

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 4 ON STATE ADMINISTRATION

ASSEMBLYMEMBER GEORGE NAKANO, CHAIR

**TUESDAY, FEBRUARY 23, 1999
STATE CAPITOL, ROOM 447
1:30 P.M.**

ITEM	DESCRIPTION	PAGE
CONSENT CALENDAR		
0280	Commission on Judicial Performance	
0390	Contributions to Judges Retirement Funds	
2180	Alcoholic Beverage Control Beverage Control Appeals Board	
8140	Office of the Public Defender	
8180	Payment to Counties for Homicide Trials	
8750	Commission on Local Governance for the 21 st Century	
ITEMS TO BE HEARD		
0250	Judicial	
	➤ Court Appointed Counsel Program	
	➤ California Appellate Project – San Francisco	
	➤ Salary Adjustments	
0450	State Trial Court Funding	
	➤ County Buyout Reduction	
	➤ Judicial Administration Efficiency and Modernization Fund / Year 2000 Problem	
	➤ Court Interpreters Pay Increase	
	➤ New Judgeships	
	➤ Drug Courts	
	➤ Civil Filing Fees – Informational Only	

CONSENT CALENDAR

0280 COMMISSION ON JUDICIAL PERFORMANCE

The Commission on Judicial Performance hears complaints against judges. The Governor's budget includes \$3.6 million, an increase of \$500,000, or 16 percent, above current year funding.

0390 CONTRIBUTIONS TO JUDGES RETIREMENT SYSTEM

The Judges Retirement System (JRS) provides retirement benefit funding for California's Supreme, Appellate, Superior, and Municipal Court Judges. The Governor's Budget proposes \$82.7 million, including \$20.4 million for the State's contribution for sitting judges and \$62.3 million to pay benefits to retired judges.

This budget item would likely need to be reopened later in the subcommittee process should this subcommittee approve a pay increase for trial judges, whose salaries are have fallen 24 percent in real compensation in the last 20 years and are currently far below market rates.

2120 ALCOHOLIC BEVERAGE CONTROL APPEALS BOARD

The Alcoholic Beverage Control Appeals Board consists of three members appointed by the Governor and provides a forum of appeal to persons dissatisfied with a decision of the Department of Alcohol and Beverage Control. The Governor's budget includes \$710,000 for the board.

8140 OFFICE OF THE STATE PUBLIC DEFENDER

The Office of the State Public Defender is assigned by the State Supreme Court to direct death penalty appeal cases for persons who do not have the financial means to hire private counsel. The Governor's budget includes \$11 million for the Office of the State Public Defender.

8180 PAYMENTS TO COUNTIES FOR COSTS OF HOMICIDE TRIALS

The Payments to Counties for Costs of Homicide Trials line of the budget ensures that the cost of homicide trials do not unduly impact local government finances. Generally, counties with populations of less than 200,000 can be reimbursed up to 90 percent of a homicide proceeding. Larger counties may also be eligible for reimbursements if certain specifications are met. The Governor's budget includes \$7.5 million for this line

item. In addition, the budget contains a provision to allow Siskiyou County to be reimbursed 100 percent for extraordinary expenses incurred in specific cases.

8750 COMMISSION ON LOCAL GOVERNANCE FOR THE 21ST CENTURY

The Commission on Local Governance for the 21st Century was established to conduct a thorough investigation of the policies, practices, and statutes affecting the organization and boundaries of California's local agencies. The Governor's budget includes \$452,000 for the Commission.

0250 JUDICIAL

The Judicial budget includes funds for the Supreme Court, Courts of Appeal, Judicial Council, and California Habeas Resource Center. The Governor's budget proposes a total of \$289 million (\$238 million, General Fund) for Judicial, an increase of \$27.1 million (\$24.6 million, General Fund), or 10 percent, over the current year.

ISSUE 1: COURT APPOINTED COUNSEL PROGRAM

The Governor's budget proposes a total increase of \$4.8 million for the Court Appointed Counsel (CAC) Program. This includes an increase of \$1.575 million for projected caseload growth at the Supreme Court level. The Legislative Analyst's Office recommends should the projected caseload growth not be realized in the budget year, that the unneeded funds be reverted to the General Fund.

