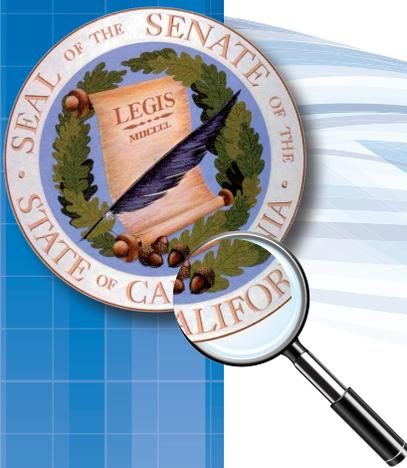




Furloughs in Round-the-Clock Operations: Savings are Illusory

A Report for the Senate Rules Committee

OCTOBER 14, 2009



California Senate Office of
Oversight and Outcomes

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Summary

Gov. Arnold Schwarzenegger took unprecedented steps to save money this year when he furloughed almost the entire state workforce first two, then three days per month – the most sweeping furlough program of any state. As a result of the furloughs, roughly 189,000 state workers have seen their pay effectively cut 14% since July 1. Most have been ordered to stay home three days a month.

Many state offices shut entirely the first three Fridays of each month, for a planned monthly savings of tens of millions of dollars in salary and operational costs. In all, the administration claims that it will save \$1.66 billion in general fund money through 16 months of furloughs. The administration also told this office that an equivalent savings would require 26,652 layoffs.

This report finds, however, that the furlough savings are illusory for at least a third of the roughly 100,000 state employees paid from the general fund. Some state jobs cannot stop for furloughs, most prominently the care and supervision of prison inmates and people with serious developmental disabilities and mental illnesses. For workers who do these jobs, the furlough policy simply pushes labor costs to future years – while adding potentially significant costs.

In such facilities, the administration has approved a so-called “self-directed” furlough policy where workers accrue three furlough days per month and use them “when feasible,” so as to not jeopardize security, health or safety. The administration also advises supervisors to “manage furlough days so you don’t incur overtime pay.”

An examination by the Senate Office of Oversight and Outcomes has found that in round-the-clock institutions, with staffing levels dictated by law, furloughs create a future liability, generate additional costs, complicate operations and create hardship for employees and their families.

An analysis of payroll data from the State Controller's Office and interviews with top prison, developmental services and mental health officials show the following:

- In round-the-clock institutions, employees in positions that must be filled day and night are generally not taking off three days per month. Instead, while absorbing the 14% reduction in income, they are working furlough days and banking time to be taken off in the future.
- In the prison system, where 70 percent of all state workers paid by the general fund are employed, officials say the long-term cost of furloughs is greater than the savings. But corrections officials say they were told by the administration that short-term payroll savings are more important than future liabilities.
- Remarkably, correctional workers banked 1.5 million furlough hours between February and August 2009. Most are correctional officers. At a pay rate of \$34.91 an hour, those hours create a future liability of at least \$52 million.
- When correctional officers do take time off, they generally use furlough days, not vacation days. As a result, from February through August of 2009, the number of unused vacation days accrued by correctional officers jumped 500 percent. This massive buildup of vacation time will complicate prison staffing in the future. The accrued vacation will increase costs, because many workers will be at a higher pay rate when they finally do use their vacation hours.
- Furloughs fail to save the \$108 million projected by the administration in the prison healthcare system, according to the court-appointed agency operating inmate medical care. Instead, officials say, paying overtime and hiring private workers to fill in for furloughed employees will more than offset any savings.
- Furloughs are projected to increase costs within the prison health care system by \$37 million to \$47 million this year, according to the court-appointed receiver. They say furloughs also create a "management nightmare" and interfere with the court-mandated effort to improve inmate medical care.
- Employees in California's dozen mental hospitals and developmental centers are also being forced to work furlough days. They are racking up large balances of furlough and vacation time.
- Furloughs are ruining the morale and financial well-being of many employees in round-the-clock institutions.

Asked to justify the imposition of furloughs on these full-time operations, the governor's office responded in writing, without elaboration: "For the most part, 24-hour facilities are on self-directed furlough, and this results in savings."

