

AMENDED IN SENATE AUGUST 17, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1699**

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**Introduced by Assembly Member Hernandez  
(Principal coauthor: Assembly Member Hayashi)  
(Coauthors: Assembly Members Beall, Blumenfield, Eng, Furutani,  
Jones, Lieu, Ma, Monning, Portantino, Saldaña, Skinner,  
Torlakson, Torres, and Torrico)**

February 1, 2010

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~~An act to add Section 1232 to the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~ *An act to add Section 1232 to, and to add Chapter 1.5 (commencing with Section 16330) to Part 2 of Division 4 of Title 2 of, the Government Code, and to add Section 9400.5 to the Welfare and Institutions Code, relating to interim appropriations, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1699, as amended, Hernandez. ~~State employees: compensation. Interim appropriations.~~

*(1) The California Constitution requires the Legislature to pass a budget bill by June 15 of each year for the fiscal year commencing on July 1. Existing law provides that no state officer or employee shall be deemed to have a break in service or to have terminated his or her employment, for any purpose, or to have incurred any change in his or her authority, status, or jurisdiction or in his or her salary or other conditions of employment, solely because of the failure to enact a Budget Act for a fiscal year prior to the beginning of that fiscal year. Under*

*the California Constitution, money may be drawn from the Treasury only through an appropriation made by law and upon a Controller's duly drawn warrant.*

*This bill would continuously appropriate from the General Fund and other specified funds to the Controller an amount necessary for the payment of compensation and employee benefits to state employees, as defined, for work performed on or after July 1 of a fiscal year for which no budget has been enacted.*

*This bill would specify, if a memorandum of understanding is in effect that has been approved by the Legislature, that the compensation and contribution for employee benefits for represented state employees be at a rate consistent with the memorandum of understanding and, for state employees excluded from collective bargaining, at the rate approved by the Department of Personnel Administration prior to the commencement of the fiscal year for which a Budget Act has not been enacted. The bill would require, if a memorandum of understanding is not in effect for represented state employees and the department has not approved a compensation package for state employees excluded from collective bargaining, that the compensation and contribution for employee benefits for represented state employees and state employees excluded from collective bargaining be at the rate in effect at the expiration of the last fiscal year for which a budget was enacted.*

*(2) Existing law establishes standards for the use of personal services contracts. Existing law prohibits the use of state funds to reimburse a state contractor for any costs incurred to assist, promote, or deter union organizing. For the purposes of that provision, "state contractor" is defined as any employer that receives state funds for supplying goods or services pursuant to a written contract with the state or any of its agencies.*

*This bill would continuously appropriate from the fund from which a state contractor received compensation in the prior fiscal year is compensated to the Controller the amount necessary for payment of contract obligations to a state contractor that provides goods or services to the state until the Budget Act of that fiscal year is enacted. The bill would provide that if payments are made to a contractor pursuant to that provision, the first payment shall be made on July 15, with payments to be made on the 15th of each month thereafter until enactment of the Budget Act.*

*(3) Under existing law, the California Department of Aging administers the federal Older Americans Act in California. Pursuant*

*to this federal act and the Mello-Granlund Older Californians Act, the department allocates federal funds, in accordance with prescribed funding formulas, to area agencies on aging in order to provide an array of services to seniors.*

*This bill would continuously appropriate from the General Fund, unallocated special funds, federal funds, and any other fund from which area agencies on aging are compensated to the Controller the amount necessary for the payment of the amount necessary to pay area agencies on aging the sums necessary for the administration of programs under their jurisdiction, including both state and federal funds used for the provision of services and program administration. The bill would provide that if payments are made to area agencies on aging pursuant to that provision, the first payment would be made on July 15, with payments to be made on the 15th of each month thereafter until enactment of the Budget Act.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

~~The California Constitution requires the Legislature to pass a budget bill by June 15 of each year for the fiscal year commencing on July 1. Existing law provides that no state officer or employee shall be deemed to have a break in service or to have terminated his or her employment, for any purpose, or to have incurred any change in his or her authority, status, or jurisdiction or in his or her salary or other conditions of employment, solely because of the failure to enact a Budget Act for a fiscal year prior to the beginning of that fiscal year. Under the California Constitution, money may be drawn from the Treasury only through an appropriation made by law and upon a Controller's duly drawn warrant.~~

~~This bill would continuously appropriate from the General Fund and other specified funds to the Controller an amount necessary for the payment of compensation and employee benefits to state employees, as defined, for work performed on or after July 1 of a fiscal year for which no budget has been enacted.~~

