



May 14, 2020

Honorable Holly Mitchell, Chair
Senate Budget and Fiscal Review Committee

Attention: Joe Stephenshaw, Staff Director (2)

Honorable Phil Ting, Chair
Assembly Budget Committee

Attention: Christian Griffith, Chief Consultant (2)

Amendment to and Addition of Various Budget Bill Items and Control Sections, Support, Employee Compensation

On March 4, 2020, the Governor declared a state of emergency to help the state prepare and respond to COVID-19. The impact on the state has resulted in a severe drop in economic activity, with corresponding negative effects on anticipated revenues. As a result of these conditions, all budget change proposals were reevaluated within the context of a workload budget based on the merits of each proposal and ultimately subject to the availability of funding.

As a result, the Administration is modifying specified requests within the Employee Compensation area that were included in the 2020-21 Governor's Budget. Modifications could include either reductions or increases to specific items or programs, or delaying substantial implementation of a new program or activity. Additional details on modified requests are listed below and on **Attachment 1 (see row 1 through 4)**. To the extent there are corresponding Budget Bill language changes to modified proposals, these are detailed in **Section 1 of Attachment 2**. Although these proposals have substantial merit and may be resubmitted for future consideration, we must pivot to prioritize immediate COVID-19 related needs.

As noted above, pursuant to Budget Letter 20-08, the Department of Finance conducted a thorough assessment of the most critical funding needs within the general framework of workload budget, as defined in Government Code Section 13308.05, and based upon revised expected revenues. This assessment not only resulted in the changes described in the preceding paragraph, but also requires a number of new adjustments and requests that are respectfully submitted and detailed below. Funding detail for these adjustments can be found in **Attachment 1 (see row 5 through 6)**, and any related Budget Bill changes associated with these adjustments can be found in **Section 2 of Attachment 2**. If necessary, additional information may be included in a Budget Change Proposal or other back-up documentation submitted to the Legislature.

Modified Governor's Budget Proposals:

Augmentation for Employee Compensation: May Revision Employee Compensation Adjustments—It is requested that Item 9800-001-0001 be decreased by \$393,428,000, Item 9800-001-0494 be decreased by \$304,701,000, and Item 9800-001-0988 be decreased by \$150,077,000 to reflect the suspension of various employee compensation increases due to the fiscal impact of the pandemic, natural changes to enrollment in health and dental plans, and updated employment information for rank-and-file and excluded employees. Additionally, while these figures include estimated health premium rates, we note final health rates are not expected to be adopted by the California Public Employees' Retirement System Board of Administration until June 2020. **(See row 1 of Attachment 1)**

Augmentation for Employee Compensation: Affordable Care Act Penalty Assessment Budget Bill Language—It is requested that provisional language in Item 9800-001-0001 be amended to ensure the amount appropriated in this item is also available for penalties the state may be assessed by other government entities where an individual healthcare mandate has been enacted and the state has a reporting obligation, as it relates to the federal Patient Protection and Affordable Care Act. **(See row 2 of Attachment 1)**

Control Section 3.61: Contribution to Prefund Other Postemployment Benefits—It is requested that Control Section 3.61 be amended to reflect the revised employers' contribution for prefunding other post-employment benefits for Bargaining Unit 10 employees for fiscal year 2020-21 as a result of updated pensionable compensation and actuarial valuation information. **(See row 3 of Attachment 1)**

Control Section 31.00: Administrative Procedures for Salaries and Wages—It is requested that Control Section 31.00 be amended to reflect the proper salary threshold as a result of suspending employee compensation adjustments. **(See row 4 of Attachment 1)**

New Requests for May Revision:

Control Section 3.90: Reduction for Employee Compensation—It is requested that Control Section 3.90 be added to provide Finance with the authority to make the necessary reductions to departmental budgets to reflect reductions in employee compensation to be achieved through collective bargaining. **(See row 5 of Attachment 1)**

Control Section 3.91: Reduction for Employee Compensation (Suspensions)—It is requested that Control Section 3.91 be added to suspend a majority of collectively bargained salary increases that were to become effective during 2020-21. **(See row 6 of Attachment 1)**

If you have any questions or need additional information regarding this matter, please contact the appropriate Principal Program Budget Analyst for that subject matter area.

