



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

November 2014

Additional Appointments Report – November 2014

Introduction

California Government Code section (GC) 19210 requires the California Department of Human Resources (CalHR) to submit two reports to the Joint Legislative Budget committee and fiscal committees of the Legislature. The first report submitted on November 27, 2013, reviewed additional appointments held by managers and supervisors. This second report reviews additional appointments held by rank and file employees.

CalHR retains authority over additional appointments which are subject to rules and regulations promulgated by CalHR. Departments do not have authority to make any new additional appointments without prior approval from CalHR.

Background

The practice of appointing existing state employees to additional positions has been generally 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 an existing, 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 will adhere to all applicable laws, rules, policies, procedures, and personnel management principles associated with additional appointments. On February 1, 2013, CalHR issued PML 2013-007 ending any further additional appointments without CalHR's authorization. In addition, on April 25, 2013, CalHR issued PML 2013-015 altogether prohibiting the practice of appointing managers and supervisors to additional appointments.

Results

The following are the results of CalHR's additional review pursuant to GC 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 (FLSA)?*

Based on the data collected on rank and file additional appointments, 305 rank and file, work week group (WWG) E and SE employees¹ holding additional appointments appear to have maintained their exempt status despite working an additional appointment. Of the 305 rank and file employees, 139 performed work in their additional appointment at some point during the period of January through December 2013. 166 rank and file employees performed no work in their additional appointments during the period of January through December 2013. CalHR has determined that all 305 rank and file employees appear to have maintained their exempt status during this same period.

¹ Employees in Work Week Group E or SE are exempt from the FLSA's overtime requirements.

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

Despite performing activities in two or more classifications, an employee holding more than one appointment is generally considered employed by one employer. An employee's hours worked in multiple appointments are thus counted as hours worked for one employer, with overtime compensation calculated accordingly. The FLSA 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, 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 work activities of employees holding primary appointments in FLSA-exempt positions remained primarily in the performance of exempt work. Accordingly, such employees appear to have 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?*

757 rank and file employees held additional appointments in 2012.² Of the 757 employees, 15 employees held two (2) additional appointments in addition to their primary appointment, and 1 employee held three (3) additional appointments in addition to their primary appointment, resulting in a total of 774 additional appointments.

Of these 774 additional appointments:

- 356 additional appointments were separated.
 - 167 employees voluntarily resigned.
 - 189 employees were appointed to temporary additional appointments that were terminated by the appointing power.
- 418 additional appointments were not separated from their additional appointments.
 - 214 employees worked at some point during 2013.
 - 204 employees did not work in 2013.

- (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?*

² 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.

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CalHR has determined that 596 additional appointments were within the same agency as the state employees' primary appointment and, of those 596 additional appointments, 196 were within the same division as the employees' primary appointment.

(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?*

The chart below identifies the number of employees by department with additional appointments, the number of employees that did not work in their additional appointments in 2012, and the highest number of hours worked by an employee in their additional appointment in 2012. 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.

Department Name	Number of Employees with Additional Appointments in 2012	Number of Employees that Did Not Work in 2012	Highest Hours Worked by an Employee in their Additional Appointment(s) in 2012	Number of Employees with Fractional Time Base Appointments in both their Primary and Additional Appointments in 2012
Alcohol and Drug Programs (now Health Care Services)	1	0	155.5	0
Alcoholic Beverage Control Board	1	0	30.25	0
Board of Equalization	1	0	102.75	0
California Exposition and State Fair	2	0	233.25	0
California Highway Patrol	3	2	32	0
Conservation	1	0	104	1
Consumer Affairs	16	6	88	7
Corporations	1	0	24	0
Corrections and Rehabilitation	248	83	198	25
Developmental Services	8	4	119.6	2
Education	16	4	160	9

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Employment Development Department	7	3	147.5	0
Environmental Health Hazard Assessment	1	0	16	1
Financial Institutions	1	0	92.25	0
Fish and Wildlife	4	1	199	3
Forestry and Fire Protection	1	1	0	1
Franchise Tax Board	4	0	144.75	0
General Services	2	0	176	0
Health and Human Services Agency	1	1	0	0
Health Care Services	2	0	277	0
Housing and Community Development	1	0	13	1
Insurance	2	0	102.25	0
Justice	8	3	135.5	4
Lottery	2	0	45	0
Managed Health Care	1	1	0	0
Motor Vehicles	18	11	114.5	2
Office of State Chief Information Officer	1	0	94	1
Office of Statewide Health Planning and Development	1	1	0	0
Parks and Recreation	42	10	190	42
Pesticide Regulation	1	0	20	0

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Public Employees' Retirement System	50	12	82	1
Rehabilitation	5	2	115	5
Social Services	14	9	47.75	7
State Hospitals	248	101	192	15
State Teachers' Retirement System	2	0	153.25	1
Student Aid Commission	1	0	55	1
Transportation	10	6	184	4
Veterans Affairs	23	1	140	9
Victim Compensation and Government Claims Board	1	0	7	0
Water Resources	4	1	141.75	2
Water Resources Control Board	1	0	158	0

Attachment A – Average Number of Hours Worked By Employee