



May 5, 2026

Honorable John Laird, Chair
Joint Legislative Budget Committee
Senate Budget and Fiscal Review Committee

Honorable Jesse Gabriel, Chair
Assembly Budget Committee

Honorable Sabrina Cervantes, Chair
Senate Appropriations Committee

Honorable Buffy Wicks, Chair
Assembly Appropriations Committee

Notification of Receipt and Approval of an Unanticipated Cost Funding Request from the State Controller's Office

Pursuant to Provisions 3 and 6 of Items 9840, the Department of Finance is transmitting the following report within 15 days of receipt, the attached unanticipated cost funding request from the State Controller's Office, which was received on April 29, 2026.

The unanticipated funding request stems from litigation initiated by an applicant who was offered a position with the State Controller's Office (SCO) but declined to take the required oath of office on religious grounds. Following legal guidance from the Attorney General's Office, the SCO determined it had no authority to modify the oath and was constitutionally and statutorily required to rescind the offer. Although the SCO initially prevailed on a motion to dismiss, the Ninth Circuit Court of Appeals reversed the decision and established a new substantive standard. On remand, the district court applied this revised standard and entered summary judgment against the SCO.

Finance has completed the review of the proposal and concurs with the request. Funding for this unanticipated cost request will be provided from Item 9840-001-0001, Augmentations for Contingencies or Emergencies, in the amount of \$1,105,000. Due to the urgent need for the activities that will be funded from this request, Finance is requesting an expedited review from the Legislature.

If you have any questions or need additional information regarding this matter, please call Andrea Scharffer, Principal Program Budget Analyst, at (916) 445-9694.

JOE STEPHENSHAW
Director
By:

MICHELE PERRAULT
Chief Deputy Director

Attachment

cc: On following page

cc: Honorable Sharon Quirk-Silva, Chair, Assembly Budget Subcommittee No. 5
Honorable Melissa Hurtado, Chair, Senate Budget and Fiscal Review Subcommittee
No. 4
Honorable Roger W. Niello, Vice Chair, Senate Budget and Fiscal Review
Committee
Honorable David Tangipa, Vice Chair, Assembly Budget Committee
Gabriel Petek, Legislative Analyst
Elisa Wynne, Staff Director, Senate Budget and Fiscal Review Committee
Kirk Feely, Fiscal Director, Senate Republican Fiscal Office
Christopher W. Woods, Budget Director, Senate President pro Tempore's Office
Christian Griffith, Chief Consultant, Assembly Budget Committee
Joseph Shinstock, Fiscal Director, Assembly Republican Caucus, Office of Policy and
Budget
Paul Dress, Chief of Staff, Assembly Republican Caucus
Dylan Gray, Chief of Staff, Assembly Republican Leader's Office
Jason Sisney, Budget Director, Assembly Speaker's Office
Mark McKenzie, Staff Director, Senate Appropriations Committee
Jay Dickenson, Chief Consultant, Assembly Appropriations Committee
Honorable Malia Cohen, State Controller
Regina Evans, Chief of Staff, State Controller's Office
Cathy Leal, Chief Operating Officer, State Controller's Office
Jennifer Chavez, Chief of Administration and Disbursements, State Controller's
Office
Jennifer Urban, Chief of Budgets and Accounting, State Controller's Office
An-Vi Ching, Budget Officer, State Controller's Office

I. APPROPRIATION/FUND TO BE ADJUSTED

DEPARTMENT: State Controller's Office	ITEM NUMBER: 001	
FUND: 0001	AMOUNT OF FUNDING REQUESTED: \$1,105,000.00	FISCAL YEAR: 2025-26

II. JUSTIFICATION FOR REQUEST (Please provide the following information: reason for expense and basis of determination that the expense is needed.) DOF may not approve requests for: (a) capital outlay funding, (b) prior year expenses, (c) expenses related to legislation enacted without an appropriation, (d) startup costs of programs not yet authorized by the Legislature, (e) costs that could have been included in May Revision, and (f) costs that the Administration has the discretion to incur or not incur. (Use attachments if additional space is needed.)

SCO is requesting the sum of \$1,105,000.00 be paid pursuant to a Settlement Agreement and Release of Claims related to *Brianna Bolden-Hardge v. California State Controller's Office*, et. al., Case No. 25CV022626. The SCO cannot absorb this unanticipated cost within our 2025-26 budget. The Attachment explains that SCO relied on existing law and guidance from the Attorney General's Office in determining that it lacked authority to modify the oath of office required by California law, and that payment is appropriate because the litigation addressed a statewide legal issue, clarified the governing standard for constitutional offices and state agencies, and resulted in liability that SCO lacks sufficient budget resources to absorb.

