

June 2, 2006

MOU Fiscal Analysis: Bargaining Unit 8 (Firefighters)

LEGISLATIVE ANALYST'S OFFICE

Presented To:

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





Summary

- ☑ **“Rollover Agreement.”** The proposed memorandum of understanding (MOU) with Bargaining Unit 8 firefighters extends most sections of the 2001 MOU through June 30, 2008. The proposed MOU continues existing overtime and staffing rules and provides no change to the basic compensation package for the majority of firefighters.

- ☑ **New Provisions.** The proposed MOU makes three primary changes to select classifications:
 - Reducing the scheduled work week for battalion chiefs.
 - Reducing scheduled work weeks and increasing overtime pay rates for seasonal firefighters.
 - Increasing pay for the small group of employees who work a standard 40-hour work week.

- ☑ **DPA Cost Projections.** The Department of Personnel Administration (DPA) projects that net costs for the state will increase by \$7 million in 2006-07 and \$6 million in 2007-08 if the proposed MOU is approved.

- ☑ **LAO Bottom Line.** We believe that DPA's estimates of additional costs resulting from the proposed MOU are too low. We estimate that net costs for the state will likely increase by at least \$13 million in 2006-07 and \$12 million in 2007-08 (about \$6 million more than indicated by DPA in each year).



Bargaining Unit 8 at a Glance

- ☑ ***What Is Unit 8?*** This unit consists of state-employed firefighters. According to DPA, the unit has 3,555 full-time equivalent state employees, or about 2 percent of the state's unionized workforce. The actual number of personnel fluctuates with seasonal hiring. The largest permanent classifications are fire captains, fire apparatus engineers, and firefighter IIs.

- ☑ ***Where Do Unit 8 Employees Work?*** Unit 8 members are almost all in the California Department of Forestry and Fire Protection (CDFFP), the state's wildland firefighting agency.

- ☑ ***Which Union Represents Unit 8?*** The CDF Firefighters.



Previous MOU

- Term.** July 2, 2001 to June 30, 2006, including amendments from August 2003.
- Pay Increases.** Under the 2001 MOU, Unit 8 members received a 5 percent base salary increase on July 1, 2003. This increase was deferred until 2004-05 under the amendments. In addition, the 2001 MOU included various changes in planned (contractually obligated) overtime staffing and pay rules. The last such change will go into effect on June 30, 2006 and result in significantly increased pay for many employees.
- Health Benefits.** Effective January 1, 2006, Unit 8 members became eligible for the "85/80" formula, where the state's health, dental, and vision benefit contribution for employees increased to 85 percent of the average premium of the four largest basic state health plans offered through the California Public Employees' Retirement System (CalPERS), plus 80 percent of the average additional premiums to enroll family members.
- Retirement.** Eligible Unit 8 firefighters are members of the Peace Officer/Firefighter (POFF) category of CalPERS. Benefits for POFF members of CalPERS have changed in recent years.
 - Pursuant to Chapter 555, Statutes of 1999 (SB 400, Ortiz), firefighters in CalPERS' POFF category were eligible for "3 percent at 55" retirement benefits.
 - As a result of the 2003 MOU renegotiation, these firefighters became eligible for "3 percent at 50" benefits, effective January 1, 2006.



Proposed MOU—Major Provisions

- ☑ **Term.** July 1, 2006 to June 30, 2008.
- ☑ **Extension of Prior MOU.** Proposed agreement continues most provisions of 2001 MOU (as amended), including 3 percent at 50 retirement benefits for firefighters and the 85/80 health, dental, and vision benefit formula.
- ☑ **General Base Pay Increases.** The majority of Unit 8's members would receive no change to their basic compensation package under the proposed MOU.
- ☑ **New Provisions.** The proposed agreement contains three major changes to the prior agreement. These are summarized below and described in more detail on subsequent pages of this report.
 - **Battalion Chiefs—Addressing Compaction Problem.** This agreement addresses, to some extent, CDFFP's compaction problem (where salary differences discourage promotion to supervisory ranks) by reducing the scheduled work week for newly appointed battalion chiefs, who are among the senior rank-and-file Unit 8 members.
 - **Seasonal Firefighters—Reduced Work Schedules and Increased Overtime Rate.** This agreement would change work and pay rules for 800 to 1,200 seasonal firefighters by reducing their scheduled work weeks from 96 hours to 72 hours and increasing their rate of overtime pay after the 53rd hour of work each week.
 - **Unit 8 Members With 40-Hour Work Week Receive Increase.** About 132 Unit 8 members who work a 40-hour work week would receive a 3 percent salary increase on July 1, 2006.



