

September 4, 2013

# MOU Fiscal Analysis: Bargaining Unit 9

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LEGISLATIVE ANALYST'S OFFICE

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





## State Memorandum of Understanding (MOU) Process

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- 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 (FTE) 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 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 issue a fiscal analysis of proposed MOUs.
  
- MOU for Bargaining Unit 9 Now Before Legislature.*** The Unit 9 MOU 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. A tentative agreement between the bargaining unit and the Governor to replace the expired MOU is now before the Legislature for approval. The proposed MOU would expire July 1, 2015.



## 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		
<b>MOUs That Expired July 2013</b>						
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 <sup>a</sup>	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 <sup>a</sup>	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
<b>MOUs That Expire July 2017</b>						
8—Firefighters (1.7)	12	10	—	10	—	4 - 5
<b>MOUs That Expire July 2018</b>						
5—Highway Patrol (3.0)	12	10	—	10	—	2

<sup>a</sup> These employees also received 12 months of furlough.



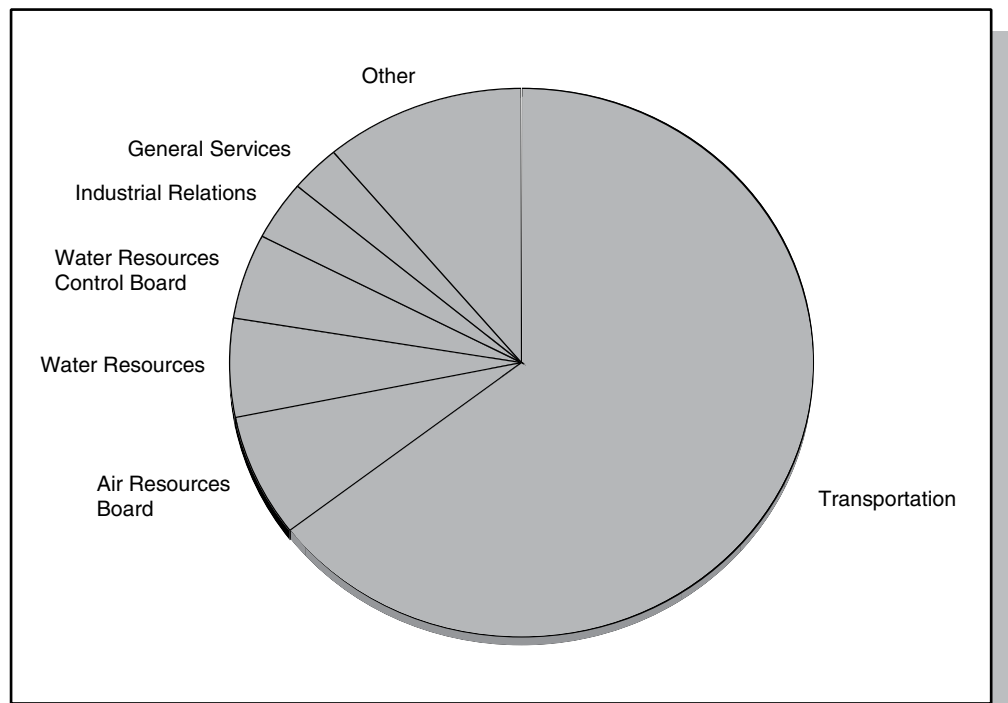
**Common Elements in 2010-11 MOUs.** During fiscal year 2010-11, the Legislature ratified new MOUs for all 21 bargaining units. The figure compares similar major provisions from these MOUs. While the nine bargaining units represented by Service Employees International Union, Local 1000 (Local 1000) now 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 Unit 9 MOU later in this report. For additional information, refer to past MOU analyses posted on our website.



## Unit 9 at a Glance

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- ☑ **Professional Engineers.** Unit 9 represents about 11,000 rank-and-file state professional engineers. About two-thirds of Unit 9 FTE positions work at the Department of Transportation (known as Caltrans). Unit 9 employees are represented by the Professional Engineers in California Government (PECG).