KEELY MARTIN BOSLER
Director
By:

/s/ Vivek Viswanathan

VIVEK VISWANATHAN
Chief Deputy Director

Attachment

cc: Honorable Anthony Portantino, Chair, Senate Appropriations Committee
Attention: Mark McKenzie, Staff Director
Honorable Jim Nielsen, Vice Chair, Senate Budget and Fiscal Review Committee
Attention: Kirk Feely, Budget Fiscal Director
Honorable Lorena Gonzalez, Chair, Assembly Appropriations Committee
Attention: Jay Dickenson, Chief Consultant
Honorable Jay Obernolte, Vice Chair, Assembly Budget Committee
Attention: Cyndi Hillery, Budget Director
Honorable Anna M. Caballero, Chair, Senate Budget and Fiscal Review Subcommittee No. 4
Honorable Jim Cooper, Chair, Assembly Budget Subcommittee No. 4
Gabriel Petek, Legislative Analyst (4)
Christopher W. Woods, Senate President pro Tempore's Office (2)
Jason Sisney, Assembly Speaker's Office (2)
Jayme Chick, Deputy Chief of Staff, Policy, Assembly Republican Leader's Office
Alex Khan, Chief Consultant, Assembly Republican Leader's Office
Justyn Howard, Deputy Secretary of Fiscal Policy and Administration, Government
Operations Agency
Eraina Ortega, Director, Department of Human Resources
Anthony Crawford, Chief, Office of Financial Management and Economic Research,
Department of Human Resources
Dave Ide, Manager, Office of Financial Management and Economic Research Department
of Human Resources

GB MODIFIED ISSUES

Row	Entity	Department	BR Title	General Fund	Other Funds	Positions	BBL	TBL	Assembly Consultant	Senate Consultant	LAO Consultant
1	BU 9800	Augmentation for Employee Compensation	May Revision Employee Compensation Adjustments	-393,428,000	-454,778,000	0.0	Yes	No	GM	AL	GBN
2	BU 9800	Augmentation for Employee Compensation	Affordable Care Act Penalty Assessment Budget Bill Language	0	0	0.0	Yes	No	GM	AL	GBN
3	C.S. 3.61	CS 03.61 Contribution to Prefund Other Postemployment Benefits	Contribution to Prefund Other Postemployment Benefits	0	0	0.0	Yes	No	MM	AL	CC
4	C.S. 31.00	CS 31.00 Budget Act Administrative Procedures for Salaries and Wages	Reduce Salary Threshold	0	0	0.0	Yes	No	GM	AL	CC
Totals, GB Modified Issues				-393,428,000	-454,778,000	0.0					

NEW MR BCP ISSUES

Row	Entity	Department	BR Title	General Fund	Other Funds	Positions	BBL	TBL	Assembly Consultant	Senate Consultant	LAO Consultant
5	C.S. 3.90	CS 03.90 Reduction for Employee Compensation	Employee Compensation Reduction	0	0	0.0	Yes	No	GM	AL	CC
6	C.S. 3.91	CS 03.91 Reduction for Employee Compensation (Suspensions)	Reduction for Employee Compensation (Suspension)	0	0	0.0	Yes	No	MM	AL	CC
Totals, New MR BCP Issues				0	0	0.0					

Section 1

Provisional changes for modified Governor's Budget proposals:

1. Augmentation for Employee Compensation: Affordable Care Act Penalty Assessment **(See Row 2 of Attachment 1)**. To effectuate the change of this proposal, the following Budget Bill language changes are necessary:

Provision 11 of Item 9800-001-0001 is amended to read:

"11. The amount appropriated in Schedule (2) of this item shall be available for penalties the state may be assessed under the federal Patient Protection and Affordable Care Act (P.L. 111-148) or by another government entity where an individual health care mandate has been enacted and the state has a reporting obligation.

(a) The Director of Finance shall identify the specific amounts to be advanced and paid from the General Fund to the Internal Revenue Service, or another government entity, for payment of those penalties and notify the Controller of these amounts. Upon notification, the Controller shall make penalty assessment payments from this item.

(b) Notwithstanding any other law, the Department of Finance may transfer amounts in any appropriation item, or in any category thereof, funds necessary to reimburse this item for costs directly related to each state agency, department, or board's portion of employer reporting penalties that are attributable to those departments, as identified by the Controller. Furthermore, notwithstanding Section 22150 of the Government Code and Section 66606.2 of the Education Code, this provision shall also apply to the California State University. The Department of Finance shall provide the Controller a schedule of the timing and amounts to be transferred for purposes of this provision.

(c) Within 30 days after making any adjustment pursuant to this provision, the Director of Finance shall report the penalties assessed to the state 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."

2. Control Section 3.61: Contribution to Prefund Other Postemployment Benefits **(See Row 3 of Attachment 1)**. To effectuate the change of this proposal, the following Budget Bill language changes are necessary:

"SEC. 3.61. Contribution to Prefund Other Postemployment Benefits.

