

August 4, 2006

MOU Fiscal Analysis:

**Bargaining Unit 16 (Physicians, Dentists, and Podiatrists) and
Bargaining Unit 19 (Health and Social Services/Professional)**

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)





Summary

- ☑ **Agreements With Units 16 and 19.** The proposed memoranda of understanding (MOUs) with the units extend through June 2008. Unit 16 consists of 1,200 full-time equivalent (FTE) physicians, dentists, and podiatrists. Unit 19 consists of 3,800 FTEs who provide counseling and services concerning health, social, or employment matters.

- ☑ **Major Provisions.** Significant provisions in the agreements:
 - A 3.5 percent salary increase effective July 2006 and an inflation-based increase in July 2007.
 - Increases in maximum salaries for all Unit 16 classifications and for selected classifications in Unit 19.
 - A reduction in the percentage of health premiums paid by the state for all employees beginning in 2007.
 - Specified benefits reductions for new employees starting with hires in 2007.

- ☑ **DPA Cost Projections.** The Department of Personnel Administration (DPA) projects that state costs will increase by \$33 million (\$25 million General Fund) in 2006-07 and by an additional \$39 million (\$30 million General Fund) in 2007-08 if the MOUs are approved. The new costs of the MOUs are split about evenly between the two units.

- ☑ **LAO Bottom Line.** We believe that DPA's estimate for costs that would result from the MOUs in 2006-07 is reasonable, but that the estimate for 2007-08 likely overstates these costs by around \$6 million due to a high estimate of inflation. In addition to these costs, we expect that future court orders will increase pay for some members of these units by an unknown amount.



Bargaining Units at a Glance

- ☑ ***What Is Unit 16?*** Unit 16 consists primarily of physicians, surgeons, and psychiatrists who work in institutionalized settings, such as prisons and state hospitals.

- ☑ ***What Is Unit 19?*** Unit 19 consists of health and social services professionals, including psychologists, rehabilitation therapists, pharmacists, adoption specialists, community care licensing analysts, social workers, dietitians, and prison chaplains.

- ☑ ***Which Unions Represent Units 16 and 19?*** The Union of American Physicians and Dentists, which is affiliated with the AFL-CIO through the American Federation of State, County, and Municipal Employees (AFSCME), represents Unit 16. Unit 19 is represented by AFSCME Local 2620.

- ☑ ***Where Do Unit Members Work?*** Of the established positions in Unit 16, 48 percent are in the California Department of Corrections and Rehabilitation (CDCR), 27 percent are in the Department of Mental Health (DMH), and 10 percent are in the Department of Social Services (DSS). The Unit 19 positions are in CDCR (26 percent), DMH (24 percent), the Department of Rehabilitation (18 percent), DSS (13 percent), and the Department of Developmental Services (11 percent).



Previous MOUs

- Term.** The term of the units' last MOUs was July 2003 to June 2006.
- Pay Increases in Prior MOUs.** The units' prior MOUs provided for a 5 percent general salary increase on July 1, 2003, but payment was deferred for one year in exchange for other compensation.
- Health Benefits.** The prior MOUs provided that unit members would receive a monthly state contribution for health benefits equal to 80 percent of average premium costs in 2004 and 2005, increasing to the "85/80 formula" in 2006. This formula provides state contributions equal to 85 percent of average premium costs for the employee and 80 percent of additional average premium costs for covered dependents.
- Retirement.** About 60 percent of Unit 16 positions and 40 percent of Unit 19 positions are in Safety membership categories of the California Public Employees' Retirement System (CalPERS), generally making them eligible for "2.5 percent at 55" retirement benefits. Generally, employees in these positions are not subject to Social Security. About 25 percent of Unit 16 positions and 50 percent of Unit 19 positions are in the Miscellaneous Tier I membership category of CalPERS, generally making them eligible for "2 percent at 55" retirement benefits. The remaining employees are in other categories. Benefits for retired members of these units have been based on the highest pay received during a year of employment.



Recent Events Related to Court Orders

- Plata v. Schwarzenegger *Prison Health Care Case*.** In 2005-06, about 25 percent of Unit 16 members received additional recruitment and retention (R&R) pay differentials (generally, increases of about 10 percent) as a result of (1) a December 2005 order in the *Plata* case to increase pay of CDCR physicians, surgeons, and nurses or (2) a February 2006 administration decision to extend similar R&R differentials to certain medical personnel at DMH. The *2006-07 Budget Act* includes funding to continue payment of these increases.
- Plata *Receiver's Report*.** On July 5, 2006, the receiver appointed by the *Plata* court to direct operations of CDCR's medical system released a report in which he called current pay levels "intolerably low" to address court concerns about staffing levels, recruitment, and retention. The receiver said he would finalize a plan to increase salaries of prison medical personnel within 60 days.
- Coleman v. Schwarzenegger *Prison Mental Health Case*.** Effective July 1, 2006, about 200 CDCR psychiatrists received more pay (generally, increases of about 10 percent) in response to orders in this case. The 2006-07 budget includes funding for the increases and for other program costs ordered by the U.S. district judge. On July 28, 2006, the judge ordered the administration to request funding during the special legislative session on prisons for 552 additional mental health care staff (some in classifications that are a part of these bargaining units) to improve inmate services.



