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MOU Fiscal Analysis: Bargaining Unit 18

LEGISLATIVE ANALYST'S OFFICE

Presented to:
The California Legislature
Pursuant to Section 19829.5 of the Government Code

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State Memorandum of Understanding (MOU) Process

☑ ***Ralph C. Dills Act Provides for State Employee Collective Bargaining.*** With passage of the Dills Act in 1977, the Legislature authorized collective bargaining between rank-and-file state employees organized into bargaining units and the administration. About 180,000 full-time equivalent positions are represented by one of the state's 21 bargaining units in the collective bargaining process. In collective bargaining, bargaining units are represented by unions and the administration is represented by the California Department of Human Resources (CalHR). The product of the collective bargaining process is an MOU that establishes the terms and conditions of employment for rank-and-file state employees.

☑ ***Legislature and Employees Must Ratify MOUs.*** An MOU must be ratified by the Legislature and bargaining unit members in order to take effect. In addition, under the Dills Act, the Legislature may choose whether to appropriate funds in the budget to continue the financial provisions of each MOU.

☑ ***Fiscal Analysis Required by State Law.*** Section 19829.5 of the Government Code—approved by the Legislature in 2005—requires the Legislative Analyst's Office to issue a fiscal analysis of proposed MOUs.

☑ ***MOU for Bargaining Unit 18 Now Before Legislature.*** The Unit 18 MOU expired on July 1, 2013. Under the Dills Act, provisions of an expired MOU remain in effect until a new MOU is ratified by the Legislature and bargaining unit members. On July 12, 2013, CalHR submitted for legislative consideration a tentative agreement with Unit 18.

Common Provisions of State MOUs Ratified in 2010-11

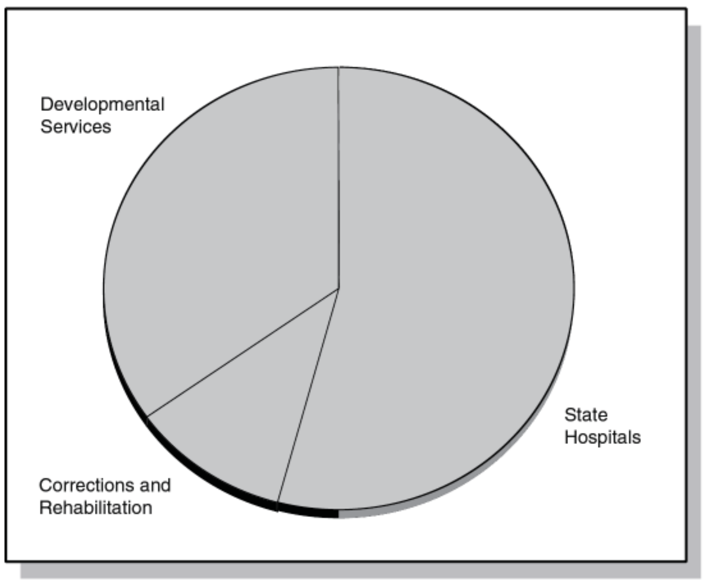
Bargaining Unit (Percent of Workforce)	Months of Personal Leave Program	Employee Pension Contribution: Miscellaneous and Industrial	Employee Pension Contribution: Safety	Employee Pension Contribution: Police Officer, Firefighter, and Patrol	Professional or Personal Development Days	Top Step Increase in 2012 or 2013
MOUs That Expired July 2013						
1, 3, 4, 11, 14, 15, 17, 20, and 21—SEIU Local 1000 (42.8%)	24	8%	9%	—	2	3%
2—Attorneys (1.8)	24	9	10	—	5	4
6—Correctional Peace Officers (12.3)	24	8	—	11%	2	3 - 4
7—Protective Services and Public Safety (3.3)	24	8	9	10	2	2 - 3
9—Professional Engineers (4.9)	12[a]	8	9	—	2	3
10—Professional Scientific (1.2)	24	8	9	—	2	3
12—Craft and Maintenance (5.1)	24	10	11	—	2	5
13—Stationary Engineers (0.4)	12[a]	10	11	—	2	5
16—Physicians, Dentists, and Podiatrists (0.7)	24	10	11	—	2	5
18—Psychiatric Technicians (2.7)	24	10	11	—	2	5
19—Health and Social Services/ Professionals (2.2)	24	10	11	—	2	5
MOUs That Expire July 2017						
8—Firefighters (1.7)	12	10	—	10	—	4 - 5
MOUs That Expire July 2018						
5—Highway Patrol (3.0)	12	10	—	10	—	2

[a] These employees also received 12 months of furlough.

