



**DEPARTMENT OF
FINANCE**
OFFICE OF THE DIRECTOR

EDMUND G. BROWN JR. • GOVERNOR
STATE CAPITOL ■ ROOM 1145 ■ SACRAMENTO CA ■ 95814-4998 ■ WWW.DDF.CA.GOV

May 11, 2017

Honorable Holly Mitchell, Chair
Senate Budget and Fiscal Review Committee

Attention: Mr. Mark Ibele, Staff Director (2)

Honorable Phil Ting, Chair
Assembly Budget Committee

Attention: Mr. Christian Griffith, Chief Consultant (2)

Amendment to Budget Bill Control Section 1.80 and Government Code Sections 16304 and 16304.1

Control Section 1.80 Language Update—It is requested that language be modified in Control Section 1.80 to clarify that appropriations are available for encumbrance or expenditure (see Attachment 1). Adding “or expenditure” clarifies departments do more than just encumbering all or part of an appropriation, and direct spending of the appropriation without encumbering funds in advance is also part of departments’ operational process. Additionally, referencing Government Code section 16304.1 clarifies the period for liquidating encumbrances after the encumbrance period ends.

Trailer Bill Language to Update Statute Clarifying Encumbrances and Expenditures—It is requested that Government Code sections 16304 and 16304.1 be amended to clarify current accounting and budgeting practices (see Attachment 2). Existing policy allows departments to encumber funds once the appropriation becomes effective. This is necessary for departmental daily operations. The proposal also clarifies the current practice of estimating encumbrances when the actual costs may not be known until later. Those estimated encumbrances may be adjusted during the liquidation period when the actual costs are known.

Finally, the proposed amendments to Government Code section 16304.1 makes clarifying non-substantive changes regarding the early reversion of unencumbered balances back to the fund balance when the Department of Finance determines that the purpose for which the appropriation was made is complete and a portion of the appropriation is deemed not necessary.

The effect of my requested action is reflected on the attachment.

If you have any questions or need additional information regarding this matter, please call Rupi Singh, Supervising Administrative Analyst, at (916) 445-3434 or Greg Bruss, Principal Program Budget Analyst, at (916) 445-5332.

MICHAEL COHEN

Director

By:

/s/ Amy M. Costa

AMY M. COSTA

Chief Deputy Director

Attachments

cc: Honorable Ricardo Lara, Chair, Senate Appropriations Committee
Attention: Mr. Mark McKenzie, Staff Director
Honorable Jim Nielsen, Vice Chair, Senate Budget and Fiscal Review Committee
Attention: Mr. Kirk Feely, Budget Fiscal Director
Honorable Lorena Gonzalez, Chair, Assembly Appropriations Committee
Attention: Mr. Pedro R. Reyes, Chief Consultant
Honorable Jay Obernolte, Vice Chair, Assembly Budget Committee
Attention: Ms. Cyndi Hillery, Staff Director
Honorable Richard Roth, Chair, Senate Budget and Fiscal Review Subcommittee No. 4
Honorable Jim Cooper, Chair, Assembly Budget Subcommittee No. 4
Mr. Mac Taylor, Legislative Analyst (4)
Mr. Craig Cornett, Senate President pro Tempore's Office (2)
Mr. Christopher W. Woods, Assembly Speaker's Office (2)
Mr. Seren Taylor, Director of Strategic Policy, Assembly Republican Leader's Office
Mr. Jim Richardson, Policy and Fiscal Director, Assembly Republican Leader's Office

"SEC 1.80 (a) The following sums of money and those appropriated by any other sections of this act, or so much thereof as may be necessary unless otherwise provided herein, are hereby appropriated and available for encumbrance or expenditure for the use and support of the State of California for the 2017–18 fiscal year beginning July 1, 2017, and ending June 30, 2018. All of these appropriations, unless otherwise provided herein, shall be paid out of the General Fund in the State Treasury and shall be available for liquidation of encumbrances in accordance with Government Code section 16304.1.

(b) All capital outlay appropriations and reappropriations, unless otherwise provided herein, are available as follows:

(1) Studies, preliminary plans, working drawings, performance criteria, and minor capital outlay appropriations are available for encumbrance or expenditure until June 30, 2018.