Firefighter Work Hours and Overtime



Unusual Work Hours. State firefighters have different work hours than other public employees.

- Wildland fires often require extended periods of response.
- Fire stations are often staffed around the clock.

Given the immediate response time required for fire incidents, typical eight-hour work shifts and employee commutes are, to some extent, impractical. Consequently, CDFFP relies on significant amounts of overtime work. The level of these costs varies annually with the severity of the fire season.



Federal Pay Rules. Unit 8 MOUs have been influenced by the complex federal Fair Labor Standards Act (FLSA) rules for firefighters.

- The FLSA and regulations require firefighters be paid overtime after the 53rd work hour each week (not the typical 40th hour) and have special provisions for pay during sleeping hours.
- Past Unit 8 MOUs included negotiated exemptions to certain FLSA rules, which resulted in some state savings.



Complex Pay and Overtime Rules: An Example

Battalion chiefs—previously a supervisory classification—became rank-and-file members during the term of the 2001 MOU. This brought them under the MOU's overtime rules.



Base Salary. Under the 2001 MOU, battalion chiefs generally have an 84-hour work week. A typical veteran battalion chief's monthly base salary is \$6,113 per month with education and longevity differentials.



Planned Overtime. Because this battalion chief works 84 hours per week under the 2001 MOU, he or she earns 31 hours of planned overtime (those hours after the 53rd hour of work, under FLSA rules). The hourly rate of overtime pay for these hours is now about \$31 for this firefighter. This results in the battalion chief earning \$4,180 per month in planned overtime pay.



Unplanned Overtime. Above 84 hours per week, the battalion chief in this example would earn overtime at an hourly rate of about \$38. The average battalion chief worked 38 unplanned overtime hours per month in recent years. This would equate to an additional \$1,437 of monthly pay at current rates.



Total Pay. In this example, the battalion chief would earn a total of \$11,730 per month.



Proposed MOU—Battalion Chiefs

- ☑ ***CDFFP's Compaction Problem.*** The department estimates 40 percent of CDFFP's supervisory positions are vacant due to "compaction" (also called "inversion"), where higher pay for senior rank-and-file positions (such as battalion chiefs) creates a disincentive to seek promotion to supervisory and management classifications.

- ☑ ***Proposed MOU Provisions.*** In this MOU, the administration proposes to address *some* of the compaction problem by reducing contractually obligated pay for battalion chiefs appointed after May 12, 2006, by:
 - Reducing the work week for these newly appointed battalion chiefs from 84 hours to 72 hours (resulting in a reduction of planned overtime from 31 hours to 19 hours).
 - Reducing slightly the hourly overtime pay rate for newly appointed battalion chiefs' 19 hours of planned overtime.

- ☑ ***Upcoming Retirements.*** The administration expects that a significant portion of existing battalion chiefs will retire in the near future. This would allow new battalion chiefs (covered by these new overtime rules) to be appointed with a lower basic compensation package.



Proposed MOU—Seasonal Firefighters (Firefighter I's)

- Role of Seasonal Firefighters.** The CDFFP hires 800 to 1,200 firefighter I's (FFIs) each year. The FFIs generally are hired between April and June and work for up to nine months, depending on the duration and intensity of the fire season. Under the 2001 MOU, FFIs generally work 96 hours per week over four consecutive days.
- The "Sleep Time Exemption" for Seasonals.** As allowed by FLSA regulations, the state and Unit 8 agreed in the 2001 MOU that CDFFP generally could:

 - Pay FFIs for weekly work hours 53 through 76 at a "half-time" rate (as opposed to the "time-and-a-half" overtime rate of many other Unit 8 members).
 - Not pay FFIs for five hours of each 24-hour period for "sleep time" (20 hours per scheduled work week). However, FFIs are paid for the five hour block when sleep is interrupted between 12 a.m. and 5 a.m. due to an incident.
- Proposed MOU Reduces Scheduled FFI Work Week.** The proposal reduces the planned FFI work week from four to three consecutive days, or 72 consecutive hours. The administration estimates that this change will reduce the state's overtime costs for existing FFIs.
- Proposed MOU Increases Hourly Overtime Pay Rate.** The proposed MOU would end the sleep time exemption and require the state to pay FFIs at a time-and-a-half overtime rate for both planned and unplanned overtime. For an FFI with a monthly base salary of \$2,837, this would result in an hourly overtime rate of about \$14 for all hours worked after the 53rd hour.
- New Firefighter I Positions.** Because of the reduced work week schedules (from four days to three days), CDFFP would need to hire additional FFIs to cover the schedules. The administration anticipates that CDFFP would need to add 225 full-time equivalent (FTE) FFIs.



