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MOU Fiscal Analysis: Bargaining Units 12, 16, 18, and 19

LEGISLATIVE ANALYST'S OFFICE

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





Background

- Ralph C. Dills Act Provides for State Employee Collective Bargaining.*** With passage of the Dills Act in 1977, the Legislature authorized collective bargaining between unions representing rank-and-file state employees and the administration. Currently, about 182,000 employees belong to one of the state's 21 bargaining units.

- Legislature Must Ratify MOUs and Significant MOU Changes.*** Fiscal provisions of proposed memoranda of understanding (MOUs) must be ratified by the Legislature in order to take effect. To assist the Legislature in its review of a proposed MOU, the Legislative Analyst's Office (LAO) prepares a fiscal analysis of the agreement within ten days of receiving it from the administration. The administration also must submit to the Joint Legislative Budget Committee (JLBC) any proposed changes to a ratified MOU (side letters, appendices, or other addenda). The JLBC, in turn, has 30 days to determine whether the proposed change significantly modifies the terms of the MOU and thus requires approval by the Legislature to become effective.

- State Currently Has Active Contracts With All of Its Bargaining Units.*** Four of the state's MOUs (for Bargaining Units 12, 16, 18, and 19) expire in July 2012. The other 17 MOUs expire one year later.



Proposal

- Extend the Terms of Expiring Contracts.*** The Department of Personnel Administration (DPA) submitted to the Legislature tentative agreements for the four bargaining units with expiring contracts (Units 12, 16, 18, and 19). These agreements would (1) extend the terms of the existing MOUs to July 2013 and (2) increase health benefits for two bargaining units (12 and 18).

- MOU Addenda or Proposed MOUs?*** The DPA refers to the agreements as “rollover agreements,” “agreement extensions,” or addenda to prior MOUs. Because the agreements extend the life of existing contracts, we refer to them as proposed MOUs (and, as required for proposed MOUs, are submitting this analysis to the Legislature within ten days of receiving them). Regardless of what the agreements are called, they require legislative approval to take effect.



Terms of Current State MOUs

Figure 1
Summary of Current MOUs

Bargaining Unit (Percent of Workforce)	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 Expire July 2012						
12—Craft and Maintenance (4.8%)	Yes	10%	11%	—	Two	5%
16—Physicians, Dentists, and Podiatrists (0.8)	Yes	10	11	—	Two	5
18—Psychiatric Technicians (2.7)	Yes	10	11	—	Two	5
19—Health and Social Services/Professionals (2.3)	Yes	10	11	—	Two	5
MOUs That Expire June 2013						
1, 3, 4, 11, 14, 15, 17, 20, and 21— SEIU Local 1000 (41.8)	Yes	8	9	—	Two	3
2—Attorneys (1.6)	Yes	9	10	—	Five	4
5—Highway Patrol (3.0)	No	10	—	10	—	2
6—Correctional Peace Officers (13.8)	Yes	8	—	11	Two	3 - 4
7—Protective Services and Public Safety (3.0)	Yes	8	9	10	Two	2 - 3
8—Firefighters (2.3)	No	10	—	10	—	4 - 5
9—Professional Engineers (4.9)	Yes	8	9	—	Two	3
10—Professional Scientific (1.2)	Yes	8	9	—	Two	3
13—Stationary Engineers (0.4)	Yes	10	11	—	Two	5



Common Elements in Current MOUs. Figure 1 summarizes the provisions of the state’s MOUs with (1) the four bargaining units with contracts set to expire in July 2012 and (2) the 17 bargaining units whose contracts will expire one year later. We provide more information about the four bargaining units with expiring contracts and the terms of their contracts later in this report.



Bargaining Units With Expiring Contracts

- Unit 12.** Unit 12 consists of about 11,000 employees who operate and maintain state equipment, facilities, and roads. Among the largest classifications in the unit are Caltrans equipment operators and highway maintenance workers. The International Union of Operating Engineers represents Unit 12.

- Unit 16.** Unit 16 consists of about 1,800 physicians, surgeons, and psychiatrists who work in institutionalized settings, such as prisons and state hospitals. The Union of American Physicians and Dentists represents Unit 16.

- Unit 18.** Unit 18 consists of about 6,000 psychiatric technicians, employees that provide behavioral and psychiatric nursing care to persons in state institutions. The California Association of Psychiatric Technicians represents Unit 18.