This report is the first by the Senate Office of Oversight and Outcomes to examine the furlough policy that began when the governor declared a fiscal emergency in December 2008 and imposed two unpaid days of time off on state workers, beginning February 1, 2009. A third day of furlough was imposed on July 1, 2009.

The oversight office will continue to examine the effect of furloughs on state government operations, including departments dependent upon the general fund and those funded by federal dollars, fee revenue or other sources of money.

Prisons

California's correctional officers are banking huge amounts of furlough hours and accrued vacation, creating a significant "unfunded liability" for taxpayers to shoulder in the future, the Office of Oversight and Outcomes found from an analysis of payroll records.

Top officials at the Department of Corrections and Rehabilitation corroborated the findings in a meeting with the oversight team.

Because prisons must operate around the clock, workers are not required to take "furlough Fridays" off. In fact, they work their furlough days, although they're not paid for them in regular salary. Instead, they bank the furlough hours to use in the future. Correctional workers are being urged to use their banked furlough hours before they take vacation or sick leave – but even so they are piling up the time off far faster than they can use it.

The department banked 1.5 million furlough hours in the first seven months of the furlough program, based on data from the State Controller's Office. Those banked hours are worth more than \$52 million at the top correctional officer pay rate of \$34.91 an hour, according to the department's fiscal chief, deputy director David Lewis. He suggested using that pay rate to calculate future costs, because it takes a correctional officer only 3.5 years on the job to reach top pay.

The numbers and costs are likely to escalate, Lewis said, since all three furlough days have only been in effect since July 1. In the first five months of furloughs, the rate was two days per month.

"The long-term cost of this is greater than the savings," Lewis said of furloughs. "You sacrifice the future to deal with the current problem."

He noted that the corrections department, with 29,300 security officers alone, accounts for more than 70 percent of the state workforce paid out of the general fund. "The

administration cut our budget by \$500 million for furloughs,” Lewis said, “and that was just for two days a month, not three. That’s a lot of money, and they needed the savings.”

Corrections Undersecretary Scott Kernan agreed that furloughs are creating an unfunded liability in his department, but he said the state’s immediate cash-flow problem is so extreme that a drastic stop-gap was necessary.

The governor’s orders require state workers to take off their furlough days within 24 months of the end of the furlough program, which is scheduled for June 30, 2010. The days are not supposed to be “cashed-out”: “Furlough days have no cash value,” according to the governor’s office. But these requirements are not realistic for the corrections department, which doesn’t have the relief staff to cover all the days off owed.

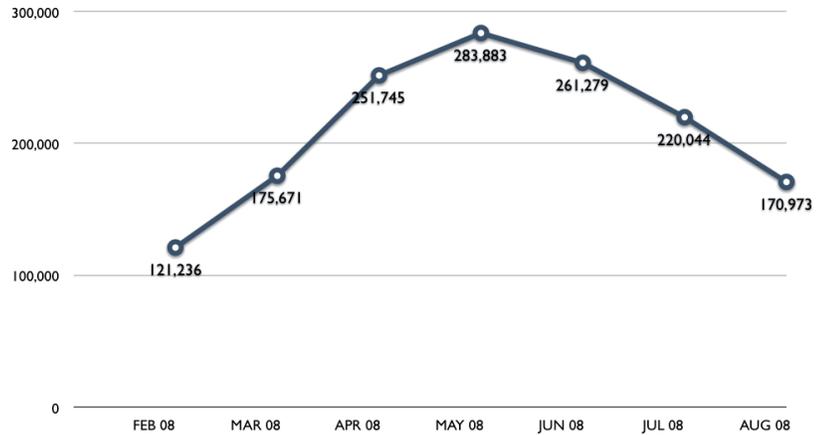
Corrections officials told the oversight team that eventually people will have to be paid for the hours they’re working now. Lewis said that was clearly communicated to the administration, “and we were told: That’s the future, not now.”

Kernan said that individual correctional workers would probably collect their furlough payouts on retirement, which would allow the state to spread costs over a decade or so. But the Schwarzenegger administration has yet to issue a policy that would allow state workers to “cash out” their furlough days or use them after June 30, 2012.

