PAY DIFFERENTIAL 62
ARDUOUS PAY (FLSA EXEMPT EMPLOYEE DIFFERENTIAL) - UNITS 01, 07, 09, 10, 17, 19, 21 AND EXCLUDED EMPLOYEES

Effective: 09/01/93
Revised: 07/01/99, 05/01/01, 07/01/01, 10/31/01, 01/01/02, 10/01/23

CLASS TITLE	CRITERIA	EFFECTIVE DATE	DEPARTMENT
Unit 01	2	07/01/99	All Departments
Unit 07	2		
Unit 09	2	01/01/01*****	
Unit 17	1	07/01/99	
Unit 19	2	10/31/01	
Unit 21	2	07/01/99	
Unit 10	2	07/01/01******	
Excluded:			
Excluded employees who are in classes exempt from FLSA.	1	07/01/94	All Departments

RATE		EARNINGS ID
$300 per workweek, up to $1200 total per pay period. Any workweek that overlaps months should be counted in the month that the workweek ends.		
An employee may be paid:	$ 300	8OT5
	$ 600	8OT6
	$ 900 or	8OT7
	$ 1200 per pay period	8OT8

CRITERIA

1 At the discretion of the appointing authority, excluded employees who are exempt from the Federal Fair Labor Standards Act (FLSA) shall be eligible to receive the differential when performing arduous work that exceeds the normal demands of State service employment. Excluded employees******* are eligible for this pay differential for up to four months per fiscal year (or per event for emergencies involving loss of life or property). <u>All of the following conditions must be met in order to apply this pay differential</u>:

- Appropriate Duties

  The duties and responsibilities may not include work that is covered by the provisions of FLSA.

- Nonnegotiable Deadline or Extreme Urgency

  The work must have a deadline or completion date that cannot be controlled by the employee or their supervisor, or must constitute an extreme urgency. The deadline or extreme urgency must impose upon the employee an immediate and urgent demand for their work that cannot be avoided or mitigated by planning, rescheduling, postponement or rearrangement of work, or modification of deadline.

For example, preparing and presenting to the Governor's Office, Legislature, or Legislative Committees fiscal/line item analysis and budgetary information concerning the State Budget or departmental and line program budgets by a specific date, or testifying before the Legislature or Legislative Committees at their request, or responding to a declared emergency situation.

- Work Exceeds Normal Work Hours and Normal Productivity

  The work must be extraordinarily demanding and time consuming, and of a nature that it significantly exceeds the normal workweek and work productivity expectations of the employee's work assignment.

  Employees who are excluded from FLSA are expected to work variable work schedules as necessary to meet the demands of the job. They may regularly be required to work more than 40 hours per week to complete their work. This pay differential is not intended for employees who regularly or occasionally work in excess of the normal workweek to meet normal workload demands. It is intended where in addition to working a significant number of ours in excess of the normal workweek, there is a demand for and achievement of greater productivity or result.

- Work is Unavoidable

  The work must be of a nature that it cannot be postponed, redistributed, modified, reassigned or otherwise changed in any way to provide relief.

- Work Involves Extremely Heavy Workload

  The work is of a nature that it cannot be organized or planned to enable time off in exchange for the extra hours worked. The absence from work would cause difficulty or hardship on others and would result in other critical work not being completed. Occasional heavy workload of less than 12 to 14 days in duration would not normally satisfy this requirement because time off can be arranged as compensation for this demand.

  For example, in an emergency involving extreme health, safety and/or cost consequence, an employee may be required to work evenings and weekends for several weeks, averaging more hours of work than can be scheduled/arranged for time off.

- No Other Compensation

  The employee who is receiving this pay differential is not eligible for any other additional compensation for the type and nature of the above described work.

- The Circumstances That Support This Pay Differential Must Be Documented

  Departments must maintain records of the employees and amounts paid in each pay period, and a brief description of the circumstances for which the differential was provided.