(2) Construction and design-build appropriations are available for encumbrance or expenditure until June 30, 2020, if allocated through fund transfer or approval to proceed to bid or approval to solicit design-build bids or proposals by the Department of Finance by June 30, 2018. Any funds not allocated by June 30, 2018, shall revert on July 1, 2018, to the fund from which the appropriation was made.

(3) All other capital outlay appropriations are available for encumbrance or expenditure until June 30, 2020.

(c) Whenever by constitutional or statutory provision the revenues or receipts of any institution, department, board, bureau, commission, officer, employee, or other agency, or any moneys in any special fund created by law therefor, are to be used for ~~salaries, support, or any proper~~ purpose, expenditures shall be made therefrom for any such purpose only to the extent of the amount therein appropriated, unless otherwise stated herein.

(d) Appropriations for purposes not otherwise provided for herein that have been heretofore made by any existing constitutional or statutory provision shall continue to be governed thereby."

GC 16304.

"An appropriation shall be immediately available for encumbrance or expenditure during the period specified therein, or, if not otherwise limited by law, for three years after the date upon which it first became available for encumbrance or expenditure. An appropriation containing the term "without regard to fiscal years" shall be available for encumbrance from year to year until expended.

An appropriation shall be deemed to be encumbered at the time and to the extent that a valid obligation against the appropriation is created. A valid obligation may be estimated consistent with the authority of the appropriation to account for funds on the same basis of the applicable expenditure authority, pursuant to sections 12460 and 13344. Corrections or adjustments to encumbrances made during the period specified above are permitted during the liquidation period pursuant to section 16304.1

As used in this code and in every other statute heretofore or hereafter enacted, the term "unexpended balance" shall be construed to mean "unencumbered balance."

Appropriations for the following purposes are exempt from limitations as to period of availability in any appropriation, and shall remain available from year to year until expended:

(a) Payment of interest and redemption charges on any portion of the bonded debt of the state.

(b) Transfers of money from any fund for the benefit of elementary schools, high schools, community colleges, the University of California, or any interest and sinking fund in the State Treasury.

(c) Money transferred to revolving funds specifically created by law, including, but not limited to, the Architecture Revolving Fund and the Water Resources Revolving Fund.

(d) Appropriations available for the acquisition of real property to the extent that such appropriations have been encumbered by the filing of condemnation proceedings on behalf of the State of California prior to the expiration of the period of availability of the appropriation.

(e) Money transferred to and expendable from funds other than the fund in which originally deposited, pursuant to the provisions of law earmarking or appropriating for expenditure certain classes of revenue or other receipts.

(f) Continuing provisions of law appropriating for specific purposes certain classes of revenue or other receipts, upon their deposit in a particular fund in the State Treasury or upon their collection by an agency of this state.

(Amended by Stats. 2000, Ch. 364, Sec. 1. Effective January 1, 2001.)"

GC 16304.1.

"Disbursements in liquidation of encumbrances may be made before or during the two years following the last day an appropriation is available for encumbrance, except in the case of a fund made up of federal funds. Disbursements in liquidation of encumbrances may be made before or during the four years following the last day an appropriation of federal funds is available for encumbrance. Whenever, during either liquidation period, the Director Department of Finance determines that the purpose project for which the appropriation was made is completed and that a portion of the appropriation is deemed not necessary for ~~disbursements~~, that portion shall, upon order of the Director Department of Finance, revert to and become a part of the fund from which the appropriation was made. Upon the expiration of two years, or four years in the case of a fund made up of federal funds, following the last day of the period of its availability for encumbrance, the undisbursed balance in any appropriation shall revert to and become a part of the fund from which the appropriation was made. Subsequent to reversion, any unpaid encumbrance against the appropriation may be paid from any current appropriations available for the same purposes.

To the extent that appropriations are exempt from limitations as to periods of availability under Section 16304, they shall not be subject to the provisions of this section.

(Amended by Stats. 1994, Ch. 726, Sec. 16. Effective September 22, 1994.)"



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Senate Budget and Fiscal Review Committee

Attention: Mr. Mark Ibele, Staff Director (2)

Honorable Phil Ting, Chair
Assembly Budget Committee

Attention: Mr. Christian Griffith, Chief Consultant (2)

Amendment to Budget Bill Control Section 3.60

It is requested that Control Section 3.60 be amended (see Attachment 1) to capture changes in state retirement contribution rates adopted by the California Public Employees' Retirement System (CalPERS) Board on April 18, 2017. In addition, Control Section 3.60 is being amended to allow the Department of Finance to make supplemental payments to CalPERS for the state's retirement contributions using Proposition 2 funding.