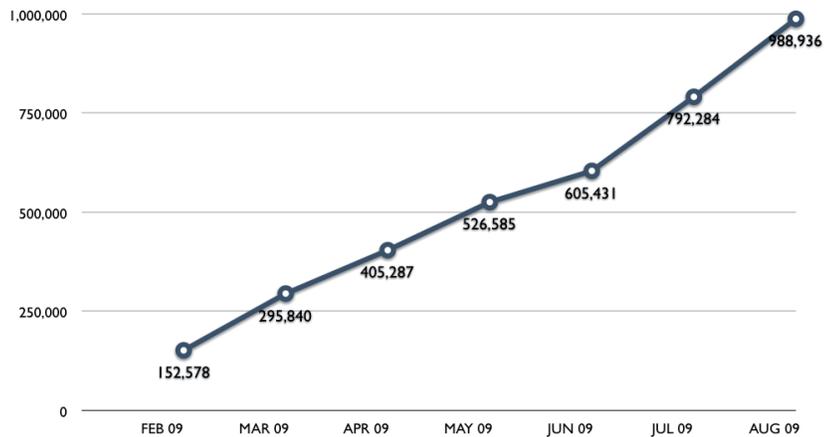
There’s another impact, as well. In the same February-through-August period this year, correctional workers accrued nearly 1 million hours of unused vacation. That’s a 500 percent increase over last year, before furloughs were a factor. Sick leave balances are also far outpacing budgeted amounts, according to Lewis.

“They’re building up massive balances of vacation and sick leave,” Lewis said, calling this another unfunded liability for the future.

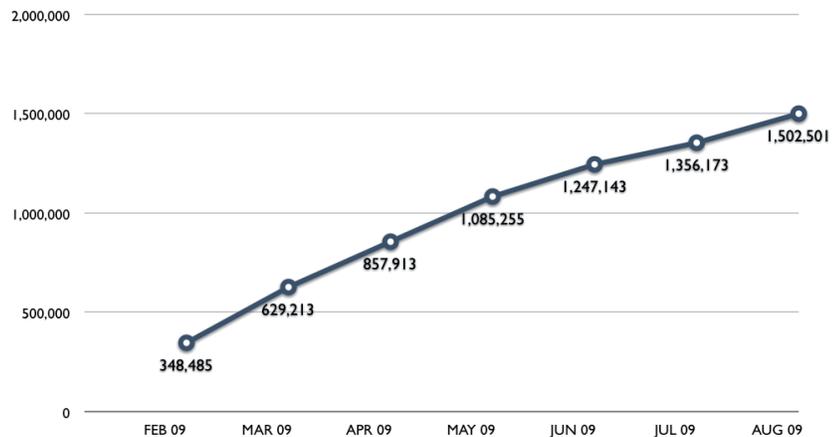
State Prison System: Banked Vacation Hours '08 (before furloughs)



State Prison System: Banked Vacation Hours '09



State Prison System: Banked Furlough Hours



Source: State Controller's Office

Furloughs began two days a month in February 2009. The third furlough day was added in July 2009.

In the summer months of 2008, workers used more vacation hours than they accrued each month.

Prison Healthcare

Furloughs have saved no money in the prison healthcare system and are expected to cost tens of millions of additional dollars, administrators said.

Furloughs also create a management “nightmare,” they said, and complicate their court-ordered mission to improve medical treatment in California’s 33 prisons.

Since 2005, medical care in the prisons has been managed by a non-profit organization called the California Prison Health Care Receivership Corp. A federal judge created the receivership after finding inmate healthcare so deplorable that it violated the constitutional ban on cruel and unusual punishment. U.S. District Judge Thelton E. Henderson stripped the Department of Corrections and Rehabilitation of its responsibility for prison health care.

The Schwarzenegger administration expected furloughs of prison healthcare employees to save \$108 million this year, said Mitzi Higashidani, director of administrative services. Those savings will quickly be devoured by the cost of furloughs, according to the receiver’s projections. Higashidani said the operation projects to spend \$108.2 million this year to compensate for furloughs by paying employees overtime and hiring temporary, privately-employed doctors and nurses. In addition, she said, the accrued furlough and vacation time of receiver employees is projected to create a future liability of \$37 million to \$47 million.

“There is not a savings,” said Karen Rea, the receiver’s statewide nursing director.

