

BUDGET LETTER

	NUMBER: 02-39
SUBJECT: CONTROL SECTION 31.60, CONTROL SECTION 31.70 AND GOVERNMENT CODE SECTION 12439	DATE ISSUED: November 15, 2002
REFERENCES: BUDGET LETTER 02-13	SUPERSEDES:

TO: Agency Secretaries
Department Directors
Departmental Budget Officers
Departmental Accounting Officers
Department of Finance Budget Staff

FROM: DEPARTMENT OF FINANCE

Budget Officers are requested to forward a copy of this Budget Letter (BL) to Departmental Human Resources and Labor Relations Officers.

1. Control Section 31.60—Abolishment of 6,000 Permanent Vacant Positions

During deliberations on the Budget this past summer, the Budget Conference Committee adopted Control Section 31.60 to abolish a minimum of 6,000 vacant positions and unallot \$300 million from departments' budgets. These reductions, effective July 1, 2002, are intended to be permanent.

BL 02-13 instructed departments to prepare a comprehensive listing of all vacant positions as of June 30, 2002. To facilitate the collection of this information, the State Controller provided each department a listing of all positions vacant on June 30th. In addition, departments were instructed to identify vacant positions **directly involved** in public safety, 24-hour care, or that would be abolished by the 2002 Budget Act. The Department of Finance (Finance) has completed the statewide review of vacant positions and identified the 6,000 positions to be abolished. Finance budget analysts have distributed a copy of the final Attachment III from BL 02-13 position information to their respective departments. Departments must complete Attachment II of this BL to schedule the dollars associated with the eliminated positions.

Various positions included in the State Controller's listing of positions vacant on June 30 were also included in the State Controller's report of positions to be eliminated pursuant to Government Code Section 12439 (GC 12439). Under GC 12439, positions continuously vacant during a hiring freeze are to be abolished unless the Director of Finance determines that the positions not be abolished. As part of our review of positions that were vacant on June 30, we have determined that some of these positions should be retained in departments' budgets. The following two categories of positions should be added back to the Schedule 7A:

- Positions that were included both in the State Controller's list of positions that were vacant for six consecutive pay periods (GC 12439), and the State Controller's list of positions that were vacant on June 30, but deleted from the list of positions to be abolished pursuant to Control Section 31.60. (Departments should submit a Form 607 for Finance approval to re-establish these positions.)
- Positions that **were not vacant** on June 30, but were included in the State Controller's list of positions to be abolished pursuant to GC 12439 should be added back the Schedule 7A if Finance specifically approved retaining the position. Again, for positions added back to the Schedule 7A, a Form 607 should be submitted to Finance for approval to re-establish the position.

(If Finance did not approve retaining any such positions, those positions should not be added back to the Schedule 7A.)

No position abolished pursuant to Control Section 31.60 may be re-established pursuant to GC 12439. If a department believes that one or more positions abolished by the State Controller's Office should be re-established, and Finance did not approve re-establishing the position as part of the Control Section 31.60 review, the Department must submit a Budget Change Proposal (BCP) to obtain approval to re-establish the position if a BCP to re-establish the positions has not already been submitted.

2. Control Section 31.70—Augmentations Related to Control Section 31.60 Reductions

Pursuant to Control Section 31.70 of the Budget Act of 2002, the Director of Finance is authorized to augment any appropriation by an amount the Director of Finance determines to be necessary to ensure that a department has an appropriate level of appropriations after any unallotment of funds pursuant to Control Section 31.60. The Director of Finance shall not approve an augmentation that is greater than the amount of the unallotment pursuant to Control Section 31.60 and the total amount of the augmentations shall not exceed 50 percent by fund source of the total statewide amount unallotted pursuant to Control Section 31.60.

At this time, Finance will only consider the following requests for augmentations:

- Augmentations that will restore the State's ability to collect revenue (the amount of collectable revenue must exceed the amount of the augmentation).
- Augmentations that will restore funding for positions eliminated pursuant to Control Section 31.60 where the Legislature took action to delete or otherwise withhold funding for the specific position. **This does not include positions held vacant for general salary savings.**
- Technical adjustments necessary to ensure public safety or 24-hour care.

(Since most positions eliminated pursuant to Control Section 31.60 were valued below their cost—bottom step and five percent marginal OE&E—Finance will not augment departmental budgets for unfunded salary savings.)

