

Furloughs in Federally-Funded Benefit Programs: Backlogs Build and California Compensates with Overtime and Hiring

A Report for the Senate Rules Committee

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Oversight and Outcomes**

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California Senate Office of
Oversight and Outcomes

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Executive Summary

The Senate Office of Oversight and Outcomes examined the effect of state-mandated furloughs on 1) federally-funded disability programs and 2) the federally-funded unemployment insurance program. Among other findings, we conclude that furlough of the state workforce administering these programs:

- has delayed the delivery of federal disability benefits to thousands of qualified Californians; and
- impeded the productivity of an already sluggish system for getting cash assistance to Californians tossed out of work through no fault of their own.

Furthermore, the three-day-per-month furloughs imposed by Gov. Arnold Schwarzenegger this year saved no money for the state budget when applied to these federally-funded long-term disability and unemployment programs.

The furloughs have, however, significantly reduced how much time the average state worker spends on the job helping to distribute these federal benefits – at a time when demand for the cash assistance has soared.

Federal officials have expressed alarm that the furloughs are delaying critical assistance for some of California’s most vulnerable residents.

The reduction in hours on the job by the typical worker has occurred despite the assurance of governor’s officials that they mitigated the effect of the furloughs by allowing these state workers to work on their unpaid furlough days and bank time off to be taken before July 2012.

(In December, a superior court judge declared such a “self-directed” furlough policy illegal for correctional officers in state prisons. If applied elsewhere in state government, such a ruling could disrupt the furlough rules under which thousands of state employees are now working, including those discussed in this report.)

The governor's office acknowledges that, in some cases, furloughs hinder the delivery of services and increase government costs. But administration officials say widespread application of the furloughs, even to federally-funded programs, is necessary to treat state workers equitably and avoid erosion of the overall savings.

For this report, one in a series by our office examining the effects of furloughs, we interviewed state and federal officials and employees. We also analyzed payroll data provided by the State Controller's Office.

Disability Programs. We found that by taking workers off the job as many as three days a month, furloughs have delayed tens of millions of dollars in monthly checks for people with long-term disabilities. Among our specific findings about the **federal Social Security Administration disability programs**:

- Federal disability benefits of \$68 million to \$99 million a year will be delayed for thousands of qualified Californians because furloughs have slowed the processing of applications.
- Each furlough day delays the processing of an estimated 1,476 applications for federal disability benefits, with a corresponding delay of \$420,800 in benefits for blind, needy or disabled people.
- The backlog of applications for Social Security disability benefits in California is growing.
- An estimated 27,000 hours of labor per month are lost to furloughs in the programs that determine which Californians qualify for disability benefits.
- The average amount of time off taken by the state workers who determine eligibility for federal disability benefits increased by 47% between the third quarter of 2008 – before furloughs – and the same quarter in 2009.
- Furlough of the people who determine eligibility will cost the state between \$18 million and \$31 million a year in salaries and other administrative costs that would have otherwise been paid by the federal government – with a corresponding loss of at least \$1.4 million in state income taxes.
- Federal officials have gone to court to argue that California's furloughs hinder delivery of benefits that can prevent homelessness for vulnerable Californians.
- They have also warned California officials that federal regulations require states to avoid labor restrictions that impinge prompt payment of benefits.

Unemployment program. The speed with which California delivers unemployment checks has declined significantly since the imposition of furloughs, despite the hiring of thousands of additional workers and the payment of millions of dollars in overtime to process unemployment claims. Among our specific findings about the **unemployment insurance program**:

- Key workers are, on average, taking significantly more time off since the advent of furloughs.
- Even so – and counter-intuitively – the overall number of hours worked by these key employees has risen in the past year. The sheer number of hours worked has increased apace with the hiring of thousands of additional workers and the payment of millions of dollars' worth of overtime –all of it funded by the federal government.
- Federal officials say it is nearly impossible to tell how much furloughs have slowed delivery of unemployment checks in California or how much overtime and additional hiring could have been avoided if not for furloughs.
- State officials estimate that furloughs have “saved” \$27 million in federal money for salaries and benefits through October – but the “savings” have been used to hire more employees and finance overtime to deal with an exceptionally high volume of unemployment insurance claims.
- Although administration officials say furloughs are not to blame, out-of-work Californians on average wait longer to get unemployment checks since furloughs began.
- California ranks last in the nation in terms of the speed with which it pays unemployment insurance claims.
- By September 2009, less than 3% of unemployment insurance appeals were decided by California within 30 days. The federal government expects states to decide at least 60% of appeals in that amount of time.
- The U.S. Labor Secretary has warned that furlough of federally-funded unemployment insurance workers “can have serious consequences for laid-off workers who rely on timely ... payments to make ends meet.”