BACKGROUND:

Private attorneys are hired through the CAC Program to provide appellate defense services for indigent defendants. Three recent changes have lead to the projected increase of appointed counsel: (1) the fee rate for the private attorneys increased from \$98 per hour to \$125 per hour; (2) the California Habeas Resource Center (CHRC) provides a two-track system for death penalty cases; and (3) increased training and outreach efforts expect to attract and retain qualified counsel.

COMMENTS:

It is difficult to predict precisely the amount of funds necessary to support the CAC program because of the relatively small number of cases and the wide variation of time required for each case. In fact, the Judicial Council projects that \$360,000 of the current year appropriation will not be expended.

As a result, the LAO recommends the following Budget Bill Language be included to ensure any of the \$1.575 million not used as a result of additional caseload growth of the Court Appointed Counsel Program at the Supreme Court level:

The funds appropriated by this item include an augmentation of \$1,575,000 for the Court-Appointed Counsel (CAC) Program of the California Supreme Court. It is the intent of the Legislature that these funds are only used for the CAC Program. Any Funds not used for this purpose shall revert to the General Fund.

ISSUE 2: CALIFORNIA APPELLATE PROJECT, SAN FRANCISCO

The Governor's budget proposes to make permanent the \$498,000 increase provided in the current year on a California Appellate Project, San Francisco (CAP-SF) contract. Currently, the increase is to sunset at the end of the budget year, at which time the need to continue the increase would be considered.

The Legislative Analyst's Office recommends that the decision whether to make the increase permanent should be put off until next year.

BACKGROUND:

CAP-SF is a nonprofit corporation that provides assistance to court appointed counsel for capital appellate cases. In the past, CAP-SF services have assisted both direct appeal cases and habeas corpus proceedings. However, with the establishment of the California Habeas Resource Center (CHRC), services now focus on direct appeal cases.

COMMENTS:

Senate Bill 513 (Lockyer), Chapter 869, Statutes of 1997, which established the CHRC, took effect on January 1, 1998. But the CHRC did not make any appointments until at least January 1999. Once the CHRC is fully operational, CAP-SF is expected to provide assistance to private counsel only on direct appeal cases, and not on habeas proceedings.

As a result, it remains unclear whether the CAP-SF workload will continue at the same rate once the CHRC is fully operational.

ISSUE 3: SALARY ADJUSTMENTS

The Governor's budget proposes \$3.3 million for additional appellate court compensation. This includes: \$2.0 million to reduce the salary savings rate from four percent to two percent; \$.6 million to extend appellate court staff classifications by five percent; and \$.7 million to fund salary adjustments for deputy clerk and secretarial classifications.

BACKGROUND:

Under the current budget, appellate courts must accrue a salary savings of four percent. Vacancy rates, however, have averaged only 3.5 percent, and six of the ten courts have a vacancy rate of 2.9 percent or less. As a result, courts have had to delay filling authorized positions and reduce operating budget in order to meet the four percent savings level.

COMMENTS:

The funding for salary extensions and adjustments is included in the Governor's budget in order to allow the judicial branch to compete with other public entities in high-cost labor markets.

0450 TRIAL COURT FUNDING

The Trial Court Funding budget provides funds for the operation of the State' superior and municipal courts. The Lockyer-Isenberg Trial Court Funding Act of 1997 [AB 233 (Escutia and Pringle), Chapter 850, Statutes of 1997] established that the State be the primary source of funding for trial courts. The Governor's budget proposes a total of \$1.8 billion for Trial Court Funding, and increase of \$108 million, or 6.5 percent, above estimated current year expenditures.

ISSUE 1: COUNTY BUYOUT REDUCTION

The Governor's budget provides \$48.3 million to reduce 18 mid-sized counties' contribution to trial courts by 50 percent and the 20 largest counties' contribution to trial courts by five percent. However, this is only half the local government relief that is provided under AB 2788, (Thomson) Chapter 1017, Statutes of 1998.

BACKGROUND:

The Lockyer-Isenberg Trial Court Funding Act of 1997 bought out the trial court contributions of the 20 smallest counties and capped the remaining counties contributions at their 1994-95 levels. Chapter 1017 extended the buy-out to the next 18 smallest counties and reduced the cap level for the remaining 20 counties by 10 percent.