The reduction in employer contribution rates is a result of new hires entering the system under lower benefit formulas pursuant to the Public Employees' Pension Reform Act of 2013, greater than expected contributions to the system, and lower cost of living increases than estimated. The newly adopted state employer contribution rates result in total state costs of \$473,850,000, a decrease of \$100,563,000 from the \$574,413,000 included in the Governor's Budget. Of the \$100,563,000 decrease, the General Fund is \$67,231,000, special funds are \$19,306,000, and other nongovernmental cost funds are \$14,026,000. Additionally, it is requested that CalPERS' fourth quarter deferral be reduced by \$14,125,000 General Fund from the Governor's Budget to reflect the changes in retirement rates.

The net effect of these changes on the General Fund is a decrease of \$53,106,000 in fiscal year 2017-18 compared to Governor's Budget.

The effect of my requested action is reflected on the attachment.

If you have any questions or need additional information regarding this matter, please call Mary Halterman, Principal Program Budget Analyst, at (916) 445-3274.

MICHAEL COHEN

Director

By:

/s/ Amy M. Costa

AMY M. COSTA

Chief Deputy Director

Attachment

cc: Honorable Ricardo Lara, Chair, Senate Appropriations Committee
Attention: Mr. Mark McKenzie, Staff Director
Honorable Jim Nielsen, Vice Chair, Senate Budget and Fiscal Review Committee
Attention: Mr. Kirk Feely, Budget Fiscal Director
Honorable Lorena Gonzalez, Chair, Assembly Appropriations Committee
Attention: Mr. Pedro R. Reyes, Chief Consultant
Honorable Jay Obernolte, Vice Chair, Assembly Budget Committee
Attention: Ms. Cyndi Hillery, Staff Director
Honorable Nancy Skinner, Chair, Senate Budget and Fiscal Review Subcommittee No. 5
Honorable Jim Cooper, Chair, Assembly Budget Subcommittee No. 4
Mr. Mac Taylor, Legislative Analyst (4)
Mr. Craig Cornett, Senate President pro Tempore's Office (2)
Mr. Christopher W. Woods, Assembly Speaker's Office (2)
Mr. Seren Taylor, Director of Strategic Policy, Assembly Republican Leader's Office
Mr. Jim Richardson, Policy and Fiscal Director, Assembly Republican Leader's Office
Ms. Cheryl Eason, Chief Financial Officer, California Public Employees' Retirement System
Ms. Rose McAuliffe, Chief, California Public Employees' Retirement System
Mr. Michael Siu, Budget Manager, California Public Employees' Retirement System
Ms. Jennifer Osborn, Deputy Secretary, Fiscal Operations, Government Operations Agency

“SEC. 3.60. (a) Notwithstanding any other provision of law, the employers’ retirement contributions for the 2017–18 fiscal year that are chargeable to any item with respect to each state officer and employee who is a member of the Public Employees’ Retirement System (PERS) or the Judges’ Retirement System II and who is in that employment or office shall be the percentage of salaries and wages by state member category, as follows:

Miscellaneous, First Tier	28.9%	<u>28.325%</u>
California State University, Miscellaneous, First Tier	28.9%	<u>28.325%</u>
Miscellaneous, Second Tier	28.9%	<u>28.325%</u>
State Industrial	21.9%	<u>19.527%</u>
State Safety	21.4%	<u>19.402%</u>
Peace Officer/Firefighter	45.1%	<u>42.598%</u>
California State University, Peace Officer/Firefighter	45.1%	<u>42.598%</u>
Highway Patrol	53.5%	<u>52.785%</u>
Judges’ Retirement System II	23.7%	<u>26.409%</u>

The Director of Finance may adjust amounts in any appropriation item, or in any category thereof, as a result of changes from amounts budgeted for employer contributions for 2017–18 fiscal year retirement benefits to achieve the percentages specified in this subdivision. Beginning in the 2013–14 fiscal year, adjustments to the California State University (CSU) rates are applied to the actual pensionable 2013–14 fiscal year payroll, which is \$2,307,876,000, as identified by the Controller. This process establishes pension funding adjustments through this section for CSU, as reflected in provisional language in Item 6610-001-0001. This results in pension funding for CSU of \$621,483,000 General Fund for the 2016–17 fiscal year. These amounts also will be part of the total appropriation in Item 6610-001-0001 of the Budget Act of 2017.

