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☞ Details: Legislative Audit Bureau Letter Report June 2008: Overtime in State Agencies

(FORM UPDATED: 08/11/2010)

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2007-08
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- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (October 2012)

STATE OF WISCONSIN

Letter Report

Overtime in State Agencies

June 2008

Legislative Audit Bureau

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Janice Mueller
State Auditor

June 11, 2008

Senator Jim Sullivan and
Representative Suzanne Jeskewitz, Co-chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin 53702

Dear Senator Sullivan and Representative Jeskewitz:

We have completed a review of overtime in state agencies, excluding the University of Wisconsin System, the Legislature, and the courts. During the last three years, state agencies paid a total of $187.3 million in overtime, an increase of 15.2 percent since 2005. The largest category is for premium overtime, which is 1.5 times the employee's regular hourly rate and is typically earned for working in excess of 40 hours per week.

From 2005 through 2007, more than 90.0 percent of all premium overtime payments were for employees in agencies that have 24-hour operations or must quickly respond to emergencies. Two agencies with the largest amounts of premium overtime—the Department of Corrections (DOC) and the Department of Health and Family Services (DHFS)—identify inadequate numbers of authorized positions as the most significant factor for increased use of overtime. Overtime provisions in collective bargaining agreements and increases in the amount of leave time granted have also contributed to increased overtime costs.

A total of 59 state employees were paid more than $100,000 in premium overtime for the three-year period we reviewed: 49 were correctional officers and sergeants at DOC, and 10 were patient care staff at DOC or DHFS.

The extent to which the State is relying on overtime to meet continuing operational needs suggests that comprehensive analysis of the most cost-effective mix of additional authorized positions and overtime may be warranted. We include a recommendation for DOC and DHFS to analyze overtime use at their facilities and submit options for reducing overtime costs to the Joint Legislative Audit Committee by January 5, 2009.

We appreciate the courtesy and cooperation extended to us by staff at the Office of State Employment Relations, DOC, and DHFS.

Sincerely,

Janice Mueller

Janice Mueller
State Auditor

JM/DA/ss

Enclosure

OVERTIME IN STATE AGENCIES

Recent attention to overtime costs incurred by the City of Milwaukee Police Department and the State's correctional and nursing staff has raised questions as to the extent and costs of overtime incurred in state government and the steps being taken to manage it. In response, and as part of annual payroll analyses conducted for our audit of the State's financial statements included in the Comprehensive Annual Financial Report, we analyzed overtime data from the State's central payroll system. We also interviewed human resources staff at several agencies, as well as union representatives, to help provide a context for the State's overtime activity and costs over the last three years.

Overtime Data

We obtained overtime hours and payments recorded on the State's central payroll system from 2005 through 2007. Excluded from our analysis were employees of the University of Wisconsin System, the Legislature, and the courts, who are paid through separate payroll systems or follow different personnel policies. As shown in Table 1, state agencies paid a total of $187.3 million in overtime during the last three years. Total overtime paid in 2007 was 15.2 percent greater than that paid in 2005. Almost all—98.2 percent—of the overtime payments were made to permanent employees in the classified service.

Table 1

Overtime Payments by Category
(in millions)

Category[1]	2005	2006	2007	Total
Premium Overtime	$46.9	$54.8	$53.8	$155.5
Regular Overtime	6.0	6.9	6.9	19.8
Holiday and Other Overtime	3.6	4.0	4.4	12.0
Total	**$56.5**	**$65.7**	**$65.1**	**$187.3**

[1] The categories are defined as:

Premium Overtime—hours in excess of 40 per work week that qualify for payment at a rate generally 1.5 times the employee's regular hourly rate.

Regular Overtime—hours in excess of 40 per work week that are paid at the employee's regular hourly rate.

Holiday and Other Overtime—regular hours that qualify for a higher rate of pay. For example, hours worked on a holiday generally are paid at 1.5 times the employee's regular hourly rate.

The most common category of overtime is premium overtime, which is generally paid at 1.5 times the employee's regular hourly pay rate. Premium overtime represented $155.5 million, or 83.0 percent, of total overtime paid during the three-year period we reviewed. Regular overtime is paid at the employee's regular hourly rate for time in excess of 40 hours per week. It is paid largely to supervisory staff or other employees in nonrepresented classified positions; for example, supervising officers employed by the Department of Corrections (DOC) accounted for approximately 30.0 percent of regular overtime payments. Holiday and other overtime pay does not represent additional hours worked, but rather regular hours that qualify for a higher rate of pay, such as hours worked on a holiday. It represents the smallest portion of overtime compensation.

We focused our review on premium overtime because it represents the largest and most costly category. While most state agencies have some employees who earn premium overtime, the four agencies shown in Table 2 accounted for 91.9 percent, or $142.9 million, of premium overtime payments from 2005 through 2007. These agencies' premium overtime payments were high largely because they staff facilities with 24-hour operations or address emergency needs. A listing of all premium overtime payments by agency is included as the appendix.

Table 2

Four Departments with Highest Premium Overtime Payments
(in millions)

Department	2005	2006	2007	Total	Percentage of Premium Overtime for All Agencies
DOC	$30.3	$36.1	$34.7	$101.1	65.0%
DHFS	7.5	9.1	9.5	26.1	16.8
DOT	3.5	3.5	3.4	10.4	6.7
DNR	1.6	1.8	1.9	5.3	3.4
Total	**$42.9**	**$50.5**	**$49.5**	**$142.9**	**91.9%**

DOC's premium overtime payments accounted for 65.0 percent of the total for the three-year period. They were made primarily to correctional officers and correctional sergeants, which are the two largest position classifications in state government, as well as probation and parole agents, youth counselors, and nursing staff. The majority of premium overtime payments made by the Department of Health and Family Services (DHFS) were related to nursing and other direct patient care staff in mental health institutes and centers for developmentally disabled. State patrol troopers and inspectors employed by the Department of Transportation (DOT) and conservation wardens employed by the Department of Natural Resources (DNR) earned the majority of overtime payments attributed to these agencies while enforcing state laws and responding to emergency situations on state highways and state property.

The ten position classifications shown in Table 3 accounted for almost 80.0 percent of state agencies' premium overtime payments in each of the three years. Premium overtime payments doubled for two classifications of patient care staff—Resident Care Technician 1 and psychiatric care technician—employed by DHFS institutions. However, the correctional sergeant classification experienced the largest dollar increase in premium overtime, from $10.6 million in 2005 to $12.2 million in 2007.