Departments are to submit Attachment III, Request for Augmentation, and supporting documentation to request Control Section 31.70 adjustments. The requests must satisfy one or more of the criteria delineated above in order for an augmentation to be considered. The amount requested should not exceed 50 percent of the total amount unallotted for any single fund nor the total amount unallotted from the departments' budget pursuant to Control Section 31.60. Attachment IV must also be completed after final decisions to provide scheduling information for the approved adjustments. Some approved augmentations may be decided in time for inclusion in the 2003-04 Governor's Budget, but it may be necessary to defer decisions about some augmentations until spring 2003.

Departments may submit cost-neutral BCPs in the spring to address programmatic impacts of Control Section 31.60 eliminations for which restoration does not satisfy one or more of the criteria above.

3. Treatment of Budget Documents

Budget staff of the affected departments must make the necessary adjustments to the budget documents to reflect approved Control Section 31.60 and Control Section 31.70 adjustments. These include adjustments to the Planning Estimates, Supplementary Schedule of Appropriations (Schedule 10s), the Governor’s Budget, and supplementary schedules.

A. Planning Estimates

For Control Section 31.60:

- Elimination of GC 12439 positions: eliminate funding on Planning Estimate line 0300 (Continuously Vacant Positions) for both current and budget years.
- Elimination of Non-GC 12439 positions: eliminate funding on Planning Estimate line 1200 (Other Budget Change Proposals). However, there is no need to submit a negative BCP for both current and budget years.

For Control Section 31.70: use Planning Estimate line 1000 (Miscellaneous Policy Adjustments) to reflect approved restoration of funding for current and/or budget years.

B. Supplementary Schedule of Appropriations (Schedule 10s)

Departments must manually post approved adjustments as “Adjustment per Control Section 31.60” or “Adjustment per Control Section 31.70” to the current year Schedule 10s.

Example 1: Adjustment per Control Section 31.60:

Personal Services ^{a/} or Program A ^{a/ b/ c/}	-\$XXX
OE&E ^{b/ c/} or Program B ^{a/ b/ c/}	-\$XXX
Reimbursements	\$XXX

Example 2: Adjustment per Control Section 31.70:

Personal Services ^{a/} or Program A ^{a/ b/ c/}	\$XXX
OE&E ^{b/ c/} or Program B ^{a/ b/ c/}	\$XXX
Reimbursements	-\$XXX

- a/ Personal Services excluding those adjustments pertaining to OE&E
- b/ Operating Expenses and Equipment adjustments only
- c/ Amounts paid to other departments (Reimbursements)

C. Automated Reconciliation with Appropriations

Adjustments will be included on the line entitled "Adjustment per Control Section 31.60" or "Adjustment per Control Section 31.70".

D. Changes in Authorized Positions (Schedule 2)

List Control Section 31.60 position eliminations, excluding positions abolished pursuant to GC 12439, and related dollars on the Schedule 2 under a section entitled "Adjustment per Control Section 31.60". Positions abolished pursuant to GC 12439 should have already been deleted from the Schedule 7A and should not go on the Schedule 2. See BL 02-23, Attachment IV for the "Changes in Authorized Positions" sample format.

Following the "Adjustment per Control Section 31.60" section, reflect Control Section 31.70 adjustments (dollars only) in the Schedule 2 using a line entitled "Adjustment per Control Section 31.70" if part or all of the dollar adjustment is for salaries and wages.

E. Summary By Object, State Operations

The Summary By Object, State Operations, should be updated to include Control Section 31.60 and Control Section 31.70 approved adjustments for Personal Services and/or Operating Expenses and Equipment. These adjustments should be reflected in "Total Adjustments," "Net Totals, Salaries and Wages," "Staff Benefits," and/or "Operating Expenses and Equipment." Reductions and augmentations that affect "Net Totals, Salaries and Wages" must also be included in the Schedule 2, "Changes in Authorized Positions."

F. Salaries and Wages Supplement (Schedule 7A)

Positions abolished by the State Controller pursuant to GC 12439 should have been listed at the end of the Schedule 7A under the heading: "Continuously Vacant Positions Abolished by the State Controller." Those positions that are to be added back to the Schedule 7A, after consideration and approval by the Department, should also be removed from the list of positions abolished pursuant to GC 12439.

G. Major Budget Adjustment for 2002-03 and 2003-04

Include a bullet in the appropriate program area(s) identifying approved adjustments pursuant to Control Section 31.60 and Control Section 31.70 (indicate reductions or increases in Personal Services, Staff Benefits, and/or Operating Expenses and Equipment).