This report examines these federally-funded branches of state government:

- The **Disability Determination Service Division of the state Department of Social Services**, whose employees decide whether applicants qualify medically for disability benefits from the federal Social Security Administration;
- the state **Unemployment Insurance Branch of the Employment Development Department**, which determines which out-of-work Californians qualify for temporary payments funded by taxes on employers; and
- the **California Unemployment Insurance Appeals Board**, a quasi-judicial agency which hears and decides appeals of EDD decisions.

The National Perspective

To save money as the state faced a severe cash crunch, the governor furloughed nearly all state workers two days per month starting in February. He added a third day in July, so that roughly 189,000 state workers must use or accrue the equivalent of seven weeks of unpaid time off a year. Only a few categories of workers are exempt, including highway patrol officers and wildland firefighters during fire season.

Under the policy, most state offices close three Fridays a month. “Furlough Fridays” were projected by the administration to save \$1.7 billion in the state’s beleaguered general fund by July 2010.

Twenty-one states have implemented or announced statewide furloughs, according to the National Conference of State Legislatures. None has imposed so many furlough days across such a wide swath of government as California. Only Hawaii comes close, with 18 to 24 furlough days per year.

Some states, including Colorado, Maine, Maryland and Nevada, have totally or partially exempted from furloughs those workers who handle federal unemployment insurance and Social Security disability benefits.

As of mid-November, at least six states – Connecticut, Hawaii, New Jersey, Ohio, Oregon and Wisconsin – had joined California in applying furloughs to these federally-funded sectors of state government.

Administration's Response

Officials in the governor's office say they have not calculated how much overtime or hiring could have been avoided if not for furloughs in federally-funded programs. They acknowledge that the furloughs in some cases increase costs and hinder services.

But they defend the furlough of federally-funded employees for several reasons.

A response prepared by a team of governor's officials for the Senate Office of Oversight and Outcomes states, "We simply do not, in the normal course of things, treat one state employee differently than another who is working in the same classification, based upon whether a position or department produces revenue, is funded by a special or federal fund vs. the General Fund."

Secondly, the administration explains, "granting exemptions chips away at the overall savings and endangers the entire furlough program." That's because, according to the governor's office, the most valuable state workers would flee their departments for open positions in furlough-exempt departments. Such workers would be difficult to replace.

Within the furlough program there may be inefficiencies and problems, according to the administration, but overall it saves badly-needed money:

"Due to the furlough program, some state services may be delayed, and some savings may be lost due to a variety of factors," wrote administration officials. "Certainly, in the ordinary course of things, no one would advocate for delaying federal benefits for those in need. Likewise, no one would desire to reduce funding for other worthy programs or needy individuals, or to cut the pay of hard working public servants.

"The goal of the furlough program was to save significant amounts of cash over a limited time frame within the constraints of the civil service system. In that respect the furlough program has served, and continues to serve, a valuable purpose."

Federal Disability Benefits

Disability Determination Service Division of the state Department of Social Services

Federal Official Calls California Furloughs “Ridiculous”

U.S. Social Security Administration officials have harsh words for the furlough of state workers who administer two of their programs to aid disabled people.

Regional Commissioner Peter Spencer, based in Richmond, called it “a no-brainer,” “ridiculous” and “an anti-stimulus action.”

“Congress and the President gave us additional funding to process disability cases to stimulate the economy,” he said, “and the state’s actions counteract the intent of the legislation and hurt the state’s economy.”

“It’s money that they are losing,” Spencer said of the governor’s office. “It does not save them a cent.”

The governor’s furlough order covers the doctors, analysts and clerical staff of the Disability Determination Service Division of the Department of Social Services. These workers evaluate applicants for two programs:

- The Supplemental Security Income program, which in California pays an average of \$612 a month to people who are aged, blind or disabled and have little or no income; and
- the Social Security Disability Insurance program, which in California pays an average of \$947 a month. Both programs help people who are so disabled they cannot work for a year or longer.

Demand for Benefits on the Rise

The state’s disability determination division processes more than 330,000 cases a year,

roughly 10% of the national workload. Generally, about 38% of cases are approved for benefits initially, with an additional 12% approved at the first appeal level.

Demand for such benefits is rising. The number of initial cases and requests for reconsideration filed in California increased 12.5% between September 2008 and 2009, according to federal data, while the number of such cases pending grew by 31%.

“Self-Directed” Furloughs

State officials say they have minimized the effects of furloughs by using a “self-directed” or “floating” furlough policy in the disability determination division in which workers take time off – with a supervisor’s permission – only when it does not interfere with workload. Unused furlough time is “banked” to be used by June 30, 2012, in accordance with the governor’s executive order on furloughs.

An Alameda County Superior Court judge declared the “self-directed” furlough policy illegal in a December ruling in a case brought by the prison correctional officers’ union. Not paying workers for all of the time they have worked in a pay period violates labor law, ruled Judge Frank Roesch. He ordered the state to pay the prison workers for any furlough time they have accumulated.

Administration officials have said they will appeal the ruling. If Roesch’s ruling stands and is applied to other agencies using a similar “self-directed” furlough policy, it could possibly force the administration to either end furloughs for those agencies or require workers to take off three days unpaid each month.