(b) Notwithstanding any other provision of law, the Director of Finance shall require retirement contributions computed pursuant to subdivision (a) to be offset by the Controller with surplus funds in the Public Employees’ Retirement Fund, employer surplus asset accounts.

(c) Notwithstanding any other provision of law, for purposes of calculating the “appropriations subject to limitation” as defined in Section 8 of Article XIII B of the California Constitution, the appropriations shall be deemed to be the amounts remaining after the adjustments required by subdivisions (a) and (b) are made.

(d) Of the percentage of salaries and wages by state member categories identified in subdivision (a), the following percentages are estimated to be the result of the increased employee contributions pursuant to Chapter 296 of the Statutes of 2012 (AB 340), known as the California Public Employees’ Pension Reform Act of 2013, and will be directed toward the state’s unfunded pension liability:

Miscellaneous, First Tier	0.082%	<u>0.098%</u>
California State University, Miscellaneous, First Tier	0.082%	<u>0.098%</u>
Miscellaneous, Second Tier	0.889%	<u>0.098%</u>

State Industrial 0.881%
State Safety 1.182%
Peace Officer/Firefighter 1.647%
California State University, Peace Officer/Firefighter 1.647%
Highway Patrol 1.319%

The contributions to the unfunded liability, as a result of the percentages of salaries and wages in this subdivision, are estimated to be \$109,903,000 \$111,730,000 (\$76,824,000 \$77,707,000 General Fund) for the 2017–18 fiscal year.

(e) The Director of Finance may adjust the percentage levels of the employers' retirement contributions listed in subdivisions (a) and (d) as a result of rates provided by the Board of Administration of the Public Employees' Retirement System. The Director of Finance shall notify the Controller by executive order of adjustments made pursuant to this subdivision. Within 30 days of making an adjustment pursuant to this subdivision, the Director of Finance shall report the adjustment in writing to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees in each house of the Legislature that consider appropriations.

(f)(1) In addition to the employers' retirement contributions listed in subdivisions (a) and (d), the Department of Finance may direct the Controller to transfer up to \$427,000,000 General Fund to supplement the state's retirement contributions in fiscal year 2017-18.

(2) The Department of Finance shall direct the Controller to transfer the amount in paragraph (1) to either of the following:

- (A) The Public Employees' Retirement Fund, or
- (B) The Surplus Money Investment Fund, for repayment of principal and interest of a cash loan that was made to supplement the state's retirement contributions.

(3) The supplemental payment described herein is for unfunded liabilities for state-level pension plans in excess of current base amounts for fiscal year 2017-18. Therefore, any amounts transferred to funds identified in paragraph (2) constitutes an obligation pursuant to subclause (IV) of clause (ii) of subparagraph (B) of paragraph (1) of subdivision (c) of Section 20 of Article XVI of the California Constitution.

(4) The Department of Finance shall provide the Controller a schedule of the timing and amounts to be used for purposes of this section."



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Honorable Phil Ting, Chair
Assembly Budget Committee

Attention: Mr. Christian Griffith, Chief Consultant (2)

Amendment to Budget Bill Control Section 12.00

It is requested that Control Section 12.00 be amended to revise the State Appropriations Limit (SAL). Pursuant to Article XIII B of the California Constitution, the fiscal year 2017-18 SAL is estimated to be \$103,390,000,000 at May Revision. The revised limit is the result of applying the growth factor of 4.22 percent. The revised 2017-18 limit is \$399 million above the \$102,991,000,000 estimated in January. Control Section 12.00 is proposed to be amended as follows:

"SEC. 12.00. For the purposes of Article XIII B of the California Constitution, there is hereby established a state "appropriations limit" of ~~\$102,991,000,000~~ \$103,390,000,000 for the 2017-18 fiscal year.

Any judicial action or proceeding to attack, review, set aside, void, or annul the "appropriations limit" for the 2017-18 fiscal year shall be commenced within 45 days of the effective date of this act."

The effect of my requested action is reflected on the attachment.

If you have any questions or need additional information regarding this matter, please call Carla Castañeda, Principal Program Budget Analyst, at (916) 445-5332.

