Senate Bill No. 20

Passed the Senate February 19, 2009

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Secretary of the Senate

Passed the Assembly February 19, 2009

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Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of _____, 2009, at _____ o'clock ____M.

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Private Secretary of the Governor

CHAPTER _____

An act to amend and supplement the Budget Act of 2009 by amending Item 0840-001-0001 of Section 2.00 of that act, relating to the State Budget, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 20, Maldonado. Budget Act of 2009.

This bill would amend and supplement the Budget Act of 2009 by revising an item of appropriation for the Controller.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.

This bill would become operative only if AB 1 or SB 1 of the Third Extraordinary Session is enacted and becomes effective on or before July 1, 2009.

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

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

SECTION 1. Item 0840-001-0001 of Section 2.00 of the Budget Act of 2009 is amended to read:

0840-001-0001—For support of the Controller.....		55,980,000
Schedule:		
(1) 100000-Personal Services.....	111,076,000	
(2) 300000-Operating Expenses and Equipment.....	54,556,000	
(3) Reimbursements.....	−51,348,000	

(4)	Amount payable from the Motor Vehicle Fuel Account, Transportation Tax Fund (Item 0840-001-0061).....	−4,149,000
(5)	Amount payable from the Highway Users Tax Account, Transportation Tax Fund (Item 0840-001-0062).....	−1,184,000
(6)	Amount payable from the Local Revenue Fund (Item 0840-001-0330).....	−600,000
(7)	Amount payable from the Federal Trust Fund (Item 0840-001-0890).....	−813,000
(8)	Amount payable from the State Penalty Fund (Item 0840-001-0903).....	−1,332,000
(9)	Amount payable from the Unclaimed Property Fund (Item 0840-001-0970).....	−28,250,000
(10)	Amount payable from various other unallocated nongovernmental cost funds (Retail Sales Tax Fund) (Item 0840-001-0988).....	−242,000
(11)	Amount payable from the 2006 State School Facilities Fund (Item 0840-001-6057).....	−978,000
(12)	Amount payable from the Central Service Cost Recovery Fund (Item 0840-001-9740).....	−19,098,000
(13)	Amount payable from other unallocated special funds (Item 0840-011-0494).....	−96,000
(14)	Amount payable from unallocated bond funds (Item 0840-011-0797).....	−631,000
(15)	Amount payable from various other unallocated nongovernmental cost funds (Item 0840-011-0988).....	−90,000
(16)	Amount payable from the Public Transportation Account, State Transportation Fund (Section 25.50).....	−18,000
(17)	Amount payable from the Highway Users Tax Account, Transportation Tax Fund (Section 25.50).....	−289,000

(18) Amount payable from the Motor Vehicle License Fee Account, Transportation Tax Fund (Section 25.50)..... −16,000

(19) Amount payable from the DMV Local Agency Collection Fund (Section 25.50)..... −2,000

(20) Amount payable from the Trial Court Trust Fund (Section 25.50)..... −165,000

(21) Amount payable from the Timber Tax Fund (Section 25.50)..... −1,000

(22) Amount payable from the Public Safety Account, Local Public Safety Fund (Section 25.50)..... −255,000

(23) Amount payable from the Local Revenue Fund (Section 25.50)..... −95,000

Provisions:

1. The funding provided in Item 0840-001-0970 shall be in lieu of the appropriation in Section 1564 of the Code of Civil Procedure for all costs, expenses, or obligations connected with the administration of the Unclaimed Property Law, with the exception of payment of owners' or holders' claims pursuant to Section 1540, 1542, 1560, or 1561 of the Code of Civil Procedure, or of payment of the costs of compensating contractors for locating and recovering unclaimed property due the state.
2. Of the claims received for reimbursement of court-ordered or voluntary desegregation programs pursuant to Article 6 (commencing with Section 41540) of Chapter 3.2 of Part 24 of Division 3 of Title 2 of the Education Code, the Controller shall pay only those claims that have been subjected to audit by school districts in accordance with the Controller's procedures manual for conducting audits of education desegregation claims. Furthermore, the Controller shall pay only those past-year actual claims for desegregation program costs that are accompanied by all reports issued by the auditing entity, unless the auditing entity was the Controller.

3. The Controller may, with the concurrence of the Director of Finance and the Chairperson of the Joint Legislative Budget Committee, bill affected state departments for activities required by Section 20050 of the State Administrative Manual, relating to the administration of federal pass-through funds.

   No billing may be sent to affected departments sooner than 30 days after the Chairperson of the Joint Legislative Budget Committee has been notified by the Director of Finance that he or she concurs with the amounts specified in the billings.

4. (a) Notwithstanding subdivision (b) of Section 1531 of the Code of Civil Procedure, the Controller may publish notice in any manner that the Controller determines reasonable, provided that (1) none of the moneys used for this purpose is redirected from funding for the Controller's audit activities, (2) no photograph is used in the publication of notice, and (3) no elected official's name is used in the publication of notice.

   (b) No funds appropriated in this act may be expended by the Controller to provide general information to the public, other than holders (as defined in subdivision (e) of Section 1501 of the Code of Civil Procedure) of unclaimed property, concerning the unclaimed property program or possible existence of unclaimed property held by the Controller's office, except for informational announcements to the news media, through the exchange of information on electronic bulletin boards, or no more than $50,000 per year to inform the public about this program in activities already organized by the Controller for other purposes. This restriction does not apply to sending individual notices to property owners (as required by the Code of Civil Procedure).

5. Of the moneys appropriated to the Controller in this act, the Controller shall not expend more than $500,000 to conduct posteligibility fraud audits of the

Supplemental Security Income/State Supplementary Payment Program.