☑ ***Common Elements in 2010-11 MOUs.*** During fiscal year 2010-11, the Legislature ratified new MOUs for all 21 bargaining units. The figure compares similar major provisions from these MOUs. While the nine bargaining units represented by Service Employees International Union, Local 1000 (Local 1000) now work under new MOUs ratified by the Legislature in July 2013, all other state bargaining units work under the 2010-11 MOUs. With the exception of Units 5 and 8, all 2010-11 MOUs expired in July 2013. We discuss major provisions of the expired Unit 18 MOU later in this report. For additional information, refer to past MOU analyses posted on our website.

Unit 18 at a Glance

☑ ***Psychiatric Technicians Employed at State Institutions.*** Unit 18 consists of about 5,400 psychiatric technicians, employees who provide behavioral and psychiatric nursing care to persons in state institutions. The figure below illustrates that nearly 90 percent of Unit 18 employees work at institutions administered by either the Department of State Hospitals or Department of Developmental Services. These institutions generally are 24-hour operations. The California Association of Psychiatric Technicians (CAPT) represents Unit 18.



Expired Unit 18 MOU—Provisions Affecting Pay

- ☑ ***Personal Leave Program (PLP).*** In each month of PLP, employees received eight hours of unpaid leave, resulting in a 4.6 percent pay cut. The PLP is fundamentally the same policy as furloughs, except PLP is established through the collective bargaining process. The CAPT agreed to 24 months of PLP since 2010-11. June 2013 was the last scheduled month of PLP.

- ☑ ***Employee Pension Contributions.*** The expired MOU increased active and future employees' pension contribution rates by 5 percentage points. Most employees now contribute about 10 percent of their pay to cover a portion of pension expenses.

- ☑ ***Top Step Pay Increase.*** The MOU increased the level of the "top step" of employee pay ranges by 5 percent in January 2012. Most state employees are at or near the top step of their pay range.

- ☑ ***Evening and Night Shift Differentials.*** Employees who work evening and night shifts receive an hourly pay differential. Specifically, employees who work at least four hours between (1) 6 p.m. and midnight receive a 50-cent differential and (2) midnight and 6 a.m. receive a 40-cent differential. These differentials are "PERSable." This means that the higher pay is included in the calculation of an employee's pension benefit upon retirement, increasing monthly state and employee contributions to support the benefit.

- ☑ ***Continuous Appropriations.*** As part of the legislation ratifying the expired MOU and a subsequent addendum, the Legislature approved continuous appropriations of the economic terms of the agreement through July 1, 2013.

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Expired Unit 18 MOU—Other Major Provisions

- ☑ ***Health Benefits.*** Through the MOU and a subsequent addendum, the state pays a specified dollar amount towards employee health benefits that is about 80 percent of the average health premium costs. This "flat-dollar" employer contribution was last increased earlier this year to reflect rising health premium rates. Absent a new agreement, the state's contribution for Unit 18 health care costs would not change when health premium costs increase in future years.

- ☑ ***Dependent Health Vesting.*** Unit 18 is subject to a two-year dependent vesting schedule whereby employees must work for the state for two years before the state pays its full contribution towards dependent health premium costs.

- ☑ ***Professional Development Days.*** Through an addendum to the expired MOU, Unit 18 employees are eligible for two days off each year that may be used at the employee's discretion. Unused days do not carry over from one year to the next.

Proposed Unit 18 MOU—General Salary Increase

☑ ***Pay Increase for All…*** The proposed MOU provides pay increases for all Unit 18 employees. Under the proposed agreement, employees will receive up to a 4.3 percent pay increase relative to 2013-14 pay levels. This would be the first general salary increase for Unit 18 employees since a 2.5 percent increase in 2007-08.

☑ ***…But Timing Depends on State's Fiscal Condition.*** The date when employees receive a pay increase would depend on whether the Department of Finance (DOF) determines in May 2014 that there are sufficient revenues "to fully fund existing statutory and constitutional obligations, existing fiscal policy and the costs of providing […] pay increases to all eligible employees." The agreement specifies that "determination of funding availability […] shall be at the sole discretion of the Director of the Department of Finance." If DOF determines that there are sufficient revenues, scenario A (described below) takes effect; otherwise, scenario B takes effect.