- Unit 19.** Unit 19 consists of about 5,000 health and social services professionals, such as psychologists, rehabilitation therapists, pharmacists, adoption specialists, community care licensing analysts, social workers, dietitians, and prison chaplains. The American Federation of State, County, and Municipal Employees represents Unit 19.



Major Provisions of the Expiring MOUs

- Personal Leave Program (PLP).** During the first 12 months of each bargaining unit's MOU, the PLP provided every employee eight hours of unpaid leave each month, resulting in a 4.6 percent pay reduction.
- Shift of Pension Contributions to Employees.** The MOUs increased active and future employees' pension contributions so that employees generally contribute around 10 percent of their pay to cover pension expenses.
- Professional Development Days (PDD).** Employees receive two non-accruing days off each year that may be used at the employee's discretion. For Units 12 and 18 only, the PDD provision in the expiring MOUs states explicitly that it "expires on July 1, 2012."
- Higher Pay for Most Workers.** The MOUs 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.
- Health Benefits.** The state's contribution to Units 16 and 19's health care premium costs is based on a formula where the state pays a specified portion of average premium costs. Thus, the state's costs for these units increase automatically when premium rates increase. For Units 12 and 18, in contrast, any increase in the state's contribution for health benefits must be negotiated. Pursuant to the MOUs for Units 12 and 18, the state last increased its contribution for employee health benefits in 2011.
- Furlough Protection.** The expiring MOUs specify that the state may not impose furloughs on employees in Units 18 and 19 "during the term of this contract ending July 1, 2012." The MOUs for Units 12 and 16 do not contain comparable furlough protection provisions.



Proposed Agreements With Units 12, 16, 18, and 19

- Extend Term of Contracts to 2013.*** The agreements would extend the expiration date of the contracts until July 2013. The DPA asserts that this extension would affect any provision in the current MOUs that lasts for the duration of the contract, such as the increases in salaries and pension contributions and the provision of PDDs. Any MOU term that has an independent expiration date in the current contract, in contrast, would not be changed. Thus, DPA asserts, the extension of the MOU would not affect the contract provisions allowing the state's to impose employee furloughs after July 2012 for Bargaining Units 18 and 19.

- Increased Health Benefits for Units 12 and 18.*** Under the agreements, Unit 12 and 18 employees would see their state contributions for health benefits increase to a dollar amount that is about 80 percent of the average health premium costs. The state would maintain this level of funding when health premiums increase for 2013. Absent this agreement, the state's contribution for these bargaining units' health care costs would stay flat.



DPA Fiscal Estimate

Figure 2				
Department of Personnel Administration's Estimates				
<i>(In Millions)</i>				
	2012-13		2013-14	
	General Fund	All Funds	General Fund	All Funds
Unit 12	\$2.4	\$7.8	\$3.4	\$10.9
Unit 18	3.7	5.0	5.1	6.9
Total Cost	\$6.1	\$12.8	\$8.5	\$17.8



Increased Health Care Costs. As shown in Figure 2, the administration's fiscal estimate for the proposed agreements indicate that, relative to current law, the state would experience increased costs in 2012-13 and 2013-14. These increased costs result from the increased health benefits for employees in Units 12 and 18. The administration's estimate is reasonable. It assumes that health premium costs will increase by 9.5 percent in 2013. We note that the actual rate increase will be approved by the California Public Employees' Retirement System Board in June 2012. The actual rate may be higher or lower than 9.5 percent, meaning that the actual costs beginning in 2012-13 could be higher or lower than the administration assumes.



LAO Comments

Agreements Increase State Costs. Compared with current law, the proposed agreements either maintain or modestly increase the state's costs for employee compensation. Specifically, (1) state costs for employees in Units 16 and 19 would be the same as under the expiring MOUs and (2) state costs for employees in Units 12 and 18 would grow due to the higher state contribution rates for employee health benefits.

Lack of Clarity Regarding Furlough Protection and PDD. The proposed MOUs do not specifically address current contract provisions relating to the state's authority to impose furloughs and requiring the state to compensate employees for PDD. In our discussions of these matters, the DPA asserts that the parties agreed to the following:

- Units 18 and 19 protections against the state imposing additional furloughs would expire on July 1, 2012.
- PDD for Units 12 and 18 would continue until July 1, 2013.

All four MOUs contain "entire agreement" provisions. These provisions establish that the text of the MOUs supersedes any other formal or informal understandings or agreements between the unions and the administration. The text of the MOUs does not clearly support DPA's assertions regarding furlough protection and PDD. The Legislature should expect to see greater clarity in text of agreements submitted to it for approval.