(a) Notwithstanding any other law, the employers' contribution for prefunding other postemployment benefits for the 2020–21 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, the Judges' Retirement System, the Judges' Retirement System II, or the Legislators' Retirement System and who is in

that employment or office shall be the monthly dollar amount or the percentage of pensionable compensation by bargaining unit, retirement category, fund source, or state office, department, division, board, bureau, commission, organization, or agency, as follows:

Bargaining Units 1, 3, 4, 11, 14, 15, 17, 20, and 21, Service Employees International Union..... 3.5% of pensionable compensation.

Bargaining Unit 2, California Attorneys, Administrative Law Judges, and Hearing Officers in State Employment..... 2.0% of pensionable compensation.

Bargaining Unit 5, California Association of Highway Patrolmen..... 6.8% of pensionable compensation.

Bargaining Unit 6, California Correctional Peace Officers Association..... 4.0% of pensionable compensation.

Bargaining Unit 7, California Statewide Law Enforcement Association.....4.0% of pensionable compensation.

Bargaining Unit 8, California Department of Forestry Firefighters..... 4.4% of pensionable compensation.

Bargaining Unit 9, Professional Engineers in California Government..... 2.0% of pensionable compensation.

Bargaining Unit 10, California Association of Professional Scientists..... ~~2.8%~~ 2.4% of pensionable compensation.

Bargaining Unit 12, International Union of Operating Engineers..... 4.6% of pensionable compensation.

Bargaining Unit 13, International Union of Operating Engineers..... 3.9% of pensionable compensation.

Bargaining Unit 16, Union of American Physicians and Dentists..... 1.4% of pensionable compensation.

Bargaining Unit 18, California Association of Psychiatric Technicians..... 4.0% of pensionable compensation.

Bargaining Unit 19, American Federation of State, County, and Municipal Employees..... 3.0% of pensionable compensation.

Exempt and excluded employees with a collective bargaining identification designation of "E" 2.4% of pensionable compensation.

State employees of the Judicial Branch (excluding justices)..... 2.3% of pensionable compensation.

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 the employers' contributions for prefunding other postemployment benefits for the 2020–21 fiscal year to achieve the percentages specified in this subdivision.

(b) Notwithstanding any other 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 subdivision (a) are made.

(c) The Director of Finance may adjust the percentage levels of the employers' contribution for prefunding other postemployment benefits listed in subdivision (a) in accordance with either of the following:

(1) Labor agreements or other legislation approved by the Legislature.

(2) For employees excluded from collective bargaining, in accordance with salary and benefit schedules established by the Department of Human Resources.

(d) The Director of Finance shall notify the Controller by executive order of adjustments made pursuant to subdivision (c). The executive order shall be submitted not sooner than 30 days after notification of the adjustments in writing to the chairpersons of the fiscal committees in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine."

3. Control Section 31.00: Administrative Procedures for Salaries and Wages (**See Row 4 of Attachment 1**). To effectuate the change of this proposal, the following Budget Bill language changes are necessary:

"SEC. 31.00. (a) The appropriations made by this act shall be subject, unless otherwise provided by law, to Section 13320 and Article 2.5 (commencing with Section 13332) of Chapter 3 of Part 3 of Division 3 of Title 2 of the Government Code, requiring expenditures to be made in accordance with the allotments and other provisions of departmental budgets approved by the Department of Finance.

(b) The departmental budgets shall authorize, in the manner that the Department of Finance shall prescribe, all established positions whose continuance for the year is approved. Authorization by the Department of Finance is required for (1) the reclassification of any position to or from a monthly maximum salary of ~~\$12,116~~ \$11,258 or above, regardless of range, (which is

equivalent to the monthly maximum salary of the Information Technology Manager II classification as of July 1, 2020) and (2) the establishment of any new position not (A) specifically identified in the Governor's Budget and approved by the Legislature or (B) approved by the Legislature and specifically documented in the Final Change Book or enacted legislation. Additionally, authorization by the Department of Finance is required for (1) the reclassification of any non-Career Executive Assignment classification to a Career Executive Assignment classification or (2) the administrative establishment of any Career Executive Assignment classification.

(c) The Department of Finance shall, for a period of not less than two years, keep and preserve documentation concerning position changes approved as specified in subdivision (b). The Department of Finance may use electronic means to keep and preserve this documentation.

