in 2007-08 (up 7 percent), and grow to \$1.2 billion in 2010-11. This results in about \$100 million in state costs in 2010-11 above those suggested in DPA’s estimates.

**Figure 2
LAO Estimated Compensation Costs for
Unit 5 MOU Under Two Scenarios**

Rank and File^a (In Millions)



^aEstimates assume no change in employer retirement contribution rates, 8 percent increases in state health premium costs after 2007-08, and no increase in positions above levels currently authorized.