

MOU Fiscal Analysis Bargaining Unit 10 (Professional Scientists)

LEGISLATIVE ANALYST'S OFFICE

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





Proposed Memorandum of Understanding (MOU) Product of Mediation

- Earlier Proposed Agreement Rejected by Employees.** State employees represented by Unit 10 currently work under the terms and conditions of employment established by an MOU that expired on July 1, 2013. On May 22, 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. On June 30, 2014, a majority of Unit 10 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 10—represented by the California Association of Scientists (CAPS)—employed a mediator to advance contract negotiations.

- Past Analysis Provides Background.** On May 29, 2014, our office produced an analysis of the Unit 10 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 10, and the major provisions of the expired Unit 10 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, 2015. This analysis summarizes the major provisions of this new agreement and comments on the agreement's fiscal effect on the state.



Proposed Unit 10 MOU—Pay Increases

- Pay Increases for All Unit 10 Members.** The proposed agreement provides all employees represented by Unit 10 pay increases in 2014-15 and 2015-16. Specifically, the agreement provides:
 - **One-Time Bonus in 2014-15.** Each Unit 10 member will receive \$1,000 after the agreement is ratified. The agreement does not specify how this 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.
 - **General Salary Increase (GSI) in 2015-16.** On July 1, 2015, pay levels for each step in all Unit 10 classifications will increase by 3 percent. This pay increase also raises the costs the state pays for salary-driven benefits.

- Additional Bonus Program for Select Employees.** The proposed MOU makes all Unit 10 employees of the Department of Water Resources (DWR) Division of Operations and Maintenance—approximately 13 employees—eligible to participate in the department's existing Operational Availability Incentive Program. This program provides employees up to 80 hours of compensatory 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 9, 11, and 12) have received 80 hours of CTO under the program each year. Under the agreement, with the consent of the department, the Unit 10 employees eligible for this bonus program could cash out any unused CTO in excess of 40 hours on June 30 of each year.



Proposed Unit 10 MOU— Other Provisions Affecting Pay

- Classification Consolidation Committee.*** The agreement establishes a committee consisting of representatives from CAPS and the state to review classifications represented by Unit 10. The committee will develop recommendations to the State Personnel Board (SPB) to revise the classification structure for most state scientist classifications. The agreement states that the purpose of this effort is to “reduce the number of state scientific classifications, increase and improve efficiency, promote recruitment and retention of state scientists, and generally improve the responsiveness and efficiency of state government.” The committee shall make its recommendations to SPB no later than January 30, 2015.

- Cash Out of Vacation and Annual Leave.*** Upon separation from state service, departments compensate employees based on their final salary level for any unused leave that has cash value—including vacation, annual leave, and CTO. 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 the department director determines that the department has sufficient funds for this purpose. This leave cash out program is in addition to the CTO cash out bonus program for the DWR employees discussed earlier in this analysis.



Proposed Unit 10 MOU—Health Benefits

- Maintain Formulas to Determine State Contribution Towards Employee Health Care.*** The proposed MOU maintains the current formula by which the state contributions towards employee health care are determined.

- Shortened Dependent Health Vesting.*** 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 10 MOU— Other Fiscal Provisions

- Professional Conferences.** Under the proposed MOU, Unit 10 employees would develop an annual professional development plan that could include up to two job-related professional conferences. To the extent that employees attend professional conferences as part of this professional development plan, the agreement would allow costs related to the conference(s) to be reimbursed by the state.

- 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.

- 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.

- 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.



Administration's Fiscal Estimates

(In Millions)

Proposal ^a	2014-15		2015-16	
	General Fund	All Funds	General Fund	All Funds
July 2015 general salary increase			\$1.5	\$8.2
\$1,000 bonus	\$0.6	\$3.1		
Health dependent vesting ^b	—	0.1	—	0.1
Meal and lodging reimbursement increases ^b	—	—	—	—
Department of Water Resources bonus	—	—	—	—
Totals	\$0.6	\$3.3	\$1.5	\$8.4

^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.



Lower Costs Than Assumed in 2014-15 Budget. The 2014-15 budget includes \$5.5 million (\$1 million General Fund) to implement the rejected May 22, 2014 Unit 10 agreement in the current year. As can be seen from the above figure, the administration estimates that the agreement now before the Legislature would cost \$3.3 million in 2014-15—or almost \$2 million less than the amount provided in the budget.



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.

- **Possible Classification Changes.** By January 30, 2015, the classification committee will recommend to SPB structural changes to state scientist classifications in order to promote recruitment and retention in these positions. Given the committee's objective, any such recommendation likely would include classifications with increased pay levels.
- **Leave Cash Outs.** The agreement allows employees to cash out up to 20 hours of leave each year. We estimate departments could spend approximately \$2.5 million (\$450,000 General Fund) cashing out vacation/annual leave each year during the term of the agreement. 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 about leave balance liabilities, refer to our March 14, 2013 report, *After Furloughs: State Workers' Leave Balances*.)
- **Professional Conferences.** The agreement allows Unit 10 employees to be reimbursed for attending two professional conferences each year. To the extent that the state reimburses Unit 10 employees for attending these conferences, the state's costs would increase—potentially by hundreds of thousands of dollars each year.



LAO Comments— Management Compensation

- Monitor Pay Differentials Between Management and Rank-and-File.*** The state traditionally has sought to set manager and supervisor salaries at amounts that are modestly, but consistently, higher than salaries for rank-and-file employees. Doing this minimizes state personnel costs, while avoiding “salary compaction” (where the increase in pay between management and rank-and-file positions is too small to create an incentive for employees to accept the additional responsibilities of being a manager). This MOU and recent actions by the administration and courts will complicate the state’s efforts to maintain appropriate pay differentials. Specifically, under the MOU, Unit 10 rank-and-file employees will receive a 3 percent GSI in July 2015 and may experience additional salary changes from the proposed classification review. Unit 10 managers and supervisors, on the other hand, received a 2 percent GSI in July 2014 pursuant to administrative action and are scheduled to receive a 2.5 percent GSI in July 2015. In addition, many Unit 10 managers and supervisors will receive large pay increases—between 18 percent and 43 percent—as a result of a recent court decision. The combination of these factors likely will affect management and rank-and-file pay differentials. We advise the Legislature to monitor these changes in salaries and try to maintain appropriate differentials between rank-and-file and managerial classifications.