Proposed MOU—Unit 8 Members With 40-Hour Work Week



Some Unit 8 Members Work a 40-Hour Week. Approximately 132 FTE positions in the bargaining unit work a schedule of 40 hours per week, including:

- Foresters, forestry technicians, forestry assistants, forestry logistics officers, forestry trainees, and forestry aids.
- Air operations officers.
- Fire prevention officers, specialists, and assistants.



General Salary Increase. These classifications would receive a 3 percent general salary increase (GSI), effective July 1, 2006.



Reopener Clause. After July 1, 2006, the state would reopen these provisions at the union's request to review the amount of the GSI "in light of other bargaining settlements." (Labor agreements requiring the expenditure of funds must be approved by the Legislature. Therefore, the Legislature would have the opportunity to approve or reject proposed expenditures under a future agreement to increase the pay of these employees.)



Proposed MOU—DPA Cost Estimates

DPA's Estimates. The DPA's estimates for the cost associated with approval of this MOU relate to rank-and-file employees. The administration determines separately whether to approve increased pay and benefits for supervisors and managers. As detailed in Figure 1, DPA projects that net additional state costs resulting from approval of this agreement would be \$6.9 million (\$5.6 million General Fund) in 2006-07 and \$5.9 million (\$4.8 million General Fund) in 2007-08. These estimates do not include costs associated with the continuation of provisions from the 2001 MOU.

Figure 1		
Department of Personnel Administration (DPA): Additional Costs Over 2005-06 Resulting From Proposed MOU		
<i>(All Funds, Dollars in Millions)</i>		
	2006-07	2007-08
Firefighter I's—New hires and other changes	\$15.3	\$15.3
General salary increase—40-hour employees	0.3	0.3
Subtotals, Additional Costs	(\$15.7)	(\$15.7)
Less: Overtime savings for existing firefighter I's	-\$6.9	-\$6.9
Less: Overtime savings from new battalion chiefs	-1.9	-2.9
Subtotals, Overtime Savings	<u>-\$8.7</u>	<u>-\$9.7</u>
DPA: Net Additional Costs From Proposed MOU	\$6.9	\$5.9



LAO Comments



DPA's Cost Estimate Is Too Low. We believe that the cost estimates DPA submitted to the Legislature are too low by a net \$6 million per year because of the following two factors:

- ***FFI Savings Based on Limited Information.*** The administration makes optimistic assumptions about the savings that would result from the reduction of FFIs' scheduled work weeks. Savings would materialize to the extent that FFIs are currently being awoken during sleep time and consequently being paid overtime. The administration's savings estimates assume that FFIs are *always* awoken, but limited information was available to document the frequency of these payments.
- ***Unemployment Insurance.*** The administration's estimates omit the relatively high unemployment insurance costs for the anticipated new FFI positions.



Additional Risks of Higher Costs. In addition, there are several risks that would cause the costs of the proposed MOU to be even higher than estimated. These risks potentially total several million dollars annually.

- ***Rate of Retirements.*** The administration makes aggressive assumptions about the rate of retirements of existing battalion chiefs, which DPA estimates will result in millions of dollars of savings as these personnel are replaced.
- ***Possibility of More Unplanned Overtime.*** The DPA cost estimates did not consider the possibility that unplanned overtime hours for FFIs and battalion chiefs will increase. The reduction in scheduled work weeks for these classes limits management flexibility, which may result in the need to use more overtime.



LAO Comments

(Continued)



Costs From Continuation of 2001 MOU Provisions. The state will experience increased costs in 2006-07 and later from the rollover of existing MOU provisions. Under state collective bargaining law, even if the Legislature does not concur with the 2006 MOU, the state would experience these costs.