The receiver’s operation includes 3,400 nurses, 420 doctors and 2,000 custody officers who escort and guard inmates seeking medical attention. Its sole mission is to bring medical treatment of prison inmates to a constitutional level, determined by the federal court.

Besides saving no money, furloughs are interfering with the receiver’s mission by making it harder to recruit and retain doctors and nurses.

An unusually high number of nurses quit prison work after July, when a third furlough day was imposed by Schwarzenegger, according to a September 30 progress report by the receiver's office.

In August alone, 59 nurses left, according to the report. By comparison, 115 nurses quit in the six months from February through July.

"Based on reports from staff, many of the separations are due to the furlough days and the resulting cut in pay," stated the receiver's update to the federal court.

Several nurses who were poised to take jobs this summer backed out when they learned of the furloughs, said Rea.

In addition, she said, the continuity of inmate care is broken when privately-employed nurses must be hired temporarily to fill in for furloughed nurses.

The furloughs are affecting the receiver's operation in other ways, officials said. Long-term projects, including the automation of medical records, are being slowed, and backlogs are building in the handling of files, including those that involve the licensing and certification of prison health care employees.

In its recent progress report to Judge Henderson, the receiver noted that the impact of the furloughs is "difficult to measure and define."

The report stated: "While we continue to make progress in important areas that bring us closer to the goal of providing a constitutional level of healthcare within California's correctional system, the momentum has clearly been affected by the State's budget and fiscal crisis, and resultant furlough days."

So far, the receiver's office has not asked the federal court to force the administration to grant an exemption from furloughs for fear of creating tension and morale problems among prison employees. If the receiver's custody officers were exempted, for example, they would be working alongside correctional officers getting paid 14% less for essentially the same work.

But the receiver's office is trying to track the effect of the furloughs on medical care, and will alert Henderson to any measurable deterioration, officials said.

"Our number one priority is to not compromise healthcare for prisoners," said Higashidani. "We're watching the budget real closely, but it's not our top priority."

State Developmental Centers and Mental Hospitals

In California's 13 state-run facilities for people with mental illness and developmental disabilities, workers are banking ever greater amounts of vacation and furlough time off and showing increasing frustration at having to work days for which they are not paid.

Payroll data from the State Controller's Office shows that the primary caretakers in these facilities – nurses and psychiatric technicians – are not always getting their three furlough days off each month. The amount of furlough time banked by “level of care” employees – those whose positions must be filled 24 hours a day, seven days a week – totaled 269,149 hours by the end of August. That is the equivalent of 6,728 work weeks.

Psychiatric technician Laurie Hill, who works as a standard compliance auditor at Patton State Hospital near San Bernardino, said psychiatric technicians are almost always rebuffed by supervisors when they ask to take off a furlough day.

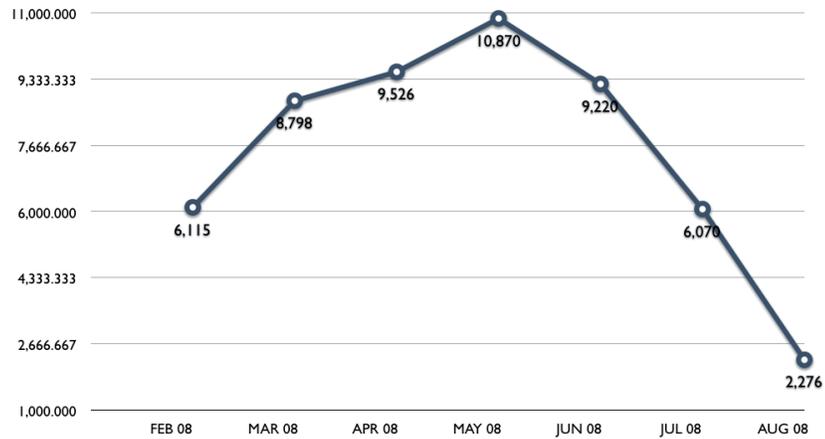
“It's a constant denial,” she said. “The supervisors say if it's not available on the vacation calendar, then you can't have it off.” Vacation schedules were set in December 2008 and few days are available “so of course they're denied,” said Hill.

