



***Additional Appointments  
Report to the Legislature***

***November 2013***

# ***Additional Appointments Report – November 2013***

## ***Introduction***

On January 30, 2013, the California Department of Human Resources (CalHR) issued Personnel Management Liaison Memorandum (PML) 2013-007, which stated that, effective immediately, departments are no longer authorized to make any new additional appointments without CalHR's authorization. The PML further advised that CalHR would review any additional appointments and would work with individual departments to determine appropriateness of the additional appointments.

Beginning on or around February 1, 2013, CalHR initiated a review of eleven state departments and their practice of appointing managers or supervisors to work in additional positions. CalHR reviewed the additional appointments, including their appropriateness, the accuracy of the salary paid, the type of appointment, and their exempt status under the Fair Labor Standards Act (FLSA).

On April 25, 2013, CalHR issued PML 2013-015, stating, effective immediately, departments are no longer authorized to make any additional appointments for managers and supervisors.

On or around May 2013, CalHR issued a series of reports surveying the use of additional appointments by employees appointed as managers or supervisors in their primary position in affected departments. These reports examined additional appointments worked by managers and supervisors during the 2012 calendar year and have since been posted to CalHR's website, and are publicly available.

Following the publication of these reports, the Legislature enacted Government Code section 19210, which directed CalHR to provide additional information and "submit two reports to the Joint Legislative Budget Committee and the fiscal committees of the Legislature that review the use of additional appointments by state agencies, excluding state universities, for managers and supervisors by November 30, 2013, and for rank and file employees by November 30, 2014."

CalHR has now completed its review and provides this first supplemental report on the use of additional appointments that were held by employees who were employed as supervisors and/or managers in their primary position and worked or held an additional appointment. This report provides further details regarding 2012 data initially provided in the May 2013 reports, and provides updated information covering the time period from January through September 2013.

## ***Background***

The practice of appointing current state employees to additional positions has been utilized in the past to address high priority, immediate projects requiring employees with a greater degree of specialized knowledge and experience. The practice of appointing a current, already trained state employee to work an additional position rather than hiring an entirely new state employee, is regarded as a cost effective means to complete high priority, short term projects. CalHR expects that any department utilizing this practice would adhere to all applicable laws, rules, policies, procedures, and personnel management principles associated with additional appointments.

## ***Results***

The following are the results of CalHR's additional review pursuant to Government Code section 19210:

- (1) What was the number of additional appointments held by state employees at any time during 2013 who were exempt under the federal Fair Labor Standards Act?*

CalHR determined that in 2012, 340 managers and supervisors holding additional appointments maintained their exempt status despite working an additional appointment. Of the 340 managers and supervisors, 165 performed work in their additional appointment at some point during the time period of January through September 2013. 175 managers and supervisors performed no work in their additional appointments during the time period of January through September 2013. CalHR has determined that all 340 supervisors and managers likely maintained their exempt status during this same time period.

- (2) What were the actions the department took to verify whether these additionally appointed employees' duties were consistent with their exempt status, if applicable?*

The Fair Labor Standards Act requires that in order to maintain exempt status, an employee's work activities must primarily be in the performance of exempt work. To determine whether employees primarily appointed to an FLSA-exempt position and additionally appointed to a non-FLSA exempt position maintained their exempt status, CalHR reviewed the duty statements, time sheets, pay histories, and other documents pertaining to work performed in all positions held by each employee. After examining the nature of the exempt work performed, and comparing the amount of time spent performing exempt work versus non-exempt work in both positions, CalHR determined that the employees holding

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primary appointments in FLSA-exempt positions maintained their exempt status despite working an additional, non-exempt position.

*(3) What was the total number of additional appointments that the department found as a result of its 2013 review, and, of this total, the number of additional appointments that were terminated or are otherwise no longer in use and the reasons for these decisions?*

504 managers and supervisors held additional appointments in 2012.<sup>1</sup> Of the 504 employees, 19 employees held two (2) additional appointments in addition to their primary appointment, resulting in a total of 523 additional appointments.

Of these 523 additional appointments:

- 60 employees voluntarily resigned.
- 160 employees were appointed to temporary additional appointments which were terminated by the appointing power.
- 172 employees did not separate from their additional appointment, but ceased all work in their additional appointment from January to September 2013. Accordingly, these appointments still exist but are no longer in use. The reasons these appointments were no longer in use include: departments complied with CalHR's instructions to immediately stop working managerial/supervisory employees in their additional appointment; or the departmental project ended such that the department no longer had the need to work the staff.

The remaining 131 employees had not separated from their additional appointments, and performed work in the additional position at some point during the January through September 2013 time period.

*(4) What was the number of additional appointments held by state employees whose primary appointment is or was in the same agency as the additional appointment and in the same division of the same agency as the additional appointment?*

CalHR has determined that all 523 additional appointments were within the same agency as the state employees' primary appointment and, of those 523 additional appointments, 159 were within the same division as the employees' primary appointment.

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<sup>1</sup> CalHR excluded Self-Help Sponsors because the classification is reserved for employees who already hold a primary position with a correctional institution. The minimum qualifications require an additional appointment. As such CalHR excluded the 67 Self-Help Sponsors from this review.

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(5) For each agency, what was the number of additional appointments held by its employees, the highest number of hours worked by an employee holding an additional appointment, and the average number of hours per month per additional appointee.

<b>Department Name</b>	<b>Number of Employees with Additional Appointments in 2012</b>	<b>Number of employees that Did Not Work in 2012</b>	<b>Highest Hours Worked by an Employee in their Additional Appointment(s)</b>
Consumer Affairs	1	1	0
Corrections and Rehabilitation	160	104	118.50*
Education	2	0	88*
Employment Development Department	4	1	89.25
Food and Agriculture	2	1	124
Forestry and Fire	1	0	16.75
Motor Vehicles	2	0	0
Public Employees' Retirement System	56	10	115*
Social Services	101	22	56
State Hospitals	173	67	168.63
Veterans Affairs	2	1	94

- \* Corrections and Rehabilitation – 3 employees held fractional time base appointments in both their primary and additional appointments.
- \* Education – 1 employee held fractional time base appointments in both their primary and additional appointments.
- \* Public Employees' Retirement System - 1 employee held fractional time base appointments in both their primary and additional appointments.

Attachment A identifies the number of months each employee worked and the employee's average number of hours worked in the additional appointment for 2012.

*Attachment A – Average Number of Hours Worked By Employee*