More Time Off Under “Self-Directed” Furlough Policy

Time and attendance reports submitted quarterly by the state to the Social Security Administration undermine the assertion that productivity is not hampered by a “self-directed” furlough policy.

A federal analysis performed for the Senate Office of Oversight and Outcomes found that the federally-funded workers who help determine medical eligibility for Social Security programs on average took 47% more hours of leave in the third quarter of 2009 – after furloughs – as they did in the same three months of 2008. The time off includes sick leave, vacation, holidays and unpaid furlough days.

For example, the federal data show that:

- The division’s 1,366 federally-funded employees each took an average of 75 hours of leave in the period July through September 2008.
- By the same three months in 2009, the number of federally-funded employees had grown to 1,463 and their average number of hours of leave had risen to 110.
- The overall number of hours worked by these federally-funded employees, including overtime, rose 8% between the third quarters of 2008 and 2009. (See **Figures 1 and 2.**)

Disability Determination Service Division – Department of Social Services

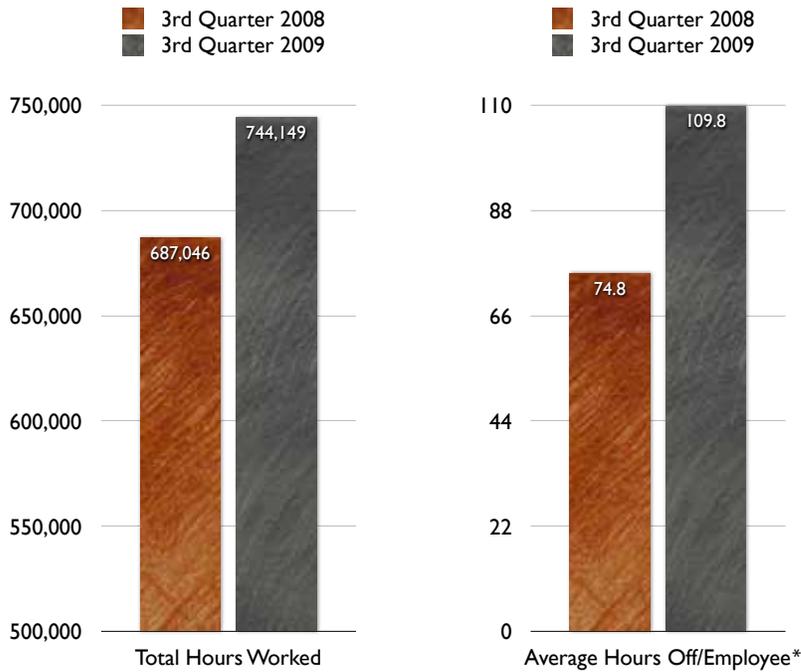


Figure 1

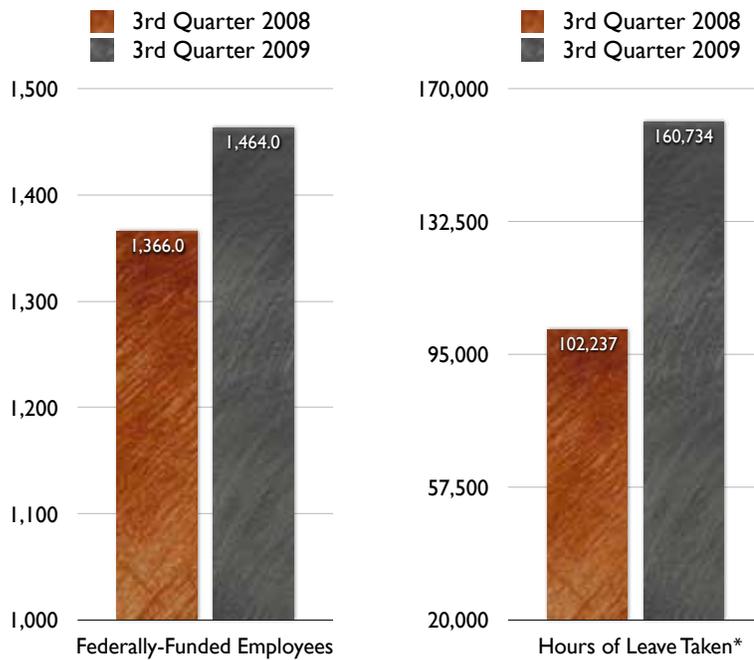


Figure 2

source: U.S. Social Security Administration

* includes furlough time, vacation, holidays and sick, annual, military and lump sum leave

The data raise the question of how many more applications could be processed without furloughs, said Spencer, the federal official. His agency estimates that California's disability determination division loses 27,000 hours a month of labor due to furloughs.

"I don't know how anybody can dispute the fact that when they're furloughed they're just not there," he said. "When they're not there, they're not getting work done."

