

MOU Fiscal Analysis: Bargaining Units 16 and 19

LEGISLATIVE ANALYST'S OFFICE

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





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 (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 generally may choose whether to appropriate funds in each annual budget to continue the financial provisions of MOUs.

- 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 prepare a fiscal analysis of proposed MOUs.

- Proposed MOUs for Two Bargaining Units Covered in This Analysis.*** After addenda to the MOUs extended the term of the agreements, the Units 16 and 19 MOUs expired in July 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. Two tentative agreements between these bargaining units and the administration to replace the expired MOUs are now before the Legislature for approval.



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.

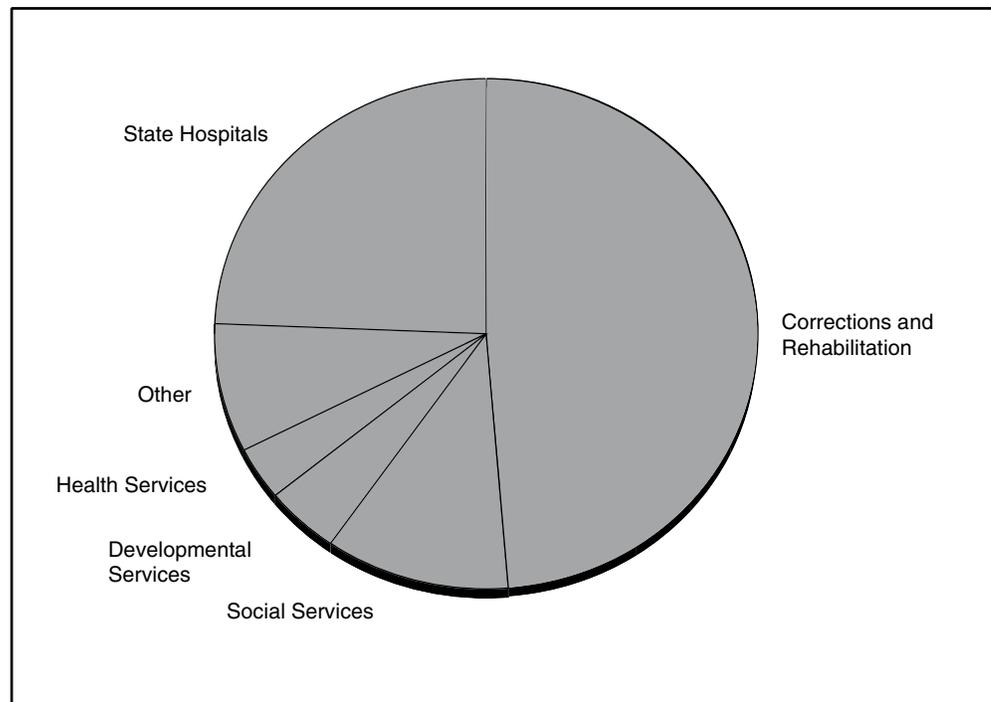


Common Elements in 2010-11 MOUs. During fiscal year 2010-11, the Legislature ratified new MOUs for all 21 bargaining units. The figure compares similar major provisions from these MOUs. While the nine bargaining units represented by Service Employees International Union, Local 1000 (Local 1000) now work 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 Units 16 and 19 MOUs later in this report. For additional information, refer to past MOU analyses posted on our website.