~~This bill would specify, if a memorandum of understanding is in effect that has been approved by the Legislature, that the compensation and contribution for employee benefits for represented state employees be at a rate consistent with the memorandum of understanding and, for state employees excluded from collective bargaining, at the rate approved by the Department of Personnel Administration prior to the commencement of the fiscal year for which a Budget Act has not been enacted. The bill would require, if a memorandum of understanding is~~

~~not in effect for represented state employees and the department has not approved a compensation package for state employees excluded from collective bargaining, that the compensation and contribution for employee benefits for represented state employees and state employees excluded from collective bargaining be at the rate in effect at the expiration of the last fiscal year for which a budget was enacted.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. Section 1232 is added to the Government Code,  
2 to read:

3 1232. (a) Notwithstanding Section 13340, in any fiscal year  
4 in which the Budget Act is not enacted by July 1 of that fiscal year,  
5 there is hereby continuously appropriated without regard to fiscal  
6 years to the Controller from the General Fund, unallocated special  
7 funds, federal funds, and any other fund from which state  
8 employees are compensated, the amount necessary for the payment  
9 of compensation and employee benefits to state employees until  
10 the Budget Act of that fiscal year is enacted. The Controller may  
11 expend an amount no greater than that necessary to enable the  
12 Controller to compensate state employees for work performed  
13 between July 1 of the applicable fiscal year and the enactment of  
14 the Budget Act.

15 (b) If there is a memorandum of understanding in effect that  
16 has been approved by the Legislature, the compensation and  
17 contribution for employee benefits for represented state employees  
18 shall be at a rate consistent with the memorandum of understanding  
19 and compensation, and contribution for employee benefits for state  
20 employees excluded from collective bargaining shall be at the rate  
21 approved by the Department of Personnel Administration prior to  
22 the commencement of the fiscal year for which a Budget Act has  
23 not been enacted. If a memorandum of understanding is not in  
24 effect and if the department has not approved a compensation  
25 package for state employees excluded from collective bargaining,  
26 compensation and contribution for employee benefits for  
27 represented state employees and state employees excluded from

1 *collective bargaining shall be at the rate in effect at the expiration*  
2 *of the last fiscal year for which a budget was enacted.*

3 *(c) The Department of Finance may, upon enactment of the*  
4 *Budget Act and in the absence of this action being taken by the*  
5 *Legislature or the Governor in that Budget Act, reduce the*  
6 *applicable Budget Act allocations by the amount of any warrants*  
7 *drawn pursuant to subdivision (a).*

8 *(d) For the purposes of this section, “state employee” means*  
9 *an employee as defined in Section 3562 or 19815, or an employee*  
10 *of the judicial branch, including trial court employees.*

11 *SEC. 2. Chapter 1.5 (commencing with Section 16330) is added*  
12 *to Part 2 of Division 4 of Title 2 of the Government Code, to read:*

13

14 *CHAPTER 1.5. PAYMENTS IN ABSENCE OF A STATE BUDGET*

15

16 *16330. (a) Notwithstanding Section 13340, in any fiscal year*  
17 *in which the Budget Act is not enacted before July 1 of that fiscal*  
18 *year, there is hereby continuously appropriated without regard to*  
19 *fiscal years to the Controller from the fund from which a state*  
20 *contractor received compensation in the prior fiscal year, the*  
21 *amount necessary for payment of contract obligations to a state*  
22 *contractor that provides goods or services to the state until the*  
23 *Budget Act of that fiscal year is enacted. The Controller may*  
24 *expend an amount no greater than that necessary to enable the*  
25 *Controller to compensate a state contractor from July 1 of the*  
26 *applicable fiscal year until the enactment of the Budget Act,*  
27 *inclusive.*

28 *(b) The Department of Finance may, upon enactment of the*  
29 *Budget Act and in the absence of this action being taken by the*  
30 *Legislature or the Governor in that Budget Act, reduce the*  
31 *applicable Budget Act allocations by the amount of any payments*  
32 *drawn pursuant to subdivision (a).*

33 *(c) If payments are made to a state contractor pursuant to this*  
34 *section, the first payment shall be made on July 15, with payments*  
35 *to be made on the 15th of each month thereafter until enactment*  
36 *of the Budget Act.*

37 *(d) For purposes of this chapter, “state contractor” has the*  
38 *same meaning as defined in Section 16645.*

39 *SEC. 3. Section 9400.5 is added to the Welfare and Institutions*  
40 *Code, to read:*

1 9400.5. (a) Notwithstanding Section 13340 of the Government  
 2 Code, in any fiscal year in which the Budget Act is not enacted  
 3 before July 1 of that fiscal year, there is hereby continuously  
 4 appropriated to the department, from the General Fund,  
 5 unallocated special funds, federal funds, and any other fund from  
 6 which area agencies on aging are compensated, the amount  
 7 necessary to pay area agencies on aging the sums necessary for  
 8 the administration of programs under their jurisdiction, including  
 9 both state and federal funds used for the provision of services and  
 10 program administration.