Proposed MOUs—General Salary Increases

- Agreements Provide for Two Increases.*** The MOUs provide for two general salary increases for employees in Units 16 and 19:
 - 3.5 percent increase effective July 1, 2006.
 - Inflation-based increase of no less than 2 percent and no more than 4 percent effective July 1, 2007.



Proposed MOUs— Retirement and Health Benefits



State to Pay for Lower Percentage of Health Premiums.

The state's contributions for health benefits—now based on the 85/80 formula described earlier—would instead be 80 percent of average premium costs for all Unit 16 and Unit 19 members beginning in 2007. While average CalPERS premiums will increase 12 percent in 2007, the state's contributions for health premiums of the units' members and their enrolled dependents would increase by between 5 percent and 9 percent under this proposal. Employee contributions would increase and make up the difference.



R&R Differentials and Retirement Benefits—Unit 19. When work duties, locations, or other characteristics of positions result in recruitment and retention difficulties, MOUs often provide R&R differentials to address these difficulties. About one-half of Unit 19 members currently receive one or more R&R differentials, generally at a rate of a few hundred dollars per month. Under the MOU, these differentials would now be included in compensation for the purpose of determining unit members' retirement benefits.



Changes in Benefits for New Employees. Employees hired on or after January 1, 2007, would also be affected by other changes in retirement and health benefits.

- Their retirement benefits would be based on the highest average annual pay received over any consecutive three years of state service, instead of the highest single year (the benefit level that continues in effect for previously hired employees).
- New employees would receive the full state health premium contribution for dependents only after two years of state employment. The state would contribute 50 percent of the full amount for dependents during a worker's first year and 75 percent during the worker's second year.



Proposed MOUs— Recruitment and Retention Increases

- Additional Increases for Targeted Classifications.** Each state classification has a specified pay range. Generally, an employee's pay is increased over time until it reaches the top of the pay range. The MOUs would increase the maximum salary for classifications where the administration says difficulties exist with recruitment and retention of personnel. All classifications in Unit 16—which has a 26 percent vacancy rate, or about double the state average—would be affected by these changes. Classifications covering 30 percent of Unit 19's positions would be affected. These Unit 19 classifications have an average vacancy rate of 27 percent (compared to 20 percent for the unit as a whole).
- Unit 16 Increases.** Almost all Unit 16 classifications (with the exception of the state's 11 podiatrists) would have maximum pay levels increased by 7.5 percent on January 1, 2007. Podiatry classifications would have maximum salaries increased by 10 percent—a 5 percent increase in 2007 and another 5 percent increase in 2008.
- Unit 19 Increases.** The MOU would increase maximum salaries of most personnel in three groups (psychologists, occupational therapists, and rehabilitation therapists) by 5 percent on January 1, 2007. Top salaries for pharmacists would be increased by 10 percent—a 5 percent increase in 2007 and another 5 percent increase in 2008.



Proposed MOUs— Other Significant Provisions

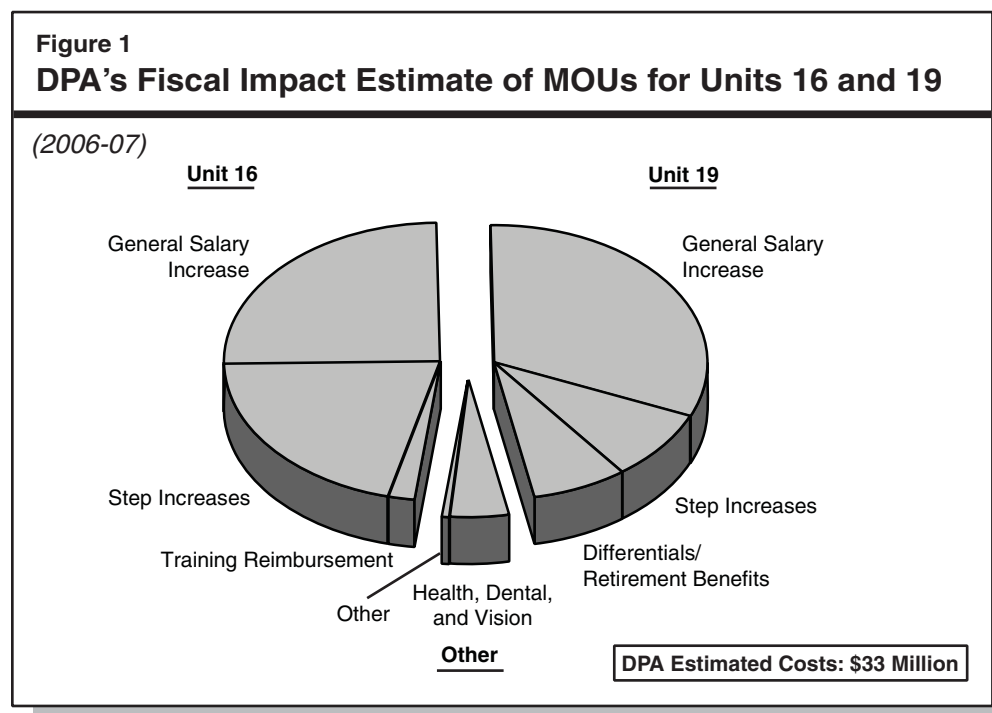
- CME Training Reimbursements—Unit 16.*** The state requires Unit 16 personnel to maintain medical licenses, and the proposed MOU would continue to provide leave and travel time for employees to complete CME training necessary for licensure. Unit 16 employees would be eligible for CME training expense reimbursements of up to \$1,000 per fiscal year—up from a maximum of \$500 in most instances now. The DPA reports that current reimbursement levels are inadequate to cover CME expenses.

