June 21, 2013

MOU Fiscal Analysis: Bargaining Units 1, 3, 4, 11, 14, 15, 17, 20, And 21 (SEIU Local 1000)

L E G I S L A T I V E   A N A L Y S T ' S   O F F I C E

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

June 21, 2013

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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 administration. 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 administration 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 may choose whether to appropriate funds in the budget to continue the financial provisions of each 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 within ten calendar days of their presentation to the Legislature.

- ☑ ***MOUs for Largest State Union Now Before Legislature.*** Service Employees International Union, Local 1000 (Local 1000) represents nine bargaining units. The existing MOUs for employees represented by Local 1000 will expire on July 1, 2013. Proposed MOUs for these employees—totaling 4,729 pages of material—now await legislative action and are the subject of this report. The proposed MOUs would be effective from July 2, 2013 to July 1, 2016.

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Common Provisions of Existing State MOUs

Bargaining Unit (Percent of Workforce)	Prior Months of Personal Leave Program	Employee Pension Contribution: Miscellaneous and Industrial	Employee Pension Contribution: Safety	Employee Pension Contribution: Police Officer, Firefighter, and Patrol	Professional or Personal Development Days	Top Step Increase in 2012 or 2013
MOUs That Expire 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 Existing MOUs.*** The existing MOUs—previously approved between the state and its 21 bargaining units—contain a number of similar provisions. The figure summarizes some of these provisions. We provide more information about major provisions of the existing Local 1000 MOUs and the Personal Leave Program (PLP) later in this report. For additional information, refer to past MOU analyses posted on our website.

Bargaining Units at a Glance

☑ ***Local 1000 Represents About One-Half of Unionized State Workers.*** Local 1000 is the largest state union. The nine Local 1000 bargaining units represent more than 91,000 state positions, or about one-half of the unionized state workforce. These workers perform a wide variety of tasks and work in nearly every state department.

☑ ***Most Work in Administrative and Financial Services.*** The figure shows the distribution of employees represented by Local 1000. About 73,000 of these workers are in Units 1 and 4 and work in administrative, financial, and office assignments.

SEIU Local 1000 Bargaining Units

Bargaining Unit	Number of Positions
Unit 1—Administrative, Financial, and Staff Services	47,920
Unit 3—Professional Educators and Librarians (Institutional)	1,433
Unit 4—Office and Allied Workers	25,274
Unit 11—Engineering and Scientific Technicians	2,493
Unit 14—Printing and Allied Trades	436
Unit 15—Allied Service Workers	4,139
Unit 17—Registered Nurses	4,854
Unit 20—Medical and Social Services Specialists	3,959
Unit 21—Educational Consultants and Library (Non-Institutional)	570
Total	**91,078**

Existing Local 1000 MOUs—Provisions Affecting Pay

- ☑ ***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 subsequent addenda, Local 1000 agreed to 24 months of PLP since 2010-11. June 2013 is the last scheduled month of PLP.

- ☑ ***Employee Pension Contributions.*** The existing MOUs increased active and future employees' pension contribution rates by 3 percentage points. Most employees now contribute about 8 percent of their pay to cover a portion of pension expenses.

- ☑ ***Top Step Pay Increase.*** The MOUs will increase 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.)

- ☑ ***Continuous Appropriations.*** As part of the legislation ratifying the existing MOUs, the Legislature approved continuous appropriations of the economic terms of the agreements through July 1, 2013. This is intended to maintain employee pay and benefits in the event of a late budget.

Existing Local 1000 MOUs—Other Major Provisions

- ☑ ***Health Benefits.*** For eight bargaining units, 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. This funding structure is referred to as the "80/80 formula." The state's costs for these employees' health benefits increase automatically when premium rates increase. For Unit 3, in contrast, any increase in the state's "flat-dollar" contribution for health benefits must be negotiated. Pursuant to the Unit 3 MOU, the state last increased its contribution for employee health benefits in January 2013.

- ☑ ***Dependent Health Vesting.*** All nine bargaining 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 premium costs.

- ☑ ***Professional Development Days.*** 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.

- ☑ ***Retired Annuitants and Student Assistants.*** Through an addendum to the MOUs, the state agreed to eliminate all "non-mission critical" retired annuitants and student assistants "who are performing SEIU bargaining unit work." For the 12 months that employees were subject to PLP in 2012-13, the state agreed it would not hire any new retired annuitants or student assistants unless "there is a mission critical need."

Existing MOUs—Fiscal Effect in 2013-14

- ☑ ***Increased State Costs in 2013-14.*** Some of the provisions in the existing Local 1000 MOUs will increase state costs in 2013-14 relative to state costs in 2012-13. These provisions include the end of PLP, the increase to top step pay, and increased health premium costs.

- ☑ ***Costs Included in Adopted State Budget.*** The adopted 2013-14 state budget includes approximately $488 million ($200 million General Fund) to pay for the increased costs associated with the existing Local 1000 MOUs.

Proposed MOUs—General Salary Increase

☑ ***Pay Increase for All . . .*** The proposed MOUs provide pay increases for all employees represented by Local 1000. The approximately 1,400 Seasonal Clerks would receive a 50 cent hourly increase from their 2013-14 hourly pay range (which is $8.58 to $9.85). All other employees represented by Local 1000 would receive up to a 4.55 percent pay increase relative to 2013-14 pay levels. This would be the first general salary increase for employees represented by Local 1000 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 the [...] pay increases." 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, (1) Seasonal Clerks would receive their full 50 cent hourly pay increase and (2) all other employees would receive a 2 percent general salary increase. On July 1, 2015, all employees (excluding Seasonal Clerks) would receive an additional 2.5 percent general salary increase—compounding to a 4.55 percent pay increase relative to 2013-14 pay levels.