Table 3

Position Classifications Receiving the Highest Premium Overtime Payments
(in millions)

Position Classification	Department(s)	2005	2006	2007	Percentage Change
Correctional Officer	DOC and DHFS	$13.9	$16.2	$15.1	8.6%
Correctional Sergeant	DOC and DHFS	10.6	12.8	12.2	15.1
Resident Care Technician 2	DHFS	2.9	3.2	3.3	13.8
Probation and Parole Agent C	DOC	2.2	2.9	3.1	40.9
Nurse Clinician 2	DOC, DHFS, Public Instruction, Military Affairs, and Veterans Affairs	2.0	2.3	2.5	25.0
State Patrol Trooper	DOT	1.1	1.4	1.7	54.5
Youth Counselor	DOC	1.3	1.4	1.2	(7.7)
Resident Care Technician 1	DHFS	0.7	1.1	1.4	100.0
Psychiatric Care Technician	DHFS	0.6	1.1	1.3	116.7
Conservation Warden	DNR	0.8	0.9	0.9	12.5
Premium Overtime for These Classifications		**$36.1**	**$43.3**	**$42.7**	18.3

As part of our review of payroll records, we identified 59 individuals whose cumulative premium overtime earnings over the three-year period totaled $100,000 or more. All 59 individuals were employed by either DOC or DHFS and:

- 34 were classified as correctional sergeants;
- 15 were classified as correctional officers; and
- 10 were in nursing and other direct patient care classifications.

Table 4 provides further detail on ten employees who earned the most premium overtime over the last three years, including two who earned over $100,000 in 2007. Although allowable under their applicable collective bargaining agreements, the extent to which these ten individuals worked additional hours in positions that provide direct care or security potentially raises questions about their ability to effectively perform their responsibilities and not endanger patients, inmates, themselves, or other employees. For example, the Resident Care Technician 2 who provides direct patient care to residents at Mendota Mental Health Institute worked an

average of 110 additional hours during each of the 78 biweekly pay periods we analyzed, which corresponds to routinely working double shifts. DOC and DHFS believe they adequately monitor staff to ensure work performance is not compromised.

Table 4

Employees with Highest Premium Overtime Earnings

Position Classification	Agency	Facility	Age	2005	2006	2007	Total
Nurse Clinician 2—Weekend	DOC	Milwaukee Secure Detention Facility	61	$ 72,749	$ 86,557	$103,412	$262,718
Nurse Clinician 3	DHFS	Central Wisconsin Center	44	57,542	67,083	103,062	227,687
Nurse Clinician 2	DHFS	Southern Wisconsin Center	50	81,206	66,150	77,212	224,568
Resident Care Technician 2	DHFS	Mendota Mental Health Institute	61	60,089	66,237	75,674	202,000
Correctional Sergeant	DOC	Oakhill Correctional Institution	54	68,184	30,948	90,004	189,136
Correctional Sergeant	DOC	Columbia Correctional Institution	53	45,611	68,342	55,612	169,565
Correctional Sergeant	DOC	Oakhill Correctional Institution	44	46,332	68,325	53,321	167,978
Correctional Sergeant	DOC	Fox Lake Correctional Institution	50	58,121	68,007	36,575	162,703
Correctional Sergeant	DOC	Oakhill Correctional Institution	44	41,816	63,100	57,536	162,452
Correctional Sergeant	DOC	Oakhill Correctional Institution	45	44,526	56,641	59,042	160,209

Collective Bargaining Agreements

While state agencies authorize overtime hours, they generally have limited control over which employees are offered overtime hours and the amount of overtime payments individual employees can receive. Instead, the protocols for overtime are largely dictated by collective bargaining agreements.

Like other employers, the State is required to follow federal laws established to protect employee rights, such as the Fair Labor Standards Act (FLSA). The FLSA requires employers to pay certain employees overtime compensation at a rate generally 1.5 times their regular hourly rates for hours worked in excess of 40 per week and permits government employers the option of providing compensatory time at the rate of 1.5 hours for each hour of overtime hour worked in lieu of cash payment.

The Office of State Employment Relations (OSER) in the Department of Administration is responsible for negotiating collective bargaining agreements with represented employees and developing compensation plans for nonrepresented employees. OSER ensures that, at a minimum, federal labor laws are met in these agreements and plans. In some cases, negotiations have resulted in overtime provisions that exceed FLSA requirements, including provisions in the contracts with the Wisconsin State Employees Union (WSEU), the SEIU Healthcare District 1199 Wisconsin (SEIU Healthcare), and the Wisconsin Law Enforcement Association (WLEA).

WSEU, which includes five distinct bargaining units, covers the largest number of employees in Wisconsin's classified civil service, including eight of the position classifications identified in Table 3. SEIU Healthcare, which represents nurses, and WLEA, which represents state troopers, include the remaining classifications. One bargaining unit of WSEU—the Security and Public Safety bargaining unit, which represents correctional officers and sergeants, conservation wardens, and psychiatric care technicians, accounted for 59.8 percent of the premium overtime payments from 2005 through 2007. SEIU Healthcare and WLEA accounted for 10.7 percent of premium overtime payments.

The State's collective bargaining agreements with WSEU, SEIU Healthcare, and WLEA are more generous than FLSA requirements in defining overtime hours. Under FLSA, employers are required to pay overtime when actual hours worked exceed 40 per work week. In contrast, the collective bargaining agreements determine overtime based on all hours in "pay status," rather than actual hours worked. Therefore, if use of vacation or sick leave results in a work week of more than 40 hours, any hours over 40 are paid as overtime regardless of the number of hours actually worked.

The pay status provision was part of the State's first agreements with WSEU in 1975. The provision was added to the SEIU Healthcare agreement in the mid-1980s to help address difficulties the State was experiencing in hiring nurses. It was adopted for the WLEA agreement when the union separated from WSEU in 2005. OSER staff agree that the pay status provision has resulted in higher overtime costs; however, they have devoted their attention to other priorities in negotiating collective bargaining agreements.

Seniority provisions in many of the collective bargaining agreements also affect overtime costs. In the case of voluntary overtime, opportunities to earn premium overtime are offered on a seniority basis from most-senior to least-senior staff. Because senior staff are typically paid more than junior staff, costs increase when more senior staff accept overtime opportunities.

Furthermore, the large amounts of overtime earned by some individuals who are nearing retirement age significantly increases their incomes and thus their state employee pension benefits. We note the two highest correctional sergeants listed in Table 4 are at or near the normal retirement age of 54 for protective employees.

Our review of payroll data and interviews with agency staff indicate that senior correctional officers and sergeants regularly accept overtime opportunities. Our analysis of payroll records found that the 752 most-senior correctional officers and sergeants reported an average of 277 premium overtime hours during 2007, which was 1.5 times greater than the average number of premium overtime hours reported by the 828 most-junior officers and sergeants.

The collective bargaining agreements also include provisions for forcing overtime when staff do not accept overtime assignments on a voluntary basis. Forced overtime occurs for correctional

staff but is more prevalent for direct patient care staff at DHFS facilities. Forced overtime provisions of the collective bargaining agreements are the inverse of voluntary overtime requirements: forced overtime is first required of the most-junior staff.