(d) It is the intent of the Legislature that all positions administratively established pursuant to this section that are intended by the administration to be ongoing be submitted to the Legislature for approval through the regular budget process as soon as possible. All positions administratively established pursuant to this section during the 2020–21 fiscal year shall terminate on June 30, 2021, except for those positions that have been (1) approved by the Legislature as part of the regular budget process for the 2021–22 fiscal year as new positions or (2) approved by the Department of Finance after the 2021–22 Governor's Budget submission to the Legislature and subsequently reported to the Legislature prior to July 1, 2021. The positions identified in (2) above may be reestablished by the Department of Finance during the 2021–22 fiscal year, provided that these positions are shown in the Governor's Budget for the 2022–23 fiscal year as submitted to the Legislature, and provided that these positions do not result in the reestablishment of positions deleted by the Legislature through the budget process for the 2021–22 fiscal year. The Department of Finance shall provide written notification to the Chairperson of the Joint Legislative Budget Committee within 30 days of the reestablishment of positions approved in the 2021–22 fiscal year pursuant to (2) above.

(e) Moneys appropriated in the 2020–21 fiscal year may be expended for increases in salary ranges or any other employee compensation action only if appropriated for that purpose, or if the Department of Finance certifies to the salary and other compensation-setting authority, prior to the adoption of the action, that funds are available to pay the increased salary or employee compensation resulting from the action. Prior to certification, the Department of Finance shall determine whether the increase in salary range or employee compensation action will require supplemental funding in the 2021–22 fiscal year. If the Department of Finance determines that supplemental funding will be required, the department may certify only if it notifies in writing, at least 30 days before, the chairpersons of the committees in each house of the Legislature that consider appropriations and the Chairperson of the Joint Legislative Budget

Committee, or a lesser time which the chairperson of the joint committee, or his or her designee, determines.

(f) A certification on a payroll claim that expenditures therein are in accordance with current budgetary provisions as approved by the Department of Finance shall be sufficient evidence to the Controller that these expenditures comply with this section.

(g) Requests to continue administratively established positions as ongoing positions pursuant to subdivision (d) shall include information on the date the positions were administratively established. This information shall be included in the administration's budget change proposals and finance letters. If the administration requests to establish new positions in the 2021–22 fiscal year, and subsequently decides to administratively establish the positions in the 2020–21 fiscal year, the Department of Finance shall provide written notification to the Chairperson of the Joint Legislative Budget Committee within 30 days of the administrative establishment of the positions.

(h) This section applies to all state agencies, departments, boards, bureaus, and commissions."

Section 2

Provisional changes for new May Revision Budget Change Proposals:

1. Control Section 3.90: Reduction for Employee Compensation (**See Row 5 of Attachment 1**). Add the following Control Section:

SEC. 3.90. (a) Notwithstanding any other provision of this act, each item of appropriation in this act shall be reduced, as appropriate, to reflect a reduction in employee compensation to be achieved through all collective bargaining agreements and reductions for non-represented employees (utilizing existing authority for the administration to adjust compensation for non-represented employees) in the amounts of \$1,447,542,000 from General Fund items and \$1,396,860,000 from items relating to other funds. The Director of Finance shall allocate the necessary reductions to each item of appropriation to accomplish the employee compensation reductions required by this section.

(b) If a reduction in employee compensation is not achieved through all collective bargaining agreements by July 1, 2020, the Director of Finance shall reduce employee compensation for members of all bargaining units without such a collective bargaining agreement; the reductions in employee compensation shall not exceed 10 percent of the compensation established for these employees, as necessary to achieve the reductions required by this section.

2. Control Section 3.91: Reduction for Employee Compensation (Suspensions)
(See Row 6 of Attachment 1). Add the following Control Section to the Budget Bill language:

SEC. 3.91. Absent additional federal funds and due to the significant economic impacts of the COVID-19 Recession, only those items where funding is specifically appropriated within Item 9800 of this act will be effective. In accordance with Sections 3517.6, 3517.61, and 19827 of the Government Code, notwithstanding any other provision of law, the economic provisions of existing memoranda of understanding (MOU) for represented employees and employees excluded or exempt from collective bargaining, which require the expenditure of funds for increased salaries and wages (general salary increases, general wage increase, special salary adjustments, pay differentials, etc.) that were to become effective at any point during the 2020-21 fiscal year, and are not specifically identified in Item 9800, are hereby suspended. The remainder of an MOU, including economic terms of the agreement not specifically related to the various pay items listed above, such as the amount necessary for the payment of compensation and employee benefits that were in effect prior to the 2020-21 fiscal year, shall continue in full effect, subject to the reductions in employee compensation as required by Control Section 3.90.