

AMENDED IN SENATE APRIL 28, 2004

SENATE BILL

No. 1735

Introduced by Senators Figueroa and Aanestad
(Coauthor: Assembly Member Correa)

February 20, 2004

An act to add Sections 12439.5 and 16321 to the Government Code, relating to state offices.

LEGISLATIVE COUNSEL'S DIGEST

SB 1735, as amended, Figueroa. Boards: Department of Consumer Affairs.

(1) Existing law provides for the establishment and funding of various boards under the jurisdiction of the Department of Consumer Affairs, and establishes the Division of Investigation in the department.

Existing law requires, with certain exceptions, the Controller to abolish any state position that is vacant for 6 monthly pay periods. The Director of Finance may authorize the reestablishment of any positions abolished by the Controller pursuant to these provisions under specified conditions.

The Budget Act of 2003 provides for the abolishment of a specified number of permanent positions from departments including all boards and commissions of the state, as determined by the Director of Finance, which may include vacant positions abolished by the Controller as described above. The act authorizes the Department of Finance to reestablish any position eliminated as a result of these provisions, or reduce the total number of positions to be abolished, under specified circumstances.

This bill would ~~exempt from the provisions requiring the abolishment of vacant positions any position on any board under the~~

~~jurisdiction of the Department of Consumer Affairs that is funded solely from non-General Fund sources, or in the Division of Investigation in the department. It would provide that any position on a board under the jurisdiction of the department, or in the division, that was abolished pursuant to these provisions prior to January 1, 2004, shall be reestablished by the Director of Consumer Affairs to the extent that non-General Fund moneys are available for that purpose. It would also require the Director of Consumer Affairs to provide to the Legislature information on all staff and appointment vacancies for boards under the jurisdiction of the department, and the division abolished under these provisions, within 30 days of receiving the Legislature's request for that information.~~

The bill would prohibit the Director of Finance from refusing to authorize the filling of a vacancy in any staff position on a board under the jurisdiction of that department or in the division unless the Director of Finance has made a finding based upon substantial evidence that there are insufficient non-General Fund resources to fill the position.

(2) Pursuant to existing law, the civil administration of the laws of the state is vested in the Governor, who is required to supervise the official conduct of all executive and ministerial officers and to see that all offices are filled and their duties performed.

This bill would specify that the provisions of specified executive orders of the Governor with respect to the hiring of state employees shall not apply to any board under the jurisdiction of the Department of Consumer Affairs nor to the Division of Investigation within the department.

(3) Existing law provides that moneys may be loaned from one state fund or account to other state funds or accounts, subject to specified conditions.

This bill would prohibit non-General Fund moneys deposited in any fund supporting a board under the jurisdiction of the Department of Consumer Affairs from being loaned to, or being used to secure a loan to, the General Fund. It would require the Director of Finance to provide a schedule for all loans of funds supporting boards under the jurisdiction of the Department of Consumer Affairs to the General Fund, which are required to be repaid in full.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



The people of the State of California do enact as follows:

1 SECTION 1. Section 12439.5 is added to the Government
2 Code, to read:

3 ~~12439.5. (a) Section 12439 shall not apply to any position on~~
4 ~~any board under the jurisdiction of the Department of Consumer~~
5 ~~Affairs that is funded solely from non-General Fund sources, or to~~
6 ~~the Division of Investigation within the department.~~

7 ~~(b) (1) Any position on a board, or in the division, described~~
8 ~~in subdivision (a) that was abolished pursuant to Section 12439~~

9 *12439.5. (a) (1) Any position on a board, that was abolished*
10 *pursuant to Section 4.10 of the Budget Act of 2003 or pursuant to*
11 *Section 12439 prior to January 1, 2004, shall be reestablished to*
12 *the extent that non-General Fund moneys are available for that*
13 *purpose.*

14 (2) The Director of Finance may not refuse to reestablish a
15 position abolished as described in paragraph (1) or pursuant to his
16 or her own action, or to authorize the filling of a vacancy in any
17 ~~staff position, on a board, or in the division, described in~~
18 ~~subdivision (a) staff position on a board unless the director has~~
19 made a finding based upon substantial evidence that there are
20 insufficient non-General Fund resources to fill the position.

21 ~~(e)~~
22 (b) The Director of Consumer Affairs shall provide to the
23 Legislature information on all staff and appointment vacancies for
24 ~~boards, and the division, described in subdivision (a), within 30~~
25 *boards within 30 days of receiving the Legislature’s request for*
26 *that information.*

27 ~~(d)~~
28 (c) The provisions of Executive Order D-70-03 ~~and~~, Executive
29 Order D-71-03, *and Executive Order S-3-03* shall not apply to any
30 board under the jurisdiction of the Department of Consumer
31 Affairs, nor to the Division of Investigation within the department.

32 SEC. 2. Section 16321 is added to the Government Code, to
33 read:

34 16321. (a) Notwithstanding any other provision of law, no
35 non-General Fund moneys deposited in any fund or account
36 supporting a board under the jurisdiction of the Department of
37 Consumer Affairs may be loaned to, or used to secure a loan to, the
38 General Fund.



1 (b) The Director of Finance shall provide a schedule for all
2 loans of funds supporting boards under the jurisdiction of the
3 Department of Consumer Affairs to the General Fund, which are
4 required to be repaid in full.

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