In addition to master collective bargaining agreements that OSER negotiates with the unions, DOC has 52 and DHFS has 25 locally negotiated agreements. Locally negotiated agreements do not exceed benefits contained in statewide agreements, but further outline the specific procedures that are agreed upon by management and local unions to meet seniority provisions under the statewide agreements.

Overtime in the Department of Corrections

DOC administers 19 state prisons, 16 community correctional centers, and 3 juvenile facilities. Operations of these institutions require three daily shifts in order to provide 24-hour security and care for inmates. DOC has 10,350 authorized full-time equivalent (FTE) positions to staff the correctional institutions and to monitor adults and juveniles under community supervision. Premium overtime has been a challenge for DOC for many years. Its annual budget for overtime has not kept pace with overtime costs incurred, especially for correctional officers and sergeants, forcing internal reallocation of funds.

As shown in Table 5, DOC's 2007 premium overtime costs largely reflect payments to its correctional officers and sergeants. DOC employs approximately 4,000 correctional officers and sergeants.

Table 5

DOC's 2007 Premium Overtime Payments by Position Classification
(in millions)

Position Classification	Premium Overtime	Percentage
Correctional Officer[1]	$14.9	42.9%
Correctional Sergeant[1]	12.1	34.9
Probation and Parole Agent[2]	3.6	10.4
Youth Counselor[2]	1.6	4.6
Nursing Staff [2]	1.2	3.5
Other	1.3	3.7
Total	**$34.7**	**100.0%**

[1] The premium overtime in this table is less than the premium overtime reported in Table 3 because DHFS also employs correctional officers and sergeants at some of its institutions.

[2] Includes several related classifications.

No specific professional qualifications are necessary to be hired as a DOC correctional officer, although individuals must successfully complete a seven-week pre-service training program. The correctional sergeant positions are typically filled through promotion of correctional officers. DOC continuously recruits for the officer positions to address vacancies.

DOC's adult institutions routinely incur anticipated and unanticipated overtime. Anticipated overtime includes scheduled overtime to address vacancies and planned staff absences, while unanticipated overtime occurs to address unforeseen staff absences; medical needs of inmates requiring hospitalization; or additional security needs, such as in times of prison lockdowns. DOC follows procedures prescribed by statewide and locally negotiated collective bargaining agreements for offering employees the option to work such shifts based on seniority.

Only 6.1 percent of the correctional officers and sergeants for whom a full year of payroll data was available reported no premium overtime in at least one of the years during the three-year period analyzed. The correctional sergeants received an annual average of $7,600 in premium overtime payments, while the correctional officers received $5,200. Due to the additional overtime payments, we found that the earnings of 18.2 percent of the correctional officers and 47.7 percent of the sergeants exceeded the maximum pay ranges established for these classifications.

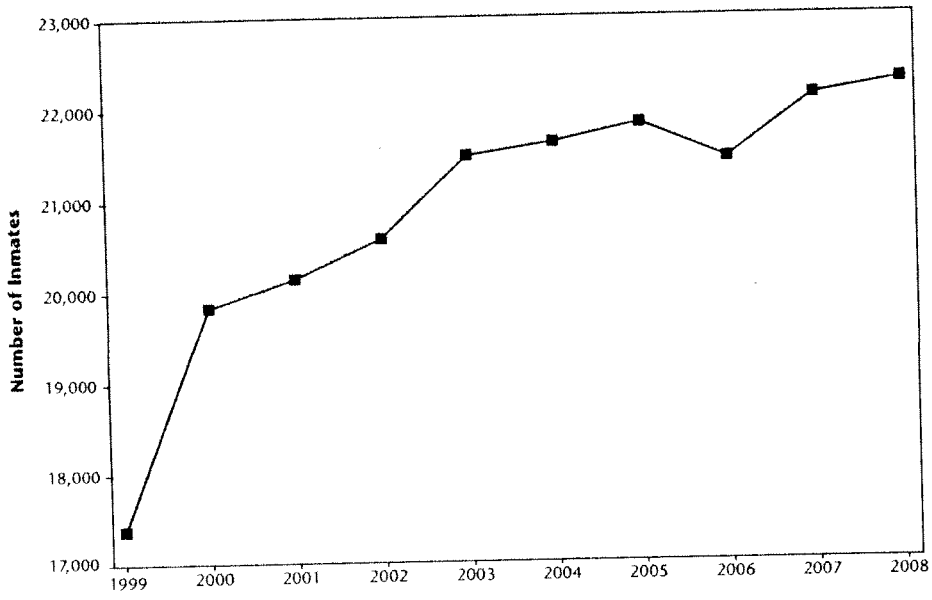
We noted a disproportionately higher amount of overtime at the Oakhill Correctional Institution, which is a 300-bed minimum security facility located in Oregon, Wisconsin. For example, four of the ten highest overtime earners shown in Table 4 were correctional sergeants employed at Oakhill. Further, we found that the average overtime hours and payments at Oakhill were more than double those at the other adult correctional institutions. DOC attributes a portion of this overtime to the establishment of a new unit to accommodate overcrowding without additional position authority and to providing 24-hour security for inmates at the nearby University of Wisconsin Hospital and Clinics.

Various factors have contributed to DOC's increased use and costs of overtime since 2005. One major factor is that the number of authorized correctional officer positions has not kept pace with increases in the number of inmates at the adult correctional institutions. Another is the use of sick leave by correctional officers and sergeants.

As shown in Figure 1, the number of adult inmates increased from 17,376 in January 1999 to 21,479 in January 2003. Following this significant increase, growth in the inmate population slowed in 2003 and 2004, and the number of inmates decreased during 2005. However, after January 2006 the inmate population unexpectedly increased.

Figure 1

Inmate Population Trends at DOC's Adult Institutions
As of January



Data Source: DOC's Institution Population Reports

Inmate population trends from 2003 through 2005 were considered in determining staffing levels for the adult institutions as part of the 2005-07 biennial budget process. In preparing its budget request, DOC anticipated a continued reduction in the adult population during the 2005-07 biennium, and to meet staffing reductions required by 2005 Wisconsin Act 25, the 2005-07 Biennial Budget Act, DOC planned to eliminate 72 correctional officer positions and 18 correctional sergeant positions. Because of an unexpected increase in the adult inmate population that began in January 2006, DOC did not make these reductions. Subsequently, authority for 77 positions was restored as part of a s. 13.10, Wis. Stats., action by the Joint Committee on Finance in June 2006 and as part of 2007 Wisconsin Act 20, the 2007-09 Biennial Budget Act.

