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May 29, 2014

MOU Fiscal Analysis: Bargaining Unit 10

LEGISLATIVE ANALYST'S OFFICE

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

May 29, 2014

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 Governor. 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 Governor is represented by the California Department of Human Resources. 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. Legislative ratification can occur in the annual budget act or in separate legislation. In addition, under the Dills Act, the Legislature generally may choose whether to appropriate funds in each annual budget to continue the financial provisions of an 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 (LAO) to issue a fiscal analysis of proposed MOUs.

- ☑ ***MOU for Bargaining Unit 10 Now Before Legislature.*** When an MOU expires, the provisions of the agreement generally continue in effect until the Legislature ratifies a subsequent MOU. Employees represented by Bargaining Unit 10 currently work under the terms of the MOU that was effective April 1, 2011 and expired July 1, 2013. The proposed MOU would be effective July 2, 2013 and expire June 30, 2016. The proposed MOU specifies, however, that any provision with a fiscal effect is effective the month following the agreement's ratification.

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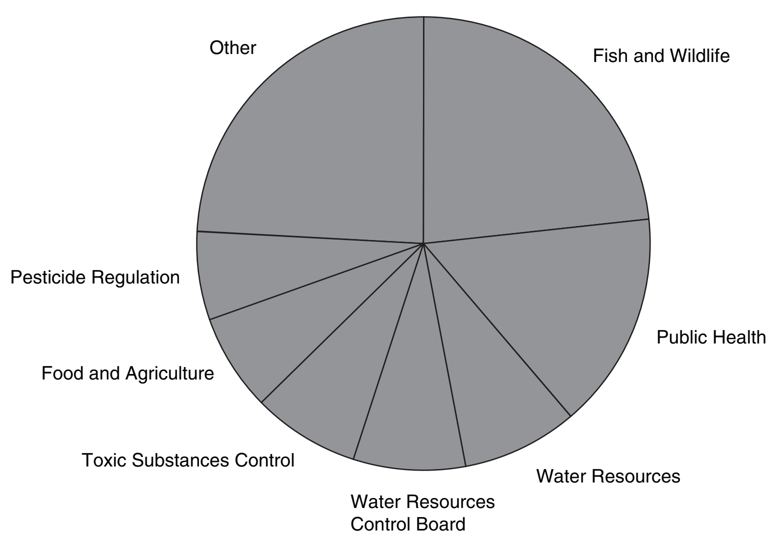
Unit 10 at a Glance

☑ ***Professional Scientists.*** Unit 10 represents more than 2,800 full time equivalent rank-and-file state scientists. As the figure below illustrates, seven departments employ about three-quarters of Unit 10 employees. Among the largest classifications are environmental scientists, integrated waste management specialists, and hazardous substance scientists. Unit 10 employees are represented by the California Association of Professional Scientists.

Seven Departments Employ About Three-Quarters of State Scientists



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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. With the exception of three bargaining units (Units 2, 10, and 13), all of the state's 21 bargaining units currently work under subsequent MOUs that replaced the terms of the 2010-11 MOUs. (The Assembly and Senate 2014-15 budget bills currently include provisional language that would ratify new MOUs for Units 10 and 13.) For additional information, refer to past MOU analyses posted on our website.

Expired Unit 10 MOU—Provisions Affecting Pay

- ☑ ***Personal Leave Program (PLP).*** Employees were subject to PLP for the first 12 months of the MOU. 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.

- ☑ ***Employee Pension Contributions.*** The expired MOU requires employees to contribute an additional 3 percent of their monthly pay toward their pension.

- ☑ ***Pay Increases to Top Step in 2013-14.*** On July 1, 2013, the MOU adjusted the top step of all Unit 10 classifications by 3 percent.

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

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Expired Unit 10 MOU—Health Benefits

- ☑ ***State Automatically Increases Contributions to Health Benefits.*** The state's contribution to Unit 10 health care premium costs is based on a formula where the state pays a specified portion of average premium costs. The state's contribution to Unit 10 employee health care is based on the 80/80 formula (the state pays 80 percent of the average employee premium plus 80 percent of the average additional premiums for dependents). The formula used to determine the state's contribution to Unit 10 employees' health care is established under Government Code Section 22871.9.

- ☑ ***Dependent Health Vesting.*** Unit 10 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.

Proposed Unit 10 MOU—General Salary Increase (GSI)

☑ ***Pay Increase for All.*** The proposed MOU provides the following pay increases for all Unit 10 employees in 2014-15 and 2015-16:

- ***2014-15.*** All employees receive a 2 percent GSI on July 1, 2014.
- ***2015-16.*** All employees receive a 2.5 percent GSI on July 1, 2015, except the approximately 440 employees in the Senior Environmental Scientist (Specialist) classification who receive a 4 percent GSI.

☑ ***Director of Finance's Role in Determining Timing of Pay Increases.*** The agreement specifies that employees receive the pay increases described above if the Director of Finance determines there are sufficient revenues "to fully fund existing statutory and constitutional obligations, existing fiscal policy, and the costs of providing [pay increases] for all eligible employees." The administration included this determination in the Governor's May Revision to the 2014-15 budget. Had the director determined there were not sufficient revenues, employees instead would (1) not receive a pay increase in 2014-15 and (2) receive a 6 percent pay increase (Senior Environmental Scientists/Specialists) or a 4.5 percent pay increase (all other employees) on July 1, 2015.

