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August 25, 2014

MOU Fiscal Analysis: Bargaining Unit 13

LEGISLATIVE ANALYST'S OFFICE

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The California Legislature
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August 25, 2014

Proposed Memorandum of Understanding (MOU) Product of Mediation

- ☑ ***Earlier Proposed Agreement Rejected by Employees.*** State employees represented by Unit 13 currently work under the terms and conditions of employment established by an MOU that expired on July 1, 2013. On May 13, 2014, the administration submitted to the Legislature a proposed MOU to replace the expired agreement. As part of the 2014-15 budget, the Legislature ratified this proposed agreement and appropriated funds to implement it under Budget Bill Item 9800. In June 2014, a majority of Unit 13 members voted to reject the proposed MOU. Without employee ratification, the earlier agreement did not go into effect. After employees rejected the agreement, the Governor and Unit 13—represented by the International Union of Operating Engineers, Local 39 (IUOE)—employed a mediator to advance contract negotiations.

- ☑ ***Past Analysis Provides Background.*** On May 19, 2014, our office produced an analysis of the Unit 13 agreement that the Legislature ratified but did not go into effect. This past analysis, available on our website, includes background about the collective bargaining process, Unit 13, and the major provisions of the expired Unit 13 MOU.

- ☑ ***New Agreement Now Before Legislature.*** The agreement now before the Legislature is the product of the mediation process. Like any MOU, the proposed agreement must be ratified by both the Legislature and bargaining unit members before it goes into effect. If ratified, the agreement would expire July 1, 2016. This analysis summarizes the major provisions of this new agreement and comments on the agreement's fiscal effects on the state.

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Proposed Unit 13 MOU—Provisions Affecting All Employees' Pay

- ***Pay Increases for All.*** The proposed MOU provides pay increases for all Unit 13 employees in 2014-15 and 2015-16. Specifically, if the agreement is ratified, all employees would receive a 2 percent general salary increase (GSI) retroactive to July 1, 2014 and an additional 2.5 percent GSI on July 1, 2015. This would be the first GSI for Unit 13 employees since 2007-08.

- ***Cash Out of Vacation and Annual Leave.*** Upon separation from state service, departments compensate employees for any unused vacation or annual leave based on their final salary level. This is known as "cashing out" leave balances. Provided the cash out program is approved by the department director, the agreement would give current employees the opportunity to cash out up to 40 hours of vacation or annual leave in 2014-15 and up to 20 hours in each year thereafter.

- ***Ratification Bonus.*** If the proposed agreement is ratified, each Unit 13 employee would receive $250. The agreement does not specify how the bonus affects the state's costs towards employees' salary-driven benefits (such as pensions, Social Security, and Medicare). The administration, however, indicates that the bonus is subject to Social Security and Medicare but does not affect the state's costs towards employees' state pension benefits.

- ***Treatment of Leave When Calculating Mandatory Overtime Pay.*** In certain situations, managers require employees to work overtime to address immediate workload needs. This is known as mandatory overtime. When calculating whether an employee receives premium overtime pay for mandatory overtime, the agreement specifies that previously approved leave—other than sick leave—will be considered as time worked during the week. The agreement does not affect how overtime is calculated when overtime is not mandatory.

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Proposed Unit 13 MOU—Provisions Affecting Some Employees' Pay

☑ ***$2,400 Annual Bonus.*** Under current law, employees who are employed at one of five state correctional facilities receive a $2,400 bonus after every 12 months of working at these facilities. Effective July 1, 2015, the proposed agreement extends this annual retention bonus to Unit 13 employees who work at (1) two correctional facilities (R.J. Donovan Correctional Facility and Sierra Conservation Center) and (2) Department of General Services buildings in San Francisco. In total, the administration assumes that 44 additional employees would be eligible for the bonus as a result of the agreement.

☑ ***Provisions Affecting Plant Operators.*** The proposed MOU contains two provision that affect water and wastewater plant operators employed by the state in one of four civil service classifications (class codes 5067, 6191, 6723, and 6724). These provisions are retroactive to July 1, 2014.

- ***Certification Costs.*** Current law requires any water or wastewater plant operator to be certified by the state. There are five "grades" of certification related to different levels of facilities. The agreement would require the state to reimburse employees for the costs they incur to acquire and maintain these certifications.

- ***Pay Differential.*** Employees would receive a 2 percent pay differential if they possess certifications issued by the State Water Resources Control Board and/or California Department of Public Health to operate grade two facilities. (Employees certified at grade three or higher already receive a 4 percent differential—this provision does not apply to these employees.)

Proposed Unit 13 MOU—Health and Retirement Benefits

- ☑ ***Increased State Contributions for Health Premiums.*** The state's contribution to Unit 13 employee health benefits is specified in the MOU and does not necessarily increase when health premium costs increase. Upon ratification, the flat-dollar state contribution towards monthly health premiums for Unit 13 employees and their dependents would be increased to the equivalent of about 80 percent of health premium costs. The state's contribution would be adjusted to reflect any premium cost increases in January 2015 and again in January 2016.

- ☑ ***Shortened Dependent Health Vesting Period.*** Under current law, Unit 13 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. Under the proposed agreement—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.

- ☑ ***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 Chapter 296, Statutes of 2012 (AB 340, Furutani). 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.