Federal Inspectors Estimate Delayed Benefits

In November, the federal Social Security Administration's Inspector General examined the effect of furloughs, hiring freezes and other budget-saving moves adopted by states across the country.

The federal inspectors checked California's disability determination program in November and found that about 70% of staff were not working on their furlough days. They noted, too, that the California employees who did work on furlough days would have to use their banked time before July 2012 under the governor's policy, and so at some point in the future, employees would be taking off more time. Using national rates for average benefit amounts and assuming that all California eligibility determination employees were taking furlough days off three days a month, the federal inspectors made the following estimations:

- Because of furloughs, \$98.5 million in federal disability payments a year will be delayed for disabled and blind Californians. That accounts for most of the \$126 million a year in benefits that the inspector general anticipates being delayed nationally due to state furlough programs.
- Another \$30.6 million a year in federal dollars will not be paid to California to administer the programs, most of it salaries for state workers. (Other federal officials calculate the lost state income tax on this unpaid salary at between \$1.4 million and \$1.6 million.)
- Each furlough day delays the processing of 1,476 applications for federal disability benefits, with a corresponding delay of \$420,800 in benefits for blind, needy or disabled people.

A More Conservative Estimate of Effects

In a separate analysis, Social Security officials in California examined the effect of furloughs. They took into account the "self-directed" policy under which some employees do work on furlough days. They also assumed that the California eligibility determination division is working more overtime to offset the furloughs. (Overall, overtime payments in the division rose 3% when the months of February through September 2008 are compared to the same period in 2009, according to state controller's data.) The federal officials in California also used in their analysis state-specific information about benefit amounts and allowance rates.

They came to more conservative estimates about the effect of furloughs than did the Inspector General. They concluded that:

- An estimated \$67.7 million in Social Security disability benefits will be delayed, and
- an estimated \$18.1 million in administrative costs, most of it salaries, will be lost to California annually because of furloughs.

According to Spencer, “There is no completely ‘fool proof’ methodology in computing the budgetary impacts of furloughs.”

“The key point is the important and irrefutable conclusion,” he said, “that state furloughs will have large impacts on state budgets and the ability of the disability determination service division to process work.”

In an e-mail response to questions from the Senate Office of Oversight and Outcomes, state Department of Social Service officials said they could not comment on the federal estimates of delayed benefits and lost wages because they did not know all of the assumptions involved. They point out that people get benefits retroactively, once they are deemed eligible, so that benefits are not lost, just delayed.

Limited Options for Frustrated Federal Officials

Federal officials have reminded their state counterparts that federal regulations require California to “facilitate the processing of disability claims by avoiding personnel freezes, restrictions against overtime work, or curtailment of facilities or activities.”

They have also reminded state officials that funds used to administer the Social Security programs cannot be used for anything else, and if California does not use the money available, it will be shifted to another state.

But Social Security Administration officials have not taken punitive action against the state for furloughing the workers who carry out their programs. Instead, they say they have “limited control” over how states run the eligibility programs.

Court Fight Reveals California Slowdown

In October, the federal government joined furlough foes in court.

On behalf of the Social Security Administration, the U.S. Department of Justice took the side of a doctors’ union that sued Schwarzenegger in Alameda County Superior Court to overturn the furlough policy. In a “statement of interest” backing the doctors’ union, federal attorneys noted that delays in granting benefits can render Californians homeless.

They argued that furloughs are interfering with California’s obligation to make prompt disability determinations:

“In the past year, with the worsening national economic crisis, there has been a substantial increase in applicants for federal disability and ssi benefits. Yet fewer California claims are processed for each furlough day that is applied to the DDS employees under the Governor’s Executive Orders, leading to increased delays in the payment of claims to California citizens who need the assistance these benefits provide.”

The court filing noted that furloughs undercut the intended effect of \$500 million in federal stimulus money meant to speed the processing of the Social Security Administration’s retirement and disability workloads. It concluded:

“Furloughing DDS employees only impedes SSA’s ability to provide critically needed federal benefits to some of the most vulnerable members of California society. Given that the furloughs do nothing to alleviate the State’s fiscal problems, there is simply no reason to enforce them with respect to DDS employees.”

California Officials Defend Their Operation

In a November filing with the same court in a separate legal challenge to furloughs, state Department of Social Services officials note that despite the furloughs, they still handle claims faster than the national average.

As of September 30, an initial Social Security disability benefits claim took the California division 83.3 days to process, while an ssi claim took 86.9 days to process. That’s compared to national averages of 85.8 and 88.5 days, respectively, according to an affidavit signed by Department of Social Services, Disability Determination Service Division Assistant Deputy Director Robert Stavis.

Shelving Cases and a Growing Backlog

But in his written testimony, Stavis also acknowledged that applications for benefits that arrive on “furlough Fridays” are first being assigned only to those staff willing to work overtime. They are not assigned to the worker who will make the case decision for at least 30 days.