- ***Scenario A—Sufficient Revenues.*** On July 1, 2014, all employees would receive a 2 percent general salary increase. On July 1, 2015, all employees would receive an additional 2.25 percent general salary increase—compounding to a 4.3 percent pay increase relative to 2013-14 pay levels.

- ***Scenario B—Insufficient Revenues.*** On July 1, 2015, all employees would receive a 4.25 percent general salary increase.

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Proposed Unit 18 MOU—Health Benefits

- ☑ ***Increased State Contributions for Health Premiums.*** The flat-dollar state contribution towards monthly health premiums for Unit 18 employees and their dependents would be increased to the equivalent of about 80 percent of health premium costs for the term of the contract. The state's contribution would be adjusted to reflect any premium cost increases each January through January 1, 2016.

- ☑ ***Shortened Dependent Health Vesting Period.*** Under the proposed agreement, the state would pay the full contribution towards new hires' dependent health premium costs sooner than under the expired MOU. Effective July 1, 2015, an employee would have to work for one year before the state would contribute the full contribution to dependent health premiums.

Proposed Unit 18 MOU—Other Fiscal Provisions

- ☑ ***Meal and Lodging Expenses.*** State employees may be reimbursed for specified costs related to travel and other business expenses. The proposed agreement would increase the maximum reimbursement rates available to employees for costs related to meals and lodging while traveling on state business. Employees would be eligible for reimbursement for:
  - Up to $40 for meals (up from $34) in a 24-hour period of travel.
  - Between $90 and $150 each night (up from between $84 and $140 each night) for necessary in-state lodging, depending on location.

- ☑ ***Larger Pay Differentials for Evening and Night Shifts.*** Beginning July 1, 2015 employees who work evening and night shifts would receive a larger hourly pay differential. Specifically, employees who work at least four hours between (1) 6 p.m. and midnight would receive a $1 differential in hourly pay and (2) midnight and 6 a.m. would receive a $1.25 differential in hourly pay. Under the agreement, evening and night shift differentials would not be PERSable.

- ☑ ***Retirement Benefits.*** Employee retirement benefits outlined in the agreement—including employee contributions to the California Public Employees' Retirement System and pension formulas—would reflect current law established by last year's pension legislation (AB 340). Assembly Bill 340 largely affects retirement benefits for *future* state employees. Conforming the MOU to AB 340 generally does not change current or future employees' retirement benefits from what is already established in current law.

- ☑ ***Continuous Appropriations.*** The parties agree to present to the Legislature legislation to provide continuous appropriations of the economic terms of the agreement through July 1, 2016.

Administration's Fiscal Estimate of Proposed MOU

(In Millions)

Proposal[a]	2013-14 General Fund	2013-14 All Funds	2014-15 General Fund	2014-15 All Funds	2015-16 General Fund	2015-16 All Funds
2.25 percent general salary increase	—	—	—	—	$8.2	$8.9
2 percent general salary increase	—	—	$7.1	$7.7	7.1	7.7
One-year dependent health vesting[b]	—	—	—	—	0.2	0.2
Health benefit increase	$0.9	$1.0	4.0	4.3	8.1	8.8
Shift differentials	—	—	—	—	0.1	0.1
Travel reimbursement rates[b]	0.1	0.1	0.1	0.1	0.1	0.1
Totals	**$1.0**	**$1.1**	**$11.2**	**$12.1**	**$23.8**	**$25.8**

[a] Does not include costs associated with current law.
[b] The administration assumes that some or all of these costs will be absorbed within existing departmental resources.
MOU = memorandum of understanding.

- ☑ ***Relatively Little Cost in Budget Year.*** The administration estimates that the proposed MOU would have little effect on the 2013-14 budget.

- ☑ ***Assumption of Sufficient Revenues in 2014-15.*** The administration's estimates (displayed in the figure) assume that DOF will determine that there are sufficient revenues for employees to receive pay increases in 2014-15.

LAO Comments—Administration's Fiscal Estimates

- ☑ ***Estimates Reasonable.*** Our fiscal estimates generally are similar to those of the administration.