For the 2007-09 biennium, DOC had requested almost $10.2 million in additional spending authority to address higher overtime costs resulting from negotiated increases in vacation time and compensation for correctional officers and sergeants that were similar to increases provided to most other state employees. The increases were 24 additional hours of vacation annually effective July 2005, and a 2.25 percent hourly wage increase that was effective April 2007. Instead of funding DOC's additional overtime costs, the Legislature authorized an additional 50.0 FTE correctional officer positions based on a Legislative Fiscal Bureau analysis that concluded overall savings could be realized by adding positions. The Legislature also included a requirement that DOC submit a biennial overtime usage report to the Joint Committee on Finance beginning January 2009.

DOC indicates that all restored positions have been filled and that all but six of the newly authorized positions have also been filled. DOC received approval to convert five of the remaining six officer positions to sergeant positions to specifically address high overtime costs at the Oakhill Correctional Institution.

DOC has identified the use of sick leave by correctional officers and sergeants as another major factor affecting overtime. Its fiscal year (FY) 2005-06 and FY 2006-07 records attribute an average of $14.0 million in overtime to their sick leave use. Correctional officers and sergeants earn the same amount of sick leave as do most other state employees: 130 hours, or 16.25 days, annually. In addition, under the collective bargaining agreements with WSEU, SEIU Healthcare, and WLEA, many represented employees—including correctional officers and sergeants—can earn up to an additional 1 hour of sick leave when they work 16 or more hours of overtime during a pay period, up to an additional 26 hours per year.

Based on DOC's records, we estimated correctional officers and sergeants use an average of 106 hours, or 13.25 days, of sick leave annually. In contrast, a report from the central payroll system shows that state employees on the system used an average of 65.4 hours, or 8.17 days, of sick leave during 2007. We also note that 24.0 percent of correctional officers and sergeants employed for all of 2007 had leave balances of less than 40 hours at the end of the year. DOC monitors correctional officers' and sergeants' sick leave use for potential abuse and notes that in 2007 it terminated nine staff for absenteeism-related issues and placed approximately 10 percent on sick leave monitoring status. However, DOC believes that current sanctions are not sufficient to effectively deter repeated abuse.

DOC believes it has limited options for addressing its increasing overtime costs because of difficulties in obtaining additional position authority to quickly respond to inmate growth. However, it notes recent steps taken to minimize the effect of vacancies on overtime, such as targeting recruitment efforts in various areas of the state. DOC recently initiated a pilot program at the Fox Lake Correctional Institution that uses a pool of correctional officers as "relief positions" to provide flexibility in scheduling, and it plans to study the program's effectiveness in reducing reliance on overtime shifts. While it is too early to assess the success of the pilot program, DOC indicates that it may extend the program to other institutions and that the program may be useful in determining an optimal number of positions to reduce overall costs.

Overtime for Providing Patient Care

Several other facilities operating on a 24-hour basis frequently rely on overtime to meet staffing needs related to direct patient care. For example, seven DHFS mental health institutes and centers for the developmentally disabled require 24-hour patient care and security. These facilities must meet more stringent federal staffing requirements than the correctional facilities operated by DOC.

DHFS made the largest premium overtime payments to direct patient care staff in each of the three years shown in Table 6. However, the Department of Veterans Affairs' two nursing homes and DOC's institutions also reported premium overtime for direct patient care staff. On average, premium overtime payments for direct patient care staff increased 27.7 percent since 2005.

Table 6

Premium Overtime Payments to Direct Patient Care Staff
(in millions)

Department	2005	2006	2007	Percentage Change
DHFS	$6.1	$7.4	$ 8.2	34.4%
Veterans Affairs	1.3	1.3	1.2	(7.7)
DOC	0.9	1.1	1.2	33.3
Total	**$8.3**	**$9.8**	**$10.6**	27.7

One of the major factors contributing to DHFS's increased overtime use and costs is that the number of authorized positions for patient care has not kept pace with the federal regulatory requirements for patient safety. Two DHFS facilities—Mendota Mental Health Institute and Winnebago Mental Health Institute—are accredited by the Joint Commission on Accreditation of Healthcare Organizations, which allows them to receive Medicaid and Medicare funding. At times, the institutions have faced decertification because periodic federal reviews have found inadequate staffing levels. DHFS indicates that it has historically addressed these concerns by reassigning staff among units within a facility or among facilities, and by requesting additional positions through the biennial budget process and s. 13.10, Wis. Stats.

Similar to DOC, DHFS identifies increases in the amount of leave time granted in recent years as another key factor in overtime costs. Increases in employee absences, including leave allowed under the federal Family and Medical Leave Act, and high turnover in resident care technician and psychiatric care technician positions are also increasing reliance on overtime. Staff in these positions work most closely with patients in DHFS facilities. Resident care technicians provide personal hygiene care to residents and assist them in their daily activities. Psychiatric care technicians monitor and supervise patient behavior; assist with escorting, transporting, and securing patients; and participate in the implementation of treatment plans and therapeutic activities. Nonretirement-related turnover in the Resident Care Technician 1 position was 58.0 percent in FY 2004-05, the most recent period for which information was readily available.

As noted, under current collective bargaining agreements the opportunity to earn premium overtime must be offered on a seniority basis, but if there are no volunteers forced overtime can be required in reverse-seniority order. DHFS estimates that 61.0 percent of its overtime shifts are forced and that resident care technicians and psychiatric care technicians experience the highest number of forced shifts, which contribute to their high turnover rates.

There have been legislative efforts to eliminate the use of forced overtime by all public and private health care providers. The most recent effort was 2007 Senate Bill 512/Assembly Bill 926, which would have prohibited forced overtime except in unforeseeable emergencies in which all other options had been exhausted but were not enacted. In its fiscal estimate, DHFS indicated

that an additional 119 FTE direct patient care positions would be needed to eliminate forced overtime at its facilities.

In addition to reassigning direct patient care staff within a facility or among facilities, DHFS has taken steps to address retention concerns by offering staff development opportunities, such as assisting residential care technicians in training for nursing assistant certification. DHFS also uses limited-term employees in several facilities to cover unanticipated illnesses or turnover. However, DHFS believes that the primary way to significantly reduce overtime at its facilities is to increase the number of authorized positions for direct patient care staff. DHFS is currently analyzing the staffing levels needed to more adequately address federal regulations and employee absences as it begins preparing its 2009-11 biennial budget request.

Future Considerations

A large portion of the State's overtime costs is clearly attributable to staffing state facilities that operate on a 24-hour basis. While some overtime may be expected to address unforeseen events, overtime currently is being used to a large extent to meet continuing operational needs of these facilities.

DOC, DHFS, and union officials believe that additional positions will help to reduce costs as they are able to reduce overtime. However, adding more positions will also involve additional costs, including fringe benefit, training, and recruiting costs. Therefore, a comprehensive analysis of the most cost-effective and equitable mix of additional authorized positions and overtime for the agencies that operate 24-hour facilities may be warranted. At the same time, we believe DOC and DHFS should consider other options for reducing overtime costs, including addressing potential abuses of overtime and sick leave provisions and ensuring that the safety of patients, inmates, and employees is not at risk because of overtime practices.