MICHAEL COHEN
Director
By:

/s/ Amy M. Costa

AMY M. COSTA
Chief Deputy Director

Attachment

cc: On following page

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Honorable Jim Nielsen, Vice Chair, Senate Budget and Fiscal Review Committee
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Honorable Lorena Gonzalez, Chair, Assembly Appropriations Committee
Attention: Mr. Pedro R. Reyes, Chief Consultant
Honorable Jay Obernolte, Vice Chair, Assembly Budget Committee
Attention: Ms. Cyndi Hillery, Staff Director
Honorable Richard Roth, Chair, Senate Budget and Fiscal Review Subcommittee No. 4
Honorable Jim Cooper, Chair, Assembly Budget Subcommittee No. 4
Mr. Mac Taylor, Legislative Analyst (4)
Mr. Craig Cornett, Senate President pro Tempore's Office (2)
Mr. Christopher W. Woods, Assembly Speaker's Office (2)
Mr. Seren Taylor, Director of Strategic Policy, Assembly Republican Leader's Office
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Amendment to Budget Bill Control Section 35.50

It is requested that Control Section 35.50 be amended as follows to reflect updated calculations at May Revision:

"SEC. 35.50. (a) For purposes of paragraph (1) of subdivision (f) of Section 10, and subdivision (g) of Section 12, of Article IV of the California Constitution, "General Fund revenues" means the total resources available to the General Fund for a fiscal year before any transfer to the Budget Stabilization Account.

(b) For purposes of subdivision (g) of Section 12 of Article IV of the California Constitution, the estimate of General Fund revenues for the 2017-18 fiscal year pursuant to this act, as passed by the Legislature, is ~~\$126,210,000,000~~ \$128,410,000,000.

(c) For purposes of paragraph (2) of subdivision (a) of Section 20 of Article XVI of the California Constitution, "General Fund revenues" shall be defined as revenues and transfers before any transfer to the Budget Stabilization Account.

(d) Pursuant to subdivision (h) of Section 20 of Article XVI of the California Constitution, the following estimates are provided:

(1) For purposes of paragraph (2) of subdivision (a) of Section 20 of Article XVI, the sum equal to 1.5 percent of General Fund revenues for the 2017-18 fiscal year is ~~\$1,878,000,000~~ \$1,915,000,000.

(2) For purposes of clause (ii) of subparagraph (B) of paragraph (1) of subdivision (b) of Section 20 of Article XVI, capital gain revenues that exceed 8 percent of General Fund proceeds of taxes for the 2017-18 fiscal year is ~~\$865,000,000~~ \$2,897,000,000.

(3) For purposes of subparagraph (F) of paragraph (1) of subdivision (b) of Section 20 of Article XVI, the amount of transfer to the Budget Stabilization Account in the 2017-18 fiscal year is ~~\$1,156,000,000~~ \$1,775,000,000.

(4) For purposes of clause (ii) of subparagraph (B) of paragraph (2) of subdivision (b) of Section 20 of Article XVI, the updated estimate of capital gain revenues that exceeds 8 percent of General Fund proceeds of taxes for the 2016-17 fiscal year is ~~\$1,569,000,000~~ \$2,323,000,000.

(5) For purposes of subparagraph (G) of paragraph (2) of subdivision (b) of Section 20 of Article XVI, the amount (first true up) of transfer to the Budget Stabilization Account for the 2016-17 fiscal year is ~~\$50,000,000~~ \$236,000,000.

(6) For purposes of clause (ii) of subparagraph (B) of paragraph (2) of subdivision (b) of Section 20 of Article XVI, the updated capital gain revenues that exceed 8 percent of General Fund proceeds of taxes for the 2015-16 fiscal year is ~~\$2,322,000,000~~ \$2,311,000,000.

(7) For purposes of subparagraph (G) of paragraph (2) of subdivision (b) of Section 20 of Article XVI, the amount (second true up) of transfer to the Budget Stabilization Account for the 2015-16 fiscal year is ~~\$109,000,000~~ \$280,000,000."

The effect of my requested action is reflected on the attachment.

If you have any questions or need additional information regarding this matter, please call Carla Castañeda, Principal Program Budget Analyst, at (916) 445-5332.

MICHAEL COHEN

Director

By:

/s/ Amy M. Costa

AMY M. COSTA

Chief Deputy Director

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