- ☑ ***Lower Costs if Pay Raise Is Deferred to 2015-16.*** If DOF determines there are insufficient revenues in 2014-15 to fund the state's statutory and constitutional obligations and fiscal policies, employees would not receive a pay increase until July 1, 2015. We estimate that the 4.25 percent pay increase would cost $16 million ($15 million General Fund) beginning in 2015-16. Compared with the administration's estimates, the 4.25 percent pay increase in 2015-16 would result in lower state costs over the contract period by $8 million ($7 million General Fund).

- ☑ ***Potentially Different, but Minor, Lodging Reimbursement Costs.*** The administration's estimate of costs resulting from the new lodging reimbursement rates may be incorrect. Specifically, the administration assumes that (1) state workers are equally likely to travel to any one of the 58 counties and (2) Unit 18 employees are equally likely to travel as any other bargaining unit. Given that growth in the reimbursement rate for state travel to most urban counties was higher than the average county and the likelihood that employees in some bargaining units travel more than others, we think the administration's estimated Unit 18 costs for these new rates could be wrong in the range of possibly tens of thousands of dollars.

LAO Comments—DOF Role in 2014 Pay Increase

☑ ***DOF Given Broad Powers.*** As is the case with the recently ratified Local 1000 MOUs, the proposed Unit 18 agreement gives DOF the authority to determine whether state employees receive a pay increase in 2014. Specifically, DOF alone would determine:

- ***Estimated 2014-15 Revenues Used in the Pay Increase Calculation.*** Typically, when the Legislature develops the state budget, it considers revenue forecasts prepared by the administration, this office, and others. These revenue forecasts invariably differ, reflecting each organization's independent assessment of the economy and other factors. Under the proposed MOU, DOF would determine which revenue projections would be used to determine whether employees receive a pay increase in 2014.

- ***Estimated Costs to Fully Fund State Obligations and Fiscal Policies.*** The MOU requires DOF to (1) estimate the cost of all existing state statutory and constitutional obligations and fiscal policies and (2) not approve a pay increase if the state's costs exceed its projected state revenues. It is important to note that there is no commonly accepted comprehensive list of state financial obligations and policies—or consensus as to amounts needed to fully fund them. Thus, DOF would have broad discretion to include or exclude certain major costs—such as amounts that the state owes local governments for unpaid mandate claims or amounts needed to address the California State Teachers' Retirement System's unfunded pension obligations.

LAO Comments—Salary Compaction

- ***Managers and Supervisors Do Not Necessarily Receive Pay Increase.*** The administration has broad authority over supervisory and managerial salaries. When rank-and-file employees negotiate pay increases, managerial employees do not automatically receive a comparable increase in pay. When rank-and-file pay increases faster than managerial pay, "salary compaction" can result.

- ***Difficult for Legislature to Determine Where Compaction Exists.*** Salary compaction can be a problem when the differential between management and rank-and-file pay is too small to create an incentive for employees to accept the additional responsibilities of being a manager. To date, there has not been a consistent or coordinated process for the administration to analyze compaction issues and inform the Legislature where such problems exist.

- ***Consider Extending Pay Increases to Managers and Supervisors.*** If the pay increases provided for in the proposed MOUs are not extended to these employees' managers and supervisors, any salary compaction that currently exists between these classifications will increase. We estimate that extending the 2014 and 2015 pay increases to managers and supervisors of rank-and-file employees represented by Unit 18 would increase state costs by $1.5 million General Fund over the course of the agreement.

Summary of State MOUs Submitted to Legislature in Summer 2013

Bargaining Unit	Expires	Maximum Compounded GSI	DOF Approval for 2014 GSI	One-Year Dependent Health Vesting	Increased Flat Dollar Health Contribution	Increased Meal/Lodging Reimbursement
Units With Agreements Before Legislature						
18—Psychiatric Technicians	2016	4.3%	Yes	Yes	Yes	Yes
Agreements Ratified by Legislature						
1, 3, 4, 14, 15, 17, 20, and 21—SEIU Local 1000	2016	4.6%	Yes	Yes	Yes[a]	Yes

[a] Only applies to Unit 3. State contributions for other Local 1000 bargaining units automatically increase when health premiums increase.
GSI = general salary increase and DOF = Department of Finance.

☑ ***Selected Provisions in New MOUs.*** At the time this report was published, the administration had submitted agreements for Unit 18 and the nine bargaining units represented by Local 1000. The figure highlights several provisions of these agreements.