Unit 16 at a Glance

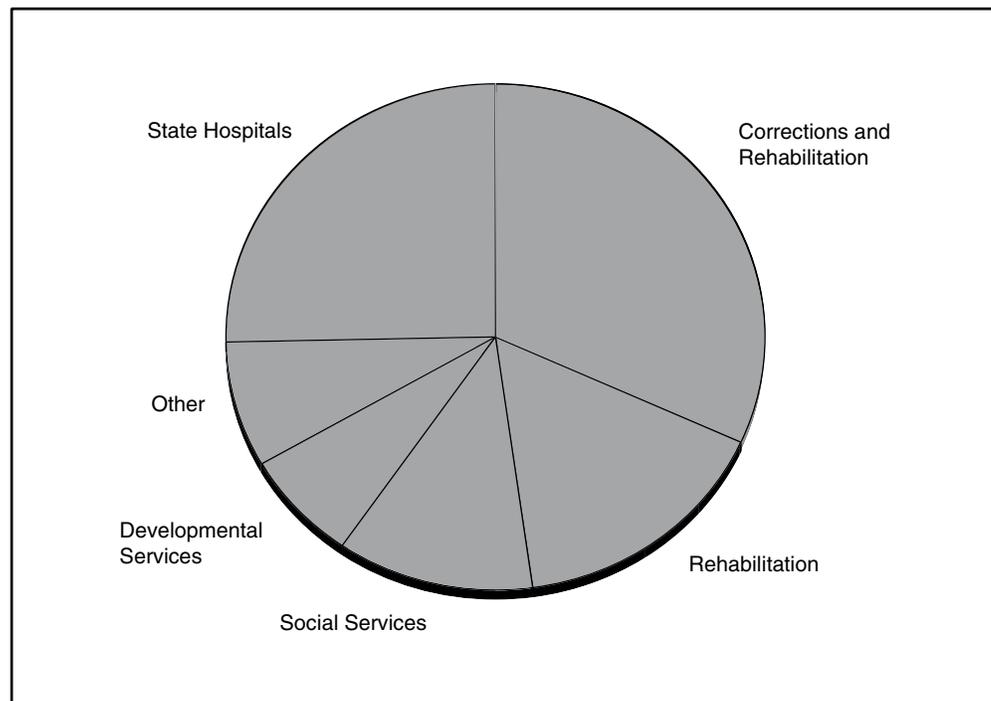
- ☑ **Unit 16.** Unit 16 consists of about 1,500 full time equivalent positions. These employees are state physicians, surgeons, and psychiatrists who work in institutionalized settings, such as prisons and state hospitals. The figure below shows the departments where most Unit 16 employees work. The Union of American Physicians and Dentists (UAPD) represents Unit 16.





Unit 19 at a Glance

- ☑ **Unit 19.** Unit 19 consists of nearly 5,000 full time equivalent positions. These employees are health and social services professionals, such as psychologists, rehabilitation therapists, pharmacists, adoption specialists, community care licensing analysts, social workers, dieticians, and prison chaplains. The figure below shows the departments where most Unit 19 employees work. The American Federation of State, County, and Municipal Employees (AFSCME) represents Unit 19.





Expired Units 16 and 19 MOUs— 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. Through the original MOUs and addenda, both Units 16 and 19 agreed to 24 months of PLP since 2010-11. June 2013 was the last scheduled month of PLP.

- Employee Pension Contributions.*** The expired MOUs increased active and future employees' pension contribution rates by 5 percentage points. Varying by retirement tier, most employees now contribute about 10 percent or 11 percent of their pay to cover a portion of pension expenses.

- Top Step Pay Increase.*** 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.

- Continuous Appropriations.*** As part of the legislation ratifying the expired MOUs and subsequent addenda, the Legislature approved continuous appropriations of the economic terms of the agreements through July 1, 2013.



Expired Units 16 and 19 MOUs— Other Major Provisions

- Health Benefits.** The state's contribution to Units 16 and 19's health care premium costs is based on a formula known as the "80/80" formula. Under this formula, the state pays 80 percent of a weighted average of the premiums for the four state health plans with the largest enrollment, plus 80 percent of the average additional premiums to enroll dependent family members. The state's costs for these employees' health benefits increase automatically when premium rates increase.

- Dependent Health Vesting.** Both units are 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 (PDD).** Through addenda to the expired MOUs, Units 16 and 19 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.



Expired MOUs— Fiscal Provisions Unique to Unit 19

- Night Shift Differential.*** Unit 19 employees who work night shifts receive an hourly pay differential. Specifically, employees who work at least four hours between (1) 6 p.m. and midnight receive a 40-cent differential and (2) midnight and 6 a.m. receive a 50-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.

- Clinical Supervision Differential.*** Specified licensed clinical professionals who supervise at least two specified unlicensed individuals for at least 11 days in a pay period are eligible to receive \$100 in each qualifying pay period.