## Expired Unit 9 MOU— Provisions Affecting Pay

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- 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 expired MOU, PEGG agreed to 12 months of PLP. In addition, Unit 9 employees were subject to 12 furlough days in 2012-13. June 2013 was the last scheduled month of furlough.
  
- Employee Pension Contributions.*** The expired MOU increased active and future employees' pension contribution rates by 3 percentage points. As a result, most Unit 9 employees now contribute about 8 percent of their pay to cover a portion of pension expenses.
  
- Top Step Pay Increase.*** The MOU increased the level of the "top step" of employee pay ranges by 3 percent in July 2013. Most state employees are at or near the top step of their pay range.



## Expired Unit 9 MOU— Other Major Provisions

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- Health Benefits.** For Unit 9 employees, the state pays 85 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. This funding structure is referred to as the “85/80 formula.” The state’s costs for these employees’ health benefits increase automatically when premium rates increase.
  
- Professional Development Days.** Unit 9 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.
  
- 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.



## Proposed Unit 9 MOU— Provisions Affecting All Employees

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- General Salary Increase.** All Unit 9 employees would receive a 3.3 percent general salary increase on July 1, 2015. This is the first general salary increase for these employees since July 2008.
  
- 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. 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 that the department director determines that “the department has funds available for the purpose of cashing out accumulated Vacation/Annual Leave.”
  
- 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, 2015.



## Proposed Unit 9 MOU— Provisions Affecting Some Employees

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- 80 Hours of Paid Time Off.** Effective July 1, 2015, all Unit 9 employees of the Department of Water Resources (DWR) would become eligible to participate in the department's existing Operational Availability Incentive Program. This program provides employees up to 80 hours of compensated time off (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 11 and 12) have received 80 hours of CTO under the program each year. Under the agreement, with the consent of the department, Unit 9 employees could cash out unused incentive program CTO on June 30<sup>th</sup> of each fiscal year.
  
- Expanded Pay Range for Two Classifications.** The parties agree to seek State Personnel Board approval to consolidate several employment classifications into two new classifications: civil engineer and sanitary engineer. Under these new classifications, employees receiving a certificate of registration as a professional engineer could advance to the top range of their classification more quickly and employees without a professional engineer certificate are eligible to earn salaries up to 15 percent higher than under the current classification system.
  
- Night Shift Differential.** The pay differential for employees who regularly work night shifts would be doubled from 40 cents to 80 cents per hour (for employees working before midnight) and from 50 cents to \$1 per hour (for employees working after midnight).





## Proposed Unit 9 MOU— Other Fiscal Provisions

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- State Contribution Towards Employee Health Care.** The MOU would maintain the current 85/80 formula by which the state contribution towards employee health care is determined.
  
- 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 Unit 9 employees for costs related to meals and lodging while traveling on state business. Employees would be eligible for reimbursement for:
  - A maximum of \$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.** The administration advises us that 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 last year's pension legislation (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.



## Administration's Fiscal Estimate of Proposed MOU

(In Millions)

Proposal <sup>a</sup>	2013-14		2014-15		2015-16	
	General Fund	All Funds	General Fund	All Funds	General Fund	All Funds
3.3 percent general salary increase	—	—	—	—	\$1.5	\$47.3
Civil Engineer/Sanitary Engineer class consolidations, salary increases	—	—	—	—	0.0	0.8
80 hours of time off incentive program	—	—	—	—	0.0	0.5
Night and evening shift differential	—	—	—	—	0.0	0.1
Travel reimbursement increases <sup>b</sup>	\$0.0	\$0.2	\$0.0	\$0.2	0.0	0.2
<b>Totals</b>	<b>\$0.0</b>	<b>\$0.2</b>	<b>\$0.0</b>	<b>\$0.2</b>	<b>\$1.5</b>	<b>\$48.8</b>

<sup>a</sup> Does not include costs or savings associated with current law.  
<sup>b</sup> The administration assumes that some or all of these costs will be absorbed within existing departmental resources.  
 Note: 0.0 indicates an estimated cost of less than \$50,000.