- ***Scenario B—Insufficient Revenues.*** On July 1, 2015, (1) Seasonal Clerks would receive their full 50 cent pay increase and (2) all other employees would receive a 4.5 percent general salary increase.

Proposed MOUs— Other Provisions Affecting Pay

- ☑ ***Call Centers Pay Differential.*** Specified classifications at call centers run by the Department of Motor Vehicles, Department of Consumer Affairs, and the Health Benefit Exchange would be eligible for a monthly $100 pay differential. Approximately 1,200 employees across the three departments would be eligible for this pay differential.

- ☑ ***Furlough Protection.*** The state would not be able to impose furloughs for the term of the contract.

- ☑ ***Custodian Footwear Allowance.*** Nearly 900 Department of General Services custodians would receive $100 each year to purchase oil and slip resistant footwear to be worn while on the job.

- ☑ ***Nurse Practitioner Call Back Time.*** If a nurse practitioner is ordered back to work after completing a normal work shift—referred to as "called back"—the employee would receive one hour of compensated time off (CTO) for travel time. The CalHR indicates that only the California Correctional Health Care Services puts nurse practitioners on call back. The CalHR estimates that only three hours of CTO would be issued statewide each year pursuant to this provision.

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Proposed MOUs—Health Benefits

- ***Increased State Contributions for Unit 3 Health Premiums.*** Under the proposed Unit 3 agreement, the flat-dollar state contribution towards monthly health premiums for Unit 3 employees and their dependents would be increased to the equivalent of the 80/80 formula for the term of the contract. The state's contribution would be adjusted each January through January 1, 2016. All other Local 1000 bargaining units would remain on the automatic 80/80 formula.

- ***Shortened Dependent Health Vesting Period.*** Under the proposed agreements, the state would pay the full contribution towards new hires' dependent health premium costs sooner than under the current MOUs. An employee would have to work for one year before the state would contribute the full contribution to dependent health premiums.

- ***Enhanced Vision Plan Option.*** Employees could elect to participate in a vision benefit plan with enhanced benefits. Participation in the enhanced vision plan would be paid by the employee.

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Proposed 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 $40 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.

- ☑ ***Retired Annuitants and Student Assistants.*** The state would agree that retired annuitants and student assistants "shall not displace SEIU represented employees."

- ☑ ***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.

- ☑ ***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 what is already established in current law.

Administration's Fiscal Estimates

(In Millions)

Proposal[a]	2013-14 General Fund	2013-14 All Funds	2014-15 General Fund	2014-15 All Funds	2015-16 General Fund	2015-16 All Funds
2.5 percent general salary increase	—	—	—	—	$69.9	$167.4
2 percent general salary increase	—	—	$54.9	$131.3	54.9	131.3
One-year dependent health vesting[b]	$1.4	$2.8	1.5	3.0	1.7	3.2
Health benefit increase for Unit 3	0.4	0.4	1.2	1.3	2.1	2.4
Call centers pay differential[b]	0.4	1.8	0.4	1.8	0.4	1.8
Travel reimbursement rates[b]	0.6	1.4	0.6	1.4	0.6	1.4
Additional $0.50 for Seasonal Clerks	—	—	0.7	1.1	0.7	1.1
Custodian footwear allowance	—	0.1	—	0.1	—	0.1
Nurse practitioner one hour CTO (rounds to zero)	—	—	—	—	—	—
Totals	**$2.8**	**$6.6**	**$59.3**	**$140.1**	**$130.3**	**$308.7**

[a] Does not include costs associated with current law or provisions of existing MOUs discussed earlier.

[b] The administration assumes that some or all of these costs will be absorbed within existing departmental resources.

MOU = memorandum of understanding; CTO = compensated time off.

- ☑ ***Relatively Little Cost in Budget Year.*** The administration estimates that the proposed MOUs would have little effect on the 2013-14 budget.

- ☑ ***Assumption of Sufficient Revenues in 2014-15.*** The administration's estimates (displayed in the figure) assume that DOF will determine that there are sufficient revenues for employees to receive pay increases in 2014-15.

LAO Comments—Administration's Fiscal Estimates

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

- ***Lower Costs if Pay Raise Is Deferred to 2015-16.*** If DOF determines there are insufficient revenues in 2014-15 to fund the state's statutory and constitutional obligations and fiscal policies, employees would not receive a pay increase until July 1, 2015. We estimate that the 4.5 percent pay increase would cost $295 million ($123 million General Fund) beginning in 2015-16. Compared with the administration's estimates, the 4.5 percent pay increase in 2015-16 would result in lower state costs over the contract period by $135 million ($56 million General Fund).

- ***Potentially Different Unit 3 Health Costs.*** The administration assumes state premium costs increase by 6 percent in 2014. Depending on the actual 2014 premiums adopted by the CalPERS board, Unit 3 health costs could be somewhat higher or lower than estimated.

- ***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 one 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.

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LAO Comments—DOF Role in 2014 Pay Increase

☑ ***DOF Given Broad Powers.*** The agreements give DOF the authority to determine whether state employees receive a pay increase in 2014. 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 a pay increase 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.

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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 Local 1000 would increase state costs by $118 million ($43 million General Fund) over the course of the contracts.