In his own court affidavit refuting Stavis, Spencer, the federal Regional Commissioner, warned that in addition to the delays on these “furlough Friday” cases, there were an additional 15,000 cases simply set aside as of the time of his statement in mid-November. By mid-December, that backlog has grown to nearly 20,000 cases, Spencer said.

He agreed that California still processes initial disability claims faster than the national average. But its performance is quickly declining.

Spencer noted in his affidavit that California’s workload also involves reconsiderations of initial disability determinations and medical reviews of people who were previously awarded benefits.

The national average processing time for a reconsideration increased from 73.3 days to 75.8 days between September 2008 and October 2009, according to Spencer. In California, over the same period, the average processing time increased from 60.9 days to 74.5 days.

“I am concerned that the ability of DDS to handle all aspects of its Social Security workload is rapidly deteriorating,” Spencer stated in his affidavit.

California’s processing time will likely move above the national average soon, Spencer predicted. California ended 2008 with 73 days of work pending to handle all initial claims on hand, he said, but ended fiscal year 2009 with 98 days of work pending.

Federal Unemployment Benefits

State Employment Development Department and California Unemployment Insurance Appeals Board

Workers Furloughed as Demand for Service Soars

As the furlough policy took effect earlier this year, the unemployment rate in California had topped 10% and was rising toward 12%. Hundreds of thousands of Californians thrown out of work turned to the Employment Development Department for temporary cash assistance.

In the first nine months of 2009, the EDD filed 4.7 million unemployment claims, an 88% increase over the 2.5 million unemployment claims filed in all of 2007.

The EDD responded to the influx of claims by hiring thousands of workers and paying millions of dollars more in overtime, even as they cut the pay of their workers 14% and ordered them to take off three unpaid days per month. Hiring and overtime also increased at the California Unemployment Insurance Appeals Board, a separate but related agency that decides who gets unemployment benefits when EDD decisions are appealed by workers or employers.

California's Historically Slow Performance

California entered the recession with a sluggish system for handling unemployment payment claims. In the past two years, its performance has worsened considerably.

Consider these statistics from the U.S. Department of Labor:

- In the third quarter of 2007, as unemployment rates were starting to rise, California ranked third-from-last among states and territories in terms of the timeliness of unemployment insurance payments. Only 78% of applicants in California got their payments within 21 days – below the federal standard of 87%.
- Two years later, in the third quarter of 2009, the percentage of claims paid by

California within 21 days had dropped to 58% and California ranked last in the nation.

- The federal government expects states to handle 60% of initial unemployment insurance appeals within 30 days. In September 2007, only 4.2% of appeals were decided within 30 days in California. By September 2009, just 2.2% of claims were determined that quickly.

State Officials Defend Their Operation

Early in 2009, EDD and appeals board officials pleaded –unsuccessfully – for furlough exemptions for their agencies. They argued in memos to top administration officials that the furloughs would do nothing to help the state’s budget – while speedy resolution of unemployment benefit claims would pump money into the California economy.

But in more recent correspondence with the U.S. Department of Labor, state officials take the position that furloughs have not hindered their ability to distribute unemployment benefits. They say they coped with the surge in unemployment claims by giving state workers the freedom to work on furlough days, hiring thousands of additional workers and paying more overtime.

Overtime – which pays 1 ½ times the usual wage – kicks in after a worker has spent 40 hours on the job in a week. Furlough time taken off does not count toward overtime.

In all, according to the EDD, furloughs “saved” an estimated \$27 million in federal money for salaries and benefits through October. In fact, the furloughs saved the federal government nothing, because EDD used the furlough “savings” to hire more workers and pay more overtime.

More Employees, More Overtime, More Time Off

In an October letter to U.S. Department of Labor officials, EDD Director Patrick Henning blamed the growing backlog of claims not on furloughs, but on the “enormous stress” of a record number of new claims and a lag in federal funding that slowed down the hiring of more workers to deal with the influx.

“We assure you that no reduction in staffing or programmatic resources has occurred as a result of the furloughs,” wrote Henning. “From the inception of the furloughs, the UI program was authorized to work the mandatory two furlough days per month, and later the third furlough day per month. Since 2007, both agencies (EDD and the UIAB) responded to the record number of new claims by utilizing overtime to deal with the increased workload and we have continued using overtime even during the furloughs.”

Henning pointed out that in the previous 16 months, EDD had hired 2,000 additional people for its unemployment program. And, he noted, in just the first nine months of this year, EDD’s unemployment personnel worked 677,065 overtime hours, a 69% increase from the overtime worked in all of 2008.

In his letter, Henning assured federal officials that unemployment program employees are working their furlough days.

In fact, however, key workers in the unemployment program are on average taking off far more hours than before the imposition of furloughs.

Payroll records from the State Controller's Office show that the key classification of state workers who process unemployment claims – the “employment program representatives” – each took 68% more time off on average in the third quarter of 2009 than they did in the same quarter of 2008, even when the hiring of hundreds of additional workers is taken into account.