Proposed Unit 13 MOU—Other Fiscal Provisions

☑ ***Personal Leave Program (PLP) Credits.*** The expired MOU specified that Unit 13 employees must use PLP credit before June 30, 2014. Any unused PLP credit after this date would be voided. The proposed agreement specifies that the California Department of Human Resources will request the State Controller's Office to restore any PLP credit that may have been voided after June 30, 2014 and that these credits will be void on June 30, 2016.

☑ ***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. In addition, the agreement would increase the amount of money employees at the California Department of Transportation can receive for meals during overtime hours from $5 to $6.

☑ ***Apprenticeship Fund.*** Current law requires each department that employs Unit 13 employees to contribute $100 for each of its Unit 13 employees to the Apprentice Training Fund. The fund is managed by IUOE and is used to provide training to journey level employees who wish to improve their skills and apprentices entering the industry. The agreement limits the number of apprentices in the program to nine and specifies that departmental contributions to the fund be based on the number of Unit 13 employees on payroll as of September 1 of the previous year rather than January of each year as is current practice.

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Proposed Unit 13 MOU—Classification Committees

- ***Agreement to Consider Proposals to "Reduce Pay Disparity."*** The agreement establishes that no later than six months prior to the expiration of the proposed agreement, the union and state will establish two committees to "develop a joint economic proposal for a successor MOU, designed to reduce pay disparity, if economically feasible as determined by the state, for Unit 13 members." The agreement does not define "pay disparity;" however, in similar agreements between the Governor and other bargaining units, these types of committees compare pay levels of state employees with similar employees paid by other governmental and private sector employers. The proposed Unit 13 committees are intended to develop proposals regarding pay levels of three types of employees represented by Unit 13—stationary engineers employed at correctional facilities, state water and wastewater plant supervisors, and state water and wastewater plant operators. A majority of the employees represented by Unit 13 fall into one of these three groups. The agreement does not require the state to agree to pay increases for Unit 13 employees in a future labor agreement.

Administration's Fiscal Estimates

(In Millions)

Proposal[a]	2014-15 General Fund	2014-15 All Funds	2015-16 General Fund	2015-16 All Funds
July 2015 general salary increase (GSI)			$1.5	$2.1
July 2014 GSI	$1.1	$1.7	1.1	1.7
Health benefit increase	0.2	0.3	0.6	0.9
Ratification bonus	0.2	0.3		
Water and wastewater certification pay differential	0.1	0.1	0.1	0.1
$2,400 annual bonus			0.1	0.1
Certification reimbursement	—	—	—	—
Health dependent vesting[b]	—	—	—	—
Travel and overtime reimbursement increases[b]	—	—	—	—
Totals	**$1.7**	**$2.4**	**$3.5**	**$5.0**

[a] Does not include costs associated with current law. Values denoted by "—" round to zero.

[b] The administration assumes that some or all of these costs will be absorbed within existing departmental resources.

☑ ***State Costs Lower Than Assumed in 2014-15 Budget.*** The 2014-15 budget assumes that Unit 13 employees work under the terms and conditions of the agreement that was rejected by union members earlier this year. The administration estimates that the state's costs in 2014-15 will be about $2.4 million. This is about $100,000 (mostly from the General Fund) lower than what is assumed in the budget. The total estimated costs of the proposed agreement are lower because the budget assumes 2015 health premiums increased 8.5 percent relative to 2014 health premiums whereas the administration's estimates reflect actual premium increases (less than 4 percent).

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LAO Comments—Administration's Fiscal Estimates

☑ We think the administration's estimates likely underestimate the state's costs by not including expenses associated with the issues discussed below. These costs likely would be absorbed within existing departmental resources in 2014-15, but could lead to requests for increased departmental resources in the future.

- ***Leave Cash Outs.*** The administration does not estimate the short-term costs of allowing employees to cash out up to 40 hours of leave in 2014-15 and 20 hours of leave in each year thereafter. We estimate departments could spend more than $1 million in 2014-15 and more than $500,000 in future years cashing out vacation/annual leave. Over the long term, early payment of leave balance liabilities generally reduces state costs. This is because the leave balances are cashed out at employees' current salaries rather than the salaries they earn when they separate from state service. (For more information on leave balance liabilities, refer to our March 14, 2013 report, *After Furloughs: State Workers' Leave Balances*.)

- ***PLP Credit Extension.*** This agreement reinstates any unused PLP credits that were voided under the expired MOU. To the extent that employees use PLP credits in lieu of leave with cash value when taking time off, employees will have larger leave balances as a result of this provision. In the long-term, larger leave balances will increase departments' costs to cash out employees' leave.

- ***New Mandatory Overtime Calculations.*** To the extent that departments require employees to work mandatory overtime, departmental overtime costs would increase. These costs likely would be minor.

LAO Comments—Potential for Future Salary Compaction

☑ ***Monitor Future Classification Changes for "Salary Compaction."*** The classification committees' recommendations could lead to future labor agreements that increase pay for Unit 13 rank-and-file classifications. When rank-and-file pay increases faster than managerial pay, salary compaction can result. 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. To the extent that the classification committees established by this agreement lead to changes in rank-and-file classifications, we advise the Legislature to monitor these rank-and-file classification changes and try to ensure that any salary compaction that might exist between rank-and-file and managerial Unit 13 classifications does not increase.