6. The Commission on State Mandates shall provide, in applicable parameters and guidelines, as follows:
   (a) If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the lesser of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that would necessarily have been incurred for that purpose if performed by employees of the local agency or school district.
   (b) The maximum amount of reimbursement provided in subdivision (a) may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without incurring the additional costs claimed by the local agency or school district.
7. The funds appropriated to the Controller in this item may not be expended for any performance review or performance audit except pursuant to specific statutory authority. It is the intent of the Legislature that audits conducted by the Controller, or under the direction of the Controller, shall be fiscal audits that focus on claims and disbursements, as provided for in Section 12410 of the Government Code. Any report, audit, analysis, or evaluation issued by the Controller for the 2009–10 fiscal year shall cite the specific statutory or constitutional provision authorizing the preparation and release of the report, audit, analysis, or evaluation.
8. The Controller shall deliver his or her monthly report on General Fund cash receipts and disbursements within 10 days after the close of each month to the Joint Legislative Budget Committee, the fiscal committees of the Legislature, the Department of Finance,

the Treasurer's office, and the Legislative Analyst's Office.

9. For purposes of the review and payment of any claim for reimbursement by local government submitted pursuant to Section 54954.4 of the Government Code, the Controller shall use the procedures that were in effect at the time the claim was submitted.
10. Pursuant to subdivision (c) of Section 1564 of the Code of Civil Procedure, the Controller shall transfer all moneys in the Abandoned Property Account in excess of $50,000 to the General Fund no less frequently than at the end of each month. This transfer shall include unclaimed Proposition 103 insurance rebate moneys pursuant to Section 1861.01 of the Insurance Code and Section 1523 of the Code of Civil Procedure.
11. The Controller shall provide to the Department of Finance, the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the fiscal committees of each house of the Legislature a report that provides the following details by mandate: the level of claims requested; the amount reduced by the initial desk audit; the amount paid; the amount recouped; and the results of a final audit and subsequent funding adjustments. The report is due on June 30, 2010, and will cover the fourth quarter of the 2008–09 fiscal year and the first three quarters of the 2009–10 fiscal year.
12. To the extent authorized by existing law, the Controller shall recoup the amount of any unallowable mandate claim costs resulting from desk or field audits of such claims.
13. The Controller's estimate of the state's liability for postemployment benefits prepared to comply with Governmental Accounting Standards Board (GASB) Statement 45 shall include, in addition to all other items required under the accounting statement: (a) an identification and explanation of any significant differences in actuarial assumptions or methodology from any relevant similar types of assumptions or methodology used by the Public Employees' Retirement System to estimate state pension obligations; and (b)

alternative calculations of the state's liability for other postemployment benefits using different long-term rates of investment return consistent with a hypothetical assumption that the state will begin to deposit 100 percent or a lesser percent, respectively, of its annual required contribution under GASB Statement 45 to a retiree health and dental benefits trust fund beginning in the 2007–08 fiscal year. This provision shall not obligate the state to change the practice of funding health and dental benefits for annuitants currently required under state law.

14. The funds appropriated to the Controller in this item may not be expended on additional actuarial valuations, beyond the annual actuarial valuation, for other postemployment benefits, prior to obtaining concurrence in writing from the Department of Finance. The additional actuarial valuations shall only be performed to the extent resources exist, or if funds are provided by the requesting agency.
15. The Controller shall provide the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in each house of the Legislature a report on the Human Resources Management System specifying the dollars expended on the program in the previous fiscal year and over the life of the program and any known savings that have occurred in the prior fiscal year, to be submitted annually but no later than August 30 of each year. The report should compare the known savings with the most recent estimate of projected savings and explain the methodology by which the savings were calculated.
16. The Controller shall deliver yearend financial data as specified by the Department of Finance, for the fiscal year just ended, in hard copy and electronic format, by October 15 of each year and periodically as requested by the Department of Finance. This information is necessary for the Department of Finance to determine the proper beginning balance of the current fiscal year for budgetary purposes. To ensure timely completion of the yearend financial data, the Controller should

enforce provisions in Section 12461.2 of the Government Code and emphasize in its regulation the deadline the yearend financial statements are due from the operating departments to the Controller.

17. In the event new postage rates by the United States Postal Service are adopted, but not in time for inclusion in the 2009–10 May Revision, and the State Controller's Office notifies the Department of Finance with their estimates of the increased postage costs within 15 calendar days of the adoption of new rates, the Director of Finance may authorize expenditures in excess of the amount appropriated in this item by an amount necessary to fund the postage increase. This authorization shall occur not less than 15 days after the Department of Finance notifies the Chairperson of the Joint Legislative Budget Committee.
18. The $345,000 loaned to the Local Agency Self Insurance Authority (LASIA), pursuant to Chapter 1327, Statutes of 1986, will not be required to be repaid.
19. It is the intent of the Legislature that this item contain zero funds for the purchase of modular furniture for the previously approved Cannery Business Park Lease Renewal/Expansion Project.

SEC. 2. This act addresses the fiscal emergency declared by the Governor by proclamation on December 19, 2008, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

SEC. 3. Section 1 of this act shall become operative only if the Budget Act of 2009, Assembly Bill 1 of the Third Extraordinary Session, as amended in the Senate on February 14, 2009, or Senate Bill 1 of the Third Extraordinary Session, as amended in the Assembly on February 15, 2009, is enacted and becomes effective on or before July 1, 2009.

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

In order that the necessary adjustments by this act to the appropriations in the Budget Act of 2009 for support of state

government for the 2009–10 fiscal year be made as soon as possible, it is necessary that this act take effect immediately.

Approved _____, 2009

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Governor