The characterization of that time off changed, too. It shifted from vacation time, which is paid and can be accrued, to furlough time, which is not paid and must be used before July 2012 under the governor's order. The amount of vacation taken by employment program representatives fell by more than two-thirds between the third quarters of 2008 and 2009.

In essence, this group of employees as a whole is both working more hours overall and taking off more time on average. The result is an inefficient and potentially more costly situation than if existing employees were not under orders to either take or bank three days off per month.

The Key Workers Handling Unemployment Claims

The “employment program representatives” at EDD are the primary handlers of unemployment insurance claims. They interview applicants about how they lost their jobs, gather information from employers, identify fraudulent claims, apply the law and determine whether a person is eligible for benefits.

Workers of the same classification are also employed in the Workforce Services branch of the EDD, where they are supposed to help dislocated workers with job referrals, searches and training. But these job service workers say that lately much of their time is spent with thousands of out-of-work people who are so frustrated by their inability to connect with a person through the EDD's swamped phone lines that they come into the job service offices to plead for help with unemployment issues.

In all, the EDD's 2,303 “employment program representatives” each took an average of 8.5 hours of vacation in September 2008, according to the controller's data.

By September 2009, an additional 1,119 “employment program representatives” were on the payroll at EDD. Workers in this job classification each took an average of 16 hours of time off (vacation and furlough) in September 2009 – a near doubling of the average amount of time off per worker in the same month of the previous year.

Despite the additional time off, the overall number of hours for which employment program representatives at EDD were paid increased by 53% between the third quarters

of 2008 and 2009. Overtime costs for these workers jumped from \$3.6 million to \$5.7 million – a 58% increase – and the number of employees increased by 48%, according to the controller’s data. (See **Figures 3 and 4.**)

Workers Tapping Both Furlough Time and Overtime

Some EDD employees routinely work 10-hour days, including Saturdays, according to shop stewards with Service Employees International Union Local 1000.

“A lot of people will take time off in one week and work overtime the next week,” said Gerald Schmidt, a 34-year EDD veteran who works at an adjudication center in San Francisco and plans to retire soon. “There are people who work 60 hours a week, and then there are guys like me who are using the furlough days every month because I can’t take it with me.”

It takes many months for new hires to master the job, said Schmidt, and so the expanded workforce in the unemployment program is not as productive and efficient as it could be, and people working long hours tend to make more mistakes.

The volume of work is overwhelming, he said. On a typical November day, a stack of roughly 1,800 appeals sat in his unit awaiting processing, Schmidt said, with a fresh batch arriving every day in the mail. One claim in the pile, he said, was first filed in June.

Jobless Californians who wait months for an unemployment check may lose their cars and houses because they cannot make payments, according to EDD workers, who hear the stories and say they are frustrated by the furloughs.

“Most of us really care about what we do,” said Cheryl Brown, a Stockton EDD trade act specialist who helps get unemployed Californians into federal training programs. “We do care about the public, and our hands are tied.”

Greater Demand, More Time Off at Appeals Board

At the appeals board, the story is much the same. Since furloughs were imposed in February, workers are putting in more overtime, more workers are on the job, more time off is being taken, on average, and Californians are waiting longer for unemployment insurance decisions.

Bigger Backlog, Longer Wait Time

In May, when board chairwoman Bonnie Garcia made an unsuccessful plea to governor’s officials for an exemption from furloughs, more than 80,000 appeals were pending before the board. By September, there were 82,785 cases pending – up from 48,111 a year earlier.