Such inflexibility and the roughly 14% cut in furloughed workers' pay results in “horrible” morale, said Hill.

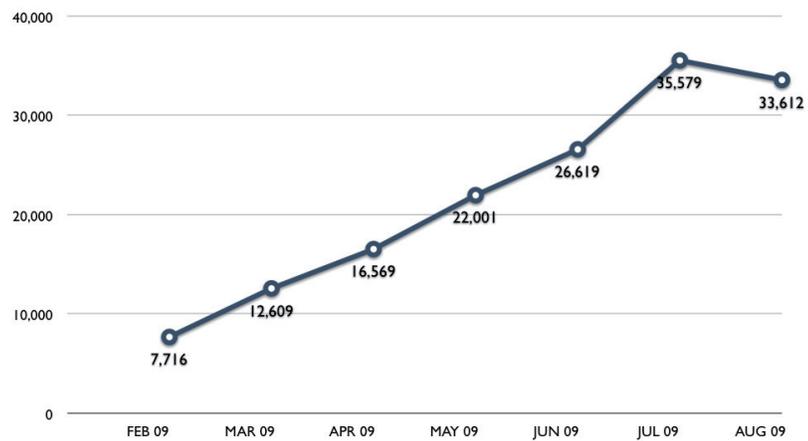
“If you are being furloughed, those are your furlough hours,” she said. “You should be able to use them when you want.”

The payroll data shows that when they do take time off, workers in the state hospitals and developmental centers are using their furlough time instead of vacation, as state policy dictates. The vacation hours banked by “level of care” workers jumped 14-fold in the developmental centers and 11-fold in the mental hospitals in the first seven months of the furloughs this year, compared to the same period last year.

State Developmental Centers: Banked Vacation Hours '08 (before furloughs)



State Developmental Centers: Banked Vacation Hours '09



State Developmental Centers: Banked Furlough Hours



Source: State Controller's Office

Furloughs began two days a month in February 2009. The third furlough day was added in July 2009.

In the summer months of 2008, workers used more vacation hours than they accrued each month.

“When we do call in sick, we’re able to substitute furlough time for sick time,” said Juan Nolasco, a psychiatric technician at Coalinga State Hospital. “And when we do take vacation time, we use our furlough time in lieu of vacation time. The vacation time that we have is basically growing and growing and growing and we feel that’s going to hold the state liable to pay us down the road. They’re going to have to pay us.”

Roughly 8,400 people are cared for by a staff of 17,800 in the 13 facilities operated by the departments. Not all of those staff positions are needed around the clock.

Officials with the two departments said they are maintaining proper staff-to-client ratios despite the furloughs. They express confidence that they will be able to accommodate all the time off their workers must take within two years after the scheduled end of furloughs in June 2010.

That may be easier for developmental center employees, said Department of Developmental Services chief deputy director Mark Hutchinson. The developmental centers’ populations are gradually declining. As staff levels decline, said Hutchinson, workers will have flexibility to use their accrued leave.

Officials with both departments said overtime pay has not changed substantially as a result of the furloughs, an assertion backed up by the controller’s payroll data. That data shows no overall increase in overtime payments to nurses and psychiatric technicians at the developmental centers and state mental hospitals after the imposition of furloughs.

Nor are the state mental hospitals relying more heavily on privately-employed contractors to provide nurses and psychiatric technicians, said Jean Barawed, assistant deputy director of long-term care services for the Department of Mental Health. The Department of Developmental Services does not use private contractors to backfill its workers, said Patricia Flannery, deputy director for developmental centers.

The furloughs save money on administrative and headquarters staff, officials said, but there are limits to how much can be saved in care facilities where laws and court decrees dictate the number of employees.

“We always go back to working in an environment where you meet the required staffing needs of running a 24/7 operation,” said Hutchinson. “The costs are the costs, regardless of how you address them through overtime or accrued furlough.”