- Continuing Education.*** Specified classifications are entitled to paid educational leave to earn continuing education units necessary to maintain credentials, licenses, or certifications. Employees do not receive reimbursement for costs associated with these programs.



Proposed Units 16 and 19 MOUs— General Salary Increase

- Pay Increase for All.*** . . The proposed MOUs provide pay increases for all Units 16 and 19 employees. Relative to 2013-14 pay levels, the proposed agreements would provide pay increases of 4 percent for most Unit 16 employees and 3 percent for most Unit 19 employees—some classifications will receive larger pay increases, discussed later in this report. This would be the first general salary increase for these employees since 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 agreements specify 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 Unit 16 employees would receive a 2 percent general salary increase and most Unit 19 employees would receive a 1.5 percent general salary increase. On July 1, 2015, most Unit 16 employees would receive an additional 2 percent general salary increase and most Unit 19 employees would receive a 1.5 percent general salary increase.
 - ***Scenario B—Insufficient Revenues.*** On July 1, 2015, most Unit 16 employees would receive a 4 percent general salary increase and most Unit 19 employees would receive a 3 percent general salary increase.



Proposed Units 16 and 19 MOUs— Higher Pay Increases for Some



Timing of Larger Pay Increases Depends on DOF Review.

Both agreements provide to specified classifications general salary increases that are larger than those discussed on the previous page. Affected Unit 16 employees include specified physicians, surgeons, podiatrists, and medical consultants—totaling about 420 positions. Affected Unit 19 employees include specified adoptions specialists and senior vocational rehabilitation counselors—totaling about 670 positions. The timing of these pay increases depends on DOF's evaluation of the state's fiscal condition in May 2014, as was discussed on the previous page. 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, affected (1) Unit 16 employees would receive the same 2 percent general salary increase as other Unit 16 members and (2) Unit 19 employees would receive a 4 percent pay increase. On July 1, 2015, affected (1) Unit 16 employees would receive either an additional 3 percent (in the case of specified medical consultant and public health medical officer classifications) or 6 percent (in the case of physicians and surgeons working at the Department of State Hospitals, Department of Developmental Services, and Department Veterans Affairs) pay increase and (2) Unit 19 employees would receive an additional 4 percent pay increase.
- ***Scenario B—Insufficient Revenues.*** On July 1, 2015, affected (1) Unit 16 employees would receive either a 5 percent or 8 percent pay increase (tied to the groups listed above) and (2) Unit 19 employees would receive an 8 percent pay increase.



Proposed Units 16 and 19 MOUs— Other Fiscal Provisions

- Meal and Lodging Expenses.*** State employees may be reimbursed for specified costs related to travel and other business expenses. The proposed agreements 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 \$41 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.

- Retirement Benefits.*** Employee retirement benefits outlined in the agreements—including employee contributions to the California Public Employees' Retirement System (CalPERS) 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 MOUs to AB 340 generally does not change current or future employees' retirement benefits from those already established in current law.

- Health Benefits.*** The agreements do not change the state's contribution to employee health premiums. The state's contribution remains based on the 80/80 formula.

- 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.



Proposed MOUs— Fiscal Provisions Unique to Unit 19

- Additional Provisions Dependent on DOF Review.*** If DOF determines that there are sufficient revenues pursuant to its review discussed earlier, the following Unit 19 provisions take effect July 1, 2014; otherwise, they take effect July 1, 2015.

 - ***Night Shift/Weekend Shift Differential.*** The night shift differentials would double to \$0.80 and \$1.00. A new weekend shift differential would provide a 65-cent differential to employees who work four or more hours on a Saturday or Sunday. These differentials would *not* be PERSable.
 - ***Clinical Supervision Differential.*** To be eligible for the \$100 differential, specified licensed professionals would need to supervise one unlicensed individual.
 - ***Dependent Health Vesting.*** An employee would have to work for one year before the state would contribute the full contribution to dependent health premiums.
 - ***Credentialing and Renewal Fees.*** Specified psychologists would be reimbursed up to \$180 for obtaining provider credentialing from the Sex Offender Management Board.
 - ***Continuing Education Reimbursement.*** The state would reimburse up to \$200 to specified classifications for costs employees incur for continuing education.