Employment Development Department– Employment Program Representatives

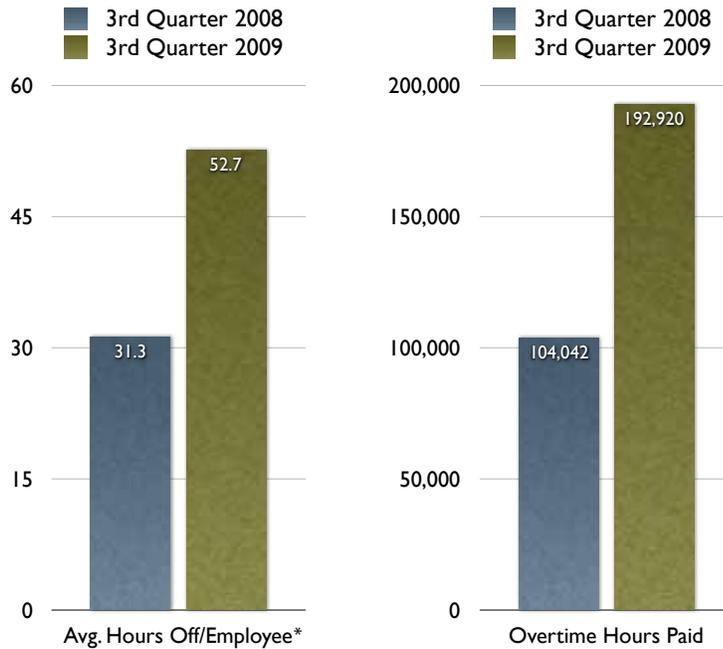


Figure 3

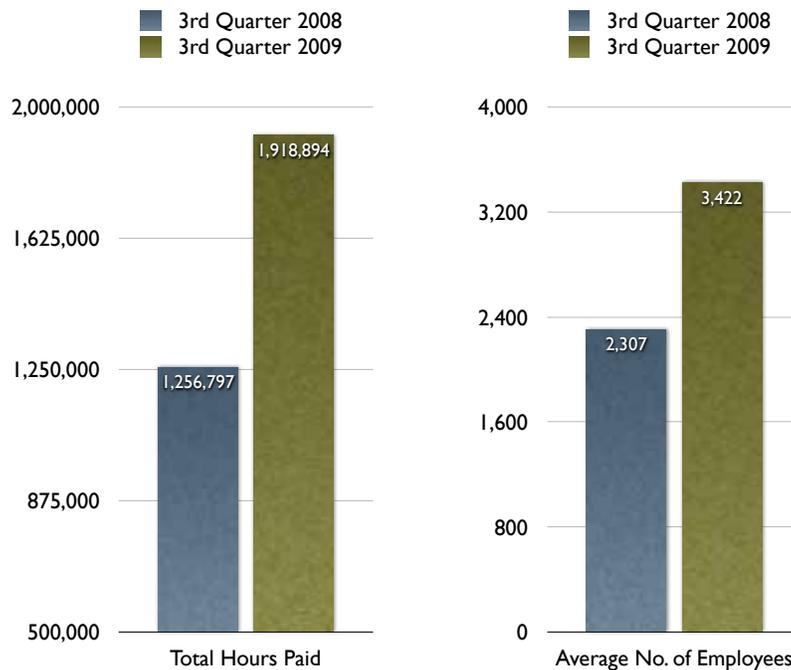


Figure 4

source: State Controller's Office

* includes vacation and furlough time only

Californians were also waiting longer to get benefit decisions.

The U.S. Department of Labor measures the board's performance against a key standard called "case aging." The federal government wants states, on average, to handle cases in 30 days or less.

California's performance has deteriorated significantly since the third quarter of 2007, when the average appellant had been waiting 39 days for a decision. By the same quarter this year, average wait time had expanded to 55 days, making California the tenth-slowest in the nation in terms of deciding whether displaced workers get unemployment insurance benefits.

Appeals Board Workers Use Furlough Time

Just as at the EDD, workers are also taking more time off, on average, under the furlough policy.

According to the controller's data, the 587 workers on the payroll at the board in September 2008 each used on average 5.3 hours of vacation that month. By September 2009, the staff at the board had grown to 732, and the average amount of vacation and furlough time taken off per worker had more than tripled to 17.4 hours.

In all, between the third quarters of 2008 and 2009, the staff at the board increased by 24%, the number of overtime hours paid swelled ten-fold and the overall number of hours paid to board employees – a reflection of the number of hours worked – increased 31%. (See Figures 5 and 6.)

Employees say the workload and the plight of the people involved is overwhelming.

"Many of my colleagues are already experiencing burn out and have started liberally taking furlough days," wrote one administrative law judge in an e-mail to the Senate Office of Oversight and Outcomes. Her response was sent at the request of her union, California Attorneys, Administrative Law Judges and Hearing Officers in State Employment.

"The biggest impact I see is in the CUIAB support staff," wrote the judge, who asked to remain anonymous because her personal observations differ from recent public statements made by appeals board officials. "On an average day, my office has at least two support staff absent. I think the support staff are being pushed beyond capacity, resulting in illness or exhaustion. Mistakes are made in files and mail is not timely matched with files. Some support staff are now allowed to work 18 hours of overtime per week, just to get the regular work done. This makes no sense, but many are working overtime to recapture lost wages."

The administrative law judge also said many of her colleagues are banking furlough time