11 (b) The Department of Finance may, upon enactment of the  
 12 Budget Act and in the absence of this action being taken by the  
 13 Legislature or the Governor in that Budget Act, reduce the  
 14 applicable Budget Act allocations by the amount of any payments  
 15 pursuant to subdivision (a).

16 (c) If payments are made to area agencies on aging pursuant  
 17 to this section, the first payment shall be made on July 15, with  
 18 payments to be made on the 15th of each month thereafter until  
 19 enactment of the Budget Act.

20 SEC. 4. This act is an urgency statute necessary for the  
 21 immediate preservation of the public peace, health, or safety within  
 22 the meaning of Article IV of the Constitution and shall go into  
 23 immediate effect. The facts constituting the necessity are:

24 In order to ensure, in the event of a budget impasse, that state  
 25 employees may be compensated for work performed without delay,  
 26 that contractors for the state be compensated in a timely manner  
 27 for goods and services provided to the state, and that area agencies  
 28 on aging will be able to provide uninterrupted essential services  
 29 to vulnerable seniors in California, it is necessary that this act  
 30 take effect immediately.

31 SECTION 1. ~~Section 1232 is added to the Government Code,~~  
 32 ~~to read:~~

33 ~~1232. (a) Notwithstanding Section 13340, in any fiscal year~~  
 34 ~~in which the Budget Act is not enacted by July 1 of that fiscal year,~~  
 35 ~~there is hereby continuously appropriated without regard to fiscal~~  
 36 ~~years to the Controller from the General Fund, unallocated special~~  
 37 ~~funds, federal funds, and any other fund from which state~~  
 38 ~~employees are compensated, the amount necessary for the payment~~  
 39 ~~of compensation and employee benefits to state employees until~~  
 40 ~~the Budget Act of that fiscal year is enacted. The Controller may~~

1 ~~expend an amount no greater than that necessary to enable the~~  
2 ~~Controller to compensate state employees for work performed~~  
3 ~~between July 1 of the applicable fiscal year and the enactment of~~  
4 ~~the Budget Act.~~

5 ~~(b) If there is a memorandum of understanding in effect that~~  
6 ~~has been approved by the Legislature, the compensation and~~  
7 ~~contribution for employee benefits for represented state employees~~  
8 ~~shall be at a rate consistent with the memorandum of understanding~~  
9 ~~and compensation and contribution for employee benefits for state~~  
10 ~~employees excluded from collective bargaining shall be at the rate~~  
11 ~~approved by the Department of Personnel Administration prior to~~  
12 ~~the commencement of the fiscal year for which a Budget Act has~~  
13 ~~not been enacted. If a memorandum of understanding is not in~~  
14 ~~effect and if the department has not approved a compensation~~  
15 ~~package for state employees excluded from collective bargaining,~~  
16 ~~compensation and contribution for employee benefits for~~  
17 ~~represented state employees and state employees excluded from~~  
18 ~~collective bargaining shall be at the rate in effect at the expiration~~  
19 ~~of the last fiscal year for which a budget was enacted.~~

20 ~~(c) The Department of Finance may, upon enactment of the~~  
21 ~~Budget Act and in the absence of this action being taken by the~~  
22 ~~Legislature or the Governor in that Budget Act, reduce the~~  
23 ~~applicable Budget Act allocations by the amount of any warrants~~  
24 ~~drawn pursuant to subdivision (a).~~

25 ~~(d) For the purposes of this section, "state employee" means an~~  
26 ~~employee as defined in Section 19815.~~

27 ~~SEC. 2. This act is an urgency statute necessary for the~~  
28 ~~immediate preservation of the public peace, health, or safety within~~  
29 ~~the meaning of Article IV of the Constitution and shall go into~~  
30 ~~immediate effect. The facts constituting the necessity are:~~

31 ~~In order that state employees may be compensated for work~~  
32 ~~performed without delay in the event of a budget impasse, and in~~  
33 ~~order that funds may be continuously appropriated to the Controller~~  
34 ~~at the earliest possible time for the purposes of compensating state~~  
35 ~~employees, it is necessary that this act take effect immediately.~~