COMMENTS:

The reduction of county contributions to trial courts have in part offset the property tax shift of local government funds to the Educational Revenue Augmentation Fund (ERAF).

The budget proposal to reduce the buyout is particularly troublesome to counties that have based their budgets of the availability the additional funds made available by Chapter 1017.

The Governor's budget summary indicates that the reduction of the buyouts is a result of the difficult fiscal condition facing the State at the time the budget was being drafted. Since that time, the Legislative Analyst has announced that the State's fiscal condition has significantly improved.

The cost of restoring the county buyout levels provided by 1017 is \$48.3 million.

**ISSUE 2: JUDICIAL ADMINISTRATION EFFICIENCY AND MODERNIZATION FUND /
YEAR 2000 PROBLEM**

The Governor's budget proposes \$10 million for the Judicial Administration Modernization and Efficiency Fund (JAEMF). This amount is \$40 million less than funding level originally set for the JAEMF.

Deliberations leading up to the passage of the current year budget eliminated \$50 million for the 1998-99 state budget. These funds had been earmarked in part to address the Year 2000 (Y2K) problem. The Judicial Council estimates the cost of remediating the courts computer system to be \$19.8 million.

The Legislative Analyst Office recommends that Budget Bill Language be adopted to require JAEMF funds be prioritized for Y2K efforts in courts and for courts with the greatest information technology needs.

BACKGROUND:

The Lockyer-Isenberg Trial Court Funding Act of 1997 [AB 233 (Escutia and Pringle), Chapter 850, Statutes of 1997] established the JAEMF. The JAEMF can be used for trial courts that have consolidated to the fullest extent allowed by law for the purpose of promoting improved access, efficiency, and effectiveness.

The Governor' budget proposes the \$10 million be allocated as followed:

- \$4.3 million for technology projects, including Y2K efforts;
- \$2.9 million for education of judges and court administrators;
- \$1.2 million for trial court administration personnel;
- \$875,000 for litigation and claims management, to support coordination of the trial courts' responses to lawsuits and claims; and
- \$800,000 for improving legal research.

COMMENTS:

The Judicial Council will provide the subcommittee with an update of the Y2K remediation efforts of the trial courts.

The LAO recommends the following Budget Bill Language:

The Judicial Council shall prioritize allocations of the Judicial Administration Efficiency and Modernization Fund to give priority to funding information technology project (1) related to Year 2000 remediation efforts and (2) in those courts with the greatest information technology needs.

ISSUE 3: COURT INTERPRETERS PAY INCREASE

The Governor's budget funds court interpreter minimum salaries at \$200 per day. Last year, this subcommittee approved an augmentation to increase salaries to \$220 per day, however, Governor Wilson vetoed these funds. The Judicial Council request that the salaries be increased to \$250 per day, equal to federal court levels.

BACKGROUND:

Court interpreters play an integral role in expanding access to the judicial system to non-English speaking Californians. District Attorneys, judges, juries, and defendants all rely on court interpreters to ensure that justice is served.

Interpreters are paid less than are interpreters in administrative courts, the private sector and federal courts. As a result, state courts are losing interpreters to other court systems. The number of interpreters has dropped 39 percent in the last four years.

Contractor	Full-day Rate
Unemployment Insurance Appeal Board	\$275-\$375
Private Sector (law firms, agencies, and conferences)	\$250-\$600
Federal Courts	\$250
State Courts	\$230 (LA County) \$206 (Orange) \$200 (All others)

Court interpreters are independent contractors, so they receive no benefits and have no job security. At current pay, full time interpreters make only \$25,000 per year, not a livable wage in many counties.

COMMENTS:

Restoring interpreter salaries to the level approved by this subcommittee last year (\$220 per day) requires an augmentation of \$4 million.

Raising the salaries to \$250 per day requires an augmentation of \$10.1 million.

ISSUE 4: NEW JUDGESHIPS

The Governor's budget does not provide any funds for new judgeships. Last year this subcommittee eliminated funding for 40 new judgeships that had been approved by AB 420 (Baca), Chapter , Statutes of 1997. At the time AB 420 was enacted, the Judicial Council reported 50 new judgeships were needed.