☑ Recommendation

We recommend the Department of Corrections and the Department of Health and Family Services analyze overtime use at their facilities and submit options for reducing overtime costs to the Joint Legislative Audit Committee by January 5, 2009.

■ ■ ■ ■

Appendix

Premium Overtime Payments by Agency

2005-2007

Department	2005	2006	2007
Administration	$ 421,869	$ 504,549	$ 439,758
Agriculture, Trade and Consumer Protection	179,306	124,282	199,750
Arts Board	82	0	377
Board of Commissioners of Public Lands	0	45	829
Board on Aging and Long Term Care	303	89	114
Commerce	12,201	51,039	52,207
Commissioner of Insurance	0	95	612
Corrections	30,253,351	36,106,526	34,692,176
Educational Communication Board	88,328	104,373	78,648
Elections Board	22,515	69,195	12,038
Employee Trust Funds	10,277	38,583	12,888
Financial Institutions	2,494	6,850	5,653
Governor's Office	624	776	883
Health and Family Services	7,531,841	9,039,023	9,515,905
Historical Society	32,145	25,791	48,372
Investment Board	1,298	134	1,792
Justice	165,826	110,632	74,829
Lieutenant Governor's Office	0	1,041	0
Military Affairs	198,774	216,612	302,186
Natural Resources	1,634,058	1,831,990	1,875,133
Office of Employment Relations	1,416	1,475	1,855
Public Defender Board	76,525	82,028	93,328
Public Instruction	163,167	241,716	237,794
Public Service Commission	158	333	271
Regulation and Licensing	2,207	1,775	8,394
Revenue	19,562	34,065	88,192
Secretary of State	0	411	0
State Fair Park	372,811	306,082	358,297
State Treasurer	2,816	789	3,689
Tourism	773	1,750	4,673
Transportation	3,502,094	3,489,676	3,415,273
Veterans Affairs	1,509,282	1,539,052	1,526,841
Workforce Development	648,697	872,799	748,720
Total	**$46,854,800**	**$54,803,576**	**$53,801,477**


FORWARD
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WISCONSIN STATE LEGISLATURE

Joint Legislative Audit Committee

Committee Co-Chairs:
State Senator Jim Sullivan
State Representative Suzanne Jeskewitz

For Immediate Release

June 11, 2008

Co-Chairs Troubled by Review of Overtime in State Agencies

(Madison) Today, the nonpartisan Legislative Audit Bureau (LAB) released its review of overtime in state agencies, excluding the University of Wisconsin System, the Legislature, and the courts. Co-Chairs Jim Sullivan (D-Wauwatosa) and Sue Jeskewitz (R-Menomonee Falls) thanked the LAB for taking the initiative to further examine payroll data and the steps being taken to manage it after their work on the Comprehensive Annual Financial Report raised questions as to the extent of overtime incurred in state government. The LAB analyzed overtime costs and activities over the last three years and interviewed human resource staff at several agencies, as well as union representatives, to help set context for its review of the data.

From 2005 through 2007, state agencies paid a total of $187.3 million in overtime, an increase of 15.2 percent since 2005. More than 90 percent of all premium overtime payments were for employees in agencies that have 24-hour operations or must quickly respond to emergencies. The two agencies with the largest amount of premium overtime – the Department of Corrections (DOC) and the Department of Health and Family Services (DHFS) – identify inadequate numbers of authorized positions as the most significant factor for increased use of overtime. Overtime provisions in collective bargaining agreements and increases in the amount of leave time granted have also contributed.

"The legislature needs to re-examine whether adding additional positions is more fiscally prudent than utilizing overtime," remarked Jeskewitz. "There are significant fiscal implications beyond the actual paycheck because pensions are based on the highest three years of payroll data and since most DOC workers are in a protected status they often retire at age 54."

A total of 59 state employees were paid more than $100,000 in premium overtime for the three-year period LAB reviewed: 49 were correctional officers and sergeants at DOC, and 10 were patient care staff at DOC or DHFS. Seniority provisions in many collective bargaining agreements affect overtime costs because voluntary overtime is offered on a seniority basis from most-senior to least-senior staff. Because senior staff are typically paid more than junior staff, costs increase when more senior staff accept overtime opportunities.

"This is the cost of continuing to provide a high level of services with fewer employees," said Senator Sullivan. "We must find the most cost-effective way to staff state government given continuing budget lapses."

The Co-Chairs will discuss the potential of holding an audit hearing on LAB's findings. Copies of LAB's report may be obtained from its Web site at www.legis.wisconsin.gov/lab or by calling (608) 266-2818.

###

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(608) 266-2512 • Fax (608) 267-0367

REPRESENTATIVE JESKEWITZ
P.O. Box 8952 • Madison, WI 53708-8952
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FORWARD
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1. Q. When were the 50 additional correctional officers hired?

A. DOC did not provide a fill date for the initial 26 positions, but based on their comments, they were largely filled after the budget was enacted last fall. There is one additional position converted to a Sergeant, though the institution is unknown.

DISTRIBUTION OF 50 OFFICERS FOR OVERTIME REDUCTION

Allocated		Filled 3/2	Filled 3/16	
11.00 CCI	7.00	2.00		9.00
13.00 GBCI	2.00	11.00		13.00
5.00 WCI	5.00			5.00
8.00 KMCI	7.00	1.00		8.00
5.00 SCI	3.00		2.00	5.00
6.00 OCI	1.00	1.00		2.00
1.00 JCI	1.00			1.00
1.00 DCI		1.00		1.00
50.00	26.00	16.00	2.00	44.00

OCI 5.00 redeployed to Sgts and posted for contractual transfer which ends 2/22
Source: DOC Staff (dated 2/22/08)

2. Q. Do Social Workers work overtime?

A. I think Pam answered this herself in terms of BMCW in that many of the social workers are employees of nonprofit contractors. The Intake staff are state employees. Social Workers are represented employees - they are covered under the WSEU bargaining unit PSS (professional social services). I checked the 7 social worker classifications across state agencies and only found minimal amounts of premium overtime.

3. Q. How much of the increase in overtime is attributed to the number of hours as opposed to either higher salaried employees working the shift or higher overall salaries?

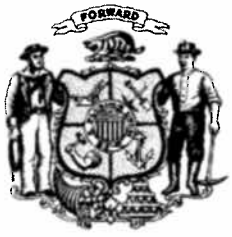
A. This answer is a bit more complicated, depending on what level you are looking at the data. For example, statewide, the increase in hours between 2005 and 2006 was less than 0.5% (from 1,845,496 hours in 2005 to 1,850,465 hours in 2007). The raw data for the top four agencies is included below.