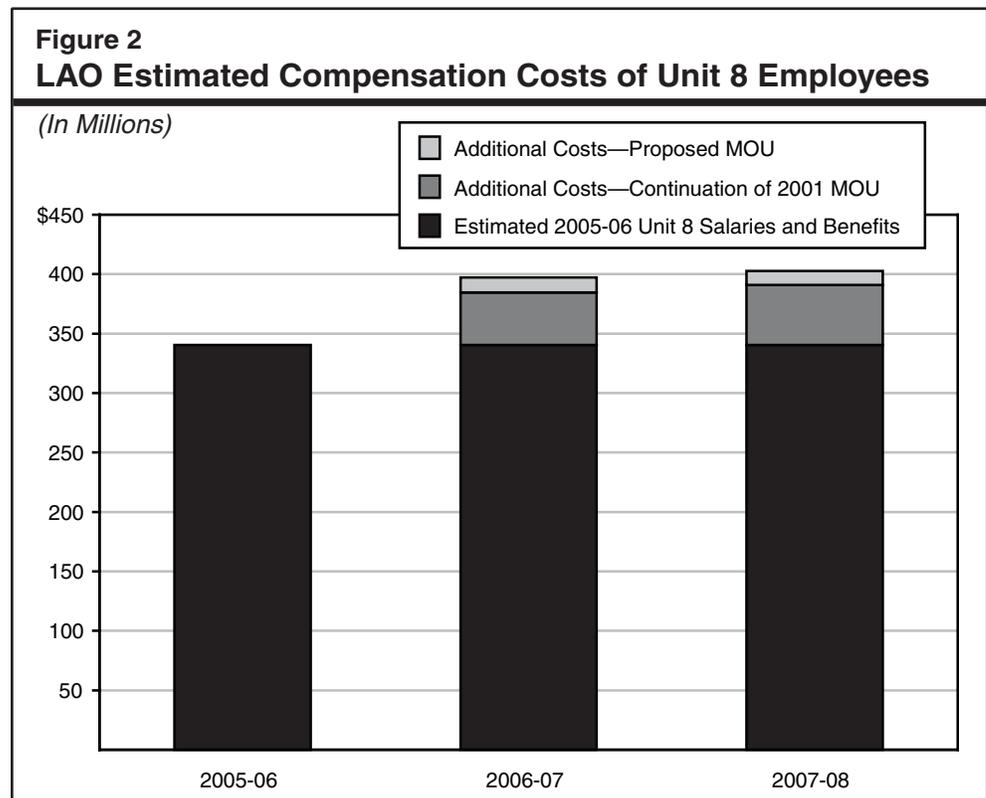
- **Planned Overtime Year-Round.** The 2006-07 Governor's Budget proposes \$36 million (approved by both houses of the Legislature) of additional funding for CDFFP to meet new year-round planned overtime provisions of the 2001 MOU which take effect June 30, 2006.
- **Retirement Rates.** Based on the 3 percent at 50 retirement formula (initiated during the term of the 2001 MOU and continued in this agreement), the state will have to increase contributions to CalPERS beginning in 2007-08. Current estimates are that state contributions for Unit 8 will increase by \$4 million per year beginning in 2007-08.
- **Health Premiums.** Based on rising health premiums, the state's costs from the 85/80 formula will also rise. We estimate that 2006-07 health costs will be more than \$3 million higher than 2005-06.



LAO Comments

(Continued)

☑ **Total Costs Under the Proposed MOU.** We estimate that Unit 8 rank-and-file total compensation (including overtime and benefits) costs total about \$340 million (all funds) in 2005-06. As shown below, we estimate that 2006-07 Unit 8 costs will increase to \$397 million, an increase of 17 percent. Roughly three-fourths of this increase is due to the continuation of the 2001 MOU provisions as described above. Regarding new costs from the 2006 MOU, we estimate an increase of about \$13 million in 2006-07 and \$12 million in 2007-08, or twice as much as the DPA estimate.





Other Issues to Consider

- Compaction Problem Not Fully Addressed.*** Both CDFFP and union officials told us that battalion chiefs would still have poor financial incentives to promote to supervisory ranks after the changes proposed in this agreement. We concur with this conclusion. Under current law, DPA has the power to adjust salaries for excluded personnel (such as supervisors and managers). The administration has not made a proposal to fully address this situation. In reviewing this MOU, the Legislature may wish to ask the administration to: (1) provide data on CDFFP's supervisor and manager vacancy problem, (2) discuss how these vacancies affect CDFFP's ability to perform its statutory mission, and (3) present a credible plan on how to address the problem.

- Unit 8 Contracts Affect Some Municipalities' Fire Costs.*** Local government entities such as cities, counties, and fire districts contract with CDFFP for local fire protection and emergency services. Therefore, local entities, which must pay for these firefighting costs, would experience increased costs as a result of the proposed Unit 8 MOU.