The Judicial Council again requests funding for 50 trial court judgeships.

BACKGROUND:

Judgeship need is evaluated by the Judicial Council's Court Profiles Advisory Committee. The need is based on:

- Countywide workload indicators, including an analysis of five-year filing trend reports and workload comparisons between courts of similar size;
- Judicial position equivalents, which are a measure of actual judicial resources usage in relation to vacancies and workload indicators;
- Countywide civil and criminal case-processing time standards relative to the Judicial Council approved time standards and the statewide average; and
- Total trial court judicial need, including any request for new subordinate judicial officers, based upon countrywide data as indicated above.

COMMENTS:

This subcommittee's action to eliminate funding for the 40 judgeships approved by AB 420 was not based on there not being a need for the new judgeships. Instead, the subcommittee sought to delay appointment of new judgeships until the after the election of a new administration.

Total funding for each judgeship stands at approximately \$500,000. The augmentation needed to provide 50 new judges beginning January 1, 2000 is \$6.2 million (this figure takes into account that not all judgeships will be filled immediately). The total out-year costs of the 50 new judgeships would be \$25 million.

ISSUE 5: DRUG COURTS

The Governor's budget includes \$1 million for support of five local drug court programs. This amount is in addition to the \$8 million included in the Department of Drug and Alcohol Programs' (DADP) budget for the Drug Court Partnership Program, established by SB 1587 (Alpert), Chapter 1007, Statutes of 1998.

The Legislative Analyst's Office recommends that the \$1 million proposal not be approved.

BACKGROUND:

Throughout California, over 30 counties have implemented drug courts as an alternative to prison sentences and probation for nonviolent drug offenders. Though the drug courts differ from county to county, they generally include a three phase process. In which the judges work directly with offenders in a way that permits addicts to kick their habit, learn the live drug free, and gain life skills that allow them to provide for their families and lead healthy, drug and crime-free lives.

The Drug Court Partnership Program was established to assess the cost-effectiveness of drug court programs in California. The program is administered by the DADP in collaboration with the Judicial Council.

Prior to the enactment of the Drug Court Partnership Program, drug courts were funded primarily through federal funds. The current year budget includes \$4 million for the program and the DADP expects to begin awarding grants in May of 1999.

COMMENTS:

The Administration and the Judicial Council support the \$1 million augmentation because the funds would go to courts not eligible for funding under the Drug Court Partnership Program.

However, without funding for drug courts coming from the same source, it is difficult to evaluate the effectiveness of different courts.

ISSUE 6: CIVIL FILING FEES – INFORMATIONAL ONLY

The Governor's budget makes permanent a \$43 million General Fund backfill of civil filing fees approved through the deficiency process in the current year. However, the current year shortfall in civil filing fees stands at \$86 million. The Judicial Council expects to make up the balance of the current year short fall with savings from other areas of the Judicial Council budget.

However, the 1999-00 budget does not anticipate a shortfall in civil filing fees beyond the \$43 million for which the General Fund backfill is provided.

BACKGROUND:

Despite civil filing fees being raised by the Lockyer-Isenberg Trial Court Funding Act of 1997 [AB 233 (Escutia and Pringle), Chapter 850, Statutes of 1997], there continues to be a shortfall of civil filing fee revenues.

The Judicial Council indicates the annual shortfalls continue as a result of a decline in civil filings and inaccurate revenue projection's for the new filing fee levels.

COMMENTS:

The Legislative Analyst's Office requests that the Judicial Council report to this subcommittee regarding the savings used to offset the current year shortfall and to address proposed solutions for dealing with future shortfalls.

0850 CALIFORNIA STATE LOTTERY COMMISSION

The California State Lottery Act of 1984 established a statewide lottery, and a commission to administer the program with the intention of creating supplemental revenue for the state's public schools. Funding for the purposes of the Act is continuously appropriated through the sale of lottery games. The California State Lottery Commission is composed of five members, appointed by the Governor and approved by the Senate. Distribution of lottery revenue as mandated by the Act is as follows: 50 percent to prizes, at least 34 percent to education, and no more than 16 percent to administrative costs.