H. Supplementary Schedules

Supplementary Schedules of Operating Expenses and Equipment should be updated to include Control Section 31.60 and Control Section 31.70 approved adjustments.

4. Government Code Section 12439

Chapter 1124, Statutes of 2002, amends GC 12439. Beginning July 1, 2002, any State position that is vacant for six consecutive monthly pay periods shall be abolished by the State Controller on the following July 1. The six consecutive monthly pay periods may occur entirely within one fiscal year or between two consecutive fiscal years. See Attachment I for the updated code section.

5. Due Dates

Departments are required to return Attachments II and III, as appropriate, along with related supporting documentation, to their respective Finance Budget Analyst as soon as possible, but no later than **Friday, November 22, 2002**. A future deadline for submitting Attachment IV will be determined later.

Technical guidance regarding this Budget Letter should be directed to your department's Finance Budget Analyst.

/s/ KATHRYN RADTKEY-GAITHER

KATHRYN RADTKEY-GAITHER
Assistant Director

Attachments

Chapter 1124, Statutes of 2002, amends Government Code Section 12439

SEC. 13. Section 12439 is added to the Government Code, to read:

12439. (a) Beginning July 1, **2002**, any state position that is vacant for six consecutive monthly pay periods shall be abolished by the Controller on the following July 1. The six consecutive monthly pay periods may occur entirely within one fiscal year or between two consecutive fiscal years.

(b) The Director of Finance may authorize the reestablishment of any positions abolished pursuant to this section if one or more of the following conditions existed during part or all of the six consecutive monthly pay periods:

(1) There was a hiring freeze in effect during part or all of the six consecutive pay periods.

(2) The department has diligently attempted to fill the position, but was unable to complete all the steps necessary to fill the position within six months.

(3) The position has been designated as a management position for purposes of collective bargaining and has been held vacant pending the appointment of the director, or other chief executive officer, of the department as part of the transition from one Governor to the succeeding Governor.

(4) The classification of the position is determined to be hard-to-fill.

(5) Late enactment of the budget causes the department to delay filling the position.

(c) The Controller shall reestablish any position for which the director of the department in which that position existed prior to abolishment certifies by August 15 that one or more of the following conditions existed during part or all of the six consecutive pay periods.

(1) The position is necessary for directly providing 24-hour care in an institution operated by the state.

(2) The position is necessary for the state to satisfy any licensing requirements adopted by a local, state, or federal licensing or other regulatory agency.

(3) The position is directly involved in services for public health, public safety, or homeland security.

(4) The position is being held vacant because the previous incumbent is eligible to exercise a mandatory right of return from a leave of absence as may be required by any provision of law including, but not limited to, leaves for industrial disability, nonindustrial disability, military service, pregnancy, childbirth, or care of a newborn infant.

(5) The position is being held vacant because the department has granted the previous incumbent a permissive leave of absence as may be authorized by any provision of law including, but not limited to, leaves for adoption of a child, education, civilian military work, or to assume a temporary assignment in another agency.

(6) Elimination of the position will directly reduce state revenues or other income by more than would be saved by elimination of the position.

(d) Each department shall maintain for future independent audit all records on which the department relied in determining that any position or positions satisfied one or more of the criteria specified in paragraphs (1) to (6), inclusive, of subdivision (c).

(e) The only other exceptions to the abolishment required by subdivision (a) are those positions exempt from civil service or those instructional and instruction-related positions authorized for the California State University. No money appropriated by the subsequent Budget Act shall be used to pay the salary of any otherwise authorized state position that is abolished pursuant to this section.

(f) The Controller, no later than September 10 of each fiscal year, shall furnish the Department of Finance in writing a preliminary report of any authorized state positions that were abolished effective on the preceding July 1 pursuant to this section.

(g) The Controller, no later than October 15 of each fiscal year, shall furnish the Joint Legislative Budget Committee and the Department of Finance a final report on all positions that were abolished effective on the preceding July 1.

(h) Departments shall not execute any personnel transactions for the purpose of circumventing the provisions of this section.

(i) Each department shall include a section discussing its compliance with this section when it prepares its report pursuant to Section 13405.

(j) As used in this section, department refers to any department, agency, board, commission, or other organizational unit of state government that is empowered to appoint persons to civil service positions.

(k) This section shall become operative July 1, **2002**.