Summary of Premium Overtime Hours

Department	2005	2006	2007
Corrections	1,169,323	1,293,475	1,158,252
Health and Family Services	316,668	362,401	361,738
Transportation	122,696	109,710	99,394
Natural Resources	56,513	59,008	58,380

Corrections' hours increased in 2006, but fell in 2007 (consistent with the trend observed in the overtime payments). Health and Family Services' and Natural Resources' hours increased overall between 2005 and 2007 (also showing a larger increase in 2006, and falling slightly in 2007). DOT added 10 officer positions in the 2005-07 budget. This may have influenced the decline in hours, yet it is not known when these positions were formally activated.

WISCONSIN STATE LEGISLATURE



STATE OF WISCONSIN
Office of State Employment Relations

Jim Doyle, Governor

Jennifer Donnelly, Director

SERVING PEOPLE
WHO SERVE WISCONSIN

101 E. Wilson St., 4th Floor
P.O Box 7855
Madison, WI 53707-7855
Voice (608) 266-9820
FAX (608) 267-1020
TTY: Call Relay 711

http://oser.state.wi.us

STATEMENT

Jennifer Donnelly, Director
Office of State Employment Relations
June 11, 2008

RESPONSE TO THE LETTER REPORT ISSUED BY LEGISLATIVE AUDIT BUREAU TODAY CONCERNING OVERTIME IN STATE AGENCIES

The Office of State Employment Relations (OSER), on behalf of state agencies, would like to acknowledge the findings of the Legislative Audit Bureau as it relates to overtime. We appreciate the work of the Bureau and concur with the findings, which point to an increase in overtime at our 24/7 institutions within both the Department of Corrections (DOC) and Department of Health and Family Services (DHFS).

OSER will work with DOC and DHFS to analyze overtime use at their facilities as recommended by the Bureau. The State is committed to providing safe, quality care within our institutions using reasonable staffing strategies and other resources.

Options for addressing the increased overtime will be submitted to the Legislative Audit Bureau as requested.


FORWARD

WISCONSIN STATE LEGISLATURE

Joint Legislative Audit Committee

Committee Co-Chairs:
State Senator Jim Sullivan
State Representative Suzanne Jeskewitz

July 8, 2008

Ms. Jennifer Donnelly, Director
Office of State Employment Relations
101 East Wilson Street, 4th Floor
Madison, Wisconsin 53702

Dear Ms. Donnelly:

As indicated on the enclosed hearing notice, the Joint Legislative Audit Committee will hold a public hearing on the Legislative Audit Bureau's review of *Overtime Use in State Agencies* (June 2008), on Thursday, July 17, 2008, at 10:00 a.m. in Room 411 South of the State Capitol.

As this report relates to the activities of the Office of State Employment Relations, we ask you, and the appropriate members of your staff, to be present at the hearing to offer testimony in response to the audit findings and to respond to questions from committee members. Please plan to provide each committee member with a written copy of your testimony at the hearing.

Please contact Ms. Nicole Hudzinski in the office of Senator Jim Sullivan at 266-2512 to confirm your participation in the hearing. Thank you for your cooperation and we look forward to seeing you on July 17th.

Sincerely,

Senator Jim Sullivan, Co-chair
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair
Joint Legislative Audit Committee

Enclosure

cc: Ms. Janice Mueller
State Auditor

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WISCONSIN STATE LEGISLATURE

Joint Legislative Audit Committee

Committee Co-Chairs:
State Senator Jim Sullivan
State Representative Suzanne Jeskewitz

July 8, 2008

Mr. Rick Raemisch, Secretary
Department of Corrections
3099 East Washington Avenue
Madison, Wisconsin 53707

Dear Mr. Raemisch:

As indicated on the enclosed hearing notice, the Joint Legislative Audit Committee will hold a public hearing on the Legislative Audit Bureau's review of *Overtime Use in State Agencies* (June 2008), on Thursday, July 17, 2008, at 10:00 a.m. in Room 411 South of the State Capitol.

As this report relates to the activities of the Department of Corrections, we ask you, and the appropriate members of your staff, to be present at the hearing to offer testimony in response to the audit findings and to respond to questions from committee members. Please plan to provide each committee member with a written copy of your testimony at the hearing.

Please contact Ms. Nicole Hudzinski in the office of Senator Jim Sullivan at 266-2512 to confirm your participation in the hearing. Thank you for your cooperation and we look forward to seeing you on July 17th.

Sincerely,

Senator Jim Sullivan, Co-chair
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair
Joint Legislative Audit Committee

Enclosure

cc: Ms. Janice Mueller
State Auditor

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WISCONSIN STATE LEGISLATURE

Joint Legislative Audit Committee

Committee Co-Chairs:
State Senator Jim Sullivan
State Representative Suzanne Jeskewitz

July 8, 2008

Ms. Karen Timberlake, Secretary
Department of Health Services
1 West Wilson Street, Room 650
Madison, Wisconsin 53703

Dear Ms. Timberlake:

As indicated on the enclosed hearing notice, the Joint Legislative Audit Committee will hold a public hearing on the Legislative Audit Bureau's review of *Overtime Use in State Agencies* (June 2008), on Thursday, July 17, 2008, at 10:00 a.m. in Room 411 South of the State Capitol.

As this report relates to the activities of the Department of Health Services, we ask you, and the appropriate members of your staff, to be present at the hearing to offer testimony in response to the audit findings and to respond to questions from committee members. Please plan to provide each committee member with a written copy of your testimony at the hearing.

Please contact Ms. Nicole Hudzinski in the office of Senator Jim Sullivan at 266-2512 to confirm your participation in the hearing. Thank you for your cooperation and we look forward to seeing you on July 17th.

Sincerely,

Senator Jim Sullivan, Co-chair
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair
Joint Legislative Audit Committee

Enclosure

cc: Ms. Janice Mueller
State Auditor

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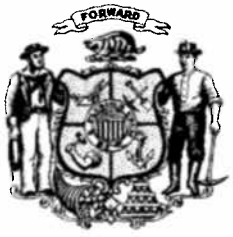

Record of Committee Proceedings

Joint Legislative Audit Committee

Audit Letter Report (June 2008),
Overtime in State Agencies.

July 17, 2008 **PUBLIC HEARING HELD**

Present: (9) Senators Sullivan, Lassa, Miller, A. Lasee and Cowles; Representatives Jeskewitz, Kerkman, Cullen and Parisi.

Absent: (1) Representative Rhoades.

Appearances For
- None.

Appearances Against
- None.