- Committee to Study Classification Inequities.*** The state and AFSCME would establish a committee to (1) complete a study on specific “classification inequities” by July 1, 2015 and (2) “mutually decide on appropriate salary adjustments” not to exceed a total of 0.6 percent of Unit 19 April 2013 payroll costs. According to CalHR, the salary increases would be the subject of a future MOU addendum. MOU addendum provisions involving the expenditure of state funds generally would require legislative approval.



Administration's Fiscal Estimate of Proposed MOUs—Scenario A

(In Millions)

Proposal ^a	2013-14		2014-15		2015-16	
	General Fund	All Funds	General Fund	All Funds	General Fund	All Funds
Proposals Affecting Unit 16						
2 percent general salary increase	—	—	\$8.0	\$8.9	\$8.0	\$8.9
2 percent general salary increase ^b	—	—	—	—	7.1	7.2
6 percent pay increase for specified classifications	—	—	—	—	2.3	2.5
3 percent pay increase for specified classifications	—	—	—	—	0.5	1.6
Increased travel reimbursement rates	\$0.0	\$0.0	0.0	0.0	0.0	0.0
Unit 16 Subtotals	(\$0.0)	(\$0.0)	(\$8.0)	(\$8.9)	(\$17.9)	(\$20.2)
Proposals Affecting Unit 19						
1.5 percent general salary increase ^b	—	—	—	—	\$5.9	\$7.0
1.5 percent general salary increase ^b	—	—	\$5.8	\$6.9	5.8	6.9
0.6 percent of payroll for future salary adjustment ^c	—	—	—	—	2.4	3.1
4 percent pay increase for specified classifications	—	—	—	—	0.5	2.2
4 percent pay increase for specified classifications	—	—	0.5	2.1	0.5	2.1
Increased and new clinical supervision differentials	—	—	0.1	0.1	0.6	0.7
Increased continuing education reimbursement	—	—	0.6	0.6	0.6	0.6
Increased weekend shift differential	—	—	0.4	0.5	0.4	0.5
One-year dependent health vesting	—	—	0.1	0.2	0.1	0.2
Increased travel reimbursement rates	\$0.1	\$0.1	0.1	0.1	0.1	0.1
Increased credential reimbursement	—	—	0.0	0.0	0.0	0.0
Increased night/evening shift differential	—	—	0.0	0.0	0.0	0.0
Biennial license renewal fee	0.0	0.0	—	—	—	—
Unit 19 Subtotals	(\$0.1)	(\$0.1)	(\$7.5)	(\$10.4)	(\$16.8)	(\$23.2)
Totals	\$0.1	\$0.1	\$15.5	\$19.3	\$44.5	\$43.4

^a Estimates assume the Department of Finance determines there are sufficient revenues to implement various fiscal provisions in 2014-15. Does not include costs associated with current law, including health care.

^b Excludes classifications scheduled to receive separate pay increase.

^c The administration indicates that a subsequent memorandum of understanding addendum will be necessary to implement these pay increases.

Note: 0.0 indicates an estimated cost of less than \$50,000.



Assumption of Sufficient Revenues in 2014-15. The administration's estimates displayed on this page assume that DOF will determine that there are sufficient revenues for various fiscal provisions (including the general salary increases) to go into effect in 2014-15.