Departments are delegated responsibility for the review and approval of payment. Their review should occur after the work is completed to ensure that all of the conditions that warrant the pay differential were present. Application of the pay differential provisions is subject to audit or review by the Department of Personnel Administration (DPA) as necessary.

2 Represented employees who are exempt from FLSA and assigned to Work Week Groups E and SE shall be eligible to receive the differential when there is no other way to recognize the performance of additional duties and responsibility, which clearly exceed the normal demands of an employee's classification/position. Employees in Units 1, 7, 10, and 21 shall be eligible for this pay differential for up to four months per fiscal year (or per event for emergencies involving loss of life or property).

Requests for arduous pay shall be made to DPA on a case-by-case basis by the employing department. DPA shall evaluate said requests based on whether it satisfies all of the following.

- Nonnegotiable Deadline or Extreme Urgency

  The work must have a deadline or completion date that cannot be controlled by the employee or their supervisor, or must constitute an extreme urgency. The deadline or extreme urgency must impose upon the employee an immediate and urgent demand for their work that cannot be avoided or mitigated by planning, rescheduling, postponement or rearrangement of work, or modification of the deadline.

- Work Exceeds Normal Work Hours and Normal Productivity

  The work must be extraordinarily demanding and time consuming, and of a nature that it significantly exceeds the normal workweek and work productivity expectations of the employee's work assignment.

  Employees who are excluded from FLSA are expected to work variable work schedules as necessary to meet the demands of the job. This pay differential is not intended for employees who regularly or occasionally work in excess of the normal workweek to meet normal workload demands. It is intended where in addition to working a significant number of hours in excess of the normal workweek, there is a demand for and achievement of greater productivity or result.

  Units 9 and 19: Time that an employee is absent during their regular working hours, whether paid or unpaid, shall be taken into consideration when DPA reviews arduous pay requests from departments.

- Work is Unavoidable

  The work must be of a nature that it cannot be postponed, redistributed, modified, reassigned or otherwise changed in any way to provide relief.

  Unit 9: The work performed must be as a result of the energy situation in California.

- Work Involves Extremely Heavy Workload

  The work is of a nature that it cannot be organized or planned to enable time off in exchange for the extra hours worked. The absence from work would cause difficulty or hardship on others and would result in other critical work not being completed. Occasional heavy workload of less than 12 to 14 days in duration would not normally satisfy this requirement because time off can be arranged as compensation for this demand.

- No other Compensation

  The employee who is receiving this pay differential is not eligible for any other additional compensation for the type and nature of the above-described work.

Department decisions not to submit arduous pay requests to the DPA except for Unit 1 employees, and DPA decisions to deny arduous pay, shall not be subject to the grievance or arbitration provisions of this agreement.

IF APPLICABLE, SHOULD PAY DIFFERENTIAL BE:	
PRO RATED	No
SUBJECT TO QUALIFYING PAY PERIOD	Yes
ALL TIME BASES AND TENURE ELIGIBLE	Time Bases: Full time only********
SUBJECT TO PERS DEDUCTION	No

INCLUSION IN RATE TO CALCULATE THE FOLLOWING BENEFIT PAY	
OVERTIME	N/A
IDL	No
EIDL	No
NDI	No
LUMP SUM VACATION	No
LUMP SUM SICK	No
LUMP SUM EXTRA	N/A

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* Expiration Date is 12/31/01

** For the period of 01/01/01 to 06/30/01, this Pay Differential was applicable to only specified Unit 10 classes at the California Energy Commission (Class Codes 4875, 4876, 7978, 4935, 4947, 4184, 4936, 4948, 4185, 4937, 4949, and 4186) if work was performed as a result of the energy situation in California.

*** Except CEAs and Exempt, unless they are performing work in response to an emergency declared by the Governor.

**** Employees who have part-time time bases should be converted to full-time prior to use of this pay differential.