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Proposed Unit 10 MOU—Other Provisions Affecting Pay

- ☑ ***Cash Out of Vacation and Annual Leave.*** Upon separation from state service, departments compensate employees for any unused leave that has cash value—including vacation, annual leave, and compensatory time off (CTO)—based on their final salary level. This is known as "cashing out" leave balances. The agreement would give current employees the opportunity to cash out up to 20 hours of vacation or annual leave each year at their current salary level provided the department director determines that the department has sufficient funds for this purpose.

- ☑ ***Bonus Program for Some Employees.*** The proposed MOU makes all Unit 10 employees of the Department of Water Resources (DWR) Division of Operations and Maintenance—approximately 13 employees—eligible to participate in the department's existing Operational Availability Incentive Program. This program provides employees up to 80 hours of CTO if DWR attains certain annual operational goals. Since the beginning of this program several years ago, all eligible employees (currently limited to DWR employees in Bargaining Units 9, 11, and 12) have received 80 hours of CTO under the program each year. Under the agreement, with the consent of the department, the Unit 10 employees eligible for this bonus program could cash out any unused CTO in excess of 40 hours on June 30 of each year.

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Proposed Unit 10 MOU—Health Benefits

- ***Maintain Formulas to Determine State Contribution Towards Employee Health Care.*** The proposed MOU maintains the current formula by which the state contribution towards employee health care is determined.

- ***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 30 days following the ratification of the agreement, an employee would have to work for one year before the state would contribute the full contribution to dependent health premiums.

Proposed Unit 10 MOU—Other Fiscal Provisions

- ☑ ***Professional Conferences.*** Under the proposed MOU, Unit 10 employees would develop an annual professional development plan that could include up to two job-related professional conferences. To the extent that employees attend professional conferences as part of this professional development plan, the agreement would allow costs related to the conference(s) to be reimbursed by the state.

- ☑ ***Continuous Appropriations.*** The parties agree to present to the Legislature legislation to provide continuous appropriations of the economic terms of the agreement through June 30, 2016.

- ☑ ***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 in 2012 by 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.

- ☑ ***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.

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Administration's Fiscal Estimates

(In Millions)

	2014-15		2015-16	
Proposal[a]	**General Fund**	**All Funds**	**General Fund**	**All Funds**
July 2015 general salary increase (GSI)			$1.4	$7.7
July 2014 GSI[b]	$1.0	$5.5	1.0	5.5
Health dependent vesting[c]	—	0.1	—	0.1
Meal and lodging reimbursement increases[c]	—	—	—	—
Totals	**$1.0**	**$5.7**	**$2.4**	**$13.3**

[a] Does not include costs associated with current law. Values denoted by "—" round to zero.
[b] Includes costs associated with compensatory time off (CTO) bonus program for specified employees at the Department of Water Resources to cash out 80 hours of CTO.
[c] The administration assumes that some or all of these costs will be absorbed within existing departmental resources.

☑ ***2014-15 Costs Included in Proposed Budget.*** As part of the 2014-15 budget, the administration has proposed to include the costs associated with the proposed Unit 10 agreement under Budget Bill Item 9800. The proposed increased costs in this item of the budget reflect those summarized above—including the costs to (1) provide Unit 10 employees the 2 percent GSI and (2) fully cash out the 80 hour CTO bonus program for each Unit 10 employee in DWR's Division of Operations and Maintenance. (The budget also provides pay increases to managers and supervisors, avoiding salary compaction from the proposed GSI.)

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LAO Comments—Administration's Fiscal Estimates

☑ ***Costs Likely Higher Than Administration Suggests.*** Although the administration's estimates are reasonable, we think the estimates likely underestimate the state's costs during the term of the agreement for reasons discussed below. The costs we discuss below likely would be absorbed within existing departmental resources.

- ***Leave Cash Outs.*** The administration does not estimate the short-term cost of allowing employees to cash out up to 20 hours of vacation/annual leave each year. We estimate departments could spend approximately $2.5 million ($450,000 General Fund) cashing out vacation/annual leave each year during the term of the agreement. Over the long term, paying off leave balance liabilities today would reduce the state's costs in the future when employees separate from state service with higher salary levels. (For a better understanding of leave balance liabilities, refer to our March 14, 2013 report, *After Furloughs: State Workers' Leave Balances*.)

- ***Professional Conferences.*** The administration does not attribute any increased costs to the provision of the agreement allowing Unit 10 employees to be reimbursed for costs to attend two professional conferences each year. To the extent that the state reimburses Unit 10 employees for attending more conferences as a result of this agreement, the state's costs would increase—potentially by hundreds of thousands of dollars each year.

LAO Comments—GSIs

- ***Most State Workers Will Get Pay Increase.*** Most state employees—including managers and supervisors—are scheduled to receive a GSI in 2014-15 and another in 2015-16. Because Unit 10 managers and supervisors will receive the pay increase, there are no concerns of the Unit 10 GSI exacerbating any salary compaction that may exist. For a description of the pay increases other employees will receive during the terms of their MOUs, refer to our March 4, 2014 report, *The 2014-15 Budget: State Worker Salary, Health Benefit, and Pension Costs.*

- **Pay Increases Affect Other State Costs.** Any increase in pay also increases the state's costs for salary-driven benefits—including longer-term pension costs. The 2014-15 cost increases are accounted for in the proposed 2014-15 budget.