Administration's Fiscal Estimate of Proposed MOUs—Scenario B

(In Millions)

Proposal ^a	2013-14		2014-15		2015-16	
	General Fund	All Funds	General Fund	All Funds	General Fund	All Funds
Proposals Affecting Unit 16						
4 percent general salary increase ^b	—	—	—	—	\$13.9	\$14.1
8 percent pay increase for specified classifications	—	—	—	—	2.9	3.2
5 percent pay increase for specified classifications	—	—	—	—	0.7	2.5
Increased travel reimbursement rates	\$0.0	\$0.0	\$0.0	\$0.0	0.0	0.0
Unit 16 Subtotals	(\$0.0)	(\$0.0)	(\$0.0)	(\$0.0)	(\$17.6)	(\$19.9)
Proposals Affecting Unit 19						
3 percent general salary increase ^b	—	—	—	—	\$11.6	\$13.7
8 percent pay increase for specified classifications	—	—	—	—	0.9	4.2
0.6 percent of payroll for future salary adjustment ^c	—	—	—	—	2.4	3.1
Increased and new clinical supervision differentials	—	—	—	—	0.6	0.7
Increased continuing education reimbursement	—	—	—	—	0.6	0.6
Increased weekend shift differential	—	—	—	—	0.4	0.5
One-year dependent health vesting	—	—	—	—	0.1	0.2
Increased travel reimbursement rates	\$0.1	\$0.1	\$0.1	\$0.1	0.1	0.1
Increased credential reimbursement	—	—	—	—	0.0	0.0
License renewal fee	0.0	0.0	0.0	0.0	0.0	0.0
Increased night/evening shift differential	—	—	—	—	0.0	0.0
Unit 19 Subtotals	(\$0.1)	(\$0.1)	(\$0.1)	(\$0.1)	(\$16.6)	(\$23.0)
Totals	\$0.1	\$0.1	\$0.1	\$0.1	\$34.2	\$42.9

^a Estimates assume the Department of Finance determines there are not sufficient revenues to implement various fiscal provisions in 2014-15. Does not include costs associated with current law, including health care.

^b Excludes classifications scheduled to receive separate pay increase.

^c The administration indicates that a subsequent memorandum of understanding addendum will be necessary to implement these pay increases.

Note: 0.0 indicates an estimated cost of less than \$50,000.



Assumption of Insufficient Revenues in 2014-15. The administration's estimates displayed on this page assume that DOF will determine that there are *not* sufficient revenues for various fiscal provisions (including the general salary increases) to go into effect in 2014-15.



LAO Comments— Administration's Fiscal Estimates

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

- Little Cost in 2013-14.*** The administration estimates that the proposed MOUs would increase state General Fund costs by \$83,000 relative to the 2013-14 budget.

- DOF Delaying Fiscal Provisions Reduces State Costs.*** Compared with the administration's estimated costs of the agreements should DOF determine there are sufficient revenues to implement fiscal provisions in 2014-15, Scenario B would result in about \$16 million (General Fund) less costs over the term of the contracts.



LAO Comments— DOF Role in 2014 Pay Increase



DOF Given Broad Powers. As is the case with the recently ratified Local 1000 MOUs and the Unit 18 agreement also pending before the Legislature, the Units 16 and 19 agreements give DOF the authority to determine whether state employees receive a pay increase in 2014. As discussed previously, the Unit 19 agreement has additional fiscal provisions contingent on DOF's review. 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 MOUs, 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 MOUs require DOF to (1) estimate the cost of all existing state statutory and constitutional obligations and fiscal policies and (2) not approve specified fiscal provisions 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 Units 16 and 19 could increase state costs by more than \$8 million General Fund over the course of the agreements.



Selected Features of Summer 2013 MOUs

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						
16—Physicians, Dentists, and Podiatrists	2016	4.0% ^a	Yes	No	N/A	Yes
18—Psychiatric Technicians	2016	4.3	Yes	Yes	Yes	Yes
19—Health and Social Services Professionals	2016	3.0 ^b	Yes	Yes	N/A	Yes
Agreements Ratified by Legislature						
1, 3, 4, 14, 15, 17, 20, and 21—SEIU Local 1000	2016	4.6	Yes	Yes	Yes ^c	Yes

^a Listed GSI applies to most Unit 16 employees. Specified classifications eligible for up to 8.1 percent GSI.
^b Listed GSI applies to most Unit 19 employees. Specified classifications eligible for up to 8.2 percent GSI.
^c 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.



Common Provisions in New MOUs. At the time this report was published, the administration had submitted agreements for Units 16, 18, 19, and the nine bargaining units represented by Local 1000. The figure compares certain provisions of these agreements.