California Unemployment Insurance Appeals Board

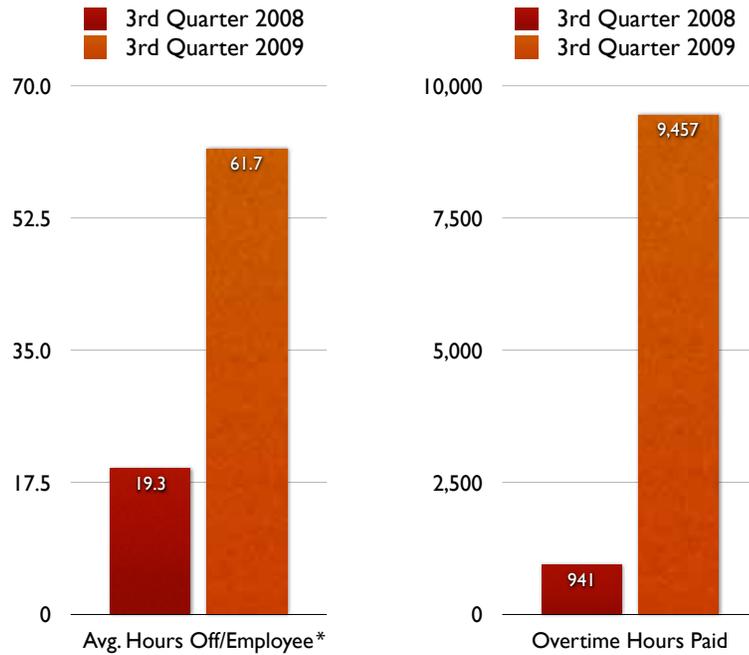


Figure 5

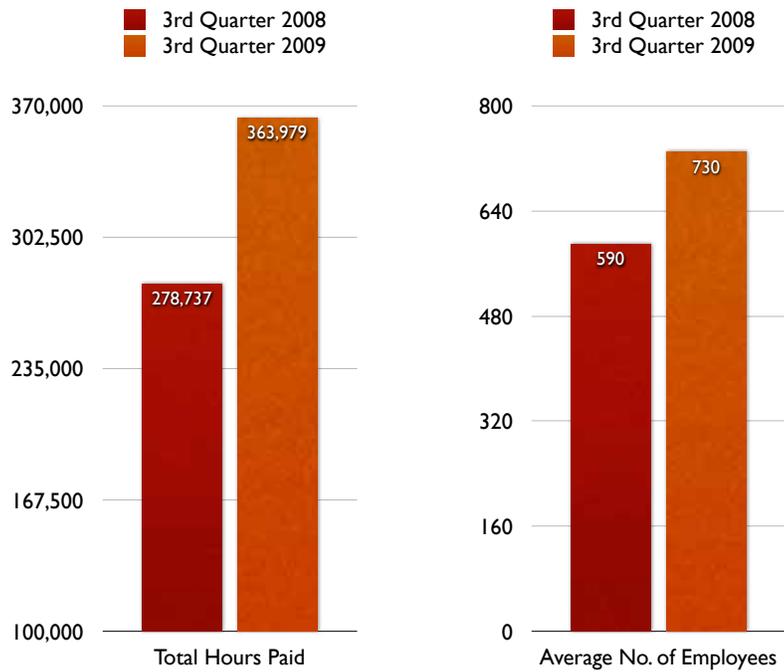


Figure 6

source: State Controller's Office

* includes vacation and furlough time only

that must be taken before July 2012 under the Schwarzenegger administration policy. “It makes no sense that in a normal situation an ALJ such as me has maybe 6 weeks of time off,” she wrote. “With furloughs I have at least an additional two months to take off on top of that. How can that not affect CUIAB in the near future?”

Difficult to Untangle Effect of Furloughs

U.S. Department of Labor officials say that in the face of massive hiring, overtime and demand, it is nearly impossible to quantify to what degree furloughs have delayed unemployment benefits in California – or to what extent California could have avoided hiring more workers and paying overtime if workers were not subject to furloughs.

The federal department reimburses states after-the-fact, based on the number of unemployment claims they handle. Federal officials do not dictate how the money is used, whether for salaries, overtime, computers, equipment, travel or other expenditures.

In July, federal labor officials visited California to examine the inner workings of the EDD and appeals board. The federal officials are now preparing a report of findings and recommendations on how California can improve its relatively slow performance. It is not clear what focus, if any, they will give to furloughs.

In October, U.S. Department of Labor officials asked their California counterparts to prove that furloughs are not slowing delivery of benefits to laid-off workers.

Federal Regional Administrator Richard C. Trigg pointed out in a letter to Henning that California was failing to meet several timeliness standards before furloughs were imposed in February, and “performance has continued to decline over the past year.”

The federal department has yet to respond to Henning’s claim that furloughs have had no effect on productivity. Federal authority to overturn the furloughs appears limited. In a September letter to Rep. Zoe Lofgren (D-San Jose), U.S. Labor Secretary Hilda Solis decried the California furlough policy as a needless obstacle to the delivery of aid to struggling, laid-off workers.

But the only sanction available to the federal government, she wrote, is to withhold money from the unemployment compensation program.

“Because this action could be detrimental to both state workers and those who rely on the services they provide,” wrote Solis, “the Department is working to avoid such action and to obtain states’ compliance with our policies.”

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- Daniel Rounds, California Senate Office of Research
- Jeffrey H. Price, National Association of Disability Examiners, Legislative Director
- Stephanie Burri, Legislative Advocate, Service Employees International Union Local 1000
- Kenny Sims, Research Analyst, Service Employees International Union Local 1000
- Jason Dickerson, Legislative Analyst's Office
- Stuart Bussey, M.D., J.D., President, Union of American Physicians and Dentists
- Pat Whalen, attorney, California Attorneys, Administrative Law Judges and Hearing Officers in State Employment
- Various employees of the California Unemployment Insurance Appeals Board
- Various employees of the California Employment Development Department

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