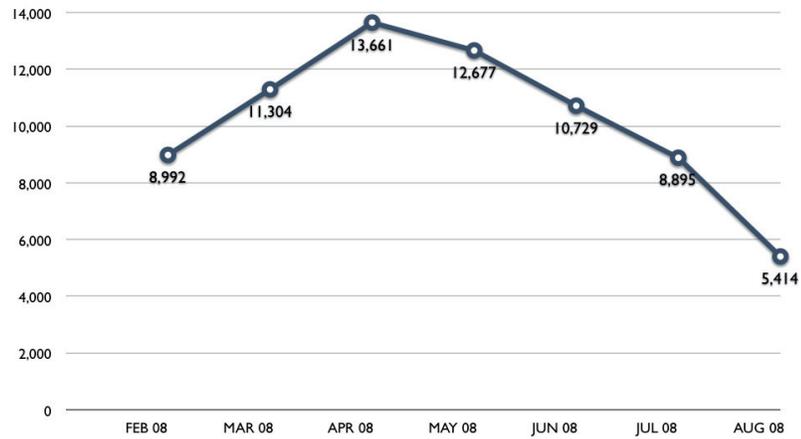
Making sure enough doctors, nurses and other staff are always on hand is difficult enough in facilities where the sudden onset of suicidal or aggressive behavior can pull workers away for intensive, one-on-one care. Furloughs are one more factor to consider in that balancing act, officials said.

“The biggest challenge, of course, is when you have employees who are requesting time off, and we just aren’t able to honor it,” said Flannery.

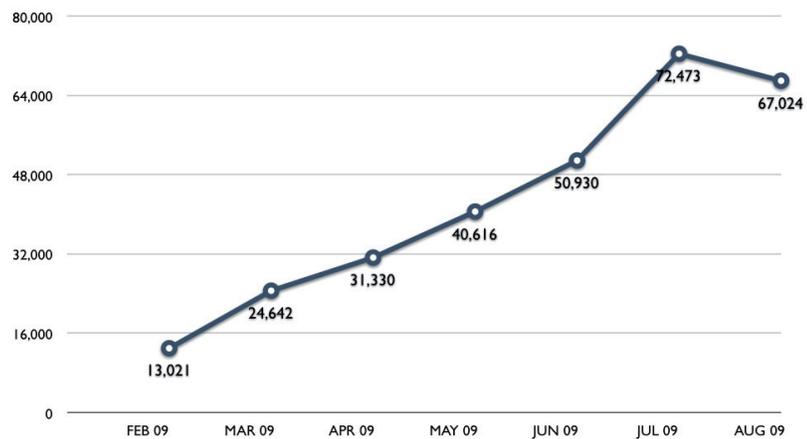
Employees can't help but bring additional stress to the job, said Hill. Many are suffering tremendously from the 14% reduction in pay – Hill herself said she is soon to lose her home of 15 years to foreclosure. She is now searching for an apartment for herself and her twin 17-year-old boys. Paychecks go first to buying food and bus passes so her children can get to school, she said, and no longer cover the mortgage.

“Most people don't have a savings plan,” said Hill. “We're not rich. I'm just your check-by-check person . . . That third (furlough) day really, really hurt people. That's just too much.”

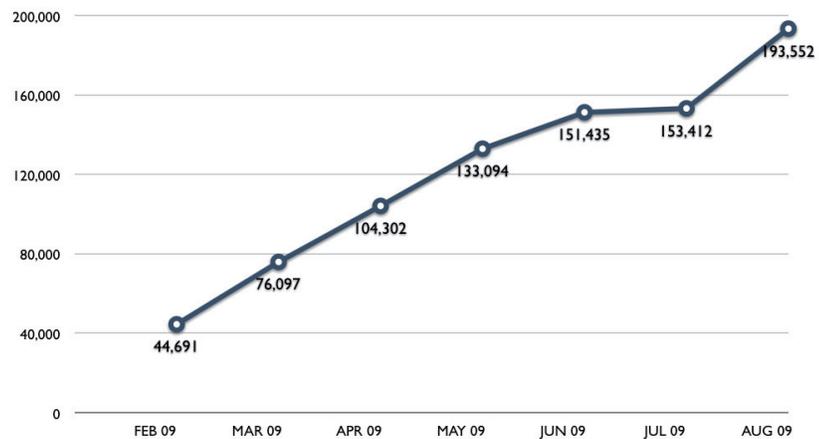
Mental Health System: Banked Vacation Hours '08 (before furloughs)



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Mental Health System: Banked Furlough Hours



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