ISSUE 1: LAO, BRIDGE PROJECT

The Legislative Analyst Office (LAO) suggests that the Lottery Commission report on the status of the Bridge Project, particularly, its anticipated effects on education funds.

BACKGROUND:

In 1997, the Lottery Commission initiated a management plan, aimed at streamlining administrative costs and increasing revenue. Over 200 positions were eliminated in the Commission's effort to gradually reduce the percentage of lottery revenue allocated to administrative costs from 14.5 percent in the second year of the plan to 13.5 percent in the third year. Decreasing the percentage allocated to operating costs, in addition to increasing commission rates for retailers, is intended to stimulate revenue, and thus provide a larger funding pool for education expenditures.

COMMENTS:

The LAO recommends that the Lottery Commission report on the status of the Bridge Project, more specifically on whether allocations for education benefit from the management initiatives currently in place.

ISSUE 2: LAO, LOTTERY ADMINISTRATIVE BUDGET LANGUAGE

The LAO recommends the inclusion of budget bill language, delineating the Lottery Commission's administrative expenditures, for display and informational purposes only.

BACKGROUND:

In 1996, the Legislature voted to include language depicting the administrative costs of the Lottery Commission in the 1996-97 budget bill. The Governor ultimately vetoed the item, calling it "unnecessary," stating that "a fiscal display of all lottery operations is annually presented in greater detail in the Governor's Budget."

According to the LAO, the purpose of including language of the Lottery's operating costs in the budget bill is to enhance the oversight capacity of the Legislature. With this item in the budget bill, the LAO contends, the Legislature may better review the administrative actions and initiatives of the Lottery Commission to ensure that its expenditures advance its role in education funding. To clarify, the LAO is not recommending the establishment of appropriation authority with the Legislature for the Commission's budget, but merely to include the language for display and informational purposes only.

COMMENTS:

It is not clear whether inclusion of language in the budget bill, outlining the operating expenditures of the Lottery Commission, creates much benefit--nor much detriment. More importantly however, a new administration leaves much to be defined, as a new director and new members of the Commission may be more open to external review by the Legislature through other means.

2100 DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Created by a constitutional amendment in 1954, the Department of Alcoholic Beverage Control (ABC) serves as the only regulatory agency for the manufacture, sale, purchase, possession, and transportation of alcoholic beverages within the state. In addition, the ABC possesses the sole responsibility for collecting licensing fees, as well as the granting, suspension, and rescinding of licenses for the various uses of alcoholic beverages previously mentioned. The ABC operates predominantly on revenue generated from its various categories of licensing fees. The Governor's Budget proposes \$33.3 million for 1999-2000. \$1.5 million of this amount is allocated to local programs that serve to assist in the enforcement activities of ABC.

ISSUE 1: LAO, ABC FUND CONDITION – INFORMATIONAL ONLY

The LAO recommends the passage of legislation authorizing the Department of Alcoholic Beverage Control to increase fees to an aggregate of 20 percent over a specified period of time in order to avoid budget deficits and compensate for enhanced enforcement responsibilities.

BACKGROUND:

At the end of the budget year, according to the LAO, ABC will maintain a \$2.7 million reserve, which equates to only one month's operating expenses. The LAO advises that a sound reserve for a special fund must maintain a level of approximately three months of operating expenses, which in the case of the ABC, would amount to \$8 million. Moreover, the LAO believes that by budget year 2001-2002, the ABC's projected expenditures will exceed its revenue.

Thus far, ABC has fiscally accommodated the increased enforcement responsibilities previously mandated by the Legislature, as well as the absence of a license fee increase to adjust for the rate of inflation since 1978.

Last year, an enforcement fee was proposed that would have created \$5.2 million in revenue, while eliminating ABC's business practices fee, which generates \$327,000 in annual revenue. Ultimately, the enforcement fee failed passage, and the Legislature allocated \$2.5 million of General Fund dollars to ABC as a short-term solution.

COMMENTS:

The ABC fund condition is expected to remain stable at least through the end of the budget year. During this period, the new administration should be allowed to explore and prioritize potential initiatives that could lead to a resolution of the ABC fund condition issue, possibly including means other than additional General Fund augmentations or fee increases.