- Mileage Reimbursement.*** Prior MOUs 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 MOUs 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.



Proposed MOUs—DPA Cost Estimates

- 2006-07.** Figure 1 shows details of DPA’s estimate of new state costs that would result from the MOUs in 2006-07. The DPA estimates that these costs would be \$33 million (\$25 million General Fund). These costs are split evenly between the two units. (While Unit 19 has more members than Unit 16, the average pay of the state’s physicians and dentists—\$126,504 per year, as of June 2005—is the highest of any of the state’s bargaining units and more than twice the average for Unit 9. This means that each percent of a pay increase for Unit 16 costs more.)
- 2007-08.** The DPA estimates that costs would increase by an additional \$39 million (\$30 million General Fund) in 2007-08. These costs are also split relatively evenly between the two units.





LAO Comments

- 2007-08 Estimate Too High.** We believe that DPA's estimate of costs resulting from the MOUs in 2006-07 is reasonable, but that the estimate for 2007-08 is likely too high by around \$6 million due principally to a high estimate of inflation. While the administration's estimates assume that employees receive a 4 percent salary increase in 2007-08 (the highest level possible under the MOUs), our estimates assume that there is a 3 percent increase, consistent with our forecast of inflation.
- Court-Ordered Increases Could Add to Costs.** Neither our estimates nor DPA's include amounts that would result from additional court-ordered increases. Additional staffing and compensation changes ordered by the *Plata* and *Coleman* courts are likely to cost tens of millions of dollars per year.

 - **Plata.** The prison health care receiver has said that he will order pay increases for some personnel in Units 16 and 19, as well as personnel in other bargaining units (such as nurses), by September 5, 2006.
 - **Coleman.** The *Coleman* court has ordered the administration to request funding for 552 additional mental health care staff, including some in these units. This would add substantially to inmate health care staffing and increase employee compensation costs.
 - **Other Possible Cases.** Other decisions and settlements also may affect the pay of the units' members in the future and the level of staffing for classifications in the units. These cases and settlements include the *Perez v. Tilton* prison dental care case and the consent agreement between DMH and the U.S. Department of Justice concerning the Civil Rights of Institutionalized Persons Act.



LAO Comments

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- **Court Orders Can Cause Other Cost Increases.** Court-ordered increases could result in demands for additional pay by personnel in similar classifications in other departments and at the local level.
- **Some Savings Could Result.** Offsetting these costs may be any savings able to be achieved from reduced use of contracted staff for inmate medical, mental health, and dental care. Reducing vacancies and personnel turnover (a possible byproduct of court-ordered salary decisions) could result in this type of savings.

☑ **Retirement.** The changed retirement provisions for employees hired after January 1, 2007, will result in some savings for the state over the long term. On the other hand, the inclusion of R&R differentials in Unit 19 members' retirement benefit calculations could produce a small pension liability. These factors will not begin to materialize until at least 2008-09. Compared to other factors, such as returns from CalPERS' investment portfolio, the changes under the proposed MOUs will have only a modest fiscal effect, particularly in the shorter term.

☑ **Supervisor and Manager Pay.** The DPA's estimates for the costs of these MOUs relate primarily to rank-and-file employees, but also include costs for a small portion of excluded employees. The administration determines whether to approve increased pay and benefits for supervisors and managers separately from the MOU process. We estimate that the costs to provide a 3.5 percent pay increase to all excluded personnel connected with workers in these two units could be roughly \$3 million (\$2 million General Fund) above the costs identified by DPA.



LAO Comments

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☑ **Total Costs Under the Proposed MOU.** We estimate that the total compensation costs (including benefits) for rank-and-file employees in Units 16 and 19 was around \$525 million in 2005-06, of which about 75 percent was paid from the General Fund. As shown in Figure 2, we estimate that 2006-07 costs would rise to about \$579 million under the proposed MOUs. This represents a total cost increase of more than 10 percent. More than 40 percent of the increase results from the effects of (1) court orders issued prior to these agreements or (2) health care costs that would have been paid by the state under the prior MOUs. In 2007-08, we estimate that costs would increase to about \$610 million, or about 6 percent above 2006-07. The effects of additional hiring and pay increases under future court orders would add to these projected costs.