III. EMERGENCY NOTIFICATION

Is this an emergency request for funding unanticipated costs? (An emergency request is for expenses incurred in response to conditions of disaster or extreme peril that threaten the immediate health or safety of persons or property in this state.)

NO

YES (If yes, please provide reason for expense and basis for determining this an emergency. Use attachments if additional space is needed.)

IV. PROVIDE A DETAILED EXPLANATION OF ALL LEGALLY PERMISSIBLE STEPS THAT HAVE BEEN TAKEN TO AVOID ADDITIONAL COSTS, (e.g., reduce spending, etc.) (Add attachments if additional space is needed.)

N/A - This request is pursuant to a Settlement Agreement and Release of Claims, signed on March 12, 2026.

V. WAS THIS NEED FOR FUNDING PREVIOUSLY DENIED IN A LEGISLATIVE BUDGET COMMITTEE ACTION? (Use attachments if additional space is needed.)

NO

YES (when and why?)

VI. MONTH AND YEAR WHEN SPENDING AUTHORITY TO OBLIGATE FUNDS (not make cash payment) WILL BE NEEDED.

Month: April Year: 2026 - or upon appropriation

VII. REQUESTING DEPARTMENT

Approved By: 

Title: Chief of Staff

Date: 04/28/2026

VIII. AGENCY SECRETARY (IF APPROPRIATE)

Approved By: _____

Date: _____

IX. DEPARTMENT OF FINANCE

Date Received: _____

Date of Notice to Legislature: 5/5/26

Introduction and Factual Background

This was a religious test case filed by a member of the Jehovah Witness. The plaintiff in this action applied for a position in the State Controller's Office (SCO) and was offered a position in the office. However, she refused to take the oath of office, citing religious grounds. The SCO sought the advice and guidance from the Attorney General's Office. Based on the guidance provided, it was determined that there was no authority to modify the oath, and that SCO was constitutionally and statutorily required to rescind its offer. (California Constitution Article XX section 3, Government Code section 18150 et seq.) Specifically, Government Code section 18155 provides that "[t]he failure of any person who is appointed to a permanent position in the State civil service to take and subscribe the oath within the time provided in this chapter, is a cause for dismissal by the State Personnel Board."

The SCO was subsequently sued for adhering to the law. The SCO initially prevailed on a motion to dismiss, but the federal Ninth Circuit Court of Appeals reversed and articulated a revised substantive standard governing the analysis. On remand, the district court applied that clarified standard and entered summary judgment against SCO.

Legal Standards

California law requires specified public officers and employees to take and subscribe to the constitutional oath before entering upon the duties of office. (Cal. Const., art. XX, § 3; Gov. Code, §§ 18150 et seq. *Bolden-Hardge v. Office of the California State Controller* (9th Cir. 2023) 63 F.4th 1215; *Schaefer v. Townsend* (9th Cir. 2000) 215 F.3d 1031)

Analysis

California Constitution Article 3, section 3.5 requires that an agency of the state, including an administrative agency created by the Constitution, must presume the constitutionality of all laws passed by the legislature and has no power to declare a statute unenforceable, or refuse to enforce a statute, on the basis of it being unconstitutional, unless an appellate court has made a determination that such statute is unconstitutional. Moreover, the State Controller has taken the oath and is duty bound to uphold the laws of the state. To that point, there is not a statute that authorizes a modification of the oath.

Although SCO initially prevailed in its motion to dismiss, the federal Ninth Circuit Court of Appeals held that the governing standard required a more fact-sensitive inquiry than the district court had applied at the pleading stage; and that therefore the complaint plausibly stated a claim without requiring the plaintiff to negate SCO's legal justification at the outset. (*Bolden-Hardge v. Office of the California State Controller*, 63 F.4th 1215.) The Ninth Circuit further held that SCO's asserted legal constraints could not be resolved on the pleadings alone where material factual inferences remained disputed or undeveloped. As a result, the district court on remand was required to evaluate SCO's rationale under a fuller evidentiary record. Applying that clarified standard, the district court ultimately concluded at summary judgment that SCO had not met the burden required under that framework, or that disputed facts precluded judgment in SCO's favor.

Conclusion

SCO at all times acted in accordance with the Constitution and the laws passed by the Legislature as well as the guidance from the Attorney General's Office when it determined that it lacked authority to modify the oath of office required by California law. Because SCO addressed a legal issue affecting constitutional offices and state agencies more broadly, and because the resulting litigation clarified the governing standard applicable statewide, it is appropriate that the resulting liability be borne by the State as a whole rather than by SCO alone. Lastly, SCO does not have sufficient budget resources to absorb the liability within its existing appropriation; consequently, it meets the standard applicable to this request for payment.