Appearances for Information Only
- Joe Chrisman, Madison — Legislative Audit Bureau
- Diann Allsen, Madison — Legislative Audit Bureau
- Jennifer Donnelly, Madison — Director, Office of State Employment Relations
- Amy Smith, Madison — Deputy Secretary, Department of Corrections
- Bill Pollard, Green Bay — Department of Corrections
- Marsha Rathje, Madison — Department of Corrections
- Rea Holmes, Madison — Executive Assistant, Department of Health Services
- Pat Cooper, Madison — Department of Health Services

Registrations For
- None.

Registrations Against
- None.

Registrations for Information Only
- None.


FORWARD

Matthews, Pam

From: Handrick, Diane
Sent: Tuesday, June 17, 2008 10:44 AM
To: 'Jim Jeskewitz'; Matthews, Pam
Subject: Opinion on overtime audit

From the Eau Claire Leader Telegram

Updated: 6/15/2008 3:17:02 PM

State overtime audit is troubling

The issue: A state audit that showed a staggering amount of overtime in the Department of Corrections.

Our view: Supervisors and lawmakers need to clamp down on what a reasonable person would consider cases of excessive overtime.

Unbudgeted overtime is the bane of many businesses. Paying employees time-and-a-half adds up fast, draining profit margins if the increased labor costs aren't offset by higher profits.

In government, there are no profits, but there are jobs that need to be done every day, such as guarding and otherwise caring for prisoners. If someone calls in sick or the prison is otherwise short-staffed, it's not an option to simply leave prisoners unguarded or unfed.

That said, the Legislative Audit Bureau report last week that showed a number of Department of Corrections employees piling up tens of thousands of dollars each in annual overtime is jaw-dropping. In one extreme case, a 61-year-old nurse at a Milwaukee prison was paid $225,462 last year, just more than $100,000 of which was overtime. In another case, a residential care technician at Mendota Mental Health Institute averaged 95 hours a week, according to payroll records. That's an average of 13 1/2 hours a day, seven days a week.

This is a numbing hit to taxpayers, now and into the future. Because public employee retirement benefits are calculated by the highest-earning years, tax-funded pensions grow higher with each hour of overtime worked by employees nearing retirement, such as the 61-year-old nurse. The audit showed many of the top overtime earners are nearing retirement.

In a story last month, the Milwaukee Journal Sentinel uncovered a very troubling practice by some correctional officers. The newspaper found that eight of the 20 highest paid correctional officers in 2006 called in sick for a shift and then worked the very next shift at least once. This allowed them to pocket eight hours of pay for their sick day and time-and-a-half for the shifts they worked.

Overall, state taxpayers shelled out $65.1 million in overtime to state workers in 2007, up from $56.5 million two years earlier. The audit did not include UW System, legislative or state court employees, who are paid through separate payroll systems.

These numbers are troubling, and somebody needs to bore down deeper to see to what extent overtime is being abused, how it can be trimmed and whether people need to be disciplined or fired.

There may be cases where hiring more full-time people is warranted. It also should be studied how someone can be a productive, hard-working employee if he or she in on the job 95 hours a week over the course of a whole year.

Lawmakers and state officials shouldn't just let this audit gather dust on a shelf. Yes, some overtime is unavoidable and necessary, and there probably are many cases of state employees who would rather not work so many hours. But there also appears to be a culture in some quarters where vast amounts of overtime have come to be accepted by employers and employees without due diligence paid to finding alternatives.

- Don Huebscher, editor

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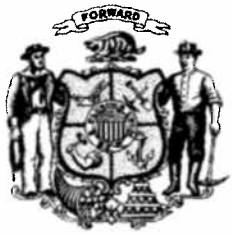

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Prison officers rack up overtime

Department of Corrections attributes cost to rise in inmates, staff shortages

By PATRICK MARLEY
pmarley@journalsentinel.com

Posted: Dec. 12, 2007

Madison - An unexpected influx of state prisoners in recent years has caused overtime costs at the Department of Corrections to soar, boosting the pay of some officers to six figures.

Overtime exploded between mid-2005 and mid-2006, jumping 27%, to $36.3 million, state records show. Overtime for the fiscal year that ended this summer rose to $38.2 million, the bulk of which was paid by state taxpayers.

The spike in overtime has come at a time when the Department of Corrections projected that the prison population would drop slightly. Instead, between mid-2005 and mid-2007, it increased by about 1,000 inmates.

Lawmakers took steps to control overtime in the state budget passed in October by approving hiring 50 officers. The move is expected to cut overtime costs to $26.3 million this fiscal year.

Overall payroll costs will increase, but they would have been $1.2 million higher this fiscal year if the state had continued to pay overtime at the same rate instead of hiring new officers, even when accounting for the cost of benefits, according to the Legislative Fiscal Bureau.

The staff shortage allowed 308 officers to earn more than $20,000 each in overtime alone last year, a Journal Sentinel analysis of state data found. Twenty-six of them more than doubled their wages. Fourteen earned six-figure salaries, including two who made more than $120,000.

Half of those 14 officers were within three years of retiring. Officers who put in long hours at the end of their careers can increase their state pensions by tens of thousands of dollars a year.

More inmates

Susan Crawford, until recently a top aide to Corrections Secretary Rick Raemisch, said the boost in overtime was caused by many factors. Chief among them was the increase in inmates and labor agreements that increased wages and gave officers more days off, she said.

When he first ran for governor five years ago, Democratic Gov. Jim Doyle said he wanted to reduce the state workforce by 10,000 employees by 2010. Lawmakers have also been wary of adding new employees to the state payroll.

The state budget Doyle proposed in February would have allowed the high overtime payments to continue. Lawmakers then said they wanted to hire 50 more officers, and Doyle agreed to the plan.

Crawford said Doyle did not originally ask for more officers because he was already seeking 265 more jobs to provide satellite monitoring of sex offenders and to provide health care to inmates. She noted legislators eliminated 39 corrections jobs in 2005; the agency was able to focus most of those cuts in non-security areas.

"We have not always had a lot of success in getting additional hiring authority," said Crawford, who left her corrections job last week for a top position at the Department of Natural Resources.

Rep. Scott Suder (R-Abbotsford), who works on corrections issues on the Legislature's Joint Finance Committee, said he's skeptical of the department's explanations.

"The answers they gave us didn't seem to quite add up," he said. "We feel there's something else going on, but we haven't been able to pinpoint it. It seems there's something not quite right. Perhaps they need an audit."

The Department of Corrections has taken steps to curb overtime, including reviewing overtime use in advance, delaying training that would occur on overtime and consolidating prisoner transports, said agency spokesman John Dipko.

Overtime defended

Marty Beil, executive director of the Wisconsin State Employees Union, said critical lawmakers should spend some time on the corrections job. He said officers sometimes are forced to work a second eight-hour shift after they're done with their regular one because of staff shortages - all in an environment in which inmates hassle officers.

"If they think this is a circus or playground that people are going to work in (and) that this is a place with nice working conditions, come out and take a look," he said.