**Little Effect on Current-Year Budget, Rising Costs in Future Years.** The administration estimates that the agreement would increase state costs by about \$172,000 (all funds) in 2013-14, increasing to nearly \$49 million by 2015-16—a result of the pay increases and other changes. The administration's fiscal estimate assumes that all Unit 9 DWR employees receive 80 hours of CTO under the Operational Availability Incentive Program.



## LAO Comments— Administration's Fiscal Estimates

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- ☑ ***Estimates Reasonable.*** Our fiscal estimates generally are similar to those of the administration.
  
- ☑ ***Potentially Higher Costs Related to Job Classification Changes.*** The administration's approach to estimating the cost of the job classification changes implicitly assumes that the employees (1) will be equally distributed across the classifications' four pay ranges and (2) will progress from one pay range to the next at a steady pace. Using these assumptions, the administration estimates that compensation for these employees will increase by 16 percent, or nearly \$800,000 in 2015-16. Our review indicates that this estimate may be low, potentially by hundreds of thousands of dollars per year, because the contract (1) allows employees with engineering certificates to advance to higher pay ranges much more quickly, including skipping over pay ranges, and (2) provides a new higher pay range for employees without engineering certificates.
  
- ☑ ***Potentially Higher Costs for Lodging Reimbursement.*** The administration's estimate of costs resulting from the new lodging reimbursement rates may be low. Specifically, the administration assumes that state workers are equally likely to travel to any 1 of the 58 counties. Given that growth in the reimbursement rate for state travel to most urban counties was higher than the average county, we think the administration's estimated costs may be understated in the range of a couple hundred thousand dollars.



## LAO Comments—Salary Compaction

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- 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 MOU are not extended to these employees’ managers and supervisors, any salary compaction that currently exists between these classifications will increase. The administration estimates that extending the 2015 pay increases to managers and supervisors of rank-and-file employees represented by Unit 9 could increase state costs by almost \$14 million (all funds) over the course of the agreement.



## Selected Features of Summer 2013 Agreements

Bargaining Unit	Expires	Maximum Compounded GSI	Some Provisions Contingent on DOF Fiscal Estimates	One-Year Dependent Health Vesting	Increased Flat- Dollar Health Contribution	Leave Cashout
<b>Units With Agreements Before Legislature</b>						
6—Corrections	2015	4.0%	No	No	Yes	No
7—Protective Services and Public Safety	2016	3.0 <sup>a</sup>	No	No	Yes	Yes
9—Professional Engineers	2015	3.3	No	No	N/A	Yes
12—Craft and Maintenance	2015	3.3	Yes	Yes	Yes	Yes
16—Physicians, Dentists, and Podiatrists	2016	4.0 <sup>b</sup>	Yes	No	N/A	No
18—Psychiatric Technicians	2016	4.3	Yes	Yes	Yes	No
19—Health and Social Services Professionals	2016	3.0 <sup>c</sup>	Yes	Yes	N/A	No
<b>Agreements Ratified by Legislature</b>						
1, 3, 4, 14, 15, 17, 20, and 21—SEIU Local 1000	2016	4.6	Yes	Yes	Yes <sup>d</sup>	No
<sup>a</sup> Listed GSI applies to most Unit 7 employees. Specified peace officer classifications eligible for an additional 4.67 percent pay increase. <sup>b</sup> Listed GSI applies to most Unit 16 employees. Specified classifications eligible for up to 8.1 percent GSI. <sup>c</sup> Listed GSI applies to most Unit 19 employees. Specified classifications eligible for up to 8.2 percent GSI. <sup>d</sup> 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, our office had completed its analysis of 16 tentative agreements affecting Units 6, 7, 9, 12, 16, 18, 19, and the nine bargaining units represented by Local 1000. The figure compares certain provisions from these agreements.