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May 19, 2014

MOU Fiscal Analysis: Bargaining Unit 13

LEGISLATIVE ANALYST'S OFFICE

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

May 19, 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. 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 13 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 13 have been working under the terms of the MOU that was effective April 1, 2011 and expired July 1, 2013. The proposed MOU would be effective from the date of its ratification to July 1, 2016.

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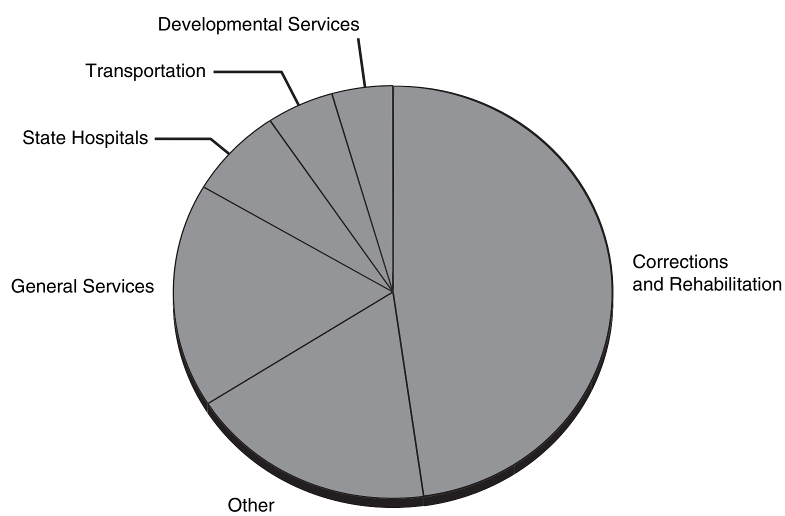
Unit 13 at a Glance

☑ ***Stationary Engineers.*** Unit 13 is one of the smallest bargaining units, representing fewer than 1,000 rank-and-file employees. Employees represented by Unit 13 maintain and operate heating, cooling, water, wastewater, and other major mechanical systems at state facilities. Among the largest classifications are stationary engineers and water and wastewater plant supervisors. As the figure below illustrates, slightly less than half of Unit 13 employees work for the Department of Corrections and Rehabilitation. Unit 13 is represented by the International Union of Operating Engineers (IUOE).

Five Departments Employ Most Unit 13 Employees



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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			Professional or Personal Development Days	Top Step Increase in 2012 or 2013
		Miscellaneous and Industrial	Safety	Police Officer, Firefighter, and Patrol		
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. For additional information, refer to past MOU analyses posted on our website.

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Expired Unit 13 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 5 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 13 classifications by 5 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.

- ☑ ***$2,400 Annual Bonus.*** Unit 13 employees who are employed at one of five state correctional facilities (Avenal, Chuckawalla, Ironwood, Centinela, and Calapatria State Prisons) receive a $2,400 bonus after every 12 months of working at these facilities.

- ☑ ***Treatment of Leave When Calculating Overtime Pay.*** The typical state employee work week is 40 hours. Any time worked in excess of 40 hours in a week generally is considered overtime and typically is paid at a premium pay rate of 1.5 times an employee's hourly rate. The MOU reflects the administration's policy that any leave used during a week—for example vacation—is not considered "time worked" for purposes of calculating premium overtime pay.

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Expired Unit 13 MOU—Other Provisions

- ☑ ***Health Benefits.*** The state pays a specified dollar amount towards Unit 13 employee health benefits that is about 80 percent of the average 2013 health premium costs. Absent a new agreement, the state's contribution for Unit 13 health care costs do not change when health premium costs increase.

- ☑ ***Dependent Health Vesting.*** 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.

- ☑ ***Apprenticeship Fund.*** The MOU requires each department that employs Unit 13 employees to contribute $100 for each of its Unit 13 employees to the Apprentice Training Fund. This contribution is based on the number of Unit 13 employees on payroll as of January of each year. The fund is managed by IUOE and is used to provide a training program for journey level employees who wish to improve their skills and apprentices entering the industry.

Proposed Unit 13 MOU—General Salary Increase (GSI)

- ☑ ***Pay Increase 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 GSI on 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.

- ☑ ***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] to 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 have received a 4.5 percent pay increase on July 1, 2015.

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Proposed Unit 13 MOU—Other Provisions Affecting Pay

- ☑ ***$2,400 Annual Bonus.*** The agreement would extend the existing $2,400 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 40 additional employees would be eligible for the bonus as a result of the agreement.

- ☑ ***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.

- ☑ ***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. Starting in 2014-15, 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 funds available for the purpose of cashing out accumulated Vacation/Annual Leave."

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Proposed Unit 13 MOU—Health Benefits

- ☑ ***Increased State Contributions for Health Premiums.*** Effective July 1, 2014, 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 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 13 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. 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.

- ☑ ***Retirement Benefits.*** Employee retirement benefits outlined in the agreement—including employee contributions to the California Public Employees' Retirement System (CalPERS) 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.

- ☑ ***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.

- ☑ ***Apprenticeship Fund.*** The agreement makes two changes to the fund, it (1) limits the number of apprentices in the program to nine and (2) requires departmental contributions be based on the number of Unit 13 employees on payroll as of September 1 of the previous year.

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Proposed Unit 13 MOU—Provisions Affecting Plant Operators

☑ ***Water and Wastewater Plant Operators.*** The proposed MOU contains two provisions 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).

- ***Certification Costs.*** Current law requires any water or wastewater plant operator 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.*** Effective July 1, 2014, employees would receive a 2 percent pay differential if they possess certifications issued by the State Water Resources Control Board and/or the 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.)

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	0.5	0.7	1.0	1.5
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]	—	—	—	—
Meal and lodging reimbursement increases[b]	—	—	—	—
Totals	**$1.7**	**$2.5**	**$3.7**	**$5.4**

[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.

MOU = memorandum of understanding.

☑ ***2014-15 Costs Included in May Revision.*** The Governor's May Revision to the 2014-15 budget includes the costs associated with the proposed Unit 13 agreement under Item 9800. The costs included in the budget reflect those summarized above, including the costs to provide Unit 13 employees with the 2 percent GSI. (The budget also provides pay increases to managers and supervisors, avoiding salary compaction resulting from the proposed GSI.)

LAO Comments—Administration's Fiscal Estimates

☑ ***Costs Likely Higher Than Administration Suggests.*** The administration's estimates are reasonable; however, there are two provisions to which the administration does not attribute cost that we think would increase state costs during the term of the contract.

- ***Leave Cash Outs.*** Departments could authorize Unit 13 employees to cash out up to 20 hours of vacation or annual leave each year. Under this provision, departments could spend as much as a few hundred thousand dollars cashing out employee leave each year beginning in 2014-15; however, departments' long-term liabilities would be lower. (For a better understanding of the liabilities created by employee leave balances, refer to our March 14, 2013 report *After Furloughs: State Workers' Leave Balances*.)
- ***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.

☑ ***Potentially Different Health Costs.*** The CalPERS board negotiates health premiums for the state. The administration assumes state premium costs increase by 8.5 percent in 2015. Depending on the actual 2015 premiums adopted by the CalPERS board, Unit 13 health costs could be somewhat higher or lower than estimated. The CalPERS board is expected to adopt final 2015 health premiums in June 2014.

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 13 managers and supervisors will receive the pay increase, there are no concerns of the Unit 13 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.