He said overtime was driven by a shortage of workers. The 50 new officers will help somewhat, he said, but the Legislature should have approved hiring twice as many officers.

Officers who frequently volunteer for overtime might earn six-figure salaries, but they're able to do so only by working long hours that disrupt their families' lives, Beil said. He said the union does not encourage putting in such hefty overtime.

"Is it healthy? I don't think so," Beil said. "Is it wrong? No."

Senior officers get the first crack at overtime shifts under their labor contract with the state. If no one volunteers, a junior officer is forced to take the shift.

The size of the prison population ramped up dramatically in the 1990s but leveled off in the early 2000s. The number of prisoners dipped in 2005, and Crawford said agency officials thought a trend was developing.

They expected to have about 21,500 inmates by mid-2007, but instead found themselves handling more than 22,700 inmates. The increase required more officers at prisons at any given time, leading to more shifts that had

to be covered with overtime, Crawford said.

The agency projects the population to drop to about 22,400 by mid-2009, in part because of a program that allows inmates to shave time off their prison sentences by undergoing drug treatment.

Names not released

Ninety-five percent of the officers took overtime at some point last year.

Officers make $29,591 when they start on the job. With benefits, their total compensation package is $45,339.

A sergeant at the Fox Lake Correctional Institution earned $120,908 last year, the most of the 5,258 officers, sergeants and counselors in the department's database. The sergeant had a base salary of $52,213 and made $68,695 in overtime.

The sergeant was paid for 82 hours of work a week on average.

An officer at the Columbia Correctional Institution also made more than $120,000, and a sergeant at that institution made over $119,000. In all, 32 officers pulled in more than $90,000 last year.

Officers who put in long hours at the end of their careers are able to boost their pensions, which are based on their three highest years of pay.

An officer with 30 years of experience earning $60,000 annually for his last three years would get a pension of $38,178 a year. But if the same officer put in enough overtime to bring his salary to $100,000 a year for his last three years, he would get a pension of $63,630 a year.

Officers earn time and a half when they work on holidays or when they put in more than 40 hours in a week.

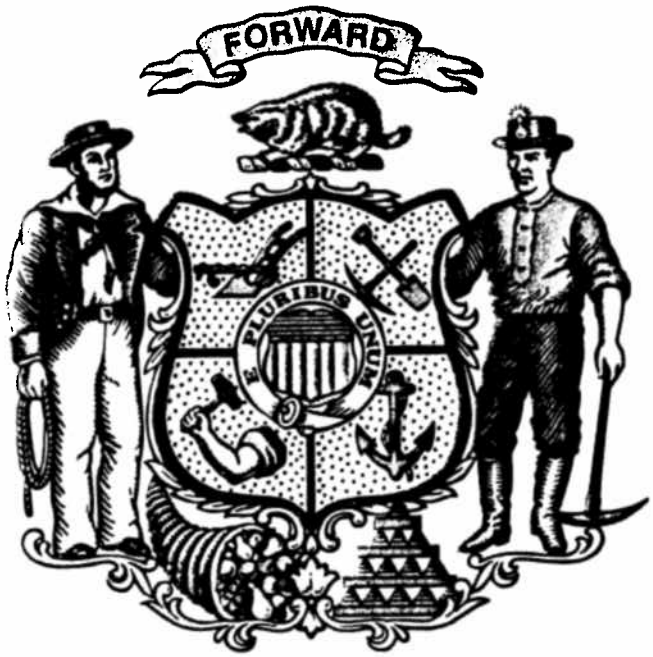
The overtime database the department released does not include officers' names because of a labor contract provision that says the agency cannot release workers' names, addresses and home phone numbers.

The Journal Sentinel sued the state in 2005 over the secrecy clause as it sought the names of state workers who had their state driving privileges revoked, arguing that the contract could not trump the state's open records law. The paper won in Dane County Circuit Court in May, but the union, which intervened in the case, appealed.

The state is not releasing union employees' names pending the outcome of that appeal.

Ben Poston of the Journal Sentinel staff contributed to this report from Milwaukee.

From the Dec. 13, 2007 editions of the Milwaukee Journal Sentinel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http://www.madison.com/tct/news/290978

State OT payments grow by 15.2 percent

Kevin Murphy
Correspondent for The Capital Times — 6/11/2008 12:45 pm

Overtime paid to state employees increased by 15.2 percent between 2005 and 2007 with 59 employees earning $100,000 in overtime alone since 2005, according to a report released today the Legislative Audit Bureau.

The bureau asked for a comprehensive overtime analysis from the Department of Corrections and Department of Health and Family Services, which paid out 65 percent and 16.8 percent respectively, of the state's $53.8 million in overtime last year. Since 2005, the state has paid $187.3 million in overtime.

Both state departments have round-the-clock staffing needs, but the audit bureau said much of the overtime paid to these employees is for continuing operations and not just for peak times.

"The state is relying on overtime to meet its everyday needs which is why we asked for the comprehensive analysis," said State Auditor Jan Mueller.

Mueller said there is no established optimal percentage of overtime to base pay for state agencies as there is a variety of staffing options, which include paying overtime and adding more employees.

Mueller recognized that additional employees generate recruiting, training and fringe benefit expenses, which are budgetary decisions to be made by the Legislature and the governor.

Prison sergeants and clinical nurses earned the most overtime in the past three years, with overtime pay for 34 Department of Corrections sergeants climbing from $10.6 million in 2005 to $12.2 million last year. Three clinical nurses each earned more than $224,000 in overtime alone during that period.

Although the amount of overtime is allowed under collective bargaining agreements, the audit bureau questioned the ability of the top 10 resident care technicians with overtime earnings employed by the Department of Health and Family Services to perform their job and "not endanger patients, inmates, themselves or other employees."

One resident care tech at Mendota Mental Health Institute averaged 110 overtime hours during each of 78 biweekly pay periods, according to the 17-page report.

The bulk of the Department of Corrections' overtime didn't go for holiday expenses, but rather for regular overtime or for hours worked by supervisors and other staff in excess of 40 hours per week, the report said.

Mueller said the overtime audit wasn't requested by any legislator but came from the bureau's regular annual review of state finances. She wouldn't say if she was surprised by the overtime amount paid but just wanted the Legislature to know it had grown by 15.2 percent in the past biennium.

Calls to the Department of Corrections were directed to the Office of Employee Relations, which did not immediately respond. Calls to Gov. Doyle's office and AFSCME Council 24 also weren't immediately returned.

Kevin Murphy
Correspondent for The Capital Times — 6/11/2008 12:45 pm


FORWARD
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Ltr. Audit

no - UW, Legis, Courts

- focus - DOC + DHFS (patient care staff)

Sue - compare w/hospitals - how deal w/OT

Diane Palmer - SEIU Healthcare